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# Marsilius of Padua

## The Defender of the Peace

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Edited and  
Translated by  
Annabel Brett

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CAMBRIDGE TEXTS IN THE HISTORY  
OF POLITICAL THOUGHT

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MARSILIUS OF PADUA: *THE DEFENDER OF THE PEACE*

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THE DEFENDER OF THE PEACE

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ANNABEL BRETT  
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## Contents

<i>Acknowledgements</i>	<i>page</i>	ix
<i>Introduction</i>		xi
<i>Principal events in Marsilius's life</i>		xxxvii
<i>Notes on the translation</i>		xl
<i>Notes on the references</i>		lii
<i>Contents of the Defender of the Peace</i>		lvi
Discourse I		1
Discourse II		137
Discourse III		543
<i>Index</i>		559

## Notes on the translation

The translation is of the text as edited by C. W. Previt -Orton (Cambridge: Cambridge University Press, 1928). I have followed the practice of Alan Gewirth and Jeannine Quillet in incorporating some readings, where I have felt them to be preferable, from the edition by R. Scholz (*Monumenta Germaniae historica, Fontes juris Germanici antiqui* Vol. VII, Hanover: Hahn, 1932). I have also followed Gewirth in incorporating some of the alternatives suggested in D. Bigongiari, ‘Notes on the text of the *Defensor pacis*’, *Speculum* 7 (1932), 36–49. Occasionally I have made my own departures from the punctuation suggested by Previt -Orton. I have footnoted these where they critically affect the sense.

Like all translators, I have benefited immeasurably from previous translations, especially those by Alan Gewirth, originally published as Vol. II of his *Marsilius of Padua: The Defender of Peace* (New York and London: Columbia University Press, 1956), now re-issued as *Marsilius of Padua: Defensor pacis*, with an afterword and bibliography by C. J. Nederman (New York: Columbia University Press, 2001); and Jeannine Quillet, *Le d fenseur de la paix* (L’ glise et l’ tat au Moyen  ge 12, Paris: Vrin, 1968). ‘Gewirth’ and ‘Quillet’ refer respectively to these volumes. The other translations into modern languages are, in chronological order, Walter Kunzmann and Horst Kusch, *Der Verteidiger des Friedens* (Berlin: Rutten and Loening, 1958); Cesare Vasoli, *Il difensore della pace* (Turin: Unione Tipografico-Editrice Torinese, 1960); L. Mart nez G mez, *El defensor de la paz* (Madrid: Tecnos, 1989). There also exists a translation of 1363 into the Florentine vernacular from a now-lost French version, edited by C. Pincin, *Marsilio*

da Padova, *Defensor pacis*; nella traduzione in volgare fiorentino del 1363 (Turin: Einaudi, 1966).

Marsilius's Latin is difficult and often obscure. I have aimed for precision and readability in English, which has involved some alteration of Marsilius's sentence-structure and some expansion of his terminology. The theoretical literature on the practice of translation is vast and daunting, but I have found helpful *Mouse or rat?* by Umberto Eco<sup>1</sup>, and also Carlo Pincin's acute remarks on the change of linguistic register between Discourse I and Discourse II.<sup>2</sup> Listed below are some key terms for which I have not been able to find a natural English equivalent. The translations I offer are therefore to some degree technical and should be read with their Latin overtones in mind. Although they may seem alien at first, I hope that the reader will come to feel at home with them in the context of the translation as a whole; as Eco reminds us, translation is not from language to language but from text to text, and it is within the translated text that these individual words must find and bear their sense. I have also included one or two terms for which the natural English equivalent is itself to some degree technical and in need of explanation.

*affectio* ('affection'): Marsilius, following Cicero's philosophical terminology, always uses this term to indicate a personal feeling or state of mind: cf. *De inventione* I. 25. 36, '*Affectio* is a temporary change of the mind or body as a result of some cause, for example joy, covetousness, fear, irritation, disease, weakness and other things found in the same category.' It is a temporary state of being affected in some way. In Cicero it is contrasted with *habitus* (see below), which implies a more stable disposition. The thirteenth-century Latin translator of Aristotle's *Politics*, William of Moerbeke, uses *affectio* in a quite different way, to translate the Greek *kēdeia*, which means an alliance or tie (mostly by marriage). In the contemporary vocabulary of the Italian city-states *affectio* could also have this sense of political alliance or faction. There are perhaps some overtones of this political sense in I. 11, which discusses *affectio* on the part of the judge; but any such overtones are very muted.

*causa* ('cause'): following Aristotle, Marsilius distinguishes between four kinds of cause, which are technically termed the final, formal, efficient and material causes. The final cause indicates the 'end' or 'that for the sake of which' a thing is in being. The formal cause indicates that

<sup>1</sup> U. Eco, *Mouse or Rat? Translation as Negotiation* (London: Weidenfeld & Nicolson, 2003).

<sup>2</sup> Pincin, *Marsilio*, pp. 105–7.

element which makes a thing formally speaking what it is. The efficient cause is that which propels the thing into being. The material cause is the matter out of which it is made. Marsilius uses a variety of terms to indicate causes which bring something into being or into actuality (*efficiens, motiva, movens, factiva, agens*). I have chosen to preserve this more indeterminate usage rather than translating all these terms by 'efficient'.

*civilitas* ('civil order'): as Quillet notes<sup>3</sup>, *civilitas* is the term used by the first translation of the *Nicomachean Ethics*, the *Ethica vetus*, to translate the Greek term *politeia*, which Moerbeke in his translation of the *Politics* rendered simply as *politia* (see below). Marsilius apparently signals his awareness that the two terms are equivalent in some places, where he talks of *civilitas seu politia*. But in others he uses *civilitas* as a synonym or near-synonym of *civitas* and *regnum*. I have translated 'civil order', picking up on Aristotle's description of the *politeia* as the 'order' (*ordo, taxis*) of a *polis* or city.<sup>4</sup>

*civitas* ('city'): *civitas* translates Aristotle's *polis*, which means a 'city' in the sense of a city-state, a self-governing political unit comprising one city and its surrounding territory. Aristotle's medieval commentators generally recognised that by *polis* or *civitas* Aristotle meant a sovereign political community, largely synonymous with the more Ciceronian *res publica* or commonwealth. However, at the same time they undoubtedly connected Aristotle's *polis* or *civitas*, with its 'political' or mutual citizen rule, with the contemporary city: either the powerful and locally self-governing cities within the larger political units of northern Europe, such as the German imperial cities, or the largely autonomous city-states of Italy. In Marsilius, *civitas* is mostly used as a synonym for *regnum* (see below), that is, the generic sovereign political unit; but in setting up this sense (I. 2, 2) he also uses the term in our sense of a single urban environment. I have therefore preferred to translate literally as 'city' to avoid imposing any single sense on the term.

*clericus, clerici* ('cleric', 'clerics' or 'clergy'): Gratian's *Decretum* (Part 2, ch. 7, c. 12, q. 1, CIC I col. 678) distinguished between 'two kinds of Christians'. One is 'bound to the service of God, and dedicated to contemplation and prayer; which it is fitting should cease from all clamour of temporal things: these are the clergy (*clerici*) ... For *klēros* in Greek is in Latin the lot (*sors*). It is from this that they are called clergy,

<sup>3</sup> Quillet, p. 52 n. 16.

<sup>4</sup> Aristotle, *Politics* III 1278b9.



i.e. chosen by lot. For God has chosen them all for his own.’ The other is ‘the laity (*laici*). For *laos* means “the people”. It is licit for them to possess temporal things . . . They have been allowed to take a wife, cultivate the soil, judge between man and man, conduct suits, put offerings on the altar, give tithes; and so they can be saved.’ All clergy were characterised by the tonsure, i.e. the shaving of the head, which was understood to mark them as ‘God’s heritage’ (from Ps. 15 (16 in the Authorised Version). 5), and by clerical vestments. Originally, this was not in itself sufficient to make them *clerici*: the shaving of the head was more a ceremony that prepared the way for the reception of holy orders (the major orders of bishop, priest, deacon and subdeacon, together with various minor orders; the subdiaconate was itself originally thought of as a minor order). However, by Marsilius’s time it was customary to call a cleric anyone who had received the tonsure, including members of religious orders (who had previously not been thought of as clergy at all), and they could all claim ‘benefit of clergy’, i.e. to be tried in ecclesiastical rather than secular courts.

*collegium* (‘collective body’ or, more technically, ‘college’ as in ‘electoral college’ or ‘Royal College of Physicians’): an important term. On Marsilius’s understanding, the citizenry is made up not of individuals but of various distinct collective bodies (cf. I. 13, 4) – his greatest concern of course being with the collective body of the clergy, and with specific colleges within that body, especially the college of cardinals. The important thing about these bodies is that, although they are corporate entities, they are nonetheless partial or particular and with their own interests and concerns. Hence they cannot be allowed to dominate the collective body of all the citizens, the *universitas civium* (see below).

*conferens, commodum* (‘advantage’, ‘convenience’/‘benefit’): *conferens* translates the *sumpheron* of Aristotle’s Greek, which is usually translated as ‘advantage’. Like Aristotle, Marsilius normally uses the term as part of the expression ‘common advantage’, by which he means what is of advantage to the whole community. *Commodum* has a less technical sense and is also used more frequently of individuals as they pursue what they think is for their convenience or benefit (or avoid its contrary, *incommodum*, ‘inconvenience’ or ‘detriment’) . However these terms are not used *exclusively* of individuals: II. 17, 12 and II. 21, 5 use them of the city and thus their sense cannot be defined as personal or private interest.

*cura, curatus*: *cura* literally means ‘care’ in the general sense of responsibility or looking after, but it also has a more technical sense in the phrase

*cura animarum*, a local responsibility or ‘cure’ of souls. Marsilius’s Latin usage shifts between these senses. *Curatus* (‘curate’) in medieval Latin means someone who has been charged with a *cura animarum*. Although both the diocesan responsibilities of a bishop and the parochial responsibilities of the priest were understood as a *cura*, *curatus* on its own (or *presbyter curatus*, ‘curate priest’) normally referred to a parish priest as distinct from a bishop.

*dominium, dominus, dominari, dominans*: this group of cognates is always hard to translate into modern English. In Discourse I, we encounter the neuter singular *dominans*, which translates the *kurion* of Aristotle’s Greek. Modern translators of the *Politics* have rendered *kurion* as ‘sovereign’: I have avoided this as anachronistic, and have translated it literally by the expression ‘what is dominant’. In Discourse II, Marsilius shifts linguistic register to join the more familiar political language of the medieval debate over spirituals and temporals, as well as the formal legal language of the poverty controversy. These two linguistic contexts do not mesh, however. Marsilius uses *dominium* generally to mean the relationship of a lord to a subject – what we might call ‘lordship’ – and *dominus* to mean ‘lord’. But in II. 12 (on the question of poverty) he defines *dominium* very narrowly as what we might call ‘ownership’, and *dominus* then means an ‘owner’. ‘Ownership’ is not quite accurate, however, as Marsilius says (within the same argument) that *dominium* can also mean ‘human freedom or free will’ and that we have *dominium* over our own actions, which means a kind of control or dominance rather than ownership. To try to include all these connotations – and to make sense of the fact that Marsilius in II. 12 sees the term as needing *defining*, rather than being self-evident, as ‘ownership’ arguably is – I have settled on rendering *dominium* literally in all cases as ‘dominion’. *Dominari* then becomes ‘exercise dominion’ – indeed, this is also the translation of the Authorised Version for the biblical usage of this word. *Dominus* remains problematic, however, and I have not been able to find any reasonable English solution other than to render it generally as ‘lord’ but specifically as ‘owner’ in the chapters on poverty (II. 12–14).

*genus* and *species*: Marsilius is fond of ordering everything (not just the natural world) in terms of *genus* and *species*. One solution for the translator might therefore simply be to use the Latin words, which are by now part of the English language. However, in some places this strategy would lend an overly scientific precision to what is in fact a looser usage, for example the discussion in I. 7 where Marsilius starts by calling the

different causes *species* and ends by calling them *genera*. I have compromised by sometimes using ‘genus’ and ‘species’, sometimes ‘generic kind’ and ‘specific type’, and sometimes simply ‘kind’ and ‘type’ for *genus* and *species* respectively.

*habitus* (‘disposition’): from the *hexis* of Aristotle’s Greek; I have followed modern translators of Aristotle in translating it as ‘disposition’. A *hexis* is a modified state of a potential or *dunamis* which, once acquired, determines the potential to produce certain actions and not others. The Aristotelian virtues are acquired dispositions in this sense, e.g. courage is the disposition to perform courageous and not cowardly actions; justice is the disposition to do just things. Cicero (*De inventione* I. 25. 36) defined it as ‘a constant and absolute perfection in some thing, for example the achievement of a virtue or an art, or a knowledge of some kind, and again some dexterity of the body not given by nature, but produced by application and industry.’

*imperium, imperatus*: Marsilius uses *imperium* (‘empire’) both for the Roman empire and for the command or sway that individuals have over their own actions and those of others; here ‘imperative’ has been sometimes been more appropriate in English. Following the standard technical terminology of contemporary theology and philosophy, Marsilius uses the term *imperatus* (and its contrary, *non-imperatus*) to indicate acts that proceed (or do not proceed) from this command or sway. A precise translation of *actus imperatus* would be ‘an act that issues from an imperative’, and I have indeed used such phrasing on occasion to indicate the association with *imperium*. But there are places where that would be extremely clumsy, and I have therefore preferred ‘commanded’ (and ‘non-commanded’). This is justified from Marsilius’s own words in II. 8, 2 (‘imperatives or commands’) and again in II. 12, 3 (‘whenever this word “command” refers to the one doing the commanding, it is the same as the act of issuing an imperative’).

*instituere* (‘institute’): this verb is ubiquitous in the *Defensor pacis*. It is Marsilius’s preferred and almost exclusive term for setting something in place – a law, a prince or a priest in office. Because he argues that the mechanism for this setting-in-place must in all these cases be the human legislator or the prince by its authority, and all cases are treated as parallel, I have preferred to translate almost all instances by ‘institute’, even though this feels a little awkward on occasion, especially with what Gewirth terms, more elegantly, the ‘appointment’ of bishops and clergy. I have also translated the verbal noun *institutio* by ‘institution’, but the

reader should note that Marsilius does not mean a substantive institution in our sense, e.g. the World Bank, but the *act* of institution – the actual instituting of a prince, priest, law.

*ius* ('right', occasionally 'law'): *ius* is always a difficult word to translate, since it can mean either 'right' or 'law'. Marsilius normally uses *lex* for 'law' as the standard of human actions. However at II. 12 he argues that *ius* in one signification means the same as *lex*. I have tried to keep the terminology distinct and have in almost every instance translated *ius* as 'right' and *lex* as 'law'. There are, however, one or two occasions in Discourse II where Marsilius uses the term *ius* clearly to mean what we call 'law' and I have felt that it would be both artificial and obscure to insist on translating it as 'right'.

*officium* ('office' or 'function'): this is a complex word in Latin and always difficult to translate. In general it indicates some sort of action that is to be done. Hence it is sometimes synonymous with our term 'duty', but not in Marsilius: this is signalled more by the language of *debere* ('ought', 'should', 'must') and *debitum* ('duty', 'due'). Marsilius uses *officium* in one sense as a particular function within the city – hence I have sometimes translated 'function', especially in the early passages of Discourse I. But he also uses it in our sense of 'office', as in 'the office of the Secretary of State' – a position within the community held by an individual or individuals, with a particular sphere of competence attached. This idea of a sphere of competence links it closely back to 'function', and readers should try to read both 'function' and 'office' with both senses in mind.

*politia* ('polity'): this is the literal Latin rendering of the Greek word *politeia*. It has no single meaning in the *Defensor pacis*. To the degree that it is assimilated to *regnum* and *civitas* via the mediation of *civilitas* (see above under *civitas*, *civilitas*), *politia* means – and indeed helps to contribute to – the sense of the two former terms, i.e. the basic political unit which necessarily involves a certain civil structure or order. But Marsilius also uses *politia* in a second, more Aristotelian sense, which involves an essential reference to the specific *type* of principate or government involved in a particular community. Translators of Aristotle's *Politics* normally translate this sense of *politeia* as 'constitution'. Marsilius also uses a third sense of the term, again from Aristotle, to mean the specific type of 'constitution' which is the broad-based meritocracy. Translators of Aristotle normally translate this as 'polity'. One solution to this multiplicity might be to use three different terms to translate the different usages of *politia*: for

example, ‘political structure’, ‘constitution’ and ‘polity’. But this would cut out the possibility that all three usages feed into each other and are not mutually separable in meaning. I have therefore preferred to translate all instances of *politia* in the same way, literally as ‘polity’.

*princeps, principari, principatus, principans*: a critical range of terms in the *Defensor pacis*. *Princeps* is etymologically connected with *primus*, ‘first’, and in classical Latin it means one in the first place, a chief, an originator: as such, it was applied to the Roman emperor. In medieval Latin it is much closer to our ‘prince’, and I have translated it as such. It is the derivatives of *princeps* that cause the problems. Moerbeke used *principari* to translate the Greek *archein* (aptly, because this verb stems from the noun *archē* which can also mean ‘beginning’ or ‘head’, close to Latin *principium*). This verb is normally translated into English, rather blandly, as ‘to rule’, which would make *principans* a ‘ruler’, or ‘ruling’, and *principatus* ‘rulership’ – although this is not quite apt for *principatus* because it means something more like a ‘government’ than a status. There are drawbacks to this choice of terms, however. In the first place we would have the very differently-derived words ‘prince’, ‘ruler’ and ‘government’ (say) for three key terms that are very closely linked in the original. Secondly, ‘ruler’ is too vague to capture the specific position within the polity that Marsilius is trying to demarcate. Thirdly, we would lose the force of the central contrast in Discourse II – and the problems of *making* that contrast – between the language of *princeps* and its cognates and that of *principalior* and *principalitas* (see the next entry).

In the face of this I have preferred to keep the etymological link. So I have translated *principatus* as ‘principate’ and *principari* as ‘to exercise the function of prince’ or ‘to be in the position of prince’, according to context. (The phrase *officium principatus coactivi* occurs at I. 19, 12; *officium principatus* again at II. 25, 1.) The term *principans* is first introduced in Discourse I as an adjective to qualify ‘part’: I have translated ‘princely’. Thereafter, Marsilius uses *principans* almost exclusively as a noun, i.e. literally ‘that (or he) which (or who) exercises the function (or is in the position) of prince’. In cases where it is clear by the context and by the adjectives used to qualify *principans* that Marsilius has a single man in mind (this is in fact most cases), I have followed Quillet in translating it as ‘prince’. (In I. 9, 4 Marsilius switches from *princeps* to *principans* in the last sentence, without any apparent change of sense.) In rare cases, and for the plural, I have used the more extensive formulation. I do not wish to suggest that it does not matter that Marsilius normally uses *principans*

instead of *princeps*: it does. *Principans* carries the connotation of a role or function in the community, not just a person of a certain rank or status, as Marsilius is very careful to make clear. But I hope that by translating *principari* in such a way as to bring out this idea very strongly, readers will understand the use of ‘prince’ in this sense.

It might be argued that in making these decisions I have prejudged the ‘republicanism’ versus ‘imperialism’ issue (see the Introduction, above p. xvii), in line with my overall interpretation of the work. Evidently my own interpretation does affect my translation in innumerable ways. But as I have tried to suggest (above, p. xxvii), the ‘republicanism’ versus ‘imperialism’ issue, if there is one, does not turn on monarchical principate. Moreover, Marsilius (I. 9, 5) includes under monarchical principate many forms of the ‘rule of one’, including the *capitano* or *conestabole* of an army and annually- or biennially-elected individuals who may either exercise all judicial functions or only one. It is unclear what he has in mind, but if this is meant to include, for example, the *podestà* of a contemporary Italian city-state (as seems likely), it proves the point that there is no necessary opposition between ‘republicanism’ and monarchical principate in Marsilius’s mind, and that it is an anachronism to force it onto the text.

*principior*, *principalitas*: these are the terms used to define the position of the pope within the church. They refer to a kind of headship or first position, which Marsilius is very careful to distinguish against any connotation of ‘prince’ or ‘principate’, and which I have accordingly translated as ‘principal’ and ‘position of principal’. At II. 28, 22, arguing with Bernard of Clairvaux, Marsilius distinguishes between ‘prince’ in a broad sense, i.e. ‘principal’, and ‘prince’ in a narrow sense, i.e. one who exercises the office of prince.

*principium*: has the sense of ‘beginning’ or ‘chief’ (see under *princeps*, above), but I have again preferred to keep continuity by translating as ‘principle’.

*regimen* (‘regime’, ‘government’): in the first Discourse, *regimen* is very close in sense to *civilitas* (and to *regnum* and *civitas* insofar as they slide into *civilitas*). I cannot see that there is any natural English equivalent, so I have translated literally as ‘regime’, hoping that this has some of the same connotations as ‘civil order’ which I have used for *civilitas*. In Discourse II, it is used in a much looser and more familiar sense, which I have translated ‘government’ in line with other modern translations of medieval political works.

*regnum*: normally used in medieval Latin to mean a kingdom ruled by a king, and Marsilius recognises this as the ‘most familiar’ usage of the term in I. 2, 2. However, he declares in the same place that the sense in which he will use it is as ‘something common to every type of temperate regime’ (for ‘regime’, see the previous entry). In the opening chapters of Discourse I it is closely linked with *civitas* and *civilitas* (see above) as the political unit and the ‘civil order’ of that unit. Nevertheless, it involves a huge and anachronistic assumption to translate this complex of meaning in *regnum* as ‘state’ (and also makes nonsense of Marsilius’s effort to define the term). To translate *regnum Italicum* as ‘Italian state’ is also historically meaningless and loses the specific identity of the political area that was so critically in question in 1324. Vasoli’s translation recognises this problem by translating *regnum Italicum* as ‘regno italice’ while keeping ‘Stato’ for *regnum*. But this is to lose the crucial continuity in Marsilius between the analysis of *regnum* and of the *regnum Italicum*. I have therefore followed Quillet in choosing ‘realm’ (‘royaume’) for *regnum* and ‘realm of Italy’ (‘royaume d’Italie’) for *regnum Italicum*.

*regnum* and *rex Romanorum*: *regnum Romanorum* seems to mean simply the area ruled over by the *rex Romanorum* or ‘king of the Romans’, i.e., effectively, the empire. The same equivalence can be found in, for example, Marsilius’s contemporary Engelbert of Admont: *Romanorum regnum seu imperium*, ‘the realm or empire of the Romans’ (*De ortu et fine Romani imperii*, ch. 20, Mainz, 1603, p. 106), or throughout Lupold of Bebenburg’s *De iuribus et translatione imperii* of 1340. The title ‘king of the Romans’, *rex Romanorum*, was the customary title of the emperor-elect, i.e. one who had been elected by the seven electoral princes of the empire but had not yet been anointed and crowned emperor by the pope. In a process beginning with Innocent III at the beginning of the thirteenth century, the papacy had claimed to introduce a further, intermediate step of papal examination and confirmation of the election, thus ultimately making both titles (‘emperor’ and ‘king of the Romans’) dependent upon papal approval. It should be noticed that Marsilius always refers to Ludwig as *electus rex* (‘elected king’), avoiding the formula favoured by the papacy of *electus in regem* (‘elected to be king’), which implies a space between the election and the kingship to be filled by papal approval.

*secta* (‘following’): *secta* is from *secare*, to divide, but according to the late-antique authority on etymology, Isidore of Seville, it is derived from *sequor*, ‘to follow’. In the medieval period the term could be used of a philosophical school but also carried the connotation, more familiar

today, of division or heresy. Marsilius uses *secta* in a neutral sense to describe any religion: I have translated ‘following’ and sometimes ‘religious following’ where the context seems to demand it. Where Marsilius refers to *leges sive sectae*, literally ‘laws or followings’, I have used ‘religion’ to translate *lex* since it is clear that Marsilius is referring to the laws of religious followings rather than cities.

*universitas, universus* (‘universal body’, ‘universal’): this term is derived from the Latin words *unum*, ‘one’, and *verto*, ‘to turn’. Literally, then, it means a number of individuals ‘turned into one’ or ‘as one’. In Roman law, it is equivalent to our idea of a ‘corporation’ or ‘corporate entity’, i.e. a number of persons forming one body, and this is the sense in which it is used in medieval Roman and canon law. However, in Marsilius (and in medieval philosophical and theological language more generally) it has more than the simple sense of ‘one’ or ‘a body’. For example, Marsilius in I. 13 clearly contrasts the *universitas* of the citizens with a few of the citizens, giving the term the additional sense of ‘entirety’. However, this is not in my view a whole–part relationship, but a universal–particular relationship; this is certainly the sense of ‘universal’ used of the church in the second Discourse. Moreover Marsilius occasionally qualifies *universitas* by *tota*, which means ‘whole’, for example at I. 12, 5 and at II. 23, 5: both of these in the context of distinguishing between the whole of the *universitas* and a part of it. Thus, for Marsilius, *tota* or ‘whole’ adds something on top of *universitas* rather than being contained in the sense. I have therefore translated *universitas* as ‘universal body’ rather than ‘whole body’, and I have translated all instances of *universus* as ‘universal’ to keep linguistic continuity.

*valentior pars*: this is a key term in Marsilius, but one for which there is no adequate English translation. Literally it translates Aristotle’s *kreitton meros*, the ‘stronger part’ of the citizenry, which must desire the survival of the polity if the polity is to endure. (Marsilius directly refers to the relevant passage of Aristotle at I. 12, 2.) In his own analysis, Marsilius appears to define the *valentior pars* negatively at I. 12, 5 as those of the citizens who do not have a ‘stunted nature, which through singular malice or ignorance is out of harmony with the common view’. This suggests that the *valentior pars* is both qualitatively superior and a strong numerical majority of the citizens. The appeal to a mixture of quantitative and qualitative considerations was familiar in the context of medieval elections from the church and canon law, which habitually gave force to the ‘greater and more reasonable part’ (*maior et sanior pars*) of electoral



bodies. Marsilius also suggests, however, that the *valentior pars* can be identified from the ‘honourable custom’ of the polity (I. 12, 4). It seems, then, that the *valentior pars* is whatever part of the citizenry whose electoral decision is decisive. In this Marsilius is at one with Aristotle’s original analysis. But it is clear that this body is also, for Marsilius, a body either defined by or sanctioned by a common opinion that, in being civilly correct, is also morally upright. Previt e-Orton, the editor of the *Defensor pacis*, first suggested ‘weightier part’ to capture the slide between the non-normative and normative sense of *valentior pars*, and this was adopted by Gewirth. However, I feel that ‘weightier’ in a normative sense is now archaic in English, and I also feel that it does not do sufficient justice to the reference to Aristotle’s *kreitton meros* and the sense of ‘decisive’. Hence I have chosen to follow Vasoli by translating the term as ‘prevailing part’ (*parte prevalente*), while recognising its inadequacy.

A final note concerns Marsilius’s frequent quotations from the Bible in Discourse II. I have used the translation of the Authorised Version, adapting where necessary to account for the fact that the Authorised Version is not a translation of the Vulgate. There are two reasons for this. One is the demand for the linguistic authority and immediate recognisability that the Bible has as distinct from any other text. There is no other existing English translation of the Bible, still less any possible attempt of my own, which would meet this demand. Secondly, Marsilius often quotes from the Bible in conjunction with long series of glosses. Using the Authorised Version for the Bible means that what is Scripture and what is gloss is easily identifiable, helping the reader stay on track when it would be extremely easy to get lost.

## Notes on the references

### References to the works of Aristotle

Marsilius refers to the works of Aristotle by title, book and chapter. However, since his chapter-divisions do not correspond with those of modern editions, I have omitted them and cited by title, book and Bekker pagination, which can be found in any modern edition or good translation. Marsilius was not of course referring to or quoting from Aristotle's Greek text but from the Latin translations that were available at the time, and the translations I offer are similarly translations of the medieval Latin rather than the Greek. Therefore on occasion the reader may have some difficulty in matching the quotations in modern editions. All references to William of Moerbeke's translation of the *Politics* are to the text as edited by F. Susemihl (*Aristotelis Politicorum libri octo cum vetusta translatione Guilelmi de Moerbeka*, Leipzig: Teubner, 1872). The reader should be aware that in this edition (as indeed in Previt -Orton's notes) the order of the books is different from that current in modern editions.

### Biblical references

The Vulgate text of the Bible with both the ordinary and the interlinear glosses can be found in *Biblia Latina cum glossa ordinaria: Facsimile reprint of the Editio princeps by Adolph Rusch of Strassburg 1480/81*, ed. K. Froehlich and M. T. Gibson (4 vols., Turnhout: Brepols, 1992). The volumes are not paginated and references are therefore to the passage of the Bible in question ('ad loc.', although the reader should be aware that verses are not numbered either). I have noted the rare cases where the reference

differs between the Vulgate and the Authorised Version. To quote from the Preface to the facsimile (Vol. I, p. v): 'This text may not be the only form of the Glossed Bible in use during the middle ages when it comes to detail. There can be no doubt, however, that it represents the standard text which scholars from the late twelfth century to the late fifteenth would have recognised as such.' The printed text certainly agrees very closely with Marsilius's citations. For the sources and authorship of the gloss, see the introduction by M. T. Gibson (*ibid.*, pp. vii–xi).

### Patristic sources

The references to Marsilius's patristic sources were taken initially from C. W. Previt -Orton's 1928 edition. These references have all been checked, updated and altered where necessary. Marsilius's references to Thomas Aquinas's *Catena aurea* have been updated using Angelico Guarienti's 1953 edition: *S. Thomae Aquinatis doctoris angelici catena aurea in quatuor evangelica* (Turin: Marietti, 1953). References in the footnotes to Aquinas's *Summa theologiae* are to the Leonine edition of 1893. Other references to patristic sources were checked using two relatively new CD-ROM databases for Latin texts (see below). Searches were executed using words and phrases from Marsilius's quotations. Firstly, this has amended some errors in the 1928 version which had been replicated in the notes to other translations of the text. Secondly, the process has also updated some of the references where more recent editions of Marsilius's sources are available. The other significant change made from the referencing system of the 1928 edition has been to abbreviate discursive references and eliminate most of the variorum. Only when a difference between Marsilius's source and his citation significantly affects meaning is it noted in this translation. Where Marsilius has shortened the original or made a large number of small variations which ultimately do not alter the sense of the passage (but suggest he may have been quoting from memory), the footnote reports where a 'form' of Marsilius's quotation may be located. Similarly, where Marsilius used a *florilegium* of early church writers, such as those contained in Aquinas's *Catena aurea*, the footnotes only point to incorrect attributions.

With respect to the use of CD-ROM databases, J. P. Migne's *Patrologia Latina* (1844–1855) (MPL) is now available on a well-designed CD-ROM enabling students of the *Defensor pacis* to locate the author, text, volume of MPL, column and sometimes column position of many of

Marsilius's quotations quickly and accurately. Where a column position is not offered in this edition, it is because neither the hard-copy nor the CD-ROM version of MPL provides such a reference. Where this is the case, MPL frequently relies on an alternative signifier (such as chapter) to divide the text. MPL is currently the most comprehensive of the databases and has the advantage that its CD-ROM version is commensurate with the hard-copy *Patrologia Latina*. MPL does not necessarily feature the most recent editions of texts, however.

*Cetedoc Library of Christian Latin Texts (Cetedoc)* was employed to search for Marsilius's sources in the more recent *Corpus Christianorum* (begun 1954) (CC). The *Cetedoc* database has a similar interface to MPL, but provides references to the author, text, volume, paragraph, page and line number of the citation. Footnotes in this translation follow these distinctions (please note the order). The *Cetedoc* CD-ROM contains a number of texts not yet published in the hard-copy volumes of the *Corpus Christianorum*. When using this database, it is important to use the 'memento' tab after searching for each *sententia* to ascertain where *Cetedoc* has drawn its text from, as the volume, paragraph, page and line number offered all refer to that cited edition. The original source for *Cetedoc*'s CD-ROM text is frequently indicated by an acronym, so general users of the database may need to consult the accompanying handbook and then their library catalogue in order to determine which edition of a source has been used. In this translation, when one of Marsilius's sources is available on the *Cetedoc* CD-ROM, it is indicated by 'Cetedoc' and then the hard copy of the work which contains Marsilius's quotation (whether this is a CC hard copy or otherwise). A further level of complication is present for some of Marsilius's quotations from the works of St Ambrose of Milan, Ambrosiaster, St Jerome and St Augustine of Hippo which appear on *Cetedoc*. The acronym CL accompanying such citations refers to *Clavis Patrum Latinorum*. CL is a volume in the CC series which offers useful bibliographical information about early Latin works but does not include a version of the text itself. In these instances the CL number is provided, followed by 'Cetedoc', indicating that a text has been included on the CD-ROM, followed by the hard-copy source. For reasons of accessibility, an MPL citation is still offered for references which have been updated using the *Cetedoc* CD-ROM but which are not available in CC hard-copy.

The advantages of being able to search these collections by CD-ROM are manifold. However users need to exercise patience and be persistent

when entering search terms. Slight variations of Latin spelling or typography ('u' and 'v' for instance) and word order are not recognised by these engines, so users may need to try a few different terms and strings from the quotation they are attempting to locate.

### Roman law

References to Roman law are to the *Corpus iuris civilis*, ed. T. Mommsen, P. Krüger, R. Schöll, W. Kroll (Frankfurt am Main, 1954 [photographic reprint 1968–70]).

### Canon law collections

References to the official medieval collections of canon law are to the *Corpus iuris canonici* ('CIC'), ed. A. Richter and E. Friedburg (originally published Leipzig: B. Tauchnitz, 1879; reprinted Graz: Akademische Druck- und Verlagsanstalt, 1959). References are to CIC volume and column number. The *Decretals* of Ps.-Isidore are edited by P. Hinschius (Leipzig: B. Tauchnitz, 1863) ('Hinschius'). Another edition (a corrected version of the *editio princeps* by Jacobus Merlinus, Paris, 1530) can be found in MPL (vol. 130). Marsilius's citations do not agree with either, being sometimes closer to one, sometimes the other. I have therefore followed the practice of other translators in referring primarily to Hinschius's edition except where parts of the quotation do not appear in Hinschius at all, in which case I have also given the reference to MPL. Readers can find all the variants and MPL references in Previt -Orton's edition.

### Other sources

*Monumenta Germaniae historica* (1819–1969) ('MGH') is currently being produced in CD-ROM form. At the time of publication, however, the series was not complete and it has been necessary to check MGH references using the hard-copy editions.

*Strauss*

## Marsilius of Padua

Marsilius, whose chief work is entitled *Defender of the Peace* (1324), was a Christian Aristotelian. But both his Christianity and his Aristotelianism differ profoundly from the beliefs of the most celebrated Christian Aristotelian, Thomas Aquinas. Marsilius lives as it were in another world than Thomas. In the whole *Defender* he refers to Thomas only once, but even then, when he claims to quote Thomas, he in fact quotes only the statement of another authoritative Christian writer which Thomas had inserted (with that writer's name) <sup>1</sup> in a compilation he had made. Thomas had accepted the traditional ecclesiastical polity of the Roman Church. Marsilius admits that the Christian priesthood is divinely established as distinct from the Christian laity, both being part of the Christian order; but he denies that the ecclesiastical hierarchy is divinely established. According to him all Christian priests are essentially equal in all respects as far as divine right is concerned. He also denies that any priest, even if he be bishop or pope, has by divine right any of the following powers: the power to command or to coerce; the power to decide whether and how coercion is to be exercised against apostates and heretics, be they subjects or princes; and the power to determine in a legally binding way what is orthodox and what is heretical. But we cannot go into Marsilius' doctrine of the Church, although it was of the greatest political importance, especially during the Reformation, for that doctrine belongs to political theology rather than to political philosophy. By following this distinction, we do not distort Marsilius' teaching, for he himself distinguishes throughout his work the political teaching which is "demonstrated" by "human demonstration" from the political teaching which is revealed by God immediately or mediately and is therefore accepted by simple faith as distinguished from reason.<sup>2</sup> This is not to deny that the principle of his doctrine regarding the Christian priesthood supplies the key to almost all the difficulties in which his work

abounds, for that principle explains his only explicit deviation from the teaching of Aristotle.

As regards the principles of political philosophy, Marsilius presents himself as a strict follower of Aristotle, "the divine philosopher" or "the pagan sage."<sup>3</sup> He explicitly agrees with Aristotle regarding the purpose of the commonwealth: the commonwealth exists for the sake of the good life, and the good life consists in being engaged in the activity becoming a free man, that is, in the exercise of the virtues of the practical as well as of the speculative soul. While practical or civic felicity "seems to be" the end of human acts, in fact the activity of the metaphysician is more perfect than the activity of the prince who is the active or political man par excellence.<sup>4</sup> Marsilius explicitly agrees with Aristotle in regarding the purpose of the commonwealth as the ground for the other kinds of causes (material, formal, and moving) of the commonwealth and of its parts. He explicitly agrees with him in very many other points. He has only one reservation against Aristotle: Aristotle did not know one very grave disease of civil society, an "evil thing, the common enemy of the human race" which must be eradicated. This ignorance does not derogate from Aristotle's supreme wisdom. Aristotle did not know the "pestilence" in question because he could not know it, for it was the accidental consequence of a miracle, and it could have been even less foreseen by the wisest man than the miracle itself. The miracle was the Christian revelation, and the grave disease arose from the claims, in no way supported by Scripture, of the Christian hierarchy—claims which culminate in the notion of papal plenitude of power. Marsilius declares that this is the only political disease with which he will deal, since the others have been properly dealt with by Aristotle.<sup>5</sup> One ought therefore not even to expect to find a complete presentation of political philosophy in the *Defender*. The work comes to sight as a kind of appendix to that part of Aristotle's *Politics* which may be said to deal with the diseases of civil society.

Yet Aristotle's unawareness of a single, if unusually grave, disease of civil society is only the reverse side of his fundamental error: he was a pagan. That error affects his political philosophy immediately only in one point, however: in the teaching regarding the priesthood. He did not know the true Christian priesthood, but only the false pagan priesthoods. This does not mean that his teaching regarding the priesthood is entirely wrong. On the contrary, within political philosophy that teaching is in the main correct. He saw clearly that the priesthood forms a necessary part of the commonwealth, even a noble part, but cannot be the ruling part: priests cannot have the power to rule or to judge. He also saw clearly that it cannot be left entirely to the individuals whether they become priests or not; the number as well as the qualifications of the priests, and in particular the admission of foreigners to priesthood in the commonwealth, is subject to the decision of the government of the commonwealth. The Chris-

tian revelation does not contradict this demonstrated teaching,<sup>6</sup> since revelation is indeed above reason, but not against reason. Nor is this all. Aristotle did not indeed know the true ground of the priesthood, which can only be divine revelation. But if not Aristotle, at any rate other philosophers (who, as philosophers, did not believe in another life) devised or accepted allegedly divine laws accompanied with sanctions in another life, because they held that such sanctions would induce the nonphilosophers to avoid the vices and to cultivate the virtues in this life. Christianity is a truly divine law, and the Christian faith in punishments and rewards after death is the true faith; on the basis of the Christian faith one may then indeed say that the commonwealth is directed toward both this-worldly felicity and otherworldly bliss. But since the otherworldly end cannot be known or demonstrated, political philosophy must conceive of that end as a postulated means for promoting the this-worldly end. Besides, while Christianity is exclusively or chiefly concerned with the other life, it too makes men's fate in the other world dependent on how they lived in this world, and it too contends that the belief in punishments and rewards after death is also politically salutary.<sup>7</sup> The reasoning of the pagan philosophers is then true and therefore may be said to form a part of the demonstrated political teaching. At any rate, that reasoning leads to the philosophic concept, accepted by Marsilius, of the "sect" as a society constituted by belief in a peculiar divine law or by a peculiar religion; that concept embraces equally all allegedly and all truly divine laws, for the truth of the true religion escapes philosophy as philosophy. This religiously neutral concept of the sect is an essential part of Marsilian political science, just as it had been of al-Farabi's political science.<sup>8</sup> It leads to the rational concept of the priesthood according to which the priests are essentially teachers and not rulers or judges: the essential function of the priests in any divine law is to teach a salutary doctrine concerning the afterlife or, more generally, to teach the divine law in which their society happens to believe. The priests are the only teachers who as teachers form a part of the commonwealth.<sup>9</sup> According to Aristotle's *Politics*, the priests form indeed one of the six parts of the commonwealth, but their function does not consist in teaching. Marsilius' deviation from Aristotle in this point is, however, not based on a misunderstanding; he deviates from the letter rather than from the spirit of his master. By asserting that the priesthood is the only part of the commonwealth which is essentially dedicated to teaching, Marsilius draws our attention to the most important fact that, according to Aristotle, the philosophers, so far from being the ruling part of the best commonwealth, as they are according to Plato, are not even as such a part of any commonwealth, for the end of the commonwealth as commonwealth is not speculative perfection: cities and nations do not philosophize.

The fact that the pagan philosophers in general and Aristotle in particular elaborated the rational teaching regarding the priesthood does not



mean that Aristotle's whole teaching on this subject is true. According to Aristotle, the action of the priest is less noble or perfect than the action of the ruler, but in "the law of the Christians," and only in that law, the action of the priest is the most perfect of all. According to Aristotle, only old men of the upper class ought to be priests, another point which is denied by Christianity. Finally, according to Aristotle, the priests are simply citizens, but, since the Christian priests ought to imitate Christ and hence to live in evangelical poverty and humility, it would appear that they must not have anything to do with the things that are Caesar's.<sup>10</sup>

The diseases of the commonwealth which Aristotle had discussed endanger this or that kind of government or render good government impossible. But in Marsilius' opinion the disease with which the *Defender* is concerned renders any government impossible, for it destroys the unity of the government and of the legal order, or it brings about permanent anarchy since it consists in the belief that the Christian is subject in this world to two governments (the spiritual and the temporal) which are bound to conflict. That disease endangers not only the good life or the fruits of peace, for the sake of which the commonwealth exists, but mere life or mere peace which is merely the condition—although the necessary condition—for the realization of the true end of the commonwealth. From this we see how appropriate the title of Marsilius' work is: the work is a defender, not of faith, but of peace, and of nothing but peace—not, to repeat, because peace is the highest good or the only political good, but because, being a tract for the time, the work is chiefly concerned with the disease of the time. This is the reason why Marsilius apparently lowers his sights. Thus he abstracts from the question concerning the best regime without in any way denying its importance: any regime is better than anarchy. Thus he is more concerned with mere law, with law as law, than with good laws or the best laws, and with mere government than with the best government. Thus he is satisfied with mere consent as the criterion of legitimacy as distinguished from the level of consent. Aristotle had as it were provided against Marsilius' predicament. When Marsilius in effect says that the law as law need not be good or just whereas the perfect law must be just, he is in entire agreement with Aristotle's remark that a ruler is no less a ruler because he rules unjustly, or with the usage of Aristotle and indeed of common sense which entitles us to speak of bad or unjust laws; to say nothing of the fact that when Aristotle opposes slavery by nature to slavery by law, he certainly does not mean by law a just law. When Marsilius frequently or mostly abstracts from the fact that the commonwealth is ordered toward virtue, he acts in entire agreement with Aristotle's observation that almost all cities are not concerned with virtue—an observation which does not prevent Aristotle from calling those bad cities "cities."<sup>11</sup>

Marsilius' sole reservation against Aristotle was the immediate conse-

quence of the fact that Aristotle was a pagan. It concerned political philosophy or the rational political teaching only accidentally. Still, according to Aristotle, the best polity is the rule of gentlemen who rule their city, a fairly small society, and are enabled to do so because they are men of wealth. How can such men be thought to be rulers in a Christian society where they would have to rule Christian priests and hence the Church? For in a Christian society the activity of the priest is more noble than that of the ruler. Furthermore, the Church is universal. Finally, the best men in Christendom, that is, the best Christians, must live in evangelical poverty. This was the problem which Marsilius believed he had to solve and that he had solved.

The problem of how to reconcile the Aristotelian principle (the men dedicated to the most noble practical activity ought to rule in their own right) with the Christian principle (the activity of the priest is more noble than that of the gentleman) could seem to have been solved in the clearest and simplest manner by the doctrine of papal plenitude of power. Marsilius avoids that conclusion within the confines of political philosophy by teaching that in every commonwealth the fundamental political authority is not the government or the ruling part, but the human legislator, and that the human legislator is the people, the whole body of the citizens. To express this in the language of Rousseau, Marsilius asserts that the only legitimate sovereign is the people, but that the sovereign is to be distinguished from the government. He thus succeeds in subordinating the Christian priests to the Christian laity, the Christian aristocracy to the Christian *populus* or *demos*. But in taking these steps he seems to deviate flagrantly from the teaching of his revered master, who may be said to have identified the sovereign with the government and, above all, to have preferred the sovereignty or government of the gentlemen (aristocracy) to the sovereignty or government of the people (democracy).

Marsilius does not dispose of the difficulty by accepting Aristotle's assertions according to which democracy or the rule of the vulgar is a bad regime and the farmers, artisans, and money-makers, who constitute the vulgar, are not in the strictest sense parts of the commonwealth. He rather increases the difficulty by ascribing to Aristotle himself the following teaching: the legislative power must be entirely in the hands of the whole citizen body; the government ought to be elected by the whole citizen body and ought to be responsible to it; the government must rule in strict adherence to the laws, and if it transgresses a law it is liable to punishment by the whole citizen body. This teaching ascribed to Aristotle is much more democratic than Aristotle's authentic teaching: in the whole body of the citizens, as Marsilius understands it, the vulgar must play a very great, not to say a decisive, role. The reasoning in favor of the vulgar by which Marsilius supports his teaching is indeed almost identical with the argument in favor of democracy which Aristotle had reported and considered in

the course of his ascent from the defective regimes to aristocracy (or kingship). And Marsilius does not tire of explicitly quoting Aristotle in this context, although not without strange misinterpretations. Still stranger is his complete silence in this context about Aristotle's antidemocratic argument. He reports the antidemocratic argument, but omits any reference to Aristotle. He quotes only one authority for the antipopulist position: the saying of the wise king Solomon according to which "the number of the fools is infinite." Marsilius has not quoted any biblical passage in his populist reasoning; he thus perplexes us for a moment by making us think that the Bible, or at any rate Solomon, might favor aristocracy. Yet he disposes of this possibility by suggesting that the sage meant perhaps by the fools the infidels who, however wise in the worldly sciences, are nevertheless absolutely foolish, since, according to Paul, the wisdom of this world is foolishness with God. For from this it follows that the faithful man, and hence all the more the faithful multitude, is truly wise and hence perfectly competent to make laws and to elect kings or magistrates.

There is at least one other remark of Marsilius which shows that his belief in the competence of the people at large originated in his concern, not with authority as such, but with authority in Christendom. He says in effect that the necessity of giving the multitude power to legislate and to elect officials is less evident than the necessity of entrusting the multitude with the power to elect priests and remove them from their priestly offices; for error in the election of a priest can lead to eternal death and to very great harm in this life. That harm consists in the seduction of women during the secret conversations in the course of which they confess their sins to a priest. It is obvious that the simplest citizen, and surely therefore the faithful multitude, is as able to judge the trustworthiness of any individual priest in such matters as the most learned men could be; and the simple multitude might even be better informed in such respects than the learned. Marsilius also suggests that the whole body of all the faithful which is guided in its deliberations by the Holy Spirit, as distinguished from the whole body of citizens as mere citizens, is infallible.<sup>12</sup> By far the most important argument for popular government, however, is supplied by the example of the Church in its purest form, in which there were not yet Christian princes, and the Church consisted exclusively of priests and a multitude of such laymen as were subjects. Precisely in that epoch "Church" meant only the whole body of the faithful, and thus all Christians were ecclesiastics. Hence the traditional distinction between the people and the clergy must be radically revised in favor of the people. In accordance with the practice of the early Church, the election to all priestly offices belongs to the whole multitude of the faithful. This reasoning is not weakened but strengthened by the fact that in the very early Church the multitude was uncivilized and inexperienced: if even then the bishops were frequently elected by the multitude, this procedure is all the

more appropriate after the faith has taken root in both subjects and princes.<sup>13</sup>

Let us return to the confines of political philosophy and consider Marsilius' doctrine of the human legislator somewhat more closely. He devotes two whole chapters out of fifty-two to the statement, the proofs, and the defense of that doctrine. He advances three proofs to which he adds a fourth, but that fourth proof is, as he says, hardly more than a summary of the first three. (1) The legislative power ought to belong to those from whom alone the best laws can emerge, but this is the whole citizen body; one reason is that no one harms himself knowingly and hence, we may add, when each thinks of his interest, no one's interest will be neglected or the interest of all will be duly provided for. (2) The legislative power ought to belong only to those who can best guarantee that the laws made will be observed, but this is the whole citizen body, for each citizen observes better a law, even if it is not good, "which he seems to have imposed on himself"; the reason for this is that every citizen not only is a free man, that is, not subject to a master, but desires to be a free man. We may note that this argument causes a difficulty which Marsilius never discusses regarding the God-given and hence not even apparently self-imposed law. (3) What can benefit and harm each, and hence all, ought to be known and heard by all so that all and each can attain the benefit and repel the harm. The defense of the doctrine is stated in three arguments which are in the main taken from the populist reasoning reported by Aristotle. In the second of the latter group of arguments, Marsilius illustrates the danger of entrusting legislative power to a few or to one by referring to the oligarchic or tyrannical character of the canon law.<sup>14</sup> Marsilius' populist thesis thus appears to be derived from his anticlericalism.

Marsilius ascribes the fundamental political power, the power of the human legislator, not simply to the whole citizen body but to "the whole citizen body or its stronger or superior part." By the stronger or superior part he certainly does not mean the unqualified majority. The stronger or superior part, which as it were replaces the whole citizen body, must be understood in terms of both number and quality, so that the vulgar may not be entirely at the mercy of the better people nor the latter entirely at the mercy of the former. The arrangement sketched by Marsilius might be called a "polity"—a mean between oligarchy and democracy—were it not for the fact that "polity" is a form of government, while Marsilius speaks of the sovereign as distinguished from the government. Furthermore, whereas in a democracy, in Aristotle's sense, the common people participate fully in deliberation and jurisdiction, Marsilius reserves these functions for the government or the ruling part as distinguished from the whole citizen body or its stronger superior part.<sup>15</sup> Above all, as Marsilius already discloses in the chapters explicitly devoted to the definition of the human legislator, the human legislator may delegate his legislative power

to one or to several men. Marsilius thus allows the sovereignty of the people to remain entirely dormant. In the same breath in which he proclaims the transcendent virtue of everyone's actually participating in legislation, he dismisses that participation as irrelevant. One must go further and say that he retracts the very principle of popular sovereignty. He compares the position of the ruling part in the body politic to that of the heart in the human body: it is that part which molds the other parts of the body politic. But if this is so, the ruling part is not derivative from a pre-existing sovereign, the human legislator, or the people, that is, the whole which consists of all parts of the body politic in their proper proportion, but is rather the cause of the alleged sovereign. In accordance with this Marsilius compares the position of the ruling part in the commonwealth to that of the prime mover in the universe, that is, of the Aristotelian God who surely is not subject to laws made by the other parts of the universe. In a word, Marsilius returns to the Aristotelian view according to which the human legislator (the sovereign) is identical with the ruling part (the government) or according to which the stronger or superior part is identical with the ruling part; for in every stable political order, the ruling part, whether it consists of one man or a few or the many, is as a matter of course the stronger or superior part. Marsilius even explicitly identifies the ruler with the legislator; for example, by calling the Roman emperors legislators. He does not leave it at saying that the human legislator can give the ruler "plenitude of power." He goes so far as to say that the ruler owes his position to "the human legislator or any other human will": the ruler may owe his position to his own will.<sup>16</sup>

If the ruling part is the legislator it cannot be simply subject to the law. Even in a republic, where no individual is the legislator and hence somehow above the law, it is sometimes necessary for an individual magistrate to act illegally in order to save the republic, as Cicero did when quenching the Catilinian conspiracy. When Marsilius suggests that the ruler is subject only to the divine law, we must not forget that according to him the divine law is not as such knowable to human reason nor does it as such have coercive power in this world. Furthermore, if the ruling part (the government) is the legislator (the sovereign), the government is not subject to punishment in case of misconduct for the same reason for which the sovereign people in the populist hypothesis is not subject to punishment.<sup>17</sup> To sum up, in spite of its dogmatic tone, Marsilius' populist teaching proves to be, if in a different way, as provisional or as tentative as the democratic argument in Aristotle's *Politics*.

The characteristic of the *Defender of the Peace* viewed as a treatise of political philosophy is that it very emphatically sets forth and literally at the same time retracts the doctrine of popular sovereignty. What is the meaning of this striking contradiction concerning the very foundation of

political society? What is the meaning of Marsilius' vacillation between populism and what one may call monarchic absolutism? One could say that he takes the side of the people when the people is understood in contradistinction to the clergy and to nothing else, and that he takes the side of the Roman emperors, ancient or medieval, against the popes. In other words, the contradiction disappears once one assumes, as some scholars have done, that the *Defender* is inspired by nothing but anticlericalism. He needed for his anticlerical argument a populist basis because he had to appeal from the accepted opinions regarding the Church to the New Testament. The New Testament, while giving strong support to the demand for submission to absolute monarchs or to despots, does not give support to Marsilius' suggestion that the secular Christian rulers alone as distinguished from the priests ought to rule the Church in everything affecting men's fate in this world (punishment of heretics and apostates, excommunication, property, and so on); but the New Testament apparently gives some support to the view that decisions in such matters rest with the whole body of the faithful as distinguished from the priests alone. Marsilius' "whole body of the citizens" is merely the philosophic or rational counterpart of "the whole body of the faithful," and he needs such a counterpart in order to provide his anticlericalism with the broadest possible basis: both reason and revelation speak against the rule of priests. This explanation implies that the fundamental self-contradiction which is characteristic of the *Defender* is the conscious outcome of a conscious strategy. Both the explanation and its implication are defensible; yet they do not account for certain features of Marsilius' populist teaching or for the essential character of strategies like the one justly ascribed to Marsilius. They fail to account for the latter because it is not sufficient to conceive of Marsilius as a perhaps skillful but rather unscrupulous politician or advocate.

To find a way out of the difficulty, let us consider a Marsilian doctrine which is not affected by either political theology or antitheological preoccupations: his doctrine of monarchy or kingship. He says that kingship is "perhaps" the best form of government, but he makes it his business to discuss the question as to whether hereditary or elective monarchy is preferable. He devotes to this subject only one chapter, but that chapter is longer than the two chapters taken together which are apparently meant to establish popular sovereignty. He decides in favor of elective monarchy strictly understood, that is, of a monarchy in which each monarch, and not a monarch and his descendants, is elected. This decision might have recommended him to the pope, but with greater likelihood to the German emperor, who was at that time engaged in a bitter fight with the pope and who soon became Marsilius' protector; it would not have recommended him to the French king, for instance.<sup>18</sup> Yet it was necessary for the success of his venture—the venture aiming at the eradication of papal plenitude of power and everything reminding of it—to obtain the good will of all secu-

lar princes. It can therefore be assumed that his preference for elective monarchy over hereditary monarchy belongs to his final or serious political teaching. He certainly never contradicts this preference as he contradicts the doctrine of popular sovereignty. His argument in favor of elective kingship can be reduced to a single consideration. The most important quality of the ruler is prudence, for the infinite variety of human affairs does not permit an adequate regulation by laws, and prudence does not come by inheritance. Prudence, that is, practical wisdom in contradistinction to mere cleverness, is not separable from moral virtue and vice versa. Prudence is also and especially required for the making of good and just laws. While prudence is then of the utmost importance, it is rare; nature generated only a part of the human race apt for prudence, and still fewer men actualize that potentiality. The foregoing consideration does not imply that hereditary kingship is illegitimate; it merely means that hereditary kingship is as such inferior to elective kingship. Hereditary kingship may even be preferable to elective kingship in most countries at all times and in all countries at the beginning of their political life, when all men are still uncivilized. For in most countries at all times and in all countries at the beginning or in their decay, prudence is as it were at best the preserve of a single family, and there are therefore no prudent electors. Elective kingship is superior to hereditary kingship because the former is suitable to a perfect and civilized commonwealth, whereas the latter is suitable to a still imperfect or irremediably uncivilized society.<sup>19</sup>

Now, this very consideration leads to the conclusion that to a perfect or civilized commonwealth the rule of a number of prudent men, that is, aristocracy, is still more suitable than even elective monarchy, for there is no reason why, if there exists in a commonwealth a number of prudent men, as will be the case in a perfect commonwealth, all except one should always be deprived of the highest honor; those unjustly deprived of their fair share in government would justly engage in sedition. Marsilius devotes a whole chapter to the proof that the indispensable unity of government is in no way impaired if the government consists of a number of men instead of one man. Not only hereditary kingship but kingship as such is proper only at times and in places where there is an extreme paucity of men who are fit to rule a commonwealth as, for instance, perhaps in Rome at the end of the republic. Monarchy is the proper kind of government in the household rather than in the perfect civil society. That aristocracy as distinguished from kingship is possible only under the most favorable conditions, and hence very rarely, in no way contradicts the fact that it is the most natural regime. If the priests were as they ought to be, Marsilius argues, the general council of the Church could consist only of priests, for the most important requirement for participation in such an assembly is thorough knowledge of the divine law, which is the highest form of wisdom; but the priests are not as they ought to be. This amounts to saying that in principle

aristocracy or the rule of the wise is preferable; only because the Church is no longer an aristocracy, but, as Marsilius never tires of repeating, is now an oligarchy, is it in need of correction by the best part of the laity; and the laity is, in the Church, the popular element. Within his populist argument Marsilius indicates that the devising and examining of the laws is the proper business of the prudent men; the other members of society are of little use in this matter and would only be disturbed in the performance of their necessary work if they were called upon to do more than to act as "formal" ratifiers. Such popular ratification of the laws would indeed seem to be desirable, since it is likely to make the populace more willing to obey the laws.<sup>20</sup>

Marsilius' very vacillation between populism and absolute monarchy may be said to point to aristocracy as the right mean between these two faulty extremes. What speaks in favor of the legislative power of absolute kings redounds also to the benefit of a sovereign government which consists of the prudent men of a city each of whom owes his position to co-optation by his peers rather than to popular election; and what speaks in favor of the legislative power of "the stronger or superior part of the whole citizen body" redounds to the benefit of what is in truth the stronger or superior part in every city which is not either too young or small or else too old or large for political excellence, namely, the most prudent and virtuous citizens. Marsilius abstains from arguing in favor of kingship while he argues emphatically in favor of popular sovereignty: the regime which he favors is somewhat closer, not indeed to democracy, but to the "polity" than to kingship. At the same time his populist argument points, through its glaring defects, for instance, from the "polity" to an aristocracy which is acceptable to the populace not only because of the inherent qualities of a genuine aristocracy as the rule of the most prudent and virtuous citizens but also because it respects the susceptibilities of the populace. Marsilius presented the argument for aristocracy in the most subdued form because that argument did not provide a sufficiently broad basis for the anticlerical policy which he regarded as by far the most urgent task for his age. In addition, the argument in favor of aristocracy would have redounded in the opinion of the majority of his contemporaries to the benefit of the clergy, for if political power is shown to belong by right to the wisest, it would seem to follow that it belongs less to those wise in human wisdom than to those wise in divine wisdom.

The strategy which Marsilius employed can then be explained by the political impossibility which amounted to a physical impossibility of airing the fundamental political issue. He could have an easy conscience in proceeding as he did because he was satisfied that a government of priests was impossible or undesirable. For according to him the New Testament not only does not authorize government by priests, especially in secular matters, but positively forbids it. In the Christian law, and only in the Chris-



tian law, the action of the priest as priest is the most perfect of all. But this action requires a spirit and a way of life which are incompatible with rulership, for it requires contempt for the world and the utmost humility. Christ excluded himself and the apostles from worldly rule in every form. Paul forbade every priest to become entangled in any secular matter whatever, since no one can serve two masters. The New Testament recognizes in the strongest terms the duty of obedience to the human government "which beareth not the sword in vain," not so much for the defense of the fatherland as for executing wrath upon the evildoers, and the New Testament traces to sinful pride the view that bad rulers or masters may be disobeyed. Christian slaves are not permitted to demand that they be set free after six years' servitude as the Hebrew slaves are, for the Old Testament law in question acquires in Christianity a purely mystical meaning. Humility and contempt for the world can then go together perfectly with sincere obedience to worldly masters.

Still, within the confines of political philosophy, Marsilius must put the accents somewhat differently than the highest Christian authorities had done. He almost goes so far as to defend the pagan rulers against the saying of Christ that they "lord it over" their subjects. According to Paul, only those that are "contemptible" in the Church, that is, those who possess wisdom in things which are not spiritual, ought to be judges in worldly matters. The demands of the Sermon on the Mount cannot be reconciled with the status and the duties of governors and their lay subjects.<sup>21</sup> The perfect Christian community was the community of Christ and the apostles in which there was community of goods; but that community was imperfect in other respects since it was meant to become universal, and yet no provision was made for its unity in the future when it would have become a large society; it could become perfect only through the acts of Christian princes. One is tempted to express Marsilius' thought by saying that it was nature which perfected grace rather than grace which perfected nature. He even goes so far as to indicate that there is an opposition between human government and divine providence, the former rewarding in this world the just and the doers of good deeds and the latter inflicting suffering on them in this world.<sup>22</sup> Marsilius indicates the peculiarity of the Christian law by saying that belief in God's future judgment—a belief which Christianity shares with all other religions—would induce the Christian priests not to defraud the poor, while belief in the Christian religion would induce the Christian priests to live in poverty. Evangelical poverty is indeed according to him the inevitable concomitant of radical contempt for this world or of radical humility. Within the confines of human reason, however, wealth, just as honor, comes to sight as something good since it is required for the exercise of moral virtue. But according to the Christian teaching, voluntary poverty is so much required for perfection that those who do not live in voluntary poverty are bad Christians. In spite of this,

Marsilius can complain that the popes did not show proper gratitude for having been raised by the Roman emperors from extreme poverty to abundance of temporal goods. He appears to assume that Christian morality and the worldly morality of the gentleman contradict each other or that revelation is not simply above reason but against reason. This may be one reason why he regarded the New Testament law as especially difficult to fulfill.<sup>23</sup>

Marsilius has sometimes been celebrated as a defender of religious freedom. Yet he does not go beyond raising the question as to whether it is permitted to coerce heretics or infidels, while stating in the same context that he does not wish to say that such coercion is inappropriate. He does deny that such coercion can be exercised in this world on the basis of divine law. For according to Marsilius, no divine law has as such any coercive power in this world unless by virtue of a human law which makes it a crime to transgress the divine law in question. In addition, according to the Christian divine law, which, of course, condemns heresy and infidelity and buttresses that condemnation by the threat of punishment in the other life, a man who is coerced into belief is not truly a believer; besides, Christian priests have not been given by Christ any coercive power. In spite of this, the Christian human legislator, not as Christian but as human legislator, may use coercion against heretics and infidels in this world. This right can be illustrated by the following parallel. The Christian divine law forbids drunkenness, but does not as such require that coercion be used in this world against drunkards; yet it does not forbid the human legislator to prohibit drunkenness under penalties in this world. Similarly, the human legislator may enforce religious sobriety, that is, orthodoxy. Whether or not he does so will depend on his judgment on heresy, for instance. He may be guided by the biblical comparison of heresy to fornication and hence permit heresy as he permits fornication, although fornication, too, is forbidden by the Christian divine law. Or he may be guided by the biblical comparison of heresy to leprosy and hence take coercive action against heretics in compliance with the advice of experts (the priests), just as he takes coercive action against lepers in compliance with the advice of experts (the physicians). He may also be guided by the facts that the New Testament surely permits excommunication and that excommunication is bound to affect the excommunicated in this life.<sup>24</sup>

But apart from any theological consideration, that is, from any consideration peculiar to the Christian divine law, it is clear that if belief in divine judgment in the other world is conducive to virtuous conduct in this world, as even pagan philosophers admitted, it is not inappropriate for the human legislator to protect that belief and its corollaries by forbidding speech which may subvert that belief. This conclusion is not contradicted by Marsilius' teaching that human government is concerned only with "transient" as distinguished from "immanent" acts. According to that distinc-

tion (which may have been suggested to Marsilius by a passage in Isaac Israeli's *Book of Definitions*), those acts of our cognitive and appetitive powers are immanent which, like thoughts and desires, remain within the agent and are not performed by means of any of the locally moved members of the body, while the other acts of those powers are transeunt. In other words, human government is concerned only with acts the commission of which can be proved even if he who committed the act in question denies having committed it. From this it follows that speeches are transeunt acts. Since subversive speeches of the kind indicated may do harm to others and to the community as a whole, their prohibition clearly falls, according to Marsilius, within the jurisdiction of the human legislator.<sup>25</sup> Marsilius surely did not preach freedom from religion.

Any divine law would lose much of its value if everyone subject to it were free to understand its promises and threats as he pleases. The Christian divine law in particular, with its emphasis on faith as the necessary condition for eternal salvation, would have been given in vain, it would have been given for men's eternal perdition, if Christ had not provided that the one true meaning of His divine law is accessible to all Christians. The indispensable unity of faith is provided in a legally binding manner by the universal or catholic Church, that is, by the whole body of the faithful, insofar as it is the faithful human legislator who authorizes the general councils and gives their decisions coercive power. This provision causes no difficulty when there is a single human legislator of Christian faith whose jurisdiction extends over the whole world. Such a legislator was, according to an opinion adopted by Marsilius, the Roman people or derivatively the Roman emperor. Marsilius tries to preserve this dignity for the Roman emperors of his age. But he cannot conceal from himself or from his readers the fact that there existed in his time a number of faithful human legislators who did not recognize a superior or who were independent of one another. There was then no longer a guarantee of the unity of faith except within the borders of individual independent realms or commonwealths. Hence Marsilius regards it as advisable that the various Christian sovereigns should agree in recognizing the bishop of Rome as "the universal pastor," but in his opinion they are not obliged to do so.<sup>26</sup>

Yet, as he points out, a universal pastor or universal bishop is less necessary than a universal prince, for a universal prince is obviously more capable of keeping the faithful in the unity of faith than a universal bishop could be. As a Christian, Marsilius seems then to be compelled, given his premises, to demand that political society be universal strictly speaking—and not only in pretense, or by courtesy, as the Roman empire was even at the peak of its power—so that it can discharge its duties to the Christian faith. He seems to be compelled, that is, to abandon the very last trace of his doctrine of popular sovereignty or of the Aristotelian preference for aristocracy which that doctrine partly represents; for neither democracy nor

aristocracy as understood by Marsilius and Aristotle is feasible in any but fairly small societies. Yet in spite or because of all this, Marsilius denies that a universal prince is necessary. For Scripture does not demand a universal secular empire. Still less does reason demand it: peace among men is sufficiently guaranteed—we may understand this to mean that peace is guaranteed in the only possible way—if there exists unity of government within the particular commonwealths or kingdoms. In his only thematic discussion of the question concerning the desirability of a “world state,” Marsilius refuses to decide it. He alludes to the difficulties obstructing world government which are caused by distance and by the lack of communication between the various parts of the world, as well as by the differences of languages and the extreme differences of customs. He refers to the view according to which all these things which separate men might be due to a heavenly cause, that is, to nature which incites men, by means of these divisive things, to wars in order to prevent overpopulation. Marsilius makes it clear that, were it not for wars and epidemics, overpopulation would be inevitable if the human kind had no beginning and will have no end, that is, if there is “eternal generation” or if the visible universe is eternal.<sup>27</sup> The Aristotelian doctrine of the eternity of the visible universe is irreconcilable with the biblical doctrine of the creation of the world. The Aristotelian doctrine of eternal generation is irreconcilable with the biblical doctrine that there was “a first man,” with the doctrine which is the premise of the biblical doctrines that our first parents fell and that therefore man is in need of redemption. Marsilius does not declare that the Aristotelian doctrine is true. Still less does he declare that it is untrue because it contradicts the most fundamental and the most manifest doctrines of the Bible. The reader can therefore only guess whether Marsilius was a believer or an unbeliever until he considers Marsilius’ discussion, presented in the thirty-eighth chapter of the *Defender* (II 19), of the question concerning the ground of the belief in the truth of the Bible.

Within the confines of political philosophy, Marsilius’ tacit opposition to Thomas Aquinas shows itself most obviously in his teaching regarding natural law or natural right. Marsilius denies that there is a natural law properly so called. He presupposes that reason knows no other legislator than man and hence that all laws properly so called are human laws: reason is indeed capable of discerning what is honorable, what is just, and what is of advantage to society. But such insights are not as such laws. Besides, they are not accessible to all men and hence not admitted by all nations; for this reason they cannot be called natural. There are indeed certain rules regarding what is honorable or just which are admitted in all regions and are in addition enforced almost everywhere; these rules can therefore metaphorically be called natural rights. In spite of their being universally or generally admitted, they are not strictly speaking natural, for they are not dictated by right reason. What is universally admitted is not

rational, and what is rational is not universally admitted. Among the rules which can metaphorically be called "natural rights" Marsilius mentions the rule that human offspring must be reared by the parents up to a certain time; he may have regarded this rule as not unqualifiedly rational since Aristotle had held that no deformed child should be reared. More generally, if wars are by nature necessary in order to prevent overpopulation, the distinction between just and unjust wars loses much of its force, and this grave qualification of the rules of justice cannot but impair the rationality of those rules of justice which are universally or generally admitted to obtain within the commonwealth. In other words, the universally admitted rules of right are not rational since there exists a natural necessity to transgress them or since man does not possess freedom of will to the extent to which both common opinion and the teaching of revelation assert it.<sup>28</sup>

One can understand Marsilius' denial of natural law best if one starts from the fact that he implicitly denies the existence of first principles of practical reason. The cognitive status of the first principles of action in Aristotle's *Ethics* is obscure. One way of removing this obscurity—the way preferred by Averroës and Dante—is to conceive of the first principles of action and therefore also of politics as supplied by theoretical reason or natural science: it is natural science which makes clear what the end of man is. Let the end of man be the perfection of his mind, that is, the actual thought of the metaphysician as metaphysician. The individual human being who is capable of pursuing this end will then deliberate as to how, given his circumstances, he can reach this end. This deliberation—an act of practical reason—will in many points differ from individual to individual, but there are certain universal rules of conduct with which all men must comply who wish to become perfect as men of speculation. Those rules are, however, not universal strictly speaking since only a minority of men is by nature capable of the contemplative life. But there is also an end which all men are able to pursue; this is the perfection of their bodies. This lower or first perfection requires among other things security in and through political society. Here a profound ambiguity enters: political society is required, although in different ways, for the sake of both man's first and his ultimate (theoretical) perfection. However this may be, political society in its turn requires a variety of "parts" (farmers, artisans, moneyed men, soldiers, priests, governors, or judges) and a certain order of these parts. It requires for its well-being that the legislators and the governors or judges possess prudence and if not all at any rate some of the moral virtues, especially justice. In agreement with Aristotle's procedure in the *Politics*, Marsilius deduces the necessity of those virtues from the purpose of civil society, and the necessity of that purpose from the end or ends of man. That is to say, deviating from the procedure which Aristotle had followed in his *Ethics* for educative or practical reasons, Marsilius does not take those virtues as ultimates, as choiceworthy for their own sake. It is be-

cause Marsilius treats prudence and the moral virtues less as choiceworthy for their own sake than as subservient to the two natural ends indicated that his political science is more obviously and more emphatically "demonstrative" than Aristotle's political science.<sup>29</sup>

Marsilius says much less than Aristotle even in his *Politics* about the highest end which is natural to man. For the reasons indicated above he lowered his sights. His doctrine of the commonwealth is reminiscent of the suggestion in Plato's *Republic* according to which the city of pigs is the true city. His doctrine of the human law is reminiscent of Maimonides' suggestion according to which the human law serves no higher goal than the perfection of man's body, whereas the divine law brings about the perfection of both the body and the mind.<sup>30</sup> But Maimonides held that the divine law is essentially rational and not, as it is according to Thomas, suprarational. One may say that Marsilius combines Maimonides' view of the human law with Thomas' view of the divine law and thus arrives, within the confines of political philosophy, at the conclusion that the only law properly so called is the human law which is directed toward the well-being of the body. Marsilius was driven to take this view to some extent by his anticlericalism. When antitheological passion induced a thinker to take the extreme step of questioning the supremacy of contemplation, political philosophy broke with the classical tradition, and especially with Aristotle, and took on an entirely new character. The thinker in question was Machiavelli.

## NOTES

1. Marsilius of Padua, *The Defender of the Peace*, trans. with an introduction by Alan Gewirth (New York: Columbia University Press, 1956), II 13.24 (= 169th paragraph of *Dictio II*).
2. *Ibid.*, I 9.2.
3. *Ibid.*, I 11.2 beginning and 16.15 end.
4. *Ibid.*, I 4.1; 1.7; II 30.4 end (cf. I 6.9 first par.).
5. *Ibid.*, I 1.3-5, 7; 19.3 and 8-13.
6. *Ibid.*, I 5.1; 15.10; 19.12 end. II 1.4; 8.9 toward the end; 30.5 (par. 2).
7. *Ibid.*, I 4.3-4; 5.11; 10.3.
8. *Ibid.*, I 5.2, 3, 13; 10.3. II 8.4 end. (But cf. the derogatory meaning of "sect" in II 16.17.)
9. *Ibid.*, I 5.12; 19.4 (102, 22, ed. Previt -Orton) and 5 beginning. II 6.10 end; 10.6; 20.13. Note that Marsilius does not quote Deut. 33:10.
10. *Ibid.*, I 5.1, 13. II 13-14; 24.1 end; 30.4 (par. 1 end).
11. *Ibid.*, I 1.1; 8.4; 10.4-5; 15.1; 17. II 4.5; 8.9; 28 end. *Politics* 1255<sup>b</sup> 13-15; 1276<sup>a</sup> 1-3; 1282<sup>b</sup> 7-13; 1324<sup>b</sup> 7-9; 1333<sup>b</sup> 5 ff. EN 1180<sup>a</sup> 24-35.
12. *Defender*, I 5.1, 13; 8.3; 11 (esp. 11.6); 12.3, 4; 13.1, 3, 4. II 17.10-12; 21.3 and 9 end. *Politics* 1281<sup>a</sup> 40 ff. (esp. 1281<sup>b</sup> 23-25).

13. *Defender*, II 2.3; 15.8; 16.1 and 9 beginning; 17.5, 7–8, 10; 28.3, 17.
14. *Ibid.*, I 12–13. II 23.9, 13 beginning; 24.11; 26.19; 28.29.
15. *Ibid.*, I 5.1, 7; 8.1; 12.4. II 2.8; 4.8; 8.7.
16. *Ibid.*, I 4.4 (13, 20); 8.5; 10.2; 12.3; 13 end; 14 heading and end; 15.5–6; 16.21; 17.9. II 5.4 (149 bottom); 8.6; 21.2; 30.4 (485, 19–21—one of the two central parts of the chapter). III 2.13. *Defensor Minor*, chap. 3 beginning. *Politics* 1296<sup>a</sup> 14–16.
17. *Defender*, I 14.3; 15.4; 26.13. Cf. II 3.15 and 30.6.
18. *Ibid.*, I 9.5–7; 15.3 end; 16. II 24.2.
19. *Ibid.*, I 7.1; 9.4–7, 10; 11.3 (42, 14–15); 14.2–7, 10; 15.1; 16. 11–24 (esp. 16.17).
20. *Ibid.*, I 2.2; 3.4; 9.10; 11.5 end; 12.2; 13.8; 14.9; 16.19, 21, 23; 17. II 20.2 end and 13–14; cf. II 3.15 with 30.6. Alan Gewirth, *Marsilius of Padua*, trans. with an introduction (New York: 1956), I 254. The use of *regnum* suggested in I 2 makes one expect a more monarchistic tendency than Marsilius actually has.
21. *Ibid.*, I 10.3; 12.2. II 4.13; 5.1–2, 4–5, 8 (par. 1); 9.10, 12; 11.2, 7; 28.24 (462, 9); 30.4 par. 1 end.
22. *Ibid.*, II 4.6; 13.28; 17.7–8; 22.1 beginning, 15–16; 24.4; 27.2 (426 par. 2). Gewirth, *op. cit.*, I 81.
23. *Ibid.*, I 6.3, 6; 15.21; 16. II 11.4; 13.16, 23 end–24; 26.12 beginning.
24. *Ibid.*, I 10.3–7. II 5.6, 7 (154, 23–26 and 157, 28); 6.11–13; 8.8; 9.2–5; 10.3, 7, 9; 13.2 end.
25. *Ibid.*, I 5.4, 7. II 2.4 (3); 8.5; 9.11; 10.4, 9; 17.8 toward the end. Gewirth, *op. cit.*, I 284.
26. I 19.10. II 13.28; 17.2; 18.8 (pars. 1–2 and end); 19.1–3; 20.1–2; 21.11, 13; 22.6, 8, 10; 24.9, 12; 25.4–6, 9, 15–18; 28.27; 30.8. *Defensor Minor*, chaps. 7 and 12.
27. *Defender*, I 17.10. II 28.15.
28. *Ibid.*, I 10.3–7; 12.2–3; 14.4; 15.6 end; 19.13. II 8.3; 12.7–8.
29. *Ibid.*, I 6–9; 11.3; 14.2, 6–7. Dante, *De Monarchia*, I 14.
30. *Republic*, 372<sup>a</sup> 6–7; *Guide of the Perplexed*, II 40 and III 27.

# The Defender of the Peace: Contents

## Discourse I

- |   |   |               |
|---|---|---------------|
| 1 | On the general bearing of the matters to be discussed; the reason for that bearing; and the division of the book  | <i>page</i> 3 |
| 2 | On the first questions of this book, and on defining and determining the meanings of this term ‘realm’  | 11            |
| 3 | On the origin of the civil community  | 14            |
| 4 | 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  | 18            |
| 5 | 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 | 22            |
| 6 | 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   | 31            |
| 7 | 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                               | 37            |
| 8 | On the generic kinds of polities or regimes – tempered and flawed – and their division into specific types  | 40            |
| 9 | On the modes of instituting a royal monarchy and the identification of the more perfect, and on the modes of instituting the other regimes or polities, both tempered and flawed                            | 43            |



10	On differentiating and identifying the significations of this term 'law'; and on its most proper signification, which is the one intended by us	51
11	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	56
12	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	65
13	Concerning some objections to what was said in the previous chapter, and their resolution; and a fuller declaration of what we propose	73
14	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	81
15	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	88
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	98
17	On the numerical unity of the supreme principate of a city or realm, and the necessity for this. As a result the numerical unity of a city or realm and the numerical unity of the individual primary parts or offices will also become apparent	114
18	On bringing the prince to account, and for what reason, how, and by whom he should be constrained if he transgresses the law	123
19	On the productive causes of tranquillity or intranquillity in a city or realm, and the cause that singularly disturbs realms beyond the usual ways; and on the continuity between the first discourse and the second	127

**Discourse II**

- 1 On three impediments or modes of opposition to the truths contained in this discourse; the bearing of the matters to be discussed; and the manner of proceeding 139
- 2 On distinguishing the terms and expressions that make up the questions to be decided 144
- 3 On the canonic sayings and certain other pieces of argumentation that appear to establish convincingly that coercive principate is due to bishops or priests as such, even without its being granted by the human legislator, and that supreme coercive principate is due to the bishop of Rome or pope 152
- 4 On the canonic scriptures, the commands or counsels and examples of Christ, and those of the saints and approved doctors of the evangelical law who expounded them; by which it is plainly demonstrated that in virtue of the words of Scripture, neither the Roman nor any other bishop or priest or cleric can claim or ascribe to himself any coercive principate or contentious jurisdiction, still less the supreme, over any cleric or layperson. And moreover that on the counsel and example of Christ, they should, especially within communities of the faithful, refuse such principate if it is offered or granted to them by one who has authority to do so; and again, that all bishops without distinction should be subject to the coercive judgement or principate of him who has dominion by the authority of the human legislator, especially if the legislator is faithful 159
- 5 On the canonic sayings of the apostles and the expositions of the saints and doctors, by which the same as in the previous chapter is patently confirmed 176
- 6 On the authority of the priestly keys, and what power of excommunication a priest or bishop may have 193
- 7 A summary of what was said in the previous chapter, and a clarification and confirmation of it 208
- 8 On the division of human acts and their relation to human law and the judge of this world 213
- 9 On the relation of human acts to divine law and the judge of the other world, viz. Christ, and also on how they relate

	to the teacher of that law, the bishop or priest, in this world	221
10	On the coercive judge of heretics, viz. to whom it belongs to judge them in this world, to constrain them and to inflict on them penalties in goods or in person; and to whom these should be allocated	232
11	On certain signs, testimonies, and examples from both canonic scripture and human writings, by which what we determined in chapter 4 of this discourse and chapters 5, 8, 9 and 10 of the first, concerning the status of bishops and priests generally, is shown to be true. And why Christ separated their status, sc. that of poverty, from the status of those who exercise principate	242
12	On distinguishing certain terms, which is necessary in order to decide questions relating to the status of supreme poverty	249
13	On the status of the said poverty, which is habitually called evangelical perfection, and that Christ and his apostles observed this status	262
14	On some objections to what was determined in the previous chapter, and their solutions; together with a confirmation of what was said in that same chapter	287
15	On the division of the priestly office into its essential and accidental, separable and inseparable authority; and that no priest is inferior to a bishop in essential dignity, but only in accidental	309
16	On the equality of the apostles in any office or dignity conferred upon them directly by Christ. As a result we prove what was said in the previous chapter concerning the equality of all their successors; and how all bishops, without differentiation, are the successors of any and every apostle	319
17	On the authority to institute bishops and other curates and all the other ministers of the church in respect of dignity or office of either kind, separable or inseparable	335
18	On the origin and first status of the Christian church, and how it comes that the Roman bishop and church has assumed for itself the authority that we have spoken of, along with a certain primacy over the rest	352

19	On a certain preliminary to determining the authority and primacy just-mentioned, viz. what spoken or written truth we must believe and confess of necessity of eternal salvation	360
20	Who has or has in the past had the authority to define or determine doubtful senses of Holy Scripture	367
21	Who has or has in the past had the coercive authority to assemble a general council of priests and bishops and other faithful, and who within it has the authority to establish something that would oblige the faithful to penalty or fault for the status of this present world or the world to come. Again, to whom it belongs to constrain in this world any transgressor of things that have been established or defined in a general council. Further, that no bishop or priest can excommunicate any priest or put any people under interdict, nor confer temporal ecclesiastical benefices or tithes or licences to teach upon anyone, nor any civil offices, except in accordance with a decision or concession of a general council or the human legislator or both	376
22	In what way the Roman bishop and his church may be head and principal of the rest; and on account of what authority this belongs to them	391
23	On the modes of plenitude of power, and in what way and what order the Roman bishop has assumed them for himself; and a summary of how he has used and continues to use them	408
24	How, specifically, the Roman bishop has used the primacy and plenitude of power that he has assumed within the limits of the church or the domestic economy of the priesthood	418
25	How, specifically, the Roman bishop has used the said powers beyond the boundaries of the church, in respect of lay persons or civil affairs	432
26	How he uses the same more specifically towards the Roman prince and empire	449
27	On some objections to what was determined in chapter 15 of this discourse and in other chapters subsequently	473
28	On the replies to the said objections	483

29	On the solution to the objections adduced from Scripture in chapter 3 of this discourse, to show that bishops have coercive jurisdiction and that the Roman bishop, as such, has supreme coercive jurisdiction	520
30	On the solution to the objections introduced in the same chapter 3 to the same end, and concerning the transference of the Roman empire or any other principate, sc. to what extent it both should and can take place according to right reason	531
<b>Discourse III</b>		
1	On recalling to mind the things that were principally intended and determined in the first and second discourses, and a certain consequence of what has been said together with what is still to be said	545
2	On the explicit drawing of certain conclusions that follow of necessity from what was determined in the previous discourse. By attending to which both those in the position of prince and their subjects can more easily pursue the end intended by this book	547
3	On the title of this book	557

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*Discourse I*

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I

## 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 tranquillity, under which peoples prosper and the profit of the nations is safeguarded. For she is the seemly 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.<sup>1</sup>

In the first of his letters, in the passage just set down, Cassiodorus gave expression to the advantages and fruits of the tranquillity 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 tranquillity – inspire the wills of men to be at peace with each other, and hence tranquillity. 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.’<sup>2</sup> 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

<sup>1</sup> Cassiodorus, *Variae* I. 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. Marsilius’s immediate source is almost certainly his fellow Paduan Geremia da Montagnone’s *Epytome sapientie* (Venice 1505; the work was composed probably between 1300 and 1310 under the title *Compendium moralium notabilium*, ‘a handbook of notable moral sayings’). Under rubrics 11 and 13 of Book II, part 4, *De tranquillitate populorum* (‘On the tranquillity of peoples’) and *De pace et concordia* (‘On peace and concord’), Geremia cites almost all of Marsilius’s chosen quotations in the following paragraphs, including this one from Cassiodorus.

<sup>2</sup> Job 22. 21.

the heavenly host should sing in one and the same pronouncement: 'Glory to God in the highest, and on earth peace to men of good will.'<sup>3</sup> 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.'<sup>4</sup> Warning these same disciples to preserve peace between themselves, he said in Mark: 'have peace one with another.'<sup>5</sup> 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 an house, salute it, saying: Peace unto this house.'<sup>6</sup> 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.'<sup>7</sup> 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.

2

Contraries of themselves produce contraries:<sup>8</sup> therefore from discord, the opposite of tranquillity, 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 to 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

<sup>3</sup> Luke 2. 14.    <sup>4</sup> John 20. 19.    <sup>5</sup> Mark 9. 50.    <sup>6</sup> Matthew 10. 12.    <sup>7</sup> John 14. 27.

<sup>8</sup> Probably an implicit reference to Aristotle, *Politics* V, 1307b29, although the context is slightly different: Aristotle argues that if we know what destroys cities we also know what saves them, because contraries produce contraries and destruction is the contrary of safety. Book V is, in general, the book on changes (*metabolai*) of the political order or regime (*politeia, politeuma*).



things increase, while by discord the greatest collapse.<sup>9</sup> 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.

3

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,<sup>10</sup> 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<sup>11</sup>

<sup>9</sup> Sallust, *Bellum Jugurthinum* (*The War with Jugurtha*) I. 10. Sallust (86–35/4 BCE) 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 pre-humanist Italian republican tradition, which emphasised the paramount need for civic concord if the city is to achieve greatness. The passage Marsilius quotes is ubiquitous in this literature.

<sup>10</sup> Here I have followed Scholz in removing the capital letters and italics in Previt -Orton’s text which imply that Marsilius is referring to the title of Aristotle’s political work. Marsilius normally refers to it as *Politica* (‘the *Politics*’ – although even here the capitalisation may be open to question), following Moerbeke’s translation. In the final chapter of this discourse (I. 19, 3) he again uses the phrase *civilis scientia*, this time explicitly associating it with the usual reference: ‘... Book V of his civil science, which we have called the *Politics*’, offering more support to Previt -Orton’s reading (indeed, Scholz here also capitalises the phrase). However, I do not see that this is decisive. *Civilis scientia* was a term in much broader use than *Politica* (or *politica*). It had been used by Cicero (see below, n. 14) to characterise the political wisdom of the orator; it was also a habitual term for the study of Roman law at the Italian universities (what Marsilius calls *scientia civium actuum*). Within the scholastic tradition, the adjective *civilis* was used by Grosseteste, at *Nicomachean Ethics* I, 1094a27, to translate *politikē* as the architectonic *epistēmē* (*scientia*, science). It seems more likely, therefore, that by ‘civil science’ Marsilius is referring to the recognisable body of political knowledge offered by Aristotle rather than to the title of his work.

<sup>11</sup> *Civilitates*: see the Notes on the Translation, above, p. xlii. This chapter uses *regnum* and *civilitas* as equivalents throughout.

and realms 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<sup>12</sup> 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.<sup>13</sup> This opinion, surely sophistic, 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.

4

The fruits of peace and tranquillity, 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 *On duties* where he said: 'We are not born for ourselves alone: our country claims for itself one part of our birth, and our friends another.'<sup>14</sup> 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

<sup>12</sup> The Latin verb is *explicare*, often used in the sense of 'explain', but literally meaning 'to unfold'; Marsilius plays on the pairing *explicare/implicare* at several points throughout his work. Compare his use of the word 'involutions' (*involutiones*) at section 8 below. The arguments of his opponents twist or turn or fold *in*; his own fold or turn *out*. See the Introduction, above, p. xix.

<sup>13</sup> A difficult sentence in the Latin: I think it is preferable to read it without the comma placed by Previt -Orton after *sumpta*.

<sup>14</sup> Cicero, *De officiis* (*On Duties*), I. 22. Marcus Tullius Cicero (106–43 BCE), orator, philosopher and politician, was one of the most influential writers of antiquity, and his work *On Duties* was widely read in the middle ages (as in other periods) as a source of moral and political wisdom. I have adapted the translation from *Cicero: On Duties*, ed. and tr. M. T. Griffin and E. M. Atkins (Cambridge: Cambridge University Press, 1991), pp. 9–10; all subsequent references to the work are from this volume.

common.<sup>15</sup> And because it would be no small advantage, on the contrary a necessity, to unpick 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’<sup>16</sup> – 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.’<sup>17</sup> 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,’<sup>18</sup> sc. the truth that leads the human race to eternal salvation. After his 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.’<sup>19</sup> For this common enemy of the human race will not be completely eradicated, nor the baleful fruits that it has so far produced wither, 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

<sup>15</sup> *Ibid.*    <sup>16</sup> II Timothy 1. 7.

<sup>17</sup> *Ibid.* 8. According to the convention of the time, ‘the Apostle’ is always the Apostle to the Gentiles, St Paul.

<sup>18</sup> John 18. 37.    <sup>19</sup> James 4. 17.

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,<sup>20</sup> 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’);<sup>21</sup> 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,<sup>22</sup> emperor of the Romans, as the minister of God<sup>23</sup> who will give this work the ending it hopes for from outside:<sup>24</sup> 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 nourish 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.

<sup>20</sup> After Antenor, a Trojan mentioned in Virgil’s *Aeneid* I 242–9, who managed to escape the fall of Troy and found the city of Padua.

<sup>21</sup> James I. 17.

<sup>22</sup> Ludwig of Bavaria, elected 1314, d. 1347: see the Introduction, above, pp. xii–xiii.

<sup>23</sup> An implicit reference to Romans 13. 4; see below, II. 5, 4.

<sup>24</sup> ‘This work’ (*hoc opus*) could have the general sense of ‘this task’ (as Gewirth translates), but here I think has a much more specific sense: Marsilius is inspiring the emperor to ‘write’, in action, the final discourse or chapter of the *Defensor pacis*. See the Introduction, above, p. xvii. This reading is supported by the verb *optat* which is in the third person singular and therefore cannot have the emperor as its subject, as Gewirth assumes; neither is it easy to see how a general enterprise could constitute a subject with a hope, whereas a specific book could plausibly be personified in that way.

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 that 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 ease 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

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<sup>25</sup> can easily find the certainty of what he is looking for.

<sup>25</sup>In deference to Marsilius, who could confidently expect his reader to be male and who follows Aristotle in excluding women from citizenship (I. 12, 4) and so presumably from the active and critical readership he is trying to arouse.

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## 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 tranquillity and the intranquillity of a realm or city; and of these, first tranquillity: for if this is not clear we cannot know what constitutes intranquillity. And since both of these seem to be dispositions of a city or realm<sup>1</sup> (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 tranquillity and its opposite will also become clearer.

## 2

So, since we wish (following the order we have set down) to describe the tranquillity 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,<sup>2</sup> 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’.<sup>3</sup> In this sense there can be a realm in a

<sup>1</sup> *Civitas aut regnum*: see the Notes on the Translation, above, pp. xlii and xlix.

<sup>2</sup> *Politia*: see the Notes on the Translation, above, p. xlvii.

<sup>3</sup> 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.

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.

### 3

Since, then, we are to describe tranquillity and its opposite, let us suppose with Aristotle in the first and fifth books of his *Politics*, chapters 2 and 3 respectively,<sup>4</sup> 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 tranquillity 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 tranquillity is the optimal condition of a city established according to reason.<sup>5</sup> 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

<sup>4</sup> Aristotle, *Politics* I 1253a18ff. and V 1302b33ff. In both of these passages, although more explicitly in the second, Aristotle suggests an analogy between the *polis* and its parts and the human body and its parts. He does not, however, directly compare a *polis* and an animal.

<sup>5</sup> Compare Remigio de' Girolami, *De bono pacis (On the Good of Peace)*, ed. C. T. Davis in 'Remigio de' Girolami and Dante: a comparison of their conceptions of peace', *Studi Danteschi* 36 (1959), 105–36, esp. p. 124: 'the supreme good of the multitude, and its end, is peace, as the Philosopher says in book III of the *Ethics*, just as health is the supreme good of the whole body'; pp. 127–8: 'For the good of the world consists in peace, that is, in the ordered tranquillity of the parts in respect of each other; for as Augustine says in Book 19 of the *City of God*: The peace of the body is the ordered temperament of the parts, and the peace of all things is the tranquillity of order.' (My translations)



its nature.<sup>6</sup> 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, intranquillity 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 to their full extent.

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

<sup>6</sup>The most important ancient authority on medicine, Galen, had defined health at the beginning of his *Art of Medicine* in terms of good temperament rather than function: ed. and tr. P. N. Singer, *Galen: Selected Works* (Oxford: Oxford University Press, 1997), p. 347. However, in his *Canon of Medicine*, the influential Arab philosopher Abu Ali Husain ibn Abd Allah, called Ibn Sina (in Latin 'Avicenna', 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 primus quem princeps abohali abiusceni de medicina edidit* (Padua, 1473, in the Latin translation of Gerard of Cremona), Book I, fen 2, doct. 1, ch. 2, fo. 29r. 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 said 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.*, fen 1, doct. 1, ch. 2, fo. [1]r. For the non-naturals, see below, I. 5, 4 and note there.

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3

## 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 tranquillity and its opposite.

2

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.<sup>1</sup> 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.<sup>2</sup>

<sup>1</sup> 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). The end of the process as 'the best' can be found at *Politics* I. 1, 1252b31ff. It should be noted that *Physics* II. 8 discusses the development of individual natural and artificial objects, whereas Marsilius is more interested here and elsewhere in the idea of a general progress within nature and art from the less to the more perfect.

<sup>2</sup> This definition of knowledge is half-quoted from Aristotle, *Physics* I, 184a10–15. Cf. *Politics* I, 1252a24–6.

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*.<sup>3</sup> 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.<sup>4</sup>

4

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

<sup>3</sup> Aristotle, *Politics* I, 1252a26–8. The *Economics* (*Oeconomica*, from *oikonomia* or *oeconomia*, literally the regulation of the household) is a pseudo-Aristotelian work probably written by a disciple of Aristotle’s school (the Lyceum) towards the end of the fourth century BCE, which develops the material on the household and modes of acquisition sketched out in the later chapters of *Politics* I. In the medieval period the work was attributed to Aristotle himself. Marsilius may be referring to the first book, which is closely related to Book I of the *Politics*, or to the third, which is a much more detailed analysis of the role of a wife within the household.

<sup>4</sup> Aristotle, *Politics* I, 1252b15–17. In fact what Aristotle says is that the village is the first community which is for the sake of not just daily need. The earlier *translatio imperfecta* (possibly by Moerbeke himself) misses out the words ‘not just daily’ and so could imply that the village is the first community: *Ex pluribus autem domibus communitas prima usus gratia vicus vicinia domus esse* (P. Michaud-Quantin ed., *Politica libri I–II.11*. *Translatio prior imperfecta* (Bruges: Desclée de Brouwer, 1961), p. 4). But both in Moerbeke’s translation and the *translatio imperfecta*, the pairs of male and female, master and slave, and the household itself are called ‘communities’. Marsilius’s avoidance of Aristotle’s thesis of a natural combination of master and slave is noteworthy.

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,<sup>5</sup> because so 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.<sup>6</sup> 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

<sup>5</sup> For Marsilius's rejection of a natural law in the true sense of law, see the Introduction, above, p. xviii.

<sup>6</sup> Aristotle, *Nicomachean Ethics* V, 1134b8ff. 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*.

in *Politics* III, chapter 9<sup>7</sup> – 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.

5

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.

<sup>7</sup>The reference is probably Aristotle, *Politics* III, 1285b3–19; cf. below, I. 9.

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4

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’.<sup>1</sup> 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, sc. having leisure for the liberal activities that result from the virtues both of the practical and of the theoretical soul.

2

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: sc. 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

<sup>1</sup> Aristotle, *Politics* I, 1253b27–30.

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’.<sup>2</sup> This moreover anyone can gather plainly by inference from the senses.

3

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, sc. 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, sc. 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.<sup>3</sup> 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<sup>4</sup> – passible and corruptible, as they say in natural

<sup>2</sup> Cicero, *On Duties* I. 11 (p. 6).

<sup>3</sup> Aristotle, *Politics* I, 1253a29. The sentence does not follow Aristotle’s Greek accurately and, as Previt -Orton notes, is not in Moerbeke’s translation, nor is it in the *translatio imperfecta*, which in this case has almost the same translation as Moerbeke. At I. 13, 2 Marsilius quotes the passage correctly. I have therefore removed the quotation marks here and treated 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 a paraphrase: the unusual phrasing and the precision of the reference would support this. However, I have been unable to identify a possible source.

<sup>4</sup> The phrase ‘naked and undefended’ (*nudus et inermis, gunnon kai ouch’ echonta hopla*) can be found in Aristotle, *De partibus animalium* IV, 687a25, but the sense is contrary to that of Marsilius here: Aristotle is arguing that those who say that man is born naked and

science; 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

undefended are wrong, because man has hands with which to develop crafts (*technai*, Latin *artes*). The idea of man being born naked and undefended in Marsilius's sense is, however, a major theme in the Latin father Lactantius's *De opificio dei* (*On the Handiwork 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: 'siccome di state l'aria grava 'l corpo umano per ecciessivo caldo e di verno per troppo ecciessivo freddo, che secondo Ghalieno volgliamo o no volgliamo l'aria sofferiamo altresì delli altri alimenti'. The medical tradition is certainly critical to Marsilius's understanding of both excess and temperament: see further below, I. 5, 3–6.



others mentioned above – what or of what nature they are – in the discussions that follow.

5

To sum up, then, men gathered together in order to live the sufficient life, able to obtain for themselves the necessities enumerated above and sharing these things in common with each other. This gathering, perfected in this way and possessing the limit of self-sufficiency, is called the city: the final cause of which, and of its several parts, we have already indicated, and will delineate further in what follows. For since people who want to live the sufficient life have needs of different kinds, which cannot be supplied through men of one order or office alone, it was necessary that this community contain different orders or offices, practising or providing the different things that men need for the sufficiency of life. These different orders or offices of men are nothing other than the several and distinct parts of the city.

Let it be enough, then, to have covered in this figurative manner what the city is, and why this community came into being; and further concerning the plurality and division of its parts.

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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:<sup>1</sup> agriculture, manufacture, the military, the financial, the priesthood and the judicial or councillor.<sup>2</sup> 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

<sup>1</sup> Aristotle, *Politics* VII 1328b2ff. Aristotle does not here enumerate the following as 'parts' but as 'things without which the city would not exist'; at 1329a30 and a34ff. 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 ex-members of these parts. Thus Marsilius 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; I. 13, 3-4 and 8.

<sup>2</sup> *Judicialis seu consiliativa*: the latter term renders the Greek *bouleutikē*. In ancient Athens the *boulē* or council was one of the governing bodies of the city.

notables.<sup>3</sup> 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.<sup>4</sup> These, then, are the more familiar parts of the city or realm, to which all the others can appropriately be reduced.

2

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 (sc. 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.<sup>5</sup> Sometimes, however, ‘living’ is taken to be an act, i.e. the action or passion of the soul or life.<sup>6</sup> Both of these, again, can be taken in two ways: either within the same being, numerically speaking, or within similar

<sup>3</sup> *Honorabilitas*, which does not translate happily into English. The Florentine translation has ‘onorabilità e dingnità’.

<sup>4</sup> *Vulgaris*: Marsilius 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 *magnati* or ‘magnates’): this is how the Florentine translation renders the phrase (‘De’ quali la moltitudine è chiamata il popolo’). But in Marsilius, *populus* has the sense of the entire citizenry rather than the ‘popular’ ‘part’ of that citizenry. The contemporary commentary on Mussato’s *Ecerinis* equates *vulgus* and *plebs*: Albertino Mussato, *Ecerinide*, ed. L. Padrin (Bologna: Zanichelli, 1900), p. 134 (on l. 135).

<sup>5</sup> Aristotle, *De anima* (*On the Soul*) II, 415b13–14. Aristotle understood the ‘soul’ (*psuchē*, *anima*) as 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.

<sup>6</sup> 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 Aristotle, *De anima* II, 417a22–418a2.

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.

3

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.<sup>7</sup> 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.

4

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

<sup>7</sup> *Temperamentum* (Greek *krasis*), i.e. ‘temperament’ or ‘temper’ in the old sense of the ‘due 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 Marsilian term, the antidote to harmful *excessus* 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 Moerbeke also used *bene temperatae* to translate Aristotle’s *eu kekramenai* (cf. below, I. 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.<sup>8</sup> 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):<sup>9</sup> e.g. wool-making, tanning, cobbling, all the skills of

<sup>8</sup> This list essentially summarises the six ‘non-naturals’ identified by contemporary physicians (cf. above, I. 2, 3, n. 6). The term ‘non-naturals’ was coined by the ninth-century Arab philosopher Hunain ibn Ishaq (in Latin ‘Johannitius’), although he took his source for the classification from Galen’s *Art of Medicine*. Managing these ‘non-naturals’ was often called ‘regimen’ and was considered an important part of practical medicine (cf. below, section 6).

<sup>9</sup> Aristotle, *Politics* VII, 1328b6 (though Marsilius in section 1 referred 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 *Politics* IV, chapter 3:<sup>10</sup> ‘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.

7

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 called ‘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.<sup>11</sup> 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 princely 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.

8

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

<sup>10</sup> Aristotle, *Politics* IV, 1291a2–4.

<sup>11</sup> This description is essentially taken from Aristotle’s analysis of ‘rectificatory’ or ‘corrective’ justice in *Nicomachean Ethics* V, 1131b25–1132b20 (chapter 4). Here Aristotle 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 Marsilius’s theme of natural or non-voluntary *excessus*.

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 invaders. 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.’<sup>12</sup> The necessity moreover of this part for internal rebels can be had from Aristotle, *Politics* VII, chapter 6.<sup>13</sup> 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.

## 9

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.

## 10

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

<sup>12</sup> Aristotle, *Politics* IV, 1291a6–10.

<sup>13</sup> *Politics* VII, 1328b7–9: ‘for those who share a community must have arms even amongst themselves for the sake of rule, because of those who disobey’.

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<sup>14</sup> promise reward for those who do good, and punishment for evildoers, to be meted out by God in a future world.

## II

However, apart from the grounds for positing religions which are believed without demonstration, philosophers (among them Hesiod,<sup>15</sup> Pythagoras<sup>16</sup> 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 tranquillity 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.<sup>17</sup> For there are

<sup>14</sup> *Sectae*: see the Notes on the Translation, above, p. xlix.

<sup>15</sup> A Greek poet of the seventh century BCE, author of *Works and Days* and *Theogony*, a genealogy of the gods.

<sup>16</sup> 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 apparently refers below.

<sup>17</sup> Very similar ideas are put forward by the Arab philosopher Abu al-Walid ibn Rushd (in Latin ‘Averroes’, 1126–98) and – at much greater length – by Albert the Great, in their respective commentaries on Aristotle’s *Metaphysics*, 995a3–4 and 1074b3–5 (the passages to which Marsilius refers below in I. 10, 3). Ibn Rushd’s commentary in the Latin translation can be found in *Aristotelis opera cum Averrois commentariis* (Venice, 1563–74, reprinted Frankfurt am Main: Minerva G.m.b.H., 1962), Vol. VIII, esp. at fol. 34v (Book II, chapter 3). Compare elements of Albert’s commentary on the first of these passages here: ‘... legislators 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



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 doers 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: hence 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 tranquillity 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.

12

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 concocted the fiction (*ficti sunt*) that there are many gods and many cults and religions . . .'. Albertus Magnus, *Metaphysica*, ed. B. Geyer (Münster: Aschendorff, 1960), Vol. I, pp. 102–3 (translation mine). Geremia da Montagnone in the *Epytome sapientie*, Book I, part 1, under rubric 42 ('On false opinions, contrary to the Christian religion, to be recognised and condemned in books in use among Christians'), cites the following passage of Cicero (*De natura deorum* I, 118): 'some have said that the whole opinion about immortal gods was made up (*fictam*) by wise men for the sake of the commonwealth . . .'. However 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<sup>18</sup> 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 seemly 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 defiling functions. Hence *Politics* VII, chapter 7: ‘Nor is a farmer or workman to be made a priest.’<sup>19</sup> However, because the gentile 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.

<sup>18</sup> Marsilius is here offering an implicit etymology: they were called *sacerdotes* (‘priests’) because they handled the *sacra* (‘sacred objects’). Compare Thomas Aquinas, *Summa theologiae* 3a q. 22 a. 1, who offers *sacra dans*, one who hands on divine or sacred things to the people and is thus a mediator between God and man. Marsilius’s derivation is far more neutral as to their function.

<sup>19</sup> Aristotle, *Politics* VII, 1329a28–9; Aristotle goes on ‘for it is fitting that the gods be honoured by citizens’, clearly implying that farmers and workmen should not be citizens.

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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,<sup>1</sup> 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.<sup>2</sup> 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.

<sup>1</sup> Cf. Genesis 1. 26.

<sup>2</sup> 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 theologiae* 1a q. 95 a. 1, 'Whether the first man was created in grace'.

2

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,<sup>3</sup> 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.

3

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: sc. 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

<sup>3</sup> *Suppositum*: the word implies the concrete individual being of a thing, as differentiated from its formal nature or essence.

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.

4

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<sup>4</sup> 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

<sup>4</sup> Merit ‘by a certain congruence’ or ‘congruent merit’ (*meritum congrui* or *ex congruo*) should be understood as distinct from ‘condign merit’ (*meritum condigni* or *ex condigno*), whereby a human action merits eternal life because it is in itself worthy of such a reward. In Catholic doctrine, only the works of Christ (as man) can be meritorious in this way. In contrast, human actions are meritorious ‘by congruence’ not because they are equal to the reward, but because there is a certain congruence or symmetry in the virtuous acts of men being rewarded by God, out of the abundance of his virtue and the overflowing merit of Christ’s passion.

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.<sup>5</sup>

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

<sup>5</sup> In fact, I Corinthians 10. 11; but cf. Hebrews 9 and 10.

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

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.



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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’,<sup>1</sup> because when they are considered as having been in this way established in the city, they are ordained to the service of men.

2

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<sup>2</sup> 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.’<sup>3</sup> 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.

3

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

<sup>1</sup> *Officia quasi obsequia*: I have not found a way of reproducing the word-play in English.

<sup>2</sup> It might be preferable here to read *completivae* (‘completing’) for *complectivae* (‘encompassing’), as both Gewirth and Quillet do – though tacitly – since Marsilius frequently associates ‘complete’ and ‘perfect’. But the MS evidence is very slight.

<sup>3</sup> Aristotle, *Politics* VII, 1337a1.

collectively, it makes no matter; and in the case of certain offices, the originating principle is additionally the movement and exercise of bodily members. But their efficient cause insofar as they are parts of the city is most often the human legislator, even if on occasion, rarely and only in a very few instances, the immediate motive cause was God without any human determination. We shall speak of this in chapter 9 of this discourse, and the matter will become clearer still in chapters 12 and 15. With regard to the priesthood, however, there is a different account of its institution; but enough will be said of this in chapters 15 and 17 of the second discourse.

Let this be our conclusion, then, concerning the parts of the city and the necessity of their establishment as a result of the three other kinds of cause.

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## 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: sc. by first forming or establishing a single part in the city – which in chapter 5 of this discourse we called the princely or judicial<sup>1</sup> – 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

<sup>1</sup> Above, chapter 5, sections 1 (‘judicial or councillor’) and 7 (‘the judicial or the princely and councillor’).

lacking.<sup>2</sup> 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 principate or councillor function, in turn and according to his rank, means or condition, and also for the common advantage and according

<sup>2</sup> Aristotle, *Politics* III, 1279a27–31: Aristotle does not here use the term *eu kekramenai* (*bene temperatae*, well-tempered) but *orthai* (*rectae*, upright/correct); Marsilius has imported the former term, more rarely used by Aristotle in this context, from elsewhere in the *Politics* (Book IV 1290a26, Book V 1307b30). This of course suits Marsilius's themes of the preceding chapters. The Greek term that Moerbeke translates as *vitiatae* (flawed) is *hēmartēmenai*, from the verb *hamartanein*, which literally means to miss the mark and so to err, make a mistake, fail of something. In terms of substance, Aristotle does not in fact here mention Marsilius's second condition, i.e. the willingness of those subject. Marsilius imports this from Aristotle's criterion of monarchy at *Politics* IV, 1295a15–17, cited by Marsilius in the following chapter, section 5, and expanded by him into a general criterion of all polities. Indeed, as Marsilius explains there, this is the most important criterion dividing temperate from flawed polities.

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.

4

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.

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On the modes of instituting a royal monarchy and the identification of the more perfect,<sup>1</sup> 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 princely 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 princely part, result more profitably to the polity.<sup>2</sup>

## 2

Now because our concern in this book is with the causes and actions by which the princely 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 princely part and other parts of the city

<sup>1</sup> I follow Gewirth and Bigongiari here in reading *perfectioris* for *perfectionis*.

<sup>2</sup> A difficult sentence; following Gewirth and Bigongiari in reading *provenientium* for *provenientibus* and *actionum* 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 – we can say nothing of this through demonstration, but hold it by simple belief without reasoning. There is, however, another way of instituting principates, sc. 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,<sup>3</sup> and the Apostle says so explicitly in Romans 13,<sup>4</sup> together with saint Augustine in the *City of God* book V, chapter 21.<sup>5</sup> 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, to 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 surer 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.

<sup>3</sup> John 19. 11.

<sup>4</sup> Romans 13. 1.

<sup>5</sup> Augustine of Hippo, *De civitate dei* (*The City of God*) V, 21.



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 connatural 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,<sup>6</sup> 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 captaincy or constabulary.<sup>7</sup> 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 according 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

<sup>6</sup> Aristotle, *Politics* III, 1284b35ff. Marsilius follows Aristotle's discussion fairly closely.

<sup>7</sup> *Capitaneatus aut constabularia*: 'capitano' and 'conestabole' in the Florentine 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 civil 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.<sup>8</sup> 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.<sup>9</sup> 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.

## 5

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

<sup>8</sup> Aristotle, *Politics* V, 1310b9–11.

<sup>9</sup> The ‘share’ that this monarchy has in ‘elective tyranny’ is presumably solely its elective (not its tyrannical) nature, given that Marsilius has defined ‘heroic 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 rule of the Roman emperor, who was elected for his lifetime; compare Ptolemy of Lucca, *De regimine principum*, tr. J. M. Blythe as *On the Government of Rulers* (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 regal rule. By 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 *capitano* or *conestabole*) 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. xvii and p. xxvii.

one heading, let us lay it down that all principate is either over willing or unwilling subjects. These are the two generic kinds of principate: tempered and flawed. Each of these kinds is moreover divided into three types or modes, as we said in chapter 8. And since one of the types of well-tempered principate, and perhaps the more perfect, is royal monarchy; therefore, picking up the threads again, let us begin our discussion from the modes of this type of principate and assert that a king or monarch is either instituted by election on the part of the inhabitants or citizens, or has obtained the principate in due fashion without election on their part. If without election by the citizens, then this is either because he, or his predecessors from whom he stemmed, first inhabited the region; or because he bought the territory and the jurisdiction, or acquired it in a just war or in any other licit way, e.g. through a gift it made to him in recognition of some service rendered. But each of the said modes shares more in the truly royal the more it is over willing subjects and in accordance with a law passed for the common advantage of these subjects; it savours of tyranny, by contrast, the more it departs from these conditions, viz. the consent of those subject and a law established to the common advantage. Hence Aristotle writes in *Politics* IV, chapter 8: ‘They were royal’ (sc. monarchies) ‘because they were according to law and because they exercised monarchy over the voluntary; and tyrannical because they ruled like masters and according to their own opinion’ (sc. of the monarchs).<sup>10</sup> These two things we have stated, then, separate tempered and flawed principate, as is clear from Aristotle’s express opinion: but it is the consent of subjects which in simple terms separates them – or at least more so. Now if (by contrast) a monarch in the position of prince has been instituted by election on the part of the inhabitants, this must happen in one of the following ways: either he is instituted together with his entire posterity or line, or he is not. If he is not, this can be in various ways: his principate can either be instituted for the whole lifetime of this one individual, or for the lifetime of this one individual and of one or more of his successors; or the principate is not instituted for the entire lifetime of anyone, either the first individual or his successors, but only for a certain determinate length of time (like a one-year or two-year period), longer or shorter; and again, either to exercise all judicial functions, or only one, like the leader of the army.

<sup>10</sup> *Politics* IV, 1295a15–17.

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<sup>11</sup> – 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),<sup>12</sup> without the continued succession of a line. Flawed principates are for the most part established by fraud, or violence, or both.

<sup>11</sup> See below, chapters 14, 15 and especially 16.

<sup>12</sup> 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.

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 surer standard of principates. We shall establish the certainty of this more fully in chapters 12, 16 and 17 of this discourse.

10

However, we should not fail to recognise 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 9;<sup>13</sup> 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.<sup>14</sup>

<sup>13</sup> Probably *Politics* III, 1284b37–40, despite the earlier reference to this passage as ‘chapter 8’.

<sup>14</sup> Compare Ptolemy of Lucca, *De regimine principum*, II. 8–9 (tr. Blythe, pp. 120–5) and IV. 8 (pp. 237–9) for the different characteristics of different regions requiring different

II

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 unsubjectible nature of the early Romans. In Ptolemy, 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.

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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 princely 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'.<sup>1</sup> 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.<sup>2</sup> In this sense it says in Ezekiel 43: 'Behold, this is the law of the house. And these are the measures of the altar.'<sup>3</sup> In a third way, 'law' is taken as a rule containing admonitions for those human acts that result from an imperative,<sup>4</sup> 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,<sup>5</sup> 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.'<sup>6</sup> So too the term 'law' is used of the instruction of the gospel in James 1: 'But whoso looketh into the perfect law of liberty, and continueth therein etc., this man shall be blessed in his

<sup>1</sup> Romans 7. 23. This is the same biblical quotation used by Aquinas (*Summa theologiae* IaIIae q. 91 a. 6) to explain the 'law of lust' (*lex fomitis*) or 'inclination of sensuality'. 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 urges of the senses.

<sup>2</sup> Cf. Aquinas in his definition of the eternal law: 'just as the rational principle of those things that are to be made by art is called the art, or exemplar of artificial things; so too the rational principle of one who governs his subjects' acts has the rationale of law' (*Summa theologiae* IaIIae q. 93 a. 1, my translation).

<sup>3</sup> Ezekiel 43. 12–13. <sup>4</sup> For this terminology, see below, II. 8, 2 and 3.

<sup>5</sup> 'Part of it' because, as Marsilius pointed out in chapter 6 section 3, the Mosaic law also contained precepts for the status of this life.

<sup>6</sup> Hebrews 7. 12.



deed.<sup>7</sup> 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’;<sup>8</sup> and in book XII of the same: ‘The rest have been introduced as stories to persuade the many to the laws and to what is beneficial.’<sup>9</sup> 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.

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 inasmuch as a command is given in respect of its observation, which coerces by means of penalty or reward meted out in this world; or inasmuch 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’.<sup>10</sup> 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

<sup>7</sup> James I. 25.

<sup>8</sup> Aristotle, *Metaphysics* A 995a3–4 (in the medieval Arabic and Latin translations the second book was taken to start at 993a30); the quotation continues ‘in which the storytelling and childish elements are stronger than the understanding of them because of custom’. It is not clear in the original that Aristotle means ‘laws’ in this sense of ‘religions’, but this is implicit in Ibn Rushd’s commentary and explicit in Albert’s: see the references above, I. 5, 11, n. 17.

<sup>9</sup> Aristotle, *Metaphysics* Λ 1074b3–5. Again, Albert’s commentary makes it clear that religions are intended here.

<sup>10</sup> Aristotle, *Nicomachean Ethics* X, 1180a21–2.

individual is forced to observe, or that it has been enacted by way of such a command.<sup>11</sup>

5

It follows that not every true cognisance 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 cognisance of these matters is necessarily required for a perfect law. On the contrary, sometimes a false cognisance 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, decretals and all other things of this kind, sc. which rely (as we have just said) on human authority.

<sup>11</sup> This emphasis on coercive force as being of the essence of law is usually taken to be one of Marsilius's distinctive moves vis-à-vis prevailing understandings, especially perhaps that of Aquinas for whom the essence of law lies its 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* IaIIae q. 90 a. 3), which he answers in the negative relying partly on precisely the quotation of Aristotle which Marsilius 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 *Ethics* X: but it is the multitude which has this coercive power, or the public person to whom it belongs to inflict penalties ...' (ibid. ad 2, my translation). It remains the case, however, that the coercive character of Marsilius'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.

7

Nevertheless we should not be unaware that both the evangelical and the Mosaic law (and perhaps other religious followings too) can be considered and compared in different ways, wholly or in part, in relation to human acts for the status either of this world or of that to come; and that as such they sometimes come – or have come or will come in future – under the third signification of law, and sometimes under the last, as will be made plain in more detail in chapters 8 and 9 of the second discourse. And in some cases this accords with the truth; in others, with a false imagining and a vain promise.

It is clear from what has just been said, therefore, both that there is a standard or law of human civil acts, and what it is.

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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 judgements 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 judgements 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 judgement to be completely good there is required, on the part of judges, both a righteous affection and a true cognisance of the matters to be judged, the opposites of which corrupt civil judgements. For a perverted affection<sup>1</sup> on the part of the judge, like hate or love or avarice, corrupts his desire. But these things are kept out

<sup>1</sup> *Affectio*: see the Notes on the Translation, above p. xli.

of the judgement, and it is saved from them, when the judge or prince has been limited to passing judgements in accordance with the laws, because the law lacks all perverted affection. For it has not been made with an eye to friend or foe, help or hurt, but universally with regard to the individual acting well or badly in civil terms. All other things are accidental to the law and outside it, in a way that they are not outside the judge. For persons who are up for judgement can be friendly or hostile to the one who judges, helpful or harmful, giving or promising something; and likewise with all the other attitudes that can give rise to an affection in the judge which corrupts his judgement. For this reason no judgement (so far as possible) should be left to the discretion of the judge, but should rather be defined in law and pronounced in accordance with it.

2

This was the opinion of the divine Aristotle, *Politics* III, chapter 9, where he asks (following his purpose) whether it is better for a polity to be ruled by the best man without a law, or by the best law,<sup>2</sup> and says: ‘That has the advantage’ i.e. is superior for the purposes of judging ‘which entirely lacks the element of passion’ i.e. the affection that can corrupt a judgement ‘over that to which it is innate. Now therefore this’ viz. passion or affection ‘is not inherent in the law; but every human soul necessarily has it’ – and he said ‘every’, not excepting anyone, however virtuous. Repeating this opinion in his *Rhetoric*, Book I chapter 1, he says: ‘The greatest thing of all’ is sought for (sc. that nothing should be left to the discretion of the judge to be judged without a law) ‘because the judgement of the legislator’

<sup>2</sup> Aristotle, *Politics* 1286a17–20. 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 Marsilius’s Venetian contemporary fra Paolino (*Trattato de regimine rectoris di fra Paolino minorita*, ed. A. Mussafia (Vienna-Florence: Tendler-Vieussieux, 1868), Part III, ch. 75, whose stance is similar to Marsilius’s. Compare Peter of Auvergne’s questions on the *Politics*, Book III, q. 22, ed. C. Flüeler, *Rezeption und Interpretation der aristotelischen Politica im späten Mittelalter* (Amsterdam-Philadelphia: B. Grüner, 1992), Vol. I, pp. 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, than 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).

i.e. the law ‘is not partial’ i.e. is not passed for the sake of any particular man ‘but concerns things future and universal. But a prefect and a judge make their judgements concerning things already present and defined, to which love and hate and personal convenience are often annexed, so that they cannot sufficiently discern the truth, but attend in their judgement to what is disagreeable or pleasant to them personally.’<sup>3</sup> He says this again in the same book, chapter 2: ‘For’ he says ‘we do not pass judgement alike when we are unhappy and joyful, when we love or when we hate.’<sup>4</sup>

### 3

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 recognise much time and many years, in which it may not escape notice, whether these things were well-arranged’,<sup>5</sup> sc. 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.’<sup>6</sup> 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

<sup>3</sup> Aristotle, *Rhetoric* I, 1354b4–11.

<sup>4</sup> *Ibid.*, 1356a15–16.

<sup>5</sup> Aristotle, *Politics* II, 1264a1–3.

<sup>6</sup> Aristotle, *Rhetoric* I, 1354b1–2.

in *Ethics* VI: 'A sign of what has been asserted is also that young men become geometers and trained and knowledgeable about such things, but it does not seem that they become prudent. The reason is, that prudence is of individual things, which are made known by experience; but the young man has none; for it is length of time that yields experience.'<sup>7</sup> And accordingly what one man discovers or can know by himself, both in the science of what is just and beneficial in civil terms and in the other sciences, is little or nothing. Going further, what men of one era observe is an imperfect thing in comparison with that which is observed as a result of many eras; and because of this Aristotle, discussing the discovery of truth in each of the arts and disciplines, says in *Metaphysics* II chapter 1: 'In respect of one' sc. discoverer of any discipline or art 'he contributes to it' i.e. discovers about it by himself 'little or nothing, but what is jointed together from all of them becomes something sizeable.'<sup>8</sup> This passage is clearer, however, in the translation from the Arabic, in which it reads: 'And each individual one of them', i.e. of the discoverers of any discipline or art, 'grasps either nothing of the truth or a very modest amount. When therefore an assemblage has been made from all those who have grasped something, then the assemblage will be of some quantity';<sup>9</sup> which is most apparent in the case of astrology.

In this way, by men's mutual aid and by adding together things discovered later and things discovered earlier, all the arts and disciplines have been brought to completion. Aristotle makes this plain in figurative language as well, when he said (in the same place) on the subject of the discovery of music: 'If there had been no Timotheus, we would lack much melody: but if there had been no Phrynes, there would have been no Timotheus',<sup>10</sup> sc. so accomplished in melodies, if he had not been in possession of discoveries by Phrynes. Averroes, explaining these words in his *Commentary*, Book II, says this: 'And what he' sc. Aristotle 'says in this chapter is plain. For no one by himself can discover the productive and reflective' (i.e. theoretical) 'arts in their greater part, because they are

<sup>7</sup> Aristotle, *Nicomachean Ethics* VI, 1142a11–15.      <sup>8</sup> Aristotle, *Metaphysics* A 993b2–4.

<sup>9</sup> The Arabic translation can be found along with Ibn Rushd's commentary in *Aristotelis opera cum Acerrois commentariis* (Venice, 1563–74, reprinted Frankfurt am Main: Minerva G.m.b.H., 1962), Vol. VIII, Book II ch. 1, fo. 28v, although this reads here: '... modest amount. And, when what has been assembled from all of those who grasped something of it, has been added together, then the assemblage ...' etc. (... *modicum. Et, cum aggregatum fuit illud, quod congregatum fuit ab omnibus qui comprehenderunt ex eo, tunc* etc.).

<sup>10</sup> Aristotle, *Metaphysics* A 993b15–16.

not brought to completion except by the aid given by a forerunner to a successor.<sup>11</sup> Aristotle says the same in his *Refutations*, Book II, last chapter,<sup>12</sup> concerning the discovery of rhetoric and all the other arts (whatever may have been the case with the discovery of logic, which he ascribes in its perfection to himself alone without any discovery or help of a predecessor – in which he was apparently unique). He says this too in *Ethics* VIII, chapter 1: ‘Two men’, he says, ‘coming’ i.e. coming together ‘are more able to act and to understand’ (supply: than one man alone).<sup>13</sup> 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: ‘It 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.’<sup>14</sup>

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 judgements and of judging correctly, it is safer for those judgements 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 polities 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 judgements are saved from ignorance and from the perverted affection of judges; and this was the minor 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 judgements or sentences of judges.

<sup>11</sup> *Aristotelis opera cum Averrois commentariis*, Vol. VIII, Book II, ch. 1, fo. 29r.

<sup>12</sup> Aristotle, *Sophistici elenchi* (*Sophistical Refutations*) 183b26ff.

<sup>13</sup> Aristotle, *Nicomachean Ethics* VIII, 1155a15–16.

<sup>14</sup> Aristotle, *Politics* III, 1287b26–29. Marsilius is apparently reading this passage in conjunction with the phrase that immediately precedes it, which states that every ruler judges well if they have been formed or educated by the law, rather than what follows which refers to many people being involved in ruling, not in formulating the law – although as is clear from the next chapter, Marsilius tends to run the arguments for both together. See below, I. 12, 3 and note there.



## 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 5, Aristotle said: 'For this reason we do not allow the man to be prince, but' in accordance with 'reason',<sup>15</sup> 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',<sup>16</sup> 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 beast';<sup>17</sup> adding the reason a little bit later, when he said: 'Because law is intelligence without appetite'<sup>18</sup> – as if to say, the law is intelligence or cognisance 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';<sup>19</sup> giving the reasons for this that were adduced earlier, sc. to keep the malice and ignorance of judges out of civil judgements; 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 polity' (supply: temperate). 'For the law should be prince over all.'<sup>20</sup>

<sup>15</sup> Aristotle, *Nicomachean Ethics* V, 1134a35.    <sup>16</sup> Aristotle, *Politics* III, 1282b1–2.

<sup>17</sup> *Ibid.*, 1287a28–30. Moerbeke'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 Moerbeke having creatively altered the sense, but rather to the state of the Greek manuscript from which Moerbeke was translating. Modern editors read 'Whoever therefore bids the law be prince' (*ho men oun ton nomon keleuōn archein*), whereas Moerbeke's text read *ho men ton noun keleuōn archein*. Again, modern editors read '... God and mind alone' (*ton theon kai ton noun monous*) instead of 'God and the laws' (*ton theon kai tous nomous*), which Moerbeke's manuscript apparently contained.

<sup>18</sup> *Ibid.*, 1287a32.    <sup>19</sup> Aristotle, *Rhetoric* I, 1354a31–2.

<sup>20</sup> Aristotle, *Politics* IV, 1292a32–3.

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.’<sup>21</sup>

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’.<sup>22</sup> 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 avarice and all the other vices) what should we

<sup>21</sup> *Ibid.* V 1312b38–1313a5.

<sup>22</sup> Daniel 13. 28.

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.

7

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 unruliness 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.’<sup>23</sup> 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.

8

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’ (sc. 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.’<sup>24</sup> And,

<sup>23</sup> Aristotle, *Politics* III, 1286b26–7.

<sup>24</sup> *Ibid.* V 1313a20–3.

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 established a principate of ephors; for in taking away from power' sc. his own 'he increased his realm in time' i.e. made it more long-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.<sup>25</sup>

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.

<sup>25</sup> 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 ceasefire in Flanders.

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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<sup>1</sup> and in its third

<sup>1</sup> I.e. in terms of content. Cf. the commentary of Albert the Great on the definition of law in *Nicomachean Ethics* X (Albertus Magnus, *Super ethica commentum cum quaestionibus*, ed. W. Kübel, Münster: Aschendorff, 1968–72), Vol. II, p. 785: ‘the plebs and the wise men can indeed make laws in a material sense, but they do not have the form of law and coercive force except from the confirmation of the prince’.

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’<sup>2</sup> – than through the cogitations of mechanical workers who must concentrate on their labours in order to acquire the necessities of life. But the cognisance 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.

### 3

Let us say, then, in accordance with both the truth and the counsel of Aristotle, *Politics* III chapter 6,<sup>3</sup> 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,<sup>4</sup> 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

<sup>2</sup> Cf. below, I, 13, 8 for details of how this might operate. Aristotle, *Nicomachean Ethics* X, 1180b28–1181b12, stressed the necessity of political experience (*empeiria*, as opposed to study or learning) in successful legislation.

<sup>3</sup> Aristotle, *Politics* III, 1281a39–1282a41. Aristotle here does not specifically discuss who or what should be the legislator, 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 1281a40), and whether the multitude should have the power to elect and correct the prince (on 1281b33–4). 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 principate 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’.

<sup>4</sup> *Valentior pars*: see the Notes on the Translation, above, p. 1, and the Introduction, above, p. xxiii.

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.

4

I call a 'citizen', together with Aristotle in *Politics* III chapters 1, 3 and 7,<sup>5</sup> one who participates in a civil community, in the principate 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.<sup>6</sup> The prevailing part of the citizens should be identified from

<sup>5</sup> Aristotle, *Politics* III, 1275b18–20, 1277b34, 1283b42; Marsilius's definition is taken from the first passage, at the beginning of Book III: 'for he who has the possibility of sharing in rule, councillor and judicial, we say is a citizen of the city'. From the formulations in I. 5, 7 and I. 8, 1 and 3, it is clear that 'the principate or councillor or judicial function' should not be read as alternatives, but as the same thing. For Marsilius's addition of 'according to his rank' (not in Aristotle), see the following note.

<sup>6</sup> The opening passage of *Politics* III arrives at the definition of a citizen by first eliminating other possible categories: those who are merely inhabitants (like slaves and foreigners), those who simply obtain justice in a city (this could include merchants), and boys and old men who are not 'citizens simply speaking'. (There is no mention of the exclusion of women here, although it is clear throughout the *Politics* that women are not citizens.) Marsilius

the honourable custom of polities, or determined according to the opinion of Aristotle, *Politics* VI chapter 2.<sup>7</sup>

5

Defining the citizen and the prevailing multitude in this way, let us return to our stated intent, sc. 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 adjust 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 eliminated by Aristotle 'are citizens in a certain sense': Thomas Aquinas, *In octo libros politicorum Aristotelis expositio*, ed. R. M. Spiazzi (Turin: Marietti, 1966), p. 120 (n. 225). 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 ('*Utrum sit civis simpliciter qui potest participare principatu consiliativo vel iudicativo*', ed. in M. Grignaschi, 'La définition du "civis" dans la scolastique', *Recueils de la Société Jean Bodin pour l'histoire comparative des institutions* 24 (1966), 71–100, at p. 96). For Marsilius, by contrast, anyone with any participatory role in the principate is equally a full citizen, but this is nevertheless 'according to his rank': as section 1 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 principate as will the notables.

<sup>7</sup> *Ibid.* VI, 1318a27–b1. Aristotle there specifies a mix of quantitative and qualitative considerations.



*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.’<sup>8</sup> 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.<sup>9</sup> 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; not something 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.

6

Again towards the principal conclusion, as follows: since the authority to pass laws belongs to him<sup>10</sup> 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.’<sup>11</sup> And in

<sup>8</sup> *Ibid.* III, 1283b40–2; as Gewirth remarks, ‘perhaps’ (*forte*) is a mistranslation of *isōs*, which here has the sense of ‘equally’, i.e. ‘what is equally right is what is . . . [etc.]’.

<sup>9</sup> *Nemo sibi scienter nocet*: a legal maxim. At *Nicomachean Ethics* 1134b11–12 Aristotle argues that because ‘no one chooses to harm himself’, there can be no injustice towards oneself.

<sup>10</sup> Both Previt -Orton and Scholz read *quem* (masculine singular) in this sentence; only one MS has *quam* (feminine singular), which would agree with *universitas* and hence make more sense here. I have, somewhat reluctantly, stayed with the former reading.

<sup>11</sup> Aristotle, *Politics* IV, 1294a3–4.

book VI, chapter 5: ‘There is no profit’, says Aristotle, ‘if sentences are passed about what is just, but these are not carried through.’<sup>12</sup> 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 *Politics* III chapter 4,<sup>13</sup> any and every citizen should be free and not suffer the despotism (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.

7

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

<sup>12</sup> *Ibid.* VI, 1322a5–6.

<sup>13</sup> *Ibid.* III, 1279a21.

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,<sup>14</sup> 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 rests in their 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 11 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, sc. 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 (sc. 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

<sup>14</sup> Marsilius here echoes the Roman legal principle, *quod omnes similiter tangit, ab omnibus comprobetur* ('let what touches all alike be approved by all', Code 5. 49. 5), which had been incorporated into canon law in the *Regulae iuris* in the *Liber sextus* as 'what touches all should be approved by all' (*quod omnes tangit debet ab omnibus approbari*: Book V, tit. 12, reg. 29, CIC II, col. 1122). Canon lawyers had turned this principle into a mainstay of their analysis of the way in which a *universitas* or corporation should operate.

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](#).

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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.<sup>1</sup> 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.

<sup>1</sup> 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',<sup>2</sup> 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'.<sup>3</sup> 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 13: '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 in the political order', sc. the rebellious, 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'.<sup>4</sup> 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 wills 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

<sup>2</sup> Aristotle, *Politics* I 1253a29–30.   <sup>3</sup> *Ibid.* IV 1296b15–16.

<sup>4</sup> *Ibid.* VII 1332b29–33. Gewirth argues that Marsilius's interpolations are entirely contrary to Aristotle's sense, because he misunderstood *politeuma* as meaning 'the rebellious' (p. lxxix). However, I think it is clear that 'sc. the rebellious . . .' is a gloss on 'they', not on 'the political order', i.e. the *politeuma*. Moerbeke simply transliterated this word. It means what is politically dominant, but is very close to *politeia* as the order of the offices within the city; hence my translation of 'political order'. Moerbeke's translation of 1278b10–11 reads: 'What is everywhere dominant is the *politeuma* of the city: and the *politeuma* is the *politia*.' I suggest that for Marsilius, *politeuma* and *politia* are effectively synonyms.

which is aristocratic' – i.e. governed according to virtue – 'not to be well-ordered with laws', as is maintained in *Politics* IV, chapter 7,<sup>5</sup> 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,

<sup>5</sup> *Ibid.* IV 1294a1–3.

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’;<sup>6</sup> arguing his point by induction in the case of many kinds of artwork, and giving the same to be understood concerning the rest.

4

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’;<sup>7</sup> 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’.<sup>8</sup> 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 signified 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

<sup>6</sup> *Ibid.* III 1282a17–18.    <sup>7</sup> *Ibid.* 1282a38.

<sup>8</sup> *Ibid.* a38–41. 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 *Defensor pacis* where he follows a quotation from Aristotle with the words ‘he means that’ (*vult dicere quod*). The lack of sense results from Moerbeke’s rendition of *timēma* (‘property qualification’) by *honorabilitas* (‘the notables’, because of the root *timē*, Latin *honor*).



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.’<sup>9</sup>

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.’<sup>10</sup>

## 5

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

<sup>9</sup> Aristotle, *Politics* III 1282a15–17. Cf. Peter of Auvergne’s commentary on this passage: ‘For if the multitude is not base, or bestial, 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. Spiazzi as the continuation of Aquinas, *Expositio in octo libros politicorum*, p. 152 n. 435 (my translation).

<sup>10</sup> I Corinthians 3. 19.

advantage. This is clear enough in the case of those who have passed the clerical *Decretals*,<sup>11</sup> 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 of 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',<sup>12</sup> sc. the principle of truth which is proper to

<sup>11</sup> 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.

<sup>12</sup> Aristotle, *Sophistici elenchi* (*Sophistical Refutations*) 183b24.

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,’<sup>13</sup> sc. listening to him, and not contradicting without reason.

8

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 expediently 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

<sup>13</sup> Aristotle, *Nicomachean Ethics* 1095b10–11, quoting the poet Hesiod.

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.<sup>14</sup> 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.

<sup>14</sup> The practices of the Italian communes seem to be in the background here, for example in Padua where the detailed drafting of legislation was delegated to certain *statutarii* before being put to the *consilio maggiore* for ratification.

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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.

## 2

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.<sup>1</sup> The one, sc. prudence, is to direct his

<sup>1</sup> The question of the virtues necessary for a prince was widely discussed, both in the Italian pre-humanist literature on the government of cities and in the northern European ‘mirrors for princes’. The widely-followed Ciceronian scheme of the four cardinal virtues placed prudence and justice first before temperance and fortitude. But these were also the most prominent individual virtues of Aristotle’s *Nicomachean Ethics*, each with a book devoted to it (Books VI and V respectively). Although Marsilius suggests, from Aristotle, that prudence involves all the virtues (see note on section 10 below), the fact that he dwells only on prudence and justice makes his treatment notably reductive and ‘political’ in comparison with his contemporaries.

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.’<sup>2</sup> 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.’<sup>3</sup>

3

Prudence, then, is necessary to the future prince, because it gives him a great capacity for his proper work, viz. the judgement of what is advantageous and just in civil terms. For in those human civil 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 *Catiline*)<sup>4</sup> 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 polity 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,’<sup>5</sup> 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

<sup>2</sup> Aristotle, *Politics* III 1277b25–7.

<sup>3</sup> Aristotle, *Nicomachean Ethics* V 1134b1–2.

<sup>4</sup> Sallust, *Bellum Catilinae* (*The War with Catiline*), 55.

<sup>5</sup> Aristotle, *Nicomachean Ethics* VI 1140b5–6.

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 these 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,’<sup>6</sup> 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.’<sup>7</sup>

5

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’;<sup>8</sup> and repeating this opinion in the ninth chapter of the same book, he says: ‘There are even now, over some things, princely offices that exercise dominion with judgement, 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.’<sup>9</sup> It is therefore necessary for the prince to have prudence in order to judge those things that cannot be determined by

<sup>6</sup> *Ibid.* I 1094b14–16.

<sup>7</sup> Aristotle, *Politics* III 1287b19–23.

<sup>8</sup> *Ibid.* 1282b3–6.

<sup>9</sup> *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 most of all; for if 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 Chalcedonians.'<sup>10</sup> 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.'<sup>11</sup> 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

<sup>10</sup> *Ibid.* II 1272b41–1273a2; Aristotle actually says 'the Lacedaemonians', i.e. the Spartans.

<sup>11</sup> Aristotle, *Nicomachean Ethics* V 1137b26–7. Following Marsilius's usage in the opening sentence and Grosseteste'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 Marsilius's next remark. 'Guidance' (*directio*) is something of a mistranslation for *epanorthōma* ('rectification').



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'<sup>12</sup> – 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.'<sup>13</sup> (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

<sup>12</sup> Aristotle, *Politics* VII 1328b7–9; Marsilius misinterprets slightly by misunderstanding the word-order.

<sup>13</sup> *Ibid.* III 1286b35–7.

principate, 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.'<sup>14</sup>

9

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. Love 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.

10

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;'<sup>15</sup> 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.'<sup>16</sup> 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

<sup>14</sup> *Ibid.* II 1273a32–4. Quillet takes it here, 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.

<sup>15</sup> *Ibid.* V 1309a33–6.   <sup>16</sup> 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.'<sup>17</sup> 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.

<sup>17</sup> *Ibid.* 1144b30–2. The Aristotelian reasoning behind this position is given by Giles of Rome in his *De regimine principum* (ed. Rome, 1607, II. 2, 31, p. 142, my translation): 'In this way, then, the virtues are connected: because no one is good, through the moral virtues, 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 Denotes [i.e. *dēnotes*]. For a person is called Denos, and industrious, if he finds the means for any proposed end, in order more quickly to get to that end . . .'

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## 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).

## 2

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’.

3

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.’<sup>1</sup> 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.<sup>2</sup> Therefore since it belongs to the universal body of the citizens to generate the form according to which all civil acts must be regulated, sc. 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 princely 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

<sup>1</sup> Aristotle, *Physics* II 194a22–5.

<sup>2</sup> *Ibid.* 194a27–194b8.

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.

4

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 princely 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 (sc. legal) of the community; and because they are few or one in number, legal matters are more easily carried out.

5

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, *Politics* I, and V, second chapter.<sup>3</sup> Therefore the action of the human mind in aptly establishing the city and its parts was

<sup>3</sup> Aristotle, *Politics* I 1253a19–25, V 1302b34–1303a2; although in I. 2, 3 Marsilius gives the latter reference as *Politics* V chapter 3.

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)<sup>4</sup> 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<sup>5</sup> 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,<sup>6</sup> 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 it the virtue and

<sup>4</sup> Aristotle, *De partibus animalium* (*On the Parts of Animals*) III 665b10–667b14, especially 665b14–21, 666a19–21, 667a32–667b1; Galen, in a work that Marsilius calls *De zogonia*, i.e. *Peri kuoumenōn diaplaseōs* or *On the Construction of the Embryo* (in *Selected Works*, tr. Singer, pp. 177–201). Galen here rejects the view of those who say that the heart is created first, arguing that the liver must be created earlier.

<sup>5</sup> *Virtus*: no other translation seems appropriate here, but the word should be read with its overtones of 'power' or 'vigour' rather than of specifically moral virtue. The terminology of 'virtue' in this sense was standard in the medieval medical literature, in which every organ or system of organs was taken to have its own peculiar virtue.

<sup>6</sup> Aristotle, *De partibus animalium* (*On the Parts of Animals*) III 666a19–21, says that 'of the parts in the embryo, the heart is straight away manifestly in motion' (tr. J. G. Lennox, Oxford: Clarendon, 2001), a position taken up by Ibn Sina. Marsilius's contemporary, the Paduan physician Dino del Garbo, argues that before the heart is formed, the members depend on 'something analogous to the heart', i.e. a 'generative spirit': *Expositio Jacobi* [i.e. Jacopo da Forlì] *supra capitulum de generatione embriōnis cum questionibus eiusdem. Dinus super eodem. Dinus supra librum ypocratis de natura fetus* (Venice, 1518), fos. 24v–25r. Ibn Rushd's extensive commentary on the relevant passages of *De partibus animalium* (*Aristotelis opera cum Averrois commentariis*, Vol. VI, fos. 157v–163r) defends Aristotle against Galen in locating the 'principle' (*principium*) of the virtue of nutrition, generation and growth in the heart rather than the liver. The medieval Latin translation of his commentary uses the language of *princeps* and *principatus* as well as *principium* to characterise the role and position of the heart: the heart is already understood by analogy with human government. See also below, I. 17, 8.

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.

6

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 principate, 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,<sup>7</sup> 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 principate a civil community cannot survive or at least not long survive, since ‘it must needs be that offences come’ as it says in Matthew.<sup>8</sup> 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.

7

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

<sup>7</sup> Aristotle, *Politics* VII 1328b13–15.

<sup>8</sup> Matthew 18. 7.



the city. Hence Aristotle said, *Politics* VII chapter 12: 'If the one were different from the other as much as we believe gods and heroes differ from men, having outstanding excellence first in respect of body and then in respect of soul, so that the excellence of princes in relation to their subjects would be undoubted and evident, then plainly it would be better for these to exercise the functions of principate, and those others to be subject, once and for all,<sup>9</sup> i.e. for life. The effective principle of the city, sc. the soul of the universal body of the citizens, also instituted in this primary part a certain virtue that is universal in its causality, sc. the law, and the authority or power as well to enact civil judgements, to command and execute them in accordance with the law and not otherwise. Just as the heat that is innate in the heart as its subject,<sup>10</sup> and by which the heart or its form carries out all its activities, is directed and measured in its agency by the form or virtue of the heart, and would not otherwise act towards its due end; again, just as the heat that is called 'spirit'<sup>11</sup> is governed, as the instrument for the completion of these activities, by that same virtue throughout the whole body, and neither of these two heats could act towards its due end otherwise, since 'fire acts in a manner inferior to instruments' (*On Generation and Corruption*, Book II, and also in *On the Soul*):<sup>12</sup> so too the authority of principate granted to a particular man is analogous to the heat in the heart; and so too his instrumental power, armed and coercive, is analogous to the heat that we called 'spirit', and should be regulated by the law in judging,

<sup>9</sup> Aristotle, *Politics* VII 1332b16–23.

<sup>10</sup> Aristotle's discussion of the heart in *De partibus animalium* (above, n. 6) does not specifically mention an innate heat, although 666b35–667a5 and 667a23–8 suggest some heat in the heart's blood and in the parts of the heart itself, and 670a23–6 places the source of heat in the heart; Ibn Rushd in his commentary speaks of a 'natural heat' in the heart. Galen asserts that 'the heart is, as it were, the hearthstone and source of the innate heat by which the animal is governed': *On the Usefulness of the Parts of the Body*, tr. M. Tallmadge May (Ithaca NY: Cornell University Press, 1968), p. 292. Pietro d' Abano reports in his *Conciliator differentiarum* that he had translated this work.

<sup>11</sup> In the Galenic tradition of medieval medicine, 'spirit' (*spiritus*) was understood as the instrument of the 'vital' virtue situated in the heart, disseminating that virtue through the body by means of the arteries; but it was not usually seen as a 'heat'. Ibn Rushd speaks of the heart sending its 'natural heat' to the members through the arteries, but again does not expressly say that *spiritus* is a heat.

<sup>12</sup> Aristotle, *De generatione et corruptione* (*On Generation and Corruption*) II 336a13. The reference to the *De anima* (*On the Soul*) is probably to book II, 416a10–18, where Aristotle argues against the view that fire itself can be the principle of nutrition and growth; fire contributes, but because its movement is unlimited, it requires to be limited by something else, which is the soul.

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.

8

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 polities, 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,’<sup>13</sup> ‘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.’<sup>14</sup> 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 polities.’<sup>15</sup> 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

<sup>13</sup> Aristotle, *Nicomachean Ethics* I 1094a28–b2.

<sup>14</sup> Aristotle, *Politics* VII 1333a37–8; the original has ‘activities’ (*praxeis*) which Moerbeke renders faithfully as *actiones* (‘actions’).

<sup>15</sup> *Ibid.* VIII 1337a11–13; the original has ‘the instruction of the young’ which Moerbeke renders correctly as *iuvenum* (‘youths’).

and the institution of the prince, changing only the last term of the minor premise of the syllogisms.

IO

For this reason it is not licit for anyone to take on an office in the city as it pleases him, especially foreigners. For a person should not nor reasonably can turn his hand to pursuing the military or the priesthood as he wishes; and neither should the prince permit it, since it would result in an insufficiency to the city of those things that it is necessary to procure through other offices. It is rather the prince who should determine the persons for these functions, and also the quantity and quality of the parts or offices themselves, in terms of number, power and other such aspects, in order to avoid the polity falling apart through the immoderate excess of the parts with respect to each other. For this reason Aristotle said, *Politics* V chapter 2: ‘Complete changes of polities occur also because of a disproportionate outgrowth. For just as the body is composed of parts and should increase proportionately if its symmetry is to last, and if not it is destroyed, if it grows out of proportion not just in respect of quantity but of quality; so too the city is composed of parts, of which there is often a hidden outgrowth of one, as of the multitude of the poor in democracies,’<sup>16</sup> and of the priesthood in the Christian religion. He said the same thing too in *Politics* III chapter 7, but I omit the passage in order to keep the discussion short.

II

Again, this part (sc. the princely) must, by its authority and according to the law, command what is just and honest and prohibit their contraries, both in deed and in word, affixing rewards or punishments to the merits or demerits of those who obey or transgress the commands of the law. In this way he shall preserve each of the parts of the city in its due nature and protect it from harm and injustice. And if any of them should suffer or cause injury, this must be cured by the action of the prince. The one that inflicts injury, by sustaining a penalty; for a penalty is like a kind of medicine for a crime. Hence *Ethics* II, chapter 2: ‘Punishments made because of this’ (i.e. because of the pleasures involved in acting wrongly)

<sup>16</sup> *Ibid.* V 1302b33–1303a2.

‘show this too, because they are a kind of medicine.’<sup>17</sup> 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.

I2

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.

I3

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 whatsoever 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.

I4

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

<sup>17</sup> Aristotle, *Nicomachean Ethics* II 1104b16–17.

concluded by probable and demonstrative reasoning. It is therefore the first of all the others, and they are ordered towards it.

Let this be our determination, then, concerning the efficient cause of the election of the princely part, and likewise of the institution both of the remaining parts and of the city; and on the order that exists between them.

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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.<sup>1</sup> For some have thought that the first manner of institution is preferable, and this for

<sup>1</sup> Like the question of whether the best law or the best man should rule (above, I. 11, 2), this was another celebrated question on Book III of the *Politics*. Marsilius lays out his treatment as a full-blown *quaestio disputata* ('disputed question'), with arguments for one side, then the other, then solutions to the objections. It has something of the feel of an academic set-piece, disproportionately long in the context of his main argument. For the content, compare Peter of Auvergne's question, 'Whether it is better for a king or prince to be adopted by hereditary succession or by election' (ed. Flüeler, *Rezeption*, Vol. 1, pp. 219–22). 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 arrogance of arriviste rulers; the possible vacancy of the principate in the case of the elective method; dissent among electors. Giles of Rome has a similar discussion in his *De regimine principum*, III. 2, 5. From a different direction, Ptolemy of Lucca, *De regimine principum* IV. 7 and 8 (tr. Blythe, pp. 235–9) cites further arguments for perpetuating the principate – that change gives subjects an opportunity for sedition, hoping either to evade justice or to attain the position of prince themselves – but this time in a discussion that concludes unambiguously in favour of regular change.

certain apparent reasons. Firstly, because a monarch by hereditary succession will take more care of the commonwealth, as it is in some sense his own and his inheritance; but not so a monarch whose own heir is not agreed upon as the future prince. Hence Aristotle says, *Politics* II chapter 1, about half-way through: 'That which is common to many receives little care; for men take greatest care of what is their own, and less of what is common than as much as concerns each.'<sup>2</sup> Again in the same chapter, towards the end: 'For there are two things that most of all arouse in men tender care and affection: that which is their own, and that which they love.'<sup>3</sup> Still further in the second chapter of the same book he says: 'Yet again in respect of pleasure as well, it is impossible to express how much difference it makes to think that something is one's own.'<sup>4</sup>

Again in respect of the principal question: because the successors of a monarch will apparently tyrannise over their subjects less than those who have just been elected, since they have become accustomed to the position of prince and do not think anything new has come to them, on account of which they should be more exalted and despise their subjects. Whereas those who are always newly elected are, like the newly rich, often prone to arrogance. Hence *Rhetoric* II chapter 24: 'It is easy for everyone to see what kind of manners accompany riches. For they are contemptuous and superior, being affected by the possession of their wealth. For they have these characteristics, as if they possessed every good thing.'<sup>5</sup>

2

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,'<sup>6</sup> and *Politics* II chapter 5, towards the end: 'One who has initiated a change does not do good so much as harm, becoming accustomed to rebel against princes,'<sup>7</sup> along with the other things that are said about custom in chapter 18 of this discourse, section 6.

<sup>2</sup> Aristotle, *Politics* II 1261b33–5, involving a slight mistranslation on Moerbeke's part; the sense of the original is '... less of what is common, or (only) as much as concerns each.'

<sup>3</sup> *Ibid.* 1262b22–3. <sup>4</sup> *Ibid.* 1263a40–1. <sup>5</sup> Aristotle, *Rhetoric* II 1390b32–4.

<sup>6</sup> Aristotle, *Metaphysics* A 994b32–995a1. <sup>7</sup> Aristotle, *Politics* II 1269a17–18.

3

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 regal 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.’<sup>8</sup> 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.’<sup>9</sup> 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.’<sup>10</sup>

4

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 Theodectes from an eclogue, says: ‘Who will see fit to lead a slave one who was born of divine parents on both sides?’<sup>11</sup> adding a little bit

<sup>8</sup> *Ibid.* III 1285b4–9.    <sup>9</sup> *Ibid.* 1288a15–19.

<sup>10</sup> *Ibid.* V 1310b9–12. Again Moerbeke’s translation fails to make perfect sense: modern editors read *epi ton dēmon* (‘against the people’) instead of the manuscripts’ *apo tou dēmou* (*a populo*, ‘from the people’), and on top of that Moerbeke has *hē* (*quae*, ‘which’) for *ē* (‘either’).

<sup>11</sup> *Ibid.* I 1255a36–7: ‘from an eclogue’ (*ex egloga*) is a departure from the nonsensical ‘eleloga’ of Moerbeke’s translation, itself a manuscript corruption of ‘Helena’, i.e. the title of Theodectes’ play. Again, Marsilius has ‘lead a slave’ (*adducere servam*) rather than Moerbeke’s correct *addicere* (*proseipein*), ‘call’.



further on: ‘For they deem it fitting, just as man comes from man and beast of beasts, so too that good should come from good.’<sup>12</sup> And again, because such a man is for the most part guided by better custom; hence Aristotle in his *Rhetoric*, Book I chapter 13: ‘For it is likely that a good man will come from good men, and that one who has been thus nourished will be such.’<sup>13</sup>

5

Again with respect to the main question: since the principate 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.

6

Further with respect to the main question: because it is easier for the citizens and the consuls<sup>14</sup> 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

<sup>12</sup> *Ibid.* 1255b1–2.   <sup>13</sup> Aristotle, *Rhetoric* I 1367b31–2.

<sup>14</sup> *Consules*: the *consules* of the twelfth-century communes were the governing officials (subsequently replaced by the institution of the *podestà*). It is in this sense that Ptolemy of Lucca’s discussion (see above, n. 1) speaks of *consules sive magistratus* 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. Gloria, ed., *Statuti del comune di Padova, del secolo XII all’ anno 1285* (Padua: F. Sassetto, 1873), p. 82 (statute 231) and p. 56 (statute 208). Marsilius’s reply to this objection (below, section 20) does not repeat the term, but refers instead to *consiliarii*, so *consules* must here be taken as ‘counsellors’.

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.’<sup>15</sup>

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 principate 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’.<sup>16</sup> For, thinking themselves worthy of the principate because of one or more outstanding gifts, they procure the votes of electors through a plea or a price or some other illicit means.

8

Further: because an elected monarch, who does not transmit the principate to his successors, will not dare bring the powerful to justice even though they transgress the laws – and particularly not by having them killed or with any other corporal punishment – because he will fear that hatred or serious enmities or injustices will descend upon his own heirs as a result, who will perhaps not be princes. But a monarch who succeeds on the basis of heredity has no need to worry about such things, because he will enact justice securely and fully upon those who transgress the law, of whatever sort they may be.

<sup>15</sup> Aristotle, *Rhetoric* 1366a13: the original adds ‘... most persuasive to each’, and Marsilius in fact reproduces this below, section 20.

<sup>16</sup> Cicero, *De officiis* (*On Duties*), I. 26, p. 11.

9

Again: a manner of adopting a monarch is the more perfect to the extent that it occurs in more cases and in more lands and peoples and at more times; because that which is more natural is more perfect, and that which is most natural is that which occurs in most cases: 'For the nature of things is that which exists in most and at most times,' as is written in *On Heaven and Earth*, Book III,<sup>17</sup> and also in *Physics* II,<sup>18</sup> and as is plain by induction. But this is the case with the manner of adopting a monarch by hereditary succession as against that which adopts the future monarch by a new election every time: induction shows this in most monarchies, places and peoples, and the events described by historians make plain that this is the case at most times.

10

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 unchangeably, as in *Metaphysics* XII, last chapter: 'One prince, therefore, because beings do not wish to be badly arranged.'<sup>19</sup> 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.

11

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

<sup>17</sup> Aristotle, *De caelo* III 301a8.

<sup>18</sup> Aristotle, *Physics* II 198b35.

<sup>19</sup> Aristotle, *Metaphysics* Λ 1076a3.

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 – failing 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.

12

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.

13

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 virtue, 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.<sup>20</sup>

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 – sc. 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 commune 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.

15

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 from evil, on account of his virtue; and again since he is less able to do evil with impunity and is more easily arraigned

<sup>20</sup> Aristotle, *Politics* I 1259b15; II 1272b35–1273a1; III 1277a16–20 and 1285b3ff. (Marsilius in I. 9, 4 refers to this passage as ‘chapter 8’, but it is still probably the passage in question since in I. 9, 7 Marsilius interprets it as supporting elective monarchy); VII 1332b13–16.

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;<sup>21</sup> 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.'<sup>22</sup>

## 16

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

<sup>21</sup> Aristotle, *Politics* I 1256b26–37, then probably 1258a19–24 and 1258b9–11.

<sup>22</sup> Aristotle, *Posterior Analytics* I 72a29–30: Marsilius's use of *oraculum* may refer to the elliptical and gnomic character of this sentence in both Aristotle's Greek and Moerbeke's Latin, which is impossible to reproduce in English without total unintelligibility.

elected each time has less authority than one who is adopted by hereditary succession. For although obedience is strengthened from custom, we nevertheless witness greater awe and reverence for novelty, especially when the prince from new election has been adopted from another region or province.<sup>23</sup> And again because the custom of obedience is, simply speaking, directed at the laws and the principate, and only in a qualified way at the prince. Hence we see that all people, both in heart and in deed, reverence the principate and the laws, even though in their heart they sometimes despise the person who is prince for his deficiencies; whereas the converse is not the case. For this reason, since the subject multitude is almost everywhere accustomed to obey laws and principates, a change of prince in respect of family does not bring as much harm as his adequacy – which is what results from a new election – brings profit; and it is from reverence for this individual on account of his virtue that obedience to the principate and to the laws grows. An indication that obedience towards the principate and the laws is enough is what we see in the domestic economy of the church with respect to the Roman pope. For the subject multitude almost always shows him due (and more than due) obedience. We have identified the reason for this in chapter 1 of the second discourse, section 1. Indeed it sometimes results from this overflowing obedience that the prince becomes tyrannical because of the impunity he can hope for, as we see happen with some of the said bishops. And what Aristotle said in *Politics* II, ‘One who initiates a change does not do good’ etc., is meant concerning those who seek to change the law or the prince on any occasion, however slight.

17

In response to what Aristotle says in *Politics* III chapter 9, that it can happen that there is some family so excellent in virtue or in the benefit it confers on the rest of the multitude that it is worthy always to hold the office of prince, and never to be subject; allowing that this may perhaps be true at some times and in some places, it is nevertheless not what we find most of the time and in all places. Hence Aristotle, *Rhetoric* II chapter 24: ‘Noble inasmuch as not having declined from its nature.

<sup>23</sup> In the background to this remark may be the habitual practice in the Italian communes of electing the *podestà* from elsewhere; Previtè-Orton suggests there may also be a reference to the effect produced by the first arrival of the emperor Henry VII in Italy in 1310.

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,<sup>24</sup> 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 adopted 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 principate 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.

18

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 one who is

<sup>24</sup> Aristotle, *Rhetoric* II 1390b22–9.



already perfect and actively acting according to virtue. It is preferable for an individual like this to be adopted as prince, such as – in actual potential or activity<sup>25</sup> – hereditary succession does not as frequently produce.

19

As to the point we introduced against new elections – the one most to fear and to watch out for among the rest – sc. 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 posterity 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 adduced about 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 adduced.

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

<sup>25</sup> Cf. above, I, 5, 2 and note there: ‘actual potential’ for virtue should be understood as distinct from the bare 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 posterity 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, as 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.<sup>26</sup> And as for what Cicero said in *On Duties* Book I, ‘It

<sup>26</sup> Aristotle, *Nicomachean Ethics* IV 1123a34–b24.

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.

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On the numerical unity of the supreme principate  
of a city or realm, and the necessity for this. As a  
result the numerical unity of a city or realm and  
the numerical unity of the individual primary  
parts or offices will also become apparent

At this point, however, we should say something of the unity of that which exercises the function of prince or the principate.<sup>1</sup> Let us make a start on this subject and say that in a single city or a single realm there should be only one single principate; or if there are several, in number or in species – as seems expedient in great cities, and most of all in a realm taken in its first sense<sup>2</sup> – then there should be among them one in number that is supreme over all, to which and through which the rest are reduced and regulated, and any errors that arise in them corrected.<sup>3</sup>

<sup>1</sup> The necessity of unity in government was a common theme of medieval political thought. Aquinas argued that ‘the good and well-being of a multitude associated together lies in the preservation of its unity. This is called peace . . .’: Thomas Aquinas, *De regimine principum* (*De regno*), tr. R. W. Dyson in *Aquinas: Political Writings* (Cambridge: Cambridge University Press, 2002), pp. 6, 10, with modifications. John of Paris followed him: ‘there can be no community where unity and concord is missing’ (*On Royal and Papal Power*, tr. J. A. Watt, Toronto: The Pontifical Institute of Mediaeval Studies/Universa Press, 1971, p. 78). Dante put forward a series of arguments concerning unity in his *Monarchy* (ed. and tr. P. Shaw, Cambridge: Cambridge University Press, 1996, at pp. 10, 13, 24–5, 26–7 especially). But all of these saw the argument for the unity of government as an argument for the unity of one single governor, i.e. for monarchy, whereas Marsilius makes it clear that these are two different arguments: so long as the principate is a unity, there can be several exercising the function of prince at the same time.

<sup>2</sup> I.e. ‘a plurality of cities or provinces contained under one regime’ (above, I, 2, 2).

<sup>3</sup> The language of ‘reducing to one’ (*reductio ad unum*) was pervasive in the political and ecclesiastical writings of the time. Its source was ultimately the writings on hierarchy by

2

Now it is only this principate, sc. the supreme, that I say must necessarily be one in number, and not several, if the realm or city is to be rightly ordered. And I say the same of that which exercises the function of prince: a prince that is one in number, not in respect of human subject but in respect of office. For there is a type of supreme and well-tempered principate that is one in number and where more than one man exercises the function of prince, as in an aristocracy and a polity (of which we spoke in chapter 8 of this discourse). These several individuals do indeed form a principate that is one in number in respect of function, because of the numerical unity of whatever action, judgement or sentence or command issues from them; for no such action can issue from any one of these individuals by himself, but only from their common decree and consent or that of their prevailing part, according to the laws that have been established in these matters. And because of the numerical unity of the action that issues from them in this way, the principate is and is said to be one in number, whether it is ruled by one man or several. Such unity of actions is not, however, required in any of the other offices or parts of the city; for in any one of them, many actions either similar or different in kind both can and should issue independently from the different subjects within them. In fact it would be intolerable and damaging to both community and individuals to have that kind of unity of action within them.

3

Understanding in this way, then, the numerical unity of the principate or the prince, we wish to establish for certain that either the principate or prince is only one in number in a city or a realm, or that if there are several, the one that is supreme over them all is only one in number and not more. Now we shall demonstrate the first point as follows: because if there were

Ps.-Dionysius (a fifth-century disciple of the neo-Platonist philosopher Proclus, who wrote as the Dionysius the Areopagite mentioned in Acts 17. 34). It was widely used as an argument for papal supremacy; a typical example can be found in the anonymous *Quaestio in utramque partem*, ed. and tr. R. W. Dyson, *Three Royalist Tracts, 1296–1302* (Bristol: Thoemmes, 1999), pp. 86–87: ‘all multitude is reduced to unity, just as it proceeds from unity. Therefore the whole multitude of prelates and princes is reduced to one supreme who is over all princes and prelates; and this is none other than the pope.’ But John of Paris used the same idea to argue in support of secular monarchy: ‘in the law of nature all government is reduced to overall unity’ (tr. Watt, p. 78).

more than one principate in a city or realm, and they were not reduced or ordered towards any one supreme, then the judgement, command and execution of what is advantageous and just would fail, and the result – because of injuries remaining unavenged between men – would be fighting, disintegration and ultimately the destruction of the city or realm. Now this consequence is an evil most of all to be avoided; that it follows from the given antecedent, sc. a plurality of principates, can be plainly shown. Firstly because those who transgress the laws cannot reasonably be brought to justice unless they are summoned to an examination, in the presence of the prince, of the matters in question or objected against them. But if we suppose a plurality of principates not reduced to any one supreme, in the way that our opponent says, then no one summoned to the presence of the prince will be able to make a satisfactory appearance. For suppose a case (as often happens) where because of some transgression of the law a person is summoned to answer for himself by more than one prince, not ranked in respect of each other, and moreover at the same time, since each principate has the obligation and the power to summon or cite an accused on the same rationale as the other; and, again, where the summoned individual is obliged to answer for himself in the presence of one prince – so as not to be guilty of contempt – on the same principle that he is obliged to answer before the other (or others, if there are more than two). Well then: either he will make an appearance before all of them at the same time, or before none of them, or before one of them and not the other or others. Not before all of them at once and at the same time, because this is impossible either by nature or by art: for the same body cannot be at the same time in different places, nor can it speak or answer to several princes at once, all perhaps simultaneously asking different questions. Furthermore, suppose we allow (though this is impossible) that the summoned individual appears before several princes and simultaneously keeps silent or speaks in response to different questions. He might still be convicted by one principate and absolved by the other of the same crime, or if found guilty by both, nevertheless not to the same extent. Therefore he will be both obliged and not obliged to make amends; or if he is obliged, this will be for a particular amount, and this amount will be more or less,<sup>4</sup> and so he will be both obliged and not obliged for a particular amount. Hence he will either perform two contradictories simultaneously, or he will not make any amends. For on the same principle

<sup>4</sup>I.e. depending on the different convictions.



that he must observe the command of one prince, he must observe that of the other; there is no rationale for him to appear before one principate rather than before another or others. If however he does appear before one of them, disregarding the others, and is perhaps absolved by it from guilt and civil penalty, he will still be convicted by the others, this time for contempt. A man summoned or cited in this way, then, will not appear before all of them simultaneously, nor will he be able to make a satisfactory appearance before one of them and not another. It remains therefore that an individual who has been summoned or cited should appear before no principate at all: and so it will be impossible to bring him to justice. A plurality of such principates, not ranked in respect of each other, is therefore an impossibility for a city or realm if what is just and advantageous in civil terms is to be safeguarded.<sup>5</sup>

4

Furthermore, supposing a plurality of such principates, every common interest would be disturbed. For since princes must frequently command an assembly of the citizens, especially those with leisure, to inquire into and determine what is to the common advantage, or to avoid inconveniences or emerging dangers (for example from those internally or externally who want to suppress the common liberty), the citizens or subjects who have been summoned are bound to convene at the command and at the place and time of one such prince on exactly the same rationale as they are bound to convene at the command and at the place and time of another; and the time might be the same but the places different; and again what one prince wanted to propose might perhaps be different from what the other wanted. But however it does not seem possible to be in different places at the same time, nor to pay attention to different things simultaneously.

5

Again, it would result in division and opposition between the citizens, fighting, separation and finally the destruction of the city, with some of them wanting to obey one prince and some the other. Between the different

<sup>5</sup>This argument, in a slightly different and more compact form, can be found in Dante, *Monarchy*, tr. Shaw, pp. 14–15, with the quotation from *Metaphysics* Λ that Marsilius uses in section 9.

principates, too, with one of them wanting to establish its superiority over the other; and again between the princes and the citizens who refused to be their subjects. The abovementioned scandals would also arise if the princes disagreed or competed with each other, without any superior judge.

6

Again, if we suppose this kind of plurality, there will be something redundant and superfluous in one of the greatest products of reason and art, since whatever civil profit could be had from several principates can perfectly well be had from one, or one supreme, without the evils that result from a plurality of them.

7

Furthermore, supposing a plurality of principates in this way, no realm or city will be one. For realms and cities are said to be one on account of the unity of the principate, towards which and for the sake of which the remaining parts of the city are ordered (as will be apparent from what we shall go on to say). And again there will be no order in the parts of the city or realm, since they are not ordered to any first part if they are not bound to be subject to any one – as has become clear from the previous arguments – and so they and the whole city will be in confusion: for every man will choose for himself the office he wants, one or more, without anyone to regulate them or separate them out. So many more evils would follow from this that it is not easy or even possible to enumerate them.

8

Moreover, in a composite animal the primary principle that commands and moves it (with motion in respect of place)<sup>6</sup> is one, as is apparent in the book called *On the Movement of Animals*,<sup>7</sup> since if there were more than

<sup>6</sup> *Motus secundum locum*: local motion or locomotion. The Aristotelian contrast that Marsilius is deploying in this passage is between local motion and the movement involved in *alloiōsis*, ‘alteration’, whereby a body takes on an accident or form for which it has the potential.

<sup>7</sup> The reference is to Aristotle, *De motu animalium* (*On the Movement of Animals*): as far as I can see, Aristotle never in this short work actually says that the ‘primary principle’ (or ‘first mover’) is one, although it is implicit in the fact the ‘first mover’ is always referred to in the singular, e.g. at 701b21–2.

one of these principles and they simultaneously commanded things that were contrary or divergent, then of necessity the animal would either be driven to contrary courses or would stay completely still, and so lack the necessities and conveniences that it acquires through motion. And it is the same in an appropriately-ordered city, which in chapter 15 of this discourse we said was analogous in nature to a well-formed animal.<sup>8</sup> Therefore, just as a plurality of such principles would be redundant and indeed harmful in an animal, the same view should be firmly maintained in the case of a city. The same thing can be observed if one wishes to consider the primary principle responsible for alteration in an animal, just as with motion in respect of place and likewise in the whole order of things that are moved and things that move. Let us pass over these considerations, however, since they belong more to the business of natural science, and we have said enough about them for the present discussion.

9

Furthermore, since ‘in general art either perfects things that nature cannot do herself, or imitates others’, as is written in Book II of the *Physics*;<sup>9</sup> and since it is in the nature of beings that the primary principle should be one in number, not more, because ‘beings do not wish to be badly arranged’, as is maintained in *Metaphysics* XII;<sup>10</sup> therefore the primary principate established according to the reason and art of men will also be only one in number. This can be seen from the reasons we have given, but also (i.e. that it is expedient and necessary) from the sense-experience of everyone: since in whatever place or region or gathering of men there has been a lack of unity of the principate in the way we have said, it has been visibly impossible for it to be well-ordered. This is

<sup>8</sup> This general medical analogy is widespread; see for example Aquinas’s *De regimine principum*, I. 1: ‘among the members of the body there is one principal, either the heart or the head, which moves all the others’ (tr. Dyson, p. 8, with modifications). But the specific character of this passage, with its reference to Aristotle’s *De motu animalium*, is likely to come from the seventh ‘difference’ of Pietro d’Abano’s *Conciliator differentiarum*: ‘for as happens in other regimes, for example political, so it is in the regimen of the human body. For one should judge that an animal is made up in the same way as a city well-ruled with laws, *On the cause of the movement of animals* . . . But in a political regime, many rulers are ultimately ordered to one supreme . . .’ (*Conciliator differentiarum*, Venice, 1504, fo. 9r).

<sup>9</sup> Aristotle, *Physics* II 199a15–16. <sup>10</sup> Aristotle, *Metaphysics* Λ 1076a3.

apparent to almost everyone as regards the realm of the Romans,<sup>11</sup> and was in some sense demonstrated in what we said in the poem.

## IO

As to whether it is appropriate for the universal body of those who live a civil life throughout the whole world to have one single principate that is supreme over all, or whether at any one time it is appropriate to have different such principates in different reaches of the world, separated almost of necessity by their geographical situation, and particularly in those which do not share a language and are very far apart in manners and custom; this being perhaps propelled by a celestial cause, to avoid the over-propagation of humanity; this is a topic for rational examination, but a different one from the present inquiry. For it might perhaps occur to someone that nature, by means of battles and epidemics, has put a check on the propagation of men and the other animals, so that the land should suffice for their development. In this those who argue for eternal generation would receive particular support.<sup>12</sup>

## II

Returning however to our own intended purpose, let us say that from what we have said it is already in some sense apparent what the numerical unity of a city or realm is, since it is a unity of order: not a unity simply speaking but a plurality of elements, called one or said to be one thing in number. This is not because they are formally one in number through the existence of some form, but rather they are truly said to be one in number because they are spoken of in relation to something that is one in number, sc. the principate: towards which and for the sake of which they are ordered and governed. For a city or realm is not among those things that are one through some single natural form, such as unities of composition

<sup>11</sup> *Regnum Romanorum*: see the Notes on the Translation, above, p. xlix.

<sup>12</sup> The thesis of the 'eternal generation' of the world was held by the so-called 'Averroists', i.e. those who supposedly approached Aristotle through the writings of Ibn Rushd, without seeking to reconcile his understanding of natural philosophy with the tenets of Christianity (see further in the Introduction, above, p. xv). The thesis of eternal generation was one of the propositions condemned by the bishop of Paris, Etienne Tempier, in the famous condemnation of 1277: Marsilius's wording is very cautious.

or commixture,<sup>13</sup> since its parts or offices (and also the individual subjects or parts of these parts) are many in actuality and numerically separate from each other in formal terms, because they are separate in place and subject. Hence they are not one through some one thing that inheres in them formally; and neither are they one by way of some one thing that touches or contains all of them, like a wall. For Rome, along with Mainz and the other communities, are one realm or empire in number; but only because each of them is ordered by its will towards a supreme principate which is one in number. In the same sort of way the world is said to be one in number and not several worlds. All beings are said to be one world not because of some numerically unique form that inheres formally in the universe of beings, but because of the numerical unity of the first being, since every being naturally inclines towards and depends upon the first being. Hence the predication by which all beings are said to be one world in number is not a formal predication of some numerical unity in all of them, nor of some universal predicated in consequence of one thing; rather, it is a plurality of certain elements that is said to be one because it is towards and for the sake of one. So too the men of one city or province are said to be one city or realm, because their will is for one single principate.

I 2

However, what makes them one realm or one city in number does not make them one part of the city in number. Since even if their will is for one single principate – which is why they are called one city or realm – they are nevertheless referred to this one thing through an active and passive institution that is different each case; this being none other than the differing command given them by the prince, by which they are established in different offices. Through this difference in command these individuals are also formally different parts and offices of the city. But each of the offices is itself said to be one in number or one part of the city in number, notwithstanding the numerical plurality of the individuals within them, not because of some single thing inhering in

<sup>13</sup> For example, a human body, which although composed of different parts is nevertheless one body because it has one single natural form, i.e. the human soul. On Aristotelian principles, anything that has a separate individual existence must have some form of its own organising or structuring its matter or constituent parts.

them, but because they are referred to a single active command of the prince in accordance with the determination of the law.

13

From what has been said in this chapter, and in chapters 9, 12, 13 and 15 of this discourse, it can be concluded by clear demonstration that no individual person, of whatever rank or status he may be, nor any collective body has any principate or coercive jurisdiction over anyone in this world unless that authority has been given to him or it directly by the divine or human legislator.

Let this be enough, then, concerning what kind of unity of principate there should be, and what is the numerical unity of a city or realm; why moreover each of these should be said to be, and be, one in number; and further concerning the numerical and specific unity of the parts or offices of the city and their order, differentiation and separation in respect of each other.

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## On bringing the prince to account, and for what reason, how, and by whom he should be constrained if he transgresses the law

We said earlier that it belongs to the legislator to bring to account or completely to change principates, just as it does to institute them.<sup>1</sup> On this subject someone will quite rightly raise a doubt, viz. as to whether it is expedient for princes to be corrected through a judicial process and coercive power; and if it is, whether this ought to take place for any kind of excess, or only for some of them and not for others. Again, to whom it belongs to pass such judgements upon them and to carry out the execution of these judgements by coercive power: since it was earlier said that it belongs only to princes to pass civil sentences and to constrain those who transgress the law with coercive power.

### 2

Let us for our part say that the prince, through his action according to the law and through the authority that has been given him, is the standard and the measure of any civil act whatsoever, in the manner of the heart in an animal (as was sufficiently demonstrated in chapter 15 of this discourse). And if the prince took on no other form than the law, his authority, and the desire of acting in accordance with it, he would

<sup>1</sup> Cf. above, I. 12, 9 and I. 15, 2. As noted earlier (notes to I. 12, 3 and 4), the idea that the multitude has the power of electing and correcting was familiar in the literature on the *Politics*, and stems from Aristotle himself at *Politics* III 1281b32–4. But there also seems to be a distinct reference in this chapter to the institution of *syndicatus* in the Italian city-states, a process whereby the *podestà* was, at the end of his term of office, liable to be brought to account for any misdemeanours conducted whilst in office.

never commit any undue action or one that was subject to being corrected or measured by anything else. In this way he himself as much as his action would be the measure of every civil act on the part of others, while he himself would never be measured by others: just like a well-formed heart in an animal. For because the heart does not take on any form through which it would be inclined to an action contrary to that which arises from its natural virtue and heat, it always naturally performs its appropriate action and never the contrary. Because of this it regulates and measures, through its influence or action, the other parts of the animal in such a way that it is not itself regulated by them in any way and receives no influence from them either.

### 3

However, because the prince, being human, has an intellect and a desire which can take on different forms – such as a false conception or a perverted desire or both – it is possible for him, if he follows them, to do things contrary to what is laid down by law. For this reason the prince is, in these actions, rendered subject to measurement by something else that has the authority to measure or regulate him (or those actions of his which transgress the law) according to the law; for otherwise any principate would become tyrannical, and the life of the citizens slavish and insufficient. And this is an evil to be avoided, as was apparent from what we determined in chapters 5 and 11 of this discourse.

Now the judgement, command and execution of any arraignment of the prince for his demerit or transgression should take place through the legislator, or through a person or persons established for this purpose by the authority of the legislator, as demonstrated in chapters 12 and 15 of this discourse.<sup>2</sup> It is also appropriate to suspend for a period of time the office of the prince who is subject to correction, especially in relation to the person or persons who must judge his transgression, so that faction, commotion and fighting do not break out in the community because of the resulting plurality of principates; and also because he is not being corrected as the prince, but as a subject who has transgressed the law.

<sup>2</sup>The statutes of Padua laid down that the outgoing *podestà* must remain in the city for twenty days, and that the incoming *podestà* must, on the first day of his term of office, provide for four ‘syndicators’ to be elected in the *consiglio maggiore*, one from each quarter, ‘among whom let there be one judge, one knight, and two from the *popolo*’: *Statuti*, ed. Gloria, p. 38 (statute 101).



4

Basing on this principle, then, our approach to the doubts in question, let us say that an excess on the part of the prince is either serious or slight; again, it is either one of those things that can happen often, or that can happen only rarely; still further, it is either something defined by law or not. If the prince's offence is serious – for example against the republic or an important person or indeed any other person, where failure to bring him to account would be likely to cause scandal or popular commotion – then in this case the prince should be corrected for it, whether it is something that happens often or only rarely. For if it remained unpunished, popular commotion and the disturbance and destruction of the polity could be possible. If it is defined by law, then he should be corrected according to the law; if it is not, then according to the sentence of the legislator; and as much as possible ought to be defined by law, as we showed in chapter 11 of this discourse.

5

Now if an excess on the part of the prince is slight, then either it is one of those things that happen only rarely, and is only rarely committed by the prince, or it is one of those things that can occur often and is often committed by the prince. If it is or is capable of being committed by the prince only rarely, then one should turn a blind eye rather than have the prince corrected for it. Because if the prince were corrected for any minor excess that rarely happens, he would be rendered an object of contempt; and this does no small damage to the community in that the citizens as a result show less reverence and obedience to the law and to the prince. And again because if the prince were unwilling to submit to arraignment for every tiny offence, since this would diminish him in repute, a serious scandal could arise. But nothing of this kind – which cannot yield any evident utility, but only harm – should be aggravated in communities.

6

And this was Aristotle's explicit opinion on the subject, *Politics* II chapter 4, when he said: 'It is manifest, that legislators and princes must be allowed a few misdeeds. For one who initiates a change does not do good

so much as harm, becoming accustomed to rebel against princes.’<sup>3</sup> However, by ‘legislator’ he understood here the legislated law, which, if men have become accustomed to obey it, he says should not be changed in order to correct some minor thing in it, but should be allowed to stay as it is; the reason being that frequent changing of the laws weakens their strength, sc. the custom of obeying them and observing the commands they contain. Hence the same author, in the same book and chapter: ‘The law has no strength to persuade apart from custom,’<sup>4</sup> i.e. if it is to be obeyed by the subjects, the most important thing is custom. It is the same with reverence for and obedience to the prince.

7

However, if the excess on the part of the prince is slight but with the possibility of happening often, then it should be defined in law, and a prince who is frequently delinquent in respect of it should be constrained by an appropriate penalty. For however slight, an offence of this type will do significant damage to the polity if it is committed often, ‘just as substance’ (i.e. wealth) too ‘is eaten up by small expenditures made often. For the whole, and everything, is not small, but is made up of small things,’ as is written in *Politics* V chapter 4.<sup>5</sup>

Let this be our determination, then, concerning the arraignment of princes, through whom, and for what reasons.

<sup>3</sup> Aristotle, *Politics* II 1269a16–18.

<sup>4</sup> *Ibid.* 20–1.

<sup>5</sup> *Ibid.* V 1307b33–4 and 38.

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On the productive causes of tranquillity or  
intranquillity in a city or realm, and the cause  
that singularly disturbs realms beyond the usual  
ways; and on the continuity between the first  
discourse and the second

The remaining and final task of this discourse is to infer, from what has previously been determined, the causes of tranquillity and its opposite in a city or realm. For this was the principal question according to the purpose we set ourselves from the start. And first of all we shall indicate these causes in their common nature, presupposing from Aristotle (in book V of his *Politics*)<sup>1</sup> the individual definitions of those that arise in the usual way. Following on from there we shall offer a specific discussion of that unusual cause of discord or intranquillity in civil regimes, which we said in the proem had long disturbed – and continues increasingly to harass and disturb – the realm of Italy.

## 2

To this end we must take up again the descriptions of tranquillity and its opposite already stated in chapter 2 of this discourse. For tranquillity was the good disposition of a city or realm, in which each of its parts is able to carry out the tasks appropriate to it according to reason and its institution. From this description the nature of tranquillity becomes clear. For when it says ‘good disposition’, this marks out its general

<sup>1</sup> See above, I. 1, 3.

intrinsic what-it-is.<sup>2</sup> Whereas when it says that through it ‘each of the parts of the city is able to carry out the tasks appropriate to it’, this signifies its end, and this further enables us to understand its own particular what-it-is or differentia. Now since tranquillity is a kind of form or disposition of a city or realm, and is no more unitary than we argued a realm and city is (chapter 17 of this discourse, sections 11 and 12), it does not have a formal cause: for this is peculiar to composite entities.<sup>3</sup> But we can grasp its active or productive cause from what was said in chapter 15 of this discourse and from the other things that necessarily accompany it in a city or realm. These are: the mutual interaction of the citizens and the common exchange of their work, their mutual aid and help, and generally the power, unhindered from outside, to carry out both their own and the common tasks; and also their sharing in common conveniences and burdens in a measure appropriate to each. Along with this are all the other convenient and desirable things expressed in the words of Cassiodorus that we placed at the beginning of this book. The contraries of all these, or of some in particular, are what accompany the intranquillity or discord that is the opposite of tranquillity.

### 3

Since, then, it is the due action of the prince which is the efficient and preservative cause of all the said civil benefits (as demonstrated in chapter 15 of this discourse, sections 11 and 12), that action will itself be the productive cause of tranquillity. This was undoubtedly the sense of the Apostle when he said, I Timothy 2: ‘I exhort therefore that, first of all, supplications etc. be made for kings and for all that are in authority; that we may lead a quiet and tranquil life.’<sup>4</sup> And if there is anything that of itself impedes the action of this part, intranquillity and discord will arise from it as from their productive cause viewed in a generic sense; although it has various species and modes of which – insofar as they arise from the usual processes – Aristotle gave sufficient notice in book V of his civil science, which we have called the *Politics*.<sup>5</sup>

<sup>2</sup> *Quidditas*: there is no decent English equivalent if we want to avoid the now archaic or technical ‘quiddity’. The word is a medieval coinage from the Latin *quid*, ‘what’, hence it might be translated ‘whatness’ or ‘what-it-is’.

<sup>3</sup> See above, I. 17, 11, n. 13.     <sup>4</sup> I Timothy 2. 1–2.

<sup>5</sup> On the use of *civilis scientia* for the *Politics* here, see above, I. 1, 3 and note there. I have removed the full stop placed by Previt -Orton and Scholz after ‘... productive cause’, which seems to me to interrupt the sense.

There is, however, a certain unusual cause of the intranquillity or discord of cities or realms, which took its occasion from an effect produced by the divine cause outside all its habitual activity in things, and which (as we recall we touched upon in the proem) neither Aristotle nor any other philosopher of his time or before was able to perceive.

4

This cause, which has for a long time impeded the due action of the prince in the realm of Italy, and now continues to do so even more, has deprived and is depriving it of peace or tranquillity and everything else that accompanies it along with the benefits just mentioned; has harassed and is harassing it with every kind of inconvenience; and has filled it with almost every kind of misery and iniquity.

And seeing that we must now, in line with the purpose we set ourselves from the start, determine the specific nature of this cause – which hinders in a singular way because of its custom of hiding its malignity – we should recollect what we said in chapter 6 of this discourse: viz. that the son of God, one of three divine persons, true God, assumed human nature in order to make reparation for our first parents' crime of transgression and, in consequence, the fall of the entire human race; that he was made true man long after the time of Aristotle, and was at the same time true God; and that it is he, called Jesus Christ, whom faithful Christians worship. This Christ, I say, blessed son of God, one individual who was simultaneously God and man, lived his life among the Jewish people from whom he drew his fleshly origin; he began to teach, and taught, the truth of what needed to be believed, done and avoided in order for men to achieve eternal life and avoid eternal misery. Because of this he suffered and died through the malice and madness of the Jews under Caesar's vicegerent Pontius Pilate, and rose again from the dead on the third day of his death, and later ascended also into heaven. Before this, however, while still living his mortal life, he gathered to himself for the salvation of the human race certain co-workers in the ministry of teaching the truth, who are called the apostles. These he commanded to preach the truth he had taught them throughout the whole world. Hence after his resurrection he said to them, Matthew 28 (the last chapter): 'Go ye therefore, and teach all nations, baptising them in the name of the Father, of the Son, and of the Holy Ghost; teaching them to observe all things whatsoever

I have commanded you.<sup>6</sup> Through these apostles (whose names are familiar enough among Christ's faithful), and through certain others, Christ willed that the evangelical law be put into writing, as if they were instruments immediately moved and directed to this task by divine power; by this law we would be able to understand the commands and counsels of eternal salvation in the absence of Christ himself and of the apostles and the evangelists. In and according to this law he also indicated and instituted the sacraments, which purify sin (both original and present), produce and preserve divine grace and restore it if it has been lost, and institute the ministers of this law.

5

In addition he instituted the said apostles as the teachers of this law and as the first ministers of the sacraments in accordance with it, conferring upon them through the holy spirit the authority of this ministry, which Christian faithful call the priestly authority. Through this he conferred upon them and their successors in this office, and no others, the power of transubstantiating bread and wine into his true body and blood under a certain form of words spoken by them, both together and individually. Along with this he also granted them the authority to bind and loose men from their sins (which is usually called the power of the keys),<sup>7</sup> and the power of substituting others for themselves with the same authority. This authority the apostles also conferred upon certain individuals, or rather God conferred it through them as they prayed and laid their hands on others. And the others too received the power of so doing; and so they have subsequently done, still do, and shall do until the end of the world. In this same way the apostle Paul instituted Timothy, Titus and many others as priests and taught them to do the same to others. So in I Timothy 4: 'Neglect not the grace that is in thee, which was given thee by prophecy, with the laying on of the hands of the priesthood.'<sup>8</sup> And Titus 1: 'For this cause left I thee in Crete, that thou shouldest set in order the things that are wanting, and establish priests in every city, as

<sup>6</sup> Matthew 28. 19–20.

<sup>7</sup> *Potestas clavium*: discussed extensively below, II. 5, and see the Introduction, above, p. xxix.

<sup>8</sup> I Timothy 4. 14. This quotation and the following are instances of where the Authorised Version, with its careful use of 'presbytery' and 'presbyters', must be altered to fit Marsilius's usage: see the Notes on the Translation, above, p. li.

I had appointed thee.<sup>9</sup> And this authority of the priest and of the keys, whether it is one single thing or more than one, is a certain character or form of the soul, impressed upon it by the immediate action of God.

6

Apart from this, however, priests have another kind of authority, which was given them by human concession when their number had already multiplied, to avoid scandal; and this authority is the pre-eminence of one of them in directing the others towards the due accomplishment of divine worship in God's temple, and in disposing of or distributing certain temporal goods that have been laid down for the use of the said ministers. Enough will be said in chapters 15 and 17 of the second discourse on the subject of the power to create this authority, and where it derives from: for it does not come into being through God without mediation, but through the will and mind of men just like the other offices of the city.

7

Now that we have gone over again and in some sense clarified the origin of the ministers of the church and the power that creates their office, we should notice further that among the said apostles of Christ there was one named Simon, but surnamed Peter, who was the first to receive from Christ the promise of the authority of the keys, as the gloss according to Augustine says on Christ's utterance in Matthew 16: 'And I will give unto thee the keys of the kingdom of heaven.'<sup>10</sup> The gloss says: 'He who acknowledged ahead of the rest', sc. that Jesus Christ is the true son of God, 'receives the gift of the keys ahead of the rest,' i.e. before the rest.<sup>11</sup> Now following Christ's passion, resurrection and ascension into heaven, this apostle arrived at Antioch and was there made bishop by the people, as is plain from his history. From there, as the abovementioned history

<sup>9</sup> Titus 1. 5.   <sup>10</sup> Matthew 16. 19.

<sup>11</sup> Ordinary gloss on Matthew 16. 19 (see the Notes on the References, above, p. lii); Marsilius's clarification of 'ahead' (*prae*) as 'before' (*ante*) is intended to defy any suggestion that Peter might be in some sense 'ahead' as in 'in front of' or 'at the head of'. 'Augustine' is St Augustine, bishop of Hippo (354–430 CE), one of the four 'doctors' of the Latin church, the most influential of the Church fathers and a crucial authority for medieval theology.

has it, he went to Rome (passing over what the reason for this might have been, since opinions differ on this subject) and was there the leader, as bishop, of the Christian faithful; and finally he died there with his head cut off for professing Christ and preaching, together (according to the abovementioned history) with the apostle Paul at the very same time and place.<sup>12</sup>

8

From the prerogative, therefore, that this disciple or apostle seemed to have in respect of the others (in that he received the gift of the keys ahead of the others, on the basis of the words of Scripture quoted above, and various other things said by Christ to him individually, which we shall bring in later on), some of the bishops who followed him in the apostolic or episcopal see of Rome – especially after the time of the Roman emperor Constantine<sup>13</sup> – say and assert that they are superior to all the other bishops and priests of the world in respect of every kind of jurisdictional authority. Some indeed of the more recent of them say that they are superior not only to these, but also to all princes, communities and individual persons of the world, even if they do not express this equally of all, nor say it so explicitly as they do of the prince of the Romans called the emperor and all the provinces, cities and persons that are subject to him. The truth is, however, that the singular expression of this dominion or coercive jurisdiction over this prince seems to have taken its lineaments and origin from a certain edict or gift that some say was made by Constantine to the Roman pontiff Saint Sylvester.<sup>14</sup>

9

But because that gift or privilege does not contain this clearly, or perhaps because it expired in the course of later events, or even because although

<sup>12</sup> See below, II. 16, 16 and 19 for Marsilius's analysis of this story.

<sup>13</sup> Constantine I ('the Great') (ca. 280–337 CE), Roman emperor who converted to Christianity and made it the official religion of the empire. He moved the imperial capital from Rome to Byzantium (renamed 'Constantinople') in about 330.

<sup>14</sup> This is the notorious 'Donation of Constantine', finally exposed as a fabrication by Lorenzo Valla in the fifteenth century. It was originally contained in the Pseudo-Isidorian *Decretals* and parts of it were then inserted into Gratian's *Decretum* (Part I, dist. 96, cap. 13–14). See below, II. 22, 10 and 19.



it was valid, the force of that privilege or grant did not extend to the other principates of the world nor to that of the Romans in all of its provinces; therefore the more recent Roman bishops later on assumed this universal coercive jurisdiction over the entire world under another title which includes them all, viz. ‘plenitude of power’,<sup>15</sup> which they assert was granted by Christ to Saint Peter and his successors in the episcopal see of Rome as the vicars of Christ. For Christ – as they say, and this is true – was king of kings and lord of lords,<sup>16</sup> of all persons and things universally; even if the inference they want does not follow from this at all, as will become clear with certainty in what follows. The sense of this title among the Roman bishops is therefore this, that just as Christ had plenitude of power and jurisdiction over all kings, princes, communities, collective bodies and individual persons, so they too, who call themselves the vicars of Christ, should have this plenitude of coercive power, defined by no human law.

IO

Now an evident sign that the Roman bishops intend the sense of this title (sc. plenitude of power) in the way we have said is that a certain Clement, the fifth Roman bishop of that name, uses it in this way in an edict or decretal of his (in Book VII, *On the Sentence and the Matter Adjudged*), directed at Henry the seventh of that name, the most recent Roman emperor of divine memory; for in revoking a certain sentence of this blessed Henry, he produced among other things a passage that expresses what we said about their sense of the said title.<sup>17</sup> However, we have omitted to cite it here because of the familiarity of the matter and to keep the discussion short, and also because we shall quote it more to the point in chapter 25 of the second discourse, section 17. Since, therefore, Christ is or was no more king and lord of the Roman emperor than of any other king or prince, but on the contrary equally or more so of the latter, since in the time of Christ the Roman prince was monarch over all the earth, it is plain that the sense of this title extends to all principates by

<sup>15</sup> Discussed fully at II. 23 below, and see the Introduction, above, p. xxviii.

<sup>16</sup> An implicit reference to Revelation 19. 16.

<sup>17</sup> Pope Clement V (1305–14); the emperor Henry VII (elected 1298, d. 1313). Marsilius deals in more detail with the conflict between Henry and Clement, including his controversial bull *Pastoralis cura* mentioned here, in Discourse II: see below, II. 23, 11–12 and notes there.

virtue of the same root. And that this is what the Roman bishops mean by it, the contentious attack of the Roman bishop Boniface VIII against Philip the Fair, king of France of illustrious memory, manifestly teaches us; along with the subsequent decretal of the same Boniface which we quote in chapter 20 of the second discourse, section 8: in which he determines that we must believe that every human creature is subject in coercive jurisdiction to the Roman pontiff, of necessity of eternal salvation.<sup>18</sup>

## II

Entering upon this path in this way, then, the Roman bishops (under the façade of seeking peace among the Christian people) began by excommunicating certain individuals who were unwilling to accept their judgement, and then by passing sentence upon their goods and persons: more expressly, indeed, upon those who are less able to resist their power, such as the individuals and communities of Italy (whose realm, divided and torn as it is in almost all its parts, can be the more easily oppressed); more loosely against others, like kings and princes, whose resistance and coercive power they fear. Nevertheless, little by little they creep up – and are always trying to creep up – against the latter by usurping their jurisdictions, since they do not dare invade the whole thing at once, and for this reason their stealthy deception has so far escaped the notice even of the Roman emperors and the peoples subject to them. For the Roman bishops have gradually taken over one jurisdiction after another, especially during times when the imperial throne has been vacant, so that in the end they now say that they have total coercive temporal jurisdiction over this same prince. Most recently and manifestly, the present bishop<sup>19</sup> has written that he has supreme jurisdiction over the prince of the Romans, in the Italian as much as the German provinces, and over all the lesser princes, communities, collective bodies and individual persons

<sup>18</sup> Boniface VIII, pope from 1294–1303, who came into conflict with Philip IV of France (1285–1314) over the issue of royal control of the church in France. Marsilius here refers to Boniface's (even more) controversial bull *Unam sanctam*: see below, II. 20, 8 and note there.

<sup>19</sup> I.e. John XXII, pope 1316–34; Marsilius refuses throughout to recognise his legitimacy. The reference is probably especially to the *monitorium* he directed against Ludwig of Bavaria on 8th October 1323, and his excommunication on 23rd March 1324; see below, II. 3, 14 and note there.

of the provinces just mentioned, of whatever dignity and rank they may be, as well as over all their feudal and other temporal holdings; plainly ascribing to himself the power to confer and to transfer their principates, as everyone can clearly see from certain writings of this bishop that he calls 'edicts' or 'sentences'.

12

This wrong apprehension on the part of certain Roman bishops – and perhaps also their perverted inclination for principate, which they assert is due to them from the plenitude of power handed them (as they say) by Christ – is the singular cause that we have said is productive of intranquillity or discord in a city or realm. For being prone to creep up on every realm (as said in the proem), it has for a long time harassed the realm of Italy with its baneful action, and has kept and still keeps it from tranquillity or peace by preventing with all its might the accession or institution of its prince, sc. the Roman emperor, and his action in the said empire. In the absence of such action (sc. of bringing civil acts to justice) injuries and disputes easily arise. And these, if they are not measured by the standard of justice or law because of the absence of the measurer, cause the fighting that has led to divisions between the citizens and ultimately the dissolution of the Italian polities or civil orders, just as we said. With this opinion, then, and perhaps also the inclination (of which we spoke) to exercise principate, the Roman bishop strives to make the prince of the Romans subject to him in coercive or temporal jurisdiction, when that prince neither owes it by right (as we shall show plainly from what follows) nor has the wish to be subject to him in such judgement. Hence so much contention and discord has arisen that it cannot be laid to rest without great danger to souls and bodies and expenditure of goods.

For as was demonstrated in chapters 15 and 17 of this discourse, the office of coercive principate over any individual person, of whatever rank, or any community or collective body, does not belong to the Roman or to any other bishop, priest or spiritual minister in his capacity as such. And this was Aristotle's opinion concerning the priesthood of any religion or following, when he said, *Politics* IV: 'For this reason not all, whether elected or chosen by lot, should be established as princes, for example priests in the first instance. For this is something that is to be kept apart from political principates etc. For those are political responsibilities,'

i.e. offices; etc. And a little further on he adds: 'Whereas these are domestic.'<sup>20</sup>

13

And since this pernicious plague, which is so profoundly inimical to all human calm and happiness, could – from the poison of that same root – infect all other realms of Christian faithful in this world, I judge it of the first necessity to repel it, as I said in the proem. Firstly by exposing the mask of the said opinion, as the root of past and future evils, and then if necessary by constraining its supporters or inventors (whether they are ignorant or unjust and obstinate defenders) by external action. This is an obligation upon all those who have the knowledge and ability to resist it; to the extent that if they neglect or omit to do so on any occasion they are unjust, as Cicero attests, *On Duties* I chapter 5, when he says: 'Of injustice there are two kinds: men may inflict injury; or else when it is being inflicted on others, they may fail to deflect it, even though they could.'<sup>21</sup> See, then, according to this noteworthy opinion of Cicero's, that it is not only those who commit injury upon others who are unjust, but also those who have the knowledge and the ability to prevent those who inflict injury on others, but nevertheless do not prevent them. For any man owes this to another man by a law that is quasi-natural, viz. the debt of human friendship and society. And so that I, in knowingly transgressing this law, should not be called unjust – at least to myself – it is my purpose to drive off this plague from my faithful brothers in Christ, firstly by my teaching and then by external action, as much as I may be able. Because I seem to discern, without a doubt, that it has been granted me from on high to know and to be able to expose the sophism upon which this warped opinion (and perhaps also perverted inclination) of certain Roman bishops and their accomplices, now and previously, has so far relied and continues to rely for its support.

<sup>20</sup> Aristotle, *Politics* IV 1299a16–20, a23. Cf. Marsilius's reference above (I. 16, 16) to the 'domestic economy' (*iconomia*) of the church: he wants to avoid any suggestion that the church is a political structure.

<sup>21</sup> Cicero, *De officiis* (*On Duties*) I 23, p. 10.

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*Discourse II*

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I

On three impediments or modes of opposition  
to the truths contained in this discourse;  
the bearing of the matters to be discussed;  
and the manner of proceeding

As I embark upon something so difficult, then, I am quite assured that there is nothing in the way that could have a claim to truth. But nevertheless I see three entrenched enemies of that very truth readying their weapons against this work. One is persecution from the violent power of the Roman bishops and their accomplices. For they will strive with all their forces to destroy both it and those heralds of the truth who spread it abroad, as the direct adversaries of their purpose of unjustly seizing and keeping possession of temporal goods, as well as of their burning desire for principate. To recall them from all this with words of truth will be a difficult business, however evident those words may be. But may merciful God in his grace deign to recall them nonetheless: may he curb their violent might, and may all his faithful, both princes and subjects, curb it likewise; for it is everyone's peace that is menaced by these men.

A second old enemy of almost any truth is no less readying its weapons against this work, viz. the habit of listening to and believing things that are false: I mean falsehoods that have long been sown and taken root in the souls of many simple Christian faithful by certain priests or bishops and their adherents. For in various of their speeches and writings these priests have implicated both divine and human judgements about human acts in multiple convolutions that are extremely laborious to unfold.<sup>1</sup>

<sup>1</sup> Cf. above, I. 1, 3 and n. 12 for this metaphor.

And from this tissue of opinions they have inferred, although without any justification, certain interpretations by means of which they have introduced their unjust despotism upon the Christian faithful. For these in their simplicity believe, from various bits of misreasoning on the part of these priests – along with a threat of eternal damnation – that they are bound by divine ordinance to obey these spoken and written sophistries (in which the conclusion frequently fails to follow from the premises). For the true opinions of these matters of inquiry and dispute, and their true and uncomplicated beginnings, have been driven from men's minds and falsehoods gradually insinuated in their place, so that the ability to discern either is now hidden from most. And this is because, in any discipline, the habit of listening to what is false confuses and diverts men from the truth in no small measure: as Aristotle attests, *Metaphysics* II, last chapter.<sup>2</sup> And because of this habit those who read and hear this work, especially those who have no training in philosophy or practice in Holy Scripture, will from the outset be greatly hindered from understanding and fully believing the truths contained in this volume.

The remaining and third entrenched enemy of the truth will present a major obstacle to this teaching: and this is the bitterness of those who, although they believe we have told the truth, will nevertheless set themselves against this true opinion because they realise someone has developed it before them; prompted by the malignant spirit of smouldering envy to tear at it with the hidden teeth of detractors or with noisy yaps of presumption.

## 2

But I shall not desist from my purpose through terror of the violent power of the priests I address in these writings, burning for a principate which is not their due: since as the Psalmist says, 'The Lord is on my side; I will not fear: what can man do unto me?'<sup>3</sup> Nor shall I, because of the attacks of invidious detractors, fail to explain what can be of so much help to all if it is explained in this way, and of so much harm if neglected. And these people, torturing themselves, will only meet themselves with their own malice: for 'envy' – as Huguccio well describes it – 'turns on its own agent, the torment

<sup>2</sup> Aristotle, *Metaphysics* A 994b32–995a1; cf. above, I. 16, 2.

<sup>3</sup> Psalm 117. 6 (AV 118. 6).



of a soul eating itself away over another's good.<sup>4</sup> As for inimical habit, that will be adequately refuted by the evidence of the truths I shall enunciate.

3

Now I shall embark on the second discourse of this book by first adducing those authorities of the sacred canon, along with various individuals' fictitious and foreign interpretations of them, by which it might perhaps seem possible to conclude that the bishop of Rome is owed, by right, supreme coercive jurisdiction or principate, especially within the bounds of the Christian religion: as much over the prince of the Romans as over all other principates, communities, collective bodies and individual persons, even secular; and by the same token still more over priests or bishops and deacons, their colleges and individual persons, of whatever condition they may be. Because if, in virtue of the words of Scripture, this can by some necessity be concluded for one of these – either secular or clerical – then it must by the same necessity be the conclusion for all of them.

I shall then bring in certain quasi-political reasons to shore up the proposition just stated, which appear very likely if we suppose certain truths of Holy Scripture – which indeed everyone should suppose to be true with one accord. I shall bring them in, I say, so that I can dissolve them so patently that no one can again be deceived by them or others like them; and so that as a result of their being dissolved in this way, the weakness of the view just mentioned, to which they have so long lent the appearance of probability, might become more obvious.

4

After this I shall introduce from the opposite side those truths of the sacred canon, together with those expositions of the saints their

<sup>4</sup>Huguccio of Pisa (d. 1201), bishop of Ferrara, canon lawyer and perhaps the most famous of the 'Decretists' (commentators of Gratian's *Decretum*). The quotation is not from any of his published works. An etymological dictionary, the *Liber derivationum*, was attributed to Huguccio and was popular in the teaching of grammar and rhetoric at Padua, but this too does not appear to be the source: British Library MS Add. 18380 has no entry for *Invidia*, and only a brief definition s.v. *Vide* as *odium aliene felicitatis*. The quotation appears in exactly this form, however, in Thomas of Ireland's *Manipulus florum*, a very popular medieval florilegium compiled in Paris ca. 1306, attributed to 'Prosper. Libro 3 de viciis et virtutibus'. This text is edited online at <http://info.wlu.ca/~wwwhist/faculty/cnighman/>

interpreters which are not fictitious, foreign or false, but fitting and proper, which clearly demonstrate that neither the bishop of Rome who is called the pope nor any other priest or bishop or spiritual minister, together or separately, has or should have as such any coercive jurisdiction, either of property or of persons, over any priest or bishop or deacon or college of them; and by the same token still less does he or any of them, together or separately, have any such jurisdiction over any secular prince or principate, collective body or individual, of whatever condition; except in the case that such jurisdiction has been granted to a priest or bishop or college of them by the human legislator in the province. Those political demonstrations of which chapters 12, 15 and 17 of the first discourse contain the appropriate principles can and should also be brought to bear to demonstrate and confirm this position, as and when someone might find it timely. For we have determined not to go over them again here in order to keep the discussion short.

5

It will then be very useful to address any questions that may have arisen from what we have said; and along with this we shall also say something profitable to the business in hand about the privileges of the Roman princes that have already been granted to the bishops of Rome. Because it was these that provided the original occasion for the usurpation, occupation or detention of coercive jurisdictions, which the bishops of Rome now ascribe to their own authority; and which afterwards gained strength through custom, or rather abuse, especially when the imperial seat was vacant. For the bishops of Rome were from the beginning sustained by these privileges – and by nothing else – in getting and keeping hold of coercive jurisdictions. But lately they no longer make use of these privileges: either because they have been stripped of them for their unworthiness; or in case the weakness of their pretexts and the truth about the jurisdiction that they have already unjustifiably assumed should become obvious; or in order to conceal their ingratitude; or perhaps also because (as we showed was likely in the [last chapter](#) of the first discourse) their aim is to take over the coercive jurisdiction of all realms, for which the privileges we have recalled offer no support. Instead they use another and universal title, mentioned above, in order to subject to themselves princes and all who live a civil life, sc. that of plenitude of power. And on the basis of this plenitude of power, given by

Christ to Saint Peter as his vicar, any and every bishop of Rome now says that he has, as Peter's successor, supreme coercive jurisdiction over all men and all provinces.

The remainder of this discourse will go to show that the authorities of the sacred canon which were brought in against what we have said is the judgement of truth and of Scripture offer no support to the said error, but rather stand in opposition to it, as will be made plain and evident from the expositions of certain saints together with other approved doctors of the Christian faith. From this it will also become apparent that the expositions (or rather fictions) of some individuals who try to twist Scripture to shore up the sense of the abovementioned false view, are forced, foreign to Scripture and distorted, and are not in harmony with the opinion of the saints and the more learned doctors of the Christian faith.

Last of all I shall dissolve those reasons that I called quasi-political, which seemed to offer some support to the often-mentioned false belief.

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## On distinguishing the terms and expressions that make up the questions to be decided

Before we begin to discuss what we have proposed, however, we shall distinguish between the meanings of the terms we shall be using in our main questions, in case their multiplicity leads to ambiguity and this involution of opinions that we want to open up. For as it says in *Refutations I*: ‘Those who are ignorant of the force of words misreason both when they engage in disputation themselves, and when they listen to others.’<sup>1</sup> Now the terms or expressions for which we want to distinguish between multiple meanings are these: ‘church’, ‘judge’, ‘spiritual’ and ‘temporal’;<sup>2</sup> and the reason is, that as a result of our proposed inquiry we want to know whether it belongs to the Roman or any other bishop or priest, deacon, or college of those who are called ‘churchmen’ to be a coercive judge of temporal things or spiritual things or both, or whether they are not in fact such judges in respect of either.

## 2

Pursuing this aim, then, let us say that this term ‘church’ is a word stemming from Greek usage, and signified among them – at least in what has come down to us – a gathering of a people contained under one single government. This is the sense in which Aristotle understood it when he said, *Politics II* chapter 7: ‘All participate in the church.’<sup>3</sup> Among the Latins, however, this word in common and widespread parlance means, in one of its significations, the temple or house in which the faithful

<sup>1</sup> Aristotle, *Sophistici elenchi (Sophistical Refutations)* I 165a16–18.

<sup>2</sup> *Ecclesia, iudex (and iudicium), spirituale, temporale.*     <sup>3</sup> Aristotle, *Politics II* 1272a10.

worship God as a community and most often pray to him. For this is the way the Apostle talked about the church in I Corinthians 11: ‘What? Have ye not houses to eat and to drink in? Or despise ye the church of God?’<sup>4</sup> Here the gloss according to Augustine says: “despise ye the church of God”, i.e. the house of prayer’, and adds a little further on: ‘Everyday usage has resulted in the fact that “to go into or take refuge in a church” is not said except of someone who has gone into or taken refuge in the place itself or within its walls.’<sup>5</sup> In another signification this term ‘church’ implies all the priests or bishops, deacons, and other ministers of the temple or church in the previous signification; in this sense it is only the clergy or ministers just-mentioned who are widely called ecclesiastical personages or churchmen. In yet another, and recent, signification, this term ‘church’ particularly implies the ministers, priests or bishops and deacons who minister and preside in the metropolitan or principal church, something the church of the city of Rome has long since achieved. The ministers and presiding officers of this church are the Roman pope and his cardinals, and they have now from a certain usage achieved a situation where they are called ‘the church’, and that ‘the church has done or accepted something’, when they themselves have done or accepted or otherwise ordained something.<sup>6</sup>

### 3

Again, in another signification – the truest and most proper of all according to the original application of the term or the intention of those who originally applied it, even if it is not so widespread or consistent with modern usage – this term ‘church’ is said of the universal body of faithful believers<sup>7</sup> who call upon the name of Christ, and of all the parts of this body within any community, even the household. And this was the original application of the term and its customary usage among

<sup>4</sup> I Corinthians 11. 22.

<sup>5</sup> Peter Lombard, *Collectanea in epistolas Pauli*, MPL 191, c. 1639B-C.

<sup>6</sup> Marsilius seems to be referring to the habitual language of church government and canon law, in which it was quite frequent to argue that the Roman church can (at least in certain contexts) be taken for the universal church.

<sup>7</sup> *Universitas* (or *congregatio fidelium*) was in fact widespread as one sense of *ecclesia*; Marsilius’s polemical parenthesis is presumably directed against those who, even if they acknowledge this sense, do not give it priority. Again his target may be the canonists’ legal analysis of the church and its actions, which naturally focused on the status and powers of its agents of government rather than the universal body of the faithful.

the apostles and in the early church. Hence the Apostle, I Corinthians 1: 'To the church which is at Corinth, to them that are sanctified in Christ Jesus, called to be saints, with all that call upon the name of Jesus Christ our Lord.'<sup>8</sup> Here the gloss according to Ambrose has: 'sanctified in baptism, and this in Jesus Christ'.<sup>9</sup> And the Apostle intended this meaning when he spoke to the priests at Ephesus, Acts 20, and said: 'Take heed therefore unto yourselves, and to the universal flock, in which the Holy Ghost hath made you bishops to rule the church of God, which he hath purchased with his own blood.'<sup>10</sup> And therefore all the faithful of Christ, priests and non-priests alike, are and should be called churchmen according to this truest and most proper signification, because Christ purchased and redeemed all of them by his blood: as it says explicitly in the gloss on that passage of Luke 22: 'This is my body, which is given for you.'<sup>11</sup> "For you" the gloss says 'does not mean that the body of Christ was given, and his blood spilt, for the apostles alone, but for the whole of humanity.'<sup>12</sup> So, then, the blood of Christ was not spilt for the apostles alone; therefore it is not they alone who are or have been purchased by him, nor (in consequence) only the priests or ministers of the temples, their successors in that office; and therefore it is not they alone who are the 'church' that Christ purchased with his blood. For the same reason, neither are those ministers, bishops or priests and deacons, by themselves that 'church' which is the bride of Christ, but only a part of this bride, since Christ gave himself up for this bride. Hence Paul, Philippians 5: 'Husbands, love your wives, even as Christ also loved the church, and gave himself for it.'<sup>13</sup> But Christ did not give himself for the apostles alone or their successors in that office, the bishops or priests and the deacons, but on the contrary for the whole of humanity. And therefore it is not they or the assemblage of them who alone are the bride of Christ, whether or not a certain assemblage of them happens to call itself individually the bride of Christ, in an abuse of the word for the sake of fraudulently obtaining its own, temporal convenience and the detriment

<sup>8</sup> I Corinthians 1. 2.

<sup>9</sup> Lombard, *Collectanea*, MPL 191, c. 1535B. 'Ambrose' is St Ambrose (ca. 339–97), archbishop of Milan, one of the four 'doctors' of the Latin church and an important authority for medieval theologians.

<sup>10</sup> Acts 20. 28.      <sup>11</sup> Luke 22. 19.

<sup>12</sup> The gloss is from Theophylact (ca. 1050–1120), biblical commentator and archbishop of Ochrid in Bulgaria. See Thomas Aquinas, *Catena aurea in quatuor evangelia* ed. Angelici Guarienti (Turin and Rome: Marietti, 1953), vol. II: *Expositio in Lucam et Ioannem*, 287.

<sup>13</sup> Ephesians (not Philippians) 5. 25.

of others. We learn this same opinion from the words of the Apostle in I Corinthians, last chapter, Thessalonians 1, Colossians 4 and Philemon 1.<sup>14</sup> For in all these places the Apostle takes ‘church’ in what we have said is its proper and truest signification.

4

Following on from this we need to distinguish between the meanings of these terms ‘temporal’ and then ‘spiritual’. Let us start with the one that is more familiar to us<sup>15</sup> and say that this expression ‘temporal’, in one widespread signification, is said of all corporeal things (both natural and artificial) apart from man, which – being in man’s power in some sense – are ordained to supply his uses, needs and pleasures in and for the status of this worldly life. And in this way, more generally, everything that begins and ends in time is customarily called ‘temporal’. For such things properly are and are said to be in time, as argued in *Physics* IV.<sup>16</sup>

In another sense, ‘temporal’ is predicated of every human disposition, action or passion that man enacts either on himself or on another, for an end in this world or this present life.

Again (but less universally) this term ‘temporal’ is predicated of those voluntary human actions and passions which are transitive in respect of the convenience or inconvenience of someone other than the doer. These are what legislators of human laws are mostly concerned with.

5

I now want to distinguish between the significations or meanings of this expression ‘spiritual’, which, in one of its accepted senses, is said of all incorporeal substances and their actions.

In another signification, however, it is predicated of every action and passion of man’s cognitive or appetitive faculty which remains within himself. In this sense certain actions of corporeal entities upon the senses

<sup>14</sup> I Corinthians 16. 1, 19; I Thessalonians 1. 1, II Thessalonians 1. 1, Colossians 4. 15, 16; Philemon 1. 2.

<sup>15</sup> *Notior nobis*: an expression from Aristotle, who argued that inquiry should start with things that are better known from our point of view and proceed to things which are better known in reality; cf. *Posterior Analytics* I 72a1; *Physics* I. 1 184a16–17.

<sup>16</sup> Aristotle, *Physics* IV 221a–b discusses what it is to be in time, time being the number of motion; cf. 221b1 for the idea that eternally existing things are not in time.

of animals are also customarily called spiritual and immaterial: for example the images or phantasms or visible species of things which are in some way the basis of cognition for the soul.<sup>17</sup> Some people place in this category the actions of sensible things even on inanimate substances, for example the production of light and other similar things.

Again, and more to the point, this term 'spiritual' is predicated of the divine law and of the teaching and learning of commands and counsels in accordance with it and through it. Into this signification come all the sacraments of the church and their effects, all divine grace, all the theological virtues,<sup>18</sup> and all the gifts of the holy spirit that order us towards eternal life. For this is the way the Apostle used the term – and properly – in Romans 15<sup>19</sup> and at I Corinthians 9, when he said: 'If we have sown unto you spiritual things, is it a great thing if we should reap your carnal things?'<sup>20</sup> Here the gloss according to Ambrose says: "Spiritual things", i.e. those things which give your spirit life, or which have been given by the holy spirit, viz. the word of God and the secret of the kingdom of heaven.<sup>21</sup>

Further, according to another signification this word is habitually taken for any voluntary human action or even passion, enacted upon oneself or another, for the sake of meriting the blessed life of the world to come: contemplating God and loving him and one's neighbours; acts of abstinence, mercy, gentleness; offerings for the sake of piety or divine worship; acts of hospitality, pilgrimage, punishment of one's own body, contempt and avoidance of worldly and carnal pleasures; and generally all things of this kind done for the said end.

Yet again this term is predicated – although not so properly as in the second and third ways – of the temple or church in its second signification, and of all the vessels and apparatus within it which are ordained towards divine worship.

Most recently of all, however, and highly inappropriately and improperly, some people stretch this term to cover the voluntary actions and

<sup>17</sup> Aristotle held that intellectual cognition cannot take place in the rational soul without the presence of immaterial 'images' of perceptible things: cf. *De anima (On the Soul)* III 432a6–10.

<sup>18</sup> The theological (as distinct from moral) virtues are faith, hope and charity. Discussing theological virtues at *Summa theologiae* 1a2ae q. 62 and q. 63, Aquinas distinguishes them from moral virtues on the grounds that they are ordained towards our supernatural end, God, and are divinely infused rather than acquired through habituation.

<sup>19</sup> Romans 15. 27.   <sup>20</sup> I Corinthians 9. 11.

<sup>21</sup> Lombard, *Collectanea*, MPL 191 c.1609B, attributed to Ambrose and Augustine.



omissions on the part of priests or bishops, deacons, and other ministers of God's temple, which are transitive in respect of the convenience or inconvenience of someone other than the doer for the status of this worldly life.<sup>22</sup>

Again, they stretch this same term – even more improperly – to the possessions and temporal goods of these men (both moveable and immoveable) and to certain proceeds from temporal goods which they call tithes, so that on the pretext of a word they can be exempted from the norm of civil laws and princes.<sup>23</sup>

## 6

But in doing so they clearly abuse the word in opposition to the truth and to the intention and usage of the Apostle and the saints, who called such things not 'spiritual' but 'carnal' or 'temporal'. Hence Romans 15: 'For if the gentiles have been made partakers of their spiritual things, their duty is also to minister unto them in carnal things.'<sup>24</sup> More explicitly in I Corinthians 9: 'If we' says the Apostle 'have sown unto you spiritual things, is it a great thing if we should reap your carnal things?'<sup>25</sup> Where the gloss according to Ambrose has: 'Because "if we have sown unto you spiritual things", i.e. those which give your spirit life, or which have been given by the holy spirit, viz. the word of God and the secret of the kingdom of heaven, "is it a great thing if we should reap" for our sustenance "your carnal things", that is, those temporal things that have been bestowed for the purposes of life and the needs of the flesh?'<sup>26</sup> See here how the Apostle and Ambrose explicitly call these external goods, which were due to preachers of the gospel to sustain them in food and clothing, carnal and temporal things. And so they are in truth, whether they are tithes or estates, revenues or alms or collections; the reason being given by Ambrose, that 'they have been bestowed for the purposes of life and the needs of the flesh', i.e. of mortal life.

<sup>22</sup> Compare, as Quillet notes, Giles of Rome in his *On Ecclesiastical Power*, Book III, ch. 5 (tr. R. W. Dyson, Woodbridge: Boydell, 1986, p. 164): 'That if temporal things become spiritual, or if they are annexed to spiritual things, or, conversely, if spiritual things are annexed to temporal things, these are special cases by reason of which the church must exercise a special temporal jurisdiction,' in which Giles argues that some temporal things can be called spiritual 'by reason of certain spiritual conditions' (p. 165).

<sup>23</sup> *Ibid.* p. 166: 'tithes are numbered amongst spiritual things; for they were instituted, not by man, but by God.'

<sup>24</sup> Romans 15. 27.    <sup>25</sup> I Corinthians 9. 11.    <sup>26</sup> See above, n. 21.

7

We should undoubtedly hold the same opinion with regard to certain actions of priests, bishops and deacons. For not all of their actions are or should be called spiritual; on the contrary, many of them are civil, contentious and carnal or temporal. For it is quite possible for them to borrow, deposit, buy, sell, strike, kill, steal, commit adultery, rape, betray, deceive, bear false witness, defame, lapse into heresy and in general commit all other enormities, crimes and acts of contention in just the same way as they are committed by non-priests. And therefore one might aptly inquire of them, whether actions like these – which we have said are possible on their part – are or should be called spiritual by anyone in his right mind? And clearly not: on the contrary, they are carnal and temporal. Hence the Apostle, I Corinthians 3, speaking about such actions indifferently with regard to all: ‘For where there reigns among you jealousy, and contention, are ye not carnal, and walk as men?’<sup>27</sup> Since, therefore, incontrovertible evidence demonstrates that both between priests themselves, and between priests and laymen, jealousies and contentions arise as a result of the said or similar actions, it is plain that these kinds of acts on the part of priests and bishops are carnal and temporal: they are not in truth spiritual and should not be so-called.

An indication that what we have said is true, even in the judgement of priests, is that in order to remove these contentions many human ordinances, which they call ‘decretals’, have been published by the Roman pontiffs; and prior to these there were the laws of the Roman princes concerning these matters. For deacons and priests or bishops commit, and are capable of committing, many voluntary actions that are transitive upon the convenience or inconvenience or injury of another person for and in the status of this worldly life. And therefore the measure of such actions should be the human law, as said in chapter 15 of the first discourse, and as will be said further to the point in chapter 8 of this discourse.

8

It remains now to distinguish the meanings of these terms ‘judge’ and ‘judgement’ (which signifies the action of the judge). For they are among those terms with multiple senses, and by their multiplicity they give rise

<sup>27</sup> I Corinthians 1. 3.

to ambiguity and obstacles in deciding questions. Now in one of its significations, 'judge' is said of everyone who discerns or recognises something, especially in accordance with a particular theoretical or practical disposition; and this term 'judgement' is said of the act of cognition or discernment on the part of such individuals. In this sense a geometer is a judge and judges on the subject of figures and their properties; a physician on the subject of health and sickness; a man of prudence on the subject of what should be done and avoided; and a builder on the subject of how to construct houses. And likewise every knowledgeable person is called a judge and judges on the subject of what he knows about or practises. Aristotle understood these terms according to this signification when he said, *Ethics* I chapter 1: 'Each man judges well of that which he knows, and he is a good judge of these things.'<sup>28</sup>

Further, in another signification this term 'judge' is said of someone who has knowledge of civil or political law; such a person is also customarily called a 'lawyer', but in very many provinces, especially in Italy, he is called a 'judge'.

Yet again, this term 'judge' is said of the prince, and this term 'judgement' of the sentence of the prince, who has the authority to judge what is just and beneficial in accordance with the laws or customs and to command and execute the sentences he has passed with coercive power. In this sense a particular book of the sacred canon or Bible is called *Judges*. And in this sense, too, Aristotle said in *Rhetoric* I chapter 1 on the subject of the judge or the prince: 'The prefect and the judge make judgements concerning what is already present and defined.'<sup>29</sup> Likewise, talking of the judgement of the prince, he immediately adds: 'to whom' viz. to the prefect or judge 'love and hate and personal convenience are often annexed, so that they are unable adequately to perceive the truth, but attend in their judgements rather to their own pleasure or discomfort.'<sup>30</sup>

There are perhaps other significations of the above terms; but we believe we have identified those that are more widespread and necessary for our proposed inquiry.

<sup>28</sup> Aristotle, *Nicomachean Ethics* I 1094b28.

<sup>29</sup> Aristotle, *Rhetoric* I 1354b7–8.

<sup>30</sup> *Ibid.* 8–11.

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3

On the canonic sayings and certain other pieces of argumentation that appear to establish convincingly that coercive principate is due to bishops or priests as such, even without its being granted by the human legislator, and that supreme coercive principate is due to the bishop of Rome or pope

Now that we have distinguished the meanings of the terms around which much of our inquiry is centred, we can approach our principal purpose with greater sureness. Let us first, then, bring in the authorities of Holy Scripture which might make someone think that the Roman bishop who is called the pope is the supreme judge (even in the third signification of judge and judgement) over all bishops or priests and other ecclesiastical ministers of the world, and also over all princes, communities, collective bodies and individual persons of this world, whatever their condition.<sup>1</sup>

2

Let us set down as the first of these authorities the passage of Scripture found in Matthew 16, in which Christ, addressing Saint Peter, says: ‘And

<sup>1</sup> The scriptural passages quoted here, and the other arguments that follow, are all standard in the literature; cf. for example the lists in John of Paris, *On Royal and Papal Power*, ch. 11 (tr. Watt, pp. 130–41), or the anonymous *Quaestio in utramque partem* (tr. Dyson, *Three Royalist Tracts*, pp. 85–111). What is very striking by comparison, however, is the absence of any arguments from canon law.

I will give unto thee the keys of the kingdom of heaven: and whatsoever thou shalt bind on earth shall be bound in heaven: and whatsoever thou shalt loose on earth shall be loosed in heaven.<sup>2</sup> For it is from this passage that certain Roman bishops have assumed for themselves the authority of supreme jurisdiction just mentioned. For by the keys that Christ granted to Peter, they want it to be understood that plenitude of power over the entire government of humanity was handed to them. Just as Christ had this plenitude over all kings and princes, so he granted it to Saint Peter and his successors in the episcopal see of Rome as the general vicars of Christ in this world.

3

The second passage of Scripture in support of the same point is taken from the words of Christ in Matthew 11, when he said: 'All things are delivered unto me of my Father;<sup>3</sup> and again in Matthew 28 when he said: 'All power is given unto me in heaven and earth.'<sup>4</sup> Since, therefore, Saint Peter and his successors in the episcopal see of Rome were and are the vicars of Christ – as these people say – it seems then that all power or plenitude of power has been granted to these same individuals, and in consequence the authority of any jurisdiction whatsoever.

4

The third passage to the same effect is taken from Matthew 8 and Mark 5, where it says: 'So the devils besought him' – viz. Christ – 'saying, If thou cast us out, suffer us to go away into the herd of swine. And he said unto them, Go. And when they were come out, they went into the herd of swine: and, behold, the whole herd of swine ran violently down a steep place into the sea, and perished in the waters.'<sup>5</sup> From these words it appears that Christ disposed of all temporal things as if they were his own, because otherwise he would have sinned in destroying the herd of swine. But it is impious to say that Christ sinned, he whose flesh did not see corruption. Since, therefore, Saint Peter and the

<sup>2</sup> Matthew 16. 19.    <sup>3</sup> Matthew 11. 27.    <sup>4</sup> Matthew 28. 18.

<sup>5</sup> Matthew 8. 31–2; Mark 5. 12–13. The quotation is from Matthew.

Roman bishops his successors are and were the particular vicars of Christ (as some say), they can dispose of all temporal things as judges in the third signification, and they have plenitude of power and dominion of them just as Christ did.

5

Again, the same thing is indicated by what we find in Matthew 21, Mark 11 and Luke 19, where the passage runs as follows: 'Then sent Jesus two disciples, Saying unto them, Go into the village over against you, and straightway ye shall find an ass tied, and a colt with her;' or, 'a colt tied to an ass, whereon yet never man sat' as in Mark and Luke. 'Loose them, and bring them unto me.'<sup>6</sup> From this one can conclude the same thing, and by the same manner of deduction, as in the previous passage.

6

A further argument for the same point comes from Luke 22, where we find this passage: 'Behold, here are two swords' (said the apostles in reply to Christ). 'And he' (sc. Christ) replied: 'It is enough.'<sup>7</sup> By these words, according to some people's interpretation, we should understand that there are two principates in this present world, one ecclesiastical or spiritual, and the other temporal or secular. So when Christ said, directing his words to the apostles: 'It is enough' (supply: for you to have these two swords), he seems to have meant that both swords should belong to their authority, and especially to that of Saint Peter as the foremost among them. For if he had not wanted them to have the temporal sword, he should have said: It is too much.

7

Again, it seems that we must believe the same thing from John 22, where Christ was addressing Saint Peter and said: 'Feed my sheep, feed my lambs, feed my sheep,'<sup>8</sup> repeating the same sentence three times, as we have quoted. From these words some people take the following sense,

<sup>6</sup> Matthew 21. 1-2; Mark 9. 1-2; Luke 19. 29-30.

<sup>7</sup> Luke 22. 38.

<sup>8</sup> John 21. 15-17.

viz. that Saint Peter and his successors the bishops of Rome should be unqualifiedly set over all Christ's faithful sheep, sc. Christians, and of these especially all priests and deacons.

8

Yet again this seems to be the explicit opinion of Saint Paul, I Corinthians 6, when he said: 'Know ye not that we shall judge angels? How much more the things of this world?'<sup>9</sup> It appears then that it belongs to priests and bishops, and especially to the first of them, sc. the bishop of Rome, to pass judgements in the third signification. Furthermore the Apostle seems to have expressed the same opinion in I Corinthians 9, when he said: 'Have we not power to eat' etc.<sup>10</sup> And the same again in II Thessalonians 3.<sup>11</sup> In all of these he seemingly explicitly means that a power has been given to him by God over the temporal business of the faithful, and consequently jurisdiction over them.

9

The same thing can moreover be shown from I Timothy 5, when the Apostle said to Timothy: 'Against a priest receive not an accusation, but before two or three witnesses.'<sup>12</sup> It seems from this, therefore, that a bishop has jurisdiction at least over priests, deacons and other ministers of the temple, since it belongs to him to hear an accusation against them.

We shall refrain from quoting proofs for and against the conclusion in question from the Old Testament or Scripture. We shall identify the reason for this in chapter 9 of this discourse.<sup>13</sup>

<sup>9</sup> I Corinthians 6. 3.    <sup>10</sup> I Corinthians 9. 4.    <sup>11</sup> II Thessalonians 3. 8–9.

<sup>12</sup> I Timothy 5. 19.

<sup>13</sup> Apparently II. 9, 9 and 10, where Marsilius argues for the difference between priests of the Mosaic and of the Christian law in terms of jurisdiction; the implication being that arguments from the status of the former to that of the latter are not valid. For the opposite point of view, see for example Ptolemy of Lucca's *Determinacio compendiosa de iurisdictione imperii*, ed. M. Krammer, MGH *Fontes iuris germanici antiqui* (Hanover-Leipzig: Hahn, 1909), ch. 5, p. 12: 'But it [i.e. the pope's pre-eminence] can be shown in respect of temporal dominion as well, with various different reasons, and firstly from the Scripture of the Old Testament, whose acts and works the church imitates, "for whatsoever things were written there were written for our learning", as the Apostle says in Romans 15' (my translation).

From the said authorities of Holy Scripture, then, and others like them, together with such interpretations of them as we have given, someone might think that supreme principate over all others is due to the bishop of Rome.

IO

Following on from these authorities, it is appropriate to bring in various bits of quasi-political argumentation which might perhaps cause people to imagine and believe the conclusion just stated. Let us put this one first. As the human body is to the soul, so is the prince of bodies to the prince of souls. But the body is subject to the soul in terms of government. Therefore the prince of bodies, the secular judge, should also be subject to the government of the judge or prince of souls, and especially the first of these, viz. the Roman pontiff.<sup>14</sup>

II

Again, from almost the same root: As corporeal things are to spiritual things, so is the prince of corporeal things to the prince of spiritual things. Now it is certain that corporeal things are in their nature less worthy than and subject to spiritual things. Therefore the prince of corporeal things, the secular judge, should be subject to the prince of the church who is the prince of spiritual things.

I2

Further: Just as end is to end, law to law, and legislator to legislator, so is the judge or prince in respect of one of these to the judge or prince in respect of the other. But the end to which the ecclesiastical judge (the priest or bishop) directs men, and the law according to which he directs them, and the legislator of that law, are all superior to and more perfect than the end, law and legislator to which and according to which the secular judge directs men.<sup>15</sup> Therefore the ecclesiastical judge, the

<sup>14</sup> This kind of analogical argument was a standard element of the papalist position. See for example Giles of Rome, *On Ecclesiastical Power*, Book I, chs. 3–4 (tr. Dyson, pp. 5–9).

<sup>15</sup> For this argument from ends, cf. for example Aquinas, *De regno (De regimine principum)*, Book I, ch. 15: ‘Those who are responsible for intermediate ends should be subject to one who is responsible for the ultimate end, and be directed by his command’ (tr. Dyson, p. 39).



bishop or priest, and especially the first among them, is superior to any secular judge whatsoever. For the end to which the ecclesiastical judge directs men is eternal life; the law according to which he directs them is the divine law; and the immediate legislator of that law is God, in whom neither error nor evil can occur. But the end to which the secular judge intends to direct men is the sufficiency of this worldly life; the law according to which he directs them is the human law; and the direct legislator of that law is a man, or men, who are subject to error and to evil. These latter, therefore, are inferior to and less worthy than those previously mentioned. Therefore also the secular judge, even the supreme secular judge, is inferior to and less worthy than the ecclesiastical judge, the supreme priest.

13

Still further: a thing is unqualifiedly more honourable than another when its action is unqualifiedly more honourable than that of the other. But the action of a bishop or priest is the most honourable of all that can be performed by man in this present life, viz. the consecration of the blessed body of Christ. Therefore any priest at all is of more worth than any non-priest. Since, then, the more worthy should not be subject to the less worthy, but rather set over it, it seems that the secular judge should not be set over but on the contrary subject in jurisdiction to the priest, and especially the first among them, the Roman pontiff.

14

The same thing can be shown again, more specifically, in the case of the prince of the Romans called the emperor. For he who has the authority to establish this principate, and to transfer it at his will from people to people, is superior to the Roman prince in terms of judgement in the third signification. The Roman pontiff says that he is such a person, because it was he who transferred this principate from the Greeks to the Germans. This is made explicit in Book VII of the *Decretals* under the title *On the Swearing of an Oath*,<sup>16</sup> and the most recent so-called bishop of

<sup>16</sup> Clement V's bull *Romani principes*: see below, II, 23, 12 and note there.

Rome<sup>17</sup> says the same thing even more explicitly in a certain edict against Ludwig, duke of Bavaria, elected king of the Romans.<sup>18</sup>

15

Further to the same point: Since it seems to be highly inappropriate that the vicar of Christ, the bishop of Rome, and the other bishops who are the successors of the apostles should be subject to the dictate of any secular prince whatsoever. And also since a secular prince can sin against divine and human law, for which he must be corrected (as said in chapter 18 of the first discourse); but the supreme secular prince has neither superior nor equal, since a plurality of principates was rejected in chapter 17 of the first discourse; so it will appear that coercive jurisdiction over him belongs to the bishop of Rome, and that the converse is in no way the case.

From all this, therefore, it would seem that it can be convincingly established that bishops or priests have coercive jurisdiction, and that the one who is supreme among them, the Roman pontiff, has as his due supreme overall principate in this world. We seem to have supported this sufficiently both with authorities of Holy Scripture and with certain quasi-political and human arguments.

<sup>17</sup> I.e. John XXII.

<sup>18</sup> This is the *monitorium* of John XXII, issued on 8th October 1323: MGH *Constitutiones*, Vol. V, n. 792 (pp. 616–17). Both this text and *Romani principes* repeated the papal claim to have transferred the empire from the Greeks to the Germans in the person of Charlemagne, with the implication that the exercise of imperial jurisdiction depends on the papacy. See further below, II. 26, esp. 3–7. For the title ‘king of the Romans’ (*rex Romanorum*), see the Notes on the Translation, above, p. xlix.

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On the canonic scriptures, the commands or counsels and examples of Christ, and those of the saints and approved doctors of the evangelical law who expounded them; by which it is plainly demonstrated that in virtue of the words of Scripture, neither the Roman nor any other bishop or priest or cleric can claim or ascribe to himself any coercive principate or contentious jurisdiction, still less the supreme, over any cleric or layperson. And moreover that on the counsel and example of Christ, they should, especially within communities of the faithful, refuse such principate if it is offered or granted to them by one who has authority to do so; and again, that all bishops without distinction should be subject to the coercive judgement or principate of him who has dominion by the authority of the human legislator, especially if the legislator is faithful

We now wish to continue by bringing in from the opposite side the truths of Holy Scripture that, in both the literal and the mystical sense of Scripture and according to the interpretation of the saints and the exposition of other approved doctors of the Christian faith, explicitly command or counsel that neither the bishop of Rome who is called the pope, nor any other bishop or priest, or deacon, has and should have any principate or judgement or

coercive jurisdiction over any priest or non-priest, prince, community, collective body or individual person of whatever condition; understanding by ‘coercive judgement’ that which we said (in chapter 2 of this discourse) was implied in the third signification of judge or judgement.

2

Now in order to develop this stance more clearly, we must not lose sight of the fact that we are not asking from this inquiry what power or authority Christ (who was true God and true man) may have or have had in this world, nor what or how much of these he might have been able to confer upon Saint Peter and the other apostles and the bishops or priests who are their successors, since Christian faithful do not raise doubts about these matters in the questions before us. Rather, what we want and what we ought to be asking is what power and authority, to be exercised in this world, Christ wished to confer and did in fact confer; and from what he excluded and prohibited them by counsel or command. For we are bound to believe that they had from Christ just such power and authority as we can convincingly establish, from the words of Scripture, was granted to them, and no other. For all Christian faithful are certain that Christ, who was true God and true man, was able to confer, not just upon the apostles but upon anyone else, coercive authority or jurisdiction in this world over all princes or principates of this world and over all other individual persons; and perhaps even a greater authority than this, for example of creating beings, of destroying and restoring heaven and earth and all that are therein, and even of commanding, simply speaking, the angels; which however Christ did not confer upon them, nor did he decree that it should be conferred. Hence Augustine says in his tenth sermon *On the Words of the Lord, on Matthew*: “Learn of me” not to make a world, not to create all things visible and invisible, not to perform miracles in that world and raise the dead; but: “for I am meek and lowly of heart.”<sup>1</sup>

3

And therefore it is enough for the present purpose to show – and I shall show this first – that Christ did not come into the world to have

<sup>1</sup> Augustine, *Sermones de scripturis* 69 on Matthew 11. 28–9: MPL 38 c.441.

dominance over men, nor to judge them with judgement in the third signification, nor to be a temporal prince, but rather to be subject in respect of the status of this present world. Indeed, according to his purpose he wanted to and did exclude himself and also his apostles and disciples from such judgement or principate; and in consequence he also excluded their successors, the bishops or priests, from all such (sc. coercive) principate or worldly government, by his example and by his words of counsel or command. I shall also show that the foremost apostles, as true imitators of Christ, did the same and taught their own successors to do the same. Furthermore, that both Christ and his apostles wanted to be and were subject to the coercive jurisdiction of the princes of this world both in goods and in person; and that they taught and commanded all others to whom they preached the law of truth, or enjoined it in writing, to do likewise on pain of eternal damnation. After this I shall put in a chapter on the power or authority of the keys, granted by Christ to the apostles and their successors in that office, the bishops and priests, so that it may be plain what this power (whether of the Roman bishop or the others) is, and of what nature and extent. For ignorance on this subject has been up till now, and still is, the root of many questions and damaging quarrels among Christ's faithful, as in some way we touched upon in chapter 1 of this discourse.

4

Pursuing what we have set ourselves, then, we wish to show that Christ in his purposed intention, words and actions wanted to and did exclude himself and the apostles from the office of prince or of contentious jurisdiction, government or coercive judgement of whatever sort in this world. This is plain and undoubted, firstly, from the passage of the gospels in John 18. For when Christ was accused before Pontius Pilate, vicegerent of the Roman prince in Judea, for having said he was the king of the Jews, Pilate asked him whether he had indeed said this and whether he called himself a king. Christ replied to Pilate's question with, among others, the following words: 'My kingdom is not of this world,'<sup>2</sup> i.e., I did not come into this world to reign with temporal government or dominion, in the way that the kings of the world reign. And Christ himself added the proof of this with a manifest sign when he said: 'If my kingdom were of

<sup>2</sup>This and the following quotations in this section are from John 18. 36.

this world, then would my servants fight, that I should not be delivered to the Jews'. As if his argument went like this: If I had come into the world to reign with worldly or coercive government, I would have servants of this government, sc. fighting men to coerce transgressors, like other kings; but I have no such servants, as you can plainly see. Hence the interlinear gloss: 'It is clear, that no one defends him.'<sup>3</sup> And this is what Christ says again when he resumes: 'but now is my kingdom not from hence', my kingdom sc. that I have come to teach.

5

The saints and doctors who expound these gospel truths speak as follows. First Saint Augustine, who says on these words: 'If he had made this reply directly upon being asked by Pilate, he would have appeared to be replying not to the Jews, but only to the nations which held this opinion of him. But following Pilate's own answer he now replies more opportunely and aptly both to the Jews and to the nations, as if to say: Hear me Jews and gentiles, I do not hinder your domination in this world. What more do you want? Come as believers to the kingdom that is not of this world. For what is his kingdom except those who believe in him?'<sup>4</sup> See here what kingdom it is that he comes to teach and to put in place: for it is of those acts (sc. of faith and the other theological virtues) by which we come to the eternal kingdom, but without however forcing anyone to it, as will become clear below. For two coercive dominions not ranked in respect of each other and over the same multitude do hinder each other, as shown in chapter 17 of the first discourse. But as Augustine said, Christ had not come to hinder their dominion. Hence on the passage in the same chapter of John: 'Thine own nation and the chief priests have delivered thee unto me; what hast thou done?'<sup>5</sup> Augustine says: 'This is a sufficient indication that Christ is accused of a crime, as if he were saying: If you deny that you are a king, then what have you done to be handed over to me; as if it would not be surprising if someone who called himself a king should be handed over to a judge for punishment.'<sup>6</sup> See then how there would be nothing strange, according to Augustine, about Christ being punishable if he had called himself a secular king; especially since they did not know that he was God and that he denied he was a king and of such a kingdom or government, viz. one that coerces those who transgress the law.

<sup>3</sup> Interlinear gloss ad loc. See the Notes on the References, above, pp. lii–liii.

<sup>4</sup> Aquinas, *Catena aurea*, Vol. 2, 564. <sup>5</sup> John 18. 35. <sup>6</sup> As above, n. 4.

Hence again on the passage in the same chapter of John: ‘Sayest thou this thing of thyself, or did others tell it thee of me?’<sup>7</sup> Theophylact says: ‘Christ spoke to Pilate as if he’ (sc. Christ) ‘were saying’ (to Pilate), “If you are saying this thing of yourself, show me the signs of my rebellion; but if you have got it from others, carry out the ordinary investigation.”<sup>8</sup> But according to the opinion of our adversaries, Christ should not have said what Theophylact says – viz. that Pilate should carry out an ordinary investigation about him – but rather that such an investigation did not apply to him; in that according to our adversaries he was not and did not want to be subject to Pilate as of right in coercive jurisdiction or judgement.

6

Again on that same passage, ‘my kingdom is not from hence’, Chrysostom says: ‘By his providence and preference he does not deprive the world, but shows that his kingdom is not human or corruptible.’<sup>9</sup> But every kingdom in this world that coerces anyone is human and corruptible. Further, on the passage in the same chapter of John: ‘Thou sayest that I am a king,’<sup>10</sup> Augustine says: ‘Not because he was afraid to confess that he was a king, but weighed his words so that he should neither deny he was a king, nor admit he was the kind of king whose kingdom would be thought to be of this world. For he said, “Thou sayest,” as if to say: You, who are of the flesh, speak according to the flesh,’<sup>11</sup> i.e. about a carnal government of temporal acts that are contentious and carnal, according to the third signification of the term ‘temporal’; for such acts are called ‘carnal’ by the Apostle in I Corinthians 3.<sup>12</sup>

It is apparent from what we have said, then, that Christ did not come into this world to put in place a carnal or temporal government or coercive judgement, but a spiritual or heavenly kingdom; for it was of such a kingdom alone that he spoke and almost always preached, as is clear from the text of the gospel in both its literal and its mystical sense. This is why we very often read him saying ‘The kingdom of heaven is like’ etc., but very rarely speaking of worldly kingdom, or only when teaching us to scorn it. For he frequently promised that he would mete

<sup>7</sup> John 18. 34.      <sup>8</sup> As above, n. 4.

<sup>9</sup> *Ibid.* ‘Chrysostom’ is St John Chrysostom (ca. 349–407), priest and preacher at Antioch and briefly bishop of Constantinople, author of numerous sermons and biblical commentaries.

<sup>10</sup> John 18. 37.      <sup>11</sup> As above, n. 4.      <sup>12</sup> I Corinthians 3. 1–3.

out rewards or punishments in the heavenly kingdom according to the merits or demerits of those who perform them, but he never promised that he would do this in this world. Rather he acts in contrast to the princes of this world, since for the most part he afflicts in this world (or allows to be afflicted) those who perform good or just deeds, and so he leads them to the reward of his kingdom. For ‘all those who have pleased God have passed through many tribulations’, as it says in the eighth chapter of Judith.<sup>13</sup> But the princes of this world or judges of the worldly kingdom do and should do the opposite in preserving justice: for when they act rightly, they mete out rewards in this world to those who obey the law and punishments to the perpetrators of evil, and if they did otherwise they would sin against both human and divine law.

7

Again towards our principal point, from what Christ showed both by deed and by example. For we read in John 6 that: ‘When Jesus therefore perceived that they would come and take him by force, to make him a king, he departed again into a mountain himself alone.’<sup>14</sup> Here the inter-linear gloss has: ‘From which he comes down to give food to the crowds, by teaching them to flee the prosperity of the world and to beseech God against it.’<sup>15</sup> It is certain, then, that Christ shunned the position of prince, otherwise he would have taught us nothing by his example. This sense is supported by Saint Augustine’s exposition, when he says that ‘faithful Christians are his kingdom, which is now cultivated, now redeemed by the blood of Christ. And his kingdom shall be made manifest when the splendour of the saints shall be revealed after the judgement he has made. But his disciples and the crowds who believed in him thought that he had come in this way in order to reign now.’<sup>16</sup> See, then, how the saints never understood, by the kingdom of Christ in this world, a temporal dominion or judgement of contentious acts, and the execution of that judgement by coercive power upon those who transgress the law in this world. Rather, by his kingdom and government in this world they understood the teaching of the faith, and government in accordance with that

<sup>13</sup> Judith 8. 23.

<sup>14</sup> John 6. 15.

<sup>15</sup> Interlinear gloss ad loc.

<sup>16</sup> Aquinas, *Catena aurea*, vol. 2, 417.



teaching towards the kingdom of heaven. But ‘this kingdom’, says Augustine, ‘shall be made manifest after the judgement he has made’ in another world. Again, he says that to think that he reigns now, as the crowds thought, was to ‘take him by force’, that is, to betray him and think of him contrary to his due. Chrysostom, too, on the same passage: ‘And there was a prophet already among them’ (sc. Christ) ‘and they wanted to enthrone him as king’ (sc. because of their greed, since he had fed them). ‘But Christ fled, educating us to despise the honours of the world.’<sup>17</sup>

8

The same thing can moreover very obviously be shown by the word and example of Christ in Luke 12, where we find the following passage: ‘And one of the company said unto him, Master, speak to my brother, that he divide the inheritance with me. And he’ (sc. Christ) ‘said unto him: Man, who made me a judge or a divider over you?’<sup>18</sup> As if to say: I have not come to exercise this office, nor am I sent for this, viz. to resolve civil disputes through judgement. But no one doubts that this is the most proper task of secular princes and judges. And although in fact this passage of the gospels very clearly contains and demonstrates our proposition more fully than the glosses of the saints – in that they supposed as manifest the literal sense that we have stated and turned their attention more to the allegorical or mystical sense – we have nevertheless quoted them for greater confirmation of our position, and so that we should not be said to be expounding Scripture with temerity. So, Saint Ambrose expounds these words of Christ by saying: ‘Well does he refuse earthly things, who had come down for the sake of divine; nor does he deign to be a judge of disputes and a divider of property, who has the judgement of the living and the dead and the assessment of deserts.’ And a little further on he adds: ‘Hence he was deservedly rebuked, this brother who was seeking to busy the dispenser of heavenly things with corruptible matters.’<sup>19</sup> See, then, what is Ambrose’s view of Christ’s office in his world: for he says that ‘well does he refuse earthly things’, i.e. to perform judgements of contentious acts, ‘who had come down for the sake of the divine’, i.e. to teach and minister spiritual things. In this he signalled

<sup>17</sup> See above, n. 16.

<sup>18</sup> Luke 12. 13–14.

<sup>19</sup> Aquinas, *Catena aurea*, Vol. 2, 180.

his own office and that of his successors, viz. to dispense heavenly or spiritual things: the spiritual things, I say, of which the same Ambrose had spoken on I Corinthians 9, and which we quoted above in chapter 2 of this discourse, under the third signification of this term 'spiritual'.<sup>20</sup>

9

It now remains to show that Christ himself not only refused the principate of this world or coercive judgement in this world, whereby he gave an example to his apostles and disciples and their successors to do the same, but also taught in words and showed by example that all men, priests as much as non-priests, should be subject in goods and person to the coercive judgement of the princes of this world. Now Christ showed this first in the case of goods, by his words and example as we find them in Matthew 22. For when the Jews asked him: 'Tell us, therefore, What thinkest thou? Is it lawful to give tribute unto Caesar, or not?' Christ, having inspected the coin and what was written on it, said in reply: 'Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's.'<sup>21</sup> On which the interlinear gloss has: 'i.e., tribute and money'.<sup>22</sup> While Ambrose, on the words: 'Whose is this image and superscription?'<sup>23</sup> says: 'Just as Caesar demands the impress of his image, so too God demands the soul that is stamped with the light of his countenance.'<sup>24</sup> Note, therefore, what Christ came into the world to demand. Chrysostom, however, has this: 'And you, when you hear: render unto Caesar the things that are Caesar's: be aware that he means only those things that are not harmful to piety in any way; for such a thing is no longer Caesar's tribute, but the devil's.'<sup>25</sup> See, then, that we should be subject to Caesar in all things as long as they are not repugnant to piety, i.e. divine worship or command. Thus it was Christ's will to be subject to the prince of this world in the matter of goods. This was also

<sup>20</sup> Above, II. 2, 5.   <sup>21</sup> Matthew 22. 17–21.   <sup>22</sup> Interlinear gloss ad loc.

<sup>23</sup> Matthew 22. 20.

<sup>24</sup> The tacit reference is to Psalms 4, 7, which in the Vulgate reads: 'The light of thy countenance is stamped upon us, O Lord' (often used to illustrate how man is made the image of God, *imago Dei*: Genesis 1. 26–7). The original version of the quotation Marsilius attributes to Ambrose seems to stem from Augustine, *Enarrationes in psalmos* on Psalm 4, *Cetedoc* from CC 38, ed. E. Dekkers and J. Fraipont (Turnhout: Brepols, 1956): par. 7, p. 17, ll. 29–32. The exact quotation can be found in the ordinary gloss on Matthew 22. 20; the same quotation with the attribution to Ambrose in Zacharias Chrysopolitanus, *De concordia evangelistarum*, MPL 186 c.398A–B.

<sup>25</sup> Aquinas, *Catena aurea*, Vol. 1: *Expositio in Matthaicum et Marcum*, 322.

plainly the opinion of Saint Ambrose, relying on this judgement of Christ's: for he said in his letter against Valentinian entitled *To the People*: 'We render to Caesar the things that are Caesar's, to God the things that are God's. Tribute is Caesar's, it is not denied.'<sup>26</sup>

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The same thing is shown again in Matthew 17, where it is written: 'they that received the didrachm<sup>27</sup> came to Peter, and said, Doth not your master pay the didrachm?' and subsequently, a bit further on, that Christ said to Peter: 'Notwithstanding, lest we should offend them, go thou to the sea, and cast an hook, and take up the fish that first cometh up; and when thou has opened his mouth, thou shalt find a piece of money; that take, and give unto them for me and thee.'<sup>28</sup> Now the Lord did not just say: 'give it unto them', but 'give it unto them for me and thee'. On this Jerome says: 'Our Lord was the son of a king according to the flesh and according to the spirit, as being born of the tree of David or of the word of the almighty father. Therefore, as the son of a king, he did not owe tribute.' And below he adds: 'Therefore, although he was exempt, nevertheless because he had taken on the humility of the flesh, he owed it to fulfil every demand of justice.'<sup>29</sup> Origen, however, on the words of Christ: 'lest we should offend them', speaks more to the point and to the sense of the evangelist, as follows: 'We are given to understand in consequence' (sc. from the words of Christ) 'that when some arise who in their injustice take our earthly goods, it is the kings of this earth who

<sup>26</sup> Ambrose, *Sermo contra Auxentium de tradendis basilicas, Epistolae* 75a, CL 160 3(M), *Cetedoc* from CSEL 83, ed. M. Zelzer (Vienna: Hoelder, Pichler, Tempsky, 1982), pp. 82–107: par. 35, p. 106, ll. 437–39; MPL 16 c. 1018B.

<sup>27</sup> An ancient Greek silver coin worth two drachmas.

<sup>28</sup> Matthew 17. 23 (AV 24) and 26 (AV 27). It is necessary to bear in mind the entire passage from 23 to 26 (AV 24–27) to understand the following discussion (up to the end of section 11): '[23] And when they were come to Capernaum, they that received the didrachm came to Peter, and said, Doth not your master pay the didrachm? [24] He saith, Yes. And when he was come into the house, Jesus prevented him, saying, What thinkest thou, Simon? Of whom do the kings of the earth take tribute or tax? Of their own children, or of strangers? [25] Peter said unto him, of strangers. Jesus saith unto him, Then are the children free. [26] Notwithstanding, lest we should offend them, go thou to the sea, and cast an hook, and take up the fish that first cometh up; and when thou has opened his mouth, thou shalt find a piece of money; that take, and give unto them for me and thee.'

<sup>29</sup> Aquinas, *Catena aurea*, Vol. 1, 265. 'Jerome' is St Jerome (ca. 342–420 CE), one of the four doctors of the Latin church, author of the Vulgate translation of the Bible and of many other theological works, an important authority for medieval theologians.

send them to demand from us the things that are theirs. And by his example the Lord forbids any offence to be given, even to men of this sort, so that they might not sin further or even so that they might be saved. For the son of God, who never did any servile thing, gave the tribute and the tax as having the form of a servant, which he had taken on for the sake of man.<sup>30</sup>

In what way, then, in virtue of the words of gospel scripture, are bishops and priests exempt from tribute and universally from the jurisdiction of princes (except by their gracious concession), when Christ and Peter paid these things and thereby set an example to others? And even if Christ, being of royal stock according to the flesh, perhaps did not owe it, nevertheless Peter was not of royal stock and therefore he did not have any such reason for exemption, nor did he wish to. And if Christ had thought it inappropriate for his future successors in the office of priest to pay tribute, and for their temporal goods to be subject to the princes of this world, he could, without giving out a bad example (viz. of subjecting the priesthood to the jurisdiction of secular princes), have ordained or proceeded in a different way with those collectors of tribute; for example by removing from them their intention of asking for it, or in some other appropriate way. But he did not consider it appropriate to do any such thing; on the contrary, he wanted to pay it, and of the apostles he singled out Peter to be associated with him in this, Peter who (according to what will be said in chapter 16 of this discourse) would be the foremost teacher and shepherd of the church: so that by such an example none of the others would refuse to do it.

## II

Saint Ambrose, understanding (as we said before) the above passage of Matthew 17 in this way, says in his letter entitled *On Handing over the Basilicas*: ‘He seeks tribute,’ (sc. the emperor) ‘it is not denied. The fields of the church pay tribute.’ And a little further on he adds, more to the point: ‘We render to Caesar the things that are Caesar’s, to God the things that are God’s. Tribute is Caesar’s, it is not denied.’<sup>31</sup> Again, Saint Bernard, explaining more fully the sense that we have said is that of Scripture in the passage

<sup>30</sup> *Ibid.* ‘Origen’ is Origen of Alexandria (185–284CE), one of the greatest theologians of the early church, author of numerous biblical commentaries and sermons as well as more philosophical works.

<sup>31</sup> Ambrose, *Sermo contra Auxentium*, *Cetedoc* from CSEL 83: par. 33, p. 104, ll. 405–6 and par. 35, p. 106, ll. 437–9; MPL 16, c. 1017B and 1018 A.

quoted above, says in a letter to the archbishop of Sens: ‘So they’ (sc. those who prompt subjects to rebel against their superiors). ‘Christ bade and acted otherwise. Render, he says, to Caesar the things that are Caesar’s, and to God the things that are God’s. He spoke this with his mouth, but soon took care to carry it out in action. Caesar’s creator did not hesitate to pay tax to Caesar. For he was giving you an example that you too should do likewise. How therefore would he deny the reverence due to God’s priests, when he took care to show it to secular powers as well?’<sup>32</sup>

And we should note that Saint Bernard said that Christ, taking care to hand over the tax to the secular powers, showed ‘due’ – and therefore not forced – ‘reverence’. For this kind of tax and tribute is due to princes from everyone, as we shall point out in the [next chapter](#) from the Apostle in Romans 13 and the glosses of the saints and doctors *ibid.*; although it may be that not every tax is due from everyone everywhere, for example the entry toll which was not owed by the inhabitants (even if some of its custodians or collectors sometimes unduly demanded and exacted it from certain guileless inhabitants or natives, such as were the apostles). I therefore say, in agreement with Origen who I believe grasped the meaning of the evangelist in this passage better than Jerome, that it seems commonly to have been the custom and perhaps the law in the kingdoms, especially in Judea, that the inhabitants or indigenous people did not pay entry tolls, but strangers did. And hence Christ said to Peter: ‘of whom do the kings of the earth take tribute etc.’, by ‘tribute’ meaning the specific toll that the collectors of the didrachm gathered. For Christ did not deny that the sons of the earth – that is, the indigenous inhabitants – owe ‘tribute’ in the sense in which this term applies to all taxes. On the contrary, it was of tribute in this sense that he afterwards said, not excepting anyone: ‘Render unto Caesar the things that are Caesar’s;’ and, in agreement with Christ, the Apostle expressed the same thing in Romans 13 when he said: ‘For for this cause pay ye tribute also’ (sc. to princes) ‘for they are God’s ministers.’<sup>33</sup> By ‘children’, therefore, Christ

<sup>32</sup> Bernard of Clairvaux, *De moribus et officio episcoporum, Epistolae 42, Cetedoc from Bernardi opera*, ed. J. Leclercq and H. M. Rochais (Rome: Cistercian Editions, 1974), vol. 7: par. 31, p. 126, ll. 5–8; MPL 182, c. 829 C. St Bernard of Clairvaux (1091–1153) was a member of the Cistercian Order and founder of the abbey of Clairvaux. His work *On Consideration* (cited below, section 13), an extended treatise on the nature and duties of the pope, was an important and contentious authority for all sides in the fourteenth-century debate over the power of the pope.

<sup>33</sup> Romans 13. 6.

understood the children of kingdoms, i.e. those born or originating from there, not the children of kings according to their seed; otherwise his words would not seem to have been to the point, since he spoke equally for himself and for Peter who, it is agreed, was not a son of kings such as Jerome spoke of. Again, since if Christ was of David's stock in respect of the flesh, so too were many others of the Jews, although perhaps not Peter. And again, since tribute was at that time exacted not by David or anyone else of his seed, but by Caesar; why then would Christ have said: 'of whom do the kings of the earth etc. Then are the children free,' saying nothing of the heavenly king? But it is certain that neither Christ nor Peter were children of Caesar, in respect of the flesh or in respect of the spirit. Again, why would Christ have asked the above question? For everyone agrees that children of kings according to the blood do not pay tribute to their parents. Thus Jerome's exposition does not seem to have been as consonant with Scripture as Origen's. Rather, from the said words, what Christ wanted was to pay tributes even if they were at certain places and times not due, rather than contend about such things; and to teach the apostle and his successors to pay them too. For this was the justice of counsel, not of command: a justice that Christ, in the humility of the flesh he had assumed, willed to carry out and taught should be carried out. And the Apostle also taught that this should be done, in the likeness of Christ. Hence I Corinthians 6: 'Why do ye not rather take wrong? Why do ye not rather suffer yourselves to be defrauded?'<sup>34</sup> (rather than contend amongst themselves, as he had previously said).

## I2

Furthermore, Christ showed that he was subject to the coercive jurisdiction of the prince of this world not just with regard to goods, but also in his person; and no prince could have any jurisdiction greater than this over him or anyone else (which is why this jurisdiction is also called 'unmixed command'<sup>35</sup> by the Roman legislator). This can be plainly

<sup>34</sup> I Corinthians 6. 7.

<sup>35</sup> *Merum imperium*; the translation offered in the text does not remotely capture the full sense of this term. Essentially, *merum imperium* is what we might call absolute sovereignty, including (crucially) the power of the sword, i.e. over life and death (capital jurisdiction). Cf. Digest 2. 1. 3: '*Imperium* is either unmixed (*merum*) or mixed. *Merum imperium* is to have the power of the sword to punish criminal men . . .'

shown from Matthew 27. For as we read and it appears there, Christ allowed himself to be captured and led before the tribunal of Pilate, who was the vicegerent of the Roman emperor; and finally he suffered himself to be judged and handed over to the ultimate punishment by him as being a judge with coercive power. Nor did he protest against him as not being a judge, even though he perhaps signalled that he was suffering a less than just judgement. But it is certain that he could have undergone such judgement and punishment at the hands of priests if he had wanted, and if he had judged it inappropriate for his future successors to be subject to and judged by the princes of this world.

However, because this view is written in a more sustained way in John 19, I shall accordingly introduce the material contained there. Thus, when Christ had been brought before Pilate – Caesar’s vicegerent – as before his judge, and had been accused by him of having said he was the king of the Jews and the son of God, Pilate asked Jesus: ‘Whence are thou?’ and Christ gave him no response. At this point Pilate spoke to him the following words, which have a bearing on our purpose; the passage goes like this: ‘Then saith Pilate unto him, Speakest thou not unto me? Knowest thou not that I have the power to crucify thee, and have power to release thee? Jesus answered: Thou couldest have no power at all against me, except it were given thee from above.’<sup>36</sup> See here how Jesus did not deny that Pilate had the power to judge him and to execute his judgement upon him; nor did he say: This does not belong to you as of right, but only as a matter of fact. But Christ did add that Pilate had this power ‘from above’. How ‘from above’? Augustine replies: ‘Let us therefore learn what he’ sc. Christ ‘said, and what he taught the Apostle too’, viz. Paul in Romans 13. What did Christ say then? What did he teach the Apostle? ‘That there is no power’ (i.e. authority of jurisdiction) ‘except from God’ (whatever the case with the action of one who abuses it). ‘And that one who, out of spite, hands over an innocent to that power to be killed, sins more than the power itself if it kills him through fear of a greater power. For God had given him’ (sc. Pilate) ‘such power as would put him under the power of Caesar as well.’<sup>37</sup>

Pilate’s coercive judicial power over Christ’s person was therefore from God, as Christ openly avowed, and Augustine expressed clearly and Bernard said openly to the archbishop of Sens in one of his letters: ‘Since’, as he says, ‘Christ acknowledges that the power of the Roman

<sup>36</sup> John 19. 9–11.

<sup>37</sup> Aquinas, *Catena aurea*, Vol. 2, 568.

governor even over himself is ordained of heaven'<sup>38</sup> (speaking of Pilate's power in this passage of Scripture). If, therefore, Pilate's coercive judicial power over Christ was from God, then how much more so was his power over Christ's temporal or carnal goods, if he had possessed or had any. And if over Christ's person and his temporal goods, then how much more over the persons and temporal goods of all the apostles and of their successors, all bishops or priests?

This was not, however, demonstrated only by Christ's words, but confirmed in the consummation of the deed. For a sentence of death was passed upon Christ by this same Pilate sitting on his tribunal, and by his authority the sentence was executed. Hence in the same place in John we find the following passage: 'When Pilate therefore heard that saying, he brought Jesus forth, and sat down in the judgement seat;' and it adds a bit further on: 'Then delivered he him' (sc. Jesus) 'therefore unto them to be crucified.'<sup>39</sup> And this was the Apostle's view of Christ when he said in Galatians 3: 'But when the fullness of time was come, God sent forth his Son, made of a woman, made under the law,'<sup>40</sup> and therefore also under the judge to whom it belonged to judge and command according to the law; who was not, however, a bishop or priest.

### 13

Neither was it Christ's will to exclude only himself from secular principate or coercive judicial power. On the contrary, he barred it from his apostles as well, both among themselves and with respect to others. Hence in Matthew 20 and Luke 22 we find this passage: 'And there was also a strife amongst them,' (i.e. the apostles) 'which of them should be accounted the greatest. And he' sc. Christ 'said unto them, The kings of the Gentiles exercise dominion over them, and they that exercise power upon them are called benefactors.' (In Matthew this phrase is: 'and they that are great exercise power upon them'.) 'But ye shall not be so: but he that is greatest among you, let him be as the younger; and he that is chief, as he that doth serve. For whether is greater, he that sitteth to eat, or he that serveth? Is it not he that sitteth? But I am among you as he that serveth. But whosoever will be great among you, let him be

<sup>38</sup> Bernard of Clairvaux, *De moribus et officio episcoporum*, *Cetedoc* from *Bernardi opera*, Vol. 7: par. 36, p. 130, l. 6; MPL 182, c. 832 C.

<sup>39</sup> John 19. 13, 16.      <sup>40</sup> Galatians 4. 4.



your minister; And whosoever will be chief among you, let him be your servant. Even as the Son of man came not to be ministered unto, but to minister,<sup>41</sup> i.e., to serve, and not to be lord or chief – in temporal things: for in spiritual things he was the chief among the apostles, and not a servant. On this Origen has: “Ye know that the princes of the Gentiles exercise dominion over them”, that is, not content simply to rule their subjects, they strive to exercise dominion over them with violence’ (i.e. with coercive power if required). ‘But among you who are of me these things shall not be: since just as all carnal things have their place in necessity, but all spiritual things in the will, so too with all spiritual princes,’ (i.e. prelates) ‘their principate should have its place in love, not in fear.’<sup>42</sup> And Chrysostom says among other things the following which is to our purpose: ‘The princes of the world are as they are in order to dominate those lesser than they, to subject them to servitude and to despoil them’ (supply: if they have deserved it) ‘and to use them to the death, to their own profit and glory’ (sc. that of the principate).<sup>43</sup> ‘But princes of the church’ (i.e. prelates) ‘become so in order to serve those lesser than they, and to minister to them whatever they themselves have received from Christ; to neglect their own profit and to procure that of others, and not to refuse to die for the salvation of those inferior to them. To covet primacy in the church, therefore, is neither just nor profitable. For what wise man wants of his own accord to subject himself to servitude and the danger involved in answering for the whole church? Only, perhaps, a man who does not fear the judgement of God and who abuses his ecclesiastical primacy in a worldly way, so that he in fact converts it into a secular primacy.’<sup>44</sup> What business is it of priests, then, to involve themselves in secular coercive judgements? For they should not exercise dominion in a temporal sense, but keep the example and command of Christ. Hence Jerome: ‘Lastly he’ (sc. Christ) ‘sets before them his example, so that if they’ (the apostles) ‘hold the words’ (supply: his) ‘of little account, they should at least blush at the deed’

<sup>41</sup> Luke 22. 24–7 (up to ‘as he that serveth’); then from Matthew 20. 25–8.

<sup>42</sup> Aquinas, *Catena aurea*, Vol. 1, 298.

<sup>43</sup> Marsilius’s proposed supplements in fact destroy rather than complete the sense: Chrysostom is contrasting the inescapably dominative (in the sense of despotic and oriented towards personal gain) character of secular rule with that of ecclesiastical rule, of which the opposite is (or should be) true. For Marsilius to acquiesce in this picture would of course destroy his entire political case against the papacy.

<sup>44</sup> Aquinas, *Catena aurea*, Vol. 1, 298–9.

(the exercise of temporal dominion).<sup>45</sup> And Origen on the passage: ‘and to give his life a ransom for many’<sup>46</sup> says this: ‘Therefore the princes of the churches should imitate Christ who was approachable, talked to women, placed his hands on little children and washed the feet of his disciples, so that they should do likewise with their own brothers. But we are such’ (he is speaking of the prelates of his time) ‘that we seem even to outdo the princes of this world in pride; either not understanding or despising Christ’s commandment; and like kings we demand armies in battle array to go before us and terrify.’<sup>47</sup> And because to do such things is indeed to despise or be ignorant of Christ’s commandment, prelates should first of all be warned of this (which is what we shall do from this treatise, showing them what authority belongs to them), and then if they still despise it, they should be compelled and forced to correct themselves by secular princes, so that they do not corrupt the morals of others. All this is said on the words of Matthew. On Luke, Basil says: ‘It is fitting that they who are set over others should offer even bodily service, after the example of the Lord who washed the feet of his disciples.’<sup>48</sup>

Thus Christ said: ‘The princes of the Gentiles exercise dominion over them. But ye’ (sc. the apostles) ‘shall not be so’. Christ, king of kings and lord of lords, did not therefore hand on to them the power to exercise the secular judgements of princes, nor coercive power over anyone; on the contrary he explicitly forbade them this when he said: ‘But ye shall not be so.’ And we should in consequence maintain the same of all the successors of the apostles, the bishops or prelates. This is also what Saint Bernard explicitly said to Eugenius, *On Consideration*, Book II chapter 4, discussing the words of Christ we have already given: ‘The kings of the Gentiles exercise lordship’ etc. For among other things he says: ‘What he had he gave: responsibility for the churches, as I have said.’ But what about dominion or principate? Hear Bernard as he adds: ‘Did he not give dominion? Listen to him. “Not lording it over the clergy, but making yourself a pattern for the flock.” And in case you think he said this only by humility and not by truth, the voice of the Lord in the Gospel says: “The kings of the gentiles exercise lordship upon them; and they that have power over them are called benefactors.” And he concludes: “But ye

<sup>45</sup> *Ibid.* 299.

<sup>46</sup> Matthew 20. 28.

<sup>47</sup> Aquinas, *Catena aurea*, Vol. 1, 299.

<sup>48</sup> Aquinas, *Catena aurea*, Vol. 2, 288.

shall not be so.” It is clear: dominion is forbidden to the apostles. Therefore go ahead and dare to usurp the apostolic office as a lord, or as an apostle to usurp dominion. Clearly, you are clearly forbidden to do either. If you want to have both of these at the same time, you will lose both. Moreover you should not think that you are excluded from those about whom God complains: “They have reigned, but not of me; they have been princes, and I knew it not.”<sup>49</sup>

From the gospel truths that we have adduced, then, and from the interpretations of the saints and other approved doctors, it ought to be clearly apparent to everyone that Christ, in both word and deed, excluded and wanted to exclude himself from all principate or government, judgment, or worldly coercive power; and that it was his will that he should be subject to the princes and powers of this world in coercive jurisdiction.

<sup>49</sup> Bernard of Clairvaux, *De consideratione ad Eugenium papam tertium libri quinque*, II. 6. I have used the translation (with slight modifications) in *Bernard of Clairvaux, Five Books on Consideration: Advice to a Pope*, tr. J. D. Anderson and E. T. Kennan (Kalamazoo, Michigan: Cistercian Publications, 1976), p. 58. All subsequent references to this work are to this edition. The two biblical quotations are from I Peter 5.3 and Hosea 8.4 respectively.

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On the canonic sayings of the apostles  
and the expositions of the saints and doctors,  
by which the same as in the previous chapter  
is patently confirmed

It remains now to show that Christ's foremost apostles held and taught the same opinion, and first of all Paul in II Timothy 2, warning him (whom he had instituted as priest or bishop) not to involve himself in worldly affairs. Paul says: 'No man that warreth for God entangleth himself in the affairs of this world.'<sup>1</sup> Here the gloss according to Ambrose has: 'Because no man who fights for God in spiritual things enmeshes himself in any kind of secular business, since God cannot be divided between two opposing servants, just as no man can be a servant to two masters.'<sup>2</sup> And he said 'any kind' of secular business, with no exceptions. Since, therefore, the most secular of all business is the office of prince or coercive judgement over contentious acts (because it orders and regulates all secular affairs or human secular and civil acts, as demonstrated in chapter 15 of the first discourse), it is this that the Apostle commands is most of all to be avoided by him who ought to be a soldier for God, sc. in ministering spiritual things: such as any bishop and priest ought to be.

2

The following passage from the Apostle in I Corinthians 6 reveals that this was indeed his view, when he said: 'If then ye have judgements of

<sup>1</sup> II Timothy 2. 4.

<sup>2</sup> Lombard, *Collectanea*, MPL 192, c. 367D.

things pertaining to this life, set them to judge who are least esteemed in the church.<sup>3</sup> For there the Apostle was talking to all the faithful and to the church most properly so-called, viz. in its final signification. The gloss according to Ambrose and Augustine explains the passage as follows: “If then ye have judgements of things pertaining to this life, set them to judge who are least esteemed” i.e. certain men who are wise, but nonetheless of less worth’ (supply: than priests or teachers of the gospel). And as to why not the ministers of the gospel, it gives the reason: ‘For the apostles, who travelled around, had no leisure for such things. Therefore it was wise, faithful and holy men who stayed in their areas that he wanted to examine such matters, not those who journeyed hither and thither in the cause of the gospel.’<sup>4</sup> But the gloss according to Gregory in his *Morals* gives another reason for this, and in my view has the Apostle’s meaning right. For the question is, why should the ‘least esteemed’ etc., and not the bishops or priests, be set to perform secular judgements? And Gregory says: ‘Viz. so that the men who examine earthly causes should be those who have attained the wisdom of external things’ (i.e. of secular or civil acts). ‘But those who are endowed with spiritual gifts should not be entangled in earthly business, so that, not being compelled to settle arrangements for inferior goods, they may be able to devote themselves to higher goods.’<sup>5</sup> See, then, how the Apostle’s meaning, and that of the saints, is very evidently the one that we stated, concerning the office that the Apostle forbade to priests. Bernard expresses the same thing to Eugenius, *On Consideration* Book I, chapter 5, when he says in a speech directed to the Roman and other bishops: ‘Your power therefore is over crimes, not property, since it is because of the former, not the latter, that you have received the keys of the heavenly kingdom; to exclude sinners not possessors. “That ye may know”, he says, “that the Son of man hath power on earth to forgive sins.”’ And he adds below: ‘For which seems to you the greater honour and greater power: to forgive sins or to divide estates? These base earthly concerns have their own judges, the kings and princes of the earth. Why do you invade someone else’s territory? Why do you put your sickle to someone else’s

<sup>3</sup> I Corinthians 6. 4.    <sup>4</sup> Lombard, *Collectanea*, MPL 191, c. 1577B–C.

<sup>5</sup> ‘Gregory’ is Gregory I (‘the Great’), pope 590–604 CE, one of the four doctors of the Latin church and the founder of the medieval papacy. The current reference is to his *Moralia in librum Job*, MPL 76, c. 125C; a form of it appears in Lombard, *Collectanea*, MPL 191 c. 1577C–D.

harvest?’<sup>6</sup> It does not, therefore, belong to the office of bishop or priest to judge contentious and carnal acts or temporal things with coercive judgement. On the contrary, according to Bernard, bishops or priests who involve themselves in such matters ‘invade someone else’s territory’, i.e. disturb someone else’s office, and ‘put their sickle to someone else’s harvest’. Thus it was the Apostle’s will that those who are not ordained to the ministry of the gospel, and who have attained the wisdom of external things, i.e. civil acts, should be the ones to judge with coercive judgement. Therefore, since no one is exempt from such judgement, it is apparent that priests as much as non-priests are subject to the coercive judgement of those who exercise the function of prince.

### 3

And here we should carefully note that the Apostle, writing to the faithful at Corinth in general – as is apparent from the greeting, and because he places the ‘least esteemed’ (i.e. secular persons, according to the interpretation of the gloss) within the church – did not say: I set the least esteemed, or anyone else, to judge the secular affairs that you may have; nor even did he leave someone there in his place to judge such things or set up judges of this kind. But this is what he would or should have done, as he did with priests and bishops, if it had belonged to his office or authority to do so. For he instituted priests and bishops in the places where the faithful lived, and commanded or enjoined them to institute others, as is apparent from I Timothy 3 and Titus 1. For he says to Titus: ‘For this cause left I thee in Crete, that thou shouldest correct the things that are wanting’ (sc. the evils of sinners, and that you should increase the good, as the gloss says) ‘and set priests in every city.’<sup>7</sup> Whereas in the matter of secular judges – since these must be instituted by human election in the manner identified in chapter 15 of the first discourse – the Apostle said ‘set’ in the plural, speaking to all the faithful, because this authority belongs to them; he did not say ‘set’ in the singular to any bishop or priest, as he did in the matter of priests; and he did not command secular acts to be judged by bishops or priests, but on the contrary prohibited this. Hence Bernard, as above: ‘But listen to what

<sup>6</sup> Bernard of Clairvaux, *Five Books on Consideration*, I. 6 (p. 36). The biblical quotation is from Matthew 9. 6.

<sup>7</sup> Titus 1. 5, and the interlinear gloss ad loc.

the Apostle thinks about this. “Is it so”, he says, “that there is not a wise man among you? no, not one that shall be able to judge between his brethren?”<sup>8</sup> And he adds: “I speak to your shame. Set them to judge who are least esteemed in the church.” Thus, according to the Apostle, you, as a successor of the apostles, are usurping for yourself a lowly office, the rank of the contemptible, which is unbecoming of you. This is why a bishop’ (sc. the Apostle) ‘instructing a bishop said: “No man that warreth for God entangleth himself in the affairs of this world.”’ And Bernard goes on: ‘Do you think these times would permit it if you were to answer in the Lord’s words those men who sue for earthly inheritance and press you for judgement: “Men, who hath made me judge over you?” What kind of judgement would they soon pass on you? “What is he saying, this ill-educated peasant? You are unaware of your own primacy, you dishonour your supreme and lofty throne, you detract from the apostolic dignity.”’ And yet I am sure that those who would say this could not show where any of the apostles at any time sat to judge men, to divide boundaries, or to distribute lands. I read that the apostles stood to be judged, not that they sat in judgement. This will happen in the future; it has not happened yet. Does it diminish the dignity of a servant if he does not wish to be greater than his master, or a disciple if he does not wish to be more than the one who sent him, or a son, if he does not transgress the boundaries his parents set for him? “Who hath made me judge?”, says our Teacher and Master. And so will a servant and disciple be wronged if he does not judge everyone?’ Thus Bernard said that it is unworthy for the successor of the apostles to usurp the office of judge for himself. And stressing the point again he adds: ‘It seems to me that a person is not a very shrewd observer if he thinks it is shameful for apostles or apostolic men not to judge such matters; since they have been given office in greater matters. Will they not scorn to judge men’s paltry earthly possessions, they who in heaven shall judge even angels?’<sup>9</sup>

4

The holy Apostle also commanded all men, without distinction and without excepting anyone – either bishop or priest, or deacon – that they should be subject in coercive judgement to the judges or princes of

<sup>8</sup> I Corinthians 6. 5.

<sup>9</sup> As for n. 6, pp. 35–6.

this world, and not to resist them unless those judges or princes have commanded them to do something that is contrary to the law of eternal salvation. Hence Romans 13: ‘Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be, are ordained of God. Whosoever resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation. For princes are not a terror to good works, but to evil. Wilt thou not then be afraid of the power? Do that which is good, and thou shalt have praise of the same; For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore ye must needs be subject, not only for wrath, but also for conscience sake. For for this cause furnish<sup>10</sup> ye tribute also: for they are God’s ministers, serving him in this. Render therefore to all their dues; tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour.’<sup>11</sup> And I have determined to bring in here the gloss on these noteworthy words of the Apostle according to the saints and catholic doctors, because from what the Apostle and the glossator said, the truth of our proposition is so patently demonstrated that no one of sound mind should have any further doubts once they have examined it. The Apostle, then, said: ‘Let every soul’ etc., excepting no one. On this the gloss (according to Augustine in the first place, and then at some points according to Ambrose) says the following: ‘And here he calls us to humility. For it seemed to some people that evil masters, and especially the infidel, should not have dominion over the faithful; and if they were good and faithful, that they should then be the equals of others who are good and faithful. But the Apostle removes even this pride from the superior part, i.e. the soul, signifying the whole man. For what is every soul if not every man? As if to say: All the things I have said are to be done even if you are in this way perfected in the body of Christ; let every soul nevertheless be subject, that is, let every man be subject. And I use the term “soul” to signify man for this reason, that you should serve not just with your body but also with your will. Let every soul, therefore, be subject in such a way that a man serve the secular powers, be they good

<sup>10</sup> The Authorised Version has ‘pay’, but it has been necessary to alter this to make sense of the gloss that Marsilius quotes below, in the last paragraph of section 4, which turns on a distinction between ‘pay’ (*solvere*) and ‘furnish’ (*praestare*).

<sup>11</sup> Romans 13. 1–7.



or evil, even with his will; sc. kings, princes, tribunes, centurions and others of this sort.’ See, then, what the Apostle understood by the ‘higher powers’: secular princes. The gloss then continues: ‘For if your superior is good, he is your sustainer; if he is evil, he is your tempter. Receive your sustenance gladly, and prove yourself under temptation. Be you then as gold and look upon this world as the goldsmith’s forge. So let every soul be subject to the higher powers, that is, in that in which they are high, i.e. in worldly matters. Alternatively the reason is noted when he says “higher”: that is, simply because they are higher. “For there is no” proves that they ought to be subject in this way: because all power is of God. But “the powers that be, are ordained of God”; therefore power is ordained of God, that is, whoever has power has God’s ordinance. “Whosoever therefore resisteth the power, resisteth the ordinance of God.” And this is what it says, as if the reason they should be subject is that no man, be he good or evil, has any power unless it has been given by God. Hence the Lord said to Pilate: “Thou couldest have no power against me, except it were given thee from above.”<sup>12</sup> Bernard, too, repeats the same thing in a letter of his to the archbishop of Sens, where he says: ‘No one was more of this world than Pilate, before whom the Lord stood to be judged. “Thou couldest”, he says, “have no power against me, except it were given thee from above.” At that moment he was speaking for himself, and proving in his own person what was afterwards proclaimed by the apostles in the churches: “there is no power except of God”; and “Whosoever therefore resisteth the power, resisteth the ordinance of God.”’ And a little further on he adds: ‘Since Christ acknowledges that the power of the Roman governor even over himself was ordained of heaven.’<sup>13</sup>

And the gloss continues: “The powers that be, are ordained of God”, that is, they are put in place by him with reason. Therefore someone who by force or fraud resists the power, i.e. the man who holds the power (in those things sc. that pertain to it, such as tribute and things of this kind) resists the ordinance of God, that is, the man who has power by the ordinance of God. Therefore he does not act according to God’s ordinance. Where the power is good, it is clear that God gave it authority with reason; but this can be seen even where the power is evil, in that through

<sup>12</sup> Lombard, *Collectanea*, MPL 191, cc. 1503D–1504B. Only Augustine and Haimo of Auxerre are cited.

<sup>13</sup> Bernard of Clairvaux, *De moribus et officio episcoporum*, *Cetedoc* from *Bernardi opera*, Vol. 7: par. 35–6, p. 130, ll.1–6; MPL 182, c. 832B–C.

it the good are purified and the wicked damned, and itself brought to ruin. And notice that the term “power” sometimes implies the power itself which has been given by God, and sometimes the man who has the power, and let the attentive reader distinguish between the two. “But whosoever”, as if to say: anyone who resists the power, resists the ordinance of God. This is such a serious matter that those who resist it bring damnation on themselves. And therefore anyone ought not to resist’ (i.e., not anyone or no one ought to resist) ‘but instead be subject. If, however, it should command something that you must not do, then, surely, scorn this power as you fear a greater power. Consider the ranking of human things. If someone who is locally in charge commands something, should it be carried out if the proconsul orders the contrary? And again, if that same proconsul commands one thing, and the emperor another, is there any doubt that one should scorn the one’ (i.e. the proconsul) ‘and obey the other?’ (i.e. the emperor) ‘Therefore if the emperor commands one thing and God another, one must obey God in contempt of the emperor.’<sup>14</sup> Augustine did not, however, say: If the emperor commands one thing and a bishop or pope another; which is what he should have said if the pope ranked higher in jurisdiction. What Augustine meant was that if the emperor has commanded something to be done that is contrary to the law of eternal salvation, which is God’s immediate command, then the emperor should not be obeyed in this matter. In such a matter, a pope whose command was in accordance with that law, sc. the divine, would be more to be obeyed (even though he neither can nor should coerce anyone in respect of that law in this world) than an emperor who commanded that something should be done contrary to the divine law. But – as is plainly evident here, and as will be argued further in chapter 9 of this discourse – a pope commanding something in accordance with his decretals, insofar as they are simply his decretals, should in no way be obeyed against the command of the emperor and his laws.

The gloss goes on: ‘As if to say: they deserve to bring damnation upon themselves, for princes be they good or bad “are not a terror to good works, but to evil”, that is, they are not there to terrify those who do good, but those who do evil. For if the prince is good, he does not punish but fosters the man who does good. While if the prince is evil, he does not harm the good man but purifies him. But the evil man should be afraid, because princes are established to punish evil deeds. The Apostle calls

<sup>14</sup> Lombard, *Collectanea*, MPL 191, cc. 1504D–1505C.

princes those who are created to correct human life and to prohibit things that are adverse to it; they bear the image of God so that the others should be subordinate to one. "Wilt thou" as if to say: they are a terror to those who do evil. But will you "not be afraid of the power", whatever it is, whether good or evil? "Do that which is good" and you have no reason to be afraid, rather "thou shalt have praise of the same," even if the power is evil: for it will bring you a greater crown. If the power is just, "thou shalt have praise of the same," in that the power itself praises you; if it is iniquitous, "thou shalt have praise of the same": not by praising you itself, but by giving you the opportunity for praise, you shall truly have praise of the same. "For he is the minister of God to thee for good," that is, he is a doer of good to you, whether he himself is good or evil, because he acts or because he has been given to you by God for your good, so that he may protect you and yours. For it is plain that rulers are given by God so that harm should not come to the good. "But if", as if to say: the good man should not be afraid; "but if thou do that which is evil, be afraid"; that is, because "he beareth not the sword", that is, he does not have the power of judgement, "in vain", but to punish the wicked. And he shows this when he adds: "For he is the minister of God," that is, he exacts vengeance in God's place. He being "a revenger to execute the wrath" of God, that is, to avenge an offence against God; or, "a revenger to execute the wrath" of God, that is, to indicate one that is to come, that is, to indicate the vengeance of God that is to come, because it is the judgement of this punishment that those who persist in evil should be more heavily punished. He is a revenger, I say, and this "upon him", that is, to the damnation and rebuke of him "that doeth evil", and because he is the minister of God. "Wherefore ye must needs be subject" to him, as if to say, be subject of necessity or to necessity, that is, to his necessary ordinance; and this "not only for" avoiding the "wrath" of the prince or of God, but also "for conscience sake", that is, so that your mind might be pure, in loving him who has been given preference by God' (i.e. who is in authority in this way by the ordinance of God). 'For although all the faithful are, inasmuch as they are faithful, one in Christ, in whose faith there is no difference between Jew and Greek, master and servant, and things of this kind; nevertheless there is a difference in their mortal interactions and the apostles command that this order should be kept while on the journey of this mortal life. For there are some things that we keep in the unity of our faith without any difference between us, and others that we respect in the order of this life as if on our road, lest the name of the Lord and his doctrine

be blasphemed. “For for this cause”: this is the proof of subjection, why you should be subject; since for this cause also, to show your subjection, “furnish ye tribute”, which is a sign of subjection. He does not say “pay”, but “furnish”, as if they will return it, because they return it by serving in your defence, when they fight for the country and carry out judgements. “Furnish tribute”, you, I mean, “serving” God “in this”, that is, by this, that you give them tribute, you serve God. Truly you serve God in this, for they are the ministers of God; for they are established for this, that the good should be praised and the bad punished. Or thus: for they are ministers, wherefore you should furnish tribute, because “they are the ministers of God”, they, I mean, “serving” you, when they defend the country, “in this”, that is, because of this; that is, because of the tribute they serve you in the defence of your country, and because they are ministers of God.’<sup>15</sup>

5

From this passage of the Apostle, then, together with the expositions of the saints quoted above, anyone who does not want to blaspheme the name of the Lord and his doctrine as unjust and preaching things contrary to civil law (as Augustine says here, and it is in I Timothy 6)<sup>16</sup> must maintain without any doubt that all men, whatever their status or condition, should be subject in goods and in person to the jurisdiction of the princes of this world, and obey them in all things that do not contradict the law of eternal salvation, and especially those that are in accordance with human laws or honourable and approved customs. For it is of such princes that the Apostle explicitly speaks when he says: ‘Let every soul be subject’ etc. and that they bear ‘not the sword in vain’, and everything else that he says about them: the defence of the country as well as the tribute that is offered them, according to the expositions of the saints. But nowhere did the Apostle say such things of any bishop or priest. For the lords and masters whom we are bound to obey in coercive jurisdiction are those who must defend the country with armed force, which is not appropriate for a bishop or priest in any way. Hence Saint Ambrose says in his second letter to Valentinian, entitled *To the People*: ‘I can grieve, I can weep, I can groan; against arms, soldiers and Goths, my tears are my weapons, for such are the defences of a priest; I neither

<sup>15</sup> *Ibid.* cc. 1505C–1506C.

<sup>16</sup> I Timothy 6. 1.

can, nor should, resist in any other way.<sup>17</sup> Again, such lords whom we are bound to obey might be infidels, as the gloss said towards the beginning; but bishops neither can nor should be infidels. And therefore it is obvious to everyone that the Apostle was not speaking of priests or bishops, but rather of kings and princes as Augustine said. For when he said ‘every soul’, the Apostle made no exceptions from this subjection. If, therefore, those who resist such powers – even if they are infidel and bad – bring damnation upon themselves, how much more must they bring upon themselves the outrage of almighty God and his apostles Peter and Paul, those who, in contempt of the doctrine of God and these apostles, have long harassed and continue to harass faithful kings and princes, and most especially and inexcusably the prince of the Romans? For princes are the ministers of God, as the Apostle said; he did not say, they are our ministers, or Cephas’ or any other apostle’s. And therefore they are not subject in coercive judgement to any bishop or priest; on the contrary, the converse is true. The gloss according to Augustine explained this too, when it said: ‘Therefore if the emperor commands one thing, and God another’ etc., without referring to any bishop or archbishop or patriarch among such jurisdictions, which is however what it should have done if Christ, king of kings and lord of lords, had granted himself this power over the emperor – which is the story they tell in their *Decretals* (though these are in truth nothing other than certain oligarchic ordinances which Christian faithful have no obligation to obey, as such). We demonstrated this in chapter 12 of the first discourse, and it will become more specifically apparent in what follows.

## 6

It is not our wish, however, to say as a result of all this that a doctor or pastor of the church is not owed reverence when he commands or teaches according to the evangelical law (and not otherwise or contrary to it) that certain things are to be observed; this is clear enough from Matthew 23, and Jerome’s comments on the same place.<sup>18</sup> Nonetheless, he himself neither can nor should constrain anyone in this world to the observance of such

<sup>17</sup> Ambrose, *Sermo contra Auxentium*, *Cetedoc* from CSEL 83: par. 2, p. 83, ll. 17–20; MPL c. 1008A.

<sup>18</sup> Matthew 23. 3: ‘All therefore whatsoever they bid you observe, that observe and do; but do not ye after their works: for they say, and do not’, and the ordinary gloss ad loc.: ‘... considering not their works, but their teaching’. The printed gloss contains no attribution to Jerome.

things by any penalty or punishment either in goods or in person, since we do not read that this power of constraint and dominion over anyone in this world was granted to him on the basis of gospel Scripture, but on the contrary forbidden by both counsel and command, as is clear from this and the previous chapter. For such power in this world is granted by the laws or the human legislator; and even if it were granted to some bishop or priest in order to compel men in matters that belong to divine law, it would be of no use. For no such thing could profit those who are coerced in respect of eternal salvation. This was plainly the mind of the Apostle in II Corinthians 1, when he said: ‘Moreover I call God for a witness unto my soul, that to spare you I came not as yet unto Corinth. Not for that we have dominion over your faith, but are helpers of your joy: for by faith ye stand.’<sup>19</sup> On this the gloss according to Ambrose has: “I call God for a witness” not only against my body, but also “unto”, that is, against “my soul”, if I tell a lie in what I say: “that I came not as yet unto Corinth”, that is, after I had departed from you. And I did this “to spare you”, that is, so that I should not cause grief to many by harshly reproofing them; whereby he spared them in case, if he was too harsh, they should turn to sedition. Therefore he wants them to be appeased first. Thus it was not out of frivolity or carnal thinking that he did not carry out what he had set himself to. For the spiritual man does not carry out what he has set himself when he thinks of something more helpful to salvation. And so that they should not be indignant, as if at his lordship, because he had said: “to spare you came I not”, he adds: I do not say “to spare” for this reason, “that we have dominion over your faith”, that is, that your faith (which is a thing of the will, not of necessity) is subject to lordship and coercion; I say it rather for this reason, “that we are helpers”, if you are willing to work with us, “of your” eternal “joy”, or of the joy of your reform, because the reformed are joyful. Well did I say “over your faith”, for “by faith”, which works by love, “ye stand”, and not by dominion.<sup>20</sup> Saint John Chrysostom took the same view from the above words of the Apostle, and expressed it plainly to everyone, in his book of *Dialogues*, which is also entitled *On Priestly Dignity*, Book II chapter 3; for he says there (after quoting the words of the Apostle, ‘Not for that we have dominion over your faith, but are helpers of your joy’): ‘Those judges that are without’ (sc. secular) ‘show their manifold power over evildoers

<sup>19</sup> II Corinthians 1. 23.

<sup>20</sup> Lombard, *Collectanea*, MPL 192, cc. 16D–17A.

when they have subjected them and force them unwilling from the depravity of their former habits. But in the church a person must be converted to better things uncoerced and acquiescent, because we have been given no such power by the laws forcibly to constrain men from transgressions by the authority of sentence.<sup>21</sup> And, speaking in the person of all priests, he gives as the first reason (sc. why they might not coerce anyone) the one he has just said: because they do not have coercive authority in this world over anyone, in that no such authority has been given them ‘by the laws’, i.e. the legislators, in those times or places or provinces. He then continues, giving another reason: ‘And even if it’, sc. such power, ‘had been given, we’, sc. we bishops or priests, ‘would not have any place for the exercise of power of that kind, since our God’, sc. Christ, ‘will not reward those who have been kept from sin by necessity’ (i.e. violence) ‘but only those who abstain from it of their own accord.’<sup>22</sup>

7

Neither is it our wish to say as a result of all this that it is inappropriate for heretics and other infidels to be coerced, but that if it is licit for this to be done, the authority belongs to the human legislator alone.

Coercive power does not, then, belong to any priest or bishop whomsoever; rather, they as much as everyone else should be subject in this to secular judges, as we have said. Hence the Apostle again, I Timothy 2: ‘I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, may be made for all men: For kings, and for all that are in authority; that we may lead a quiet and tranquil life.’<sup>23</sup> On this the gloss has: ‘In directing these words to Timothy he gave a pattern to all the churches.’<sup>24</sup> And the gloss according to Augustine adds: “‘For all men”, that is, for men of all kinds, and especially “for kings”, even if they are evil, and “for all those that are” set “in authority”, for example dukes or counts, even if they are evil’.<sup>25</sup> But nowhere does

<sup>21</sup> St John Chrysostom, *Peri hierosunēs*, in Latin *De sacerdotio* (‘On the priesthood’), II, 3, MPG 48 c. 634. Previté-Orton notes that the old Latin translation was printed by Ulrich Zell, Cologne, ca. 1470, which correctly inserts *legibus* (‘by the laws’) after *subdiderint* (‘they have subjected them’). A modern English translation from the Greek can be found in W. A. Jurgens, *The Priesthood. A Translation of the ‘Peri hierosynes’ of St John Chrysostom* (New York: Macmillan, 1955), p. 19.

<sup>22</sup> *Ibid.* <sup>23</sup> I Timothy 2. 1–2.

<sup>24</sup> Lombard, *Collectanea*, MPL 192 cc. 335D–336A, attributed to Haimo.

<sup>25</sup> *Ibid.* c. 336C–D, attributed to Augustine.

either the Apostle or Augustine name any bishop or priest as among those set in such authority or judicial power; only secular princes. ‘As to why’, Augustine says, ‘he wants prayers to be said for kings and those in authority even if they are evil, he’, sc. the Apostle, ‘gives the reason, adding, because this will profit us, so “that we may lead a life” that is “quiet” from persecution, and “tranquil”, that is, without any anxiety.’<sup>26</sup> Here we have testimony for what we said in the [last chapter](#) of the first discourse, viz. that the cause which produces and preserves tranquillity is the due and unimpeded action of the one who exercises the princely function. Augustine then adds something which is greatly to our purpose, saying: ‘Thus the Apostle warned the church to pray for kings and all that are in authority, inspired by the same holy spirit as Jeremiah, who said in a letter to the Jews who were in Babylon that they should pray for the life of the king, Nebuchanezzar, and of his children and for the peace of the city, saying: “for in the peace thereof shall ye have peace”. By this he signified figuratively that the church and all its saints, who are citizens of the heavenly Jerusalem, shall be subservient to the kings of this world. And thus the Apostle warns it to pray for them, that they may lead a quiet life.’<sup>27</sup> See, then, that it was undoubtedly the opinion of both the Apostle and Augustine that the church or all the faithful of Christ should be subject to the princes of this world, especially those that are faithful, and obey their commands (those that are not contrary to the law of eternal salvation). And if the Apostle had thought that bishops or priests should exercise principate and judge men with coercive judgement, in goods or in person, in and for the status of this present world, he would have said to Timothy (whom he had made a bishop): I exhort etc. for kings, and for all bishops that are in authority.

## 8

Further, the Apostle said in Titus 3: ‘Admonish them’ (sc. those to whom you preach) ‘to be subject to princes and powers.’<sup>28</sup> He did not say: Admonish only secular persons; nor again did he say: Admonish them to be subject to us and to princes. For the Apostle well knows that

<sup>26</sup> *Ibid.* c. 336D.

<sup>27</sup> *Ibid.* c. 337A–B, attributed to Augustine. The biblical quotation is from Jeremiah 29. 7.

<sup>28</sup> Titus 3. 1.



neither he nor any other priests or bishops ought to exercise the function of prince or judge others with the kind of judgement which is involved in litigation, that is, the judgement of secular acts; on the contrary, he had called them back from any kind of secular business, let alone principate or judgement over such things, when he said in II Timothy 2: 'No man that warreth for God entangleth himself in the affairs of this world.' Hence Ambrose: "Admonish them" etc., as if to say: even if you have spiritual empire' (i.e., it belongs to you to command in spiritual matters) 'nevertheless "admonish them to be subject to princes", sc. kings and dukes, "and" lesser "powers", because the Christian religion deprives no man of his right.'<sup>29</sup> And Ambrose said this because the Apostle willed and taught that the faithful should be subject even to infidel or evil lords and princes, as he says in I Timothy, last chapter: 'Let as many servants who are under the yoke' etc.<sup>30</sup> On this the gloss according to Augustine says: 'One should be aware that some people preached that all had a common liberty in Christ, which, while it is true of spiritual liberty, is not true of carnal liberty, which is how they took it. Thus it is against these people that the Apostle speaks in bidding servants be subject to their masters. Let Christian servants not therefore demand (as is said of the Hebrews)<sup>31</sup> that they should serve for six years and then be set free without cost: for this is mystical. And as to why the Apostle commands this, he adds: "that the name of the Lord be not blasphemed", as if the Lord were trespassing on others' domains, nor "his doctrine", that is the Christian doctrine, as if it preached things that are unjust and contrary to the laws',<sup>32</sup> sc. the civil laws.

In what way, then, and in what conscience with regard to God can any priest – whoever he be – wish to absolve subjects from the oath by which they are bound to faithful lords? For this is manifest heresy, as will be further apparent in what follows. Hence the Apostle said: 'Admonish them to be subject to princes;' he did not say, only secular persons, but

<sup>29</sup> Lombard, *Collectanea*, MPL 192 c. 392C–D. The final phrase ('the Christian religion deprives no man of his right') is not in the MPL text of the *Collectanea*. However, it is quoted by William of Ockham in *On the Powers of Emperors and Popes*, chapter 4, and there attributed to Ambrose on the same passage of the epistle to Titus. Either Ockham took it from Marsilius, then, or they both had access to it from another source. At II. 9, 8 below, Marsilius definitely attributes these words to Ambrose, and accordingly I have placed the quotation marks at the end of this phrase rather than before it. I have not, however, been able to identify any source for it.

<sup>30</sup> I Timothy 6. 1.      <sup>31</sup> Exodus 21. 2.

<sup>32</sup> A form of this quotation is found in Lombard, *Collectanea*, MPL 192, c.357C–D.

rather all without distinction: because according to him every soul is subject to them in coercive or contentious judgement. If not, then tell me what he was talking about when he said: 'Let every soul be subject' etc. And if they ought to have been subject in such judgement to Timothy and to Titus, it would have been in vain for him to have said: 'Admonish them' etc. Again, if he had wanted to admonish some to be subject to the secular powers, and not others, then he spoke inadequately in not making this distinction in his speech; but no one will find this distinction made anywhere in his writings, but rather the opposite. For he said, 'Let every soul be subject' etc. etc., and if some had been exempt from this subjection he would have spoken inappropriately and falsely: but this is unthinkable.

This was equally the opinion and teaching of Saint Peter the apostle in his first epistle general, chapter 2, when he said: 'Be ye subject to every human creature for the sake of God', viz. every human creature who is set in the position of prince; it is clear that he had these in mind by the examples he introduced immediately thereafter, when he said: 'whether it be to the king, as to the highest; Or unto leaders in war, as unto them that are sent by him to exact vengeance upon evildoers, for the praise of them that do well; For so is the will of God.'<sup>33</sup> I have not brought in the glosses of the saints on this passage, since everything they say here is contained in the gloss that we quoted above on the Apostle in Romans 13. See, then, that both Peter and Paul are in agreement that kings and dukes are sent by God 'to exact vengeance upon evildoers', i.e., to take revenge upon them by coercive force in this world; but that neither they nor the saints who expound their sayings anywhere said that bishops or priests are sent for this, but rather the opposite (as was patently clear above, from what Chrysostom said especially). Since, therefore, priests as much as non-priests can be evildoers in respect of all the kinds of transgression we enumerated in chapter 2 of this discourse, it follows necessarily that they ought to be subject in coercive judgement to kings, dukes or other secular princes, who must be established by the authority of the human legislator as we showed in chapter 15 of the first discourse. For it is these that God sent 'to exact vengeance upon evildoers' and 'for the praise of them that do

<sup>33</sup> I Peter 2. 13–15.

well', as Saint Peter said; for 'so', i.e. to obey them, 'is the will of God', as he said in the same place.

9

The words and active example of Saint Paul the apostle are manifest confirmation of this: for in Acts 25 we read of him that he rejected the coercive judgement of priests, openly saying: 'I appeal unto Caesar', and again, 'I stand at Caesar's judgement seat, where I ought to be judged';<sup>34</sup> and the interlinear gloss says, 'because this is the place of judgement'.<sup>35</sup> Therefore he rejected the judgement of priests and acknowledged himself subject to the coercive jurisdiction of Caesar. But can it be believed that the Apostle falsely said: 'there I ought to be judged', i.e. before Caesar, because he was scared of death, when he had already chosen and determined upon death for the sake of the truth – as is apparent from Acts 21 when he said: 'For I am ready not to be bound only, but also to die at Jerusalem for the name of the Lord Jesus Christ'.<sup>36</sup> What demented person will think, then, that in these words of his the Apostle, for the sake of prolonging his own life, committed this enormous crime, that he would by his example and teaching unduly subject the whole priesthood to the jurisdiction of the princes of this world, if he had thought this was not appropriate or due? For it would have been better for him, who was under no compulsion from anyone, not to go up to Jerusalem rather than to go there and lie against himself and his fellow. And therefore because it is impious to suppose this of him, it is clear that he thought in his mind what he said with his mouth, in imitation of his master to whom he did not wish to be superior (viz. to Christ). For Christ did not only recognise Caesar, but even Caesar's vicegerent Pilate as his worldly judge, when he said in John 19: 'Thou couldest have no power against me, except it were given thee from above,' i.e. by God's ordinance from on high, as Augustine said above on Romans 13: 'because no man, good or evil, has any power unless it has been given by God'. Bernard too explained this more fully to the archbishop of Sens, and we quoted the passage above in section 4.

<sup>34</sup> Acts 25. 10–11.

<sup>35</sup> Interlinear gloss ad loc.

<sup>36</sup> Acts 21. 13.

Since, therefore, no jurisdiction or coercive power over anyone has been granted to any bishop in this world by divine law, but has on the contrary been forbidden by counsel or command (as was patently demonstrated in this and the previous chapter); and nor does power of this kind belong to bishops or priests, insofar as they are bishops, by hereditary or paternal succession either; it follows of necessity that they are subject in this to the judges of this world, as was clearly apparent from the words of Peter and Paul and the other saints, and can be confirmed by demonstrative reasoning from what was said in chapters 15 and 17 of the first discourse. It follows furthermore that no bishop or priest has coercive jurisdiction in this world over anyone, priest or non-priest, unless it has been granted to him by the human legislator, in whose power it always remains to revoke it if a reasonable cause should arise; and that the full determination of what constitutes reasonable cause, especially in communities of the faithful, can be seen to belong to that same legislator.

We believe, then, that we have plainly demonstrated, from the truths of the gospel, eternal testimony, and the interpretations or expositions of the saints and other approved doctors of the Christian faith, that Christ renounced princely or coercive jurisdiction over anyone in this world; that he forbade it to his apostles and their successors, the bishops or priests, by counsel or command; that it was his will that both he and those same apostles be subject to the coercive jurisdiction of the princes of this world; and that he taught both in word and in deed, as did his foremost apostles Peter and Paul, that this should be observed.

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## On the authority of the priestly keys, and what power of excommunication a priest or bishop may have

It follows from what we have said that we should now show what kind of power, authority and judgement Christ may have wished to grant these same apostles and their successors, and what he did in fact grant them, on the strength of the words of Holy Scripture. Now among the words that seem to have a more express significance in this respect are those that Christ addressed to Peter, Matthew 16, when he said: ‘And I will give unto thee the keys of the kingdom of heaven;’<sup>1</sup> similarly, again, what the same Christ said to all the apostles in Matthew 18 and John 20: ‘Whatsoever ye shall bind on earth shall be bound in heaven,’<sup>2</sup> and: ‘Whose soever sins ye remit, they are remitted unto them’ etc.<sup>3</sup> For it is from these words in particular that the opinion and title of ‘plenitude of power’, which the bishop of Rome ascribes to himself, takes its origin.<sup>4</sup>

<sup>1</sup> Matthew 16. 19.    <sup>2</sup> Matthew 18. 18.    <sup>3</sup> John 20. 23.

<sup>4</sup> Cf. below, II. 23, 5; II. 28, 6. As Marsilius accurately remarks, the power of the keys was invoked to support the widest possible claims of the papacy to power and jurisdiction both in the spiritual and in the temporal forum. For a more restricted understanding (although not as restricted as Marsilius’s), cf. John of Paris, *On Royal and Papal Power* tr. Watt, pp. 151–2: ‘This [power] too is wholly spiritual . . . The pope gets no authority in temporal affairs from this power except when, in the sphere of conscience, he persuades the penitent to make satisfaction, imposing this as he imposes other penances, even corporal ones. Yet no one becomes hereby subject to him in any unqualified sense, but under conditions, namely if he sins and wishes to do penance. If a person should not wish to do penance, then the pope cannot compel him because of the power of the keys as a secular prince can compel a culprit by fine or other correction imposed and enforced even on one unwilling to accept it.’

2

In order to have a surer sense and awareness of these words, we need to recall certain things that we said in the [last chapter](#) of the first discourse, viz. that Christ, true God and true man, came into the world to bear witness to the truth, as he said himself in John 18:<sup>5</sup> the truth, that is, of those things that are to be believed, done and rejected in order for the human race to attain eternal salvation. He both taught this truth in speech and showed it by example, and ultimately he handed it on in writing through the sayings of the evangelists and his apostles, so that in the absence of himself and his apostles we might still be guided by this Scripture in matters that are relevant to eternal salvation. And this was the office that he committed to the apostles his successors to carry out when he said to them in Matthew 28, the final chapter, in almost his very last words: ‘Go ye therefore, and teach all nations, baptising them in the name of the Father, and of the Son, and of the Holy Ghost: teaching them to observe all things whatsoever I have commanded you.’<sup>6</sup> Now by the administering of baptism, which Christ commanded the apostles to perform, he gave them to understand also the administering of all the other sacraments that he instituted for the sake of the eternal salvation of humanity. Among these is the sacrament of penance, by which an active fault<sup>7</sup> (whether mortal or venial) of a human soul is effaced, and the grace of God, which had been destroyed by the fault, is recreated in that soul: without which human works would not be made meritorious with respect to eternal life, this being the ordinance of God. Hence in Romans 6: ‘The grace of God is eternal life.’<sup>8</sup>

3

The ministers of this sacrament as of the others, then, are priests as the successors of Christ’s apostles; and the above words of Scripture confirm that all of them, in the person of Peter and the other apostles, have been given the power of the keys or of conferring the sacrament of penance, i.e. of binding or loosing men from sins (which are all the same thing). Hence Jerome on that passage of Matthew 16, ‘And I will give unto thee the keys of the kingdom of heaven’, says this: ‘The other apostles, to whom he says

<sup>5</sup> John 18. 37.

<sup>6</sup> Matthew 28. 19–20.

<sup>7</sup> That is, sin in an act or action, opposed to ‘original’.

<sup>8</sup> Romans 6. 23.

after the resurrection: “Receive ye the Holy Ghost. Whose soever sins ye remit, they are remitted unto them; and whose soever sins ye retain, they are retained,” have the same judicial power. Every church has it, too, in the persons of its priests and bishops, but it was Peter in particular who received it, so that all might understand that whoever has separated himself from the unity of the faith, and from its society, can neither be absolved from his sins nor enter heaven.<sup>9</sup> And Jerome said: ‘from the unity of the faith’; he did not say, from the unity of Peter or the bishop of Rome, since some of them could have been heretics or in other ways corrupted, and have now as a matter of fact turned out to be so. This judicial power is the authority of the keys according to Jerome and Augustine on the same passage. Augustine says of them: ‘The keys are the knowledge to discern and the power whereby he’ sc. the priest ‘should receive the worthy and exclude the unworthy from the kingdom.’<sup>10</sup> As to how he may be able to receive, and how he may be able to exclude from the kingdom, this will become clear in what follows; and so too, as a result, will the nature and extent of the power of these keys which were granted by Christ to Peter and the apostles.

4

First, however, we should note that when a person commits a mortal sin, a fault is generated in his soul and the divine grace which had been previously bestowed is destroyed. By this fault the sinner is bound to the debt of eternal damnation for the status of the world to come. If he persists in this fault, furthermore, he is cut off from the company of the faithful in this life by a kind of constraint that Christian faithful call ‘excommunication’. And conversely we should note that by grief at his wrongdoing and an external confession made to a priest (both of which, either together or separately, are called ‘penance’), the sinner obtains a triple blessing: firstly, that he is purified of his internal fault, and the grace of God is recreated in him; secondly, that he is released from the debt of eternal damnation, to which he had been bound as a result of his fault; and thirdly, that he is reconciled to the church, i.e., he is or should be reunited in the company of the faithful. To perform these things upon

<sup>9</sup> Ordinary gloss on Matthew 16. 19, there attributed to Jerome. The biblical quotation is from John 20. 23, as above.

<sup>10</sup> *Ibid.*, though Augustine is not cited.

a sinner – viz. to bind or loose him from his fault and the debt of eternal damnation, which must be done somehow through the power of the keys granted to the priest (as will be said below) – is, then, to administer the sacrament of penance.

5

Now that we have laid down these premises, let us go on with our purpose and say, in accordance with the Master of the *Sentences* in book IV, distinction 18<sup>11</sup> (or rather of Scripture and the saints on whose authority he speaks), and also in accordance with the sense of Richard in a little tract he wrote entitled *On the Power of the Priestly Keys*,<sup>12</sup> that for true penance, or to receive the sacrament of penance, the first requirement is the inner contrition or grief of a sinner over his offence or wrongdoing. The second is the purpose and act of confessing the wrongdoing: expressing it in speech or giving some sign of it to a priest, if the facility of a priest is at hand. If not, it is enough that one who is penitent or contrite in this way has the firm purpose of confessing his wrongdoing to a priest as soon as this facility is available.

6

And what they intend, in consequence, is that in a sinner who truly repents, i.e., who is contrite and has the purpose of confessing, God by himself effects certain things before confession and before any action on the part of the priest. These things are the expulsion of the fault, the recreation of grace, and the remission of the debt of eternal damnation. That it is Christ alone who effects the things we have said, the Master proves in Book IV, distinction 18, chapter 4, by the authorities of Scripture and the saints. Firstly by the authority of the psalmist<sup>13</sup> who

<sup>11</sup> The ‘Master of the *Sentences*’ is Peter Lombard, who in the mid-twelfth century composed a summary of theology in four books called the *Sententiae* (*Sentences*). It became the standard university textbook of theology right up until the sixteenth century. Book IV concerns the sacraments in general. The present reference is to Book IV, distinction 18, chapter 2 (MPL 192, cc. 885–9).

<sup>12</sup> ‘Richard’ is Richard of St Victor (d. 1173), monk and theologian of the abbey of St Victor near Paris. The current reference is to his work *De potestate ligandi et solvendi* (*On the Power of Binding and Loosing*), MPL 196, cc. 1159C–1177B.

<sup>13</sup> Reading *psalmista* with Scholz instead of *propheta* with Previt -Orton; the former is almost certainly the correct reading, though it makes less apparent sense.



says, speaking in God's person: 'I alone am he that blotteth out the iniquities and sins of the people.'<sup>14</sup> Again by the authority of Ambrose, who says: 'It is the word of God that forgives sins, the priest is judge. The priest displays his office, but does not exercise the rights of any power.'<sup>15</sup> And the same Ambrose: 'He alone forgives sins, who alone died for our sins.'<sup>16</sup> Further through Augustine when he says: 'No one takes away sins except Christ alone, who is the lamb that takes away the sins of the world.'<sup>17</sup> The Master infers that God does this before any action on the part of the priest from the words of Augustine on the psalmist: 'whose sins are covered'.<sup>18</sup> 'From these words', the Master says, 'it is plainly shown, that it is God himself who releases the penitent from the debt of his penalty; and that he releases him from the moment when he illuminates him from within, inspiring true contrition of the heart. For no one feels compunction about his sin, with a contrite and a humbled heart, unless he is in a state of charity. But whoever has charity is worthy of life; and no one is worthy of life and death at the same time. Therefore he is not at that point bound to the debt of eternal death, for he has ceased to be a child of wrath from the moment that he began to love and to repent. From that moment, then, he is released from wrath, which does not remain upon one who believes in Christ but upon one who does not. Hence he is not freed from eternal wrath afterwards by the priest to whom he confesses; he has been freed from it already by the Lord, from the moment when he said: I shall confess. It is God alone, therefore, who purifies man internally from the stain of sin, and releases him from the debt of eternal penalty.' The Master then repeats the authorities of the psalmist and of the saints given above, and after these he adds by way of epilogue: 'By these and many other testimonies we are taught that God alone forgives sins of himself. And just as he forgives the sins of some, so he retains those of others.'<sup>19</sup>

7

Nevertheless, God demands in the penitent (as we said before) the purpose of confessing his wrongdoings to a priest as soon as this facility

<sup>14</sup> Isaiah 43. 25.   <sup>15</sup> Lombard, *Sentences* IV, dist. 18, chs. 3-4, MPL 192 c. 886.

<sup>16</sup> Lombard, *Sentences* IV, dist. 18, ch. 6, MPL 192 c. 887.

<sup>17</sup> Lombard, *Sentences* IV, dist. 18, ch. 4, MPL 192 c. 886.   <sup>18</sup> Ps. 31. 1.

<sup>19</sup> Lombard, *Sentences* Book IV, dist. 18, ch. 4, MPL 192 c. 886.

is available; the Master says as much in Book IV, distinction 17, chapter 4, where he asks whether it is enough for a person to confess his sins to God alone, and determines by scriptural authorities that it is not, if the facility of a priest is at hand.<sup>20</sup> If not, then it is enough to have confessed only to God, as long as the person always has the purpose of confessing if he can. Richard too was of this opinion, in agreement with the Master, in his said tract; and from his determinations in various chapters the conclusion is that God takes away the fault from one who is truly penitent (i.e. one who is contrite about his sin) and releases him from the debt of eternal death before any ministration on the part of the priest, on condition however that he must subsequently confess his wrongdoing to a priest as soon as such a facility is at hand.<sup>21</sup> The Master called this condition a ‘firm purpose’ of confessing wrongdoings when the facility of a priest was at hand. He concluded his opinion in chapters 5 and 6 of the same Book IV, distinction 18, in reply to the reasonable question which raises a doubt as to why the office or action of a priest is required for penance, if God alone, before any ministration on his part, takes away the fault and dissolves the debt of eternal damnation. And the Master said: ‘In the midst of such variety’ (since the saints as much as the doctors apparently disagreed on this question, even if they did not actually disagree)<sup>22</sup> ‘what should we hold? Surely we can at least say and think this: that it is God alone who forgives and retains sins. And yet he conferred upon the church’ (i.e. upon priests, who are called the church in one of its significations; this was clear in chapter 2 of this discourse) ‘the power of binding and loosing. But God binds and looses in one way, and the church’ i.e. priests ‘in another. For he, of himself alone, forgives sins in such a way that he both purifies the soul of its inner stain and releases it from the debt of eternal death. But he did not grant this to priests; what he did give them was the power of binding and loosing, that is, of showing that men are bound or loosed.’<sup>23</sup> By this he explained why the office or ministration of a priest is required in penance, and he then said, making it clearer: ‘Hence too the Lord first restored the leper to

<sup>20</sup> Lombard, *Sentences* Book IV, dist. 17, ch. 3, MPL 192 c. 881.

<sup>21</sup> This is a summary of the argument in Richard of St Victor, *De potestate ligandi et solvendi*, MPL 196, cc. 1163D–1156D.

<sup>22</sup> The saints by definition cannot actually disagree with each other, since they are saints and therefore speak with the voice of God and of truth; any disagreement can therefore only be the appearance of disagreement.

<sup>23</sup> Lombard, *Sentences* Book IV, dist. 18, chs. 5–6, MPL 192 c. 887.

health of himself, and then sent him to the priests by whose judgement he might be shown to be purified. So too he gave Lazarus, even when he had already been restored to life, to his disciples to be released: because even if someone is released with God, he is not held to be released in the view' i.e. the awareness 'of the church except by the judgement of a priest. And therefore in loosing or retaining faults, the priest of the church acts and judges just as the priest of the law once did in the case of those contaminated by leprosy, which signifies sin.'<sup>24</sup> He repeats this opinion towards the end of chapter 6, as well, and confirms it with the authority of Jerome. On the passage in Matthew 26: 'And I will give unto thee the keys of the kingdom of heaven,' Jerome says: 'The priests of the gospel have the same right and office as once, under the law, the priests of that law had in curing lepers. Thus they forgive and retain sins when they judge and show that they have been forgiven or retained by God.' Hence, 'in Leviticus, lepers are bidden to show themselves to the priests, who do not make them either leprous or pure, but discern which are pure and which impure.'<sup>25</sup> The office of a priest, then, is required for penance for the said reason, viz. so that it might thereby be shown in the view of the church whose sins God has retained, and whose he has forgiven.

8

There is something else (in the opinion of the same Master and Richard) that God effects upon a sinner not without the ministration of a priest. This is the commutation of the temporal penalty of purgatory (which the sinner had to undergo however thoroughly he repented and confessed) into some form of satisfaction in this world, e.g. fasting, prayer, alms, a pilgrimage or something else of that kind; and in this respect the priest exercises the rights of power upon the sinner. Hence the Master, distinction 18, chapter 7: 'And it should be noted, that those whom they bind with some form of penitential satisfaction, they show in that very act to be released from their sins: because a priest does not impose penitential satisfaction upon anyone unless he thinks that he is truly repentant. On another person he will not impose satisfaction, and in that very act he judges that his sins

<sup>24</sup> *Ibid.* ch. 6, c. 887. Lombard's original has 'priest of the gospel' (*evangelicus*) rather than 'of the church' (*ecclesiasticus*), which makes much better sense: the contrast is between a priest of the law, i.e. the Mosaic law, and a priest of the gospel which supersedes the Mosaic law.

<sup>25</sup> *Ibid.*

are retained by God.<sup>26</sup> The priest also commutes the penalties of purgatory that are the sinner's due into various forms of this-worldly satisfaction, and afterwards reconciles sinners to the church, i.e. the communion of the faithful; and in doing so he likewise exercises a power upon sinners, although only if he has acted with discernment. Hence the Master, as above: 'Priests also bind when they impose penitential satisfaction on those who confess; they loose, when they dismiss a part of that satisfaction, or when they admit those who have been made clean by it to the communion of the sacraments. Leo noted this manner' sc. of loosing or binding 'above. It is in this manner that priests are said to forgive or retain sins. Hence Augustine said above: Those to whom they remit, God remits etc. For they exercise an act of justice upon sinners when they bind them with a just penalty, and an act of mercy when they relax a part of that penalty, or reconcile them to the community of the sacraments: but there are no other actions that they can exercise upon sinners.'<sup>27</sup> It can also be seen, as a result, that the Roman bishop can relax no more of the fault or penalty (according to the merits of sinners) than can any other priest.

9

From the said authorities, then, of the saints, the Master and Richard, it is patently clear that it is God alone who remits the fault and debt of eternal damnation to the sinner who truly repents, without any prior or simultaneous action on the part of the priest, as we have just shown. I want furthermore to give a demonstration of this which is infallible in respect of Scripture and according to the words of the saints and doctors, as follows: Because it is God alone who cannot be ignorant of those whose sins should be remitted and whose should be retained, and he alone who is not moved by any perverse affection nor judges anyone unjustly. But not so the church or priest, whoever he be – even the bishop of Rome. For any of these is capable on occasion of making a mistake, or being swayed by a perverse affection, or both; and therefore, if the sin or fault and debt of eternal damnation were not remitted to one who truly repents and has the required purpose of confessing (or has even carried it out), because a priest refused out of ignorance, malice or both, Christ's faithful and

<sup>26</sup> *Ibid.* ch. 7, c. 888.

<sup>27</sup> *Ibid.*

gospel promise would very often fail – the promise in which he said he would give the rewards of eternal glory to the good, and to the evil the punishments of Gehenna. Hence, as also often happens: suppose that some sinner has confessed his wrongdoings fictitiously and unduly, and has thereby received absolution and blessing as a result of the priest's ignorance, malice, or both. Suppose again that someone else has confessed his sins to the priest adequately and as was due, and the priest, through ignorance, malice, or both, has refused to give him absolution from his wrongdoings and a blessing. Are the sins of the first, who made a fictitious confession, then forgiven, and those of the latter, the true penitent, retained? No: as we must maintain firmly and without doubt. Hence Chrysostom on that passage of John 20: 'Receive ye the Holy Ghost: Whose soever sins ye remit' etc., says this: 'For no priest, but no angel or archangel either, can have any effect upon things that have been given by God. What the priest gives is his blessing and his hand. For it is not just that those who come to the faith should be harmed in respect of the symbols of our salvation because of the malice of another.'<sup>28</sup> The same too from Jerome on those words of Matthew 16: 'And I will give unto thee the keys of the kingdom of heaven' etc., where he says: 'Some people who do not understand this passage take on something of the arrogance of the Pharisees, so that they think they can condemn the innocent and release the guilty; when with God it is not the opinion of priests, but the life of the accused that is in question.'<sup>29</sup> To these words the Master appends, in distinction 18 chapter 6, the following noteworthy passage: 'Thus here too it is clearly shown that God does not always follow the judgement of the church, which sometimes makes judgements through deceit and ignorance;<sup>30</sup> 'of the church', i.e. of the priests within it; and he adds further in chapter 8: 'For sometimes one who is sent out' (i.e. is judged by the priest to be outside the church) 'is within; and one who is outside', sc. in truth, 'seems to be retained within,'<sup>31</sup> viz. through the false judgement of priests.

<sup>28</sup> Aquinas, *Catena aurea*, Vol. 2, 583.

<sup>29</sup> Lombard, *Sentences* Book IV, dist. 18, ch. 6, MPL 192, c. 887.

<sup>30</sup> *Ibid.* The word 'always' is omitted by Marsilius here but supplied (correctly) when the passage is quoted below, section 12.

<sup>31</sup> Lombard, *Sentences* Book IV, dist. 18, ch. 8, MPL 192, c. 888.

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The Master again sums up this opinion on the power of the keys (which we gathered from the saints and doctors and recited above) in Book IV, distinction 18, chapter 8, saying: 'It has now been shown in what way priests forgive or retain sins. And nonetheless God has kept for himself a particular power of forgiving or retaining, because He alone and of himself dissolves the debt of eternal death and cleanses the soul from within.'<sup>32</sup> He says the same thing too in the ninth and final chapter of the same distinction: 'Thus that unlikeness and distance from God, which is in the soul as a result of sin, is understood as the stain of the soul from which it is cleansed in penance. But it is God alone who effects this cleansing, for he alone arouses and illuminates the soul; this priests cannot do, even though they are the physicians of souls.'<sup>33</sup>

II

'There is', however, 'yet a further manner of binding and loosing' for which the action of a priest is similarly required, sc. that which proceeds through excommunication. Now the occasion for this, as the Master says in Book IV, distinction 18, chapter 7, is when a person 'who, in accordance with canonic discipline, has been three times called upon to make good a manifest wrongdoing, and who, disdainingly to offer satisfaction, is cut off by the sentence of the church from the place of prayer and the communion of the sacraments and the company of the faithful: so that he might blush and repent, turned around by shame at his crime, and his spirit might be saved. And if he recovers and professes penitence, he is readmitted to the communion that had been denied him, and reconciled to the church. This is the anathema of the church; this is the penalty it inflicts upon those who are deservedly struck down, because God's grace and protection are more fully withdrawn from them and they are left to themselves, so that there is nothing to stop them hurtling to the destruction of sin, and the devil is given greater power to rage upon them. The

<sup>32</sup> *Ibid.*

<sup>33</sup> Lombard, *Sentences* Book IV, dist. 18, ch. 9, MPL 192, cc. 888–9. Cf. Augustine, *De civitate dei* (*The City of God*), IX 17, 9: 'If, then, each man is nearer to God the more he is like God, distance from God is nothing other than his unlikeness. And the soul of man is more unlike that incorporeal, eternal and unchangeable one the more desirous it is of temporal and mutable things.'

prayers of the church, too, and the support of blessings and of merits, are thought to be of no help to them.<sup>34</sup>

12

Now concerning the above words, in order to know who has the power to excommunicate and in what manner, we should notice that in excommunication the accused is judged worthy of a penalty for the status of the world to come in a certain kind of judgement, of which we shall say more in chapter 9 of this discourse. He also has a penalty inflicted upon him which is serious for the status of this present life as well, in that he is publicly defamed and the company of others is forbidden him. As a result of this he is deprived even of civil communication and convenience. And allowing that the infliction of the first penalty, supposing it has been inflicted upon one who did not deserve to be struck down, in no way damages him for the status of the world to come, because ‘God does not always follow the judgement of the church’ (i.e. priests) – sc. when they judge someone unjustly – as was adequately demonstrated earlier; nonetheless, a man who was unjustly struck down in this way by a priest would be most seriously harmed for the status of this present life, in being defamed and deprived of civil communication. And therefore we should say that even though the voice and action of a priest is required in order to promulgate a judgement of this kind, it nevertheless does not belong to any priest or college of priests alone to issue a coercive judgement and command concerning those who are to be excommunicated or absolved. To institute such a judge (viz. one whose task it would be to summon the accused and to examine, judge, absolve or condemn him to be defamed or cut off from the fellowship of the faithful in this way) belongs rather to the body of the faithful in the community in which a person must be judged with a judgement of this kind; or to its superior; or to a general council.<sup>35</sup>

However, such a judge should carry out the examination of the charge laid upon an individual, to see whether it is or is not such that the person should be excommunicated because of it, together with a college of priests or certain of the more expert of them: the number being

<sup>34</sup> Lombard, *Sentences* Book IV, dist. 18, ch. 7, MPL 192, c.888.

<sup>35</sup> I have judged that the natural break of sense lies here rather than one sentence further on, as in Previt -Orton, followed by Gewirth.

determined according to laws that have been laid down or according to custom. For priests ought to judge or discern, with judgement in the first signification, the crimes for which, according to evangelical law, a person should be cut off from the company of the faithful in case he infects others; just as it is the task of a physician or college of physicians to judge, with judgement in the first signification, concerning any bodily disease on account of which an individual (for example a leper) should be separated from the company of others in case he infects them. Again, the crime should be of a kind that someone can be proved by sure testimony to have committed it. And therefore just as it does not belong to any physician or college of physicians alone to put in place a judgement or judge with the coercive power to expel lepers, but rather to the body of faithful citizens or its prevailing part, as demonstrated in chapter 15 of the first discourse; so likewise it does not belong to any priest or any college of them by itself to put in place, within a community of the faithful, a judgement of those who must be expelled from its company because of a disease of the soul (for example a notorious crime), or a judge with the coercive power to do so. Nevertheless, any such judgement should proceed from their counsel, since it is their position to know the divine law which determines the crimes on account of which a criminal should be forbidden the company of the faithful who are not criminal. 'For the priest's lips should keep knowledge, and they should seek the law at his mouth,' Malachi 2.<sup>36</sup>

But as to whether a person charged has actually committed a crime of this kind, this should not be judged by a bishop or priest alone but by the body of the faithful in that community or its superior (as we said), or by a judge – priest or non-priest – instituted by it for this purpose, but always on the basis of proofs that have been submitted. And if he is convicted by witnesses, and his crime was such that he should be excommunicated for it (and this is the only point that should rest on the judgement of a college of priests or its more reasonable part),<sup>37</sup> then it is by sentence of the said judge, instituted for this purpose by the body of the faithful in that place, that this criminal should be declared excommunicate; and the execution of this sentence should take place at the command of the judge and with the voice of a priest, inasmuch as it affects the guilty person for the status of the world to come as well.

<sup>36</sup> Malachi 2. 7.

<sup>37</sup> *Sanior pars*. See the Notes on the Translation under *valentior pars*, above, p. 1.



That what we have said is true is demonstrated by the very place in Scripture from which this type of reproof seems to have originated, and this is Matthew 18 when Christ said: ‘if thy brother shall sin against thee, go and reprove him between thee and him alone; if he shall hear thee, thou hast gained thy brother. But if he will not hear thee, then take with thee one or two more’ witnesses ‘that in the mouth of two or three every word may be established. And if he shall neglect to hear them, tell it unto the church; but if he neglect to hear the church, let him be unto thee as a heathen and a publican.’<sup>38</sup> Christ, then, said: ‘tell it unto the church’; he did not say, unto an apostle or a bishop or priest or any college of them by itself. And Christ there understood ‘church’ as the faithful multitude or the judge established by its authority for this purpose, in the sense in which the apostles and the early church used the term, as was shown fully in chapter 2 of this discourse. And I demonstrate that Christ did understand the church in this way, i.e. as the universal body of believers or the faithful, and that it belongs to this body to establish a judge of this kind or pass such judgement upon the insolent or those charged with this sort of crime, from the Apostle in I Corinthians 5. Here the Apostle, following and explaining the sense of Christ’s words, handed down in more explicit terms the cause, form, manner and persons by whom this judgement should be passed upon someone, saying: ‘For I verily, as absent in body, but present in spirit, have judged already, as though I were present, concerning him that hath so done this deed, in the name of our Lord Jesus Christ, when ye are gathered together, and my spirit, with the power of our Lord Jesus, to deliver such a one unto Satan,’<sup>39</sup> sc. a criminal who had known his father’s wife in a carnal way. Here the gloss according to Augustine has: ‘I have judged in this way, so that you, gathered together as one, without any dissent, and in whom my authority and the power of Christ cooperate, may deliver such a man to Satan.’<sup>40</sup> See, then, why, by whom and how someone should be excommunicated according to the intention and teaching of the Apostle, whose bidding was perhaps more a matter of counsel than command, even according to divine law: since if they had allowed the criminal to go on

<sup>38</sup> Matthew 18. 15–17.   <sup>39</sup> I Corinthians 5. 3–5.

<sup>40</sup> Lombard, *Collectanea*, MPL 191 c. 1571D. There appears to be no extant attribution to Augustine.

associating with them, out of their own forbearance (although not without scandal and the danger of some becoming similarly infected), they were nevertheless capable of being saved and of performing meritorious actions.

Further, even if it had been a command in the strict sense according to divine law, it was still not the case that this command should be carried out by one priest or bishop or college of them alone. And therefore when the Apostle said: 'For I verily, as absent in body, but present in spirit, have judged already' etc., he should be understood as saying, with judgement in the first signification, not the third, because of what he then adds: 'when ye are gathered together, and my spirit'. Here he gave them in addition the form, which would make it impossible for contention to spring up among them as a result, since it was to be done – especially if by means of coercive judgement – by them all gathered together as one. Hence Augustine: 'so that you, gathered together as one, and without any dissent', i.e. it should be done by you out of common consent, or by a judge instituted by you for this purpose by common consent, which is the same thing. And thus the Apostle did not command that this should be done by a priest, nor did he write to any priest or bishop that this should be done by them – even though he was at that time sending Timothy to them, who was a bishop, as is clear from chapter 4 of the same letter. But this is what he would have done if he had recognised that this judgement belongs to the authority of a priest alone, as he had done in other matters; we made this point in the previous chapter as well, from I Timothy 3 and Titus 1.

This opinion that we hold and that we have just stated with probability can be confirmed by reasoning in accordance with Scripture. Because it is more certain and less suspect to make a judgement of this kind in the manner that we have said than solely by the will of a single priest or college of them, since his or their judgement is sooner corrupted by love or hate or consideration of their own convenience than is that of the universal body of the faithful; even if, as we have said, the execution of a sentence of this kind should take place through a priest, inasmuch as divine power is called upon in this matter to inflict a penalty on the criminal in this world which cannot be imposed by human power, for example being tormented by the devil. And also because he is likewise condemned to a penalty for the status of the world to come, and because he is deprived of the support of the church; which God perhaps laid down should be done only through the action of a priest.

Again, because if it belongs to any bishop or priest by himself, or solely with his college of clergy, to excommunicate a person without the consent

of the universal body of the faithful, it would follow from this that priests or colleges of them could take away all realms and principates from the kings and princes who hold them. For if any prince has been excommunicated, the multitude subject to him will also be excommunicated if it wants to obey its excommunicated prince; and hence the power of any prince will be a broken thing. But it is the opposite of this that the teacher of the Gentiles<sup>41</sup> wanted in Romans 13 and 1 Timothy 6, and Augustine in his gloss on the same places, as we cited in chapter 5 of this discourse, sections 7 and 8. As to any objections that might apparently be made to what we have determined, they will easily be refuted from what we shall say in chapters 9, 10, 14 and 17 of this discourse.

#### 14

Finally, there is another authority that belongs to priests, by which bread and wine are transubstantiated into the blessed body of Christ at the prayer of a priest, after he has uttered certain words. But this authority is a character of the soul, like that of the keys, and is called the power of performing the sacrament of the eucharist. Some theologians say that it stems from the same character as the power of the keys (of which we spoke earlier), and some that it is from a different character, conferred upon the apostles at a different time and by different words of Christ, for example those that he uttered to the apostles in Matthew 26, Mark 14 and Luke 22, when he told them: ‘This is my body which is given for you; do this in remembrance of me;’<sup>42</sup> ‘do this’, i.e. have the power of doing this. Whatever the truth, however, in this difference of opinion, it is not relevant to the present consideration; for we think we have recalled as much as is sufficient for our purpose in respect of those authorities or powers, conferred on priests or bishops by Christ, which can be convincingly demonstrated from Holy Scripture.

<sup>41</sup> I.e. the apostle Paul.

<sup>42</sup> Matthew 26. 26, Mark 14. 22, Luke 22. 19; the words are from Luke.

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## A summary of what was said in the previous chapter, and a clarification and confirmation of it

To sum up, let us draw together what we have conveyed concerning the power or authority of the priestly keys given by Christ to the apostles, and say that in the sinner who truly repents, i.e. grieves for a sin committed, God alone effects certain things even with no preceding ministration on the part of a priest, viz. the illumination of the mind, the purging of the fault or stain of sin, and the remission of eternal damnation. But there are other things that God effects in the same sinner not by himself alone, but through the ministration of a priest, such as to show who, in the view of the church, is held to be loosed or bound from his sins in this world and is to be bound or loosed in another, i.e. those whose sins God has retained or forgiven. Again there is another thing that God effects in respect of a sinner through the ministration of a priest, sc. the commutation of the penalty of purgatory, which is owed by the sinner for the status of the world to come, into some satisfaction which is temporal or of this world. For he relaxes it in whole or in part according to the kinds of satisfaction that have been enjoined and the condition of the penitent, all of which should take place through the priest with the key of power according to discernment. So, too, the insolent are excluded by the priest from the communion of the sacraments, and those recovering their right mind are readmitted to it, as we said towards the end of the [previous chapter](#).

And this was the opinion of the Master in Book 4, distinction 18, chapter 8, when he said: ‘Regarding these ways of binding and loosing, in what sense is it true, that: “Whatsoever thou shalt loose on earth, shall be loosed also in

heaven; and whatsoever thou shalt bind on earth, shall be bound also in heaven.” For on occasion they’ (sc. priests) ‘show as loosed or bound those who are not so with God, and sometimes they bind or loose the unworthy with the penalty of satisfaction, and admit the unworthy to the sacraments and prevent the worthy from being admitted. But we should understand it in respect of those whose merits demand that they should be loosed or bound. Thus, whoever they loose or bind by applying the key of discernment to the merits of the accused, these are loosed or bound in heaven, that is with God, because the sentence of a priest produced in this way is validated and confirmed by divine judgement.’ And afterwards he said, as if by way of epilogue: ‘Behold the nature and extent of the use of the apostolic keys.’<sup>1</sup>

3

In order to have a still fuller appreciation of this, let us bring in an example or a comparison, familiar enough, which also seems to be very relevant to the words and opinions of Christ and the saints whose authorities we cited earlier, especially Ambrose. For he says that ‘the word of God forgives sins, the priest is judge. The priest displays his office, but does not exercise the rights of any power.’<sup>2</sup> For our part, then, let us say that the priest is like the jailer of the heavenly judge and frees the sinner in a manner analogous to the jailer of the worldly judge. For just as it is by the word or sentence of the judge of this world (sc. the prince) that a guilty man is convicted or cleared of fault and civil penalty, so it is by the divine word that a person is, simply speaking, loosed or bound from fault and the debt of damnation or penalty for the status of the world to come. And just as no one is cleared or convicted of civil fault or penalty by the action of the jailer of the worldly judge, but it is nonetheless through his action in opening or closing the prison that the accused is shown to be cleared or convicted; just so, no one is loosed or bound from fault and the debt of eternal damnation by the action of the priest. Rather, when someone receives the blessing of a priest and is readmitted to the communion of the sacraments, this shows who is held to be loosed or bound by God in the view of the church (as we said towards the end of the [previous chapter](#)). And therefore just as the jailer of the worldly judge displays his office in opening or closing the prison, but does not exercise the rights of any judicial power to clear or to convict – because even

<sup>1</sup> Lombard, *Sentences* IV dist. 18 ch. 8, MPL 192, c. 888.

<sup>2</sup> Above, II, 6, 6.

if he did, as a matter of fact, open the jail to some accused person who had not been cleared by the judge, and announced it to the people with his own voice, the man would not on that account be cleared of a penalty and civil fault; and conversely if he refused to open the jail and with his own words announced that a man, who had been cleared by the sentence of one who was truly judge, was not cleared but convicted, the man would not on that account be obliged to the fault or civil penalty – so, analogously, the priest (the jailer of the heavenly judge) displays his office by the verbal pronouncement of absolution or of bondage or malediction. But if the priest, out of ignorance, deceit, or both, should pronounce as due for absolution or already absolved those who are in reality due for condemnation or already condemned by the judge on high, or the other way round, nevertheless the former would not on that account be absolved and the latter condemned, in that he would not have applied the key or keys to the merits of the accused with discernment. And therefore ‘he displays his office’, as Ambrose said, but ‘does not’ (however) ‘exercise the rights of any power’, since priests sometimes pronounce in the view of the church that some have been bound or will be bound for the status of the world to come who have really been loosed or will be loosed with God, and the other way round, as we said above with the authority of the saints and of the Master in Book IV, distinction 18, chapter 8. And because of this, the priest does not exercise the rights of power. For if he did, divine justice and the divine promise might sometimes fail.

4

He alone exercises the rights of power in these matters, therefore, and is the judge with coercive power, who alone can neither be deceived concerning human thoughts and deeds, since ‘all things are naked and opened unto the eyes of him,’ Hebrews 4,<sup>3</sup> nor wills anything perversely, since ‘thou art just, O lord, and all thy judgements are just, and mercy, truth and judgement are in all thy ways,’ Tobias 3;<sup>4</sup> and so he alone is such a judge. Hence James 4: ‘There is one lawgiver and judge, who is able to free and to condemn;’<sup>5</sup> and James did not say this of himself or of any of the apostles, even though he was one of those three ‘who seemed to

<sup>3</sup> Hebrews 4. 13.

<sup>4</sup> Tobias 3. 2.

<sup>5</sup> James 4. 12.

be pillars' of the church, as the Apostle said, Galatians 2.<sup>6</sup> But Christ willed that sentences of this kind, passed or to be passed by him in another world, should be pronounced by priests in a kind of judgement in the first signification, like a prognosis, so that sinners would thereby be terrified in this world and would be recalled from their evil deeds and crimes to penitence, for which the office of the priest is both required and greatly avails. So, suppose a physician of bodily health (who had been given the power of teaching and practising the art of medicine at the institution of the judge or the human legislator) pronounced judgement among the people, in accordance with medical science, concerning those who would in future be healthy or die, and also displayed certain precepts or proofs of such things, so that as a result men might lead a sober life and be recalled from their excesses. Now certainly the physician would command that those things should be observed, and would judge that people who observed them would in future be healthy and people who flouted them would in future fall ill or die. But he would not be the principal agent of their health or illness – that would be the action of human nature – although he would still display a certain ministration. Nor, again, could the physician on his own authority compel a healthy or ill man to do these things, however advantageous they might be to his bodily health, but only urge and teach and frighten by his prognostic judgement in the first signification, pronouncing their health from the observation of certain things and death or sickness from the flouting of these. So too, by analogy, the physician of souls, sc. the priest, judges and exhorts concerning those things that lead to the eternal health of the soul or to its eternal death or temporal penalty for the status of the world to come. But he neither can nor should hold anyone to such things by coercive power in this world, as we have proved by the authority of the Apostle and of Ambrose on II Corinthians 1, along with the explicit opinion of Chrysostom, which we cited above in chapter 5 of this discourse, section 6.

5

For this reason, a priest in respect of his office should not be compared by way of simile to a judge in the third signification but in the first, sc. one who has the authority to teach or to practise, just as does a physician, but

<sup>6</sup>Galatians 2. 9.

not to do so upon anyone with coercive power. For it is in this way that Christ called himself a physician, not a prince, when he said in Luke 5 (speaking of himself): ‘They that are whole need not a physician; but they that are sick’;<sup>7</sup> and he did not say: they need a judge; because he had not come into the world to exercise coercive judgement in matters of contention, as we quoted from Luke 12 in chapter 4 of this discourse, section 8. But with such judgement he will judge the living and the dead on that day of which the Apostle said in II Timothy, [last chapter](#): ‘Henceforth there is laid up for me a crown of justice, which the Lord, the just judge, shall give me at that day.’<sup>8</sup> For then he shall inflict penalties with coercive judgement on those who have transgressed in this world the law that was given directly by him. And because of this Christ said signally to Peter: ‘I shall give unto thee the keys of the kingdom of heaven;’ he did not say: I shall give you the judgement of the kingdom of heaven. Hence, as we have already said, the jailer of neither the worldly nor the heavenly judge has coercive judgement (which we have called judgement in the third signification), in that neither of them exercises the rights of such power; as Ambrose plainly said with respect to the priest, and has also been sufficiently demonstrated from the authority of other saints.

Let this be our determination, then, concerning the authority of priests or bishops, and the power of the apostolic keys granted to them by Christ.

<sup>7</sup> Luke 5. 31.

<sup>8</sup> II Timothy 4. 8.



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## On the division of human acts and their relation to human law and the judge of this world

Now all coercive jurisdiction concerns voluntary human acts in respect of some law or custom, either insofar as these acts are capable of being ordained to the end of this world, sc. the sufficiency of worldly life, or to the end of the world to come, which we call eternal life or glory. In order to highlight further the distinction between the judges (or those who ought to judge) of these actions, and in accordance with which laws, by what judgement, and how, let us discuss in some fashion the differences between the acts themselves. For to determine these will be no small help towards the solution of the previous doubts.<sup>1</sup>

### 2

Let us say, then, that of human actions that proceed from thought and desire, some proceed apart from the empire of the mind, and some as a result of the empire of the human mind. Among the first are the thoughts, desires, delights and pleasures which come from us and in us without an imperative or command on the part of the intellect or the appetite being made with regard to them: such are the thoughts and affections we find ourselves with when we are woken from sleep, or which have been otherwise produced in us without an imperative of our mind. But these are followed by certain thoughts, assents and affections towards either continuing the previous acts or questioning and

<sup>1</sup>The following discussion picks up on the distinction within human actions and passions initially made in I. 5, 4. In Discourse I, however, Marsilius was concerned with a distinction between natural forces and human agency, and how to ‘temper’ or moderate both; here he introduces for the first time the question of subjective human freedom or ‘empire’ (*imperium*), and of law or regulation in relation to that aspect of human action.

understanding some of them (as in the action which happens through recollection). These are and are called ‘imperatives of the mind’ or ‘commands’, firstly because they happen or are elicited as a result of our empire, and also because certain others, like pursuit or avoidance, are elicited by them.

3

The difference between these ‘commanded’ and ‘non-commanded’<sup>2</sup> acts stems from what we said before: that we do not have full liberty or empire over non-commanded acts as to whether they happen or not, whereas according to the Christian religion, power over commanded acts lies in us. And of the first kind of acts I said that the power is not fully in us because it is not in our power wholly to prevent their occurrence; even though by the second kind of acts (which are called imperatives), and those that follow upon them, we can dispose our soul in such a way that it does not easily produce or accommodate the first kind: viz. when a person has accustomed himself to command, cultivate, or think upon their opposites.

Of these commanded acts, some are and are called ‘immanent’, others ‘transitive’. Commanded thoughts and affections, together with the dispositions for these that are produced by the human mind, are and are called ‘immanent’ insofar as they do not cross over into a subject other than the one producing them. All pursuits of things we desire, on the other hand, and all omissions of these (as their privations), and all movements produced by some exterior organ of the body (especially if it is moved in respect of place), are and are called ‘transitive’. Again, some transitive acts exist and take place without harm or injury to any individual person, collective body or community other than the doer, for example all kinds of manufacture, a gift of money, a pilgrimage, punishment of one’s own body by beating or blows or in some other way, and other similar things. But there are other transitive acts that exist and take place with the opposite circumstance, viz. with harm or injury to someone other than the doer, such as blows, theft, rapine, false witness and the rest which are of many varieties and types.

4

Now for all the acts we have mentioned – sc. those proceeding from the human mind – and especially for commanded acts, certain rules,

<sup>2</sup> *Imperatus* and *non-imperatus*: see the Notes on the Translation, above, p. xlv.

i.e. standards, or dispositions have been discovered by which they might take place and proceed in an appropriate and due manner, for the sake of the sufficient life that can be gained as a result of them both in this world and in that to come. These dispositions or rules are of two kinds. With some of them, acts of the human mind (both immanent and transitive) are trained and regulated in being done or omitted without any penalty or reward being meted out to the person who does or omits them by any other agent through coercive power. Many disciplines of work, both active and productive, are of this kind. But there are others in which acts of this kind are commanded to be done or omitted subject to penalty or reward being meted out to those who do or omit them through the coercive power of another agent. Again, of these coercive rules, there are some in which reward or punishment is applied to those who observe or transgress them in and for the status of this present life. Of this kind are all human civil laws and customs. But there are others in which the doers are punished or rewarded in and for the status solely of the future world. Of this kind are (for the most part) divine laws, which are called by the common term of 'followings'. Among these, that of the Christians alone contains truth and sufficiency for the things we may hope for from the world to come, as we said in chapter 6 of the first discourse.

## 5

For the life or sufficient living of this world, therefore, a rule has been laid down for those transitive and commanded human acts which can take place to the convenience or inconvenience, right or injury of someone other than the doer: a rule which commands and coerces its transgressors with punishment or penalty for the status of the present world alone. And this is what we called by the common name of 'human law' in chapter 10 of the first discourse, assigning its necessity in terms of end, and its active cause, in chapters 11, 12 and 13 of the first discourse.

Now for the life or living of this world, but for the status of the world to come, a law was handed down and set in place by Christ. This law is a rule of commanded human acts which are in the active power of our mind, both immanent and transitive, insofar as they can be done or omitted in due or undue fashion in this world; but it nevertheless coerces and metes out penalty or reward for the status or end of the future world. And it will impose these penalties or rewards in the future world, not in this one, according to the merits or demerits of those who observe or transgress it in the present life.

6

Now because these coercive laws, divine as much as human, lack a soul and a moving principle, adjudicative and executive, they needed to have some animate subject or principle which might command, regulate or judge human acts in accordance with them, and also carry out these judgements and constrain transgressors. This subject or principle is called a ‘judge’, of the kind we spoke of in the third signification in chapter 2 of this discourse. So in *Ethics* IV, the treatise on justice: ‘For a judge’ is ‘as if justice animated’.<sup>3</sup> Therefore in respect of human laws there must be a judge, such as we have already said, with authority to judge (in the third signification of judgement) contentious human acts, to carry out what has been adjudged, and to constrain anyone who transgresses the law through coercive power. For this judge ‘is the minister of God’, and ‘a revenger to execute wrath upon him that doeth evil’, as the Apostle said in Romans 13:<sup>4</sup> and sent by God for this purpose, as is said in I Peter 2.<sup>5</sup>

7

And the Apostle said: ‘him that doeth evil’, sc. whoever that person might have been, understanding this with respect to all men without discrimination. And therefore since priests or bishops and generally all ministers of the temple, called by the common name of ‘the clergy’, are capable of doing evil by commission or omission, and some (unfortunately, many) of them do in fact on occasion act to the harm or injury of another, they too are subject to the vengeance or jurisdiction of judges who have coercive power to punish transgressors of human laws. This the Apostle also said openly in Romans 13: thus, ‘let every soul’, he said, ‘be subject unto the higher powers’, viz. kings, princes, and tribunes (according to the exposition of the saints). For the same appropriate material ought to admit the action of the same agent, one which is of a nature and has been ordained to act upon it for the sake of the end to which it is fitted, as is apparent from *Physics* II. For as it says there, ‘each thing is acted upon in such a way as it is its nature’ to be acted upon,<sup>6</sup> and conversely as well. But the transgressor of the law is the matter or

<sup>3</sup> Aristotle, *Nicomachean Ethics* V 1132a21–2.      <sup>4</sup> Romans 13. 4, cf. above, II. 5, 4–5.

<sup>5</sup> I Peter 2. 14.

<sup>6</sup> Aristotle, *Physics* II 199a9. Marsilius’s wording shortens and rearranges Moerbeke’s Latin, and Marsilius also supplies the passive infinitive. It is not an easy sentence in the

subject upon which the judge or prince is of a nature and has been ordained to enact justice in order to create equality or proportion, for the sake of preserving peace or tranquillity and men's mutual living together; and ultimately for the sake of the sufficiency of human life. And because of this, wherever such matter or subject is found in a province subject to a judge, that judge must enact justice upon it. Since, therefore, a priest is capable of being this appropriate or inherent matter, i.e. a transgressor of human law, he should be subject to the judgement of the judge. For in relation to a judge, being a priest or a non-priest is an accidental property of the transgressor in the same way as being a farmer or a builder is; just as in relation to a physician, being musical or non-musical is an accidental property of a person who can be made healthy or ill. For that which is inherent is neither abolished nor altered by that which is accidental; otherwise there would be infinite species of judges and physicians.

Thus any priest or bishop who is a transgressor of the human law should have justice done to him and be constrained by the judge who has coercive power over transgressors of human law in this world. But this person is the prince of this world as such, not a priest or bishop, as was demonstrated in chapters 15 and 17 of the first discourse and chapters 5 and 6 of this. Therefore all priests or bishops who transgress human law should be constrained by the prince. And a priest or other minister of the temple should not be punished for his transgression just as if he were a man of this world, but more fully inasmuch as his sin is graver and more obscene. For he, who ought to have a richer knowledge of the commands of what is to be done and avoided, commits his sin more knowingly and more deliberately. Again, because the sin of one whose duty it is to teach is more shameful than that of one whose duty it is to be taught. But this is the relation of the sin of a priest to that of a non-priest. Therefore the priest sins more gravely, and should to that extent be more fully punished.

8

Neither should we accept the words of someone who objects that injuries – verbal injuries, injuries to property, or injuries to the person – and all other things prohibited by human law are spiritual actions if they are inflicted on

original; a modern translation reads: 'As things are done, so they are by nature such as to be, so they are done' (W. Charlton tr., *Aristotle's Physics I, II* (Oxford: Clarendon, 1970), p. 40).

someone else by a priest, so that it does not belong to the prince of this world to take vengeance upon a priest for such things. Because things of this kind that are prohibited by law, e.g. adultery, blows, homicide, theft, rapine, insult, detraction, treachery, fraud, heresy, and other such things, are carnal and temporal even when committed by a priest, as is very well known from experience, and we demonstrated it above in chapter 2 of this discourse from the Apostle in I Corinthians 3 and 9 and Romans 15.<sup>7</sup> And they should even be judged more carnal and temporal inasmuch as a priest or bishop sins more gravely and shamefully in respect of them than those whom he should be recalling from such things: offering them an opportunity and a facility of wrongdoing by his corrupt example.

9

Any priest or bishop whosoever he may be, therefore, is and should be subject to the jurisdiction of princes in those things that human law commands to be observed, just like the rest who are secular persons. He is neither exempt himself from the coercive judgement of such princes, nor can he exempt anyone else on his own authority. I demonstrate this through an addition to what was said in chapter 17 of the first discourse, which leads one who says the opposite into a major difficulty. Because if the Roman bishop, or any other priest, were exempt in this way – i.e. so that he was not subject to the coercive judgement of princes but was rather himself a judge of this kind, without the authority of the human legislator, and was able to remove from the jurisdiction of the prince and subject to himself all ministers of the temple who are called by the common name of ‘clergy’<sup>8</sup> – it follows of necessity that the jurisdiction of those who hold secular principate would be almost entirely cancelled out. But this I consider to be a serious difficulty and one that impacts upon all princes and communities; since the Christian religion deprives no man of his right, as we quoted in chapter 5 of this discourse from Ambrose on that passage in Titus 3: ‘Put them in mind to be subject to princes and powers.’<sup>9</sup>

I demonstrate this consequence of the above difficulty in the following way: since we do not find it forbidden in divine law for one who has a wife to be a priest or bishop, but rather allowed, especially if he does not have more

<sup>7</sup> Above, II, 2, 6.

<sup>8</sup> *Clerici*: see the Notes on the Translation, above, p. xlii.

<sup>9</sup> Above, II, 5, 8.

than one: as is maintained in I Timothy 3.<sup>10</sup> But something that has been established by human law or custom can be revoked by that same authority insofar as it is such. Therefore the Roman bishop will be able, by making himself into a legislator, or from the plenitude of his power (if anyone concedes that he has it), to allow all priests, deacons and subdeacons to have wives; and not only these, but also others who are not ordained to the priesthood or diaconate or in any other way consecrated, and are called ‘clergy of the simple tonsure’<sup>11</sup> (and indeed more appropriately). Boniface VIII seems in fact to have done this in order to augment his secular power: for he ascribed to the clergy all those, if they wanted, who had taken a single virgin wife, and he decreed that they should be reckoned as clergy through his ordinances which are called decretals.<sup>12</sup> And not keeping even to these limits, they have made certain laypersons who are called ‘jolly friars’ in Italy and ‘Beguius’ elsewhere, similarly exempt from human civil laws that have been duly passed; so too the brothers Templar and Hospitaller and many other orders of this kind, and similarly those of Altopascio, and they can with equal reason do the same at whim in the case of any others.<sup>13</sup> But if all such individuals are, simply in virtue of this, exempt from the jurisdiction of princes according to their decretals (which also grant certain immunities from public or civil burdens to such exempt individuals), then it appears highly likely that the majority of men will move over to the college of the clergy, particularly since they take on the literate and the illiterate

<sup>10</sup> I Timothy 3, 2, 12.   <sup>11</sup> See note 8.

<sup>12</sup> *Liber sextus* III. 2. 1: *De clericis conjugatis* (‘On married clerks’), CIC II col. 1019, which explicitly notes that this is ‘in favour of the whole clerical order’. The sixth book of canon law, the *Liber sextus* or ‘Sext’, was a collection published by Boniface VIII to take account of papal legislation since the publication of the *Liber extra* in 1234.

<sup>13</sup> *Fratres gaudentes*: the ‘jolly friars’ (*frati gaudenti*) were the Knights of the Virgin (*Cavalieri della Vergine*), founded at Bologna in 1261 and suppressed towards the end of the fourteenth century. *Beguius*: the Beguines and Beghards of northern Europe were associations of laywomen and laymen that originated in the later twelfth century and quickly spread through France, Germany and the Netherlands; they took no vows but devoted themselves to works of piety and poverty. The Beguines of southern France were associated with the Spiritual Franciscans. *Fratres Templariorum, Hospitaliariorum*: the Knights Templar and Hospitaller were two wealthy and powerful lay orders founded in the twelfth century. In 1307 Philip IV ordered (and achieved almost completely successfully) the arrest of all Templars in France. *Eos qui de Altopassu*: the knights or friars of Altopascio were a lay order founded near Lucca in Tuscany, which maintained hospitals for pilgrims and the sick. In general, Marsilius’s accusations that the papacy favoured these lay orders and associations for their own purposes are misplaced: the papacy did little to oppose Philip IV’s actions against the Templars, and the order was formally suppressed at the Council of Vienne in 1312; the same council equally outlawed the *status beguinagii*.

indiscriminately. For every man is prone to pursue his own convenience and avoid the contrary. But if the greater number or multitude moves over to the college of the clergy, the jurisdiction and coercive power of princes will be left without any strength, and the number of those whose duty it is to shoulder civil burdens will be almost nil; which is the most serious disadvantage and destructive of the polity. For no one who enjoys civil honours and conveniences, like peace and the protection of the human legislator, should be exempted from burdens and from jurisdiction without a decision on the part of that same legislator. Hence the Apostle, Romans 13: for this very reason 'furnish ye tribute'.

In order to avoid this it must be admitted, in accordance with the truth, that whoever holds principate has jurisdiction over priests or bishops and all clergy by the authority of the human legislator, so that the polity should not be dissolved by a disordered plurality of principates (as determined in chapter 17 of the first discourse). This prince should also decide upon a fixed number of such persons in the province subject to him, just as he does with the persons who make up any other part of the polity, in case by their undue outgrowth they gain the strength to resist the coercive power of princes or otherwise bring trouble to the polity, or in case by their insolence or leisure from necessary tasks they deprive the city or realm of any convenience; an argument we introduced from *Politics* V, chapter 2, in chapter 15 of the first discourse.<sup>14</sup>

It is, then, by human law and the human judge (in the third signification) that those human acts which are transitive upon the convenience or inconvenience, right or injury of a person other than the doer must be regulated. And all clergy and laypeople must be subject to this coercive jurisdiction. There are also certain other judges in accordance with human laws who are called judges in the first or second signification, for example the learned doctors of those laws; but they lack coercive authority, and nothing prevents there from being more than one of them in any single community, even if they are not ordered in respect of each other.

<sup>14</sup>Cf. above, I. 15, 10.



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On the relation of human acts to divine law and  
the judge of the other world, viz. Christ, and also  
on how they relate to the teacher of that law,  
the bishop or priest, in this world

According to this reasoning, therefore, there is also a judge who has coercive authority over transgressors in accordance with divine law, which we said was also a coercive standard of some human acts, both immanent and transitive. And this judge is one alone, sc. Christ, and no other. Hence James 4: ‘There is one lawgiver and judge, who is able to free and to destroy.’<sup>1</sup> But the coercive power of this judge is not exercised upon anyone in this world to mete out penalty or punishment or reward to those who transgress or observe the law laid down directly by him, which we have often called the evangelical law. For it was Christ’s will, in his mercy, to allow the possibility of merit and of repenting of deeds committed against his law up until the very end of a man’s life, as will be shown in what follows from the authorities of Holy Scripture.

## 2

Now analogously with human law there is another judge in accordance with gospel scripture, who is a judge in the first signification: sc. the priest, who is a teacher in this world of the divine law and of the commands it contains of what is to be done or avoided in order to achieve eternal life and escape penalty, but who nevertheless has no coercive power in this world to constrain anyone to the observance of the things it

<sup>1</sup> James 4. 12.

commands. For it would be vain for him to coerce anyone to them, given that they would be of no profit to someone who had been coerced into observing them; we showed this plainly through Chrysostom (or rather through the Apostle) in chapter 5 of this discourse, section 6. And so we can appropriately liken this judge to a physician, who has been given the authority of teaching and commanding and making a prognosis or judgment about those things that are useful to be done or omitted in order to achieve bodily health and escape death or illness. For this reason even Christ called himself, in and for the status of this present life, a physician and not a prince or judge. Hence at Luke 5 (as we quoted in a [previous chapter](#)) he says to the Pharisees, speaking of himself: ‘They that are whole need not a physician, but they that are sick.’<sup>2</sup> For Christ did not ordain that anyone should be constrained to the observance, in this world, of the law that he had laid down; and for the same reason neither did he establish a judge with the coercive power forcibly to constrain transgressors of this law in that same world.

### 3

As a result one should be aware that the evangelical law can be in either of two relations to the men upon whom Christ laid it: one, as being in and for the status of this present world, and as such it has more the rationale of a teaching (practical or theoretical or both, in respect of its different aspects) than of a law in the proper and last signification; although it can be called a law in accordance with the other significations of law, like the second and third, of which we spoke in chapter 10 of the first discourse. And the reason for what we have said is that law, in its last signification and properly so-called, is said of a coercive standard, i.e. a standard in respect of which a transgressor is constrained by a coercive power that has been granted to the one who must judge in accordance with it. Whereas by contrast no one is commanded by the evangelical teaching, or by the legislator of that law, to be compelled in this world to the observance of those things it commands men to do or omit in this world. Thus in relation to the status of men in and for this world it ought to be called a teaching, not a law (except in the sense we have said). And this was the opinion of the Apostle, II Timothy 3, when he said: ‘All scripture given by inspiration of God is profitable for doctrine, for reproof, for correction, for instruction in

<sup>2</sup> See above, II. 7, 5.

justice.<sup>3</sup> Nowhere did the Apostle say: for compulsion or punishment in this world. Hence II Corinthians 1: ‘Not for that we have dominion over your faith, but are helpers of your joy;’ because ‘by faith ye stand’.<sup>4</sup> On which Ambrose (as we cited above in chapter 5, and it is not tedious to repeat it often): ‘And so that they should not be indignant’ (sc. the Corinthians) ‘as if at his lordship, because he’ (the Apostle) ‘had said, “to spare you came I not”, he’ (the Apostle) ‘adds: I do not say “to spare” for this reason, “for that we have dominion over your faith”, that is, that your faith (which is a thing of will, not of necessity), is subject to lordship and coercion; I say it rather for this reason, “that we are helpers”, if you are willing to work with us.’ See: ‘helpers’, sc. through teaching, and ‘if you are willing to work with us’. ‘For “by faith”, which works by love, “ye stand”, not by dominion.’<sup>5</sup>

The evangelical scripture, or law, can be in another relation to men, that is, for their status in another world: and it is in that world alone, not in this, that those who have transgressed it in this present life will be constrained by penalty or punishment. And as such it deserves the name of law most properly speaking, and he who shall then judge in accordance with it is most properly a judge, as being a judge in the third signification with coercive power. But because a priest or bishop, whoever he may be, disposes and regulates men in accordance with this law only in the status of this present life, even if with a view to the life to come; and because it has not been granted to him by the immediate legislator of this law, viz. Christ, to constrain anyone in this world in accordance with it; therefore he is not properly called a judge, as being a judge in the third signification with coercive power, and he neither can nor should constrain anyone by such judgement in this world with a penalty in goods or in person. A teacher of an activity, like a physician, is in the same or an analogous situation with regard to the judgement of men’s bodily health, with no coercive power over anyone, as we said towards the beginning of this chapter.

4

This too was explicitly the opinion of Saint John Chrysostom, in agreement with the thinking of the Apostle in II Corinthians 1, in his book

<sup>3</sup> II Timothy 3. 16.

<sup>4</sup> II Corinthians 1. 23; see above, II. 5, 6.

<sup>5</sup> *Ibid.*

of *Dialogues* (which is also called *On Priestly Dignity*), Book II, chapter 3. In order to keep the discussion short we have not repeated that passage of his which we quoted in chapter 5 of this discourse, section 6,<sup>6</sup> but we have appended here what he adds to the passage given above. So John says: 'Because of this, therefore, the help of great art is needed in order to persuade men, so that when they fall ill they might present themselves of their own accord for the medicines of priests; and not merely this, but that they might also be grateful to those who cure them. For if a man breaks out of his bandages (and he has indeed the free power of doing this), he will make his sickness worse, and if he rejects the words which would help him like the surgeon's knife, he will only add another wound to himself as a result of his contempt; and the opportunity of a cure will become an instrument of a more insidious disease. For there is no one who can be cured against his will.' And then, after a few intervening words – to which a shepherd of souls should pay attention (in correcting, though not in coercing) – he adds: 'Now if a man has been stolen away from the true faith, much exhortation, hard work, and patience will be incumbent upon the priest: for he cannot lead the wanderer back to the path by force, but he will try to persuade him to return to the true faith from which he has been corrupted.' See, then, how the saint separates the judgement of priests from the judgement of princes, in that the judgement of priests is not, and should not be, coercive; giving the reason that we have said over and over again, firstly that coercive power is from laws or legislators, which had not been granted to priests in his own time or province, and secondly that if it were granted them, their actions upon their subjects in respect of it would be in vain, because there is no spiritual profit, in respect of eternal salvation, for those who have been coerced. And he said the same on that passage in Luke 9: 'If any man will come after me, let him deny himself.'<sup>7</sup> But I have omitted the passage because enough has been said and for the sake of brevity.

## 5

This, again, was plainly the opinion of Saint Hilary in his letter *To the Emperor Constantius*, in which he wrote to him, among other things: 'God taught, rather than exacted, knowledge of himself; and when in his precepts he counselled awe at the works of heaven, he rejected thereby the authority

<sup>6</sup> *Ibid.* and note there.

<sup>7</sup> Luke 9. 23.

of coercing men to acknowledge him.<sup>8</sup> See, then, that God wants men to be taught to know and acknowledge him, sc. through faith, and not for anyone to be coerced: this he rejected. Hilary also repeats the same thing a little further on, saying: ‘God does not look for coerced confession.’ And again further on he says the same thing in the person of all priests, as follows: ‘I cannot receive one unless he is willing, nor hear him unless he is praying, nor make the sign of the cross upon him unless he makes his own profession of faith.’ Thus God does not want acknowledgement of him to be coerced, and neither does he want anyone to be dragged to this by the violent action or compulsion of any person. Hence the same Saint Hilary, *Against Auxentius, Bishop of Milan*: he held this man to be an Arian, who through armed force was attempting to constrain men to admit his own opinions in respect of (or more accurately, as he says, contrary to) the catholic faith; but he takes issue with him even if his teaching had been true, saying: ‘But first we may pity the labours of our age, and lament the foolish opinions of the present times: in which people believe that human things can offer support to God, and men labour to protect the church of Christ with secular ambition.’<sup>9</sup> Again to the same person, in the same place: ‘But now, O misery! Earthly props recommend the divine faith, and Christ is shown to have no power of his own when ambition joins itself to his name. The church terrorises with exile and imprisonment, and compels belief in itself, when it was once believed in despite exile and imprisonment.’ And he speaks of the church in the sense of the college of priests or bishops and all the other ministers of the temple who are called the clergy.

6

Ambrose, too, was openly of this opinion in his second letter *To the Emperor Valentinian*, entitled *To the People*, when he said: ‘I can grieve, I can weep, I can groan; against arms, soldiers and Goths, my tears are my weapons, for such are the defences of a priest; I neither can, nor should, resist in any other way.’<sup>10</sup> See, then, that a priest ‘should not’ – even

<sup>8</sup> ‘Saint Hilary’ is St Hilary of Poitiers (d. 368 CE), champion of orthodoxy against Arianism (for Arius see below, II. 20, 1): *Liber primus ad Constantium Augustum*, MPL 10, c. 161A–B.

<sup>9</sup> Hilary of Poitiers, *Liber contra Arianos vel Auxentium*, MPL 10, c. 610 C.

<sup>10</sup> See above, II. 5, 5.

allowing that he could – raise arms or coercive force against anyone, or command or exhort them to be raised in this way, especially against Christian faithful; although the whole world may well think the opposite of certain priests, contrary to the opinion of the sacred canon and of the saints.

7

In accordance, therefore, with the truth and the overt intention of the Apostle and of the saints who were the particular doctors of the church or faith, no one – no faithful Christian, and in fact no infidel either – is commanded to be coerced in this world, by penalty or punishment, to observe the precepts of the evangelical law, especially not by a priest. And for this reason the ministers of this law, the bishops or priests, neither can or should judge anyone in this world with judgement in the third signification, nor compel anyone by any penalty or punishment to observe the precepts of divine law against his will, and especially without the authority of the human legislator; since judgement of this kind according to divine law should not be exercised, nor its execution carried out, in this world, but only in that which is to come. Hence Matthew 19: ‘And Jesus said unto them’ (i.e. the apostles) ‘Verily I say unto you, That ye which have followed me, in the regeneration when the Son of man shall sit in the throne of his majesty, ye also shall sit upon twelve thrones, judging the twelve tribes of Israel.’<sup>11</sup> See, then, the time when the apostles shall sit with Christ as co-judges in the third signification: in another world, and not in this. The gloss has: “in the regeneration”, that is, when the dead shall rise again incorruptible’.<sup>12</sup> Hence, according to the gloss: ‘There are two regenerations, the first from water and the holy spirit, the second at the resurrection.’<sup>13</sup> Equally, at ‘ye also shall sit’, the gloss according to Saint Augustine says: ‘When’ (sc. at the resurrection) ‘the servile form that was judged’ (sc. Christ, who was in this world judged with coercive judgement, rather than being a judge) ‘shall itself exercise judiciary power, then you too shall be judges with me.’<sup>14</sup> See here, then, according to Christ’s own gospel pronouncement and the exposition of the saints, that Christ did not exercise judicial, sc. coercive,

<sup>11</sup> Matthew 19. 28.    <sup>12</sup> Interlinear gloss ad loc.    <sup>13</sup> Ordinary gloss ad loc.

<sup>14</sup> Ordinary gloss ad loc.; in the printed text, this is a gloss on ‘Son of man’, not ‘ye also shall sit’. It is not clear where the attribution to Augustine comes from.

power in this world (which we said was judicial in the third signification), but was rather, in the form of a servant, judged with such judgement by another; and that when he shall exercise such judicial power in another world, then shall the apostles sit with him to judge with such judgement, and not before.

8

So it is certainly a cause for wonder why any bishop or priest, whoever he may be, should assume to himself an authority greater or other than Christ or his apostles wanted to have in this world. For they, in the form of servants, were judged by the princes of this world. But the priests their successors not only refuse to be subject to princes, against the example and command of Christ and the apostles; they even say that they are superior in coercive jurisdiction to the highest powers and princes, when in fact Christ said, Matthew 10: 'And ye shall be brought before governors and kings for my sake;'<sup>15</sup> and did not say: Ye shall actually be governors and kings. And further on he adds: 'The disciple is not above his master, nor the servant above his lord.'<sup>16</sup> Therefore no priest or bishop, as such, can or should exercise any judgement, principate or coercive dominion in this world. This was also plainly the opinion of the celebrated Philosopher, *Politics* IV chapter 12; for he says, *Politics* IV: 'For this reason not all, whether elected or chosen by lot, should be established as princes, for example priests in the first instance (for this is something which is to be kept apart from political principates) and again distributors and heralds, and legates too are elected. For those are political responsibilities, or belonging to all citizens with regard to a particular activity.' And a little further on he adds: 'Whereas these are domestic.'<sup>17</sup>

9

Testimony to what we have said is that if Christ had wanted priests of the new law<sup>18</sup> to be judges in the third signification in respect of it, viz. with coercive judgement, determining the contentious acts of men in this world by sentences of this kind, he would surely have handed down in

<sup>15</sup> Matthew 10. 18.    <sup>16</sup> Matthew 10. 24.    <sup>17</sup> See above, I. 19, 12.

<sup>18</sup> I.e. the law of the gospel, as opposed to the 'old law' or Mosaic law.

that law specific commands concerning such matters, as he did to Moses in the old law: Moses whom God by his own pronouncement, and not by way of any human being, established as prince and coercive judge of the Jews (as we find in Acts 7).<sup>19</sup> For this reason God also handed down to him a law of those things that were to be observed in and for the status of this present life in order to resolve human contentions, which specifically contained commands concerning such matters; in this it was, for a certain part of it, analogous to human law. Men were compelled and constrained by penalty and punishment to the observance of these things in this world by Moses and his replacements as coercive judges, not by simply any priest, as is evident from Exodus 18.<sup>20</sup> But Christ in the evangelical law did not give commands of this nature, but presupposed that they had been or should have been given in human laws; and he commanded that every human soul should observe those laws and obey princes in accordance with them, at least in those matters which did not oppose the law of eternal salvation. Hence Matthew 22 and Mark 11: 'Render unto Caesar the things which are Caesar's,' by 'Caesar' signifying anyone in the position of prince.<sup>21</sup> So too the Apostle, Romans 13 (and it is not tedious to repeat it): 'Let every soul be subject to the higher powers.' So too in I Timothy, [last chapter](#): 'even unbelieving masters';<sup>22</sup> and the gloss on the same place according to Augustine, which we quoted in [chapter 5](#) of this discourse, [section 8](#). From this it is clearly apparent that the intention of Christ, the Apostle and the saints was that all men should be subject to human laws and to those who are judges in respect of them.

## IO

It is further plain from all of this that the faithful of Christ are not bound to observe all the things that were counselled or commanded to be observed by the Jewish people in the old law or Testament; on the contrary, they are forbidden to observe some of them, for example those that are ceremonial, on pain of eternal death, as the Apostle teaches in Romans 3 and 4, Galatians 2, 3 and 5, Ephesians 2 and Hebrews 7 and 10. Saint Jerome and Saint Augustine, too, follow his opinion in their *Letters* 11 and 13 to each other, speaking as one on this matter when they say that

<sup>19</sup> Apparently Acts 7. 35.   <sup>20</sup> Exodus 18. 13–26.

<sup>21</sup> The quotation is from Matthew 22. 20; see above, [II. 4, 9](#).

<sup>22</sup> Marsilius presents this as if it were a quotation, but it is not in fact in the biblical text.



any who observe these ceremonies, whether truly or by pretence, after the promulgation of evangelical law will be 'flung into the devil's pit'.<sup>23</sup> Likewise Christian faithful are in no way bound to observe the legal precepts, as is apparent from the Apostle, as quoted above, and from Augustine on the passage mentioned above, I Timothy, [last chapter](#), when he said: 'Let Christian servants not therefore demand' (that is, because they are unable to demand) 'as is said of the Hebrews' etc.<sup>24</sup> Since in the law of grace, therefore, no precepts have been specifically given for resolving the contentious acts of men in this world, it remains that such commands should be defined by human laws alone and by those who judge in respect of them with authority from the human legislator.

## II

However, there were also certain other things that were commanded to be observed in the Mosaic law for the status of the world to come, such as sacrifices or certain sacrificial victims or offerings for the redeeming of sins (especially those hidden sins that are committed through immanent acts), which no one was compelled to fulfil by penalty or punishment in this present world. And all the elements of the new law, counsels as well as commands, are analogous to these in that Christ neither willed nor commanded that anyone should be constrained to observe them in this present world; and even though he commanded in a universal injunction that the things laid down in human laws should be observed, this was nevertheless subject to a penalty or punishment which was to be inflicted upon transgressors in another world. Hence one who transgresses human law almost always sins against divine law, although the converse is not true. For there are many actions in which one who commits or omits them sins against divine law, which lays down commands concerning things that it would be vain for human law to command: such as those that we previously called 'immanent', which cannot be proved to be present or absent in anyone, while all the same they cannot be hidden from God. And so it was fitting that the divine law, concerning the due performance or omission of such acts, was passed for the sake of

<sup>23</sup> See Jerome, *Epistolae* 112, CL 620, *Cetedoc* from CSEL 55, ed. I. Hildberg (Vienna and Leipzig: Tempsky and Freytag, 1912), pp. 367–93: par. 14, p. 383, l. 1; Augustine, *Epistolae* 116, CL 620, *Cetedoc* from CSEL 55, pp. 397–422: par. 18, p. 409, ll. 9–10; MPL 22, c. 944.

<sup>24</sup> See above, II. 5, 8.

the improvement of mankind, in this present world as in that which is to come.

12

Someone might object to us, however, that the evangelical law is imperfect, if (as we said) the contentious acts of men cannot be adequately regulated by it for and in the status of this present life. But let us say for our part that we are adequately directed by the evangelical law in what we should do or avoid in this present life, but this is nevertheless for the status of the world to come, or for gaining eternal salvation and avoiding eternal punishment. It was for this that it was passed, and not to bring the contentious acts of men back into the required equality or proportion for the status or sufficiency of this present life; for Christ did not come into the world to regulate these kinds of acts for the present life, but solely for the future life. And therefore there are different standards of temporal human acts, which direct us to these ends in different ways. For one, sc. the divine, in no way teaches us to contend or make claims in court, although it does not prohibit this; and therefore it did not give any specific commands in such matters either, as we said. But the other standard of these acts, sc. human law, does teach and give precepts on such things, and commands that transgressors be forcibly constrained. For this reason in Luke 9, when a man asks Christ for a human judgement between himself and his brother, Christ replies: 'Man, who made me a judge or a divider over you?' as if to say: I did not come to exercise that kind of judgement. Hence the gloss: 'He does not deign to be a judge of disputes and a divider of property, who has the judgement of the living and the dead and the assessment of deserts.'<sup>25</sup> Therefore the evangelical law could not be an adequate measure of human acts for the end of this present world. For it does not contain any standards that would make such acts commensurate in the proportion men want – and licitly – for the status of this present life, but rather it supposes that such standards are or should be contained in human laws; without which, through default of justice, scandal and contention would arise among men and as a result fighting and separation and the insufficiency of worldly human life. And from this almost all must recoil in accordance with nature.

<sup>25</sup> See above, II. 4, 8.

Hence the evangelical law or teaching cannot on this account truly be said to be imperfect, since it is not its nature to have this perfection which it does not have. For it has been passed so that through it we might be directed in an immediate manner with regard to and in those things which are relevant to man's achievement of eternal salvation and avoidance of eternal misery; and in this it is wholly adequate and perfect. But it was not passed and nor does it exist to resolve civil litigious affairs, for the sake of the end that men want, and licitly, in worldly life. For if it were on this account to be called imperfect, it could equally appropriately be called imperfect because we do not know from it how to cure bodily illnesses or measure expanses or navigate the ocean. (Although this surely could be granted, that it is not perfect absolutely speaking: since no being is such except one alone, God himself.) Testimony to this opinion, as undoubtedly true, is the gloss according to Gregory on I Corinthians 6, where it says: "I speak to your shame": viz. so that the men who examine earthly causes should be those who have attained the wisdom of external things. But those who are endowed with spiritual gifts should not be entangled in earthly business.<sup>26</sup> For if by 'the wisdom of external things' and of earthly cases or contentions he had understood Holy Scripture, he would not have said: 'But those who are endowed with spiritual gifts' (i.e. with Holy Scripture) 'should not entangle themselves in earthly business', nor would he have separated out these persons in relation to each other according to these different teachings. Furthermore, because the Apostle (and the saints, according to one exposition) had previously called the possessors of wisdom of this kind, viz. of external things, 'least esteemed in the church'; but neither the Apostle nor the saints interpreting this passage of his would have had this opinion of those who were learned in Holy Scripture.

We think, therefore, that we have adequately shown for our purposes the number and nature of human legal acts, and also by what laws and judges, how, when and through whom they should be regulated and corrected.

<sup>26</sup> See above, II. 5, 2.

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On the coercive judge of heretics, viz. to whom  
it belongs to judge them in this world, to  
constrain them and to inflict on them penalties  
in goods or in person; and to whom these  
should be allocated

But one might well raise a doubt about what we have said. For if (as shown earlier) jurisdiction over all those who must be constrained in this present life by coercive judgement, and the imposition and exaction of penalties in goods or in person, belongs to the prince alone by the authority of the human legislator, then the coercive judgement of heretics or those who are otherwise infidel or schismatic, as well as the imposition, exaction and allocation of penalties in goods and in person, will belong to this prince. But this seemingly presents itself as a difficulty. For since it apparently belongs to the same authority to recognise, to judge and to correct a misdeed, and it belongs to a priest (i.e. a priest or bishop) to discern the crime of heresy, and no one else: it will certainly seem, then, that the coercive judgement or restraint of this crime and others like it belongs to a priest or bishop alone. Moreover, the judgement and exaction of penalty upon a delinquent apparently belongs to him against whom, or against whose law, the delinquent has sinned. But this is a priest or bishop: for he is the minister and judge of divine law, against which any heretic, schismatic or other infidel inherently sins, whether the sinner be a collective body or an individual person. It remains, therefore, that this judgement will belong to the priest and not to the prince. And this seems to be the explicit opinion of Saint Ambrose in his first *Letter to the Emperor Valentinian*;<sup>1</sup> but because

<sup>1</sup> Ambrose, *Epistolae* 75, CL 160, *Cetedoc* from CSEL 83, pp.74–81; MPL 16 cc. 1002D–1007A.

he is apparently of this opinion throughout almost the entire sequence of that letter, we have omitted to quote it for the sake of brevity.

2

For our part, let us say in accordance with what we decided earlier that anyone who sins against divine law should be judged, corrected and constrained according to that law. However, the judge in respect of it is twofold: one, a judge in the third signification, who has the coercive power to constrain transgressors of this law and to exact punishments from them; and this judge is one alone, sc. Christ, as we argued from James 4 in the previous chapter. But Christ willed and ordained that all who transgress this law should be judged by coercive judgement in the world to come and be constrained by penalty or punishment in that world alone, and not in this; as was sufficiently plain from the [previous chapter](#). There is indeed another judge in respect of this law, viz. a priest or bishop. But he is not a judge in the third signification, in the sense that it would belong to him to constrain, in this world, anyone who transgresses this law, and to exact a penalty or punishment from them by coercive force: as was plainly shown in chapter 5 and the [previous chapter](#) of this discourse, by the authority of the Apostle and the saints and their irrefutable reasoning. He is, however, a judge in the first signification; and it belongs to him to teach, exhort, reveal in error and reprove delinquents and transgressors, and to terrify them by his judgement of their future damnation and the penalty that will be inflicted upon them at the hands of the coercive judge, sc. Christ, in the world to come. We made this clear in chapters 6 and 7 of this discourse, where it was a question of the power of the priestly keys, and in the [previous chapter](#), where we made a comparison between the physician of bodies and priests ‘who are the physicians of souls’, as Augustine said with the authority of the prophet and as the Master cites in Book IV, distinction 18, chapter 9.<sup>2</sup> Since, therefore, any heretic, schismatic or other infidel is a transgressor of the evangelical law, he will, if he persists in that crime, be punished by the judge to whom it belongs to constrain those who transgress divine law as such, viz. at the time when he will exercise his judgement. But this judge is Christ, who will judge the living and the dead, past and future, but in the world to come and not in this; because he has in his mercy

<sup>2</sup> See above, II. 9, 2, itself referring back to II. 7, 5.

allowed that sinners can merit and repent up until their final passage out of this world, sc. their death. While by the other judge, sc. the pastor – bishop or priest – man must be taught and exhorted in this present world, revealed as in error, and (if he sins) reprovved and terrified by the judgement or prognosis of future glory or eternal damnation; but not in any way coerced, as was plain from the [previous chapter](#).

### 3

And if any heretic or other infidel has been forbidden by human law to remain in a particular area, then, if such a person is discovered in it, he should be constrained as a transgressor of human law with the penalty or punishment laid down for that transgression in that same law, and by the judge whom we demonstrated (in chapter 15 of the first discourse) was the guardian of human law by the authority of the legislator.<sup>3</sup> But if it has not been forbidden by human law for a heretic or someone otherwise infidel to stay among the faithful in the same province – as has before now been permitted by human laws to heretics and those of the Jewish race, even in the time of Christian peoples, princes and pontiffs – then I say that no one is allowed to judge any heretic or other infidel, or constrain them by penalty or punishment in goods or in person, for the status of this present life.<sup>4</sup> And the general reason for this is that no one, however

<sup>3</sup> See above, I. 15 passim, esp. 2, 7, 11, 13.

<sup>4</sup> Together with what Marsilius says in II. 5, 7 (opening sentence) and II. 6, 12–13, this assertion relates to the general question of whether Marsilius is the exponent of any kind of theory of toleration. Marsilius's point here in the *Defensor pacis* is not to condemn the practice of excommunication or the expulsion of heretics, but to limit the authority for that practice to the human (i.e. political) authorities rather than the spiritual. The later *Defensor minor* examines the matter in the context of the differences between divine and human laws (ed. C.J. Nederman, *Marsiglio of Padua: Defensor minor and De translatione imperii*, Cambridge: Cambridge University Press, 1993, ch. 15, pp. 50–60). Here (section 3, p. 55) Marsilius repeats his point that divine law has no precepts coercive of transgressors in this present world. He then (end of section 5, p. 57) faces the objection of excommunication. In sections 6–8 (pp. 57–8) Marsilius stresses both that no precept of divine law can deprive anyone of his civil conveniences in this life, and that it is not its intention to do so: because depriving heretics of civil communication would in fact disadvantage the faithful who wanted to communicate with them in civil matters. What the divine law counsels (not commands) is instead a spiritual avoidance. Again, Marsilius says nothing here against the power of human law to excommunicate. However, his development of his position with respect to the intention of divine law – clearly separating out civil from spiritual communication – does seem further to cut away any grounds for such civil punishment, since human law is presumed in both works to promote civil communication.

much he sins against theoretical or practical disciplines of any kind, is punished or constrained in this world precisely on this account, but only to the extent that he sins against the command of human law. For if it were not forbidden by human law to get drunk, or to make or sell shoes of whatever fashion just as anyone was able or wanted to, or to heal and teach and practise at whim all other similar activities belonging to the different offices, then no drunk, nor anyone else acting perversely in the other activities, would ever be constrained.

4

And therefore we should notice that in any coercive judgement in this world, certain things need to be investigated, in an orderly fashion and so far as is relevant, before a sentence of acquittal or conviction is passed. One, whether the saying or action imputed to the accused is indeed of such a nature as it is said to be. And this is to know in advance what it is that is said to have been committed. Two, whether doing something of this kind is forbidden by human law. Three, whether the accused did or did not commit it. After these there follows the judgement or sentence of conviction or acquittal upon the accused. For example, suppose someone is accused as a heretic or a faker of golden or other metal vessels. Before he is convicted or acquitted by coercive sentence, it should be investigated whether the saying or action imputed to him is heretical or not. Secondly, whether to say, do, or teach such a thing in this way is forbidden by human law. Thirdly, whether any such crime has or has not been committed by the person charged with the crime. Finally, the coercive judgement of conviction or acquittal follows upon these.

5

The prince should be made certain of the first point by those who are expert in any particular discipline, to whom it belongs to consider the inherent what-it-is or nature of the saying or action that is imputed to the accused; for these experts are judges of such things in the first signification (as we said in chapter 2 of this discourse), and it is their position to know the nature of those things in which the prince has granted them the authority (which in the liberal arts we usually call a 'licence') to teach or practise in the city. The situation is analogous in the case of all the other crafts or mechanical arts, as demonstrated in chapter 15 of

the first discourse.<sup>5</sup> For in this way, a physician should recognise lepers and non-lepers according to the state of their body; a priest, speech or doctrine that is heretical or catholic; a gold- or silversmith ought to know about metals, and an expert or learned doctor of the law should know about loans or deposits and other similar civil acts. For the prince is not, as such, obliged to have knowledge of such things, although in accordance with the legislation (if the law is perfect) he ought to be made certain of the nature of the sayings, productions and acts in question by the teachers or practitioners of the relevant disciplines.

6

I say consequently, with regard to the specific inquiry in hand, that any teacher of divine scripture – such as any priest is or should be – can and should judge (by judgement in the first signification) whether a crime imputed to a person is heresy or not. Hence in Malachi 2: ‘For the priest’s lips should keep knowledge, and they should seek the law at his mouth.’<sup>6</sup> For this is what the successors of the apostles, the bishops or priests, should be, since Christ said to them in Matthew 28: ‘Go ye therefore and teach all nations etc. Teaching them to observe all things whatsoever I have commanded you.’<sup>7</sup> So too in I Timothy 3: he ‘must’ among other things ‘be a teacher’, sc. of holy law.<sup>8</sup> And Titus 1: ‘For a bishop must be holding fast the faithful word as he hath been taught, that he may be able by sound doctrine both to exhort and to convince the gainsayers. For there are many deceivers, whose mouths must be stopped.’<sup>9</sup>

The prince should be aware of the second point, sc. whether such a thing, if committed, is forbidden by law or not, from the law in its last and proper signification, in accordance with which the prince must exercise his function by the authority of the legislator. The third point that needs to be known is whether the person who is charged with the crime of heretical speech or activity did actually say or do that crime; and this judgement can be made by both the learned and the uneducated through

<sup>5</sup> See above, I. 15, 8–10.

<sup>6</sup> Malachi II. 7; see above, II. 6, 12.

<sup>7</sup> Matthew 28. 19–20.

<sup>8</sup> I Timothy 3. 2.

<sup>9</sup> Titus I. 7–11.



their external and internal senses.<sup>10</sup> The usual term for these people is ‘witnesses’. After this the prince must pass a judgement or sentence of conviction or acquittal, and the penalty or punishment involved should also be exacted from (or remitted to) the individual who has been denounced for the crime.

7

For a person is not punished by the prince just because he sins against divine law. For there are many mortal sins and sins against divine law, like fornication, which the human legislator permits even knowingly, and which a bishop or priest neither can nor should forbid by coercive power.<sup>11</sup> But if a person, sc. a heretic, sins against divine law and that sin is also prohibited by human law, then he is punished in this world as a sinner against human law. For this is the precise or primary and inherent cause why someone is constrained by penalty or punishment in this present world: since once the cause is put in place, the effect is also; and once the cause is removed, so is the effect.<sup>12</sup> Just as, conversely, a person who sins against human law with some or other sin will be punished in another world as a sinner against divine law, not as a sinner against human law. For there are many things that are forbidden by human law that are nevertheless permitted by divine law: for example, if someone fails to repay a loan at the requisite time because of an inability to do so (by sudden chance, sickness, forgetfulness or other impediment), he will not as a result be punished in another world by the coercive judge in respect of divine law; he is, however, justly punished in this world by the coercive judge in respect of human law. But whoever has sinned against divine law with any act – however much it may be permitted by human law, like fornication – will be punished in another world; and thus

<sup>10</sup> The external senses are the five senses which have a sense organ, i.e. sight, hearing, touch, taste and smell; the internal senses (according to Aristotelian psychology) are the ‘common sense’, memory and imagination, which process or store the perceptions gained through the external senses.

<sup>11</sup> It was a commonplace, for which the authority was ultimately Augustine, that human law neither can nor should attempt to prevent all the vices, because it would thereby do more harm than good to the multitude it must regulate. Cf. Aquinas, *Summa theologiae* 1a2ae q. 96 a. 2 (‘Whether it belongs to human law to prevent all the vices’). This indeed was thought to be part of the reason for divine law, which prohibits all sins.

<sup>12</sup> Marsilius is here roughly quoting the widespread legal and philosophical maxim *cessante causa cessat effectus* (‘when the cause ceases, the effect ceases’).

to sin against divine law is the primary inherent cause (which in philosophy is usually called the cause ‘as such’) of this punishment, since when it is in place, so too is its effect, and when it is removed, so too is its effect, that of penalty or punishment for and in the status of the world to come.

8

Therefore, judgement over heretics, schismatics and other infidels, whoever they may be, together with the power to constrain them and exact a temporal penalty or punishment, and to allocate that penalty to himself or the community rather than anyone else, belongs to the prince alone by the authority of the human legislator, and not to any priest or bishop whomsoever as a result of the fact that they sin against divine law. For in relation to men in and for the status of this present life, this is indeed a law, but not in the last signification of the term as having coercive power over anyone in this world, as is plain from the [previous chapter](#) and [chapter 5](#) of this discourse. It is rather said to be a law in the third signification of law, as was apparent from [chapter 10](#) of the first discourse.<sup>13</sup> And in respect of it, priests even in this world are judges in the first signification of judge or judgement, with no coercive power, as was shown in [chapter 5](#) of this discourse and in the previous one from the Apostle, Ambrose, Hilary and Chrysostom. For if they were coercive judges or exercised the function of prince over heretics because such people sin against the discipline of which they are the teachers and according to which they carry out certain actions upon others, then a goldsmith would similarly be a coercive judge and prince over someone who made fake gold sculptures, which is truly absurd, and a physician too could constrain those who acted badly in respect of the art of medicine. As a result there would be as many princes as there are civic offices that can be sinned against, and we showed the impossibility or redundancy of this in [chapter 17](#) of the first discourse. For people who sinned in this way against civic offices would not on that account be constrained or punished unless something else intervened, i.e. the command of the legislator or the human law; for if sins of this kind were not prohibited by human law, those who commit them would not be punished at all.

<sup>13</sup> See above, [I. 10, 4](#).

9

What we have said can be seen from a familiar example. Supposing it is prohibited by human law for lepers to remain amongst the other citizens. Will a physician, who alone is capable of judging their illness according to his discipline, *sc.* whether they are lepers or not, be able to prohibit those whom he has judged to be lepers (with judgement in the first signification) from the company of others or their life together, by coercive power and on his own authority as a doctor of medical science? Clearly not. Rather, the only one who can do this is he who has been commissioned as the guardian of coercive human law, *sc.* the prince. For no private person or collective body is allowed to judge or constrain or exact a penalty from anyone, but only the prince. But concerning imputed slights, crimes or sins, and their nature, he ought nevertheless (in accordance with the determination of the law, if it has pronounced on this matter – which it will have done if it is a perfect law – or by his own prudence if it has not) to employ and to trust the judgement of experts in the disciplines which deal with the nature of such productions, acts or sayings, such as physicians in the case of lepers or non-lepers, and theologians in the case of criminals, who appear in sacred scripture under the figure of lepers according to the interpretation of the saints. Likewise, too, he should trust a goldsmith on the subject of fake metal vessels, and any trained person in similar cases, with respect to other kinds of production and action. In the same way, then, the physician of souls, *sc.* the priest, ought to judge in the case of heretics or those who are otherwise infidel with judgement in the first signification, *viz.* by discerning an heretical from a non-heretical saying or action. But it belongs to the prince alone by human law to judge in their cases with judgement in the third signification, *sc.* in condemning or releasing the accused from temporal penalty or punishment, and to force those who have been convicted to pay it; and also to allocate any penalties that have been exacted in goods, like those which are exacted for other crimes, in accordance with the determination of the human legislator or law.

10

Testimony to what we have said comes from Scripture in the Acts of the Apostles, 25. For when Paul had been accused by the Jews as a heretic, even though falsely, the investigation of his case, his trial, appeal and its

outcome were made in the presence of, to, and through a judge who had been established for this purpose by the authority of the human legislator, just as for any other contentious or civil acts.<sup>14</sup>

## II

It is not difficult to resolve the arguments to the contrary. For when it was said that the judgement of a heretic belongs to him, as judge, to whom it belongs to recognise the crime of heresy, the multiple senses of this word 'judge' or 'judgement' mean that we have to make a distinction. And in one sense the proposition is true, sc. if we understand these terms in their first signification; but if they are taken in the third signification, it is false. And therefore nothing can be concluded from this piece of misreasoning against our result. To the other point that was added – that the judgement of a delinquent and the exaction of a penalty and its allocation to himself (if it is in goods) belongs to him against whom or against whose law the delinquent sins – this is true, if we mean against him as a judge in the third signification, and against his law in the last signification of law, sc. coercive. And when it is assumed that the heretic sins against divine law, this we concede. Hence, he will be judged by him who is the judge in the third signification in respect of it, sc. by Christ, but only in another world and not in this, according to Christ's own ordinance as legislator. It is by this judge, too, that he will be constrained by penalty or punishment or rewarded according to his obedience or transgression of the commands and counsels of that law. But no bishop or priest is a judge of this kind in respect of this law, sc. divine law, but only in the first signification, as a teacher; especially when this law is placed in relation to men in and for the status of this present life.

Again, supposing that the major premise of this syllogism is true in the sense that we have just said, sc. that the judgement of a transgressor belongs to him, as coercive judge, against whom, or against the law of which he is the guardian, the transgressor sins (emphasising that law is here so-called solely in the last signification of law). If so, then this further true proposition must be assumed, viz. that a heretic sins solely against the judge of this world, so-called in the third signification of judge, and the law of which he is the guardian, also so-called in its last and proper signification, sc. coercive, and not against any other law or judge which or who coerces in this world. Therefore he should be judged with

<sup>14</sup> Acts 25, *passim*. See also chapter 26.

coercive judgement in this world solely by such a judge, at the ordinance of the legislator of this kind of law; and penalty should be exacted from this same transgressor by that same judge, and if the penalty is in goods it should be allocated by that same judge to whomever the human legislator has established in law. Alternatively we have to make a distinction in the major premise to take account of the equivocation, as we did with the previous piece of misreasoning.

12

And so it is not allowable to infer of necessity: someone is to be condemned or judged as a heretic in and for this world by coercive judgement in goods or in person or both, therefore he is to be judged by a priest or bishop (except perhaps with judgement in the first signification, as we said). Nor does it follow that therefore the carnal or temporal goods of a condemned heretic, which are exacted from him as a penalty or part of the penalty for his wrongdoing, are to be allocated to a bishop or priest. Just as it does not follow either: this man is to be judged as a counterfeiter of coin, therefore he is to be judged by coiners, except perhaps with judgement in the first signification, not in the third (*viz.* coercive); nor does it further follow that the temporal things that are exacted from him as a penalty should be allocated to coiners, either a collective group of them or an individual person. Rather he should be judged with coercive judgement by the prince, and the penalty should be allocated according to what is determined in human law.

13

As for Saint Ambrose, one should say that he understood the crime of heretics or heresy to be a matter for the judgement of priests or bishops with judgement in the first signification, not the third. For no bishop or pontiff ever exercised this kind of judgement on his own authority in the status of the early church, although they afterwards went on to such things on occasion as a result of certain concessions granted them by princes. So that if we consider their true origins, things that now, through abuse, seem to have the strength and appearance of right will seem instead like fantasies and dreams.

Let this be our determination, then, concerning the judge, judgement and coercive power over infidels and heretics.

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II

On certain signs, testimonies, and examples from both canonic scripture and human writings, by which what we determined in chapter 4 of this discourse and chapters 5, 8, 9 and 10 of the first, concerning the status of bishops and priests generally, is shown to be true. And why Christ separated their status, sc. that of poverty, from the status of those who exercise principate

Since we have determined from the previous discussion, by authorities of canonic scripture as much as by certain other clear quasi-political arguments, that no coercive jurisdiction over anyone in this world belongs to any bishop or priest or other cleric, we now want to make this clearer by manifest signs and testimonies. One obvious sign is that we do not read that Christ or any of his apostles ever or anywhere instituted anyone as a judge or as their vicar for the purpose of carrying out such government or judgement. But it does not seem likely that either he or his apostles could have been ignorant or neglectful of something so necessary to human life together. If they had recognised it as part of their office, and if they had wanted it to belong to their successors, the bishops or priests, they would have handed down some command or counsel concerning this matter. They did hand down the form and procedure for instituting spiritual ministers, bishops, priests and deacons, and we can know well enough that this is part of their office from the opinion of the Apostle in I Timothy 3 and Titus 1, and it is also apparent in many other places in Scripture.

But Christ separated the office of priests or bishops from that of princes, even though he could himself, if he had wanted, have exercised both the status of a prince and the office of a priest, and could have ordained that the apostles should do likewise. But it was not his will to do this: on the contrary, he, who arranged all things in a way that was better simply speaking, willed that it would be more appropriate for these offices to be distinct both in their individual human subject and in their rationale. For Christ had come to teach humility and contempt of this world, as the way to meriting eternal salvation; and therefore, so that he might teach humility and the contempt of this world or temporal things more<sup>1</sup> by example than by words, he entered into this world in the utmost humility and contempt of temporal things. For he knew that men are taught no less and in fact more by example than by words. Hence Seneca, *Letters* 9: 'Learn what you should do from one who is doing it.'<sup>2</sup> Therefore it was Christ's will that he should be born in the utmost humility and contempt of the world or poverty, so that he might teach us more by his example than by what he said. Hence Luke 2: 'She' (sc. the blessed virgin) 'wrapped him in swaddling clothes, and laid him in a manger.'<sup>3</sup> See: in someone else's house; see: in a manger, which was a place for animals and for hay; and it is likely as well that it was in someone else's swaddling clothes, given that the blessed virgin and Joseph were pilgrims and wayfarers there. Born a pauper, he lived a pauper when he had come of age; so, speaking of his poverty in Matthew 8 and Luke 9, he said: 'The foxes have holes, and the birds of the air have nests; but the Son of man hath not where to lay his head.'<sup>4</sup> And Christ taught those who want to be his particular disciples and imitators, and especially his successors in the office which he had come into the world to exercise, to choose this status as the status of perfection, while observing all the other precepts and counsels as is appropriate. Hence in Matthew 19, Mark 10, and Luke 18, when a certain individual asked him: 'Good Master, what shall I do to possess eternal life?' And Jesus said unto him, 'Thou knowest the commandments, Do not kill, etc. And he said, All these have I kept from my youth up. Now when Jesus heard these things, he said

<sup>1</sup> I follow Gewirth and Bigongiari here in omitting *tam* and inserting a comma rather than a full stop after *doceret*.

<sup>2</sup> Seneca, *Epistolae* 98. Seneca (b. 1–4 BCE, d. 65 CE) was a Roman moralist of the Stoic philosophical school, highly popular in the middle ages and renaissance.

<sup>3</sup> Luke 2. 7.    <sup>4</sup> Matthew 8. 20; Luke 9. 58.

unto him, Yet lackest thou one thing:’ (or, ‘if thou wilt be perfect’, as it says in Matthew) ‘sell all that thou hast, and distribute unto the poor, and thou shalt have treasure in heaven.’<sup>5</sup> And again, in Luke 14, he said to his disciples: ‘So likewise’, says Christ, ‘whosoever he be of you that forsaketh not all that he hath, he cannot be my disciple.’<sup>6</sup>

3

See, then, that the status of poverty and of contempt of the world is appropriate for everyone who is perfect, and particularly a disciple of Christ and successor in his pastoral office; indeed it is almost necessary for one who must urge the contempt of the world upon others, if he wants his teaching or preaching to have any positive effect. For if someone possesses riches and has ambitions to be prince, and at the same time teaches those he addresses to despise such things, then by his action he clearly contradicts his own speech. Hence Chrysostom, writing against such types in his *On the Compunction of the Heart*, says: ‘To say but not to do is not only of no profit, but also of major damage. For one who composes his speech but neglects his own life deserves great condemnation.’<sup>7</sup> The most excellent of philosophers also agrees with this when he says, *Ethics X*, chapter 1: ‘For when they’ (sc. the speeches) ‘are not in harmony with those things which are according to perception’ (i.e., with the deeds of the speaker, deeds which are perceived), ‘they kill the truth of the one who lays them down’ (i.e. composes the speeches).<sup>8</sup> And a little later he adds: ‘For if they correspond to the deeds, they shall be believed,’<sup>9</sup> sc. the speeches. And therefore he who knew how all things should happen in the most appropriate fashion, sc. Christ, and who wanted sermons that teach contempt of the world, and rejection and flight from vanities and carnal pleasure, to be believable, warned that the actions must conform to the speeches. Hence in Matthew 5 he said to all future teachers of such things, in the person of

<sup>5</sup> Matthew 19. 16–21; Mark 10. 17–21; Luke 18. 18–22. The main quotation is from Luke.

<sup>6</sup> Luke 14. 33.

<sup>7</sup> St John Chrysostom, *De compunctione*, Book I ch. 10, MPG 47 c. 410. Previt -Orton notes that the old Latin translation is printed in Chrysostom’s *Opera* (Basel 1557), vol. V c. 584. The original Greek does not contain the contrast in the second sentence between speech and life, although the translation of the first sentence is reasonably accurate.

<sup>8</sup> Aristotle, *Nicomachean Ethics X* 1172a36–1172b1; Grosseteste’s original translation (correctly) has *contempti* instead of *condenti*, so the sentence would read: ‘... they are despised and destroy the truth’.

<sup>9</sup> *Ibid.* 1172b5–6.



the apostles: 'Let your light so shine before men', i.e. your teaching, which is compared to light. 'So' I say 'let it shine, that they may see your good works.'<sup>10</sup> The gloss has: 'I ask that your works be seen, and thus your teaching will be confirmed;'<sup>11</sup> for otherwise sermons and teachings are not much believed. Hence the gloss on that passage in Matthew 10: 'Possess neither gold nor silver,' says, giving the reason for this: 'If you had these, you would appear to preach not for the cause of salvation, but for that of gain.'<sup>12</sup>

4

For those teachers or shepherds of others who possess such things destroy the faith and devotion of men by their contrary deeds and examples more than they confirm it by their sermons, seeing that their works (which men pay more attention to than words) are in manifest opposition to them. And it is truly to be feared that, by the corrupt examples of their deeds, they will in the end lead faithful people to give up hope of the world to come. For almost all the ministers of the church act in this way, the bishops or priests and the rest of the clergy in their wake; most patently of all, those who sit on the greater thrones of the church, to the extent that they seem not to believe at all in the future judgement of God in another world. For in what conscience with God – let them please say – and if they believe in God's future just judgement in the world to come, do most of the Roman pontiffs and their cardinals, along with the other priests or bishops who have been set in authority to care for souls and to distribute the temporal goods of the church to the poor, and almost all the rest of them, the deacons and clerks (each according to the means he has acquired from the theft or robbery of temporal goods that have been instituted and bequeathed for the sustenance of gospel preachers and other poor people), give while they live or bequeath when they die as much money as they can to their non-needy relatives or to anyone else they please, depriving the poor, you can be sure, of those same goods? And again in what conscience according to the Christian religion – let them say, I insist – do they, living their temporal life, consume the goods of the poor in so many unnecessary things

<sup>10</sup> Matthew 5. 16.

<sup>11</sup> Ordinary gloss ad loc.

<sup>12</sup> Matthew 10. 9 and ordinary gloss ad loc.

(horses, households, feasts and other vanities and pleasures, open or secret), when according to the Apostle in the last chapter of Timothy they should be content with food and the clothes they wear for the sake of the ministry of the gospel?

5

I pass over the improprieties that occur in the distribution of ecclesiastical offices and benefices or temporal goods. For most of them, for a plea or favour to be got from the powerful of this world, or for a price (if it is not unholy to say this) offered to those who distribute them or their intermediaries – ministers of Simon Magus – are conferred upon the ignorant, the criminal, children, unidentified persons, and those who are either detestable or manifest idiots in the opinion of the entire population. Whereas the Apostle, I Timothy 3,<sup>13</sup> commands that church officials should be known as proven and perfect in their life or morals and in their teaching. Hence (as above): ‘Moreover he’ (i.e. the priest or bishop) ‘must have a good report of them which are without;’ how much more, then, of them which are within the church as well? And a little bit below, same place: ‘Likewise must the deacons be grave. And let these also first be proved; then let them exercise the ministry of a deacon, being found blameless.’ Although someone might aptly comment that most of these men are very well proven, as the world knows, sc. in what kind of price or plea they can put up or put in.

6

And to avoid trying to enumerate all the individual improprieties (this being impossible or at least extremely difficult), let us sum up regarding the activities of almost all priests or bishops and other ministers of the temple and testify before Christ, invoking his judgement if we lie, that in recent times nearly all the said bishops and others practise almost the exact opposite of what they preach that everyone else should observe according to the teaching of the gospel. For they smoulder for pleasures, vanities, temporal goods and secular principate, and pursue and seize them not by right but by injustice, both secret and open. Whereas Christ and the apostles his true imitators rejected all such things and taught and

<sup>13</sup> I Timothy 3. 7–8, 10.

commanded others to despise them, especially those who must preach the gospel of contempt of this world to others.

7

For if Christ had so wished, and if he had perceived that it would be helpful for a preacher of the gospel, he could have held the status of a prince in this world and could likewise have suffered in that status. But he fled into the mountains in order to reject such status and teach that it should be rejected, as we cited above from John 6 in chapter 4 of this discourse.<sup>14</sup> For it is not fitting that those who spread the gospel of contempt for such status should themselves bear it; rather should they bear the status of subjects and of the lowly, such as both Christ and his apostles had in this world. Conversely, an abject status of exterior poverty is not fitting for one who is prince, since what is helpful for him is a status that the good can respect and the bad fear, and through which he can also, if need be, coerce rebels who transgress the laws; but he would not be able to do this adequately if he had a pauper's abject status. And this is also the reason why the office of a preacher of the gospel is not appropriate for him. For if a prince were to advocate among the people a poor and abject status; or again, that someone struck on one cheek should offer the other; or yet again, that someone should give his cloak to a person who steals his tunic rather than contend against the wrongdoer in court; he would not easily be believed on such matters, because in the status which befits him and which he bears he would contradict his own words. Furthermore, it would also be inappropriate for him to behave like this. For since it is his business to constrain wrongdoers by penalty (even if those who have suffered the wrong do not themselves demand it), if he were to preach that wrongs should be forgiven he would provide an occasion for further delinquency to wrongdoers and to the wicked; whereas to those who had been offended or suffered wrong he would only provide a doubt or suspicion as to whether they would obtain justice. On account of this, Christ – who always arranged everything in the best way – willed that the offices of those who are princes and priests should not be joined in the same individual, but rather separated. And this seems to be the explicit opinion of Saint Bernard, *On Consideration to Pope Eugenius*, Book II chapter 4, where he says as follows: ‘Therefore go ahead and dare to

<sup>14</sup> See above, II. 4, 7.

usurp the apostolic office as a lord, or as an apostle to usurp dominion. Clearly, you are forbidden to do either. If you want to have both of these at the same time, you will lose both. Moreover you should not think that you are excluded from the number of those about whom God complains: "They have reigned, but not of me; they have been princes, and I knew it not."<sup>15</sup>

8

Witness to what we have said are certain decrees or histories of the Roman pontiffs. For in them we find written down and approved by themselves a certain privilege of the Roman emperor Constantine in which he granted to Saint Sylvester, the Roman pontiff, coercive jurisdiction over all the churches of the world and all other priests or bishops.<sup>16</sup> And since every Roman pope admits that that grant was valid, and so does the rest of the company of priests or bishops along with him, they must in consequence concede that that same Constantine originally had this jurisdiction or power over them; particularly since no such jurisdiction over anyone, cleric or layperson, can be known to be theirs on the strength of the words of Scripture. And this is what Saint Bernard explicitly said *To Eugenius, on Consideration*, Book IV chapter 4; for he says there: 'This is Peter, who is not known ever to have gone in procession adorned with either jewels or silks, covered with gold, carried on a white horse, attended by a knight or surrounded by clamouring servants. Nevertheless without these trappings he believed that he could satisfactorily carry out his mandate of salvation: "If you love me, feed my sheep."' For 'in these things' (viz. secular trappings and powers) 'you are the successor not of Peter, but of Constantine.'<sup>17</sup> Therefore the office of a prince is not, as such, priestly, nor is the reverse true. Let it be enough for us to have recalled the difference between them in this way.

<sup>15</sup> See above, II. 4, 13, and note there.

<sup>16</sup> I.e. the so-called 'Donation of Constantine' (above, I. 19, 8 and note); for full details see below, II. 18, 7.

<sup>17</sup> Bernard of Clairvaux, *Five Books on Consideration*, IV. 6 (p. 117).

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## On distinguishing certain terms, which is necessary in order to decide questions relating to the status of supreme poverty

We have just shown in a figurative way, then, that Christ and his apostles on their way through this world<sup>1</sup> taught and observed the status of poverty and humility. Moreover all the faithful should hold as certain that every teaching or counsel of Christ and the apostles was in some way meritorious in respect of eternal life. So it seems in every way appropriate to inquire into their poverty, what it was, of what nature, and how great, so that it should not be concealed from those on the same journey who wish to imitate them in it.

### 2

Attempting an investigation of this subject, therefore, we shall first say what is this thing called poverty or being poor, and how many variations it has; likewise with being rich. For these seem sometimes to be opposed to each other in the sense of a disposition and its privation, and sometimes as contraries. We shall then distinguish each of these terms into its various modes and give descriptions of them, so that if there is any such thing as meritorious poverty, and any scale of perfection within its various modes, we may be able to see which is the highest or first of them. Now everyone calls a man 'rich' if he has licit or rightful power or

<sup>1</sup> *Viatores*, 'wayfarers', connected with the metaphor – classically expressed by Augustine in *The City of God* – of Christians being on pilgrimage through this world (the *saeculum*) to their true homeland (*patria*) or city (*civitas*), the city of God, the heavenly Jerusalem.

dominion or possession of temporal things, which are called 'riches', either in common or privately or both, while in contrast they call a man 'poor' if he lacks such goods. Therefore, to avoid the opinion we want to develop turning out ambiguous because of the variety of usage of some of the terms we have just mentioned (and which we shall need to use for our purpose), let us first distinguish between their significations or modes. These terms are: 'right', 'dominion', 'possession', 'proper' and 'common', 'rich' and 'poor'.<sup>2</sup>

### 3

Let us begin, then, by distinguishing the significations of 'right', since we shall need them in distinguishing and identifying the other terms, but not the other way round. Thus, 'right' in one of its significations is predicated of law so called in the third and the final signification of law, as discussed in chapter 10 of the first discourse. Law is of course twofold, one human, the other divine – and this also, in respect of a particular time and circumstance, comes under the last signification of law, as said before. We have said enough on the subject of the nature and quality of these laws, and their convergence and divergence, in chapters 8 and 9 of this discourse.

Resuming our discussion of them for the present purpose, let us further say that they converge first of all in the fact that each of these laws is a command or prohibition or permission of acts which are of a nature to proceed from an imperative of the human mind. But they diverge in that the first is coercive of those who transgress it in this world; the second, sc. the divine, is not so, but only in a future world. Now something is called a 'command' in two ways: in one way, actively, sc. as the act of one who commands; and in this way we are accustomed to say that an expressed will of one who has empire, like a king or anyone else in the position of prince, is a command. In another way, 'command' is said of the thing itself that was willed by the act of the commander: in this way we are accustomed to say that a servant did the command of his master, not because servant did the act of the master (which is to command or to issue an imperative), but because he did that which was willed to be done by the act or imperative of the master. As a result, whenever this word 'command' refers to the one doing the commanding,

<sup>2</sup> *Ius, dominium, possessio, proprium* and *commune, dives* and *pauper*. See the Notes on the Translation, above, pp. [xliv](#) and [xlvi](#).

it is the same as the act of issuing an imperative; whereas whenever it refers to the subject, it is the same as that which is willed to be done by the act of issuing an imperative, and is said in a passive sense.

Hence this word 'command', understood in its active (which is the common) sense, is predicated of any ordinance or statute of a legislator, affirmative or negative, which obliges its transgressor to a penalty. However, in modern usage it is understood strictly as an affirmative statute, because in current usage an affirmative statute does not have its own name, but has kept the common name; whereas a negative statute does have its own name, since it is called a 'prohibition'.

Now I call an 'affirmative statute' one by which something is ordered to be done; a 'negative statute', one by which something is ordered not to be done. And if such an ordinance is affirmative and obliges the transgressor to a penalty, then it is called a 'command'; if it is negative and also obliges, it is called a 'prohibition'. This 'prohibition' has two senses, an active and a passive, just as is the case with 'command'. Now these two ordinances, sc. which carry the obligation of a penalty, are for the most part expressed in laws, either in their own specificity or by way of similitude or analogy. In another way, 'command' is understood more strictly in divine law (and likewise 'prohibition') for that statute only, be it affirmative or negative, which carries the obligation of an eternal penalty; and this is the way in which these terms are used among theologians when they say that commands are 'of necessity of salvation', i.e. it is necessary to observe them if a person is going to be saved. Hence Luke 18: 'if thou wilt enter into life, keep the commandments', i.e., the commands.<sup>3</sup>

#### 4

There are, however, certain other ordinances, both affirmative and negative – either expressed in the laws or merely understood – concerning either the same act or a different one, which do not carry the obligation of a penalty for an individual who either does or neglects to do the act in question; such as to perform or to neglect to perform an act of generosity, and many other acts likewise. And such things are properly said to be 'permitted by law', even though this word 'permission', as commonly understood, is sometimes predicated of statutes which carry

<sup>3</sup> Actually from the parallel passage in Matthew, 19. 17.

the obligation of a penalty. For everything the law commands to be done, it permits to be done, although the converse is not true; so, too, that which the law prohibits from being done, the law permits not to be done. Now of these permissions in the proper sense, sc. non-obligatory, some are meritorious according to divine law and are called counsels; some are not so, and are called by the bare term of permissions. And these, too, understood properly in this sense, can be so-called both actively and passively, just as with prohibitions and commands. However, these permissions are for the most part not expressed in the laws (especially human laws) in their specificity, because they are so many, and because a general ordinance concerning them is adequate in this matter. For everything that is not commanded or prohibited by law is understood to be permitted by the ordinance of the legislator. Therefore in respect of the law, a 'command' is, in its proper signification, an affirmative statute obliging its transgressor to a penalty; a 'prohibition', properly speaking, is a negative statute carrying the obligation of a penalty; and a 'permission' is properly said to be an ordinance of the legislator which obliges no one to a penalty. And we will henceforth use these terms according to these significations, sc. their proper ones.

## 5

As a result of this it can conveniently be clarified, what is this thing that is called 'licit'. For everything that has been done according to a command or permission of the law, or omitted according to a prohibition or permission of the law, has been licitly done or omitted, and can be called licit, and its contrary or opposite 'illicit'.

## 6

Hence too we can see what it is that is habitually called 'allowable'.<sup>4</sup> For in one signification, what is allowable is the same thing as what is licit, the two terms being almost convertible. However in another signification, this word 'allowable' implies that which the legislator, in a particular

<sup>4</sup> *Fas*, a term that is always very hard to translate. In a weak sense it connotes what is allowable or rightful, but it has stronger overtones of what is morally or religiously allowable, with an appeal to a higher principle than civil law; its contrary is *nefas*, which has overtones of impiety or outrage.



case, can reasonably be presumed to have permitted, even though such a thing may be absolutely or normally prohibited: for example it is sometimes allowable to go through another's field or handle another's property without the express consent of its owner, even if this is not 'right' in any normal usage according to any of the senses we have given. For handling another's property is normally prohibited, but it is allowable in the case where the owner of the property can reasonably be presumed to consent, even though he does not grant this explicitly. For this reason there is sometimes a need for equity in such matters.

In one signification, therefore, 'right' is the same as law, divine or human, or a command or prohibition or permission in accordance with these laws.

7

There exists another division of 'right' – and properly of human right – into natural and civil right. And according to Aristotle in *Ethics* IV, the treatise on justice,<sup>5</sup> 'natural right' is said to be that statute of a legislator upon which almost all agree as something honest that should be observed, for example that God should be worshipped, parents honoured, human offspring brought up by their parents until they come of age, that no one should be wronged, that injustices should be repulsed in a way that is licit, and others similar. Although they depend on human enactment, they are called 'natural rights' by transposition<sup>6</sup> because they are believed to be licit and their opposites illicit in the same way in all lands: just as the actions of natural entities, which lack purpose, are produced in the same

<sup>5</sup> Aristotle, *Nicomachean Ethics* V 1134b18–20.

<sup>6</sup> The rhetorical figure of *transumptio* or *transpositio* is technically the Greek *metalepsis* rather than *metaphora* (as Gewirth's translation has it). However, the matter is complicated by the fact that it is hard to find a stable definition of *metalepsis*, now as much as in the medieval and early-modern periods. The most common idea is that it is a double metonymy, or 'the metonymical substitution of one word for another which is itself figurative' as the *Oxford English Dictionary* has it. More specific definitions and usages involve the idea that it is a metaphor substituted for a cause, or more plainly an effect taken for a cause or vice versa. However, Donatus in *De tropis* adopted Quintilian's definition of the figure (which would not have been directly available to Marsilius) as a kind of medium by which one proceeds from one term to another, and some medieval discussions (perhaps in consequence) appear to associate it or indeed to identify it precisely with metaphor. I myself do not think that the term has the sense of metaphor in Marsilius's handling: what he is trying to say seems to be more that an effect of something's being natural (i.e. being the same everywhere) has, by transposition, caused a thing itself to be called natural when in fact it is not.

way everywhere, like ‘fire’ which ‘burns here’ in the same way as it does ‘among the Persians’.

8

There are those, however, who call ‘natural right’ the dictate of right reason<sup>7</sup> in respect of things that can be done, and place it under ‘divine right’: in that everything that is done in accordance with divine law and in accordance with the counsel of right reason is licit, without qualification; but not so everything done in accordance with human laws, since in some things these laws are deficient in right reason. But in truth, the term ‘natural’ is used equivocally here and above. For there are many things which accord with the dictate of right reason but which are not granted to be honest by all nations, viz. those which are not self-evident to all and in consequence not admitted by all either. So too there are certain commands, prohibitions and permissions according to divine law which are not in agreement with human law in this respect; but because this is familiar in many cases, I have omitted to bring in examples in order to keep the discussion short.

9

And hence it also arises that there are some things that are licit according to human law that are not licit according to divine law, and so too the other way round. But in those commands, prohibitions or permissions in which they are at odds, what is licit and illicit in absolute terms should be understood according to divine law rather than human.

10

In a second way, ‘right’ is predicated of every human act, power, or acquired disposition that issues from an imperative of the human mind, be it internal or external, immanent or transitive upon some external thing or an aspect of it – for example use or usufruct, acquisition,

<sup>7</sup>The terminology of natural law as the ‘dictate of right reason’, together with its proximity to divine law understood as the will of God, is associated with authors of the Franciscan tradition, from Alexander of Hales in the early thirteenth century to Johannes Duns Scotus and William of Ockham.

retention or keeping, exchange, and others similar – in conformity with right so-called in its first signification. (As to what the use or usufruct of a thing might be, as well as all the other licit or rightful modes of handling a thing, let us for present purposes simply suppose this from the science of civil law.) It is in this signification that we are accustomed to say: ‘this is someone’s right’, when he wills or handles a particular thing in conformity with right so-called in the first sense. Such handling or will is called ‘right’ because it is in conformity with what right commands, prohibits or permits; just as a column is said to be right-hand or left-hand when it is closer in position to the right or left of an animal. Thus ‘right’ so-called in this second sense is nothing other than that which is willed by the active command or prohibition or permission of the legislator; and this is what we said earlier was a command, prohibition or permission in a passive sense. And this is also what we earlier called ‘licit’.

## II

Again, this word ‘right’ implies the sentence of those who judge according to law, or their judgements in accordance with right so-called in its first signification. In this way people are accustomed to say that ‘the judge or prince has done or rendered right to someone’ when he has convicted or acquitted him by legal sentence.

## I2

Furthermore, ‘right’ is predicated of the act or disposition of particular justice;<sup>8</sup> in this way we say that he who wills what is equal or proportionate in exchanges or distribution, wills right or what is right.<sup>9</sup>

<sup>8</sup> Aristotle’s treatment of justice in *Nicomachean Ethics* Book V defines two kinds of justice: one, ‘general’ or ‘legal’, which is the justice involved in obeying all the laws of the city; another, ‘particular’, which is the specific virtue of justice involved in ensuring reciprocity or ‘equality’ in our dealings with others. ‘Particular justice’ can be either ‘commutative’ (which is involved in exchanges of any sort) or ‘distributive’ (which is involved in handing out rewards etc.). Marsilius’s reference to particular justice for his last sense of ‘right’ implies that the justice relevant to the second sense is ‘legal’ or ‘general’ justice, the justice involved in obeying the laws.

<sup>9</sup> *Ius aut iustum*: *iustum* was the standard translation of Aristotle’s *dikaion*, the ‘right thing’ which is the object of justice.

13

At this point we need to distinguish between the various modes or significations of ‘dominion’. And strictly understood, it means the principal power of claiming for oneself something that has been acquired by right so-called in its first signification; the power, I emphasise, of a knowing and consenting individual, whose will it also is that no one should be allowed to handle that thing without his express consent, sc. as its owner,<sup>10</sup> just as long as he has it in his dominion. But this power is nothing other than the will, in act or in disposition, to have in this way a thing that has been acquired by right, as we said, and indeed it is said to be the individual’s ‘right’, since it is in conformity with right so-called in the first sense; in the same way as we also said that a column is right-hand or left-hand when it is considered in respect of its proximity to an animal’s right or left.

14

Again, and more commonly, this term is predicated of the power just mentioned whether it be only over the thing, or only over the use or usufruct of the thing, or over all of these at the same time.

15

Yet again, the same term is predicated of the power just mentioned, but not as belonging to a knowing or consenting individual, nor as belonging to one who expressly withholds consent or renounces it. This is the way in which an infant, or one who is absent, or anyone else who is ignorant (but nevertheless capable) can acquire a thing or some aspect of it, with dominion or the power of claiming it for himself before a coercive judge (by himself or through another) from one who steals or wishes to steal it. I said ‘not to one who expressly withholds consent’ because one who expressly withholds consent, or renounces a thing or an aspect of a thing, cannot acquire such things nor the dominion or power of claiming them for himself. For by human laws, anyone can licitly renounce a right brought forward on his behalf, while no one can be

<sup>10</sup> *Dominus*: see the Notes on the Translation, above, p. xliv.

compelled by any law to accept the benefit of a right. Now the kinds of dominion that we have just mentioned are legal, in that they are or are capable of being acquired by an ordinance of the law or its legislator and by human choice.

16

This term 'dominion' is also predicated of human will or freedom in itself, with its organic power of execution or of motion unimpeded. For by these we have the capacity for certain actions and also for their opposites. For this reason, too, man alone among the other animals is said to have dominion of his own actions; and this, indeed, is in man by nature, not something acquired voluntarily or by choice.<sup>11</sup>

17

Following on from this, we must make a distinction with regard to this term 'possession'. Taken in a broad sense, this term in one way means the same thing as dominion so-called in any of its first three significations, or a temporal thing in relation to one who has it or wills to have it in the way that we said in the first two significations of dominion. Hence Genesis 13: 'And he was very rich in possessions, in gold and in silver,'<sup>12</sup> and chapter 17 of the same: 'And I will give unto thee, and to thy seed after thee, all the land of Canaan, for an everlasting possession.'<sup>13</sup>

18

In another way, and more narrowly, 'possession' is predicated of dominion in the sense just said, together with actual physical handling, present or past, of the thing or of the use or usufruct of it. This is the way the term is mostly used in the science of civil law.

<sup>11</sup> The idea that human beings are distinguished from the animals by having dominion over their own actions was a standard theological position. Theologians such as Bonaventure and Aquinas explained that this dominion is man's ability rationally to will his own actions, and hence escape from the material necessity or determinism that characterises animal activity. It is thus closely associated with the concept of human 'free will'.

<sup>12</sup> Genesis 13. 2.   <sup>13</sup> *Ibid.* 17. 8.

19

Further, this term is predicated of the licit physical handling of a thing, either one's own or even another's, as in Acts 4: 'neither said any of them that ought of the things he possessed was his own; but they had all things common.'<sup>14</sup>

20

Again, 'possession' is predicated, although improperly, of the illicit retention of a thing, present or past: whether one physically handles the thing oneself or another does so.

21

It follows that we must now make a distinction with regard to the terms 'proper' and 'common'. And in one way, 'proper' or 'property' is predicated of dominion so-called in its first signification; this is the way in which it is used in the science of civil law.

22

Again, taking it more broadly, it is predicated of dominion so-called in both its first and its second significations; this is the way it is used among theologians, and also for the most part in Holy Scripture.

23

Further, these terms 'proper' and 'property' are predicated (in a way that is more familiar among theologians) of the individual particularity of a person, or of a thing or aspect of a thing when they belong to one single person alone, not together with another. For those who inquire whether it is more perfect or more meritorious in respect of eternal life to have temporal things as proper to oneself (i.e. individually), than to have such things in common with another or others, are taking 'proper' in this way, distinguishing it over and against 'common'.

<sup>14</sup> Acts 4. 32.

24

Again, this term ‘proper’ or ‘property’ is predicated of an accident that inheres in a subject of itself; philosophers use the term in this way, although it is more familiar for them to use it as being convertible with the subject.<sup>15</sup>

25

The term ‘common’, however, insofar as is relevant to our purposes, is understood in the opposite sense to the two last significations of ‘proper’.

26

It remains now for us to distinguish the senses of these terms ‘poor’ and ‘rich’. The term ‘rich’ is most frequently predicated of one who has for himself a superabundance of temporal things – which people call ‘riches’ – all at once for any particular time, present and future, in a way that is licit.

27

In another way, ‘rich’ is predicated of one who has for himself, in a way that is licit, only a sufficiency of the said things all at once for any particular time, present and future.

28

Yet again, and more properly, a person is called ‘rich’ in two ways: firstly, if he has the said things, and in superabundance as was said, and it is his will to have them in this way; and in a second way, if he has the said things

<sup>15</sup>Hence, ‘hard’ is a property of stone, since it inherently belongs to stone; but it is not convertible with stone, since there are things that are hard that are not stones. But (to use Aristotle’s example) ‘capable of learning grammar’ is a property of man, since all men are inherently capable of learning grammar; and it is also convertible with man, since there is nothing capable of learning grammar that is not a man. See Aristotle, *Topics* I 102a17–19 for this second sense of the term, which is ‘more familiar’ presumably precisely because it is Aristotle’s sense.

only in sufficiency, as we said in the second sense, and it is his will to have them in this way.

29

Now a person is said to be 'poor' in two ways which are opposed as privations to the two first modes. In one way, if he lacks only a superabundance of things; in a second way, if he does not even have a sufficiency all at once for any particular time.

30

In a third way, 'poor' is said in opposition to 'rich' as its contrary: firstly of a person who spontaneously wills to lack abundance for any particular time.

31

In a fourth way, of a person who has no will to have even a sufficiency, all at once for any particular time, present and future, but who spontaneously wills to lack such a sufficiency.

We should notice, though, that a 'rich man' in the second and fourth senses is a 'poor man' in the first and third senses of poverty. Thus, not any and every sense of poverty or of poor is opposed to any sense of rich indifferently.

32

We should not neglect the fact, either, that of those who are spontaneously poor there are some who abdicate temporal things for an honest end and in an appropriate manner. Whereas others seem to abdicate such things not for this reason, but for the sake of vainglory or committing some other worldly fallacy.

33

We should also notice in addition that some of the temporal goods that people call 'riches' are, in their nature and by common human institution, consumable in a single act or use, such as food, drink, medicines and



similar things; there are others, however, which last and which are of a nature to serve several uses, like a field and a house, an axe and a garment, a horse or a servant.<sup>16</sup>

There are perhaps other significations of the said terms; but we think we have enumerated the most familiar of them and those which are most pertinent to our purpose. To separate them out and describe or define them properly is nonetheless a hard task indeed, because of the variety of their usage among different authors – and even in the same author – and in different places and times. For ‘almost any term has multifarious senses’, as is written in *On Generation*, first book.<sup>17</sup>

<sup>16</sup>This distinction was key to the argument of the opponents of mendicant poverty: they argued that in the case of things that are consumed in use, use cannot be separated from dominion or ownership, and therefore that mendicant friars must at least have dominion in the things that they consume. John XXII stated this position in his bull *Ad conditorem canonum* of December 1322 (in *Extravagantes Iohannis XXII*, tit. 14 c. 3, CIC II cols. 1225–9, at cols. 1226 and 1227). Title 14 of the *Extravagantes Iohannis XXII*, ‘On the signification of words’ (CIC II cols. 1224–36), contains the series of four major bulls that John XXII issued concerning Franciscan poverty between 1322 and 1324: *Quia nonnunquam* (1322), *Ad conditorem canonum* (1322), *Quum inter nonnullos* (1323) and *Quia quorundam* (1324).

<sup>17</sup>Aristotle, *De generatione et corruptione* I 322b30.

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## On the status of the said poverty, which is habitually called evangelical perfection, and that Christ and his apostles observed this status

Now that we have distinguished in this way between the various modes and significations of the said terms, let us draw certain conclusions: and the first is, that no person can licitly handle any temporal thing or aspect of a thing (e.g. its use or usufruct or similar) – whether it is his own or belonging to another, as his own property or in common – without right, that is, without having in it or in an aspect of it right so-called in the first and second significations of right. For every act which is not commanded or permitted to be done by right, is non-licit, as is plainly apparent to anyone from the definition of the ‘licit’. We need not delay to prove this, as it is almost self-evident to everyone.

### 2

From what we have said we can secondly infer that a person can handle a thing or an aspect of a thing in a way that is licit in respect of one law, e.g. the divine, and illicit in respect of another, such as the human; and similarly the other way round; and again, he can do the same thing in a way that is licit, or even in a way that is illicit, in respect of both. This is not difficult to see, since the commands, prohibitions and permissions in these laws sometimes diverge and mutually disagree, and sometimes converge. And therefore one who acts according to the command or permission of one, acts in a way that is licit in respect of it; and if this is prohibited by the other law, then he performs the same act in a way that is illicit in respect of that other law; while if such an act is permitted in

both laws, then he acts in a way that is licit in respect of both. If, however, it is prohibited by both, then he performs the same act in a way that is illicit in respect of both. As to whether there is anything that is permitted to be done or omitted by divine law but commanded or prohibited by human law, as is the case the other way round, this is a consideration that we leave aside here; for it does not belong to the present inquiry. It is certain however that many things are permitted by human law, such as fornication, drunkenness and various other sins, which are prohibited by divine law.

3

In consequence of this I want to show that a person can licitly handle any temporal thing or aspect of it as his property in the third signification, or again possess it in common with another, in the third signification of possession, and again licitly destroy it, apart from any dominion whatsoever of that thing or any aspect of it in the first, second and third significations of dominion. This is so whether it is consumed in a single use or not, whether it is the property of that person, according to the third sense of 'proper', or common to him together with another or others, and whether it is his own, i.e. something that he has acquired by right, or another's (but nevertheless with the consent of him who has acquired it by right, so-called in its first sense).

Now I demonstrate this in the following way: because a person can licitly handle and destroy any temporal thing or aspect of it (in all of its said modes), either as proper to himself or in common, apart from any dominion of it in the three senses already stated, if he handles it or has it, apart from the dominion just-mentioned, in accordance with divine law or human law or both. But as has been said, a person can handle a thing and an aspect of it, whether it is his own or another's (but with the consent of him to whom it belongs), according to the laws apart from any of the said dominion. Therefore he can licitly do so without it.<sup>1</sup>

<sup>1</sup> This is a strange argument. Previt -Orton suggests that it turns on the two terms *absque* ('apart from') and *sine* ('without'), i.e. apart from dominion *therefore* without dominion. Gewirth takes issue with this: for him the argument turns on the two expressions *secundum leges* ('according to the laws') and *licite* ('licitly'), i.e. according to the laws *therefore* licitly. But there seem to be difficulties both ways. I do not think a great deal hangs on the precise working of this syllogism, but I have faithfully differentiated in translation between *absque* and *sine* so that the reader can decide for herself.

The first proposition of this deduction is self-evident from the definition of what is 'licit'. I prove the second by inductive reasoning, firstly in the case of a thing that is a person's own (i.e. that he has acquired by right), either as his own property or in common with another, as a result of his own act or that of another: for example by a gift or a legacy, hunting, fishing, or any other licit work or activity of his own. For suppose a thing has been acquired by a person in this way. In such a case it is certain that he uses and handles it according to the laws, since the thing has been acquired according to the laws in the ways just mentioned, as is plain by induction. It is agreed, too, that in respect of both human and divine law, any competent person can licitly renounce a right brought forward on his behalf, since a benefit cannot be conferred upon someone against his will. Therefore, he who can acquire dominion of a thing or its use, by his own deed or that of another, can also renounce such dominion. Since, therefore, the same person (if he is willing) acquires the power of using it licitly as much as the power of claiming it for himself and barring it from another, he can licitly renounce the power of claiming for himself or barring the thing or an aspect of it from another (which is nothing other than dominion so-called in its first three, i.e. its legal, senses) while not renouncing the power of using the thing or an aspect of it. This power falls under right so-called in its second signification, and some people are in the habit of calling it 'simple use of fact', without the right of using: by the 'right of using' understanding, as they do, dominion in one of the three significations stated previously.<sup>2</sup>

<sup>2</sup> 'Simple use of fact' (*simplex usus facti*) was a core element of the Franciscan understanding of the poverty they practised, and consequently a key target for their opponents in the fourteenth century. Thirteenth-century Franciscans had held that to have any right in a thing, however minimal (e.g. a right of use), involved having juridical status in the eyes of the law and the consequent ability to defend that right in court – what Marsilius here calls *dominium*, and indeed the Franciscans did argue that all right involved some kind of *dominium*. Pope Nicholas III in his bull of 1279, *Exiit qui seminatur* (in the *Liber sextus*, lib. V, tit. 12, cap. 3, CIC II cols. 1109–21), officially declared that the Franciscans had neither *dominium* nor right of any kind in the things they used, but only 'simple use of fact', i.e. the pure fact of using without any juridical claim, for 'the life of mortals necessarily requires the latter even if it can be without the former' (*ibid.* col. 1113). It was part of the strategy of their opponents in the fourteenth century, including Pope John XXII himself, to combat the idea that any human being could licitly use a thing as a matter of pure fact, i.e. without right. Marsilius's crucial moves in this respect are a) to accept this point, by identifying what is licit with what is right; but b) to understand right, in its subjective sense of belonging to the individual, purely as a function of law; and therefore c) to destroy any necessary connection

4

Further, a person can use in a manner that is licit, according to the laws, a thing that belongs to no one; but a thing can belong to no one if someone has renounced the power of claiming it for himself or barring it from another; therefore any person can licitly use it. Since, therefore, he who renounces the said power does not have dominion of the thing as said above, it is apparent that a person can handle and use a thing in a way that is licit apart from any of the abovementioned legal dominion.

5

Again, two things are mutually distinct if one of them can be abdicated by a licit vow for any period of time, but the other not. But the abovementioned dominion of a thing, i.e. the power of claiming for oneself and barring from others a temporal thing or aspect of it, can be abdicated by a licit vow for any period of time according to the laws; whereas to have a thing in a way that is licit, i.e. the simple use of it, cannot be abdicated by a licit vow for any period of time. Therefore it is appropriate to distinguish these in respect of each other. The first proposition of this deduction is self-evident from the definition of the 'licit'; for the same thing cannot be at once licit and illicit in respect of the same law. I prove the second proposition in respect of each of its parts. And firstly, that the abdication of the said dominion by a vow is licit for any period of time whatsoever: since a vow that can be derived from the counsel of Christ is licit. But such abdication is Christ's counsel, when he said, Matthew 20: 'And everyone that hath forsaken houses or lands etc. for my name's sake shall receive an hundredfold, and shall possess eternal life.'<sup>3</sup> The same is to be found in Matthew 5 and Luke 6, when Christ said: 'Him that taketh away thy cloke forbid not to take thy coat also.'<sup>4</sup> And if any man will sue thee in court, and take away thy coat, let him have thy cloke also.'<sup>5</sup> On which Augustine says: 'If he bids this' (i.e. counsels not to sue) 'for necessities, how much more for superfluities?'<sup>6</sup> It was in accordance

between having a right and having something of one's own that one can claim in court (i.e. a kind of *dominium*). For Marsilius, to have a right is simply to be in a certain relation to human law, and this has nothing to do with being rich or poor.

<sup>3</sup> Actually Matthew 19. 29, quoted apparently from memory.

<sup>4</sup> Luke 6. 29.   <sup>5</sup> Matthew 5. 40, apparently quoted from memory.

<sup>6</sup> A form of this quotation can be found in Aquinas, *Catena aurea*, Vol. 1, 93, attributed to Augustine (on Matthew 5. 40).

with this view of Christ, too, that the Apostle said in I Corinthians 6: ‘Now therefore’ he says ‘there is utterly a fault among you, because ye go to court one with another. Why do ye not rather take wrong? Why do ye not rather suffer yourselves to be defrauded?’<sup>7</sup> – supply: than sue in court, however justly, in order to claim a temporal object. Here the gloss according to Augustine quotes the gospel in the above places, and then adds: ‘This’ (i.e. to sue in court, sc. justly) ‘the apostle forgives to the weak, since within the church there must be such judgements among brothers, their brothers acting as judges.’<sup>8</sup> The gloss goes on to add (because of something doubtful that Augustine said): ‘But so that the aforementioned words of Augustine, in which he says “it is a sin to obtain a judgement against one’s brother”, may be rightly understood, we should state here what may be appropriate for the perfect in such matters and what not, and what may be licit for the weak and what not. Therefore, it is licit for the perfect to seek to regain what is theirs in a simple sense, sc. without a judicial process, without a lawsuit, without a judgement; but it is not appropriate for them to set a judicial process in train before a judge. But it is licit for the weak to seek to regain what is theirs both by setting a judicial process in train before a judge, and by obtaining a judgement against one of their brothers.’<sup>9</sup> Therefore, a licit vow can be undertaken with respect to the abdication of dominion. And if, furthermore, it is not licit for the perfect to sue before a coercive judge, then they do not have the power of licitly claiming things for themselves, which is nothing other than the said dominion; for they have already renounced such power by a vow which they cannot contravene at any time, particularly after the vow has been confirmed. Secondly, it is apparent enough that the licit having<sup>10</sup> of a thing or its use, otherwise called simple use of fact, cannot be abdicated for any period of time: since nothing that is prohibited by divine law can licitly be the subject of a vow. But such abdication is prohibited by divine law, in that it is a species of homicide. For someone who kept such a vow would knowingly kill himself by hunger or thirst or cold; and this is expressly prohibited by divine law, as in Matthew 19, Mark 10, and Luke 18, where Christ, confirming certain precepts of the old law, says: ‘Thou shalt not kill etc.’ The simple use or licit

<sup>7</sup> I Corinthians 6. 7.

<sup>8</sup> Lombard, *Collectanea*, MPL 191 c. 1578 C.     <sup>9</sup> *Ibid.* c. 1578C–D.

<sup>10</sup> *Habitus*, here in the more literal sense of ‘having’ rather than the more sophisticated philosophical sense of ‘disposition’, although the two senses are clearly related. See above, II. 12, 10; the point that Marsilius wants to make here about *simplex usus facti* seems at least part of his motivation for including *habitus* as a ‘right’ in the second sense.

having of a thing is distinct, therefore, from any dominion of it as stated previously, i.e. the power of claiming it or an aspect of it for oneself or barring it from another.

6

From this it also plainly follows, of necessity, that it is an insane heresy for someone to assert that a thing or its use cannot be had apart from the said dominion.<sup>11</sup> For one who says so thinks nothing other than that Christ's counsel cannot be carried out; which is an open lie which must, as we said, be avoided as perverse and heretical.

7

Nor is it an objection if someone says that one can licitly abdicate the act of suing in court, but not the legal capacity or active power to claim the thing for oneself and bar it from another in the presence of a coercive judge, which we earlier said was dominion. This is false: since every legal capacity or power that has been or can be acquired, and of which the ensuing act can be abdicated by a licit vow, can itself be abdicated in the same way, as is apparent by induction in all those resolutions that are the subject of a vow. For a person who vows chastity or obedience does not by their vow abdicate only the act, but also the licit power for such acts which previously belonged to them by right so-called in the first sense. Again, it is not consonant with truth to say that someone has a licit power for acts which are, all of them, illicit: since a power is not said to be licit or illicit, nor is the difference between the two otherwise recognised, except from the licit or illicit acts that result or can result from that same power.<sup>12</sup> Since, therefore, all the acts of a licit power that a person had before their vow are illicit as a consequence of the vow, it is apparent that no licit power for such acts remains to the person who made the vow.

<sup>11</sup> Since the pope (John XXII) had asserted this in *Ad conditorem canonum* (see the [previous chapter](#), n. 16), it follows that the pope is a heretic. This was a central claim of Ludwig of Bavaria's Appeal of Sachsenhausen (May 1324) (printed in MGH *Constitutiones*, vol. V n. 909, pp. 722–44).

<sup>12</sup> It was standard Aristotelian philosophical reasoning that powers are specified from acts, rather than the other way round: thus for example the power of seeing is specified from the act of seeing.

8

Next I show that with regard to something that belongs to another, or the use of it, a person can have licit use – even a use which consumes the thing in question – without any such dominion as was said above, if he exercises this use upon the object with the consent of the owner. For from the very fact that it is assumed to be entirely in the dominion (or power of claiming for oneself) of another, it is certain that such dominion cannot be transferred to another except by the deed and express consent of the owner, and also unless the person to whom this dominion (or power of claiming for oneself) of a thing or its use is to be transferred does not dissent. Suppose, therefore, that the owner does not wish to transfer this dominion of a thing or its use to any other person. Suppose too that the other person does not assent to such dominion, for example one who has abdicated all the said dominion of temporal things in an express vow, as befits the perfect. Suppose further that the owner consents to some perfect individual using what is his, even including the consumption of the object, and that the perfect individual, that is, one who has abdicated the dominion of all things, has the will to use such a thing with the consent of the owner. In that case, I say that the one who uses that thing in this way uses it in a way that is licit, and yet still has none of the abovementioned dominion of the thing or of its use at all. It is clear that he has no dominion of the thing or its use from what we previously supposed: from the will of the one who had the thing in his dominion as much as the condition of the one who was to receive the use of it, who had absolutely abdicated dominion of these kinds. That he uses it in a way that is licit is apparent from the definition of ‘licit’, since it is permitted by law for anyone to use what belongs to someone else, even including its consumption, if the owner of it gives his express consent for this.

9

But if dominion is understood in its final sense, sc. for human will or liberty, together with the natural potential for movement which is con-natural to us and not acquired; then I say that we cannot spontaneously handle any thing or any aspect of it, either licitly or illicitly, without such dominion, and nor can we abdicate such dominion. And because this is familiar to everyone of itself, since without these powers no one can remain in being, I pass over this point without any other proof in order to keep the discussion short.



IO

Thus from all this it can be seen that not every licit power – that is, power which is rightful, taking right in its first or second sense or both – over a temporal thing or its use is dominion; although conversely all licit dominion in the three legal senses stated above, over a thing or its use or both, is a licit power – that is, one that is rightful in the above sense. As a result, one who infers as follows: There is a licit or rightful power over a thing or its use, therefore there is licit or rightful dominion over that thing or its use, falls into a mistake of logical consequence. For it is possible to have and to handle a thing in a way that is licit, whether it belongs to oneself (either as one's own property or in common) or even to another (so long as the owner, or the one who has acquired it in licit fashion, consents) without having acquired any legal dominion of it.

II

On these premises, we can now enter more fully upon our proposed course and say first that 'poverty', or what it is for someone to be 'poor', is almost self-evident, and is widely found in Scripture; so that it will suffice to quote here, out of all the instances, this one from Mark 12, where Christ says: 'Verily I say unto you, that this poor widow hath cast more in, than all they.'<sup>13</sup>

I2

Next I show, similarly through Scripture, that poverty is meritorious with regard to eternal life, since the Truth said in Luke 6: 'Blessed be ye poor: for yours is the kingdom of God,'<sup>14</sup> sc. in meriting it: for no one apart from Christ is made blessed in this life, but merits it.

I3

And from this it follows of necessity that poverty is a virtue, if it has been made into a disposition as a result of many acts of willing in this way to lack temporal goods, or an act that creates a virtue or is elicited

<sup>13</sup> Mark 12. 43.

<sup>14</sup> Luke 6. 20.

from a virtue; because everything that is meritorious is a virtue or an act of virtue. Again, each of Christ's counsels is inherently a matter of virtue; but poverty is such a counsel, as is apparent enough in Matthew 5 and 19 and in very many other places of gospel Scripture.

14

From this it follows of necessity that this must be spontaneous poverty, so-called in the third and fourth senses of poverty, in that there is no virtue or act of virtue without choice, and no choice without consent, as is apparent enough from *Ethics* II and III.<sup>15</sup> Confirmation of this can be had from Matthew 5, where Christ says: 'Blessed are the poor in spirit,' understanding by 'spirit' will or consent; although some of the saints explain 'spirit' in terms of pride, even if this is not much to the point since in the same passage it immediately goes on to say: 'Blessed are the meek.'<sup>16</sup> Whatever the case concerning the exposition of this passage, however, no one can be in any doubt with respect to the opinion of the saints that poverty is meritorious in respect of the kingdom of heaven, as Christ says; but that this must not principally be an external deprivation of temporal things, but rather an interior disposition of the mind by which a person spontaneously wills to be deprived of such things for the sake of Christ. Hence Basil, on that passage of Luke 6: 'Blessed be ye poor' etc., says: 'Not everyone who is oppressed by poverty is blessed. For many are poor in substance, but in their affections most desirous of gain, and poverty does not save these people, rather their affections damn them. For nothing that is involuntary can be made blessed, in that every virtue is characterised by free-will.'<sup>17</sup> Meritorious poverty is therefore a virtue and must consequently be spontaneous. But external deprivation is not in itself a virtue, because this deprivation does not save anyone without the requisite affection; for a person might be deprived of temporal things forcibly and against his will, and yet still be damned because of his inordinate

<sup>15</sup> Aristotle begins Book III of the *Nicomachean Ethics* by stating that praise and blame accrue only to spontaneous or voluntary acts: 1109b30–2.

<sup>16</sup> Matthew 5. 3, 4. The saints in question are Chrysostom and Augustine: Aquinas, *Catena aurea*, Vol. 1, 22.

<sup>17</sup> Aquinas, *Catena aurea*, Vol. 2, 87. 'Basil' is St Basil (ca. 329–79 CE), bishop of Caesarea, author of many theological, exegetical and homiletic works.

affection for them. The Apostle, too, was of this opinion of this subject in II Corinthians 8, when he said: 'For if there be first a ready will, it is accepted' i.e. meritorious 'according to that a man hath'.<sup>18</sup>

15

Furthermore, a choice to be deprived of temporal things must be made for the sake of Christ if it is to be meritorious. Hence the Truth, Matthew 19: 'And everyone that hath forsaken houses etc. for my name's sake'.<sup>19</sup> Here Jerome has: 'He who has forsaken carnal things for the Saviour, will receive spiritual things in relation to his merit, as the number one hundred to a small number.' And below: 'They who, for the sake of Christ's faith and for the preaching of the gospel, have scorned all affections and riches and pleasures of this world, shall receive onehundredfold and shall possess eternal life.'<sup>20</sup>

16

Again, that which stands opposed to avarice is of itself a meritorious thing and a virtue in its essence; spontaneous poverty for Christ's sake is a thing of this kind; for avarice is a vice. This virtue has some analogy to the moral virtue of liberality, although it differs from it in its end and, at least in respect of the mean, is a more perfect species of it (as will become clear from what follows).<sup>21</sup> For this reason both cannot be placed in the same undivided species.

17

As a result, then, it can be seen that meritorious poverty is that virtue by which a person, for the sake of Christ, wills to be deprived of and to lack all those temporal goods that people usually call 'riches', superfluous to what is sufficient for him.

<sup>18</sup> II Corinthians 8. 12.    <sup>19</sup> Matthew 19. 29.

<sup>20</sup> Aquinas, *Catena aurea*, Vol. 1, 290.

<sup>21</sup> Aristotle discusses the moral virtue of liberality at the beginning of *Nicomachean Ethics*, Book IV. It is said to be the mean between the vices of prodigality and illiberality.

18

It also follows, manifestly, that this virtue is not the disposition or act of charity, as some seem to have thought.<sup>22</sup> For poverty is not the disposition or act which is in itself primarily opposed to the act or disposition of hating God, in that several things would then be opposed in a primary sense to one. For although the opposite vice of each of the theological virtues conflicts with charity, this does not mean that every theological virtue is charity, because such vices are not opposed to it in a primary sense.

19

Nor is it an objection if someone says that the virtue by which we tend towards God in love is essentially the same as that by which we withdraw from the inordinate desire for temporal things, just as it is by essentially the same movement that something departs from a particular terminus and tends towards its opposite. Since, therefore, it is by charity in itself that we tend towards God, it is by the same virtue, and not another, that we seemingly leave behind the love of temporal things.<sup>23</sup>

20

For the weakness of this argument can be seen from what we have already said. Because if it is by charity, primarily and of itself, that we tend towards God in love, it is by this same virtue, primarily and of itself, that we depart from the opposite; but this is the hatred of God, not the illicit love of temporal things; even if a departure from the latter may sometimes follow upon charity for the reason that virtuous poverty follows

<sup>22</sup> Compare the Dominican Hervé de Nédellec's treatise *De paupertate Christi et apostolorum* ('On the Poverty of Christ and the Apostles', ed. J. G. Sikes, *Archives de l'histoire doctrinale et littéraire du moyen âge* 11 (1937–8), 209–97), written in response to John XXII's bull *Quia nonnumquam* (see the previous chapter, section 33, n. 16), and very influential in the pope's subsequent formulation of his own position. Hervé argues (relying ultimately on Aquinas, *Summa theologiae* 2a2ae q. 184 a. 1 and a. 3) that the principal virtue that perfects a human being is charity. As for poverty, it can be considered in two ways: either as a 'preparation of the soul', or as an 'external effect'. Poverty understood as a preparation of the soul is the same as charity, and as such is essential to human perfection. But poverty as an external effect is not, precisely because it is not intrinsic to the human soul.

<sup>23</sup> Again, this argument can be found in de Nédellec's treatise.

upon it.<sup>24</sup> But this poverty is, of itself and primarily, the spontaneous abdication of temporal things; and it is necessarily followed by the departure from that which is, primarily and of itself, opposed to it, sc. the illicit love of temporal things. For if our objector's words contained a truthful inference, we would from true premises reach the conclusion that almost every virtue is charity: since most virtues follow upon charity of necessity, for example faith and hope, by which, primarily and of themselves, we depart from heresy and despair respectively.

21

Further, charity cannot be the subject of a vow, because it is a command. But the said poverty, particularly so-called in the fourth sense, is the subject of a vow. Therefore virtuous poverty is not, in its essence, charity, nor the other way round; even though it may follow upon charity just like most of the other theological virtues.

22

Now I say that the highest mode or species of this virtue is the express vow of one on his way through this world, by which he wills to be deprived of and to lack any acquired legal dominion as said above, i.e. the power to claim for oneself and bar from others, before a coercive judge, the temporal things that people call riches, both proper to himself and in common; renouncing them for the sake of Christ. It is a vow, I say further, by which he wills, for the sake of Christ, to be deprived of and to lack, both as proper to himself or in common, all power, disposition, and handling or use of them superfluous to what is sufficient for him at the present moment, both in quantity and in quality. Nor is it his will to have such goods, however licitly they may come to him, all at once in order to supply many future needs or wants, either for himself alone or for himself in common with a determinate other or others. Rather, his will is to have them only for a single need at once, for example the immediately pressing and almost present want of food or covering; with this reservation, however, that he who makes this vow should be in a place, time and condition that enables him, on successive individual days, to get for himself just enough to supply the said want, and only a

<sup>24</sup> Reading, with Scholz, *ipsam* (i.e. *charitatem*) instead of *ipsum*.

single want at once, not more. It is this mode or species of ‘meritorious poverty’ which is the status people mean when they say that it is necessary for evangelical perfection, as will become very clear from what follows. Furthermore, for the sake of brevity we shall henceforth call this mode of meritorious poverty – that is, the poverty of one who has nothing either as proper to himself (so-called in the third sense) or even in common with another (in the opposite sense of ‘common’) – ‘supreme poverty’; and in the manner of theologians, we shall call ‘perfect’ someone whose will it is to have nothing in this way.<sup>25</sup>

23

Now it can be shown that the mode of meritorious poverty just mentioned is the highest of all from the fact that all Christ’s meritorious counsels are observed in this mode more than in the others. For it involves to begin with the abdication, by vow, of all the temporal things that it is possible for someone to abdicate on his way through this world. Those who make such a vow remove from themselves more impediments to divine charity; they are also disposed to sustain more of the passions and ignominies and discomforts of this world, and are deprived at their own prompting of more of its pleasures and vanities; and to sum up in one, they dispose themselves in the greatest possible way to keep both the commands and the counsels of Christ.

It is plain that one who makes such a vow abdicates temporal things in an absolute sense, and as far as is possible and licit for one on his way through this world: since it is not his will to have, at one time, anything except what is necessary to supply a single present or almost-present want of food or covering. But it is not licit for any faithful person on his way through this world to have less, for, if it was his will to have less than what was necessary for sustaining life, he would knowingly commit homicide; and this is not licit for anyone, at least in divine law. Thus, a person who wishes to have temporal things in such a way that it is not licit

<sup>25</sup> *Perfecti*; Marsilius should have said, in the manner of *some* theologians, since this use of ‘perfect’ was a matter of bitter controversy: both with the secular clergy (who resented and combated the idea that the status of mendicant friars was more perfect than their own), and between the Dominicans and the Franciscans in the controversy generated by John XXII’s attack on the Franciscan way of life. See the Introduction, above, p. xvi; below, II. 24, 13 and note.

for him to have less of them, wants to have the minimum of them that is possible; and a person who abdicates so many of them that it is not licit for him to abdicate more, abdicates the maximum possible. But this is what a person on his way through this world does according to the said mode of meritorious poverty, which we called supreme. And it is apparent that this is in accordance with the counsel of Christ. For he gave counsel concerning this vow in Luke 14, when he said: 'So likewise, whosoever he be of you that forsaketh not all that he possesses, he cannot be my disciple.'<sup>26</sup>

24

It is also plain that he removes from himself more impediments to divine charity: since the love and will to keep hold of temporal things turns a man towards them, and consequently turns him in an equal degree away from love of or delight in God. Hence the Truth in Matthew 6: 'For where your treasure is, there will your heart be also.'<sup>27</sup> And it is not valid pleading for someone to say: one who has these things will not convert his love towards them. For listen to Christ in Matthew 13 and Mark 4, saying that 'the deceitfulness of riches chokes the word'.<sup>28</sup> On which Jerome has: 'For riches are sweet, doing one thing, promising another.'<sup>29</sup> On the same grounds, too, Christ in Luke 18 counselled one whose will was to be perfect to abdicate them absolutely, saying: 'Sell all whatsoever thou hast, and distribute unto the poor.'<sup>30</sup> On which Bede says: 'Whoever would be perfect, therefore, should sell what he has: not just in part, as did Ananias and Sapphira, but the whole.'<sup>31</sup> And Theophylact in the same place adds (which is to the point): 'He urges supreme poverty. For if anything remains' (sc. of temporal things) 'he is its slave' (supply: he who keeps such things for his own sake). For the nature of these things is to sway the affections of one who retains them in an inordinate way. Rabanus, on the same saying of Christ in Matthew 19, adds to this opinion something greatly to the point. For he says: 'There is a certain distance between having money and loving money. But it is safer neither

<sup>26</sup> Luke 14. 33.   <sup>27</sup> Matthew 6. 21.

<sup>28</sup> Matthew 13. 22 and Mark 4. 19; the quotation is from Matthew.

<sup>29</sup> Aquinas, *Catena aurea*, Vol. 1, 214.   <sup>30</sup> Luke 18. 22.

<sup>31</sup> Aquinas, *Catena aurea*, Vol. 2, 248. Bede ('the Venerable') (ca. 673–735 CE) is perhaps most famous for his history of the church in England, but he was also the author of numerous exegetical writings.

to have nor to love riches.<sup>32</sup> Since, as Jerome adds in the same place: 'It is hard to scorn riches once had.'<sup>33</sup> For 'they are stickier than lime,' as Thomas says on the same counsel of Christ at Luke 18.<sup>34</sup> Thus one who abdicates riches as far as is possible and licit for one who is on his way through this world removes from himself more impediments to charity.

25

Moreover he exposes himself to more of the passions, ignominies and discomforts of this world; at his own prompting he deprives himself of more pleasures and worldly comforts. And although this is self-evident from experience, the wise man nevertheless says so in Ecclesiastes 10: for 'all things', he says, 'answer to money,'<sup>35</sup> i.e. to one who has money. And from the opposite side in Proverbs 15: 'All the days of the poor man are evil,'<sup>36</sup> since the poor man 'abounds in afflictions', as the gloss on the same place says.<sup>37</sup> Again in the same book, chapter 10, it says: 'Wealth maketh many friends; but the poor man is separated from his neighbour.'<sup>38</sup> But it is plain in Matthew 5 and 19 and Luke 6 that it is meritorious and a matter of counsel to endure the sorrows of this world and to abstain from its delights for the sake of Christ; for here we find, on the subject of bearing sorrows: 'Blessed are the poor, Blessed are they that mourn, Blessed are they which are persecuted, Blessed are they that hunger,'<sup>39</sup> along with all the others that are added there; while with regard to abstaining from delights, 'every one that hath forsaken houses, or brethren' (along with the other things there numbered) 'shall receive an hundredfold and shall possess eternal life.'<sup>40</sup> The glosses of the saints on this locus expound the same opinion, but I have omitted them in order to keep the discussion short and also because the matter is familiar enough. This was also the opinion of the Apostle in Romans 8: 'For I reckon', he says, 'that the sufferings of this present time are not worthy to be compared with the glory which shall be revealed in us.'<sup>41</sup> Thus the adversities of this world are meritorious to those

<sup>32</sup> Matthew 19. 24; Aquinas, *Catena aurea*, Vol. 1, 287. 'Rabanus' is Rabanus Maurus (b. 776/?784; d. 856 CE), abbot of Fulda and archbishop of Mainz, author of numerous biblical commentaries and pedagogical writings.

<sup>33</sup> *Ibid.*

<sup>34</sup> Luke 18. 25; Aquinas, *Catena aurea*, Vol. 2, 249. Marsilius here alone cites the name of the compiler rather than the source, Theophylact.

<sup>35</sup> Ecclesiastes 10. 19.   <sup>36</sup> Proverbs 15. 15.   <sup>37</sup> Ordinary gloss ad loc.

<sup>38</sup> Proverbs 19. 4.   <sup>39</sup> Matthew 5. 3, 5, 10; Luke 6. 21.   <sup>40</sup> Matthew 19. 29.

<sup>41</sup> Romans 8. 18.



who bear them at their own prompting. The same in II Corinthians 1, when he said that 'as ye are partakers of the sufferings, so shall ye be also of the consolation.'<sup>42</sup> Here Ambrose has: 'Because a glory equal', i.e. proportionate, 'to your labour shall be repaid to you.'<sup>43</sup> But collective bodies of persons who have dominion of temporal goods in common do not entirely dispose themselves in this way to bear the sorrows and discomforts of this world; indeed, they do so less than many poor people who are married and in the world,<sup>44</sup> who sometimes have their own property but nevertheless go in need of what is required for a sufficient life more often than these others, who possess such things only in common.

26

It will be apparent to anyone who goes through the sequence of the gospels, especially the chapters we have identified, that all the commands and counsels of Christ can most fully be observed in this mode of meritorious poverty, which we have called supreme. For how will one who has chosen such poverty be avaricious or proud, how will he be dissolute or intemperate, ambitious, or merciless, and why would he be unjust, fearful, slothful or envious, or again a liar, intolerant or malevolent for some reason towards another? On the contrary, the door to all the virtues seems open to a person who has disposed himself in this way, and also to carrying out all the commands and counsels in a steady spirit. But because this will become clear to anyone who reasons about it I omit the proof in order to keep the discussion short.

27

In this way, then, the highest mode or type of meritorious poverty is the one we described earlier, because in this mode all the commands and meritorious counsels of Christ can more fully and surely be observed. Now from this description it is apparent, first of all, that one who is perfect must renounce temporal things as far as concerns dominion through an express vow; both because it is the counsel of Christ, as we cited before from Luke 14, and also because one who makes his poverty

<sup>42</sup> II Corinthians 1. 7.   <sup>43</sup> Lombard, *Collectanea*, MPL 192, c. 110.

<sup>44</sup> 'In the world' as opposed to those who have taken themselves out of 'the world' or secular life by religious vows.

known in this way more fully renders himself contemptible in the sight of others and gives up secular honours to a greater degree. Hence Luke 9: 'If any man will come after me, let him deny himself.'<sup>45</sup> From this it further follows that no one can observe supreme poverty before he has full use of his reason. It follows also from this description that one who is perfect must not have or seek out or keep anything for his own sake, sc. to supply his own future need, but only a need that is pressing and almost present (with the reservation of the case that we included in the description earlier). Hence Matthew 7: 'Have therefore no care for the morrow: for the morrow shall take care of itself.'<sup>46</sup> Here the gloss has: 'for the morrow, that is, for the future; he concedes that we may be concerned for the present; it is not appropriate to be concerned for the future, which divine ordinance shall bring about, but rather, accepting present things with thankfulness, let us leave the uncertain care of future things to God, who has care of us.'<sup>47</sup> The same thing again in chapter 7 of the same, when Christ said to his disciples: 'Behold the fowls of the air, for they sow not, neither do they reap, nor gather into barns; yet your heavenly Father feedeth them.' And he adds, a little later on: 'Therefore have no care, saying, What shall we eat? or, What shall we drink?, or, Wherewithal shall we be clothed? For after all these things do the Gentiles seek.'<sup>48</sup>

28

We said that it is not licit for one who is perfect to keep anything for the morrow for his own sake; but we did not mean that if anything is left over from what he has licitly acquired each day, he should throw it away and not keep it at all. Rather, we mean that he should keep such leftovers in such a way that he has the firm purpose to give and dispense them in a way that is fitting to any poor man or people whom he meets and who are more needy than him. Hence Luke 3: 'He that hath two coats, let him impart to him that hath none; and he that hath meat, let him do likewise,'<sup>49</sup> understanding by two coats and pieces of meat, anything that remains after supplying his own present want.

<sup>45</sup> Luke 9. 23.

<sup>46</sup> In fact, Matthew 6. 34.

<sup>47</sup> Ordinary gloss ad loc., with some omissions.

<sup>48</sup> In fact, Matthew 6. 26 and 31-2.

<sup>49</sup> Luke 3. 11.

I said ‘to any’ poor man, because a community of people who keep things and have them for certain determinate individuals alone – like a community of monks or canons or similar – is not a perfect community; for a perfect community, like that of Christ and the apostles, extends to all the faithful, as is apparent from Acts 4.<sup>50</sup> And if in some case it extended to infidels as well, perhaps it would be still more meritorious according to that passage of Luke 6: ‘do good to them which hate you.’<sup>51</sup>

Thus one who is perfect can licitly keep leftovers, and should do so, but only with the firm intention or purpose that we said. Hence John 6: ‘Gather up the fragments that remain, that nothing be lost. Therefore they gathered them together, and filled twelve baskets with the fragments.’<sup>52</sup> Such, too, is the opinion of the gloss on that passage of Matthew 18: ‘a piece of money: that take’ etc.; for it says: ‘The Lord was of such great poverty that he had nothing out of which he might pay the tribute. Judas did, indeed, have common possessions in the bags, but he said that it was unlawful to turn things that belonged to the poor to their own uses.’<sup>53</sup> See here that they were kept for the poor, i.e. stored with that intention.

29

And from this it is apparent that people are in error when they say that a vow to accept nothing to distribute to the poor who are infirm, or in some other way unable to find sufficient for their needs, is part of perfection. For Saint Paul acquired things in this way, and no one can doubt that he did so licitly and meritoriously; this is clear from II Corinthians 8 and 9. And it is also apparent from the gloss on that passage of John 21: ‘Feed my sheep’ etc.<sup>54</sup> But I omit these passages because the matter is plain and in order to keep the discussion short.

30

It also follows necessarily, from the description given above, that one who is perfect neither can nor should keep or retain any immoveable item (like

<sup>50</sup> Acts 4. 32, 34–5.   <sup>51</sup> Luke 6. 27.   <sup>52</sup> John 6. 12–13.

<sup>53</sup> Matthew 17. 27 and ordinary gloss ad loc. (in fact on *et eum pisces* in the printed text).

<sup>54</sup> Ordinary gloss on John 21. 15–17: ‘He who denies the work of piety to his neighbours, loves God less.’

a house or field) that is in his power, except with the firm purpose, as soon as he is able, of selling or converting it into money or some other thing that can appropriately be distributed directly to the poor. For because a house or field cannot appropriately be distributed directly to the poor without involving some sin of over-generosity or under-provision, one should in the case of such things pay attention to Christ's counsel, when he said in Matthew 19, Luke 18 and Mark 10: 'Go and sell.' He did not say: give all that you have to the poor; nor did he say, let all that you have go to waste; but 'go and sell,' because through selling a more appropriate distribution can be made. This was also what the apostles counselled should be done; and those whom they counselled acted in this way, because they wanted to distribute their possessions appropriately to the poor. Hence Acts 4: 'for as many as were possessors of lands or houses sold them, and brought the prices of the things that were sold. And distribution was made unto every man according as he had need.'<sup>55</sup>

31

It is also apparent from what has been said that no acquired dominion (in the first, second or third of the above significations) of any temporal thing can belong to one who is perfect, as we previously proved from Matthew 5 and Luke 6. We confirmed the same thing through Saint Paul in I Corinthians 6, and made it sufficiently plain through Augustine and the gloss on the same place. But we have omitted to quote these passages because the matter is evident and in order to keep the discussion short.

32

We should not listen, either, to the words of one who says that the perfect can licitly keep immoveable items so that they can make a distribution to the poor from their annual revenues. Since it is of greater merit, for love of Christ and pity of one's neighbour, to distribute to the poor the item together with its revenue, rather than only one of these by itself; and again, it is of greater merit to distribute only the item rather than only the revenue: because in this way one can give help to many poor people who are actively in need at one time, and who might perhaps, before the next revenues came in, fall into ill-health, death, prostitution, theft or other

<sup>55</sup> Acts 4. 34-5, with some abbreviation.

evil because of their need. Again, because the person who has kept the item may perhaps die before the next revenues come in, and thus he will never merit from it what he could have done.

We should hold exactly the same view concerning moveable items of all sorts, which are also of a nature, if they are retained in this way along with the others, to sway a person's affections likewise in an inordinate fashion. And if this virtue is believed to be charity, as some seem to think, then no one can doubt that this mode of charity, sc. with supreme poverty, is more perfect than having dominion of a temporal object either as proper to oneself or in common. This is plain from the previous reasoning.

33

Now, however, we approach our main proposition; and we want to show that Christ, on his way through this world, observed the supreme type or mode of meritorious poverty. Because in any particular matter, the one that is first is the greatest of the rest; but Christ was the first person on his way through this world to merit eternal life under the new law. Therefore he was greatest of the rest in his perfection; and therefore he observed this status with regard to temporal things, since it is impossible, according to the common law,<sup>56</sup> to merit in the greatest degree without it. Again, if he had not observed this mode of poverty, another person on his way through this world would have been (or would be or could be) more perfect in merit according to the common law than Christ, which it is impious to believe. For Christ declared that to observe this mode belongs to the perfection of merit, when he said (as above): 'If you would be perfect, sell all whatsoever thou hast and distribute unto the poor;' and he did not add, all whatsoever thou hast either as proper to thyself or in common; rather, he understood it in a general sense, and it is for this reason that he doubled up his expression saying: 'all whatsoever'. For anyone who has dominion in common with another or others or who keeps temporal things apart from the way in which we have said, has not abdicated every temporal thing that it is possible to abdicate, nor is he exposed to as many of the passions of this world or deprived of as many of its comforts as one who renounces temporal things in both ways; nor is he so freed from the care of them, nor does he keep all Christ's counsels equally with one who abdicates them in every way.

<sup>56</sup> I.e. the evangelical law.

34

I now want to show that Christ did have something as proper to himself, and also in common, while nevertheless observing supreme poverty. Proper to himself in the third signification, from what we find in Mark 2: 'For there were many, and they followed him. And when the scribes and the Pharisees saw him eat with publicans and sinners'.<sup>57</sup> Now it is certain that he licitly had, as proper to himself or individually, that which he put in his mouth and ate. Further, he also had his clothes as proper to himself or individually, as is apparent enough from Matthew 27, Mark 15, Luke 23 and John 19. Hence in Matthew, as just said: 'They took the robe off from him, and put his own raiment on him.'<sup>58</sup> So too in John, as above: 'Then the soldiers, when they had crucified Jesus, took his garments.'<sup>59</sup> So too in Mark and Luke, though I omit the passages in order to curtail the discussion. Therefore, Christ licitly or by right had temporal things as proper to himself even while he observed supreme poverty, and it was and should have been his will to have such things; for otherwise he would have sinned mortally, because, being a true man, he experienced hunger (as appears from Matthew 21 and Mark 18), and therefore he needed food; and if he had not eaten it when he could, he would have committed a grave sin, viz. by knowingly killing himself with hunger.

35

Christ also had things licitly in common, even while observing supreme poverty. Hence John 19: 'This said Judas, not because he cared for the poor, but because he was a thief, and had the bags,'<sup>60</sup> sc. the bags common to Christ and the apostles, and also to the other poor, as is apparent from the fact that Christ ordered a distribution to be made from them to crowds of the starving poor (this is clear enough in Matthew 14). Now 'the bags' were repositories in which money given them for alms was kept. We find the same thing, again, in the same chapter: 'For some of them thought that Judas had the bags.'<sup>61</sup> The same, too, in the gloss on that passage of Matthew 18, 'a piece of money: that take' etc.: 'Judas', the gloss says, 'did indeed have

<sup>57</sup> Mark 2. 15–16.

<sup>58</sup> Matthew 27. 31.

<sup>59</sup> John 19. 23.

<sup>60</sup> John 12. 6.

<sup>61</sup> Actually in John 13. 29.

common possessions in the bags.’<sup>62</sup> So also, after the resurrection of Christ, the apostles had things in common between themselves and with other poor people, while observing supreme poverty. Hence Acts 4: ‘They had all things in common.’<sup>63</sup> Likewise they also had things as proper to themselves, sc. food and the clothing they wore, just as did Christ.

36

Next I wish to infer of necessity, as what is primarily intended from this chapter (and the last and the next): that Christ on his way through this world, displaying the height of perfection in a peculiar way, did not have any acquired dominion, in the first, second or third signification of dominion, of any temporal thing or its use, either as proper to himself or in common with another. Because if he had accepted for himself any such dominion, he would not have observed all the counsels, and especially that of the highest poverty possible to a person on his way through this world. But Christ observed all these counsels the most perfectly of anyone on their way. Therefore Christ did not and did not want to have such dominion of temporal things, which Scripture mostly calls ‘possession’, as in Luke 14: ‘that forsaketh not all that he possesses’. So too in Matthew 10: ‘Possess neither gold nor silver nor brass in your purses,’ i.e., do not keep any except perhaps in a licit circumstance, sc. with the intention and the needs that we detailed above: e.g. for the sake of the poor who are powerless to provide for themselves, as did Paul, or if the necessity of time or place and one’s own condition were pressing (this will become clearer in the next chapter). All the same it is not licit for one who is supremely poor to have the said dominion, including in the circumstances just mentioned, since Christ’s counsel concerning supreme poverty necessarily excludes such dominion. Therefore Christ did not have the said dominion of temporal things, nor can anyone who imitates him, sc. who wishes to observe supreme poverty, have it.

37

In consequence I say that it cannot be persuaded, on the basis of Holy Scripture, that Christ – however much he lowered himself to the level

<sup>62</sup> See above, section 28.

<sup>63</sup> Acts 4. 32.

of the weak – had the said dominion or possession of temporal things either as proper to himself or in common, even though some of the saints are believed to have been of this opinion. For on the same rationale it could be concluded that he practised everything that is permitted, so that he would not seem to be condemning the status of those who do practise such things. Thus he would have accepted and exercised secular principate or secular coercive judgement; but we demonstrated the opposite, irrefutably, in chapter 4 of this discourse. So too marriage, so too contentious litigation before a coercive judge, and so too everything else that is permitted; but no one can convincingly establish, on the basis of Scripture, that Christ practised these things – rather the opposite. For it was not necessary or fitting that he should practise these things so that he should not seem to be condemning the status of those who do practise them (who are called ‘the weak’). Because it does not follow: Christ was not married, therefore he seems to have condemned the married status; and so on for the other examples. For he himself adequately expressed the difference between those things, commanded or forbidden, that must be done or omitted of necessity of salvation, and those that are not of necessity of salvation, which the saints call acts of supererogation. For on being asked by someone about the things necessary for eternal salvation, Christ replied: ‘If thou wilt enter into life, keep the commandments.’<sup>64</sup> But when he was asked again about things that are a matter of supererogation, Christ did not reply: ‘if thou wilt enter into life’, but said to him rather: ‘if thou wilt be perfect’.<sup>65</sup> In these words of Matthew 19, and also in Luke 18 and Mark 10, Christ explicitly let it be understood that to keep the commandments is enough for eternal life, since his reply to one who asked him about this subject was simply: ‘Keep the commandments, if thou wilt enter into life.’ And therefore it was not necessary or fitting that Christ should practise all the things that are permitted so that he would not seem to be condemning the status of those who do practise them; because he had already explained that such people could be saved by the commandments or commands alone, taking ‘command’ to cover both a negative and an affirmative command. On the contrary, it was fitting that he should practise the things that are a matter of counsel, e.g. to observe supreme poverty and to avoid marriage, in order to offer the rest an

<sup>64</sup> Matthew 19. 17.

<sup>65</sup> Matthew 19. 21.



example of the practise of such things: as we read in Scripture that he did in fact do and say. For in Matthew 8 and Luke 9, he says, speaking of his poverty: 'The foxes have holes, and the birds of the air have nests; but the Son of man hath not where to lay his head.' On which the gloss has: 'Since I am so poor that I do not have even a resting-place that might be my own.'<sup>66</sup> 'For the Lord was of such great poverty that he did not have any means by which to pay tribute,' according to the gloss on that passage of Matthew 18: 'A piece of money: that take, and give unto them for me and for thee.'<sup>67</sup> But nowhere do we read that he had castles or fields or heaps of treasure so that he would not seem to be condemning the status of those who do have them.

38

If, however, Christ had in fact practised these things that are permitted, he would have been able to do this while still keeping all the counsels equally. This is because he, being the legislator, was able to practise things of this kind so that he should not seem to reproach the status of those who do practise them. Hence he would not have wanted such things in simple terms, the way the weak want them, for their own comfort; rather, Christ would have wanted them for the sake of something else, and in a certain way not wanting them, since he did not want them for himself but for the reason just mentioned. Whereas all others who are perfect cannot appropriately want such dominion in any way, while observing the highest level of the counsels. For they cannot want it in order to avoid seeming to condemn the status of others, since it does not belong to them to approve or condemn any status because they are not, nor have been nor will be, legislators. If, therefore, they were to want such dominion, they would want it as being weak, not as being perfect. Thus it would have been licit for Christ, had he so willed, to practise these things that are permitted while still keeping the highest level of all counsels, but this cannot be licit for anyone apart from him for the reason just given.

<sup>66</sup> Ordinary gloss on Matthew 8. 20.

<sup>67</sup> See above, section 28.

39

And if it is asked, who can be so perfect that he does not want to have any temporal things at any one time except what is sufficient to his present or immediately-pressing and almost present need; I say, that Christ can, and any others who are willing, even if there be few such individuals: since this way is strait and narrow, and few there be that enter by it, as is written in Matthew 7.<sup>68</sup> And you tell me, I ask: How many voluntary martyrs are there in these times, how many heroic men, how many Catos, Scipios and Fabricii?

<sup>68</sup> Matthew 7. 14.

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On some objections to what was determined  
in the previous chapter, and their solutions;  
together with a confirmation of what was  
said in that same chapter

This being our understanding, someone will object to what we have said that if bishops or priests who minister the gospel, and who also wish to observe the status of perfection, cannot keep anything to supply their future need except on condition that they have the will and the firm purpose to give it to any poor man or men whom they first meet and who are most in need, together with the other conditions that we detailed before in our description of supreme poverty; then how will they be able to concentrate on both preaching the word of God and procuring their daily living, as seems necessary if it is not licit for them to keep anything for themselves for the future? For it seems difficult or impossible for these to be done at the same time. Hence in Acts 6: 'It is not reasonable that we should leave the word of God, and serve tables,'<sup>1</sup> the apostles imply that these two cannot be done at the same time. Therefore it is licit for the perfect to keep temporal things to supply their future need. The same thing can be shown further from another place; for on John 14, on the passage: 'because he had the bags, in which they kept the offerings etc.' the gloss says, 'In this the church is given the pattern of keeping necessities.'<sup>2</sup> Since, therefore, it is the perfect, and especially priests or bishops, who are understood by the term 'church' in this passage, it appears that they can licitly keep necessities for themselves against

<sup>1</sup> Acts 6. 2.

<sup>2</sup> Ordinary gloss on John 13. 29. The words 'in which they kept the offerings' do not belong to this passage, however.

the future. Again on that passage of Matthew 7: 'Take therefore no thought for the morrow,' the gloss says: 'But no one should be scandalised if he sees one of the just procuring these necessities for himself and his own, and let him not form the judgement that he is taking thought for the morrow; since in order to give an example of so doing, he who issued this command, and to whom angels ministered, had bags from which he could furnish necessities for use.'<sup>3</sup> The same thing receives further confirmation from John 14, where it is said: 'For some of them thought that, because Judas had the bags, that Jesus had said unto him, Buy those things that we have need of against the feast.'<sup>4</sup> Therefore, Christ and the apostles had money that they had kept back and from which they could buy such things. Yet again, the same can be shown from another place; since at Matthew 6, on the passage: 'Behold the birds of the air etc.', the gloss says: 'He does not forbid foresight and toil, but care: so that all our hope may be in God.'<sup>5</sup> Therefore it is licit for the perfect to provide for themselves against future necessities. The same thing can be shown further from Matthew 14, Mark 6 and 8, and Luke 10. For Christ said to his apostles: 'How many loaves have ye? And they said, seven.'<sup>6</sup> They had kept these, then, beyond the present necessity; and therefore it is licit for the perfect to keep temporal things for themselves for the future.

2

Next we show of necessity that the perfect have or can have, even while remaining perfect, dominion (so-called in the first, second and third signification of dominion) of temporal things or their use, either as proper to themselves or in common with another or others, and especially of those things that are consumed in a single use. This is apparent, firstly, from Luke 22, when Christ addresses the apostles and says: 'and he that hath no sword, let him sell his garment, and buy one.'<sup>7</sup> But anyone who buys or sells something transfers the dominion of the thing or the price to another. Therefore Christ and the apostles had the said dominion.

<sup>3</sup> Ordinary gloss on Matthew 6. 34.    <sup>4</sup> John 13. 29.

<sup>5</sup> Ordinary gloss on Matthew 6. 26.

<sup>6</sup> Matthew 14. 17; Mark 6. 38, 8. 5; Luke 9. 13. The quotation is from Mark 8. 5, which also appears at Matthew 15. 34.

<sup>7</sup> Luke 22. 36.

## 3

I now show the same thing from another direction, as follows: since a person who had licit use of a thing where the use was inseparable from the said dominion of that thing, necessarily had dominion of that thing. But Christ and the apostles had use of such things, therefore of necessity they had dominion of them. The first proposition of this argument is familiar.<sup>8</sup> The second is proved from the use that Christ and the apostles had of goods for consumption: since either they had the use of a thing that was their own by right, or of one that was not their own by right. If they had the use of a thing that was their own by right, therefore they had dominion of the thing at the same time as its use. If they had the use of a thing that was not their own by right, then either it belonged to another or it belonged to no one before it was used. If the use was of a thing that belonged to no one, then, since anything of this kind is granted by right to the one who occupies it,<sup>9</sup> and Christ and the apostles must necessarily have occupied the thing either before or at the same time as they used it, it follows that they had dominion of it before or at the same time as the use of it. If, however, the use was of a thing that belonged to another, then this was either at the concession of the owner of the thing or not. If not – and especially with the kind of use in which the thing is consumed, or any other kind where the owner can be presumed to have forbidden it by right – then such use would be illicit, and it would be impious to assert this of Christ and the apostles. But if this kind of use (i.e. the use in which something is consumed) was at the concession of the owner, then either the owner of the thing granted the user use alone without dominion, or use together with dominion. If use without dominion, the use would have been illicit, because as a result of this use the owner is deprived of dominion of a thing without any deed of his own, which cannot happen licitly or by right.<sup>10</sup> While if the owner granted use together with dominion to a person who uses a thing in this way, it is clearly apparent that the person who uses a thing in this way, even in a state of perfection, necessarily had dominion of the thing together with its use.

<sup>8</sup> Cf. above, II. 12, 33, n. 16.

<sup>9</sup> This is the well-known Roman law principle that if a person ‘occupies’ (takes possession of, seizes) something that belongs to no one (*in bonis nullius*, to use the legal phrase), it becomes that person’s own: cf. Institutes, II. 1, passim.

<sup>10</sup> Another well-known legal principle, from the *Regulae iuris* in the Digest, D. 50. 17. 11: ‘That which is ours cannot be transferred to another without a deed of our own.’

4

Further, if one who is perfect has no dominion of anything, it would follow that someone who took a temporal thing away from him, even if he was actively in need, would take it away licitly since he would do so by right. For anyone can licitly or by right occupy things which belong to no one. But things that no one can claim for himself belong to no one; and this is the case with the things that one who is perfect has, as is clear enough from our earlier assumptions.

Further, persons who have a duty to offer hospitality must necessarily have provision for the future and dominion of certain things. But all the successors of the apostles, sc. the bishops, have an obligation of hospitality. Hence I Timothy 3 and Titus 1: 'A bishop must be given to hospitality.'<sup>11</sup>

Yet again, it seems that the holy fathers who were bishops did this, for they had fields and possessions in their dominion, at least in common with other bishops and priests. Hence Ambrose in his letter *On Handing over the Basilicas* says: 'The fields of the church pay tribute.'<sup>12</sup> Therefore men who were perfect (who – and especially priests – are or should also be designated by the term 'the church') possessed fields and immoveable goods.

5

Moreover this can be shown of Christ specifically. Firstly because according to the laws, even human laws, someone who redeems a person becomes his owner and the owner of all his temporal goods in consequence. But Christ redeemed us from death, and not any death but eternal death. Therefore he acquired dominion of our bodies and temporal goods. Again in Revelation 19 it is written of him that he had 'on his vesture a name written: king of king and lord of lords.' Here the gloss has: 'On his vesture, sc. the vesture of humanity.'<sup>13</sup> Since therefore someone who is king and lord of all things has dominion of those things, it is apparent that Christ had such dominion in temporal things.

<sup>11</sup> I Timothy 3. 2; Titus 1. 8.

<sup>12</sup> Ambrose, *Sermo contra Auxentium, Cetedoc* from CSEL 83, par. 33, p. 104, l. 405; MPL 16, c. 1017B.

<sup>13</sup> Revelation 19. 16 and interlinear gloss ad loc.

6

However, we can make an appropriate response to the objections of the present chapter on the basis of our previous conclusions about supreme poverty in, and dominion of, temporal things – although still according to the opinion of Christ and the Apostle. Our first position is that ministers of the gospel, priests or bishops together with the others of lower order, should be content with their daily food and necessary covering in their will to observe the status of perfection or supreme poverty. Hence I Timothy, last chapter: ‘And having food and raiment let us be therewith content.’<sup>14</sup> Those who receive this ministry, in the preaching of the gospel, are obliged to provide these items to those who spread the gospel, at least according to divine law. For in I Corinthians 9, Paul explains what is said figuratively in Deuteronomy 25: ‘Thou shalt not muzzle the ox when he treadeth out the corn,’<sup>15</sup> as being said for the sake of future teachers and ministers of the gospel, and asks: ‘Doth God take care for oxen? Or saith he it altogether for our sakes?’<sup>16</sup> The same is apparent from Matthew 10, when Christ said, to and for the same purpose: ‘The workman is worthy of his meat.’<sup>17</sup> Therefore those who receive the gospel ought to supply daily food and clothing to its preacher if they can. And those who preach the gospel can licitly ask for this as their due by divine law, although not in a coercive judgement of this present world; and if those who receive the ministry of the gospel can supply it, and refuse, they sin against divine law. Hence I Corinthians 9: ‘Even so hath the Lord ordained, that they which preach the gospel should live of the gospel.’ Just as he ‘who feedeth a flock, eateth of the milk of the flock’; and he ‘who planteth a vineyard, eateth of the fruit thereof’.<sup>18</sup> But none of the faithful, according to Scripture, have any obligation to those who preach the gospel with respect to anything else, be it a tenth or any part of their revenues.

7

Now if those who receive the ministry of the gospel are of such great poverty that they are unable to supply its preacher with sufficient food

<sup>14</sup>I Timothy 6. 8.

<sup>15</sup>Deuteronomy 25. 4.

<sup>16</sup>I Corinthians 9. 9–10.

<sup>17</sup>Matthew 10. 10.

<sup>18</sup>I Corinthians 9. 14, 7.

and clothing, they are not obliged to this by divine law. Rather, the preacher should seek for himself the necessities of life elsewhere, for example by some other teaching or craft if he knows how to practise one, or in any other honest and fitting way. For this is what Saint Paul did, so that he should not be a burden to the poor people to whom he preached the gospel. Hence in Acts 20 he says, speaking of himself: 'I have coveted no man's silver, or gold, or apparel, since these hands have ministered unto my necessities, and to them that were with me.'<sup>19</sup> He said the same in II Thessalonians, last chapter: 'Neither did we eat any man's bread for nought; but wrought with labour and travail night and day, that we might not be chargeable to any of you.'<sup>20</sup> In truth, now that the number of devout faithful has increased, and especially in these times, it is not necessary for ministers of sacred doctrine to labour with their hands or go begging. For certain revenues, from both moveable and immoveable goods, have been established and ordained in communities of the faithful by the human legislator as well as by various individual persons, from which those who minister the gospel can sustain themselves adequately or indeed abundantly.

8

But someone will ask: To whom belongs the said dominion or power of claiming these temporal goods, especially the immoveable, before a coercive judge of this present world, since such dominion cannot belong to ministers of the gospel because they are perfect, according to what was decided in the previous chapter?<sup>21</sup> For our part we reply that the dominion of temporal things that are established for the sustenance of those who minister the gospel belongs to the legislator or to that or those persons who have been deputed for this purpose by the legislator or those who donated them, if these were individual persons who gave and ordained these things to the said use out of their own goods. Such deputies, who had been

<sup>19</sup> Acts 20. 33–4.    <sup>20</sup> II Thessalonians 3. 8.

<sup>21</sup> This question had become pressing in the case of the Franciscan Order by the mid-thirteenth century, when Innocent IV in two bulls (*Ordinem vestrum*, 1245, and *Quanto studiosius*, 1247) created the legal fiction whereby the goods that the Franciscans used were held to belong to the *dominium* of the pope or the Roman see. This position was confirmed in Nicholas III's bull *Exiit qui seminat* of 1279 (as above, II. 13, 3, n. 2), col. 1114. Part of John XXII's attack on the order was to overturn Nicholas's decision and to refuse to accept this *dominium*, at least in things that are consumed in use: *Ad conditorem canonum* (as above, II. 12, 33, n. 16), col. 1227.



established for the defence and vindication of the temporal goods of the church, used to be called 'patrons of the churches'. For in ancient times men who were holy and perfect, ministers of the gospel whose will it was to imitate Christ, did not want to pursue actions in court against anyone. Accordingly, neither did they accept the dominion of any temporal things, but only the use of them that was necessary to sustain their present life and that of poor people who were powerless to help themselves. For if immoveable temporal goods had been in their power to alienate (even without any dominion or intent to claim) and they had not alienated them in order to make an immediate distribution to the poor whom they encountered, they would scarcely have kept the counsel of Christ in which he said: 'Go and sell all that thou hast, and give unto the poor' [Therefore, granted that (according to the heresy of some) Christ as man had dominion of all temporal things, he must have sold them, or he did not keep the counsel of perfection which he had given. And if he sold them, then neither the Roman nor any other bishop, nor any college of priests, can claim them for themselves as successors of Christ],<sup>22</sup> whether they had such things as proper to themselves or also in common.

Nonetheless, we should not think that patrons of this sort, whom we said are owners for the purpose of claiming such goods, also have the power of alienating them or turning them to other uses – not without sinning against divine law, at least, and perhaps also against human law, since dominion was not granted to them for this purpose but solely for barring or claiming the goods, before a coercive judge, from those who steal them or who want to steal or otherwise handle them. And for this reason I say that if the legislator, or an individual with the appropriate power, grants the custody and distribution of certain revenues to one of the perfect, he can licitly and indeed meritoriously undertake this charge for love of his neighbour and for mercy upon him, while still observing supreme poverty.<sup>23</sup>

<sup>22</sup> The passage in square brackets represents a marginal addition in one manuscript copied into the text of another (details of the manuscripts can be found in Previt -Orton and Scholz, pp. 249 and 307 respectively). Both Previt -Orton and Scholz regarded it as a later, but genuinely Marsilian correction to take account of John XXII's bull *Quia vir reprobus* of 1328, which attacked Michael of Cesena's understanding of Christ's poverty and held that Christ as man had dominion over everything in this world.

<sup>23</sup> As both Previt -Orton and Quillet note, this concession seems a serious mistake in Marsilius's argument, because it allows the perfect at least some kind of *dominium*, which Marsilius seems otherwise to reject absolutely. In the preceding paragraph, indeed, the patrons of the church are implied to have been appointed in the early church precisely because the perfect refused any *dominium* at all.

9

But someone else will say: Then that one who is perfect provides for himself for the morrow or for many tomorrows, since he receives and has the intention of receiving his yearly food and clothing out of the revenue granted him. And one should reply, that these temporal goods are granted to him to distribute in such a way that a quantity is kept back from them which is sufficient for a gospel minister on single days with regard to food and suitable clothing, while the rest is committed to his care to be distributed to the poor. And since, for the sake of the common profit of the faithful in the matter of eternal salvation, each one who is perfect has been established or elected to spread the gospel to a certain people and in a certain or determinate place; then, to the extent that he is a gospel minister, he proposes to take for single days and at any one time only the single supply that will serve his needs, and would not propose to take several either at once or successively, from the same acquired goods and at the same time, if he were free to secure his daily needs and preach the gospel at the same time. But because he cannot be free for both of these at the same time, he must have the intention of taking from the same goods several daily supplies of food and drink, although nonetheless on successive occasions. For if he were to distribute to the poor whatever remains over and above one daily supply, he would not on the morrow have anything to live on; and, being forced to seek for it, he would necessarily have to neglect the care of the people which he had undertaken. But he would thereby commit a mortal sin in doing common damage to souls and also in distributing other people's goods beyond (and indeed contrary to) the intention of those who committed them to his keeping to distribute. Thus because – in accordance with the decree of the faithful, who have the authority to make ordinances – it has been seen as expedient that a determinate people should have a determinate minister of the gospel and of the sacraments,<sup>24</sup> who should be sustained by them since he is required to minister to them, it is not of his own intention and on his own account that he keeps for the morrow anything that it is in his power to distribute.

<sup>24</sup> The local and regional organisation of the church into parishes and dioceses, presided over by a parish priest and bishop respectively, had its roots in the early church and the legislation of the councils of late antiquity. However, the universal institution and understanding of 'parish' and 'diocese' seems only to have been settled in the papal legislation of the thirteenth century.

Again, because he is not in a position to seek out his own daily living (for the reason already stated), he can, while remaining perfect, take several supplies from the goods committed to his custody, but always with the purpose of distributing whatever remains over and above his present supply, if that were in his power and if he were in a position to acquire for himself his future daily food; just as we said in the description of supreme poverty as well.

IO

Therefore a sufficient supply of daily food and clothing ought to be enough for a minister of the gospel, and those who receive his ministry are obliged to supply it to him. And this, which is due to him by divine right, he can licitly ask; although he should not claim it for himself by human right in the presence of a coercive judge, even if it were commanded by human law. Hence in the gloss according to Augustine on that passage of II Timothy 2: 'No man that warreth for God etc.', it says as follows: 'The Apostle, writing to Timothy, says this for this reason, in case if Timothy were in need and did not wish to be sustained with daily food from those to whom he ministered the gospel, and was not able to toil with some bodily labour either, he should seek out some other business for himself in which the attention of his mind would become entangled.'<sup>25</sup> And this only left him with begging. See, then, that it did not say that if they had not been willing to supply Timothy with food they should be forced to do so, nor that he should seek these things before a coercive judge; since in accordance with Christ's counsel, in Matthew 5 and Luke 6, you should give one who takes away your coat your cloak as well rather than sue him in law.<sup>26</sup> So too the Apostle said in II Corinthians 8 and 9, asking a collection from them on behalf of the poor: 'I speak not by commandment,' and below: 'Herein I give my counsel,' calling this kind of collection a 'grace'. For this reason too, signalling that it should be spontaneous, he said: 'Every man according as he purposeth in his heart, not grudgingly nor of necessity.'<sup>27</sup>

<sup>25</sup> Lombard, *Collectanea*, MPL 192, cc. 367D–368A.

<sup>26</sup> Matthew 5. 40 and Luke 6. 29.

<sup>27</sup> I Corinthians 8. 7, 8, 10; 9. 7.

II

It remains now to say something individually to the objections stated previously. To the first, therefore, which was taken from Acts 6: 'It is not reasonable that we should leave the word of God etc.', one should say that the apostles said this not because they wanted any temporal goods to be acquired for them to keep back for the future (except in the way that we said in the description of supreme poverty), but because they wanted others to seek for them only a single supply at once, sufficient to their present or immediately-pressing and almost present need. For they could not do this themselves because they were required at the same time to concentrate on preaching the gospel.

12

To the second, which was taken from the gloss on John 14, that 'the church is given the pattern of keeping necessities etc.', I say that the church, i.e. men who are perfect, have been given the pattern of keeping – proper to themselves as well as in common – whatever remains over and above a supply sufficient to the present or almost-present need, if anything superfluous should come their way in a licit manner: for example if it were donated or acquired by the work or labour of their own body. And this is licit for the perfect on the rationale and intention that we stated in the description of supreme poverty, even though the perfect should not intentionally seek out for their own sake anything superfluous to their present or almost-present need. Nevertheless, if anything superfluous should come their way in a licit manner, they should take custody of it (or commit it to others, whom they recognise as more suitable, for safe-keeping and distribution), rather than reject it. Hence on that passage of Matthew 10: 'The workman is worthy of his meat,' Jerome says: 'So accept of necessities only so much that being thence without care, you may better be free for eternal things.'<sup>28</sup> Again on the same passage Augustine says: 'He' (sc. Christ) 'said these things to the apostles so that they might, without care, neither possess nor carry the necessities of this life, great or small; showing that all things are due from the faithful to their ministers who ask for nothing superfluous.'<sup>29</sup> And therefore if tithes

<sup>28</sup> Ordinary gloss on Matthew 10. 10. The printed text contains no attribution to Jerome.

<sup>29</sup> Aquinas, *Catena aurea*, Vol. 1, 166.

of corn are not necessary to their sustenance but superfluous, either in total or in part, ministers of the gospel cannot on the strength of the words of Holy Scripture demand the element that is superfluous, and neither are Christian faithful obliged to offer it.

13

It is apparent that Christ's understanding was that they can ask only for things that are a matter of present or almost-present need for food or clothing from the same Jerome on the passage: 'neither two coats'.<sup>30</sup> On which he says: 'By "two coats" he seems to me to imply double clothing – not that a person should be content with only one coat in Scythian regions frozen with icy snow, but that we should understand by one coat one set of clothing: so that we do not wear one and keep back another for ourselves out of fear for the future.'<sup>31</sup> He forbids, therefore, two coats at the same time, i.e., double sets of clothing of which one alone is sufficient for the time being; and we should understand the same and by the same reasoning in the case of food, according to the conclusions of Scripture and the expositions of the saints introduced earlier.

14

Therefore it is not appropriate for the perfect, successors of Christ and the apostles, to keep back for themselves, in their own dominion, fields or cities or castles; nor was a pattern ever given to the church (i.e. to ministers of the gospel), by the example of Christ and the apostles, of having dominion of immoveable goods, nor of keeping them in their own power for the future. But we certainly do find the opposite of this in Scripture, from the counsel of Christ when he said: 'Go and sell.' And again: 'Possess neither gold etc.' Further too in Acts 4: 'sold them, and brought the prices'. Therefore the church is given a pattern of keeping certain moveable goods for the reasons already stated, but not of keeping any immoveable goods in their dominion, or with the unqualified power to alienate them, without exchanging and alienating them at the first opportunity.

<sup>30</sup> Matthew 10. 10.

<sup>31</sup> Aquinas, *Catena aurea*, Vol. I, 166.

15

This was also the opinion of Bede on that passage of Luke 22: ‘when I sent you without purse etc.’<sup>32</sup> ‘The same rule of living’, says Bede, ‘should not be the pattern for disciples in time of persecution and in time of peace. For he commanded the disciples who had been sent to preach that they should not take anything for the road, that is, carry it with them, ordaining that he who proclaims the gospel should live of the gospel. But when the straits of death are pressing and the whole people persecutes shepherd and flock at once, he decreed a rule that was appropriate for the times, allowing them to take what is necessary to eat until the madness of the persecutors dies away and the time for spreading the gospel returns.’<sup>33</sup> That is, in this time they do not need to take or carry anything against future need, since they should be sustained by those who receive the gospel and can licitly ask for it daily. If, therefore, it had been licit for the apostles and their successors at any time to keep back necessities for the future, it would have been in vain and inappropriate for him to have given them one rule in time of quiet and another in a chance situation, sc. in time of persecution. And this is what we already said in the description of supreme poverty, viz. that it is not licit for the perfect to keep back temporal things if they are in a place, time and personal condition that enables them conveniently to seek their daily food on successive occasions.

16

In reply to the other objection which was taken from the gloss on Matthew 7, when it said: ‘And no one should be scandalised etc.’, one should say, that one who is perfect can licitly procure, for himself and for his own, what is needed to meet a pressing or immediately-pressing and almost present need, while keeping back the remainder of what he has acquired (if any) for the poor, but without any purpose of dominion. Again, that this is more expedient and meritorious than to allow it to go to waste, for it is a work of mercy and of supererogation, hence Matthew 5: ‘Blessed are the merciful.’<sup>34</sup>

<sup>32</sup> Luke 22. 35.

<sup>33</sup> Aquinas, *Catena aurea*, Vol. 2, 290–1.

<sup>34</sup> Matthew 5. 7.

And when the same gloss adds that Christ had ‘bags from which he could furnish necessities for use’, this should be granted; but he caused them to be kept back, in the bags, either because the condition of place or time and other circumstances demanded this, or so that he could provide from them for the poor whom he met; as is explicit and clear from the gloss on that passage of Matthew 18: ‘a piece of money: that take, etc.’ ‘For the Lord’, it says, ‘was of such great poverty that he had nothing out of which he might pay the tribute. Judas did, indeed, have common possessions in the bags, but he said that it was unlawful to turn things that belonged to the poor to their own uses.’<sup>35</sup> See here that those things which had been kept back belonged to the poor, that is, were for the sake of the poor; nor should you understand by ‘the poor’ only the apostles, but also anyone else (especially the faithful) to whom he and the apostles also furnished food to eat from their reserves. This is apparent from Matthew 14, Mark 6 and 8, and John 6, where Christ says: ‘Give ye them to eat.’ So also (as we see from the same place) he commanded that what was left over should be kept in case it went to waste; hence John 6: ‘Gather up the fragments that remain, that nothing be lost. Therefore they’ (viz. the apostles) ‘gathered them together, and filled twelve baskets with the fragments.’<sup>36</sup>

17

To the remaining objection from the gloss on Matthew 6, where it said: ‘He does not forbid foresight and toil’; and that too which was cited from John 14: ‘But some of them thought etc.’; and again to those taken from Matthew 14, Mark 6 and 8, and Luke 9, when Christ said to the apostles: ‘How many loaves have ye? etc.’; one should reply to all these in the same way as we replied to the objection immediately preceding.

18

Now to those objections in which it was concluded that one who is perfect, even while observing supreme poverty, can have the said dominion of temporal things either as proper to himself or in common with another, we shall reply in sequence. To the first, therefore, which took its prompt from Luke 22 when it said: Everyone who buys or sells or can buy

<sup>35</sup> See above, II. 13, 28.

<sup>36</sup> John 6. 12–13.

or sell anything, of necessity has dominion of some temporal thing or its price: this I deny. And when proof of this is offered, in that every buyer or seller transfers the dominion of some thing or of its price: this I deny for all men who are perfect. For although they may of themselves licitly transfer a thing or exchange it for a price (or the other way round), they do not on this account transfer the dominion of any thing to others or receive it themselves – unless perhaps one should say that they transfer it by accident, in that when they licitly transfer a thing, those to whom it is transferred become its owners; but the essential transfer comes from elsewhere, as will become clear below.<sup>37</sup> However, they do not and cannot receive it in any way while remaining perfect.

But someone will dispute this and say: He who buys a thing from one who is perfect, receives just what is transferred from that one who is perfect and nothing else; and likewise he who sells, transfers to the one who is perfect what he previously had. Since, therefore, a buyer receives dominion of the thing that he buys, or a seller previously had and now ceases to have dominion of the thing that he sells to the perfect, it necessarily follows that the one who is perfect previously had dominion of the thing that he sold, or now later on has dominion of the thing that he bought. Now I concede the first proposition of this piece of misreasoning, if we understand by ‘nothing else’ no other thing; and likewise that one who is perfect receives from another the thing that this other person transfers and ceases to have in selling it. But when it is added: the buyer receives dominion of the thing, therefore it is transferred to the buyer from the one who is perfect: here our objector performs a figure of speech; since to receive the dominion of a thing, or a thing together with its dominion, is not to receive an object but to receive in a particular way. Hence it is a misreasoning similar to that which Aristotle formulates in *Sophistical Refutations* II with regard to the sophistic commonplace called a ‘figure of speech’. It goes like this: ‘You handed me one coin only; you did not have one coin only; therefore you handed me what you did not have.’<sup>38</sup> The present argument differs from this, however, since in it

<sup>37</sup> Reading a full stop here, with Gewirth and Bigongiari.

<sup>38</sup> Aristotle, *Sophistici elenchi* (*On Sophistical Refutations*), 178a29–179b8: the whole section is relevant, but see especially 178a38–179b1 and 179a20–6. As far as I can see, Aristotle never uses a phrase exactly equivalent to ‘figure of speech’ (*figura dictionis*); but he calls all these types of argument ‘arguments which turn on speech’ (*logoi para tēn lexin*); the ‘figures’ may well be equivocation, ambiguity and similarity, which Aristotle mentions in his summary at 179a12–26.



an object is transformed into a relation,<sup>39</sup> whereas the converse is the case in the one that Aristotle formulates. Nevertheless in order further to satisfy the question, since the sophism of the questioner has been dissolved and also for the sake of those less learned in the art of sophistry, I say that when one who is perfect sells a thing in exchange for a price, he licitly transfers that thing to another person, since it is something that he has acquired by right and the law has allowed him to handle, but of which he nonetheless had no dominion. Since it has been demonstrated from the previous chapter that it is possible to have a power which is licit or by right (speaking of right in both its first and its second sense) over a thing or its use or both together – even a power to destroy the thing in question – without having any dominion so-called in the three significations that we have often stated. Therefore he has the licit power to exchange a thing that he has acquired by right, as long as that thing is not in the dominion of anyone else. You will say: Where does the buyer get the dominion of it from, then? I say, by the permission of right so-called in its first sense, both human and divine. For things that belong to no one are conceded in terms of dominion to one who occupies them and is willing. Therefore, how much more can things that belong to someone in a certain way – i.e. by right in its first or second sense, although not by dominion – be acquired in terms of dominion by someone who receives them and is willing, from the concession and consent of that same right so-called in its first sense and from the transfer of him who is perfect (though this is accidental)? So, too, I say conversely that when one who is perfect buys something, he receives a licit power over that thing but not dominion, either essentially or by accident; even allowing that the dominion ceases to be with the seller or anyone else.

19

But you will say: Therefore something that can be sold, or indeed anything else, can be taken away from one who is perfect even if he is actively in want of it, since it belongs to no one and consequently is in no one's dominion or power to claim; and similarly a price or a thing bought by

<sup>39</sup> Reading, with Gewirth and Bigongiari, *ad aliquid* (the technical term for a relation, *pros ti* in Aristotle's Greek) instead of *aliquid* ('something'). *Dominus* (*despotēs*) is one of the examples of a relation given by Aristotle in the *Categories* (6b28–30) (because a master must be a master in relation to something, i.e. a slave).

him; which seems absurd. One should reply to this, that a thing that belongs to no one is conceded by right to the one who occupies it. And when it is said that something that one who is perfect has or holds belongs to no one, since it is in no one's dominion by right, a mistake of logical consequence is committed; because it does not follow: this is not in anyone's dominion by right, therefore it belongs to no one by right; for as we said, a person can acquire something by right so-called in its first sense apart from any of the said dominion. And if human laws were to permit this, viz. that something which is in no one's dominion as said should be understood to belong to no one, and consequently that it should be conceded by right to the one who occupies it; then I say that anyone who is capable can occupy anything belonging to one who is perfect, and make it licitly his own in respect of human right so-called in its first sense, as is apparent from the definition of the licit. However, if the one who is perfect does not consent, and especially if he is in want of it, that person cannot occupy it or make it licitly his own in respect of divine law. On the contrary, one who did so would thereby commit a mortal sin, in committing something that is prohibited in divine law under penalty of eternal damnation. And these can occur at the same time, sc. that a thing is licit in respect of one law while being prohibited in respect of the other, as demonstrated in a previous chapter. For the fornications of the dissolute are permitted by human law in order to avoid greater ills; they are nonetheless prohibited by divine law under the penalty just mentioned.

20

In reply to the other objection, in which it was said: Anyone who had the licit use of a thing which was inseparable from dominion, necessarily had dominion of the thing. This should be conceded if the inseparability of dominion from use is referred to the person using it, in which case it is called dominion in an active sense, as in the dominion that accompanies everyone who uses anything.<sup>40</sup> But if this inseparability is referred to the thing itself, in which case it is said passively, then there can certainly be

<sup>40</sup> Marsilius must here be referring to the fourth sense of *dominium*, the natural *dominium* that every human being has in his actions. See above, II. 12, 16. The contrasting, passive sense, must denote the thing that is the object of dominion, i.e. our dominion in the sense of what we have dominion over (what we might call our 'domain').

dominion and use of the same thing without the consequence that the owner and the user are therefore the same person. For a person can licitly use a thing that is not his own with the consent of its owner, as was clear from the previous chapter; and therefore in this sense the proposition should be denied.

Therefore I concede the proposition in the first sense, which seems also to be the one which our objector intends. But with regard to the minor premise, in which it is said that Christ and the apostles had the licit use of certain things in which dominion was not separated from use, sc. in the user, this I deny as heretical, if dominion is understood in the three significations that we said earlier.<sup>41</sup> And when it is added: either they had the use of a thing that was theirs by right, or a thing that was not theirs by right; I say, that they had the use of both, that is, sometimes of things that were theirs by right, sometimes of things that belonged to others, but with the consent of their owners. And when it is said: if theirs by right, therefore they had dominion of the things together with the use; a mistake of logical consequence is committed, as we said before. For it does not follow: someone has acquired this thing or its use by right, therefore he has dominion of it; although it does certainly follow: someone has acquired by right the dominion of a thing or the dominion of its use, therefore he has by right acquired as his or for himself the thing or its use. And when it is further said: if he uses something that is not his, then either it belongs to another or it belongs to no one; I say that he can licitly use both, either at the same time or successively.

Our objector goes on to dissolve both limbs of this consequence, saying firstly that one who is perfect cannot use something that belongs to no one without dominion, in that either prior to or at the same time as using it he must occupy the thing and thus have dominion of it. And I say to this, that the one who is perfect does indeed first occupy the thing; but when the inference is made that therefore he becomes its owner, a mistake of logical consequence is committed, as before. For one who is perfect could catch a fish and eat it, but nevertheless with the express vow of never contentiously claiming the said fish (or any temporal thing) in the presence of a coercive judge. You will say: the occupier is granted dominion of the thing. I say, that this is true if he so wills; but not in the case of one who is unwilling, because by divine and human law it is

<sup>41</sup> I.e. the three legal significations, not the fourth, 'natural' sense.

permitted for anyone to reject dominion, as was clear from an earlier chapter.<sup>42</sup>

Secondly, with regard to the other part of the consequence, viz. that in something which belongs to another, one who is perfect cannot appropriately have use without the said dominion of the thing, since (our objector will say) such use is either with the concession or consent of the owner, or not; one should say, that it is with the consent of the owner, because otherwise the use would be illicit, especially if he denied consent either tacitly or expressly. But if with the consent of the owner (our objector will say), then either he grants dominion to the one who is perfect or not. I say, that either way it is licit, even in a thing that is consumed in one single use. Suppose therefore<sup>43</sup> that the use which has been granted to the one who is perfect, and which he exercises upon the thing in question, is the kind of use that consumes the thing: if he uses it in a case where dominion of the thing has been granted together with its use, then the one who is perfect has the said dominion together with the use. But I say that here, as before, a mistake of logical consequence is committed, because it does not follow: this individual grants someone the use and dominion of a thing, therefore he to whom it is granted becomes the owner of the thing; because that person can accept the one, i.e. the licit power of use, and refuse the other, i.e. the dominion, or he can have refused it long since in a vow. Our objector will therefore say: Then whose is the dominion of that thing? I say that either it is the owner's, to whom it belonged before the express grant that he made to one of the perfect, who had no will to receive it; or it belongs to no one, if by an express grant of this kind the owner loses the dominion of the thing under human law. But the one who is perfect can nevertheless still use the thing (even with a use that consumes it), and licitly in the sense of having acquired it by right, even though the dominion of that thing belongs to no one. If it is said, on the other hand, that the owner has granted the one who is perfect the use of something that is his (even the kind of use that consumes it), apart from dominion; to this I say that Christ and the apostles and any one of the perfect can, while remaining in supreme poverty, licitly exercise upon that thing a use that consumes and destroys it. And when it is said, in that case the use is illicit, because it deprives the owner of the dominion of what is his without any deed of his own: one

<sup>42</sup> II. 12, 15.

<sup>43</sup> This sentence continues the argument of the objector, rather than Marsilius's response.

should notice here that the owner of anything that is consumed in one single use grants, and can licitly grant, the use of it to one who is perfect, while proposing to retain for himself the dominion of it as long as the thing exists. But as soon as it ceases, either in process or in fact, to exist, he no longer has the intention to keep the dominion of it, but renounces it: from that moment and at that moment only, not before. And this is what people also do when they grant alms to the perfect, in case certain malign individuals take it away from them; since the perfect lack – even though at their own prompting – the power of seeking to regain such things contentiously and in the presence of a coercive judge. For if the owner of a thing intended to have dominion of it permanently, he would or should never grant a use that destroys it to one who is perfect, unless he is insane; because no one can be the owner of a thing that does not exist. Likewise also, none of the perfect would accept the grant of such use if he knew that this was the intention of its owner. And for this reason I say that the owner of such a thing is in fact deprived of the dominion of it (in process or in fact as the thing is being consumed or has been fully consumed) by an act of his own: because it is his will, which he expresses, to be deprived in this way, and therefore he suffers no injustice. For this reason, also, the use exercised by the perfect on things that belong to others, if their owners so will, is in no way illicit but rather holy and good; and nevertheless they use them licitly in this way without the said dominion.

21

To the subsequent objection a full reply has already been made, in the solution to the first, towards the end. To the other objection (which takes its cue from I Timothy 3 and Titus 1), that ‘a bishop must be given to hospitality’: let us suppose that a bishop should, always and everywhere, be supremely poor or perfect if he is to be a perfect imitator of Christ and the apostles. And thus I say that this phrase, ‘a bishop must’ (or it is necessary that he be) etc., can be understood in two ways, even according to the mind of the apostle: in one way, with a necessity that is simple and absolute, in another, with a necessity that is conditional; and again, either in respect of desire in the sense of firm purpose, or in respect of desire and external result. If, therefore, we understand that a bishop should be given to hospitality with absolute necessity in respect of desire, I say that this is true and that the apostle understood it in this way. If, on the other

hand, we understand that ‘he must etc.’ in respect of external result, I say that he must or ought to do so not absolutely, but only on condition, i.e. if he has the means from which to offer hospitality. For if a bishop were obliged absolutely to offer hospitality in terms of external result, he would necessarily need to have, and intend to keep, temporal things, and in consequence to claim them contentiously and be their owner. But he is not obliged to this absolutely, but only on condition. For the supreme pontiff of all sometimes did not keep hospitality in respect of external result, when he said: ‘The Son of man hath not where to lay his head,’ and since (as we quoted above) ‘Our Lord was of such great poverty that he had nothing from which to pay tribute.’ From what and in what would he therefore have kept hospitality as regards external result, even though he nevertheless always observed it in respect of internal desire? And therefore one should say, in response to the major premise of the syllogism, that a person who is obliged conditionally to external hospitality, and absolutely to internal hospitality, need not become the owner of any temporal thing; although a bishop does need to be a provider or keeper of future things (on condition that he can) – not however for himself, but for the poor, as is apparent from the gloss on that passage of John 21: ‘Feed my sheep.’<sup>44</sup>

22

To the other objection, when it was said that the saint bishops had dominion of immoveable items, as was concluded above from the letter of Saint Ambrose *On Handing over the Basilicas*: I say that the saint bishops, like Ambrose and others, did not say that the fields and other things, which they said were ‘of the church’, belonged to the church in the sense that they were in the dominion of the bishops, either as proper to themselves or in common, to sell or to alienate, or in their power to claim (the bishops being very frequently signified by the term ‘church’, if they observed the status of supreme poverty, which for present purposes we assume). Rather, they were called the ‘fields of the church’ simply because the revenues that resulted from them had been established by the legislator or another donor for the worship of God and for the sustenance of ministers of the Gospel and the temples; and the dominion remained with these, sc. the establishers, to defend and to claim them against

<sup>44</sup> See above, II. 13, 29.

anyone who wanted to handle these things in any other way, as we said towards the beginning of this chapter.<sup>45</sup> And this was the meaning of the said saints; hence Ambrose in the same letter, after the words quoted previously, says as follows: 'If the emperor wants the fields, he has the power to claim them; none of us' (i.e. priests or bishops) 'intervenes. The offerings of the people can redound to the poor. Let there be no envy on the subject of the fields; let him take them if that is his pleasure; I do not give them to the emperor, but neither do I deny them.'<sup>46</sup> No modern bishops would talk like this; and yet if Ambrose had known that he would commit a mortal sin if he did not defend or deny the fields to the emperor, it is certain that he would have denied them to him, especially if he had been under an absolute obligation to external hospitality, as some seem to dream, who however are 'masters of Israel'<sup>47</sup> and should know these things; and perhaps they do, but study to please man rather than God.

23

As to what was demonstrated of Christ specifically, that one who redeems someone from death becomes, according to human law, the owner of that person and his temporal goods; but Christ redeemed all men from death: I say in response to the first proposition, that it is not universally true even according to the civil law, unless it is added that he is willing. For supposing that it is permitted by right for every redeemer of someone else to become the owner of him whom he redeems from death, and of his temporal goods. I say nevertheless that someone who redeems another from death does not necessarily become his owner, for example, if he is unwilling or has renounced dominion. And for this reason, even supposing that Christ redeemed all men from death in the way that human laws say, and in consequence could become the owner of them all; I say nevertheless that Christ, who was perfect, was not a temporal owner, especially with human or acquired dominion, in that Christ renounced all such dominion as much over persons as over things, as is sufficiently clear from chapter 4 of this discourse and also from the previous one. Or one

<sup>45</sup> See above, section 8.

<sup>46</sup> Ambrose, *Sermo contra Auxentium*, *Cetedoc* from CSEL 83, par. 33, p. 104, ll. 406–10; MPL 16, c. 1017B.

<sup>47</sup> John 3. 10.

should say that Christ becomes the owner of all men for the status for which he redeemed us from death. But this is for the status of another world and not this present; for he did not redeem us from the death of this world, which is what human laws are talking about. And therefore he did not, as a result of his redemption, acquire dominion of men or their temporal goods for the status of this world. For how could Christ have spoken truly, when he said of himself in Matthew 8 and Luke 9: 'But the Son of man hath not where to lay his head,' if he had been the owner of all human temporal things? And therefore either he never acquired such dominion, as asserted in the second solution; or, if he had been able to acquire it, he was unwilling and renounced it, as indeed any other perfect individual might do; otherwise he would have told an overt lie, which it is impious to believe.

24

With regard to the final objection from Revelation 19, where it was said of Christ that he had 'written on his vesture, King of kings etc.', and this 'in the vesture of humanity', according to the gloss; I say, that Christ had this 'written' 'on the vesture of humanity', because the Word of God was joined onto a human skin, and for this reason dominion was owed to him; just as, similarly, the written word is joined onto a sheepskin, and for this reason the skin has something venerable about it, as signifying a teaching or any other truth. Or one should say that Saint John was not here thinking of this kind of dominion, sc. temporal, but rather of the dominion of the eternal kingdom or in respect of the eternal kingdom. Hence the gloss adds: 'King of kings, that is, over all the saints.'<sup>48</sup> Therefore let not the Roman pope or any other bishop make this error or cause others to err with him: because if he seeks to possess temporal things and to have dominion over them, then perhaps he can do this licitly, even while being in the status of salvation, but not while observing the status of supreme poverty or perfection in the likeness of Christ and the apostles.

We think, then, that from what has been said we have sufficiently determined what meritorious poverty is, what is its supreme mode or most perfect species, and that Christ and the apostles who imitated him observed this mode on their way through this world.

<sup>48</sup> Interlinear gloss on Revelation 19. 16. The printed text has 'that is, of the saints, who rule themselves and others.'



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On the division of the priestly office into  
its essential and accidental, separable and  
inseparable authority; and that no priest is  
inferior to a bishop in essential dignity, but only  
in accidental<sup>1</sup>

Now that we have come this far, however, a question arises which is both very difficult and very necessary to consider. For we said in chapter 15 of the first discourse, and recalled it to some extent at the end of chapter 8 of this one, that the human legislator, either in itself or through the princely part, is the active cause of the institution of all the parts or offices of the city. In addition to this, we remember that we said, in the last chapter of the first discourse, that the priesthood or priestly office of the new law was first instituted by Christ alone. At the same time, however, we demonstrated in chapters 4, 11, 13 and 14 of this discourse that he abdicated all secular principate and all dominion of temporal things, and in chapters 12 and 13 of the first discourse that he was not a human legislator either. Therefore we seem to have said that it is not the same

<sup>1</sup> The difference between a parish priest and a bishop was a key element of the controversy between the mendicants and the secular clergy over the structure of the church. Mendicant theologians argued that while bishops and members of religious orders were in a state of perfection, parish priests were not. From the opposing point of view, the secular master Henry of Ghent distinguished within 'status by institution' between 'essential' and 'made' (*facticus*) or 'adventitious' (*adventicius*). The essential statuses among the faithful are the married, the celibate, and the 'rectors' (*rectores*). Rectors are of two 'orders', priests and bishops, but they are equally in the state of perfection. By contrast, differences between religious orders (the celibate) are purely adventitious. See Henry of Ghent, q. 29, in J. Decorte, ed., *Henricus de Gandavo. Quodlibet XII quaestiones 1–30* (Leuven: Leuven University Press, 1987), pp. 197, 203.

man<sup>2</sup> who establishes every part of the city and who is the human legislator or the prince; and as a result someone will raise a justified doubt over who does have the authority to institute the priesthood, especially in communities of the faithful, since the things we have said so far appear to conflict with each other.

2

Setting out to remove this apparent contradiction, then, we shall first of all recollect what we said in chapters 6 and 7 of the first discourse, viz. that the causes of any office of the city are different according to whether the offices denote dispositions of the soul or parts of the city instituted for the sufficiencies that can be had from them; and this is to be noted for the priesthood analogously with the other offices of the city. For insofar as the priesthood denotes a certain disposition of the soul, which the learned doctors of Holy Scripture call a 'character', its immediate efficient cause, or its essential maker, is God, who imprints this character on the soul (although together with a certain prior human ministration as if by way of preparation). And in the new law, the origin of this practice was with Christ. For he was true God and true man, and insofar as he was a human priest he performed the ministration that the priests who followed after him now perform; while insofar as he was God, he imprinted the character upon the souls of those whom he instituted as priests. In this way he first instituted the apostles as his immediate successors, and likewise thereafter all other priests, but through the medium of the ministration of the apostles and all the rest who have succeeded him in this office. For when the apostles or other priests lay their hands upon others and pronounce the words or phrases required for this, Christ as God imprints this disposition or priestly character upon those who are willing to receive it and are worthy.

And one should hold the same opinion as regards the conferment of the other orders which have as their result that a certain character is imprinted upon the soul of the one who receives it. This 'priestly character', be it one or several, is the power by which the priest is able, together with a certain verbal pronouncement, to consecrate the blessed body and blood of Christ out of bread and wine, and to administer the

<sup>2</sup> The Latin has a masculine singular here.

rest of the sacraments of the church. It is through this priestly character, too, that he can bind and loose men from sins.

3

Now in the opinion of some, the apostles received this character or power when Christ said to them that which is written in Matthew 26, Mark 14 and Luke 22. But because this passage appears more completely in Luke, let us bring it in as we find it there, where it runs as follows: 'And he took bread, and gave thanks, and brake it' (sc. Christ) 'and gave unto them' (sc. the apostles) 'saying: This is my body, which is given for you: this do in remembrance of me;'<sup>3</sup> 'this do', i.e., have the power of doing this. But to others it seems that this authority was given to the apostles through that which is written in John 20, when Christ said to them: 'Receive ye the Holy Ghost: Whose soever sins ye remit, they are remitted unto them; and whose soever sins ye retain, they are retained to them.'<sup>4</sup> Still others say that this was done through the words that we find in Matthew 16, when Christ said to them in the person of Peter: 'I will give unto thee the keys of the kingdom of heaven etc.:'<sup>5</sup> or through that which was said to them by Christ, in chapter 18 of the same: 'Verily I say unto you, Whatsoever ye shall bind on earth shall be bound in heaven; and whatsoever ye shall loose on earth shall be loosed in heaven.'<sup>6</sup> Others, again, say that there are two of the said priestly powers or authorities: one by which they are able to perform the sacrament of the eucharist, another by which they can bind or loose men from their sins. They say too that these were conferred upon the apostles at different times and in different speeches of Christ. As to which of these opinions is the more probable, this is not relevant to the present purpose. Because however or whenever the institution of this office in the apostles came about, it is agreed that this power was granted to them by Christ, and that it is conferred upon others who are received to this office through the said ministration on the part of them and their successors. Hence I Timothy 4: 'Neglect not the grace that is in thee, which was given thee by prophecy, through the laying on of the hands of the priest.'<sup>7</sup> And in the same way, deacons receive their character through the laying on of the priest's hands. On this

<sup>3</sup> Luke 22. 19.    <sup>4</sup> John 20. 22-3.    <sup>5</sup> Matthew 16. 19.    <sup>6</sup> Matthew 18. 18.

<sup>7</sup> I Timothy 4. 14, which has 'priesthood' (*presbyterii*) rather than 'priest' (*presbyteri*).

subject in Acts 6: ‘Whom’ (sc. the future deacons) ‘they set before the apostles: and when they had prayed, they laid their hands on them.’<sup>8</sup>

4

Now it seems probable to me that all priests have this priestly character, be it one or several, which we said was the power of performing the sacrament of the eucharist or body and blood of Christ, and also the power of binding or loosing men from their sins; we shall henceforth call it the authority which is essential to or inseparable from the priest insofar as he is a priest. It also seems probable to me that all of them have the same kind of character, and that neither the Roman bishop nor any other has it more fully than any simple priest whomsoever. For a bishop is no different from a priest in this authority, be it single or several, as Jerome attests (or rather indeed the Apostle, whose express opinion it also is, as will become clear below). For Jerome says on that passage of Matthew 16: ‘And whatsoever thou shalt bind on earth etc.’, ‘The other apostles have the same judiciary power’ (supplying, as Peter had) ‘to whom he’ (sc. Christ) ‘says after the resurrection: “Receive ye the Holy Ghost: Whose soever sins ye remit, they are remitted unto them etc.” Every church has it in its priests and bishops;’<sup>9</sup> putting priests before bishops in this matter, since this authority is due to a priest simply as being a priest, primarily and as such. And concerning the power of the sacrament of the eucharist, no one claims that it is not equal in any priest to this power as it exists in the Roman pontiff. Thus it is a matter of wonder why some contend – asserting it with some stubbornness but rather less reason – that the Roman pontiff has from Christ a fuller power of the keys than other priests, when this cannot be persuaded from Scripture; rather the opposite.

5

To see this even more clearly, we should be aware that in the early church, these terms ‘priest’ and ‘bishop’ were synonymous, even though they were applied to the same individual as a result of different qualities.<sup>10</sup>

<sup>8</sup> Acts 6. 6.      <sup>9</sup> Ordinary gloss on Matthew 16. 19.

<sup>10</sup> Even those theologians who insisted most vigorously on the essential difference between a priest and a bishop, such as the Dominicans Aquinas and Pierre de la Palu, acknowledged the interchangeability of these terms in the usage of the New Testament. Cf. Aquinas, *Summa theologiae* 22ae q. 184 a. 6, ‘Whether all ecclesiastical prelates are in a state of

For the name ‘priest’ is applied in respect of a person’s age, as being an elder;<sup>11</sup> the name ‘bishop’ from his dignity or charge over others, as being a superintendent.<sup>12</sup> Hence Jerome, in a letter *To Evander the Priest* (which is usually called *How a Priest and a Deacon Differ*) says as follows: ‘Of “priest” and “bishop”, one is the name of a time of life, the other of a dignity. Hence both the epistle to Titus and to Timothy speak of the ordination of a bishop and a deacon, but are entirely silent on the subject of priests, because “priest” is contained in “bishop”.’<sup>13</sup> And this is also manifestly apparent from the Apostle, Philippians I, when he said: ‘To all the saints in Christ Jesus which are at Philippi, with the bishops and deacons’.<sup>14</sup> See here that he called priests by no other name than bishops. For it is certain that there were several bishops in a single city for no other reason than that there were several priests. The same thing is plain, again, from the same Apostle in Titus 1, when he said: ‘For this cause left I thee at Crete, that thou shouldest set in order the things that are wanting, and ordain priests in every city, as I had appointed thee, if any be blameless.’ And he immediately goes on to add the nature of those who are to be made priests, saying: ‘For a bishop must be blameless, as the steward of God.’<sup>15</sup> See how he called a person who is to be made a priest nothing other than a bishop. He says the same thing in Acts 20, speaking to the priests of a single church, viz. of Ephesus: ‘Take heed therefore unto yourselves, and to all the flock, over the which the Holy Ghost hath made you bishops to rule the church of God, which he hath purchased with his own blood.’<sup>16</sup> See here that in the church of one municipality (viz. Ephesus) he addressed many as ‘bishop’, which was simply because there were many priests, who were all said to be ‘bishops’ because it was their duty to superintend the people: even though in the later church the only one who retained this name was the one who was instituted as the

perfection’, objection 1 and reply. However, while Aquinas and those who followed him took the synonymity as purely a matter of words, members of the secular clergy used it instead to support their understanding of the dignity and authority of the parish priest.

<sup>11</sup> In Greek, *presbyter* (Latinised as *presbyter*) literally means ‘elder’, and this is the way it is translated in the Authorised Version.

<sup>12</sup> The Greek *episkopos* (Latinised as *episcopus*) literally means ‘overseer’ or ‘superintendent’, but here the Authorised Version keeps the translation ‘bishop’.

<sup>13</sup> Jerome, *Epistolae* 146, CL 620, *Cetedoc* from CSEL 56, ed. I. Hildberg (Vienna and Leipzig: Tempsky and Freytag, 1918), pp. 308–12: par. 2, p. 311, ll. 16–20; MPL 22 cc. 1192–95. This letter was inserted into the *Decretum*, Part I, dist. 93, c. 24, CIC I, cols. 327–9, although here it is addressed to ‘Evangelus’ not ‘Evander’.

<sup>14</sup> Philippians 1. 1.   <sup>15</sup> Titus 1. 5, 6, 7.   <sup>16</sup> Acts 20. 28.

first priest of any city or place by the other priests and the people. The Apostle called them bishops rather than priests so that he might recall to them the care and concern which they must have for the rest of the faithful. But he called himself a priest, not a bishop, out of humility, as appears from the passage of I Timothy 4 quoted earlier, when he said: 'Neglect not the grace etc.' So too Peter and John called themselves 'elders', i.e. priests, since this name was applied on account of their time of life. Hence I Peter 5: 'The elders among you I exhort, who am also an elder, and a witness of the sufferings of Christ.'<sup>17</sup> And II John 1: 'The elder unto the elect lady and her children'.<sup>18</sup> And again in III John 1: 'The elder unto the wellbeloved Gaius'.<sup>19</sup> And indeed where the common letter of the canon has 'elder' or 'fellow elder', Jerome in the said letter has 'priest' or 'fellow priest' throughout, since the apostles used these terms as synonyms.

## 6

However, after the time of the apostles the number of priests increased significantly, and in order to avoid scandal and schism, the priests elected one of their number to direct and order the rest in the performance of ecclesiastical office and service, the distribution of offerings, and the more fitting arrangement of everything else; in case, if everyone acted just as he pleased (and sometimes less than duly), the domestic economy and service of the temples should be disturbed by divergent personal affections. Now by later custom, only this individual who was elected to regulate the other priests retained for himself the name of 'bishop', as if to say superintendent, in that he did not only superintend the faithful people (which was the reason why all priests in the early church were called bishops), but his other fellow-priests as well. For this reason he retained the name of 'bishop', by *antonomasia*,<sup>20</sup> for himself alone, while the rest afterwards kept the simple name of 'priests'.

## 7

However, the said election or institution, carried out by man, does not give the individual thus elected any greater essential merit or priestly authority or power of the kind we said earlier, but only a certain power

<sup>17</sup> I Peter 5. 1.    <sup>18</sup> II John 1. 1.    <sup>19</sup> III John 1. 1.

<sup>20</sup> Reading *antonomastice* for *Antiochae*, with Gewirth and Bigongiari.

over the domestic arrangements of the house of God or temple, and of ordering and regulating the other priests, deacons and officials – just as in these times a prior is given a power over his monks. This is a power, I stress, that is not coercive over anyone, except to the extent that it may have been granted to one thus elected by the human legislator, as we demonstrated in chapters 4 and 8 of this discourse and will be more fully apparent in the next. Nor does it give him any other intrinsic dignity or power. In the same way, soldiers in time of war choose themselves a captain, who in ancient times was called a ‘commander’ or ‘emperor’,<sup>21</sup> although this name, sc. ‘emperor’, was later transposed onto a certain mode or type of regal monarchy that was quasi-supreme over the others, and this is how these words are most frequently used nowadays. In this way, too, deacons elect for themselves an ‘archdeacon’, and such an election in no way gives him a greater essential merit or holy order than that of deacons, but only a certain human power, such as we said, to impose order upon or regulate the other deacons. As a result, the bishop of Rome has no more essential priestly authority than any other priest, just as Saint Peter did not have any more of it than the other apostles either. For all of them received this same authority equally and directly from Christ, as was said before by the authority of Jerome on that passage of Matthew 16: ‘And I will give unto thee the keys of the kingdom of heaven etc.’, and as will be further made clear in the following chapter.

8

And this was the explicit opinion of Saint Jerome in the letter we mentioned, in which – after he had demonstrated, from many authorities of the said apostles, that priest and bishop in the early church or apostolic times were entirely the same in the essential dignity given by Christ – he says, giving the reason for what he has said: ‘That one man was elected, who would be set over the rest, was as a remedy for schism, in case each of them followed his own course and fractured the church of Christ. For in Alexandria, too, from the time of Mark the Evangelist to the bishops Hereidas and Dionysius, the priests always named as bishop one of their number who had been elected and set in a higher rank; in the same way as if an army elected an emperor’ (that is, a commander or captain in

<sup>21</sup> *Praeceptor seu imperator*: Previt -Orton notes that Marsilius would have known the ancient usage of the title *imperator* at least from Cicero’s *De officiis*, e.g. at II. 28, III. 79.

modern usage, not in the way that ‘emperor’ in modern usage refers to a certain kind of monarch) ‘or deacons elected one of their number whom they know to be industrious and call him archdeacon. For what, excluding this matter of imposing order, does a bishop do which a priest does not?’<sup>22</sup> sc. in respect of acts of essential authority. For Jerome did not there understand by ‘imposing order’ the power of conferring or the conferment of holy orders, since bishops do and did, even in his times, many things apart from this which priests do not do (even though, by divine power, any priest has the ability to confer all the sacraments just as does a bishop). Rather, he there understood by ‘imposing order’ the power of domestic stewardship we spoke of earlier, given to him directly by a man or men. I confirm this by reason as well as the authority of the same Jerome: by reason, since many have been elected bishops by the entire people, like Saint Clement, Saint Gregory, Saint Nicholas and many other saints. But it is agreed that the people, or even their fellow-priests, did not confer upon them any greater holy order or intrinsic character, but only a power of ordering church ritual and of regulating persons in respect of the practice of divine worship in the temple or house of God. For this reason, too, such individuals who have been elected to direct the other priests in the temple and to instruct the people in matters of faith, called bishops, were called by the ancient legislators (as by Justinian and the Roman people) ‘reverend stewards’; and the highest of them, also, is called ‘most reverend steward’ by the same.<sup>23</sup>

That the essential dignity of a bishop is no different from that of a priest, nor the dignity of one greater than the other, was made explicit by Jerome in the said letter, when he said: ‘The church of the city of Rome should not be considered different from the church anywhere else in the world. The churches of Gaul, Britain, Africa, Persia, the Orient and India, together with all the barbarian nations, all adore one Christ, observe one rule of truth. If you are looking for authority, the globe is greater than the city.’<sup>24</sup>

<sup>22</sup> Jerome, *Epistolae* 146, CL 620, *Cetedoc* from CSEL 56, par. 1, p. 310, ll. 5–13; MPL 22, c. 1194.

<sup>23</sup> *Iconomi*: Code I. 3. 25 refers to the *oeconomus* and the *reverentissimus oeconomus*, but it is clear that this refers to a person other than the archbishop who is also mentioned there: the *oeconomus* in this text is required to function as the *fideiussor* or one who gives security for the clergy in case of lawsuits.

<sup>24</sup> The ‘city’: here *urbs*, not *civitas*. *Urbs* on its own normally meant the city of Rome. Insofar as it was inserted into the *Decretum* (see above, n. 13), this phrase (*orbis maior est urbe*) formed a locus for discussion of the relations between the Roman and the universal church in canon law scholarship.



Wherever a bishop may be, Rome or Gubbio, Constantinople or Reggio, Alexandria or Rathanis, they are of the same merit and the same priesthood. The might of riches and the humility of poverty makes a bishop higher or lower. For the rest, they are all successors of the apostles.<sup>25</sup>

9

However, there are other, non-essential forms of institution to priestly offices, such as the election we spoke of whereby one of them is adopted to impose order on or govern the rest in matters that pertain to divine worship. Such also are the election and institution of some of them to teach and instruct and administer the sacraments of the new law to a certain people and in a determinate location, greater or smaller; and similarly to distribute both to themselves and to the rest of the poor certain temporal goods that have been established and ordained by the legislator or individual persons for the sustenance of the poor who preach the gospel in a certain region or community, and also for the sustenance of other poor people who are unable to provide sufficient for themselves (because of age or infirmity or other pitiable reason) – although only from that which remains over and above a supply sufficient to those who preach the gospel. And these temporal goods, established in this way, are called in modern usage ‘ecclesiastical benefices’, and we discussed them in chapter 14 of this discourse. For they are committed to ministers of the temples to distribute for the said uses: ministers, I say, who have been instituted, elected and ordained to these offices in a certain province; for by the essential authority by which they are successors of the apostles, they are no more allocated to instruct and administer the sacraments of the new law to one place or people than to any other, just as the apostles were not in any way allocated either. For it was said to them in the last chapter of Matthew: ‘Go ye therefore, and teach all nations,’ without Christ allocating them to specific places. Rather, they themselves afterwards divided amongst themselves the peoples and the provinces in which they would proclaim the word of God and the evangelical law; and sometimes they perceived this by divine revelation as well. Hence in Galatians 2: ‘they’ (viz. James, Cephas and John) ‘gave to me and

<sup>25</sup>Jerome, *Epistolae* 146, CL 620, *Cetedoc* from CSEL 56, par. 1, pp.310–11, l. 13, 3; MPL 22, c. 1194.

Barnabas the right hands of fellowship; that we should go unto the heathen, and they unto the circumcision.<sup>26</sup>

IO

It is clear from what has been said, then, from whom as its efficient cause the institution of the priesthood (as signifying a disposition or character of the soul) and of the other orders that are called holy arises: for it is from God or Christ without intermediary, even though this is together with a certain human ministration as if in preparation, such as the laying on of hands and a verbal pronouncement; which perhaps effect nothing at all in this regard but are premised in this way as a result of a certain agreement or divine ordinance. It is also clear from what has been said that there is another, and human, form of institution, whereby one priest is placed ahead of others, and also whereby priests are instituted to educate and instruct specific provinces and peoples in the new law, to administer the sacraments and distribute the temporal goods which we called ecclesiastical benefices.

Again, it has become clear from all this that in their primary authority (which from the beginning we called essential), all priests are equal in merit and priesthood, just as Jerome said in the letter we mentioned, giving as the reason that 'all' bishops 'are successors of the apostles'. In this he seems to imply that all the apostles were of equal authority, and that in consequence no one of them individually had authority in respect of another or over any one or all of the rest, either with regard to the essential institution that we have called primary or with regard to secondary forms of institution.

Accordingly it appears that we should hold a similar opinion concerning their successors in relation to each other. But it still remains to determine where these forms of institution, which we have just said are secondary and made on human authority, come from, and what might reasonably be their efficient cause.

<sup>26</sup> Galatians 2. 9.

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On the equality of the apostles in any office or dignity conferred upon them directly by Christ. As a result we prove what was said in the previous chapter concerning the equality of all their successors; and how all bishops, without differentiation, are the successors of any and every apostle

Making a start, then, from what was said earlier, we shall in this chapter first show that no one of the apostles had any pre-eminence with regard to the others in essential dignity, sc. the priestly dignity given him by Christ. Next, that this was not the case in respect of any other form of institution either, which we called secondary, and by the same token still less in any coercive jurisdiction given him directly by Christ; although something close to this has already been adequately demonstrated in chapters 4 and 5 of this discourse. Furthermore, we shall deduce of necessity from these points that no one of the bishops their successors has, individually, any of the authority or power just-mentioned over his other fellow-bishops or fellow-priests; and that the opposite of this cannot be convincingly established on the strength of the words of Scripture, but rather our own proposition. Finally – and this is what we are ultimately working towards in this and the previous chapter – we shall deduce that these forms of institution, which we have frequently called secondary, are necessarily a matter for the faithful human legislator as being in itself the productive cause of them, just as it is of the other parts of the city.

2

The first proposition, therefore, is persuaded from Luke 22. For in giving the apostles the power to enact the sacrament of the eucharist, Christ says to them: 'This is my body, which is given for you. This do in remembrance of me,'<sup>1</sup> i.e., have the power of doing this, but nevertheless pronouncing similar words whenever you have the duty to perform this act, viz.: 'This is my body.' And he did not address these words more to Saint Peter than to the others. For Christ did not say: Do this (you personally) and give the other apostles the power of doing it; rather, he said: 'this do,' in the plural and to all of them without differentiation. One should hold the same opinion with regard to the power of the keys in all its formulations, whether it was given to the apostles in these same words or in others or at another time, such as in those that we find in John 20. For after Christ said to the apostles: 'as my Father hath sent me, even so send I you,' 'he breathed on them, and saith unto them, Receive ye the Holy Ghost: Whose soever sins ye remit, they are remitted unto them; and whose soever sins ye retain, they are retained.'<sup>2</sup> Christ, then, said: 'I send you, as my Father hath sent me;' he did not say, either to Peter or any other apostle: I send you (personally), as my Father etc., and now you, send others. Nor, again, does it say: Christ breathed on him; it says, 'on them', and not on one through another. Nor did Christ say to Peter: Receive the Holy Ghost and give it to the others afterwards; rather, he said: 'Receive ye', speaking in the plural and to all without differentiation. And this is also what we find in the last chapter of Matthew, when Christ said to them: 'Go ye therefore, and teach all nations;' and he said 'go ye' in the plural and without differentiation, not saying to Peter: Go therefore yourself, and send the others.

3

The Apostle explains this matter more fully in order to decide the question, viz. so that no one should believe that any particular one of the apostles had this prerogative or authority over the others. In doing so he explicitly takes it away from Peter (of whom it perhaps seemed more likely because of certain things that were said to him individually by

<sup>1</sup>Luke 19. 22; see above, II. 15, 3.

<sup>2</sup>John 20. 21-3.

Christ, and because he was older than the others), saying in Galatians 2: 'for they who seemed to be somewhat, conferred nothing upon me: But contrariwise, when they saw that the gospel of the uncircumcision was committed unto me, as the gospel of the circumcision was unto Peter; (For he that fashioned Peter to the apostleship of the circumcision, the same fashioned me toward the Gentiles:) And when they perceived the grace that was given unto me, James, Cephas and John, who seemed to be pillars, gave to me and Barnabas the right hands of fellowship etc.'<sup>3</sup> Thus, the same one who fashioned Peter to the apostolate fashioned Paul as well; but this was Christ; so Paul did not receive this office from Peter, and likewise neither did the rest of the apostles. The gloss on this passage according to Augustine explains this more fully when it says: 'Those "who seemed to be somewhat", sc. Peter and the others who were with the Lord, "conferred", that is, added, "nothing to me". In this it is clear that I am not inferior to them, I who have been made perfect by the Lord to such an extent that there is nothing which, in conferring, they could add to my perfection.'<sup>4</sup> See how Paul was not inferior to Peter or to the others. Following up this meaning the gloss adds: "'when they saw that the gospel of the uncircumcision was committed unto me" as to one who is faithful, and equally principally<sup>5</sup> "as the gospel of the circumcision was unto Peter".'<sup>6</sup> Behold that Paul was sent in as principal a capacity as Peter, and not by Peter or any other of the apostles but directly by Christ. The Apostle expresses this more fully when he says in the first chapter of the same letter: 'Paul, an apostle, not of men, neither by man, but by Jesus Christ and God the Father'.<sup>7</sup> Here the gloss according to Ambrose has: "'Paul, an apostle, not" elected or sent "from men", sc. from Ananias, as some were saying, or from others, as some of the apostles were elected and sent.'<sup>8</sup> A little bit later the gloss according to Augustine adds: 'For the other apostles seemed to be greater, because they were earlier; he the least, because the latest. But from that he appears the more worthy, because those who were earlier were constituted as such by Christ when he was still part man, that is, mortal; but Paul, the latest, was constituted by Christ who was now wholly God, that is, immortal in

<sup>3</sup>Galatians 2. 6–9.

<sup>4</sup>Lombard, *Collectanea*, MPL 192, c. 107D.

<sup>5</sup>*Principaliter*: see the Notes on the Translation, above p. xlviii.

<sup>6</sup>Lombard, *Collectanea*, MPL 192, c. 108A.

<sup>7</sup>Galatians 1. 1.

<sup>8</sup>Lombard, *Collectanea*, MPL 192, c. 95B.

every part, and by God the Father who effected this through his Son. And in order to disclose why he said “neither by man”, he adds, “who raised him from the dead”. And thus he constituted me more worthily by the immortal Christ than were the others by the mortal Christ.<sup>9</sup>

4

Again, the Apostle confirms this by saying, a little later in the same chapter: ‘But I certify you, brethren, that the gospel which was preached of me is not according to man. For I neither received it of man, neither was I taught it, but by the revelation of Jesus Christ.’<sup>10</sup> On which the gloss according to Saint Augustine has: “But I certify you, brethren, that the gospel which was preached of me is not according to man,” in teaching me or sending me. And indeed it is not of man. “For I neither received it of man, neither was I taught it,” in the sense that a man elected me to spread the gospel or enjoined it upon me, “neither was I taught it” from a man teaching me, “but by the revelation of Jesus Christ”.<sup>11</sup> See here that neither Peter nor any other apostle nor any man elected, sent, or enjoined upon Paul the ministry of the gospel. And the same should be our judgement concerning the rest of the apostles. Thus Peter did not have any power, and by the same token still less any coercive jurisdiction, over the rest of the apostles directly from God; nor any power of instituting them in the priestly office, or of dividing them up or sending them upon the office of preaching. All that can be allowed is this, that he was prior to the others in age or perhaps in time in office; or from the election of the apostles who justifiably revered him because of these things – although no one can convincingly establish, on the basis of Scripture, that this election took place.

5

Now a sign that what we have said is true is that we do not find from Scripture that Saint Peter assumed to himself individually any authority over the rest of the apostles, but rather that he observed equality with them. For he did not assume to himself the authority to decide any doubts about

<sup>9</sup>Lombard, *Collectanea*, MPL 192, c. 95C. The quotation is from Galatians 1. 1.

<sup>10</sup>Galatians 1. 11–12.

<sup>11</sup>A form of this quotation can be found in Lombard, *Collectanea*, MPL 192, c. 98A–B, attributed to Augustine.

the preaching of the gospel, to the extent that this was a matter of doctrine; doubts on this subject were decided through the common deliberation of the apostles and others of the faithful who were more learned, and not by the decision of Peter or any other apostle by himself. Hence in Acts 15, a disagreement had arisen between the preachers of the gospel as to whether one should circumcise the uncircumcised faithful in order to achieve eternal salvation, some saying that one should whereas Paul and Barnabas objected to it; at this point ‘the apostles and elders came together for to consider of this matter.’<sup>12</sup> Peter and James spoke on this matter to the effect that one should not, and the other apostles and elders consented in their opinion. Hence it is added further on: ‘Then pleased it the apostles and elders, with the whole church, to send chosen men of their own company to Antioch etc. And they wrote letters by them.’<sup>13</sup> And the manner of writing was consonant with the manner of deciding, and was as follows: ‘The apostles and elders and brethren send greeting unto the brethren which are of the Gentiles in Antioch and Syria and Cilicia etc.’<sup>14</sup> We find something similar further on in the same chapter, continuing this sense, when it says: ‘It seemed good unto us, being assembled with one accord, to send chosen men unto you’.<sup>15</sup> The same thing again, a little bit later in the same chapter: ‘For it seemed good to the Holy Ghost, and to us, to lay upon you no greater burden.’<sup>16</sup> Peter did not, therefore, decide the above-mentioned doubts concerning the faith of his plenitude of power, which some people dream up and attribute to the bishop of Rome, though they are ‘masters of Israel’.<sup>17</sup> For these people have proclaimed in unwritten dogmas that he, of himself alone, can decide doubts concerning the faith (which Peter never dared); which is openly false and in clear disagreement with Scripture. We will speak at more length on this subject in the next chapter and in chapter 20 of this discourse.

6

It was a gathering of the learned faithful, therefore, which deliberated, decided the question, chose men, and wrote; and that which had been

<sup>12</sup>Acts 15. 6.

<sup>13</sup>Ibid. 22–3.

<sup>14</sup>Ibid.

<sup>15</sup>Ibid. 25.

<sup>16</sup>Ibid. 28.

<sup>17</sup>Cf. above, II. 14, 22.

decided and mandated in this way was valid on this authority. For a gathering of the apostles was of greater authority than Peter or any other of the apostles alone. Hence we read that Peter was sent to Samaria by such a gathering, as is apparent from Acts 8: 'Now when the apostles which were at Jerusalem heard that Samaria had received the word of God, they sent unto them Peter and John.'<sup>18</sup> Why, therefore, and from where do some sacrilegious flatterers take it upon themselves to say that some one bishop has plenitude of power from Christ, even over the clergy, not to mention the laity, when neither Saint Peter nor any other apostle ever presumed to ascribe such a power to himself, either in word or deed? Those who make this assertion should be the object of laughter, not remotely believed and still less feared, since what they proclaim is the opposite of Scripture in its literal and manifest sense. For Saint Peter never had any such power over the apostles or others, but rather (as we have already said) observed equality with them in accordance with Christ's command. Thus in Matthew 23: 'But be not ye called Rabbi: for one is your Master, even Christ; and all ye are brethren,'<sup>19</sup> i.e. equal. And he said 'all', excepting no one. This opinion is confirmed by the Apostle in Galatians 2, where he says: 'And I went up by revelation, and communicated unto them that gospel which I preach among the Gentiles.'<sup>20</sup> On this the gloss according to Augustine: 'And I was not taught by them as being greater than myself' (sc. not by Peter or others of the more principal apostles, of whom something will be said below) 'but rather I "communicated unto them" as friends and equals.'<sup>21</sup> The same, again, further on in the same chapter, when the Apostle said: 'But when Cephas was come to Antioch, I withstood him to the face, because he was to blame etc.'<sup>22</sup> Here the gloss according to Jerome has: 'They communicated nothing to me, but I to Peter.' And then it adds: 'I resisted him, as his equal. For he would not dare do this unless he knew he was not unequal to him.'<sup>23</sup> See, then, that Paul was equal to Peter in office and dignity and not inferior, even though Peter was older in years and was a pastor before him.

7

It is likewise apparent that neither Saint Peter nor any other of the apostles had pre-eminence or power over the others in distributing the

<sup>18</sup>Acts 8. 14.   <sup>19</sup>Matthew 23. 8.   <sup>20</sup>Galatians 2. 2.

<sup>21</sup>Lombard, *Collectanea*, MPL 192, c. 103C–D.   <sup>22</sup>Galatians 2. 11.

<sup>23</sup>Lombard, *Collectanea*, MPL 192, c. 108D, although it is not here attributed to Jerome.



temporal goods offered to the early church. Hence in Acts 4: ‘for as many as were possessors of lands or houses sold them, and brought the prices of the things that were sold, And laid them down at the apostles’ feet: and distribution was made unto every man according as he had need.’<sup>24</sup> See here that the disposal of temporal goods offered to the church was done through the apostles as a community, not by Peter alone. For it does not say: ‘And laid them down at’ Peter’s, but ‘at the apostles’ feet’. Nor does it say: And Peter made a distribution, but ‘distribution was made’.

8

Tell me, therefore, where does the Roman bishop get the authority to distribute such things as he pleases, or to claim things that have been bequeathed in men’s wills to pious causes but committed to others to safeguard or distribute, as if they were owed to himself alone, when it is not licit for himself either alone or with another, by divine or human right, to claim such things, which have been committed to the good faith and custody of others by reasonable laws, for example by the will of the testators or others who have ordained them to this purpose? ‘For let the testator speak’ (sc. concerning his own) ‘and it shall be law,’ as is written elsewhere.<sup>25</sup> For no reason can be gleaned from Scripture which would make us confident that this power belongs to the Roman or any other bishop, but rather the opposite. And if these bequests were committed to the church of a specific diocese to distribute, then it will be a matter for those bishops who have authority over the diocese that has been specified in this way, and not in any way for the bishop of Rome. And the reason for this is that the Roman bishop neither has nor has ever had any power or authority directly from Christ over the rest of his fellow-bishops or fellow-priests; and this was one of our propositions from the outset of this chapter. For just as Peter did not have this power over the rest of the apostles, so neither do Peter’s successors in the episcopal see of Rome over the successors of the rest of the apostles. For Peter did not have the power to confer priesthood or the apostolate or the episcopate upon them, because they all took this power or authority directly from Christ and not through the ministration of Peter any more than the other way round, as we

<sup>24</sup>Acts 4. 34–5.

<sup>25</sup>An unclear reference: Previt -Orton suggests the ordinary gloss on *Code* VI. 43. 7, ‘The will of the testator is observed as law.’

manifestly proved above from Scripture. And Augustine, too, says this explicitly in his *Questions on the New and the Old Testament*, Question 94, where he says: ‘On the same day’ (i.e. Pentecost) ‘on which the law was passed, the holy spirit also descended upon the disciples, that they might receive the authority and the knowledge to preach the law of the gospel.’<sup>26</sup>

9

Further, just as we read that Peter was elected bishop at Antioch by the multitude of the faithful, without needing the confirmation of the other apostles, so too the rest of the apostles were in authority in the other provinces without the knowledge of or any institution or consecration on the part of Peter; for they had been adequately consecrated by Christ. On this basis we should likewise be of the opinion that the successors of these apostles did not need any confirmation from the successors of Peter; on the contrary, many successors of the other apostles were duly elected and instituted as bishops, and ruled their provinces in holiness, without any form of institution or confirmation on the part of the successors of Peter. And this existed as legitimate practice up until the time of the emperor Constantine, who granted the bishops and church of the Romans a certain pre-eminence and power over all the other churches, bishops, or priests of the world. Indeed the Apostle signalled this equality between Peter and the apostles in Galatians 2, when he said: ‘(James, Peter and John) gave to me and Barnabas the right hands of fellowship; that we should go unto the heathen, and they unto the circumcision;’ ‘the right hands of fellowship’, and thus ‘of equality too’, as was shown adequately above from the gloss according to Augustine – although on this matter the words of the Apostle are so plain as not to need a gloss. We also concluded this above from Jerome’s letter *To Evander*, saying that all bishops, ‘whether at Rome or’ elsewhere, ‘are of the same priesthood’ and ‘merit’ or power conferred directly by Christ.

10

If, nonetheless, Saint Peter is described by some of the saints as the ‘prince of the apostles’, this phrase takes the word ‘prince’ in a broad and improper

<sup>26</sup>Ambrosiaster(?), *Quaestiones veteris et novi testamenti*, q. 95, *Cetedoc* from CSEL 50, ed. A. Souter (Vienna and Leipzig: Tempsky and Freytag, 1908), pp. 1–416: par. 2, p. 168, ll. 6–9; MPL 35, c. 2289. The attribution of this work to Augustine is no longer accepted.

sense; if this is not so, it is openly contradictory to the opinion and pronouncement of Christ when he says, in Matthew 20 and Luke 22: ‘the princes of the Gentiles exercise dominion over them, but ye shall not be so.’<sup>27</sup> And so one should say that the saints spoke in this way not on account of some power over the apostles given directly to Peter, but perhaps because he was their senior in age, or because he was the first to confess that Christ was the true son of God and consubstantial with him, or perhaps because he was more fervent or constant in his faith, or because he was familiar with Christ and more frequently called into counsel or closed discussions. Hence the Apostle, Galatians 2: ‘James, Cephas’ (i.e. Peter) ‘and John seemed to be pillars,’ on which the gloss according to Ambrose says: ‘Because they were more honoured among the apostles, because they were always in closed discussions with the Lord.’<sup>28</sup> A convenient example of this can be taken from princes of this world who have no precedence among each other in terms of any power: for example, the counts of one realm, no one of whom is subject to another in jurisdiction or authority, but all are instead directly subject to the king; and yet nonetheless it sometimes happens that one or several are held in more honour than the rest, for example because they are older or more distinguished in a particular virtue or virtues, or are greater servants of the king or the realm, which makes them more loved and held in greater reverence by the king or the people. This is the way we should think of the apostles with respect to each other and to Christ. For they were all subject to the power and authority of Christ, taking their institution as priests and apostles directly from him and not from one another, as Scripture everywhere openly proclaims, as do the saints who follow it; and although Saint Peter may have been more honoured among them for the reasons we have said, this was not, however, because of some power granted him by Christ over the others. For he forbade this between them, as we quoted above from Matthew 23, where he said to him (with direct relevance to our intended purpose): ‘but be not ye called Rabbi; for one is your Master, and all ye are brethren.’<sup>29</sup>

## II

Similarly Peter did not have coercive jurisdiction over the rest of the apostles either, any more than the other way round, and consequently

<sup>27</sup>Matthew 20. 25–6; Luke 22. 25–6; it is Matthew which refers to ‘princes’.

<sup>28</sup>Lombard, *Collectanea*, MPL 192, c. 108B. <sup>29</sup>Above, section 6.

neither do their successors with respect to each other. For Christ entirely forbade this to them in Matthew 20 and Luke 22, with direct relevance to our intended purposes. For when ‘there was a strife among them, which of them’ was ‘greater, he’ (sc. Christ) ‘said unto them, The kings or princes of the Gentiles exercise dominion over them, and they that are great exercise power upon them. But ye shall not be so.’<sup>30</sup> And Christ could not have made this negative more explicit. Why, then, should anyone have more belief in a human tradition – be it of saint or non-saint – in this matter, rather than in the most explicit speech of Christ? For Christ speaks against this kind of person or people in Mark 7, when he said (with direct relevance to our intended purpose): ‘Howbeit in vain do they worship me, teaching for doctrines the commandments of men. For laying aside the commandment of God, ye hold the traditions of men.’ And a little bit below: ‘Full well ye make void the commandment of God, that ye may keep your own tradition.’<sup>31</sup> This is what those who teach the human *Decretals* do, for these *Decretals* say that the power and dominion of temporal things – and not just ecclesiastical, but imperial and regal as well – belong to the bishop of Rome; making void the command of God (as was also demonstrated in chapter 14 of this discourse, and is patently obvious in this one) so that they might keep their own tradition with regard to temporal goods, for their own convenience.

## 12

If, however, the apostles had elected Saint Peter as their bishop or the more principal apostle among them, because of his age and the greater holiness he had accrued (and we find this in a certain decree of pope Anacleto contained in the *Codex* of Isidore, where the passage runs as follows: ‘Now the other apostles received honour and power in an equal fellowship with him,’ (sc. Peter) ‘but wanted him to be their prince’),<sup>32</sup> it would nevertheless not follow from this that his successors, in the Roman see or any other (if he had been bishop elsewhere), have this priority over the successors of the others, unless they have been elected to it by the successors of the others. For some successors of the others were of greater

<sup>30</sup>Matthew 20. 25; Luke 24–6. Marsilius’s quotation is compounded of the two.

<sup>31</sup>Mark 7. 7–9.

<sup>32</sup>Ps.-Isidore, *Epistola Analecti secunda* (‘Second epistle of Anacleto’), cap. 24, ed. Hinschius p. 79. For this collection, see below, II. 18, 2 and note, and also the Notes on the References, above p. lv.

virtue than some successors of Peter – even though properly speaking any bishop, indifferently, is the successor of any apostle in terms of his office, even if not in terms of his location. Again, why should this belong to his successors in the Roman see any more than to his successors in the see of Antioch or Jerusalem or anywhere else, if he was bishop in more than one?

13

Further, any bishop is indifferently the successor of any apostle as regards his intrinsic dignity, sc. the inseparable, and is of the same merit or perfection as regards the said dignity or character, since all have the same dignity directly from an efficient cause or giver who is one in number, viz. Christ, and not from him who performed the laying on of hands. Nor is it relevant which of the apostles performed the laying on of hands. Hence in I Corinthians 3: ‘Therefore let no man glory in men. Whether Paul, or Apollos, or Cephas etc.’ has baptised you or performed the laying on of hands, it does not matter. Hence he adds: ‘And ye are Christ’s,’<sup>33</sup> i.e., you are internally stamped by Christ. The gloss has: ‘You are of Christ, not of men, either in creation or renewal’<sup>34</sup> (supply: which comes through the sacraments).

14

Again, the Roman bishop is not, and should not be called, individually the successor of Saint Peter because of the laying on of hands, since it can happen that someone upon whom Saint Peter has not laid hands, either through an intermediary or directly, is nonetheless bishop of Rome. Nor again because of his see or specific location. Firstly, because none of the apostles was in any way destined by divine law to one specific people or place, for in the last chapter of Matthew it is said to all of them: ‘Go ye therefore, and teach all nations.’ Furthermore, because we read that Saint Peter was at Antioch before he was at Rome. Again, because if Rome became uninhabitable, Peter’s succession would not on that account come to an end. Yet again, because by divine law it cannot be persuaded that either Christ or any one of the apostles, or the apostles collectively,

<sup>33</sup>I Corinthians 3. 21–3.

<sup>34</sup>A form of this quotation is given in Lombard, *Collectanea*, MPL 191, c. 1564A.

laid it down that the bishop of any determinate province or diocese should be or be called individually the successor of Peter or any other apostle and have precedence over the rest, even supposing that the apostles were unequal in authority to whatever extent. Rather, the successors of Saint Peter and of the other apostles are in a certain sense those who more fully conform to their life and holy manners. For it is these who, if asked, the saints the apostles would reply were their successors, after the fashion of Christ their teacher in Matthew 12. For he ‘answered one who said unto him, Behold, thy mother and thy brethren stand without, desiring to speak with thee, and said unto him, Who is my mother? and who are my brethren? And he stretched forth his hand toward his disciples, and said, Behold my mother and my brethren! For whosoever shall do the will of my Father which is in heaven, the same is my brother, and sister, and mother.’<sup>35</sup> Which bishop or priest, then, deserves more to be called the successor of the apostles? Surely he who more fully imitates their manners and works.

And if it is said that a certain bishop individually becomes the principal successor of Saint Peter because he is elected as bishop by the Roman clergy or the Roman clergy together with the rest of the people, and that he is thereby made the bishop of the universal church even though he will have a more specific responsibility for the city of Rome as long as it exists; one should say that although this assertion can be accused of many misrepresentations, it can nevertheless be sufficiently repudiated in one single way: i.e. because it cannot be convincingly shown from Holy Scripture, but rather its opposite, as was demonstrated above and will be shown more fully in the chapter immediately following. For this reason it can be denied with the same or similar ease as it was asserted. But as to how the Roman bishop and church comes by this principal position over the rest, and why (if he ought to at all) – this will be discussed in chapter 22 of this discourse.

## 15

What is more surprising than the unfashionable things that have just been said (and I say ‘more surprising’ because it will seem even more unfashionable and perhaps impossible to hold as an opinion, if not actually false), is that from the certain testimony of Scripture it can be convincingly shown

<sup>35</sup>Matthew 12. 47–50, altering the word-order a little.

that in respect of province and nation, the Roman bishops are more the successors of the apostle Paul than of Peter, especially in the episcopal see of Rome. Again (which will seem even more surprising than what has just been said) it cannot be proved directly from any passage of Scripture that the Roman bishops are individually the successors of Saint Peter because of their determinate seat or province: on this reasoning it is rather those who had or have their seat in the episcopal see of Antioch who are the successors of Saint Peter, not they. Now one can have confidence in the first of these assertions from the fact that although Saint Paul was sent to all the nations in general, just like any of the other apostles (hence Acts 9: 'for he is a chosen vessel unto me, to bear my name before the gentiles, and kings, and the children of Israel'),<sup>36</sup> he was nevertheless individually and principally the apostle of the gentiles, as Peter was of the Jews, by revelation as much as by the apostles' mutual arrangement. Hence Galatians 2: 'when they' (James, Peter and John) 'saw that the gospel of the uncircumcision' (i.e. the gentiles) 'was committed unto me, as the gospel of the circumcision' i.e. the Jews 'was unto Peter';<sup>37</sup> and in both cases, Peter and himself, the Apostle means 'principally', because Peter could preach to the gentiles as well, and Paul to the Jews, if there was some reason or necessity, even though the principal position in respect of the gentiles belonged by dispensation to Paul, and that in respect of the Jews to Saint Peter (as the gloss according to Augustine there explains). Again, in Acts 22, it was said to Paul through revelation while he was 'in a trance': 'Depart: for I will send thee far hence unto the nations.'<sup>38</sup> Further in the last chapter of Acts, chapter 28: 'and so we came toward Rome'; and a little bit further on the Apostle says, addressing the Jews in Rome: 'Be it known therefore unto you, that the salvation of God is sent unto the gentiles, and that they will hear it. And Paul dwelt two whole years in his own hired house, and received all that came unto him, preaching the kingdom of God.'<sup>39</sup> Again, he testifies to this himself more specifically in Romans 11: 'For I speak to you gentiles', he says, 'inasmuch as I am the apostle of the gentiles, I magnify my ministry: If by any means I may provoke to emulation them which are my flesh'; i.e., even though I may sometimes exhort the Jews to this as well, I am nevertheless principally apostle to the gentiles. Yet again in Galatians 2: 'James, Cephas and John,

<sup>36</sup>Acts 9. 15.

<sup>37</sup>Galatians 2. 7.

<sup>38</sup>Acts 22. 17, 21.

<sup>39</sup>Acts 28. 14, 28, 30-1.

who seemed to be pillars, gave to me and Barnabas the right hands of fellowship; that we should go unto the heathen' (i.e. to the gentiles) 'and they unto the circumcision,'<sup>40</sup> i.e. to the Jews, to preach the gospel. Lastly we read the same in I Timothy 2 and II Timothy 1, but I have omitted these passages for the sake of brevity.

16

Since, therefore, it is plain and agreed from Scripture that Paul was at Rome for two years, and there received all the gentiles who wished to convert and preached to them, it is certain that he was the bishop of Rome specifically, since he carried out the office of a pastor there, holding the authority for this from Christ, the commandment by revelation, and the consent of the other apostles by election. Whereas with regard to Saint Peter (and in this the second of our propositions will become apparent), I say that it cannot be convincingly established on the basis of Holy Scripture that he was the Roman bishop specifically; and what is more, that he was ever at Rome. For what would seem the most surprising thing of all is that if (as a certain widespread ecclesiastical legend of the saints has it)<sup>41</sup> Saint Peter came to Rome before Paul, preaching the word of God there, and was afterwards captured; and then Saint Paul on his arrival in Rome, together with Saint Peter, had so many battles with Simon Magus and at the same time fought so hard for the faith against the emperors and their agents; and finally (according to the same story) both were simultaneously beheaded for confessing Christ and laid down to sleep in the Lord, and thus 'consecrated the Roman church'; it would seem the most surprising thing of all, I say, that neither Saint Luke, who wrote the Acts of the Apostles, nor the apostle Paul ever made any mention of Saint Peter.

<sup>40</sup>Galatians 2. 9.

<sup>41</sup>Previté-Orton suggests for this legend the *Acta sancti Petri* attributed to Saint Linus (*Acta sanctorum*, 29th June). The story of the beheading is peculiar, but the wording is reminiscent of a passage of Ps.-Isidore, which Marsilius might have misread: '[Saint Paul] who, not on a different day – as heretics chatter – but on one and the same day with Saint Peter was crowned with glorious death, fighting under Nero Caesar; and equally . . . consecrated the holy Roman church to Christ as lord' (Gelasius, *Decretum . . . de apocryphis scripturis*, ed. Hinschius, p. 635; MPL 130 c. 984). The passage was excerpted by the thirteenth-century Dominican historian Martinus Polonus in his *Chronicon: MGH Scriptores* 22. 409. Marsilius was familiar with both Ps.-Isidore and Martinus Polonus, as the following chapters demonstrate.



17

Furthermore, what is written in the last chapter of Acts leads us to believe with great probability that Saint Peter did not come to Rome before them. For when Paul on his first arrival was addressing the Jews and wanted (among other things) to give the reason for his coming to Rome, he says: 'But when the Jews spake against it, I was constrained to appeal unto Caesar. And they said unto him: We neither received letters out of Judaea concerning thee, neither any of the brethren that came shewed or spake any harm of thee. But we desire to hear of thee what thou thinkest: for as concerning this following, we know that everywhere it is spoken against.'<sup>42</sup> So let someone who is looking for the truth and not just an argument tell me if anyone can think it probable that Saint Peter had come to Rome before Paul, and had lived there among the brethren, i.e. the Jews, whose apostle he specifically and principally was, and had said nothing to them of the faith of Christ, which the Jews who addressed Paul called a 'a following'? Furthermore, if Paul had known that Cephas had been there and preached there when he reproved them for their lack of belief, how could he not have mentioned it or brought him in as a witness of this, Peter who had witnessed the resurrection of Christ, as is apparent from Acts 3?<sup>43</sup>

18

And again (as we have already said), who can be of the opinion that Paul lived there for two years and never had any association, conference or shared companionship with Peter? And if he did, that the person who wrote the history of the Acts made absolutely no mention of it? For when Paul found Peter in other, less well-known places, he made mention of him and met with him, for example in Corinth, as in I Corinthians 3, and in Antioch, as in Galatians 2, and so on for many other places. But if he had found him in Rome, how could he not have mentioned his name, when it was the most famous of all cities and the one in which, according to the story just mentioned, Saint Peter was in authority as bishop? All this is next to incredible, and therefore this story or legend does not seem possible to entertain in this respect, and should be reckoned as

<sup>42</sup>Acts 28. 19, 21-2.

<sup>43</sup>Acts 3. 15.

apocryphal. Whereas from sacred Scripture we must hold without any doubt that Saint Paul was the bishop of Rome; and that if anyone else was at Rome with him, Paul was nevertheless individually and principally the bishop of Rome, for the reasons given, and Saint Peter of Antioch, as is clear from Galatians 2. I do not deny that he was at Rome, but I hold in accordance with what seems to be the truth that he did not precede Paul in this, but rather the other way round.

19

However, for the sake of our main proposition, what we should most of all notice is that even if there may be certain congruities on account of which certain persons appear to be called in some sense individually the successors of Saint Peter, worthy of greater reverence than the successors of the others, and especially those in the episcopal see of Rome; nonetheless, no necessity of Holy Scripture demands that we believe that the successors of the other apostles are subject to them in respect of any power that we have spoken of. For suppose that the apostles had been unequal in authority. It does not follow from this that Peter or any other apostle had, on the strength of the words of Scripture, any power to institute or depose them, or any power in respect of the priestly dignity that we called essential, or concerning their mission or allocation to one place or people, or with regard to the interpretation of Scripture or the catholic faith, or in respect of coercive jurisdiction over anyone in this world, any more than the other way round. Thus it seems necessarily to follow that neither on the strength of the words of Scripture does any successor of the apostles, in whatever way he may be called individually the successor of one of them, have any of the powers just mentioned in respect of the successors of the rest of them. And this can be clearly supported by the authority of Jerome from his letter *To Evander* which we quoted earlier, towards the end of section 8 of the previous chapter.

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**On the authority to institute bishops and other  
curates and all the other ministers of the church  
in respect of dignity or office of either kind,  
separable or inseparable**

We have now spoken, therefore, of the productive cause of the primary priestly authority, which we called ‘essential’. But we still have to come to a conclusion on the subject of the secondary authority, sc. that by which some of their number are placed over a certain defined number of priests or a people or both in a certain defined province or place; again, on what grounds it might be appropriate for them to distribute certain temporal goods (called ‘ecclesiastical benefices’ above); yet again, how they or some of them have acquired coercive jurisdictions; and also to whom it might more appropriately belong to determine any doubtful senses of Holy Scripture, and in what manner. For when all of this has become sufficiently clear, what we proposed to make plain from the outset of this work will also become apparent.

## 2

However, before we pursue each of our proposed questions individually, it will be helpful first to outline the way in which bishops or priests were instituted and allocated in the status and origins of the early church; for it is from here that the other practices were afterwards derived. Now the principle of all these things should be taken from Christ, who is the ‘head’ and the ‘rock’ upon which the catholic church is founded according to what the Apostle says in Ephesians 4 and 5, and I Corinthians 10.<sup>1</sup> And

<sup>1</sup> Ephesians 4. 15, 5. 23; I Corinthians 10. 4.

the gloss says the same on that passage of Matthew 16: 'upon this rock I will build my church.'<sup>2</sup> This 'head of the church', I say, this 'rock' and 'foundation', sc. Christ, conferred the priesthood upon all the apostles, together with episcopal authority over all nations and peoples, without allocating any of them to a certain defined place or people in such a way that it would be illicit for that apostle to preach wherever he liked; even though by their own mutual arrangement or at the ordinance of the holy spirit, some of them were sent more to the gentiles, others to the circumcision. This seems to be the opinion of the gloss on that passage of Galatians 2: 'And when they perceived the grace that was given unto me toward the gentiles.'<sup>3</sup> For the gloss says: 'For Christ gave it to Paul to minister to the gentiles, as he had given it to Peter to minister to the Jews. But this distribution was handed to them in such a way that Peter, too, could preach to the gentiles, if there was a reason, and Paul to the Jews.'<sup>4</sup> And Saint Paul appears to have understood this in a similar way in Romans 11, when he said: 'I magnify my ministry: If by any means I may provoke to emulation them which are my flesh' ('that is, the Jews, from whom he had been born' according to the flesh, as the gloss there says).<sup>5</sup> From these words it seems we must hold that as a result of the power or character by which someone is instituted as a priest, he has the power of ministering everywhere and to every people without differentiation, even if by divine revelation or a particular human arrangement some are allocated more to one particular place or people than to another, especially in these times.

### 3

And this seems to be in harmony both with Scripture and with reason. For Christ handed a general ministerial competence to each of the apostles when he said to them all indifferently in Matthew 28: 'Go ye therefore, and teach all nations,' allocating none of them to a particular place or people. But sometimes they seem to have been allocated to a certain defined nation or people by divine revelation, as when the Apostle

<sup>2</sup> Matthew 16. 18 and the ordinary gloss ad loc., on the word 'Peter': '[Derived] from me, the rock (*petra*): but in such a way that I retain to myself the dignity of [being] the foundation.'

<sup>3</sup> Galatians 2. 8–9.

<sup>4</sup> Lombard, *Collectanea*, MPL 192, c. 108A, attributed to Augustine and Ambrose. This gloss is in fact on Galatians 5. 7.

<sup>5</sup> Romans 11. 14; Lombard, *Collectanea*, MPL 191, c. 1485A.

says of himself in Acts 22: ‘And it came to pass, that, when I was come again unto Jerusalem, even while I prayed in the temple, I was in a trance: And I saw him’ (sc. Christ) ‘saying unto me, Make haste, and get thee quickly out of Jerusalem: for they will not receive thy testimony concerning me.’ And a little below it adds that Christ said to him: ‘Depart, for I will send thee far hence unto the gentiles.’<sup>6</sup> See then that on one occasion Paul received a specific allocation of place and people by revelation. Likewise he, along with the other apostles, received the same allocation by human arrangement as well. Hence he said in Galatians 2: ‘They’ (James, Cephas and John) ‘gave to me and to Barnabas the right hands of fellowship, that we should go unto the gentiles, and they unto the circumcision.’<sup>7</sup> See here that the apostles were allocated to a particular place and to provinces directly by human arrangement. But it is nonetheless certain that they did not, as a result of being allocated in this way (whether directly by God through revelation or by their own mutual arrangement), receive any perfection through the holy ghost that they did not have before.

4

This is apparent from reason as well. Suppose that a bishop or any other curate<sup>8</sup> who had been allocated to a particular province or people had left the province entrusted to him (as we see happening more often than it should) and met, by some chance or even on purpose, a person who was not of the faith nor baptised, but was asking to be baptised by him or someone else. Now if he did baptise him, observing the correct form of the sacrament, it is certain that this man was truly baptised by him (even if he perhaps sinned mortally by baptising someone in this way in a province that had not been entrusted to him). On the basis of the episcopal or priestly power that we called essential, therefore, no one is allocated to any single place or people, but has this power indifferently with respect to all. However, these sorts of allocation have nonetheless been made, sometimes by divine revelation (as in the early church) but more often by human arrangement, especially in recent times; and this is

<sup>6</sup> Acts 22. 17–18, 21.

<sup>7</sup> Galatians 2. 9.

<sup>8</sup> *Curatus*: see the Notes on the Translation, above, p. [xliii](#).

in order to avoid scandal between bishops and priests, and for other obviously useful consequences which I shall identify in what follows.

5

With these premises, then, we can proceed to the questions put forward at the beginning of this chapter individually, and we shall show first of all that the most appropriate immediate productive cause of the apostles' allocation to particular peoples and provinces was the revelation of Christ or their harmonious mutual arrangement. Next, that the immediate productive cause of the allocation of their first successors, before the conversion of the people, was the expressed will of all the apostles or of several, if all or several were present at the same time in the place or province in which it was necessary to institute a priest or bishop; or of one single apostle according to the condition of the place, people and time. Finally, that after the death of the apostles or in their absence, this secondary form of instituting bishops and other ecclesiastical or spiritual ministers was carried out in the most appropriate way possible for human life together, by the body of the faithful in the place or province over which the said ministers were to be instituted, and never by any other single college or person. So too the remaining questions will be demonstrated later, by way of consequence.

The first of these propositions, then, is apparent: viz. because no more appropriate cause of this allocation can be identified than divine revelation or their common deliberation, because in neither of these can error or malice be seen to have intervened. No one can doubt this of divine revelation; in the case of election on the part of the apostles, it seems to be both probable and worthy of belief because they were inspired by the holy spirit, as we quoted before from John 20.<sup>9</sup>

6

I say next that the immediate productive cause of the secondary institution or allocation of their first successors, especially before the conversion of the people, was and should have been all or several of the apostles or a single one of them in the manner we said before, i.e. if all or several or only one of them were to be found in the place. Now this is persuaded first of all from

<sup>9</sup> See above, II. 15, 3.

Scripture, for we read in Acts 6 that they acted in this way in the institution of deacons, even in respect of their primary authority which we called essential. Hence: 'Whom they set before the apostles: and when they had prayed' (sc. the apostles) 'they laid their hands on them.'<sup>10</sup> So they did not bring them to Peter alone, but 'before the apostles'. Nor did Peter alone assume to himself individually the authority to lay his hands on them; rather, the apostles 'laid their hands on them'.

And this is also consonant with reason. For it is very likely that on the question of promoting a person either to the priesthood or to another holy order, or instituting him in any secondary holy office, all or several of the apostles together deliberated with greater sureness and less error than any one of them by himself; just as we argued above, in the previous chapter, that for this reason they had all gathered together along with some other elders to decide a doubt concerning the evangelical law in the matter of circumcision.<sup>11</sup> Again, this procedure removed the stuff of scandal and contention, which would very likely have arisen among them if any of them, in the presence of the others, had wanted to assume a power or priority apart from the rest. And when it did arise among them while Christ was still alive, he put an end to it by explaining their mutual equality, as we cited from Matthew 23 and Luke 22, and made still clearer through the expositions of Saint Paul and the saints in the previous chapter.<sup>12</sup> Further, it was more reasonable to proceed in this way, so that as a result they might remove from all their successors any presumption of this kind of singularity, and might offer them an example of doing likewise, as will be demonstrated from the gloss on Acts 6, below, section 9.

7

If, however, all or several were not present at the same time in a place where it was necessary to establish a bishop over a particular multitude of the faithful to guard and to keep it in the faith: in this case one should say that a single one of them could licitly do this, especially where the multitude of the faithful was small, uneducated and inexpert in discerning the more appropriate person for the office of bishop, and especially where there was scarcely more than one person adequate to this office,

<sup>10</sup> Acts 6. 6.

<sup>11</sup> See above, II. 16, 5.

<sup>12</sup> See above, II. 16, 6 and 10.

which often happened to Paul and his first successors for the reasons given earlier. This is apparent enough from the Acts of the Apostles and Paul's letters to Timothy and Titus. Now it can be shown that this kind of institution could licitly have been carried out by a single one of them, and should have been, because this resulted in the election of a better and more appropriate pastor. For either it was licit for anyone to set himself over others in the ministry of the gospel at will, or this must happen through an election on the part of the subject multitude, or through one of the apostles present there. Now from the first way, scandal and error could have resulted: scandal, if two or more had wanted to assume this authority for themselves; error (or the inadequacy of the pastor), because for the most part it is the stupid or the ambitious rather than men of virtue and wisdom who desire to preside and try to assume this position.<sup>13</sup> From the second way, viz. to have constituted a prelate by an election of the multitude, error and inadequacy would very likely have resulted because of the weakness of the multitude, both in number and in quality; for in most of the provinces, particularly outside Judea, they were at the beginning uneducated and easily seduced, as is quite clear from the whole of the epistle to the Galatians and in many others. Hence the Apostle in I Corinthians 3: 'And I, brethren, could not speak unto you as unto spiritual, but as unto carnal. Even as unto babes in Christ I have fed you with milk. For hitherto ye were not able to bear it, neither yet now are ye able. For ye are yet carnal.'<sup>14</sup> Therefore it was safer and more reasonable that this institution should take place by the election or decision of one of the apostles, whose life and wisdom was of greater weight and more ample (because of the disposition of the holy spirit) than that of all together in such a multitude; although it should not be denied that it would have been expedient for the apostle to have consulted the multitude concerning the morals of the candidate for preferment.

8

In consequence of this I now want to show that after the time of the apostles and of the first fathers who almost directly succeeded them in

<sup>13</sup> There is an interesting contrast here with Discourse I. 16, 21, in which Marsilius argues that it is not ambitious or presumptuous for individuals to seek secular principate, if they have the virtue for it.

<sup>14</sup> I Corinthians 3. 1–2.



their office, and especially now that communities of the faithful have been perfected, the immediate productive cause of this form of institution or allocation of a presiding cleric (either the major one, who is called a ‘bishop’, or the lesser ones, who are called ‘curate priests’, and likewise any other minor prelates) is or should be the universal multitude of the faithful in that place through an election or its expressed will, or the man or men to whom the said multitude has granted the authority for these kinds of institution; and that it belongs to the same authority licitly to remove from and deprive of these offices any of the said officials, as also to compel them to the exercise of them, if this is seen to be expedient.

However, one should note that although it is in the power of any priest to perform his ministry in such a way that he can promote to the priesthood any other member of the faithful who so wishes – with himself ministering (as if by way of preparation), but God imprinting, absolutely speaking and without intermediary, the essential priestly power or character – I say nevertheless that it is not licit either by divine or human law for him to confer this upon anyone at will in communities of the faithful once they have been perfected, as we said; on the contrary, by performing this function upon a criminal or one who is otherwise inadequate, he is guilty of a punishable offence against both divine and human law. That he is guilty of a punishable offence against divine law is apparent from the Apostle in I Timothy 3 and Titus 1,<sup>15</sup> since ‘a bishop must be blameless’, together with the other requirements there enumerated; and the same, at least proportionately, should be held concerning deacons: hence in the epistle to Timothy, as above: ‘Likewise must the deacons be grave etc.’ That one who promotes an inadequate individual to an ecclesiastical order commits a punishable offence against human law is apparent from what was shown in chapter 8 of this discourse. For he commits an act that is transitive upon the harm of another for the status of the present world and at the same time of the world to come (and this act can be proved to be his even if he denies it), sc. by promoting to a public office one who either is capable of corrupting the life and morals of both sexes (especially the female), or is incapable of developing men’s morals as far as is expedient or necessary for the status both of this world and that to come: such as is a corrupt or otherwise inadequate deacon or priest.

<sup>15</sup> I Timothy 3. 2; Titus 1. 7.

9

From these points I want to make this further necessary inference: that in communities of the faithful, once they have been perfected, it belongs only to the human legislator or the multitude of the faithful of that place which the minister to be promoted must superintend to elect, decide upon and present persons for promotion to ecclesiastical orders; and that it is not licit for any individual priest or bishop or any college of them by itself to cooperate in their taking such orders without a licence from the human legislator or from him who holds the principate by its authority. I shall demonstrate this first from Holy Scripture, and then confirm it with probable reasoning.

10

By the authority of Scripture: this is apparent from Acts 6. For when the saints the apostles needed deacons to minister to them and the people, they made a request of the multitude of the faithful, as that multitude to which it belonged to elect and decide upon persons of this kind. Hence Acts 6, as above: ‘Then the twelve called the multitude of the disciples unto them’ (that is, the multitude of the faithful, who at that time were all called disciples, as we find in the gloss) ‘and said, It is not reason that we should leave the word of God, and serve tables. Wherefore, brethren, look ye out among you seven men of honest report, full of the Holy Ghost and wisdom, whom we may appoint over this business. But we will give ourselves continually to prayer, and to the ministry of the word. And the saying pleased the whole multitude: and they chose Stephen, a man full of faith and of the Holy Ghost, and Philip,’<sup>16</sup> and all the rest likewise. Thus, at a time when the apostles were still present, an election of this kind was committed to a less-perfect multitude so that those more apt for the task could be chosen with greater sureness, since all the multitude can know something (especially about an individual man’s morals and life) that a single man of much learning very often does not. And if this was so at that time, how much more is it the case now – when such prelates as the apostles are no longer present, and in a perfect community of the faithful – that the election of priests (whose need for wisdom and virtue is greater than that of a deacon) should be committed to this body, in order to have

<sup>16</sup> Acts 6. 2–5.

fuller and surer testimony concerning the candidate for promotion? ‘Then the twelve’, not just Peter, ‘called’ (on which the gloss has ‘from common consent’)<sup>17</sup> ‘the multitude of the disciples,’ on which the gloss has: ‘They seek the consent of the multitude, which should be taken as an example.’<sup>18</sup> ‘Whom they set before etc.’, on which Rabanus Maurus has: ‘This order should be observed in those who are to be ordained. Let the people choose, and the bishop ordain.’<sup>19</sup> And this is also what the Apostle explicitly says in I Timothy 3: ‘Moreover he’ (i.e. the priest) ‘must have a good report of them that are without,’ i.e. outside the church, hence the gloss according to Jerome: ‘Not only from the faithful, but from those who are not of the faith.’<sup>20</sup> And in the same letter, a little further on, it says again on the subject of deacons: ‘And let these also first be proved; then so let them use the office of a deacon.’<sup>21</sup>

## II

I now want to show by probable reasoning (if one may be allowed to call what is necessary probable) that the election and approval of any candidate for promotion to holy orders belongs to a judge in the third signification, sc. the sentence of the human legislator in communities of the faithful once they have been perfected; as, in addition, does his secondary institution, sc. that by which he is placed over a particular faithful people in a certain defined place as bishop or curate, and likewise for the other more minor ecclesiastical offices. So too does his removal from or deprivation of this post and his being compelled to exercise it, if it becomes necessary to force ecclesiastical ministers. It will then be shown to whom it belongs to distribute the temporal goods of the church called benefices.

Now the first of these propositions can be persuaded by means of the same or similar demonstrations by which, in chapters 12, 13 and 14 of the first discourse, we showed that the passing of laws and the institution of princes belong to the universal body of the citizens, changing only the minor term of the demonstration: viz. so that the election or approbation of the person to be promoted to holy orders, his being established or allocated to the charge of a certain defined people and province, and his

<sup>17</sup> Interlinear gloss ad loc.    <sup>18</sup> *Ibid.*

<sup>19</sup> Ordinary gloss ad loc., cited from Rabanus in the printed text.

<sup>20</sup> Lombard, *Collectanea*, MPL 192, c. 345B.    <sup>21</sup> I Timothy 3. 10.

deprivation of or removal from the same because of some transgression or other reasonable cause, should be used in the demonstrations in place of the terms 'law' or 'prince'.

Moreover, the necessity that these things be done through the legislator or the citizen-body is the more evident inasmuch as an error in establishing a person in the priestly or other ecclesiastical rank and presiding office is more dangerous than one that occurs in instituting human law and the one who is to exercise principate in respect of it. For if an individual who is morally corrupt or ignorant, or with both defects, is promoted to the priesthood, and so is set in authority over the care and direction of a faithful people, the danger of eternal death and of many civil disadvantages hangs over the people as a result. Of eternal death: since it belongs to him to teach and to direct in and about those things that touch upon what is necessary to eternal salvation. Hence Malachi 2: 'For the priest's lips should keep knowledge, and they should seek the law at his mouth';<sup>22</sup> sc. the divine law, which contains precepts and prohibitions of things to be observed or omitted from which a transgressor would not be excused on account of the ignorance or evilness of a priest. And thus it is the people that should decide whom to place over itself as pastor, because as a result of his office either benefit or detriment and danger can come to each and every one. A faithful people has and rationally should have the power of this discretion or caution, for otherwise this disadvantage could not be avoided.

What we have said is clearly Augustine's opinion in his book *On Penitence*, or more accurately the opinion of Christ, with whose authority he speaks and affirms what he says. For he says (and the Master quotes it in *Sentences*, Book IV, distinction 17, chapter 6): 'He who would confess his sins to find grace, let him seek a priest with the knowledge to bind and loose; lest in being negligent in respect of himself, he be neglected by him' (sc. Christ) 'who in his mercy warns him and seeks him; lest both of them fall into the ditch, which in his stupidity he refused to avoid.'<sup>23</sup> Thus it is or should be in the power of anyone to choose for himself an appropriate minister of penance, and likewise of the rest of the sacraments, as the Master also says in the same place. Since, therefore, a better election can be made by the universal body of the faithful than by any single man, even a bishop, or any single collective

<sup>22</sup> Malachi 2. 7; cf. above, II. 10, 6 and II. 6, 12.

<sup>23</sup> Peter Lombard, *Sentences* IV, dist. 17, c. 5; MPL 192, c. 883.

entity, it is apparent that this election or institution of a person in charge should belong to that body rather than to any single man or single collective entity.

12

Furthermore, this might give rise to the possibility of great civil inconvenience, since priests under the title of confession very often have secret conversations with women; and because they are easy to seduce, especially the young ones, whether they are virgins or even married (as is apparent from Genesis 3, which the Apostle refers to in I Timothy 2: 'For Adam was not deceived, but the woman being deceived was in transgression'),<sup>24</sup> a corrupt priest will easily corrupt their morals and their chastity. And this is no slight civil inconvenience, if one will consider the disadvantages that follow from it. So Aristotle, *Rhetoric* I, chapter 8: 'Those whose arrangements in respect of their women are bad, like the Lacedaemonians, are unhappy in nearly half of their life.'<sup>25</sup> For a woman is almost half of a household, as is apparent from his *Economics*.<sup>26</sup> So that if, for the sake of achieving temporal convenience, it is expedient that it should be the legislator which decides upon the persons to be promoted to the other offices of the city, and which also institutes or decides upon the person who will exercise the function of prince, in order to have a better election and one that will result in a more suitable person being adopted for the office (as we believe was demonstrated in chapter 15 of the first discourse); it seems all the more that it belongs to that same human legislator or universal body of the faithful to determine which persons should be promoted to the office of a priest, and to institute priests in their charge. Because even if a corrupt prince can cause great detriment for the status of this present world, as for example through temporal death, the action of a corrupt priest and pastor of the church can bring it more seriously, in that here it is a case of eternal death.

<sup>24</sup> I Timothy 2. 14.   <sup>25</sup> Aristotle, *Rhetoric* I, 1361a9–11.

<sup>26</sup> Ps.-Aristotle, *Economics*: the vague reference could be either to Book I, 1343a–1344a, or to the third book generally. The *Politics* contains the assertion that 'women are half of those who are free, and from children come those who share in (*hoi koinōnoi*) the political order (*politeia*)' (1260b19–20), but Moerbeke's manuscript evidently contained *oikonomoi* instead of the modern reading *hoi koinōnoi*: Moerbeke has *dispensatores*, 'stewards'; the *translatio imperfecta* has *yconomi*.

In the same way too, on account of this danger, a minister of the church should be forced – and can reasonably be so by the human legislator – to perform and to administer the sacraments which are necessary for salvation, like baptism, if he is corrupt and refuses to do this. And the things we have just said concerning promotion to holy orders and institution in the cure of souls, greater or lesser, can be confirmed by what we have quoted from the *Codex* of Isidore in chapter 21 of this discourse, sections 4 and 5.

13

Testimony to what we have said is that glorious saints like Gregory and Nicholas and many others were instituted in the way we have said, as is apparent from the legends and approved histories of them.

14

Nor is it an objection that priests or the college of priests know better how to judge the adequacy of candidates for promotion to the priesthood and the office of pastor and the other more minor offices; just as with the similar objections that were put forward in chapter 13 of the first discourse, which seemed to argue that the passing of laws or the institution of the prince does not belong to the citizens as a body. For we can respond to the current objections as we did there to those similar ones. Because, supposing that priests do have a fuller and surer judgement on such matters than the rest of the multitude of the citizens (which however is mostly not the case these days), nevertheless it cannot be inferred from this that the college of priests by itself has a surer judgement of these matters than the whole multitude of which it is a part. So that when the college of priests is joined together with the rest of the multitude, a surer judgement will result than from the college of priests alone and by itself. For every whole is greater than its part by itself.

Nonetheless we should certainly maintain that a law which is well-drafted and in conformity with divine law should stipulate that the prince ought to give credence in this matter to the judgement of priests or the learned doctors of divine law and other honest men, just as he should make use of the judgement of experts and the examination of approved individuals in respect of promotions in the other disciplines, concerning both their training and their morals. I say ‘the judgement of experts’

taking judge or judgement in its first signification, since it is with judgement in the third signification, by the authority of the legislator, that the prince must approve or reject persons and establish them in or remove them from the exercise of their office, as was shown in chapter 15 of the first discourse. Otherwise in a single community there would be as many supreme princes as there were judges (in the first signification of judgement) of adequacy or defect with regard to each of the offices of the city; and this is inappropriate and impossible if a city is to last and be rightly-ordered, as was demonstrated in chapter 10 of this discourse and 17 of the first.

15

It therefore belongs to the legislator or the prince by its authority to approve or to reject, with sentence or judgement in the third signification, those persons who are to be promoted to ecclesiastical orders, and to institute them in or remove them from a specific cure or charge, greater or lesser, and also to compel them to exercise their office if out of wickedness they have ceased to do so, in case anyone falls into danger of eternal death because of their perversion, e.g. as a result of failure to carry out baptism or some other sacrament. This, certainly, should be understood with regard to communities of the faithful which have once been perfected. For in a place where the legislator and the prince by its authority are infidel, as was the case in almost all communities in the status of the early church, this authority to approve or to reject persons for promotion to ecclesiastical orders (along with the other forms of institution and conduct in office that we have mentioned) would belong to the priest or bishop together with the more reasonable part<sup>27</sup> of the faithful multitude which exists there, or to him alone, if he were by himself, without the consent or knowledge of the prince. For as a result of this promotion and institution of prelates or curates, the faith of Christ and his doctrine of salvation would be spread abroad, and this would not happen by the authority, effort or command of the infidel legislator or its guardian, but rather be prohibited. This was also the way in which the apostles acted at the beginning of Christ's church, and they were bound to do so by divine command, as would their successors be in default of a legislator. Hence the Apostle in I Corinthians 9: 'For though I preach the gospel, I have

<sup>27</sup> *Sanior pars*: see the Notes on the Translation, above, p. 1.

nothing to glory of: for necessity is laid upon me; yea, woe is unto me, if I preach not the gospel!<sup>28</sup> But where a faithful legislator and the guardian of its law are willing for these things to happen, there I say that the authority is theirs in the manner we said and for the reasons and proofs given, both from Holy Scripture and from human reasoning, probable and necessary.

16

With regard to the distribution of those temporal goods that are usually called ecclesiastical benefices, one should be aware beforehand that such temporal goods are either ordained by the legislator for the sustenance of those who minister the gospel and other poor persons, of whom we spoke in chapters 14 and 15 of this discourse; or they are ordained to this use by some particular person or some single collective body. Now if they have been laid down in this way by the gift or ordinance of the legislator, I say that this legislator may licitly, according to divine law, grant the authority to distribute them to whom it wills and when it wills; and if there is a reason, it may also revoke this authority when it wills from him or them to whom, as an individual or collectively, it had granted it. Nor can the opposite of this be persuaded from Scripture, but rather our own proposition, as we also showed from the authority of Ambrose in his letter *On Handing over the Basilicas*, above, chapter 14 of this discourse.<sup>29</sup> Moreover, not only can the faithful legislator licitly, according to divine law, revoke the authority to distribute such goods from him or them to whom it had granted it; it can also sell or otherwise alienate them if a reasonable cause arises, since they belong to it and are permanently in its power by right, unless perhaps it has transferred an object (either on its own or together with the dominion of it) into the power of some other collective body or individual person. However, we should always add to these assertions that in all eventualities, a faithful people is obliged by divine law, if it can, to sustain those who minister the gospel with suitable food and clothing: with which they should be content, as we showed from I Timothy, last chapter. If, on the other hand, temporal goods of this kind have been established for works of piety by the gift or legacy of an individual person or persons, then I say that the goods should

<sup>28</sup> I Corinthians 9. 16.

<sup>29</sup> See above, II. 14, 22.



be conserved, kept and distributed according to the intention of the one who made the gift or the legacy. And if there seems to be some error among the distributors of these goods that needs restraining, it should be corrected, according to the intention of the one who makes the gift or the legacy, by the human legislator or the prince by its authority. Indeed, if he is aware of it and has the power, he sins in neglecting to do so, since this matter does not belong to nor should it take place through any collective body or other individual person, whatever their condition, unless the restraint of such persons has been committed to some person or collective body by the one who made the gift or the legacy; but even then, error on their part should be corrected by the prince. However, neither an individual person nor a collective body may construct a basilica, and establish someone in it as minister of the evangelical law, without a concession from the legislator, for the reasons given before.

17

Furthermore, I want to show by the authority of the catholic kings of France that these propositions concerning the institution of church ministers and the distribution or conferring of temporal goods or benefices should not be dismissed but on the contrary command attention. For these kings assert that the authority to institute and to distribute certain ecclesiastical offices and temporal goods or benefices belongs to them by right (and they have also willed and enforced it in fact, up until the present day) in such a way that this authority does not derive in them or to them from any individual human person or collective body, whatever its condition.<sup>30</sup> For divine law does not prohibit a legislator or prince from instituting and conferring or distributing such things; on the contrary, in perfected communities of the faithful this authority derives from the concession of the legislator, if it is licit and not stealthily usurped to persons or colleges of priests. Hence, the laws of the Roman princes lay down the mode and form of electing or instituting bishops, curates and deans, and of ordaining all the other ministers of the temples in respect of

<sup>30</sup> While an episcopal see was vacant, the French kings claimed the right to its revenues and also to confer certain benefices. The first was a long-standing practice, the second developed only during the thirteenth and fourteenth centuries. It was one of the points at issue between Boniface VIII and Philip IV in 1301–2: the bull *Ausculat fili* of 5 December 1301 insisted on the right of the papacy to confer vacant benefices, claiming that the king could only exercise such powers by privilege of the pope.

their secondary forms of institution, which we stated above in sections 11 and 12, and also define and predetermine their number.<sup>31</sup> For this belongs to the human legislator and the prince, as demonstrated in chapter 8 of this discourse and 15 of the first. So, too, laws have been laid down concerning how to deal with the temporal goods of the church or benefices, and with acts of contention between priests either mutually or in respect of anyone else.<sup>32</sup> And the first Roman bishops, who were holy and conscious of their freedom, not ignorant, never protested against them, but were and wished to be subject to them of their own volition, as indeed they rightly should. This will be clarified further in chapter 21 of this discourse, sections 2 to 8. But as to how such a different state of affairs should have arisen – in which the college of priests does not just say that it is exempt from the laws and customs of the princes of this world, but even makes itself a legislator over them, and obstinately asserts and defends this position – we shall speak of this later.

18

Again, and also as a result of our premises, we should realise that if there is anything left over from the temporal goods of the church (and especially from the revenues of the immoveable goods which we have called benefices) after the requirements of ecclesiastical ministers have been met, the human legislator and the prince by its authority may licitly, according to both human and divine law, receive taxes and levies for the defence of the country or the redemption of those captured in the service of the faith or to support public works or for any other reasonable causes, according to the decision of the faithful legislator. For a person who established such temporal goods for pious causes by legacy or gift, and committed them to another or others to distribute, could not pass them on to any collective body or individual person with an immunity greater than he himself had when they were in his power.<sup>33</sup> But during that time they were never immune from public liabilities; and so neither are they afterwards, when they have been transferred by a donor or founder into the power of someone else.

<sup>31</sup> Code I. 3, *De episcopis et clericis* [etc.] ('On bishops and clergy').

<sup>32</sup> Code I. 2, *De sacrosanctis ecclesiis, et de rebus et privilegiis earum* ('On the holy churches and their goods and privileges').

<sup>33</sup> An implicit reference to the legal maxim that no one can transfer to another more right over something than he himself has: *Regulae iuris*, D. 50. 17. 54.

Ambrose bears witness to this in his letter *On Handing over the Basilicas*, when he said: ‘We render to Caesar the things that are Caesar’s, to God the things that are God’s. Tribute is Caesar’s, it is not denied.’ And again in the same letter: ‘If he’ (the emperor) ‘seeks tribute, we do not deny it. The fields of the church pay tribute.’<sup>34</sup> But he would have denied it to the emperor if he had believed that it was not due to him by right, just as he denied him the temples or the institution of priests within them because he seemed to favour the Arians, even against the opinion of the people. We shall speak of this further in what follows. Hugh of St Victor was of the same opinion, too, in his book *On the Sacraments*, when he said: ‘Although the church may receive the fruits of a temporal possession for its use, nevertheless it cannot exercise the power to enforce justice through ecclesiastical persons or secular judgements. It can, however, have agents, lay persons, through whom the rights and judgements that pertain to the earthly power may be put into effect according to the tenor of the laws and what is due by earthly right; but only in such a way that the church recognises that it has even the very fact that it has this power from the earthly prince, and understands that the possessions themselves can never be so distanced from the power of the king that (if reason and necessity so demand) that power does not owe them protection, and they in turn do not owe it service in case of need. For just as the royal power cannot withhold the protection that it owes to another, so a possession that has been obtained by ecclesiastical persons cannot rightfully deny the service that is owed to the royal power in return for its protection.’<sup>35</sup>

<sup>34</sup> See above, II. 4, 11.

<sup>35</sup> Hugh of St Victor, *De sacramentis*, Book II, part II, ch. 7, MPL 176, c. 420B–C.

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On the origin and first status of the Christian church, and how it comes that the Roman bishop and church has assumed for itself the authority that we have spoken of, along with a certain primacy over the rest

From among our intended purposes, it remains now to make plain the origin and beginnings from which coercive jurisdiction has come into the hands of certain bishops or priests, along with power over all secondary forms of priestly institution (which we called non-essential) and the power of distributing all the temporal goods of the church; and also how it comes about that the Roman pope ascribes to himself supreme power over such things. As a consequence of this we shall also say who it is who has the rightful power to interpret doubtful senses of Scripture, and to give and command them to the faithful to believe and to observe. Assuming first, then, from what we determined in chapters 15 and 17 of the first discourse and chapters 4, 5, 8, 9 and 10 of this, that no coercive jurisdiction over anyone in this world belongs to any bishop or priest or minister of the church as such; next, as was adequately demonstrated in chapters 15, 16 and 17 of this discourse, that no bishop or priest is subject, by the immediate ordinance of Christ, to any other bishop or priest in respect of any sacerdotal power that we have spoken of, essential or non-essential; and also what we have just said, in the previous chapter, concerning the distribution of the temporal goods of the church: assuming all this, the solution to our questions may be sufficiently plain to those who will inspect the matter. But we shall nonetheless proceed to resolve them all individually, more for the sake of the slowness of those who are less well-versed in such things.

## 2

In attempting to answer the proposed questions, then, we will need to consider first of all the extent to which these developments have progressed as a matter of fact, along with their origins; then, how far the things that have happened in this way were or ought to have been in conformity with divine and human law and with right reason, and also what things have happened contrary to and at odds with these; so that finally we may be able recognise those things that are in conformity with them and should accordingly be approved and observed, and those that are at odds with them and should licitly be detested and rejected as harmful to this world and the quiet of the faithful. Now we should look for the beginnings of these things, insofar as they have progressed both as a matter of right and as a matter of fact, from the sacred canon. Concerning what followed, we can gather something from the approved histories, and mainly from the *Codex* of Isidore mentioned above.<sup>1</sup> Finally we can relate certain things that experience, the mistress of the disciplines, has taught us.<sup>2</sup>

## 3

Making a start, then, from the sacred canon as from the source of the truth we are looking for, let us take up the pronouncement of Christ at

<sup>1</sup> The main history that Marsilius consults is the late thirteenth-century *Chronicon pontificum et imperatorum* (*Chronicle of Popes and Emperors*) by Martinus Polonus. Martinus was, however, a Dominican friar and Marsilius will object to what he takes to be the pro-papal slant of the work: cf. below, II. 25, 8. The ‘*Codex* of Isidore’ is ‘mentioned above’ at II. 16, 12. This collection of canon law contains a wealth of material, both authentic and forged, on the early church and councils, and is attributed by Marsilius (as by his contemporaries) to Isidore, i.e. the Christian bishop and polymath Isidore of Seville (ca. 560–636). The work is in fact by an anonymous ninth-century compiler, although it has as its basis a genuine collection of Spanish conciliar legislation called the *Hispana* (or *Isidoriana*), contemporary with the fourth council of Toledo (633 CE) at which the genuine Isidore presided. In terms of substance, the Pseudo-Isidorian collection decidedly favours papal jurisdictional primacy, as Marsilius recognises and criticises (cf. below, II. 20, 8–9); it includes the famous forgery, the ‘Donation of Constantine’ (below, section 7). Although Marsilius does not explicitly call this document into question, he does (correctly) question the authenticity of a letter it includes purporting to be written by Clement I, the first Roman pope: below, II. 28, 4. For the modern editions referred to in subsequent notes, see the Notes on the References, above, p. lv.

<sup>2</sup> This echoes the phrasing of the canon law, cf. *Liber sextus*, Book I, tit. 6, cap. 6 (CIC II, co. 950): ‘... not only do the laws attest, but experience, the world’s effective mistress, also makes plain.’ For the importance of experience in Marsilius’s argument, see the Introduction, above, p. xix.

John 20, in which he gave priestly authority or the power of the keys or both to the apostles without differentiation, when he breathed on them and said: 'Receive ye the Holy Ghost. Whose soever sins ye remit, they are remitted unto them.' To this we can also add the commandment by which he enjoined upon these same apostles, again without differentiation, the preaching of the gospel over the entire globe: 'Go ye therefore, and teach all nations etc.'<sup>3</sup> To these he afterwards, in a direct calling, added Paul as his chosen vessel, sc. of the holy spirit, as is clear enough from Acts 9.<sup>4</sup> Now as is plain from their Acts and Epistles, Paul and the other apostles, carrying out the commandment of Christ just mentioned, first proclaimed and taught the gospel or Christian faith in Judea, and there converted many people to it. Later, however, by divine revelation and their own mutual arrangement, some of them stayed in Judea while others took themselves separately to different peoples and provinces. In these, preaching the gospel with confidence and constancy, each made gains in converting persons of both sexes as far as he was capable and it pleased God, as is told in the legends or approved histories of them; even though of all the rest, two of them, sc. Saint Peter and Saint Paul, made especially noteworthy gains in their preaching. Indeed this Paul, despite not being of the twelve, was nonetheless directly and principally called and sent by Christ, equally with any of the other apostles, as is apparent from Acts 9 and as was sufficiently shown in chapter 16 of this discourse from Galatians 2, together with what the saints said in their expositions.

#### 4

Now it is from these two apostles, I say, Peter and Paul, that the ritual of the Christian church has for the most part been derived, although more obviously from Paul (according to the canon), especially with regard to the gentiles; for this Paul was himself the principal and primary apostle to the nations or the gentiles or the uncircumcision, just as Peter was to the circumcision, as is apparent in Galatians 2 and Romans 11, and also from the gloss of the saints on the same place, and in many other places of Scripture.

<sup>3</sup> John 20. 22–3.

<sup>4</sup> Acts 9. 1–18 (the story of Paul's conversion), esp. 15: 'for he is a chosen vessel unto me'.

5

These two apostles along with all the others, imitating their master (viz. Christ), lived under the coercive jurisdiction of the princes of this world and taught others to live in this way, as was evidently demonstrated in chapters 4 and 5 of this discourse. And in this way too did their successors live, the priests and bishops together with their deacons and other ministers of the gospel, up until the time of Constantine the First, emperor of the Romans, as is apparent enough from the said *Codex* of Isidore; so that throughout all that time, no bishop exercised coercive jurisdiction over other bishops. Even so, however, many bishops of other provinces, not daring to gather together publicly, consulted the bishop and the church of the faithful at Rome on those matters in which they were in doubt, concerning Holy Scripture as well as church ritual, because the multitude of the faithful there was perhaps greater as well as more learned: since the study of all the sciences flourished in Rome at that time and as a result their bishops and priests were more learned, and the church there was more abundant in such men than were the others. They were also more worthy of reverence: firstly because it is written that Saint Peter, the elder of the apostles and the one more perfect in merit and more deserving of reverence, had his seat there as bishop, and likewise Saint Paul, concerning whom there is more evidence, as became apparent in chapter 16 of this discourse; secondly because Rome was the principal city and of greater renown in comparison to the other provinces of the world. Hence too the faithful of other provinces, lacking sufficient persons, requested from the bishop and church of the faithful at Rome persons to be placed over them as bishops to govern their churches, because the church of the faithful at Rome was more abundant in such persons, as we have just said. And being requested in this way, the bishops and church of the Romans, in charity and in brotherhood, provided counsel and help in these matters to those who needed and requested it, both with regard to the faith and with regard to church ritual and the supply of persons: sc. by sending them bishops, when scarcely any of them could be found who were willing to accept the office; by sharing with the other provinces, in friendly fashion, ordinances which they had made for themselves concerning church ritual; and sometimes even by giving charitable warning, when they heard of mutual contention or schism on the part of the faithful in other provinces.

6

And the churches of the other provinces received all this with gratitude, as is apparent enough from various histories and from passages of the said *Codex*, from the time of pope Clement (who, as is written there, was the first bishop to succeed Peter or Paul or both) up until the time of the said Constantine.

It was in this or similar fashion that the Roman people received from the Greeks, freely and without compulsion, certain laws called the Twelve Tables from which the rest of the laws of the Roman people followed as from their source.<sup>5</sup> And yet it is certain that the Roman people was not, because of this, subject to the Greeks in any jurisdiction or authority. Likewise too – as the man who brought this book into being saw, heard and knew – the university of scholars at Orléans, through its messengers and letters, requested and petitioned the university of Paris, as being more well-known and venerable, to have its rules, privileges and statutes; without however being in any authority or jurisdiction subject to the university of Paris either before or afterwards.<sup>6</sup>

7

Now from this quasi-customary priority of which we have spoken, with the unforced consent of the other churches, the Roman bishops – as they progressed further from their beginnings – assumed a certain more ample authority to institute ‘decrees’ or ordinances concerning church ritual and priestly activity over the universal church, and to command their observance, up until the time of Constantine. Whether the Roman bishops were capable of doing this on their own authority alone, or whether the consent of others was necessary, we shall say in what follows.

<sup>5</sup> The Twelve Tables was an ancient Roman legal code dating from the mid-fifth century BCE, which according to legend had been borrowed from the Athenian legislation of Solon at the beginning of the fifth century BCE. Marsilius’s source was probably Gratian’s *Decretum*, Part I, dist. 7, cap. 1 (CIC I, col. 12), itself taken from the *Etymologies* of Isidore of Seville (Book V, ch. 1).

<sup>6</sup> Previt -Orton notes here that the already famous *Studium generale* of Orl ans was made a university in 1306; the new statutes of 1307 included the organisation of the university into four ‘nations’, as in Paris, with an elected rector. The French king Philip IV (Philip the Fair) suppressed the university in 1312 (in a decree which included a comparison to the Romans receiving their laws from the Greeks, which Marsilius may be echoing here); but it was restored in 1319–20 by the action of the pope, John XXII, and king Philip V.



This said Constantine (as Isidore relates in the *Codex* already mentioned, in the chapter *On the Early Church in the Nicene Council*,<sup>7</sup> and as is likewise contained in the *Edict of the Lord Emperor Constantine*),<sup>8</sup> was the first emperor who openly adopted the faith of Christ, at the ministration of Saint Sylvester, then the Roman pope, and he also seems to have exempted the priesthood from the coercive jurisdiction of princes. Still further, he seems from the said edict likewise to have given the Roman church and its bishop authority and powers over all the other bishops and churches (which they now assert belong to them from another source, as we related above in chapter 19 of the first discourse, sections 8 and 9), and along with these coercive jurisdiction over their fields, estates and many of their possessions, together even with secular dominion of certain provinces, as is plain to anyone who inspects the said edict. Constantine was also (as is written in the same place) the first emperor who granted Christians the licence to gather in public, to build temples or churches, and it was also by his command that the first Nicene council was called.

Now as far as it may be appropriate to our purpose, we shall touch upon and bring in histories of this and all the other things that were done as the church progressed from apostolic times to the present, in consequence and in their respective places. From these we shall take up those that were consonant with divine law and right reason and reject those that were in disagreement, saying also how the things that were done should have been done, according to the evidence of the sacred canon.

8

Now that we have conveyed in some way the progress of the matters we must decide upon from their origins, let us enter more fully upon our determinations and, together with the Apostle, take it as our

<sup>7</sup> Ps.-Isidore, ed. Hinschius, pp. 247–8, *De primitiva ecclesia et synodo Nicena*.

<sup>8</sup> The so-called ‘Donation of Constantine’, in Ps.-Isidore, ed. Hinschius, pp. 249–54. This forgery was apparently the work of a clerk at the Roman curia in the second half of the eighth century, in support of the papal claim to rule the city of Rome and central Italy, although it was later used by the papacy and pro-papal publicists to support much wider claims to universal temporal jurisdiction. The gist of it is much as Marsilius reports, although he does not relay its most contentious passages in which Constantine supposedly gives the pope the imperial palace at Rome and the imperial regalia, together with the rest of Rome, Italy and all the provinces of the West. A translation of the crucial passages can be found in B. Tierney, *The Crisis of Church and State 1050–1300* (Toronto: University of Toronto Press in association with the Medieval Academy of America, 1988), pp. 21–2.

unquestionable assumption that the catholic faith is one and not several; hence in Ephesians 4: 'One Lord, one faith'.<sup>9</sup> Again, that this faith is in unity in the same sense, viz. that it must be believed and confessed by all the faithful, as the Apostle says in the same letter, a little later: 'Till we all come in the unity of the faith, and of the knowledge of the son of God.'<sup>10</sup> From these premises we shall of necessity infer, firstly, that it is expedient to put an end to doubtful senses and opinions of divine law, especially the evangelical law, and also to any contentions or controversies that may arise between its learned doctors – something we read has already occurred as a result of the ignorance or evil of some people, or both, in accordance with the prophecy of Christ and the Apostle. But we shall show that it is a necessary corollary of this that determinations of this kind belong solely to a general council of all the faithful, or of those who have the authority of all the faithful.

I shall then show, in accordance with divine law and right reason,<sup>11</sup> that it belongs solely to the authority of the human faithful legislator which lacks a superior to call a general council and to assemble it with coercive power, if necessary, and not to any individual person or college, of whatever dignity or condition they may be, unless authority has been granted them by the above-mentioned legislator.

I shall show further, as a matter of certainty, that nothing can be laid down regarding church ritual and human actions which obliges all men to observe it, under some penalty for the status of the present world or of that to come, except by the general council or supreme faithful legislator either directly or through an authority previously derived from it. As a consequence of this it will also be demonstrated that no priest or bishop, whoever he be, can or ought to put under interdict or excommunicate any prince, province, or community, except according to the manner ordained by divine law or the above-mentioned general council.

It will next be shown, with plain evidence, that it does not belong to the authority of any single bishop alone – nor to that of any other single individual person or single particular college whatsoever – to institute persons in all the ecclesiastical offices of the world, nor to distribute or confer the temporal goods of the church, called benefices, on these same persons. Rather this authority belongs solely to the founder or donor or to

<sup>9</sup> Ephesians 4. 5.

<sup>10</sup> *Ibid.* 13.

<sup>11</sup> See above, II. 12, 8 and note there.

the universal faithful legislator, or to that or those persons to whom the same donor or legislator may have granted this power, and according to the manner or form in which he or it has done so.

Thereafter it will be shown that it is appropriate to institute a single bishop or church as principal or head of the others, and of what nature these should be and by whose authority. It will belong to this man and to his church to communicate to all the other bishops and churches the things that have been ordained and seem necessary to be ordained by general councils, concerning church ritual and other human actions, to the common utility and quiet of the faithful.

Lastly we shall infer from these premises, of necessity, that those things that have been determined by a general council, concerning Scripture and the catholic faith as much as church ritual, together with whatever else has been established in the same way, can be changed, added to, detracted from, suspended, or entirely revoked solely by the authority of a general council, and not by that of any other particular college or individual person.

From all of the above it will be brought to everyone's almost sensible notice that the Roman bishop or his church, or any other bishop or church, has as such none of the said powers or authority over other bishops or churches by divine or human law, except any that it may have been granted, either absolutely speaking or for a certain time, by the said general council. For the same reason it will also become clear that it is inappropriate, undue and beyond – indeed contrary to – the sense of the divine scriptures and human demonstrations for the Roman bishop (or any other bishop) to ascribe to himself plenitude of power over a prince, community or any individual person; and that this same bishop (and anyone else) should be prevented from attributing it to himself by human legislators or those who exercise principate by their authority: even by warning and coercive power if that is necessary.

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On a certain preliminary to determining the  
authority and primacy just-mentioned, viz. what  
spoken or written truth we must believe and  
confess of necessity of eternal salvation

However, before we proceed to the demonstration of our propositions, we should take note of something extremely useful or indeed necessary for the certainty of everything we shall say in what follows. It is this: that we are not bound, of necessity of eternal salvation, irrevocably to believe or confess any writing other than those scriptures that are called ‘canonic’, or what necessarily follows from them, or – where the sense of Holy Scripture is doubtful – those interpretations or decisions that have been made through a general council of the catholic faithful; especially in those matters where an error would incur eternal damnation, such as are the articles of the Christian faith.<sup>1</sup>

## 2

We assume as self-evident to all Christians that the Holy Scriptures should be firmly believed and confessed to be true; and because this cannot be proved otherwise than by their own authoritative pronouncements, I have omitted the passages for the sake of brevity. It is also

<sup>1</sup> Dante in his *Monarchy* also prefaces his treatment of the relationship between pope and emperor (Book III) with a discussion of what kinds of writing have a claim to truth (chapter 3), stressing the priority of origins: first scripture, then the early church councils, then the authority of the fathers, and finally the decretals and the traditions of the church: *Monarchy*, tr. Shaw, pp. 64–8. Marsilius’s argument, however, is far more acute and far-reaching in its critique.

apparent enough that we should give the same belief to interpretations of them made in the way we have said, since it seems that we must, in piety, hold that they have been revealed to us by the same holy spirit. We can show this from Scripture and an infallible argument based upon it. From Scripture, when the Truth says in Matthew 28, the final chapter: ‘and, lo, I am with you always, even unto the end of the world.’<sup>2</sup> On this Rabanus Maurus has: ‘From this it can be understood that even unto the end of the world, there will not fail to be those who are worthy of God’s immanent presence and dwelling;’<sup>3</sup> and we must in piety hold that the holy spirit always accompanies such people for the preservation of the faith. Hence Jerome: ‘Thus he promises that he will be with his disciples even unto the end of the world, and shows that they shall live for ever, and that he will never leave those who believe in him.’<sup>4</sup> The same is explicitly persuaded from Acts 15, when the gathering of the apostles and the faithful says after resolving the ambiguity in question: ‘it seemed good to the Holy Ghost, and to us.’<sup>5</sup> For they asserted, and Scripture asserts, that in this doubt concerning the faith their decision was made by the holy spirit. Since, therefore, the gathering of the faithful or general council truly represents, through succession, the gathering of the apostles and other elders of the faithful at that time, it is very likely, indeed certain, that in resolving doubtful senses of Scripture – especially those in which error would cause a danger of eternal damnation – the force of the holy spirit, guiding and revealing, is present at the deliberations of the universal council.

### 3

This can also be made plain by an infallible deduction, which takes its force from Scripture: since it would have been in vain for Christ to have given the law of eternal salvation if he had not disclosed the true understanding of it – which the faithful must of necessity believe for salvation – to these same faithful as they seek and at the same time invoke it, but had instead allowed the majority of the faithful to be in error with regard to it. Indeed, such a law would not only be useless for salvation, but would also

<sup>2</sup> Matthew 28. 20.

<sup>3</sup> Aquinas, *Catena aurea*, Vol. 1, 424.

<sup>4</sup> *Ibid.*, 425.

<sup>5</sup> Acts 15. 28.

seem to have been given to the eternal damnation of men. And therefore we must in piety hold that the resolutions of general councils concerning doubtful senses of Scripture derive the source of their truth from the holy spirit. But (as will be shown in what follows) the authority to coerce people to observe and to confess them derives from the human legislator, and their promulgation and teaching from priests and ministers of the gospel; and among these especially him whom the faithful human legislator which lacks a superior, or a general council, has made the principal for this purpose.

4

It is apparent on the other hand that no one is bound to believe with certainty, or to confess as true, any other scriptures, sc. those that have been revealed and handed down by the human spirit. Because no one is bound to believe firmly, or to confess as true without qualification, any writing that has the potential to signify what is false. But this is what any writings that rest upon human invention, of an individual person or a particular college, are subject to. For they can fail in their truth, as is clear from experience and as Psalm 115 has it: 'I said in my haste, all men are liars.'<sup>6</sup> But this is not so with the canonic scriptures, because they do not arise from human invention but are handed down by the direct inspiration of God, who cannot be deceived nor wishes to deceive.

5

Now this opinion that we have stated, and the difference between human and divine scriptures, is explicitly confirmed by Augustine in his thirteenth letter to Jerome, when he said: 'For I confess to your charity: I have learned to give solely to the books of scripture that are now called canonic such honour and awe as to believe firmly that none of their authors has erred in any way in writing; and that if anything should present itself in their words that might seem contrary to truth, I should be in no doubt that it is nothing more than that the manuscript is faulty or that the translator did not follow what was said or that I myself have not understood. Whereas I read other men, however outstanding they may be in holiness or doctrine, in such a way as not to think something true

<sup>6</sup> Psalms 115. 11 (AV 116. 10).

simply because that was their view, but rather because they have been able to persuade me, either by means of the canonic authors or by probable reasoning, that it was not deviant from the truth.<sup>7</sup> He repeats the same thing by way of warning in the prologue to the third book of *On the Trinity*, when he said: ‘Do not’ (sc. you the reader) ‘be subservient to my words as if they were the canonic scriptures. In those’ (i.e. the canonic scriptures) ‘you should wholeheartedly believe even what you do not believe, when you come upon it. But in these you should not hold anything firmly which you do not have as certain, unless you have understood it to be certain.’<sup>8</sup> He said the same thing too in his letter *To Fortunatianus* and in many other books, but I have omitted these passages for the sake of brevity. Jerome, too, seems to have been of the same opinion in his *Exposition of the Catholic Faith*, when he said: ‘We accept the New and the Old Testament among the number of those books that the authority of the holy catholic church has handed down.’<sup>9</sup>

6

So Saint Augustine understood by the canonic scriptures only those that are contained in the volume of the Bible, and not the decretals or decrees of the Roman pontiff and his college of clergy, whom they call ‘cardinals’, nor any other human statutes concerning human acts or contentions that have been invented by the human spirit. For a canon is a rule and a measure: a measure, because it is certain; and this is the property of divine writing alone of all the rest, as we concluded before from Augustine. And so too this same Augustine separated his own writings from those that are canonic; not even he, who was of such great holiness, authority, and knowledge, presumed to call his own contributions canonic. For this is impious and a kind of sacrilege, since error and falsehood can occur in what is passed on in human writing or speech, whereas this can never occur in the canon, which is spoken according to truth, or in

<sup>7</sup> Augustine, *Epistolae* 82, CL 262, *Cetedoc* from CSEL 34.2, ed. A. Goldbacher (Prague, Vienna and Leipzig: Tempsky and Freytag, 1898), par. 3, p. 354, ll. 4–15; MPL 22, c. 937.

<sup>8</sup> Augustine, *De trinitate*, Proem to Book III, CL 329, *Cetedoc* from CC Vol. 50, ed. W. J. Mountain (Turnhout: Brepols, 1968), par. 2, p. 128, ll. 38–41. The passage was inserted into the *Decretum*, Part I, dist. 9, cap. 3, CIC I, col. 17.

<sup>9</sup> The *Expositio catholicae fidei* is a Pelagian work, later attributed to Jerome as *Symboli explanatio ad Damasum*: it can be found St Jerome, *Opera* V (ed. Johannes Martianay, Paris: Claude Rigaud, 1706); the present quotation at col. 124.

something of the same nature, such as we have said is an interpretation of canonic scripture made by a general council.

7

For this reason, too, we find it very reasonably prohibited by the third Carthaginian council for any other scriptures to be read under the name of these, sc. the canonic. Hence in the same place we read the following passage (and it is contained in the above-mentioned *Codex* of Isidore): ‘Again it was decided that nothing apart from the canonic scriptures should be read in church under the name of divine scriptures. The canonic scriptures are: Genesis’,<sup>10</sup> and all the others that are there enumerated from the volume of the Bible.

8

Neither is what Augustine says in his *Against the Manicheans in their Letter of the Foundation* an objection to this. For he there says: ‘Indeed I would not believe the gospel, unless the authority of the church bade me,’<sup>11</sup> in which he seems to place a human authority over the authority of Scripture. ‘For that through which a thing possesses an attribute, always itself possesses that attribute to a greater degree.’<sup>12</sup> But for our part, let us say that it is one thing to believe that a speech or a piece of writing has been handed down or made by someone, and another to believe that it is true, useful or harmful, to be observed or to be disregarded. For a person can accept the first of these from the testimony of men without the second, and the second without the first, and similarly sometimes both; as for example a person may believe that a certain piece of writing, put in front of him, is the law of the land from the common testimony of the inhabitants, while he is able to learn that it is true, and should be observed not transgressed, from some sensible sign, for example by the penalty he sees inflicted upon those who transgress it, or by his own right reasoning, quite apart from the persuasion and words of men. So too, conversely, someone seeing a person fashion a book or a house or some other thing

<sup>10</sup> Ps.-Isidore, *Concilium Carthaginense* III, Canon 47, ed. Hinschius, p. 301; PL 130, c. 338.

<sup>11</sup> Augustine, *Contra epistolam Manichaei quam vocant Fundamenti*, CL 320, *Cetedoc* from CSEL 25, ed. J. Zycha (Prague, Vienna and Leipzig: Tempsky and Freytag, 1891), pp. 193–248: par. 5, p. 197, ll. 22–3; MPL 42, c. 176.

<sup>12</sup> Aristotle, *Posterior Analytics* I, 72a29–30; cf. above, I. 16, 15 and note there.



might believe of himself, without the testimony of men, that the house or the book was fashioned by that person. But he can believe from the testimony of men, especially those worthy of trust, that the contents of the book are true or false, useful or harmful, to be pursued or avoided. Again, someone can on occasion accept both from the testimony of men, as for example someone who had never seen Hippocrates could believe that this is Hippocrates' book and teaching from the testimony of men. And as to whether the writings it contained were true or false, or should be observed or disregarded in order to preserve health and avoid illness, this too he could accept from the testimony of experts.

9

In the same or a similar way, a person can take from the common testimony of the faithful or of the catholic church the belief that a particular piece of writing contained in the Bible is a communication or law of God, issued or spoken by Christ, even if he has not seen or heard Christ or perceived him with any other external sense. But he may believe that this scripture is true, or that he should observe it, from faith or some sensible sign, e.g. a miracle, without the testimony of anyone: just like Paul, who believed that the law he at first persecuted was the teaching of Christ from the testimony of those who preached it and whom he persecuted, but did not therefore believe that it contained the truth. He believed that it was true later, firstly from a miracle perceptible by sensation, and from the faith that he had afterwards. But similarly both have sometimes been accepted from the testimony of men, for many believe and have believed that this scripture is the law that has been handed down and issued by Christ, and also that its contents are true and should be observed in order to achieve eternal salvation and avoid misery, when they have not seen Christ nor recognised him by an external sense nor have they ever perceived any miracle or sensible sign of this.

10

What Saint Augustine says, then: 'I would not believe the gospel etc.', can have a double meaning according to what we have just said. One, that he believed that this scripture was the gospel, i.e. the communication of Christ, from the testimony of the catholic or universal church, but he believed that this scripture or gospel contained the truth principally

because of a miracle, perhaps, or by a certain revelation or from the faith by which he believed that Christ was the true God and therefore that anything handed down by him was true and should be observed. But the said words of Augustine can also have a second sense, that he accepted and believed both primarily on the testimony of the catholic church; although the first sense seems more in harmony with the opinion of the Apostle in Galatians 1, for it is not the case that the words of Christ or of God are true, causally speaking, because the catholic church witnesses to them with true testimony, but rather that the testimony of the church, when it speaks the true words of Christ, is true, causally speaking, because of the truth of the words of Christ. Hence the Apostle, as above: 'But though we, or an angel from heaven, preach any other gospel unto you than that ye have received, let him be accursed.'<sup>13</sup> It should likewise be understood that even if the whole church preached another gospel, i.e. a contrary gospel, it would not be true. And the reason is, because it was certain to him that the gospel was the word or revelation of Christ, in which there could be no falsity; although by necessity of consequence, reasoning from what comes later to what comes earlier, it does indeed follow: The catholic church says that this declaration, 'God is one in three persons,' (or any other saying or command of Christ that it says should be observed) is true, therefore it is true. This is because (as was apparent from our premises) we must in piety hold that what the catholic or universal church says in matters concerning the faith has been directly revealed by the holy spirit. And therefore, in whatever sense one explains the words of Augustine in question, they are not in opposition to the opinion we have asserted: since to believe what the church says in matters of faith is to believe the holy spirit more than it is to believe man. And when Augustine says that he only believes the gospel because of the authority of the church, this is because he took the beginnings of his faith from that church, which he knew was directed by the holy spirit. For faith sometimes begins with something heard. However, I am calling the 'catholic church' the church that is most properly and truly said to be the church according to the last signification of 'church' given in chapter 2 of this discourse, sc. the universal church.<sup>14</sup>

<sup>13</sup> Galatians 1. 8.

<sup>14</sup> See above, II. 2, 3.

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## Who has or has in the past had the authority to define or determine doubtful senses of Holy Scripture

With these preliminaries in place, we resume our propositions in order to bring them to a conclusion. We first want to show that it is expedient and necessary to define any doubtful meanings or senses of Holy Scripture which have already arisen or will arise as soon as they do so, especially in the matter of articles of faith, commands and prohibitions. For that without which the unity of the faith would not be safeguarded, and error and schism would occur among Christian faithful in respect of the faith, is expedient or indeed necessary. But this is the determination of the doubtful and sometimes contrary opinions of various doctors on the subject of divine law; since in this matter, divergences or sometimes antagonisms of opinions would lead to divergent followings, schisms and errors – as is narrated in the *Codex* of Isidore we mentioned before, in the chapter entitled ‘Here begins the preface to the Nicene council.’<sup>1</sup> For a certain Alexandrian priest called Arius had said that Christ was the son of God in such a way that he considered him to exist purely as a created being and consequently unequal and inferior to God the father. When this error was spread abroad, a large number of Christians succumbed, and it would have been even greater and remained in its error if the true sense of Scripture in this matter had not been defined over and against the false. So, also, certain individuals put forward unsound opinions against the holy spirit and about the unity and plurality of person and

<sup>1</sup> Ps.-Isidore, ed. Hinschius, p. 254.

essence in Christ; and the first four synods – of Nicaea, Constantinople, Ephesus and Chalcedon – were summoned and gathered for the purpose of separating these false opinions from the true, reproving and condemning them.<sup>2</sup> For Christ prophesied that there would be these controversies among the doctors of the Christian church, true or counterfeit faithful, in Luke 21, and the Apostle too in I Timothy 4 and II Timothy 3. I omit the passages because of their familiarity and in order to keep the discussion short.

2

I show in consequence that the principal authority for this determination, either direct or through an intermediary, belongs solely to the general council of Christians or their prevailing part or those to whom this authority has been granted by the universal body of faithful Christians, in the following way: All the provinces or notable communities of the world should elect, in accordance with the decision of their human legislator (be it single or several) and in proportion to the quantity and quality of persons in them, a number of faithful men, priests first and then some who are not priests but are nevertheless suitable as being more approved in their way of life and more expert in divine law. These men, as judges in the first signification of judge, and representing the universal body of the faithful through the said authority granted them by those other universal bodies, should convene in a certain place in the world (though it should be the one that is most suitable according to the decision of the more numerous part<sup>3</sup> of them); and in this place they should define anything that has become apparent as doubtful, useful, expedient, and needing to be determined, and at the same time take it upon themselves to ordain any remaining matters concerning church ritual or divine worship, including future concerns, for the quiet and tranquillity of the faithful. For it would be redundant and contrary

<sup>2</sup> The council of Nicaea (325 CE) affirmed against Arius that the Son is ‘of one substance with the Father’, and condemned the proposition that the Son is inferior to the Father and belongs to the created order. The council of Constantinople (381 CE) reaffirmed the Nicene position, though the wording of the creed was different. The council of Ephesus (431 CE) condemned the arguments of Nestorius (concerning the correct epithet for Christ’s mother), which again seemed to suggest that Christ was not God. The council of Chalcedon (451 CE) condemned the ‘monophysite’ heresy, i.e. that there was only one nature in Christ rather than two (God and man).

<sup>3</sup> *Plurima pars*: here a distinct numerical majority is implied.

to utility for an inexpert multitude to convene for this gathering: contrary to utility, because it would be disturbed from tasks that are necessary to sustain bodily life, and this would be burdensome to it and perhaps intolerable.

3

Although all the faithful are obliged by divine law to take part in this gathering for the end we have stated, this is so in different ways. For priests are obliged in that it is their office to teach the law in its true sense, take care over anything that might further its genuineness and truth, reprove errors contrary to it and recall men from them with their exhortations, demonstrations and reproaches. Hence in the [last chapter](#) of Matthew the Truth says to all priests, even if in the person of the apostles: ‘Go ye therefore, and teach all nations.’<sup>4</sup> For this reason too the Apostle, speaking in the person of them all, said in I Corinthians 9: ‘for necessity is laid upon me; yea, woe is unto me, if I preach not the gospel!’<sup>5</sup> After the priests, those who are expert in divine law are obliged more than the rest of the multitude: for they must arouse the others and convene together with the priests, especially if they have been sufficiently required and mandated for these purposes; since ‘to him that knoweth to do good, and doeth it not, to him it is sin,’ as is written in James 4.<sup>6</sup> In addition, in order to define things not contained in divine law for the common utility and peace of the faithful, those who have been instituted for this purpose by the faithful human legislator can and should be present at the council. Legislators are also obliged to this, by choosing suitable people to make up the council, providing them with their temporal necessities, and if necessary compelling those who refuse to convene but are nevertheless suitable and elected to do so, both priests and non-priests, for the sake of the public utility.

4

That the said authority to define and to ordain in the manner stated belongs solely to a general council, and not to any other individual person

<sup>4</sup> Matthew 28. 19.

<sup>5</sup> I Corinthians 9. 16; cf. above, [II. 17, 15.](#)

<sup>6</sup> James 4. 17; cf. [I. 1, 5.](#)

or particular college, can be persuaded through demonstrations and authorities of Holy Scripture similar to those we used in chapter 12 of the first discourse and 17 of this to show who has the authority for legislation and the secondary institution of ecclesiastical offices, changing only the minor term of the demonstrations: viz. so that doubts to be determined or defined with regard to divine law, together with anything else that needs to be ordained concerning church ritual or divine worship and the peace and unity of the faithful, should be understood instead of the terms ‘law’ or ‘secondary institution of ecclesiastical offices’. And the present matters call for discretion the more necessarily – and more diligent care needs to be applied – inasmuch as they concern the law or faith which is to be upheld and things that can profit or harm all the faithful.

5

For this is what the apostles did, together with the elders, in the case of doubts that arose concerning the gospel, as is apparent from Acts 15 which we quoted in detail in chapter 16 of this discourse. For neither Saint Peter nor any other apostle by himself or individually determined the doubt there concerning circumcision; rather, all the apostles gathered together for these purposes together with the elders or those more expert in the law. And a sign that what we have said is true is that even at the first councils, faithful emperors and empresses were present with their officials in determining doubts concerning Scripture (as is clear enough from the often-mentioned *Codex* of Isidore, which we shall quote in the [next chapter](#), sections 2 to 8), even though at that time no such necessity called for the presence of non-priests as in modern times, because of the greater mass of priests and bishops nowadays who lack the requisite knowledge of divine law. So that when priests disagree among each other as to what should be believed for eternal salvation, the prevailing part of the faithful must be the judge of which part of them is the more sound; although if they all agree on matters in which there seemed to be a doubt, credence should be given to them as long as they have been promoted to orders in the way that we said in chapter 17 of this discourse.

6

Again, for this reason I want to show further that this determination does not belong to the Roman bishop alone, nor even to him together only with

his company of cardinals; and in consequence of this, that it does not belong to any other single bishop, either alone or together with some other particular college. For supposing – as does happen – that a heretic is adopted to the Roman pontificate, or, if he was not a heretic before, that he afterwards falls into this sin through ignorance or wickedness or both: for we read that such men have already been adopted, like Liberius, ‘a native Roman’.<sup>7</sup> Now if this pontiff alone, or together solely with his company of cardinals (who are very likely complicit in his error, in that he chooses and asserts that he can choose for himself whoever he likes, without anyone determining his choice), were to decide something with regard to some doubtful sense of Scripture, should we stand by the opinion of this bishop or of him and his college or its greater part<sup>8</sup> alone, who were perhaps seduced by ignorance or wickedness, cupidity or ambition, or some other sinister affection?

7

On this subject – so as not to look too far for an example – we see that this has occurred in the case of a certain Roman pope. Unwilling to be seen to desert the supreme poverty of Christ or the status of perfection, but at the same time wanting to retain temporal goods (including immoveables) in his dominion, to claim and to exercise secular principate, he, by himself individually or together only with his company of cardinals, has issued an edict concerning the status of supreme poverty or perfection, which, through its false interpretation, contains an opinion in contradiction to the gospel of Christ, as we plainly showed in chapters 13 and 14 of this discourse.<sup>9</sup> For this reason, if this authority were granted to any bishop alone or to him together solely with his college of clergy, the universal body of the faithful would risk danger of shipwreck in matters of faith, as anyone of sound mind is capable of gathering from what has already been said and what we shall go on to say.

<sup>7</sup> Martinus Polonus, *Chronicon pontificum et imperatorum*, MGH *Scriptores* 22, 416.

<sup>8</sup> *Pars maior*.

<sup>9</sup> John XXII’s bull *Cum inter nonnullos* of 1323, which explicitly declared that the opinion that Christ and his apostles had nothing is heretical.

8

Further, if such authority belonged as said to the Roman pope or any other bishop alone; or if, in accordance with Isidore (in the said *Codex*, chapter entitled: 'The preface of Isidore to the work which follows'),<sup>10</sup> the letters or decrees of the Roman pontiff were equal or not unequal in authority to things that have been determined and defined by a general council; then all secular principates, all kingdoms and provinces of the world, and all individual persons, of whatever dignity, prominence or condition they may be, would be subject in coercive jurisdiction to the first priest at Rome. For Boniface VIII, Roman pope, decreed this very thing in a letter or decree of his which begins: 'One holy catholic church'; and ends: 'Furthermore, that every human creature is subject to the Roman pontiff, we declare, state and define to be wholly of necessity of eternal salvation.'<sup>11</sup> Thus since matters concerning Scripture (particularly those that it is necessary to believe are true for eternal salvation), once determined by a general council correctly convoked and gathered, and held and brought to a close according to the due form, are of immutable and infallible truth, as was demonstrated towards the beginning of chapter 19 of this discourse, it follows that this letter of Boniface will attain certain and indubitable and irrevocable truth. And yet it is plain from the beginning, now, and always, that it is false, erroneous, and the thing most prejudicial to those who live a civil life that anyone could think up: as was demonstrated beyond doubt in chapters 4, 5 and 9 of this discourse.

9

That it is as false as Isidore's assertion (unless this can perhaps be rescued by a pious interpretation) is openly demonstrated from a letter or decree of Clement V, the successor of this same Boniface, which begins: 'It was deserving of our most beloved son Philip, illustrious king of the French', and ends: 'In respect of the church, just as in respect of the king and kingdom named above.'<sup>12</sup> For in this letter, the said Clement explains and defines that Boniface's letter is in no way prejudicial to the said king or

<sup>10</sup> Ps.-Isidore, ed. Hinschius, p. 18.

<sup>11</sup> This is the notorious bull *Unam sanctam: Extravagantes communes*, I. 8. 1 (18th November 1302), CIC II, cols. 1245–6. A full translation can be found in Tierney, *Crisis of Church and State*, pp. 188–9.

<sup>12</sup> *Extravagantes communes*, V. 8. 2 (1st February 1306), CIC II, col. 1300.



kingdom. But according to Clement's own conscience and what he and all Christians know, neither the said king nor any successor of his nor any inhabitant of his kingdom has believed or will ever believe that the contents of the said letter, in the point where he subjects to himself all principates and realms, is true, but rather openly false. It necessarily follows, therefore, that it is not of necessity of eternal salvation to believe it, for if it were, it would indeed be prejudicial to one who did not believe it.

IO

Further, letters or decrees of this kind will be seen to be pieces of lunacy by anyone who considers them. For if that of Boniface contains the truth, it obliges all princes and peoples of the world to believe it; whereas if that of Clement is true, it does not oblige everyone because the king of France alone, together with the inhabitants of his kingdom, is exempted from this credulity. Therefore there are some things that some people have to believe, of necessity of salvation on the authority of Scripture, and others do not. There is not therefore 'one Lord', nor 'one faith', nor are 'all' bound to come to Christ 'in the unity of the faith'; which is the exact opposite of what the teacher of the nations says in Ephesians 4.<sup>13</sup>

II

We should again ask Clement, on what sane understanding could the king of France, as a result of his faith, have deserved (together with his subject peoples) not to be obliged to believe things that must be believed of necessity of salvation? Either therefore they have deserved, as a result of their faith, to become heretics and infidels, or the letter of Boniface contains an open lie, and thus 'those things that come not from the truth overturn themselves, for the most part without anyone pushing at them,' as Augustine says in Book 7 of *The City of God*, chapter 16.<sup>14</sup>

I2

Furthermore, all other kings and peoples may well wonder, and appropriately ask, what place or sense of Scripture makes them subject in

<sup>13</sup> Ephesians 4. 5, 13; cf. above, II. 18, 8.

<sup>14</sup> Augustine, *De civitate dei* (*The City of God*), VII. 19.

jurisdiction to the Roman pope, and not the French king; and why one person is bound to believe it any more than the rest, of necessity of his salvation? As a piece of fantasy this was and is entirely laughable and a result of the ambition of those who make such pronouncements and their desire for secular principate – together with their terror of the above-mentioned king of the French.

13

As to what we said previously, that a general council can be made up of non-priests as well, who together with the priests will appropriately add or interject their own decree to the deliberations of the council, we shall urge this conclusion firstly from the said *Codex* of Isidore, in the chapter entitled: ‘Here begin the canons,’ i.e. ecclesiastical rules.<sup>15</sup> For it contains among other things this passage: ‘Then let those laymen enter who have merited by election to be present at the council.’ All the more so, then, men of letters and learned in divine law, even though they are non-priests. For this is what the apostles did with the elders, as we quoted earlier. Here we should notice that in the early church and ancient times, especially before the time of Constantine, only priests – but almost all priests – were learned doctors of divine law, as they alone are obliged to be and as they should be according to Malachi 2: ‘the lips of the priest should keep knowledge, and they should seek the law’ (sc. the divine) ‘at his mouth.’<sup>16</sup> Hence the Apostle, too, at 1 Timothy 3 and Titus 1: ‘A bishop’ (i.e. a priest) ‘must be apt to teach, holding fast the faithful word as he hath been taught, that he may be able by sound doctrine both to exhort and to convince the gainsayers.’<sup>17</sup> For this reason, priests (being this kind of person) used to gather almost by themselves alone to interpret and define difficulties or doubts concerning Scripture and the faith. But now, because of the corruption of ecclesiastical government, the majority of priests and bishops are not much and inadequately (if one may say this) learned: because it is the ambitious, covetous and litigious who want to get and who do get the temporal benefices that accompany office, by services rendered, a plea or a price, or by secular power.

<sup>15</sup> Ps.-Isidore, ed. Hinschius, p. 22; MPL 130, c. 11.

<sup>16</sup> Malachi 2. 7.

<sup>17</sup> 1 Timothy 3. 2; Titus 1. 9. The quotation is from Titus.

And let God and the multitude of the faithful be my witness, I remember having seen and heard many priests, abbots and certain prelates of the church as well who were so deficient that they did not even know how to speak grammatically. And what is even more shocking, I have known and seen a man in church ritual who was more than twenty years of age and still almost completely ignorant of divine law, but who was nevertheless made bishop of a notable and populous city when not only had he not been ordained priest, but not even deacon or subdeacon either. But this (and similar) is what the Roman bishop says he can licitly do, and what he in fact very often does in order to gain the favour of the powerful, saying that he has, as Christ's vicar, plenitude of power in respect of institution in ecclesiastical office and the distribution of benefices. So we can appropriately ask him, then, to what purpose would this kind of crowd of bishops and priests gather together in a general council? And how, in doubts concerning the Scriptures, would it know how to distinguish the true senses from the false? It is for this reason – because of the failings of these people – that it is most useful or indeed necessary and consonant with divine law and right reason that, in accordance with the decision of the faithful legislator, certain approved faithful non-priests, adequately learned in Holy Scripture and also more excellent in their life and morals than this kind of bishops or priests, should be present at such a council, and that doubts and questions concerning the faith should be decided by their deliberation together with the others.

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Who has or has in the past had the coercive authority to assemble a general council of priests and bishops and other faithful, and who within it has the authority to establish something that would oblige the faithful to penalty or fault for the status of this present world or the world to come. Again, to whom it belongs to constrain in this world any transgressor of things that have been established or defined in a general council.

Further, that no bishop or priest can excommunicate any priest or put any people under interdict, nor confer temporal ecclesiastical benefices or tithes or licences to teach upon anyone, nor any civil offices, except in accordance with a decision or concession of a general council or the human legislator or both

I want now to show that it belongs solely to the authority of the faithful human legislator who lacks a superior (or to that of him or them to whom the said legislator has granted this power) to call a general council, to determine the persons suitable to it, and to assemble, hold, and cause it to be completed according to due form; as also to constrain, licitly in accordance with divine and human law, those who resist gathering and performing the said necessary and useful tasks, and those too who transgress the measures that have been determined and ordered in the said

council: priests as much as non-priests, clergy as much as non-clergy. These points have already been decided in chapter 15 of the first discourse and chapters 4, 5, 9 and 17 of this, in which it was shown by demonstration and then made certain by the authority of Scripture that coercive jurisdiction over all indifferently (priests and non-priests), the determination and approval of persons, and all institution in offices, are a matter for the authority of the human faithful legislator alone, and not that of any priest or college of priests by itself, as such. Nonetheless, we want now to urge these same points with reference to the already-mentioned *Codex* of Isidore in many places, and especially those in which it narrates things that were done in harmony with divine law and right reason.

2

Firstly, therefore, in the chapter entitled: ‘Here begins the preface to the Nicene Council,’ where it says: ‘He’ (viz. Constantine) ‘orders Arius to come before 318 bishops seated and them’ sc. the bishops ‘to judge of his propositions.’<sup>1</sup> See here that the bishops and priests gathered together in the above-mentioned council at the order of the legislator.<sup>2</sup> The same, again, in the chapter entitled: ‘Here begins the council of 630 bishops,’ where it says: ‘The holy and great and venerable synod, which by the grace of God was gathered together as a result of a decree of the most pious emperors Valentinian and Marcian.’<sup>3</sup> Further from the chapter entitled: ‘Here ends the seventh council of Toledo, and the eighth begins,’ where it says: ‘In the year of the orthodox and glorious king Receswinth, gifted with the true dignity of clemency, when the ordinance of the divine will, at the most serene order of that same prince, had compelled us all to gather in the basilica of the Holy Apostles at the holy convening of the synod.’<sup>4</sup> The same, further, from the chapter entitled: ‘Here ends the eleventh council of Toledo, and the twelfth begins.’<sup>5</sup>

<sup>1</sup> Ps.-Isidore, ed. Hinschius, p. 256.

<sup>2</sup> Here Marsilius definitely speaks of the Roman emperor (Constantine) as ‘the legislator’: since section 1 argues that ‘it belongs solely to the authority of the faithful human legislator who lacks a superior . . . to call a general council’, we must assume that the Christian Roman emperor is the faithful human legislator who lacks a superior (justifying the translation of ‘who’ not ‘which’).

<sup>3</sup> Ps.-Isidore, ed. Hinschius, p. 283. This is the fourth ecumenical council of Chalcedon; cf. above, II, 20, 1.

<sup>4</sup> *Ibid.*, ed. Hinschius, p. 383. The eighth council of Toledo in 651.

<sup>5</sup> *Ibid.*, ed. Hinschius, p. 411. The twelfth council of Toledo in 719.

The same, again, from that entitled: ‘Here ends the first council of Braga, and the second begins.’<sup>6</sup> The same thing, further, from the ‘Letter of the’ Roman ‘pope Leo to the synod of Ephesus’.<sup>7</sup> The same again from the ‘Letter of the’ Roman ‘pope Leo to the Emperor Theodosius’.<sup>8</sup> Yet again, the same from the ‘Letter of Leo, bishop, to Marcianus Augustus’, which begins: ‘I had asked’.<sup>9</sup> The same, further, in the ‘Letter to Marcianus Augustus’, which begins: ‘I have great cause for joy.’<sup>10</sup> And the same in many other places of the said *Codex*, and in the letters, but I have omitted the passages because the matter is well-known and in order to keep the discourse short.

### 3

That the above-mentioned authority does not belong to the Roman bishop alone, or to him and his college of cardinals by itself, can be persuaded (along with what we have already said) by the fact that if he, or he together with his college, were accused of some charge for the sake of which it was expedient to call a council of this kind, it is very likely that he would defer such a gathering as much as he could or cancel it altogether, which would be highly damaging and prejudicial to the faithful. But such a thing cannot happen in this way to the faithful legislator or to the universal body of the faithful, since it or its prevailing part cannot be seduced in this way: either in civil matters (as we showed in chapter 13 of the first discourse) or in spiritual, especially as regards the faith (as was shown in chapters 19 and 20 of this discourse).

### 4

That it is the faithful human legislator who lacks a superior who has the authority to pass a coercive command or issue a decree to all indifferently (priests as much as non-priests), to observe what has been defined or

<sup>6</sup> *Ibid.*, ed. Hinschius, p. 424. The second council of Braga in 610.

<sup>7</sup> *Ibid.*, ed. Hinschius, pp. 600–1. The second ecumenical council of Ephesus in 431; cf. above, II. 20, 1.

<sup>8</sup> Seemingly *ibid.*, ed. Hinschius, p. 576 (the council of Chalcedon) or *ibid.*, pp. 601–2 (the second council of Ephesus), cf. above, II. 20, 1.

<sup>9</sup> *Ibid.*, ed. Hinschius, pp. 608–9.

<sup>10</sup> *Ibid.*, ed. Hinschius, p. 582. The translation given here is taken from the full quotation that Marsilius provides below, section 6; the short Latin phrase here (*multa mihi in omnibus*) is untranslatable on its own.

judged (in the first signification of judgement) or ordained by a general council, and to suppress the transgressors of that command or decree with a penalty in goods or in person or in both, and one which is to be inflicted upon transgressors in this world: we want to urge this firstly from things that have been done rationally and are narrated by the said *Codex* of Isidore in many places. For this can plainly be seen from the chapter entitled: ‘The edict of the emperor Marcian in affirmation of the council of Chalcedon’,<sup>11</sup> in which among other things we find this passage: ‘Let no one therefore, cleric or soldier or person of any other condition, hereafter attempt to discuss the Christian faith as it has been defined publicly in front of a gathering of listeners, looking therein for an opportunity for disturbance and treachery.’ It also adds, a little further on: ‘For there will be no lack of penalty for those found in contempt of this law.’ And again, further on: ‘If, therefore, it is a cleric who has dared to discuss religion in public, he will be removed from the fellowship of the clergy. If it is a member of the military, he will be deprived of his soldier’s belt;’ and it goes on to lay down rules for the rest in the same way. The same, again, is apparent from the chapter immediately following, entitled: ‘Here begin the holy edicts of the august emperors Valentinian and Marcian following the council of Chalcedon, in confirmation of that same council and in condemnation of heretics,’ in which we find this passage: ‘By this law we decree that those who are deceived by the error of Eutyches after the example of the Apollinarians, whom Eutyches followed and whom the time-honoured rules of the fathers – that is, the canons of the church – and the most holy sanctions of the divine emperors condemn, should not, any of them, create or call anyone a bishop, or a priest, or clergy in general; and that this same Eutyches should be deprived entirely of the name of priest, of which he is stripped for unworthily using it. If, however, against our decisions, anyone should dare to create bishops, priests or other clergy from amongst these people, we command that those who do so, have done so or presume to do so should be subject to loss of their goods of clergy, as well as the danger of perpetual exile.’<sup>12</sup> From this it is clear that what we said in chapter 17 of this discourse about promotions to the priesthood and other holy orders is true: that this belongs to the authority of the faithful legislator or prince.

<sup>11</sup> *Ibid.*, ed. Hinschius, p. 288.

<sup>12</sup> *Ibid.*, ed. Hinschius, pp. 288–9; MPL 130, 315–6: Hinschius’s text makes more sense, but Marsilius’s is closer to that in MPL.

The same thing, further, from the chapter placed immediately after this one, entitled: ‘Again, another decree of the emperor Marcian against the same heretics.’<sup>13</sup> The same, yet again, from the chapter entitled: ‘The edict of the king in confirmation of the council’, where among other things we find this: ‘If any clergyman or layman, therefore, should refuse to obey these sanctions: if he be a bishop, priest, deacon or clerk, let him be subject to excommunication from any council; if a layman and a person of better standing, let him lose half his wealth, which will go to the rights of the treasury.’<sup>14</sup> From this it is also plainly apparent that – just as we said in chapter 10 of this discourse – princes or human legislators licitly can (and have been accustomed to) inflict penalties in person and in goods on heretics, and exact and allocate them to themselves. The same thing, again, from the chapter entitled: ‘Here ends the’ thirteenth ‘council of Toledo,’<sup>15</sup> which begins: ‘At the prompting of charity’; and in many other places which I pass over for the sake of brevity and because what we have already quoted is enough.

## 5

It belongs to the human legislator or to the prince by its authority not only to pass a coercive decree concerning the observance of those things that have been decided by a council, but also to lay down the form and manner of ordaining to the apostolic see of Rome or electing the Roman pontiff. Far from objecting to this, we read that the Roman pontiff once urgently requested it from the emperor, as we see from the chapter of the same *Codex* entitled: ‘Here begin the decrees of pope Boniface. A letter to Honorius Augustus, requesting that he be constituted pope in the city of Rome, inasmuch as a pope is never ordained by canvassing for office’;<sup>16</sup> and from the chapter immediately following entitled: ‘A missive of the emperor Constantine Honorius to pope Boniface, that if hereafter two have been ordained bishop of Rome, they should both be expelled from the city’;<sup>17</sup> which begins: ‘The glorious Honorius, conqueror, triumphant, always Augustus, to the holy and venerable Boniface pope of the city of Rome’. Now in this decree, the said emperor adds a little further

<sup>13</sup> *Ibid.*, ed. Hinschius, pp. 289–90.    <sup>14</sup> *Ibid.*, ed. Hinschius, pp. 361–2.

<sup>15</sup> *Ibid.*, ed. Hinschius, p. 419, and MPL 130, c. 561 (in both Hinschius and MPL this is actually the beginning of the thirteenth council).

<sup>16</sup> *Ibid.*, ed. Hinschius, p. 554, and MPL 130, c. 745.    <sup>17</sup> *Ibid.*, ed. Hinschius, p. 554.



on: ‘Know that it has sufficiently pleased our piety that your holiness has been concerned about the disturbance of the churches or the people. Our clemency believes that it has been adequately provided for that this should not occur for any reason. We wish it to come to the notice of all the clergy, this being preached by your beatitude, that if by chance anything should happen to your devotion (which we do not hope) by human fate, all should know that they should desist from canvassing. And if two individuals who have the temerity to fight a contest should by chance be ordained, against what is holy, neither of these shall be priest’ (i.e., Roman bishop) ‘but rather, he alone should remain in the apostolic see who has been chosen from the number of the clergy by divine judgement and the consent of the universal body in a fresh ordination.’<sup>18</sup> From which it is apparent that what we said in chapter 17 of this discourse is also true, that the secondary institution of priests, bishops and other ministers of the church to the cure of souls, greater or lesser, belongs to the universal body of the faithful or to the faithful human legislator.

6

We can further urge what we have proposed from the letter entitled: ‘Item giving thanks to Marcian Augustus, that through his efforts peace has been restored to the church by the council of Chalcedon’, which begins: ‘Bishop Leo to Marcian Augustus. I have great cause for joy in all the letters of your clemency.’<sup>19</sup> In this we also read towards the end that this same Leo says: ‘Moreover because your piety and your most devout will must be obeyed in all things, I have willingly added my opinion to the constitutions of the synod regarding the confirmation of the catholic faith and the condemnation of heretics, which have pleased me. And that these may come to the notice of all priests and churches, a command of your clemency will see fit to ordain.’ See here that the Roman pontiff added his opinion or judgement in the first signification to the decisions of the council, but begs that the command to churches and priests to observe them should be put into effect by the Roman prince. But he would not have done this had the authority not belonged to that prince. From this it is furthermore apparent that what we said in chapters 4, 5 and 9 of

<sup>18</sup> *Ibid.*, ed. Hinschius, p. 555.

<sup>19</sup> *Ibid.*, ed. Hinschius, p. 582.

this discourse is true, sc. that coercive authority, over priests as much as non-priests, belongs to the human legislator or the prince by its authority; and that the Roman pontiffs did not object to this in ancient times, but rather begged for such rules or laws to be given them by the emperors.

7

Again, the same view is patently clear from the chapter which begins: 'The emperors Caesars Theodosius and Valentinian',<sup>20</sup> which adds, a little further on: 'Since, therefore, in the present doubt which has suddenly arisen, and for the keeping of the catholic and apostolic doctrine and our faith, which insofar as it is attacked by divergent opinions troubles and confuses the senses and souls of men; we have thought it intolerable to think light of this offence, lest by such negligence we should seem to throw insults at God himself. And therefore we have sanctioned that there should gather in one place men most holy and pleasing to God, of ready speech on behalf of catholic piety and the true faith, so that such a universal and vain doubt may be resolved by subtle inquiry to the purpose, and that the catholic faith which is true and beloved of God may be strengthened. Therefore let your holiness, taking with you ten of the most reverend metropolitans who reside in your diocese and likewise another ten bishops who are holy in speech and decorous in their lives, who excel all others in doctrine and knowledge of what is upright and unblemished faith, hasten without any delay to gather at Ephesus, metropolis of Asia, at the beginning of August next; and sc. without anyone interfering at the holy synod apart from the aforesaid men. And when these most holy and blessed bishops, whom we by our holy letters sanction to come together, gather as a body in the aforesaid city and investigate and inquire most subtly, let every contrary error be removed from the midst and the catholic doctrine which is most dear to the orthodox faith of our saviour Christ be more firmly grounded and gleam as bright as it has been accustomed; and with God's favour, let all as one keep it thereafter unshaken and undefiled. If, however, anyone should neglect this synod, so necessary and truly beloved of God, and

<sup>20</sup> As Previt -Orton notes, while Marsilius seems to quote this extended passage from Ps.-Isidore, it does not in fact appear there, though it might possibly have been contained in the MS Marsilius was using. It can be found in the Acts of the Council of Chalcedon, ed. J.D. Mansi, *Sacrorum conciliorum nova, et amplissima collectio*, Vol. VI (Florence: Antonius Zatta, 1761), cols. 587-90.

fail, having made every effort, to arrive at the place specified at the aforesaid time, he will find no excuse either with God or with our piety; for no one avoids a priestly conference unless stricken with a conscience of evil. With regard to Theodoretus, bishop of the city of Syria, whom we previously ordered to be free of duties except for his own church alone, we sanction that he should not come to the synod, unless it has been approved by the universal council agreeing both that he should come to it and likewise participate. If any discord arises concerning him, we command that the holy synod convene without him and ordain the things that we have ordered.’ Now from this edict, the sense of the three conclusions already put forward becomes apparent to anyone who pays attention: the first, that it is expedient to define anything that is doubtful about the divine law; the second, that this definition does not belong to the authority of a single person or college, but to a general council; and the third, that the authority to call or command a council of this nature, to establish and determine the persons suitable to it, to lay it down that those things that have been defined and ordered by this council should be observed, and to suppress transgressors of those things that have been laid down, in and for the status of this present world, belongs to the faithful human legislator alone or to the prince by its authority.

8

In consequence of all this it can now aptly be shown that in respect of church ritual, nothing can be established by any individual man, of whatever dignity or rank he may be, which will oblige men to observe it under some penalty for the status either of this present world or of that to come, unless this is directly through a general council or by an authority previously derived from that source; and even then there must also be a decree concerning these matters issuing from the primary faithful human legislator or from the prince by its authority. Nor can any individual man approve or disapprove anything in respect of any other human actions (e.g. fasting, the eating of meat, abstinence of various kinds, the canonisation and veneration of saints, prohibitions on or holidays from mechanical labours or any other kind, marriages within a certain degree of affinity, and also religious orders and colleges), nor institute all other such things as are licit or permitted in divine law subject to any ecclesiastical censure such as interdict or excommunication or other similar penalty – greater or lesser – and still less can he have the capacity to oblige anyone to them subject to a

penalty in goods or in person to be exacted in the status of this present world, without the authority of the legislator just mentioned. For to that legislator alone belongs the licit power to inflict and to exact such penalties, as is sufficiently clear from chapter 15 of the first discourse and chapter 10 of this.

9

These points can be taken as proved by the same demonstrations and authorities with which we demonstrated above that it belonged to the above-mentioned council to determine doubtful senses of Scripture, and to the faithful human legislator to ordain by coercive decrees all other human acts in respect of church ritual, changing only the last term of the arguments. Again, because things that are permitted in divine law are not prohibited or made illicit except by the human legislator. Further, because no bishop has any authority over another directly from Christ, as demonstrated in chapters 15 and 16 of this discourse, nor any coercive jurisdiction among themselves or over others, as we showed earlier in chapters 4, 5 and 9 of this discourse.

From all this it can also appropriately be concluded that it belongs to the authority of the above-mentioned council alone, and not to any bishop or priest by himself or any particular college of them, to excommunicate a prince, province or other community, or put him or it under interdict with respect to the use of divine offices. For if a priest or bishop or any particular college of them wills, in his or its ignorance or iniquity, to excommunicate a prince or province or put it under interdict, the result is great offence to the peace and quiet of all the faithful. As indeed experience the mistress of things<sup>21</sup> has most recently shown us, when Boniface VIII, Roman pope, tried to excommunicate Philip the Fair, catholic king of France of illustrious memory, and put his kingdom and those ecclesiastical offices which supported him under interdict, because the said king objected to a certain written narrative that began: 'One holy catholic church', which had been sent by the said Boniface or by him together with his company of cardinals: and which (among other things) contained, indeed ultimately concluded with, the statement that all princes, communities and individual persons of the world are subject to the Roman pope in coercive jurisdiction.<sup>22</sup> Although at the same time

<sup>21</sup> Cf. above, II. 18, 2 and note there.

<sup>22</sup> Again it is *Unam sanctam* that is in question: see above, II. 20, 8 and note there.

this same Boniface was also proposing to take action individually against the said prince and his subjects and adherents, and (witness immortal truth and the memory of many living people) to incite against him all other princes and faithful peoples that he could, if fate had not removed him from the midst of mortals. The rage (I do not dignify it with the term ‘power’)<sup>23</sup> for this or a like kind of malignant fomentation, which brings with it great schism and danger to the faithful, should be eliminated without delay; and it should be left to a general council of Christians alone, the judgement of which (being directed by the holy spirit) cannot be corrupted by any ignorance or malice, to moderate the form of this kind of interdict or excommunication.

## IO

It follows from this, of necessity, that those things that have been ordained and defined concerning the faith or the sense of the evangelical law as well as church ritual or divine worship, together with everything else that has been instituted by a general council – whether this is through an intermediary or directly, implicitly or explicitly, or in any other way – cannot be changed, added to, diminished or suspended, given any interpretation (especially in difficult cases) or entirely revoked at the order or on the authority of any bishop or any other particular college, council, or gathering, and still less of any individual person of whatever condition or dignity he may be. If evident necessity should call for things that have been ordained in this way to be changed or simply revoked, the matter should be referred to a general council which should then be called. And this can be convincingly established by the same reasons and authorities with which we demonstrated that things of this kind should be ordained, defined and established solely by a general council.

## II

Again, from the same human reasoning and authorities of Scripture it can also appropriately be demonstrated that it does not belong to the authority of any bishop or individual person or other particular college alone, without the determination of the above-mentioned general council or faithful human legislator, to institute persons in or promote them to all

<sup>23</sup> In Latin, the familiar contrast between *tempestatas* and *potestas*.

the ecclesiastical offices of the world; nor to distribute all the temporal goods of the church (called ‘benefices’) on behalf of these same offices; nor to grant anyone what are called licences to teach, nor to practise as a notary, nor any other public or civil offices; except on the authority already stated. And although these points were aptly shown in one way in chapter 15 of the first discourse and chapter 17 of this, we have seen fit to explain and confirm them more fully in this section from the arguments that we have just now put forward and from various others that are probable. For anything by reason of which all realms and polities, greater or lesser, are exposed to the danger of heresy and dissolution, is not, nor should be, subject to the authority of the Roman or any other bishop or particular college of clergy along with him. But this is what happens if such a power is allowed to the Roman or any other bishop, without the determination of the universal legislator or general council. For supposing, as we said before, that someone who is a heretic or a necromancer, avaricious, proud or otherwise criminal, has (as we have seen and as we read) been given authority and adopted as Roman bishop. Now if this criminal has the authority, without any legal determination on the part of a general council or the mortal faithful legislator, to institute whatever kinds of persons he wants in all ecclesiastical offices, it seems very likely that a pontiff of this sort will promote to ecclesiastical offices – especially the major ones like the cardinalate and the episcopate – those whom he knows to be complicit in his crimes and to favour all his perverted devotions. As a result, the entire flock of the faithful will be exposed to the danger of being turned away from the faith, as was also in some way shown in chapter 11 of this discourse. And this is particularly so if one who has fallen into heresy, by ignorance or evil intent in his interpretation of divine law, should have this power: as we also argued before, in chapter 20 of this discourse, and as is clear to all in the case of two Roman bishops, from the memory and sight of present events.<sup>24</sup>

Again, if we do not find that divine or human law grants the Roman bishop the power to institute his own successor in the episcopal see of Rome, but rather forbids it to him, when nevertheless he can and should have a better knowledge of the resources in terms of persons from that province and of what is more expedient for the same province; why then should this same bishop be granted the power or authority to institute

<sup>24</sup>The two ‘Roman bishops’ in question are Boniface VIII and John XXII, who were both accused of heresy.

the successors of bishops or other prelates of the church, parish priests and even ministers in foreign and distant provinces, when he knows less well what is expedient for them and what their resources in terms of persons are?

12

Further, if any bishop, alone or even together solely with a particular company of clerics, is granted the power to bestow all the temporal goods of the church, called 'benefices', to whomever he pleases without the above-mentioned legal determination or determination of a general council and of the human legislator or of a faithful prince by the authority granted him, all realms and all polities, greater and lesser, are exposed to the danger of dissolution. And again, this procedure as regards the government of churches and souls has the effect of preferring those who are wealthier and more distinguished in secular might or favour (however ignorant or morally corrupt they may be) to those who are poor, just and lowly, however learned and excellent in their lives. For suppose that a Roman bishop is avaricious, proud, or otherwise criminal, such as we see many of them in recent times have been, or even wants to hold secular principate, such as we see them pursue. In order to fulfil his insatiable avarice and the other corrupt devotions just mentioned, and to obtain the grace and favour of the powerful for the same end, he will put ecclesiastical offices and benefices up for sale. He will also confer them upon the powerful, the violent and the warlike, or (at their request) upon their family, relatives and friends, who, he will think, will both want and be able to support him in carrying out his evil desires. And as we said, it is not only arguments that prove that these things can happen in this way, but experience, the world's schoolmistress, also teaches that it has for a long time happened like this and goes on happening; as scarcely escapes the notice of all the faithful.

13

Again, if this general and unmoderated power of institution in office and distribution of temporal goods or benefices is allowed him, all realms and polities lie under the danger of dissolution or great disturbance if a bishop of this kind seeks to subject secular principates to himself – all of which Boniface VIII (according to his written narrative, called a decretal,

previously adduced) explicitly stated were subject in coercive jurisdiction to the Roman bishop in such a way that, as he obstinately<sup>25</sup> asserted, it was ‘of necessity of salvation’ for the faithful to believe it. A certain so-called Roman bishop<sup>26</sup> also implies the same in his edicts against the glorious Ludwig, duke of Bavaria made king of the Romans, even though he seems to make this explicit only in the case of the Roman realm or empire; but he nonetheless includes all others through that title, sc. ‘plenitude of power’, by which he ascribes this realm to himself (mixed up with other bits of reasoning). For by this title, he is no more superior to the prince of the Romans in coercive jurisdiction than he is to all other kings, as was evidently shown in the last chapter of the first discourse. So I say that this bishop, seeking, although quite unduly, this jurisdiction over the princes of this world, is able by the distribution and gift of such temporal goods or benefices and tithes (which, as he turns his mind to all kingdoms, already make up an almost inestimable part) to stir up massive sedition. And this in fact he has already stirred up and continues to do so, especially in the universal Roman empire; as we shall explain in more detail in what follows.

#### 14

And because of this, the human legislator or the prince by its authority should take note as regards the acceptance or receipt of tithes and other ecclesiastical goods, whether ecclesiastical temporal goods of this kind are or are not superfluous to what is sufficient for poor ministers of the gospel, along with the rest of the poor who are unable to provide for themselves, for the sake of whom such things have been established. And again he should take note whether he himself needs such goods, of necessity, to defend or otherwise uphold the commonwealth, or whether he does not necessarily need them for the end we have just said. And if there is indeed a want of these temporal goods, of necessity for the sake of

<sup>25</sup> ‘Obstinately’ (*pertinaciter*) was a loaded word in Marsilius’s time: in order for sanctions to proceed against him, a heretic had to be an ‘obstinate heretic’, i.e. one who persisted in his error despite attempts to correct him. Compare the very last chapter of the *Defensor pacis* (below, III. 3), where Marsilius declares that if anything in it has been said less than catholically, ‘it was not said in obstinacy’: he is willing to be corrected (by the proper authority, of course). Marsilius may therefore be implying by his very choice of this word that Boniface VIII was a heretic.

<sup>26</sup> I.e. John XXII, again.



the said end, then legislators and those who exercise the function of prince can on their own authority licitly use and take anything surplus to what is sufficient for the ministers just mentioned and for the poor, notwithstanding any assertion to the contrary on the part of priests or such ministers; and not just tithes, but indeed quarters or thirds; and to say it in one, anything that is superfluous to what is sufficient for them and for the poor who are unable to provide for themselves. For let priests be content with their food and clothing, as the Apostle says in I Timothy 6.<sup>27</sup> But if they are not in want of these goods for the said use and end, those who take them commit a mortal sin, as do those who go along with them or encourage them to do so. The power to distribute the temporal goods of the church should not, therefore, be conceded to the Roman bishop or any other bishop alone, nor to him together solely with his college of priests, in case such power enables priests to acquire favours in prejudice of princes and peoples, and as a result to stir up contention and scandals among the Christian faithful. For the power just mentioned is no small instrument for him, but in fact a great one, since many people who believe (although they are deceived) that such goods can be distributed by him in this way, and that they can justly accept them, are easily induced to acquire and accept them. For this reason, the general council and the faithful human legislator should either entirely remove this power, so destructive of quiet, from this bishop or any other, or at least temper it in due fashion, particularly since it is in no way owed to him by divine law, but will rather have been forbidden him – as indeed it has been – and this was sufficiently shown in chapters 13, 14 and 17 of this discourse.

## 15

For the same reason, then, the power to grant licences for teaching should and licitly can be revoked from the said bishop and any other priest and any college of them by itself. For this is an office of the human legislator or of the prince by its authority, since they can have an impact on the common benefit or detriment for the status of this present world, as was demonstrated in chapter 15 of the first discourse. (We should hold the same opinion concerning the canonisation or veneration of saints. For this can be either harmful or profitable to the community of faithful

<sup>27</sup> I Timothy 6. 8.

citizens. For a corrupt bishop could use this power as support for pronouncing some persons saints, in order by their sayings or writings to shore up his own corrupt opinions to the prejudice of others; and for this reason this authority should be committed to the general council of the faithful alone. Thus Gregory IV ‘established, with the assent of the emperor Louis and all the bishops’, that ‘the feast of All Saints should be celebrated;’<sup>28</sup> hence we should be of a like opinion on all similar matters as well.) Again,<sup>29</sup> because the above-mentioned bishops, who were granted this authority by the legislator in ancient times because of the holiness of their life and their sufficient learning (as is evident from the science of civil law), now – being transformed into the opposite qualities – subject colleges of lettered men to themselves and take them away from the princes of this world, and use them as no small, indeed major instruments in acquiring and defending their usurpations against the princes of this world. For men of letters do not want to, or worry that they will, lose their titles as masters, desiring the renown and comfort that follows them; and since they believe they have acquired them on the authority of the Roman or other bishops and not from any other source, they follow the wishes of these bishops and oppose both princes and subjects of this world who speak out against the authority that these men think belongs to those bishops. But in truth, because the authority to grant licences to teach belongs to the human legislator or the prince by its authority, it is they alone who should and licitly can, on their own authority, grant the licences of notaries and other masters, or the titles of civil offices: so that they should not lack the favour of lettered or wise men (which should be considered as being of the greatest weight, over and above external helps, in stabilising and defending their principates and polities), but on the contrary gain and keep it. For this matter cannot be within the competence of any private person, of whatever dignity or condition he may be, nor of any particular college, but only of the prince: as was demonstrated in chapters 15 and 17 of the first discourse.

<sup>28</sup> Martinus Polonus, *Chronicon*, MGH *Scriptores* 22, 427.

<sup>29</sup> This constitutes a second, and more specific reason why the power to grant licences should not belong to the Roman bishop; the sense carries over from the second sentence of this section, and hence it seems more comprehensible not to divide the section into three separate paragraphs, as does Previt -Orton.

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In what way the Roman bishop and his church may be head and principal of the rest; and on account of what authority this belongs to them<sup>1</sup>

Now that we have determined these matters, we want to follow on by showing that it is expedient and extremely useful to establish one single bishop and one single church or college of priests as head or principal of the rest. First, however, we must distinguish the modes and senses in which one single church or bishop can be understood to be head of all the others, so that we can separate the mode or sense that is appropriate from those that are inappropriate or inexpedient. Now a single bishop or church can be understood to be head of all the others in one way, viz. in the sense that all the churches and individual persons of the world are obliged to believe the meaning of Holy Scripture in accordance with their definition and determination in cases where doubts arise (especially concerning what must be believed and observed of necessity of salvation); and are obliged to observe church ritual or divine worship in accordance with what they ordain. In this sense, no single bishop or church of any province, as such, and no college of priests is head of the others by an establishment of divine law, nor (according to the example of the early church) is it expedient that such a head should exist; and similarly not by any ordinance or decree of the faithful human legislator either. For if this were so, then along with all the other resulting inconveniences all princes, communities and peoples would of necessity of salvation be obliged to

<sup>1</sup> This is the chapter in which Marsilius establishes what kind of leading role the Roman bishop and church should play within the church, and defines it as a *principalitas* – a ‘position of principal’ without any of the coercive jurisdiction or power which would make it a *principatus* or principate. See the Notes on the Translation, above, p. *xlvi*iii.

believe, in accordance with the definition or determination of Boniface VIII, that they were subject to the Roman pope in coercive jurisdiction; and again, according to the decrees of some individual, so-called Roman pope, that it is not Christ's counsel to reject or renounce, both in common and as proper to oneself, the possession or dominion of temporal goods or the power of licitly contending for such things or of claiming them before a coercive judge. Of which the first proposition is false and wholly abhorrent, and the second to be rejected as heretical, as we clearly saw earlier in chapters 13, 14, 16 and 20 and 21 of this discourse.

2

Again, in another way a single bishop or church or college can be thought to be head or principal of all the others in the sense that all the clergy or colleges of clergy of the world are subject to him or it in coercive jurisdiction. But this, too, does not belong to any bishop or church by divine law, but is on the contrary forbidden by counsel or command, as was sufficiently shown in chapters 4, 5, 8, 9 and 11 of this discourse.

3

This priority can be understood in yet another way, too, as follows: that institution in all ecclesiastical offices and the distribution, deposit and removal of temporal goods or benefices belongs to one single bishop or church or college. And in this way too, it cannot be established convincingly in divine law that any bishop or church has priority over the rest, but rather the opposite. And to say it in one, it cannot be persuaded on the strength of the words of Scripture that any particular bishop or church is head or principal of the others according to any authority or power, as was shown in chapters 15, 16, 17 and 20 of this discourse, and in the preceding chapter.

4

As a result, no one bishop can excommunicate another bishop, or put the people or province committed to him under interdict as regards divine sacraments or offices, any more than the other way round; nor does one bishop have authority over another or the people committed to him any more than the other way round, unless this authority or power is

granted him by a general council or the faithful human legislator. For all bishops are of equal merit and authority insofar as they are bishops, as we quoted from Jerome's letter *To Evander* in chapter 15 of this discourse.<sup>2</sup> Nor is or was any bishop more perfect because a more perfect bishop or apostle laid his hands upon him, as is apparent from I Corinthians 3. 'Therefore' says the Apostle 'let no man glory in men. For all things are yours; Whether Paul, or Apollos, or Cephas etc. And ye are Christ's.'<sup>3</sup> On which the gloss has: 'And you are Christ's, not men's, in creation or in renewal.'<sup>4</sup> For this reason it does not matter, with respect to any sacrament, whether a more or less perfect priest lays on the hands, as long as he has the authority to do so: because it is God alone who makes the sacrament effective. Hence to dissolve this worry the Apostle says (same letter, same chapter): 'I have planted, Apollos watered; but God gave the increase.' For just as the one who plants or waters a tree is not the one who caused it to germinate and perform the functions of life, but rather the one who gives the vegetative soul to the plant; so the Apostle intends that those who lay on hands, or who teach or bless, do not themselves make works meritorious, but rather he who gives the internal character or grace, God himself; although the others help, just as do the waterers. And since there is only one who is the giver of internal authority, the same type of character, and grace – God himself – therefore all bishops or priests are of equal God-given authority and merit; and Jerome understood it in this way.

## 5

No bishop or church, therefore, is as such head or principal of the others on the strength of the words of Scripture. For according to Scripture or the truth, the head of the church simply speaking, and the foundation of the faith by the direct ordinance of God, is Christ himself alone: not any apostle, bishop or priest, as the Apostle says quite explicitly in Ephesians 4 and 5, Colossians 1, and I Corinthians 10, where he says that all apostles, prophets, learned men and the rest of the faithful make up 'the body of Christ', which is the church in the sense of the rest of its members; but no one is the head except for Christ alone. Hence Ephesians 4: 'And he gave some, apostles; and some, prophets; and some, evangelists; and some, pastors and

<sup>2</sup> See above, II. 15, 5.

<sup>3</sup> I Corinthians 3. 21–3; cf. above, II. 16, 13.

<sup>4</sup> See above, II. 16, 13 and note there.

teachers; For the perfecting of the saints for the work of the ministry, for the edifying of the body of Christ: Till we all come in the unity of the faith etc.<sup>5</sup> And a little further on he adds: 'But creating unity in love, we may grow up into him in all things, which is the head, even Christ: From whom the whole body fitly joined together and compacted by that which every joint supplieth, according to the effectual working in the measure of every part, maketh increase of the body unto the edifying of itself in love.'<sup>6</sup> Again in the fifth chapter of the same letter: 'For the husband is head of the wife, even as Christ is head of the church: and he is the saviour of the body. Therefore as the church is subject unto Christ, so let the wives be to their own husbands in every thing.'<sup>7</sup> He never, however, said that Cephas was head of the church, nor that the church is subject to him as its head, even though he was saying these things after Christ had risen from the dead and ascended into heaven. Hence a little further on, speaking in the person of all the faithful, the Apostle says: 'For no man ever yet hated his own flesh; but nourisheth it and cherisheth it, as the Lord the church; For we are members of his body.'<sup>8</sup> Further in Colossians 1: 'and he is the head of the body, the church: who is the beginning, the firstborn from the dead; that in all things he might have the primacy.'<sup>9</sup> And Saint Peter openly said the same thing in his first epistle general, chapter 5: 'And when the prince of shepherds' (sc. Christ) 'shall appear, ye shall receive a crown of glory that fadeth not away.'<sup>10</sup> Again, Christ alone is and was the foundation and rock of the church or the faith. Hence I Corinthians 3: 'For other foundation can no man lay than that is laid, which is Jesus Christ.'<sup>11</sup> And again, chapter 10 of the same letter: 'and that rock was Christ.'<sup>12</sup>

## 6

However, a particular bishop or church can be understood to be or to be established as head and principal of the rest by the authority of a general council or of the faithful human legislator in another way, and appropriately,

<sup>5</sup> Ephesians 4. 11–13.

<sup>6</sup> *Ibid.* 15–16.

<sup>7</sup> *Ibid.* 5. 23–4.

<sup>8</sup> *Ibid.* 29–30.

<sup>9</sup> Colossians I. 18.

<sup>10</sup> I Peter 5. 4.

<sup>11</sup> I Corinthians 3. 11.

<sup>12</sup> *Ibid.* 10. 4.

as follows: viz. that if an emergency of the faith or an evident need on the part of the faithful has arisen and is reported to him, on account of which it seems wholly expedient to call a general council, it is his duty, although only after deliberating with his college of priests (whom the faithful human legislator or general council has willed should be his associates for this purpose), to make this known and signal it to the faithful legislator who lacks a superior: at whose coercive command the council should assemble in the way that we have said. It is also his duty, within the said council, to occupy the first seat or place among all the bishops and clergy; to put forward matters for deliberation, to sum up what has been deliberated in the presence of the whole council, and to cause it to be committed to writing under authentic seals and signets of notaries; to communicate and relay these matters to all churches on request; to know, teach and answer for them; to suppress those who transgress what has been deliberated (concerning the faith as much as church ritual or divine worship), and everything else that has been ordained for the peace and unity of the faithful, with some ecclesiastical censure such as excommunication or interdict or other similar penalty: but nevertheless in accordance with the determination of the council and by its authority, and not with any coercive power to inflict a penalty in goods or in person for and in the status of this present world. It belongs to him also (together with the prevailing or greater part<sup>13</sup> of the college given and established for him, viz. by the legislator) to pass judgements upon bishops and churches that are not ranked with respect to each other concerning spiritual contentions properly so-called (sc. according to the second and third significations of this term 'spiritual'), identified in chapter 2 of this discourse: which includes those things that a council has ordained to be observed in respect of church ritual. However if, in relation to this duty, a bishop, church or college of this nature behaves in a way that is too perverse or negligent, according to the clear, likely and practically common opinion of the other churches, it is licit for the rest of the churches to appeal to the faithful human legislator, if the behaviour can appropriately be corrected by the legislator or the prince by its authority; or to request a general council if, for the greater part of the other churches and in the judgement of the legislator, the emergency in question demands that a council of this kind should assemble.

<sup>13</sup> *Pars valentior sive maior.*

It is only in this last way, therefore, that I say that it is expedient to establish one single bishop or church as head or principal of the others, in pastoral care and without coercive jurisdiction, in order to preserve the unity of the faith more easily and more suitably – even though this is not commanded in divine law, because even without it this unity of the faith could be safeguarded, although not so easily. But next we must show what kind of bishop, church, or college of priests and clergy, and from what diocese or province, it is more expedient and appropriate to establish as head or principal of the others; and finally who has the authority to institute such a head, to correct it, and even to depose it if that should seem expedient.

7

Now the first of these points – viz. that, assuming the need to call a general council of the faithful and of priests from time to time on account of the abovementioned advantages in respect of church ritual or faith and divine worship, it is expedient to institute a single head of the churches in this way – can be urged from the fact that it would be in vain for several bishops or churches to be occupied with a function that can equally aptly be exercised and performed by one bishop or church. But to suggest councils, as said above, together with the other matters we have said belong to the office of an ecclesiastical head of this kind, can be carried out and completed equally or more aptly by one than by several. Further, the institution of a head or principal of this kind over the bishops and churches removes the contention and scandal that can arise. For in a general council once assembled, someone must lay down the form and manner of the agenda. But if anyone indifferently was able and wanted to ordain or command such matters, it is very likely that scandal, confusion and contention would be stirred up among them. Again, because in a general council once gathered an order of place is expected, as in sitting or standing, and an order of speech too, as in proposing and deliberating, and occasionally other commands, such as imposing silence on those who are overly loquacious; and furthermore because it is necessary to sum up what has been deliberated in the council, and to cause this to be committed to writing by notaries under certified and genuine signets and seals. Hence it was expedient that some one person should have precedence over the others, with the authority to bring the others to order and to command whatever else is expedient for holding and completing a



council in due fashion, so that the public utility of the faithful should not be disturbed or delayed as a result of these diverse individuals and their occasional antagonism. Still further, it seems to be expedient because it is the custom of the Christian church in this matter, and because the unity of the faith is more apparent from it, as being a sensible sign of that unity.

8

As to what kind of bishop, however, and what kind of church of what province or diocese it is more appropriate to institute as head of the others in this way: let us begin by identifying the first, and say that in truth it is him who outstrips all others in his life and holy learning; although it is his distinction in the excellence of his life that should be given more attention. As to the place or province whose church should be given preference over the rest, we should say that it is that church whose college of priests or clergy abounds in the greatest number of men who are to the greatest degree of more upright life and greater clarity of holy learning. Nevertheless, all things being equal or not much different, it is the Roman bishop and his church – so long as that place stays habitable – which seems to have deserved preference, on several counts: firstly, because of the outstanding faith and charity of its first bishop, Saint Peter or Paul or both, and their renown and the reverence shown them by the rest of the apostles; secondly, because of the dignity of the city of Rome, and because it has for a long time held a principal position over the others and has abounded in illustrious men, saints and doctors of the Christian faith for much of the time since the church was first founded, and because they have shown loving care and ceaseless hard work in augmenting the faith of other churches and preserving the unity of that faith; again, too, because of the general monarchy and coercive authority that its people and prince then had over all the rest of the world's peoples and princes, which meant that they alone were able to enact a coercive command concerning the observance of the faith and those things that were defined by general councils, and to suppress its transgressors wherever they were: and this is what they did and they increased the church from modest beginnings to a great thing, even though, because of the malice of certain priests, the faithful afterwards suffered persecution at the hands of some of them. Finally, the position of principal is appropriate for the Roman bishop and his church because of custom, in that all the faithful have been taught or become accustomed to

revere this bishop and church more than the rest, to be aroused by his exhortations and warning to the virtues and the reverence of God, and to be recalled from their vices and crimes by his reproofs or rebukes and threats of eternal damnation.

9

As to who has the authority to institute this priority, we should say that it belongs to the general council or the faithful human legislator who lacks a superior. It belongs to these, too, to determine the primary company or college of clergy; and in this way the said position of principal can licitly and should be continuously reserved to the city of Rome in its bishop and church (as long as it exists and the Roman people does not object), because of the reverend status of Peter and Paul and its other aptitudes as stated previously.

10

An edict of Constantine I, emperor of the Romans, inserted into the abovementioned *Codex* of Isidore, testifies that this power of which we have spoken belongs to the legislator. This edict contains, among other things, the following passage: ‘And we decide and sanction’ (us, viz. the Roman emperor) ‘that it’ (sc. the church of Rome) ‘should have principate<sup>14</sup> over the four major sees of Antioch, Alexandria, Constantinople and Jerusalem, as much as over all the other churches of God in the entire world; and that at any time, the pontiff of that sacrosanct Roman church shall be more exalted and prince of all the priests of the whole world, and that those things which are necessary for divine worship or to procure the stability of the faith shall be arranged according to his judgement.’<sup>15</sup> Note that he said, signally: ‘the stability of the faith’ or divine law is to be ‘procured’ by him; he did not say: it is to be determined according to his opinion or that of his church or college alone; since, as we said before, it belongs to the primacy of his office (such as we said) to be concerned for and inquire into any opinions that emerge concerning Scripture and the

<sup>14</sup> *Principatus*, but this is not very happy for Marsilius in the context of establishing the *principalitas* – principal position – of the Roman pope, which is decidedly *not* a principate, or only in a broad or improper sense.

<sup>15</sup> The ‘Donation of Constantine’ again (cf. above, II, 18, 7), in Ps.- Isidore, ed. Hinschius, p. 252.

faith which can cause schism or scandal and disturb the quiet and unity of the faithful, to report it to the faithful legislator or the prince by its authority, and to request from him a general council for the purpose of determining such things and, if expedient, correcting them. In this way, then, Constantine gave this principality to the Roman bishop and church, and together with this principal position he also gave them – because of his devotion – many other areas of authority, even coercive, which he was in no way obliged to grant by divine or human law. This said principality, which had perhaps been revoked from the Roman bishop and church by some successors of Constantine, was restored to the abovementioned church by Augustus Phocas, as is evident from Martinus’s *Chronicle of the Roman Popes and Emperors*. Here we read, among other things: ‘Boniface the Fourth, of the Marsi by birth etc.’, and a little bit later: ‘This man obtained from the emperor Augustus Phocas that the church of Saint Peter the apostle should be head of all the churches, because the church of Constantinople was writing that it was the first among them all.’<sup>16</sup>

## II

Again, it can be convincingly established that the authority to institute a bishop or church in this way belongs to the faithful human legislator or the prince by its authority, in accordance with the counsel and determination of a general council, by the same reasons and authorities by which it was shown, in chapter 21 of this discourse, that it belongs to his authority to call a general council and licitly to suppress, with coercive power, all those (both priests and non-priests) who refuse to convene, as well as all transgressors of things that have been ordained by the council: changing only the last term of the arguments. It follows of necessity from the same reasons and authorities that it belongs to the same authority to correct the said principal bishop and his church or college, and to suspend and licitly deprive him of office or depose him if this is reasonably seen to be expedient.

## I 2

We should not pass over in silence the fact that those faithful who find themselves subject to infidel legislators or princes by their authority,

<sup>16</sup> Martinus Polonus, *Chronicon*, MGH *Scriptores* 22, 442.

priests as much as non-priests who are expert in divine law, are obliged by the same (viz. divine) law to gather, if they appropriately can, for the purpose of defining and determining its doubtful senses and ordering anything else that may be of advantage to the increase and unity of the faith and the faithful and their common utility; even though it is priests who are more obliged to this and who should rouse the others, since it is their office to teach, to exhort, to reprove and to rebuke if necessary. In consequence, those who are learned in divine law are also obliged to this and they should be required to do it by the priests, since ‘to him that knoweth to do good, and doeth it not, to him it is sin,’ as is written in James 4.<sup>17</sup> For in time of necessity it is not only those who are assigned to military office (foot or horse) who are obliged by human law to defend civil liberty in bodily combat, but also those from other offices of the city, and all the more so those who are suitable for this purpose, especially when they are required by soldiers or their leader. And similarly it is not only priests who are obliged by divine law to defend and declare the faith, and to ordain other aspects of church ritual, but also those who are non-priests but nevertheless expert in such matters, especially when they are required to do this by priests: even if it is properly the office of those who are priests.

13

But at whose call will the college of priests and other suitable members of the faithful gather? – someone will rightly ask, since no priest or other member of the faithful has priority over the rest either in divine law (according to what was determined before) or in human, given that we are assuming that the human legislator is infidel. However, let us say, in accordance with the sense of Scripture, that the said convocation or congregation will not take place through any bishop or priest with authority over the other priests or bishops, unless perhaps in a case where authority of this kind has been granted to a particular priest by the abovementioned number of the faithful. Supposing, then, that no one has been given preference over the others in this way by the multitude of the priests and other faithful, but nevertheless it is expedient that one should be given preference, or that something else should be ordained that is expedient in respect of the faith and church ritual. In that case, I say

<sup>17</sup>James 4. 17.

that the call for a gathering of this kind will either come from all the priests (if each of them is of such charity that, for the preservation and increase of the faith, he is willing to rouse the others, so that they all speak and agree as one on this matter and there is no doubt that they will easily congregate); or (if not all are of such charity that they are willing to motivate themselves and others towards the said gathering) the call will come forth from one or a few who are more fervent in divine love, and the other priests or non-priests will obey them in that they speak well and counsel rightly.

Furthermore, as appears from Acts 15, it was in either one of these ways that the apostles and elders gathered together to see whether it was necessary for eternal salvation that their uncircumcised brothers should be circumcised. For we do not read anywhere that the others gathered at the call of one apostle on his authority; but only this, that ‘the apostles and elders came together for to consider of this matter;’ and again, that ‘the twelve called the multitude of the disciples.’ Scripture is not explicit as to which of the apostles first exhorted and aroused people to come to these gatherings. But supposing it was Peter, because of the greater charity that was in him; it does not follow from this, that therefore he had any particular authority over the other apostles, unless perhaps that which they had given him over the rest by their own election, as shown above in chapters 15 and 16 of this discourse. For there are many people in the cloisters or the cities who are more perfect in the merit of their life or holy learning, or more outstanding in political ability, who are nevertheless not the princes or the prelates of the less perfect, but for the most part their subjects; and this very often happens with priestly offices in these times of ours, by what plague I do not know (or perhaps I do).

#### I4

Further, in a civil assembly men who are of greater virtue or more elderly or more reputable are sometimes accorded a prerogative in sitting, speaking and deliberating by their fellow-citizens, who show them deference in many other matters of honour as well: not that they are subject to them in any authority, but solely because of the reverence which seems due to greater virtue and years. Just so, it is highly likely and in accordance with this passage of Scripture that the other apostles deferred to Peter for the reasons just mentioned, for we read that he put forward his proposal first among the others. It is for this reason perhaps that he is called the ‘mouth

and head of the apostles as a collective body',<sup>18</sup> even though they were not subject to him in any authority – unless in consequence of the kind of election on their part to which we referred earlier, i.e. if at their own prompting they had wanted to give him preference over themselves in this way, as monks do their abbot or prior, and a people its leader.

15

So it is highly reasonable that a convocation and congregation of the faithful was possible in the ways mentioned above. For it is just as when men gathered together in the beginning to form a civil community and to ordain the law, and their prevailing part agreed on those things that are necessary for a sufficient life; and yet they were not called by any individual man or men who had coercive authority over the rest. Rather it happened at the persuasion or encouragement of wise and resourceful men, whom nature produced with a greater inclination for this than the others: these then both made progress of themselves with their own efforts, and directed others (in succession or at the same time) towards the form of the perfect community.<sup>19</sup> And men easily obeyed those who persuaded them, being naturally inclined to this perfect form (as we concluded in chapters 3, 4, 7 and 13 of the first discourse from *Politics* I, chapter 1; IV, chapter 10; and VII, chapter 12). So it is reasonable to think that – proportionately speaking, and in accordance with the passage of Scripture – it was in just this way that the multitude of the apostles and the faithful gathered together, at the persuasion perhaps of one or more of the apostles who were more fervent in charity, and the rest of the multitude easily obeying, by inclination and by the grace of the holy spirit.

After the time of the apostles and under infidel legislators or princes, certain bishops or priests perhaps acted in the same way, being more full of the love of Christ and their neighbour; and Christ promised, in the last chapter of Matthew and in his final words, that he would be with these people 'even unto the end of the world'.<sup>20</sup> For these are those of whom

<sup>18</sup> Cf. Chrysostom on Matthew 16: Aquinas, *Catena aurea*, Vol. 1, 250.

<sup>19</sup> This picture of the genesis of the civil community has some overtones of the famous passage of Cicero in *De inventione* (*On Invention*) Book I, in which Cicero characterises human beings as living wild in the woods until a great orator came along and persuaded them to a more civilised life. It is somewhat at odds with the genesis described in I. 3–5.

<sup>20</sup> Matthew 28. 20.

Rabanus Maurus says, in the same place: ‘that unto the end of this world, there will not fail to be in the world those who are worthy of God’s immanent presence and indwelling;’<sup>21</sup> even though every priest is obliged to it by reason of his office, if he appropriately can. For this commandment was given to all of them in the person of the apostles, when Christ said to them in the last chapter of Matthew: ‘Go ye therefore, and teach all nations;’<sup>22</sup> regarding which the Apostle said in I Corinthians 9: ‘woe is unto me if I preach not the gospel; for necessity is laid upon me.’<sup>23</sup> Recent pastors of the Roman church pay scant attention, however, to the example, concern and hard work of the Apostle in increasing the faith and preserving unity, as they stir up Christ’s faithful to mutual strife and discord, the more easily to exercise secular principate over them – even if illicitly and beyond their due.

16

It is plain, then, from what has been said that the Roman bishop and his church has up until now existed as principal and head of the other churches, and it has been adequately shown in what matters he ought to have been and ought to be the head. Let us resume the subject of the source and the manner in which this authority has come to him, and how far it has been surreptitiously extended as a matter of fact, even if illicitly and unduly. And let us say that from the beginning up until the time of Constantine, the Roman bishop and church (according to what we argued in chapter 18 of this discourse, sections 5, 6 and 7) licitly obtained this priority as if by the election of the other churches, which offered it their consent and obedience. Nevertheless this was at their own prompting: not because they were subject to it by some authority, but because of the pre-eminence of the apostles Peter and Paul in charity and their constancy in the faith; and again, on account of the multitude of venerable persons in that church, outstanding in righteousness and learning. These persons too, because of their immense charity, took on the care and concern to instruct and to issue brotherly advice to the prelates and other individual members of the faithful in the other churches. As these latter accepted their advice, as coming from persons more learned

<sup>21</sup> Aquinas, *Catena aurea*, Vol. 1, 424.

<sup>22</sup> Matthew 28. 19.

<sup>23</sup> I Corinthians 9. 16.

than they, they afterwards accepted their ordinances concerning church ritual as well, because they seemed useful and just; and in the end they obeyed their commandments subject to the ecclesiastical censure of excommunication or interdict, in order to preserve the unity of the faithful. And through long custom this spontaneous obedience gained the force of an election. As a result, even though in the beginning of the church the other bishops and churches of the faithful were not obliged by divine law or human law to obey the commandments or constitutions of the Roman church or bishop, any more than the other way round, nevertheless as this useful and reasonable custom – whereby the unity of the faithful was better preserved, given that at that time they lacked a faithful legislator to reduce them to order and keep them in unity – gained strength, their successors were obliged to this obedience by divine law in all things licit and upright: as if they had by election made the said bishop and church their judge in matters of church ritual. And this was especially so up until those times in which they could gather together publicly, and make ordinances concerning the state of the church in a more perfect way.

17

The rationale in respect of contentious acts is different, however. For in the judgement of this kind of issue between the faithful, the Apostle gave different counsel, as we argued in some way from I Corinthians 6 in chapter 9 of this discourse and as we shall explain further in chapter 29. For it was not the Apostle's will that this should be the office of any priest or bishop whomsoever, or of any college of them by itself, as is evident from the passage of the Apostle in question and from the expositions of the saints in the same place.

18

In this way, then, the Roman bishop and his church in the beginning started to acquire priority licitly, through their loving concern; and this priority later, because of the custom of devotion, reverence and obedience, took on the force of an election. For it cannot be gathered anywhere from Scripture that the other churches and bishops had a duty to be subject to the Roman church or bishop by the command or counsel of Christ or any of the apostles, even in matters of church ritual. If, though, this had been



due of necessity for the salvation of the faithful (as some Roman bishops now assert), and not just in matters of church ritual but also in areas of coercive jurisdiction, and not just over the clergy, but also over any secular principates whatsoever, how can it possibly be thought that Christ and his apostles should have omitted to pass this on? But since Christ as much as his apostles explicitly laid down the contrary, especially in the matter of coercive jurisdiction, as was plainly shown from Scripture in chapters 4, 5 and 9 of this discourse, the words of those who say such things should be classed as apocryphal stories.

19

However in the time of Constantine I, emperor of the Romans, who adopted the faith and the baptism of Christ for all to see, the faithful first began to gather together publicly to define things that were in doubt concerning the faith and to ordain church ritual, as is apparent from the *Codex* of Isidore mentioned previously, in the chapter ‘Concerning the early church in the Nicene synod’.<sup>24</sup> In accordance with the praiseworthy and ancient custom just stated, the Roman church and bishop obtained from this Constantine, by imperial edict, the priority over the others that we have determined is appropriate for it, and, beyond this priority, possession and dominion of certain provinces; although before the time of Constantine, and even afterwards, some Roman bishops implied in certain of their letters or decrees that the priority, which we have shown belongs to them over others by election or by the constitutions of princes, was due to them individually by divine law without the request or consent of the faithful human legislator, or of any collective body or individual person of whatever pre-eminence or authority they may be. The opposite of this, however, was sufficiently demonstrated in the previous chapter.

20

Now after the time of Constantine I, and especially when the imperial seat was vacant, certain Roman bishops stated explicitly in their letters that this priority was due to them, sometimes by divine law, sometimes by the grant of princes. As to the range of matters on which this priority

<sup>24</sup> Ps.-Isidore, ed. Hinschius, pp. 247–9.

should bear, many of them suggested and in various ways made explicit that it relates to the interpretation of evangelical law as well as the ordaining of church ritual, both as regards divine worship and as regards the institution in office of all ministers, whether this is their inseparable or primary institution (which we called essential) or their secondary institution or the removal of it (which we said in chapter 15 of this discourse was separable or accidental). And they extended this authority further over all bishops and churches, peoples and individual persons, to pass sentence of excommunication, of interdict of divine offices (to subjects as much as ministers or prelates of the churches) and of every other similar ecclesiastical censure, such as anathema, upon the above-mentioned faithful. And others of them went on to intend the same in respect of all jurisdiction or coercive power over all the ministers of the world's churches and their colleges; exercising it as theirs by the grant of princes as long as the power of the Roman prince lasted, his realm being intact and his seat filled. But when this realm fell into sedition, and especially when the imperial seat was vacant, over an interval of time they used the support of this power as if it had been granted them by divine law. As to why this happened in such a bizarre way, we shall explain in the next chapter.

In the same way they furthermore declared in their letters that it belonged to them to dispense and distribute all the temporal goods of the church at will, without asking the consent of any collective body or individual person of whatever dignity or authority. And the most recent of them, not content with these excesses, have declared in their letters or decrees that supreme authority or coercive jurisdiction over all principates, peoples and individual persons is due to them by divine law, in such a way that that none of the princes just mentioned may licitly exercise this coercive jurisdiction – which they call the ‘temporal sword’ – outside or against their consent or dictate; and vocally pronouncing any princes and peoples who do act outside or against them in this way as subject to sentence of excommunication or interdict. For they assert that they alone are the vicars of Christ in the world, Christ who was king of kings and lord of lords; this being their underlying meaning in the title of ‘plenitude of power’ which they say is due to them. For this reason they say that it belongs to their authority even to confer all realms and principates of the world, and licitly to remove them from kings and other princes who transgress their commandments, even though in truth these are impious and often illicit.

Among all the other Roman bishops, however, it was Boniface VIII who expressed and asserted this claim (no less audaciously than prejudicially and contrary to the literal sense of Scripture, relying on metaphorical expositions) to such an extent, that he decreed that all people should believe and confess of necessity of eternal salvation that this power belongs to the Roman bishops. His successors, Clement V and the man who is called the immediate successor of the said Clement,<sup>25</sup> followed him in this opinion, although they seem to say it explicitly only with regard to the Roman empire. But because they make this assertion through reliance on the above-mentioned title, viz. that of plenitude of power given them by Christ, there is no doubt that this power or authority (if any such thing belongs to them from this source) relates to all realms and principates of the world equally, as we showed in sufficient detail in the last chapter of the first discourse, i.e. chapter 19.

<sup>25</sup> John XXII, again.

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On the modes of plenitude of power, and  
in what way and what order the Roman  
bishop has assumed them for himself; and  
a summary of how he has used and continues  
to use them<sup>1</sup>

In chapters 6, 7, 9 and 11 of this discourse we determined the range and nature of the powers that priests have; again, in chapters 15 and 16 we discussed their mutual equality or inequality in power and dignity; and again in the previous chapter we said something of the priority or principality that it is expedient and appropriate for one bishop, church or college of priests and clergy to have over all the others, and its origin and development. But we also said something of its hidden and creeping transfer into a form and species of priority that is inappropriate for it, going as far as the most onerous and insufferable excess of taking over secular powers, as well as a boundless and intolerable desire for principate to which they have already and explicitly given voice.

<sup>1</sup>This chapter picks up and develops the point contained in the last chapter of Discourse I (I. 19, 9) and in the last section of the preceding chapter, concerning papal abuse of the formula 'plenitude of power'. It constitutes Marsilius's direct and formal response to the parallel chapters, from the opposing point of view, within papalist writings. Compare Part II, chapter 9 of James of Viterbo's *On Christian Government* (ed. and tr. R. W. Dyson, Woodbridge: Boydell, 1995), 'That in the highest spiritual power there is a fullness [*plenitudo*, 'plenitude'] of both pontifical and royal power; and in what way', where James asserts that the pope has plenitude of power 'because the whole of the power of government which has been communicated to the Church by Christ – priestly and royal, spiritual and temporal – is in the Supreme Pontiff, the Vicar of Christ' (*ibid.*, p. 131).

2

And seeing that not a small element in their past and future occupation of secular powers and principates (for which the Roman bishops strive with all their might, however little it is due to them, as is plain for all to see) was, is and will go on being that sophistic commonplace, viz. by which they ascribe to themselves the title of ‘plenitude of power’ – which is furthermore the source of that piece of misreasoning whereby they try to conclude that kings, princes and individuals are subject to them in coercive jurisdiction – it will be as well to examine thoroughly this plenitude of power. Firstly we need to separate or distinguish its modes; secondly, to inquire whether plenitude of power belongs to the Roman pontiff or any other bishop in one or more of its modes; thirdly, in what signification of the term the Roman bishop first assumed it for himself; and finally how he has slipped from there into assuming other conceptions (or deceptions, unfortunately), prejudicial to all princes and subjects who live a civil life; and how and upon whom this same pontiff has used, does use, and very likely will go on using them if he is not stopped.

3

Now because plenitude of power seems to imply a certain universality, and because our purpose is to focus only on powers that are voluntary, we need to distinguish plenitude of power into its modes according to a distinction within power that is both universal and voluntary.

In one way, then, ‘plenitude of power’ is and can be understood, according to the signification or force of the words, as the power for any possible act: one that can bring about anything at will, for which nothing is excessive. And among men it seems that this applies only to Christ. Hence in the last chapter of Matthew: ‘all power is given unto me in heaven and in earth.’<sup>2</sup> In a second way and more to the point, ‘plenitude of power’ can be understood as that power in respect of which it is licit for a man to perform any voluntary and commanded act of his own, whatsoever it may be, upon whatsoever man or external thing that is within the power of men or that can be ordained to their use. Or again it can be understood as that power in respect of which it is licit to perform

<sup>2</sup> Matthew 28. 18.

every act just-mentioned, but not upon any man or every thing that is subject to human power. Or yet again as that power in respect of which it is licit to perform not every act, but only one that has been defined according to a specific type or mode; but nevertheless according to any impulse of the will and upon any man whatsoever and every thing that is subject to human power. In a third way, ‘plenitude of power’ can be understood as the power of supreme coercive jurisdiction over all principates, peoples, communities, collective bodies and individual persons of the world; or again, as a power over only some of these, but nevertheless according to any impulse of the will. It can be understood in a fourth way as the power we have just said (or in the way that we have just said), but only over all the clergy: as the power of instituting them in ecclesiastical offices and depriving them of or deposing them from such, and of distributing the temporal goods or benefices of the church. Fifthly it can be understood as the power that priests have of binding and loosing men in every respect from faults and penalties, and of excommunication, interdict and reconciliation. We spoke of this in chapters 6 and 7 of this discourse. Sixthly it can be understood as the power by which it is licit to lay hands on all individuals so that they may receive holy orders, and of conferring or refusing the sacraments of the church; we spoke of this too in chapters 16 and 17 of this discourse. In a seventh way it can be understood as the power of interpreting the sense of Scripture, especially in those matters which are of necessity of salvation; of defining or determining the true senses against the false, the sane from the unhealthy; of ordaining all church ritual, and of issuing a command concerning the observance of such ordinances which is coercive or which carries the threat of anathema. In an eighth and final way – as much as concerns our purpose – ‘plenitude of power’ can be understood as a power for the pastoral care of souls which is general and in respect of all the peoples and provinces of the world, and we spoke of this in chapters 9 and 22 of this discourse.

Again, however, ‘plenitude of power’ could be understood in respect of each of the above distinctions as a power that is not limited by any law (while non-plenary power would be that which is limited by human and divine law); and under this heading right reason, too, can appropriately be included. There are perhaps other variations and combinations of plenitude of power; but we seem to have enumerated all those which are relevant to our purposes.

4

Taking these distinctions within plenitude of power as our premise, I say that plenitude of power in the first two modes put forward above does not belong to the Roman bishop or to any other priest, except Christ or God, in any way. But I pass over them because the matter is evident, and because we can be certain of it from divine and human wisdom and from all moral science; and also for the sake of brevity.

With regard to the third and fourth modes of plenary power, it was shown by demonstration in chapter 15 of the first discourse, further confirmed through the infallible witness of Holy Scripture in chapters 4, 5, and 8 of this, and given the strongest corroboration in chapters 15, 16, 17 and 21 of the same, that they do not belong by divine law to any priest or bishop, as such, over any cleric or non-cleric, either in an absolute sense or indeed with any kind of plenitude. However, as to whether such plenitude of power may have been granted to any cleric – bishop, priest or non-priest – by human law, in some way in which it can be granted and also revoked for a reasonable cause, at the judgement of the human legislator: this should be established from human laws and from the rescripts or privileges of the same legislator.

Concerning the fifth and sixth modes, sc. of plenitude of power, it was shown in chapters 6 and 7 of this discourse that the power of binding and loosing from faults and punishments, and likewise of anathema or public excommunication, is not granted to a priest absolutely or with plenitude, but is defined in divine law in such a way that he is able neither to condemn the guiltless nor absolve the guilty in the face of God. And again, as was shown in chapters 6, 7 and 21 of this discourse, that the power that any bishop or priest may have of excommunicating someone publicly, and especially of placing a prince or community under interdict, must appropriately be decided by human ordinance. It was shown furthermore in chapter 17 of this discourse that the power to institute ecclesiastical ministers by a laying-on of hands, to teach, preach and administer the sacraments of the church in communities of the faithful, does not belong to bishops or priests with such plenitude that the manner in which it is appropriate for them to act according to it has not been defined in divine and human law.

Concerning the remaining seventh and eighth modes of plenitude of power, it was shown in chapters 20, 21 and 22 of this discourse that they do not belong to any bishop or priest with plenitude, but according to

what is defined in divine as much as human law. Plenitude of power does not, therefore, belong to the Roman bishop or to any other priest as such, unless perhaps they want to call ‘plenitude of power’ the priority or principality that we demonstrated (in chapter 22 of this discourse) belongs to the above-mentioned bishop and his church over all the others by the authority of the faithful human legislator.

5

In consequence, we need to say where this ascription to himself of the title ‘plenitude of power’ originated at the hands of the Roman pontiff, and in what signification, since it does not belong to him in any of those mentioned above. Now it seems that this title was first assumed by the Roman pontiff in its eighth signification, and that the source of its seeming appropriateness was the speech of Christ that we find in John 21, when he addresses Saint Peter and says: ‘Feed my sheep;’ again, from what he says individually to Peter in Matthew 16: ‘And I will give unto thee the keys of the kingdom of heaven etc.?’ further from what we find in John 18: Return ‘thy sword into the sheath;’ and yet again from the disciples’ response to Christ: ‘behold, here are two swords.’<sup>3</sup> From these passages, some (according to their own interpretations) want it understood that the whole of the universal body of sheep (i.e. Christ’s faithful) of the whole world was committed to Peter alone and so to any Roman pontiff as Saint Peter’s singular vicar; whereas the whole of the universal body of sheep of the whole world was not committed to the rest of the apostles and the bishops who are their successors, but instead an individual finite flock and province was committed to each to govern individually. Saint Bernard is one of those who understands the above-mentioned speech of Christ in this way, saying the following in *To Eugenius, Pope of Rome, On Consideration*, Book II: ‘You are the one shepherd, not only of the sheep, but also of the shepherds. Do you ask how I can prove this? From the word of the Lord. For, to whom, and I include not only bishops, but also apostles, were all the sheep entrusted so absolutely and so completely? “If you love me Peter, feed my sheep.” There is no exception where there is no distinction.’<sup>4</sup> And also a little bit further on where he adds: ‘Thus it is that each individual of the other

<sup>3</sup> John 21. 17; Matthew 16. 19; John 18. 11; Luke 22. 38.

<sup>4</sup> Bernard of Clairvaux, *On Consideration*, Book II chapter 8, p. 67, with omissions.



apostles received an individual people, for they understood this mystery. James, who seemed to be a pillar of the church, was content with only Jerusalem, leaving the universal body to Peter.<sup>5</sup> As a consequence he infers his proposition, asserting: ‘Therefore according to your own canons, others were called “to a share of the responsibility”; you are called “to plenitude of power”.’<sup>6</sup> In the beginning, therefore, ‘plenitude of power’ was understood as a general administration or cure of all souls.<sup>7</sup>

6

Once he had assumed for himself the attribution of the title in this signification (even though not in accordance with the true sense of Scripture, as we shall sufficiently demonstrate in chapter 28 of this discourse), the Roman bishop in his presumption slipped over into another, perhaps for the sake of revenues or other convenience or to usurp a higher position over the others: viz. by assuming and publicly preaching that he alone, individually, was without qualification able to exempt and absolve sinners from punishments that were due to be inflicted for the status of the world to come in accordance with their demerits, by his word or by an exaction of satisfaction in this world in any way he pleased.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.* pp. 67–8. The contrast here (in Latin, between *in partem sollicitudinis* and *in plenitudinem potestatis*) originally dates back to a letter of Pope Leo I, written in about 446 to the bishop of Thessalonica: ‘you are called to a share of the responsibility, not to have plenitude of power’, inserted into the collection of Ps.-Isidore (ed. Hinschius, pp. 618–20). The specific phrase again occurs in Gratian’s *Decretum*, Part II, c. 2, q. 6, cap. 11 (CIC I, col. 469). Bernard’s text continues: ‘The power of others is bound by definite limits; yours extends even over those who have received power over others. If cause exists, can you not close heaven to a bishop, depose him from the episcopacy, and even give him over to Satan?’ hardly supporting Marsilius’s far more limited conclusion, and in fact Marsilius refutes these words below, II, 28, 22.

<sup>7</sup> A roughly similar interpretation was put forward by John of Paris, *On Royal and Papal Power*, ch. 12 (tr. Watt, pp. 146–8), who reports that, ‘according to the opinion of some’, the command ‘Feed my sheep’ implies a ‘general administration of sheep and sheepfold’ (p. 147), necessary precisely because ‘the power of the keys and the power of jurisdiction were given to all equally without establishing boundaries’ (p. 146). However, this ‘general administration’ is said to involve an authority granted to Peter and his successors, whereas Marsilius holds that no such authority was ever granted specifically to Peter: see above, II, 16 and 17, and cf. the parenthesis at the beginning of the next section: the idea of a ‘general administration’ already involves some slippage from the true sense of Scripture.

7

And when they had in this way assumed these two attributes under a certain facade of piety and mercy (the first, so as to be seen to be full of concern and care for all; the second, so that people would believe they were able and willing to have mercy on all), the Roman bishops went on in consequence to extend this title, supported by the privileges and concessions of princes, and especially when the imperial seat was vacant. Firstly to include ordinances in respect of church ritual, passing certain laws upon the clergy that were originally called ‘decrees’; but afterwards to induce certain ordinances upon the laity as well, couched in the manner of requests or exhortations, for example for fasts and abstinence from certain foods at particular times in order to beseech divine help and mercy in delivering men from the epidemics and storms of the time; as is apparent enough from the legend of Saint Gregory and of various other saints.

8

The laity spontaneously accepted these things and observed them because of their devotion. And as these customs became embedded, the Roman bishops began to impose the ordinances just mentioned, which were requests, in the manner of commands. In this way, without any licence from the human legislator, they dared to strike those who transgressed them with the terror of vocal anathema or excommunication; but all the while under the appearance of piety or divine worship.

9

Subsequently their appetite for domination grew greater; and since they expected that the devout faithful would be terrified by words like this because they were supine and inexpert in divine law (believing, in their fear of eternal damnation, that they were bound to whatever the priests imposed), the Roman bishops together with their oligarchic company of clergy made the further presumption of establishing certain edicts or ordinances concerning civil actions. By these they pronounced themselves and their order or the office of the clergy – including some purely lay persons as well – exempt from public burdens, and promoted to this office secular persons (even married) who were easily attracted because

they could thereby enjoy immunity from public burdens.<sup>8</sup> As a result they subjected to themselves not a small part of the civil multitude and removed it from the power of those who hold the office of prince. Again, in their efforts to remove an even greater part, they pronounced in other edicts that those who visit injuries, of whatever kind, upon the persons of those who are inscribed in the college of clergy should incur the penalty of anathema; and also by defaming them publicly in the temples with excommunication, though they nonetheless demand that these same perpetrators be coerced by the penalties of human laws.

IO

But the most detestable of all these, and an abomination to the office of priests, is that in order to increase their jurisdiction and thereby their shameful revenue, in contempt of God and to the evident prejudice of princes, the Roman and other bishops excommunicate and bar from the sacraments of the church laypersons as much as clergy who neglect (or even who are unable) to pay certain monetary debts which they had a civil obligation to pay before a certain date. And these are those whom Christ and the holy apostles brought inside the church with much encouragement, suffering and labour, and ultimately with their martyrdoms and precious blood. For this is not how He acted who was made all things to all men so that all might profit. It was only because of serious crimes that he wanted sinners to be cut off from the fellowship of the rest of the faithful, as we quoted from I Corinthians 5 in chapter 6 of this discourse.<sup>9</sup>

II

Not content even with this, they have sought (against the command or counsel of Christ and the apostles) the pinnacle of secular affairs, and irrupted into passing laws separate from those of the universal body of citizens: declaring every member of the clergy exempt from these latter, and thereby giving rise to civil schism and a plurality of supreme principates. And we demonstrated in chapter 17 of the first discourse that this was impossible for human quiet, citing sure experience: for it is the root and origin of the pestilence in the Italian realm, from which all

<sup>8</sup> Cf. above, II, 8, 9.

<sup>9</sup> See above, II, 6, 13.

the scandals have germinated and develop, and while it remains there will never be an end to the civil discord there. For as a result of custom (or more accurately of abuse) the Roman bishop has retained this power, into which he has stolen gradually and with a hidden deception, for a long time; and in his fear that it may be revoked by the prince (and deservedly because of the excesses that have been committed), he prevents with all malign concern the creation and instatement of the Roman prince. And one of these bishops has finally irrupted into such audacity as to pronounce in his edicts that the Roman prince is tied to him by an oath of fealty, as if subject to him in coercive jurisdiction: as presents itself plainly, to those who care to look, from the derisory and contemptible seventh volume (*On the Sentence and Matter Adjudged*) of his pronouncements which are called the *Decretals*.<sup>10</sup>

12

That most Christian of emperors, Henry VII of happy and divine memory,<sup>11</sup> refused to assent to this sheer temerity. As a result, this man of all the virtues and singularly esteemed among other princes of all times, places and estates, is described as a transgressor, ‘simulating forgetfulness’ of his sworn oath, in a pronouncement (called a decretal) no less false than outrageous, entitled *On the Swearing of Oaths*;<sup>12</sup>

<sup>10</sup> This is Clement V’s bull *Pastoralis cura* of 14th–19th March 1314: *Clementines*, Lib. II, tit. 11 (*De sententia et re iudicata*), cap. 2 (CIC II, cols. 1151–3). In it Clement declared void the emperor Henry VII’s judgement and sentence on the Angevin king Robert of Naples (Henry had judged him guilty of high treason and rebellion and sentenced him to death). However, the specific point in question about the oath of fealty is only expressly put forward in the bull *Romani principes* (see below).

<sup>11</sup> Henry VII was elected ‘king of the Romans’ in 1308 and crowned at Aachen in 1309. He revived the ambitions of the empire in the *regnum Italicum* after a long period in which his predecessors had concentrated on their German lands. In late 1310 he embarked on his Italian expedition to high hopes amongst imperial supporters in Italy, including Dante who proclaimed him Italy’s long-awaited bridegroom. He received the traditional iron crown at Milan, which symbolised his rule over the *regnum Italicum*, and the imperial crown in Rome in 1312. However, he met opposition in Tuscany (especially Florence) and increasingly from the papacy and Robert of Naples in the south; he fell ill besieging Siena in August 1313, and died shortly afterwards. It was Henry who appointed Matteo Visconti imperial vicar in Milan: see below, II. 26, 17.

<sup>12</sup> Clement V’s bull *Romani principes* of 14th March 1314: *Clementines*, Lib. II, tit. 9 (*De iureiurando*), capitulum unicum (CIC II, cols. 1147–50). In it the pope claimed that Henry had been bound to the pope by an oath of fealty (*iuramentum fidelitatis*), as if the emperor were the vassal of the pope. This interpretation was strenuously denied by writers

although its title might well rather be ‘on the unjust injury and insult heaped upon the divine emperor and his successors, relatives and all his affiliates’. For by the (so-called) ‘founders of canons’<sup>13</sup> he is declared infamous because a perjurer. And these have also tried to denigrate his shining memory – as if it could be stained with the words or writings of calumniators of this kind.

13

The Roman bishops and their cardinals have not dared call these oligarchic ordinances ‘laws’. Rather they call them ‘decretals’, even though they intend by them to oblige men to a penalty for the status of this present world just as is the intention of human legislators. But from the very beginning they did not dare express this by using the term ‘laws’, fearing that the said legislator would resist and bring them to heel, since they were thereby committing the crime of high treason against legislators and princes. Again, they from the beginning called this kind of ordinances ‘canon laws’, so that from the overtones of that term, albeit impiously applied, they might be held to be more genuine and might more fully impress the belief, reverence and obedience of them upon the faithful.

To conclude the whole matter, therefore, the Roman bishops by this gradual and secret slippage now predicate of themselves the last six significations of ‘plenitude of power’, through which they commit countless enormities within the civil order against divine law and human law and the correct judgement of anyone in possession of his reason. We recalled some of these individually in the preceding chapter, although not all.

in the imperial cause. See for example Lupold of Bebenburg’s *De iuribus et translatione imperii* (*On the Rights and the Transference of the Empire*) of 1340, of which the ‘fifth article’ (ch. 9) begins: ‘That the oath that the King of the Romans gives the pope is not an oath of homage, sc. the oath that a vassal gives his lord by reason of his fief’ (Strassburg, 1508, sig. [E vi] r).

<sup>13</sup> The phrase is taken sarcastically from John XXII’s bull *Ad conditorem canonum* (literally, ‘To the founder of canons’): see above, II. 12, 33, n. 16.

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## How, specifically, the Roman bishop has used the primacy and plenitude of power that he has assumed within the limits of the church or the domestic economy of the priesthood

It follows from this to show how and in what matters the Roman bishops have so far used, still do use, and very likely will go on using (unless they are stopped) these modes of plenary power that they have assumed to themselves: and firstly in appointing church officials and in distributing benefices or temporal goods, both to ecclesiastical ministers and to other poor persons, for whose sake also (as said in chapter 14 of this discourse) the temporal goods of the church have been granted and were established for distribution in this way by ministers of the church. Thereafter it will be for us to show how they have so far used, still do use, and will in future use these plenary powers vis-à-vis those who live a civil life, princes as much as subjects.

### 2

Through the activity that has up until now been permitted the Roman bishops, and still is, in accordance with this plenitude of power, they have infected and – if one may be allowed to say so – corrupted the entire mystical body of Christ. For they have narrowed, corrupted and finally almost wholly extinguished election, which is the preferable and indeed the only secure means of instituting any official in a way that is good, simply speaking: even though it was by election that the apostles together with the multitude of the faithful effected the institution of deacons, as we find in Acts 6.<sup>1</sup> First they

<sup>1</sup> Acts 6. 2–6.

narrowed it by reassigning to the clergy alone what used to take place, and should take place, through the universal multitude of the faithful, as shown in chapter 17 of this discourse. Then they corrupted it, both by this narrowing and by transferring the authority to elect a bishop to certain young men whom they call ‘canons’, inexpert and inexperienced in divine law, excluding the priests of the province (unless perhaps it by chance occurs – which is rare and happens in very few cases – that the same person is both priest and canon); and by limiting the authority to make the election to one single church or temple of clergy in a province, when it ought to be done at least through all the clergy of the province, and especially the priests whose duty it is to be learned doctors of divine law, as we showed above. And finally they have almost extinguished it, since the Roman bishops reserve directly to themselves the power to confer almost all ecclesiastical prelacies, and not just these, but middling or minor offices as well, even those that can belong to purely laypersons for the purpose of looking after the temples; and to distribute temporal goods or benefices on behalf of these individuals.<sup>2</sup> By reserving these matters in this way they declare ineffective and void any elections whatsoever, even though they have been duly performed and are of adequate and reputable persons. In their place they institute, of the plenitude of their power (which is either ignorant or affected by price or plea, hatred or love, terror, service rendered or prospective favour, or otherwise perverted), persons ignorant of divine letters, idiots and the untrained, and very often men who are

<sup>2</sup> The bare outlines of the development that Marsilius describes here are roughly accurate, although the issue is extremely complex. The ancient practice was for the election of the bishop to take place through ‘the clergy and the people’ of the diocese. Gratian’s *Decretum* contains several texts that maintain this principle. However, gradually this electoral practice changed, for a number of reasons including the Gregorian reform of the eleventh century (which sought to eliminate the intervention of secular powers in the government of the church) and the centralising tendency of the papacy in the thirteenth century. The changes first excluded the participation of the laity, then narrowed the participating clergy to those of the cathedral church, who formed the chapter of ‘canons’ to which Marsilius here refers. Throughout the twelfth, thirteenth and fourteenth centuries attempts were made to regulate membership of this powerful body, to exclude interested laypersons and the minor clerical grades: the Council of Vienne in 1311 ruled that only those in holy orders (subdeacons, deacons and priests) should be members of the chapter. Increasingly, however, local inefficiencies leading to protracted vacancies, disputed elections and attempts at political control of the process provoked the intervention of the papacy. By the end of the thirteenth century, papal nomination was the norm, although in some areas the involvement of the chapter persisted. A comprehensive selection of texts detailing this shift and its complex contexts can be found in French translation in J. Gaudemet *et al.*, *Les élections dans l’église Latine des origines au XVIe siècle* (Paris: Fernand Lanore, 1979).

of corrupt mind, and well-known criminals who cannot even communicate with the peoples over which they are appointed in their own language or speech.

3

So let him reply to the Christ of John 10,<sup>3</sup> that man who (among other enormities which he has committed and still commits) instituted, contrary to or after elections which had taken place or were due to take place, two bishops of his own Occitan tongue – one, bishop of Winchester in England, the other, bishop of Lund in Denmark – who shared no language with those peoples.<sup>4</sup> What they were like in teaching and morals is not my concern here, although the bishop of Lund (as is transparently obvious in Denmark), after despoiling the church and the diocese of all the flocks needed to cultivate the fields because of the poverty of the land, collected the treasure from the sale of them, left the church destitute and fled back to his own country. Let him reply, I say, this Roman bishop, in what sense this ‘shepherd’ shall call ‘his own sheep by name’, becoming acquainted with their moral character through their confessions, and reproaching those who should be rebuked; or in what way shall ‘the sheep’ follow him, understanding ‘his voice’ in preaching and teaching?

4

And it is not the case that one must go begging for pastors from foreign provinces because of a need or lack of men, such as there was in ancient times. For there were at the time in England men who were more excellent in their life and more learned in holy doctrine than the one who was put in charge of them, who had no knowledge of the meaning of their words or speech and was no learned doctor of Holy Scripture,

<sup>3</sup> John 10. 1–13.

<sup>4</sup> John XXII was originally from Cahors in the Languedoc region of France. Languedoc means literally the *langue d’Oc*, the *lingua Occitana* to which Marsilius refers here, which was spoken throughout present-day Provence and Languedoc. The two bishops in question are Reginald Asser, papal nuncio in England, made bishop of Winchester by papal provision in 1320 against the monks’ election and the king’s recommendation; and Isarn Morlane or Tacconi, papal nuncio in Denmark and archpriest of Carcassonne in south-western France, who was made archbishop of Lund in Denmark by Boniface VIII (not John XXII) in 1302.



either, but just some lawyer for hire; and so too in Denmark and in all the other provinces, concerning which we could introduce numerous testimonies of similar flagrant misconduct: but I pass over them for the sake of brevity.

5

For is there anyone who shall not be amazed or dumbfounded that young men ignorant of Holy Scripture, lacking the appropriate gravity of moral character, inexperienced, untrained, and sometimes notorious criminals, are set in authority upon the greatest thrones of the church through the evil of simony, or servile obedience to the request (I do not say, on occasion, the fear) of the powerful, or ties of blood – when learned doctors of Holy Scripture, men proven in their honesty, are rejected or overlooked? Am I telling fictions or lies? Someone who counts the bishops or archbishops, patriarchs, and other lesser prelates of the provinces will not find among them one doctor of holy theology (or at least adequately instructed in it) in ten. And, what is shameful to relate (although let us not be slow to do so, because it is true), modern bishops do not know either how to preach the word of God to the people or oppose the erroneous doctrines of heretics (if any appear), but in these eventualities shamelessly go begging for the teachings of others: when however the teacher of the nations says in I Timothy 3 that ‘a bishop must be apt to teach, holding fast the faithful word as he has been taught, that he may be able by sound doctrine both to exhort and to convince the gainsayers,’ as the same Apostle wrote in his epistle to Titus, first chapter.<sup>5</sup>

6

Concerning the rest of the lesser prelates, abbots and monastic priors and other curates of the churches, I call God and immortal Truth as my witness that a large number of them are entirely lacking in adequate life or learning, to such an extent that very many of them do not even know how to speak grammatically.

<sup>5</sup>The quotation given is a fusion of I Timothy 3. 2 and Titus 1. 9.

7

Rather, those who are granted (again, let me say, by plenitude of power) the major positions of dignity within the church, and those who are thought adequate to conduct them, are lawyers. For the Roman pontiff elevates such individuals as useful and able to defend the church, knowing as they do how to contend in court to keep hold of temporal goods or usurp more of them, while he rejects the learned doctors of holy theology as useless. 'For they are simpletons', he says together with his company of cardinals, 'and would let the church go to ruin;' when however 'the church' is not temporal goods, but the faithful of Christ. It is for this church, not for temporal goods, that a bishop should contend, according to the counsel of Christ and the Apostle: for example in John 10,<sup>6</sup> and from the Apostle as above, and in many other places of Scripture which I omit to quote because the matter is evident and in order to keep the discussion short.

8

For temporal goods are not the heritage of the apostles that they left to the bishops their successors to preserve; nor are imperial heights and secular dominions the rights of the 'bride of Christ', which the latest Roman bishop has, under the sophistry of this kind of phrase, most iniquitously opposed to the illustrious Ludwig, duke of Bavaria and king of the Romans, for his own defence (or more accurately offence).<sup>7</sup> Hence Bernard, *To Eugenius On Consideration*, Book II, chapter 4, after speaking of the responsibility for souls or churches that the holy apostles left to their successors, says: 'For what else did the holy apostle leave to you? He says, "such as I have give I thee." What is that? I am sure of one thing: it is neither gold nor silver; for he himself says: "Silver and gold have I none."' And a little further on he adds: 'You may claim these things' (sc. temporal goods) 'on some other ground, but not by apostolic right.' And below, again: 'What he had he gave: responsibility for the churches, as I have said.' But what about dominion or principate? Hear Bernard as he adds: 'Did he not give dominion? Listen to him. "Not

<sup>6</sup> John 10. 11.

<sup>7</sup> Cf. the wording in the *monitorium* of John XXII against Ludwig (cf. above, II. 3, 14 and note there).

lording it over the clergy, but making yourself a pattern for the flock.” And in case you think he said this only by humility and not by truth, the voice of the Lord in the Gospel says: “The kings of the gentiles exercise lordship upon them; and they that have power over them are called benefactors.” And he concludes: “But ye shall not be so.” It is clear: dominion is forbidden to the apostles.<sup>8</sup>

9

But the matter which deserves the greatest amazement and attention – and which should be restored to its due form by princes in a general council, as ministers of God – concerns the institution of the supreme pontiff and his fraternity, sc. the cardinals, whom we said should be constituted head and principal over the rest, principally to preserve and teach the truth and the unity of the faith in accordance with what the above-mentioned council has determined. For it is not always, but on the contrary very rarely, that an outstanding doctor of Holy Scripture is elected to this pinnacle of dignity. For the most part he is taken from the collective body of lawyers: which is totally inconsistent with Holy Scripture, clashes with right reason, and is the thing most shameful in the face of all the churches. And the same thing can in consequence (and no less) be noted with regard to the company of cardinals, since in very many cases it is irresponsible young men, unlearned in divine letters, who are adopted into its ranks. Whereas in fact this bishop and his church or college ought to be an example and pattern for all the others, and it is by relying on the counsel of these men, and not otherwise, that the Roman pontiff must govern the universal church.

10

Thus far on this subject; but let us return to our point of departure, and say that the Roman pontiff, of his plenitude of power, confers the majority of prelacies (major, middling and minor) on people who are idiots or ignorant of divine letters – if only it were not upon criminals! – his relatives as much as those unknown to him, boys and infants; and this for the most part from the evil of simony, his own or of those who

<sup>8</sup> Bernard of Clairvaux, *On Consideration*, Book II, chapter 6; cf. above, II. 4, 13. The passages quoted are Acts 3. 6, I Peter 5. 3, Luke 22. 25–6.

intercede for them, or some other sinister affection. Therefore, given that the major, principal sees are infected in this way as a result of the promotion (or rather insertion) of such individuals, the other more minor charges or offices, which belong to these men to confer, become polluted by contagion as well. For they rejoice in those like them, as 'man in man and horse in horse', so says the sage of the gentiles,<sup>9</sup> and open to idiots and men of corrupt moral character the door (of simony or other corrupt route) to church offices and benefices by which they themselves entered. For their will is to act according to their own disposition, which their elevation has not altered but very often revealed; and so they hate and reject, turn their back on and oppress as their enemies the holy, the just and the learned, who do not seek to enter the house of God by such a path. Since, as the Truth says: 'everyone that doeth evil hateth the light.'<sup>10</sup>

## II

Nor shall I stay silent about the fact that the above-mentioned bishop, in order to acquire the grace and favour of the powerful (and perhaps because he has also received monies from the same source), has in addition promoted certain young men to the episcopate in renowned cities, who are unlearned in divine law and in other disciplines and have not been promoted to any holy order; when however Jerome says, *To Evander*, that the priest is contained in the bishop.<sup>11</sup> Therefore since ecclesiastical government is infected in this way, the entire mystical body of Christ must surely have fallen sick. For as the prelates of the churches and other curates neglect to encourage, beseech and rebuke according to sound doctrine, but openly commit things that must be abhorred and abominated, the people is scandalised by their example: because they are set up as an example to the people just as a target is to archers. The Truth draws attention to this in Matthew 5 when it says: 'Let your light so shine before men, that they may see your good works.'<sup>12</sup> And this is the root and first corruption of recent morals, upon which eternal damnation will

<sup>9</sup> Aristotle, *Problemata* 10. 52. The *Problemata* had been commented by Pietro d'Abano, *Expositio problematum*, a copy of which Marsilius took with him from Padua to Paris, and put at the disposal of his friend John of Jandun.

<sup>10</sup> John 3. 20.

<sup>11</sup> Jerome, *Epistolae* 146, CL 620, *Cetedoc* from CSEL 56, par. 2, p. 311, ll. 19–20; MPL 22, c. 1195. Cf. above, II. 15, 5.

<sup>12</sup> Matthew 5. 16.

ultimately follow; since, as Christ says in Matthew 15: ‘if the blind lead the blind, both shall fall into the ditch.’<sup>13</sup>

What, however, shall we say about the distribution of temporal goods? For although what remains above the requirements of ecclesiastical ministers ought to be distributed to the poor who are unable to provide for themselves, and to other wretched persons (as is evident to everyone), they are in fact turned to the uses (I would speak more accurately if I said abuses) of which we spoke in chapter 11 of this discourse. Add to these the new fashion in alms, which is to use up most of them on mercenaries, cavalry and infantry, in order to foment and feed wars among the Christian faithful, so that they may at length be able to subject them to their own tyrannical power. It is apparent, then, from what we have said that because of plenitude of power, the mystical body of the church has been everywhere infected in its matter or principal members, especially (to put it in words) its prelates, and is close to death.

12

But now as we proceed to speak of the form of this body (which ought to consist in the due ordering and position of its members), this very body will appear as a deformed monster to one who looks at it attentively. Is there anyone who will not think that a body of an animal in which individual limbs are joined to its head with a direct connection is monstrous and useless for the tasks which are appropriate to it? For if a finger or a hand is directly connected to the head, and lacks its due position, it will lack the force, movement and function which is appropriate to it. Not so, however, if the finger is joined to the hand, the hand to the arm, the arm to the shoulder, the shoulder to the neck, and the neck to the head, with the appropriate joints. For in this way the body is rendered seemly in its form: its head is able to transmit the appropriate force to the other members, one through another according to their nature and order, and they themselves can as a result complete the tasks appropriate to them. This is the form and manner that must be heeded in ecclesiastical but also in any civil government as well. For the universal pastor or prince cannot, without intermediary, supervise and direct the individual acts of individuals in all his provinces. Rather, if these are to be carried out in a fit and

<sup>13</sup> Matthew 15. 14.

adequate way, he must be aided by ministers who act in his place and are dedicated to these tasks, according to due order. Only when ordered in this way can the body of the church remain and increase. The teacher of the nations had this in mind when he said in Ephesians 4: 'That we may grow up into him which is the head in all things, even Christ; From whom the whole body fitly joined together and compacted by that which every joint supplieth, according to the effectual working in the measure of every part, maketh increase of the body.'<sup>14</sup>

13

But the plenitude of power permitted to the Roman pontiff overturns this whole order or form.<sup>15</sup> For he releases lesser prelates and orders from the power or charge and correction of their superiors, e.g. archbishops from patriarchs, bishops from archbishops, chapters or colleges of clergy from their bishops, and again abbots and monastic priors, and most recently of all (would it were not worst of all), the religious who are called the 'mendicant orders'.<sup>16</sup> Disturbing the order, he puts all these under his own charge and direct correction. And this from no obvious utility, but rather his notorious greed for accumulating suits; intending from it an

<sup>14</sup> Ephesians 4. 15–16.

<sup>15</sup> It was a central claim of the contemporary papal and papalist understanding of plenitude of power that the pope should be able to bypass the established regional hierarchy and act directly anywhere within the church. Compare Giles of Rome, *On Ecclesiastical Power*, Book III, chapter 9, section 4: 'fullness of power resides within the Supreme Pontiff; for he can do without a secondary cause whatever he can do with a secondary cause. For he could make provision [of a bishop] for any church without election by the chapter . . .'; section 11: 'whatever any ecclesiastic can do the Supreme Pontiff can do' (tr. Dyson, pp. 188 and 191 respectively).

<sup>16</sup> The mendicant orders were those of the Franciscans and the Dominicans (founded in the early thirteenth century) and the Carmelites and the Augustinians (founded in the mid-thirteenth century). Their fostering and encouragement by the papacy had been a source of bitter controversy with the secular clergy (especially at Paris) since the middle of the thirteenth century, when, in the bull *Nec insolitum* of 1254, Alexander IV had accorded the mendicant orders the privilege of preaching and hearing confessions without prior authorisation from the local curate (a position confirmed in Martin IV's bull *Ad fructus uberes* of 1281). The dispute over exemption flared up again at the beginning of the fourteenth century: Boniface VIII overturned Martin's bull in *Super cathedram* of 1300, but in 1304 Benedict XI in turn annulled *Super cathedram*. Clement V at the Council of Vienne in 1312 re-established the provisions of *Super cathedram*. However, the controversy continued under John XXII between the Parisian secular master Jean de Pouilly and the Dominican friar Pierre de la Palu. Jean de Pouilly was condemned in 1321 in the bull *Vas electionis* and forced to retract. See the Introduction, above, p. xvi.

influx of money, the impoverishment of prelates and hence their further subjugation.

14

Practically no one is unaware of how much insolence has been the consequence. For since these individuals lack the present care of a superior, they become arrogant, disobedient and irreverent towards those to whom they ought deservedly to be subject, and hence also assume a wider latitude to sin in respect both of themselves and of others. At the same time those who ought to have a care of these men are given the opportunity to be lazy and neglectful, since they are deprived of the power that is due to them. The result for the faithful is so many and so great troubles and inconveniences that I doubt my ability to enumerate them – given their number and variety, which is almost impossible to grasp – and have therefore omitted to describe them in their particulars, even though many of them are easy subjects for those who wish to investigate them.

I pass over the practice (which now, from abuse, has the appearance of honest conduct) in which he allows certain deacons – servers of tables – called ‘cardinals’ to be preferred, in seat and reverence, over bishops and priests; completely disregarding Scripture on this matter, as well as how detestable it is according to Jerome’s letter *To Evander*, discussed above in chapter 15 of this discourse.<sup>17</sup>

Add to these a new outgrowth from the same root: that the Roman bishop, of this plenitude of power, has forbidden holders of ecclesiastical benefices everywhere to make wills without a licence from him, and decreed that the goods of those who die intestate (either absolutely or in some respect), should derive and devolve directly to his see.

And a greater evil from the same source (since simony is the greatest, even if it is only fully carried out after the fact) is that, by the same power, he reserves to himself the revenues and fruits of all benefices everywhere

<sup>17</sup> ‘Cardinal’ was originally an adjective, of unclear origin (perhaps taken from those who served at the four corners of the altar, or perhaps from the meaning of *cardo* as a ‘hinge’), designating a certain service or function within the administration of the Roman church. It did not designate a distinct holy order and could apply to bishops, priests and deacons. As the institution developed, cardinals were appointed from outside the Roman church as well, and their status and influence gradually increased, especially from the eleventh century onwards when they were given the primary role in electing the new pope. In the thirteenth century they received their characteristic insignia and sat before archbishops and bishops at church councils.

for the year in which they were first vacant.<sup>18</sup> In this way he accumulates to himself all the treasure of the world, and deprives all realms and provinces of the same; when they should in fact be distributed within these provinces to gospel ministers and other poor persons, or diverted (if necessary) to the support of the commonwealth from which they were taken, since it was for these purposes that they were established and ordained.

15

Again, and even more intolerably, he says that by this same plenitude of power, legacies bequeathed in the wills of faithful laypersons for the sake of overseas journeys or other pious causes, under the management of specified persons usually called ‘trustees’, belong to him to dispose of. This is not surprising, given that by this same power some of them have declared that they have dominion over all kings, princes and realms, as we quoted in chapter 20 of this discourse, when however none of what we have just said belongs to his power, as shown in chapter 15 of the first discourse and chapter 17 of this.

From the same root, too, other things arise, greater and more serious than these; but it is impossible to relate them all because they are so varied in nature. For ‘given one inconvenience’ – and especially one in which are contained all the other inconveniences that one can think of with regard to human civil actions – ‘there is nothing difficult about the fact that others occur’, as the sage of the gentiles pronounces.<sup>19</sup> For if this plenary power is due to him, it follows that it is licit for him to do what he likes. As a result he suspends and revokes all human ordinances and laws, even those ordered by a general council, at will; something that saints as much as philosophers have recoiled from as the ultimate detriment to any worldly government, as was demonstrated in chapter 11 of the first discourse and further confirmed by the authority of Augustine on I Timothy 6 in chapter 5 of this. In this way, therefore, the entire body of the church has been infected as a result of the plenitude of power permitted him; all order in the domestic economy of the church has been compromised; every civil government either absolutely hindered or

<sup>18</sup> I.e. ‘annates’, first claimed and obtained in England, Ireland and Scotland by Clement V in 1306, but John XXII extended the system, laying down the formal procedure in his bulls *Si gratanter advertitis* and *Suscepti regiminis* of 1317.

<sup>19</sup> Aristotle, *Physics* I, 185a11.



disturbed in part. And this when the words and deeds of this bishop and his church or college have been set up as an example to all the others.

16

Now if the faithful will do as I ask and turn their eyes, which have for so long been clouded over by a sort of veil of sophistical honesty, upon these people, those who have set foot upon the threshold of the Roman curia (or more truly – since I speak with truth – of the house of trafficking and horrible den of thieves) will clearly see for themselves that it has become the refuge of almost every villain and huckster, both spiritual and temporal; while those who have kept away from it will learn the same thing from the tales of a large number of trustworthy faithful. For what else is to be found there except a concourse of simoniacs from all parts? What else but the din of lawyers for hire, insults of slanderers and affronts to just men? There justice for innocents is either endangered or – if they cannot buy it for a price – deferred so long that they are ultimately forced to relinquish their just and pitiable suits from exhaustion, worn out with countless efforts. For there the laws of men thunder from on high while divine teachings are silent or all too rarely make a sound; there, treatises and plans to invade the provinces of fellow-Christians, to take them by armed and violent power and snatch them from those who licitly have custody of them: but no concern or counsel for the winning of souls at all. Add to this that it is a place ‘without any order, wherein eternal horror dwells.’<sup>20</sup>

17

I myself, who have seen it and been there, seemed to see that terrible statue that we are told Nebuchadnezzar saw in his dream, in Daniel 2:<sup>21</sup> having a head of gold, his breast and arms of silver, his belly and his thighs of brass, his legs of iron, his feet part of iron and part of clay. For what else is this huge statue than the status of persons at the curia of Rome or the supreme pontiff, which was once a sight to terrify the corrupt, but which now all virtuous men shudder to behold? For the upper limbs of this statue, head, breast and arms, what are they in their vision, affections and embrace but the gold and silver and works of men’s

<sup>20</sup> Job 10. 22.

<sup>21</sup> Daniel 2. 31–3.

hands? And its belly and thighs, what else are they but the rumble and uproar of secular suits or causes, of slanders and simoniacal trafficking, both of spiritual and carnal things; or shall I also say the thunder and lightning of excommunications and anathemas, both spoken and written, upon those of Christ's faithful who refuse, even though justly, to be subject in a secular manner to the Roman pontiff and his church, or to give him their carnal or temporal goods as tribute? What else (go on, tell me) are its brass thighs but the showy trappings of pleasure, luxury and vanity, indecent even for lay persons, which they impress upon men's senses when they should rather be a example of chastity and uprightness to the rest? Its iron legs and the feet and fingers fixed to the statue, made partly of clay and earth, where else do they point than towards the usurpation, invasion and occupation of secular principates, realms and provinces by the violent power of armed or iron-clad men? And with them they carry the upper members, the display of gold and silver which attracts armed men to these purposes, and the belly and thighs of brass which resound with the promise of such things and the spoken (though deceptive) absolution of sins and punishments, together with the unjust (though harmless, by a protective God) condemnation and cursing of those who defend their own liberty and wish to keep due faith with their princes. The earthen feet at the base, and the fingers, made of clay and therefore breakable, what else do they represent than the inconsistency of the Roman curia? What else do they denote than the weakness – or shall I say the falsity and iniquity, patent to all – of the pretexts on which the Roman pontiff leans in his oppression against the faithful of Christ?

But as the same prophet bears witness, upon this statue shall a stone fall that was cut out from the mountain without hands,<sup>22</sup> i.e. a king, elected from the universal body of men by God's grace, whom he shall raise up, sc. granting him the power, and whose kingdom shall not be handed over to another. This king, I say, more by the strength or grace of the Trinity than by the work or power of human hands, shall first crush and break in pieces the earthen part of this terrible and horrible and monstrous statue, viz. the feet upon which it ineptly stands. He shall make the false and iniquitous causes (or bald pretexts, I might more accurately say, with the poet)<sup>23</sup> known to all peoples and princes, their

<sup>22</sup> Daniel 2. 34, 45.

<sup>23</sup> An obscure reference: Previté-Orton suggests Pseudo-Cato, *Distich.* II. 26 or Phaedrus, *Fabulae* V. 8.

sophistry unpicked and attacked by human demonstrations and cancelled out with the truths of Holy Scripture; then he shall suppress its iron, sc. its dreadful and impious power. Next he shall cause the brass, i.e. the authority of malediction which it has presumed to itself over princes and peoples, and the uproar of secular jurisdictions that have been usurped and given rise to lawsuits and vexations, to fall silent and become mute; the luxury of pleasures and the show of vanities to cease. And lastly he shall curb the silver and the gold, i.e. the avarice and rapacity of the Roman pontiff and the upper members of the Roman curia; he shall concede them the use of temporal goods with the moderation that is due. Just so, according to the prophet, the iron, the clay, the silver and the gold shall be crushed; sc. all the vices and excesses of the above-mentioned curia shall be annihilated, like the chaff of the summer threshing-floors, carried away by the wind. For something that is so contrary to nature, to law both human and divine, and to all reason, cannot long endure.

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## How, specifically, the Roman bishop has used the said powers beyond the boundaries of the church, in respect of lay persons or civil affairs

It remains for us to find out how, and in what matters, the Roman bishops have so far used and go on using the plenitude of power which they have assumed for themselves, beyond the boundaries of the church. But we shall begin by reminding ourselves of the ritual of the early church and its development from its origin and head, which is Christ, and from the holy apostles who first promoted it. For he, sc. Christ, came into the world to institute and also to exercise the office of priest or pastor of souls. For being the legislator of the law of eternal salvation, he prescribed under that same law the ritual and practice of the sacraments, as well as commands and counsels for those things that must be believed, done and avoided in order to merit, either simply speaking or eminently, the happy or blessed life. He abdicated and explicitly renounced any judgement of civil acts or office of principate in this world, and he commanded or counselled all the apostles and his and their other successors in the above-mentioned office to abdicate it likewise; expressing himself and likewise his apostles subject by divine ordinance to the judgement or coercive power of those who hold principate in this world. They themselves expressed themselves subject in this way as much in deed as in word, as was plainly shown from Scripture, as well as the expositions and authorities of the saints and doctors, in chapters 4 and 5 of this discourse, and in some way clarified by human reasoning in chapters 8 and 9 of the same. Christ exercised instead the powers we spoke of in chapters 6, 7, 15 and 16 of this discourse, and granted them to the apostles to exercise along with those who succeeded them in their person. Again, he observed

supreme poverty and he taught, commanded or counselled the apostles and their successors to observe it, according to what we recalled and made clear in chapters 12, 13 and 14 of this discourse.

2

Now the apostles, like obedient children, kept this pattern and manner of living and of exercising the office just-mentioned in accordance with the said powers; and so too did the Roman bishops and very many other successors of the apostles up until around the time of the Roman emperor Constantine I, even if not all. For some of them possessed estates, the first of these (as we read) being Urban I, bishop of Rome; up until his time, the church or the whole college of priests had lived in the likeness of the life of Christ and the apostles, which we said was a life of meritorious and supreme poverty.<sup>1</sup> It is true that the said Urban may perhaps have done this principally for the sake of piety and for relief or pity of the poor (referring his intention to the good as piously as we can). Nonetheless, if he assumed for himself the power of claiming these estates or their fruits before a coercive judge, or if he had the power to sell them and distribute the price to the poor, but did not in fact do so, then undoubtedly he climbed down from the supreme poverty or status of perfection just-mentioned, whether he did this knowingly or in ignorance. Very many Roman bishops also followed him in this practice up until the time of Constantine.

3

During this interval (as we said in chapters 18 and 22 of this discourse), the Roman bishops together with their college laid down for themselves various ordinances concerning church ritual, for example in divine worship and the honourable status of the college of priests, and shared these, as being useful, with the other churches, especially those that requested them. They also took on (as far as was possible, for the sake of piety and charity) the care and cultivation of the other churches of the world, since these often lacked adequate rectors or pastors; and for this reason they encouraged and advised the personnel of other churches in matters pertaining to moral probity and the faith. The rest of the churches adopted their advice, gratefully and at their own prompting, for the

<sup>1</sup> Martinus Polonus, *Chronicon*, MGH *Scriptores* 22, 413.

reasons given in chapters 18 and 22 of this discourse. Moreover on occasion there may have existed within these churches various trouble-makers among the priests, bishops, deacons or other personnel, who would not cease from disturbing the others in matters of morals or the faith at the fraternal warning of those who were there. In such situations, the wiser among them, in their pious wish to live in Christ, perhaps procured that excommunications or anathemas should be passed and mandated by the Roman bishop and his church (whose warnings were more venerated by the faithful for the reasons already stated) upon rebels and those who disturbed others or were in some other way criminal; or the Roman bishops did this of themselves in the zeal of their faith. The majority of the faithful in other places, therefore, agreed to obey the Roman bishop and his church for the unity of the faith and to keep the peace and quiet among themselves, since they could not preserve these by coercive power or other more appropriate means given that the human legislator was at that time almost everywhere infidel.

4

However, when the time came of the Roman emperor Constantine I, who was the first of the Roman princes to permit and allow Christian faithful to gather together publicly, general councils of priests or bishops were for the first time held on the command and authority of the abovementioned prince. These councils defined and determined any ambiguous senses of Scripture, separating the true from the false and erroneous; for certain priests (as a result sometimes of ignorance, but more often of superstition and wickedness) had sown false and unhealthy interpretations among the faithful of Christ. Again, these councils put into effect ordinances concerning church ritual, as for example in respect of divine worship and the moral probity and training of deacons and priests. They also determined or laid down the manner and form of promoting them to ecclesiastical offices (both the inseparable, called 'orders', and those that are separable, called 'prelacies' or 'cures of souls', and other things of this kind) in certain defined regions or provinces, and of distributing temporal goods or benefices (that is, the offerings and other goods, both moveable and immoveable, which are given to them for the ministry of the gospel). The human legislator or the prince by its authority then passed a coercive command or law concerning the observance of what had been determined, which obliged everyone – priest or non-priest, according to what

was required of each – to a penalty in goods or in person to be inflicted upon transgressors for and in the status of this present world. For laws of this kind were passed upon priests and bishops more than upon others, since at that time it was they who more often gave cause for such an edict. Nor did the Roman or any other bishops protest against the human legislator that they were not subject to the laws and edicts of princes; on the contrary, they insistently requested the princes to pass laws of this kind, as is apparent from the abovementioned *Codex* of Isidore and other approved histories, many of which we quoted in chapter 21 of this discourse.

5

Further, laws defining their number with respect to each of the provinces were and have been laid down by the same princes; also concerning their temporal or carnal goods, both moveable and immoveable, which were donated to them by the said Constantine and by other princes, Roman or otherwise, and successively thereafter by individual persons as well; and again, in respect of their civil actions or suits, although these were tempered with special favours by the grace of the human legislator. For the legislators paid attention to the dignity and reverend nature of the priestly character – since the office of Christ is truly represented in it – and also to the serious moral character, simplicity and innocence of the persons who then ministered the gospel and carried the office just-mentioned. As a result, they laid down less rigorous laws for these men even for similar actions, and granted them very many privileges, so that they should not be harassed by slanderers among lay people or disturbed from their divine duties. For the devout were few in number, and because of their humility, liable to yield before the attacks of hired lawyers; nor were they protected by violent or armed power for their own defence or against the offensives of others. Hence Ambrose, as we quoted above in chapter 9 of this discourse: ‘I can grieve, I can weep, I can groan; against arms, soldiers and Goths, my tears are my weapons, for such are the defences of a priest; I neither can, nor should, resist in any other way.’<sup>2</sup> For this reason they stood in need of favours and special privileges in order to live quietly and safely and to escape the harassment of slanderers, although in recent times they have, in relation to the laity, undergone a complete transformation to the opposite quality.

<sup>2</sup> See above, II. 9, 6.

6

In this way, then, the whole college of priests lived in antiquity and for a long time under the civil laws and ordinances of princes, receiving from them and from the people the bestowal, confirmation and investiture of their separable offices (i.e. prelacies, cures of souls and others similar or lesser, as well as the power to distribute and dispose of temporal goods and benefices). Nor did the pastors of antiquity, the Roman bishops, fight against the Roman princes because of these sorts of subjection, nor against the people or individual patrons of churches, since they had recognised that they were obliged to it by divine and human law, as we have sufficiently shown in chapters 4, 5, 8 and 17 of this discourse through Scripture and by human reasoning. This is what we read of Symmachus, a Sardinian by birth: for having been elected together with a certain Laurentius in a disputed election, he was confirmed as Roman pope by the king Theoderic after judgement had been made.<sup>3</sup> Martin writes in the same way of Saint Gregory: this man, he says, ‘is elected pope, and he’ (viz. the emperor Maurice) ‘affirms his consent in imperial letters.’<sup>4</sup> So, too, the Roman bishops used to seek confirmation of their privileges from the emperors, as we read of Vitalian, a native of Segni, and Constantine, a Syrian by birth,<sup>5</sup> and many other Roman popes; indeed, in order to obtain these and other requests and their confirmation, they used very often to travel to the emperors in person through distant lands, as we read of many of them in the chronicles and approved histories. And what is more, John XII was deposed from the papacy by the Roman emperor Otto I, as his faults demanded and with the consent of the whole people.<sup>6</sup> So too we read in Martin’s *Chronicle*, where it talks about Benedict IX, of two men who had been elected contentiously and were ‘deposed by imperial censure’ by Henry, then prince of the Romans.<sup>7</sup> For it belongs to the same primary authority both to establish something and to overturn it, if it becomes expedient; and therefore since every bishop ought to be elected by the prince and by all the people, he can

<sup>3</sup> Martinus Polonus, *Chronicon*, MGH *Scriptores* 22, 420.    <sup>4</sup> *Ibid.*, 457.

<sup>5</sup> *Ibid.*, 423 and 425.

<sup>6</sup> Previt -Orton suggests as Marsilius’s source Liudprandus Cremonensis, *De Ottone rege (Historia Ottonis)*, *Cetedoc* from CC (*Continuatio mediaevalis*) 156, ed. P. Chiesa (Turnhout: Brepols, 1998), pp. 169–83: par. 15, p. 179, l. 382, a history of the events of the pontificate of John XII (900–64 CE).

<sup>7</sup> Martinus Polonus, *Chronicon*, MGH *Scriptores* 22, 433.



be deselected or deposed by their authority. The certainty of this was demonstrated in chapter 17 of this discourse.

7

Thus the bishops both of Rome and the other provinces, together with the priests and the entire college of the clergy, lived in the likeness of Christ and the apostles under the coercive government of those who exercised the office of prince by the authority of the human legislator. But, persuaded and incited by the prince of this world – the devil, the original parent of pride and ambition who suggests all the other vices too – certain Roman bishops were led, or more accurately led astray, down a different road from that of Christ and the apostles. For the avarice and cupidity which invaded their minds drove out the supreme and meritorious poverty that Christ had planted and established in the church (so-called in its third sense). Again, the pride and ambition to exercise secular principate drove out the supreme humility that Christ had enjoined upon and commanded to that same church or entire company of clergy. Now we read that the first who was subject to this passion (if there was not another before him) was a certain Simplicius, surnamed Tibertinus, a bishop of Rome.<sup>8</sup> For this man, assuming an authority from some source of which I am unaware (although I am very well aware of the source of his audacity, unless he is excused by ignorance), laid it down that no cleric should receive his investiture from a layman, understanding by this the investiture of benefices and offices of which we spoke earlier; even though it is clearly signaled in his own statute that his predecessors used to receive the said investitures from laypersons, in their wish to display humility and due reverence to princes. Pelagius I, again, a successor (although not directly) of this Simplicius, laid it down ‘that heretics be punished by the secular powers’.<sup>9</sup> This statute is a cause for some wonder, since he was not unaware that a law of this kind had been passed against heretics in the time of the Roman prince Justinian,<sup>10</sup> and also because it did not belong to his authority as a bishop to pass laws of this kind – unless perhaps this were allowed him by the authority of the human legislator, as shown in chapters 12 and 13 of the first discourse and chapter 21 of this. And

<sup>8</sup> *Ibid.*, 419.

<sup>9</sup> *Ibid.*, 421.

<sup>10</sup> Code I. 5, ‘On heretics and Manichaeans and Samaritans’.

therefore he ‘put his sickle into another’s harvest’<sup>11</sup> just as did the already-mentioned Simplicius, viz. by usurping to himself the authority of another. Adrian III, again, succeeded him (even if not directly) in the said usurpation. For he laid it down that no ‘emperor should involve himself in a papal election’, to use the words of the said Martin:<sup>12</sup> a statute which is altogether null in that it emanated from one who lacked the relevant authority, sc. legislative. For it contained something that was clearly inappropriate, as was also shown in chapter 17 of this discourse, and its contrary had been confirmed by long and praiseworthy custom.

8

For although Martin says (in the passage where we read of Leo X)<sup>13</sup> that ‘it was from evil custom that the Romans’ asked for ‘a pontiff to be given them by the emperor’, he admits it was ‘the custom’, which we grant to be true; but when he on his own authority calls it ‘evil’, justifying as best he can the said usurpations of the Roman pontiffs and obfuscating the rights of princes and the human legislator, striving to please man more than God and the truth, he does not speak truly, but rather demonstrates that the origin and secret of this matter is hidden from him. For while it may not belong to the prince or any other individual person as such, either by divine or human law or by some praiseworthy custom, to institute or determine a person to a particular office, especially the Roman episcopate, on his own initiative (as was adequately shown in chapter 15 of the first discourse and chapters 17 and 22 of this); nevertheless the institution of the Roman pontiff could very licitly belong to the prince by the authority granted him by the human legislator, according to a definite pattern and manner determined by law, viz. for example that he must employ the counsel of the college of priests and other wise and virtuous men, and give credence to the decision of their prevailing part. Nor should we believe Martin on this matter, since he together with his order<sup>14</sup> was a participant in this usurpation. For the religious orders called the ‘poor friars’ have obtained (or think they have obtained) exemption through the action of the Roman pontiffs, viz. to the effect that they are not subject in any jurisdiction to their pastors, bishops or

<sup>11</sup> A phrase from Bernard of Clairvaux: see above, II, 5, 2.

<sup>12</sup> Martinus Polonus, *Chronicon*, MGH *Scriptores* 22, 429.

<sup>13</sup> *Ibid.*, 433.

<sup>14</sup> As noted above, II, 18, 2, n. 1, Martinus was a Dominican.

other superior prelates;<sup>15</sup> even though they obtain exemption from the jurisdiction of princes purely by the privileges through which the clergy has been exempted by the human legislator.

9

Returning to where we were before, however, it was not an evil or blameworthy custom for the pastors of the Roman church to be appointed by the emperors, as we said. For we read – and this is conceded, Martin, by those who strive along with you to oppose this truth – that this authority (and moreover in a fuller sense than has just been said) was granted by the entire people of Rome, i.e. by the bishop, the clergy and other secular persons, to Charlemagne and to Otto I, king of the Germans and thereafter emperor of the Romans. Hence we read in approved histories,<sup>16</sup> and it is true, that the following edict emerged from the common consent of the Roman people: ‘Pope Leo in the synod assembled at Rome in the church of the Holy Saviour, after the example of Saint Adrian, bishop of the apostolic see, who granted the lord Charles, most victorious king of the Franks and the Lombards, the dignity of the patriciate and the ordination and investiture of the apostolic see. I too Leo, servant of the servants of God, bishop, together with all the clergy and people of Rome, do hereby establish, confirm, and corroborate, and through our apostolic authority grant and bestow upon Otto I, king of the Germans, and his successors in the realm of Italy in perpetuity, the faculty of electing a successor to himself as well as of ordaining the pontiff of the supreme apostolic see, and in consequence the archbishops or bishops, so that they should receive their investiture from him, but their consecration whence they ought; excepting those that the emperor has granted to the pontiff and to the archbishops. And let no one henceforth, of whatever dignity or religious status he may be, have the faculty of electing a patrician or pontiff of the supreme apostolic see

<sup>15</sup> See above, II. 24, 13 and note.

<sup>16</sup> The following quotation from Leo IX’s (forged) donation to the emperor Otto the Great appears to stem from Ivo of Chartres’ collection of canons, the *Panormia*, MPL 161, c. 1338B–D. The *Panormia* also contains the (similarly forged) bull of Adrian I to Charlemagne: MPL 161, c. 1337C–D. Both were inserted into the *Decretum* at Part I, dist. 63, cc. 22 and 23 (CIC I col. 241). It is more likely that the *Panormia* was Marsilius’s immediate source, because of the discrepancies in wording between his text and that of the *Decretum*.

or of ordaining anyone bishop without the consent of that emperor; but let this take place without any money involved; so that he may himself be patrician and king. And if a person be elected bishop by the clergy, let him not be consecrated, unless he be applauded and invested by the abovementioned king. If anyone should attempt anything against this authority, we have decreed that such a one be subject to excommunication, and, unless he repents, be punished with irrevocable exile or the ultimate punishment.’ The successor of the said Leo, pope Stephen, confirmed this edict, as did Nicholas, a successor of Stephen, who also commanded that it be observed on pain of a terrible anathema, viz. that those who violated or transgressed it should be numbered ‘with the impious who shall not rise again’.<sup>17</sup>

What should be particularly remarked from this edict, however, is that this authority in respect of investitures, which the Roman bishop together with the universal people transferred to the emperor, was in fact a kind of renunciation on the part of the pope. This is because the primary authority for this belonged and belongs to the prince or human legislator who had previously granted this authority (sc. with regard to the investiture of bishops and archbishops) to the pope; because all temporal matters, by whomsoever they may have been transferred to whatsoever church, were and are subject to the human legislator of the province in which they are located. This is signalled in the said edict where it says: ‘excepting those which the emperor has granted to the pontiff and to the archbishops.’ In this way it also belongs to the power of the Roman prince and people to appoint the pontiff of the apostolic see, as shown in chapter 17 of this discourse. The clergy is not excluded from this people, but included, since it is a part of it. And if it was their will to transfer this power or authority to the prince, either absolutely speaking or in some way determined by law, then the Roman prince assumed it licitly and it cannot licitly be revoked from him by a decretal or law of any Roman pontiff without a decree of the people. For in a community of the faithful it does not belong to the Roman pope or to him together solely with the clergy to establish laws or decretals which oblige anyone to punishment, as was shown in chapter 12 of the first discourse and 21 of this. Some Roman bishops have nevertheless tried to pass and promulgate such things, however much this was beyond their due, usurping the

<sup>17</sup> The genuine bull of Stephen IX concerning papal elections was placed by Ivo at the end of Nicholas II’s election decree: MPL 161, c. 1129D.

jurisdiction of peoples and princes as much in the passing of the laws as in the laws themselves once passed; and they have gradually inched forward in this matter, especially when the imperial seat has been vacant, as we argued in chapter 23 of this discourse.

IO

However, as a result of this and their seizure of certain temporal goods (as far as can be understood from the chronicles and approved histories), quarrels arose between the Roman emperors and Roman bishops – even though the latter thereby acted against the counsel or command of Christ and the apostles, whom they should rather have succeeded in the office of the apostolate or priesthood and observed supreme poverty and humility. But out of ignorance or wickedness or both, as we have shown from the foregoing discussions, they turned down another road, opposed to this one, and initiated the unending contention and battle against the princes just mentioned. A certain Roman bishop called Paschal acted more aggressively than the others against Henry IV, king of the Germans. For according to the histories,<sup>18</sup> the said bishop prohibited this king from ascending the imperial throne, and aroused the Roman people against him until the said Henry (at that time residing in Tuscany) was practically compelled to grant, through heralds and letters, the investiture of bishops, abbots and all clergy to this same bishop. But after Henry had entered the city,<sup>19</sup> he sought out and captured the said pope together with his company of cardinals, for having extorted the oath from him; and when the pope was eventually freed he made peace with the said emperor. But he ended in laborious dispute after renewing the old quarrel.

II

The said emperor, as Martin relates,<sup>20</sup> ‘recollected himself’ – to use Martin’s words – ‘and resigned the investiture of bishops and other prelates, through ring and staff’ to a successor of Paschal named Calixtus. He ‘allowed a canonical election to take place in all the churches throughout the empire, and restored to the Roman church the possessions

<sup>18</sup> Martinus Polonus, *Chronicon*, MGH *Scriptores* 22, 435.

<sup>19</sup> *Urbs*, i.e. Rome.

<sup>20</sup> *Ibid.*, 469.

and regalia of Saint Peter, which had been alienated because of his own or another's dispute with the church; and faithfully laid down that other possessions of both clergy and laity, which had been taken from them on the outbreak of war, should be restored.'

12

Now when the Roman emperors Otto IV and Frederick II wanted to or did revoke these concessions and privileges absolutely or in part, perhaps for some legitimate reason, they (and also some of their predecessors) encountered manifold attacks, persecutions and obstacles on the part of the Roman bishops and clergy; receiving little help from their subject peoples because their own government, or that of their officials and ministers, had perhaps on occasion savoured of tyranny.<sup>21</sup>

13

This, then, is and was (as we have already said) the original spark of the present strife and discord between the emperors and the Roman popes, while the contentions over divine law and the heresy of certain princes have been entirely laid to rest. For the Roman bishops want to possess temporal goods excessively and against what is their due, and they do not want to be subject to the laws and edicts of princes or the human legislator, against the example and teaching of Christ and the apostles as we showed earlier in chapter 4 of this discourse and chapters 5 and 14 of the same. And this is even though in respect of these things, which are not their own but which they nevertheless possess as their own, they should yield rather than contend, according to the Apostle's counsel in I Corinthians 6 to all the faithful and especially those who ought to imitate the life of Christ and the apostles, such as priests, bishops and other spiritual ministers. 'Why', he says, 'do ye not rather take wrong? Why do ye not rather suffer yourselves to be defrauded?'<sup>22</sup> And he adds (which can appropriately be applied to the Roman bishops and almost all the rest of the clergy): 'Nay, ye do wrong, and defraud, and that your brethren. Know ye not that the unrighteous shall not inherit the kingdom of God?' But the Roman bishops take no

<sup>21</sup> There does not seem to be a precise source for these assertions. For the case of Frederick II, cf. Innocent IV's bull of deposition, 17th July 1245, in MGH *Constitutiones* 2, 508.

<sup>22</sup> I Corinthians 6. 7–8.

more notice of this than of anything else; and when, on occasion, they perceive themselves to be burdened by Roman princes who take tithes or suchlike tributes of temporal goods for the upkeep of their soldiers when the necessity of war is urgent, they have – in return for the favour they have received and the benefaction of carnal goods that the Roman princes have graciously bestowed upon them; puffed up with pride, ignorant of their own condition and the most ungrateful of all ingrates – issued forth with unbridled presumption into horrifying blasphemies and anathemas upon both princes and the Christian faithful who are their subjects. Never mind that these things retort rather upon their own unhappy souls and bodies than reach the princes and the innocent flock of the faithful.

14

Nor have they been content with the temporal goods granted them by the princes, because of their insatiable appetite for such things. And so they have seized many temporal goods of provinces which fall under imperial right, such as the cities of the Romagna and of Ferrara and Bologna and many other possessions, as well as estates and other jurisdictions, especially when the imperial seat has been vacant. And in what is the most extreme of all civil disadvantages, they have set themselves up as princes and legislators so that they might reduce kings and peoples to servitude to them, however intolerable and shameful. For many of them are of lowly plebeian birth, and when they are elevated to the status of pontiff without having any knowledge of secular leadership (just as the newly rich have no discernment with regard to wealth), they become intolerable to all the faithful.<sup>23</sup>

15

In their belief, moreover, that anything is licit for them from the plenitude of power which they assert is their due, they have laid down (and continue to do so) certain oligarchic ordinances called decretals. Therein they decree that whatever they think suits their own temporal convenience, and that of their clergy and other laypersons whose exemption we discussed in chapter 8 of this discourse, should be observed, even though this is highly prejudicial to those who exercise the office of prince

<sup>23</sup> Cf. above, I. 16, 1 and 15 for this objection and its response in the case of secular principates.

and the rest of the faithful. They have struck out at those who disobey these ordinances with spoken or written anathema, as we said before; and some of them have finally broken out into such madness that they have pronounced, in these decretals, that all the princes and people of the world are subject to them in coercive jurisdiction, and that of necessity of salvation everyone must believe this to be true. How risible this is we pointed out above in chapter 20 of this discourse, sections 8 to 13.

16

Thus the Roman bishops want to preserve and obstinately to defend the excesses we have related, which they, together with their company of clergy, have perpetrated upon all princes and peoples (although to a greater extent and more manifestly upon the peoples of Italy and the princes of the Romans). Moreover they want to acquire for themselves not only these, but others (the same or even greater) that they have their eye on or hope for in other realms; and to this they direct all their concern and devote every external effort as far as they dare. But although they dissemble in this matter and try to obfuscate as much as deny it with various poetic vociferations and verbal wrappings, they are nevertheless aware of and recognise the fact that it is the same human legislator which has the authority both to confer any privileges and concessions and to take them away if it judges expedient. And therefore, conscious as they are of their own or their predecessors' ingratitude and faults, they forbid the creation and elevation of the Roman prince with all malign concern and effort; fearing that the Roman prince will revoke and remove their privileges and concessions and that they will then be disciplined as they deserve.

17

Again, because of the fear just stated, and because the abovementioned privileges would not give them a clear route to seizing the dominions, jurisdictions and possessions of other realms without subterfuge – some princes perhaps protesting their exemption from the prince of the Romans<sup>24</sup> – they have tried to gain access to these with another cunning

<sup>24</sup> Proponents of the imperial cause as well as a number of distinguished Roman lawyers argued that the Roman emperor was by right *dominus mundi* or 'lord of all the world', with supreme jurisdiction over all kingdoms and principalities in the lands formerly subject to



ploy. For they have assumed a title, viz. ‘plenitude of power’, which they attribute to themselves and try to make an instrument of this iniquity; saying that it was granted to them by Christ in the person of Saint Peter, since they are the successors of this apostle individually. And on the basis of this execrable title and with pronouncements that are sophistic in their equivocation (but which all the faithful should nonetheless always and everywhere reject as false in every sense), they have misreasoned in the past, carry on misreasoning now, and try to misreason some more in order to reduce all princes and peoples, collective bodies and individual persons, to their servitude. For the Roman bishops first assumed for themselves the title just-mentioned of plenary power in the sense in which ‘plenitude of power’ seems to signify a universal cure of souls or universal pastorate, and then again in the sense in which it implies the power to absolve all men individually from their faults and punishments under the guise of piety, charity and mercy. But (as we argued in chapter 23 of this discourse) they have gradually and unnoticed moved over from these, and finished by assuming this title for themselves in and according to that signification by which ‘plenitude of power’ is understood – by them – as the universal authority and supreme jurisdiction or coercive principate over all princes, peoples and temporal things; taking their starting-point (although inappropriately) for that move, and their resulting presumption, from the metaphorical expositions we spoke of in chapter 23 of this discourse, section 5. But here is a sign that is not hidden from anyone that the Roman bishops attribute plenitude of power to themselves in this sense – sc. that they mean that the authority of supreme jurisdiction or coercive principate over all princes, peoples and individual persons belongs

the ancient Roman empire and Roman law. This argument was resisted by other secular powers within those lands on a number of grounds, one of which – especially in the critical case of France – was the legal process of prescription, by which the long-standing practice of independent jurisdiction was held to create a legal exemption from the jurisdiction of the emperor. We find this argument in various tracts in support of Philip IV in his dispute with Boniface VIII, for example in the *Quaestio de potestate papae (Rex pacificus)*, ed. and tr. R. W. Dyson (Lewiston-Queenston-Lampeter: Edwin Mellen, 1999), pp. 37–9 (87–89); or in John of Paris, *On Royal and Papal Power*, ch. 21: ‘... the Franks were exempt by prescription from imperial jurisdiction ...’ (tr. Watt, p. 225). It is noticeable that Marsilius is unwilling either to endorse or deny this kind of argument. But what is clear is that he is directing all his efforts to deny the way in which such claims were being used, i.e. to argue that even if the emperor is subject to the pope, this has no impact on France (in this case) because France is not subject to the emperor. Marsilius’s contrary argument is that the claims the popes make over the empire are not specific to the empire: they are part of a general strategy to subordinate all temporal jurisdictions to themselves.

to them of this plenitude of power. For in the seventh volume of their pronouncements which they call the *Decretals, On the Sentence and the Matter Adjudged*, the Roman pope Clement V, who is inscribed as its author, and his so-called successor who afterwards published it, put out the following passage in which they revoked (as far as was in them) a certain judgement of the divine Henry VII, emperor of the Romans, and which they prefaced – in what is now their usual fashion – with many words of insult, slight and irreverence towards the said Henry, both spoken and written. ‘We, as much from the superiority which none can doubt is ours in respect of the empire, as from the power in which we succeed the emperor when the imperial seat is vacant, and no less from the plenitude of that power which Christ, king of kings and lord of lords, granted to us (although we do not merit it) in the person of Saint Peter, declare, on the counsel of our brothers, that the said sentence and process and whatever followed from them or on occasion of them were, and so are, entirely null and void.’<sup>25</sup>

18

And so that the deception of these bishops may lie hidden no longer, like the herald of truth I cry valiantly forth and I say to you, kings, princes, peoples, tribes and all tongues universally! – the gravest prejudice results from the Roman bishops and their company of clergy and cardinals in this piece of writing of theirs, absolutely plainly false on any way of taking it. For they are attempting to reduce you to slavery to them, if you allow it to stand and in particular if you allow it to have the force and strength of law. For note that it follows necessarily that one who has the primary authority to revoke a sentence of any prince or judge, has jurisdiction and coercive principate over him, as also the power to create and remove his principate and to depose him. But the Roman bishop ascribes this authority to himself over all princes and principates of the world indiscriminately; since of that plenary power, which he asserts that Christ granted him in the person of Saint Peter, he revoked the civil judgement of the said Henry. It also follows of necessity that this power was granted him no less over all the other kings and princes of

<sup>25</sup> This is the bull *Pastoralis cura*: see above, II, 23, 11 and 12, and note there. It was confirmed by John XXII and published on 16th July 1317.

the world than over the prince of the Romans, since Christ is or was or will be no less king or lord of other kings and princes than of the king or prince of the Romans. And their speech and writing bear open witness to this too, when they say or write: ‘king of kings and lord of lords’. For if their words or writing had it in the singular, i.e. that of the plenitude of power granted them by Christ, king and lord of the king or emperor of the Romans, etc., it might be possible to understand thereby some kind of exception in respect of the other kings and realms. But now since they have issued their proclamation in the plural, without qualification and indiscriminately, in the way that it is written by the evangelist (although not in the sense that the Roman bishops mean), it cannot afford an exception to any king or prince; nor indeed do they mean anyone to be excepted from this, but all included. Their predecessor Boniface VIII pronounced this plainly elsewhere, as we quoted in chapter 20 of this discourse, section 8.

19

In reply to these people, however, and so that no one should stay with their mind poisoned by their words or writings: the evangelist (certainly) told the truth in calling Christ ‘king of kings and lord of lords’, and he would have done so even if he had added, of all creatures too. Nonetheless, anyone who has asserted that any power of principate or coercive jurisdiction, let alone plenary, was granted to the Roman or any other bishop in the person of Saint Peter or any other apostle, has told and written a false and outright lie, against the clear judgement of Christ and the apostles Peter, Paul and James. Rather, such power is, was and shall be forbidden to the Roman bishop and all the rest of them in the person of any apostle whatsoever. We have put the certainty of this beyond doubt through Scripture and the authority of the saints in chapters 4, 5 and 9 of this discourse.

20

And indeed in that new and hitherto completely unheard-of piece of fiction, the Roman bishop (no less falsely than insolently, at odds with both his own mind and that of almost all the faithful who care to consider it) is not ashamed to spell it out plainly when he obstinately asserts ‘the superiority which none can doubt is ours in respect of the empire’, and

again, that ‘when the imperial seat is vacant he succeeds the emperor’, sc. the abovementioned. These words manifestly demonstrate the iniquitous and unjust usurpation of imperial jurisdictions that the Roman bishops have thus far practised and still do practise at the present moment, especially when the imperial seat is vacant. For who could have the effrontery to pronounce barefaced that something was undoubtedly true which no one has ever heard of before in this world and which is not supported by either divine or human law or right reason? – and when in fact it is the very opposite of this that has always been thought in accordance with these laws and reason, and proclaimed as if to signal a truth believed by everyone? Hence we might well say, adapting the physicians’ proverb, ‘the one who is trusted by most is the one who cures the most’, to fit the circumstances: the one who is most believed, in recent times, is the one who wants to seduce and to deceive the most.

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## How he uses the same specifically towards the Roman prince and empire

In this way, then, the Roman bishops have so far used and carry on using the said plenitude of power, steadily to the worse as they go on. However, they do this to a greater extent against the Roman prince and principate: for one thing, because they are more able to practise this iniquity of theirs (sc. of subjecting the principate to themselves) against him because of the discord which these so-called ‘pastors’ or ‘holy fathers’ have so far fomented, and continue to foment, both between the inhabitants themselves and towards their prince; and for another, because once they have subjected this principate to themselves (so they think) the way will be open for them easily to subjugate all other realms. And this is even though they are more fully and singularly obliged to the Roman prince and principate on account of the benefactions they have received, as is well-known to everyone.

### 2

Truly (in case what we say is unfamiliar to anyone and needs us to voice it) these Roman bishops, smitten with covetousness or avarice, pride and ambition, worse than wicked because of their ingratitude, seek with all means to prevent the creation and elevation of the Roman prince; seeking ultimately to dissolve his principate, or trying to transfer it to another form more subject to themselves, so that the excesses they have perpetrated against the empire should not be corrected through the power of the said prince and so that they themselves should not be deservedly disciplined as a result. But although they place obstacles on all sides to the above-mentioned prince with the intention we have said, this is

nevertheless under a cunning pretence, saying that they do this in order to defend the ‘rights of the bride of Christ’, viz. the church – even if this sophistic piety is laughable, because it is not temporal goods or lust for them, nor ambition for jurisdiction or principate, which is the bride of Christ, nor did Christ ever join this to himself in matrimony; on the contrary he explicitly repudiated it as foreign to him, as shown from divine Scripture in chapters 4 and 5 and 13 and 14 of this discourse. For this is not the heritage of the apostles which they left to their true, not their fictitious, successors, as Saint Bernard says openly *To Pope Eugenius, On Consideration*, Book IV, chapter 4: ‘This is Peter’, says Bernard, ‘who is not known ever to have gone in procession adorned with either jewels or silks, covered in gold, carried on a white horse, attended by a knight or surrounded by clamouring servants. Nevertheless, without these trappings he believed that he could satisfactorily carry out his mandate of salvation: “If you love me, feed my sheep.” In these things’ (sc. gold or gems and other temporal things) ‘you are the successor not of Peter, but of Constantine.’<sup>1</sup> The bride of Christ is not, therefore, truly defended by contending for temporal things. For the Roman bishops do not defend her who is truly the bride of Christ, the catholic faith and the multitude of the faithful, but rather attack her: not preserving her beauty, viz. her unity, but making her ugly, lacerating her limbs and tearing them apart from each other by sowing the seeds of heresy and schism. And when they do not let in the true attendants of Christ, poverty and humility, but entirely exclude them, they show themselves the enemies of the bridegroom, not his servants.

### 3

In their efforts to overturn this principate, therefore, the Roman bishops assume (as we have previously concluded from their pronouncements) that by divine or human law – or maybe both – they have supremacy over the Roman prince or emperor, either once he has been created or while he still remains to be so; and also that imperial power or jurisdiction belongs to them when the imperial seat is vacant.<sup>2</sup> These assumptions, however,

<sup>1</sup> Bernard of Clairvaux, *Five Books on Consideration*, IV. 6; see above, II. 11, 8 and note there.

<sup>2</sup> John XXII had restated this claim in his bull *Si fratrum et coepiscoporum* of 31st March 1317 (*Extravagantes Ioannis XXI*, tit. 5, cap. 1, CIC II, cols. 1211–12). See further below, section 17, n. 32.

are absolutely plainly false and unconfirmed by any divine or human law or right reason. On the contrary, we have demonstrated the opposite in chapter 12 of the first discourse, and confirmed it further on grounds of Scripture in chapters 4, 5 and 9 of this discourse.<sup>3</sup>

4

Along with the others that we have already mentioned, however, there was a further occasion (unnecessary, let me say) for these assumptions, or more accurately presumptions: a kind of devoutness. For some Roman emperors beyond the time of Constantine wished to signal the fact that they had been elected to the Roman pontiffs in a loving manner, so that in their person they might thereby show especial reverence to Christ and obtain from him, through the intercession of the pontiffs, greater blessing and grace in the government of his empire. In the same or a similar manner some Roman emperors caused that a royal diadem be placed upon them by the Roman pontiffs, to mark the solemnity and as a sign of their enthronement, and in order to obtain greater grace of God. But who will say that this coronation gives the Roman pontiff any more authority over the Roman prince than the archbishop of Reims over the French king? For these kinds of solemn ceremonies do not confer authority, but are rather a sign of authority already held or conferred. Now from this reverence thus freely displayed by the Roman princes and on account of their simplicity – let me not say lack of spirit – the Roman bishops (seeking what is not theirs as is their habit) introduced the custom or more accurately abuse of calling, in speech or writing, their praise and blessing of the person elected the ‘confirmation’ of the said election.<sup>4</sup> And as the Roman princes of old did not remark the prejudicial intent that lay behind this figure of address, the Roman pontiffs

<sup>3</sup> Cf. above, II. 4, 9–12; II. 5, 4; II. 9, 9: all on the subject of Christ’s submission to Caesar and his imperial vicegerent, Pilate.

<sup>4</sup> The practice of papal coronation of the emperor went back to the coronation of Charlemagne in Rome in 800. The key step in the development of the papal position to which Marsilius here refers was taken by Innocent III in his bull *Venerabilem* of 1202 (*Decretals* Lib. I, tit. 6, cap. 34, CIC II, cols. 79–82). It is worth citing the relevant passage: ‘Indeed we recognise, as we should, the right and power of those princes to elect the king, who is afterwards to be promoted to the empire . . . especially since this right and power has derived to them from the apostolic see, which transferred the Roman empire from the Greeks to the Germans in the person of Charlemagne. But for their part, too, the princes must recognise . . . that the right and authority to examine the person elected to be king and to be promoted to the empire belongs to us, who anoint, consecrate and crown him’ (ibid. col. 80, my translation). Boniface VIII had further developed the position by claiming that

gradually slipped it in: in this concealed manner at first, but now openly, as if no one – however appropriately elected king of the Romans – should be called king, nor hold or exercise the authority of the king of the Romans, unless he has been approved by the Roman bishop.<sup>5</sup> This approval consists in the pure will of the Roman bishop alone – so he says – because in this judgement he does not recognise any superior or equal on earth, nor is he bound to follow the counsel of his brothers, called cardinals, in this or in any other matters (even if he may use it); on the contrary, he can if he so wishes do the opposite in any matter whatsoever, of his plenitude of power.

5

In this the Roman bishop simply follows his habit of drawing falsehood from truth and bad from good. For it does not follow from the reverence freely paid him by the Roman prince out of his devotion, by which he signalled his election and asked his blessing and intercession before God, that the election of the Roman prince depends upon the Roman bishop's will. For this would be nothing other than to dissolve the Roman principate and prevent the institution of the Roman prince in perpetuity. For if the authority of an elected king depends upon the will of the Roman bishop alone, the office of the electors<sup>6</sup> is utterly void: since he who has been elected by them is not a king, nor should he be called a king, before he is confirmed by that bishop's will or authority, which he calls the 'apostolic see'. Nor again can one who has been elected in this way exercise any royal authority; on the contrary (which is oppressive even to hear, let alone endure) it will not be licit for anyone who has been elected to collect his daily expenses from the revenues of the empire without the licence of this bishop. What authority does his election by the princes give him, then, other than a nomination, given that their decision

when the elected king of the Romans announced his election to the pope and requested a coronation, this was in fact a request for confirmation. Clement V's bull *Romani principes* (see above, II. 23, 12 and note there) repeated the claim.

<sup>5</sup>This language echoes the wording of John XXII's 1323 *monitorium*: 'Before the person of either of them [i.e. Ludwig or Frederick, the two claimants in the disputed election] had been approved or rejected by the apostolic see, it was not licit for either of those elected to assume the said name and title, since they are not, in the meantime, kings of the Romans, nor are they to be held to be kings nor even to be called kings': MGH *Constitutiones*, Vol. V, p. 617 (my translation).

<sup>6</sup>The electors of the emperor were the seven 'electoral princes': the archbishops of Mainz, Trier and Cologne; the count palatine of the Rhine, the duke of Saxony, the marquis of Brandenburg and the king of Bohemia.



depends on the will of a single other person? Seven barbers or blind men could give the king of the Romans that much authority. I say this not in disdain of them, but in derision of the man who wants to deprive them of their due authority. For he does not know what is the force and rationale of an election, and why the power for it resides in the prevailing part of those who have the duty to elect; nor that its outcome should not and cannot depend on the will of any one person alone, if it has been rationally established, but only on the legislator over which the prince must be instituted, or on those alone whom that same legislator has granted such authority. We established the certainty of this through demonstration in chapters 12 and 13 of the first discourse.

6

In this way, then, the Roman bishop plainly wants to overturn the office of the electors, even though he tries with wonderful versatility to get round them and throw dust in their eyes. For he says in some of his sermons and writings that no one who has been elected king of the Romans either is or should be called king before his confirmation, asserting that the authority for this belongs to his own free power; and he conceives that even the institution of the electors pertains no less to this same power, since it was he who transferred the empire ‘from the Greeks to the Germans in the person of Charlemagne’, as this same Roman bishop asserts.<sup>7</sup> Indeed in certain other edicts proclaiming that a certain person who has been elected by them is deprived, by Christ and by his see, of any authority the electors could give him, he craftily slips in: ‘And by this we do not wish to create any prejudice in regard to the electors or their office.’<sup>8</sup> But he acts in a way manifestly prejudicial to them, indeed which reduces their office to nothing, since he has previously said that their election does not confer the royal authority of the Romans upon anyone, and since without their consent and deliberation he deprives the person who has been elected by them of his

<sup>7</sup> MGH *Constitutiones*, Vol. V, p. 616.

<sup>8</sup> This seems to be a quotation, but it is not clear exactly from where. The ‘fourth process’ of John XXII against Ludwig (11th July 1324, MGH *Constitutiones*, Vol. V, pp. 779–88) explicitly deprives Ludwig of any rights he might have gained by being elected, and asserts that is not in prejudice of the rights of the electoral princes (pp. 787–8). But Marsilius does not quote precisely from this document. Marsilius might have seen a draft of some kind, or be anticipating the content from previous papal formulations. Both *Venerabilem* and *Romani principes* assert that the right of the electors derives from the pope.

right by election with which they have endowed him. And his action in deluding them in this fashion is prejudicial to them in exactly the same way as someone would harm a person if he gouged out his eye, even though while he was doing it he said that he did not want to harm him.

7

Again, to ascribe to himself this confirmation of the elected king of the Romans, and to say that without it no one either is or should be called a king, nor exercise his regalian rights, is nothing other than to prevent the institution and elevation of the said prince in perpetuity or to reduce the said principate to total servitude to the Roman bishop. For the Roman bishop will not approve or confirm any elected king of the Romans if he does not want to, since he asserts that he is superior to everyone and not subject to any collective body or individual person in this matter. However he will never want to approve or confirm anyone, since before he gives his approval he will want to exact certain agreements and oaths from the elected king, among others an oath whereby the Roman emperor expressly declares that he is subject to that bishop in fealty or temporal i.e. coercive jurisdiction; and he will also want the said elected king to preserve his unjust and illicit occupation of various provinces, and want it promised and confirmed by oath. But suchlike illicit agreements and oaths cannot be made by the royal majesty in safe conscience and consistently with the licit oath he gave when he was created king, to preserve the liberties of the empire; and neither can they hold if they are made. And no one who has been elected will ever offer them to the Roman or any other pontiff, unless he is more pliant than a woman and commits manifest perjury in swearing or promising such things. For this reason no elected king shall ever be created king of the Romans or merit the title of empire, if the royal or imperial authority of those elected depends on the Roman bishop; for as long as the said bishop is able to hinder and prevent them (even though he acts with the greatest iniquity in so doing, trying to have what is not his own), he will do so equally in deed and in word.

8

But something even more gravely prejudicial and intolerably harmful results from this to all princes, communities and individuals subject to the Roman empire. For since the bishop just-mentioned asserts that he

succeeds the said emperor in office when the imperial seat is vacant, it follows of necessity that it belongs to his authority to require oaths of fealty from all princes and other imperial feudatories, and to compel them to swear the said oaths; and also to demand and exact from them the tributes and other services which they habitually perform for the Roman princes (and whatever else as well that the bishop just-mentioned wants to invent as due to him, of the plenitude of power which he attributes to himself). It follows, again, that when the imperial seat is vacant it likewise belongs to the authority of this bishop to confer the principates, fiefs, and other rights that the Roman prince has the power to confer, in default of a male heir or for any other reason or cause. Further – and this is the most prejudicial and damaging of all – when the imperial seat is vacant (and it will stay vacant forever, as we said, in accordance with the concerns and power of the Roman bishops), any princes, collective bodies, communities and individual persons subject to the Roman empire who are pressing civil suit against each other will be forced by his summons to come to the curia of the said Roman bishop and submit to civil judgment, if any appeals have been lodged or quarrels referred there concerning either goods or persons. Neither will any prince, community or judge subject to the Roman empire be able to mandate the execution of any sentence, when those condemned can always lodge appeals against their civil sentences with the Roman curia. And if any subjects of the Roman empire refuse to obey the bishop just-mentioned or be subject to him in the said matters (as they are not obliged to), the oft-mentioned bishop will hound them incessantly and with every evil and stubborn effort, declaring sentences of anathema or blasphemy, excommunication, heresy, interdict and forfeit or loss of temporal goods; making these goods public and allowing anyone to seize them if they can; granting pardon (however vain and deceptive) of fault and penalty to those who persecute or even kill them, together with their subjects and supporters; and absolving their subjects (although this is heretical) from the oaths that they have given or should give them.

9

But if the Roman bishop says, pretending piety and care of the people in his usual fashion, that it belongs to him to confirm the election of the Roman prince because otherwise a heretic might perhaps be able to ascend the summit of empire and thereby cause great harm to the

community of the faithful:<sup>9</sup> one can aptly respond that this is not a reason why such an election requires his approval, since it is performed by three venerable Christian archbishops of whom each has received from Christ an episcopal or priestly authority equal to that of the Roman pontiff, as shown in chapters 15 and 16 of this discourse. Again, the election of the said Roman prince is carried out by four faithful secular princes in conjunction with the said religious pastors or prelates; and it is not as likely that these seven should be in error or moved by corrupt intention as it is that the will of the Roman bishop alone should be so, seeing that he believes that it is licit for him by right to rely solely upon his own judgement through the plenitude of power that he inappropriately ascribes to himself. For in this way he can judge anyone he likes to be a heretic and deprive him of his right by election, which would render the office of the electoral princes null and prohibit forever the creation and elevation of the individual elected, for the reasons given above.

IO

However, suppose with our adversary that either before or after his election a Roman prince has fallen or is falling into the sin of heresy, and that the electoral princes were either ignorant or aware of this fact. One should reply that this does not in any way imply that the judgement or rebuke of this prince belongs to the Roman bishop alone. Nor, again, will this authority belong to that bishop alone or together solely with his college of clergy or synod, but to a general council of those who are included under the imperial government, for the reasons already mentioned and others given in chapter 21 of this discourse. For the cardinals, too, have themselves for the most part consented to the above-mentioned usurpation, and still do consent and take part in it, which means that it is unsafe for this election to be subject to the judgement of such people. One should also ask why they do not say that the adequacy of the persons of other kings, too, is subject to their judgement and their power of approval. And I answer for them, that this is indeed what they intend,

<sup>9</sup>This was the motivation offered by Innocent III in *Venerabilem*: 'For if the princes . . . should elect someone to be king who is sacrilegious or excommunicated, a tyrant or an idiot, a heretic or a pagan: is it really the case that we should anoint, consecrate and crown such a man? Absolutely not.' CIC II, col. 80.

even though they do not yet dare try it: they are waiting for the right moment. We shall perhaps have something more to say about this.

II

As a result of the said false suppositions, therefore, the Roman bishop has entered upon a path of error and iniquity; and the latest of them (a certain so-called Roman pope) now devotes all his attention and efforts to preventing the renowned Ludwig, duke of Bavaria, adopted king of the Romans, from proceeding peacefully to take possession of the summit of imperial dignity. For the said Ludwig is deservedly destroying the suppositions of the above-mentioned bishop both in word and in deed: because although he has not yet been confirmed or approved by that bishop in speech or writing – and he does not need to be, as we showed very plainly before – he has always, ever since the time when his election was carried out and made public by the electors, caused and still causes himself to be inscribed and named king of the Romans (as in truth he was and is), and also carries out all imperial or regal functions, as he both can and is obliged to by law.

I2

As a result, even though it was through him or his predecessors that this snake was warmed up (referring to Aesop's noteworthy fable which is much to the point here)<sup>10</sup> – raised by the Roman princes from great poverty, lowliness, oppression, scorn and persecution to an abundance of temporal goods, a high throne, honour, power and tranquillity – this so-called Roman bishop has nonetheless reared up against him, acting not as the heir of the apostles, but ungratefully and without remembrance. He began by spitting out, in his usual perverted fashion, countless words of insult and irreverence. But he nevertheless projected this poison under a layer of honey, and feigned the appearance of piety in line with his customary deception, saying in certain letters of his (which he calls 'edicts') that he writes or proclaims such things so that he might recall 'the said Ludwig from the byway of error to the road' or path 'of the

<sup>10</sup> The fable of the snake and the farmer: A farmer found a snake stiff with cold one morning, and, taking pity on it, he held it against him until it had warmed up. When it had done so, it immediately bit the farmer.

truth'<sup>11</sup> and salvation – taking no notice of who he is, himself, who is speaking, nor what he is saying nor to whom he is saying it. We might aptly and with perfect accuracy quote back at him, who has turned aside from every way of truth and lacks any sense of reciprocity, that passage of Matthew 7 and Luke 6: ‘And why beholdest thou the mote that is in thy brother’s eye, but considerest not the beam that is in thine own? Or how wilt thou say to thy brother, Let me pull out the mote out of thine eye; and behold, a beam is in thine own eye? Thou hypocrite, first cast out the beam out of thine own eye; and then shalt thou see clearly to cast out the mote out of thy brother’s eye. For a good tree bringeth not forth bad fruit; neither doth a bad tree bring forth good fruit. For every tree is known by his own fruit.’<sup>12</sup> Why then does this hypocrite and worst of all trees, bearing everywhere the fruits of all evil and sedition and discord – as everyone can see – strive to slur a man of virtue and probity, innocent and catholic, with his words of insult under the false guise of piety and charity? For let him first cast out the beam, sc. of supreme ignorance and error, from his own dark and blinded mind, and the malice and madness from his perverted, stubborn and hardened affections. Only then will he be able to discern the tiny sins of others, and more fittingly and appropriately cast them out with his encouragements and warnings.

Next, then, the abovementioned bishop (whose purpose in these crafty and fictitious speeches is not the correction of a human being, but his civil death) poured out and sprinkled poisons upon the abovementioned most Christian prince by excommunicating him along with his particular adherents, and putting under interdict the communities of the faithful which offered or would offer him, as king of the Romans, help, advice or favour;<sup>13</sup> paying little or no heed to what Ambrose warns in his book entitled *On the Dignity of a Priest*. For in discussing that passage of I Timothy 3: ‘If a man desire the office of a bishop’ in chapter 8 of the said book, he says among other things: ‘“Not given to quarrels”, that is, let a bishop not loose his tongue in altercation, lest by the same tongue with which he gives praise to God and consecrates the divine offices, he put forth the poison of quarrels; because it is not seemly that a benediction and vilification should emerge at the same time from the mouth of

<sup>11</sup> From the *monitorium* of 1323: MGH *Constitutiones*, Vol. V, p. 617.

<sup>12</sup> Matthew 7. 3–5 followed by Luke 6. 41–4.

<sup>13</sup> This is the ‘third process’ of John XXII against Ludwig, 23rd March 1324: MGH *Constitutiones*, Vol. V, pp. 692–9.

a bishop, so that the same tongue which praises God should revile a man: because one spring cannot bring forth both sweet and bitter water.<sup>14</sup>

As the final dart of his malice, however, and in the belief that he can strike down the said prince, he will perhaps let loose what he thinks is his ultimate weapon to damage and wipe him out. This is a particular blasphemy (which he calls a ‘sentence’ though in fact it is the ultimate derangement)<sup>15</sup> whereby he will declare the abovementioned prince, together with all those who support, obey or show him favour as their king, ‘heretics’ and enemies of ‘the church’ or ‘rebels’, and will deprive them of the right to all their temporal goods, moveable and immoveable. These he will make public through the unworthily so-called sentence just mentioned, and grant them to anyone who wishes to seize or actually does seize them, announcing both in speech and in written parchments, in person or by means of certain other pseudo-preachers in all the provinces, that it is licit for this to take place. Again, he will condemn them to death and grant their killers and attackers pardon for their faults and from the penalties for all the crimes they have committed; and if they are taken alive, wherever they are, he will reduce them to servitude to their captors.<sup>16</sup> Moreover he hands out the major offices of the church (i.e. bishoprics, archbishoprics and patriarchates) as well as the middling and the minor, and pours out the temporal goods of the church (the benefices of which we have already spoken, treasure and moneys), in order to stir up all people universally to envy and rebellion and war and discord against the said prince; when in fact it does not belong to the authority of this bishop to pronounce any sentence in respect of any of the abovementioned, as we plainly showed in chapters 4, 5, 7, 8 and 10 and 20 of this discourse.

### 13

But beyond even these acts of malignity, at which one can only shudder, he practises a new kind of wickedness which can clearly be seen to savour of heresy. For he rouses the faithful subjects of the catholic prince just-

<sup>14</sup> This is from Gerbert’s (pope Sylvester II’s) *De dignitate sacerdotali*, which was attributed to Ambrose. See Ambrose, *De dignitate sacerdotali* in *Opera omnia*, ed. Paulo Angelo Ballerini, Vol. VI (Milan: Saint Joseph, 1883), c. 382. Marsilius reads *officia* (‘offices’) instead of *sacrificia* (‘sacrifices’, ‘sacraments’).

<sup>15</sup> In Latin the contrast is between *sententia* and *dementia*.

<sup>16</sup> As Previt -Orton notes, this is all by way of anticipation, perhaps drawing on the experience of John’s actions against Matteo Visconti (see below) and others.

mentioned to rebellion against him by means of certain diabolic statements or writings of his – called by him apostolic – which release them from the oaths of fealty by which they had been and in truth still are bound to the oft-mentioned prince; and he spreads and preaches such statements of release everywhere through various agents of his crimes who hope that the said bishop will promote them to church offices and benefices on account of their performing such actions.<sup>17</sup> But it is certain that this is not an apostolic but a diabolic undertaking. Because in and as a result of it, that bishop, along with all those who are complicit with him in this undertaking, and who arrange, accept and carry it out in word, writing or deed; all these, I say, in all their abovementioned speeches and writings, blind with cupidity, avarice and pride, overflowing with ambition and supreme iniquity – as is plain to all – lead those who believe and follow them in action to fall headlong into the ditch of mortal sins.<sup>18</sup> They start by causing them to fall into manifest perjury; then into a betrayal and injustice that is plain for anyone to see; and going on from there into rapine, murder, and practically every kind of enormity. And when they die in these crimes without repenting, deceived by this most holy father and his ministers and with no excuse before God because their ignorance was crass, they are cast into and swallowed up in hell fire, viz. the ditch of the everlastingly damned. For it is and ought to be certain to anyone in possession of their reason and able to use it that neither the Roman bishop nor any other priest can release anyone from this or from any other oath or promise that has licitly been given, without reasonable cause. But now it is plain to anyone who wants to abide by his own conscience, and who is not moved by some sinister affection, that the cause which the Roman bishop pretends against the pious prince Ludwig (and anyone else in a similar case) is not reasonable: on the contrary it is against all equity, headstrong and unjust. Hence in such matters one should beware the leadership or teaching and encouragement of this bishop and those who serve him, and shun it entirely as something that leads to the eternal death of souls. For it is clearly contradictory to the sound teaching, words and opinion of the Apostle in Romans 13, Ephesians 6, I Timothy 6, and Titus 2 and 3. In these passages the

<sup>17</sup> Subjects were released from their oaths in the excommunication of 1324 (see above, n. 13). The pope issued directions for the promulgation of this document on 28th March 1324 (MGH *Constitutiones*, Vol. V, pp. 700–1).

<sup>18</sup> Cf. Matthew 15. 14: ‘And if the blind lead the blind, both shall fall into the ditch.’



Apostle overtly commands that subjects should obey their carnal lords, not only the good and gentle, but also the forward, as Saint Peter says in his first epistle general, chapter 2.<sup>19</sup> Therefore how much more when they are bound to them by an oath? The glosses according to the saints on the same passage explain the same thing more fully, saying plainly that subjects are obliged and have a duty to obey their masters, even infidels, however bad they are; although on the understanding, clearly, that this applies where obedience in word or deed is not contrary to the divine law. However there is no doubt at all that the words and deeds in which the Roman bishop inveighs and moves against the Roman prince are neither commandments of divine law nor even consonant with it: on the contrary they are in plain disagreement and opposition to it, as was demonstrated through Scripture in chapters 4, 5 and 9 of this discourse.

Again, to believe or obey the Roman or any other bishop when he teaches or preaches such things is nothing other than to allow the root of all principates to be cut out from under and the chain and bond of any civil order or realm to be dissolved. For I do not think such things have any root or bond other than the mutual oath and good faith of subjects and princes. For this (sc. faith) is, as Cicero says in *On Duties*, Book I, the foundation of all justice;<sup>20</sup> and one who tries to dissolve faith between those who hold princely office and their subjects is trying to acquire nothing less than the ability to overturn the power of all principates at his pleasure, and from here to reduce them to servitude to him. And this is moreover to disturb the peace and tranquillity of all those who live a civil life, and thus to deprive them of the sufficient life of this present world; and with their minds in this disposition (as we have already said) to lead them ultimately to the eternal ruin of their souls. For this reason, let all Christians despise and beware the vain promise of pardon and the ruinous and unhealthy teaching – I might more accurately say seduction of souls – of this bishop and his accomplices, worse than the Pharisees. Let them pay attention to Christ who counsels or commands this very thing in Matthew 15,<sup>21</sup> when he says to the faithful universally (although in the person of the apostles): ‘Let them alone’; i.e. the Pharisees who at that time were considered doctors of the Mosaic law, but whose opinions on it were nevertheless erroneous and who opposed themselves to Christ almost from the start. By the Pharisees he signified

<sup>19</sup> Romans 13. 1–7, Ephesians 6. 5–7, I Timothy 6. 1–2, Titus 2. 9, 3. 1; I Peter 2. 18.

<sup>20</sup> Cicero, *On Duties*, I. 23.    <sup>21</sup> Matthew 15. 14.

and understood all sophistic and false doctors and preachers of Holy Scripture – such as are these persecutors of the Roman prince and others of the true faithful who are innocent – in whose person they iniquitously persecute and oppose Christ as well. But Christ gives the reason why we should let these false doctors alone, when he says, ‘they be blind leaders of the blind. And if the blind lead the blind, both shall fall into the ditch.’<sup>22</sup> In this way, therefore, in accordance with the command of the Lord, we should let these false doctors alone and reject them, as blind (with covetousness, avarice, pride and ambition) leaders of the blind (sc. of the avaricious, proud and rebellious).

These men even teach and preach that subjects should rebel against their own princes: not heeding, or not wanting to heed, the command of the Apostle (or rather of God) who says openly and unmetaphorically in Romans 13: ‘Let every soul be subject unto the higher powers.’ For by inciting such rebels and others to rebellion with their cunning and iniquitous persuasion, they resist the ordinance of God. For as the Apostle says above, ‘Whosoever therefore resisteth the power’ (i.e. him who exercises principate in this world) ‘resisteth the ordinance of God.’ The same apostle made a prophecy with regard to such people in I Timothy 4 and in II Timothy 3,<sup>23</sup> when he said: ‘This know also, that in the last days perilous times shall come. For men shall be lovers of their own selves, covetous, boasters, proud, blasphemers, disobedient to parents’ – including princes under parents, hence Cicero, *On Duties*, Book I: ‘Princes are our country, are our parents, for we are obliged to them for the greatest kindnesses’<sup>24</sup> – ‘disobedient to parents’ or to princes therefore, ‘ungrateful, unholy’, infidel, not keeping their pacts, ‘without natural affection’ (supply: good), ‘knowing no peace, false accusers, incontinent, fierce, without kindness, traitors, heady, stubborn, swollen-headed, lovers of pleasure more than lovers of God; having the form of piety’ (i.e. appearing to do what they do for the worship, reverence and love of God), ‘but denying the power thereof’ (sc. of such piety). And this everyone can easily recognise from their works, according to that passage of Matthew 7: ‘Beware’ he says ‘of false prophets, who come to you in sheep’s clothing, but inwardly they are ravening wolves; Ye shall know

<sup>22</sup> *Ibid.*    <sup>23</sup> II Timothy 3, 1–5.

<sup>24</sup> Cicero, *On Duties*, I, 58; a modern translation would take *principes* (‘princes’) as ‘the principal’ or ‘the foremost’, yielding a completely different sense.

them by their fruits.<sup>25</sup> And the Apostle adds, in conformity with the counsel or command of Christ set down previously: 'from such turn away',<sup>26</sup> i.e., do not believe these men or obey them in these things. But alas! because of this appearance of piety they have seduced men to such an extent that they can already rely on armed might (which they have partly obtained freely under the appearance of piety, but have for the most part stealthily usurped, and now usurp it openly and with violence); and one cannot turn away from them as they do violence to Christ's faithful.

14

There is yet another way in which these men (ungrateful, proud, knowing no peace, fierce, and in reality such as the Apostle described them in all respects; putting evil for good and darkness for light, according to that passage of Isaiah 5)<sup>27</sup> stir up subjects against their faithful princes, and even associates who are not subject. This is by conferring ecclesiastical offices – great, middling or minor – and by holding out, promising and coming to prior agreements about temporal goods or benefices (both moveable and immoveable goods) and tithes, which were established for a worthy end. And although he, together with his accomplices, may seem to be doing this at present only against the Roman prince, let other princes learn by his example (who has been such a benefactor to the Roman bishop and his church) that the same things can and probably will happen to them; and that the said bishop (who has no wholesome affection for anyone) will engage in the same machinations against them as soon as he has the opportunity for this kind of offensive. For he asserts, in both his speeches and his writings quoted above, that all princes and peoples are subject to his principate or coercive jurisdiction as a result of his plenitude of power (which he ascribes to himself, however inappropriately); and desiring and thirsting as he does to make this a reality, he is waiting for the time when schism and contention may break out between faithful princes or peoples, or rebellions on the part of subjects against their lords. Moreover he from time to time intervenes to stir these up, so that the weaker of the two parties in dispute, or the one which is unable to resist its opponent, is forced to beg his help and submit

<sup>25</sup> Matthew 7. 15–16.

<sup>26</sup> II Timothy 3. 5.

<sup>27</sup> Isaiah 5. 20.

to his dominion. For although on occasion he may appear, under the fictitious guise of piety and mercy, to protect the weak – who are perhaps unfairly oppressed – and show them secular favour, he nonetheless does not offer this unless he has previously established that those who need and ask for his favour will submit to his own principate or secular dominion; hoping finally to force both of the adversaries, through their mutual oppression and envy, ultimately to submit to his own power. For this reason people should be wary of disputes and actions that will involve the necessity of his favours, because these are ultimately converted to the destruction of liberty and the servitude of those who receive them.

15

After this fashion, then, this bishop crawls through the realms of the world in turn, in order finally to subject (which is his ever-burning desire) all principates to himself. For he does not dare try this procedure in all or even most at the same time, but rather waits until his secular power has gradually increased to such an extent that he can see what is left of the others and believes that he can overcome it without danger to himself. For then he will confidently disclose to the remaining realms the sense of the title of plenitude of power which he has presumed to himself, and will explicitly pronounce that all other principates (just like that of the Romans) are subject to his dominion or coercive jurisdiction, although they licitly refuse, through blasphemies and sentences like the ones already set out against the Roman prince and those faithful to him. And he will persecute them with violent or armed might until they are worn down and exterminated.

By these ways and means, therefore, the bishop just-mentioned, together with his accomplices, has seduced almost all principates, communities and peoples of Italy into contention and schism. He has already begun to do the same in Germany, and devotes all his attention to completing the process. For he has incited certain traitors and villains among the subjects to rebel against the Roman prince with secular favours, for example by conferring ecclesiastical benefices and offices and holding out tithes and moneys, and makes it his business to stir up everyone he can – the great, the middling and the small – without cease. Moreover he calls upon and addresses those who have been seduced by him in this way and obeyed him as ‘sons of the church’ and ‘true faithful’, whereas he names ‘schismatics’ and ‘heretics’ those who persist and wish to persist in obeying their prince in due fealty, and persecutes them as

enemies of the church: blaspheming them as much as he can, slandering them, excommunicating them, and condemning them by secular sentence both in their persons and their goods. And this when no such judgement is due to him, as such, either by divine or by human law, as is clear from the previous discussions and as we recalled earlier.

16

However, the greatest evil of all (of which we said something before), the one which brings the most serious harm overall and which no one can pass over in silence if he wants to stay within the law of charity, is this: viz. that the one who is now acting as Roman bishop eternally confounds and devours all Christ's sheep, which he says have been entrusted to him to feed with healthy doctrine. For, putting bad for good and darkness for light yet again, he has granted (both in speech and in writing) absolution from fault and any punishment whatsoever to all those – horsemen and foot-soldiers – who fight for a given time against the faithful of Christ just-mentioned, subjects of the Roman prince who obey and wish to obey him in constancy as their king. He also proclaims, of himself or through others, in both written and unwritten speech, that it is licit to attack these people in any way, as heretics and rebels against the cross of Christ, to despoil them and ultimately to exterminate them. And what one shudders to hear is that he preaches, and causes to be preached everywhere by certain false pseudo-friars thirsting for church honours, that this is as welcome to God as to fight the infidel in overseas lands. Indeed the said bishop has similarly granted the said fallacious pardon to those who are unable because of bodily weakness to carry out this villainy themselves, if they arrange for it to be perpetrated by others at their own expense for the same length of time, or if they give a sum sufficient for this purpose to his own nefarious collectors; when no one should be in any doubt, according to the catholic religion, that this derisory and void absolution profits such soldiers nothing but on the contrary harms them.<sup>28</sup> But in this way (i.e. by verbally granting something which is not in his power) he deceives the simple into carrying out his unholy desires, or rather leads and misleads them to the eternal ruin

<sup>28</sup> In December of 1321 John XXII endorsed the preaching of a crusade against the Visconti and others throughout Europe, and (following the example of Innocent III in *Excommunicamus: Decretals*, Lib. V, tit. 7, cap. 13, CIC II, cols. 787–9, at 788) granted any such crusaders, or anyone who put up a certain sum of money to the same end, the privileges and indulgences of crusaders to the Holy Land.

of their souls. For those who invade and attack another country unjustly, and who disturb the peace and quiet of innocent members of the faithful; who despoil, kill or otherwise attack people whom they well know are truly catholic and are simply defending their country and keeping faith with their true and legitimate lord; such men are not fighters for Christ, but for the devil. For they fall into and commit almost every kind of crime: rapine, arson, theft, murder, fornication, adultery and all the rest. Hence there can be no doubt that they do not merit pardon, but stand thereby accused and liable to eternal damnation. But they are nevertheless seduced into perpetrating such things by the words and writings of the man who calls himself, without being, the vicar of Christ on earth.

Moreover, not content that such horrors should be put into effect at his command or by inducing the laity to perform them, this 'bloody and deceitful man'<sup>29</sup> sent a certain priest from among his brothers or accomplices (who are called cardinals) against the province of Lombardy with a numerous company of horse- and foot-soldiers,<sup>30</sup> and likewise a certain monk and abbot in a particular march of Italy called Ancona, to fight and destroy the Christian faithful there.<sup>31</sup> These people – refusing as they do to obey his impious and iniquitous orders against their prince – he unrelentingly attacks with every kind of said persecution, and has with his usual insolence presumed to call their pious prince Ludwig, who shares their sufferings and looks after them as much as he can, a 'patron of heretics' for this reason.

These are the sorts of uses in which this bishop consumes and diverts the temporal goods of the church, which devout faithful, both princes and subjects, communities and individuals, have established to sustain the ministers of the gospel and to aid the poor who are unable to provide for themselves. He also seeks to divert temporal goods that have been bequeathed in wills for pious causes (for example overseas voyages, redeeming captives from the infidel, etc.), unjustly claiming them as belonging to his power. All this when it is not the work of an apostle or priest, nor does it become a priest or man dedicated to God to raise arms or order them to be raised among the Christian faithful, especially when

<sup>29</sup> Psalms 5. 6.

<sup>30</sup> This is Bertrand de Pouget, nephew of John XXII and appointed by him in July 1319 as papal legate in northern and central Italy. His main task was to be the eradication of the 'heretics' – including and especially the Visconti of Milan – in his designated area: partly through launching inquisitorial processes against them, partly through armed force.

<sup>31</sup> This is Amèle de Lautrec, rector of the March of Ancona from 1317 to 1328.

this is iniquitous. On the contrary, if there has been discord and division among them, his work is to recall them to concord through apt exhortations, as was adequately shown through the Apostle, Chrysostom, Hilary and Ambrose in chapters 5 and 9 of this discourse.

For the rest, neither the Roman bishop nor any other should be allowed or entrusted with a power of conferring and distributing the temporal goods of the church that is so general and absolute, and so wide. This power should either be simply revoked from him by princes and legislators, or moderated in such a way that things that have been, are, or shall be established and ordained for the present and future salvation of the faithful, do not end up being turned to their continual temporal harassment and ultimately their perpetual torment.

17

It is with such methods (as praiseworthy and gratifying to God as anyone of sound mind and uncorrupted affections can gather) that the most recent so-called Roman pope together with his agents – whom he calls ‘legates’ – has moved against the oft-mentioned Ludwig king of the Romans, and still does so; and likewise against his vicars and faithful subjects, especially in the provinces of Lombardy and Tuscany and in the March of Ancona. Among these, however, he has singled out especially for persecution that generous, noble and illustrious catholic gentleman, distinguished among other Italians for the uprightness and gravity of his moral character, Matteo Visconti of fair memory, vicar of Milan by imperial authority, together with a large multitude of faithful peoples who support him. For the said bishop proclaims in his profane speeches and writings (although entirely unfairly) that this man was of damnable life and is of damnable memory.<sup>32</sup> But in truth it is not Matteo but rather he himself – source of so many scandals and who continually brings forth ‘evil things’ from his ‘evil treasure’<sup>33</sup> – whose presence is held to be damnable before God and men,

<sup>32</sup> In his bull *Si fratrum et coepiscoporum* (above, section 3, n. 2), John XXII on pain of excommunication forbade all imperial vicars appointed by Henry VII, including Matteo Visconti of Milan, to retain their title and exercise the vicariate without the express licence of the pope who now claimed the administration of the empire. Matteo renounced the title in May 1317 in the presence of the papal legates Bertrand de la Tour and Bernard Gui. However, he continued to exercise much the same powers, building up the area under his control, as *signore* of Milan. He was excommunicated in 1318 and finally declared a heretic in March 1322.

<sup>33</sup> Matthew 12. 35.

and shall be so even more before and after his death; as the Truth threatens in Matthew 18, when it says: 'woe to that man by whom the offence cometh'; and again, same chapter: 'But whoso shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged about his neck, and that he were drowned in the depth of the sea.'<sup>34</sup> But this obstinate and unrepentant man takes no heed of this either, just like all Christ's other warnings. Instead he unceasingly persecutes and blasphemes many other brilliant and outstanding men who follow their already-mentioned Roman prince with fidelity and constancy; trying all the time to stain their reputation (although he does not succeed) before God and man with his profanations and blasphemies. For 'God does not follow the judgement' of this bishop or of his church, since he 'makes judgements through deceit and ignorance' as the Master of the Sentences says in Book IV, distinction 8, chapter 6.<sup>35</sup> And Jerome gives the reason for this in his exposition of that passage of Matthew 16: 'Behold I shall give unto thee the keys of the kingdom of heaven.' For he says (which is not tiresome to repeat): 'Some people who do not understand this passage' (for example, we should supply, this bishop) 'assume something of the arrogance of the Pharisees, so that they think they can condemn the innocent and absolve the guilty;' and he adds, which is to the point: 'since with God it is not the judgement of the priest, but the life of the accused which is in question.'<sup>36</sup> God, then, does not follow the judgement of such a priest or bishop or church when it is so unfair; and therefore no member of the faithful should be ashamed at or afraid of his blasphemies or those of his accomplices, since they do not transfer onto the faithful flock but have rather, by divine force, found their way back to the foul bodies and criminal and unhappy souls of those who burst out with them.

18

What we have just related, then, are the true beginnings of the matters in question, and also how they have developed (in both due and undue fashion) after or from these beginnings; even though they may have slipped from men's sight or memory because of the length of time involved, or because of their own lethargy and failure to take note, and

<sup>34</sup> Matthew 18. 6–7.

<sup>35</sup> See above, II. 6, 9.

<sup>36</sup> See above, II. 6, 9.



in place of these certain things that are the opposite of truth have been smuggled and inserted into the souls of the faithful as a result of the habit of listening to falsehood and fiction. The origin and spark of these untruths was avarice or covetousness and ambition or pride; and no small instrument of their growth and shelter has been that execrable opinion and pronouncement by which the Roman bishop, together with his company or college of clergy, asserts that Christ has given him plenitude of power, even if in the person of Saint Peter the apostle. But after much painstaking and laborious scrutiny and investigation of the Scriptures (separating the divine from the human, which certain Roman pontiffs had fused into one in the belief that by mixing them together in this way they could transfer to their own constitutions the authority that belongs to the sacred canon alone), we have, in chapter 23 of this discourse, determined the senses of the pronouncement or title just-mentioned, and adequately revealed – at least to all those who use their reason and who are not disturbed by some sinister affection – that they are false. And of them all, the sense to which the Roman bishop has finally transferred the said locution, viz. in ascribing to himself, as a result of such power, universal or supreme coercive jurisdiction (which he in a metaphorical use of words calls ‘the temporal sword’) over all princes, communities and peoples of the world, is most especially false; even though, as we have said and for the reasons that we have said, he at present only makes this title explicit against the prince of the Romans. Nonetheless he will do the same against all the rest as soon as he glimpses sedition in their realms, and sees that he has the armed power to usurp them and occupy them.

19

This is the way in which the Roman bishops have so far used the plenitude of power which they have been laxly allowed in respect of civil acts; still do use it; and will go on using it to the worse, unless they are stopped. For they have laid down oligarchic laws in which they have exempted the college of the clergy everywhere, and some married persons, from civil laws that have been rightly legislated, to the great prejudice of princes and peoples; and not content with these limits, they now cause laypersons to be summoned in the presence of their own so-called officials or judges, and wish to bring them to justice there, which entirely destroys the jurisdiction of those who hold princely office.

And this is that singular cause of strife or civil discord, well hidden indeed in its origin, which it was our purpose from the beginning to reveal. For many of the faithful have misreasoned as a result of the mutual implication of divine scripture and human writings, and have been induced to believe that the Roman bishop and his clergy who are called cardinals can lay down anything they like with respect to the faithful; that all are obliged to obey it by divine law; and that those who transgress it are liable to eternal damnation. Nevertheless we have previously shown with certainty, especially in chapters 12 and 13 of the first discourse and chapter 21 of this, section 8, that this is not true nor even near it, but rather the manifest opposite of the truth.

This, again, is the cause under which – as we said in the proem – the Italian realm has long laboured and labours still, virulently contagious and prone to creep into all other civil orders and realms equally. Indeed it has already infected all of them to some extent, and in the end it will infect them entirely, just as it has the realm of Italy, unless it is stopped.

For this reason, it is expedient for all princes and peoples, through a general council which should be called in the way we said earlier, to ban and absolutely prohibit this title from the Roman bishop and any other, in case otherwise the custom of hearing falsehoods seduces the people; and his power of conferring and distributing ecclesiastical offices and temporal goods or benefices should be revoked, since this bishop abuses these things to the wastage of the bodies and damnation of the souls of the Christian faithful. All those who have jurisdiction, especially kings, are obliged to this by divine law; because they have been set up for this purpose, to provide judgement and justice; and if they neglect to do it even after this they will have no excuse, since they are not unaware of the scandal that results from this omission. As regards the Roman bishop and all his successors in the said see, and all other priests and deacons and spiritual ministers (to whom these words are not meant – on my soul and body, let God be my witness – as enemies, but as fathers and brothers in Christ), let them devote themselves to imitating Christ and the apostles in abdicating secular principates and the ownership of temporal goods absolutely. For in accordance with the teaching of Christ and the Apostle, I have reproved and reproached them as sinners, plainly and before all men; and as a herald of the truth I have tried to recall them to its path, through the harmony of divine scripture and human writings, so that they (and especially the Roman bishop, who can be seen to have gone

most astray) may be able to take heed of that ‘outrage of almighty God and of the apostles Peter and Paul’ with which he so often singularly threatens others.

So let him pay attention to the order of charity and take heed of it for himself before he teaches others to do the same. For he is not unaware – or he will not be unaware hereafter – that he acts beyond or rather against the counsel or command of Christ and the apostles in attacking the Roman principate and unjustly preventing and harassing its prince. Nor again is he unaware that wars have broken out because of the scandal that he and some of his predecessors have stirred up in Italy, and that many thousands of the faithful have died a violent death as a result, who (it can be presumed) were very likely liable to eternal damnation in that many of them were surprised by sudden death while full of ill-will and hatred for their brothers; and the unhappy survivors of these can expect the same dangerous case and pitiful end, or one very similar, unless the healing hand of God should intervene. For hatred, strife and contention have invaded their minds, causing fighting to follow; and now that the honest morals and discipline of both sexes has been corrupted, bodies and minds are almost wholly overtaken by every kind of vice, dissolute living, enormities and error. The supply of children that restores the generations has been cut off from them, their substance has been consumed, their households torn apart and overturned, cities (how great and celebrated) empty and destitute of their inhabitants; the fields, left uncultivated and now deserted, have stopped yielding their usual fruits; and – what is most lamentable of all – divine worship has almost entirely ceased there, vanished into oblivion, while the churches and temples have remained in lonely solitude, destitute of rectors or those charged with the cure of souls. And he who has incited and still incites the wretched inhabitants to all these miseries on every side, their minds blinded by mutual hatred and discord, is ‘the great dragon, that old serpent’ who is well ‘called the Devil, and Satan’; since with every effort he ‘deceiveth’ (and tries to deceive) ‘the whole world’.<sup>37</sup>

20

What son, then, of this country or mother, once so beautiful and now so ugly and torn, seeing these things, knowing and able, is so hardened that

<sup>37</sup> Revelations 12. 9.

he can keep silent against those who so unjustly betray and mutilate her, and hold his breath in his cry to the Lord? One could most truly say of such a man, with the Apostle, that 'he hath denied the faith, and is worse than' any 'infidel'.<sup>38</sup>

Let this be our conclusion, then, concerning plenitude of power and its modes; its origin and progress; and how and in what ways the Roman bishop has assumed it and used it, both in respect of church ritual and of the secular civil acts of men.

<sup>38</sup> I Timothy 5. 8.

## On some objections to what was determined in chapter 15 of this discourse and in other chapters subsequently

Now with regard to what we said in chapter 15, and likewise in other chapters subsequently, someone might quite well raise doubts and show, first of all, that the dignity of a bishop is greater and different in type from that which belongs solely or simply speaking to a priest; and that a bishop's dignity does not exist purely as a result of the human institution that we called 'separable', but rather by divine ordination as well, which we earlier called 'essential'. It seems that this can be convincingly established from Luke 10, where we find this passage: 'After these things the Lord appointed other seventy also, and sent them two and two before his face'.<sup>1</sup> On this Bede writes: 'Just as no one doubts that the twelve apostles prefigure the bishops, so likewise these seventy prefigured the priests of the second order of priests.'<sup>2</sup> The same thing can be shown from I Timothy 5, when the Apostle said: 'Against a priest receive not an accusation, but before two or three witnesses.'<sup>3</sup> Therefore Timothy was superior in dignity to the other priests, but not by an election on the part of priests or the multitude of the faithful; therefore by divine ordination. Again, the same thing is apparent from the *Letter of Pope Clement*, headed 'to James the brother of the Lord'.<sup>4</sup> This seems also to have been the opinion of almost all bishops who are said to have succeeded Peter or Paul in the episcopal see of Rome, as is clear from the abovementioned *Codex* of Isidore.

<sup>1</sup> Luke 10. 1.    <sup>2</sup> Aquinas, *Catena aurea*, Vol. 2, 142.    <sup>3</sup> I Timothy 5. 19.

<sup>4</sup> I.e. the first pseudo-Clementine epistle contained in the collection of Ps.-Isidore: see above, II. 18, 2 and note there.

Secondly, it seems that it can be shown that Saint Peter was superior to the rest of the apostles by a power or authority that was given him directly by Christ and not by another man or men; and in consequence that his successors are superior to the successors of the others. Now this seems to be the case firstly from Matthew 16, when Christ says to Peter individually: ‘And I say also unto thee, That thou art Peter, and upon this rock I will build my church; and the gates of hell shall not prevail against it. And I will give unto thee the keys of the kingdom of heaven etc.’<sup>5</sup> It seems that in these words Christ made it explicit that Saint Peter would be the head and foundation of the church, especially once Christ was dead. The gloss on the passage reads: ‘He granted it’ (sc. the power) ‘especially to Peter, so that he might beckon us towards unity. For he made him prince of the apostles so that the church would have one principal vicar of Christ, to whom the different members could have recourse if ever there was disagreement between them. For if there were different heads in the church, the bond of unity would be broken.’<sup>6</sup> The same thing is further shown from Luke 22, when Christ says to Peter in particular: ‘But I have prayed for thee’ – Peter – ‘that thy faith fail not; and when thou art converted, strengthen thy brethren.’<sup>7</sup> Peter, therefore, was entrusted with the primary pastoral care and strengthening of his brethren, sc. the apostles, and of the other faithful, because of the strength of his faith; and Christ seems to have prayed singularly for this faith, that it should not fail: should not fail, I emphasise, either in him or in any successor of his. The gloss reads: “‘Strengthen thy brethren”, since I have made you prince of the apostles. This should be understood not solely of the apostles of that time, that they should be strengthened by Peter, but of all the faithful.”<sup>8</sup> And a little further on it adds: ‘Through repentance he’ (sc. Peter) ‘obtained that he should be the foremost of the world.’ The same, again, can be shown from John 21, for Christ there says to him individually, ‘Feed my sheep, feed my lambs, feed my sheep,’ repeating the same phrase three times.<sup>9</sup> Therefore since he did not specify which sheep, Christ seems to have made him the primary and universal shepherd of all of them. On this passage

<sup>5</sup> Matthew 16. 18–19.

<sup>6</sup> Aquinas, *Catena aurea*, Vol. 1, 252, there attributed to the ordinary gloss.

<sup>7</sup> Luke 22. 32.     <sup>8</sup> Aquinas, *Catena aurea*, Vol. 2, 289, there attributed to Theophylact.

<sup>9</sup> John 21. 15–17.

Chrysostom also says: 'For Peter was outstanding among the apostles, the mouth of the disciples and the head of their collective body, and so when his denial had been cancelled out Christ entrusted him with leadership over his brothers.'<sup>10</sup> Lastly this is confirmed by the authority of many of the saints commenting on that passage of John 21: 'If I will that he tarry till I come, what is that to thee? Follow thou me.'<sup>11</sup> For Augustine says: 'The church knows that two lives have been divinely bestowed upon it, of which one is in faith, the other in hope. That one' (sc. the life in faith) 'is signified by the apostle Peter because of the primacy of his apostolate.'<sup>12</sup> Again, Theophylact on the same place: 'He gave him preference over all the faithful.'<sup>13</sup> And Chrysostom: 'If someone should say: How is it then that James ascended the throne of Jerusalem? I would say this: Because he enthroned Peter as teacher of the whole world.'<sup>14</sup> And the same Chrysostom, below: 'This apostle' (sc. Peter) 'was granted the foremost position among his brothers.'<sup>15</sup> And further: 'The Lord therefore had foretold him great things and had entrusted him with the world.' And again Theophylact on that passage of John 21, 'If I will that he tarry', says: 'For I now send you forth to the pontificate of the world: do you follow me in this.'<sup>16</sup> Further, since if Christ had not established a head for the church, he would have left it headless in his absence, and would not seem to have ordered it according to the better or best arrangement. But one should believe that he left it arranged and ordered in the best possible way. Therefore one should also hold that he established a head, and none more appropriately than Saint Peter. Therefore he was superior in authority to the other apostles by Christ's direct designation.

### 3

Next we can persuade this in specific terms by showing that Paul was not equal to Saint Peter in dignity or authority. For in Galatians 2 we find this passage: 'Then', says Paul, 'after three years I went up to Jerusalem

<sup>10</sup> Aquinas, *Catena aurea*, Vol. 2, 590.

<sup>11</sup> John 21. 22.

<sup>12</sup> Aquinas, *Catena aurea*, Vol. 2, 592.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*, 593.

to see Peter, and abode with him fifteen days.<sup>17</sup> And a little later he goes on: 'Then fourteen years after I went up again to Jerusalem with Barnabas, and took Titus with me also. And I went up by revelation, and communicated unto them that gospel which I preach among the Gentiles, but privately to them which were of reputation, lest by any means I should run, or had run, in vain.'<sup>18</sup> On this the gloss reads: 'He shows' (sc. Paul) 'that he was not secure in the gospel, unless it was confirmed and strengthened by the authority of Peter and the others.'<sup>19</sup> Since, therefore, according to the gloss Paul received security in the gospel, it seems that he was not equal to Peter in authority. So it seems to follow of necessity, both from this and from the passages quoted above, that all other bishops of the world are subject by divine ordination to the Roman bishop as being individually the successor of Saint Peter; and that the Roman church, too, is likewise the head and first of all the others because of the fact that the bishop of that church, who succeeds Saint Peter in it, is judge and pastor of all the others. Isidore, in the above-mentioned *Codex*, expresses this more fully in the chapter entitled 'Here begins the preface of the Nicene council', when he says: 'All catholics must know, that the holy Roman church has preference not by any decrees of synods, but rather obtained its primacy by the evangelical utterance of our Lord and Saviour, when he said to Saint Peter the apostle: Thou art Peter, and upon this rock I shall build my church, and I shall give unto thee the keys of the kingdom of heaven etc.'<sup>20</sup> And indeed all Roman bishops from the time of Saint Peter up until that of the Roman emperor Constantine I exercised this primacy without any concession from the princes, sc. in establishing canons and commanding that every church observe them, as is plainly apparent from the passage of the *Codex* just mentioned.

4

Again, I confirm this by reasoning, because there is 'one faith' according to the Apostle in Ephesians 4,<sup>21</sup> and therefore there is one church; but it is not one except through one head and one principle; and there is no head more appropriate than or even equally appropriate as the Roman

<sup>17</sup> Galatians 1. 18.

<sup>18</sup> Galatians 2. 1-2.

<sup>19</sup> Ordinary gloss on Galatians 2; also in Lombard, *Collectanea*, MPL 192, 103D.

<sup>20</sup> Ps.-Isidore, ed. Hinschius, p. 255. <sup>21</sup> Ephesians 4. 5.



bishop, individually the successor of Saint Peter, who was the rock upon which Christ said that he would found his church. This is confirmed by the point that, just as temporal things are reduced to one principle, i.e. to the principate, so too it seems that spiritual things should be reduced to one single thing that is primary, i.e. the episcopate. Further from another consideration: that just as there must be one single bishop in a single temple or single diocese, in case each of the priests there should follow his own course and fracture the church of Christ (as we quoted in chapter 15 of this discourse from the letter of Jerome *To Evander*);<sup>22</sup> so it is all the more necessary to have one single head in the universal church of Christ in order to preserve the unity of the faithful. For a good of this kind is more divine and more choice-worthy the more it is in common. Hence John 10: 'and there shall be one fold, and one shepherd.'<sup>23</sup> Now the most appropriate shepherd and head of the rest seems to be the Roman bishop, for the reasons given earlier.

5

However, it seems necessarily to follow from the foregoing that the Roman bishop alone is the primary efficient cause of the secondary institution of all the others, both in a direct and a mediate fashion, because of his universal authority over all the bishops, priests and other ministers of the churches and temples. The authority of Ambrose in *On Handing over the Basilicas* lends support to this conclusion, where he says: 'The church is of God, and should not be ascribed to Caesar. The temple of God cannot be a right of Caesar';<sup>24</sup> in consequence, neither can the institution of priests within that temple, which in chapter 15 of this discourse we called their secondary authority. And if the handing over of the basilicas is not a right of Caesar, so much less is it a right of anyone else who holds princely office. Therefore if this authority cannot be a right of any prince, it will belong by divine authority to him who is the head and the first of all priests, the Roman pontiff.

<sup>22</sup> See above, II. 15, 8.   <sup>23</sup> John 10. 16.

<sup>24</sup> Ambrose, *Sermo contra Auxentium*, *Cetedoc* from CSEL 83, par. 35, p. 106, ll. 439-40; MPL 16, c. 1018B (reading *addici* for *adscribi*).

6

It seems also to follow necessarily from this that the authority to distribute or confer benefices or the temporal goods of the church belongs to the Roman pontiff, since such things are conferred for the sake of exercising these offices.

7

It also seems that it is possible to infer from the foregoing that the same primary bishop has coercive jurisdiction over all other bishops of the world and all the other ministers of the temples. For they are subject to him by divine ordination, as is clear from our earlier arguments. This can also be established from the said chapter of the abovementioned *Codex* of Isidore, in which he wrote this passage (among others): ‘But I do not think one should pass over the remarkable action of the prince in that council. For since bishops had gathered from almost all places, and, as usually happens, had brought with them various quarrels between themselves for various reasons, there were frequent interruptions from individual participants, accusations advanced, faults publicly proclaimed, and the participants put their minds more to these things than to the matter for which they had convened. And he, seeing that this sort of brawling would frustrate the cause of the main business, set down a certain day on which each bishop was to bring forward any cause for complaint he might seem to have. And when he had taken his seat, he received the written accusations from the individual bishops. Holding them all in his lap, and without disclosing what was in them, he said to the bishops: God has made you priests and has given you the power even to judge us. And therefore it is right that we be judged by you, but you cannot be judged by men. For this reason, await the judgement of God alone between you, and let your quarrels – whatever they are – be kept for that divine examination. For you are given to us by God as divine. But it is not fitting that a man should judge gods.’<sup>25</sup> Therefore, the authority of jurisdiction over the bishops belongs to him who is the god of such gods on earth, as they say: the Roman bishop.

<sup>25</sup> Ps.-Isidore, ed. Hinschius, p. 256.

8

For the same reasons it seems too that this bishop has the authority to call and to command general councils of priests, and also to propose and determine, within such councils, whatever seems necessary to him with regard to divine law and church procedure. Concerning the authority to convene a council, Isidore says in the Preface to the *Codex* already mentioned: ‘The authority to convene synods has been given to the apostolic see in its private power, and we do not read that any synod was ever valid which was not assembled or supported by his authority. This the authority of the canon testifies, the history of the church corroborates, and the holy fathers confirm.’<sup>26</sup>

9

The same Isidore (same *Codex*, same chapter), speaking of the power or authority to determine or define the sense of Scripture, says: ‘In what follows, we have placed the different Greek and Latin councils (whether they took place before or afterwards) in their own separate chapters in the order of their numbers and times. We shall also append any other decrees of the Roman prelates up until Saint Gregory, together with various letters of his; whose authority, as being the apex of the apostolic see, is not inferior to that of councils.’<sup>27</sup> The supreme pontiff can, therefore, on the authority of himself alone, determine the same as can the authority of a general council, because according to Isidore his authority is not inferior to that of a general council. But the authority of a general council can and should determine, define and interpret dubious senses of Holy Scripture, as shown in chapter 20 of this discourse. Jerome too seems to have been of the same opinion on this matter in a letter of his entitled *On the Exposition of the Catholic Faith*, where he says: ‘This is the faith, most blessed pope, which we have learned in the catholic church and which we have always held. But if there is anything in it which has perhaps been posited inexpertly or obscurely, we desire that it should be emended by you, who hold both the faith and the seat of Peter. If however this our confession is approved by the judgement of your apostolate, anyone who wants to

<sup>26</sup> Ps.-Isidore, ed. Hinschius, p. 19.    <sup>27</sup> *Ibid.*, pp. 17–18.

smear me will not prove me a heretic, but will rather prove himself inept or malevolent or even uncatholic.<sup>28</sup>

IO

Concerning the power to institute matters of church ritual and eternal salvation, this is apparent from the saying of Christ in Luke 10. For he says to the apostles, and to all bishops or priests in their person: 'He that heareth you, heareth me; and he that despiseth you, despiseth me; and he that despiseth me despiseth him that sent me.'<sup>29</sup> Whatever priests establish must therefore be observed of necessity of salvation.

II

Summing up, therefore, on the subject of these powers (and others even greater than these) in *On Consideration, To Pope Eugenius*, Book II, Saint Bernard says: 'But now we must return to the discussion we had before this digression and continue with it, if there is more to be said. Come, let us investigate even more diligently who you are; that is, what part you play in the church of God at this time. Who are you? The high priest, the Supreme Pontiff. You are the prince of the bishops, you are the heir of the Apostles; in primacy you are Abel, in governing you are Noah, in patriarchate you are Abraham, in orders you are Melchisedech, in dignity you are Aaron, in authority you are Moses, in judgement you are Samuel, in power you are Peter, by anointing you are Christ.'<sup>30</sup> And he adds further on in the same book, continuing his opinion: 'You are the one shepherd not only of all the sheep, but of all the shepherds. Do you ask how I can prove this? From the word of the Lord. For, to whom, and I include not only bishops, but also apostles, were all the sheep entrusted so absolutely and so completely? "If you love me, Peter, feed my sheep."' And a little further on he adds: 'To whom is it not clear that he did not exclude any, but assigned them all? There is no exception where there is no distinction.' Again, further on in the same book: 'Thus it is that each of the other apostles received a single community, for they understood this mystery. James, who

<sup>28</sup> For this work, see above, II, 19, 5 and note there; the present passage can be found at col. 124.

<sup>29</sup> Luke 10. 16.    <sup>30</sup> Bernard of Clairvaux, *Five Books on Consideration*, II, 8, p. 66.

appeared as a pillar of the church, was content with only Jerusalem, leaving to Peter the universal church.<sup>31</sup> Finally he says in conclusion: ‘Therefore, according to your own canons, others are called to share part of the responsibility for souls; you are called to the fullness of power. The power of the others is bound by definite limits; yours extends even over those who have received power over others. If cause exists, can you not close heaven to a bishop, depose him from the episcopacy, and even give him over to Satan? Your privilege is affirmed, therefore, both in the keys given to you and in the sheep entrusted to you.’<sup>32</sup>

12

Neither did Bernard say that the Roman pontiff has authority only over ecclesiastical ministers, such as bishops, priests and the other lesser orders. Indeed, he seems also to ascribe to this same bishop coercive jurisdiction (which the same Bernard metaphorically calls the ‘temporal sword’) over all those who hold princely office. Hence to the same Eugenius in Book IV, chapter 4, he says: ‘Why should you try to usurp the sword anew which you were once commanded to sheathe? Nevertheless, the person who denies that the sword is yours seems to me not to listen to the Lord when he says, “Sheathe your sword.” Therefore, this sword also is yours and is to be drawn from its sheath perhaps at your bidding, although not by your hand. Otherwise, if that sword in no way belonged to you, the Lord would not have answered, “That is enough,” but, “That is too much,” when the Apostles said, “Behold here are two swords.” Both swords, that is, the spiritual and the material, belong to the church; however, the latter is to be drawn for the church and the former by the church. The spiritual sword should be drawn by the hand of the priest; the material sword by the hand of the knight, but clearly at the bidding of the priest and at the command of the emperor.’<sup>33</sup> There are many other authoritative passages of the saint which could be used to support the above. However I have omitted to quote them because their force, and the manner of resolving them, is much the same as those I have quoted; and to keep the discussion short.

<sup>31</sup> All these passages are from *ibid.*, p. 67; cf. above, II. 23, 5.

<sup>32</sup> *Ibid.* pp. 67–8.

<sup>33</sup> *Ibid.*, IV. 3, pp. 117–18.

And it would seem that the same thing can be further supported by certain decretals and decrees of the Roman pontiffs. For these stipulate that all ecclesiastical offices, together with the benefices that have been established for them, should be established and conferred by the Roman bishop and others, but never by the human legislator or the prince by its authority. Again, the same decretals and decrees stipulate that priests and clergy must not undergo the coercive judgement of the aforesaid legislator or prince, but rather the converse. The same likewise affirm that the Roman pontiff has all the powers that Bernard ascribes to him in his sermons.

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## On the replies to the said objections

The rest of this discourse is given over to explaining and resolving, in an appropriate manner, the authorities of Scripture or the canon and the elements of human reasoning that were introduced in chapter 3 of this discourse and the preceding, and which seemed to contradict our conclusions. Before we go on, however, it is as well to remember what we said in chapter 19 of this discourse, in accordance both with the view of Saint Augustine and with infallible reasoning founded on Scripture: viz. that we are not bound, of necessity of salvation, to have faith in, believe for certain, or confess as true, any speech or writing except those which are called ‘canonic’: i.e. those that are contained in the Bible, those that necessarily follow from them, and those interpretations of Holy Scripture (where the sense is doubtful) that have been made by a general council of catholic faithful. This is especially so for those clauses where error would lead to eternal damnation, such as the articles of the Christian faith, together with those interpretations of them that have been made in general councils convened, held and brought to a close in accordance with reason. And therefore where the authorities of the sacred canon or Holy Scripture do not need mystical exposition, we shall in all cases follow their clear and literal sense; where they do, I shall follow the more probable opinion of the saints. If the saints have put forward any views on their own authority, going beyond Scripture, I shall accept those that are in agreement with Scripture or the canon and reject those that disagree; but always on the authority of Scripture, upon which I shall always rely. Because they too sometimes differ amongst each other in their opinions on Scripture and going beyond Scripture, as for example Jerome and Augustine on that passage of Galatians 2: ‘But when Peter

was come to Antioch, I withstood him to the face, because he was to be blamed;<sup>1</sup> and again Ambrose and Jerome on the question of Joseph's virginity.<sup>2</sup> Furthermore, the same saint can sometimes put forward things that are at variance with himself, as will be plainly evident in what follows.

2

On this basis, then, let us reply first to the objections introduced in the previous chapter. From Luke 10 it was assumed that bishops are of greater dignity than simple priests, from the passage we find there: 'After these things the Lord appointed other seventy also;' who (according to Bede) prefigure the order of priests, which he calls the 'second', sc. second after the order of bishops. To this one should reply that, according to the opinion of the Apostle and our quotations from the saints in chapter 15 of this discourse, the seventy more appropriately prefigure the order of deacons rather than the order of priests. Alternatively one might aptly remark that it does not follow from this that the bishop's order is greater in essence than that of the priest. So that the mission, upon which Christ sent them into the world, signified the human election or institution by which one individual is given precedence over another in the domestic economy of the church. For when Christ said to them 'Go ye therefore and teach all nations,' he did not confer upon them an essential dignity, because he had already given them this. And even supposing that he had given them both at the same time, I say that their mission did not add any intrinsic perfection which they had not had before, when they received the holy spirit. But it was necessary for Christ to institute the apostles in this way as superior to any future priests, because there was at that time no multitude of the faithful through which an election of this kind could take place; and even if there had been, it could not have been done equally appropriately by any multitude as by Christ. Hence too, after the passion and resurrection of Christ, the apostles had recourse to election to divide the provinces between them. For in Galatians 2 we read: 'they gave to me and Barnabas the right hands of fellowship; that we should go unto the heathen, and they unto the circumcision (James, Cephas and John).' And therefore, allowing that this was a prefiguring

<sup>1</sup> Galatians 2. 11; cf. Lombard, *Collectanea*, MPL 192, cc. 109A–114B.

<sup>2</sup> Probably Lombard, *Collectanea*, again, on Galatians 1. 19, MPL 192, cc. 101C–102B.



(such as Bede says) of the status of priests, I nevertheless say that a bishop does not have directly from God a greater intrinsic dignity or perfection or character than does a priest. The reasoning behind this was sufficiently given in chapter 15 of this discourse.

3

In reply to the other objection from I Timothy 5: ‘Against a priest etc.’, I say that what he had received from the Apostle was his secondary, not his essential, institution over the other priests in that province. The will and institution of the Apostle was equivalent to an election because of the lack and the inadequate or uneducated nature of the multitude of the faithful. Hence the Apostle, I Corinthians 3: ‘And I, brethren, could not speak unto you as unto spiritual, but as unto carnal, even as unto babes in Christ. I have fed you with milk, and not with meat; for hitherto ye were not able to bear it, neither yet now are ye able. For ye are yet carnal.’ But we explained this more fully in chapter 17 of this discourse, section 7.

4

As to what was quoted from the *Letter* of Clement entitled ‘To James the brother of the Lord’, I do not take it as certain; for it is highly suspect that the letter was indeed written by Clement, by reason of many things it contains. These canons or letters are suspect, again, because those entitled ‘On consecrated vestments and vessels, to James the brother of the Lord’ and ‘On the life of the apostles together’<sup>3</sup> are written as if Clement is telling James what Christ had done together with the apostles. But this would have meant great ignorance, not to say presumption, on the part of Clement, in that he would be wanting to signal – almost by way of doctrine – things that he had only heard to one who had actually been present and had himself seen Christ together with the apostles (of whom he had been one). For which of them was better able to instruct the disciples at Jerusalem concerning the life of Christ and the apostles? Who ought to have had a greater knowledge of church ritual? An apostle or a successor of an apostle? – no one has any doubts. For this reason they should be reckoned as apocryphal. But let us suppose that they were genuinely letters of Clement, as some assert, basing themselves on fables

<sup>3</sup> Ps.-Isidore, ed. Hinschius, pp. 46–52, 65–6.

and even going so far as to say that Clement, because he was Roman bishop, was of greater authority in God's church than the apostle James. We might aptly ask these people, why then are the *Letters* of Clement not placed within the sacred canon, as are those of James? However, we shall reply to those things in the said letters that seem contrary to the opinion of Christ and the apostles when we discuss the authorities of Scripture upon which they apparently rely.

As to what was said, that this was the opinion of all the bishops who succeeded Saint Peter in the episcopal see of Rome, one should reply that they understood it in the same way as we said in reply to the first objection; if indeed otherwise, then we dismiss them and follow instead the Apostle and Jerome in chapters 15 and 16 of this discourse.

5

I reply next to those authorities of the canon which seemed to show that Saint Peter was superior in dignity to the rest of the apostles, not only by human election but also by the direct ordination of Christ; as argued firstly from the words of Matthew 16: 'Thou art Peter, and upon this rock I will build my church etc. And I will give unto thee the keys of the kingdom of heaven etc.', in which Christ seems to have made him, at least in his own absence, the head and foundation of the church. I say that by the direct ordination of God there is, and was, only one single head and foundation of the church, and that is Christ: not any of the apostles, even in the absence of Christ, as we established beyond doubt in chapters 16 and 22 of this discourse. In response therefore to the canon when it says: 'upon this rock etc.', I say, in accordance with the gloss: 'upon this rock, that is, upon Christ, in whom you believe'. The interlinear gloss adds here: 'Thou art Peter, that is, a rock by my doing, but in such a way that I keep for myself the dignity of being the foundation.'<sup>4</sup> Now Christ called him Peter, i.e. constant in his faith, which we do not deny. For allowing that he was more constant than the others and more perfect in merit, it still does not follow that he was therefore prior in dignity, except perhaps in time; we proved this on the evidence of Scripture, as above. Saint Augustine's exposition of this place supports what we have said to be the sense of Scripture; for Augustine says (this is taken from the *Book of Recantations*): 'I said somewhere of the apostle Peter, that the church is

<sup>4</sup> Ordinary and interlinear glosses ad loc.

built upon him as upon a rock. But I recognise that since then I have very often explained the words of the Lord: “Thou art Peter, and upon this rock I will build my church,” with the understanding that it is built upon him whom Peter acknowledged, saying: “Thou art Christ, the son of the living God;” and as if Peter, named after this rock, prefigured the church which is built upon this rock. For it was not said to him: Thou art the rock, but “thou art Peter”; the rock was Christ, and Simon was called Peter when he acknowledged him, just as the whole church acknowledges him<sup>5</sup> (sc. Christ). And the reasoning behind this can be derived from Scripture, since as long as Peter was on his way through this world, he was capable of error and of sin through his free-will: hence we read that he denied Christ and sometimes deviated from the truth of the gospel. But the foundation of the church could not be of this nature. On the contrary (as is apparent from I Corinthians 3) it was Christ alone who could not err, because from the moment of his conception he was confirmed incapable of sin. Hence the Apostle, as above: ‘For other foundation can no man lay than that is laid, which is Jesus Christ.’<sup>6</sup>

6

As for what is added: ‘And I will give unto thee the keys of the kingdom of heaven,’ this gave Peter no authority over the rest of the apostles, because Christ gave this same power of judgement to the other apostles as well, according to Jerome and Rabanus Maurus whose glosses we quoted in chapter 6 of this discourse, section 6. Furthermore because in these words Christ does not seem to have given him the power of the keys. For he says: ‘I will give unto thee’, which implies the future; he did not say: I give. Whereas on the other hand, in John 20, he said to all of them without differentiation: ‘Receive ye the Holy Ghost; Whose soever sins ye remit etc.’ Allowing, however, that Peter did receive this power in the words in question, nothing can be concluded from this except that he was made pastor first in terms of time; and that Christ gave these keys individually to him because he wished to signify the unity of the church in faith, inviting the faithful to that faith through a single commission or promise of the keys, as the gloss says. Alternatively, perhaps, he is gifted and honoured with the keys (or receives a promise of this honour) first in

<sup>5</sup> Aquinas, *Catena aurea*, Vol. I, 251–2.

<sup>6</sup> I Corinthians 3. 11.

time because he was the first to acknowledge Christ as the son of God, and did so constantly and openly; and also so that his reward might give others an example of acknowledging Christ in the same open and constant way. Nonetheless this does not establish convincingly that he was prior to the others in dignity or authority, even if many of the glossators seem to say this – on their own initiative, since they do not get it from Scripture. An infallible sign that what we say is true is the following passage of Scripture, which we find in the same Matthew, chapter 20, and in Luke 22, where Christ answered this question overtly and said that none of them was superior to the others. For ‘there was also a strife among them, which of them’ was ‘the greatest’; and the same in Matthew 23, when Christ says to them: ‘But be ye not’ (supplying: with respect to one another) ‘called Rabbi: for one is your Master, even Christ, and all ye are brethren.’<sup>7</sup> ‘All ye are brethren’, i.e. equals; therefore he did not make an exception of anyone. And it would be remarkable if we should give more credence to the authority of the gloss than to that of Christ, whoever that glossator was – even a saint – and especially since he does not say this as a glossator, but as giving his own meaning. For the passage of Scripture is so plain that it does not need a glossator on this point. Further, because the glossators themselves say the opposite in their exposition of Galatians 2, as we made clear in chapter 16 of this discourse. However, we have dealt with this sufficiently and in detail in chapters 4 and 16 of this discourse, and we have not repeated all the proofs because the matter is evident and to keep the discourse short.

7

With regard to the other canonic authority taken from Luke 22, when Christ said to Saint Peter: ‘But I have prayed for thee’, Peter, ‘that thy faith fail not; and when thou art converted, strengthen thy brethren.’ There are two inferences that some have made from this passage: one, that it is only the faith of the Roman church that cannot fail (in that by the faith of Peter Christ understood the faith of his successors as well), and consequently that the bishop who succeeded him is the first among the others; two, that by this Christ gave him preference over the rest of the apostles. My response is that neither of these inferences follows from the words of Christ on the strength of what was said: for in this argument,

<sup>7</sup> Cf. above, II. 16, 6.

the opposite of the consequence is compatible with the antecedent. Secondly I prove from Scripture – and by the words of Christ, no others – that neither of them follows. The first inference does not follow because Christ said to all in the last chapter of Matthew: ‘Go ye therefore, and teach all nations etc. And, lo, I am with you always, even unto the end of the world.’ In this way, then, Christ promised that he would be with the others always, even unto the end of the world; therefore, if this ought to be understood of the successors of Peter, Christ understood it of the successors of the others as well. Further, because if the Roman bishop is said to be individually the successor of Saint Peter, it is clear that a heretic or heretics have been given precedence as bishop in that see, as we showed of Liberius and certain others in chapter 20 of this discourse. Again, because it was demonstrated in chapter 16 of this discourse that the Roman bishop is not individually the successor of Saint Peter, for the reasons given there in accordance with Scripture. The second inference is likewise ineffectual. I prove this by Scripture as well. For it was Paul who communicated something to Peter in the gospel, not the other way round, as we concluded satisfactorily from Galatians 2 in chapter 16 of this discourse. And (which is more evident) this inference is destroyed by the words of Christ quoted before from Matthew 20 and Luke 22, in which – from their explicit sense – he determined and laid down the opposite. Hence the gloss, in its exposition of this place, says: ‘Just as I have, by my prayer, protected you that you should not fail, so you, too, strengthen your weaker brothers by the example of your repentance, that they should not despair of forgiveness,’ understanding by ‘brothers’ any of the faithful indifferently.<sup>8</sup> In saying this to Peter, moreover, he gave the other apostles to understand that they too should do the same. Hence Mark 13: ‘What I say unto one’ (or, according to another reading but the same sense, ‘what I say unto you’) ‘I say unto all.’<sup>9</sup> Or perhaps he said it to Peter individually because Christ had foreknowledge that Peter would deny him, which seems also to be the view of the gloss. Hence ‘when thou art converted’, i.e., ‘by the example of your repentance’: in that through his words and by the example of himself, who had merited forgiveness, he might singularly be able to strengthen or support those who were weak in their faith, so that they might not despair of forgiveness.

<sup>8</sup> Interlinear gloss on Luke 22. 32.

<sup>9</sup> Mark 13. 37.

8

With regard to the other canonic authority taken from John 21, by which some try to persuade the same thing as before from the fact that Christ said to Saint Peter: 'Feed my sheep, feed my lambs etc. '; one should first of all say, with the gloss, that the sense of this passage is this: that 'to feed the sheep is to strengthen the believers, that they fail not; to provide subjects with earthly support if there is need; to offer examples of the virtues; to stand firm against adversaries' (sc. of the faith); 'to correct those who sin.'<sup>10</sup> And the gloss adds: 'And when he had heard for a third time that he was loved by Peter, he bade him feed his sheep. A triple confession is rendered for a triple denial, lest his tongue be in the service of fear rather than of love.' But from this nothing else can be persuaded than that Christ made him a shepherd of his sheep. It does not follow from this that he made him prior in authority or dignity to the rest of the apostles; neither does it follow that the other apostles were not themselves made shepherds. For the opposite of both the consequences just stated is compatible with the antecedent, viz. with the said words of Christ. Testimony to what we have said is the fact that the catholic church sings of all the apostles without differentiation: 'It is truly worthy and just, righteous and salutary, to pray to thee in supplication at all times, that thou should not abandon, eternal Shepherd, thy flock, but guard it through thy blessed apostles in protection always; that it be governed by the same rectors, whom thou has granted to be its shepherds in authority, as the vicars of thy work.'<sup>11</sup> See: 'apostles' in the plural, 'rectors', 'vicars' and 'shepherds' by Christ's direct conferral; not just one sole rector, vicar or shepherd constituted by Christ.

9

And if someone asks, why then did Christ say this to Peter individually, one should reply that Christ sometimes addressed an individual in their own person, as he did in remitting sins, healing the sick, or raising the dead; but sometimes he addressed another individual in the person of them all or of several, for example in John 5: 'Go, and sin no more, lest a

<sup>10</sup> Ordinary gloss on John 21. 15–17; in the printed text, the first passage that Marsilius quotes comes after the second.

<sup>11</sup> Preface to the Mass for apostles' and evangelists' days: *Missale romanum*, Milan, 1474, ed. R. Lippe (2 vols., London: Harrison and Sons, 1899), Vol. I, pp. 204, 205.

worse thing come unto thee.’<sup>12</sup> Hence Christ, in entrusting that office to Peter, spoke to him in the person of all the apostles; just as he himself testifies that this is his way of speaking in Mark 13, when he said: ‘What I say unto one’ (or ‘unto you’) ‘I say unto all’. But he directed his speech especially to Peter, because he was the elder, or because he was more fervent in his charity, or so that he should signify to the future church what sort of men should be made pastors: that they should be mature in years, which signifies prudence or wisdom, and full of charity, which signifies the care and diligence which pastors should have. Alternatively, perhaps it was so that he should not appear more lowly because he had denied Christ, as the gloss seems to suggest when it said: ‘A triple confession is rendered for a triple denial, lest his tongue be in the service of fear rather than of love.’ For what is most certainly agreed is that ‘Go ye therefore and teach all nations’ was said in the last chapter of Matthew to all without differentiation, and he did not say to Peter: Go, and send the others; and in this he signified the equality of authority in them all, just as we earlier concluded from Matthew 13 as well, when Christ said to them: ‘But be ye not called Rabbi’ (supplying: with respect to one another or one over another or others) ‘for one is your Master, even Christ, and all ye are brethren.’ Or one should say – and this seems to me very probable and in accordance with the truth – that he said to Peter: ‘Feed my sheep’ in order to entrust to him especially, because of his constancy, the people of Israel, who were ‘a stiff-necked people’ towards God, as appears from Exodus 33<sup>13</sup> and as the Apostle quotes from Isaiah in the last chapter of Acts;<sup>14</sup> and since it was to convert and to save this people that Christ had principally come into the world. Hence Matthew 15: ‘I am not sent but unto the lost sheep of the house of Israel.’<sup>15</sup> (‘I am not sent’, supply: principally.) Therefore he seems to have entrusted the care of this people especially to Saint Peter when he said: ‘Feed my sheep.’ And it seems that this was openly the view of the Apostle when he said in Galatians 2: ‘when they saw that the gospel of the uncircumcision was committed unto me, as the gospel of the circumcision was unto Peter etc.’ On this the gloss according to saint Augustine reads: “when they saw that the gospel of the uncircumcision was” by the Lord “committed unto me” as

<sup>12</sup> John 5. 14, cf. John 8. 11.

<sup>13</sup> Exodus 33. 5.

<sup>14</sup> Acts 28. 25–8.

<sup>15</sup> Matthew 15. 24.

one of the faithful, just as principally “as the gospel of the circumcision was unto Peter”. For Christ gave to Paul that he should minister to the Gentiles, who had also given to Peter that he should minister to the Jews. But this dispensation was allocated to them in such a way that Peter, too, could preach to the Gentiles if there were reason to do so, and Paul to the Jews.’<sup>16</sup> Nor do I see from where else Paul or any other saint could have assumed that the Jewish people was specifically and principally entrusted to Peter, except from the fact that Christ said to him: ‘Feed my sheep;’ since Paul says in Galatians 2 that ‘the gospel of the uncircumcision was committed’ to him just as ‘the gospel of the circumcision was unto Peter’. For if the gospel had been universally committed to Peter more than to Paul or the other apostles, it would have been inappropriate for Paul to have uttered the above words; on the contrary, his whole speech, and the comparison he made in it, would have been vacuous.

We shall reply at the end of the chapter to the glosses or interpretations of the saints and other doctors on these three points of Scripture just mentioned, so that we do not repeat the same thing too often.

## IO

With regard to what the Apostle said in Galatians 2, where it seemed that he was of lesser authority than the apostle Peter because he said: ‘I communicated unto them that gospel which I preach among the Gentiles, lest by any means I should run, or had run in vain etc.’ one should reply firstly in accordance with Augustine’s gloss on this place. For he says: ‘And I was not taught by them as by those greater than me, but I communicated with them as friends and equals.’<sup>17</sup> As to what the gloss according to Jerome argues on the passage: ‘lest by any means I should run in vain etc.’ – ‘He shows’, the gloss says, ‘that he was not secure in the gospel, unless it was confirmed and strengthened by the authority of Peter and the others’<sup>18</sup> – I say with reverence, that either this gloss, if understood in the way that the opponent of our view seems to intend, would contradict itself in what it says below according to the same Jerome; or we must understand this gloss according to Jerome in the sense of the gloss that is added there according to Augustine. For this was

<sup>16</sup> Lombard, *Collectanea*, MPL 192, c. 108A; attributed partly to Augustine and partly to Ambrose.

<sup>17</sup> *Ibid.*, c. 103C–D.    <sup>18</sup> *Ibid.*



not the reason for his communication – i.e. that he doubted that he had, or did not have, certainty of the gospel – but so that this would be believed more by those who heard him, when he said that he had communicated with those who had associated with Christ, whose testimony had greater probability. Thus that phrase: ‘lest by any means I should run, or had run in vain’, should not be connected with a failing of the Apostle in himself, or any doubt that he had about the gospel, since he did not receive it or learn it from man or of man, but by the direct revelation of God as he himself says in Galatians 1. Further, when he recalls this communication in Galatians 2, the Apostle says: ‘but they who seemed to be somewhat in conference communicated nothing to me: but contrariwise’. Here the gloss according to Augustine has: “‘To me”, as if to say: I do not have recourse to the past, because what is happening now is enough to commend me, sc. because those “who seemed to be somewhat”, sc. Peter and the others who were with the Lord, “communicated”, that is added, “nothing to me”. In which it is plain that I am not inferior to them, since I have been perfected by God to the extent that there is nothing which they could add by way of communication to my perfection. For he who gave understanding to those three, when they were yet ignorant, gave it to me also.’<sup>19</sup> And the gloss according to Jerome says below: ‘They “communicated” nothing to me, but I “communicated” with Peter.’ And below again: ‘I “withstood him to the face”, as an equal. For he would not dare do this unless he knew that he was not unequal.’<sup>20</sup> Therefore that phrase: ‘lest by any means I should run in vain etc.’ should be connected with his listeners, who would perhaps not have believed him or not so much, and would thus have stayed in vain; and he likewise would have been in vain with them, i.e. his purpose would have been frustrated in them, because he would not have engendered in them the faith that he intended to generate in the course of his preaching. And this moreover is what the gloss according to Augustine adds below: ‘For if the apostle Paul, who received his calling after Christ had ascended into heaven, had not communicated and conferred with the apostles on the gospel, whereby he would appear to be of the same society as them, the church would not have believed him wholeheartedly. But when it knew that he was proclaiming the same thing as them, and that he lived in communion and unity with them, and when he also produced such signs

<sup>19</sup> *Ibid.*, c. 107D.

<sup>20</sup> *Ibid.*, c. 108D.

as they too produced, he, by the Lord's commendation, merited authority such that his words should be heard in the church, just as Christ is heard speaking in him, as he himself most truly said.<sup>21</sup> Paul merited authority, therefore, simply by Christ's commendation or approval; it did not say: by the commendation of Peter or the other apostles. And a little further on the gloss according to the same Augustine adds: 'Hence he both communicated the gospel to them and received their right hands, because he was in possession of the same word as they, even if he did not have it from them. For that conference demonstrated that the doctrine was one in kind, all heretical variation expelled.'<sup>22</sup> This, then, was the reason for the conference: to remove from listeners any scruple over variations in doctrine. And this is what the gloss according to Augustine had said above. For it says: "I went up again to Jerusalem etc." I went up again, I say, "with Barnabas", who was of the Jews, "taking Titus with me", who was of the Gentiles; as if to say: from this you have witnesses, who make plain that it is false that I preach one thing to the Gentiles and another to the Jews. "And I went up" not merely with that intention, but "by revelation" of God, and I was not taught by them as being greater than me, but "I communicated unto them" as friends and as equals "the gospel" of Christ "which I preach among the Gentiles". He did this to assert his own preaching, because many people had concerns about the apostle's teaching because the Jews were stirring things up.<sup>23</sup> – This, sc. this concern, God wished to remove, and therefore the Apostle said that he went up to communicate the gospel to them not by a human decision, but by the revelation of God; and not because of a doubt that he had about the gospel, but so that the scruple just mentioned might be removed from his hearers.

## II

As for what was quoted from the glossator on Galatians 2, that as pastor, Paul came after Saint Peter the apostle, one should reply that the glossator was speaking strictly, since Saint Paul was called to the apostolate later in time, and therefore he came after in time; but he was not

<sup>21</sup> *Ibid.*, c. 103D–104A.

<sup>22</sup> *Ibid.*, c. 104B.

<sup>23</sup> *Ibid.*, c. 103C.

therefore inferior in authority, and the gloss did not say this, but rather the opposite.

It is apparent from what has been said above, then, that neither Peter nor any other of the apostles was greater than Paul, but rather a friend and an equal in the authority that was conferred upon them directly by Christ. If there was priority among them in any way, this should be looked for perhaps from an election amongst them, or in the way in which we said Saint Peter was prior to the other apostles in chapter 16 of this discourse.

## 12

In reply to the extract from the *Codex* of Isidore, in the chapter entitled: ‘Here begins the preface to the Nicene council’, when it says: ‘All catholics must know, that the holy Roman church has preference not by any decrees of synods, but rather obtained its primacy by the evangelical voice of our Lord and saviour,’ with a similar understanding in respect of its bishop: we should deny what Isidore says, and anyone else outside the canon who speaks like this. For the Roman church was made principal over the others by the decrees of the Roman princes and by the consent of the other churches, as if by a kind of election, as we said in chapters 18 and 22 of this discourse. Further, what Isidore infers does not follow from the canonic authority which it takes as its premise; on the contrary, his inference – and that of anyone else who speaks in this way – can be rebutted through what we determined in chapter 15 of this discourse, section 8, and chapter 16, sections 13 and 14. In response to his attempt to support this assertion from Matthew 16: ‘Thou art Peter and upon this rock etc.’, we have already said something earlier; and the weakness of Isidore’s opinion was made plain in chapter 22 of this discourse.

## 13

In response to the reasoning whereby it was deduced that the church is one and has one primary bishop for the sake of the unity of the faith, according to the Apostle in Ephesians 4: one should say, that taking ‘church’ in its proper signification as the multitude of the faithful, there is in this way one church just as there is one faith. And since the faith is not numerically one in all the faithful, but one in species or kind, it cannot be

concluded that the church is one in any other way. And when it is added that the church is not one except through the numerical unity of one bishop who is superior to the rest, I deny this; and even if I were to concede it, I would deny the further inference, that this principle or head is the Roman bishop by direct divine institution, together with its proofs. Because Peter the apostle was not the rock upon which the church is founded, but Christ, as shown from Scripture above and in chapter 16 of this discourse. And also because the Roman bishop is not, by direct divine institution, individually the successor of Saint Peter or the other apostles in such a way that a superior authority over the rest is on that account due to him, as was demonstrated in the same place. Rather, if there is anything which is singularly his, it belongs to him by human institution or election, as we showed sufficiently in chapter 22 of this discourse.

14

In reply to what was said in confirmation of this point, that there must be one bishop or episcopate as the principal of spiritual things just as there must be one prince or principate which has primacy in respect of all temporal things: the comparison can be denied, because the numerical unity of the primary prince or principate is necessary because of the contentious actions of men, as demonstrated in chapter 17 of the first discourse. But this unity is not necessary in any of the other offices of the city or realm. Furthermore, even if we allow the comparison in respect of the simile or analogy initially assumed, nevertheless in reply to what is added, that there is one primary prince or principate, it can be said that this is true by human institution, but not any direct ordinance or establishment of God or divine law. In this sense we also concluded in chapter 22 of this discourse that it is expedient to establish one bishop and one church as principal and head of the others according to a certain defined arrangement and in respect of a certain defined task.

15

To the other piece of reasoning, i.e. that just as there is one bishop in one temple, so too in the universal globe of the faithful; one should reply, firstly, that it is not of necessity of salvation, nor is it a command

of divine law, that there should be one bishop in a single temple; on the contrary, there could be several, as we demonstrated in chapter 15 of this discourse from Acts 20, and from the Apostle in many other places, and from the letter of Jerome *To Evander*. The fact that in later times, one single bishop is established by antonomasia in one single temple or diocese, giving him preference in the domestic economy of that temple, results directly from human institution and not (as we said) from any necessity imposed by divine law. Nor would the simile hold even if such a necessity were imposed by divine law. For there is not the same necessity for a single household manager in one single household and in a whole city or several provinces, since those who are not within the same domestic family do not need the numerical unity of one particular household manager, because they do not share food and the other necessities of life (dwelling-place, bed, and so on) amongst each other, nor do they associate together in such unity as do those who are of the same domestic family. This reasoning would equally well yield the conclusion that there should be one single household manager in the entire world; which is neither expedient nor true. For as we said in chapter 17 of the first discourse, it is enough for quiet mutual human life that principates should be numerically one according to each province. That there should be one coercive judge over all does not yet seem to have been demonstrated as necessary for eternal salvation, even though there seems to be a greater necessity among the faithful for this than for one universal bishop, in that a universal prince is more able to preserve the faithful in unity than a universal bishop. For in ancient times, schismatics were coerced by princes in order to preserve the unity of the faith, as shown in chapter 21 of this discourse; they could not be coerced by bishops because the bishops lacked coercive authority, which is in any case not due to them as such. We demonstrated this in chapter 15 of the first discourse, and confirmed it further through Scripture, the authorities of the saints, and other reasons, in chapters 4, 5, 8, 9 and 10 of this discourse. We demonstrated in chapter 22 of this discourse that the numerical unity and principality of a single bishop and a church or college of clergy was expedient, and in what manner this should be established; even though, as we said, no specific priest nor any specific college has been established for this purpose by divine law, but only by human election or institution, as we showed truthfully and evidently in chapter 22 of this discourse.

16

As for what was added from John 10: ‘and there shall be one fold, and one shepherd;’ one should say, that Christ was speaking of himself. For he alone was the universal shepherd and the prince of the shepherds, and no other after him; just as he alone was the head and foundation of the church, as we showed in chapter 16 of this discourse and as we have repeated in many other places. And this was the explicit and literal view of Saint Peter; for he says in his first epistle general, chapter 5: ‘And when the prince of shepherds shall appear’ (speaking of Christ) ‘ye shall receive glory that fadeth not away.’<sup>24</sup> This is also the opinion of the saints on this place. For the gloss according to Gregory says: ‘As if he makes one fold of two flocks, because he joins together the Jewish and the Gentile people in faith in him.’<sup>25</sup> See here how the fold becomes one: in the unity of the faith. Gregory did not say that it becomes one fold because all the faithful are subordinated to the Roman bishop, or to any other single individual except Christ. Again, this time according to Theophylact: ‘For all have the same sign of baptism, one shepherd, the word of God. Let the Manicheans therefore take note: there is one fold and one shepherd of the New and of the Old Testament.’<sup>26</sup> For neither Peter nor Paul nor any other apostle is anywhere named in respect of this unity of the fold, but only the unity of the faith and the person of Christ, who alone is, by the direct ordination of God, the head and foundation and prince of all shepherds, as we said earlier and as we showed with certainty in chapter 16 of this discourse.

17

With regard to the other inference, by which it was concluded that the Roman bishop alone, or together solely with his college of clergy, is the primary efficient cause of the secondary institution of all other ecclesiastical ministers, and that it is in his power (direct or through an intermediary or both) to assign or determine their temples; I reply with a negative. And when this is supported through Ambrose in *On Handing over the Basilicas*, when he says that it cannot be ‘Caesar’s right’ to

<sup>24</sup> I Peter 5. 4.

<sup>25</sup> Aquinas, *Catena aurea* on John 10. 17, Vol. 2, 475.

<sup>26</sup> *Ibid.*

determine or institute priests in temples or basilicas, since ‘the church is of God’; one should say, that Ambrose said this because in those times it was not safe to permit the Roman princes to confer such offices, sc. the care of souls, in that they had not yet been sufficiently confirmed in the faith. On the contrary, some of those emperors showed more favour, on occasion, to heretical priests than to those of true faith, for example that same emperor Valentinian to whom Ambrose was directing his letter. But when faith has taken root and been confirmed, in subjects as much as those in the position of prince, and when such a community exists, it is safer and more profitable and more in agreement with divine law if the election or institution of bishops and others who have a cure of souls is done by the authority of the faithful as a body, rather than by a single and partial college of the city or community, or by the will of one man alone, which, as we see almost every day, is easily corrupted by plea or price, love or hate, or some other sinister affection. Therefore we agree with Ambrose in this, that it is not Caesar’s right, as that person, nor of any other individual person, to institute those who have a cure of souls (bishops or priests) and other ministers of the temples; rather it belongs to the universal body of the faithful, or to him or them to whom the universal body of the faithful has at its own prompting granted the authority for it. And Ambrose himself did not deny this. Hence in his battles with the emperors he always went back to the faithful people, by which he himself had been made bishop in the manner we specified in chapter 17 of this discourse. Nor did he say that this authority belonged to the Roman or any other pontiff. What he said, for the reason given above, was that the church or temple is of God alone, and of the multitude of his faithful as the church principally and primarily so-called, the head of which is Christ; and it cannot be ‘the right’ – i.e. a rightful possession – ‘of Caesar’. For all temporal things, whatever they may be, can be the possession of Caesar, be he faithful or infidel. But the temple or the institution of priests within it belongs to the authority of the multitude of the faithful alone, as shown in chapter 17 of this discourse, and Ambrose neither said nor thought the opposite. A sign of this, sc. that Ambrose, as shepherd of the faithful, only fought in this way so that the faithful flock might not be given over to be ruled by a bad or heretical priest, is what he said in his first letter *To Valentinian*. For he says: ‘And would that it were clearly evident to me that the church would not be handed over to Arians! I would freely submit myself to the judgement of your

piety.<sup>27</sup> This manifestly demonstrates that in the matter of handing over the basilicas, his understanding must have been such as we said just now and in chapter 17 of this discourse. Because if a bishop or priest who had fallen into heresy were to take over a basilica in a community of the faithful and refuse to give it up, it is clear that such a one could justly be compelled by a coercive judge and armed force in accordance with human laws. But no priest has the authority for this coercive judgement and force, as the same Ambrose testifies – and truly – in a letter entitled *To the People*. For he says: ‘Against Goths, against soldiers too, my tears are my weapons; for such are the defences of a priest; I neither should, nor can, resist in any other way;’<sup>28</sup> although this too was concluded by demonstration in chapters 15 and 17 of the first discourse, and confirmed by the authority of Scripture and the saints, together with other proofs as well, in chapters 4, 5, 8 and 9 of this discourse. And therefore we must hold that Ambrose’s opinion was as we said, for the Apostle too appealed to Caesar, as we quoted earlier from Acts 15. As a result, in communities of the faithful, either we must say this, or we must allow individuals to teach what they want concerning the faith, as Hilary seems to have thought in a certain letter *To Constantius*.<sup>29</sup> In this way, then, it seems to belong to the authority of the universal body of the faithful, or to the prince according to its ordinance, to hand over the basilicas or temples to be allocated and to institute priests within them. This is moreover the practice of the catholic kings of France in certain churches, without recognising any priest or bishop from whom they derive this authority. We believe that this was Saint Ambrose’s understanding as well, and, if it was, that it should have been; but if his opinion was contrary to this one (which we know and believe to be canonic) then we dismiss his opinion (which we are not compelled to believe for our salvation, since his writing is not part of the canon) and hold fast to what we have stated, as being the true opinion.

## 18

And when it seemed to be an inference from the same authority of Ambrose that supreme jurisdiction over the temporal goods of the church, which are granted to ministers of the gospel for the sake of

<sup>27</sup> Ambrose, *Epistolae* 75, *Cetedoc* from CSEL 83, par. 19, p. 81, ll. 136–8; MPL 16, c. 1006C.

<sup>28</sup> Cf. above, II. 5, 5 and note there. <sup>29</sup> See above, II. 9, 5 and note there.



their offices, belongs to the Roman bishop by direct divine authority: it is apparent from what has been said that this inference is invalid, as we have already concluded adequately in chapter 17 of this discourse. Moreover Ambrose confirms this opinion in the letter already mentioned *On Handing over the Basilicas*, where he says: ‘He seeks tribute,’ (sc. the emperor) ‘it is not denied. The fields of the church pay tribute. If the emperor wants the fields, he has the power to claim them; none of us can intervene. A collection from the people can provide for the poor. Let the fields not be a cause of envy; let him take them if he wants; I do not give them to the emperor, but I do not deny them.’<sup>30</sup> Perhaps, however, one who is always seeking to defend these fields (saying that they are the ‘rights of the bride of Christ’, without caring much for the true bride, sc. the catholic faith, as the king and kingdom of Armenia can manifestly bear witness in their case)<sup>31</sup> will object that Saint Ambrose said this not because the fields of the church owe tribute as of right, but because it was demanded of them by the force and oppression of the emperors. But this interpretation, which certain Roman bishops, together with their accomplices, frequently use to escape and avoid the coercive jurisdiction of princes, saying that they are brought before the judgement of seculars not as of right, but forcibly and as of fact, is straightforwardly false; since Christ said the opposite of this in John 19, as we adduced above in chapter 4 of this discourse. And this is what Ambrose adds, in line with the opinion that we hold, in accordance with the canon: ‘We render to Caesar’, he says, ‘the things that are Caesar’s, to God the things that are God’s. Tribute is Caesar’s, it is not denied. But the church is God’s, and should not in any way be ascribed to Caesar,’ but rather (supply) to a faithful priest according to the judgement of the faithful multitude, as we said before and evidently confirmed in chapter 17 of this discourse. Tribute, therefore, and the jurisdiction of those who exercise the office of prince over the temporal goods of the church, is not by violence but by right.

<sup>30</sup> Cf. above, II. 4. II.

<sup>31</sup> Previt -Orton notes that in 1322 the Armenian port of Lajazzo was destroyed by the Mamluk sultans of Egypt, who only agreed to peace in 1323 at the cost of a higher tribute. Appeals to John XXII proved fruitless (although he did later grant subsidies in 1337, too late).

19

In reply to the other inference, which seemed to lead to the conclusion that every college of clergy is subject to the Roman bishop in coercive jurisdiction, in that he is the prince of them all by divine ordination; we should deny the antecedent. For we have shown before that by the direct ordination of God or by divine law, no bishop or priest is inferior or subject to the Roman bishop in any authority due to a priest either of his essence or as an accidental property. And as to what is argued as a consequence of the words of Constantine from the *Codex* of Isidore: one should say, that these were words of exhortation and warning, in which the devout Constantine showed what bishops and priests should be like. For both between themselves and in regard to others, they should not be of such a nature as to contend in a secular court, according to the teaching of the Apostle in I Corinthians 6: ‘Why’ he says ‘do ye not rather take wrong? Why do ye not rather suffer yourselves to be defrauded?’ than ‘go to law one with another’.<sup>32</sup> And as for what is added on the basis of Constantine’s words: ‘God gave you the power of judging us, etc.’; one should say, that this is true in respect of judgement in the first signification, which does not coerce anyone in this world, and of which we have said enough in chapters 6, 7, 8 and 9 of this discourse. But it does not follow from the abovementioned passage (which Isidore includes whether or not it was said by Constantine) that the rest of the bishops are subject in jurisdiction to the Roman bishop. For Constantine says: ‘await the judgement of God alone between you, and let your quarrels – whatever they are – be reserved for that divine examination;’ he did not say: for the judgement or examination of the Roman pontiff.

As for what is added, that the Roman bishop is the vicar of God on earth; one should say, that by direct divine ordination he is no more the vicar of God than is any other bishop, as we have often said and shown before. And even if he is the vicar of God on earth in respect of teaching and ministering the things of the spirit, this does not mean that he is therefore God’s vicar in respect of coercive judgement over any clergyman or layperson, as shown before in chapters 4 and 5 of this discourse and in many other places. For in this respect it is princes who are the ministers of God, as the apostle Paul said in Romans 13 and Saint Peter in his first epistle general, chapter 2.<sup>33</sup>

<sup>32</sup> I Corinthians 6. 7.

<sup>33</sup> Romans 13. 1–7; I. Peter 2. 13–15.

Yet again, even allowing that in asserting this, Constantine had explicitly said that it was true, I would deny what he says, because it is neither canonic nor does it follow from any canonic utterance. And if he had instituted it by means of an edict, then it would be expedient for it to be observed just like other human laws, not as something established directly by the ordinance of God. But in fact, what is patently obvious from that passage of Isidore is that all bishops are subject to the Roman prince in coercive jurisdiction. For they voluntarily and without coercion brought their contentions and quarrels to his judgement, not that of the Roman pontiff, demanding his examination and judgement: as Isidore relates in the same place.

20

As to the further inference from the same antecedents, that the Roman bishop alone (or together solely with his college of clergy) has the authority to call general councils of priests and other faithful and, in these councils, to ordain the other matters we mentioned in our earlier arguments; this inference should be denied, together with its antecedent. For the opposite both of the antecedent and of the consequence and consequent was demonstrated in chapters 16 and 21 of this discourse. To the confirmations of these points that rested on the authority or opinion of Isidore, here there is no room for interpretation, since Isidore expressed this opinion explicitly, and so I reply simply by denying all of them as being in disagreement with the sacred canon and with demonstration founded upon it. We argued this in detail and manifestly in chapters 20, 21 and 22 of this discourse, and also from other things that Isidore himself includes in the abovementioned *Codex*.

Now in reply to what Jerome said in his *Exposition of the Catholic Faith*, where he addressed these words to the Roman bishop: ‘we desire that it should be emended by you, who hold both the faith and the seat of Peter,’ in which he seems to imply that the Roman bishop is individually the successor of Saint Peter; one should say, that Jerome said that the Roman bishop holds the faith and the seat of Peter simply because it is written that Saint Peter had authority within the Roman church as its bishop; and since this church is by human establishment the head of the others, he names it and its bishop the successor to the more worthy or perfect of the apostles, even though by the direct ordinance of God he neither is nor was superior to the other apostles by any authority granted him directly

by Christ, as we argued above and proved in full in chapter 16 of this discourse.

And as for what Jerome adds: ‘If however this our confession of faith is approved by the judgement of your apostolate etc.’, in which Jerome seems to imply that the Roman bishop alone has the authority to define or determine doubtful senses of divine law, even in articles of faith; one should say, that this was not Jerome’s opinion. Rather, he said it simply because it belonged to the Roman bishop to issue a response on the subject of those things concerning the catholic faith that were doubtful, and those things concerning church ritual that had been defined or determined by a general council. For it was on this account that the Roman bishop and his church had been made head or principal of the others, in the way that we stated in chapter 22 of this discourse. A sign that Jerome’s understanding was as we have said comes in his letter *To Evander*, where (criticising certain procedures with regard to the deacons of the Roman church) he explicitly said: ‘If you need authority, the globe is greater than the city;’<sup>34</sup> i.e., the authority of all the churches is greater than that of the Roman church. Doubts concerning the faith, therefore, should be defined by that authority alone which is the greatest and surest of all, as shown in chapter 22 of this discourse. Hence this same Jerome, too, in his *Exposition of the Catholic Faith*, clearly follows whatever has been approved by a general council, and rejects and reproves what has been reprovved by those same councils. But if, nevertheless, Jerome had thought that the authority just mentioned belonged to the Roman pontiff alone, I reject his view as neither canonical nor a necessary deduction from one that is canonical. For (as we said and proved earlier, and it does not tire with repetition) neither Saint Peter nor any other apostle assumed the authority to define by himself alone doubts that could arise concerning the faith. Rather, for these purposes ‘the apostles and elders came together’, as is patent to anyone who has a look at Acts 15.

21

As for what was quoted from Luke 10: ‘He that heareth you, heareth me etc.’: one should say, ‘He that heareth you etc.’ is true: ‘you’ in the plural, i.e. a general council, which alone represents Christ the legislator of the

<sup>34</sup> See above, II. 15, 5 and 8 and notes there.

eternal law or the congregation of the apostles and their church. Taken as separate individuals, 'He that heareth you etc.' is also true, i.e. you who speak according to divine law, and do not blaspheme unjustly. In this way he said of the Pharisees: 'All therefore whatsoever' they say, 'do': whatsoever they say sc. according to divine law, as Jerome says on Matthew 23, commenting on this utterance of Christ.<sup>35</sup> Or thus: 'He that heareth you etc.' in things that are commanded or prohibited by divine law is obliged; but in things that are a matter of counsel, such as fasting, he is not obliged unless the consent of all the faithful, or of its prevailing part in a general council, intervenes to this effect.

22

Now in reply to the speeches of Bernard, and firstly to that addressed *To Eugenius, On Consideration*, Book II: 'Who are you?', says Bernard, and he himself replies: 'The high priest, the supreme pontiff'; one should say, that if he understood this to be by direct divine ordination or by a command of divine law, his reply should be denied, since in that case it would not be consonant with the sacred canon nor with what was necessarily deduced from it in chapters 16 and 22 of this discourse. If, however, his understanding was that this primacy belongs to him by human election or institution, his reply should be conceded according to the manner posited in chapter 22 of this discourse. And when he adds: 'You are the prince of bishops,' this is true if we take 'prince' in a broad sense, i.e. principal as a result of the said institution. But if we take 'prince' in a strict sense, his pronouncement cannot be allowed; for this very same Bernard himself denies the office of prince to Eugenius and consequently to any bishop, as we quoted from the same Bernard to the same Eugenius, Book I, chapter 5, above, in chapter 5 of this discourse.<sup>36</sup> 'You are the heir of the apostles': yes, just like the other bishops, even if this bishop is so in a more principal manner, in the way we stated in chapters 16 and 22 of this discourse. 'In primacy you are Abel': it is true that he has been elevated to Abel's position, but by human election, or out of reverence for him who was the first of the apostles in time. 'In government you are Noah': this is true, by human institution, among the clergy and over the clergy. 'In patriarchate you are Abraham': it is true that, solely in ministering spiritual things, and even then

<sup>35</sup> See above, II, 5, 6.

<sup>36</sup> See above, II, 5, 2.

purely by human institution, he is the father of all spiritual fathers. ‘In orders you are Melchisedech’: this is so with regard to the priesthood, in which Melchisedech prefigured Christ; and in the same way so too are all other priests. But it is not so with regard to the realm, because in this respect Melchisedech, who was both king and priest, was the figure only for Christ and for no other priest. Neither moreover did he prefigure Christ in respect of worldly kingdom, because Christ did not come, nor did he wish, to reign in this way, as shown in chapter 4 of this discourse. Rather, Melchisedech, who was at once priest and worldly king, prefigured the priesthood of Christ and his heavenly kingdom, not any worldly kingdom; so much the less, then, was he a figure for this kind of kingdom in any priest or bishop, for Bernard denies such kingdom to the Roman bishop in the place cited above, and more explicitly. Nor too did Melchisedech prefigure anyone other than Christ with regard to primacy over the priesthood; in others this primacy is by human institution, as we have said. ‘In dignity you are Aaron’: this is true with regard to the similar nature of his primacy among priests, but different in the way that we said; because Aaron was made so directly by God, whereas this is not the case for any bishop – Roman or otherwise – who succeeded the apostles. ‘In authority you are Moses’: the same Bernard openly said the opposite of this in *On Consideration*, Book I, chapter 5, cited above, and Book III, chapter 1.<sup>37</sup> For Moses was a prince in accordance with a coercive law, as is apparent from Acts 7, whereas Bernard denied this to any successor of the apostles, in the place cited above. Again, Moses had this principate by the direct ordination of God and over all Israel; whereas the Roman bishop has it directly by human concession alone, and only over ministers of the gospel or the temples. ‘In judgement you are Samuel’: it is true that there is a likeness, but there are two differences: one, that he is not a judge by the direct ordination of God, as was Samuel; two, that he is a judge only over priests and other lesser ministers of the gospel, whereas Samuel was judge over all the people of Israel without differentiation. ‘In power you are Peter’: this is true, as a result of the essential and direct action of God, and so too is any other bishop or priest. A Roman bishop obtains his primacy over the others directly and solely by human institution, whether Saint Peter had this by the direct institution of God or – rather – by an election of

<sup>37</sup> Bernard of Clairvaux, *Five Books on Consideration*, III. 1: presumably p. 80, where Bernard says ‘It seems to me that you have been entrusted with stewardship over the world, not given possession of it . . . You are not that one about whom the Prophet says, “And all the earth shall be his possession”’ etc. The passage is quoted in full below, II. 29, 2.

apostles (if indeed he had it at all in this sense): as we believe in accordance with Scripture, as shown in chapter 16 of this discourse. 'In anointment you are Christ': if he means the unction of grace or the holy spirit, which is given together with the priestly character, then this is true; but then any priest receives it too. If however by anointment he understands the primacy over the whole church by the direct institution of God, not men, which Christ alone had over all priests, then I reject his opinion because the Apostle says the opposite in many places in Scripture, as shown in chapter 16 of this discourse.

As to what he adds: 'You are the one shepherd not only of all the sheep, but of all the shepherds': if he understood this as being directly by human institution, I would allow it; but if by the ordinance of God or statute of divine law (as he seems to intend), then I reject his opinion, since it is not canonical nor a necessary deduction from the canon, but rather the opposite. And when he tries to support it from the canon, adding: 'Do you ask how I can prove this? From the word of the Lord. For, to whom, and I include not only bishops but also apostles, were all the sheep entrusted so absolutely and completely? "If you love me, Peter, feed my sheep." For to whom' he says 'is it not clear that he did not specify some in particular, but assigned all? There is no exception where there is no distinction;' one should say – and always with reverence – that this question, whereby he asks to whom, not just of the bishops but also of the apostles, were all the sheep entrusted so absolutely and without distinction, is a cause for some wonder. I say that they were entrusted to all the apostles both in common and separately. Do you ask how I can prove this? From the word of the Lord – and with more evidence than him. For in the last chapter of Matthew, and almost as the last command of all, Christ said to all the apostles: 'Go ye therefore and teach all nations etc.' I say that this is more evident, because in John 21 he said 'Feed my sheep', and did not add 'all of them'. But it is certain that one who hands over all of them universally includes more sheep than one who does so only in an undefined manner, saying: 'Feed my sheep.' For this reason – and again, with reverence – it seems that the passage of Scripture that Bernard quotes can bear a different interpretation and one that is more in agreement with Scripture, which we touched upon above in section 9, and is not tiresome to repeat. For we read in Matthew 15 that Christ said: 'I am not sent but unto the lost sheep of the house of Israel.' This utterance, according to the interpretations of the saints, ought to be understood as follows: 'Not' indeed, as Jerome says, 'that he is not also

sent unto the Gentiles, but that he is primarily sent unto Israel' etc.<sup>38</sup> Remigius, though, says, more to the point and more in harmony with the letter of the text: 'He was sent specifically for the salvation of the Jews, so that even in his bodily presence he could teach them.'<sup>39</sup> Thus although, according to the exposition of the saints, Christ was sent for the salvation of all, nevertheless he was especially and primarily sent for the salvation of the Jews, which is also the sense of Christ's words according to Matthew, when he said: 'I am not sent but unto the lost sheep etc.' Hence he apportioned to himself these particular sheep from among the rest, since he adds: 'lost sheep of the house of Israel'. And since this people was always stiff-necked, as is apparent in Exodus 32, and a killer of prophets, as the Truth itself says in Luke 13,<sup>40</sup> and since Christ knew Peter to be more constant in his faith and more fervent in love for Christ and for his neighbour, he commended these sheep singularly to Peter when he said: 'If you love me, feed my sheep': i.e., concentrate especially on teaching the people of Israel. A sign that this is true is that it is written in Galatians 2: 'When they saw that the gospel of the uncircumcision was committed unto me, as the gospel of the circumcision was unto Peter etc.', and there is nowhere else in the gospel where these words of the Apostle could be confirmed. And again: 'They gave to me and Barnabas the right hands of fellowship, that we should go unto the heathen, and they unto the circumcision,' i.e., to the Jews. It is not the case, therefore, that Christ, in saying: 'Feed my sheep', entrusted to Peter a more general care, but on the contrary a more specific one over a particular people. For there cannot be a more general charge than that which Christ gave to all the apostles in the last chapter of Matthew and in John 20, when he said: 'Go ye therefore and teach all nations etc.', and: 'Receive ye the Holy Ghost: Whose soever sins ye remit, they are remitted unto them etc.' For in these words all the apostles received the authority and charge of a pastor, and they were addressed to all without differentiation, as Augustine also said in his *Questions on the New Testament*, question 94, which we quoted above in chapter 16 of this discourse.<sup>41</sup> Moreover, what more general charge (let Bernard say) did Christ give anyone than that which he gave Paul in Acts 9, when he said: 'he is a chosen vessel unto

<sup>38</sup> Aquinas, *Catena aurea* on Matthew 15. 24, Vol. 1, 243.

<sup>39</sup> *Ibid.*

<sup>40</sup> Luke 13. 34.

<sup>41</sup> Cf. above, II. 16, 8 and note there.



me, to bear my name before the Gentiles, and kings, and the children of Israel’?<sup>42</sup>

As for what Bernard adds below: ‘Thus it is that each of the other apostles received a single community,’ it is apparent that this is in disagreement with Scripture, nor does the sequence of Paul’s letters bear this out, and it cannot be persuaded from Scripture, either, but rather its opposite, as we have shown before. And as for what he goes on to say: ‘Therefore, according to your own canons, others are called to share part of the responsibility for souls etc.’; if it is understood in these canons that this was instituted directly by God, I reject their statements (sc. the writings of Eugenius as much as of Bernard who agrees with him), because the only writings that are canonical and should be so-called are those that we stated in chapter 19 of this discourse; and because we have, from Scripture, often proved the opposite of what they say. If, however, their understanding is that plenary power was directly instituted by men in the way that we said in chapter 22 of this discourse, as a universal care for the churches, then we grant what he says.

And again, when he adds: ‘The power of the others is bound by definite limits; yours extends even over those who have received power over others. If cause exists, can you not close heaven to a bishop etc.’; one should say, as before, that by the direct ordinance of God neither the Roman bishop nor any other has any more authority over the others than the other way round. For by an authority conferred upon him directly by Christ, the Roman bishop can no more excommunicate or depose another bishop for a crime than the other way round, as shown through Scripture in chapters 15 and 16 of this discourse and reiterated earlier as well. But if Bernard’s understanding is that this primacy is by direct human concession, then he has over other bishops, in ministering and ordaining the things of the spirit, whatever primacy has been granted him by a general council; and over the rest, in temporal things, whatever primacy has been granted him by the mortal legislator.

And when it is added, as the final point of this particular oration, that: ‘Your privilege is affirmed, therefore, etc.’; one should say that this is true: for the Roman bishop does have the power of binding and loosing men from their sins and of teaching them and administering the sacraments of the law of eternal salvation, just as does any other bishop and priest. If by ‘privilege’, however, Bernard understands some primacy

<sup>42</sup> Acts 9. 15.

over the other bishops due to the Roman bishop by divine law or the direct ordinance of God, I reject his opinion as before and for the reasons already given.

23

Now in reply to Bernard's other pronouncement, in which (in Book IV, chapter 4 to the same Eugenius) he seems to imply that the Roman bishop has coercive jurisdiction – which by way of metaphor he calls the 'temporal sword' – not only over the clergy, but also over the laity, when he said: 'Nevertheless, the person who denies that the sword is yours seems to me not to listen to the Lord when he says etc.', and finally concludes by saying: 'Both swords, that is, the spiritual and the material, belong to the Church': one should reply, with no less reverence than wonder, that this very same Bernard's pronouncement on this subject is in open disagreement with, indeed contradiction to, himself; for speaking of this authority or power, he says directly above it: 'Why should you' (sc. the pope) 'try to usurp the sword anew which you were once commanded to sheathe?' But it is certain that if someone usurps something, it does not belong to his authority.

24

But Bernard or one of his interpreters will say, in accordance with what he said at the end of this sermon, that although the authority just-mentioned belongs to the priest, it should not be put into execution by him (which in his words was to draw the material sword). But in truth, this reply goes against what Scripture intends. For Christ refused for himself not only the drawing of the material sword, but also the judgement of that sword and the command to draw it, when he said (in Luke 12) to one who asked him for such a judgement: 'Man, who made me a judge or a divider over you?' Bernard discusses this saying together with various others, from both Christ and the apostles, in *To Eugenius, On Consideration*, Book I, chapter 5, which we quoted above in chapter 5 of this discourse;<sup>43</sup> and there destroys the interpretation of one who explains the passage in this way here. For he says to this same pope: 'But listen to what the apostle thinks about this' (sc. the authority of judging

<sup>43</sup> See above, II, 5, 3.

temporal things; and this is in I Corinthians 6). “Is it so, that there is not a wise man among you? No, not one that shall be able to judge between his brethren?” And he adds. “I speak to your shame; set them to judge who are least esteemed in the church.” According to the Apostle, you, as a successor of the apostles, are usurping a lowly, contemptible office, which is unbecoming of you.’ (Notice that he is speaking of the office, not the execution of it.) ‘This is why a bishop’ (sc. Paul) ‘instructing a bishop’ (viz. Timothy) ‘said, “No man that warreth for God entangleth himself in the affairs of this life.” However, I spare you, for I speak not of the heroic, but of the possible. Do you think these times would permit it if you were to answer in the Lord’s words those men who sue for earthly inheritance and press you for judgement: “Man, who made me a judge over you?” What kind of judgement would they soon pass on you? “What is he saying, this ignorant peasant who is unaware of his primacy, who dishonours his supreme and lofty throne, who detracts from the apostolic dignity?” And yet I am sure that those who would say this could not show where any of the apostles at any time sat to judge men, to survey boundaries or to distribute lands. I read that the apostles stood to be judged, not that they sat in judgement. This will happen in the future; it has not happened yet. Therefore, does it diminish the dignity of a servant if he does not wish to be greater than his master, or a disciple if he does not choose to be more than the one who sent him, or a son if he does not transgress the boundaries which his parents set for him? “Who made me judge?” says our Lord and Master. Will it be wrong for his servant and disciple not to judge everything?’ Not only, therefore, does Bernard, or more accurately Christ and the apostles, take away from their successors – priests and bishops – the execution of secular judgement, but also the office or the authority to judge of such things. For this reason the same Bernard adds below: ‘These base worldly concerns have their own judges, the kings and princes of the world. Why do you invade someone else’s territory? Why do you put your sickle to another’s harvest?’

He repeats and confirms this opinion again in Book II, chapter 4, which we quoted above in chapters 5, 11 and 24 of this discourse.<sup>44</sup> Here he says to the point: ‘Not any dominion?’ (sc. did the apostle Peter leave to his successors?) ‘Listen to him: “Neither lording it” he says “over the clergy, but making yourself a pattern to your flock.” You should not think

<sup>44</sup> This is one instance where Marsilius’s referencing system has gone slightly astray: the relevant chapters are II. 4, 13; II. 11, 7; II. 24, 8.

he was prompted to say this only by humility and not by truth, for the Lord says in the Gospel: "The kings of the gentiles exercise lordship over them; and they that exercise power upon them are called benefactors." And he adds: "But ye shall not be so." It is clear: dominion is forbidden for apostles. Therefore, go ahead and dare to usurp the apostolic office as a lord, or as an apostolic usurp dominion. Clearly, you are forbidden to do either' (supply: holding them both at the same time; and this is what the same Bernard adds). 'If you want to have both of these at the same time, you will lose both. Moreover, you should not think that you are excluded from those about whom God complains, "They have reigned but not by me; they have been princes and I knew them not."

Further, he puts forward the same opinion in a certain letter *To the Archbishop of Sens*, where he says: 'So they' (sc. those who incite to disobedience). 'Christ bade and acted otherwise. "Render" he says "to Caesar those things that are Caesar's; to God those that are God's." He spoke this with his mouth, but took care soon to carry it out in action. Caesar's creator did not hesitate to pay tax to Caesar. For he was giving you an example that you too should do likewise. How therefore would he deny the reverence due to God's priests, when he took care to show it to secular powers as well?'<sup>45</sup> Christ, therefore, refused to exercise lordship over the princes of this world in a temporal sense, but willed rather to be subject to them and pay them the tax and reverence that was their due, offering an example of so doing to his successors: the apostles first of all, and then the priests and the bishops.

He continues the same opinion still more explicitly below, saying: 'Why, therefore, o monks, does the authority of priests so weigh upon you? Are you afraid of trouble? But if you endure something for the sake of justice, you are blessed. Do you despise the sphere of this world?' (i.e. those who exercise principate in this world?) 'But no one was more of this world than Pilate, before whom Christ stood to be judged. "Thou couldest have no power at all against me, except it were given thee from above." Already then he was saying of himself, and finding in himself, that which afterwards, through the apostles, he proclaimed in the churches: "There is no power but of God," and "He that resisteth the power, resisteth the ordinance of God." Go now therefore and resist Christ's vicar, when Christ did not resist his own adversary; or say, if you dare, that God is ignorant of the ordinance of his own governor, when

<sup>45</sup> See above, II. 4, 11 and note there.

Christ admits that the power of the Roman governor, even over himself, was ordained from on high.<sup>46</sup> Therefore a bishop usurps another's office and extends his sickle into another's harvest when he interferes in the judgement of secular acts between men, of whatever condition they may be.

And as for what Bernard adds in the objection under discussion: 'Nevertheless, the person who denies that the sword is yours seems to me not to listen to the Lord etc. '; I say that no one that I have seen or heard has denied or could have denied this more explicitly, as is patent from those of his pronouncements that we have previously quoted. To which one should also add (always with reverence) that the exposition of the other saints on this place is more apt. For when Christ replied: 'It is enough' to his disciples when they said: 'Behold, here are two swords,' his utterance (as all the saints agree) was metaphorical. So Chrysostom: 'And indeed if he wanted them to use human defences, not even one hundred swords would be enough. But if he did not want them to use human helps, even two are superfluous.'<sup>47</sup> Hence it is apparent that the sense of Christ's words was mystical; and his own words in Matthew 26 and John 28 also signal this clearly, when at the time when any defence by means of those swords should have taken place, he said to Peter: 'Put up again thy sword into his place,' or 'into the sheath'.<sup>48</sup> In this he signified that he had not commanded the apostles to make this kind of defence by swords, but that he had spoken in a mystical way. Saint Ambrose explains the said words according to this sense, paying sufficient attention to the word of the Lord, when he says: 'Two swords are allowed, one of the New, the other of the Old Testament, with which we are armed against the attacks of the devil. And he says: "It is enough," because nothing is lacking to one who is armed with the teaching of both testaments.'<sup>49</sup> The truth is that those priests who thirst to usurp principates, and strive towards it with every external effort (however much this is beyond their due), willingly accept alien expositions of Scripture that seem to smack of their own corrupt opinion and perverted affection. But even if the words of Christ are taken literally, they are in no way contrary to our view, since the material sword is not principate nor judgement of secular acts; nor even, according to Christ's opinion, can it metaphorically signify a

<sup>46</sup> See above, II. 5, 4 and note there.

<sup>47</sup> Aquinas, *Catena aurea* on Luke 22. 38, Vol. 2, 291.      <sup>48</sup> Matthew 26. 52; John 28. 11.

<sup>49</sup> Ordinary gloss on Luke 22. 38; the printed gloss does not attribute it to Ambrose.

principate or office of secular judgement which Christ granted to Peter or to any other apostle – as this same Bernard proved manifestly elsewhere (as we quoted above), and which we too have shown beyond doubt from Scripture in chapters 4 and 5 of this discourse.

As for the fact that he adds: ‘This sword also is yours and is to be drawn from its sheath perhaps at your command;’ I say that he said ‘perhaps’, although he should not have had any doubts on the matter; unless indeed it was his understanding that in drawing the sword the prince should take notice of the ‘bidding of the priest’, i.e. the counsel of a priest giving general or specific advice according to the demands of the emergency. For example, a prince entering upon a war, and in doubt as to whether he was doing so justly according to divine law, ought to make use of the counsel of priests in order not to fall into mortal sin, just as in his other personal and civil acts, especially those in which his ignorance makes him doubt whether he will incur mortal sin; but not because he is subject to the priest in this office. For in the same way he ought to make use of the counsel of experts in granting licences for the various disciplines and in expelling lepers from the city, without being subject to them in jurisdiction, as we said in chapter 10 of this discourse. Hence Bernard at the end of the speech just mentioned says that this sword should be drawn at the bidding of the priest and at the command of the emperor. By ‘bidding’, therefore, he did not understand empire or coercive authority, but counsel, since he expressly said that this authority belongs to the emperor or the prince; even though the Roman bishop may all too often, and with less than justice, command that this sword be drawn even between Christian faithful against each other. And to sum up in one, if Bernard in these words understands that this office or judgement belongs to the authority of a priest or bishop, as being superior in judgement to one who is in the position of prince, according to the third signification of judgement in this world: I say that he manifestly and openly contradicts both himself and the Scripture which he quotes, as is apparent from what has already been said. For this reason I simply reject his opinion in this place – if it is indeed such – as being non-canonical and moreover in disagreement with and contrary to the canon.

25

Now in reply to the words of the saints and the doctors, especially on the passage of Scripture quoted from Matthew 16: ‘Thou art Peter, and upon this rock etc.’; and again on that passage of Luke 22: ‘And I have prayed for

thee, Peter etc.’; further, on that passage of John 21 as well: ‘If you love me, feed my sheep’; in which they seem to intend a power or authority over the other apostles given to Saint Peter directly by Christ, calling Peter ‘the prince of the apostles and the universal shepherd’, and (some of them) ‘the head of the church’; one should say – though nevertheless with reverence – that Christ did not give directly to Peter any essential authority (which we have called priestly) nor any accidental pre-eminence in pastoral office over the other apostles. On the contrary, he removed this both from him and from the rest with respect to each other, as we plainly showed in chapter 16 of this discourse from Scripture and the expositions of saints and doctors, and in some way reiterated towards the beginning of this chapter. Hence, following Christ and the apostle and what some of these saints and doctors said in other places, I reject the opinion that the scriptural passages quoted above (and various other similar passages) seem to be saying concerning such primacy or principality, in any other sense than that which we stated in chapters 16 and 22 of this discourse: because that opinion is not canonical, and neither is it a consequence of one that is, and indeed some of these saints and doctors have said the opposite in expounding Scripture in other places. Here, however, they put forward their statements by going beyond Scripture and from their own opinion, following custom and paying more attention to certain notorious sayings than to the words of Scripture.

26

For if Christ intended Saint Peter to be principal and head of the apostles, who can fail to be amazed that whenever they were arguing about which of them was greater, he always replied that there was to be equality between them, and denied priority in authority to any of them? Why indeed did not Christ also give the others a commandment that they should be subject to Peter in pastoral office, so that they should not be unaware of a ministry so momentous as being head of the church? For we do not read anywhere in Scripture that such a commandment was given to the apostles. Moreover, how was it that Peter gave Paul the right hand of fellowship? He should on the contrary have given him a commandment as his superior. And to say it in one, all of Scripture, where it touches on this subject, openly proclaims the opposite of this opinion.

Furthermore, even if we allow (which we have however denied, in accordance with Scripture) that Peter was directly entrusted by Christ with a pastoral care of the other apostles; nevertheless it cannot on that

account be persuaded from Scripture that after the death of Peter either the Roman or any other bishop is pastor of all the others by the direct ordination of Christ. Rather, such authority belongs to any one of them directly by human election, as we showed earlier in chapters 16, 17 and 22 of this discourse.

27

And when it was argued that the church is headless and was not ordered by Christ according to the best arrangement, if he had left it without a head in his absence, we can say according to the Apostle, as before, that Christ has always remained the head of the church and that all the apostles and ministers of the church are its other members, as is patently clear in Ephesians 4 and in many other places, from which we quoted enough in chapter 22 of this discourse, section 5. And Christ himself too manifestly signalled the same thing in the last chapter of Matthew, when he said: ‘And lo I shall be with you always, even unto the end of the world.’

And suppose our opponent says: Is it not the case that the church lacks a mortal head, whenever the Roman see has a vacancy for a bishop? And it is clear that this is so. Nonetheless one should not therefore concede that it was left disordered or ill-arranged by Christ. For this we must go back to what was said before and to what we are about to say in resolving the following objection. But in order to give greater satisfaction, let us reply in outline to the reasoning as it appears here.

For when it is deduced and inferred that if Christ had not left a determinate mortal head for the church in his absence, he would not have ordered it according to the best arrangement, that inference should be denied. And when it seems that it is supported by the fact that the church is better arranged as a result of the institution of such a head; I believe one can certainly concede that the institution of a mortal head means that church ritual and the observance of the faith are better arranged. However, I think one should add that it does not follow from this that any determinate mortal man is a head of this kind directly from Christ, but rather that it was better that he should be determined and chosen through an institution on the part of the faithful, and that this was that optimal arrangement given by Christ to the church militant. Since it is perhaps the case that the clergy of the city of Rome – or of any other – are not always more outstanding in Holy Scripture and in their life than the other colleges of clergy in the world, as is apparent enough from a comparison between



them and the college of the clergy and the university of Paris. For this reason, Christ, in leaving it to the faithful to institute such a head for the church (in the manner we put forward in chapter 22 of this discourse, sections 8 and 9), left it with the best possible arrangement. It was perhaps in this way that the apostles made Peter head of the church, as we quoted from a decree of Anaclete in chapter 16 of this discourse, section 12.

28

As for what Augustine said on that passage of John 21: ‘If I will that he tarry’, that the life which is in faith ‘is signified by the apostle Peter because of the primacy of his apostolate’; I say that he understood this primacy as being in time, since Peter was called to the apostolate by Christ before the others, just as he was the first in time to receive the promise of the keys according to the same Augustine on that passage of Matthew 16: ‘I shall give unto thee the keys of the kingdom of heaven’. For the life which is in faith, viz. the life of this corruptible world, precedes in time that which is in hope, i.e. the incorruptible life of another world.

Regarding the confirmation that the objections were given from the decrees or decretals of the Roman pontiffs, one should reply in general to all these writings and speeches (which are not of the kind that we spoke of in chapter 19 of this discourse),<sup>50</sup> that we are not bound to believe that they are true. We put no trust in those that contain the opposite of the opinions stated above and which we hold along with Scripture; on the contrary, we reject them – if with reverence – and explicitly deny them.

As for the particular conclusion they want, i.e. that the authority to institute persons in ecclesiastical office, and to confer temporal goods or benefices on their behalf, belongs to the Roman bishop alone or together solely with his college of clergy; one should say that if by ‘ecclesiastical office’ we are to understand holy orders and the characters that are impressed upon the soul along with them, like a kind of disposition, then I say that these offices can be conferred solely by bishops or priests or solely by God through their ministration, and not through that of any other collective body or individual person. This, or at least not its opposite, is what must be believed of necessity of salvation: and the reason is, because this is what we find ordained in divine law; not because

<sup>50</sup> Above, II. 19, 1 and throughout that chapter.

this has been laid down in certain human decretals or decrees. Nevertheless (as we said in chapter 17 of this discourse), the examination and decision as to the suitability of persons to receive these offices should not take place without the authority of the faithful legislator or the one who exercises the function of its prince, as we demonstrated in the above chapter and in chapter 15 of the first discourse. If, however, we are to understand by ‘ecclesiastical offices’ the selection and institution of priests and other officials already mentioned in the care of souls, greater or lesser, in certain specific places and to govern certain specific peoples, then it belongs to the faithful legislator to institute such offices or to select the persons for them, and to distribute or confer the temporal goods of the church on their behalf, as we said in chapter 17 of this discourse. To do this in a general way and everywhere is not part of the authority of any single bishop or college of priests, nor is it expedient that it should be, as we showed in chapters 17 and 22 of this discourse.

29

As to the fact, therefore, that the opposite of these conclusions is objected to us on the basis of the decrees and decretals of the Roman pontiffs: one should say that these kinds of decrees and decretals and any other writings or speeches of this ilk (but not the kind we spoke of in chapter 19 of this discourse) can contain many lessons and counsels that can even be useful, for the status of this present world as much as of that to come. Nevertheless, insofar as they issue from the Roman bishop – even together with his college of clerics – without the licence of the faithful legislator or prince, or in any other way that is contrary to the form stated in chapter 21 of this discourse, statutes of this kind do not oblige anyone to fault or penalty, especially not temporal. For those who enact traditions of this kind are like the scribes and the Pharisees, to whom Christ said in Mark 7:<sup>51</sup> ‘Howbeit in vain do they worship me, teaching for doctrines the commandments of men. For laying aside the commandment of God, ye hold the traditions of men;’ and a little bit further on: ‘Full well ye reject the commandment of God, that ye may keep your own tradition’ – sc. the decrees and decretals concerning the usurpation of temporal things. For the *Decretals* are not, as such, laws either divine or human, but simply pronouncements and documents and for the most

<sup>51</sup> Mark 7. 7–9.

part a variety of oligarchic statutes. For this reason those who ordain such things contrary to the form and outside the authority just-mentioned; those too who induce any persons to obey them by deceitful words, quasi-coercing them by threatening the simple souls of transgressors with eternal damnation; or those who bring down blasphemies or anathemas or other curses upon anyone in word or writing; all these must suffer the ultimate corporal punishment, as conspirators inciting people to civil schism. For this is the most serious type of treason, since it is committed directly against the principate: leading to a plurality of principates (including the supreme principate) and necessarily, in consequence, to the dissolution of any polity.

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On the solution to the objections adduced  
from Scripture in chapter 3 of this discourse,  
to show that bishops have coercive jurisdiction  
and that the Roman bishop, as such, has  
supreme coercive jurisdiction

We now reply to the remaining objections adduced from Scripture in chapter 3 of this discourse, which might seem capable of persuading someone that the Roman pope or any other bishop is a coercive judge, in the third signification, over all clergy or over all others indiscriminately, without being instituted by the human legislator but being instead directly ordained by God. One should say firstly, in reply to the objection that was taken from Matthew 16, when Christ said to Saint Peter: ‘I shall give unto thee the keys of the kingdom of heaven etc.’, that Christ in these words did not give Saint Peter or any other apostle any power apart from that of binding and loosing men from their sins, as Saint Bernard explicitly says *To Eugenius, On Consideration*, Book I, chapter 5, which we quoted above in chapter 5 of this discourse, section 2, and which we also discussed in detail in chapters 6 and 7 of this discourse; nor any plenitude of power otherwise than as was stated in chapter 23 of this discourse. Hence on the basis of these words, neither the Roman nor any other bishop or priest receives, in the person of an apostle or apostles, coercive authority or jurisdiction in this world over any cleric or layperson. For it was said: ‘I shall give unto thee the keys of the kingdom of heaven,’ differentiating this from worldly kingdom. For Christ signified by his example that each apostle and successor of the apostles, bishop or priest, is excluded from this kind of government, when he said in Luke 12: ‘Man, who hath made me judge . . .?’ (viz. of earthly things). And the

same thing from the other words quoted previously in chapters 4 and 5 of this discourse.

We should reply in the same or similar fashion to the authorities taken from the canon, Matthew 18 and John 20, when Christ said to the apostles: ‘Whomsoever ye shall bind on earth etc.’, and: ‘Whose soever sins ye remit etc.’ For Christ did not, on the basis of these words, give them any power other than that which we have already said, and in the way that we have said.

2

To the other objection, taken from Matthew 11 where Christ said: ‘All things are delivered unto me of my father;’ one should reply that it does not follow: ‘All things are delivered unto me of my father,’ therefore I have delivered the power of all things unto an apostle or apostles, as we also said in chapter 4 of this discourse. For in this inquiry the doubt is not over what power and authority Christ could have given to an apostle or the apostles and their successors, but what power it was his will to give and he did in fact give; and from what power he barred them by counsel or command. And these points have been made sufficiently clear in chapters 4, 5, 6 and 9 of this discourse. Hence Bernard, who also intends the same thing, says *To Eugenius, On Consideration*, Book III, chapter 1: ‘I do not think it is unconditionally yours but is subject to limitations. It seems to me that you have been entrusted with stewardship over it’ (viz. over the world) ‘not given possession of it. If you proceed to usurp possession of it, he contradicts you who says: “The earth is mine and the fullness thereof.” You are not that one about whom the prophet says, “And all the earth shall be his possession.” That is Christ, who claims this possession for himself by right of creation, by merit of redemption, and by gift from the Father.’<sup>1</sup> And he adds much more that is to the point, but I have omitted it because the foregoing is enough and to keep the discourse short. Christ did not, therefore, give to an apostle or the apostles all that had been given to him and in the way that it had been given to him, but only certain things and in a certain way. Furthermore, according to the gloss of all the saints on this place, Christ meant that this delivery was made to him in his divine aspect, by which he was the eternal son of God, which could not belong to any of the apostles or their

<sup>1</sup> See above, II, 28, 22 and note there.

successors.<sup>2</sup> For this reason Christ's speech does not imply anything against the opinion we hold, even in appearance.

3

With regard to the objection that was taken from chapter 28, the last chapter of Matthew, where Christ said: 'All power has been give unto me in heaven and earth;' one should reply just as we did to the previous objection. For it does not follow on account of this – even allowing that he received all power on earth in his human aspect – that he gave all power to an apostle or the apostles, but only the power which is spoken of in the last chapter of Matthew and in John 20, and which we also explained in chapters 6 and 7 of this discourse; because Christ came to reign only in respect of this power. Hence Jerome on this passage: 'Power has been given in heaven and on earth in the sense that he, who reigned before in heaven, should reign on earth through the faith of those who believe in him.'<sup>3</sup>

4

As to what was taken from Matthew 8 and Mark 5: 'So the devils besought him, saying etc.?' one should reply that this too is not an obstacle to the opinion we hold. For allowing – as is true – that Christ had, if he wanted it, dominion and all power over temporal things even in his human aspect; it cannot be inferred from this, of necessity, that he gave a similar power to an apostle or to the apostles or their successors. On the contrary, as much in deed as in word Christ showed them that they must shun the possession and dominion of temporal things, and so too coercive jurisdiction or judgement over anyone in this world, as demonstrated in chapters 4 and 5 of this discourse and reiterated in the previous chapter. And if nonetheless Christ sometimes employed the power and dominion of such things, this was not in the manner of a human prince or a human judge. Rather he employed, miraculously and exceedingly rarely, a divine rather than human power, as in the current example and when he caused the fig-tree to wither, wanting by this to signify to his apostles the nature of his divinity so that he might further confirm them in their faith; or even for the sake of something better,

<sup>2</sup> This is a paraphrase of the glosses on this passage in Aquinas, *Catena aurea*, Vol. 1, 187.

<sup>3</sup> Aquinas, *Catena aurea*, Vol. 1, 424.

hidden from man and disclosed to him, as Chrysostom and Jerome say on this passage. ‘So that’ says Jerome ‘the destruction of pigs might be an occasion for the salvation of men.’<sup>4</sup> And therefore Christ did not teach them to perform miracles, as we argued above in chapter 4 of this discourse from Augustine, *On the Words of the Lord in Matthew*, sermon 10;<sup>5</sup> and still less, by the same token, did he wish them to exercise power to another’s detriment and offence. For this reason he did not perform such things in order that they too should perform them, but to show them that he was the true God.

5

As to the objection taken from Matthew 22, Mark 11 and Luke 19: ‘Then sent Jesus two disciples, saying unto them, Go into the village over against you, and ye shall find an ass tied etc.’ one should reply in a similar fashion as to the previous objection.

The objection concerning the two swords taken from Luke 22, and the one about the feeding of the sheep taken from John 21, in no way contradict or yield as their necessary inference anything contradictory to the opinion we hold, as demonstrated in detail in the previous chapter. For he did not, in these words, give Saint Peter or any other apostle or any one of their successors coercive jurisdiction or judgement over anyone in this world, but rather the office of pastor, about which we said enough in chapter 9 of this discourse.

6

As to what the Apostle said in I Corinthians 6: ‘Know ye not that we shall judge angels? How much more the things of this world?’ this is not contradictory to the opinion we hold, nor does it have anything contradictory as its inference. For in the said speech or writing the Apostle was not advising or addressing only priests, but all the faithful of Corinth generally. For he wrote his letter to them in general, as is clear from the salutation. For they were at odds with each other concerning secular and civil matters, bringing themselves before infidel judges. For this reason the Apostle advised them, as a pastor giving counsel, to create judges for

<sup>4</sup> *Ibid.*, 146 (both Jerome and Chrysostom).

<sup>5</sup> See above, II. 4, 2.

themselves from among the company of the faithful; not, indeed, priests or bishops, but persons other than these, and for this reason he immediately adds: ‘If then ye have judgements of things pertaining to this life, set them to judge who are least esteemed in the church. I speak to your shame. Is it so, that there is not a wise man among you? No, not one that shall be able to judge between his brethren? But brother goeth to law with brother, and that before the unbelievers.’<sup>6</sup> The gloss according to Augustine, Ambrose and Gregory says the following in exposition of this passage of the Apostle: “If then . . . things pertaining to this life” etc. Just as he has a moment ago criticised those who brought suits before the infidel in contempt of the faithful, so now he criticises those who set up judges worthy of little esteem, albeit they were of the faithful. “If then ye have judgements of things pertaining to this life”: he says “if ye have”, because one should not have them, but rather disdain them. “If” he says “ye have them, set them to judge who are least esteemed” – that is, men of no discretion, and lowly – “in the church”; as if to say: this is what you have done. Hence as a result the brethren were forced to have recourse to those others, that is, to the infidel. This is what the Apostle is reproving in them, addressing them ironically; and because it ought not to happen, he added: “I speak to your shame” or “to your sense of dignity”; as if to say: I am not issuing a command, but calling it to mind so that you may be ashamed; and you ought to blush because “there is not a wise man among you”, that is, wise enough “that he shall be able to judge between his brethren,” so that you set up fools as judges. But nevertheless, even these should be made judges, if there are no wise men, in preference to going before infidel judges. “So it is” he says “that there is not a wise man, but brother goeth to law with brother”, which is bad, “and that before the unbelievers,” which is worse. Or thus: “If then . . . things pertaining to this life etc.”, because the Apostle had said that they are able to judge these “smallest matters”, and now determines which persons are to be established to decide affairs of this sort, to wit those “who are least esteemed in the church;” for those who are greater should concentrate on spiritual things. As if to say: and because you should judge, therefore do it in this way: “If then ye have” affairs “pertaining to this life, set them to judge who are least esteemed in the church,” that is, some wise men, who are however of lesser merit; for the apostles, as they went around preaching, had no time for such things. Therefore it was wise men,

<sup>6</sup> I Corinthians 6. 3, 4–6.



faithful and holy, who stayed in their areas, and not those who hurried hither and thither for the sake of the Gospel, that he wanted to examine such matters. We cannot excuse ourselves from these even if we want. For I call Christ as my witness, that I would rather work each day with my hands for a certain number of hours, and have the rest free for reading or praying, than suffer tumultuous intricacies of suits about secular affairs, whether I were deciding them with a judgement or cutting them short with an intervention. I say, “set them to judge who are least esteemed” but this “I speak to your sense of dignity”, so that those who have acquired a wisdom of external affairs might examine earthly suits. But those who are endowed with spiritual gifts should not be involved in earthly affairs, so that not being forced to make arrangements for temporal goods they may be able to give their service to spiritual goods. Nonetheless one should take great care that those who shine with spiritual gifts never abandon the affairs of their weaker neighbours, but they should either entrust the handling of these to others for whom it is fitting, or conduct them themselves.<sup>7</sup>

7

These writings of the Apostle and the saints are worthy of note. For it is firstly apparent from them that all suits, between persons of whatever kind, concerning things that are not a matter of divine law are secular and non-spiritual and a matter for secular judgement. For the Apostle and the saints on this passage spoke in a general manner, making no distinction (just as there is none to be made) between temporal or civil suits that are between priests and clergy in general, or between priests and laypersons, and those that are between secular persons. For let that sophist and abuser of words, who calls spiritual something that is purely secular according to the terminology of the Apostle and the saints, let him say, I ask, if a priest who does injury to one of his brethren, priest or non-priest, either in word or deed, commits a more spiritual injury than that which a layperson would have committed? To say this is laughable, to believe it complete insanity: since an injury done by a priest is indeed more carnal or more secular, and more detestable, than one done by a layperson. For, as we showed in detail in chapter 8 of this discourse, the sin of one whose duty it is, both in speech and in action, to teach another

<sup>7</sup>Lombard, *Collectanea*, MPL 191, cc. 1576D–1577D; cf. above, II, 5, 2.

not to do injury, is more base and more serious. Ambrose in the said gloss is an express witness that these sorts of acts on the part of the clergy are and should be called secular, not spiritual, when he called the lawsuits of priests and clerics, which were conducted before him as bishop, ‘tumultuous intricacies of suits about secular affairs’, not distinguishing between such cases or suits on the basis of the status of persons involved. For this distinction, sc. between a priest and a non-priest, is accidental in this respect; like the distinction between a circle in gold and a circle in silver, which no craftsman draws because of itself it makes no difference in what is made.

It is apparent, secondly, that the judgement, or being a judge, of such acts does not belong to priests, and that to establish such a judge no more – indeed perhaps less – belongs to their authority than to that of the rest of the faithful. This is a matter rather for the universal body of the faithful, as shown in chapter 15 of the first discourse. And for this reason the Apostle said: ‘set’, in the plural, and did not say to any particular bishop or priest: set, in the singular. For wherever something needed to be done that belonged to the office of a priest or bishop, he commanded that person individually to do it and not the multitude of the faithful: for example to constitute priests or bishops, or deacons, or to preach the gospel, or to perform the other duties that are proper to a priest or pastor. So in Titus 1: ‘For this cause left I thee in Crete, that thou shouldest set in order the things that are wanting’ (viz. in respect of teaching and morals) ‘and constitute priests in every city, as I had appointed thee.’ He did not, however, say to him: Set up a judge to try secular affairs; nor, when he wrote to the Corinthians, did he say: Let a bishop or priest set one up for you. Rather the Apostle said to the universal multitude of the faithful: ‘set’; nor indeed did he command this, but counselled or brought it to mind; hence the gloss on that phrase: ‘I speak to your shame,’ says: ‘as if to say: I am not issuing an order, but calling it to mind so that you may be ashamed.’ For the Apostle well knew that it did not belong to his office in any way to institute such judges, and still less, by the same token, to any other bishop or priest. Again, neither did he counsel that any priest or bishop should be adopted to exercise this function, but rather the opposite, since ‘no man’ as he says ‘that warreth for God entangleth himself in the affairs of this world.’<sup>8</sup> He counselled rather that those who are ‘least esteemed in the church’ should be made

<sup>8</sup> II Timothy 2. 4.

judges, i.e. those from among the faithful who were not suited to spreading the gospel. Even so, however, the Apostle did not will or counsel that all of these should examine ‘earthly cases’, but (according to the gloss of the saints) those individuals who ‘have acquired a wisdom of external affairs. But those who are endowed with spiritual gifts should not be involved in earthly affairs.’ And this is what Saint Bernard clearly said *To Eugenius, On Consideration*, Book I, chapter 5, which we quoted before in the previous chapter.

8

However, someone will object to us the words of Ambrose in the above glosses. For he says, speaking of judgements of secular contentious acts: ‘We cannot excuse ourselves from these even if we want.’ Gregory confirms this opinion when he adds in the same place: ‘Nonetheless one should take great care etc., but they’ (the bishops) ‘should either entrust the handling of these’ (sc. judgements of secular acts) ‘to those to whom it is fitting, or conduct them themselves.’ Therefore it seems that it does belong to bishops or priests, as such, to judge such things or establish judges of such things, from the fact that they cannot (in the opinion of the saints) be excused from these things and that they should take great care in respect of them.

9

In reply to what has been objected to us, however, and to any other similar words of the saints and doctors, let us say that in ancient times and in the time of the saints just mentioned, faithful legislators and princes – out of reverence for the priestly status and confidence in their morals or virtue, and for the other reasons we spoke of in chapter 25 of this discourse, section 5 – granted to bishops and the principal pastors of souls the office of judge in the third signification over the persons and temporal goods of the clergy, so that they would be less harassed and disturbed from their divine duties and would be dealt with more scrupulously in their secular cases. And since some of the saints already mentioned had been made bishops in provinces or places in which the princes or inhabitants had conferred the abovementioned judicial office upon them, they could not be excused from taking on the charge of this kind of secular cases among the clergy unless they renounced the episcopate.

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But again, someone will deservedly raise a doubt and ask, why would holy men, like Saint Sylvester and many others, have taken on judgements, secular powers, and the possession and administration of temporal things, if such things are and were not appropriate to the office of priests, bishops and other ministers of the gospel?

II

In my view, one should say, in accordance with the truths concluded earlier (especially in chapters 17 and 25 of this discourse), that the church or multitude of the faithful was very modest in the beginning and in consequence, even for a long time afterwards, frequently suffered multiple persecutions from infidel princes and subjects, even to the point of mortal martyrdom, and lived in great poverty. For this reason the saint-bishops, true shepherds, for the salvation, increase, preservation and sustenance of their flock, asked (or accepted when offered) graces and favours, concessions or privileges from emperors who were faithful, devout, and propitious to them; not so that they might be set over the flock, but so that they might be of profit to it and protect and foster the faithful people. In this way, therefore, the saint-bishops undertook judgements of secular acts, especially among the clergy, for the reasons just mentioned. So too they took on the charge of administering certain temporal goods – without possession or dominion or the authority to claim them – so that this could be redistributed to the poor among the faithful. Hence Ambrose, *On Handing over the Basilicas*, as above: ‘If the emperor wants the fields, he has the power to claim them; none of us can intervene. The offerings of the people can redound to the poor.’<sup>9</sup> None of the priests or bishops intervened for the sake of the fields, therefore, because they had abdicated the dominion of them in imitation of Christ and the apostles; but for the sake of the faith they fought to the death. Whereas recent bishops, especially those of the Romans, fight very hard for fields and for secular dominions, and stir up fighting among Christ’s faithful on all sides, saying that in this they ‘defend the rights of the bride of Christ’, when in fact they are not its rights, but its injustices. All the while they almost entirely neglect to defend Christ’s true bride

<sup>9</sup> See above, II. 14, 22 and note there.

(viz. the faith), doctrine, and morals, against corruption from evil practices and actions and the aggression of infidels: as we said in chapter 26 of this discourse.

For these reasons, then, certain of the saints in ancient times took on functions and benefices of this kind. Bishops nowadays could indeed appropriately renounce them, at least within communities of the faithful, for there the clergy is adequately defended from oppression by princes: indeed it can scarcely be held back from making attacks upon others. But in truth modern pastors have no intention of renouncing such secular offices, possessions, and dominion of temporal goods, but rather of fighting for them even with armed power; and not just to keep the ones they have, but also to usurp the rest, as anyone, however uneducated, can learn by their senses if in no other way. Moreover they cause the most enormous offence to the universal body of the faithful by this example of ambition, paying no heed to Christ's threat in Matthew 18, when he said: 'But whoso shall offend one of these little ones etc.'<sup>10</sup> Here the gloss according to Jerome has: 'And although this might be a general judgement against all who give offence to someone, nevertheless, according to the sequence of Christ's words, it can be understood as being directed against the apostles as well, who seemed (in asking who was the greater) to be fighting amongst themselves about their own dignity. And if they had remained in this vice, they could by their own scandal lose those whom they were calling to the faith, when they saw the apostles fighting among themselves for honour.'<sup>11</sup> And what Jerome said about the apostles should be understood of all their successors as well, the bishops or priests. If, however, these individuals refuse to give up these sorts of judicial functions, and the authority to distribute temporal goods, of their own accord, then princes or faithful legislators can licitly, and should – according to both divine and human law – revoke them from them, as demonstrated in chapter 15 of the first discourse and chapters 17 and 21 of this.

## 12

The objection based on the Apostle in I Corinthians 10, and II Thessalonians 3: 'Have we not power etc.', was resolved in chapter 14

<sup>10</sup> Matthew 18. 6.

<sup>11</sup> Aquinas, *Catena aurea*, Vol. 1, 269.

of this discourse. For such power as is there spoken of is not a power of jurisdiction, but of seeking, licitly according to divine law (although not through a coercive judgement), the food and clothing that those who are able have the duty to offer them, for the sake of their ministry of the gospel.

To the quotation from I Timothy 5, where the Apostle said: ‘Against a priest receive not an accusation etc.’, one should say, that this was the Apostle’s understanding in a case where a priest needed to be publicly reprov’d by his superior, pastor or teacher. He did not mandate any priest or bishop to exercise coercive jurisdiction upon anyone, since the Apostle well knew that this did not belong either to his own authority or that of any successor of his. The Apostle signified that the correction which pertains to a pastor is purely verbal when he adds: ‘Them that sin rebuke before all, that others also may fear;’<sup>12</sup> he did not say: Capture or incarcerate them. Rather he taught that those who were incapable of correction by means of words should be avoided. Hence Titus 3: ‘A man that is a heretic after the first and second admonition avoid, since he is condemned of his own judgement.’<sup>13</sup>

<sup>12</sup> I Timothy 5. 20.

<sup>13</sup> I Titus 3. 10–11. It is worth quoting here John of Paris’ similar sentiment on the same passage: ‘Note that he does not say “burn”, but “avoid”,’ *On Royal and Papal Power*, tr. Watt, p. 161.

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On the solution to the objections introduced  
in the same chapter 3 to the same end, and  
concerning the transference of the Roman  
empire or any other principate, sc. to what  
extent it both should and can take place  
according to right reason

The remaining and final matter for this discourse is to resolve the reasons that we introduced, also in chapter 3 of this discourse, in support of the error of those who say that priests or bishops, as such, have coercive jurisdictions, and that the highest of all coercive jurisdictions in this world belongs to the Roman bishop, again as such.

To the first objection, then, when it was said: Just as is the body in relation to the soul, so is the prince of the body to the prince of the soul; this proposition is false taken as having universal application. For although the soul is distinct from the body because the soul is not the body, there is however no prince of the body who is not also in some way a prince of the soul, and vice versa, if we take prince strictly; as is apparent in chapters 8 and 9 of this discourse.<sup>1</sup>

If indeed by ‘the prince of the body’ we are to understand, by way of metaphor, a physician who undertakes the care of it as a doctor in an operative sense and in respect of the acts of its irrational and nutritive part; and if by ‘the prince of the soul’ we are to understand one who is a

<sup>1</sup> Marsilius is presumably referring to his argument in chapter 8 that the acts that fall under human law are those that are both ‘transitive’ and ‘commanded’, i.e. issuing from a mental imperative: hence the prince according to that law must be a prince of souls as well as a prince of bodies.

physician and a learned doctor or instructor in a practical sense with regard to the acts of the rational and appetitive part, both in and for the status of this present world (such as are the doctors of the human sciences or disciplines) and for the status of the future world (such as are pastors and priests); then the proposition just-stated, taken as having non-specific application, can be conceded – since taken as having universal application it would always be open to many objections. For the soul in relation to the body, and again the rational in relation to the irrational, have many differences which the doctor or carer in respect of the one does not have in relation to the doctor or carer in respect of the other. For the rational, made in the image of the Trinity, is capable of syllogism, whereas the irrational is not; but a difference of this nature does not exist between the doctors or carers of each of these; and so too in other respects. Therefore, even if we allow this proposition in some sense – viz. so that just as the rational and appetitive soul is more noble than the body (i.e. the body animated in respect of its nutritive capability),<sup>2</sup> so the doctor or carer of the rational etc. soul is of greater dignity than he who is doctor or carer of the irrational – or even if this comparison were made between the doctor of the rational soul for the status or end solely of this present world, and he who is the doctor of the same principally for the status or end of the future world; allowing, I say, that the one is more perfect than the other, even so it does not follow that the more perfect of them is judge over the less perfect with coercive judgement. For in that case a prince of mathematics would exercise coercion over a physician, and many obvious disadvantages would follow from this.

But if by ‘prince of the body’ we are to understand someone who holds the office of prince or is a coercive judge of men (i.e. a judge in the third signification), in and for the status or end solely (or at least principally) of this present world; whereas by ‘prince of souls’ we are to understand him who is a judge in the third signification principally for the status or end of the world to come, as our opponent seems to intend; then the comparison

<sup>2</sup> According to Aristotle, there can be no body which is not ‘animated’ or ‘ensouled’ by at least some capacity for animation (or ‘soul’): a body without a soul would be a body only ‘homonymously’, i.e. having the same name, ‘body’, but not actually being a body, because incapable of performing any of the functions of a body. Hence Marsilius here specifies that when we talk about body as opposed to soul, we must mean body in the sense of being animated simply by the potential for the bare acts of staying alive (nutrition); as opposed to ‘soul’ in the sense of the higher soul, i.e. the capacities for acts of reason and will. See Aristotle, *De anima* II, 412b17–25 for the idea of ‘homonymy’.



or analogy could be allowed in a certain sense, i.e. taken as having non-specific application, since taken as having universal application it would (as we said before) be open to many objections. And when it is assumed that the body is subject to the soul, or the irrational is either entirely or in some way subject to the soul, i.e. the rational soul: allowing that it is subject in respect of perfection, simply speaking, it still does not follow from this that it is subject in respect of jurisdiction; for one who made this inference would commit an error of logical consequence. Supposing, however, although not for the sake of this argument, that the prince of bodies (i.e. the coercive judge of men solely for the status of this present world) is subject in respect of jurisdiction to the coercive judge of souls for the status of the world to come: it does not follow on this account that any prince or coercive judge of this world is subject in respect of jurisdiction to any bishop or priest. Because no bishop or priest is, as such, a prince or coercive judge of anyone, either for the status of this present world or of that to come, as shown in chapters 4, 5 and 9 of this discourse. For Christ alone is the coercive judge of souls, or the judge for the status of the future world. Hence James 4, which it is not tiresome to repeat: 'There is one lawgiver and judge, who is able to destroy and to save.'<sup>3</sup> But Christ decreed that he would judge no one in this world irrevocably, would punish or reward no one in this world, but only in that which is to come, as we said and as we proved from Scripture in chapter 9 of this discourse. While the Roman bishop, along with all other bishops, is also a pastor and doctor of souls, in the manner of a physician, but not a coercive judge or prince; and we demonstrated this, as above, from the sequence of the gospel, through the Apostle, Hilary and Chrysostom, and by compelling reasoning.

2

The further reason that was introduced – that just as corporeal things stand in relation to spiritual things, so does the prince of corporeal things stand in relation to the prince of spiritual things – depends on the same root as the first, and so should be rejected in the same or similar fashion. For the major proposition taken as having universal application is open to many objections. To the minor proposition, in which it is said that corporeal things are subject to spiritual things: if 'being subject' is

<sup>3</sup>James 4. 12.

understood as being less perfect, then this should be conceded in accordance with the proper significations of these terms ‘temporal’ and ‘spiritual’. And when it is added, that the Roman bishop is prince or judge of spiritual things, it is true, if judge is taken in its first signification as a theoretical or practical adjudicator of these things, that the Roman and any other bishop is or should be a judge of this kind; and this yields the conclusion that he is more perfect than one who judges with this kind of judgement only about corporeal things, especially because of the excellence of the things that he judges. But it does not follow on account of this that the judge of spiritual things is superior to the other in jurisdiction or coercive judgement. For that would imply that someone who studies animals would be the prince or coercive judge of an astrologer or a geometer, or the other way round, when in fact neither is either necessary or true. If, however, the intended sense is that the Roman or any other bishop is judge of spiritual things in the third signification (*viz.* coercive), this should be denied as patently false, as we argued from James 4 above and in chapter 9 of this discourse. For Christ alone is a judge of this kind, and we have never denied, nor do we deny, that the judge of this world is subject to him in coercive jurisdiction for the status of the future world. Hence the Apostle in Ephesians 6 and the last chapter of Colossians: ‘their master and yours is in heaven,’<sup>4</sup> where there was then no apostle or priest of the new law other than Christ. For this reason the judges of this world will be judged with coercive judgement by this judge alone, and those who have failed in merit will be constrained by coercive power, but in another world and according to the law of that world, as became clear in chapter 9 of this discourse. The misreasoning just mentioned, then, fails through equivocation on this term ‘judge’.

### 3

To the argument that just as end is to end, law to law etc., so is judge to judge, this could be denied taken as having universal application. However, allowing it in a non-specific sense, together with its minor premise, this perhaps yields the conclusion that, by reason of his subject-matter, the coercive judge in respect of divine law is superior to the coercive judge in respect of human law; but we conceded this before. But if it is assumed that the Roman or any other bishop is a judge in respect of

<sup>4</sup>Ephesians 6. 9, cf. Colossians 4. 1.

divine law, this statement must be subject to a distinction which takes account of the equivocal sense of this term 'judge'; and rejected in the sense in which our adversary seeks to conclude that the Roman or any other bishop is a coercive judge in respect of divine law either in this world or the next.

4

The fourth reason assumes that one whose action is more noble or more perfect should not be subject in coercive jurisdiction to one whose action is less noble or perfect, and that this is the case with the action of a bishop or priest in relation to the action of one who exercises the function of prince. For it is more noble and perfect to consecrate the host and to administer the other sacraments of the church (which is the work of a bishop or priest) than to judge and command with regard to the civil or contentious acts of men (which is the work solely of principate or of one who has active jurisdiction, as such). The first proposition of this argument is false and should be denied taken as having universal application, because otherwise the reasoning would not be formally appropriate. The minor proposition, likewise taken as having universal application, sc. for any priesthood or priest whatsoever, would be open to objection: because the action of priests in other religions is not more noble than the action of the prince (for the opposite of this was shown in chapter 15 of the first discourse); rather it is only in the Christian religion that the action of priests is the most perfect of all actions. But we hold this by faith alone.

The first proposition of this argument is therefore false. For nothing prevents him whose action is more noble or perfect, absolutely speaking, from being dependent in some respect upon one whose action is less perfect, and thus from being less perfect himself in some respect. For the human body, which in absolute terms is more perfect than every other simple or composite body – at least any that undergoes generation – is nonetheless only potential in some respects and less perfect than many composite and simple bodies. This can also be seen in the parts of this same whole. For although the eye is a more perfect member or part than the hand or foot, since it performs a more perfect action, nevertheless it is dependent on those others and receives from them some activity or motion. Conversely, too, those others depend on the eye, since they are directed by it to the end to which they move or are moved. Just as the

Apostle said in I Corinthians 12: 'And the eye cannot say unto the hand, I have no need of thee.'<sup>5</sup>

In the same or an analogous way, therefore, the principate too depends on and receives something from the actions of certain parts of the city which are inferior to it, which we discussed in chapter 5 of the first discourse – although not according to coercive judgement. This is so even though these very parts themselves depend on the principate in respect of something more excellent and more perfect, i.e. coercive jurisdiction, as shown in chapter 15 of the first discourse. In this way, then, the priesthood depends on and receives something from the principate, and the principate on and from the priesthood. For the priesthood receives from the principate that its own acts are brought to justice and that it is protected from injustice, so that neither does it do injury to another, nor is injury done to it by another, in and for the status of this present world; because this is the office of the prince and of no other part of the city, as demonstrated in chapter 15 of the first discourse. The Apostle expressed the same thing in Romans 13, quoted earlier in chapter 5 of this discourse. And he took the same view in I Timothy 2 when he said: 'I exhort therefore, that, first of all, supplications etc. For kings, and for all that are in authority, that we may lead', i.e. have, 'a quiet and tranquil life.'<sup>6</sup> Conversely, the principate needs and depends upon the action of the priesthood, viz. because it receives from it doctrine together with the sacraments, which dispose men in this world to salvation or eternal beatitude for the status of the world to come, and remove things contrary thereto.

However, there is a difference in the way they perform and receive these actions between themselves. For the prince, who is a coercive judge in this world by the ordinance of God (even if this is directly by the institution of the human legislator or of some other human will)<sup>7</sup> can licitly stamp his action through coercive power upon a priest, by inflicting upon him a punishment or a penalty (even against his will) if he has transgressed any human law that is not contrary to divine law, as demonstrated in chapters 5 and 8 of this discourse and chapter 15 of the first. A bishop or priest, however – since he is not, according to divine law,

<sup>5</sup> I Corinthians 12. 21.      <sup>6</sup> I Timothy 2. 1–2.

<sup>7</sup> The reference to 'some other human will' is a bit strange here, but presumably Marsilius is allowing for the situation of the emperor, who is elected by seven electors as the 'prevailing part', or for some other arrangement whereby the power to institute the prince has been delegated by the legislator.

a coercive judge of anyone in this world (as shown in chapter 15 of the first discourse and in chapters 4, 5 and 9 of this), but instead a judge in the first signification of ‘judge’, as if to imply an operative doctor like a physician – cannot and should not by his action or command coerce anyone with penalty or punishment, in goods or in person, in this present life.

In this way, then, the first proposition of the argument just given, in which it was assumed that anything that performs a more perfect action should not be subject in respect of jurisdiction to one whose action is less perfect, is false. For, along with what we have already said, there follows of necessity another manifest ineptitude, viz. the falsehood that no theoretician – or at least a first philosopher or metaphysician – is subject to the jurisdiction of one who holds the office of prince according to human law; since none of his (or anyone else’s) dispositions to action, other than faith, nor any action that results from them, is equally perfect as the disposition of the first philosopher or of the action that results from him. But this is something that a prince who is adequate to his task, and has been instituted in the correct manner, may well lack.

5

As to the subsequent objection, that it seems inappropriate that Christ’s individual vicar, the Roman bishop, or any other successor of the apostles should be subject to the coercive judgement of one who exercises the function of prince in respect of human law: one should reply that it is in no way inappropriate for anyone’s vicar to be subject to that judge (or one similar), given that the Lord of that same vicar saw fit to be subject voluntarily to such a judge, for the sake of preserving the appropriate order of this world. For Christ, God and man, of his own will subjected himself to the coercive judgement of Pontius Pilate, the vicegerent of him (Caesar) who was prince in respect of human law. So too did the holy apostles, and they commanded others to do likewise in accordance with divine law, as was plainly shown from Scripture and the sayings of the saints and other doctors in chapters 4 and 5 of this discourse, and reiterated moreover in chapter 28. Hence, since the slave is not greater than his master, nor the apostle than him who sent him, as we argued from Scripture by appeal to Bernard in chapter 28 of this discourse, there is nothing inappropriate, but on the contrary highly appropriate or indeed necessary for the quiet of the city or polity, for every bishop and priest and clergyman to be subject to the coercive judgement of him who is prince in

respect of human law. The opposite of this is entirely inappropriate and intolerable, as was demonstrated in chapter 17 of the first discourse, and confirmed by eternal testimonies in this discourse, as above, and before.

Further, because the Roman or any other bishop is not the vicar or minister of Christ with regard to the exercise of every office in this world, but only with regard to one specific office, i.e. the priesthood, which does not of itself involve coercive judgement, inferior or superior, as we concluded plainly from Aristotle in chapter 9 of this discourse, section 8. By contrast, the prince in respect of human law is the vicar or minister of God with regard to the office of principate, which involves a superior and a subject in terms of coercive power. Hence in Romans 13 the Apostle said, excepting no one, be he bishop or priest: 'Let every soul be subject unto the higher powers,' giving the reason: 'For he is the minister of God.' See: the vicar of God – not any vicar, but one who coerces the wicked in this world. And so he adds: 'a revenger to execute wrath upon him that doeth evil'. But a bishop or a priest can do evil, and neither Christ nor any other apostles, in deed or example or speech, ever assigned them any other judge, as we demonstrated in this discourse (as above).

## 6

To the objection put forward in the manner of a question, that if those who exercise the function of prince need to be corrected by human authority, when they are at fault with respect either to divine or to human law, it does not seem that they can appropriately be corrected because they lack a superior in the polity (or at least, the chiefs or chief among them do); and therefore they should be subject to the coercive judgement of priests or bishops: one should say, that a prince who is at fault with respect either to divine or to human law can and should appropriately be corrected by an ecclesiastical minister, priest or bishop, by means of verbal exhortation or reproof (although this should nevertheless be modest, according to what the Apostle teaches in II Timothy 2 and 4, and Chrysostom's exposition, quoted in chapter 9 of this discourse).<sup>8</sup> But he neither can nor should be corrected in any way by coercive power, since this does not belong to a bishop or priest as such over anyone in this world, as we have often proved and has been reiterated in what we said earlier. To correct the prince for

<sup>8</sup> II Timothy 2. 25: 'In meekness instructing those that oppose themselves'; 4. 2: 'reprove, rebuke, exhort with all patience and doctrine'. For Chrysostom, see above, II. 9, 4.

overstepping the laws – only insofar as he oversteps human law as described in chapter 10 of the first discourse, and only in accordance with human law – belongs solely to the authority of the human legislator or of those established by it for these purposes, as we think was sufficiently shown in chapter 18 of the first discourse.

7

Now as to the final argument, that ‘he who transferred the empire from the Greeks to the Germans in the person of Charlemagne’ is superior to the Roman emperor in respect of jurisdiction, and can constitute and depose him as of right; but this is the Roman pope; therefore he is superior to the emperor, and can constitute and depose him as of right: one should say in reply that if the major premise is taken in a non-specific sense, nothing can be inferred from it together with the minor premise, since a syllogism cannot be constructed from a non-specific premise together with a particular. If it is taken rather as having universal application, so as to say: everyone who transfers the Roman empire from the Greeks to the Germans is superior etc.; this would be open to multiple and accurate objections, unless the subject were defined. For if someone had transferred the empire as a matter of fact but not of right; or if he had done so by the power of another or by a power that had been given to him for this purpose, as a deputy; then I say that one who had transferred it in this way would not himself alone have superior jurisdiction on this account, nor a rightful power of constituting or deposing the Roman prince. If however we specify the first proposition in the following way: Every mortal who transferred or can transfer the Roman empire from the Greeks to the Germans rightfully and on his own authority, not by one granted to him by another, is superior in respect of coercive jurisdiction to the Roman prince, and can rightfully constitute and depose him; then this is conceded. But as to the second proposition which was coupled with this one, viz. that it is the Roman bishop or pope who transferred the empire, as said, then this should be denied as entirely false. For the opposite of this was demonstrated in chapter 15 of the first discourse; again, the opposite both of it and of the conclusion drawn from it was made certain through Scripture and the words of the saints and of catholic doctors in chapters 4 and 5 of this discourse, and reiterated in many other places; and moreover we argued persuasively, from approved histories, in chapter 21 of this discourse that this was as a

matter of fact observed without protest by the fathers and pastors who were the Roman bishops of antiquity.

As for what is written in Book VII of a certain collection of statements called the *Decretals*, *On the Swearing of Oaths*, and in a letter of one so-called Roman pope to the illustrious Ludwig, duke of Bavaria, adopted king of the Romans, that in the person of Charlemagne, the Roman empire was rationally and rightfully transferred from the Greeks to the Germans by the apostolic see or the Roman pope, either alone or with his college of clergy;<sup>9</sup> let this be assumed for the present, since we shall speak of this transference and how it actually happened in a separate treatise.<sup>10</sup> Allowing therefore that the transference of the empire from the Greeks to the Germans was done rightfully; I say nevertheless that it was not so done by the authority of the Roman pope either alone or together solely with his college of clergy, as we said before.

8

And for this reason one should take note, in line with the demonstrations introduced in chapters 12, 13 and 15 of the first discourse, that (if we consider the matter according to right reason) the same body has the primary authority to make human laws, to institute the principate, to adopt a prince, to grant him authority, and to change, overturn, increase or diminish, suspend, correct, depose, transfer and revoke all of these things, and do anything else regarding what seems expedient to the body which has the said authority, principally and not from another, and which it has expressly willed. But as to which body has this authority, this was determined in chapters 12 and 13 of the first discourse. For this reason, wherever we read or whoever says that the empire was transferred, or that any other principate or prince who has been adopted by election is established as such, by the pope or by some other single person or single

<sup>9</sup> As we saw in chapter 26, this was a key claim of John XXII in his 1323 *monitorium* against Ludwig, just as it had been with Clement V in his bull *Romani principes* against Henry VII.

<sup>10</sup> This is Marsilius's short tract *De translatione imperii* (*On the Transference of the Empire*, tr. Fiona Watson and Cary J. Nederman in Nederman ed., *Marsiglio of Padua: Defensor minor and De translatione imperii*, Cambridge: Cambridge University Press, 1993). It presents an historical account of the Roman empire from Augustus Caesar through Constantine and Charlemagne (when the empire was transferred to the Franks) to Otto I (when the empire was transferred to the Germans) and beyond. Its aim is both to legitimise the imperial succession and to demonstrate the purely ceremonial role of the popes in the process; it explicitly refers back to the conclusions of the *Defensor pacis*.



collective body of a province or a realm; if that piece of writing or speech is to be true, and if such an institution or transference is to be valid or just, then it must be done or have been done by the authority of the primary legislator in the province or provinces over which, by which, and to which the institution or transference will be or has been made. And therefore if it is said or written that the transference of the Roman empire or the institution of any emperor was done in due fashion by the Roman pope alone or by him together solely with his college of clerics, and if speech or writing of this kind is to be true, then we must understand that the transference or institution just mentioned was done by them on the basis of an authority granted them for this purpose by the supreme human legislator of the Roman empire, directly or via an intermediary; or not done by them simply speaking, but only in a certain way, e.g. published or proclaimed: but nevertheless on the said authority. For the said legislator perhaps did transfer or establish something with regard to the empire, which it afterwards commissioned the Roman pope by himself (as the most reverend personage in the universal body of humanity), or together with his priests (as the most venerable college of clergy), to proclaim and to publish; not for the sake of any necessity of its having been done or being done, but purely for the sake of solemnity, since transferees of principate and the institution of laws and persons to exercise the office of prince, and likewise all other civic functions as such, depend for their strength solely on the election or ordinance of the legislator already mentioned, as demonstrated in chapters 12 and 13 of the first discourse and repeated with a certain clarification, and not without point, in chapter 26, section 5. One should also hold this opinion in all things to do with instituting the office of the princes who elect the Roman emperor; for they have no other authority in this matter, nor from any other source, nor can it be suspended or revoked from them by any other than the said supreme human legislator of the Roman Empire.

Let it be enough, then, that we have gone through in this way the doubts put forward in chapters 3 and 27 of this discourse, and put an end to the questions.



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*Discourse III*

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I

On recalling to mind the things that were principally intended and determined in the first and second discourses, and a certain consequence of what has been said together with what is still to be said

In the foregoing, then, we have identified what has already been the singular cause of civil discord or intranquillity in certain realms and communities, and will go on to be so in all the others if it is not prevented; and this is the thinking, desire and effort with which the Roman bishop and his company of clergy set their sights singularly upon secular principates and on the superfluous possession of temporal goods. The bishop just recalled is trying to claim for himself even the supreme one of all such principates on the basis of the plenitude of power granted him in particular (as he asserts) by Christ in the person of Saint Peter, as we said in the [last chapter](#) of the first discourse and as was not inappropriately reiterated in many chapters of the second; when in fact no principate or coercive judgement over anyone in this world – let alone the supreme one of all – belongs to him or to any other priest or cleric, as such, either in common or individually. We demonstrated this by sure human means in chapters [12](#), [13](#) and [15](#) of the first discourse, and confirmed it by the testimonies of eternal truth in chapters [4](#) and [5](#) of the second, as well as the expositions of the saints its interpreters and of many approved doctors of the same. After that, in chapters [6](#) and [7](#) of the second discourse, we identified through Scripture and sure reasoning the nature, magnitude and extent of the power of priests or bishops. We further showed in chapter [23](#) of the same discourse that the plenitude of power which they – and especially the Roman bishop – had assumed does

not belong either to all of them or to any one of them, either in common or individually. In this way, then, the roots of that singular malignity referred to many times in the words of the proem seem to have been sufficiently cut out from under it. And now, in order that the shoots and sprouts of discord or strife which this pestilence has introduced into realms and communities, and continues to do so, may dry up the quicker and be unable to propagate themselves in future, we shall produce a final and third discourse on top of those that have gone before. This discourse will be nothing other than the necessary and explicit drawing of certain conclusions from the truths, self-evident or demonstrated, that we have previously set down. By these conclusions, given diligent attention in thought and in deed, the abovementioned plague and its sophistic cause will be removed from realms without difficulty, and their entry will be barred to those same realms and other cities.

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On the explicit drawing of certain  
conclusions that follow of necessity from  
what was determined in the previous  
discourse. By attending to which both those  
in the position of prince and their subjects  
can more easily pursue the end intended by  
this book

Of the conclusions to be drawn, we shall set down as the first:

## I

That in order to gain eternal beatitude, it is necessary to believe only in the truth of divine or canonic Scripture, what follows from it with any kind of necessity, and the interpretation of it that has been made by a common council of the faithful, if this is put to an individual in due fashion. The certainty of this was given in and can be taken from chapter 19 of the second discourse, sections 2–5.

## 2

That only a general council of the faithful or its prevailing multitude or part should determine the senses of divine law where there is doubt over the definition, especially those matters which are called the articles of the Christian faith, and anything else that must be believed of necessity of salvation; and that no other partial collective body or individual person, of whatever condition they may be, has the authority for the

determination just mentioned. The certainty of this is given in chapter 20 of the second discourse, sections 4–13.

3

That no one is commanded in evangelical scripture to be compelled to observe the commands of divine law by temporal penalty or punishment: chapter 9 of the second discourse, sections 3–10.

4

That for eternal salvation it is necessary to keep only the commands of the evangelical law or those that follow from them of necessity, and those things which it is appropriate to do or to omit according to right reason; and not all the commands of the old law: chapter 9 of the second discourse, section 10 to the end.

5

That no mortal can give a dispensation from things that are commanded or prohibited by God or in the evangelical law; and that only a general council or the faithful human legislator can prohibit things that are permitted, binding people to fault or penalty for the status of this present world or of that to come, and no other partial college or individual person whatever their condition: chapter 12 of the first discourse; chapter 9 of the second, section 1, and 21 of the second, section 8.

6

That only the universal body of the citizens or its prevailing part is the human legislator: chapters 12 and 13 of the first discourse.

7

That the decretals or decrees of the Roman or any other pontiffs, laid down either collectively or individually without the concession of the human legislator, oblige no one with temporal penalty or punishment: chapter 12 of the first discourse and 28 of the second, section 29.



8

That only the legislator or someone else by its authority can give a dispensation from human laws: chapter 12 of the first discourse, section 9.

9

That elected principate, or any other office, depends solely upon the election of the body that has the authority for it, and upon no other confirmation or approval: chapter 12 of the first discourse and 26 of the second, sections 4–7.

10

That the election of any principate or other office to be established through election, especially one which has coercive force, depends solely on the express will of the legislator: chapter 12 of the first discourse and 15 of the same, sections 2–4.

11

That the principate in a city or realm should be only one in number: chapter 17 of the first discourse.

12

That to decide upon persons and their nature and number for the offices of the city, and any other civil matters, belongs solely to the authority of the faithful prince, in accordance with the laws or approved customs: chapter 12 of the first discourse and 15 of the same, sections 4 and 10.

13

That no one who exercises the office of prince, and still less any partial collective body or individual person of whatever rank, has plenitude of command<sup>1</sup> or power over the personal or civil acts of others without the

<sup>1</sup> *Imperium*.

decision of the mortal legislator: chapter 11 of the first discourse and 23 of the second, sections 3–5

14

That no bishop or priest, as such, has any principate or coercive jurisdiction over any clergyman or layperson, even if that person is a heretic: chapter 15 of the first discourse, sections 2–4, and 4, 5 and 9 of the second, and chapter 10, section 7.

15

That by the authority of the legislator only he who exercises the office of prince has coercive jurisdiction, in both goods and person, over every individual mortal person of whatever condition they may be, and over every collective body of laypersons or clergy: chapters 15 and 17 of the first discourse, chapters 4, 5 and 8 of the second.

16

That it is not licit for any bishop or priest or college of them to excommunicate anyone without the authority of the faithful legislator: chapter 6 of the second discourse, sections 11–14, and chapter 21 of the same, section 9.

17

That all bishops are of equal authority directly through Christ, and neither can it be persuaded according to divine law that there is any pre-eminence or subordination amongst them either in spiritual or in temporal things: chapters 15 and 16 of the second discourse.

18

That by divine authority, and if the faithful human legislator consents or allows it, the other bishops can either collectively or individually excommunicate the Roman bishop and exercise other authority upon him just as much as the other way round: chapter 6 of the second discourse, sections 11–14, and 15 and 16 of the same.

19

That no mortal can grant a dispensation in marriages prohibited by divine law, and that in the case of those prohibited by human law, this belongs to the authority of the legislator alone or of him who is prince through the legislator: chapter 12 of the first discourse and 21 of the second, section 8.

20

That it belongs to the authority of the faithful legislator alone to legitimise children born out of wedlock so that they can succeed as heirs and accept other civil functions and ecclesiastical offices and benefices: same chapters as immediately above.

21

It is a matter for the faithful human legislator alone to judge with coercive judgement candidates for ecclesiastical orders and their adequacy, and that without its authority it is not licit for any priest or bishop to promote anyone to these orders: chapter 15 of the first discourse and chapters 2, 3 and 4 of the second, and chapter 17 sections 8–16.

22

It belongs solely to one who exercises the function of prince according to the laws of the faithful to fix a measure for the number of churches or temples and the number of priests, deacons and other officials whose duty it is to serve in them: same chapters as immediately above.

23

That separable ecclesiastical offices should be conferred, and can likewise be removed, by the authority of the faithful legislator alone, and so too benefices and other things established for pious causes: chapter 15 of the first discourse, sections 2 and 4, and 17 of the second, sections 16–18, and chapter 21 of the same, sections 11–15.

24

That it does not belong to any bishop as such, either collectively or individually, to institute notaries or other public officials: chapter 15 of the first discourse, sections 2, 3 and 10, and 21 of the second, section 15.

25

That no bishop as such, either collectively or individually, has the ability to grant a licence to teach or to practise publicly in respect of any art or discipline; that on the contrary this belongs solely to the legislator, or at least the faithful legislator, or to him who exercises the function of prince by its authority: same chapters as immediately above.

26

That those who have been promoted to the diaconate or priesthood, and any others who are irrevocably consecrated to God, should be given preference in ecclesiastical offices and benefices over others who are not consecrated in this way: chapter 14 of the second discourse, sections 6–8.

27

That the legislator can, licitly and in accordance with divine law, use the temporal goods of the church (and also those things that are a part of divine worship) either wholly or in part for the sake of common or public utility or defence, when once the needs of priests and other ministers of the gospel, and of the poor who are unable to provide for themselves, have been satisfied: chapter 15 of the first discourse, chapters 2, 3, 4 and 10 of the second, and chapter 17 of the same, sections 8–16, and 21 of the same, sections 8 and 15.

28

It belongs solely to the prince, in accordance with the decision of the legislator and the intention of the person who made the bequest or gift, to dispose of all temporal goods that have been established for pious causes

or works of mercy, for example things that are bequeathed in wills for crossing overseas to resist the infidel, or for redeeming those captured by them, or for the sustenance of the poor who are unable to provide for themselves, and other similar things: as immediately above.

29

It belongs to the authority of the faithful legislator alone to grant an exemption to any college or religious order, and to approve or establish it: chapter 15 of the first discourse, chapters 2, 3, 4 and 10 of the second, and 17 of the same, sections 8–16, and 21 of the same, sections 8 and 15.

30

It belongs to the authority solely of the prince according to the determination of the human legislator to judge with coercive judgement heretics and all those who are delinquent and should be suppressed with temporal penalty or punishment; to inflict penalties in person and to exact penalties in goods and allocate them: chapter 15 of the first discourse, sections 6–9, and chapter 8 of the second, sections 2 and 3, and 10 of the same.

31

That no one who is subject and bound to another by a licit oath can be released by any bishop or priest without reasonable cause, of which the judge in the third signification of judgement shall be the faithful legislator; and that the opposite of this is contrary to sound doctrine: chapters 6 and 7 of the second discourse and 26 of the same, sections 13–16.

32

That it belongs solely to a general council of all the faithful to establish any bishop or church as the metropolitan, simply speaking, and to deprive or depose him or it from this office: chapter 22 of the second discourse, sections 9–12.

33

That in communities of the faithful, it belongs solely to the faithful legislator or the prince by its authority to assemble a general or partial council of priests and bishops and other members of the faithful by coercive power; and that there is no force or strength in a council otherwise assembled, nor does such a council oblige anyone with temporal or spiritual penalty or fault: chapter 15 of the first discourse, chapters 2, 3, 4 and 17 of the second, chapter 8 of the second, section 6 to the end, and 21 of the same, sections 2–8.

34

That periods of fasting and prohibitions on certain foods should only be made on the authority of a general council of the faithful or the faithful legislator; in addition, that only the said council or legislator has the power to forbid those practices of the mechanical arts, and teaching of the disciplines, which divine law does not prohibit from being exercised on any day; and that only the faithful legislator or one who exercises the function of prince by its authority has the power to enforce the observation of such things by temporal penalty or punishment: chapter 15 of the first discourse, and chapters 2, 3 and 4, 8 and 21 of the second, section 8.

35

That only a general council should establish and ordain that someone be canonised or worshipped as a saint: chapter 21 of the second discourse, section 8.

36

That if it is appropriate to deny wives to bishops or priests and other ministers of the temple, only a general council of the faithful can establish and ordain this, together with other matters concerning church ritual; and that the only collective body or person that can grant a dispensation in these matters is one which has been given the authority to do so by the abovementioned council: as immediately above.

37

That it is always licit for a litigant to appeal to the legislator from any coercive judgement granted to a bishop or priest: chapter 15 of the first discourse, chapters 2, 3 and 22 of the second, section 11.

38

That one whose duty it is to observe the evangelical perfection of supreme poverty can have no immoveable goods in his power without the specific intention of selling any such thing he has at the first opportunity, and of giving its price to the poor; and that he cannot have dominion or power over any moveable or immoveable item, sc. involving the intention of claiming it before a coercive judge against one who takes it or wants to do so: chapter 13 of the second discourse, sections 22 and 30, and 14 of the same, section 14.

39

A multitude or individual person to whom the gospel is ministered is bound, according to divine law and its or his own capacity, to provide bishops and other ministers of the gospel with what is necessary by way of food and covering, at least on a daily basis; but not tithes or anything else, if it is over and above what the said ministers need: chapter 14 of the second discourse, sections 6–11.

40

That the faithful legislator or the prince by its authority has the power, in the province subject to it, to compel both bishops and other ministers of the gospel to celebrate divine offices and to administer the sacraments of the church, when once they have been provided with adequate food and clothing: chapter 15 of the first discourse, chapters 2, 3 and 4 and 8 of the second, section 6 to the end, and 17 of the same, section 12.

41

That the Roman bishop or any other minister of the church or temple in respect of divine law should be promoted to an ecclesiastical office which

is separable solely by the faithful legislator or the prince by its authority or by a general council of the faithful; and that if a fault on his part requires it, he should be suspended and deprived of that office by the same: chapter 15 of the first discourse, chapters 2, 3, 4, 10 and 17 of the second, sections 8–16, and 22 of the same, sections 9–13.

42

Many other useful conclusions could be inferred of necessity from the two first discourses; but we are content with those that we have deduced here, since they offer an easy and adequate entry-point for cutting out the said plague together with its cause; and in order to keep our discourse short.



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3

## On the title of this book

This treatise will be called *The Defender of the Peace*, because it discusses and explains the particular causes by which civil peace or tranquillity is preserved and exists, and also those through which its opposite, strife, arises, is prevented and is removed. For by it the authority, cause and harmony of divine and human laws and of coercive principate of any kind – which are the rules of human actions – can be known: and it is in the appropriate and unhindered measurement of these actions that the peace or tranquillity of the city consists.

Furthermore, both prince and subject, the primary elements of any civil order, can understand by this treatise what they must do in order to preserve the peace and their own liberty. For the first citizen or part of a civil regime, sc. the princely – be it one man or several – will understand from the human and divine truths written down in this book that they alone have the authority to command the subject multitude, collectively or individually, and to constrain any individual, if it is expedient to do so, according to the laws that have been laid down. They will also understand that they can do nothing more than this, particularly anything involving difficulty, without the consent of the subject multitude or the legislator; and that the multitude or legislator should not be provoked by injustice, because the force and authority of principate consists in the express will of this same multitude. The subject multitude and each of its individuals can, for its part, learn from this book what kind of man or men it should institute to exercise the function of prince. It will also learn that it is obliged to obey only the commands of the princely part as being coercive for and in the status of this present world, although these commands must nonetheless be in accordance with the laws that have been laid

down, in the case of those matters that the laws determine; and in the case of those they do not, these commands should be in accordance with what was said in chapters 14 and 17 of the first discourse. Finally, it will learn to keep as close a watch as possible that the princely or any other part of the community does not presume to be its own arbiter, by judging or taking any other action in the city against or outside the laws.

Once these things have been understood, committed to memory and carefully guarded or stored, a realm and any other temperate civil community shall be preserved in its peaceable or tranquil existence: through which those who live in a civil manner obtain a sufficient earthly life, and without which they are necessarily deprived of it and are badly disposed in respect of heavenly beatitude as well. These we have assumed in the foregoing discussions, as self-evident to all, to be the ends and what is ultimately desirable for humanity, but in different worlds. We add to what we have said above that if anything is there found determined, defined or otherwise enunciated or written less than catholically, it was not said in obstinacy; and we submit it to the authority of the catholic church or general council of Christian faithful to correct and to determine.

In the year one thousand three hundred and twenty-four  
the *Defender* was finished, on the feast of the Baptist.  
Praise and glory be unto thee, Christ!

## Index

- Aaron 44, 480, 506  
d'Abano, Pietro xiv–xv, 119n, 424n  
Abraham 17, 32, 480, 505  
actions xvii, xxxi, 23n, 23–5, 28–9, 35,  
82–3, 115, 124, 128, 136, 147–8, 157,  
213–15, 358, 383–4, 464, 535–7, 549  
commanded 213–15, 257, 409, 531n  
immanent xx–xxi, 24, 31, 35, 214–15,  
221, 229, 254  
transitive xxi–xxii, xxv, xxvii, 25, 26,  
31, 35, 123–6, 214–15, 220,  
221, 254, 416, 424–5, 431, 444,  
459, 531n  
Adrian I, pope 439, 439n  
advantage, common xxiii, xxvi, 7, 20, 27,  
40–2, 45–8, 56, 60, 67–9, 71, 77–9,  
82, 88, 104–10, 116–17, 128, 294,  
359, 369, 389, 397, 400  
Aesop 457  
*affectio xli see also affections*  
affections xx–xxi, 19, 24–30, 35, 52, 52n,  
56–8, 57n, 60–3, 71, 75, 109–11,  
112, 140, 147–8, 200–1, 206, 210,  
272, 274, 276, 281, 305–6, 371, 387,  
419, 458–62, 469  
*see also acts, immanent; acts, transitive*  
Albert the Great 28n, 53n, 65n  
Alexander IV, pope, *Nec insolitum* 426n  
Ambrose, Saint, bishop of Milan 146,  
146n, 149, 165–7, 176–7, 180, 186,  
189, 197, 209, 210, 211, 223, 232,  
238, 241, 277, 321, 327, 467, 484,  
524, 526  
*On Handing over the Basilicas* 168, 290,  
306–7, 348, 351, 477, 498–500,  
500–1, 513, 527, 528  
*To the People* 184, 225, 500  
Ambrose (Ps.–), *On the Dignity of a Priest*  
458, 459n  
Amèle de Lautrec 466, 466n  
Ancona 466, 467  
Antenor 8, 8n  
Antioch 131, 323, 324, 326, 329, 331,  
333–4, 484  
Apollinarians 379  
Apollos 329, 393  
apostles 4, 154, 160, 172, 195,  
208, 226  
equality of 312–15, 317–18, 319–25,  
326–7, 339, 354, 486–95, 515–17  
office of 129–31, 194, 311  
Aquinas, Thomas xv, 68n, 257n, 312n  
*De regno* xiv, 114n, 119n, 156n  
*Summa theologiae* 30n, 31n, 52n, 54n,  
148n, 237n  
aristocracy xxvi, 41, 49, 75, 86, 115  
Aristotle xiv, xviii, xxiii–xxiv, xlii, xliii,  
xliv, xlix, 5n, 6, 9, 11, 26, 27, 538  
*De caelo* 103, 112  
*De partibus animalium* 19n, 91, 91n, 93n  
*Metaphysics* 28n, 53, 53n, 59, 99, 103,  
119, 140

- Aristotle (cont.)  
*Nicomachean Ethics* xlii, 5n, 12n, 16, 16n, 26n, 53, 54n, 57n, 59, 60, 61, 65n, 66n, 78, 79, 81n, 82, 82–3, 84, 84n, 86, 94–6, 111, 151, 216, 244, 253, 255n, 270  
*On Generation and Corruption* 93, 261  
*On the Movement of Animals* 118, 118n, 119n  
*On the Soul* 23, 23n, 93, 93n, 148n, 532n  
*Physics* 14n, 89, 103, 112, 119, 147, 147n, 216, 428n  
*Politics* xiv, xx, xxv, xxvii, xli, xlvi, 4n, 12, 12n, 14n, 15, 15n, 17, 18, 19, 22n, 22–3, 25–6, 27, 27n, 30, 30n, 40, 41n, 45–6, 47, 48, 49, 57, 57n, 58, 60, 60n, 61, 62, 63–4, 66, 66n, 67n, 67–70, 74n, 74–5, 76, 76n, 77n, 83–4, 85–7, 88, 90, 92, 93, 94, 95, 99–101, 105, 106, 107, 123n, 125–6, 127, 128, 135, 144, 220, 227, 345n, 402  
*Posterior Analytics* 106  
*Problemata* 424, 424n  
*Rhetoric* 57–8, 61, 99, 102, 107, 151, 345  
*Sophistical Refutations* 60, 78, 300, 300n  
*Topics* 259n  
Aristotle (Ps.-) *Economics* 15, 15n, 345  
Arius, Arianism xxx, 225, 225n, 351, 367, 368n, 377  
Armenia 501  
arts xviii–xix, xxviii, 17, 20, 24–6, 35, 37–8, 52, 52n, 59–60, 79, 112, 118–19, 140, 215, 235–6, 239, 353, 355, 532, 552–4  
Asser, Reginald, bishop of Winchester 420, 420n  
Asia 45  
Augustine, Saint, bishop of Hippo 131, 131n, 145, 162, 163, 164–5, 177, 180, 182, 184, 185, 187–8, 189, 191, 195, 197, 200, 205, 206, 207, 226, 228, 233, 237n, 265–6, 280, 295, 296, 321–2, 324, 326, 331, 362, 363–4, 365–6, 428, 475, 483, 492–4, 517, 524  
*Against the Manichaeans* 364  
*Book of Recantations* 486  
*On Penitence* 344  
*On the Trinity* 363  
*On the Words of the Lord on Matthew* 160, 523  
*Questions on the New and the Old Testament* 326, 508  
*The City of God* 44, 202n, 249n, 373  
*To Fortunatianus* 363  
Averroes *see* Ibn Rushd, Abu al-Walid  
averroism xv, xvi, 120n  
Avicenna *see* Ibn Sina, Abu Ali Husain ibn Abd Allah  
baptism 194, 337, 347  
barbarians xxiii, 45, 48, 54  
Barnabas, apostle 321, 323, 326, 332, 476, 484  
Basil, Saint, bishop of Caesarea 174, 270, 270n  
Bede, ‘the venerable’ 275, 275n, 298, 473, 484, 485  
Benedict IX, pope 436  
Benedict XI, pope 426n  
benefices, ecclesiastical *see* goods, temporal  
Bernard, Saint, of Clairvaux 168, 169n, 171, 178–9, 181, 191, 537  
*On Consideration* 169n, 174, 177–8, 247–8, 412, 413n, 422, 450, 480–2, 505–14, 520–1, 527  
*To the Archbishop of Sens* 169, 512  
Bertrand de Pouget 466n  
bishops xxix, 131, 178, 305–7, 309n, 312n, 312–17, 318, 326, 330, 332, 335–48, 349–50, 393, 484  
*see also* clergy, papacy  
Bologna 219n, 443  
Bonaventure 257n  
Boniface VIII, pope xvi, 134, 134n, 219, 372–4, 384, 386n, 387, 388n, 392, 407, 420n, 426, 445n, 447, 451n

- Ausculat filii* 349n  
*Liber sextus* 71n, 219n, 353n  
*Super cathedram* 426n  
*Unam sanctam* 134n, 372n
- Caesar, Julius 49
- cardinals 358, 363, 370–1, 378, 384,  
 417, 423, 427, 427n, 441, 456, 466,  
 470, 498
- da Carrara, Jacopo xiii
- Cassiodorus xix–xx, 3n, 3–4,  
 11–12, 128
- causa xli* see also causes
- causes 24  
 see also law, divine, maker of; law,  
 human, maker of
- efficient 5–6, 9, 14, 22, 35, 36, 38–9,  
 40, 43–4, 51, 56, 66, 81, 88–91,  
 94, 97, 128, 237, 309, 310, 318,  
 329, 335, 477, 498
- final 9, 18, 21, 22, 29, 31, 35–6, 128
- formal 36, 38, 128
- material 36, 37–8, 128
- charity 272–3, 275–7, 280–1
- Charlemagne 158n, 439, 439n, 451n, 453,  
 539–40, 540n
- Charles IV xii
- Christ 3, 33n, 33–4, 131, 162–5, 194, 221  
 see also law, divine
- and apostles or clergy 193–207,  
 208–12, 310–12, 315, 319–30,  
 336–8, 474–7
- as divine legislator 33, 129–30, 156–7,  
 215, 223, 285, 309, 361–5, 393–4,  
 432, 504
- as judge see divine law, executor of
- counsels of 265, 267–85, 293, 295,  
 432, 441
- Chrysostom, Saint John, bishop of  
 Constantinople 163, 163n, 173,  
 173n, 190, 201, 211, 222, 238, 467,  
 474, 475, 513, 523, 533, 538  
*On Priestly Dignity* 186, 224  
*On the Compunction of the Heart* 244
- church 131, 144–8, 287–8, 293n, 294n,  
 312, 325, 330, 355–7, 365–6, 368,  
 422–9, 450, 477, 495 see also clergy;  
 bishops; faithful; papacy
- Cicero xlii, 82  
*De inventione* xlv, xli, 402n  
*De natura deorum* 29n  
*On Duties* 6, 6n, 19, 102, 111, 136,  
 461, 462
- citizens xxiv, 67, 67n, 75–7, 78–9, 101,  
 see also community, civil; freedom;  
 laws, human
- assembly of 66, 79, 117
- prevailing part xxiii–xxiv, 66–9, 75, 85,  
 89, 92, 109, 402, 548
- universal body of the xxii–xxiv, xxvi,  
 xxx, 66–71, 73–80, 88–92, 120,  
 343, 415, 430, 439–40, 548, 557
- city xx, xxiv, xxx, 11–13, 14, 18, 22, 94 see  
 also causes; polity; realm
- as an animal xxv, xxvii, 12–13, 25, 40,  
 90–2, 118–19
- destruction of xxvii, 5–6, 20, 26, 71,  
 74, 92, 116–17, 125, 220, 386–8,  
 519
- institution of xx–xxi, 17, 18–21, 44,  
 90–5
- ordering of xxvii, 92, 96–7, 118–22
- parts of 12–13, 22–30, 35–6, 38–9, 40,  
 76, 94–7, 121, 127, 309–10, 347,  
 400, 496, 536, 549, 558
- civilitas* xlii see also *civitas*
- civitas* xlii see also city
- Clement I, pope 316, 353n, 356
- Clement V, pope 133, 133n, 372–4, 407,  
 416n, 416–17, 426n, 428n, 446,  
 485–6, 540  
*Pastoralis cura* 133n, 416n  
*Romani principes* 157n, 158n, 416n,  
 452n, 453n, 540n
- Clement VI, pope xi, xiii
- clergy xvi, xxix–xxx, 95, 145, 309n, 368,  
 426n see also bishops; church;  
 jurisdiction, coercive; orders,  
 mendicant; papacy
- as physicians 211, 222, 233, 531
- college of 203, 206, 219, 342, 346,  
 349–50, 389, 395–8, 469

- clergy (cont.)  
 equality of 319–34, 384, 393, 408,  
 474–7, 484–5, 488–95, 515–17,  
 550  
 institution of 31–6, 39, 155, 178, 242,  
 309–12, 318, 319, 322, 326,  
 335–48, 349–50, 358, 370, 377,  
 381, 385, 386, 392, 406, 410,  
 418–22, 423–5, 432, 434, 437,  
 459–60, 463–4, 470, 477, 484–95,  
 498–500, 517–18, 526, 551–3  
 marriage of 218–19, 284, 414, 450, 469,  
 551, 554  
 office of 20, 27–30, 29, 34–6, 130–1,  
 164–6, 177, 185, 193–207, 208–12,  
 221–31, 233–41, 245, 287, 291–8,  
 310–18, 322, 336–8, 341, 344–7,  
 354, 369, 374, 389–90, 400, 403,  
 408, 421, 445, 526, 536–7, 551–2  
 pre-Christian 30  
 transitive acts of 149–50, 216–18,  
 246–7, 341, 344–6, 374, 384, 387  
*clericus, clerici* xlii *see also* clergy  
*collegium* xliii *see also* clergy, college of  
 community, civil 12, 14–17, 19–20, 22–3,  
 46, 67–71, 74, 89–96, 279, 402,  
 402n, 558  
*conferens, commodum* xliiii *see also*  
 advantage, common  
 conflict *see* strife  
 Constantine I, emperor xxx, 132, 132n,  
 355–7, 374, 377, 377n, 398–9, 403,  
 405, 433–5, 436, 450–1, 476, 502–3,  
 540n  
 Donation of 132n, 132–3, 248, 326,  
 353n, 357n, 399, 435  
 Constantinople 399, 429–30  
 constitutions xxvi *see also* principates,  
 generic types of  
 consuls 101, 101n  
 councils, church  
 authority over 376–90, 395–7, 399,  
 434, 479, 503, 554  
 general *see* faithful, general council of  
 of Chalcedon 368, 368n, 379, 381  
 of Constantinople 368, 368n  
 of Ephesus 368, 368n, 378, 382  
 of Nicaea xxx, 357, 367–8, 368n, 377,  
 405, 476  
 of Toledo 353n, 377, 380  
 of Vienne 219n, 419n, 426n  
 counsel 102, 110–11, 231, 514  
*cura, curatus* xliiii *see also* clergy  
 custom xxiv, 15, 45, 101, 104, 107, 108,  
 142, 151, 184, 213, 215, 219, 397,  
 404–5, 414, 416, 438–9, 470, 549  
 Dante 114n, 117n, 360n, 416n  
*Decretals* 71n, 78, 78n, 132n, 133, 150,  
 157, 182, 185, 219–20, 328, 363,  
 387, 416n, 416–17, 440, 443, 446,  
 465n, 482, 517, 540, 548  
*Decretum* ('decrees') xlii, 132n, 141n, 248,  
 313n, 316n, 332n, 356n, 363, 413n,  
 419n, 439n, 482, 517–19, 548  
*debere, debitum* xlvi  
 democracy xxvi, 41–2  
 despotism xxvi, 45, 63, 70, 140  
 Dionysius (Ps.-) 114n  
 disciplines *see* arts  
 dispositions 11, 35–6, 37–8, 49, 102,  
 127–8, 147, 151, 214, 215, 270–2,  
 310, 424, 461, 537  
 Dominicans 274n, 312n, 353n, 438  
 dominion 61, 174, 256–9, 263–86,  
 288–93, 293n, 297–308, 328, 348,  
 371, 392, 405, 422, 428, 464, 512,  
 522–3, 528–9, 555 *see also*  
 jurisdiction, coercive; power; goods,  
 temporal; right; possession  
*dominium, dominus, dominari, dominans*  
 xliv, 264n, 292n, 293n, 302n *see also*  
 dominion  
 elections 66n, 72, 79–80, 315, 317, 322,  
 328, 340–5, 369, 401, 403–4,  
 418–20, 419n, 451–7, 473, 484–6,  
 495–6, 505, 549 *see also* prince,  
 election of  
 Empire, Roman xii, xxiii, xxvii, xxviii,  
 xxx, 5, 46n, 101, 108, 109, 120–1,  
 132–5, 170, 388, 397, 406, 407, 416,

- 445n, 449–60, 451n, 463–5, 471,  
539–41, 540n
- Engelbert of Admont xlix
- ephors 64
- equity 84–5, 253, 460
- Eutyches 379
- excesses xx, 25  
internal *see* affections
- excessus* 24n, 26n *see also* affections,  
excesses
- excommunication 134, 134n, 195,  
202–7, 234n, 358, 383–5, 392,  
395, 404, 406, 410–11, 414–15,  
430, 434, 455–8, 465, 467n, 509,  
550
- experience xviii, 353, 384, 387
- Ezzelino da Romano xiii
- faithful  
community of the xxix, 159, 192,  
195, 200, 205, 292, 310, 326,  
339–41, 342–6, 355, 389, 418,  
450, 455, 458, 467, 473, 477,  
495, 528–9, 554
- general council of 358–9, 360–2, 364,  
368–72, 374–5, 376–90, 397–402,  
423, 428, 434, 440, 456, 470,  
479–80, 483, 504–5, 547–8,  
553–6, 558
- human legislator *see* legislator, human  
prevailing part 204, 347, 368, 370, 378,  
547
- universal body of the xxx, 145n, 145–7,  
178, 203–7, 294, 338, 365–6,  
368–9, 371, 378, 381, 402, 412,  
499–501, 526
- falsehoods xix, 139–40, 363, 365, 373,  
375, 430, 434, 446, 451, 461, 469,  
537
- Ferrara 443
- foreigners 67, 67n, 74, 95
- France xvi, 349, 349n, 445n, 451, 500
- Franciscans xxix, 264n, 274n, 292n
- Frederick II, emperor 442
- freedom xxiv, 5, 70, 117, 257, 268, 350,  
400, 430, 454, 464, 557
- Galen xiv, 20n  
*Art of Medicine* 13n, 25n  
*On the Construction of the Embryo* 91n
- del Garbo, Dino 91n
- gentiles 172, 324, 327, 328, 331–2, 336–7,  
354, 476, 484, 492–4
- genus*, xliv
- Giles of Rome  
*On Ecclesiastical Power* 149n, 156n,  
426n  
*De regimine principum* 87n, 98n
- de' Girolami, Remigio 12n
- goods, temporal xxix, 131, 135, 139, 142,  
149, 241, 245–6, 250, 253, 258–61,  
262–86, 287–308, 317–18, 324–5,  
328, 335, 343, 348–51, 352, 358,  
371, 374–5, 386–9, 392, 406, 410,  
418–31, 433–7, 441–3, 450, 455,  
457, 459–60, 463–7, 470, 478, 482,  
500–1, 517–18, 525, 528–9, 545,  
551–3, 555 *see also* dominion;  
possession; right
- in common 258–9, 262, 263, 273–4,  
277, 281–3, 290
- Gregory I, pope, 'the Great', 177, 177n,  
231, 316, 346, 414, 436, 479, 498,  
524, 527
- Gregory IV, pope 390
- habitus* xli, xlv *see also* dispositions
- Henry I, emperor 436
- Henry IV, emperor 441
- Henry VII, emperor xii, 107n, 133,  
133n, 416, 416n, 446, 467n,  
540n
- Henry of Ghent 309n
- heresy xi, xiii, xv, 150, 187, 189, 195,  
232–41, 267, 267n, 273, 303,  
371, 373, 386, 386n, 388n, 392,  
421, 437, 442, 450, 455–9, 464–5,  
466n, 467n, 489, 497–500,  
550, 553
- Hervé de Nédellec 272n
- Hesiod 28, 28n, 79n
- Hilary, Saint, of Poitiers 225n, 238,  
467, 533

- Hilary, Saint, of Poitiers (cont.)  
*Against Auxentius, Bishop of Milan* 225  
*To the Emperor Constantius* 224, 500
- Hugh of St Victor 351
- Huguccio of Pisa 140, 141n
- Hunain ibn Ishaq 25n
- Ibn Rushd, Abu al-Walid xv, 28n, 53n,  
 59, 59n, 91n, 93n, 120n
- Ibn Sina, Abu Ali Husain ibn Abd Allah  
 13n, 91n
- ignorance xviii–xix, 58–63, 67–71, 73–9,  
 110, 112, 136, 200, 210, 344, 350,  
 358, 371, 375, 384, 419–25, 437
- imperium, imperatus* xlv  
*see also* acts, commanded
- infidels 185, 187, 189, 226, 233, 234–41,  
 279, 347, 373, 399–403, 434, 461,  
 462, 465, 499, 523–4, 528–9, 553
- Innocent III, pope xlix, 465n  
*Venerabilem* 451n, 453n, 456n
- Innocent IV, pope 292n, 442n  
*instituere, institutio* xlv
- institution, *see instituere, institutio*
- Institute of Seville xlix, 353n, 356n
- Isidore (Ps.-), *Codex* 328, 332n, 346, 353,  
 353n, 355–7, 364, 367, 370, 372,  
 374, 377–83, 398–9, 405, 435, 473,  
 476, 478–9, 495–6, 502–3
- Italy xii, 4–5, 127, 129, 134–5, 357n, 415,  
 439, 464, 471
- ius* xlvi *see also* law; right
- Ivo of Chartres 439n, 440n
- James, apostle 321, 326, 331, 413, 447,  
 475, 480, 484–6
- James of Viterbo 408n
- Jean de Pouilly 426n
- Jerusalem 324, 329, 337, 475, 485
- Jerome, Saint 167, 167n, 169–70, 173,  
 185, 195, 199, 201, 228, 271, 275–6,  
 296–7, 312, 314, 315–17, 324, 343,  
 361, 362, 483, 486–7, 492–4, 505,  
 507, 522–3, 529  
*To Evander* 313, 318, 326, 334, 393,  
 424–7, 477, 483, 497, 504
- Jerome (Ps.-), *Exposition of the Catholic  
 Faith* 363, 479, 503–4
- Jews 33, 44, 161–2, 166, 239, 331–3,  
 336–7, 483, 491–4, 507
- Johannitus *see* Hunain ibn Ishaq
- John, apostle 321, 324, 326, 331, 484,  
 530n
- John XII 436, 436n
- John XXII, pope xii, xiii, 134, 134n,  
 264n, 274n, 356n, 386n, 420n, 426n,  
 428n, 446n, 450n, 453n, 465n, 466n,  
 501n  
*Ad conditorem canonum* 261n, 267n,  
 292n, 417n  
*Cum inter nonnullos* 371n  
*monitorium* 158n, 452n, 540n  
*Quia nonnumquam* 272n  
*Quia vir reprobus* 293n  
*Si fratrum et coepiscoporum* 467n  
*Vas electionis* 426n
- John of Jandun xii, xiii, xv, 424n
- John of Paris xvi, 114n, 115n, 152n, 193n,  
 413n, 445n, 530n
- judge 150–1, 240, 368 *see also* law, divine,  
 executor of; law, human, executor  
 of; primate, office of
- jurisdiction, coercive 7, 122, 123–6,  
 160–75, 176–92, 213, 215, 221–31,  
 291, 410 *see also* dominion; law;  
 papacy; power, plenitude of;  
 primate, office of
- and Christ 160–75, 192, 247, 284, 309,  
 352–4, 405, 432, 442, 511, 522,  
 537
- and clergy 132–5, 141–2, 152–8,  
 161–75, 176–92, 203–4, 209–12,  
 216–20, 226–8, 238, 242–4, 315,  
 319, 322, 327–8, 334, 335–51,  
 352–9, 372–5, 377, 384, 388, 392,  
 404–5, 415, 432, 436–7, 442–8,  
 449–72, 481–2, 497, 500, 511–14,  
 520–30, 531–41, 545, 550, 555
- in spirituals 131, 141–3, 144–50,  
 152–8, 208–12, 248, 325–6, 327,  
 352–9, 368–71, 374–5, 377–90,  
 392–406, 410–11, 418–31, 433–5,



- 477–81, 500–5, 509–10, 534–9,  
550–6
- in temporals 54, 132–6, 141–3, 144–50,  
152–8, 163, 220, 328, 357–9,  
372–4, 378, 388, 405, 406–7,  
408–17, 428, 429–31, 432–48,  
449–72, 481–2, 502, 510–14,  
522–30, 534–41, 550–5
- justice 16, 20, 56, 60, 78–9, 81–7, 95,  
102–3, 112, 116–17, 151, 164, 210,  
230, 247, 255, 255n, 429, 461
- Justinian, emperor 316, 437
- knowledge xviii–xix, xxiii, 7, 14, 58–60,  
76–9, 136, 217, 235–6, 323, 346,  
347, 355, 369–70, 374–5, 386, 390,  
393, 397, 400, 403, 420–1, 443, 557
- Lactantius 20n
- law xviii, xxii–xxiv, 15, 51–5, 250–3,  
255, 257–8, 262–3, 390, 410, 417  
*see also* right
- canon *see* *Decretals*; *Decretum* and *sn*  
individual popes
- divine xxii, 52, 55, 148, 156–7, 188,  
218, 250–2, 254, 266, 281, 291–3,  
310, 329, 344, 346, 348, 367–9,  
375, 405–6, 411, 414, 419, 461,  
470, 497, 557
- coercive power of xxii–xxiii, 182,  
186–92, 203–6, 210–12, 215,  
221–31, 233–4, 237–8, 240,  
250, 548
- cognitive content of xxii–xxiii,  
53–4, 182, 221–3, 229–31, 233
- executor of xxix, 164, 196–207,  
216, 221–31, 233–4, 240–1,  
533–5, 548
- institution of 32–6, 130–1, 365, 385
- human xxii, 29, 51–5, 56–64, 149, 157,  
184, 219, 228, 250–8, 290, 293,  
295, 307–8, 411–12, 457, 469, 557
- coercive power of 53–4, 54n, 61–2,  
66, 74, 80, 125–6, 215–16, 220,  
229, 230, 234–41, 250, 266,  
415, 434–41, 534, 549, 557
- cognitive content of 53–4, 74,  
79–80, 230
- executor of xxv, xxvi, xxix, 56–64,  
82–5, 90, 93–6, 116–18, 123–4,  
151, 157, 164–5, 178–80,  
216–20, 234–41, 255–6, 267,  
273, 293, 295, 303–5, 455, 497
- Mosaic 30, 33, 34, 52, 52n, 55, 65,  
155n, 199n, 228–9, 461, 548
- natural *see* right, natural
- quasi-natural xviii, 16, 103, 112–13, 136
- Roman xiv, 1, 5n, 71n, 289n, 316, 349,  
356, 445n
- legislator, human xxii–xxiv, xxv–xxvi,  
xxx–xxxii, 39, 40, 49, 54, 65–72,  
73–80, 85, 88–90, 94, 104, 108, 109,  
111–12, 123, 124–6, 142, 147, 157,  
159, 186–92, 211, 220, 222, 226,  
229, 232–41, 251, 252, 292–3, 309,  
315, 317, 342, 343–50, 362, 411–12,  
414, 417, 434–44, 453, 467, 482,  
509, 520, 536, 539, 541, 548–56, 557
- faithful xxix–xxx, 159, 188, 319,  
348–51, 358–9, 362, 368–9, 375,  
376–90, 391–9, 404–5, 412, 518,  
527–9, 548, 550–6
- Leo I, pope 378, 381, 413n
- Leo IX, pope 439, 439n
- Leo X, pope 438
- lex* xlvi, 1 *see also* law
- Liberius 371, 489
- liberty *see* freedom
- Licet iuxta doctrinam* xiii
- licit *see* right
- life 23–4
- civil xx, xxiv, 5, 7, 17, 18–21, 23–4,  
26–9, 38, 98, 142, 372, 409, 418,  
461
- eternal 7, 31–6, 162, 163, 213–15,  
221, 224, 231, 249, 258, 281,  
284, 344, 360, 370–3, 407, 465,  
497, 547–8, 558
- sufficient xx, xxviii, 5, 18–21, 26–9, 31,  
37, 70, 74, 92, 103, 106, 157,  
213–17, 230, 277, 279, 310, 402,  
461, 497, 558

- Lombard, Peter 196n, 196–203, 208–9, 233, 344, 468
- Lombardy 466, 467
- Louis I, ‘the pious’, of France 390
- Ludwig IV, emperor of Bavaria xii, xiii, xxxi, xlix, 8, 134n, 158, 388, 422, 452n, 453n, 457–60, 466–7, 540, 540n  
*Appeal of Sachsenhausen* 267n
- Lupold of Bebenburg xlix, 417n
- Mainz 121
- Marcian, emperor 377–8, 379–80, 381
- Marsilius of Padua xi–xii and *passim*  
*Defender of the Peace* xii, xiii, 557–8  
*On the Transference of the Empire* xii, 540n  
*Questions on the Metaphysics* xiii  
*Defensor minor* xiii, xxx, 234n
- Martin IV, pope, *Ad fructos uberes* 426n
- Martinus Polonus 332n, 353n, 399, 436, 438–9, 441
- Maultasch, Margaret, countess of Tyrol and Carinthia xiii
- medicine xi, xiv, xx, 20n, 25n, 26, 89, 91–2, 93n, 93–4, 95, 211
- Melchisedech 480, 506
- Michael of Cesena 293n
- military 26, 38, 45, 95, 96, 184, 400
- Moerbeke, William of xli, xlvi, 15n, 24n, 41n, 61n, 74n, 76n, 100n
- monarchy xiv, xvii, xxvi, 41, 45–50, 46n, 98–113, 114n *see also* prince; principate
- da Montagnone, Geremia 3n, 29n
- Morlane, Isarn, archbishop of Lund 420, 420n
- Moses 33, 44, 228, 506
- Mühldorf, battle of xii
- Mussato, Albertino xi, xiv, 23n
- Nebuchanezzar 188, 429
- Nicholas II, pope 440, 440n
- Nicholas III, pope, *Exiit qui seminat* 264n, 292n
- Nicholas I, pope 316, 346
- notables 22, 41, 68n, 76, 368
- officium* xlvi *see also* city, parts of; clergy, office of; principate, office of
- Orléans, University of 356, 356n
- oligarchy xxvi, 41, 71, 78, 185, 414, 417, 443, 469, 519
- orders, mendicant xvi, xxix, 309n, 426, 426n, 438
- Origen 167, 168n, 169, 170, 173, 174
- Otto I, emperor 436, 439, 439n, 540n
- Otto IV, emperor 442
- owner *see dominium, dominus, dominari, dominans*
- Padua xvi, xiii–xiv, 80n, 101n, 124n  
University of xiv
- Paolino, Fra 57n
- papacy xix, xxx, 145, 533 *see also* bishops; clergy; dominion; jurisdiction, coercive; power, plenitude of and Roman Empire xlix, 127, 129, 132–5, 141–2, 157, 185, 219, 440–5, 447, 448, 449–60, 539–41
- principal of church 156, 330, 391–407, 408, 412, 423, 433, 476–81, 495–8, 509, 516–17
- corruption of xvii, xxviii, 139–40, 241, 246–7, 374–5, 385–7, 390, 401, 403, 413, 415–17, 418–31, 437–48, 449–71, 518, 529
- desire for principate xxviii, 133–6, 139–42, 185, 219, 227, 246, 371–4, 387–8, 403, 408–10, 414–17, 428, 437–48, 449–71, 513, 545–6
- institution of 129–33, 320–34, 355–7, 380–1, 386, 399, 423, 436, 438–40, 473, 496–7, 502, 505–10, 517–19, 520
- privileges of 132, 142, 241, 248, 390, 405, 414, 435, 442–3, 444, 449, 457
- Paris, University of xi, xiv–xv, xvi, 356, 517
- passions *see* actions, affections
- Paul, apostle 132, 185, 239, 279, 283, 292, 321–3, 324, 329, 331–4,

- 336–7, 340, 354–6, 365, 393, 397, 398, 403, 447, 473, 475–6, 489, 492–5, 498, 515
- peace xvii, xx, xxvii, xxxi, 3, 9, 11–13, 14, 22, 28–9, 96, 127–36, 139, 188, 217, 220, 298, 368–70, 381, 384, 395, 434, 441, 457, 461, 466, 557–8
- perfect *see* poverty, supreme
- Peter of Auvergne 57n, 68n, 77n, 98n
- Peter, apostle 131–2, 133, 143, 152–5, 160, 167–70, 185, 194–5, 311–12, 314–15, 320–4, 325–34, 332n, 336–9, 343, 354–6, 370, 393–403, 412–13, 445, 446–7, 450, 469, 473–6, 479–81, 483, 484–6, 498, 503, 506, 514–17, 520, 545
- Pharisees 201, 222, 282, 461, 468, 505, 518
- Philip IV, king of France xvi, 64, 64n, 134, 134n, 219n, 349n, 356n, 372–4, 384, 445n
- Philip V, king of France 356n
- Pierre de la Palu 312n, 426n
- Pilate, Pontius 129, 161–3, 171–2, 181, 191, 512, 537
- Plato 6
- podestà* xlviii, 46n, 101n, 123n, 124n
- politia* xlvi, 74n *see also* city; polity; realm
- polity xxvi, 41–2, 49, 115 *see also* *politia*
- possession 257–8, 263–9 *see also* right
- poverty 249, 259–61, 457, 528  
controversy xvi, 261n, 272n, 274n  
supreme xxix, 243–8, 265–86, 287–308, 371, 432–3, 437, 450, 555
- power *see also* jurisdiction, coercive; law; papacy; principate  
of the keys xxix, 130–2, 153, 161, 193n, 193–207, 208–12, 233, 312, 320, 354, 487, 517  
plenitude of xxviii, 133–6, 142, 153–8, 193, 219, 323–4, 375, 388, 406–7, 408n, 409–17, 418–31, 426n, 432–48, 449–72, 509, 520–30, 545–6, 549
- prince xxv–xxvii, 17, 48, 326–7, 418, 505, 527, 557 *see also* jurisdiction, coercive; law, human; principate  
armed force of 85–6, 162  
arraignment of 123–6, 158, 406, 538  
election of xxvi, 45–50, 51, 66, 85–6, 88–9, 97, 98n, 98–113, 178, 345, 430, 453, 540  
hereditary succession of xxvi, 45, 48, 62–3, 89, 98n, 98–113  
virtues of xxvii, 62–3, 81n, 81–7, 88, 100–1, 103–12
- princeps, principari, principatus, principans* xlvii–xlviii, 91n *see also* prince; principate
- principalior, principalitas* xlvii, xlviii, 391n *see also* papacy, principal of church
- principate xxv–xxvi, 56, 62–4, 67, 156, 207, 372–4, 406–7, 464, *see also* jurisdiction, coercive; law, human; prince  
as heart of the city 91–4, 113, 123–4  
flawed 40–2, 41n, 48  
institution of 43–50, 51, 65, 81, 88–90, 95, 97, 343, 540–1  
office of 7, 26, 40–1, 52, 56–64, 76, 82–5, 90–7, 114–22, 123–4, 128–9, 135, 141, 151, 159–75, 176–92, 216–20, 226–9, 232–41, 243, 247–8, 284, 309, 345–51, 357–9, 376–90, 395–8, 399, 422, 423, 432–44, 461, 469–70, 477, 482, 496, 512–14, 518, 522, 527–9, 532–8, 545, 549–56, 557–8  
plurality of xxvii, 114n, 114–22, 124, 154, 158, 162, 218–20, 238, 347, 415, 519, 549  
tempered 40–2, 41n, 47–8, 115
- principium* xlviii
- property *see* dominion; goods, temporal
- prudence xviii, xxii, 16, 24, 37, 53, 58, 73, 78–9, 81–4, 86–7, 88, 94, 102–6, 151, 178, 235, 239, 342, 402, 491
- Ptolemy of Lucca xiv, xxvii, 101n  
*De regimine principum* 46n, 49n, 98n

- Ptolemy of Lucca (cont.)  
*Determinacio compendiosa de jurisdictione imperii* 155n
- Pythagoras 28, 28n
- Quaestio in utramque partem* 115n, 152n
- Rabanus Maurus 275, 276n, 343, 361, 402, 487
- realm 11–13 *see also regnum*
- reason xx, xxii, 13, 16–17, 24, 44, 52n, 61, 62, 92, 118–19, 127, 312, 316, 388, 432, 460, 469, 483
- right 254, 353, 357–9, 364, 375, 377, 410, 423, 448, 451, 531, 548
- regimen* xlviii
- regnum* xlii, xlvi, xlix *see also city; monarchy; realm*
- Italicum* xxvii–xxviii, xlix, 416n
- Romanorum* xlix
- Remigius 508
- republicanism xvii, xxvii, xlviii, 5n
- Richard of Saint Victor 196, 196n, 198, 199
- right 53, 92, 135, 171, 199, 215, 218, 220, 246, 250–5
- and law 250–3, 254–7, 262–9, 264n, 282, 289–90, 301–5, 349, 351, 353, 438, 528
- divine 254, 295, 301, 325
- human 295, 325
- civil 253
- natural 253–4, 254n
- Robert, king of Naples 416n
- Romagna 443
- Rome 132, 316, 326–34, 355–6, 357n, 380, 397, 398, 516
- republic of xiv, 49, 50n *see also Empire, Roman*
- Sallust 4, 5n, 82
- della Scala, Can Grande of Verona xii, xiii
- science *see arts*
- natural xiv, 19, 24, 118–20
- Scripture, interpretation of xix, 141–2, 143, 321, 323–4, 339, 360–6, 370–1, 401, 479, 483, 504, 547
- secta* xlix
- see also* Christianity; religion
- Seneca xiv, 243, 243n
- signori* xiii, xxiv
- Simon Magus 246, 332
- sin, original 31–4
- slavery xix, xxiv, 18, 26–7, 45, 67, 67n, 71, 74, 124, 445, 446, 454, 459, 461, 464
- sophistry xix, 6–7, 9, 136, 140, 301, 409, 422, 429, 445, 450, 462, 525, 546
- species* xliv, 24, 271, 273
- Stephen IX, pope 440, 440n
- strife xvii, xxi–xxii, xxvii–xxviii, 4–9, 13, 16, 20, 26, 92, 95–6, 101–2, 109–12, 116–17, 124–5, 127–36, 186, 230, 314, 367, 387–9, 396, 399, 403, 406, 415, 425, 429–30, 442, 449–50, 458, 463–4, 467–72, 496, 519, 528–9, 545–6, 556, 557
- subjects xxv, xxvii, 139, 547, 557–8
- Sylvester II 459n
- Sylvester, Saint 132, 248, 357, 528
- temperamentum* 24n
- Tempier, Etienne, bishop of Paris 120n
- Theodosius, emperor 378, 382
- Theophylact, archbishop of Ochrid 146n, 163, 275
- Thomas of Ireland 141n
- tolerance, religious 234n
- tranquillity *see* peace, civil
- tribute 166–70, 184, 350–1, 443, 455, 501, 512
- truth xix, 7, 9, 69, 139–41, 143, 149, 161, 194, 215, 353, 362, 364, 373, 375, 457, 470
- Twelve Tables 356, 356n
- tyranny xiv, xxvi, 5, 41, 45, 47, 71, 78, 85, 99, 105–6, 107, 124, 425, 442
- universitas, universus* xxii, I *see also*
- citizens, universal body of; faithful, universal body of
- Urban I, pope 433

- Valentinian, emperor 377, 379, 382, 499  
*valentior pars* xxiii, l–li *see also* citizens,  
    prevailing part of; faithful,  
    prevailing part of  
vices xxi, 28, 29, 272, 278, 398, 431, 471  
virtues xx, xxiv, 18, 25, 28–9, 46, 63, 81,  
    81n, 84–5, 86–7, 91–4, 100–1,  
    103–12, 124, 269–73, 327, 340, 342,  
    398, 401, 458
- Visconti, Matteo, of Milan xii, 416n,  
    465n, 466n, 467, 467n  
vows 265–7, 273–5, 277, 553
- William of Ockham 189n  
wisdom, practical *see* prudence  
    theoretical *see* arts  
women 10n, 67, 67n, 341, 345, 345n,  
    454