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Marsilius of Padua
The Defender of the Peace

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On the general bearing of the matters to be discussed; the reason for that bearing; and the division of the book

Every realm must desire tranquility, under which peoples prosper and the profit of the nations is safeguarded. For she is the secretly mother of good arts. She it is who, multiplying the human race in unending succession, extends its resources and refines its manners. And if a man is perceived not to have sought her, he is marked for ignorant of such great concerns.1

In the first of his letters, in the passage just set down, Cassiodorus gave expression to the advantages and fruits of the tranquility or peace of civil regimes, in order that he might—by using these, as the best fruits, to explain the greatest of all human goods, viz. the sufficiency of this life, which none can achieve without peace and tranquility—inspire the wills of men to be at peace with each other, and hence tranquility. His pronouncement was in harmony with the view of the blessed Job, when he said in chapter 22: "be at peace; thereby the best fruits shall come unto thee." 2 It was because of this that Christ, the son of God, decreed that peace should be the sign and messenger of his birth, when he willed that

1 Cassiodorus, Variae 1. 1. Cassiodorus was a high-ranking Roman official of the 5th-6th century CE whose writings constitute one of the bridges between the culture of late antiquity and the medieval west. Cassiodorus's immediate source is almost certainly his fellow Paduan Gerovius da Montagnano's Epigrammata (Venice 1306; the work was composed probably between 1292 and 1316 under the title Compendium novitatum notabilium, "a handbook of notable moral sayings"). Under utters 11 and 13 of Book II, part 4, De tranquillitate populi ("On the tranquility of peoples") and De pace et concordia ("On peace and concord"), Gerovius cites almost all of Cassiodorus's chosen quotations in the following paragraphs, including this one from Cassiodorus.

2 Job 22. 21.
the heavenly host should sing in one and the same pronunciation:
"Glory to God in the highest, and on earth peace to men of good will." And for the same reason over and over again he wished peace upon his disciples. So John: "came Jesus and stood in the midst of the disciples, and saith unto them, Peace be unto you." Warning these same disciples to preserve peace between themselves, he said in Mark: "have peace one with another." And he did not merely teach them to have it among themselves, but to wish it upon others — hence Matthew: "And when ye come into a house, salute it, saying: Peace unto this house." This, again, was the inheritance which he left to his disciples by testament, when the time of his passion and death had come, when he said in John 14: "Peace I leave you, my peace I give unto you." Following his example the apostles, as his true heirs and imitators, wished peace upon those to whom, in their letters, they addressed evangelical lessons and advice; knowing that the fruits of peace are the best; as we took from Job and explained further through Cassiodorus.

Contraries of themselves produce contraries: therefore from discord, the opposite of tranquility, the worst fruits and disadvantages come upon a civil regime or realm — as is plain to see, and evident to all, from the realm of Italy. For as long as its inhabitants lived together peaceably, they sweetly plucked the fruits previously enumerated; prospering from and in these to the extent that they subjected themselves the entire habitable world. But when discord and strife arose among them, their realm was troubled with toils and disadvantages of every kind, and was subjected to the sway of hated foreign nations. And in the same way it has once more been torn apart on all sides because of strife, almost to pieces, so that an easy entry now lies open to anyone with the will and power to occupy it. Not that there is anything to wonder at in such an outcome, since as Sallust testifies in his account of Jugurtha, by concord small things increase, while by discord the greatest collapse.9 Led astray through discord down the byway of error, its natives are deprived of the sufficient life, unceasingly enduring grave troubles instead of the sought-for peace, the harsh yokes of tyrannies instead of liberty. So they have at the last been made more unhappy than all others who live a civil life, so that their ancestral name, once the guarantor of glory and of safety to those who called upon it, is now thrown in their faces by other nations, to their ignominy.

Discourse I, chapter 1

Into this darkness, then, have these wretched people been plunged as a result of this discord or strife among themselves. Like sickness in an animal, it can be diagnosed as the indisposition of a civil regime. And even if the basic causes of this illness are several (many of them mutually associated), and almost all of them described by the best of philosophers in his civil science,10 with the potential to occur in their usual ways; still there nevertheless exists, over and above these, one singular and well-hidden cause, under which the Roman empire has laboured for a long time and labours still. This cause is highly contagious, and equally liable to spread to all other civil orders.11

9 Sallust, Bellum Jugurthinum (The War with Jugurtha) I. 10. Sallust (86–35/4 BC) was a Roman historian writing in and of the last years of the Roman republic and the crises that beset it. His works and the analyses they contained of corruption and decline were key supports of the pro-hannibalic Italian republicanism tradition, which emphasized the paramount need for civic control if the city is to achieve greatness. The passage Marullius quotes is ubiquitous in this literature.

10 Here I have followed Scholz in removing the capital letters and indices in Pococke's translation which imply that Marullius is referring to the title of Aristotle’s political work. Marullius normally refers to it as Politika (the Politics) - although even here the capitalisation may be open to question, following Morebeka's translation. In the final chapter of this discourse (L. 10, 11) he again uses the phrase civile scientia, this time explicitly associating it with the usual reference: '… Book V of his civil science, which we have called the Politica, offering more support to Pococke's reading of Scholz (here also capitalises the phrase). However, I do not see that this is decisive. Civile scientia was a term in much broader use than Politica or politika. It had been used by Cicero (see below, n. 14) to characterize the political wisdom of the orator; it was also a habitual term for the study of Roman law at the Italian universities (what Marullius calls scientia civilis scientia). Within the scholastic tradition, the adjective civile was used by Giussane, at Nieuwoude Eikens 1, 1091-1073, to translate politikê as the architectural épistêmê (scientia, science). It seems more likely, therefore, that by ‘civil science’ Marullius is referring to the recognisable body of political knowledge offered by Aristotle rather than to the title of his work.

11 Civiltas is the Notes on the Translation, above, p. xlvii. This chapter uses imperas and cives as equivalents throughout.
and realm and has already, in its rapacity, tried to invade most of them. Neither Aristotle nor any other philosopher of his time or earlier could have recognised the origin and species of this cause. For it is, and was, a certain perverted opinion, which we shall unfold in what follows, assumed by way of occasion from a miraculous effect produced by the supreme cause long after the time of Aristotle, beyond the possibilities of inferior nature and the usual action of causes in things. This opinion, surely sophistry, wearing the mask of the honourable and the beneficial, is utterly inimical to the human race and will in the end, if it is not checked, bring unendurable harm to every civil order and country.

The fruits of peace and tranquility, then, are the best, as we said, while those of its contrary, strife, are unendurable harm. For this reason we must desire peace, seek to acquire it when we do not have it, keep it once acquired, and fight off its opposite, strife, with every effort. Individuals who are brothers to each other, and all the more so collective bodies and communities, are moreover bound to help each other towards these goals, from feelings of heavenly charity as much as the bond or right of human society. This is Plato’s advice, too, according to Cicero, in the first book of De officiis where he said: ‘We are not born for ourselves alone; our country claims for itself one part of our birth, and our friends another.’ To which Cicero aptly adds: ‘Moreover, as the Stoics believe, while everything produced on earth is created for the use of mankind, men themselves are born for the sake of men. We ought in this to follow nature as our leader, to contribute to the common stock the things that benefit everyone in common.’ And because it would be no small advantage, on the contrary a necessity, to unmask the sophism of the abovementioned singular cause of strife, which threatens no little harm to all communities, therefore anyone who has the will and the ability to perceive the common advantage is duty-bound to devote attentive care and painstaking labour to this end. For this much is plain, that there is no way this plague can be avoided, nor its baleful effect excised completely from realms or civil orders.

5

Neither should anyone neglect this charge through fear or apathy or in any other spirit of malice, II Timothy 1: ‘For God hath not given us the spirit of fear; but of power, and of love—of the power and love, I say, to make manifest the truth; hence the Apostle adds in the same place: ‘Be not thou therefore ashamed of the testimony of our Lord.’ But this was the testimony of the truth, and it was to bear witness to this that Christ said he had come into the world, John 18: ‘To this end was I born, and for this cause came I into the world, that I should bear witness unto the truth,’ that is, the truth that leads the human race to eternal salvation. After this example, therefore, any man whom the Giver of graces has more fully endowed with an understanding of these matters is to that extent more obliged to devote himself to the teaching of this truth, by which the abovementioned plague of civil regimes might be abolished from the human race and especially Christians: the truth, I say, which leads to the salvation of civil life and conduces not a little to eternal salvation as well. A man with this knowledge and ability sins gravely, as if by ingratitude, if he neglects this task; witness James in his Epistle General, chapter 4, where he said: ‘To him that knoweth to do good, and doeth it not, to him it is sin.’ For this common enemy of the human race will not be completely eradicated, nor the baleful fruits that it has so far produced wrenched, unless the evil of its cause or root is first exposed and convicted. Only by this route, and no other, can the coercive power of
princes safely proceed finally to drive the dishonourable sponsors and obstinate defenders of this evil from the field.

6

And so, attentive and obedient to the advice of Christ, the saints and the philosophers given above, I, a son of Antenor, acting from any understanding of these matters that may have been granted me by grace, and from a spirit too of confidence furnished me from above (as James attests in the first chapter of his Epistle General: 'Every good gift and every perfect gift, cometh down from above from the Father of lights'); of reverence for the Giver, ardour to make known the truth, fervent love for brothers and country, pity and compassion for the oppressed; to recall the oppressors from the byway of error, and to spur on those who allow these things to happen when they should and can prevent them; and with an especial regard for you, most noble Ludwig, emperor of the Romans, as the minister of God who will give this work the ending it hopes for from outside; in whom as if by some special and ancient right of blood, and not less by your singularly heroic temperament and shining virtue, the desire to extirpate heresies, to support and safeguard the catholic truth and every other discipline of study, to excise vice and further the study of the virtues, to put an end to quarrels and to spread and establish peace and tranquillity everywhere, is ingrained and confirmed. I have, after a period of painstaking and intense examination, committed to writing the sum of the thoughts that follow, judging that they may give some help to your watchful majesty in its care to provide against the said errors and other contingencies, and for every other public utility.

7

It is therefore my purpose, with the help of God, to expose only this singular cause of strife. For it would be superfluous to go over again the number and nature of those identified by Aristotle. But in respect of this one – which Aristotle could not perceive and neither has anyone else after him, who could have done, undertaken to define it – it is our will to lift the veil in such a way that it can hereafter be easily excluded from all realms and civil orders, and once excluded, virtuous princes and subjects can live in tranquillity more securely. And this was the object of desire put forward at the beginning of this work, necessary to all those who ought to enjoy civil felicity, which is it seems the best of all things that humans desire in this world and the final end of human acts.

8

I shall therefore divide my proposed undertaking into three discourses. In the first of these I shall demonstrate what I intend by sure methods discovered by human ingenuity, consisting of propositions that are self-evident to any mind not corrupted by nature, custom or perverse affection. In the second I shall corroborate what I shall take myself to have demonstrated with testimonies of the truth founded upon eternity, and also with authoritative passages of the saints, its interpreters, and other approved doctors of the Christian faith, so that this book should stand by itself, needing no extrinsic proof. On the same basis I shall attack the falsehoods opposed to my conclusions and uncover the sophisms of my adversaries, which stand in the way with their involutions. In the third discourse I shall draw a number of conclusions or lessons of the utmost utility, which all citizens – those in the position of prince as much as those who are subject – should heed, and which are evidently certain as a result of what has been previously determined. I shall divide each of these discourses into chapters, and each chapter again into sections, more or fewer according to the length of the chapter. The singular advantage of these divisions will be the case of locating what readers need to find when they are referred from the later discourses and chapters to earlier ones. This will yield a second advantage, of making the volume shorter. For when it happens that in the later parts of the book we assume some truth (either for itself or for the sake of demonstrating something else) which
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has been adequately proved or established as certain in what has gone before, we shall, without further trifling with the proof, refer the reader back to the discourse, chapter and section where it was given, so that he can easily find the certainty of what he is looking for.

In deference to Marsilius, who could confidently expect his reader to be male and who follows Aristotle in excluding women from citizenship (I. 11, 4) and in presumably from the active and critical readership he is trying to arouse.

2

On the first questions of this book, and on defining and determining the meanings of this term ‘realm’

As we embark on what we propose, therefore, we wish first to make plain what constitutes the tranquility and the intranquility of a realm or city, and of these, first tranquility: for if this is not clear we cannot know what constitutes intranquility. And since both of these seem to be dispositions of a city or realm (as we suppose from Cassiodorus) we shall without further delay make plain what needs to be clarified, i.e. what a realm or city is and what it is for, so that the description of tranquility and its opposite will also become clearer.

2

So, since we wish (following the order we have set down) to describe the tranquility of a city or realm, we should be aware — so as to avoid any ambiguity that may arise from the multiplicity of terms — that this term ‘realm’ in one of its significations implies a plurality of cities or provinces contained under one regime. In this sense a realm does not differ from a city in terms of the form of polity, but rather in terms of size. On another understanding of the word, this term ‘realm’ signifies a particular type of polity or temperate regime, which Aristotle calls ‘temperate monarchy’. In this sense there can be a realm in a

1 Civitas aut regnum: see the Notes on the Translation, above, pp. 331 and 351.
2 Politics: see the Notes on the Translation, above, p. 316.
3 For Marsilius’s more detailed analysis of the different types of polities, see below, I. 8. For the term ‘temperate’ or ‘tempered’, and the notion of ‘tempering’ in general, see below, I. 5, 3 and note.
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single city just as there can be in several – as was the case around the beginnings of civil communities, when in most cases there was one single king in each single city. The third signification of the term, and the most familiar, is a mixture of the first and the second. The fourth sense is something common to every type of temperate regime, whether in a single city or in several cities; Cassiodorus took it in this sense in the words we placed at the beginning of this book, and it is in this same sense that we too shall use the term in determining the answers to our questions.

Since, then, we are to describe tranquility and its opposite, let us suppose with Aristotle in the first and fifth books of his Politics, chapters 2 and 3 respectively, that the city is like a kind of animate or animal nature. For an animal which is in a good condition in respect of its nature is composed of certain proportionate parts arranged in respect of each other, all communicating their actions between themselves and towards the whole; likewise too the city which is in a good condition and established in accordance with reason is made up of certain such parts. A city and its parts would therefore seem to be in the same relation to tranquility as an animal and its parts is to health. We can place our trust in this inference on the basis of what everyone understands about both. For they think that health is an animal’s optimal condition according to nature, and likewise that tranquility is the optimal condition of a city established according to reason. Now health – as the more expert physicians say when they describe it – is that good condition of an animal, in which each of its parts is enabled perfectly to perform the operations appropriate to its nature. 3 If we follow this analogy, tranquillity will then be that good condition of a city or realm, in which each of its parts is enabled perfectly to perform the operations appropriate to it according to reason and the way it has been established. And because any good definition signifies at the same time the contraries of what is being defined, intr tranquillity will thus be that bad condition of a city or realm (just like the sickness of an animal) in which all or some of its parts are prevented from performing the operations appropriate to them, either in absolute terms or at least in their full extent.

Let this, then, be our figurative account of tranquility and its opposite, intr tranquillity.

4 The most important ancient authority on medicine, Galen, had defined health at the beginning of his Art of Medicine in terms of good temperaments rather than function: ed. and tr. P.N. Singer, Galen: Selected Works (Oxford: Oxford University Press, 1997), p. 147. However, in his Canon of Medicine, the influential Arab-philosopher Abu Ali Hunain Ibn Abd Allah, called Ibn Sina (in Latin Aristotelis, 980–1037) asserted that, according to Galen, health is the disposition by which the body of a man is, in its temperament or composition, such that all its operations may proceed from it intact. Liber canonis prius quinque libros librorum adversus daemonum et medicinae est Etudes. Book I, chap. 2, sect. 2, fo. 29a. The ‘operations’ were one of the seven so-called ‘naturals’ (including the elements, the humours and the members of the body) which, together with the ‘non-naturals’ and the ‘contra-naturals’, were used by medieval physicians to constitute the object of the theoretical science of medicine. According to Ibn Sina, the operations are the final cause or end of health: ibid., ed. 1, sect. 1, chap. 2, fo. 10v. For the non-naturals, see below, 5, 4 and note there.
On the origin of the civil community

Since, then, we have said that tranquillity is the good condition of a city in respect of the action of its parts, we must in consequence consider what the city is in itself, and what it is for; what and how many are its principal parts; the action appropriate to each of them, their causes, and their ordering in respect of each other. For these considerations are fundamental to the complete delineation of tranquility and its opposite.

However, before we discuss the city—which is the perfect community—and its species or modes, we ought first to introduce the origin of civil communities and their regimes and ways of living. From these, as from the imperfect, men have progressed to perfect communities and regimes and ways of living in them. For nature's path, and that of art which imitates her, is always from the less to the more perfect. And men are not judged to know any particular thing unless they know it together with its primary causes and its first principles right down to its elements.

The idea that natural development proceeds from a state of imperfectly-formed potentiality to a state of complete or finished actuality (and that this development is for the sake of the latter, finished state) is the central idea of Aristotelian teleology, classically stated at Physics II, 199a9ff. (chapter 8, which also includes the comparison with art). At the end of the process as 'the best' can be found at Politics I, 1, 1258a1ff. It should be noted that Physics II 8 discusses the development of individual natural and artificial objects, whereas Maritain is more interested here and elsewhere in the idea of a general progress within nature and art from the less to the more perfect.

This definition of knowledge is half-quoted from Aristotle, Physics I, 184a20-21, cf. Politics I, 1259a24-6.

3

Discourse I, chapter 3

So, proceeding in this fashion, we should be aware that civil communities (according to their different times and places) have begun small, and by gradually receiving an increase have in the end been brought to completion—as we have just said happens in every action of nature or art. For the first and minimum human combination, from which all others have arisen, is that of male and female, as the best of philosophers says in Politics I, chapter 1, and is further apparent from his Economics. This combination produced more human beings, who first of all filled one household; and then as further combinations of this type occurred, the multiplication of human beings was so great that one household was insufficient for them and it was necessary to set up several households. A plurality of these is called a village or neighbourhood, and this (as Aristotle also writes, as above) was the first community.

Now as long as human beings were in one single household, all their actions, and especially those which we shall later call 'civil', were regulated by the elder among them as by the more discerning; without, however, any law or custom, in that these could not yet have been discovered. But it was not only the men of the single household who were regulated in this way, but also, almost in the same way, those of the first community which is
called the village — even if differently in some respects. For although it would have been licit for the head of the single household to pardon or punish domestic wrongdoings entirely at his wish and pleasure, this would not have been licit for him as the chief of the first community called the village. The reason is that in this community, it was necessary for the elder to dispense what was just and advantageous by some reasonable ordinance or quasi-natural law, because as it seemed appropriate to everyone by a kind of equity and without much examination, purely by the common dictate of reason and a certain duty of human society.

The cause of this difference of regime between the single household and the neighbourhood is and was this, that if one brother from the first and single household economy or domestic family had killed or otherwise offended against another brother, it would have been licit for the head of household (had he wanted) not to punish the delinquent with the ultimate penalty, without any crisis arising in consequence: both because the injury would seem to have been done to none but the father who was now pardoning it; and because of the scarcity of human beings; and finally because the head of household would suffer smaller loss and grief in losing one son than in losing both. This is what our first father, Adam, seems to have done when his eldest son Cain killed his brother Abel. For what is just in civil terms does not properly speaking exist between father and son, as Aristotle writes in *Ethics IV*, where there is the treatise on justice. But in the first community, the village or neighbourhood, it was not (nor would it be) licit to act in this way, on account of the difference already stated. On the contrary, if vengeance or the equalisation of injuries inflicted had not been (or were not to be) done by the elder, there would as a result have arisen (or would as a result arise) fighting and the separation of the neighbours.

Now once these villages had become more numerous and the community had grown greater, which was inevitable with the increase in procreation, still they were ruled by one man — either because of the lack of more than one prudent man or for some other reason, as Aristotle writes.

5 For Marsilius’s rejection of a natural law in the true sense of law, see the Introduction, above, p. viii.

6 Aristotle, *Nicomachean Ethics V*, 1134b2ff. Marsilius writes throughout as if it were the fourth book of the *Ethics* that contains the discussion of justice. As Gewirth suggests, this may be due to the fact that the fifth book of the *Nicomachean Ethics* is the same as the fourth book of the *Eudemian Ethics*, which was certainly known at the time; but there seems to be no other evidence that Marsilius was familiar with the *Eudemian Ethics*.

Discourse I, chapter 3

in *Politics III*, chapter 9 — but by him, still, who was held to be the elder or better, even if matters were settled by ordinances less imperfect than those of the village or single neighbourhood. But nevertheless those first communities did not have that differentiation and order of parts, nor the totality of the necessary arts and rules of living, which was progressively thereafter found in perfect communities. For sometimes the same man was both prince and farmer or shepherd, like Abraham and many of his posterity, whereas this would not be expedient — nor licit — in perfect communities.

But as these communities gradually increased, human experience increased likewise, and more perfect arts and rules of living were discovered while the parts of the communities were also differentiated further. Finally, man’s reason and experience made up the full range of things that are necessary to living and living well, and that perfect community was established which is called the city, with the differentiation of its parts which we shall immediately go on to determine.

So let this be enough on the origin of the civil community.

7 The reference is probably Aristotle, *Politics III*, 1255b 13-19, cf. below, 1. 9.
On the final cause of the city, and of the aspects of the city in question, and in general on the differentiation of its parts

Now a city, according to Aristotle in Politics I, chapter 1, is a perfect community possessing every limit of self-sufficiency, as it is consequent to say, having thus come about for the sake of living, but existing for the sake of living well. Now in saying, 'having come about for the sake of living, but existing for the sake of living well', Aristotle signifies its final and perfect cause, for those who live a civil life do not just live – which beasts or slaves do – but live well, i.e. having leisure for the liberal activities that result from the virtues both of the practical and of the theoretical soul.

Since the city has been defined in this way as being for the sake of living and living well, that being its end, we should first discuss living itself and its modes. For this is, as we have said, that for the sake of which the city was established, as well as the necessary condition of all those things that take place and are brought about by human communication within it. Let us then lay this down as the fundamental principle of everything that we must demonstrate, a principle naturally held and believed and freely conceded by all: that all men not deficient or otherwise impeded naturally desire a sufficient life, and by the same token shun and avoid those things that are harmful to them. Indeed, this principle is not only granted for man, but also for every kind of animal according to Cicero, On Duties I, chapter 3, where he says: 'From the beginning nature has assigned to every kind of animate being the tendency to preserve itself, its life and body, and to reject anything that seems likely to harm it, seeking and procuring everything necessary for life.' This moreover anyone can gather plainly by inference from the senses.

There are two modes, however, of this same living and living well that is appropriate for man: one temporal or worldly, but also another, which is customarily called eternal or heavenly. And it being that philosophers as a whole could not convincingly demonstrate the second mode, i.e. the sempiternal, nor was it among things that are self-evident, therefore they did not trouble themselves to pass on whatever might be in order to it. But on the subject of living and living well or the good life in its first mode, i.e. the worldly, and those things that are necessary for it, the glorious philosophers grasped almost the entire matter by demonstration. From this they concluded the necessity, for securing it, of the civil community, without which this sufficient living cannot be obtained. The most excellent of them, Aristotle, said in Politics I, chapter 1, that all men are borne to it, and according to a natural impulse for the sake of this. And although the experience of the senses teaches this, we nonetheless wish to introduce the cause we spoke of with greater definition, and say that because man is by nature composed of contrary elements, and as a result of their contrary actions and passions is almost continually losing something of his substance; and again, because he is born naked and undefended against the excesses of the air which surrounds him, and of the other elements – possible and corruptible, as they say in nature

1 Aristotle, Politics I, 1253a27-30.
2 Cicero, De Officis I. 11 (p. 60).
3 Aristotle, Politics I, 1275a10. The sentence does not follow Aristotle's Greek accurately and, as Peccei-Ottino notes, is not in Moehlmann's translation, nor is it in the translation imperfect, which in this case has almost the same translation as Macrob. At I. 13, a Marsilius quotes the passage correctly. I have therefore conveyed the quotation marks here and treat the sentence as a standard case of indirect speech, with which the grammar of the sentence is perfectly compatible. It may still be a quotation from a commentary or paraphrase; the unusual phrasing and the precision of the reference would support this. However, I have been unable to identify a possible source.
4 The phrase 'naked and undefended' (nuda et innocent, guerres non saeclae) can be found in Aristotle, De partibus animae IV, 682b25, but the sentence is contrary to that of Marsilius here: Aristotle is arguing that those who say that man is born naked and
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sciences; therefore he stood in need of arts of different kinds and types in order to resist the said damage. And since these arts could not be practised except by a large number of men, nor retained except by their mutual communication, men needed to gather together to secure the advantage to be had from them and to avoid disadvantage.

4

But because disputes and scuffles break out among men who are gathered together in this way, and these, were they not regulated by a norm of justice, would cause fighting, the separation of men and ultimately the destruction of the city, it was necessary to institute within this community a standard of justice and a guardian or executor of it. And since this guardian must restrain those who unjustly exceed the standard, as well as other individuals from both within and without who trouble or try to oppress the community, the city had to have some element within itself whereby it might resist these people. Again, since the city stands in need of certain supplies, repairs and stores of various common goods (and these different in time of peace and in time of war) it was necessary that it should contain people to provide such things, so that the common need could be met whenever it was expedient or required. But beyond the things just mentioned, which meet the needs of this present life alone, there is something else which those who share a civil community need for the status of the world to come, promised to the human race through the supernatural revelation of God; and which is also useful for the status of this present life: sc. the worship and honouring of God, and the giving of thanks both for blessings received in this world and those to be received in the future world as well. And in order to teach these things and to guide men in them, it was necessary for the city to appoint certain teachers. We shall speak in detail of all these matters, together with the

undetailed are wrong, because man has hands with which to develop crafts (tecnica, Latin arte). The idea of man being born naked and undetailed in Marsiliano’s sense is, however, a major theme in the Latin father Lactantius’s De obiis de (On the Foundation of God), 3. 1. As Quillet notes, the Florentine translation expands this passage with the example of hot air in summer and cold air in winter, with a general reference to the classical medical writer Galen: “sucine di stare Parisi graia: il corpo umano per eccesiva caldo e di vero per tropo eccesiva fride, che secondo Galenius volgono no volgano Parisi soffriano attesioli dell’alti alimento”. The medical tradition is certainly critical to Marsiliano’s understanding of both excess and temperament: see further below, I, 5, 3-4.
On the differentiation and identification of the parts of the city; and on the necessity of their separate existence within it for the sake of an end that can be identified as a result of human discovery

We have so far put forward, by way of preliminaries, a global account of the parts of the city; and we have said that it is in their action and perfect mutual intercommunication (not subject to any impediment from outside either) that the tranquillity of the city consists. We now take up the subject of these parts again, so that through a richer elucidation of them (from their activities or ends as well as from the other causes appropriate to them) the causes of tranquillity and its opposite might be further clarified. We shall say, then, that the parts or offices of the city are of six kinds, as Aristotle said in Politics VII, chapter 7.1 agriculture, manufacture, the military, the financial, the priesthood and the judicial or councillors.2 Three of these, viz. the priesthood, the military and the judicial, are parts of the city in an unqualified sense, and in civil communities they are usually called the

1 Aristotle, Politics VII 1328a1ff. Aristotle does not here enumerate the following as 'parts' but as things without which the city would not exist: at 1329a9 and 133a1ff. He is only prepared to name the military and the judicial as parts of the city, although he says (cf. below, section 13) that the priesthood should be made up of all members of these parts.

2 Thus Mancilla here modifies Aristotle's strict distinction into one between parts in an unqualified sense and parts in a broad sense. In Aristotle's discussion, the question of which functions count as 'parts' of the city is raised in connection with the question of who is (or ideally should be) a citizen: see further below, I. 12, 4 and note 1, 13, 3–4 and 6.

3 Notables. The others are called parts in a broad sense, in that they are functions necessary to the city according to the opinion of Aristotle in Politics VII, chapter 7. And the multitude of these is usually called plebeian.4 These, then, are the more familiar parts of the city or realm, to which all the others can appropriately be reduced.

Even though the necessity of these parts was stated in the previous chapter, we nevertheless wish to affirm it again in a more definitive fashion: taking it as demonstrated earlier, from what is self-evident, that the city is a community established in order that the human beings within it may live and live well. Now we earlier demarcated two modes of this 'living': one, the life or living of this world, viz. the earthly; two, the living or life of another or future world. On the basis of these two modes of living, which man desires as ends, we shall identify the necessity of the distinction between the parts of the civil community. The 'living' of man in its first mode (i.e. the earthly), therefore, is sometimes understood as the being of living things, as in the second book of On the Soul: 'For living things, to live is to be'; and in this sense life is nothing other than the soul.5 Sometimes, however, 'living' is taken to be an act, i.e. the action or passion of the soul or life.6 Both of these, again, can be taken in two ways: either within the same being, numerically speaking, or within similar

1 Notabilitas, which does not translate happily into English. The Florentine translation has 'soccorribilita e dignitatem'.

2 Popolo: Mancilla means the general population as distinct from the notables. In contemporary Italian usage it would be usual to refer in this context to the popolo, 'the people' (as opposed to the magistrati or 'magistrates'): this is how the Florentine translation renders the phrase ("De' quiali la multitudine e chiamato il popolo"). But in Mancilla, popolo has the sense of the entire citizenry rather than the 'popular' part of that citizenry. The contemporary commentary on Mancilla’s Eversio equitatus equilii et populi: Albertino Manno, Eversio, ed. L. Palini (Bologna: Zanichelli, 1903), p. 154 (no. 1), 335.

5 Aristotelis De anima (On the Soul) II, 415b13–14. Aristotle understands the 'soul' (pneumata, nous) in the form of an animate or living creature, i.e. what makes it formally what it is, hence it is effectively interchangeable with the being of living things, which is their life or being alive.

6 A thing that has a soul is alive or has a life in the sense that it has a series of potentialities for acting or being acted upon: for example, an animal has the potential to see, and this is part of its peculiar formal nature or soul. However, there is a further sense of 'life', which is the actualisation or 'act' of these potentialities (for example the actual act of seeing something). See the discussion of the different stages of potentiality and actuality in Aristotelis, De anima II, 417a23–418a2.

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beings, which is called the species. And although living in both of its said modes — that which is peculiar to man as well as that which he has in common with the other animals — is dependent upon natural causes, we are not at present looking at it as the result of these, since that sort of consideration belongs within the natural science of plants and animals. Our present investigation concerns those causes insofar as they are completed by the art and reason by which the human race lives.

And therefore one should take note that if man is to live and live well, his actions must be done and done well, and not just his actions, but his passions too: "well", i.e. in the appropriate temper.7 And because we do not receive entirely perfect from nature the means with which to achieve this tempering in each case, man needed to go beyond natural causes and use his reason to create those things needed to complete the production and preservation of his actions and passions of both body and soul. And these are the different kinds of work and worked objects that result from the virtues and the arts, both practical and theoretical.

Now of human actions and their passions, some are the result of natural causes without our knowledge: such as come about through the conflicting nature of the elements that make up our bodies, because they are mingled together. We can appropriately set down the actions of the nutritive part as being of this sort. Under this heading also belong actions produced by the elements which surround our body, through an alteration in their qualities. Of this kind too are alterations brought about by things entering human bodies, such as foods, drinks, medicines, poisons and the like. There are other actions and passions, however, which come

7 Temperamentum (Greek híanos), i.e. "temperament" or "temper" in the old sense of the "dash or proportionate mixture or combination of elements or qualities; the condition or state resulting from this" (Oxford English Dictionary). "Tempering" or "temperament" is a key Marzialian term, the antithesis to harmful excesses of all kinds. It stems primarily from the medical literature and especially from Galen in his treatise De temperamentis, which was translated into Latin twice in the middle ages. But Marsilio also used how temperate to translate Aristotelian ex temperamento (cf. below, 1, 8, 2 and note there), yielding another opportunity for Marsilius to run together the vocabularies of medical and political science.

from us or occur within us as a result of our cognitive and appetitive powers.8 Some of these are called 'immanent', i.e. because they do not cross over into a subject different from the agent nor are they performed by means of an external organ or limb moved in respect of place. Such are the thoughts and desires or inclinations of men. Whereas others are and are called 'transitive', because in one or other of the said ways they are in contrast with those just mentioned.

5 In order, therefore, to temper all these actions and passions, and to complete them in that to which nature was unable to bring them, different kinds of arts and virtues were discovered, as we said before, and men of different functions were instituted to practise them, in order to remedy human need. These orders are nothing other than the parts of the city enumerated above. For in order to temper and to safeguard the acts of the nutritive part of the soul — and if this ceased, the animal would simply perish, both individually and as a species — agriculture and animal husbandry were instituted. Under these we can appropriately include all types of hunting (of land, water and winged animals) and all the other arts by which food is obtained, in some kind of process, or prepared for consumption: so that by means of this food, what is lost from the substance of our body may eventually be restored and it may continue in its being, immortal insofar as the nature of man allows.

6 In order to moderate the actions and passions of our bodies which result from those elements that surround us externally and their impact upon us, man discovered mechanics (which Aristotle calls 'the arts') at Politics VII, chapter 6:9 e.g. wool-making, tanning, cobbling, all the skills of

8 This list essentially summarizes the six 'non-naturals' identified by contemporary physicians (cf. above, 1, 2, 3, n. 6). The term 'non-naturals' was coined by the ninth-century Arab philosopher Hunain ibn Ishaq (in Latin 'Johnsirianus'), although he took his source for the classification from Galen's Art of Medicine. Among these 'non-naturals' was often called 'regimen' and was considered an important part of practical medicine (cf. below, section 6).

9 Aristotelis, Politica VII, 1328b6 (though Marcellus in section 1 refers to this passage as chapter 7).
building, and in general all the other mechanical arts that directly or indirectly serve the offices of the city. These arts do not simply moderate taste and touch but the other senses as well, which are more for pleasure and for living well than for the necessity of staying alive, for example the art of painting and those like it: on the subject of which Aristotle says in Politic IV, chapter 3: "Of these arts, some must exist as a result of necessity, but some for delight and for living well." And under this heading we can also set down practical medicine, which is in some sense the governing art of many of those we have mentioned.

In order, however, to moderate the excesses of acts that originate from our abilities to move in respect of place as a result of cognition and appetite – which we call 'transitive', and which can take place either to the convenience or the inconvenience or injury of someone other than the agent for the status of this world – there was of necessity instituted within the city a particular part or office through which the excesses of such acts might be corrected and reduced to equality or due proportion. For otherwise they would cause fighting and consequently the separation of the citizens, and in the end the destruction of the city and the loss of the sufficient life. This part is called by Aristotle the judicial or the protective and councillor, together with the things that minister to it, and it belongs to this part to regulate what is just and beneficial in a community.

For the rest, given that the sufficient life could not be led if the citizens were oppressed or reduced to slavery by external enemies, again, given that the sentences of judges on internal miscreants and rebels must be carried out by means of coercive force, it was necessary to institute within the city a military or defensive part, to which many of the mechanical arts also

*Aristotle, Politics IV, 1263a32-4.

*This description is essentially taken from Aristote’s analysis of “rectitude” or “corrective” justice in Naukeastike Ethika, I, 1263b2-1264a11 (chapter 4). Here Aristote says that the function of the judge is to restore equality if one party has exceeded the mean and in consequence the other party has less than the mean. The language of “exceed” in respect of voluntary human actions fits neatly into Maritain’s theme of natural or non-voluntary exceed.

 minister. For the city is established for the purpose of living and living well, as we said in the previous chapter, but this is impossible if the citizens are reduced to servitude. For the great Aristotle declared that this is contrary to the nature of a city. Hence, pointing out the necessity of this part in Politics IV, chapter 3, he says: 'A fifth kind, the warrior, the existence of which is nevertheless necessary to them if they are not to be the slaves of tyrants. For nothing is more truly impossible than for it to be fit to call a city that which is by nature a slave; for a city is self-sufficient, while that which is a slave is not self-sufficient.' The necessity moreover of this part for internal rebels can be had from Aristotle, Politics VII, chapter 6. But we have omitted the passage here for the sake of brevity, and because we shall quote it in chapter 14 of this discourse, section 8.

Again, we must grant that in earthly years there is sometimes an abundant harvest, and sometimes scarcity; that a city sometimes has peaceful relations with neighbouring cities, and sometimes not; and that there are other common utilities which it needs, like roads and bridges, and the construction and repair of other buildings, and all the rest of this kind of thing which it would be neither appropriate nor quick to enumerate. In order to provide all these at the right time, it was necessary to institute within the city a part concerned with treasury, which Aristotle called the ‘financial’. For this part collects and stores monies, grain, wine, oil and all other necessities, and procures and seeks out things of common benefit from all parts in order to meet future need; and it too has some of the other parts subservient to it. As to why Aristotle called it the financial, it is because a store of money seems a treasury of everything, given that everything can be exchanged for money.

It remains for us now to say something of the necessity of the priestly part, concerning which there has been no such general agreement among men as upon the necessity of the other parts of the city. And the reason

*Aristotle, Politics IV, 1263b10-11.

*Politics VII, 1263b7-9: "For those who share a community must have arms ever amongst themselves for the sake of rule, because of those who disobey."
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for this has been that its true and primary necessity could not be understood through demonstration, and neither was the matter clear of itself. Nevertheless, all peoples have agreed on this, that it is appropriate to establish it for the worship and honour of God, and for the benefit consequent upon these practices for the status of the present world or of that to come. For many religions or followings promise reward for those who do good, and punishment for evildoers, to be meted out by God in a future world.

However, apart from the grounds for positing religions which are believed without demonstration, philosophers (among them Hesiod, Pythagoras and many others of the ancients) have — very aptly — paid attention to an entirely different reason for handing down divine religions or followings, and one that is all-but-necessary for the status of this world. And this was the goodness of human actions both as individuals and as citizens, upon which the calm or tranquility of communities, and ultimately the sufficient life of this present world, almost wholly depends. For even if the various philosophers who invented these religions or followings may not have perceived or believed in the resurrection of men and the life that is called eternal, they nevertheless developed and encouraged the fiction of its existence, including the delights and afflictions it contained in relation to the nature of human deeds in this mortal life, in order thereby to induce in men a reverence and fear of God and a desire to avoid the vices and cultivate the virtues. For there are

... notes see the Notes on the Translation, above, p. 243.
19 A Greek poet of the seventh century BCE, author of Works and Days and Thetis, a genealogy of the gods.
20 A Greek philosopher and mathematician of the fifth century BCE, famous (among other things) for the doctrine of metempsychosis, i.e. the migration of souls from one body to another, to which Marsilius alludes in the passage to which it refers below in I. 10. 32. Ibn Rushd's commentary in the Latin translation can be found in Avicenna opera omnia commentaria (Venice, 1552: 34), reprinted Frankfurt am Main: Minnerath G.m.b.H., 1962., Vol. VIII, esp. at fol. 147r (Book II, chapter 3). Compare elements of Albert's commentary on the first of these passages here... legislatures do not seek out the principles of truth, but rather give commands of piety which more easily move men, by the hope of rewards and fear of punishments, to the
discourse 1, chapter 5

... certain acts that a legislator cannot regulate by human law, as in those which cannot be proven to be present or absent in anyone but which cannot escape God — who, according to their fiction, laid down these religions and commanded their obedience, on the threat or promise of eternal penalty or reward for deeds of good or bad deeds. Hence they said of various individuals who had been virtuous in this world that they were set in the firmament of heaven. And this is perhaps how certain stars and constellations came by their names. Whereas with those who acted wrongly, they said that their souls enter the bodies of different animals, for example pigs for those who were immoderate in taste, goats for those who were immoderate in touch and sexual activity, and so on for the rest of men and animals, according to the relationship of human vices to the reprehensible qualities of the latter. So too they assigned various kinds of torments to the doers of evil deeds: hens, perpetual hunger and thirst to the intemperate Tantalus, and water and fruit to hand which he can neither drink nor eat, as they recede ever further than he can reach. They spoke too of Tartarus, the place of such torments, as precipitous and dark, and described all these things in tones almost entirely terrifying and grim. And out of terror of all this men avoided acting wrongly, were aroused to virtuous deeds of piety and mercy, and became well-framed with regard both to themselves and to others. Because of this, many disputes and injuries within communities came to an end. And also as a result the peace or tranquility of cities, and the sufficient life of human beings for the status of this present world, was preserved with less difficulty — which was precisely what those sages had intended as their end in the exposition of such religions or followings.

... It was the task, then, of the priests of the gentiles to hand on such precepts, and in order to teach them they established temples in their
government and preservation of the commonwealth. And therefore they have connected the fiction (if it's own) that there are many gods and many cults and religions... . Albertus Magnus, Metaphysica, ed. H. Geyser (Münster: Aschenbrenner, 1960). Vol. I, pp. 101-3 (translation mine). Geremia de Montagnes in the Syntagma sacrarium: Book I, part 1, under 18:4 (The false opinions, contrary to the Christian religion, to be striegted and condemned in books in one among Christians...). Hence it is clear that for Geremia, as for his source Cicero, this is a false and destructive opinion.
cities in which their gods were worshipped. They also established teachers of the said religions or traditions, whom they called priests, in that they handled the sacred objects of the temples such as books, vessels, and other things of this sort which served the worship of the gods.

13

These matters were ordained in a manner that was fitting in relation to their beliefs and rites. For they did not institute any kind of people as priests, but rather certain virtuous and approved citizens who had been of military or judicial or councillor office, I mean citizens who had given up worldly business and were now excused from civil burdens and offices because of their age. For it was seenly that the gods should be honoured, and their sacred objects handled, by such men – distanced now from the passions, and whose words would carry more weight on account of their age and the gravity of their manners – and not by workmen or hired labourers who had exercised base or deifying functions. Hence Politicus VII, chapter 7: ‘Nor is a farmer or workman to be made a priest.’ However, because the gentle and all the other religions or followings that are or were outside the catholic Christian faith – or outside the Mosaic law that came before it, or the beliefs of the holy fathers who came before that, and in general outside the tradition of those who are included within the sacred canon which is called the Bible – did not have correct opinions on the subject of God, in that they followed human thinking or false prophets or teachers of errors; therefore neither did they have correct opinions on the subject of the future life and its happiness or wretchedness; nor about the true priesthood, which is instituted for the sake of it. We have however discussed these rites so that their difference from the true priesthood, sc. that of the Christians, and also the necessity of the priestly part in communities, might be more clearly apparent.

On the final cause of a certain part of the city, sc. the priestly; handed down and revealed directly by God, but which cannot attain conviction by human reasoning

What remains for this discussion is to say something of the final cause for the sake of which the true priesthood was instituted in communities of the faithful. For this cause is the tempering of those human acts that result from an imperative of cognition or desire, both immanent and transitive, inasmuch as it is on the basis of them that the human race is ordered towards the best life of the world to come. And on this account one should note that although the first man, viz. Adam, was principally created for the glory of God just like other creatures, his creation was nevertheless singled out from the other species of corruptible creatures: for he was created in the image and likeness of God, so that he would be capable of and a participant in eternal happiness after the life of this present world. He was, furthermore, created in a state of innocence or original justice and even of grace, as some of the saints and certain notable doctors of holy Scripture say with apparent likelihood. And had he remained in this state, the institution or differentiation of civil functions would not have been necessary either to him or to his posterity, in that nature would have brought forth for him in the earthly paradise or pleasure-garden things needful and pleasurable for the sufficiency of this life, without any penalty or demand upon him.


2 Whether the state of innocence was a state of grace was a matter of theological controversy: for a brief near-contemporary summary of the issue, see Thomas Aquinas, Summa theol. Tr. 3 q. 95 a. 3, ‘Whether the first man was created in grace.'
But because he destroyed his own innocence or original justice and grace by eating of the tree that had been forbidden him, transgressing in this act the divine command, he fell in an instant into guilt and misery or penalty, the penalty I mean of being deprived of the eternal happiness to which he had ultimately been ordained by the blessing of the God of glory, along with any posterity of his. From the transgression of the command just mentioned he deserved furthermore that all his descendants should be generated in lust, in which and from which every man subsequently is conceived and born, contracting from this the sin that in the Christian religion is called 'original'. The exception is Jesus Christ, who was conceived from the holy spirit without any sin or lust whatsoever, and born of the virgin Mary; and this came about when one of the three divine persons, viz. the son, true God in the unity of his subsistence, took on human nature. From this transgression of our first parents it came about that the entire human line is sick in its soul and born sick, when it had previously been created in a state of perfect health, innocence and grace; and deprived too, because of this crime, of its ultimate good to which it had been ordained.

But because it is the nature of God to have pity on the human race - his workmanship and image - which he had preordained to blessed and eternal life, he, who never does anything in vain and is never deficient in what is needed, willed to offer a remedy for the human fall: so by handing down certain commands of obedience which man must observe and which, like the contraries of the transgression, should heal the sickness of the guilt that stemmed from it. And he proceeded in this in a way that was truly ordered, from the easier to the more difficult, like an expert physician. For he enjoined upon man firstly the ritual of holocausts, of the first fruits and the first-born of animals, as if he wanted to test human penitence and obedience; and the ancient fathers observed this ritual in veneration, faith, obedience and thanks to God down to the time of Abraham. To him God gave another and more weighty command, sc. the circumcision of every human being of the male sex in the flesh of the foreskin, as if God would seem again to be testing human penitence and obedience further. And these precepts were observed by some down to the time of Moses, through whom God then handed down to the people of Israel a law, by means of which he established further precepts (in addition to the abovementioned) for the status of this present world as well as of that to come, and he also ordained ministers of this law who were called priests and levites. The profit of observing all the initial precepts and the Mosaic law was an expiation, in some sense, of sin or guilt - original as well as active, that is, spontaneously committed - and also an escape or preservation from the eternal and temporal penalty of another world; even if men did not, by observing them, merit eternal happiness.

But it was nevertheless to this that merciful God had ordained the human race; and therefore, since it was his will to lead it back from its fall or restore it to eternal happiness in an appropriate sequence, he finally handed down to the human race through his son Jesus Christ - true God and true man in the unity of his subsistence - the evangelical law, which contains commands of what is to be believed, done and avoided, together with counsels of the same. By observing these, not only would men be preserved from the penalty of the senses (as they would by observing the previous commands), but, under his gracious ordinance, would by a certain congruence merit from such acts eternal happiness. And for this reason it is called the 'law of grace': firstly because through the passion and death of Christ the human race was redeemed from guilt and the penalty of the loss of eternal beatitude, which it had incurred from the fall or sin of its first parents; secondly because, by observing it and receiving the sacraments laid down with it and in it, divine grace is

\[\text{Footnote: synonymous with concrete individual being of a thing, as differentiated from its formal nature or essence.}\]
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conferred upon us; strengthened once conferred; and restored if lost; grace through which, by the ordinance of God together with the merit of Christ's passion, our works become deserving of eternal happiness by a certain congruence (as we said).

5

However by the merit of this passion, viz. of Christ, not only did those who came after receive the grace through which they were able to merit the life of beatitude, but those who had observed the initial command and the Mosaic law also attained by it the grace of eternal beatitude, of which they had remained deprived in the other world — in a place they call Limbo — up until the advent, passion, death and resurrection of Christ. It was through him that they received the renewal of the promise that had been given them by God, even though the renewal of the promise of such grace had been communicated to them in the earlier commands of the prophets and the Mosaic law under a veil of ambiguity; for 'all these things happened unto them in figure', as the Apostle says in the Epistle to the Hebrews. 5

6

And this divine method was most apt, because it proceeded from the less to the more perfect and ultimately to the most perfect of all those things that befit human salvation. Nor should anyone think that this means God would not have been able, had he wanted, to apply the perfect remedy immediately after the fall began. Rather, he acted in this way because he so willed and because it was fitting, the necessity arising from the human crime, in case a too ready ease of pardon might offer an occasion for further delinquency.

7

Now certain individuals, called 'priests' and 'deacons' or 'levites', were instituted within communities as teachers of the law just mentioned and as ministers of the sacraments in accordance with it. Their office is to teach the commands and counsels of the evangelical Christian law in

5 In fact, I Corinthians 10: 11; but cf. Hebrews 9 and 10.

Discourse I, chapter 6

those things that must be believed, done or avoided with a view to the status of the world to come, i.e. to attain the status of blessedness and to avoid its opposite.

8

The end, therefore, of the priestly part is the instruction and education of men on the subject of those things which, according to the evangelical law, it is necessary to believe, do, or omit in order to attain eternal salvation and avoid eternal misery.

9

Under this function it is appropriate to include all those disciplines invented by human ingenuity, theoretical as much as practical, which temper those human acts (both immanent and transitive) which result from desire and cognition, and by which man becomes well-disposed in his soul for the status of this present world as well as of that to come. And we possess almost all of these handed down to us by the admirable Philosopher and all the other glorious men. However, we have omitted to enumerate them here in the interests of brevity, and because there is no need for it in terms of the present discussion.

Now with regard to this chapter and the one that immediately follows, we need to understand that the causes (whatever their type) of the offices of the city are different insofar as they are civic functions and insofar as they are dispositions of the body or of the human mind. For insofar as they are dispositions of the body or the human soul, their final causes are the works which are of themselves their immediate result: as for example a ship is the result of the shipbuilding part; the practice of arms, and battle, of the military; of the priesthood, the preaching of the divine law, and the administration of the sacraments in accordance with it; and so on for all the rest. But their final causes insofar as they are functions defined and instituted in the city are the advantages and sufficiencies which perfect human actions and passions and which result from the works of the said dispositions, or at least cannot be had without them. So battle, which is the activity or end of the military disposition, brings and preserves liberty for the people in the city, and this is the end of military actions and works. So, again, the work or end of the house-building disposition, which is the house, results in shelter for human beings or the
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city from the harmful impress of the air - hot, cold, wet or dry - and this shelter is the final cause for the sake of which the office of house-building was instituted in the city. And in exactly the same way, observation of the divine law, which is the end of the priesthood, results in eternal happiness for men. One should think along the same lines about all the other parts or offices of the city. The other types of causes of the said offices (material, formal and efficient) are, furthermore, distinguished in the same or a similar way, as will become clear from what follows.

Let this be enough, then, concerning the number of parts of the city, and of their necessity and differentiation for the sake of the sufficiencies which are their end.

On the other types of cause of the existence and differentiation of the parts of the city, and the division of each type into the two modes that are pertinent to our purpose

It follows from our previous discussion that we should say something of the other causes of the offices or parts of the city. And we shall speak first of the material and formal causes, and then inquire into their motive cause. Now in things that are brought to completion by the human mind, the material exists in actuality prior to the form, and therefore let us speak first of the material cause. And let us say that insofar as 'offices' denotes dispositions of the soul, the material that is specific to the different offices is the men who have a tendency from their generation or birth to different arts or disciplines. For nature never fails in necessities, and takes even more care for what is more noble, such as is (among corruptible things) the human race. And since it is from this race, once it has been perfected through the various arts or disciplines, that the city must be constituted as from its material, together with the distinct parts within it that are necessary to attain the sufficient life (as shown in chapters 4 and 5 of this discourse); therefore she herself initiated this differentiation in human generation, producing some who have in their native dispositions a suitability and tendency towards agriculture, others towards soldiering, others to other kinds of crafts and disciplines - but always different people to different pursuits. Neither did she incline just one individual to an art or discipline of any specific type, but several to the same type of craft or discipline, as the needs of sufficiency demanded. Therefore she produced some who were suited to practical reasoning, since the judicial and deliberative part within the city should be constituted out of prudent
men, and some who were suited rather to strength and boldness, since it is from such as these that it is appropriate for the military to be constituted. And in the same way she adapted all other individuals to the different kinds of practical and theoretical dispositions that are necessary or appropriate for living and living well, viz. so that from these different natural tendencies to different kinds and types of disposition, she might make up among them all together what was needed for the different parts of the city. However, insofar as 'offices' refers to the parts of the city, the material causes of the offices of the city are already clear. For these are the men who have been habituated through the different kinds and types of art and discipline and from whom the different orders or parts are constituted in the city for the sake of the ultimate sufficiencies that result from their individual art or discipline. In this sense the parts of the city can properly be called offices as if to say 'services', because when they are considered as having been in this way established in the city, they are ordained to the service of men.

Now the formal causes of these offices, insofar as they are dispositions of the human mind, are simply those dispositions themselves: for these are the forms of those who are so disposed, encompassing or perfecting the human tendencies that exist in them by nature. Hence Politics VII, last chapter: 'Every art and discipline aims to supply what nature leaves deficient.' But the formal causes of the offices insofar as they are institutions and parts of the city are the commands of the motive cause given to or impressed upon those who are deputed, within the city, to carry out specific tasks.

Accordingly, the motive or efficient causes of the offices, insofar as the term refers to dispositions of the soul, are the minds and wills of men expressed through their thoughts and desires — either individually or

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1 Office, quae diligentia habeat; I have not found a way of reproducing the word play in English.
2 It might be preferable here to read completus (completing) for completus (completing), as both Grose and Quidor do — though tacitly — since Marsilius frequently associates 'complete' and 'perfect'. But the MS evidence is very slight.
3 Aristotels, Politics VII, 1327a1.
8

On the generic kinds of polities or regimes – tempered and flawed – and their division into specific types

We gave some indication earlier, but must now show with greater certitude, that the institution and differentiation of the parts of the city comes about through some motive cause, which we called the legislator; and that this same legislator institutes, differentiates and separates these parts in the manner of nature in an animal: see, by first forming or establishing a single part in the city – which in chapter 5 of this discourse we called the princely or judicial¹ – and through this the others, as we shall make clearer in chapter 15 of this discourse. It is therefore appropriate for us to say something first concerning the nature of that single part. For since it is the first of all the rest (as will become apparent from what follows), a prior elucidation of its range of efficacy is the appropriate way for us to set about demonstrating the institution and active differentiation of the other parts of the city.

2

Now there are two generic kinds of princely part or principate, the one well-tempered and the other flawed. Together with Aristotle, Politics III, chapter 5, I call that kind ‘well-tempered’ in which what dominates exercises the function of prince for the common advantage in accordance with the will of those subject; ‘flawed’, that in which this is lacking.² Each of these generic kinds subdivides into three types: the first (sc. the tempered) into royal monarchy, aristocracy, and polity; the second (sc. the flawed) into the three opposing species of tyrannical monarchy, oligarchy and democracy. And each of these specific types has, again, its own variants; but it is not part of the business in hand to discuss these in any more detail. For Aristotle said enough on the subject of them in books III and IV of his Politics.

3

However, in order to have a fuller notion of the specific types, which is in some sense necessary in order for what follows to be clear, we shall describe each of the said species of principate in accordance with Aristotle’s understanding. Let us say first that royal monarchy is a tempered principate in which what dominates is a single man for the common advantage and according to the will or consent of those subject. Whereas tyranny, which is its opposite, is a flawed principate in which what dominates is a single man to his own advantage and beyond the will of those subject. Aristocracy is a tempered principate in which the notables alone dominate in accordance with the will or consent of those subject and the common advantage. Oligarchy, its opposite, is a flawed principate in which certain of the richer or more powerful dominate to their own advantage beyond the will of those subject. Polity, even if in one of its significations it is something common to every kind or type of regime or principate, nevertheless in another implies a certain specific type of tempered principate in which every citizen has some share in the principe or councillor function, in turn and according to his rank, means or condition, and also for the common advantage and according

¹ Aristotle, Politics III, 1292b25-31: Aristotle does not here use the term καταδεικνύοντα (kataδείκνυόντα, well-tempered) but καταδείκνυόντα (kataδείκνυόντα, upright/conceit). Maecenas has imported the former term, more rarely used by Aristotle in this context, from elsewhere in the Politics (Book IV 1399a26, Book V 1397b35). This of course suits Maecenas’s themes of the preceding chapters. The Greek term that Maecenas translates as καταδεικνύοντα (kataδείκνυόντα) is λατρείαστικής, from the root λατρειάστικος, which literally means to mim the mark and so to err, make a mistake, fail of something. In terms of substance, Aristotle does not in fact here mention Maecenas’s second condition, i.e. the willingness of those subject. Maecenas imports this from Aristotle’s criterion of monarchy at Politics IV, 1399a23-27, cited by Maecenas in the following chapter, section 9, and expanded by him into a general criterion of all polities. Indeed, as Maecenas explains there, this is the most important criterion dividing temperate from flawed polities.

² Above, chapter 5, sections 1 ("judicial or councillor") and 7 ("the judicial or the princely and councillor").
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to the will or consent of those subject. Whereas democracy, its opposite, is a principate in which the plebs or multitude of the poor has established the principate and rules by itself beyond the will or consent of the other citizens, and not unqualifiedly for the common advantage in the appropriate proportion.

To speculate, however, about which may be the best of the tempered forms of principate, or which the worst of the flawed, and the relative ranking of the rest in terms of goodness or badness, is not our present concern. So let this be enough on the division of principates into their specific types, and the description of them.

On the modes of instituting a royal monarchy and the identification of the more perfect,¹ and on the modes of instituting the other regimes or polities, both tempered and flawed

With this much now determined, it follows that we should say something of the modes of bringing about or instituting the princey part. For it will be from the better or worse nature of these modes (since it is from this nature that they result to the civil regime as actions) that we must infer the active cause by which both they, and through them the princey part, result more profitably to the polity.²

Now because our concern in this book is with the causes and actions by which the princey part should be created in most circumstances, we wish to set down beforehand a mode and a cause through which this part has before now been created – even if infrequently – so that we may be able to distinguish this mode or action and its immediate cause from the modes or actions and their immediate causes through which this part should regularly and in most circumstances be created, and which we can also confirm by human demonstration; for there is no certain grasp of the former to be had through demonstration. This mode or action and its immediate cause, by which the princey part and other parts of the city

¹ I follow Gewirth and Bigonzi here in reading perfectum for perfectionis.
² A difficult sentence, following Gewirth and Bigonzi in reading præsumptum for præsumptuosus and actionem for actionibus does not alleviate the basic difficulty of sense.
(especially the priestly) have before now been formed, was the divine will, commanding it through the determinate mouthpiece of a particular individual creature, or perhaps through itself alone. In this way it established the principate of the people of Israel in the person of Moses and of various other judges after him, and the priesthood too in the person of Aaron and his successors. On the subject of this cause and its free action, to explain or say why it acts or has acted in this way or that way and not the other—the we can say nothing of this through demonstration, but hold it by simple belief without reasoning. There is, however, another way of instituting principates, which results immediately from the human mind, even if from God as the remote cause: who indeed grants all earthly principate, as can be had from John 19,4 and the Apostle says so explicitly in Romans 13,5 together with saint Augustine in the City of God book V, chapter 21.6 This, however, is not always without intermediary; on the contrary, in most cases and almost everywhere he established these principates through the medium of human minds, which he granted the freedom to establish them in this way. And on the subject of this cause, what it is, or by what action it should establish these things—this can be identified with human certainty from what is better or worse for a polity.

3

Leaving aside, then, this mode that we cannot make certain by demonstration, we wish first to set out those modes of establishing a principate which have come about through the human will without mediation, and then we shall demonstrate the sure and simpler of them. Moreover from the superior nature of that mode we shall afterwards infer the motive cause from which alone it should and can result. From these points it will further become apparent, by way of consequence, what cause it is that should set in motion the optimal institution and determination of the other parts of the city. Finally we shall say something of the unity of principate, on the basis of which the nature of unity in a city or realm will also become clear.

4

Pursuing what we propose, then, we shall first enumerate the modes of instituting royal monarchy, sc. speaking in respect of their origin. For this type of principate seems almost unnatural to us, directly related to the economy of the household, as is apparent from what was said in chapter 3. Once this is determined, the modes of instituting the other types of principate will become clear.

Now according to Aristotle in Politics III, chapter 8,7 there are five modes or ways of instituting a royal monarchy. One is when a monarch is instituted for a single specific task (but one that has to do with the regime of the community, such as leading the army), either in hereditary succession or for the lifetime of a single person alone. It was in this way that the Greeks instituted Agamemnon as leader of the army. In modern communities this office is called the captenacy or constabulary.8 While this leader of the army did not in any way intervene in judicial matters in time of peace, he nevertheless had the power, when the army was in the field, to kill or otherwise punish offenders. A second mode is that by which certain monarchs in Asia exercise the function of prince, who hold their dominions from their predecessors by hereditary succession. Although this is in accordance to law, that law is quasi-despotic in being to the advantage of the monarch rather than the common advantage simply speaking. The inhabitants of that part of the world endure a principate of this kind without grievance because of their barbarous and servile nature, together with the support of custom. This principate is royal, because it is native and over willing subjects, for example because the monarch's ancestors had been the original inhabitants of the region; but it is nonetheless in a way tyrannical because its laws are not to the common advantage in an unqualified sense, but to that of the monarch. A third mode of royal principate is that in which an elected individual exercises the function of prince (i.e. not through paternal or ancestral succession), but according to a law that is quasi-tyrannical in being to the advantage of the monarch rather than the common advantage simply speaking. For this reason Aristotle (as above) also called this form of principate an 'elective tyranny': 'tyranny' because of the despotic character of the law; 'elective' because it was not against the will of those subject. A fourth mode is that in which some individual is instituted as prince by election together with his

3 John 19. 11.
4 Romans 13. 1.
5 Augustine of Hippo, De civitate dei (The City of God) V. 21.
7 Capitaneo seu constabulario: 'capitano' and 'constabulario' in the Florimontine translation.
entire posterity, in accordance with laws that are without qualification to the common advantage: and this was the practice in heroic times, as he says in the same place. Those times were called 'heroic', either because the constellation of the stars then produced such men as were thought 'heroes', or gods, because of their extraordinary virtue; or because these men (rather than others) were established as princes because of their outstanding virtue and beneficence, for example because they collected a scattered multitude and gathered it together into a civic community; or because, through battle and strength of arms, they liberated a region from its oppressors; or perhaps because they bought a region (or acquired it in some other appropriate way) and divided it amongst the subjects; and (to say it in one) these men were established as princes together with their posterity or entire succession because they had conferred great benefit or otherwise demonstrated extraordinary virtue towards the rest of the multitude, as Aristotle also said in *Politics* V, chapter 5. Aristotle perhaps included under this type of monarchy that to which an individual is elected solely for his lifetime or a part of his lifetime; or he meant us to understand it by way of this type and the type that he called elective tyranny, given that it shares in the nature of both. The fifth mode of instituting a royal monarchy is and was that by which a prince is established as lord of everything in the community, disposing of people and things according to his own will, just as the household manager disposes at will of the things in his own household.

However, in order further to clarify these words of Aristotle, and also to bring all the modes of instituting the remaining types of principate under

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*Politics V*, 1330b. 11.

The 'share' that this monarchy has in 'elective tyranny' is presumably solely its elective (not its tyrannical) nature, given that Marsilius has defined 'hereditary monarchy' as being in accordance with laws made for the common advantage. Marsilius is here apparently creating a space within Aristotle's analysis for the role of the Roman emperor, who was elected for his lifetime; compare *Polyarchy* of Lucea, *De regimine principum*, tr. J. M. Blythe as *On the Government of Rules* (Philadelphia: University of Pennsylvania Press, 1997), Book III, chapter 20, which addresses the same issue but clears this space differently, putting imperial rule half-way between political and royal rule. If a monarch who is elected for a part of his lifetime, it is possible that Marsilius may intend the *podestà* of the Italian city-state, who was elected for a limited period only; cf. the end of the following section, where Marsilius contrasts a leader of the army (the modern captain or commander) with one who is elected on a short-term basis to exercise all judicial functions. For the question of monarchical principate in Marsilius, see the Introduction, above, p. xvi and p. xxvi.

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*Politics IV*, 1330b. 17.
6

Elected and non-elected royal monarchs are both like and unlike each other: alike in that both rule over the willing; unlike, in that the unelected rule for the most part over less willing subjects, and govern them with laws that are less political and for the common advantage, such as those that we have previously called barbarian. The elected, by contrast, rule over the more willing, and govern them with laws that are more political, i.e. those that we said have been passed for the common advantage.

7

From all this it is plain—and this will become clearer in what follows—that the elected kind of principate is superior to the non-elected. This is also the opinion of Aristotle in Politics III, chapter 8, which we adduced earlier with regard to those that were established in heroic times. Again, this mode of institution is, in perfect communities, more enduring. For all the other modes must of necessity sometimes revert to this one, but not the other way round: for example, if linear succession should fail, or if that kind of principate should for some other reason become intolerable to the multitude because of the excessive evil of its regime, the multitude must then have recourse to election. For election can never fail, so long as the human race does not. Furthermore, it is only through this mode of institution that the best prince can be had. For it is appropriate that he should be the best of those who are versed in the polity, since he must regulate the civil actions of all the others.

8

The mode of instituting the other types of tempered principate is also, for the most part, election (or in some instances by lot),14 without the continued succession of a line. Flawed principates are for the most part established by fraud, or violence, or both.

9

As to which form of tempered principate is superior, monarchy or the other two types, aristocracy and polity; and again, which of the forms of monarchy, elected or non-elected, is superior; and again, of elected monarchy, which is superior—that which is established together with the entire succession of a line, or that in which one individual alone is established without this succession (and this again divides into two, that which is established for the entire lifetime of one or several individuals, and that which is only for a defined period of time, e.g. a one-year or two-year period, longer or shorter): all of this can be the subject of reasonable inquiry and doubt. Nonetheless it is undoubtedly to be maintained, in accordance with the truth and with the express views of Aristotle, that election is a sure and sound point of principate. We shall establish the certainty of this more fully in chapters 18, 16 and 15 of this discourse.

10

However, we should not fail to recognize the fact that one or other multitude, in one or other time and place, will be disposed to one or another form of polity, and similarly to support one or another type of principate, as Aristotle says in Politics III, chapter 8,15 and legislators and those who institute principates should pay attention to this fact. For just as not every man has the disposition for the best education, and it is therefore not appropriate for his teacher to set him to acquire it, but something else instead (so long as it is good) for which he is more prepared; so perhaps a particular multitude, at some time or in some place, is not disposed to support the best form of principate, and therefore one should first attempt to lead it to the form of temperate principate that is the most suitable for it. For, prior to the monarchy of Julius Caesar, the Roman people would not support for long any determinate monarch, either together with his posterity or even for the entire lifetime of one single monarch. And this was perhaps because of the multitude of heroic and princely men, as much in respect of families or clans as in respect of individuals.16

14 See below, chapters 14, 15 and especially 16.
15 The lot was extensively used in the selection of officials in ancient Athens; both election and the lot (and often a complicated combination of both) were used in the Italian communes.
16 Probably, Politics III, 1324b24–49, despite the earlier reference to this passage as 'chapter 8'.
17 Compare Polybius of Lycia, De rege s principatus, III. 8–9 (C. Blythe, pp. 120–3) and IV. 3 (pp. 237–9) for the different characteristics of different regions requiring different
From what we have determined, then, it is abundantly plain that those who ask which is the better monarch for a city or realm — one who holds his principate by election or one who does so by hereditary succession — put their questions ineptly. A better question is, first of all, which monarch is superior, the elected or the non-elected. And if it is the elected, then whether it is he who is instituted together with the entire succession of his lineage, or he who is instituted without his succession. Because although almost every non-elected monarch always passes his principate on to his heir, not every elected monarch does so, but only he whose principate is established together with his entire succession.

Let these be our conclusions, then, concerning the modes of instituting principates, and that election is the superior mode simply speaking. modes of government, and for the unobjectionable nature of the early Romans. In Prolecey, this point is made unambiguously in favour of the Roman republic and its "political" regime. Marsilius's phrasing is more equivocal; cf. below, I. 16, 17.

10

On differentiating and identifying the significations of this term 'law'; and on its most proper signification, which is the one intended by us

Now since we have said that election is the more perfect and superior way of instituting the principate, we do well to inquire into its efficient cause, sc. that from which, in its full excellence, it must ensue; for the result of this will be that the cause both of elected principate, and similarly of the other parts of the polity, becomes apparent. But because the principate must regulate human civil acts (as we demonstrated in chapter 5 of this discourse), and do this according to a standard that is and should be the form of that which exercises it, it is necessary to inquire into this standard: if there is any such thing, what it is, and what is its purpose. For the efficient cause of the standard may turn out to be the same as that of the prince.

2

We suppose, then — as a thing almost self-evident by induction — that this standard, which is called 'statute' or 'custom' or by the common term of 'law', exists in all perfect communities. Taking this as given, we shall first show what it is. Secondly we shall identify its necessity in terms of its end. Finally we shall determine, through demonstration, by what kind of action, and on the part of what or which agents, it should be instituted. And this will be to inquire into its legislator or active cause; to whom we think that the election of principates also belongs, as we shall show by demonstration in the following chapters. In addition, as a result of these
discussions, the matter or subject of the abovementioned standard (which we have called the law) will become apparent. For this is the princiely part, to which it belongs to regulate the political or civil acts of men according to law.

3

As we embark on what we have proposed, therefore, it is appropriate to distinguish between the meanings of (or what is signified by) this term 'law', so that its multiple senses do not lead to frustration. For among its many applications, this term in one of its significations implies a natural inclination of the senses towards some action or passion; and this is the way the Apostle spoke of it in Romans 7, when he said: "But I see another law in my members, warring against the law of my mind". On another understanding, this term 'law' is said of any trained capacity for a work of art, and in general of every form of such a work existing in the mind, from which, as from an exemplar or measure, the forms of things made by art result. In this sense it says in Ezekiel 43: 'Behold, this is the law of the house. And these are the measures of the altar.' In a third way, 'law' is taken as a rule containing admonitions for those human acts that result from an imperative, as insofar as they are ordered towards glory or punishment in the world to come. In this sense the Mosaic law was called a law in respect of part of it, and so too the evangelical law is called a law in respect of the whole of it. Hence the Apostle in Hebrews says of these laws: 'For the priesthood being changed, there is made of necessity a change also of the law.' So too the term 'law' is used of the instruction of the gospel in James 1: 'But whoever looks into the perfect law of liberty, and continues therein, etc., this man shall be blessed in his

4

And understood in this sense, law can be considered in two ways: in one way, simply in itself, so that it does no more than give an indication of what is just or unjust, advantageous or harmful; and as such it is called the science or doctrine of right. In a second way it can be considered as much as a command is given in respect of its observation, which coerces by means of penalty or reward meted out in this world, or as much as it is handed down by way of such a command. And considered in this way it is most properly called, and most properly is, law. Moreover Aristotle's definition takes it in this way, when he said in Ethics X, chapter 8: 'Law has coercive power, being speech from a certain prudence and understanding.' A law, then, is a 'speech' (or a pronouncement) 'from a certain' (sc. political) 'prudence and understanding', i.e. an ordinance concerning the just and the beneficial and their opposites arrived at through political prudence, 'having coercive power', i.e. that a command has been given in respect of its observation which an

1 [Romans 7. 23] This is the same biblical quotation used by Aquinas (Summa Theologica I-II, q. 91, a. 6b) to explain the "law of the whole" (lex justitia) or "injunction of transgressality". According to Aquinas, this inclination only has the true nature of law for animals, its presence in humans indicates rather the extent to which they have fallen from their own true law of reason into the servitude of the senses.

2 [Ezekiel 43. 11-13] 3 [For this terminology, see below, II, 8, 2 and 7.

3 [Part of it] because, in Marsilius pointed out in chapter 6 section 3, the Mosaic law also contained precepts for the status of this life.

4 [Hebrews 7. 12.

52

Discourse I, chapter 10

deed." Furthermore on this understanding of law all religious followings are called laws, for example those of Mohammed or the Persians, either wholly or in part; even if of these only the Mosaic and the evangelical, viz. the Christian, contain truth. In this way too, Aristotle called such followings 'laws' in Metaphysics II, when he said: 'Laws show how much force that which is customary has;' and in book XI of the same: "The rest have been introduced as stories to persuade the many to the laws and to what is beneficial." Fourthly, however, and in a more widespread sense, this term 'law' implies a science or doctrine or universal judgement of those things that are just and advantageous in terms of the city, and their opposites.
individual is forced to observe, or that it has been enacted by way of such a command."

5

It follows that not every true cognizance of things that are just and beneficial in civil terms is a law, unless a coercive command has been given in respect of its observation, or it has been delivered by way of a command—even though such true cognizance of these matters is necessarily required for a perfect law. On the contrary, sometimes a false cognizance of things that are just and advantageous becomes law, when a command to observe it is given or it is delivered by way of a command. We see this in the lands of some barbarians who cause it to be observed, as a just thing, that a murderer be absolved from civil guilt and penalty if he offers some price in goods for this offence, when however this is simply speaking unjust; and in consequence their laws are not unqualifiedly perfect. For allowing that they have the required form, viz. a coercive command that they be observed, they nonetheless lack the required condition, viz. the requisite true ordinance of what is just.

6

Included in this understanding of law are all those standards of things just and advantageous in civil terms that have been instituted by human authority, such as customs, statutes, plebiscites, decreets and all other things of this kind, sc. which rely (as we have just said) on human authority.

"This emphasis on coercive force as being of the essence of law is usually taken to be one of Marcellus's distinctive moves vis-à-vis prevailing understandings, especially perhaps that of Aquinas for whom the essence of law lies in character as a rational directive. However, even Aquinas did not see law as lying wholly in reason: see his question 'Can anybody's reason make law?' (Summa theologiae I-II q. 60 a. 3), which he answers in the negative relying partly on precisely the quotation of Aristotle which Marcellus has just cited: '... a private person cannot lead a person to virtue effectively: for he can only advise; but if that advice is not accepted, it has no coercive force, which a law must have in order effectively to lead to virtue, as the Philosopher says in Ethic X: but it is the multitude which has this coercive power, or the public person to whom it belongs to inflict penalties ...' (ibid. ad 1 a. 1, my translation). It remains the case, however, that the coercive character of Marcellus's law is in order to keep the peace between men, not (in the first instance at least) to lead individuals to virtue as in the Aristotelian original.
II

On the necessity of making laws (taken in their most proper signification); and that it is not expedient for any prince, however virtuous or just, to exercise his function without laws.

Now that we have separated out these understandings of law, we wish to show its necessity in terms of ends, when it is taken in its last and most proper signification. The principal necessity is civil justice and the common advantage, but a secondary necessity is a kind of security for those in the position of prince—especially by hereditary succession—and the long duration of their principate. The first necessity, then, is as follows: since it is necessary to institute within a polity that without which civil judgments cannot be made in a way that is simply speaking correct, and also that through which they are passed in due fashion and saved from defect insofar as this is possible for human acts. Law is a thing of this sort, to the extent that the prince has been limited to passing civil judgments in accordance with it. Therefore it is necessary to institute law within a polity. The first proposition of this demonstration is almost self-evident, and very close to being incapable of demonstration. The certainty of it should and can also be understood from chapter 5 of this discourse, section 7. The second proposition will become clear in the following way: since for a judgment to be completely good there is required, on the part of judges, both a righteous affection and a true cognizance of the matters to be judged, the opposites of which corrupt civil judgments. For a perverted affection1 on the part of the judge, like hate or love or avarice, corrupts his desire. But these things are kept out

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1 Aristotle, Politics 1230a17-20. This question was regularly raised in the commentary literature on Book III of the Politics and Book V of the Nicomachean Ethics (see below, section 3), as well as in the wider political philosophical literature: for example in the vernacular treatise of Marulli’s Venetian contemporary fra Paolo (Trattato de regno reale; Venice, 1476, ca. 1485), Part III, ch. 75, whose manner is similar to Marulli’s. Compare Peter of Avignon’s questions on the Politics, Book III, p. 42, ed. C. Fleisch, Recopie und Interpretation der aristotelischen Politik im späten Mittelalter (Amsterdam-Philadelphia: B. Grümmer, 1992), Vol. 1, p. 216–19, where Peter argues that in essence it is better for a city to be ruled by the best man, because he possesses political prudence intrinsically and in greater measure than the law, which only has it through the medium of those who establish it. Contingently, however, it is better for it to be ruled by laws. And the reason is, that it is contingently better for it to be ruled by that which entirely lacks passion, that by something that, at least contingently, has passions linked with it. The best man is open to passions. But the law is not.” (ibid., p. 218, my translation).
Judgement is corrupted further by the ignorance of judges, however good their affection or intention. And this fault or failing is also removed and remedied through the law, for it contains an almost complete definition of what is just and unjust, advantageous or harmful, in respect of any and every human civil act. But this cannot adequately come about through any single man, however resourceful. Because one man alone — and not even, perhaps, all the men of one era — could discover or keep note of all civil actions defined in law. On the contrary, what was said on the subject by the initial discoverers, and even by all the men of the same era who took note of them, amounted to a modest and imperfect thing, which was later supplemented by the contributions of posterity. And familiar experience is enough to see this, in the addition and subtraction and total change to the contrary which has sometimes been made in the laws, depending on different eras and on different times within the same era.

Aristotle too attests to this in Politics II, chapter 3, when he says: 'One must not be unaware of this, that it is necessary to recognize much time and many years, in which it may not escape notice, whether these things were well-arranged; for the things that should be laid down as laws. And he says the same in his Rhetoric, Book I chapter 1: 'Then he says 'acts of legislation take place out of things that have been considered for a long time.' And this is confirmed by reason, since acts of legislation need prudence (as was plain earlier from the description of law), but prudence needs long experience, and this in turn needs a great deal of time. Hence

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The Arabic translation can be found along with Bud Ramb's commentary in Aristotle's works. The Arabic translation was done by several scholars, and the commentary by Bud Ramb is available in print. The text from the book is quoted here: 'I have added this note to the text.' This is a translation of a note by M. A. F. M. A., which is included in the commentary.

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5 Aristotle, Metaphysics A 999a2-4.
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not brought to completion except by the aid given by a forerunner to a successor. Aristotle says the same in his *Refutations*, Book II, last chapter, concerning the discovery of rhetoric and all the other arts (whatever may have been the case with the discovery of logic, which he ascribes to himself alone without any discovery of help of a predecessor—in which he was apparently unique). He says this too in *Ethics VIII*, chapter 1: 'Two men', he says, 'coming together are more able to act and to understand' (supply: than one man alone). And if two, then it is even more the case with more than two, both together and in succession, that they are better than one alone. And this is what he says on the subject in *Politics III*, chapter 9: 'If will perhaps seem incongruous, he says, 'if one person should perceive better, judging with two eyes and two ears and acting with two hands and two feet, than many with many.'

Since, therefore, the law is an eye resulting from many eyes, i.e. an understanding forged from the understanding of many, for the purpose of avoiding error with regard to civil judgments and of judging correctly, it is safer for those judgments to be made in accordance with the law than at the judge's discretion. And for this reason it is necessary that a law should be laid down, if politics are to have the best arrangements with respect to what is just and advantageous for them in civil terms. For it is through the law that civil judgments are saved from ignorance and from the perverted affections of judges; and this was the main premise of the demonstration we undertook and by which we have tried, from the beginning of this chapter, to identify the necessity of laws. (We shall speak in chapter 14 of this discourse of how one should decide or judge a dispute or civil suit that has arisen and is not determined by law.) Laws, therefore, are necessary in order to exclude malice and error from the civil judgments or sentences of judges.

4

Because of this it was Aristotle's advice not to grant any judge or prince the discretion to judge or to command in civil matters without the law, in those things that could be defined in law. Hence in *Ethics IV* (the treatise on justice), chapter 3, Aristotle said: 'For this reason we do not allow the man to be prince, but in accordance with reason,' i.e. law, giving the grounds that we introduced earlier, viz. the perverted affection that can occur in the man. Likewise in *Politics III*, chapter 6, when he said: 'But the difficulty stated before makes nothing so plain as that laws correctly laid down, should have dominion,' i.e. that those in the position of prince should exercise dominion in accordance with them. The same again, in the same book, chapter 9, when he said: 'Whoever bids the intellect be prince, seems to bid God and the laws be prince, while he who bids a man (sc. without a law and at his own discretion) 'puts in place a heart,' adding the reason a little bit later, when he said: 'Because law is intelligence without appetite'—as if to say, the law is intelligence or consciousness without appetite, i.e. without any kind of affection. He reiterates this opinion in his *Rhetoric* as well, Book I chapter 1, where he says: 'It is therefore most appropriate, that laws correctly laid down should themselves determine everything, whatever arises, and as little as possible be left to judges,' giving the reasons for this that were adduced earlier, sc. to keep the malice and ignorance of judges out of civil judgments; which cannot occur in the law as they do in the judge, as we showed before. And in amplification of these passages Aristotle says openly in *Politics IV*, chapter 4, that: 'where the laws are not prince' (i.e., where those in the position of prince do not exercise their function in accordance with them), 'there is no policy (supply: temperance). For the law should be prince over all.'

16 Aristotle, *Nicomachean Ethics V.*, 1103a35. 17 Aristotle, *Politics III*, 1278b1-2. 18 Ibid., 1278b28-30. Moorbech's translation does not accurately render the Greek as we have it today; however, it is not likely that this is due (as Quillet suggests) to Moorbech having covertly altered the sense, but rather to the state of the Greek manuscript from which Moorbech was translating. Modern editions read: 'Whoever therefore bids the law be prince' (for *on non est sam socratem habeat artem*), whereas Moorbech's next read: *de vos non habeat artem*. Again, modern editions read: ' ... God and mind alone' (for *vos habeat socratem*), instead of 'God and the laws' (for *vos habeat socratem*), which Moorbech's manuscript apparently contained. 19 Ibid., 1279a32. 20 Aristotle, *Rhetoric I.*, 1354a32-7. 21 Aristotle, *Politics IV*, 1279a33-3.
5

It remains now to show that all those in the position of prince should exercise their function in accordance with the law, not beyond it, and especially monarchs who exercise this function together with all their posterity, so that their principates may be more secure and long-lasting. (This was given as the secondary necessity of laws at the beginning of this chapter.) We can see that this is so in the first place because to exercise the function of prince according to the laws saves their judgements from defects arising from ignorance and perverted inclination. As a result, being regulated both in themselves and towards the citizens who are their subjects, they suffer fewer acts of sedition (and consequent dissolution of their principate) than they would encounter if they acted badly in accordance with their own discretion. Aristotle says this plainly in Politics V, chapter 5: 'For a kingdom', says Aristotle, 'is least of all destroyed from without; but many kinds of destruction occur from within itself. It is destroyed in two ways: one, when those who share in the kingship themselves create sedition; two, when they try to govern more tyrannically, demanding to be masters of many and beyond the law. Now it is no longer kingdoms that come into being, but if they come into being, they are rather monarchies and tyrannies.'

6

Someone will put forward an objection about the best man, that he has no ignorance or perverted affection. Let us say, though, that this is a very rare occurrence - and even then, not in a way equal to the law. We argued this point earlier on the basis of Aristotle, from reason and the experience of the senses, since it is a fact that every soul has this, i.e. inclination that is sometimes malign. It is easy to believe it from Daniel 13. For it is written there that 'two elders came with evil thoughts against Susannah, to put her to death.' Now these were old men and priests and judges of the people in that year, who nevertheless bore false witness against her because she had refused to acquiesce in their evil lust. So if elders and old men, of whom one would scarcely have thought it, were corrupted by carnal lust (and how much more by swine and all the other vices) what should we

7

think about the rest of men? With certainty, that no one, however virtuous, can lack perverted passion and ignorance in the same way as the law. And therefore it is safer for civil judgements to be regulated by law than committed to the discretion of a judge, however virtuous.

8

Supposing however - even if this is something extremely rare or impossible - that there is some man in the position of prince who is such a hero that neither passion nor ignorance occur in him. What shall we say of his children, who are unlike him and who, because of their unreasonableness in exercising their function according to their own discretion, commit acts which cause them to lose their principate? Unless perhaps someone will say that their father, the best of men, will not hand the principate on to them? But this should not be given a hearing: firstly because it is not in his power to deprive his sons of this succession, in that the principate is due to his line by succession; and secondly because even if it were in his power to transfer the principate to whomever he wished, he would not deprive his sons of it however bad they were. Hence Aristotle, replying to this objection in Politics III, chapter 9, says: 'Moreover this is something difficult to believe' (viz. that a father will deprive his sons of the principate) 'and of greater virtue than accords with human nature.' For this reason it is more expedient for those who exercise the function of prince to be regulated and limited by law, rather than pass civil judgements at their own discretion; for by following this law they will not do anything wrong or reprehensible, and as a result their principate will be made more secure and long-lasting.

And this was the advice of the excellent Aristotle to all those in the position of prince (of which, however, they take little notice) when he said in Politics VI, chapter 6: 'The fewer the things of which they are masters (i.e. without a law) the longer, necessarily, that any principate will last; for they viz. princes become less despotic, and more equitable in their habits and less the object of ill-will from their subjects.' And,
following up this idea, he adduces the testimony of a certain most
prudent king called Theopompus, who gave up some of the power
granted to him. We have judged it apt to quote this passage of
Aristotle's because of the uniqueness of this prince and his outstanding
virtue, almost unheard of in anyone else throughout the ages. Aristotle,
then, said: 'Again, when Theopompus moderated' i.e. lessened his
power, which perhaps seemed excessive 'and among other things estab-
lished a principate of ephors; for in taking away from power' sc. his own
'he increased his realm in time' i.e. made it longer lasting 'whereby in
some way he made it greater, not less. These' i.e. these words 'he is
reported to have said in response to his wife, who' sc. the wife 'had said: Is
he nothing' i.e. is he not 'ashamed, to hand on to his sons a realm smaller
than that which he received from his own father?' (and he gave her in
reply the words just referred to:) 'that should not be said, for I hand it on
more long-lasting.' O heroic utterance, issuing from the unheard-of
prudence of Theopompus — and how much to be heeded by those who
want to wield fullness of power, beyond the law, upon their subjects: for
many princes have fallen through failing to take note of it. And indeed we
ourselves have seen in these recent times a realm of some significance
overturned almost entirely through a failure to take note of Theopompus'  
utterance, when its prince wanted to impose an unusual and extra-legal
tax on his subjects. 53

It is clear, then, from what we have said, that laws are necessary in
polities if they are to be ordered in a way that is simply speaking correct,
and if the principate is to last longer.

53 The reference is to Philip IV of France, who at the end of his reign, in 1314, faced rebellion
from provincial leagues of nobles for attempting to levy a war tax even after the council in
Flanders.

On the demonstrable efficient cause of human
law, and also on the cause that cannot attain conviction by demonstration; which is to inquire
into the legislator. From this it will further become apparent that anything instituted by
election has its authority from that election alone, without any other confirmation

Now that we have come this far, we need to say something of the efficient
cause of the laws which we can demonstrate. For I do not here intend to
identify the mode of institution that can come about, or has already
existed, through the work of God or his immediate mouthpiece without
any human decision — such as we have said was the institution of the
Mosaic laws (even with respect to the commands of civil actions that it
contains for the status of the present world); but only of that mode of
establishing laws and principates which results directly from a decision of
the human mind.

2

Let us make a start on this subject and say that it is the province of
any citizen to discover the law taken quasi-materially 1 and in its third

1 La in terms of content. Cf. the commentary of Albert the Great on the definition of law in
Nicomachean Ethics X (Albertus Magnus, Super ethics commen tam cum quaestionibus,
men can indeed make laws in a material sense, but they do not have the form of law and
conceive force except from the confirmation of the prince'.

65
signification, viz. as the science of what is just and advantageous; even if this kind of inquiry can more appropriately be undertaken and more adequately completed through the observations of those who have the possibility of leisure—elders and those experienced in action, who are called 'the prudent'12—than through the cogitations of mechanical workers who must concentrate on their labours in order to acquire the necessities of life. But the cognizance or true discovery of what is just and advantageous (and their contraries) is not law in its last and proper signification, in which it is the measure of human acts, unless either a coercive command has been given in respect of its observation, or it has been delivered by means of such a command from that on the authority of which transgressors can and should be constrained. It is therefore appropriate for us to make clear what individual or individuals have the authority to give such a command and to constrain those who transgress it: and this is to inquire into the legislator or lawmaker.

Let us say, then, in accordance with both the truth and the counsel of Aristotle, Politics III chapter 6, that the 'legislator', i.e. the primary and proper efficient cause of the law, is the people or the universal body of the citizens or else its prevailing part, when, by means of an election or will expressed in speech in a general assembly of the citizens, it commands or determines, subject to temporal penalty or punishment, that something should be done or omitted in respect of human civil acts. (I say 'prevailing

4 Cf. below, I. 13, 8 for details of how this might operate. Aristotle, Nicomachean Ethics X, 1170b24-1171a4, stressed the necessity of political experience (politeia, as opposed to study or learning) in successful legislation.

Aristotle, Politics III, 1278a13-1278a13. Aristotle here does not specifically discuss who or what should be the legislature, but more generally who or what should be 'dominant' in the city, i.e. share in ruling or principate. Two questions were habitually raised in the commentary literature on these passages: whether the multitude should rule, or a few virtuous men (on 1278a14), and whether the multitude should have the power to elect and correct the prince (on 1281b3-4). Marsilius engages with the arguments on both sides of these questions in more detail in the following chapter, employing many of the reasons the commentators used to support the deliberative and elective role of the multitude vis-à-vis the prince or to argue for its role in the legislative process. Indeed, as can be seen in this section, Marsilius makes legislation itself a kind of election, and specifies in section 9 that what he says about legislation goes for 'anything else established by election'.

6 Cf. below, I. 13, 8 for details of how this might operate. Aristotle, Nicomachean Ethics X, 1170b24-1171a4, stressed the necessity of political experience (politeia, as opposed to study or learning) in successful legislation.

I call a 'citizen', together with Aristotle in Politics III chapters 1, 3 and 7, one who participates in a civil community, in the principe or councillor or judicial function, according to his rank. This description separates boys, slaves, foreigners and women from citizens, although in different ways: for the sons of citizens are citizens in proximate potential, lacking only age. The prevailing part of the citizens should be identified from part taking into consideration both the quantity and the quality of persons in the community upon which the law is passed.) This is so whether the said body of citizens or its prevailing part does this directly of itself, or commits the task to another or others who are not and cannot be the legislator in an unqualified sense but only in a certain respect and at a certain time and in accordance with the authority of the primary legislator. And in consequence of this I say that laws and anything else instituted by election must receive their necessary approval from the same primary authority and no other: whatever may be the situation concerning various ceremonies or solemnities, which are not required for the results of an election to stand but for their good standing, and even without which the election would be no less valid. I say further that it is by the same authority that laws and anything else instituted by election must receive any addition or subtraction or even total overhaul, any interpretation and any suspension: depending on the demands of time and place and other circumstances that might make one of these measures opportune for the sake of the common advantage in such matters. It is by the same authority, too, that laws must be promulgated after their institution, so that no citizen or stranger who commits an offence against them can be excused on grounds of ignorance.
the honourable custom of politics, or determined according to the opinion of Aristotle, *Politics* VI chapter 2.3

5

Defining the citizen and the prevailing multitude in this way, let us return to our stated intent, to demonstrate that the authority to pass laws belongs solely to the universal body of the citizens or its prevailing part. We shall first try to argue this as follows: because the primary, human authority, simply speaking, to pass or institute human laws belongs to that from which alone the best laws can result. But this is, the universal body of the citizens or its prevailing part, which represents the whole of that body: since it is not always easy or even possible for all persons to agree upon one opinion because some individuals have a stunted nature, which through singular malice or ignorance is out of harmony with the common view. But things that are to the common advantage should not be impeded or neglected because of the irrational objection or opposition of these people. The authority to pass or to institute laws belongs, therefore, solely to the universal body of the citizens or its prevailing part.

The first proposition of this demonstration is very close to being self-evident, although its strength and ultimate certainty can be gathered from chapter 5 of this discourse. I now prove the second proposition, i.e. that the best laws can only be passed as a result of the audience and command of the multitude as a whole, by supposing with Aristotle, accurately reproduces the original Aristotelian sense. In doing so he stands out from the efforts of other commentators to try to adapt Aristotle's categories to contemporary reality by distinguishing between 'citizens simply speaking' and 'citizens in a certain respect'. Aquinas comments on this passage that all the groups distinguished by Aristotle 'are citizens in a certain sense'. "Thomas Aquinas, *In secuo librum politican Aristotelis expositor*, ed. R. M. Spiazzi (Turin: Marietti, 1946), p. 120 (n. 735). Peter of Auvergne develops the distinction into one between those who actively participate in ruling and those who have a more passive role of obeying the judge, or of electing him or consenting to his election. C'Uomo al civis singulariter qui potest partecipare principiis constitutionis vel indicatque', ed. in M. Grignacchi, 'La définition du "civile" dans la scolastique', *Revue de la Société Jean Bodin pour l'histoire comparée des institutions* 23 (1996), 71-100, at p. 96. For Marsilius, by contrast, anyone with any participatory role in the principles is equally a full citizen, but this is nevertheless 'according to his rank'; as section 7 of this chapter and sections 4 and 8 of the next argue, those who work manually for a living will not have the same active and leading participation in the functions of principle as will the notables.

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Again towards the principal conclusion, as follows: since the authority to pass laws belongs to him alone as a result of whom, when once they are passed, they are observed better (or indeed at all). But this is the universal body of the citizens alone; therefore it is the one with the authority to pass laws. The major proposition of this demonstration is close to being self-evident, for a law would be redundant if it were not obeyed. Hence Aristotle, *Politics* IV chapter 6: 'It is not however a good arrangement of laws, that laws should be well laid down, but not obeyed.' And in

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3 *Politics* III chapter 7, that the best law is that which is passed to the common advantage of the citizens. So he said: 'But perhaps what is right' — sc. in the matter of laws — 'is what is to the advantage of the city and what the citizens have in common.' That this comes about in the best way solely through the universal body of the citizens or its prevailing part (which is moreover taken for the same thing), I show as follows: because that to which the whole of that body tends, in both understanding and inclination, enjoys a more certain judgement of its truth and a more careful attention to its common utility. For the greater number is more able than any one of its parts to notice a defect regarding a proposed law: since every whole — or at least, every corporeal whole — is greater in mass and in strength than any part of it by itself. Again, from the universal multitude there results a greater attention to a law’s common utility, since no one knowingly harms himself. But there anyone can check whether a proposed law tends more to the advantage of a particular man or men than to that of others or of the community, and can protest against it; nothing that would happen if a law were passed by one or a few, attending to their own rather than the common advantage. This opinion is also sufficiently supported by what we laid down in chapter 11 of this discourse, concerning the necessity of laws.

4 *Politics* III 1275a 22-27. As Grewgrew remarks, 'perhaps (for) is a mistranslation of inen, which here has the sense of 'equally', i.e. 'what is equally right is what is... etc.'

5 *Noua simplicitate novae: a legal maxim. As Nicolaitian Ethics 113.40v-12* Aristotle argues that because 'no one chooses to harm himself', there can be no injustice towards oneself.

6 Both Pocci-Ortoni and Scholz read *gnome* (masculine singular) in this sentence; only one MS has *gnome* (feminine singular), which would agree with athenaze and hence make more sense here. I have, somewhat reluctantly, stayed with the former reading.

book VI, chapter 3: 'There is no profit', says Aristotle, 'if sentences are passed about what is just, but these are not carried through.' I prove the second proposition in this way: because any citizen will better observe a law that he seems to have imposed on himself. But such is a law that has been passed as a result of an audience and command on the part of the universal multitude of the citizens. The first proposition of this sub-syllogism is almost apparent of itself: for because 'the city is a community of free men', as we read in Politeia III chapter 4, any and every citizen should be free and not suffer the despotsim (i.e. the servile dominion) of another. But this would not be the case if some one or few of the citizens passed law upon the universal body of the citizens on their own authority, for in legislating in this way they would be despots over the others. And therefore the rest of the citizens (viz. the more extensive part) would either take this law badly — however good it was — or not accept it at all: as the victims of contempt, they would protest against it; and since they had not been involved in its passage they would not observe it at all. But every citizen would happily obey and accept a law passed as a result of an audience or consent on the part of all the multitude, even if it were less useful; in that with a law of this kind, each can be seen to have laid it upon himself, and therefore has no cause to protest against it, but rather to accept it with equanimity. Again, I prove the second proposition of the first syllogism from another direction, as follows: since the power of imposing obedience to a law belongs to that alone which has the power to coerce its transgressors: but this is the universal body or its prevailing part: therefore it is the one with the authority to pass laws.

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Still further towards the principal conclusion, as follows: because that practical matter in the correct institution of which the common sufficiency of citizens in this life primarily consists — and in the incorrect institution of which the common detriment threatens — ought to be laid down solely by the universal body of the citizens; but that thing is law; therefore its institution belongs to the universal body of the citizens. The major proposition of this demonstration is close to being self-evident, and rests upon the immediate truths set down in chapters 4 and 5 of this discourse. For men gathered into a civil community in order to pursue their benefit and the sufficient life and to avoid their contraries. And therefore any convenience or inconvenience that can affect all ought to be known and heard by all, so that they can pursue their benefit and avoid its contrary. But of such nature are laws, as the minor proposition assumed. For the greater part of the entire common human sufficiency reaps in being rightly established, whereas under iniquitous laws there is only intolerable slavery, oppression and misery for the citizens, which ultimately results in the dissolution of the polity.

8

Again — and this is like a shorthand version or summary of the previous demonstrations — either the authority to pass laws belongs solely to the universal body of the citizens, as we said, or it belongs to one single man or a few. Not to one single man, because of what we said in chapter 10 of this discourse and in the first demonstration introduced in this chapter: for he might (from ignorance or malice or both) pass a bad law, consulting more his own advantage than the common, which would make it tyrannical. And for exactly the same reason this business does not belong to a few, because they too could sin, as before, in passing a law to the advantage of certain individuals (i.e. the few) rather than the common, as we see in oligarchies. It belongs, therefore, to the universal body of the citizens or its prevailing part, where the reasoning is different and contrasting. For because all the citizens must be measured by law in due proportion, and no one willingly harms or wants what is unjust for himself, therefore all or most of them want a law that is adapted to the common advantage of the citizens.

9

From the same demonstrations, changing only the minor proposition, it can also be confirmed that the approval, interpretation, suspension and

14Marsilius here echoes the Roman legal principle, "ex uniusseri eum qui potestatim pariter commoveri et aut eum qui eam tenebit illic etiam eam transgressum."
15Ibid. III, 1321a.5-6. 16Ibid. III, 1279a2.
all other things mentioned in section 3 of this chapter belong solely to the authority of the legislator. The same opinion moreover should be held concerning everything instituted by election. For that which has the primary authority to elect is also that which approves or disapproves, or else he to whom it has granted the authority to elect. Otherwise, if things laid down by the whole can be dissolved on the authority of an individual, a part would be greater than the whole, or at least its equal. The manner of assembling to pass laws will be described in the next chapter.

Concerning some objections to what was said in the previous chapter, and their resolution; and a fuller declaration of what we propose

Someone will raise doubts, however, about what we have said, objecting that the authority to pass or institute laws does not belong to the universal body of the citizens. Firstly because something that is mostly wicked and undiscerning ought not to establish the law; for these two faults, sc. malice and ignorance, must be excluded from the legislator. Indeed it was in order to avoid them in judgements, as well, that we understood the necessity of laws in chapter 11 of this discourse. But the people or the universal body of the citizens is of this nature; for men are visibly wicked and stupid for the most part, since 'the number of the stupid is infinite' as it says in Ecclesiastes 1. Again, because it is very hard or impossible to get the opinions of many wicked and foolish individuals to agree, whereas this is not the case with a few who are virtuous. It is therefore more expedient for law to be passed by a few men rather than by the universal body of the citizens or an unnecessary number of them. Again, in any civil community the wise and the learned are few in respect of the rest of the untaught multitude. Since, therefore, it is more expedient for law to be passed by the wise and learned than by the ignorant and the uneducated, it seems that the authority to pass them belongs to the few, and not to many or to all. Further still, it is in vain for something to be done by many if it can be done by fewer. Since, therefore, it is possible for law to be passed by the wise (who are few) – as said before – it would be in vain for the entire multitude or its greater part to be occupied in this business.

Ecclesiastes 1: 15.
The authority to legislate does not, therefore, belong to the universal body of the citizens or its prevailing part.

2

From what we earlier laid down as the foundation of almost everything that would be demonstrated in this book, viz. that all men desire the sufficient life and reject its opposite, we concluded through demonstration, in chapter 4 of this discourse, that they engage in civil community: because through it they can attain this sufficiency, and without it not at all. For this reason, too, Aristotle says in Politics I, chapter 1: ‘By nature therefore there exists in all men an impulse towards such a community’,4 sc. civil. From this truth there follows of necessity another, which is maintained in Politics IV, chapter 10, viz. that ‘the part of the city willing the polity to survive must be more prevalent than the not-willing’.5 For nothing is desired by the same specific nature, in its greater part and directly, at the same time as its destruction; for such a desire would be void. On the contrary, those not-willing the polity to survive are counted as slaves, not citizens, as are certain foreigners; hence Aristotle in Politics VII, chapter 23: ‘For together with the subjects are all those throughout the region whose will is to rebel’, and he then argues ‘and that they should be of such a multitude that the political order could not be preserved, or those who do not care to live in a civil manner, that they are prevalent over all of these’, viz. those who want to live a political life, ‘this is impossible’.6 As to why it should be impossible, this is clear: because it would be for nature to be at fault or deficient as to the most part. If therefore the prevailing multitude of men will the polity to survive (as seems soundly said), then it also wills that without which the polity cannot endure. But this is a rule of what is just and advantageous, handed down together with a command, which is what is called law: because it is impossible ‘for a city

4 Aristotle, Politics I 1263a29-30. 5 Ibid. IV 1296b35-36.
6 Ibid. VII 1332b29-33. Gewirth argues that Marsilius's interpolations are entirely contrary to Aristotle's analysis, because he misunderstood polis twice as meaning 'the rebellious' (p. 1332a). However, I think it is clear that 'sc. the rebellious ... is a gloss on 'they', not on 'the political order', i.e. the polis. Moorbeke simply transliterated this word. It means what is politically dominant, but is very close to polis in the order of the office within the city; hence my translation of 'political order'. Moorbeke's translation of 1332b9-11 reads: 'What is everywhere dominant is the polis of the city: and the polis is the polis.' I suggest that for Marsilius, polis is in the polis. I suggest that for Marsilius, polis and politi are effectively synonyms.

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which is aristocratic—i.e. governed according to virtue—‘not to be well-ordered with laws’, as is maintained in Politics IV, chapter 7, and as we demonstrated in chapter 11 of this discourse. The prevailing multitude in the city wills the law, then, or nature and art would be stunted as to the most part: which we suppose to be impossible on the principles of natural science.

Again, together with the manifest truths given above, I presume that shared mental notion, viz. that every whole is greater than its part, which is equally true in size or mass as in active power and action. From this we can infer evidently enough, of necessity, that the universal body of the citizens or its prevailing part—which should be taken for the same thing—is more able to perceive what ought to be chosen and what rejected than any of its parts by itself.

3

Taking these as manifest truths, then, it is easy to counter the objections by which someone might try to conclude that legislation does not belong to the universal body of the citizens or its prevailing multitude, but to a few individuals. So, when it was said in the first place that the authority to legislate does not belong to something that is mostly wicked and undiscerning, this we grant. But when it is added that the universal body of the citizens is of such a nature, this must be denied. For citizens in the plural are neither wicked nor undiscerning, at least in respect of most individuals and most of the time: all or most are of sound mind and reason and of an upright desire for the polity and what is necessary for its survival, such as laws and other statutes or customs, as shown before. For although not every citizen, nor the greater multitude, may discover the laws, every citizen is nonetheless capable of a judgement on those which have been discovered and put to him by another, and of perceiving if something should be added or removed or changed. Therefore if the mention of ‘the undiscerning’ in the major proposition means that something which is incapable of discovering the law of itself—in respect of most of its parts or individuals—ought not to institute the law, this must be denied as manifestly false on the evidence of sense-induction and of Aristotle, Politics III chapter 6. Induction, because many make a correct judgement of the quality of a picture, house, ship or other work of art,
who would nonetheless not know how to invent one themselves. Aristotle, as above, responding with these words to objections that had been raised: ‘And because in certain matters, he who made it will not be the only nor even the best judge,’ arguing his point by induction in the case of many kinds of artwork, and giving the same to be understood concerning the rest.

Neither is it a difficulty when it is said that the wise (who are few) are more able to discern what practical matters need to be instituted than the rest of the multitude: for even allowing the truth of this, it nevertheless does not follow that the wise know how to discern what needs to be established better than the entire multitude, which includes them along with the rest of the less learned. And this was undoubtedly Aristotle’s opinion in Politics III chapter 6, where he said: ‘Wherefore the multitude is justly dominant in greater things,’ i.e., the multitude or the universal body of the citizens or its prevailing part (which he signifies by the term ‘the multitude’) ought justly to be dominant in respect of the greater matters within the polity. He gives the reason for this as follows: ‘For the people is made up of many and the council and the judiciary, and the notables, but of all these together is greater than any of them singly or in respect of the few who exercise the major princely offices.’ He means that the multitude or people composed of all the collective bodies of the polity or civil order taken together is greater, and its judgement consequently more sound, than that of any part by itself: whether that part be the plebeian element (which he here signifies by the term ‘council’), e.g. farmers, craftsmen and suchlike; or the judiciary, i.e. court officials who serve the prince, e.g. advocates or lawyers and notaries; or the ‘notables’, i.e. the best men collectively, who are few and whom alone it is appropriate to elect to the highest princely offices; or any other part of the city taken by itself. Further, let us allow — as is in fact the case — that a handful of the less learned do not make as good a judgement in respect of

instituting a law, or any other matter to be enacted, as the same number of the learned. Nevertheless, the number of the less learned may be increased to the point where they can judge of these matters equally well or better than a few of the more learned, Aristotle affirmed this plainly, in the same place as above, with the intention of confirming this opinion: ‘If the multitude be not too base’, he says, ‘each one of them will be a worse judge than those with knowledge, but all together they will be a better, or at least not a worse.’

As to the quotation from Ecclesiastes I: ‘the number of the stupid is infinite’, the reply should be, that by ‘the stupid’ we need to understand the less learned, or those with no leisure for liberal pursuits, who nonetheless have a share of understanding and judgement with respect to practical matters — albeit not equally so with those who have leisure. Alternatively, perhaps by ‘the stupid’ the Sage there signified ‘the infidel’ (as Jerome comments on the same place): who, however wise they may be in the knowledge of this world, are nonetheless stupid in absolute terms, according to the Apostle, I Corinthians 3: ‘the wisdom of this world is foolishness with God.’

Turning to the second objection, it has very little persuasive force: because although it might be easier to get an agreed opinion from fewer as opposed to more individuals, one cannot therefore conclude that the opinion of those few, or of a part, is more excellent than that of the entire multitude of which the few are a part. For those few might not perceive or will the common benefit as well as the entire multitude of citizens. On the contrary, it would be risky (as is already apparent from what we have said before) to commit legislation to the decision of a few, for they would perhaps have more regard in it for their own advantage, for example that of certain persons or a particular collective body, than for the common

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Aristotle, Politics III 1282a15-17. Cf. Peter of Auvergne’s commentary on this passage: ‘For if the multitude is not base, or baseless, but has something of reason and virtue, and is easily persuadable, having wise men by whom it is rightly persuaded, it is certainly expedient that such a multitude taken all together should have power in electing and correcting the prince, and even if each one of them does not sufficiently have the reason and virtue by which he might rightly elect and correct, nevertheless all together do have it’: ed. Spousi in the continuation of Aquinas, Expositio in aeris libros Politicorum, p. 159 n. 435 (my translation).

4 Ibid. III 1282a15-17. 5 Ibid. 1282a25.

6 Ibid. 1282a30. The Latin does not make sense and I have not tried to make it coherent in English, either. Marsilius is well aware of the obscurity, as this is the only place in the entire Defender pacis where he follows a quotation from Aristotle with the words ‘he means that’ (ubi dicendo quod). The lack of sense results from Moberly’s rendering of notabilis (‘property qualification’) by notabilissimus (‘the notables’, because of the root not), Latin house).

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advantage. This is clear enough in the case of those who have passed the clerical Decretals, as we shall make sufficiently plain in chapter 28 of the second discourse. For this would open the way to oligarchy, just as giving the power of legislation to one alone creates a space for tyranny: as we adduced from Aristotle, Ethics IV (the treatise on justice), in section 4 of chapter 11 of this discourse.

6

The third objection can easily be defeated on the basis of what has already been said: since even if laws might be better passed by the wise than by the less learned, one cannot conclude from this that they are better passed by the wise alone than by the universal multitude of the citizens as a body, which includes the said wise men. The case is rather that the multitude of all these, gathered together, can more fully perceive and will what is just and advantageous for the community than any of these parts by itself, however prudent it may be.

7

So that those who say that the less learned multitude gets in the way of choosing the true or common good do not speak truly; on the contrary, it is a help in this matter, when it is joined with the more learned and experienced. For although it would not by itself be able to discover the true and useful things that ought to be established, it can nonetheless discern them once they have been discovered by others and put before it, and judge whether there is anything in what has been proposed which seems to need being added or taken away, completely changed or rejected. For a man can understand many things after they have been stated by another and can be active in bringing to completion many things, the origins or discovery of which he could not have arrived at by himself. For the origins of things are very difficult to discover, hence Aristotle, Refutations II, last chapter: 'It is the hardest thing, for the principle to be perceived,' sc. the principle of truth which is proper to each discipline. But when once this is discovered, it is easy to add and to increase the rest. For this reason it belongs only to the best and sharpest intellects to discover the founding principles of the sciences, arts and other traditions; but when once they have been discovered, men even of more humble intelligence can add to them. And the latter should not be called 'undiscerning' because of the fact that they cannot discover these things of themselves: on the contrary, they should be counted as good men, as Aristotle said, Ethics I, chapter 2: 'He indeed is the best,' he says, 'who has understood everything for himself. But he too is good, who attends to one who speaks well,' sc. listening to him, and not contradicting without reason.

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And therefore it is both appropriate and highly expedient for the universal body of the citizens to commit the search for, discovery and examination of rules of what is just and advantageous in civil terms, of common inconveniences and burdens, and of other similar things — which will be the future laws and statutes — to prudent and experienced men: either through certain individuals being elected by each of the primary parts of the city (listed in chapter 5 of this discourse, section 1) independently, according to the relative weighting of each; or through all the said prudent and experienced men being elected by an assembly of all the citizens at the same time. This will be an appropriate and expedient way of coming together to discover the law, without harm to the rest of the multitude (sc. of the less learned), which would not be very successful in searching out rules of this kind and would moreover be disturbed from all its other tasks which are necessary both to itself and others; and this would be a burden equally upon individuals as on the community.

When once rules of this kind, the future laws, have been discovered and diligently scrutinised, they should be laid before the assembled citizen-body for approval or rejection, so that if any citizen thinks that anything needs to be added to them or taken away, changed or totally repudiated, he can say so: because as a result of this process the law can be more expeditiously framed. For as we have already said, the less learned citizens can sometimes perceive something that should be corrected with regard to a proposed law, even though they would not have known how to

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11 The Decretals (Decretales) are the collections of canon law subsequent to the tenth-century Decretum compiled by Gratian. They contain the major acts of papal legislation over the entire field of church government and the powers of the church in relation to secular powers. See the Notes on the References, above p. lv.
12 Aristotle, Sophisticos elenchos (Sophistical Refutations) 183b24.
discover it in the first place. And also because laws that have been passed in this way, through a hearing and consent on the part of the entire multitude, will be better observed; nor will it be open to anyone to protest against them.

When the said rules, the future laws, have been made public in an assembly of the universal body of the citizens, and after any citizens who wished to say something, reasonably, in respect of them have been heard, then once again certain men should be elected—such and in the same way as previously stated (or the abovementioned men should simply be confirmed)—who, standing for and representing the authority of the universal body of the citizens, shall approve or reject in whole or in part the said rules that have been discovered and proposed; or if it so wills, the whole of the universal body of the citizens or its prevailing part shall do the same. After this process of approval, the said rules are laws and merit being called such, and not before; and it is these alone—after their publication or proclamation, that bind the transgressors of human commands to civil guilt and penalty.

We think, then, that what we have said sufficiently demonstrates that the authority to pass or to institute laws, and to give a coercive command concerning their observation, belongs solely to the citizen-body or its prevailing part as the efficient cause; or it belongs to that man or those men to whom the said citizen-body has granted this authority.

On the qualities or characteristics of the perfect prince, in order to know what kind of man should be raised to the principate. As a result the appropriate material or subject of human laws will also become apparent

At this point we must say something of the efficient cause of the princely part. This will be to show by demonstration who has the authority to elect it, and consequently to establish the other parts of the city. For enough has been said concerning the institution of a non-elected princely part in chapter 11 of this discourse, section 5. Let us begin, however, by first deciding what kind of a man it is appropriate to elect or promote to the office of prince; for this will give us a surer transition to the authority that effects his election or institution.

Now the inner dispositions of the perfect future prince are two in number, though they are not essentially separate: viz. prudence and moral virtue, especially justice. The one, sc. prudence, is to direct his
intelligence in exercising his office; hence Politics III, chapter 2: "Prudence alone is the virtue peculiar to the prince; it seems appropriate that the others are common to subjects and princes." The other disposition is that by which his sentiments are upright, sc. moral virtue, and of these most especially justice. Hence Aristotle says, Ethics IV, in the treatise on justice: "The prince is the guardian of the just."3

3

Prudence, then, is necessary to the future prince, because it gives him a great capacity for his proper work, viz. the judgment of what is advantageous and just in civil terms. For in those human actions where either the action itself, or its manner, is not decided by law, it is prudence that guides the prince both in judging and in executing, the deed or its manner or both: where without prudence he would make a mistake. For (as in Sallust's Catilina) if Cicero as consul had punished Catiline's accomplices — powerful Roman citizens who had conspired against the republic, and were therefore liable to the death penalty — according to the law and in the habitual time, place and manner, it is likely that civil war would have arisen as a result; and this would have caused the city to disintegrate because of the sedition stirred up among the people by the said conspirators against the consul and others in the position of prince. This peril Cicero, as consul or prince of the city, avoided through his prudence when he handed the guilty men over to torturers to be killed, and threw them into a prison (which — perhaps because of this — is called the 'Tullian').

4

In this sense, then, it is prudence that guides counsels of action, hence Aristotle, Ethics VI chapter 4, called prudence 'a true disposition, active with reason in respect of the goods and evils of man," sc. so far as he is a man. And the grounds for this are, that it is actions which are for the most part the subject-matter of the human laws according to which the prince

must settle the civil acts of men; and that it does not seem possible to determine by law, at any single point in time, all those actions or their manner or the circumstances in which they are involved, because of their variety and the fact that they differ with place and time. This is something that experience clearly teaches, and Aristotle too attests, Ethics I chapter 1, when he said: 'The good and just things with which civil science is concerned contain so much difference and variation that they seem to exist by law alone, not by nature," i.e., because it is man's will to legislate about them in such-and-such a way, not because the things themselves have a determinate nature, viz. that this is just and that unjust. He explains the same thing more fully in Politics III, chapter 9, when he said: 'But because it happens that some sorts of things can be covered by laws, but others are impossible, it is these that lead one to doubt and to ask whether it is preferable for the best law to be in the position of prince, or the best man. For the things about which they deliberate (sc. men) 'it is impossible for them' (supply: all) 'to be laid down by law.'7

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On account of this it has been found necessary to commit some of the things that arise in the civil acts of men to the decision of princes to judge, viz. those things that, either in themselves or in respect of some particular manner or circumstance, are not determined by law. This was Aristotle's view, Politics III chapter 6, when he said: 'The prince, be he one or many, should have dominion in those things on which the laws cannot pronounce with certainty, because of the fact that it is not easy to determine all things universally,' and repeating this opinion in the ninth chapter of the same book, he says: 'There are even now, over some things, princeless offices that exercise dominion with judgment, like a judge, and these are those things that the law cannot determine; because in anything that it can, no one doubts that in these cases, even if not in all, the law's command is best.'9 It is therefore necessary for the prince to have prudence in order to judge those things that cannot be determined by

3 Aristotle, Politics III 1275a25-27. 4 Aristotle, Nicomachean Ethics V 1125a1-2. 5 Sallust, Bellew Catilina (The War with Catiline), 55. 6 Aristotle, Nicomachean Ethics VI 1126b5-6. 7 Ibid. 1275b2-6. 8 Ibid. 1287b19-23. 9 Ibid. 1287b15-18.
law. And this opinion of Aristotle’s, which is close to being self-evident, can be established for certain by demonstration (if anyone cares to do so) by means of what was said in chapter 11 of this discourse.

6

Again, moral goodness, sc. virtue, is necessary to a prince, and justice must of all; if for his morals are corrupt, great harm comes to the polity however well-shaped by laws it may be. For we have already said that it is not easy or even possible to determine all things at one time by laws, but that some things must be left to the decision of the prince; and it is in such things that he can harm the polity if his inclination is perverted. This was Aristotle’s opinion, Politics II chapter 8, when he said: ‘For those who have been made masters of great things, if they are base’ (i.e. morally depraved) ‘they do much harm; and have already harmed the city of the Chalcidicians.’ 64 And since it is moral virtue, and especially justice, that keeps them from this, it is therefore appropriate (if one is allowed to call what is necessary ‘appropriate’) that no one who is to exercise the function of prince should lack moral virtue, and most of all justice.

7

It is furthermore appropriate that in the future prince this virtue should be accompanied by another, called ‘epieikeia’, by which the judge is guided (especially as regards his inclinations) in those matters in which the law is deficient. Hence Aristotle says in Ethics IV, the treatise on justice: ‘And this is the nature of epieikeia, that it gives guidance to the law where it is deficient because of the particular.’ 65 This, I think, is what the jurists want to call ‘equity’. For it is a benign interpretation or tempering of the law in a particular case, which the law includes within its universal rigour but in which the law is said to be deficient to the extent that it has not excepted it from its rule, and yet had it anticipated that it would come about, it would have made an exception from the

64 Ibid. II 1279a4-1279a16. Aristotle actually says ‘the Laociadonimoi’, i.e. the Spartans.
65 Aristotle, Nicomachean Ethics V 1370b26-7. Following Marcellus’s usage in the opening sentence and Cousens’s in the quotation, I have left epieikeia as a transliteration from the Greek rather than using the usual translation of ‘equity’, which would make nonsense of Marcellus’s next remark. ‘Guidance’ (diakrion) is something of a mistranslation for epieikeia (rectification).

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universal rule, either through a certain modification or absolutely. Still further, on top of these virtues there is also required an unusual love or goodwill on the part of the future prince towards the polity and the citizens. For this means that the actions of the prince are directed towards both the common advantage and that of individuals, in concern and in goodness.

8

However, beyond these said dispositions and characteristics, a prince also needs an external organ, viz. a certain number of armed men, which will enable him to carry out his civil sentences upon the rebellious and the disobedient by coercive force. Hence Aristotle, Politics VII chapter 6: ‘Those in a community with each other’ (supply: civil) ‘it is necessary for them to have arms’ i.e. a certain multitude of armed men ‘on account of the disobedient towards the principate’ 66 – i.e., in order to suppress individuals who disobey those who hold the office of prince; for laws and civil sentences would be in vain unless their execution could be carried out. But this armed force of the prince must be determined by the legislator, like all other civil matters: it should be great enough to exceed the power of any individual citizen separately or of more than one together, but not that of all of them together or of the majority of them, in case the prince should presume or be able to violate the laws and exercise his principate tyrannically either beyond or against them. Hence Aristotle, Politics III chapter 9: For he should have such a force that it is greater than that of individuals, both of one and of more together, but smaller than that of the multitude. 67 (We must, though, understand ‘more together’ not comparatively, i.e. as the majority, but positively, in the sense that ‘more’ is derived from ‘many’: i.e. some multitude, but not the prevailing part of the citizens. If it is not understood in this way, Aristotle’s words contain a contradiction.) It is not, however, necessary for the future prince to have this coercive force before his election to the principate in the way that it is necessary for him to have the other, intrinsic characteristics of which we have already spoken. For if this were the case, no virtuous poor men would ever be raised to the

66 Aristotle, Politics VII 1318b9-10. Marcellus misinterprets slightly by misunderstanding the word order.
67 Ibid. III 1368b31-7.
principe, and this is the opposite of what Aristotle wanted, Politics II
chapter 8, when he said: ‘For from the beginning it is most necessary to
provide that the best men may have leisure and not depart from honesty
in anything, not only while holding the position of prince but also when
they live as individuals.’

But to reduce to headings these things concerning the characteristics of
those in the position of prince, and the other things necessary to them, let
us say that prudence and moral virtue are necessary to one who is to be
elected prince (or who are to be elected, if there are several individuals in
the position of prince, as in an aristocracy) before his election. An armed
force is necessary for the prince who holds the greatest principate of the
city or realm, as the instrument or external organ by which his lawful
sentences may be carried out; but he should not have this before his
election, but rather have it granted him together with his principate.
Lore or unusual goodwill towards the polity and its citizens adds to the
goodness and concern involved in his civil actions, although it is not
required with equal necessity as those just mentioned.

Aristotle attests to these characteristics in Politics V, chapter 4, when he
said: ‘There are three things that future holders of the foremost princely
offices should have: one, a love for the polity as it has been constituted;
two, the power for the greatest tasks of principate; and thirdly, virtue and
justice;’ by virtue understanding prudence, which is the bond and the
mistress of all the virtues. Hence Ethics VI, last chapter: ‘For where
prudence once exists, all the others will inhere at the same time.’

Aristotle placed prudence and moral virtue in the same part of the
division just quoted because they are not essentially separate, as he
appears to have concluded in the same book, same chapter, when he

14 Ibid. II 1273a32–4. Quoted here is the following Vasoli, that this is a very rare instance in
which Marsilius explicitly opposes himself to Aristotle. However, I cannot see that this is
necessarily the sense of the passage; admittedly the quotation is ambiguous, but there
seems no reason for Marsilius to cite Aristotle against his own position, which as far as
I can see he nowhere else does.

15 Ibid. V 1109b37–6. 16 Aristotle, Nicomachean Ethics VI 1145a1–2.

said: ‘Therefore it is clear from what has been said that it is not possible to
be good in the foremost sense without prudence, nor prudent without
moral virtue.’ And Aristotle named the things that we have said are
appropriate for the future prince in the chapter of Politics V mentioned
above, perhaps in the reverse order of their necessity. From what has
been said, therefore, the proper subject or material of human laws is
plain. For this is the prince; as long as he is sufficiently pre-equipped
with prudence and moral virtue, especially justice.

Let this be our determination, then, concerning what sort of man the
future prince of a city or realm should be, and also what things are
necessary and appropriate to him.

18 Ibid. 1144b30–2. The Aristotelian reasoning behind this position is given by Gils of
this way, then, the virtues are connected: because no one is good, through the moral
vices, unless he is prudent. For since moral virtue is a good disposition, a principle of
choice, which perfects the one who has it and renders his act good; and since for a good
choice and a good act it is [not] sufficient to propose a good end, unless one proceeds to
that end by a good way: so moral virtue, by which we propose to ourselves a good end,
cannot exist without prudence, by which we tend towards that end. So too prudence
cannot exist without moral virtue. For prudence is different from industry, which the
Philosopher calls Demo (i.e. αἰσθήμα). For a person is called Demo, and industrious, if
he finds the means for any proposed end, in order more quickly to get to that end …’
On the efficient cause of the best way of instituting a principate, which will also reveal the efficient cause of the other parts of the city

Following on from what has been said, it remains to show the productive cause of that which exercises the function of prince, viz. the cause through which the authority of principate, which is instituted by election, is given to a person or persons. For it is by this authority that a prince is made such in actuality, and not by his knowledge of the laws, prudence, or moral virtue, even if these are the qualities of the perfect prince. For it is a fact that many may have these qualities, who nonetheless, because they lack this authority, are yet not princes (unless perhaps in proximate potential).

Returning to the question, then, let us say (in accordance with the truth and with the opinion of Aristotle, Politics III chapter 6) that the efficient power to institute or to elect a principate belongs to the legislator or the universal body of the citizens, just as we said in chapter 12 of this discourse that the passing of laws belongs to this same body; and any correction of the principate – or even its deposition if that is necessary for the common advantage – likewise belongs to it. For this is one of those greater matters in the polity that in chapter 13 of this discourse, section 4, we concluded belong to the universal multitude of the citizens (from what Aristotle says in Politics III chapter 6). For ‘the multitude is dominant in greater things’, as was said in that place. The manner of assembling for the said institution or election may vary perhaps

according to the various regions. But the truth is that whatever the ways in which they may differ, this can be seen in every case: that an election or institution of this kind always comes about by the authority of the legislator, which (as we have said over and over again) is the universal body of the citizens or its prevailing part. This proposition can and should be confirmed by the same demonstrations through which, in chapter 12 of this discourse, we concluded that the passing of laws, their alteration and all other matters concerning them belong to the citizen body; changing only the last term of the minor premise in these demonstrations, viz. substituting the term ‘prince’ in place of the term ‘law’.

Moreover this argument and its truth are highly probable (if one is allowed to call the necessary ‘probable’). For it belongs to whatever generates a form also to determine the subject in which it inheres, as can be seen in all the arts that involve producing something. Hence Aristotle, Physics II chapter 4: ‘It belongs to the same science to know both the species and the matter up to a point, as doctors know both health and the choler and phlegm in which health inheres. Similarly it belongs to a builder to know both the specification of a house and its material, bricks and timbers.’ The same thing is similarly apparent in all other artificial and natural objects, by an obvious induction: the reason being that forms and their activities are the ends and that for the sake of which materials exist or come into being, as said in the same book, same chapter. Therefore since it belongs to the universal body of the citizens to generate the form according to which all civil acts must be regulated, ex. the law, it will be evident that it belongs to the same body to determine the matter or subject of this form, to which it belongs to settle the civil actions of men in accordance with this form; viz., the princey part. And since this is the best of the forms in the civil community, it ought to have determined for it the subject that is best in respect of its characteristics: and we concluded this by probable reasoning in the last chapter as well. Hence it seems an appropriate inference that an elected prince, and one without hereditary succession, is given authority in the polity by a

1 Aristotle, Physics II 194a22-3.
2 Ibid. 194a27-29b48.

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method that is without qualification superior to the one involved in non-elected princes, or those who are instituted together with the succession of their line.

Now that we have demonstrated the efficient cause of this part, we have now (following what we have frequently proposed) to speak of the cause that effects, institutes and determines the remaining offices or parts of the city. And we say that the primary cause is the legislator, but we say that the secondary cause, in the sense of instrumental or executive, is the prince by the authority for this granted to him in accordance with the form given him by the same legislator, viz. the law (according to which the prince ought always to act and to settle civil actions insofar as he can, as shown in the last chapter). For although the legislator, as the primary and proper cause of this, ought to determine which men should exercise what kind of functions in the city, nevertheless it is the princi de part that commands, and if necessary enforces, the execution of such decisions, as he does other matters of law. For it is more convenient for the execution of legal matters to take place through him than through the universal multitude of the citizens, since one or a few persons exercising the function of prince are enough for this business, in which the universal community would be unnecessarily occupied and would moreover be distracted from other necessary tasks. For when these individuals do something, the entire community does it; since those who exercise the function of prince do it in accordance with the determination (ie. legal) of the community; and because they are few or one in number, legal matters are more easily carried out.

In this matter human application has aptly imitated nature. For the city and its parts, established in accordance with reason, are analogous to an animal and its parts perfectly formed in accordance with nature, as is clear from Aristotle, Politica I, and V, second chapter. Therefore the action of the human mind in aptly establishing the city and its parts was relatively analogous to nature's action in perfectly forming an animal. Now in order to describe this analogy, as a result of which the efficient and determining cause of the parts of the city will become clearer, let us take it (with Aristotle, Parts of Animals chapter 16, and from Galen in a book of his which he called On the Genesis of an Animal, along with others of their more expert successors) that from a certain principle or motive cause — whether that is the form of the matter or a separate form, or some other thing that has the capability to generate the animal and its parts — a particular organic part of the animal is formed first in time and in nature, and within it a natural virtue or potential together with a certain heat as its active principle; a universal power and heat, I mean, with an active causative role in forming and differentiating each of the remaining parts of the animal. And the part that is formed first is the heart or something analogous to the heart, as Aristotle said (in the same place as above) along with others of the more expert of the philosophers, to whom we should give credence because of their expertise in this subject, and as we should now posit without proof, since to demonstrate it does not belong to the present enquiry. Now this part, formed first, is more noble and more perfect in its qualities and characteristics than the other parts of the animal. For nature as generative force instituted within the virtue and
the instrument by which the remaining parts of the animal are formed from their appropriate material, separated, differentiated, ordered in respect of each other and preserved in their characteristics; through it they are protected from harm as far as nature allows, and if they have lapsed from their nature because of illness or other impediment, they are repaired through the virtue of this part.

We should view matters analogously in the case of a city that has been appropriately established in accordance with reason. For from the soul of the universal body of the citizens or its prevailing part, one part is or should be formed first within it which is analogous to the heart. In this the soul instituted a certain virtue or form with the active potential or authority to institute the remaining parts of the city. And this part is the princepate, the virtue of which, universal in its causality, is the law, and the active potential of which is the authority to judge, command and execute sentences of what is advantageous or just in civil terms. For this reason Aristotle in Politics VII, chapter 6,7 said that this part is of all the others the most necessary in the city. And this is because the sufficiency that is had through the other parts or offices of the city could be got from elsewhere (even if not so easily) if they were not present within it — for example from shipping and other forms of commerce; but without the presence of the princepate a civil community cannot survive or at least not long survive, since ‘it must needs be that offences come’ as it says in Matthew.8 These are the disputes and violations of right that arise between men, and if they were not avenged or made commensurate by a standard of what is just, viz. the law, and by the prince to whom it belongs to measure such things according to that law, they would result in fighting and the separation of the men who had gathered together, and at length the destruction of the city and the loss of the sufficient life.

This part of the city should also be more noble and more perfect in its characteristics, sc. of prudence and moral virtue, than the other parts of

8 Matthew 28.7.
commanding and executing matters of civil justice and advantage. For otherwise the prince would not act towards his due end, sc. the conservation of the city, as demonstrated in chapter 11 of this discourse.

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Again, in accordance with the said virtue—sc. the law—and the authority given him, the prince must differentiate and institute the parts and offices of the city out of appropriate material, that is the men who have the skills or dispositions appropriate to those functions. For such men are the proximate matter of the parts of the city, as said in chapter 7 of this discourse. For this is the norm or law of well-established politics, to put in place for the offices of the city men who have the operational virtues appropriate to them, and to ordain those who do not have them, e.g. the young, to learn those to which they are most naturally inclined. And this was the view of the most excellent Aristotle on this subject, when he said, *Ethics I* chapter 1: 'For this ordains which disciplines should exist in cities and which each individual should learn, and to what extent,'¹³ 'this' being political or legislative prudence, and in consequence the individual who arranges the polity according to the law, sc. the prince. He said this too in *Politics VII* chapter 13: 'The political ruler' he says 'should pass laws with an eye to all things, therefore, respecting both the parts of the soul and their passions.'¹⁴ So also in *Politics VIII* chapter 1, when he said: 'No one will doubt that the legislator ought therefore to busy himself with the instruction of those who live there. For if this is not done, it harms politics.'¹⁵ From what we have said, then, it is clear that the determination or institution of the offices and parts of the city belongs to the legislator, while the judgement, command, and execution of that determination is a matter for the prince in accordance with the law.

9

And this could be confirmed by the same demonstrations that we used in chapter 12 of this discourse and above, concerning the passing of laws.

¹⁴ Aristotle, *Politics VII* 1334a37-8, the original has 'activities' (πράξεις) which Meirbeek renders faithfully as actiones ("actions").
¹⁵ Ibid. *Politics VII* 1332b11-13; the original has 'the instruction of the young' which Meirbeek renders correctly as invenire ("institute").
'show this too, because they are a kind of medicine.' The one upon whom injury was inflicted, by receiving a recompense; and in this way everything will be brought back to the appropriate equality or proportion.

Furthermore, this part preserves the rest of the parts of the city and aids them in exercising their activities, both those that are proper to them and those that are common: proper to them, in the sense of those that result from their own offices; common in the sense of the communications between them. Both kinds would be disturbed if the action of the prince in checking those who do violence were to cease.

And because of this the action of the prince in the city must never cease, just as the action of the heart in the animal must not, for while the actions of the other parts of the city could cease for a period of time without detriment to any individual or collective body or the community itself – for example the action of the military in time of peace – the primary action of this part and its power can never cease without detriment. For his command and common custody of those things that are licit and forbidden by law must endure at every hour and every moment; and at whatever time something illicit or unjust should occur, the prince must either regulate such things in a complete manner or put in train the steps needed for regulating them.

Now from what we have just said, the ordering of the parts with respect to each other can adequately become clear: since all of these are ordered for the sake of and towards the prince as the first of them all for the status of this present life. For the first of all the parts in a civil community is that part which has to institute, differentiate and preserve the rest in and for the status of this present life or the civil end; and it is the princely part, in accordance with human law, which is that part, as we have already

\[\text{Aristotle, Nicomachean Ethics II 1143b16-17.}\]
Discourse I, chapter 16

Whether it is better for a polity to adopt a monarch by a new election each time, or to elect only one man together with his entire posterity, which is usually called hereditary succession

There is a familiar doubt about what has been said, viz. whether it is better for those who live a civil life, and who are instituting a monarch over themselves by election, to set this man up as prince together with all his posterity (which is usually called hereditary succession), or to adopt him as prince solely for his own lifetime; and when he dies or is in any other way justly deprived of his principate, always to hold a new election every time round with respect to the future prince. For some have thought that the first manner of institution is preferable, and this for

1 Like the question of whether the best law so the best man should rule (above, I. 11, 2), this was another celebrated question on Book III of the Politics. Mansfield lays out his treatment as a full-blown quaestio disputanda (Disputed question), with arguments for one side, then the other, then solutions to the objections. It has something of the feel of an academic spirited, disproportionately long in the context of his main argument. For the context, compare Peter of Avignon’s question, “Whether it is better for a king or prince to be adopted by hereditary succession or by election” (ed. Fiechter, Receptio, Vol. 1, pp. 219–223). Peter argues that of itself, election is the better method because it is more capable of producing the right man. But, “looking at the dangers either way,” it is in fact hereditary succession that is better, for a series of reasons: because rulers take more care of what is their own; the advantage of familiarity on the part of subjects; the assurance of prince; the possible vacancy of the principate in the case of the elective method; division among electors. Giles of Rome has a similar discussion in his De regimine principum, III, 9, 9. From a different direction, Proclus of Laodice, De regimine principum IV, 7 and 8 (in Ryle, pp. 235–40) cites further arguments for perpetuating the principate—change gives subjects an opportunity for revolt, and also helps to evade justice or to retain the position of prince themselves—this time in a discussion that concludes unambiguously in favour of regular change.

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Further on the same point: since a subject multitude is more obedient to those who succeed to the principate by heredity, because of the habit it has acquired of obeying their predecessors. Hence Metaphysics II, last chapter: “As we have become accustomed, so we deem worthy,” and Politics II chapter 7, towards the end: “One who has initiated a change does not do good so much as harm, becoming accustomed to rebel against princes,” along with the other things that are said about custom in chapter 18 of this discourse, section 6.

1 Aristotle, Politics II 1261b32–33, involving a slight mistranslation on Moure’s part; the sense of the original is “. . . less of what is common, or (only) as much as concerns each.”
2 Ibid., 1261a340–1. 3 Aristotle, Politics II 1266b32–4.
Still further in respect of the question: since it can happen that some family has conferred such or so great a benefit on the rest of the multitude, or so far exceeds the rest of the citizens in virtue - or both - that it is worthy always to hold the office of prince, and never to be subject. Hence Aristotle, talking about such matters in Politics III chapter 8, says: 'However, there is a fourth species of royal monarchy, that of heroic times, which is voluntary and hereditary and in accordance with law. For because the originators were benefactors of the multitude in terms of arts or warfare, or because they had united the people or procured the land, they were made kings over voluntary subjects, and hereditary to their successors.' Arriving at this conclusion even more explicitly he says in the ninth chapter of the same book: 'When, therefore, there is a whole family or one man who differs from the others in virtue so much that his or its virtue exceeds that of all the rest, then it is just for this family to be the royal family and lord of all and this one man king.' So too in Politics V chapter 8 he says, repeating the same point: 'For a kingdom comes into being in order to aid the respectable from the people, and a king is established from among the respectable, which according to his excellence of virtue or of actions resulting from virtue, or according to the excellence of his family.'

Furthermore, succession gives a better prince, since such men are more inclined to virtue because they spring from more virtuous parents. Hence Aristotle in the second book of his Politics, quoting the words of a certain poet Theocrites from an eclogue, says: 'Who will see fit to lead a slave one who was born of divine parents on both sides?' adding a little bit

5 Ibid. III 1258b4-6. 6 Ibid. 1258a15-19.
7 Ibid. V 1230b9-11. Again Moebele’s translation fails to make perfect sense: modern editors read εύτυχές δίδωσιν (against the people) instead of the manuscript οὐτως δίδωσιν (a popular, from the people), and on top of that Moebele has δε (away, which) for ε (either).
8 Ibid. 1122b1-7: from an elogium (ευ ελάγγεια) is a departure from the nominal ‘elogia’ of Moebele’s translation, itself a manuscript corruption of Ηλενά, i.e. the title of ‘Theodora’ play. Again, Moebele has ‘lead a slave’ (adulterum servum) rather than Moebele’s correct adulterem (goodwill), ‘call’.

Again with respect to the main question: since the principal of one who succeeds on an hereditary basis does not suffer the difficulties that always beset one who is newly elected each time. For in the case of the latter, viz. the newly-elect, there arises the difficulty of having virtuous electors, which is necessary for a good election - and difficult. Moreover, because even if they are found, it is difficult for them not to disagree with each other, and if they disagree in this way there is a risk of their leading the entire polity into sedition; as experience shows in the case of a new election of the prince of the Romans. Still further, because human minds for the most part incline to wrong, and for this reason - whether from love or hate, a plea or a price, or a hope of some other convenience or pleasure - the better prince is not always adopted by the electors. Rather, perhaps, very rarely.

Further with respect to the main question: because it is easier for the citizens and the consuls to be familiar with the character of a monarch who succeeds by heredity, since he is one single and definite person, than that of one who is to be newly elected, who is as yet undefined. For there

9 Ibid. 1259b2. 10 Aristotle, Politics I 1256b5-9.
11 Consuls: the consules of the twelfth-century commune were the governing officials (subsequently replaced by the institution of the podestà). It is in this sense that Podenof of Lucca’s dissolution (see above, n. 1) speaks of consules sine susceptibus as the elected rectors, not as those who must persuade or guide them. However, the institution of consules was perpetuated in thirteenth-century Padua in the form of twelve elected officials, and their official oath contained the requirement to offer counsel to the podestà if requested. See A. Guarini, ed., Statuti del comune di Padova, del secolo XII all’anno 1285 (Padua: F. Sarchese, 1873), p. 82 (statute 231) and p. 96 (statute 260). Marsilius’s reply to this objection (below, section 34) does not repeat the term, but clerked instead as consiliarii, so consules must here be taken as ‘counselors’.

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are many citizens who can be raised to the principate by election. But it is
easier to know the character habits of one than of many; and it is
expedient to know the character of the prince because one will need to
persuade him of something or guide him, however prudent he may be.
Hence Rhetoric I chapter 11: "For it is the character of each which is most
persuasive." 15

7

Again: because to adopt a monarch by succession would seem to remove
ambition, insolence or presumption and incitement to sedition on the
part of subjects. For subjects who know that the princepate will never be
due to them nor can they within reason attain to it, do not thirst after it or
plot anything sinister in order to get it; whereas this is what they do if
they can - and believe that they can - reasonably arrive at it, as happens
among those with whom a new monarch is always elected each time
round. Hence Cicero, On Duties Book I: "It is troubling that the desire for
honour, command, power and glory usually exist in men of the greatest
spirit and the most brilliant intellectual talent." 16 For, thinking them-


8

Finally; because the principate of a monarch who succeeds on the basis
of heredity is more similar to the governance or principate of the entire
universe, since in the universe it is always one alone who exists unchange-
ably, as in Metaphysics XII, last chapter: 'One prince, therefore, because
beings do not wish to be badly arranged." 17 But this is what seems to
happen where the son succeeds the father to the principate, because of
the unity of the family and also because the father is judged to be almost
the same person as the son.

II

However, if we suppose, from what we determined in chapter 14 of this
discourse, that a future monarch needs to be prudent and good in terms
of moral virtue - especially justice - and this in a way that is outstanding
in comparison with the other citizens; and if moreover we also accept
what we said in chapter 9 of this discourse, section 10, concerning the
diversity of inclinations and characteristics among peoples and places in
relation to the diversity of regimes; then I think one should believe that it
is simply speaking better, for the sake of the sufficiency of civil life, for a

15 Aristotle, Rhetoric I 1364a: the original adds "... most persuasive to each", and Marsilius
in fact reproduces this below, section 10.
16 Cicero, De officiis (On Duties), 1. 26, p. 31.
17 Aristotle, De coda III 391b.
commonwealth to institute a future monarch through a new election than for it to adopt him by hereditary succession. Since on this mode of instituting a monarch, which we have said is preferable, it will always or almost always be possible to adopt a monarch and to have the best available (or at least one who is adequate if not perfect). For as shown in chapter 13 of this discourse, election by the human legislator almost always—falling only rarely—aims at and completes the common advantage of the citizens; and an adequate monarch is almost the greatest of all such advantages, as experience teaches and as we deduced by reason in chapter 14 of this discourse. Whereas succession by birth, which is for the most part by chance, cannot produce such a monarch with the same certainty. This is plain by induction from individual kingdoms that adopt their monarch in this way.

Further: because every good quality that is absolutely required in a monarch, and which succession by birth or lineage gives, will almost always be produced by a new election, whereas the converse is not true. For it is open to a civil multitude to adopt the heir and successor of the previous monarch through election, if he is virtuous and prudent. But if he does not have this character, a fresh election will yield someone else who is virtuous and prudent: when hereditary succession could not produce such a man.

Again, the new election of the future monarch renders the present monarch more careful in respect of the common civil guardianship of persons and goods; firstly because of his virtues, since we suppose this from the fact of his election; next, through fear of arraignment by the future monarch; and again, so that he can himself merit the future election of his successors. Moreover he will for the same reason take more care to make these successors trained and virtuous, and they themselves, with this expectation, will devote themselves to the virtues and their works with greater effort. As a result it is likely that, because they have been made similar to their parent in virtue, and also because of his own merit and the obedience shown him by custom, his successors will be raised to the principate through a new election as long as they continue to be of this nature.

What we have said on this subject is also the opinion of the philosopher in *Politics* Books I, II, III and VII, chapters 9, 8, 2 and 9, and 12 respectively.20

14

Attempting to resolve the arguments to the contrary: to the first, that a monarch adopted by hereditary succession will take greater care of the common advantage or the commonwealth, since it is almost as if it were his own and his inheritance; one should say, that a monarch elected by a new election every time is more likely to do this, since it is agreed that he will more often be a prudent and good man, as is clear by induction. For an election can always adopt a virtuous man produced by succession, whereas the converse is not the case. And this man, acting in accordance with his personal and civic virtue for the sake of the best end in this world — the work of virtue — and also for the sake of seeking in consequence honour and fame from without, both for himself and his memory and for his posterity, will take equal or more care of the commonwealth or common than a monarch who succeeds by lineage. For this man, knowing in advance that his posterity will succeed to the principate, will often not bother about such things — if he is not virtuous — and is less afraid of his own arraignment if he has been delinquent.

And as for the additional point, that a future monarch by hereditary succession is less tyrannical than one who is adopted by a fresh election each time around: this should likewise be denied. For in one who ought to exercise the function of prince politically, tyranny occurs from lack of prudence, evil morals or both; add to these, especially when an individual has hope of doing evil with impunity. Whereas a monarch who is adopted by a new election is for the most part more prudent and morally better than one who is adopted by hereditary succession, and for this reason he will keep himself more fully evil, on account of his virtue; and again since he is less able to do evil with impunity and is more easily arraigned

20 Aristotle, *Politics* I 1259b12; II 1270a35-37b24; III 1273b4-5, 20 and 1283b1ff. (Marsilius in I, 9, 4 refers to this passage as "chapter B", but it is still probably the passage in question since in I, 9, 7 Marsilius interprets it as supporting elective monarchy); VII 1233b3-16.
than one whose posterity has been determined as succeeding to the principate.

As to the example adduced concerning the newly rich, this does not appear to be an objection to our reasoning at all. Because this thing of disdain or contempt for others is experienced by the newly-rich, who are ignorant and of corrupt morals, when an instrument comes into their hands—sc. lots of wealth—through which they can carry out the action corresponding to their evil character; even though riches in their own nature are intended for the good and the sufficient life of this world rather than for the opposite of these, as is plain from *Politics* I chapters 7, 8 and 9, and the same goes for principate. So that when these things come into the hands of prudent and virtuous men, such as a new election will more often yield than succession by birth, it is not tyranny or disdain that will be the result but praiseworthy actions, which a virtuous man could not put into effect while he lacked such instruments. But let us here concede to our opponents that a subject multitude does suffer tyranny from the one who is first elected, even together with his succession. For being newly elected, he did not receive his principate from his parents, and therefore (according to our opponent’s reasoning) he will experience the same disdain and contempt for his subjects as do the newly-rich, because of the novelty of what has come to him. However, it is in fact the opposite of this that our adversary should assert: since it is because of the outstanding virtue of the one first elected, or the benefit he has conferred upon the rest of the multitude, that the principate is granted to his later successors as being, because of him, virtuous; so that he himself must have been even more virtuous. ‘For’, according to the oracular dictum of the Sage Gentile, ‘that through which a thing possesses an attribute, always itself possesses that attribute to a greater degree.’

As to what was adduced concerning the obedience of a subject multitude: this point, even though it deserves particular attention in relation to the others, does not force us to concede that the future monarch who is newly

\[\text{\textsuperscript{11}}\text{ Aristotle, *Politics* I 1260b26–37, then probably 1261a9–24 and 1261b9–11.} \]

\[\text{\textsuperscript{12}}\text{ Aristotle, *Politics* I 1249b29–30: Marcellus’s use of *vocatio* may refer to the elliptical and gnomic character of this sentence in both Aristotle’s Greek and Marcellus’s Latin, which is impossible to reproduce in English without total unintelligibility.} \]

\[\text{\textsuperscript{13}}\text{ In the background to this remark may be the habitual practice in the Italian communes of electing the *podestà* from elsewhere; Piccinini Orsoni suggests there may also be a reference to the effect produced by the first arrival of the emperor Henry VII in Italy in 150.} \]
But for the most part this does not happen with nobles, many of whom are of slight worth. For there is a kind of fertility in the families of men just as in those things that the regions produce; and sometimes if there is a good family, men over and above i.e. of excessive virtue are produced for a certain period of time; and in the end they break off i.e. there is a failure of them again. Some who are well-born in family degenerate into madness of character, like those from Alcibiades and the first Dionysius, i.e. those who descended from Alcibiades and Dionysius the first, however illustrious they were, nevertheless degenerated. For this reason one should say that as long as its fertility in nobility endures and as long as seems expedient to the legislator, it can appropriately be ordained and established that the monarch should be elected by election from one family alone; although it should be a new monarch each time, whenever the old one has proved deficient, so that from the same family the better man can be had.

Further, since even if such a family of illustrious men may sometimes be found in some provinces, and especially around the time of their founding because of the scarcity of virtuous and prudent men (both electors and candidates), we nevertheless do not see that this is always the case. On the contrary it appears that when the community has been brought to its ultimate perfection, like that of the Romans, the future prince must be raised to the principate by a new election, as by the more certain and perfect rule. For although princepate by hereditary succession might seem appropriate for some regions, and perhaps even to most, it does not follow that this type of institution is therefore more perfect than that of a new election each time; just as it is not the case that the carpenter's disposition is more perfect than that of a physician, even though it is found in more regions or individuals.

Conceding now the proposition, that an individual who derives from virtuous parents is frequently more inclined towards virtue and is guided by better custom: One should say that a new election can yield these qualities in the character of the monarch to be adopted more than can succession by birth, since the former yields one who is not just inclined to prudence and virtue (such as succession by birth yields), but who one who is

Aristotle, Rhetorics II 1350b22–23.

As the point we introduced against new elections – the one most to fear and to watch out for among the rest – the difficulty that they suffer from a lack of virtuous men, who alone ought to carry out an election; and still more the mutual disagreement of these men, which means that the danger of schism hangs over the polity or civil order; and again, a corrupt inclination on their part (however they came by it) which means that they or their prevailing part can agree to elect an evil prince: One should say all the same that the election by which a prince is raised to the principate together with all his posticity or line suffers the first of the said difficulties to a greater degree than the repeated election of every future monarch, in that when polities originate there are fewer prudent men, and that when a mistake is made in the election because of their inadequacy, the polity is greatly harmed because it is harmed for longer. The worry added to schism, even though it deserves more attention than all the other objections, does not convince that the new election of each future monarch is less favourable than a single election that adopts the future prince together with all his posterity. Because election always takes place for the common advantage, which is also what the human legislator almost always wills and brings to perfection, as demonstrated in chapter 13 of this discourse; and it is also to the human legislator that the authority for this election belongs, as was ascertained in chapter 12 of this discourse and the one before. Again, supposing we allow, with our adversary, that this election belongs only to the prudent and the virtuous. It is not likely or in most cases true that they should disagree with each other, since they are all prudent, nor be corrupted in their inclination, since they are virtuous: and this was the third and remaining difficulty added.

As for the example we cited of the Roman empire, from the difficulty it suffers because a new election has to take place for any future monarch: One should say that this difficulty is not in any way the result of election as the cause in itself. Rather, the difficulty in essence results from the

\footnote{Cf. above, I. 5, 2 and note there: 'actual potential' for virtue should be understood as distinct from the base potential possessed by babies and children.}
Malice, ignorance, or both of certain people who hinder the election and the advancement of the said prince. We pass over them here, because we shall diligently discuss them and their actions in chapter 19 of this discourse and chapters 23, 24, 25 and 26 of the second: the ways in which they have done it so far, still do it, and will do it in future, and for what reasons.

20

The objection that a monarch who succeeds by inheritance is more easily and more surely guided by good counsel than one who is adopted by a new election each time contains an element of fantasy. For if the monarch is of depraved moral character, it is not what accords with his morals, or what he desires, that his counsellors should urge upon him, but rather their opposites. But supposing a monarch of the sort that, in our assumptions and true proofs, we have said is expedient, it is what furthers the polity or the common advantage that prudent and virtuous men (such as our opponent supposes, with us, are the counsellors of the future prince) should urge upon him without qualification. Indeed it might be said that it is perhaps more expedient for them to be ignorant of his moral character, so that they should not counsel him towards his illicit pleasure—in order to win his grace and favour for themselves—but the common advantage. But those who possess political prudence are sufficiently well aware of this anyway, and so in this respect it does not matter what the moral character of the monarch is: for it is always what is most expedient to the polity that should be urged upon him.

Further, granted that an awareness of the monarch’s characteristics gives counsellors some advantage, in that they can guide him more certainly: One should nevertheless say, not so much as through the certainty of almost always having a virtuous and prudent monarch. The moral character of this man, who is to be guided through counsel, can be expected of itself; and by this very fact, any prudent counsellor can have sufficient knowledge. Hence one should also note that those who attend or counsel a monarch by hereditary succession (who can sometimes be corrupt) obey him more and are less daring in reproaching or trying to restrain him, because of the fact that his own position will in future exercise the function of prince. And what Aristotle says in Rhetoric I: "It is the character of each that is the most persuasive to each", can be conceded as true in the sense that everyone gives credence more enthusiastically and easily to someone who persuades him of something that he already desires according to his own moral character or inclination. However, we have said, if what he desires is wrong this should never be urged upon him. Another thing that we should not pass over in silence, and which we very often see happen, is that if a monarch is not virtuous, he will more often follow the counsels of the wicked than of the virtuous; and for this reason the monarch should be adopted by election, since there is more certainty that he will be virtuous.

21

As to the point that having a monarch who succeeds by heredity more effectively removes audacity or presumption and undue ambition for the principate on the part of the citizens: One should say that it is not only what is undue that is taken away from them, but also what is reasonably their due, and this gives them occasion to stir up sedition. For when many of the citizens notice that those who are monarchs over them are often persons less than worthy in terms of virtue, and that they themselves are always deprived of the principate: then either they do not have the leisure for the virtues which would make them worthy to hold the office of prince; or they do, and being nonetheless deprived of the principate which is from time to time due to them, will justly stir up sedition. But they will not try to do so if they have hope that they can be raised to the principate by election when the moment is due. Furthermore, because men who are prudent and virtuous will not try to stir up sedition without grave injustice; but this is something that the legislator or the virtuous prince—such as we have said a man adopted by election will almost always be—will not inflict upon them. For the virtuous prince and the legislator aim for the most part at what is just (as argued in chapters 13 and 14 of this discourse). As for what our adversary said, that it is ambition or presumption for citizens to desire principate, this was not well spoken, because it is not ambition, arrogance or presumption for a virtuous and so deserving individual to desire principate at the due moment; it is rather to desire the work of political virtue and greatness of spirit. For this reason Aristotle, Ethics IV, attests that it is not inappropriate or contrary to virtue for a man of great spirit to seek great honours. As and for what Cicero said in On Duties Book I, ‘It

Aristotle, Nicomachean Ethics IV 1123b14–924. And as for what Cicero said in On Duties Book I, ‘It
is troubling etc.: if he spoke the truth, then it has its truth only to the extent that such things are desired in undue quantity or respect, or in other ways that are outside the norm and measure of reason.

22

As to what was subsequently adduced, that a monarch who does not pass on his principate to his heir will not dare to bring the powerful to justice or punish them, at least in their persons and with the ultimate penalty, because he fears acts of ill-will on their part towards his own children: one should say that such an elected monarch is not afraid, because he is of strong mind. And also because if the powerful have been brought to justice in accordance with the law and as a result of their own demerit, they will either not conceive any hatred towards the monarch or his children, or only a weak hatred, without seeking vengeance. For they themselves know that justice must be done, either by him or by another prince. If they nevertheless conceive such a hatred along with a desire for vengeance, because of their ignorance, malice, or both, they will still not dare break out into active vengeance through fear of the legislator and the next prince, for they will worry plausibly that they will be punished again by him just as they were by his predecessor.

23

To the litigious piece of reasoning, that in most regions and most of the time monarchs seem to be adopted by election together with the succession of their line: one should say that this is perhaps not true for most of the time. But let it be as our adversary assumes. Nevertheless what he adds, that this kind of principate is therefore more natural and more perfect, should be denied. And when he cites the testimony of Aristotle from *On Heaven and Earth*, Book III, and *Physics* II, that the nature of a thing seems to be that which exists in most and most of the time: one should certainly say that within the same species, it is true that something that exists in this way is more natural than its privation or stunted growth; but it is not more natural or more perfect than any other thing that differs from it in species. For if so, a carpenter would be more perfect than a metaphysician, and carpentry more perfect than metaphysics or any other theoretical discipline, but this (as we said before) is neither necessary nor true. In the present case, a monarchy that is always newly-elected is not the privation of one by hereditary succession, nor the other way round: they are two mutually distinct species, which cannot exist at the same time in respect of the same subject multitude or community. There may also be other errors in the said speech, which we leave to anyone who will consider them and which we have omitted to identify in order to keep the discussion short.

24

As to the last argument, that a monarch elected together with all his posterity is more excellent because his unity bears a greater likeness to the prince of the universe: one should say, that we should not pay so much attention to the likeness of this unity (which is in any case somewhat equivocal) as to conformity in perfection with respect to the soul or disposition of the soul. For this is the particular reason why an individual should be raised to the principate, not the likeness of lineage, which in itself considers only the unity of a corporeal characteristic and not the disposition of the soul, which is the essential reason why principate is due to someone. And with regard to the unity or likeness of perfection, any monarch elected individually and for himself more fully and more often conforms both to the preceding virtuous monarch and to the primary being or prince of the universe of beings, than does one who succeeds on grounds of family alone and because of another’s election. This is patent from what was said earlier.

25

Many other points, on both sides of the argument, will appear and are perhaps already apparent to anyone who wishes to consider what is better and worse for the polity in individual instances. We have in the foregoing, however, cited those that we have singled out as most worthy of consideration.

Let this be a sufficient discussion, then, of the most perfect way of establishing the monarch.