

Jurisdiction, Procedure, and the Censure of Academic Heresy in the Faculty of Theology

The discussion of the chapter's jurisdiction – whether shared with or independent of the bishop – has provided an appropriate background against which to assess the authority exercised by the theological faculty at Paris over its own members. As a result of these investigations, it is possible to offer a partial hypothesis to the question raised at the outset of this study: Given that the prosecution of heresy was considered a right of the bishop alone, how did the faculty of theology acquire the capacity to judge cases of academic heresy? The canonistic texts have provided an important element of the answer: As noted earlier, the bishop possessed the right to act through another, such as his official, an archdeacon, or a vicar.¹ Thus, it was legally permissible for the bishop to act through his vicar, the chancellor, and the faculty of theology. Inasmuch as the chancellor and the theological faculty came under the legal and spiritual authority of the bishop, it is possible to claim that the bishop acted through them. Indeed, without explicitly acknowledging this legal principle, scholars have generally accepted that the chancellor and the faculty of theology acquired their authority by acting under the aegis of the bishop. In the Stephen of Venizy case, Courtenay opined that the bishop delegated the judicial deliberation to the faculty of theology.² This understanding of the faculty's authority in relation to the bishop assumes that the faculty of theology acted not as an independent judicial body *per se*, but merely as an extension or arm of local episcopal authority. Hence, it would appear that the faculty did not exercise any independent jurisdiction when censuring its own members. Indeed, other obstacles also seemed to challenge the faculty's

1 See the discussion of vicars above beginning on page 45.

2 See William Courtenay, "Dominicans and Suspect Opinion," 189. Courtenay expressed it in this way: "it would appear that the bishop of Paris, William of Auvergne, had delegated the judicial deliberation to the regent masters of theology, under the supervision and authority of the chancellor of Notre Dame. When the determination was reached, the bishop gave his approval and declared anathematized anyone who dared to dogmatize or sustain the erroneous opinions." However much this description may accurately reflect the judicial positions of the faculty, of the chancellor, and of the bishop in these circumstances, the general view of the chancellor and the faculty as merely delegates of the bishop does not do justice to their legal position.

exercise of jurisdiction in cases of heresy. First, and foremost, heresy was a serious offense, a *crimen exceptum*; Innocent III had likened it to treason.³ Second, as noted, d'Ailly himself had recognized the bishop as the judge ordinary in the matter involving Monteson.⁴ The bishop possessed the authority to excommunicate offenders and to declare them heretics – not the faculty of theology. Nevertheless, just as these factors seemed to argue against the faculty's jurisdiction, so, at the same time, other factors seemed to favor the faculty's jurisdiction. After all, it seems unreasonable to hold that the chancellor, in particular, did not possess the powers of an ecclesiastical judge. He was, after all, a vicar of the bishop and ordinary of the faculty. Moreover, Foulechat and Monteson both appealed from the decisions of the faculty, thereby treating the sentence as a legal fact.⁵ The resolution of these discrepancies is not immediately obvious. However, the matter can be approached from two directions. First, it is possible to investigate more closely the question of the faculty's jurisdiction – something that will take place in the next chapter. Or, for now, it is equally suitable to focus on a fuller analysis of the offense of academic heresy within the university context, and to determine, how it may be distinguished from the general concept of heresy as routinely discussed in the sources.

Jean Gerson and the Censure of Heresy

Fortunately, a contemporary of Pierre d'Ailly, and subsequent chancellor of the university, Jean Gerson, wrote a treatise on the censure of academics at Paris entitled *De protestatione circa materiam fidei*. In describing the process of academic censure (particularly among bachelors), Jean Gerson highlighted two essential procedures. First every bachelor before reading the *Sentences* swore a *revocatio conditionalis*, a promise not to teach anything contrary to the faith and that, if the opposite happened, he would revoke the error

3 Edward M. Peters, "Crimen exceptum: The History of an Idea," in *Proceedings of the Tenth International Congress on Medieval Canon Law*, Syracuse, New York 13–18 August 1996, ed. Kenneth Pennington, Stanley Chodorow, and Keith H. Kendall (Vatican City, 2001) 137–94. Also see the decretal *Vergentius in senium*, x 5.7.10.

4 See page 5, footnote 13.

5 H. A. Kelly, review of J. M. M. H. Thijssen, *Censure and Heresy at the University of Paris, 1200–1400* (Philadelphia, 1996) in *Speculum* 75 (2000), 729–31. These issues will be addressed in more detail when discussing fraternal correction.