Abstinence and Reform at the Council of Basel: Johannes Nider's De Abstinencia Esus Carnium

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DE ABSTINENCIA ESUS CARNIUM*

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BONUM est non manducare carnem.¹ With these words of St. Paul, Johannes Nider, a Dominican reformer and theologian, began his brief tract De abstinencia esus carnium. This work, hitherto unpublished and lacking any dedication, explicit internal dating, or even obvious statement of purpose, has thus far escaped scholarly attention. Yet, when examined closely, it yields considerable insight on Nider’s thought and work on Church reform. Nider wrote De abstinencia, as we shall see, while participating in the Council of Basel, before the council’s protracted conflict with the papacy had become escalated into a life or death struggle. In the treatise, he argues that Benedictine monks must return to a strict interpretation of their rule regarding the consumption of meat.² In writing on this single point of reform, however, Nider implicitly addressed some of the most important and sweeping issues of his day: the plentitude of papal authority over the Church and the role of the general council in directing Church reform in both head and members.

The reform of the Church was to have been the primary goal of the Council of Basel, although the council’s work in this area has often been overshadowed, in both contemporary opinion and modern scholarship, by its negotiations with the Hussites and its battles with Eugenius IV. Nider himself, upon leaving Basel, decried the dearth of reforms successfully enacted by the council.³ The issue of monastic abstinence from meat may seem a minor one, but to the reformers at Basel it was a critical question, and an especially divisive issue within the Benedictine Order. By firmly dating Nider’s tract, and placing it in

* I am grateful to Richard Kieckhefer and Robert E. Lerner for their help and suggestions. Additional thanks to Richard Kieckhefer, who generously took the time to go over the entire edition with me. I also thank John Van Engen, who supplied microfilm and encouragement at the outset of this study.

¹ Romans 14:21.
² Chapter 39 of the Rule forbids monks to eat meat, while chapter 36 makes an exception in the case of sickness.
³ Johannes Nider, Formicarius 1.7, ed. G. Colvener (Douai, 1602), 55.

its context at Basel, we will have a clear example of the issues and arguments which surrounded this debate at the council, in addition to a new point of reference for examining Nider's own career as one of the most important Church reformers of the early fifteenth century. Most interestingly, however, De abstinence reveals how arguments dealing with a long-standing reform issue could be developed and extended in a conciliar context. We have long known that the councils of the late Middle Ages were greatly concerned with issues of reform. In this tract we have an example of how one ardent reformer pressed his argument at Basel, tacitly opposing unquestioned papal authority and advocating the preeminent authority of the general Church council as the most effective means to ensure true reform. Thus De abstinence demonstrates one way in which reformist and conciliar elements engaged with and supported each other at the Council of Basel.

All of these issues, especially the last, are most clearly evident in the three central chapters of De abstinence, chapters 5–7, in which Nider draws his arguments from canon law. Central to this section, and ultimately the central point upon which Nider's entire position hangs, is his refutation of Benedict XII's bull Summi magistri, issued in 1336, which explicitly allowed monks to eat meat. Although Nider opposes Benedict's ruling with earlier decretals of Innocent III and Honorius III, as well as biblical and patristic passages, ultimately he must question the absolute plenitude of papal power itself. It is in this confrontation with papal authority that Nider's particularly conciliar attitude toward reform becomes most evident.

This article falls into three sections. The first concerns the dating of De abstinence. The next will provide background on the question of abstinence both within the Benedictine Order and as an issue of reform for the papacy and for the councils of Constance and Basel. The third section will provide a discussion of De abstinence's place within the context of the Council of Basel, and the place of Nider's central arguments within the context of conciliar ecclesiology and reform.

Although Johannes Nider was one of the most influential Dominican reformers of his time, he remains one of the least studied. None of his numerous


5 At present the only full length study of Nider's life and works remains K. Schieler, Magister Johannes Nider aus dem Orden der Prediger-Brüder (Mainz, 1885). I am preparing a general study of Nider's thought and writings, focusing on his time at the Council of Basel, as a Ph.D. dissertation at Northwestern University. For literature on Nider up to 1987, see the
works is available in a modern edition, and many have never been printed at all. As a leader of the Dominican observant movement in Germany, Nider oversaw the reform of several Dominican houses, including the one in Basel just before the beginning of the council. He was also a powerful preacher and author on the subject of reform. His most famous work (or infamous, since it is best known as one of the first learned treatises on witchcraft), the Formicarius, deals with the need for reform and increased pietry in the broadest sense—among all believers.

Nider was born at Isny in Swabia around 1380. In 1402 he entered the Dominican Order at the reformed convent at Colmar, then under the strict guidance of prior Conrad of Prussia. He studied philosophy and theology first at Cologne, until 1414, and later at Vienna, matriculating there in 1422. During the intervening years, Nider attended the Council of Constance and then traveled to various reformed Dominican priories in Italy. In June of 1426, he received his doctoral degree in theology at Vienna. Shortly thereafter he became prior of the Dominicans at Nürnberg, and he was also made vicar of all reformed houses in the Dominican province of Tucutonia. In 1429 he moved


6 Several editions are in preparation, however. I am working on a partial edition of the previously unprinted De secularium religionibus. In addition, two editions (one complete, one partial) of Nider’s most famous work, the Formicarius, are currently being prepared. See note 7 below. Also, Nider’s tract De contractibus mercatorum is available in English translation, although without an accompanying Latin edition; see Johannes Nider, On the Contracts of Merchants, trans. Charles H. Reeves, ed. Ronald B. Shuman (Norman, Oklahoma, 1966).

7 The Douai, 1602 edition of the Formicarius, edited by G. Colvener, is generally held to be the best. More accessible, although much more heavily abbreviated, is the facsimile of the Cologne, 1480 edition: Johannes Nyder, Formicarius, ed. Hans Biedermann (Graz, 1971). A modern edition of the Formicarius is being prepared by Catherine Chêne at the Université de Lausanne. A study of Nider’s discussion of witchcraft in the fifth book of the Formicarius, including an edition, is being prepared by Werner Tschacher at the RWTH Aachen.


9 Paul Uiblein, ed., Die Akten der Theologischen Fakultät der Universität Wien (1396–1508), 2 vols. (Vienna, 1978), 2:450 n. 384, gives the date as 18 June 1426. This date has alternately been given as 18 June 1425; see, e.g., Frank, Hausstudium, 204.
from Nürnberg to Basel, specifically to reform the Dominican convent there before the council began. During the council, the Dominican priory housed some of the initial general sessions, and it served as the meeting place for the council’s deputation on reform until 1435.\footnote{Egger, \textit{Beiträge}, 196, 199.}

Nider not only served as prior of the Dominicans at Basel but he was an active member of the council as well. He served as a member of the deputation on reform,\footnote{Rather than divisions according to nations, which had proved difficult at Constance, Basel divided itself into four deputations: one on reform, one on faith to handle mostly theological matters, one on peace to handle negotiations with the Greek Church, and one on communal matters which dealt with the day to day administration of the council itself. On the deputations at Basel, see Johannes Helmrath, \textit{Das Basler Konzil 1431–1449: Forschungsstand und Probleme} (Cologne, 1987), 24–27.} and played an important role in the negotiations with the Hussites which dominated the early years of the council.\footnote{On the Hussites at Basel, see Helmrath, \textit{Das Basler Konzil}, 353–72; also E. F. Jacob, “The Bohemians at the Council of Basel, 1433,” in R. W. Seton-Watson, ed., \textit{Prague Essays} (Oxford, 1949), 81–123. On the role of the Dominicans in Basel’s negotiations with the Hussites, see Egger, \textit{Beiträge}, 135–66. For a general account of this period of the Hussite revolution, with extensive discussion of the negotiations with Basel, see František M. Bartoš, \textit{The Hussite Revolution 1424–1437}, trans. John M. Klassen (Boulder, Colo., 1986).} Amid all this activity, Nider still managed to be a prolific author. Shortly after the opening of the Council of Basel in 1431, he produced his \textit{Tractatus de reformatione status cenobitici}, a long work in three parts, discussing the collapse of discipline within the religious orders, and then the means for and the benefits of reform.\footnote{Schieler, \textit{Magister Johannes Nider}, 397–401; and Eugen Hillenbrand, “Die Observantenbewegung in der deutschen Ordensprovinz der Dominikaner,” in Kaspar Elm, ed., \textit{Reformbemühungen und Observanzbestrebungen im spätmittelalterlichen Ordenswesen} (Berlin, 1989), 219–71, here 222–24.} He refers to this work briefly in chapter eight of \textit{De abstinencia}, and thus we know that this second reform tract was written sometime after the more general \textit{De reformatione}.

\textit{De abstinencia} can be located and dated even more precisely if we examine some further information given in chapter eight of the tract, where Nider briefly steps out from behind his purely academic, scholastic arguments and draws some evidence from his own experience. Toward the end of the chapter, Nider presents several examples of women who abstain from meat. He first mentions the monastic women among the Greeks about whom he learned, he writes, in “tempore presentis Basiliensi concilii.” Nider then informs his readers that in the West, too, women in observant Dominican nunneries in Germany are not allowed any meat except when they are sick. He goes on to say that there are
many pious lay women around Basel who abstain from meat. Nider's entire tone here seems to indicate that he expects his immediate audience to be familiar with and convinced by the situation in and around Basel. This is in some way the capstone of his argument.

Given that Nider wrote De abstinentia at Basel, we can now date the tract to within a narrow span of time. Nider mentions the abstinence of both men and women among the Greek orders, and relates that he learned of this from a monk in the embassy sent to the Council of Basel by the Greek emperor. We know that the emissaries from Constantinople arrived in Basel in July or August 1434. Roughly a year after this, Nider had left Basel, returning to the University of Vienna and a position on the theological faculty by April 1436 at the latest. He therefore must have written De abstinentia between July 1434 and April 1436, and most likely within the earlier part of this period.

Abstinence from meat had long been an important and contested issue within the Benedictine Order. As early as 1125, St. Bernard had decried the abuse of meat by the monks at Cluny. Efforts to reform the Benedictine Order gained momentum at the beginning of the thirteenth century, with the pontificate of Innocent III. Innocent promulgated a reform program for the black monks, and a strict enforcement of abstinence was an important element of his reform. In his decreetal Cum ad monasterium (X 3.35.6), particularly important to Nider, Innocent called for a return to strict abstinence and attempted to close some of the "loopholes" in the Rule by which Benedictines sought to justify eating meat. The Rule of St. Benedict states explicitly that no monk should be allowed the flesh of any four legged animal, except the sick who need to re-

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14 "Constat insuper toti pene civitati Basiliensi et hominibus eiusdem territorio adiacentibus plures esse devotas feminas ... quarum nulla dum sana est vescendo carnibus utitur" (Basel, Universitätsbibliothek B III 15, fol. 258r).
15 On relations between Basel and the Greeks, see Helmrat, Das Basler Konzil, 372–83.
16 There is no consensus as to exactly when Nider withdrew from the Council of Basel. He appears to have gone to Vienna in 1434, although possibly only temporarily to reform a convent there. He probably went to teach at the university in either the Fall of 1435 or early in 1436; see Schieler, Magister Johannes Nider, 355–58, and Frank, Hausstudium, 214–215. He was appointed dean of the theological faculty at Vienna on 14 April 1436 see Ublein, Die Akten der Theologischen Fakultät 1:115.
cover their strength. By the beginning of the thirteenth century, however, many exceptions to the Rule had long been commonplace. Healthy brothers would join the sick in the infirmary, and meat was allowed at the abbot’s table and to those who dined with guests. Eventually, monks began to claim they were upholding the Rule so long as meat was kept out of the refectory, and often special rooms for eating meat were built in monasteries.

In *Cum ad monasterium*, Innocent declared that no monk should be allowed to eat outside of the refectory except for the sick, who were allowed meat in the infirmary. In addition, Innocent declared that the abbot could invite monks to eat at his table, where meat would have been served to important visitors, but he probably did not intend that the monks should also eat meat. As we shall see below, Innocent’s ruling was sufficiently vague for both sides of the abstinence debate to draw arguments from it. Nider, however, clearly saw Innocent as demanding a strict abstinence, and in this he drew mainly on Hostiensis’ influential interpretation of *Cum ad monasterium*. Innocent and his successors tried to enforce a strict adherence to the Rule through legates and episcopal visitations to monasteries, and by calling for regular Benedictine chapter meetings along the lines of the Cistercians and the new mendicant orders, but apparently to little effect. The majority of black monks were too used to the traditional independence of their houses to accept this attempt at centralization, and too content with their illicit use of meat to submit easily to papal demands for reform.

In the fourteenth century, rather than championing reform, the papacy backed away from its demands for a return to strict abstinence. Benedict XII issued the first official sanction that the practice of healthy monks eating meat had ever received. In 1336 he promulgated the bull *Summi magistri*, which

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22 Hostiensis, *In primum–sex tum Decretalium librum commentaria*, Venice, 1581; rpt., Turin, 1965), vol. 2, fols. 133r–133v. A detailed study of Innocent’s actual reforming intentions and the various interpretations of his rulings would be valuable, but is obviously beyond the scope of this article.


24 McDonald, “Papacy and Monastic Observance,” 122.
set forth his reform program for the Benedictine Order. Although Benedict was a true reformer in many areas, on the issue of abstinence he apparently felt that the abuse was too widespread ever to be eliminated, and he abandoned the prospect of a thoroughgoing reform. Instead he opted for a compromise which permitted healthy monks to eat meat. In chapter 26 of *Summi magistri*, he explicitly allowed regular consumption of meat outside of the refectory on most days of the week. His only restrictions were that at every meal at least half of the members of the community should be present in the refectory, where the monks were still expected to maintain a strict abstinence, and that the whole community should abstain during Advent and Lent.

Just as official condemnation had not solved the problem, however, neither did official sanction quell the debate about eating meat. The value and necessity of abstinence continued to be upheld by many reformers into the fifteenth century. In 1402 or 1403, Pierre d’Ailly briefly touched on the need for complete abstinence in his *Tractatus de materia concilii generalis*. The Benedictine reformer Johannes Rode, writing sometime after 1427, took a slightly more moderate position, although he still did not agree with the liberality of *Summi magistri*. Meanwhile, in the 1420s, a movement for strict observance of the Rule of St. Benedict, and therefore a strict observance of abstinence, began at the monastery of Melk, in Austria, and soon spread to other Benedictine houses. Thus, the question of abstinence remained open throughout the early

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26 “Item in monasteriis esset inviolabiliter observandum quod nullus nisi infirmus vel de-bilis aut hospes comedeter extra refectorium; quia experientia docet quod ubi hoc servaretur, aliae religionis observantiae tenerentur faciliter” (Francis Oakley, *The Political Thought of Pierre d’Ailly: The Voluntarist Tradition* [New Haven, 1964], 335).


fifteenth century and was hotly debated within the Benedictine Order. The issue was also a matter of concern for the councils of Constance and Basel.29

In the early years of the fifteenth century, the great Church councils took up the work of reform, in place of the papacy.30 While these councils, Constance and Basel, concerned themselves mostly with more general reforms of the entire Church, it bears emphasizing that they also considered reform of the orders to be within their province, and certainly the reformers within the various orders considered this to be the case. The Council of Constance, in addition to resolving the schism of the Church, had set out to deal with matters of reform "in head and members."31 While the council itself considered few reforms specific to the Benedictine Order, it did call for a chapter of the Benedictines from the province of Mainz and the diocese of Bamberg to meet under the council's auspices at the nearby Benedictine monastery of Peterhausen.32 The need for abstinence from meat was one of the most difficult questions discussed at the chapter meeting. Ultimately, though, Peterhausen did not enact any new reform on this issue. Rather, the chapter simply reiterated Benedict XII's compromise position, stressing the requirement that half the community always take meals in the refectory, where meat was not allowed.33 Moreover, the council, which had reserved to itself the right to confirm the decisions reached at Peterhausen, never officially approved the chapter's statutes.34

Despite its lack of official success, the Peterhausen chapter did exercise tremendous influence on the Benedictine reform movement, especially within

31 The most recent study of reform at Constance is Phillip H. Stump, The Reforms of the Council of Constance (1414-1418) (Leiden, 1994). The second volume of Walter Brandmüller, Das Konzil von Konstanz, 1414-1418 (forthcoming) will also deal with reform at the council.
33 Zeller, "Provinzialkapitel," 30-31
34 Schmitz, Histoire, 178; Stump, Reforms, 164-67.
Germany. The reform at Melk in the 1420s was directly inspired by the spirit of the Peterhausen chapter. On the question of abstinence, however, the reformers at Melk disregarded Peterhausen’s decision, adopting instead a position of strict and total abstinence, except for the sick. The Melk reform quickly spread to other German monasteries, and a split soon developed, dividing the black monks along national lines: the French and Italians wanted to hold to the moderate position of the Benedictina (i.e., the decrees of Benedict XII), while the Germans, following Melk, sought a strict interpretation of the Rule. This was the situation faced by the Council of Basel when it convened in 1431.

The reform of the Church was to be one of the major functions of the Council of Basel. To some minds, reform was the council’s most important function and responsibility, and should have been pursued with far greater energy, despite the important negotiations with the Hussites and the Greeks, and the almost continuous struggles with the papacy. Notwithstanding these numerous other matters calling for the council’s attention, Basel was, especially in its early years, a reform council and a center of the Benedictine reform. Abstinence from meat was a crucial question for the Benedictines at Basel, the most important of three divisive issues that the order sought to resolve (the other two being differences in breviaries and in habits). There seems to have been a great deal of excitement and expectation that the council represented the best chance for a systematic reform of the order.

Like Constance, Basel preferred to concentrate on more general matters, and it left Benedictine reform mostly to the black monks themselves. The council called for meetings of several Benedictine provincial chapters. The chapters for the two most important German provinces were held in Basel itself during the council, one for Mainz/Bamberg in June of 1435, and one for Cologne/Trier in August of 1436. These chapter meetings invariably came to include Benedictines from other provinces who were in Basel attending the council.

Unlike Constance, Basel seems to have acted on the decisions of these chapters. All told, the council issued three documents bearing on the Benedictine reform: two bulls—Inter curas innumeræs in May of 1436 and Inter curas multiplices in February of 1439—and the Statuta concilii Basiliensis ad fra-

35 Stump, Reformes, 156.
tres ordinis s. Benedicti, dated to either 1434 or 1436/37.\textsuperscript{40} On the question of abstinence, the two bulls at least adopted a position stricter than Summi magistri, going back instead to Innocent III’s complete restriction on eating meat.\textsuperscript{41} This, however, may have amounted to no more than preaching to the converted. After the council’s open break with Eugenius IV in 1436 and 1437, Basel’s authority was no longer as widely recognized, and the documents appear to have circulated only in German lands—France, Italy, England, and Spain were hardly affected.\textsuperscript{42} In the words of Johannes Helmrath, a scholar of the council, “Das Basiliense war, so gesehen, ein Reformkonzil für die deutsche Kirche.”\textsuperscript{43}

The reform efforts of the Council of Basel may ultimately have been limited in effect, but in 1434 or 1435 reformers at Basel would still have had the most ambitious goals—the prospect of enacting reform across all of western Christendom. This was precisely Nider’s goal in writing De abstinencia. While the specific subject of his tract is Benedictine abstinence, his arguments show he was concerned with reform in other orders as well, especially among Dominicans and Franciscans. He also used the issue of abstinence to broach the most important ecclesiastical question of the day: where did supreme authority within the Church lie? As I will argue below, Nider wrote his tract essentially as a “position paper” in the debate over abstinence and reform taking place at the Council of Basel. Thus his central concern was to refute the moderate position, based firmly on the Benedictina, of the French and Italian monks who would have been his most direct opponents at the council. These monks could claim, simply enough, that Benedict XII had officially sanctioned the use of meat, and the matter should be closed to debate. To counter this argument, Nider either had to demonstrate that Benedict’s bull Summi magistri did not, in fact, sanction the use of meat among healthy monks, or he simply had to deny the validity of Benedict’s ruling. This, as we shall see, is exactly what he did. It is in this effort to refute the implications of Summi magistri before the Council of Basel that the conciliar elements of Nider’s reform program become evident.

Nowhere in De abstinencia does Nider refer to the audience for whom he is writing. At Basel, Nider obviously had contact with Benedictine reformers attending the council. We know, for example, that when the Benedictine abbot Alexander of Vézelay arrived in Basel in 1431, even before the council began, he sought out men who were interested in the reform of the Church, “and he

\textsuperscript{40} Ibid., 94–99.
\textsuperscript{41} Schmitz, Histoire, 188; and Helmrath, “Capitula,” 104 n. 106.
\textsuperscript{42} Helmrath, “Capitula,” 107–8.
\textsuperscript{43} Ibid., 108; my emphasis.
spoke especially about this matter with Magister Johannes Nider.\textsuperscript{44} However, given the lack of a dedication, it seems unlikely that Nider wrote \textit{De abstinencia} at the request of some Benedictine reformer. In fact, Nider worries in his tract that some might question why he, as a Dominican, is involving himself, apparently uninvited, in the affairs of another order.\textsuperscript{45} But Nider’s concerns are actually much broader. In writing \textit{De abstinencia}, Nider, a member of the council’s deputation on reform, seized upon current debate among Benedictines over the issue of abstinence to advance his own ideas on abstinence and reform within the Church. He intended his tract not just for black monks seeking a reform within their order, but for a council seeking to reform the entire Church.

As mentioned above, in June of 1435 the Council of Basel convened a Benedictine provincial chapter in the city to discuss the reform of the order. The chapter was originally planned to be held in the Carthusian house in Basel, but ultimately convened in the Dominican priory.\textsuperscript{46} In late 1434 and in 1435, as preparations were being made for this chapter, or as the chapter itself was holding sessions, the council’s deputation on reform was also probably considering the question of abstinence. At both Constance and Basel, tracts were often composed and read aloud in order to influence opinion on debated issues.\textsuperscript{47} \textit{De abstinencia} was probably such a tract. Nider wrote in order to convince the council of the value of abstinence, and to encourage the official enactment of reform calling for abstinence among Benedictines, and perhaps among other orders as well.

In \textit{De abstinencia}, then, we have an example of a reform program, focusing on a long-standing issue, to be sure, but being developed within the particular, conciliar context of Basel, and Nider’s argument reflects a conciliar bent toward reform. Joachim Stieber, in his study of the Council of Basel and its struggle with Eugenius IV, has noted a relation between the conciliar movement and reform, arguing that the reformed monasteries in the Empire supported the Council of Basel not so much out of a particular devotion to the ideas of conciliar authority, but rather out of the conviction that reform could be pursued

\textsuperscript{44} “... et singulariter verbum super agendis habuit cum magistro Johanne Nyder” (Johannes Haller, ed., \textit{Concilium Basiliense} [Basel, 1896–1936], 2:3–4).

\textsuperscript{45} “Sed contra dicta [Nider’s arguments for abstinence] posset quis dicere: Cur tu, qui mendicancium es ordine, te intromittis de alia regula...?” (Basel B III 15, fol. 254r; see p. 251.135–36 below).

\textsuperscript{46} Helmuth, “Capitula,” 90.

most effectively through the institution of a general council. Likewise, Nider saw the council as the best means for ensuring a true renewal within the Church. Although he, along with many others, left Basel when the council entered into outright conflict with the papacy, nevertheless De abstinencia reveals an acceptance of conciliar authority and an attack on papal power in the area of reform, centering around the repudiation of Benedict XII's bull Summi magistri.

The official papal sanction which consumption of meat had received from Benedict XII was certainly the most difficult point which Nider had to overcome in his arguments for abstinence. The chapters in which he addresses the various decrees of canon law bearing upon the question of monastic abstinence, culminating in Summi magistri, are thus the focus of his entire treatise. De abstinencia is divided into fourteen chapters which, Nider tells his readers in his prologue, will attempt to prove the value and necessity of abstinence in seven ways: through examples from Scripture (chaps. 1–2) and the lives of the saints (chaps. 3–4), through the decrees of canon law (chaps. 5–7), through the example of pious men and women (chaps. 8–9), through the writings of pagans and philosophers (chaps. 10–12), and by presenting examples of the punishments that are visited on monks who eat meat (chaps. 13) and of the hardships and inconveniences that eating meat involves (chaps. 14). For demonstrating the value of abstinence, the varied arguments and examples in chapters 1–4 and 8–14 serve well, but for determining the necessity of abstinence for monks, only the arguments involving canon law are really pertinent. All the surrounding material becomes relevant only if papal authority to approve the use of meat arbitrarily, the authority of Benedict XII, is denied.

Nider begins establishing his position against Benedict in chapter 5. Here he lays out the evidence for abstinence, presenting those canons which state that monks ought to avoid meat, especially Innocent III's Cum ad monasterium, as well as the interpretations of these canons given in the influential commentaries of Hostiensis and Johannes Andreae. These restrictions, Nider argues, apply to all monks, "since one order is not specified over another." He reinforces this point by stating that the term "monk" includes all those who profess either the Rule of St. Benedict or of St. Augustine, both monks and canons regular. By bringing in the Rule of St. Augustine, Nider was doubtless hoping to emphasize the importance of abstinence for the mendicant orders, as well as for

49 "... quia non specificatur ordo unus pre alio" (Basel B III 15, fol. 253r; see p. 247.12–13 below).
Benedictines. Perhaps in an effort to persuade Franciscans of the validity of his arguments, Nider pointedly counters the greatest authority of his own order, Thomas Aquinas, with a Franciscan author, Alexander of Hales. Although Aquinas states that monks at least do not commit a mortal sin by eating meat, “nevertheless,” Nider immediately follows, “Alexander of Hales says that [those] monks sinned very gravely who first introduced the abuse of eating meat. And even today those who knowingly continue this abuse out of desire and lust for pleasure sin very gravely.”

Throughout chapter 5, Nider’s main purpose, aside from simply presenting canonical support for abstinence, is to argue against the power of an abbot or higher authority to grant dispensations from the Rule. Obviously, Nider has to deny this point. If an abbot can legitimately dispense with the restriction on meat, then surely a pope can, and his argument will fall apart when he confronts Summi magistri. Nider’s strategy becomes clear when he cites Henry of Ghent in support of total abstinence for Benedictines, even though this requires a severe distortion of Henry’s true position. In the first part of his Quodlibet 1,

50 The Rule of St. Augustine formed the basis of Dominican observance. The Rule does not mention meat specifically but does speak of abstinence generally. A convenient translation is found in Augustine of Hippo: Selected Writings, trans. Mary T. Clark (New York, 1984), 486. The early Dominican constitutions do explicitly require abstinence from meat among healthy friars. An exception is made for friars outside of a convent, who are allowed to eat meat “lest they be a burden to their hosts” (Francis C. Lehner, ed., Saint Dominic: Biographical Documents [Washington, D.C., 1964], 217).

51 Thomas Aquinas, Quodlibet 1, q. 9, art. 4. Thomas argues that the restriction on meat in the Rule is not there “as a precept but as a sort of statute, hence a monk eating meat does not from this very act sin mortally, except in the case of disobedience or contempt” (Thomas Aquinas, Quodlibetal Questions 1 and 2, trans. Sandra Edwards, Medieval Sources in Translation 27 (Toronto, 1983), 66–68.

52 “Tamen Alexander de Hallis dicit quod gravissime peccaverunt monachi qui absum edendi carnes primo introduserunt. Et eciam valde graver hodie peccat qui illum absum ex concupiscencia et libidine continuant scienter” (Basel B III 15, fol. 253v; see p. 249.84–86 below). Nider offers no citation or indication of which of Alexander’s works he is quoting. Alexander deals generally with gluttony and drunkenness in his Summa, but Nider does not appear to be drawing on that work; see Alexander de Hales, Summa theologica (Quarachi, 1924–48), 3:573–92. Nider makes common cause with Franciscan authorities elsewhere in his tract, notably with Bonaventure in chapter 12.

53 Nider would argue against the power of dispensation more generally in his De vigore consuetudinis et dispensatione canonica. Many reformers shared his aim. The secular cleric Job Vener, for example, was concerned with denying abbots and popes the power of dispensation in the area of monastic possessions in his compendium dealing with the “depravity of monastic property,” composed at the Council of Constance; see Hermann Heimpel, Die Vener von Gmünd und Strassburg 1162–1447: Studien und Texte zur Geschichte einer Familie sowie des gelehrten Beamtenums in der Zeit der abendländischen Kirchengeschichte und der Konzilien von Pisa, Konstanz und Basel, 3 vols. (Göttingen, 1982), 2:934–46. Nider knew Vener, and corresponded with him on at least one occasion from Basel; see ibid. 1:422–55.
q. 38, Henry does say that the Rule of the black monks forbids them to eat meat. Nider happily quotes this portion of the question. However, in the remainder of the question, which Nider does not include in his quote, Henry recognizes two distinct categories: what is permitted by the Rule itself, and what is later made permissible by the dispensation of an abbot or a higher authority, ultimately the pope.54 For Henry, eating meat is permissible through legitimate dispensation. Nider omits the entire second part of the question, thereby suppressing Henry’s true position on the matter of abstinence, since it would destroy any chance he has of arguing against Benedict XII.

Nider continues his tendentious use of sources with the very next authority he cites in support of his position—Benedict XII himself. Here Nider quotes from Summi magistri, but only from those sections regarding abstinence during the fasts of Advent and Lent. Within this context, Benedict actually does demand strict abstinence except for the sick, and he repeats some of Innocent III’s restrictions on an abbot’s power of dispensation.55 Thus Nider is able to argue from this one selected passage that Benedict did not wish his ruling to supersede either Cum ad monasterium or the Rule of Benedict itself, and that the pope therefore “neither dispenses, as some try to say, nor interprets [these earlier documents].”56 Of course, the full text of Summi magistri, which Nider will confront only in chapter 7, refutes this facile argument, and his selective quotation here is quite revealing. Moreover, it raises the likelihood that De abstinentia was intended to be read aloud before members of the council in a setting where rhetorical force would have been an important factor, and the audience would not have been in a position to know what was being omitted.

In the sixth chapter of De abstinentia, Nider continues to build his argument against legitimate dispensation. In this chapter, he responds to the arguments of certain monks who are inclined to eat meat. One of these arguments is that Bernard of Parma’s gloss to Cum ad monasterium explicitly allows abbots the power of dispensation. In response, Nider simply writes that this “does not have to be upheld, but was his opinion.” “Nor,” he continues, “does that text agree with the gloss.”57 Rather, he argues, Cum ad monasterium deals only with the right of an abbot to vary the amount and quality of the food monks received, not the kind of food allowed.58 Nider cites no specific authorities to

55 See Cocquelines, Magnum bullarium 3.2:236.
56 “Ergo hic Benedictus nec dispensat, ut quidam dicere conantur, nec interpretatur” (Basel B III 15, fol. 254r; see p. 250.110–11 below).
57 “... non est tenenda, sed huc fuit sua oppinio. Nec ille glosa consonat textus” (Basel B III 15, fol. 255v; see p. 254.269–70 below).
58 For the passage from Cum ad monasterium, see n. 21 above.
support his position, but at the end of chapter 6 he advises his readers to look to Hostiensis and Johannes Andreae.

Having addressed in chapter 6 the objections of religious clergy to monastic abstinence, Nider then turns in the seventh chapter to the objections of a single, unknown member of the secular clergy. Here in the last chapter in which he deals with canon law, he finally addresses the key ruling of Benedict XII. The first two objections in chapter 7, however, focus on Innocent III’s canon *Cum ad monasterium*. This canon states that no meat should be eaten in the refectory, nor should meat be allowed outside the refectory except in the infirmary.59 The first objection argues that this phrase “except in the infirmary” (“ nisi in infirmitorio”) applies to both sick and healthy monks, since it modifies the earlier precept about not eating in the refectory, which obviously applies to healthy monks. Moreover, the objection contends, if “ nisi in infirmitorio” applies only to the sick, then certain specific references to “debes et infirmi” which follow in the canon are superfluous, thereby violating the maxim that “law abhors superfluous.”60 The second objection argues that when Innocent condemns the practice of abbots allowing monks to eat meat outside the refectory on certain feast days, he is implicitly approving this practice at other times.

Innocent, of course, intended that Benedictines should adhere to a strict abstinence; or at least Nider, following the interpretation of Hostiensis, felt that he did. Thus Nider deals rather easily with these sophistic objections. He first refers back to all the previous citations of canon law he has given in support of monastic abstinence and then cites Hostiensis’ interpretation of *Cum ad monasterium*, which maintains that the canon does not allow for healthy monks to eat meat.61 The second argument fails since the Rule of St. Benedict makes no distinction between abstinence on feasts days and on regular days—meat is prohibited regardless. These first objections provide no great difficulty for Nider, but through them he establishes a position from which to address the next objections, dealing with Benedict XII’s ruling on monastic abstinence. Although Benedict actually took a position against strict abstinence, at the beginning of chapter 26 of *Summi magistri* he announced that he was merely trying to ensure the observance of the Rule of St. Benedict and the constitutions of his predecessor Innocent III.62 Thus, by arguing that Innocent advocated a strict abstinence, Nider is actually beginning his attack on Benedict XII.

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59 “In refectorio vero nullus omnino carne vescatur . . . nec extra refectorium, nisi in infirmitorio, esum carnium credant sibi licere” (X 3.35.6, ed. Friedburg, *Corpus iuris canonici* 2:599).
60 “. . . superfluitatem iura abhorrent” (Basel B III 15, fol. 255v; see p. 255.291 below).
61 Hostiensis, *Commentaria*, vol. 2, fol. 133r.
Although Nider bases his arguments partially on the decree of Innocent III, his responses to the next two objections make explicit his challenge to arbitrary papal authority. In fact, at the very outset of his responses to the arguments of his opponent, Nider denies the basis of those arguments: that popes, either Innocent or Benedict, had “interpreted” the rule. “This,” Nider says simply, “is denied.”63 As we have seen above in his discussion of dispensation, for Nider the rule stood above any possible later interpretation or modification.

In the third objection in chapter 7, Nider’s unnamed opponent argues that in Summi magistri Benedict XII interprets Innocent’s phrase “nisi in infirmatorio” to allow healthy monks to eat in the infirmary. Of course, Nider has already shown this to be an incorrect interpretation of Cum ad monasterium, as he reminds his readers. The objection goes on to point out, however, that Summi magistri must be referring to healthy monks, even if Cum ad monasterium is not. In Summi magistri, Benedict allows meat outside of the refectory but insists that one half of the community must eat in the refectory, and that all must abstain during Advent and Lent. Clearly, these conditions refer to healthy monks. In an attempt to circumvent this dilemma, Nider proposes a distinction between the seriously ill, who would have no restrictions on their diets, and the moderately ill, who might still be expected to observe the stipulations set forth above. This distinction between the severely and less seriously ill had been set forth in the early constitutions of the Dominican Order,64 but it is not present in the Rule of St. Benedict, nor does it figure in any of the above cited legislation regarding Benedictine abstinence. If this distinction is not accepted, Nider argues, then Benedict’s statute cannot be allowed to stand. In permitting healthy monks to eat meat, the pope has erred, and the authority of his ruling, when understood in this sense, “must simply be denied.”65

The fourth objection in chapter 7 argues that Summi magistri allows monks to eat meat at the abbot’s table. This may indeed have been Benedict’s intent, although he actually only repeats Innocent III’s rather ambiguous phrase, stating that an abbot can invite monks to dine in his chamber “ad melius et plenius exhibendum.”66 Having already established his position against Benedict’s authority, however, Nider sees no need even to consider the pope’s intent. Rather, he simply repeats his argument, already made above, that the “melius et plenius” phrase in Cum ad monasterium should not be understood to allow monks to eat meat at the abbot’s table. What Benedict might have to say on

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63 “Supponit enim dictus secularis quod duo prefati summi pontifices regulam interpretati sint, et hoc negatur” (Basel B III 15, fol. 256r; see p. 257.349–50 below).

64 Lehner, Saint Dominic, 218–19.

65 “Ideo in hoc sensu est simpliciter neganda” (Basel B III 15, fol. 257r; see p. 259.442 below).

66 Summi magistri 26; see Cocquelines, Magnum bullarium 3.2:236.
this matter is unimportant, and Nider disdains to even mention *Summi magistri* in his response. If Benedict’s ruling is to be understood as allowing monks to eat meat at the abbot’s table, then this is another instance where the pope is wrong, and his authority must simply be denied. Nider refrains from explicitly stating this again, but the point is obvious.

The final three brief objections in chapter 7 do not deal with either Innocent’s or Benedict’s papal decrees. Instead they argue that eating meat should be permitted not only on account of papal rulings but on account of a “long custom which has the force of law,” because many monasteries contain doctors of theology and law who do not object to the practice of eating meat, and because if monks do not eat meat during the year they will be unable to give it up for Lent. Nider easily dismisses each of these objections. Corruption should not be sanctioned simply because it has existed long enough to become a custom; being a scholar does not automatically preclude one from being a “lover of this world”; and one can answer the question of how to handle Lent merely by looking to the example of those monasteries which are already reformed. Having made his main point above, Nider moves quickly through these final items to the end of the chapter.

In Nider’s work for a reform within the Benedictine order and a return to strict abstinence, *Summi magistri* would have been his most difficult obstacle. His opponents at Basel could simply maintain that a papal ruling allowed the use of meat, and the matter should be closed. In denying the validity of *Summi magistri*, Nider’s argument for abstinence becomes an argument against arbitrary papal power. As a reformer (in the strict sense of the Latin *re-formare*), he held early statutes of the Church such as the Rule of Benedict to be of preeminent authority, immune to later interpretation and modification. Popes could not simply reinterpret earlier rulings in the light of the contemporary situation. This could only further the *de-formatio* of the Church. Papal decrees, therefore, were not inherently legitimate, but needed to be judged against earlier canons as well as the precepts of Scripture and the writings of the Church Fathers. In this sense, not only the preceding legal material but also the more general arguments in *De abstinencia*’s first four chapters serve to support the rejection of *Summi magistri*.

Nider’s rejection of *Summi magistri* forms the heart of his argument for reform, lying (both figuratively and literally) at the center of his tract. Presented

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67 "... non tantum ratione auctoritatis apostolice sedis, cui omnes obedire tenentur, sed etiam propter longam consuetudinem que habet vim legis" (Basel B III 15, fol. 256r; see p. 256.328–30 below).

68 This attitude toward the immutability of monastic rules is evidenced also in Nider’s larger reform treatise, *De reformatio status cenobitici*, e.g., 1.2, 1.4, and 1.11.
in the context of the Council of Basel, and even more so at Basel in late 1434 or 1435, when the first signs of the Council’s second major confrontation with Eugenius IV were already beginning to show.\textsuperscript{69} the anti-papal and therefore \textit{de facto} pro-conciliar bent of \textit{De abstinencia esus carnium} must have been clear. The lines which formed in the struggle over abstinence seem nearly black and white: the conventuals upholding a papal ruling on the one hand, and reformers appealing to the general council on the other. This is not to say that the lines were, in fact, so black and white. Ultimately, reform and conciliarism, while often linked, were two separate issues,\textsuperscript{70} and \textit{De abstinencia} is a work of reform, not a treatise on ecclesiology. Nevertheless issues of ecclesiology and authority within the Church do lie at the heart of Nider’s ideas of reform, and \textit{De abstinencia} demonstrates the engagement of reform with conciliarism at the Council of Basel.

In the final chapter of \textit{De abstinencia}, Nider would write that, for monks, eating meat was the “first vestige of deviation” upon which others were sure to follow, and this probably represents his greatest personal concern with abstinence. Devoted to the idea of reform within his own order, the Church, and Christian society as a whole, Nider was deeply troubled by the general sense of moral decline which he felt was spreading all around him. It was this general loss of piety and faith, Nider was convinced, that allowed for the rise of such terrible and troubling phenomena as witchcraft in the early fifteenth century.\textsuperscript{71} A reform was needed within society, and this reform would have to be led by a reform within the Church. Nider and many other reformers saw in the institution of the general council an important means for effecting this renewal.

This single, narrow issue—the value of abstinence from meat—offers us a window into the workings of reform at the Council of Basel. For many of its members, reform was to have been the council’s primary function. In \textit{De abstinencia} we can see one aspect of how the reformist and the conciliarist elements of the great council sustained each other. Written sometime between 1434 and 1436, \textit{De abstinencia} exemplifies this interaction before Basel’s struggle


\textsuperscript{70} Helmrath, “Theorie,” 66–67.

\textsuperscript{71} Nider wrote famously on this subject in the fifth book of his \textit{Formicarius}; see n. 7 above.
against papal authority moved into open warfare, and all thought of reform vanished amidst the more basic necessities of political survival. For Nider and many other reformers, no doubt, this lost opportunity came as a bitter disappointment.

APPENDIX

Given the length of De abstinencia (it runs to some thirty-two double columned pages in the Basel manuscript), and given that the most important points of Nider's argument appear in chapters 5–7, a full edition seems inappropriate. Thus I offer an outline of De abstinencia's fourteen chapters, and edit only chapters 5–7. The edition is based on Basel, Universitätsbibliothek B III 15, fols. 249r–264v, a fifteenth-century manuscript produced in Nider's home convent at Basel. There are eleven other known copies. I have compared the Basel manuscript to two of these (Mainz, Stadtbibliothek I 6, fols. 222v–235r; and Nürnberg, Stadtbibliothek Cent. V 89, f. 3–49v), and have found no substantive differences. While I have not noted all variations, in the few cases where an alternate reading seems superior to that of Basel, I have supplied a correction in brackets, followed by either M or N to indicate the source. I have modernized punctuation and capitalization and have provided "v" for the consonantal "u."

Summary of Chapters

Chapter 1. "De commendacione abstinentiæ ab esu carnium per scripturas sacras et glosas ordinarias sub statu quadruplici: scilicet innocencia, legis nature, Mosaicæ, et Evangelice."

Nider draws his evidence from the Bible and its glosses. From Genesis, he argues that no meat was eaten in Eden. He then notes the contrast between Esau, who represents carnality, and Jacob, who eschewed meat. From Numbers 11 he recounts how the Lord struck down the Israelites who demanded meat from Moses in the desert, and he cites many examples of the abstinence of Christ in the Gospels.


73 Kaeppeli lists Nürnberg Cent. V 88, fol. 226r–v before Cent. V 89. In fact, these pages are crossed out and the tract begins anew in Cent. V 89. It should also be noted that De abstinencia is on fols. 168v–202v of Besançon, Bibliothèque Municipale 388 (Kaeppeli lists only fol. 168v); see Catalogue général des manuscrits des bibliothèques publiques (Paris, 1885–1889), 32:228.

74 In addition to the Glossa ordinaria, Nider also cites Nicholas of Lyra's Postilla super totam bibljam, Peter Comestor's Historia scholastica, and Jerome's Adversus Jovinianum.
Chapter 2. “De via arguendi quadruplici contra abstinentiam esus carnium, et de solucionibus earundem.”

Nider addresses objections to abstinence drawn from Scripture. For example, some argue that simply because Christ is never described as eating meat, it does not follow that he necessarily never did so. Nider counters that Christ is never described as laughing yet he is often shown weeping, and because of this it is generally accepted that he never laughed.\footnote{75} “Why therefore,” Nider writes, “cannot the same argument be inferred by similar reasoning from Christ’s actions concerning abstinence from eating meat?”\footnote{76} Throughout his responses, he relies on the *glossa ordinaria* and other commentaries on the Bible.\footnote{77}

Chapter 3. “De doctrinis sanctorum per ecclesiam approbatorum suadentibus monachis fore abstinendum ab esu carnium triplici, fine 5 de causis ac multorum sanctorum exemplis.”

Nider turns to the writings of the Church fathers, citing from Eusebius, Augustine, Jerome, and Gregory the Great. He concludes the chapter by citing St. Bernard on the abuse of eating meat among the Cluniacs.\footnote{78}

Chapter 4. “De obiezione sextuplici Ioviniani heretici contra abstinentiam esus carnium, et de solucionibus earundem.”

Nider draws this chapter exclusively from Jerome’s tract *Adversus Jovinianum*.\footnote{79}

Chapters 5–7. See the edition below.

Chapter 8. “De exemplis sanctorum utriusque sex<us> saluberrimis abstinentiam esus carnium religiosis suadentibus.”

Nider presents examples of the personal abstinence of saints, both male and female. He cites standard examples from Jerome and Eusebius, from the *Lives of the Fathers*, and from the *Speculum historiale* of Vincent of Beauvais and the *Dialogues* of Gregory the Great. Touching on a more contemporary example, he mentions the Carthusians, “among whom there is perpetual abstinence from meat, as the whole world knows.”\footnote{80} He also notes the abstinence of Greek monks, of women in obser-

\footnote{75} Nider cites Hugh of St. Cher, *Postille in Bibliam*, and Albertus Magnus’s commentary *Super Lucam*, which interprets Luke 6:25, “woe to you who laugh,” as meaning “woe to you who laugh for you are unlike Christ.”

\footnote{76} “Cur ergo non eadem racione simili inferri poterit ex Christi factis de abstinencia ab edulio carniium?” (Basel B III 15, fol. 250r).

\footnote{77} The Dominican Nicholas of Gorran’s *Postille in vetus et novum testamentum*, and Jerome, *Adversus Jovinianum*.

\footnote{78} See n. 17 above.

\footnote{79} Aside from one argument in 1.18, Jerome’s entire discussion of abstinence is found in 2.5–17.

\footnote{80} “... quibus perpetua est abstinenencia a carnis ut toti orbi notum est” (Basel B III 15, fol. 257v).
vant Dominican nunnery in Germany, and of many pious lay women in and around Basel.\textsuperscript{81}

Chapter 9. "De obieecione sextuplici adversariorum quorundam contra propositum, et de solucionibus carundem."

Nider responds to certain examples from the lives of saints which would seem to point against abstinence. For example, the Lives of the Fathers tells of a monk who refused meat out of pride and "vainglory," and was admonished for this.\textsuperscript{82} Nider responds that this shows only that pride is a greater sin than eating meat, not that eating meat is approved.\textsuperscript{83} There are also objections that various saints—Augustine, Spiridion of Tremithius, Germanus of Auxerre, and Bridgit of Ireland—all had meat at their tables. To each of these Nider responds, easily enough, that they had meat only to serve to guests.\textsuperscript{84}

Chapter 10. "De factis paganorum et philosophorum quorundam moralibus abstinentiis esus carnium suadentibus."

Nider lists several arguments for abstinence, and examples of the benefits of abstinence from meat drawn from classical antiquity. Most of this chapter, about four fifths, consists of extended quotes taken from Jerome’s descriptions of abstinence among the Greeks and Romans in his Adversus Jovinantum. Nider also cites from John of Salisbury’s Policraticus and Vincent of Beauvais’ Speculum historiale. The only direct citations of ancient sources are a short quote from Seutonius’s De vitis Caesarum, a passing mention of Diogenes Laertius’s De vitis philosophorum, and what appears to be a complete misquotation of Vegetius’s De re militari.\textsuperscript{85}

Chapter 11. "De quorundam obieecione octuplici contra propositum, et solvuntur duo prime."

Chapter 12. "In quo solvuntur alie quinque [sex] obieeciones contra propositum."

These two chapters are devoted to outlining and answering several more objections to the position of abstinence. These fall into no single category, and follow in apparently random order. Thus they cannot be summarized easily, but Nider’s responses are all fairly standard and reliant on the usual authorities.\textsuperscript{86} One point of some interest does arise from the final objection, which contends that if eating meat is so objectionable, even the sick should abstain, which is the custom only among the

\textsuperscript{81} See n. 14 above.

\textsuperscript{82} De vitis patrum 5.8.21; For an English translation, see Owen Chadwick, Western Asceticism, vol. 12 of The Library of Christian Classics (Philadelphia, 1963), 101.

\textsuperscript{83} In his response, Nider cites Vincent of Beauvais, Speculum historiale, 16.92.

\textsuperscript{84} For Spiridion, Nider draws on Cassiodorus, Historia tripartita 1.10. For the rest, he refers simply to their legenda.

\textsuperscript{85} Vegetius, De re militari 4.3, supposedly about the abstinence of Scipio Emilianus. This passage, however, does not mention Scipio; nor do any of the references to Scipio Emilianus or Scipio Africanus in De re militari appear to mention abstinence. See Flavi Vegetii Renati Epitoma rei militaris (Leipzig, 1885; rpt. Stuttgart, 1967).

\textsuperscript{86} In addition to authorities he has used before, such as Jerome, Nider cites Aquinas, Bonaventure, and the thirteenth-century Dominican Ulrich of Strasbourg.
Carthusians. Before answering this objection directly, Nider feels he must first come to the defense of the Carthusians, lest it be thought that there exists a "defect of charity" in that order. Here Nider turns to Arnold of Villanova, who concludes that, while meat does have some medical value, other remedies work just as well, and the sick do not absolutely require meat to regain their health.\textsuperscript{87}

Chapter 13. "De penis diversis quibusdam inflictis propter esum carnium eis prohibitum."

Nider turns to a more emotional means of persuasion, accounting some of the punishments suffered by those who eat meat. He recalls, for example, the story from Numbers 11 of the Israelites who demanded meat in the desert and were struck down by the Lord. Nider also cites a chilling example from his own order. Once a Dominican prior granted dispensation from abstinence to two friars without sufficient cause.\textsuperscript{88} He awoke that night to find a demon in his chamber. When he asked the creature why it was there, the demon responded, "I came to visit those brothers who have eaten meat."\textsuperscript{89}

Chapter 14. "De duodecim malis religiosis evenientibus ab edulio carnium non abstinentibus."

Nider concludes \textit{De abstinenencia esus carnium} by quickly summarizing the negative effects of eating meat. The reader is reminded, for example, that meat is difficult to digest, that it is a luxury, and that it reduces one's merit in the eyes of God. For monks especially it represents an "immersion of the spirit in the flesh" and an imitation of the secular life.

\text\it{Edition of Chapters 5–7}

Capitulum quintum. De decretis canonistarum plurimis et canonum religiosis imperantibus abstinere debere a carnibus.

Medium deinde tercium videndum erit quo scilicet ex canonistarum et canonum decretis probari potest propositum. Nam canon de consecracione, di. 5, \textit{Carnem cui,}

\textsuperscript{87} Nider takes all his information on Arnold from Johannes Andreae's commentary on X 3.46.2. See \textit{Johannis Andreae ... in quinque Decretalium libros novella commentaria} (Venice, 1581; rpt. Turin, 1963), vol. 3, fol. 232r. Both Johannes Andreae and Nider refer to Arnold as "magister Arnaldus de Villa nova summus medicus et theologus."

\textsuperscript{88} Dispensation could be granted to the sick, of course, and for mendicant orders also to those who left the priory to travel and preach. See n. 50 above.

\textsuperscript{89} Gerald de Frachet, \textit{Vitae fratrum ordinis praedicatorum} 4.18 (Nider cites it as 3.18), ed. B. M. Reichert, vol. 1 of \textit{Monumenta ordinis fratrum praedicatorum historica} (Louvain, 1896), 205–6. For an English translation, see Placid Conway, trans., \textit{The Lives of the Brethren of the Order of Preachers} (London, 1955), 176.
rubrica premittitur Monacho carnem gustare non licet, sicut dicit: Carnem cuiquam monacho nec gustandi nec sumendi est concessa licencia, non quod creaturam Dei iudicemus indignam, sed quod carnis abstinencia utilis et apta monachis continetur [estimetur MN], servato tamen moderamine pietatis erga egrotos. Quod si quis monachus violaverit et contra sanccionem regule et usum veterum vesci carnibus presupserit, sex mensium spacio retrusioni et penitencie subiacebit.\(^{50}\) Ex quibus, si canon debite inspiciatur, multa religiosis notanda possunt cili, primo quod monachis omnibus generaliter esus carnium interdicitur, quia non specificatur ordo unus pre alio; secundo quod non <excusat> [=MN] trangressores abusus introductus de cso carnium, quia canon remittit ad usum veterum, non novorum, quia corruptelas facere consueverunt; tercio sibi de salute anime videant, quia aut ex statutis aut ex regula sui ordinis sed que profitentur ligantur ad abstinenciam carnium, quia ne dum monachi regulam habentes sancti Benedicti et religiosi profissi regulam beati Augustini sed sub monachis comprehenduntur et nonnunquam canonici regulares, et prefatis omnes equiparantur nisi specialis de eis sit excpectio. Unde 18, q. 2, Perniciosam; et Extra, de statu monachorum, Quod dei; et 20, q. 3, Presens clericus; et Extra, ne clerici vel monachi, Super specula; et de postulando, Ex parte.\(^{91}\)

Preterea dicit <de> consecracione, di. 5, Ne tales, csum vetare carnium videtur Ieronimus, ita dicens: Ne tales accipiamus cibos, aut quos difficulter digerere, aut comestos magno parato et perditos labore doleamus. Olerum et pomorum ac leguminos et facili apparatus est, et arte impe<
\(^{n}\)> diisque cocorum non indiget, et sine cura sustentat humanum genus, moderate sumptus, quia nec avide devoratur quod irritamenta gule non habet, et leviore digestione decoquatur. Nemo enim uno et duobus cibus hiiisque vilibus usque in stomachacionem ventris honoratur, que diversitate carnium et saporis detectacione concipitur. Cum variis nidoribus fumant patine, ad usum sui per expienda esurie quasi captivos trahunt. Unde et morbi satur<
\(^{it}\)> ate nimia concitantur, multique inapaciencia gule vomitu remediantur, et quod turpiter ingesserunt turpitis egerunt.\(^{92}\) Hec Ieronimus. Et loquitur ad monachos, dicit glossa.\(^{93}\) Porro quod sub regulas beati Benedicti militantibus esus carnium generaliter, quo ad omnes sanos, introductus [interdictus MN] sit satis aperte tradit eiusdem sancti patris regula, que capitulo 36 tale cudit statutum: Carnium esus

\(^{50}\) Gratian, D.5 de cons. c.32, ed. Friedburg, Corpus turis canonici 1:1420. In all references to canon law below, I give the volume and column number from Friedburg in parenthes-
\(^{91}\) These five canons—Gratian, C.18 q.2 c.25 (1:836); X 3.35.5 (2:598–99); Gratian, C.20 q.3 c.4 (1:849–50); X 3.50.10 (2:660); and X 1.37.2 (2:211)—deal with separate issues, but all contain some reference to the essential similarity of monks and canons regular.

\(^{92}\) Gratian, D.5 de cons. c.29 (1:1419–20). The canon quotes Jerome from Adversus Jovinianum 2.10.

\(^{93}\) The glossa ordinaria to the Decretum, written by Johannes Teutonicus. See Decretum Gratiani (Paris, 1595), p. 1899.
infirmis omnino debilibusque pro reparacione concedatur. At ubi meliorati fuerint, a carnibus more solito omnes abstineteant. Hec ibi. Et quia dicitur more solito elicitur quod eciam ante regulam conditionis beatus Benedictus et monachi ab e su carnium abstinuerunt, presertim attentis hiis auctoribus que primo et tercio capitulo dicte sunt.  

Preterea idem ius clamat commune Extra, de statu monachorum, Cum ad monasterium, ubi dicitur: in reductorio omnino nullo carnem vescatur. Ne\textless{}c\textgreater{} in quibusdam solemnitatisibus, sicut aliquando consuevit, conventus exeat cum abbate, paucis ibi relictis, ut extra reductorium edant carnes; cum in illis diebus precipue regularis disciplina sit studiosius observanda. Sed non extra reductorium, nisi in infirmatorio, eum carnium credendo sibi licere, quamquam ex indulgentia possit Abbas interdum aliquos fratrum, nunc hos, nunc illos, prout necessitas postulavit, advocare, ipsosque secum in camera sua melius et plenius exhibere. Porro debiles et infirmi, qui minucione indigent vel aliqua medicina, non seorsum in cameris, sed omnes in infirmatorio que necessaria fuerint sibi tam in carnibus quam in aliis recipiant competitur. Quod si quis eorum debilis fuerit, aut eciam delicatus, ut non possit communibus cibis esse contentus, sic ei provideatur sine scandalo aliorum, ut, si Abbas vel prior ei voluerit misericordiam in reductorio \textless{}facere\textgreater{} [=MN] spectalem, cibum aliquem competem, non ante illum, sed ante se faciat apportari, de quo, ipse ille fact\textless{}a\textgreater{}t pitanciam pro sustentacione nature.  

Hec Innocencius tercius ad Sublacensis, qui de ordine sunt sancti Benedicti, ut in principio decretalis illius innuitur. Unde Hostiensis super eadem decretales sic dicit: Nec Abbas nec alius omnino nec causa infirmitatis in reductorio carnes comedat scilicet, nec extra sausus scilicet. Et postquam cuiusdam opponimem recitavit dicens abbatem dispensare debere extra reductorium candum improbat, ita conclusens: Alii dicunt quod nunquam licet monachi vesci carnibus, nec abbati licet in hoc dispensare \langle..\rangle Quiquid tamen de iure sit, sic servatur de facto, quod carnes comedunt monachi eciam sine licentia tota die \langle..\rangle Sed talis usurpacio ius non facit, nec quid sit, sed quid fieri debeat. Considerandum est super de electione, Cum causam, quae inter presbiterum, § Qui\textless{}a\textgreater{}igitur. Et multa per pacienciam tollerantur capitulo 5 de prebendis. Cum iam dudum, ad finem. Concordat Iohannis Andreae in Novella, ibidem dicens cum Hostiensc, cuius dicta et aliorum prrcetaverat: Cum, inquit, votum et religio eqipparentur quo ad carnium abstinentiam de observacione ieiuniorum, capitulo finali, potest dici quod sicut contra votum non valet con-

\footnote{94 See the summary of De abstinentia, chaps. 1 and 3, above.}  
\footnote{95 X 3.35.6 (2:599).}  
\footnote{96 Hostiensis, Commentaria, vol. 2, fol. 133r.}  
\footnote{97 I.e., X 1.6.27 (2:71).}  
\footnote{98 I.e., X 3.5.18 (2:471).}  
\footnote{99 Hostiensis, Commentaria, vol. 2, fol. 133r.}  
\footnote{100 I.e., X 3.46.3 (2:651).}
suetudo, sic nec contra religionem <...> Dicit Hostiensis, eciam conclusionaliter, quod hec est veritas, quod debent a carnibus abstinere nisi propter infirmitatem, debilitatem, vel nimiam fragilitatem aliud dicatur ut hic et infra in capitulo Carnem.¹⁰¹ hic de Iohanne. Constat autem duo premominatos, Johannes et Hostiensis, celeberrimos existentes canonistas. Tenet preterea ad idem Hostiensis in Summa, de statu monachorum, quod monachus eciam in parrochia existens cum socio obligatur abstinere a carnibus si sanus est.¹⁰² Et Extra, de ieiuniorum observacione, capitulo finali tenet idem Hostiensis, quod nec feria sexta quando in eo festum nativitatis occurrit vesci potest a carnibus.¹⁰³ Ad idem est Archadyaconus [Archidiaconis MN].¹⁰⁴ qui super eodem capitulo, Cum ad monasterium, sic dicit: Hic ponitur regule [regula M] monachis quod debent semper a carnibus abstineere. Contra tenorem huius capituli multum peccant monachi quorum habitus non solum exterior sed eciam interior niger est. Et quamvis sanctus Thomas, Quodlibet 1, q. 9, ar. 4, dicit quod non sit preceptum in regula abstinere a carnibus,¹⁰⁵ quod multum est probabile, tamen Alexander de Hallis dicit quod gravissime peccaverunt monachi qui absum edendi carnes primo introduxerunt. Et eciam valde graviter hodie peccant qui illum absum ex concupiscencia et libidoe continuant scenter; et qui ex sola ignorantia adhuc taliter agunt graviter peccant, licet minus quam prudentes, debent enim scire quid observare debeant.¹⁰⁶ Item Henricus de Gandavo, Quodlibet 1, q. 34, sic querit: Utrum monachis nigris santis liceat comedere carnes.¹⁰⁷ Respondet, monachi nigri non possunt comedere carnes ex concessione regulari, quia quod prohibetur non conceditur, sed hoc non est concessum in regula monachorum.¹⁰⁸ Amplius ad idem est constitucion Benedicti duodecimi pape, quando [quam MN] ordinis sancti Benedicti professoribus statuit: Verum, inquit, quod ad [quia ad salutis MN] projectum tenditur, si moderacionis sobrietas et modestia observantur, volentes ea, que circa esum et abstinenciam carnium heati Benedicti regularis institucio tradit, et insti-

77 sexta] sextra MS

¹⁰² Hostiensis, Summa aurea (Lyon, 1537; rpt. Aalen, 1962), fol. 179r.
¹⁰³ See X 3.46.3 (2:651).
¹⁰⁴ To the best of my knowledge, the Archdeacon, Guido de Baysio (ca. 1250–1313) did not write a commentary to Cum ad monasterium. It may be that Guido referred to Cum ad monasterium briefly within one of his known works. I am grateful to Professor Kenneth Pennington for his advise on this matter.
¹⁰⁵ See n. 51 above.
¹⁰⁶ See n. 52 above.
¹⁰⁷ Correctly, Henry of Ghent, Quodlibet 1, q. 38, ed. Macken, 208–9.
¹⁰⁸ In the full question, which Nider does not quote, Henry does allow for legitimate dispensation from the Rule by an abbot or higher authority, ultimately the pope. He concludes that eating meat can become permissible through these types of dispensation: "Unde si monachi negri comedant carnes sani, non credo quod sit abusus, salva pace eius qui opposuit, sed magis dispensatio superioris" (ibid., 209).
tucione [in constitutione MN] pie memorie Innocencii pape tercii predecessoris nostri sunt instituta, firmiter observare [observari MN], statuimus et ordinamus quod per totum annum feria quarta, et die sabbati, <et> a prima dominica de adventu usque ad diem natalis Domini, et a Dominica septagesime usque ad diem pasche omnes regulares eiusdem ordinis seu religionis ad esu carnium ubique abstinent, nisi necessitas infirmitatis non fitce per abbatem vel alium prelatum proprium suadeat cum aliquo dispensandum. Diebus autem quibus monachi in infirmatorio carnem edunt, sic provideatur quod in refectorio maneat ad minus medietas monachorum capituli vel conventus. Idem fiat ubi abbas seu alius prelatus principalis aliquos ad domum seu cameram suam vocabis [vocabit MN], ad melius et plenus exhibendum.\footnote{Summi magistri 26; see Cocquelines, Magnum bullarium 3.2:236.} Hec ibi. Ex principio autem huius statuti claret quod non observantibus suis verbis vult pre omnibus, tam regulam quam causam Cum ad monsterium, firmiter observari. Sed certum est ex dictis et ex sequenti capitulo dicendum quod regula et capitulum Cum ad monasterium prohibent sanis esum carnium universaliter. Ergo hic Benedictus nec dispensat, ut quidam dicere conantur, nec interpretatur. Similiter et in capitulo Cum ad monasterium neutrum facit. In libro eciam De precepto et dispensatione beati Bernardi exemplificando de tribus observaviis professorum sub una forma profitendi sed regulam beati Benedicti differentibus secundum maiores et minorem rigorem qui tunc observabatur, ponit observaviam ordinis Cluniacensis tunc fuisse laxissimam,\footnote{Bernard of Clairvaux, De praecepto et dispensatione, probably 4.9–10, ed. Leclercq and Rochais, S. Bernardi Opera 3:259–61.} pro qua laxitatem eos in Apologia sua in multis reprehendit. Huius autem ordinis monachi sani et fortes tunc omnes abstinent ab carnibus exceptis paucis iuvenibus, de quibus illic sic scribit: Aiunt, inquit, incolumes et validos iuvenis conventum solere deser<e>e, in domo se infirmorum, qui infirmi non sunt, collocare; carnium esu, qui vix egrotis dumtaxat, et omnino debilibus ex regule discrezione pro virium reparacione conceditur, non quidem corporis infirmantis ruinas reficere pro commodo, sed carnis luxuriantis curam pericere in desiderio. Et aliquidus interpositis addit: Delicata nimis medicina est, prius alligari quam vulnerari, non membrum perccussum plangere, et nec dum suspepto ictu admove re manum, fovere ubi non dolet, emplastrum\footnote{Bernard of Clairvaux, Apologia ad Guillelum abbatem 9.22, ed. Leclercq and Rochais, S. Bernardi Opera 3:99, 100.} adhibere ubi cesura non est.\footnote{Incolumes] in colomes MS}
At ubi meliorati fuerint a carnibus abstineant. Sed non est credendum quod prelati monasteriorum ordinis sancti Benedicti, per quos illud capitulum Narbonense celebratum fuit, professores regule sancti Benedicti arcius stringere voluisset quam eos ex textu eiusdem regule agnoscebant fore obligatos.

Sed contra dicta posset quis dicer: Cur tu, qui de mendicancium es ordine, te intromittis de alia regula falcem in messem ponendo alienam? Respondeo primum me nihil a me ipso in hac materia ponere, sed tantummodo indicendis beati Benedicti regule favencium scripta me colligere profiteor. Deinde oppinor mea interesse tum propter ordinis votum tum et propter theologiae sacramentum alienum submovere baculum me a confessorisibus per argumentum a simile vel a forciori abstinencia similis de meo excuciatur ordine. Nec alienum esse reor a professore prime sapiencie iudicare vel videre de his que iura tradunt communia, cum ipsa increata sapiencia, a qua nullus ambitus catholicus immediate sacra profluxit scriptura, dicat in Proverbiis: *Per me principes imperant et legum conditiones iusta descernunt.*

Certum est autem regulas patrum et statuta eorum qui religiones fundaverunt esse leges proprie.

Capitulum sextum. De obiezione quintuplici quorundam religiosorum contra propositum, et de solutionibus earundem.

Contra dicta argument quidam probare conantes talem conclusionem, scilicet quod professoribus regule sancti Benedicti sanis et fortibus regula concedat eum carnium, primo per capitulum eiusdem regule 39, ubi statutum ponitur tale: *Carnium quadrupedum omnino ab omnibus abstineatur comestio, preter omnino debiles et egrotos.* Ex quo sic arguunt: Regula sancti Benedicti per hoc statutum professoribus suis sanis et fortibus prohibet comedionem carnium quadrupedum tantum. Sed non omnes carnem sunt carnibus quadrupedum, ut patet de carnibus bipedum. Ergo regula sancti Benedicti, probiendum eiusdem suis confessorisibus tamen carnem quadrupedum, concedit eis carnem bipedum. Probatur hec consequencia iurisprudentiae argumentum a contrario sensu, quod argumentum est in iure fortissimum, sicut habetur de his qui fiant aput cum apostolica et in gloria super verbo datur intelligi. Igitur secundo ad idem, si sanctus Benedictus noluisse sanos posse bipedum carnem aliquando comedere, non specialiter in statuto antedicto expressisset carnem quadrupedum, sed dixissent generaliter carnium omnino ab omnibus abstineatur comestio. Cur ergo specialiter quadrupedum nominasset. Tercio arguitur ad eandem conclusionem per eiusdem regule capitulum 36, allegatum in principio precedentis capituli hiuis tractatus, ubi dicitur *more solito.*

Non ergo simpliciter et absolute dixit *omnes a*

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112 See Luc d’Achery, *Spicilegium sive collectio veterum aliquot scriptorum qui in Galliae bibliothecis delitterant* (Paris, 1723, rpt. Farnborough, 1967), 1:707–10 (quot. on 709). The chapter at Narbonne was one of a number of Benedictine chapters held under Honorius III; see Berlière, “Honorius III,” esp. 251, 473.

113 Prov 8:16.

114 “Sed et carnium esus infirmis omnino debilibus pro separazione concedatur; at, ubi meliorati fuerint, a carnibus more solito omnes abstineant” (*Regula sancti Benedicti* 36, ed. de Vogüé and Neufville, 570–72).
carnibus abstineant, sed addit more solito, ut per hoc intelligatur quod si antequam infirmi vel debiles fierent non omnino solebant a carnibus abstinere, neque eciam post eorum melioracionem debeant penitus ab eis abstinere, sed more solito, idest sicut ante infirmitatem vel debilitatem suam abstinere consueverant. Quarto ex eodem, sic in capitolo 36 beatus Benedictus non dixit simpliciter et absolute omnes abstineant a carnibus, sed adiecit more solito. In capitolo autem regule 39 statuit de talibus, ut a carnibus abstinere debeant non omnibus quidem, sed a carnibus quadrupedum. Sed cum una pars regule alteri parti ipsius non debeat esse contraria sed consona, sequitur quod dicta duo statuta sic debeant intelligi ut unum cum altero concordet, et everso quod fiet, si ita intelligantur, ut omnes meliorati a sua infirmitate vel debilitate abstineant more solito, idest secundum consuetudinem communem monasterii servandam iuxta tradicionem regule sancti Benedicti, que inquam consuetudo sit talis quod sani et fortes abstineant a carnibus non omnibus, sed quadrupedum dumtaxat. Quinto arguitur per glosam Bernardi, expositoris Decretalium, super capitolo Cum ad monasterium, super verbo “indulgencia,” que sic habet: Sic ergo abbas potest dispensare in regula monachali quantum ad esum carnium,\textsuperscript{115} ut hic secundum § Quamquam, in quo ponitur verbum “indulgencia,” loquitur de monachis ordinis sancti Benedicti sanis et fortibus,\textsuperscript{116} igitur conclusio vera.

Plura alia movent circa dicta fautores esus carnium que, quia specialem tractatum exigit, dimitto. Unde secundum favorabiles abstinencie patres dicti ordinis sub brevibus secundum eodem:

Respondeetur ad primum distinguendo antecedens, quia vel illud intelligitur de prohibione implicita et virtuali tunc negandum est antecedens, quia illo modo per dictum statutum, imo tam per primum quam per secundum statutum, monachis sanis et fortibus prohibeatur omnes carnes, non solum quadrupedum scd eciam bipedum. Per primum quidem absoluto; per secundum vero tamquam in principali videlicet tum expressit carnes quadrupedum, tum quia carnes quadrupedum prestant fomenta luxurie contra castimoniam, tum eciam quia per abstinenciam a carnibus bipedum plus ceteris paribus meritum aquiritur monachis. Si autem antecedens intelligatur de probicione explicita et literali, tunc conceditur antecedens et negetur contra. Et ad probacionem qua dicitur quod illa contra tenet a contrario sensu respondetur quod illi argumento non est locus, quoniam contrarium illius quod infert eciam reperitur in iure vel lege expressum. Sicut hoc posset ostendi ex pluribus textibus iuris, sic in proposito est quod carnes bipedum, quas illud argumentum infert et arguit esse concessas, eciam prohibite sunt in capitolo regule 36, ubi sanis et fortibus monachis non tantum carnes quadrupedum, sed omnes carnes simpliciter prohibentur. Unde et dominus Hostiensis super capitulo Cum ad monasterium ubi eciam movet hoc

\textsuperscript{115} The glossa ordinaria of Bernard of Parma († 1266) to the Decretales. See Decretales Gregorii papae IX (Lyon, 1606), col. 1296.

\textsuperscript{116} Cum ad monasterium states that meat is not allowed outside of the infirmary, “quamquam ex indulgentia possit abbas interdum aliquos fratrum . . . advocare ipsosque secum in camera sua melius et plenius exhibere” (X 3.35.6 [2:599]).
argumentum deridet illud et dicit: *Sic posset dici et de mulieribus*; subaudit que eciam sunt bipedes. Et subdit ibidem et similiter Johannes Andreæ secundum ipsum. Licet, inquiant, *argumentum a contrario sensu firmissimum sit regulariter, ut legitur et notatur de regularibus, Cum virum, § finale; tamen hic fallit, <sic> et Codex, de episcopis et clericis, *Conventicula*. Evidenter enim tali intellectui naturalis racio contradictit. Et ad hoc probandum eciam assumptum statutum regule positum in capitulo 36. Si enim semper valeret argumentum a contrario sensu possem sic arguere tamen linec camisic sunt monachis prohibite, ut patet in principio capituli *Cum ad monasterium*, ergo concesse sunt eis sericee.

Pro maiori autem intellectum predictorum et pro soluzione secundi argumenti movetur: Cum secundum dicta sanis monachis simpliciter omnes carnæ sint prohibite, quare ergo sanctus Benedictus in secundo statuto noluit esse contentus ut diceret *carnium ab omnibus abstineatur comesteio*, sed addit *quadrupedum*? Quid sibi hec voluit restricció? Respondent illi sancte [sancti *MN*] faventes parsimonic: Hoc ideo fecit, quia secundum statutum intendebat facere unam prohibiticionem, secundum quandam principalitatem et <non> [=MN] prohibiticionem simplicem, qualem fecit per primum statutum, cuius signum est quod in illo secundo statuto non simpliciter dicit *carnium quadrupedum ab omnibus abstineatur comesteio*, sed addit *ly* omnino, ac si alis verbis ita diceret: Et si omnium carnium esum in superiori statuto tibi prohibi, hic tamen comestionem carnium quadrupedum tibí precipue prohibeò ex causa scilicet dupliqui.

Ubi notandum quod due sunt principals cause cur religiosis carnæ prohibentur, videlicet ut et plus mereantur, et castimonia servetur amplius. Racio primi est quia inter humanos cibos carnæ hominem sanum et naturaliter dispositum maxime delectant, et ideo eciam a tali plus appetuntur. Quanto autem aliquis secundum rectam racionem a bono temporali magis appetibili abstinet propter Deum, tanto ceteris paribus plus meretur. Racio secundi est quia ex carnibus multum generaturo alimenti conveniens, ex quo augetur in homine humor spermaticus cuius multiplicatio est maximum ad luxuriam incitamentum.

Secundo notandum quod carnes illorum quadrupedum qui comminiter ab hominibus comeduntur, ad quos sanctus Benedictus imponendo statutum capitulo 39 videtur suam considerationem specialiter direxisse, sicut sunt carnes boum, ovium, porcorum, et presertim vitulorum, edorum, agnellorum, et porcellorum. Sunt nature humane multum convenientes, sicut et carnes illorum bipedum que eciam com-

214 esse] essei MS

117 "Sic posset dicere et de mulieribus, talium [bipedum] tamen usus non est, sed abusus" (Hostiensis, *Commentaria*, vol. 2, fol. 133r).
118 I.e., X.3.31.12 (2.572–73).
119 I.e., *Cod.* 1.3(6).15.
120 Hostiensis, *Commentaria*, vol. 2, fol. 133r; and Johannes Andreæ, *Novella commentaria*, vol. 3, fol. 178v.
121 The form *ly* is used here and below as the definite article.
muniter comeduntur—puta caponum, gallinarum, et multarum avium campestrium et silvestrium—nature humane multum conveniunt. Sed dicte carnes quadrupedum ultra hoc quod humane nature multum conveniunt sunt eciam humidiore quam dicte carnes bipedum. Ideo, tam quia humidiore quam quia sapidiore et humane nature convenienciares, plus spermatis generant quod maxime est incitamentum luxuriae. Et quamvis carnes carundam avium aquaticarum sint forte humidiore carnibus diciturum quadrupedum, vel eque humide, non tamen tantum causant in homine spermatis sicut ille, quia sunt mali nutrimenti. Unde beatus Benedictus, volens suos castitatis habere tutelas, utrumque prohibuit esum sanis in quadrupedum, que minus detectabiles sunt carnes bipedum, tamquam in maiori prohibuit maius, quo ad merendum et quo ad cavendum luxuriam prohibuit in quadrupedum, tamquam in principali fomento carnes utrasque. Per hoc patet ad secundum argumentum.

Ad tercium notandum quod beatus Benedictus scripsit regulam suo conventui quem rexit octo vel pluribus <annis> [=M/N] non quidem antequam discipulos haberet. Sed, ut elici potest ex capitulo regule 55, tunc primo eam scripsit quam iam institutis per eum pluribus cenobis vidit ordinem suum verisimiliter per multas propagaturum provincias. Sed nulli dubium quin, sicut ipse omnino abstinuit a carnis, sic eciam abstiner eussut suos non egrotos vel infirmos. Quis enim ambigat eos non servasse illa que dichuntur de consecracione, di. 5, Carnes, ubi notentur verba usum veterum, et cetera.122 Ex quo sequitur quod illa clausula more solito regule debet intelligi de illo more quo sanctus Benedictus et monachi sui quos rexit usque ad tempus edicions regule sue existentes stani ab omnibus carnis abstinuerc. Dicitur ergo more solito, id est consueto vel usitato, sicut eciam communis habet usus loquendi missa cantetur more solito, id est post terciam sicut hactenus est consuetum si prius consuevit post terciam cantari. Non ergo per morem solitum regule post intelligi mos sanorum eorum qui per esum carnium abstinencie frena laxaverunt.

Ad quartum, de comportacione dictorum statutorum duorum ut unum ostendat sensum alterius, dicendum quod primum statutum, sive accipitum cum secundo, sive accipituri scorum et sine ipso, necesse est ipsum accipii in tali sensu quo professoribus regule sanis omnimodam abstinenticiam imponat ab esu carnum, ut dictum est in solucione primi et secundi argumenti.

Ad quintum dicendum quod glosa ista Bernardi123 non est tenenda, sed hec fuit sua oppinio. Nec ille glosa consonat textus § Quamquam, super cuius verbo ipse ipsam ponit glosam. Nulla enim mencio fit ibi de carnis, sed dict quod abbas possit interdum nunc hos, nunc illos, prout necessitas postulaverit, in sua camera

253 quin] quim MS

122 Gratian, D.5 de cons. c.32 (1:1420), states that eating meat is "contra sanctionem regulae usumque veterum."
123 Again, the glossa ordinaria written by Bernard of Parma.
melius et plenius exhibere. Quod eciam potest fieri per alios cibos quam per
cares, scilicet per bonos pisces, alios cibos regulares lauciores illis quibus in
communi utitur. Quod prudenter attenderunt Hostiensis et Johannes Andreae con-
trarium glosa tenentes.

Capitulum septimum. De obiezione septuplici cuiusdam secularis argumentantis pro
monachis ad eum carnium inclinatis, et de solucionibus earundem.

Preterea quidam secularis pro Benedictinis quibusdam ad eum inclinatis car-
nium scribit tam in capitulo Cum ad monasterium, quam in
constituencie Benedicti duodecimi, duos istos summos pontifices regulam beati
Benedicti dum quia nimis dura si intelligere de sanis tum quia obscura interpreta-
tos esse. Quod ad caput du regulae de carnibus, quorum eum sanis monachis esse lici-
tum unde probare, nimitur argumentis principalibus. Primo sic, dicit, inquit Inno-
censius tercius in capitulo Cum ad monasterium post alias observancias regule beati
Benedicti quantum ad eum carnium: Nullus omnino carne vescatur in refectorio,
sed nec extra refectorium nisi in infirmatorio eum carnium credant sibi licere.
Qui versiculus nisi in infirmatorio excipit a littera precedenti, que indulbant loqui-
tur de monachis sanis. Alias non proprii exciperet. Secundo, si iste versiculus nisi in
infirmatorio deberet intelligi nisi de infirmis et debilibus, tunc § Porro, qui sequi-
tur, superfluueret, quam superfluitatem iura abhorrerent.

Secundo principaliter sic, nam quod Innocensius tercius concedat eum carnium
eciam sanis monachis patet in versiculo nec in quibusdam sollemnitatibus, ubi
Innocensius probat consuetudinem monachorum qui in diebus festivis paucis relictis
in refectorio exierunt cum abbate, ut extra refectorium edentem carnes. Ergo can-
dem consuetudinem extra tempora festina extrabat appare vide tum. Iuxta illud in glia
capituli Nomini, defpresumptionis, quod de uno propositorum negatur de reliquo
videtur esse concessum.

277 earundem] eorumdem MS

124 X 3.35.6 (2:599).
125 Hostiensis, Commentaria, vol. 2, fol. 133; and Johannes Andreae, Novella comen-
126 Nider gives no indication as to who this cleric might be. The only secular clergy
known to me who addressed the issue of monastic abstinence were the following: Pierre
d’Ailly, who only touched upon the issue; Jean Gerson, whose tract was addressed to Carthus-
sians; Johannes Palomar, who worked closely with Nider at Basel; and Nicholas von Dinkels-
bühl, who argued for abstinence.
127 X 3.35.6 (2:599).
128 Ibid.: “Porro debiles et infirmi, qui minutione indigent vel aliqua medicina, non seor-
sum in cameros, sed omnes in infirmatorio quae necessaria fuerint sibi tam in carnibus quam
in aliis recipiant competenter.”
129 See ibid.
130 I.e., X 2.23.5 (2:254 [354]).
131 See Decretales Gregorii papae IX, col. 787.
Tercio sic, quod monachi sani in infirmitorio carnibus uti possint patet ex interpretacione Benedicti duodecimi superdicto versiculo <nisi> [=MN] in infirmitorio, qui per suam constitucionem eundem versiculum generaliter loquentem restringit sic, quod maior pars maneat in refectorio, quod non potest intelligi de infirmis cum illi omnes debeat esse in infirmitorio, ut in § Porro eodem capitulo, inter omnes.

Confirmat primum argumentum dictum. Inconveniens, inquit, esset et absurdum dicere quod maior pars infirmorum deveat in refectorio manere quasi melius sit multos perdere quam paucos. Ergo predicta restrictio Benedictine constitucionis, secundum quam maior pars debeat in refectorio manere, non potest intelligi de infirmis.

Confirmat secundo sic, item quod versiculus nisi in infirmitorio loquatur de sanis patet ex alia interpretacione Benedicti pape super eodem versiculo, ubi dicit: Qui eciam in quartis feriis, et sabbatis, et in adventu domini, et cetera, non debeant eciam in infirmitorio carnibus. Qui eciam de iure non potest referri ad infirmos, qui qualibet die uti carnibus possunt cum necessitas non habeant legem. Qui eciam patet per § Porro in capitulo Cum ad monasterium, qui infirmos limitat quod non quantum ad eum carnium, qualiter Benedictus papa in sua constituicione sanos limitavit, sed limitat eos solum ad hoc quod sint in infirmitorio.

Quarto principaliter sic, item quod sanis monachis suo tempore lictus sit esus carnium subaudit non in infirmitorio tantum sed eciam in domo abbatis. Patet per § Quamquam in capitulo Cum ad monasterium, quem capitulum Benedictus papa duodecimus interpretando limitat sic, quod quando abbas suos monachos vult pleniun reficere, eciam tunc maior pars debeat manere in refectorio, ubi subaudit quod non potest intelligi nisi de sanis. Quod sic confirmat, quia quo ad domum abbatis eciam excepta sunt ita [illa MN] tempora in quibus Benedictus papa in sua constitucione prohibit ne monachi edant carnes. Quod eciam non potest intelligi nisi de sanis, quia in eisdem partibus infirmi possunt carnes comedere.

Quinto sic istam interpretacionem subaudit Innocencii tercii et Benedicti duodecimi: Recepserunt omnia monasteria ordinis sancti Benedicti exceptis paucissimis. Et sic eadem interpretacio valet non tantum racione auctoritatis apostolice sedis, cui omnes obedire tenetur, sed eciam propter longam consuetudinem que habet vim legis.

Sexto sic non potest esse quin in talibus monasteriis que observant regulam secundum dictam interpretacionem sint plures magistri theologiae, et doctores utriusque iuris, et alii viri devotissimi, de quibus nullomodo credendum est quod sub habitu religionis velint mereri Gehennam.

Septimo quia poterat sibi obici contra dicta sua argumenta, quod nichil concluderent quantum ad tempus ieiunii regularis quod durat a festo exaltacionis crucis usque ad pascha, super quo ieiunio in dictis duabus constitucionibus nichil invenitur interpretem, nec aliquid ipsis monachis esse relaxatum, idcirco volens evadere hoc obiectum septimo sic arguit: Item Bernhardit eciam professi sunt regulam sancti Benedicti, et illi duriiores esse volebant quam Benedictini. Subaudit in prin-

132 See Summi magistri 26; Cocquelines, Magnum bullarium 3.2.236.
cipio ordinis eorum quando sanctus Bernardus vixit, et postea longo tempore, tunc enim tenebatur regulam integram quantum ad corporales observancias. Et tamen Bernhardite iam dudum hanc interpretationem Innocencii tercii et Benedicti duodecimi recepterunt, per quod tollitur obieccio quod a festo crucis usque ad pascha ieiunare debent Benedictini, quia eciam Bernhardide ad hoc ieiunium tenentur et tamen nichilominus servanti interpretationem predictam.


Ad primum igitur argumentum, quando assumit quod versiculus nec extra refectorum, nisi in infirmatorio excipit a litera precedenti que loquitur de sanis, conceditur imo si referetur ad versiculum ly in refectorio nullus omnino carne vescatur. Prout Hostiensis connectit eciam verum est, quia tunc suppletur nec infimus nec sanus, idest nec extra refectorium credat sibi aliquis eorum carnium esum licere, nisi in infirmatorio. Sed consequencia non valet quam adversarius vult inferre, quod ergo sanis esum carnium licitus sit, quia non sequitur consequencia illa ex antecedente prefato.

Ad secundam probacionem, quando arguit si iste versiculus nisi in infirmatorio deberet intelligi de infirmis et debilibus, tunc § Porro, qui sequitur, superflueret, quam superfluitatem iura abhorrente, respondetur concedendo si idem versiculus referetur ad versiculum nec in quibusdam solemnitatibus, tunc intelligendum est de sanis et fortibus monachis. Si vero referetur ad versiculum in refectorio, tunc intelligendum est generaliter de omnibus nigris monachis, tam infirmis quam sanis, sicet et versiculum in refectorio loquitur de omnibus eis. Nec tamen ex hoc sequitur quod § Porro sit superfluos, quia presens versiculus loquitur de actualiter sanis et fortibus quia aliquando possunt infirmari vel debilitari, sed § Porro loquitur de actualiter infirmis et debilibus; vel quia presens versiculus loquitur de infirmis <et> [=MN] debilibus generaliter, quamvis non tantum de illis loquatur, sed § Porro loquitur de infirmis et debilibus specialiter, et solum de talibus, nec de omnibus infirmis et debilibus loquitur, sed tantum de illis qui minuicione indigent vel medicina. Item presens versiculus loquitur de esu carnium tantum, sed § Porro loquitur non solum de esu carnium sed eciam de aliis ipsis infirmis et debilibus necessariis, et sic presenti versiculo alicubi superaddit. Non enim § Porro disponit de omnibus infirmis et debilibus, sicet ille secularis oppinatur, sed solum de his qui minuicione indigent vel aliqua medicina, ut in litera patet. Scilicet non omnes tales sunt infirmi vel debiles, sunt enim quidam infirmi quorum infirmitas est incurabilis secundum naturam, qui nec indigent minuicione nec medicina, ut ydropici quidam podagriti et artetici quibus

133 “In refectorio nullus, nec abbas, nec alius, omnino, nec causa infirmitatis, nec aliqua alia...” (Hostiensis, Commentaria, vol. 2, fol. 133).
frustra adhiberetur. Item sunt quidam infirmi qui pro reparacione virium non indigent esu carnium, sed per regulares cibos possunt sufficienter convalescere, sicut dolentes dentes, vel caput modicum, vel stomachum aut ventrem, vel ulcus in cruce habentes, et similes qui statim curari possunt, et talibus non est esus carnium necessarius. Item sunt alii gravius infirmi quibus esus carnium valere potest. Ideo beatus Benedictus capitulo 36 regule dicit: *Carnium esus infirmis omnino debilibusque pro reparacione virium concedatur*, quod de omnibus debilibusque [debilibus *MN*] seu infirmis non intelligitur, quia non de modicum dolentibus caput, et cetera. Et hec distincio necessaria est in solucione sequencium. 134 Ad secundum argumentum principale negetur consequencia ad probationem de regula. Dicitur primo quod impertinenter inducitur, quia in tota illa *Decretali* non invenitur alterum propositum quod argumentum infert. Nec eciam alias videtur posse habere quod tamquam pro altero proposito sit admittendum, sed magis oppositum videtur esse verum. Secundo dicitur quod regula fallit quando illud alterum propositum quod secundum eam infertur esse concessum eciam est per legem prohibitur sicut et primum modo sic est in casu nostro, quia per regulam sancti Benedicti professoribus eius sanis et fortibus prohibitus est esus carnium, tam in solemnibus quam in non solemnibus diebus. Similis solucio datur in glosa *Decretalium*, de etate et qualitate preficiendorum, super capitulo *Indecorum*, 135 ubi eciam arguitur per predictam regulam iuristicam sive legalem, et solvitur argumentum modo prescripto. In textu enim illius capituli prohibetur ne personatus aliquius ecclesie concedatur constituto infra 14. annum. Et tamen ex hoc non potest inferri quod concedo [concedi *MN*] possit constituire in anno 15. vel 16., quia ius hoc alibi prohibit, et cavet ne illud fiat infra 25. annum. 136 Ad tercium respondetur quod multa falsa assumit, ut ea vera esse non probat sed tantum supponit, primo quod versiculum capituli *Cum ad monasterium, sed nec extra rectorium*, et cetera, intelligi debere de sanis et fortibus monachis quod in infirmitorio sani edere possint carnes. Secundo ex hoc movetur ad arguendum quod quia per illum versiculum esus carnium sanis monachis concessus sit secundum suum intellectum, et idem versiculum fuerit ab Innocencio minus [omnino *MN*] irrestricte et nimis generaliter positus et restigi indiguerit, ideo papa Benedictus duodecimus eum per suam constitutionem restricterit, et interpretatus sit *Cum ad monasterium*, que omnia negantur et singula. Nec § Porro disponit de omnibus infirmiss, ut dictum est in solucione secundae probationis primi argumenti. Non mirum igitur de consequencia et negatur de assumptis.

134 The distinction between the sick who were allowed meat and those, usually less seriously ill, who were expected to maintain their abstinence was a standard element of the early constitutions of the Dominican Order; see Lehner, *Saint Dominque*, 218–19.
135 *i.e.*, X 1.14.3 (2.126).
136 *Decretales Gregorii papae IX*, col. 266.
Ad primam confirmacionem tercii argumento [argumenti MN] respondetur quod procederet, si dicta limitatio Benedictio constitucionis intelligeretur de solis infirmis et de nullo sano, modo ipsa est intelligenda de sanis et hoc ut frequenter et in pluribus.

Ad secundam confirmacionem notetur quod iterum assumit Benedictum papam interpretatum esse, quod non probat; ideo negatur. Deinde ad hoc, quod dicit quod illud statutum Benedicti pape de maioris parte monachorum in refectorio retinenda de iure non possit referre ad infirmos qui qualibet die carnibus uti possunt, dicitur quod illa proposicio est distinguendae, quia potest accipi vel in sensu cathegorematico vel in sensu yphothetico. Si in sensu accipitur cathegorematico, prout est una de copulato extremo, tunc sensus eius est iste: Hoc statutum de iure non potest referre ad infirmos licite potentes qualibet die carnibus uti. Et hoc est verum, quia tales infirmi sunt illi qui sunt mortaliter vel graviter infirmi et esu carnium pro sui reparacione vel melioracione vel multum indigentes, quibus solis licitum estcottidie carnibus uti. Donec sint reparati vel meliorati quos eciam solos Benedictinus papa a suo memoro statuto excipit, ut dicit: Nisi necessitas infirmitatis non fetc <...> suaderat [suadeat MN] cum aliquo dispensandum.137 Et pro causa <veritatis> [=MN] dicte cathegorematice bene dicitur, quia necessitas non habet legem. Sed per dictam propositionem non tunc probat intentum suum eo quod instancia potest dari de aliis parum vel mediocriter infirmis. De quibus eciam prefatum statutum Benedicti pape habet intelligenti sicut et de sanis, quia illis non licetcottidie carnibus uti. Nec de eis est verum dicere quod sint in tali necessitate posite quia non sit subiecta legi. Si vero dicit proposicio accipitur in sensu ypotetico, prout scilicet est una copulativa, tunc sensus eius est iste: Hoc statutum Benedicti pape de iure de nullis infirmis potest intelligi, et omnes infirmi qualibet die carnibus uti possunt, et tunc est falsa quantum ad ambas partes. Ideo in hoc sensu est simpliciter neganda. Nec tunc convenienter adduciit pro causa veritatis ipsius quod necessitas non habeat legem, quia in tali necessitate solum constitutio sunt illi qui mortaliter vel graviter infirmi sunt. Ex quo patet quod per eandem propositionem in hoc sensu acceptam eciam nichil probat in proposito, quia falsam nichil probat.

Ad quartum dicendum quod ex verbis capituli Cum ad monasterium, a quo iste § Quamquam accipitur, non potest haberi quod per ipsum sanis et fortibus monachis esus carnium sit concessus in domo abbatis vel alibi, quia in eo non aliud dicitur nisi quod abbas ex indulgencia super regulari, de qua habetur in capitulo regule 56. Potest fratres, quibus necessae est hoc interdum, ad se vocare, nunc hos, nunc illos, id est alios et non omnes simul, et ippos in camera sua, id est in domo habitacionis sue, melius et plenius exhibere, id est reficere quam ceteros in conventu. Hoc autem totum potest fieri in cibus regularibus, sine carnibus, puta per bonos pisces et cibos alios regularares meliores et copiosiores quam dentur conventui. Ad alia ibi posita per istum dicitur sicut in precedentiibus.

Ad quintum dicendum quod nulla monasteria receperunt istorum duorum pontificum interpretationem, quia non sunt interpretati. Quod deinde dicit quosdam as-

137 Summi magistri 26; see Cocquelines, Magnum bullarium 3.2.236.
sumpsisse modum comedendi carnes, et cetera, dicendum quod hoc est plangendum de consuetudine, dicendum sicut Hostiensis et Iohannes Andreae ubi supra quod non preiudicat religioni sicut nec voto, quia corruptela est.

Ad sextum negetur consequencia, quia similiter arguere possemus de innumeris huius mundi amatoribus quod sint literati, et cetera, ergo non errant.

Ad septimum dicendum quod ipsi ad hoc respondere possunt qui de eodem ordine plene reformati sunt, et eis similes. Qui autem voluit de prefatis argumentis pleniores videre soluciones, relagat tractatus de hoc factos sufficientissimos, quia predictam solum de eisdem sunt excerpta sub compendio.

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