

Selection from *On the Observation  
of the Mosaic Polity*

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Franciscus Junius

*What is necessary to be observed among the people of God  
and what not, after grace and truth has been accomplished  
through Christ and the Gospel has been promulgated.*

Second Edition, Revised by the Author

Published in Leiden from the Press of Christopher Guyot  
at the expense of Joannis Orlers, 1592



## Preface

To the illustrious classes, most noble men, and most distinguished Lords

Franciscus Junius, many greetings from the Lord,

Of all the disciplines, O illustrious classes, which are commonly called practical (πρακτικαί), that is active, the nature of this sort is that indeed their knowledge and science should always remain an act truly occupied on certain occasions and in a proper time. The mind constantly retains their reasoning; the work is accomplished by the body alternatively acting and resting. If moreover there is such a practical (πρακτικῆ) discipline among human affairs, which should maintain a kingdom in all things by its own certain right, surely this is what we call a political [discipline]. “This is the teacher of the just and honorable; this the guardian of order; this the judge of the public and private rights of the common good; in this,” Polyaeus says, “are all things; in this all sound things are preserved; finally if this perishes, there is nothing in public and private affairs that does not die and become corrupted.”<sup>1</sup>

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<sup>1</sup> Polyaeus (Πολύαινος), there are at least four different noted persons by this name in the classical and early Christian period. More than likely this is a citation of Polyaeus the Macedonian (2d century A.D.), many of whose works have been lost, the primary one of note being *Strategems* (Στρατηγήματα) consisting of eight books. There were at least two noted editions of the works in the sixteenth century: the 1549 Latin Vulteius edition, and the 1589 Greek Casaubon edition. Cf.

Even if, by the noblest right, in one consensus of the common testimony of nature itself and the certain judgment of our reason, we all attribute the first rank among human affairs to this discipline that they call either political (πολιτικειν) or legal (νομικειν), yet here human reason is generally accustomed not only to stagger but also to dash [itself upon the rocks], partly by the deceptions of a darkened mind, partly from our fallen infirmity, and partly by individual pursuits blowing each [one of us] in different [directions]. For certainly nature teaches everyone that there is an order in human affairs; moreover, [an order] that is especially required in public ones: but in the determination of that order that is required, we are all stuck fast in that debacle and depravity of our nature. Here that adage truly applies, which is commonly and customarily spoken of “as many opinions as there are heads.”<sup>2</sup> So it is not extraordinary that this evil befalls human beings, whose intellect sees only a short distance and that dimly, whose reason is darkened, whose wills vary, and whose judgment is corrupted: For which reason, in our conclusions and determinations there exists among ourselves an innumerable [amount] first of changes and then dissensions.

Wherefore if any legislator would be innocent from every vice, who purely and simply, “as if in a spotless and unembroidered mirror” (ὡσανεὶ ἐν ἐσόπτρῳ ἀσπίλῳ καὶ ἀκεντήτῳ), expressed by his own laws the method of their own purity, then his law must be considered the queen of all others. Moreover because not even all, not even one, could supply this accomplishment, or ever would supply it at this point, whatever human laws have been supplied by humans, these in their own kind simply cannot arrogate to themselves the first rank by any right, because there is always some imperfection in it. Namely, any person in this very human order, which is now treated, knows practically that no one can ever track it down and obtain it, except through reason, and that only by a few, over a long time, and contaminated with a great many number of errors.

All histories once confessed that the wisdom of the Egyptians (among whom Moses was instructed) was great, and all the philosophers from Greece esteemed [Egyptian wisdom] as of the highest value; generally all those with that name were celebrated by even profane authors, because they had personally imbibed of the teachings of the Egyptians. Their excellent principles are found not least

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*A Dictionary of Greek and Roman Biography and Mythology*, ed. William Smith (Boston: Little Brown and Co., 1867), 3:442.

<sup>2</sup> *quot capita, tot sententiae*.

among Herodotus, Diodorus, Siculus, and others. Plutarch also mentions that worthy commemoration that the rulers of the Egyptians, according to law vowed that they had sworn to take the lead in speaking of a right: even if the king himself should command them in judgment to pronounce something unjustly, that they would not do it. Among the Romans, how worthily imitated is Caesar Trajan, when, in the presence of his vassals, handed his drawn sword to the prefect, and is reported to have said, “Take this sword, and if I have been a good man, use it in my favor, if an evil one, use it against me.”<sup>3</sup> Indeed, however outstanding those laws of the Egyptians are to others, yet there was an imperfection in the corpus of them, so that it would be the easiest thing to evince and demonstrate, I cannot rightly attribute to those the first place in the political rank.

Additionally, whatever human laws there are whose corpus would have [any] value, that right [of first place] would worthily go to that which was compiled by [Emperor] Justinian 1,060 years ago from the records of the wisest and most prudent of men. Yet even these laws as it were declare their own imperfection with a clear voice if you should decide to compare as the jurists do the old law with the new or the Justinian one (as they say); as well as if you should compare them with, at subsequent times, other laws, other customs, other modifications, restrictions, enlargements, and in short the changes of every kind, which the jurists desired to make in many places.

If, however, we should come to comparing the laws of Moses with all those others, such would certainly be unjust to God, their author, and to Moses, a faithful servant in the whole house of God [Heb. 3:5], unless we would claim that there is a perfection that is divine and greater in every way<sup>4</sup> in the aforementioned [human] laws. For even if that touches upon political and legal (*forenses*) matters, many things in human laws and especially written in the civil code (*iure civili*), which have the greatest [amount of] agreement with the laws of Moses (which we predicate as divine), which in the matter to be proved several outstanding jurists happily exercise our memory, yet these laws of Moses rank higher than all the rest in their authority, ordination, and application over a long time. In matters of sculpture, the canon of Polyclitus (κωνων πολυκλειπειος) is superior, whereas in political matters, it is the Mosaic one.

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<sup>3</sup> Junius' citation: “*Carpe hunc ense: ac, si bonus fuero, pro me; sin malus, eo contra me vtitor.*”

<sup>4</sup> & *omni exceptione maiorem.*

For if we would have regard for authority, it is not a human being but the wisest, most just, and purest God of the very universe and of everything dwelling in the universe who, as judge, produces these laws for his house; that is, for the Church, which in all circumstances obtains from God its perfection of beauty over all created things, so that we may employ the words of the prophet: “Men endowed with the slender shade of wisdom, led by the most obscure tracks, the most depraved fall of wickedness, and the most infected by the danger of corruption from every side,” who, like causes that are imperfect and insufficient, as they say, can least produce a complete and sufficient effect of the laws.

If, on the contrary, you would redirect your line of sight to the nature and application of laws, the latter [Mosaic] laws in their own ordering and application are so perfect that they lack imperfection. The former ones can never be that perfect; in fact a contamination approaches from the imperfect cause, imperfect things, and in the imperfect method of their processes (*actiones*). We call nature the reason of the laws in themselves; indeed, its application, the reason and accommodation of these very things for those from which the laws are produced.

For instance, so that we may speak about their nature briefly, what is better, more obvious, and briefer than the words of Moses? Regarding which [words], deservedly I will recite that [passage in] Lucilius in a more gentle way [than he did] because I respect the elegance and dignity of your station:

How charmingly arranged, all laws, like tiles  
all, in pavement, and inlaid in vermiculated manner!<sup>5</sup>

What is truer for things in themselves? That is, so joined among themselves, so agreeable, so united in every part than that is? There is nothing in these out of

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<sup>5</sup> Gaius Lucilius, (c. 160s–103/102 B.C.), Roman satirist, see *C. Lucilii Saturarum*, ed. Charles Lachmann (Berlin: G. Reimer, 1876), 1–25, 30, lines 993–94, p. 108.

*quam lepide lexeis compostae ut tesserae omnes  
arte pavimenti atque emblemate vermiculato*

Junius paraphrases the text as:

Quam lepide lexes compostae! Vt tesserae, omnes  
Endo pavime[n]to, at[que] emblemate vermiculato

The word *lexeis* or *lexes* is of Greek lineage winding its way into old Latin as *lex*, *lexeos/lexis*, and is commonly translated as “word” or “law.”

place (ἄτοπον), nothing out of order (ἀνακλόουθον), nothing contradictory (ἐνάντιον), nothing dissonant (ἐναντιοφανές) if you should so thoroughly examine them with a cleansed eye of the mind, all things are proper and without change (ἄρτια καὶ ἀπαράλλακτα), as Augustine writing in a letter to Volusianus most carefully declared.

Concerning its application, indeed what should we say to that which we daily turn our mind and thought[s] so many times that divine wisdom excites one's own affections for incredible things? For he adapted each and every one of these, his own laws, to the race of the Jews gathered from the number of the rest of the most degenerate human beings, as human beings were in the nature of things. Indeed he most providentially accommodated all things in their own mode, to persons, things, and circumstances, by which it was a body of the children of God and His very own house of living stones united through grace, when by innumerable signs and proofs—some transient, others permanent—a confirmation given in every age [1] concerning the covenant, promises, and the truth, trustworthiness, and constancy of that divine grace, what would not wither away by any of the viciousness of human beings, and [2] concerning the law. Thus, the moral precepts taught most absolutely the most absolute truth of morals aiming at the proper duties toward God and human beings. So also the ceremonial precepts [taught] the most absolute [truth] for the faith of those striving for God through human beings from this depraved world. So also the judicial precepts [taught] the most absolute [truth] of order pertaining to cultivating morals and faith in this republic, which God instituted.

So this is the reason (*causa*) why the Jews (just as we should employ the words of Christ in John 5; Matt. 5; John 1) once preached that they had eternal life in the Law of Moses. This same reason is why Christ, who was made under the law, constantly taught that he did not come to abolish the law but to fulfill it. This is the reason why the apostles always confirmed grace and truth, which in the last times has been accomplished through Christ, by the authority and presignifications of the Law, because all should acknowledge that the Law of Moses in its origin, matter, reason, modes, and finally in all things is divine.

Wherefore, however, pious persons in consciousness of those things once were led to religious faith and obedience to the Law, so also whoever was eager for piety and truth taught by God (θεοδιδάκτου) sensed the authority of that Law and preached it among all. Not all those studious of this salvific and heavenly teaching learned to skillfully hold the rudder straight (πηδαλίῳ τεχνηέντως ἰθυνέασθαι) as if on that open sea. As to the former, because the whole rationale

of the Law is divine, each and every member of that law is catholic (καθολικὰ), that is, they believe that [every law] applies universally as well as commonly to all persons, matters, times, places, and other circumstances as if there is nothing of a general character (*communis ratio*) that does not come to light [but it does]. The latter (because they were confident in the greatest degree possible even in the authority of Christ and his apostles of its particular and individual character) concluded that all things in that legal system without exception and indiscriminately were particular and now have entirely ceased, and so the authority of the whole Law has ceased. Both miscalculate (παραλογιζόμενοι) and unwittingly conclude from a part of the Law regarding the whole. For truly, you would conclude neither that the whole person is immortal because the soul is immortal; nor on the contrary that the whole is mortal because, with respect to the body, it is mortal. Thus, the former, as if submerged in the depths, have lost the truth of the Gospel; the latter, as if shipwrecked on the rocks, have destroyed the authority of the divine law by the greatest imprudence.

Certainly concerning these commandments that are purely ethical (ἠθικά), and dwell in the rationale being handed down for mores suitable to piety, courtesy (*humanitas*), and integrity (*honestas*), no reasonable person ever seems to doubt very much. Rather that would be [the conduct] of Ballion or of whatever other of the most incapable of bipeds, of a person violently abjuring nature, than of any good man. For when the most certain reason of the just and unjust agreeable to nature and to the perfection of it has been set forth in its moral commandments, which all wise men want a reason that is a person's τὸ ἡγεμονικόν, that is, their leading principle of action (if indeed one is truly a human being), what is that which could be desired in the law by anyone, which advances a lost reason, restores what has been corrupted, and divinely perfects the imperfect by saving proofs? Certainly whatever comprises a common law and reason according to nature and according to grace, which God introduced to nature from above, that whole is what has been explicated in the Law of Moses so properly, or analogically, that whoever thinks of adding something to it from a common right strives to assist the noon day sun with torches!

Moreover because that common right is a common source of that other right, which is appealed to in particular, by no means other than that common sense is the universal source of individual senses, by which we all customarily perceive sensible things (τὰ αἰσθητὰ). Surely inasmuch as it is unjust if you would search in a common source of right and reason for a particular right, as if in a



common sense you desired the hearing of the ears, the sight of the eyes, and the individual functions of the individual αἰσθητηρίων, that is, the individual seat of the senses. It does not belong to our office that we should seek those things in their source but that we would derive them from the source, which source God deposited in the Church.

In the streams leading from the Law, all by their own viciousness, have all—not just a few—strayed from their office by an alien authority. For of moral matters, concerning which it is agreed about that common right, that God did not embed in the law first all the particular conclusions, then the individual boundaries proceeding from them, neither for all persons, nor for all things, nor entirely, nor in every time, but rather from these showed the method by examples of that law. Moreover, some of these concern human beings and human society, others God and divine things. For which reason, God exhibited an example of human affairs by the judicial and political laws, and an example of divine things in the ceremonial ones. I call it an example and not the distinctly defined form of all things, which can be required for whatever matter in human society.

Certainly concerning the ceremonial laws, which had been commanded for the divine worship, the most serious controversies among good men arose. For, as I will say nothing about innumerable hypocrites, who for this reason from the beginning placed the prow and stern (as they say) of salvation in ceremonies, and in which protesting and prevailing the prophets and certain pious men before the advent of Christ most diligently put an end to work; I will say nothing about the *Nazaraei* or those destroyers (ἀφανιστᾶις) (as Epiphanius calls them) who wantonly rush into the contrary opinion, abolished all the ceremonies of the divine law. Who is ignorant of how much has been contentiously disputed from the advent of Christ concerning the use and observance of ceremonies? The Jews argued for them, the Gentiles denied them. Many who became Christians from among the Jews argued for them, whom the orthodox Fathers called *Nazaraei*. The apostles as well as anyone among the Christians who had been made more certain concerning the truth of Christ and his fulfillment of the ceremonies denied them, fought for Christian liberty, for edification, and not for destruction. By these in-roads the Antiochene Church, those of Galatia, and others were pretty well undermined if God would not have looked out for them by the most vigilant care and ministry of the apostles. Sacred history testifies of this (Acts 15), Paul does as well (Gal. 3), as well as those who follow. “All the way up to today,” says Jerome, “throughout all the synagogues in the Orient among the

Jews there is the heresy which is called the heresy of the Minae and now is even condemned by Pharisees, whom commonly are called *Nazaraei*; who believe in Christ the Son of God, born of the Virgin Mary, and they say that he is the one who suffered under Pontius Pilate and resurrected, in whom we also believe. But they desire to be both Jews and Christians, and thus they are neither Jews nor Christians.”<sup>6</sup> Not from any other source did so many individual controversies flow, which, by the importunity of the latter, the ignorance of the former, and the imprudence of all, exercised the ancient and orthodox Church, of which sort was that observance of the fourteenth day for Passover, for which reason they were called the *τεσσαπρεσκαιδεκατίται* or the *Quartadecimani*, who by their own oversized commotions ravaged the church for a very long time.<sup>7</sup> Moreover, these discussions concerning the legal ceremonies, because the use of the ceremonies had already been extinguished, were extinguished. God the Father did this, the Lord Jesus Christ did this, the one who effected grace and truth, which the law once foreshadowed in the publicly declared ceremonies so that that body would be most holy, which in the last times he redeemed by his own blood, so that he may cultivate the truth and grace of that [body] with such great faith that, with regard to ceremonies, [the Church] may abstain from fighting and would finally put an end to rending the members of Christ, and that on account of their own human garments and superstitious observances (*ἐθελοθησκείας*).

Indeed, concerning the judicial and political laws, which concern human beings and their common society, there is not a dispute to the same degree in the ancient church. For in those first days of the Church of Christ as in its earliest years, pagan emperors and kings held the reins of government, as well as pagan rulers, prefects, and magistrates were each put in charge of their own kind, either by their own merits, by smoke and favoritism, or by a legitimate question held about those (as Lampridius relates was done by Alexander Severus), through whom it was not permitted at all to labor according to the method of exercising judgment. Wherefore, those most holy ones, in that blooming time that existed from the experience of the Church that was a result of the condition of its anxious trial, did not raise this question concerning the use and authority of the judicial

<sup>6</sup> Marginalia: *Epist ad August. Cuius principium, Tres simul ep.*

<sup>7</sup> Note the Latin pun here on the name of group and their oversized commotions: ... *ex qua τεσσαπρεσκαιδεκατίται siue Quartadecimani dicti, qui suis decumanis fluctibus per diu Ecclesiam diuexarunt.*

laws of Moses. They were most wisely busying themselves so that their own piety would be useful to the Church in every circumstance; not by chance because it would lead the minds of the pious to vacuous, curious questions, either those that would oppose the common good or by imprudence would allow it to be snatched to a foreign act. O what divine hearts! O what wisest souls! O what admirable prudence! O what dignified sobriety which would bring into view whatever has been called to the work of the Lord!

Afterward, indeed, the status of the state by the will of God was altered and Christian emperors were given, at this point, the question concerning the political law of Moses and its observation gradually crept into the churches. At which time those wisest and orthodox fathers seeing that it was necessary to turn this world around without rather serious uproar (as they say), first carefully avoided secular matters and the practical matters of life (καὶ τῶν του Βίου πραγματειῶν) (as Paul calls it), then relinquished wholesale their own authority to declare the right (*ius*) and produce laws (*lex*). However, if anyone determined [a matter] contrary to right reason that had been instituted, which God displayed in nature and Scripture, they either took care that it was corrected with calm and modest warnings, or patiently (if something were a lingering, malignant sore [ἔλκος χειρῶνειον] or poorly regulated [ἀδιορθωτον]) enduring it, so that perhaps they would not disturb the common good entirely by the expectation of one good man. For the recklessness of men frequently results in this, that while they try to cure the evil of one, they undermine the good of the republic, and sometimes even of the whole world. They stated it best that eternal reason is the moderator and arbiter of human laws, which indeed nature and Scripture teach. Indeed human laws are a certain emanation (απορροῦν) of this eternal reason, which may vary by a singular reason according to the variety of things, with that eternal law remaining untouched and thus teaching varieties. Moreover because neither the knowledge nor the management of human affairs has been commanded, nor indeed do they pay attention that it is useful for its own function, thus enclosed by the bars of their own calling, with a calm mind they allowed their authority and judgment concerning producing laws for these things which pertained to a human knowledge and management of human society.

We will demonstrate this difference between the common reason and the eternal law by a particular reason and by human laws, which are temporary, with a quote of Augustine—albeit a rather lengthy one, but one especially conducive to the comprehension of this matter.

“Tell me,” says Augustine, “whether that law which is promulgated in letters would relieve people living this life?”

For which reason Euodius says, “It is manifest: namely that peoples and states certainly consist of these human beings.”

Furthermore Augustine says, “What are human beings and people? Are they of this kind of things, so that they could not perish or change, and are entirely eternal, indeed are they mutable, and subject to the times?”

Euodius says, “Does anyone doubt that this race is plainly mutable and subject to time?”

Then Augustine says, “[I]f the people is quite self-controlled and serious, and the most diligent guardians of the common utility, upon which depend the private affairs (*res privata*), that are lesser than the public ones (*res publica*), wouldn’t a law be rightly produced, as it is permitted for people to create their own magistrates, through whom their own affairs, that is, public ones, may be administered?”

To which Euodius responds, “Right again.”

Here Augustine says, “Furthermore, if the same people who had been gradually deformed, should prefer their own private affairs (*res privata*) to public ones (*res publica*), and would have their votes for sale, and having been corrupted by those who love honors should commit control over themselves to shameful and wicked persons, then likewise rightly if some good man should arise who could accomplish the greatest amount of things, would he not take away from this people the authority to give honors and reduce the choice to a few honors or even one?”

“And rightly so,” says Euodius.

“Therefore,” says Augustine, “there seem to be two laws contrary to each other, so that one attributes to the people the authority of giving these honors, the other takes it away; and since that second one has been carried out in such a way that in no way could both [laws] simultaneously exist in one state, will we say that either of these laws is unjust and must not be endured at all?”

To which Euodius responds, “I agree.”

“Therefore,” says Augustine, “let us name that temporal law (if you please) which although it is just yet can be justly commuted for a time.”

Euodius nodding agrees, “Yes indeed.”

Augustine takes up the subject, “What kind is that law which is called the highest reason, which must always be obeyed, and through which evil people merit misery and the good, a blessed life, through which finally the former which we said are being called temporal, is rightly produced and rightly changed, can it not seem to some intelligent person that it is commutable and not eternal? Can it not sometimes seem to be unjust in order that the evil are miserable? And, on the contrary, the good are blessed, or that a modest and serious people would personally create for themselves a magistrate, indeed a dissolute and depraved man who lacked that license?”

Euodius says, “I see that this is the eternal and non-commutable law.”

Then Augustine says, “Then likewise do you also endeavor to see that in that temporal law there is nothing just and legitimate that human beings did not derive it for themselves from this eternal one. For if that people at a certain time justly gave honors, and again at a certain time justly did not give them, this temporal vicissitude, so that it might be just, has been drawn from that eternity, by which it is always just that a serious people give honors, and the trivial one does not, does it seem otherwise to you?”

“I agree,” says Euodius.

“So that therefore,” says Augustine, “I may explain in words, as much as I am able, the notion of the eternal law which has been impressed upon us, it is this, by which it is just that all things may be best ordered. Speak up if you think otherwise.”

To which Euodius responds, “I do not have anything which would contradict the truth of what you are saying.”

Thus Augustine concludes saying, “Therefore because this is the one law from which all those temporal ones ruling human beings vary, can that one vary in any way?”

Euodius says, “I understand that it entirely cannot, for any strength, any circumstance, any defect of things would not ever occur such that it would be unjust that all things are the best ordered.”

To this extent the words of Augustine, which we inserted at that point for a certain discussion because it most evidently contains the opinion of the orthodox fathers and rightly as well as by a certain rationale of judging shows to all the correct canons (ὀρθότατον κανόνα) concerning this whole case. They perceived (so that I may use the words of [Nicholas of] Lyra) that moral things

remain, because they are from the law of nature, which is immutable.<sup>8</sup> Judicial things indeed have been excluded, inasmuch as they had the force of obligating someone in law, even if they can be established *de novo* into an innumerable amount, with respect to those things that seem to have been accommodated to the control of Christians. Therefore, content in present things, they are not threatened by ancient customs of law, and, content in their own location, they do not in the least charge into a foreign one so then they might not think either to Judaize or like a cobbler beyond his shoe (as they say)<sup>9</sup> to rashly extend their own judgments.

Moreover even if those most holy fathers, the most wise men, had publicly demonstrated by their sermons, writings, and example that those judicial commandments are neither absolutely necessary for the public nor pertain to themselves and their own function, yet in these last days people have emerged with a zeal for piety, truth, and doing righteousness who contend that it is necessary that their use is integrated into the Christian state and that by divine authority [we] are obligated to their observance. On the contrary, others who strive against these people think that generally their very use and observation must be destroyed with the same obligation by which it was necessary to abolish the ceremonies prefiguring Christ and to keep them abolished. Both have zeal, which I praise, but I at least desire that both would have knowledge and that many good men so inflamed by zeal would desire with me truth, charity, and public peace.

Thus, we certainly would have gladly laid this labor aside if either the reason of the public would have allowed us to rest or the demand of good men who, several times, demanded this duty from us both for their own sake—that is, of those governing—and of all. It was their obligation to recuse us from the work. For we have been called to assist the public in the argumentation of things and in the manner of writers, which matter—even to have desired though not achieved—is an abundantly beautiful and magnificent thing. As I will say with Pliny, “since I especially feel that, with respect to studies, the cause of those is outstanding, who, although they overcame difficulties, preferred the usefulness

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<sup>8</sup> Marginalia: *In cap. 3 epist. Ad Rom.*

<sup>9</sup> *Sutor, ne ultra crepidam*: The Greek artist Apelles supposedly asked the advice of a cobbler on the appearance of a sandal in one of his paintings. When the cobbler extended his critique from the sandal to other aspects of the painting, Apelles is said to have replied: “Cobbler, not beyond the sandal!” It was a popular quip for someone who spoke beyond their competence.

of assisting, to pleasing for the sake of popularity,” and so that they might speak about useful things usefully, they have spent their own work.<sup>10</sup>

“What now?” someone might say, “Would it not be proper that you, by the examples of both the holiest fathers whom you spoke of previously and by the authority of jurists and pious magistrates be more deterred from this [work] by the argument already established than at this point being induced by the annoying demands of others, and perhaps even of the foolish?”

For my part, I am not ignorant of those boundaries which God has placed around my function, neither of the examples that the orthodox fathers offered in the Church of God, nor the authority that God has attributed in this matter to prudent jurists and just magistrates and would thus be vindicated from audacious and gladiatorial feelings. Yet, on this question, in my opinion, anyone who would judge by a just balance its nature and mode as well as its end that even some parts of this should be judged as our [task]. As a matter of fact, it is the nature of this question that one should hold part of it as common and another part of it as singular. The method of it holds itself in such a way that a theologian describes part of its rules [whereas] the magistrate applies his authority and coercion to its parts. Finally, the theologian sets forth the communion of the saints and conscience of whoever is in this communion. The magistrate sets forth this very necessary human society and order in that society. Concerning the former, whoever orders the theologian to be silent, rejects theology. If any theologian labors concerning the latter, he wastes himself and does the most serious injury to the God who calls him, who has been called for the sake of the church, and with respect to this sort of person’s calling: “through being a busy body and meddling in other’s business, it is insatiable presumption” (διὰ της πολυπραγμοσύνης και ἀλλοτριπραγίας, ἢ φιλοτιμίας ἀκορέστου). They are the sorts whom an impudent bribe (δεκασμός) would help, the sort that never cease from [doing these things], unless (as Cicero says) their legs are broken, which persons, so that the punishment should be equal to the crime (which once was stipulated by the Twelve [Tables]) I wish that they were condemned to an uninterrupted vacation! For this reason would it be just for good men, instructed in a vocation and religiously constraining themselves in those things by their own office [to do likewise]? [Would it be just for them] to disguise those things that God commanded to be set forth in the communion of the saints by his servants? Are

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<sup>10</sup> Marginalia: *praef. Naturalis Historiae.*

nature, its method, and goal to be neglected because they are most conjoined with a holy calling? Should the tranquility of weak consciences (as they are commonly called) be neglected?

Indeed, we have said of this question that there is partly a common nature and partly a particular one, because first it pertains commonly to all human beings as human beings, and it pertains to all those who are in charge, as they have been called to a public office. Next, it certainly has a certain singular reason because the latter specifically pertains to a politician and the former to a theologian. As a matter of fact, according to the principles and reason common to all, whether formed naturally in anyone or formed graciously in the saints and the pious, this question and its investigation pertain to all somehow: There is no human being in common, in the church, and still less among those who are in charge, whether jurists or theologians, [for] whom it is not necessary to be imbued with these principles and with this rationale. For each of us, the heart of a human being is proper, not the hide of an elephant,<sup>11</sup> so that they may realize those common notions and may not be stupefied as senseless persons (*ἀνάισθητοι*). If a theologian is ignorant of these principles, how would he teach the conclusions drawn from them? These [principles], by the communion of nature, are for all human beings, being common among them.

Indeed, among those who are in charge, to some degree it is common in a more ample way. For from those principles and common notions of all by certain knowledge, it is necessary that general and specific conclusions be constructed more than by the common people according to their own authority for the common good of human society. Thus, it is fitting to distinguish the magistrates and the jurisprudent more in these matters than the common people, according to the custom of the political order, as well as the servant of God according to the use of the sacred order and the instruction of conscience.

Even so, these very things, in whatever way these may be common to protectors (*των προεστώτων*), by their own bolts have been most providentially shut by God and set apart by boundaries. Whoever rashly moves them deserves the worst thing possible from the republic. Why? The Lord would strike with a curse whoever would move the boundaries of a private field. Is there any Enceladus that can flee the Aetnean fires of that curse if one should provoke the state? Let them pay close attention, I pray, whichever of either page in the rationale of human society they handle according to these bars of their own vocation. For there are

<sup>11</sup> This is a Latin pun: *Singulos nostrum decet cor hominis, non elephanti corium...*



those for their own society of persons that magistrates rule; there are also their own communion of the saints that the servants of God at the fore shepherd and who are established by the best God.

The magistrates construct from the natural principles in the political science general and specific conclusions and appoint individual determinations adapted to human society and order, according to the reason of the eternal law that has been sketched in the nature of a human being. However many theologians and servants of God there are who build upon general and specific conclusions by the natural principles in the divinely inspired science, and, abstaining from individual determinations accommodated to human society and order (which are another kind of approach and investigation), they cultivate the society of the saints and the conscience of whoever is in this communion by spiritual determinations, according to the rationale of the eternal law in the word of God and informed by Holy Scripture. By these boundaries, in my opinion, the whole nature of the latter administrations is so separated and distant from the former that I could not be more bewildered at the people who arise within the span of our memory who are not ashamed to run from the latter administration into the former and from the former discipline into the latter.

We have spoken about the nature of their functions; let us consider their method. Therefore, there is a twofold method that is present in these functions: a common one and a specific one. Even if the rule of nature has been introduced into all human beings, the rule of grace for all the pious has been introduced into them for the purpose of their formation (*informatio*). Yet it is befitting that those who attend to public functions surpass the private ones. First, because they are guardians and administrators of all the laws, as it were of public rules and not only private ones. Next, because it agrees with their own authority as protectors (*προεστῶσιν*) of all for a commendation of the rule, which they determine for others. Certainly these things are common according to the nature of their function to both kinds of human beings, those who are in charge of the community (*politia*) and of the Church (*Ecclesia*), for they also publicly display the rule and have an adjunct authority. Their own authority is just authority of a magistrate by their own ministry in these things that we have previously circumscribed.

Yet, the rationale is specific to both orders, as well as the method also of imposing a rule and of exercising authority. For the magistrate places his own rule in human affairs concerning his own [sphere] and by his own authority. A theologian certainly is one also as well as whoever is a minister of the Word who neither brings his own law, nor from his own, nor by his own authority but

rather brings a divine law from the word of God himself and by the authority of God of whom he alone is called an interpreter and messenger. The magistrate confirms this by gathering the force of the rule and of his own authority. The latter affirms his own [authority] by teaching and vindicates gathering force in sacred and divine things by God alone. These being separate in their rules and authority are plainly unique. If the magistrate neglects his, he sinks the society of human beings, but if the theologian or minister of Christ arrogates them, he is either a wicked servant or a thief in the flock of the Lord and a tyrant!

However, whatever we have said regarding the nature of the administration of both, and concerning the method, by that degree they are especially proved because they [each] have an end that is as diverse as possible. The end that has been set forth for the Magistrate is so that he may look after human society and the common good according to a person in earthly and temporal affairs. However, the end set forth for a theologian is so that he may care for the society of the pious, which we have spoken of as the communion of saints, and for their salvation in heavenly and eternal things according to God. According to both of these ends, for that reason from the beginning there was in these administrations a nature and a reason most wisely established by God separately.

Even if in these very boundaries of administrations there is something common to both, it must be diligently observed by all. For both the magistrate in his own political order assists his own society [in] aspiring to the gate of eternal salvation, and so does the ecclesiastical minister, through the support of human society, and the influence of a good magistrate. The magistrate rules in this life, the minister directs through this one to the next.<sup>12</sup> So then it happens that also of many of their actions there is some communication among their orders; there is not however any confusion (as the stupid [ἀβδηρολόγοι] and ambitious think). What does confusion have to do with order? What does light have to do with darkness? I want one order to be assisted by the other, not killed! Both to be preserved, not ruined! I desire that each would agree on their own nature, method, and ends against the foolishness and wickedness of men rashly in the height of playing and behaving as if they were [sailors] in port.

Moreover, this need is common to jurists and our own: Of the former, so that they may care for the public order; ours, so that we may care for the conscience; of which both are treated in this argument. Let us undertake an equal part for

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<sup>12</sup> *Magistratus in hac vita regit, Minister per hanc ad illam dirigit.*

both in common. What is expedient for the common, let us report of it. I have decided to write upon the prior, not by chance, because I was asked about it first, but yet having been asked also by good men who pay attention to the law, secondly those will supply the things needful (I hope), and what I have spoken of more deliberately, yet perhaps less popularly, those adduced by my example will declare it more fully and conveniently. I declare in advance that I sincerely favor and will favor those who have amply and happily provided for the public advantage in this cause if perhaps led and assisted by the example of my trifling efforts. I do not intend to prescribe to the jurist and magistrate but to report my opinion in this common cause to those demanding their own political conclusions and determinations, which are legally human, by relinquishing wholesale, and the divine conclusions, which are of divine right from the Holy Scripture, by explaining to struggling consciences or to the less certain.

The argument is serious, difficult, dangerous, and undecided, but necessary, by which also the consciences of private persons may be put to rest, and those who are in public authority may more certainly carry out the duties of their calling in good faith. Wherefore surely I am confident about all those things that must be done, which useful and necessary conclusions according to right reason in their own kind and determinations from conclusions according to their method and constitution of things will seem to require to be accomplished from true principles.

This argument indeed, O illustrious orders, because it also touches upon political matters of which in these parts you most happily put up with the responsibility and entirely pertain to supporting the consciences of the pious (as those who are in charge are in charge with a good conscience and because they yield to the same conscience), they could obey and beget a good conscience; V. A. appears to address (*προσφωνεῖν*) and entrust the whole [state] to your wisest judgment. If (as I hope) you will approve of this writing not so much as it is my work but as I desire to be on record for your office by which also your faith in the care of this republic as long as it can be done may give light, and my obligation toward whatever pious magistrate, and especially towards V. A., may be made as observable as possible for all posterity. O illustrious orders, I beseech God the best and greatest Father of our Lord Jesus Christ that He may preserve you safe in his heavenly grace, be present in your counsels, bless your actions, and may He grant each city of this region truth with justice and holiness and felicity for this entire Republic under your protection for as long as possible.

Leiden, October 11, 1593



## Theological Theses

### Concerning the Judicial Laws of Moses and Their Observance

**Thesis 1:** The Law is the ordering of reason to the common good, established by the one who has care of the community.

**Thesis 2:** This Law is either eternal—think of the immutable concept and form of reason existing before all time in God the leader (*princeps*) of the universe—or informed and handed down in time.

**Thesis 3:** That [Law] which in time is either the natural law or that which advenes to nature.<sup>1</sup>

**Thesis 4:** The natural Law is that [which], innate to creatures endowed with reason, informs them with common notions of nature, that is, with principles and conclusions adumbrating in a certain participation of the eternal law.

**Thesis 5:** That which advenes to nature arises to it spontaneously or is infused; we call the latter a divine law and the former a human one.

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<sup>1</sup> *Naturae adveniens*: lit. “That which advenes to nature.” The distinction is between a temporal law that is either internal (*lex naturalis*) or external to a nature. The sense of advene or adventitious in this translation should not be understood as implying something that occurs fortuitously or randomly (one meaning of adventitious), but rather as something originating external to the nature.

**Thesis 6:** The divine Law, which has been inspired by God and infused in rational creatures informs them with common and individual notions above nature, for the purpose of transmitting a supernatural end by a supernatural leading.

**Thesis 7:** The human law, which humans proceeding by reason from those laws, accommodated first to common just, honest, useful, and necessary conclusions, then to particular determinations for the condition of persons for whose good it is born, or of the business of things concerning which it is born, and of circumstances which occur to them.

**Thesis 8:** There is a perfect example of these in the law of Moses. For it declared the natural law in moral commandments, the divine law in ceremonies adjoined to the instructions of grace, the human law by political and judicial precepts.

**Thesis 9:** Concerning the natural and divine law suitable among good and pious people, neither of which can oppose any [of these] without the most shameful injury against God, nature, all, and thus oneself.

**Thesis 10:** The opinions concerning the human law and the judicial precepts of Moses vary, because they have been tempered with human judgments; moreover, human judgments cannot compose either conclusions from common principles or individual determinations from particular conditions that are entirely just for all people at all times for all things, or evaluate others composing them.

**Thesis 11:** And certainly the judicial precepts of Moses are divine in their origin or author, but those things which are spoken about human laws, the majority pertaining to the judicial precepts of Moses, because God indeed personally brought these things [to him] but in such a way that they are still in a human manner.

**Thesis 12:** As a matter of fact all these laws partly obtain their own immutability and mutability; the former always obligate, whereas the latter obligate those under them according to the persons, matters, and circumstances.

## Concerning the Just Definition and Division of Law

Chrysippus, who once spoke about the law, is said to have described its highest dignity, utility, and necessity by these words: “The law is the queen of all of divine and human affairs, which is necessary to be a guardian for both the good and the wicked, the prince and leader as well, and accordingly is the rule of the just and unjust, given for the sake of living beings which are by nature political and inhabit society with reason, instructing those things which are necessary to be done, and in truly prohibiting those things which must not be done.”<sup>1</sup> This is the description of the Law given according to its nature by Chrysippus and others similar to him, or in the same opinion with him. It is by this law that all mortals—with nature as a guide and experience as a witness—have been led from the beginning for the purpose of preserving a certain order in human society, just as they acknowledged its dignity, utility, and necessity. Moreover when the saving grace of God dawned on human beings, from which we are

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<sup>1</sup> Chrysippus (Χρύσιππος, 279–206 B.C.) was a Greek Stoic philosopher. For his work on ethics, see *Stoicorum Veterum Fragmenta*, ed. Ioannes ab Arnun (Leipzig: B. G. Teubneri, 1903) vol. 3, 77. The quote cited by Junius in Greek reads:

“ὁ νόμος πάντων ἐστὶ Βασιλεὺς θεῶν τε καὶ ἀνθρωπίνων πράγματων  
δεῖ δὲ αὐτὸν προστάτην τε εἶναι τῶν καλῶν καὶ τῶν αἰσχρῶν καὶ  
ἄρχοντα καὶ ἡγεμόνα, καὶ κατὰ τοῦτο κανόνα τε εἶναι δικαίων καὶ  
ἀδικῶν καὶ τῶν φύσει πολιτικῶν ζώων προστακτικὸν μὲν ὧν ποιητέον,  
ἀπαγορευτικὸν δὲ ὧν οὐ ποιητέον.”

called and are Christians, for which reason Jesus Christ our savior brought more truth and perfection to the law of that grace, it is necessary for us to pay attention to him with more dignity, usefulness, and necessity in his Church, so that we may be preserved by certain laws in our office, not only as we are human beings, participants in social life and communication according to nature, but indeed, this is also the case especially inasmuch we are Christians, admitted to the communion and possession of heavenly life according to grace, worshipping and obeying here on earth. For to the extent that we may be Christians, we do not cease being humans, but we are Christian human beings; so also we must state that therefore we are bound by Christian laws, not consequently that we are released from human ones. For grace perfects nature, grace does not however abolish it, and therefore the laws by which nature itself is preserved and renewed, restored what has been lost, renewed what has been corrupted, and hands it over unknown. And so concerning this holiest and most useful argument of what is about to be said, however much of the theological rationale is seen to be necessary for calming human consciences, so that it may be understood what it is that is treated, first we will establish our speech from the definition of the law; next certainly by distinct genera of what could be done as briefly as possible, and we will come to declaring and determining that specific genus, for the sake of which this labor has been undertaken.

Therefore, we will define the law in this method according to a certain common and analogical rationale.

**Thesis 1:** “The Law is the ordering of reason to the common good, established by the one who has care of the community.”

There are certainly other definitions already given by most learned men: of which sort the Stoics’ definition is “λόγον ὀρθόν, προστακτικὸν μὲν τῶν ποιητέων, ἀπαγορευτικὸν ἐκ τῶν οὐ ποιητέων” that is, “right reason which commands those things which must be done and prohibits the contrary.” And Cicero, who followed in their footsteps, says that “it is the highest reason, innate in nature, which commands those things that must be done, and prohibits the contrary,” in this manner making the definition more narrow than that which the Stoics once taught.<sup>2</sup> But, because things are most evidently defined by their causes, we preferred that definition to others, especially when other definitions

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<sup>2</sup> Marginalia: *De legibus*, 1.



convey other things, there are hardly ever more narrow things (which is vicious) because we must define what is undertaken in this place.

Therefore in this definition instead of that which others name Law as right reason, which specification is spoken of figuratively, we prefer to express the genus and difference of law more distinctly, saying that it is the ordering of reason. For the genus is the ordering which is an act  $\pi\rho\acute{o}\varsigma$   $\tau\iota$ , that is, showing the perpetual and necessary relation between the one ordering and those who are under the ordering. Indeed the difference pertaining to determining the nature and species of law is expressed by the term of reason. For certainly there are other orderings imported first by nature, then by the will and appetite of created things; but whatever ordering of reason there is, it is so tempered that the reason of the one ordering influences the reason of those who are under [the ordering], and in turn the reason of these would depend upon the reason of the one ordering, at last that truly must be called a law. Whatever things are done in any other way, these are not laws, but must be called customs (*instituta*), unless perhaps someone would want to speak  $\delta\mu\omega\nu\acute{\upsilon}\mu\omega\varsigma$  or equivocally. Accordingly, for the just formation of law, the ordering certainly establishes the genus, the triple mode entirely pertaining to the difference of the law truly constitutes a proper and necessary species of it: of course, the reason of the one ordering, the reason of those who are governed by the ordering, and that very reason of ordering intervening between both. If one of these is lacking, it is improperly called a law. Now truly because a thing itself (*res ipsa*) employed in the enumeration of causes is more easily understood, and the recounting of causes is what will entirely remove all causes of doubt, let us consider in a few words those things that exist in our definition of law. Therefore let us call the matter (*materia*) of law reason, as the subject and whole work of reason placed in the distinction of the just and unjust, which work intercedes between superiors which are in charge and inferiors who are underneath [them]. For even if the law, as it is an act, is properly attributed to the will, because acts are from the will, yet because an act here is ruled by reason which prevails over the will, it is entirely more appropriate that this act is attributed to reason as the master than to the will as its assistant. In fact, the form of that act is called an ordering, because it is the nature of all related things that the very relation intervening between two related terms should properly constitute the form of the thing that is enacted.

We have expressed the efficient cause in these words: “established by him who here has care of the community.” For, if someone to whom the care of the

community does not pertain should desire to set these things in order, while shadowboxing (σκιαμαχνήσας), he would foolishly squander his effort in vain. It is necessary for him to have care of the community, not only by a just zeal, but also by a just calling into the authority, who has been established to order concerning the community, whether it is in fact the whole multitude comprehended in the community or a public person having care of the whole community by a legitimate calling.

The end is the common good. For even if the law also orders concerning individual matters, yet the very individual formations of the law pertain to the common good. First, it is necessary to strive for a particular common good according to its own proper end. Then, in fact, because nature itself constantly teaches that all parts of one body are ordered to the whole; and the reason of one part separately constituted by the thing itself is imperfect, until it is called back to the rationale of the whole of which it is a part.

Certainly, this definition of the law properly and simply is declared concerning every law, which has ever been established among created things, or furthermore can be established. But yet because this very name of law is customarily predicated of that highest reason of divine wisdom which moves and directs all things to a just end, in the same way also this definition of law must be commonly understood concerning that highest reason or ordering. Moreover, that law spoken about analogically and yet not homogeneously (ὁμογενῆς), that is, of one kind with our laws. Therefore, it is necessary also that this definition of the law, which we have asserted in this way, be received in such an analogical way that as these things are said about God they are understood divinely (θεο-πρεπῶς) and as they can be taken by us about God, moreover as they have been enunciated about created things, properly understood.

Just as the definition of law has been received in this way so also must that first division be received in that use about which we are speaking.

**Thesis 2:** “This law is either eternal or informed and handed down in time.”

For even these two species are not properly speaking of the same genus; but only referred analogically to the one common head as it were, although differing in the entire genus. Wherefore also in this division (which genus the logicians call from one to one [ἀφ’ ἐνὸς πρὸς ἓν]) one observes first more and less, the prior and posterior to the nature (τὸ μᾶλλον καὶ ἥττον φύσει πρότερον καὶ ὕστερον) and then also more and less (τὸ μᾶλλον καὶ ἥττον). For the eternal

law and its own nature is prior and by its own infinite virtue entirely surpasses every mode of natural and human law.

We define the eternal law of God in this way: It is the immutable concept and form of reason in God, the master of the universe, existing before all time, without a doubt for the common good (just as it was previously proposed in the common definition) as its conjoined and proximate end. For the highest or ultimate and universal [end] is the glory of God, which surpasses this very universe. In which words, we have asserted that eternal law is above the nature of all other laws (as we just now said). For when we call “the immutable concept and form of reason” the eternal law, we demonstrate that it is pure, unadulterated act, to which extent God is a single energy (*ἁπλὴ ἐνέργεια*), upon which as the universal principle entirely all things (*res omnes vniuersae*) depend. Moreover, when we say that form of reason has been conceived by God and in God for the common good, we manifestly distinguish the eternal law of God from the rest of the reason of the divine wisdom acting and occupying itself towards created things. For the reason of that divine wisdom, which stands forth in acting, moving, and sustaining created things, is occupied for all time in all things, but only concerning that reason of the divine wisdom treated in this place, which he established human beings endowed with reason in the perception of it; so that those things perceived are adduced for just obedience in doing just things and fleeing their contraries in the contemplation of the common good, and which also a private (as we have previously touched upon) and particular situation. For which reason by the noblest right that phrase must be asserted for this law which Chrysippus reasonably predicated concerning the law, “this is the Queen, Guardian, and prince, as well as the rule of just and unjust things, to which is necessary that all political and social living things must be conformed.” For this by itself is the rule; however, I do not present it by an alien communication or participation. This [law] is eternal and divine, and therefore the universal principle and exemplar of all other rules. This [law] is immutable, and accordingly (as we should say with the scholastics) never ruled by any other law. For the rule applies most constantly to all others, this one in the same ceaselessly remains, not through some things here and other things there, and not to other things elsewhere (as Augustine says) but asserts its own eternity and immutable truth in God above all things and rules from every mutation and dissolution. To be sure, why would a rule of all rules not be considered eternal and immutable, when that law is nothing other than the very wisdom of God (*ipssissima Dei*

*sapientia*), determining the reason of the just and the unjust in all things created according to his own image?

Therefore from this unmoved and constant rule, which is of that essential, divine majesty, all other rules exist regulated (in such a way that we say) with regard to created things from this one through a certain communication and participation, some informed by a certain tacit way and instinct, others handed down in fact in a certain, open way, either by the testimony of God or those in whose hands the authority was [placed]. Thus, for this reason the former one is called eternal, the latter existed in time, concerning which we should now speak.

**Thesis 3:** Of these laws which existed “in time,” the first division according to the principles from which it has been made is: “some law is natural and others advene to nature,” because whatever there is in created things entirely either has an internal principle from nature in themselves, or advenes to them outwardly from some acting, external principle and operating upon them. Whatever it is whether innate or agnate and adventitious, it is necessary; there is nothing in human affairs beyond these two seats of principles that can be thought of by anyone. And for this reason because the law is entirely present in created things according to the image of God, it is necessary that it is either innate or it supervenes to this nature. In fact beyond this distinction nothing can be devised or fashioned.

We define the natural or inborn law in such a way that it is proper that the common as well as analogical definition of law posited in principle are necessarily conjoined, because that definition is general and common to each species of laws to which they can be applied, pertaining equally. In fact whatever individual [characteristics] are necessary for definition of natural law as it is natural, we have expressed in this way.

**Thesis 4:** “Natural law is that which is innate to creatures endowed with reason and informs them with common notions of nature, that is, with principles and conclusions adumbrating the eternal law by some sort of participation.” [Those principles and conclusions] certainly remain constantly, just as those things also pertain, which we have placed in that highest definition, to this natural law. For the material justly and unjustly pertains to reason: the form consists in the ordination, the efficient cause is God the author of nature, to whom pertains the care of this universe, but especially the care of human beings. Finally, the end is the common good. But in this specific outline there are three individual things

that we most diligently desire to be observed in the natural law. These things are: the principle, which is spoken of as innate to creatures endowed with reason; the action, which informs these creatures with common notions of nature; and the mode of that law and of actions (think of this because by a certain participation they adumbrate the eternal law).

And in fact concerning the singular and proximate principle, because it is agreed upon among all, we ought not to speak about several [principles], provided that they would observe individually, one is it is treated concerning the common principle absolutely or universally, concerning which we spoke about in the common definition (moreover that is God), the other is if it is treated concerning the common or individual and internal principle, which we call nature, or rather actually ours.

Indeed the work in action of the natural law even if it is enunciated by all indiscriminately, yet it has not been equally perceived by all in every age. In fact because nature's twofold rationale is revealed in the Scriptures, one of integrity in which our first parents were created, the other depraved, into which we have fallen by the same, and we have followed. There is no doubt that in integral nature the natural information and their common notions occurred in some other way, and now in this one it has been corrupted. Indeed because nothing now attains to the present business to discover the law of that primitive and uncorrupt nature and that information, when that distinction has been omitted, well then, let us consider in a general way that work of nature.

Therefore, there are two kinds of common notions (which the ancient philosophers used to call *κοινὰς ἐννόιας* [i.e., common notions] or *προλήψεις* [i.e., preconceptions]): one, regarding the end to which we act by the natural law; the other, regarding those things that pertain to the same end. Moreover, the end of that practical reason, posited in the just and the unjust, is their own good and for this reason it is the first and highest precept of the natural law; the good, as the end of nature, must be pursued and done; evil must be avoided. In fact, notions pertaining to that are of three kinds, just as there is a triple order of inclinations distributed in us by nature. Of these, for instance, some are universal, by which whatever substance is brought to the good according to its nature, applying those things that are suitable for its own conservation, and repelling those things contrary to the conservation of the same. Others, common to ensouled beings, which nature has taught all living things so that individuals serve the interests of the propagation and conservation of their own species, of which sort are the

conjunction of a husband and wife, the education of children, and similar offices. Finally, others are particular to a human being, according to the nature of [their] reason, by which they surpass other ensouled beings, by which a human being inclines first to the knowledge or cognition of God and of all things, then for establishing life with nature as their leader, so that one may achieve the good. Therefore to these inclinations God added also the common notions of nature so that a blind man as to a certain extent is a human being is not plundered [of these], and God has impressed [these] in each human being, which would be the law for naturally inclining a human being to those things, so that a human being, as one individual substance, would discover their own being (so that we are speaking in this way), just as an animal is informed concerning their own species so also a human being truly is informed with reason concerning their own cognition and life.

Indeed of these notions, which we affirm are commonly endowed to human nature, we have entirely stated as two parts, of which we designate one by the name of common principles and the other of common conclusions. We call these principles, which are known through themselves, are immovable, and (as the scholastics call them) are indemonstrable, that is, (as the Greeks have said it better) are ἀναποδεικτὰ [that is, are not reached by demonstration themselves], just as, for example, the principle of knowledge that is innate to the mind is God, in life it is conserving our being (τὸ εἶναι), our species, and justice. We call those common conclusions, however, those things which natural reason proceeding by the light of nature constructs from principles: that God must be worshiped, that our life, our species, and the supports of justice must be procured. Thus for the very work of nature, whether integral, which we were speaking about previously, or depraved, with which we are now concerned, that holy eye of the world most suitably provided for a human being in the natural law, whereas he has written the principles, means, and end of nature with such great suitability in the minds of each person, and the one leading from the principles (which generate those natural inclinations) to the conclusions most suitably proposed a just end, to which we all have been most equally brought by nature as the leader.

However, the mode of those notions and actions of the natural law changed to our greatest evil. For that first mode in integral nature holy and perfectly conformed to the eternal law according to the mode of nature, and it adumbrated that [eternal law] by a certain, perfect participation. Moreover I call it perfect, not according to the mode of that perfection which has been perfected in the eternal law by divine perfection and is immutable, but according to the mode of human

nature, in which just as the image of God was perfect according to the perfection of the human condition as the image of God, not however as God, so the natural law was a shadow that eternal law according to the perfection of our nature, as a shadow, not as the body and substance of it. Where however the particular natural law in a human being was absent from participation and conformity to the eternal law, that more perfect law was the natural one, just as now on the contrary, by which it is absent from that eternal law by far, that natural law present in us must be called such imperfectly. And so this is the reason why in defining the natural law we prefer to say that it adumbrated the eternal law by some sort of participation, because it did nothing for what has been established, if in this passage we would treat a perfect or imperfect natural participation according to the mode of our nature, seeing that neither the imperfect nor perfect nature of a human being perfectly secured or participated in the eternal law according to the mode of the [eternal] law itself, but only to the extent that it had adumbrated [the eternal law] in itself according to the mode of our nature. Thus far concerning the natural law; now let us pass to that which supervenes upon the natural [law].

It was necessary to develop two approaches to the natural law, so that it refers to the human race first according to this our present life, then to that future one. For because the natural law is of common things, however, let us each occupy ourselves with those common things in particular and individual things; it was necessary that the other adjunct of natural law be applied, according to which particulars and individual things are directed to the common law. Truly no human being living—even according to integral nature—would have become cognizant of supernatural life and grace (which leads to life) by natural law or even would gain [supernatural life] naturally. It was necessary that the grace of God produce a law superior to nature. In both cases there is our imperfection. In fact, because the natural law is imperfect in us and we also struggle from such great imperfection and infirmity that to which we arrive to a greater extent at individual things, consequently more fully we descended into base and unworthy failures from that natural law. It must be seen of necessity so that certain things just as fences and barriers were placed around us as a human help so that we would not rashly wander from the natural law. Moreover because God graciously decided to exalt us above nature, so that we might be given a supernatural and eternal perfection in Christ Jesus, also it must be seen that in God the author and leader, who is the way, the truth, and the life, we would have that law of the way, the truth, and the life.

**Thesis 5:** We have expressed this distinction in evident words in the fifth thesis saying, “That Law which advenes to nature” or to the natural law, “either originates it or is infused.” Moreover, originating is nothing other than nature, protruding as it were, approaching to that natural law which we mentioned a little while previously; infusing is nothing other than the heavenly principle over us all and derives our nature in us. From this, moreover, it entirely follows that, just as the thing itself is an off-shoot (*παραφυάς*) or a budding sprout that is inferior to the trunk from which it sprang and upon which it depends. So, also, that law of nature that arises is inferior to that natural law, and is ancillary to the same. However, on the opposite side, that higher one which advenes in a heavenly way is the arbiter of the natural law wherefore we call the latter the divine one, as it is from the one God; the former we call human law, as it is from human beings, a public order from the code of that natural law and the common necessity for restraining them.

We define the divine law in this way:

**Thesis 6:** “The divine law is that which, because it was inspired by God and infused in rational creatures, informs them with common and individual notions on top of nature for the purpose of transmitting a supernatural end by a supernatural leading.” In fact we previously spoke about this definition, pious readers must be reminded that we are treating the divine law according to its substance and genus, not however according to any of its external forms as it has either been enunciated in the spoken word or expressed in legible writing. For whatever has been enunciated or written by the authority of God, then that indeed is of the divine law, but it must not be necessarily asserted for the whole substance of the law or the divine law in general and universally embraced. Therefore on that account we have distinguished the latter divine law from the former eternal law, whose nature we have described above, because it is not the same as the eternal law, but is proximate and most closely associated with it. Indeed the eternal law is divine law; more correctly (if anyone would attend properly to the thing) it is more divine than this very one which in this place we call divine. For the former one is divine in all modes, the latter is divine in principle and according to a certain mode only; the former is essential to the divine majesty and is therefore incommunicable (for what essential of deity could be communicated to created things?), we participate in the latter by a gracious communication. But we call this the divine law in this instance with qualification [in a certain respect] (as they



commonly call it),<sup>3</sup> not however simply, as in a simple mode that eternal law is divine. For here we do not treat the divine law simply, but with a circumscription or certain proximately preceding determination, since we have spoken about the law that advenes to nature producing it spontaneously or infusing it. From which words we have plucked that out not only that the eternal law as essentially divine, incommunicable, foremost, the rule of rules, and never ruled by another rule (as we have previously said) is treated of here, but that speech about the properly divine law is accepted; [a divine law] that advenes to nature and time, is not essential but adventitious; is not incommunicable, but communicated; is not the foremost rule of all rules, but nevertheless proximately pertains to that foremost rule, inasmuch as with respect to its image it has most certainly been given by God, so that by it we may be drawn to the contemplation, cognition, and admiration of that eternal law. For that [eternal law] is the rule of all [rules] according to the measure (*modus*) of divine majesty, which is infinite. The latter rule is [a rule] of humans according to our little measure (*noster modulus*) by a certain measure, to whom God accommodated his own revelations and communications by a little measure.

Therefore, this divine law ought to be defined in a certain way, as we have done in circumscribing the natural law. We have posed three things which pertain to determining this law properly and specifically: its principle, action, and mode.

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<sup>3</sup> *Sed legem divinam hoc loco secundum quid (vt loquuntur vulgo) appellamus, non autem simpliciter.* The *Secundum quid* is a logical specification literally meaning “according to something.” As Junius points out by his further explanation, this must be understood as a qualified example not summative of the class. In modern logic, it is common to refer to the fallacy of hasty generalization as a *secundum quid* or properly a *dicto simpliciter ad dictum secundum quid*, although formally they are distinct. A hasty generalization in modern logic is moving from a small statistical sample to a broad generalization and represents an error of scale, whereas classically the *secundum quid* is a neglect of proper qualifications in definition. Junius is carefully specifying and nuancing his definitions in order that the reader may avoid the pitfall of the latter fallacy, which if perpetrated here would collapse what he is calling divine law in a particular manifestation or circumstance into the eternal law that is referring to one of or a cluster of God’s incommunicable attributes. In fine, such a fallacy would neglect the relationship between the incommunicable archetype and the communicable ectype as respects the eternal law and the divine law.

We expressed its principle in these words: “what has been inspired by God and infused in rational creatures,” also the actions for those, “it informs those [actions] by common and individual notions above nature,” and finally the mode for those, “for the purpose of transmitting a supernatural end by a supernatural leading.” And certainly in the first place regarding the principle is agreed among all, to which even nature witnesses. For just as the principle that God exists is natural in us, so also from this principle there is a natural and most certain conclusion that God acts according to that which he is; God speaks and communicates his speech according to his mode with his own creatures. Since these things are so, necessarily it is proper that we circumscribed the mode of that communication or the mode of the acting principle by the words of “inspiring” and “infusing” so that at least in some way we would understand the principle of divine communication with human beings. Moreover, in every communication a twofold mode is observed: (1) how the communication proceeds from an agent, and (2) how it comes to others and is perceived by them. The mode of procession, or how the divine law proceeded from God, is demonstrated when we say that it has been inspired. For thus we teach, with Scripture as our witness, that as God is spirit, so he also acts and speaks in the spirit; it is required to seek nothing according to the flesh, or the corporeal mode simply speaking in this whole action of God. Moreover as it proceeds from the divine law, so also it proceeds to us, who, because we are constricted vessels, inept to perceive the plenitude of his revelation, consequently we gain a fuller kindness from God, because he infuses his own law by the same spirit, and gradually and instilled it in our spirits by his own power (*virtus*). For the natural law ingenerates its own precepts (*praeceptiones*), and human law commands in a corporeal way, but the former one is inspired and infused by the spiritual mode of divine grace.

Moreover, it is necessary for this divine law to be present in us in some way, because “it informs us with common and individual notions above nature.” We have previously explained the two genera of notions and defining natural law, namely as (1) the principles and (2) the conclusions arising from the principles by ratiocination. Also, no good man would deny that the same rationale is observed by the grace of God which communicates his law. For there are the supernatural principles that have been inspired and infused by a supernatural virtue from the Lord, the conclusions shown to us from the same principles, and we who believe in a supernatural way. For even if by natural law the principles and conclusions that are natural according to human reason are present in human beings, never-

theless it is necessary that other principles above nature be inspired and infused by God, so that we may know that end to which we have been ordered above nature, and the truth which certainly would lead to that end. The end is God, the end is ἀνατάληπτος or incomprehensible, unless he personally would show it as it must be comprehended by us. The truth which would lead us to that end could not be known by anyone through nature or by the strength of nature, indeed particularly with respect to the darkness of ignorance and the abyss of sin in which our nature has been immersed. For if our intellect (as even the most outstanding philosophers once acknowledged) holds itself in such a way according to the most manifest things of nature as the eye of a little owl does to the light of the sun, and accordingly the truth of these things investigated by reason, we do not perceive unless by a few people and that after a long time, and thoroughly mixed with the most number of errors possible. What, I ask, would we say about the attainment of that supernatural end and the knowledge of that truth? This indeed is not the light of the natural knowledge but the light of the superior knowledge, by which light it is necessary that each of us in this infirm nature be illuminated by that divine inspiration and infusion, which is done so that we may grasp the principles of that superior light and knowledge.

Moreover of these principles and conclusions beyond nature, which God drives and excites in us, the mode has been established by the twofold grace of God. For it both commonly exhibits the proofs of heavenly grace and individually by his spirit informs his own in a true consciousness of the divine law. And for this reason just as by their very nature a human being is endowed with a double sense, commonly by the natural law, as (for example) “you shall not murder,” and individually by the testimony of conscience “but you have murdered” (for of this witness, as Paul says, individually it accuses or excuses someone) so also was it necessary for God to employ a twofold testimony, by which he might inform us. The first, by common notions of the mind, the other, by individual notions in the conscience, so that the use of the divine law would accomplish in us by that most common salvation, sometimes even by an individual witness and revelation of that, applied ordinarily or extraordinarily. And so we have established the mode of these actions as best and suitably to the truth as possible, since we might say that by these actions creatures “must be transmitted to a supernatural end by a supernatural leading.” For just as the acting principle in us for the information and cognition of divine things is natural, so also it is necessary that the supernatural principle by which we are led into obedience of those preceptions and notions

act in us, whose acting principle in us and supernatural leading which moves us is its efficacy, so that by its strength alone—not by any faculty of our nature—we may be transmitted to that supernatural end, no differently than a javelin is moved and transmitted to its proposed target by a javelin thrower. Therefore it follows most certainly, which we said in defining the divine law, both that its principle is supernatural and also a supernatural substance, work, and action, and likewise its mode and end transcend nature, which matters not even the former integral nature in which the first human being was created would have secured it by its own strength, but only by a divine communication and operation of grace. How much less in our misery, by which disaster of ignorance and sin it would have been lain prostrate?

**Thesis 7:** It remains that we should consider human law that we define in this way: “Human law is what human beings produce proceeding by reason from those laws, accommodated first to common conclusions as just, upright, useful, and necessary, then to particular determinations to the condition of the persons to whose good it is brought, or whose matters or business concerning which it is brought, and of the circumstances which occur.” Moreover, in this definition, just as we likewise have shown in superior [laws], those things are not repeated which have been posed in the common law in that first definition, but those things are almost only applied, which make for constituting the distinction and species of this law. Wherefore indeed first it must be remembered about this law, as concerning superior ones, that there is also the ordination of reason to the common good, established by the one who has care of the community. But in this human ordination a special circumscription from three places must be especially sought, of course from the principle, action, and mode of it, as we have demonstrated was done in the nearest preceding definition.

The principle of the human law is distinguished in two modes from those about which we have previously spoken. For neither is essential to God as that eternal one, nor is simply by nature, as that one which we call natural, nor is by God, as that divine one which we described in the last place, but it is from human beings, from which it is called the human law, and human beings bear it proceeding from the common principle of the laws, what we call reason. But yet human beings bear this in such a way by which it is an authority, that human law as if it has been born of antecedent laws, not however comparing with those the principle as if [it were] immediate, the authority, and its dignity, which distinc-

tion we were proposing with evident words, saying, that human law is born by humans, when they proceed by reason from those other preceding laws. For the proximate rule of human law is twofold: one innate, which we call natural law, the other inspired, which we call divine. Moreover, these two laws proceeded from the eternal law, as from its own immutable archetype. Therefore from these sources, human law proceeds. The latter is the birthplace of the former, from which if a law wanders, it is degenerate, unworthy of the name of law, and if by the same name (*δμωνύμως*), or in general, it is called (as they say) equivocally.

Moreover of the actions or works of that law, there are two genera, which we have expressed in our definition by these words: “accommodated first to common, just, honest, useful, and necessary conclusions; then to particular determinations.” For either from innate principles, which are taught by natural law, or from inspired [principles] which are taught by the divine law, streams ought to be led; from those two sources, entirely these two kinds of actions proceed and flow, think conclusions and determinations agreeing with those conclusions. As a matter of fact, from both of those laws, these two streams are led in two ways: first, when from common principles certain laws are derived by the ratiocination of our mind through the mode of conclusions, just as from a common principle, no one strives to be afflicted by evil; the conclusion follows therefore one must not murder, commit adultery, steal, and so forth. The other, through the mode of determination, as when from that common conclusion that whoever would murder, commit adultery, and so forth must be punished, the determination of this or that punishment exists by the force and authority of human law, for example, of a more atrocious or trivial one as by noose, sword, fire, stoning, fines, and similar things. Moreover by these conclusions which human law defines, because they have some force from the natural law from which they are derived, we have added two attributes in the definition: The prior is what are called common conclusions, of course so that they may be discerned from particular conclusions and an individual right, which pertains least to the nature of human law, but rather to private law (*priuilegium*), as it is properly called by the Latins. By us, however, it was not our intention to speak about private law because it is attached to the specific, for it does not seem to properly pertain to the rationale of the science. Later, the attribute is set aside from abundance (as they commonly say), when we have said that the just, upright, useful, and necessary conclusions are produced from human law. For otherwise, this very attribute must be entirely understood from this, which we have said that human

law is born from human beings proceeding by reason. Reason, however, does not produce any conclusions in itself, or for anyone it commands, unless what ought to be most closely connected with right, honesty, usefulness, and necessity.

The other work of human laws we have expressed in the term of determinations. Moreover, we call determinations that part of human law, which circumscribes whatever of those natural conclusions by specific (as we call such) boundaries, not by the authority of nature, but by the judgment rather of the most wise persons, the common right of nature specifically in the mode of accommodating individual things, just as we were saying previously in the example of punishments. From which it happens that those particular determinations would not obtain from any natural law, but from its own human force alone.

Indeed, of these actions and operations of the human law, a mode is posited in those things that we call a just proportion (*commoditas*): the object of which just proportion are in three genera (unless my mind deceives me) for the sake of specific determinations [of] difference. For either they are primary objects whose good is seen by natural, divine, and human law, or as secondary objects which are ordered to the former ones as to their own end, or finally they are accidents, by which both of those generally are customarily clothed and change in a certain way. The first of this kind are persons, whose laws are born to the good. The second of this kind are things, matters, and deeds, from which laws are born. In the third are counted circumstances, first which necessarily accompany persons and things ceaselessly, as are time and place, next those which vary through vices and by a perpetual succession, such as mode, causes, instruments, and similar things. For when the condition of persons, things, and circumstances of all would vary first in themselves, then also among themselves, equity demanded that by human law concerning those individual things, one might take head suitably to nature and the public order, just as in the following examples produced from the law of God will be manifestly demonstrated.

## Concerning the Law of Moses and the Substance of It in General

After we briefly explained about the laws that are common, it seems to demand of us a right rationale, in order that we may consider the law of Moses, on account of which this writing has especially been established. We commonly call the law of Moses those five books written down by Moses at the command of God and deposited in the sanctuary by those who serve the church and most religiously maintain it. In these books are contained some descriptive things (διηγηματικά), things placed in the narration of human deeds and of divine promises, other conventional things (νομικῶ), or things pertaining to the substance and mode of the law. We especially desire these things to be understood by the appellation of the Mosaic law in this our case, which pertain to that moral ordering of reason, which we have previously circumscribed, not to the narration comprehended in those books of matters previously done or of promises.

**Thesis 8:** “Therefore, in this law of Moses,” that is, in that legitimate part that is diffused through those five books as blood through the whole body, we have established, supported by the truth and authority of God, that it is “a perfect example of” all “those laws” about which we have been speaking. An example is demonstrated in this way: These things have been done according to the form and mode of one or several examples. These examples are said to be the law of Moses that has been made according to the example of the eternal, natural, divine, and human law; therefore, it is an example of these.

It will plainly establish that this is an example of the eternal law if we should show that it is an example of natural, divine, and human law, because the eternal law is an immutable example of all of these, and these in turn are an example of the eternal law.

Moreover, the law of Moses is an example of the natural law, most suitably expressing the common notions of nature endowed by the natural law. The principles and conclusions of the natural law, that is, those common notions of nature perfectly expressed in the law of Moses that in the nature of man have not only been corrupted but also have existed in the integral and original (*primigenia*) [nature]. In our corrupted nature there are the same common notions, which were previously in the integral one, but, just as that very nature has been corrupted by the deed of our first parents, in whom was the principle of our nature, in the same way the notions and principles of this nature as well as its conclusions received the defect of corruption and depravity. Moreover, all these principles that now in us have the highest degree possible of depravity, those things were once integral in our first parents according to the perfection of our nature by the faculty of that law that we call natural (as the apostle teaches in Romans 2). I asserted these things are vindicated from corruption by the highest perfection in the law of Moses, and, according to the integral [nature], they are restored against every impiety and injustice of human beings suppressing the truth and righteousness. Finally, they have obtained their own perfect life and dignity in themselves by a perfect declaration of the law. We can confirm this moral perfection by most evident examples, and Christ in Matthew 5 is an interpreter and witness greater than every exception, asserting that the perfection of the natural law has been declared in the law of Moses. One example at present would suffice concerning that vengeance that they call particular. This corrupted nature of ours approves so much of vengeance that even certain ones of the greatest philosophers (I except Plato and other minor ones) believed that the right [of vengeance] proceeded from the natural law, and Aristotle enumerates it among the works of magnanimity. This is a work of the corrupted nature, whose law of nature is so corrupted that now that most pernicious evil seems to be present from the natural law. Indeed, awakened from the torpor of our nature, and called back to the pure sources of that nature, one perceives that such vengeance is adverse to the law of nature because the principle of the natural law is common so that we would not curse anyone. From this principle exists the conclusion that not even the one who has undertaken the offense must be cursed, neither



the person wrongfully charging against us, nor the one fallen through our own particular vengeance and being driven further into evil. Moreover, this law of Moses so perfectly asserted this (Lev. 19) that nothing could be stipulated more clearly or evidently. It is also generally said in the law, “you shall not avenge,” and especially that private and diabolical vengeance is continuously prohibited in such a way that not even to one’s own donkey or beast of burden by which we are offended is one allowed to damage by one’s desire for vengeance. Thus, God preferred to call back our corrupted nature from that miserable and ruined corruption to its integrity by the law of Moses (Ex. 23; Deut. 22) and revive the preestablished example of natural law.

Moreover, as there is a perfect example of the natural law in the law of Moses, so also let us confirm that there is [a perfect example] of that divine law by more evident arguments. Because the divine law is supernatural proceeding from God, the law of Moses is that very law that God allotted to his own church for those times so that he might set forth supernatural proofs of grace, first by clear commands then also by types and ceremonies, nor was there formerly any other law given by God or afterward confirmed by the testimonies of Christ himself and of the apostles. From this [point], we have entirely established that [to be] a perfect example of that divine law, which from the beginning God graciously communicated to his church for this reason, just as by the most certain symbol of that divine and supernatural law, on which God most frequently and in many ways bestowed a supernatural testimony.

Moreover, concerning the example of human law, what is there necessary to say now? All human institutions seem to exist as much as possible in the law of Moses, which flow forth not from the source and principles of nature simply, nor from the divine law, but are accommodated to human and political conditions. Therefore, it must also be noted that the entire political and forensic temperament of the genus was established in the law of Moses by God. Moses with such great reverence always abstained from his own judgments and authority so that even in minor matters he consulted God and depended upon his authority. Finally, these very laws were never recorded in the authentic book of the church except by the singular command of God. Therefore, who would not see that a human law and political and judicial examples has been declared in the law of Moses, and the latter is an example of the former?

Thus, in fact, we believe that the examples set forth in the law of Moses were in the mode of perfection, which could be comprehended by people at that time,

and for this reason the law of Moses is not only an example of those laws, but we most piously affirm [that they are] a perfect example [of law]. When we say that it is perfect, however, we do not understand by that perfection that the law of Moses is perfect as we call God perfect, to whom nothing could be added and whose perfection is infinite in all ways, but we understand this perfection [in the sense] in which there is nothing imperfect that could be taken away, in which whatever there is, is perfect being free from imperfection, or (so that we may speak more plainly) we understand it as a limited perfection (as they say) according to a moderated mode of the thing that is delivered and of those things by which it is handed down. Whatever is in the law is perfect . . . , yet that very thing that is perfect in the law is more perfect in the gospel because the gospel pertains to the fullness of times. The mode of created or communicated perfection is twofold in all matters that are liable to mutations: one is of a perfection absolutely speaking and the other comparatively speaking. We call that an absolute perfection in which nothing [more] may be desired that pertains to constituting the nature of a thing as just and full. Indeed, we call this perfection comparatively in this place that according to the order of nature tends by certain degrees to that absolute perfection. For example, a man in an upright age has a perfection of his own nature according to its mode; indeed a boy has a perfection of his own nature according to his rank, which perfection if compared with the state of manhood is an imperfection; if it is considered in itself, it must be called perfection, but nevertheless it is born by nature to a greater perfection, just as it is customary that every imperfect thing with respect to time is prior to the perfect and always strives to perfection by the law of its own nature. For which reason moreover perfection of mutable things is successive (as they say), so also is the [perfection] of the proofs pertaining to those things. A boy is taught principles in one way, men are taught the perfection of the science in another, even if both modes of teaching have one perfection according to their principles and seeds. For this reason the law of Moses according to its principles contains the same perfection that we believe is contained in the gospel, yet in a posterior mode of perfection because it is of minors as if a tutor has been given so that they might rise to a more perfect teaching. Here there is that mode of perfection according to which we call the law of Moses a perfect example of the natural, divine, and human law so that it hands down whatever principles of that law perfectly by the thing itself or by his own example and lacks every imperfection, seeing that the perfect wisdom of God ordained it so that it would convey God's adolescent church to the perfection of the gospel.

Moreover, because we say that a perfect example is handed down by that law whether in the thing itself or in the example, we affirm that by certain counsel, because the ectype (ἔκτυπον) is in fact an example of the natural and divine law (that is, an example from the type of those things and an immutable rule by the goodness and thoroughly unsearchable wisdom of God) indeed an example of human laws is not the ectype (ἔκτυπον) but the antitype (ἀντίτυπον), not fashioned by Moses from the rule of human laws but consequently communicating with them because all human laws are examples of those [ectypal laws], patterns, or types of other laws not necessary. Therefore, even if this example must be placed before other examples of human laws, because it is perfect it corresponds with all good things in every genus, which praise no one can attribute so certainly to other human laws because this one has been set forth, confirmed, and sanctioned by God with a solemn witness; however, those others have not.

**Thesis 9:** Moreover, of these laws, I assert that the authority of the natural, divine, and human [ones] are observed to vary. Of the former, I say that the authority of the natural and divine law is posited among good and pious people without any controversy, seeing that their authors entirely vindicate both from all controversy, doubt, and suspicion. Nature proves the natural one; God proves the divine one from which authors their names have been assigned. Moreover, all human beings sense and acknowledge that nature testifies of its own law, evil persons oppose them (snatched away in their own individual pursuits), and the good cherish them. In fact, most generally sense God's testifying, and only the pious perceive this most effectively through the communication of the Spirit. Since these things are so, we have most truly established that "neither can it be opposed by anyone without the most shameful injury against God, nature, everyone, and thus against oneself." How does one who opposes his law not cause injury to God when God is the one universal principle of nature and of all things that are in nature and of the common and individual principle of grace in his own Church? In fact, would not a person be injurious to his own nature who attempts to uproot the law given by nature and impressed in the minds of all? Could one be pronounced just among any human beings who afflicted God and nature itself with the most atrocious affront by violating those sacred and inviolable laws? Finally, could it be supposed that a person would always be just toward oneself, who also deprived himself of his own principle, in whom he lives, moves, and also exists and would forget all things as if its outlines most evidently led and explicated in the natural and divine law? If of these laws there

is such great authority, it cannot be doubted by anyone that the law of Moses is by the same authority as it hands down the natural and divine law, renewing the antiquated principles, restoring what has been lost, communicating the unknown, and revealing the divine in a human way.

**Thesis 10:** “However, of the human law and the judicial precepts” that are in Moses, it is not marvelous if “opinions vary” or that concerning its authority it is insufficient among us. For when the condition of human beings will vary as much as possible as if it were floating indefinitely, then the judgments about their conditions will vary and then human laws will vary according to the condition and judgments of human beings. In all these very things not only does this one disagree with that one but one and the same majority differ with themselves. Finally, by themselves in all things a weak-minded person (*ευριπος ανθρωπος*), which is customarily spoken of as common, that on the contrary would be with the greatest admiration the worthiest if in the judgment concerning the authority of the judicial laws of Moses, and, concerning human laws, all human beings would agree among themselves. The greatest weaknesses of judges is their variety and their incredible diversity, even in more trivial matters. In so great a matter which of the judges believes that certainty, stability, and consensus is obtained? Indeed, nevertheless we must strive as long as something can be done for it. The judgments of human beings may be united because the greatest amount can be accomplished for this matter if we would uncover the causes of those evils that twist human judgments. We intend to say a few things now about this argument.

This order of human judgments has been established by God and by nature so that reason would draw out the principles from the intellect. From the principles, it would connect conclusions, and, from the particular conditions, it would cause just determinations, individual ones, all, entirely, in every time, for all things. It would observe other things caused by just reason. Moreover, in all these for individual matters our judgment falls apart. First, the intellect does not have those common principles made clear and disentangled as would be necessary for rightly making a judgment about such great things; nor is the will serviceable for exciting and cultivating the intellect, as it is proportionate, from which it happens that obscure, muddy, imperfect, impure, and vicious judgments are drawn from a muddy fount. Next, indeed it is a weak, imperfect, disturbed, and depraved reason, which is held to make conclusions from whatever sort of principles derived from our intellect, whether it is impeded by one’s own darkness

or it would be obscured and transferred to individual pursuits, to which the will is carried away by all moments, innumerable modes, objects, and occasions. Next, so that it may build on just conclusions in a certain way from indubitable principles, the particular things themselves, concerning which it is necessary to establish our judgment through our own conclusions from principles, are so obscure to us in view of our infirmity in the nature of those things and in their innumerable number (so that we may speak in such a way) that water always clings to us, as those who grasp about say when in a gloomy mist—especially if we pay attention to particular conditions of these things concerning which it is necessary to be judged. Not only do the things themselves vary by nature, but also some conditions in themselves pass through individual moments to others that no creature, though the most sharp-sighted and plainly lynx-like,<sup>1</sup> not even by heavenly ones could perfectly recognize unless instructed by the gracious strength of God over their nature. Yet, without this knowledge of things in particular conditions, what judgment can be made that is clear and tested? How can just determinations be applied to a certain judgment? Accordingly, that perversity of judges, accordingly the difference according to which we neither make individual just determinations with reason, much less for all things, nor entirely, nor for all time, nor for all things, nor do we properly turn our attention to doing other things if or when we make just determinations. From so many and so serious impediments, it follows that human laws have been handed down variously, and various things have been judged concerning them.

**Thesis 11:** Moreover, because the law of Moses is one, we cannot ask about its variety (for it is one, certain, and definite), but concerning its judicial commands that certainly pertain to the genus of human laws we recall that opinions of human beings vary according to some certain mode, so that to its judgments given by God, our judgments rashly and sinfully cause injury. Therefore, we certainly distinguish the law of Moses generally from other laws because the whole is by God its author and embraces the whole instrument and perfect example of all antecedent laws, which two things most powerfully lead us to confirming and guarding its authority and extolling it above all others. From these two is certain that the law of Moses with its own origin in principle and in its substance is

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<sup>1</sup> In ancient Greek mythology, the Lynx was said to be a ghostlike creature that could see everything in the forest without being seen.

divine. Now, however, because we did not decide to speak about the whole law but only concerning that part of it that has been placed in human judgments and courts, at least by that argument judicial laws and courts of Moses witness to others because God their author is most certain; neither in principles nor in any conclusions, nor in the knowledge of individual things and conditions, nor in the case of determinations, nor in any other thing can err or be led astray. Indeed, this must befall all other legislators because they are human beings, to whom nothing human is foreign; however, God personally is the very eternal law and universal principle of all sacred laws that either are from nature or grace or are sanctioned by human beings according to the order of nature and of grace itself.

Although in fact with respect to its principle and origin this part of the Mosaic law is plainly divine, and for this reason it simply obtained its divine authority among the Jews, yet, because God conformed part of the law to human laws and in a human way, they have acted unjustly who have contended that this judicial law of Moses is divine in all respects because it is divine in its origin.<sup>2</sup> From one perspective it is ignorant that conclusions about the whole are constructed in this way: the judicial laws of Moses are divine in origin, therefore, they are divine in all ways, especially when the origin of the thing advenes publicly; however, the mode of the thing from whose matter and internal form of it is especially acknowledged. Moreover, the matter of those things is mutable in itself; the form indeed of the law of the courts was established by God according to the mode of those things at the time, not forever,<sup>3</sup> if you would have considered [them] according to human laws in themselves and the courts of Moses.

**Thesis 12:** Therefore, we have stated that even if these laws that we call judicial are divine in origin, yet, in themselves, they are according to the nature of other human laws that human beings produce and that have been modified by God so that with respect to their principle and end, they are in all respects divine and immutable. Indeed, with respect to their matter and form, certain distinctions that must be observed come forth so that human infirmity is not attributed to divine things or that divine authority and perfection is attributed against human things. “In fact all these laws” not only other human ones and certainly even the judicial

<sup>2</sup> *Inique fecerint qui Legem hanc iudicalem Mosis per omnia diuinam esse contenderint, eo quod ortu diuina est.*

<sup>3</sup> *In aeternitatem:* lit. “unto eternity.”

laws of Moses, “obtain their own immutable part and mutable part.” Moreover, because the force of the laws exists so that by their own authority they oblige those to whom the laws are brought, it entirely follows from this: There is something in human laws or even in the Mosaic ones that is immutable; therefore, it always and immutably obligates human beings as if it were an inflexible bond. Indeed, whatever is present in these laws that have a condition involved in mutation do not always bind and obligate those subordinate to it according to the will of the one who produced the law and the mode of the persons, matters, and circumstances that are present. For God, even in the judicial laws of Moses, sanctioned the things instituted of this sort, which also had a condition of mutability and of mutation by his will, whether expressed or tacit and that were conformed to those persons, matters, and circumstances, the whole reason of which is different from the present reason of persons, matters, things, and circumstances of ourselves or of others. It remains, because there is an immutable part of these judicial laws in a divine way and a mutable part in a human way, so that thereafter concerning what is immutable and what is mutable in the judicial laws of Moses equally as well as of other human beings, let us consider [this] separately.