

On the case of the Templars: Whose business it is to inquire into and judge heresy?

Augustinus Triumphus (1243–1328)

Translation by W. L. North from the edition in Richard Scholz, *Die Publizistik zur Zeit Philipps des Schönen und Bonifaz' VIII. Ein Beitrag zur Geschichte der politischen Anschauungen des Mittelalters*. Stuttgart: Ferdinand Enke 1903; repr. Amsterdam: Rodopi 1969, pp. 508-516. [Edition based on Paris, Bib. nat. latinus 4046, ff.26v-30.

In the MS, the author is not named but a piece of the same text is found in a Vatican mss containing the works of Augustinus Triumphus].

Here begins a brief treatise on the case of the Templars regarding whose business it is to inquire and judge about heresy.

Lord Jesus Christ, you have said through your Holy Spirit: *Do not seek to become a judge unless you are able to shatter iniquities with your virtue*. From this text it is clearly given to be understood that one should not be a judge of iniquity to the end of correction, unless he shines forth in virtue and authority in judging. Whence the Gloss says concerning this text that each person should weigh their own virtues and take up the care of others according to the quantity of one's powers, lest delight in a position of glory become for the subjects an act of ruination, and one who is burdened by the weight of their own sins become the judge of others' faults.

Now then, because some seem to doubt whether kings or secular princes can judge heretics, inquire into heresy, and condemn those convicted of the crime of heresy in a proper judgment without the request of the Church but [simply] out of a love for the truth and a hatred of vice, we intend to investigate thoroughly the root of this question through argument and debate, posing first the authorities and reasons on account of which some princes seem to be moved to judge heretics and to condemn them by their own judgment without the Church's request.

It is claimed first that they can do this legitimately on their own authority because it is written in Exodus XXII: *You shall not allow wicked men to live*," on which passage the Gloss says that by "wicked men" are meant those who sin in the sin of idolatry and in a sin against nature. Therefore, if such

persons should be punished, it seems that it would be permitted to kings and princes to punish such persons without anyone else's request and with their own command. Furthermore, it seems to be an act of greater audacity and cruelty that brother kills brother and neighbor kills neighbor for some sin than that the king and prince kill his subjects for the cleansing of his kingdom and the defense of the state (*respublica*). But of Exodus XXXII it is written that brother killed brother and neighbor killed neighbor because of the sin of idolatry. Therefore, how much more boldly are kings and princes allowed to act. Moreover, when people are ordered to punish and correct without anyone's request it is understood to be ordered of kings and princes, too. Indeed, in Deuteronomy VII, the people of Israel was ordered to overturn the altars of the heretics. This is why it says there: *Overturn their altars, smash their statues, cut down their groves, and burn their carved figures, because you are people holy to the Lord your God.* Therefore, all the more is this commanded of kings and princes.

In addition, it is a greater matter to burn the bodies of heretics already buried than to condemn those convicted of heresy. Yet it is written in III Kings XXIV that King Josiah saw the tombs of the heretics which were in the mountains and he sent and took the bones from the tombs and burned them upon the altar and trampled the statues, cut down the groves, and filled the bones with the bones of their dead. It is also written in III Kings XV that Asa, king of Juda, cleansed all the filth of the idols which his fathers had made and he overturned her den, and smashed that most foul likeness, and burned it by the torrent of Cedron. Indeed, each king and prince is bound to purify his kingdom from the filth of idols, since this especially pertains to the worship of God. It therefore seems that kings and princes are permitted to capture and condemn heretics. Further, an offense committed against God is greater than one committed against a neighbor. Kings and princes can punish an offense which a person commits against his neighbor by their own judgment, therefore all the more can they punish an offense which a person commits against God.

To the contrary, [it is argued] that kings and princes cannot punish by their own judgment those who do not belong to their jurisdiction unless it is after they are left to them by the Church, but such are these heretics. Whence the decretal says that if any heretics have been apprehended after the abjuration of their heresy, they should be left to a secular judge. Moreover, those who are useful to the Church when circumstances and conditions are taken into consideration should not be destroyed by secular princes. For as it is written in I Corinthians XII, it is fitting that heresies be in the Church

so that those who have been tested may be made manifest among you. Therefore, princes should not judge them without the judgment of the Church which has to consider all these circumstances.

Response: It must be said that this question recently arose on account of the Templars who, having been captured by the king of the French throughout the entirety of his kingdom, were convicted, as it is said, of the crime of heresy and many other wicked actions. But because the aforementioned Templars were said to be men of religion, after their capture and confession the aforesaid king of the French wondered whether he himself could by his own judgment capture and condemn them without the request of the Church. But because all of the issues on which the king wonders about this matter depend on this first first, we therefore wish to show that neither king nor any secular prince has any authority to capture or judge not only Templars who were persons immediately subject to the Church, but also any other heretics without the request of the Church. This truth we wish to demonstrate first by means of the Old Testament authorities, second by New Testament authorities, and third by arguments, in order that every text and tongue may confess the aforementioned truth.

The first [proof] runs this way. It is written in Exodus XXXII that after the people of Israel had made for themselves a brazen calf and said: *These are your gods, Israel, who have led you from the land of Egypt*, the sons of Israel were not punished for this crime of heresy except by command of Moses who, coming down from the mountain, said: *If anyone is the Lord's let him be joined to me*, and then were gathered to him all the sons of the Levi, to whom he said: *Go and pass from doorway to doorway through the camp and let each one kill his brother, friend, and neighbor*. It is well known that the highest pontiff [the pope] represents the person of Moses. No secular prince therefore can judge and condemn anyone for the crime of heresy without the pope's command because it would be without Moses' command. Consequently, that passage written in Exodus XXII: *You shall not allow the wicked to live*, is understood to have been said by Moses (just as it is expressed there clearly in the text) so that it is because of the order and command of Moses himself that such heretics and evil-doers were to be seized and punished.

When it is written in Deuteronomy VII that *the idols of the heretics were destroyed by the people of Israel*, it is clear that the people of Israel did this at the command of Moses, not on their own authority.

Likewise, when King Josiah of Israel burned the bodies of heretics and destroyed their idols, he did

not do this except on the Lord's authority, whose place the highest pontiff holds on earth. This is why in III Kings XXIII it is written about Josiah: *Behold a son of th lord David is born named Josiah and there shall sacrifice upon you priests of the most high (that is, priests of idols) who now burn incense, and he shall burn the bones of men upon you*, and then it is added: *There shall be a sign, which the Lord spoke to him: The altar shall be shattered and the ash that is in it shall pour forth.* The last of these kings, King Assa of Judah, cleansed all the filth of the idols which his fathers had made. It is evident that he did this on the command of the Lord. To sum up: in the whole of the Old Testament the sin of heresy and idolatry is not punished by kings and secular princes, save by the express command of the Lord or the highest priest there was at time time, whose person the pope represents. Ondeed, kings and secular princes were not allowed to wage just war without permission of the Lord. Whence it is written in IV Kings V that after the Philistines came down from the mountain, they spread out over the valley of Rapha and then David took counsel with the Lord, saying: *shall I go attack the Philistines and will you give them into my hands?* To this the Lord replied: *Attack, because I shall give the Philistines into your power.* And if kings and princes are not allowed to wage just war without the Lord's permission and the authority of the highest pontiff who there was at the time, all the more are they not permitted to capture and condemn heretics by their own judgment. And for this reason modern kings and princes are not allowed to get involved with the crime of heresy on their own authority without the request of the Church.

But even if it has been granted that the commands of the Old Law granted that kings and princes can capture and condemn heretics on their own authority, in this day and age kings and princes are not allowed to do this without the Church's request. The reason for this is that the precepts of the Old Law through which this was granted to those kings and princes were iudicial commands which had been issued in the Old Law on account of the disposition of that state of affairs. Therefore, when that state of affairs ended, those precepts also ended and no longer had binding force; indeed, whoever obeys those judicial precepts today, because they believe them to have the power to bind just as they did before, commits a sin. For just as the state of the New Law succeeded the state of the Old Law, so other commandments should take their place, since the old should be thrown out when the new comes along. This is why the Apostle said to the Hebrews that when the priesthood has been translated, it is necessary that a translation of law also occur. Therefore, through the authorities from the Old Testament that have been introduced, not only does there appear the truth

that kings and secular princes are not allowed to capture heretics without the Church's request, but also the solution and explanation of these authorities were shown to demonstrate the opposite.

After having shown using authorities from the Old Testament that kings and secular princes are not permitted to condemn any heretics without the command and request of the Church, we wish to demonstrate this using authorities from the New Testament. To understand this [Testament], one should know that the book of Canticles [Song of Songs], because even though it is contained among the books of the Old Testament, the entire book concerns the marriage of Christ and the Church, and therefore authorities [testimonia] taken from it can be applied to the New Testament. Now then, that only pastors of the Church are allowed to involve themselves with the crime of heresy and to capture and condemn them authoritatively, is expressed stated in the second of the Canticles, where Christ, when inviting the Church to capture heretics, says: *Capture the little foxes who destroy the vineyards, for our vineyard has flowered.* On this passage the Gloss says: *in the person of the leaders of the Church*, because it is not enough for us to offer our life as an example to others and to do good preaching, unless we also correct those who err and defend the weak from their plots. Therefore it is rightly said: *Capture for yourselves the foxes*, i.e. seize, combat the heretics and schismatics, who are clever and pretend that they are humble like foxes. For just as foxes conceal themselves in holes and, when they appear outside, never run in straight lines, so heretics and schismatics do the same thing. License to capture and condemn heretics has therefore been granted authoritatively only to pastors of the Church, as is clear by virtue of the authority that has been brought to bear. Furthermore, the Apostle in his epistle to Titus orders, in the end, that the heretical man should be avoided after the first and second attempt at correction, but he orders that this not be done except by the authority of the Church, because Titus, to whom he commands this, was a bishop, by whose authority he was ordering the correction and avoidance of heretics. Again the Apostle in I Corinthians V ordered on his own authority that those who were fighting against the faith and the enemies of Christ be handed over to Satan; on this passage the Gloss says that the Apostle had this power in order that when he could not save someone from foolishness about the faith, he handed him over to the devil to be vexed in the body. Therefore without the command and summons of the Church heretics should not be captured or condemned by secular princes, especially since such secular princes can proceed so incautiously in such a judgment, that believing themselves to root out the tares, they uproot the wheat as well, which is contrary to what the Lord commands his servants in Matthew XIII, where it is said: *Allow both to grow until the harvest, lest perchance, when you gather the tares, you also uproot the wheat.*

And it is clear that by tares, heretics are to be understood according to the exposition of the saints. Therefore the Lord expressly granted this authority to capture and condemn heretics, whose persons the prelates of the Church represent, as in the last chapter of Mark where it says: *As you go into the world, preach the good news to every creature and to every person. He who has believed and been baptized, shall be saved, but he who does not believe, shall be condemned, i.e. judged by the true judgment and authority*, as the Gloss says there.

Now then, after we have proved the aforementioned truth using the authority of the Old and New Testaments, we wish to strengthen it a third time by the use of arguments. For the moment, we can prove with four arguments that it is the business of no secular prince to inquire into the crime of heresy or to condemn those convicted of heresy without a special mandate and request of the Church. The first argument is derived from the perspective of the Church, the second from the perspective of the secular prince himself, and the third from the perspective of the heretics. The first argument is the following. With regard to everything that the Church reserves to its own power, no one at all is permitted to get involved in it, since the Church has reserved it. To be sure, the opposite of those ideas is contained in the Old Testament, where they are contained under the guise of ceremonial and judicial precepts, although it is said that in the state of the New Testament does not have the power to bind. But to investigate heresy and judge and condemn those convicted of heresy, to decide and define questions regarding heresy the Church reserves directly to its own power, just as is clear from canon and civil law. Therefore no person is permitted to involve themselves in such things without the special mandate and summons of the Church itself.

The second argument runs thus. The secular prince is compared to the Church as the corporeal to the spiritual. But it is well known that the corporeal by its own strength and authority does not have power over anything spiritual, save insofar as it is the instrument of a higher actor, just as we say that hellfire, which is almost corporeal, has the power to torment the soul itself, which is a spiritual substance, since it is an instrument of divine justice. But everything spiritual has direct power over the corporeal. Therefore, since the faith itself, to which heresy is opposed, is a spiritual matter, the secular prince cannot have direct the power to inquire into it or judge those convicted of heresy, save as the instrument of the Church, doing this by its command and request.

The third argument runs thus. A heresis is nothing but a certain deviation from the faith and a certain resistance to the faith. But as is written in *On the Soul* I, the judge of the straight and the crooked is the same, and therefore that judge has to judge concerning heresy with his own authority, to whom it belong to judge concerning the faith. And because regarding the faith only the Church has the power to judge, since no one can be numbered in the body of the faithful without its command and summons, therefore the Church alone has the power to judge by its own authority regarding the crime of heresy and no one else, unless supported by its authority.

The fourth argument is shown to be this. At a certain gloss on that passage [in the letter] to Titus in the last chapter, *that a heretic after the first and second correction due*, says: heretics are those who fight against the law with the words of the law, and they should be avoided, because when they are corrected more frequently, they are more energetic. In response to this last we therefore say that if kings and princes were seeing heretics bubbling forth in their kingdom, so that they could rightly worry that their faithful subjects would become infected and be swayed by them, and if they could not conveniently discuss this quickly with the Church so that it might address such a danger, we believe that in such a case it would be permitted to kings and princes to capture those said to be heretics but in such a way that they always purpose to hand them over to the Church and place them under its power upon its request. But modern kings and princes are like a certain doctor about whom the commentator on the second book of [Aristotle's] metaphysics tells the story that he first gave a laxative to a sick man and then looked at a book to see whether he had done the right thing. Later, when the doctor returned, the sick man was dead. Thus did they first investigate the crime of heresy on their own judgment and authority and seize the Templars once convicted of heresy, and only later consult the wise men as to whether they are allowed to do this without the Church's summons. We are not saying this to excuse the Templars, because if the [charges] that are laid against them are true, rightly should the Church extirpate and condemn that religion as an iniquitous sect. Rather we are saying that these things are not licit to any secular princes to attempt without the Church's command and summons, with which the Holy Spirit deigns to inspire so that in these and in other permitted and honorable things they may be able to obey and serve the holy mother Church. Amen.