DIETRICH OF NIEM: HIS PLACE IN THE CONCILIAR MOVEMENT.¹

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The average civil servant does not write memoirs or reminiscences. After retirement, he may translate the classics, or fulminate against departmental extravagance from his riverside retreat at Marlow or Cookham. Reluctance to write out of office hours was equally true of the medieval clerk, who laid down his stylus with pleasure. Even outstanding figures like the legal author of the Tractatus de Legibus et Consuetudinibus Regni Angliae on the secular side, or the exalted compiler of the Liber Censuum on the ecclesiastical, left no histories of their own times. But every now and then there are exceptions to this rule: men like Godfrey of Viterbo, Acerbus Morena the Podesta of Lodi, and the great Otto of Freising in the service of Frederick Barbarossa; Petrus de Ebulo, the court poet of Henry VI; Joinville, devoted biographer of his sacred master; or Nicholas of Butrinto, attached to the court of the Emperor Henry VII in Italy. In England the outstanding example must have been Richard fitz Neal, the author of the Dialogue of the Exchequer, whose large Tricolumnis, or three-columned history of Henry II's period, seems irrevocably lost. Among the curiales proper there is Cardinal Bozo who revised and continued the biographies in the Liber Pontificalis, and his exact contemporary in the Curia, that splendour of English scholarship, John of Salisbury, who was in the Pope's household from 1148-1153 and was later clerk to Archbishop Theobald of Canterbury. John's Historia Pontificalis comes nearest to personal reminiscences,

¹ A lecture delivered in the John Rylands Library on the 13th February, 1935.
for, as Dr. Poole shows, much of it was written amid the events it describes. Then in Boniface VIII's time, nearly 150 years later, we have Cardinal James Stefaneschi, who took verse for his medium. Most of these—and there are others—are not persons who spent the greater part of their lives at the royal or the papal court. They came to the service of their masters when they were mature men, sometimes, like John of Salisbury or Barbarossa's uncle Otto, after a prolonged period of academic study or cloistral government. More significant are those who, having made the court and its administrative services their life's work, narrated from the inside, whether in verse or prose, the history of their masters' doings and times, or the circumstances of their own existence. The period of the Schism and the Councils provides particularly good instances of this type: in England there is in fact Hoccleeve, secondary in the privy seal office, and Adam of Usk, the ecclesiastical lawyer, who passed from the court of Canterbury to the Roman Curia; and in Rome itself there are Gobelin Person, Dietrich of Niem and Leonardo Bruni of Arezzo, the Papal secretary.

Bruni, so useful historically, has about him something of the detachment of the humanist, and perhaps loved Florence better than Rome; but the Germans Gobelin and Dietrich, both originally clerks of the diocese of Paderborn, were the true professionals, men of an older and more genuinely medieval stamp than Bruni, and their careers are alike in several ways. Each lived in the midst of the exciting events of the Schism and the Councils of Pisa and Constance. Each wrote the history of his own times, Gobelin in his *Cosmodromion* (printed by Meibomius), the book of the "Course of the World," in which he is not an original authority till chapter lxix of the Sixth Age; Dietrich in his book *On the Schism*, and his *History of the life and deeds of Pope John XXIII till his flight and imprisonment*. Each was so impressed with the abuses of the Schism under which he lived and worked that he turned reformer, Gobelin (to quote Creighton) "as an asserter of the episcopal jurisdiction as a practical means of reforming the Church":¹ Dietrich as a convinced Conciliar, returning in spirit and in letter to the

¹ *History of the Papacy during the Reformation*, i. 428-29.
primitive days of the Church, when the Emperor might summon General Councils to secure unity and the eradication of evils. Both show remarkable perception of the significant events in the period they describe; but Dietrich, in many ways more passionate and partisan than Gobelin, has a more speculative mind, and analyses with greater depth the theory and practice of ecclesiastical sovereignty. In his later days he wrote what Gobelin was perhaps too disillusioned to attempt. On a basis of principle and history alike, he pinned all his faith to the Council, and became one of its most active propagandists. The conversion of such an experienced administrator is too striking an event to be passed over.

There is something pathetic in the spectacle of a faithful man watching the disintegration of the machinery which he has helped to work successfully and efficiently. The Curial system evolved by the Avignonese Popes certainly worked. If a largely increased revenue for the Papacy, through reservations and expectatives, was one of its achievements, justice was not forgotten; the Curia illustrated the old tag about the intimate connection of that commodity with finance. The censorious view of this system prevalent among English historians is mainly due to acceptance of literary rather than administrative evidence, without any attempt at statistical exploration; but it also comes from the habit of looking at a papal bull of provision, or a grace conferring a benefice when it fell vacant, as a document complete in itself, a papal bolt from the blue; whereas in practice it was usually only one of a series of transactions begun at the request of an individual or community on behalf of its members, and ending with a thorough examination of the local situation by independent persons, so as to determine the right of the impetrant to the benefice. In fact it marks one stage in a judicial process. The method of making the request, the exact words by which it was granted, and their implication, were determined by custom, embodied in the rules of the Papal chancery: subtle and delicate regulations added to, here a little and there a little, by each successive Pope with the co-operation of the vice-chancellor and other leading

members of the chancery. When it is recollected that for a majority of Churchmen throughout Western Europe the obtaining or augmentation of a livelihood was dependent, in the initial stages of the process, upon the observance of these rules by petitioning party and by Curia alike, the responsibility of senior office in the chancery becomes abundantly clear.

Such office Dietrich held. He was born sometime in the 1340's (the exact year is uncertain) in the little Westphalian town of Brakel not far from Hameln. Like Gobelin he joined the Curia at Avignon. We first hear of him during Urban VI’s pontificate in 1370 as a notary of one of the auditors of the Rota, Franciscus Lando, later Cardinal of Venice. He was, in fact, a judge’s clerk, employed in writing and attesting documents in the processes referred by the pontiff to his master. The first great change in his life must have been his migration with the Curia of Gregory XI to Rome on the stormy journey of the early days of January, 1377. Here in the City he witnessed some of the scenes at Urban VI’s election, wrote his two treatises on curial administration, the Liber Cancellariae and the Stilus Palatii abbreviatus, the fruits of the position to which Urban VI almost immediately appointed him. For on the 11th of May, 1378, he appears as scriptor, and in his Liber Cancellariae (1380) he is called abbreviator et scriptor. Although the division of the abbreviators into the “greater and the lesser parks” appears in documents of a somewhat later date, the former class is distinguished at this time by the titles “assistant to the vice-chancellor” and “those in the greater presidency.” Now a notice of Dietrich at the time of the Council of Basel speaks of him as “inter praesidentes in cancellaria domini nostri unus de maioribus et toti curiae tempore suo notus.” We may take it, I think, from various references in the De Schismate

1 The most recent biography is that of Hermann Heimpel, Dietrich von Niem (c. 1340-1418). Münster (Westf.), 1932. That of Georg Erler, Dietrich von Niem (Leipzig, 1887) is still valuable for the details of Dietrich’s life, as is also the monograph of H. V. Sauerland (Das Leben des Dietrich von Nieheim, Göttingen, 1875). For Dietrich at Constance, cf. the chapter of Dr. Heinrich Finke, “Dietrich von Niem in Konstanz,” Forschungen und Quellen zur Gesch. d. Konstanzer Konzils, 1889.

2 Quoted in Heimpel, op. cit., p. 27.
and from the knowledge shown by him in the technical treatises on administration, that from the time of Urban VI onwards Dietrich belonged to the more important category. The drafting of the minute for papal letters might be entrusted to an individual abbovitor; but the examination of the document was the task of a committee or "rota," i.e. the presidents. It was responsible business, and required legal knowledge and experience greater than was exacted by the mere business of drafting, which could be done by anyone who had learned the *stylus curiae*. That Dietrich was trusted and respected in the Curia appears from a letter from the abbovitor Johannes Stallberg (another fellow-countryman), saying that without him nothing could go forward at the Curia; and a younger contemporary historian, Dietrich Engelhus of Brunswick, calls him "*cortisanus maximus in modernis.*" Such was his position throughout Urban VI's pontificate, as well as under Boniface IX, until he was provided with the bishopric of Verden in 1395. From June in that year, throughout 1397 and during part of 1398, he was in Germany, but without ever residing in his cathedral city. Some of his letters are dated from Lüneberg, and he appears never to have obtained effective possession of the see. The explanation is probably to be found in Archbishop Otto of Bremen, his predecessor in the diocese of Verden, who had secured possession of Rothenburg and allied himself with the Duke of Brunswick and the city of Verden to keep Dietrich out. Dietrich was back in Rome at the beginning of July, 1398; but Boniface IX, to his great annoyance, gave the Bishopric of Verden next year to Conrad of Soltau. Yet Dietrich still called himself "Elect of Verden"; in 1401 he matriculated under that title in the University of Erfurt. This is the only certain reference we have of his connection with any University, though he professes to have studied deeply in both laws. He did not stay long in the university town. At the beginning of 1403 he was again in Rome, present at the consistory wherein Boniface IX recognised Rupert of the Palatinate as king of Germany. He remained there under Innocent VII and Gregory XII, until the Curia moved northwards, ostensibly to meet, and negotiate with, Benedict XIII. He accompanied the Pope on
the unhappy journey through Viterbo and Siena to Lucca (January to July, 1408). At Lucca in May, 1408, one can see him beginning to waver in his loyalty to Gregory, as it became abundantly clear that the Roman pontiff, under the pressure of his relatives, was not taking the negotiations with his opponent seriously. The complete break came when Gregory left Lucca on the 14th of July, 1408. We do not know exactly when Dietrich passed over to the Conciliar interest; nor was he at Pisa when the Council opened in March, 1409. But he had been working in Germany for the Cardinals. At Cologne towards the end of 1408 he presented Archbishop Frederick with his *Nemus Unionis*, a document book of the futile negotiations between the pontiffs, and he is found corresponding with Cardinal Landulf Maramaldi, who was actively working for the Council in Germany. After November, 1409, we find him back in his old place at Alexander V's Curia, and later on serving John XXIII, whose career he later depicted in a remarkable polemical memoir. From 1411 to 1413 he was still in Rome, but plying his pen in the Conciliar interest. In August, 1410, he had written the first draft of his most important Conciliar work, the *De modis uniendi et reformandi ecclesiam in concilio universalis*, and in the days between the summoning and the opening of the Council of Constance he completed the treatise, *Avisamenta edita in concilio Constantiensi* which was for a long time attributed to Gerson. In the Council of Constance he concerned himself mainly with the process against John XXIII; a number of the tracts on this topic written by him for the Council are published in Dr. Finke's *Acta*. We have other glimpses of him in the German nation at the Council, but with John's deposition his main task had been accomplished. It is possible indeed to criticise him for working during the years 1411-1413 in the service of the man who, he was convinced, must be discarded by the Church. But he evidently regarded it as his duty to carry on the administration of the Curia as he had known and practised it at an earlier time, without prejudice to the decisions which he hoped that the Church would later take, and an attentive reading of his Conciliar treatises shows that he is not open to the charge
of serious inconsistency. He lived to see Martin V’s election, but not the Concordats, and he died in occupation of a canonry in St. Salvatius at Maastricht towards the end of March, 1418.

These bare dates show that his working career extended over one of the formidable crises in the history of the Church. His written works reflect nearly every phase of events, and are the record of disappointment and later of recovered hope. They give us in the first place an intimate picture both of the curialis himself and of his surroundings in the early days of the Schism. Rome, despite the Romans, was evidently not an uncongenial place for the Teuton. In the early fifteenth century, a letter of Joan Swan, the wife of William Swan, a resident English proctor, mentions the fact that her husband had asked her to come out to him in Rome and to learn German (which he regarded as essential). She would come out, she said, but the vernacular she could not manage. Now the phrase Joan uses is eruditio vulgaris lingue, which implies that it was regularly spoken among certain of the curiales; and so many were the German pilgrims that came to Rome that in his later days, when he was well off from prebends, canonries and fees, Dietrich founded, to the west of the Piazza Navona, the Church and hospice of Santa Maria dell’ Anima. Not far away, but nearer the river, was the English hospice of St. Thomas the Martyr and the Holy Trinity, and in its vicinity the various dwellings which the English house leased to our countrymen attached to the Curia or staying on business in Rome.

The curiales were a peculiar international community, a class of more cultured and sensitive fibre than the turbulent Romans or the sly and superstitious Neapolitans. They were fair game for plunder, for, like the modern bank messenger, they seemed to be marked down by the ill-disposed. When the Romans heard that Robert of Geneva had been elected by the Cardinals at Anagni, they set upon the innocent members of the Papal Curia in Rome, particularly upon the northerners (ultramontani), and knocked them about. Dietrich saw Roman matrons stirring up the inhabitants of the city against these

¹ MS. Bodl., Arch. Seld. B. 23, fo. 137v.
unfortunate men, and even spitting in their faces. One of Dietrich's complaints about Urban is that when he took his cardinals and curials about with him, he did not see to it that they had good quarters. At Nocera (in 1383) where he occupied the castle (which, he grumbled, was hardly big enough for him), he left his cardinals and officials to find what lodgings they could in the seventy odd houses of the Borgo; the result was that as many as could made off to the sea coast and elsewhere. The reason for their flight, Dietrich told Urban, was that "they lacked protection." Dietrich calls them "delicati et imbelles"—not used to roughing it. He tells how, when escaping from the intolerable conditions at Nocera, large numbers reached Castellamare, the governor of the place deprived them of such weapons as they had, and turned them all out, only to fall into the clutches of the local sailors, who were in league with some Catalan pirates on the Island of Capri. The sailors, who pretended not to understand Italian, took them out to sea, where they were at once overhauled by the pirates, robbed of their possessions, and landed penniless at Naples; while those who escaped to Naples by land were relieved of their goods by highwaymen en route.

Dietrich himself (who did not escape from the attentions of these raiders) was of rather tougher quality. Perhaps the Germans as a whole had greater determination than the other curiales. When, upon Clement VII's election, many officials of the Curia deserted Urban, so that he was left alone "like a sparrow on the house-top," only the Germans stayed behind together with a few English, Bohemians and Hungarians. But even the robust Dietrich admits that he could not control his emotions when at Nocera he saw Cardinal Leonardo de Sangro (suspected of complicity in the Cardinals' plot of 1384) stripped, bound with ropes, and swung three times to the ceiling by the papal torturers, while the pontiff's miserable nephew, Francesco, looked on and laughed (immoderate ridebat). It was not a gentle age, and none so hard-hearted as the first Roman pontiff of the Schism, the Neapolitan "born in the Piazza

1 De Schismate, ed. Erler, I. xiv., p. 29.  
2 Ibid., I. xxxvii., p. 70.  
3 Ibid., I. xlvii., pp. 87-8.  
4 Ibid., I. xi., p. 27.  
5 Ibid., I. li., p. 92.
Nido, in a place which is commonly called Hell \(^1\). *Fuit enim duri cordis.* But as Gregory XI’s regent in the chancery, Bartholomew Prignano knew a trustworthy official when he saw one, and Dietrich was in his good books. “For many years,” says Dietrich, “I was with him every night; after he had gone up to his chamber to repose, he made me read to him in the Bible until he fell asleep.” \(^2\) In later years there were numerous occasions when Dietrich boldly faced Urban and remonstrated with him for his conduct towards the Cardinals and *curiales*. It was natural, for as a permanent chancery official Dietrich had access to the Pope and acted as referendary for petitions. In 1385 he represents himself as being handed by Urban a *rotulus* of petitions submitted to the Pope for signature. The *rotulus* came from unscrupulous people in Naples who wanted the red hat either for themselves or their friends. “As I read these petitions,” says Dietrich, “I was astonished, and before each of them I made a sign, to show the scandalous behaviour of the petitioners, putting the Pope on his guard against their temerity and ignorance of Curial procedure.” As a practised administrator Dietrich was shocked to see the Neapolitans petitioning to be made Cardinals, “just as poor clerks were wont to supplicate for expectatives”; \(^3\) but Urban “trusted too much in the sowers of tares” and promoted, as Gobelin tells us, \(^4\) a number of Neapolitans to the Cardinalate, thus causing much amusement and gossip in Naples: for, says Dietrich, rather scandalously, “I heard a number of Neapolitan ladies, who knew the circumstances of the new cardinals, say to their friends: ‘I hope I may see your husband a cardinal.’” The new Neapolitan cardinals, he says, “were good fellows” (*boni socii*), and each one of them was said “to have somebody else with him and other toadies”. \(^5\)

Like Dietrich, we are digressing. His usefulness as an administrator is clearly seen in the *Liber Cancellariae Apostolicae*, a short but comprehensive handbook compiled by him for Chancery officials, giving the formulæ of the oaths taken by newcomers, the names of dioceses throughout the Church,

\(^1\) *De Schismate*, ed. Erler, i. i., p. 8. \(^2\) Ibid., p. 9. \(^3\) Ibid., i. xliii., p. 80. \(^4\) Cosmodromion, vi., 84. \(^5\) *De Schism.*, i. xlv., p. 81.
a large group of privileges granted to the religious, especially the Hospitallers, the constitutions on the subject of administration made in the Council of Lyons, John XXII’s reforming ordinances for the Chancery, and other regulations for each class of officials, together with a table of salaries and a list of fees payable for apostolic letters. In his rubrics Dietrich shows himself an admirer of the Chancery in its earlier days. Sequuntur mirabilia pennata, he writes, regimen et jura Cancellariae Apostolicae more antiquo.¹ The mirabilia mainly consist of allowances for food and transport, the old and liberal regime before Urban took to moving about into uncomfortable places as well as to curtailing expenses. Later in the book he comes to certain thirteenth-century constitutions on the office of scriptor, again in “the old style.”² The first of these, enjoining celibacy, instructs all writers that openly keep mistresses to put them away within eight days. In his De Schismate Dietrich praises Innocent VII because he made all writers of Apostolic letters dismiss their housekeepers (focarias).³ We may well imagine that even the legitimately wedded Joan Swan would have had a difficult time, if she had joined her husband in Rome. The last of the clauses in this group is headed: “Even this constitution is kept to-day and deservedly.” It gives warning that Papal writers will be suspended from their office for seven days if they write “other” letters before those of the Curia. In cases where no payment for Curial letters or for exemplifications (rescribendae) was offered, “the business of the Curia is to be preferred.”⁴ Dietrich tells us that he made his handbook from extracts faithfully copied “out of the book of the aforesaid chancery, dilapidated with age, with which I compared this present book, diligently hearkening to it in all things. And I arranged its chapters in a better manner, as far as I could, adding certain rubrics lacking in the original.” After the date is a sigh: “Heu bona fortuna, cui non es omnibus una?”⁵

The Stilus Palatii, or “Method of the Papal Court,” “conceived from the common practice of the said palace by T. de

² Ibid., p. 171.
⁴ Liber Cancellariae Apostolicae, p. 171.
⁵ Ibid., p. 203.
Nyem, least of all abbreviators," is an auditor’s handbook, devised for the judges of the Rota. It answers all sorts of practical questions which a Papal judge might want to know. What commissions can the vice-chancellor issue, what belong to the Pope alone? What action is the auditor to take when he receives a commission; when is he to cite the parties and how much notice ought he to give them? What articles ought he to admit? How are witnesses to be treated? And much besides. A most practical work, which many may find more interesting than the longer textbook on the chancery, though in this case the author obtrudes himself hardly at all. These two books are, in the words of fitz Neal, "non subtilia, sed utilia." They have no graces of style nor the pungency that marks his other writings.

Indeed nobody would call Dietrich a stylist, though naturally he had the cursus at his fingers' ends. But, as an historian of his times, he has advantages. He calls the De Schismate, the work for which he is best known, a labyrinth, in which the reader will find here and there displeasing things that must not disturb him, "since they who write histories in their search for truth often recite what they would prefer to suppress." He has made, he says, many digressions: for these have a way of enticing the reader, just as a tasty and unusual dish delights those at a banquet. Prolixity, where it is noticed, must be attributed by his readers to his inexperience in this sort of work. Of the utility of reading history there can be no question. It has a moral function. Memorable deeds deserve commemoration. To rehearse them leads to emulation on the part of the listeners, who learn to choose the good and to avoid the evil —declinando vitia, virtutes sectando, as Gobelin said. Dietrich has a shrewd eye for the significant, and, though he is never elegant, an enviable power of vivid and sometimes amusing description. Frequently he is carried away by his prejudices, and repeats scandal. Urban’s nephew Butillo comes off very badly, but there seems no evidence for the gross immorality

2 Ibid., pp. 218-220.  
3 Ibid., pp. 221-222.  
4 Ibid., pp. 224-225.  
5 De Schism., "Praefatio Auctoris," pp. 4-5.
which Dietrich attributes to him at Naples. The three Italian Cardinals who joined the Gallican party at Fondi are treated with great scorn, although their negotiations with the disgruntled ultramontanes were originally undertaken at Urban’s express bidding, and despite the fact that they early arrived at the Conciliar solution which Dietrich was later to adopt. He persists in calling them Peter, James and John, whereas the name of the third was Simon de Brossanis. Robert of Geneva he cordially dislikes, and attributes his election partly to his noble relatives and kinsmen. He is large, rather corpulent, fond of his food. Conversely, Dietrich is too lenient to the group that plotted against Urban in January, 1380. But as an eyewitness he is admirable. There are unforgettable pictures. Urban taking no notice of the cup proffered him by Otto of Tarentum, husband of Johanna of Naples, to the dismay of all present: Urban with his face “blazing like a lamp,” and his voice raucous with passion against the disloyal Cardinals: Urban, as he paced the garden of the Castello di Parco, reading aloud from his breviary to drown the expected cries of the aged Cardinal of Venice who was being tortured in the cellar below: but the Cardinal, as often as the ropes pulled him up to the ceiling, only repeated the words: “Christus pro nobis passus est.” There are the crowds of Romans gathering excitedly on the steps of St. Peter’s at Urban’s election, the relations and supporters of possible candidates for the Papacy riding in expectation of success through the streets of Rome, the flight of the Cardinals after they had done the deed and elected Urban; numerous intimate touches written from the street rather than from the study. And the digressions are morsels both rich and tasty. The first of these comes in the form of a description of the delectable country round Nocera, a welcome relief after the story of Urban’s cruelty to his officials and his strained relations with Charles of Durazzo. Dietrich speaks of the great chestnut trees that grow larger fruit than he has ever seen, and of the nut-groves on the road to Salerno, that might provide food for the whole district: “but now pigs are fed thereon, whose flesh makes the finest bacon, firm and

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1 De Schism., I. xxxiii., p. 63.  
2 Ibid., I. x., p. 25.  
3 Ibid., II. i., p. 124.  
5 Ibid., I. xlv., p. 85.  
6 Ibid., I. lii., p. 94.
delicious, and I have never seen larger and fatter capons and so cheap as are found there on that plain. And therefore the curiales, as long as they were safe, preferred to remain there than in any other part of the kingdom of Sicily.” He then describes the wonderful wine that comes from the slopes of Monte Chiunzo and is shipped to various foreign countries: a good vintage, if kept for five or six years, grows stronger and better: in fact, the longer you keep it, the better it is.

Whence it once happened that I was admitted to the cellar of the Archbishop of Naples at the Castle of Torre by a certain German, then keeper of the castle, along with a proctor, a responsible man (satis discreto) in the Roman Curia, and some others, the captain wished us to taste the wine stored for many years in the cellar, and after we had tried the wine from several vessels, taking a little from each, the proctor suddenly became so inebriated that he could neither speak nor stand upright, but we carried him speechless and incapable to his lodging, where placed he slept continuously till the next day. But on waking up, when we asked him what had happened, he had no notion at all. At which I marvelled greatly. But whether this arose from weakness of brain or because he had drunk too greedily, I know not. The captain, seeing the said proctor so drunk in the cellar, told me with a smile that I should not be surprised that it had so chanced with my friend. He had seen the same thing happen to many that drank in the cellar.¹

Following the narrative of the civil discord in Perugia, where, in 1393, Dietrich witnessed a horrible massacre of one faction by the other, there is an account of a visit paid by Boniface IX to the baths at Pozzuoli, when he was ill with stone. With some friends Dietrich made an expedition to the warm springs in the volcanic rocks of Monte Solferata, and entered the caves of pumice which the bathers frequented, stripped naked because of the heat and gaseous steam. It was a famous cure for gouty maladies. The place was dangerous when the south wind blew and forced the vapours back into the holes whence they arose. “After I had entered the said mountain,” says Dietrich, “while I crept about the place exploring, for I was still fit and active (dum iuvenis essem), I broke out into a powerful and excessive perspiration, promising God that if he would permit me this time to return safe from this mountain, I never would

¹ De Schism., I. xxxviii., pp. 71-73.
go back again." He took with him to the bath "called St. Margaret's" a friend with a swollen and painful hand, which, when the vapours came up, was immediately cured, though the redness left by the inflammation remained. He describes Monte Gauro, four miles from Baiae, "which many deluded Germans call in their tongue Der Gral, saying, as the natives affirm, that in it are many men alive and living till the day of judgment, who are given up to revelling and sensuous delights, and perpetually ensnared in devilish pastimes. Near which, in a certain house, is a bath without water: people merely sit upon a large round stone, and in a short while begin to sweat, and receive much pleasure and relief therefrom, as I myself proved. Near which is a pool in which harmless snakes appear in great quantities. And in this region crops ripen and are gathered in May, and about the middle of April fresh fruits are found in great abundance, to wit beans and cherries; and small and sweet pears, luscious to taste, about the middle of April each year. . . . You will always see grapes on the vines trained upon the fruit trees and elms in the winter right up to Christmas, great bunches of them, and many gardens green with trees and grass all the year long.¹ The Neapolitan country he associates particularly with Virgil's tomb, and he mentions the wonders wrought there by that seer. He had been studying Gervase of Tilbury.²

To read the *De Schismate* is to understand why, as the long duel of the Schism worked itself out and impatience grew generally, Dietrich made reform as well as union his aim. One might think that the chancery official would desire unity rather than internal change; or that at least he would not believe in change coming through the medium of so untried a body as the council. But with Dietrich it was not so. Yet the new conviction must have grown very gradually, for he was a loyal spirit. He is fully alive indeed to Urban's faults: he does not

² Cf. Gervasii *Otia Imperialia*, ed. Liebrecht, pp. 14 et sqq. Dietrich cites him again both in the same work and in the *De Modis*, to demonstrate the duty of the Emperor to summon the General Council.
spare the Pope for his tactlessness and doctrinaire obstinacy; he shows how utterly mistaken was Urban's visit to the Regnum in 1383-1385, how unfortunate his dealings with the unscrupulous Charles of Durazzo, how grievous and expensive his wars; yet, as he says, "Urban never committed simony, nor in any way burdened those whom he promoted to cathedral churches and monasteries that were vacant; and the benefices that fell vacant within or without his court he conferred liberally, and tenaciously remembered upon whom he had conferred a vacant benefice in his reservation, since he was unwilling to collate any competitor to it. He consented to no sharp financial practices, but duly contented himself with the ancient rights of the apostolic camera, however moderate, and he was of such high heart that he never lamented his poverty, and on his death he left more money in the camera than he found there on his election, so that his obsequies were more decently carried out than those of Boniface IX and Innocent VII."¹ But with Boniface IX everything was different, and money the sole aim. No more devastating picture of financial corruption in the Middle Ages has been painted than in the early chapters of Dietrich's second book. It is more convincing than the Squalores Curiae Romanae of Matthew of Cracow. Boniface IX, a large, fine-looking man, was a curious mixture of mental confusion and crafty unscrupulousness. He did not really understand the petitions and graces that he signed;² he would give a benefice to the highest bidder, and when a still higher one came along, he found means of revoking the earlier grant, while the same benefice was often sold to a number of competitors. He said that those who offered little intended to deceive him. New expectatives with an antedating clause were devised, then another and much more expensive kind, with a special clause antedating even those. He made new ordinances suppressing the traffic, and immediately got round them by exemptions sold at a high

¹ De Schism., I. lxix., pp. 122-123.
² For examples of this, cf. his signatures to the rotulus put forward on behalf of William of Wykeham by the proctor John Fraunceys, printed by H. Chitty and E. F. Jacob, "Some Winchester College Muniments," Eng. Hist. Rev., Jan., 1934, together with the authorities cited there.
price. "These things were done commonly and openly," says Dietrich with bitterness, "All fear of God and shame of men set aside; and so frequently, that the curiales for the most part affirmed that such things were legitimate, since in such matters the Pope, as he said, could not sin." 1 His last iniquity was to refuse to sign any petition, until he had received from intermediaries a gold florin for each signature; and he made everyone, however poor he was, pay him as much as was paid to the abbreviator for the minute. 2 In December, 1402, he revoked all his expectatives and other graces "as if he had erred in all of them," and yet issued (upon payment) others for a term of years. 3 We are back once more with the evil which Gregory VII fought, for which Dante consigned Boniface VIII to the lowest hell, the evil in comparison with which the sins of the flesh are but slight; and as the book proceeds, its temperature subtly rises; yet there is no invective, only simple statements, many of which modern writers on Papal administration like von Hofman have shown to be reliable. We should, however, abstain from taking Dietrich, who wrote at an exceptional time and under exceptional circumstances, as a witness to the "abuses" in the Curial system as a whole.

Throughout the later part of the book Dietrich shows how powerless in effect were Boniface and his successor Innocent VII against the external dangers like Ladislas of Naples. The Roman See, threatened by enemies and internal feuds, was breaking up. Yet it is not till Gregory XII is reached that the note of despair is sounded; it is clearly heard in the last chapters of the second book, 4 which tell us that Dietrich in his mortification had collected the damaging materials for the meeting of those last days in the Nemus Unionis or Forest of Union, the volume which was finished on 30th July, 1408. In the third book of the De Schismate he outlines the futile negotiations of the Commissioner for union who ran away from his commission. He no longer calls him by his Papal name. Errorius it has become, since he has deceived the world, 5 and the biting satire never spares him. As far as the end of Innocent VII's

1 De Schism., II. viii., ix., pp. 132-133. 2 Ibid., II. xi., p. 136. 3 Ibid. 4 Ibid., II. xlii., pp. 202-204. 5 Ibid., III. vi., p. 216.
pontificate the *De Schismate* is a serious historical work: but in the third book it changes its character and grows curiously stylized. It is no longer steady writing, with entertaining digressions; a sort of macabre Totentanz, the grim posturing of skeletons, is now depicted, with quotations from the documents and appropriate moralizing. Very characteristic is Dietrich's view of the Emperor as the right resort in such a struggle.\(^1\) We have returned to Dante with his appeal to the prince whose power depends immediately upon God. Dietrich cites the well-known passage from the *Decretum* in which Theodoric is represented as convoking a council to deal with the charges brought against Pope Symmachus\(^2\)—the very same passage that was cited in the council at Paris which determined on the withdrawal of obedience in 1398. It is very natural that Dietrich, conveniently forgetting the Emperor's Arianism, should go back to his great namesake, the legendary lord of Bern. This leads to a historical demonstration of the right of the Emperor in such cases, and Dietrich makes much play with the treatment of John XII by the Emperor Otto I. This, as can be seen elsewhere, was a favourite argument. We also hear a more specifically Conciliar note in his application to the Pope of what the earlier political thinkers wrote about the *rex inustus*. If the Pope is *tyrannus potius quam dei minister*, and despised by all because of his demerits, he is removable from his sacred government, "since a bad priest is not [rightly] called a priest and a bad bishop is not a bishop." The first of these propositions is generally admitted by the early Conciliars, and forms a common argument in their treatises.\(^3\) The second comes dangerously near the opinion of Wyclif, that *papa praescitus et malus homo* has no power over Christ's faithful.\(^4\)

Some years ago Dietrich's *Life and deeds of John XXIII* was the only further work of a major kind that could by general consent be attributed to him. But the studies of Dr. Finke and

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\(^1\) *De Schism.*, III. vi., p. 216.
\(^2\) *Decret. Prim. Pars.* dist. xvii., c. vi. (ed. Friedberg, i. 51).
\(^3\) See the references in Erler's n. 2 to *De Schism.*, III. xi., pp. 224-225.
\(^4\) Walsingham, *Historia Anglica*, I. 343; this was admitted to be heresy by Hereford and Repingdon at the Blackfriars, London, on 20th June, 1382: *Fasciculi Zizaniorum*, p. 319.
of his pupil Dr. Heimpel have revealed a Conciliar sequel to
the political and historical tracts, and given a new unity and
logic to Dietrich’s life. After much learned discussion lasting
for many years, the curialis has now been conclusively proved
to be the author of the important dialogue \textit{De Modis uniendi et reformandi ecclesiam in Concilio Universali} published in August, 1410. Furthermore this is now revealed as the basis of the \textit{Capitula agendorum in Concilio Generali Constanciensi} discovered some years back by Dr. Finke in a Vienna MSS. and attributed by him to Dietrich. The \textit{Capitula agendorum} is in fact an amended version of the \textit{De Modis}, written during the Council of Constance, with necessary alterations and corrections. The first of these treatises, the \textit{De Modis}, printed by von der Hardt, was ascribed by him, on the strength of a faulty attribution in the Munich manuscript, to Gerson. Schwab in his \textit{Johannes Gerson} effectively disposed of this, but assigned the treatise to the Spaniard Andreas of Escobar; and it has been left to Dr. Heimpel, after a careful weighing of the internal evidence and on the strength of a Stuttgart MS. discovered by Dr. Bartos of Prague, to show that Dietrich is its author. As the result of modern criticism, Dietrich stands out as the author of the \textit{De Modis}, the treatise on the summoning of General Council, written 1413-1414 (also printed by Dr. Heimpel), of the \textit{Avisamenta edita in Concilio Generali} (after August, 1414), formerly also attributed to Gerson, but suspected by Lenz to be Dietrich’s work, and of a quantity of other shorter Conciliar works printed by Dr. Finke in his great edition of the \textit{Acta} of Constance. It is no exaggeration therefore to call Dietrich one of the leading publicists of his age.

He is not a theologian, but a lawyer and practical administrator, with a plan of unity and reform argued upon a basis of history and experience. In reading him, one feels oneself in contact with a passionate nature and a realistic mind rather than with the intellectualism and subtler abstractions of Conciliar

\footnote{1} This was suggested by Dr. Max Lenz in his \textit{Drei Tractate aus dem Schriftencyclus des Constanzer Conszils}, 1876.

\footnote{2} \textit{Dietrich von Niem}, pp. 79-124, pages of fundamental importance for the authorship of the various treatises written 1410-1415.
theory. In the *De Modis* Dietrich’s first desire is the health and effective working of the spiritual community, which, like the State, has a common good: for the *conservacio et salvacio boni communis*. It is for this that law exists. When in an emergency the care for the common interest and the preservation and retention of “any private person” are brought into comparison, the public welfare must be put first. Now the point to be emphasized is that this statement is made in the first part of the dialogue, where the *unio capitis* is treated. *Iam primo de unione capitis volo presupponere, et potestatem usurpatam diu ab eodem capite limitare*. The conjunction is striking. You cannot unite without going back to the original law of the Church and curtailing Papal accretions to that sound old body of enactment. The implication is that it is no use deposing the *contendentes de papatu*, unless you restore or recreate the constitution. But this solicitude for the common good, to preserve which law exists, is itself implied in the liberal and discriminating analysis of sovereignty in the Church that Dietrich had already propounded a little earlier in the treatise. Here he draws a notable distinction between the Catholic, universal Church, including “Greeks, Latins, and barbarians that believe in Christ, men and women, bond and free,” and the particular and private Church, composed of the Pope, the Cardinals and the prelates. These two, he says, “differ as genus and species, since every apostolic Church is catholic, and not the other way round, and therefore the Apostle said in his letters: ‘The Church that is in Babylon saluteth you.’” “Which Church therefore,” the older speaker in the Dialogue asks, “must one labour to unify and restore?” “We must work,” comes the reply, “above all else for the salvation and restoration of that *Universal* Church and of the faithful that err and the limbs that go astray because of the *second* Church, since apart from the Universal Church there is no salvation.” Here indeed are echoes of the arguments which, as Dr. Haller has shown, were used at the French national synods of 1398 and 1406, when the withdrawal of obedience

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1 Dietrich von Niem, *Dialog über Union und Reform der Kirche 1410 (De Modis)*, ed. Heimpel, p. 15.
2 *De Modis*, p. 7.
was under discussion. That the Church was the coniunctio omnium existentium in caritate was the thesis of Pierre Plaoul, while his contemporary Pierre Leroy had maintained that the Pope is simply the functionary of the Church. Dietrich's distinction, sharper than theirs, between the congregatio fidelium and the Roman species of it is a development of views that owe their inception to William of Occam. It may however have been borrowed from a nearer source than the English thinker: a short while ago Dr. Richard Scholz drew attention to an anonymous treatise completed on the 16th November, 1406, the work, he argues, of an ecclesiastic of French sympathies, possibly the Dominican Bishop of Siena, Michael Pauli de Pelagallo. This treatise, now preserved in a Vatican codex, is a plea for the Council, based upon the practice of the primitive Church. The writer shows a striking sympathy with the Greeks, qui christianitatis nomen et omen radicarunt in nobis. After the Hebrews, they were helped to found the Latin Church, a subordinate member (Latinam inferiorem), and are an essential part of the Universal Church from which the author distinguishes the hierarchy. To him the Catholic Church begins with Christ's Passion in Jerusalem, and Jerusalem was originally the most honoured of the patriarchates. Dietrich elaborates this theme of the comprehensive Church in which "the Greeks and barbarians believing in Christ" are included. There seems little chance of knowing whether he was acquainted with the anonymous treatise, though he must have met and known its author; it is in the same dialogue form, but with the teacher rather than the pupil (as in the De Modis) giving the information. Dietrich has the same egalitarian view of the power of the Apostles; but the concentration on the Greek Church and its problems finds no echo in the German writer.

I have referred to Dietrich's debt to Occam, which he shares

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1 J. Haller, Papsttum und Kirchenreform, pp. 347-348.
2 Occam, Dialogus, V. xxiv., in Goldast, Monarchia II., 494. The crucial words are: "et ideo quamuis Romana ecclesia post Papam fit membrum principale ecclesiae, sine ipsa tamen potest ecclesia esse." Cf. Haller, op. cit., p. 507, and Andreas Posch, De Concordantia Catholicca des Nicolaus von Cusa, p. 89.
with the early Conciliar theorists; but there is more than Occam in Dietrich’s view of sovereignty; there is Marsilius of Padua as well, whom in one place he calls *magnus theologus*; \(^1\) and, as Dr. Haller has pointed out, the central point in Marsilius’ thought, the notion that the Church received from Christ no dominion over worldly things but a spiritual power only, is represented in the *De Modis* partly in the very words of Marsilius.\(^2\) Dietrich had paid special attention to the beginning of Dictio II of the *Defensor Pacis*, especially the passages in which Marsilius defines *ecclesia, spiritualis*, and other such terms. He quotes from Marsilius the statement that Christ “gave no principate or office of secular judge to Peter or any other Apostle.”\(^3\) Like Marsilius, too, he strongly emphasises the human limitations of the ecclesiastic. Office does not sanctify the holder or render immune from responsibility. If the Pope is called *sanctus* it is not because of his dignity or authority, but because of the grace and charity of God. “We see with our own eyes that the actions of many prelates and priests to-day, at least a majority of them, are not spiritual, but temporal and carnal.”\(^4\) The division in the Church is proof of this. Like Marsilius he would restrain clerical usurpations, and would go back upon the Sext and the Clementines, and much indeed in the Decretals of Gregory IX that usurped the power of the ordinaries and made for the suppression of the imperial, that is, the secular power.\(^5\) This should not be taken to imply that Dietrich would go all the way with the Paduan and limit the priesthood to the performance of divine office and the hearing of confessions; but he was as conscious as Marsilius of the danger of extending the

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\(^1\) *De Modis*, p. 61.

\(^2\) *Papsttum und Kirchenreform*, p. 508. Dr. Haller does not, however, admit that Dietrich is the author of the *De Modis*.


spiritual power beyond the constitutional limits observed before the Papal jurists got to work and advanced their master's pretensions. It is the new decretalism, the novellae constitutions, that he regards with suspicion: perhaps with the kind of suspicion that led the older and more conservative curiales to dislike the new papal secretaries of the fifteenth century. In this attitude he is no innovator. Bishop Stephen of Tournai said the same thing about the new civilian spirit in legislation at the end of the twelfth century: antiquiores sacri canones abiciuntur, respuntur, expuuntur. The complaint is found in several of his contemporaries.¹

It is the spectacle of private interest, which he had seen operating since the time of Boniface IX, that shocked Dietrich. The fear of this led him to find in the universal Church, lay as well as clerical, the censor and organ of correction and reform. All the possible objections to such control, exercised through the General Council, he meets;² and to history he appeals for support in the characteristic thesis which we encounter at the end of the De Schismate: the historic duty and privilege of the Emperor to summon and preside over the representative body that is to carry out the task of unity and reform. In the present passage he invokes the examples of Henry II and Henry III,³ while towards the end of his book he emphasizes the part taken by German Emperors in heading the Crusade to the Holy Places.⁴ In treating of the Emperor, he shows himself in strong agreement with the imperialist argument in favour of the independence of the Empire from the Papacy, even in Italy, where the imperium had been invaded and broken up, so that petty tyrannies had become established in the cities.⁵ It is impossible to read the De Modis without seeing in it the practical application of the morals drawn and lessons learned in the De Schismate. The two works hang together, explain one another.

¹ Thus, at the end of the twelfth century, the same complaints were made of decretal law that two or three generations earlier had been made of the Novels, Code and Digest: G. Barraclough, Papal Provisions, p. 135.
⁴ Ibid., p. 89. ⁵ Ibid., p. 111.
It should not be necessary here to examine the question of Dietrich's originality. The arguments in the De Modis are certainly expressed with a rare force of personal conviction; but he who predicates originality of any single passage of Conciliar theory is a bold man. Often indeed in medieval thought what constitutes originality is not the nature of the thesis sustained so much as the quality and character of the person who sustains it and the occasion upon which he does so. Of Dietrich two things may be affirmed. Nobody before him had stated the case for the Council so completely from the legal and administrative point of view; and no one of his period burned with a fiercer desire for that justice, apart from which every kingdom, the Papal included, is nothing but a great robbery.