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Censure and Heresy
at the University of Paris

1200–1400

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The Suppression of False Teaching

The Notions of Heresy and Error in the World of Learning

In his *Dialogus* William Ockham explains that there are three types of heresy. One kind amounts to an almost verbatim denial of the truths of faith. Another is so obvious that "anyone who understands anything, even if illiterate," can see in what way Divine Scripture is contradicted. A third is perceptible only to the literate and learned who are well versed in Divine Scripture, after a long and subtle deliberation. These are heresies such as "Christ as a man is not something," or "two persons are present in Christ."¹ Heresies of the latter type are the concern of the present chapter, and, as a matter of fact, of the entire book. Ockham's definition brings out two important facets of the phenomenon of academic censure. First, academic censures concern university-trained scholars, involved in academic issues, that is, in fine-points of scholastic theology and philosophy. Second, judicial actions that resulted in academic censure were started by accusations of heresy.

The term "heresy" was regularly used in the context of academic censure, either openly, by qualifying the suspect opinions as "heretical," or in a more implicit way. Academics were, for instance, charged with holding opinions against Catholic faith, Holy Scripture, Evangelical truth, or sound doctrine (*sana doctrina*), thus causing scandal (*scandalum*) and endangering the souls of believers, as well as the fabric of society itself.² The suspect doctrines were described as dangerous, or even as diseases.³ Other documents concerning academic censure might use the standard formula "faith and good morals" (*in fide et bonis moribus*), or a variant thereof, when assessing the heretical character of suspect views, thus hinting at the moral dimension of the medieval concept of heresy, which could be expressed in immoral conduct, impiety, or the violation of sacraments.⁴

The roots of academic heresy were sought in the theologians' indulgence in vain curiosity (*vana curiositas*).⁴ The existence of a more than tenuous link between vain curiosity and heresy is made particularly clear by Jean Gerson. In his *Contra vanam curiositatem*, an eloquent fulmination against the neglect of Scripture and religious meaning in the study of theology during his lifetime, Gerson informs the reader that it was Eve's curiosity that made her err.⁵ In other texts, Gerson presents *curiositas* as the daughter of pride (*superbia*).⁶ Knowledge generating pride is contrasted with wisdom (*sapientia*) generating humility. Pride is the major vice of the heretic, for it is pride, rather than ignorance, that creates heretics.⁷ Moreover, as medieval theory had it, pride manifested itself in heretics through many specific sins, such as pertinacity (*pertinacia*) and presumptuousness (*presumptio*), also a current theme in documents pertaining to academic censure.⁸ In particular, the application of philosophy — one of the forms of speculative *curiositas* — to the interpretation of the message of Christ was a continuous source of suspicion to the guardians of orthodoxy all through the Middle Ages.⁹ In many official documents and other texts, philosophers and theologians were exhorted not to cross the boundaries of their own fields — a reference to Proverbs 22:28 — and not to become theologizing philosophers and philosophizing theologians.¹⁰

Although there is no doubt that the word "heresy" and its derivatives were employed in the context of academic censure, they were used in a rather loose sense. Strictly speaking, academic condemnations concerned false teachings and erroneous views, rather than clear-cut heresies. The difference between "untrue" (*falsitas*), "erroneous" (*erroneus*), and "heretical" (*hereticus*) was clearly perceived by medieval intellectuals. The theologian Godfrey of Fontaines, for instance, observed that errors are faults that endanger our salvation; they become heresies when they are defended with pertinacity.¹¹ The same sentiment was expressed by the council of ten theologians who in 1320 were asked by Pope John XXII to examine whether necromancy should be considered heretical. In the learned treatises that preceded their reports, these theologians made the point that a heretic is someone who by his own will obstinately chooses to adhere to his errors.¹² And again, when Meister Eckhart was on trial, he claimed before his judges that he could be in error, but that he could not be a heretic, "for the first belongs to the intellect; the second to the will." Precisely because he did not obstinately adhere to his errors, Meister Eckhart claimed that the proceedings against him as a heretic were unjustified.¹³ Eckhart also pointed to the canonistic roots of the connection between pertinacity and heresy in Gra-

tián's *De rectum*.¹⁴ Among the ancient canons collected and reconciled in the *De rectum* are two that emphasize the aspect of pertinacity, namely the Apostle Paul, Titus 3:10, and Augustine, *De civitate dei* Lib. 18, c. 51. Their purport is that those who stubbornly resist correction of their errors should be considered heretics.¹⁵

Probably the most extensive theoretical discussion of pertinacity is given by William Ockham, who may be considered a personal expert in this field, for at a certain point in his career he was summoned to the papal court in Avignon and became the subject of an investigation that took four years. In any case he covers many of the intricacies of this topic, such as the connection between pertinacity and heresy; the different kinds of pertinacity, who has the right to convict someone of pertinacity, and what are the legitimate forms of correction.¹⁶ According to Ockham, a pertinacious person is one who persists in questioning the articles of faith, thus endangering his salvation.¹⁷ Among other things, Ockham pointed out that a conviction of heresy required that (heretical) depravity be present not only in the error but also in the person himself who erred. The depravity in the erring consisted of pertinacity or obstinacy. Pertinacity turned a *haereticus* into a *haereticus*.¹⁸ The idea of pertinacity was used to set apart the heretic from the innocent blunderer, who committed his errors not out of any obstinacy, but out of theological ignorance.¹⁹

The sharp distinction between "heresy" and "heretic" was not mere theory; it was also drawn at the judicial proceedings against erring scholars. In a document (1318) that records the votes of censure of several theologians with regard to three theses, some of the votes explicitly state that the thesis under consideration is heretical, "and that obstinate adherents should be condemned as heretics."²⁰ In order to find out whether the qualification "heretical" could be transferred from the doctrine to its holders, a "test of pertinacity" had to be performed. The test consisted of the *revocatio*, the solemn recantation of the erroneous and heretical opinions (of which more below). If the academic who had been accused of disseminating false views was willing to recant them, he avoided condemnation as a heretic, since he had not been pertinacious (*pertinax*).²¹ In sum, pertinacity was an essential characteristic of the medieval heretic.

The second essential feature of the medieval conception of heresy was its symbiotic relationship with orthodoxy. In the words of Jeffrey Russell: "Orthodoxy defines heresy, and heresy helps define orthodoxy."²² Application of the notion of heresy implies a standard or norm, a definition of what is orthodox doctrine.²³ But a formal definition of orthodoxy was

precisely what was lacking in many cases of academic censure. Academics were not censured for disseminating views that had already been formally condemned by ecclesiastical authorities as heretical. Rather, they were engaged in a running scholastic debate during which they incurred accusations of false teaching.

This feature of heresy is made most explicit in the short treatise *De protestatione circa materiam fidei* by Jean Gerson. Since Gerson was not only a theologian but also chancellor at the University of Paris, he can be considered a well-informed source in matters of academic censure.²⁴ According to Gerson, those academics who fell victim to censure usually belonged to a category whose errors consisted not of a straightforward denial of any Christian doctrines, but of an adherence to views whose opposite was implied by faith, though not yet explicitly stated. According to Gerson, it was mere simplicity or ignorance (*ex sola simplicitate vel ignorantia*), rather than anything else, that had led censured theologians to contradict faith. They were not "real" heretics. Those who struck to their errors and refused to recant were real heretics, even if at the moment of the charge it was nowhere yet explicitly stated that according to faith they should uphold the opposite position.²⁵ Gerson's account confirms that heresy was a fluid concept, intrinsically connected with orthodoxy. Most academics charged with heresy had touched upon a fringe of doctrines not strictly *de fide*, where the debate was still in progress. In 1305, when his views on the Eucharist were being examined, for example, John of Paris (Quidort) claimed that, since the church had not yet decided upon the question, his views had no bearing upon faith.²⁶

Gerson's claim that ignorance was the root of suspect teaching must not be misunderstood. In a previous section of *De protestatione circa materiam fidei* Gerson had made the point that ignorance could never be an excuse for not knowing certain truths of faith. In particular doctors of theology had to know more truths contained in the Bible, and truths derived therefrom, than ordinary believers, "otherwise they would usurp the degree and name of doctor in a condemnable and inexcusable way."²⁷ Prelates and doctors had to meet higher standards of theological sophistication than simple lay folk.²⁷ Gerson's observations raise two intriguing questions, namely, who possessed the *authority* to condemn erring academics who, strictly speaking, were not contradicting truths of faith, and who possessed the *knowledge* to do so. As we will see below, both aspects, power and knowledge, *potestas* and *scientia*, were represented in the proceedings against academics charged with disseminating false teaching.

In sum, then, the language of the documents concerning the censure of suspect teaching gives the impression that erring theologians were comparable to members of popular heretical movements. In reality, however, the notion of heresy most prominent in the world of learning was markedly different from that attributed to popular heretical movements. First, academics charged with suspect teaching did not adhere to views that overtly contradicted faith, or that had already been formally condemned. On the contrary, the erroneous character of their views came to be established only during the proceedings that resulted from the allegations of false teaching. Second, they did not stubbornly defend and disseminate their views, once their erroneous character had been pointed out to them, but were open to correction. These different conceptions of heresy, the broader and the more strict, are nicely illustrated in a brief written by the theologian Pierre d'Ailly. In this brief, d'Ailly summarized for the papal court why and in what way the faculty of theology had censured the theologian John of Monzón (Juan de Monzón). From the document it appears that, during the judicial proceedings, Monzón had insulted the bishop and the theologians by calling them Manicheans, that is, members of a formally condemned heretical sect. According to Pierre d'Ailly, however, the bishop and the theologians had never called John of Monzón a heretic, nor had they ever termed his views heretical. Yet his views were censured.²⁸

Courts and Judges

As clerics, the scholars of the University of Paris enjoyed the privilege of trial the *privilegium fori*, in the ecclesiastical courts. They fell under ecclesiastical jurisdiction, and were, save for some exceptions, exempted from lay jurisdiction. In principle, proceedings against bachelors and masters charged with disseminating false teaching could involve any of the following four tribunals: the consistory of the chancellor and masters of theology of the University of Paris, the episcopal court, the papal court, and a forum of the minister general of a religious order and his advisors. Not the nature of the offense but its circumstances determined which tribunal or tribunals had jurisdiction over a specific case. In particular the following two factors were decisive: the status of the defendant and the institutional context in which the offense was committed. Even though many scholars belonged to a religious order, and the University of Paris was the *studium generale* of, among others, the Dominicans, Franciscans, and Cistercians, the tribunal

of a minister general and his advisors never played a role in determining university cases of suspect teaching. Since the allegations of false teaching had arisen in the context of typical university activities, such as lecturing or disputing, the suspects were held accountable on the grounds of their membership in the university, even if they belonged to a religious order. The consistory of chancellor and masters of theology had precedence in such cases. Yet the tribunal of a minister general and his advisors deserves to be included in this discussion, because its jurisdictional powers and its way of proceeding in cases of suspect teaching were comparable to those of the consistory of chancellor and masters of theology. Put more succinctly, the consistory of the chancellor and theologians and the tribunal of the master general and his advisors exercised the same kind of jurisdiction in cases of suspect teaching, namely, disciplinary jurisdiction. The episcopal and papal courts, on the other hand, possessed criminal jurisdiction. Strictly speaking, only the latter two forums could *adjudicate* cases of false teaching, that is, decide a complaint of false teaching with judicial powers. As long as the proceedings against an erring academic were carried out before a panel of chancellor and theologians, or a tribunal of the minister general and his advisors, it was still a disciplinary case; the moment the case was moved to the episcopal or papal court, it became a criminal case. As will be elucidated below, the order and course of the disciplinary and criminal procedures were derived from Matthew 18: 15–17. The regular criminal procedure in cases of false teaching was preceded by “private” reproof, that is, by extra-judicial procedure.

THE FORUM OF A MINISTER GENERAL AND HIS ADVISORS

The examination of the teachings of the Dominican Durand of St. Pourcain probably provides the clearest example of the disciplinary character of the proceedings of the tribunal of the minister general and his advisors.²⁹ In 1313, Durand of St. Pourcain attracted for the first time the attention of his superiors. He had just received his appointment as master of theology at the papal *studium generale* at Avignon, a position that a few decades later came to be known as the *magister sacri palatii*. Against the order’s statutes, Durand’s commentary on the *Sentences* had been disseminated outside the order without his superiors’ preliminary approval. Hence, Berengar of Landorra, minister general of the Dominicans, decided that Durand’s views needed to be scrutinized by a commission of experts (*fratres periti*) in order

to establish whether they ran against faith and morals.³⁰ The legislation on the republication scrutiny of writings was the formal reason for investigating Durand’s commentary. Although Durand claimed that his writings had been taken away from him by some overeager friends before he had had a chance to correct them, one wonders whether Durand had deliberately avoided having his commentary on the *Sentences* examined before publication.³¹ Durand’s views were investigated a second time in 1317, this time because he had explicitly contradicted and attacked Thomas Aquinas’s views in his commentary on the *Sentences*. This was in opposition to the order’s decree, issued a few years earlier, that the Dominicans should lecture according to the doctrine and works of Thomas Aquinas.³² Both censures were confirmed at the general chapters of the order that were held shortly after the minister general had decided, on the basis of the reports of the experts, that Durand’s commentary indeed contained many errors.

Durand’s superiors approached the suspicions of false teaching as a matter of internal discipline within the Dominican order. In their view, Durand had violated the order’s regulations. The constitution that members of the order had to have their writings examined before publication originated in the 1330s and was repeated at several general chapters of the Dominicans.³³ The decree that forbade the order’s teachers (*lectores*) to teach against the common doctrine of Thomas Aquinas—in addition to ordering that their teaching ought to be in agreement with the articles of faith, good morals, and the church’s sacraments—was of earlier date. It was issued at the general chapter that was held at Bologna in 1315. The decree further stipulated that the provincial or the minister general should be informed about those teachers at the *studia* who had refused to correct themselves after respectful admonition.³⁴ In short, by disobeying the order’s constitutions, to which he was bound by his vow of obedience, Durand incurred the prescribed sanction: his disobedience was brought to the attention of the minister general of his order, who now had grounds to start disciplinary proceedings against him.

The proceedings against Peter Olivi too may have been based on Franciscan legislation requiring that any works written by members of the order had to be approved prior to their publication. In any case, Olivi claimed that some of his brethren had published the *Questions on Evangelical Perfection* against his explicit wish.³⁵

These two inquiries demonstrate that the superior, the minister general of the order, derived his jurisdictional basis for disciplinary actions from an infringement of regulations to which the inferiors, the members of the

orders, were bound by vows. In similar fashion, the jurisdiction of the chancellor over the bachelors and masters of theology was based on the oaths that bound them to obey the rules of the faculty and the University of Paris.

THE CONSISTORY OF CHANCELLOR AND MASTERS OF THEOLOGY

In Paris, the chancellor of the cathedral chapter of Notre Dame was chancellor of the university.³⁶ His most important and prestigious assignment was to grant the license to teach. The basis of the chancellor's authority was very complex. As a dignitary of the cathedral chapter who had traditionally been responsible for the cathedral school, he acted under the authority of the bishop of Paris. However, he conferred the license to dispute, to read (that is, lecture), to preach, and to exercise all magisterial acts required in the faculty of theology "on the authority (*auctoritas*) of God, the Apostles Peter and Paul, and the Apostolic See," that is, as a representative of the pope and not as an official of the cathedral chapter.³⁷ In addition, the chancellor appears to have been *iudex ordinarius*, ordinary judge of the university community.³⁸ The chancellor's jurisdiction over the members of the University of Paris stemmed, indirectly, from royal privileges, exempting the scholars in Paris from the jurisdiction of the provost.³⁹

However, as early as the first decades of the thirteenth century, the chancellor's judicial authority was challenged. Following papal appeals, the masters obtained relief from the chancellor's jurisdiction to excommunicate and imprison them.⁴⁰ The bull *Parvens scientiarum* (1231) forbade the chancellor to have his own prison and determined that suspects were to be imprisoned in the bishop's prison only.⁴¹ The chancellor's judicial authority was further attacked during a conflict that arose between Chancellor Philip of Thori and the faculty of arts in 1283–84. At issue was the question who was head of the university: the chancellor or the rector. The case was brought before the papal court. John of Malines, the legal representative (*proctor*) of the arts faculty, maintained that the chancellor of Paris was neither the ordinary nor the delegate judge of the scholars. As a consequence, he argued, scholars could not have one another cited before the chancellor.⁴² Pope Honorius IV, however, partly decided in favor of the chancellor, and, in any case, confirmed the chancellor's right to exercise his jurisdiction "as the custom was."⁴³ But this customary jurisdiction did not include the right to proceed judicially in cases of false teaching at the univer-

sity. When dealing with cases of suspect teaching, the chancellor did not exercise the strictly judicial authority of an ecclesiastical judge, but responded with disciplinary proceedings. His authority was quasi-judicial. What was the jurisdictional basis of the chancellor's disciplinary actions?

For most university condemnations all that survive are the final lists of censured views. Sometimes, these are preceded by a few introductory lines indicating which authorities were responsible for the censure. This material suggests that, during the thirteenth century, all university cases of suspect teaching were determined in collaboration with the bishop of Paris.⁴⁴ All the evidence that the body of chancellor and masters of theology constituted the lowest level of jurisdiction in university cases of suspect teaching comes from the fourteenth century. From that period, we have a few university condemnations whose preface explicitly states that the censured scholar pronounced his recantation on the order of "the chancellor and the other masters in the faculty of theology."⁴⁵ However, only two cases really give us insight into the way in which this body responded to allegations of false teaching, namely the inquiries against Denis of Foullechat and John of Monzón. Initially, both investigations were handled at the university level, but then, due to circumstances that will concern us below, they were transferred to another jurisdiction. It is probably for this reason that the records that were produced by the consistory of chancellor and masters have survived at all.

From this documentary evidence, the following picture emerges. The chancellor's power to handle allegations of false teaching was vested in an oath that bachelors of theology had to swear. The oath is attested in several sources, and extensively quoted in the records of the investigation of Foullechat's teaching. Before starting to lecture on the *Sentences*, a bachelor of theology was required to swear: "that he shall not say, hold or dogmatize anything in his 'principia' and lectures, nor in any of his other actions whatsoever that are against the catholic faith, or against a decision of the holy mother church, or against good morals, or in favor of articles that have been condemned at the Roman Curia or in Paris, or that sounds offensive in the ears of his audience, but that he will hold and dogmatize sound doctrine."⁴⁶ In addition, the bachelor swore "that if he has heard or knows of a bachelor, or someone else, who acts against this [oath], he shall reveal this to the lord bishop or the chancellor in office at that time, within seven days from the time he came to know these facts."⁴⁷

Allegations of false teaching that involved members of the university community and that arose in a university context were first brought before

the chancellor. He investigated the accusations by questioning witnesses and collecting material evidence.⁴⁸ In the Foullechat case, for instance, the chancellor obtained the quires of the lecture that had caused the allegations of false teaching. The records emphasize that Foullechat “spontaneously” gave this material to the chancellor.⁴⁹ This may mean that the chancellor did not have the authority to confiscate Foullechat’s unpublished notes, because he was not acting as an ecclesiastical judge. At several meetings, the chancellor discussed the evidence with members of the faculty of theology. If they came to the conclusion that the allegations of false teaching were founded, as they did in the Foullechat and Monzón cases, the suspect was ordered to correct himself by recanting his erroneous views. To this purpose, the panel of chancellor and theologians prepared a document containing the erroneous statements that the suspect was supposed to recant. After the suspect had agreed to the document, a date was set for the public recantation before the entire university. The records of the inquiries against Foullechat give the distinct impression that the consistory of chancellor and masters of theology acted as a disciplinary council, rather than as a court. In none of the documents is the chancellor ever addressed as judge, nor do the descriptions of the procedures match those of court sessions with formal charges and defense.

The notion that university members denounced for disseminating false teaching were evaluated by a disciplinary tribunal would seem to find support in the case of John of Monzón. This investigation too started with meetings involving the chancellor, the masters of the faculty of theology, including the dean, and the suspect, and was later moved to another jurisdiction.⁵⁰ One of the records of the later stages of the trial mentions that Monzón had first been admonished by the dean and the masters of the faculty of theology in a private (*secrete*) and supportive (*caritative*) way, as was customary.⁵¹ From this reference, it appears that the actions of the tribunal of chancellor and masters were based on the idea of fraternal correction and charity.⁵² The idea was derived from Matthew 18:15–17, in which fraternal admonition is presented as an instrument for correcting a sinner in the community, particularly if his sins or crimes are nonpublic and, as a consequence, require a nonpublic remedy.⁵³ Obviously, theologians suspected of disseminating false teaching in the university hardly fell in the category of private sinners. The “nonpublic” reproof is here to be understood in a wider sense, as “among their own,” as *secrete inter eos*, as the record explicitly states.⁵⁴

In sum, it appears that, in the fourteenth century, university cases of

false teaching were in the first instance started and settled by the masters of theology. The authority in charge was the chancellor. Only the proceedings against Monzón seem to have been chaired by the dean, usually the oldest of the regent masters of theology.⁵⁵ The position of the chancellor, John of Guignicourt, must have been weak. He was only a bachelor of theology, whereas the suspect, John of Monzón, was a master of theology. Moreover, Guignicourt’s prestige among the masters may have been low anyway, because he was the pope’s choice, not theirs, as the successor of John Blanchard, who had been deposed under pressure from the Parisian masters.⁵⁶ Guignicourt remained in office only for three years and was then succeeded by Pierre d’Ally. But this merely adds a shade to the overall picture of the adjudication of false teaching at the University of Paris.

It is important that the evaluation of false teaching was, in the first instance, monitored by the (regent) masters of theology. Although the chancellor was in charge of the procedures, and the method of fact-finding was similar to that used in the ecclesiastical courts, he did not act as an ordinary ecclesiastical judge. The procedure is probably best characterized as pretrial review by a disciplinary tribunal. Most cases of false teaching within a university context were settled out of court, in a procedure that did not involve formal charges and defense, but hinged on the idea of fraternal correction, rather than strictly judicial correction. Only because Denis of Foullechat and John of Monzón did not comply with the “private” reproof of their fellow scholars were their cases brought outside the university community and transferred to a real trial court.

THE EPISCOPAL COURT

The judgment of the chancellor and masters of theology did not always prove final. On the agreed-upon day, Denis of Foullechat did not pronounce his rehearsed recantation, but, instead, read another document that he had pulled from his gown. It turned out to be his appeal to the papal court. The chancellor and masters of theology perceived Foullechat’s refusal to recant as an act of contempt and stubbornness. They called in the help of the episcopal court and the inquisitor of heretical depravity to enforce their decisions.⁵⁷ John of Monzón also refused to surrender to the correction of the chancellor and masters of theology.⁵⁸ As a consequence, his case was transferred to the bishop of Paris, “the ordinary judge in this location.” The faculty and university handed the bishop the dossier of the Monzón case and begged him

to proceed judicially against the defendant "as is the custom in similar cases."⁵⁹ The transfer of university cases of false teaching to the episcopal court was a logical step. The fraternal admonition — that is, the extrajudicial disciplinary proceedings — had failed, and now it was time to enter the case in a regular ecclesiastical court. Since members of the university were, both by clerical status and residence at Paris, under the jurisdiction of the bishop of Paris, the episcopal court was the appropriate forum.

Unlike the tribunal of the chancellor and theologians, the episcopal court was a real trial court, or court of first instance. Presumably, the bishop, as *inlex ordinarius*, rendered his judgment on the basis of the dossier collected when the case was still under arbitration within the university itself. We cannot be certain, however, how the episcopal court operated in practice. The case of Denis of Foullechat did not go through trial at the episcopal court. Foullechat's appeal to the papal court put a stop to the judicial actions at that level. John of Monzón's case, which did go to the episcopal court, did not generate any records that inform us about the adjudication of false teaching at the episcopal court. Monzón had fled, so in the absence of a defendant, the case never came to a real trial. In any case, the record indicates that the dossier received by the faculty of theology, the *schedula facultatis theologie*, was carefully re-examined by the bishop, with the assistance of the theologians and canonists.⁶⁰ The bishop took over the condemnation of the fourteen erroneous statements by the consistory of masters of theology, and forbade their dissemination at Paris on pain of excommunication. John of Monzón himself was prosecuted by a contempt of court procedure for nonappearance (*contumacia*). In his sentence, the bishop invoked the help of the secular arm for Monzón's arrest and stipulated that he would proceed against him in the ordinary judicial way.⁶¹

THE PAPAL COURT

Whereas the consistory of chancellor and masters turned to the episcopal court for assistance, the defendants Denis of Foullechat and John of Monzón sought help at the papal court in Avignon. The papal court was a different type of judicial tribunal than the episcopal court: it was not a trial court, but an appellate court. In other words, the papal court provided a forum for review of adjudication rendered in one of the lower courts of original jurisdiction. A fuller discussion of the appellate process will be given in the next section. The papal court could, however, also be a court of

first instance or trial court. In that case, judicial action against false teaching was initiated in the papal court, and its judge gathered the evidence and handed down the decision.

What role did papal jurisdiction play in the adjudication of cases of false teaching? Between 1318 and 1342, during the pontificates of John XXII and Benedict XII, the majority of cases in which academics were charged with false teaching were decided in Avignon. But what is the significance of this fact? Richard Southern and William Courtenay suggest that during this period the influence of the university in doctrinal decisions declined, and that due to papal initiative the supervision of teaching shifted from university to papal court.⁶² In addition to conscious papal policy, however, there were other, even more decisive factors that help to explain why so many censures were issued in Avignon, instead of in Paris.

Before examining the role of the papal court in the decision-making process regarding cases of false teaching, two preliminary distinctions have to be made. The first is between the papal court as a court of first instance and as a court of appeal. The second rests on whether the allegations of suspect teaching arose in the institutional context of the university or in another context. These two distinctions are helpful guiding principles for analyzing the cases of false teaching that were adjudicated in Avignon in the first half of the fourteenth century.⁶³

It is fairly obvious that only those cases in which the papal court was a court of first instance would substantiate the view that the correction of false teaching became concentrated in Avignon. Consequently, the processes against Meister Eckhart and Thomas Waleys do not apply. Meister Eckhart's case was tried in Avignon because he himself had appealed against the judgment of the archbishop of Cologne. During the appellate process, he stayed at the Dominican priory in Avignon, from about 1327 until his untimely death sometime before April 1328. His views were posthumously condemned.⁶⁴ The trial of Thomas Waleys, a master of theology from Oxford, was also an appellate process. Its circumstances were slightly different though. Waleys was already present in Avignon when his troubles with the ecclesiastical authorities started. In 1333, he had been so unfortunate, or so undiplomatic, as to deliver a highly controversial sermon in Avignon about the nature of the Beatific Vision. The issue of the debate was whether the saints and purified souls would see God immediately, face to face, as Waleys and many others claimed, or whether they would only see God's essence after the Last Judgment, as Pope John XXII maintained. In his sermon Waleys referred to the pope's partisans, the Franciscans, as flatterers. They

immediately informed the local inquisitor for heretical depravity, who started an investigation that would drag on for almost ten years.⁶⁵ During the entire period, Thomas Waleys was held in custody, initially in the inquisitor's prison, and later in the papal prison, to which he had been duly transferred upon his appeal to the papal court.⁶⁶

More significant for the study of the concentration of decision-making in Avignon are those inquiries in which the papal court acted as a court of first instance. Were there any cases of false teaching that were directly handled by the Apostolic See, even though they had originated in a university context? Four inquiries seem to qualify, namely those against William Ockham, Richard of Lincoln, Nicholas of Autrecourt, and John of Mirecourt.⁶⁷ In all these cases the investigation concerned teachings that had originated in a typically university context, such as during a disputation or in a commentary on the *Sentences*, and yet there is evidence of papal involvement in deciding these cases. In 1324, William Ockham was summoned from England to Avignon and charged with over fifty errors taken from his commentary on the *Sentences*. He had to justify himself before a papal commission of theologians. In 1328, he fled to Pisa, where he sought refuge under the protection of Louis of Bavaria, and subsequently returned with him to Munich.

We do not know why Ockham's trial took place in Avignon. For a long time, the generally accepted view was, and perhaps still is, that Ockham was denounced by John Lutterell, who in 1323 had arrived in Avignon from Oxford. Presumably in order to advance his own career as theologian at the papal court, Lutterell brought with him a booklet with 56 errors derived from Ockham's commentary on the *Sentences*, which he offered to Pope John XXII.⁶⁸ William Courtenay, however, has recently suggested that Lutterell had been assigned the task of preparing an expert report on Ockham's views, and that the process against Ockham was already under way.⁶⁹ This suggestion is far more convincing than the traditional picture, the more so since Lutterell was one of the theologians in the commission of six that was charged with evaluating Ockham's views.⁷⁰ It is impossible that the accuser would end up in the commission that had to judge the defendant's charged errors. Lutterell's task probably was to conduct a preliminary investigation and to establish whether there were grounds for a charge.⁷¹ On the basis of his report, Pope John XXII decided that it was necessary to start an inquiry, for which purpose he appointed a judge and a commission of six theologians. Lutterell would have been a logical choice, considering that he had already been involved in the preparations.

This new picture of the inquiry against Ockham in Avignon, however, still leaves unclear the role of papal initiatives. Unfortunately, the records remain silent about the origin of the allegations that Lutterell was asked to review. Even though they concerned Ockham's commentary on the *Sentences*, they probably did not arise in the context of university activities. Ockham was at the time staying in the Franciscan convent in London. Did the accusations come from within the Franciscan order, which on a previous occasion, at the provincial chapter of 1323 in Cambridge, had already examined thirteen of Ockham's views?⁷² Was the inquiry conducted in the context of Franciscan regulations concerning the prepublication approval of works written by members of the order? And if this was, indeed, the case, then who had delated this investigation from the Franciscan order to the papal court in Avignon? Was it perhaps the Franciscan John of Reading, Ockham's opponent, who is generally presumed to have been in Avignon since 1323, and who knew Ockham's commentary on the *Sentences*, who lodged the complaints about false teaching at the papal court?⁷³

The Cistercian Richard of Lincoln was summoned to Avignon and censured for disseminating "peculiar views" (*opinionis fantastice*) during a disputation in Paris. He was denied access to the bachelor's and master's degrees and honors. In 1343, Clement VI granted Lincoln papal permission to read the *Sentences*.⁷⁴ The papal letter does not mention in what way his case was routed to Avignon, but only mentions that Clement's predecessor Benedict XII had taken up the case. Given the nature and context of the charges, it is likely that the accusations originated in Paris and were then filed at the papal court.

The papal inquiry against Autrecourt may have followed a similar scenario. In the letter that cites Autrecourt together with the Parisian scholars Elias of Corso, Guido of Veeli, Peter of Monteregali, John the Servite, and Henry of England to the papal court, Pope Benedict XII mentions that he is acting on information received. The subsequent trial against Autrecourt in Avignon, which lasted until 1346, was based on evidence produced in Paris.

The evidence in the Mirecourt case is frustratingly sparse. It is not known how this inquiry came to be delated to the papal court, granted that it was not subject to an appellate process. Interestingly, the inquiry against Mirecourt was conducted in Paris, though not by the usual university authorities or the bishop of Paris, but by a papal-delegated judge. A fuller analysis of the role of the papal court in adjudicating the Autrecourt and Mirecourt cases will be given in Chapter 4.

In sum, it appears that attributing these four inquiries entirely to papal initiative is to ignore the importance of the denunciation, more fully discussed below, in initiating disciplinary or juridical proceedings against false teaching. As stated above, the jurisdiction of a tribunal was based on two factors: the status of the suspect and the context of the "offense." However, the choice of the tribunal was made from below. The person or persons who denounced the suspect determined which of the potentially appropriate jurisdictions was actually going to handle the case by lodging their complaints of false teaching there, rather than elsewhere. The popes handled some cases of false teaching in response to allegations that had been directly lodged at the papal court. Even so, it is remarkable that Benedict XII and Clement VI chose to assume jurisdiction in three inquiries that must have started in the institutional context of the University of Paris, instead of referring these cases back to the local authorities that had been passed over. Their actions indicate that they took an active interest in cases of false teaching, once they had been taken to their courts, even if they were rather minor and concerned what some bachelor of theology had said or written on some occasion in faraway Paris. In this respect, there is a marked contrast between these four investigations and two earlier examples of false teaching that were immediately taken to the Holy See.

The first example concerns the doctors of theology William of St. Amour, Odo of Douai, and the masters Nicholas of Bar-sur-Aube and Christian, canon of Beauvais. In 1256 Pope Alexander IV deprived them of their ecclesiastical dignities and benefices and of their magisterial office, and had them expelled from France. A few days later, the pope asked King Louis to exile the masters and to imprison "the most perverse" — William of St. Amour and Christian — so as to "teach others to live quietly and to obey the Roman Church humbly."⁷⁵ Although all these scholars were members of the University of Paris, and the discussion over the eschatological views of the Franciscan Gerard of Borgo San Donnino and the theory of Evangelical Poverty, in which they became involved, was of a doctrinal nature, they were not adjudicated by the chancellor and masters of theology, nor by the episcopal court, but by the papal court. The reason is that the dispute in which William of St. Amour and the other scholars became entangled surpassed the context of the university. It did not arise in the course of teaching activities or of ceremonial disputations at the university. Moreover, the problems at issue were as much constitutional as doctrinal, connected as they were with mendicants' teaching rights at the university.⁷⁶ Some of the errors attributed to William of St. Amour concerned the interpretation of

papal decrees. Given this context, it was logical that the mendicant opponents of William and his fellow scholars lodged their complaints of suspect teaching directly with the papal court.

The examination of Master John of Pouilly's views in 1318 is another example of judicial action by the papal court. According to Southern, this case marks the beginning of the shift from university to papal court in the decision-making process regarding cases of false teaching. The actual circumstances of the case, however, contradict this presentation. Like William of St. Amour, John of Pouilly was an active member of the University of Paris, and, as a consequence, fell under its jurisdiction. Yet the allegations of false teaching were submitted directly to the curia. Pouilly had disseminated his suspect views at a provincial chapter of the Dominicans. They concerned the right of the mendicants to hear confession and were partly based on an interpretation of papal decrees. The mendicants felt discredited and drew up a list of John of Pouilly's errors, which they deposited at the papal court.⁷⁷ The list of allegations caused Pope John XXII to begin an inquiry and summon John to Avignon.⁷⁸

Both examples show that the denunciation was a decisive factor in initiating papal action. But, of course, the accusers had their reasons for filing their allegations at the papal court, instead of elsewhere. The allegations against Master John of Pouilly were heavily influenced by a political agenda and should be seen in the light of the struggle against mendicant privileges to hear confession. The Dominicans and Franciscans who denounced Pouilly obviously believed that the pope would be more willing to give them a ready ear than the chancellor or the bishop of Paris. Moreover, as in the inquiry against William of St. Amour, the Pouilly case concerned the interpretation of papal decrees, and hence papal involvement seemed logical. The accusers clearly had specific expectations of the papal involvement, expectations that were not disappointed by John XXII and Benedict XII, who actively encouraged this new arrangement by the kind of response they gave to cases of false teaching that were directly taken into their court, thereby passing over lower jurisdictions.

This same pattern also appears in the censures of Peter Olivivi and Marcellinus of Padua, both issued in Avignon. Again, the doctrinal issues are overshadowed by larger political complications. In 1318, Pope John XXII had entrusted a cardinal with the task of examining Peter Olivivi's commentary on the *Apocalypse*. Its popularity with the spiritual Franciscans had made this work highly suspicious. On February 8, 1326, many years after the author's death, Pope John issued a condemnation against it. Although

the censure concerned specific passages from the *Apoplyse* commentary, and was of a doctrinal nature, it should be seen in the light of the conflict within the Franciscan order between the spirituals and their leaders. John XXII sided with the Franciscan leaders and cooperated with them to suppress dissent.⁷⁹

Political overtones are also present in the censure of the *Defensor pacis* by Marsilius of Padua. The work was finished in 1324 and condemned on October 23, 1327. Although Marsilius was a master at the arts faculty in Paris, this work did not originate in a university context. The controversies that the work raised are connected with the contest over the Imperial See, vacant since 1316. The struggle was won by Louis of Bavaria. John XXII, however, had taken sides with Louis's competitor. The ensuing problems concerning Louis's coronation eventually led to the latter's excommunication on March 23, 1324. Marsilius of Padua belonged to the Italian party that had supported Louis of Bavaria, and attacked the papal claims to supremacy in his work.⁸⁰

The most clear-cut case of papal initiative in a doctrinal matter appears to be the inquiry against the Dominican Durand of St. Pourcain, which ran from 1331 until his death in 1334. It was started by Pope John XXII himself, though its circumstances were extraordinary. Durand served as a theological expert on the committee to which the pope had entrusted the examination of a sermon expressing his own views on the Beatific Vision. This was a topic on which Pope John XXII held strong views. John XXII was displeased with Durand's report, and so it happened that Durand himself became the target of an investigation.⁸¹

What conclusions can be drawn from this brief review? Even though John XXII and even more so Benedict XII probably encouraged the centralization of the examination of doctrinal orthodoxy, the significance of this "move to Avignon" should not be exaggerated.⁸² It appears that papal initiatives did not play a more decisive role than other factors in adjudicating false teaching at the papal court. The fact that so many cases were decided in Avignon during the first half of the fourteenth century should not be misunderstood. Trials in which the papal court acted as an appellate court can hardly count as examples of papal initiative. Moreover, some inquiries in which the papal court was indeed involved, such as the proceedings against Mirecourt and Foullechat, were conducted in Paris.

There was never really a shift in the balance of forces from university to papacy, as Southern claims. First, several jurisdictions were competent in handling charges of false teaching. The choice of the judicial forum was

determined from below, by the person or persons who informed the authorities about their suspicions. The institutional context in which the offense had occurred and the status of the accused played a decisive role in this choice. If false teaching had been disseminated during university activities, disciplinary proceedings were initiated at that level of jurisdiction.

Why the inquiries against Lincoln, Autrecourt, and perhaps Mirecourt were at some point declared to the papal court is unknown, since the initial circumstances of these cases, in particular the phase during which the allegations were submitted, have not been recorded. All other cases in which the papal court assumed jurisdiction as a court of first instance were greater cases, with political and ecclesiological implications. And even in these cases, it is more accurate to speak of papal responses than of papal initiatives. Second, as Brian Tierney has shown, the Decretists of the twelfth century already acknowledged that the pope was the supreme judge in matters of faith. The view that papal pronouncements concerning the truths of faith are authoritative was never challenged during the Middle Ages, not even by William Ockham, otherwise a sharp critic of the "heretical" John XXII.⁸³ Consequently, Southern's view that the adjudication of false teaching in Avignon made Pope John XXII "the regent master" of Christendom and Avignon its "highest court" needs to be qualified.⁸⁴ Papal teaching authority had always been acknowledged by the masters of theology. For this reason, nobody objected to the change of venue from Paris to Avignon, whenever it did occur, certainly not as long as the masters of theology continued to play a crucial role as consultants in any academically related proceedings.⁸⁵

The Courts at Work: The Process

There are no normative sources on the rules of disciplinary procedure against erring masters and bachelors at the University of Paris. Nor are there any treatises setting forth the rules of a disciplinary investigation in all its aspects, as the manual *Doctrina de modo procedendi contra haereticos* did for the prosecution of heresy.⁸⁶ The principles of disciplinary procedure that gradually evolved (*consuetudo*) at the University of Paris, the lowest level of jurisdiction, have to be reconstructed from casuistry, that is, from the fragmentary records of a few individual cases. This point is neatly illustrated by the inquiry against John of Monzón. Pierre d'Alilly, who handled this case on behalf of the faculty of theology, consulted the records of the Foullechat

case of thirty years earlier in order to justify how he conducted the proceedings against Monzón.⁸⁷ One might even conjecture that the striking lack of documentary evidence concerning most of the censures that came to be included in the *Collectio errorum* indicates that there was usually immediate compliance with doctrinal correction by the chancellor and theologians. These proceedings would not have left a paper trail. Only when the disciplinary proceedings had run less smoothly, such as occurred in the cases of Foullechar and Monzón, which had to be transferred to a higher jurisdiction, did it become necessary to report about them.

In practice the disciplinary proceedings against erring scholars contained elements that were characteristic of a criminal procedure. The strict division of the proceedings into disciplinary and criminal may have been more logical than real. As a result, the picture of the disciplinary procedure that emerges from the few surviving records may be complemented by what we know of the rules of criminal procedure.

Cases of suspect teaching that reached the episcopal and papal courts were adjudicated according to the *ordo iuris* of inquisition (*inquisitio*), which under Pope Innocent III had become the universal method of trial procedure in all ecclesiastical courts.⁸⁸ The rules of inquisitorial procedure are stipulated in the decretals. On a more practical level, the *Speculum iustitiale* by William Durant is an important source for the rules of contemporary criminal procedure.⁸⁹ The work, a manual on legal procedure, was mainly written for the practicing lawyer.

The inquisitorial procedure was developed as a response to the shortcomings of the ancient accusatorial principle. One essential feature of the accusatorial principle was its focus on following the correct rules. A technical error would acquit the accused. The inquisitorial procedure, on the other hand, was more interested in establishing the material truth: had the accused committed the charged crime, or not? This difference in approach is reflected in the essentially different roles played by the judge in the two kinds of proceedings. Generally speaking, in accusatorial proceedings the judge was conceived as an umpire who monitored the rules of the game, whereas in inquisitorial proceedings the judge carried on the investigation and presented the charges. An accusatorial procedure was initiated by an accuser bringing charges against a certain individual. The accuser ran the risk of retaliation if he failed to produce proof of the defendant's guilt.

The inquisitorial procedure rested on another idea. It was modeled on the inquisitorial procedure, in which an inquest (*inquisitio*) was conducted

to establish whether the public rumor (*publica fama*) that a crime had been committed was true. In order to avoid public scandal in the community (*scandalum publicum*), the alleged perpetrator was expected to exonerate himself by taking a public oath (*purgatio canonica*). The inquisitorial procedure, however, went one step beyond the inquisitorial procedure in that it not only examined the truthfulness of public outcry, but also investigated the truth of the crime itself. In this way, public outcry came to replace the accuser of the old system. Since judicial action was initiated by *fama*, which was considered to be the "accuser," the judge was not acting as both accuser and judge.⁹⁰ In practice, public outcry manifested itself through trustworthy informants, who would enter the case only as witnesses, if at all. Their oral or written reports would first alert ecclesiastical authorities that an academic had been disseminating false teachings. The judge played a substantial role in the gathering of evidence.

At the beginning of the fourteenth century, the judicial activities aimed at establishing the truth of the information and the nature of the crime were called *inquisitio specialis*. In its preliminary phase, the judge tried to gather evidence upon which to institute further criminal proceedings. In order to avoid scandal, the preliminary inquest had to be made in a discreet manner (*secrete*).⁹¹ If no sufficient ground for prosecution was discovered, the matter was dropped. However, if this evidence-gathering rendered positive results, it was followed by the trial of the suspect, who was now charged with the crime and whose guilt had to be proved. A case tried according to the procedure by inquisition would typically traverse the following stages: (1) the commencement of the action; (2) the preliminary inquest; (3) the citation and defense; (4) the sentence (and its execution); (5) the appeal. Most of these stages can also be identified in the disciplinary procedures by the panel of chancellor and theologians, or the tribunal of a minister general and his advisors.

COMMENCEMENT OF THE ACTION

Judicial or extra-judicial actions against a master or bachelor could start only if the proper authorities had been informed of an offense and of its author. Although rumor (*fama*) occasionally crops up in accounts of the events that led to disciplinary proceedings, denunciation played a key role in initiating investigations of false teaching.⁹² This is only logical, considering the institutional context in which academic censure occurred.

Usually, an investigation started because someone from the audience of a lecture, a sermon, or a dispute denounced a bachelor or a master for disseminating views that allegedly were against faith and good morals. The records commonly emphasize that the informants were honest and trustworthy persons motivated only by the zeal of faith and not, for instance, by jealousy. The procedure of denunciation is most clearly documented in the cases of Brother Bartholomew and Denis of Foullechat. Both were bachelors of theology who were reported to the chancellor by fellow scholars.⁹³ As I mentioned above, the procedure of denunciation was firmly rooted in an oath, which all members of the faculty had to swear “in the hands of the chancellor.”⁹⁴

The records are silent about the circumstances under which Brother Bartholomew was denounced. We do know, however, that Foullechat’s denunciation was occasioned by what he had said during his *principium* on the *Sentences*.⁹⁵ The *principium* was a solemn inaugural lecture held by a bachelor of theology before he actually started lecturing on either the Bible or the *Sentences*. The *principia* that preceded the lectures on the *Sentences* also contained a disputation. As a matter of fact, it was the first time that the new bachelor of the *Sentences* could preside over a disputation. It marked the review and approbation of a candidate as a bachelor of theology.⁹⁶

The investigation of John of Monzón’s views started according to a similar scenario, though in his case it was not his *principium*, but his vespers (*vesperiae*) that sparked the scrutiny of the authorities.⁹⁷ The vespers were a review that took place on the eve of the candidate’s inception as a master and marked his admission into the guild of masters (*magisterium*). The candidate had already been licensed (*licenciatus*) by the chancellor, so technically speaking he had already just moved beyond the stage of bachelor. In his treatise against John of Monzón, Pierre d’Alilly refers to a solemn declaration (*protestatio*) similar in content to the oath on which the investigation of Denis Foullechat had been based, and that scholars had to read before they started lecturing.⁹⁸ So here, too, the allegations of false teaching must have originated from people attending this important academic event, as may also have been the case with the inquiries against the bachelors of theology Simon (1351), Louis of Padua (1362), and John of Calore (1363), all of which concerned their vespers.⁹⁹ These examples of the role of denunciation in initiating disciplinary proceedings can be multiplied if one also considers cases that arose outside the context of the university. A particularly well-documented investigation is that of the Dominican Thomas Waleys. As I mentioned above, Waleys was denounced after a sermon about

the Beatific Vision, which he preached in Avignon. He was arrested and held in custody on the orders of the local inquisitor for heretical depravity.¹⁰⁰

The cases discussed so far have all been examples of oral denunciations. However, denunciation could also take place by writ. *Enemies of Peter* Olivivent sent a report of specific accusations (*articuli*) to the minister general of order, who was thus obliged to start an investigation.¹⁰¹ In similar fashion, the mendicant enemies of Master John of Pouilly submitted a petition to Pope John XXII, who, as a consequence, cited John to Avignon.¹⁰² The documents related to the examinations of Peter of Tarentaise and John of Paris also hint at the fact that both academics were denounced, but neither the identity of the denouncers, nor the circumstances are further elaborated.¹⁰³ These examples demonstrate an important point, namely that the judicial forums, whether supervised by chancellor, minister general, bishop, or pope, were reactive institutions. They hardly ever took the initiative in disciplinary or judicial proceedings concerning suspect teaching, but became involved *ex officio*, because a third party chose to notify this, rather than that, authority about his complaints. In all cases, the nature of the offense was the same, namely the dissemination of suspect teaching. Not the offense itself, however, but its institutional context and the suspect’s status determined the choice of the jurisdiction.

THE PRELIMINARY INQUEST

After a scholar had been denounced for disseminating false teaching, the proper authorities could start a preliminary inquest in order to gather evidence concerning the facts of the case. The purpose of the preliminary examination was to determine whether the suspect should be held to answer. The investigation was conducted by a “judge,” even though his powers were not strictly judicial, and focused on two questions, namely whether the suspect had really upheld and disseminated certain views and whether these views were erroneous.

The evidence that came under scrutiny could consist of the testimony of witnesses or of confiscated material such as the suspect’s writings or even his personal notes. When Denis of Foullechat was denounced for false teaching, the chancellor not only questioned witnesses who had attended his *principium* but also examined the yet unbound quires of this lecture. In other cases too, the examination of suspect teaching concerned “unpublished” material, such as the suspect’s personal notes for disputations, ser-

mons (John of Pouilly, Meister Eckhart, Thomas Waleys, Nicholas of Autrecourt), *primitia* (Nicholas of Autrecourt), or vesperies (Simon, Louis of Padua, John of Calore, and John of Monzón). In a category by themselves were the commentaries on the *Sentences* or other writings that had been examined in the context of legislation concerning prepublication scrutiny (Durand of St. Pourçain, Peter Olivi, and possibly William Ockham and John of Mirecourt).¹⁰⁴

The most crucial stage of the entire inquest was the evaluation of the reported errors. This task was not carried out by the judge himself, but was delegated to a commission of theologians.¹⁰⁵ The members of the commission were appointed for the term of one case. In general, local authorities at Paris (chancellor and bishop) recruited their consultants in matters of doctrine from the body of (regent) masters of the faculty of theology. They would be anonymously referred to in the records as *consilium doctorum sacre scripture* or *universitas magistrorum* or words to that effect. Bachelors of theology, however, or even bachelors of arts could also sit on a committee, as the disciplinary proceedings against Peter Olivi, Durand of St. Pourçain, and Raymond Lull show.¹⁰⁶ If an inquest concerned false opinions disseminated solely within the context of a religious order, the minister general would fall back on experts from the order itself. The papal curia recruited its experts from among the theologians who happened to be in residence in Avignon at the time of the examination, or else it would summon theologians to come to Avignon for consultation.

The fragmentary evidence concerning the constitution of the commissions of experts in cases of suspect teaching shows that some names recur time and again. One of the experts whom Pope John XXII frequently called on was Cardinal Jacques Fournier, the future Pope Benedict XII. He was consulted in the investigations of Eckhart, William Ockham, Peter Olivi, and Durand of St. Pourçain, and in a case of sorcery.¹⁰⁷ John XXII also ordered Pierre Roger, the future Pope Clement VI, to write on the question "under what conditions and in what way a person becomes a heretic."¹⁰⁸ In addition, Pierre Roger was a member of the committee of theologians that was asked to give its expert opinion in the doctrinal controversy over Thomas Waleys's views on the Beatific Vision.¹⁰⁹ Another theologian whose advice was often sought was Peter of Palude. He was not only involved in the two doctrinal investigations that were conducted within the Dominican order against Durand of St. Pourçain but was also a member of the commissions that had to give their expert opinion in the cases against Peter Olivi (concerning his commentary on the *Apocalypse*) and John of Pouilly.¹¹⁰ John

of Naples sat together with Peter of Palude on both committees that examined Durand. Subsequently, he became a member of three other investigative commissions delegated by Pope John XXII.¹¹¹ Durand of St. Pourçain was consulted in the controversy over Evangelical Poverty and in the examinations of Ockham's and Waleys's views.¹¹² The Carmelite Guido Terreni participated in the examination of Olivi's commentary on the *Apocalypse* and in a consultation concerning sorcery, the same one in which Jacques Fournier had given his advice.¹¹³

The members of an advisory committee in an inquest on suspect teaching were expert witnesses charged with investigating and reporting on special aspects of the case. They were appointed to scrutinize the suspect's writings for errors and to assess their degree of error, if any. They reported the results of their investigation by drawing up a list of suspect statements. Josef Koch has pointed out that at the investigation of the Franciscan Peter Olivi in 1283, two important new techniques were introduced for evaluating ering academics.¹¹⁴ The most important source for our understanding of the development of these new techniques is the *Apologia*, written by Olivi in 1285.¹¹⁵ In this work Olivi draws attention to certain surprising aspects of the censures against him that deserve to be quoted here:

First . . . some of my [Olivi's] questions have been excerpted by yourself [Bonagratia, the General of the Franciscan order] or some of your brethren and have been collected in a roll. Some of these excerpts were, either by all of your people unanimously, or by the majority, condemned as false by a sententious decision, which was written down and indicated in the margin of the very same roll. Some were condemned as heretical, some [were regarded] as doubtful in faith, some as dangerous to our order, some as ignorant, some as presumptuously stated, and some, as I would say, [were condemned] to be crucified or marked with the sign of the cross. And, as appears from what is indicated in the margin of this roll, not only the excerpts, but also the author himself is sententiously condemned or reprovved.¹¹⁶

According to Koch, the following two new methods were employed in the examination of Peter Olivi's views.¹¹⁷ First, the suspect statements were no longer paraphrased, as in former lists of errors, but were now excerpted literally from the scholar's works. Second, the predicate "erroneous" in former lists of suspect propositions came to be replaced by a whole spectrum of assessments, the most important of which were "heretical" (*hereticus*), "erroneous" (*erroneus*), "untrue" (*falsus*), and "presumptuous" (*presumptuosus*).¹¹⁸ Possibly, Parisian theologians on the commission that evaluated

Olivier's teaching transferred these newly developed methods from the Franciscan order to the university at large.

The theological consultants assessed the degree of error by taking votes. Not always were their decisions unanimous. Article 23, for instance, of the list of suspect views attributed to Durand of St. Pourçain was considered false by four members of the committee, but true by the other six consultants.¹¹⁹ There was also disagreement over Thomas Waleys's views. One of the propositions in the list was assessed as being erroneous by some masters, as false and temerarious by other masters, and as true by still others.¹²⁰

In those cases in which a list of charged errors already existed (such as when an informer had prepared and sent a list of suspect views to the ecclesiastical authorities or in cases of appeal), the theologians' assignment would be somewhat different. First, they would have to establish whether the views attributed to the suspect were really his, and, second, they would have to evaluate to what degree these views were really erroneous. A good illustration of this practice is provided by the commission that was charged with examining the views of William Ockham. The theologians of that commission reported: "We looked very carefully into whether the forementioned articles are contained, as they stand, in the book and in the forementioned quires, and with regard to the same articles we deliberated between us and wrote down what we thought should be done with every single one of them."¹²¹ The theologian Peter of Palude performed a similar task when Pope John XXII received a list of thirteen allegedly false theses that were attributed to John of Pouilly. Only after Peter of Palude had given his expert opinion that the theses were, indeed, erroneous was Pouilly summoned to Avignon and formally charged.¹²²

The panels of experts played a substantial role in the production of evidence. Their findings of fact determined the judge's decision to drop a case or to institute further disciplinary proceedings. If no false opinions were discovered, the case was dismissed. This happened in the inquiries against the Dominican Thomas of Naples in 1348, and probably also in the one against Peter of Tarentaise (Pope Innocent V) around 1267.¹²³ If, however, the commission of theologians concluded that the allegations of false teaching were true, the judge was induced to take further action.

The next logical step was to establish the charges against the accused. The charges were specified in itemized lists of articles (*articuli*). In disciplinary proceedings against false teaching, such articles would state the charged errors. In other legal cases, the *articuli* typically would contain the facts that were at issue.¹²⁴

THE CITATION AND DEFENSE

Once the authorities had been informed about the allegations and the charges had been established, the accused was summoned to present himself before the body of the chancellor and theologians for examination and defense. The preliminary inquest was now concluded and the defensive proceedings could start.

No formal citations have been preserved at this level of jurisdiction. One may presume that suspects voluntarily surrendered to the chancellor and appeared before the panel at the required time and place. Matters were different when other levels of jurisdiction became involved. Nicholas of Autrecourt, for instance, received an official citation in which he was given a month's time to present himself at the papal court in Avignon. Since Autrecourt was in Paris, the summons was served through the bishop of Paris and, consequently, was a delegated citation.¹²⁵ As will be argued later, an initial list of errors assembled at Paris was sent with Autrecourt to Avignon after the summons.

John of Monzón was summoned three times to appear before the episcopal court. He failed to obey any of the citations. This failure resulted in his arrest warrant, and in contumacy proceedings (*contumacia*). In essence, contumacy was considered to be obstinate disobedience to an ecclesiastical court.¹²⁶ In this particular case John of Monzón was prosecuted for contempt of court and punished with excommunication, the usual penalty for contumacy in canon law.¹²⁷ Later, when his case had been transferred to Avignon, Monzón incurred contumacy because he left before the trial was finished. This time he was excommunicated by the Holy See.¹²⁸ Probably, William Ockham's excommunication too was the result of contumacy. On May 26, 1328, he fled Avignon together with Michael of Cesena and Francis of Marchia before their trial was finished. The group was chased, but not caught. Two days later, Pope John XXII remarked in a letter that Ockham's secret departure proved that he had a bad conscience, and that by leaving he had convicted himself. Ockham was never formally condemned, however.¹²⁹

The evidence in the Monzón and Ockham cases offers another interesting aspect of proceedings against academics who had been cited to appear before the papal court. Both defendants had to hold themselves available to the judicial authorities. Monzón stayed in an inn (*albergaria*) for three months, and Ockham spent four years at the Franciscan convent in Avignon.¹³⁰ Ockham's contemporary Meister Eckhart awaited his appeal at the Dominican priory in Avignon, from his arrival in about 1327 until his death sometime before April 1328.¹³¹ The requirement to be available probably

resulted in some kind of house arrest. In any case, the suspects were not allowed to leave Avignon. But this form of pretrial custody was relatively mild when compared to the approximately ten years, from 1333 until his release in 1342, of pretrial detention that Thomas Waleys had to experience in the inquisitor's prison and the papal prison.¹³² Custody, however, only came to play a role when a case was transferred from the chancellor's jurisdiction to a higher level of jurisdiction.

Academics charged with holding erroneous or heretical views were given the opportunity to defend themselves. Giles of Rome, John of Pouilly, Durand of St. Pourçain, Thomas Waleys, Meister Eckhart, and John of Mirecourt were asked to submit a written answer to the charges, although Giles and John were only allowed one day and Thomas "a very brief period" to prepare their defenses.¹³³ William Ockham and Nicholas of Autrecourt met personally with the commission of prelates and theologians. The defense delivered by Ockham probably raised new doctrinal questions, for the second report of the commission was more severe than the first one. Both Ockham and Autrecourt seem to have assisted in making the charges more exact.¹³⁴

Peter Olivi, on the other hand, was deprived of his writings and the list of charges against him; thus, his defense was hindered. Only in 1285, in an *Apologia*, could he respond to the accusations of two years earlier, and even then on his own initiative.¹³⁵ Denis of Foullechat encountered a similar difficulty. The chancellor, to whom he had handed the quires of his *primipium*, never returned them to him. For this reason Denis could not properly defend himself, or so he claimed.¹³⁶ From the standpoint of the judicial authorities, the writings had been confiscated and retained by the court because they constituted evidence. The defendant, however, needed his writings in order to be able to prepare a proper defense.

In defending themselves against charges of false teaching, academics used an analogical method to that used by those investigating their orthodoxy. The defendants could either deny that a specific article really stemmed from their work, or they could admit that it did, and then proceed to various complex strategies of defense, to be discussed below. Autrecourt's roll, for instance, contains one section with articles that he either flatly denied saying, or denied having said them in the way they had been put down in the roll (*sub forma qua ponuntur*).¹³⁷ A statement to the same effect was made by John of Paris at the opening of his *Excursio*: "I did not say these articles in the way they are being interpreted . . . and if I have said or taught them, which I do not believe nor remember — on the contrary I know it — then I want them

to be considered as not having been said in the way they are imposed upon me."¹³⁸ Eckhart too denied certain articles that had been excerpted from his sermons, claiming that they had been reported partially and falsely.¹³⁹ The same line was taken by John of Pouilly, whose supposedly erroneous opinions were also derived from oral material.¹⁴⁰

Another strategy of defense was taken by Peter Olivi and Durand of St. Pourçain. They tried to undermine the status of the articles by pointing out, perhaps correctly, that these articles had been excerpted from works that had never been intended for publication. The implication was that the commission was actually dealing with private opinions, instead of with doctrines meant to be publicly disseminated that, as a consequence, had to follow the order's regulations on prepublication permission. In the *Apologia*, Olivi maintained that the works excerpted in the articles against him had been published against his explicit wish by other Franciscans.¹⁴¹ Durand of St. Pourçain declared in a postscript that his commentary on the *Sentences*, from which ninety-three articles had been excerpted for further examination by the Dominican order, had been taken away from him and disseminated against his will.¹⁴²

If the defendants recognized the articles as their own, they could either confess error or advance a defense. If the academics chose to defend the correctness of the excerpted articles, the defense focused on their meaning (*sensus*). The academics would claim that the accusers had understood an excerpt in a different way than intended. This strategy of defense can be illustrated by many examples. Peter Olivi, for instance, reports in the *Apologia* that he had to agree to a document called *The Letter of the Seven Sarks*, which was composed of positive statements in opposition to his censured views. Olivi clearly understood the implications of his assent: "It would seem as if I confessed that I had written the articles that were excerpted from my works with a different meaning and intention than I really did, and, what is worse, I would seem to concede, and this falsely and against my conscience, that I had said those articles with the erroneous or heretical meaning that had been imposed upon me."¹⁴³

The crux of Olivi's complaint, and of other defendants whose views were being examined, was that the accusers did not take the defendants to mean what they actually meant. I shall illustrate this with two more examples. In his appeal to the pope, Arnold of Villanova stated that "the articles you made me read, which you excerpted from my works, did not have the meaning I intended when I wrote them because you took them out of context."¹⁴⁴ John of Mirecourt discusses in his *Apologia* the manifold senses of

the articles attributed to him and concludes that he holds to certain interpretations, but not to others. Moreover, he invites the masters to state whether they intend to condemn these articles in all their senses.¹⁴⁵ The strongest opposition, perhaps, against the flaws of the method of extracting articles was voiced by Meister Eckhart. Throughout the *Rechtfertigungsschrift* he never wearies of pointing out to his judges that the articles “touch the truth, which can be sustained with true and sound understanding,” or that the articles “are, as it were, false or erroneous in the sense attributed to them by those who oppose them.”¹⁴⁶ His judges err, Eckhart says, in believing that everything that they do not understand is an error.¹⁴⁷ “What can I do, if somebody does not understand?” Eckhart asks himself, and in a response to one of the articles, he puts it this way: “The whole of what was said is false and absurd according to the imagination of my opponents, but it is true according to true understanding.”¹⁴⁸

Similarly, defendants would invoke an *assertive-disputative* distinction in order to claim that charges did not accurately represent their views. They pointed out that a defendant had not made the suspect statements assertively (*assertive*) — that is, as representing his own authoritative views — but only disputatively (*disputative*) — that is, for the sake of the discussion — or recitatively (*recitative*) — that is, in quoting other persons’ opinions.¹⁴⁹ In other words, a defendant argued that the suspect views did occur in his text, but maintained that they were not part of his own argument, but had been used only for purposes of disputation and analysis. The *assertive-disputative* distinction can also be found in scholastic texts that were never investigated for false teaching, as a kind of precaution against charges of false teaching.¹⁵⁰

True understanding was the central issue in the defense of accused academics. The defendants felt that they, as authors, were the best-qualified interpreters of the suspect statements: they knew what they had meant. And if the judge or the expert witnesses, either out of malice or out of ignorance, misrepresented their views, they had to be corrected, for example by making distinctions and by specifying in what sense an allegedly suspect statement should be taken.¹⁵¹

This approach, however, did not quite correspond with the approach taken by the investigators of suspect teaching. The latter had as their point of departure the old notion that “whatever is received, is received according to the manner of the recipient.”¹⁵² Consequently, they evaluated the articles “as they sound” (*prout sonant*), or “as they stand” (*prout facent*).¹⁵³ The very fact that a defendant would need to make long explanations about the

true meaning of what he had maintained made his views look suspicious. The primary concern, real or simulated, of the ecclesiastical authorities, was the care of souls. They wanted to protect the pious ears of the learned in the audience against error and heresy. False teaching did not have a right to be heard; therefore, some of the subtlety of the academics had to be sacrificed.¹⁵⁴ The bull in which Eckhart was condemned (1329) stated that various of the articles extracted from his writings and sermons were heretical both as they sounded and in their context. Other articles were merely suspect, but with many explanations and additions a catholic sense could be construed. Nevertheless, all the articles were condemned, because they could lead the minds of the faithful to a heretical or erroneous interpretation. Hence, Eckhart had to recant these articles as far as concerned this sense.¹⁵⁵ In sum, ecclesiastical authorities demanded that theologians not express themselves in an ambiguous way. They would allow the academic to explain himself through additions and distinctions. This method, however, would only prevent an article from being assessed as erroneous or heretical; the article would still be false “as it sounds,” or ill-sounding (*male sonant*), or offensive to pious ears.

The defenses, apologies, excusations, and recantations demonstrate that judges and defendants were entangled in a complicated hermeneutical game. The judge and his consultants thought that they as readers determined the meaning of the charges (*articuli*) derived from the defendant’s works, whereas the defendant thought that he, as author, owned this privilege. The defendants focused on the intention of their words; the judge and his consultants, on the other hand, were concerned with the potential effect of the defendant’s words on the audience. By appealing to what they “really” meant, the defendants were ignoring the *prout sonant* principle, and hence were missing the point of their investigators.¹⁵⁶ By narrowing down the discussion to excerpts, on the other hand, the investigators were talking past the defendants. Whereas the defendant insisted on context and on meaning, his opponents focused on singled-out excerpts “as they stand.”

Nevertheless, the academic’s strategy probably was the only way to escape the inherent arbitrariness of the *prout sonant* principle. The principle rested upon the disputable assumption that statements “as they stand” have an obvious sense that can be distinguished from a less obvious sense, whereas as a matter of fact the examiners themselves assigned this sense to the articles. Supported by the axiom that whatever is received is received according to the manner of the recipient, those who applied the *prout sonant* principle were by definition always right. The judge and his consultants

decided what the articles meant if taken at face value. They decided whether the words as they sounded had a good and appropriate meaning.¹⁵⁷ Although they had to prove in which sense the articles were wrong, they never had to prove that this wrong sense was the sense in which the defendant had intended his own statements.

The *prout sonat* principle was the hermeneutical principle that was reserved for the interpretation of contemporary authors suspected of false teaching. Other authors required other hermeneutics. In particular, *authoritates*; that is, writers with authority whose texts constituted the curriculum of a medieval university, were interpreted according to rules that were diametrically opposed to the *prout sonat* principle. Authoritative texts were explained according to the methodological principle that “words have to be interpreted in the sense in which they are made (*fiant*), not in the sense they make (*faciunt*).”¹⁵⁸ In other words, the interpreter made a distinction between the literal sense of statements and the author’s intention. Whenever the literal sense was thought to conflict with doctrinal considerations, the interpreter would start clarifying an authoritative text “according to the writer’s intention,” thus contributing to its respectful and benevolent explanation (*reventer exponere*). This hermeneutical approach, however, was ruled out under the *prout sonat* principle, reserved for lesser souls, who had better make sure to say what they mean.

Scholastic authors were fully aware of the arbitrariness of the *prout sonat* principle and even ridiculed it. Particularly illuminating in this respect is a passage from *Quodlibet* XII q.5 by the theologian Godfrey of Fontaines, written in 1296 or 1297.¹⁵⁹ Godfrey maintains that the condemnation of certain articles issued by Bishop Tempier in 1277 is “incomprehensible, untrue, and impossible.” Among other things he points out that some of the articles are contradictory and totally impossible if taken literally, and cannot be rationally sustained unless they are explained in some way other than “the surface of the letter as it stands,” that is, if they are taken in a nonliteral sense. According to Godfrey, Tempier’s condemnation may cause scandal (*scandalum*) because some of the articles need to be expounded in a way that runs not so much against the truth, or against the intention of the editors of the articles, but against what seems to be the literal sense of these articles. Consequently, people who are less well versed in the techniques of interpretation think that the interpreters are excommunicated and that their views are incorrect. And these simple-minded people, Godfrey continues, denounce good and authoritative persons to the bishop or chancellor as if they were marked for excommunication and error. This in turn may cause much inconvenience for scholars and even produce sects among them.¹⁶⁰ God-

frey’s reproach that Tempier’s articles appear irrational, if taken at the face value of their wording (*superficies littere sicut inicit*) is a double entendre. Godfrey is applying the vocabulary of the issuers of academic condemnations to the issuers themselves. Also Godfrey’s claim that Tempier’s condemnation gives rise to *scandalum* among the learned and leads to the formation of sects should be seen in the light of this “reversed rhetoric.” For it was precisely the heretics, academic or otherwise, who were charged with causing scandal and for this reason became the subject of an inquisition.¹⁶¹

THE SENTENCE AND ITS EXECUTION

On the basis of the evidence produced in the report of the committee of experts and the defendant’s own response to it, the supervising authority rendered a decision, the sentence. The sentence was a formal statement by which the defendant was either convicted or acquitted. Since, however, the proceedings would never have come thus far unless some incriminating facts had been discovered during the preliminary investigation, acquittal never occurred.

Academics found guilty of disseminating false teaching incurred corrective measures. They were sentenced to publicly recant the charged errors. From Jean Gerson we know that the type of recantation required of condemned academics was a so-called “particular and absolute recantation of an error” (*revocatio particularis et absoluta de errore*). In the short treatise *De protestatione circa materiam fidei*, which gives a theoretical discussion of the subject, Gerson distinguishes this type of recantation from a “conditional recantation” (*revocatio conditionalis*), to be discussed below. The latter was a formula in which a scholar declared in a more general way that he did not intend to say anything contrary to faith, and in case he did so inadvertently, he would retract his position immediately.¹⁶²

In light of the medieval concept of heresy, it is easy to understand why courts considered the recantation of the condemned errors crucial: those who would refuse to recant proved their pertinacity and, as a consequence, became heretics and ought to be punished as heretics. They were handed over to the secular arm. Those, however, who were willing to correct themselves “would be saved by penitence.” The recantation was the external sign of correction, and for this reason the theological scholars at Paris were not punished as heretics, nor noted for infamy. Scholars who failed to recant, such as John of Brescain and a Master Raymond in 1247, were punished. The papal legate Odo of Chateauroux ordered that John be expelled from

the city and the diocese of Paris forever and Master Raymond be returned to his former prison. Apparently Raymond had pretended to revise his views, but, once released, had continued to spread "the virus of his former errors to certain simple-minded souls (*simplices*)," hence proving to his judges that he was contumacious.¹⁶³

In order that the sentence obtained its effects also in the outside world, and not merely in court, an official declaration was required that it had been incurred. For this reason the enforcement of the sentence took place in public places, in the presence of members of the academic community. In Avignon, cases of false teaching were tried in the quarters of the presiding judge of the papal court. If the scholars who were sentenced to recant were members of the University of Paris, they had to repeat their recantation *in public* in Paris.¹⁶⁴

Recantations were conducted at various locations in Paris. Foullechat was sentenced to recant *in disputatione* in the Dominican priory. This probably means that his recantation was scheduled to precede the usual disputations, which were attended by a large crowd.¹⁶⁵ In fact, however, he recanted in the Dominican church (*in ecclesia Predicatorum*). This was also the place where Nicholas of Autrecourt and John Guyon recanted.¹⁶⁶ Brother Bartholomew recanted in Saint Bernard (*apud sanctum Bernardum*), the house of the Cistercians.¹⁶⁷

The essence of the ceremony was that the convicted academic read aloud his censured views one by one, adding "this is false and heretical and should be recanted" or words to that effect. He furthermore had to swear not to teach (*legere, docere, dogmatizare*) or defend (*defendere, asservire, sustinere*) the condemned views any more, secretly or in public.¹⁶⁸ Recantation truly must have been "a supreme form of public humiliation."¹⁶⁹ Since the recantations summarize in detail the charges raised against the accused, they are important sources for our knowledge of academic censures, especially in those cases where other records of the proceedings are lacking.

In the same *De protestatione* treatise mentioned above, Jean Gerson, reflecting on Parisian practice, maintains that masters who recanted the charged errors were not deprived of their (teaching) privileges.¹⁷⁰ The theoretical foundation of this practice is obvious. Since the convicted academic had recanted, he was not a heretic, even though some of his opinions had at one time been considered erroneous or heretical. A good case in point is Durand of St. Pourçain's career. Although ninety-three statements from his commentary on the *Sentences* were examined and condemned in 1314 by his Dominican order, he still remained lecturer in theology at the papal curia at Avignon and was made bishop of Le Puy in 1318.¹⁷¹

Yet other examples show that Gerson's observations may need to be qualified. Giles of Rome and Peter Olivi were temporarily removed from their teaching positions or were denied access to academic degrees. Giles was refused the licentiate in theology in 1277 and only obtained it in 1285.¹⁷² Olivi was not eligible for the master's degree in theology because his works had been censured in 1283. These corrective measures must have fallen hard on them, because lecturing and studying were the core of their professional duties. Olivi's nominations in 1287 and 1290 as lecturer in Florence and Montpellier, respectively, indicate, however, that at least within the Franciscan order he was professionally rehabilitated.¹⁷³

The discontinuation of one's academic career was a disciplinary penalty. This is most clearly demonstrated in the records of the trial against Nicholas of Autrecourt, who was not only condemned to recant his views, but was also explicitly refused the opportunity to obtain the magisterial honor and degree in theology without special permission from Rome.¹⁷⁴ Sometimes this permission was given, as in the cases of Giles of Rome and Richard of Lincoln, even though Giles had to wait eleven years.¹⁷⁵

Apparently, some academics accused of disseminating false teaching at the faculty of theology had become unacceptable as members of the *universitas* of scholars. The reason may have been that they did not too readily comply with the fraternal correction of their peers. The juridical background of their (temporary) removal from the academic community was that they had broken their oaths, in this particular case the oath not to teach anything against faith or good morals. Any violation of these oaths constituted perjury and was punishable by excommunication and expulsion from the faculty and university.¹⁷⁶ Consequently, the social and professional effects of an investigation of allegations of false teaching must not be underestimated. Most likely, error and heresy were charges that were difficult to recover from. To his colleagues and peers, if not to the panel that supervised the disciplinary proceedings, a scholar charged with false teaching was presumed guilty until proven innocent. Once an accusation was made, everybody might have pulled away. To these censured academics the process itself may have seemed the punishment.

THE APPEAL

If an academic was sentenced to recant certain of his opinions, but was dissatisfied with the procedures, he could seek recourse from the decision made by the authority that had sentenced him. The most common legal

method of reversing judgment was the appeal. The appeal was not specific to cases of academic censure, but was a particular stage of criminal procedure in general.

Basically, an appeal was a petition to a competent higher authority to rehear a case that had already been decided by a lower authority. An appeal was lodged if one of the parties felt grieved by the sentence of a lower jurisdiction. Its purpose was to obtain redress. In order to be accepted, an appeal had to conform to certain legal formalities: It had, for instance, to be entered within a certain period of time. An appeal had to be made in writing, although in some cases it could also be made by word of mouth. A written petition for appeal had to observe certain formulas and had to provide certain data, such as the names of the appellant and appellee, the judgment appealed from, and the grounds for the appeal. As a rule, an appeal went from a lower jurisdiction through the regular order of the higher jurisdictions, for instance, from the episcopal to the archiepiscopal court, and from this to the papal court. On the other hand, appeals to the papal court could be entered directly there.¹⁷⁷ The principal effect of an appeal was to suspend the sentence. The inferior court was not allowed to execute its sentence until the case under appeal was remitted. The cases of Denis of Foullechat and John of Monzón provide interesting details of the practice of an appellate trial by the papal court.

In 1364, Denis of Foullechat refused to read the recantation that was prepared by the chancellor and masters and handed over to him a few days earlier. Instead, he read another paper document (*cartula papyracea*) that contained his appeal (*appellatio seu provocatio*).¹⁷⁸ Usually, the appeal had to be entered with the judge or superior from whom the defendant appealed. In this case, Foullechat entered his appeal with the chancellor. However, he indicated that he wished to take his appeal directly to the Holy See. In this way, he avoided the episcopal court, which would have been the next jurisdiction in line of superiority. Probably, he feared that his appeal would not be admitted by the episcopal court, or, if admitted, that this forum might not want to modify or annul the judgment of the disciplinary tribunal of the chancellor and masters. As indicated above, the chancellor ordinarily transferred the disciplinary proceedings to the episcopal court and notified the inquisitor of heretical depravity.¹⁷⁹

The text of the document by which Foullechat gave notice of his appeal was duly copied by the public officer (*notarius publicus*) in the minutes of the meeting that was supposed to be his recantation. As grounds for his appeal Foullechat claimed that he had not been offered the opportunity to

defend himself properly against the charged errors, or to explain the meaning of what he had said during his *principium*. In addition, he demanded that the quires of his *principium* be returned to him immediately, on the plea that, otherwise, he would hold suspect any further judicial action by the chancellor against him.¹⁸⁰ Foullechat probably feared that, now that the chancellor had obtained control over the evidence, he could, in principle, be charged with any error.

Pope Urban V admitted Foullechat's appeal and had the case reviewed in Avignon in 1365. From Paris were present Denis of Foullechat, and the chancellor and the two theologians Simon Ereron and Nicole Oresme, who were the appellees or respondents in this case. They met together with a number of other people from the Roman curia in the quarters (*hospitium*) of the Dominican William Romani in the priory in Avignon. Romani was the papal theologian (*lector palatii*) and probably chaired the session. From the minutes of this meeting it is clear that the review of the Foullechat case was conducted as an informal meeting, rather than as a genuine appellate process. Also, the terminology of *appellatio seu provocatio* in Foullechat's petition suggests that he was employing "appeal" in its wider sense to indicate any recourse, formal or informal. During the meetings, Foullechat became convinced that entering an appeal had been an ill-advised move. As a consequence, he withdrew his petition. The list of charged errors that had been drawn up in Paris remained in force and still had to be recanted.¹⁸¹

The matter dragged on, however. Whereas Foullechat had hoped to be treated decently by the chancellor, relations with him deteriorated. Foullechat claimed that he was prosecuted even more vigorously by the bishop and the inquisitor for heretical depravity.¹⁸² Somehow, he succeeded in having the pope appoint delegated auditors (*auditores*), that is, judges who were charged with conducting the inquiry, not with reaching the decision, and in making a statement before them. During these inquiries, Foullechat managed to bring up errors that were even more offensive than those for which he had been censured in Paris in the first place.¹⁸³ In December 1368, finally, after the auditors' investigations had failed, the pope appointed Cardinal John Dormans to bring the Foullechat case to a final decision (*diffinitiva sententia*).¹⁸⁴ A week later, on January 1, 1369, the pope wrote to the bishop of Paris and the inquisitor to inform them that the case was now in the hands of the cardinal, and that they had to refrain from any further judicial action until the matter was decided.¹⁸⁵

An interesting aspect of Dormans's appointment is that he was residing in Paris and was requested to determine the Foullechat case there, with

the assistance of the chancellor and the masters.¹⁸⁶ Since Foullechat was still in Avignon, he was cited to Paris. For the appellate review, the pope had availed himself of members from the curia, but now he found it wiser to appoint a delegate judge on location.

In the Monzón case, the appeal against the disciplinary proceedings clearly was judicial. But, then, the circumstances under which the appeal was entered were quite different from those in the proceedings against Foullechat. Whereas Foullechat entered his appeal before the bishop and the inquisitor for heretical depravity became involved, Monzón petitioned his appeal only after he had already been cited to appear before the episcopal court. As mentioned earlier, Monzón refused to obey the bishop's citation and was, as a consequence, convicted in a contempt of court procedure.¹⁸⁷

In Avignon, the Monzón case was reviewed by three cardinals who had been appointed as delegate judges by Pope Clement VII.¹⁸⁸ The cardinals delegated the inquest to an auditor (*auditor*). His duty was to collect the evidence. Review of the case was based on a dossier that was discussed at several meetings with the pope. This dossier contained Monzón's written petition to the pope (*supplicatio*), as well as briefs (*propositiones*) and motions (*requisiciones*) from the appellées, that is, the University of Paris.¹⁸⁹ The petition that Monzón presented to the court had to indicate the grounds for the appeal. It was also communicated to the appellées, who were given the opportunity to produce counter-evidence. The university was represented by the theologian Pierre d'Ailly, by a chief attorney (*procurator principalis*), and by several assistant attorneys (*substituti procuratores*). Monzón was offered the opportunity for oral defense.¹⁹⁰

The grounds on which Monzón based his appeal were twofold. First, he rejected the prohibition of his views as incomprehensible (*irrationabiliter*). He claimed that he had merely followed Thomas Aquinas's doctrines, which were approved and recommended both by the faculty of theology and by the pope. Second, he denied that it fell within the jurisdiction of the university and the bishop to judicially condemn (*judicialiter condemnare*) views as erroneous or heretical. Only the Apostolic See possessed this authority.¹⁹¹

In brief, Monzón's appeal was based on claims of procedural errors. The same holds true for Foullechat's appeal. He too indicated in his appeal that the chancellor (the supervisor of the disciplinary proceedings), had denied him the right to be heard and had confiscated the quires of his *principium*, that is, the evidence. Consequently, when review of these cases

was granted, it was aimed at establishing the truth of the appellants' claims that there had been defects in the procedure. The function of the appellate court was not to reopen the case and review the findings of fact made at the disciplinary proceedings against Foullechat and Monzón. In both cases, appellate jurisdiction was exercised by one or more cardinals who acted as judges. They based their decision on the evidence contained in the records of the disciplinary and trial proceedings, the arguments of the appellant and the respondent or their representatives — such as, for instance, an attorney (*procurator*) — and their own analysis of the case.

Costs of an appeal were due only after the sentence. Until then, each party paid his own costs. These could be considerable, as a document from the Monzón case demonstrates. Around the middle of May 1388 the general chapter of the Dominicans imposed a special tax of six florins on all their convents in order to cover the costs of Monzón's appeal, which were estimated at 1,500 florins. Not surprisingly, these mainly consisted of attorneys' fees.¹⁹² Since Monzón lost his appeal by fleeing, he supposedly also had to bear those costs. It is certain that Foullechat too was backed by his order, the Franciscans, when he entered his appeal, but any details of its costs are lacking.¹⁹³

Appealing was not only expensive, but could also take a lot of time. Five years passed between the date that Foullechat read his petition and the date that Cardinal John Dormans pronounced his final sentence.¹⁹⁴ Much of the delay, however, was occasioned by Foullechat himself. The first hearing of the appeal took place only two months after it had been entered, namely on January 31, 1365. In Monzón's case, about one year elapsed before the appeal was prosecuted in Avignon.¹⁹⁵ The appellate process itself took at least three months, but remained unfinished because Monzón fled again.¹⁹⁶ In Foullechat's case, this period was considerably shorter, since at the first meeting the parties had already come to a settlement, or so it seemed.¹⁹⁷

The Condemnation of

March 7, 1277

The condemnation of 219 propositions in philosophy and theology by Bishop Stephen Tempier on March 7, 1277, is one of the most-studied events in the history of the University of Paris. Most of the scholarly research on this condemnation has been devoted to elucidating its doctrinal background and impact, which was already perceived by Tempier's (near) contemporaries.¹ Since Pierre Mandouret's study in 1911, scholars have associated Tempier's condemnation with the opposition between faith and reason, caused by the introduction of newly translated philosophical sources in the Latin West, in particular of Aristotle and his commentator Averroes.² By uncovering many new historical details, subsequent historians have been able to correct and refine Mandouret's interpretation. His view of Tempier's condemnation, however, has not been basically altered. On the contrary, largely due to the influential studies by his pupil Fernand van Steenberghen, Tempier's condemnation is now generally considered to be a reaction to "heterodox" or "radical" Aristotelianism at the faculty of arts, and possibly at the faculty of theology as well, that is, to those philosophical doctrines derived from Aristotle and his commentator Averroes that were in conflict with Christian belief.³ The idea that the condemnation of 1277 was a response to challenges posed by the absorption of non-Christian philosophical learning in the West is based on Tempier's prefatory letter, in which he indicated that the scholars whose errors he condemned took their inspiration from pagan writings (*cum errores praedictorum gentium scripturis maniant*), and from specific items on Tempier's list, such as the thesis of the world's eternity, the view that there is only one intellect for all mankind, the necessity and contingency of the world, God's absolute power, and (sexual) ethics.⁴

The doctrinal significance of the condemnation has received very diverse assessments. Pierre Duhem ascribed a momentous role to Tempier's

action in the field of natural philosophy and science. He believed that Tempier had liberated Christian thought from the dogmatic acceptance of Aristotelianism. Duhem singled out propositions 39 and 49 of Tempier's syllabus in support of his claim that the condemnation marked the birth of modern science.⁵

Another thesis concerning the broader doctrinal significance of 1277 was suggested by Pierre Mandouret, Étienne Gilson, and also by Fernand van Steenberghen. In the minds of these scholars, Tempier's condemnation of radical Aristotelianism was an attempt to curb nascent rationalist currents at the University of Paris.⁶ Tempier's action was a symptom of an already existing opposition to rationalism, that is, against philosophical research pursued without concern for Christian orthodoxy. These historians focused on articles 23, 37, 40, 145, 152, and 153. Other historians believed that evidence for the presence of rationalist tendencies at the University of Paris could also be derived from Tempier's prefatory letter. In this letter Tempier reproached some of the masters of arts for insisting on the distinct and autonomous nature of philosophy. According to Tempier, these scholars maintained that certain views were true according to philosophy, but not according to Catholic faith, "as if there were two contrary truths, and as if against the truth of Sacred Scripture, there is truth in the sayings of the condemned pagans."⁷ On the basis of the latter statement, historians of a few generations ago believed that some masters of arts taught the so-called doctrine of the double truth, that is, the theory that two contradictory propositions — one derived from philosophical investigation, the other from Christian revelation — can both be true at the same time. Van Steenberghen, however, has convincingly shown that Tempier's remarks were intended to ridicule a certain hermeneutical practice, namely the method of assessing a doctrine from a philosophical point of view ("philosophically speaking") and from faith. As a matter of fact there were no medieval scholars who *opposed* philosophical conclusions and statements of Christian doctrine, nor did they defend an untenable theory of double truth. In cases of conflict between reason and faith, the truth was always supposed to be on the side of the faith.⁸

Tempier's Condemnation in Context

If one compares Tempier's 1277 syllabus to the other lists of errors that were censured at the University of Paris two features stand out, namely its promulgation by a bishop and its anonymity.⁹ The episcopal intervention and

the anonymity of the 1277 condemnation might seem small details, but, in fact, they are highly significant for what they can tell us about the procedure that Tempier followed in issuing his syllabus.

Tempier's condemnation is one of the few censures that was pronounced not by a panel of the chancellor and his theologians, but by a bishop. In the previous chapter I argued that university censures were of a disciplinary nature. Allegations of false teaching that had arisen in a typical university context were in first instance reviewed by a body composed of the chancellor and the (regent) masters of theology. Only if problems occurred in the disciplinary proceedings was a case transferred from that level of jurisdiction to the episcopal or papal courts. At that moment, the case began to have a paper trail, because only then did it become necessary to recount the events that had led to the transfer of the case to another jurisdiction. Clear examples of this procedure are the inquiries against Denis of Foulechat and John of Monzón. Most accused academics, however, immediately yielded to the doctrinal correction by the panel of chancellor and masters. In that case, only the final lists of censured views gathered in the *Collectio errorum* — the verdicts, so to speak — were preserved.

This way of proceeding in cases of suspect teaching at the University of Paris finds confirmation in a little-studied source from the sixteenth century. The document is a register of pronouncements and judgments by the faculty of theology, drawn up by the theologian Noël Beda. The first part of the register covers the period 1210–1523.¹⁰ If one were to look in this register at documents concerning suspect teaching from the thirteenth and fourteenth centuries, one would find only some records pertaining to the censures of John of Breccain, Denis of Foulechat, and John of Monzón. The register does not reproduce any documents of the censures of Stephen of Venizy, Nicholas of Autrecourt, John of Mirecourt, John Guyon, Simon, Guido (Giles of Medonta?), Louis of Padua, or John of Calore. Nor does it contain Bishop Tempier's condemnations of December 10, 1270, and March 7, 1277.

What may one infer from these omissions? First, when Beda drew up his register, he completely ignored the *Collectio errorum*. Instead he relied on other documents, namely original records from the faculty's archives. Most of these records are still extant today. The three medieval inquiries that are documented in the register are the only ones that generated the type of records that Beda could retrieve from the archives of the Sorbonne, whereas the other cases did not leave such a paper trail.

Interestingly, Beda's register does not report any records pertaining to

the inquiry that led to the 1277 condemnation, even though it was handled by episcopal jurisdiction, nor have any such records been found elsewhere, for that matter. From this omission I would conclude that a transfer of jurisdiction never occurred in this investigation. A scenario involving a shift from university level to the bishop's jurisdiction would have generated records, records that would surely have been included in Beda's register. From the lack of any such records it would appear that the 1277 investigation did not start at the level of the university, but at the episcopal level. Bishop Tempier was involved in the inquiry right from the start. As will become clear below, this episcopal involvement is an important factor in explaining another distinguishing feature of the 1277 condemnation, namely its anonymity.

Whereas the other university censures concern specific scholars whose names are explicitly mentioned in the records, Tempier does not specify the persons behind the false views. He merely states that the errors were disseminated by "certain scholars at the faculty of arts" (*nonnulli Parisius studentes in artibus*).¹¹ Why did Bishop Tempier pronounce an anonymous censure? Why were those condemned of disseminating false teaching not named explicitly, as was the case with the proponents of the other lists of censured errors? The anonymity of the 1277 condemnation becomes even more perplexing if one considers a medieval tradition, however shallow, linking the 1277 condemnation to the names of Siger (of Brabant) and Boethius (of Dacia).¹² The reliability of this tradition is partly confirmed in the study of Roland Hissette, who examined the proximate background of the 219 condemned theses. He established that thirty condemned articles, indeed, seemed to be aimed at Siger of Brabant directly, whereas thirteen seemed to have been derived from the works of Boethius of Dacia.¹³ In an effort to cast some light on why the name of Siger of Brabant was omitted from Tempier's condemnation, I shall now return to the University of Paris in the years 1276 and 1277 and propose a new way of understanding some old facts.

THE EVENTS LEADING UP TO MARCH 7, 1277

The traditional picture of the events leading to Tempier's condemnation looks something like this.¹⁴ On January 18, 1277, Pope John XXI informed Stephen Tempier, bishop of Paris, that he had heard rumors of heresy and charged him with the task of examining (*facias inspicere vel inquirere*) where and

by whom these errors had been disseminated.¹⁵ On March 7, 1277, Tempier published his list of 219 articles and of some books that were condemned. Anyone teaching or listening to the listed errors would be excommunicated, unless they turned themselves in to the bishop or the chancellor within seven days, in which case the bishop would inflict proportionate penalties.¹⁶

Since the papal letter precedes Tempier's condemnation, it has been generally assumed that Tempier acted on papal initiative. Two claims have been built on this alleged sequence of events, which recur in almost all the literature that has been written about Tempier's condemnation. First, since the pope merely ordered Tempier to investigate rumors of erroneous teaching and then report back to him, Tempier's pronouncement of the 1277 syllabus was the action of an overzealous bishop. Tempier went far beyond his mandate when he issued his decree, which, moreover, he did not previously submit to the Holy Sec. For this reason, some scholars have characterized the condemnation of 1277 as a proof of the competition over the rights of jurisdiction between pope and bishop.¹⁷ Second, since only about six weeks elapsed between the papal instructions and Tempier's condemnation, the latter's inquiry was hasty. Further proof of Tempier's haste is found in the repetitions, contradictions, and general disorderliness of the list of 219 censured propositions.

The two claims are considered established conclusions, but they are corollaries of a rather unsophisticated and unfounded *post quem propter quem* argument. The instructions in Pope John's letter are rather vague. Moreover, nowhere does the bishop mention that he is acting on papal orders; nor did he need a papal mandate to investigate allegations of false teaching at the University of Paris. In his introductory letter to the list of condemned articles Tempier merely indicates that he had received information from important people (*magnarum et gravium personarum crebra zelogae fidei accensa insinuant relatio*). Who these "important people" may have been is a question that will be addressed below.¹⁸

The evidence suggests that Tempier acted independently of the pope, and that when he received the papal letter of January 18, 1277, he was already in the process of preparing his condemnation. If Tempier received this papal letter at all before March 7, 1277, it must only have encouraged him to continue what he had already been doing, namely preparing his condemnation.¹⁹ Historians have simply been misled by the near contemporaneity of Pope John's letter and Tempier's prohibition.

The absence of any coordination between bishop and pope becomes

more apparent in a second letter — *Flumen aquae vivae* — from John XXI to Bishop Tempier.²⁰ This letter is dated April 28, 1277, that is, more than forty days after Tempier had promulgated his list of condemned articles. Curiously enough, this letter gives no indication whatsoever that the pope knew about Tempier's action. On the contrary, the pope grants a mandate to Tempier to notify him, the pope, about new errors, and to inform him about the names of the propagators of these errors, about their followers, and about their writings. John's second letter has generally been understood as a *new* mandate, now aimed not only at persons of the arts faculty, but also at theologians: the second letter is supposed to have been induced by new (heterodox) doctrinal developments that were not covered by Tempier's condemnation of March 7, 1277.

It seems more plausible, however, to consider John's second letter as a further specification of his first.²¹ In both letters Tempier is requested to give information about errors that have been newly disseminated. In the first letter this is phrased as "certain errors to the disadvantage of faith are said to have come forth anew" (*quidam errores in prejudicium ejusdem fidei de novo pulsasse dicuntur*). In the second letter the errors are described as "errors that have been newly invented or taken up again or renewed" (*errores qui de novo inventi vel resumpti seu renovati sunt*). In the first letter Tempier receives a mandate to inquire "by which persons and in which locations" in Paris these errors have been disseminated (*a quibus personis et in quibus locis*). In the second letter, the pope himself already indicates the perpetrators of the errors, namely "some scholars of arts and in the faculty of theology at Paris" (*nonnulli tam in artibus quam in theologica facultate studentes Parisius*). The second letter, finally, is more specific in stating the purpose of the bishop's investigation. The pope will use the dossier requested from the bishop to establish — with the help of an advisory committee — the nature of the errors and to decide whether they will have to be recanted or condemned and whether the University of Paris will need to be reformed.²²

In short, the second papal letter combines the theme of the first letter with rumors of false teaching at the faculty of theology. These rumors may have originated from the inquiry against the theologian Giles of Rome.²³ This investigation took place shortly after the condemnation of March 7, 1277.²⁴ This papal letter *Flumen aquae vivae* must have crossed the letter in which Tempier announced the condemnation.

The problems raised by the traditional picture, which was based on the *post quem propter quem* argument, become less serious if one links Tempier's

action not to the papal letter of January 18, 1277, but to events that occurred on November 23, 1276. On that date, Simon du Val, the inquisitor of France, cited Siger of Brabant together with Bernier of Nivelles and Goswin of Chapelle to appear before his court. The citation, which was published in 1947 by Antoine Dondaine, has been preserved in a manual for inquisitors.²⁵ The purpose of the manual was to provide examples for drawing up official documents; the example of how to compose a citation to appear before the court of an inquisitor happened to pertain to Siger of Brabant and his two fellow masters. It is surprising that this document has not been linked before to the events of March 7, 1277.²⁶

In the wake of the studies of Pierre Mandouret and Fernand van Streunberghen, it is generally thought that Siger of Brabant and Goswin of Chapelle had already fled from Paris to Italy when this citation was issued. The purpose of their flight was to appeal to the papal court, which resided in Viterbo at that time. The evidence on which this picture is built, however, is extremely tenuous. We only have a report that Siger was stabbed at the papal court in Orvieto by his own cleric. Supposedly, this cleric was Goswin of Chapelle. Siger's death must have occurred between 1281 and 1284. There are, however, no records that show that Siger fled to the papal court in 1277 and remained there until the 1280s, nor that he had lodged an appeal there.²⁷

Apart from this lack of documentary evidence, the suggestion that Siger of Brabant ever appealed to the papal court is, in itself, highly implausible. First, the concept of appellate jurisdiction implies the review of a sentence rendered in a lower court, or, more generally, at a lower level of jurisdiction, such as an episcopal court or a disciplinary tribunal of chancellor and masters.²⁸ But against which sentence would Siger have appealed? Since he is supposed to have fled, the citation could not even have been served and Siger and his fellow masters would have failed to appear in court. Consequently, his supposed flight would have resulted in an arrest warrant, or in a condemnation for contempt of court (*contumacia*), rather than for disseminating false teaching.³⁰ Furthermore, it is highly unlikely that, pending Siger's appeal, the bishop would have moved against him. An appeal to the papal court would have put a stop to the judicial actions at the inquisitorial and episcopal levels. Following papal appeal, Siger of Brabant (and the two other masters) would have obtained relief from the inquisitor's and the bishop's jurisdictions. Yet it is generally accepted that Templier's condemnation of March 7, 1277, includes thirty propositions that were held by Siger of Brabant. In conclusion, the known facts about the

events in 1277 contradict the suggestion that Siger of Brabant ever fled to the papal court to lodge an appeal.

This does not mean, however, that Siger of Brabant and the other two masters, Goswin of Chapelle and Bernier of Nivelles, were still in Paris when the summons to appear before the inquisitor was issued. René Gauthier was the first and perhaps the only scholar to challenge seriously the traditional picture of Siger of Brabant's whereabouts after 1275.³¹ On the basis of textual evidence, he has suggested that the three masters were simply staying in Liège when the citation was served to appear in Saint Quentin on a fixed day.³² According to Gauthier, the three masters had probably returned to Liège at the end of the 1275 academic year (or, in any case, no later than 1276) to resume their ecclesiastical offices.³³ Siger of Brabant was a canon at Saint Paul's, and Goswin of Chapelle and Bernier of Nivelles were canons at Saint Martin's, and these were the ecclesiastical ranks by which the inquisitor summoned them.

Siger's departure from Paris may well have been due to the aftermath of an administrative conflict in which he had been involved and which had divided the arts faculty since 1272. A minority party, led by Siger, had rejected the legitimacy of the election of Albertic of Reims as new rector of the arts faculty. On May 7, 1275, Simon of Brion, the papal legate, settled the dispute to the disadvantage of Siger's party.³⁴ This administrative conflict, together with the doctrinal controversies that had been raging since the beginning of the 1270s, may have induced Siger to return to his country of origin in 1275-76, never to set foot in Paris again. This suggestion is based on conjecture, but it is consistent with what we know of Siger's academic career. The *Quaestiones super librum de causis*, Siger's last known work, was written in 1275-76.³⁵

But if Siger and the other suspects received the summons in Liège, what was their response? Did they obey the citation and really go to Saint Quentin, which lies halfway between Paris and Liège? Gauthier thinks that Siger and the two other masters appeared before the inquisitor's tribunal on the stipulated day, but that they were acquitted. He bases this conclusion mainly on the fact that there is no documentary evidence about any conviction for heresy. After the reference in the inquisitor's document, Goswin of Chapelle completely disappears from the picture.³⁶ He probably remained in Liège. The names of Bernier of Nivelles and Siger of Brabant surfaced again only in the 1280s. Bernier of Nivelles reappears in the documents as theologian and member of the Sorbonne College, to which he left a legacy of twenty-five books. In 1286 he copied Thomas Aquinas's commentary on

the *Sententiae*, and he bore the ecclesiastical title of curator of the Church of Saint Martin in Liège.³⁷ He was the only one of the three masters who resumed his studies in Paris and proceeded to the faculty of theology. Siger of Brabant probably remained in Liège, like Goswin of Chapelle, until the time an Italian poem places him at the papal court in Orvieto.³⁸

This alternative picture of the events raises two new questions not discussed by Gauthier. First, for what reason had the three masters been summoned in the first place? Second, what was the relation between the inquisitor's decree and Bishop Tempier's condemnation of March 7, 1277? We do not know in any detail the charges against the three masters.³⁹ Yet it seems natural to assume that they were accused of disseminating false teaching at the University of Paris. The inquisitor's document clearly states that the three masters were under grave suspicion of the crime of heresy (*de crimine heresis probabilitur et vehementer suspectos*). Apparently, the complaints of disseminating false teaching were lodged with the inquisitor, who, *ex officio*, decided to start an inquiry. Since there is some evidence that the suspects resumed their academic and ecclesiastical careers, and since there is no evidence that they were condemned or had recanted their errors, it is likely that they were acquitted.⁴⁰ This scenario finds far more support in the documentary evidence than the older scenario in which Siger of Brabant fled to the papal court to appeal.

THE DISCIPLINARY PROCEDURES

The second question, the relation between the inquisitor's summons and Tempier's condemnation, brings me to the disciplinary procedures. Since Siger had already been acquitted by the inquisitor toward the end of 1276, his views could not be censured *nominatim* by the bishop. According to the juridical principle that one cannot be tried twice for the same crime (*ne bis in idem crimen iudicatur*), the bishop could not start a new inquiry against Siger for disseminating false teaching at the University of Paris.⁴¹ Yet it seems very likely that Tempier based his own examination of Siger's views on the inquisitor's inquiry. The inquisitor of France was also located in Paris, and the summons for Siger of Brabant and the two other masters was actually issued from there. The bishop of Paris, who had jurisdiction over the University of Paris, would surely have been informed about the outcome of an inquiry against some of its members. He and the theologians who were charged with examining Siger's views may have disagreed with

the outcome of the inquisitor's process and, consequently, had no other option than to censure those views by including them generally in the longer list of false propositions that had already been prepared.

This way of proceeding finds some support in Tempier's introductory letter. There Tempier indicates that he had received information from important people (*magnarum et gravium personarum crebra zeloque fidei accensa insinuant relato*). This means that Tempier did not take the initiative, as has been often assumed in the scholarly literature, but that he responded to allegations of suspect teaching, allegations that may have been derived from the inquisitor's dossier. The general nature of these allegations is also made more explicit in the episcopal letter than in the inquisitor's citation. The important persons on whose information Tempier acted had informed him precisely that "some scholars of arts at Paris" (*nonnulli Parisius studentes in artibus*) had been transgressing the limits of their own faculty (*proprie facultatis limites excedentes*).⁴² Such a complaint must surely have come from theological circles, though probably not directly from members of the faculty of theology: in Tempier's prefatory letter the theologians are clearly distinguished, as a group, from the "important persons" who denounced the suspects of false teaching.⁴³

In his introductory letter Tempier reports that he sought the advice "not only of the doctors of Sacred Scripture, but also of other wise men" (*tam doctorum sacrae Scripturae, quam aliorum prudentium virorum communitate consilio*). From other cases of suspect teaching we know that the task of the theologians was to examine certain works and draw up a list of errors. In cases where a list of alleged errors already existed, the theologians were charged with assessing the degree of error of the listed propositions. The theologian John of Pouilly reports that sixteen masters of theology were Tempier's assessors for the condemnation.⁴⁴ One of the members of the commission was Henry of Ghent, as he himself testifies in his *Quodlibet* II.⁴⁵ It is unknown when these masters met, but it must have been after Henry of Ghent had become a regent master in theology, a position that he obtained in 1276. That there were some tensions between Tempier and the theologians is attested by the theologian Giles of Rome, a contemporary witness of the events of 1277: he claimed that some articles were condemned not on the basis of the advice of the masters, but rather due to the "stubbornness of a few."⁴⁶ This observation has been taken to concern Tempier, but it might also include some of the "wise men" who had assisted him.

The identity of these other wise men is unknown. Since, however, they are so clearly distinguished from the theologians, they have to be sought

among the prelates. Of these, only the involvement of the chancellor, John of Alleux, is directly substantiated by textual evidence: the introductory letter to Tempier's condemnation stipulates that offenders had to turn themselves in either to the bishop himself or to the chancellor. Other likely candidates are Simon of Brion, the papal legate, and Ranulph of Houlbourniere, Tempier's future successor as bishop of Paris.

In the present state of documentary evidence it is not possible to establish which method Tempier and his advisers used to draw up their syllabus of 219 errors. Consequently, the generally accepted conclusion that Tempier's syllabus of condemned propositions is not very well organized and "broad in scope to the point of confusion" appears somewhat gratuitous.⁴⁷ The lack of doctrinal cohesion is also present in other lists of the *Collectio errorum*, simply because the order in which the charged errors appeared on the roll was determined by other factors — such as, for instance, the order in which they appeared in the examined work. Shortly after 1277 the extremely long list of 219 prohibited views was reorganized, possibly to facilitate its use in the academic community.⁴⁸ Similarly, the theologian Hugolin of Orvieto reorganized the list of errors recanted by John of Mirecourt.⁴⁹ At the beginning of the twentieth century, Pierre Mandonnet once again put Tempier's articles into a new order.⁵⁰

WHO WAS CONDEMNED ON MARCH 7, 1277?

It is uncontested that the targets of the condemnation are unspecified members of the arts faculty in Paris: *nonnulli Parisius studentes in artibus*.⁵¹ The rather vague "nonnulli studentes in artibus," some people engaged in the arts, instead of the more precise "magistri in artibus," even suggests that not all the propagators of false views were full-fledged masters. Siger of Brabant and Boethius of Dacia appear to have been the most prominent targets of the 1277 censure, or, in any case, among the most easily identifiable for modern historians. They may have been the "heresiarchs,"⁵² so to speak, who caused the crisis over the encounter between faith and reason that became manifest in Tempier's condemnation. Yet their names appear nowhere in the syllabus. The surviving evidence suggests a specific juridical reason, mentioned above, why Siger's name was omitted, and why his teaching was included in a rather general censure.

But at whom else was the censure aimed? From Hissette's own summary of the results of his careful examination of the sources it appears that

surprisingly few of the censured propositions can be identified with any degree of certainty in the known works of thirteenth-century *arsiana*. Of the 219 propositions, only seventy-nine are identified, with various degrees of probability, in the works of Siger of Brabant, Boethius of Dacia, or the three anonymous writings from the arts faculty that are accessible in a modern edition. Another seventy-two propositions can be attributed only uncertainly, and sixty-eight propositions cannot be identified at all.⁵² Moreover, many attributable propositions do not really represent the author's own view, but rather appear to be quotations or paraphrases from Aristotle, from Arabic philosophers, or from "the philosophers," as Hissette indicates.⁵³

Hissette's examination was based on the assumption that Tempier's censure envisioned only teachings from the faculty of arts. Careful reading of the introductory letter, however, seems to contradict this assumption. There, Tempier draws an important distinction, which has not been duly recognized in the scholarly literature, between propagators and views. He accuses the members of the arts faculty of disseminating (*tractare et disputare*) manifest and damned errors (*manifesti et execrabilis errores*). The errors are specified in the roll or leaves connected to the introductory letter (*in rotulo seu cedula; praesertim his annexo seu annexis*). They are the 219 censured propositions. Tempier does not state, however, that the members of the arts faculty are the authors of these errors. Only the propagators have to be sought in the arts faculty in Paris: on pain of excommunication, they are prohibited to disseminate in any way (*dogmatizare, aut defendere seu sustinere quocum modo*) the propositions collected by Tempier. The origin of these propositions, however, is not stated in the introductory letter. In other words, Tempier indicates that those *artifices* who were castigated for disseminating false teaching were not necessarily disseminating their *own* views. When drawing up the syllabus, Tempier and his advisers relied on more sources, written or oral, than those that were used by Hissette. Possibly, Tempier's list even includes earlier lists of suspect views.

In light of this evidence one can only conclude that research into the proximate background of the censured propositions has to be broadened. The directions that such research should take are indicated, either implicitly or explicitly, in Hissette's study and in subsequent studies, such as those by John Whippel and Calvin Normore. It is generally agreed today that a considerable number of the 219 censured propositions have a bearing on the reintroduction of pagan philosophy into the arts faculty, and on the ensuing crisis over the relations of faith and reason. Consequently, Greek or Arabic

sources may prove to be at the origin of a number of censured propositions.⁵⁴ Other propositions may well have been derived from the teaching of theologians, such as Thomas Aquinas.⁵⁵ In this respect, the often-quoted statement from Tempier's introductory letter that members of the arts faculty were transgressing the limits of their own faculty (*propriae facultatis limites excedentes*) acquires new meaning. Some members of the arts faculty were rebuked not only for teaching suspect philosophical views but also for teaching suspect theological views.

Bishop Tempier and the Inquiries Against Thomas Aquinas and Giles of Rome

One of the puzzles that remains is to what extent Thomas Aquinas was directly targeted by Tempier's censure. Although Thomas did not belong to the arts faculty, some of his contemporaries believed that certain of his opinions were included in the condemnation.⁵⁶ Godfrey of Fontaines, for example, who was a student of theology in 1277 and who was very familiar with the writings of Thomas Aquinas, Siger of Brabant, Boethius of Dacia, and Henry of Ghent, stated that Tempier's condemnation prevented students from taking notice of Aquinas's "very useful" doctrine.⁵⁷ The Dominican John of Naples even found it necessary to write an apology to the effect that Thomas was not touched by Tempier's condemnation, and that hence it was legitimate to teach Thomas's works at Paris without danger of excommunication.⁵⁸ Also, the revocation of Tempier's articles as far as they concerned or were claimed to concern the doctrine of Thomas Aquinas (*quantum tangunt vel tangere asseruntur doctrinam b. Thomae*) by Bishop Stephen of Bourret on February 14, 1325, seems to indicate that at least some scholars felt that Thomas had been included in Tempier's action.⁵⁹ The medieval estimates as to how many of Tempier's articles were directed against Thomas, however, show considerable variety. Gilson observed that "the list of the Thomistic propositions involved in the condemnation is longer or shorter, according as it is compiled by a Franciscan or a Dominican."⁶⁰

In the track of Thomas's contemporaries some modern historians have maintained that Thomas Aquinas was one of Tempier's targets.⁶¹ Their lists too show considerable heterogeneity. The question of whether Thomas Aquinas was included in the condemnation cannot be solved by a comparison between supposedly Thomistic propositions from Tempier's list and Thomas's own works. Such a comparison remains inconclusive, because the articles involved are too vague to allow us to decide whether they

were held exclusively by Thomas or could have been derived from other authors. On the basis of these results, Roland Hissette has concluded that Thomas may have been implied by Tempier's censure, but he certainly was not a direct target of it.⁶² John Wippel, on the other hand, has rejected this distinction between indirect and direct targets as merely verbal. He believes that Tempier and his advisors would have known whether a particular position of the syllabus was (also) upheld by Thomas Aquinas.⁶³

In addition to the ambiguity of Tempier's list, the question of Thomas's inclusion in Tempier's condemnation has also been clouded by an incorrect interpretation of evidence furnished by three of his contemporaries, Henry of Ghent, John Peckham, and William de la Mare. According to their testimonies, two theses that were clearly Thomistic — one of them concerning the controversial doctrine of the unicity of substantial form, the other the existence of matter without form — were censured in 1277. None of these views, however, appears in Tempier's list.⁶⁴ This fact led Fernand van Steenberghen to the conclusion that, in the final stage of the preparation of Tempier's list of errors, these two theses were suppressed "because of the moral authority of Thomas Aquinas."⁶⁵ Robert Wielockx, on the other hand, has argued that the two Thomistic views, together with other propositions, were the subject of a separate inquiry against Thomas Aquinas.⁶⁶ Both theses seem to exclude the notion that Thomas Aquinas was directly targeted by any of charged errors of the syllabus of March 7, 1277.

According to Wielockx, Bishop Tempier conducted three separate doctrinal investigations in 1277. The first one concerned the arts faculty and was concluded on March 7, 1277, with the issuing of the syllabus of 219 condemned propositions. The second investigation concerned the theologian Giles of Rome and was concluded before March 28, 1277, with the censure of fifty-one propositions taken from Giles's commentary on the *Sentences*. The third doctrinal inquiry was aimed against Thomas Aquinas. It was begun after Giles's censure, but still before March 28, 1277. In Wielockx's view, the inquiry against Thomas Aquinas was never completed. Basing his conclusions on evidence provided in a letter by John Peckham, Wielockx claimed that during the vacancy of the Apostolic See, sometime between May 20 and November 25, 1277, Tempier received orders from the curia to stop his investigation.⁶⁷

Wielockx's thesis of a third and separate process against Thomas Aquinas might explain why such controversial views as the unicity of substantial form in human beings were not included in the syllabus of March 7. Yet I believe that his interpretation of the textual evidence on which this thesis is based is less compelling than generally has been assumed.⁶⁸ The testimonies

only a minor role in the rich study by Mary M. McLaughlin, *Intellectual Freedom and Its Limitations in the University of Paris in the Thirteenth and Fourteenth Centuries* (New York, 1977), which is a reprint of a Ph.D. dissertation of 1952. See also her "Paris Masters of the Thirteenth and Fourteenth Centuries and Ideas of Intellectual Freedom," *CH* 24 (1955), 195-211. Shortly after the manuscript was completed in 1997, two pertinent articles were published that, unfortunately, could not be taken into account here: Luca Bianchi, "Censure, liberté et progrès intellectuel à l'Université de Paris au XIII^e siècle," *AHDL* 63 (1996), 45-93 and William J. Courtenay, "Pastor de Serrescuderio (d. 1356) and MS Saint-Omer 239," *AHDL* 63 (1996), 325-356.

6. For the impact of the Great Schism on the universities see Allen E. Bernstein, *Pierre d'Abilly and the Blanchard Affair* (Leiden, 1978), esp. 28-60, R. N. Swanson, *Universities, Academics and the Great Schism* (Cambridge, 1979), Guy Fitch Lytle, "Universities as Religious Authorities in the Later Middle Ages and Reformation," in *Reform and Authority in the Medieval and Reformation Church*, ed. Guy Fitch Lytle (Washington, D.C., 1981), 79-82; and Paolo Nardi, "Relations with Authority," in *Universities in the Middle Ages*, ed. Hilde De Ridder-Symoens (*A History of the University in Europe*, vol. 1; Cambridge, 1992), 100-102.

7. This view is expressed in John B. Bury, *History of Freedom of Thought* (London, 1913), 52 and quoted and rejected in Charles H. Haskins, *The Renaissance of the Twelfth Century* (New York, 1962), 361. Other examples of negative views on the independence of medieval thought with regard to religion, theology, or faith, are given in Maurice de Wulf, *Histoire de la philosophie médiévale*, 3 vols., 6th ed. (Louvain and Paris, 1934-47), 1: 10, and 18-19.

Chapter 1. The Suppression of False Teaching

1. William Ockham, *Dialogus* (*Opera plurima*; Lyon, 1494-96; republished London, 1962), fol. 11ra. Details about this work are given in Chapter 5.

2. CUP 2: 86, 141, 148, 173, 215, 243-44, 302, 506, and also Koch, 2: 232, 233, 245, 246, 254, 257 for the charge of disseminating opinions against faith, against Scripture, or against sound doctrine. For the charge of causing scandal see CUP 1: 319 and n. 92; for endangering souls see CUP 1: 319, 543 and CUP 2: 243-44.

3. The background to the metaphor of heresy as disease is provided in R. I. Moore, "Heresy as Disease," in *The Concept of Heresy*, ed. W. Lourdaux and D. Verhelst (Louvain, 1976), 1-12. Cf. the following documents: CUP 1: #59, #468, #1042, #1125. In the documents CUP 1: #176, #441, #518, #798, #864, #1124, #1125 the academic errors are presented as dangerous.

4. See Othmar Hageneder, "Der Häresiebegriff bei den Juristen des 12. und 13. Jahrhunderts," in *Concept*, ed. Lourdaux and Verhelst, 42-104, and Winfried Trusen, *Der Prozess gegen Meister Eckhart. Vorgeschichte, Verlauf und Folgen* (Paderborn, 1988), 168-71. The following documents related to academic censure allude to this moral dimension: CUP 2: #148, #173, #281, and the preface to John of

Mircourt's condemnation, edited in William J. Courtenay, "John of Mircourt's Condemnation: Its Original Form," *RTAM* 53 (1986), 191.

5. Gerson, 3: 337: "Ecce quod Eva idcirco erravit quia curiose concupivit fructum pulchrum visu et ad vescendum suavem." See Zénon Kaluza, *Les querelles doctrinales à Paris. Nomininalistes et réalistes aux confins de XIII^e et XIV^e siècles* (Bergamo, 1988), *passim* for a discussion of Gerson's treatise *Contra vanam curiositatem*.

6. Gerson, 3: 230. See Edward Peters, "Libertas inquirenti and the *vitium curiositatis* in Medieval Thought," in *La notion de liberté au moyen âge. Islam, Byzance, Occident*, ed. G. Makdisi, D. Sourdel, and J. Sourdel-Thomine (Paris, 1985), 90-92, for patristic and monastic sources that link *curiositas* to *superbia*.

7. Gerson, 3: 339. See Herbert Grundman, *Ausgewählte Aufsätze*, 3 vols. (Stuttgart, 1976-78), 3: 316 for other earlier sources.

8. Repeval of presumptuousness can be found in the following academically related documents: CUP 1: #59, #176, #441, #468, #473, #523, #798, #864, #1023, and #1124.

9. The relation between philosophy and faith from the Church Fathers until the twelfth century — and the notion of philosophy as the root of all heresy — is sketched in Gerard Verbeke, "Philosophy and Heresy: Some Conflicts between Reason and Faith," in *Concept*, ed. Lourdaux and Verhelst, 172-98. William J. Courtenay, "Inquiry and Inquisition: Academic Freedom in Medieval Universities," *CH* 58 (1989), 169 gives the example of a medieval friar who in 1358 characterized his own university as a gymnasium for heretics (and, of course, was condemned for this opinion). For thirteenth- and fourteenth-century admonitions that theologians should not become involved in idle philosophical speculation and, in general, that theologians and *artifices* should not transgress the borders of their own fields see CUP 1: #59, #176, #441, #473, #741, #1042, #1125. See further Gerson, 3: no. 99 (*Contra curiositatem studentium*), 239-40, and 249.

10. This terminology was used in a sermon by the Dominican William of Luxi around 1270. See Louis J. Batillon, "Les crises de l'université de Paris d'après les sermons universitaires," in *Die Auseinandersetzungen und der Pariser Universität im XIII. Jahrhundert*, ed. Albert Zimmermann (Berlin, 1976), 168. The image of "transgressing the limits set by the Fathers" is discussed in Edward Peters, "Transgressing the Limits Set by the Fathers: Authority and Impious Exegesis in Medieval Thought," in *Christendom and Its Discontents. Exclusion, Persecution, and Rebellion, 1000-1500*, ed. Scott L. Waugh and Peter D. Diehl (Cambridge, 1996), 338-62.

11. Maurice de Wulf and Auguste Pelzer, *Les quatre premiers Quodlibets de Godefroid de Fontaines* (Louvain, 1904), 208.

12. Maier, 2: 59-81. On p. 72: "Ille dicitur hereticus qui animo et cum pertinacia deviat et hinc quae universalis ecclesia et omnis fidelis credere tenetur," and p. 73: "ut quis ralem errorem firmata et quasi obstinata pertinacique voluntate eligat et sequatur."

13. A. Daniels, *Eine lateinische Rechtfertigungsschrift des Meister Eckhart* (Münster i. W., 1923), 2: "Errare enim possum, hereticus esse non possum, nam primum ad intellectum pertinere, secundum ad voluntatem," and p. 8: "Sola enim pertinax adhesio erroris hereticum facit." For a discussion see Bernard McGinn, "Eckhart's Condemnation Reconsidered," *The Thomist* 44 (1980), 400, and Winfried Trusen,

Der Prozess gegen Meister Eckhart. Vorgeschichte, Verlauf und Folgen (Paderborn, 1988), 94 and 164. Note that Loris Sturlese has argued that the *Rechtfertigungsschrift* is a literary product, composed by the first generation of followers of Eckhart at Cologne. See Loris Sturlese, "Die Kölner Eckhartisten. Das Studium generale der deutschen Dominikaner und die Verurteilung der Thesen Meister Eckharts," in *Die Kölner Universität im Mittelalter: Göttinger Wurzeln und Soziale Wirklichkeit*, ed. Albert Zimmermann (Berlin, 1989), 192–212.

14. Daniel, *Rechtfertigungsschrift*, 13–14: "Probatum hoc ex Augustino 24 q. 3a, sicut Apostolus, 'hereticum hominem post primam et secundam correctionem devit' 'Hereticum,' glosa, 'qui suum errorem defendit pertinaciter.' Et infra in eodem capitulo sequitur: 'Sed qui sententiam suam, quamvis falsam atque perversam, nulla pertinacia defendunt, corrigi parati, nequaquam sunt inter hereticos deputandi.' Et post ibidem 31 capitulo sic ait Augustinus: 'qui in ecclesia Christi moribundum aliquid pravumque sapiunt, si correcti resistunt contumaciter suaque pestifera et mortifera dogmata emendare nolunt, sed defensare persistunt, heretici sunt.'"

15. *Decretum*, C.24 q.3, c.29 and c.31. See also Helmut G. Walther, "Häresie und päpstliche Politik: Ketzerbegriff und Ketzergesetzgebung in der Übergangsphase von der Dekretistik zur Dekretalistik," in *Concept*, ed. Lourdaux and Verhelst, 114 and Trusen, *Prozess*, 166 and 171–73 for the canonistic background.

16. The discussion of pertinacity can be found in Ockham, *I Dialogus*, 3–4–4.14. Part of this material has been discussed in Arthur S. McGrade, *The Political Thought of William Ockham* (Cambridge, 1974), 49–57, albeit from a different perspective.

17. Ockham, *I Dialogus* 4.1, fol. 22va: "Pertinaciter dubitans contra fidem est qui persistit in dubitatione circa ea que sunt fidei, quam debet de necessitate salutis dimittere."

18. Gerson, 6: 161.

19. Ockham, *I Dialogus* 3.3, fol. 18va.

20. CUP 2: 215: "credo et dico suprascriptos articulos et eorum quemlibet esse hereticos, et pertinaces assertores eorum fore sicut hereticos condemnandos."

21. Trusen, *Prozess*, 107. See also the decretal *Ad abolendam* — translated in *Heresy and Authority in Medieval Europe. Documents in Translation*, ed. Edward Peters (Philadelphia, 1980), 171, where special arrangements are stipulated for those who abjure their error.

22. Jeffrey B. Russell, *Dissent and Order in the Middle Ages: The Search for Legitimate Authority* (New York, 1992), 4.

23. Malcolm D. Lambert, *Medieval Heresy: Popular Movements from Bogomil to Hus* (London, 1977), xii and 3–4, and especially Russell, *Dissent*, 2–5.

24. See Kaluza, *Quereless*, 27 n. 8 for Gerson's knowledge of the academic practices in his epoch.

25. Gerson, 6: 163: "Sunt alii circa fidem errantes in his quae non tenentur pro tunc explicite credere; et hoc dupliciter. Uno modo pertinaciter, quia non parati sunt corrigi, sed propter superbiam suam aut alter proprium defendunt errorem. Altero modo dum parati sunt corrigi, propterea agnita veritate; quia non pertinaciter animositate defendunt errorem sed ex sola simplicitate vel ignorantia sunt in errore . . . ; tertii vero pertinaciter errant in illo cuius oppositum pro tunc non tenentur

explicita fide tenere sed implicita; sed quia renunt corrigi dicuntur haeretici. . . . At vero quarti quia non jungunt errori suo pertinaciam nunc vel antea, quamvis sint corrigendi per revocationem erroris, ipsi tamen nequaquam sunt poenis haereticorum plectendi nec infamia notandi, sicut apud scholasticos theologos in praedicta Universitate Parisiensi frequenter observatur quos proteratio generalis et condicionalis revocatio juvit ad hoc ne de pertinacia notarentur, juncta humilitate quam protinus revocant errorem nequam conditionaliter sed absolute; quae revocatio sufficit magistris ad purificationem nec ab actibus studii legitimis exercendis vel consequendis revocantes obinde repelluntur."

26. CUP 2: 120: "Dicit [John of Paris] tamen quod nullus est determinatus per ecclesiam, et ideo nullus cadit sub fide."

27. Gerson, 6: 159. Besides hierarchical position, Gerson also takes into account "natural gifts," such as intelligence, erudition, etc., in evaluating how much expertise about faith may be expected from someone.

28. CUP 3: 504: "et multa dixit injuriosa contra dictos episcopum et magistros theologice facultatis, et specialiter eos Manicheos et hereticos nominando, quod tamen ipsi in suis ordinationibus vel sententiis de eo non dixerant, nec aliquam sanarum propositionum hereticam nominaverant."

29. See Josef Koch, *Durandus de Sancto Porciano, O.P.* (Münster, 1927), esp. 68–72, 200–207, and 410–17.

30. Koch, 2: 130–133.

31. Koch, *Durandus*, 68: "quod in primis dixeram et scripseram, fuit a quibusdam curiosis mihi subreptum, antequam fuisset per me sufficienter correctum."

32. Koch, 2: 410 and *Durandus*, 415–16.

33. See Alfonso Maierù, *University Training in Medieval Europe*, transl. and ed. by D. N. Prysds (Leiden, 1994), 23–25, esp. n. 105, where the relevant Dominican legislation is quoted.

34. The constitution is quoted in Koch, *Durandus*, 414 n. 21. See also CUP 2: 6 (#536) for a similar decree, dating as early as 1286.

35. See David Burr, *Olivi and Franciscan Poverty: The Origins of the Usus Pauper Controversy* (Philadelphia, 1989), esp. 38–42 and 88–93, and Koch, 2: 196 n. 18: "Et certe in quaestionibus meis plura possunt esse incorrecta, quia me nolente per aliquos communicationes fuerunt, antequam eas diligentius corexissem." The extant Franciscan documents concerning the prepublication scrutiny of writings date from the 1330s. They postdate Olivi's examination, which started shortly before 1283. See CUP 2: 470 (#1006), and Zénon Kaluza, *Nicolas d'Aurillac: Ami de la vérité (Histoire littéraire de la France, vol. 42, part 1; Paris, 1995)*, 61 n. 138 for the relevant documents.

36. There also was a second chancellor, connected to the abbey of St. Genève, but he was almost exclusively concerned with the faculty of arts and did not play a role in the adjudication of false teaching. The office of the chancellor is described in Astrik L. Gabriel, "The Conflict between the Chancellor and the University of Masters and Students at Paris During the Middle Ages," in *Die Aussenansatzungen*, ed. Zimmermann, 106–55; Alan E. Bernstein, "Magisterium and License: Corporate Autonomy against Papal Authority in the Medieval University of Paris," *Viator* 9 (1978), 291–309, and *Pierre d'Abilly and the Blanchard Affair* (Leiden,

1978), 1–28; Jacques Verger, “Les institutions universitaires françaises au Moyen Âge: Origines, modèles, évolution,” in *Università in Europa. Le istituzioni universitarie dal Medio Evo ai nostri giorni, strutture, organizzazioni, funzionamento*, ed. A. Romano (Caranzano, 1995), 68.

37. CUP 2: 683. See also P. Glorieux, “L’enseignement au Moyen Âge. Techniques et méthodes en usage à la faculté de théologie de Paris au XIII^e siècle,” *AHDL* 43 (1968), 99, and Gabriel, “Conflict,” 14.

38. See Hastings Rashdall, *The Universities of Europe in the Middle Ages*, ed. F. M. Powicke and A. B. Emden, 3 vols. (Oxford, 1987), 1: 304–5, 338–39, 398, 400, but note that his discussion is not decisive.

39. CUP 1: 60 (#1), in a charter issued around 1200, although the exemption is under certain conditions. See Gabriel, “Conflict,” 108. Other documents that are relevant are CUP 1: #24 (1210–11), in which Pope Innocent III allows the University of Paris its own legal representative, the *procurator*, and CUP 1: #142 (1245) in which Innocent IV acknowledges the *privilegium fori* to the masters and scholars of Paris. But see Rashdall, *Universities*, 1: 290, which claims that the *privilegium fori* was never explicitly granted by any secular or ecclesiastical authority.

40. CUP 1: 102–4 (#45), issued in 1222. See also CUP 1: #95 (1231), #113 (1237), and #162 (1246), bulls issued to the effect that the masters and scholars at the University of Paris could only be excommunicated after a special papal license had been obtained.

41. CUP 1: 138 (#79).

42. CUP 1: 622 (#515): “Prima ratio est, quia cancellarius Parisiensis non est iudex ordinarius scoliarum, nec delegatus; et ideo unus de ipsis non debet facere alterum convenire coram cancellario, nec conveniri coram eodem.” The conflict itself, though not its implications for the chancellor’s jurisdiction, is discussed in Gabriel, “Conflict,” 136–138. See also CUP 1: 640 (#528), the papal decision on the appeal, which repeats the claims of the arts faculty and shows concern for the usurpation of the judicial powers of the chancellor by the rector, who had started to try cases that used to belong in the “forum cancellarii.”

43. CUP 1: 642 (#528): “Et dicitur cancellarius ac successores ipsius ecclesie Parisiensis cancellarii sua jurisdictione suoque officio utantur libere prout consuetum est hactenus, donec in hac parte per sedem eandem aliud ordinatum extiterit vel provisum.”

44. This seems also true for the first case that appears in the *Collectio errorum*, namely that of Frater Stephen of Venizy, in 1241. See CUP 1: 170–72 (#128). According to some manuscripts, Chancellor Odo of Chateauroux examined Venizy’s views on the orders of the bishop. The case is discussed in William J. Courtenay, “Dominicans and Suspect Opinion in the Thirteenth Century: The Case of Stephen Venizy, Peter of Tarentaise, and the Articles of 1270 and 1277,” *Vivarium* 32 (1994), 186–89.

45. Konstanty Michalski, “La révocation par Frère Barthélémy, en 1316, de 13 thèses incriminées,” in *Aus der Geisteswelt des Mittelalters. Studien und Texte Martin Grabmann zur Vollendung des 60. Lebensjahres*, ed. Albert Lang, Joseph Lechner, and Michael Schmaus (Münster, 1935), 2: 1097; CUP 1: 170 (#128); CUP 3: 21 (#1218), 95 (#1270), and 117 (#1298).

46. CUP 3: 120 (#1299): “Iurat quod in suis principis et lecuris, necnon et in aliis actibus catholicamque, non dicit, tenebit, aut dogmatizabit aliquid quod sit contra fidem catholicam, aut contra determinationem sancte matris ecclesie, vel contra bonos mores, seu in favorem articulorum in Romana curia vel Parisius condemnatorum, aut quod male sonet in auribus auditorum, sed sanam doctrinam tenebit et dogmatizabit.” The oath itself does not appear among the statutes of the theological faculty of Paris, but it is quoted in the recantation of Brother Bartholomew. See Michalski, “Révocation,” 2: 1097: “Quia iniunctum est parisius scholaribus sub pena excommunicationis, quodsi audierint quemquam doctorem sive instrumentem doctrinam, que sonat contra fidem et bonos mores, quod revelant infra quinquendam episcopatu Parisiensi vel cancellario.” See further Pierre d’Ailly, *Traictatus*, 78, text quoted in note 98, and Getson, 5: 430, who also refers to such an oath: “et jurant baccalarii priusquam legant Sententias in manu cancellarii Parisiensis quod si quid audierint dici in favorem articulorum Parisius condemnatorum, revelant infra octo dies episcopo vel cancellario Parisiensi qui erunt pro tempore.”

47. CUP 3: 120: “Insuper et quod si audierit aut sciverit aliquem contrarium facientem bachelarium, vel alium, infra septem dies a tempore notitie domino episcopo aut cancellario Parisiensi, qui pro tempore fuerit, revelabit.”

48. CUP 3: 121: “Informationem fecimus de predictis per multos bachelarios et scolares, qui in dicto principio fuerunt presentes.” See also the case of Brother Bartholomew in Michalski, “Révocation,” 1097: “Et relatum est cancellario Parisiensi testimonio fide dignorum et probatum per testes ydoneos.”

49. CUP 3: 121: “Per proprium quaternum dicti fratris [Dennis of Fouillechat], in quo suum dictum principium continetur, quam nobis [the chancellor] sponte tradidit.” From CUP 3: 119 it is clear that the “quaternum” was not returned.

50. CUP 3: 489–97 (#1558 and #1559).

51. CUP 3: 497 (#1560): “Hii errorum fructus ne alcius profundiusque radices agerent, et darent simplicium pedibus offendiculum, decanus singulique theologice facultatis magistri, ut de more habent, obviare curaverunt, et predicatum Johannem ad se accersitum primitus secundum evangelicam doctrinam, secreta inter eos et caritative, ut ab erratis respiceret, monuerunt.”

52. CUP 3: 21 (#1218) also uses the terminology of “correction.”

53. The problem of the prosecution of occult sins and crimes is discussed in H. Ansgar Kelly, “Inquisitorial Due Process and the Status of Secret Crimes,” in *Proceedings of the Eighth International Congress of Medieval Canon Law*, ed. Stanley Chodorow (Vatican City, 1992), 407–27. The passage from Matthew 18: 15–17 also provided the basis for the judicial proceeding known as *dennunciatio evangelica*, and is included in Gratian’s *Decretum* (D.45 c.17). See Piero Bellini, “*Dennunciatio evangelica*” e “*dennunciatio iudicialis privata*.” *Un capitolo di storia disciplinare della chiesa* (Milan, 1986).

54. CUP 3: 497 (#1560).

55. CUP 3: 491 (#1559). The relation between the offices of chancellor and dean deserves further study. Sometimes their relations were strained, as in 1264, when the chancellor claimed to be *ex officio* dean of the faculty of theology, which claim was denied by the masters. See CUP 1: #399.

56. Bernstein, *Pierre d’Ailly*, esp. 79–80.

57. CUP 3: 121–22 (#1299): “Et adhuc in majorem contemptum contra prohibitionem nostram et promissum suum veniens.”

58. CUP 3: 503 (#1564): “Qui ita se facturum intra tertiam diem promisit; sed ipse promissum suum in hoc, sicut et in omnibus aliis, violavit.”

59. CUP 3: #1559, which records the sentence of the episcopal court and reproduces the record of Monzón's condemnation by the consistory of theologians. See p. 495: “Super quibus propositionibus sic in forma per Universitatem Parisiensem ad requestam dicte facultatis theologie reverendo in Christo patri episcopo Parisiensi, ordinario iudici in hac parte, judicialiter exhibitis, factoque super hiis processu.” See further CUP 3: 503 (#1564): “7a est, quod postquam Universitas et facultas antedictae quod poterant et debuerant, quantum in ipsis erat, perfecterant, postea nunciaverunt hec omnia reverendo in Christo patri domino episcopo Parisiensi, iudici ordinario in hac parte, et presentata eidem cedula facultatis predictae, sibi prout in similibus casibus fieri solitum est, requirendo supplicaverunt, quantenus super hiis vellet judicialiter procedere.” This passage is taken from the brief prepared by Pierre d'Alilly, when presenting the university's case at the papal court.

60. See CUP 3: 496 (#1559), and 503 (#1564).

61. CUP 3: 496 (#1559): “Contra vero personam ipsius magistri Johannis de Montesono, si apprehendi possit, ad arrestacionem et incarcerationem et examinationem, invocato ad hoc si opus sit auxilio brachii secularis, et alias secundum juris remedia procedemus.” Pierre d'Alilly specified in his brief that the bishop had summoned Monzón four times. See CUP 3: 503 (#1564).

62. Richard W. Southern, “The Changing Role of Universities in Medieval Europe,” *Historical Research* 60 (1987), 133–41; Courtenay, “Inquiry,” 175–78, and William J. Courtenay, “Erfurt CA 2 127 and the Censured Articles of Mirecourt and Aurecourt,” in *Die Bibliotheca Ambrosiana. Ihre Bedeutung im Spannungsfeld von Aristotelismus, Nominalismus und Humanismus*, ed. Andreas Speer (Berlin, 1995), 342 n. 4. Courtenay rightly emphasizes that the shift from Paris to Avignon, if it indeed occurred, had no implications for the role of the masters in evaluating false teaching, for the papal court too relied heavily on their theological expertise when making doctrinal decisions.

63. John of Pouilly, William Ockham, Peter Olivi, Marsilius of Padua, Meister Eckhart, Durand of St. Pourçain, Thomas Waleys, and Nicholas of Aurecourt were all summoned to Avignon, the latter together with Elias of Corso, Guido of Vecchi, Peter of Monteregali, John the Servite, and Henry of England.

64. See Koch, I: 333–34 and 345, and McGinn, “Eckhart's Condemnation,” 396.

65. The documents are edited and studied in Thomas Käppel, O.P., *Le procès contre Thomas Waleys, O.P.* (Rome, 1936). See further Mater, 3: 543–91, Katherine Walsh, *A Fourteenth-Century Scholar and Primate: Richard Fitzalph in Oxford, Avignon, and Armagh* (Oxford, 1981), 85–107, and William J. Courtenay, *Capacity and Volition. A History of the Distinction of Absolute and Ordained Power* (Bergamo, 1990), 152 for additional perspectives on the differing judgments in the Waleys case.

66. See note 132.

67. Courtenay, “Erfurt,” 342 n. 4. It is unclear whether the inquiries against the Oxford scholars Henry of Costesey and Thomas of Elmédene would fit into this

category. Their cases, if they ever came to trial, originated from their opposition to a papal decree (*Ad condonatum canonum*), rather than from disseminating false teaching in a university context. See William J. Courtenay, *Adam Wodeham. An Introduction to His Life and Writings* (Leiden, 1978), 65, and “Inquiry,” 177.

68. See Fritz Hoffmann, *Die Schriften des Öfender Kanzlers Johannes Lutterell. Texte zur Theologie des Verzelenten Jahrhunderters* (Leipzig, 1959), 125. This interpretation is based mainly on the following passage from the introduction of Lutterell's treatise (p. 7): “Ideoque, pater sanctissime, quoniam in libro, quem de gratia vestre sanctitatis et licentia pridie tenui, conceptiones aliquas reperti, que idcirco aures multorum offendunt, . . . iuxta tenuitatem ingenii mei dictas conceptiones erroneas esse ostendens.” Although Hoffmann was aware that Lutterell received Ockham's commentary on the *Sentences* from the pope, he still believed that Lutterell had brought a list of charged errors with him, because he could not believe that Lutterell's treatise was the work of one day (*prædite*), as the introduction indicates. Koch 2: 283, and Southern, “Changing Role,” 146.

69. Courtenay, “Erfurt,” 343 n. 4.

70. Koch, 2: 286.

71. See also note 122 for the theologian Peter of Palude, who was charged with a similar task in the proceedings against John of Pouilly.

72. Girard J. Eitzkorn, “Ockham at a Provincial Chapter, 1323: A Prelude to Avignon,” *AFH* 83 (1990), 557–67.

73. See Courtenay, *Adam Wodeham*, 62–63 for the opposition between Reading and Ockham.

74. CUP 2: 541 (#1076): “quod licet olim felicis recordationis Benedictis papa XII predecessor noster tibi, qui apud eum de nonnullis opinionibus fantasticis quas in certis disputacionibus in Parisiensi studio re tenuisse delatus fueras, tibi ad suam presentiam propterea evocato interdixisset.”

75. CUP 1: 280 and 282.

76. John Mooraman, *A History of the Franciscan Order. From Its Origin to the Year 1517* (Oxford, 1968), 127–31, and Marc Dufeil, *Gaillaume de Saint-Amour et la polémique universitaire Parisienne, 1250–1259* (Paris, 1972).

77. CUP 2: 221 (#764)

78. Koch, 2: 405–406.

79. David Burr, *Olivi's Penitential Kingdom: A Reading of the Apocalyptic Commentary* (Philadelphia, 1993), esp. 204–6.

80. Jeanine Quillet, *Marsile de Padoue. Le défenseur de la paix* (Paris, 1968), esp. 9–19, for the historical background of this treatise.

81. Koch, *Durandus*, 168–76 and Mater, 3: 416–17, and 563–64.

82. Southern's thesis is also criticized, though from a different angle than here, in Courtenay, “Inquiry,” 176. Centralistic tendencies of the papal administration in other fields are discussed in George Mollat, *Les papes d'Avignon, 1305–1378* (Paris, 1964), 482–86 and 553–54. See further Southern, “Changing Role,” 139–40 and Courtenay, “Inquiry,” 176.

83. Brian Tierney, *Origins of Papal Infallibility, 1150–1350* (Leiden, 1972), 42 and *passim*.

84. Southern, “Changing Role,” 140.

85. Courtenay, "Inquiry," 176 has pointed out that the masters of theology were not removed from their role as examiners. For this reason there was not much resistance to be expected from these quarters to the change of venue from Paris to Avignon.

86. The standard study on this type of manuals is still Antoine Dondaine, "Le manuel de l'inquisiteur (1230–1330)," *Archivum Fratrum Praedicatorum* 17 (1947), 85–194.

87. Pierre d'Ally, *Tractatus ex parte universitatis studii Parisiensis pro causa facti, contra quemdam fratrem Johannem de Montosono Ordinis Praedicatorum*, published in Carolus Du Plessis d'Argentré, *Collectio iudiciorum de moris erroribus*, 3 vols. (Paris, 1724–36), 1, part 2: 87–88. The *Tractatus* is a revised and expanded version of the brief that d'Ally wrote for the appellate process against Monzón. See note 189.

88. For the following very brief recapitulation of the inquisitorial method I have relied on Erwin Jacobi, "Der Prozess im Decretum Gratiani und bei den ältesten Dekretisten," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kan. Abt. 34 (1913), 223–343; Walter Ullmann, "Some Medieval Principles of Criminal Procedure," *Juridical Review* 59 (1947), 1–28; reprinted in Walter Ullmann, *Jurisprudence in the Middle Ages* (London, 1980); Edward Peters, *Inquisition* (New York, 1988), 36–37, 44–45, and 64; Winfried Trusen, "Der Inquisitionsprozess. Seine historischen Grundlagen und frühen Formen," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, Kan. Abt. 105 (1988), 168–230; H. Ansgar Kelly, "Inquisition and the Prosecution of Heresy: Misconceptions and Abuses," *CH* 58 (1989), 439–51; Kelly, "Inquisitorial Due Process," 409; Kelly, "The Right to Remain Silent: Before and After Joan of Arc," *Speculum* 68 (1993), 995–97; E. C. Coppens, "De inquisitorie procedure in het canonieke recht," in *Misdaad, zoen en straf. Aspecten van de middeleeuwse strafrechtsgeschiedenis in de Nederlanden*, ed. H. A. Diederiks and H. W. Roodenburg (Hilversum, 1991), 37–47.

89. William Durant (Guillaume Durand), *Speculum iudiciale*, 2 vols. (Basel, 1574; reprint Aalen, 1975).

90. See Kelly, "The Right," 995, and "Inquisitorial Due Process," 409.

91. Kelly, "Inquisitorial Due Process," 421.

92. See, for instance, CUP 3: 121 (Fouillechat): "querulosus clamoribus ac cusatus," CUP 3: 503 (Monzón): "ut iuxta formam ipsius dictas suas assertiones, que scandalum generaverant, retractaret."

93. Michalski, "Revocation," 1097: "Et relatum est cancellario parisiensi testi- monio fide dignorum et probatum per testes ydoneos, quod ego, frater Bartholomeus dixi, sustinui et docui publice in scolis aliqua hic inferius contra, quorum aliqua sunt contra fidem, aliqua contra bonos mores et aliqua falsa evidenter secundum concurs iudicium omnium venerabilium doctorum in theologica facultate"; and CUP 3: 121 (#1299): "dixit plura erronea atque falsa, super quibus per nonnullos, etiam graves personas, consentientia atque juramento premisso cogentibus, apud nos [i.e., cancellarius] delatus exitit, et querulosus clamoribus accusatus."

94. CUP 3: 121 (#1299): "Que omnia . . . expresse juravit in manu prefati cancellarii modo et forma superius annotatis."

95. CUP 3: 121 (#1299): "Nichilominus idem frater Dyonisius, fama publica referente, in suo principio Sententiarum, in scolis Minorum Parisius, dixit plura

erronea atque falsa." The investigation of the views of Nicholas of Autrecourt (1340) also concerned passages from his *principium*, though not exclusively so. The Autrecourt case is discussed in Chapter 4.

96. For the role of the *principium* and the vesperies during the study of theology (and arts) see Glorieux, "L'enseignement," 138–41, Bernard C. Bazán, *e.a.*, *Les questions disputées et les questions quodlibétiques dans les facultés de théologie, de droit et de médecine* (Turnhout, 1985), 100–105, Courtenay, *Adam Wodeham*, 175; and Olga Weijers, *Terminologie des universités au XIII^e siècle* (Rome, 1987), 413–20.

97. CUP 3: 491 (#1559): "quas magister Johannes de Montosono, Or. frat. Predicat., in suis vesperis et in sua questione de resumpta tenuit et assensit."

98. Pierre d'Ally, *Tractatus*, 78: "Et etiam hoc [i.e., quod ad facultatem theologiae pertinet assertiones haereticas aut erroneas condemnare] apparet ex communi protestatione, quae solet fieri in actibus theologicis, qua scholastici protestantur nihil dicere, quod cedat in favorem articulorum Parisiis per reverendos episcopos et magistris in theologia damnatorum."

99. Courtenay, "Inquiry," 178 n. 23 was the first to notice that charges of false teaching occasionally arose in the context of *principium* or vesperies. The records of the latter three cases are not explicit on the circumstances under which these scholars drew the attention of the authorities. We have only the final lists of censured views and their dates; so we are not even sure when the investigations started.

100. See note 65.

101. Burt, *Olivi*, 40.

102. Koch, 2: 405–6.

103. For Peter of Tarentaise see R. Martin, "Notes critiques au sujet de l'Opusculum IX de Saint Thomas," in *Mélanges A. Pezzer* (Louvain, 1947), 309–10. For John of Paris see P. Glorieux, "Un mémoire justificatif de Bernard de Trilla," *RSTP* 17 (1928), 407: "Istros articulos non dixi ut mihi imponuntur, et delatores non vidi nec audivi, et depositiones petivi et non habui."

104. Koch, 2: 394–95; Daniels, *Rechtsgeschichte*, 31–34; Käppeli, *Prozess*, 11–12, ch. 4, and nn. 33 and 35.

105. Koch, 2: 207–8 and Courtenay, "Inquiry," 176.

106. Koch, 2: 53 and 206; CUP 2: 140–42.

107. Fournier's activities as an expert in commissions are documented in Koch, 2: 367–87 and in Maier, 2: 59–81 and 3: 447–81. For his activities as an inquisitor in the Languedoc see Emmanuel Le Roy Ladurie, *Montaillou, village occitan de 1294 à 1324* (Paris, 1976).

108. Léon Baudry, *Guillaume d'Oceroen: Sa vie, ses oeuvres, ses idées sociales et politiques* (Paris, 1949), 97 n. 3 mentions this treatise, preserved in the manuscript Carpentras, Bibliothèque de la ville 177.

109. Käppeli, *Prozess*, 25.

110. Koch, 2: 131, 263, and 404.

111. Koch, 2: 131, and Maier, 3: 481–504.

112. Koch, *Durandus*, 168–76 and Maier, 3: 416–17.

113. Koch, 2: 263 and Maier, 2: 73–74.

114. See Koch, 2: 437–38.

115. The background and course of the procedures against Olivi are described

in David Burr, "Olivi and the Limits of Intellectual Freedom," in *Contemporary Reflections on the Medieval Christian Tradition*, ed. G. H. Shriver (Durham, N.C., 1974), 186–88, and *Olivi*, esp. 88–90. These studies contain important corrections to Koch's work.

116. The text has been edited in D. Laberge, "Fr. Petri Ioannis Olivi O.F.M. tria scripta sui ipsius apologetica annorum 1283 et 1285," *AFH* 28 (1935), 132: "Duo igitur ex his mihi miranda occurrunt quae satis non sufficio admirari. Quorum primum est quia, sicut per viam valde fide dignam mihi datum est intelligi, de quibusdam scriptationibus seu quaestionibus meis, quas ad exercitationem aliqualis intelligentiae mihi datae satis secretae conscripseram, quae per fratres praeter meam intentionem, immo contra meam voluntatem expressam sunt publicatae, quaedam sunt per vos vel aliquos vestrum excerpta, et in uno rotulo recollecta. Quorum quaedam sive ab omnibus concorditer sive a maiori parte vestrum per sententialem definitionem, datam in scriptis, et in ipso rotulo a latere consignata, sunt iudicata falsa, quaedam vero haeretica, quaedam in fide dubia, quaedam nostro Ordini periculosa, quaedam nescia seu nescie, quaedam praesumptuose prolata, et quaedam, ut ita dicam, crucifigenda seu crucis signo signanda; et, sicut apparet ex his quae a latere sunt in ipso rotulo consignata, non solum ea quae ibi excerpta sunt, sed etiam ipse auctor est sententialiter laesus seu reprehensus." Other aspects of this text will be discussed in what follows.

117. See Koch, 2: 207–9. The passage is also discussed by David Burr, *The Persecution of Peter Olivi* (Philadelphia, 1976), 41 and 43.

118. Other qualifications one encounters are *absurdus, temerarius, periculosus*, and *frivolus*. See Koch, 2: 434–45.

119. Koch, *Durandus*, 201.

120. CUP 2: 421.

121. Jürgen Mietheke, *Ockhams Weg zur Sozialphilosophie* (Berlin, 1969), 62 n. 223, and Koch, 2: 446, who also adduces the example of the examination of Olivi's *Postilla*. The report of the double task of the Ockham commission reads as follows: "et ex parte eiusdem sanctitatis vestre impositum, quod [1] diligentius videremus, an prelati articuli continentur prout iacent in libro et quaternis predictis et [2] de eisdem articulis inter nos deliberaremus et scriberemus, quod nobis videretur de singulis faciendum."

122. Koch, 2: 404–6.

123. In the case of Thomas of Naples this was explicitly stated. See CUP 2: 614–15. In the case of Peter of Tarentaise this has to be inferred from the fact that there are no documents concerning his condemnation, but only Thomas Aquinas's report on his theses. The Tarentaise case is discussed in Courtenay, "Dominicans."

124. William Durant, *Speculum iudiciale*, 1: 313–17 (*De teste*). See also CUP 3: 100 (#1272) for an example of *articuli* that do not only concern doctrinal views.

125. CUP 2: 505. See also William Durant, *Speculum iudiciale*, 1: 430–31, and 440–41, which discusses several types of citation and the time interval that should be granted to respond to the citation.

126. See F. D. Logan, *Excommunication and the Secular Arm in Medieval England* (Toronto, 1968), 44–49 for a discussion of contumacy in canon law, and also William Durant, *Speculum iudiciale*, 1: 448, which enumerates three ways of incur-

ring contumacy. In addition to the two forms discussed above, the third way to incur contumacy was by a refusal to obey a court decision.

127. CUP 3: 496 and 503.

128. CUP 3: 509.

129. For information concerning Ockham's stay at Avignon and his escape see Baudry, *Guillaume d'Ocarn* 1: 96 and 115–16 and Mietheke, *Ockhams Weg*, 72–73.

130. CUP 3: 508 (#1567). It is not known why Monzón was housed at an inn, instead of at the Dominican convent in Avignon. Since each party in an appeal had to pay his own costs, the Dominican order probably paid for Monzón's lodging. See also note 192.

131. See Koch, 1: 333–34 and 345, and McGinn, "Eckhart's Condemnation," 396.

132. See Käppeli, *Prozès*, 72–73; Beryl Smalley, *English Friars and Antiquity in the Early Fourteenth Century* (Oxford, 1960), 77–78, and also Marc Dykman, "A propos de Jean XXII et Benoît XII: La libération de Thomas Waleys," *Archivum Historiae Pontificae* 7 (1969), 115–30, who has argued that Waleys remained in the papal prison only until 1334. Even if Dykman's thesis is true, the documents show that Waleys must have been under some milder form of arrest for a considerable period of time.

133. Robert Wielockx, ed., *Aegidii Romani, Apologia* (Florence, 1985), 92; Koch, 2: 408 and 132; Käppeli, *Prozès*, 140–141; Koch, 1: 324–325; F. Stegmüller, "Die Zwei Apologien des Jean de Mirecourt," *RTAM* 5 (1933), 46.

134. Mietheke, *Ockhams Weg*, 66–67 and CUP 2: 580. Unfortunately, we do not have detailed information about their defenses.

135. Burr, *Persecution*, 37 and 42–43, and *Olivi*, 90.

136. CUP 3: 119.

137. Lambert M. de Rijk, ed. and trans., *Nicholas of Autrecourt, His Correspondence with Master Giles and Bernard of Arezzo* (Leiden, 1994), 154: "Deinde per p[ro]relatos ac magist[ro]ros discussi fuerunt alii articuli dati et assignati contra ipsum magistrum Nicolaum. Quorum aliquos simpliciter et aliquos sub forma qua ponuntur, se dixisse negavit. Qui secuntur per ordinem, sub his verbis."

138. Glorieux, "Mémoire," 407.

139. Daniels, *Rechtfertigungsschrift*, 12: "Porro de aliis articulis extractis ex sermonibus qui michi ascribuntur respondere non habebam cum passim, et frequenter etiam a clericis, studiosis et doctis diminuite et falso que audiunt reportantur."

140. Koch, 2: 394 and 409.

141. See note 35.

142. See note 31.

143. Laberge, "Fr. Petri Ioannis Olivi," 133: "Ego vero . . . indirecte videret confiteri illa, quae de meis scripturis excerpta fuerant, me scripsisse in alio sensu et alia intentione quam feceram, et quod peius esset, videret per hoc concedere, et hoc mendose et contra conscientiam meam, quod ego in illo erroneo vel haeretico sensu, qui michi erat impositus ea dixissem." See Burr, *Persecution*, 42–43 for a discussion of the role of the *Letter of the Seven Seals* at Olivi's trial.

144. CUP 2: 87: "quod articulos quos mihi fecistis legi scripseram non secun-

dum intellectum quo sonabant extracti per vos ab opere meo, sed secundum intellectum quo sonabant iacentis in serie scripturæ.”

145. Stegmüller, “Die Zwei Apologien,” 192 and 204.

146. Daniels, *Rechtfertigungsschrift*, 12, l. 26–28 and 34, l. 20–25.

147. Daniels, *Rechtfertigungsschrift*, 65, l. 24–25.

148. Daniels, *Rechtfertigungsschrift*, 34, l. 36 and 54, l. 16–18. For the latter quotation see also McGinn, “Eckhart’s Condemnation,” 403.

149. Nicholas of Autrecourt defended himself along this line. See de Rijk, *Nicholas*, 150. This distinction was also invoked by Brother Bartholomew. See Glorieux, “Mémoire,” 408, 412–13 for clear examples.

150. Examples are provided in Konstany Michalski, *Le criticisme et le scepticisme dans la philosophie du XIV^e siècle* (Krakow, 1927), 68–71; reprinted in Konstany Michalski, *La philosophie au XIV^e siècle* (Frankfurt, 1969), 136–39. See also Burr, “Olivi and the Limits,” 195–96 and Courtenay, *Adam Wodeham*, 174.

151. Peter Olivi, for instance, explicitly outlines the strategy of defense he used in this way. See Laberge, “Fr. Petri Ioannis Olivi?” 134. The same method can be inferred from other rolls with articles.

152. See McGinn, “Eckhart’s Condemnation,” 407 and 413 for the notion of “quidquid recipitur, secundum modum recipientis recipitur.” The notion is perhaps connected with Gregory the Great’s rule for preaching, *Pastorale*, III prol. (PL 77: 49): “Pro qualitate igitur audientium formati debet sermo doctorum . . . Quid enim sunt intentae mentes auditorum, nisi ut ita dixerim, quaedam in cithara tensione stratae chordarum?” The passage is also cited by Gerson, 3: 62: “[i]uxta mores auditorum formetur sermo doctorum.” See also Aristotle, *Metaphysics* 994 b 30–995 a 2.

153. Article 211 of the 1277 condemnation is qualified as *male sonat*. See CUP 1: 555. Some other examples of articles that were condemned as they sound, are to be found in de Rijk, *Nicholas*, 150 no. 2.8, 160 no. 16.3, and 161 no. 16.8 (Nicholas of Autrecourt); CUP 3: 108 (John of Calore). For Durand of St. Pourcain, see Koch, 2: 75. For Meister Eckhart see Koch, 2: 323–24 and McGinn, “Eckhart’s Condemnation,” 412–14.

154. See, for instance, CUP 3: 493: “propter malum sensum, quem generare possent in animis auditorum.”

155. Laurent, “Autour du procès,” 436. See also Monika Aszralos, “The Faculty of Theology” in *Universities in the Middle Ages*, ed. Hilde De Ridder-Symoens (*A History of the University in Europe*, vol. 1; Cambridge, 1992), 443–44.

156. The term “prout sonat principle” is derived from McGinn, “Eckhart’s Condemnation,” 412. He has rightly drawn attention to the great emphasis in Eckhart’s defense on the sense of the articles.

157. See, for example, Koch, 2: 237 and 255.

158. “Verba ergo interpretanda sunt ex sensu ex quo fiunt, non ex sensu quem faciunt.” See Nikolaus M. Häring, “Commentary and Hermeneutics,” in *Renaissance and Renewal in the Thirteenth Century*, ed. Robert L. Benson and Giles Constable (Oxford, 1982), 196 for the employment of this hermeneutical principle in the twelfth century.

159. See [Godfrey of Fontaines], *Les Quaestiones XI et XII. Les Quaestiones XIII et XIV*, ed. J. Hoffmans (Louvain, 1932 and 1935), 100. Details about Godfrey of

Fontaines’s biography and writings, as well as a more systematic analysis of his reaction to Tempier’s condemnation, will be given in Chapter 5. See also John F. Wippel, *The Metaphysical Thought of Godfrey of Fontaines: A Study in Late Thirteenth Century Philosophy* (Washington, D.C., 1981), 382–84, and Stephen F. Brown, “Godfrey of Fontaines and Henry of Ghent: Individuation and the Condemnations of 1277,” in *Société et église: Textes et discussions dans les universités d’Europe centrale pendant le moyen âge tardif*, ed. Sophie Wlodek (Turnhout, 1995), 193–97 for a discussion of this passage.

160. Godfrey of Fontaines, *Quaestiones XII*, 102.

161. Trusen, “Der Inquisitionsprozess,” 194 and 216–17.

162. Gerson, 6: 155–56 sect. 2 and p. 164 sect. 11. The formula could run as follows: “protestor quod nihil intendo dicere nec puro dixisse contra fidem, et si oppositum contingeret vel contingisset, illud ex nunc revoco vel retracto.” See also Bazán, *Questions*, 103, for a similar practice in Bologna, and Courtenay, *Adam Wodeham*, 174, for Oxford. During the sixteenth century a slightly variant formula was in use at Paris: “In primis protestor quod nichil intendo dicere quod obviat, aut sit dissonum Sacrae Scripturae, aut definitionibus sacrorum conciliorum, aut sit determinationibus sacrae facultatis theologiae matris meae, quibus adhaereo et semper adhaerere intendo.” See James K. Farge, *Orthodoxy and Reform in Early Reformation France: The Faculty of Theology of Paris, 1500–1543* (Leiden, 1985), 160.

163. CUP 1: 176.

164. Good examples are the cases of Nicholas of Autrecourt and Denis of Foulchat. See CUP 2: 586 and CUP 3: 124 (#1300).

165. CUP 3: 114 (#1298), 124 (#1300), and 185, note.

166. Kaluza, *Nicholas*, 120 and 125–27, and CUP 2 (#1158).

167. Michalski, “La revocation,” 1091.

168. CUP 1: 486, 543 and CUP 2: 244, but these examples can be multiplied.

169. John Tedeschi, *The Prosecution of Heresy. Collected Studies on the Inquisition in Early Modern Italy* (Binghamton, N.Y., 1991), 49.

170. See note 25.

171. Koch, 2: 9–15.

172. Wlodek, ed., *Aegidii Romani*, 110–11.

173. See Koch, 2: 197–98 and 211 and Burr, *Olivi*, 106–8.

174. The standard formula would run something as follows: “ad gradus et honores . . . promoventi et assumi non posses . . . sine licentia sedis apostolice specialis.” The penalties concerned Richard of Lincoln and Nicholas of Autrecourt. See CUP 2: 541 (#1076) and de Rijk, *Nicholas*, 163–64, respectively. Both documents are discussed in Kaluza, *Nicholas*, 122–23.

175. CUP 1: 633 (#522), and 2: #1076.

176. See Pearl Kibre, “Academic Oaths at the University of Paris in the Middle Ages,” in *Essays in Medieval Life and Thought. Presented in Honor of Austin Patterson Evans*, ed. John H. Mundy, Richard W. Emery, Benjamin N. Nelson (New York, 1955), 123–37, and Zénon Kaluza, “Le statut du 25 septembre 1339 et l’Ordonnance du 2 septembre 1276,” in *Die Philosophie im 14. und 15. Jahrhundert*, ed. Olaf Pluta (Amsterdam, 1988), 350–51, who also draws attention to Gerson’s observations concerning the custom of swearing oaths.

177. William Durant, *Speculum iudiciale*, I: esp. 839–65 (*De appellacionibus*), and further X 2.28, and A. Amanien, "Appel," in *Dictionnaire du droit canonique*, 7 vols. (Paris, 1935–65), I: 764–807.

178. See CUP 3: 115–16 (#1298).

179. CUP 3: 122 (#1299).

180. CUP 3: 115–16 (#1298).

181. CUP 3: 122–24 (#1300). These are the minutes from the appellate meeting in Avignon.

182. CUP 3: 182 (#1349).

183. CUP 3: 183 (#1350). The list of new errors is edited in CUP 3: 185 (#1352). The errors were first recanted in Avignon, and later in Paris.

184. CUP 3: 183 (#1350), the same letter that, in the introduction, gives an account of the actions of the auditors that had been set on the case.

185. CUP 3: 184–85 (#1351).

186. CUP 3: 183: "Attendentes igitur quod huiusmodi negotium seu causa attentis circumstantiis universis commodius poterit tractari Parisius quam in Romana curia prelibata . . . et in hoc assistentibus cancellario predicto ac magistris in facultate predicta."

187. CUP 3: 496 (#1559).

188. There are no records of the appellate process. The following account of Monzón's appeal is based on CUP 3: 506–12 (#1567). This is a record of the court session that took place on January 27, 1389, in which Monzón was convicted in a contempt of court procedure, and excommunicated, because he fled from Avignon before his appellate case had been decided. Fortunately, the record also provides a sketchy account of the appellate process during the three months prior to Monzón's flight.

189. It seems that only two of d'Ailly's briefs are still extant today. One brief, edited in CUP 3: 502–5 (#1564), is a statement of the facts of the case as d'Ailly understood them. I have used this rich source to reconstruct the earlier stages of the Monzón case. The other brief is the rebuttal of the grounds of Monzón's appeal. It has been edited in Du Plessis, *Collectio*, I, part 2: 69–74, and was later rewritten as the *Tractatus ex parte universitatis* (see note 87). A copy of Monzón's petition has not been identified yet.

190. CUP 3: 506–12 (#1567). Another official who is mentioned in this document is the pope's fiscal procurator (*procurator fiscalis*). On the canonical principle that the same person cannot be accuser and judge (*non tinguam idem sit accusator et iudex*), the right to prosecute was transferred to the fiscal procurator. See Innocent III, *Qualiter et quando* no. 1. (X 5.1.17), and also note 90. Note, however, that the fiscal procurator had no role in the appellate process. He became involved only when Monzón did not obey the summons to appear in court. Together with the attorneys appointed by the university, he drew up the bill of complaint that led the judges to the contempt of court proceedings against Monzón.

191. These grounds can be inferred from d'Ailly's *Tractatus*. The treatise's purpose is to explain the legitimacy of disciplinary actions of the faculty of theology against Monzón. It is based on the appellee's formal response to the reasons for Monzón's appeal. A fuller discussion of this aspect will be given in Chapter 5.

192. CUP 3: 500–501 (#1562). Another example is provided in CUP I: #263.

193. Foullechat indicated that he had received advice to appeal. Moreover, his petition suggests that he is not only appealing for himself, but also in the name of his order. See CUP 3: 119 (#1298): "idem frater Dionisius voluit petique et requisivit, suo et predicti sui Ordinis nomine," and CUP 3: 123 (#1300): "Tamen ipse non homo sed minus sano frenus consilio, dictam revocationem publicam facere noluerat, sed in vni appellacionis prorumpens . . . appellaverat ad apostolicam sanctam sedem."

194. CUP 3: #1298, dated November 21, 22, 1364, and #1352, dated April 12, 1369.

195. The record of the contempt of court procedure at the episcopal court is dated August 23, 1387. The brief in which Pierre d'Ailly explains the facts of the case as he understands them is dated May–July 1388. See CUP 3: #1559 and #1564.

196. CUP 3: 508 (#1567): "quod frater Johannes predictus (that is, Monzón) fuerat in dicta albergaria per tres menses et ultra hospitatus et quod de hospitio predicto et curia Romana recesserat, ut ipsa credebatur, die tertia mensis Augusti proxime lapsa."

197. CUP 3: #1300.

Chapter 2. The Condemnation of March 7, 1277

1. Doctrinal reactions to Tempier's condemnation were offered by John of Naples (see note 57), Raymond Lull, and Konrad of Megenberg. See P. O. Keicher, *Raymundus und seine Stellung zur arabischen Philosophie. Mit einem Anhang: enttand die zum ersten Male veröffentlichte "Declaratio Raymundi per modum dialogi"* (Münster, 1909), and Konrad von Megenberg, *Werke Ökononik*, book 3, ed. S. Krüger (Staatschriften des späteren Mittelalters, vol. 3; Stuttgart, 1984). In addition, mention should be made of an anonymous commentary, discovered and partially edited in Martin Grabmann, "Ein spätmittelalterlicher Pariser Kommentar zur Verurteilung des lateinischen Averroismus durch Bischof Stephan Tempier von Paris (1277) und zu anderen Irrtumslisten" in Martin Grabmann, *Mittelalterliches Geistesleben*, 3 vols. (Munich, 1936), 2: 272–86.

2. Pierre Mandonnet, *Siger de Brabant et l'averroïsme latin au XIII^e siècle*, 2 vols. (Louvain, 1908–11), especially I: 28–29, 59–63, and 142–95.

3. Fernand van Steenberghen, *Aristotle in the West* (Louvain, 1955), 198–208; *La philosophie au XIII^e siècle*, 2d ed. (Louvain, 1991), 354–59, and 422–26; and *Maitre Siger de Brabant* (Louvain, 1977), 149–158. See also John F. Wippel, "The Condemnations of 1270 and 1277 at Paris," *Journal of Medieval and Renaissance Studies* 7 (1977), 173–74, Charles H. Lohr, "The Medieval Interpretation of Aristotle," *CHIMF*, 87–92, and, most recently, John F. Wippel, *Metaphysical Reactions to the Encounter Between Faith and Reason* (Milwaukee, 1995).

4. Fernand van Steenberghen, *Thomas Aquinas and Radical Aristotelianism* (Washington, D.C., 1980), and, more recently Richard C. Dales, *Medieval Discussions of the Eternity of the World* (Leiden, 1990); Luca Bianchi, *Il vescovo e i filosofi. La*

condanna parigina del 1277 e l'evoluzione dell'aristotelismo scolastico (Bergamo, 1990), and Alain de Libera, *Penser au Moyen Âge* (Paris, 1991), 189–245 shed further light on these issues. Still valuable is Whipple, “The Condemnations,” 187–201.

5. Pierre Duham, *Études sur Léonard de Vinci*, 3 vols. (Paris, 1906–13), 2: 411, and 3: vii and 125. See also Pierre Duham, *Medieval Cosmology*; ed. and transl. Roger Ariew (Chicago, 1985), xxii–xxiii. One of the earliest criticisms of Duham's thesis, which focused precisely on the articles 39 and 49, was given by Alexandre Koyré, “Le vide et l'espace infini au XIVe siècle,” *AHDL* 17 (1949), 45–91. More recently Edward Grant has studied the impact of Tempier's condemnation on the history of medieval science. See his “The Condemnation of 1277, God's Absolute Power, and Physical Thought in the Late Middle Ages,” *Vivator* 10 (1979), 211–44; “The Effect of the Condemnation of 1277,” in *CHMAP*, 537–40; and “Science and Theology in the Middle Ages,” in *God and Nature. Historical Essays on the Encounter between Christianity and Science*, ed. David Lindberg and Ronald Numbers (Berkeley, 1986), 49–75. A penetrating discussion of the legacy of Duham's thesis in the twentieth-century historiography of medieval science is provided by John E. Murdoch, “Pierre Duham and the History of Late Medieval Science and Philosophy in the Latin West,” in *Gli studi di filosofia medievale fra otto e novecento*, ed. Alfonso Maierù and Ruedi Imbach (Rome, 1991), 253–302. For the placing of Grant in the context of the Duham thesis see Murdoch, “Duham,” 281–283.

6. Mandonnet, *Siger*, especially 1: 191–195, Gilson, *La philosophie au moyen âge*, 2nd. ed. rev. and exp. (Paris, 1947), 559; and van Steenberghen, *Thomas Aquinas*, 75–110. More recently, this interpretation has been taken up in Kurt Flasch, *Aufklärung im Mittelalter? Die Verurteilung von 1277* (Frankfurt, 1989); Roland Hissette, “Note sur le syllabus ‘antirationaliste’ du 7 mars 1277,” *Revue Philosophique de Louvain* 88 (1990), 404–16, and also Ludwig Hödl, “. . . sie reden, als ob es zwei gegensätzliche Wahrheiten gäbe? Legende und Wirklichkeit der mittelalterlichen Theorie von der doppelten Wahrheit,” in *Philosophie im Mittelalter. Entwicklungslinien und Paradigmen*, ed. Jan P. Beckmann, *e.a.* (Hamburg, 1987), 224–29, and 242–43.

7. CUP 1: 534: “Dicunt enim ea esse vera secundum philosophiam, sed non secundum fidem catholicam, quasi sunt duae contrariae veritates, et quasi contra veritatem sacrae Scripturae sit veritas in dictis gentiliū damnatorum.”

8. Van Steenberghen sets forth this view in several of his publications. See, for instance, *Thomas Aquinas*, 105–9. See also Richard C. Dales, “The Origin of the Doctrine of the Double Truth,” *Vivator* 15 (1984), 169–79, and Hödl, “. . . sie reden,” 225–45.

9. The only other condemnation in the *Collectio errorum* that is anonymous was also issued by Tempier, on December 10, 1270. See CUP 1: 486–87 (#432). Note that the so-called Ockhamist statute of 1340, which appears in the printed tradition of the *Collectio errorum*, is also anonymous. See CUP 1: 505–7 (#1042) and Chapter 3 for a discussion of this statute.

10. This document is more fully discussed in the Selected Bibliography.

11. Note that the 1277 condemnation is one of the very few censures in the *Collectio errorum* that concerned the faculty of arts. This aspect could be considered the third distinctive feature of Tempier's syllabus.

12. Only two medieval manuscripts bear a rubric identifying the holders of the condemned errors. The manuscript Paris, BN lat. 4391, fol. 68 presents the syllabus of 219 errors under the rubric “Contra Segerum et Boetium hereticos.” The manuscript Paris BN, lat. 16533 fol. 60 mentions “Principalis assessor istorum articulorum fuit quidam clericus boetius appellatus.” See Mandonnet, *Siger*, 2: 220.

13. Roland Hissette, *Enquête sur les 219 articles condamnés à Paris le 7 mars 1277* (Louvain, 1977), 314.

14. This traditional picture goes back to Mandonnet, *Siger*, 2: 214–86 and has been codified in Fernand van Steenberghen, *Mathé Siger*, 139–49 and 159–65, though with one important correction, namely the date of the inquisitor's citation of Siger of Brabant. See note 25 below. All the subsequent literature has basically accepted Mandonnet's and van Steenberghen's portrayal of the events. See, for instance, Bianchi, *Vescovo*, 17–18; John F. Whipple, “Thomas Aquinas and the Condemnation of 1277,” *The Modern Schoolman* 72 (1995), 237; and François-Xavier Puralaz, *Insolente Liberté. Controverses et condamnations au XIIIe siècle* (Paris, 1995), 51–55, to mention a few of the more recent studies.

15. CUP 1: 541.

16. CUP 1: 543.

17. Jürgen Mietheke, “Papst, Ortsbischof und Universität in den Pariser Theologienprozessen des 13. Jahrhunderts,” in *Die Auseinandersetzungen an der Pariser Universität im XIII. Jahrhundert*, ed. Albert Zimmermann (Berlin, 1976), 86–87. See also Roland Hissette, “Étienne Tempier et ses condamnations,” *RTAM* 47 (1980), 239–42 for a discussion of this thesis.

18. But see Bianchi, *Vescovo*, 206, who draws attention to similar formulas in other university documents and suggests that it may be a standard phrase, or a topos.

19. According to Robert Wielockx, ed., *Aegidii Romani, Apologia* (Florence, 1985), 92 n. 65 correspondence from the papal curia to Paris took about a month to arrive.

20. This letter has been edited in A. Callebaut, “Jean Peckham et l'Augustinisme. Aperçus historiques,” *AFH* 18 (1925), 459–60.

21. This suggestion is also made by Mietheke, “Papst,” 85.

22. Callebaut, “Jean Peckham,” 460: “ut receptis eisdem ad discussionem, determinationem seu probationem errorum ipsorum vel etiam ad ordinationem . . . nec non et statu eiusdem studii reformando in premissis videlicet faciendam, de fratri nostro cum consilio procedamus.”

23. Wielockx, ed., *Aegidii Romani*, 102 also suggests that *Flumen aquae vivae* may contain echoes of the inquiry against Giles of Rome. At the same time, one should keep in mind that such rather vague letters expressing concern over the orthodoxy of teaching at the university had a topical character. Compare, for instance, the opening of *Flumen aquae vivae* to the well-known letter of Pope Clement VI of May 20, 1346, addressed to the masters and scholars in Paris and edited in CUP 2: 587–90 (#1125), which also refers to the theme of *flumen aquae vivae*.

24. Wielockx, ed., *Aegidii Romani*, 77–88 suggests a date after March 7 and before March 28, 1277.

25. Antoine Dondaine, “Le manuel de l'inquisiteur (1230–1330),” *Archivum Fratrum Praedicatorum* 17 (1947), 186–192. Dondaine was the first to re-establish

the correct date of the summons, namely November 23, 1276, not November 24, 1277, as Mandonnet, *Siger*, I: 255, n. 1 thought. The significance of the correct date is that it places the summons before, not after, the condemnation of March 7, 1277. Dondaine's corrected edition of the inquisitor's citation has been accepted by all scholars, unanimously, who otherwise have remained faithful to Mandonnet's portrayal of the events leading to the censure of March 7, 1277. See also note 14.

26. Dondaine, "Mannuel," 187, merely observed that, according to customary inquisitorial proceedings, it was the inquisitor's citation that opened the process. Unfortunately, he did not apply this insight to a reinterpretation of Tempier's censure.

27. The itineraries of the papal court in the years between 1276 and 1284 are summed up in Mandonnet, *Siger*, 276 and van Steenberghe, *Maitre Siger*, 163. If one assumes that Siger joined the papal court in 1277, one must also assume that he followed its itineraries to Viterbo, Rome, and Orvieto. See J. M. M. H. Thijssen, "What Really Happened on 7 March 1277? Bishop Tempier's Condemnation and Its Institutional Context," in *Texts and Contexts in Ancient and Medieval Science: Studies on the Occasion of John E. Murdoch's Seventieth Birthday*, ed. Edith Sylla and Michael McVaugh (Leiden, 1997), 94–95 for a more detailed discussion of the documentary evidence that supposedly supports the thesis that Siger of Brabant filed an appeal at the papal court.

28. This is demonstrated, for instance, in the cases against the theologians Denis of Foullechat and John of Monzón, who both appealed against a sentence. See Chapter 1.

29. Theoretically, Siger could have turned to the pope and asked him, as judge over all major causes, to decide his case. In that scenario, the papal court would not have been an appellate court, but a court of first instance. There is no documentary evidence, however, that Siger took this course, nor is there any trace of a papal judgment in an inquiry against him.

30. In essence, contumacy was considered to be disobedience to an ecclesiastical court. See Chapter 1, note 126.

31. René Gauthier, "Notes sur Siger de Brabant. II. Siger en 1272–1275. Aubry de Reims et la scission des Normands," *RSPPT* 68 (1984), 26–28.

32. Gauthier, "Notes," 26.

33. Gauthier, "Notes," 26.

34. CUP 1: 521–30 (#460). See Gauthier, "Notes," 22 and 24. He has convincingly argued that this was a purely administrative conflict, not a doctrinal one.

35. Van Steenberghe, *Maitre Siger*, 133, 218, and 221.

36. Louis-Jacques Batillon, "Bulletin d'histoire des doctrines médiévales: Le treizième siècle (fin)," *RSPPT* 65 (1981), 107 has convincingly argued that it is very unlikely that the mad *clerics* who reportedly stabbed Siger of Brabant is identical to Goswin of Chapelle, whose ecclesiastical rank was too high for him to be Siger's servant.

37. Van Steenberghe, *Maitre Siger*, 144, and Gauthier, "Notes," 26.

38. Batillon, "Bulletin," 107 suggested that Siger of Brabant went to Orvieto for matters that concerned his chapter. This suggestion was followed by Gauthier, "Notes," 27.

39. Van Steenberghe, *Maitre Siger*, 144 observes: "On ne sait rien des accusa-

tions qui avaient été formulées contre les trois maîtres dénoncés à Simon du Val, ni, dès lors, des griefs qui justifiaient leur citation devant le tribunal de l'inquisiteur."

40. There are no documents to suggest why the suspects were acquitted. Possibly the evidence was inconclusive, or perhaps the Bishop of Liège came to the rescue of his canons and coerced the inquisitor to acquit them.

41. This juridical principle can be found in Gratian's *Decretum*, C.2 q.1 c.14 par.1. John the Teuton offers the following comment in his *Glossa ordinaria* C.2 q.1 c.14 par.1 "Non potest": "Sive enim quis sit condemnatus, sive absolutus, tamen super eodem crimine saepius agi non potest, ut extra De accusa. De his." He was the first to phrase this general principle, which applied in both accusatorial and inquisitorial proceedings. See Peter Landau, "Ursprünge und Entwicklung des Verbores doppelter Strafverfolgung wegen desselben Verbrechen in der Geschichte des kanonischen Rechts," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte Kan.* Abt. 87 (1970), 124–56, esp. 138–52.

42. CUP 1: 542: "Magnarum et gravium personarum crebra zeloque fidei accensa insinuavit relatio, quod nonnulli Parisius studentes in artibus proprie facultatis limites excedentes quosdam manifestos et execrables errores, immo potius vanitates et insanias falsas in rotulo seu cedulis, presentibus his annexo seu annexis contentos quasi dubitabiles in scolis tractare et disputare presumpunt."

43. Tempier distinguishes the important persons who reported the allegations of false teaching (*magnarum et gravium personarum crebra zeloque fidei accensa insinuavit relatio*) from the theologians and other wise men who gave him advice in this matter (*tam doctorum sacrae Scripturae, quam aliorum prudentium virorum communis consilio*). See CUP 1: 542.

44. "Iidem magistri fuerunt assessores episcopi Stephani in condendo articulos et in concedendo praedictam propositionem. Et ideo cum praedicta magistris proposito interminat articulum praedicto modo debet articulus intelligi, illi magistri sibi ipsis contradixissent, omnes etiam XVI magistri qui illam propositionem concesserunt excommunicationis sententiam incurrent, quae omnia non sunt dicenda." The text is quoted in Wielockx, ed., *Aegidii Romani*, 98 n.6.

45. Henry of Ghent, *Quodlibet II*, ed. Robert Wielockx (Louvain, 1983), 67: "In hoc enim concordabant omnes magistri theologiae congregati super hoc, quorum ego eram unus, unanimiter contententes quod substantia angeli non est ratio angelum esse in loco secundum substantiam." See also Mietheke, "Papst," 86; van Steenberghe, *Maitre Siger*, 146–47; Roland Hissette, "Étienne Tempier et ses condamnations," *RTAM* 47 (1980), 234–36.

46. Ernesto Hocedez, "La condamnation de Gilles de Rome," *RTAM* 4 (1932), 56: "Nam nos ipsi tunc eramus Parisiis, et tamquam de re palpara testimonium perhibemus, quod plures de illis articulis transierunt non consilio magistrorum, sed caprositate quorundam paucorum." Hissette, "Étienne Tempier," 238, observes that the "quorundam" refers to the bishop and not to some masters of theology, as some other scholars believed.

47. See, for the latter assessment, Richard Knapwell, *Quaestio disputata de unitate formae*, ed. Francis E. Kelley (Paris, 1982), 12. An exception to the unfavorable views concerning the consistency of the condemnation is Flasch, *Aufklärung*, 56.