

CHAP. IV, dernières clartés du soir se prolongent jusqu'aux premières  
§ 7. blancheurs du matin'.<sup>1</sup>

Reasons for stopping at Renaissance. For the limits which I have imposed upon myself there is a double justification. In the first place, although in Italy the earlier phases of the movement lie within our chronological limits, it would be unsatisfactory to attempt to trace its beginnings and suddenly to break off at some arbitrarily selected date: it is best to deal with the history of the Italian universities in the fourteenth and fifteenth centuries only in so far as they still belonged to the medieval world. In the second place, although the progress of the Renaissance may be traced in the foundation or increased importance of chairs for rhetoric or poetry or Dante or classical literature in the universities of arts, yet in the main humanism was not primarily in Italy a university movement. Its earliest home was rather in courts or princely houses, in cultivated social circles or dilettante 'academies' than in the schools—in Tuscany rather than in Lombardy—in artistic, dreamy, Platonic Florence than in stately, scientific, scholastic Bologna.<sup>2</sup>

<sup>1</sup> *Doc. inédits*, p. 78.

<sup>2</sup> [A full annotation of this section would have required us to touch upon nearly every aspect of medieval Italian thought. Cf. the Introduction to this volume and

the observations in vol. ii, pp. 1, 2. In his paper, noted above (p. 103, note), E. Genzmer has dealt with the work of the earlier glossators and given a useful introduction to the extensive literature.]

## CHAPTER V

### PARIS

#### § 1. THE ORIGINS OF THE UNIVERSITY

The earliest historical account of the University of Paris is a little black-letter quarto by Robertus GOULET (*Compendium recenter editum de multiplici Paris. Univ. magnificentia*, Paris, 1517 [translation by Robert B. Burke (University of Pennsylvania Press, 1928)]), which is more valuable as a contemporary sketch of the University than for its historical information. BELLE-FORÉST (*La Cosmographie Universelle*, Paris, 1675, i. 187 sq.) gives a somewhat fuller historical sketch of the University and colleges. PASQUIER made valuable critical researches into the early history of the University, rejecting the Carolingian myth, but mistakenly dating the existence of the University from the charter of Philip Augustus in 1200. (*Les Recherches de la France*, Paris, 1596, &c.) The first systematic historian of the University is HEMERÆUS (*De Academia Parisiensi*, Paris, 1637), who gives a fairly correct account of the evolution of the University out of the episcopal school. Caesar Egassius BULÆUS (du Boulay), in his six enormous folio volumes, *Historia Universitatis Parisiensis a Carolo M. ad nostra tempora*, 1665-73, gathered together an immense mass of material for its history, but his own view of its origin is as completely mythical as anything in the first decade of Livy, while his inaccuracies and inconsistencies are only equalled by his tedious prolixity. He was perhaps the stupidest man that ever wrote a valuable book. (He also published an *Abrégé de l'histoire de l'Univ. de Paris*, no date.) The later historians of the University have done little but copy his conclusions with a little more common sense, but no original research. The most important are CREVIER (*Histoire de l'Université de Paris, depuis son origine jusqu'en l'année 1660*, Paris, 1761) and DUBARLE (*Histoire de l'Université depuis son origine jusqu'à nos jours*, Paris, 1829). RICHOMME, *Histoire de l'Université de Paris* (Paris, 1840), is a slighter work of the same type. The only English book on the subject is an Oxford prize essay by T. RALEIGH (*The University of Paris*, 1873).

Meanwhile, the most valuable contribution ever made (till quite recently) to the history of this or any other university had been lying unpublished (on account of its unpatriotic view of the date of the University) and unstudied in the MS. presses of the Sorbonne. This anonymous work is entitled *Universitas Parisiensis eiusque Facultatum quatuor Origo vera*, and is usually spoken of as the MS. refutation of du Boulay, who is throughout styled the 'Fabulator' and attacked with the characteristic bitterness of the seventeenth-century scholar. Two copies of it exist, one at the Sorbonne, the other in the Bibliothèque Nationale (Cod. Lat. 9949). I have used the latter. There is also in the Bibl. Nat. (Cod. Lat. 9943-8) a MS. history of the University by RICHER, of no particular value, but far more enlightened than those of du Boulay and his adherents. THUROR's essay, *De l'organisation de l'enseignement dans l'Université de Paris au moyen âge*, Paris and Besançon, 1850, gave a fairly accurate picture of the educational system in the developed University, but hardly touched the question of origins, the critical treatment of which begins with the appearance

CHAP. V, § 1. of DENIFLE's great work in 1885. Ch. Brechillet JOURDAIN had, however, done good service by his *Index Chronologicus Chartarum pertinentium ad historiam Universitatis Parisiensis*, Paris, 1862, which printed in full many important documents omitted by Bulaeus. But this collection is now superseded by the magnificent *Chartularium Universitatis Parisiensis*, edited by DENIFLE and CHATELAIN, four volumes (Paris, 1889-97) with two volumes of an *Auctarium*, containing the earlier Proctors' books of the English Nation (Paris, 1894-7). [Other volumes of the *Chartularium*, including one on the colleges, and of the *Auctarium* are in course of preparation.]

Notices and documents relating to the University occur in many of the older books, of which it will be enough to mention DUBOIS, *Historia Ecclesiae Parisiensis*, Paris, 1690-1710; SAUVAL, *Histoire et Recherches des Antiquités de la Ville de Paris*, Paris, 1724; DU BREUL, *Théâtres des Antiquités de Paris*, ed. 2, Paris, 1639 (1st ed. 1612); FÉLIBIEN, *Histoire de la Ville de Paris*, ed. Lobineau, Paris, 1725; D'ARGENTRÉ, *Collectio Iudiciorum de Novis Erroribus*, Paris, 1728-36; GUÉRARD, *Cartulaire de l'Église de Notre-Dame de Paris* (in *Docs. inédits pour l'hist. de France*), Paris, 1855, &c.; JAILLOT, *Recherches Critiques sur la Ville de Paris*, Paris, 1772-5.

Other works bearing on special departments of the subject are LAUNOI, *De varia Aristotelis in Academia Parisiensi fortuna*, Paris, 1653, &c., and the tractates of DU BOULAY, *Remarques sur la dignité, rang, préséance, autorité, et juridiction du Recteur de l'Un. de Paris*, Paris, 1668; *Factum ou Remarques sur l'élection des Officiers de l'Université*, Paris, 1668; *Remarques sur les bedeaux de l'Université*, Paris, 1670; *Recueil des Privileges de l'Université de Paris*, Paris, 1674 [Anon.]; *Mémoires historiques sur les Bénéfices qui sont à la présentation de l'Université de Paris*, Paris, 1675 [Anon.]; *Fondation de l'Université de Paris par l'Empereur Charlemagne, de la propriété et seigneurie du Pré-aux-Clercs*, 1675, 4to [this last I have not seen; only one copy is said to exist]; *De patronis quatuor Nationum*, Paris, 1662; *Défense des droits de l'Université*, Paris, 1637. The very rare *Mémoire touchant la seigneurie du Pré-aux-Clercs, appartenante à l'Université de Paris* (Paris, 1694 and 1737), by POURCHOT, based on the above work of du Boulay, has been reprinted by FOURNIER (Marcel) in *Variétés Historiques et Littéraires*, Paris, 1856, iv. 87. FILESACUS, *Statutorum Sacrae Facultatis Theologiae Parisiensis origo prisca*, Paris, 1620, I have not seen. BUDINSZKY, *Die Universität Paris und die Fremden an derselben im Mittelalter*, Berlin, 1876, is a useful piece of work, as is DELALAIN, *Étude sur le Libraire Parisien du xiii<sup>e</sup> au xv<sup>e</sup> siècle*, Paris, 1891. HALMAGRAND, *Origine de l'Université*, Paris, 1845, and DESMAZE, *L'Université de Paris, 1200-1875*, Paris, 1876, are of no value. PÉRIES, *La Faculté de Droit dans l'ancienne Université de Paris*, Paris, 1890, is a substantial and learned piece of research; CORLIEU, *L'ancienne Faculté de Médecine de Paris*, Paris, 1877, a slight but interesting work, is chiefly concerned with post-medieval times. SPIRGATIS, *Personalverzeichnis d. Paris. Univ. von 1464*, Leipzig, 1888, is useful on the question of the numbers at Paris. Some paragraphs in the following chapter are reproduced from the author's art. in the *Eng. Hist. Review*, 1886, p. 69, on 'The Origines of the University of Paris'. The art. by FERET, 'Les Origines de l'Université de Paris' in *Rev. des Questions Historiques*, lii, 1893, 337-90, is quite uncritical, and ignores all recent research.

For a full bibliography see CHATELAIN, *Essai d'une Bibliographie de*

*l'ancienne Université de Paris* in *Revue des Bibliothèques*, i (1891); and for books on French education generally, below, vol. ii, chap. viii. CHAP. V, § 1.

[The extensive literature which has appeared since 1895 deals in the main with particular aspects of academic history in Paris, and will be noticed as occasion arises. We may mention here A. LUCHAIRE, *L'Université de Paris sous Philippe Auguste* (Paris, 1899); L. HALPHEN, 'Les débuts de l'université de Paris', in *Studi medievali*, new series, ii (1929), 134-9, and 'Les Universités au xiii<sup>e</sup> siècle' (articles reprinted from the *Revue Historique*, clxvii (1931), 37 pp.); J. BONNEROT, 'L'Ancienne Université de Paris, centre international d'études', in the *Bulletin of the International Committee of Historical Sciences*, i, pt. v (1928), pp. 662-82, valuable for its account of the archives and matriculation lists of the University. Cf. E. CHATELAIN on the Cartulary of the English Nation (in *Mémoires de la Société de l'Histoire de Paris*, xviii, 1891, 73-100) and H. OMONT on the more recently discovered Cartulary of the French Nation (*ibid.*, xli, 1914, 1-130). A general account of the University may be found in Stephen D'IRSAY, *Histoire des Universités*, i. 53-74 and *passim*.]

### I. The Rise of the University

THE myth which attributes the foundation of the University of Paris to Charles the Great is one which ought long since to have ceased to be mentioned by serious historians even for the purpose of refutation. There is not the slightest ground for localizing the Palatine Schools of Charles the Great or Charles the Bald, the School of Alcuin or the School of Scotus, in the city of Lutetia Parisiorum. These schools were probably migratory and followed the person of the sovereign, like our ancient courts of Law, in his progresses through his dominions. In so far as they had any fixed abode we should have to look for it rather at Aachen than at Paris. The assumption of an identity between the schools of the Palace and the later church schools of Paris is in truth only an outgrowth of that inveterate historical misconception, dear to the heart of the French nation, which represents the founder of the Germano-Roman Empire as a French king with his capital and his court at Paris.<sup>1</sup>

The sole historical connexion between the Palatine Schools of Charles the Great or Charles the Bald<sup>2</sup> and the later

<sup>1</sup> 'On ne voit pas même que, durant tout le cours de son long règne, ce prince, qui visita tant de villes, habita tant de palais, ait séjourné quelques heures dans la

ville de Paris.' Hauréau, *Charlemagne et sa cour*, p. 172.

<sup>2</sup> The Bull printed by Bulaeus (i. 184) in which Nicholas I is represented as speaking of John the Scot

The Carolingian Palace School not at Paris.

Real effects of the Carolingian reform in education.

CHAP. V. University of Paris is to be found in that revival of the epis-  
§ 1. copal and monastic schools throughout the Frankish Empire of which enough has already been said. Before the time of Charles the Great the British Isles could boast of far more famous schools than any that were to be found in continental Europe. The call of Alcuin from York to the Palace School marks the transference of the primacy of letters from Britain to France. And some of the features which characterized the Parisian university system may really be traced to the work of Charles. In the first place there is its intensely ecclesiastical character—the system of supervision by ecclesiastical authorities and the complete identification of the scholastic with the clerical order. Moreover, the educational tradition which was inherited by the School of Paris was one ultimately derived from the Schools of Alcuin and John the Scot. But this educational tradition was not transmitted by any single school. All through the dark ages that intervened between Charles the Great and the twelfth century, there were at least a few monasteries and perhaps one or two cathedrals where the fame of some great teacher drew students from distant regions, and where some ray of enthusiasm, some spark of controversial fire, infused a little life into the dull conglomerate of old-world learning and traditional theology which made up the education of this dismal period. The historians of the University of Paris have amused themselves with tracing the long scholastic pedigree of master and scholar—the academical succession, so to speak—which connects Alcuin with Abelard.<sup>1</sup> But it is only in this somewhat imaginative sense that the smallest connexion can be established between

as living 'Parisius in Studio cuius Capital iam olim fuisse perhibetur' is obviously interpolated. Part of it (which may be genuine) is given by William of Malmesbury, *De gestis pontificum* (ed. Hamilton, p. 393), Symeon of Durham (ed. Arnold, ii. 116), and Hoveden (ed. Stubbs, i. 47, &c.), but without the allusions to Paris. Cf. Poole, *Illustrations*, p. 56, n. 3. Bulaeus, in i. 183, gives this version as well

as his own, but includes part of Hoveden's text in the letter. The words are also omitted in the collection of Nicholas I's letters. (*Patrol. Lat.* cxix, c. 1119.)

<sup>1</sup> Thus Rabanus was the pupil of Alcuin at Tours; at Fulda Rabanus taught Servatus Lupus of Ferrières, whose pupil Heiricus was the master of Remigius, &c. (*MS. Refut.*, f. 181.)

Charles and the great French university. In the age of Charles the Great or of Charles the Bald nothing whatever is heard of the schools of Paris. Tours and Fulda and Reims were famous places of education before Paris could claim a single important master or a single distinguished scholar.<sup>1</sup>

The first school at Paris which is actually known to history is the School of Remigius of Auxerre at the end of the ninth century. But the utmost diligence of an investigator full of the most infatuated belief in the unfathomable antiquity of his Alma Mater has only succeeded in discovering two or three names of masters or scholars recorded to have taught or studied at Paris in the ninth or tenth centuries—Remigius' pupil, Odo, afterwards Abbot of Cluny<sup>2</sup> (A.D. 912–42), Abbot

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The School of Remigius at Paris.

Early scholars at Paris.

<sup>1</sup> These assertions may perhaps surprise the reader who, glancing over Du Boulay's colossal work, finds one folio volume devoted to the history of the University before A.D. 1000, another to the period between A.D. 1000 and A.D. 1200, of which the first 550 pages refer to the first of the two centuries thus embraced, i.e. to the period during which practically nothing is known of the state of the schools of Paris. But the preliminary dissertation on 'the Academies of the Druids' will have warned the reader not to take Du Boulay *au sérieux*. The first writer whom our author can adduce in support of the connexion of the University with Alcuin is Helinandus († A.D. 1227), who says that Alcuin 'Studium de Roma Parisius transtulit' (Bulaeus, i. 110); but the passage which he quotes must be an insertion, since it does not occur in the printed edition. See Tissier, *Biblioth. Cisterc.* vii (Paris, 1669), 100; *Patrol. Lat.* cxxii, c. 833 sq. In the fifteenth century a papal legate gravely ascribes the foundation of schools at Paris to Bede, whom he declares to have stopped there on his way to Rome (Bulaeus, i. 113). A number of similar absurdities are critically

examined by Launoi, *De Scholis Celebrioribus*, pp. 1–26.

<sup>2</sup> 'Nono decimo aetatis suae anno apud beatum Martinum Turonis est tonsus, ibique grammaticae artis liberalibus studiis educatus. Deinde apud Parisium dialectica musicaque a Remigio doctissimo viro est instructus, et tricesimo ortus sui anno Burgundiam petiit,' &c. *Vita scripta a Joanne monacho eius discipulo*; ap. *Patrol. Lat.* cxxxiii, c. 45. 'His diebus abiit Parisius, ibique dialecticam sancti Augustini Deodato filio suo missam perlegit, et Martianum in liberalibus artibus frequenter lectitavit: praeceptorem quippe in his omnibus habuit Remigium; quo peracto Turonicam remeavit,' *ibid.* c. 52. Another biographer says, 'His diebus honestus juvenis succensus amore discendi, Parisium [? Parisius] adiit primam sedis regiae civitatem. Ibi Remigius Autissiodorensis, vir praedicabilis, et thesauros scientiae tunc temporis plures habens, moderandis et regendis studiis insudabat. Florescebant sub eo studia, quae obsoluerant iam per tempus, quia tunc primum ex eius magisterio nascerentur.' *Ibid.*, cc. 89, 90. The anonymous Refuter of Bulaeus indeed (f. 179)

the Scholasticus of Fleury<sup>1</sup> († A.D. 1004), and one Hucbald of Liège<sup>2</sup> who (some time between A.D. 972 and 1008) taught in the schools of Ste Geneviève. Nor do the names become more frequent till after the middle of the following century, when we find the schools of Paris attracting a few scholars from a distance, such as the Englishman Stephen Harding,<sup>3</sup> afterwards Abbot of Cîteaux, and the Breton Robert de Arbrisselle.<sup>4</sup> Of course there would be no reason, even had the allusions been fewer than they are, to doubt that there were schools in the monasteries of Paris, just as there were in all other monasteries, at least from the reign of Hugh Capet, when the cessation of the Viking ravages and the substitution of regular abbots for the lay usurpers of the 'iron age' began to make learned leisure once more a possibility. But it is abundantly clear that Paris was not at this

suggests that the story of Remigius of Auxerre having taught at Paris is due to some confusion between S. Germain of Auxerre, of which Remigius was a monk, and the monastery of S. Germain-des-Prés at Paris; but this is a somewhat hazardous conjecture.

<sup>1</sup> 'Parisius atque Remis ad eos qui philosophiam profitebantur profectus, aliquantulum quidem in astronomia, sed non quantum cupierat, apud eos profecit. Inde Aurelianis regressus', &c. *Vita auctore Aimoino Monacho* (his pupil), ap. *Patrol. Lat.* cxxxix, c. 390.

<sup>2</sup> 'Quid dicam de Hupaldo, qui, dum adolescentulus a scolari disciplina hinc (i.e. from Liège) aufugisset, Parisius venit, canonicis sanctae Genovefae virginis adhesit, in brevi multo (sic) scholarium instruxit.' (Bulaeus, i. 314, reads 'multarum scholarum institutor fuit': the true reading is perhaps 'multorum scholarium institutor fuit'.) Ubi cum aliquamdiu moraretur, interim videlicet cum a domno Notkero episcopo nesciretur, tandem canonica episcopalis

sententiae executione compulsus est redire.' Anselmi Leodiensis, *Gesta Episcoporum Leodiensium*, ap. *Patrol. Lat.* cxxxix, c. 1094. Notker was Bishop from A.D. 972 to 1008.

<sup>3</sup> 'Ex Anglia studiorum caussa primum Scotiam, inde in Galliam Parisios transfretaverat.' *Acta Sanctorum*, April, ii. 493.

<sup>4</sup> 'Et quoniam Francia tum florebat in scholaribus emolumentis copiosior, fines paternos, tanquam exsul et fugitivus, exivit, Franciam adiit et urbem quae Parisius dicitur intravit, litterarum disciplinam, quam unice sibi postulaverat, pro voto commodam reperit, ibique assiduus lector insidere coepit.' *Vita auctore Baldrico* (a contemporary), ap. *Patrol. Lat.* clxii, c. 1047. Of the scores of names massed together by Bulaeus in his *Catalogus Illustrium Academicorum* (i. 542-649) this is the only one for whose connexion with Paris he produces a respectable authority. In some few cases a very late writer is cited, in most none at all. Crevier (i. 69) mentions a few names as belonging to the eleventh century, but without citing authorities.

period even one among the great educational centres of Europe; Remigius was the only master of any note who is recorded to have taught there, and his connexion with Paris, if historical, seems to have been of very short duration. It is not till quite the end of the eleventh century that anything like a stream of scholastic pilgrimage begins to flow towards Paris. The authors of the *Histoire Littéraire de la France* have spoken of the School of Remigius as the 'first cradle of the University of Paris'.<sup>1</sup> But the School of Remigius was no doubt connected with a Monastery—probably that of Saint Germain-des-Prés<sup>2</sup>—and the university schools were essentially secular. The only secular school that we hear of before the end of the eleventh century is the School of Ste Geneviève, which in the following century passed into the hands of the Canons Regular, and which at first had no organic connexion with the University. The University was an outgrowth of the Cathedral School of Paris,<sup>3</sup> and this school did not attain the very smallest repute till towards the close of the eleventh century. The transference of educational activity from the monks to the secular clergy constituted (as has been remarked) the great educational revolution of that century. In this change we may already discern the germs of the university movement.<sup>4</sup> In this sense we shall be right in finding

*Hist. Lit.* vi. 100.

<sup>2</sup> In the continuation of the history of Aimoinus of Fleury (*Rec. des historiens de France*, xi. 275), Remigius and Abbo are said to have been successive 'deans' of the monastery under Count Robert who 'Abbatis nomen assumpsit'.

<sup>3</sup> A curious relic of this connexion was the right of canons of Paris to teach theology and canon law without the authority of the University. It was not till 1384 that it was definitely decided that a canon must be a doctor of canon law before being appointed to one of the chapter schools. See *Chartul.* iii, Nos. 1486-9.

<sup>4</sup> In this change the zeal of Monastic Reformers probably co-

operated with the improvement of the cathedral schools. Cf. Petrus Damianus, *Opusc.* 36, c. 16, ap. *Patrol. Lat.* cxlv, c. 621. [On this subject cf. U. Berlière's bibliographical note in his *L'Ordre monastique des origines au xii<sup>e</sup> siècle* (3rd ed., 1924), p. 177; and Manacorda, i. 110.] The Benedictine Reform of 1336 forbids seculars to be taught with the Monks, and it is evident that there were not at this time any 'exterior schools'. Wilkins, *Concilia*, ii. 594. [On the other hand, the Benedictine General Chapters, at least in England, tended, through the appointment of proctors by abbots, to become assemblies of graduates, i.e. monks who had graduated in Oxford or

CHAP. V, § 1. the cradle of the University, not indeed in the School of Remigius, but in the School of William of Champeaux, the first known master of the cathedral school, and the first Parisian teacher who left his mark upon the development of the scholastic philosophy. It was not till the time of William that Paris even began to rival the scholastic fame of Bec or of Tours, of Chartres or of Reims. But half a century later Paris had fairly surpassed its rivals. It was the teaching of William's great pupil and opponent Abelard that first attracted students from all parts of Europe and laid the foundation of that unique prestige which the schools of Paris retained throughout the medieval period.<sup>1</sup>

The schools of Paris in the time of Abelard. The less imaginative historians of the University of Paris have generally been contented with tracing its origin to the teaching of Abelard. And it was undoubtedly to the intellectual movement of which Abelard is the most conspicuous representative that the rise of the University must ultimately

No university at this time. be ascribed. But there was nothing in the organization of the schools wherein Abelard taught to distinguish them from any other cathedral schools which might for a time be rendered famous by the teaching of some illustrious master. In the age of Abelard there were three great churches at Paris more or less famous for their schools. In the first place there was the cathedral, whose schools were presided over by William of Champeaux. Then, on the left bank of the Seine, there was the Collegiate Church of Ste Geneviève; and there was the Church of the Canons Regular of S. Victor's, where a school for external scholars was started by William after his retirement from the world. S. Victor's became the headquarters of the old traditional or positive theology, and produced the chief opponents of the rising dialectical or 'scholastic' theology—mystics like Adam and Hugh and Walter of S. Victor. Hence the school played no part in the development of the University: it had ceased to exist, or ceased to attract secular students, before the first traces of a university organi-

Cambridge from the Benedictine colleges (W. A. Pantin, in *Trans. R. Hist. Soc.*, 4th ser. x (1927), 221, 222).<sup>1</sup> [For comments on this view see above, p. 62.]

CHAP. V, § 1. zation begin to appear.<sup>1</sup> With both the secular schools of Paris Abelard was at one time or other connected. It was during the period at which he taught 'the liberal Arts' at Ste Geneviève that his teaching attracted the greatest crowds. For a time the 'Mount' of Ste Geneviève became the most famous place of education in Europe. But the external schools of Ste Geneviève appear to have declined, though not to have totally disappeared, by the end of the century. In 1147 the church passed from its secular chapter to a body of Canons Regular imported from S. Victor's and S. Martin-des-champs;<sup>2</sup> and though there are certainly traces of external schools in the 'Mount' after this date, the change was no doubt calculated to drive away secular masters. Before the beginning of the following century the cathedral seems to be the only centre of education for seculars in Paris:<sup>3</sup> it is from the Chancellor of Notre Dame alone that the masters obtain their licences: it is not till the second or third decade of the century that we again find the masters of arts attempting to cross the river and teach under the authority of the Abbot of Ste Geneviève. Denifle's repudiation of the old view that the University arose from a junction between the arts schools of Ste Geneviève and the theological schools of Notre Dame goes slightly beyond the evidence, but in the main he is unquestionably right in contending that it was the

<sup>1</sup> It had quite disappeared by 1237, *Chartul.* i, No. 111. In 1309 the university recognized the abbot and convent as 'boni et etiam legitimi scolares Parisienses in facultate theologica studentes', *Chartul.* ii, No. 675; Bulaeus, v, 208. [Rashdall does some injustice to the place of the abbey of S. Victor, and notably of the work of its greatest son, Hugh of S. Victor, in the history of scholasticism. See Grabmann, *Gesch. d. schol. Methode*, ii, 229-90; Fourier-Bonnard, *Hist. de l'abbaye royale et de l'ordre des chanoines réguliers de Saint-Victor de Paris* (Paris, 1904), vol. i; G. Paré, &c., *La Renaissance du xii<sup>e</sup> siècle*, especially pp. 218 sqq.]

<sup>2</sup> See documents in Bulaeus, ii, 216, 228-30; *Rec. des histor. de France*, xiii, 183, 291, xv, 503-5, 949-51; *Acta Sanctorum*, April, i, 617 sq.; Feret, *L'Abbaye de Sainte-Geneviève*, Paris, 1883, i, 101 sq.

<sup>3</sup> This is strongly supported by a rhetorical description of Paris in a letter of Gui de Bazoches (A.D. 1175-90) which declares that 'in hac insula perpetuam sibi mansionem septem pepigere sorores, artes videlicet liberales', without any reference to the schools of Ste Geneviève, though he dwells upon the glories of the 'duo suburbia' on the two banks. *Chartul.* i, *Introduct.*, No. 54.

CHAP. V, cathedral schools which eventually developed into the university.<sup>1</sup>

Certain scholastic traditions date from Abelard's time. It was the fame of Abelard which first drew to the streets of Paris the hordes of students whose presence involved that multiplication of masters by whom the university was ultimately formed. In that sense, and in that sense only, the origin of the University of Paris may be connected with the name and age of Abelard. Of a university or a recognized society of masters we hear nothing; nay, the existence of such an institution was impossible at a time when the single master of the cloister school seems to have been as a rule the only recognized master in or around each particular church. At the same time we do find in the schools of this period some slight traces of a traditional discipline and organization, of a kind of scholastic common-law which formed the basis of the later academic polity.

Origin of the licence. Education in France since its revival under Charles the Great had been so completely confined in practice to the cathedrals and monasteries that no express legislation was

<sup>1</sup> See Denifle, i. 656 sq. He declares that all trace of external or secular schools at Ste Geneviève is lost after 1147. But Giraldus Cambrensis (ed. Brewer, i. 93) tells us that his old master Willelmus de Monte obtained his name 'quoniam in monte S. Genovefae Parisius legerat'. Now this William died Chancellor of Lincoln in 1213 (Le Neve, *Fasti Eccles. Ang.*, Oxford, ed. T. D. Hardy, 1854, ii. 91); and Giraldus was born in 1147, so that there must have been secular schools at Ste Geneviève at least as late as 1165 or 1170. Nor do the letters of Stephen of Tournai, Abbot of Ste Geneviève 1176-91, seem to me to prove Denifle's case. The Abbot refuses the request of the Archbishop of Lund, who has asked that his nephew should study in the secular schools: 'Quod autem de ipso nobis per litteras vestras intimatis vel in monte vel Parisius

ad secularium scolas et venditores verborum mittendo . . . non admittimus.' (*Lettres*, ed. Desilve, p. 109; a. 1185-8. *Chartul.* i, Introd., No. 42.) The nephew was residing in the convent, and was therefore not allowed to go to secular schools, but the words distinctly imply that there were secular schools 'in monte' as well as in the city proper. It is impossible to say whether there were any schools left at Ste Geneviève at the beginning of the thirteenth century; but it is plain that at this time the cathedral 'Parvis' was the centre of such schools. This is one of the points upon which Denifle has been criticized by Kaufmann, *Zeitschr. der Savigny-Stiftung*, vii. 124 sq.; but the latter fails to see the substantial truth of Denifle's main contention—that all Paris masters were originally licensed by the cathedral chancellor

needed to establish the necessity of the church's sanction to the teacher.<sup>1</sup> In the days when a church normally possessed no more than one authorized master, this master might or might not, it would appear, be a member of the capitular body, according to circumstances. Any member of the church from the bishop or abbot downwards who was capable of teaching would gather other scholars around him. If none of the canons were competent to teach, they would hire the services of some wandering scholar. From the eleventh century onwards, however, we find a tendency to make the master of the schools, as he was called, a regular member of the cathedral body.<sup>2</sup> This was done in one of two ways. Either the new dignity of *scholasticus* or *magister scholarum*<sup>3</sup> was created, or the duty of presiding over the schools was annexed to some already existing office—often in southern Europe to that of *magiscola*, *primicerius* or *precentor*,<sup>4</sup> in northern Europe more frequently to that of chancellor. The

<sup>1</sup> In face of the difficulty which Abelard constantly experienced in lecturing at Paris, I cannot imagine what Kaufmann (*Deutsch. Univ.* i. 246) can mean by saying that the works of Giraldus Cambrensis and Stephen of Tournai show 'dass die Pariser Lehrer in den letzten Jahrzehnten des 12. Jahrhunderts noch in ähnlicher Unabhängigkeit neben einander standen wie zur Zeit Abälards, dass es keine überwachende Behörde und keine bindende Regel gab'. Stephen of Tournai's later complaints of the extreme youth and profane audacity of the masters (*Lettres*, ed. Desilve, pp. 344, 345) do not show that no authority was recognized at this time but only that the authority was not efficient. Kaufmann's whole view of the 'Lehrfreiheit' of the early Middle Ages as regards the north of Europe seems to me opposed to all the evidence, though no doubt there may have been exceptions and irregularities in the application of the general principle of ecclesiastical control.

<sup>2</sup> For instances of such arrangements see *Hist. Lit.* ix. 31 sq. The Council of Lateran in 1179 required that in every cathedral 'magistro qui clericos eiusdem ecclesie et scholares pauperes gratis doceat, competens aliquod beneficium prebeatur'. *Chartul.* i, Introd., No. 12. But it seems probable that by this time the duties of the titular *magister scholarum* were limited to supervision and that the benefice was intended for an actual working master; the matter is, however, an obscure one. Cf. Joly, pp. 173, 174. The Fourth Lateran Council repeats the injunction, adding that every Metropolitan Church should have also a 'Theologus'. (Mansi, xxii, c. 999.)

<sup>3</sup> Instances of both will be found below in the chapters on the French and Spanish universities. In Narbonne and Gascony we find the title *capischola*; Joly, pp. 160, 166.

<sup>4</sup> So also at Metz. *Hist. Lit.* vii. 28. For other cases see below, vol. ii, ch. viii, § 5.

CHAP. V, original duties of the chancellor were analogous to those of § 1. a royal chancellor, i.e. to keep the chapter seal and to draw up the letters and documents which required sealing; and, as this function demanded an amount of learning which was not a matter of course in those days, it was natural enough that the supervision of the schools, and again the care of the library, should be entrusted to the same functionary.<sup>1</sup> But while a definite ecclesiastical status was thus given to the head of the capitular school, a tendency was also at work which made him less and less of a teacher himself. Wherever the number of scholars required it, he would naturally appoint others to teach under his direction. If he still taught theology himself, he would delegate the teaching of grammar and dialectic to others;<sup>2</sup> and in the course of time the elementary instruction of the choir-boys and other poor scholars seems usually to have been delegated to a regular paid master who taught under the supervision of the nominal head of the schools. But with the rapid spread of education in the twelfth century there also grew up round the more famous churches

<sup>1</sup> Thus an agreement between the chapter of Paris and the chancellor drawn up in 1215 (*Chartul.* i, No. 21) contains the following clause: 'Libros quidem Parisiensis Ecclesie sine cantu corrigere, ligare et in bono statu tenebitur conservare, et talem instituere Magistrum in Claustro qui sufficiens sit ad Scholarum regimen, et ad officium quod debet facere in Ecclesia, et ad litteras capituli, si opus fuerit, faciendas.' Cf. the very similar statute of S. Paul's, London; *Registrum Stat. et Consuetud. Eccl. Cath. S. Paul. Lond.*, ed. Simpson, 1873, p. 23. At Paris the supervision of the schools by the chancellor may be traced at least from 1120. Guérard, i. 28, 142. As some confusion exists on this subject in the minds of some English writers, it may be well to point out that the chancellor of the church is a quite different officer from the chancellor of the diocese,

a title applied by modern English usage to the bishop's 'official'. [In the thirteenth century the chancellor of a bishop was distinct from both the chancellor of the cathedral and the official.]

<sup>2</sup> Cf. the statute of the Metropolitan Church of York: 'Cancellarius (qui antiquitus Magister Scholarum dicebatur) Magister in Theologia esse debet, et iuxta Ecclesiam actualiter legere, et ad ipsum pertinet Scholas Grammaticales conferre. Sed Scholae Eboracenses, alicui Regenti in artibus . . . qui secundum antiquam consuetudinem Ecclesiae ipsas habebit per triennium.' *Brit. Mus. Addit. MS.* (Cole) 5884, f. 63. So at London, while the chancellor appoints the grammar master, he is bound to teach theology 'per se vel substitutum ab eo ydoneum'; *Chartul. Univ. Paris.* ii, No. 791. Cf. Simpson, *loc. cit.*, p. 413 sq.

an increasing number of masters anxious to obtain permission CHAP. V, to teach scholars who could afford to pay something for their § 1. education. Hence it became usual for the *scholasticus* or chancellor to grant a formal permission to other masters to open schools for their own profit in the neighbourhood of the church. In 1138 we find a council at London forbidding the growing practice of selling such permissions.<sup>1</sup> By a decretal of Alexander III<sup>2</sup> and a little later at the Third Council of Lateran in 1179 a still more important step was taken. Not only were the presiding masters of the church schools forbidden to take any fee or reward for granting the *licentia docendi* (as the permission to teach had come to be called) but they were absolutely required to grant such a licence to every properly qualified applicant.<sup>3</sup> The chancellor thus ceased to be the holder of a lucrative educational monopoly, and became merely a judge of the fitness of the candidates for the teaching

Right to licence conceded.

<sup>1</sup> 'Sancimus praeterea, ut si magistri scholarum aliis scholas suas locaverint *legendas* pro precio, ecclesiasticae vindictae subiaceant' (Mansi, *Concilia*, xxi, c. 514). Bulaeus reads 'tenendas' (ii. 155), but the expression 'tenere scholas' is unusual if not unparalleled: read 'regendas'. Crevier is inaccurate in saying that this council as well as the Lateran Council of 1179 'ordonnent aux maitres des Écoles d'accorder la *licence* à tous ceux qui en sont dignes' (i. 256). It merely forbids the sale of the permission, and it should be noticed that the technical expression *licentia docendi* does not occur till the time of Alexander III. A comparison between the language of the two canons throws much light on the growth of the system.

<sup>2</sup> 'Sub anathematis interminatione hoc inhibere curetis ne qui dignitate illa, si dignitas dici potest, fungentes, pro prestanda *licentia docendi* alios ab aliquo quidquam amodo exigere audeant vel extorquere; sed eis districte precipiatis,

ut quicumque viri idonei et litterati voluerint regere studia litterarum, sine molestia et exactione qualibet scolas regere patiantur, ne scientia de cetero pretio videatur exponi, que singulis gratis debet impendi.' *Chartul.*, Introd., No. 4. The custom of taking fees was, however, so inveterate, that the Chancellor of Paris obtained a decretal enjoining respect for his vested interests. *Ibid.*, No. 8.

<sup>3</sup> 'Pro *licentia* vero *docendi*, nullus omnino pretium exigat, vel sub obtentu alicuius consuetudinis ab eis qui docent, aliquid querat, nec docere quemquam, qui sit idoneus, petita *licentia* interdicat. Qui autem contra hoc venire presumpserit, ab ecclesiastico fiat beneficio alienus. Dignum quippe esse videtur, ut in Ecclesia Dei fructum sui laboris non habeat, qui cupiditate animi dum vendit *docendi* *licentiam*, ecclesiasticum profectum nititur impedire.' *Chartul.*, Introd., No. 12; Mansi, xxii, c. 228; Decretals of Gregory IX, lib. v, tit. v, c. 2.

CHAP. V, office or, as we might say, an ecclesiastical superintendent of § 1. education.<sup>1</sup>

Characteristics of the French university-system.

The control of the chancellor on the one hand, and the right of the competent teacher to a gratuitous licence on the other, formed the basis of the French educational system. The control of the chancellor distinguished it from the early Italian system: without the corresponding right, a university of masters could never have grown up at all.<sup>2</sup>

<sup>1</sup> Specht lays it down that the authority of the *scholasticus* extended to schools of the whole diocese; and cites the case of Aschaffenburg (*Gesch. des Unterrichtswesens in Deutschland*, Stuttgart, 1885, pp. 187, 188). This was certainly the case in some places, e.g. at Noyon, *Chartul.* i, No. 322, and Amiens (Darsy, *Les Écoles et les collèges du dioc. d'A.*, Amiens, 1881, pp. 20, 181); but sometimes it only extended to the city, e.g. in London, where to the chancellor of S. Paul's 'subsunt scolares in civitate morantes, exceptis scolariibus scolarum de Arcubus et Sancti Martini, qui se privilegiatos in hiis et aliis esse contendunt'; *Registrum S. Paul.*, ed. Simpson, p. 23. [The chancellor of Lincoln Cathedral had the duty 'scolas theologie regere', and 'quod omnes scolas in comitatu lincolnie pro suo conferat arbitrio, exceptis illis que sunt in prebendis'; Bradshaw and Wordsworth, *Lincoln Cathedral Statutes*, i. 284, 285. For other exceptional cases see Gaines Post in *Haskins Anniversary Essays*, p. 256, note.] It must not be assumed that because a municipality sometimes supported a school and nominated the master he could dispense with the chancellor's licence. See *Extracts from Council Reg. of Aberdeen* (Spalding Club), i. 5, 37. The theory of Mr. Mullinger (*Cambridge*, i. 78) that the conferment of the licence originally rested with the teachers is inconsistent with all

our data as to Paris: it is possible that it was the case under the very peculiar circumstances of Oxford and Cambridge. Mr. Mullinger misses what seems to me the keystone of the whole constitutional structure, i.e. the distinction between the licence conferred by the bishop's representative and the *magisterium* conferred by the university.

<sup>2</sup> [These conclusions should be modified in the light of the penetrating examination made of the legislation of Alexander III by Gaines Post, 'Alexander III, the *licentia docendi* and the rise of the Universities', in *Haskins Anniversary Essays* (Boston, 1929), pp. 255-77. The object of Alexander III was to prevent simony, maintain the freedom of the licence and the right of poor students to free instruction, and generally to control the chancellors in cathedral churches and diocesan schools. His action directly attacked the chancellor of Notre Dame at Paris, although in fact the chancellor, who was at this time more than a 'superintendent of education', continued to charge for the licence, but only indirectly affected the growing corporation of masters, who were not yet authorized to take part in the grant of the licence. Their share, whether by examining students or presenting them, was a matter of custom and not yet clearly established. They became a *de facto* university apart from

The right to the licence once established, there was nothing to prevent the multiplication of masters in connexion with any famous church school. Wherever scholars congregated round some famous teacher, the number would increase of those who were ambitious of becoming teachers themselves. And, wherever teachers multiplied, there naturally in that age of association grew up certain professional customs and unwritten laws which in some cases ere long crystallized into statutes of an organized guild or university.

That nobody should set up as a teacher without having been himself for an adequate period taught by some duly authorized master was almost too obvious a principle to need formal enactment.<sup>1</sup> That he should not enter upon the work of teaching without his former master's sanction and approval was an almost equally natural piece of professional etiquette. In the time of Abelard we see these principles, if not firmly established, at least on their way towards recognition. We have seen how, when the famous dialectician became ambitious of distinguishing himself as a theologian, it was considered necessary for him to put himself under a master before he could teach in another faculty, as it would have been called in later times; and, when after an incomplete period of study

papal intervention. Alexander's action, on the other hand, although he 'had no university consciousness', did help to bring the chancellor of the later university under papal control, just as the Bull of Honorius III *super speculam* (1219), which secured the income from their prebends for five years to promising students sent from a cathedral chapter to study in a higher faculty of theology, helped the teachers of theology in Paris and elsewhere (Cf. Gaines Post, 'Masters' Salaries and Student-Fees' in *Speculum*, vii (1932), 181-98, especially pp. 182-6). On the whole question of the chancellor or *magiscola* and papal legislation see Manacorda, i. 65 sq.]

<sup>1</sup> It seems that a period of five

to seven years was expected at an early period. Nigellus Wireker, in his *Speculum Stultorum* (*Satirical Poets of the 12th Century*, ed. Wright, 1872, i. 9, 10), speaks of the 'asinus, qui Parisius scholas frequentat . . . quia discedens nomen urbis non poterat retinere in qua moram fecerat septennem'. In the *Life* (written c. A.D. 950) of Aicardus, who lived as early as the seventh century, we read 'Quinquennio transacto visum illi fuit magistrum fore et inter primos conscholasticos residere' (Mabillon, *A. SS. Ord. S. Ben.*, Venice, 1733, ii. 916)—an expression which points to something like an inception about A.D. 950. It cannot of course be relied upon as evidence for the seventh century.

CHAP. V, § 1. Masters united by a body of customs formed guilds.

Germs of the inception.



CHAP. V, § 1. he ventured without his master's permission to begin the lectures on Ezekiel, this unauthorized assumption of the magisterial office was treated not merely as a scandalous exhibition of immodesty, but as an actual ecclesiastical offence. He was compelled to leave Laon,<sup>1</sup> and at the Council of Soissons his conduct on this occasion was made the subject of a distinct article of charge, the accusation being not that he had taught without the licence of the Church—though even this would have been unlawful—but that he had begun to teach 'without a master'.<sup>2</sup> Then too the opening of his course on Ezekiel seems to be spoken of as a kind of formal and public inaugural lecture, or what would have been called in later times an 'inception', though, since no master presided over it, it was an irregular one. How far the inception was already accompanied by those ceremonies which were afterwards an essential part of it, we cannot tell. It is possible that some of them may be of great antiquity: it is just possible that some of them may have descended by some vague tradition from the philosophical and rhetorical schools of the old Roman world. We have already seen the establishment of a very similar institution in Italy; the idea of the 'principium' or 'inceptio' was essentially the same as that of the Italian 'conventus'.<sup>3</sup> A clear understanding of this idea is absolutely essential to appreciate the constitutional theory of the Parisian university. It was out of this custom that the university of masters ultimately grew.

Idea of the inception. The idea of the inception involved two elements. It was,

<sup>1</sup> For a curiously parallel story cf. Martène, *Thesaurus Anecd.* iii. 1714.

<sup>2</sup> 'Quod sine magistro ad magisterium divinae lectionis accedere praesumpsisset,' Bulaeus, ii. 66. In the words 'Quod nec Rom. pontificis nec ecclesiae auctoritate commendatus legere publice praesumpseram' from Abelard's *Hist. Calam.*, Bulaeus (i. 284, ii. 67, 669) relies upon a corrupt text. Cousin reads *commendatum* (sc. libellum) for *commendatus*. The notion that the

chancellor conferred the licence in the name of the Pope is much later. See Denifle, i. 765. It is tempting to see the germs of the baccalauriate in the position occupied by Abelard when he taught in the school of another master.

<sup>3</sup> The Paris term 'principium' is often applied to the Bologna 'conventus' or 'conventatio'; more rarely the Paris licence examination is styled 'privatum examen', and the inception 'publicum examen'.

CHAP. V, § 1. on the one hand, the formal entrance of a newly licensed teacher upon his functions by the actual performance of its duties—a ceremony which, according to the ideas of the Roman law, was essential to the actual investiture of an official with his office.<sup>1</sup> On the other hand, it was the recognition of the new-comer by his old master and other members of the profession—his incorporation into the society of teachers.<sup>2</sup> The new master had a cap placed upon his head, which is sometimes explained as the old Roman ceremony of manumission or emancipation from the subjection of pupilage. But the biretta<sup>3</sup> was also a badge of the mastership, which with the other insignia of his office—the ring and the open book—he received from his former master, who further conferred upon him a kiss and a benediction. Then, seated in the magisterial cathedra, he gave an exhibition of his professional capacity by delivering an inaugural lecture or holding an inaugural disputation. The idea that a new-comer should 'pay his footing' seems almost a primitive instinct of human nature. It formed an essential part of inception that the 'inceptor' should entertain at a banquet the whole or a

<sup>1</sup> For similar customs in the merchant guild see Gross, *The Guild-Merchant*, Oxford, 1890, i. 33, 34.

<sup>2</sup> Compare the reading of the Gospel by the newly ordained deacon. In the Roman Church the newly ordained priests stand for the rest of the office in a circle round the altar and are 'concelebrant' with the bishop (cf. Hatch, *Organization of the Early Christian Churches*, London, 1882, pp. 131, 132). A relic of the last usage survives in the neglected Anglican rubric which requires the newly ordained priests to 'remain in the same place where Hands were laid upon them, until such time as they have received the Communion'. The tradition of the insignia of the various orders—which in the case of the minor orders constitutes the whole of ordination—is another

point of analogy between the ceremonies of graduation and those of ordination. On a lower level an excellent illustration of the idea is supplied by the investiture of the grammar-master with a birch with which he proceeded to flog a boy. See below, chap. xiv. Another analogy is supplied by the ceremony with which a Scottish judge takes possession of his office. After presenting his patent to his colleagues, he tries two cases and reports his decision on them before being sworn in as a member of the 'college of justice'. There was anciently a somewhat similar probation for serjeants-at-law in England. See Pulling, *Order of the Coif*, London, 1884, p. 8.

<sup>3</sup> The 'biretta' was always regarded as the most important of the insignia of the office. Bachelors taught uncovered.

CHAP. V, considerable number of his new colleagues. Presents of gloves § 1. or gowns had also to be made; and gradually contributions in money to the funds of the society were exacted in addition to the presents to its individual members—an exaction which has ever since been the inseparable accompaniment of degreeta-king even in those universities in which all other formalities are most generously dispensed with. The whole affair was originally nothing but a piece of unauthorized buffoonery—hardly more dignified or important perhaps than those sometimes brutal and sometimes silly student initiations which the masters of later times tried to stamp out by every possible penalty, and which still linger on in bad schools and in the artistic *ateliers* of modern Paris.<sup>1</sup>

Out of this custom, however, the idea of a guild or corporation of teachers in all probability arose, as perhaps other guilds may have arisen from similar initiations. Gradually, and probably by imperceptible steps, the ceremony passed from a mere jollification or exhibition of good-fellowship into the solemn and formal admission of a new master into an organized and ultimately all-powerful corporation of teachers. And the trades union of teachers rapidly succeeded in acquiring a monopoly of the trade. 'Inception' became as

<sup>1</sup> It is not impossible that the magisterial initiation was partly copied from the student initiation, which was certainly of great antiquity. See the passages cited by Conringius, *Op.* v. 447, 448. Gregory Nazienzen gives an elaborate account of his *τελετή* at Athens, which he describes as *παιδιά σπουδῆ ἀμμικτος*. *Or.* xliii, ed. *Patrol. Græca*, xxxvi, cc. 515, 516. Photius, on the authority of Olympiodorus, declares that in the fifth century no one was allowed to teach (*εἰς τὸν σοφιστικὸν θρόνον ἀναχθῆναι*) at Athens *ἢ ἢ τῶν σοφιστῶν ἢ γνώμη ἐπέτρεπε καὶ αἱ κατὰ τοὺς σοφιστικοὺς νόμους τελεταὶ ἐβεβαίουν τὸ ἀξίωμα*. The new master went to the bath, where he and his friends had to force an entrance against a body of students who

made a *στάσις* and tried to keep them out. He then came out wearing the *τρίβων*, was escorted home in solemn procession, *δαπάνας αἰτιανοὺς φανερὰς εἰς τοὺς τῶν διατριβῶν προσατάς τοὺς λεγομένους Ἀκρωμίτας*, *ibid.* ciii. 269. The parallel to the later inception is curiously exact. An edict of Justinian forbids practical jokes—an integral part of the *τελετή*—on freshmen in the law schools (*Digest. Proæm.*). In medieval Paris frequent statutes were passed against the exaction of money from *bejauni* (= *bees-jaunes*, yellow-bills), i.e. unfledged birds (*Bulæus*, iv. 266; *Chartul.* ii, No. 1032). In the fifteenth century the practice of initiating *bejauni* passed into the brutal ceremony of *depositio*, as to which see below, ch. xiv (vol. iii, p. 379).

necessary to the teacher as the chancellor's licence. The 'licentiate' was not regarded as a full 'master' or 'doctor' till he had 'incepted'. § 1.

Another great institution which was a development of the same idea was the institution of chivalry. The original conception of knighthood was the solemn reception of the novice into the brotherhood of arms. The blessing of the priest was required by the knight bachelor as the scholastic bachelor required the licence of the chancellor; but it was by the touch of the veteran's sword that the candidate received his actual initiation into the brotherhood of arms, as it was through the veteran master's act that the licentiate became a full member of the brotherhood of teaching. Both of these great institutions arose from the transference to the military and the scholastic life respectively of one of the most characteristic social and political ideas of the age—the idea of a guild or sworn brotherhood of persons following a common occupation. In the later ceremonies attending the bestowing of degrees there are many traces of the idea that graduation formed a sort of intellectual knighthood. In some of the Spanish universities the new doctor was actually invested with a sword: in all universities the ring formed one of the insignia of the doctorate, and at Vienna the preliminary bath of the candidate for knighthood appears to have been imitated by candidates for degrees.<sup>1</sup>

In the age immediately succeeding the years of Abelard's teaching Paris leapt almost at one bound into a unique

<sup>1</sup> Such at least is the only explanation I can give of the words of the statute: "Quod nullus baccaliorum aut scolarium finito examine pro baccalariatu aut magisterio aliquem inuitet ad balneum ante suam determinationem aut inceptiorem preter examinatores, cum quibus balneetur in eodem balneo, si saltem pro tunc sibi placeat balneari, sub pena retardacionis, &c. . . . quod nullus licentiatius post suam inceptiorem exponat in balneo ultra 30

denarios ultra hoc, quod placet sibi pro magistro, qui cum promovit," &c. (*Kink, Gesch. d. kais. Univ. Wien*, i. ii. 55.) It is obvious from these last words that for internal application some liquid more expensive than water was provided; and it is just possible that the 'bath' was wholly metaphorical, but the explanation given in the text is the more probable. Cf. p. 228, above.

The university or guild of masters grew out of inception.

Analogy of knighthood.

Multiplication of masters at Paris.

CHAP. V, § 1. position in the scholastic world. The cathedral or abbey-schools, however numerous their students, had owed their celebrity entirely to one or two illustrious teachers. Paris became a city of teachers—the first city of teachers the medieval world had known. Here then were the materials for the formation of a university. In that age of guilds we may almost say that the formation of a teaching-guild in some form or other was inevitable. At what precise date the body of teachers loosely bound together by a professional etiquette assumed something like the form of an organized society we cannot exactly determine. Any precise date that might be given would be essentially misleading. The university was not made but grew. We can only notice the few recorded facts which throw light on the process of development, culminating (as we shall see) at the beginning of the thirteenth century in the reduction of the hitherto unwritten customs of the profession to a code of regular statutes or by-laws.

A statute of the bishop and chapter in 1127<sup>1</sup> ordering that none but members of the cathedral body should lodge in the cloister seems to mark the beginning of the process by which a *studium generale* was evolved out of the mere cloister school. Before long we find the teachers too numerous to be accommodated within the cloister or even in the island round the cathedral walls. And now we hear of masters licensed by the Chancellor of Notre Dame teaching in houses built upon the bridges of the Seine.<sup>2</sup> At about the same time

<sup>1</sup> Bulaeus, ii, 666; Guérard, i, 339. This regulation was, however, relaxed in the case of young men of royal or illustrious birth, who were frequently admitted to board with the canons (Bulaeus, iii, 307; *Chartul.* i, No. 283). S. Louis was one of the band, as well as his brother Philip, afterwards archdeacon in the same church. Other instances are given in the *Hist. Lit.* ix, 62. At the end of the century the cathedral schools were moved from the cloister of the cathedral or the adjoining episcopal palace to the

'parvis' between the palace and the Hôtel-Dieu. The special cathedral school for the cathedral 'clerks' was of course quite distinct from the schools which now began to multiply around it. In the time of Bishop Maurice (1160–96), a statute of the bishop and chapter ordained 'ne quis canonicorum domos claustrales alicui scolari conduceret aut etiam commodaret'. *Chartul.* i, Introd., No. 55.

<sup>2</sup> One of John of Salisbury's masters was known as Adam de Parvo Ponte, from his school on

—towards the middle of the century—we can trace in the writings of John of Salisbury a multiplication of masters both round the cathedral and in the Mount of Ste Geneviève.<sup>1</sup> The absurd story which represents Gratian as having deliberately 'invented' academical degrees and Peter the Lombard as having transferred the system to Paris may be accepted as fixing roughly the period at which the honours of the master's chair began to be sought by those who had no intention of devoting themselves, or at least of permanently devoting themselves, to the profession of teaching. The consequences of this rising passion for 'degrees' were particularly important to the faculty of arts. We have seen how in the days of John of Salisbury 'grammar' and rhetoric were taught and studied as earnestly as theology. The teachers were mature scholars who looked upon teaching as their life's work. The students studied for long periods. After the middle of the century the passion for graduation together with the absorbing enthusiasm for the scholastic philosophy and theology caused the usual course of study in the Latin language to be reduced to a minimum. The mastership in the philosophical faculty became the natural goal of every student's ambition and the usual if not essential preliminary to study in the higher faculties. Hence the enormous multiplication of masters, and especially of very young masters, which was one of the immediate causes of the growth of the university.<sup>2</sup>

Especially  
masters of  
arts.

the Petit-Pont. He was afterwards Bishop of S. Asaph (*Hist. Lit.* ix, 62). There were also a Jean de Petit-Pont and an Adam de Grand-Pont who taught at Paris later in the century (*ibid.*, p. 75); also a Pierre de Petit-Pont (*ibid.*, p. 78). A letter of Gui de Bazoches (1175–90) declares that 'Pons . . . Parvus aut pretereuntibus, aut spatiantibus, aut disputantibus logicis dedicatus est'. *Chartul.* i, Introd., No. 54.

<sup>1</sup> [For the early masters and their dates see R. L. Poole, 'The Masters of the Schools of Paris and Chartres in John of Salisbury's time',

*E.H.R.* xxxv (1920), 321–42; reprinted in his *Studies in Chronology and History* (Oxford, 1934), pp. 223–47; cf. C. C. J. Webb, *John of Salisbury* (1932), pp. 5–10.]

<sup>2</sup> [Cf. John of Salisbury, *Metalogicon* (i, 24, 25), ed. Webb, pp. 57, 58 on the contrast between the method of Bernard of Chartres and later practice (c. 1159) when professors undertake to teach the whole of philosophy in two or three years. 'Isti hesterni pueri, magistri hodierni.' Gerald of Wales gloried in this rapidity. See also the letter of Stephen of Tournai, quoted below, p. 303, n. 1]. Cf. *Carmina Burana*

CHAP. V, § I. Early scholastic privileges.

In the second half of the twelfth century we meet with increasingly frequent recognition of scholars as a distinct and privileged class. The privileges of the scholars in northern Europe rested upon a somewhat different basis to the privileges bestowed upon students in the Italian universities. In the Italian towns scholars were recognized as a class distinct alike from the clergy and from the ordinary lay population: their privileges were obtained for the most part by treaty with the citizens. In France all students and still more all masters in the church schools were assumed as a matter of course to be clerks, and enjoyed—like a host of other persons connected however remotely with the service of the church—the immunities of clerkship as fully as persons actually in orders. Hence the Parisian scholar's privilege of trial in the ecclesiastical courts originates in no explicit grant of any secular or ecclesiastical authority. It existed long before the rise of the university. After the grant of the special privilege of trial by their own masters to the students of Bologna by Frederick I, some attempts were, indeed, made to introduce the same principle into France. Thus in the case of a quarrel at Reims, Alexander III ordered that the townspeople should allow scholars to be tried by their own masters,<sup>1</sup> and the

(ed. Schmeller, Breslau, ed. 2, 1883), p. 40:

'Sed retroactis seculis  
vix licuit discipulis  
tandem "nonagenarium"  
quiescere post studium.

At nunc decennies pueri  
decusso iugo liberi  
se nunc magistros iactitant,  
cæci cæcos præcipitant.'

So again:

'Iam fit magister artium  
qui nescit quotas partium  
de vero fundamento:  
habere nomen appetit  
rem vero nec curat nec scit,  
examine contento.

Iam fiant baccalaurei  
pro munere denarii

quam plures idiotæ:  
in artibus, ab [?] aliis  
egregiis scientiis  
sunt bestiae promotæ.'

Du Ménil, *Poésies populaires du moyen âge*, Paris, 1847, p. 153.

But of this poem the date is unfortunately doubtful.

<sup>1</sup> 'Prohibitæ omnibus ne prefatos scolares contra libertatem eorum in aliquo molestare audeant vel gravare, quandiu coram magistro suo parati sunt iustitie stare.' *Chartul.* i, Introd., No. 5. Two points are to be remarked in this document: (1) that the principle is claimed as an old custom; (2) that it holds good as against ecclesiastical censure as well as civil justice. The appeal to Rome had

CHAP. V, § I.

earliest papal statutes of Paris—those of 1215—appear to recognize the same privilege. But the youth, number, and legal inexperience of the masters of arts must have made a system which eventually broke down even at Bologna wholly unworkable at Paris, and the master's jurisdiction was rapidly superseded by the ordinary ecclesiastical courts and by the extraordinary academical tribunals which the growth of the universities called into existence in the course of the following century.<sup>1</sup> Another remarkable privilege was possibly granted to the masters and scholars of Paris before the close of the twelfth century. Louis VII is said to have authorized the masters to suspend their lectures as a means of protest in the event of an outrage being committed upon a master or scholar as a means of compelling the authorities to grant redress.<sup>2</sup>

arisen in consequence of the conduct of a certain 'J. Presbyter de burgo S. Remigii' who had been derided by certain scholars when publicly dancing on a Sunday. Provoked by this he first assaulted the scholars and broke the windows and doors of their schools, and then (without applying to archbishop or official) promulgated sentence of excommunication against them! So at Salisbury, where no university existed, there was a dispute between the sub-dean and the chancellor in 1278 for ecclesiastical jurisdiction 'in scholasticos in ciuitate Sarisburiensi studiorum causa commorantes'. See Caius, *De Antiq. Cant.* (1574), p. 110. [Cf. Leach, *Schools of Medieval England*, pp. 165, 178. It should be remembered that Frederick I recognized the authority of the bishop. The masters, apart from the recognized ecclesiastical authority, would have a moral disciplinary authority of a paternal character. Cf. the decree of the legate Guala (below, p. 304, note) and Langton's commentary on Exodus xxi. 35, 36, summarized in *Theology*, xvii (1928), 90.]

<sup>1</sup> The Bull of Celestine III in 1194 (*Chartul.* i, Introd., No. 15), directing that 'causas seculares', or (according to another reading) 'pecuniarias' of 'clerici Parisius commorantes' should be tried by canon law is usually quoted as the foundation of the ecclesiastical privilege of the scholars. But (1) this privilege appears to have been covered by the general principle above explained. (2) The Bull is not specially applicable to scholars. (3) The true explanation of it would seem to lie in the secular jurisdiction of the Bishop of Paris. Causes of laymen would of course be tried by the ordinary law; but a doubt would arise as to the law to be applied to the civil cases in which ecclesiastics were either plaintiffs or defendants. This is made particularly clear by the concluding words 'nec permissatis iuri scripto consuetudinem prevalere'. See Bulaeus, ii. 498; Denifle, i. 679; *Chartul.* i, Introd., No. 15, note.

<sup>2</sup> This rests on the authority of William the Breton, *De Gestis Philippi Augusti*, in *Rec. des historiens de France*, xvii. 82 (cf. p. 395).

CHAP. V, § 1. The text of this privilege, if it ever assumed a documentary form, is not preserved; but, so far as appears, there was nothing in it to constitute a recognition of the university or corporation of masters as such.

First trace of university, c. 1170. So far we have heard nothing of a university in the strict sense of the word. One passage, and one only, in all the chronicles and documents of the period supplies us with positive evidence of the existence of a guild of masters at Paris before the beginning of the thirteenth century. In the life of Johannes de Cella, Abbot of S. Alban's, by his pupil Matthew Paris, we are told that the subject of the biography was, as a young man, a student at Paris and was there admitted into the 'fellowship of the elect masters'.<sup>1</sup> The Abbot died 'full of days' in 1214. He may therefore be assumed to have become a master not much later than A.D. 1170 or 1175. At about that date then the society of masters had some kind of existence, however indefinite, inchoate, and rudimentary. The complete silence of John of Salisbury, whose works are full of reminiscences of student life at Paris, and the whole account which he gives of his own career as student and teacher, forbid us to place the first beginnings of the university earlier than the middle of the century. It is therefore a fairly safe inference that the period 1150-70—probably the latter years of that period—saw the birth of the University of Paris. We must beware, however, of exaggerating the extent and definiteness of the association implied by the use of such expressions as society or university. They prove little more than the fact that it was customary for a master, after being licensed by the chancellor, to be formally initiated into the society of his fellow masters. They point to the existence of

<sup>1</sup> 'Hic in iuventute scolarum Parisiensium frequentator assiduus ad electorum consortium magistrorum meruit attingere.' *Gesta Abbatum Mon. S. Alb.*, ed. Riley, London, 1867, i. 217. [*Consortium* is, of course, Matthew Paris's word and reflects the thought of the thirteenth century. The word was first applied to the masters of Paris by

Innocent III in 1208-9: *Chartul.* i, No. 8; cf. Gaines Post in *Speculum*, ix. 423, n. 9.] Bulaeus indeed (ii. 489, 490) represents the university as sending a legate to the Pope in 1192, but his authority does not necessarily imply corporate or official action. Cf. Stephen of Tournai, *Lettres*, ed. Desilve, p. 295.

meetings of the masters for the celebration of these inceptions, and probably also for disputation and perhaps upon rare emergencies to concert measures for the vindication of an injured colleague or student, for the punishment by expulsion or professional excommunication of a breach of professional etiquette, or for the pursuit of some similar common object. But two facts are a sufficient indication of the amorphous and merely customary character of the bond which held together the guild into which the masters of Paris were spontaneously, and perhaps almost unconsciously, constituting themselves. Till *circa* A.D. 1208 the university had no written statutes, and till a considerably later period no head or presiding officer.<sup>1</sup>

<sup>1</sup> Innocent IV, on the authority of the civil law, lays it down that 'adesse collegii non exigitur, quod ibi sit praelatus'. Decret. 3. De prae-bend. *Cum non* (Venice, 1578, p. 147). To say with Denifle (i. 129) that the chancellor was to some extent ('gewissermassen') *caput generale* of the university seems to me essentially misleading. He may have been *caput* of the *studium*, but he was not even *ex officio* member of the *universitas*. [Rashdall here added a note on the word *magistrari* as suggesting a system of graduation. He cited Girald. Camb. *Speculum Ecclesiae*, in *Opera*, iv. 3 (where, as Mr. R. Hunt has pointed out to us, the correct reading, preserved by Twyne and Wood, is *massati*, not *magistrati*: cf. the *Gemma ecclesiastica*, ii. 37 in *Opera*, ii. 349), *Rec. des histor. de France*, xiv. 443D, and Innocent III 'magisterii honore insignitum', *Patrol. Lat.* cciv, p. xvii note. These passages do not seem to imply any academic formalities apart from the grant of the licence by the chancellor, whose authority over the masters in the twelfth century Rashdall unduly minimizes; cf. above, p. 282, and G. Lacombe, *La Vie et les œuvres de Prévostin* (Kain, 1927), pp. 40, 41. In the

following sections, however, the position of the chancellor is more correctly described, though with some disregard for chronology. A passage in the *De rebus a se gestis* of Girald. Camb. (*Opera*, i. 48) illustrates both the absence of a definite system and the growth of academic terminology. Gerald studied canon law for three years and refers to his 'preceptor in ea facultate'. When Matthaëus Andegavensis, 'quem in legibus et decretis tunc audiebat', was summoned by Alexander III to the Lateran Council, 1179, 'a sociis in auditorio suo licentiam accipiens, quatinus magistrum Giraldum loco ipsius auditorem et preceptorem haberent cum multa ipsius commendatione monuit attentius et suadendo consuluit. Quod cum scolares omnes appeterent et postulerent,' &c. Here a master, with the consent of his pupils, offers his *scola* to a young and popular teacher. Presumably Matthaëus was the preceptor previously mentioned. Gerald had obtained the licence to teach in arts after three years' study during a previous period in Paris (*Opera*, i. 23). He may have acted as the 'clericus et prepositus' to Matthaëus. Cf. Powicke, *Stephen Langton* (Oxford, 1928), pp. 28, 29.]

CHAP. V, § 1. The evidence for these assertions will appear in the sequel. For the present it will be enough to clear the ground for its reception. The two great problems connected with the early history of the university are the origin of the four nations and the origin of the rectorship. The solution of these problems has been hitherto impeded by a gross misinterpretation of two important pieces of documentary evidence. In the first place, an episode in the history of Thomas Becket's quarrel with Henry II has been, by all the historians of the university before Denifle, relied upon as proving the existence of the 'nations' at that time. Henry offered to submit his quarrel to the arbitration of 'scholars of different provinces, examining the matter with equal scales',<sup>1</sup> or (as the Archbishop himself says) of 'Parisian scholars'.<sup>2</sup> It is natural enough that to minds preoccupied with the antiquity of their *alma mater* the former passage, when interpreted by the latter, should have appeared incontrovertible proof of the existence of the 'nations', and even of the practice of voting by nations in or about A.D. 1169. But in reality the words imply no more than a proposal to submit the matter to the arbitration of learned men from the Parisian schools, chosen from different nationalities to secure impartiality. With equally little ground an allusion has been found to the rectorship in the celebrated charter granted to the scholars of Paris by Philip Augustus in A.D. 1200.

Riot of A.D. 1200. The occasion of this first extant charter of privileges was the fatal issue of the first recorded 'town and gown' disturbance at Paris. The riot began in a tavern. The servant of a noble German student (a bishop-elect of Liège)<sup>3</sup> was assaulted, whereupon a concourse of his fellow countrymen took place; the host was severely beaten, and (according to the usual

<sup>1</sup> 'Scholaribus diversarum provinciarum aequa lance negotium examinantibus.' Ralph de Diceto, *Op. Hist.*, ed Stubbs, 1876, i. 337, and Matt. Paris, *Chron. Mai.*, ed. Luard, ii. 1874, p. 263.

<sup>2</sup> 'Paratum esse stare iudicio curiae Domini sui Regis Franco-

rum vel iudicio Ecclesiae Gallicanae aut Scholarium Parisiensium.' *Materials for the Hist. of Thomas Becket*, ed. Robertson, vii. 164; *Chartul.* i, Intro., No. 21.

<sup>3</sup> Henricus de Jacea, Archdeacon of Liège. Hoveden, *Chronica*, ed. Stubbs, iv (1871), 120, 121 and note.

formula of medieval chroniclers on such occasions) 'left half-dead'. The Provost of Paris at the head of an armed band of citizens in return attacked a hall or hostel (*hospitium*) of students of the same nationality. In the fight which thereupon ensued, several students were killed, including the Elect of Liège himself. The masters appealed to the King for redress, which—from fear, it is said, lest the masters should withdraw from the city altogether—was granted with no niggard hand. The Provost was sentenced by the King to perpetual imprisonment, subject however to a curious proviso. The accused was to be allowed if he pleased to go through the ordeal by water or by fire: if convicted by the ordeal, his punishment was to be aggravated to hanging; if acquitted, it was to be commuted to banishment from Paris. The houses of the offenders who had fled justice were destroyed; those who were caught were sentenced to the same fate as the Provost, unless they could prevail upon the injured scholars to intercede for them. The scholars relented so far as to ask to be allowed, in lieu of all other satisfaction, to flog them 'after the manner of scholars', in their schools.<sup>1</sup> But this request was refused as detrimental to the royal prerogative. The charter now granted secured that any scholars arrested by the royal officers should forthwith be handed over to the ecclesiastical judge. The burghers of Paris were required to swear to respect the privileges of scholars, and to give information unsolicited against any one whom they might see maltreating a scholar. The provost was also on admission to his office to swear to respect the scholastic privileges in presence of the assembled scholars in one of the churches of Paris. This was the origin of the position of the provost of Paris as 'Conservator of the royal Privileges of the University'. Cases in which the defendant was accused of violating any privileges granted to them by the King came to be tried in the court over which the provost presided, the Châtelet. For the further protection of the clerks, it was ordered that trial by

<sup>1</sup> 'Ut praepositus ille et complices sui more scholarium in scholis flagellati, essent quieti et facultatibus suis restituti,' *loc. cit.*

The Provost escaped the grim alternative by breaking his neck in an attempt to escape from prison.

battle or ordeal should be refused to prisoners charged with assault on a scholar. Then follows a clause which protects from arrest by the hands of secular justice the *capitale Parisiensium scholarium*.<sup>1</sup> Bulaeus and his followers (including even Savigny) have interpreted these words of the rector,

<sup>1</sup> The clause runs as follows: 'In capitale Parisiensium scholarium pro nullo forifaculo iustitia nostra manum mittet; sed si visum fuerit illud esse arretandum per iustitiam ecclesiasticam arretabitur et arretatum custodietur, ut de illo capitali fiat quod per Ecclesiam fuerit legitime iudicatum.' (Bulaeus, iii. 2, text corrected by Denifle, i. 7; *Chartul.* i, No. 1.) Hemeraeus (p. 95) understands the chancellor to be meant. I had already conjectured from the meaning of cognate words in Du Cange that *capitale* must mean 'chattels', when I came upon the French translation of the provost's oath, in which the provisions of each of the clauses in the charter are given in succession. It runs, 'Vous jurerez qu'en chastel des écoliers ne ferez mettre main' (Jourdain, p. 66).

I may add the following remarks: (1) The use of *capitale* either for 'head' or 'regent master' is unexampled. (2) The continued use of the neuter for a person would be unparalleled. (3) The clause would be mere surplusage, since masters as well as scholars have been already privileged from arrest. (4) For the quite common use of *arrestare* of the sequestration of property cf. Jourdain, Nos. 371, 551 (*arrestari bona*), Bulaeus, iii. 469. (5) Provision is made for the case where the *iustitia ecclesiastica* cannot be found in the case of a scholar, not in the case of the arrest of the *capitale*. The reason on my view is obvious. The case could not be so urgent where only property was concerned as to require a tem-

porary detention by the secular arm. According to the other interpretations a privilege is conferred on the 'scholar' which is withheld from the rector or master.

M. Jourdain's own view is that 'haec verba non ipsum rectorem sed aliquem e magistris aperte declarant' (p. 66, note), and to this view Denifle, though not without hesitation, subscribes. M. Jourdain (No. 274, p. 47) relies upon a passage contained in the pleadings of the university against the chancellor. A doctor of medicine had upset the water in which he had been steeping his herbs upon the watch in the street below. The officers entered the house, and after nearly killing him by their violence carried him off to the King's prison. The university contended that its privileges had been violated by the arrest and imprisonment in two distinct ways: 'quod de quocumque esset scholari non debuisset fieri, sicut in privilegio regis continetur', and because 'iustitia laycalis in capitale scholarium, quantum ad illam iniuriam, manum imposuit, quod tamen per privilegium regale fieri non debuit similiter'. According to M. Jourdain's interpretation there is hardly any distinction between the two breaches of privilege complained of. It is easy to suppose that the doctor's property had been seized by the guard even if the forcible entry was not construed as an attachment of property by lay justice.

Denifle replied *ex cathedra* that 'arrestare capitale, letzteres im Sinne von "Vermögen" genom-

whose office the former at least believed to date from the times of Alcuin and Erigena. Recent writers have strangely understood the *capitale* to mean 'a regent master', but without offering any explanation of so strange a mode of expression. Even Denifle has here missed or rather rejected the true explanation. The word *capitale* merely means 'chattels' or property, which, like the persons of the scholars, was protected from sequestration except by process of the ecclesiastical court. It is obvious that the correction of these two blunders involves a re-writing of the whole constitutional history of the university during the first half-century of its existence. As the charter of Philip Augustus has sometimes been treated as a kind of deed of foundation, or at least as the

men, kennt das Mittelalter nicht'. (*Hist. Jahrbuch*, x, 1889, p. 372, note.) With all deference I submit that it is enough to show that each word can bear the sense assigned. If we may have 'arrestare bona' (which is habitual), why not 'arrestare capitale', since 'capitale' undoubtedly has the same meaning as the commoner 'cattallum'? At all events it is clear that this meaning was assigned to 'capitale' by the medieval translator, who presumably knew medieval Latin as well as Denifle himself. The argument from usage is the less valuable since 'capitale' was obviously a comparatively rare form which suggested different interpretations within a century after the date. It should be stated that the thirteenth-century Phillipps MS. (No. 76, f. 54 b) translates: 'Vous jurrés que en le chevetaine des escoliers de Paris pour nul forfait vous ne mettrés main, ne ne ferés mettre'; and this reading has been adopted by Denifle (*Chartul.* i, No. 67). But over 'chevetaine' is written in an early hand 'chateils' (as also in the copy followed by Bulaeus, *Recueil des priv. de l'Un. de P.*, p. 277)—a fact which Denifle omits to chronicle; and (as he tells us)

the Vatican codex renders: 'Qu'en l'enquete des escoliers ne ferés mettre main.' I must observe that the reading of the Phillipps MS. can give no support to Denifle: if it is worth anything, it makes for the old view which interprets it of the rector. But Denifle knows that in 1200 there was no rector; and he himself thinks that the translation was made *circa* 1231, i.e. just when the rectorship was rising into importance, when a scholar of Paris would have been as eager to see additional tribute to the dignity and antiquity of the office as Bulaeus was 400 years later. Under these circumstances it cannot be doubted that 'chateils' or 'chastel' represents the wording of the oath which the provost actually took. My view of the matter has been accepted by Kaufmann. [Cf. the words of the oath of 1364-6: 'Comme il aient de privilege royal que votre justice pour nul forfait d'escolier ne necte main es biens de l'escolier, mes seulement soient arretés et gardés par la justice de l'eglise' (*Chartul.* iii, No. 1324). Luchaire (in Lavisse, *Hist. de France*, iii. i. 339) translates: 'Le trésor ou capital de l'Université', where *trésor* is right, *l'Université* wrong.]

CHAP. V, § 1. first recognition of the university, it may be added that the privileges which it bestows are bestowed upon scholars simply as such. There is no official recognition of the university, its officers or members; except in so far as it recognizes the existence of assemblies of scholars by requiring the provost's oath to be taken before them.<sup>1</sup> The conferment of these privileges no more implies the existence of a university than the exemption of chemists or dissenting ministers from jury service by act of parliament implies the existence of guilds or corporations composed of members of those classes of the community.

## II. *Development of the University from 1210 to 1249: Origin of the Four Nations*

The university a corporation in germ. We have seen that the bare existence of a university of masters can be traced from about the year 1170.<sup>2</sup> It was not, however, till some years after the beginning of the thirteenth century that the society assumed anything like the form of a legal corporation or obtained in its corporate capacity recognition and privilege from the civil and ecclesiastical authorities.

<sup>1</sup> [In the first edition Rashdall, without justification, translated *colares* in the charter of 1200 as 'masters', when reference is made to gatherings of scholars. There are good grounds to believe that in the early days assemblies of scholars, which might even have developed in imitation of the institutions of Bologna, had conditions in Paris been favourable, caused some embarrassment to the chancellor and masters. Thus the chancellor, Philip (de Grève ? 1218-36), contrasts past and present in one of his sermons: 'In the old days, when each master taught for himself and the name of University was unknown, lectures and disputations were more frequent and there was more zeal for study. But now that you are united into a University, lectures are rare, things are hurried, and little is learned, the time taken from lectures being

spent in meetings and discussions. In these assemblies, while the older heads are deliberating and legislating, the younger spend their time hatching the most abominable schemes and planning their nocturnal raids.' Haskins, *Mediaeval Culture*, p. 61.]

<sup>2</sup> [Gaines Post, in his important article, 'Parisian Masters as a Corporation 1200-1246' (*Speculum*, ix, 1934, pp. 421-45), has put the subject of this section on a new footing by his careful investigation of the documents in the light of contemporary thought and practice. His main contention, as against Halphen, is that, if regard is paid to contemporary ideas, especially those expressed by the canonists, the university of masters was a 'legal corporation, fully recognized by the highest ecclesiastical authority, by 1215 at the latest', p. 444.]

CHAP. V, § 1. Advance in organization. Four steps would seem to have been pre-eminently necessary to give to mere customary meetings of masters for the initiation of new members or similar purposes the character of a definite and legally recognized corporation: (1) the reduction of their unwritten customs to the form of written statutes or by-laws, (2) the recognition or (if authoritative recognition was unnecessary) the exercise of the right to sue and be sued as a corporation, (3) the appointment of permanent common officers, (4) the use of a common seal. We must now briefly investigate the date at which each of these stages in the development of the university was reached.

The first two steps were taken considerably before the two latter and at about the same period, i.e. about the year 1210. The actual text of the earliest statutes is lost; but there is a Bull of Innocent III of about the last-mentioned date which sanctions the restitution to the society of a master who had been expelled for a breach of them. From this document it appears that they were three in number.<sup>1</sup> The

<sup>1</sup> 'Ex litteris vestre devotionis accepimus, quod cum quidam moderni doctores liberalium artium a maiorum suorum vestigiis in tribus presertim articulis deviarent, habitu videlicet inhonesto, in lectionum et disputationum ordine non servato, et pio usu in celebrandis exequiis decedentium clericorum iam quasi penitus negligenter omissis, vos cupientes vestre consulere honestati octo ex vobis iuratos ad hoc unanimiter elegistis, ut super dictis articulis de prudentium virorum consilio bona fide statuerent, quod foret expediens et honestum ad illud imposterum observandum vos iuramento interposito communiter astringendo, excepto dumtaxat magistro G., qui iurare renuens et formidans fideiussoriam pro se tantum optulit cautionem. Fuit insuper ad cautelam a vobis fide prestita protinus constitutum, ut si quisquam magistrorum adversus alios duceret resistendum et primo, secundo tertiove commonitus infra

triduum universitati parere contempneret magistrorum, ex tunc beneficio societatis eorum in magistralibus privaretur.' Bulaeus, iii. 60; *Chartul.* i, No. 8. The Bull is undated, but appears in the Vatican Register between the years 1210 and 1211. Denifle dates it 1208-9. [The Bull was included in the unofficial 'Compilatio Tertia' and, later, in the official Decretals of Gregory IX, lib. i, tit. ii, c. 11, and was freely glossed by the commentators; *inter alia*, it was requested as illustrating the right of corporations to make statutes; see the quotations in Gaines Post, *op. cit.*, pp. 427-8, note.] At about this date the university took some kind of corporate part in the condemnation of Amaury of Bène; see William the Breton in *Rec. des histor. de France*, xvii. 83; but the words 'compellitur ab Universitate confiteri', &c., are suspicious, since *ab Universitate* is omitted by Vincent of Beauvais, who repro-

First Statutes, c. 1210.



CHAP. V, § 1. first dealt with the dress of masters, no doubt prescribing the 'round black cope reaching to the heels at least when new', mentioned in one of the earliest extant statutes;<sup>1</sup> the second enforced the observance of 'the accustomed order in lectures and disputations'; the third required 'attendance at the funerals of deceased masters'. From the extreme simplicity of these regulations, and the fact that their enactment is spoken of as something new, it is sufficiently evident that they were the first ever formally made by the society—the first reduction to a written form of the established but hitherto unwritten customs of the profession. They are also interesting on account of their close analogy with the statutes of the ordinary guilds or religious confraternities of the Middle Ages, with which attendance at funerals and the obtaining of prayers for deceased members was likewise a primary object.<sup>2</sup> Sometimes too their members wore a common livery. This first step towards the consolidation or crystallization of the hitherto fluid organization must therefore have been taken in the year 1209 or not much later. A modern mind, accustomed to look for very definite expressions of corporate existence, might indeed be disposed to assign the 'foundation' of the university to the decade 1200–10 rather than to the years 1160–70: such a conception would, however, be thoroughly anachronistic.

Recognized as a corporation.

At about the same date the university acquired a definite recognition of its existence as a legal corporation. A Bull of Innocent III (himself a Parisian master) empowers the society to elect a proctor, i.e. a syndic or common *procurator ad litem*, to represent it in the Papal Court.<sup>3</sup> By this permission the

duces the rest almost *verbatim* (*Speculum*, Douai, ed. 1624, iv. 1221).

<sup>1</sup> 'Nullus magistrorum legentium in artibus habeat capam nisi rotundam, nigram et talarem, saltem dum nova est. Pallio autem bene potest uti.' Bulaeus, iii: 82; *Chartul.* i, No. 20. [Cf. Tancred's gloss ad v. *inhonesto* (Bull of Innocent III, *Chartul.* i, No. 8), 'forte capas manicatas portando, cum doctores consueverint capas

clausas deferre', in Leipzig Universitätsbibliothek MS. 968, f. 164 r, communicated to us by Mr. Gaines Post.] The 'Confirmatio Statutorum' which Bulaeus (iii. 52) ascribes to Innocent III really belongs to Innocent IV, and the date is 1246–7. See Jourdain, p. 116; *Chartul.* i, No. 169.

<sup>2</sup> See Toulmin Smith, *English Guilds*, 1870, *passim*.

<sup>3</sup> Denifle, no doubt rightly, connects the Bull with the suit of

society acquired, in modern legal phraseology, the right 'to sue and be sued' as a corporation. It must not, however, be supposed that according to the ideas of the thirteenth century any charter from either Pope or King was conceived to be indispensable to enable a private society to acquire a legal corporate existence. Whether owing to the predominance of ideas ultimately derived from the Roman law,<sup>1</sup> or simply from the mere absence of a clearly defined conception of a corporation as a distinct legal personality, we find that the growth of corporations of all kinds was at this period gradual and spontaneous.<sup>2</sup> The borough, the guild-merchant, the ordinary social or religious guild, all came into existence, held corporate property, and exercised other attributes of

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No charter necessary.

1210–11 (i. 86); but in his *Chartul.* i, No. 24, places it vaguely between 1210–16.

<sup>1</sup> For the ideas of medieval civilians as to freedom of association see Denifle, i. 191, 192, 169–75. They would seem to be to a certain extent inconsistent with the true interpretation of the Roman law in imperial times (see Mommsen, *De Collegiis et Sodalicis Romanorum*, Kiel, 1843, p. 72 sq.). But still the idea seems always to have been that unauthorized *Collegia* were forbidden, not that *a priori* special legislation was necessary to create artificial or fictitious persons. It must be remembered that the Roman law had everywhere some recognition in relation to the clergy (see Savigny, *Gesch. des Röm. Rechts im Mittelalter*, cap. 15). Thus we find bishops incorporating colleges of priest-vicars (see e.g. Freeman, *Cathedral Church of Wells*, 1870, p. 137 sq.). So in 1347 the Chancellor of Oxford incorporates the barber-surgeons (Wood, *Hist. and Antiq. of Oxford*, ed. Gutch, i. 443, 444), who enjoyed the privilege of the university. But there is no necessity to appeal to the conceptions of the Roman law. As to the spontaneous origin of

English Guilds and Boroughs, see the excellent treatment of the subject in Gross, *The Guild Merchant*, Oxford, 1890, i. 33 sq.

<sup>2</sup> [Freedom and frequency of association, the *post hoc* recognition or the creation of associations, even the provision of facilities 'ad agendum et respondendum' (see below) and the possession of a seal should be sharply distinguished from the conception of a fictitious and distinct legal personality. Innocent IV had not yet coined the phrase *persona ficta*, and when he did he taught that the corporation could commit neither sin, crime nor tort. The Church led the way in framing a theory of personality before the legal consequences of the theory were worked out. Hence the university, in Bologna and Paris, was accepted as a 'corporation', acting with *consensus communis*, before it acquired corporate freedom from excommunication. It was 'legal', was exempt from the episcopal right to authorize corporations, and could act in the courts through a proctor before it acquired 'personality'. In short it both reflected and helped to shape juristic descriptions of the *collegium licitum*.]

CHAP. V, corporate personality without any formal charter or legal § 1. incorporation. Charters and formal privileges were for the most part granted to confirm or extend a corporate existence already *de facto* established. A sovereign or other superior authority might and often did deny to a particular class or community the right to form a particular kind of corporation or to claim particular corporate privileges; but there was no idea that for the mere holding of common property a definite act of legal incorporation was necessary. That notion is an invention of later jurists, and is responsible for a great deal of bad history.<sup>1</sup>

Thus Innocent expressly recognizes the inherent right of the masters to a corporate existence, both in the Bull authorizing them to appoint a proctor<sup>2</sup> and in the Bull

<sup>1</sup> The best account of the origin of the university as a voluntary society is that given by the masters themselves in their letter to the prelates of Christendom in 1253-4 (Bulæus, iii. 255; *Chartul.* i, No. 230): 'Magistri reverendi vita et doctrina clarissimi, mente religiosi, omnes tamen degentes in habitu seculari, qui processu temporis crescente numero auditorum, sicut oportuit, ampliati, ut liberius et tranquillius vacare possent studio litterali, si quodam essent iuris specialis vinculo sociati, corpus collegii sive universitatis cum multis privilegiis, et indultis ab utroque principe sunt adepti.' In the controversy with the Mendicants they even denied the right of the Pope to meddle with the university, *qua* university, *ut* all: 't. Quia secundum iuris civilis ordinationem nullus ad societatem compelli debet, cum societas voluntate firmetur. 2. Auctoritas Apostolica non se extendit nisi ad ea quae ad Cathedram pertinent. Ad Cathedram autem non pertinet studentium societas, sed collatio Beneficiorum, administratio sacramentorum et alia huiusmodi.' (Abstract in Bulæus, iii. 649.) When the

university attempted, in later times, to subject the chancellor to its regulations in the conferment of the licence, it was by virtue of his personal oath of obedience as a member of the university. A curious illustration of the medieval view of freedom of association is quoted by Sarti from Manni, *Degli antichi Sigilli*, xii (Florence, 1742), 117. When the Pisans were defeated by Genoa in 1284, a large body of Pisan captives were kept in prison for eighteen years, and assumed the right of using a common seal which bore the legend, 'SIGILLUM UNIVERSITATIS CARCERATORUM JANUAE DETENTORUM.' State-authorization is here of course out of the question.

<sup>2</sup> The date is 1210-16. 'Scolariibus Parisiensibus. Quia in causis, que contra vos et pro vobis moventur, interdum vestra universitas ad agendum et respondendum commode interesse non potest, postulatis a nobis, ut procuratorem instituere super hoc vobis de nostra permissione liceret. Licet igitur de iure communi hoc facere valeatis, instituendi tamen procuratorem super his auctoritate presentium vobis concedimus facultatem.' Bulæus, iii. 23; *Chartul.* i, No. 24.

sanctioning the readmission of the expelled master. In the latter case the Pope was called upon to dispense with the obligation of the oath which the masters had taken to refuse their *consortium* to all offenders against the statutes. In the former the necessity for appointing a proctor arose from the suit with which the society was engaged against the chancellor and church of Paris, to whom the claims of the new organization seemed inconsistent with the allegiance of the individual masters to the chancellor. Hence to secure from the pope the recognition of their proctors was to win half their case.

In taking the momentous step—for such it proved in its ultimate consequence—of passing written statutes, it is not impossible that the nascent society was influenced by the example of the student-universities of Bologna.<sup>1</sup> It is true that the existence of the Parisian Society of Masters becomes traceable in a rudimentary form considerably before we have express evidence of the existence of the earliest student-university at Bologna. But in the more congenial atmosphere of Italian city-life, these societies rapidly attained a higher stage of development and organization than the looser association of masters which had grown up around the cloister-school of Paris. Though the Italian universities were universities of students, the Parisian masters formed a body numerous enough to imitate their organization. It must be remembered that the great mass of the masters at Paris were masters of arts—men not much older than the Italian law-

Influence of Bologna.

[This Bull was inserted in the 'Compilatio Quarta' and, later, in the Decretals of Gregory IX, lib. i, tit. xxxviii, c. 7. The address 'Scolariibus Parisiensibus', which may possibly not be original, seems to have caused some confusion to the canonists. Gaines Post (*op. cit.*, p. 434, n. 3) gives reasons for the view, taken by Rashdall without comment, that the Bull was intended for the masters.]

<sup>1</sup> The statutes were made by a committee of eight, which suggests the eight *statutarii* of Bologna. See above, p. 189. The statutes of

1215 required that a master should be at least twenty (see below, p. 462), and it is probable that the regulation was not uncalled for. Cf. the complaints of Stephen of Tournai a quarter of a century earlier: 'Facultates quas liberales appellant, amissa libertate pristina, in tantam servitutem devocantur, ut comatuli adolescentes earum magisteria impudenter usurpent, et in cathedra seniorum sedeant imberbes; et qui nondum norunt esse discipuli, laborant ut nominentur magistri.' *Lettres* (ed. Desilve), p. 345; *Chartul.* i, Introd., No. 48.

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CHAP. V, § 1. students, and many of them actually students in the higher faculties as well as masters in the lower. When we come to deal with the formation of the nations and the appointment of their officers, the influence of the institutions of Bologna on those of Paris will be still more obvious.

Development of university due to struggle with the chancellor. Both these steps towards a legal incorporation of the university are unmistakably connected with the great struggle which was now beginning against the Chancellor of the Cathedral Church of Paris.<sup>1</sup> It was perhaps some invasion of the unwritten customs of their order by a licentiate forced upon them by the chancellor that suggested their reduction to writing and the exaction of the oath to observe them. It was still more certainly the appeal of the masters to Rome against the tyranny of that official which called for the appointment of a common proctor. It was in fact the necessity of mutual support and united opposition to the chancellor which called into existence the university-organization if not the university itself. A clear understanding of the original relations between the chancellor and the masters is essential to any intelligent appreciation either of the process of the university's growth or of the complex constitutional system in which that process finally resulted.

Original position of the chancellor. The control which the chancellor exercised over the masters before the rise of the university and in the first few decades after its emergence, was not limited, as in later times, to the conferring of the licence. He could not only grant or refuse the licence at his own discretion in the first instance: he could deprive a master of his licence or a scholar of his 'scholarship', with its attendant ecclesiastical privileges, for adequate cause. He was an ecclesiastical judge as well as the head of the schools. He claimed to be the *iudex ordinarius* of scholars, though his jurisdiction was not exclusive of that

<sup>1</sup> As to its earlier stages, we only know that in 1208 the Cardinal-legate Guala ordered that scholars should not be excommunicated till after two admonitions, (1) 'generaliter . . . per magistros', (2) 'nominatim . . . in scolis'. Since the injunction begins 'volentes . . . magistris

et scolariibus deferre, eatenus erga ipsos rigorem, si quis est, nostre constitutionis duximus temperandum,' it is clear that an earlier legatine decree has been lost. *Chartul.* i, No. 7. (In Hemeraeus, p. 93, the decree is mistakenly attributed to Walo, Bishop of Paris, in 1108.)

of the ordinary bishop's court.<sup>1</sup> He enforced his judgements by excommunication and possessed a special prison for the confinement of refractory clerks. Besides enforcing the ordinary ecclesiastical law, he claimed, at least with the concurrence of the bishop and chapter, the right of issuing ordinances or regulations for the government and discipline of the masters and scholars. But in spite of the large extent of his powers over the masters as individuals, or rather just because of those powers, the chancellor had no position whatever in the university as such. As chancellor, he was not even member of it.<sup>2</sup> Though it was probably from an early period customary for the chancellor to ascertain from the masters the qualifications of a candidate for the mastership, the masters could not force the chancellor to grant a licence, nor could the chancellor compel the masters to admit to their association one whom he had licensed, but who had not complied with the regulations or customs of the society. In their power of recognizing or refusing to recognize the inception of a new member<sup>3</sup> and of requiring a new master to swear to obey the rules of their society as a condition of his admission to professional association, the masters possessed an equivalent to the chancellor's control over the licence. This right, which in its essence was nothing more or less than the power wielded by all professional associations, of refusing to associate with professional brethren guilty of unprofessional conduct, served as the *point d'appui* for their resistance to the chancellor. Originally formed for the purpose of self-protection rather than of aggression, the university soon

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The chancellor not an officer of the university.

<sup>1</sup> It should be remembered that in the Middle Ages the chapter or capitular officers everywhere exercised actual spiritual jurisdiction, enforced by excommunication, over the inferior members of the cathedral body. The cantor was the ordinary superior of the singers, the chancellor of the scholars. Cf. above, p. 291 n.

<sup>2</sup> So in 1386 the university alleges 'que comme chancelier il n'est pas membre de l'université,

mais comme maistre en arts', Bulaeus, iv. 609.

<sup>3</sup> This is well illustrated by a statute of the faculty of medicine in 1270 enacting that 'quicumque bachelarius recipiet licenciam contra consuetudinem facultatis, vel magister qui hoc procuraret, ipso facto esset privatus in sempiternum societate magistrorum et omni actu scolastico predictae facultatis'. Bulaeus, iii. 398; *Chartul.* i, No. 433.

CHAP. V, § 1. aimed like other trade unions at acquiring a monopoly. The university could not prevent a licentiate from teaching, but they could refuse to dispute with a licentiate who would not submit to their regulations, and they could refuse to present for the licence or to admit to their own guild a scholar who persisted in attending the lectures of a master whom they had deprived of their *consortium*.<sup>1</sup> By these means the admission to the university by inception was rendered practically as essential to the teacher as the chancellor's licence. The licentiate was not reckoned a full master till he had been received into the society by a public and duly authorized inception.

Emancipation by 'boycotting' helped by papal authority. Originally the chancellor and the university were thus quite independent of one another.<sup>2</sup> Each party tried by the use of its unquestionable prerogative to nullify in practice the equally unquestionable prerogative of the other. Had the parties been left to fight the matter out without interference,

<sup>1</sup> Thus in the statute of the faculty of theology against the Dominicans, the masters declare 'Quod si aliquis contra dictas eorum ordinationes venire presumpserit, ei societatem suam tam in principiis quam aliis penitus denegabunt' (Bulæus, iii. 245; *Chartul.* i, No. 200); and in 1253 the university resolves that no master shall hold or be present at the inception of a bachelor who has not taken the oath to the statutes, adding 'Nec idem bachelarius si alio modo inceperit, magister a nobis aliquatenus habeatur'. Bulæus, iii. 252, 253; *Chartul.* i, No. 219.

<sup>2</sup> [Rashdall is here too emphatic. The absence of any but customary relations before 1212 and the growth of a spirit of corporate independence among the masters do not prove that the chancellor was not regarded as head of the university in the later twelfth century. Some light on the position of the chancellor is thrown by the sermons

of Prévostin of Cremona, the famous *Prepositinus*, who was chancellor during the years 1206-9, when the quarrel was beginning. He was much disturbed by the bad behaviour of some of the scholars and by the conduct, as teachers, of the theologians, whom he elsewhere describes as *magistri nostri*; see G. Lacombe, *op. cit.* 39-42. He was succeeded by Jean de Chandelle (*ibid.*, p. 44). The exaction from the chancellor of an oath of residence at this time, and the limitation by Innocent III of the number of teaching masters of theology to eight (1207), were inspired, as Lacombe suggests, by the same intention, the desire to maintain order and regularity in the academic life. It is worthy of note that, when John Garland urged a return to the classics in the teaching of grammar in Paris, he appealed to the chancellor, Odo of Châteauroux (*Morale Scolarium*, c. xiv, ed. Paetow, pp. 221-4, especially the gloss on line 371).]

CHAP. V, § 1. the legal weapons at the disposal of the chancellor might have strangled the rising society in its birth or reduced it to dependence upon himself. Coercion might have proved a match for 'boycotting'. As it was, the interference of the papal authority turned the scale. Except where the claims of the still more favoured orders of friars introduced a new factor into the dispute, the university gained in the end, though not without temporary rebuffs, by every appeal to the Roman Court. But in so doing, it naturally lost to a great extent its own autonomy. It entered into the ecclesiastical system (as the merchant-guilds entered into the political system by their acquisition of a share in the town-government<sup>1</sup>), and became as completely subject to ecclesiastical regulation as the monasteries or the chapters.

Illustrations. The relation of the chancellor to the university may thus be compared with that of the Crown to the extinct Serjeants' Inn. The Crown alone could make a man a serjeant-at-law just as the chancellor alone could make a licentiate; but, though the appointment by the Crown in the one case and the chancellor's licence in the other was the condition of eligibility, it was by the free election of his professional brethren that the new-comer entered the professional society. The presentation of rings by the newly admitted serjeant to his colleagues<sup>2</sup> was one of the last relics of those customary presents of hats, gloves, gowns and the like by the new member of a guild in which the more prosaic degree-fees of modern universities have their origin.

The 'Circuit Mess' at the English Bar illustrates the enormous power which may be wielded by a society which has no legal or corporate existence. A barrister expelled therefrom for breach of professional etiquette retains his legal position, but he is effectually incapacitated from practice, since no member of the mess will hold a brief with him, even if a solicitor should be found bold enough to give him one.

<sup>1</sup> It must not, indeed, be supposed that the guild merchant was identical with, or in any way superseded, the municipality proper. For the true relation between them

see Gross, *The Guild Merchant*, i. 61-105.

<sup>2</sup> Pulling, *The Order of the Coif*, p. 245.

CHAP. V, § 1. A Bull of the year 1212 makes it evident that a suit between the chancellor and the university had been proceeding for some time past. It was addressed by Innocent III to the bishop, dean, and archdeacon of Troyes and required them to compel the chancellor by ecclesiastical censure to redress the grievances of the masters.<sup>1</sup> The matters in dispute were referred to arbitration and the decision of the arbitrators enforced by the apostolical delegates in a formal sentence<sup>2</sup> which is of capital importance for the light which it throws upon the beginnings of the university. The chancellor had, it appears, required the masters to take an oath of obedience to himself. Had he succeeded in the attempt, either the university could not have continued to exist or the chancellor's position in it would have become even more powerful than that of the chancellor of Oxford in the days when he was really the bishop's officer and before the masters had succeeded in making him merely the executor of their own decrees. He would have become himself (like our Oxford chancellor) the head of the masters' guild; and there would have been no room for the growth of the rectorship. As it was, the papacy, with that unerring instinct which marks its earlier history, sided with the power of the future, the university of masters, and against the efforts of a local hierarchy to keep education in leading-strings. The obligations of the oaths already taken were relaxed and the exaction of such oaths in future forbidden.<sup>3</sup> The chancellor was required to grant the licence gratuitously; and further, he was enjoined (without prejudice to his right of licensing at his own discretion) to grant the licence to all candidates recommended by a majority of the masters in any of the superior faculties of theology, civil or canon law, or medicine, or by six selected masters in the faculty of arts: the six examining masters being chosen three by the faculty and three by the chancellor.<sup>4</sup> Moreover,

<sup>1</sup> Jourdain, No. 13; *Chartul.* i, No. 14. Jourdain wrongly dates this and the next-mentioned document 1210.

<sup>2</sup> Jourdain, No. 15; *Chartul.* i, No. 16.

<sup>3</sup> 'Quod Cancellarius sacramenta

fidelitatis vel obedientie vel aliam obligationem aliquam pro licentia legendi danda non exiget ab aliquo lecturo Parisius, et etiam relaxantur prestita iuramenta.'

<sup>4</sup> This regulation was, however, only of temporary force, 'quamdiu

the chancellor had grossly abused his judicial power. He had imprisoned scholars for very trifling offences and had exacted fines by way of penance which were appropriated to his own benefit—a mode of ecclesiastical discipline which was in universal employment where the sins of the laity were concerned, but which was unusual in dealing with the privileged clerical order. Henceforth the chancellor was not to imprison pending trial when the offence charged was a slight one; in any case he was to allow the accused to be discharged on finding sufficient bail, and he was not to impose a pecuniary penance on a scholar under any circumstances whatever, though he might award damages to the injured party.

Three years later, most of these provisions were embodied in a permanent Code of Statutes imposed upon the university by the cardinal, Robert Curzon, or de Courçon. At the same time the right of the university to make statutes for its own government and to administer oaths of obedience to them was recognized, but only in the following cases—'on occasion of the murder or mutilation of a scholar or of grievous injury to a scholar, if justice is refused, for taxing the rents of *hospitia*, concerning dress, concerning burial, concerning lectures and disputations', and with the proviso 'that the *Studium* be not thereby dissolved or destroyed'.<sup>1</sup> The clause relating to the 'taxation' of *hospitia* no doubt shows that the custom of fixing the rents of houses in the occupation of scholars by a joint board of scholars and burghers was already in existence.

The support of the Holy See was, however, unable to prevent the renewal of the attempts of the bishop and chancellor to stifle the newly born university. The old grievances remained unredressed—the grant or refusal of the licence without consultation of the masters, the vexatious videlicet predictus cancellarius cancellariam tenebit'. A curious difference is noticeable as to the way in which the masters of the different faculties were to bear testimony to the fitness of candidates. The doctors of law and theology were to give it 'in verbo veritatis'; the *phisici* were required 'dare fidem'; the masters of arts were only to be believed 'fide corporaliter prestita'.<sup>1</sup> Bulaeus, iii. 81, 82; *Chartul.* i, No. 20. Note how the threat of migration, here as at Bologna, is the great instrument of academic warfare.

CHAP. V, § 1. imprisonments, the pecuniary penances and so on; and fresh subjects of dispute were added to them. The oppression of the chancellor called forth fresh efforts after corporate autonomy, and these efforts in turn became offences which called down upon the masters fresh measures of ecclesiastical vengeance, necessitating renewed appeals to Rome.

The struggle necessitates common seal and officers. It was in the conduct of this continued litigation that the university first experienced the want of the two important attributes of corporate existence which were still lacking to it. The support of its legal representatives at the Roman court compelled the university to borrow money, and a seal was wanted to affix to the bond for its repayment;<sup>1</sup> while officers were required to collect the money and direct the legal proceedings. From Bulls of the years 1219<sup>2</sup> and 1222<sup>3</sup> it is evident that the bishop and chancellor were straining every nerve to suppress the formidable organization which threatened to destroy the authority of the ancient Church of Paris over the masters and scholars who were multiplying beneath her shadow. An old ordinance or proclamation against 'conspiracies' was furbished up, and the university was excommunicated *en masse* for disobedience to it. The language of the Bulls<sup>4</sup> makes it quite plain that the acts of the conspiracy were simply the passing of statutes by the masters

Effort of chancellor and cathedral to crush the university, 1219-22.

<sup>1</sup> See the Bull of Alexander IV in 1259 ordering payment of a debt incurred 'thirty years and more before' to certain Florentine merchants 'prout in litteris compositionis eiusdem Universitatis sigillo sigillatis plenius continetur'. Jourdain, No. 184; *Chartul.* i, No. 330.

<sup>2</sup> *Chartul.* i, Nos. 30, 31.

<sup>3</sup> *Chartul.* i, No. 45. Stephen Langton, Cardinal and Archbishop of Canterbury, and others had been appointed delegates by a Bull now printed by Denifle, *Chartul.* i, No. 41.

<sup>4</sup> 'Dilecti filii magistri et scolares Parisienses nobis graviter sunt conquesti, quod venerabilis frater noster . . . Parisiensis episcopus excommunicationis sententiam ab

O. bone memorie predecessore suo, et O. Hostiensi episcopo quondam apostolice sedis legato latam de conspirationibus et coniurationibus scolarium minime faciendis iam dudum innovans eos qui, circa statum scolarium sine consensu ipsius vel capituli seu cancellarii Parisiensis conspirationem, coniurationem, constitutionem, seu aliquam obligationem iuramento, fide vel pena vallatam facere attemptarent, pro sue voluntatis arbitrio, simili vinculo innodavit et ipsorum insuper pedibus laqueos excommunicationis expandens in illos qui noverint scolares arma portantes ac de nocte incedentes, nisi eos infra certum tempus ipsi vel eius officiali seu cancellario

for the government of themselves and their scholars and the administration of oaths to observe them. The Church of Paris claimed that no such 'constitutions' should be passed without the consent of the bishop, chapter, or chancellor. When the university respectfully inquired whether the prohibition applied to all constitutions or only to unlawful constitutions, they were expressly told that it applied to all constitutions, 'lawful or unlawful, good or bad'.<sup>1</sup> It is obvious that the very existence of the university was at stake.

The definitive sentence of the Holy See upon the points at issue has not come down to us,<sup>2</sup> but there can be no doubt from the sequel that Honorius III and Gregory IX continued in the main the policy initiated by Innocent III of supporting the claims of the new society. The Bulls of 1219 and 1222 are of an interlocutory character, though the first of them decides an important point in favour of the scholars by ordering the instant abolition of the chancellor's prison, and forbidding the wholesale excommunication of the university without the special licence of the Holy See.<sup>3</sup> It is in these Bulls that we find the first traces of the existence of nations and their officers. It appears that the *scolares* had elected a leader or leaders 'according to their nations' for the avenging of injuries'. [The nature of these officials and their connexion with contemporary events are very obscure. They are mentioned only in a document of 1222 in which their election is forbidden. The context<sup>4</sup> suggests that they were

Papal decisions.

Nations and their proctors.

nuntiarent, similem sententiam fulminavit,' &c. *Chartul.* i, No. 30.

<sup>1</sup> 'Quesierunt interpretationem . . . utrum videlicet intelligerent generaliter tam de constitutione licita utili et honesta, quam de illicita erronea et iniusta, quibus respondentibus, quod intelligebant generaliter de omni licita vel illicita, bona vel mala,' &c. *Chartul.* i, No. 31.

<sup>2</sup> If the document of 1219 in *Chartul.* i, No. 33 refers to this matter, the dispute must have broken out again before 1222. Cf. Bulaeus, iii. 130; *Chartul.* i, No. 58.

<sup>3</sup> See the Bull of 1219; *Chartul.* i, No. 31. The immunity of the university as a whole from excommunication without the special licence of the Holy See is re-enacted in 1222 (*Chartul.* i, No. 45. M. Thurot (p. 12) makes the astounding assertion that Honorius III forbade the excommunication of 'aucun membre de l'université sans l'autorisation du St.-Siège'. So Malden (p. 30), and others.

<sup>4</sup> 'Magistri etiam a magistro vel scolari penam pecuniariam per tempus non exigent supradictum, nec scolares interim secundum

CHAP. V, § 1. elected by 'scholars' as distinct from masters, and reveal an early form of organization by 'nations' which came to nothing. They are not called 'proctors', but, if they actually were elected by the masters], it is possible that they were identical with the proctors, whom the masters had appointed to direct from Paris the suits pending at Rome against the chancellor, and to collect money for that purpose.<sup>1</sup>

Rectors or proctors.

In the year 1222 the election of such officials is prohibited *pendente lite*. We hear no more of them again till 1231 or (since the text is there doubtful) 1237, when the institution appears thoroughly established. A Bull issued in the latter year forbids the unauthorized excommunication not merely of the masters and scholars, but of their 'rector or proctor', or other person when acting officially on their behalf.<sup>2</sup> It is

nationes suas sibi quemquam pre-ficient ad iniurias ulciscendas.' *Chartul.* i, No. 45. (Bull of Honorius III, May 1222.)

<sup>1</sup> 'Porro, cum ad prosecutionem appellationis predictæ foret nuntius ad sedem apostolicam destinandus, et sine collecta universitas (sc. a corporation) non haberet expensas, magistri liberalium artium fide interposita se ac suos discipulos astrinxerunt ad servandum quod super hoc a suis procuratoribus contingeret ordinari' (Bulæus, iii. 94; *Chartul.* i, No. 31). From the Bull of 1260 (Jourdain, No. 134) it appears that these *procuratores* were four in number. We have possibly an earlier trace of the custom of appointing four representatives upon such occasions, and so perhaps of the nations, in Innocent III's Bull of 1208-9. The master who had been expelled for breach of the statutes 'in quatuor vestrum iuramento interposito compromisit, illorum dictum pro bono pacis se gratum et ratum pariter habiturum.' Bulæus, iii. 60; *Chartul.* i, No. 8. [On the other hand, it is more likely that the proctors mentioned by the Pope in 1219

were simply persons, elected to act for the masters and scholars in the conduct of the case in Paris. This would be the natural meaning. The Pope nowhere forbade the election of such in so many words. Cf. the words 'usus sigille scolarium preterquam in hiis, que ad officium procurationis in hac causa pertinent, suspendatur'. The levying of fines by the masters, the appointment of proctors, the use of a seal, illustrate corporate developments, but may have had nothing to do with the rise of 'nations'. Gaines Post, inclines to agree with Rashdall; *op. cit.*, p. 429, note 1.]

<sup>2</sup> 'Ut nullus contra universitatem magistrorum vel scolarium seu rectorem vel procuratorem eorum aut quemquam alium pro Universitatis vel facto vel occasione,' &c. Such is the reading of Jourdain, No. 49, for the document of 1237. Denifle, in his *Entstehung d. Univ.* i. 112, gave 'rectorum' (upon the unsatisfactoriness of which Kaufmann has commented in his *Gesch. d. Deutsch. Univ.* i. 270). Denifle has since accepted 'rectorem' as the true reading in 1237 (*Archiv.* iii. 627 and *Chartul.* i, No.

possible that rector and proctor are here alternative titles for the same official.<sup>1</sup> But whether this was so or not, it is quite clear that when the first appointment of these officials took place, there was only one official to each nation and no general head of the whole body. At a later date the term proctor was appropriated to the heads of the several nations: while a common head of all four nations was elected with the style of rector. We may conjecture that the term *procurator* was first employed in view of the temporary, representative, and financial character of the official:<sup>2</sup> while the analogy of the four Bologna rectors may have suggested that of rector as a name for the national officers, as they passed from temporary into permanent delegates, until the election of a common head by the united nations required a distinction between the two titles. At the same time, a trace of their original character remained in the short tenure of both offices, which were at

113); in the document of 1231, printed for the first time in *Chartul.* i, No. 95, he gives 'rectorum' as the reading of his manuscript (the Vatican Register). If this is the true reading, 'rectorum' must of course = 'regentium'. There is much uncertainty about the text of these successive renewals; see Jourdain, pp. 11 b, 14 a; Denifle, i. 113, 114; *Chartul.* i, No. 162 note.

<sup>1</sup> There are some slight indications of such a use of terms: (1) William of S. Amour referring to the year 1256 says that he was not then (as he had been earlier) 'procurator scholarium vel rector de collegio eorum'. (*Opera*, Constance, 1632, p. 94.) The two titles here seem to be alternative titles for the same office, though it is just possible (with Denifle) to take rector in the sense of regent: (2) In 1264 we hear of the Seal-Chest being opened 'presentibus rectoribus et procuratoribus'. *Chartul.* i, No. 405. (3) In 1254, the Pope, retaining the older phraseology, clearly uses the term 'rectores artistarum' to include the four pro-

ctors as well as the rector. *Chartul.* i, Nos. 338, 342. (4) At Vercelli, in 1228, the heads of three nations are spoken of respectively as *rector*, *procurator*, and *provincialis*, but at other times collectively as *rectores* (see below, vol. ii, c. ii, §§ 4, 5). (5) At Oxford and Cambridge the proctors were called 'rectores sive procuratores'. Whence could such a usage be derived except from Paris? But see below, vol. iii, c. xii, § 2. The term *procurator* was commonly used of any legal agent or attorney, but especially of a financial agent. In continental colleges it is the common equivalent of our 'bursar'. It is the ordinary Latin of our 'churchwarden'.

<sup>2</sup> From the town statutes at Bologna it appears that a guild, the '*homines artis laneæ*', were governed by 'castaldi et procuratores'. (Frati, ii. 72.) So the 'Company of Merchants of Alnwick' was governed by an alderman and proctors. Gross, *Gild Merchant*, i. 130. Rector was also a name for guild-officers. See above, p. 163.

CHAP. V, first held for periods of only a month or six weeks and afterwards for three months.<sup>1</sup>

Rector and proctors in 1245.

The first document in which the rector and proctors are clearly distinguished from one another is a statute of the faculty of arts in 1245,<sup>2</sup> which visits offenders with expulsion till 'satisfaction shall have been made to the rector and proctors on behalf of the university' (sc. *universitas artistarum*) 'to the full and at their pleasure'. In the same year a statute of the whole university orders that scholars who take a house which has been interdicted to scholars by the university are to be expelled after monition by the rector or a servant sent by him, or in like manner by the proctors or a messenger sent by them.<sup>3</sup> It is now clear that the term rector has come to be reserved for the head of the whole body of artists, the term proctor alone being applied to the heads of the nations, while in 1249<sup>4</sup> we meet with an agreement between the four nations as to the mode in which this new officer—the common head of the four nations—should be elected by the four proctors. It should be added that the bedels or 'common servants of the scholars', i.e. of the university or nations, make their appearance at about the same time as the proctorships in their earliest form.<sup>5</sup>

<sup>1</sup> From 1279. Bulaeus, iii. 444; *Chartul.* i, No. 492.

<sup>2</sup> 'Quousque pro qualitate et quantitate delicti vel transgressionis mandati Universitatis rectori et procuratoribus pro Universitate fuerit ad plenum et pro ipsorum voluntate satisfactum' (Feb. 1244-5), Bulaeus, iii. 195; *Chartul.* i, No. 137.

<sup>3</sup> 'Per rectorem vel servientem ab eo missum, vel per procuratores similiter.' Bulaeus, iii. 195; *Chartul.* i, No. 136.

<sup>4</sup> Bulaeus, iii. 222; *Chartul.* i, No. 187. It appears that at this time there were two rectors, one presiding over the French nation only, the other over the remaining three nations. Whether this arrangement, closely parallel to the later Bologna constitution, had

lasted some time, or whether the agreement was merely designed to settle a disputed election, cannot be determined; but it seems to be treated as irregular and exceptional. The one thing that comes out clearly is that the *single* rectorship is much later than the four national headships, by whatever name called. It is worth noticing that Gregory IX in 1231 gave the administration of the goods of intestate scholars to 'episcopus et unus de magistris quem ad hoc Universitas ordinaverit'. (*Chartul.* i, No. 79.) This suggests that a single representative of the masters was already appointed for some purposes. This very enactment may have had something to do with the growth of the single rectorship.

<sup>5</sup> *Chartul.* i, No. 28 (dated by

We see, then, that the nation-organization came into existence at some time before 1222, that it was for a time suspended by papal authority, but that by 1231 it seems to have obtained a fully recognized legal existence; while at some time between 1222 and 1249<sup>1</sup> the common rectorship was instituted by the united nations. Like the formation of statutes, the appointment of the common proctor, and the use of the common seal, the new organization is clearly connected with the great war against the chancellor. It is true that the suit against the chancellor was instituted in the name of the whole university, whereas the rectorship was a development within the body of artists, but the masters of arts formed by far the most numerous body of masters; the masters of the superior faculties who were left outside the new organization were in fact a mere handful.<sup>2</sup> And it is probable that it was the masters of arts and their pupils who were particularly interested in resisting the oppression of the ecclesiastical authorities. It was not the elderly and dignified doctor of divinity, but the young master of arts and his still younger pupils who would be most in danger of having their heads broken in a tavern brawl, or being lodged in the chancellor's prison for breaking other people's heads, and who would have needed the assistance of powerful organization for the 'avenging of injuries'. It is probable, therefore, that the suit at Rome was practically carried on mainly by the faculty of arts and at their expense.<sup>3</sup>

Denifle *circa* 1218). [Here, as later, Rashdall gives an inadequate idea of the organization of the nations under their dominating officials, the proctors. He sees the proctor throughout with the rector in mind. For a detailed description of the election, duties, rights, tenure of office, of the proctors, and of their control of the procedure of summoning and directing the congregations of the nations, see Boyce, pp. 41-53. He summarizes (pp. 50, 51) from the *Auctarium* (i. 631) an illuminating dispute in 1382 between the rector and the proctor

of the English nation about the latter's right to summon meetings of the nation.]

<sup>1</sup> Probably after 1237. See above, p. 312.

<sup>2</sup> In 1207 Innocent III limited the theological chairs to eight. (Bulaeus, iii. 36; *Chartul.* i, No. 5.) In 1289 there were about 120 regent masters of arts (Jourdain, No. 274, p. 45a; *Chartul.* i, No. 515).

<sup>3</sup> [In the first edition Rashdall took for granted that the masters of arts had elected the officers to avenge injuries, who were forbidden by the Pope in 1222. But the

CHAP. V,  
§ 1.  
The nations composed only of masters of arts.



CHAP. V, § 1. Composition of four nations. The peculiar relation which must at this time have existed between the legal corporation of masters of all faculties and the more popular and informal nation-organization which had grown up within it is well illustrated by a papal Bull of 1259<sup>1</sup> ordering the payment of debts contracted by the society 'thirty years and more before'. The suit is distinctly spoken of as the suit of the whole university; the bond for the repayment of the money was sealed with the university seal; the Bull itself is directed to the whole body of masters.<sup>2</sup> But it appears that the money had been borrowed by four proctors whom we can hardly avoid identifying with the proctors of the nations; and the order for the repayment is in a special manner addressed to the rector, though it was not till much later that it became the habitual practice to address official communications to the 'rector, masters, and scholars'. The small proportion which the masters of the superior faculties bore to the whole body, together with the fact that but for the rector the university was still an acephalous corporation, is almost a sufficient explanation of the curious circumstance that the rector of the inferior faculty of arts rapidly became the real head of the whole society. The probable history of

Bull refers to *scolares* and it is exceedingly difficult, if not impossible, to be sure when this word means 'masters and scholars' or 'scholars who are not masters'. The word *scolares* might exceptionally be used, as in the address of the Bull of Innocent III (*Chartul.* i, No. 24; see above, p. 302 n.), for the body of masters acting on behalf of the whole university, or as equivalent to 'masters and scholars' where the scholars might comprise masters of arts studying as scholars in higher faculties, or, lastly, for the young students in arts. The context may or may not help to decide what meaning is intended. Until the organization of the 'universitas magistrorum et scholarium' is defined in the second half of the thirteenth century, it is safer not to interpret, as stages in a single pro-

cess, incidents which may well have expressed different interests, had no effective outcome, or had no clear relation with each other. Cf. above, p. 298, n. 1.]

<sup>1</sup> Jourdain, No. 184; *Chartul.* i, No. 330.

<sup>2</sup> Moreover, in 1218 it appears that though only masters of arts and their scholars had been excommunicated, 'in omni facultate silet Parisius vox doctrine'. (*Chartul.* i, No. 31; Bulaeus, iii. 94.) When John of S. Victor says 'tota universitas quatuor Nationum decrevit quod a lectionibus cessarent' (Bulaeus, iii. 564), there is no reason with Denifle (i. 83) to make the expression an anachronism. It is quite probable that the nations of arts took the lead in all these movements.

the relations between the university and the faculty of arts during this transition period is that, in consequence of its superior numbers, organization, and activity, the affairs of the university were passing more and more into the hands of the faculty of arts. The doctors of the superior faculties were called in to give their assent to what had been already settled upon by the masters of arts. Since the superior faculties had as yet perhaps no heads of their own, the position of the rector in such 'general congregations' must have been from the first virtually that of a presiding officer.

It is impossible to fix the exact date at which the practice of voting by faculties in the university and by nations in the faculty of arts came into vogue, but a circumstance in the anti-chancellor movement which has hitherto been passed over helps to explain its origin. In one only of the main issues between chancellor and university does the papacy seem to have failed to support its protégé. The Bull addressed to Archbishop Langton and his colleagues in 1221, while referring the other points at issue to the discretion of the delegates, contains a peremptory order to break a seal which the masters had recently made for themselves.<sup>1</sup> How far this order was obeyed, we know not; but in 1225 a university seal—the same or a successor—was, upon the complaint of the chapter, solemnly broken by the papal legate, Romano, Cardinal of S. Angelo, and the university peremptorily forbidden to make another. The sentence provoked an attack by a mob of masters and scholars armed with swords and sticks upon the legate's house: the doors had been already broken when the cardinal was preserved from further outrage by the timely arrival of the soldiers of the king.<sup>2</sup> It was not till 1246 that the right of common seal was conceded;<sup>3</sup>

<sup>1</sup> *Chartul.* i, No. 41. The chapter had also complained of the masters unreasonably 'iuramentum non solum super observatione factarum (constitutionum) sed etiam faciendarum decetero exigentes penis gravibus constitutis'; and on this point also the Pope here seems to decide against the

masters in advance.

<sup>2</sup> *Chron. Turonense*, ap. Martène, *Ampliss. Collectio*, v, c. 1067. At the ensuing Council of Bourges, some eighty masters appeared and received absolution for this assault.

<sup>3</sup> *Chartul.* i, No. 165. [See, for the history of the seal, Gaines Post, *op. cit.*, pp. 438-43.]

CHAP. V, § 1. but meanwhile it is very possible that the prohibition had already been evaded by the formation of four separate seals for the four nations, which were used to signify the assent of the faculty of arts whether to its own deeds or those of the whole university.<sup>1</sup> It is obvious that this measure, necessitated by the action of the legate, would have the effect of consolidating the nations and emphasizing the fourfold division of the faculty of arts. Henceforth, in fact, the faculty of arts ceased to exist except as a federation of the four independent nations; and since the seals could not be used without the consent of the nations to which they severally belonged, separate deliberations would be necessary whenever a document had to be sealed.<sup>2</sup>

Relation of nations to university. It remains to state the actual constitution of these nations. They were named from the nationalities which predominated in each of them at the time of their formation, namely, the French, the Normans, the Picards, and the English.<sup>3</sup>

<sup>1</sup> The first extant document which bore these seals is the agreement as to the election of rector in 1249 (see above, p. 314). That the seals were made to evade the prohibition of a university seal is supported by the fact that as late as 1283-4 the chancellor 'asserit se a facultate gravatum esse, inserendo ibi quedam de sigillis quibus utuntur quatuor nationes facultatis predictae'. (Jourdain, No. 274; *Chartul.* i, No. 515.)

<sup>2</sup> It was distinctly ordered in 1266 by the papal legate that 'fiant in licitis casibus ipsius facultatis statuta . . . communi et expresso cuiuslibet nationis interveniente consensu'. *Chartul.* i, No. 409.

<sup>3</sup> It is not easy to indicate briefly the differences between my view of the origin of the nations and Denifle's. (1) He holds (following the *Anon. Refut.*, p. 325 sq.) that the nations were an organization of *scholars*, in which the masters of arts were included as scholars of the superior faculties (i. 84, 88, 97);

but, as he admits that those below M.A. had no voice in the assemblies (p. 102), and as the university itself is constantly spoken of as a body of *scholars*, the distinction seems to rest on a somewhat slender basis. I admit that the nations were formed for a different purpose from the faculties, though I see no reason to believe that after the nations were once formed any distinction was in practice maintained between the faculty of arts and the collective nations, or that when once the rectorship was established, the rector did not preside in all meetings of the masters of arts for whatever purpose assembled. (2) He holds that the nations were formed for purposes of discipline among the scholars (i. 104). This view seems to me unfounded and anachronistic. The discipline of scholars, in so far as such a thing existed, was left to their own masters. I believe that the primary purpose of the organization was (a) 'ad iniurias ulciscendas' by legal process and otherwise,

Picardy was held to include the whole of the Low Countries.<sup>1</sup> CHAP. V, § 1. The more distant regions were divided between the English and French nations, the French embracing all the Latin races, the English including the Germans and all inhabitants of the north and east of Europe. It is clear that the classification is to a certain extent arbitrary,<sup>2</sup> and in later times constituted a very unequal division of the academic population, the French nation often outnumbering the other three. But at the beginning of the thirteenth century it is quite possible that it represented as fair a division of the countries from which the bulk of Parisian students came as could be effected consistently with the preservation of the number four. This number was in all probability adopted in imitation of the practice of the early Italian universities. If it gave the strictly French members of the university somewhat less influence than the rest, that also was in accordance with Bolognese ideas.

The French nation was, however, far from submitting unquestioningly to this preponderance of the foreign element in the faculty. More than once we find the faculty of arts

Frequency of schism.

(b) to elect officers for this purpose and for collecting and administering funds with the same object. See above, p. 312. In 1251 we find the English nation prescribing the studies of candidates for 'determination' (*Chartul.* i, No. 201). Both the nations and their officers are found performing precisely the same functions as were discharged by the other faculties in relation to their own studies. [We cannot but think that Rashdall complicated his narrative by identifying with the later proctors of the nations the earlier proctors appointed to represent the *universitas* at the papal court in definite cases. (See above, p. 312, n. 1.) Also he identified too closely the nations with the faculty of arts. The fullest, general treatment of the nations is still that of Alexander Budinszky, who studied at Paris (from 1871) and in 1876 published

his *Die Universität Paris und die Fremden an derselben in Mittelalter*. The documents in the *Chartularium* and its *Auctarium* have to be supplemented by the registers and accounts still in manuscript; cf. Jean Bonnerot in *Bulletin of the International Committee of Historical Sciences*, i, pt. v (July 1928), pp. 677-80. The best detailed account of the organization into nations is in G. C. Boyce, *The English-German Nation in the University of Paris* (Saint Catherine Press, Bruges, 1927), with a good bibliography.]

<sup>1</sup> In 1358 the Meuse was fixed upon as the boundary between 'Picardy' and France. Bulaeus, iv. 346.

<sup>2</sup> If this is his meaning, Denifle (i. 95) rightly contrasts the 'artificial' nations of Paris with the 'natural' nations of Bologna.

CHAP. V, § 1. temporarily splitting up into two bodies—the French electing a rector of their own and the other three nations another rector.<sup>1</sup> In the year 1266 the liability of the university to such schisms had been so signally manifested that, upon an appeal to the papal legate, a dissentient nation was accorded a constitutional right to secede from the other nations and elect a rector of its own, provided that it succeeded in satisfying a board of arbitrators consisting of the three senior theologians and the four senior canonists in the university of the reasonableness of its grievances.<sup>2</sup>

Provinces. At a much later period these nations were subdivided into provinces or tribes, which had regular deans at their head, and in some cases the officers of the nation were chosen from the provinces or tribes in regular succession and the votes of the national congregations were taken by provinces.<sup>3</sup>

<sup>1</sup> This was the case when the Statute of 1249, prescribing the mode of electing a rector, was introduced. See above p. 314, n. 4.

<sup>2</sup> Cf. the statute in *Chartul.* i, No. 409; Bulaeus, iii. 375. The fact that there were often two rectors at Paris is not without importance in suggesting a possible source of two 'Rectores sive Procuratores' at Oxford and Cambridge. See below, vol. iii, c. xii, § ii.

<sup>3</sup> Thus the French nation was divided into five 'provinces' corresponding with the five ecclesiastical provinces of France which were subdivided into 'dioceses'. We hear of 'magistri de quinque provinciis consuetis nostre nationis' in 1327. Bulaeus, iv. 213; *Chartul.* ii, No. 871. The German nation (as the English was usually called after about 1440) was divided at first into an English and a non-English province, afterwards into three 'tribes', viz. (1) *Altorum Almanorum*, (2) *Bassorum Almanorum*, (3) *Insularium* or *Scotorum*. [In the middle of the fourteenth century we hear also of a 'Provincia

Sueciae et Daciae'; and the English-German nation appears undivided under a 'provisor' (*Auctarium*, i, pp. xviii, xix, &c.)] Picardy was also at one time divided into two sections of five dioceses each. Bulaeus, iii. 558 sq.; Thurot, pp. 19, 20. The Norman nation seems to have been divided into seven 'episcopatus' as early as 1275. Bulaeus, iii. 314 sq.; *Chartul.* i, No. 460. The internal arrangements of the nations as to the mode of voting and election to national offices varied considerably in different nations and at different periods. It does not seem worth while to enter into further detail. Sometimes we find elaborate processes of indirect election, in which the first nominator was elected by lot ('per inventionem nigre fabe'). *Chartul.* ii, No. 997. The provinces had at times separate funds, meetings, and festivals. [Boyce, *op. cit.*, p. 30, shows that the movement to change the name of the English nation began in 1367; cf. *Auctarium*, i. 529, 815, 816. The first use of *Almania* as a title of the nation occurred in August 1400, but it was

### III. *The Faculties and the Rectorship*

Such an account as our data permit has now been given of the origin of the celebrated four nations at Paris. We have seen that a new organization has risen within the university, composed not of all its members, but of the most numerous section of it—the masters of arts. We have seen how from the first the officers of the federated nations had begun to act as the officers and representatives not only of the faculty of arts but of the whole university of masters. The faculty of arts had thus attained the full attributes of a corporation or group of corporations with seals, officers, and common funds, at a time when the university proper was still in an acephalous and half-organized condition, and when the doctors of the superior faculties, who were left outside the nations, possessed hardly any separate organization at all. The eventual predominance of the faculty of arts and of its head, the rector, in the whole university, was rendered almost inevitable by this state of things. In order, however, to trace in detail the complicated history of the relations between the faculties, it will be necessary to go back to the origin of the distinction between the different classes of teachers in the schools of the Middle Ages.

We have seen how clearly the distinction between two main branches of study—theology and arts—was recognized in the time of Abelard. The teaching of the civil law was introduced into Paris soon after the revival of that study under Irnerius at Bologna; and the study of the canon law was fully established when Giraldus Cambrensis studied and taught in the Parisian schools about 1177.<sup>1</sup> Indeed, although the legal fame of Paris was never comparable with that of Bologna, Daniel of Morley, who visited its schools at about this period, speaks of law as the most prominent study of the place.<sup>2</sup> Medicine was certainly taught in Paris at about the

not until 1442-3 that it was customarily employed.]

<sup>1</sup> *Opera*, i. 44 sq.

<sup>2</sup> Daniel of Morley (in Norfolk) visited Paris, c. 1170-90, and gives an amusing account of seeing 'quos-

dam bestiales in scholis gravi autoritate sedes occupare, habentes coram se scamna duo vel tria, et desuper codices importabiles aureis litteris Ulpiani traditiones representantes, necnon et tenentes stilos

CHAP. V, § 1. same time. A medical school in a great capital could not be without a certain importance, but the Parisian School of Medicine always stood far below those of Salerno and Montpellier. Alexander Neckam, who studied at Paris some time between 1175 and 1195, thus sums up the studies of his time:

The four faculties.

Hic florent artes, coelestis pagina regnat,  
Stant leges, lucet ius: medicina viget.<sup>1</sup>

Civil law forbidden, 1219.

Such were the four 'faculties' recognized by the medieval universities. It should be added that the study of the civil law was forbidden in 1219 by Honorius III,<sup>2</sup> not (as is sometimes represented) in a narrow spirit of hostility to legal or to secular studies in general, but because it threatened to extinguish the study of theology in the one great theological school of Europe.<sup>3</sup> It is probable that the Pope's zeal for the

plumbeos in manibus, cum quibus asteriscos et obelos in libris suis quadam reverentia depingebant'. Printed by Prof. Holland in *Collectanea* (Oxf. Hist. Soc.), ii. 171. [For Daniel of Morley see Thorndike, *History of Magic and Experimental Science*, ii. 171 sqq., with a copious bibliography; cf. Haskins, *Studies in Mediaeval Science*, pp. 126, 127.]

<sup>1</sup> *De laudibus divinae sapientiae*, ed. Wright, 1863, p. 452. [A much more important description of Parisian studies at this time is Neckam's list of text-books (1179-94), edited by Haskins from a Caius College manuscript, with an introduction, *Studies*, pp. 356-76.]

<sup>2</sup> Bulaeus, iii. 96; *Chartul.* i, No. 32. At the same time its study was forbidden to priests, regulars, and beneficed clerks. It was afterwards explained that the last restriction did not extend to mere parochial cures; while universities and whole orders frequently obtained dispensations. No general dispensation appears to have been given for Paris. [For the decretal *Super specula* see M. Fournier in *Nouvelle revue historique de droit français et étranger*, 1890, pp. 115-18; A. Tardif, *ibid.*, 1880, pp. 291-4;

A. Luchaire, *La Société française au temps de Philippe-Auguste* (Paris, 1903), pp. 109, 110; and E. Chenon in *Mélanges Fitting*, i (Montpellier, 1907), pp. 198-201. An ordinance of Philip the Fair shows that Philip Augustus was instrumental in procuring the Bull, in order to emphasize the validity and independence of the customary law of France. The motive alleged was the desire to encourage the study of theology.]

<sup>3</sup> There can be no doubt that the civil law continued to be studied and quoted by the canonists of Paris; and the education of a Parisian canonist usually included a study of the civil law at another university. The evidence collected by Péries (pp. 99-108) fails to prove that formal and avowed lectures in civil law were ever given at Paris after 1219, still less that degrees were ever taken in that faculty. The only exception is an allusion to 'Bachelarii decretales et leges legentes' in 1251 (*Chartul.* i, No. 197), which need not imply more than that a certain instruction in civil law was mixed with that of canon law in extraordinary lectures. Much of the later evi-

theological fame of Paris was seconded by the French king's CHAP. V, § 1. suspicion of a legal system which endangered the supremacy of the customary law of his country in the courts of his capital. After this change the four faculties of Paris were theology, canon law or decrees, medicine, and arts<sup>1</sup>—the three former being styled the superior faculties as contra-distinguished to the inferior faculty of arts, whose course was regarded more or less as a preparation for the other three. In what relation did the professors of these four faculties stand to one another in the earliest days of the Parisian guild of masters?

From the beginning of the thirteenth century the documents show that the society or university included masters of three faculties, theology, law, and arts; the masters of medicine are not yet mentioned as a distinct element.<sup>2</sup> And in the earliest corporate act on the part of the university itself which is preserved to us—the deed by which in 1221 that body transfers its rights over the Place S. Jacques to the newly arrived Dominican order as a site for their convent—it appears distinctly that the members of all these faculties were included in the same magisterial corporation. The consideration for which the university sold its property was to be a right of burial for masters 'of whatever faculty'<sup>3</sup> in

Theology always distinguished from arts.

tätenbildung'.  
<sup>2</sup> 'Universis doctoribus sacre pagine decretorum et liberalium artium Parisius commorantibus.' (*Chartul.* i, No. 8.) This was the usual order of precedence, though at Oxford the medical doctors have now acquired equality with the lawyers. Where there was a faculty of civil law, its doctors ranked between the decretists and the medicals. The licentiates and bachelors of superior faculties ranked among themselves in the same order; bachelors of theology (at least *Baccalaurei formati*) ranked above regent masters of arts, but not so bachelors of the other superior faculties.

<sup>3</sup> Jourdain, No. 15; *Chartul.* i, No. 16. Denifle (i. 70) well remarks that 'die Promotionsfrage war in Paris der erste Schritt zur Facul-

above regent masters of arts, but not so bachelors of the other superior faculties.

<sup>3</sup> 'Pro quolibet magistro, cuiuscumque facultatis fuerit de nostris.' Bulaeus, iii. 106; *Chartul.* i, No. 42.

CHAP. V, the Church of the Order together with certain masses and § 1. 'whole psalters', and it is added that, if the deceased is a theologian, he is to be buried in the chapter-house, if 'of another Faculty'<sup>1</sup> in the cloister. The document bears the seals of the individual doctors of theology and of them alone: the theologians are not merely members but representatives of the university.<sup>2</sup>

The superior faculties always distinct corporations within the university.

As soon as the masters of theology and canon law became at all numerous, they must have held meetings of their own apart from those of the masters of arts. The artists could not have taken part in the inception of a theological master, in a theological disputation, or in the discussion of a case of heresy submitted to them by the bishop of the diocese. The agreement of 1213 recognizes the right of each faculty—including the medical doctors (who are here for the first time mentioned in connexion with the university)—to testify to the qualifications of candidates to the licence in its own department, and this right practically involved the regulation of the studies and the discipline of the students.

Voting by faculties.

At the same time it does not follow that, when the united university of masters met in general congregation, they voted by faculties in the manner which afterwards obtained. It is, however, probable that in so far as anything like 'voting' took place in these primitive assemblies, the consent of all faculties would have been practically necessary to make a resolution or statute binding upon all. It would have been a matter of little importance to the theologian to be denied the

<sup>1</sup> 'Alterius facultatis.' The distinction between 'alter' and 'alius' was habitually neglected in the Middle Ages.

<sup>2</sup> According to Denifle (i. 71) the word faculty is first found in the sense of a distinct branch of learning in connexion with Paris in a Bull of Honorius III addressed to the scholars of Paris in 1219. But Giraldus Cambrensis, in his celebrated description of Oxford, speaks of 'doctores diversarum facultatum' as early as circa 1184

(see *Opera*, i. 73) [also, i. 48, 'praeceptor in ea facultate' of Paris. The word was used by Boethius of disciplinary instruction in dialectic, and is frequently found in a more technical sense in twelfth-century writers; cf. Ueberweg-Geyer, p. 352.] Its use for a body of teachers in a particular subject grew out of the earlier usage by imperceptible stages. Cf. the use of 'facultas nostra' in Bulaeus, iii. 280; *Chartul.* i, No. 246.

[325-6] THE FACULTIES AND THE RECTORSHIP 325  
fellowship or *consortium* of the artists, if he were still admitted to the disputations, discussions, and inceptions of his theological brethren. But we really know nothing of the procedure of university congregations before the growth of the rectorship.

We have already traced the process by which the nations of artists and their officers grew up within the university, and to a large extent superseded it in the conduct of what was strictly speaking the business of the whole body. We have seen that though the rector was technically the rector of the artists only, he was from the first employed in the collection of money for university purposes, in the conduct of university litigation, and in the execution of university decrees. He was from the first the representative or agent of the whole university: he rapidly rose to the position of its *Head*, though still elected only by the faculty of arts. This predominance of the 'inferior' faculty of arts in the University of Paris is explained in exactly the same way as the predominance of the 'lower' house in the British Parliament. The licentiates, bachelors, and students of the superior faculties remained subject to the authority of the nations<sup>1</sup> (though their studies and exercises were regulated by the several colleges of doctors); so that the power of the purse lay almost exclusively with the rector and masters of the faculty of arts.<sup>2</sup>

<sup>1</sup> If M.A. they had votes as regent or non-regent masters. If B.A. they were 'iurati facultatis Artium'. The authority of the masters of arts over the bachelors of the superior faculties who were not B.A. or M.A. is rather a constitutional anomaly, but, when once established, would be sanctioned by the oath to obey the customs of the university.

<sup>2</sup> The old theory—that of Du Boulay and Crevier—was that the masters of the superior faculties were originally included in the nations, and that the faculties did not, so to speak, emerge out of them till after the mendicant controversy. This view is inconsistent with all the facts; and with it goes

the boast, [if it was intended in this sense], that the university was 'founded in Arts'. It is possible, however, that though the theologians and canonists were from the first members of the university, they were considered to be so as ex-masters of arts, and that admission to the university was originally obtained only by inception in arts. Filesacus, the historian of the theological faculty, declares that in the time of Philip Augustus there were no inceptions in the theological faculty (ap. Conringius, v. 455). If this was so, it would go far to explain the confusion introduced into the whole system by the mendicant doctors, who had not graduated in arts.

CHAP. V, § 1. His position in general congregations.

If it should still appear strange that when the four faculties met together they should have been presided over by the head of the lowest of them, it must be remembered that (if we may infer the earliest mode of proceeding from the later practice) there was no actual debate in the meetings of the whole university. When the affair had been laid before the congregation by the rector, the matter was debated by the respective faculties and nations, and the assent of each faculty and nation signified by the respective presiding officers. The proceedings thus resolved themselves into a sort of conference between these officials, which could be conducted without any of them asserting a formal superiority over the rest. But it is clear that in such conferences the representative of the great mass of the university must have been from the first the most conspicuous and important figure. The internal organization of the superior faculties developed itself much more slowly than that of the artists. As soon as there were separate meetings of these faculties, the senior doctor must have enjoyed the right of convoking them and presiding in them, but it is not till 1264 that we actually hear of 'deans' of the superior faculties.<sup>1</sup> It is not till 1252 that we hear of one of the superior faculties making written statutes of its own;<sup>2</sup> nor till about 1270 that the faculties of law and medicine acquired corporate seals.<sup>3</sup> At first the deans appear to act rather side by side with the rector than in obedience to his authority; though from the first the initiative and superior

Deans.

Statutes and seals of superior faculties.

The rector and the deans.

<sup>1</sup> In 1265 there is a dispute between the chancellor, who claims to be the sole head of the faculty, and the theologians, who claim that 'hactenus pacifice observata consuetudine Parisius sit obtentum ut antiquior ex eisdem magistris in actu regendi nomen decani habeat inter eos et ipsis indicat festa per nuntium proprium, et alia faciat que ad suum noscuntur officium pertinere.' *Chartul.* i, No. 399. In 1267 we find deans of the other two superior faculties. Jourdain, No. 216; *Chartul.* i, No. 416. The deanship of medicine had become elective by

1338 (*Chartul.* ii, No. 1017). The deanship of canon law was also elective; that of theology was always held by the senior secular doctor.

<sup>2</sup> Bulaeus, iii. 245; *Chartul.* i, No. 200.

<sup>3</sup> The step is complained of as an innovation by the ever-jealous chancellor, *circa* 1271 in the case of law, in 1274 in the case of medicine, *Chartul.* i, Nos. 446, 451. [In 1359 the faculty of theology claimed that it had had a seal for a long time: *Chartul.* iii, No. 1246, p. 62.]

importance of the rector is plain enough. During the heat of the great conflict with the mendicants (1250-60) which contributed so much to develop the importance of the rectorship, we hear of no disputes on this head. When the tie of a common enmity was removed, the superior faculties seem to have awaked to the fact that they were falling under the authority of an official not elected by themselves. Hence perhaps the attempts to increase their own corporate solidarity by separate statutes, seals and officers. At about the same time (1279) we find a dispute arising between the faculty of arts on the one hand and the faculties of canon law and medicine on the other as to the manner in which the latter should be summoned to general congregations.<sup>1</sup> The superior faculties contended that the rector was bound to wait in person upon the deans, who would in turn summon their respective societies. The rector, on the other hand, maintained that he was at liberty to send a bedel with the summons. A little later (1283-4) we find the theologians contending that the rector could only summon them through their dean 'by way of supplication and request'.<sup>2</sup> In both cases the rector eventually carried the day. The dean of theology continued for some time longer to maintain a claim to be consulted before the day was fixed for a general congregation; but both incidents testify to the fact that the rector's right to summon all the faculties was by this time practically undisputed. They no doubt point back to a time when 'general congregations' were summoned rather by arrangement between the rector and deans than by the previous summons of the former.

We have seen that as early as 1244—that is to say, as early as we have any certain evidence of the existence of a single rector—he is employed in the execution of the university decrees. In 1255 he is styled by the secular masters of all faculties 'Rector of our University'.<sup>3</sup> In 1259 he is addressed by the Pope as 'Rector of the University' and required to

<sup>1</sup> Bulaeus, iii. 445; *Chartul.* i, *tul.* i, No. 515. Nos. 490, 493.

<sup>2</sup> 'Supplicando et rogando.' Jourdain, No. 274 (p. 49 b); *Char-*

<sup>3</sup> Bulaeus, iii. 257; *Chartul.* i, No. 230.

Gradual emergence of rector into head of the university.

CHAP. V, § 1. enforce payment of a debt incurred in the name of the whole university.<sup>1</sup> In 1276 a deed runs in the name of the deans of canon law and medicine and the rector and proctors of the nations (mentioned in that order) 'by the assent and consent of all the masters regent at Paris in the aforesaid faculties and in arts'.<sup>2</sup> The eight masters of theology assent as individuals, their names being recited at the end of the deed. In 1289 we find the rector mentioned before the 'deans of faculties, the proctors of the nations and the masters of the four faculties'.<sup>3</sup> It has seemed worth while to enumerate these facts because they will enable the reader to observe for himself the gradual steps by which the rector emerged from an undefined initiative or presidency to an acknowledged headship of the whole university. It is really impossible to say at what exact date the rector may be considered to have attained this position. He was from the first the executive officer, and the only executive officer, of the whole university. By about the decade 1280-90 he had unquestionably attained the presidency if not the formal headship of the whole society, and the faculty of arts was already endeavouring to convert that presidency into a formal and acknowledged headship. It was not, as we shall see, until the middle of the following century that these efforts were crowned with entire success. One of the means by which the faculty endeavoured to effect their object is of especial interest and constitutional importance.

The oath administered to a bachelor of the faculty of arts upon his determination had at first bound him to obey the rector only 'as long as he should profess the faculty of arts'.<sup>4</sup> About the year 1256 or earlier it would seem that this last clause was omitted; and the oath to 'obey the liberties and honest customs of the faculty' was supplemented by the words 'to whatever state you shall come'.<sup>5</sup> Sooner or later similar

<sup>1</sup> Jourdain, No. 184; *Chartul.* i, No. 330.

<sup>2</sup> Jourdain, No. 216; *Chartul.* i, No. 416.

<sup>3</sup> *Chartul.* ii, No. 559.

<sup>4</sup> 'Item eidem iniungatur, quod per totam quadragesimam et dein-

ceps, quamdiu facultatem arcium profitebitur in illis studendo vel regendo, mandato rectoris et procuratoris pareat in licitis et honestis.' (1252) *Chartul.* i, No. 201.

<sup>5</sup> 'Item iurabitur, quod libertates singulas facultatis et consuetudines

words were added to an explicit oath of obedience to the rector, thus making the subjection of every member of the faculty of arts to that official permanent and unalterable.<sup>1</sup> As at least the vast majority of the secular masters of all faculties had taken the oath,<sup>2</sup> the ingenious change practically secured the supremacy of the rector over the whole university. If in a certain technical sense the rector was still the head of the artists only, the members of the superior faculties were henceforth extraordinary or non-regent members of the faculty of arts. Hence there could be no question about the rector's right to summon them to congregations, to enforce against them the decrees of the whole university, and to declare them 'perjured and rebels' if they disobeyed. The new oath supplied a much-needed connecting link between the four faculties. In time it even made possible the establishment of the principle that a majority of the faculties had the right to override the opposition of one of them. The rector, after hearing the decision of the several faculties, pronounced in accordance with the decision of the majority; in other words, he commanded every individual member of the university to obey the decision of the whole body. Hence the almost superstitious importance attached to his rectorial 'conclusion', which was deemed essential to the legal validity of any resolution of the university.<sup>3</sup> The oath of

facultatis honestas et totius universitatis privilegia defendetis, ad quemcumque statum deveneritis.' *Chartul.* i, No. 501. This document is of circa 1280.

<sup>1</sup> *Chartul.* ii, App., No. 1675, p. 674.

<sup>2</sup> It was by no means the habitual practice of canonists to take the M.A., but most of them would probably have studied arts up to B.A. [Although in the middle of the fourteenth century masters in medicine were nearly always masters in arts, the obligation to have been licensed in arts was not clearly stated until 1426, when Pope Martin V granted a petition from the faculty of medicine to this effect

(*Chartul.* iv, No. 2274). Hence the necessity of the oath exacted from masters of the higher faculties who had not passed through arts (*ibid.* ii, p. 685). Cf. E. Wickersheimer, *Commentaires de la faculté de médecine*, pp. xviii, xix. Although a medical student could not simultaneously study or teach in the faculty of arts, a rector of the university, during his period of office, might actually be studying for the degree in a higher faculty.]

<sup>3</sup> A very curious light is thrown upon the nature of the bond which connected the superior faculties with the parent body, of which, as I have endeavoured to show, they were offshoots, by a deed of

CHAP. V, obedience to the rector was the key-stone of the academic constitution.<sup>1</sup>

composition between the faculty of arts and the theologians in 1341. The rector having on one occasion sent a written summons to congregation to the dean of theology by a deputy, the latter refused to summon his faculty. Thereupon the faculty of arts—not the university—expelled the dean from their society on the ground that he had acted 'contra iura et libertates rectorie et per consequens facultatis artium predicte, contra etiam iuramentum ab ipso magistro Symone dicte facultati artium olim prestitum temere veniendo'. And the dean on his part expressly admitted 'quia a magnis temporibus et per magna tempora fuerat et erat iuratus dicte facultatis artium'; and supplicated the faculty 'si iniuste esset privatus, facere sibi iustitiam; et in casu dubii, facere sibi gratiam, et ipsum dicte facultati artium reunire' (Bulaeus, iv. 268; *Chartul.* ii, No. 1051). So in 1451 at a congregation of the faculty of arts, we read that 'vocati fuerunt et comparuerunt multi magistri de singulis facultatibus superioribus singularum nacionum ad consulendum' (Bulaeus, v. 560; [*Chartul.* iv, No. 2681]. So on another occasion when a difficulty was experienced in getting a representative of the theological faculty to go on an embassy to the king, the university 'volebat in crastino Facultatem Artium Praeclaram congregari apud S. Julianum Pauperem solemniter per D. Rectorem, processuram contra eosdem Magistros nostros (a technical name for doctors of divinity) quorum uterque erat Magister Artium, omnibus viis et modis possibilibus, etiam usque ad privationem inclusive ipsorum Magistrorum nostrorum tanquam periurorum, si praedictam Ambassiatam recusarent accipere.'

Bulaeus, v. 583.

Denifle holds that the rector was not recognized as the head of the faculty of arts till 1274 (pp. 110, 119, 120), or as the head of the university till the middle of the fourteenth century. I have not space to examine his arguments in detail, but the contention rests mainly on the fact that the rector's name is not mentioned in the enacting clause of the statutes of the faculty till 1274, or in those of the university till 1338 (pp. 109, 110). Denifle relies upon the analogy of Oxford and other universities; but, though there was never any doubt as to the chancellor being head of the University of Oxford, the statutes, &c., by no means uniformly run in the name of the chancellor and university. Besides, in 1309 Clement V does speak of a suit as being the suit of the rector and university (Jourdain, No. 385); and in 1327 a statute is 'facta per venerabilem et discretum virum magistrum Joannem Buridam rectorem Universitatis supradicte'. (Bulaeus, iv. 212; *Chartul.* ii, No. 870.) Denifle further alleges (p. 121) that the rector cannot have been considered head of the university in 1283 or 1284, since the faculty of arts at that time declares that the Pope was head of the university. This is inaccurate. What the faculty says is that 'Parisiensis universitas non credit nec confiteatur secundum suum rectorem habere caput aliud a vestra Sanctitate' (Jourdain, No. 274), or according to Denifle's reading, 'supra suum rectorem' (*Chartul.* i, p. 618). The words distinctly imply that the rector was head of the university. What they deny is the head-

For note 1 see p. 331.

From this time at least, there could be no doubt about the rector's position as virtual head of the whole corporation. As a constitutional technicality it might be maintained, and

ship of the chancellor. Moreover, it is useless for Denifle to explain that in 1261 'rector universitatis' means 'rector universitatis artium', when as early as 1255 we find the secular masters of all faculties speaking of the rector as 'rectorem universitatis nostre'. Another good instance of his recognition occurs in 1278, when the king enjoined that the candidate selected by the university for a chaplaincy in its gift should be presented by the rector (*Chartul.* i, No. 482). Father Denifle hardly realized that the question whether the rector was or was not 'head' of the university is one which might have been answered differently by different persons at the same time. I admit that the rector's headship was not formally placed beyond dispute till the middle of the fourteenth century. But Denifle's treatment of the subject obscures the fact that his *virtual* headship was established, and his *formal* headship persistently asserted by the faculty of arts, at a much earlier date. [The documents published in the third volume of the *Chartularium* (Nos. 1246, 1504-22) illustrate the nature of the controversy in the fourteenth century. Early in 1359 the faculty of theology protested against the claim of the artists that the rector was *caput aut superior* of the university and set out facts alleged to prove the contrary (No. 1246). In 1385 Pope Clement VII instituted an inquiry into the charges brought by the university against the chancellor, John Blanchart. The main charge against the chancellor was his arbitrary and venal use of his powers in granting the licence, but incidentally his claim to be head of the

university was resisted. The claim turned on questions of precedence, on his right to refuse to attend congregations when summoned by the rector, &c. (e.g. pp. 408, 419). A Franciscan who, at the end of a sermon, said 'Orate pro Universitate et pro cancellario, qui est caput Universitatis', was forced to retract publicly (No. 1300). The chancellor complained, on the other hand, that a newly licensed doctor of decrees had 'determined' that the chancellor, by refusing to obey the rector, was a heretic (pp. 409, 410). For examples of letters addressed to the chancellor as head of the university, cf. Nos. 1610 (1378), 1692 (1394) with Denifle's notes; see also the note on p. 366. For further comment on the disputes of 1385-6 see below, p. 400 n.]

Denifle's contention that the rector was not head of the faculty of arts, but only of the nations, till 1274, rests on the same inadequate ground as his contention with respect to the university—i.e. that his name does not appear in the acts of the faculty. The fact that, when the university proclaimed its own dissolution in 1255, it sealed the deed with the seals of the four nations, 'utpote ab universitatis Collegio separati', at most goes to establish a distinction between the nations and the university, not between the nations and the faculty of arts (below, p. 384).

<sup>1</sup> It was probably on this account that we find it alleged that the faculty of arts can expel from the university, while the superior faculties cannot expel even from their own 'consortium' without the consent of the university. *Chartul.* ii, No. 930.

CHAP. V, § 1.  
His headship generally if not universally admitted.



CHAP. V, § 1. no doubt was maintained, by the theological faculty and especially by the sworn enemies of the faculty of arts, the Dominican theologians, that the rector was not the head of the university, as it was maintained in more recent times by the learned Dominican who has thrown so much light upon the history of the medieval universities. The fact that the precedence of the rector at ecclesiastical functions was till the middle of the following century disputed by the dean of theology—often, it must be remembered, a bishop or archbishop—proves little against his virtual headship. An officer who summons the meetings of a society, whom every member of the society is bound to obey, and who executes its decrees, is for practical purposes the head or at least the president of that society. In the English House of Lords the royal dukes and the Archbishop of Canterbury take precedence of the Lord Chancellor; but he is the unquestioned president of that House, though his very limited powers in that capacity supply but an incomplete analogy to the rector's importance in the university congregations.<sup>1</sup>

Depen-  
dence of  
theologi-  
cal faculty  
on the  
chan-  
cellor.  
Another circumstance which tends to explain the facility with which the faculty of arts managed to thrust their rector into the position of head of the whole university is the peculiarly close relation in which the most important and, in a sense, most ancient of the superior faculties stood to the chancellor. As late as 1264 the chancellor is found claiming to be *ex officio* dean of the theological faculty,<sup>2</sup> and, though this claim is denied by the masters, it is certain that there

<sup>1</sup> [Cardinal Ehrle recently re-examined the problems discussed by Denifle and Rashdall (*I più antichi statuti della facoltà teologica dell'università di Bologna*, pp. clx-lxxi). He inclines to the view that the headship of the rector, both in the faculty of arts and in the university was definitely secured later than Denifle admitted and much later than Rashdall urged. This view seems to be based upon his distinction between the faculty as a whole and the nations,

and between the acts of the faculty and the acts of the rector. This distinction, so far as it goes, is sound, but Ehrle seems to deduce too much from it and from varieties of phrasing in academic documents. The oath *ad quemcumque statum* referred explicitly to the faculty, and it is impossible to distinguish between the acts of the faculty and those of the nations acting together. Ehrle was perhaps unconsciously influenced by the system at Bologna.]

<sup>2</sup> *Chartul.* i, No. 399.

CHAP. V, § 1. must have been a time when they had no head other than the chancellor. The chancellor was himself originally chief theological teacher of the cathedral school; and not only the chancellor but the canons of Paris long retained the right of teaching theology and canon law without any authorization from the faculties.<sup>1</sup> The chancellor was thus the natural head of the theological faculty in its relations to the bishop of the diocese and to the Church at large. The earliest recorded instances of the corporate action of the theological faculty are occasions on which it was formally asked for its decision on a theological question, or when its members were called upon to meet as the assessors of the bishop in a trial for heresy.<sup>2</sup> On such occasions, even after the university had completely shaken off the yoke of the capitular official, and the theological faculty had acquired a dean of its own, the chancellor continued to preside over the deliberations of the theological doctors. But it was clearly impossible for the chancellor to act as the head and representative of the faculty in its relations with the masters of the other faculties. Of the guild of masters, the chancellor was not necessarily even a member; much of the early corporate activity of both faculty and university directly grew out of resistance to his pretensions. Thus the faculty was for a time left without a head at all in its relations to the other masters; and even when a dean of theology was appointed his position was weakened by the rival claims of the chancellor.

It was this extra-academical position of the chancellor which prevented him becoming, like the chancellor of Oxford,

<sup>1</sup> Thus the canons of Paris are specially exempted from the privileges conferred upon other masters and scholars by the charter of Philip Augustus in 1200, on the ground that they have special privileges of their own as canons. *Chartul.* i, No. 1. Their position as canons of course originally gave them no rights in the university. [Clement VII allowed that one canon, being a doctor of decrees might retain regency by lecturing

in the cloister of Notre Dame instead of the 'Clo Brunel'. See the documents of the suit between the chapter and the university in 1384 (*Chartul.* iii, Nos. 1486-91.)

<sup>2</sup> For early instances see *Chartul.* i, Nos. 16, 21; [cf. Powicke, *Stephen Langton*, p. 62]. We find the theological doctors acting as the assessors of the bishop in a case of heresy in 1240-1. (Jourdain, No. 59; *Chartul.* i, No. 128.)

The extra-academical chancellorship explains anomalous position.

CHAP. V, the head of the magisterial guild.<sup>1</sup> At the same time the close  
 § 1. connexion between the chancellor and the theological faculty long prevented the latter acquiring a head who might have taken that position in the university organization which would naturally have been accorded to the head of what always ranked as the first among the faculties of Paris. The position in which that faculty was placed by its peculiar relations with the extra-academic chancellor thus explains that singular and otherwise unintelligible feature of the Parisian constitution by which the headship of the whole university was vested in an officer elected exclusively by and from the 'inferior' faculty of arts.

#### IV. *The Great Dispersion and the Papal Privileges*

Profit-  
able mis-  
fortunes. The university, as we have already seen and we shall have frequent occasion to observe, lived upon its misfortunes. The 'town and gown' disturbance of 1200 procured its first chapter from the Crown: the oppression of the chancellor produced its first batch of papal privileges. The third era in the growth of its privileges is introduced like the first by a tavern brawl; but this time the quarrel brought it into collision not merely with the citizens or the chapter, but with the monarchy itself. Its eventful triumph over court and capital united shows that a new force had been introduced into the political system of Europe—that a new order had arisen who were to share the influence hitherto monopolized by nobles and priests.

Carnival  
Riot of  
1228-9. During the carnival of 1228-9 some students were taking the air in a suburban region known as the Bourg of S. Marcel, when they entered a tavern and 'by chance found good and sweet wine there'.<sup>2</sup> A dispute arose with the landlord over

<sup>1</sup> In 1385 the university resolved 'quod ipse Cancellarius Parisiensis nec est caput Universitatis nec aliquis Facultatis'. Bulaeus, *Remarques sur la dignité, &c., du recteur*, pp. 7, 8. [Du Boulay was referring to the disputes of 1385-6; see above, p. 331 n. One of the chancellor's witnesses testified that 'in Universitate . . . fuit aliquociens

tractatum quod si cancellarius vellet fateri rectorem esso maiorem et quod deberet precedere eum, et fateri quod male fecerat quia precesserat eum in sede, dimitteretur in pace'; *Chartul.* iii, p. 419.]

<sup>2</sup> 'Invenerunt ibi casu vinum optimum in taberna quadam et ad bibendum suave.' Matt. Paris, *Hist. Mai.*, ed. Luard, iii. 166, 167.