

The Reception of William Durant the Younger's Treatises in Late Medieval and Early Modern Times

1 Introduction

William Durant the Younger was born in about 1266 in Puimisson near Béziers in Southern France and served as bishop of Mende and count of Gévaudan, an extended territory in the south of the Massif Central, from 1296 until his death in 1330.¹ He is not {61 | 62} to be confused with William Durant the Elder, his

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This essay is an expanded version of a paper I gave in Munich at a colloquium on the reception of political thought in the later Middle Ages organized by Jürgen Miethke. I would like to thank Jürgen Miethke cordially for his invitation to present my work on the reception of William Durant the Younger's ideas to the colloquium. I would similarly like to thank the participants for their valuable suggestions and observations.

1 The best edition of Durant's treatise was published by Jean Crespin in Lyon, 1531, under the title *De modo generalis concilii celebrandi tractatus*. In references to the text of this edition I will distinguish between *Tractatus maior*, that is, the treatise Durant submitted to the Council of Vienne, and *Tractatus minor*, that is, the treatise Durant wrote at the Council of Vienne, most likely in response to the opposition he encountered. I will quote the number of part and/or chapter as they appear in Durant's original version, followed by the number of part and chapter in the printed edition in square brackets whenever the numbering in the printed edition differs from Durant's version. I will also identify the folio and column in Crespin's edition, with superscript r and v standing for recto and verso, and a and b for the first and second columns, e.g., *Tractatus maior* 2.78 [3.9], fol. 22^{va}. On abbreviations in references to legal texts see Kuttner, “Notes on the Roman Meeting”; Ochoa and Diez, eds. *Indices canonum*, i–v; and Brundage, “Appendix I.” For all questions concerning the text of Durant's treatise—in particular the differences between the original version and the printed editions, the distinction between *Tractatus maior* and *Tractatus minor*, the organization of both treatises, and the nature, origin, and stemma of manuscripts and printed editions—see above, chaps. 1–2, and Fasolt, *Council and Hierarchy*. On Durant's life and work see Viollet, “Guillaume Durant,” Tierney, *Foundations*, 190–9, Sieben, *Konzilsidee*, 317–21, 351–7, and Fasolt, *Council and Hierarchy*. For additional references to the secondary literature see above, chap. 3. There is a question about the correct spelling of Durant's name. The literature wavers

uncle, namesake, and predecessor as bishop of Mende, the author of works as famous as the *Speculum iudiciale* and the *Rationale divinorum officiorum*.²

The younger Durant is best known for a great treatise on the reform of the church that he submitted to the Council of Vienne 1311–12. In this treatise he demanded that in the future general councils ought to be assembled every ten years, and that the pope ought not to be allowed to pass new laws without the participation of such councils.³ In so doing he anticipated the main provisions of the Council of Constance's decrees *Haec sancta* and *Frequens* by more than a hundred years and earned himself a well-deserved reputation among historians as a precursor of the conciliar movement. Yet he did not only demand a new role for general councils in the constitution of the church, but also made an immense number of other recommendations, some of them significant, some less so, some widely echoed, others specific to him, all of them meant to lead to a *reformatio in capite et membris*—a concept he seems to have been the first to use in public⁴—but in very different ways.

To mention only a few examples: in addition to criticisms of pluralism, nepotism, and absenteeism that were little short of commonplace, Durant demanded that a tenth of the income from all prebends held by secular and regular clergy should be set aside in order to support the studies of poor students;⁵ that priestly celibacy ought to be abolished;⁶ that the finances of the papacy should be thoroughly overhauled, but only on condition that the pope declared himself willing to exercise his *plenitudo potestatis* according to the wishes of the council;⁷ that the church ought to stop temporal lords from

between Durant, Durand, Durandus, Durantis, Durandis, Duranti, und Durandi. R. Heckel, "Eine Kanzleianweisung," 110n4, establishes 'Duranti' as the correct form. (I am grateful to Reinhard Elze for pointing me to this article, which is regularly overlooked and has been overlooked by me as well.) Nonetheless I follow Viollet, "Guillaume Durant," 2n2, who was well informed about the advantages of 'Duranti,' in his preference for the modernizing form 'Durant.'

2 See Falletti, "Guillaume Durand." The correct title is *Speculum iuris*. I use *Speculum iudiciale* because that is the title given to the work in the early modern printed editions I have used.

3 "Item quod [Romana ecclesia] nulla iura generalia deinceps conderet nisi vocato concilio generali, quod de decennio in decennium vocaretur." *Tractatus maior* 2.96 [3.27], fol. 59^{ra}.

4 Thus J. T. McNeill, "Emergence of Conciliarism," 298–9, and Lecler, *Pape ou concile*, 49. Gert Melville, however, points out to me that among the Cluniacensians the concept of *reformatio in capite et membris* had already occurred much earlier. Cf. Frech, *Reform an Haupt und Gliedern*.

5 *Tractatus maior* 2.38, fol. 32^{va}.

6 *Tractatus maior* 2.46, fol. 35^{va}.

7 "Item quod de bonis ecclesiarum personarum superabundantibus talis provisio fieret supradicte Romane ecclesie quod absque omni taxationis nota et infamia posset communiter

debasement of the coinage;⁸ that radical cuts ought to be made in the scholarly literature in every faculty, since much of it was superfluous and too expensive for students, and that it should be replaced with concise handbooks and binding decisions {62 | 63} by the papacy on disputed legal issues;⁹ that newfangled motets ought to be prohibited;¹⁰ that the papacy ought to leave jurisdiction over local disputes to provincial councils;¹¹ that theological studies ought to be focused on the Bible and *vera theologia*;¹² that exemptions ought to be abolished;¹³ that impoverished bishoprics ought to be merged with other bishoprics;¹⁴ and so on.

2 The Character of the *Tractatus maior*

Durant's treatise thus differs in several respects from the writings to which this colloquium is primarily devoted. It is an occasional piece of writing on

et divisim honorabiliter vivere <et> [M] onera incumbencia supportare, proviso tamen quod ultra et contra predicta et alia que concilio rationabilia viderentur contra divinas et humanas leges non posset absque generali concilio habenas extendere plenitudinis potestatis." *Tractatus maior* 2.96 [3.27] fol. 59^{rb}. The emendation is taken from Munich, Bayerische Staatsbibliothek, Clm 6605, fol. 56^{ra}.

8 *Tractatus maior* 2.93 [3.24], fol. 57^{va}.

9 "Item cum nimia prolixitas et etiam similitudo confusionem inducant, sicut habetur prohemio decretalium, et ut alibi scribitur: ars longa, vita brevis, et experimentum difficile et diversitas interpretantium frequenter confusionem <et> [P] materiam litium et discordiarum inducunt, videretur utile quod de qualibet facultate sumerentur literati et experti viri et arbitri, ad quorum iudicium per summum pontificem omnes probabiles dubitationes circa quaslibet scientias exorte, resecatis omnibus similibus et superfluis, remanentibus tamen ipsarum scientiarum textibus originalibus, tollerentur." *Tractatus maior* 2.73 [3.4], fol. 53^{ra-b}. The emendation is taken from Paris, Bibliothèque Nationale, ms. lat. 1443, fol. 79^{vb}. Durant's critique is chiefly directed against glossators and commentators, as is confirmed by the parallel in *Tractatus minor* 22 [3.45], fol. 68^{vb}: "Quod diversitas glossarum et scriptorum que est in singulis facultatibus, que diversitas et varietas cum multiplicitate et prolixitate ac similitudine dictorum et recitatorum studentium sensus ebetat, tempus et facultates consumit, confusionem et ignorantiam inducit, cum ex hoc textuum et originalium notitia contemnatur, reduceretur per certos magistros in qualibet facultate approbatos et deputatos, resecatis superfluis, similibus, et contrariis, ad compendium veritatis, quod compendium approbaretur per apostolicam sedem."

10 *Tractatus maior* 2.68, fol. 45^{rb}; *Tractatus maior* 2.75 [3.6], fol. 53^{va-b}.

11 *Tractatus maior* 2.11, fol. 18^{rb-va}; *Tractatus maior* 2.32, fol. 28^{va}.

12 *Tractatus maior* 2.85 [3.16], fol. 55^{vb}.

13 *Tractatus maior* 1.4, *Rubrica de exemptionibus*, fols. 8^{rb-13^{rb}}.

14 *Tractatus maior* 2.7, fol. 17^{va}; *Tractatus maior* 2.91 [3.22], fol. 56^{va-b}.

the reform of the church. By no means does it deal systematically with anything that could be called political theory. That does not mean that Durant did not make statements of considerable significance for understanding the political thinking of his time. Nor does it mean that he was a monarchist or anti-Aristotelian—the opposite seems closer to the truth. But it does mean that he was concerned to give effect to an understanding of order that was based on law and not at all designed to support the autonomy of politics, neither in political theory nor in political practice. Instead, Durant insisted on the subordination of every exercise of power to law and had accordingly little sympathy for the study of politics as a subject in its own right. Similarly he considered it to be reasonably self-evident that all temporal power was subject to the church, not at all because he doubted the existence of separate temporal institutions in and of themselves, but because the church exercised divine law, that is, a higher form of law binding both state and church to the same degree.¹⁵ He located the foundations of this {63 | 64} understanding of order in, on the

15 On the one hand, Durant therefore insisted solemnly on the respect that was owed to the king and on the obligation of the clergy to observe their fealty to him, frequently referring to Visigothic texts; see *Tractatus maior* 2.6, fol. 16^{rb}, and *Tractatus maior* 2.71 (in the printed editions this chapter is broken into pieces that can be found at the beginning of chapter 2.71, in the middle of 3.30, and towards the end of 3.1, fols. 49^{rb}–51^{va}, 60^{va}–61^{rb}, and 52^{rb}–^{vb}, in that order). On the other hand, he insisted energetically on the supremacy of the church and quoted the relevant classic texts, from the Donation of Constantine (D. 96 cc. 13–14), via Pope Nicholas II's canon *Omnnes* (D. 22 c. 1), Innocent III's canons *Solite* (X 1.33.6) and *Novit* (X 2.1.13, the famous foundation for ecclesiastical interference in temporal affairs *ratione peccati*), down to Pope Nicholas III's *Fundamenta militantis ecclesie* (VI 1.6.17); see *Tractatus maior* 2.9, fols. 17^{vb}–18^{ra}; 2.93 [3.24], fols. 57^{va}–58^{ra}. Durant thus maintained a thoroughly characteristic combination of a dualism of temporal and spiritual powers with a monistic conception of order that entailed the supremacy of the church: “Videretur ideo utile, si absque scandalo fieri posset, hec taliter secularium principum auribus inculcari quod cognoscerent nullam sibi fieri iniuriam cum ecclesia se de aliquibus casibus secularibus intromittat, et quod distinguerentur iura ecclesiastica et secularia, cum hoc videatur consonum iuri, x. di. quoniam, xcvi. di. cum ad verum, et ca. duobus.” *Tractatus maior* 2.9, fol. 18^{ra}; cf. D. 10 c. 8, D. 96 c. 6, D. 96 c. 10. It is telling that precisely this combination of dualism and monism is particularly clearly expressed in his decisive demand for general councils, where he speaks of a single *res publica* embracing both temporal and spiritual powers and treats pope and kings exactly the same: “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 iura approbata communiter, et quod contra dicta concilia et iura nihil possent de novo statuere vel concedere nisi generali concilio convocato, cum illud quod omnes tangit

one hand, the well-known canon of Pope Gelasius on the two powers (which, by the way, he intentionally misquoted in order to give it a meaning favorable to the king, thereby countering, as it were, Pope Gregory VII, who had quoted the same canon with an omission that was equally misleading, but designed to give it a meaning favorable to the papacy),¹⁶ and, on the other hand, in the thirteenth chapter of Paul's letter to the Romans, which in Durant's judgment required all powers to subject themselves entirely {64 | 65} to the law, not although, but because they were ordained by God.¹⁷

secundum iuris utriusque regulam ab omnibus debeat communiter approbari." *Tractatus maior* 1.4, fol. 7^{rb}.

- 16 In Gratian's *Decretum*, D. 96 c. 10, Gelasius's text runs as follows: "Duo sunt quippe, imperator auguste, quibus principaliter hic mundus regitur: auctoritas sacra pontificum, et regalis potestas. In quibus tanto gravius est pondus sacerdotum, quanto etiam pro ipsis regibus hominum in divino sunt redditori examine rationem." Gratian's version relied on Pope Gregory VII's omission of the significant restriction that Gelasius had added to his declaration of priestly superiority in writing to Emperor Anastasius: "Si enim quantum ad ordinem pertinet publicae disciplinae, cognoscentes imperium tibi superna dispositione collatum, legibus tuis ipsi quoque parent religionis antistites, ne vel in rebus mundanis exclusae videantur obviare sententiae; quo, oro te, decet affectu eis obedire, qui praerogandis venerabilibus sunt attributi mysteriis?" Cf. Miethke and Bühler, *Kaiser und Papst*, 20–1, 63, with Carlyle, *History*, 1:191n1. Durant, by contrast, wrote in *Tractatus maior* 1.2, fol. 4^{vb}: "Si itaque duo a quibus regitur humanum genus sicut a ministris dei, videlicet ecclesiastica auctoritas et regalis potestas, sicut Gelasius papa scribit Anastasio imperatori, xcvi. distinctione, duo sunt, vellent intendere ad dictam reformationem et salubre regimen humani generis, . . ." He thus replaced *principaliter* with *sicut a ministris dei* and *auctoritas sacra pontificum* with *ecclesiastica auctoritas* and omitted the rest, a pretty clear dig at *Unam sanctam*. Similarly to Durant, John of Paris, *De regia potestate* 10, ed. Bleienstein, 110–11, 113, wrote: "Sic sunt distinctae [spiritualis potestas et secularis] quod una in aliam non reducitur, sed sicut spiritualis immediate a Deo, ita et temporalis. . . . Dicit enim Apostolus Ad Romanos xiii (4–6) de rege et principe: 'Si malefeceris, time! Non enim sine causa gladium portat. Dei enim minister est, vindex malorum in ira' etc. Et infra: 'Ideo praestatis tributa. Ministri enim Dei sunt.' Non dicit 'papae' sed 'Dei!'" It is telling that in *Tractatus minor* 8 [3,31], fol. 61^{vb}, Durant refrained from changing the text to suit his purposes: "Duo a quibus secundum Gelasium papam principaliter hic mundus regitur, videlicet auctoritas sacra pontificum et regalis potestas. . . ."
- 17 "Quod dominus papa et reges debeant servare premissa in lege et in evangelio, conciliis, et iuribus approbatis contenta, de facili potest ostendi. Nam potestas eorum a deo est et que ab eis ordinata sunt a deo ordinata existunt sicut ait Apostolus ad Romanos xiii., xi. q. iii. qui resistit, et c. imperatores, x. di. quoniam idem mediator, xcvi. di. cum ad verum, xxiii. q. iiiii. quesitum. Ordo autem melior non potest esse in regimine eorundem quam quod in eorum regimine deo, a quo eorum processit potestas et cuius regimini debet conformari regimen orbis, lxxix. di. ad hoc, xvi. q. i. ad hoc, in quantum possunt sunt conformes." *Tractatus maior* 1.3, fol. 5^{ra}. Cf. C. 11 q. 3 cc. 97–8, D. 10 c. 8, D. 96 c. 6, C. 23 q. 4 c. 45, D. 89 c. 7, C. 16 q. 1 c. 63.

This understanding of order was so broadly conceived that it allowed Durant to take positions without much ado that, from a modern point of view, seem to be irreconcilably opposed to each other. The 'conciliarist' Durant had no trouble, for example, not merely to mention the 'papalist' treatise *De ecclesiastica potestate* by his archbishop, Giles of Rome, on two separate occasions, but to recommend it emphatically to his readers as an unsurpassed account of the relationship between spiritual and temporal power.¹⁸ It does not follow that Durant was incapable of recognizing that his 'conciliar' theory was impossible to reconcile with Giles's 'papal' theory.¹⁹ What follows rather is that he regarded the evidently increasing tensions between the secular clergy and the papacy, as well as those between temporal and spiritual powers, as a mortal danger for the church. Quite like Gregory VII and Giles of Rome he was convinced that the freedom of the church depended on its unity—except that he held the papacy responsible for the lack of such unity. {65 | 66} The purpose of his program was to put an end to the conflict between the different parties competing with each other in the church by reforming the church in head and members. This purpose cannot be captured by concepts such as 'conciliar' and 'papal,' which

18 "De potestate ecclesiastica super temporales dominos et dominia temporalia. Istam rubricam non prosequor nec etiam lxxii. de presenti propter librum quem de contentis in dictis duabus rubricis reverendus in Christo frater Egidius Bituricensis archiepiscopus, in quo profunditas et sublimitas vigent scientie, copiose et utiliter edidit, in quo plenus videri possunt pertinentia ad istas duas rubricas quam posset hic explicari." *Tractatus maior* 2.95 [3.26], fol. 58^{rb}–^{va}. Cf. the parallel in *Tractatus maior* 2.72 [3.3], fols. 52^{vb}–53^{ra}. Posch, "Reformvorschläge," 289–90, and E. Müller, *Vienne*, 596n40, were evidently wrong to interpret this as a reference to Giles of Rome, *De regimine principum*.

19 Just as it does not follow that the 'papalist' Giles ought to have refrained from fighting against papal exemptions side-by-side with William Durant the Younger, as he had been doing since the 1280s; cf. E. Müller, *Vienne*, 495–6; Congar, "Aspects ecclésiologiques," 141–2; Douie, *Conflict*, 28 and n. 3; Gratien, *Histoire*, 349; and in particular the following passage from Giles's *Tractatus contra exemptos* 3 (1555), fol. 23^v, quoted from Congar, "Aspects ecclésiologiques," 142n358: "Summus Pontifex intelligitur ordinarius ubique et posse ad se reservare ordinariam et immediatam cognitionem cujuslibet Ecclesiae. Hoc tamen non obstante quilibet praelatus in dioecesi habet cognoscere causas illius dioecesis, et est ordinarius in tota sua dioecesi: quod ideo contingit quia praelati sunt assumpti in partem sollicitudinis; sed Summus Pontifex assumptus est in totalem plenitudinem potestatis. Et quia totum stat simul cum parte, ideo simul stat immediata jurisdictio, etiam ordinaria, Summi Pontificis, cum ordinaria jurisdictione cujuscumque praelati. Et quia exemptio hoc tollit, et privat jurisdictionem mediam praelatorum, ideo quaedam inordinatio dici potest: quia facit de jure praelatorum non jus." That was Durant's opinion, too.

presuppose and thereby implicitly confirm the very polarization that Durant was struggling hard to prevent.²⁰

3 Obstacles to Tracing the Reception of the *Tractatus maior*

The preceding observations are sufficient to point to the main obstacle in the way of anyone who would like to study the reception of Durant's treatise: his conceptual foundation is so broad and the proposals he makes on that foundation are so comprehensive and variegated that virtually no episode in the history of church reform in the later Middle Ages and early modern times does not suggest possibilities for some kind of connection to Durant. The conciliarists at Constance who adopted his ten-year period for general councils in the decree *Frequens*, the Protestants who abolished priestly celibacy, but also the fathers at Trent who instituted seminars for the training of priests were all taking measures to whose propagation Durant can claim to have made a significant contribution. Yet his treatise was only a piece of occasional writing and does not belong to any of the established traditions of intellectual transmission that constitute the subject of this colloquium. It is neither the work of any particular school of thought nor one representing the interests of any particular profession. That makes it correspondingly difficult to trace the paths on which it was received.

The difficulty is made considerably greater by the method Durant used to express himself in his treatise. He tried to clothe his thoughts as much as possible in the words of canon law, and he did so with great success: sentences written entirely by himself are relatively rare. What predominates is such an overwhelming mass of citations from spiritual and temporal law, particularly the collection of Pseudo-Isidore, Gratian's *Decretum*, and the *Liber extra*, that his book may be called a veritable canonistic cento.²¹ Now it is true that in his

20 In my opinion 'episcopalism' does not lead much further, because it captures only a part of the whole to which Durant referred as *salubre regimen humani generis, res publica, monarchia*, or, following Pope Gregory I and D. 89 c. 7, *magnus ordo differentie*.

21 The *Tractatus maior* contains more than two thousand quotations. About half of them come from Gratian's *Decretum*. The rest come, with decreasing frequency, from the collection of Pseudo-Isidore, the *Liber extra*, the Bible, the *Corpus iuris civilis*, and the *Liber sextus*. The frequency with which Durant referred to these sources by itself does of course not permit unequivocal conclusions about the significance he attributed to them. Durant placed very great stress on a very few canons passed by the councils of antiquity. Similarly, in *Tractatus maior* 1.3, *Rubrica de limitanda potestate superiorum*, fols. 5^{vb}–6^{vb}, one can find quotations from Augustine, *De civitate dei*, Valerius Maximus, *Facta et dicta*

choice of passages to quote he demonstrated as much expertise in the law as originality in its deployment.²² It is therefore quite conceivable that the importance of his work rests first and foremost on the {66 | 67} manner in which he may not only have influenced the uses of this or that particular canon by giving it a meaning suitable to his cause, but also changed, deepened, and historicized the understanding of the law of the church as a whole. But it is in the very nature of this kind of influence that it is difficult to demonstrate.

It may, for example, very well be the case that it was Durant who convinced one or another person to invoke the canon *De quibus causis* or the Visigothic councils of antiquity in order to support an increased role for councils in the church. But such a person would then of course refer to *De quibus causis* and the Visigothic councils themselves, and hardly to Durant. That makes it next to impossible to determine if Durant played any part in prompting such references.²³ Again, it may very well be the case that there is a direct line from Durant's attempt to unhinge papal decretal law with the historical help of the Pseudo-Isidorian conciliar canons to Lorenzo Valla's demonstration that the Pseudo-Isidorian papal letters were forged. Yet how such a line could be empirically traced in the sources is entirely unclear to me.

Sometimes one does of course strike lucky. Nicholas of Cusa, for example, quotes Pseudo-Anacletus's canon *In novo testamento* (D. 21 c. 2) and Cyprian's canon *Loquitur Dominus ad Petrum* (C. 24 q. 1 c. 18), in his *Concordantia Catholica* in order to prove that the power Peter received from Christ was no greater than the power received by the other apostles.²⁴ These canons were widely known and frequently cited.²⁵ Nonetheless his editor Gerhard Kallen is

memorabilia, Cicero, *De officiis*, and in a single previously unrecognized instance John of Salisbury, *Policraticus* 4.11, that are short in their extent, but whose substance is decisive for understanding Durant's train of thought.

- 22 Thus judges Tierney, *Foundations*, 19: "Guilielmus Durantis displayed a familiarity with Decretist literature exceeding that of any contemporary except Guido de Baysio, and an ingenuity in marshalling the Decretist texts in support of his own views that was quite unparalleled."
- 23 In *Tractatus maior* 1.4, fol. 7^{rb}, Durant quotes *De quibus causis* (D. 20 c. 3), along with D. 21 c. 2, X 1.29.21, Cod. 6.42.32.1, and Cod. 7.14.3, as the most important justification of his demand for general councils. Concerning his positive attitude towards the Visigothic councils see especially *Tractatus maior* 2.11, fols. 18^{rb}–21^{ra}, and *Tractatus maior* 2.71 [2.71, 3.30, 3.1], fols. 49^{rb}–51^{va}, 60^{va}–61^{rb}, 52^{rb}–vb.
- 24 Nicholas of Cusa, *Concordantia Catholica* 2.13, ed. Gerhard Kallen, 150 and n. 8.
- 25 Since the eleventh century D. 21 c. 2, a canon in which bishops are characterized as successors of the apostles, and priests as successors of the disciples, had figured prominently among the most frequently cited passages from the Pseudo-Isidorean decretals that made it into Gratian's *Decretum*. Ever since the great battle between the secular clergy and the

entirely right to refer in a corresponding footnote to Durant's treatise as Nicholas's source, for in the first place both of these canons did in fact play a decisive role in the arguments with which Durant opposed the papacy, and in the second place we know that Nicholas owned a manuscript of Durant's treatise that he did not only read carefully enough to complain about the poor work of the copyist, but in which he also {67 | 68} highlighted precisely these two canons in his own hand.²⁶ That leaves little room for doubt that it was Durant who helped to point him to these references.

A similar relationship can be demonstrated for Pierre d'Ailly. Paul Viollet noticed long ago that a number of details in d'Ailly's *Tractatus super reformatione ecclesie* correspond closely to Durant's treatise.²⁷ He repeated, for example, the demand—highly characteristic of Durant—that every episcopal library ought to contain a copy of conciliar canons, and he remarked that the *magnus liber conciliorum generalium* had become very rare, even though it was *perutilis et necessarius*.²⁸ Similarly he demanded that provincial councils ought to meet at least once every three years and based his demand on two canons—one from Carthage and one from Toledo—neither one of which appears in

mendicant orders in the second half of the thirteenth century it was forcefully deployed to defend the *status ecclesie* against both papacy and friars; cf. Fuhrmann, *Einfluss und Verbreitung*, 1:569–70; Tierney, *Foundations*, 32–3, 169–70; Congar, “Aspects ecclésiologiques,” 61–2; Schleyer, *Anfänge des Gallikanismus*, 80; Marrone, “Ecclesiology,” 62–4, 145. C. 24 q. 1 c. 18 supports D. 21 c. 2 from the familiar perspective of St. Cyprian of Carthage. There is a considerable number of possible sources to which Nicholas of Cusa might thus have owed his knowledge of these two canons.

- 26 In Kues, St. Nikolaus Hospital, ms. 168, fol. 95^r, Nicholas annotates the beginning of Durant's long quotation of D. 21 c. 2 and C. 24 q. 1 c. 18 with the words “Petri eminentia.” Cf. *Tractatus maior* 1.4, *Rubrica de exemptionibus*, fols. 8^v–9^{ra}. On the first page of his copy Nicholas criticized the scribe: “Liber iste corrupte multum scriptus est.”
- 27 Viollet, “Guillaume Durant,” 124–6. Philippe Le Preux, who published the edition of Paris, 1545, had noticed the same similarities already in the sixteenth century. That may well be the reason why François Clousier decided to include Pierre d'Ailly's *Tractatus super reformatione ecclesie* (or *De emendatione ecclesie*), in his edition of Durant's treatise, Paris, 1671, along with other famous writings on the reform of the church, such as Nicholas of Clémanges, *De ruina et reparatione ecclesie*, and the *Consilium de emendanda ecclesia* of 1536, and why he repeated Le Preux's comments on these similarities on p. 244 of his edition.
- 28 Durant, *Tractatus maior* 2.73 [3.4], fol. 53^{rb}, demanded “quod antiqua concilia in omnibus cathedralibus ecclesiis haberentur.” D'Ailly declared: “Similiter in dictis ecclesiis, et maxime in metropolitanis, deberent esse notabiles librariae theologicae et juris canonici ac librorum moralium, et maxime ut magnus liber conciliorum generalium, qui jam rarus est, licet sit perutilis et necessarius, a metropolitanis in magnis ecclesiis procuraretur.” D'Ailly, “Tractatus super reformatione,” 2:914.

Gratian's *Decretum*, but both of which are quoted by Durant at length and in one and the same passage.²⁹ That makes it virtually certain that d'Ailly found both of these canons in Durant's treatise.³⁰

Unfortunately the cases of Nicholas of Cusa and Pierre d'Ailly are exceptions. Most of the time there are no clues to indicate if a given author relied on a particular canon because he had found it among the more than two thousand citations and quotations with which Durant had filled his treatise, or because he was aware of its significance for other reasons. {68 | 69} So far I have come across no references at all in which Durant is identified by name—except for Bossuet, who explicitly relied on Durant in 1682, at the very end of the period under consideration here, in order to confirm the legality of the four Gallican articles that the bishops of France, basing themselves on the Council of Constance, had just issued in their battle with the papacy—but of course did so only because he confused William Durant the Younger with his uncle.³¹ The best one can usually hope for is a case like that of Job Vener, whose *avisamentum* on church reform of 1417 refers approvingly to a *liber generalium conciliorum habitorum in temporibus nos precedentibus*, according to which the decline of Christendom had nothing to do with damnable natural desires, greed, or lust, but only bad habits of which even pagans had been free.³²

29 D'Ailly, "Tractatus super reformatione," 2:904, invokes III *Carthaginense* c. 2 and IV *Toletanum* c. 3, both of which were quoted by Durant, *Tractatus maior* 2.11, fols. 18^{vb}–19^{ra}; cf. Viollet, "Guillaume Durant," 126–7. Durant, by the way, would have preferred provincial councils to meet at least once or, still better, twice annually; cf. Durant, *Tractatus maior* 2.11, fol. 18^{rb}–^{va}. It is true that the three-year period occurs as well: "... certis aliis nihilominus super hoc executoribus et visitatoribus deputatis in singulis regnis qui de triennio in triennium omnibus causis provincialibus interessent et unum concilium post alium facerent celebrari." *Tractatus maior* 2.96, fol. 59^{rb}. But that formulation is not entirely unambiguous and is more likely to refer to the frequency with which such *executores et visitatores* were to participate in the provincial councils taking place in a given province, not to the frequency with which the provincial councils themselves were supposed to meet.

30 Thus Viollet, "Guillaume Durant," 126, was right to conclude: "Il nous paraît, par suite, légitime et même nécessaire de conclure que Pierre d'Ailly a lu et utilisé Guillaume Durant."

31 Bossuet, *Oeuvres de Bossuet*, 31:115–20; cf. Viollet, "Guillaume Durant," 313.

32 "Patet hec malicia . . . in libro generalium conciliorum habitorum in temporibus nos precedentibus . . . et in aureo repertorio Speculatoris, ubi in particulari videntur omnium statuum mundi defectus et peccata, que fidei et rei publice per mala exempla summe sunt nociva, quibus communiter maior pars christianorum publice peccare solet ad libitum, eciam, quod peius est, absque omni impulsu nature aut aliquo lucro vel delectatione, sed ex sola mala consuetudine, quam eciam pagani non habent." Heimpel, *Die Vener*, 3:1297 line 154–1299 line 169. I am grateful to Jürgen Miethke for directing me to this passage. The context leaves no doubt that Vener was not referring to William Durant the

That fits Durant's treatise well, but does not tell us anything precise about the significance Job Vener—not to mention any other readers—may have attributed to any of Durant's particular ideas, and it is deplorably weak evidence for the question if and how the ten-year period might have passed from Durant's treatise into *Frequens*. Matters become far more difficult with writings such as Jean Gerson's *De potestate ecclesiastica* and Nicholas of Clémanges's *De ruina et reparatione ecclesie*, which echo Durant in their conception as well as in a number of details, but without quoting him and without giving us any obvious means to determine whether or not they were drawing on his work.

The extent of the field on which Durant's treatise might have been received is thus out of all proportion to the limited means we have to establish where it was actually received. Nonetheless there are two points of departure from which one can relatively quickly arrive at instructive results. One consists of the information we have about the Council of Vienne, and the other of what we know about the history and distribution of the treatise's manuscripts and printed editions.

4 The Reception of the *Tractatus maior* at the Council of Vienne

When Johannes Haller published his unsurpassed book on the papacy and church reform in 1903, he still believed he could assert with certainty that Durant's reform proposals had had no success at the Council of Vienne at all.³³ But that is untrue. Since 1934 at the latest we know from Ewald Müller's history {69 | 70} of the Council of Vienne that Durant's ideas shaped a number of conciliar decrees, sometimes down to the very wording, and thus became part of canon law in the constitutions of Pope Clement V. There is no need to repeat the details here because they are easy to find in Müller's book.³⁴ Yet even

Elder's *Repertorium aureum*, where the elder Durant dealt with questions of canon law according to the structure of the *Liber extra*, thereby producing a kind of systematic table of contents for both Gratian's *Decretum* and the *Liber extra*. Like so many others, Vener simply confused the younger Durant with his uncle.

33 Haller, *Papsttum und Kirchenreform*, 65–6.

34 E. Müller, *Vienne*, 591–610. Müller's index, s.v. 'Wilhelm Duranti jun.' offers outstandingly detailed references to the numerous places where Müller recognized connections between Durant's proposals and the decrees of the council. To mention only two examples: first, Durant was one of many who agitated successfully for the confirmation of *Super cathedram*, the bull with which Boniface VIII had settled the relationship between the secular clergy and the mendicant orders in a manner relatively favorable to the former; which Benedict XI had revoked in 1304 to the exasperation of the bishops; and which

Müller failed to notice that among the fragments of the acts of the council there is a piece of evidence that refers directly to Durant's treatise and informs us about the impression he made in Vienne. It consists of a summary of reform proposals intended to prevent temporal lords from invading the rights of the clergy.³⁵ In the main part of this summary the author limits himself to re-arranging the proposals that had been submitted by a number of different bishoprics and ecclesiastical provinces according to systematic criteria, without paying special attention to their provenance. Towards the end, however, he singles out certain "general proposals which it would lead too far afield to describe here in all details . . . because they do not add anything to the articles individually identified above, but rather amount to certain generic proposals for the reform of the whole."³⁶ These "proposals for the reform of the whole" came from the province of Bourges. That alone suggests that Durant was their author, for apart from him only two other bishops from the province of Bourges attended the Council of Vienne: his archbishop, Giles of Rome, and the bishop of {70 | 71} Limoges.³⁷ The suggestion hardens into certainty as soon as one examines the substance of the few details mentioned by the author of the

Clement V reconfirmed only very reluctantly in the final session of the Council of Vienne under the pressure of repeated demands from the council. *Sacro instante et approbante concilio* is the unusual formula of approbation that Clement V used in this single instance; compare E. Müller, *Vienne*, 491–564, here 547–52, and Clem. 3.7.2 with *Tractatus maior* 2.85 [3.16], fol. 55^b; see also Marrone, "Ecclesiology," 189–200. Second, Durant was personally responsible for a decree in which the council did not only punish anyone who had personally attacked a bishop or participated in a conspiracy against his person ipso facto with excommunication, but also banned their children and grandchildren without hope of dispensation from access to any benefices in the diocese—a measure that Durant had already taken before 1300 in his own diocese and which Boniface VIII had confirmed in 1302; cf. *Tractatus maior* 2.94 [3.25], fol. 58^{ra-b}; Clem. 5.8.1; Boniface VIII, *Registres*, 3:631, nr. 4985; E. Müller, *Vienne*, 475–9; Viollet, "Guillaume Durant," 6; Falletti, "Guillaume Durand," 1220. Durant himself had rather more broadly spoken of anyone who had 'injured' the church or the clergy.

35 Printed by Ehrle, "Bruchstück," 399–417. E. Müller, *Vienne*, 471–3, was obviously familiar with this text, but did not notice its relationship to Durant's treatise.

36 "Adduntur tamen aliqua generalia, que longum esset omnia particulariter hic ponere et sunt distincte in quaterno remediorum; nec faciunt ad articulos singulariter supra distinctos; sed sunt quedam provisiones generales ad reformationem universi." Ehrle, "Bruchstück," 415–17, here 415. *Universi* here evidently means something like 'the issue as a whole.'

37 E. Müller, *Vienne*, 664. The exempt bishop of Le Puy attended the council as well.

summary. Every single one of them can be found in Durant's treatise, and some of them are entirely typical of him.³⁸

There are two reasons why it should interest us that this report of reform proposals from the province of Bourges refers directly to Durant's treatise. First, these appear to be the only proposals from the province of Bourges that can be demonstrated to have been submitted to the Council of Vienne, which suggests that Durant might have acted as a kind of official representative of his province. That would explain why it was precisely Durant who composed so thorough a memorandum on reform, and it fits well with a long-standing relationship in which the bishopric of Mende had worked closely together with the archbishop of Bourges more than twenty years earlier in order to support him in his battle against the mendicant orders, which the archbishop of Bourges had been spearheading at the time.³⁹

Second, we thus learn about an important witness to the reception given to Durant at the Council of Vienne. For the description of the reform proposals from Bourges stems from the committee of cardinals that Pope Clement V had specifically appointed in order to survey all of the proposals that had been submitted to the council and arrange them in an order that would be suitable for deliberation by the council.⁴⁰ It thus gives us insight into the reaction of the papal curia—and that was rather reserved. A twentieth-century historian like Müller may have been favorably impressed by the farsightedness of the proposals from Bourges, but the cardinal who reported them to the pope was of the opinion that “they were in some respects not just difficult but impossible to realize.”⁴¹

38 Thus the proposals from Bourges combine two in themselves unrelated demands in precisely the same manner as Durant: to extend the penalties for attacks on the church to the relatives of the attackers, and to heed the canonical deadlines for excommunications; compare *Tractatus maior* 2.94 [3.25], fol. 58^{ra-b}, with Ehrle, “Bruchstück,” 415–16. Further parallels can be found in the demand to determine more precisely which cases Boniface VIII's constitution *Quoniam* was intended to punish with excommunication (*Tractatus maior* 2.70, fol. 47^{ra}; cf. X 5.11.19); the proposal to reinstitute so-called *defensores ecclesiae* that had been common in antiquity (*Tractatus maior* 2.40, fol. 34^{ra}); and the description of excommunication as *muero episcopalis* or *mortalis* (*Tractatus maior* 2.38, fol. 33^{ra}, and *Tractatus maior* 2.28, fol. 28^{ra}).

39 Two clerics from Mende played an important role at the provincial council of Bourges in September 1286 and in the French embassy to Pope Honorius IV in the same year. One was Paul Banciani from Rodez, vicar general of the bishop of Mende, the other Peter of Rodez, provost of Mende; see Glorieux, “Prélats français,” 324–30.

40 On this committee see E. Müller, *Vienne*, 117–18.

41 “Meo iudicio <in> aliquibus non solum continent difficultatem sed et impossibilitatem.” Ehrle, “Bruchstück,” 415; the emendation was made by Ehrle. By contrast, E. Müller,

This is the first concrete piece of evidence for the chilly reception the curia was going to give Durant in Vienne. But it was not to remain the only one. Two letters {71 | 72} written by Pope John XXII to the king and queen of France several years later, in 1319, inform us that Durant's proposals did not exactly endear him to Pope Clement V.⁴² Now it is true that in 1319 John XXII was not particularly well disposed towards Durant, in part perhaps because in 1310–11, during the run-up to the Council of Vienne, Durant had opposed Pope Clement V's decision to promote a nephew of Cardinal Jacques Duèse, the future Pope John XXII, to become archdeacon of Mende, albeit without success.⁴³ Pope John XXII may have exaggerated when he claimed several years after the conclusion of the Council of Vienne that Durant had intended his book to provoke a schism between the pope and the bishops.⁴⁴ If it had really been that bad, Clement V would hardly have dismissed Durant with the customary favors at the conclusion of the council.⁴⁵ At the same time it is also true that, as Cardinal Jacques Duèse, John XXII had not only participated actively in the Council of Vienne, but was also a member of the very committee of cardinals that compiled the report quoted above, and was accordingly exceedingly well-informed

Vienne, 471, thought: "So werden hier endlich einmal grundsätzliche Erwägungen angestellt, die uns natürlich einen ganz anderen Einblick in die hier umstrittenen Probleme geben als jenes Gewirre von Einzelbeschwerden und Remedia."

42 John XXII, *Lettres secrètes*, 1:737–41, nrs. 849–50, both dated 10 April 1319. Haller, *Papsttum und Kirchenreform* 58–9, deserves credit for being the first scholar to have drawn attention to these letters, but then overinterpreted them; see above, chap. 3, pp. 200–1.

43 In 1310, in connection with a comprehensive and complicated exchange of benefices held by a number of different clerics, Clement V had ordered François André, Archdeacon of Mende, to turn his archdeaconate over to Jacques de la Rue, a nephew of Cardinal Jacques Duèse. In compensation he was offered the archdeaconate of Fréjus. François André had succeeded Durant as archdeacon of Mende in 1297 and presumably enjoyed his confidence. That, at least, is suggested by Durant's and his chapter's protest against the pope's order on the grounds that, according to long-established custom, only a canon of Mende could become archdeacon. The pope quashed their complaint with the simple expedient of making Jacques de la Rue a canon of Mende as well; see Clement V, *Regestum*, 5:341, nr. 6144, dated 4 September 1310, and 6:107–8, nr. 6726, dated 23 March 1311. Jacques de la Rue died in 1317, but John XXII immediately transferred the archdeaconate to Jacques's brother; see John XXII, *Lettres secrètes*, 1:212, nr. 267; 1:214, nr. 279; 1:227–8, nr. 302; and 1:255–7, nrs. 337, 340, 342, 344.

44 "Sed ipse intendens aliud forsitan quam pretendat, videlicet scisma, quod absit, inter te et Sedem istam ponere sicut et in Viennensi consilio inter felicis recordationis Clementem papam quintum et prelatos studiose ponere laboravit, injuste conqueritur secum agi." John XXII, *Lettres secrètes*, 1:740, nr. 850.

45 E. Müller, *Vienne*, 593.

about the goings-on in Vienne.⁴⁶ We thus have no reason to doubt the truth of his assertion that Durant was confronted by Pope Clement V, asked for forgiveness, and dedicated his book to him “with an appearance of the greatest humility.”⁴⁷

We can go still further, for even though John XXII does unfortunately not give us to understand precisely which book Durant dedicated to the pope, it is {72 | 73} at least possible that it was not identical to the book he had written prior to the Council of Vienne. We know from the manuscripts that, while the council was in session, Durant composed a second, much shorter piece of writing, which I have called *Tractatus minor*, and which the printed editions and, until recently, the secondary literature invariably treated as part of the *Tractatus maior*.⁴⁸ But the differences are crucial, for even though the *Tractatus minor* is founded on the same principles as the *Tractatus maior* and makes hardly any proposals that cannot be found in the *Tractatus maior*, too, sometimes verbatim, it nonetheless presents an altogether different program of reform. That is not so much because of what it says as because of what it does not say. There is no more mention of any thorough reorganization of the relationship between church and state, no mention of revoking all exemptions, and above all no mention of a new role for general and provincial councils—in short, no mention of the fundamental questions about the constitution of the church Durant had raised in the *Tractatus maior*. Instead Durant now stressed the primacy of the papacy and focused his reformatory attention closely on three specific and far less controversial subjects: the education of the clergy, the improvement of the care of souls, and the standardization of the liturgy. The *Tractatus minor* thus contains a program of reform that was much reduced and thoroughly transformed, not really in its principles, but very much so in its orientation, because it abstained from all of the radical changes in the church that made the *Tractatus maior* famous and, almost certainly for that very reason, provoked the disapproval of Clement V and John XXII.⁴⁹ That makes

46 E. Müller, *Vienne*, 118.

47 “In consilio siquidem Viennensi, contra felicis recordationis Clementem papam quintum, predecessorem nostrum, cui ipsum fidelitatis vinculum astringebat, scisma suscitare voluit et temptavit librum contra ipsum et Sedem hujusmodi, sicut notum est fratribus 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 reconciliationem hujusmodi procurarunt.” John XXII, *Lettres secrètes*, 1:739, nr. 849.

48 See above, chap. 2.

49 This conclusion should not lead to the impression that Durant refrained from criticizing the papacy in the *Tractatus minor* at all. To the contrary, his assertions about the faults of

it reasonable to suppose that Durant wrote the *Tractatus minor* in the context of his disagreement with Pope Clement V.

There is a certain sense in which the changes Durant made to his plans for reform in the *Tractatus minor* anticipate the fate of the conciliar movement as a whole. Just as the *Tractatus maior* can be read as a kind of manifesto for the measures taken by the Council of Constance in order to put an end to the Great Schism in the fifteenth century, so the *Tractatus minor* can be read as a manifesto for the measures taken by the Council of Trent in the sixteenth century, after the conciliar movement had been confronted and defeated by the papacy. At bottom Johannes Haller thus turns out to have been right after all, for even if Durant did manage to have some of his ideas enacted into law by the Council of Vienne, he failed abjectly with his plan to reshape the constitution of the church on a conciliar foundation. That plan did not achieve genuine favor until the time of the Great Schism and the height of conciliar movement, and it was not going to fail decisively until the sixteenth century.

5 The Manuscript Transmission of Durant's *Tractatus maior* and *Tractatus minor*

This understanding of the reception of Durant's ideas is confirmed by the manuscript transmission.⁵⁰ We know of only two manuscripts that can claim to have been written in {73 | 74} the fourteenth century. One was owned by Pope Benedict XIII and must unfortunately be considered lost.⁵¹ Benedict XIII valued it highly enough to include it in his so-called Bibliotheca Minor, that is, the selection of books he took along with him on his travels through Europe from 1403–11, when he left most of his library behind in Avignon. Even though there is no earlier evidence for the existence of this manuscript than the catalog of the Bibliotheca Minor published by Anneliese Maier, it is certainly conceivable that it is this same manuscript that Durant himself is supposed to

the papacy are in some ways even more pointed than in the *Tractatus maior*. But absent a plan to change the constitution of the church in its foundations, they seem more like impotent moralizing, which could afford to be more sharply critical of the pope precisely, and only, because the responsibility for church reform had now been left entirely in his hands.

50 Unless stated otherwise, the evidence supporting the following observations will be found in Fasolt, "William Durant the Younger's *Tractatus*," and above, chaps. 1–2, with detailed references to the relevant scholarly literature.

51 Maier, "Bibliotheca Minor," 3:37, nr. 312: "Item alius tractatus conciliorum episcopi Mimantesis [sic] de hijs que fuerunt celebrata in concilio Vienensi in perg. (post., rub.)."

have dedicated to Pope Clement V.⁵² I have unfortunately not been able to determine what happened to this manuscript after Benedict's library was dissolved in Peníscola.

The other manuscript that dates from the fourteenth century is especially important.⁵³ Not only is it one of only two manuscripts containing both the *Tractatus maior* and the *Tractatus minor*, but it is also the only surviving witness to one of the two main branches into which the manuscript transmission of Durant's treatise can be divided. In spite of its copyist's mistakes, it is in many places superior to all other surviving manuscripts. It is written in a commonplace rotunda and has marginal annotations and decorations in a style that allows no more specific identification of its provenance than that it was almost certainly written in Southern France before the end of the fourteenth century, perhaps during the years from 1360–80.⁵⁴ It may have come from Avignon, Toulouse, or perhaps from Montpellier, where Colbert purchased it in 1682 from its first known owner, a certain M. de Rignac, who served as counselor on the local Cour des Aides.

Durant's treatise thus does not seem to have circulated widely during the fourteenth century. But that changed in the fifteenth century, particularly after the Council of Basel. Apart from the manuscript just mentioned, we have nine other manuscripts, all of which were written in the fifteenth century. {74 | 75} Only one of these manuscripts, held by the Bayerische Staatsbibliothek in Munich, contains both the *Tractatus maior* and the *Tractatus minor*.⁵⁵

52 Yet the first version of the catalog of the Bibliotheca Minor—the “Libri qui portantur ubique pro servitio domini nostri”—does not contain any mention of Durant's treatise; see Maier, “Bibliotheca Minor,” 7.

53 Paris, Bibliothèque Nationale, ms. lat. 1443.

54 For their help with the difficult question how to date this manuscript I would like to thank Marie-Thérèse d'Alverny, Gilbert Ouy, Neil Ker, Bernard Bischoff, and especially Monique-Cécile Garand; cf. above, chap. 1, pp. 113–15. I am particularly indebted to Monique-Cécile Garand for the valuable observation that a copy of Bernard Gui's *Speculum sanctorale* in Paris, Bibliothèque Nationale, ms. lat. 5407, is written in a similar hand and was completed in 1378 at the request of Cardinal Guillaume de Chanac; see Samaran, *Catalogue des manuscrits datés*, 2:271; *Dictionnaire d'histoire et de géographie ecclésiastiques*, 12:350–1; and Baluze, *Vitae paparum Avenionensium*, 2:606–14. Guillaume de Chanac is likely to have hailed from the Gévaudan and became bishop of Mende in 1371. One would like to believe that Bibliothèque Nationale, ms. lat. 1443, was also copied at his request, but unfortunately the similar script alone is insufficient to justify such a conclusion.

55 Munich, Bayerische Staatsbibliothek, Clm 6605, fols. 1–69^v.

Five other manuscripts contain the complete text of the *Tractatus maior*.⁵⁶ The remaining three manuscripts contain only fragments of the *Tractatus maior*.⁵⁷ In addition we have six printed editions from the sixteenth and seventeenth centuries: the editio princeps by Jean Crespin in Lyon, 1531, reprinted in 1534 with a new frontispiece; three closely related editions ultimately based on the editio princeps, namely, by Philippe Le Preux in Paris, 1545, Michele Tramezino in Venice, 1562, and François Clousier in Paris, 1671; and two editions included in multi-volume collections of legal writings that are similarly based on the editio princeps: one in the second volume of the *Tractatus ex variis iuris interpretibus collecti* printed in Lyon, 1549, and the other in the famous *Tractatus universi iuris* printed in Venice, 1584.⁵⁸

The sheer number of manuscripts and prints in which Durant's treatise was transmitted is hardly overwhelming. But its significance should not be underestimated. A standard reference work for daily use like the *Speculum iudiciale* by Durant's uncle and predecessor in Mende, the famous Speculator, is preserved in almost one hundred manuscripts, and library catalogs refer to more than fifty different printed editions.⁵⁹ Durant's treatise can hardly measure up to those numbers. But it does measure up very well to the transmission of Nicholas of Cusa's *Concordantia Catholica*, which Gerhard Kallen shows to consist of eighteen complete manuscripts, five fragmentary ones, and four

56 Kues, St. Nikolaus Hospital, ms. 168, fols. 1–95^v; Rome, Biblioteca Nazionale Centrale, Fondo Varia, ms. 1, fols. 85–196^v; Vatican City, Biblioteca Apostolica Vaticana, ms. Barb. lat. 1487, fols. 313–62; Paris, Bibliothèque Mazarine, ms. lat. 1687, fols. 1–82; and Troyes, Bibliothèque Municipale, ms. 786, fols. 1–179. {Strictly speaking none of these manuscripts reproduces the *Tractatus maior* in its entirety; all of them break off at the very same point a few lines short of the end of the *Tractatus maior*. For details see above, chap. 2, pp. 178–9.}

57 Tours, Bibliothèque Municipale, ms. 237, ends in the middle of chapter seventy-one of part two of the *Tractatus maior*. Biblioteca Apostolica Vaticana, ms. Ottob. lat. 823, fols. 23–53, and Zurich, Zentralbibliothek, ms. S 204 o, fols. 129–41, do not go much beyond the end of the first part of the *Tractatus maior*.

58 *Tractatus ex variis iuris interpretibus collecti*, 2:88^v–117^v, and *Tractatus universi iuris*, 13/1:154–82^v. {The edition by Philippe Le Preux was printed by two different printers: Poncet Le Preux and Galliot du Pré. The 1562 edition reproduces the edition by Philippe Le Preux. The 1671 edition does so, too, but takes much greater liberties with the text and its arrangement.}

59 These numbers result from scanning the familiar catalogs of early prints and combining them with the information furnished by Le Clerc, "Guillaume Duranti," 449–56, and Schulte, *Geschichte*, 2:144–56.

editions printed between 1514 and 1609.⁶⁰ Given the age, complicated form, and highly technical contents of the *Tractatus maior*, one may consider it a mark of genuine success that it was printed more frequently, and for a longer period of time, than a book that is often considered to be one of the main theoretical accomplishments in the entire history of the conciliar movement. {75 | 76}

The first and foremost reason for the depth and durability of the reception given to Durant's treatise is probably the Gallican tradition of promoting close cooperation between church and state, which rested on solid theoretical foundations developed by the University of Paris, and which is well known to have been firmly allied with the conciliar movement. It is clearly reflected both in the ownership of the manuscripts of Durant's treatise and in the history of the printed editions.

First in line is Paris, Bibliothèque Mazarine, ms. lat. 1687, a miscellany containing a number of works by authors among whom John of Paris, Konrad of Gelnhausen, Jordan Brice, Antonius de Butrio, Jean Mauroux, and Giuliano Cesarini are worth special mention. Towards the end of the fifteenth century this manuscript was owned by Louis Pinelle, who became rector of the Collège de Navarre in 1497, later served as chancellor of the University of Paris, and concluded his life as bishop of Meaux, where his immediate successor, Guillaume Briçonnet, undertook a well-known attempt to reform the French Church in collaboration with Jacques Lefèvre d'Étaples. Then there is Troyes, Bibliothèque Municipale, ms. 786, which corresponds so closely to the first part of the manuscript owned by Louis Pinelle that it must have been copied from it directly or else was copied from another closely related copy. At the end of the sixteenth century this manuscript was owned by Pierre Pithou, the French humanist, legal scholar, and author of a famous piece on the *Libertez de l'Église Gallicane*, which has been called one of the founding documents of French parliamentarians well into the eighteenth century.⁶¹

As late as the second half of the seventeenth century the conflict between Louis XIV and the papacy raised Durant's work once again to a place of honor. In 1668, in the fourth volume of his history of the University of Paris, César Du Boulay reprinted Durant's chapter on exemptions, in which Durant had stated

60 Nicholas of Cusa, *Concordantia Catholica*, ed. Kallen, xiii–xxix. I am grateful to Erich Meuthen for pointing out that the printed editions contain Nicholas of Cusa's *Opera omnia*, which makes them poor evidence for any particular interest in the *Concordantia Catholica*.

61 "Le texte classique où puisèrent les parlementaires, notamment au XVIII^e siècle." Carreyre, "Pithou," 12:2237.

his fundamental views on papal primacy.⁶² In 1671 François Clousier reprinted the whole treatise and dedicated it to the young Achille du Harlay, count of Beaumont, who later became president of the Parlement of Paris and earned himself a reputation as an unflinching supporter of the Gallican cause. In 1682, at the height of the Gallican crisis, Bossuet, as mentioned before, referred explicitly to Durant in his defense of the Gallican articles. Finally it was in the same year of 1682 that Colbert purchased his manuscript of Durant's treatise with the help of his librarian Baluze. It would surely be worthwhile to undertake a thorough examination of the place Durant's treatise may have occupied in this entire tradition, from Pierre d'Ailly and Jean Gerson in Paris and Constance, via Louis Pinelle in Paris, the reform circle of Meaux, and the humanist legal scholar Pierre Pithou in Troyes, down to Bossuet, himself a bishop of Meaux, and beyond.

A second center of gravity for the reception of Durant's treatise can be found, tellingly enough, in the curia and at the Council of Trent. Apart from the lost manuscript owned by Pope Benedict XIII we know of an unusually compendious miscellany that is closely associated with the history of the Council of Florence, of which at least a part was owned by {76 | 77} Cardinal Marco Barbo in the second half of the fifteenth century, and which is now part of the Barberini collection.⁶³ In addition there is a manuscript that Guglielmo Sirleto, scriptor in the Vatican Library and later cardinal, who made his reputation at the Council of Trent, owned in the middle decades of the sixteenth century.⁶⁴ The printed editions speak even more clearly. In 1545, on the occasion of the opening of the Council of Trent, Philippe Le Preux, a legal scholar from Bourges who was later appointed *officialis* of Amiens and papal chaplain, had the treatise printed in Paris and dedicated it to Pope Paul III, expressing his hope that Durant's salutary proposals might help to eradicate Protestant heresy.⁶⁵

62 Du Boulay, *Historia Universitatis Parisienis*, 4:130–8.

63 Vatican City, Biblioteca Apostolica Vaticana, ms. Barb. lat. 1487. Careless reading of Tomasini, *Bibliothecae Patavinae*, 12–15, once led me to assert that this manuscript originated in the library of San Giovanni in Verdara in Padua; see above, chap. 1, p. 137 n. 73. Montfaucon, *Bibliotheca Bibliothecarum*, 485 D, who also lists this manuscript as located in Padua, seems to have fallen victim to similar carelessness. I am so much the more grateful to Jürgen Miethke for correcting my mistake in Miethke, "Nachricht."

64 Vatican City, Biblioteca Apostolica Vaticana, ms. Ottob. lat. 823.

65 In the preface to his edition, sig. a iiv, Philippe Le Preux describes Durant's treatise as "dignum certe opus, quod omnium teratur manibus, quodque ob oculos omnium versetur, ob multiugam conditionem, et in quo contineantur omnia, quae in conciliis universalibus proponenda sint et tractanda, et in his praesertim fidei tractatur negotium, quibusque mediis infandissimum haereticae pravitatis crimen e Christianorum animis eradendum sit: quod prohdolor multis iam retroactis annis, non sine gravi animarum

Michele Tramezino's print of Venice, 1562, does not contain any preface from which it might be possible to learn about his motives, but the point in time at which it appeared and its close resemblance to the edition of 1545 do at least suggest that the occasion was furnished by the opening of the third and final meeting of the Council of Trent. The massive *Tractatus universi iuris* published under the auspices of Pope Gregory XIII in connection with the restoration of canon law in the aftermath of the Council of Trent belong in the same context.

In the third place a number of manuscripts are of course directly related to the conciliar movement itself. Here it must be stressed that it was not the Council of Constance, but only the Council of Basel that made the decisive contribution to the dissemination of Durant's ideas. None of the surviving manuscripts can be attributed to Constance with any degree of certainty, and there is only one for which the lack of any specific evidence to the contrary makes it so much as possible to consider such an attribution.⁶⁶ By contrast, a considerable body of evidence points to the Council of Basel. One manuscript was obviously copied in Basel during the 1430s, namely the one that Nicholas of Cusa had made for himself there and bound together with a collection of the council's acts. In addition there are several miscellaneous manuscripts whose contents are closely related to the history of the Council of Basel. That includes not only the Barberini manuscript, Louis Pinelle's manuscript now in the Bibliothèque Mazarine, and the Ottobonianus once owned by Guglielmo Sirleto, but also the manuscript now in {77 | 78} the Fondo Varia of the Biblioteca Nazionale Centrale in Rome and the manuscript held in the Bayerische Staatsbibliothek in Munich. To this substantial list one may also add the fragment that is now kept in the Zentralbibliothek of Zurich and was copied by Peter Nümagen. For Nümagen served as secretary for the Council of Basel that Andrea Zamometič tried without success to revive in 1482. Nümagen later became notary of the Grossmünster in Zurich, to which he left his books and where he died not long before Zwingli's reforms. Six out of the ten surviving manuscripts thus are more or less directly related to the Council of Basel.⁶⁷

iactura, impune toto orbe grassatur." Now there is some information about Le Preux in Izbicki, "Clericis Laicos," 190.

- 66 Tours, Bibliothèque Municipale, ms. 237. {But given the close relationship between the text of this manuscript and manuscripts demonstrably written at the Council of Basel, such as Munich, Bayerische Staatsbibliothek, Clm 6605, and Kues, St. Nikolaus Hospital, ms. 168, it seems exceedingly unlikely that it was copied before the Council of Basel.}
- 67 Kues, St. Nikolaus Hospital, ms. 168; Vatican City, Biblioteca Apostolica Vaticana, ms. Barb. lat. 1487; Paris, Bibliothèque Mazarine, ms. lat. 1687; Vatican City, Biblioteca Apostolica Vaticana, ms. Ottob. lat. 823; Rome, Biblioteca Nazionale Centrale, Fondo Varia, ms. 1; and

The geographical distribution of the manuscripts is altogether typical. France, Italy, and Germany are well represented, Spain and England not at all—though I do not want to exclude the possibility that some manuscripts may have escaped my notice so far. Protestants naturally showed no interest in Durant whatsoever, and Catholics did so first and foremost if they had a special interest in church reform. Manuscripts were sometimes owned by individual scholars, sometimes by the libraries of cathedral chapters, monasteries, and universities.

The Council of Basel clearly played a crucial role in disseminating Durant's ideas so widely that they continued to be given serious attention, more or less without interruption, until the end of the seventeenth century. At the same time this attention did not extend to all parts of the treatise to the same degree. It is not difficult to tell that specific aspects of Durant's conciliar theory and his proposals for limits on papal primacy provoked the greatest interest. That is almost certainly the reason why some scribe, probably at the Council of Basel, gave the treatise the title *De modo generalis concilii celebrandi*, under which it continues to be known today, but which rather obscures the nature of its contents.⁶⁸ It is also the reason why the two manuscripts owned by Peter Nümagen and Guglielmo Sirleto contain only the first part of the *Tractatus maior*, in which Durant offered a systematic justification of his conciliar demand—and these are tellingly {78 | 79} also the only two manuscript whose contents clearly reveal interests shaped by Humanism. It is for this same reason that Nicholas

Munich, Bayerische Staatsbibliothek, Clm 6605. Zurich, Zentralbibliothek, ms. S 204 o, may be considered a late addition to this list.

68 There is no record of an authentic title. The best manuscript, Paris, Bibliothèque Nationale, ms. lat. 1443, has no title at all. The next best, Munich, Bayerische Staatsbibliothek, Clm 6605, has no title either, but a title added in a later hand on fol. 2^r fittingly calls the treatise *Tractatus Guilhelmi Durandi de reformatione ecclesie universalis*. Haller, *Papsttum und Kirchenreform*, 60, apparently without knowing the Munich manuscript, similarly maintained that *De reformatione ecclesiae in capite et membris* would characterize its contents better than the traditional *De modo generalis concilii celebrandi*. *De modo generalis concilii celebrandi* is found only in the remaining eight manuscripts, all of which contain only the *Tractatus maior*, or fragments of the *Tractatus Maior*, and whose common ancestor was hardly copied before the Council of Constance, more likely at the time of the Council of Basel. The only authentic evidence for Durant's own understanding of his work thus is the word *tractatus*, which he uses in his preface to the second part of the treatise, *Tractatus maior 2, Prefatio*, fol. 13^{rb}: "Incipit secunda pars istius tractatus . . ." It is true that this is not really a title but only designates a literary genre. But it is nonetheless telling for the place of Durant's work in medieval intellectual history. On this subject see above, chap. 5.

of Cusa, Du Boulay, and Bossuet all showed a special interest in Durant's chapter on exemptions. The rest of the *Tractatus maior* gained a less favorable reception, and the *Tractatus minor* disappeared entirely from most of the manuscripts. The lack of interest in the concrete, time-bound, and often entirely untheoretical details of Durant's program of reform is clearly reflected in the introduction to the editio princeps, in which its publisher Jean Crespin came close to apologizing for having printed the text in its entirety even though substantial parts of it "will seem alien to the institutions of our age."⁶⁹

6 Conclusion

The main conclusion to be taken away from these considerations is that roughly from the beginning of the fifteenth century to the end of the seventeenth century Durant's treatise was copied, read, and printed without any major interruptions. That made it a notable success. In part its success is surely to be explained by the fact that Durant was regularly confused with his famous uncle.⁷⁰ One can understand the reasons why copyists and printers were delighted to reproduce the treatise if one knows the obvious satisfaction with which Bossuet believed he could use it to quote the Speculator in support of his own views: "The greatest man of his age, a luminary not only of France but of the Catholic Church, whom the interpreters of papal law themselves love to follow, who stood in the highest graces of the Roman popes, who composed his book on the reasons for convoking a general council at the request of Pope Clement V, and who thereby opened a path to the Council of Vienne, of which

69 "Nonnulla fortasse ab huius aetatis institutionibus videbuntur aliena. Quae reliquimus integra quoniam authoris ea sententia fuit, quam suppressere iniquum prorsus visum est." *De modo generalis concilii celebrandi tractatus*, ed. Crespin, fol. 2^{ra}.

70 Only the Barberini codex distinguishes him explicitly from the Speculator. Three manuscripts simply give his name without identifying him any further. But six manuscripts expressly name the Speculator as the author, namely those held in Tours, Troyes, Kues, Zurich, the Biblioteca Nazionale Centrale in Rom, and the Bibliothèque Mazarine in Paris. Jean Crespin canonised the confusion for all later readers by introducing his edition with a *vita authoris* that described the life of the Speculator, unceremoniously prolonged it far beyond the date of his actual death in 1296 all the way to the Council of Vienne, and then unsurprisingly pronounced him to have died at an advanced old age: "Obiit etate iam edita, et in senium vergente, Romeque, quemadmodum ipse prescripserat, sepultus est." *De modo generalis concilii celebrandi tractatus*, ed. Crespin, fol. 3^v.

he himself was the most distinguished participant.”⁷¹ William Durant the Younger’s conciliar treatise can only have benefited from the prestige enjoyed by the Speculator. In the final analysis, however, its success must chiefly be attributed to the significance of ideas that anticipated the most important measures of the Council of Constance by more than a hundred years, and that for more {79 | 80} than two centuries thereafter attracted the interest of a series of readers—jurists, philosophers, cardinals, bishops, humanists, Gallicans, and conciliarists—many of whom played a significant part in the history of the late Middle Ages and early modern times, and some of whom deserve to be included among the most distinguished personages of the age.

71 “Haec scripsit ille Durandus Mimatensis Episcopus, sui aevi vir maximus, neque tantum Galliae, sed etiam Catholicae Ecclesiae lumen, quem juris pontificii interpretes potissimum sequuntur; qui Romanis Pontificibus gratissimus vixit, ac de Concilii oecumenici habendi ratione a Clemente V jussus, haec scripsit, viamque celebrando Viennensi Concilio, cujus ipse pars fuit maxima, praeparavit.” Bossuet, *Oeuvres*, 31:119.