Master Amalric and the Amalricians: Inquisitorial Procedure and the Suppression of Heresy at the University of Paris

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On November 20, 1210, one day after the annual fair, ten heretics were burned in the field named Champeaux just outside the walls of Paris. Four others were incarcerated. The group of fourteen had been uncovered and captured through the aid of a spy. In the chronicles they are identified as Amalricians (Almarici, Almariciani, [A]mauri, and Almariciani), named after Master Amalric of Bène, who reportedly stood at the origin of their heresies. Master Amalric himself had been condemned around 1206, shortly before his death.1 His case is the earliest documented instance of academic censure at the University of Paris.

The execution of the Amalricians was decided at a council held at Paris in 1210. The council also determined that Amalric should be excommunicated and his body removed to unconsecrated ground. In addition the council took three other actions, not necessarily related to the two previous decisions. It ordered the burning of the quires (quaternuli) of Master David of Dinant. It prohibited the teaching of Aristotle’s works on natural philosophy. And it ordered the surrender to local bishops of certain theological works written in French.

Evidence of the trial of Master Amalric and the Amalricians has come down to us in the form of two official records and a number of almost contemporary narrative sources. The most important official document is the text of the conviction of Master Amalric and the Amalricians. Martène and Durand, the eighteenth-century editors of this record, claimed that it was issued by a provincial synod held at Paris in 1210.2 Their conclusions have been generally followed in

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1 The date of the judicial proceedings against Master Amalric can be inferred from a chronicle. See n. 17, below.


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the scholarly literature. Unfortunately, Martène and Durand did not indicate how they dated the synod and established its nature and location. Yet a reexamination of the evidence allows a reconstruction of what must have been their line of reasoning and also shows that the conclusions they reached seem plausible.

The text itself of the document implies that the decisions laid down were taken at a council, more specifically a provincial, rather than a diocesan, council. Probably because the conciliar actions recorded in the document have a bearing on the University of Paris, Martène and Durand concluded that the council was held at Paris. The date of the meeting must have been inferred from the source that the editors used. In the medieval manuscript the undated record of the provincial council is preceded by two documents dated 1210. In sum, then, it is highly likely that the document edited by Martène and Durand concerns a provincial council held at Paris in 1210. As a consequence, it seems only logical to assume that the meeting was presided over by Peter of Corbeil, archbishop of Sens (1200–1222) and one-time teacher of the future Pope Innocent III, and that it was attended by Peter of Nemours, bishop of Paris (1208–19). Here follows a translation of this record:

Let the body of Master Amalric be removed from the cemetery and cast into unconsecrated ground and the same be excommunicated by all the churches of the entire province.

Bernard; William of Arria the goldsmith; Stephen, priest of Old Corbeil; Stephen, priest of Cella; John, priest of Occines; Master William of Poitiers; Dudo, priest; Dominicus de Trianguilo; Odo and Elinans, clerks of St. Cloud—these are to be degraded and left to the secular court. Urricus, priest of Lauriac; Peter of St. Cloud, now a monk

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4 The document contains two indications that the decisions laid down were taken at a provincial synod. First, one of the decrees orders Master Amalric’s excommunication by all the churches of the entire province (“totius provincie”). Secondly, the document closes with the order to hand certain books over to the diocesan bishops (“episcopis diocesanis”). See the text below, n. 7. Note that the document lacks the characteristic formulas that many other synodal statutes show at the beginning and end. On the other hand, the kind of disciplinary decisions laid down in the document are typical of synodalita, and it is not unusual for them to be placed among other texts. See Odette Pontal, Les statuts synodaux (Turnhout, 1979), pp. 29, 33–34, and 70; and Joseph Avril, “L’évolution du synode diocésain, principalement dans la France du Nord, du Xe au XIIIe siècle,” in Proceedings of the Seventh International Congress of Medieval Canon Law, ed. Peter Linehan (Vatican City, 1988), pp. 315, 318, and 321, for the difference between provincial and diocesan synods.

5 Paris is also mentioned in the narrative sources as the location of the council. See n. 40, below.

6 The original manuscript used by Martène and Durand once belonged to the Premonstratensian monastery of Vicoigne and is now lost. The two other dated manuscripts were also edited in CUP 1:71–73. One is a letter by King Philip ordering that clerics arrested for crimes by the secular arm be transferred to ecclesiastical courts, unless the crimes are serious ones, such as, for instance, homicide or adultery. The other manuscript is an anonymous fragment of a chronicle that lists the errors attributed to the Amalricians.
of St.-Denis; Guarinus, priest of Corbeil; and Stephen, a clerk, are to be degraded and imprisoned for life.

The quires of Master David of Dinant are to be brought to the bishop of Paris before the Nativity and burned, and neither the books of Aristotle on natural philosophy nor their commentaries are to be taught at Paris in public or privately, and this we forbid under penalty of excommunication. He in whose possession the quires of Master David are found after the Nativity shall be considered a heretic beforehand.

As for the theological books written in French we order that they be handed over to the diocesan bishops, and also the *Credo in Deum* and the *Pater noster* in French, but not the lives of the saints, and this before the Feast of the Purification, because he on whom they are found shall be considered a heretic.7

The second important official record is a fragment of the report of the interrogation of four Amalricians, discovered and edited by Marie-Thérèse d'Alverny in 1950.8 The names of the four heretics who were interrogated also occur in the statutes of the provincial council. This document will be discussed below.

Valuable information is added by over twenty narrative sources, which have been conveniently collected by G. C. Capelle in the appendix to her influential study of Amalric’s doctrine.9 Since the publication of her study in 1932, this body


8 Marie-Thérèse d'Alverny, "Un fragment du proces des amauriciens," *Archives d'histoire doctrinale et littéraire du moyen âge* 18 (1950–51), 325–36. In addition there are two other official records, but they are not very informative. One is a statute of the University of Paris, promulgated in August 1215 by the papal legate and cardinal Robert of Courson (d. 1219). With regard to Amalric it merely orders: "non legantur ... de doctrina ... Almarici haeretici." It has become famous among intellectual historians because of the insight it provides in the teaching practices and curriculum at the University of Paris and for the ban it placed on certain texts of Aristotle. See CUP 1:78–79. This statute has been translated by Thorndike, *University Records*, pp. 27–30. The other record is the constitution *Damnamus* of the Fourth Lateran Council of 1215. The origin of this document was, indirectly, also due to Robert of Courson, for he was the person who in 1213 became papal legate to France in order to prepare for the ecumenical council Innocent III had summoned to meet at the Lateran in 1215. See *Conciliorum oecumenicorum decreti*, ed. Giuseppe Alberigo et al., 3rd ed. (Bologna, 1978), p. 233: "Reprobumus etiam et damnamus perversissimum dogma impii Amalrici, cuius mentem sic pater mendacii excaecavit, ut eius doctrina non tam haeretica censenda sit, quam insana."

of evidence has not been substantially augmented.\textsuperscript{10} The majority of the evidence collected by Capelle consists of passages taken from medieval chronicles. The following four are the most important for reconstructing the trial of the Amalricians: (1) \textit{The Chronologia} by the Premonstratensian canon Robert of Auxerre (1156–1212), a universal chronicle extending from the beginning of the world to 1211. The chronicle was continued until the year 1227 by William of Nangis. (2) \textit{The Chronicle of Laon}, written by an anonymous canon of Saint-Martin of Tours and finished in 1227. According to the editor of the \textit{Chronicle of Laon}, the first part, from the beginning of the world until 1220, derives much of its material from Robert of Auxerre’s \textit{Chronologia}. The part that covers the years 1221–27 is characterized as an eyewitness report of high quality. (3) \textit{The Gesta Philippi II Augusti}, which narrates events that occurred during the reign of King Philip Augustus. It was begun by Rigord of Saint-Denis and finished by William the Breton, the latter covering the years 1209–22. William the Breton was acquainted with King Philip, and his narrative is assumed to be based upon personal recollections. (4) \textit{The Dialogus miraculorum} by the Cistercian Caesarius of Heisterbach (c. 1180–c. 1240), finished in 1223. The work is not a chronicle, but rather an exhortation supported by exempla and stories to lead the reader to a perfect Christian life, written in the form of a dialogue between a monk and a novice.\textsuperscript{11}

The case of Amalric and the Amalricians has not failed to attract the attention of scholars, but that attention has been chiefly doctrinal and the conclusions have often been contradictory. In brief, the heresies attributed to the Amalricians can be grouped around three themes: pantheism, the attainment of spiritual perfection here on earth, and the antinomian and antisacramental implications of the Amalricians’ views on the preceding two topics. Within that framework, however, modern interpretations of their views show a wide variety.\textsuperscript{12} My own

\textsuperscript{10} Paolo Lucentini, “L’eresia di Amalrico,” in \textit{Eriugena redivivus: Zur Wirkungsgeschichte seines Denkens im Mittelalter und im Übergang zur Neuzeit}, ed. Werner Beierswaltes (Heidelberg, 1987), p. 176, n. 5, has added a few more medieval reports about the Amalricians—reports by John of Victring (Victoriensis), Henry of Herford, Albert Bezani, and the \textit{Annals of Erfurt}—but since these are all identical with the report in the \textit{Chronicon pontificum et imperatorum} by the Dominican Martin Polonus (or Martin of Troppau, d. 1278), they can be discarded here. Lucentini also deserves credit for clarifying the conflation that arose in the chronicles between the views of Scottus Eriugena and the views attributed to the Amalricians.


view is that the term “pantheism” encapsulates the Amalricians’ focus on the
immanence of God in the world and their tendency to ignore the radical dis-
tinction between God and creation. The Amalricians claimed that God was
everywhere and that he worked in everything. In this way they emphasized the
identity between the divine and the created and brought the deification of man,
the unification with God in this life, within reach. Moreover, the Amalricians
 accorded themselves a definite place in the plan of salvation. They maintained
that the third age, the final stage of spiritual progress, had arrived and that they
had been granted a special gift of understanding. As Spirituals, the Amalricians
did not need grace or the sacraments to achieve salvation. I intend to discuss
the doctrinal views and background of the Amalricians’ heresies more fully else­
where.

My concern here is with judicial procedures and canon law. Taken together
the actions of the council represent an attempt by the ecclesiastical authorities
to suppress the teaching of theological error and prevent the spread of heresy.
 But why did they proceed as they did? What was the significance of the posthu­
mous excommunication of Amalric and the removal of his body from conse­
crated ground? What was the legal context for the manner in which the author­
ities acted against the Amalricians?

The canon law foundations of Master Amalric’s posthumous excommunica­
tion and the condemnation of the Amalricians have not been previously exam­
ined in any depth. The canonistic background of the excommunication of the
deceased Master Amalric will be elucidated by a discussion of some hitherto
unnoticed passages (edited below in the Appendix) of the theological Summa by
Robert of Courson (d. 1219), one of the most prominent of the cast of characters
involved in the events of 1210. The reconstruction of the trial procedure of the
Amalricians will show that the sources concerning their prosecution and con­
demnation collectively constitute the earliest body of evidence for the applica-
tion of important new criminal procedures introduced or formalized by Pope Innocent III during the first twelve years of his pontificate (1198–1210). Particularly illustrative in the trial of the Amalricians are the employment of the inquisitorial procedure in an ecclesiastical court for the suppression of heresy (based upon *Licet Heliand Qualiter et quando* no. 1), the application of Innocent’s new legislation concerning the ecclesiastical treatment of heretics (*Vergentis in senium*), and the delivery of criminous clergy to secular justice (*Novimus*). These decretals and many more that were issued during the first twelve years of Innocent’s pontificate were collected on the pope’s initiative by his notary Peter of Benevento and published in 1210 as the *Compilatio tertia*.

**The Events of 1205–6**

The scanty information we have about Amalric’s prior career and censure are found in the *Gesta Philippii II Augusti*. Amalric, a cleric from Bène in the diocese of Chartres, had spent a long time in the schools of logic and the other liberal arts before joining the faculty of theology at the University of Paris. He had “his own method of teaching and learning,” his own opinions, and judgments distinct and separate from those of others. When, for this reason, he was contradicted “by all Catholics universally,” he applied to the pope. Innocent III, however, having heard Amalric and the contrary views presented by scholars of the university, decided against him. Upon his return to Paris, Amalric was required by the university to recant his views, which according to the *Gesta* he did “by mouth but not in his heart.” Amalric is said to have been so affected by this humiliating experience that he died shortly thereafter. He was buried close to the Monastery of Saint-Martin-de-Champs. In sum, it seems that some members of the faculty of theology initiated a case against Amalric at Paris. Amalric appealed to the pope but lost, and as a consequence he was made to recant those views that he had probably refused to recant when the case was still adjudicated at the local level, at the university.

Although the surviving evidence is admittedly fragmentary, it appears that the

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16 *Gesta Philippi*, pp. 230–31: “Fuit igitur in eadem sacra facultate studens quidam clericus, Amalricus nomine, de territorio Carnotensi, villa que Bena dicitur oriundus; qui cum in arte logica peritus esset, et scholas de arte illa et de aliis artibus liberalibus dixit rexisset, transustulit se ad sacram paginam excolendam. Semper tamen suum per se modum docendi et discendi habuit et opinionem privatam et judicium quasi sectum et ab aliis separatum.” Some scholars have maintained that Amalric was a product of the schools of Chartres, but this is not confirmed by the sources. Alexandre Clerval, *Les écoles de Chartres au moyen âge* (Chartres, 1895), p. 347, probably was the first to put forward this thesis.

17 *Gesta Philippi*, p. 231: “Cum igitur in hoc ei ab omnibus catholico univers us contradiceret, de necessitate accessit ad summum pontificem, qui, audita ejus propositione et universitas scholarium contradicitione, sententiat contra ipsum. Redit ergo Parisius, et compellitur ab universitate confiteri ore quod in contrarium predicte opinione sue sentiret; ‘ore’ dico, quia corde nunquam dissentit. Tedio ergo et indignatione affectus, ut dicitur, egrotavit, et lecto incumbens decessit in brevi et sepultus est juxta monasterium Sancti Martini de Campis.” The Cistercian chronicler Alberic of Troisfontaines (d. after 1251), who otherwise copies the *Gesta* verbatim, adds that Amalric’s exhumation, ordered in the decree of 1210, took place four years after his burial. If this testimony is true, Amalric would have died around 1206. See *Chronica Alberici monachi Trium Fontium*, MGH SS 23:890: “post quattuor annos sue tumulationis.”
judicial proceedings against Master Amalric did not markedly differ from what we know of subsequent cases of academic censure at the University of Paris. The condemnation of the Amalricians, however, was not a case of academic censure; rather, it involved popular heresy (see below). In two respects cases of academic censure were distinct from proceedings involving popular heresy. First, cases of academic censure were initiated in the institutional context of the university. The defendant was a bachelor or a master who was reported for suspicion of heretical teaching by someone from the audience at a typically academic activity, such as a lecture, a disputation, or a sermon. Charges of false teaching could also arise when university texts were scrutinized for authorization. Second, the judicial proceedings against an allegedly erring academic focused on suspect statements and views, and not on the holder of those views. Although both erring academics and followers of popular heretical movements were tried according to the inquisitorial method, the charges were different. The purpose of the proceedings against academics was correction, rather than punishment. As long as an academic was willing to recant the views that his colleagues and superiors had proved to be wrong, he was not pertinacious. Although his opinions had at one time been considered erroneous or even heretical, he was not a heretic.18

THE EXHUMATION AND MULTIPLE EXCOMMUNICATION OF THE BODY OF MASTER AMALRIC

When the council of 1210 took place, Amalric had already been dead for about four years. Nevertheless, the council issued the following decision: “Let the body of Master Amalric be removed from the cemetery and cast into unconsecrated ground and the same be excommunicated by all the churches of the entire province.” The conciliar action raises three questions: Why was Amalric’s body removed from the cemetery? Why was he excommunicated? And why was the excommunication multiple?

Heretics and excommunicates were denied a burial in consecrated ground.19


19 For the prohibition to bury heretics in consecrated ground see constitution 27 of Lateran III in Conciliorum oecumenicorum decreti, p. 224: “Si autem in hoc peccato [i.e., heresy] decesserint, non sub nostrorum privilegiorum cuilibet indulatorum obtentu nec sub aliucumque occasione, aut oblatio flat pro eis aut inter christianos recipiant sepulturam.” At Lateran IV this was codified in constitution 3, Excommunicamus. See Conciliorum oecumenicorum decreti, p. 234: “Sane clerici non exhibeant huiusmodi pestilentibus ecclesiastica sacramenta, nec eos christianae praesumptam sepulturem tradere.” Excommunicates were denied burial in consecrated ground on the basis of the principle “Those with whom we cannot communicate while they are living, we must continue to avoid after death” (Matt. 16.19). Excommunicates were denied burial in consecrated ground on the basis of the principle “Those with whom we cannot communicate while they are living, we must continue to avoid after death” (Matt. 16.19).
In Amalric’s case the exhumation was to precede the excommunication. As a consequence, not excommunication, but heresy appears to have been the reason behind the removal of Amalric’s body from the cemetery.

Heresy also seems to have been the reason for Amalric’s excommunication. The fact that Amalric was already dead implies that his excommunication must have been an excommunication latae sententiae, that is, an excommunication that took effect immediately as the crime was committed. Other forms of excommunication can be excluded because they would require a conviction by judicial procedures, or at least the usual three warnings. Excommunication latae sententiae was a kind of automatic excommunication, requiring that the sinner be ostracized without trial by those who knew of the excommunicate’s crime. Initially, excommunication latae sententiae was resisted by canonists, most importantly by Gratian himself. Toward the end of the twelfth century, however, as a reaction to popular heretical movements, and under the doctrinal authority of Huguccio (d. 1210), this form of excommunication found general acceptance among the decretists.

The purpose of excommunication after death and its multiple pronouncement is further clarified in the Summa composed by Robert of Courson between 1204 and 1208. Robert played an important role at the trial of the Amalricians and included their condemnation in the 1215 statutes of the University of Paris. Some hitherto unnoticed and unedited passages from his Summa elucidate the canonistic background of the decisions taken against Amalric and perhaps also Robert’s own contribution to the council of 1210. The passages occur in a separate question of the Summa that deals with excommunication, called “Questio separatim de excommunicatione” (see the Appendix below). Among the issues discussed are two that seem to have directly contributed to the decrees of 1210. The first relevant issue is whether an excommunication pronounced in several churches has more binding force than an excommunication pronounced in a single church. The second issue is whether someone can be lawfully excommunicated after his death.

With regard to the first, Robert of Courson argued that an excommunication pronounced in more than one church has greater binding force. If the excommunicate were to be absolved in one church, the excommunication would still...
be in effect in another. Moreover, since there are degrees in unworthiness, each excommunication, according to Robert, adds up to the total degree of unworthiness of the excommunicate. Obviously, this argument relies upon Robert’s conception of excommunication as an instrument to make someone unworthy of entering a church, associating with his brothers, and participating in the sacraments. In the case of Amalric there may also have been a practical reason to have him pronounced excommunicated by all the churches in the entire province. The Amalricians had reportedly been actively preaching in several dioceses of the province of Sens. The multiple pronouncement made certain that all believers who could possibly have been in contact with the views inspired by Amalric were now informed of their heretical nature.

The second pertinent question concerns the excommunication of persons already dead. The point of departure of Robert of Courson’s discussion is Gratian’s statement in *Decretum* C.24 q.2 c.6 that heretics in whose books heresies are to be found ought to be excommunicated even if dead. Actually, the purport of this text is a bit broader. Gratian made the point that although it may be true that excommunication and its absolution are restricted to the living, there are exceptions. In particular the crime of heresy can justify the excommunication of a person even after death. One of the problematic issues involved in the excommunication of the dead is that, since there is nobody liable for the crime, there cannot be a trial. Furthermore, a legitimate excommunication requires a conviction, a confession, contumacy, or notoriety from the part of the accused. But none of these categories applies in the case of an accused who is already dead. Hence such persons should not be excommunicated. Robert of Courson, however, believed that because of the enormity of the crime of heresy, a restriction of the general rules under which excommunications are pronounced ap-

24 Robert of Courson, *Summa*, fol. 27rb: “Item, queritur utrum sententia in pluribus ecclesiis lata magis liget, quam si lata fuerit in una tantum . . . Sed contra: esto quod iste ligatus in pluribus ecclesiis absolvatur in una, adhuc manet ligatus in alia; ergo plus faciunt due excommunicationes in duabus ecclesiis quam in una. Quia si centum sententis ligetur in centum ecclesiis, centum vinculis ligatur, sed si una tantum, uno tantum vinculo tenetur; ergo plus ligatur aliquis pluribus excommunicationibus quam una.”

25 Robert of Courson, *Summa*, fol. 27rb: “Quod concedimus dicentes quod excommunicare non est extra ecclesiam ponere, sed excommunicare est indignum facere ingressu ecclesie et communione fratrum et perceptione sacramentorum. Et sicut hoc nomen ‘indignus’ recipit comparationem, ita per unam sententiam efficitur aliquis indignus istis, per aliam indignior, per tertiam indignissimus. Et sic, ut dicunt alii, per unam sententiam elongatur a communione ecclesie, per aliam magis elongatur, per tertiam maxime.”

26 See n. 32, below.


28 Robert of Courson, *Summa*, fol. 29vb: “Item, nulla causa legitima excommunicationis intervent hic, quia sententia excommunicationis non solet fieri, ut dicit auctoritas, nisi in convictum, aut confessum, aut notorium aut contumacem. Sed non est talis vel talis, quia non est; ergo non est excommunicandus.”
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plies. Even dead heretics ought to be excommunicated in order to frighten other people, so they will not become infected by the doctrines that remain in the heretics' books.29

If one reads the decree of 1210 against this background, the implications are clear. Robert's *Summa* confirms that Amalric was posthumously excommunicated for the crime of heresy. Both Amalric's exhumation and his excommunication were meant as punishments for the crime of heresy. Inevitably, the posthumous treatment of Amalric and the conviction of the Amalricians reported in the same document have influenced each other. On the one hand, the conviction of his "infected" disciples, the Amalricians, made it transparent that Amalric actually had been a heretic. When the disciples were found, they stood as proof that Amalric had not sincerely recanted the errors for which he had been condemned four years earlier. He had stubbornly persisted in them, and in this way he had proved his pertinacity: he was a heretic by definition.30 The judicial sentence against Master Amalric was the logical consequence of the imputation of the heresy of the Amalricians to Amalric. On the other hand, however, the condemnation of Amalric also helped to cause the conviction of the Amalricians. By naming Amalric a heretic, those who had given credence to his teachings—the credentes, receptores, defensores et fautores haereticorum as Lateran IV would put it—were heretics, too, and could be prosecuted.31

The Trial and Conviction of the Amalricians

The prosecution and condemnation of the Amalricians exceed the framework of academic censure. Although the Amalricians emerged from learned university circles, and Parisian theologians were involved in their prosecution, the charges of false teaching did not begin in a university setting. The chronicles report that the Amalricians were captured outside of Paris and that they attracted their followers through preaching in the dioceses of Langres, Paris, and Troyes and the archdiocese of Sens.32

The information contained in the various records and chronicles allows a step-by-step reconstruction of the judicial procedures against the Amalricians from initial allegations until execution. From the records it is clear that the action against the Amalricians was not initiated by an accuser but by rumor (*fama*) and

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31 See constitution 3 of Lateran IV in *Conciliorum oecumenicorum decreti*, p. 233. The prohibition to associate with heretics was already codified in *Ad abolendam* (1184). See n. 59, below.

by the intervention of a trustworthy informant. Only after the bishop of Paris had been informed in this way of the crime of heresy in his diocese did he start to actively investigate (inquirere) the truth of the allegations. This means that the judicial procedure by which the Amalricians were brought to justice was an inquisitorial one and that the episcopal court was the judicial forum. The bishop of Paris, Peter of Nemours, acted as an investigating magistrate who attempted to produce the evidence for the Amalricians' guilt.

Before examining the several stages of the trial procedure of the Amalricians a few technicalities of the medieval inquisitorial system need to be more fully explained.33 The institution of the inquisitio as a criminal procedure in all ecclesiastical courts is usually attributed to Pope Innocent III. In particular the decretals Nichil est pene (1199), Licet Heli (1199), and Qualiter et quando (1206) made explicit new judicial procedures that may already have been in practice for some time. The inquisitorial procedure was developed as a response to the shortcomings of the ancient accusatorial system. The essential difference between the two methods was the role of the judge. Generally speaking, in accusatorial proceedings the judge acted 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, who brought charges against a certain individual. The accuser ran the risk of retaliation if he failed to produce proof of the defendant's guilt. In an inquisitorial procedure judicial activity was started after the judge had been informed of a crime through denunciatio, that is, after witnesses had reported their belief that a crime had been perpetrated.

Wilfried Trusen has convincingly argued that the inquisitorial procedure was modeled on the infamatory procedure, in which an inquest (inquisitio) was conducted to establish whether the public outcry (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 crime itself was not investigated. In inquisitorial procedures, however, the judicial activity was not confined to establishing the truth of the report (inquisitio famae) but also concerned an investigation of the alleged crime (inquisitio veritatis). In canonistic practice the distinction between the establishment of the notoriety of a crime, constituted by

fama, and the crime itself was not always sharply drawn. But in theory the fame or public outcry had to be proved first before a judge could proceed to investigate into the truth of the crime. At the beginning of the fourteenth century the judicial activities aimed at establishing the nature of the crime and its notoriety and the discovery and apprehension of the perpetrators was called inquisitio generalis. In case of positive results this preliminary inquest was followed by an inquisitio specialis, the trial of a suspected individual who was charged with the crime and whose guilt had to be proved.

The chronicles tell two different versions as to how the Amalricians attracted the attention of the bishop. In both stories a major role is played by a cleric named Ralph of Namur, “who later became chanter at Cambrai,” as the chronicler Alberic of Troisfontaines adds. The Gesta Philippi reports that rumor (fama) of certain errors secretly reached the venerable Peter (of Nemours), bishop of Paris, and Brother Guérin, “counselor of King Philip,” who sent Master Ralph of Namur to investigate the members of this sect. This Ralph, “a lucid and cunning man and a real Catholic,” pretended “in an admirable way” that he belonged to their sect when he approached each member, and for this reason they revealed to him their secrets. In this way, according to the Gesta, the Amalricians were found out and captured.

The account given by Caesarius of Heisterbach is slightly different. According to Caesarius, Master Ralph of Namur was approached by a certain William Aurifaber. This William told Ralph that he was sent by God and confessed to Ralph a number of “articles contrary to faith” (articuli infidelitatis), all carefully reported by Caesarius. Upon hearing that William had many associates, Ralph of Namur realized the imminent danger to the church, but he saw that he alone would not be able to take upon himself the task of investigating and convicting William and his associates. Hence, in order to keep his reputation unsullied (“et ut famam suam servaret illaesam”) Ralph reported everything to “the abbot of Saint-Victor, to Master Robert, and to Brother Thomas, with whom he went to the bishop of Paris, and to three masters who taught theology, namely, the dean...
of Salisbury, Master Robert of Kortui, and Master Stephen, to tell them all the things he had heard. Greatly alarmed, these men instructed Ralph to join the sect again until he had heard the teachings (scientiae) of all of them and had looked fully into all their articles of unbelief.”

In sum it seems that the judge, Bishop Peter of Nemours, obtained his knowledge of the crime of the Amalricians through “information received” (denuntiatio). Ralph of Namur acted as the bishop’s agent in the preliminary investigations of the Amalricians. He denounced the Amalricians and their crimes to the ecclesiastical authorities. On the basis of his report the sect could be identified, captured, and taken into custody.

Ralph’s testimony established the mala fama of the Amalricians: they were not victims of slander but really seem to have committed the public crime of heresy. His testimony, moreover, connected specific persons to this crime; and as a consequence, the Amalricians lost their anonymity. The names of the fourteen Amalricians who were condemned are mentioned in the decree of 1210, which in some cases adds their ecclesiastical rank. The four Amalricians who are mentioned in the fragment of the report of the interrogation all appear in the decree as well. The narrative sources complete this evidence with a number of significant details concerning the academic background and clerical status of the Amalricians. According to Caesarius, who in distinction 5 of the Dialogus makes the point that not only the uninstructed, but also the learned fall victim to heresy, at least six of the Amalricians were priests, two were deacons, and three were subdeacons. Of nine Amalricians it is explicitly claimed that they studied the-
ology. One of them, Master Guarin, is said to have studied under Stephen Langton. That evidence is not contradicted by any of the official records or by other narrative sources.42

After the public outcry had been established and the alleged perpetrators had been imprisoned, the judge could proceed to the next stage of the judicial investigation, which was the actual trial (inquisitio specialis). The procedure required that he charge individual Amalricians with committing a certain crime and seek to prove their guilt. The defendants were to be served a “writ” or list of accusations. From the report of the Amalricians’ interrogation, it can be inferred that such a list did indeed exist and that it contained an account of the erroneous views attributed to them. It is referred to as a cédula. Master Ralph probably provided the evidence for the charges, but the judge was assisted in drawing up the cédula by theologians, who were his expert witnesses. In particular, Caesarius’s testimony suggests that the Amalricians succeeded in mobilizing the crème de la crème of contemporary theological Paris, a group of theologians that since the publication of John Baldwin’s Masters, Princes and Merchants in 1970 has become known as “the circle of Peter the Chanter” (d. 1197).43 According to Caesarius, the following persons became involved in the hunt for the Amalricians: “the abbot of Saint Victor” (John the Teuton); “Master Robert” (of Flamborough); “Brother Thomas” (of Marlborough?); “the dean of Salisbury” (Richard Poore); “Master Robert of Kortui” (Robert of Courson); and “Master Stephen” (Langton?).44 Although the identification of the persons mentioned by Caesarius is conjectural, their presence at Paris around 1210, shortly before the trial against the Amalricians, is not contradicted by other sources.45 The

sacerdos de Cella, Johannes sacerdos de Uncinis: isti omnes in theologia studuerant, excepto Bernardo; Dudo specialis clericus magistri Almerici sacerdotis, qui fere decem annis in theologia studuerat, Elmandus Acolitus, et Odo Diaconus, magister Garinus, qui conventaverat Parisiis de artibus, et hic sacerdos audierat theologiam a magistro Stephano Archiepiscopo Cantuariensi; Ulricus sacerdos de Lueri, qui sexagenarius studuerat in theologia tempore multo, Petrus de sancto Clodowaldo sacerdos et sexagenarius, qui etiam audierat theologiam, Stephanus Diaconus de Veti Carbuellou.”

There are, however, a few discrepancies. Caesarius, for example, omits to mention Dominicus of Triangulus as one of the Amalricians. According to his account—and in distinction to the decree of 1210—only nine Amalricians were executed. Note also the discrepancy in the ecclesiastical ranks. Furthermore, the Chronicle of Laon indicates that Bernard was a master (magister Bernardus).

Baldwin, Masters, 1:17–46.

It has generally been accepted in the scholarly literature that “Kortui” is a variant spelling of “Courson.” See Dickson and Dickson, “Le cardinal,” p. 80. The identification of “the abbot of St. Victor” as John the Teuton is also made in the older scholarly literature (e.g., by Grundmann) and, most recently, by Lucentini, “L’eresia,” p. 180, n. 22. Baldwin, Masters, 1:31, has drawn attention to the passage in Caesarius’s Dialogus where mention is made of the involvement of Richard Poore, dean of Salisbury, in the persecution of the Amalricians. Wakefield and Evans, Heresies, p. 261, and Dickson, “The Burning,” p. 356, have retained “Decanum Salebergiensem” (the dean of Salzburg), which does not really make sense. Professor Baldwin has pointed out to me that the “dean of Salisbury” may also be a mistake for the subdean of Salisbury, i.e., Thomas of Chobham.

John the Teuton was abbot of Saint-Victor from 1208 to 1229. Robert of Flamborough was penitentiary there when he wrote his manual for confessors, the Penitentiale, sometime between 1208 and 1213. Richard Poore was living and teaching in Paris from 1209 till 1213, when he returned to England. He became dean of Salisbury in 1217. Thomas of Chobham could have been in Paris during the trial of the Amalricians. This period fits into one of the lacunae of documentation in his career.
involvement of masters of theology at the investigation, reported in other chronicles as well, was only natural when one considers the theological character of the Amalricians' alleged errors.\textsuperscript{46} We do not possess a final list of censured errors of the Amalricians, but it seems that parts of such a list have been incorporated into the chronicles and a treatise called \textit{Contra Amaurianos}.\textsuperscript{47}

Once the inquisitorial proceedings were opened, the judge had complete liberty to investigate the truth. In addition to summoning witnesses, such as Master Ralph of Namur or a commission of theologians, he could also interrogate the defendants. The document discovered by d'Alverny is part of the dossier of this particular stage of the heresy trial and consists of a fragment of the interrogation of four of the Amalricians.\textsuperscript{48} The fragment itself is not dated, but it is written in a hand from the early thirteenth century and was added to a manuscript that dates from the twelfth century:\textsuperscript{49}

John, priest of Cones, has confessed that he erred when he preached that God is everywhere, in the same way in a rational thing as in an irrational, in a perceptible thing as in an imperceptible.

He has also confessed that Christ was on the altar before the pronunciation of the words as well as after and that God has made everything, good and evil, the good for showing the good intention of humanity, the evil for showing the bad intention of humanity; and for this reason good as well as bad things should please us, as if all were the good works of God, because God operates everything, not humanity.

He says that he has heard the list, and some things that smacked of heresy, which he does not contradict, and he confessed that he erred with regard to this. There were,

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\textsuperscript{47} \textit{Contra Amaurianos nach der Handschrift zur Troyes}, ed. C. Baeumker (Münster, 1926). A translation of the main propositions in this treatise, based on the extracts given in Capelle, \textit{Autous}, pp. 90–92, is provided by Jeffrey B. Russell, \textit{Religious Dissent in the Middle Ages} (New York, 1971), pp. 83–84. What makes the \textit{Contra Amaurianos} especially valuable as a doctrinal source is that it provides context. It gives an insight into the reasoning behind the erroneous views and explains why they were considered erroneous; all the other sources merely present isolated statements of the errors. Possibly the treatise falls within the same category as certain earlier and contemporary antitheretical writings, such as the \textit{Summa quadrupartita} of Alain de Lille, the \textit{Contra Henricum} (against Henry of Lausanne) by Bernard of Clairvaux, or the anti-Catharist works by Durand of Huesca. See Walter L. Wakefield, "Notes on Some Antitheretical Writings of the Thirteenth Century," \textit{Franciscan Studies} 5 (1967), 285–320, for a typology of the genre of antitheretical treatises.

\textsuperscript{48} That these persons are indeed Amalricians can be inferred from the fact that their names also occur in the decree of the council of 1210 and in the report by Caesarius of Heisterbach. They are, however, not labeled as Amalricians in the document itself.

\textsuperscript{49} The fragment is now Paris, Bibliothèque Nationale, MS lat. 2702, fols. 129v–130r.
however, some things on the list that he has not understood completely. When he was captured and retired from his parish, he said to his parishioners that they should not believe anyone against his doctrine, if anyone should teach them other [doctrines] than he himself had done. Present at this confession were the lord bishop and the dean of Saint-Germain-l’Auxerrois.

Odo and Elenand have heard and understood the things that are contained in the list [of errors], and they have not contradicted them, and they say that they repent of this. At this confession was present the lord bishop, etc.

Stephen, priest of Cella, has confessed that he erred concerning the time of the Father and the Son and the Holy Ghost, as set forth in the list [of errors], and that hell is not a place, but ignorance of the truth; paradise is knowledge of the truth.

He has also said that he erred about the general resurrection. ...50

Only two of the interrogated persons are indicated by their ecclesiastical rank: John, priest of Cones (or Occines), and Stephen, priest of Cella.51 The clerical dignity of the other two, Odo and Elenand, is not mentioned, although elsewhere they, too, were identified as *clerici*.52 Leaving aside for a moment the doctrinal aspects of this document, the following observations can be made as to the nature of the proceedings at the interrogation. Present at the interrogation were Bishop Peter of Nemours and the dean of Saint-Germain-l’Auxerrois, Garnier, the latter probably in his capacity as papal legate.53 The report makes a distinction between errors that were confessed ("confessus est") at the interrogation and specified and errors that were read from the *cedula* of charges and not further specified. The *cedula* was used as a questionnaire at the interrogation. The procedure seems to have followed this order: first, the accused confirmed that he had heard ("audivit") the *cedula* and that he did or did not understand ("intellexit") what had been read. If he had understood the charges, he apparently had the option to

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50 The text abruptly breaks off at this point. See d’Alverny, "Un fragment," pp. 331–33: "Io. presbyter de Cones confessus est se errasse predicando quod Deus est ubique, sic in re rationabili, sicut irrationabili, sic in sensibili, sicut insensibili. Confessus est etiam quod Christus erat in altari ante prolationem uerborum, sicut et post, et quod Deus totum operabatur, bonum et malum, bonum ad ostensionem bene voluntatis hominis, malum ad ostensionem male voluntatis hominis, et ideo placent nobis tam bona opera quam mala, sicut opera bona Dei, nam Deus totum operatur, non homo. Dixit quod audiuit cedulam, et quedam que sapiebant heresim, quibus non contradixit, et in hoc confitetur se errasse. Quedam autem in cedula erant que ad plenum non intellexit. Quando captus fuit et recedebat a parochia sua, parrochianis suis dixit quod nulli crediderit contra doctrinam suam, si alias doceret eos quam ipse docuerit. Huic confessioni fuerunt Dominus episcopus et decanus Sancti Germani Autusiodorensis. Odo et Elenandus audierunt et intellexerunt ea que continabantur in cedula, et non contradixerunt, et de hoc dicunt se penitere; huic confessioni interfuit Dominus episcopus, etc. Stephanus, presbyter de Cella confessus est quod erravit de tempore Patris, et Filii, et Spiritus sancti, sicut est in cedula, et quod infernum non est locus, sed ignorantia veritatis; paradisus est cognitio veritatis. Dixit autem se errasse de resurrectione generali. . . ."

51 Note that this is the same qualification used in the decree of the council. Caesarius, *Dialogus*, p. 304, refers to each as *sacerdos*.

52 In the decree they are indicated as *clerici*. Caesarius, *Dialogus*, p. 304, specifies "Odo Diaconus" and "Elmandus Acollitus." See n. 41, above.

53 In any case Garnier had acted as papal legate before (1208). See d’Alverny, "Un fragment," p. 332, n. 4.
contradict” (“contradixit”), that is, to deny that he had held these errors. All four defendants, however, confessed their errors (“confessus est”) and admitted that they had maintained erroneous views. The report does not mention whether the confessions were obtained under torture.

Next, a verdict was rendered. Since most of the Amalricians were ordained priests or deacons, judgment could not be pronounced by Bishop Peter of Nemours alone. According to canon law, the condemnation of a priest required the presence of six bishops, that of a deacon three in addition to the approval of a provincial synod. For this reason the synod of 1210, presided over by Archbishop Peter of Corbeil, became involved in the trial of the Amalricians; the synod may have been convoked for the purpose of concluding the criminal procedure against them. The synodal trial itself was essentially a public recapitulation of the dossier collected by Peter of Nemours. As metropolitan of the province, Archbishop Peter of Corbeil was the sole judge. After hearing the evidence produced during the inquisitio conducted by the bishop of Paris in his capacity as investigating magistrate, he rendered the verdict of "guilty" or "not guilty." The other participants in the provincial council acted as the archbishop's judicial advisers. Since some Amalricians had confessed, the allegations gathered by hearsay from the cleric Ralph of Namur had now been proved true; the confession counted as full proof of their guilt. Other Amalricians appeared to be unwilling to recant their errors and in this way proved their obdurateness. For those reasons they were convicted by the synod of the crime of heresy.

The last step in the trial of the Amalricians was their punishment. This stage illustrates in a significant way new developments in the treatment of heretics—the juridical consequences, so to speak, of the notorious measures set forth in Ad abolendam and Vergentis in senium. The decretal Vergentis in senium was issued by Pope Innocent III in 1199 and partly repeats the decretal Ad abolendam issued by Pope Lucius III in 1184. An important innovation by Innocent was the ap-

54 This much can be inferred from the phrasing of the interrogation. As far as I know, the report has not been previously analyzed.
55 Torture could have come into play if there had been enough circumstantial evidence to indicate that a confession was likely. See Edward Peters, Torture (Oxford, 1985), pp. 46-47, and Inquisition, p. 65.
56 See Jacobi, "Der Prozess," pp. 241-44, who in the footnotes refers to the appropriate passages in Gratian's Decretum and the decretists.
57 I owe this information to H. Ansgar Kelly. See his article "English Kings and the Fear of Sorcery," Mediaeval Studies 39 (1977), 222.
58 Caesarius, Dialogus, pp. 306-7, describes the Amalricians' pertinacity: "proposita sunt eis supradicta capitula, quae quidam ex eis in praesentia omnium protestabantur, quidam vero cum resilire vellent, et se convinci viderent, cum ceteris stabilent in eadem pertinacia, nec negabant. ... Qui mente obstinata nullum ad interrogata dabant responsum, in quibus in ipso mortis articulo nullum perpendi poterat poenitentiae indicium."
plication of a Roman law concept to the crime of heresy. Innocent III was the first to put heresy on the same footing as that of treason (crimen laesae majestatis). By constructing an analogy between the secular majesty (the emperor) and the eternal majesty (Christ), Innocent could identify heresy with the most serious of all public crimes. From that point on, the response to heresy no longer emphasized patience, fraternal admonition, and, failing those, excommunication but focused instead on clear juridical action involving the secular arm as well. This change in the ecclesiastical treatment of heretics has been described as a movement from caritas to potestas or from persuasion to coercion.

One of the sanctions that Vergentis (and Ad abolendam) decreed was the condemnation of heretical clergy to degradation from holy orders and their submission to the secular authorities for further prosecution. In other words, clerics convicted of heresy lost the privilegium fori and the privilegium canonis. They were no longer subject exclusively to ecclesiastical jurisdiction, nor were they any longer protected from physical coercion by secular authorities. In particular the Paris accords (1205) were an important step in resolving jurisdictional problems caused by clerical immunities when dealing with criminous clergy. Archbishop Thomas Becket’s opposition to infringements of the privilegia canonis and fori had guaranteed all English clergy, including those who had committed crimes, complete immunity from the secular courts. Although in 1200 Becket’s position had been adopted at Paris by Philip Augustus, the issue was reexamined in 1205. As a result Becket’s interpretation of clerical privileges was renounced. After the Paris accords, and after the issuing of the decretal Novimus (1209) by Pope Innocent III, the delivery of criminous clergy to secular justice (traditio curiae) was accepted. From then on, criminous clerics were degraded in the presence of royal officials and then transferred to secular justice outside the church.

The degradation of the Amalricians mentioned in the conciliar decree probably was a degradatio realis or actualis, whereby the clerical garb and insignia were removed and the right to the tonsure withdrawn, thus ejecting the cleric from the ecclesiastical order. The actual degradation would have to be performed by a bishop in the presence of the secular authorities in a solemn session.

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62 This punishment was also included in constitution 3 of Lateran IV. See Conciliorum oecumenicorum decreti, p. 233: “Damnati vero saecularibus potestatibus praesentibus aut eorum balivis relinquantur, animadversione debita puniendi, cleri cis prius a suis ordinibus degradads....”


64 The degradatio realis should be distinguished from the depositio, whereby a cleric loses his function but keeps his holy orders. See Schimmelpfennig, “Die Absetzung,” pp. 517–18.
Honoré, probably in the atrium, and was performed by Bishop Peter of Nemours.  

Four of the Amalricians mentioned in the 1210 decrees were punished with lifelong imprisonment by the synodal court itself. In this case transference to a secular court was not considered necessary. The "incarceration" was not further specified but was usually relegation to a monastery. It seems logical to assume that these four Amalricians were those who, according to the report of the interrogation, had confessed their crimes. According to the report of two chronicles, the remaining ten Amalricians were handed over to the secular arm to be burned at the stake.

From a canonistic point of view, the affair of 1210 illustrates for the first time three significant juridical innovations that were formalized by Pope Innocent III in Compilatio tertia. First, the trial of the Amalricians employed the recently introduced inquisitorial procedure for the prosecution of heretics. Second, it saw the application of the new legislation against heretics, in particular of the decretal Vergentis in senium. And, third, it is the first recorded application of the accords of 1205, in which Philip Augustus exercised the power of the secular arm over clerics.

APPENDIX

Robert of Courson's "Questio separatim de excommunicatione": A Partial Edition

The hitherto unnoticed and unedited passages from Robert of Courson's Summa that shed light on the synodal decisions concerning the body of Master Amalric occur in the so-called "Questio separatim de excommunicatione," the section of Courson's Summa that discusses excommunication. The entire "Questio separatim" consists of seven dubitabilia in which Courson deals with the concept and practical consequences of excommunication. Among the topics discussed are the questions whether an excommunicated husband should be shunned by his own family, or a noble by his inferiors, or an abbot by his

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65 See Peters, Inquisition, pp. 66–67; and Schimmelpfennig, "Die Absetzung," pp. 520–21. The ecclesiastical court decided whether a degraded cleric had to be transferred to a secular court. Note that the decretal Novimus recommended life imprisonment for a cleric who had been counterfeiting letters.

66 The traditio curiae is described in the following terms in the sources. CUP 1:70 (the synodal decree of 1210): "seculari curie relinquendii"; Gesta Philippii, p. 235: "traditi fuerunt curiae Philippi Regis"; Robert of Auxerre, Chronologia, p. 279: "et judicati haeredici exponuntur publicae potestati." The punishment of the ten Amalricians was described as follows in two chronicles: Chronicle of Laon, p. 714: "deinde igne sunt conflagrati, quattuor vero immurati"; Caesarius, Dialogus, p. 307: "et in adventu Regis, qui tunc praeens non erat, exusti." 

monks and what one should do if one knows that a knight entering a noble's hall has been excommunicated for fighting in a tournament. In addition to the practical consequences of excommunication on the daily life of a Christian, Courson discusses the important question of competence: who is entitled to excommunicate a person? what is the binding force of an excommunication? and what are the court procedures? For present purposes, only dubitabilia 3 and 7 are relevant. The following edition is intended as a supplement to those parts of Courson's Summa that have already been edited by Lefèvre and Kennedy and to the part of Peter the Chanter's Summa de sacramentis that deals with excommunication.

Of the fourteen manuscripts that have been discovered of Courson's Summa, the following four (all dating from the thirteenth century) have been selected for the present edition of the "Questio separatim de excommunicatone":

B: Bruges, Stadsbibliotheek, MS 247, fols. 24r–27r

P: Paris, Bibliothèque Nationale, MS lat. 14524, fols. 26r–30r

Q: Paris, Bibliothèque Nationale, MS lat. 3258, fols. 35r–40v

T: Troyes, Bibliothèque municipale, MS 1175, fols. 25r–28r.

As John Baldwin has reported, these manuscripts represent different versions of Courson’s Summa. P and T contain the final version of Courson's Summa, whereas B is an alternative version. Q presents a primitive (shorter) version. The “Questio separatim de excommunicatone,” however, has been handed down in one version that is the same in all four manuscripts examined. Nevertheless, the resemblances and divergencies rendered by the transcription and collation of the entire "Questio separatim" in all four manuscripts confirm Baldwin's conclusion that B and Q belong to one family and P and T to another family.

The comparison, furthermore, warrants the conclusion that P and B are the best representatives of their families. Since P is the final version of Courson's Summa, P has been taken as the base text for my edition below. Where necessary, the text of P has been corrected with the help of T, in particular in those cases where a reading of T is supported by B and Q. All these cases are recorded in the apparatus criticus, where the following sigla and abbreviations have been used: <>: supplevi; add.: addit, addunt; del.: delet; om.: omittit, omittunt; inv.: invertii, invertunt. In my edition I have introduced classical orthography,

62 See n. 21, above. I wish to express my gratitude to Lauren Helm Jared, who is currently preparing a Ph.D. thesis at the University of California, Santa Barbara, on moral theologians, including Robert of Courson, for sharing with me her material on Courson’s Summa. According to Baldwin, Masters, 1:24, n. 75, parts of Courson's Summa are close to, or even derived from, Peter the Chanter's Summa de sacramentis. This, however, seems not to be the case with the section on excommunication, although there is some similarity in the topics discussed. See Peter the Chanter, Summa de sacramentis et animae consolationis, 2, ed. J.-A. Dugauquier, Analecta Mediaevalia Namurcensia 7 (Louvain and Lille, 1957).

66 Parts of Courson, Bibliothèque Nationale, MS lat. 3259, fols. 30r–35v, has also been examined, but it is so closely linked to Q that it was not used for this edition. BN lat. 3259 and Q derive from a common ancestor (or one may have been copied from the other), as can be inferred from common homoeoteleuta, inversions of word order, and chapter headings that do not occur in any of the other manuscripts examined.

70 A. de Poorter, Catalogue des manuscrits de la bibliothèque publique de la ville de Bruges, 2 (Gembloox and Paris, 1984), pp. 288–89.


73 See Baldwin, Masters, 2:14, n. 66, who based himself upon observations of the Reverend Mother Dickson.
with the exception of the medieval e for ae. Punctuation, capitalization, and paragraphs are my own.

**Questio separatim de excommunicatione**

[fol. 26rb] Post predicta videndum est de excommunicatione, et de ea seorsum et diffusius est agendum. De qua plura occurrent dubitabilia, scilicet quid sit excommunicatio; et quot sint eius species; quando et quos liget; in quas et in quantas personas transeat; utrum excommunicati possint contrahere matrimonium; utrum ecclesia debet orare pro excommunicatis, etcetera innu[fol. 26 va]mera dubitabilia que mundus in maligno positus singulis diebus parit. . . .

<**Dubitabile 3**>

[fol. 27rb] Item, queritur utrum sententia in pluribus ecclesiis lata magis liget, quam si lata fuerit in una tantum. Videtur quod non. Quia si semel feratur, ex ea ponitur extra ecclesiam excommunicatione; sed quotquot sunt extra ecclesiam, equaliter extra sunt; ergo non magis ligant plures quam una.

Sed contra: esto quod iste ligatus in pluribus ecclesiis absolvatur in una, adhuc manet ligatus in alia; ergo plus faciunt due excommunicationes in duabus ecclesiis quam in una. Quia si centum sententias ligetur in centum ecclesiis, centum vinculis ligatur, sed si una tantum, uno tantum vinculo tenetur; ergo plus ligatur aliquis pluribus excommunicationibus quam una.

Quod concedimus dicentis quod excommunicare non est extra ecclesiam ponere, sed excommunicare est indignum facere ingressu ecclesie et communione fratum et perceptione sacramentorum. Et sicut hoc nomen "indignus" recipit comparationem, ita per unam sententiam efficitur aliquis indignus istis, per aliam indignior, per tertiam indignissimus. Et sic, ut dicunt aliis, per unam sententiam elongatur a communione ecclesie, per aliam magis elongatur, per tertiam maxime.

Sed esto quod aliquis [fol. 27va] iniuste excommunicetur et nesciat se excommunicari, inde sic iste corporaliter et spiritualiter est de ecclesia. Corporaliter, quia singulis diebus est presentialiter cum aliis in ecclesia. Spiritualiter, quia est in caritate. Ergo non est indignus communione ecclesie, nec est extra ecclesiam, nec in aliquo elongatur ab ecclesia; ergo non est excommunicatus.

Sed contra: sententia pastoris sive iuste sive iniuste lata tenet; ergo sententia lata in istum ligat.

Solutio: dicimus quod revera excommunicare non est tantum indignum ab ingressu ecclesie et sacramentorum eius perceptione et fratum communione facere, nisi addatur "vel indignum reputari facere." Unde dicimus quod, licet iste non sit indignus communione ecclesie, tamen reputari debet indignus propter sententiam pastoris, que semper timenda est. Et quamvis modo corporaliter et spiritualiter sit de ecclesia, non digne reputatur membrum ecclesie propter auctoritatem excommunicationis.

Item, nemo potest dispensare contra novum et vetus. Sed illud Apostoli "Si quis nominatur inter vos aut avarus, aut immundus, aut fornicator, aut ydolis serviens, cum huius-

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74 The title appears in Q and in Paris, BN, lat. 3259. See also Kennedy, “The Context,” p. 86.
75 est] om. P
76 sit] om. P
77 extra sunt] ina P, add. ecclesiam T
78 iste] add. et P
79 est de ecclesia] de ecclesia est P
modi nec cibum sumere” est de integritate novi testamenti; ergo Gregorius septimus non potuit dispensare contra illud. Ergo non tenet illa exceptio quam facit de uxore et liberis et servis51 quibus concedit communionem doni sui excommunicati. Quia Apostolus generaliter dicit “Si quis, scilicet cuiuscumque conditionis sit dummodo nomine avarus vel immunundus etcetera, nullus cum eo cibum sumat,” id est ei communicet; ergo nec uxor, nec filius, nec servus.

Item, super eundem locum dicit auctoritas82 “Si quis nominatur, scilicet ex nota infamia aut ex sententia, non cum eo est cibum sumere.” “Ex nota,” quia si ex nota infamia nominatur et contumax inventur, excommunicandus est. Si “ex sententia,” iam est excommunicatus. Et ita omnis talis est vitandus. . . 83

<Item, queritur utrum aliquis de iure possit excommunicari post mortem, quod arguitur xxii q.ii. c*. Sane.** et sequent! .Si forte.,85 in quibus dicitur quod post mortem heretic i sunt excommunicandi, in quorum libris doctrine hereseos inveniuntur.

Sed contra: regula est ecclesiastica “cui communicamus vivo, communicare debemus et mortuo.”86

Item, Leo papa dicit de eo qui in iudicio est constitutus, nobis non est fas aliud discutere preter illud in quo eum dies supremus inventi. Sed supremus dies eum inventi in participatione sacramentorum ecclesie; ergo post mortem non est segregandus a participatione illorum.

Quod ali ter arguitur, ut dicitur, iii q. iiiiiii capitulo primo87: in qualibet causa debent esse quattuor persone: iudex, accusator, reus, testis. Sed hoc non observatur ubi hereticus excommunicatur post mortem, quia non subsistit reus; ergo ibi non observatur ordo iuris.

Item, nulla causa legitima excommunicationis intervenit hic, quia sententia excommunicationis non solet esse quattuor personas: iudex, accusator, reus, testis. Sed hoc non observatur ubi hereticus excommunicatur post mortem, quia non subsistit reus; ergo ibi non observatur ordo iuris.

Item, ecclesia communicat detentoribus decimarum vivis, et quibus communicat vivis, debet communicare et mortuis; ergo debet eis concedere sepulturem christianam. Eadem ratione torneatoribus qui sunt excommunicati debet communicare mortuis et coterris qui omnes excommunicati in Lateranensi concilio.

Sed quid erit de principe qui, cum habeat ad manum multitudinem talium armatam, an consulis ei xit sibi adiungat tales in urgenti articulo, sicut alios stipendiarios milites.

Solutio: ius generale est ut nemo mortuus excommunicetur, nec aliquis, nisi convictus aut confessus aut notorius excommunicandus. Sed ut dicit Extra .De rescriptis. c.i:** mandatum speciale derogat generali. Sicut privilegium abbatum Cornutorum excipit eos a mandato generali, sic dicimus hic quod specialis canon de excommunicatione hereticorum derogat iuri communi, et hoc est propter enormitatem sceleris. Unde in non existentem datur sententia propter terrem aliorum, ne doctrina, quam

80 Cf. 1 Cor. 5.11.
81 servis et mancipiis P, mancipiis B
82 Peter the Chanter, Summa de sacramenti et animae consiliis 2.4.153, ed. Dugauquier, p. 376.
83 est vitandus] inu. P, om. est Q
84 C.24 q.2 c.3.
85 C.24 q.2 in c.3.
86 Cf. C.24 q.2 in c.3.
87 C.4 q.4 c.1.
88 1 Comp., 2 Comp., et 3 Comp., 1.2.1.
reliquit in libris suis, inficiantur, sicut e contra absolvuntur post mortem qui iniuste fuerant excommunicati.

De detentoribus decimarum dicimus quod duplex est casus. Unus in quo iuste fructus decimarum de concessione episcopi sui detinet miles, sed non ius decimarum, quia hoc est impossibile. Alius est casus in quo detinet decimas iniusto episcopo. In primo casu licite tenent eas laici. In secundo non, nec sunt excommunicandi. Et cum sacerdos eorum nesciat an hoc, an illo modo tenant eas, non debet eos excommunicare quousque legitime constiterit ei quod tenent contra ecclesiam. Et cum constiterit, nec illis vivis nec mortuis debent communicare sacramenta. [fol. 30ra]

Torneatoribus vero et coterellis ubi constat eos esse tales, nec in vita nec in morte communicanda sunt sacramenta. Nec consulerem principi, ut secum asumeret tales in defensionem regni, quia constat illud genus hominum omnium esse pessimum et pluribus sacrilegiis infectum.

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