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The Formation of the State in Italian Humanist Political Thought,

c.1250-c.1550

A dissertation submitted in partial satisfaction of the

requirements for the degree Doctor of Philosophy

in History

by

Jeffrey D Dymond

2021

ABSTRACT OF THE DISSERTATION

The Formation of the State in Italian Humanist Political Thought, c.1250-c.1550

by

Jeffrey D Dymond

Doctor of Philosophy in History

University of California, Los Angeles, 2021

Professor Peter James Stacey, Chair

The subject of this dissertation is how the Renaissance humanists of the Italian peninsula conceptualized the formation of the *civitas*, their term for "state." Its results point towards a need to re-configure to some degree our historical account of the modern concept of the state. When investigating the origins of this concept, intellectual historians and political theorists alike emphasize the innovations of the mid-seventeenth century. It was at this time, they argue, that the term "state" came to refer to a "fictional person" that, acting through a duly-authorized representative, is responsible for preserving human society. This dissertation shows, however, that the belief that the integrity of human society depends on the institution of an entity called the "state" had already existed for centuries prior to this. It does so by re-constructing a tradition of thinking about the formation of political society indebted to the political, philosophical and

rhetorical works of the Roman author Cicero. It argues that this tradition was established by the humanist intellectuals of the Italian Renaissance, then Europe's leading scholars of Greco-Roman antiquity. According to this tradition, the *civitas* is the name of a distinctive association established specifically to order and maintain a pre-existing social life. It is, moreover, the name of a kind of abstract person, brought to life by a representative and believed to be the subject of sovereignty. Yet not only did the humanists develop such a theory; the dissertation also demonstrates that this theory became itself an object of debate, with later generations of humanists, most notably Machiavelli, articulating alternatives in response to it. However, shaped as they were by the terms of this Ciceronian theory, these alternatives nevertheless continued to endorse certain key tenets of it, most importantly that the "state" is the name of a kind of body and that this body is instituted to maintain human society. The dissertation concludes by showing that these different ways of thinking about states would go on to shape some of the political thinking of the seventeenth century.

The dissertation of Jeffrey D Dymond is approved.

Andrea Moudarres

Stefania Tutino

Craig Bryan Yirush

Peter James Stacey, Committee Chair

University of California, Los Angeles

2021

For my mother, my father, and Spencer

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Vita

I hold a BA in Political Science from Concordia University (Montréal) and an MA in Medieval and Renaissance Studies from University College London. I have also been a student at the Warburg Institute, University of London, and a visiting student at the University of California, Berkeley. In July 2021, I will join as a post-doctoral researcher a project investigating the contribution of Ciceronian political theory to the historical development of the concept of justice. The project, entitled "The Just City," is funded by the European Research Council and located at the University of Zurich. My work has appeared in the *Journal of the History of Ideas*.

Introduction

The aim of this dissertation is to examine how the humanists of the Italian Renaissance answered the following question: how did human beings come to live under political authority? Since at least the early seventeenth century, it has been conventional to refer either to groups living under a political authority, or to the apparatuses that govern them, as "states." And, since that time, we have seen a number of different definitions of "state" emerge. However, one way of thinking about it has come to achieve dominance over others. This definition of "state" aims to elucidate what those who advocate for it deem to be the state's abstract and somewhat mysterious nature.[1] While we acknowledge the authority of governments, they argue, it is not accurate to equate, as some have done,[2] the state with the government. When a government assumes a financial debt, for example, we acknowledge that its successors remain responsible for that debt. The true debtor, then, is not the government that took the loan, but another agency on whose behalf it acted and any new government subsequently acts. This mysterious agency is the state. Yet this confusion also reveals an essential feature of this entity: the state is intangible – an abstraction, a "fiction" – and thus that its authority can only be exercised by means of the natural persons who constitute

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[1] For these arguments, see especially the work of David Runciman. A concise yet comprehensive version of Runciman's argument is available in David Runciman, "The concept of the state: the sovereignty of a fiction," *States and Citizens: History, Theory, Prospects*, eds. Quentin Skinner and Bo Stråth (Cambridge: Cambridge University Press, 2003), 28-38.

[2] Quentin Skinner names Jeremy Bentham, John Austin and Harold Laski as examples of prominent theorists who have made this argument. See Quentin Skinner, *From Humanism to Hobbes: Studies in Rhetoric and Politics* (Cambridge: Cambridge University Press, 2018), 374-377. In an earlier version of Skinner's argument, he also named Max Weber. See Quentin Skinner, "A Genealogy of the Modern State," *Proceedings of the British Academy* 162 (2009), 326.

the government that represents it. The state is, then, a kind of "fictional person," and therefore one that is represented by those who are authorized to act on its behalf.

To more fully understand the shadowy nature of the state, two leading scholars of both its character and its history, Quentin Skinner and David Runciman, agree that we should turn to the man whom they regard as one of the earliest and most prominent theorists to define it in these terms, the seventeenth-century English philosopher Thomas Hobbes. In his 1651 *Leviathan*, Hobbes argues that the chaos and violence of natural social life can only be overcome when each individual agrees to the elevation of the same representative, creating a unity among those represented. Hobbes refers to this unity as a "person by fiction," and it is in this "person," and not in those who exercise its authority on its behalf, that sovereignty lies. With this idea, Hobbes, along with his like-minded contemporaries, are conventionally seen to have ushered in a novel way of thinking about the state. This argument rests on a certain understanding of pre-Hobbesian political thinking and on the belief that Renaissance juridical, humanist and scholastic writers understood the term "state" to refer "to a type of civic union, a body or society of people united under government."[3] Hobbes and his followers, on the other hand, rejected the notion that the word "state" refers to a structured form of social life, arguing instead that the "state" is in fact a separate agency, understood on the analogy of a legal fiction, and established with the deliberate aim of governing a society that cannot otherwise maintain itself.[4]

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[3] Skinner, *Humanism to Hobbes*, 343.

[4] For a detailed account of Hobbes's contribution to crystalizing this way of thinking about the state, see David Runciman, *Pluralism and the Personality of the State* (Cambridge: Cambridge University Press, 1997), 6-33. Quentin Skinner's account of the development of this concept appears in a number of places. For an early version that traces the origin of this concept over several hundred years of European political thinking, see Quentin Skinner, "From the state of princes to the person of the state," *Visions of Politics* (Cambridge: Cambridge University Press, 2003), 2:368-413. For a treatment of this topic that examines both the context within which Hobbes made his innovations and the reception of Hobbes's theory over the centuries, see Skinner, "A Genealogy of the Modern

This dissertation proposes that the above characterization of pre-Hobbesian political thinking, together with the historical account of the state upon which it rests, stands in considerable need of revision. When Hobbes claims in his Introduction to *Leviathan* that "by Art is created that great LEVIATHAN called a COMMON-WEALTH, or STATE, (in latine CIVITAS), which is but an Artificiall Mann,"[5] he in fact draws an explicit connection between his state – his "Leviathan" – and two concepts of classical Latin origin: the *civitas* and the *res publica* (in English, "commonwealth").   The subject of this dissertation is the treatment these originally Roman concepts received at the hands of the pre-humanist and humanist writers of the Italian peninsula from c.1250 to c.1550, then Europe's leading scholars of classical antiquity. It argues that, by the mid-sixteenth century, they had developed, and transmitted across Europe and to future generations, a number of distinct theories for how human society came to be governed by entities called *civitates*, or "states" – entities which they frequently characterized as distinct "persons."

I.

While our standard historical account of this way of thinking about the state emphasizes the alleged innovations of the mid-seventeenth century, it also views these developments as the products of other historical processes themselves. In recent years, Skinner and others have turned towards investigating these roots. Much of this recent work has emphasized three inter-locking sets of medieval and Renaissance political thinking: the political philosophy of the Renaissance

State," 325-370. The most recent iteration of this argument, which includes the findings of Skinner's latest research on the topic, see Skinner, *From Humanism to Hobbes*, 341-383.

[5] Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1996), 9.

Aristotelians,[6] medieval corporation theory,[7] and the political philosophy of Cicero.[8] While this work has done much to expose the many different sources and strands of thinking that constitute Renaissance theorizing about the nature and ends of political society, it also ultimately stresses the outside importance of one strand in particular: medieval corporation theory.

In an article that first appeared in 2016, Sophie Smith emphasizes two images of the body politic taken from Aristotle's *Politics*. In so doing, her argument expands upon and revises an argument first made by Richard Tuck, in which he suggests that the inspiration for Hobbes's image of the person of the state likely came from Aristotle's account of tyrannical democracy in Book IV of the *Politics*.[9] Here Aristotle claims that

> the multitude is sovereign not the law…The people becomes a monarch, one composed of many, for the many are sovereign, not as individuals but as aggregate…such a people, in its role as a monarch, not being controlled by the law, aims at sole power and becomes like a master…such a democracy is the counterpart of tyranny among monarchies.[10]

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[6] Examples include Richard Tuck, "Hobbes and Democracy," *Rethinking the Foundations of Modern Political Thought*, eds. Annabel Brett, James Tully, and Holly Hamilton-Bleakley (Cambridge: Cambridge University Press, 2006), 171-190; Annabel Brett, "'The Matter, Forme, and Power of a Common-wealth': Thomas Hobbes and Late Renaissance Commentary on Aristotle's *Politics*," *Hobbes Studies* 23 (2010): 72-102; Annabel Brett, *Changes of State: Nature and the Limits of the City in Early Modern Natural Law* (Princeton: Princeton University Press, 2011), esp. 115-151; and Sophie Smith, "Democracy and the Body Politic from Aristotle to Hobbes," *Political Theory* 46.2 (2018): 167-196 [published online 2016].

[7] See Gaines Post, *Studies in Medieval Legal Thought: Public Law and the State, 1100-1322* (Princeton: Princeton University Press, 1964); J.P. Canning, "The Corporation in the Political Thought of the Italian Jurists of the Thirteenth and Fourteenth Centuries," *History of Political Thought* 1.1 (1980): 9-32; Brian Tierney, *Religion, Law and the Growth of Constitutional Thought, 1150-1650* (Cambridge: Cambridge University Press, 1982); Magnus Ryan, "Bartolus of Sassoferrato and the Free Cities," *Transactions of the Royal Historical Society* 10 (2000): 65-89; Magnus Ryan, "Corporation Theory," in *Encyclopedia of Medieval Philosophy*, ed. Henrick Lagerlund (Dordrecht: Springer, 2011): 236-239; and Daniel Lee, *Popular Sovereignty in Early Modern Constitutional Thought* (Oxford: Oxford University Press, 2016), esp. 71-78.

[8] See in particular Quentin Skinner, *Reason and Rhetoric in the Philosophy of Hobbes* (Cambridge: Cambridge University Press, 1996) and Skinner, *From Humanism to Hobbes*, 12-44.

[9] Smith, "Democracy and the Body Politic," 172-173. For Tuck's argument, see Tuck, "Hobbes and Democracy," 171-190. For a critical response to Tuck, see Kinch Hoekstra, "A Lion in the House: Hobbes and Democracy," *Rethinking the Foundations of Modern Political Thought*, eds. Annabel Brett, James Tully, and Holly Hamilton-Bleakley (Cambridge: Cambridge University Press, 2006), 191-218.

[10] Smith, "Democracy and the Body Politic," 173. The passage can be found in Aristotle, *Politics* 1292a6-19.

Smith claims that the passage in question from Book IV must also be read alongside a passage from Book III Chapter 11, in which Aristotle states that

> For the many none of whom taken individually is a good man, may yet, when taken all together, be better than the few, not individually but collectively…For even when there are many people, each has some share of virtue and practical judgement; and when they are brought together, just as they become, as it were, one man who has many pairs of feet and hands and many senses, so also do they become one in regard to character and thought.[11]

Both passages, Smith demonstrates, received extensive treatment at the hands of Renaissance commentators. But it is in the commentary on the passage from Book III, she argues, that we can see most visibly the presence of "the idea that the union of the body politic *depended upon* a monarch (or sovereign) personating – or representing – the commonwealth."[12]

Smith believes that it is in the treatment of this passage from *Politics* Book III by the Oxford philosopher John Case that we can see this idea most straight-forwardly expressed. In his *Sphaera civitatis* of 1588, Case states that the multitude in question can constitute a better government than the government of the few on account of the fact that "'there is a great power and illumination,' within them…and they can indeed be considered better not 'as single individuals, but instead as a universal collective [*collectim universi*].'"[13] Case's distinction between "single individuals" and a "universal collective," Smith argues, is informed by conceptual categories derived ultimately from medieval corporation theory: "the multitude must be considered as a *universitas*, not *singuli*, for their coherence to be comprehensible and for their superiority to

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[11] Smith, "Democracy and the Body Politic," 175. In Aristotle, *Politics* 1281a42-1281b7.

[12] Smith, "Democracy and the Body Politic," 183.

[13] Smith, "Democracy and the Body Politic," 180.

hold."[14] This *universitas*, however, on account of being held together merely by "consensus," is inherently unstable. In order to achieve the unity necessary to maintain it, then, it must have a monarch. But this is not to say that the people merely require a king at its head. Rather, "the king is to be conceived," she says, "'not as one small man but as *the person* of the whole commonwealth,'" with the implication "that the ruler is bearing the person of something that can maintain a collective existence outside of that ruler."[15] However, Smith admits, "this is not systematically theorized by Case."[16] Nevertheless, she concludes that Case here expresses a thought later to be expressed by Hobbes, "in which the sovereign is the formal cause of the commonwealth," in the sense that, in the absence of a natural representative, the separate and abstract entity responsible for maintaining the stability of social life – the "commonwealth" – could not exist.[17]

Although, as Smith says, Case did not explain how the monarch comes to represent the distinctive person of the commonwealth, she suggests that this was enabled by his use of corporation theory. Since its formulation in the late twelfth century, the doctrine of the *universitas* enabled lawyers and political writers to argue that a group of people can possess the standing of an individual-in-law. This legal body can then appoint a representative to transact business on its behalf in the physical world, effectively making the fictional person real. By thinking of Aristotle's democratic body as a kind of *universitas*, and thus conceptualizing it as a fictional unity

[14] Smith, "Democracy and the Body Politic," 180-181.

[15] Smith, "Democracy and the Body Politic," 182.

[16] Smith, "Democracy and the Body Politic," 182.

[17] Smith, "Democracy and the Body Politic," 182.

brought to life through representation – or "personation"[18] – Case could then argue that the real-life union of this body depends on the monarch's successful representation of its idealized form.

More recently, Skinner has argued that we can trace the emergence of the idea of state personality to a Ciceronian image of the body politic instead of an Aristotelian one. Skinner traces this idea back to the intellectual world of the Renaissance humanists and to the foundation of both their ideas and their educational practice in the political, philosophical and rhetorical works of Cicero. In a famous passage of his *De officiis*, Cicero argues that the ideal magistrate is one who can successfully "bear the *persona* of the *civitas*,"[19] and, Skinner argues, it is this Ciceronian idea – that there exists a "person" of the *civitatis* capable of representation – that Thomas Hobbes "owes almost the entire analysis of personhood that underpins his theory about the sovereignty of the *civitas* or state."[20] Cicero's use of the word *persona* indeed suggests representation of something else, because it alludes to theatrical *personae*, or masks worn by actors in a Roman theater. With this context in mind, Cicero's statement suggests that he views the *civitas* as a kind of abstract personality that can be represented when a natural person, like an actor on a stage, speaks on its behalf.[21]

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[18] Smith, "Democracy and the Body Politic," 182.

[19] "…magistratus intellegere se gerere personam civitatis…," Cicero, *De officiis*, I.124.

[20] Skinner, *Humanism to Hobbes*, 12.

[21] Skinner, *Humanism to Hobbes*, 14. For the application of this concept among members of medieval and early modern scholastic political writers, see Sean Messarra, "Representation in Scholastic Political Thought," *History of European Ideas* 46 (2020): 737-753.

Skinner goes on to argue that Cicero's notion of the *persona civitatis* would, after disappearing from view during the later years of the Roman principate and the early middle ages, reappear in the twelfth century with the help of corporation theory. At this time, a growing number of the city-states of the *Regnum Italicum*, such as Milan, Florence, Pisa, Siena, Padua and many others, began to appoint their own judicial officers, first called, in the manner of the Roman republic, "consuls," and then, later, *podestà*. These cities asserted that the right to make such appointments belonged to them and not to their then nominal lord, the Holy Roman Emperor. However, since these moves were in defiance of the Emperor, political and legal writers from these cities sought justifications for their actions, drawing on a number of authorities, classical and legal, to support their position. Among this material was the legal doctrine of the *universitas*, from which they could deduce justifications for self-government. As a result, Skinner argues, at this time, these Italian *civitates* began to think of themselves as *universitates personarum*, treating the entity of the *civitas* as a species of *universitas* and thus a form of representable legal person. Once the *civitas* was placed under the category of *universitas*, Skinner says, "it proved a short step to the conclusion [about the personality of the *civitas*] Cicero had originally adumbrated,"[22] thus making it a move that facilitated the re-introduction of this Ciceronian language into political writing.

We have seen that both Skinner and Smith argue that the ideas of state personality and state sovereignty are products of the application of a classical image of the body politic, either Aristotelian or Ciceronian, to the theoretical apparatus of corporation theory. That state personality is ultimately indebted in some degree to corporation theory is an argument that goes back at least to Otto von Gierke's *Das deutsche Genossenschaftsrecht*, published in four volumes

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[22] Skinner, *Humanism to Hobbes*, 27.

between 1868 and 1913.[23] In this monumental work, Gierke claims that the modern state and the

modern corporation are two species of the same genus-concept of corporation and that the principal

source for this abstract concept can be found in medieval interpretations of the *Corpus Iuris*

Civilis.[24] There is, however, an important qualification in Gierke's work that has been overlooked

in recent years. Since at least the time of Innocent IV (1195-1254), the lawyers imposed a firm

distinction between two juridical modes of association: the *universitas* and the *societas*, or, in

English, the corporation and the partnership. Whereas the former signifies a group with a singular

will of its own and was held by some jurists, as we have seen, to be conceptually distinct from its

members, the latter is the name given to a collective of individuals engaged in a contract and for

their mutual advantage. Thus, while the *universitas* is a legal person capable of representation, the

societas is not.[25] According to Gierke, the problem encountered by medieval and early modern

theorists of the state until the time of Hobbes is that, since the incorporation of a *universitas*

requires sanction from a higher authority, and, before the creation of the state, there is no suitable

higher authority, the formation of the state involves a kind of "self-constitution of a corporation."

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[23] Much, but not all of this work has been translated into English. The first volume, called in English *The Legal and Moral History of German Fellowship*, along with the introductions to the first and third, can be read in English in Otto von Gierke, *Community in Historical Perspective*, trans. Mary Fischer and ed. Antony Black (Cambridge: Cambridge University Press, 1990. Sections of volume 3, originally entitled *The Doctrine of State and Corporation in the Ancient World and the Middle Ages, and its Reception in Germany*, have been published in Otto von Gierke, *Associations and Law: The Classical and Early Christian Stages*, trans. and ed. George Heiman (Toronto: University of Toronto Press, 1977). Another section of volume 3, with an extended and particularly authoritative introduction by the famed English jurist F.W. Maitland can be found in Otto von Gierke, *Political Theories of the Middle Age*, trans. and ed. Frederic William Maitland (Boston: Beacon Press, 1959). For selections of volume 4 see Otto von Gierke, *Natural Law and the Theory of Society*, trans. and ed. Ernest Baker (Cambridge: Cambridge University Press, 1934). Recent discussions of Gierke's thinking by modern scholars include Runciman, *Personality of the State*, 34-63 and Ben Holland, *The Moral Person of the State: Pufendorf, Sovereignty and Composite Polities* (Cambridge: Cambridge University Press, 2017), 182-207.

[24] Gierke, *Community in Historical Perspective*, 249.

[25] Reinhard Zimmermann, *The Law of Obligations: Roman Foundations of the Civilian Tradition* (Cape Town: Juta & Co, 1992), 455.

The inadequacies of the *universitas* to explain the state's formation, then, led theorists to turn to

societas to explain this crucial aspect of it, resulting in an incoherent legal theory:

> Occasionally there may appear [among medieval writers] the notion that the State was an Institution which was founded, as other human institutions (e.g. monasteries or colleges) were founded, by certain definite Founders, either in peaceful wise or by some act of violence; but, in the main, there was a general inclination towards the hypothesis of some original, creative, act of Will of the whole uniting Community. This joint act was compared to the self-constitution of a corporation. But men did not construct for this purpose any legal concept that was specially adapted to the case. The learning of Corporations developed by the lawyers had no such concept to offer, for they also, despite the distinction between *universitas* and *societas*, confused the single act whereby a Community unifies itself [thus becoming a *universitas*], with a mere obligatory contract made among individuals [a *societas*], and they regarded the peculiar unity of the Corporation as something that came to it from without by virtue of concession by the State.[26]

In other words, the conceptual issue at the heart of the formation of the *civitas* that the jurists could

not explain coherently is how a group of individuals, by virtue of entering into a contract of

partnership, can then be said to constitute a kind of corporation, or person with an identity of its

own. Neither the *universitas* nor the *societas*, as understood by the jurists, at least, were capable

of furnishing an explanation for this phenomenon.[27]

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[26] Gierke, *Political Theories of the Middle Age*, 90.

[27] In his essay "On the Character of a Modern European State," Michael Oakeshott makes a similar observation, that "as the equivocal character of a state unfolded itself, the inability of either *societas* or *universitas* to sustain itself as an adequate representation of it, and their incapacity to merge in order to compose a new and more adequate identity, were exposed…A state may perhaps be understood as an unresolved tension between the two irreconcilable dispositions represented by the words *societas* and *universitas*…a *societas cum universitate*." Oakeshott's conclusion from this is that ideas about the state as either a *societas* or a *universitas* "survived as competing dogmas which expressed, not understandings of the character of a state, but dispositions to explore its potentialities in one direction rather than another." See Michael Oakeshott, *On Human Conduct* (Oxford: Oxford University Press, 1975), 200-201. But, as David Runciman has shown, Oakeshott's distinction between a modern version of the state founded on *societas* and one founded on the *universitas* concepts runs into difficulties on the topic of state personality, which is sometimes, most famously in the work of Thomas Hobbes, attributed to states that Oakeshott claims are based on *societas*, and thus supposedly lacking a group personality. See Runciman, *Personality of the State*, 13-16 and 24-43.

In his notes to the just-cited passage, Gierke supplies further evidence of the centrality of *societas* to these accounts of state formation, but it is a specific iteration of *societas*, not derived from the jurists: he asserts that, "of special importance" to this idea of the social contract and its related "self-constitution of a corporation," is the widespread acceptance at this time "of Cicero's definition of the State as a *societas*."[28] Although it is a possibility he does not exploit, Gierke suggests here a place to look for an alternative explanation for how the *civitas* came to be seen as kind of person that avoids the inconsistencies of the juridical explanation, and it is a place where Skinner has recently observed an important connection: the political philosophy of Cicero. But it is a part of that philosophy that has so far been overlooked: Cicero's identification of the *civitas* as a *societas*.

There are a number of works by Cicero, in fact, that address the crucial and theoretically difficult question of the formation of the *civitas* in ways that require much more attention than has hitherto been given by modern scholars. These texts include, but are not limited to, *De inventione*, *Pro Sestio*, and *De officiis*. In a 2010 article, Annabel Brett emphasizes the significance of *De inventione*'s account of state formation to the humanists, and a brief survey of her argument suggests how our historical understanding of the state has changed as a consequence of studying the debts among Renaissance theorists to this text. As we have seen, the idea that human society is maintained by a "fictional person" called the "state" in part rests on the belief that human beings are characterized by anti-social tendencies.[29] Indeed, among the alleged innovations represented in the work of Hobbes is his claim that, in the absence of the sovereign, there can be no united

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[28] Gierke, *Political Theories of the Middle Age*, 187.

[29] Hobbes, *Leviathan*, 119.

body of the people;[30] and it is because human beings are not suited naturally for society that the existence of such a body requires the initial institution of the sovereign, and, by extension, of the person of the state. In her article, Brett demonstrates that within the sixteenth and early-seventeenth century tradition of humanist commentary on Aristotle's *Politics* there emerges a more complex picture of human sociability than has customarily been attributed to the Greek philosopher. She points out that in a passage found in Chapter 2 of *Politics* Book 1, Aristotle makes two assertions that would become the topic of much future discussion by Renaissance commentators: "'there is, therefore, in all by nature an appetite for [political] community; and he who first put one together was the cause of great good.'"[31] The first assertion, she says, suggests that the political community originates naturally, while "the second contradicts this implication with the suggestion that something more was needed, a human architect of the political community." "Moreover," she adds, "we may note that the second assertion also introduced a temporal dimension" and that, as a result, there may be space within Aristotle's account to speak of time before the state.[32] She goes on to argue that the same passage from the *Politics* also furnishes an explanation for what could have motivated the human artifice that led to the transition from pre-political to political life. Aristotle "went on to assert that while man is the best of animals when perfected, removed from law and justice he is the worst, the most savage, of all." He then proceeded "directly to connect justice, the opposite of injustice, with the city." From this, Brett concludes that "these passages suggest that the city is founded not, or not only, upon a natural

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[30] Skinner, *Humanism to Hobbes*, 357.

[31] Brett, "'The Matter, Forme, and Power of a Common-wealth,' 74. The passage in Aristotle can be found in *Politics* 1253a29-31.

[32] Brett, "The Matter, Forme, and Power of a Common-wealth," 75.

inclination to society with others, but upon the need to solve a pervasive human problem of [injustice]."[33]

Brett then offers a number of examples from humanist commentaries on the *Politics* to illustrate that, as she says, "in reading Aristotle this way, I am prompted, precisely, by the commentaries of the late Renaissance."[34] One such example is Pier Vettori's 1576 commentary *De optimo statu civitatis*. Discussing the famous "speech" passage of Book 1, in which Aristotle asserts that it is by means of the faculty of speech that human beings are capable of distinguishing the just from the unjust,[35] Vettori makes the following comments:

> …for in order that mortals might share in these conveniences [*commoda*] and great advantages [*utilitates*], first they built houses; then they founded cities; and there, safe [*tuti*] from all violation of right [*iniuria*], they will to live…Aristotle affirms that the desire for the goods, which he has just stated, first incited men to build houses and cities, and live there together: because, divided and living in remote places, they could not enjoy them; for how, in a dispersed state, could they be of mutual defense [*praesidium*] in avoiding evils, and obtaining the many advantages of life?[36]

As Brett observes, Aristotle in the *Politics* does not use the language of "dispersion" to depict a natural condition of mankind in which human beings live outside of society. This language instead comes from Cicero and, above all, from the preface to Cicero's rhetorical treatise *De inventione*, in which he sets out an account of the formation of the *civitas* as the product of a wise orator convincing "dispersed" men to come together into society for their own benefit.[37] It is in this

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[33] Brett, "The Matter, Forme, and Power of a Common-wealth," 75.

[34] Brett, "The Matter, Forme, and Power of a Common-wealth," 75.

[35] Aristotle, *Politics* 1253a10-18.

[36] Quoted in Brett, "The Matter, Forme, and Power of a Common-wealth," 76.

[37] Brett, "The Matter, Forme, and Power of a Common-wealth," 77.

Ciceronian-Aristotelian mixture of the circumstances surrounding the formation of the *civitas* that Brett finds a precedent for the notion, eventually to be endorsed by Hobbes, that the *civitas* is an entity established artificially and with a view towards stabilizing a naturally unstable human society.

It is on account of the potential of these Ciceronian sources to reframe our historical account of the state that this dissertation will focus on their use by the leading scholars of Cicero's political, philosophical and rhetorical texts in early modern Europe: the Renaissance humanists of the Italian peninsula. It was this group, I will argue, that first re-constructed a Ciceronian picture of the *civitas* in the mid-thirteenth century, before elaborating from it a theory of state sovereignty and state personality. What will emerge from this examination is that the humanists, following Cicero, understood the *civitas* to be a *societas*, but the terms upon which they understood this concept varied from the idea of *societas* now attributed by modern scholars to the jurists. For the humanists, a *societas*, and, by extension, a *civitas*, was indeed understood on the analogy of an abstract person, conceptually distinct from its members, and one that can be brought to life by a representative. This person, they further believed, was instituted for the purpose of stabilizing and preserving human society, which, while natural, was threatened by other, anti-social, forms of natural behavior. As we have seen, Skinner argues that it was through the association of the *civitas* with the *universitas* that political and legal writers acquired a way of thinking about personality that then enabled them to exploit the Ciceronian notion of the *persona civitatis*. I want to argue instead that these writers acquired a distinctive way of thinking about what we have now come to call state personality on account of their classical and specifically Ciceronian allegiances, and not as a consequence of the development of corporation theory.

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This Ciceronian account of the *civitas* would come to be dominant in humanist circles by the end of the *quattrocento*. However, this dissertation will also show that, over time, rival ideas of the state would emerge among the humanists, most notably in the work of Machiavelli. Yet, while his thinking was different in several crucial respects, Machiavelli also agreed with his humanist predecessors that the *stato* – his rendering into Italian of *civitas* – is the name of a distinctive entity, understood on the analogy of a body, and that the maintenance of human social life depends on its institution and continued presence. In other words, what was at issue was not the existence of the state, but its character. This discovery has implications for our understanding of the future trajectory of thinking about the state well past the Renaissance. Indeed, while the notion of the state as a fictional person is certainly more widely embraced by scholars of the contemporary state, it is important to remember that the conception of the state as the name of a distinct person assumed a number of forms in the early modern period, some of which did not think of it on the analogy of a legal fiction at all.

One scholar who has sought to reconstruct one such alternative early modern theory of state personality is Ben Holland, focusing on the German jurist Samuel Pufendorf. In his 2017 book *The Moral Person of the State: Pufendorf, Sovereignty and Composite Bodies*, Holland argues that, while Skinner and others have been quick to see Pufendorf's conception of the state as a "moral person" as merely another way of expressing the person by fiction theory, the two theories are in fact quite different. According to Holland, a "moral person" is a species of "moral entity" which, in Pufendorf's conceptual apparatus, is a "[mode] that reflective beings impose on physical existence so that human social life can be orderly and attractive." Since these kinds of

entities can be extremely diverse, Pufendorf believed it best to understand them on the analogy of physical entities. Holland argues that the defining attribute of the human model on which the moral person is based is that, unlike other physical beings such as animals, human beings have the "capacity to determine their wills for themselves." "Pufendorf's moral person of the state comes into being," then, "when the will of one person is deemed to be the will of all." However, "this is a will that is free in the same manner that the will of the natural person is free."[38] We can therefore distinguish Pufendorf's moral person of the state from the fiction theory on the grounds that whereas the fictional person is an abstraction whose will cannot be distinguished from that of its representative, and indeed collapses into it, Pufendorf's person of the state is the name of a distinct person with a free will of its own that cannot be "absorbed into the person of the sovereign."[39]

Skinner also gestures towards the existence of similar alternatives to the fiction theory of state personality. In *From Humanism to Hobbes*, he observes that at the turn of the twentieth century there emerged a group of English philosophers who "turned to Rousseau and Hegel for help in articulating the claim that the state is the name not merely of a fictional person but of a person with a real will of its own."[40] Included in this group are T.H. Green and Bernard Bosanquet. While Bosanquet acknowledges Hobbes for his recognition that "the state is the name of a distinct person," he denies that this person of the state is "'an empty fiction.'"[41] Instead, he claims that the person of the "state possesses its own substantial will, the contents of which are equivalent to what

[38] Holland, *Moral Person of the State*, 14.

[39] Holland, *Moral Person of the State*, 218-219.

[40] Skinner, *Humanism to Hobbes*, 376.

[41] Skinner, *Humanism to Hobbes*, 376.

we would ourselves will if we were acting with full rationality."[42] Although Skinner's treatment

of this idea focuses on early twentieth English philosophers, he does acknowledge that their ideas

stem in part from early-modern thinking about the state, and from Rousseau's idea of the state as

a *personne morale*, especially.

A full historical account of these alternative ideas about moral personality lies beyond the

scope of this dissertation. I will also not attempt to argue that Machiavelli's *stato* was indeed the

precedent for the respective theories of Pufendorf or Rousseau, although I will make some brief

remarks in the conclusion about the later trajectory of Machiavelli's theory. But I will demonstrate

that over the course of three centuries, the Renaissance humanists of the Italian peninsula

developed two competing images of the state as a kind of body responsible for maintaining human

social life: one emphasizes the necessity of a representative; the other does not.[43]

II.

This dissertation is composed of four chapters. Chapter one focuses on the burgeoning pre-

humanist culture of the Italian city-states and how, through their study of Cicero's *De inventione*

and the commentary tradition surrounding it, the pre-humanists began to articulate a distinctive

conception of the *civitas*. This association, they held, traces its origin to a moment when a city's

residents elect to live according to laws so as to acquire the benefits they believe will follow from

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[42] Skinner, *Humanism to Hobbes*, 376.

[43] For the subject of representation in Machiavelli, see Peter Stacey, "Free and Unfree States in Machiavelli's
Political Philosophy," *Freedom and the Construction of Europe*, eds. Quentin Skinner and Martin Van Gelderen
(Cambridge: Cambridge University Press, 2013), 176-195.

doing so. The source of these laws is natural justice, accessed by means of the natural reason that these authors, following Cicero, believe is shared among human beings. This natural reason provides the foundation upon which the agreement both to associate and the terms of association were reached. I will conclude the chapter by showing that we can see this theory fully elaborated in Brunetto Latini's 1266 *Li Livres dou Tresor*, in which he constructs a highly sophisticated account of the *civitas* as a contractually-bound legal association that is conceptually distinct from the physical city it governs.

This Ciceronian conception of the *civitas* would then receive further elaboration at the hands of the earliest generations of Renaissance humanists, working from the mid-fourteenth to the mid-fifteenth centuries. Beginning with Francesco Petrarca (Petrarch), the Ciceronian culture of the previous century would be transformed into the broader Ciceronian culture of the early Renaissance. Central to this culture was the interest in seeking out previously lost Ciceronian texts: humanists like Petrarch and Poggio Bracciolini travelled to libraries across Europe in a deliberate effort to reconstruct Cicero's views on morality, politics, philosophy and rhetoric, believing them representative of a superior classical civilization. Chapter two of the dissertation demonstrates how, relying on this larger body of Ciceronian material, the humanists of the *quattrocento* articulated an account of state sovereignty and state personality. Not only did they endorse the conception of the *civitas*, articulated by the pre-humanists, as a legal association distinct from the city it governs; they also argued that, by virtue of it being a *societas*, the act of establishing this association has the effect of creating a kind of abstract person. Sovereignty over the community, they held, is lodged in this person and, employing Cicero's famed statement that

the magistrate should "bear the *persona* of the *civitas*," they argued that the magistrate brings it to life by embodying its animating characteristics.

At the heart of Renaissance humanism as a cultural movement was the revival of the culture of Greco-Roman antiquity and, as a result, along with the surge of interest in Cicero came a related interest in other ancient works of political and moral theory. Most consequentially, it was during the mid-fifteenth century that a distinctively humanist interpretation of Aristotle's *Politics* began to emerge. As we have seen, scholars of Renaissance political thought have observed a sometimes uneasy co-existence of Ciceronian themes in the work of the early generations of humanist Aristotelians. This chapter shows how, as in part a consequence of humanists scholars interpreting Aristotle's *koinonia* as *societas*, the Ciceronian theory of the *civitas* as a *societas*, with its implications about state sovereignty and state personality, came to be stamped across their political theory.

Chapter three also shows, however, that, far from being merely incorporated into a dominant Ciceronian outlook, the circulation of Aristotle's *Politics* also introduced important new categories that opened new directions in humanist political thinking. In Book IV of the *Politics*, Aristotle furnishes an account of class psychology, arguing that in every state there can be found a combination of individuals from three different social classes: the poor, the middle class and the wealthy. He then characterizes members of each class as bearing a similar psychological profile consisting of varying degrees of both social and anti-social dispositions that, depending on context, incentivize certain kinds of behavior, some promoting, and some detracting from, the ends of political life. With the example of the Venetian humanist Pietro Barozzi's *De factionibus*

extinguendis of 1489, we will see an early instance of a humanist dispensing with the Ciceronian *civitas*, conceptualizing the state instead as a heterogenous body consisting of individuals with often competing dispositions. And, abandoning justice as the binding agent of the state, Barozzi argues that the integrity of this body in fact depends on the ability of its laws and magistrates to effectively manage the competing instincts of its diverse population.

This alternative account of the state is the subject of the fourth and final chapter. I show here that this way of thinking about the state comes to permeate political discourse in Florence at the end of the fifteenth century and into the early decades of the sixteenth. Most importantly, it comes to shape Machiavelli's portrayal of the state and its formation in his *Discorsi sopra la prima deca di Tito Livio* (c.1515-c.1519). Alongside others in his circle, Machiavelli, I argue, extracts from the recently re-introduced Book 6 of Polybius's *Histories* an account of human psychology which then goes on to structure his account of the state. Instead of entering into political life for the sake of securing the benefits of natural justice, Machiavelli portrays the state as an association of individuals established specifically for defense and as the product of a shared psychological imperative to cooperate for the sake of security. And, instead of the state's preservation depending on the representation of its distinctive personality in the physical person of the magistrate; the integrity of Machiavelli's state requires laws and institutions that, designed with his psychological apparatus in mind, ensures that its citizens see that their interests, and the interests of the collective body of the state of which they are a member, are aligned. I show, in other words, how Machiavelli re-considers the character of the entity responsible for preserving human social life and keeping it at peace.

Chapter One

Ciceronian Rhetoric and the Pre-humanist Civitas

This chapter reconstructs a particular way of thinking about the nature and ends of the *civitas* that emerged in the communes of northern Italy during the thirteenth century.[1] It will argue that this idea developed in the work of the so-called "pre-humanists," who elaborated from both the texts of Cicero and several ancient and medieval commentaries on them.[2] As I will discuss below by way of introduction, while some scholars have indeed acknowledged the Ciceronian provenance of this group's political ideas, our understanding of the conceptual character of the *civitas* portrayed in them is in fact quite incomplete.[3] In the pages that follow, I will first reconstruct the

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[1] For the political and economic context of the city-states of Northern Italy, see Daniel Philip Waley, *The Italian City-Republics* (London: Weidenfeld & Nicolson, 1969); Lauro Martines, *Power and Imagination: City-States in Renaissance Italy* (New York: Knopf, 1979); Philip Jones, *The Italian City-State: From Commune to Signoria* (Oxford: Oxford University Press, 1997); Lorenzo Tanzini, *Il governo delle leggi. Norme e pratiche delle istituzioni a Firenze dalla fine del Duecento all'inizio del Quattrocento* (Florence: Edifir, 2007).

[2] The thesis that humanism emerged from a group of medieval political writers and scholars of rhetoric – the "pre-humanists" – was first advanced by Paul Oskar Kristeller in the mid-twentieth century. See Paul Oskar Kristeller, "Studies on Renaissance Humanism during the Last Twenty Years," in *Studies on the Renaissance* 9 (1962): 7-30. Kristeller's thesis has since been adopted by Quentin Skinner and Maurizio Viroli, among others. See, for example, Skinner, *Visions of Politics*, 1-38 and Viroli, *From Politics to Reason of State: The Acquisition and Transformation of the Language of Politics, 1250 – 1600* (Cambridge: Cambridge University Press, 1992), 12 – 30. For a challenge, see Ronald Witt, *In the Footsteps of the Ancients: The Origins of Humanism from Lovato to Bruni* (Leiden: Brill, 2000) and Virginia Cox, "Ciceronian Rhetoric in Late Medieval Italy," *The Rhetoric of Cicero in its Medieval and Early Renaissance Commentary Tradition*, eds. Virginia Cox and John O. Ward (Leiden: Brill, 2006), 114. I will address this challenge in Chapter two.

[3] Those who have argued for the Ciceronian foundation of this group's political thinking include Quentin Skinner, first in his *Foundations of Modern Political Thought. Vol 1. The Renaissance* (Cambridge: Cambridge University Press, 1978), 23-48. These arguments have since received further elaboration in a number of places. Especially important are Skinner's two essays on Ambrogio Lorenzetti's fresco cycle *Allegory of Good Government*: "Ambrogio Lorenzetti: The Artist as Political Philosopher" *Proceedings of the British Academy* 72 (1987): 1-56 and "Ambrogio Lorenzetti's *Buon governo* Frescoes: Two Old Questions, Two New Answers," *The Journal of the Warburg and Courtauld Institutes* 69 (1999): 1-28. These articles, as well as sections from the *Foundations*, are re-printed in revised form in Skinner, *Visions of Politics*, 10-117. Most recently, the Ciceronian foundations of this group's political thinking has appeared in Skinner, *From Humanism to Hobbes*, 12-44. See also Cary J. Nederman, "Aristotelianism and the Origins of 'Political Science in the Twelfth Century," *Journal of the History of Ideas* 52 (1991): 179-194; Cary J. Nederman, "The Union of Wisdom and Eloquence Before the Renaissance: The Ciceronian Orator in Medieval Thought," *Journal of Medieval History* 18 (1992): 75-95; Viroli, *From Politics to Reason of State*, 12–30; Cary J. Nederman, "Nature, Sin and the Origins of Society: The Ciceronian Tradition in Medieval Political Thought," *Journal of the History of Ideas* 49 (1995): 3-26; and Peter Stacey, *Roman Monarchy and the*

use of *civitas* in Ciceronian texts that were available to this group, before addressing the appearance it assumed in their own work, culminating in Brunetto Latini's *Li Livres dou Tresor* of 1266.

I.

From among this group of pre-humanists, modern scholars have devoted most attention to the Florentine notary Brunetto Latini (1220-1294/95). While most familiar to us for being one of Dante's teachers and for his appearance in the *Divina Commedia*, Latini was known in his own time as a teacher of rhetoric, as the author of several books on philosophy and on virtue and vice, and as the official letter-writer of Florence's communal government.[4] Most importantly for our purposes, however, is that in his *Tresor*, he devotes one of its three books to what were to him the interlocking questions of rhetorical science and government. In Book III chapters 1 to 72 can be found a discussion of key rhetorical doctrines, while chapter 73, entitled "On the government of cities," begins a series of model letters and speeches that correspond to situations involving the

Renaissance Prince (Cambridge: Cambridge University Press, 2007), 75-115. Scholars who have emphasized alternative, and above all Aristotelian, intellectual foundations include Nicolai Rubinstein in several articles from the 1950s through to the 1990s. On the Lorenzetti frescoes, which Rubinstein sees as indebted to the moral and political philosophy of Aristotle, see Rubinstein, "Political Ideas in Sienese Art: The Frescoes by Ambrogio Lorenzetti and Taddeo di Bartolo in the Palazzo Pubblico," *The Journal of the Warburg and Courtauld Institutes* 21 (1958): 179-207; also see, for what is in part a response to Skinner on the question, Rubinstein, "Le Allegorie di Ambrogio Lorenzetti nella Sala della Pace e il pensiero politico del suo tempo," *Rivista Storica Italiana* 109 (1997): 179-207. On other aspects of the period's intellectual context, see Rubinstein, "Some Ideas on Municipal Progress and Decline in the Italy of the Communes," *Fritz Saxl, 1890-1948: A Volume of Memorial Essays*, ed. D.J. Gordon (London: T. Nelson, 1957), 165-183; Rubinstein, "Marsilius of Padua and Italian Political Thought of his Time," *Europe in the Late Middle Ages*, ed. J.H. Hale, J.R.L. Highfield and Beryl Smalley (London: Faber and Faber, 1965), 44-75. Another scholar who emphasizes the Aristotelian foundations of this group's thinking is John Najemy, "Brunetto Latini's 'Politica,'" in *Dante Studies* 112 (1994): 33-51. There is also an extensive literature on the intellectual foundations of pre-humanist rhetoric which I will address in subsequent citations.

[4] This list of attributes comes from the Florentine chronicler Giovanni Villani's summary of Latini's life, contained in his *Nuova Cronica* and written in the early years of the fourteenth century. It is quoted in Najemy, "Brunetto Latini's 'Politica,'" 33.

podestà, or the city's principal magistrate. The *podestà* was an eminent foreigner, elected every year to head the city's executive and enforce the city's laws, and a number of rituals surrounded this annual event. In the *Tresor*, Latini provides models of what to write or to say at these moments, from what to include in the letter sent as an official request to the *podestà*-designate, to the things the *podestà* should say immediately after assuming office. Mixed in with these speeches and letters are also recommendations for how to govern. For example, chapter 93 is entitled "how one should administer the public goods." Many scholars have therefore taken the book to contain within it something resembling a kind of political theory, and they have offered differing accounts of it and its provenance.

When assessing the political ideas of the *Tresor*, historians conventionally emphasize the connections between Latini's writings and his political activities. The mid to late thirteenth century was a time of political upheaval for the city-states of central and northern Italy, with the newly organized middle classes, or *popolo*, successfully asserting their dominance over the feudal nobility in a number of cities, including Florence in 1250. The *popolo* governed Florence for ten years, a period known as the *primo popolo*, and it was on behalf of this government that Latini served as chancellor. When, in 1260, Florence returned to the control of the Ghibelline faction – nobles who were supporters of the Holy Roman Emperor – Latini went into exile in France. In 1267, when this government was replaced by one dominated by members of the anti-Empire Guelf faction, he returned to the city, where he lived the rest of his life participating actively in its political life. Latini's clearly pro-popular and anti-Empire attitudes have led historians to situate his political ideas within a republican political theory then emerging in his time, a theory for which they locate several sources.

Some scholars have emphasized the dependence of this theory on the recently re-introduced political and moral writings of Aristotle. In one example, Nicolai Rubinstein observes that in his *Tresor*, Latini draws on the three types of constitutions identified in Aristotle's *Nicomachean Ethics*, putting forward the government of the "*communes*" as superior to the other two, monarchy and aristocracy. What is remarkable about Latini's views, according to Rubinstein, is that he draws from the categories employed by Aristotle without re-stating Aristotle's conclusion in the *Ethics* that monarchy is the superior form of government.[5] Although Aristotle argues for the superiority of communal government in his *Politics*, it is notable, Rubinstein observes, that Latini states his preference for communal government without access to that text, which was re-introduced at a later date than the *Ethics*, since it suggests that Aristotle was not used as an authority on the best constitution but instead that his work provided a conceptual framework through which Latini could argue that government by the commune is superior to all others.[6] Rubinstein concludes from this that as soon as Aristotle's texts appeared, they were immediately put to work, by Latini and others, in formulating a political theory suitable for advancing the cause of self-rule for the cities of Italy.

John Najemy likewise emphasizes Latini's Aristotelian debts, but, unlike Rubinstein, he does not seek to situate Latini within a broader tradition of medieval and early Renaissance Aristotelian republicanism. Instead, he sees Latini's use of Aristotle as instrumental in the

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[5] Aristotle, *Nicomachean Ethics* VIII.10.

[6] Nicolai Rubinstein, "Marsilius of Padua and Italian Political Thought of his Time," in *The Renaissance: Critical Concepts in Historical Studies. Vol. 3. The Renaissance and the Disciplines*, ed. Robert Black (London: Routledge, 2006), 421.

construction of a particularly Florentine form of guild republicanism. In book II chapter 5 of the *Tresor*, he says, Latini "paraphrases and adapts Aristotle by claiming that it 'It is a natural thing for a man to be a citizen and to live among men and among other artisans.'" What is of interest here, according to Najemy, is Latini's conclusion from this that "citizen and artisan (or guildsman) [are] one and the same, and the force of the equation lies not only in the assertion that artisans are citizens, perhaps even the best citizens, but also in the implication that only artisans can be truly citizens." This, ultimately Aristotelian idea – if not necessarily Aristotle's – Najemy goes on to say, would influence the 1293 Ordinances of Justice, which limited political participation in Florence to members of guilds while disenfranchising the old feudal aristocracy.[7]

Najemy's argument is shaky, however, since in order to make it, he needs to minimize any of the significance that stems from the *Tresor*'s participation in a genre that was popular at the time. Indeed, among the reasons why Latini's popular allegiances are of great consequence for Najemy is because he takes them to mean that these chapters from book III could not have been influenced in any significant way by the work of another thirteenth-century Florentine political writer, Giovanni da Viterbo. Giovanni, Najemy argues, was a Ghibelline and, as a result, it would have been strange for Latini, a Guelf, to endorse a set of views intended to promote the rule of his adversaries.[8] The thesis to which Najemy refers – that these chapters of the *Tresor* are indebted to Giovanni da Viterbo's *De regimine civitatum* (c.1250s)[9] – was first formulated by the Italian

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[7] Najemy, "Brunetto Latini's 'Politica,'" 41.

[8] Najemy, "Brunetto Latini's 'Politica,'" 34-35.

[9] For the dating of this text, see Andrea Zorzi's authoritative entry on Giovanni da Viterbo in the *Dizionario Biografico degli Italiani*. Andrea Zorzi, "Giovanni da Viterbo," *Dizionario Biografico degli Italiani* 56 (2001): 267-272.

historian Gaetano Salvemini at the turn of the twentieth century.[10] Salvemini's argument that the two works share a similar perspective on politics, and the related implication that they belong to the same genre, have been incredibly influential, with Quentin Skinner and Maurizio Viroli among its contemporary exponents. In his 2002 essay "The Rediscovery of Republican Values," Skinner argues that Latini's *Tresor*, as well as Giovanni's *Liber*, belong to "two closely related bodies of texts produced by…pre-humanist commentators": "the numerous treatises on the *ars dictaminis* issued" by thirteenth-century teachers of rhetoric and letter-writing and "treatises on city government designed specifically for the guidance of *podestà* and other magistrates."[11] Once properly situated alongside each other as participants in the same genre, Skinner demonstrates that these authors each employed a set of arguments that "celebrated the virtues of the ancient Roman republic," and that, instead of relying on Aristotle's discussion of the virtues in the *Nicomachean Ethics*, they draw their accounts of these virtues from the works of the Roman authors Sallust and Cicero, "later the favourite political writers of many leading humanists of the *quattrocento*."[12]

In his most recent work on Latini and the other pre-humanists, Skinner turns towards the use these authors made of the central political concept in their Roman source material: the *civitas*. He does so by focusing largely on the advice books they wrote to the magistrates elected to govern it, such as Latini's *Tresor*. In view of these texts, Skinner concludes that the pre-humanists did not regard political authority as a quality that inheres in the person serving as *podestà* but instead as something granted to them by the community at large for the sake of the whole *civitas*. As a

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[10] Gaetano Salvemini, "Il *Liber de regimine civitatum* di Giovanni da Viterbo," *Giornale storico della letteratura italiana* 41 (1903): 284-303.

[11] Skinner, *Visions of Politics*, 18-20.

[12] Skinner, *Visions of Politics*, 18.

result, *podestà* are obliged to govern the *civitas* with justice, obeying its laws at all times. The *podestà* is, in short, an administrator, tasked with the care of an organized group of individuals who have delegated their common business to the supervision of another.[13] Latini's endorsement of this argument can be seen in a series of statements in the *Tresor* that suggest that "the [*civitas*] needs above all to be guarded, cared for, kept in safety and preserved in peace."[14]

My argument in this chapter is that the pre-humanist *civitas* is in fact even more indebted to this Ciceronian material than Skinner's characterization of it above suggests. I will show that out of all the Ciceronian texts with which the pre-humanists engaged, their thinking about the *civitas* was above all shaped by the account of its formation contained in the early chapters of Cicero's rhetorical treatise *De inventione*.[15] As we will see, the allegory laid out in this text that tells how political life began with the arrival of a wise orator who, through a combination of eloquence and reason, persuaded disparate, solitary men of the benefits that would come from living together in *civitates* would come to be frequently invoked by pre-humanist authors when addressing the topic of the *civitas*. This account entered political writing in the early thirteenth century through the incorporation of Ciceronian rhetoric into the medieval *ars dictaminis*, where its reception would be shaped by its study alongside several earlier commentaries on it. From here, it would begin to permeate the period's intellectual life, before reaching its fullest elaboration in Latini's *Tresor*. We will then see that, in this work, Latini constructs out of his Ciceronian material

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[13] Skinner, *Humanism to Hobbes*, 19-26.

[14] Skinner, *Humanism to Hobbes*, 25.

[15] For medieval interpretations of the opening passages of *De inventione* see. Nederman, "Nature, Sin and the Origins of Society," and Nederman, "The Union of Wisdom and Eloquence."

a highly sophisticated account of the *civitas* as a contract-based legal association, conceptually distinct from the physical city or cities it governs.

<center>II.</center>

In recent years, the classicists Malcolm Schofield and Elizabeth Asmis have helped to clearly define the theoretical foundations of the Roman *civitas* in their work on Roman political philosophy, drawing primarily from the work of Cicero. They begin from the definition of the *res publica* – a term Cicero uses interchangeably with *civitas* – in the first book of his *De re publica*, perhaps his most comprehensive work of political philosophy.[16] This is Cicero's definition in full:

> The commonwealth is the concern of a people (*res publica res populi*), but a people (*populus*) is not any group of men assembled in any way, but an assemblage of some size associated (*sociatus*) with one another through agreement on law and community of interest (*iuris consensu et utilitatis communione*).[17]

While Book I of *De re publica*, where this definition can be found, was lost in the period under investigation here, the above passage was preserved by Augustine in Book II Chapter 21 of *De civitate Dei*, ensuring that it was available to medieval and Renaissance readers.[18] Moreover, a selection from Book VI of the *De re publica*, sometimes referred to as the *Somnium Scipionis* in

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[16] Malcolm Schofield, *Saving the City: Philosopher-Kings and Other Classical Paradigms* (London: Routledge, 1999), 180-183.

[17] "…res publica res populi, populus autem non omnis hominum coetus quoquo modo congregatus, sed coetus multitudines iuris consensu et utilitatis sociatus," Cicero, *De re publica* I.39. Translation from Cicero, *On the Commonwealth* and *On the Laws*, ed. by James E.G. Zetzel (Cambridge: Cambridge University Press, 1999), 18.

[18] "For it could not be the 'property of a people' (*res populi*), he said, when a tyrant or a faction took possession of it. Moreover, the people itself would no longer be a people, if it were unjust: for then it would no longer answer to the definition of a people as a multitude united in fellowship (*sociata*) by common agreement as to what is right (*iuris consensu*) and by a community of interest (*utilitatis communione*)." Augustine, *The City of God against the Pagans*, ed. and trans. R.W. Dyson (Cambridge: Cambridge University Press, 2016), 78. This definition is repeated again on 950-952.

<center>28</center>

the medieval and early modern periods, was also available at this time and it contains a similar

definition. In this instance, however, the word employed by Cicero is *civitas*:

> There is nothing that can happen on earth that is more pleasing to that leading god who rules the whole world than those councils and assemblages of men associated through law (*concilia coetusque hominum iure sociati*) which are called states (*civitates*).[19]

From these definitions, we can see that Cicero takes both concepts, *civitas* and *populus*, to signify

a group of individuals associated (*sociatus*) into one body by an agreement (*consensus*) concerning

justice for their common advantage. Such a union requires, firstly, that those who would associate

determine what is advantageous, before agreeing to impose on themselves a standard of justice

intended to secure those ends. Since an act of agreement is central to this process, it follows that

the *civitas* must be the product of deliberate human action, thereby making its formation ultimately

an act of human artifice.

By way of comparison, these definitions are strikingly different from that given by

Aristotle for the *polis*. Near the beginning of Book I of the *Politics*, Aristotle writes that

> When several villages are united in a single complete community, large enough to be nearly or quite self-sufficing, the state (*polis*) comes into existence, originating in the bare needs of life, and continuing in existence for the sake of the good life. And therefore, if the earlier forms of society are natural, so is the state (*polis*), for it is the end of them, and the nature of a thing is its end. For what each thing is when fully developed, we call its nature, whether we are speaking of a man, a horse, or a family. Besides, the final cause and end of a thing is the best, and to be self-suffing is the end and the best.[20]

Unlike Cicero's *civitas*, Aristotle's *polis* comes into being naturally and for the sake of the good

life. It is not deliberately organized for a particular reason, but rather originates organically when

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[19] "…nihil est enim illi principi deo, qui omnem mundum regit, quod quidem in terris fiat, acceptius quam concilia coetusque hominum iure sociati, quae civitates appellantur," Cicero, *De re publica* VI.13. Translation from Cicero, *On the Commonwealth and On the Laws*, 96.

[20] Aristotle, *Politics* 1252b28 – 1253a1.

a community organized to satisfy physical necessities evolves into one organized around the aspiration to live well.[21] What dictates the good life, in turn, is not something that the individuals within that group decide for themselves is good, a possibility the concept of the *civitas* allows, but is rather entailed by their status as human beings. Furthermore, unlike Cicero's definition of the *civitas*, Aristotle's definition makes no mention of laws or justice. As a result, while the citizens of a *polis* might decide to live under laws to facilitate living well, the introduction of laws does not make their grouping a *polis*. Instead, what matters most is if the individuals who dwell within the *polis* interact with each other in a way that promotes living well. An association is a *civitas*, on the other hand, if a group of individuals determines that it is advantageous to live according to a certain standard, before organizing themselves in pursuit of this standard and binding themselves by a law legislated with it in mind. Similarly, if a group already lives together in an advantageous manner and then chooses to secure that way of life by law, then this new association is also a *civitas*. These examples emphasize the centrality of the legal dimension: in either case, it is the fact that a group of individuals agrees to associate under an advantageous legal structure that makes their union a *civitas*. We can therefore best summarize the difference between the two concepts by saying that for theorists of the *civitas* a group of individuals is either a *civitas* or not, depending on whether they are organized for their advantage and by law, while for theorists of the *polis* it can be well-ordered or poorly-ordered based on the degree to which its organization enables those who dwell within it to live well.

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[21] Fred D. Miller, Jr. has argued that there is some nuance in Aristotle's political naturalism, pointing towards the figure of a law-giver who Aristotle says is responsible for giving the *polis* its constitution. It is unclear, however, whether Aristotle wishes to say here that the *polis* requires the artifice of the law-giver to come into being or whether the law-giver merely re-orders the *polis* in such a way that makes it more conducive to living well. See Fred D. Miller, Jr., "Naturalism," *The Cambridge History of Greek and Roman Political Thought*, eds. Christopher Rowe, Malcolm Schofield, Simon Harrison and Melissa Lane (Cambridge: Cambridge University Press, 2000), 321-343.

Elizabeth Asmis' work points in the direction of an important implication of this difference. In the *De re publica*, Cicero makes sure to distinguish the *civitas* from a physical city or town (in Latin, *urbs* or *oppidum*). This distinction highlights the fact that the *civitas* is more than solely a collection of dwelling places; it is a "politically-structured entity" presiding over those dwelling places. This, Asmis observes, is in contrast with the *polis*, which can mean both a collection of dwelling places and a city-state.[22] Cicero's separation of a political entity that governs a town from the town itself suggests that embedded within his concept of the *civitas* is a further distinction between political and other forms of social life, a distinction absent from Aristotle. For Aristotle, as we have seen, a *polis* forms out of earlier forms of social life that have evolved their organizational focus away from the satisfaction of merely physical needs towards attaining the good life, a conclusion that leads Aristotle to claim that the *polis* is the most fully advanced type of society. Political and other forms of social life are, in other words, different points on the same spectrum of social development. By making a clear distinction between a *civitas* and a physical city, on the other hand, Cicero implies that the *civitas* is not merely a more advanced form of *urbs*, but is instead a different kind of association, one established voluntarily in order to secure whatever advantage the residents of an *urbs* or some other kind of social arrangement agreed to pursue.

The status of the *civitas* as an artificially established juridical association, conceptually distinct from the grouping it governs and created by an act of agreement, can best be illustrated by an examination of Ciceronian accounts of its origin. One such account, and, as we will see later

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[22] Elizabeth Asmis, "The State as a Partnership: Cicero's Definition of *Res Publica* in his work *On the State*," *History of Political Thought* 25 (2004), 576–577.

on, one that was to be widely cited during the Renaissance, is contained in the early chapters of Cicero's rhetorical treatise *De inventione*. This work was Cicero's first, believed to have been written in 87 BCE. It begins with a story about the formation of the *civitas*, which Cicero uses as a justification for the study of rhetoric. There was a time, he says, when human beings wandered the world in the manner of beasts, lacking the guidance of reason, religion and law, and relying solely on physical strength for survival. There was no "legitimate marriage" and individuals would procreate without ever having knowledge of which children were their own. After some time, however, arrived a man who became aware of what Cicero describes as the potential latent in the rational minds of human beings, a potential that can only be harnessed through instruction. To capitalize on this potential, this wise man first compelled and then assembled (*compulit...et congregavit*) all the dispersed individuals into one place, where, through his eloquence, he convinced them that it was both reasonable and advantageous to abandon their brute and unorganized way of life, to live together and to obey the principles of justice, which are accessible to them through the natural reason they all share. After having been introduced to justice and convinced to follow it, the originally dispersed human beings from that moment on began to govern themselves "voluntarily" (*voluntate*) according to its principles, marking the origin of the *civitas*.[23]

Cicero later offers a remarkably similar account in *Pro Sestio*, an oration originally delivered in defense of Publius Sestius, a man accused of political violence, in 56 BCE. Arguing that Sestius possessed a right to use violent methods in self-defense, Cicero justifies his claim through an appeal to the origins and aims of political society. That political society is ultimately

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[23] Cicero, *De inventione* I.2. Translations taken from Cicero, *On Invention. The Best Kind of Orator. Topics*, trans. H.M. Hubbell (Cambridge, MA: Harvard University Press, 1949), 3-7.

defined by its legal character is visible at the introduction of his account, where Cicero says that in order to understand why it came into being, one must remember what life was like before people began to live politically, which he describes as a state "before either natural or civil law had been formulated, when men roamed, scattered and dispersed over the country, and had no other possessions than just so much as they had been able either to seize by strength and violence, or keep at the cost of slaughter and wounds."[24]   Here, as in *De inventione*, pre-political life is disorganized, lawless and frequently violent. And, again as in *De inventione*, this is a condition that is only overcome through the intervention of men "eminent for merit and wisdom," who, "having perceived the essential teachableness of human nature," "gathered together into one place those who had been scattered aboard, and brought them from that state of savagery to one of justice and humanity."[25]   From this moment onwards, Cicero continues, the principles of justice having now been revealed, common things are demarcated from private things, "associations" (*conventicula*) of men are formed which are later called "states" (*civitates*), and "cities" (*urbes*) are constructed.[26]   He then concludes with the observation that nothing so clearly marks the boundary between "humane" and "savage" ways of life than justice and violence (*ius atque vis*).[27]

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[24] "…ut quodam tempore homines nondum neque naturali neque civili iure description fusi per agros ac dispersi vagarentur tantumque haberent, quantum manu ac viribus per caedem ac vulnera eut eripere aut retinere potuissent," Cicero, *Pro Sestio* 91. Translation from Cicero, *Pro Sestio. In Vatinium*, (Cambridge, MA: Harvard University Press, 1958), 159.

[25] "Qui igitur primi virtute et consilio praestanti exstiterunt, ii perspecto genere humanae docilitatis atque ingenii dissipatos unum in locum congregarunt eosque ex feritate illa ad iustitiam atque ad mansuetudinem transduxerunt," Cicero, *Pro Sestio* 91. Translation from Cicero, *Pro Sestio*, 159-161.

[26] "…tum conventicula hominum, quae civitates nominatae sunt, tum domicilia coniuncta, quas urbes dicimus…," Cicero, *Pro Sestio* 91-92. Translation from Cicero, *Pro Sestio*, 161.

[27] "…atque inter hanc vitam perpolitam humanitate et illam immanem nihil tam interest quam ius atque vis," Cicero, *Pro Sestio* 92. Translation from Cicero, *Pro Sestio*, 161.

In both of these accounts, Cicero locates the origin of the *civitas* at the moment human beings begin to unite around the principles of justice, which is something that must be demonstrated to them by a wise man or men. Before this moment, while people do indeed interact with one another, there is no naturally manifesting principle of social and political organization. While there is procreation, there is no structured family life; and while there clearly are disputes between individuals, they can only be resolved through violence. The satisfaction of physical needs, the first step in Aristotle's process of social development that culminates in the *polis*, appears to have no bearing on the formation of the *civitas*. Moreover, there is no natural hierarchy. The natural hierarchical distinctions between husband and wife and master and slave familiar to us from the works of Aristotle are completely absent.[28] Instead, Cicero presents us with a picture of the natural condition of mankind that lacks any meaningful distinction beyond variations in physical strength. It is thus the fortuitous insight of the wise men that the crowd could be convinced to unite into one body and live according to justice, that is ultimately responsible for beginning the process that eventually brought about the *civitas*; and there is reason to believe from Cicero's account that political organization would not have happened without them.

Yet not only does the formation of the *civitas* depend on deliberate human action; we can also see that its formation is the result of an agreement among those who would live within it. Indeed, it is absolutely central to Cicero's accounts that the wise men do not impose the principles of justice on the others, but rather demonstrate to them the benefits that could come from following those principles, which they show follow from the application of the natural reason all human beings possess. After having done this, the others then consent "voluntarily," as Cicero says in *De*

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[28] Aristotle, *Politics* 1252a1-1253a1.

inventione, to bind themselves to these principles. Thus, while the wise men are responsible for beginning the process of *civitas* formation by making the others aware of their capacity to reason, its founding agreement is made possible by the fact that each person could see for themselves that it is reasonable, and by extension beneficial, to live according to certain laws.

Towards the conclusion of *De inventione*, Cicero elaborates on this connection between reason and justice, making an argument that will appear in a number of other works that would go on to have a wide circulation in the Renaissance.[29] Mid-way through providing definitions for the constituent parts of the "honorable," Cicero defines justice in this passage as "a habit of mind which gives every man his desert while preserving the common advantage."[30] Its "first principles," he says, "proceed from nature," and this "law of nature is that which is not born of opinion but implanted in us by a kind of innate instinct: it includes religion, duty, gratitude, revenge, reverence and truth." [31] Behind this definition lies a picture of the natural world as itself a juridical entity, ordered by a law that is in turn accessible to human beings through the application of their reason. When that reason is properly exercised, human beings will understand that they are commanded by this law to act in certain ways – to practice religion, to demonstrate gratitude, to pursue truth, to have reverence, etc. – and that if they do these things, then they will act in conformity with the ordering of nature, and in so doing promote their common advantage. When the wise men convince the others to follow the principles of justice, then, they are convincing the others that

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[29] In addition to *De officiis*, which will be discussed below, see, especially, *De legibus* I.22-24.

[30] "Iustitia est habitus animi communi utilitate conservata suam cuique tribuens dignitatem," Cicero, *De inventione* II.160. Translation from Cicero, *On Invention*, 329.

[31] "Eius initium est ab natura profectum…Naturae ius est quod non opinio genuit, sed quaedam in natura vis insevit, ut religionem, pietatem, gratiam, vindicationem, observantiam, veritatem," Cicero, *De inventione* II.160-161. Translation from Cicero, *On Invention*, 329.

they should unite for the purposes of acquiring the benefits that derive from the satisfaction of a set of obligations, set by nature, and to which they all have access through their natural reason.[32]

The figure of the wise man is an essential component of the account of *civitas* formation contained in *De inventione* and *Pro Sestio*, since this man or men is responsible for convincing the others to follow their reason. However, Cicero's writing does offer an alternative account of the formation of the *civitas* that also circulated widely in the medieval and Renaissance periods, in which the figure of the wise man has no role. This account is most clearly expressed in *De officiis*, which was Cicero's most widely read work. Here, on several occasions, Cicero claims that human beings are naturally sociable. In support of this claim, he asserts that the possession of reason distinguishes humans from other animals, and that this allows them to perceive the "order" of the world. This reason, he continues, is a common property shared between men, who are inspired to pursue society with each other, sensing that doing so would be to their mutual benefit.[33] Very much like he did in *De inventione* and *Pro Sestio*, Cicero here also portrays human beings as bearers of reason, which, when properly exercised, inspires them to enter into society by intuiting the benefits that would follow from doing so.

Crucially, though, this natural social instinct is not analogous to a natural political instinct, and, later in *De officiis*, Cicero elaborates on how the separate association of the *civitas* forms

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[32] The relationship between natural reason and the laws of the *civitas* in Cicero's political thought has been the subject of recent surveys by Benjamin Straumann and Jed W. Atkins. See Jed W. Atkins, *Cicero on Politics and the Limits of Reason: The Republic and Laws* (Cambridge: Cambridge University Press, 2013), 155-181 and Benjamin Straumann, *Crisis and Constitutionalism: Roman Political Thought from the Fall of the Republic to the Age of Revolution* (Oxford: Oxford University Press, 2016), 147-191.

[33] Cicero, *De officiis*, I.22.

within this context. In one example, he observes that it is unjust for magistrates to strip a man of his property. In fact, he continues, it was precisely in order to protect private property that human beings formed *civitates* in the first place, and in so doing took a step beyond the point where they were originally led by nature: "For political communities and *civitates* were constituted especially so that men could hold on to what was theirs. It may be true that nature guided men to gather in groups; but it was in the hope of safeguarding their possessions that they sought protection in cities."[34] Earlier in the work, Cicero had defended private property in terms of natural justice. Although he admits that nature does not bequeath private property to individuals, natural justice states that under conditions of long occupancy or conquest property does indeed become private.[35] When joined with Cicero's earlier statement about shared reason bringing men naturally into society with each other, a trajectory from natural society to political society emerges. First, following the lead of their natural reason, human beings seek each other's company for the benefits that come through social interaction. When dwelling together, however, they observe others failing to fulfil the obligations that reason commands and which are necessary to acquire these benefits, thereby undermining their enjoyment. To solve this problem, they agree to take a subsequent step to render these beneficial social practices into law, and, as a result, unite into a *civitas*.

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[34] "Hanc enim ob causam maxime, ut sua tenerentur, res publicae civitatesque constitutae sunt. Nam, etsi duce natura congregabantur homines, tamen spe custodiae rerum suarum urbium praesidia quaerebant," Cicero, *On Duties* II.73. Translation from Cicero, *On Duties*, eds. M.T. Griffin and E.M. Atkins (Cambridge: Cambridge University Press, 1991), 92-93. The Latin verb *teneo* is often used to signify that something is legally binding, meaning that when Cicero here says that *civitates* were established so that men could retain (*teneo*) their property, he implies that this is done specifically through laws.

[35] Cicero, *De officiis* I.20-21.

Despite the absence of a wise man responsible for ordering political society, then, the account of *civitas* formation in *De officiis* reflects a conceptual continuity with the accounts found in *De inventione* and *Pro Sestio*. First, we see human beings engaging with each other in a pre-political environment defined by varying degrees of social interaction, in which the appearance of anti-social behavior causes inconvenience. Then, either through the intervention of a wise man or men, or through the *sui generis* use of reason, they become cognizant of the benefits that follow from living in accordance with certain obligations derived from nature and decide, in light of this inconvenience, that it would be advantageous to impose a law on themselves intended to ensure adherence to those obligations. Finally, by agreeing to subject themselves to this law, the previously dispersed human beings transform into a unity, each becoming members of a single association bound by this law; a kind of association that Cicero labels a *civitas*.

III.

As we have seen, at the center of Cicero's accounts of the formation of the *civitas* is the Stoic idea that nature is a source of order, that all human beings have access to it through their reason, and that the desire to acquire the benefits that follow from conforming to this order provides both the impetus for agreeing to form the *civitas* and offers the common ground upon which an agreement could be reached to create it. We have reconstructed this theory from Ciceronian works that were in circulation by the early years of the thirteenth century, and elements of it can indeed already be seen in political writing from the turn of that century.[36]

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[36] While there is debate over how much of the text of *De inventione* was available prior to the textual discoveries of the *quattrocento*, there is agreement that the two parts of the work discussed above (I.2 and II.160-161) were in circulation since at least the tenth century. Manuscripts containing the *De officiis* were available since at least the ninth century. With respect to *Pro Sestio*, matters are slightly more complex. I address the reception history of

Some traces of the presence of the Ciceronian concept of the *civitas* in the thirteenth century can be found in the prologue to the ancient law books of the city of Siena, the *Caleffo Vecchio*. While many of the laws contained in the book date from as early as the eleventh century, the *Caleffo Vecchio* itself was compiled in 1204 by the city's *podestà* to ensure a more orderly keeping of records. The *podestà* of that year, Bartolomeo Rinaldini dei Maconi, attached a preface to the *Caleffo*, which begins by invoking the "mother of equity," or "reason." Reason, the prologue says, so that human audacity maybe properly restrained, imposed laws and instituted mores. As a corollary of these laws, reason also established the offices of ruling and judging, and rectors and lords were given to the peoples of the world. These rectors are to rule according to justice and in compliance with morals and, guarding individuals and punishing criminals, they preserve justice by maintaining an even-handed approach, "bending neither to the left nor to the right."[37] The preface continues by saying that Rinaldini is such a person and for this reason was unanimously elected by the Sienese people to serve as *podestà* of the *civitas*. Notably, the citizens of Siena

Cicero's orations more specifically in the next chapter; but, for now, suffice to say that a number of manuscripts containing orations had been in circulation since at least the eleventh century, some of which included *Pro Sestio*. A famous codex annotated by Petrarch that contains the *Pro Sestio* – London, British Library, Harley 4927 – was written in the Loire region of France in the twelfth century. It is indeed unclear whether the *Pro Sestio* made its way to Italy at the time, but, as we will see below, the French context is important since it influenced the pre-humanist writers in a number of ways. This information comes from R.H. Rouse, "Cicero," *Texts and Transmissions: A Survey of Latin Classics*, ed. L.D. Reynolds (Oxford: Clarendon Press, 1983), 98-99 for *De inventione*, 130-131 for *De officiis*, and 57-61 for *Pro Sestio*.

[37] "Mater equitatis, ratio, propriis contenta limitibus, mundo leges imposuit et mores instituit, ut legum metu humana coherceatur audacia et tuta sit inter inprobos innocentia et in ipsis inprobis facultas nocendi formidato supplicio refrenetur, morum usitatione, ut, ubi lex deficit vel moderatori non parcit, fraudes exulent, vitia fugiant et abholeantur doli, fides regnet, equitas temperet et simplicitas dominetur et omne quod suspectum et equivoce pictum est, de medio tollatur et sordeat, et solum simplex et rude verum inter opposite determinet et distincguat. Inde surrexit imperandi iudicandique officium et dati sunt gentibus universis rectores et domini, qui legibus regant et obtemperent moribus, et singulis tuentes, insontes reprobosque frangentes, iustitia mediante sua iura conservent…nec a dextris ulta debitum nec a sinistris exorbitant declinando," in *Il Caleffo Vecchio del Comune di Siena*, vol. I, ed. Giovanni Cecchini (Florence: Olschki, 1932), 3.

came from "near and far" to elect Rinaldini, suggesting that the boundaries of the *civitas* he would lead are not necessarily coterminous with those of the brick-and-mortar city of Siena itself.[38] From the idea of reason as a legislator to the *civitas* as an association of those bound by its law, there is reason to believe that this document reflects the existence of some kind of Ciceronian political ideology. As we will see below, this document was written at the beginning of a period during which such a Ciceronian ideology would emerge and continue to gather momentum.

In the early years of the thirteenth century, at the time the *Caleffo* was compiled and its prologue written, the city-states of northern Italy were flourishing under communal governments. With trade expanding, citizens were engaging in more sophisticated commercial transactions, while increasing intercourse between cities led to more diplomatic exchange between them. As a result, this period saw a dramatic increase in document production, from communal registers to diplomatic correspondence. At the same time, legislation was handled within the communes' deliberative councils and, with a more complex society came a wider variety of legal cases to be argued before courts, typically presided over by the city's *podestà*. Rinaldini's goal of gathering into one place an otherwise dispersed number of written laws is very much in keeping with the growing administrative organization of the times. These conditions created an opening for individuals educated in persuasive writing and speech, and during this period a significant number of rhetoric manuals offering instruction in what was called the *ars dictaminis*, or the art of writing letters intended to be read aloud, were written and circulated. The secretaries and notaries of the

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[38] "Qualem Senensis populus Barthalomeum Renaldini fama laudabili predicat et commendat…ab ipso Senensi populo univa voce clamanti electus et confirmatus est rector et potestas civitatis eiusdem in anno domini MCCIII…Quo tempore Senensis civitatis valde coaluit, quoniam in pace et tranquillitate fuit et multi de propinquis et longinquis partibus cucurrerunt et tunc facti sunt cives Senenses," *Il Caleffo Vecchio*, 3.

various Italian city-states almost universally received this type of education,[39] and the highly rhetorical style visible in the *Caleffo*'s prologue suggests that its author – whose duty, in his own words, was to narrate Siena's laws[40] – did so as well.[41]

While the *ars dictaminis* was initially considered a field of study distinct from classical rhetoric, then studied at the universities, by the early thirteenth century the boundaries between the two disciplines had become much more fluid. Before the thirteenth century, citations of the principal rhetoric textbooks of the universities, Cicero's *De inventione* and the pseudo-Ciceronian *Rhetorica ad Herennium*, appear infrequently in dictaminal manuals. Indeed, there is little in Cicero's rhetorical works that directly addresses the topic of letter writing – they are concerned with speaking – and, up until the closing years of the twelfth century, reference to Cicero in the textbooks of the *ars dictaminis* could usually only be found in sections discussing the parts of a letter that share characteristics with the parts of a classical oration, mainly the *exordium*, or introduction.[42] By the early decades of the thirteenth century, however, we begin to see in the textbooks of the *ars dictaminis* and among other works composed by *dictators*, or teachers in the *ars dictaminis*, an increasing engagement with both the works of Cicero and the tradition of

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[39] For the origins and characteristics of rhetorical culture of the Italian city-states see Cox, "Ciceronian Rhetoric," 114-121 and Stephen J. Milner, "Communication, Consensus, and Conflict: Rhetorical Precepts, the *ars concionandi*, and Social Ordering in Late Medieval Italy," *The Rhetoric of Cicero in Its Medieval and Early Renaissance Commentary Tradition*, ed. Virgina Cox and John O. Ward (Leiden: Brill, 2006), 365-402.

[40] "…ego vidi qui sibi scribendi famulabar officio…," *Il Caleffo Vecchio*, 3.

[41] For a discussion of the *Caleffo* in the context of thirteenth-century rhetorical culture, see Enrico Artifoni, "Retorica e Organizzazione del Linguaggio Politico nel Duecento Italiano," *Le Forme della Propoganda Politica nel Due e nel Trecento*, ed. Paolo Cammarosano (Rome: École Française de Rome, 1994), 174-177.

[42] Cox, "Ciceronian Rhetoric," 11 and Gian Carlo Alessio, "The Rhetorica Juvenilia of Cicero and the *ars dictaminis*," in *The Rhetoric of Cicero in Its Medieval and Early Renaissance Commentary Tradition*, ed. Virginia Cox and John O. Ward (Leiden: Brill, 2006), 341-342.

commentary surrounding them. For example, the *dictator* Boncompagno da Signa's *Liber de obsidione Ancone* (1201), a short history of Frederick Barbarossa's 1173 siege of the Italian city of Ancona, begins with a justification for the study of history that references the allegory found at the beginning of *De inventione*. He states here that if people do not study history, and hold on the memories of past events, they risk returning to a state in which they "wander in the manner of beasts," "failing to use their rational soul."[43] Similarly, the *dictator* Bene da Firenze's *Candelabrum*, written in the 1220s, contains numerous citations to Cicero himself, as well as citations of the commentaries on both *De inventione* and *Ad Herennium* of the twelfth-century French philosopher Thierry of Chartres, and frequently on points that do not appear in Cicero's work itself.[44] Virginia Cox has argued that the growing interest in Ciceronian rhetoric at the time is most likely a consequence of a change in the structure of communal governments. Whereas in the twelfth century most communal business took place in a large council of all citizens, called a *parlamento*, by the mid-thirteenth century this business began to be divided between a number of smaller councils. Alongside the number of small communal councils, such as the one that advised the *podestà*, the organized *popolo* also had their own councils. When the *popolo* took control of cities, as it did in Florence in 1250, they retained these councils, with government business further divided between them and the pre-existing communal councils. Unlike the large *parlamento*, which featured speeches followed by votes, these smaller councils were characterized by more adversarial debating between the parties. This change in the rhetorical context from solely exposition to exposition and debate, according to Cox, meant that Ciceronian rhetoric had

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[43] "Viverent siquidem homines tanquam animalia irrationabilia et passim bestiarum more vagarentur nec uterentur aliqua ratione animi, si corporis tantummodo satisfacerent voluptati. Sic ergo esset humana condicio in partem reflexa, ut nichil fieret equabili deliberation, nichil tractaretur lege vel moribus, set quorumlibet potentium voluntas pro iure haberetur, et imbecilles pati solummodo, non agere oporteret," Buoncampagno da Signa, *Liber De Obsidione Ancone*, ed. G.Z. Zimolo (Bologna: N. Zanichelli, 1937), 5-6.

[44] Alessio, "Rhetorical Junvenilia," 354.

something to offer that the traditional *ars dictaminis* at that point could not.[45] Engagement with

Cicero in fact became so widespread among *dictatores* that, by the 1230s, the use of Cicero's

doctrines in dictaminal education had become a matter of some debate, with the aforementioned

Boncompagno harshly criticizing Cicero in a work that is very much a contribution to the study of

rhetoric more generally, his *Rhetorica novissima* of 1235.

It is worth dwelling on Boncompagno's criticism of Cicero, since it points towards the

terms upon which *De inventione* was discussed at the time. Boncompagno begins his work with

a justification for why he believes a new rhetoric is necessary. Among those reasons is that the

rhetorical works of Cicero are "lacking," and this is especially visible in Cicero's account of the

origin of law. Cicero is wrong, Boncompagno says, to argue that the law emerged – and here he

cites *De inventione* directly, but without citation – "from the most honest of causes" and that it

"continued for the most excellent of reasons."[46] Moreover, Cicero also errs in his story of the wise

man, which both falsely states that human beings at one time wandered the earth in the manner of

beasts, and falsely attributes the origin of law to the intervention of a great and wise man. To

Boncompagno, such a tale is a confusion of the proper timing and actions behind the actual origin

of law.[47] In an effort to address this error, he dedicates the first of the *Rhetorica novissima*'s

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[45] Virginia Cox, "Ciceronian Rhetoric in Italy, 1260-1350," *Rhetorica* 17.3 (1999), 259-60.

[46] "…rhetorica compilate per Tulliam Ciceronem iudicio studentium est cassata…Tullius nempe in iuris origine oberravit cum dixit, quod principium erat ex honestissimis causis natum, atque optimis rationibus profectum…," Boncompagno da Signa, *Rhettorica Novissima*, in *Scripta Anecdota Glossatorum*, vol. II, ed. Augusto Gaudentio, (Bologna: PV Olim, 1892), 252. The expression "ex honestissimis causis natum, atque optimis rationibus profectum," comes from *De inventione* I.1, but in Cicero's text they refer to the origin of eloquence, not law.

[47] "[Tullius…oberravit cum…] statim posuit principium fabulosum dicens 'Fuit quoddam tempus in quo passim more bestiarum homines vagabantur', et subiunxit continuo quod fuit quidam vir magnus et sapiens, qui iuris originem adinvenit; et ita sub particulari signo induxit confusionem temporis et actionis," Buoncompagno da Signa, *Rhettorica Novissima*, 252.

thirteen books to this topic. Here, he asserts that there are in fact fourteen different laws in the world, each legislated by different people at different times. The first law is the law of the heavens, followed by the law that operates in paradise. The third law is the natural law, or the same law that, in *De inventione*, is introduced to human beings by the wise man through his successful appeal to their natural reason. According to Boncompagno, it is in fact Adam, the first man, who discovers this law, which remained valid until it is replaced by the fourth law, which was brought down Mt. Sinai by Moses.[48] Implicit in Boncompagno's criticism of Cicero is a rejection of his notion that justice emerged among human beings in an effort to improve human life through cultivating a nobler part of their nature, namely, their reason. Instead, he argues that natural law should be seen as the product of God's dynamic will and implies that it was legislated to correct human error, not promote human goodness. Indeed, Boncompagno's statement that the natural law was originally given to Adam, before being replaced by the Mosaic Law, suggests that he endorses the ultimately Augustinian notion that the appearance of law in the world came as a consequence of post-lapsarian corruption. As a result, the idea of Cicero and his medieval followers that law emerges "for the most honest of causes" and continues "for the most excellent of reasons" cannot possibly be correct.

That Boncompagno singled out *De inventione*'s story of the wise man as the originator of law in his critique of Ciceronian rhetoric suggests that this fable contained an account which was increasingly accepted – at least among those versed in the *ars dictaminis* – of how human beings

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[48] "Quatuordecim fuerunt origins iuris, sicut per evidentia et manifesta exempla ostendam. Prima fuit in celis. Secunda in paradiso deliciarum. Tertius in Adam qui ius reperit natural, et illud ius duravit usque ad quartam originem iuris que fuit in monte Synay, ubi dedit Dominus legem Moysi scriptam duabus tabulis testament," Buoncampagno da Signa, *Rhettorica Novissima*, 253.

came to know justice. Indeed, this interpretation of the fable is clearly visible in the two widely-read commentaries frequently attached to the manuscripts of *De inventione* that circulated at the time, the commentary of Thierry of Chartres and that of the fourth-century Roman philosopher Victorinus. Both commentators interpret the fable as arguing that law emerged as the product of a virtuous human reason, and that this brought about the formation of the *civitas*, a concept that they define in classic Ciceronian fashion.

Thierry of Chartres, in his commentary, summarizes Cicero's fable of the wise man by stating that this man, having perceived a divine and rational soul in man, used eloquence to "bring men together for the purpose of living under law and demonstrated to these assembled men the just way of living."[49] More precisely, he says, this process began when the wise man recognized that latent in the minds of men is a "material" that was at the moment "uncultivated," but that, if appropriately cultivated, would make men virtuous. To "elicit" this material and move it towards acting on its full potential, the wise man reasoned, human beings must be appropriately instructed.[50] His goal, then, was to ensure that human beings act in accordance with their true, rational nature, since many benefits would follow from doing so. Upon reaching this conclusion, he then used eloquence to "compel" the others, who were initially "reluctant." Now that they were "willing," he subsequently "assembled them," at which point he finally "guided them" to an

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[49] "…ille sapiens coepit uti eloquentia et ruditatem depulit et homines ad iure vivendum congregavit et congregatis iura recta vivendi monstravit," Thierry of Chartres, *The Latin Rhetorical Commentaries by Thierry of Chartres,* ed. Karin M. Fredborg (Toronto: Pontifical Institute of Mediaeval Studies, 1988), 61.

[50] "Materiam autem dicit inesse animis hominum, quae materia possibilitas est ipsius animi, ut ex rudi fiat ipse virtuosus aut discretus aut contra. Opportunitatem vero *ad maximas res* appellat ipsius animi facilitate ad maxima facienda, si per doctrinam ipse animus eliciatur, id est ad actum commoveatur. Sunt enim multae materiae ex quibus, etsi non facile, tamen possible est aliquid fieri, quorum utrumque *animis hominum* inerat, unde boni naturaliter, sed meliores per doctrinam effecti," Thierry of Chartres, *Latin Rhetorical Commentaries*, 62.

understanding of what is honest and useful, and therefore just. Thierry then concludes with the observation that this process of first "compelling" the reluctant and then assembling the willing under an understanding of justice intended to promote life in accordance with natural reason is "nothing else than to construct a *civitas*."[51]

Thierry's elaboration on the progression from dispersed crowd to *civitas* closely follows Victorinus' treatment of the same passage in his commentary. Human beings, according to the latter, contain a divine soul and this is their true nature, but this soul lives in a body that is a source of corruption.[52] The wise man, however, recognizes this and, confident that convincing people to follow their true nature will be to their benefit, aspires to bring this divine soul out from "its hiding place" and make it known to the others.[53] Since they were initially "unwilling," he first "compelled" them to listen. Now "willing," he subsequently "assembled" them into a group and instructed them in the principles, or laws, they should follow in order to conform to their true nature. Victorinus then proceeds to label this newly-established assembly a *civitas*, which he defines in full Ciceronian fashion as a "multitude of men assembled for the purpose of living in accordance with law."[54]

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[51] "…idcirco dixit *compulit* quasi invitos, deinde vero *congregavit* quasi iam volentes, *inducens* quasi inductionibus utens ad ostendendum quid utile, quid honestum. Compellere autem et congregare nihil aliud est quam civitatem facere," Thierry of Chartres, *Latin Rhetorical Commentaries*, 62.

[52] "Animam vero esse perfectam, sed inpediri crassitudine corporis, quo minus se talem exserat, quails est per naturam," Victorinus, "Explanationum in Rhetoricam M. Tullii Ciceronis Libri Duo," in *Rhetores Latini Minores*, ed. Karl Felix Halm (Leipzig: B.G. Teubneri, 1863), 160.

[53] "Sed quia natura non aequaliter se per omnes fundit, aliquando unus extitit, qui se bene intellegeret et qui videret esse in hominibus animam illam divinam, quae haberet in se multas utilitates, si tamen posset ab aliquo e latebris quibusdam elicit atque proferri," Victorinus, "Explanationum in Rhetoricam," 160.

[54] "…nunc primo conpelluntur homines, post congregantur, deinde in unam quamque rem inducuntur utilem atque honestam. 'Conpulit' quasi invitorum est, iam volentium 'congregavit.' Sed debemus scire, quid sit conpulit et congregavit, quasi civitatem fecit. Nam, ut supra diximus, civitas est collecta hominum multitudo ad iure vivendum," Victorinus, "Explanationum in Rhetoricam," 162.

In both commentaries we can see detailed exposition of Cicero's account of the formation of the *civitas* through their interpretation of Cicero's fable. Thierry and Victorinus each interpret Cicero as saying that human beings contain within them a divine and rational soul that represents their true, noble nature. They further agree that Cicero believes impediments to the realization of this nature exist within human beings themselves and that in order to realize their potential they must first be convinced that following their rational nature will bring them greater benefits than maintaining themselves in their present, disorganized and lawless condition. In doing so, the wise man successfully "compels" them to willingly "assemble" around a conception of justice intended to promote their true, rational nature. The name of this kind of association, formed artificially and by an act of agreement, is, according to both Thierry and Victorinus, a *civitas*.

By the middle of the thirteenth century, we begin to see contemporary rhetorical writing both embrace and elaborate upon Cicero's concept of the *civitas* as expressed in *De inventione* and interpreted in the commentaries. Among works principally concerned with the study of rhetoric, we can see this most clearly in Latini's *Rettorica* of 1260, his incomplete *volgare* commentary on Cicero's text. In a sign that he interprets the fable of the wise man as an account of the formation of the *civitas*, Latini, at the beginning of his commentary, first translates Cicero's statement that rhetoric helped to build cities (*urbes constitutas*) as "*ad hedifficare cittadi*," before defining *cittade* as "a gathering of men established for the purpose of living in accordance with reason."[55] Notably, Latini's translation removes some of the ambiguity found in Cicero's original. As we saw earlier,

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[55] "Cittade è uno raunamento di gente fatto per vivere a ragione," Brunetto Latini, *Rettorica*, ed. Francesco Maggini, (Florence: La Monnier, 1968), 12-13.

Cicero, in his *De re publica*, distinguished an *urbs*, or a physical brick-and-mortar city, from a *civitas*, and, if this earlier passage of *De inventione* is to be taken literally, it suggests that Cicero wishes to say that the wise man is responsible for convincing men to live in physical cities. It would not, then, be unreasonable to interpret the fable of the wise man as implying that an *urbs* is defined both by its physical walls and by the existence of laws, which, as we know from the *De re publica*, would be an error. By glossing "*urbes*" as "*cittadi*," however, Latini interprets Cicero as offering an account of the formation of the *civitas*, which is a different kind of association from an *urbs*. He elaborates on this in the next passage, where he says that "those who are called citizens of the same *commune* are not done so because they are joined together within the same walls, but because they are joined together to live according to the same reason."[56] Removing the ambiguity found in the text of *De inventione* itself, Latini here makes it clear that he interprets the passage as offering an account of the origin of the *civitas*, because, as he also makes clear, he sees within it an account of the formation of an association bound by adherence to the same "reason," and not one bound by physical walls.[57]

In a further example of his embrace of the earlier commentary tradition, Latini defines a *cittade* as an association organized to live according to "reason" instead of one bound by law. While this may initially appear to be an act of re-definition, it is instead a shift in emphasis that draws attention to Cicero's account of the law's origin. Later in *Rettorica*, Latini tells us what he

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[56] "…onde non sono detti cittadini d'uno medesimo commune perché siano insieme sono accolti dentro ad uno muro, ma quelli che insieme sono acolti a vivere ad un ragione," Latini, *Rettorica*, 13.

[57] The passage from Cicero's *De re publica* that makes the distinction between a *civitas* and an *urbs* was unavailable until the discovery of our current version of the text in the nineteenth century. For Latini to be fully aware of this Ciceronian distinction under these circumstances, then, reflects that it was an implication perceived to clearly follow from the definition of the *civitas* as they understood it, and extractable from other Ciceronian sources.

means by "reason." Commenting on Cicero's description of pre-political life, Latini glosses Cicero's statement that men at this time did not live "according to reason" with a statement implying that he sees reason and justice as analogous: "when [Cicero] says that [primitive men] did not live according to reason, I understand 'reason' to mean 'justice,' which the law books define as the stable and perpetual disposition of the mind to give to each their due."[58] By explicitly linking reason with justice, Latini accepts the Ciceronian view, previously expressed by Thierry and Victorinus, and criticized by Buoncompagno, that the origin of the justice, and by extension the *cittade*, derives from reason.

Having taken from *De inventione* a definition of the *cittade* as a group organized for the purpose of living according to reason, or justice, Latini next offers his interpretation of the process by which the wise man convinced the others to establish one, again drawing heavily from both the commentaries of Thierry and Victorinus. Prior to the formation of *cittadi*, men lived poorly, he says. Seeing this dismayed a "great and wise man," who recognized that men were made of a certain "material," "which is the reason (*ragione*) that man naturally has in him and that enables him to understand and to reflect," and that this enables him to do great things, including improve himself through instruction.[59] As a result, in what is by now a familiar progression, the wise man first "compelled" the others, since they did not wish to come together at first, before he proceeded to "assemble" them, since they were now willing, and finally instruct them that it is in their interest

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[58] "Et là dove dice [Cicero] che non manteneano ragione intend 'ragione' cioè giustizia, della quale dicono i libri della legge che giustizia è perpetua e fermo volontade d'animo che dae a ciascuno sua ragione," Latini, *Rettoricia*, 20.

[59] "Il quell tempo che la gente vivea così malamente, fue un uomo grande per eloquenzia e savio per sapienzia, il quale cognobbe che materia, cioè la ragione che l'uomo ha in sé naturalmente per la quale puote l'uomo intendere e ragionare, e l'acconciamento a fare grandissime cose…e melliorare per comandamenti, cioè per insegnamenti e per leggi e statuti che lli afrenasse," Latini, *Rettorica*, 22.

to establish both "cities" (*ville*) and "states" (*cittadi*).[60] Latini here embraces the notion that the *cittade* is the product of human artifice and agreement, joining the other commentators in emphasizing the centrality of the fact that the wise man made the unwilling willing. But Latini also takes this one step further, adding that the primitive men, after listening to the wise man explain the benefits that would come from following their shared rational nature, created a *cittade* when they chose to exit a condition of "natural liberty" by "voluntarily submitting themselves to lordship," and uniting around "reason and law."[61]

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IV.

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We have seen above that, by the mid thirteenth century, teachers and students of the *ars dictaminis* had extracted Cicero's concept of the *civitas* from their reading of *De inventione* and the commentary tradition surrounding it. We have further seen the presence of this concept reflected in a contemporary pre-humanist commentary as well as in criticism levelled against its premises. To see how pre-humanists put this concept to use at the foundation of their own political thought, however, we must turn to another dictaminal genre that proliferated at this time: advice books written for cities' *podestà*. The debts to Cicero in this literature are well-documented: Quentin Skinner has shown that these advice books, which he identifies as part of a genre that would later

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[60] "Donde questo savio costrinse – e dice i 'costrinse' però che non si voleano raunare – e raunò – e dice 'raunò' poi che elli volloro. Che 'l savio uomo fece tanto per senno e per eloquenzia, mostrando belle ragioni, assegnando utilitade…Et elli insegnava loro le cose utili dicendo: 'State bene insieme, aiuti l'uno l'altro, e sarete sicuri e forti; fate cittadi e ville,'" Latini, *Rettorica*, 22 – 23.

[61] "Et tutto che, dalla prima, a questi che viveano bestialmente paresser gravi amonimenti di vivere a ragione et ad ordine, acciò ch'elli erano liberi e franchi naturalmente e non si voleano mettere a signoraggio, poi, udendo il bel dire del savio uomo e considerando per ragione che larga e libera licenzia di mal fare ritornava in lor grave destruzione et in periglio de l'umana generazione, udiro e miser cura a intendere lui," Latini, *Rettorica*, 23.

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be called "mirror-for-princes," are greatly indebted to a Ciceronian account of the virtues and this is especially apparent when we consider the prominence attached to the virtue of justice in the maintenance of political society.[62] I will show below that, in addition to this debt to Cicero's account of the virtues, we can also discern in them the steady incorporation of the Ciceronian concept of the *civitas* over the first half of the thirteenth century.

Widely regarded as the first of such works is the anonymously-authored *Oculus pastoralis*, believed to have been written in the 1220s. This work begins with a very brief account of the origin of political authority, the ends to which it aims and how it is maintained. Political authority (*potestas*), according to the author, is the creation of God and is "strengthened" by the justice of the ruler, the reverence of the ruled and love between the two. If, the argument goes, a ruler acts with justice and love, and the ruled display reverence and also love, then the *civitas* will experience peace and growth.[63] The centrality of justice is underlined in the subsequent two chapters, each outlining possible speeches an incoming *podestà* could give upon the assumption of office. In the first speech, to be delivered before a city that is at peace, the author, echoing the preface of the *Caleffo Vecchio*, recommends the incoming *podestà* state that he will, without "prejudice" give "to each their due," "neither bending to the right nor to the left," and in so doing protect the peace and tranquillity of the city.[64] In the next speech, to be given by an incoming *podestà* on the

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[62] Skinner, *From Humanism to Hobbes*, 22-25.

[63] "Omnis potestas a Domino Deo est: & illa recortalis, pro qua natura provide ceterea disponens Locorum Regimina protulit, tribus est praecipuis vallata praesidiis, quibus feliciter adjuvatur, iustitia videlicet, reverential, & amore. Iustitia in rectore, reverential in subjectis, amor requiritur in utrisque," *Speeches from the* Oculus Pastoralis, ed. Terence Tunberg (Toronto: Pontifical Institute of Mediaeval Studies, 1990), 95.

[64] "Quam electionem, cum ipsa, sicut moris est, mihi fuit oblate, suscepi animo diligenti, et habeo in firmo proposito mentis meae…portare Regimen mihi commissum non recusato labore…servando iustitiam, cuique fine personarum acceptione tribuendo ius suum, non declinans ad dextram vel sinistram…Vos autem…cum ad Regimen vestrum me

occasion that the city is divided, the author demonstrates how the success of a city is dependent on the peace and tranquillity that is guaranteed by a just ruler, since without that peace, there will be no "growth" for the *civitas* and thus no ability to enjoy the benefits of prosperity and of alliances with other cities.[65] While the emphasis on justice as the bond of the *civitas* and the source of numerous benefits is clearly in line with Ciceronian thinking, reference to the Ciceronian definition of the *civitas* or account of its origin is notably absent in the *Oculus*. Moreover, we hear nothing about the origin of law and the only definition of justice we are given is the classic, and not uniquely Ciceronian, statement that justice is to give to each their due. While there certainly are Ciceronian elements, then, the ideas present in the *De inventione* and drawn out in the commentaries of Thierry and Victorinus, have yet to fully enter this genre.

However, as was also the case with the rhetorical manuals mentioned above, we begin to see a more pronounced set of Ciceronian philosophical assumptions appearing in this genre by the mid-century. A prominent, and highly influential, example of this is Giovanni da Viterbo's *Liber de regimine civitatum*, likely written in the 1250s. In much the same fashion as the author of the *Oculus* before him, Giovanni stresses the cohesive nature of justice and its role in maintaining peace and, by extension, enabling an ascent to greatness and other such benefits for the *civitas*. A good *podestà* is, according to Giovanni, someone who will "give to each their own" and ensure

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liberaliter elegistis…portantes inter vos pacem tranquillam et amorem perfectum," *Speeches from the* Oculus Pastoralis, ed. Terence Tunberg (Toronto: Pontifical Institute of Mediaeval Studies, 1990), 97.

[65] "Et meritò, quia congruit bono Rectori, pacatam et quietam habere, vel efficere non inventam Civitatem, quam regit, suo Regimini commendatam. Pet quietam autem tranquillitatem et pacem ipsius excrescit Civitas populari multitudine confluente, augmentantur divitiae, afferuntur honores, amicitiae circumstantium duplicantur, ut non possit facile ex his proveniens computari profectus," *Speeches from the* Oculus Pastoralis, ed. Terence Tunberg (Toronto: Pontifical Institute of Mediaeval Studies, 1990), 98.

that "the *civitas* is governed according to justice and equity."[66] Justice, he continues, is "not the constitution of our soul but a divine law and the binding agent (*vinculum*) of human society."[67] And, as we also saw in the *Oculus*, when *civitates* are properly governed with justice, then they will find peace, prosperity and growth.[68] Yet, these similarities notwithstanding, Giovanni begins the *Liber* with a dramatically different, and much more Ciceronian, account of the origin of political authority and the *civitas* than the *Oculus*.

Whereas the *Oculus* began with a reference to the divine origin of political authority, Giovanni makes no such claim, stating instead that the *regimen*, or the position of authority occupied by the *podestà*, is solely the governing agent of the *civitas*, tasked with ensuring that the potentially anti-social actions of men within the *civitas* are properly restrained and moderated.[69] Next, again going beyond the *Oculus*, Giovanni then proceeds to define the *civitas* and give an account of its origin. A *civitas*, according to Giovanni, is the source of the liberty and safety of a town's inhabitants and is constituted for their safety. The word *civitas*, he claims, is a syncopated version of the compound *citra vim habitas*, frequently translated as a "dwelling away from

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[66] "Cognitis itaque nominibus eorum, per quos civitates reguntur et gubernantur, videndum est quis et qualis ad hoc regimen sit eligendus 'ut apud eum omnia desideria audiantur,' et ius suum cuilibet reddatur, et regatur civitas in iustitia et equitate," Giovanni da Viterbo, *Liber De Regimine Civitatum*, in *Scripta Anecdota Glossatorum*, vol. III, ed. Gaetano Salvemini (Bologna: Monti, 1901), 220 col. 1.

[67] "Et quidem iustitia non nostri animi constitutio sed est divina lex et vinculum societatis humane," Viterbo, *Liber De Regimine*, 253 col. 2 – 254 col. 1.

[68] "recto itinere incedere, ita quod sit sibi gratum, et nobis sit honor, laus et gloria, et huius civitatis granneça, pax, concordia, exaltation et bonus status, et incrementum amicorum huius communis," Viterbo, *Liber De Regimine*, 231 col. 1.

[69] "Regimen est gubernation quedam, qua civitas gubernator et regitur…est regimen moderatio quedam, qua moderator homo seu deprimitur a malo, sicut equus ab equite freno," Viterbo, *Liber De Regimine*, 218 col. 1.

violence,"[70] and so-called since it "was constituted" in order for each person to be able to properly hold on to what belongs to them and do so free from "solicitations." In support of this claim, Giovanni cites the authority of Cicero and the *De officiis*, in which, as we have seen, Cicero argues that the *civitas* was established by its future citizens in order to protect belongings which natural reason teaches should be considered private. Here, instead of saying no more about the origin of political authority other than that it is a divine creation, Giovanni, drawing explicitly from the works of Cicero, argues that the *civitas* is in fact the product of a human agreement, motivated by the experience of "solicitations" in the pre-political world, and established with a view towards protecting what people intuited through reason to be rightfully their own.[71] Its leadership (*regimen*), in turn, must govern with justice, ensuring that the "weaker" within the *civitas* are "protected" from the "injustice" of the stronger.[72]

Conspicuously absent from Giovanni's account, however, is any reference to the Ciceronian definition of the *civitas* as an association bound by law. It is not until Latini's *Li Livres dou Tresor* of 1266, that we see in this genre the fullest and most explicit appropriation of the Ciceronian *civitas* into a work of contemporary political theory. Latini's *Tresor* repeats variations

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[70] "Civitas autem dicitur civium libertas sive habitantium immunitas, sicut in opido dicitur: eius enim rei causa menia sunt constituta ut sint in auxilium inhabitantibus. Et est sincopatum hoc nomen civitas, et sic supradicta interpretatione fit a tribus sillabis, quas in se continent civitas, scilicet ci et vi et tas; ci idest citra, vi pro vim, tas ideat habitas. Inde civitas, idest citra vim habitas," Viterbo, *Liber De Regimine*, 218 col. 1. For a discussion of this passage within the context of Roman law see Clifford Ando, "A Dwelling Beyond Violence: On the Uses and Disadvantages of History for Contemporary Republicans," *History of Political Thought* 31.2 (2010): 192-193.

[71] "…dico de civitatibus huius seculi, que constitute fuerunt ut quisque sua teneret, et non esset sollicita sue rei cuiusque custodia; unde Tullius: '…Hanc ob causam enim maxime, ut sua tenerent, res publice civitatesque constitute sunt. Nam etsi duce natura congregabantur homines, tamen etiam spe custodie rerum suarum, urbium presidia querebant.' Idem Tullius: 'Id enim est proprium civitatum atque urbium, ut sit libera et non sollicita sue rei cuiusque custodia,'" Viterbo, *Liber De Regimine*, 219 col. 1.

[72] "…quoniam preses civitatis, quia 'potentioribus pares esse non possumus,' tuebitur humiliores viros ne a potentioribus viris afficiantur," Viterbo, *Liber De Regimine*, 218, col. 2.

of the Ciceronian definition of the *civitas* on at least five occasions.[73] One such occasion can be found in Latini's discussion of the virtue of justice in Book II. Here, he draws on the Ciceronian tradition of attributing the beginning of political life to the intervention of wise men to argue that political society forms by an act of agreement in order to enforce justice in the face of anti-social behavior. "At the beginning of the world," he says, "when on earth there was neither king nor emperor," and nobody "had knowledge of justice," men lived like beasts, "each one in their own cave," with neither law nor community. In fact, he continues, men would have happily conserved the "liberty which nature had granted them," and would not have "placed their neck in the yoke of lordship," were it not for the fact that misdeeds were "multiplying," and the "evildoers" were not being punished.[74] At this point, certain "prudent men, through their wisdom, assembled and organized the others to live together, to keep human society and, with it, to establish justice and right." Human society needs justice, he says, since individuals possess lands and other goods which they require that, in the absence of justice, would be vulnerable at the hands of others, causing disorder within the group.[75] Thus, "it appears certain" that justice is the virtue that

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[73] I will quote below from Brunetto Latini, *Li Livres dou Tresor*, ed. Spurgeon Baldwin and Paul Barrette (Tempe, AZ: Arizona Center for Medieval and Renaissance Studies, 2003). The variations on Cicero's definition can be found in Book I chapter 4 (p. 5 of the cited edition), Book II chapters 91 and 108 (p. 250 and p. 269), and Book III chapters 1 and 73 (p. 291 and p. 363).

[74] "…au comencement dou siècle, quant il n'avoient en tere ne roi ne enperiers, ne justice n'estoit coneue, les jens de lors vivoient a loy de best, les uns en une repostaile et les autres en autres, sans loy et sans comunités. Li homes gardassent volontiers la franchise que nature lor avoit done; et nen eussent mis lor col au jog dou servage ce ne fust ce que les males euvres moltiprioient perileusement et li maufetor n'estoient chastié," Latini, *Li Livres dou Tresor*, 250.

[75] "Car en ce que li home habitent ensemble, & li uns a terre gagnable ou autre posssessions de quoi il a besoigne, uns autres por ce en fust comeus por envie & por descorde, se joustice ne fust," Latini, *Li Livres dou Tresor*, 250. That the immediate motivation for establishing laws came in response to threats to belongings could suggest that Augustine is a source for Latini here as well as Cicero. We know from several chapters in book I, especially chapters 11-19, that Latini employs an Augustinian account of the origin of law and then of political authority, in which law is formulated in response to the evil that characterizes human motivations in the aftermath of the Fall and that political authority was established to enforce it. Cicero also offers an account of how aspiring to protect possessions is a motivation for instituting a *civitas* in *De officiis*, as we saw earlier, but Latini's statement here, alongside those earlier chapters, could indicate that he is delicately and purposively combining Augustinian and Ciceronian material. Considering Buoncompagno da Signa's denunciation of Cicero on Augustinian terms in his

"protects human society."[76] The picture of primitive life Latini sketches for his readers here is, like those contained in the works of Cicero, characterized by lawlessness, dispersion, anti-social behavior and, subsequently, instability; a situation, in other words, that would be advantageous to change. And, for Latini, as we have also seen in Cicero, the action that brings about the establishment of the *civitas* is when the others, after having been shown both the principles of justice and the benefits they would derive from following them by a group of wise and prudent men, agree among themselves to exit their natural state – to "place their neck in the yoke of lordship" – and to unite around those principles. Moreover, Latini also treats this event as fortuitous, demonstrating his belief that the formation of political society is ultimately an act of human artifice and will, and not the unfolding of human nature in Aristotelian fashion. Indeed, his heavily conditional language suggests that, in the absence of the inconveniences caused by the anti-social behavior of others, it is possible that the wise men might not have been persuasive, no agreement could have been reached, and political society may not have come into existence at all.

As we have seen, another element considered fundamental to the Ciceronian account of the *civitas* and its formation is the idea that the principles of justice around which the *civitas* should be constructed are those that can be deduced from the exercise of natural reason. Natural reason, according to this argument, is a manifestation of the superiority of human beings to other animals

Rhetorica novissima, such a move by Latini could be a potentially important factor that enabled Ciceronianism to spread in a highly Christian setting. On Augustine and property see D.J. MacQueen, "St Augustine's Concept of Property Ownership," *Recherches Augustiniennes et Patristiques* 8 (1972): 187-229; John M. Rist, *Augustine: Ancient Thought Baptized* (Cambridge: Cambridge University Press, 1994), 203-255; and Peter Garnsey, *Thinking about Property: From Antiquity to the Age of Revolution* (Cambridge: Cambridge University Press, 2007), esp. chaps. 3 and 4.

[76] "Lors furent aucun prodome que par son sens assenblerent et ordenerent les gens a habiter ensamble, et a garder humaine compaignie, et establirent justice et droiture; dont pert il certainement que joustice est celle vertu qui garde humaine compaignie et comunité de vie," Latini, *Li Livres dou Tresor*, 250.

as it provides access to the ordering of nature, knowledge of which is a source of great advantage for human beings. Latini accepts this Ciceronian version of the origin of justice in the *Tresor*. In another account of the formation of political society found at the beginning of Book III, Latini draws his reader's attention to the connection between justice and reason, and the divine provenance of this relationship. After paraphrasing the entirety of *De inventione*'s fable of the wise man, Latini concludes by stating that political society formed when this wise man, through his eloquence, "demonstrated the grandeur of man and the dignity of his reason," and, first "compelling" and then "assembling" the others into one place, convinced them to agree to live according to reason and justice. This made the wise man, Latini adds, like a second God, who, by introducing "the rules of human community," "restored the world" to its proper place.[77] By describing the wise man as a "second God," and his actions as "restorative," Latini pointedly evokes the Ciceronian position, criticized earlier by Boncompagno, that the possession of natural reason places human beings in a unique and favorable relationship with God and that, by extension, the origin of justice in the world can be traced to human reason.

Finally, Latini also incorporates into the *Tresor* the Ciceronian distinction between a physical city and the *cite*, or "state." He does this at a later point in Book III, where he gives yet another account of the formation of political society. Here, he dispenses with the figures of the wise man, and offers an account on terms similar to what we have seen in *De officiis*. When, at the beginning of the world, he says, the population of human beings began to grow, theft and the

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[77] "Tuilles dit que al comencement que li home vivoient a guise de bestes, sans proper maison et sans conoisance de Dieu parmi les bois et parmi les repostailles chanpestres, si que nus ne gardoit mariages, nu ne conosoit pere ne fils. Si fu un sages homes parlans que tant conseilla les autres et tant lor mostra la grandor de l'ome et la degnité de la raison et la descression que il les retrait de savaugines et les aombra a habiter en un luec et a garder raison et justice. Et ensi par la bone parleure qui en lui estoit aconpaigné au sens cist home fu ausi come un segont Dieu, qui estora le monde par l'ordre de l'umaine compaignie," Latini, *Li Livres dou Tresor*, 292.

involuntary subjugation of some to others became commonplace. It was absolutely necessary, then, under these conditions, that to live under "justice," they needed to "flee from the violence of evil-doers" and dwell together in one place and under one "order."[78] Once in this place, they began to build homes, to establish cities (*villes*) and fortresses, and to enclose them within walls.[79] At a later point, presumably after the experience of further insecurity, they then sought to the "establish" the practices that had developed within this environment by rendering them into laws, and it is at this moment that they formed a *cité*, since, as "Cicero says," "the *cité* is a group of people assembled to live in one place and under one law."[80] Here, instead of a wise man or a group of wise men convincing the others to bind themselves by law, Latini lays out a multiple step process behind the formation of the *cité*. In the beginning, human beings live a dispersed life, but one that, as we have become accustomed to seeing, is characterized by anti-social behavior. Seeking refuge from this kind of life, they then agree to dwell together and follow certain practices in the interest of "justice," which they presumably can access through the application of their reason. It is at this point that they form communities that Latini calls *villes*, or physical cities, which they "enclose with walls." Yet life within these *villes* is initially unstable, implying that despite some semblance of order in the form of customs, anti-social behavior remains a problem. In response to this disorder, the residents of the *ville* then seek to "establish" these customs by rendering them into

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[78] "…des lors que jens comencerent primierement a croistre et a multiplier et ke li pechié dou premier home s'aracina sor terre sur son lignage, et que li siècle enpira durement, si que li uns covotoit les choses son voisin, li autres por lor orgueil sosmetoient les plus foibles au juoc dou servage, il convient a fine force que cil qui voloient vivre de son droit et eschiver la force des maufetors se tornassent ensenble en un luec et en un ordre," Latini, *Li Livres dou Tresor*, 363.

[79] "Des lor comencerent a fonder maison, et villes fermer et forteresse, et clore le de murs et de fosses," Latini, *Li Livres dou Tresor*, 363.

[80] "Et de lors comencerent a establir ses costumes et sa loi e les droit, qui estoient comuns por trestut li borgiois de la ville. Por ce dit Tuilles que cites est uns asenblement de jens a abiter en un luec et vivre a une loy," Latini, *Li Livres dou Tresor*, 363.

laws and it at this moment, the moment the city-dwellers begin to live "according to one law," that the *cité* comes into existence. When this definition is situated within the context of the trajectory he has just outlined, we can see that Latini introduces here the same Ciceronian distinction between city and state he previously demonstrated knowledge of in his *Rettorica*. The first form of community, the *ville*, was created to provide refuge, with the city's walls as its boundaries. The agreement establishing the *cité*, on the other hand, was an agreement reached to bind the residents of the *ville* under a law for the purposes of regulating their already existing lives within it. In other words, when they create the *cité*, the residents of the *ville* did not supersede their original form of organization but create another association tasked with ensuring its stability. While in this case there is an overlap between membership of the *ville* and that of the *cité*, the trajectory of their respective origins indicates that Latini wishes to distinguish here two separate principles of organization for two separate communities, one bound physically by the walls of the refuge of the *ville* and one bound abstractly, by the laws of the *cité*.

In the *Tresor*, Latini draws heavily from the Ciceronian materials available to him at the time to sketch his own, highly Ciceronian, picture of the *civitas* and its formation. Later in the *Tresor*, Latini elaborates on the nature of this particular kind of association by likening it to a human body. In a chapter addressing what kind of man should be elected *podestà*, Latini states that the *podestà* is like the "head" of the citizens (*citiens*) and, in much the same manner as a human body desires a healthy head, since when a head is sick the parts of the body will be sick as well, so the body of the *cité* should seek a head who will lead it in accordance with right and

justice.[81] Considering, as we have seen, that the formation of the *cité* is deliberate, and not the

result of a natural process of development, Latini encourages us to think of the creation of the *cité*

as akin to the construction of an artificial body. Latini then observes that, since justice is

responsible for the birth and the maintenance of this body, and the absence of justice will lead to

its sickness and possible death, we should further think of the *cité* as an artificial body that can

only be animated by the presence of justice. As we will see in the next chapter, Latini's portrayal

of the association of the state as an artificial body whose life depends on the presence of justice

and constructed to govern a physical city, or even multiple cities, for its benefit, will be endorsed

by humanists in the fourteenth and fifteenth centuries.

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[81] "Et por ce que li sire et autresi chome li chief des citeins, et que tos homes desirent a avoir saine teste, por ce que quant li chief est desaités, tos le menbres sont maladies; et por ce doivent il sor totes choses studier que il aient tel governeor qui les conduie a bone fin selonc droit et selonc justice," Latini, *Li Livres dou Tresor*, 364.

Chapter Two

The Civitas *in Humanist Political Thought from Petrarch to Bruni*

In the previous chapter we saw how the pre-humanist scholars drew from the allegory contained the early passages of Cicero's *De inventione* a conception of the *civitas* as an artificially-established association bound by law and created for mutual benefit. Natural reason is the source of this law, and the conformity with the natural order entailed by obeying natural reason is the cause of these benefits. We have further seen how they conceived of this association as a kind of body that can only be animated by the presence of law. In this chapter, we will see how, over the course of the next century and a half, humanist political writers not only adopted the account of the *civitas* originally articulated by their pre-humanist predecessors, but also transformed it. In their work, the body of the *civitas* would become the person of the *civitas* and it was to this person that they attributed sovereign power.

Scholarship on the history of state personality has largely overlooked the contribution of the humanists to the development of this concept. Instead, attention has primarily been given to medieval legal writers and to their concept of a *universitas*.[1] A *universitas*, or a corporation, is a purely legal construct that allows objects such as buildings or, alternatively, groups of individuals, to acquire a unity and an identity distinct from their members. With this separate identity, they

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[1] As we saw in the introduction, going back to Otto von Gierke's *Das deutsche Genossenschaftsrecht*, published in four volumes between 1868 and 1913, historians of state personality have argued that this idea has origins in medieval corporation theory and especially the legal concept of *universitas*. On this account, Hobbes's intervention in the mid-seventeenth century saw the creation of an alternative basis for a theory of state personality that, while sharing many features of a *universitas*, was not, strictly speaking, a *universitas*. See Runciman, *Personality of the State*, 13-16 and 24-43. There is much about the classical origins of the *universitas* that is not yet understood, and corporation theory only became central to medieval juridical thinking in the thirteenth century. For a recent account of state personality in medieval jurisprudential thought see Skinner, *Humanism to Hobbes*, 26-35.

can participate in legal proceedings, own property and have legal rights as if they were individual persons. It follows from this that if, for example, we say that a corporation owns property, we mean that the owner of that property is the legal fiction of the corporation itself, understood as an entity distinct from the real individuals who are its members. But as legal fictions, or *personae fictae*, *universitates* can act in the physical world only by means of a representative or agent, and for this reason jurists refer to them as *personae representatae* or represented persons. Some medieval civil lawyers, as Quentin Skinner has shown, considered the *civitas* to be a form of *universitas*, enabling them to attribute to the *civitas* a personality of its own and to conceive of its magistrates as representatives of the *persona civitatis* itself, and not of the individuals who compose it.[2]

The explicit portrayal of the *civitas* as a *universitas* is conspicuously absent from humanist political writing, and this may be among the reasons why historians of state personality have overlooked their contribution. However, as I will show below, the *universitas* was not the only concept available to humanist political writers through which they could elaborate a theory of state personality: the definition of the *civitas* and the account of its formation they took from their Roman source material could themselves serve as a foundation for such a theory. I will further show that this conceptual foundation also enabled them to conceive of the state as itself a sovereign entity. The formation of a *universitas* requires that it be recognized as incorporated by a higher power, and this poses a challenge for the conceptualization of a *civitas* that is simultaneously a *universitas* and sovereign.[3] Some jurists, most notably Baldus, did however find ways around this

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[2] Skinner, *From Humanism to Hobbes*, 29-35.

[3] Canning, "The Corporation in the Political Thought of the Italian Jurists," 15-17.

problem.[4] But, as we will see, the account of the personality of the *civitas* put forward by the humanists does not share this challenge, enabling them to envision it as an artificial person and to locate sovereignty within the artificial person itself.

The increasingly complex understanding of the *civitas* as an association developed by the humanists would eventually outstrip the account articulated by Latini and the other pre-humanist writers. As a result, the claim that humanist political thought developed out of the thinking of these writers is not without controversy and, before proceeding, I would like to briefly address it. It is uncontroversial to say that eloquence was prized among the humanists, and that rhetorical education was central to the humanist curriculum, but some historians argue nevertheless that we must distinguish the ideal of eloquence as articulated by Petrarch and his followers from the rhetorical ideal of the pre-humanist writers we have discussed. Dictaminal education, these historians emphasize, was concerned primarily with the cultivation of the technical skills necessary for participation in the councils, assemblies and courtrooms characteristic of communal life. Although they found Ciceronian rhetoric suitable for this purpose, they aimed to modernize its doctrines.[5] The humanists, on the other hand, took a classicizing approach to eloquence, and their pursuit of it was situated within a broader program of classical education that aimed to restore what they perceived to be the more virtuous culture of Greco-Roman antiquity.[6] Eloquence for

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[4] The jurist Baldus, Canning has shown, worked around this problem by arguing that the *civitas* is a corporation unlike others, and acquires its status as a *universitas* from the *ius gentium*. See Canning, "The Corporation in the Political Thought of the Italian Jurists," 22.

[5] See Witt, *Footsteps of the Ancients* and Virginia Cox, "Ciceronian Rhetoric in Late Medieval Italy," 114.

[6] A recent study that places moral improvement at the heart of the *studia humanitatis* more generally and the humanists' political thought in particular is James Hankins, *Virtue Politics: Soulcraft and Statecraft in Renaissance Italy*, (Cambridge, MA: Belknap Press, 2019), especially 1-30.

them is not merely a technical skill, but a character trait acquired through the joining of good style with virtue. But while it is indeed true that humanism possesses a greater set of concerns than the rhetorical culture of the *dictatores*, there are nevertheless several reasons to believe that their thinking about the *civitas* belongs to the same tradition.

First, the humanists continued to model their idealized image of the orator on the figure in *De inventione*'s opening passages, suggesting that the study of *De inventione*, and of this passage in particular, remained as central to the humanist curriculum as it did to the *dictatores*. For example, in a well-known letter addressed to his friend Tommaso da Messina, believed to have been written in 1333, Petrarch cites *De inventione* in support of his arguments about the nature of eloquence. Eloquence, he says, is not merely ornate speech; it requires, in addition, a "well-ordered mind." Such a mind, even when lacking the "ornaments of the art of oratory," will speak with more eloquence than a mind in disarray. To be an eloquent man, then, one must also be a wise man, and wisdom's effect on speech is the reason why true eloquence "advances human life." Petrarch refers Tommaso at this point to the introduction of *De inventione*, stating that he does not have to go into great detail about how this passage supports his claims, since "it is very well known."[7]

Not only did the humanists continue to cite the early passages of *De inventione*, they also offered interpretations of it on terms reminiscent of their predecessors. We saw in the previous chapter that pre-humanist *dictatores* understood the orator's project in *De inventione* to be a

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[7] Francesco Petrarca, *Le Familiari. Vol. 1*, ed. Vittorio Rossi (Florence: Sansoni, 1933), 45-48. English translation found in Wayne A. Rebhorn, *Renaissance Debates on Rhetoric* (Ithaca and London: Cornell University Press, 2000), 14-17.

fundamentally restorative one, and that true eloquence, when combined with wisdom, will guide

individuals towards their true, noble, nature. The Florentine humanist Coluccio Salutati would

repeat these sentiments in a letter written in 1374. He writes here that joined with reason (*ratio*)

is the ability to be eloquent (*oratio*), since it is only through eloquence that man "might be able to

awaken by means of the fire of mutual love the reason of his fellows, when that reason has been

lulled to sleep by perverted moral behavior." Thus, he concludes, "whatever [of that natural reason

and virtue] one man might lack by nature or have ruined through his wicked habits, the eloquence

of his fellow man," like the orator in Cicero's fable, "could build up" and, echoing the pre-

humanist interpretation of the passage, "restore" to their true, nobler nature.[8]

Finally, the humanists also appropriated *De inventione*'s account of the formation of the

civitas.[9] To give just one example, in the opening lecture to his series on Cicero's *De officiis* given

at Verona in 1422, the humanist educator Guarino Veronese claims that rhetoric is mute "unless it

derives its subject matter from [moral] philosophy," and that "it was this very philosophy that once

upon a time brought men from their wild life into this gentle and domesticated condition and gave

them the laws that enabled those assembled together to become a civil society."[10] Here Guarino

seeks to justify the study of moral philosophy by emphasizing both its place in the cultivation of

true eloquence and its foundational role, alongside eloquence, in the formation of the *civitas*,

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[8] Coluccio Salutati, *Epistolario. Vol. 1*, ed. Francesco Novati (Rome, 1891), 179-183. English translation in Rebhorn, *Renaissance Debates*, 19-20.

[9] Lorenzo Ridolfi (1362-1443), a Florentine and a member of Salutati's humanist circle, wrote a detailed commentary on solely the opening passages of *De inventione*. See Lorenzo Ridolfi, "Lectiones in Marci Tullii Ciceronis," Florence, Biblioteca Nazionale Centrale, Fondo Panciatichiano 147, 23r-32v.

[10] Quoted in Anthony Grafton and Lise Jardine, "Humanism and the School of Guarino: A Problem of Evaluation," *Past & Present* 86 (August 1982), 53-54.

clearly embracing the main premises of *De inventione*'s allegory. That Guarino's brief treatment of *civitas* formation does not follow the wording in *De inventione*, but instead Cicero's *Tusculan Disputations* V.5, is only further evidence that humanists embraced the principles behind the former's account and were not merely attracted to its illustration of eloquence. Indeed, in his late fifteenth-century commentary on the *Tusculan Disputations*, the humanist Filippo Beroaldi (1453-1505) would link this passage to Cicero's treatment of the formation of the *civitas* in *De inventione* and *Pro Sestio*, suggesting that the humanists believed there to be a distinctively Ciceronian account of its formation.[11] The centrality of *De inventione* in humanist education, and the humanist endorsement of its account of the *civitas*' formation, suggests that, far from arguing that the broader concerns of humanism should dissuade us from linking their political thought to the *dictatores*, we should instead see it as a possible explanation for the more systematic and complex elaboration the concept of the *civitas* received in humanist political writing.

I.

In an oration given at the city of Novara in 1358, Petrarch offers a definition of the *civitas* taken directly from the works of Cicero. Petrarch, who was then employed at the court of Galeazzo Visconti in Milan, gave the oration on the occasion of the city's return to Visconti family rule after a rebellion. Demonstrating some continuity with the rhetorical culture of the previous century, he gave the speech in the city's cathedral in the fashion of a *concio populi seu arengo*, the principal

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[11] Filippo Beroaldi, *Commentarii Quaestionum Tusculanarum* (Venice, 1509), clxxxvii. The allusions to *De inventione* in Cicero's original are highly suggestive and can easily be used to support the claim that *De inventione*'s allegory is one example of a general Ciceronian account of state formation: "O vitae philosophia dux, o virtutis indagatrix expultrixque vitiorum! Quid non modo nos, sed omnino vita hominum sine te esse potuisset? Tu urbes peperisti, tu dissipatos homines in societatem vitae convocasti, tu eos inter se primo domiciliis, tu inventrix legum, tu magistra morum et disciplinae fuisti."

council of the communal era in which citizens would give speeches, or '*arengna*.'[12] Instead of

punishing the citizens for the rebellion, Galeazzo decided that he would forgive them, condemning

only the rebellion's leaders. Petrarch's '*arengna*,' as it is labelled in the manuscript, relays this

message to the assembled citizens, holding it up as an example of why they should be content to

live under Galeazzo's lordship.

Petrarch begins the oration with an adaptation of a quote from Psalm 73: "*convertetur*

populus meus hic," or "my people will be returning here." [13] He then proceeds to define each term

in detail, making the point that the *civitas* of Novara has finally returned to the person to whom it

belongs: Galeazzo Visconti. A *populus*, he says, is a grouping of men, but not every group of men

is a *populus*.[14] The multitude (*multitudo*) of pirates that once ravaged the ancient Mediterranean,

attacking sea-faring merchants, was not a *populus*. Neither was the band (*manus*) of slaves that

had once conquered ancient Sicily and parts of Italy. Even the groups (*cetus*) of *condottieri*, or

armed mercenaries, who ravage Italy in his own time, are not *populi*.[15] While the vulgar may call

groupings such as these societies (*societates*), they are mistaken. How could they be when even a

group of thousands and thousands of men united in pursuit of some end, would also not be a

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[12] Conrad H. Rawski, "Petrarch's Oration in Novara: A Critical Interpretation of Vienna, Oesterreichische Nationalbibliothek, MS Pal. 4498, fols. 98r-104v," *The Journal of Medieval Latin* 9 (1999), 148n4.

[13] In my discussion of this oration, I will use the following edition: *Francesco Petrarca a Novara e la sua aringa ai Novaresi*, ed. Carlo Negroni (Novara: Miglo, 1876), 17-38.

[14] "Nec est dubium, populum esse hominum coetum. Nunquid vero omnis hominum coetus est populus? Absit," *Petrarca a Novara*, 18-19.

[15] "Fuit olim piratarum innumerabilis moltitudo, quae maria cuncta pervaserat, non mercatoribus modo, neque peregrinis, sed ipsis romanis exercitibus classibusque terribilis. Fuit fugitiuoum manus immensa servorum, quae et Siciliam vastaret, et Italiae partem occuparet, urbemque ipsam romanam non vereretur invader. Sed omissis quae historiae famaeque credidimus, ipsi nuper oculis nostris aspeximus, per Italiam praecipue, coetus ingentes hominum armatorum, late cuncta vastantes; quod ut possent, non illorum ius, sed invidia et discordia nostra fecit," *Petrarca a Novara*, 19.

populus? In what way, Petrarch asks, could it possibly be a *societas*? Instead, such a group would

be a collection – a hostile crowd – of bandits.[16] A *populus*, according to Cicero and Augustine, is

a term reserved exclusively for a group held together by a bond of law and justice.[17] More

precisely, they say, it is a group of men associated (*sociatum*) by an agreement on law and for their

common advantage.[18] And, as Cicero says in Book VI of *De re publica*, there is nothing more

pleasing to God than the assemblies and councils of men associated (*sociati*) by law, which are

called *civitates*.[19] Indeed, "all things come to no *civitas* or people (*populus*)" except one that freely

and at all times – except when forced by necessity – devotes itself to "common utility" and "legal

equity."[20]

What both a *populus* and a *civitas* have in common, and what distinguishes them from the

criminal enterprises of pirates, slaves, and *condottieri*, is that they are *societates*. Although often

treated as synonymous with any kind of organized group – as we have seen Petrarch lament in this

passage – a *societas* is in fact a particular form of association, one best translated into English as

"partnership."   Sometimes also called *consortium*, a *societas* under Roman law is a legal

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[16]"Has vulgo magna societates vocant. Sed an ideo populus dici potest? Minime: etiam si mille hominum ad hunc finem coeant et convenient in unum, adhuc populus non erit. Quid ergo erit societas? Erit collation, erit turba furum ac praedonum," *Petrarca a Novara*, 19.

[17] "Populus non est, nisi quem iuris et iustitiae nodus tenet. Quod et Marco Tullio III reipublicae diffinitum est, et Augustinus in sua republica libro II de Civitate Dei meminit," *Petrarca a Novara*, 19.

[18] "Voluit enim populum esse, non omnem coetum multitudinis, sed coetum iuris consensus et utilitatis communione sociatum," *Petrarca a Novara*, 19-20.

[19] "Unde idem Cicero, VI reipublicae: 'nihil est enim,' inquit, 'principi illi Deo, qui communem hunc mundum regit, quod fiat in terries acceptius, quam concilia, coetusque hominum iure sociati, quae civitates appellantur,'" *Petrarca a Novara*, 20.

[20] "Quae omnia nulli civitate aut populo magis conveniunt, quam huic qui libenter omni tempore, nisi necessitate aliqua coactus, et communi utilitati studet et legibus aequis," *Petrarca a Novara*, 20-21.

relationship entered into between partners who contribute resources towards a common endeavor for the benefit of all partners.[21] Obligations, as well as profits related to this common endeavor are distributed according to the terms of an agreement between the partners, making consent foundational to such a relationship. Sometimes, the terms dictating each partner's obligations and share of profit could be written out in the form of a contract, which then regulates the partnership, but such contracts are not strictly necessary. When there is no contract, it is implicit that the partnership will be regulated according to the principles of natural reason and the *ius gentium*. With a contract or without, it is nevertheless understood that an agreement underpins the partnership and this agreement marks its creation. Provided that the agreement rests on terms that are considered fair, it is acceptable for the distribution of profit and loss to not be fully equal, but this inequality is nevertheless limited by the principle that under no conditions is it acceptable to enter into a partnership in which a partner receives no portion of the profit.[22] This kind of arrangement was contrary to the ends of a partnership, namely that it must be for the benefit of each partner. Finally, any kind of partnership-like enterprise undertaken for wicked or fraudulent motives, such as the pirates alluded to by Petrarch, cannot possibly be fair and thus cannot possibly be a partnership.

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[21] This summary draws heavily from the treatment of *societas* in Zimmermann, *Law of Obligations*, 451-476.

[22] Whether or not profits and losses had to be evenly distributed was the topic of an important and widely discussed debate at Rome in the late second century BCE between Quintus Scaevola and Servius Sulpicius, which is relayed by the jurist Gaius. While Quintus argued that fairness demanded an even distribution, Sulpicius, whose opinion, according to Gaius, prevailed, held that it is possible for the value of the contributions of individual partners to vary to such an extent that an arrangement in which some members absorb all loses and others none could be justified. But while the distribution does not have to be even, it still had to be fair. Despite their differences, then, the two men agreed that a partnership requires the distribution of profits and loss be set according to a measure that is widely recognized as fair. For a discussion of this debate, and of the prevalence of the idea that the *res publica* is a kind of *societas* during Cicero's lifetime, see Valentina Arena, *Libertas and the Practice of Politics in the Late Roman Republic* (Cambridge: Cambridge University Press, 2012), 162-168.

Partnership-like arrangements were common in Petrarch's Italy, including so-called *consorteria*, which involved members of an extended family sharing all property in common for the sake of preserving a common patrimony.[23] This arrangement appears to be descended from a Roman tradition, practiced since the archaic period, in which the heirs of a *paterfamilias* would share all of his property in common after his death, so as to preserve the legal status of the family. This kind of partnership was called *consortium erctum non citum*. Historians of Roman law believe that the *societas* descended from this ancient practice.[24] But beyond the legal arrangements of Italian city-states and the treatment of *societas* in the Roman law, Petrarch would also have read a comprehensive account of *societas* in Cicero's *De officiis*, where it is portrayed on nearly the same terms as it was understood by the jurists.[25] Here Cicero offers a definition of *societas* as a kind of joint enterprise, in which each member contributes something of their own in support of a common purpose undertaken for mutual benefit. Natural reason, according to Cicero, incentivizes human beings to enter into such relationships by making them aware of the benefits they bring. "As the Stoics believe," "everything produced on earth is created for the use of mankind, and men are born for the sake of men, so that they may be able to assist one another." "Consequently," each person should "follow nature as [their] leader" and "contribute to the common stock things that benefit everyone together."[26] Natural reason also furnishes them with an understanding of how these kinds of relationships function and how they can be preserved: "by the exchange of

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[23] See William Francis Kent, *Household and Lineage in Renaissance Florence: The Family Life of the Capponi, Ginori and Rucellai* (Princeton: Princeton University Press, 1977), 3-17.

[24] Arena, *Libertas and the Practice of Politics*, 164 and Zimmermann, *Law of Obligations*, 451-452.

[25] For an account of Cicero's political thought in terms of *societas* see Asmis, "The State as a Partnership."

[26] "…ut placet Stoicis, quae in terris gignantur, ad usum hominum omnia creari, homines autem hominum causa esse generatos, ut ipsi inter se aliis alii prodesse possent, in hoc naturam debemus ducem sequi, communes utilitates in medium affere…," Cicero, *De officiis* I.22. Translation from Cicero, *On Duties*, 10.

dutiful services," and "by giving and receiving expertise and effort and means," each person will work towards binding "the partnership (*societas*) of men with each other."[27] As a relationship founded and preserved by mutual exchange, it follows that at the basis of any *societas* is ultimately an agreement between the partners first to participate in a mutually-beneficial exchange, and then to determine what goods will be exchanged and how they will be exchanged. The contours of this agreement subsequently determine the obligations of each partner and the integrity of the partnership depends on the terms of this agreement being upheld.

Alongside a definition of *societas*, Petrarch would also have read in *De officiis* that when creating a *societas*, one forms a kind of body, whose care could be entrusted to a guardian or a conservator.[28] He would also have seen that those entrusted with this body should approach their task as if they were "bearing" its "*persona*."[29] *Persona* was the term given to the masks worn by actors in the Roman theater; and to assume a *persona* is to take on the recognized social role of an individual or object by embodying their distinctive animating characteristics, or, as we might say, their personality. Considering our understanding of the nature of *societates*, however, Cicero's claim that the *civitas* is a kind of body with its own distinctive personality capable of representation initially appears an odd statement; scholarship on Roman law is nearly unanimous in the

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[27] "…mutatione officiorum, dando accipiendo…devincire hominum inter homines societatem," Cicero, *De officiis*, I.22. Translation from Cicero, *On Duties*, 10.

[28] "…totum corpus rei publicae curent…Ut enim tutela, sic procuratio rei publicae ad eorum utilitatem, qui commissi sunt, non ad eorum quibus commissa est, gerenda est," Cicero, *De officiis*, I.85. Reference to the body of the *civitas* also appears in Cicero, *De inventione*, II.168: "…quae…ad corpus pertinent civitatis." Based on Cicero's definition of *res publica* as *res populi*, Malcolm Schofield has argued that the *res* should be understood as a piece of property owned by the associated *populus*, which Cicero believes could be entrusted to suitable caretakers or guardians. See Malcolm Schofield, "Cicero's Definition of *Res Publica*," in *Cicero the Philosopher: Twelve Papers*, edited by J.G.F. Powell (Oxford: Oxford University Press, 1995), 63-81.

[29] "…magistratus intellegere se gerere personam civitatis…," Cicero, *De officiis*, I.124.

conviction that a *societas*, unlike a *universitas*, is not incorporated and thus cannot have its own legal personality.[30] On this account, a *societas* is a kind of relation between individuals. While those individuals are brought together by a shared characteristic, such as the contract creating the *societas*, the making of this contract merely establishes a legal relationship between existing legal persons and does not create a new legal person.[31] But to say that the *societas* does not have a legal personality and is not incorporated does not mean that it cannot possess recognizable and representable characteristics, that it cannot be imagined metaphorically as a body, and that it cannot be personified.[32] Returning to the same passage in which Cicero refers to the *persona civitatis*, he gestures towards the shape of these characteristics. He says that successfully assuming the *persona* of the *civitas* entails "serving the laws, administering justice and remaining mindful of the things that have been entrusted to [the magistrate's] good faith."[33] Cicero had stated earlier in *De officiis* that each *societas* requires contributions and distributes benefits according to an agreed-to set of rules and that the promulgation of these rules, whether they are merely consented to or stipulated

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[30] There is a passage in the *Digest* that states that some *societates* could be incorporated, and that the *res publica* with its common property and its ability to have an agent is the model for an incorporated *societas*. But the passage also says that the incorporation of a *societas* requires external legal sanction, which presupposes the existence of the *civitas*. We should not, then, take this as evidence that by referring to the *corpus civitatis*, Cicero wishes us to think of the *civitas* as literally a corporation, since no external legal structure could have sanctioned it. It is notable, however, that the legal construct of corporation is modelled on the *res publica*, since it suggests that the *res publica* possesses the features of a corporation while nevertheless remaining a different kind of entity. See *Digest* 3.4.1.pr-1.

[31] Gierke traces the separation of *societas* and *universitas* as two opposing models of organization to at least Innocent IV. While the *societas* is a "system of individuals" founded on contract, the *universitas* is a kind of artificial organism that bears a personality of its own. As we have seen, Gierke believed that political thought prior to Hobbes frequently drew from both concepts. For the perspective of an historian of Roman law see Zimmermann, *Law of Obligations*, 454-455.

[32] For an examination of personification in classical rhetoric, see Skinner, *Humanism to Hobbes*, 12-19. See especially p. 16 where Skinner makes the following statement: "To count as a person, both [Cicero] and Quintilian end by suggesting, it is not necessary to have a bodily substance; it may be sufficient that some natural person has been accredited to play your part."

[33] "…servare legibus, iura discribere, ea fidei suae commissa meminisse," Cicero, *De officiis* I.124. Translation from Cicero, *On Duties*, 48.

in written contract, is said by Cicero to mark the establishment of the *societas*. By agreeing to these rules, the partners have created a relationship between them that marks them out as members of a distinctive group, and we can think of this group as a kind of body. What the citizens of a *civitas* recognize, then, when they see a magistrate follow the laws and distribute justice equitably, are the terms of the agreement that united them into a *civitas* and, by extension, the group of contracted individuals who make up the body of the *civitas* itself.

Cicero's conception of the *civitas* as a *societas* that can be entrusted to, and personated by, an agent, brings us back to Petrarch.[34] Alongside his endorsement of Cicero's treatment of the *civitas* as a *societas* in his oration at Novara, Petrarch also employs this concept in his well-known letter to Francesco da Carrara, the *signore* of Padua, written in 1373 when Carrara was his patron. Here Petrarch addresses the qualities a ruler should have in order to govern the *civitas* well, with the letter's contents taking the form of an explication of the virtues most necessary to achieve this end. Suggesting that the *civitas* is something that should looked after, and not the estate of the prince, Petrarch asks early on "what sort of man should he be to whom the care (*cura*) of his country be entrusted?"[35] Shortly afterwards, he cites the same famous passage from Book VI of Cicero's *De re publica* that appeared in his earlier oration, where he labels those who, like

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[34] Recent studies have drawn attention to the prominent place of Cicero's *persona* theory in multiple genres of medieval, Renaissance and early modern political thought. For the contours of Cicero's *persona* theory and its application in pre-humanist and humanist political thought, see Skinner, *Humanism to Hobbes*, 12-44. For Seneca's use of a similar account of moral personality, and the use of this theory by pre-humanist and humanist political writers, see Stacey, *Roman Monarchy and Renaissance Prince*. The presence of this theory in the work of early modern scholastic political theorists, otherwise regarded as leading Aristotelians, is further evidence of its immense influence. See Messarra, "Representation and Scholastic Political Thought."

[35] "…qualis esse debeat cui sue patrie cura commissa est?" Francesco Petrarch, *Epistole di Francesco Petrarca*, ed. Ugo Dotti (Turin: Unione Tipografico, 1978), 768. Translation in Francesco Petrarch, *Letters of Old Age. Vol. 2*, trans. Aldo S. Bernardo, Saul Levin and Reta A. Bernardo (Baltimore and London: The Johns Hopkins University Press, 1992), 524.

Francesco, lead the "councils and assemblies of men associated (*sociati*) by law, which are called *civitates*," "administrators" (*rectores*) and "conservators" (*conservatores*).[36] With this language of trust, commission, and conservatorship, Petrarch suggests that leading a *civitas* is, among other things, akin to an act of managing the estate of someone else, clearly operating under the assumption that the *civitas* is a kind of singular entity with an identity of its own, and that these characteristics can be attributed to a *societas*.

As the conservator of someone else's estate, the prince's primary task is to maintain it. As we have seen in *De officiis*, *societates* are preserved when all members act in accordance with their agreements, keeping the relationship mutually-beneficial. Those entrusted with maintaining the *societas* must then ensure that the relationship is kept mutually-beneficial, and they do this by administering justice within the *societas* according to its rules, thereby, as Cicero says, assuming its *persona*. Petrarch endorses this sentiment by stating that Francesco must "display deeds of justice" in order to preserve the *civitas*.[37] Among the just deeds the prince can display are generous actions (*beneficia*), and here Petrarch proposes a number of specific public works projects for Francesco to undertake in and around Padua. Although he encourages grand projects, Petrarch advises moderation, and takes care to point out that the person to whom "the care of the *res publica* has been entrusted," must show restraint in dispersing public funds "unless it contributes to the beauty or welfare of the *civitas* or realm over which he presides." The prince should act like an

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[36] "Ille ergo *Reipublice* libro sexto: 'Quo sis, Africane, inquit, alacrior ad tutandam rem publicam, sic habeto: omnibus qui patriam conservaverint adiuverint auxerint, certum esse in celo diffinitum locum, ubi beati evo sempiterno fruantur. Nichil est enim illi principi deo qui omen mundum regit, quod quidem in terries fiat acceptius, quam concilia cetusque hominum iure sociati, que civitates appellantur. Harum rectores et conservatores hinc profecti huc revertuntur," Petrarch, *Epistole di Petrarca*, 770. Translation in Petrarch, *Letters of Old Age, Vol. 2*, 525.

[37] Petrarch, *Letters of Old Age, Vol. 2*, 529.

"administrator," not a "lord," and those who would profligately spend the money of the *civitas* for self-aggrandizing ends are its not *rectores* and *conservatores* in the manner praised by Cicero, but "thieves."[38] By encouraging Francesco to spend communal funds, or the citizens' contributions, in such a way that promotes the common benefit, Petrarch links "displaying deeds of justice" with acting in ways that maintain the *civitas* as a mutually-beneficial relationship for its members. In so doing, Francesco will embody in his person the agreement that underpins the organization of the *civitas*, thereby re-enforcing the bonds of citizens in the *civitas* and preserving the *civitas* itself.

Petrarch is very clear, however, that only those who can properly be called "citizen" deserve to benefit from the prince's stewardship of the *civitas*. A "citizen," he says, is someone who loves the "constitution of the *civitas*" (*status civitatis*) and does not seek to change it. Those aspiring to constitutional change are, on the other hand, enemies, and should be treated by the prince accordingly. Their willingness to upend the social order is an expression of anti-social, and therefore immoral, behavior, making them unworthy of partnership (*consortio*) at all.[39] Membership in the partnership the prince is entrusted to manage is thus contingent on acceptance of the obligations that bind it; it does not follow from residency within the city, or any source other than the consent to the terms shaping the partnership. Individuals who do not accept these

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[38] "Neque enim inficior neque ignore ei, cui reipublice cura commissa est, summo opera providendum, ut inutilibus ac superfluis impensis abstineat, ne exhaustum vanis erarium necessariis non sufficiat. Nichil igitur effundat, nil omnino faciat, nisi quod ad decus aut commodum pertineat civitatis, cui president; aut regni sic ad summam agat omnia ut administrator non ut dominus…Ceteri enim non rectores atque conservatores urbium sed predones sunt," Petrarch, *Epistole di Petrarca*, 794. Translation in Petrarch, *Letters on Old Age, Vol. 2*, 535, with slight revisions.

[39] "Eos autem cives intelligo qui civitatis amant statum, non eos qui quotidianas mutations rerum querunt; illi enim non cives sed rebelles atque hostes publici extimandi sunt…Itaque qui contrarium vult procul dubio malus, nec civium nec virorum bonorum nomine dignus aut consortio," Petrarch, *Epistole di Petrarca*, 780. Translation in Petrarch, *Letters on Old Age, Vol. 2*, 529.

obligations risk undermining the whole, and the prince, as conservator of the partnership, should treat these people as enemies.

II.

The conception of the *civitas* as a *societas* adopted by Petrarch is also visible in the work of subsequent generations of humanists, as we will now see by turning to the work of Coluccio Salutati. In his significant amount of surviving work, Salutati cites Cicero's definition of the *civitas* as a group of men associated together (*sociati*) by law for their common advantage on several occasions.[40] But it is in his moral treatise *De nobilitate legum et medicinae* of 1399 that he expresses in the clearest and most sophisticated philosophical terms his allegiance to this conception of the *civitas*.[41]

Salutati decided to write *De nobilitate* in response to a text written by Bernardo di Ser Pistorio, a Florentine doctor, in which the doctor argued that medicine, as a theoretical field, is the superior profession to law, which he describes as purely practical. Bernardo saw his text as a contribution to a debate over which kind of life, the contemplative or the active, should be regarded as superior, and his preference for medicine is ultimately rooted in his belief in the greater value of the former. Salutati holds the opposite opinion. He argues here that the active life is superior to the contemplative and that law, as the means by which human society is maintained, is the

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[40]For example, Coluccio Salutati, *Die Staatsbriefe Coluccio Salutatis: Untersuchungen zum Frühhumanismus in der Florentiner Staatskanzlei und Auswahledition*, ed. Hermann Langkabel (Cologne: Böhlau, 1981), 93; Coluccio Salutati, *Political Writings*, ed. Stefano U. Baldassarri (Cambridge, MA: Harvard University Press, 2014), 219.

[41] For a wide-ranging demonstration of Salutati's philosophical debt to Cicero, see Giuseppe Casale, *Cicerone a Firenze: il repubblicanismo di Coluccio Salutati* (Rome: Aracne, 2013).

profession of higher standing. *De nobilitate*'s arguments were consequential: out of all of Salutati's work, which include a number of other treatises on moral and philosophical matters, *De nobilitate* was the only one to be published during the Renaissance. With such a wide circulation, this work became central to a humanist polemic over the question of the relative standing of medicine and law that continued well into the sixteenth century, with contributions from famed humanists such as Leonardo Bruni, Niccolò Niccoli and Poggio Bracciolini.[42]

Salutati begins the treatise with an account of the definition and origin of law. He argues that since man is made in the image of God, we should understand human law as the promulgated version, or image, of the divine law.[43] Every "direction," "principle," and "rule" of practical reason, he says, must originate from God, who governs all things.[44] Human beings experience these principles in the following way. Since the human will and reason is free, and every human act – including the promulgation of law – is properly their own, then every human act aims at an end that person found desirable.[45] But it is also true that everything that originates from a higher power, such as a human being, must consider the objectives of that higher power when contemplating their own actions, which in turn means that they must have knowledge of those

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[42] Coluccio Salutati, *De nobilitate legum et medicinae. De verecundia*, ed. Eugenio Garin (Florence: Vallecchi Editore, 1947), xlvi-lviii.

[43] "…quoniam hominis esse quedam natura, quedam inventione dicuntur, que tamen a Deo sunt, non est inconveniens legem esse divinam, et eius vestigium naturalem, et promulgationem eius quam legem appellamus humanam," Salutati, *De nobilitate*, 14.

[44] "Nam cum omnis lex direction quedam sit, dictamen et regula practice rationis, fatearis oportet legem divinam preesse cunctis, quoniam Deus est omnium rerum et ipsorum hominum gubernator et rector," Salutati, *De nobilitate*, 14.

[45] "Nunc autem cum omnis humana operatio proprie sit ex libero arbitrio, quod est facultas voluntatis et rationis, et voluntatis obiectum sit finis bonum, consequens est hominem, in quantum homo est, agree propter finem et bonum," Salutati, *De nobilitate*, 14.

objectives.[46] In the case of human beings, God placed awareness of these objectives in their minds

and taken together they constitute the natural law.[47] This point, according to Salutati, was widely

noted by gentile philosophers, including most notably Cicero, who, at the beginning of Book III

of the *Tusculan Disputations* wrote:

> Now if at our birth nature had granted us the ability to discern her, as she truly is, with
> insight and knowledge, there would certainly have been no occasion for anyone to need
> methodical instruction: as it is, she has given us some faint glimmering of insight which,
> under the corrupting influence of bad habits and beliefs, we speedily quench so completely
> that no flicker of nature's light remains. The seeds of virtue are inborn in our dispositions
> and, if they were allowed to ripen, nature's own hand would lead us on to happiness of
> life.[48]

Although, according to Salutati, Cicero is most likely in error to believe that the happy life (*beatam*

vitam) can be attained by relying on exclusively innate characteristics – it requires divine grace,

after all – it is nevertheless true that human beings possess naturally within themselves the

"principles of reason and virtue."[49] And these "principles of reason and virtue," now citing

Cicero's *De legibus*, are the foundation of law, since they instruct us in what we should do and

what we should avoid.[50] It is thus in order to shape human actions in conformity with the

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[46] "Si quidem quicquid ab aliqua potentia provenit, secundum obiectum talis potentie causetur oportet; est igitur ratio legis, quod divina lex presit et cuncta gubernet, et quod creatura sic huius legis ordine dirigatur et disponatur, quod fiat particeps illius legis, et ad ea que sint in ipsa per semet inclinetur, si rationis est particeps et libera, sicut homo, cum ratione et libertate," Salutati, *De nobilitate*, 14.

[47] "…que quidem inclination lex est naturalis, sic nostris insita mentibus quod non possit intellectus noster, sive speculativus sive practicus sit, ab ea quomodolibet dissentire," Salutati, *De nobilitate*, 14.

[48] "'quod si tales nos natura genuisset, ut eam ipsam intueri et perspicere possemus, haut erat quod quisquam rationem ac doctrinam requireret; nam parvulos nobis quidem dedit igniculos, quos celeriter malis moribus opinionibusque depravatis sic restinguimus, ut nusquam nature lumen appareat.' Et subdit: 'sunt enim ingeniis nostris semina innata virtutum, que si adolescere liceret, ipsa nos ad beatam vitam natura perduceret,'" Salutati, *De nobilitate*, 14-16. For Cicero, see Cicero, *Tusculanarum disputationum* III.1. English translation adapted from Cicero, *Tusculan Disputations*, trans. J.E. King (Cambridge, MA: Harvard University Press, 1927), 225-227.

[49] "Nec id volo nunc scrutari verumne sit, nos ex puris naturalibus in ultimam posse beatitudinem pervenire, quoniam satis constet donum illud ex gratia gratis dari…sed auctoritate tanti viri constat hec principia, que sunt rationis atque virtutis, naturaliter nobis inesse," Salutati, *De nobilitate*, 16.

[50] "Quod adeo pertinent ad leges, quod idem, prime ex libris quos 'de legibus' composuit, inquit: 'Lex est ratio summa insita in natura que iubet ea que facienda sunt prohibetque contraria.' Et in alio voluminis eiusdem loco

commands of their natural reason, Salutati argues, that human beings promulgate human law.[51] But since the justification for promulgating law is to ensure that the commands of natural reason are obeyed, the law's validity ultimately depends on whether or not it conforms to the natural law, leading Salutati to conclude by offering a definition of human law as "a common precept of eternal reason and the inclination of nature, which is promulgated by that person who exercises care (*cura*) of the community according to law."[52]

Relying primarily on the philosophical works of Cicero, Salutati constructs an image of nature in this chapter that is reminiscent of its portrayal in *De inventione* and in the works of his pre-humanist predecessors. Nature is permeated by a law, a vestige of which every human being can access through the application of their reason. This law – the natural law – contains precepts that, if properly followed, will guide human beings towards virtue, which is pleasing to God and ultimately beneficial to them. As his reference to the *Tusculan Disputations* makes clear, however, consciousness of the commands of natural reason must compete with other parts of human nature that work to obscure them, and human law is needed so that those commands are made clear to all; the law, in other words, aims to "restore" human beings to their true, rational nature. But since human law originates to declare the natural law, it is only valid if it agrees with the latter, despite

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dixit: 'Quibus enim ratio natura data est, isdem etiam recta ratio data est, ergo et lex, que est recta ratio in vivendo.'" Salutati, *De nobilitate*, 16.

[51] "Verum quod divina lex habet, naturaque quasi sigillum in cera suscepit, hoc lex, quod humanum est inventum, promulgando precipit et precipiendo promulgat," Salutati, *De nobilitate*, 18.

[52] "Non enim legem esse dicit potest humanum aliquod institutum, si naturali legi, que vestigium est divine, penitus non concordat. Imprimit enim divina les humanis mentibus naturalem, que quidem communis est ratio actuum humanorum, queve mentibus nostris impressam nos inclinat ad ea, que lex illa immutabilis, divina et eterna, decernit…Est igitur lex, prout humana est, communis quedam preceptio rationis eterne inclinationisque nature, quam ille promulgat qui communitatis legitimam curam habet," Salutati, *De nobilitate*, 16-18.

the fact that it is a product of human will. Having put the natural and human laws in relation to each other, Salutati next proceeds to offer an explanation, also in clearly Ciceronian terms, for why and how human law comes into existence.

Salutati begins his account with a re-statement of his belief that the natural law, although it "understands and motivates," lacks the "sanction" of human law, and that this poses a problem for natural human social interaction.[53] It does, however, contain within it the impetus to do something about this: it "persuade[s] men to establish and promulgate the common good."[54] Awareness that there is a common good, and the origin of the desire to preserve it, stems from the fact that human beings need each other in order to survive. Since it is "not good to be alone," he says, and since "man is a kind of social and political animal," "assemblies (*congregationes*) of men are good and necessary according to nature itself."[55] They are so necessary, in fact, that even someone who has chosen to live a monastic life is unable to live at all, let alone spend time in contemplation, without the material goods that come from human society (*societas*).[56] But these natural congregations are unable to maintain themselves in perpetuity without the imposition of human law; anti-social behavior will eventually appear and undermine them. In response to this anti-social behavior, and in an effort to preserve the benefits that come from social interaction, the

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[53]"Divina quidem lex instituit, naturalis inclinat, humana promulgat et iubet…Divina quiden lex instat et eminet; naturalis recipit atque movet; humana vero promulgat et obligat; a qua quidem obligatione, lex a ligando dicta est," Salutati, *De nobilitate*, 160.

[54] "Stat in eternitate sua legis ratio, mentibusque se permiscens humanis ad illud eas inclinat quod in ipsa est, persuadetque quod homo constituat et promulget quod communiter bonum est," Salutati, *De nobilitate*, 160.

[55] "Cumque non sit bonum hominem esse solum…et homo sit animal politicum et sociale, bone sunt hominum congregationes et ipsa natura necessarie, sine quibus vivere politice non valemus," Salutati, *De nobilitate*, 162.

[56] "Cuius rei tanta vis est, ut etiam qui monasticam et solitariam eligunt vitam, sine servitiis humane societatis nequeant vivere, nec suis contemplationibus indulgere," Salutati, *De nobilitate*, 162.

congregated multitude consent to be bound by a standard of justice "declared" from the natural

reason which they each individually possess.[57] Agreeing to assume obligations for the sake of

mutually-beneficial enterprise is, as we have seen, to form a *societas*, and the name of the *societas*

they created in this instance is the *civitas*. Finally, as if to distinguish the *civitas* from initial

congregations of men that appeared naturally, Salutati concludes by emphasizing that the

agreement creating the *civitas* is an act of artifice, observing that the word "law" (*lex*) derives from

"binding oneself" (*ligare*) and, ultimately, from choice.[58]

The *civitas* takes on an abstract quality for Salutati and is, at a later point in *De nobilitate*

described by him as a "mystical body." This statement appears during a discussion of the place of

medicine and the law with respect to the human body. While medicine attends to the physical

constitution of the body, the law attends to the body's soul (*anima*), making it much more

consequential.[59] But law is even more consequential when we consider "mystical bodies," which,

on account of having no physical presence, have no need for medicine. These types of bodies

include families, regions, *civitates*, peoples and kingdoms and are "composed of a multitude of

men," "founded, ordained and conserved by the laws."[60] Or, as he says elsewhere, they are "mixed

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[57] "Quod si convivere hominibus est natural, nec potest hoc sine quadam inter eos equitate vigere, necesse sit quod istud equum, ne semper sit in ambiguo, declaretur; ex pquo necessarium fuit leges condere que sic mentes hominum equalitate mulcerent, quod ad id observandum se, non libenter solum, sed efficaciter obligarent. Eligebatur igitur hec equitas, et eam promulgando se statuentes at eius observantiam obligabant…," Salutati, *De nobilitate*, 162.

[58] "Ab eligendo igitur, et se ligando, tandemque legend, lex dicta est, tamquam electa, ligans atque legenda…," Salutati, *De nobilitate*, 162.

[59] "O quantum legume dignitas supra nos est! Nos quidem corpora speculamur humana, sic enim testator Philosophus; illas autem oportet mentes et animas hominum intueri. Nos corporis humani complexiones respicimus; ille vero potentias examinant animarum," Salutati, *De nobilitate*, 252.

[60] "Cum autem misticum corpus, quod hominum efficit multitude, qualia sunt familie, regions, civitates, gentes et regna regumque regnorum imperium, mecum ipsa revolve, cum ea omnia leges ordinent, instituant et conservent…," Salutati, *De nobilitate*, 254.

together into one by the coagulate of the law," which "serves, strengthens and cares" for them.[61] They are, in other words, abstract bodies that come into existence with the promulgation of laws and are maintained by the distribution of justice.

A comparison with Thomas Aquinas' account of the body politic will help us to see more clearly what is distinctive about Salutati's argument. In the first chapter of *De regimine principum* – the first chapters of which were written by Aquinas – Aquinas argues that in order for the multitude of human beings to remain united as one body, that body requires a "controlling principle."[62] This is a fact of all bodies. The body of the material universe is controlled by the first, heavenly body, while all individual material bodies are controlled by "rational creatures." The whole of the human body, for example, is controlled by its soul (*anima*). Finally, among the parts of the human body, one is in control, which Aquinas identifies as either the heart or the head.[63] It follows from this natural pattern that in order to maintain the body of the *civitas* as a multitude of individuals living harmoniously with each other, one person, or group of persons, must have the authority to direct the others in the same manner that the head – or the heart – directs the individual human body.[64] The body politic for Aquinas thus consists of the individuals who live under the authority of the same ruler or rulers, and the body's integrity ultimately depends on the existence and effective rule of its head. This body does not – indeed, it cannot – have an

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[61] "Hec igitur omnia corpora, quibus societas constat humana et universum genus hominum continetur, extra curam nostrum sunt, et legum institutione, quasi coagulo conflate servantur, augentur, foventur," Salutati, *De nobilitate*, 254.

[62] Thomas Aquinas, *Selected Political Writings*, ed. A.P. D'Entrèves (Oxford: Blackwell, 1948), 3.

[63] Aquinas, *Selected Political Writings*, 5-7.

[64] Aquinas, *Selected Political Writings*, 7.

animating force of its own separate from that of the physical person or persons who governs it. In contrast, in the humanist account elucidated by Salutati, it is the promulgation of laws, and not the elevation of a head, that initially gives life to this body.

But while the promulgation of laws can create an abstract body, the body's integrity ultimately depends on whether those laws can effectively bind its members, who are real, physical people. Salutati addresses this point by arguing that the politician's task is to enforce the laws. The "legal art," he says, concerns itself with how the "political man" should act;[65] while "political reason" is simply another word for the "natural law that has been inserted into the human mind," since the "end of politics" – "the conservation of human *societas*" – is also the end of the laws.[66] Salutati implies here that, unlike the Thomist politician, whose presence animates the body politic, Salutati's politician is effectively an agent – Salutati refers to him as a "caretaker"[67] – of an abstract body with a mind of its own, expressed in its laws. By following those laws faithfully, the politician can be said to embody its animating force, thereby keeping its members bound and preserving the whole.

In *De nobilitate*, Salutati portrays, in highly Ciceronian fashion, the *civitas* as a *societas*. It is established by an act of consent in pursuit of a mutually-beneficial end and bound by a conception of justice intended to promote that end. The end pursued is the material benefits that

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[65] "Tractat enim ars legalis atque considerat qualiter politicus homo debeat operari, que considerate sancit et iubet," Salutati, *De nobilitate*, 99.

[66] "Quicquid huius humanis mentibus est insertum, naturalis lex et politica ratio dici debet…Intendit politica conservationem humane societatis; hoc idem intendit et lex," Salutati, *De nobilitate*, 170.

[67] "…qui communitatis legitimam curam habet," Salutati, *De nobilitate*, 19.

follow from social interaction, which individuals initially recognize through the application of natural reason. Following their reason leads them to congregate, but the prevalence of anti-social behavior prevents these congregations from attaining any permanence. In order to secure the benefits that come from stable social interaction, the congregated individuals then choose to oblige themselves to laws, basing them on the commands of their shared natural reason, and, in so doing, create a new *societas*. Once they have joined themselves together by imposing laws, the initial assembly is no longer a mere group of individuals; they have created a "mystical body" with an animating force of its own, which, by embodying that animating force in their own person, it is the task of the politician to maintain successfully.

<div align="center">III.</div>

While clearly influenced by Ciceronian ideas, Salutati's use of the term *corpus misticum* to express his conception of the *civitas* as an artificial person is very un-Ciceronian, indebted as it is to Christian thinking. But in the decades following the writing of *De nobilitate,* and as a consequence of the humanist search for previously lost Roman sources, humanist political writers would replace *corpus misticum* with far more explicit Ciceronian language in order to communicate the same idea. Central to the re-formulation of this doctrine was the re-appearance of Cicero's oration *Pro Cluentio* and, especially, the following passage of it:

> For law is the bond (*vinculum*) which secures these our privileges in the commonwealth (*res publica*), the foundation of our liberty, the fountain-head of justice. Within the law are reposed the mind (*mens*) and heart (*animus*), the judgement and the conviction, of the state (*civitas*). The state (*civitas*) without law would like the human body without mind (*mens*) – unable to employ the parts which are to it as sinews, blood, and limbs. The

magistrates who administer the law, the jurors who interpret it – all of us in short – obey the law to the end that we may be free.[68]

While a number of Cicero's orations remained in circulation during the medieval period, *Pro Cluentio* was first re-introduced in 1355. That year, one of Petrarch's correspondents, the humanist author Giovanni Boccaccio, brought back to Florence from the library at Montecassino a manuscript containing selections from this oration, including the passage cited above.[69] Historians agree that Boccaccio sent a copy of this manuscript to Petrarch, which he then used to make a now-lost compilation of all the orations available to him. Petrarch's compilation then served as the ancestor for a family of at least sixty-two manuscripts that circulated widely in both France and Italy.[70]

Petrarch's compilation of the orations became an object of intense interest in subsequent decades, as humanists from across the peninsula analyzed both their content and their rhetorical structure. The humanist educator Gasparino Barzizza (c.1360 – c.1431) made them central to his lectures on rhetoric, while Antonio Loschi (1364 – 1441) and Sicco Polenton (1375 – 1447) wrote commentaries focused primarily on deconstructing Cicero's use of rhetorical doctrines in them.[71]

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[68] "Hoc enim vinculum est huius dignitatis, qua fruimur in re publica, hoc fundamentum libertatis, hic fons aequitatis: mens et animus et consilium et sententia civitatis posita est in legibus. Ut corpora nostra sine mente, sic civitas sine lege suis partibus, ut nervis et sanguine et membris, uti non potest. Legum ministry magistratus, legum interpretes iudices, legum denique idcirco omnes servi sumus, ut liberi esse possimus," Cicero, *Pro Cluentio* 146. Translated from Cicero, *Pro Cluentio*, trans. H. Grose Hodge (Cambridge, MA: Harvard University Press, 1927), 379.

[69] Preserved in Florence, Biblioteca Laurenziana Medicea, Plut. 51.10.

[70] Monica Berté, "Petrarca, Salutati e le orazioni di Cicerone," *Manoscritti e lettori di Cicerone tra Medioevo e Umanesimo*, ed. Paolo De Paolis (Cassino, 2012), 31-38; Silvia Rizzo, *La tradizione manoscritta della* Pro Cluentio *di Cicerone* (Tivoli: Istituto di Filologia Classica e Medievale, 1979), 23-43; Rouse, "Cicero," 86-91.

[71] The centrality of the orations in humanist rhetorical education during the early decades of the fifteenth century is attested to in Peter Mack, *A History of Renaissance Rhetoric, 1380-1620* (Oxford: Oxford University Press, 2011), 33-39; R.G.G. Mercer, *The Teaching of Gasparino Barzizza: with special reference to his place in Paduan*

Humanist readers also extracted a number of political concepts from them, which they then exploited for a variety of political ends.[72] And when the humanist Poggio Braccialini sent back to Florence in 1415 a manuscript from the abbey of Cluny in France containing two new orations, alongside the missing sections from *Pro Cluentio*, at least three copies were made within a year of its arrival.[73]

As suggested by the rapid proliferation of manuscripts containing *Pro Cluentio* and its prominent place in humanist rhetorical education – the most important part of the humanist syllabus – the text was widely studied. It is unsurprising then that over the course of the first half of the fifteenth century, *Pro Cluentio* 146 would come to be quoted directly or paraphrased in a significant number of humanist texts, testifying to its suitability as a highly eloquent[74] way to describe the *civitas* and other *societates* as well.[75]

Humanism (London: Modern Humanities Research Association, 1979), 91-93; and G.W. Pigman III, "Barzizza's Studies of Cicero," *Rinascimento* 21 (1981): 123-163.

[72] See Adam Woodhouse, "Subjection without Servitude: The Imperial Protectorate in Renaissance Political Thought," *Journal of the History of Ideas* 79 (2018): 547-569.

[73] Rizzo, *La tradizione manoscritta*, 57-58.

[74] Rizzo, *La tradizione manoscritta*, 27-29 singles out three surviving manuscripts she believes descend immediately from the copy of the Montecassino manuscript compiled and annotated by Petrarch. They are: Vat. Lat. 9305 (V), Vat. Barb. Lat. 142 (G) and Paris Lat. 14749 (σ). All three manuscripts contain annotations, supposedly copied from their Petrarchan source, that mark out 146, but the annotation in G draws particular attention to the rhetorical value of the passage: "ornatissima legum corona" (80r).

[75] Leon Battista Alberti describes the family in terms reminiscent of *Pro Cluentio* 146. See Alberti, *Opere volgari. Vo. 1*, ed. Cecil Grayson (Bari: Laterza, 1960-1973), 19: "Stiano e' vecchi adunque come communi padre di tutti e' giovani, anzi come mente e anima di tutto il corpo della famglia." Direct citations to *Pro Cluentio* 146 can be found in Francesco Barbaro's 1446 letter to Antonio Gradenigo, Gasparino Barzizza's *Oratio de laubius philosophiae (habita Patavii)*, Flavio Biondo's *Roma Triumphans*, and, in addition to the oration by Poggio discussed below, his *Oratio in laudem legum*, written before 1440. Barbaro's letter can be found in Francesco Barbaro, *Epistolario. Vol. 2*, ed. Claudio Griggio (Florence: Olschki, 1999), 470-471. For Biondo, see Flavio Biondo, *De Roma triumphante libri decem* (Basel: Froben, 1531), 88. Barzizza's oration can be found in Gasparino Barzizza, *Gasparini Barzizii bergomatis et Guiniforti filii Opera quorum pleraque ex mss. codicibus nunc primùm in lucem eruta recensuit*, ed. Joseph Alexander Furiettus (Rome: Salvioni, 1723), 54. For Poggio's *Oratio in laudem legum* see *La disputa delle arti nell quattrocento*, ed. Eugenio Garin (Florence: Vallecchi, 1947), 11-15.

References to *Pro Cluentio* 146 were especially common in texts that, like Salutati's *De nobilitate*, addressed the value of the laws and the legal profession. A prominent example is the funeral oration delivered by Poggio at the Council of Constance in 1417, shortly after his encounter with the Cluniac manuscript, on behalf of Francesco Zabarella, who had been archbishop in Florence. Zabarella was an accomplished teacher of both civil and canon law, something Poggio emphasizes in his praise for the man, arguing that he cannot imagine a field of study more important. No "society (*societas*) of men, no union (*coniunctio*), no *civitas*, could endure unless it were governed by laws," he says, which is why laws are customarily, and correctly, called by the wise "the fortifications of the *civitas*."[76] They are, moreover, a source of great profit.[77] In fact, Poggio continues, Cicero elaborates on the great utility of the laws in another place, where he says:

> [The law] is the bond (*vinculum*) of dignity, the foundation of liberty, and the source of equity that enables us to derive benefit from the republic. The mind (*mens*) and soul (*animus*), the judgement and thoughts, of the *civitas* are contained in the laws. Just as it is not possible to use our bodies without the mind, so the *civitas* cannot use its parts – its nerves, its blood, its ligaments – without the law. The ministers of the laws are the magistrates, the interpreters of the laws are the judges, and we are the slaves of the laws, so that we may be free.[78]

Poggio praises the legal profession here by emphasizing, like Salutati and Petrarch before him, that the *civitas* is by definition a legal partnership and that the laws aim to secure it. Drawing from

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[76] "Nulla quidem societas hominum, nulla coniunctio, nulla civitas constare posset, nisi gubernaretur legibus, quae recte consueuerunt a sapientibus appellari moenia civitatum," Poggio Bracciolini, *Opera Omnia. Vol. 1*, ed. Riccardo Fubini (Turin: Bottega D'Erasmo, 1964), 257.

[77] "Pulchrum est enim & gratum omnibus, ut refert M. Tullius, in ea scientia laborare quae sit multis profutura…," Poggio, *Opera Omnia, Vol. 1*, 257.

[78] "Hoc est vinculum dignitatis qua fruimur in re publica, hoc fundamentum libertatis, his fons aequitatis. Mens & animus, & consilium & sententia civitatis posita est in legibus. Ut corpora nostra sine mente, sic civitas sine lege suis partibus, ut nervis & sanguine & membris uti non potest. Legum magistri magistratus, legum interpretes iudices, legum denique omnes servi sumus, ut liberi esse possimus," Poggio, *Opera Omnia* I, 257.

Pro Cluentio 146, he then proceeds to attribute a distinctive shape to this partnership, describing it as a kind of body composed of different members united together by their obedience to the same law, which he analogizes to a chain (*vinculum*). But the law is also more than a chain; it is the body's spirit (*animus*) and mind (*mens*), its judgement and its wisdom, through which the body's different parts can act in concert with each other.[79] The law, in other words, both unites and commands the different parts of the body.[80]

Here, again, we see the *civitas* compared to a body given life by the promulgation of laws. But Poggio's use of *Pro Cluentio* to describe these laws as the *animus* or *mens* of the *civitas* makes even more explicit the humanist claim that they constitute the distinctive personality of this body. The notion that a person's *animus*, or rational mind, both unites and commands their body is a way of thinking about the soul ultimately indebted to Stoicism. For the Stoics, the rational soul (*animus/psuchē*), itself the unique manifestation of universal "breath" or "warmth" (*anima/pneuma*) in each animate being,[81] permeates the entire body, originating from a "governing

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[79] That the virtuous prince is the personification of law and therefore both the *vinculum* binding and the *mens* in control of the *res publica* is a frequently invoked expression in humanist writing on princely government, an expression originating in the work of Seneca. See Peter Stacey, *Roman Monarchy and the Renaissance Prince*, 51, 106, 128-131 for several examples of this.

[80] In his *Oratio laude legum*, which also references *Pro Cluentio* 146, Poggio argues in typical humanist fashion that the source of this law is natural reason, which is "inserted in the minds of men." See Poggio, "Oratio in laudem legum," 13: "et vis quaedam ac ratio divinae legis mentibus hominum insita…" In the second of the three dialogues making-up his 1450 *Historia Tripartita Convivalis*, called the *Secunda Disceptatio*, Poggio again confronts the question of the relative superiority of law or medicine. Here, however, he ends the dialogue somewhat ambiguously, suggesting that he is sceptical of the standard humanist account of the law that he himself endorsed in the two texts addressed above. But notwithstanding any personal change of views Poggio had undergone, the case made by the famed Florentine jurist Benedetto Accolti on behalf of the law in the dialogue is presented in classic humanist and Ciceronian terms, attesting to its status as conventional: "Quid enim esset homo, sit absque iure & ratione viveret…Verum utramuis partem homines leges curent, fatearis necesse est eas esse necessarias, que homines ab agresti incultaque vita ac fera, ad mitem civilemque traduxerunt, ac civitatum condendarum causam praebuere," Poggio, *Opera Omnia. Vol. 1*, 47.

[81] A.A. Long, "Stoic Psychology," *Cambridge History of Hellenistic Philosophy*, ed. Keimpe Algra, Jonathan Barnes, Jaap Mansfeld and Malcolm Schofield (Cambridge: Cambridge University Press, 2002), 563-565. Surveying different definitions of "soul," Cicero in the *Tusculan Disputations* makes the following claim about how

part" and spreading out like "tentacles" throughout the body.[82] These "tentacles" are the vehicle through which the soul commands all the parts of the body and its "governing part" receives information from them.[83] This leads the Stoics to assert that the possession of an *animus* is the source of an individual's consciousness and, by extension, their personality.[84] By attributing an *animus* to the *civitas* that unites all of its part into a coherent whole, Poggio appears to share the view that the *civitas* is not solely a composite group of individuals but a distinct entity with its own personality.[85] The presence of this passage in numerous other humanist texts suggests that they believed the same.

IV.

Salutati's *De nobilitate* and Poggio's oration are explicitly concerned with the practice of law and the legal profession, so it is perhaps unsurprising to see them draw attention to the legal dimension of the *civitas*. But the conception of the *civitas* as an artificial person bound by law can in fact be seen in humanist works of multiple genres, such as Matteo Palmieri's dialogue on the virtues, *Vita*

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the Romans typically define it: "…animum autem alii animam, ut fere nostri…ipse autem animus ab anima dicta est – Zenoni Stoico animus ignis videtur," Cicero, *Tusculanarum disputationum* I.9.19. Translation from Cicero, *Tusculan Disputations*, 23-25: "…others however identify soul and breath as we Romans practically do…moreover the actual word for 'soul' has come from the word for 'breath' in Latin – Zeno the Stoic holds the soul to be fire."

[82] For an assortment of Stoic texts that explain this point, see A.A. Long and D.N. Sedley, *The Hellenistic Philosophers. Vol. 1. Translations of the Principal Source, with Philosophical Commentary* (Cambridge: Cambridge University Press, 1987), 280-289.

[83] Long, "Stoic Psychology," 560-572.

[84] A.A. Long, "Stoic Philosophers on Persons, Property-Ownership and Community," *Bulletin of the Institute of Classical Studies* 68 (1997), 13-18.

[85] Annabel Brett observes that the idea that "spirit" or "soul" has a "*uniting* function" is one indebted to the Stoics and she sees the traces of this language in sixteenth and seventeenth-century writers who thought of the *civitas* on the analogy of a body. She does not, however, argue that this makes the body a representable person. See Brett, *Changes of State*, 130.

Civile, written between 1431 and 1438. Palmieri begins his account of the formation of the *città*,

or *civitas*, by differentiating human beings from other animals based on their possession of reason.

For Palmieri, reason enables a person to "judge the present and foresee the future" by "recalling

the past." It follows from this that a person will be able to discern the "direction" of their life and

subsequently seek out the things they need for it.[86] Since human beings ultimately require the

assistance of others to achieve their ends, following the direction of reason eventually leads to the

"bonds of friendship, family ties and attachments between people, and thus to exchanges

(*conversazioni*) and to duties (*ministerii*) that allow people to live in close-knit harmony, unified

in groups."[87] These developments are the "foundations of states (*città*), whose civil customs and

exchanges (*l'uso e la conversazione civile*) have proved to offer countless benefits (*infinite utilità*)

that contribute not only to the necessities of life but to its dignity and distinction as well."[88]

Palmieri here echoes Cicero and Salutati, offering a portrait of human beings as bearers of a natural

reason, that, when followed, gives rise to relationships and exchanges between people, while also

furnishing them with expectations surrounding how those people should interact with each other.

In short, natural reason brought human beings into a number of *societates* with each other, setting

the context for the creation of the *città*.

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[86] "Quello in che poi gl'huomini maximamente avanzano tutte le bestie è la ragione dello intelletto et la potenzia del potere exprimere ogni concepto…L'huomo ha seco la ragione, colla quale ripetendo le cose passate examina et iudcia le presenti et le venture prevede, one agevolemente conosce tutto il corse di sua vita e a reggere et governare quella apparechia le cose necessarie," Matteo Palmieri, *Vita Civile*, ed. Gino Belloni (Florence: Sansoni, 1982), 62.

[87] "Da così facta commodità nascono le coniunctioni dell'amicitie, le parentele et unioni degl'huomini, le conversationi et ministerii della vita humana, onde quasi stretti gl'huomini si sono conciliate in unione di ragunata multitudine," Palmieri, *Vita Civile*, 62.

[88] "Quinci hanno avuto principio le città, in nelle quali l'uso et conversatione civile ha demonstrato infinite utilità, con le quali si subminira prima alla necessità, poi all'amplitudine et hornamento di nostro vivere," Palmieri, *Vita Civile*, 62.

But at this point only the foundation of the *città* had been laid; it had not yet been constructed. Just living under behavioral expectations is insufficient to ensure the maintenance of these advantageous social exchanges. As a result, Palmieri argues, in what we have seen to be typical humanist fashion, that they must be sanctioned by the promulgation of laws. "In order to preserve and maintain such practices," Palmieri says, "human and divine laws were established in a sacred manner," all of which originally came from God.[89] With the promulgation of these laws, the citizens then organized themselves into a *città*, assuming obligations in the interest of preserving a set of beneficial social arrangements in which they were already engaged. Put otherwise, to secure the *societates* into which they had entered through the unfolding of their natural reason, those who would become citizens established artificially another *societas*, the *città*, through the promulgation of laws.[90]

Not only does Palmieri restate the traditional humanist account of the *civitas*' formation, he also describes the *città* as a kind of body that must be entrusted to a magistrate for administration.[91] He further states that the magistrates, once entrusted with this body, must govern

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[89] "…per conservatione et fermo stabilimento delle quali cose sanctamente sono poi state constitute et ferme le divine et humane leggi, delle quali è primo inventore, commune maestro et solo imperadore omnipotente Idio…," Palmieri, *Vita Civile*, 62-63.

[90] A similar account of the formation of the *civitas* (or *republica*) as the formation of a partnership secured by law can also be found in Alberti's *Libri della familia*, in *Opere volgari*, 135: "Ogni uomo non si truova abile a così facilmente essere felicite. Non fece la nature gli uomini tutti d'una compressione, d'uno ingengo e d'uno volere, né tutti a un modo atti e valenti. Anzi volse che in quello in quale io manco, ivi tu supplisca, e in altra cosa manchi in quale sia apresso di quell'altro. Perché questo? Perch'io abbia di te bisogno, tu di colui, colui d'uno altro, e qualche uno di me, e così questo aver bisogno l'uno uomo dell'altro sia cagione e vinculo a conservarci insieme con publica amcizia e congiunzione. E forse questa necessità fu essordio e principio di fermare le republice, di constituirvi le leggi molto più che come diceva… fuoco o d'acque essere stato cagione di tanta fra gli uomini e sì con legge, ragione e costume colligata unione de'mortali."

[91] "…tutto il corpo della republica…Conosca essere commessa in lui la publica degnità et il bene commune essere lasciato nella sua fede," Palmieri, *Vita Civile*, 132.

it by "bearing the universal person of the *città*."[92] This can only be done, he says, by strictly abiding by the founding terms of the partnership: he claims that the "foundation" and "standing" of every republic is deposited in the union of citizens (*unione civile*), and, in order to conserve it, it is necessary to maintain the "partnership" (*compagnia*) and "agreement" (*convenienzia*) of the citizens through the equitable distribution of justice.[93] The laws, in other words, give life to the *città* and its preservation depends on their preservation. They are, then, like the *animus* of this body, leading Palmieri to say that the magistrates, by embodying the laws in their actions, "bring the republic to life."[94]

By arguing that the magistrate should act as a representative of the person of the *civitas*, Palmieri also implies that sovereignty is not something held by the magistrate but instead inheres in the *civitas* itself. A brief re-examination of the origin of the *civitas* will show how this must be the case. We have seen that the *civitas* formed, and political life began, when a politically-unorganized multitude engaged in a number of mutually-beneficial social relationships consented to laws in order to secure these relationships. Without the promulgation of laws, they reasoned, their beneficial social relationships cannot hold; they will collapse due to anti-social behavior. Political life is therefore not the product of a pre-existing political body giving itself laws, but instead the product of a multitude agreeing on the basis of a shared deliberative capacity that they should join themselves artificially into a political body by giving themselves laws. The humanists,

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[92] "Ogni buono Cittadino che è posto in magistrate dove rapresenti alcuno principale membro civile, inanzi a ogni altra cosa intenda non essere private persona, ma rapresentare l'universale persona di tutta la città," Palmieri, *Vita Civile*, 131-132.

[93] "Lo stato et fermamento d'ogni republica è posto nella unione civile: a conservare questa, è necessaria la compagnia et convenienzia cittadinesca con pari ragione mantenere," Palmieri, *Vita Civile*, 132.

[94] "…essere facta animata republica," Palmieri, *Vita Civile*, 131-132.

as we have seen, claimed that this joining resulted in the construction of an abstract, artificial person, whose personality is expressed in the laws and whom the magistrate brings to life in the physical world by administering them. With no political life prior to the institution of the *civitas*, there can be neither magistrates nor citizens without it, only individual members of an unorganized crowd. The only source of political authority, then, must be the union of citizens who constitute the *civitas* itself.

V.

The way of thinking about the *civitas* outlined above – as a kind of artificial man made up of those bound by the same law, with its own personality, and with political legitimacy lodged in that personality – was not limited to theoretical accounts of it; it can also be discerned in the way humanist writers treated historical events. Here I will discuss an example of this, from Leonardo Bruni's *History of the Florentine People*. But before offering an interpretation of an episode from that book, I will briefly demonstrate that Bruni also adopts this concept more explicitly.

In this commentary on the pseudo-Aristotelian *Economics*, Bruni offers an account of the formation of the *civitas* as a kind of *societas*. In what we have seen to be typical humanist fashion, Bruni argues that the *civitas* originates when a multitude of individuals enter into a contract that establishes an exchange relationship in which each person contributes resources in pursuit of a universally-beneficial end. Citizens (*cives*), he says, are those who come together in this kind of

arrangement and obey the same laws.[95] For a *civitas* is "a kind of *societas*," "and there is nothing on earth more pleasing to the supreme god than the councils and assemblies of men associated by law (*sociati iure*), which are called *civitates*," "as Cicero says in Book VI of the *De republica*."[96] As a legal relationship, the preservation of the *civitas* requires that each member act as stipulated in the laws and that every member is considered equally bound by them: "men in partnership with each other is what constitutes a *civitas*," and when the partnership is dissolved, so is the *civitas*.[97] This fact about the *civitas* led other humanists such as Salutati, Poggio and Palmieri to describe it as an abstract person animated by law, with the law acting as a soul that unites and controls the entire body. While Bruni does not use this specific language, the notion that the maintenance of the *civitas* depends on keeping the union of the citizens, depicted as a kind of body, united and controlled by the law is very much present in his work.

We can see a clear example of Bruni's endorsement of this concept in his treatment of the Ordinances of Justice, a body of anti-magnate legislation passed in Florence in 1293. Leading up to their promulgation, the ancient nobility residing in the city, believing themselves untouchable on account of their numerous familial and patronage connections, routinely flouted the law. Upset by this, the group whom Bruni calls the *popolo*, broadly speaking a group comprised of the commercial classes, passed legislation that stripped the nobility of certain equal rights in an effort

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[95] "Quando enim cohabitantibus, & singulis opus suum in communi societate conferentibus, sufficientia resultat ad bene vivendum, tunc est civitas, & cives sunt qui isto modo conveniunt & sibi eisdem vivunt legibus," Pseudo-Aristotle, *Aristotelis Stagiritae omnia quae extant opera* (Venice, 1550), 162v.

[96] "Civitas enim societas quaedam. Ut inquit Cicero in libro de republica sexto: nihil est illi principi deo quod quidem in terris fiat acceptius, quam concilia coetusque hominum iure sociati, quae civitates appellantur," Pseudo-Aristotle, *Aristotelis Stagiritae omnia*, 163r.

[97] Sociati ergo homines civitatem constituunt: soluta vero societate civitas interit," Pseudo-Aristotle, *Aristotelis Stagiritae omnia*, 163r.

to preserve the supremacy of the law. Under the Ordinances, for example, members of the *popolo* retained the right to stand for election as a magistrate, while this right was taken from the nobility. Similarly, the burden of proof in a legal proceeding against a member of the nobility was lowered, and general notoriety became admissible as evidence for members of this class exclusively. Bruni's praise for the Ordinances has perplexed a number of scholars since it contradicts his alleged Aristotelianism. Aristotle's vision of the best constitution was in part designed to limit partisanship, while Bruni's positive appraisal of the Ordinances appears highly partisan. In response to this apparent interpretative problem, James Hankins has suggested that Bruni's support of the Ordinances is an early instance of an eventual humanist embrace of partisanship in politics, a view that would reach maturity in Machiavelli's *Discorsi*. It reflects, in other words, a departure from a previous humanist consensus that partisanship is something to be avoided at all costs.[98]

However, when seen in light of Bruni's attachment to the humanist conception of the *civitas*, his appraisal of the Ordinances is perfectly intelligible on conventional humanist grounds. In his treatment of them in the *History of the Florentine People*, Bruni ascribes to the *popolo*'s leader, Giano della Bella, the claim that "the liberty of the people consists in two things: its laws and its courts. Whenever the power of these two things prevails in the city over the power of any individual citizen, then liberty is preserved."[99] With this axiomatic statement concerning the supremacy of the laws, Giano then proceeds to make his recommendations. He proposes harsher punishments for the nobility, stating that if one wishes to "tie up" both "a giant" and "a midget,"

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[98] Hankins, *Virtue Politics*, 274-281.

[99] Leonardo Bruni, *History of the Florentine People. Vol.1*, ed. and trans. James Hankins (Cambridge, MA: Harvard University Press, 2001), 363. The fact that liberty is the consequence of the supremacy of the laws recalls the concluding sentence of *Pro Cluentio* 146: "…we are slaves to the law so that we may be free."

one must use different materials. While giants require "chains and cables," midgets only "ropes and thongs." If the *popolo* are unsuccessful at imposing these restraints, then they will have no choice other than to "root out" the magnates as they would "incurably sick limbs."[100] With laws as chains that unite the different parts of the *civitas* into one coherent body, these statements draw from the same humanist language that we have encountered previously.[101] Frequently joined with this language, as we have also seen previously, is the belief that the laws are the animating spirit (*animus*) of this body and that its integrity depends on whether its *animus* has sufficient control of its parts; a belief to which Bruni also appears to subscribe. Giano's suggestion that those who are unable to be brought under the control of the laws be amputated, like "incurably sick limbs," points towards Bruni's view that the integrity of a body is ultimately at stake and that its integrity depends on the universal application of its laws. With this in mind, the Ordinances' aim to keep every citizen equally accountable to the laws, even if that means sometimes using different tools for different citizens, can be seen as an attempt to maintain the body of the *civitas* united under its animating force. And by acting to ensure that all the *civitas*' members remain equally subject to its laws, Giano earns Bruni's praise for effectively embodying its animating principles in his own actions as magistrate.

In addition to serving as an example of Bruni's reliance on the traditional humanist concept of the *civitas*, his treatment of the Ordinances of Justice also puts into sharp relief an important

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[100] Bruni, *History of the Florentine People* I, 365-369.

[101] Bruni echoes this sentiment in his *Oration for the Funeral of Nanni Strozzi*, stating that the Ordinances "conquered and compelled [the magnates] by the law's quite adamantine chains to bend their necks and to humble themselves." This, he says, "is true liberty, this is fairness in a city: not to have to fear violence or injury from any man, and for the citizens to be able to enjoy equality of law and a government that is equally accessible to all." See *The Humanism of Leonardo Bruni*, ed. Gordon Griffiths, James Hankins, David Thompson (Binghamton, NY: Medieval and Renaissance Texts and Studies, 1987), 125.

implication of the differences between the humanist *civitas* and the Aristotelian *polis* otherwise hidden in the more theoretical treatment of the *civitas* above. Central to the Aristotelian *polis* is the fact that its origin is intimately tied to physical place: it develops organically out of a collection of households interacting with each other in a particular place in order to acquire self-sufficiency.[102] Aristotle gives no precise formula for how a city can acquire self-sufficiency, suggesting that each city that has become self-sufficient will have done so according to its own unique circumstances.[103] It follows from this that the maintenance of the *polis* as a self-sufficient collection of households engaged in pursuing the good life depends on successfully preserving the unique circumstances that produce that self-sufficiency; a reality that must influence the shape of its constitution. This draws Aristotle's attention to the demographic composition of cities, where, in addition to women, children and slaves, he distinguishes three types of person: the rich, the middle class, and the poor. The relative numbers of these groups will vary in each city based on a number of different factors, meaning that each city's constitution will also have to vary accordingly. To assist legislators designing constitutions for their respective cities, Aristotle assigns to each group a different psychological profile, defined by characteristics that sometimes promote and sometimes detract from the ends of the *polis*, and advises legislators that their constitutions must balance the characteristics of each group resident in the city in such a way that makes each feel that they are adequately represented in the constitution.[104] Otherwise, the constitution will generate conflict between groups, putting each city's unique social arrangements

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[102] Aristotle, *The Politics*, 1252b28-31.

[103] Aristotle, *The Politics*, 1289b28-1290a14.

[104] Aristotle, *The Politics*, 1295b1-1296b3.

that produce the self-sufficiency necessary for living the good life, and which the constitution should aim to preserve, at risk.[105]

Bruni's praise for the anti-magnate legislation demonstrates that the integrity of the humanist *civitas*, unlike the Aristotelian *polis*, does not depend on the careful balancing of the demographic composition of the physical cities it presides over. It instead shows that, when it comes to the *civitas*, humanist political writers treated individual citizens much more abstractly than Aristotle: they were not considered the constituent parts of a pluralistic whole, but instead as equal contracting members of a legal partnership with its own distinct identity.[106] As a result, the preservation of the humanist *civitas*, unlike the Aristotelian *polis*, does not require the careful balancing of the demographic composition of the physical cities it presides over, but instead the equal application of the legal contract that binds it. Since he thinks of the *civitas* as a group of individuals equally bound by contract, Bruni could justify the Ordinances' highly partisan legal measures on the grounds that preserving the *civitas* requires ensuring that all members comply with its terms, doing whatever is necessary to secure compliance. Had he been thinking about the *civitas* in Aristotelian terms, however, such measures would not be deemed necessary to preserve the whole but instead highly de-stabilizing to it.

VI.

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[105] Aristotle, *The Politics*, 1296b13-1297a13.

[106] Aristotle explicitly rejects the idea that a *polis* can be founded on a contract as a kind of alliance, since that would suggest that it aims to enforce rules rather than make people just and good, which is its true aim. See *The Politics*, 1280a34-1280b13.

We have seen that implicit in Bruni's treatment of the Ordinances is a conceptual distinction between the *civitas* and the physical city over which it presides; a distinction that Bruni would make explicit in a number of other works.[107]   But while this distinction certainly highlights the differences between the humanist *civitas* and the Aristotelian *polis*, it is worth pointing out in conclusion that, in at least one instance, Bruni singles out the civil lawyers in particular for their mistakes on this subject.   He does this in a letter written in 1409 to his fellow humanist Niccolò Niccoli containing a description of the city of Rimini.   Too many people in their own day, Bruni tells Niccoli, confuse the *civitas* and the *urbs*.   An *urbs* refers only to the collection of buildings in one place and to the walls that encircle that place.   A *civitas*, on the other hand, "is a congregation of men associated by law, who are living by these laws."[108]   The definition of *urbs* does not include the citizens who live in the city, and it certainly does not refer to the citizens who live outside it, who also observe the same laws, fear the same magistrates, and have the same obligations.   These people are joined together under the category of *civitas*.[109]   Because of this distinction, it is possible for an *urbs* to be underwhelming at the same time that the *civitas* bearing the same name could be great.[110]

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[107] See, for example, Bruni's *De militia*, in *The Humanism of Leonardo Bruni*, 129; his letter to Francesco Gonzaga on the origins of Mantua in Leonardo Bruni, *Epistolarum libri VIII*, ed. Laurentio Mehus (Florence: Paperinius, 1741), 224-225; and in his commentary on Pseudo-Aristotle, "Libros Oeconomicorum," 162v.   As we saw in the previous chapter, this distinction is present in the work of Cicero and in the work of Brunetto Latini.

[108] "Illud insuper considerandum est, quod plerosque non satis eruditos interdum fallit, aliud urbem significare, aliud civitatem: urbs enim est solum aedifica, & moenia ab orbe, quo locus cingitur, appellate.   Civitas autem est congregation hominum jure sociatorum, & eisdem legibus viventium…," Leonardo Bruni, *Epistolarum*, 78.

[109] "Neque enim multum refert, ut opinor, intra urbem cives habitant, vel extra, modo iisdem legibus, unoque statuis consilio vivant, eosdem magistratus vereantur, muneraque, & honores simul capiant," Bruni, *Epistolarum*, 78.

[110] "Perusium, & Aretium parvas fuisse urbes ex utriusque anitquis moenibus aperte discernitur; eaedem tamen Civitates magnae, & Etruriae capita fuere," Bruni, *Epistolarum*, 78-79.

While Rimini's ruins suggest that it may have been an underwhelming *urbs*, they also indicate that it was the principle town (*oppidum*) of an ancient *civitas*, since they show that it was home to the forums, the judges, the magistrates, and the assembly of citizens.[111] The meaning of *civitas*, Bruni then says, can be deduced from its etymology. He asserts that the root of the word is the verb *ciere*, which means to "call together," from which he derives a number of words often associated with *civitas*: *coetus*, *cive*, *concio*, *concilium*, *conciliabulum*, "and other words that signify a dispersed multitude of various people assembled into one."[112] The *civitas* is not, as some have called it, the "unity of the citizens" (*civium unitas*), but is instead a coming-together of previously dispersed individuals under the same laws, the same judges and magistrates, and the same assemblies.[113] Citizenship is defined by membership in this body, a point Bruni makes by reminding Niccoli that the ancients clearly distinguished citizens from foreigners and especially from foreigners who were also fellow inhabitants of the same city (*comitativos*).[114]

Nowhere is Bruni's criticism of the civil lawyers clearer in the letter than when he ridicules the definition of the *civitas* as the "unity of the citizens" (*civium unitas*). The expression *civium unitas*, or variations of it, was used by civil lawyers to denote the union of the citizens into one

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[111] "In ipsa vero urbe, quod erat praecipuum civitatis oppidum, fora erant & judicia, & magistratus, qui cum res postulabat, in concilium cives vocabat," Bruni, *Epistolarum*, 79.

[112] "Hoc etiam nomen ipsum civitatis attestari videtur. *Ciere* namque vocare est; inde cetus, inde cives, inde civitas, inde etiam ille composite concio, concilium, conciliabulum, & alia huiusmodi congregationis vocabula ex eo dicta, quod multitude varie dispersa in unum convocabatur," Bruni, *Epistolarum*, 79.

[113] "Qui vero aiunt civitatem dici, quasi civium unitatem, ii, cum eorum pace dictum sit, omnino delirant inscitia litterarum," Bruni, *Epistolarum*, 79.

[114] "Probat insuper illa ratio, quod apud veteres distinctio sit inter cives, & peregrinos, non ut hodie facimus ineptissime quidem, sed tamen facimus. Imperitia enim non solum rerum, sed etiam verborum omnia in hac temporum nostrorum faece confudit inter cives, & comitativos," Bruni, *Epistolarum*, 79.

expressed by the idea of the *civitas* as a *universitas*.[115] This concept rested, in turn, on the premise that the multitude of citizens whose unity is expressed in the *universitas* were those resident within the physical confines of the city, thereby combining, or as Bruni would likely say, conflating, citizenship and residency. On this account, the *civitas* is name given to a body of people who happen to live in the same place, acquiring the legal status of a *universitas* when that body is treated as one entity.[116] By making a distinction between *civitas* and *urbs*, citizen and foreigner, it is clear that Bruni wishes to draw attention to the fact the *civitas* is not merely the organization of people residing within a city; it is instead the product of an agreement between individuals to follow certain rules, acquiring its distinctive identity only through the deliberate action of those who would become citizens. As we have seen, it was on the basis of this definition of *civitas* that the humanists constructed a conception of it as an artificial person and located sovereignty in that person. Bruni's letter to Niccoli shows that not only could they construct this concept without thinking of the *civitas* as a *universitas*, but that they could do so while at the same time demonstrating a marked hostility towards this idea.

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[115] Canning, "The Corporation in the Political Thought of the Italian Jurists," 10-15.

[116] Canning, "The Corporation in the Political Thought of the Italian Jurists," 23-24.

Chapter Three

Aristotle's Politics *and the Humanist* Civitas

The last chapter argued the conception of the *civitas* as a kind of person, brought to life by a representative, and most vividly expressed in Matteo Palmieri's *Vita Civile,* is an implication of thinking about the *civitas* on Ciceronian terms as a *societas*. This is a humanist argument from Petrarch onwards that his successors, such Salutati, Bruni, Alberti and Poggio, ultimately also endorsed. Yet by the 1430s, one of these figures, Bruni, had begun to engage much more with the political philosophy of Aristotle; indeed, among Bruni's most enduring legacies was his highly significant, and highly influential, translation of Aristotle's *Politics*, which he completed between 1435 and 1437. This is a fact that has led some scholars to regard Bruni as an Aristotelian and, consequently, to interpret his political writing as primarily wedded to key tenets of Aristotle's political philosophy.[1] However, as we have also seen in the previous chapter, Bruni's Aristotelian

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[1] The relationship between *quattrocento* humanist political and moral thought and Aristotle is the subject of on-going scholarship. For a classic, early statement, see Hans Baron, *The Crisis of the Early Italian Renaissance* (Princeton: Princeton University Press, 1966), especially 418-419. For a continuation, see J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 2016), 49-91. For a challenge, see Skinner, *Foundations of Modern Political Thought. Vol. 1*, esp. parts 1 and 2, and Skinner, *Visions of Politics*, 1-185. Since then, the issue has been explored by Richard Tuck, *Natural Rights Theories: Their Origin and Development* (Cambridge: Cambridge University Press, 1979), ch. 2 and esp. 40-42; Charles B. Schmitt, *Aristotle and the Renaissance* (Cambridge, MA: Harvard University Press, 1983); Margaret L. King, *Venetian Humanism in an Age of Patrician Dominance* (Princeton: Princeton University Press, 1986), ch. 2; Bruni, *Humanism of Leonardo Bruni*, 259-267; R. Dees, "Bruni, Aristotle, and the Mixed Regime in 'On the Constitution of the Florentines," *Medievalia et Humanistica* 15 (1987): 1-23; Viroli, *From Politics to Reason of State*; Jill Kraye, "The Printing History of Aristotle in the Fifteenth Century: A Bibliographical Approach to Renaissance Philosophy," *Renaissance Studies* 9 (1995): 189-211; Ubaldo Staico, "Esegesi Aristotelica in età Medicea," *Toscana al tempo di Lorenzo il Magnifico: politica, economia, cultura, arte* (Pisa: Pacini editore, 1996), 1275-1321; David A. Lines, *Aristotle's Ethics in the Italian Renaissance (ca. 1300-1650): The Universities and the Problem of Moral Education* (Leiden: Brill, 2002); Tuck, "Hobbes and Democracy," 171-191; James Hankins, "Humanism, Scholasticism, and Renaissance Philosophy," *Cambridge Companion to Renaissance Philosophy*, ed. James Hankins (Cambridge: Cambridge University Press, 2007), 30-48 and, in the same volume, Luca Bianchi, "Continuity and Change in the Aristotelian Tradition," 49-71; Brett, "'The Matter, Forme and Power of a Common-wealth'"; Brett, *Changes of State*; James Hankins, "Exclusivist Republicanism and the Non-Monarchical Republic," *Political Theory* 38 (2010): 452-482; Gary Ianziti, *Writing History in Renaissance Italy: Leonardo Bruni and the Uses of the Past* (Cambridge, MA: Harvard University Press, 2012), 138-140; James Hankins, "Leonardo Bruni on the Legitimacy of Constitutions (*Oratio in funere Johannis Strozze* 19-23)," in *Reading and Writing History from*

credentials are complicated, and frequently de-stabilized by his Ciceronian allegiances.[2] Yet Bruni's position as a humanist straddling both Ciceronian and Aristotelian thinking makes his work an example, and perhaps the most famous example, of the complex relationship between humanist Ciceronianism and humanist Aristotelianism. This chapter aims to give some shape to the ways humanist political writers in the *quattrocento* sought to reconcile these two very different classical political philosophies.

A seemingly uneasy co-existence between Renaissance Ciceronianism and Renaissance Aristotelianism has indeed been observed by modern scholars. Among the examples cited as evidence of this complicated relationship is the frequent reference to *De inventione*'s allegory of the formation of the *civitas* in the work of humanist Aristotelian authors, and especially in their commentaries on the *Politics*. From the Florentine humanist Donato Acciaiouli's 1473 commentary to those of Piero Vettori (1576), Antonio Montecatini (1587) and, perhaps most influentially, Louis Le Roy (1568), Cicero's allegory was used by humanist readers of the *Politics* from across Europe to elaborate upon multiple aspects of what they took to be Aristotle's political philosophy.[3] This reality has elicited a number of responses from modern commentators. Richard Tuck, for example, sees the incorporation of *De inventione*'s portrayal of asocial natural human life into humanist Aristotelian works as an inconsistency in their thinking, since it appears to

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Bruni to Windschuttle: Essays in Honor of Gary Ianziti, ed. Christian Thorsten Callisen (Burlington, VT: Ashgate, 2014), 73-86; Matthias Roick, *Pontano's Virtues: Aristotelian Moral and Political Thought in the Renaissance* (London: Bloomsbury, 2017); Gabriele Pedullà, *Machiavelli in Tumult: The* Discourses on Livy *and the Origins of Political Conflictualism*, trans. Patricia Gaborik and Richard Nybakken (Cambridge: Cambridge University Press, 2018); Smith, "Democracy and the Body Politic"; Hankins, *Virtue Politics*"; and Anna Becker, *Gendering the Renaissance Commonwealth* (Cambridge: Cambridge University Press, 2020), 13-48.

[2] Hankins, *Virtue Politics*, 274-281.

[3] Richard Tuck, *Natural Rights Theories*, 44; Brett, "'The Matter, Forme, and Power of a Common-wealth,'" 73-81.

contradict Aristotle's thesis of natural sociability. Tuck concludes by stating that this demonstrates the need for a good scholarly treatment of humanist Aristotelianism.[4] Faced with the same set of source material, Annabel Brett has argued, contrastingly, that this material suggests a humanist reading of Aristotle that, while certainly different from what is now conventionally understood to define Aristotle's political philosophy, is indeed compatible with some of his observations in the *Politics*. She has in mind one observation in particular: Aristotle's statement in Book I that human beings are the most savage of all animals when they lack justice. This, Brett claims, can be read as introducing a further reason for the institution of the *polis*, beyond a natural inclination: the need to solve the problem of pervasive injustice committed by human beings in the absence of law.[5] Since *De inventione*'s allegory contains a well-known and authoritative illustration of just that, it is unsurprising then that the fable would feature prominently in humanist Aristotelian texts, as it elaborates upon a reasonable interpretation of the *Politics* itself. Brett concludes with the observation that this example of the co-existence between Aristotelian and Ciceronian ideas is evidence of the existence of a "living political theory" that reflects an "eclectic intellectual universe" in the early modern period.[6]

Here I will re-examine the co-existence of Ciceronian and Aristotelian elements in *quattrocento* humanist political thought in light of the considerable context of humanist thinking about the *civitas* which I have now reconstructed in the previous two chapters. When making her

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[4] Richard Tuck, *Natural Rights Theories*, 44.

[5] Brett, "'The Matter, Forme, and Power of a Common-wealth,'" 73-81.

[6] Brett, "'The Matter, Forme, and Power of the Common-wealth,'" 100. The notion of an "eclectic Aristotelianism" in the Renaissance echoes an argument about Renaissance Aristotelianism first made by Charles B. Schmitt. See Schmitt, *Aristotle and the Renaissance*, 89-109.

argument about a humanist reading of Aristotle that gives a prominent place to justice in state formation, Brett says that she is prompted to read Aristotle in this way because this is how she believes his humanist commentators read him;[7] I want to suggest below that there is a reason they read the *Politics* this way. Although the existence of a dynamic relationship between Aristotelian and Ciceronian elements is not in dispute – I will indeed argue just that – one can readily observe in early humanist Aristotelian political thinking that the contours of this apparent mixture of Ciceronian and Aristotelian doctrines were shaped by these authors continued underlying allegiance to the Ciceronian conception of the *civitas* as a *societas*. They adopted this interpretation of the *Politics*, in other words, because they continued to think of the *civitas* on Ciceronian terms, including all of its implications about state personality and state sovereignty.

Before doing so, however, it is necessary first to address how and when Aristotle's *Politics* came under serious consideration from humanists, since this well help to explain how their reading of the text came to be stamped with Ciceronian ideas about the *civitas* as a *societas*. In the preface to his translation of the *Politics*, Bruni suggests that, up until his intervention, "intelligent and learned" readers did not possess significant knowledge of Aristotle's works. He makes this claim when discussing the motivations for his translation, referring to the success of his 1416 translation of the *Nicomachean Ethics*: "For intelligent and learned persons who had before been repelled by the absurdity and the barbarity of the old translation thereafter acquired a high regard for these books, with the result that knowledge of their contents became widespread."[8] Aristotle's work

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[7] Brett, "'The Matter, Forme, and Power of the Common-wealth,'" 75.

[8] "Homines enim ingenue eruditi, quos primo veteris interpretationes ineptitudo ac barbaries a legendo repellabat, ita postmodum eos libros complexi sunt, ut in maximam lucem illarum rerum cognitio sit perducta," Aristotle, *Aristotelis Stagiritae omnia*, 115v. Translation in Bruni, *Humanism of Leonardo Bruni*, 163.

was of course well known to scholastic writers, and humanist readers in the years before Bruni's translation did indeed have some knowledge of his doctrines as mediated through flawed medieval translations. Nevertheless, as Bruni's statement suggests, the widespread barbarisms that characterized these translations were so offensive to the humanists, concerned as they were above all with the cultivation of eloquence, that they did not receive the kind of in-depth study that the humanists otherwise dedicated to the works of Cicero, whose eloquence they widely acclaimed.

Bruni's work ushers in a new epoch in the study of Aristotle's political philosophy in both the *Ethics* and the *Politics*. In an article on the interpretation of Aristotle in Medicean Florence, Ubaldo Staico argues that a well-documented surge in scholarly interest in Aristotle in the sixteenth century should be attributed to an "awakening" in Aristotelian studies brought about by the appearance of Bruni's translation. Crucially, this proliferation of humanist works on Aristotle was colored, Staico shows, by their longstanding interest in moral and political issues.[9] As a result, among the new directions in Aristotelian studies taken in the second half of the *quattrocento* was a growing interest in the *Politics*, a book that, despite the prominent position afforded to it by scholastic political writers since the thirteenth century, nevertheless had remained one of Aristotle's less studied works. As David Lines has shown, while other texts, and especially the *Nicomachean Ethics*, were frequently taught at Italian universities in the fifteenth century, there is only one recorded university lecture on the *Politics* before 1500.[10] The *Politics* was, moreover, not among the Aristotelian works taught by John Argyropoulos at the Florentine *studio* in the

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[9] Staico, "Esegesi Aristotelica," 1275-1279.

[10] Lines, *Aristotle's Ethics in the Italian Renaissance*, 106.

1460s.[11] But by the end of the fifteenth century, there are signs of a greater interest in the *Politics*; a greater interest in part due to the intervention of humanist scholars working in the aftermath of Bruni's translation. Indeed, Lines' one stated exception to the absence of lectures on the *Politics* in the fifteenth century is a series delivered by the Venetian humanist Ermolao Barbaro at the University of Padua in 1476.[12] And, in another example, Argyropoulos' pupil Donato Acciaiouli wrote a commentary on the *Politics* in 1473, a turn away from his teacher's form of Aristotelianism that Staico attributes to his humanist background and interests.[13] This surge in interest in the *Politics* transpired across the peninsula with the result that, by the mid-sixteenth century, university teaching on the *Politics* had become very common.[14] Not only, then, did Bruni's translation of the *Politics* lead to greater study of it on the part of the humanists; it also contributed to the work acquiring a greater prominence. And, as the translation upon which all these humanist works were based, their treatment of the work unfolded on Bruni's terms.

This brings us to the text of the translation itself.[15] In his translation, Bruni makes an important editorial decision that facilitated the integration of the *Politics* into established Ciceronian humanist thinking about the *civitas*. Aristotle begins the *Politics* with the claim that

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[11] Staico, "Esegesi Aristotelica," 1287.

[12] Lines, *Aristotle's Ethics in the Italian Renaissance*, 106.

[13] Staico, "Esegesi Aristotelica," 1287.

[14] Lines, *Aristotle's Ethics in the Italian Renaissance*, 106.

[15] On humanist translations of Aristotle, see Bruni, *The Humanism of Leonardo Bruni*, 197-212; Eckart Shütrumpf, *The Earliest Translations of Aristotle's* Politics *and the Creation of Political Terminology* (Paderborn: Wilhelm Fink, 2014); J. Cornelia Linde, "Translating Aristotle in Fifteenth-Century Italy: George of Trebizond and Leonardo Bruni," *Et Amicorum: Essays on Renaissance Humanism and Philosophy. In Honour of Jill Kraye*, eds. Anthony Ossa-Richardson and Margaret Meserve (Leiden: Brill, 2017), 47-68; Eugenio Refini, *The Vernacular Aristotle: Translation as Reception in Medieval and Renaissance Italy* (Cambridge: Cambridge University Press, 2020).

the state, or the *polis*, is a form of *koinonia* and thus that it is, as several modern translators of the *Politics* have chosen to render it into English, a "community" or "partnership" or "association" that aims towards some good.[16]   Notwithstanding the subtle differences between these English terms, translators of the *Politics* thus agree that *koinonia* signifies a kind of relationship between multiple people who share things in common, with the political community – the *koinōnia politikē* – understood to be a community of individuals who share in common the pursuit of the greatest good. Perhaps to accommodate this rather general meaning of individuals sharing things, the first translator of the *Politics* into Latin, William of Moerbeke (1215-1286), renders *koinonia* in his c.1260 translation as *communicatio*. It was in this language of *communicatio* that the *Politics* initially began to circulate upon its re-introduction into Western Europe. For example, in his commentary on the work, Thomas Aquinas, following Moerbeke's translation, refers to the *civitas* as a *communitas* and sometimes also as a *coitus*.[17] To Bruni's point of view, however, Moerbeke's choice of *communicatio* for *koinonia* was apparently among the numerous barbarisms and errors that defined his translation, since, in Bruni's translation, *koinonia* instead appears as *societas* and *koinōnia politikē* as *societas civilis*.[18] In so doing, Bruni fixed a much more specific meaning to Aristotle's idea of *koinonia*, replacing the more general significance of sharing attached to the word *communicatio* with the much more specific meaning of legal association attached to the word *societas*.[19]

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[16] Aristotle, *Politics* 1252a1. The Jowett (Cambridge, 1996) translation uses "community"; the Rackham translation (Cambridge, MA, 1932) uses "partnership"; and the Saunders (Oxford, 1992) uses "association."

[17] Thomas Aquinas, *Divus Thomas in octo Politicorum Aristotelis libros cum textu eiusdem Leonardo Aretino interprete novissime recognitus infinitisque erroribus castigates* (1514), 2.

[18] The aforementioned edition of Thomas's commentary is joined to Bruni's translation, placing the latter's use of *societas* in striking juxtaposition with the former's use of *communitas*.

[19] For a consideration of the significance of Bruni's change in terminology see James Schmidt, "A Raven with a Halo: The Translation of Aristotle's *Politics*," *History of Political Thought* 7.2 (1986): 295-319.

It should be stressed, however, that Bruni's use of *societas* did not necessarily alter Aristotle's meaning, as it is in fact one possible way to translate *koinonia* into Latin. For *koinonia* can also signify an exchange relationship that is governed by terms, or an understanding of justice, contracted between individual partners. At least one modern commentator on the *Politics* shares Bruni's view on the meaning of the term. In his commentary, Trevor J. Saunders defines *koinonia* in terms nearly identical to those the humanists use to define *societas*: as "free men united by something in common (*koinon*), mutual friendship, and an agreement concerning the just (which is not necessarily the equal) distribution among themselves of the benefits accruing from their associating."[20] This suggests that Bruni's use of *societas* – even if comes with implications, as I will demonstrate below, that we do not normally associate with Aristotelian political thinking today – represents a decision to embrace a possible meaning of the term that Moerbeke had been unwilling, or perhaps unable, to make, and, in so doing, to remedy one of the "enigmas" that, in Bruni's view, characterized the earlier translation.[21] The significance of this decision should not be understated, as we will now see in the examples of several humanist authors over the second half of the *quattrocento*.

I.

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[20] Aristotle, *Politics*, *Book I and II*, trans. Trevor J. Saunders (Oxford: Clarendon Press, 1995), 55. *Koinonia* was indeed among the terms used to indicate a contractual relationship governing the joint ownership of property in classical Athens. See A.R.W. Harrison, *The Law of Athens. Vol. 1* (Oxford: Clarendon Press, 1968-1971), 239-243, who compares it with the Roman law of partnership (*societas*).

[21] Bruni, *Humanism of Leonardo Bruni*, 163.

The disposition of humanist readers of the *Politics* to read the work in support of the conventional humanist Ciceronian account of the *civitas* as a *societas* is at first visible in their treatment of its initial formation. The Venetian humanist Lauro Quirini's *De re publica* (1449-1450) – self-consciously presented as a summary of the *Politics* – is a prominent example in which we can see this [tendency] at work.[22] In the opening sections of his treatise, which largely follow the early parts of Book I of the *Politics*, Quirini introduces a distinction absent from Aristotle between a natural and a rational impulse to associate: "not only are human beings incited by nature to associate," "but they are also persuaded by reason."[23] At this point he begins a story about primitive human beings living scattered in the manner of beasts without law and without morals. The fable is unfortunately only partially preserved in the manuscript, but the trajectory it traces of the transformation of primitive life into civilization through the exercise of reason is remarkably similar to *De inventione*'s fable. There was a time, he says, when "human beings were wandering among the trees, lacking both laws and morals, and eating herbs and fruits." After a lacuna, the text begins again with the claim that "then from the intemperate air and again from the ferocious wildness into which they were born, utility reduced them into one."[24] "For," he continues,

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[22] Lauro Quirini, *De re publica*, in *Lauro Quirini umanista*, ed. Konard Krautter et al. (Florence: Olschki, 1977), 123-124. In *Humanism of Leonardo Bruni*, 264-267, James Hankins discusses a dispute between Bruni and Quirini over the meaning of Aristotle's philosophy and gives reasons for why we should think of Quirini's Aristotelianism, at least as a young man in the early 1440s, as "unorthodox." This dispute was, however, about aspects of moral philosophy. As we will see, with respect to his interpretation of Aristotle's political philosophy, Qurini was far from unorthodox. A letter survives in which Bruni responds to some of Qurini's interpretations. It is available in English translation in Bruni, *Humanism of Leonardo Bruni*, 293-299. For other scholarship on Qurini's political thinking, see King, *Venetian Humanism*, 118-132 and Pedullà, *Machiavelli in Tumult*, 21-31, 97, 121, 129, 155-162. For Quirini the humanist scholar, see John Monfasani, "Lauro Quirini and his Greek Manuscripts: Some Notes on his Culture," *Et Amicorum: Essays on Renaissance Humanism and Philosophy. In Honour of Jill Kraye*, eds. Anthony Ossa-Richardson and Margaret Meserve (Leiden: Brill, 2017), 33-46.

[23] "…homines vero non solum natura incitati sed ratione quoque persuadente," Quirini, *De re publica*, 126.

[24] "Etenim cum antea homines per silvas sine lege, sine more, ferarum ritu vagarentur herbis fructibusque degentes et plurimi <…> tum ab aeris intemperie tum etiam a ferocissimis beluis nascerentur, utilitas in unum reduxit," Quirini, *De re publica*, 126.

"knowledge of utility brought common sustenance to human imbecility, according to which, as it is customarily said, 'each shares the burdens of another.' Since on the occasion that we may stand in need of many things in life which we are unable to provide for ourselves…such a *societas* becomes thoroughly useful."[25] From this brief account, and notwithstanding its incompleteness, we can see that Quirini believes Aristotle to endorse the conventionally humanist view that the pursuit of mutual advantage brings human beings together into society and that the impetus for this action came from the exercise of reason. Because of the lacuna it is unclear whether knowledge of what is useful came from the exercise of their own reason through experience, as both Cicero in *De officiis* and earlier humanists such as Palmieri argue in some of their works, or if it comes through the intervention of a wise and eloquent man, as Cicero argues in *De inventione*. Nevertheless, what is clear from this account is that Quirini interprets Aristotle to argue that the motivation behind social life is the pursuit of mutual advantage, that reason led human beings into society, and that these advantageous social relationships are called *societates*.

Quirini then supplements the above account with an argument for a natural impulse to associate. The faculty of speech, he argues, is evidence that nature appropriately accommodates human imbecility and the partnership it necessitates. Whereas other animals can only communicate pleasure and pain, human beings can communicate the "useful" and the "useless," enabling them to act on their perception that they require society.[26] There is, moreover, a further

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[25] "Confert enim communis victus humanae imbecillitati, secundum quod dici solitum est: alter alterius onera portantes. Quare cum multarum rerum egeamus in vita quae a nobismet fieri non possint…perutilis fit talis societas," Quirini, *De re publica*, 126. Quirini goes on to say, "Itaque recte stoici homines asserunt hominum causa generatos ut ipsi inter se alii aliis prodesse possint," thus alluding to the Stoic origin of this doctrine.

[26] "Quamobrem bene atque optime natura providit homini sermonem orationemque praestans, ut utile et inutile significaret: ceteris vero animalibus vocem dumtaxat qua voluptatem solum et dolorem manifestarent," Quirini, *De re publica*, 126.

natural cause: the mutual desire of men and women to procreate.[27] This impulse, unrelated to the exercise of reason, creates the first relation between persons. As the first relation, it can then, Quirini suggests, become the context within which the above account of a rational motivation for society transpires: two people, initially brought together by a natural impulse shared with other animals, can then, in distinctively human fashion, communicate their thoughts, through speech, about the benefits they could derive from partnership. When, after deliberating, they elect to remain together in order to satisfy their basic needs, they form the first *societas*.

Quirini next brings both causes – rational and natural – together, situating the advancement of social life within a historical trajectory. Eventually, when the first *societas* – the household – acquires too many members, and it becomes difficult for all of them to reside in the same dwelling, some of its members spread out in the manner of colonies.[28] The colonies then form a *societas* when their members, intuiting through reason and then expressing through speech the value that could come from partnership, elect to establish one. A similar process, he then says, leads to the formation of the *civitas*, which is constituted out of multiple towns such as these, after each one again reasons, then discusses, and finally acts to secure the benefits that would follow from their association. The story of the formation of the *civitas*, then, is one of first the unfolding and then the application of reason in the context of the steady growth of the human population; a context initially set in motion by the natural impulse to partner for re-production and facilitated by speech. Thus, Quirini concludes, "since the first *societas* was natural, it is necessary that what proceeds

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[27] "Nam cum maris et feminae copulatio naturalis sit – appetit enim omne animal speciem propriam conservare et sibi simile derelinquere – quae domum constituit," Quirini, *De re publica*, 126-127.

[28] "Cum enim multa soboles propagator totam una atque sola domus non capit: ideo in alias domos tamquam in colonias exeunt, quare necessario multae conficiuntur," Quirini, *De re publica*, 127.

out of it be also natural," and "the *societas* of men that includes cities (*urbes*) within its boundaries"

– the *civitas*, in other words – "emerges through the progress of nature."[29]

However, while Quirini states that the emergence of the *civitas* can be seen as a

consequence of the unfolding of natural instincts and capacities, he also makes it clear in the next

section that its formation has a different motivation than the others. Whereas the other *societates*

– family and town – are partnerships between an ever-greater number of individuals in pursuit of

ever-greater goods, the *civitas* does not differ from them simply because it is larger. These other

societates emerge for the sake of living and reproducing, but the *civitas*, he says, is "a relationship

of giving and receiving between citizens of the things necessary for living well."[30] While the

notion that the end of political society is to live well is certainly of Aristotelian origin, Quirini's

interpretation of what it means has clear Ciceronian echoes: living well, he implies, means living

with the guarantee of justice. He begins this argument with the statement that "man is naturally a

civil animal (*civile animale*)": "for," he says, "those who live alone live neither naturally nor

humanely;" they are either beasts or gods.[31] Sidestepping the question of gods, Quirini focuses on

beastly-men. Such men can be found outside cities and towns, where, "dwelling in caves," they

"kill passers-by and eat them."[32] What primarily characterizes these men, he says, is the use of

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[29] "Ex villa grandia oppida et civitates constituuntur: itaque, cum prima societas naturalis sit, et postremam ab ea procedentem a natura esse necesse est. Haec ergo societas hominum quae urbes concludit, natura profecta venit," Quirini, *De re publica*, 127.

[30] "Est ergo civitas communicatio civium gratia dandi et capiendi ut bene vivant," Quirini, *De re publica*, 130.

[31] "Quamobrem et homo naturaliter civile animal est: nam qui solus vivit non naturaliter nec humane vivit. Sed vel supra naturam tantum secundum intellectivam partem vivens in perpetua altissimarum rerum primarumque causarum contemplatione, vel omnino deterius in solitudine degens abhorrens naturam humanam: igitur aut deus aut bestia," Quirini, *De re publica*, 127.

[32] "Hi enim prope villas, prope oppida in cavernis habitantes, transeuntes occident et victum sibi parant: qui et immanissimas beluas crudelitate exuperant," Quirini, *De re publica*, 127.

force (*vis*), which he juxtaposes to reason and justice (*ius*). When "his desires are tempered by the restraint of reason," man is the "mildest and best of all animals." But, on the other hand, "when he rejects reason and violates justice," "he becomes cruder than the rest" – like the anti-social "cave-dweller" – "since the greatest ferocity is an injustice that bears arms."[33] Indeed, "force (*vis*) is the most pernicious thing," and, "for this reason," "the most wicked men become both the most wild-like and the worst of all the other animals, being the most ravenous of pleasures."[34] Despite being equipped to follow justice on account of reason – he says that "man is born armed with an innate virtue and prudence"[35] – Quirini thus clearly believes that human beings are sometimes prone to fall into the habit of acting unjustly and that, when force replaces justice as the dominant tendency in human society, they will become more like cave-dwellers and less like citizens. On the basis of a set of claims taken from the *Politics*, then, Quirini introduces into his argument the highly Ciceronian claim that the maintenance of all *societates* depends on *ius*, with its opposite, *vis*, representing the greatest threat to their integrity.

Having established that the greatest threat to both human life and human *societas* is injustice and force, Qurini then proceeds to argue that the *civitas* is established for the sake of securing justice, with the dictates of justice serving as the terms of its association. It is, in other words, a *societas* whose members – the citizens – exchange things in a just manner to support a common endeavor of promoting justice. The *civitas* is, he says, a "union associated (*sociati*) by

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[33] "Sicut enim homo, cum cupiditates suas freno rationis temperat iusta quaeque et honesta agens, mitissimum ac optimum est animalium; ita abiecta ratione et violate iustitia crudelius reliquis efficitur: saevissima enim est iniustitia habens arma," Quirini, *De re publica*, 127.

[34] "Pestifera enim vis est, ut quispiam dicit, valere ad nocendum. Quare sceleratissimum fit et silvesterrimum, et ad venerea voracitatemque pessimum ceterorum," Quirini, *De re publica*, 127.

[35] "Homo vero prudentia et virtute reliqua armatus nascitur…," Qurini, *De re publica*, 127.

justice,"[36] implying that both its aims and the terms of its institution are shaped by justice; a belief further supported by his subsequent claim that an association of wicked men with criminal aims is not a *civitas*, but instead a "conspiracy of bandits."[37] Quirini had earlier stated that the *civitas* emerges from "the progress of nature." We can see from this account of its origin that it is indeed natural. But it is not because it emerges as a consequence of a natural impulse, such as that leading to the emergence of the family, but because it forms as a logical response to a naturally occurring problem – the problem of force – and is both constituted to promote, and maintained by obedience to, principles that follow from a natural faculty – the reason all human beings innately possess. As a result, Quirini believes, by organizing social life according to the principles of justice through the institution of the *civitas*, these people will, in turn, not only be able to live, but live well.

Quirini was far from the only *quattrocento* humanist to integrate the *Politics* into the conventional humanist account of the formation of the *civitas*. We can see a similar line of argument in the work of the famed humanist Aristotelian Francesco Patrizi of Siena's *De institutione reipublicae* (c.1465-c.1471) as well as in Donato Acciaiouli's widely circulated 1473 commentary on the *Politics*.[38] In his *De institutione reipublicae*, Patrizi argues that a human being is a "social animal" (*animale sociale*), with the first *societas* arising between a man and a woman. Describing the origin of this *societas*, Patrizi endorses the position, expressed by Quirini as well,

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[36] "…coniunctio iure sociata civitas appellatur," Quirini, *De re publica*, 127.

[37] "…pravorum enim hominum conventus sceleratorumque communicatio, non civitas sed potius latronum coniuratio est nuncupanda," Quirini, *De re publica*, 127. Cicero makes a similar argument about injustice and a "union of pirates" in *De legibus* II.V.13, which Augustine appears to endorse in *De civitate Dei* IV.4.

[38] Recent years have seen a surge of interest in Patrizi's work. He appears in Viroli, *Reason of State*, 114-125, features prominently in Pedullà, *Machiavelli in Tumult*, and Hankins devotes several chapters to him in *Virtue Politics*, 364-422. Patrizi is also the topic of a major project led by Hankins. The *editio princeps* of *De institutione reipiublicae* appeared in 1518, but I will cite below from one published in 1534.

that the desire to procreate initially brings a couple together, but that they elect to remain together in *societas* as a result of intuiting, through reason, the benefits that would follow from doing so. Brought together initially by natural impulse, he says, the couple – each "participants in reason" – then elect to stay together out of love for their children, choosing to build a household to furnish themselves with food and a patrimony so that their children may lack nothing in the future.[39] Patrizi further applies this framework of social formation as the product of rational election when describing the origin of the next society, the village. When an extended family grows too large for one house, it spreads out into multiple households, with each household continuing to cooperate to advance the interests of the whole family. It is within these naturally generating communities, that human beings first learn the value of partnership in the abstract, making them, according to Patrizi, and in an allusion to Cicero's *De officiis*, the "seedbed of the *civitas*."[40]

The first self-conscious application of the concept of *societas* is seen in the formation of "defensive associations" between residents of the same village to protect themselves from external assaults.[41] But, once engaged in social life, these human beings soon realize the problem posed by injustice. Reasoning that a person "will flee human society unless he is compelled by the laws and submits to the judges," they come to acknowledge that justice is the "foundation" of all human *societas* and thus that all of the aforementioned *societates* – couple, village, defensive association – cannot be preserved, and access to their commodities maintained, without justice. To remedy

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[39] "…in hominibus, qui rationis participes sunt…," Francesco Patrizi, *De institutione reipublicae libri novem* (Paris, 1534), 6r.

[40] "Hinc ortum est seminarium civitatum…," Patrizi, *De institutione reipublicae*, 6.

[41] "…constat primam rationem eorum qui civilem societatem instituerunt fuisse, ut tute degerent, & a vi atque impetus munirentur," Patrizi, *De institutione reipublicae*, 6v.

this problem, they decide to create a new *societas* with this aim in mind, and "adopt" "precepts" so that men will live honestly, "if not voluntarily," then "at least from fear of the laws."[42] This *societas*, instituted "for the purpose of living according to justice," Patrizi calls the *civitas*.[43]

But it is perhaps most significant that this line of argument was also adopted by Donato Acciaiouli in his commentary, which would become the most widely read humanist commentary on the *Politics* until well into the sixteenth century.[44] In his comments on the early chapters of Book I, Acciaiouli makes the familiar argument that human beings have both a natural and a rational impulse to associate, with the first giving initial occasion for the realization of the latter. The first of such *societates* is, again, that between a man and a woman for the sake of re-production. Acciaiouli's distinction between a rational and natural impulse is an elaboration upon Aristotle's statement that the union between man and woman is not a function of conscious deliberation but instead a natural impulse that human beings share with other animals.[45] Acciaiouli arrives at his distinction by distinguishing between the impulse to sexual union and the human practice of forming a household on the basis of this union. The former union, he says, is indeed,

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[42] "Fugit siquidem congressum hominum, ne compellatur legibus, ac iudiciis parere…iusticia, quae quidem fundamenta humanae societatis iacit, & sine qua nulla civilis congregatio esse potest… adhibenda sunt praecepta, & instituta quibus ad honeste vivendum, si non ultro, ut par esset homines inducantur, saltem bonorum exemplo, & legum formidine ad meliorem (ut aiunt) frugem instituantur," Patrizi, *De institutione reipublicae*, 7r.

[43] "Civitatem appellandam esse censeo, collectam hominium multitudinem ad iure vivendum," Patrizi, *De institutione reipublicae*, 7r.

[44] For Acciaiouli's seminal place in the commencement of this genre see Staico, "Esegesi Aristotelica," Smith, "The Language of 'Political Science,'" and Anna Becker, *Gendering the Renaissance Commonwealth*, 13-48.

[45] "Primum igitur necesse est, combinare illos, qui non possunt esse nisi simul, ceu marem, & foeminam, generationis causa: & hoc non ex electione, sed velut in cateris animalibus, & plantis, natural est desiderium, quale ipsum est tale alterum relinquendi," Donato Acciaiouli, *In Aristotelis Libros Octo Politicorum Comentarii* (Venice, 1566), 13r.

as Aristotle says, the consequence of "a natural appetite," and "not rational election or choice."[46]

The latter union, on the other hand, is the product of election, when the two partners "consent" to

live together. The deliberate agreement to live together is, according to Acciaiouli, the action that

"completes" the *societas*.[47]

Acciaiouli then addresses what we have seen is the standard account of historical social

development. Over time, with the appearance of children and, later, of grandchildren, multiple

households emerge out of the first. When these households elect to associate for their common

benefit, they then form another *societas*: the village.[48] But while the household facilitates the

satisfaction of daily needs, this new *societas* of the village emerges for the sake of acquiring non-

quotidian goods.[49] Despite these differences, however, we can see that the origin of the village,

like the household before it, still follows Acciaiouli's framework of natural and elective causes for

social life: it forms when a group of family members, existing in proximity to each other by virtue

of being each the products of the natural impulse to procreate, and informed by their reason and

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[46] "Dicit igitur, quae prima combinatio, seu societas naturalis, est maris & foeminae, gratia generationis, respectu cuius non possunt esse seorsum: & haec talis coniugatio non est per electoinem, & eligentem rationem, per quam homo differet a brutis, etaim a plantis: sed per appetitum naturalem, communem nobis cum caeteris animalibus, & cum plantis, per quem naturaliter appetit homo, sicut illa, generare sibi simile in species, & relinquere alterum tale, quale ipse est," Acciaiouli, *Libros Octo Politicorum Comentarii*, 13r.

[47] "Notandum quae licet homo inclinetur ad copulam per principum commune, & naturalerm appetitum, tamen potest talis coniunctio perfici per electionem, cum coniux in coniugem consentit," Acciaiouli, *Libros Politicorum Comentarii*, 13r.

[48] "Philosophus hac in parte affert societatem ex pluribus domibus primo compostiam, quae dicitur pagus, & talis maxime videtur esse secundum naturam ob propagationem domus, quia multiplicantur liberi & nati natorum, qui cum una domo capis non possint, in alias domos quasi colonias exeunt, & sic fit naturaliter pagus," Acciaiouli, *Libros Politicorum Comentarii*, 14v.

[49] "Ad differentiam domus, quae quotidiani usus causa est constituta ex supradictis colligi potest descriptio domus, & etiam pagi, hoc pacto: Domus est societas prima ex primis societatibus constituta, usus quotidiani gratia: Pagus est societas prima, ex compositis societatibus constans, utilitatis gratia non quotidianae," Acciaiouli, *Libros Politicorum Comentarii*, 15r.

experience, elect to associate to acquire benefits beyond what they could secure in their own immediate households.

It is within this context of the village, Acciaiouli then argues, that the impetus for creating the *civitas* first emerges, and here, like Patrizi before him, he cites the authority of *De officiis* in support of the proposition that the village is the "seedbed of the state."[50] Acciaiouli does not offer an immediate cause for the formation of the *civitas*, but instead portrays it as an eventual product of the experience of *societas* in the family and the village and of a deliberate choice to associate in pursuit of greater goods in light of this experience: the *civitas*, he says, is a *societas* "formed out of many villages" and "for the sake of not merely living, but living well."[51] He does, however, suggest a motivation behind its emergence, doing so by referring, as both Quirini and Patrizi did before him, to Aristotle's comments on human nature and justice.

It is in his comments on the section of the *Politics* in which Aristotle puts forward the above the claims about justice that Acciaiouli addresses the issue. In his gloss, Acciaiouli observes that human beings are "completed" by "works of virtue," and especially by justice, and are thus the greatest of animals when "completed" and "ruled" by virtue. They are, in other words, most human, and most in accord with their true nature, when they act justly. On the other hand, man is

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[50] "Pagus igitur ex propagatione domus, civitas ex multiplicatione pagorum pro fluxisse videtur. Hanc pene sententiam secutus est Cicero in libro de Officiis, cum hoc inquit: Sit natura commune animantium, ut habeant libidinem procreandi. Prima societas in ipso coniugio est, proxima in liberis: deinde una domus, omnia communia. Id autem est principium urbis, & quasi seminarium reipublicae," Acciaiouli, *Libros Politicorum Comentarii*, 14v.

[51] "…perfecta societas ex pluribus pagis constituta, est civitas: & debet intelligi perfecta, quia non omnis societas ex pluribus pagis, est civitas: sed perfecta societas, quae constare debet ex tot & tatlibus pagis, ut fit ibi sufficientia humanae vitae: existat autem bene vivendi gratia, scilicet non solum ut vivant homines, sed etiam bene, & stustiose vivant," Acciaiouli, *Libros Politicorum Comentarii*, 15r.

the worst of all creatures when separate from both justice and the laws.[52] However, Acciaiouli claims, the organization of human life around the principles of justice does not happen organically; these problems must be recognized and due action deliberately taken: "although man is naturally inclined toward civil society, and the *civitas* is most natural to him," the *civitas* "was brought about by industry, and was the cause of the greatest goods."[53] Then, referring to *De inventione*, he states that this deliberate act stemmed from a universal agreement to follow the dictates of an "innate" sense of justice;[54] an agreement brought about the intervention of a wise-man:

> This man, as the orator said, first compelled men dispersed in fields and sheltered in the woods according to a certain plan, and gathered each of them into one place, teaching them things useful and honorable. Initially by contradicting insolence and then through reason and eloquence brought his listeners out of beastliness and monstrousness, taming them and making them gentle.[55]

With the help of *De inventione*'s allegory, Acciaiouli here draws a connection between, on the one hand, "beastliness," "monstrousness" and the absence of society and between "gentleness" and society, on the other. Also communicated through the presence of the allegory is that it is knowledge of the dictates of the justice inherent in the minds of men that leads them from the former into the latter. Thus, despite the fact that the household and the village originate naturally, the first for the sake of living and procreating, the second for the sake of living more comfortably,

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[52] "Homo autem perficitur per operations virtutum, & ipsius iustitiae, atque ut est optimum animalium virtute perfectus & regulates: sic a iustitia alienus, & a legibus, erit pessimum," Acciaiouli, *Libros Politicorum Comentarii*, 17v-18r.

[53] "…quod & si homo naturaliter inclinetur ad societatem civilem, & civitas sit naturalissima homini, tamen perficitur industria, & cause fuit maximorum bonorum," Acciaiouli, *Libros Politicorum Comentarii*, 18r.

[54] "Hic accipitur prudential non pro habitu, sed pro aptitudine naturali, quam habilitatem vocant. Similiter innata virtus, non pro habitu, qui dicitur proprie virtus, sed pro naturali accomodata ad suscipiendum habitum," Acciaiouli, *Libros Politicorum Comentarii*, 18r.

[55] "Qui primus, ut orator inquit, dispersos homines in agris, & in tectis silvestribus abditos ratione quadam compulit in unum locum, & congregavit, eos in unamquamque rem inducens utilem atque honestam : primo propter insolentiam reclamantes, deinde propter rationem atque orationem studiosius audientes ex feris, & immanibus mites reddidit & mansuetos," Acciaiouli, *Libros Politicorum Comentarii*, 18r.

we should take from Acciaiouli's reference to *De inventione* that in the absence of justice these societies will collapse into violence, and that their security therefore requires the taking of deliberate action to secure justice. The *civitas*, he implies, is the product of this action, and is established by an act of agreement with this aim. Once it is organized and justice enforced, the precariousness of social life in the absence of justice diminishes, thereby enabling the citizens to live well.

We can see from the above that Quirini, Patrizi and Acciaiouli each endorse the position that, while human beings are naturally inclined to associate, human society cannot stand without justice, and, recognizing this through the application of natural reason, they establish a new *societas*, the *civitas*, with the aim of securing justice. The *civitas* is, on their accounts, therefore both natural and artificial. It is natural – not, as Acciaiouli puts it "in the sense of a natural creation, such as a tree or a rock"[56] – but because its formation follows logically from the recognition, enabled by natural reason, of the benefits of justice and dangers of injustice; a recognition following from the experience of other forms of social life – the family and the village – that were themselves the product of the recognition of the natural realities of human imbecility. It is artificial, on the other hand, in that its institution requires deliberate action; action that takes the form of its members agreeing to follow the dictates of justice in order to secure its benefits.

II.

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[56] "…civitas erit naturalis: non quod civitas fiat a natura, ut arbos, lapis & alia generis eiusdem, sed est maxime naturalis homini, quia ad eam naturaliter inclinatur," Acciaiouli, *Libros Politicorum Comentarii*, 15v.

Not only did the humanist Aristotelians of the *quattrocento* extract from the *Politics* an account of the *civitas* as an entity bound by justice and with the benefits of justice as its aim, they also endorsed the related implication, which is not of Aristotelian origin, and rather of Roman and Ciceronian origin, that this body can be said to have a *persona* of its own. This is a claim, however, that sits awkwardly in relation to the position of some recent scholarship on humanist Aristotelian accounts of the *civitas*. Annabel Brett, for example, argues that the humanist Aristotelian *civitas*, far from being a juridical person, was in fact seen as an alternative to the juridical "moral body" conception of the *civitas* favored by scholastic political philosophers and the jurists. Unlike the "moral body" theory, which supposes a union of all citizens into one person, the Aristotelians supposedly understood the *civitas* to be defined by multiplicity and difference. "Multitude and difference are," in turn, "structured by order (*taxis*), which is the 'constitution' of the city, the *politeia*," or *res publica*. This constitution, or *res publica*, she defines as the "order of ruling offices, and particularly of the most sovereign." It follows from this that "the criterion for continued identity of the city is precisely its constitution: if the constitution changes, we no longer have the same city." "Thus," she concludes, "it is *order*, not the unity of a body, that was in fact the key concept for Aristotle in thinking about the city."[57]

Brett elaborates upon this interpretation of the humanist Aristotelian distinction between *civitas* and *res publica* by appealing to Aristotle's discussion of *forma* and *materia* found in Book II of his *De anima*. In this text, well-known to Renaissance readers, Aristotle states that individual human beings acquire their distinctive identities from the soul's structuring of the physical

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[57] Brett, *Changes of State*, 123. Some scholars have argued that there is space in Aristotelian political thinking for thinking about the state as in some sense a unified whole, however: see, for example, Tuck, "Hobbes and Democracy," 171-191 and Smith, "Democracy and the Body Politic," 167-196.

attributes of the body, in which case the soul is said to give *forma* to the *materia* of the body.[58] On this model, the *civitas* remains an unorganized multitude – *materia* – in the absence of the *res publica* – *forma*. As a result, "if the form changes – and the *res publica*, the *politeia*, the 'constitution' *is* the form – we no longer have the same thing, because a thing is identified by its form rather than its matter."[59] Or, in other words, when the *res publica* or constitution that presides over the *civitas* changes – and the "matter" of the *civitas* is therefore placed in a different order – then its form changes, rendering it a different *civitas*. On the "moral body" theory of the *civitas*, however, were its constitution to change, the body would still remain the same.

This argument, however, lacks the context we have just reconstructed. When seen in this context, important aspects of *quattrocento* humanist Aristotelian treatments of magistracy and constitution take on a different appearance indeed: instead of their presence structuring a multitude and giving it form, the magistrates, and above all, the sovereign magistrate, are in fact seen as representatives of the *civitas* itself, an entity which, as we have just seen, is constituted by the promulgation of laws that bind its members into a *societas*, with the benefits of justice as its aim. It is an entity, in other words, with an identity separate from those who exercise political authority within it. As a result, while there are indeed different forms of government, these in fact constitute the different appearances – the different representations – the *civitas* itself can assume. Not only, then, did *quattrocento* humanist Aristotelians integrate the *Politics* into a conventionally humanist Ciceronian account of the *civitas* as a *societas* organized in pursuit of justice, they also continued to endorse the related notion that the *civitas* has an identity and personality of its own, distinct

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[58] Brett, *Changes of State*, 134.

[59] Brett, *Changes of State*, 137.

from the person or persons who govern it, and that the form of government is merely the means by which the sovereignty of this abstract person is expressed.

The notion that the *civitas* governs itself through the person of the magistrate is clearly visible in Francesco Patrizi's *De regno et regis institutionis* (c.1481-c.1484), which contains an account of the creation of political authority joined to an account of the formation of the *civitas*. In typical humanist fashion, Patrizi states in this work that human beings possess a "divine nature," through which they can comprehend both the great benefits that derive from their uniqueness relative to other animals, and the obligations that follow from this position.[60] With this knowledge, they then discern the advantages of cooperation in a *societas*. "For this reason," he continues, with an implied reference to *De inventione*, "they concluded that from those lonely forest dwellers and wanderers human *societas* and a union of the multitude should be founded."[61] Their divine mind also enables them to discern the obligations necessary to maintain this union: in this *societas*, the previously dispersed crowd begins to "share duties" with each other, "giving, receiving, providing and sharing among each other," so that they may more easily make a living and protect themselves from wild beasts.[62] Bound together by a sense of duty to one another in support of mutual advantage, these people have formed a *societas*, but one that has initially declined to entrust the

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[60] "Haec quidem cogitation efficit ut homo intelligat quanta beneficentia a divinia natura affectus fuerit, qantaeque munera acceperit," Francesco Patrizi, *De regno et regis institutione libri IX* (Paris, 1582), 29r.

[61] "Hac mente divina, principio rerum humanarum acutiores igenio viri, qui inter vagos illos atque agrestes homines versabantur, animadverterunt hominem aliena ope indigere, cum neminem sibi ipsi satis esse cernerent. Proinde arbitrate sunt illum per societatem sui generis commodious degree posse, & facilius consequi omnia quae per naturam ei deesse videbantur. Et idcirco a sylvestri vagaque solitudine in multitudines coetum, humanamque societatem illum deducendum esse duxerunt," Patrizi, *De regno et regis institutione*, 29rv.

[62] "Sic coniuncti, deinde societate, mutuis officiis homines, dando, accipiendo, commodando mutuando inter se, facilius victitare coeperunt, & ferarum incursum communi munimento propulsare," Patrizi, *De regno et regis institutione*, 29v.

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enforcement of those duties to a representative, since all of its members remained disposed to follow their duties. After some time, however, the members of the *societas* begin to stray from their duties, with individuals becoming more inclined to pursue their own interests over the interest of the partnership as a whole.[63] In response to the problems caused by this anti-social behavior, and the injustice that follows from it, the partners decided to elevate the most virtuous man among them to rule over the others and guard the common interest, "electing" him as a king. To this king the citizens then "permit" or "delegate" the "judgement of affairs," so that by means of his prudence they may be turned towards "justice and honesty" and for their "comfort and utility."[64] Political authority, on this account, does not create order, but rather seeks to embody in one person the notion of justice that already binds together the members of a pre-existing *societas*, so as to better preserve justice and, by extension, the group's unity.[65]

But it is in his *De institutione reipuiblicae* that Patrizi most explicitly elaborates on this theory of delegated authority as in fact a theory of representative government conducted in the image of a person called the *civitas*. At the beginning of the third book, Patrizi addresses the topic of magistracies, considering what virtues are necessary to be a good magistrate as well as the responsibilities of citizens who do not hold office. Re-stating the notion that the *civitas* is a

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[63] "Sed paulatim moribus corruptis, cum naturaliter quisque magis sibi, ac suis, quam reliquis studeat, unusquisque rem suam agebat, proximique commodum negligebat: nec erat quispiam, qui pro communi utilitate laboraret, aut curam multitudinis ageret," Patrizi, *De regno et regis institutione*, 29v.

[64] "Idcirco cogitandum fuit, ut esset aliquis qui aliis praeesset, cunctos regeret, pro omnibus excubaret, communi utilitati ac commodo studeret. Elegerunt igitur virum aliquem virtute, sermone, ac fortitutidine praestantem: & probitate ac moribus integrum, qui quasi pastor omnium esset…Huic viro, quem praefecerant, aribitria rerum permiserunt," Patrizi, *De regno et regis institutione*, 29v-30r.

[65] Aeneas Silvius Piccolomini makes a similar argument in his *De ortu et authoritate imperii Romani*, written in 1446. It can be found in Aeneas Silvius Piccolomini, *De iurisdictione, authoritate, et praeminentia imperiali* (Basel, 1566), 314-315.

societas instituted to enjoy the fruits of justice in social life, he observes that "citizenship was instituted so that the citizens may incline towards virtue and pursue good health; so that they may not fear the pursuit of honesty; and so that they may pursue wealth for their use and the use of those whom they love." [66] "Therefore," he continues, "the civil life should be structured in such a way that we may be able to live without fear, without violence and without injustice, directing all matters towards happiness."[67] With these goals in mind, he then, following a distinction set out by Cicero in *De officiis*, states that every *civitas* consists of two sorts of men.[68] The first are those who serve as magistrates. These men, "disregarding their own private comforts," "assume the public *persona*, each of them bearing the *ratio* of the republic, governing all the others legitimately and moderating themselves by means of the laws."[69] In other words, magistrates, as Patrizi argues, are legitimate in so far as they act as representatives; with the person whom they represent being the "public" person, whose animating characteristics, or *ratio*, the magistrates aim to embody in their actions. They do so when they govern legitimately and moderately, implying that this *ratio* refers to the justice that binds the citizens together into the *civitas* and facilitates the ends for which the citizen-body was instituted.

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[66] "Nam instituendi erunt cives, ut virtuti incumbent, bonae valitudini studeant, honestam voluptatem non formident divitias ad usum vitae suae, & eorum quos diligunt, patriaeque commoditatem parare velint," Patrizi, *De institutione reipublicae*, 35r.

[67] "Vita igitur civilis taliter instituenda erit, ut sine metu, sine violentia, aut iniuria degere possumus, & ad foelicitatem omnia dirigere," Patrizi, *De institutione reipublicae*, 35r.

[68] "Quodquidem ut assequamur, considerandum erit civitatem omnem duplici hominum genere constare," Patrizi, *De institutione reipublicae*, 35r. For Cicero, see *De officiis* 1.34.

[69] "Eorum imprimis qui publicam personam gerant quique Reipublicae rationem habentes, obliti commodorum suorum, aliis omnibus legitime imperent, ipsi autem solis legibus obtemperent," Patrizi, *De institutione reipublicae*, 35r. Note that here, Patrizi adds the expression *ratio Reipublicae*; it is absent from Cicero's passage, who speaks of the republic's "dignity" (*dignitas*) and "honor" (*decus*). This is the passage from *De officiis* 1.34: "…magistratus intellegere se gerere personam civitatis debereque eius dignitatem et decus sustinere, servare leges, iura discribere, ea fidei suae commissa meminisse."

Patrizi confirms this in his treatment of the second group of citizens, identifying them as those who, as "private citizens," "live equally among themselves according to the law."[70] Echoing his previous claim that magistrates must represent the mind of the *civitas*, Patrizi then states that the responsibility of private citizens is to "manage their superiors," by which he means the magistrates, who sometimes "do not think that they are co-citizens, but princes or kings," and who even on occasion, instead of embodying the *ratio* of the republic, "desire that the spirit (*numen*) or mind (*ingenium*) of the republic submit to them."[71] Here Patrizi again equates good government with representative government, with the represented entity being the republic. This republic he sees as a kind of person with a "mind," or "spirit" of its own that is visible in its laws. As a result, while it is true that the preservation of order could very much depend on the actions of the magistrate, the magistrate does not impose form on material, but merely represents a pre-existing entity with an identity of its own.

Finally, we can also discern the same way of thinking in Acciaiouli's commentary. Acciaiouli introduces very early on the idea that the type of government presiding is "a kind of formal element" for the *civitas*.[72] He does so in his gloss on the concluding paragraph of Book I Chapter 1, in which Aristotle says that each constituent element of the state should be analyzed so as to determine how the different types of rule vary from each other and whether any specific type

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[70] "Ceteri omnes privati cives sint aequali inter se iure viventes…," Patrizi, *De institutione reipublicae*, 35rv.

[71] "…qui superiores illos qui magistratum gerunt, non concives suos tunc esse arbitrentur, sed principes, aut reges, vel potius numen geniumque Reipublicae illis studeant parere, imperiisque adeo obtemperare, ut piaculum admisisse videantur, si eorum dictis minime auscultaverint," Patrizi, *De institutione reipublicae*, 35v.

[72] "…sed ordinatio hominium invicem respectu praesidentis est quoddam formale…," Acciaiouli, *Libros Politicorum Comentarii*, 12v.

of knowledge can be attributed to them. Agreeing with Aristotle, Acciaiouli says that the *societates* of the *civitas* and the household do indeed have arts (*artificia*) of their own and that this is due to the fact that they are different *species* of *societas*.[73] This is so because even though the *civitas* is defined by a multitude of members and the household by a small number, this is merely their "material;" they acquire their truly distinctive features – their "form" – from the "ordering (*ordinatio*) of men in relation to each other with respect to the government" of the *societas*.[74] As a result, they each assume a different "form," and therefore become a different *species* of *societas*, when they acquire a different *ordinatio*.[75] It follows from this that when the particular *ordinatio* of a *societas* changes, that *societas* changes *species*, while nevertheless remaining a *societas*.[76]

Later in his commentary, Acciaiouli offers a more detailed definition of the *ordinatio*: it refers to "whoever exercises the power of judgement" in the *societas*.[77] The element of the *societas* that determines its *species* – the formal element, in other words – is thus the person or persons who exercise the power of judgement, or of interpreting the laws that bind the partners together. In the *societas* of the household, that power of judgement lies with the *paterfamilias*, and in the *societas* of the *civitas* it lies with the magistrates, with the different constitutions and arrangements of

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[73] "Quia si ista differunt specie, habebunt diversa artificia ut civitatis, & domus varia artificia esse scimus," Acciaiouli, *Libros Politicorum Comentarii*, 12v.

[74] "Notandum, ut quidam expositors dicunt, quod multitudo & paucitas sunt materialia in istis societatibus: sed ordinatio hominium invicem respectu praesidentis est quoddam formale…," Acciaiouli, *Libros Politicorum Comentarii*, 12v.

[75] "…quia alia & alia est ordinatio secundum speciem, ut alia respectu regis, alia respectu gubernatoris, alia respectu patrisfamilias, differunt specie," Acciaiouli, *Libros Politicorum Comentarii*, 12v-13r. Quirini makes a similar point in *De re publica*, saying that the organization of the city is the source of the form, or species, of government in the *civitas* (*forma status*): "Nam si status et principatus ordo urbi formam praestat…," Quirini, *De re publica*, 139.

[76] "Sumunt etiam differentiam formalem a differenti ordinatione constituta sub diverso regimine diversimode praesidentium," Acciaiouli, *Libros Politicorum Comentarii*, 13r.

[77] "Iudicium ordinatio est civilis societatis…," Acciaiouli, *Libros Politicorum Comentarii*, 18r.

magistracies producing in turn different *species* of *civitas*. What all of these different *species* have in common, though, it that they are *societates*, and therefore all bound into one body by the terms upon which their members elected initially to enter a *societas*. The people who exercise the power of judgement in the *societas*, then, are merely the interpreters and enforcers of the terms of association whose promulgation took place independently of the *ordinatio*. They are, more specifically, representatives. Indeed, Acciaiouli envisions the magistrate's relationship to the *civitas* as not merely one of delegation, but of representation: those who exercise the sovereign power (*principatus*) in the *civitas* as part of the *ordinatio*, Acciaiouli says, must do so as "a representative of the common mind (*conceptum commune*)."[78] Broadly speaking, the Latin term *conceptus* refers to the combining of a plurality of thoughts into one singular mental entity of the sort that we term, in English, a "concept." Using this definition, *conceptus*, when paired with *communis*, suggests the existence of a kind of common mind for the *civitas*, in which the different minds of all the citizens come together to form one mind. This, as we have seen, is how the humanists had come to talk about the formation of the *civitas*: as a process in which the natural reason that animates individual minds motivates them to establish a group bound by laws, thereby forming a distinctive body that was said to be animated by these laws. By equating the power of judgement with "representing the common mind" of the *civitas*, Acciaiouli therefore suggests that the laws the magistrate embodies are the mind of the distinctive body of the *civitas* itself, and that it is on account of embodying these laws that the *civitas* can be said to govern through him.

Since the *ordinatio* of the *civitas* is for Acciaiouli not merely an organizational apparatus but a representative one, we can return to his claim that government is the "formal" element of the

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[78] "Verum haec munera non videntur principatus, quia non habent nomen aliquod commune repraesentans conceptum commune…," Acciaiouli, *Libros Politicorum Comentarii*, 79r.

civitas with an enriched context. While it is indeed true that the relation of citizens to each other as expressed in the distribution of magistracies gives the *societas* its *species* or form, this is so only because the magistrates, by embodying the "common mind" of the *civitas* through just actions, physically embody the separate person of the *civitas* in the shape of their persons. As a result, should the distribution of magistrates change, or another person or persons come to exercise sovereign power, then the *civitas* will indeed transform into a different *species*, but in the sense that the *civitas* it will have assumed a different appearance.

There is, however, an important ambiguity in this account. By employing the language of representation, both Patrizi and Acciaiouli imply that the *civitas* is an entity with a personality of its own whose role as judge in matters pertaining to its membership is assumed by the representative-magistrate. But this raises the question of how the *civitas*, as an abstraction, can possibly act in the absence of a representative. The answer is that it cannot. For example, in his *De institutione reipublicae,* Patrizi elaborates upon Cicero's famous statement that the magistrate is personified law with the claim that, without the magistrates, "the laws as expressed cannot be ordered."[79] For his part, Acciaiouli echoes these claims in his commentary, asserting that a *civitas* cannot exist without a method to realize in the physical world the principles that bind it: "out of the justice that is vigorous in civil *societas* emerges law (*ius*), which is the faculty of judgement and the method by which justice is realized."[80] It follows from this that, on Acciaiouli's account,

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[79] "Iure enim, ac scite dicitur magistratum esse legem loquentem, legem autem mutum magistratum. Magistratum vero qui gerunt in his potestatem habere debent, in quibus leges expressae cavere non possunt," Patrizi, *De institutione reipiublicae*, 9v. Cicero's statement comes from *De legibus* III.1: "...dici potest, magistratum esse legem loquentem, legem autem mutum magistratum."

[80] "…[iustitia] maxime viget in civili societate, a qua quidem iustitia profluit ius, id est, iudicium, quod est effectus iustitiae…," Acciaiouli, *Libros Politicorum Comentarii*, 18r.

the different forms or *species* of the *civitas* correspond to the different methods through which that faculty of justice is exercised and justice made tangible. In this respect, then, it would be correct to say that the magistrates do indeed give form to the *civitas*, since without them the *civitas* could not act. This is likely the true significance of Acciaiouli's statement that the government is a kind of "formal" element for the *civitas*. When he says that the *civitas* acquires its formal identity from its government, this is not because a government can be said to structure the citizen-body it governs, but because, as a kind of fictional character, its appearance in the physical world is necessarily also that of its representative.

<div align="center">III.</div>

The humanist Aristotelian endorsement of the notion that the *civitas* itself should govern through its representatives is particularly visible in the manner in which they incorporated Aristotle's *politeia*, or "polity," into their political thought.   The standard account of the humanist appropriation of *politeia* is that it appeared in their work as a "mixed constitution," in which a mixture of the characteristics of aristocratic and democratic governments is alleged to produce moderate and stable government.[81] Less faithfully to the text of Aristotle, this mixture would also sometimes be conceptualized as a three-part combination, blending monarchical, aristocratic and democratic parts. Notwithstanding these different forms of combination, though, the argument in favor of mixture is seen to stand on the alleged belief among fifteenth-century political writers,

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[81] For the mixed constitution in *quattrocento* humanist political thought see, especially, Pocock, *The Machiavellian Moment*, 89-104 and James M. Blythe, *Ideal Government and the Mixed Constitution in the Middle Ages* (Princeton: Princeton University Press, 1992), 278-300.

derived from Aristotle's *Politics*, that mixture will promote stability by moderating the tendencies towards corruption contained in any simple constitution.

This interpretation of humanist Aristotelian constitutional thinking is informed by Book IV of the *Politics*. The great virtue of the constitution called "polity," or *politeia*, Aristotle argues in this book, is that, by incorporating all three classes which Aristotle identifies in the polity into the constitution, each class will be willing to maintain it.[82] Such a government will produce this outcome because, he believes, dividing government between oligarchic and democratic elements will result in moderate decisions reflecting a space that occupies a middle ground between each classes' respective aims, thereby reducing the potential for tensions to ignite between them. This argument rests, in turn, on Aristotle's famous account of class psychology, in which the poor have one set of motivations, while the rich have another and opposing set. Because of this, according to Aristotle, the only possible arbiter between them must occupy the middle ground; and it is this middle ground which the legislator hopes to attain through mixing: "the more perfect the admixture of political elements," and, with it, the tendency towards rule that reflects the middle ground between the people and the great, "the more lasting will be the constitution."[83] The constitution will be more successful, then, because its orders can successfully neutralize the de-stabilizing dispositions of various members of the state. However, interpreting humanist Aristotelian writing on *politeia* to follow only this logic overlooks the representative character we have just seen that these authors attributed to magistrates. With this mind, while it is certainly true that humanist Aristotelians endorse *politeia* on account of its perceived stability and in terms derived from his

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[82] Aristotle, *Politics* 1294b35-40.

[83] Aristotle, *Politics* 1297a5-8.

class psychology, their use of this concept in fact rests on top of a further claim about its value: that under this form of constitution the *civitas* can be said to govern itself.

Among the first to associate *politeia* with the government of the *civitas* itself was Leonardo Bruni. An early instance of this can be seen in his *Epistola ad magnum principem imperatorem* of 1413, a letter written by Bruni to the Holy Roman Emperor outlining the functioning of Florence's constitution.[84] While at this point Bruni was still twenty years away from starting his translation of the *Politics*, we know that by 1413 he was already beginning to immerse himself in the Aristotelian material: his translation of the *Nicomachean Ethics* appeared in 1416, and his translation of the pseudo-Aristotelian *Economics* was completed, with commentary, in 1420. Bruni begins the letter by stating that he is responding to the emperor's request for a description of the constitution, which he refers to as the "form of our republic and the shape of its government," using language that evokes the idea that the form of government gives the republic its appearance.[85] He then proceeds to paraphrase Aristotle's account of the three good and three bad constitutions, referring to them as different "species of the government of the *civitas*."[86] Florence's constitution, he then says, falls under the third species of government: it is a *gubernatio popularis*.[87] As a

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[84] This letter was first attributed to Bruni in 1955 by Hans Baron, who also expressed some doubts about the attribution. Those difficulties notwithstanding, scholars have since then continued to endorse Baron's conclusion, believing that the evidence in support of Baron's argument outweigh the arguments against it. For an account of this debate see James Hankins, *Humanism and Platonism in the Italian Renaissance. Vol. 1. Humanism* (Rome: Edizioni di storia e letteratura, 2003), 23-26.

[85] "…formam rei publice nostre et gubernandi figuram…," Leonardo Bruni, "Epistola ad magnum principem imperatorem," *Humanism and Platonism in the Italian Renaissance. Vol. 1. Humanism*, ed. James Hankins (Rome: Edizioni di storia e letteratura, 2003), 26.

[86] "…speties gubernandarum civitatum…," Bruni, "Epistola ad magnum principem imperatorem," 27.

[87] "Nostre igitur rei publice gubernatio popularis est, que tertia speties gubernandi legiptima…," Bruni, "Epistola ad magnum principem imperatorem," 27. In his translation of the *Politics*, Bruni would eventually settle for rendering *politeia* as *res publica*. In 1413, however, he was not sure. For Bruni's evolution in translating Aristotle's different types of constitution, see Hankins, "Leonardo Bruni on the Legitimacy of Constitutions," 73-86.

popular government, Florence's constitution aims above all at "parity" and "equity" between the citizens, a relationship Bruni likens to one between brothers.[88] All of Florence's laws, then, "tend towards this end; and this is the source of the city's liberty."[89] In support of his argument he cites the Ordinances of Justice of 1293, both the law that prevents the city's noble families from participating in its government, and the law that imposes stricter punishments on nobles than on the plebs or middle class. The point of these laws, he says, are to make everyone like the middle class: "our laws," Bruni says, "aim to diminish the eminence of individual citizens to the greatest degree possible and to reduce them to parity and mediocrity."[90]

Bruni then proceeds to describe Florence's magistracies, emphasizing how the structure of these institutions promotes the aims of the laws. The most important magistracy, he says, is the Priorate, a group of nine men who were chosen by lot to serve two-month terms. These men are selected from "the most tranquil and temperate citizens," which means, according to Bruni, that they come from the "middle class."[91] Alongside the Priors serve another twenty-eight individuals, who are either elected or chosen for short terms as well. These magistrates cannot act completely without restraint, however; their ordinances are subject to the approval of two councils: the council

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[88] "Est eius fundamentum in paritate civium et equalitate, ut de fratibus supra similitudeinem induximus," Bruni, "Epistola ad magnum principem imperatorem," 27.

[89] "Leges igitur nostre omnes ad hoc unum tendunt…in quo mera ac vera libertas," Bruni, "Epistola ad magnum principem imperatorem," 27.

[90] "Nituntur enim leges nostre supereminentiam singulorum civium quantum fieri potest deprimere et ad paritatem mediocritatemque reducere," Bruni, "Epistola ad magnum principem imperatorem," 27.

[91] "Summuntur autem hii ex mediocri et pacato ac frugi hominum genere," Bruni, "Epistola ad magnum principem imperatorem," 27.

of the people, made up of around four hundred citizens, and the council of the commune, composed of a mix of nobles and plebs.[92]

We can see Bruni describing Florence's constitution here in terms compatible with Aristotle's *politeia*. Laws and magistracies are designed to ensure that the "middle" governs the city through suitable mixture, an argument Bruni substantiates by drawing from Aristotle's class psychology. Consistent with Aristotle, Bruni believes there to be three classes: the nobles, the middle class and the plebs. While he is silent on the psychology of the plebs in this letter, he endorses Aristotle's account of the psychological make-up of the other two classes. The nobles, he says, possess a kind of self-aggrandizing demeanor, enabled and enhanced by their greater wealth, that frequently leads to anti-social behavior, while members of the middle class tend towards the social virtues of tranquillity and temperance. For this reason, he argues that members of the middle class should hold the magistracies. But the most important characteristics of the middle classes can be seen in how Bruni's contrasts their behavior with the nobles'. The implication of the nobles' anti-social demeanor that Bruni most emphasizes is that it can lead to lawlessness and a disrespect for the public authority. The middle classes, on the other hand, are more inclined to lawfulness and, for this reason, the constitution intends to "reduce" the nobles to a "parity" with them. As a result, we can reasonably say that the overall aim of the constitution is to embody successfully the rule of law, with Aristotle's *politeia* the model for a constitution that best secures this end.

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[92] Bruni, "Epistola ad magnum principem imperatorem," 28.

It is of the upmost importance to Bruni that the magistrates embody the laws in their actions because, as he says later, although the magistrates exercise political authority in the city, they do not exercise sovereign power: they are, instead, "representatives of the authority of the republic."[93] Bruni's argument that Aristotle's *politeia* – in which the middle classes rule on account of their lawfulness, tranquillity and temperance, and middle-class virtues are cultivated among the population – models the best form for the republic to assume thus rests upon an underlying belief that to "represent" the republic means successfully embodying its laws, so that, when the laws are made real through the actions of magistrates from the middle classes, the republic itself can indeed be said to rule.

Bruni's image of Florence's constitution is just one iteration of a tendency among humanist Aristotelians in the *quattrocento* to employ Aristotle's *politeia* within the broader Ciceronian picture about the *civitas*. In the summary of Aristotle's *Politics* contained in his *De re publica*, for example, Lauro Quirini also describes *politeia*, which Quirini, following Bruni's translation, renders as *res publica*, as a constitution in which the people as a whole, or *populus*, rule. He begins by distinguishing the rule of the *populus* from the rule of the multitude, which he calls *democratia*. In *democratia*, it is true, the "whole people" (*universus populus*) take turns holding the magistracies, but this way of thinking about the *populus* as the entire citizenry understood as a crowd of individuals, is not the same sense in which he uses the term when discussing *res publica*. When defining *populus* in this context, Quirini makes explicit reference to Cicero's definition of the term as preserved by Augustine in *De civitate Dei*: "*Res publica* is indeed the business of the people (*res populi*), as Cicero defines it in his books on the republic, and the people (*populus*) is

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[93] "…auctoritatem rei publice representant," Bruni, "Epistola ad magnum principem imperatorem," 28.

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specifically a union associated (*sociatus*) by an agreement on justice and for the common benefit."[94] With this definition, Quirini makes the *populus* synonymous with the *civitas*, which is, as we have seen, also a *societas*, bound by an understanding of what is just and organized for the common advantage. When Quirini says, then, that the form of government called *res publica* is one in which the *populus* governs, he means that it is one in which the exercise of government is conducted by the *societas* of the *populus*, which he takes to be the same thing as the *civitas* itself. The practical difference between *democratia* and *res publica* that leads to this effect is that while the former is organized to promote the political power of the multitude, the latter is structured to promote the terms that bind the citizens together into a *societas*: under this form of government, the multitude will both "rule and be ruled" according to law, and "distribute office according to the dignity of men."[95] This kind of organization is achieved through the division of government between the more virtuous nobles and the rest of the people,[96] creating a form of government that occupies the "middle" ground between oligarchy and democracy.[97] The most well-known *civitas* to have had such a government, Quirini then argues, is Rome when its constitution was at its prime, and the nobles, "who were called both patricians and senators, took care of the *civitas* and exercised magistracies, but in such a way that whatever the senate decided, they were confirmed by the

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[94] "Res vero publica est res populi, ut M. Tullius in libris de republica diffinit; populus vero est coetus iuris consensu et utilitatis communione sociatus," Quirini, *De re publica*, 137.

[95] "Ea autem multitudo reipublicae statum amplectitur quae potens est pro tempore principari et subici secundem legem distribuentem principatum dignitati virorum," Quirini, *De re publica*, 137.

[96] "…in qua nobiles et virtute praediti est magistratus cum dignitate exercent et civitati recte consulunt confirmante plebe," Quirini, *De re publica*, 137.

[97] "Est autem reipublicae status medius inter oligarchiam et democratiam," Quirini, *De re publica*, 137.

plebs."[98] Without these limits, and their effect of guaranteeing the supremacy of the laws, Quirini says, Rome would have been an oligarchy, not a *res publica*.[99]

Quirini elaborates upon this in the second book of *De re publica*, this time drawing on the image of the body politic to support his argument. The *civitas*, he argues, must be ruled by law, not by wills, and above all by that law, rooted in shared natural reason, that prohibits violations of natural justice.[100] To preserve the rule of law against corruption at the hands of rule by individual wills, he then says, it is necessary to have a mixed government. Since the plebs typically do not elect ambitious citizens to office, constitutions that give them this power of election are usually well-devised.[101] But the best way to avoid this is to have a city populated primarily by middle class people and to give them authority. This is because, in contrast with the nobility, the middle classes are content with their sufficient means, and therefore do not become arrogant and insolent in the manner of nobles. On the other hand, their middling wealth also prevents them from becoming servile on account of imbecility and excessive poverty, as is a frequent problem with the poor.[102] Although this language is clearly indebted to Aristotle's psychological apparatus,

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[98] "Itaque optimus Romanae reipublicae status fuerat in qua nobiles, quos et patricios et senatores appellabant, civitati consulebant et magistratus exercebant: ita tamen ut quacumque senatus decrevisset confirmarentur a plebe," Quirini, *De re publica*, 137-38.

[99] "Nam aliter non respublica, sed oligarchia esset," Quirini, *De re publica*, 138.

[100] "Oportet ergo legem omnibus principari; observabitur sane potissimum ea lex quam natura rationale genus instruxit contra ius non ire naturae," Quirini, *De re publica*, 150.

[101] "Exercebunt autem nobiles annuos magistratus quos patricii elitent et plebs confirmabit. Eligent vero et confirmabunt praestantes cives non ambitiosos; id etiam principalissimum in nostra republica observabitur ut magistratus non sint mercenarii et sordidi: sat enim erit honos et gloria," Quirini, *De re publica*, 150. Quirini's claim that the "plebs" in Venice elect the magistrates suggests that membership in the noble, middle or poorer classes has more to do with a citizen's standing relative to other parties in the *societas*, not with the demographic population of the physical city governed by that associated body of citizens.

[102] "Cives vero in mediocri facultate studebunt: nam Aristotele auctore permaxima urbi felicitas est cives mediocrem sed sufficientem substantiam possidere. Quod ubi quidem nimis excellent multa possidentes, quidam nulla vel pauca omnibus indigentes, aut extrema, inquit, sit democratia aut intemperata oligarchia aut summa tyrannia, propter

Quirini employs it here to advance an argument that sees human motivations as existing on a kind of spectrum, with the universal human nature rooted in reason that he just alluded to, and which he describes in greater detail in Book I, in the middle. At one end of this spectrum are the nobles who, on account of their elevated position, face certain pressures to stray from what their reason tells them. At the other are the poor who, due to their lowly position, face a contrasting set of pressures. Those in the middle class, however, face neither pressure. Avoiding the extremes of wealth and poverty, and the pressures they impose, this class is least positioned to stray from their rational nature and thus best positioned to continue acting in accordance with the reason that all human beings, rich, poor or middle class, share, thereby enabling them to embody best the natural justice that can bridge the chasm between the classes and keep them united. Indeed, he concludes, since "every republic is a kind of body that is constituted by members" from all classes,[103] a *civitas* whose constitution can successfully create a harmony "from the greatest, lowest and middle orders" through moderation,[104] "brings the republic to greatest completion," thereby preserving the union of those members as one body bound by justice.[105]

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ambos excessus. Quoniam cives nimis locupletes arrogantes et insolentes fieri solent, indigentes autem imbecilles et humiles: ideo pauperes in urbibus quasi servi divitum habentur," Quirini, *De re publica*, 151.

[103] "Quoniam omnis respublica est quasi corpus quoddam ex membris confirmatum, princeps obtinet locum capitis, quia regit; senatus cordis quia consiliis vivificat; iudices aurium et oculorum, quia litigantes audiunt et praevidentes iura decernunt; milites protegentes, manuum; agricolae quod alimenta praestantes vitam sustentant, pedum," Quirini, *De re publica*, 152.

[104] "…sic ex summis et infimis mediis interiectis ordinibus ut sonis moderatam ratione civitatem consensus dissimillimorum concinere, et quae harmonia a musicis dicitur in cantu eam esse in civitate concordiam," Quirini, *De re publica*, 152.

[105] "Hoc itaque pacto et urbs nostra integerrima et civitas ordinatissima erit, res vero publica in summa perfectione," Quirini, *De re publica*, 152.

Finally, these sentiments are also shared by Francesco Patrizi, who incorporates the highly juridical suppositions of the notion that the *civitas* is a *societas* into his treatment of *politeia* by equating it with *isonomia*. *Isonomia*, or government by laws, is a form of government present in several works of ancient Greek political philosophy, although Aristotle's *Politics* is not one of them. Patrizi translates *isonomia* as *popularis status*, further defining it as a form of government in which the *civitas* is lawfully governed by the multitude, who promulgate laws and elect magistrates.[106] Despite using a term foreign to the *Politics*, Patrizi clearly has *politeia* in mind when discussing *isonomia*. For example, he differentiates *popularis status* from an unnamed pernicious relative (he does not use any iteration of "democracy"), by arguing that while a *popularis status* acts for the benefit of the entire *res publica*, its problematic relative acts only in the interests of its lowest class of citizens. These are the same terms according to which Aristotle differentiates *politeia* from *democratia*. In describing *politeia*, however, Patrizi does makes one important alteration from Aristotle, an alteration that is likely behind his use of the term *isonomia*: this form of government, as Patrizi envisages it, is ultimately a government of laws. A constitution "is called *isonomia* as if there is an equality of law, when, in a republic in which the multitude dominates, all things are dealt with equal justice between all."[107] In other words, in such a republic, the laws rule, with the multitude and the magistrates they elect serving as the engine through which they rule.

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[106] "Popularis respublica est in qua res agiut ad imperium multitudinis cuius nutu leges describuntur, et magistratus omnes eliguntur, et quod pluribus videtur, id commune omnium esse iudicatur," Patrizi, *De institutione reipublicae*, 7v.

[107] "Dicitur enim *isonomia* quasi iuris aequalitas quando in republica in qua multitudo dominatur aequo inter omnes iure omnia demittenda sunt," Patrizi, *De institutione reipublicae*, 7v.

Patrizi then borrows from Aristotle's class psychology to argue that in an isonomic

constitution, the administration of government must be mixed. The reason for this lies in Patrizi's

belief that the *status reipublicae* aims at preserving a previously established *societas* of citizens

and, as a result, it is contrary to the aims of a *societas* for only one group out of that citizen-body

to rule. "It seems unjust," he says, "that the nobles alone should rule, and the others obey, when

the *civitas* cannot exist with only nobles, and the remaining multitude is far larger."[108] Without

farmers and merchants, for example, civil *societas* cannot exist.[109] To illustrate this point, Patrizi

then draws on the story of Menenius Agrippa preserved in Livy's *Ab urbe condita*, who, on the

occasion of the secession of the plebs from Rome, famously stated that the Senate and the people

constitute one body; a body that splits from discord but grows from harmony between the two. To

give one part of this body exclusive control of it, he implies, risks tearing it apart.[110]

With the aim of preserving the body in mind, Patrizi then catalogues the different

inclinations of each constituent part. Plebeians, he says, either "serve humbly or rule with the

greatest cruelty,"[111] while the nobles cannot countenance being at equal standing with the plebs,

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[108] "Iniquum praeterea esse videtur, ut cum civitas ex solis nobilibus extare nequeat, sed longe maior sit reliqua multitudo, soli nobiles imperent, reliqui aut omnes famulentur," Patrizi, *De institutione reipublicae*, 8r.

[109] "Quo fit, ut nec sine cultoribus agrorum, nec sine mercatoribus, civilis societas esse possit," Patrizi, *De institutione reipublicae*, 8r.

[110] "Sed his muneribus honestandi quae facile per sese gerere possunt, vel collegis adiuvandi a quibus eorum gressus adeo regant, ut nihil inconmodi civitas capiat, & tenuiores a maioribus non videantur omni ex parte destituti. Quotienscunqe Romana plebs a partibus secessit, non sine periculo magno semper renovata extitit. Fuit Marco Agrippae summae laudi eiusmodi conciliatio, & fabella sua docuit Senatum, & populum unum corpus esse, quod quidem discordia rumpitur, concordia autem in dies magis, magisque augetur," Patrizi, *De institutione reipublicae*, 8rv. Note here that Patrizi mistakenly identifies Menenius Agrippa with Marcus Agrippa. The classic recounting of this story can be found in Livy, *Ab urbe condita* 2.32.

[111] "Plaebs namque omnis, aut humiliter servit aut cum magna crudelitate imperat," Patrizi, *De institutione reipublicae*, 8r.

and frequently resort to violence against them.[112] The middle class, however are "neither abject nor opulent," as they "preside with the greatest modesty."[113] Like Quirini before him, Patrizi thus also sees human behavior on a spectrum, with the nobles on one extreme, the people on the other. In the middle lies the characteristics that can bridge the gap between the two extremes. It is, in other words, where one can find the things they have in common. This trait common to all men is, according to Patrizi, reason and, through reason, the justice that first brought them together into the *civitas*. "Of all the animals, only men," he says, "participate in reason."[114] And "reason," he continues, "teaches us what to do and what to avoid," "making it the seedbed of morals and law."[115] Thus, Patrizi implies, while the abjectness of the poor and the opulence of the rich push them away from the common ground of reason and towards the extremes, the middle classes do not face these pressures, thereby making them more likely to embody the virtue and justice necessary to preserve the unity of the *civitas*. Not every *civitas* has a sufficient number of *mediocres*, however, leading Patrizi to conclude that the best form of government is one that suitably "mixes" the different kinds of people in it in such a way that produces an effect similar to that of middle-class rule.[116] In Solon's Athens, for example, the "best presided on account of their virtue," a position given to them by the multitude, who were most suited "to recall the reasons of [the bests'] deeds, both in

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[112] "Adversantur enim plaerumque plaebi, nec societatem inferiorem aequo animo perpeti possunt, ut de nobili Claudiorum familia legimus," Patrizi, *De institutione reipublicae*, 8r.

[113] "Mediocres certe qui neque abiecti sunt, neque opulentia nobilitatis nimis exultant, longe modestius praesunt," Patrizi, *De institutione reipublicae*, 8v.

[114] "Legem tamen si qui scripturi sunt, naturam, ut imitentur oportet, quaequidem solos homines rationis participes ex omnibus animalibus fecit," Patrizi, *De institutione reipublicae*, 10r.

[115] "Ratio est quae ostendit quae agenda, quaeve fugienda, eadem habitu mentis confirmata prudentia in nobis efficit quae seminarium morum & legum est, & fundamenta iacit omnium praeclarissimarum actionum," Patrizi, *De institutione reipublicae*, 10r.

[116] "Ego autem in eorum numero sum qui optimam Rempublicam esse dicam, quae ex genere hominum commixta sit," Patrizi, *De institutione reipublicae*, 8v.

war and peace."[117] Since great virtue of *politeia* lies in its ability to create a government that most

embodies in its actions the justice that unites the citizens into one body, it is entirely appropriate,

then, for Patrizi to identity it with *isonomia*.

IV.

 Although the humanists, upon turning towards Aristotle and the *Politics* in the aftermath of

Leonardo Bruni's translation, found in it a political theory amenable to long-conventional

humanist thinking about the *civitas*, the increased engagement with Aristotle's political philosophy

did open up space for a significant change in the tone and direction of much subsequent humanist

political thought. This is especially so with respect to Aristotle's class psychology and the notion

that good political orders should aim to balance opposing psychological inclinations among the

citizen body. Indeed, although Aristotle's constitutional language featured prominently in the

work of scholastic political authors such as Giles of Rome (1243/47-1316) and Henry of Rimini

(d. 1314), it was largely absent from humanist political thought from Petrarch through to the early

years of the *quattrocento*.[118] Downplaying the role of class psychology, these earlier generations

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[117] "Multis in Republica potestatem faciendam esse Solonis ratio praecipit, potiusquam paucis. Licet optimi sint, & virtute praediti, quocirca admittendam multitudinem esse censet, ad repetendas rationes rerum gestarum, cum in bello, tum in pace. Sic etiam ad suffragia electionesque magistratuum, & ad complura alia in quibus maiora concilia ineunda sunt," Patrizi, *De institutione reipublicae*, 8v.

[118] An exception to this is the Paduan humanist Pier Paolo Vergerio's *De re publica veneta* (1400-03), which begins with the statement that "the Venetian Republic is ruled by a government composed of the best men, the type of regime that the Greeks call an 'aristocracy,' which takes a middle course between monarchical and democratic rule. It is superior because it partakes of the good aspects of each of these extremes and brings together elements from every type of good government." Despite the clear Aristotelian characteristics of this passage, an aristocratic constitution is certainly not what both Aristotle himself and the humanist Aristotelians of the later *quattrocento* understood by a mixed government that seeks to avoid the extremes. The aristocracy, after all, is one of the extremes. Vergerio's uncharacteristic use of this Aristotelian language could have something to do with this particular text's participation in an established tradition, begun a century earlier with Henry of Rimini's *De quattuoribus virtutibus*, that praises Venice's constitution in such terms. Quote from Pier Paolo Vergerio, "The Venetian Republic: Selections," *Cambridge Translations of Renaissance Philosophical Texts. Vol. 2. Political*

of humanists emphasized the cultivation of virtue among individual members of the ruling classes as the source of stable government. This was true for both humanist proponents of monarchy, such as Petrarch, and humanist advocates for republican government, such as Palmieri, whose works frequently drew attention to the sort of education required of either the prince or the individual citizen.[119] In other words, while the Aristotelian account located good government in the successful management of a static class psychology, the humanist theory of good government was grounded in the belief that human behavior is malleable and that a good, humanist education will create a virtuous politician, either prince or popular magistrate. This is not to say, however, that humanist authors did not see any relation between constitutional design and the cultivation of virtuous leaders: as is well-documented, the "civic humanism" of Coluccio Salutati and the early Leonardo Bruni rested on the premise that popular republics produce more virtuous leaders than principalities; a conclusion founded in turn on a set of assumptions about the psychology of princes. Nevertheless, the superior standing of popular republics on this account still remains rooted in the belief that popular republics, and only popular republics, give space for the cultivation of virtue by their citizens, with the consequence that they will be better governed.[120] But with the adoption of Aristotle's constitutional theory and class psychology, humanist political authors began to join to their emphasis on education the further argument that preserving the *civitas*

Philosophy, trans. Ronald G. Witt, ed. Jill Kraye (Cambridge: Cambridge University Press, 1997), 118. The original Latin can be found in an article written by David Robey and John Law, in which they also argue that the text should be situated in the same tradition as Rimini's. See David Robey and John Law, "The Venetian Myth and the *De re publica veneta* of Pier Paolo Vergerio," *Rinascimento* 15 (1975): 3-59.

[119] This tendency is perhaps best visible in the work of Bartolomeo Sacchi (Platina), whose *De principe* of 1471 and *De optimo cive* of 1474 aimed at cultivating virtue in the figure of the prince and citizen, respectively.

[120] See, for example, Bruni's "Oration for the Funeral of Nanni Strozzi," in Bruni, *The Humanism of Leonardo Bruni*, 125: "Kings, the historian says, are more suspicious of the good than of the evil man, and are always fearful of another's virtue. Nor is it very different under the rule of the few. Thus the only legitimate constitution left is the popular one, in which liberty is real, in which legal equity is the same for all citizens, in which pursuit of the virtues may flourish without suspicion."

requires laws and institutions that can successfully balance the conflicting psychological dispositions of its individual citizens. By the end of the fifteenth century, this newly emphasized direction in humanist political thought was firmly anchored in a language of class psychology.

A clear example of this can be seen in Pietro Barozzi's *De factionibus extinguendis* of 1489. Barozzi, a Venetian humanist and lawyer, wrote the text while serving as the Bishop of Padua. The occasion for its composition was the elevation of Barozzi's friend Bernardo Bembo to the position of *podestà* in the Venetian subject city of Bergamo, which was, at the time, a city beset by faction, and, in it, Barozzi addresses the origins of factions and how they can be quelled. Following Aristotle, Barozzi argues that factionalism is the consequence of de-stabilized class conflict, conflict that is initially brought about by an inability to satisfactorily balance the opposing psychological characteristics of a city's three different classes. For Barozzi, like Aristotle before him, those three classes are the poor (*parvi*), the middle class (*mediocres*), and the great (*magni*).[121] Although Barozzi endorses Aristotle's division of each into three classes, and makes it the foundation of his analysis, he does not fully subscribe to Aristotle's description of the psychological character of each class. While Aristotle saw the *mediocres* as a stable middle ground between the opposing nobles and poor, Barozzi attributes destabilizing characteristics to all three classes. The *parvi*, he says, desire to be equal to the *mediocres* and the *magni*, whereas the *magni*

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[121] "In omni re publica tres hominum status inveniuntur: parvus, mediocris et magnus," Pietro Barozzi, *Il vescovo Pietro Barozzi e il trattato "De factionibus extinguendis*," ed. Franco Gaeta (Venice: Istituto per la Collaborazione Culturale, 1958), 69. On Barozzi, see Roberto Abbondanza's review of this volume and Gaeta's introduction to it, in Roberto Abbondanza, "Franco Gaeta, 'Il vescovo Pietro Barozzi' e il trattato 'De factionibus extinguendis,'" *Bollettino dell'Istituto Storico per la storia e cultura veneziana* (1959): 241-256. Barozzi make a brief but, in my view importance in Pedullà's *Machiavelli in Tumult*, where Pedullà cites him as a rare exception to the humanist rule of assessing conflict in "an exclusively moral key." See Pedullà, *Machiavelli in Tumult*, 25, 25n49.

desire to be superior to the *mediocres*, who, in turn, desire to be superior to the *parvi*.[122] These dispositions then incline members of the various classes towards vice, with particular circumstance dictating both which class will bring about instability and the specific appearance their inclination will assume.

Barozzi then provides a typology of the different vices. Although dependent in many ways on Aristotle's account of the different types of revolutions and factional conflict in Book V of the *Politics*, Barozzi's typology of vice is far more complex and detailed than any offered by Aristotle. Barozzi stipulates that there are three different categories of vice – greed (*cupiditas*), pride (*superbia*) and envy (*invidia*) – each with three causes of faction attached to them. For example, the causes of faction under the category of envy are presumption (*praepotentia*), immoderate aggrandizement (*incrementum immoderatum*) and marginality (*peregrinitas*). On top of these nine "ordinary causes," there are an additional six "extraordinary" ones, related to accident, ambition, injury and other such happenings. The detail with which Barozzi addresses the different causes of faction, greatly surpassing Aristotle's treatment of the question, is observed in much of the modern scholarship on Barozzi, with different texts, such as Book II of Aristotle's *Rhetoric* offered as additional sources.[123] To each cause of faction, Barozzi also offers a remedy. The remedy for presumption, for example, is the suppression of ambitious men, while the remedy for immoderate

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[122] "Ex his, parvi mediocribus et interdum magnis, mediocres item magnis esse pares cum velint, contra vero magni mediocribus ac multo magnis parvis, mediocres autem parvis praestare quom cupiant, dissensions inter se faciant neccese est, ac primum quidem in tres factiones scindantur," Barozzi, *De factionibus extinguendis*, 69.

[123] Margaret King, *Venetian Humanism in an Age of Patrician Dominance* (Princeton: Princeton University Press, 1986), 155 n196. King's most recent iteration of her work on this subject is visible in Margaret King, "The Venetian Intellectual World," in *A Companion to Venetian History, 1400-1797*, ed. Eric R. Dursteler (Leiden: Brill, 2013), 571-614.

aggrandizement is the advancement of depressed social groups and the imposition of limits on rising ones.[124]

With this complex apparatus of causes and remedies, Barozzi's argument operates on the premise that controlling and limiting factional conflict is a dynamic process. Magistrates, he suggests, must continuously be on guard against the appearance of vicious behavior in social life and, when that behavior appears, they must take swift action against it, following his delineated remedies In other words, it is the task of the magistrate to continuously ensure that an equilibrium obtains between the different groups, with each group prevented from engaging in vicious behavior, while at the same time doing so in such a way that does not illicit negative feelings towards him from any class. Stability in the *civitas* depends, he says, on the "consensus of its parts," which depends, in turn, on the ability of its magistrates to preserve an equalized class dynamic: "the *civitas* is one body and old and new, noble and ignoble, poor and rich…should know themselves to be members of this body, and no more shall seek disproportionate aggrandizement than to have a nose, elbow, neck, five feet long; but there will be such concord between them that no more will the new wish to displace the old, the ignoble the noble, [or] the poor the rich, than the foot wishes to be made a hand or the ear an eye."[125] When viewed alongside the humanist Aristotelians discussed earlier in this chapter, who argued that justice and equity are the means by which faction can be avoided and the integrity of the *civitas* maintained, Barozzi's position that

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[124] For a table that displays each cause of faction and remedy, see King, *Venetian Humanism*, 153.

[125] Translation from King, *Venetian Humanism*, 152-153. Latin text in Barozzi, *De factionibus extinguendis*, 105-106: "…cum partium consensu… Etenim si…civitatem corpus unum et antiquos ac novos, nobiles atque ignobiles, egenos ac divites, atque hoc genus alios huius esse corporis membra intelligent, nihilo magis incrementum capere immoderatum volent quam nasum, cubitum, collum quinque pedes longum habere; verum tanta inter ipsas est future concordia ut non aliter novi veterum, ignobiles nobelium, egeni divitum invader locum velint, quam pes, manus aut auris oculus fieri…"

the *civitas* is held together by a careful and dynamic balancing of conflicting psychological characteristics suggests that, by the end of the *quattrocento*, Aristotle's class analysis had introduced new possibilities for thinking about the character of the *civitas* and its preservation. And, although Barozzi disagreed with Aristotle on foundational points – most importantly the psychology of the middle classes – the fact that Barozzi's argument unfolds within an updated version of Aristotle's class psychology exemplifies the great degree to which this new direction in humanist political thought took place in a language of class psychology.

The Formation of the State in Machiavelli's Discorsi

In December 1494, the city of Florence began a decades-long period of intense public debate over reforming its constitution. These circumstances led to a proliferation of texts that sought to address this question, either directly or indirectly, with interventions from, among many others, Machiavelli, Guicciardini and Donato Giannotti.[1] A vast amount of scholarship has discussed these events, setting them in both political[2] and intellectual context.[3] In this chapter, I aim to

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[1] The literature that survives from this period is extensive. For a comprehensive account of the period and the political debates within it, including an appendix of notable interventions from minor figures, see Rudolf von Albertini, *Das florentinische Staatsbewußtsein in Übergang von der Republik zum Prinzipat* (Bern: A. Francke, 1955). In addition to the texts to be discussed below, particularly well-known interventions include Francesco Guicciardini, *Dialogo del reggimento di Firenze*, ed. Gian Mario Anselmi and Carlo Varotti (Turin: Bollati Boringhieri, 1994) and Niccolò Machiavelli, "Discursus Florentinarum Rerum Post Mortem Iunioris Laurentii Medices," *L'Arte della Guerra: Scritti Politici Minori*, ed. Jean-Jacques Marchand, Denis Fachard and Giorgio Masi (Rome: Salerno, 2001), 621-641.

[2] In addition to Von Albertini, whose work encompasses both intellectual and political contexts for his period, see for the political situation: Nicolai Rubinstein, "I primi anni del Consiglio Maggiore di Firenze (1494-1499)," *Archivo Storico Italiano* 112 (1954), 151-192 and 321-347, reprinted in Nicolai Rubinstein, *Studies in Italian History in the Middle Ages and the Renaissance. Vol 2. Politics, Diplomacy and the Constitution in Florence and Italy* (Rome: Edizioni di Storia e letterature, 2011), 71-132; Felix Gilbert, *Machiavelli and Guicciardini: Politics and History in Sixteenth-Century Florence* (Princeton: Princeton University Press, 1965); Antonio Anzilotti, *La crisi costituzionale della Repubblica fiorentina* (Rome: Multigrafica, 1969); J.N. Stephens, *The Fall of the Florentine Republic, 1512-1530* (Oxford: Clarendon Press, 1983); H.C. Butters, *Governors and Government in Early Sixteenth-Century Florence, 1512-1519* (Oxford: Clarendon Press, 1985); Giorgio Cadoni, *Lotte politiche e riforme institionali a Firenze tra il 1494 e il 1502* (Rome: Istituto Palazzo Borromini, 1999); John M. Najemy, *A History of Florence 1200-1575* (Abingdon: Blackwell, 2008); and Alison Brown, *Piero di Lorenzo de Medici and the Crisis of Renaissance Italy* (Cambridge: Cambridge University Press, 2020). Much of the political situation is also discussed with principal reference to Machiavelli. See Nicolai Rubinstein, "Machiavelli and the Florentine Republican Experience," *Machiavelli and Republicanism*, eds. Gisela Bock, Quentin Skinner and Maurizio Viroli (Cambridge: Cambridge University Press, 1990), 3-16; other relevant entries in this volume include Elena Fasano Guarini, "Machiavelli and the Crisis of the Italian Republics," 17-40; Robert Black, "Machiavelli, Servant of the Florentine Republic," 71-100; and John Najemy, "The Controversy Surrounding Machiavelli's Service to the Republic," 101-117; Robert Black, "Machiavelli in the Chancery," *The Cambridge Companion to Machiavelli*, ed. John M. Najemy (Cambridge: Cambridge University Press, 2010), 31-47; the same volume includes Roslyn Pesman, "Machiavelli, Piero Soderini and the Republic of 1494-1512," 48-63; Humfrey Butters, "Machiavelli and the Medici," 64-79; and Jérémie Barthas, "Machiavelli, the Republic, and the Financial Crisis," *Machiavelli on Liberty and Conflict*, ed. David Johnston, Nadia Urbinati and Camila Vergara (Chicago: University of Chicago Press, 2017), 257-279.

[3] For the intellectual situation, the work of Felix Gilbert is indispensable. See Felix Gilbert "Bernardo Rucellai and the Orti Oricellari: A Study on the Origin of Modern Political Thought," *Journal of the Warburg and Courtauld*

situate the extensive amount of political literature these events stimulated within the two competing ways of thinking about the nature and ends of political society constructed in the previous chapters. Since this political literature, and its relationship to these two ways of thinking about the state, were shaped by these events, I will begin the chapter with a brief outline of what transpired.

I.

The impetus for this debate came after the expulsion from the city of Piero de' Medici, whose family had effectively governed it since 1434. Over the course of those sixty years, the Medici family had slowly de-stabilized the institutions of Florentine government, leveraging their vast wealth and social network to take advantage of long-standing procedures – such as selecting individuals for magistracies by lot – and to create new institutions that weighted government decisions towards their interests. By 1494, however, their support among the citizen-body had weakened, which, combined with a series of strategic errors surrounding Charles VIII of France's entry into Italy, led to the Medici's exile from the city. On December 2, 1494, the citizen-body of

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Institutes 12 (1949): 101-131; Felix Gilbert, "Florentine Political Assumptions in the Period of Savonarola and Soderini," *Journal of the Warburg and Courtauld Institutes* 20 (1957): 187-214; Felix Gilbert, "The Venetian Constitution in Florentine Political Thought," *Florentine Studies: Politics and Society in Renaissance Florence*, ed. Nicolai Rubinstein (Evanston: Northwestern University Press, 1968), 463-500. See also J.G.A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1978/re-published in 2016); Giovanni Silvano, *'Vivere civile' e 'governo misto' a Firenze nel primo Cinquecento* (Bologna: Patron, 1985); and Viroli, *From Politics to Reason of State*, 126-237. Much of the intellectual situation is also discussed with principal reference to Machiavelli. See Giovanni Silvano, "Florentine Republicanism in the Early Sixteenth Century," *Machiavelli and Republicanism*, eds. Gisela Bock, Quentin Skinner and Maurizio Viroli (Cambridge: Cambridge University Press, 1990), 41-70; John M. Najemy, "Society, Class and State in Machiavelli's *Discourses on Livy*," *The Cambridge Companion to Machiavelli*, ed. John M. Najemy (Cambridge: Cambridge University Press, 2010), 96-111; in the same volume see J.G.A. Pocock, "Machiavelli and Rome: the Republic as Ideal and as History," 144-156; also see Robert Black's authoritative biography, Robert Black, *Machiavelli* (Harlow: Pearson, 2013).

Florence assembled in a *parlamento* dissolved the Medician institutions. And, on the 22nd of December, the city instituted a government unlike any it had ever seen before: a new assembly consisting of every citizen. This assembly, which was responsible for legislation and for the election of some magistrates previously selected by lot, was called the *Consiglio Grande*.

Drawing from a vast amount of source material, including letters, political treatises, and the work of Florentine historians and chroniclers such as Piero di Marco Parenti, Bernardo de' Nerli and Francesco Guicciardini, modern scholars have shown the extent to which the institution of this council had been controversial at the start and remained controversial afterwards, especially among the city's elite.[4] As a result, shortly after the debate surrounding its creation concluded, a new debate commenced over the establishment of separate institutions that would award greater weight to this group. Members of the city's leading families sought the creation of a Senate that would give them the increased prominence in government that they felt they deserved. Eventually, this controversy would lead, in 1502, to the election of a permanent leader for the city's executive magistracy, the Signoria. The man elected to this position, Piero Soderini, would go on to become Machiavelli's employer. This did not, however, quiet the division between the many factions within the city, which would eventually culminate in the restoration of Medici family rule in 1512. This second period of Medici rule in the city lasted between 1513 and 1527, and at this time, there was much debate among Florentines over, on the one hand, the shape of government that the Medici should institute in the city and, on the other, what problems of the previous republic led to its collapse. It was at this point that Machiavelli wrote his two major works of political theory, *Il*

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[4] See, for example, Rubinstein, "I primi anni;" Gilbert, *Machiavelli and Guicciardini*, 7-104; Najemy, *History of Florence*, 381-390.

principe (c.1513) and the *Discorsi sopra la prima deca di Tito Livio* (c.1515-1519).[5] In 1527, however, the Medici were expelled again and another republic, with another *Consglio Grande*, was instituted. From 1527 until this government's collapse in 1530, members of its ruling class, many of whom made up a group of young men who admired Machiavelli greatly, sought with renewed vigor to explore the failure of the previous republic of 1494-1512. This government would last until 1530 when, with the return of the Medici, a new monarchical regime was instituted, with Alessandro I de' Medici appointed as Duke. This monarchy would last for over three centuries.

Scholars who have discussed the content of the literature produced at this time have emphasized a recurring number of themes. First, the frequent division in the city often, although especially during the 1494-1512 republic and in its immediate aftermath, transpired along class lines. In a manner that has been foundational for much of the subsequent literature on this topic, Felix Gilbert showed how the socio-economic circumstances prevailing in the city in 1494, alongside the *Consiglio Grande*'s incorporation of vast numbers of middle-class citizens into government who previously did not participate, precipitated explosive class conflict. On account of the development of pan-European commerce over the course of the fifteenth century, Gilbert argued, the wealthy few, engaged as they were in inter-state commerce, had personal economic interests very much at odds with those of the more numerous middle class, who were often independent shopkeepers or craftsmen. As a result, the former felt both that they had interests to

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[5] The dating of the *Discorsi* has been the matter of some debate. For an authoritative discussion of the issues involved in dating the work, see Giorgio Inglese, *Per Machiavelli: l'arte dello Stato, la cognizione delle storie* (Rome: Carocci, 2006), 93-97. For the dating of *Il principe*, see the same work, 45-50.

protect that were not a priority for the middle classes and therefore that they had much to lose from the increased prominence of the latter. The effect of this, according to Gilbert, was that the political discourse surrounding the *Consiglio Grande* came to reflect a division between classes, with participants drawing from the works of Aristotle and from Roman historiography to substantiate their ideas about each class' interests and character.[6]

To this emphasis on class conflict was joined a special interest in constitutional design, which further entailed studying, and seeking to draw conclusions from, the constitutions of contemporary Venice and ancient Rome. Revealing how important these examples were to political discourse, Felix Gilbert addressed how the character of foreign constitutions sometimes became grounds for dispute themselves. This was especially true in the case of the Venetian constitution, he says, which was frequently weaponized both to support arguments in favor of the *Consiglio Grande* and against it.[7] And, as Elena Fasano Guarini has more recently shown, many of Machiavelli's writings, including some of the diplomatic correspondence he authored while working in Florence's government between 1498 and 1512, demonstrate a significant interest the dynamics of foreign constitutions.[8] This intellectual environment, characterized by engagement with constitutional design and within a context of class conflict, also led, as both Giovanni Silvano and J.G.A Pocock have discussed at length, to the prominence of a literature on mixed constitutionalism and the employment of class categories within it.[9] Moreover, the immense

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[6] Gilbert, *Machiavelli and Guicciardini*, 22-24.

[7] Gilbert, "The Venetian Constitution," 477-489.

[8] Guarini, "Crisis of the Italian Republics," 23-25.

[9] Pocock, *The Machiavellian Moment*, 83-330, with the main issues outlined at114-121; Silvano, *'Vivere civile' e 'governo misto.'*

importance of the *Consiglio Grande* would then make it, alongside Rome and Venice, central to debate in Florence for years afterwards, furnishing more material for the next generation's approach to the problems of constitutional design and the appropriate mixing of responsibilities and classes to achieve a positive end.[10]

I will argue in this chapter that this period's overwhelming concern with constitutional design, and the belief that it must channel class conflict to productive ends, led members of this group of Florentine writers to embrace a way of thinking about political society very much at odds with the Ciceronian conception of the *civitas* so central to the humanist political thought of the previous century. With the example of Pietro Barozzi's *De factionibus extinguendis* (1489), we saw in the last chapter that, by the final years of the fifteenth century, Aristotle's class psychology had furnished material for a strand of humanist political argument that sought psychological explanations for the origins of conflict and faction. In his work, Barozzi constructs an image of political society as a group of individuals from three different classes – the people, the middle class and the great – each with their own psychological profile. Its preservation, he went on to argue, depended on the ability of its laws and institutions to balance the competing psychological characteristics of its heterogenous citizen-body. I will show in this chapter how, during this period between 1494 and 1530, political writers in Florence would also turn towards such psychological accounts of political phenomena, adopting it in their debate over constitutional reform. I will further argue that this contemporary debate shaped the political theory expressed in Machiavelli's

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[10] Silvano, "Florentine Republicanism in the Early Sixteenth Century," 41-45.

Discorsi sopra la prima deca di Tito Livio (c. 1515-1519), in which he constructs a highly original account of the state on the basis of his own psychological apparatus.[11]

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The meaning of Machiavelli's term *stato* has been the topic of study for well over a century, with a wide range of arguments advanced over its conceptual character.[12] In the early decades of the twentieth century, the Italian jurists Francesco Ercole and Orazio Condorelli each argued that *stato* is the central concept of Machiavelli's political thought, with the former ascribing a fundamentally Aristotelian foundation to it and the latter a juridical.[13] Both scholars focus their arguments in part on Machiavelli's use of the corporal metaphor to describe the state. For Ercole, Machiavelli's *stato* was a "living organism,"[14] while for Condorelli it is a "singular body or person."[15] Since the

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[11] Parts of what follows are adapted from Jeffrey Dymond, "Human Character and the Formation of the State: Reconsidering Machiavelli and Polybius 6," *Journal of the History of Ideas* 82.1 (2021): 29-50, © The Journal of the History of Ideas, Inc., 2021.

[12] Important publications on this topic over the last century are, in chronological order: Francesco Ercole, *Lo "Stato" nel pensiero di Niccolò Machiavelli* (Palermo: Castigilia, 1917); Orazio Condorelli, "Per la storia del nome 'Stato'" *Archivio Giuridico* (1923): LXXXIX 223-235, XC 77-112; Fredi Chiappelli, *Studi sul linguaggio del Machiavelli* (Florence: Le Monnier, 1952), 59-79; Frederico Chabod, *Scritti sul Rinascimento*, (Turin: Einaudi, 1967), 630-637; Nicolai Rubinstein, "Notes on the word *stato* in Florence before Machiavelli," in *Florilegium Historiale*, eds. J.G. Rowe and W.H. Stockdale (Toronto: University of Toronto Press, 1971), 313-326; J.H. Hexter, *The Vision of Politics on the Eve of the Reformation: More, Machiavelli, and Seyssel* (New York: Basic Books, 1973), 150-178; Harvey C. Mansfield, Jr., "On the Impersonality of the Modern State: A Comment on Machiavelli's Use of *Stato*," *The American Political Science Review* 77.4 (1983): 849-857; Niccolò Machiavelli, *The Prince*, eds. Quentin Skinner and Russell Price (Cambridge: Cambridge University Press, 1988), 102-103; Quentin Skinner, *Visions of Politics*, 374-385; Gianluca Briguglia, *Il corpo vivente dello Stato: Una metafora politica* (Milan: Bruno Mondadori, 2006), esp. 77-118; Corrado Vivanti, "Note intorno al termine "stato" in Machiavelli," in *Storia sociale e politica: omaggio a Rosario Villari*, edited by Alberto Merola et al. (Milan: Franco Angeli, 2007), 79-98; and Stacey, "Free and Unfree States."

[13] Ercole, *Lo "Stato" nel pensiero di Machiavelli*, I:45-48; Condorelli, "Per la storia," 94-102.

[14] Ercole, *Lo "Stato" nel pensiero di Machiavelli*, I:32.

[15] Condorelli, "Per la storia," 96-97.

1950s, however, scholars have been less willing to attribute to Machiavelli's *stato* a fully-developed and distinctive conceptual character. Focusing primarily, although not exclusively, on *Il principe*, they instead argue that the word carries with it a wide-range of meanings that can truly be summarized in only the broadest of terms. For example, in their 1988 edition of *The Prince*, Quentin Skinner and Russell Price define the *stato* as "a political community existing within certain boundaries as well as the government of such a community."[16] And in 2007, Corrado Vivanti wrote that the *stato*, while clearly some kind of "collective political organism," nevertheless remains an "oscillating" term in all of Machiavelli's key works.[17]

In the last decade, however, commentators have once again begun to observe in Machiavelli's writing a coherent concept of the state and have accordingly sought more precise definitions of it. According to Peter Stacey, the belief that the *stato* is an ambiguous concept for Machiavelli is in part a consequence of scholars' nearly exclusive focus on *Il principe*.[18] Indeed, those who have argued that there is a coherent concept of the state in Machiavelli's works, such as Ercole and Condorelli, came to this conclusion in part through engagement with all of Machiavelli's major texts, and in making his argument, Stacey himself draws extensively on the *Discorsi*. When seen in light of the *stato*'s portrayal in both works, Stacey re-emphasizes the importance of Machiavelli's corporal metaphor. He argues that the state is a kind of civil body and, more specifically, that it is a "mixed body," a *corpo misto*. Its constituent parts are the individuals that constitute its two "humors," the *grandi* and the *popolo*, with each "humor" in turn

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[16] Machiavelli, *The Prince* (1988), 102.

[17] Vivanti, "Note intorno al termine 'stato,'" 96-97.

[18] Stacey, "Free and Unfree States," 178.

defined by a particular animating disposition: the *grandi* seek to oppress, while the *popolo* seek not to be oppressed. Machiavelli's *stato* is, in short, a composite body composed of heterogeneous individual bodies with different, and frequently conflicting, aims.[19] And in both *Il principe* and the *Discorsi*, Stacey shows, Machiavelli's political prescriptions are structured with this account of the state in mind. For example, keeping this body free, as Stacey argues is the aim of the republican magistrate, or keeping it unfree, as is the aim of the prince, each requires the appropriate management of its humoral tendencies.[20]

To contribute to our understanding of Machiavelli's concept of the state, this chapter will focus on the *Discorsi*, and, above all, on Book I Chapter 2 of that text. The reason is that, here, Machiavelli gives an extensive account of the state's formation, which, I will argue, he portrays as the consequence of the unfolding of a set of psychologically-motivated human behaviors. The centrality of the humoral dynamic to Stacey's reconstruction of Machiavelli's *stato* indeed suggests that Machiavelli's thinking about the concept ultimately follows from an account of human psychology; an account that explains why both the *grandi* and the *popolo* act as they do. But, as recent literature on conflict in Machiavelli's political thought has argued, the behavior exhibited by each humor is in fact context-dependent, with Machiavelli reporting multiple instances in which the *popolo* behave like the *grandi* and vice-versa. As a result, Machiavelli's treatment of the humors must be predicated on some kind of universal human psychology.[21] I will demonstrate here that, in *Discorsi* I.2, Machiavelli furnishes us with this universal psychological

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[19] Stacey, "Free and Unfree States," 190-194.

[20] Stacey, "Free and Unfree States," 193-194.

[21] See, most recently, Sungho Kimlee, "The *plebe* in the *Florentine Histories*: Machiavelli's notion of humours revisited," *History of European Ideas* 44.5 (2018), 495.

apparatus, and that it is indebted, in turn, to his reading of Book VI of Polybius's *Histories*, the

principal source for the chapter. In *Discorsi* I.2, Machiavelli, following Polybius, makes the

interaction between the different parts of this psychological apparatus the driving force behind the

formation of the state and, as we will also see, behind the dynamics of political life more generally.

Knowledge of it, in other words, can explain what kind of thing the state is, what its formation

aims to achieve, and how it can be preserved.

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In recent years, the nature of Machiavelli's relationship with Book VI of Polybius's *Histories* has

become a matter of some debate. For most of the twentieth century, commentators have largely

agreed that the ancient Greek historian is the principal source for *Discorsi* I.2, offering as evidence

the chapter's discussion of the mixed constitution and the cycle of constitutions (*anacyclosis*) that

supports it.[22] But, over the last decade, some historians have moved away from this traditional

interpretation. Citing a number of perceived substantive differences between the two texts as well

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[22] Key publications concerned with the relationship between Machiavelli and Polybius VI are J.H. Hexter, "Seyssel, Machiavelli, and Polybius VI: The Mystery of the Missing Translation," *Studies in the Renaissance* 3 (1956): 75-96; Carlo Dionisotti, "*Dalla repubblica al principato*," *Rivista storica italiana* 83 (1971): 227-263; Arnaldo Momigliano, "Polybius' Reappearance in Western Europe," in *Polybe – Entretiens sur l'Antiquité Classique*, XX (Genève: Fondation Hardt, 1974), 347-372; Pocock, *The Machiavellian Moment*, 186-194; Gennaro Sasso, *Machiavelli e gli antichi e altri saggi*, (Milan: R. Ricciardi, 1987), 1: 3-118; Luciano Canfora, "Il Pensiero Storiografico," *Lo Spazio Letterario di Roma Antica. Vol. 4*, ed. Guglielmo Cavallo, Paolo Fedeli, Andrea Giardina (Rome: Salerno, 1989), 62-69; Eugenio Garin, *Machiavelli fra politica e storia* (Turin: Einaudi, 1993), 9-16; John Monfasani, "Machiavelli, Polybius, and Janus Lascaris: the Hexter Thesis Revisited," *Italian Studies* 71.1 (2016): 39-48; Cary J. Nederman and Mary Elizabeth Sullivan, "The Polybian Moment: The Transformation of Republican Thought from Ptolemy of Lucca to Machiavelli," *The European Legacy: Toward New Paradigms* 17.7 (2012): 867-881; and Dymond, "Reconsidering Machiavelli and Polybius 6," 29-50. The editors of the most recent Italian editions of the *Discorsi* also refer frequently to Polybius when discussing *Discorsi* I.2. See Niccolò Machiavelli, *Discorsi sopra la prima deca di Tito Livio,* ed. Corrado Vivanti (Turin: Einaudi, 1983), 16-27; Machiavelli, *Discorsi sopra la prima deca di Tito Livio*, ed. Giorgio Inglese (Milan: Rizzoli, 1984), 194-201; Machiavelli, *Discorsi sopra la prima deca di Tito Livio. Vol. 1*, ed. Francesco Bausi (Rome: Salerno, 2001), 20.

as the longstanding uncertainty over how Machiavelli accessed the contents of Book VI, these readers have suggested Lucretius and Dionysius of Halicarnassus as other possible sources.[23] While these arguments give good grounds for thinking that Dionysius and Lucretius were accessible to Machiavelli, it is just not plausible for us to discount the influence of Polybius, whose presence in this part of the *Discorsi* has been so heavily underlined by a number of eminent scholars such as Arnaldo Momigliano, who was the leading authority on Polybius's reception in the early modern period.[24] Moreover, recent research into the textual transmission of Book VI has confirmed the longstanding position that Polybius is indeed the chapter's most crucial source.[25] To demonstrate how Machiavelli's debt to Polybius VI informs his thinking about the state, I will first reconstruct in this chapter the interpretation of Polybius VI that emerged in early sixteenth century Florence before re-examining the *Discorsi* within this context. While not precluding additional sources from the chapter, I will show, firstly, that Machiavelli was indeed immersed in an environment in which a common reading of Polybius 6 circulated and that, secondly, *Discorsi* I.2 is indebted to this interpretation, although it is a substantially different interpretation of Polybius than previous commentators have typically assumed.

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[23] For Lucretius, see Alison Brown, "Lucretian Naturalism and Machiavelli," *Lucretius and the Early Modern*, ed. David Norbrook, Stephen Harrison, and Philip Hardie, (Oxford: Oxford University Press, 2016), 79. For Dionysius see Gabriele Pedullà, *Machiavelli in tumulto: Conquista, cittadinanza e conflitto nei "Discorsi sopra la prima deca di Tito Livio"* (Rome: Bulzoni, 2011), 425 and Jérémie Barthas, "Machiavelli e l'istituzionalizzazione del conflitto: su una nuova interpretazione dei *Discorsi*," *Rivista Storica Italiana* 77.2 (August 2015), 560.

[24] Beyond the aforementioned Momigliano, "Polybius's Reappearance," there is also Arnaldo Momigliano, "The Historian's Skin," "Polibio, Posidonio e l'imperialismo Romano," and "Polybius between the English and the Turks," in *Sesto contributo alla storia degli studi classici e del mondo antico. Vol. 1*, (Rome: Storia e Letteratura, 1980), 77-101, 125-141.

[25] Monfasani, "Hexter Revisited," 39-48. Also see Jeroen de Keyser, "Polybius," in *Catalogus Translationum et Commentariorum: Mediaeval and Renaissance Latin Translations and Commentaries. Vol. 11*, ed. Greti Dinkova-Brun, Julia Haig Gaisser and James Hankins (Toronto: Pontifical Institute of Mediaeval Studies, 2016), 17.

The traditional understanding of *Discorsi* I.2's debt to Polybius VI claims that *anacyclosis* and the mixed constitution are the most significant Polybian ideas in the chapter, with a number of reasons offered for why Machiavelli uses them. In two essays that first appeared in 1967, "Machiavelli e la teoria dell'*Anacyclosis*" and "Machiavelli e Polibio," Gennaro Sasso argues that Machiavelli takes from Polybius a theoretical defense of the mixed constitution and that this serves as a foundation for the political theory developed throughout the *Discorsi*. More specifically, Sasso says, *Discorsi* I.2 relies on Polybian *anacyclosis* to demonstrate the pervasiveness of the tensions between the two social groups, the *popolo* and the *grandi*, and that they can only be stabilized through the imposition of a mixed constitution.[26] J.G.A. Pocock's 1975 *The Machiavellian Moment* offers an alternative interpretation emphasizing the historical claims of Book 6. Pocock argues that Machiavelli is drawn primarily to Polybius's assertion that Rome's mixed constitution developed over time, with each part emerging in response to a different historical contingency. This, according to Pocock, provided Machiavelli with a framework through which a fundamentally historical political theory could operate.[27]

While the traditional interpretation rightly sees a connection between Polybius VI and Machiavelli's discussion of *anacyclosis* and the mixed constitution, it is limited by the assumption that these two phenomena represent the only extractable theoretical content of Book VI, an assumption that owes more to the image of Polybius sketched by F.W. Walbank than to early modern readings. Walbank, whose interpretation was dominant for much of the twentieth century,

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[26] Sasso, *Machiavelli e gli antichi*, 1:56 – 60, 1:75-81.

[27] Pocock, *Machiavellian Moment*, 186-194. While originally published in 1975, I am citing from an updated 2016 edition, which includes an epilogue written by the author for this edition.

argues that the theoretical content of Book VI is both limited and superficial. At its heart is *anacyclosis*, which he understands to be an historical illustration of Polybius's "fundamental principle," derived from "experience," that all states follow a life cycle of origin, peak and decline and which the mixed constitution has successfully been able to "brake."[28] The particular reasons behind this are, however, beyond Polybius's scope; Polybius, Walbank says, was a "man of action," "not a philosopher."[29]

Contrastingly, early modern readers treated Polybius as a considerably more sophisticated author.[30] For example, and in stark opposition to Walbank, Francesco Patrizi's 1560 *Della Historia Diece Dialoghi* explicitly categorizes Polybius as a "philosopher" due to the Greek historian's emphasis on historical causation;[31] a sentiment echoed by Jean Bodin in 1566[32] and François Hotman in 1573.[33] These statements suggest that an early modern reader of Book VI would be just as interested in the causes behind *anacyclosis* and the mixed constitution as they would be in the phenomena themselves. This is a dramatically different approach to Polybius than has customarily been assumed in work on Machiavelli, and I believe that reconsidering the

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[28] C.O. Brink and F.W. Walbank, "The Construction of the Sixth Book of Polybius," *Classical Quarterly* 4.3-4 (December 1954): 115-116, 122.

[29] F.W. Walbank, "Polybius on the Roman Constitution," *Classical Quarterly* 37.3-4 (July 1943): 86.

[30] Momigiliano, "Polybius' Reappearance," 361-372. A classic study of the early modern reception of Polybius is A.C. Dionisotti, "Polybius and the Royal Professor," in *Tria Corda: Scritti in onore di Arnaldo Momigliano*, ed. E. Gabba (Como: Edizioni New Press, 1983), 179-199.

[31] "quando [l'historico] passa à ricercarne le cagione nascoste, egli divien filosofo. Et io vorrei…che tutti gli historici, fossero cosi misti di Filosofo, & d'historico, come si è Polibio." Francesco Patrizi, *Della Historia Diece Dialoghi*, (Venice: Andrea Arrivabene, 1560), 59v. Patrizi, however, criticized Polybius for this.

[32] "Videtur autem non minus philosophi quam historici personam induisse," quoted in Momigliano, "Polybius between the English and the Turks," 132.

[33] "…principium a caussa plurimum discrepare, gravis auctor imprimis Polybius demonstrat." François Hotman, *Francogallia*, eds. Ralph Giesey and J.H.M. Salmon, (Cambridge: Cambridge Univeristy Press, 1972), 142.

relationship between the two books on these early modern terms significantly changes our understanding of the nature of Machiavelli's debt to Book VI. Indeed, in recent years a number of Polybius scholars have begun to read Book VI in this way, resulting in interpretations very different from that produced by Walbank. Seminal to this emergent line of interpretation is a reading of Book VI originally offered by David Hahm in a 1995 article entitled "Polybius' Applied Political Theory."[34] Here Hahm argues that Polybius intends in Book VI to furnish a comprehensive causal theory that can explain past political events and predict future ones. At the heart of this theory is an account of human psychology, which Hahm reconstructs from the contents of Book VI. According to Hahm, the interaction between these psychological dispositions and environmental factors shapes why and how political life comes into being and explains both the dynamics of *anacyclosis* and the functioning of the mixed constitution.[35] I will demonstrate here that this increasingly accepted reading of Polybius VI – one that views the psychological causes behind political phenomena as the theoretical heart of Book VI – is broadly in agreement with the interpretation of the book that emerged in early sixteenth century Florence and was endorsed by Machiavelli in the *Discorsi*.

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[34]David Hahm, "Polybius' Applied Political Theory," in *Justice and Generosity: Studies in Hellenistic Social and Political Philosophy – Proceedings of the Sixth Symposium Hellenisticum*, ed. Andre Laks and Malcolm Schofield (Cambridge: Cambridge University Press, 1995), 7-47. Others who rely on Hahm's arguments include Malcolm Schofield, "Social and Political Thought," in *Cambridge History of Hellenistic Philosophy*, ed. Keimpe Algra, Jonathan Barnes, Jaap Mansfeld and Malcolm Schofield (Cambridge: Cambridge University Press, 1999), 746; Atkins, *Politics and the Limits of Reason*, 87-93; and Grant A. Nelsestuen, "Custom, Fear and Self-Interest in the Political Thought of Polybius," *History of Political Thought* 38.2 (2017): 213-238. Although discussed with less detail, psychological explanations for political phenomena in Polybius can also be seen in Donald Kagan, *The Great Dialogue: History of Political Thought from Homer to Polybius* (New York: Free Press, 1965), 258-259 and Kurt von Fritz, *The Theory of the Mixed Constitution in Antiquity* (New York: Arno, 1974), 74. For a recent interpretation emphasizing alternative philosophical foundations for Book VI, see Benjamin Straumann, *Crisis and Constitutionalism*, 151-161.

[35] David Hahm, "Polybius' Applied Political Theory," 16.

But, before proceeding, a few words should be said about the textual transmission of Book VI, since uncertainty surrounding Machiavelli's access to the contents of the book has made it difficult to reconstruct this context until very recently. Machiavelli, after all, could not read Greek, and until the last few years the earliest surviving Latin translation known to have circulated in Florence dates from the 1540s, over a decade after his death.[36] Grappling with this question in a well-known 1956 article, J.H. Hexter argued that Machiavelli must have had access to an alternative manuscript Latin translation of the early chapters of Book VI, which he likely obtained through his participation in a group of scholars that met regularly during the early decades of the sixteenth century in the gardens of the wealthy Rucellai family in Florence, known as the *Orti Oricellari*. Hexter speculated that the translator was the Greek émigré Janus Lascaris, who was well known for his translations. Lascaris resided in Florence in the last decade of the fifteenth century, and, during his numerous return visits later on, was an occasional guest in the gardens alongside Machiavelli, as both men were friends of the host, Cosimo Rucellai.[37] Hexter's theory was not conclusive, however. Arnaldo Momigliano, for example, argues in his 1974 essay on the reappearance of Book VI in Western Europe that the contents of Book VI must have already been known in Florence by the time Machiavelli wrote the *Discorsi*. He cites as evidence the existence of at least one Greek language manuscript in circulation in Italy by the end of the fifteenth century, a general philhellenic atmosphere in the city, and an explicit reference to the book in the Florentine Bernardo Rucellai's *De urbe Roma*, a text known to have been completed by 1505.[38]

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[36] Polybius, *Romana Respublica ex Polybii Libri VI*, Florence, Biblioteca Laurenziana Medicea, Plut. 89 inf. 40, 30r-37v. For the dating of this manuscript, see Canfora, "Il Pensiero Storiografico," 65-67.

[37] Hexter, "Missing Translation," 88-90. On the *Orti Oricellari*, see Gilbert, "Bernardo Rucellai and the *Orti Oricellari*." For the *Orti* and Machiavelli, see Carlo Dionisotti, *Machiavellerie* (Turin: Einaudi, 1980), 101-154, 173-176.

[38] Momigliano, "Polybius' Reappearance," 360. Momigliano's argument that Polybius 6 was known in Italy prior to Machiavelli has received support lately from James Hankins. See James Hankins, "Europe's First Democrat?

A further difficulty with the Hexter thesis was that when the article went to print, the whereabouts of any possible Lascaris translation were unknown. But shortly afterwards, it was revealed that two manuscripts held in the *Biblioteca Apostolica Vaticana* dating from around 1500 contain Latin translations of the relevant chapters of Book VI (chapters 3-18) and that the translations are believed to have been done by Lascaris.[39] Hexter never returned to the question, but in a 2016 article John Monfasani demonstrates that Lascaris's translation employs several unique Latin words that Machiavelli later Italicizes in *Discorsi* I.2, while also providing further evidence of a relationship between the two men.[40] Monfasani's argument has significantly strengthened the evidence for Machiavelli using the Lascaris translation, with one recent publication now stating confidently that Lascaris was indeed Machiavelli's source.[41]

But while both Hexter and Monfasani assume that Book VI came to Machiavelli through a personal relationship with Lascaris, there is evidence, which they did not consider, that Lascaris's translation had already been circulating within the Rucellai circle for some time. In addition to knowing Cosimo Rucellai, Lascaris was an acquaintance of Cosimo's grandfather Bernardo, a politician and historian who presided over an earlier generation of gatherings in the gardens during the first years of the sixteenth century. We know that the two men discussed historical writing: a

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Cyriac of Ancona and Book VI of Polybius," in *For the Sake of Learning: Essays in Honor of Anthony Grafton, Vol. 2,* ed. Ann Blair and Anja-Silvia Goeing (Leiden: Brill, 2016), 692-710; Aurelio Lippo Brandolini, *Republics and Kingdoms Compared*, trans. James Hankins (Cambridge, MA: Harvard University Press, 2009), 285.

[39] De Keyser, "Polybius," 17; Hexter, "Missing Translation" 96; Monfasani, "Hexter Revisited," 39. The MSS are Reg. Lat. 1099 and Vat. Lat. 2968.

[40] Monfasani, "Hexter Revisited," 41-48.

[41] De Keyser, "Polybius," 17.

letter survives in which Bernardo mentions such a conversation between them that took place in 1495.[42] We also know that the chapters of Polybius VI dealing with Roman military structure, likewise translated by Lascaris, were discussed in the *Orti* during Bernardo's time as host.[43] This is notable since, as we have seen, Bernardo's *De urbe Roma* is the earliest extant work to refer explicitly to Book VI.[44] It is evident, then, that by the time Machiavelli began attending the discussions in the *Orti* alongside Lascaris and Cosimo Rucellai, Polybius VI had already been discussed by some of those whose company he joined, with at least one written interpretation of it, from his friend Cosimo's grandfather Bernardo, already in circulation. As we will see, this context shaped how Polybius VI eventually appeared in the *Discorsi*.

In the sections that follow, I will first examine Bernardo Rucellai's interpretation of Polybius VI in *De urbe Roma*, situating the work within its political and intellectual context. Then, after having briefly demonstrating that this interpretation was shared by others connected to the Rucellai circle, I will give an account of Machiavelli's debt to Polybius VI in light of this enriched context. I will show that while Machiavelli was indeed interested in Polybius's account of the mixed constitution, he, like his peers, saw a complex portrait of individual psychology behind Polybius's advocacy for it, which he then endorsed. This psychology is one that views individual human beings as driven by two conflicting impulses, one to cooperate so as to live securely, the other a disposition to assert themselves over others. The interaction of these two instincts explains

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[42] Found in Pieter Burman, *Sylloges epistolarum a viris illustribus scriptarum tomi quinque, collecti et digesti per P. Burmannum. Vol. 2* (Leiden, 1727), 201. This letter is referenced in Rita Maria Comanducci, *Il Carteggio di Bernardo Rucellai: Inventario*, (Florence: Olschiki, 1996), 62, no. 1027.

[43] Pietro Crinito, *De Honesta Disciplina*, ed. Carlo Angeleri (Rome: Fratelli Bocca, 1955), XII.4.

[44] Momigliano, "Polybius' Reappearance," 360.

the reason for which the state comes into being, underlies the structure of the best constitution, and provides the framework through which one can determine what the state needs to remain whole. From this psychological foundation, I will then argue that Machiavelli views the state as a collective body of individuals, organized for security, and maintained by ensuring that its members see their security as contingent on membership in this body.

II.

Following the expulsion of Piero de' Medici from Florence in 1494, Bernardo Rucellai was among a group of twenty prominent citizens tasked with reforming the city's government. As we will see, this group failed to agree on a new constitution for the city, leading to an unprecedented public debate on this issue that lasted several decades and resulted in multiple reforms. The first reform, instituted in December 1494, was the creation of a popular assembly, the *Consiglio Grande*. The city had never before been governed in such a popular manner and Bernardo, a member of one of Florence's wealthiest families, opposed its creation. In the opening lines of its dedicatory letter, made out to his son Palla Rucellai, Bernardo describes *De urbe Roma* as a work specifically intended as an intervention in this debate. Enumerating his motivations for writing the text, he early on criticizes the popular government, saying that it is fraught with factional conflict and that Florentines should look elsewhere for guidance on what form the city's new constitution should take. For help on this issue, he then tells Palla, he turned to both the Venetian annals, for knowledge of Venice's constitution,[45] and to Roman historians for knowledge of how the Romans

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[45] In his *De bello italico*, Bernardo praises Venice for its mixed constitution, while observing that it could achieve harmony between its citizens at home and empire abroad even while excluding the plebs from government. In a statement that could also demonstrate a debt to Polybius 6, Bernardo further argues that the virtue of Venice's constitution developed over time. See Bernardo Rucellai, *De bello italico*, ed. Donatello Coppini (Florence:

governed their *civitas*. With its dynamics suitably uncovered and set forth in *De urbe Roma*, Rucellai implies, Rome's ancient constitution could then serve as a model for Florence.[46]

While Florence in 1494 was by no means unfamiliar with constitutional change, this period differed from the past in at least one absolutely crucial respect: pre-1494 periods of constitutional evolution, such as the innovations following the initial Medici ascendancy in 1434 and those surrounding the emergence of oligarchic rule in 1378, were each shaped by powerful factions in the city's political life leveraging their dominance to consolidate authority. The upheaval of 1494, however, followed the intervention of a powerful external actor – Charles VIII of France – who, in the aftermath of expelling Piero de' Medici, declined to establish a new government in his image. As a result, when Charles left the city, he also left a power vacuum.[47]

In their reflections on this period's events later in the sixteenth century, Florentine commentators who came of age at this time agree that there was something novel both about this situation and the debate it inaugurated. This is particularly visible in Filippo de' Nerli's *Commentari de' fatti civili occorsi dentro la città di Firenze*, written between 1534 and 1552.

Florence University Press, 2011), 62-63. Felix Gilbert cites this passage as evidence of Venice's constitution sometimes being held up as an aristocratic model for Florence to emulate during the period following Piero's departure. See Gilbert, "The Venetian Constitution," 483.

[46] Bernardo Rucellai, "*De urbe Roma, seu Latinus Commentarius in Pub. Victorem ac Sext. Rufum de Regionibus Urbis. Adcedit ipsius Pub. Victoris ac Sex. Rufi textus ex fide complurium Manuscriptorum Vaticanæ Bibliothecæ*," in *Rerum Italicarum Scriptores, Vol. 2,* ed. J.M. Tartinius (Florence, 1748 – 1770), 783-784.

[47] The multiple ultramontane invasions into Italy created similar conditions for constitutional reform in other cities on the peninsula as well. As a result, a similar, albeit much less studied, literature exists for Siena and Ferrara, among other places. Much of this literature also transpires in the same terms, with a specific emphasis on the psychological causes of conflict. For Siena, see Donato Giannotti, "Discorso sopra il riordinare la repubblica di Siena," in *Opere Politiche. Vol. 1*, ed. Furio Diaz (Milan: Marzorati, 1974), 433-445. For Ferrara, see three letters written on the subject by Bartolomeo Cavalcanti, in *Trattati, o vero Discorsi sopra gli ottimi reggimenti delle republiche antiche e moderne*, ed. Enrica Fabbri (Milan: Franco Angeli, 2007), 219-231.

Commenting on the events immediately following the expulsion of Piero, Nerli observes that Charles's decision "not make a revolution [of the city's government] to his advantage" "left the city in a state of internal confusion."[48] Within this context of confusion, and to assist in the process of reforming the state, a body of twenty citizens were then appointed who, in turn, would elect a new Signoria, or executive body, and assemble a new list of citizens who would then become eligible to serve in government. According to Nerli, the twenty initially attempted to follow what he calls the "ancient ways," meaning that they sought to leverage their position for the sake of partisan advantage: "it came about then that these citizens…founded this new government according to past usage…and were reforming the state, as one can see in the entire body of Florentine history, to the benefit and utility of the dominant party or sect, and not to the benefit and utility of the people as a whole, which is necessary for a peaceful and quiet republic, and a durable state."[49] But in contrast with what had up and until then been Florentine tradition, the group was unable fully to consolidate control on account of internal and irreconcilable rivalries between its members.[50] Nerli observes that this failure prompted debate in the city over the institution of either a popular or aristocratic-leaning government, with members of the twenty dispersing into opposing camps. The debate was public and involved the whole citizenry. Nerli refers to one occasion in particular, emphasizing its importance: the duelling orations before the

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[48] "Conosciuta dunque dal Re l'intenzione ferma della città a voler rimanere libera, sene partì senza far risoluzione alcuna tanto a beneficio di essa…la città rimase piena di confusione dentro," in Filippo de' Nerli, *Commentari de' fatti civili occorsi dentro la città di Firenze dal 1215 al 1537 scritti dal senatore Filippo de' Nerli, gentiluomo fiorentino* (Augsburg, 1728), 63.

[49] "Caddero adunque que' cittadini…fondarono quel nuovo governo in su' modi passati…riformavano lo stato, come chiaramente appare, e si può vedere in tutto il corpo delle Fiorentine Storie, a beneficio, e comodo della parte, e setta superiore, e non mai la riformavano a beneficio, e comodo universale in modo, che ne potesse succedere una Repubblica pacifica, e quieta, ed uno stato durabile," Nerli, *Commentarii de' fatti civili*, 63.

[50] "…procedendo i Venti senza capo alcuna, che gli mantenesse uniti, dettero per loro divisione animo grande all'universale d'opporsi loro…," Nerli, *Commentarii de' fatti civili*, 64. Bernardo Rucellai, a member of the twenty, echoes this theme in the preface to *De urbe Roma*, as well. See Rucellai, *De urbe Roma*, 783.

citizen assembly given by Pagloantonio Soderini and Guido Antonio Vespucci over the respective merits of popular and aristocratic government. It is worth examining these orations in some detail, since Nerli's reference suggests that they embody the terms in which the debate was taking place. And, although he does not recount the debate in detail, he does state that they are reproduced in Francesco Guicciardini's *Storia d'Italia*.[51]

Following humanist convention, Guicciardini's presentation of the debate is his own invention, but it is clear from his portrayal that, in this novel political moment, constitutional discourse in Florence was dominated by a particular set of concerns. Above all, it sought psychological explanations for corruption and factionalism, with each side arguing that their proposed constitutional order is most capable of managing these destructive psychological characteristics. Guicciardini first recounts Soderini's argument in support of a new popular constitution. Soderini begins by stating his opposition to the adoption of a kind of constitution resembling the one that was in place before 1434; a constitution associated with an oligarchic period in Florence's history. As we have seen in the previous chapter, this constitution operated according to a principle of representation, in which the different magistracies and councils acted on behalf of a larger body of citizens, offering this minority, so Soderini believes, opportunities for self-aggrandizement. Wary of this, Soderini argues that "the harmony and security of the citizens can only be conserved," "under a government that depends on the authority of the people, suitably ordered and regulated."[52] In practice, this means that all magistrates and office holders

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[51] "…come nella Storia di Messer Francesco Guicciardini si può vedere, dove con molta eleganza dimostra, che in que' tempi disputassero Messer Guidanton Vespucci e Pagloanton Soderini…," Nerli, *Commentarii de' fatti civili*, 65.

[52] "…e per la quale si conservi la concordia e la sicurtà de' cittadini…se non sotto uno governo dependente in tutto dalla potestà del popolo, ma che sia ordinato e regulate debitamente," Francesco Guicciardini, *La storia d'Italia. Vol.1* (Florence: Salani, 1963), 154.

will be selected from, and all laws will originate in, what he calls a "universal council of all who legally qualify to participate in government."[53] His justification for such a government comes from his consideration of the failures of Florence's previous political orders: "the fact that our city has never had a form of government similar to [the popular one supported by Soderini] is the cause of the frequent mutations our affairs have undergone, sometimes trampled under the violence of tyrants; sometimes injured on account of the discord of the few, which is rooted in ambition and avarice; and other times shaken by the unrestrained license of the multitude."[54] Citing famous examples of tyranny in Florence, from the Duke of Athens to Cosimo de' Medici, Soderini argues that it should not be surprising that government placed in the hands of a few would lead to this outcome, since "when the distribution of magistrates and deliberation over the laws does not require common consent, but instead depends on the will of a small number, the citizens no longer aim at the common benefit, but at private and covetous ends." This, in turn, "makes factions and sects surge and brings about the division of the entire city and, with it, the disease and death of all republics and empires."[55] Since, he concludes, "very rarely, and perhaps never before, has the absolute authority to order the city according to its own will rested in the citizen-body as a whole,"

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[53] "…tutti i magistrati e ufficii…siano distribuiti, tempo per tempo, da uno Consiglio universale di tutti quegli che secondo le leggi nostre sono abili a partecipare del governo; senza l'approvazione del quale Consiglio leggi nuove non si possino deliberare," Guicciardini, *Storia d'Italia*, 154.

[54] "…perchè il non avere mai la città nostra avuto forma di governo simile a questo è stato causa che sempre le cose nostre sono state sottoposte a sì spesse mutazioni, ora conculcate dalla violenza delle tirannidi, ora lacerate dalla discordia ambiziosa e avara di pochi, ora conquassate dalla licenza sfrenata della moltitudine," Guicciardini, *Storia d'Italia*, 156.

[55] "…perchè, come la distribuzione de' magistrate e la deliberazione delle leggi non hanno bisogno quotidianamente del consenso commune ma dependono dall'arbitrio di numero minore, allora, intenti i cittadini non più al beneficio publcio ma a cupidità e fini privati, sorgono le sette e le conspirazioni particolari, alle quali sono congiunte le divisioni di tutta la città, peste e morte certissima di tutte le republiche e di tutti gli imperii," Guicciardini, *Storia d'Italia*, 156-57.

the citizens should seize this moment to acknowledge these causes of corruption and institute a new and better constitution that avoids them.[56]

Guicciardini next presents Guido Antonio Vespucci's rebuttal of Soderini in favor of aristocratic government. Criticizing Soderini's view that popular government will lead to outcomes that promote the common good, Vespucci asks how one can truly believe that "a multitude lacking experience and expertise, and composed of such a variety of talents, conditions and customs, and all dedicated towards their particular ends, can distinguish and know things when even the wise have difficulty."[57] Yet not only is the multitude incapable of determining how to act for the common benefit, the individuals who compose it are also disposed to act selfishly. "The immoderate sensibility that each man has of their own ability will arouse in all of them a desire for honors," he says.[58] Indeed, "this covetousness, widespread in the greater part of the population, will empower more those who know and merit little, because, it being the case that in such state the greater number holds greater power, opinions are numbered, not weighed."[59] By enabling the covetousness and honor-seeking of the many, Vespucci argues, Soderini's proposed government, far from preventing conflict, will quickly degenerate into it: "have the people ever held absolute power in this city without it being full of discord, without it being torn apart and, finally, without

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[56] "Rare volte, e forse non mai, è stato assolutamente in potestà di tutta la città ordinare se medesima a arbitrio suo," Guicciardini, *Storia d'Italia*, 157.

[57] "E quello che ne' governi publici gli uomini savii, nè intenti a alcuno altro negozio, possono appena discernere noi crediamo che una moltitudine inesperta, imperita, composta di tante varietà d'ingengi di condizioni e di costume, e tutta dedita alle sue particolari faccende, possa distinguere e conoscere?" Guicciardini, *Storia d'Italia*, 158.

[58] "Senza che, la persuasion immoderate che ciascuno arà di se medesimo gli desterà tutti alla cupidità degli onori," Guicciardini, *Storia d'Italia*, 159.

[59] "…e questa cupidità, distesa nella maggiore parte, farà potere più quegli che manco sapranno o manco merieranno, perchè essendo motlo più numero aranno più possanza, in uno stato ordinato in modo che i pareri s'annoverino, non si pesino," Guicciardini, *Storia d'Italia*, 159.

the state being overthrown?"[60] As a result, he concludes, "if you wish to maintain tranquillity among the people, you will more easily guide them to helpful deliberations and to the universal good by giving them moderate authority" only.[61] But "should you remit all things to their absolute will," "you run the risk that they will become insolent," and bring faction and conflict in their wake.[62]

Despite their two very different proposals, we can see that both the speeches of Soderini and Vespucci, as relayed by Guicciardini, share a common set of concerns. First, they seek out a psychological explanation for the origins of corruption and factionalism. For Soderini, corruption occurs when institutions are not structured in such a way that obliges those in power to make decisions in the common interest. Under these conditions, the inherent selfishness of the rulers will realize, leading to the emergence of different and competing camps among them. Vespucci, on the other hand, locates corruption in the avarice and ambition of the common people; dispositions that he suggests can only be moderated by virtue and wisdom. With this psychological account laid out before them, both Soderini and Vespucci then proceed to structure their proposed constitutions in response to it.   For Soderini, a popular government is best, since he believes that widespread participation in government channels the concerns of the ruling class away from private goods and towards public ones. With broad agreement needed to act, and with such

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[60] "…chè mai il popolo ha assolutamente governata questa città che ella non si sia piena di discordie, che ella non si sia in tutto conquassata, e finalmente che lo stato non abbia presto avuto mutazione," Guicciardini, *Storia d'Italia*, 160.

[61] "È da considerare in ultimo che in maggiore quiete manterrete il popolo Vostro, più facilmente lo condurrete alle deliberazioni salutifere a se stesso e al bene universal, dandogli moderata parte e autorità," Guicciardini, *Storia d'Italia*, 161.

[62] "…perchè rimettendo a suo arbitrio assolutamente ogni cosa, sarà pericolo non diventi insolente," Guicciardini, *Storia d'Italia*, 161-62.

agreement only possible on terms that are beneficial to the whole, the institutions will produce outcomes that promote the common good, not competing particular goods. Vespucci, on the other hand, believes that the psychology of the multitude is such that their instincts cannot be channelled in support of the universal good, and, as a result, argues that a popular government will add a degree of insolence to the normal pursuits of common people, creating not a stable and peaceful government, but one characterized by "unbridled licence."[63] His solution, instead, is to lodge power in a virtuous elite, but one that is restrained by a number of limitations designed to prevent this better group of men from becoming insolent as well.[64] With the adoption of this method, we can see Florentine political discourse moving away from the belief, so central to the humanist political thought of the previous century, that the integrity and stability of the state depends on the embodiment of justice in the person of the magistrate, and closer to the belief, expressed by Barozzi only a few years earlier, that it depends on constructing institutions that limit and channel de-stabilizing psychological characteristics imbedded in the citizen-body.

Considering their centrality to the unfolding of this debate, it is unsurprising then that Bernardo Rucellai, a proponent of aristocratic government, and, according to Nerli, an opponent of Soderini's,[65] would also put the psychological causes of corruption at the heart of his intervention in *De urbe Roma*. Rucellai's treatment of this topic comes during his description of the *Curia Calabra*, an important religious site in Rome, and it happens to be at this place that his crucial reference to Polybius VI appears. Rucellai uses this as an opportunity to list other

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[63] "…una sfrenata licenza," Guicciardini, *Storia d'Italia*, 159.

[64] Guicciardini, *Storia d'Italia*, 161.

[65] Nerli, *Commentarii de' fatti civili*, 64.

monuments that functioned as *curiae* in Rome, including that which housed the Senate. At this point, he digresses to a short analysis of the city's constitution, and this is where his discussion of Book VI begins.[66] Rome acquired and maintained its vast empire, he says, when it was under a constitution that "mixed and separated the execution of the tasks of government" between "the Forum, the *Curia*, and the *Comitia*."[67] This mixed constitution made the city "greater, holier and richer in good examples" than any other and caused "avarice and luxury" to appear later than usual.[68] Rucellai then states that he agrees with the opinion of Polybius, who argues that "no more perfect constitution could ever be devised."[69] In fact, he continues, any person who blames the turbulent periods of the Gracchi, Cinna, Sulla, and others like them, on the consuls or the tribunate would judge Roman "*gravitas*" differently "had they correctly interpreted Book VI of Polybius."[70] This is because, he says, Polybius's central argument is that "all mortal things" are "by nature" such that "the vices are ingrained and bound to the virtues, and cannot be easily separated from each other."[71] As a result, when Rome lived under the mixed constitution and virtue was eminent,

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[66] The relevant passage from which I will now cite is in Rucellai, *De urbe Roma*, 948-949. This passage is also referenced in Dionisotti, *Machiavellerie*, 139, Momigliano, "Polybius' Reappearance," 360 and Canfora, "*Il Pensiero Storiografico*," 67.

[67]"...priscos, dum promiscue separatimque in Foro, Curia, Comitio Romanam rem peragerent, his artibus partus Imperium retinuisse," Rucellai, *De urbe Roma*, 948-949.

[68]"...ut nulla umquam Respublica…maior, nec sactior, nec bonis exemplis ditior fuerit, nec in quam tam sero avaritia, luxuriaque immigraverint," Rucellai, *De urbe Roma*, 949.

[69]"Me certe haud poenitet Polybii Megalopolitani sententiae esse, quippe qui Romanam non modo praecellere ceteras omnes Respublicas adserit, sed nihil eo rerum ordine excogitari posse perfectius," Rucellai, *De urbe Roma*, 949.

[70]"Sunt tamen, qui quum in Gracchorum, Cinnae, Sullae ac huiusmodi tempora inciderint, non possint non commoveri quin modo consules praevalidos, modo turbulentos tribunos incusent, vituperentque universum corpus Reipublicas; qui si Polybii sextum volumen recte interpretati sint, profecto longe aliter, ac senserant de Romana gravitate iudicabunt," Rucellai, *De urbe Roma*, 949.

[71]"Ea enim natura mortalium est, ut insita, adnexaque virtutibus vitia separari facile nequeant...," Rucellai, 949.

vice was bound to appear eventually, meaning that this constitution, despite being the best possible, would ultimately degenerate.[72]

Rucellai's interpretation of Polybius VI hinges on a crucial insight. Because of the intimate connection between virtue and vice, the emergence of vicious behavior is an inevitable corollary of virtue, and this explains why all constitutions, even the best one, will eventually collapse. Yet the fact that Rome's constitution in particular enabled it to demonstrate so much virtue before being undermined by vice is evidence that it is possible to manage by institutional design the link between the two in such a way that, at least for some time, prevents the emergence of vice. Informed by this reading of Polybius, the central problem of constitution making on Rucellai's account becomes how to order a state so that it can successfully manage this truth about human character.

That Rucellai credited his "correct" reading of Polybius for these insights suggests that in Book VI he found an account of human nature that explains how it is that the presence of great virtue can lead to the appearance of vice. He evidently also found there an account of how Rome's mixed constitution successfully managed these characteristics of human nature. Rucellai does not describe in explicit detail the logic behind this in *De urbe Roma*, but a full explanation is to be found in the fragments of Book VI that Lascaris made available. It is to Lascaris's Latin translation that I will now be referring, not because I believe with absolute certainty that both Rucellai and

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[72] "…quo factum putem, ut dum prisci illi eam regendae Reipublicae rationem statuerent, unde virtus enitesceret, inde et vitia simul emanarint," Rucellai, *De urbe Roma*, 949.

Machiavelli had access to the contents of Book VI through it, but because it is the only surviving Latin fragment known to have circulated in Florence, and in their shared circle, at the time.

<div align="center">III.</div>

The fragment begins with Polybius's statement about the purpose for the account of the formation of political society and *anacyclosis* that will follow: only after understanding the natural processes behind the formation, growth, mutation and eventual collapse of the various forms of government will one be able to assess Rome's constitution, and make predictions about its future.[73] The book thus begins with the implication that there are a set of natural constants in human life, knowledge of which enables one to explain past political events, assess the political present and predict future political upheavals, and that the subsequent account aims to elucidate these constants.

Polybius then proceeds with an account of how individual human beings came to live under political authority. He first describes a series of events that effectively give him a blank slate with which to construct this theoretical account. Floods, plagues, or other misfortunes having exterminated a previous society and, with it, all knowledge and artifice, the remaining human beings, after having grown in number, like animals organize themselves into a group on account of their physical weakness. It is a necessary consequence of this form of congregation, Polybius continues, that the one amongst them who is most outstanding in strength and audacity assumes

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[73]"Quod autem que superius enarravimus verissima sint facile quilibet perspiciere poterit. Si ad singulorum principia ortusque mentem adhibuerit. Cuius libet enim exordia animo colligens: solus hic profecto augmenta, vigore, mutationes finemque poterit apprehendere. Quando & quo quomodoque cursus devenient: maxime autem Romanorum Reipublicae huiusmodi narrationis modum convenire puto," Polybius, *Polybii ex VI Historiarum Libro Romanorum Reipublicae*, Vatican City, Biblioteca Apostolica Vaticana, Reg. Lat. 1099, 12r.

leadership over the others and they submit to his command. This form of government, which he

labels "monarchy," is the very first form in the cycle of governments to follow.[74] By specifying

that all knowledge and artifice had been lost, Polybius emphasizes how the formation of political

society must be attributed to instinct. This is particularly apparent in his comparison of human

beings with "unreasoning" animals, who likewise select the strongest to command the weaker by

common agreement. However, since human beings congregate and agree to the rule of the

strongest only after perceiving that they are unable to defend themselves individually, it must be

the case that this instinct to install cooperatively someone in a position of authority requires the

recognition of weakness to be activated. For Polybius, the formation of government is therefore

not the consequence of the unfolding of a social nature, but rather an instinct towards collective

cooperation when individuals find themselves at risk.

The origin of this initial insecurity can be implied from the militaristic language that

permeates the passage. Polybius labels the strongman who assumes the position of authority a

"*dux*," or military commander, while the power he exercises, and to which the others "submit," he

calls "*imperium*," invoking the supreme authority associated with military command.[75] By

suggesting that this pre-political existence could easily become something like to a war zone,

Polybius implies that political union is a response to the possible emergence of such an

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[74]"Tunc igitur omnibus studiis artibusque extinctis quum ex hominum reliquiis: tanquam ex seminibus rursus incrementum tempore ceperit multitudo: tunc inquam veluti cetera animalia: que simul collecta naturali quadam ratione cum eiusdem generis animalibus congregantur necesse est ob naturalem imbecillitatem corporis robore animique audacia ceteris prestantem ducem assumere: illiusque imperio parere: ut in huiuscemodi irrationabilium animalium generibus videmus…quod nature opus verissimum putandum est ut fortissimi imbecillioribus communium consensus imperent…. Quibus sane dominatus terminus est fortitudo nomen autem merito Monarchia appellari potest," Polybius, *Romanorum Reipublicae*, 12v-13r.

[75] "…necesse est ob naturalem imbecillitatem corporis robore animique audacia ceteris prestantem ducem assumere: illiusque imperio parere" Polybius, *Romanorum Reipublicae*, 12v.

environment, which is characterized by continuous insecurity generated by other human beings. The exact cause of this violence is unclear in Polybius's presentation, but considering that it unfolds within the context of a world devoid of any human artifice, we are left to assume that its possible emergence is motivated by a natural human inclination to violently assert themselves against others if they are otherwise not prevented from doing so. Recent commentators on Book VI have also observed such an instinct in the text, labelling it a propensity toward "self-aggrandizement."[76] It is indeed likely that scattered individuals engaged in self-aggrandizing behavior could create the kind of conditions of constant vulnerability akin to a state of war that then leads others to seek protection through cooperation.

The political community thus forms in the interest of self-preservation and at the confluence of two instincts – one self-aggrandizing and the other cooperative, with the latter activated by the recognition of weakness. The status of these two instincts as facets of a permanent human psychology is borne out by the subsequent account of *anacyclosis*, where the interaction between these instincts and changing external conditions lie at the heart of every political transition. Beginning his discussion, Polybius observes that, initially, monarchs were elected based on their ability to govern well, and under elective monarchy, the defense and physical sustenance of subjects were well taken care of. [77] After some time, however, came a significant material change: the monarch's position became hereditary. Now, he says, with "their security for the most part provided for," the monarchs began to follow appetites that their predecessors ignored,

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[76] Hahm, "Polybius' Applied Political Theory," 18; Nelsestuen, "Custom, Fear and Self-Interest," 229.

[77] "Antiquitus sane in potentatibus semel delecti senescebant praecipua quaedam loca munientes murisque sepientes regionemque vendicabant: tum securitatis gratia: tum ut necessariorum copia subditi abundarent," Polybius, *Romanorum Reipublicae*, 14r.

using their elevated position specifically to distinguish themselves from the others.[78] Seen from the perspective of the psychological apparatus, the change from elective monarchy to hereditary tyranny is not surprising. Having grown up accustomed to the internal and external peace brought by virtuous government, the subjects no longer felt the need to select leaders based on their ability to govern well, since their secure position removed any impetus for cooperative vigilance. The cooperative instinct, after all, is only activated by the experience of weakness. As a result, they ceased to elect kings. Under these new conditions, the monarch, whose elevated position no longer depended on anyone else, now had no reason to feel insecure and thus no natural impetus to cooperate. In this case, the other, self-aggrandizing instinct could take hold, as it ultimately did, thereby ushering in tyranny. The response to the tyrant's behavior, and the next step in the cycle, can also be explained by the psychology: the tyrant's self-aggrandizing behavior created new conditions of insecurity among his subjects that encouraged new cooperation and brought about the revolution that ushered in aristocracy.[79]

A notable feature of the above account of corruption and change is that successful and virtuous government created the conditions that led to the degeneration of monarchy. As we have seen, the monarchy's success at furnishing the security and well-being it was originally established to provide elicited a psychological response that ended the practice of election. The subsequent transition to hereditary monarchy then created different conditions that minimized the incentive

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[78]"Postque vero generis ordine succedentes principatum sumspsere ad securitatem pleraque parata habebant. Pluraque quamquam par erat ad victum tunc sane ob rerum affluentiam voluptates sequebantur putabantque imperantes…nec non liberis atque illegittimis veneris usibus subditos antecedere debere," Polybius, *Romanorum Reipublicae*, 14rv.

[79] Hinc initum ruine coniuratorumque in principes conspiratio…qui generositate animi magnitudine fiduciaque prestarent…Rursus autem Aristocratia principium originemque capiebat," Polybius, *Romanroum Reipublicae*, 14v.

for cooperative behavior on the part of the monarch and made possible the reappearance of the self-aggrandizing instinct. This pattern is repeated in the examples of the degeneration of the other two constitutions in the cycle, the aristocratic and the popular, suggesting that this is an inevitable outcome under any simple constitution. In the aftermath of their fathers' virtuous rule, the children of the aristocrats faced no obstacles to the assumption of power, and, having lived lives of unrestricted privilege and no suffering, used their position to self-aggrandize.[80] Similarly, popular government became corrupt when a generation that had experienced none of the difficulties of vicious government took control and, instead of cooperating with each other, proceeded to use their authority specifically to seek pre-eminence over the others.[81] That this pattern repeats itself under every simple constitution suggests that finding a way to overcome, or at least slow down, the ultimately psychologically-rooted process of success inevitably creating the conditions for corruption is the crucial question of political ordering within a Polybian framework. This brings us back to Rucellai, who held that the "correct interpretation" of Polybius VI is that wherever virtue is eminent, vice will eventually appear, and that consideration of this fact must be at the heart of all legislation.[82]

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[80]"Postque vero rursus a parentibus filii talem administrandi facultatem susceperunt expertes malorum expertesque penitus civilis equalitatis libertatisque parentum enim libertate promotionibusque educati erant. Itaque hi quidem ad iniquam exuperandi ceteros aviditatem avariciamque conversi illi ad ebrietates…," Polybius, *Romanorum Reipublicae*, 14v-15r.

[81]"Ac dum sane qui potentum superbiam fuerant experti susperstites sunt presenti rerum statu contenti civilem equalitatem liberamque loquendi facultatem plurimi faciunt. Postque vero immemores accessere rursusque filiorum filiis Democratia relicta est: tunc haud amplius ob longam consuetudinem magnificentes civilem equalitatem libertatemque multitudinem prestare querunt: quod sane maxime his accidere solet qui ceteros facultatibus antecedent," Polybius, *Romanorum Reipublicae*, 15rv.

[82] Rucellai, *De urbe Roma*, 948-949.

As we saw earlier, Rucellai cited the above conclusion from Book VI in defense of Rome's mixed constitution. Here he again follows Polybius, who also claims that the mixed constitution is the best possible solution to the same dilemma. Holding up Sparta's mixed constitution as a worthy example, Polybius says that Lycurgus, the city's original lawgiver, recognized that each of the simple constitutions will easily be destroyed by ingrown and irremovable tendencies that develop naturally.[83] Recognition of this fact led Lycurgus to establish his constitution, which Polybius praises in terms drawn from his psychology. Kings in Sparta would not behave with "insolence" owing to their "fear" of the people, who were given a sufficient part in the government of the state, while the people would not treat the kings with "contempt" on account of their fear of, and respect for, the Senate.[84] As a result, under this constitution, successful and virtuous government will not immediately lead to the removal of limitations on the governors, since these limitations no longer depend on a popular vigilance that becomes fickle in times of peace and prosperity, but rather on institutional restraints that, through fear of what might happen if they are violated, encourage cooperative, and discourage self-aggrandizing, behavior among the different ruling parts. When Rucellai cites the "correct interpretation" of Polybius in defense of Rome, then, he indicates his belief that Rome's mixed constitution was successful because of its ability to achieve stability through the psychological implications of its institutional design; the same psychology used earlier to explain the initial formation of political society and the serial failure of the simple constitutions.

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[83]"Simplex enim ad proprium natura proximum vitium vergit: nam ferro rubigo lignisque cossi teredinesque nocumentum afferunt ut si externas pernicies effugiant interioribus tamen ac veluti cognatis corrumpantur. Sic civilibus politiis natura coheret vitium," Polybius, *Romanorum Reipublicae*, 16r.

[84] "Reges enim insolescere impediuntur populem timentes: cui & sufficiens in Rep. pars conceditur. Populus vero reges despicere non audet senatores verentes [sic] qui omnes ex optimatibus delecti in omnibus sese ipsos iustos exhibituri essent," Polybius, *Romanorum Reipublicae*, 16v.

IV.

The view that Book VI contains a comprehensive political theory predicated on an understanding

of individual psychology came to be shared by a number of other authors in the first half of the

sixteenth century connected to the Rucellai circle. Donato Giannotti, for example, was a

participant in the *Orti Oricellari* alongside Machiavelli and treats Polybius accordingly.

Giannotti's *Republica fiorentina*, believed to have been written between 1534 and 1538, makes

explicit reference to Book VI, stating that the three simple constitutions are certain to become

corrupt on their own since they are "founded on the inclinations [*animi*] of men, which mutate

often, and are, by these means, exposed to corruption."[85] Additionally, Bartolomeo Cavalcanti's

Trattati, o vero Discorsi sopra gli ottimi reggimenti delle repubbliche antiche e moderne,

published in 1571 but believed to have been written in the 1550s, compares Polybius's views on a

wide variety of topics relevant to the formation and government of states with those of Plato and

Aristotle. It is unclear whether or not Cavalcanti attended the gatherings in the Rucellai gardens,

but we know that he interacted with the slightly older men who did, including Machiavelli.[86]

Echoing Rucellai's reading of Book VI that virtue and vice are naturally linked, Cavalcanti writes

that Polybius praises Lycurgus because he recognized that "each simple constitution is unstable

and fleeting, easily and quickly degenerates, and corrupts into its corresponding vice and into that

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[85] "…si come Polibio, nel sesto libro della sua Istoria, prudentissimamente discorre. Ma per tornare a proposito, è manifesto per quello che abbiamo detto che le tre specie di republiche rette e buone, sono alle corruzione propinquissime perché, essendo fondato sopra gli animi degli uomini, li quali agevolmente si mutano, sono sempre per se medesime alla corruzione esposte," Donato Giannotti, *Republica fiorentina*, ed. Giovanni Silvano (Geneva: Librairie Droz, 1990), 82.

[86] Cavalcanti, *Trattati*, 16-17.

vicious constitution which naturally follows it and is nearly joined to it." And, repeating Polybius's praise of the mixed constitution in psychological terms, Cavalcanti says that Lycurgus's constitution satisfactorily deals with this problem by institutionalizing restraints so that each of the parts cannot "assert themselves over the others, and that the fear of the people maybe a bridle on the insolence of kings, and the fear of the Senate on the insolence of the people."[87] Both Giannotti and Cavalcanti thus appear to draw from Book VI the same conclusion as Rucellai: that good governments ultimately fail owing to the inevitable emergence of destabilizing attributes of human nature, and, as a result, the central question behind all legislation must be how to create conditions that manage this tendency successfully.

But by far the most conspicuous person to develop the interpretation of Polybius VI that circulated among those connected to the *Orti* is Machiavelli. While he does not mention Polybius by name, the ostensible connections between *Discorsi* I.2 and Book VI are numerous. Both, for instance, intend to assess Rome's constitution on the basis of conclusions drawn from the account of *anacyclosis*.[88] To this we can also add that Machiavelli begins the chapter with language emphasizing the inseparable connection between virtue and vice, likely signalling a reference to Polybius to contemporary readers: every simple constitution, he says, will, "on account of the resemblance in this case between the virtue and the vice," necessarily slide into its aligned vicious

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[87] "Quest'autore (Polibio) nell'epitome de sesto libro dell'Istorie fa un lungo et prudente discorso delle republiche…Perciò che dice che Licurgo avendo ben considerato ogni cosa, conobbe che ogni forma semplice di governo era poco stabile et molta caduca, con ciò sia cosa che tosto et facilmente ella degeneri, et si corrompa nel vitio suo in quella cattiva septie che naturalmente è conseguente, et quasi congiunta con lei…(Licurgo) si mantenesse nella republica una egualità perpetua di tali uomini, per dir cosí, né soprafacesse l'altre, et che ai re fusse un freno dell'insolenza loro il timor del popolo, et al popolo il timor del senato," Cavalcanti, *Trattati*, 195-196.

[88] Machiavelli, *Discorsi*, ed. Vivanti, 18.

form.[89] But, more substantively, Machiavelli's debt to Polybius is most apparent in his placing of a similar understanding of human psychology and its implications at the center of this chapter.

Proceeding with his account of the formation of the state, Machiavelli claims that the creation of all types of government, including the very first, is contingent – it forms "by chance" (*a caso*) he says – on the recognition of threats to security.[90] At the beginning of the world, human beings were scattered, each person on their own, but after some time living isolated lives, this population began to grow, and they assembled together. Then, "so that they could better defend themselves," they sought out one of their own who was strongest and most courageous, "installed him as head" (*capo*), and obeyed him.[91] By stating that the formation of a political body is contingent upon recognizing the need for better defense, Machiavelli agrees with Polybius that the formation of the state does not follow from a specifically social instinct. But at the same time, and also like Polybius, he emphasizes that political life originated in an act of common agreement and was not ordered through coercion. This points towards the existence of a disposition to cooperate,

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[89] "…se uno ordinatore di republica ordina in una città uno di quelli tre stati, ve lo ordina per poco tempo…per la similitudine che ha in questo caso la virtute ed il vizio," Machiavelli, *Discorsi*, 19. For two different arguments connecting this passage and the aforementioned passage from Rucellai's *De urbe Roma*, see Canfora, *Il pensiero storiografico*, 67 and Bausi, *Discorsi*, 1:20.

[90] Writing later in the sixteenth century, the Venetian humanist Sebastiano Erizzo would put forward an extended paraphrase of Book 6 in his *Disorsi dei governi civili*, rendering Polybius's claim here as "ora la prima specie de' governi quasi per fortuita opera di natura, senza alcun consiglio d'huomini, è la Signoria d'un solo" ("the first form of government, like a fortuitous work of nature without the deliberation of men, was the lordship of one man"). In so doing, Erizzo, like Machiavelli, draws attention to the instinctual nature of this gathering while at the same time emphasizing its dependency on external conditions of insecurity: it a "work of nature," but also "fortuitous." See Sebastiano Erizzo, *Discorsi dei governi civili* (Venice, 1571), 4r. Notably, this edition of Erizzo's *Discorsi* is appended to the first published edition of Cavalcanti's *Trattati*. The two would be re-printed again, this time alongside Donato Giannotti's *Della repubblica de' viniziani* and an Italian translation of Gasparo Contarini's *De republica venetorum* at Venice in 1630.

[91] "Nacquono queste variazioni de' governi a caso intra gli uomini: perché nel principio del mondo, sendo gli abitatori radi, vissono un tempo dispersi…dipoi, moltiplicando la generazione, si ragunarono insieme, e per potersi meglio difendere cominciarono a riguardare infra loro quello che fusse più robusto e di maggiore cuore, e fecionlo come capo e lo ubedivano," Machiavelli, *Discorsi*, 19-20.

at least when faced with a threat. The origin of the threat is unclear, but the connection Machiavelli draws between the growth of the human population and the eventual elevation of the *capo* for the purposes of defense suggests that he has in mind threats from other human beings, implying the existence of an additional disposition that leads people to act in ways that can make others feel threatened.

This disposition to cooperate when in danger later contributes to the further development of political life, as it is also responsible for the creation of the first laws and punishments. The impetus for this development came when individuals began to observe new threats to their safety from others, notwithstanding the presence of the *capo*. Having noticed somebody physically harm their "benefactor," the others worried that they, too, could find themselves in this situation. Even after the elevation of the *capo*, then, human beings apparently remained disposed to harm each other when capable and, as a result, new dangers inevitably emerged. In response, they sought "to flee these evils" through the imposition of laws and punishments, with the result that the criteria for the elevation of an individual to a position of political authority moved from strength to their perceived ability to govern according to the laws.[92] Emphasizing their origin in a disposition to cooperate when threatened, Machiavelli argues here that laws and punishments did not come from the top, but rather from the bottom in response to the experience of a threat, implying that there was widespread agreement both about their content and that the authority should enforce them. A disposition to act in ways that makes others vulnerable, and one to seek refuge from this danger

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[92] "…veggendo che se uno noceva al suo benificatore…per fuggire simile male si riducevano a fare leggi, ordinare punizioni a chi contrafacessi…. La quale cosa faceva che, avendo dipoi a eleggere uno principe, non andavano dietro al più gagliardo, ma a quello che fusse più prudente e più giusto," Machiavelli, *Discorsi*, 20-21.

through cooperation, so far remain constant throughout *Discorsi* I.2 and are central to the developments described.

Machiavelli then proceeds to demonstrate that the interaction between these two instincts lies at the heart of his account of *anayclosis*, where, again following Polybius, he shows that the driving force behind this process is virtuous government leading to corruption and eventually change by making self-aggrandizing behavior more likely. He begins with monarchy: originally established by an act of cooperation in the interest of security, it degenerated into tyranny when the monarch's position became hereditary after a period of virtuous rule. Now safe and independent in his elevated position, the monarch began "to assert himself over the others," becoming a tyrant.[93] Like Polybius, Machiavelli implies that monarchy corrupted after the security provided by good government removed the impetus for election, which in turn eliminated the incentive for the monarch to cooperate, and thereby made the appearance of self-aggrandizing behavior more likely. This new tyranny, as we also saw in Polybius, then created a different set of conditions that incentivized new cooperation, as the tyrant's threatened subjects organized themselves and replaced him with a group of aristocrats.[94]

This same psychologically-rooted framework explains the other constitutional changes relayed by Machiavelli. The privileged children of the aristocracy, having risen to political

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[93] "Ma come dipoi si cominciò a fare il principe per successione e non per elezione, subito cominciarono li eredi a degenerare dai loro antichi, e lasciando l'opere virtuose, pensavano che i principi non avessero a fare altro che superare gli altri di sontuosità e di lascivia e d'ogni altra qualità di licenza," Machiavelli, *Discorsi*, 21.

[94] "Da questo nacquero, appresso, i principii delle rovine e delle conspirazioni e congiure contro a' principi…da coloro che per…nobilità avanzavano gli altri…La moltitudine adunque, seguendo l'autorità di questi potenti, s'armava contro al principe…," Machiavelli, *Discorsi*, 21.

leadership without contest after the virtuous rule of their fathers, had no reason to feel unsafe, and, therefore, no reason to cooperate. As a result, "unable to tolerate civil equality," they began to use their position to assert themselves over the others.[95] In response, their subjects, now feeling threatened, organized in response to the threat and, remembering the injustice of the prince as well as that of the oligarchy, replaced the latter with a new, popular government.[96] Unsurprisingly, this government also was corrupted when a generation who grew up safe on account of the virtuous government of their parents took control and, "fearing" no one, proceeded to use their various positions licentiously.[97] When this became unsustainable, the cycle began again, with new cooperation resulting in the re-institution of monarchy.[98] With this pattern established, the principal question of constitutional design for Machiavelli therefore becomes, as it was for the others following Polybius, how to order the government in such a way that prevents it from becoming a victim of its own success. In response to this problem, Machiavelli says, prudent legislators have designed mixed constitutions in which "each part is able to guard another" (*l'uno guarda l'altro*),[99] bringing to mind the institutionalization of restraint, and the psychological effect

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[95] "Venuta dipoi questa amministrazione ai loro figliuoli, i quali non conoscendo la variazione della fortuna, non avendo mai provato il male, e non volendo stare contenti alla civile equalità, ma rivoltisi alla avarizia, alla ambizione…," Machiavelli, *Discorsi*, 22.

[96] "…infastidita da' loro governi, la moltitudine si fe' ministra di qualunque disegnassi in alcun modo offendere quelli governatori, e cosí si levò … Ed essendo ancora fresca la memoria del principe e delle ingiurie ricevuto da quella, avendo disfatto lo stato de' pochi…si volsero allo stato popolare…" Machiavelli, *Discorsi*, 22.

[97] "…si mantenne questo stato popolare un poco, ma non molto, massime spenta che fu quella generazione che l'aveva ordinato; perché subito venne alla licenza, dove no si temevano né gli uomini privati né i publici: di qualità che, vivendo ciascuno a suo modo, si facevano ogni dí mille ingiurie…," Machiavelli, *Discorsi*, 23.

[98] "…talché costretti per necessità o per suggestione d'alcuno buono uomo, o per fuggire tale licenza, si ritorna di nuovo al principato," Machiavelli, *Discorsi*, 23.

[99] Machiavelli, *Discorsi*, 24.

fear of these restraints has on encouraging cooperation and discouraging self-aggrandizement that we have seen previously.

Rome had such a mixed constitution, and Machiavelli elaborates on this in the following chapter, where he describes both its creation and its functioning in terms of the Polybian psychology. In a manner reminiscent of the self-aggrandizing instinct, Machiavelli cautions that all men are disposed to do evil and will do so when they are given the chance.[100] Fear, however, restrains them from acting on these problematic instincts. For example, in the aftermath of the expulsion of Tarquin from Rome, the patricians treated the plebeians with respect since "they feared" that if they did not, the plebeians would not align with them against Tarquin, thereby putting their standing, and security, at risk.[101] The patricians' fear, in this case, restrained their self-aggrandizing behavior and encouraged cooperation. But after the death of Tarquin, and with that threat extinguished, the patricians began to offend the plebeians in any way they could.[102] No longer afraid, there was therefore no more reason to cooperate, and, as we saw in the simple constitutions above, those in a position to do so began to self-aggrandize. Following the logic illustrated by *anacyclosis*, these self-aggrandizing actions then generated disorder and made life within the city dangerous, until the conflict was resolved, in the interest of "security," by an act of

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[100] "…è necessario a chi dispone una republica ed ordina leggi in quella, presuppore tutti gli uomini rei, e che li abbiano sempre a usare la malignità dello animo loro, qualunque volta ne abbiano libera occasione…," Machiavelli, *Discorsi*, 27.

[101] "…ed (la nobilità) avendo paura che la plebe mal trattata non si accostasse loro, si portava umanamente con quello..." Machiavelli, *Discorsi*, 28.

[102] "…ma come prima ei furono morti i Tarquinii e che ai nobili fu la paura fuggita, cominciarono…tutti modi che potevano la offendevano." Machiavelli, *Discorsi*, 28.

cooperation that created the tribunate.[103] These events led Machiavelli to conclude that, unless

limited by necessity, men will act licentiously, and that where the necessity to act otherwise does

not exist on its own, it must be artificially imposed by law.[104] The cooperative enterprise that

established the tribunate, and created Rome's mixed constitution, was therefore successful because

it encouraged further cooperation between the two groups by creating a permanent legal

replacement for the external, and ultimately unreliable, fear of Tarquin that had originally checked

the patricians' disposition to self-aggrandize.[105] Its success, in other words, came from the

beneficial psychological implications of its institutional design. We can see, then, that

Machiavelli's endorsement of Polybius's mixed constitution is rooted in the way it interacts with

the same psychology used earlier to explain the formation of the state and that was the driving

force behind *anacyclosis*.

By attributing the state's formation to a contingent confluence of psychological

characteristics, Machiavelli puts forward a radically different view of state formation than that

offered by earlier generations of humanists. *Quattrocento* authors such as Quirini, Patrizi and

Palmieri, as we have seen in previous chapters, argued that the state, or *civitas*, is a *societas* formed

for sake of living in accordance with justice. Natural reason, they claimed, makes people aware

of justice, leading them both to desire it and to agree to enter into partnership in order to acquire

it. By promulgating laws to secure justice, according to this theory, the citizens are then said to

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[103] "…dopo molte confusioni, romori e pericoli di scandoli che nacquero intra la plebe e la nobilità, si venne per sicurtà della plebe alla creazione de' tribune…" Machiavelli, *Discorsi*, 29.

[104] "…gli uomini non operono mai nulla bene se non per necessità; ma dove la elezione abonda, e che vi si può usare licenza, si riempie subito ogni cosa di confusione e di disordine." Machiavelli, *Discorsi*, 28-29.

[105] "…mancati i Tarquinii, che con paura di loro tenevano la nobilità a freno, convenne pensare a uno nuovo ordine che facesse quel medesimo effetto che facevano i Tarquinii quando erano vivi." Machiavelli, *Discorsi*, 29.

bind themselves together into a *civitas*, an association which they describe on the analogy of a distinctive person, whose mind is expressed in its laws. For Machiavelli, on the other hand, the state does not form to secure justice; justice emerges later to promote further cooperation.[106] And instead of natural reason providing the foundation for the agreement to live politically, the initial agreement to elevate the *capo* that marks the beginning of the state came through the unfolding of a psychological imperative to cooperate when in danger. Moreover, Machiavelli also endorses a significantly different account of how to preserve this body. For the *quattrocento* humanists, the ideal magistrate should aim to represent the abstract person of *civitas* in the physical world by embodying in his actions its animating characteristics: the laws. As the product of an agreement to cooperate when at risk, and not an agreement on law, Machiavelli's collective body of the state is held together not by the representation of its founding principles in the physical world, but, as he illustrates in his account of *anacyclosis* and the mixed constitution, through laws and institutions that create conditions of insecurity and mutual dependence, thereby encouraging cooperation, and not competition, between its individual members.

V.

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[106] Although I argued earlier in favor of a contingent explanation for the origin of law, it is also possible to read Machiavelli's comments about the origin of justice as implying the presence of an innate sense right or wrong that is recognized upon the experience of injustice. But even if Machiavelli did believe there to be some kind of innate sense of justice, the fact that the promulgation of laws comes after the elevation of a political authority, and not before in the manner of his humanist predecessors, is a significant difference, since it means that the state is not a *societas*. For a recent discussion of the existence of an innate sense of justice in Polybius 6, see Benjamin Straumann, "Leaving the State of Nature: Polybius on Resentment and the Emergence of Morals and Political Order," *Polis: The Journal for Ancient Greek and Roman Political Thought* 37 (2020): 9-43. Even on this interpretation of Polybius, though, this sense of justice is only one piece in the process of state formation, making the Polybian state something quite different from a *societas*.

This conception of the state that emerges from *Discorsi* I.2 – as a collective body established for protection and preserved by the collective co-dependency of its members – receives particularly vivid exemplification in Machiavelli's later examination of the situation surrounding the Decemvirs in Rome. He transitions to this topic through a discussion of the Roman institution of the dictatorship, an institution that some of his unnamed interlocutors apparently held in suspicion. Addressing their suspicions in *Discorsi* I.34, Machiavelli argues that those who see the existence of the office of dictator as a cause of Rome's eventual collapse into tyranny are mistaken. "It was neither the name nor the rank of dictator that made Rome servile," he says, "but the authority taken by citizens on account of the length of commands."[107] "And even if Rome did not possess the name of dictator, those who had acquired this authority would have assumed another name, because it is forces that easily acquire names, not names forces."[108] Here Machiavelli makes a distinction between political authority legitimately given and authority taken extraordinarily. The first – even if, like the dictator, very powerful – does not necessarily damage the state, but the second always does. Most important, though, is Machiavelli's statement that power assumed extraordinarily requires private means, or "forces." Indeed, he says, the existence of such private means is itself a mark of corruption, since anyone who assumes power extraordinarily "must have qualities which he could not have in an uncorrupted republic: for he needs to be very rich and to have sufficient adherents and partisans, which he cannot have in places where the laws are observed."[109] Among the causes of the collapse of states, Machiavelli suggests here, are the

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[107] "Perché e' non fu il nome né il grado del dittatore che facesse serva Roma, ma fu l'autorità presa dai cittadini per la lunghezza dello imperio," Machiavelli, *Discorsi*, 131.

[108] "…e se in Roma fusse mancato il nome dittatorio, ne arebbono preso un altro, perché e' sono le forze che facilmente si acquistano i nomi, non i nomi le forze," Machiavelli, *Discorsi*, 131.

[109] "…conviene ch'egli abbia molte qualità, le quali in una republica non corrotta non può mai avere: perché gli bisogna essere ricchissimo ed avere assai aderenti e partigiani, i quali non può avere dove le leggi si osservano," Machiavelli, *Discorsi*, 132.

emergence of private networks headed by men with reputation and acquired through leveraging greater wealth and status. These networks then, he implies, facilitate self-aggrandizing tendencies that bring about attempts to usurp authority extraordinarily.

In *Discorsi* I.46, Machiavelli offers an explanation for how such a network is constructed and why it leads to this result. Commenting on the resumption and escalation of the old conflicts between the patricians and the plebeians in the aftermath of the tyranny of the Decemvirs, he concludes that in order to dispel fear, men often seek to make others fear.[110] This, he continues, is a means by which republics collapse and is the proper justification for the Sallustian claim that "all bad examples have arisen from good beginnings."[111] To illustrate this point, Machiavelli writes that citizens often ascend to a position that enables them "to live ambitiously" as a result of cooperative relationships established with others in order to alleviate fear.[112] But what initially began as a way to cooperate for the purposes of protection will eventually evolve into a situation in which that individual finds himself with a group of dependants and followers, thereby placing him in a position to self-aggrandize, which, Machiavelli suggests, is something he will almost certainly do.[113] These actions will then elicit fear from others, which will, in turn, lead to other

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[110] ".... mentre che gli uomini cercono di non temere, cominciono a fare temere altrui…," Machiavelli, *Discorsi*, 165.

[111] "Vedesi per questo in quale modo, fra gli altri, le republiche si risolvono; ed in che modo gli uomini salgono da un'ambizione a un'altra, e come quella sentenza sallustiana, posta in bocca di Cesare, è verissima: "Quod omnia mala exempla bonis initiis orta sunt,"" Machiavelli, *Discorsi*, 165.

[112] "Cercono…quegli cittadini che ambiziosamente vivono in una republica…di non potere essere offesi, non solamente dai privati, ma etiam da' magistrati: cercono, per poter fare questo, amicizie…," Machiavelli, *Discorsi*, 165.

[113] "…in tanto che lui, sanza ostaculo perseverando, diventa di qualità…che i cittadini e magistrati abbino paura a offendere lui e gli amici suoi, non dura dipoi molta fatica a fare che giudichino ed offendino a suo modo," Machiavelli, *Discorsi*, 165-166.

citizens cooperating for their own defense, eventually creating factional conflict. Beyond offering an account of the origin and effects of parties, these comments also clearly reveal the extent to which the Polybian psychological apparatus expressed in I.2 is foundational for the political theory elaborated later in the *Discorsi*: cooperative actions following from a psychological instinct activated by fear can be so successful in alleviating that fear that they discourage continued cooperation and encourage the appearance of self-aggrandizing behavior instead. This, by making others fear, causes instability and, if not stopped, political changes at best, and the collapse of the state at worst.

On Machiavelli's account, the Decemvirs followed a similar path to power, with similar effects. Appius Claudius and the other nine were selected for a special, extraordinary magistracy because both the plebs and the nobles saw in them an opportunity to remove the magistracies that instilled fear in each group: the consuls in the case of the plebs and the tribunes in the case of the patricians. The desire for protection from their enemies, in other words, led each group to attach themselves as partisans to the Decemvirs.[114] Machiavelli is silent on the intentions of the ten when they initially assumed office, but he suggests that they may not have had tyrannical aims in mind at this point.[115] But, as he states in I.35, the position of absolute power given to them eventually provided them with both the means and the desire to become tyrants. "An absolute authority corrupts the material [of the republic] in a very short time and makes friends and partisans for itself. Neither is it hurt by being poor or by not having relatives; for riches and every other favor

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[114] Machiavelli, *Discorsi*, 149-151.

[115] Machiavelli, *Discorsi*, 150-151.

run after it at once, as is particularly apparent in the case of the Decemvirs."[116] Indeed, implying

that their authority whetted their appetite for more, he tells how the ten were able to leverage the

power of their office to gain further plebeian support for another year in office: "by striking the

nobility," Appius and the others "made the people favor them."[117] At this point, now safe and

secure with another year of absolute authority, and positioned at the head of a large network of

partisans who view them as their protectors, the Decemvirs then began to overreach, as should be

expected on account of Machiavelli's psychological apparatus. Appius, he says, "began to exhibit

his innate pride and, in a short time, his partners adopted his customs."[118]

As should also be expected, it was this self-aggrandizing behavior that eventually brought

about their demise. Their attempts to shift their power base to the nobility by cultivating young

noble "satellites,"[119] alongside Appius's attempt to seize forcefully the plebeian girl Virginia from

her family, backfired by turning the plebs against them while at the same time not offering enough

to bring the nobles back under their protection, leaving them with no friends and only enemies.[120]

Their attempted tyranny failed, on Machiavelli's account, because, having initially risen to power

by offering protection to both the plebs and the patricians, and having secured power by offering

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[116] "Né giova in questo caso che la materia non sia corrotta; perché una autorità assoluta in brevissimo tempo corrompe la materia e si fa amici e partigiani. Né gli nuoce o essere povero o non avere parenti, perché le ricchezze ed ogni altro favore subito gli corre dietro, come particolarmente nella creazione de' detti dieci…," Machiavelli, *Discorsi*, 135-36.

[117] "…parendo alla plebe che Appio fusse diventato popolare e battessi la nobilità, si volse il popolo a favorirlo," Machiavelli, *Discorsi*, 155.

[118] "[Appio] cominicò a mostrare la innata sua superbia, ed in pochi dí riempié de' suoi costumi i suoi compagni," Machiavelli, *Discorsi*, 152.

[119] "…e farsi satelliti della gioventú nobile…," Machiavelli, *Discorsi*, 153.

[120] Machiavelli, *Discorsi*, 152-154.

protection only to the plebs, the self-aggrandizing demeanor they adopted as a consequence of their elevated position made them no longer capable of retaining either group fully under it. As a result, their former partisans, the plebs, began to seek protection elsewhere.

Machiavelli's example of the Decemvirs illustrates the extent to which the preservation of the state hinges on its ability to furnish security for its individual members. The failure of Rome's ordinary orders, the consuls and the tribunes, to make all citizens feel secure is what initially gave Appius and the others a possible path to tyranny. But the example of the Decemvirs also shows that preserving the state necessitates ensuring that each citizen looks to it, and it alone, for their security. As we have seen, once a citizen or citizens finds a way to secure themselves independently of that whole, they will begin to self-aggrandize, thereby setting off a chain of reactions leading to change at best or collapse at worst.[121] Indeed, Appius and the others could begin to self-aggrandize precisely because their elevated position enabled them to continue acquiring partisans, thereby securing for themselves a foundation independent of the collective as whole. It is as if, in other words, they had cut out a piece of the state's body and formed a new body around them. For Machiavelli, then, among the challenges of legislation is creating conditions that lead people not to seek protection through private means, whether it be through the construction of their own networks or through joining one headed by others. On the one hand, this means preventing the appointment of magistrates with absolute power and adopting a mixed constitution, since these will make both the magistrates less likely to inspire the kind of fear that

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[121] See also Machiavelli's discussion of fortresses in *Discorsi* II.24. The fortress in Milan built by its prince, Francesco Sforza, contributed to the demise of his family's rule there because the sense of security it provided convinced his sons that they were independent of the people and, as a result, encouraged them to self-aggrandize: "giudicando mediante quella [fortress] vivere sicuri e potente offendere i cittadini e sudditi loro, non perdonarono [Sforza's sons] a alcuna generazione di violenzia: talché diventati sopra modo odiosi, perderono quello stato come prima il nimico gli assaltò," Machiavelli, *Discorsi*, 318.

incentivizes party-building and eliminate the ability to use political office to acquire partisans. These were both crucial factors leading to the tyranny of the Decemvirs. But it also entails preventing private individuals from seeking security by private means,[122] and sometimes even taking exceptional measures to prevent this from happening.[123] If each citizen is unable to acquire the resources that enable them to build private networks and become independent, then, Machiavelli suggests, they will continue to look towards the state as their source of protection. Machiavelli's aim, we might say, is to channel through laws and institutions the psychological characteristics that make people partisans of others into keeping them partisans of the collective body he calls the "state."

VI.

While what appears to have motivated Machiavelli's innovative way of thinking about the state was the contemporary debate surrounding Florence's constitution, the terms of which permeate the *Discorsi*, he was also very much aware of the vast differences between his treatment of the subject and that of his *quattrocento* humanist predecessors. Machiavelli's well-known subversion of the conventional virtues in *Il principe*, for example, demonstrates a clear understanding on his part of the differences between his notion of the state and the conception of the *civitas* that underpins earlier humanist political writing, as is well-documented.[124] But, as only one author intervening in this several-decade debate, Machiavelli was not the only person to re-imagine the

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[122] Machiavelli, *Discorsi*, 164-166.

[123] Machiavelli, *Discorsi*, 467-468.

[124] See, for example, Quentin Skinner's introduction to his edition of *The Prince* in Machiavelli, *The Prince*, ix-xxiv and Stacey, *Roman Monarchy and the Renaissance Prince*, 205-311.

nature of the state in this context. Written between 1534 and 1538, Donato Giannotti's *Republica fiorentina* puts forward an account of the state on terms very similar to Machiavelli, whom Giannotti admired greatly. Since it will help illustrate the degree to which Machiavelli's novel thinking about the state was part of a context that produced other, interlocking revisions of this concept, I will conclude this chapter with a brief account of Giannotti's treatment of the state in this work.

Giannotti's text, written in the early years of ducal Florence, sits at the close of this period of constitutional debate. After the return of the Medici in 1530 and the collapse of the republican government originally instituted in 1527, and in which Giannotti served as a magistrate, the nominal authority of the Medici family remained insecure. Although in exile, republican forces retained considerable strength, and exiled republicans, the so-called *fuoriusciti*, actively organized in an effort to once again remove the Medici from Florence. At least until their defeat in 1537, this left open the possibility that the republican reformers could once again re-make the Florentine republic.[125] Giannotti's work, like many of the others discussed in this chapter, originally aimed to furnish a plan for a such a reform, founding it, also like the other texts, upon an historical account of the failures of past Florentine governments and on a vision of the nature and ends of political society more generally.

Giannotti begins the work with an account of the formation of the state that is heavily indebted to Aristotle's *Politics*. "The end of the city," he says, "is nothing else than the communal

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[125] For an account of this history, see Giovanni Silvano's introduction to his edition of the *Republica fiorentina*. Giannotti, *Republica fiorentina*, 7-16.

good life of its inhabitants."[126] The impetus for their union was the recognition of the fact that "when separate from each other, [men] are unable to defend and maintain themselves in any way."[127] But because, he continues, "wherever there is a multitude, there will be disorder and confusion," "it was necessary to find a mode and a rule through which everyone could become a participant in the good life."[128] Giannotti calls this "mode or rule," "the republic," which he further defines as "a certain institution and order of the city's inhabitants."[129] Giannotti's Aristotelian debts make his account of state formation very different from that of Machiavelli before him. The republic is not a defensive association, but instead the name given to the structure of government within a city, which is instituted to prevent the emergence of the kind of disorder and chaos that could interfere with each person's ability to pursue the good life. But Giannotti's account of state formation is markedly different from that of earlier generations of humanists as well. Most significantly, Giannotti also dispenses with the idea that an innate conception of natural justice underpinned any agreement to pursue collective life. As we have seen in previous chapters, this view was shared even by humanist Aristotelian authors, who were quick to associate Aristotle's good life with the benefits they held would follow from obedience to natural justice.[130]

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[126] "Il fine delle città non è altro che il bene vivere commune degli abitanti," Giannotti, *Republica fiorentina*, 78.

[127] "…percioché non per altra cagione gli uomini insieme da principio si congregarono, se non perché separati l'uno dall'altro non potevano in modo alcuno la vita loro difendere et mantenere," Giannotti, *Republica fiorentina*, 78.

[128] "Et perché, sempre ovunque è moltitudine, nasce disordine et confusione, fu necessario trovare modo et regola par la quale ciascuno del bene vivere fusse fatto partecipe," Giannotti, *Republica fiorentina*, 79.

[129] "Questo modo o vero regola è quello che noi chiamiamo republica la quale è una certa istitutizione o vero ordinazione degli abitatori della città," Giannotti, *Republica fiorentina*, 79.

[130] This more traditional humanist Aristotelian view receives expression during Giannotti's lifetime in two of Antonio Brucioli's *Dialogi*. In his dialogue "Della republica," Brucioli defines "republica" in a way that blends together his joint Aristotelian and Ciceronian allegiances: "…così tale imposizione d'ordine sopra più famiglie in uno medesimo luogo abitanti e per le medesime leggi viventi posto, dico essere republica," Antonio Brucioli, *Dialogi*, ed. Aldo Landi (Naples: Prismi, 1982), 109. In his dialogue "Delle leggi della republica," he then argues that this law has its roots in natural reason. See Brucioli, *Dialogi*, 159-161.

Moving on to his treatment of how to preserve the state, Giannotti's thoughts are, in line with other instances of this genre, grounded in an account of the psychological causes of disorder. "In each city," he says, "one finds the nobles and the rich, which is to say the great, the poor and the vile, and between the two extremes, the middle class."[131] On account of their differing material conditions in life, Giannotti continues, members of each group are animated by different concerns. The great, "because they exceed the others in nobility and riches, desire to command."[132] The poor, on the other hand, "fearing the insolence of the great," wish only to be free, which he identifies with "obeying only the laws."[133] And the middle classes "have the same desire as the poor," except that, "because their fortune is greater," "they desire honor" in addition to liberty.[134] Giannotti implies that these three desires, or "humors," as he calls them, are perpetual, and, as a result, anyone who orders a republic must take them into account. More specifically, they must "order the republic in such a way that each humor can obtain its specific desire," because when men "possess their desired things, they do not have reason to tumult."[135] For Giannotti, then, the

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[131] "…perché si truova in ciascuna città nobili et ricchi, cioè grande, poveri et vili et quelli che partecipano dell'uno e dell'altro estremo, cioè mediocri," Giannotti, *Republica fiorentina*, 82.

[132] "Percioché i grandi, perché eccedono gli altri di nobilità et ricchezze, vogliono comandare…," Giannotti, *Republica fiorentina*, 83.

[133] "I poveri non si curano di comandare ma, temendo l'insolenza dei grandi…basta loro essere liberi, essendo quello libero che solamente alle leggi ubidisce," Giannotti, *Republica fiorentina*, 83.

[134] "I mediocri hanno il medesimo desiderio dei poveri, perché ancora essi appetiscono la libertà, ma perché la fortuna loro è alquanto più rilevata, perciò, oltra la libertà, desiderano ancora onore," Giannotti, *Republica fiorentina*, 83.

[135] "Ad volere, adunque, instituire uno governo in una città dove siano tale umori, bisogna pensare di ordinarlo in modo che ciascuna di quelle parti otenga il desiderio suo…possedendo in esse gli uomini le cose desiderate, non hanno cagione di fare tumulto," Giannotti, *Republica fiorentina*, 83.

state, formed out of a desire to secure the good life, is maintained when the members of its diverse citizen-body each feel that their membership in this larger body facilitates their desired ends.

Giannotti's argument that the integrity of the state depends on its ability to placate the desires of its citizens is particularly visible in his account of the mixed constitution, and it is here where the differences between his and Machiavelli's psychological apparatuses become most visible. For Machiavelli, as we have seen, the mixed constitution preserves the state by creating competing sets of magistrates that then guard each other, keeping each cooperative, rather than self-aggrandizing, and ensuring that they will work towards keeping the citizens secure. For Giannotti, on the other hand, the state is more than merely a vehicle for protection, but instead a means to obtain the good life, and, as a result, the argument in favor of a mixed constitution assumes a different appearance. Giannotti is sceptical that the sort of mixed constitution favored by Machiavelli and Polybius can possibly protect against future disorders, since, as he says, it is "impossible to mince together men from the great, the people and the middle classes and turn them into one thing."[136] The motivations of each group are irreconcilable, with the result their equal standing in the constitution will only generate destructive competition between them. Instead, he says, the constitution should "incline" towards one part, while at the same time giving space for the others to pursue their ends.[137] Because Giannotti believes that the disposition of the people to seek liberty makes their actions less likely to elicit negative responses from the others, he argues

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[136] "Perché bisogneria pestare et tritare in modo gli uomini che dei grandi, popolari et mediocri se ne facesse una sola cosa, diversa in tutto da quelle tre fazioni, la quale cosa, sanza dubbio, è impossibile," Giannotti, *Republica fiorentina*, 156.

[137] "…quando io dico che la republica debbe inclinare in una parte, non dico che quella parte abbia sola l'imperio et l'altra sia escula dalla amministrazione, ma che ella abbia poca dependenza et l'altra assai," Giannotti, *Republica fiorentina*, 157-58.

that the constitution should incline towards them, making them supreme. But at the same time, preventing disorder also requires giving space for the others to pursue their motivations. To negotiate this tension, Giannotti develops a constitutional model that he likens to a "pyramidal body."[138] At its base is a supreme general assembly of the people, through which the people can secure their liberty, and upon which all the other offices depend. At its precipice is a princely-figure, an office through which the rich can aspire to attain recognition for their greatness. And in the middle are a Senate and a College surrounding the prince, the former serving as a way for the middle classes to acquire honor, and the latter as an institution through which members of the elite who do not ascend to the highest honor of the principate can still experience greatness.[139] Under this form of constitution, the state can provide for the desires of its diverse citizens, while at the same time limit conflict by giving the most conflict adverse and least domineering group of citizens, the people, greater control.

Despite their differing accounts of the best constitution, implicit in both Machiavelli's and Giannotti's position is a similar view of what kind of thing the state is and what its preservation depends on. For both men, the state is a kind of a collective body that they both agree is maintained by its ability to furnish the goods it was initially organized to pursue, with each drawing on their respective psychological apparatuses to determine what that good is and how it can continue to provide it. On Machiavelli's account, that good is protection; for Giannotti, it is the good life. As a result, and notwithstanding their different accounts of those motivations, the principal question of legislation remains the same for the two men: the institutions and the laws of the state must

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[138] "Li quali faranno uno corpo piramdiato…," Giannotti, *Republica fiorentina*, 166.

[139] Giannotti, *Republica fiorentina*, 166.

create conditions that led individual citizens to believe that their aims will be most satisfied through their membership in the collective body of the state. Machiavelli argued that it is dangerous for the state when individual citizens look to private parties for their protection, since it suggests a misalignment between the private and the public interest. Giannotti agrees: "it is necessary that the citizens be partisans and friends of their republic," he says, "since when it is in danger, they will be ready to defend it, not as a public thing, but as a private one."[140]

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[140] "Però è necessario con ogni industria provedere che i cittadini siano partigiani et affezionati alla republica loro, accioché ne' pericoli d'essa ciascuno sia pronto a difenderla, non come cosa publica, ma come privata," Giannotti, *Republica fiorentina*, 147.

Conclusion

In the introduction to his translation of several sections from volume 3 of Gierke's *Das deutsche Genossenschaftsrecht*, F.W. Maitland observes that the awkward position of the *civitas* as both *universitas* and *societas* suggests that, although political theorists typically borrowed concepts from the jurists, the *civitas* must operate on a higher "level of philosophic thought" than that which underpins the juridical *universitas*. This did not prevent political theorists, however, from continuing to borrow from the jurists well into early modernity, thereby reproducing the same awkward tension: "where philosophy and jurisprudence met in such systems of Natural Law as were fashionable in the eighteenth century the *universitas* was lowered to the rank of *societas*, or (but this was the same process) the *societas* was raised to the rank of *universitas*."[1] This equivalency, he says, could be made on the grounds that both of these juridical concepts demonstrate "a certain unity in plurality" and they could each be given the name "moral person."[2] Yet while the *universitas* was genuinely held to be a person, what we might call the "personality" of the *societas* was really, according to Maitland, "a mere labor-saving device," suggesting that the practice of attributing personality to it in fact did not rest on any kind of philosophical justification.[3] The inability to resolve this tension has led, as we have seen, more recent historians

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[1] Gierke, *Political Theories of the Middle Age*, xxiii-xxiv.

[2] Gierke, *Political Theories of the Middle Age*, xxiv.

[3] Gierke, *Political Theories of the Middle Age*, xxiv.

to continue understanding the Renaissance *civitas* as a *universitas*; and to continue to define that term in the manner of the jurists, despite awareness of the complications that follow from doing so.[4] Far from being "a mere labor-saving device," however, the image of the *civitas* as both a *societas* and as the name of a distinct person that the Renaissance humanists constructed from the political, philosophical and rhetorical works of Cicero may, I believe, go some way towards explaining on what philosophical grounds early-modern theorists of the state could, to paraphrase Maitland, raise the *societas* to the level of *universitas*.

As we have seen throughout this dissertation, the humanists argued that the *societas* could be understood as a person on account of the fact that the laws that bind it give it a kind of character that makes it representable. It was the promulgation of these laws that created this person and, when magistrates are instructed to "bear the *persona* of the *civitas*," they are told to do so by embodying those laws in their own person, thereby bringing the *persona civitatis* to life. Among early modern works of political theory written in the aftermath of the Renaissance, Johannes Althusius's *Politica*, published in three editions, first in 1604, then 1610 and, finally, in 1614, is a suggestive example that later writers continued to ground the personality of *societates* on these Ciceronian terms. Althusius is widely known for arguing that political life is ultimately about association, or *societas*. This is how he opens the work: "Politics is the art of associating (*consociandi*) men for the purpose of establishing, cultivating, and conserving social life among them… The subject matter of politics is therefore association (*consociatio*), in which the symbiotes

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[4] Beyond Skinner and Smith, as mentioned in the introduction, others include Kinch Hoekstra, "Early Modern Absolutism and Constitutionalism," *Cardozo Law Review* 34 (2013): 1079-1098; Lee, *Popular Sovereignty*; and, most recently, Dan Edelstein, "Rousseau, Bodin, and the Medieval Corporatist Origins of Popular Sovereignty," *Political Theory* online (2021): 1-27.

pledge themselves each to the other, by explicit or tacit agreement, to mutual communication of whatever is useful and necessary for the harmonious exercise of social life (*vitae socialis*)."[5] Throughout the *Politica*, Althusius argues that social life takes place over different levels of *societas*, from the family, to the private association (*collegium*), to the *civitas*, to "provinces," to, finally, the "universal and major public association" which he sometimes calls the *regnum* and, other times, the *res publica*. Families and private associations are *societates* composed of natural persons, while public associations, such as the *civitas* and the *res publica* or *regnum*, are constituted, in the case of the former, by a *societas* between families and collegia, and, in the case of the latter, of "families, cities (*civitates*) and provinces," which "existed by nature prior to [commonwealths], and gave birth to them."[6] They are constituted, in other words, by smaller *societates* that are capable of associating in the manner of individual natural persons. As he says with respect to the *civitas*: "the members of a community are private and diverse associations of families and colleges, not the individual members of private associations."[7]

Althusius then proceeds with an argument for why human beings are creatures prone to live in *societates*. In an unmistakable reference to Cicero's *De inventione*, he states that "the needs of body and soul, and the seeds of virtue implanted in our soul, drew dispersed men together into

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[5] "Politica est ars homines ad vitam socialem inter se constituendam, colendam & conservandam consociandi…Proposita igitur Politicae est consociatio, qua pacto expresso, vel tacito, symbiotici inter se invicem ad communicationem mutuam eorum, quae ad vitae socialis usum & consortium sunt utilia & necessaria, se obligant," Johannes Althusius, *Politica Methodice Digesta of Johannes Althusius (Althaus)*, ed. with intro. by Carl Joachim Friedrich (Cambridge, MA: Harvard University Press, 1932), 15. Translation from Johannes Althusius, *Politica*, ed. and trans. Frederick S. Carney (Carmel, IN: Liberty Fund, 1994), 17.

[6] "Nam familiae, civitates & provinciae natura sua prius quam regna, quae ex hisce sunt orta, exstiterunt," Althusius, *Politica Methodice Digesta*, 88. Translation from Althusius, *Politica*, trans. Carney, 66.

[7] "Membra universitatis [he uses *universitas* here analogously with *civitas*] sunt privatae diversaeque consociationes conjugum, familiarum & collegiorum, non singuli cujusque consociationis privatae…," Althuius, *Politica Methodice Digesta*, 39. Translation from Althusius, *Politica*, trans. Carney, 40.

one place."   "These causes," he continues, "have built villages, established cities, founded academic institutions, and united by civil unity and society a diversity of farmers, craftsmen, laborers, builders, soldiers, merchants, learned and unlearned men and so many members of the same body…called the commonwealth."[8]   With a direct quotation from Cicero's *De legibus*, Althusius later tells us that these "seeds of virtue" are in fact knowledge of the laws that permeate a highly-juridical image of the world: "Common law has been naturally implanted by God in all men…'For there was reason derived from the nature of the universe,' Cicero says, 'urging men to do right and recalling them from wrong-doing, and this reason did not first become law at the time it was written down, but at its origin.'"[9]   For Althusius, then, much like the Ciceronian humanists previously discussed, among the motivations that lead men to enter into *societas* is the wish to live according to law, and to reap the benefits from doing do.   Indeed, he says, referencing a classic Ciceronian claim, preserved by Augustine in *De civitate Dei*, and endorsed, as we have seen, by Petrarch and Quirini, unless a *societas* is bound by this law, it is no *societas* at all: "'when justice is taken away, what are [commonwealths] except great bands of robbers?"[10]

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[8] "Corporis itaque & animi necessitatis atque virtutum semina animis nostris insita, homines dispersos & dissipatos in unum locum contraxerunt. Hae caussae aedificarunt vicos, construxerunt civitates, fundarunt Academias, multorum agricolarum, artificum, fabrorum, architectorum, militum, mercatorum, doctorum atque indoctorum varietatem, tanquam totidem ejusdam corporis membra, unitate & societate civili copularunt…omnes partier in publicum quoddam corpus (quam Rempublicam vocamus), Althusius, *Politica Methodice Digesta*, 18. Translation from Althusius, *Politica*, trans. Carney, 23.

[9] "Communis [law] est, quae natura sua omnibus hominibus a Deo est ingenerata…Cic. *lib. 2. De legib.* Erat enim, ait, ratio profecta a rerum natura, & ad recta faciendum impellens, & a delicto revocans, quae non tunc demum incipit lex esse scripta, sed tunc cum orta est," Althusius, *Politica Methodice Digesta*, 190. Translation from Althusius, *Politica*, trans. Carney, 139.

[10] "Augustin. *de civit. Dei*…Remota, ait, justitia, quid sunt regna nisi magna latrocinia," Althusius, *Politica Methodice Digesta*, 92. Translation from Althusius, *Politica*, trans. Carney, 71. For Augustine passage, see *De civitate Dei* IV.4.

Althusius also argues that this body cannot have life unless there is some kind of head instituted to enforce these laws. In the *res publica*, this power is called "sovereignty" (*maiestas*), although all other *societates* possess a similar function. Althusius makes sure to distinguish his views on sovereignty, however, from those of Jean Bodin, arguing that the person who possesses *maiestas* is not above the laws but is in fact dependent on them. Reflecting his Ciceronian account of the origin of political life as motivated by observing the dictates of natural reason, Althusius says that "to liberate power from civil law," as Bodin had done for his sovereign, "is to release it to a certain degree from the bonds of natural and divine law." "For there is no civil law," he continues, "nor can there be any, in which something of natural and divine equity has not been mixed."[11] As the person who administers the laws that trace their origin to the institution of the *res publica*, then, the sovereign is "the bond, soul (*anima*)," and, crucially, "vital spirit (*vitalis spiritus*) of the commonwealth."[12] In fact, he says, "if this right [of sovereignty] is taken away, the entire symbiotic life perishes," and, emphasizing again that the place of the sovereign is to enforce the laws, it either "becomes a band of robbers and a gang of evil men," "or disintegrates into many different" *societates*.[13] We might say, then, that the sovereign, by rendering tangible in the physical world the principles of justice that initially bound the *res publica* together, is the *res publica*'s "bond, soul and vital spirit" because it gives this body life.

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[11] "Nam lege civili potestatem solver, est etiam aliquatenus naturalis & divinae legis vinculis eandem exuere. Nulla enim est, nec esse potest, lex civilis, quae non aliquid naturalis & divinae aequitatis immutabilis habeat admistrum," Althusius, *Politca Methodice Digesta*, 92. Translation from Althusius, *Politica*, trans. Carney, 72.

[12] "…in hac potestate…vinculum, anima & vitalis spiritus regni…continetur," Althusius, *Politca Methodice Digesta*, 91. Translation from Althusius, *Politica*, trans. Carney, 70.

[13] "…eo overo sublato, omnis illa vita symbiotica concidit, & vel incipit esse latroncinium, malorumque hominum congregatio, vel ex uno regno fiunt diversa plura alia regna, aut provinciae," Althusius, *Politca Methodice Digesta*, 91. Translation from Althusius, *Politica*, trans. Carney, 70.

Each *societas*, according to Althusius, is thus a kind of body, whose institution can be traced to the promulgation of its laws, which are rooted in natural reason, and whose integrity depends on the ability of its ruling party – its "vital spirit" – to bring it to life in the physical world by administering its laws. Althusius illustrates this quite clearly when he discusses the *societas* of the *civitas* in Chapter V, which, like the *res publica*, is numbered among the political associations. The *civitas* is a kind of hybrid *societas-universitas* (he also calls it the *consociatio universitatis*) and he defines it as an "an association (*consociatio*) formed by fixed laws and composed of many families and collegia living in the same place."[14] Crucially, it is also "a represented person (*persona repraesentata*)."[15] He goes on to say that, "strictly speaking, however, the community (*universitas*) is not known by the designation of person, but it takes the place of a person when legitimately convoked and congregated."[16] In other words, the assembly of the people is not in itself a person, but is instead the representative of another person: the "represented person" of the *civitas*. This assembly of citizens is, moreover, the presiding authority in the *civitas*; the "form of government," he says, is "constituted by the community (*universitas*)" for its benefit.[17] The decisions of this assembly, then, are decisions that, since made by the *civitas*' presiding body, are

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[14] "Universitas [*civitas*] haec est plurium conjugum, familiarum & collegiorum, in eodem habitantium, certis legibus facta consociatio," Althusius, *Politica Methodice Digesta*, 39. Translation from Althusius, *Politica*, trans. Carney, 40.

[15] "Vocatur persona repraesentata," Althusius, *Politica Methodice Digesta*, 39. Translation from Althusius, *Politica*, trans. Carney, 40.

[16] "Unde personae appellatione universitas non comprehenditur…licet legitime convocata & congregata vicem personae sustineat," Althusius, *Politica Methodice Digesta*, 39. Translation from Althusius, *Politica*, trans. Carney, 40.

[17] "Politeuma universitatis, est jus utendi, fruendi utilibus & necessariis inter cives eiusdem universitatis constitutis ad vitae hujus usum & consortium," Althusius, *Politica Methodice Digesta*, 39. My translation. This passage is not translated by Carney.

said to give life to the person – the person of the *civitas* – whose place they are said to have "take[n]."

To some scholars, this may appear like a classic iteration of medieval corporation theory. For example, when Althusius states in Chapter XVIII that "rectors of the universal symbiosis and commonwealth represent the body of the universal association, or the whole people (*universus populus*) by whom they have been constituted…they bear its person (*gerere personam*) in those things they do in the name of the commonwealth,"[18] Quentin Skinner concludes that Althusius must here be equating the *res publica* with the people and consequently that there is no meaningful difference between "the whole people" and the state.[19] Applied to the passage from Chapter V, it would then follow that the *persona* assumed and given life by the assembled citizens is the *persona* of the *universitas populi*, and not the *persona* of a separate entity known as the *civitas*.

Skinner's argument could very well be true.[20] And it could be that Althusius, by equating the *civitas* with the body of the people understood as one agent, is less like the humanists in this respect. Nevertheless, by arguing that a *societas* is an entity capable of representation, and that this entity comes to life through the embodiment of its laws in the natural person(s) of the magistrate, Althusius appears to employ a Ciceronian conception of the *societas*. After all, he does present initial social institution on Ciceronian terms and that the defining characteristic of the

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[18] "…rectores, universalis consociationis corpus, seu totum & universum populum, a quo constituti sunt, repraesentant…ejusque personam gerunt in iis, quae Reipublicae seu regni nomine faciunt…," Althusius, *Politica Methodice Digesta*, 140. Translation from Althusius, *Politica*, trans. Carney, 97.

[19] Skinner, *Humanism and Hobbes*, 41.

[20] Although, for a different opinion, see Hoekstra, "Early Modern Absolutism and Constitutionalism," 1086-1087.

societas is that it is bound by laws rooted in a shared natural reason. In so doing, he appears to have found a way to attribute a personality to the *civitas* – and thus make a *societas* also a kind of *universitas* – that evades the problem of "self-incorporation" first mentioned by Gierke. Indeed, in his hierarchy of *societates*, Althusius flips a key tenet of the juridical concept of *universitas* – that its personality depends on a grant from a higher authority – upside down: for Althusius, the personalities of the greater bodies are in fact the products of the legal agreements between the smaller ones that led to their institution.

Before moving on to discuss the legacy of the other humanist way of thinking about the state, I want to make one more observation concerning the central place of Cicero's thinking about *societas* in seventeenth century political thought. In a famous passage at the beginning of the first chapter of his *De cive* (1642), Thomas Hobbes states that

> The greatest part of those men who have written ought concerning Commonwealths, either suppose, or require us, or beg of us to believe, That Man is a Creature born fit for Society (*societas*): The Greeks call him Ζῶον πολιτικὸν, and on this foundation they so build up the Doctrine of Civill Society, as if for the preservation of Peace, and the Government of Man-kind there was nothing else necessary, then that Men should agree (*consentio*) to make certain Covenants and Conditions together (*pacta et conditiones*), which themselves should then call Lawes. Which Axiom, though received by most, is yet certainly False…[21]

It is indeed true that Hobbes uses the Aristotelian term Ζῶον πολιτικὸν here, leading some to inquire into Aristotelian foundations for the account of the formation of the state that is the object of his criticism.[22] However, the language that society is the product of agreement (*consentio*) and

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[21] Translation from Thomas Hobbes, *De cive: The English Version*, ed. Howard Warrender (Oxford: Clarendon Press, 1987), 42. Parenthetical Latin taken from Thomas Hobbes, *De cive: The Latin Version*, ed. Howard Warrender (Oxford: Clarendon Press, 1983), 90.

[22] See, for example, Nicholas Gooding and Kinch Hoekstra, "Hobbes and Aristotle on the Foundation of Political Science," *Hobbes's* On the Citizen: *A Critical Guide*, ed. Robin Douglass and Johan Olsthoorn (Cambridge: Cambridge University Press, 2020), 31-50.
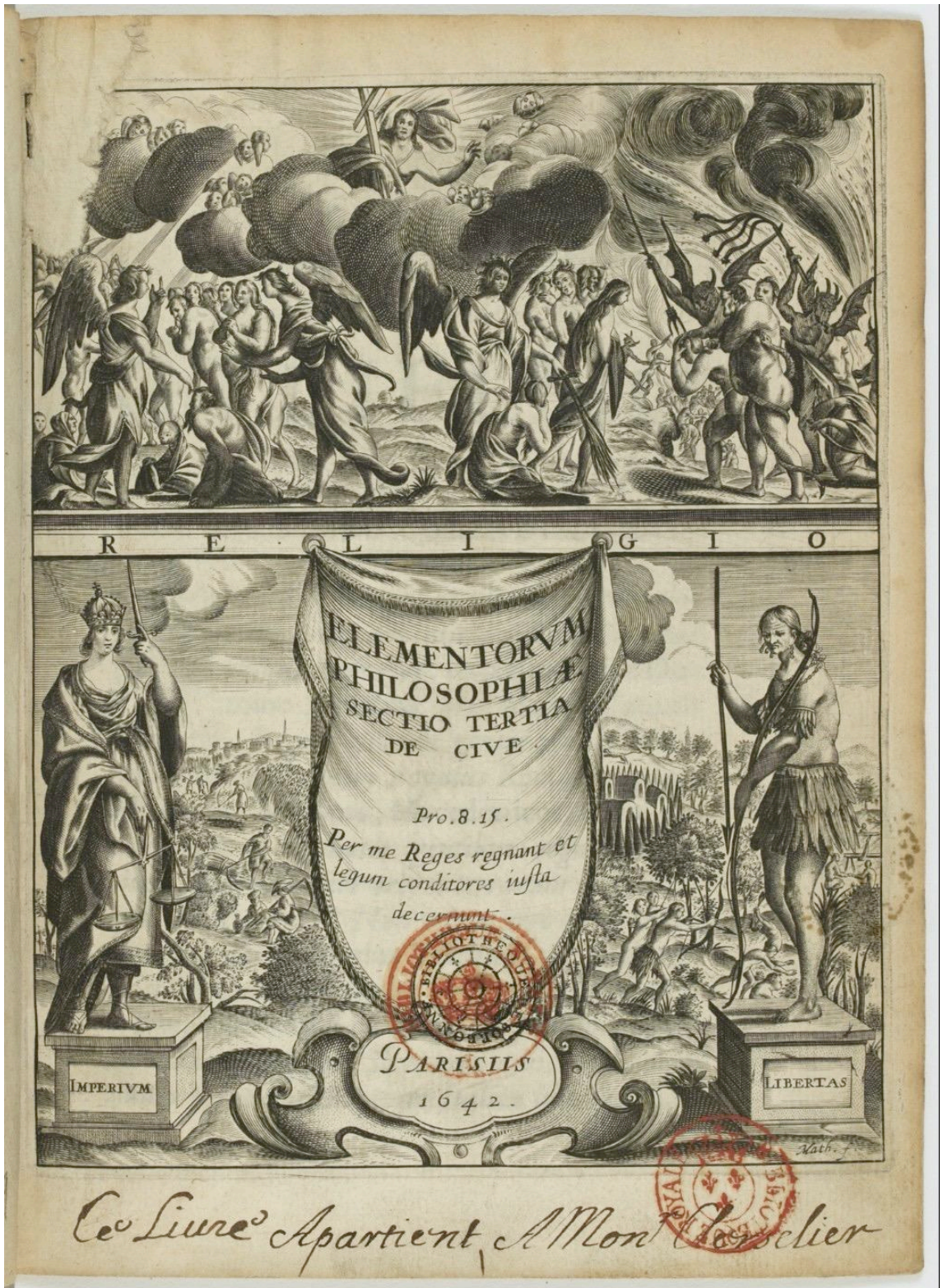
(Plate 1. Frontispiece from Thomas Hobbes, *De cive* (Paris, 1642).

"convenants and conditions," (*pacta et conditiones*) and that the contents of these things are called "Lawes," should, in light of this dissertation's findings, appear more indebted to the Ciceronian account of the origin of political life as the formation of a *societas*. There, as we have seen, the origin of the *civitas* can be traced to agreements, made by men in a pre-political state, to associate around certain terms, which become the laws of the entity – the *civitas* – their agreement ushered in.

The exact nature of Hobbes's criticism of the Ciceronian account of the formation of the state can be more clearly illustrated by first pointing out the places where his own examination of the subject continues to employ categories of ultimately Ciceronian provenance, albeit with Hobbesian modifications. For example, in the frontispiece to the first edition of *De cive* (Plate 1), we can see images of three different forms of existence that in turn correspond to the three different books of *De cive*. There is, at the top of the image, a depiction of the Last Judgement, with the label *Religio*, which is the subject of the last book. On the bottom are two different scenes. On the right, framed by an image of a spear-yielding figure in primitive dress made from the leaves of trees, is a depiction of a condition that Hobbes calls *Libertas*. Through the frame, we can see primitive human beings, dwelling among the trees, with some men in one corner appearing to build a structure rather inefficiently through brute force, alongside an especially prominent image of what looks like a man and woman pursuing, and attempting to kill, another man. The scene on the left, by contrast, is framed by an image of an elegantly dressed woman wearing a crown and holding, in one hand, a sword, and, in the other, scales of justice. She stands in front of quite a different picture: far removed from the violence and disorder of *Libertas*, here we can see men engaged in peaceful agriculture, with a thriving city in the background. Hobbes label this image

Imperium. The contrast between a disordered and violent nature, on the one hand, and an orderly civic life under political authority, reflects the Ciceronian distinction between *ius* and *vis* that, as we have seen throughout this dissertation, was how humanist writers, following Cicero, conceptualized the transition from pre-political to political life.[23]

I also want to suggest, however, that there is reason to believe that Hobbes may very well have the *De inventione* in mind in this image. In the *De inventione*, Cicero describes pre-political life in the following terms: "there was a time when men wandered at large in the fields like animals and lived on wild fare; they did nothing by the guidance of reason, but relied chiefly on physical strength."[24] Hobbes's portrayal of the world at *Libertas*, with individuals dressed in primitive clothing wandering, hunting and killing, expresses a similar view of the pre-political condition. Upon the wise orator's arrival, in *De inventione*, we can see further connections:

> Men were scattered in the fields and hidden in sylvan retreats when [the orator] assembled and gathered them in accordance with a plan; he introduced to them every useful and honorable occupation...he transformed them from wild savages into a kind and gentle folk.[25]

Hobbes's endorsement of the transition from savagery to civilization shares these characteristics. In the state of liberty, people are half-naked, wearing only leaves; while in the state of rule, they are fully-clothed. But, beyond this, it is perhaps most notable that in the state of rule we can begin to discern a division of labor among the population. In the foreground, we can see farmers, while

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[23] For interpretations of this image that emphasize other characteristics, see Brett, *Changes of State*, 4-6 and Skinner, *From Humanism to Hobbes*, 255-270.

[24] "Nam fuit quoddam tempus cum in agris homines passim bestiarum modo vagabantur et sibi victu fero vitam propagabant, nec ratione animi quicquam, sed pleraque viribus corporis administrabant," Cicero, *De inventione* I.2. Translation from Cicero, *On Invention*, 5.

[25] "...qui dispersos homines in agros et in tectis silvestribus abditos ratione quadam compulit unum in locum et congregavit et eos in unam quamque rem inducens utilem atque honestam...ex feris et immanibus mites reddidit et mansuetos," Cicero, *De inventione* I.2. Translation from Cicero, *On Invention*, 7.

the large city in the background suggests that the foregrounded agriculture sustains a much more sophisticated economy. This is important for two reasons. First, among the things the orator introduced to the dispersed tree-dwellers is a variety of occupations. In this respect, then, Hobbes again appears to be following the terms of the transition from pre-political to political life as outlined in *De inventione*. But, secondly, the imposition and regulation of a division of labor and resources is very much an implication of the institution of a *societas*.

Seeing that Hobbes appears to endorse the general Ciceronian image of what the transition from nature to the state entails, we should then examine what aspect of *De inventione* is absent from Hobbes's otherwise quite faithful rendering of its core ideas. The most glaring absence is, of course, Cicero's figure of the orator. In *De inventione*, Cicero states that the orator is capable of effecting this transition in human beings because he is "aware of the power latent in man and the wide field offered by his mind for great achievements if one could develop this power and improve it by instruction."[26] As we have seen, this statement was picked up by Renaissance pre-humanist and humanist writers who, situating it within Cicero's broader set of philosophical ideas, interpreted that "latent" "power" to be natural reason, through which, and with adequate instruction, they could be brought to see the benefits that would follow from adhering to its principles. This then impelled them to enter into *societas*, with the principles of natural reason that were the foundation of their agreement assuming the status of laws. The orator gave them this instruction. By removing the figure of the orator from an otherwise similar account of the effects of moving from nature to the state, Hobbes was likely rejecting this particular explanation for its

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[26] "…vir et sapiens cognovit quae materia esset et quanta ad maximas res opportunitas in animis inesset hominum, si quis eam posset elicere et praecipiendo meliorem reddere…," Cicero, *De inventione* I.2. Translation from Cicero, *On Invention*, 5-7.

formation. Further on from the afore-mentioned passage in *De cive*, Hobbes indeed goes on to say that a more plausible explanation for the origin of social life is that "we doe not therefore by nature seek society for its own sake, but that we may receive some Honour or Profit from it."[27] In other words, Hobbes singles out the Ciceronian notion that *societates* can be both formed and preserved by natural reason's capacity to intuit the benefits of following laws, and argues instead that, in order for people to agree to live politically, they must have more immediate and self-interested motivations for doing so. It is perhaps this idea – that the impetus for human society is a shared natural reason that motivates people to agree to live according to law – that is his target.

From this it appears that many of the terms with which Hobbes expresses ideas, in the *De cive* at least, reflect the Ciceronian language of the *civitas* as re-constructed by the humanists of the Italian peninsula. His own views are clearly shaped by some of the same Ciceronian categories and his innovations seem designed to criticize one, admittedly central, aspect of them: shared natural reason. Even his proposed alternative foundation – that individuals must see "Honour or Profit" from it for themselves is itself steeped in the language of *societas*: a *societas*, after all, is instituted for the mutual benefit of all partners. It is therefore not outside the realm of possibility that the theory of state personality Hobbes would go on to formulate in *Leviathan* is constructed from material derived from the Ciceronian *societas*.

Finally, the alternative account of the state that we have seen to be visible in the work of Machiavelli, especially, would go also on to shape some of the political thinking of the next century. It is especially in the work of the Dutch philosopher Baruch Spinoza that we can see

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[27] Hobbes, *De cive: The English Version*, 42.

traces of Machiavelli's thought. We know that Spinoza was an avid reader of Machiavelli and that

Machiavelli's texts, and particularly the *Discorsi*, were key sources for the works that constituted

Spinoza's more immediate context, which was permeated with Italian republicanism. To give just

one example, the series of political treatises written by the brothers De La Court were read with

great interest by Spinoza, and in these works Machiavelli features prominently.[28]

As we have seen, key features of Machiavelli's thinking about the state, and what put his

views in opposition to those of his Ciceronian humanist predecessors and contemporaries, was that

the state did not emerge for the purpose of securing the dictates of justice, but for the purpose of

security. This is a view that Spinoza would go to endorse.[29] In Chapter XVI of his *Tractatus*

Theologico-Politicus, he states that "everyone wishes to live as far as possible securely beyond the

reach of fear, and this would be quite impossible so long as everyone did everything he

liked…there is no one who is not ill at ease in the midst of enmity, hatred, anger and deceit, and

who does not seek to avoid them as much as he can."[30] It was this mutual dislike of living in a

state of fear and the propensity of pre-political life to generate these kinds of conditions, that

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[28] For this see Martin Van Gelderen, "Aristotelians, Monarchomachs and Republicans: Sovereignty and *respublica mixta* in Dutch and German Political Thought, 1580-1650," *Republicanism: A Shared European Heritage. Vol. 1. Republicanism and Constitutionalism in Early Modern Europe*, ed. Martin Van Gelderen and Quentin Skinner (Cambridge: Cambridge University Press, 2003), 214-215; Eco O.G. Haitsma Mulier, *The Myth of Venice and Dutch Republican Thought in the Seventeenth Century*, trans. by Gerard T. Moran (Assen: Van Gorcum, 1980), esp. ch. 4

[29] For more about Spinoza on the state, see Noel Malcolm, *Aspects of Hobbes* (Oxford: Clarendon Press, 2002), 27-52. The relevant chapter is entitled "Hobbes and Spinoza." Also see Susan James, *Spinoza on Philosophy, Religion, and Politics: The* Theologico-Political Treatise (Oxford: Oxford University Press, 2012), 233-319.

[30] "…nullus est qui non cupiat secure extra metum, quoad fieri potest, vivere; quod tamen minime potest contingere, quamdiu unicuique ad lubitum omnia facere licet…nam nullus est qui inter inimicitias, odia, iram et dolos non axie vivat, eaque adeo, quantum in se est, non conetur vitare," Benedict Spinoza, *Opera philosophica omnia*, ed. A. Gfroerer (Stuttgart: J.B. Mezleri, 1830), 208. Translation from Benedict Spinoza, *The Chief Works of Benedict de Spinoza. Vol. 1*, trans. R.H.M. Elwes (London: G Bell, 1883), 202.

Machiavelli in the *Discorsi* argued led to the cooperation that created the state. Spinoza believes the same: "when we reflect that men without mutual help…must needs live most miserably…we shall plainly see that men must necessarily come to an agreement to live together as securely and well as possible…."[31] Spinoza's state, then, shares with Machiavelli's an origin in an act of cooperation to escape fear, and it is already suggested at this point that, also like Machiavelli's state, its integrity also depends on its ability to continue furnishing that protection.

As Spinoza elaborates upon the state, he demonstrates further continuity with Machiavelli's thinking. "A compact" – such as the one underpinning the state – "is only made valid by its utility, without which it becomes null and void," he says.[32] It is on the basis of this principle that Spinoza, in Chapter XVII, then proceeds to argue that, in much the same way that the formation of the state has a psychological cause, so its preservation does too. "Obedience," he argues, "does not consist so much in the outward act as in the mental state of the person obeying; so that he is most under the dominion of another who with his whole heart determines to obey another's commands."[33] The aim of legislation, then, is the create laws and institutions that ensure the people wish to obey the sovereign: "the preservation of a state chiefly depends on the subjects' fidelity and constancy in carrying out the orders they receive."[34] It depends, in other words, on

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[31] "Quod si etiam consideremus homines absque mutuo auxilio miserrime…vivere…clarissime videbimus, homines ad secure et optime vivendum necessario in unum conspirare debuisse…," Spinoza, *Opera philosophica omnia*, 208. Translation from Spinoza, *The Chief Works*, 202.

[32] "Ex quibus concludimus pactum nullam vim habere posse, nisi ratione utilitatis, qua sublata pactum simul tollitur, et irritum manet," Spinoza, *Opera philosophica omnia*, 209. Translation from Spinoza, *The Chief Works*, 204.

[33] "…obedientia non tam externam, quam animi internam actionem respiciat; adeoque ille maxime sub alterius imperio est, qui alteri integro animo ad omnia eius mandata obtemperare deliberat, et consequenter eum maximum tenere imperium, qui in subditorum animos regnat…," Spinoza, *Opera philosophica omnia*, 215. Translation from Spinoza, *The Chief Works*, 215.

[34] "Quod imperii conservatio praecipue pendeat a subditorum fideorumque virtute et animi constantia in exequendis mandatis…," Spinoza, *Opera philosophica omnia*, 216. Translation from Spinoza, *The Chief Works*, 216.

the ability of the state to continue providing the protection from fear it was established to secure. The difficulty is that "all, both rulers and ruled, are men, and prone to follow their lusts."[35] His example here is "the fickle disposition of the multitude…[that] rushes headlong into every enterprise, and is easily corrupted either by avarice or luxury…"[36] Considering the power of these instincts, and their ability to compromise obedience to a state that was originally established to protect the citizens from their appearance in others, Spinoza, like Machiavelli before him, is sceptical that they can truly ever be permanently avoided. Nevertheless, as a sort of maxim to keep in mind, he argues that a legislator should "frame our institutions so that every man, whatever his disposition, may prefer public right to private advantage, this is the task and this is the toil."[37] Unlike the Ciceronian humanists, and very much like Machiavelli, then, Spinoza rejects the claim that the embodiment of justice in the magistrate is sufficient to preserve the state, arguing instead that its maintenance depends on the ability of its institutions to elicit a psychological response that incentivizes each individual citizen to associate their good with the common good and thus see the utility of continuing to follow the state.

We can see, then, that the humanists of Renaissance Italy had developed a multiplicity of quite distinctive accounts of the conceptual character of states and the foundations upon which they were erected, and that these ideas had come to shape, at least in part, some of the most

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[35] "Omnes namque tam qui regunt, quam qui reguntur, homines sunt ex labore scilicet proclives ad libidinem," Spinoza, *Opera philosophica omnia*, 216. Translation from Spinoza, *The Chief Works*, 216.

[36] "…tantum varium multitudines ingenium…praeceps ad omnia, et facillime vel avaritia vel luxu corrumpitur…," Spinoza, *Opera philosophica omnia*, 216. Translation from Spinoza, *The Chief Works*, 216.

[37] "His ergo omnibus praevenire, et imperium ita constituere, ut nullus locus fraudi relinquatur, imo omnia ita instituere, ut omnes cuiuscunque ingenii sint, jus publicum privatis commodis praeferant, hoc opus, his labor est," Spinoza, *Opera philosophica omnia*, 216. Translation from Spinoza, *The Chief Works*, 217.

significant political debate in early modern Europe. I would like to conclude by making a couple of brief observations about the potential significance of this result. First, they suggest a need to re-asses the place of Cicero and Ciceronianism not only in the development of political concepts, but also legal ones. Indeed, the existence and use of a philosophical foundation upon which a personality could be attributed to a *societas* suggests a need to re-examine what now appears to be a far richer and more complicated relationship between *societas* and *universitas*. As we have seen, since at least the time of Gierke, intellectual and legal historians have viewed these concepts as two distinct models of juridical association; in light of this more complicated relationship, however, it now appears that to broaden our understanding of the legalistic conceptual character of groups (both political and otherwise) in this period we must also include sources traditionally not viewed as juridical.

Second, at the heart of Machiavelli's difference with the Ciceronians is, as discussed in chapter four, the absence of what we have seen to be the very foundation of their account of political life: that there is a shared natural reason among human beings that enables them to deduce the principles of natural justice. Considering the ubiquity of this Ciceronian account among humanists both before and after his lifetime, Machiavelli's refusal to endorse its central tenant, and his apparent awareness of this fact, could indeed be evidence that he may have had it in mind. This suggests that, by Machiavelli's time, not only had the Ciceronian account of the *civitas* developed by the humanists of the *quattrocento* acquired prominence in political debate, but that it even came to structure debate, with alternatives framed largely in response to its to foundational elements. Machiavelli's theory of the state constitutes one particularly influential response, but we have seen that there were others as well. Since at least the mid-sixteenth century, then, we can

observe the acceptance of the idea that human society is maintained by an entity called the "state," and, at least among the humanists, it was the character of this entity, and not its existence, that had become an object of debate.

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