

The end of the new and the old color. [*S adds*: In this table and in all the others, the new color signifies the Jurists, who are better called pseudoprophets, and the old color signifies the humble imitators of Jesus Christ and his law.]

domini MCCCCXIII, Dominico die post festum Sancti Bartholomei Apostoli, etc. *B* (*hoc omne post "Finitus," due quippe linee integre, deletum est*); Finitus est novus color et antiquus, sub anno domini MCCCCXIII, Sabbato ante Esto michi, etc. *K*; Finitur blasphemia contra ecclesiam. Ista scripta, ad hunc sensum hereticum collecta, sunt redacta in hanc formam per Draznenses, qui de Drazna expulsi plurimos seduxerunt, qui eciam nec de purgatoria quod est, nec de suffragiis sanctorum, tenuerunt, oppositum docendo *R*; Et sic est finis supradictorum. In hac igitur tabula et aliis omnibus per novum colorem intelliguntur Iuriste qui dicuntur potius pseudoprophete, per antiquum vero humiles Ihesu Cristi imitatores et sua lex, etc. *S*; Explicit blasphemia hussitarum contra ecclesiam romanam *T*; Explicit novus et antiquus color *V*; Amen si sunt omnia vera quod etc. *Z* // in *W* habetur hec materia, forsitan superaddita: Si quis aliquando videt clericum cito penitentiam agentem

et si deprehensus humiliaverit se, non ideo dolet quia peccavit sed confunditur quia perdit gloriam suam. *Hec Crisostomus, de pen. di. i, Quis aliquando (?)*. (*Hoc habetur in Quinta tabula, ceteris in codicibus.*) Et disperdet dominus ab Israhel caput et caudam incurvantem et refrenantem die una. Longewus et honorabilis ipse caput, et propheta docens mendacium ipse est cauda. Et erunt qui beatificant populum istum seducentes, et qui beatificantur precipitati. *Isa. ix (14-16)*. Robur autem datum est ei contra iuge sacrificium propter peccata, et prosternetur veritas in terra. Et prosperabitur et faciet et interficiet robustos et populum sanctum secundum voluntatem suam, et dirigetur dolus in manu sua, et cor suum magnificabit, et copia rerum omnium occidet plurimos, et contra principem principum consurget et sine manu conteretur. *Dan. viii (12, 24-25)*.

## CONSUETUDO ET RITUS PRIMITIVE ECCLESIE ET MODERNE

The text is transcribed from the single known manuscript copy, in MS. Prague, University and National Library, IV G 15, f. 240-249. It follows immediately after the *Tabule* in this codex (for which see the description of MS. P, above), is written in the same hand, and has the *explicit*, "Amen. Anno domini 1417." The date of composition was probably soon after that of the *Tabule*. The two works are similar in style, include some of the same material, and the *Consuetudo et ritus* seems clearly to be a sequel to the

*Tabule*. The copy does not identify the author, but all the just-noted factors point to Nicholas of Dresden. There are a few marginal notes, in a contemporary hand; they are included as footnotes, with asterisks.

For this edition, the text has been corrected when necessary by comparison with the originals of its quotations; such corrections are noted in brackets. The ordinals "primus" etc. of the manuscript text have been replaced as paragraph numbers by numerals.

[f. 240]

Consuetudo et ritus primitive ecclesie et moderne,  
seu derivative.

[I]

1. Et cum complerentur dies penthecostis erant omnes discipuli pariter in eodem loco. Factus est repente de celo sonus advenientis tamquam spiritus vehementis et replevit totam domum ubi erant sedentes. Seditque supra singulos eorum et repleti sunt omnes spiritu sancto. *Act. ii.*<sup>1</sup>
2. Tempore apostolorum in primitiva ecclesia spiritus sanctus visibiliter operabatur; ideo tantum imponebant manus supra ordinandos et oracionem infundebant, et sic sufficebat quod ordinator diceret ordinando: Sis presbiter, vel dyaconus, vel similia verba. Sic Christus in confirmacione nulla fuit usus materia, nec apostoli, sed sola manus impositione, nec aliqua forma. Nam manifesta spiritus sancti apparencia, que tunc temporis visibiliter operabatur, erat ipsis pro materia et forma; et apparicio spiritus sancti, que tempore primitive ecclesie duravit, postmodo fide debilitante defecit. Quare opus fuit quod aliqui rectores ecclesiarum certam materiam et formam invenirent. *Hec Innocens papa et Guilelmus doctor iuris.*<sup>2</sup>
3. Cottidie perdurantes unanimiter in templo et frangentes circa domos panem sumebant cibum cum exultacione. *Act. ii.*<sup>3</sup>
4. Innocencius constituit pacis osculum dari [f. 240'] loco communionis circa annos domini ccc. vii., ut patet in *Cronicis, Flores Temporum.*<sup>4</sup>
5. Multitudinis credencium erat cor unum et anima una; erant illis omnia comunia. *Act. iii.*<sup>5</sup>
6. Iure nature omnia sunt communia omnibus, quod non solum inter eos servatum, de quibus legitur: Multitudinis credencium erat cor unum etc.; verum eciam ex precedenti tempore a philozophis traditum invenitur.

## THE CUSTOMS AND RITES OF THE

## PRIMITIVE AND MODERN CHURCHES

1. And when the days of the Pentecost were accomplished, all the disciples were all together in one place. And suddenly there came a sound from heaven, as of a mighty spirit coming, and it filled the whole house where they were sitting, and it sat upon every one of them. And they were all filled with the Holy Spirit. (*Acts ii, 1-4.*)
2. During the lifetime of the apostles, in the Primitive Church, the Holy Spirit worked visibly. Therefore [in ordinations] they merely placed their hands upon the ones to be ordained and poured forth [only] a prayer; and it was enough that the ordainer would say to the one to be ordained: "Be a priest," or "deacon," or some similar words. Thus, Christ did not use any substance or special form in confirmation, nor did the apostles, but only the laying-on of hands. For the evident presence of the Holy Spirit, which at that time was working visibly, was both substance and form for them. But this presence of the Holy Spirit, which persisted throughout the time of the Primitive Church, afterwards ceased, with the weakening of faith. Whence it was necessary for certain rectors of churches to contrive some particular substance and form. (Cf. *Pope Innocent and William, Doctor of Law.*)
3. And continuing daily with one accord in the temple and breaking bread from house to house, they took their food with gladness (*Acts ii, 46.*)
4. (Pope) Innocent around the year of our Lord 307, introduced the kiss of peace in place of communion (see *the chronicle, "Flores temporum"*).
5. The multitude of believers had but one heart and one soul; all things were common to them (*Acts iv, 32.*)

<sup>1</sup> Act. ii, 1-4.

<sup>2</sup> *Sentencia Innocencii de ritu ordinacionis laudata est ab Johanne Andree, Novella in quinque decretalium libros (Venetiis, 1581; reimpr. 1963) 1: p. 173 (ad I, xvi, 3).*

<sup>3</sup> Act. ii, 46.

<sup>4</sup> *Edicio huius chronici materiam laudatam continens non est ad manum.*

<sup>5</sup> Act. iv, 32.

Unde apud Platonem illa civitas iustissime ordinata traditur, in qua quisque proprios nescit affectus.<sup>6</sup> Nam iure divino, domini est terra et plenitudo eius; pauperes et divites dominus de uno limo fecit, et pauperes et divites una terra supportat. Iure ergo humano dicitur: Hec villa mea est, hec domus mea est, hic servus meus est. Tolle iura imperatoris et quis audet dicere: Hec villa mea est, meus est iste servus, mea est hec domus? Per iura regum possidentur possessiones; dixisti: Quid michi et regi? Noli dicere possessiones tuas, quia ipsa iura renuncciasti humana, quibus possidentur possessiones.<sup>7</sup> *Hec VIII. di., I. pars, et c. Quo iure.*

7. Dilectissimis fratribus et condiscipulis Ierosolinis, cum karissimo fratre Iacobo et coepiscopo: Clemens episcopus. Communis vita omnibus est necessaria, fratres, et maxime hiis, qui deo irreprehensibiliter militare cupiunt et vitam apostolorum eorumque discipulorum imitari volunt. Communis enim usus omnium, que sunt in hoc mundo, omnibus esse hominibus debuit, sed per iniquitatem alius hoc dixit esse suum, et alius istud, et sic inter mortales facta est divisio. Quapropter hec vobis cavenda mandamus, et doctrinis et exemplis apostolorum obedire precipimus, quia hii qui eorum mandata postponunt non solum rei sed etiam extorres fiunt. Que non solum vobis cavenda, sed etiam omnibus predicanda sunt. *Hec XII. q. i., Dilectissimis.*<sup>8</sup>

8. "Precipimus": *glosa*: id est, "monemus." In primitiva ecclesia hoc potuit precipere qui[a] tunc renunciaverunt propriis sed si hoc preciperet hodie deformaret status ecclesie universalis. *Hec glosa Bartholomei Brixienensis in c. Dilectissimis.*<sup>9</sup> *Et dicit idem, eadem causa et questione, in c. Videntes*: Episcopi tenent locum apostolorum quoad dignitatem, monachi quoad renunciationem priorum et comunem vitam, omnes sacerdotes quoad sacramentorum dispositionem. *Hec ille.*<sup>10</sup> Sed hoc nota [f. 241] quod in primitiva ecclesia omnes credentes, seu laici seu clerici, nichil possidebant, sed omnia erant eis comunia (*ut dicit idem ibidem, "Clericus"*), nunc autem intelligendum est de consilio vel secundum tempus primitive ecclesie vel de aliis qui renunciaverunt propriis. *Hec ibi.*<sup>11</sup> Nam dicit lex quod solum immensitas est mensura rerum donatarum in ecclesia, *ut Codex, de sacrosanctis ecclesiis, Au-*

6. By the law of nature all things are common to all, and not only was this principle maintained among them of whom it is read that "all who believed were of one accord" etc. (*Acts ii, 44-46*), but it is known to have been handed down from earlier times by the philosophers. Thus with Plato, that city is supposed to be most justly ordered in which no one has private ties. (*Decretum, VIII, di. Part I.*)

For by divine law the earth is the Lord's and the fullness thereof; he made rich and poor of one clay, and one earth supports both rich and poor. It is thus by human law that one says: "this estate is mine, this house is mine, this slave is mine." Take away the Emperor's laws and who will dare to say: "this estate is mine, mine is this slave, mine this house?" Possessions are possessed by the laws of kings; but you have said: "What do I have in common with the king?" Do not then call possessions yours, since you have renounced the very human laws by which possessions are possessed." (*Decretum, VIII. di., c. 11.*)

7. Clement, Bishop, to the most beloved brethren and fellow disciples of Jerusalem, and to James, dearest brother and fellow bishop. Brothers a common life is necessary for all, and especially for those who would serve God irreprehensibly and would imitate the life of the apostles and of their disciples. For the use of everything in this world was supposed to be common to all men, but iniquity has caused one to say this was his, another to say that was his, and so there came about division among mortals. We therefore command you to take care against these things, and we order you to obey the doctrines and the examples set by the apostles, for those who neglect their mandates are thereby not only guilty but also exiled (from the Church). Let these things not only be a caution for you but also preached to all. (*Decretum, XII. q. i, c. 2.*)

8. "We order." *The gloss*: That is, "we admonish." In the Primitive Church, he could order this because then they had renounced private property, but if he were to order it today, he would damage the estate of the universal Church. *The gloss of Bartholomew of Brescia, on XII. q. i., c. 2. And in his gloss on XII. q. i., c. 16, he says*: The bishops hold the place of the apostles with respect to dignity; the monks, with respect to renunciation of property and to a common life; and all the priests, with respect to the administration of the sacraments. *Thus far Bartholomew.* But note

<sup>6</sup> VIII. dist., I pars (Friedberg, I, 12).

<sup>7</sup> VIII. dist., c. 1 (Friedberg, I, 12-13).

<sup>8</sup> XII. q. i., c. 2 (Friedberg, I, 676-677).

<sup>9</sup> *Glosa ordinaria in verbum "Precipimus," XII. q. i, c. 2* (Friedberg, I, 676-677; *Edit. Lugdun., col. 965*): id est, "monemus." simile XXVIII. q. i., Sic enim. Videtur tamen, quod hoc fuit preceptum, quia primitiva ecclesia hoc potuit precipere; sicut continentiam. Sed si hoc hodie preciperetur, deformaret

statum ecclesie universalis. Quod non debet esse. I. q. ultima, Et si illa. Vel dic, quod preceptum erat eis, qui tunc renuntiaverant propriis, non aliis. XVII. q. i., c. i.

<sup>10</sup> *Glosa ordinaria in verbum "Apostolorum," XII. q. i., c. 16* (Friedberg, I, 682-683; *Edit. Lugdun., col. 973*).

<sup>11</sup> *Recte, glosa ordinaria in verbum "clericos," XII. q. i, in principio* (*Edit. Lugdun., col. 963 f.*); cf. *Wyclif, De civili dominio, III, 248.*

tem.<sup>12</sup> Sed hodie nec una decima bene datur et ideo fame et penuria et aliis penis maledicti sumus, *ut XIII. q. i., Hūs ita, in glosa, et XVI. q. i., Revertimini.*<sup>13</sup>

9. Sanximus ut nullis [MS: nullos] nisi dignitate preditis, aut personatum obtin[en]tibus seu ecclesiarum katedralium canonicis, cause auctoritate literarum sedis apostolice vel legatorum eiusdem de cetero committantur, *ut De rescriptis, Statutum, Libro VI.*<sup>14</sup>

10. Ne in obprobrium proprium cogantur episcopi et magni clerici coram iudicibus [recte: rudibus] et pannosis clericis litigare. Hoc non solum videtur inductum in favorem partis, sed eciam in favorem ipsius apostolice sedis, ne vilipendatur in tali ministerio. *Johannes Andree, ibidem.*<sup>15</sup>

11. Romanus pontifex non puri hominis sed veri dei vicem gerit in terris. *Extra de translacione prelaturum, Quanto.*<sup>16</sup>

12. Unde dicitur habere celeste arbitrium. *Codex, de summa trinitate, L. i., in fine.*<sup>17</sup> Et ideo rerum naturam immutat. *Codex, comunia de legatis, L. ii.*<sup>18</sup> Et de nichilo potest aliquid facere. *Codex, de rei uxorie accione, L. i., in principio.*<sup>19</sup> Quia sententiam que nulla est facit aliquam. *III. q. vi., Hec quippe.*<sup>20</sup> De iusticia potest facere iniusticiam, *Extra de iure naturali, Sed quod principi.*<sup>21</sup> Nec est enim quis ei dicat, cur ita facis. *De penitencia, di. iii., Ex persona.*<sup>22</sup> Et plenitudinem obtinet potestatis. *II. q. vi., Ut [sic] Decreto.*<sup>23</sup>

13. Prohibentur non nulli accusare propter paupertatem, ut qui minus quam 50 aureos habent: *ut II. q. i., Prohibentur.*<sup>24</sup> Testes ad testimonium non admittendos esse censemus, qui nec ad accusationem admitti iussi sunt: *ut III. q. iii., Testes.*<sup>25</sup> Unde generaliter colligitur quod quicumque sacerdotes non sunt vel sacerdotes esse non possunt in sacerdotibus accusationem vel testimonium proferre non possunt: *ut II. q. vii., Penitentes.*<sup>26</sup> Sed non habens titulum beneficii vel patri-

that in the Primitive Church, none of the believers, neither laymen nor clerics, possessed anything, but all things were common to them (*as in the gloss on "Clericus"*); but now this is to be understood as a counsel, either according to the condition of the Primitive Church, or with regard to those who have renounced their property (*thus the gloss*). For the law says that only immeasurability is the measure of things offered in the church (*Codex*). But today not even one tenth is rightly given, and because of that we are cursed with hunger, need, and other punishments (*Glosa ordinaria on "Servis," Decretum, XIII. q. i., II. pars; and XVI. q. i., c. 65*).

9. We have decreed that judicial cases should moreover not be committed, neither by authority of letters of the Apostolic See nor by authority of her legates, to anyone except those possessing high rank or office or who are canons of cathedral churches (*Sext., I, iii, 11*).

10. Bishops and high-ranking clerics should not be forced, to their ignominy, to litigate before mean judges and clerics. This provision seems to have been introduced not only in favor of these litigants but also in favor of the Apostolic See, lest it be held in low esteem on account of such an official. (*John Andree, gloss on the preceding text.*)

11. The Roman pontiff holds the place on earth not of mere man but of very God (*Decretals, I, vii, 3*).

12. Whence his will is said to be celestial. And therefore he can change the nature of things. And out of nothing he can make something; for a sentence that is null he can make valid. Out of justice he can make injustice. Nor is there anyone who may say to him, "Why do you thus?" And he holds the fullness of power. (*Decretals, I, vii, 3, glosa ordinaria on "Veri Dei vicem."*)

13. Some are not allowed to make an accusation, because of their poverty, as for example those who have less than fifty aurei. (*See Decretum, II. q. i., c. 14*).

<sup>12</sup> Non inventum.

<sup>13</sup> *Glosa ordinaria in verbum "Servus," XIII. q. i, II pars.* (Friedberg, I, 718-719; *Edit. Lugdun., col. 1024*). *XVI. q. i, c. 65* (Friedberg, I, 783-784).

<sup>14</sup> *Liber Sextus, I, iii, 11* (Friedberg, II, 941-942).

<sup>15</sup> *Glosa in verbum "committantur," Liber Sextus, I, iii, 11* (Friedberg, II, 941-942; *Edit. Lugdun., col. 38*): "Dicebat Bernardus et omnes post eum quod tacite et expresse poterat pars huic iuri renunciare. Introdudum est enim in ipsorum favorem, ne scilicet in opprobrium proprium cogantur episcopi et magni clerici coram rudibus et pannosis clericis litigare. . . . Sed hodie per finem istius decretalis, credo contrarium. . . . Quia hoc videbitur non solum in favorem partium inductum, sed etiam in favorem ipsius Apostolice sedis, ne vilipendatur in tali ministro."

<sup>16</sup> *Decretales, I, vii, 3* (Friedberg, II, 98-99).

<sup>17</sup> *Cod. I, i, 1 (q.v.) Totus hic XII. paragrafus desumptus est, pene ad literam, de glosa ordinaria in verbum "Veri Dei vicem," Decretales, I, vii, 3* (*Edit. Lugdun., col. 217*).

<sup>18</sup> *Cf. Cod. VI, xlili, 2, §1-2.*

<sup>19</sup> *Cf. Cod. V, xiii, 1.*

<sup>20</sup> *III. q. vi., c. 10* (Friedberg, I, 521-522).

<sup>21</sup> *In glosa legitur, hoc loco, "quia in his que vult ei est pro ratione voluntas. Insti., de iure naturali, Sed quod principi." Verba, "de iusticia potest facere iniusticiam" intelligenda sunt ut corruptela, sine dubio tendenciose facta a Nicolao, horum verborum, que leguntur in glosa, paulo inferius: "Idem de iniustitia potest facere iustitiam corrigendo iura et mutando. Infra, de appellationibus, c. Ut debitus; et Infra, de consanguinitate et affinitate, c. Non debet."*

<sup>22</sup> "Nec est . . . ita facis": *Cf. Job 9: 12; in De pen., dist. III, § Ex persona, c. [22] "Quamvis" (Friedberg, I), sunt alia verba, sed sensus idem.*

<sup>23</sup> *II. q. vi., c. 11* (Friedberg, I, 458).

<sup>24</sup> *II. q. i., c. 14* (Friedberg, I, 444), *q.v.*

<sup>25</sup> *IV. q. iii., c. 1* (Friedberg, I, 538).

<sup>26</sup> *II. q. vii, par. Penitentes (post c. 9): sed non videtur pertinere.*