

Dominus Episcopus

Medieval Bishops between Diocese and Court

Editors:

Anthony John Lappin with Elena Balzamo

Konferenser 95



KUNGL. VITTERHETS HISTORIE OCH
ANTIKVITETS AKADEMIEN

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GENERAL ABBREVIATIONS

- APA* Archivio Penitenziario Vaticano.
- ASB* *Gamla papper angående Mora socken*: vol. 2. *Arvid Siggessons brevväxling*, ed. L. Sjödin, (Västerås: Bergh., 1932).
- ASV* Archivio Secreto Vaticano.
- BSH* Styffe, C.G. 1859–1884. *Bidrag till Skandinaviens historia ur utländska arkiver* (5 vols., Stockholm: Norstedt): vol. III. *Sverige under Karl Knutsson och Kristiern af Oldenburg, 1448–1470* (1870); vol. IV. *Sverige i Sten Sture den äldres tid, 1470–1503* (1875); vol. V. *Sverige under de yngre Sturarne, särdeles under Svante Nilsson, 1504–1520* (1884).
- COD* *Conciliorum oecumenicorum decreta*, eds. G. Alberigo, J.A. Dossetti, P. Joannou, C. Leonardi, P. Prodi & H. Jedin (2nd edn, Basel: Herder, 1962; 3rd edn, Bologna: EDB, 1973).
- DD* *Diplomatarium danicum*, ed. Det Danske Sprog- og Litteraturselskab (Copenhagen: C.A. Reitzels, 1938–): vol. I.3. *Diplomer 1170–1199 & Epistolæ abbatis Willelmi de Paraclito*, eds. C.A. Christensen, H. Nielsen & L. Weibull.
- DN* *Diplomatarium norvegicum: Oldbreve til kundskab om Norges indre og ydre forhold, sprog, slægter, sæder, lovgivning og rettergang i middelalderen* (23 vols., Oslo: Norsk historisk kjeldeskrift-institutt, 1849–2011).
- FMU* *Finlands medeltidsurkunder I–VIII*, ed. R. Hausen (Helsingfors: Staatrådets tryckerie, 1910–1935): I. 1400; II. 1401–1430; III. 1431–1450; IV. 1451–1480; V. 1481–1495; VI. 1496–1508; VII. 1509–1518; VIII. 1519–30
- GIR* *Konung Gustav den förstes registratur*, ed. J.A. Almqvist *et al.* (29 vols., Stockholm: Norstedt, 1861–1916), I. 1521–24; II. 1525; III. 1526; IV. 1527; V. 1528; VI. 1529; VII. 1530–31; VIII. 1532–33; IX. 1534; X. 1535; XI. 1536–37; XII. 1538–39; XIII. 1540–41; XIV. 1542; XV. 1543; XVI. 1544; XVII. 1545; XVIII. 1545–47; XIX. 1548; XX. 1549; XXI. 1550; XXII. 1551; XXIII. 1552; XXIV. 1552–53; XXV. 1555; XXVI. 1556; XXVII. 1557; XXVIII. 1558; XXIX. 1559–60
- GL* Gneuss, H. & M. Lapidge, 2014. *Anglo-Saxon manuscripts: A bibliographical handlist of manuscripts and manuscript fragments written or owned in England up to 1100* (Toronto: University of Toronto Press).
- HH* *Historiska Handlingar* (40 vols., Stockholm: Kungl. Samfundet för utgivande av handskrifter rörande Skandinaviens historia, 1861–1979): vol. VIII, ed. C.G. Styffe (1879).
- HS* Haddan, A.W. & W. Stubbs, eds. 1869–1879. *Councils and ecclesiastical documents relating to Great Britain and Ireland* (3 vols., Oxford: Clarendon Press).

- HSH Handlingar rörande Skandinaviens historia* (40 vols., Stockholm: Kungl. Samfundet för utgivande av handskrifter rörande Skandinaviens historia, 1816–1860).
- PL Patrologia Latina*, ed. J.-P. Migne, 221 vols. (Paris: the editor, 1841–1865).
- RPR Regesta Pontificum Romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII. Edidit Philippus Jaffé*, 2nd edn, eds. S. Loewenfeld, F. Kaltenbruner & P. Ewald, vols. I & II (Leipzig: Veit).
- S* Sawyer, P.H. 1968. *Anglo-Saxon charters: An annotated list and bibliography* (London: Royal Historical Society), revised and updated S. Kelly, R. Rushforth *et al.* <http://www.esawyer.org.uk/about/index.html>

Bishops and the inquisition of heresy in late medieval Germany

Reima Välimäki

Introduction

Our image of medieval inquisitors into heresy is largely based on the papal inquisitions of Southern France and Northern Italy: specialist judge-delegates who prosecuted heresy with a papal mandate, exempt from diocesan jurisdiction and the power of the *ordinarii*.¹ However, such papal inquisitors operated with relative continuity only in certain parts of Europe: France, Italy, the kingdom of Aragon, Bohemia, and Poland. Even in these regions the situation was slightly more complicated and bishops maintained their right to conduct inquiries. From 1317 onwards, papal inquisitors and bishops were required to co-operate in the prosecution of heresy.² Elsewhere, the ways in which heretics were prosecuted were much more varied: from an *ad hoc* episcopal tribunal examining the denial of transubstantiation by the layman Botulf of Gotttröra in the archdiocese of Uppsala between 1310 and 1311,³ to the hearings against the Alsace Waldenses organized by Strasbourg city council in 1400.⁴ Often the bishops had a prominent role in the persecution of heresy.

This article will provide examples from late 14th-century German-speaking Europe, where bishops assumed several different roles in the inquisition of heresy, from being initiators of persecution to opponents of the inquisitors. The period under study is *c.* 1380–1410, which corresponds with the intense repression of Waldensian heresy in the different parts of the Empire. The Waldenses, having already been declared heretics mainly because of their disobedience to ordained clergy and insistence on lay preach-

1 Deane 2011, 100–101; Doležalová 2013, 299–300; Hamilton 1981, 10; see also Sullivan 2011, 1–2. Although Sullivan assumes the papal inquisitor as the archetype and starting point, three of the seven persons whose “inner lives” she surveys were not inquisitors at all.

2 Given 2001, 14.

3 Välimäki 2011.

4 Modestin 2007a.

ing in 1184, had been persecuted to a greater or lesser degree throughout the High Middle Ages. At the same time the Waldensian groups had developed into a distinct religious movement, characterized by lay preaching and confession, literal imitation of apostolic life and disapproval of clerical hierarchy and the church's material possessions.⁵ Until the end of the 14th century the Waldenses had enjoyed a relative lack of attention and persecution in many German regions, but this came to an end when a series of inquisitions and other proceedings unprecedented in Germany took place.⁶

The relative unimportance of papal inquisitors and mendicant orders in the late 14th-century German Waldensian persecutions was pointed out by Richard Kieckhefer in his seminal monograph study *Repression of heresy in medieval Germany* (1979). Instead, Kieckhefer saw that the key agents were a group of itinerant inquisitors who were either lay priests (Martinus of Prague and Heinrich Angermayr) or from a religious order other than the Dominicans or Franciscans, into whose hands the task of inquisition of heresy was usually entrusted (Celestine provincial Petrus Zwicker). According to Kieckhefer, these itinerant inquisitors hunted down the Waldenses throughout German-speaking Europe, yet were not papal inquisitors, rather acquiring their mandate from local bishops.⁷ This interpretation has often been repeated and supported until recently,⁸ although Jennifer K. Deane has criticized it and called for a more diverse picture of the Waldensian persecutions.⁹ Deane emphasized the initiative of Konrad II von Weinsberg, archbishop of Mainz (1390–1396), as the trials against the Waldenses began within a matter of months of his election.¹⁰ Whilst bishops and archbishops never acted alone in the repression of heresy, their input was significant, and I intend to bring a new perspective to the persecution of heretics by taking these prelates into my focus.

Kieckhefer, further, initiated a debate about the level of organization and institutionalization of the medieval inquisition, a debate that becomes significant when one considers the role of the bishops. Based on the German source material, he argued that scholars have overemphasized “the Inquisition” as an institution, even making it into an all-powerful machinery led by judges with extraordinary powers.¹¹ Al-

5 For overviews on medieval Waldensianism see Biller 2001; Cameron 2000; Audisio 1999; Gonnet & Molnár 1974.

6 For the overview on the persecution of German Waldenses at the end of the 14th century, see Välimäki 2016, 33–44; Modestin 2007a, 1–12; Kolpacoff 2000, 247–261; Kieckhefer 1979, 53–73.

7 Kieckhefer 1979, esp. 55–57; a similar but less pronounced view had already been given by Patschovsky 1974, 117–118; see also Kieckhefer 1995, 44–45.

8 Cameron 2000, 139; Modestin 2007a, 3–9; 2013, 212; Utz Tremp 2008, 279–280; Lambert 2009, 175; Smelyansky 2016, 1, 7, 14, and 19.

9 Deane 2006, 205–206.

10 Deane 2006, 211–212, 214, 218–219, 223.

11 Kieckhefer 1979, esp. 5.

though attacked by some subsequent scholars,¹² Kieckhefer's critique had an impact, as scholars have been forced to articulate more carefully what they mean by "medieval inquisition".¹³ Kieckhefer himself wrote a later article where he admitted that in certain regions the office of inquisition acquired a certain level of institutionalization.¹⁴ Indeed, the whole debate is partially about scholars who dispute based on very different kinds of source material and objects of study. One can find continuity and institutionalization among the inquisitors of Toulouse or Bologna, but much less so in Southern Germany. And, as Chris Sparks has remarked, "Indeed, it was probably a matter of little concern to those facing pursuit, interrogation or imprisonment by Languedocian inquisitors whether their persecutors were agents of a formal bureaucracy or merely zealous and well-funded individuals."¹⁵

Nevertheless, from the perspective of this article, Kieckhefer has made an important contribution: when papal inquisitors were absent or inactive, other actors would take their place, and it was the episcopal judges that were in charge of prosecuting the Waldenses, although at times in co-operation with papal inquisitors.¹⁶ In this article I intend to shed light on the action of the bishops, rather than to make my focus the inquisitor, as has been more common. First, I shall discuss the canon law governing episcopal inquisition into heresy and give a contemporary example from Regensburg in 1395. Secondly, I shall examine the different roles bishops and archbishops assumed in the prosecution of heresy, from eager and active archbishops to tussles between inquisitor and bishop over competent authority. And finally, I shall sketch the example of a bishop who only appears in the background of the inquisitorial process.

Canon law, the inquisition of heresy, and the bishops

The bishops were, by default, responsible for the purity of faith in their dioceses. The more definite guidelines for episcopal inquisition were introduced in the famous decretal *Ad abolendam* of Lucius III in 1184, following the meeting of the pope and Emperor Frederik Barbarossa in Verona. The decretal ordered that bishops and archbishops, acting either in their own person or through their archdeacon, should conduct an inquiry once or twice a year within those parishes about which a *fama* of heresy had begun to circulate, by hearing the testimonies of three or more reliable men. If there was an indication of heresy, the suspects were to be called to the bishop or to the archdeacon to exculpate themselves through oath. Those who might defy oath-taking, fail to exculpate themselves, or relapse into heresy after purgation, were to be judged by

12 See e.g. Hamilton 1981, 9; Segl 1993, 3–7.

13 See e.g. Arnold 2001, 77–79; Ames 2009, 16; Sullivan 2011, 211, n. 68.

14 Kieckhefer 1995, 39, 53–59.

15 Sparks 2014, xii.

16 Kieckhefer 1979, 72.

the bishop and handed over to the secular arm.¹⁷ This division of labour was enforced in the canons of the Fourth Lateran Council in 1215.¹⁸ This, and the incorporation of *Ad abolendam* into Gregory IX's Decretals meant that the bishops' jurisdiction over heresy was codified into canon law and remained in force.¹⁹

In the aftermath of the Albigensian Crusade (1209–1229), a new type of judge specialized in heresy emerged: inquisitors of heresy (*inquisitores heretice pravitatis* [inquisitors into heretical depravity]), commissioned directly by the pope. In 1231 Pope Gregory IX began to commission Dominicans and Franciscans in Germany, France, Spain and Italy as delegated judges tasked with the prosecution of heresy.²⁰ Some scholars have proposed that Gregory's intention was not to create a "papal inquisition" but to encourage a more effective campaign against heresy within the ramifications of existing legislation and the ecclesiastical hierarchy.²¹ Nevertheless, these commissions are often regarded as the beginning of the medieval inquisition of heresy,²² and recently Vasil Bivolarov has again stressed the special status of papal inquisitors of heresy as "eine neue Gemeinschaft von Richtern".²³ Whatever the intention of Gregory IX may have been, the elaboration of both inquisitors' powers and the definitions of heresy continued in the following decades. The church councils of Tarragona, Narbonne and Béziers in 1242, 1243 and 1246 respectively dealt with the problem of heresy and the measures required against it. Furthermore, papal legislation on heresy was systematized under the papacies of Innocent IV (1243–1254) and Alexander IV (1254–1261).²⁴

My focus in this essay is not on the powers, organization and practice of the papal inquisitors,²⁵ but rather their relationship to bishops. The first generation of inquisitors in France and Italy was granted exceptional powers, allowing them partial exemption from the jurisdiction of bishops, who were not to intervene with the work of the inquisitors.²⁶ The jurist Guido Fulcodii, who later became Pope Clement IV (1265–1268), was of the opinion that in matters of heresy the power of the papal inquisitors was greater than that of local bishops, and in the case of competing inquiries, the bishop should give up his own prosecution in favour of the inquisitors.²⁷

17 X.5.7.9. Ed. also in Selge 1967, 26–29.

18 Ragg 2006, 71–72. The heresy was discussed in canon 3. (*De haereticis*), see *COD* 1973, 233–235.

19 Kurze 1993, 134.

20 Recently summarized, with references to relevant editions, in Bivolarov 2014, 257–258.

21 Kurze 1993, 149, 169–170; see also Kelly 1989, 439–440; Kieckhefer 1995; Arnold 2001, 33.

22 See e.g. Patschovsky 1981, esp. 644; Kolmer 1982, 111; Ragg 2006, 73.

23 Bivolarov 2014, 258.

24 Arnold 2001, 33–47; summarily in Ragg 2006, 72–77.

25 These have been recently minutely described by Bivolarov 2014, 256–310.

26 E.g. *Pre cunctis* by Alexander IV, 5 November 1256: "Non obstantibus aliquibus litteris diocesanis [...] quas auctoritate praesentium revocamus"; in Martène & Durand 1717, V, 1815; see also Bivolarov 2014, 90, n. 2, 260–261.

27 *Consilium* of Guido Fulcodii, Q. I, Q. IV; ed in Bivolarov 2014, 229–230, 235, see also his commentary, at 261.

Towards the end of the 13th and in the beginning of the 14th century, the power of inquisitors was limited, partially due to abuses, and papal inquisitors were required to co-operate with local bishops. According to the decree, *Per hoc generaliter*, of Boniface VIII (1294–1303), both were allowed to conduct inquiries of their own or in common, and give joint sentences. If they disagreed, they should refer the matter to Rome. The same decree commands that, in their process, the bishops or their delegates should follow the same common law, special concessions, and orders of the Apostolic See as the papal inquisitors.²⁸ Boniface VIII also forbade the inquisitors from prosecuting bishops or other superior prelates without an explicit mandate from the pope.²⁹ Further restrictions followed in the Council of Vienne (1311–1312). Clement V decreed that neither the (papal) inquisitor nor the bishop could alone order harsh imprisonment, torture or final sentences without the other's (or their delegate's) agreement.³⁰ In Clement's decrees the existence of episcopal inquisitors of heresy is acknowledged: the new minimum age of 40 years (also a measure to prevent abuses) was henceforth required both for papal inquisitors and judges commissioned by bishops.³¹ The inquisitors seem to have accepted the limitations grudgingly: although Bernard Gui in his *Practica inquisitionis* (1323) does admit that both bishops' and inquisitors' processes are to be free from each other's intervention, he concludes by listing authorities such as Guido Fulcodii to prove the superiority of the mandate of inquisitors of heresy.³²

Germany was an exception in the general development of the *inquisitio heretice pravitatis*. Although it had been amongst the first European regions where inquisitors appointed by Pope Gregory IX had operated, the situation changed after the murder of the inquisitor, Konrad von Marbourg, in 1233. After that, the repression of heresy remained the responsibility of diocesan bishops until the 14th century.³³ Papal inquisitors of heresy came to Bohemia in 1318 when John XXII appointed the Dominican, Colda of Colditz, and the Franciscan, Hartmann of Pilsen, as inquisitors in the dioceses of Prague and Olomouc.³⁴ In German-speaking parts of the Empire the re-instating of papal inquisitors took place a generation later. In 1348 Pope Clement VI nominated the Dominican, Johannes Schadland, lector in the convent of Strasbourg, as general inquisitor of Germany.³⁵ In 1368 Urban V ordered the bishops, John II of Strasbourg and Johannes Schadland (who had become the bishop of Hildesheim), to commission the Dominicans, Ludwig de Caliga, Heinrich de Argo, Walter Kerlinger, Johannes de

28 VI.5.2.17, ed. Friedberg 1959, II, 1076; see also Bivolarov 2014, 261.

29 VI.5.2.16, ed. Friedberg 1959, II, 1076.

30 *Clem.* 5.3.1, ed. Friedberg 1959, II, 1181.

31 *Clem.* 5.3.2, ed. Friedberg 1959, II, 1182.

32 Gui 1886, 211.

33 Tönsing 1989, 289; see also Patschovsky 1981, 689–690.

34 Patschovsky 1975, esp. 22–25, 43–44, 191–193 (the edition of the commission).

35 Tönsing 1989, 289.

Moneta, and other suitable men from the Order of Preachers as inquisitors of heresy in the church provinces of Mainz, Trier, Cologne, Salzburg, Bremen, Magdeburg and Riga, as well as the dioceses of Cammin, Bamberg and Basel.³⁶ After 1372 there were regularly appointed papal inquisitors in Germany. The need to appoint new inquisitors was above all a reaction against the beguines and beguards, and the imagined sect of the Free Spirit, the most infamous heresy in the minds of 14th-century clergy.³⁷

In the 14th century Empire the papal and episcopal inquisitors co-existed and, as canon law prescribed, conducted both separate and joint processes. In particular, in Bohemia one finds more co-operation than rivalry between the papal and episcopal inquisitors.³⁸ At the time of the archbishop of Prague Arnošt of Pardubic (1343–1364),³⁹ Gallus of Jindřichův Hradec, a Dominican, was acting as papal inquisitor of heresy, as is demonstrated by Pope Clement VI's letter to the archbishop, exhorting him to provide Gallus with prisons.⁴⁰ Nevertheless, Arnošt of Pardubic commissioned in different instances at least two inquisitors of heresy with episcopal mandate: Zyfridus, the *lector* of the Franciscan convent in Görlitz; and a Dominican, named Rudolf.⁴¹ In the synodal statutes of 1343, Arnošt orders that heretics and their supporters are to be denounced to him or to inquisitors "a sede apostolica vel a nobis specialiter deputatis" (commissioned especially by the Holy See or by ourselves),⁴² thus recognizing the existence of both papal and diocesan inquisitors. In Strasbourg, beguines and their confessors were examined over 1368–1369 by a duo of an *inquisitor heretice pravitatis* (probably Heinrich de Argo) and an episcopal commissary.⁴³

How did the inquisition of heresy work at the diocesan level? The trial against a Waldensian family in Regensburg in September–October 1395 may serve as an example.⁴⁴ Usually, the bishops saw no need to maintain regular inquisitors of heresy. Instead, the diocesan tribunals against heresy were usually created *ad hoc* to inquire into a specific incident. This was the case with the Regensburg inquisition as well.

36 Ed. in Patschovsky 1974, no. 10, 161–163; see also Tönsing 1989, 290.

37 Kieckhefer 1979, 5–6, 19–48; on the heresy of the Free Spirit, see the classic study of Lerner (1972).

38 Patschovsky 1975, 29.

39 Arnošt of Pardubic was bishop of Prague in 1343–1344 and archbishop from 1344 when Prague was elevated to the status of archdiocese.

40 30 June 1346; see the *regesta* in Patschovsky 1979, 124; on the institution of papal inquisitors in Bohemia, see Patschovsky 1975, 15–65.

41 For Zyfridus, see Tadra 1880, 330; Rudolf's commission is edited in Patschovsky 1975, 193–194.

42 Ed. in Polc & Hledíková 2002, 109.

43 Patschovsky 1974, 81, 114–115.

44 The course of the trial has been described by Finke 1890; and Kieckhefer 1979, 131–132. The trial documents have not been edited, but are preserved in Vienna, Austrian National Library, Cod. 3748, fols. 145^v–155^v.

The impetus came from another heresy trial, also an episcopal inquisition, which had taken place in Eichstätt. The bishop of Eichstätt held a Waldensian called Johannes Örtel in custody. Örtel came from the nearby town of Donauwörth, whence he had fled because Waldenses had been persecuted there in 1393.⁴⁵ During his first interrogation in May 1395, Örtel not only confessed to holding the Waldensian heresy, but also revealed worrying details about Konrad Huter, a citizen of Regensburg and a former Waldensian. The two men had met when Örtel had fled through Regensburg. Apparently Huter was unwilling to help Örtel, and when caught the latter tried to implicate the former, saying that he considered it more likely than not that Huter still held heretical opinions.

He succeeded: in the second hearing of Johannes Örtel, which took place on 20 September 1395, the representatives of Regensburg were present: Canon Albert Stauffer, the bishop's vicar *in spiritualibus*, and the public notary Konrad Pünharter. A copy of the depositions was produced to serve as a basis for an inquisition against Huter,⁴⁶ and Örtel revealed further details about the Regensburg citizen. He had supposedly first met Konrad Huter in 1391 in Donauwörth, where both had stayed with Konrad's sister. There, Huter had cursed the Waldensian Brethren, stating that he was willing to get them burned because they had caused so much trouble to his mother-in-law. Since then, Huter's sister had been burnt as a relapsed heretic, and Huter and his wife had taken their now orphaned niece into their custody. And so, Johannes Örtel had fled Donauwörth, seeking help from Konrad Huter in Regensburg, where Konrad had (literally) turned his back on Örtel.

The inquisition of Konrad Huter followed on very quickly. Only a week later, on 27 September, Huter was called to the episcopal curia. Bishop Johann I von Moosburg was himself present, as was his above-mentioned vicar, Albert Stauffer, as well as a licentiate *in decretis* and three other canons. Friedrich Süßner, parson of St. Ulrich in Regensburg, master of arts and bachelor of theology, acted as "inquisitor heretice pravitatis per predictum nostrum episcopum deputatus" (the inquisitor into the heretical depravity appointed by our aforesaid bishop). Konrad Pünharter, whom we have already met, was again the notary, and three honourable citizens of Regensburg witnessed the trial. Huter was interrogated about Waldensian heresy, how he was introduced to it and how he had abjured it. He consistently maintained that he had not relapsed since his abjuration and absolution.

A second trial, by almost the same composition of the tribunal, followed on 2 October, when the denunciation of Örtel was presented to Huter. He denied that he knew the man, claimed that he lied, and admitted only that he had visited his sister's

45 On the inquisition in Donauwörth, see Kieckhefer 1979, 71; Smelyansky 2016, 10–11.

46 A reproduction of it was attached to Konrad Huter's trial documents: see Vienna, Austrian National Library, Cod. 3748, fols. 148^r–149^v.

house in Donauwörth when many others had stayed in the town as well (apparently a market was taking place). Among them there were former heretics, but Huter had believed that they and his sister had not relapsed.

On 9 October the niece and foster daughter of Konrad Huter, Margareta, was questioned, and on October 20 Elizabeth, Konrad's wife, was called to answer to the charges. The commission was almost the same, but the bishop himself did not bother to attend the interrogations of these two women. Both denied the charges, Elizabeth maintaining that she had not relapsed since she had confessed some 14 years earlier to the inquisitor Martin of Prague, and Margareta asserted that she had never been introduced to Waldensianism either by her deceased mother or by her foster parents.⁴⁷

What followed these interrogations reveals a great deal about the difficulty of prosecuting heresy and the need for specialized inquisitors. Apparently the episcopal commission was not confident enough to proclaim the accused guilty or innocent. The depositions were sent to Martin of Prague, who at the time seems to have been an inquisitor *a sede apostolica deputatus*, at least so the letter sent from Regensburg assumes. Martin saw nothing inculcating in the depositions, and adds that his information from the recently converted Walsensian Brethren confirmed the claim of Konrad and Elizabeth Huter that they have not been in contact with the heretics after their abjuration. After receiving Martin's answer in May 1396, Albertus Stauffer, vicar *in spiritualibus*, read it in the presence of the accused, the inquisitorial commission and the witnesses, and, with the authority of Bishop Johann, released Konrad and Elizabeth Huter from the bishop's prison and declared them free of all charges against them. Margareta was declared a faithful Christian and she was released without having to abjure heresy.⁴⁸

The trial against the Huter family demonstrates how a bishop took action when rumours about heresy in his diocese emerged. An inquisitor of heresy and a commission of high diocesan officials were appointed, and the bishop himself took part in the first two questionings. The inquisitor and the commission professed expertise in theology and canon law. The heresy was, however, a complicated matter to prosecute. When the consultation of an experienced inquisitor, and in this case the same inquisitor who had once absolved the accused, was available, the bishop did not hesitate to trust an expert.

If papal inquisitors were available, the bishop could naturally turn to them. When, in 1399, the city council of Fribourg was alarmed by the rumours of heresy concerning its own citizens which had emerged from a heresy trial in Bern, they wrote to their bishop, Guillaume of Menthonay. The council assured his grace that the city was faithful, and asked him to start an investigation over these rumours that had sullied their reputation. The bishop ordered a commission which again was a combination of a papal inquisitor with diocesan officials: the inquisitor was the Dominican, Hum-

47 Vienna, Austrian National Library, Cod. 3748, fols. 153^r–155^v.

48 Vienna, Austrian National Library, Cod. 3748, fols. 149^v–150^r.

bert Franconis, assisted by William of Vufflens, guardian of the Franciscan convent in Lausanne, both specially commissioned by Bishop Guillaume to inquire into heresy within Fribourg; these two were joined by the bishop's own man, Aymo of Taninges, licentiate *in legibus*. The inquisitors seem to have run in trouble with the local community, and in the end all the accused could expurgate themselves.⁴⁹ The bishop, however, did not forget the existence of heresy after the unsuccessful inquisition. In December 1403, he approached the famous Dominican preacher Vincent Ferrer in Geneva, and asked him to start a preaching campaign in his diocese "where there are many valleys of the heretics in the borderland of Germany and Savoy", heretics who "are very heedless and daring."⁵⁰ The bishop of Lausanne was thus fulfilling his duties as bishop in uprooting heresy. He commissioned a tribunal to inquire into heresy, and when it failed he tried a different approach: he invited a famous preacher.

The eager archbishops

In Regensburg in 1395 and in Fribourg in 1399 the bishops were reacting to rumours of heresy, as they were required to do already after *Ad abolendam* (1184). At the end of the 14th century there were, however, also prelates who took the initiative into their own hands and acted as the *primus motor* of the repression of heresy. Jennifer K. Deane has drawn scholars' attention to the significant persecution of Waldenses in and around Mainz between 1390 and 1393. Until Deane's studies, 14th-century German Waldensianism and its repression were perceived primarily as a rural phenomenon of Eastern and Southern Germany and Austria, where the so called itinerant inquisitors hunted the heretics down. Deane pointed out that in Mainz the persecution was initiated prior to the conversion of several Waldensian Bretheren and the appearance of inquisitors Petrus Zwicker and Martinus of Prague in Erfurt in 1391, which has often been regarded as the starting point of the wave of inquisitions against Waldensian heresy.⁵¹

From the perspective of this article, it is even more intriguing that Deane has been one of the few to emphasize the role of bishops in the inquisition of heresy. Explaining why the Waldenses were persecuted precisely at that point, when the dissidents had lived relatively undisturbed for decades, she explores the rise of an unexpected candidate, Konrad von Weinsberg, to the archiepiscopal see. In the extraordinary circumstances of the Great Western Schism and its shifting obediences, a mere member of the cathedral chapter without notable property or family connections was able to beat the

49 The commission is edited in Utz Tremp 2000, 585–587, the course of the inquisition is described at 195–244; see also Utz Tremp 1991.

50 Reported by Vincent himself in a letter, ed. in Hodel 2006, 203; see also Utz Tremp 2006; Välimäki 2016, 201–202.

51 Deane 2006, 205–206 *et passim*; see also Kolpacoff 2000, 211–247; cf. esp. Kieckhefer 1979, 55–57; Modestin 2007a, 1–9.

candidate of the local noble house, Johannes von Nassau, and assume the lofty position of the archbishop of Mainz.⁵² The new archbishop and his supporter, Count Palatine Rupert II, were united in their loyalty to the Roman obedience and their commitment to securing orthodoxy and repressing dissidents. The inquisitions against the Waldenses began within months after the election of Archbishop Konrad. Again we see the co-operation of prelate, diocesan officials and papal inquisitor, as Nikolaus Böckeler, a Dominican inquisitor, took charge of the prosecution.⁵³ In 1392 the archbishop initiated another campaign, this time appointing his “own” inquisitors: Bishop Frederick of Toul, dean of the collegiate church of St. Stephan Nicholas von Sauwelnheim; and Wasmud von Homburg, altar chaplain of Mainz Cathedral.⁵⁴ Later the University of Heidelberg was involved, when two laymen from Bingen were interrogated by the papal inquisitor, Nikolaus Böckeler, and members of the University faculty.⁵⁵

This Nikolaus Böckeler had been appointed as papal inquisitor for the archdiocese of Mainz, yet his primary interest was not in hunting down Waldenses, but rather in bringing to trial an itinerant and rather troublesome Prussian priest and preacher, Johannes Malkaw.⁵⁶ This, and the fact that the persecution of the Waldenses started almost immediately after Archbishop Konrad was elected, have led Deane to propose (and from whose conclusions I do not demur), that the initiative for the trials came from the archbishop. Moreover, an important character in the inquisitorial commissions, Wasmud von Homburg, came from the same cathedral chapter that had elected Konrad, of which, moreover, he had been a member for many years. The attack on Waldensianism, that notoriously anti-clerical heresy, fits perfectly into the programme of Archbishop Konrad, who had witnessed the anti-clerical atmosphere of Mainz in the 1380s during the uprisings against the privileges of the clergy, and who also during his time in office attempted to secure clerical interests in the city.⁵⁷

Still, even before the archbishop of Mainz, another important prelate had been paying attention to the Waldenses: Jan of Jenštejn, archbishop of Prague (1379–1396). In 1381, he had penned a letter in his capacity as papal legate to the bishops of Bamberg, Regensburg and Meissen, urging them to nominate inquisitors, since there were supposed to be “very pestilential heresies, and especially of the sect of the Sarabaites and those rustic damned Waldenses” in their dioceses.⁵⁸ The absolution of Konrad and

52 Deane 2006, 208–210; Kolpacoff 2000, 107–121.

53 Deane 2006, 210–212.

54 Deane 2006, 214; in 1398 Wasmud von Homburg also wrote a tract on heresy, edited by Schmidt (1962).

55 Deane 2006, 215–216.

56 Kieckhefer 1979, 80; Deane 2006, 218; on the trial of Johannes Malkaw, see Tönsing 2004, 20–125; on Nikolaus Böckeler, see esp. Modestin 2007c.

57 Deane 2006, 217–221.

58 Höfler 1862, 26–27; cf. a new critical edition by Polc & Hledíková 2002, 215.

Elisabeth Huter by Martinus of Prague in the early 1380s mentioned in the Regensburg trial documents of 1395 may well have been a consequence of precisely this letter.⁵⁹ In the same year, 1381, Jenštejn expressed his concern over Waldensian heresiarchs in the diocese of Oloumouc in a letter to its bishop.⁶⁰ The archbishop himself held heretics in custody, most likely Waldenses, and Magister Matthew of Kraków preached about their errors to the citizens of Prague in January 1384.⁶¹ In the 1390s, a Waldensian called Wenceslaus of Sušany abjured heresy before an inquisitor in the archiepiscopal curia in Prague, swearing an oath to God, Pope Boniface IX, Archbishop Jan of Jenštejn, and to the unnamed inquisitor himself.⁶² Although the fragment does not reveal if the inquisitor acted with papal or episcopal commission,⁶³ the trial obviously took place within the archbishop's sphere of influence. Moreover, when operating in Stettin in 1392–1394, Petrus Zwicker, probably the most important inquisitor of our period, held a commission from the archbishop of Prague in addition to that from the bishop of Cammin within whose diocese Stettin with its surroundings belonged—and even the bishop of Cammin was actually a resident of Prague: Johannes Brunonis, chancellor of King Wenceslaus.⁶⁴ If the archbishop of Mainz was an initiator of persecution in his city and its surroundings, the influence of Prague's metropolitan see reached far beyond its borders.⁶⁵

Struggle over authority

One of the smaller inquisitions against Waldenses took place in Augsburg in 1393. The prosecution of 34 heretics was initiated by a wandering preacher (*Pfaffe*)—revealed to be the same Heinrich Angermayr who later ran into conflict with the bishop of Würzburg in Rothenburg ob der Tauber—who turned his sermon on usury into

59 Austrian National Library, Cod. 3748, fols. 153^r–154^v. In Strasbourg in 1400 there was an accused who remembered that he had been absolved by Martinus in Regensburg “wol xx jor”, see Modestin 2007b, p. [88].

60 Loserth 1877, 368.

61 Patschovsky 1979, 318–323.

62 Hlaváček 1998, 130–131; for the dating see 119.

63 It is possible that either Martinus of Prague or Petrus Zwicker was the inquisitor, see Soukup 2006, 140; Välimäki 2016, 146.

64 In addition, the bishop of Lebus is mentioned. See Kurze 1975, 235; also Välimäki 2016, 42, 160.

65 What is known of contemporary Silesian inquisitions supports this conclusion. In the 1390s, Bohemian Dominican inquisitors were active in Silesia, which (against the wishes of Emperor Charles IV and the archbishops of Prague) had remained a part of the Polish diocesan structure. Alexander Patschovsky sees the Silesian inquisition as an instrument of control that was not possible for Prague at the level of the conventional church hierarchy, see Patschovsky 1993, 240–242; and 1992, 363 *et passim*.

an anti-heretical homily and convinced Bishop Burkhard von Ellerbach to give him a commission to inquire into heresy in Augsburg.⁶⁶ Moreover, this trial might have included a possibility of conflict and struggle over authority, this time between the bishop and his city. Like Mainz, Augsburg had also attempted to gain more independence, and a war had waged between the city and its bishop during the 1380s. Eugene Smelyansky has seen the inquisition as an occasion for the bishop to impose his sacral authority on the rebellious city.⁶⁷ Although evidence is scarce—the sources describing the trial and its aftermath are later chronicles—yet one feature implies that there was such a conflict: some time after the trial itself, 14 of those convicted approached the bishop with money in order to mitigate their public penance of wearing visible crosses by making it a secret penance. The bishop agreed, but the city council saw this as relapse, and burned the heretics who had offered money to the bishop. The motives remain unclear, but obviously there was a struggle over jurisdiction.⁶⁸ From the perspective of canon law, the city council overstepped its authority: although the corporal punishment of heretics was a responsibility of secular power, he who imposed penance had every right to alleviate it according to his own judgement.

Whilst Heinrich Angermayr succeeded in convincing the bishop of Augsburg to grant him the commission of inquisitor, he failed with Gerhard von Schwarzburg, bishop of Würzburg (1372–1400). In the autumn of 1394, a wealthy citizen of Rothenburg ob der Tauber, Hans Wern, was accused of Waldensian heresy. The inquisitor was this same Heinrich Angermayr, who had been invited to Rothenburg by city council. Behind the invitation was the city's leading burgher, Heinrich Toppler, and Ludwig Schnurrer has been able to demonstrate that in this case the accusations of heresy were completely political: Hans Wern and Heinrich Toppler had been entangled in a prolonged conflict, and Toppler tried to resolve it by accusing his rival of heresy.⁶⁹

Two things saved Hans Wern: first, that he was well connected to the religious institutions of his surrounding; and, second, that Heinrich Angermayr entered the diocese of Würzburg without either gaining the permission or seeking a commission from the bishop. When the news of the trial reached the latter, he would not tolerate such a violation of his jurisdiction. Bishop Gerhard sent his vicar *in spiritualibus*, Walter Schubel *doctor decretorum* to Rothenburg. Schubel started a process of his own in November 1394. He made clear that not only did he act “ex speciali itaque commissione dicti domini nostri domini Gerhardi episcopi Herbipolensis [...] secundum sacrorum canonum instituta in huiusmodi negotio” (from the particular commission of the afore-mentioned Gerhard, bishop of Würzburg, our lord ... according to the

66 Modestin 2011, esp. 51–43, 66–67; Smelyansky 2016, 2–3.

67 Smelyansky 2016, 10.

68 Smelyansky 2016, 18.

69 Schnurrer 2001, esp. 29–31, 43–44.

laws of the sacred canons in an affair of this type), but that, further Magister Heinrich was “se nominantis inquisitorem heretice pravitatis” [a self-appointed inquisitor of heresy]. Heinrich Angermayr was thus reduced from inquisitor to denouncer, and Schubel questioned Hans Wern on all the articles of faith and sacraments, finding the accused free of heresy. In the end Wern expurgated himself by an oath, with the help of impressive amount of compurgators: an abbot; ten priests, secular and regular; and 50 laymen.⁷⁰ Although the city council was in turn forced to free Wern of charges, the matter was by no means laid to rest. Heinrich Angermayr stayed in the city, preparing new charges; Wern again sought help from the bishop, who advised him to stay in Würzburg where Walter Schubel and the documents of the trial were at hand. Although Heinrich Angermayr eventually abandoned Rothenburg, the conflict between Hans Wern and the city council (led by Heinrich Toppler) continued through a trial in the secular courts, most likely to prevent the bishop’s intervention.⁷¹ This case of Hans Wern is an excellent example of how a medieval bishop guarded his authority and jurisdiction over heresy.

In order to understand the operation of inquisitors, it is vital to remember that the limits of the commission had to be respected. In Stettin, Petrus Zwicker encountered a similar problem as inquisitor to that which had frustrated Heinrich Angermeyr, but he was much more cautious and prepared. Towards the end of inquisitions in Stettin in March 1394, a group of Waldenses from the Polish diocese of Poznań appeared in front of Zwicker, apparently in the hope of getting light punishments by appearing voluntarily. As mentioned above, Zwicker had a commission from and for the archdiocese of Prague and dioceses of Cammin and Lebus, but not from Poznań. Zwicker nevertheless decided to question, absolve and order penance for these heretics for the benefit of souls and the church universal, but adding carefully formulated apologies to the protocols stating that he wished not to make any exception of the law or establish a precedent on behalf of the bishop or his inquisitor.⁷² It is notable that Zwicker not only avoided overstepping his mandate, but saw the bishop and *his* inquisitor as primarily responsible for the prosecution of heresy.

Although the late medieval canon law granted bishops the power to prosecute heresy and absolve from it (and the many examples cited in this article leave no doubt that bishops would invoke these powers), there was at times confusion concerning how the

70 The trial document is edited in Weigel 1916, 83–86; see also Schnurrer 2001, 32–33.

71 Schnurrer 2001, 33–42.

72 “Frater Petrus provincialis fratrum ordin(is) Celestinorum, per Alamaniam, inquisitor pravitatis heretice a reverendis in Christo patribus et dominis, Pragensi, Lubucensi et Caminensi, archiepiscopo et episcopis constitutus [...] nullam predicto domino episcopo, eius inquisitori seu alii cuicumque derogacionem seu preiudicium [voluit] facere seu quomodolibet attemp-tare, solum ut animarum saluti et universali ecclesie suo officio provideatur.” See Kurze 1975, 235–236.

tasks should be divided. In September 1394, bishop of Olomouc Nikolaus von Riesen- burg asked Pope Boniface IX to grant him permission to absolve Waldensian heretics in his diocese, because although there were many willing to convert, the constitutions of Pope Benedict XII prevented their being absolved “sine licencia apostolice sedis speciali” (without the express licence of the Apostolic See).⁷³ The legislation concerning heresy, its prosecution, and absolution from it, had grown extremely complicated, and perhaps the petition of Bishop Nikolaus was simply a precaution to ensure that he did not overstep his authority.

The bishop in the background

Many medieval bishops, and this applies to German bishops in particular, were also secular lords and princes, and delegated much of their power to vicars and officials (termed *vicarius, officialis*). In later medieval diocesan reforms much of the daily administration was transferred to these office-holders and the division of labour became more sophisticated and professional.⁷⁴ Although the examples above show that even the mighty *Fürstbischöfe* took a personal interest at times in matters of heresy, it is not surprising to also find instances where the bishop acted through his official. Such a case is the inquisition against the Upper Austrian Waldenses from 1395 onwards.

Petrus Zwicker was again the responsible inquisitor, prosecuting the Waldenses in Oberösterreich from 1395 until 1398. From the copies of the sentences he declared, known to scholars since the 19th century, we know that he was commissioned by Georg von Hohenlohe, bishop of Passau (1389–1423).⁷⁵ The recent discovery of Zwicker’s formulary for the diocese of Passau, compiled around 1395–1396,⁷⁶ reveals a more diverse picture. The piece that opens the formulary is entitled *Forma instituendi seu faciendi inquisitoris* (The formula for the institution or appointing of an inquisitor; fol. 88^{ra}–^{va}). It is directed to the clergy of the diocese listing the customary rights and powers of the inquisitors Petrus Zwicker and Martinus of Prague, and exhorting all receivers to give all help in their power to these men. The mandate comes, of course, in the name of Bishop Georg, but it is issued by an official, whose name is difficult to discern from the negligent later copy. The heavily abbreviated name refers to one “Johannes” who was a “canon of the churches of Regensburg and Passau and the

73 *Monumenta Vaticana*, 469, no. 858; see also the *regesta* of the letter in Patschovsky 1979, 129. Benedict XII (1334–1342) was the famous Jacques Fournier who, as bishop of Pamiers, was responsible for the well-known inquisition in his diocese. I have not been able to establish the constitutions to which the bishop of Olomouc is referring.

74 Hledíková 2006, 130–131.

75 See e.g. the sentence edited in Haupt 1890, 404; on Georg von Hohenlohe, see Schmid 2001.

76 St. Florian, ms. XI 234, fols. 88^{ra}–90^{vb}, see Välimäki 2016, 147–161, 174–177.

official of Passau's curia.⁷⁷ The first name is almost certainly a mistake, the most probable person in question being Leonhard Schawr, licenciate of the decretals, who held canonicates in both dioceses and acted as the official for the diocese of Passau between at least 1388 and 1401.⁷⁸ He could be the same person, *commissarius Io[annes]*, who had to reconcile between Zwicker and an unnamed vicar from the diocese of Passau whom Zwicker had excommunicated because of contumacy and reluctance to follow his orders.⁷⁹ Another possible person would be Johann von Rottau, dean of Enns from 1394 to 1398.⁸⁰ Whoever the episcopal commissary was, Zwicker's formulary demonstrates how the practicalities of episcopal inquisition of heresy could be organized in a large diocese with a developed administrative structure. The officials, vicars and commissaries (and the inquisitor himself was such commissary with a specific mission), wielded the bishop's power.

Conclusions

There can be no doubt that the late medieval German bishops took interest in the prosecution of heresy. Their level of involvement varied, from active promotion of the inquisition of heresy in their own diocese and beyond, to passive reactions when faced by persistent rumours or direct accusations of heresy. The expertise of bishops with their officials also differed from place to place: the bishop of Würzburg and his expert canon lawyer Walter Schubel had no hesitation in deposing the self-appointed Heinrich Angermayr from his usurpation of the role of inquisitor, but the bishop of Olomouc was unsure if he was even allowed to absolve heretics without a special papal licence.

The bishops were far from the only initiators of persecution, acting together (and at times against) itinerant preachers, papal inquisitors, cathedral chapters and universities. It would be exaggeration to raise the bishops to being the primary agents of the persecution of Waldenses, but it would be equally wrong to shuffle them off into background. In several cases the initiative of a bishop (or lack of it) significantly affected the overcome. No bishop remained completely inert when the *fama* of heresy

77 St. Florian, ms. XI 234, fol. 88^{ra}: "Io[annes] t[alis] Rat[isponensis] et pat[auiensis] ecc[les]ia[rum] ca[noni]cus, offic[ialis] cur[ie] pat[auiensis]."

78 This is attested by several documents that he either issued or witnessed: Stiftarchiv Göttweig, 1388 VIII 20; 1388 V 27; 1401 III 31; HHStA Wien, Aggsbach Kartäuser (1281–1780), 1393 I 27; St. Pölten, Augustiner Chorherren (976–1668), 1388 VIII 31. Accessed through *Monasterium.net*.

79 The excommunication, its aggravation and absolution by the episcopal commissary has been preserved in the same formulary, see St. Florian, ms. XI 234, fols. 89th–90^{ra}, 90th–90^{va}. No names or dates have been preserved, and it is unclear if these formulas refer to actual events.

80 Zinnhobler 1982, 38.

emerged in his diocese. As the articles of this volume show, medieval bishops were many things, from aristocrats and military commanders to scholars and reformers of their dioceses. To complete the picture this essay may remind us that one of their roles was the persecutor of heretics.

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