A NEW VIEW
OF
WILLIAM DURANT THE YOUNGER'S
'TRACTATUS DE MODO GENERALIS CONCILII CELEBRANDI'
BY CONSTANTIN FASOLT

The work which is the subject of this article marked a major advance in the
history of medieval political thought.* Its significance, although perhaps not
widely enough perceived, is well known to scholars specializing in the origins
of conciliarism.† This is not to suggest that William Durant the younger's

* I would like to express my gratitude to J. H. Mundy, L. B. Pascoe, s.j., and R. Somerville for their help in the writing of this article.

† In addition to the sigla customarily employed in Traditio, the following abbreviations will be used: Violet: P. Viollet, 'Guillaume Durant le Jeune, évêque de Mende,' Histoire littéraire de la France 35 (Paris 1921) 1–139; P: Paris, Bibliothèque Nationale, MS lat. 1443 fol. 1–112; M: Munich, Bayerische Staatsbibliothek, clm. 6005 fol. 2–69v.

Since manuscript evidence has been used to supplement the printed editions, it may be
useful to explain the method followed in quoting from the Tractatus de modo generalis con-
cellii celebrandi. Quotations will be followed by an indication of the book (Tractatus maior
or Tractatus minor) and the part and chapter of the Maior or the chapter of the Minor, e.g.,
Maior 2.73, or Minor 9. For the distinction between Maior and Minor see 297–9 below. Where
the printed editions provide a different numbering of chapters, this has been supplied in
brackets. References will conclude with a parenthesis indicating the corresponding folio,
column (a and b for columns on the recto, c and d for those on the verso), and lines in the editio
princeps of the work (ed. Jean Crespin; Lyons 1531). Durant’s technical references to canon
law will only be given in the Latin text in the footnotes. References added by the present
writer will be given in brackets. All references have been modernized and are abbreviated
in the manner suggested by X. Ochoa, A. Diez, Indices canonum, titulorum et capitulorum
Corporis Iuris Canonici (Rome 1964) v. The full texts can be found in Corpus Iuris Canonici
(ed. E. Friedberg; Leipzig 1879–1881). Variant readings in Durant’s text have been marked
off by asterisks and are followed by brackets with the siglum of the MS from which they were
taken.

† See the judgment of B. Tierney, Foundations of the Conciliar Theory (Cambridge 1955)
190, 196 that Durant’s treatise was a ‘really very considerable contribution to the growth
of conciliar thought,’ which ‘strikes for the first time the authentic note of the Conciliar
Movement properly so called.’ The bibliography on William Durant reflects the different
contexts in which he has been studied by historians. The best biographical essay is Violet
1–139. Scholars who have come to deal with the bishop of Mende because of their interest
in the reform-legislation of the council of Vienne include M. Heber, Gutsachten und Reform-
vorschläge für das Wiener Generalkonzil 1311–1312 (Leipzig 1896) 40–56, 64–74; E. Müller,
Das Konzil von Vienne 1311–1312 (Münster 1934) esp. 587f, 591–610; J. Leclerc, Vienne
(Paris 1964) esp. 38–50; E. Bollone, ‘Cultura e studi nei progetti di reforma [sic] presentati
al concilio di Vienne (1311–1312),’ Annuarium Historiae Conciliorum 9 (1977) 67–111; and
L. Vereecke, ‘La réforme de l’église au concile de Vienne 1311–1312,’ Studia Moralia 14
contribution to the nascent conciliar theory has been exhaustively interpreted. On the contrary, it is probable that the systematic legal and political argument underlying his pointed demands has never been as fully understood as would have been possible or desirable. But Durant's theories lie beyond the scope of this article. It is instead addressed to the more fundamental question whether the available texts of the treatise are sound. It is somewhat surprising that this question has never been studied before, since the early modern printed editions, on which all previous work on Durant has relied, do not give the impression of being trustworthy. Upon inspection of the extant manuscripts it must be concluded that the unsuspecting faith put in these editions was ill-advised, to say the least. It is the thesis of this article that every known printed edition of the Tractatus de modo generalis concilii celebrandi is seriously flawed, and, furthermore, that the deficiencies have prevented scholars from arriving at an adequate interpretation of the nature and the scope of Durant's plan for reform.


2 For the spelling 'Durant' see Viollet 2 n. 2, but note also Heber, Gutachten 65 and M. Andrieu, Le Pontifical roman au moyen âge III (Vatican City 1940) 3 n. 1.

3 The most balanced characterization of Durant's work is given by Rivière, Problème 363–69. The most detailed paraphrase of the contents is found in Viollet 79–129. A stimulating interpretation can be found in Tierney, Foundations 190–99. The other studies cited above make no serious attempt to proceed from paraphrases of Durant's demands to their systematic analysis. Some of the older ones, such as Heber, Gutachten 73 and Haller, Kirchenreform 65, deny the existence of any systematic coherence.

4 All the printed editions, for example, confuse the author of the treatise with his uncle; see 29 below. There were other indications which might have prompted a careful look at the textual transmission; see 311f. below. The only scholar who seems to have used more than one MS of the treatise was Viollet (3 n. 4, 79 n. 2, 82 n. 1, 99 n. 4, 100 n. 2, 128 n. 1), who knew of the MSS in Paris, Tours, Troyes, and Kues. Müller, Vienne 593 n. 28 added the Munich MS, and Scholz, Publizistik 523 ad 210, the Barberini MS. For shelf-marks see 296 below. The reliability of the printed editions will be assessed in detail 310–15 below.
Before the evidence is presented in detail, it will be useful to give some introductory information on the author, on his treatise, and on the sources of this study. During his lifetime, ca. 1267–1330, bishop William Durant the younger of Mende commanded considerable respect, not only in the area under his immediate influence, i.e., the diocese of Mende and the Gévaudan, but also at the courts of the king of France and of the pope.5 There are many instances in which he is known to have acted on a high level of political responsibility: he attempted to secure peace in the war-ridden Italian possessions of the papacy as papal legate in 1305;6 in 1307 he travelled to England in order to ascertain the facts surrounding the death of Thomas Cantilupe, Bishop of Hereford;7 between 1308 and 1311 he participated in the papal commission to investigate the Order of the Templars in France; he functioned regularly as royal counsellor and became a member of the group of experts set up in 1317 to support the succession of Philip V; and it was in Cyprus, in 1330, on the return from one of his most important missions, an unfortunately little-documented embassy to Egypt, where he had been sent in the service of the king of France and the pope in order to secure favorable diplomatic conditions for the planned crusade, that he died.8

This was by no means an undistinguished career. But there is no doubt that the bishop is chiefly remembered for his major literary effort, the Tractatus de modo generalis concilii celebrandi, which was written on the occasion of the council of Vienne (1311–1312).9 It was in this book that Durant raised an urgent call for reformatio in capite et membris10 and declared that the Church of Rome ‘henceforth ought not to enact any general laws unless a general

5 Unless stated otherwise, the following information on Durant’s life is taken from Viollet.
6 In addition to Viollet 64–71, see E. Göller, ‘Zur Geschichte der italienischen Legation Durandus des Jüngerem,’ Römische Quartalschrift für christliche Altertumskunde 19 (1905) part Geschichte 14–24.
7 They were needed to permit his canonization; cf. Viollet 72–75.
8 Viollet 58–61.
9 His other writings are reviewed by Viollet 64–79, 129–39.
council has been convoked, which should be summoned every ten years.\textsuperscript{11} No one familiar with the controversy surrounding the decrees \textit{Haec sancta} and \textit{Frequens}, enacted by the council of Constance over a century later,\textsuperscript{12} will be surprised that the contents of the \textit{Tractatus de modo} raised some hackles at Vienne, among them those of Pope Clement V and Cardinal Jacques Duèse, the future Pope John XXII.\textsuperscript{13} After the council, a period of more than a hundred years elapsed during which nothing is known about the treatise. It would nevertheless be rash to deduce from this silence that it had been forgotten, because of the popularity it was soon to enjoy. Extant manuscripts show that, at the time of the council of Basel at the latest, the treatise began to be copied more frequently than before, and continued to be copied until the last quarter

\textsuperscript{11} 'Quod [Romana ecclesia] nulla iura generalla deinceps conderet nisi vocato concilio generali quod de decennio in decemnum vocaretur.' \textit{Murator} 1.96 [3.27] (59a36–39). This is sufficient to call Durant a conciliar thinker in a general sense. No attempt will be made to enter into the complicated discussion concerning the meaning of the term 'conciliarism.'

\textsuperscript{12} For the text of \textit{Haec sancta}, see \textit{Conciliorum Oecumenicorum Decreta} (edd. J. Alberigo \textit{et al.}; 3rd ed. Bologna 1973) 409–10. See also the recent article by T. Morrissey, 'The Decree "Haec Sancta" and Cardinal Zabarella,' \textit{Annuarium Historiae Conciliorum} 10 (1978) 145–76. Durant's choice of a period of ten years for the general council obviously agrees with Constance's provision in the decree \textit{Frequens}; see \textit{Conciliorum Oecumenicorum Decreta} 438–43. Aside from the standard works of reference, such as \textit{Handbuch der Kirchengeschichte} III 2 (ed. H. Jedin; Freiburg 1973) and E. Delaruelle \textit{et al.}, \textit{L'église au temps du Grand Schisme} (Paris 1962), a good introduction to conciliarism may be found in R. Bäumer, ed. \textit{Die Entstehung des Konziliarismus} (Darmstadt 1976) with bibliography 393–402. Recent literature is listed in the bibliographies appended to the volumes of the \textit{Annuarium Historiae Conciliorum}.

\textsuperscript{13} See for example the comments of John XXII in his letter of April 10, 1319, to Philip V: 'Sed ipse [William Durant] intendens alium forsitan quam pretendat, videlicet scisma, quod absit, inter te et Sedem istam ponere sicut et in Viennensi consilio [sic] inter felicis recordationis Clementem papam quintum et pretios studiose ponere laboravit, injuste conqueritur secum agi. Vere, filli, nescimus quo ducit nisi superbi spiritu, jam plures anni sunt quod Sedi isti et ejus honoris detrahere non cessavit, contra ipsam latrape non desint, licet hec Sancta Sedes non suis sed alienis potus meritis, videlicet predecessoris sui, ipsum elevarit de puilibre et inter presulecolocariat, nec aduce, sicut tertur, cessat a talibus, sed in ipsis insistentis damniabiliter, contra stimulum calcitrare nintitur ac te et alios de devotione Sedis hujusmodi deviare.' \textit{Lettres secrètes et curiales relatives à la France de Jean XXII I} (edd. A. Coulon and S. Clémencet; Paris 1906) 740–41 no. 850. Another letter by Pope John XXII on the same subject was written on the same day and addressed to Queen Jeanne: see n. 76 below. John XXII was well acquainted with the events at Vienne. He had been one of the five members of the central commission of cardinals appointed by Clement V in order to inspect the \textit{gravamina} submitted to the council, for which see Müller, \textit{Vienne} 1171. There is every reason to believe that he had first-hand knowledge of Durant's treatise as a result of his participation in this commission. On the entire incident see Haller, \textit{Kirchenreform} 58–60; Viollet 29f.; and Müller, \textit{Vienne} 591–95.
of the 15th century. From 1531 on there is a succession of printed editions which pauses in 1584, only to end with an isolated, but by no means unimportant, reprint in 1671. Late medieval and early modern interest in the work may also be illustrated by mentioning some of its more illustrious readers: Nicolaus of Cues, Pierre Pithou, and Bossuet. Considering the forbiddingly technical form of the book, it is no exaggeration to say that it was a success.

This is the place to mention a curious confusion which served to increase the fame of the treatise while at the same time decreasing that of its author. William Durant and his uncle, William Durant the elder, had a lot more than just their names in common. Both were bishops of Mende, both were highly respected, and both canonists of admirable skill. It is thus small wonder that the readers and copiers of the Tractatus soon forgot the separate identity of William Durant the younger and counted his product among the works of his uncle. The printed editions of the Tractatus are prefaced with a text which

14 For details see C. Fasolt, 'The Manuscripts and Editions of William Durant the Younger's Tractatus de modo generalis consilii celebrandi,' Anuario de Historia Conciliar 10 (1978) 290–299.

15 There are separate editions in Lyons 1531, reprinted in 1534 with no changes except for a new frontispiece, and in Paris 1545 under the imprints of Galeotus Pratensis and Poncetus Le Preux. The text of Lyons 1531, with a few minor changes and the addition of brief summaries to each chapter, was included in two large collections of jurisprudence: Votum secundum tractatwm ex variis iuris ciuilis interpretibus collectum (Lyons 1549) fol. 88r–117v, and in the Tractatus universi iuris XIII 1 (Venice 1584) fol. 154–182r. The edition of Paris 1545 was reprinted in Venice 1562 and again in Paris 1671 (rpt. London n.d. [1693?]). Other editions given in various bibliographies and footnotes, for which I have been unable to locate actual copies, are: 1564, 1572, 1617, 1635, and 1638, all assigned to Paris, or to Paris and Venice. Cf. Fasolt, 'The Manuscripts' 306f. See also 310–31 below.

16 Nicolaus of Cues owned a manuscript of the treatise, which he annotated in the margins. It is now in Kues, St. Nikolaus-Hospital, MS 168. Pierre Pithou, too, had a copy, today in Troyes, Bibliothèque Municipale, MS 786; cf. Fasolt, 'The Manuscripts' 294–97. Bossuet approvingly quoted from Durant's work. It is virtually certain, moreover, that Pierre d'Ailly, and very probable that Gerson, read it; see Viollet 123–29. Louis Finelle († 1516), chancellor of the University of Paris and later bishop of Meaux, owned what is now Paris, Bibliothèque Mazarine, MS 168. On Finelle see M. Vessière, 'Un précurseur de Guillaume Brégonnet: Louis Finelle, évêque de Meaux de 1511 à 1516,' Cahiers d'Histoire publiés par les Universités de Clermont, Lyon, Grenoble 9 (1964) 81–82.

17 On William Durant the elder and his works see L. Falletti, 'Guillaume Durand,' DDC 5 (1953) 1014–75, with bibliography. See also the recent article by Laurent Chevailler, 'Observations sur le "Speculum legatorum" de Guillaume Durand,' Mélanges Falletti, Annales de la faculté de droit de Lyon 2 (1971) 85–98.

18 William Durant the elder's legal expertise is too well known to need attestation. For praise of the younger Durant's skills, and the judgment that among contemporaries he was surpassed by none except Guido de Baysio, see Tierney, Foundations 191.

19 Six of the ten extant MSS attribute the treatise to the speculator, i.e., the elder Durant. Only one, Bibliotheca Apostolica Vaticana, MS Barb. lat. 1487 fol. 313, explicitly distinguishes the author from his uncle.
well illustrates this state of confusion. It professes to be a vita authoris, but in fact is a life of the elder Durant. Only toward the end does it add a few facts and dates from the life of the younger, and that without showing any awareness of the confusion. It is the younger’s misfortune that he was forgotten and that, to the present day, his work is usually catalogued among the works of his uncle. But the elder Durant was one of the greatest medieval writers of handbooks. His Speculum iuris, from which he gained the surname speculator, and the Rationale divinorum officiorum, to name but the two most important of his manuals, enjoyed a reputation far surpassing that of his nephew’s book. The Tractatus would surely have survived, but it doubtless benefited from the mistaken belief that it had issued from the speculator’s popular pen.

The sources for the findings communicated in this article consist above all of the 10 medieval manuscripts of Durant’s treatise, or fragments thereof, which can still be found in the libraries of Europe. Only two of these are complete. They are Paris, Bibliothèque Nationale, MS lat. 1443 fol. 1–112, henceforth cited as P, and Munich, Bayerische Staatsbibliothek, clm. 6605 fol. 2–69v, henceforth cited as M. Collation has fortunately shown that they are also the ‘best’ manuscripts, M, written after 1436, is the least corrupted representative of one of the two main branches into which the manuscript tradition may be divided. P, although probably older than M, is full of every conceivable kind of scribal error, but is also the sole surviving representative of the second branch of the manuscript tradition. Consequently, it sometimes yields important variants which are obviously correct, but cannot be found in any of the other manuscripts. For the purposes of this study, P and M, taken together, constitute a sufficiently solid and basic text. All of the remaining eight manuscripts derive from a common ancestor, which was closely related to M. Since they are more or less fragmentary, and since they hardly ever add more than insignificant variant readings to the text of P and M, they can here be safely dispensed with.

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20 See the editio princeps (ed. Jean Crespin; Lyons 1531) fol. 3. The text is repeated in the other editions. The matter was finally clarified in Gallia christiana 1 (Paris 1715) 94–97.
21 The catalogues of the great libraries and the bibliographies of incunabula yield ca. 50 early modern editions for the Speculum iuris and almost 100 for the Rationale.
22 For a detailed review see Fasolt, ‘The Manuscripts’ 290–309.
23 Ibid. 292–94.
25 For an example see the reading of P cited in n. 50 below.
26 Five of these eight MSS contain the whole Tractatus maior, but omit the Tractatus minor entirely: Kues, MS 168; Biblioteca Apostolica Vaticana, MS Barb. lat. 1487; Rome, Biblioteca Nazionale Centrale, Fondo varia MS 1; Paris, Bibliothèque Mazarine, MS 1687; Troyes, Bibliothèque Municipale, MS 786; for the title of the treatise see 297–98 below. The three remaining
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'Tractatus Maior'

Although the differences between the manuscripts and the printed editions of Durant's treatise shall be discussed in detail later on in this study, one difference must be mentioned now, the one without which the choice of the title *Tractatus maior* cannot be understood. The manuscripts contain two separate works,²⁷ of which the first and longer will be called *Tractatus maior*. The *Maior* consists of two parts of very unequal length, 4 and 100 chapters, respectively, and two prefaces, one introducing each part.²⁸ The second, shorter work, which will be called *Tractatus minor*, consists of 40 chapters without any further subdivisions.²⁹ The printed editions present a very different aspect. They do not add to, or omit from, the text contained in the manuscripts, but they arrange it entirely differently. Instead of two separate books, there seems to be only one, which is divided into three parts. There still are the two prefaces, but part two contains only 72 chapters, not 100 like the *Maior*, and part three contains 63, more than the 40 chapters of the *Tractatus minor*.³⁰ The reasons for these considerable differences will be given below,³¹ but their presence raises the question whether the printed title of Durant's work is adequate.

Traditionally, the title has been *Tractatus de modo generalis concilii celebrandi*. This is slightly misleading, however, since Durant's book is by no means restricted to a discussion of councils, general or otherwise, but deals with all sorts of reform-worthy problems, ranging from the length of women's hair to the improperly exciting quality of contemporary church music.³² In fact, the traditional title was probably not chosen by the author himself: it is found only in that subordinate group of 8 incomplete manuscripts which was discarded

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²⁷ This statement is justified in detail 305–307, 310–12 below.
²⁸ See 298 and n. 38 below.
²⁹ The meaning of these various partitions will be discussed in detail 298–310 below.
³⁰ Careful readers may have calculated that the total number of chapters in the MSS is $4 + 100 + 40 = 144$, whereas in the printed editions there are only $4 + 72 + 63 = 139$. But no text is missing from the printed editions. In the MSS, the numbering of the *Tractatus minor* jumps from chapter 1 to chapter 8 so that there are actually only 34 chapters in the *Minor*; cf. 309–10 below. Thus the total of chapters in the MSS is $4 + 100 + 34 = 138$. The printed editions only seem to contain one more chapter because they consider the last part of *Maior* 2.71 as a separate chapter, which, in their numbering, appears as 3.2. Thus the real total is 138 in both the MSS and the editions.
³¹ See 310–12 below.
³² *Maior* 2.69 (45d19–31) and 2.68 (45b35–44).
above. It was probably invented by a copyist with a special interest in Durant’s conciliar ideas, who wrote at the height of the controversy over the powers of a general council in the early 15th century.\textsuperscript{33} M inscribes the treatise with \textit{Tractatus de reformatione ecclesiae universalis}, a title better suited to the manifold contents of the treatise than the traditional one.\textsuperscript{34} Durant himself spoke of the \textit{reformatio in capite et membris}\textsuperscript{35} and of the ‘correction and reform of the Church and the salubrious government of mankind.’\textsuperscript{36} P, however, which is our earliest manuscript, has no title at all. Since the title found in M is not confirmed by any other source, we will use the familiar and traditional \textit{Tractatus de modo generalis concilii celebrandi} when referring to both of Durant’s works. Individually, they will be designated by the short titles \textit{Tractatus maior} and \textit{Tractatus minor}.\textsuperscript{37}

With this discussion of the title concluded, the contents of Durant’s works may now be inspected. In the preface of the \textit{Tractatus maior} the bishop informs his readers of the immediate cause for the writing of this book, namely, the convocation of the council of Vienne by Pope Clement V. He also gives a first outline of his subject: ‘Having previously carefully read those things established by the holy fathers in general or provincial councils and by others for the state of the universal Church, from which we have much fallen away, I decided to write down what, in my humble opinion, ought to be treated by this council.’\textsuperscript{38} At this point, it is clear that the bishop’s plan of reform rested on his study of the canon law.

\textsuperscript{33} The common ancestor of all eight subordinate MSS need not have been much older than its closest extant relative, M, written after 1436.

\textsuperscript{34} Haller, \textit{Kirchenreform} 60, probably unaware of M, already suggested replacing the traditional title with the more suitable \textit{De reformatione ecclesiae in capite et membris}.

\textsuperscript{35} See n. 10 above.

\textsuperscript{36} ‘Sane videtur ad correctionem et reformationem ecclesiae et ad salubrem regimen humani generis possesse perveniri hac brevi via.’ \textit{Maior} 1.2 (4d8–13).

\textsuperscript{37} Since the \textit{Minor} not only is shorter than the \textit{Maior}, but will also be shown to have a different purpose (see 307–10 below), it might seem useful to distinguish it from the \textit{Maior} by more than just its length. But more important than the differences between the two is their substantive agreement. Since \textit{tractatus} is found in the introduction to the \textit{Minor} (P fol. 91r, M fol. 57), it has been preserved in this study.

\textsuperscript{38} ‘Perfectis duobus cum diligentia a sanctis patribus concilii generalibus, provincialibus, et alis pro statu universalis ecclesiae constitutis, a quibus in pluribus est recessum, scribendum duxi ea de quibus iuxta paravitatis mee modulum agendum esse videtur in concilio memorato.’ \textit{Maior prefatio} (4a44–b6). It is not clear in the Latin whether Durant meant ‘constitutions of other councils’ or ‘constitutions other than conciliar’ when he wrote ‘alis pro statu universalis ecclesiae constitutis.’ It is certain that he gave particular prominence to conciliar law while quoting extensively from other types of law as well; see 301–303 below. On the important notion of the \textit{status ecclesiæ} and its use by canonists and curialists see J. H. Hackett, ‘State of the Church: A Concept of the Medieval Canonist,’ \textit{The Jurist} 23 (1963) 259–90; Y. M.-J. Congar, ‘Status Ecclesiæ,’ \textit{Studia Gratianana} 15 (1972) 1–31.
His views on the necessity, the nature, and the scope of reform, including his legal and political theory, are presented in detail in part one of the Maior. A brief look at the chapter headings will illustrate how he dealt with the subject. Chapter one is devoted to the object of reform. It aims to show that, logically, reform must begin with the Church before it can be successfully extended to the laity. In chapter two, Durant establishes a fundamental principle for all attempts at reform: divine and human law, i.e., the precepts of the Bible, the canon law, and, so far as the laity was concerned, the civil law, must be rigorously enforced by ecclesiastical and secular authorities. In chapter three, he goes on to argue that this is not only a legal but also a rational basis for reform. He is likewise anxious to show that neither secular monarchs nor the pope is free to act against these laws, especially insofar as they are embodiments of reason. Having devoted an entire rubric to the argument that the moderns cannot equal the ancients in their obedience to the law, Durant arrives at chapter four, which contains his famous conciliar remedy and is introduced as a means of ‘further limiting and regulating the exercise of power by the “presidents” of the monarchy,’ i.e., the pope as

It is doubtful whether the preface of the Maior (4a5–4b6) is or is not meant to introduce the Minor as well. The contents of the quotation given above suggest a closer relationship to the Maior; cf. the more explicit statement of purpose in the preface to Maior 2, cited n. 50 below. There is no such close correspondence to the Minor. It is thus more likely that the preface to the Maior has nothing to do with the Minor.

39 ‘De correctione eorum que male aguntur premissenda in Dei ecclesia a ministris ecclesiasticis in capite et in membriis.’ Maior 1.1 (4b7–10).

40 Maior 1.2 is entitled: ‘De modo correctionis et reformationis ecclesie et christianitatis’ (4d6–7). It continues: ‘Si itaque duo a quibus regitur humanum genus sicut a ministris Dei, videlicet ecclesiastic auctoritatis et regalis potestatis, sicut Gelasius Papa scribit: Anastasio Imperator (D. 96 c. 10) vellent intendere ad dictam reformationem et salubre regimen humani generis, haberent viam amplecti predictam ut videlicet seipsum et humanum genus regerent secundum quod in lege et in evangelio et in conciliis Spiritus Sancti instincta probatis (D.16 c. 6) et in aliis humanis et comprobatis legibus et iuribus continetur.’ Maior 1.2 (4d32–45).

41 ‘Quod predictus modus correctionis et reformationis ecclesie et christianitatis sit conveniens rationi et iuri, maxime quantum ad presidentes spirituali et temporali potestati, et quod non debeant transgredi iura.’ Maior 1.3 (5a16–21).

42 ‘Liquevit constat quod [dominus papa et reges] non solum statuta in divinis legibus verum etiam a sanctis patribus in conciliis et sacris canonibus servari debent.’ Maior 1.3 (5c2–5). ‘Regenda igitur atque limitanda et restringenda est sub ratione potestas ut totum ratio regat, sicut Gregorius Maurice Imperator scribit’ (C. 11 q. 3 c. 67); Maior 1.3 (5d20–25).

43 ‘Rubrica de limitanda potestate superiorum... Pro bono dolor, si premissa [i.e., the virtue and justice of the ancient Romans] servabantur in rectoribus et in administratoribus rei publice qui legis divine notitiam non habebant, nonne est inestimabile deducere si moderni administratores rei publice, qui fidei illuminati sunt et alios illuminare et corriger debent, in se ipsis talia non observant? Verendum quippe est, si contrarium faciant, quod et ipse discernat et in sinu suo colligant causam suam’ (D. 17 c. 6 Gr. p.; D. 21 c. 7); Maior 1.3 (7, correct: 6, d 17–29).
well as secular rulers. The conclusion of part one consists of a short discussion of properly granted dispensations and a long one intended to prove that the papal right to grant exemptions was being abused.

Durant was convinced that the old order of the Church had been recklessly and unjustifiably overturned by, above all, the Roman Church. The resulting turmoil threatened, in his opinion, to turn into a catastrophe in the not too distant future. In order to restore and safeguard the pristine splendor of the Church, its old order had to be re-established. That could be done only by actively enforcing the laws on which the old order had rested. He therefore

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44 'Quarto specificatur amplius de limitando et regulando exercitio potestatis dictorum presidentium monarchie.' Maior 1.4 (7a40–43). The context shows that both the papacy and secular rulers are meant. The most explicit formulation of Durant’s demand for conciliar participation in ecclesiastical legislation can be found in this chapter: 'Videretur esse salubre consilium pro re publica et pro dictis administratoribus rei publice quod sic sub ratione, ut premissum est in rubricis proximis, limitaretur potestas eorundem quod absque certo consilio dominorum cardinalium dominus papa, et reges ac principes absque aliorum proborum consilio, sicut hactenus in re publica servabatur, non uterentur prerogativa huiusmodi potestatis, potissime aliquid concedendo contra concilia et contra lura approbata communiter, et quod contra dicta concilia et lura nihil possent de novo statuere vel concedere [sic] nisi generali concilio convocato, cum illud quod omnes tangit secundum iuris utriusque regulam ab omnibus debeat communiter approbari.' Maior 1.4 (7b27–45).

45 'De dispensationibus' Maior 1.4 (7d11–6b6).

46 'De exemptionibus' Maior 1.4 (8b7–13b33).

47 That is the thrust of the argument made in the whole of Maior 1, and well expressed in the Tractatus minor: 'Novitas nostri temporis sub inquietudine deget, quia dictum gradum et ordinem derelinquit. Secundum namque Augustinum minus ordinata inquieta sunt, ordinata vero quiescent, et ideo, quia antiqua ordinatio de regimine mundi et ecclesiae et suo unicoque iurisdictione Romana ecclesia et presidentibus non servatur, . . . sed ad se quo ad minores et medios pertinent trahere volunt, ut in eis verificetur illud: "Cum exaltatus fuerit a terra omnin transmissus ad me ipsum [Jo. 12:32]," mundus turbatur universalis, ecclesia ledit et gravatur, et ordo ecclesiasticus confunditur, sicut Gregorius attestatur [C. 11 q. 1 c. 39].' Minor 8 [3.31] (62a5–21). The quotation from the Gospel of John illustrates Durant’s estimate of the efforts to centralize the Church by papal government. It contains the words spoken by Christ on his entry to Jerusalem and announcing the last judgment: ‘Nunc ludici est mundi: nunc princeps huius mundi elicietur foras. Et ego si exaltatus fueri a terra, omnia transmissa ad me ipsum. Hoc autem dicebat, significans qua morte esset moriturus.’ See John 12.31–33. Durant clearly wanted to associate his view of the future of the Church with the terrors of the last judgment.

48 Whether or not the bishop’s fears are a testimony to his farsightedness, they deserve to be quoted: ‘Nisi in hoc sacro concilio providatur de competenti remedio in premissis, quae quasi manifeste et notorie in Dei ecclesia committuntur, fides, quae secundum Jacobum sine operibus mortua est [Jac. 2:17], dicetur per fideles et infideles in praelitis et personis ecclesiasticis . . . perisse. . . . Et elapso et transacto presenti sacro concilio, in omni statu reformatione carente, nisi reformatio debita facta fuerit *incomparabiliter* [P] pelora prioritibus subsequentur, et omnia imputabuntur domino nostro summum pontificem, eiusque venerabilis collegio, et hiuc sacro concilio, qui possunt et debent corrigere supradicta et obviare eisdem.' Minor 9 [3.32] (62c40–d16).
considered it his first task to recall to public awareness those ancient laws which had not been included in the standard canonical collections of the 12th and 13th centuries, as well as those which had been eclipsed by recent papal administrative or legislative measures. This task is accomplished in part two of the Tractus major, which is a mine of information about the law of the Church.

It is worthwhile to look in more detail at the laws which Durant collected. In the preface to part two he announces his purpose:

Here begins part two of this treatise. It will deal in detail with the laws which were in the past established by the apostles with the inspiration of the Holy Spirit, and those which were established by the holy fathers, and by the four councils which the holy Church reveres 'like the four Gospels, namely, the councils of Nicea, Constantinople, Ephesus, and Chalcedon,' and by other councils, which were held in Greece at first and later in the different provinces of the Church in the West and were of old approved by the Roman and the universal Church. As these are currently nowhere observed, they are recalled to memory in this treatise and provided with a few parallels from other laws in the manner of a handbook, so that, in the words of St. Ambrose's comments on St. Luke, here quoted from Gratian's Decretum, 'we read some lest they be neglected, others lest ignored, and others, not in order to keep them, but to reject them.'

If some of the specified laws are found to be useful and advantageous to the universal Church, the council [of Vienne] should deliberate whether they ought to be maintained or revoked as a whole, or merely altered or re-interpreted, provided that is considered expedient.

49 Viollet 86 and n. 2 charges Durant with tampering with the text of St. Ambrose. But Durant quoted it in the form in which he found it in canon law, and there the only basis for Viollet's claim seems to be the reading ne negligentur, which Durant used instead of Friedberg's ne legantur. But ne legantur is an obvious haplography for ne negligentur, and the latter makes not only more sense in the context of D. 37 c. 9, but is also suggested by the variants in Friedberg's apparatus and was, indeed, the version retained by the Editio Romana of the Corpus Iuris Canonici, because the medieval glosses relied on it.

50 'Incepit secunda pars ilius tractatus, in qua in speciali agitur de his que ab *antiquo fuerunt Spiritus Sancti instinctus* [P] ab apostolis constituta, et a sanctis patribus, et a quatuor conciliiis, sivellec Niceno, Constantinopolitano, Ephesino, et Calcedonensi, que sicut sancti evangeli quatuor libros sancta ecclesie veneratur (D. 15 c. 2, *D. 16 cc. 2-6* [P]), et ab aliis conciliiis in Grecia primo et postmodum in occidentali ecclesia in diversis provinciis celebratis et a Romanet et universali ecclesia ab antiquo approbatis, que *presentialis* [P] usqueaque non servantur, quorum in presenti tractatu cum paucis concordantiss aliorum iurium sub *breviloqui* [P] memoria agitur ad hunc finem ut legamus aliqua ne negligentur, alia ne ignorantur, et alia, non ut teneantur, sed ut repudientur, sicut ali beatus Ambrosius super Lucam et in Decretis (D. 37 c. 9). Si aliquis in dicta specificatione casum revertitur utilia et universali ecclesie proficiat, quod sacri provisione concilii super eorum observantia vel revocatione aut *immutatio* [P] vel declaratione deliberatio si visum fuerit expediens, habeatur.' Maior 2 prefatio (13b35–c19). It is not quite clear in the Latin to which grammatical subject the phrase 'et a Romana et universali ecclesia ab antiju approbatis' belongs. The translation assumes that it belongs only to 'aliis conciliiis in Grecia primo et postmodum in occidentali ecclesia . . . celebratis,' because that is grammatically
Thus the preface informs the reader that part two was meant to be a collection, not just of any old laws, but of forgotten or neglected conciliar laws. It indicates that these ancient conciliar laws will be presented in more or less the historical, or chronological, order in which they were issued. Other types of law will indeed be quoted, but only in order to establish ‘parallels . . . in the manner of a handbook.’ That part two does precisely what the preface promises seems never to have been noticed, or at least not taken very seriously, probably because almost all the texts gathered in part two belong to the subordinate category of ‘a few parallels from other laws.’ In fact, the promised collection of conciliar law consists of no more, but also no less, than the very first canon cited in each of the chapters of part two. Some chapters are rather long so that it is very easy to lose sight of the existence of this special collection, on which Durant’s call for reform rested. By listing the canons quoted first in each of the 100 chapters of part two, it can, however, easily be shown that they indeed form a collection of conciliar law. Such a list, slightly modified to provide a systematic table of contents for the whole Tractatus maior, is given in table 1. This table requires comment. First, it shows which source Durant relied on above all others. Since he proves to be acquainted with a number of canons not included in Gratian’s Decretum or the Liber Extra, and to know the chronological order of the ancient councils, it is clear that he used one of the old, chronological collections of canon law. His prime source was, in fact, the Pseudo-Isidorian collection. It has been noted by others that Pseudo-Isidore was most sound and because these were the councils whose authentication by Rome needed to be stressed. If one compares the text of this preface with the preface of the entire Tractatus maior (see n. 38 above), it becomes clear that the latter is a brief, but precise, description of the purpose of Maior 2.

51 In Durant’s view, the ‘laws established by the apostles,’ i.e., the collection otherwise known as the Canones apostolorum, and the ‘laws established by the holy fathers’ were the earliest conciliar decrees of the Church. Note the parallel in n. 38 above.

52 Violet 85f. believed it merely probable that Durant arranged his material in the order of the chronological canonical collections. How little weight he attributed to this observation, however, is illustrated by his failure to recognize the contents of Maior 2.1 as excerpts from the Canones apostolorum; see Violet 87.

53 Only Maior 2.1 consists in its entirety of conciliar canons, i.e., excerpts from the Canones apostolorum. The 26 canons there quoted are nos. 7, 10–16, 20, 25, 26, 28, 30–35, 38–44, 48.

54 See 317–320 below. Beginning with Maior 2.84, the subject of the chapters, and not the first canon cited, is tabulated. The reason for this is discussed 304–305 below. The numbering of canons is taken from P. Hinschius, ed., Decretales Pseudo-Isidorianae et Capitula Angilramni (Leipzig 1863).

55 The bishop of Mende was most interested in conciliar law, and for this reason he rarely used Pseudo-Isidore’s famous forged papal decretales, although he mentions them in Maior 2.34 (30c5–d14). He also quoted extensively from such typical Pseudo-Isidorian texts as the Ordo de celebrando concilio, ed. Hinschius, Decretales 22–24, and the De primitiva ecclesia et sinodo nienna, ibid. 247–49. It is therefore certain that he used Pseudo-Isidore. It might
among the sources from which Durant quoted.\textsuperscript{56} The fact that his longest
direct quotations come from there might have been taken as an indication that
it meant more to him than other sources.\textsuperscript{57} It now appears that it provided the
backbone for the organization of the entire treatise. This provides evidence of a
resurgence of interest in the older collections of canon law which echoes the
turn to ancient sources so fundamental for the Gregorian reform-movement of
the 11th century.\textsuperscript{58} The renewed study of Pseudo-Isidore may also have opened
one of the paths by which the concept of the \textit{ecclesia primitiva} came to play its
prominent role in late medieval thought.\textsuperscript{59}

Secondly, it must be noted that at a few points on the list the Pseudo-
Isidorian order of councils is not observed, namely in \textit{Maior} 2.52–54, 2.70–72,
and 2.84–100. There are good reasons for these divergences from the basic
order. \textit{Maior} 2.70–72, for example, forms a coherent whole, devoted to the
extent to which secular power could, or could not, be employed in matters of
interest to the Church. Thus these three chapters really provide an uninterrupt-
ed chain of laws appended to canon 11 from the first council of Toledo, with
which chapter 70 begins. It ends with a reference to Giles of Rome’s \textit{De
ecclesiastica potestate}.\textsuperscript{60} It is only in chapter 73 that the survey of neglected
conciliar law continues with the 21st canon of the same first council of Toledo.

\textsuperscript{56} E.g., Viollet 89.
\textsuperscript{57} In addition to the texts mentioned in n. 54, see \textit{Maior} 2.70–71.
\textsuperscript{58} It may be a general characteristic of institutional crises that they foster an interest in
old legislation. It is therefore worthwhile pointing out that the Gregorians’ interest in the
old law ministered to a rise in the power of the papacy, whereas Durant was concerned with
limiting it. On these perspectives see G. Olsen, ‘The Idea of the \textit{Ecclesia primitiva} in the
\textsuperscript{59} In \textit{Maior} 2.2–8, Durant quoted extensively from the section in Pseudo-Isidore entitled
\textit{De ecclesia primitiva et sinodo nicena}; see n. 55 above. On the concept of the \textit{ecclesia primitiva}
Primitiva” and Reform’; and M. Ditsche, \textit{Die ecclesia primitiva im Kirchenbild des hohen
und späten Mittelalters} (Diss., Bonn 1958).
\textsuperscript{60} Aegidius Romanus, \textit{De ecclesiastica potestate} (ed. R. Scholz; Leipzig 1929). Posch,
‘Reformvorschläge’ 289f. and Müller, \textit{Vienne} 596 n. 40 believed this was Giles’ earlier work,
\textit{De regimine principum}. But in \textit{Maior} 2.95 [3.36] Durant states explicitly that he is referring
to the same book as in \textit{Maior} 2.72 [3.3]. Since \textit{Maior} 2.95 is entitled ‘De potestate ecclesiastica
super temporales dominos et dominia temporalia,’ it is quite certain that Durant had
Giles’ \textit{De ecclesiastica potestate} in mind.
The case of *Maior* 2.52–54 is similar: canon 3 of the council of Vaison is not found between the canons of the councils of Orange and of Agde, where the council of Vaison belongs chronologically according to Pseudo-Isidore, and where its canon 4 is indeed dealt with, but instead among the canons of the council of Agde. It thus joins canon 38 of Agde, dealt with in *Maior* 2.52–53, so as to form a coherent section on unauthorized traveling by monks and clerics.

There remain the 17 chapters at the end of part two. Only some of these begin with conciliar canons, and there is no discernible chronological order. Examination of the subjects there covered will suggest why this may be so: they largely consist of contemporary problems. There were no mendicants when Pseudo-Isidore compiled his collection in the 9th century, and consequently Durant could not take any canons from there to apply to them. *Maior* 2.84–95 [3.15–26] may therefore be called a supplement to the chronological section of the second part of the treatise, a supplement devoted especially to contemporary problems.61 *Maior* 2.96–100 [3.27–30, 2.71, 2.100], the concluding chapters of the treatise, constitute the most significant deviation from the order of Pseudo-Isidore's collection. They deal in turn with the reform of the Church of Rome, of the prelates, of the secular clergy, of the religious, and of the laity. This appears to be a brief recapitulation of the entire reform program, but one abandoning the historical structure of part two in favor of a systematic arrangement according to the hierarchical order in which contemporary society appeared to be arrayed to a cleric such as the bishop of Mende. In fact, the five concluding chapters provide a summary of the *Tractatus maior* where any reader of the treatise could quickly check to see if the author had dealt with a specific question. They contain the same proposals for reform previously given in parts one and two, but without many of the details and without the supporting system of references to canon law so copiously supplied in the preceding chapters. A reader of this summary did not, however, have to be satisfied with Durant's ideas in their naked form and forgo the legal expertise on which they were founded. At the end of each of the five concluding chapters appears a list of cross references to the preceding sections.62 They are tabulated in table II, which shows that every chapter of the treatise is mentioned at least once in the summary, and often more than once.63 *Maior* 2.96–100 thus furnishes the reader not only a summary of Durant's ideas, but also an index of the entire book.

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61 Since ancient laws failed to cover all the topics Durant wanted to include, such a supplement could not be avoided. This does not mean that it excluded all ancient legislation, but that its tenor became decidedly contemporary.

62 These lists are mentioned by Viollet 100, 109f.

63 The sole exception is *Maior* 2.72 [3.3], the first reference to Giles of Rome's *De ecclesiastica potestate*. See table II, 321 below.
There are two reasons why this is important. First, it proves that the book was meant to give its information in as readily accessible a form as possible. It could thus serve as a handbook and did not have to be read in its entirety to be useful. That is a feature which may have greatly improved chances for spreading the ideas contained in the Tractatus. Secondly, the very fact that Durant composed an index proves that he was well aware of the difficulties which the chronological arrangement of Maior 2.1–84 raised for a reader seeking specific information. Since he realized this, he must have had a better reason for preserving the original historical order than the mere convenience of not having to reshuffle notes taken from an outdated canonical collection. This reason, it may be suggested, was to stress that a whole body of law, namely ancient conciliar law, had fallen into desuetude. The greater the contrast drawn between the old and the new, or papal, law, the more convincing Durant’s case for restricting papal legislative freedom.

To conclude, the Tractatus maior was a handbook of canon law, composed to persuade the council of Vienne of the soundness of Durant’s views concerning the reform of the Church. It was designed to inform both the thorough and the casual user about laws which applied to a large variety of questions of reform, and to remind them particularly of forgotten conciliar law. It was introduced with a theoretical section aiming to prove that these laws had lost none of their power to bind even the papacy. By its very structure it supported the argument that the need for reform arose from a deep-rooted contradiction between the sovereignty of the pope and the true ordo ecclesiasticus laid down in the ancient laws. It thus provided support for Durant’s contention that the uninhibited exercise of papal legislative power was the true source of the Church’s troubles.

II

‘Tractatus Minor’

The Tractatus minor differs from the Maior both in structure and in tone.\textsuperscript{64} In its first three chapters, Durant once again expounded what he considered to be the legal principles of reform. This part of the Minor is closely related to the first part of the Maior,\textsuperscript{65} although the sharp edge of Durant’s attacks has been somewhat blunted. Instead of singling out the papacy as the main target

\textsuperscript{64} See table III, 322–23 below.

\textsuperscript{65} Compare, e.g., Minor 1 [3.30] (61b13–c23) with Maior 1.1 (4b17–a5), or Minor 8 [3.31] (61d9–39) with Maior 1.2 (4d8–5a15). On the omission of chapters 2–7 in the Minor see 309 below. The very beginning of Minor 1 [3.1] seems to have been modelled on the summary in Maior 2.96; compare Minor 1 [3.1] (52a8–25) with Maior 2.96 [3.27] (58c9–19).
of his criticism, Durant now emphatically included all the prelates of the Church in his charges.\textsuperscript{66} Here one can also find the passages which are most frequently cited to prove that Durant, after all, recognized papal primacy.\textsuperscript{67} The three introductory chapters are followed by a survey of contemporary ‘abuses’ in \textit{Minor} 10–16 [3.33–39]. The remainder, \textit{Minor} 17–40 [3.40–63], is concerned with remedies for these abuses. They are arranged in three large groups: clerical education in \textit{Minor} 17–22 [3.40–45], pastoral care in \textit{Minor} 23–26 [3.46–49], and matters pertaining to the divine office and other clerical functions in \textit{Minor} 27–40 [3.50–63]. The chronological arrangement of the \textit{Maior} has been rejected in favor of a topical one, but the substance of Durant’s reform-proposals is unchanged.\textsuperscript{68} The \textit{Minor} may then be roughly characterized as a condensed and recast version of the \textit{Maior}.

The manuscripts leave no doubt that the 40 chapters following the index to the \textit{Tractatus maior} present a self-contained and independent treatment of the same questions to which the \textit{Maior} was addressed. Were it not for the fact that the printed editions treat the \textit{Minor} as part of another, larger book, there would be no need to discuss the question of the \textit{Minor’s} independence. But since this is not the case, it may be useful to review the single piece of manuscript evidence which supports the inclusion of the \textit{Minor} in the \textit{Maior}.\textsuperscript{69} The beginning of the \textit{Minor} reads as follows in M (fol. 57): ‘incipit tercia pars tractatus reverendi in christo patris domini G. dei gratia episcopi Mimatensis.’ That this text must not be taken at face value, however, is shown by the different version in P (fol. 91v): ‘explicit secunda pars. Tractatus reverendi in Christo patris domini G. dei gratia Mimatensis episcopi.’ This is not unambiguous, but the full mention of Durant’s title suggests that more is at stake than merely a transition from one part to another within the same book. The period after

\textsuperscript{66} Cf. \textit{Minor} 1 [3.1] (52a25–b8).

\textsuperscript{67} ‘Sacrosancta Romana ecclesia ... caput est omnium aliarum, ad quam tamquam ad caput ecclesiærum omnis sanctæ religionis relatio est secundum Gregorium referenda [D. 12 c. 2], et quam tamquam caput et mater omnium ecclesiærum secundum Calixtum membrum omnia sequi debent [D. 12 c. 1], *nec allude sicut Innocentius Papa scribit auctoritatem debent accipere vel exemplum [D. 11 c. 11]. Ipsa namque* [P] sicut *Stephanus* [P] Papa scribit est omnibus posita in speculum et exemplum [D. 19 c.4].’ \textit{Minor} 1 [3.1] (52a13–20). Note the use of these words made by Scholz, \textit{Publizistik} 215; Viollet, 118; Pesch, ‘Reformvorschläge’ 290; Müller, \textit{Vienne} 593 n. 27; Torquebiau, ‘Gallicanisme’ 286f. In context, however, they serve above all to heighten the contrast between Rome’s duties and its actual shortcomings, as conceived by Durant. Cf. also \textit{Minor} 1 [3.1] (52a20–b25) and \textit{Minor} 9–16 [3.32–39].

\textsuperscript{68} That is not to deny the possibility that substantive differences exist. Certain proposals may have been omitted and others added; see 309 below. On the whole, however, the \textit{Minor} repeats the demands of the \textit{Maior}.

\textsuperscript{69} For a discussion of the reasons why the printed editions treat Durant’s works as a single book and a refutation of their testimony see 310–12 below.
‘explicit secunda pars’ in P, in other words, must be understood as an emphatic one, and ‘Tractatus . . . Mimatensis episcopi’ as the title with which a new book is introduced. If seen in conjunction with the evidence given above, this leaves little doubt that M’s reading, ‘incipit tercia pars tractatus,’ must be attributed to a well-intentioned but mistaken copyist.

The reason why the Maior was rewritten and shortened in the Minor remains to be considered. A striking difference of style between the two works is immediately apparent. The Minor contains fewer citations from canon law than does the Maior, and those which remain are regularly given in a simpler and less precise manner. Instead of puzzling readers unfamiliar with canon law with references such as to ‘twelfth distinction, precepts,’ as Durant was wont to do in the Maior, in the Minor he refers to the same text without technical references and simply says: ‘According to Pope Gregory “holy religion in its entirety must be related to the Roman church as to the head of all churches.”’

This method of citation makes it harder to verify the source, but it also makes the author’s point immediately understandable. While it might be unnecessary to give many such direct quotations in a work like the Maior, which was meant for people with the time and the tools to look up a brief reference, it would be very necessary to do so in a text meant to be immediately understood by an audience unable to do much research. This marked concern for the needs of an audience is also manifest in the Minor’s use of oratory. The Maior is as dry and technical as any handbook of canon law could be expected to be. The text of the Minor is much more vivid and shows some attention to rhetorical effect: the survey of contemporary immorality in chapters 10–16 is woven around a properly gloomy allegory about the ruin of the proud Babylon, taken from Isaiah 34.13–15 and applied to the contemporary Church. The Minor, in other words, presupposes an audience unable to devote much time and effort to a thorough understanding of purely technical matters. If the relative moderation of the Minor is also taken into consideration, the possibility emerges that the Minor is the text of a sermon delivered by the bishop of Mende at the council of Vienne.

70 Cf. Maior 2.27 (27d4) with Minor 1 [3.1] (52a14–16).

Two revealing pieces of evidence support this view. At the end of the Minor appears the following: ‘These words were spoken by the reverend father, Lord William, by God’s grace Bishop of Mende, in the council that was held at Vienne.’\textsuperscript{72} The simplest explanation for this colophon is provided by our hypothesis. But unfortunately dicere can mean not only ‘to orate,’ but also ‘to write,’ or ‘to compose.’\textsuperscript{73} The statement can therefore be taken to prove neither that the Minor was given as a sermon at Vienne, nor even that it was a sermon. Moreover, the phrase ‘these words,’ ista in the Latin, is ambiguous. It may refer not only to the Tractatus minor, but also to the Maior, and in this case there could of course be no question of a sermon. In the light of these difficulties the second piece of evidence gains in importance. It consists of a marked difference in the way in which Durant refers to the council of Vienne in the two treatises. In the Maior he always says ‘the council,’ or ‘the holy council,’ and the context invariably shows that the council had not yet met.\textsuperscript{74} In the Minor, however, he consistently speaks of ‘this council,’ or even ‘the present holy council.’\textsuperscript{75} This again does not prove that the Minor was actually a sermon, but at least it certifies that the Tractatus Minor presupposed the actual session of the council. The main distinction between the Maior and the Minor must, then, be sought in their differing purposes. Both, it is true, were written on the occasion of the council of Vienne, but whereas one was a handbook destined to be used long after the council had finished its work, the other, the Tractatus Minor, was a brief text immediately directed at the fathers assembled at Vienne.

It is unfortunate that more precise information is lacking. Any hint of what the fate of the two books at the council was would be welcome. The letters of Pope John XXII of April 10, 1319, which have been mentioned above, show that Durant had, as the pope describes it, attempted to create a schism at the council of Vienne by venturing (temptare) a book against Pope Clement V.\textsuperscript{76} Having been detected, Durant, so the pope continues, dedicated

\textsuperscript{72} ‘Ista dictata fuerunt in concilio generali Vienne celebrato per reverendum patrem dominum Guillelmm Dei gratia episcopum Minatensem.’ Minor colophon (74d13–18). This text has been noticed before; see Müller, Vienne 593 n. 28 with reference to M, and Gülder, ‘Italienische Legation’ 16 n. 2. As long as the Minor and the Maior were believed to be one work, however, its full significance could not be perceived.

\textsuperscript{73} See, e.g., E. Forcellini, Tullius latinitatis lexicon (4th ed.; Prato 1853–1887) or Du Cange s.v. ‘dictare.’

\textsuperscript{74} See Maior 2 praefatio (13c15), which is cited 301 above and n. 50; Maior 2.15 (22b10–11), 2.18 (23b40–41), 2.21 (25c33–34), and 2.23 (26d43–44).

\textsuperscript{75} See Minor 9 [3.32] (62d40, 62d14, and esp. 62d8–9: ‘presenti sacro concilio,’ quoted in context n. 48 above).

\textsuperscript{76} See 293–94 above and n. 13. In his letter of April 10, 1319 to Queen Jeanne, John XXII gave some additional information: ‘in consilio [sic] siquidem Vienensi, contra feliciis recordationis Clementem papam quinatum, predecessorem nostrum, cui ipsum fideilitatis vinculum astringebat, scisma suscitare voluit et temptavit librum contra ipsum et Sedem hujusmodi,
the book to Clement V. John XXII expresses himself in tantalizingly am-
biguous language. Does *templare librum* imply that Durant did not complete
his attempt? Was the *liber* the *Tractatus maior*, or the *Minor*, or both? Was
Durant denounced for what he said in the *Tractatus maior* and did he deceive
the pope by showing him only the *Minor*? Or did the *Maior* perhaps not
circulate at Vienne? Did a copy of the *Minor* circulate before Durant had
publicly spoken about his ideas? Was the copy which he dedicated to the pope
revised? Many more possibilities could be imagined, but the lack of evidence
makes such speculation idle.  

Yet, one point deserves further attention. The *Tractatus minor* shows
evidence of tampering with the text which may well be connected with the
incident reported by John XXII. Chapters 2–7 are missing. This may simply
result from a mistaken numbering of chapters, but this does not seem likely,
because of one glaring difference between the *Tractatus maior* and the *Trac-
tatus minor*: the latter does not contain a single allusion to the fact that, in the
*Maior*, Durant wanted to institutionalize legislative controls with the help of
decennial general councils. He is hardly likely to have changed his mind in the
time between finishing the *Maior* and writing the *Minor*. The statements of
theoretical importance which Durant does make in the *Minor* correspond
precisely to those of the *Maior*. The question is thus not whether ideas were
transformed, but why they are absent. Was the conciliar solution contained

sicut notum est fratibus nostris qui tunc aderant et multis aliis, fabricando, et demum cum
hec ad prefati predecessoris nostri notitiam pervenissent, librum ipsum cum humilitate
apparenti maxima, eidem predecessori nostro, petita venia, assignavit sicut sciunt qui re-
reconciliationem hujusmodi procurarunt." *Lettres secrètes et curiales . . . de Jean XXII* I 739
no. 849.

77 The most probable interpretation is perhaps that the offensive book was indeed the
*Minor*, that Durant circulated it among the fathers at Vienne, was taken to task by Pope
Clement V, and removed the most inflammatory passages before surrendering the text to
the pope. See just below.

78 Revisions of the text were suspected by Haller, *Kirchenreform* 59f. Müller, *Vienne* 595
rejected Haller’s notion for lack of evidence.

79 The way in which P introduces chapters 8 and 9 makes this unlikely: *porro* and *tertio*,
_i.e.*, second and third. A ‘first’ is missing and might have been found somewhere in chapters
2–7. M, followed by the printed editions, begins chapter 8 *porro* and chapter 9 *secundo*, not
*tertio*. But that is clearly a mistaken ‘emendation’ by the scribe of M or one of its ancestors,
because in *Minor* 20 [3.49] (70b2–4) Durant refers back to *Minor* 9, and at that point both
P and M agree on calling *Minor* 9 ‘the third method of reform’ (‘de tertio modo reformationis
ecclesiae’). At that point the scribe of M had already forgotten that he had decided to call
the subject of *Minor* 9 the ‘second method of reform.’

80 Both works must have been written after the bull of convocation for Vienne was issued
on August 12, 1308. Whereas the *Maior* was probably completed before the council met in
the fall of 1311, the *Minor* may well have been composed while the council was in session.
See the colophon, n. 72 above.
in the missing chapters 2–7? Was it excised in order to appease the wrath of Pope Clement V? This is an attractive explanation of the evidence, but there are too many imponderables to elevate it from the status of possibility to that of probability.

Returning from this hypothetical excursus, the following may be taken as certain. The *Tractatus minor* is a separate work. Except for the central conciliar proposals, perhaps lacking because of some external cause, the *Minor* repeats the demands which were made in the *Maior*. But the form in which this program of reform is presented suggests that the *Minor* was intended to be read by the prelates assembled in Vienne. Whatever its actual function, whether a sermon or a pamphlet, and whatever its role in the collision with Clement V, when Vienne was past it had served its purpose.\(^{81}\)

### III

**The Printed Editions**

The foregoing pages describe the work as it appeared to medieval readers. The printed editions, however, on which most modern readers, and all recent scholarship, rely, provide a very different picture.\(^{82}\) The last step in this study must, therefore, be an examination of the printed editions and an explanation of the differences between them and the manuscripts. At first sight these differences seem great. In the printed editions the two treatises are presented as one book consisting of three parts of 4, 72, and 63 chapters. That the *Minor* should be treated as part three of a larger book would in itself be as insignificant as the same error committed by M,\(^{83}\) but that the 100 chapters of the original part two of the *Maior* should have been reduced to a mere 72, and the 40 chapters of the *Minor* — actually only 34, since chapters 2–7 are missing — enlarged to 63, would be a remarkable transformation. In reality the change is not so great, because the actual texts of the *Maior* and the *Minor* are almost completely unchanged. What has changed is the numbering of the chapters. Thus, *Maior* 2.72–98 corresponds precisely to chapters 3.3–29 of the printed editions, and *Minor* 8–40 to chapters 3.31–63.

What was the reason for this renumbering? Further examination reveals that two relatively short pieces of text have changed places. To avoid repetition, the two pieces will be referred to as A and B. In the original form of the

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\(^{81}\) Most of the MSS do not contain the *Minor*: see n. 26 above.

\(^{82}\) Some MSS continued to be read in the early modern period. A reader of P with a hand of the late 16th or early 17th century noted in the margins of P fol. 77, 81 that it differed from the printed editions.

\(^{83}\) See 306–307 above.
work, the first of these, A, contained the middle of Maior 2.71, whereas the second, B, contained the end of Maior 2.99, the whole of the brief Maior 2.100, and the beginning of Minor 1. The dividing line between the Minor and the Maior was thus found in B, and when, for reasons to be given shortly, A and B changed places, the dividing point moved, with B, to the place A had formerly occupied, i.e., to the middle of Maior 2.71. At some later stage a copyist must have been dissatisfied with the fact that the chapters following chapter one of the Tractatus minor in its new location were numbered 72, 73, 74, and so on. Failing to recognize that they were in the correct order, and the beginning of the Tractatus Minor in the wrong place, he renumbered every chapter following chapter one of the Minor. The version of this hypothetical scribe is the one reproduced in the printed editions.84

Quite apart from the fact that the text of the manuscripts makes sense whereas that of the printed editions does not, there is additional and equally conclusive evidence to show that the printed editions present an arrangement which cannot be the original one. The last chapter of part two of the Maior is still numbered 2.100 in the editio princeps (Lyons 1531), although it immediately follows chapter 2.71.85 There is no way to explain this except as has been described here. This is also true of the cross references in the summary of the Tractatus maior. In the printed editions the five concluding chapters, formerly Maior 2.96–100, have now become chapters 3.27–30, 2.71, and 2.100. They still refer the reader to chapters 2.73–99 although no such chapters exist in the printed editions.86 Obviously the manuscripts contain the original and proper arrangement.

There is a simple explanation for the confusion that was introduced when the two portions of text were inverted. A and B are of approximately the same length covering a little less than 2.5 columns in the editio princeps. Each of them may well have accounted for a folio of the manuscript in which the confusion first occurred. Imagine that the two folios composed of A and B were the first and the last folios of a gathering of perhaps 16 folios, or, alternatively, that the two halves of the outermost sheet in a gathering of eight sheets were folded so as to produce 16 folios.87 Imagine, further, that this gathering fell

84 Further changes in editions other than the editio princeps are discussed 313–15 below.
85 The edition of Paris 1545 and its descendants, Venice 1562 and Paris 1671, took the logical step of renumbering this chapter 2.72.
86 Such incongruities might have made the printed editions suspect.
87 If ca. 2.5 columns in the editio princeps correspond to about one whole folio in the hypothetical MS, then the 32.5 columns in the editio princeps between A and B (52b25–60b46) would correspond to ca. 13 folios in the MS. Allowing for imponderables, the fact that A and B are rather less than 2.5 columns, and the likelihood that a gathering would consist of an even number of folios, 14 would appear to be the likeliest number. By adding these to the two folios A and B one obtains a whole of 16 folios in a gathering of 8 sheets —
out of a loosely bound manuscript, and that the outermost sheet separated from the bundle, or perhaps did not. In any case, when the gathering was reinserted into the manuscript, the sheet made up of folios A and B may have been folded backward. As a result, B, the last folio of the gathering, would have exchanged places with the first, A. Such was probably the origin of the confusion now found in the printed editions: probably, not just possibly, for a small point adds still more credibility to this account. In the printed editions, the same two sentences appear twice, although separated by some 18 pages.88 If our hypothesis is correct, these two sentences would, in the manuscript, have been found at the end of folio A and at the top of the folio immediately following it. Mistaken duplication of whole sentences is perhaps nowhere likelier than at the point where one folio ends and the next begins, and this is precisely the condition which is here postulated.

In order to depict what occurred, table IV has been prepared.89 The left half of this table represents the state of the text in the manuscript version: the left column indicates the chapter division in the manuscript; the right column shows the original position of the two folios, A and B, relative to the original chapter division. The borderlines separating the two folios from the unchanged portions of the text are identified by the words straddling them. It will be noted that the last two sentences on folio A are repeated immediately afterward. This is a characteristic which can only have existed in the manuscript in which the transposition occurred. The right half of the table represents the state of the text in the printed editions: the left column again gives the chapter division of the text, now in the renumbered form;90 the right column shows the new arrangement of the text. For the sake of verification, the texts have here also been identified by folio, column, and line of the editio princeps.

This account may then be a reasonable explanation of the state of the text in the printed editions. There is, however, one difficulty. Jean Crespin, the editor of the editio princeps, states clearly that he used two manuscripts,91

but obviously this is no more than a possibility, mentioned in order to explain the choice of figures in the text.

88 The duplicated passage reads as follows: 'Regem enim eterna iura faciunt, non persona, quia non constat sui mediocritate, sed sublimitatis honore. Quo ergo honori debeat, honoris deserviant, et que reges accumulant regno relinquant ut, quia eos regni gloria decorat, ipsi quoque regni gloriam non extuenter sed exomert.' It originally appears in Maior 2.71. In the printed editions it can be found in 3.1 (52b25–32) and is repeated in 3.30 (61b4–11).
89 See 324 below.
90 Table IV may thus be used as a rough concordance between the manuscript numbering and the numbering of the printed editions.
91 See his preface fol. 2. Having described his discovery of one, and his prolonged, but unsuccessful, search for another MS, Crespin continues: 'Fervent tandem ad nos, ductu culusdam optimi viri alterum exemplar paulo emendatius, utrumque alteri contulimus.'
and it seems highly unlikely that both of these should have derived from the faulty version whose origin has just been described. One of Crespin's two texts was probably sound. Why then did he take the corrupt version as his copy-text? Crespin says that the second manuscript came to his attention through a friend, long after his discovery of the first. Perhaps the printing process had been all but completed when the second manuscript arrived and there was no time to study it carefully. Perhaps the second version, exemplar paulo emendatius, was incomplete, like the manuscript in Tours, Bibliothèque Municipale, MS 237, which breaks off in the middle of Maior 2.71 and could thus not have been used to correct the errors introduced in Crespin's copy-text. Whatever may have led Crespin to print such an unsatisfactory text, the confusion surely originated in a manuscript. Two successive operations can explain the transition from the original to the corrupt state of the text: first, the actual exchange of folios and, second, the renumbering of chapters. Thus, an accident in the printing process alone, such as an exchange of two printing plates, cannot have been the cause of the confusion. That a detached sheet in a medieval manuscript must have caused the trouble and that Crespin's edition was based on that manuscript, or one of its descendants, remains highly probable.

The defective version of Durant's treatise as well as the mistaken attribution to the elder Durant were reproduced by all subsequent editions. The editio princeps may thus be considered the common ancestor of all printed editions. But even more changes were introduced in the editions of Paris 1545 and its two descendants, Venice 1562 and Paris 1671. The editions of Paris 1545 and 1671 have been very widely used in scholarly studies of William Durant, and, since the version of 1671 has recently been reprinted in London (s.d.; 1963?), their text will be the most readily available until a new, critical edition appears. It may therefore be useful to conclude this survey of the printed editions with a few remarks on their varying degrees of reliability. Philippus Probus, the editor of Paris 1545, took considerable liberties with his text. He completely changed the arrangement of part one of the Maior and, in the process, omitted the headings of chapters three and four, in which some demands

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92 All the extant MSS reflect the original version. There is no evidence that one of them was used by Crespin.

93 Tierney, Foundations 134 n. 1 and Vereecke, 'Réforme de l'église' 287 n. 13 used the edition of Paris 1545. The edition of Paris 1671 was used by Heber, Gutachten 40 n. 6; Viollet 82 n. 1; Müller, Vienne 570 n. 21, 498 n. 28; Bellone, 'Cultura e studi' 68 n. 2; and Torquemada, 'Gallicanism' 271 n. 1. The only scholar who used the editio princeps of 1531 seems to have been Rivière, Probleme 363 n. 3. Otherwise the text in the Tractatus universi juris is frequently employed, as in Jedín, Trient I 471 n. 5; Haller, Kirchenreform 58 n. 1; Scholz, Pubblicistik 209 n. 2; and Posch, 'Reformvorschläge' 294 nn. 3, 4.

94 Presumably Probus had a copy of the edition of Lyons 1531, the only edition known to have been available in 1545.
essential for Durant's plans were aptly summarized. He consistently used *titulus* instead of *rubrica*, and he changed the number of *Maior* 2.100 to what appeared to be the more logical 2.72. The number of smaller changes in, and slight omissions from, the text of the *editio princeps* is considerable. Most of them have no great importance, but occasionally they affect vital points of interpretation. These changes were probably not wholly accidental but were perhaps influenced by Probus' desire to gain the favor of Pope Paul III and the council of Trent, to whom he dedicated his edition. All the features of Probus' *rubrica de limitanda potestate superiorum*’ was combined with chapter 4 to form a new chapter 3. The ‘Rubrica de dispensationibus’ became chapter 4, and the ‘Rubrica de exemptionibus’ chapter 5. Thus there are 5 chapters and no unnumbered rubrics. In the *editio princeps* the chapter headings of chapters 3 and 4 read as follows: 'Quod predictus modus correctionis et reformationis ecclesi et christianitatis sit conveniens rationi et iuri, maxime quantum ad presidentes spiritual et temporali potestati, et quod non debant transgredi iura sed se regere et limitare secundum ea et non quere que sua sunt sed que Christi, nec aliorum iura usurpare sed sub ratione se regere. Et additur qualiter ab antiquo res publica gubernabitur.' *Maior* 1.3 (5a16–26). 'Quarto specificatur amplius de limitando et regulando exercitio potestatis dictorum presidentium monarchie ne in agendis absque concilio proborum proprio utantur arbitrio, nec sine generali concilio *agant* [P] contra ea que sunt in concilii a sanctis patribus provide constituta in dispensationibus, privilegiis, et exemptionibus, et aliis exercendis; quod revocant et revocare debeant exemptiones in contrarium concessas, cum hoc esse utile et rationabile videatur.' *Maior* 1.4 (7a40–b7). This last text is crucial for an appreciation of the extent of Durant's plan for reform. It is difficult to understand its absence from all printed editions except the *editio princeps*.

Examples of some small changes can be found at 4d19 (*inferri*, for * fieri*), 4d34 (*auctoritate, for auctoritas*), 5b16 (omission of *quod predictum est*), and 5a27 (S. D. Papa, for the simpler *dominus Papa*).

See, for example, the following text, one of the most important passages in the entire work: 'Quod contra dieta concilia et iura nihil possent de novo statuere vel concedere nisi generali concilio convocato.' *Maior* 1.4 (7b40–43). This text has been quoted in its context n. 44 above. The edition of 1545 reads *statuere vel condere* instead of *statuere vel concedere*. This is a vital difference. *Statuere vel condere* would mean that Durant envisioned nothing more than the regular participation of general councils when new law was to be formally established. But if *statuere vel concedere* is the correct version, Durant wanted conciliar participation, not only when new law was made (*statuere or condere leges*), but also when concessions within the framework of existing law were being considered. *Concedere* may mean any number of papal administrative measures changing the law or its effects for particular reasons, e.g., exemptions, dispensations, privileges, all of which were part of the everyday business of the *curia*. If *statuere vel concedere* is the correct version, and both the *editio princeps* and the MSS support it, then Durant wanted more than conciliar participation on those relatively rare occasions when new law was being formulated. For the meaning of the terms *ondere, concedere, and statuere* see the parallels from Roman law in *Heymanns Handlexikon zu den Quellen des römischen Rechts* (ed. E. Seckel; 9th ed. Jena 1914) 85, 88, 555ff.

See his preface ali [sic].
version were repeated in the editions of Venice 1562 and Paris 1671, and a number of new errors were introduced, especially in references to canon law.

The available editions may thus be arranged in two groups. The first, comprising the editions of Lyons 1531, Lyons 1549, and Venice 1584, is by far the more reliable one. The second comprises the editions of Paris 1545, Venice 1562, and Paris 1671; it must, for the reasons given above, be used with caution. In both groups the older editions are more reliable than the more recent ones, and it is therefore unfortunate that the latest edition of all was chosen for the reimpersion that appeared in the 1960s.

IV

Conclusion

The confusion found in the printed editions has seriously affected previous studies of the Tractatus de modo generalis concilii celebrandi. It is above all responsible for charges that the bishop of Mende neglected to give any meaningful order to his material. The widespread view that the two Tractatus are a mere heap of thousands of quotations indiscriminately thrown together by an author admittedly learned, but wholly unconcerned with sparing his readers needless repetitions, is simply not true. The two Tractatus are carefully arranged, and the structure of the Maior in particular is an important ingredient in Durant's argument for conciliar participation in papal legislation. A detailed study of the text would show, furthermore, that there is hardly any quotation in the entire book which is not precisely calculated to fit into a context apart from which it cannot be fully understood. It is in the well-thought-out order of his quotations more than anything else that Durant demonstrated his mastery of canon law.

The uncritical use of the printed editions has had even more serious consequences than unjustified attacks on Durant's ability to write clearly. Convinced that a lack of order, as suggested by the editions, was characteristic of his thought as well as his work, scholars have failed to pay due attention to the signs of order which persisted even in their corrupted texts. As a result the

99 Such charges can be found in Rivière, Problème 363; Posch, ‘Reformvorschläge’ 289; Torquebiau, ‘Gallicanism’ 275f.; Müller, Vienne 609f.; Tierney, Foundations 191; and above all in Viollet 80, 85, 87, 101, 110, 117, and 82: ‘Dans son ensemble, l’œuvre est confuse et hâtive; ce sont, pourrait-on dire, des notes jetées comme en courant.’

100 The preface of the Tractatus maior is perhaps the best brief example of Durant's ability to express his ideas by using quotations from canon law to create a coherent context.
vital collection of conciliar canons found in the first canons of the chapters of part two of the *Maior* has invariably escaped notice. Its discovery makes clear Durant's vision of the essence of his plan for the *reformatio in capite et membris*. Combined with the knowledge that Durant, aware of the complexity of his book, composed a thorough summary of its contents, it also helps to reveal the precise nature of the *Tractatus maior*: a handbook of laws for the reform of the Church, based on Pseudo-Isidore's collection of canon law and submitted to the council of Vienne for consideration in its efforts to renew or reform the Church.

Durant's own program of reform can now be identified as a manageable list of less than 100 conciliar canons. With this list in hand it should not be difficult to discover whether or not later conciliar thinkers used Durant's handbook in their writings, and to determine the extent to which his book influenced their work.

Recognition of the *Tractatus minor* as a separate work suggests another line of research. It is now possible not only to compare two versions of the proposals made by Durant, but also to reconsider their influence on the legislation of the council of Vienne. Such an investigation might clarify the difference in the roles played by the two books at Vienne.

These considerations, however, lead beyond the concerns of the present article, which is above all intended to open up new sources of information and to provide a sound basis for studying a major early conciliar thinker. To complete such a project, however, a critical edition of his *Tractatus de modo generalis concilii celebrii* will be essential.

*Columbia University*

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101 Even in the editions, the plan according to which the *Tractatus maior* was arranged was still explained in the preface to part two, and carefully followed up to *Maior* 2.71.

102 More than 100 if one includes the 26 canons from the *Canones apostolorum* quoted in the body of *Maior* 2.1. See n. 53 above.

103 Müller, *Vienne* 594f. already dealt with this subject and concluded against Haller, *Kirchenreform* 65f. that the bishop doubtless influenced the measures decided upon by the council of Vienne. It may not prove to be significant that, except for a single case (615 n. 14), all of Müller's evidence for Durant's efforts is taken from the *Maior*.

104 I am planning to undertake both a detailed study and a critical edition.
TABLE I

SYSTEMATIC TABLE OF CONTENTS OF THE TRACTATUS MAIOR

PREFACE

PART ONE: THE THEORY OF REFORM

Chapter 1: The Object of Reform: The Church
  2: The Pattern of Reform: The Law
  3: The Relationship of Government and Law
    Rubrica de limitanda potestate superiorum: The Relationship
    of Government and Reason in Theory and History
  4: The Plan of Constitutional Reform
    Rubrica de dispensationibus
    Rubrica de exemptionibus

PART TWO: OUTLINE AND EVIDENCE FOR THE PROPOSED REFORM

Preface and Introduction

A) Historical Survey of Ancient Conciliar Law with Parallels

<table>
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<th>Chapter</th>
<th>Excerpts from the Canones Apostolorum</th>
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<td>5</td>
<td>Excerpts from the De primitiva ecclesia et sinodo Nicaena</td>
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<td>Donatio Constantini</td>
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<td>10</td>
<td>Nicaenum, c. 3</td>
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<td>Ancyranum, c. 24</td>
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<td>14</td>
<td>, c. 14</td>
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<td>15</td>
<td>, c. 13</td>
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<td>16</td>
<td>Sardicense, c. 14</td>
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<td>17</td>
<td>Antiochenum, c. 11</td>
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</tbody>
</table>

Concilia Graeca

* Where indicated, the introductory canon of the chapter is given.
Chapter 18: *Laodiceanum*, c. 3
  " 19:  "  , c.15
  " 20: *Chalcedonense*, c. 2
  " 21:  "  , c. 10
  " 22:  "  , c. 18
  " 23:  "  , c. 21
  " 24:  "  , c. 26
  " 25: *I Carthaginense*, c. 3
  " 26:  "  , c. 8
  " 27:  "  , c. 14
  " 28: *II Carthaginense*, c. 7
  " 29:  "  , c. 13
  " 30: *III Carthaginense*, c. 3
  " 31:  "  , c. 7
  " 32:  "  , c. 11
  " 33:  "  , c. 19
  " 34:  "  , c. 26
  " 35:  "  , c. 30
  " 36:  "  , c. 31
  " 37:  "  , c. 49
  " 38: *IV Carthaginense*, c. 14
  " 39:  "  , c. 93
  " 40: *V Carthaginense*, c. 9
  " 41: *Millevitanum*, c. 9
  " 42: *I Arelatense*, c. 7
  " 43: *Regiene*, c. 5
  " 44: *Arusicanum*, c. 1
  " 45:  "  , c. 5
  " 46:  "  , c. 23
  " 47: *Vasense*, c. 4
  " 48: *Agathense*, c. 18
  " 49:  "  , c. 36
  " 50:  "  , c. 47
  " 51:  "  , c. 55
  " 52:  "  , c. 38
  "b 53:  "  , c. 38
  " 54: *Vasense*, c. 3

*Concilia Africae*

*Concilia Galliae*

\[b\] Chapters 52–54 all concern clerics or monks who leave their appointed diocese without permission. That may help to explain why *Vasense* c. 3 is included among the canons of the council of Agde in chapter 54 and does not precede *Vasense* c. 4 in chapter 47.
Chapter 55: *Agathense*, c. 66
" 56: *Eliberanum*, c. 26
" 57: " , c. 36
" 58: " , c. 35
" 59: " , c. 47
" 60: " , c. 48
" 61: " , c. 50
" 62: " , c. 79
" 63: " , c. 81
" 64: *Tarragonense*, c. 4
" 65: " , c. 7
" 66: " , c. 8
" 67: " , c. 10
" 68: *Gerundense*, c. 1
" 69: *I Caesaraugustanum*, c. 1
" 70: *I Toledoanum*, c. 11
" 71: Augustine, as in C.22q.5c.19
" 72: See Giles of Rome
" 73: *I Toledoanum*, c. 21
" 74: III Toledoanum, c. 7
" 75: " , c. 22
" 76: IX Toledoanum, c. 10
" 77: XI Toledoanum, c. 14
" 78: *I Bracarense*, c. 7
" 79: " , c. 9
" 80: " , c. 18
" 81: *Capitula Martini*, c. 48
" 82: " , c. 50
" 83: *Decreta Urbani* (correct: *ex Ges- tis Silvestri*)

B) Supplement: Laws Concerning Preponderantly Contemporary Matters, as Indicated by Their Titles
" 84: *De quaestoribus... Romanae curiae*
" 85: *De ordinibus mendicantium*
" 86: *De leprosis*
" 87: *De validis mendicantibus... et invalidis*

* The interruption of the regular succession of conciliar canons in chapters 71 and 72 can be explained as a consequence of the fact that they deal with the same subject as chapter 70, i.e., secular government; chapter 70: *De regibus ecclesiam perturbantibus*, chapter 71: *De fidelitate regibus servanda*, chapter 72: *De his quae imperatores... intra ecclesiam agere possunt.*
Chapter 88: De hospitalitatibus ... in locis in quibus de bonis ecclesiasticis religiosorum fieri possunt construendis

89: De poena sacrilegorum in pios usus convertenda

90: De decimis et primitis

91: De provisione ... vicariis ecclesiis ad religiosos ... pertinentium facienda

92: De abbatibus, prioribus, et religiosis domibus

93: De providentia circa gubernationem reipublicae adhibenda in mutationibus monetalibus ...

94: Ne ad ecclesiastica beneficia recipiantur ... illi quorum propinqui injuriarentur ecclesiis

95: De potestate ecclesiastica super temporales dominos

C) Summary and Index

96: De reformatione Romanae ecclesiae

97: De reformatione praetororum

98: De reformatione clericorum

99: De reformatione religiosorum

100: De reformatione regum et saecularium personarum
TABLE II
CROSS REFERENCES IN THE SUMMARY OF THE TRACTATUS MAIOR

<table>
<thead>
<tr>
<th>II</th>
<th>96 Romana Ecclesia</th>
<th>I: 1 2 3 4</th>
<th>II: 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16</th>
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<tbody>
<tr>
<td>II</td>
<td>97 Praelati</td>
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<td>x x x x x x x x x x x x x</td>
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<td>II</td>
<td>98 Clerus</td>
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<td>II</td>
<td>99 Religiosi</td>
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<td>x x x x x x x</td>
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<tr>
<td>II</td>
<td>100 Saeculares Personae</td>
<td>y y y y</td>
<td>y y</td>
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</tbody>
</table>

| II | 96 Romana Ecclesia | I: 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 |
|----|--------------------|--------------|---------------------------------|
| II | 97 Praelati        | x x x x x x | x x |
| II | 98 Clerus          | x x x x x x | x x x y x x x |
| II | 99 Religiosi       | y x x x x x x x x x | y y |
| II | 100 Saeculares Personae | x x x x x x x x x x x x x x x x |

| II | 96 Romana Ecclesia | I: 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 |
|----|--------------------|--------------|---------------------------------|
| II | 97 Praelati        | x x x x x x | x x x x x x |
| II | 98 Clerus          | y x x x x x x x x x | x x x x x x |
| II | 99 Religiosi       | x x x x x x x x x x x | x x x x x x x x x x |
| II | 100 Saeculares Personae | x x x x x x x x x x x x x x x x x |

x: unemphatic reference
y: emphatic reference to especially relevant chapters
<table>
<thead>
<tr>
<th>Chapter 1:</th>
<th>I) = De reformatione universalis ecclesiae, et quod in ea est primo a capite, sancta Romana ecclesia, praelatis, et alis superioribus inchoandum.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>= De modo generali per quem universalis ecclesia deveret reformari, scilicet ut servarentur iura et revocarentur in contrarium attemptata.</td>
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<tr>
<td></td>
<td>= De secundo [P: tertio] modo reformationis ecclesiae, scilicet ut mala exempla resecarentur.</td>
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<td>II) De malis exemplis:</td>
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<td></td>
<td>= De avaritia: Ericius</td>
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<td></td>
<td>= De superbia: Draco</td>
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<td>= De luxuria: Pilosus</td>
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<td>= De gula: Milbus</td>
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<td>= De invidia: Lamia</td>
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<td>= De ira: Onocentaurus</td>
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<td>= De acedia: Struthio</td>
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<td>III) De remedis:</td>
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<td></td>
<td>A) De negligentia circa erditionem:</td>
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<td></td>
<td>= Regula apostolica in praelatis promovendis servetur.</td>
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<td></td>
<td>= De negligentia erditionis in curalis.</td>
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<tr>
<td></td>
<td>= De negligentia erditionis in universo clero.</td>
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<tr>
<td></td>
<td>= De beneficis ecclesiasticis unde possit paupertatis magistris et scholaribus provideri.</td>
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<td></td>
<td>= Quod clerici lectioni attenderent et doctrinae.</td>
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<td></td>
<td>= Ut specificaretur et declararetur quae scientia litterarum est in singulis gradibus requirenda.</td>
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<td></td>
<td>B) De negligentia circa curam animarum:</td>
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<tr>
<td></td>
<td>= Ecclesia Romana causas electionum ad se trahit et ecclesiae remanet viduatae.</td>
</tr>
<tr>
<td></td>
<td>= Praelati et curati non resident.</td>
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<td></td>
<td>= Cura animarum inabilitibus committitur.</td>
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<td>= Publice peccatores nullo modo vel insufficienter punitur.</td>
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<td>C) De negligentia circa ecclesiasticum officium et cultum divinum:</td>
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<td></td>
<td>= De negligentia praelatorum et curatorum</td>
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<tr>
<td>Chapter 28:</td>
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<tr>
<td>&quot; 29:</td>
<td>= De negligentia principum et populi</td>
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<tr>
<td>&quot; 30:</td>
<td>= Festa non coluntur.</td>
</tr>
<tr>
<td>&quot; 31:</td>
<td>= Officium distincte horis competentibus sine motelis dicatur.</td>
</tr>
<tr>
<td>&quot; 32:</td>
<td>= Officium Romanae ecclesiae ubique dicatur.</td>
</tr>
<tr>
<td>&quot; 33:</td>
<td>= In quaunque provincia officium uniformiter est dicendum.</td>
</tr>
<tr>
<td>&quot; 34:</td>
<td>= Regulares relinquui possunt ceremoniis suis quo ad officium divinum.</td>
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<td>&quot; 35:</td>
<td>= De negligentia in defectu ornamentorum</td>
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<td>&quot; 36:</td>
<td>= Laici et insacrati homines reliquias et deo dicta ornamenta contingunt.</td>
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<td>&quot; 37:</td>
<td>= De negligentia circa reparationem ecclesiae</td>
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<td>&quot; 38:</td>
<td>= De negligentia circa defenseonem ecclesiasticorum iurium et subditorum</td>
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<td>&quot; 39:</td>
<td>= De negligentia praetatorum et beneficiatorum circa dispensationem proventuum</td>
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<td>&quot; 40:</td>
<td>= Quomodo proventus ecclesiasticorum communiter in usus vanos vel illicitos expenduntur.</td>
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<td>... capitulo concilii Tholetani: Decime colluctationis assensu...</td>
<td>... capitulo concilii Tholetani: [51c45]</td>
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<td>... subdi hoc debere non ambigit. Regem eterna iura faciunt...</td>
<td>Item ad idem faciunt omnia... [51c46]</td>
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<td>... non extuuent sed exornent. Regem eterna iura faciunt...</td>
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<td>... non extuuent sed exornent...</td>
<td>III 1</td>
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<td>Rubrica... lxxix, lxxxiii et viii. [60b46]</td>
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<td>Item ad idem faciunt omnia...</td>
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<td>FOLIO B</td>
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<td>Qui itaque trabem gestat in oculo...</td>
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<td>II 100</td>
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<tr>
<td>Traet. minor, 1</td>
<td>Qui itaque trabem gestat in oculo... [61b12]</td>
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