
"Mediocres domos et humiles habeant fratres nostri:" Dominican Legislation on
Architecture and Architectural Decoration in the 13th Century

Author(s): Richard A. Sundt

Source: *Journal of the Society of Architectural Historians*, Vol. 46, No. 4 (Dec., 1987), pp.
394-407

Published by: University of California Press on behalf of the Society of Architectural
Historians

Stable URL: <http://www.jstor.org/stable/990276>

Accessed: 31-08-2017 20:34 UTC

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at
<http://about.jstor.org/terms>



JSTOR

Society of Architectural Historians, University of California Press are collaborating
with JSTOR to digitize, preserve and extend access to *Journal of the Society of
Architectural Historians*

Mediocris domos et humiles habeant fratres nostri: Dominican Legislation on Architecture and Architectural Decoration in the 13th Century

RICHARD A. SUNDT University of Oregon

Between 1220 and 1300, the Dominican Order developed an extensive but little-known body of constitutional legislation governing the construction and decoration of its churches and conventual buildings. During this period, the original constitution on architecture was amended on five separate occasions in order to include specific restrictions on height and vaulting, as well as a ban on all types of architectural ornamentation. Analysis of the constitutions serves not only to identify the shifting artistic concerns of the friars, but also the various legal mechanisms by which they sought to enforce their concept of poverty in architecture. In addition to this constitutional legislation, the general and provincial chapters also passed numerous acts dealing both directly and indirectly with architecture and its ornamentation. Some of these led to the adoption, in 1263, of a statute prohibiting most forms of architectural decoration. However, the principal aim of the capitular legislation was to ensure observance of the constitutions by warning friars of infractions, forcing adherence to the rules, and punishing all who disobeyed.

Introduction

DURING THE COURSE of the 13th century the Dominican Order formulated a systematic body of legislation on architecture and architectural decoration far surpassing the Cistercian Order's own considerable achievement in this area a century earlier.¹ Although Dominican statutes on sculpture, painting,

and pavements echo in many respects the art legislation of the Cistercians,² the Dominican constitutions on architecture are far more detailed and comprehensive than Cistercian pronouncements on this subject.³ Only the constitutions of the

For advice on the translation of certain Latin texts I am indebted to Conrad Rudolph, Mellon Fellow at the University of Pittsburgh, and C. Bennett Pascal, professor of Classics at the University of Oregon. Any deficiencies in the translations are attributable to me alone. I am also grateful to Professor A. Dean McKenzie, my colleague in the Department of Art History, for reviewing the original typescript of this article.

1. For a presentation and discussion of the earliest Cistercian statutes see C. Rudolph, "The 'Principal Founders' and the Early Artistic Legislation of Cîteaux," *Studies in Cistercian Art and Architecture*, ed. M. P. Lillich, Kalamazoo, Mich., 1987, III, 1–45. A more general and extensive treatment of Cistercian art legislation, including that of the 13th and 14th centuries, is provided by M. Aubert, *L'architecture cistercienne en France*, 2nd ed., 2 vols., Paris, 1947, I, 135–149. The principal source for the Cistercian statutes is the edition prepared by J.-M. Canivez,

Statuta Capitulum Generalium Ordinis Cisterciensis ab Anno 1116 ad Annum 1786, 8 vols., Louvain, 1933–1941, I–III, for the period under consideration here. A selection of the more important regulations on art and architecture in English translation (accompanied by the Latin text) is found in W. Braunsfels, *Monasteries of Western Europe: The Architecture of the Orders*, trans. A. Laing, Princeton, 1980, app. 11, 243. For a larger and more useful selection of statutes, but not in translation, consult V. Mortet and P. Deschamps, *Recueil de textes relatifs à l'histoire de l'architecture et à la condition des architectes en France au Moyen Age, XIIe–XIIIe siècles*, Paris, 1929, 30–38. The most complete and reliable compilation of Cistercian arts legislation now available is C. Norton's "Table of Cistercian Legislation on Art and Architecture," *Cistercian Art and Architecture in the British Isles*, ed. C. Norton and D. Park, Cambridge, 1986, 315–393.

2. Cf. the constitutional proscription on decoration adopted by the Dominicans in 1263 (Appendix A, IV:6–8) with the following, similar Cistercian statutes: A.D. 1134, cap. 20 banning painting and sculpture; and A.D. 1213, cap. 1 adding to the previous one a prohibition on decorative pavements (*Statuta*, I, 17, and 404 respectively). Rudolph, "The 'Principal Founders,'" *passim*, convincingly argues that the statute traditionally dated to 1134 was in fact legislated sometime between 1115 and 1119.

3. Aubert, *Architecture cistercienne*, I, 141, and n. 1, justly observes that "on [Cistercian] architecture, the sole prescription clearly formulated by the General Chapter is the prohibition against raising stone bell towers over the churches." His reference is to the statute of A.D. 1157, cap. 16: "Turres lapideae ad campanas non fiant." (Cf. *Statuta*, I, 61). To this regulation a further provision was added in 1237 authorizing only wooden bell towers of small dimensions: ". . . nec lignearum altitudinis immoderate quae Ordinis dedecent simplicitatem." (Quoted by Aubert, *Architecture cistercienne*, I, 142, n. 1; see also Norton, "Table," 368). Among the various Cistercian statutes touching upon architecture, the least general among these are: A.D. 1192, cap. 23, objecting to the dormitory of Longpont because it was built "contra formam et consuetudinem Ordinis . . ."; *ibid.*, cap. 31, condemning the sumptuousness and size of the church at Vaucelles and demanding these excesses be corrected; and A.D. 1213, cap. 1, prohibiting anything unnecessary with respect to buildings (*Statuta*, I, 150, 151–152, 404). It should be noted that no Cistercian document clearly spells out, as do the Dominican and Franciscan statutes, what exactly constituted the Order's "form and custom" concerning architecture. As these statutes demonstrate, neither the Dominican and Franciscan regulations on vaulting nor the specific

Franciscan Order approved by its general chapter in 1260 are comparable in scope with the Dominican ones in force during the last third of the 13th century.⁴ However, because most Franciscan statutes and capitular acts prior to 1260 have not survived, it is impossible to trace the evolution of this Order's legislation with the same degree of precision that one can for the Dominican Order whose 13th-century records are more extensively preserved.

My principal aim in the pages that follow is to trace, as fully as these primary sources allow, the chronological development of the Dominican constitutions between 1220 and 1300 and, in the process, to establish a more exact dating for certain of these statutes by a careful examination of both the documentary and architectural evidence. In this study I will also consider the rationale behind the Order's proscriptions on art and architecture, the constitutional mechanisms for enforcing them, and the role which the various "admonitions" and other similar decrees of the general and provincial chapters played in the development of the Dominican constitutions.

For a study which attempts to account for the evolution of the Order's architecture and architectural legislation with respect to the social and religious climate of the time, the reader is urged to consult Gilles Meersseman's pioneering essay on 13th-century Dominican architecture.⁵ Although now over four decades old and in need of revision, it remains the fundamental work in the field. More recently, Bernard Montagnes has tried to discern in the constitutions and writings of the friars the Order's attitude toward art and architecture and the role the arts were to play in its mission.⁶

In each of these respects, Dominican thinking, at least initially and for most of the 13th century, was conditioned by the concept of architectural poverty. Its earliest advocate within the Order was no less a person than Dominic of Guzmán, the Spaniard who in 1215 founded at Toulouse the religious community that

now popularly bears his name, but whose official appellation is the Order of Friars Preachers.⁷ Depositions given by four of the brethren at an inquest held at Bologna in 1233 to promote the founder's canonization point out in no uncertain terms that Dominic, in the words of one witness, Amizo of Milan, was a "lover of poverty . . . in the buildings and churches of the friars . . ."⁸ There is no reason to doubt the credibility of most of the testimony gathered at the Bologna inquest nor to think the founder's devotion to architectural poverty was in any way exaggerated or distorted by the witnesses. An indirect but valid way of measuring the credibility of the Dominican testimonials is provided by the Franciscan Order since the actual words of St. Francis concerning architecture have been preserved, rather than those his followers thought or assumed he had said. Shortly before his death in October 1226, Francis wrote a final letter or will warning members of his Order against receiving "churches or poor dwellings for themselves, or anything built for them, unless they are in harmony with the poverty which we have promised in the Rule. . . ."⁹

The Constitution of 1220

Dominic's call for architectural poverty was made the official policy of the Friars Preachers in 1220 at the Order's first meeting of the general chapter. Significantly, it was at this session that the assembled friars joined their rivals, the Franciscans, in finally embracing mendicancy and full apostolic poverty by declaring that henceforth they would "no longer hold properties or revenues, and that they should give up those that they already held in the district round Toulouse."¹⁰ Although personal sanctification was certainly one of the motives that prompted the Dominicans to take this action, it was not the primary one as it

height limitations set by the Dominican Order are derived from Cistercian legislation as it is often asserted (e.g., P. Gratien, *Histoire de la fondation et de l'évolution de l'Ordre des Frères Mineurs au XIIIe siècle*, Paris and Gembloux, 1928, 165–166; M. Durliat, *L'art dans le royaume de Majorque: Les débuts de l'art gothique en Roussillon, en Cerdagne et aux Baléares*, Toulouse, 1962, 69). For the full set of Franciscan and Dominican statutes see, respectively, n. 4 below and Appendix A, IV:1–10.

4. *Constitutiones generales ordinis fratrum Minorum* (ed. F. Ehrle in "Die ältesten Redaktionen der Generalconstitutionen des Franziskanerordens," *Archiv für Literatur- und Kirchengeschichte des Mittelalters*, 6 [1892], 87–138), De observantia paupertatis—Rubrica tertia, 94–95. For an English translation of this text, see Braunfels, *Monasteries*, app. 14, 246.

5. G. Meersseman, "L'architecture dominicaine au XIIIe siècle: Législation et pratique," *Archivum Fratrum Praedicatorum*, 16 (1946), 136–190.

6. B. Montagnes, "L'attitude des Prêcheurs à l'égard des oeuvres d'art," in *La naissance et l'essor du gothique méridional au XIIIe siècle*, Cahiers de Fanjeaux 9, Toulouse, 1974, 87–100.

7. The standard work in English on the Order is W. A. Hinnebusch, *The History of the Dominican Order*, 2 vols., Staten Island, N.Y., 1966–1973. For a penetrating and sympathetic biography of the founder, consult M.-H. Vicaire, *Saint Dominic and His Times*, trans. K. Pond, New York, 1964. The formative period of the Order's history has been recently studied by Vicaire, "L'ordre de Saint Dominique en 1215," *Archivum Fratrum Praedicatorum*, 54 (1984), 5–38. Although founded in April 1215, Dominic's community at Toulouse did not receive papal confirmation until 22 December 1216; a month later the Order was given the name Friars Preachers by Pope Honorius III in the bull *Gratiarum omnium*. See Hinnebusch, *History*, I, 39, 48–49.

8. *Acta canonizationis s. Dominici*, ed. A. Walz, *Monumenta Ordinis Fratrum Praedicatorum Historica* (hereafter cited as MOPH) 16, Rome, 1935, no. 17; for the three other testimonials, see *ibid.*, nos. 32, 38, 47. A recent English translation of the Bologna inquest is included in *Early Dominicans: Selected Writings*, ed. S. Tugwell, The Classics of Western Spirituality, New York, 1982, 66–85.

9. St. Francis of Assisi, *The Testament*, in *St. Francis of Assisi: Writings and Early Biographies*, ed. M. A. Habig, 4th rev. ed., Chicago, 1983, 68.

10. Jordan of Saxony, *On the Beginnings of the Order of Preachers*, ed. and trans. S. Tugwell, *Dominican Sources: New Editions in English*, Oak Park, Illinois, and Dublin, 1982, no. 87. For the standard Latin edition of this work, see *Libellus de principiis ordinis Praedicatorum*, ed. H. C. Scheeben, MOPH 16, Rome, 1935, 1–88.

had been for the Franciscans. For the former, asceticism was primarily a means of aiding the two principal tasks for which Dominic had founded his Order of Friars Preachers: to convert the heretics and teach the rule of faith to loyal Catholics. In order to succeed in each of these endeavors, even if only in keeping the faithful within the fold of the Church, it was necessary for the Preachers to show the whole world that they too could be as ascetic and morally upright as the heretics whom they sought to convert.¹¹ The Dominicans also had practical reasons for rejecting the ownership of property. At their organizational meeting, held at Toulouse in 1216, they wisely noted that properties would bring them “worldly responsibilities and worries” and this would in turn “hinder their job of preaching.”¹²

So far as one can determine from the fragmentary nature of the surviving evidence, the earliest Dominican rules on architecture are contained in the statutes worked out by the Preachers at Bologna in 1220. Although no document bearing the early constitutions survives, not even as a postmedieval transcription, M.-H. Vicaire has been able to reconstruct this legislation with a fair degree of accuracy by utilizing several 13th-century sources in which some part or parts of the primitive constitutions are quoted, paraphrased, or commented upon.¹³

With the notable exception of A. H. Thomas,¹⁴ most contemporary scholars accept Vicaire's restitution of the friars' first constitution on architecture.¹⁵ This initial piece of legislation was cast in the broadest possible terms: “Let our brothers have

moderate and humble houses so that they should neither burden themselves with expenses, nor that others—seculars or religious—should be scandalized by our sumptuous buildings.”¹⁶

This, like the later constitutions on art and architecture, was more than a simple list of “dos” and “don'ts.” If Vicaire's restitution is correct, the 1220 statute also provided the brethren with a rationale for requiring them to possess only “moderate and humble houses”—*mediocres domos et humiles*.¹⁷ The need to keep expenses down is obvious enough given the Preachers' espousal of mendicancy in 1220. In addition, there can be little doubt that the precept against sumptuous buildings was also designed to win over skeptics within and outside the Church who demanded that words be matched by deeds. Church buildings generally, and sumptuous ones in particular, were anathema to the puritanical Cathars and the other heretics whom the Dominicans sought to convert by preaching and example. Most heterodox groups would have concurred with the notorious Peter of Bruys, who was burned at the stake for heresy around 1130, that churches were totally unnecessary for Christian worship. According to Peter the Venerable, Abbot of Cluny (1122–1156), the Petrobrusians justified this claim by saying that “God hears as well when invoked in a tavern as in a church, in a plaza as in a temple, before an altar or in a stable; he listens to those who are worthy.”¹⁸ The Cathars, who taught that all material things were evil and should consequently be avoided, went further by flatly stating that a “church edifice is not a good thing nor should one pray therein.”¹⁹ Faced with these opinions

11. The origins of Dominican poverty and its role in the life and mission of the Order are discussed at length by Hinnebusch, *History*, I, 145–168; see also, P. Mandonnet, “Saint Dominique,” in P. Mandonnet and M.-H. Vicaire (ed.), *Saint Dominique, l'idée, l'homme, et l'oeuvre*, 2 vols., Paris, 1937, I, 78. For the more purely spiritual role of poverty within the Franciscan Order, see Gratien, *Histoire de la fondation*, 28–36, 46–48, and G. Schnürer, *L'Eglise et la civilisation au Moyen Age*, trans. G. Castella and M.-T. Burgard, 3 vols., Paris, 1933–1938, II, 491–497, 512–514.

12. Jordan of Saxony, *Beginnings*, no. 42.

13. For the methodology used in reconstructing the early constitutions, conveniently titled *Les institutions des Prêcheurs*, see P. Mandonnet and M.-H. Vicaire, “De la règle de S. Augustin à la règle de S. Dominique,” in Mandonnet and Vicaire, *Saint Dominique*, II, 203–230, and Vicaire, *Saint Dominic*, app. 8, 428–435.

14. A. H. Thomas's qualified objections to Vicaire's restitution and his own dating of the early legislation are set forth in *De oudste constituties van de Dominicanen: Voorgeschiedenis tekst, bronnen, ontstaan en ontwikkeling (1217–1237)*, Louvain, 1965, 260, nn. 104–105; 283, n. 208; 366–367. Thomas's reconstruction of the architectural constitutions of 1220 is identical to those in Appendix A, II:1–5. In reconstructing these statutes, Thomas tends to ignore certain aspects of Vicaire's textual criticism and methodology that to me appear valid (see preceding note).

15. E.g., Meersseman, “L'architecture dominicaine,” 146; Montagnes, “L'attitude,” 88; and M. Durliat, “Le rôle des ordres mendiants dans la création de l'architecture gothique méridionale,” in *La naissance et l'essor*, 73.

16. *Les institutions des Prêcheurs*, ed. M.-H. Vicaire, in Mandonnet and Vicaire, “De la règle,” 292. For the Latin text, see Appendix A, I:1–3. Vicaire's reconstruction, to explain briefly a complex set of circumstances, is based on one of the statutes of the Order of the Penitents of St. Mary Magdalene. This German order of nuns drew its regulations in 1232 from the constitutions of the Dominican nuns of St. Sixtus in Rome; the latter's statutes, now lost, are known to have been closely modeled on those of the Preachers. For an analysis of the relationship of the statutes of the two female communities both to each other and to the constitutions of the Dominican Order, see Vicaire, *Saint Dominic*, app. 8, 428–435, and Hinnebusch, *History*, I, 380–381; also cf. Meersseman, “L'architecture dominicaine,” 146, n. 24.

17. To my knowledge, only M.-H. Vicaire (*Saint Dominique de Caleruega, d'après les documents du XIII siècle*, Paris, 1955, 195), translates *humiles* as low (*basse*); on page 208, n. 30, he justifies this translation by citing architectural descriptions given in the canonization depositions of 1233 (see *Acta canonizationis*, nos. 17, 32, 38).

18. Peter the Venerable, *Contra Petrobrusianos hereticos*, ed. J. Fearn, Corpus Christianorum: Continuatio Medievalis, 10, Turnhout, 1968, 4–5.

19. *Brevis summula contra herrores notatos heretichorum*, ed. C. Molinier, in “Un texte de Muratori concernant les sectes cathares,” *Annales du Midi*, 22 (1910), 215: “Quod ecclesia materialis non est bona nec ibi orandum.” For a comprehensive exposition of Catharist or Albigensian beliefs and practices, consult especially R. Nelli, *Le phénomène cathare: Perspectives philosophiques, morales, et iconographiques*, Toulouse, 1964; A. Borst, *Die Katharer*, Stuttgart, 1953; and H. Söderberg, *La religion des cathares: Etude sur le gnosticisme de basse Antiquité et du Moyen Age*, Uppsala, 1949.

and the fact that canon law did not allow the Preachers to dispense with churches, their only alternative was to require that these and all other conventual structures be as simple and modest as possible.

Constitutional Development Between c. 1228 and 1241

Between 1228—or shortly thereafter—and 1300, the initial constitutional legislation underwent revision on at least five separate occasions.²⁰ The first amendment was no doubt prompted by the rapid growth the Order experienced during the first two decades of its existence. This growth involved not only a rise in the number of new communities, and hence of new members, but also a dramatic increase in the overall size of individual houses, especially among those located in university towns.²¹ The convent of Paris, one of the few for which actual figures are available, is indicative of these trends. By 1219, two years after its foundation by seven friars from Toulouse, the Parisian house already had about 30 members and by 1224 the number had skyrocketed to 120.²² According to most scholars, it was around this time that the Paris Dominicans began constructing a church measuring approximately 20 × 83 m to replace their original chapel of St.-Jacques.²³

A similar situation prevailed at Bologna, another early and important Dominican foundation. Jordan of Saxony, the Order's second master-general and its first historian, reports that an increase of friars there necessitated the enlargement of both the

church and the conventual buildings.²⁴ The Bolognese brethren undertook this task either immediately after St. Dominic's death in 1221, or around 1223 at the very latest. With respect to their church, dedicated to St. Nicholas, this entailed lengthening the building from 35 to 65 m by demolishing the end walls and extending the nave and aisles eastward by several bays. While the new portion retained the width of the original structure, it differed from it in two significant ways: its central vessel rose to a height of 14 m rather than ten and was rib-vaulted rather than wooden-roofed.²⁵

At Toulouse, the Dominicans also experienced significant membership gains, but the public streets surrounding their convent ruled out any expansion on this site. Thus, with the aid of some lay donors, the Toulouse Dominicans managed to acquire in September 1229 a spacious but oddly shaped lot in a district of town known as the garden of the Garrigues.²⁶ On this new site they immediately began erecting a church which for this period in the Order's history was quite large (Fig. 1: Campaign I). Internally it measured 21.78 × 44.50 m, and its walls rose to a height of at least 13.60 m. This simple and capacious building, demolished in the 14th century to make way for the present structure (Fig. 1: Campaign IV) was covered by a wooden roof supported by a row of five columns standing slightly north of the central axis.²⁷ By 5 August 1234 work on this church must have been sufficiently advanced because on this date the bishop of Toulouse, Raymond of Miramont, was

20. Cf. Appendix A: II:1–7, II:8–9, III, IV:6–8, and V.

21. In medieval France, 39 percent of all Dominican convents were founded by 1250, and 67 percent of these between 1215–1235. The pace of foundation for the first half of the 13th century was even faster in medieval England where 42 percent of its convents were established by 1250. However, only 15 percent of these had been founded by 1235, owing no doubt to the Preachers' relatively late arrival in England (1221). These figures are derived from two catalogues on medieval mendicant foundations: R. W. Emery, *The Friars in Medieval France: A Catalogue of French Mendicant Convents, 1200–1550*, New York, 1962; and D. Knowles and R. N. Hadcock, *Medieval Religious Houses: England and Wales*, London, 1953, 183–188. According to the estimates of F. Vernet, *Les ordres mendiants*, Paris, 1933, 44, there were around 7,000 Dominican friars in Europe by 1256 and 10,000 by the end of the 13th century.

22. Jordan of Saxony, *Beginnings*, nos. 51, 52, 59; the figure of 120 is given in a bull of Honorius III dated 15 September 1224 (cited by Mandonnet, "Saint Dominique," 63).

23. See, e.g., Y. Christ, *Eglises parisiennes actuelles et disparues*, Paris, 1947, 30, and M. David-Roy, "Saint Louis, bâtisseur des monuments disparus," *Archeologia* (Paris), 31 (1969), 15. Despite these and many other studies proposing a very early beginning date for this church, its chronology remains elusive. According to J.-M. de Griffé de Rechac (*La vie du glorieux patriarche S. Dominique, fondateur et instituteur de l'ordre des fr. Prêcheurs . . .*, Paris, 1647, 610), who no doubt had access to documents now lost and whose work is apparently unknown to many scholars, construction commenced during the master-generalship of John the Teuton (1241–1252) and was completed under that of Humbert of Romans (1254–1263).

24. Jordan of Saxony, *Libellus*, no. 124: "crescente denique fratrum numero apud Bononiam necesse erat domos et ecclesiam dilatari." The account of the translation of Dominic's relics, of which this passage is a part, is not included in Tugwell's English edition of the *Libellus*. In the introduction to his edition (*Beginnings*, xiv) Tugwell questions whether the translation narrative "is to be taken as a continuation of the *Libellus* or as a separate work."

25. H. Dellwing, *Studien zur Baukunst der Bettelorden im Veneto: Die Gotik der monumentalen Gewölbebasiliken*, Munich and Berlin, 1970, 21–28 and figs. 7, 8; Meersseman, "L'architecture dominicaine," 144–146, 154 (figure), 155–156.

26. Bernard Gui, *De fundatione et prioribus conventuum provinciarum Tolosanae et Provinciae ordinis Praedicatorum*, ed. P.-A. Amargier, MOPH 24, Rome, 1961, 47–49. See also William Pelhissou, *De emptione et acquisitione secundi loci fratrum Praedicatorum Tholose*, 32–33. Pelhissou's record book of land parcels acquired by the friars of Toulouse between 1229 and 1263 was incorporated by Bernard Gui (d. 1331) in his work; it precedes the material relating to the foundation and priors of this convent.

27. The most recent and authoritative study of this monument, whose form and building chronology had been the subject of great controversy until the mid-1950s, is the article by M. Prin, "L'église des Jacobins de Toulouse: Les étapes de la construction," in *La naissance et l'essor*, 185–208. For a detailed report on the archaeological excavations of the 1950s, which brought to light the primitive church with its two vessels of unequal width, see idem, "La première église des Frères Prêcheurs de Toulouse, d'après les fouilles," *Annales du Midi*, 67 (1955), 5–18.

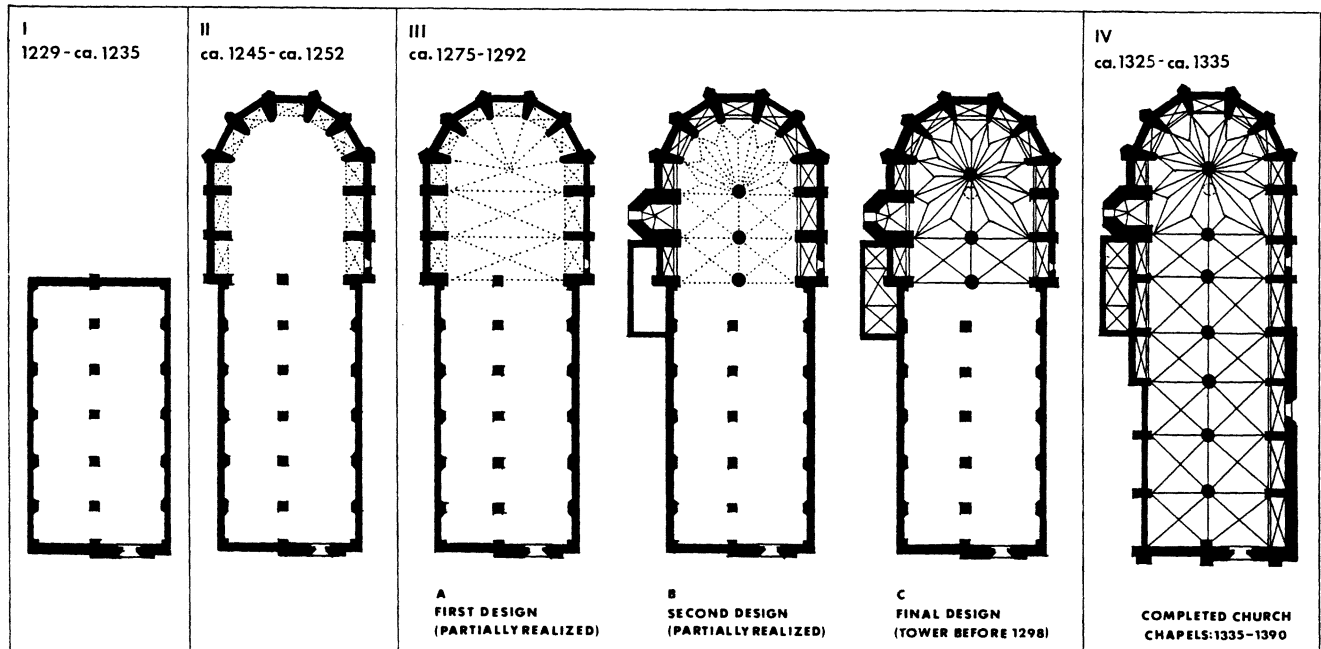


Fig. 1. Dominican (Jacobin) Church, Toulouse, c. 1229–c. 1335. Construction campaigns (F. Leff, after Prin).

able to celebrate an inaugural mass there to coincide with the newly proclaimed feast of St. Dominic.²⁸

Although the Friars Preachers at Oxford were unable to transfer their convent to a more spacious and commodious location outside the town's south gate until 1236, an agreement reached by the Dominicans and the canons of St. Frideswide in 1228 suggests, as William Hinnebusch notes, that the friars were already laying the groundwork for a new home. The accord called upon the Dominicans not to take any action prejudicial to the canons when or if ever they decided to dispose of their first convent at St. Aldate's, a parish under St. Frideswide's control.²⁹ Nicholas Trivet, an early 14th-century Dominican chronicler, explains that the Preachers were forced to abandon this site after only a few years' residence there because "finding that they had no room for expanding [at St. Aldate's parish], they moved to another site given them by the King, where, outside the city walls, they now dwell."³⁰

28. William Pelhissou, *Chronicle*, ed. and trans. W. L. Wakefield, in *Heresy, Crusade and Inquisition in Southern France, 1100–1250*, Berkeley and Los Angeles, 1974, app. 3, 215. The feast day of St. Dominic was transferred by Pius V to 4 August when he extended the feast of Our Lady of the Snow, 5 August, to the whole Church (Wakefield, *Heresy*, 231, n. 50; cf. Hinnebusch, *History*, I, 108, who wrongly credits Paul IV with the change). By his references to the various services held in the church in 1235, Pelhissou ("Chronicle," 219–221) provides sufficient evidence to indicate that the church, whether finished or not, was already in regular use by this date.

29. W. A. Hinnebusch, *The Early English Friars Preachers*, *Dissertationes Historicae*, 14, Rome, 1951, 3–11.

30. Nicholas Trivet, *Annales sex regum Angliae, 1135–1307*, ed. T. Hog, London, 1845, 209, quoted by Hinnebusch, *Early English*, 4.

The need for larger churches and conventual buildings so soon after the foundation of the Friars Preachers made the writing of a new and more precise constitution on architecture imperative. The one approved by the general chapter of 1220 answered the needs of the Order during its infancy, but it became increasingly difficult to do so by the opening of the second quarter of the 13th century when Dominican membership was expanding rapidly throughout all of Western Europe. Because the 1220 constitution failed to define precisely what moderation and humility in architecture actually meant, the Preachers soon found themselves without a set of universally accepted standards by which to judge when a building did or did not conform to the Order's precept on apostolic poverty, a precept that was ideally to govern all aspects of Dominican life and practice, including its architecture. Therefore, it was probably to remedy this lack of precision in the original constitution that the friars decided sometime between 1228 and 1235 to amend it to read as follows:

Let our brothers have moderate and humble houses in such manner that the walls of houses without a loft should not exceed 12 *pedes* in height and with a loft 20; the church [should not exceed] 30. Neither should it [the church] be vaulted in stone, except perhaps over the choir and sacristy. If anyone contravenes [these regulations] in any way, he will be subject to punishment corresponding to [the constitutional category of infractions known as] the more grievous fault.³¹

31. *Constitutiones antiquae ordinis fratrum Predicatorum*, ed. A. H. Thomas in *Oudste constituties*, 309–369, Dist. II, cap. 35, 366–367. For the Latin text, see Appendix A, II:1–7. According to Meersseman, "L'architecture dominicaine," 147 and n. 27, the length of a *pes* in northern

These statutes have been traditionally dated to 1228, the year the most general chapter, meeting in Paris, approved a new edition of the Order's general constitutions.³² This edition consisted of all legislation passed prior to the 1228 meeting which the friars judged worthy of retention and whatever new statutes they might have generated at this time. Unfortunately, these constitutions are known only from a single text contained in a manuscript originally in the Dominican convent at Rodez, in southern France, and now in the archives of the Order at Santa Sabina in Rome (Cod. XIV A 4). Heinrich Denifle, who studied these statutes in the late 19th century and provided the first modern critical edition of them, held that practically all the constitutions in the Rodez codex had been approved by the most general chapter of 1228.³³ In the 20th century scholars have gradually come to realize, however, that the statutes in question are not the work of a single chapter and, therefore, not all of the same date. It is now generally conceded that the constitutions in the Rodez codex are a mid-14th-century transcription of an original, early 13th-century text containing all the statutes approved in 1228, as well as the changes made to them by subsequent chapters up to the year 1241.³⁴ Both Meersseman in his aforementioned article on Dominican legislation and the editors Victor Mortet and Paul Deschamps in their well-known collection of Latin sources relating to medieval architecture uncritically accept Denifle's 1228 dating for the constitutions in the Rodez manuscript.³⁵ Vicaire's studies on early Dominican constitutional legislation have shown, however, that while such a date for the architectural statutes is not inconceivable, there is no documentary evidence to prove that they are the work of the 1228 chapter.³⁶ All that can be said with certainty is that these constitutional provisions must have been adopted no later than 1235 because they do not appear in any of the extant constitutional and legislative acts of the general chapter, the

first complete set of which belongs to the chapter of 1236.³⁷ Had the capitular acts of the previous years survived, there would be little difficulty in accurately dating most constitutions.

If the extant documentary evidence cannot provide a more precise dating than sometime between 1228 and 1235 for the statutes regulating height and vaulting, the architectural evidence, which has never been considered in the resolution of this question, suggests a date of around 1232–1235 for this legislation. Because the walls of the new Dominican Church at Toulouse were higher than the 30 *pedes* allowed by the regulations just cited,³⁸ there is reason to believe that construction must have commenced before the adoption of these restrictions. The fact that the Dominican Order enjoyed a high level of discipline during the first half of the 13th century makes it unlikely that the Toulouse friars would have deliberately ignored these constitutional strictures had they been in force when the cornerstone of their church was laid in the autumn of 1229.³⁹ It would appear, therefore, that the height and vault restrictions were approved by the Order sometime after 1229 and before 1236 because their existence by this latter date is certain. When the Order's three-year-long procedure for approving constitutional legislation is taken into account, then the earliest possible date for issuing a new constitution after the most general chapter of 1228 would be 1231.⁴⁰ Had the height and vaulting regulations

37. For all the surviving acts of the 13th and early 14th centuries, see the *Acta capitulorum generalium ordinis Praedicatorum*, ed. B. M. Reichert, MOPH 3, Rome, 1898. If one accepts Vicaire's proposition that the statutes of St. Sixtus and of the Penitents accurately reflect the Preachers' early constitutions (see fn. 16), one is then forced to conclude that the regulations on height and vaulting could not be earlier than 1228 and that they could perhaps be later than 1232 because similar rules are absent from the Sistine and Penitents statutes known to have been extracted from the Preachers' constitutions in force between these two dates (see Vicaire, *Saint Dominic*, app. 8, 430).

38. Use of the local *pes*, which measured 29.93 cm, results in a maximum constitutional height of 8.98 m. However, the walls originally rose to a level of at least 13.60 m. Even if this height is measured using the largest of the Italian *pedes* cited by Meersseman (38 cm), it would still exceed the constitutional limit by 2.20 m (see fn. 31). The length of the local *pes* is derived from the medieval *canne* of Toulouse, which measured 1.796 m. This *canne* was divided into 6 *pedes* (*pieds*). For the linear measurements of Toulouse and related metrological questions, see A. Machabey, *La métrologie dans les musées de province et sa contribution à l'histoire des poids et mesures en France depuis le treizième siècle*, Troyes, 1962, 24, 70, and especially 101–104; P. Guilhaumoz, "De l'équivalence des anciennes mesures," *Bibliothèque de l'École des chartes*, 74 (1913), 277–297.

39. One must acknowledge the possibility that the said strictures were in existence by 1228 and that initially the friars intended to observe them but did not do so as the church's construction proceeded. This course of events, however, seems quite unlikely for the reasons given in the text.

40. In Dominican parlance, a statute or constitution is a permanent law having universal application within the Order. Creation of a new constitution required that it receive the affirmative vote of *three successive* general chapters, or of a single most general chapter (only two were

Italy varied between nearly 35 and 38 cm. For 12 *pedes* this would mean a height of between 4.20 and 4.56 m; for 20 *pedes* between 7.00 and 7.60 m; and for 30 *pedes* between 10.50 and 11.40 m. North of the Alps the *pes* was shorter; the German foot Meersseman cites equalled 31.50 cm. Meersseman (146–147) maintains that the change in the primitive rule was in large measure a negative reaction prompted by the enlargement of the Bologna convent.

32. See H. Denifle, "Die Constitutionen des Prediger-Ordens vom Jahre 1228," *Archiv für Literatur- und Kirchengeschichte des Mittelalters*, 1 (1885), 165–227, especially 165–167; Mortet and Deschamps, *Recueil*, 246–247. Cf. H. C. Scheeben, *Der heilige Dominikus*, Freiburg-im-Breisgau, 1927, 133, n. 57.

33. See fn. 32.

34. Mandonnet and Vicaire, "De la règle," 203–210, 221–230; Thomas, *Oudste constituties*, 60–124, and, for a French summary, especially 385–390.

35. See Meersseman, "L'architecture dominicaine," 147–148, n. 26; Mortet and Deschamps, *Recueil*, 246.

36. Vicaire, *Saint Dominic*, app. 8, 428–435; Mandonnet and Vicaire, "De la règle," 203–230, 273–283.

been passed as early as 1231, the church, then in the initial stages of construction, could have been modified to conform to the rules without much difficulty. Since this building actually exceeded the maximum height allowed by the constitution at a time of strict discipline within the Order, it seems reasonable to suggest that the constitutional proscriptions in question were probably only adopted between 1232 and 1235, and not in 1228 as generally maintained.

For the next three decades no new constitutions were promulgated, save for this one around 1235 requiring that "in each convent three friars of discretion should be elected without whose advice no edifices ought to be constructed."⁴¹ For reasons that are hard to fathom, Raymond of Peñafort, the Order's master-general from 1238 to 1240, chose not to include this seemingly sensible provision in his comprehensive revision of the Dominican constitutions confirmed by the general chapter in 1241. Thus the effect of the Raymondine revision was to return the architectural constitutions to their c. 1228–1235 state, or, as seems more likely, to a date of around 1232–1235 for the aforementioned reasons.⁴²

ever convoked). This three-fold approval process (*inchoatio*, *approbatio*, and *confirmatio*) was adopted by the most general chapter of 1228 (see *Constitutiones antiquae*, Preambulum, 310, and Dist. II, cap. 6, 344). Repeal or modification of a constitution required the same procedure. (In this study, only page numbers and dates corresponding to the final *confirmatio* phase of the legislative process are given for the constitutional acts cited in the *Acta generalium*.) Ordinary acts or decrees, however, required only the vote of a single general chapter for passage. This type of legislation, for which Dominicans used, often quite indiscriminately, such terms as announcements, declarations, ordinances, admonitions, and prohibitions, was administrative in nature and often had only local application. For a more detailed explanation of the Dominican legislative process and the legal distinctions between constitutions and the various types of acts, see Hinnebusch, *History*, I, 178–180, and D.-A. Mortier, *Histoire des maîtres généraux de l'ordre des Frères Prêcheurs*, 8 vols., Paris, 1903–1920, I, 282–283. Although in need of revision, still useful as a study of the Dominican constitutions and system of government is G. R. Galbraith, *The Constitution of the Dominican Order, 1216 to 1360*, Manchester, 1925.

41. *Constitutiones antiquae*, Dist. II, cap. 35, 367. For the Latin text, see Appendix A, II:8–9. Since this constitution does not appear in the surviving acts of the general chapters, one is obliged, therefore, to assign it a date prior to 1236. Both its position within the Dominican constitutions as they appear in the Rodez codex and the use of the word *item* indicate that this constitution is an addition to the architectural statutes on height, vaulting, and punishment for contraventions which the Order adopted sometime between 1228 and 1235, most probably between 1232 and 1235. See fn. 13 for references on methodology and textual criticism.

42. See Appendix A, III:1–7 for the revised constitutions and compare them with II:1–7. Final confirmation of the former is given in the *Acta generalium*, 18. For the most thorough discussion of Raymond of Peñafort's work on the constitutions, consult R. Creyten, "Les constitutions des Frères Prêcheurs dans la rédaction de s. Raymond de Peñafort (1241)," *Archivum Fratrum Praedicatorum*, 18 (1948), 5–68. Included in this article is Creyten's own edition of the revised statutes: *Constitutiones ordinis fratrum Praedicatorum*, 29–68.

The intent of the "three friars" rule was to provide each community with a practical means of ensuring compliance with the building codes passed a few years earlier. This was not the only architectural constitution of a disciplinary nature. A few years prior, the Preachers had adopted a more general constitutional means for promoting the observance of architectural poverty. It will be recalled that the statute on height and vaulting was immediately followed by another declaring that whoever disobeyed the architectural constitution in any way would "be subject to punishment corresponding to the more grievous fault."⁴³ Of the four classes of faults listed in the general constitutions, the *gravior culpa* ranked second to the *gravissima* in seriousness and in the severity of the prescribed punishment.⁴⁴ This earlier disciplinary constitution, unlike the "three friars" rule, was never rescinded. Despite the latter's suppression in 1241, it was, nevertheless, adhered to at the local level for approximately another decade. The provincial chapters of both Spain and Provence decreed, in 1242 and 1252, respectively, that no Dominican community could erect a structure without first consulting the committee of three friars appointed to monitor the convent's own building activities (see Appendix B, *sub annis*).⁴⁵

At approximately the same time there is also a notable increase in the number of general and provincial chapter acts dealing with Dominican art and architecture in other, more specific ways (see Appendices B and C). Taken as a whole, this body of legislation may be indicative of a tendency among the Preachers to disregard in matters both major and minor the Order's constitutions on the arts. For example, in 1252, the general chapter issued a warning against all manner of sculptural and painted ornamentation and ordered that excesses in these areas be corrected (see Appendix C, *sub anno*), this despite the fact that the Order did not yet possess a constitutional ban against sculpture and painting.⁴⁶ In the same year the provincial chapter of Provence passed an act reminding the friars that all structures should

43. See Appendix A, II:6–7.

44. Cf. *Constitutiones antiquae*, Dist. I, cap. 23 and 25, 335–339.

45. Of the 12 Dominican provinces founded in the early 13th century, a substantial body of capitular legislation from this century has been preserved for only four of these: the first province of Provence, Rome, Lombardy, and Spain. The acts of these provincial chapters are found in three separate editions: *Acta capitulorum provincialium ordinis Praedicatorum: Première province de Provence, province romaine, province d'Espagne (1239–1302)*, ed. C. Douais, Toulouse, 1894; *Acta capitulorum provincialium provinciae Lombardiae*, ed. T. Käppeli, in "Acta capitulorum provinciae Lombardiae (1254–1293) at Lombardiae inferioris (1309–1312)," *Archivum Fratrum Praedicatorum*, 11 (1941), 140–167; and *Acta capitulorum provincialium provinciae Romanae (1243–1344)*, ed. T. Käppeli and A. Dondaine, MOPH 20, Rome, 1941.

46. In 1239 a constitution prohibiting sculptured images was proposed by the general chapter; this ban was approved in 1240 but failed to win final confirmation in 1241, as required by the rules of the Order. See *Acta generalium*, 11, lines 19–21; 13, line 24.

conform to the measurements given in the constitutions and that the building committee's advice should be faithfully observed (see Appendix B, A.D. 1252). These acts, which were by no means the first of their kind,⁴⁷ were followed in quick succession by other similar pronouncements. To these should also be added a number of acts passed by the general and provincial chapters requiring the removal of carved tombs from Dominican churches, or, at the very least, their banishment to remote locations within the building (see Appendix C, A.D. 1245, 1246, 1250, 1251).

Humbert of Romans and the Constitutional Amendment of 1263

The first and only concerted campaign to halt violations of the architectural constitutions, but not an altogether successful one at that, dates to the master-generalship of Humbert of Romans.⁴⁸ During his tenure, between 1254 and 1263, deviations from the letter of the law were no longer tolerated nor allowed to be passed over in silence. It was probably at his bidding that in 1258 the general chapter issued a decree not unlike the one promulgated six years earlier by the provincial chapter of Provence, but including this time a provision to ensure observance: "We expressly order priors and brothers not to erect buildings unless they be humble and moderate and in conformity with the constitution. And we desire this year's visitors to make known at the next general chapter where they have discovered anything done on the contrary."⁴⁹ Those friars deemed responsible for constitutional violations by the general chapters would then be given a punishment commensurate with the offense as prescribed by the rules of the Order.

Shortly after the passage of this decree, the general and provincial chapters made three separate attempts to enforce the Order's building code.⁵⁰ The two most frequently cited cases involve the convents of Barcelona and Cologne; the third one deals with the convent at Limoges. In 1261, under the leadership of Humbert of Romans, the general chapter imposed severe penalties upon certain friars of the Barcelona convent, including the former prior, for having constructed a dormitory that "notably exceeded the height designated by the Order." This reprimand was coupled with an order specifying "that the buildings presently under construction there should not be made higher

than the constitutions allow." With respect to the Dominican house at Cologne, the same general chapter acted more harshly. Having learned of excesses in construction there, the chapter directed the prior, under the threat of punishment, to "correct his choir according to the manner dictated by the chapter of Toulouse. . . ."⁵¹ "Correction" in this instance no doubt meant razing the upper walls in order to bring their height down to the legal limit. In the third and final case, corrective action was taken at the local level. At its meeting of 1261, which was celebrated at Béziers, the provincial chapter of Provence called upon the prior of Périgueux to visit the convent of Limoges as soon as possible so as to "correct diligently" the excessively rich ceiling the Limousin friars had erected over their choir.⁵²

This movement to enforce the regulations on architecture stands out as one of the most striking features of Humbert's generalship. His efforts in this direction culminated in 1263 with the Order's formal adoption of a constitution exclusively concerned with architectural decoration. This new proscription, which was appended to the height and vaulting restrictions, states that "in our buildings nothing notably enticing or superfluous in sculpture, paintings, pavements or other such similar things should be made that would defile our poverty."⁵³

Although the constitutions prior to 1263 did not explicitly ban ornamentation from the Order's buildings, the initial phrase, *mediocres domos et humiles*, which dates to 1220, implies as much. But this statement was unsatisfactory to Humbert, who not only had a passion for order and legal clarity, but also a deep commitment to the Dominican vow of apostolic poverty.⁵⁴ Thus he sought to amend the constitutions in such a way as to expunge from them all loopholes and ambiguities that had until then permitted the brethren to observe all too easily the letter but not the spirit of the law.⁵⁵

51. *Acta generalium*, 111. For the full Latin text of this act of the general chapter, see Appendix B, A.D. 1261.

52. *Acta provincialium*, 84. For the full Latin text of this act of the provincial chapter, see Appendix B, A.D. 1261. Neither here at Limoges nor at Barcelona and Cologne is it possible to determine if corrective action was indeed taken because none of these convents is extant.

53. *Acta generalium*, 117. For the Latin text see Appendix A, IV:6-8.

54. For an analysis of Humbert's personality and attitude toward the arts, see Brett, *Humbert*, especially chapters 1 and 6; for a slightly different assessment of the purposes behind his art legislation, consult Meersseman, "L'architecture dominicaine," 168-169, and Mortier, *Histoire des maîtres*, I, 570-575. Humbert's own writings clearly reveal his passion for order and apostolic poverty. In describing the duties of the *praefectus operum*, he wrote that the friar charged with this responsibility "ought to pay careful attention that nothing be done which could be considered superfluous or luxurious and that the buildings be durable and modest and in consonance with poverty and religion." See *Instructiones de officiis ordinis*, ed. J. J. Berthier, in *Opera de vita regulari*, 2 vols., Rome, 1888-1889, II, cap. 35, 332.

55. The practice of allowing the erection of carved sepulchral monuments in Dominican churches—a practice not unique to this Order—

47. Cf. Appendix B, A.D. 1242, and Appendix C, A.D. 1240, 1243.

48. His life and achievements as head of the Order have been recently analyzed by E. T. Brett, *Humbert of Romans: His Life and Views of Thirteenth-Century Society*, Pontifical Institute of Mediaeval Studies: Studies and Texts, 67, Toronto, 1984.

49. *Acta generalium*, 93. See Appendix B, A.D. 1258, for the Latin text.

50. It should be noted that already in the 1240s and 1250s the general and provincial chapters had passed decrees trying to halt violations of the spirit if not the actual words of the Dominican constitutions; see Appendices B and C, *sub annis*.

It is tempting to think, given the spirit of emulation and competition which existed among the mendicant orders in the Middle Ages, that the action taken by the Friars Preachers in 1263 was in some way prompted by the Franciscans' promulgation three years earlier of a new edition of their general constitutions, this Order's earliest surviving set of constitutional legislation.⁵⁶ Like the Dominican constitutions of 1263, the Franciscan ones do essentially two things: first, they set forth guidelines for the construction of conventual churches; and secondly, they prohibit nearly all forms of architectural decoration, including figurative stained glass windows, except in the main apse, where the axial window was allowed to have representations of the Crucifixion and certain saints. Although Mortet and Deschamps, as well as others, present the Franciscan constitutions on art and architecture as issuing directly from the general chapter held at Narbonne in 1260,⁵⁷ most provisions have their origins at various earlier dates, some perhaps as early as 1239, although this claim is hard to substantiate.⁵⁸ Whatever their date, perusal of the general and provincial chapter acts issued by the Dominican Order reveals that, starting as early as 1240, the Preachers had, like the Cistercians before them,⁵⁹ regularly sent out calls urging the brethren to reject decoration. Particularly noteworthy is the fact that most of these appeals were issued at the provincial level; thus, when the general chapter adopted new constitutional restrictions in 1263, it was merely approving measures that had long been matters of local policy.⁶⁰

resulted in a degree of ornamentation that was contrary to the constitutional call for simple and modest buildings. Thus the Preachers at both the provincial and general chapter levels sought to halt the spread of decoration by issuing, beginning in 1245, strict guidelines regarding the form and location of tombs within the Order's churches. See Appendix C: A.D. 1245, 1246, 1250, 1251.

56. For the Franciscan constitutions of 1260, see fn. 4.

57. Mortet and Deschamps, *Recueil*, 285–286. Also, e.g., F. Deuchler, *Gothic Art*, trans. V. Menkes, New York, 1973, 11.

58. On the 1239 date for some of the Narbonne constitutions (fn. 4), see Gratien, *Histoire de la fondation*, 165. R. B. Brooke, *Early Franciscan Government: Elias to Bonaventure*, Cambridge, 1959, 297, proposes the following and more likely set of dates: the constitution "item fenestre . . . amoveantur" is later than 1242 but before 1257; this and the other constitutions could have all been legislated between 1247 and 1257. For her justification of this chronology, see 261, nn. 4 and 5.

59. The disciplinary decrees issued by the Cistercian Order in 1182, 1196, 1203, 1205, 1217, 1235, 1240, and 1242 are cited and briefly discussed by Aubert, *Architecture cistercienne*, I, 142–148 and accompanying notes; for the decrees of 1192, 1218, and 1235, see *Statuta*, I, 150–152, 486; II, 146. See also fn. 3 for a description of some of these ordinances. Although most of the early capitular legislation of the Franciscan Order is not extant, other 13th-century sources (principally, Thomas Eccleston's *De adventu fratrum minorum in Angliam*) indicate that the Franciscans also found it necessary to promulgate disciplinary decrees. Among the earliest known are the ones issued between 1236 and 1239 in the English province by its provincial prior, Albert of Pisa. They concern the stone cloister at Southampton and a large chapel at Reading. See Brooke, *Franciscan Government*, 188–189.

60. See Appendices B and C.

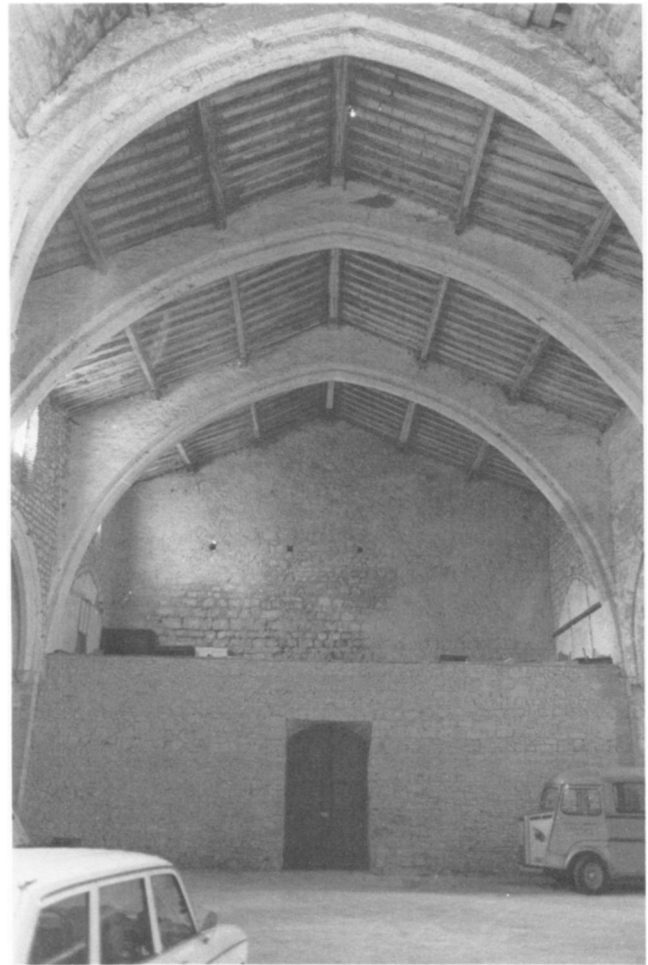


Fig. 2. Dominican Church, Fanjeaux, late 14th–early 16th centuries. Nave (author).

The Constitutional Deletion of 1300

The considerable legislation passed by the Order during the 13th century to control excesses in architecture and decoration should not obscure the fact that many Dominican churches from this and even later centuries were constructed in close conformity to the constitutions. The late Gothic church of the Dominicans at Fanjeaux (Fig. 2), near Carcassonne, bears this out in the stark simplicity of its plan and elevation and, more significantly, in the employment of timber roofing rather than vaulting over the aisleless nave. There can be no doubt, however, that after the middle of the 13th century an increasing number of Dominican churches were built with vaulting throughout, and not just over the choir and sacristy as the constitutions only allowed. Early examples include such widely scattered Dominican churches as Santa Catalina in Barcelona, substantially complete by 1276;⁶¹ the Jacobin of Toulouse, its east-end built be-

61. J. Ainaud, J. Gudiol, and F.-P. Verrié, *La ciudad de Barcelona*, *Catálogo monumental de España*, 2 vols., Madrid, 1947, I, 95.

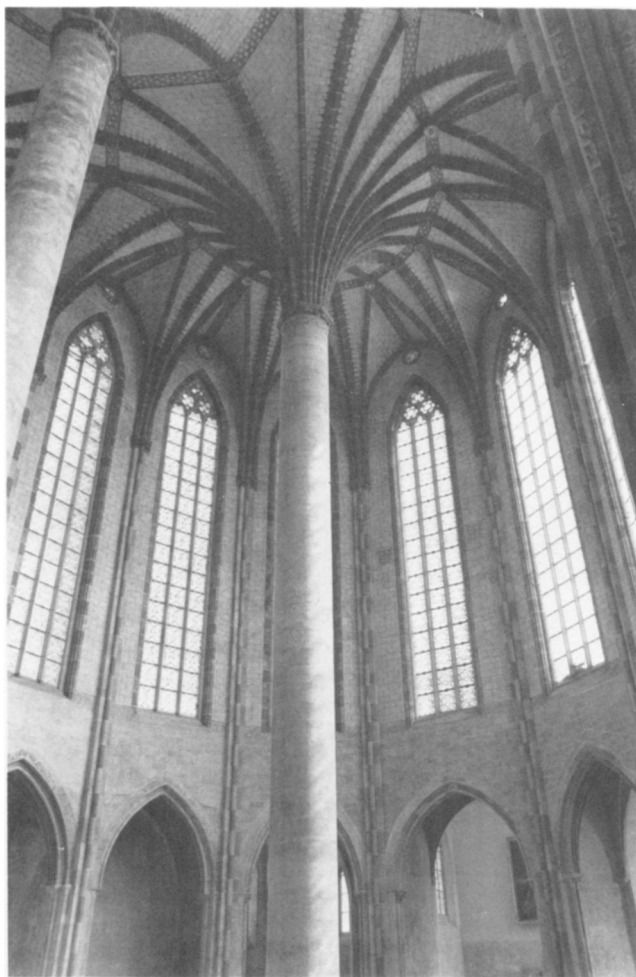


Fig. 3. Dominican Church, Toulouse, late 13th century. Vaults of the chevet (author).



Fig. 4. Dominican Church, Toulouse, late 13th century. Wall painting of a radiating chapel in the chevet (author).

tween c. 1275 and 1292 (see Fig. 1: Campaign IIIC);⁶² and Santa Maria Novella in Florence, whose present form dates to a building campaign initiated in 1279.⁶³ With respect to height, these and other Dominican churches were also in clear violation of contemporary statutes. Some, like the Jacobin at Toulouse, exceeded the statutory limit of 30 *pedes* or about 10 m by a considerable margin: the vaults of its two vessels soar to a height of 28 m above pavement level (Fig. 3).

62. Prin, "L'église des Jacobins," 188–189, 197–204. Contrary to popular belief, the high altar and choir stalls were not located in the vaulted east end. Rather they were housed in the north vessel of both the original church and its 14th-century replacement (the five western double bays of the present structure).

63. K. G. Arthur, "The Strozzi Chapel: Notes on the Building History of Sta. Maria Novella," *Art Bulletin*, 65 (1983), 367–386, especially 368–376. On page 372, Arthur, confusing meters and *pedes*, wrongly gives a height of 30 m as the constitutional maximum for Dominican churches. Also compare her dating of the constitutions with the dates given in Appendix A, I–IV.

Faced with the reality and increasing frequency of such violations,⁶⁴ as well as the inability of the general and provincial chapters to correct abuses by ordinary legislative means, the Preachers agreed at the general chapter of 1300 to delete from the constitutions the old restrictions on height and vaulting, while still retaining the proscriptions on decoration approved in 1263.⁶⁵ This action was not as contradictory as it may at first seem because it could be argued that vaulting had at least the advantage of being fireproof and requiring less maintenance in the long run than a wooden roof. Even so staunch an advocate of architectural poverty as St. Bonaventure, the Franciscan minister-general under whose supervision the Narbonne constitutions were edited, counseled his brethren for similar reasons to

64. On this phenomenon and possible reasons for it, see Meersseman, "L'architecture dominicaine," 158–190 *passim*.

65. *Acta generalium*, 294–295. See Appendix A, V:1–6.

employ masonry rather than timber in their constructions.⁶⁶ Paintings, sculpture, and decorative pavements, on the other hand, offered no practical advantages, so the Dominicans in 1300 simply upheld the prohibitions against ornamentation. Nevertheless, like the regulations on height and vaulting, these injunctions were also being disobeyed prior to the 14th century.⁶⁷ The Jacobin Church of Toulouse is one of several Dominican monuments bearing witness to this fact; still to be seen on the walls of some of its radiating chapels are the ghostly remains of late 13th-century painting (Fig. 4). By upholding the ban on decoration in 1300, the Order affirmed the value of this constitutional proscription. But theory and practice seldom coincide. The record shows that in actual fact the general chapter made no attempt to enforce this prohibition after 1276; and among the various provincial chapters, only the one of Provence is known to have tried doing so after this date, first in 1279 and then for the last time in 1298 (see Appendix C, *sub annis*).

The Nonconstitutional Legislation of the General and Provincial Chapters

These three decrees, as a careful examination of Appendices B and C will show, represent but a small portion of the non-constitutional arts legislation passed by the general and provincial chapters during the 13th century. Their aim was to enforce the constitutions, and this involved three main lines of action: (1) warning the friars against infractions of the constitutions, or whatever else would betray the Order's commitment to apostolic poverty; (2) forcing adherence to the rules by requiring nonconforming structures to be rebuilt or modified in accordance with the constitutions; and (3) disciplining friars responsible for disobeying the rules by meting out punishment commensurate with the offense. The first-mentioned category of acts—the admonitions—are particularly interesting because of the important role they played in the on-going development of the Dominican constitutions. It should be noted, however, that not all warnings were directed against violations of specific and well-defined regulations. Even before the Order had adopted its prohibitions on decoration, the general and, more especially, the provincial chapters had on numerous occasions admonished the brethren to eschew architectural ornamentation and whatever else might betray the Dominican commitment to poverty and mendicancy. These admonitions eventually led to the adop-

tion in 1263 of the constitution banning nearly all forms of decoration from the Order's buildings.

In addition to being at the forefront of the battle to ensure compliance with the constitutions, the provincial chapters also legislated in areas the general chapter never touched. Mention has already been made of local legislation requiring individual convents to appoint a building committee and follow its recommendations. Although not directly related to the issues here under discussion, it seems nevertheless appropriate to call the reader's attention to the ordinances issued by the provincial chapter of Provence in 1248 and 1255; these deal with the ownership of building tools and their transfer from one convent to another (see Appendix D).

Contrary to what has been asserted thus far, not all Dominican legislation on the arts was negative in character (see Appendix E). Beginning as early as 1247 the general and provincial chapters periodically called upon the brethren to furnish their churches with painted images of the Order's two great saints, Dominic and Peter Martyr. The intent of this legislation was not only to honor them, but also to promote and diffuse their cult beyond the confines of the Order. The Preachers later found other ways of furthering these aims; their principal methods included the erection of elaborately carved sepulchers for each of the two saints and the issuing of a proclamation urging the friars, as well as others, to dedicate their churches to St. Dominic (Appendix E, A.D. 1250 and 1297).⁶⁸

That infractions of the constitutions were common among the Dominicans during the late 13th century there can be little doubt. Clearly, their attitude toward art and its role in the life and mission of the Order had changed dramatically since the days of St. Dominic. This more positive view of the arts on the part of the Preachers is reflected not only in the adoption of the legislation on shrines and images just cited, but also, and even more strongly, in the fact that from the beginning of the 14th century to the end of the Middle Ages, the Order made no further attempt either to enforce or modify the constitutions on architecture and architectural ornamentation which the general chapter had confirmed at Marseilles in 1300.

66. Saint Bonaventure, *Determinationes quaestionum circa regulam Fratrum Minorum*, pars I, quaest. 6, in *Opera omnia*, ed. PP. Collegii a S. Bonaventura, 10 vols., Quaracchi, 1882–1902, VIII, 341.

67. Specific violations are mentioned in the following acts: Appendix B, A.D. 1261, and Appendix C, A.D. 1240, 1246, 1251.

68. In the late 14th century an elaborate sepulchral shrine was erected for another of the Order's saints, Thomas Aquinas. For a description of and pertinent local documents relating to his shrine in the Dominican Church at Toulouse, see C. Higounet, "La chronologie de la construction de l'église des Jacobins de Toulouse," *Bulletin monumental*, 107 (1949), 97, nn. 1, 2; 98, nn. 1, 2. For the general chapter act of A.D. 1370 dealing with financing of this funerary monument, see *Acta capitulorum generalium ordinis Praedicatorum*, ed. B. M. Reichert, MOPH 4, Rome, 1899, 421–422 (all other references to the *Acta generalium* correspond to MOPH 3, Rome, 1898; see fn. 37).

APPENDIX A

Dominican Constitutions on Art and Architecture in the Middle Ages: A Chronology

Note: Variations in punctuation and orthography in this and the other appendices correspond to differences among the various sources.

I. From 1220 to c. 1228

Mediocrates domos et humiles habeant fratres nostri, ita quod 1
nec ipsi expensis graventur, nec alii seculares vel 2
religiosi in nostris sumptuosius edificiis scandalizentur. 3

SOURCE: *Les institutions des Prêcheurs*, 292.

Line 1 adopted in 1220 and never suppressed.

Lines 2–3 adopted in 1220; suppressed between 1228–1235, perhaps in 1228 or, more likely, between 1232–1235.

II. From c. 1228 to 1241

Mediocrates domos et humiles habeant fratres nostri, ita quod 1
murus domorum sine solarium non excedat in altitudine 2
mensuram duodecim pedum et cum solarium viginti, 3
ecclesia triginta. Et non fiat lapidibus testudinata 4
nisi forte super chorum et sacristiam. 5
Si quis de cetero contrafecerit, pene gravioris 6
culpe subiacebit. 7
Item, in quolibet conventu tres fratres de discretioribus 8
eligantur, sine quorum consilio edificia non fiant. 9

SOURCE: *Constitutiones antique*, Dist. II, cap. 35, 366–367.

Lines 2–5 adopted between 1228 and 1235, perhaps in 1228 or, more likely, between 1232–1235; suppressed in 1300 (see V below); replaced I:2–3 above.

Lines 6–7 date to the same period as lines 2–5 but were never suppressed.

Lines 8–9 adopted c. 1235 and suppressed in 1241 (see III below).

III. From 1241 to 1263

Mediocrates domus et humiles habeant fratres nostri, ita quod 1
murus domorum sine solarium non excedat in altitudinem 2
mensuram duodecim pedum, cum solarium viginti, 3
ecclesia triginta, et non fiat lapidibus testudinata, 4
nisi forte super chorum et sacristiam. 5

Si quis vero de cetero contrafecerit, pene graviori 6
culpe debite subiaceat. 7

SOURCE: *Constitutiones ordinis*, Dist. II, cap. 1, 48.

Note in these constitutions the suppression of II:8–9; otherwise like II:1–7. Note also the orthographic change in the word domus (line 1) from domos in I:1 and II:1.

IV. From 1263 to 1300

Mediocrates domus et humiles habeant fratres nostri, ita quod 1
murus domorum sine solarium non excedat in altitudinem 2
mensuram duodecim pedum, cum solarium viginti, 3
ecclesia triginta, et non fiat lapidibus testudinata, 4
nisi forte super chorum et sacristiam, 5
nec fiant in domibus nostris curiositates et superfluitates 6
notabiles in sculpturis et picturis et pavimentis 7
et aliis similibus que paupertatem nostram deformant. 8
Si quis vero de cetero contrafecerit, pene graviori 9
culpe debite subiaceat. 10

SOURCE: Lines 1–5 and 9–10 same as for III:1–7 above.

Lines 6–8 from *Acta generalium*, 117 (confirmatio): “ubi dicitur. super chorum et sacristiam. addatur. nec fiant in domibus nostris . . . que paupertatem nostram deformant.”

Lines 1–5 and 9–10 same as III:1–7 above.

Lines 6–8 adopted by the general chapter in 1263.

V. From 1300 to the End of the Middle Ages

Mediocrates domus et humiles habeant fratres nostri, 1
nec fiant in domibus nostris curiositates et superfluitates 2
notabiles in sculpturis et picturis et pavimentis 3
et aliis similibus que paupertatem nostram deformant. 4
Si quis vero de cetero contrafecerit, pene graviori 5
culpe debite subiaceat. 6

SOURCE: Lines 1–6 same as for IV:1, 6–10. Decree suppressing IV:2–5 in *Acta generalium*, 294–295 (confirmatio): “ubi dicitur. mediocrates et humiles domos habeant fratres nostri. deleatur totum quod sequitur usque ibi. nec fiant in domibus nostris curiositates.”

APPENDIX B

Decrees and Admonitions of the General and Provincial Chapters on Architecture

A.D. 1242

Prov. chap. of Spain (Pamplona): Item, volumus et mandamus quod opus ecclesiae Pampilonae inceptum coaptetur corpori antiquae ecclesiae, ita quod neque arcus, neque parietes antiquae ecclesiae destruantur. Et quia sine licentia provincialis novam ecclesiam construere attemptarunt, iniungimus cuiquam [eorum] de quorum consilio factum est et huic consilio praebuerunt assensum, unum diem in pane et vino et L. psal[teria]. (*Acta provincialium*, 608).

A.D. 1252

Prov. chap. of Provence (Montpellier): Item, quod secundum mensuram ordinis, et diligenti peritorum consilio, edificia nostra fiant. (*Acta provincialium*, 48).

A.D. 1258

Gen. chap. (Toulouse): Item. Iniungimus districte prioribus et fratribus. quod non faciant edificia nisi humilia et mediocria. et secundam formam constitutionis. Et volumus quod visitatores anni presentis ubi invenerint aliquos in contrarium excessisse. significant futuro capitulo generali. (*Acta generalium*, 93).

A.D. 1259

Prov. chap. of Rome (Rome): Eadem districtione inhibemus ne priores sine requisitione et assensu maioris partis capituli opera faciant sumptuosas. (*Acta Romanae*, 23; *Acta provincialium*, 512).

A.D. 1261

Gen. chap. (Barcelona): Item. Fratri qui erat prior Barchinonensis. quando dormitorium fuit inceptum. et fratribus qui tunc temporis erant positi ad dandum consilium circa opera. ex quorum imprudencia seu negligencia. seu dissimulatione factum est. quod predictum dormitorium altitudinem ab ordine taxatam. notabiliter excedit. iniungimus .xiii. dies in pane et aqua et totidem disciplinas. et districte iniungimus. quod domus que sunt adhuc faciende ibidem. non fiant alciores [sic] quam in constitutionibus est taxatum.—Item. Priori in conventu Coloniensi iniungimus districte. quod infra festum sancti Michaelis corrigat chorum suum secundum modum qui dictus fuit in capitulo Tolosano. sub pena magna si factum non fuerit in futuro generali capitulo imponenda. (*Acta generalium*, 111).

Prov. chap. of Provence (Béziers): Item, committimus priori Petragoricensi quod quamcito poterit vadat Lemovicis, et excessum chori in pomellis et liliis et archuacionibus superfluis corrigat diligenter; et precipimus fratribus illius loci quod obediant ei in hoc humiliter et devote. (*Acta provincialium*, 84).

A.D. 1268

Prov. chap. of Provence (Périgueux): Item, quod priores vel fratres edificia magnorum sumptuum non inchoent sine magno consilio et deliberatione. (*Acta provincialium*, 133).

APPENDIX C

Decrees and Admonitions of the General and Provincial Chapters on Decoration, Tombs, and Furnishings

A.D. 1240

Gen. chap. (Bologna): Item. Notabiles superfluitates a choris nostris penitus removeantur. et amodo alie in nostro ordine numquam fiant. (*Acta generalium*, 17).

Prov. chap. of Provence (Montpellier): Et IIIor pomella domus istius [Montpellier?] que sunt in papilione removeantur. (*Acta provincialium*, 13).

A.D. 1241

Gen. chap. (Paris): quod non habeamus nisi unam campanam ad omnes horas. et hoc ponatur in fine capituli de officio ecclesie. (*Acta generalium*, 18; this is a constitution).

A.D. 1243

Prov. chap. of Provence (Narbonne): Item, quod fratres reverenter se habeant ad altaria, et quod cruces magne at argenteae, et scuta, et vexilla de nostris ecclesiis removeantur, et quod de cetero non suspendantur in eis. (*Acta provincialium*, 24).

A.D. 1245

Gen. chap. (Cologne): Item. Non fiant in ecclesiis nostris cum sculpturis prominentibus sepulture. et que facte sunt auferantur. (*Acta generalium*, 32).

A.D. 1246

Gen. chap. (Paris): Item. Iniungimus priori Rupellensi. quod tumbam que est in choro fratrum. faciat efferrī. si comode poterit. vel saltem in angulo ecclesie collocari. (*Acta generalium*, 37).

A.D. 1249

Gen. chap. (Trier): Item. Intermedia que sunt in ecclesiis nostris inter seculares et fratres. sic disponantur ubique per priores. quod fratres egredientes et ingredienti de choro non possint videri a secularibus. vel videre eosdem. Poterunt tamen aliquae fenestre ibidem aptari. ut tempore elevacionis corporis dominici possint aperiri.— Item. In alis que sunt in ecclesiis iuxta chorum fratrum a dextris et a sinistris. mulieres ingredi non permittantur. (*Acta generalium*, 47).

Prov. chap. of Provence (Toulouse): Item, inhibemus ne fratres carpentarii celaturas vel tornaturas faciant in suis operibus. (*Acta provincialium*, 35).

A.D. 1250

Gen. chap. (London): Item. Quod in nostris ecclesiis sepulture non fiant. (*Acta generalium*, 53).

A.D. 1251

Gen. chap. (Metz): Absolvimus priorem . . . Rupel[ensem] et iniungimus ei .v. dies in pane et aqua .v. psalmos .v. missas pro excessibus in domo sua commissis. et insufficienter correctis. Et quia contra admoniciones capituli precedentis in ecclesia fratrum sepulturas admisit. et omnibus qui predictis sepulturis assensum expressum [prebuerunt] .i. diem in pane et aqua et .i. disciplinam. (*Acta generalium*, 59).

Prov. chap. of Provence (Le Puy): Item, quod priores caveant fabricas notabiles et sumptuosas et superfluas, et sepulcra inserta parieti ecclesie sicut in Podio; et omnes fratres devitent notabilem habitum. (*Acta provincialium*, 42–43).

A.D. 1252

Gen. chap. (Bologna): Item. Visitatores huius anni advertant diligenter. si quas invenerint curiositates in celaturis. vel incisionibus lapidum. in picturis. vel in choris. sigillis. fibulis. cultellis. baculis. vestibus. vel huiusmodi. et excessus circa hec viriliter corrigant et emendent. (*Acta generalium*, 64).

A.D. 1268

Prov. chap. of Provence (Périgueux): Item, quod curiositates in tabernaculis et orologiis caveantur; et visitatores corrigant diligenter ubi invenerint. (*Acta provincialium*, 132).

A.D. 1276

Gen. chap. (Pisa): Item. Admonemus. quod priores provinciales et vicarii et visitatores. advertant diligenter. si quas invenerint curiositates in picturis. et celaturis lapidum. vel lignorum. in corrigiis. fibulis. cultellis. sigillis. baculis. vestibus. et huiusmodi excessus. diligencius corrigant et emendent. (*Acta generalium*, 187).

A.D. 1279

Prov. chap. of Provence (Castres): Item, cum pavimenta picturata paupertati nostre minime competere videantur, inhibemus ne priores vel conventus hoc faciant; et si prior provincialis, vel eius vicarii, facere contrarium invenerint, dure puniant facientes et consentientes eisdem. (*Acta provincialium*, 233).

A.D. 1298

Prov. chap. of Provence (Cahors): Item, inhibemus quod in conventibus nostris in picturis vel sculpturis seu in quibuscumque aliis similibus nulle curiositates notabiles fiant, et iam facte per visitatores sicut commodius fieri poterit sine scandalo corrigantur; et nichilominus transgressores durius puniantur. (*Acta provincialium*, 425).

APPENDIX D

Decrees of the Provincial Chapters on Work Tools

A.D. 1248

Prov. chap. of Provence (Marseilles): Item, carpentarii et alii artifices feramenta que attulerunt ad ordinem secum ferant quando de conventu ad conventum mutabuntur. (*Acta provincialium*, 33).

A.D. 1255

Prov. chap. of Provence (Cahors): Item, proprietates ferramentorum fratrum carpentiorum sit illarum domorum in quibus illa adquisierunt, exceptis illis que ad ordinem attulerunt; et illa sint domorum illarum in quibus illos contingeret obire. (*Acta provincialium*, 64–65).

APPENDIX E

Decrees of the General and Provincial Chapters on Images, Shrines, and Cults of Dominican Saints

A.D. 1247

Prov. chap. of Rome (Rome): Item quilibet prior studeat habere imaginem B. Dominici in domo sua, et dies festi eius in calendariis secularium faciant annotari. (*Acta Romanae*, 7; *Acta provincialium*, 493).

A.D. 1250

Gen. chap. (London): Item. Admonemus quod tam priores quam alii fratres. solliciti sint constructiones. dedicaciones ecclesiarum. tam apud se quam apud alios. in honorem beati Dominici procurare. (*Acta generalium*, 53).

A.D. 1254

Gen. chap. (Budapest): Item. Priores et alii fratres. curam habeant diligentem. quod nomen beati Dominici et beati Petri martiris. in calendariis et in litiis scribantur. et picture fiant in ecclesiis. et quod fiant festa eorum. (*Acta generalium*, 70).

A.D. 1256

Gen. chap. (Paris): Item. Apponatur diligencia. quod festum beati Dominici et beati Petri. ubique celebretur. et quod ymages eorum in locis congruentibus depingantur. et nomina eorum in calendariis et litiis et martirologiis annotentur. (*Acta generalium*, 81).

A.D. 1265

Gen. chap. (Montpellier): Item. Rogamus priores et fratres universos. quod cum ad honorem beati Dominici patris nostri fiat Bononie struc-

tura solempnis. si de alicuius pecunie dispensacione vel aliunde honeste aliquod subsidium impertiri voluerint. illud priori Bononiensi transmittant. ne propter defectus expensarum. opus remaneat incompletum. (*Acta generalium*, 130).

A.D. 1280

Prov. chap. of Lombardy (Bologna): Item fratres curam habeant diligentem faciendi fieri ymages beati Dominici et beati Petri martiris in ecclesiis et in locis solemnibus civitatum et iniungendi peregrinationes ad eorum corpora visitanda. Et procurent ut eorum nomina calendariis inserantur et in predicacionibus suis interdum aliqua pulchra miracula et exempla proponant; et quando confessiones in populo faciunt, interserant nomen beati Dominici patris nostri. (*Acta Lombardiae*, 157).

A.D. 1297

Gen. chap. (Venice): Cum fratres nostri Mediolanenses pie ac ferventer desiderent. quod corpus gloriosum beati Petri martyris. apud eos humiliter debito repositum. ad eiusdem sancti gloriam et ad devocionem fidelium excitandam. honorabiliter et decencius recondatur. ob quam causam disposuerunt sumptuosum opus ad hoc ydoneum construere quamtocius habuerint facultatem. mandamus et imponimus prioribus et fratribus universis. quod suos familiares et alias personas sibi notas efficaciter moneant et inducant. ut operi sic necessario et merito. manus porrigant adiutrices. (*Acta generalium*, 286).