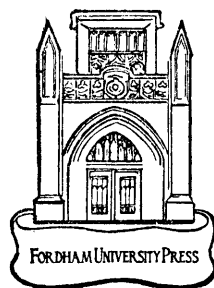


**THE POLITICAL ECONOMY OF
JUAN DE MARIANA**



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THE
POLITICAL ECONOMY
of
JUAN DE MARIANA

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With a Foreword

By **EDWIN R. A. SELIGMAN**
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FOREWORD

IN the field of the history of Economics there are still vast tracts untilled and even uncleared. Among the more important of these unreclaimed stretches is the economic literature of Spain. We forget that Spain was at one time the foremost European country in both wealth and politics and it would be surprising if there had not been an active discussion at the time of the many important problems which arose out of its economic life. This economic literature is almost wholly unknown in foreign countries.

For many years I have been interested in this Spanish literature, and have been eager to find some one who might be competent to, and disposed for, the undertaking of its study. In Father Laures I finally discovered a scholar who was exceptionally well qualified, with his careful training in mediaeval lore, his unusual linguistic accomplishments, and his thorough command of Economics.

I accordingly urged and abetted him in the present treatise, rather regretfully, I must now admit, for Mariana and his times from an economic standpoint have always greatly attracted my interest.

Mariana's fame, or rather his notoriety, as a monarchomach, has caused the modern world entirely to overlook his substantial achievements in the field of Economics. Mariana, however, was only one of a group of Spanish scholars who

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made noteworthy contributions to the field of Public Finance as well. Accordingly I urged Father Laures to broaden his researches in order to be able to make a comparison between Mariana and the other Spanish Jesuits who attained prominence in this field.

Father Laures has attacked his problem with commendable zeal and enthusiasm and has made good use of the original sources. He has in my opinion given us a distinct contribution and has enriched the history of economic doctrines with a noteworthy study which will, I trust, before long lead to equally noteworthy successors.

EDWIN R. A. SELIGMAN,
McVickar Professor of Political Economy
Columbia University.

New York,
February, 1928

AUTHOR'S PREFACE

CERTAIN names in history cannot be mentioned without arousing a sense of indignation. The Spanish Jesuit, Juan de Mariana, is, for example, considered by many the typical representative of that "Jesuitical teaching" which threatens the lives of sovereign princes and rulers. For these people Mariana and regicide are inseparably connected ideas. Until recently very few, even among scholars, took the trouble to inquire further about this strange man who caused such a stir in his own day. That he was one of the greatest of Spanish historians and that he wrote learned treatises on divers other subjects was seldom noticed. Mariana taught one false and fatal doctrine and that has sufficed to condemn him; he did one wrong, and so all the good he accomplished has been overlooked. Prantl, in J. K. Bluntschli's *Deutsches Staatswörterbuch*, goes so far as to sum up Mariana's political philosophy in these words: ". . . to put it briefly, the conclusion is that a tyrant can be deprived of his power and of his life by anyone."¹ Nor is Ranke's judgment much fairer. He confines himself to saying that Mariana shows a "manifest predilection" to decide all questions concerning ruler and ruled "without reserve to the advantage of the people and the prejudice of the princely authority, and that he pronounces encomiums replete with pathetic declamation" on Jacques

¹Kurz, das Resultat ist. "Der Tyrann kann von Jedwedem der Herrschaft und des Lebens beraubt werden." *Deutsches Staatswörterbuch*, Bd. 6, p. 539.

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Clement, the assassin of his king. Ranke also believes that "the fanaticism of the murderer had without doubt been inflamed by these very doctrines."¹

A modern scholar who is neither a Jesuit nor a Roman Catholic offers an explanation of the matter. He says: "Prejudice has above all the effect that one does not or cannot understand a person because one does not listen or want to listen to him. This is the spirit in which Mariana is usually treated."²

Within recent years, however, Mariana has been studied by impartial critics. Until about sixty years ago he was mentioned only for his teaching on tyrannicide; then suddenly in 1870 the French writer, Pascal Duprat, surprised everyone by ranking the ill-famed Jesuit among those great men who had developed the principles of Political Economy nearly two centuries before the classical economists made it an independent science.³

Referring to the then recent republication of Mariana's treatise on money, which had been forgotten completely during more than 200 years, Duprat wrote: "One knows Mariana today for little more than his *General History of Spain*, which is still cited occasionally, and for that bold book on royalty which at the time had the honor of being burned by the public executioner. The Spanish Jesuit has, however, left other writings more or less noteworthy, and among these is one which deserves a place in the history of economic thought. It is a treatise on money in which the author, preceding the masters of a science which did

¹ *The History of the Popes*, by Leopold von Ranke, translated by E. Foster, Vol. 2, p. 8.
² "Und was insbesondere die Eingenommenheit gegen jemand mit sich zieht, ist, dass man ihn nicht versteht und nicht verstehen kann, weil man ihn nicht hört und nicht hören will. So verfährt man gewöhnlich mit Mariana. . . ." B. Antoniades, *Die Staatslehre des Mariana*, in *Archiv für Geschichte der Philosophie*, Berlin, 1908, Band XXI, p. 168.

³ *Journal des Economistes*, V. 17, 1870, p. 85.

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not as yet exist, knew how to discover and to develop true principles bearing on the subject.”¹

Then in a short article Duprat gave a summary and review of Mariana's treatise on money, coming to the conclusion that it was an independent development of the same subject which had interested Nicholas Oresme and Nicholas Copernicus and urged them to win their places among great authors on the principles of money. Duprat did not, however, enter into a discussion of the many other economic ideas contained in this and other works written by the famous Spanish Jesuit. This was undertaken to a very limited extent by the Spaniard Pedro Urbano Gonzalez de la Calle in *Revista de Archivos, Bibliotecas y Museos*. Here the political and moral ideas of Mariana were treated in full. Somewhat earlier there had appeared *Die Staatslehre des Mariana*, by Basilius Antoniades.

Accordingly, there is now room for a complete and exhaustive treatment of Mariana, the economist. This the present volume hopes to supply. Since Political Economy is a branch of Political Science, and since a full understanding of the originality of our author is thereby greatly facilitated, his contributions to Political Theory and the Art of Government will first be briefly discussed. Although this part of our monograph is based entirely upon original sources, it does not claim to be exhaustive for the reason that ample development of this material would change the character of the treatise as a whole, which aims to consider Mariana primarily as an economist.

¹“On ne connaît guère aujourd'hui Mariana que par son Histoire générale d'Espagne, qui est encore citée quelquefois, et pard ce livre hardi sur la royauté, qui eut l'honneur dans le temps d'être brûlé par la main du bourreau. Le jésuite espagnol a cependant laissé d'autres écrits plus ou moins dignes de remarque et parmi ces écrits, il s'en trouve un qui mérite d'occuper une place dans l'histoire des idées économiques. C'est un traité de la monnaie, dans lequel l'auteur, devançant les maîtres de la science qui n'existaient pas encore, a su découvrir et exposer les véritables principes sur la matière.” Pascal Duprat, Un Jésuite économiste, in *Journal des Economistes*, V. 17, 1870, page 85.

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The chief sources utilized are *De Monetæ Mutatione*, *De Rege et Regis Institutione*, *De Ponderibus et Mensuris*, *De Spectaculis* and *De Morte et Immortalitate*. Mariana rightly termed himself a theologian of the Society of Jesus, for he taught this subject in both Rome and Paris; but his greatness lies rather in his ability as an historian, his principal work being his *Historia General de España*. Even in his political writings he is an historian rather than a philosopher or a theologian; and this bent of mind explains both his strength and his weakness. Nevertheless, our investigation confines itself in the main to the writings of Mariana, and resorts to other Jesuit authors only in order to correct his views whenever he differs from his brethren, and to give a fuller treatment to those topics on which he merely touches. It has seemed appropriate, therefore, to supplement his ideas with references to those great contemporary Spanish Jesuits who attained fame as philosophers and theologians. This method was likewise suggested by the circumstance that Mariana differs on not a few points from his Spanish brethren and that his opinions cannot be taken without reserve as those of the Spanish Jesuit school. It will be noted, however, that in treating purely economic questions no reference is made to other Spanish Jesuits. These rarely deal with such topics, on which Mariana's views are far superior. Fiscal problems, on the other hand, are treated much more thoroughly by Suarez, de Lugo and above all by Molina. For this reason these authors have been utilized extensively in the third section of the second part.

The author of this monograph has likewise drawn with profit on two recent publications of scholarly interest, *Die Steuer in der Rechtsphilosophie der Scholastiker* by R. Amberg, and H. Rommen's *Die Staatslehre des Franz Suarez*, S.J. His indebtedness to numerous other writers in his

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own and cognate fields is duly acknowledged in notes and text.

The present writer is especially grateful to Professor Edwin R. A. Seligman, under whose direction he has written this book and whose kind encouragement has been of untold value. Mr. Chevalier and Mr. Tewksbury of the Boston Public Library gave very generously and courteously of their time and labors in securing photostats of the only copy obtainable in the United States of the author's most valuable source of information, Mariana's *De Monetae Mutatione*. Through the kindness of his friend, Capt. Eugene Diaz Torreblanca, the author was so fortunate as to obtain from Europe two copies of *Tractatus VII*, one complete, the other expurgated. As a European, the author has felt the handicap of writing in a language which is not his native tongue. Kind American friends, particularly Mr. George N. Shuster, Mr. Pierre Marique, Jr., and Miss Georgiana McEntee, have, however, helped him with points of style and diction, and he wishes to express his sincere gratitude to them for their valuable assistance.

New York,
February, 1928.

J. Lares, S. J.

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MARIANA'S LIFE AND WORKS

THE little town of Talavera in the diocese of Toledo has the honor of being the birthplace of Juan de Mariana, who, as an historian, "more than once found the attention of his contemporaries riveted upon him."¹ All we know about his origins is that he was born in the year 1536, as the son of poor and simple parents. Even this fact is only relatively certain.

At the age of seventeen Mariana was a student at the famous University of Alcalá, and on January 1, 1554, he was received into the recently founded Society of Jesus. He completed his novitiate at Simancas, partly under the direction of Francisco Borgia, the retired Duke of Gandia, who was one day to become a General of the Jesuit Order.

The novitiate ended, Mariana returned to Alcalá to complete his philosophical and theological studies. Early in 1561 he was called to the newly erected Roman College to teach philosophy and theology. One of his pupils was Robert Bellarmine, destined to be a great controversialist and later a Cardinal. After four years of teaching, the young professor was sent to Sicily to teach theology in the college established there by his order, and to introduce a new plan of studies. Meanwhile he had gained a reputation as a theologian and in 1569 was summoned to teach at the Sorbonne in Paris, at that time the most famous university in the world. Ill health forced him to leave Paris four years

¹" . . . il lui arriva plus d'une fois de fixer l'attention de ses contemporains." Pascal Duprat, in *Journal des Economistes*, V. 17, 1870, p. 85.

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later and to return to his native country. He lived for the rest of his long life at the Professed House in Toledo.

Although he had retired from the world, Mariana exercised a great influence upon the contemporary history of Spain and (to a certain extent) of the world. His reputation as a theologian and his vast knowledge in almost every field of learning gave him a truly extraordinary prestige. He was consulted as an oracle by private persons, and by both temporal and ecclesiastical authorities. Matters of importance waited upon his approval and were carried out under his direction and advice. His leisure gave him opportunity to deepen and enlarge his knowledge and to develop a most fruitful literary activity.

While Mariana was living abroad he had noticed that foreigners were extremely ignorant of Spain and Spanish conditions, and that they were eager to learn something about that great nation. This led him to the idea of writing a history of Spain, from the time of its early settlement by the descendants of Noah. It was an enormous project,—too enormous indeed to be an independent investigation based upon original sources, nor were archives accessible to students of history in those days. Mariana, however, intended to write not a scholarly work but a popular history of his native country, parts of which had been treated by others. His aim was simply to unite these monographs into one great general history of Spain. This was not an impossible task.

In 1592 Mariana's *Historiae de Rebus Hispaniae Libri XX*, dedicated to Philip II, was published in Toledo. Four years later he published a second edition with five more books, bringing the story as far as the conquest of Granada. The whole work was republished with another addition of five books at Mayence in 1605. This edition covered the

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whole history of Spain up until the death of Ferdinand the Catholic (1516).

Meanwhile Mariana had translated this history into Spanish. It appeared at Toledo in 1601, was dedicated to Philip III, and was really the first edition of the author's complete Spanish history in thirty books. One can hardly call it a simple translation. It is rather a new work with many additions, corrections and improvements, as Mariana tells us himself. The Spanish edition is superior to the Latin text and is still considered a masterpiece of classical Spanish style. Four new editions were printed during the life time of the author, and many more followed after his death until the year 1863. Many of these incorporated additions related to Spanish topics.

The second best known work of Mariana, *De Rege et Regis Institutione*, appeared in 1599 at Toledo, having been prepared at the suggestion of the tutor of the royal princes and published at the expense of Philip II. It was dedicated, however, to Philip III who had become king while it was in course of preparation. In this book Mariana sets forth many sound political principles and makes a number of contributions to the development of democracy. The virtues of a good king, who is to be like a father to his people, are painted in the most attractive colors. On the other hand, the tyrant assumes a most atrocious aspect and is described in terms which have seldom if ever been deserved by a living ruler.

It is here that Mariana discusses the question whether it be lawful to depose and even to kill such a monster—a question which he answers in the affirmative.

This book was enthusiastically received in Spain and was approved without the slightest comment or criticism. Some French Jesuits, however, apprehended from the very be-

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ginning that it might cause trouble and debate in France, the more so because the author had referred to the assassination of Henry III by the Dominican friar, Jacques Clement. Claudius Aquaviva, the General of the Society of Jesus, disapproved of Mariana's doctrine on tyrannicide. He ordered him to omit the offensive passages in the new edition, but all that was left out of the edition of 1603 was the phrase *aeternum Galliae decus* which had been most objectionable to the French critics.

It was not until 1610 that a storm of indignation broke out against this book and against the Society of Jesus in general. Henry IV had been assassinated by the well-known Ravailac, and enemies of the Society attacked the Jesuits as the supposed authors of this crime. Ravailac was questioned as to whether he had been induced to commit the murder by Mariana's book on royalty, but he denied even an acquaintance with it. Nevertheless, many maintained that Jesuit doctrine was responsible for the outrage, and *De Rege* was burned in public by the hangman. Since then Mariana's teaching on tyrannicide has regularly been imputed to the whole Order of the Society of Jesus, even though no other Jesuit, either contemporary or later, has subscribed to the dangerous doctrine. The General of the Order, Claudius Aquaviva, emphatically protested against the book by forbidding all his subjects for all time to teach tyrannicide.

French authorities importuned the King of Spain to suppress the book but met with no success. It continued to be very popular. Today one can say that although the author of *De Rege* greatly erred in one respect, his work is one of the best of all treatises on royalty and one of the most remarkable publications of the sixteenth century. As late as 1870 Dr. Leutbecher, a Protestant, wrote: "Mariana's

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excellent mirror for kings . . . contains more healthy material for the education of future monarchs than any existing princely mirror, and is worthy of all respect, as much from kings themselves, as from their educators. . . . Would that all kings were as Mariana wanted them to be.”¹ Paul Janet also pays high tribute to the famous book and tries to defend its author against the charge of having been the first to teach regicide openly: “The question of tyrannicide” he says, “naturally leads us to a book the name of which has remained attached to this doctrine, *De Rege* of Mariana, although one can see from the preceding quotations that he has hardly done more than summed up an idea common to all the parties (both Catholic and Protestant). *De Rege* is nevertheless one of the most interesting works of the sixteenth century, if not by reason of its substance, which shows no great originality, then at all events for its form, which is elegant and learned.”²

De Rege deals not only with political philosophy and the art of government, but outlines many economic ideas. Another economic treatise was *De Ponderibus et Mensuris*. This was first published in 1599, and in later editions appeared together with *De Rege* in one volume. It is in the main an historical discussion of the various Greek, Roman, Hebrew and Spanish measures, weights and coins.

A strictly economic treatise, *De Monetæ Mutatione*, appeared at Cologne in 1609 as the fourth number of *Tractatus VII* or Seven Treatises. It was occasioned by an adulteration of the Spanish copper coinage by Philip III. In his pamphlet (for it was virtually that) Mariana severely criti-

¹ *Catholic Encyclopedia*, Article “Tyrannicide.”

² “La question du tyrannicide nous conduit naturellement à un livre dont le nom est resté attaché à cette doctrine, le ‘*De Rege*’ de Mariana quoiqu’on voie par les citations précédentes, qu’il n’a guère fait que résumé une idée commune à tous les parties. Le ‘*De Rege*’ est néanmoins un des ouvrages les plus intéressants du XVI^e siècle, sinon pour le fond qui n’a pas une grande originalité, au moins pour la forme, qui est élégante et savante.” *Histoire de la science politique*, Tome II, page 89.

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cizes the king and his counsellors for robbing the people and disturbing the equilibrium of commerce. He also develops with exhaustive thoroughness the scientific principles of money and proves his assertions from Spanish history. No sooner had this little book appeared than Mariana was denounced to the king for lese-majesté. Errors in matters of faith were also charged against him. The Pope was informed and was asked to grant permission to summon Mariana to court. He delegated his nuncio, who took up the matter with the Spanish court. The author of *Tractatus VII* was arrested and taken to the Franciscan convent in Madrid. When asked whether he had made the utterances laid to his charge, he confessed but added that he had acted in good faith and had endeavored to serve the common good. He complained that being seventy-three years old he might rightly have expected some reward for the numberless hardships endured during fifty-six years in the service of religion and of the State, but that all the recompense he found was the rigor of a prison.

The judges, who could not find any substantial error in his philosophical or theological teachings, endeavored to convict Mariana of lese-majesté. The sentence, as it would seem, could not be pronounced until the acts of the whole trial had been laid before the Pope, who showed very little inclination to inflict punishment on the aged Jesuit. Whether sentence was ever pronounced is not definitely known. We are certain, however, that the prisoner was released after a confinement of four months on the condition that he would amend the offensive passages in his work and be more careful in the future.

Immediately after the appearance of *Tractatus VII* the king had charged his officers and ambassadors to buy all the copies of the book they could possibly get, and his

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order was promptly obeyed. Very few copies escaped their hands; and in all they could find they cut out pages 189-221, i.e. the treatise *De Monetæ Mutatione*. This accounts for the fact that the Latin text of this valuable booklet remained unknown during nearly 250 years and might never have been read again had not the Spanish text been incorporated into Rivadeneyra's collection of Spanish classics. After Mariana's death *Tractatus VII* was, moreover, expurgated by the Spanish Inquisition. Many sentences were deleted and whole columns and pages covered with ink. All copies not expurgated were put on the Spanish *Index Librorum Prohibitorum et Expurgandorum*, and almost all surviving copies have been expurgated according to the decrees of 1632 or 1640. As a result, very few complete copies of *Tractatus VII* survived. The only one in the United States is in the Boston Public Library. This Library also possesses a copy of Mariana's work which had been mutilated by the Spanish King and the Inquisition. An expurgated copy in the author's possession bears on the back of the title page the remark: "*Como Visitador General de las Librerías de estos Reinos; corregí este libro conforme al índice expurgatorio del año 1640.*" Don GERONIMO DIAZ XIMENES Madrid 26 de Octubre 1696.

Another pamphlet by Mariana aroused widespread attention and caused a great deal of disturbance among the members of his order. After his arrest by the king, all his notes and papers were seized, among them a manuscript dealing with the faults and imperfections in the Constitution and administration of the Society of Jesus. Under the generalate of Claudius Aquaviva considerable differences of opinion had arisen within the body of the Society itself. Many Spanish members in particular were dissatisfied with its Constitution, which differed so much from those of the

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older religious orders. Mariana's pamphlet was probably written about 1605. When Aquaviva heard that it had been confiscated he requested its return. Whether he succeeded in getting it we do not know; but if he did, the enemies of the Society must previously have made copies of it. No sooner had Mariana died than there appeared a booklet bearing his name and the title: *Discurso de las Enfermedades de la Compañía*. It was published almost simultaneously in French, Latin and Italian and has since been frequently reprinted under varying titles. The Jesuits found that it was the same pamphlet which had been seized on Mariana's arrest. It has been a constant source of attacks upon the Society and, coming as it did from the pen of a member, has proved an especially welcome weapon.

After his release from prison, Mariana spent his remaining years composing commentaries on various books of the Bible and in re-editing his works, notably his history of Spain. On February 16, 1624, his death brought to a close a life which had covered the period of nearly a century. Great changes had taken place during this time, great struggles had been in progress almost everywhere in Christendom, struggles against the old Church, struggles against the ever growing claims of absolutism, struggles in the economic and social orders. Mariana stood in the midst of the combatants and took an active part in the fight. It is not surprising that a man so passionate in character should, at times, have been led by his zeal to say more than was right or more than he could prove.

Pascal Duprat may not be far from the truth when he calls Mariana one of the greatest men of his age. He was both a notable scholar and a remarkable personality. Before joining the Society of Jesus he distinguished himself among the students of Alcalá by his talent and his devotion

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to study. Nor did he manifest less zeal for learning after joining the order. The fact that he was appointed professor at the Roman College, a highly important office, before his ordination shows what his superiors thought of his qualifications. Many a scholar has probably envied Mariana the distinction of teaching at the famous university of Paris when he was only thirty-three. Though it was unfortunate that ill health compelled the young scholar to abandon a splendid career, the forced leisure enabled him to give all his time to study and literary activity, and to devote his attention to the settlement of many burning questions. It was his favorable review of the celebrated Polyglot Bible of Cardinal Archbishop Ximenes that made possible the republication of this work, and in questions of a similar nature Mariana's word was decisive. His commentaries on the Bible are still considered remarkable.

It was as an historian, however, that Mariana became most famous. Although it cannot be denied that he lacks the critical sense which today is expected of every student of history, he nevertheless compares very favorably with his contemporaries in this respect also. He tells many heroic stories which can scarcely be more than beautiful legends, but at the same time he discards many which had been told and believed by other historical writers. Nor need we assume that he believed all he wrote. He often saw that some of these stories were simply inventions and was even exasperated by them. Yet he inserted many things into his work which can make no pretensions to historical truth. He openly confessed that he "copied much more than he believed"¹ and as Z. Garcia Villada tells us, this statement of his has become famous among historians.²

¹ ipse etiam multo plura transcribo quam credo. *Historiae de Rebus Hispaniae*, Lib. 15, cap. 4, p. 412.

² La medida de la fe que a varias de ellas (crónicas) atribuía Mariana nos la da esa

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Though Mariana is not altogether free from the larger faults of historians in those days, his work is superior to most other productions of a similar kind. He had a genuine historical sense which is evident in practically everything he wrote. When dealing with political questions, in *De Rege* for example, he draws most of his ideas from history, ancient and modern. His treatise on money was distinguished from other early writings on the subject in that it based its assertions upon historical evidence. Mariana knew that history is the great teacher of mankind, that the present is much like the past, "*that what has happened once will happen again,*" and that from the past we can forecast the future. He realized as well as we of the present time do that there is nothing new under the sun. It is worthy of note that in treating economic questions he used the inductive or historical method. This made his works so much the more interesting to students of economics.¹

History told Mariana that whenever coinage was debased, rising prices followed and that normal conditions were restored only by deflation. He did not agree with those writers who believed that the prices of gold and silver are stable but maintained that these were, like other commodities, subject to the laws of supply and demand.² He warns us against taking figures at their face value and tells us to interpret them in the light of historical circumstances.³

frase suya que se ha hecho ya cèlbre entre los historiadores: "Plura transcribo quam credo." *El P. Mariana Historiador*, in *Razón y Fe*, V. 69, 1924, p. 460.

¹ In re gravissima aequum est, non ex meo capite et cogitationibus subtilia et rhetorica ducere argumenta, quae fucum saepe faciunt, sed exemplis potius pugnare rerum gestarum nostra aut majorum aetate. Eam rationem tutissimam puto, viamque ad veritatem certam, quoniam PRAESENTIA TEMPORA HAUD DUBIUM PRAETERITIS SUNT SIMILIA. QUOD FACTUM EST FIET. Sic superiores rerum eventus magnam vim habent ad persuadendum pares habituros exitus, quicumque eandem viam fuerint ingressi. *De Monetae Mutatione*, cap. 9, p. 205.

² Atque haec proportio fere servatur inter haec metalla (scilicet argentum et aurum) nisi alterius inopia copiave ea mutetur ratio, ut in aliis mercibus copia detrahit de pretio (.) penuria addit. *Ibid.*, cap. 12, p. 217.

³ Quominus mirari debent in analogia auri et argenti inter se veteres sententiis dissentire: *Ibid.*

⁴ Tempora ergo consideranda diligenter, et juxta ea statuendum quantum vetus

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All writers who have dealt with Mariana as an historian agree that his achievement in this field was truly great. Antonio Astrain, S.J., calls him the greatest Jesuit historian of the age. The editor of *Historia General de España* published at Madrid in 1845, compared its author with Livy for elegance and majesty of style, with Sallust and Thucydides for power of expression, and with Tacitus for skill in developing many principles of political philosophy and government.¹ He attributed to Mariana celebrity both in Spain and everywhere by reason of his vast learning, his subtlety of mind, and the felicity of his manner.² Good taste, eloquence and precision are characteristic of his works.³

Mariana's productions are, moreover, masterpieces of Spanish classic literature and as such have permanent value. M. Rivadeneyra, we have seen, included them in his *Biblioteca de autores Españoles*. His language is powerful and graceful though, as has been pointed out by Astrain and Cirot, he sometimes uses archaisms.

His contemporaries were strongly attracted to his political and economic writings, in which he displayed eminently practical sense and utilised his vast historical knowledge in expounding many sound principles. His hatred of tyranny led him to adopt an extreme view of the question of tyrannicide, and his honesty and fearlessness nearly deprived him of liberty and life.

It is astonishing how vast a knowledge Mariana displays

Maravedinus in qualibet lege, quantum novus valeat, tum inter ipsos, tum cum nostris facta comparatione. Neque praetermitti debet Maravedinum veterem aliquando bonum dici, certe lege prima superius allata. . . . Nempe non loquitur de aureis lex, qui multo majoris erant, sed de veteribus, qui eo Rege in usu erant valentes singuli, quantum decem e nostris. *Ibid.*, cap. 8, p. 204.

¹ La Historia de España que es igual en la elegancia y la majestad a la de Titolivio, no inferior en la gravedad a la de Salustio y Tucídides, y tan llena de máximas políticas y de buen gobierno que merecería la estimación del mismo Tácito si viviera. Vida del P. Juan de Mariana p. V. in *Historia General de España*.

² Mariana es uno de estos hombres célebres, que ha excitado la admiración no solamente de la España, sino de todas las naciones, por la extensión de sus conocimientos y la sublimidad de sus ideas, la felicidad de su genio y la excelencia de sus obras. *Ibid.*

³ . . . y adquirió el buen gusto, la elocuencia y la precisión que forman el carácter principal de sus obras. *Ibid.*, p. VI.

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in all his writings, and how he could treat the most diverse subjects in the most scholarly fashion. His *Tractatus VII* contains seven learned monographs on as many different topics, yet all of them are expounded with the thoroughness of an expert. It is not surprising that our author was listened to as an oracle and consulted about the most important issues of the time. Therefore Gonzalez de la Calle, who knows the works of his hero and his influence on the time in which he lived, calls Mariana the "famous" Jesuit, the "illustrious" author of *De Rege*, the "distinguished" historian, and uses many similar expressions to bring out his appreciation of the great man whom he eulogizes in a scholarly article.

Mariana is no less remarkable for character than for learning. His honesty and fearlessness made him a champion of the truth even at times when it was dangerous to tell the truth. Living in an age when European kings claimed for themselves unlimited power by divine right, Mariana openly voiced indignant opposition and declared in his work on royalty that it is a sign of tyranny to wish absolute power, and that absolutism is not merely tyranny but is found only among savage peoples. A legitimate king will (he holds) consider himself the father of his subjects and not their master. The welfare of his subjects, not his private interest, must be the guiding principle in his rule. Kings are not appointed by divine right, but are invested with power by the people with the understanding that the people retain the right of withdrawing it, should it be used against their legitimate interests. In questions of great importance, such as the enactment of laws, taxation and changes of coinage Mariana holds that the nation is higher than the king.¹ If

¹This statement is correct whenever royal power is limited by constitutional law, but it does not directly follow from natural law. Mariana does not always distinguish, as did other Jesuit writers, between the natural and the conventional element in the State.

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a ruler disregards these supreme rights of the people, he is a tyrant and may be deposed, even killed, by the community. Mariana hates tyranny more than anything else, and for this reason comes to the dangerous conclusion that, under certain conditions, a private citizen may lawfully take the life of a tyrant.

When Philip III debased the Spanish copper coinage, the whole nation complained. But Mariana alone had the courage to denounce the practice as robbery. This bold assertion cost him dearly, and brought him into conflict with the very monarch whose grace he had enjoyed for so many years. Only his great services in former years and his honesty saved him in that critical situation.

Though Mariana is not free from prejudice, he reveals in the main a remarkable broadmindedness in dealing with his adversaries. When he discusses the pros and cons of an adulterated coinage, he produces all the arguments advanced by both sides, weighing the importance of each in turn.¹ He admits that no question is without two sides, but he maintains that it is a sign of a wise man to choose the side which has greater advantages and fewer drawbacks.²

Progressiveness is another characteristic of this famous Jesuit. Without subscribing to the radicalism of various alleged reformers, he is convinced that many conditions can be improved and is willing to change old institutions if something better has been invented. He believes that human nature is wrongly inclined to denounce whatever is new, as if nothing could be added to the old wisdom or

¹Operae pretium putabam, si comoda, quae ex mutatione aerae monetæ veniunt et incommoda accurate examinarem, oculis utraque subjicerem, ut quae sunt majoris ponderis et momenti prudens lector et cordatus consideret sedato animo neque infecto aliquo praejudicio, sic pro veritate victoria maneat: quod enim aliud votum esse debet! *De Monetæ Mutatione*, cap. 7, p. 200.

²Omnino nihil in hac vita syncerum liberumque omni noxa et reprehensione. Ita prudentis partes sunt ea persequi, quae majores commoditates afferant, minus vituperentur, . . . *Ibid.*, p. 201.

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no improvement of customary institutions be made.¹

Mariana, though in the main a monarchist and a defender of the prerogatives of the nobility, shows a democratic bent of mind that is really astonishing when viewed against the background of his age. He advocated a distribution of State offices according to ability and not merely according to rank or wealth. If it is right that the noble and the rich should be granted a certain preference, this must not be taken to mean that persons of humble birth should be excluded if they have the proper qualifications. The king should rely in the main upon his native subjects but should by no means debar from high offices foreigners of proved ability. Mariana even goes so far as to favor the promotion of heretics if they distinguish themselves above the rest. This is, indeed, an almost unheard-of concession in an age when religious bigotry was rampant throughout Christendom.

The purpose of this monograph does not permit a detailed discussion of Mariana's views concerning the relation between State and Church. We may remark in passing that he was just as intolerant towards non-Catholics as Protestants of the period were towards Catholics. He maintained that the king had no right to change the religion of his subjects, but at the same time he obligated the king to root out heresy. Since, in his view, a division in religion destroyed the national unity of a people, he would not suffer the presence of heretics. Next he tried to prove from contemporary history that it was fatal for the State to be disrupted by divisions in religion. To those who objected that the old Christian emperors had tolerated non-Catholics, he replied that times had changed. When others maintained

¹ . . . praesertim cum humana natura hoc quoque sit nomine prava, quod semper accusare solet recentia commenta et artes, moris antiqui maxime tenax, quasi nihil possit corrigi addique veterum institutis. *Ibid.*

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that in Switzerland, Germany and Bohemia Catholics and Protestants lived peacefully together, he did not meet the objection but instead referred to the persecution of the Catholics in England. Mariana's underlying conception was his conviction that the Catholic Church is the only Church founded by Christ and that no one born in this Church can leave it without grievous sin. Therefore it became the duty of the Catholic King to lead the erring individual back to the True Fold; and if someone would not listen to reason and conscience, it became lawful to punish and even kill him so that he might not prove a menace to others.

To some extent Mariana's writings reflect the warlike spirit of Spanish knighthood. He knew from history, we must bear in mind, that Spain had grown powerful by fighting the Moor and the infidel. Just one hundred years before Mariana published his *General History of Spain*, Ferdinand the Catholic had conquered Granada, the last stronghold of the Arabs on the Pyrenean peninsula; and the reigns of both Charles V and Philip II had been characterized by wars against the Turks. Then, however, the loss of the Great Armada on Philip's expedition against England marked the decline of Spain's greatness. Mariana, aware of this deterioration, endeavored to revive the old spirit of chivalry, feeling in his heart that soft living and vice had made Spanish youth effeminate and unfit for war. He therefore urged a return to the old simplicity and martial exercise. In his desire to save his beloved country from ruin our author advocated principles of war, which, as we shall see later, can hardly win approval.

According to all who knew him, Mariana led a blameless life and apparently refused to indulge even in innocent pleasures. He himself tells us that he never attended a theatrical performance and that he believes priests and

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monks should not degrade their sacred character by listening to actors.¹ The fact that the Spanish stage in those days kept to a very low standard of morality may explain why it is denounced by Mariana in *De Spectaculis*. Gonzalez de la Calle admits that Mariana was a just critic. But the fact that he absolutely condemns the theatre, bull fighting and other popular amusements seems to indicate that he was too rigorous and that he measured the moral standards of the people by the austerities he imposed upon himself.

Mariana's austerity may be accounted for partly by the fact that he was inclined to melancholy. This is revealed most clearly in *De Morte et Immortalitate*, in the first book of which he endeavors to show that this mortal life is dangerous, full of miseries and very precarious in character² On the other hand death is praised for making an end to an existence which can scarcely be called a real life and for opening the gates of the land of eternal bliss. Mariana's honesty and fearlessness were doubtless praiseworthy qualities, but one can hardly deny that he was much inclined to faultfinding. He enjoyed criticizing everything that was not in accordance with his own views. This led him occasionally to make utterances which amuse the reader but indicate that Mariana was something of a cynic. Discussing the vastness of the universe, he records the fact that according to some scholars each star is larger than the whole earth and then goes on to say: "I will not argue whether it is true, for many things are taught in schools as truths which border rather on insanity." While describing the hardships

¹ Ipse nunquam his scenicis ludis interfui, neque vero decere putabam, ut sacerdotes aut monachi fabularum auditione sacratum ordinem sugillant. Sed ea tamen cani referrique audiebam, quae neque ipse sine pudore scribere possim neque alii sine taedio audiant. *De Spectaculis* cap. 10, p. 151.

² The very headings of the chapters of this book indicate that Mariana had a somewhat melancholic view of life: Cap. 2: Non esse bona quae vulgus putat. Cap. 3: Quotidie morimur. Cap. 4: De vitae brevitate. Cap. 5: Vita precario datur. Cap. 6: Multis diu vixisse nocuit. Cap. 7: Vitae molestiae. Cap. 8: Mortis laudes. *De Morte et Immortalitate*, pp. 365-384.

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of married life our author remarks mischievously: "Some one cleverly said that the first and the last day of marriage are desirable, but that the rest are terrible."¹

Nor does Mariana spare his own people the penalty of cynical remarks when he finds them acting at variance with his preconceptions. After denouncing the Spanish bull fights, he had to meet the objections of those who defended their usefulness to the nation, and who based their opinion on the authority of some theologian. Indignantly Mariana declared that lax theologians are responsible for making the people indifferent toward many crimes by inventing palliative explanations in order to please the masses. He goes so far as to say that "there is nothing howsoever absurd which is not defended by some theologian."²

Something must be said, finally, about Mariana as a Jesuit. During his life and after his death, right up to the present, his teachings regarding tyrannicide and his pamphlet about "the faults of the Society of Jesus" have, no doubt, done great harm to the order. The question as to how he stood with his order during his life is another matter. It is certain that he never left the Society and that he was not dismissed; but it is true that on more than one occasion he greatly embarrassed his superiors. He was also one of the malcontents who caused so much internal trouble under the generalate of Aquaviva. Yet until 1593 Mariana took no part in the disturbance. Previous to that year he not only did not oppose the institute but wrote an apology (Defensorio) of his order in which he answered

¹ Multi nuptiali face rogum accedunt, praesertim si majori, si immatura aetate implicantur nuptiis. Acute quidam primum et postremum diem nuptiarum optandum dixit, caeteros repudiandos. *De Morte et Immortalitate*, Lib. I, cap. 2, p. 368.

² Multa in omnibus nationibus negliguntur crimina, praesertim si patroni adsint fucata ratione fallaces viri Theologi, quorum quanta saepe sit libertas pronunciandi, quanta quibusdam cupiditas populo placendi scimus omnes: et est miserum negare non posse quod pudet confiteri, quae magna est nostri ordinis calamitas, nihil esse tam absonum, quod a Theologo aliquo non defendatur. *De Spectaculis*, cap. 20, p. 180.

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numerous attacks emanating from Catholic opponents. He had even endeavored to convert Father Dionisio Vazquez, one of the chief *perturbadores*, though his intercourse with him seems to have had just the opposite result to what had been intended at the outset. Instead of winning Father Vazquez to his side, Mariana seems to have gradually adopted views similar to those of his associate. For soon after Vasquez' death (1589) Mariana became one of the leaders of the opposition, a change which Father Astrain believes to have been due to the influence of Father Vazquez.¹

None of Mariana's adversaries has ever charged him with grievous moral delinquencies. Nor is this surprising in view of his austere asceticism. But his brethren do criticize him for his undisciplined character, his stubbornness and roughness of manners. Thus Astrain, before giving an account of Mariana's share in the trouble to which we refer, remarks: "Above all we must bear in mind that his (Mariana's) character was very rough and unmortified."² As early as 1581 it was said that Mariana had given great scandal by his insulting conduct towards his brethren. From these and similar statements it would seem that our author was not an altogether amiable companion, that he treated his brethren roughly and uncharitably. His stubbornness made him intolerable to others, and his superiors had to make concessions to him for the sake of peace. Being himself over-sensitive at meeting with opposition to his views he, nevertheless, criticized and found fault with everybody and everything.

This is exactly Mariana's conduct throughout the whole of *Discurso de las Enfermedades de la Compañía*. This book

¹ Antonio Astrain, S. J., *Historia de la Compañía de Jesús*, Tomo III, p. 558.

² Ante todos debemos notar que su carácter era por demás duro e inmortificado . . . *Ibid.*, p. 557.

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reflects the thoughts and feelings of a man who considers himself called to pass judgment on everything that is at variance with his preconceptions and to reform his order according to his own notions. Nothing whatever is good, to his mind, and none of his superiors, from the lowest to the highest, has the proper qualifications for his office. He criticizes the training of novices and students, finds the number of lay-brothers too great, and calls his superiors unfit to rule. He finds fault with the administration of the estates, the food and clothing of his brethren and above all with the Constitution of his order.

The General, he believes, has too much power and the Provincials too little. The subjects are without even a voice in the nomination of their immediate superiors. It is a strange fact that the same man who in *De Rege* calls a monarchy, limited only by a body of counsellors, the best form of government, here denounces the Constitution of his order, which seemingly embodies the very ideal he had set forth, for being too monarchic. The only explanation for this inconsistency seems to be Mariana's addiction to criticism.

In view of the many and grave disorders of which Mariana was guilty, it is astonishing to note with what consideration and patience he was treated by his superiors. After the publication of *De Rege*, the General asked the author to omit offensive passages from the new edition; but all that was left out was the phrase "*aeternum Galliae decus.*"¹ When Aquaviva first saw the manuscript of *Discurso de las enfermedades de la Compañía*, he took no immediate steps to correct his insubordinate subject, but waited for the right

¹ According to H. Fouqueray it was due to the bad intention of some publishers that *De Rege* was republished without the corrections suggested by Aquaviva. He writes: "Retiré de la circulation, le livre de Mariana n'aurait jamais paru en France qu'avec corrections, s'il n'avait été réimprimé à Mayence par des gens mal intentionnés, qui pensoient en faire leur profit." This quotation he took from Richeome, *Examen categorique*, p. 219. *Histoire de la Compagnie de Jésus en France*, Tome III, p. 241.

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opportunity. When the pamphlet was in the hands of the enemies of the order and at the same time was causing discontent among the members of the Society itself, the General ordered Mariana to apologize for the scandal given. This command, however, was never obeyed. The age and great merit of the famous man probably induced his superiors to be lenient.

Mariana caused a great deal of trouble but his life was so free from immoral actions that not even the judges of the Inquisition could prove any charge against him. This personal integrity was one of the reasons why he was finally released from prison. Mariana was leading, on the whole, a blameless life but was strongly inclined to rigorism and austerity. Most of his criticisms of the Society call for more rigorous Constitutions. It was his weakness to possess an extreme self-will and stubbornness which made him unjust and uncharitable towards his brethren and insubordinate to his superiors. Evidently he had never understood the spirit of his order, the spirit of loyalty to its standard, the spirit of mutual charity and co-operation, in one word the *esprit de corps* of a body of men who are to be like a well-organized army, directing all their energies towards the attainment of a well-defined end,—the greater glory of God. If the Society of Jesus is to be like an army as is indicated by the Spanish word *Compañía* it is evident that obedience to the leaders is essential for its success.

Mariana evidently did not see that in criticizing his own order he was playing into the hands of its enemies. *Enfermedades de la Compañía* has remained a rich source of charges against the Jesuits. He never left the order, was not dismissed, greatly contributed to its fame, but harmed it by certain of his writings.

PART I
POLITICAL IDEAS

INTRODUCTION

TO place a value on Mariana's contribution to political philosophy is no easy task if one takes as a basis of appraisal his historical position in relation to the great controversies of the times in which he wrote. Father Laures has explained how he stands in comparison with other noted Jesuit writers on this subject, most of whom were his contemporaries. As he shows, Mariana in many significant points was not typical of what might properly be called the Jesuit school. Yet it would be a mistake, on the other hand, to class even his, let alone all Jesuit treatises on the state, with the other forms of political doctrine which arose during the sixteenth and seventeenth centuries. It is the reiterated attempt of Protestant and non-Catholic writers, such as Figgis and Laski, to do this that makes it so difficult to explain to the modern mind unacquainted with the scholastic tradition the full and thorough significance of the theory of these earlier Jesuits on the nature of society and of law, and on the foundations of the state and of political authority. Because of the failure to recognize certain essential differences in fundamental points, as well as a tendency to take a purely nominalistic view of doctrine wherever there happens to be a certain similarity of language, the non-scholastic is only too likely to lend himself over-readily to the prejudices of those in the past who for partisan reasons insisted on identifying the Jesuits with the more radical reactionaries in the Protestant camp.

In his introduction to *A Defense of Liberty against Tyrants*, Professor Laski says, "In the sixteenth century there are two main forms of political doctrine, of which the *Republique* of Bodin, and the *Vindiciae* of Duplessis-Mornay are perhaps the best examples." And somewhat further on he represents the Jesuits as the inheritors of the monarchomachs. But it is hard to see why they should have drawn on these latter when they could

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find in St. Thomas himself the doctrines to which Professor Laski points as the ground for his conclusion. Mariana, it is true, in the first chapter of his *De Rege* gives an account of the origin of society very similar to that of the Epicureans and of some Stoics such as Seneca, a view common not only to Duplessis-Mornay but to all the Protestant political theorists on the side of freedom from Duplessis-Mornay down to Milton and Locke. But then Mariana concludes by showing that society is the natural state for man rather than the state of nature, and his position is wholly at variance with that of the author of the *Vindiciae* when the latter maintains that "In the first place every one consents that men by nature loving liberty are born rather to command than obey, have not willingly admitted to be governed by another and renounced as it were the privilege of nature by submitting themselves to the commands of others, but for some special and great profit that they expected from it." (*A Defense of Liberty*, p. 139.)

Another important distinction is that between the natural and the conventional, or the due and the established order. Mariana's views in this respect are not those of Monarchomachs such as Duplessis-Mornay. The latter's idea of the law of nature (*Ibid.*, 190.) as an instinct common to men and animals is the Stoic and Roman law notion, but not that of the scholastics. In him, moreover, we find the Roman idea of contract (*Ibid.*, p. 175) which looked to the will of the parties, substituted in the place of the earlier medieval idea which the Jesuits maintained and which looked to the objective relation between the ruler and the ruled, and derived traditionally from St. John Chrysostom and St. Augustine. It might, moreover, not be out of place to call attention to the fact that this is the idea so strikingly insisted upon by Burke in the well-known passage in his *Appeal from the Old to the New Whigs*. As for the conventional element, both Hotman and Duplessis-Mornay differ very widely from the more traditional understanding of Mariana. As Duplessis-Mornay states it, "Princes are chosen by God and established by the people. As all particulars considered one by one, are inferior to the prince; so the whole body of the people and officers of state, who represent that body, are the princes' superiors." (*Ibid.*, p. 212.) As is clear from the first Book, 8th chapter, of Mariana's *De Rege*, he understands

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the relative position of ruler and people in the sense in which St. Thomas does in the 6th chapter of the first Book of the *De Regimine Principum*. The question of how far the people may control the ruler is a matter depending upon previous positive enactment or agreement. Hence Mariana in his historical treatment of the question of the relation of public bodies to the king is more fully in line with the sounder and older traditional view as found expressed by Philippe Pot at the Estates General held at Tours in 1484 (*cf. History of France from the Death of Louis XI.*, by John S. C. Bridge, V. I., p. 77); and in a book dedicated in 1589 to the Chancellor Montholon by Mathieu Zampini (*cf. La France en 1614*, by Gabriel Hanotaux, p. 263). According to this view, the ruler is superior to the people although power may revert to them or to their representatives in certain cases.

Underlying these important differences and rendering them more or less inevitable are the essential differences in theological point of view, an aspect of the question that might not suggest itself to the non-Catholic student as inseparably bound up with such questions. Yet a slight reminder would appear to suffice in order to make it clear that any one committed to the Calvinistic or Lutheran conception of human nature, and of God was no longer in a position to think in terms of natural law and of institutional freedom in the sense in which the earlier Middle Ages and the scholastics understood these matters. This point has been rather fully treated only recently by Georges de Lagarde in his *Recherches sur l'Esprit Politique de la Réforme*.

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Chapter I

The Origin of the State

MARIANA'S book on royalty was intended to be a mirror for kings in the hands of the tutor of the royal princes. That is, it was to serve a practical purpose. We cannot, therefore, expect a philosophic treatment of the nature, origin and purpose of the State, because this would not be adapted to the mental capacity of a young prince. Nevertheless, all these matters are touched upon in *De Rege*, in terms which make the reading of the book pleasant and easy.

According to Mariana men originally lived without a social organization, and without a positive law. They simply followed the law of nature and attended to nothing except supplying food for themselves and their families. Children obeyed their elders and the whole family, including children and grandchildren, lived together in perfect happiness until the death of the head of the family. Then the common home was broken up, and the several members spread to adjacent districts. Each formed another large family, or rather a group of families which Mariana calls *pagi* (tribes).¹

Even at this stage men had no civil authority and no positive law. Nature gave freely what was needed for their

¹ Solivagi initio homines incertis sedibus ferarum ritu pererrabant: uni sustentandae vitae curae, et secundum eam, uni procurandae educandaeque prolis libidini serviebant, nullo jure devincti, nullius rectoris imperio tenebantur, nisi quatenus naturae instinctu et impulsu in quaque familia, ei honor deferabatur maximus, quem aetatis praerogativa caeteris videbant esse praelatum. . . . Sublato rectore, parente aut avo, filii nepotesque in multas familias mapalium instar dissipati, ex uno pago plures pagos effecere. *De Rege*, Lib. I, cap. 1, pp. 12-13.

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maintenance. Their wants were few and simple:¹ they nourished themselves with the fruits of the fields and the milk of domestic animals; they quenched their thirst with water from the spring. Skins of animals protected them from the cold and they found rest under shady trees. Here they also celebrated their modest, simple feasts and enjoyed friendly intercourse and conversation with each other. They were guileless and honest; fraud and lying were unknown. They had no social obligations because there were no rich among them to bow to or to flatter. Ambition and war were unknown, and all lived peacefully and happily on equal terms. Nor had avarice claimed the goods of the earth from their common use as private property. All things belonged to all.

Unfortunately, this happy state of affairs did not last long. Men soon began to feel more and larger wants which they yearned to satisfy. This desire was good, for God had created men with manifold insufficiencies in order to induce them to combine into a perfect society. Whereas He had supplied all other living creatures with food and given them weapons with which to defend themselves against their enemies, He had placed man upon the earth, destitute of all help, an infant who could do nothing but cry and look to his parents for assistance. Nor is man self-sufficient when he has grown to manhood. He needs many things which the individual alone cannot supply: clothing, instruments to work with, weapons, articles of ornament, dealers to supply

¹ Ratio vivendi quæta erat nullaque solitudine gravis. parvo enim contenti pomis agrestibus arborum, baccis sponte natis, lacteque pecoris famem, sitim, si admoneret, aqua profuente sedare soliti erant, pellibus animantium adversus frigoris et aestus injurias se munire, sub frondosa arbore jucundos captare somnos, instruere agrestia convivia, ludere cum aequalibus, sermones familiares miscere. Nullus locus fraudi, nulla mendacia, nulli potentiores, quorum salutare limina, quibus assentiri opus habebant, nulli ambitus, nulli bellici fragores quietam vitam eorum hominum sollicitabant. Nondum rabida et furens avaritia divina beneficia interceperat, sibi que omnia vendicarat, sed ut quidam ait

Mallebant tenui contenti vivere cultu:

Ne signare quidem, aut partiri limite campum

Fas erat.

De Rege, Lib. I, Cap. 1, p. 13.

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things necessary and to dispose of things abundant. Man must co-operate with others in order to cultivate the land and to protect it from raging rivers, to irrigate barren fields and to build ports and bridges. Man needs the help of his fellows to restore his weakened health and to supply numberless other wants without the satisfaction of which life would no longer be human.¹

Primitive man needed above all protection from enemies,—wild animals and especially fellowmen whose rapacity had made them more cruel and dangerous than the beasts. The strong frightened the weak, robbed and killed them pitilessly. Murderous bands organized and pillaged neighboring tribes. Original happiness and harmlessness had disappeared, violence, robbery and theft reigned everywhere. Human life even was not respected.²

Primitive man realized his helplessness. His Creator had purposely placed him in this condition in order that he might seek for help from his fellowman. The gift of speech enabled him to exchange ideas with his neighbors, to ask help and to give advice and assistance. Moreover, men observed how the weaker animals banded together to supplement by their number what was wanting in strength. When, therefore, the weaker individuals saw themselves surrounded by the violence of the strong and powerful, they resolved to look for a leader to protect them against their oppressors and enemies. They chose the most virtuous man from their midst and charged him to lead them

¹ Quibus bonis de felicitate cum coelestibus certare potuissent, illisque convitium facere: nisi multarum rerum indigentia premeret, imbecillitasque corporis externis injuriis opportunos faceret. *De Rege*, Lib. I, cap. 1, p. 13.

² Accessit imbecillitas corporis ad propulsandam externam vim, prohibendam injuriam. Nam neque vita hominum a feris immanibus quarum erat magnus numerus, nondum cultu terrae suscepto, nondum extirpatis incensisque sylvis, tuta erat: et ipsi homines ut quisque maxime viribus fidebat, bestiae instar ferocis et solitariae terrentis alias, alias timentis, in tenuiorum fortunas et vitam nullo prohibente grassabantur: praesertim cum aliis inita societate, multorum manus in agros, pecora et villas irruebant, agentes ferentesque omnia, si quis resistere pararet, in vitam etiam saevientes, miserabilis rerum facies. Ubique latrocinia, direptiones caedesque impune exercebantur. *Ibid.*, pp. 15-16.

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to battle and to settle their quarrels and disputes.¹ “Thus came into existence urban communities and the royal power. . . . Thus originated from the want of many things, from fear and the consciousness of frailty, human rights (by reason of which we are human beings) and the civil society under the control of which a good and happy life is led.”²

Such is Mariana’s conception of the origin of the State. In the main it clings to the Aristotelian theory according to which man is a social and a political animal and as such needs both the help of his neighbor and a political organization to secure a powerful protection against domestic and foreign enemies and satisfaction of those common wants which no individual alone could supply. For, besides the individual welfare there is also a common good, to provide for which is the end of the State. Still, there are many details in Mariana’s scheme which it is very difficult if not impossible to account for.

If men were originally innocent and harmless, how was it that violence and injustice soon reigned among them? If they were satisfied with simple food and water, why did they feel the numberless wants which Mariana enumerates? If they owned everything in common, how could the strong rob the weak who possessed nothing as their own? These are questions which our author does not answer satisfactorily. As long as men were innocent, they obviously did not oppress their fellowmen; if they were content with scanty food, they felt no such wants as Mariana ascribes to them in a long rhetorical discussion; if there was no private property, there was also nobody who could be robbed.

¹ qui a potentioribus premebantur, mutuo se cum aliis societatibus foedere constringere, et ad unum aliquem justitia fideque praestantem respicere coeperunt: cujus praesidio domesticae externasque injurias prohiberent. *De Rege*: Lib. I, cap. 1, p. 16.

² Hinc urbani coetus primum regiaque majestas orta est. . . . Sic ex multarum rerum indigentia, ex metu et conscientia fragilitatis, jura humanitatis (per quam homines sumus) et civilis societas, qua bene beateque vivitur, nata sunt. *Ibid.*

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Mariana's idea seems to be that the state of primitive innocence lasted only a short time and that very soon many yearnings for a more comfortable life made themselves felt. Then the stronger would naturally take advantage of their strength to appropriate to themselves what had before been common property. They would even kill those who might object to their violence. If this was Mariana's line of thought, it is surprising that the story of Cain and Abel, which could not have been unknown to so great a theologian as he was, did not teach him a somewhat different lesson. From the biblical record he would have learned that primitive man was not so absolutely harmless and peaceful as he seemed to think. Whatever may have been the original condition of the human race, it is probable that men very early endeavored to improve their manner of living and that in so doing they came into conflict with the interests of their fellows. It is, then, likely that the first idea of a civil society was suggested by the need of protection and division of labor. Mariana speaks of enemies banded together for the purpose of robbing neighbor tribes, but he does not say whether he holds that these bands were already substantially a civil society, welded together for the purpose of warfare. If they were, it would follow that at least some of the early States were formed for purposes of conquest. However this may be, the point involved does not altogether destroy Mariana's hypothesis that all civil societies were founded for mutual help and co-operation and for the attainment of wants which the individual could supply only with the help of others. Thus regarded, Mariana does not materially differ from the Aristotelian view, which was also held by St. Thomas Aquinas and in general by the scholastic school. That this was his opinion becomes clear from other passages in his works. In the twelfth chapter of the third

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book of *De Rege* he says that (civil) “society was constituted above all for this reason that by mutual help the wants of all might be satisfied, since no one can supply by himself alone what he needs for the support and refinement of life.”¹ Therefore the end of civil society is, according to Mariana’s view, mutual aid and satisfaction of the common wants. In other words, it is the co-operation of all for the common good.

From this it follows that the State has an end of its own,—the common good of the community,—which will sometimes conflict with the direct interests of individuals. There are other obligations besides preserving one’s life. These social duties may eventually demand of a man that he risk his life for the general good, because the common weal is more important than the private interest. In this way Mariana meets the objection of those who say that it is foolish to harm oneself in order that others may be benefited. If man adopted this view he would be nothing more than a beast of prey. Man’s life, moreover, does not terminate with his earthly career but is only a preparation for another immortal existence. Therefore it is imperative that he contemn earthly things the sacrifice of which will bring him eternal recompense.

Mariana has asserted that primitive society was formed by mutual consent. Some will say, he admits, that all great empires were a result of conquest and violence. He does not and cannot deny the fact that some States came into existence in this way, but he maintains that others originated by mutual consent and extended their borders by just wars only. He firmly believes that empires based upon violence

¹ Quae societas ea maxime de causa constituta est, ut quoniam uni non suppetunt, quae ad victum cultumque vitae necessaria sunt, alterna ope cunctorum suppleatur inopia: uti in corpore animantis videmus membra inter se suas functiones participare quodam genere commercii: quo sublato, quid vita humana calamitosius esset, quid foedius? *De Rege*, Lib. III, cap. 12, p. 311.

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and injustice can never become legitimate even through subsequent legislation.

This is Mariana's theory of the origin and end of the State. He has deduced it, he believes, from primitive history of the human race. We see, of course, that many of his assumptions are arbitrary and partly contradictory. A strictly logical examination would have revealed to the famous historian the weakness of his assumptions.

To substantially the same conclusions as Mariana held his brother in religion, Francisco Suarez, the greatest Spanish Jesuit scholastic, also arrived. Suarez follows a strictly logical method. He finds the necessity of the State in the insufficiency of the individual and of the family to supply all the wants of life. His arguments are: (1) A political society is necessary because no family is self-sufficing. (2) If divisions existed between the various families, there could be no peace. Therefore, they must be united into one society. And since man needs a political society he also needs a political power, because a society without such a power could not accomplish its end.¹

Suarez foresees objections to his argument. Some will say: Man is by nature free and subject to no one. The answer is, man is at least *subijcibilis*, i.e., it is not contrary to his nature to be subject to a human power. Others will say that there can be no true or legitimate political

¹ dicendum est primo, magistratum civilem cum potestate temporali ad regendos homines, justum esse et humanae naturae valde consentaneum. . . . Imo inde sumitur argumentum, talem modum potestatis esse consentaneum ipsi naturae quatenus ad conveniens regimen humane communitatis necessaria est. . . . Primum est hominem esse animal sociale, et naturaliter, recteque appetere, in communitate vivere. . . . Haec autem communitas (scilicet domestica) . . . non est sibi sufficiens, et ideo ex natura rei necessaria ulterius est in genere humano communitas politica, quae civitatem saltem constituat, et ex pluribus familiis coalescat; quia nulla familia potest in se habere omnia ministeria, et omnes artes necessarias ad vitam humanam, et multo minus potest sufficere ad assequendam omnium rerum necessariorum cognitionem. Item quia si singulae familiae essent inter se divisae, vix posset pax inter homines conservari, neque injuriae possent ordinate propulsari, aut vindicari, . . . Haec autem communitas ulterius augeri potest in regnum vel principatum per societatem plurium civitatum, quae etiam est valde conveniens humano generi, saltem ad melius esse, propter easdem rationes cum proportione applicatas, quamvis necessitas non sit omnino aequalis. *De Legibus ac Deo Legislatore*, Lib. III, cap. 1, nn. 1-3.

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power save by free agreement among the members of the body politic, and will ask how Suarez can account for the fact that the royal power was often introduced by force of arms. Suarez admits this fact but maintains that it does not alter the true nature of political power, since it happened *per accidens*, i.e., by exception to the general rule. He maintains that power imposed by unjust force of arms never can become legitimate except by the subsequent consent of the subjects, tacit or explicit. Without this consent a conqueror cannot become a true or legitimate ruler. He is merely a robber and a tyrant without any real political power. A third class of adversaries will declare that man in the state of original innocence would not have needed a political society, because there had been no violation of justice. Suarez replies that the end of the State is not merely to repress violence and injustice but also to foster the common weal: that is, to supply the common wants which no individual alone would be able to satisfy. This end would also have been present in the state of original innocence. Hence, men would have needed a political society, even if they never had lost primitive innocence; but the State would then have had no coercive power because there would have been no need of coercive power.

It is interesting to compare modern views of the origin of the State with the doctrine of the Spanish Jesuits. Professor Willoughby believes that the State came into existence as soon as there existed among a group of individuals a sense of mutual rights and obligations and of unity as one collective personality, and as soon as expression had been given to this feeling. Such a view does not seem to differ materially from the theory of Suarez.¹ Suarez makes

¹ . . . the fact that an aggregate of persons has a conscious feeling of its unity and gives expression to this unity by organizing itself as a collective personality and constituting

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a careful distinction between a multitude of men without any organization in political society and a body of men who form a State. A mere multitude of men as such has no political power, but as soon as they organize themselves into a community so that they form a whole, a mystical body, they need a political power. Otherwise they could not co-operate or be directed to a common end.

How, then, was the unorganized multitude transformed into a body politic? Professor Willoughby says that it came about naturally in that these men gradually developed a feeling of mutual unity and of mutual rights and obligations. As soon as they felt their common wants, the State was substantially in existence. All that was necessary was that these men give expression to this feeling of unity and organize themselves as a collective personality. An explicit contract was not necessary, therefore, because it would have been merely a formal declaration of this general feeling.¹ Suarez, on the other hand, believes that there was no political power until men entered into a free explicit or tacit compact to form a perfect society.² He reasons: In the beginning there was no need of a political power; when men multiplied they felt the need of a political society, but this society came into existence only when they freely agreed to organize themselves as such. He realizes that some historians would object that as a matter of fact many states were formed by conquest, i.e., without a free agreement (or compact). Suarez admits this fact, but denies to such a

itself as a volitional and active subject. *An Examination of the Nature of the State*, page 119.

. . . if there existed among individuals a feeling of mutual rights and obligations, there is a State already in its essence. Thus a formal contract would be a merely formal declaration of this general feeling. *Ibid.*, page 123.

¹ *Ibid.*

² Alius ergo modus multiplicationis familiarum, seu domorum, est cum distinctione domestica et aliqua unione politica, quae non fit sine aliquo pacto expresse, vel tacito, adjuvandi se invicem nec sine aliqua subordinatione singularum familiarum et personarum ad aliquem superiorem vel rectorem communitatis, sine qua talis communitas constare non potest. *De Opere sex Dierum*, Lib. V, cap. 7, n. 3.

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society the character of a true body politic unless the conquered people consent to the rule of the conqueror. His argument is that no man has authority over his fellowmen except by their free consent. His so-called compact, then, is that which ought to be *per se* i.e., under ordinary circumstances, but he concedes the irregularity of conquest with subsequent consent of the people.¹

Comparing Mariana and Suarez, we see that their views are not in exact agreement. Mariana is patently influenced by the doctrine of classical antiquity, especially as expressed in the writings of Polybius and Seneca,—a fact which is not surprising to one who notes in how many respects his writings reveal the influence of the Renaissance. His Latin is elegant and his presentation fascinating. He wants to entertain as well as to instruct the reader. His books became, as a matter of fact, very popular and were widely read.

Suarez, on the other hand, closely follows St. Thomas and the scholastic school both in his views and in his method. He does not enter upon a consideration of what was the condition of mankind before the existence of civil society, but takes it for granted that the State became a necessity as soon as the human race had multiplied to such an extent as to render it impossible for the individual to supply all wants or to protect himself against domestic and foreign violence. Mariana and Suarez agree, however, on the one important point that all political power must be based upon the consent of the people. In this respect their views bear a striking resemblance to those of more recent political theorists.

¹ cf. Suarez, *De Legibus*, Lib. III, cap. 2, nn. 3-4.

Chapter II

The Origin and Transfer of Political Power

WE may now follow Mariana a little further. When men had elected a leader to protect them against their enemies and to settle their quarrels and differences, they no longer constituted an unorganized multitude but a body politic, a people organized as a State with a king at its head. The king led the people to battle, he had the right to settle their petty quarrels and to punish crimes. In other words, he had supreme power, something which formerly had not existed among these men. Where did this come from? Mariana does not answer clearly. He frequently repeats that the king has received his power from the people, but whence the people derived it he does not say. Does he believe that the people transferred to the king portions of their individual rights? One might be tempted to think so because Mariana uses expressions which, taken as they stand, would imply such an opinion. When he discusses the delicate question as to whether the king has more power than the people, he uses the following words: "According to my explanation the royal power, whenever it is legitimate, takes its origin from the citizens, by whose grant the first kings in every State were raised to the throne. . . ." ¹ And a little later in the same chapter he gives

¹ Me tamen auctore, quando Regia potestas, si legitima est, a civibus ortum habet, iis concedentibus primi Reges in quaque republica in rerum fastigio collocati sunt. . . . foetus parente, rivus origine esset praestantior.
De Rege, Lib. I, cap. 8, pp. 69, 71.

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this reason why the people could not give the king greater power than the whole community retained: "(For) the offspring would (then) be greater than its parent, the river greater than its source." The latter utterance especially seems to indicate that the people are the source of all political power, which would be exactly the teaching of Locke and Rousseau. Nevertheless it cannot be inferred from this that Mariana is a forerunner of Rousseau. If he really held that the people are the source of all power he would have abandoned the traditional scholastic doctrine. This charge was never raised against him until brought forward recently by scholars who confused the "compact" of Suarez and other Jesuit writers with the "social contract" of Hobbes, Locke or Rousseau. Lord Acton believed that "the greater part of the political ideas of Milton, Locke, and Rousseau, may be found in the ponderous Latin of Jesuits who were subjects of the Spanish Crown, of Lessius, Molina, Mariana, and Suarez."¹ Mariana has been severely criticized by his brethren and other Catholic authors, but none of them has ever made the charge that he abandoned the scholastic doctrine which holds that all political power comes directly from God. Nor can his utterances be understood in Rousseau's sense, especially when taken in their context. *De Rege* is moreover to be considered not as a strictly philosophic treatise but as a mirror for future kings, adapted to the mental capacity of young princes. It is full of bald assertions which cannot stand the test of logical analysis.

The point Mariana wishes to make is simply that the king has received his power from the people and that he must not use it except to further the good of the people. Otherwise the people would have the right to reclaim what they

¹ *The History of Freedom*, page 82.

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had given. This doctrine does not differ from that of Suarez and other scholastic writers of the time. Suarez holds that as soon as the people make up their mind to form a political society they receive from God political power which they can then either transfer to an individual or to a body of nobles, or retain for themselves. In the first case they would decide upon a monarchical form of government, in the second upon an aristocracy, and in the third upon a democracy. They were free to choose any of these forms of government or a combination of two or of all three. The State was formed not at the moment in which the government was decided upon by free consent, but when the compact of forming a political society was entered into. As soon as the State originated, there also existed a political power; and since the people had not as yet decided upon the form of government, this power rested with the whole people. Thus, according to Suarez, the most natural form of government is a democracy, not for the reason that the people were the source of political power but because the people had received this power immediately from God and were at liberty to dispose of it or to retain it.

The question is now whether Mariana meant that the people are the source of this power, or, in other words, whether he maintained that it does not come directly from God but is created by the people or has from the beginning resided in the people. The answer is, he did not mean these things. After telling us about primitive man, he also remarks that God wanted to lead this man to the formation of a political society through the realization of his helplessness and dependence. God had indeed created man in a state of helplessness and dependence, but at the same time had endowed him with the light of reason and the gift of speech that he might know how to supply his shortcomings

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by co-operation with his fellows.¹ God's wisdom has ordained that man, though weak by nature and left to his own resources, should become strong by being united with others into a society.² From this it appears that Mariana considers political society necessary to human nature. Man was not born into such a society but had all the prerequisites to enter into it, and it was God's will that he should do so. From this it follows that as soon as man formed a body politic, God granted him what was necessary for such a society, i. e., political power. This power, then, is not a creation of man or something that existed from the beginning, but something added by God to perfect human nature as soon as it was needed—that is at the moment when men made up their minds to form a political society.

As previously stated, Mariana does not explicitly prove that this power comes immediately from God. Such a proof was not necessary for his purpose, especially as he had no intention of writing a strictly philosophical and systematic treatise. Suarez, a systematic philosopher, explains himself very clearly about the origin of political power. He definitely maintains that it comes directly from God and proves his assertion thus: This power was not in the unorganized multitude, but as soon as it organized itself into a body politic (or, as he says, into a mystical body) it had this power even though it may not have wanted it. It is then

¹ Enimvero parens humani generis et sator Deus cum mutua inter homines caritate, et amicitia nihil praestantius esse cerneret: neque ali posse excitarique mutuum inter homines amorem liceret, nisi in unum locum et sub eisdem legibus, multitudine hominum sociata: quibus sermonis facultatem dederat ut congregari possent, animi sensus et consilia aperire invicem. . . . eosdem ut vellent ac necessario facerent, multarum rerum indigos, multisque periculis malisque obnoxios procreavit. Quibus supplendis et procurandis multorum vires et industria sudaret. . . . *De Rege*, Lib. I, cap. 1, p. 14.

² Verum in homine accusant quidam quod inops, quod multis rebus indigeat, quod inermis et imbecillus procedat in lucem. In quo tamen naturam vituperant seu divinam sapientiam, in eo vis ejus mirabilis apparet. Quod enim homines non solitariam vitam agunt, sed in coetus et urbes conveniunt, et mutuae charitatis vinculis constringuntur, qua nihil est dulcius, ex imbecillitate corporis ex multarum rerum indigentia natum est, ut quod singulis deerat, multitudine certe et societate suppleatur. *De Mortis et Immortalitate*, Lib. II, cap. 9, p. 405.

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an unmistakable sign that this power cannot come from the community and that it arises independently of the will of the community. Just as a woman entering marriage becomes thereby subject to her husband by necessity even if not by choice, so when men make up their minds to form a State they have at once a power which none of them nor all taken together possessed before. To employ Suarez' language, they prepare the *matter* for a body politic to which God at the moment of this act of their will gives the *form*, which is the power necessary to lead this society to its end, the common good. This comparison also explains very well how human liberty enters into the formation of the State. It is up to man to decide *when* a State is to be formed, but it is *beyond* man's power or will to give to the State what it needs to accomplish its end.¹

Another reason why political power does not or cannot originate with man is the fact that it comprises rights which are far beyond any man's individual claim but are reserved to God alone, e.g., the power over human life, legislative power, power to bind in conscience, punitive power. If, then, no individual has these powers, the sum of all individuals cannot confer them, for they cannot give more than each individual had before.²

¹ In contrarium vero est, quia priusquam homines in unum corpus politicum congregentur, haec potestas non est in singulis, nec totaliter, nec partialiter: imo nec in ipsa rudi (ut sic dicam) collectione, vel aggregato hominum existit, ut capite praecedenti declaratum est; ergo nunquam potest haec potestas provenire immediate ab ipsis hominibus. In hac re communis sententia videtur esse, hanc potestatem dari immediate a Deo ut auctore naturae, ita ut homines quasi tribuat formam dando hanc potestatem. . . . Et potest suaderi, quia ut antea dicebam, supposita voluntate hominum conveniendi in una politica communitate, non est in potestate eorum impedire hanc jurisdictionem; ergo signum est proxime non provenire ex eorum voluntatibus, quasi ex propria causa efficienti. Sicut in matrimonio recte colligimus, virum esse caput mulieris ex dono ipsius auctoris naturae, et non ex voluntate uxoris, quia licet ipsi voluntate sua matrimonium contrahant, tamen si matrimonium contrahant, hanc superioritatem impedire non possunt. . . . *De Legibus*, Lib. III, cap. 3, nn. 1-2.

² Declaratur secundo, quia haec potestas habet plures actus, qui videntur excedere humanam facultatem, prout est in singulis hominibus; ergo signum est, non esse ab illis, sed a Deo. Primus actus est punitio malefactorum; etiam usque ad mortem; nam cum solus Deus sit Dominus vitae, solus ipse videtur potuisse dare hanc potestatem. . . . Secundus actus est, constituere in materia aliqua medium virtutis necessarium ad honestatem

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This latter reason is also the strongest argument against Locke's contractual theory of the State. Locke maintains that before the formation of civil society every man had rights similar to those which now belong to the State: that he could, for example, avenge himself for injuries suffered, even to the point of taking the life of his fellow. This concession Locke had to make in order to show that the people gave all these rights to the sovereign, for they thought that it was safer for the common good, if some third party were to decide the amount of revenge to be taken. Some might go too far if it were left to them alone, since nobody is a good judge in his own cause. This assertion can hardly be proved. In case the State should not avenge a man's right effectively enough, he might reclaim that right and carry out his own revenge. This would, however, very seriously threaten the common good and make the power of the State practically useless. Thus Locke's view, if followed to its ultimate consequences, leads to a denial of the necessity of the State. Nor would modern students of Political Science admit Locke's deduction. Professor Willoughby says that the general will is not identical with the sum of the will of individuals, and that there are general interests not identical with the sum of individual interests. From this it follows by simple inference that in a State there are rights other than individual rights or the sum of individual rights, and that political power is more than a sum of individual rights transferred to the State.¹ Here Professor Willoughby agrees with the scholastics, although he does not hold their views on other political questions.

Though Mariana has not explained himself clearly about

ejus. Tertio cum hoc statu conjunctus est effectus obligandi in conscientia. . . . Quartus est vindicare injurias singulorum. . . . Ergo signum est hanc potestatem esse divinam, alioqui potuissent homines alium modum vindicandi injurias usurpare, quod est contra naturalem justitiam. *Ibid.*, nn. 3-4.

¹ *An Examination of the Nature of the State*, pages 123, 124,

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the *origin* of political power he is very definite about its *transfer*. He repeats many times that the people gave kings their power,¹ and that the people have a right to reclaim this power whenever it is not used for their good. He was provoked, very likely, by the many writers of his age who held to the theory of the divine right of kings, as did King James I of England and Scotland. Mariana is a strong opponent of the champions of absolutism, whose doctrine is, according to him, either a form of flattery or a fallacy. The people give power to kings for these to use not for their own interests but for the benefit of the people.

In this particular Suarez agrees with Mariana. He also holds that political power was first in the hands of the people who could and sometimes did transfer it to kings. He holds, therefore, that democracy is the most natural form of government, since political power was directly given to the whole people at the very moment when they agreed by mutual understanding to form a political society. The next step was to determine the form of government of the body politic which was already a State.

This latter act, according to all scholastics, was a free act of the whole people.² Mariana is so positive about this that he seems even to imply that the people not only transferred the power but created it. Suarez also maintains that no one can hold supreme power in a State except by popular voice.

¹ . . . qui a potentioribus premebantur, mutuo se cum allis societatis foedere constringere, et ad unum aliquem justitia fideque praestantem respicere coeperunt: cujus praesidio domesticae externasque injurias prohiberent. . . . *De Rege*, Lib. I, cap. 1, p. 16. Quid! quod nec ducis munus nec rectoris eam facultatem dat. Sed potius quando a republica eam potestatem accepit rectoribus designatis quibus vitam principalem sustineret, impositis muneribus satisfaceret si ea vectigalia augeri cupit, adeat necesse erit eos qui initio eos rectoribus numero definito designarunt. *De Monetae Mutatione*, cap. II, p. 194.

² Primum est, quod licet haec potestas absolute sit de jure naturae, determinatio ejus ad certum modum potestatis, et regiminis est ex arbitrio humano. . . . Secundo sequitur ex dictis, potestatem civilem, quoties in uno homine, vel principe reperitur legitimo, ac ordinario jure, a populo, et a communitate manasse, vel proxime, vel remote, nec posse aliter haberi, ut justa sit. Haec est sententia communis jurisperitorum. . . . Ratio ex dictis est, quia haec potestas ex natura rei est immediate in communitate; ergo ut juste incipiat esse in aliqua persona tamquam in supremo principe, necesse est, ut ex consensu communitatis illi tribuatur. *De Legibus*, Lib. III, cap. 4, nn. 1-2.

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He knows that some governments were the results of war, but holds that if these wars were just the people had perforce to consent to the rule of the conqueror. If, however, the war was unjust the king never acquired a just title to reign except by subsequent consent of the people, explicit or, at all events, tacit. A hereditary monarchy also can be legitimate only if the people have originally transferred the power to an individual with the explicit or tacit understanding that it should be transmitted to his descendants.¹ Mariana does not hesitate to call the great conquerors like Ninus, Cyrus, Alexander, Caesar and others tyrants, on the ground that they obtained power by injustice and robbery.² The general reason why the scholastics held this doctrine is their assumption that no individual man has a right to rule over his fellowmen except by consent of the ruled, at least at the time of the establishment of the government. After the government has once been constituted, all who are born in the commonwealth are born subject to the legitimate authorities.

¹ Secundo potest haec potestas esse in rege per successionem haereditariam . . . Quapropter necesse est, ut primus habuerit potestatem supremam immediate a republica; successores autem illius ab illa habeant mediate et radicaliter. . . . Tertius titulus regiae potestatis solet esse bellum, quod oportet esse justum ut verum titulum, et dominium conferat. Et hinc multi existimant, in principio introducta esse regna per tyrannidem potius quam per veram potestatem. . . . Quando ergo regnum per solam vim injustam possidetur, non est vera potestas legislativa in rege: fieri autem potest, ut successu temporis populus consentiat, et admittat talem principatum, et tunc reducetur potestas ad populi traditionem et dominationem. Interdum autem contingere potest, ut respublica antea non subjecta regi per justum bellum subiciatur . . . et tunc ipsa tenetur parere et consentire subiectioni, atque ita etiam ille modus quodammodo includit consensum rei publicae, vel exhibitum, vel debitum . . . ergo semper reducenda est haec potestas regia ad aliquem, qui non per bellum, sed per justam electionem, vel populi consensum illam comparaverit; ergo a sufficienti divisione recte concluditur potestatem hanc a republica ad principem mansisse. *De Legibus*, Lib. III, cap. 4, nn. 2-4.

² Progrediente vero tempore sive plura habendi cupiditate impulsus, sive laudis et gloriae ambitione incitati . . . gentes liberas subjugare, cupiditatem imperandi causam belli habere, Reges caeteros ditionibus pellere, et in omnium fortunis soli coeperunt dominari, ut Ninus, Cyrus, Alexander, et Caesar, qui magna constituerunt primi et fundarunt imperia, non legitimis fuisse Reges, non monstra domuisse sublata per terras tyrannide, non vitia ut videri volebant depulisse, sed praedatorem exercuisse videantur, tametsi vulgi opinione immensis laudibus celebrentur et gloria. *De Rege*, Lib. I, cap. 2, p. 19.

Chapter III

The Best Form of Government. Sovereignty.

FOLLOWING the Aristotelian scheme, Mariana enumerates six forms of government: (1) monarchy or the rule of one person; (2) aristocracy or the rule of the best; (3) republic (*respublica proprio nomine*), or the rule of all according to rank and ability. These are the good forms of government. The three others are bad: (1) tyranny, which is a rule of the injustice and violence by one man; (2) oligarchy, or the rule of a few, selected not according to merit or ability, but according to riches; (3) democracy (ochlocracy), or the rule of the masses without any regard for distinction. Of all six forms, monarchy is the best and tyranny the worst kind of government. Mariana considers monarchy relatively the ideal form of government, for these reasons: (1) The rule of one is most in conformity with the laws of nature, because there is one ruler of the universe, the one God; because in every living creature there is one central organ, which directs all the members of the body; because the bees are decidedly governed by one queen; (2) the family, the city and the tribe have each a single head; (3) monarchy was the first form of government, if one credits Aristotle. Hence the saying, *Rex unicus esto* (the king should be only one); (4) there will be greater unity under a monarchy because there will be less difference of opinion; and so monarchy fosters greater peace and con-

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cord; (5) there will be less danger of corruption, and thus more perfect justice; (6) there will be greater efficiency of administration and greater power in time of war.

These advantages are partly offset by several disadvantages. There is likely to be greater prudence and probity in the many than in the one, just as a rich meal is preferable to a simple repast. One man may easily be biased. Dishonest people find it easier to blind the vision of a king with flattery than to mislead a government consisting of many. Very few have the courage to criticize the king, because that is often dangerous. A monarchy is very much exposed to the danger of action that is arbitrary and careless of the welfare of the people. The great philosophers oppose monarchy because it implies the exclusion of many valuable and capable men from government. But more serious than all these drawbacks is the danger of tyranny which, in the opinion of Mariana, is greatest in the case of a monarchy.

On the other hand, a rule comprised of the many does not avoid all the dangers of monarchy. Since votes are counted rather than weighed, there is great danger that the bad will outvote the good. Jealousy, ambition, civil wars, discord will likewise be the necessary results of a distribution of power among many. After reviewing all these pros and cons, Mariana decides in favor of a monarchy¹ because it assures greater concord and peace. Monarchy should, however, be mitigated by a senate of worthy men to whose counsel the king has been obliged to listen.²

¹ In non dispari enim argumentorum pondere, et earum sententiarum varietate animus inclinabat ut crederem, ac vero pro certo ponerem, unius principatum ceteris omnibus reipublicae formis esse praeferendum . . . et ut sunt res humanae fluxae inconstantisque, prudentis viri partes sunt, non omnia incommoda, sed majora vitare, persequi quae majores opportunitates afferre videantur, ac praesertim concordia inter cives retinenda, (sine qua quid esset respublica?) aptissimum esse unius principatum nemo dubitabit. *De Rege*, Lib. I, cap. 2, p. 25.

² Verum ita unius principatum praeferendum judicamus, si optimos quosque cives in consilium adhibeat, atque senatu convocato ex eorum sententia res publicas et privatas administret. *Ibid.*, p. 26.

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After considering this discussion one may be tempted to think that Mariana advocates absolute monarchy with the very slight limitation of a senate as an advisory body to whose advice the king should listen, but by whose decisions he is not compelled to abide. But from the whole spirit of *De Rege* it appears that Mariana was not at all an absolutist but an ardent defender of a limited monarchy. He not only flatly denies that absolute monarchy could ever exist among civilized nations, but he also maintains that it would be bad for both king and people if the royal power were to assume unlimited proportions. He is always a strong opponent of absolutism, and an ardent defender of popular rights. It is true that by the term "people" he meant first of all the ruling classes of clergy and nobility. The most Mariana would grant the defenders of absolutism is that, strictly speaking, a people *can* transfer political power to an individual without reservation or limitation, even if it would be foolish and unreasonable on the part of the people to alienate sovereignty unconditionally, and unwise on the part of the king to accept such a transfer. Power is not the same thing as money, the more of which you acquire the richer you become. Rather it is like food: it is just as harmful to take too much as to take too little, for both are destructive of the organism. Moreover, an unlimited monarchy is scarcely ever found except among barbarous and uncivilized peoples. It should not nor will it ever exist among civilized nations, since we cannot suppose that reasonable people have acted unreasonably when they have transferred political power to a monarch.¹

¹ Est autem perspicuum, id institutum (unlimited power) in quibusdam gentibus vigere, ubi nullus est publicus consensus, nunquam populus aut proceres de republica deliberaturi conveniunt: obtemperandi tantum necessitas urget, sive aequum sive iniquum Regis imperium sit. Potestas nimia proculdubio, proximeque ad tyrannidem vergens, qualem inter barbaras gentes vigere Aristoteles affirmatum reliquit. . . . Nos hoc loco non de barbaris, sed de principatu qui in nostra gente viget et vigere aequum est, deque optima et saluberrima imperandi forma disputamus. *De Rege*, Lib. I, cap. 8, p. 70.

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Our author goes on to show that the people always will and always must reserve to themselves certain rights, for example the right of taxation, the right to accept or reject laws, the right to determine succession in a case when a king has no heir, and the right to depose or even kill a prince if he abuses his power and becomes a tyrant. Ordinarily, the king should have enough power to transact the regular business of administration. Nor should there be any appeal from the king to the people. Such appeals have been abolished by custom, although in principle it should be understood that the people are above the king and that in certain cases the king cannot act without popular consent. This is especially true in cases of taxation, of the abrogation of laws and the regulation of the succession. Should a king become a tyrant the people have the right to depose and even kill him.

It strikes us that Mariana's reasoning is not entirely conclusive. All he has proved is that it is *desirable* that the people reserve to themselves certain rights, and that this reservation has been made in Aragon and, to a certain extent, in the rest of Spain. The example of taxation, for instance, he drew from actual conditions as he found them in Spain, a fact which does not necessarily give his principles a universal application. In fact, Mariana did not explicitly make this universal inference. His book was written primarily for the king of Spain, and so served a practical purpose. Nevertheless, he insinuates clearly enough that the same principles should hold good everywhere among civilized nations.

The most important difference between Mariana and Suarez lies in their theories of the nature of royal power. In order to characterize their respective viewpoints in a few

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words, we may say that, in Suarez' view,¹ the king has unlimited power unless there exist clear indications that it was limited at the time of transfer, whereas Mariana believes that ordinarily it is to be assumed that the royal power was transferred with a number of limitations, to the most important of which he calls attention. Moreover, Suarez considers the transfer of power a real alienation of sovereignty to the king, so that the State or the people become inferior to the sovereign. Mariana, on the other hand, believes that the people do not altogether alienate the sovereign power but retain the supreme rights in substance so that the king is indeed superior to any individual in the State but inferior to the people as a whole. In other words, Suarez holds that the royal power is *per se* unlimited, while Mariana maintains that it is *per se* limited. Both authors agree that the king must use his power for the general good, and that the people have a right to depose him if he should abuse it and become a tyrant. To illustrate his point of view Suarez employs the comparison of a man who has made himself² the slave of another man. After giving up his liberty he is no longer free but bound to obey his master. In a similar way a people, after having transferred supreme power to one person or a body of persons, have deprived themselves of sovereignty and are subject to their rulers. Nor can this power be lawfully reclaimed save in case of tyranny, since the sovereign has acquired a just title to it by the people's

¹Primo, ubicumque regimen non est democraticum, populus transtulit supremam potestatem in Principem, sive sit ille una persona, ut in Monarchia, sive sit consilium procerum, ut in Aristocratia, sive sit mixtum aliquod ex utroque, ut est Dux cum senatu, vel Rex cum comitiis regni. *De Legibus*, Lib. III, cap. 19, n. 17.

²Sicut quando unus homo privatus se vendit, et tradit alteri in servum, dominium illud ab homine simpliciter est; illo vero contractu supposito, jure divino, et naturali obligatur servus parere Domino. Et ita patet responsum ad confirmationem, negando simpliciter sequelam, quia translata potestate in regem, per illam efficitur superior etiam regno, quod illam dedit, quia dando illam se subjecit, et priori libertate privavit, ut in exemplo de servo, servata proportione, constat. *De Legibus*, Lib. III, cap. 4, n. 6.

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grant, just as a man who has freely made himself a slave cannot reclaim the liberty to which his master has acquired a strict title by a free contract.

If we compare the two views, we may say that Suarez' opinion is philosophically the better and the more consistent. If the people are necessarily superior to the king or magistrate, they can at any time depose the ruler or change the form of government, a situation menacing to peace and tranquillity. Mariana, trying to find an escape from this logical inference, maintains that although the people are superior to the ruler, they should interfere with his rule only in very important matters. Yet it is hard to draw a line of demarcation between ordinary acts of government and such important matters as concern the common good in a very special manner. It would seem that Mariana confuses what ought to be with what actually is. If he proves anything, he shows that it is highly desirable that the king be limited by constitutional law. Here indeed lies his valuable contribution to the development of democracy. The struggle between Parliament and the Stuarts in England was materially influenced by Mariana's writings (as noted by Moorhouse T. X. Millar, S. J.), especially his plea that taxes should be imposed only with the consent of the people. This is evident from a statement of Sir Roger Twysden published in 1849 by John Mitchell Kemble from the Manuscript of the author. Sir Twysden writes: "For Spayne, Mariana, in his book *De Rege*, approved by the Jesuites, examined by the king's command, and allowed upon it as a peece of great worth, disputing whether '*respublica universa, aut qui ejus partes gerunt, viri primarii,*' have the greater authority, sayth, '*Experimento comprobatur in Hispania vectigalia imperare regem non posse, populo dissentiente,*' etc. and a litle after hee shewes their ancestors,

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being wise men, did establish this moderation, '*ut reges intra modestiae fines continerent.*' The whole passage is too long to be heere transcribed, the booke it selfe beinge every where. Truly if this and what else he hath there of that monarchy doe not shew a mixture or limitation of it, I do not understand what is."¹ This interesting passage shows how widely Mariana's *De Rege* was spread among the English people, and it is but natural that it had a great influence upon the development of democracy in that country. Mariana found that this method of taxation prevailed in Spain, but as Suarez tells us, it was granted freely by the king as a check on royal extravagance, and was not instituted because the people had a right to it. Here Mariana again identified actual Spanish conditions with the general theory of political government.

¹ *Certaine Considerations upon the Government of England*, pp. 18-19.

Chapter IV

Law and Legislation.

MARIANA'S view of law is intimately associated with his theory of the State. He has told us that in the beginning the oppressed people chose the best man from amongst them to be their leader and judge. As long as his justice and impartiality were not questioned, there was no need of a definite law. He decided all cases according to the principles of justice and equity. Very soon, however, people believed they had reason to question his impartiality and, in order to secure an equal standard of justice for all citizens and for all times, laws or norms of justice were formulated according to which all decisions were to be given.

Another reason for the need of law was that injustice and violence constantly increased. At the beginning justice was very mild, no severe penalties were required as deterrents from crime. As violence and human passion intensified, laws necessarily became more severe so as to prevent the spread of crime. Originally, for instance, there had been no death penalty; but more and more having been added to the severity of punishment, death finally became the punishment imposed for grievous transgressions. When an ordinary manner of death no longer sufficed, exquisite tortures had to be devised to check human violence.¹

¹ Scribendi leges duplex causa exstitit. Principis aequalitate in suspicionem vocata, quod unus vir non praestabat, ut pari studio omnes complecterentur, ira odioque vacaret:

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Law, according to Mariana, is “a norm of reason free from all perturbation, drawn from the divine mind, prescribing the good and salutary and forbidding their opposites.”¹ The first laws were not only very mild but also very few and very clear. They did not need a special authoritative interpretation. At present, however, as Mariana mournfully remarks, their number is so great that the country suffers no less from laws than from crime. From this remark we can also infer Mariana’s ideal of law: Laws should be few and they should be so clear as to make additions and interpretations unnecessary.

It may be of interest to compare these statements with Suarez’ theory of law, presented in a most thorough fashion in his *De Legibus ac Deo Legislatore*, one of his principal works. Suarez defines law in the sense of St. Thomas as “a rule and measure according to which a person is moved to action or deterred from it.”² Though the wording of this definition is retained, Suarez makes a number of restrictions and distinctions because he considers it is too general and capable of application to irrational as well as to rational creatures, to works of art, good and bad. Law also comprises counsels, that is, norms which may induce men to act or refrain from action, though without any moral obligation or necessity. Law, then, is according to Suarez a rule and measure of action for rational creatures which implies an obligation of obedience and a sanction for transgression.

Suarez agrees with Mariana that man needs both divine and human law. We have no time to develop here the various divisions of law which Suarez enumerates. He speaks

leges sunt promulgatae, quae cum omnibus semper atque una voce loquerentur. . . . Deinde hominum exaggerata malitia, armis satellitum et majestate deterrita, severitate legum metuque judiciorum illigata est: ut dum singuli metuebant supplicia, sese facilius universi a flagitio continerent. *De Rege*, Lib. I, cap. 2, p. 18.

¹ Est enim lex ratio omni perturbatione vacua, a mente divina hausta, honesta et salutaria praescribens, prohibensque contraria. *De Rege*, Lib. I, cap. 2, p. 18.

² *De Legibus etc.*, Lib. I, cap. 1, n. 1.

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of an eternal law in God, according to which every creature must follow the right order. Man's participation in this eternal law is the natural law, i.e., a norm inherent in the human mind and binding upon man to regulate his actions according to this rule. Man needs this law to discern in a general way what order of life he is to follow if he would achieve his destiny. We shall not enter the discussion of the divine supernatural law, which is added to the natural law in order to attain the higher or supernatural end of man. Since the natural law comprises only the general principles of action and at the best some immediately evident inferences from these principles, it was necessary for man to learn more in detail what he has to do or not do in order to regulate his life, especially in so far as his social obligations are concerned. This end is accomplished by human positive law. Man is a social animal and as such needs a political society, the State. This society cannot attain its end, the common good, unless its members are told what they have to do or what they have to omit with regard to the common weal: "Men taken as individuals find out only with great difficulty what serves the common weal and, as a rule, rarely seek it of themselves. Consequently, human laws are necessary to provide for the general good by showing what should be done to promote this good and by enforcing its execution."¹

From this comparison it will appear that Suarez treats law from the philosophical standpoint, whereas Mariana speaks as an historian who is not indeed basing his opinion on actual historical facts, but on what he believed had most likely occurred. Mariana's reasoning is, therefore, vastly

¹ Singuli autem homines, et difficile cognoscunt id, quod expedit ad commune bonum, et raro illud per se intendunt; et ideo necessariae fuerunt leges humanae, quae communi bono consulerent, ostendendo quid agendum sit propter tale bonum, et cogendo ut fiat. *De Legibus*, Lib. I, cap. 3, n. 19.

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inferior to that of his brother in religion. His premises are of a merely problematical character and, unless confirmed by facts, will prove very little. He is neither a systematic philosopher nor a pure historian, but a combination of both. In this lies his strength and his weakness.

If all are bound by the laws of the country what shall one say of the sovereign himself who, according to some, is above the law? Should he be bound by his own laws and if so, can he be called to account or be punished for violating them? In answering this question, Mariana makes a number of distinctions. The king must undoubtedly observe the laws given by the whole people, such as laws concerning taxation, succession and religion, and the people may compel him to obey and, if necessary, punish his disobedience. On the whole, a sovereign must observe the laws for the sake of giving a good example. He should also abide by those which do not detract from his dignity or handicap him in his functions as a sovereign. But he is free from the laws regulating dress, expenditures, etc., although his good example will greatly promote the common good, in so far as it will induce the people to obey. No lawgiver can be compelled to observe the laws which he himself gives.

On this last point, Suarez is more definite and more thorough than Mariana. He distinguishes between a community which has made laws for itself, and an individual lawgiver. There is no doubt that a community is bound by its own laws. But the answer is not so simple in the case of an individual legislator. If the laws in question are a matter of justice, binding upon the whole community, it is clear that they also will bind the legislator, as happens in the case of price fixing. The legal price implies that whoever should demand something over and above the legally fixed amount would act unjustly.

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If the laws in question do not concern a matter of justice, the question arises as to whether a sovereign legislator is bound in conscience to observe them. The saying "that the prince is free from his laws" seems to imply that he is not bound in conscience, and yet the general opinion is that he is not free from moral obligation. But it is certain that he cannot be bound by any human power since as a sovereign ruler he has no political superior. Whence then does this moral obligation arise? Suarez answers, from the law itself. For God gave legislative power immediately to the State and mediately to the sovereign, with the *obligation* that their respective laws should bind all members of the community.¹ This is necessary for the common good, for the sake of which all legislative power was conferred by God. The fact that a sovereign is bound in conscience by general laws does not mean, however, that he can forcibly be prevented from breaking them. No superior on earth has jurisdiction over him. If the king should unjustly take the property of one of his subjects, a court of law might bound to make restitution, but it cannot compel him to ac-very correctly declare that he has acted unjustly and is cept such a decision.

When the opinions of Mariana and Suarez are compared, it would seem that Suarez offers the more correct explanation. He holds it necessary that all members of the State, the head not excepted, obey the law, whether that has been enacted by the whole community or by the sovereign alone.

¹ Respondeo igitur, Deum, qui est principalis auctor hujus potestatis, illam conferre sub conditione praedicta (viz., that all members of the State should be bound by its laws). . . . Deus . . . vult legislatorem humanum non habere potestatem ad ferendas leges, nisi cum universali obligatione illarum, qua totam rempublicam ut constantem ex corpore, et capite comprehendat. . . . Probatur minor ex ipsa necessitate communis boni, ad quod haec potestas ordinatur; datur enim in aedificationem, non in destructionem. Quod autem ad hujusmodi bonum commune pertineat, potestatem hanc ita esse datam Principi, ut licet in voluntate ejus sit, legem ferre; si tanem feratur, universalis sit et ipsum comprehendat, declarant sufficienter testimonia Scripturae, et rationes adductae. . . . *De Legibus*, Lib. III, cap. 35, n. 11.

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It is, then, not merely a question of a good example but a matter of moral obligation that a sovereign prince keep his own laws. True though it be that this obligation is merely moral without coercive power, yet it is a real and valid obligation in conscience.

Many students of Political Science number Suarez, Mariana and the scholastics in general among the proponents of the contractual theory of the State which was held by Hobbes, Locke and Rousseau; but it would be extremely difficult to prove such an assertion. The fundamental difference between the scholastics and the contractualists lies in the radical divergence in their premises. The scholastics stress the existence of a natural law, i.e., a law prior to any human law or political power which binds man's conscience. Natural law is that aspect of God's eternal law which ordains that every created being must obey its due natural order. This law is promulgated to man by the light of reason but it operates with necessity in the existence of irrational creatures in that they follow the laws of nature. Most of the contractualists, on the other hand, deny that any law at all existed before the establishment of a human legislative power. In other words, they admit no law excepting positive law. If there be no law there can be neither transgression of the law nor injustice; hence it is not a sin for a man to seek his own advantage even at the expense of his neighbor, unless he has bound himself by a social contract with his fellows to respect their lives and property on the condition that they in turn respect his life and his property. This is the teaching of Hobbes.¹ Locke's conception² ad-

¹ The desires and other passions of man are in themselves no sin. No more are the actions that proceed from those passions, till they know a law that forbids them; which till laws be made they cannot know, nor can any law be made till they have agreed upon the person that shall make it. . . . Where there is no common power, there is no law; where no law, no injustice. Force and fraud are in war the two cardinal virtues." *Leviathan*, chap. 13.

² *Two Treatises of Government*, Book II, chaps. 1-9.

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mits, to a certain extent, a natural law, but he differs radically from the scholastics in his explanation of the origin of political power. Rousseau¹ expressly denies that there is any law in the state of nature and maintains that all law is based upon human convention or voluntary agreement. The state of nature, which is instinctive and violent, is replaced by the state of right and justice, through the medium of the social contract. Rousseau holds that by nature man has a right (because of original freedom) to get for himself all he can even at the expense of his neighbor, and that it is only after becoming a party to the social contract, that he is no longer permitted to follow his predatory instinct. The fundamental difference between this doctrine and the scholastic teaching is this: the scholastics hold that man has strictly moral obligations of justice to his neighbor which antedate the existence of political society; the contractualists maintain that no moral obligation of any kind exists before the establishment of the State. The contractualists do not, like the scholastics, distinguish between a moral obligation *with* a legal sanction and a moral demand of justice which always persists even *without* the existence of any coercive human power. It is one thing to say that there is no moral obligation without a coercive human sanction and another to assume that there may be a moral obligation independent of a human sanction, although it may be morally necessary that there be such a sanction in order to enforce the strict observance of a merely moral law.

¹ *Contrat social*, chap. 8.

Chapter V

Tyrannicide.

AS we have seen, Mariana is best known for his teaching on the killing of tyrants; and so a survey of his political ideas would be incomplete if this point were not touched upon. Other scholastic writers on this subject make a careful distinction between a ruler who is a usurper—i.e., an illegitimate ruler—and a sovereign who has acquired the right to the throne in a legitimate way but is abusing his power to the detriment of the people. We find no such clear distinction in Mariana's writings. When he speaks of a tyrant he means a ruler who is oppressing his people and who has, in most cases, obtained his power by force of arms or other unjust means. The fifth chapter of *De Rege* gives a vivid and, we may say, most fantastic description of the tyrant monster. The author employs the strongest terms, and one sees instantly how deeply he abhors the creature he is describing. He contrasts him with that legitimate and noble king who has obtained his power by the people's consent and who has a fatherly concern for the good of his subjects.

After making his reader gasp with horror at the spectacle of a creature so fantastic that he has probably never been realized in human history, Mariana raises the question as to whether it be lawful to destroy such an enemy of the people. His discussion is not merely abstract. He refers at

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the beginning of the sixth chapter of the first book to the assassination of Henry III of France by the Dominican friar, Jacques Clement, offering this as an example of how important it is that the people be satisfied with the reign of their rulers. He relates how King Henry had revealed his intention to transfer the reign of France to the Calvinistic Henry of Navarre, who had been excommunicated by the Pope on account of heresy. The French nobles, under the leadership of the Duke of Guise, endeavored to forestall the king's attempt. Henry thereupon apparently changed his mind and called the Duke and the Cardinal of Guise to his camp at Blois near Paris. Instead of settling the matter to the satisfaction of the Catholic party, he assassinated both the Duke and the Cardinal and arrested the Cardinal of Bourbon, the nearest Catholic heir to the throne.

Thereupon, the people and above all the city of Paris rebelled against the king to avenge the murder of the Catholic leaders. Henry proceeded to besiege his capital; and when he was almost at the point of seizing it he was struck down by the dagger of the young friar. After a very minute description of the assassination, Mariana concludes this passage of the story by saying: "By the assassination of the king he (Jacques Clement) made a famous name for himself, blood was expiated with blood and the Duke of Guise, slain in breach of trust, was avenged with royal blood. Thus perished Clement, an eternal ornament of France, as has been the general belief."¹

Mariana tells us that opinions were divided as to legitimacy of the friar's deed and then gives the reasons advanced by those who condemned it. Clement's critics refer to King

¹Caeso rege ingens sibi nomen fecit, caede caedes expiata, ac manibus Guisani ducis perfide perempti regio sanguine est parentatum. Sic Clemens periit, aeternum Galliae decus, ut plerisque visum est. . . . *De Rege*, Lib. I, cap. 6, p. 69 (according to the first edition, Toledo, 1599).

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David who dared not kill Saul although he himself had been unjustly threatened with death, and to the first Christians who patiently suffered martyrdom at the hands of the Roman Emperors. Moreover, the killing of rulers involves hardships, greater perhaps than those created by tyranny, since rebellion gives rise to all kinds of calamities. "The patrons of the people" produce the following arguments: The people from whom kings receive their power have a right to call them to account if circumstances warrant; and if they are not listened to, they may deprive kings of their power. As a matter of fact, the killers of tyrants, they say, were always considered heroes by the people, and this general conviction cannot be wrong. If we are allowed and even obliged to defend our mothers and wives when violence is done them, how much less can we suffer that our country, to which we owe much more than we do to our parents, be maltreated and disturbed by the whims of a tyrant? Philosophers and theologians permit anybody to kill a usurper. If the tyrant is a legitimate ruler, we must tolerate him until he neglects the laws of morality and decency."¹ Nor should a ruler be deposed lightly, because the evils of rebellion are great. "But if he harms the State, makes spoils of public and private property, if he despises public laws and sacrosanct religion, if he boldly puts his strength in pride and in wickedness against the heavenly powers, he is not to be suffered any longer."²

After having enumerated these arguments, Mariana tells us what his own opinion is, when he continues: "These are the bulwarks (strong points) of each side, a careful scrutiny

¹ Nam si Princeps populi consensu aut jure hereditario imperium tenet, ejus vitia et libidines ferendae sunt eatenus, quoad eas leges honestatis, quibus est adstrictus, negligat. *De Rege*, Lib. I, cap. 6, p. 59.

² Si vero rempublicam pessundat, publicas privatasque fortunas praedae habet, leges publicas et sacrosanctam religionem contemptul: virtutem in superbia ponit in audacia atque adversus superos impietate, dissimulandum non est. *Ibid.*

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of which will easily show what to think about the matter under consideration.”¹ In other words, Mariana believes that Jacques Clement was right in killing Henry III.

The next paragraph of Mariana's discussion is a practical application of the doctrine set forth on the preceding pages. Having indicated when a tyrant must be resisted, he continues: “One must, however, consider carefully what method is to be taken in deposing (such) a prince, lest evil be heaped upon evil, or crime vindicated by crime.”² If there is an opportunity to hold a convention of the people, this ought to be convoked and the course of action be decided upon by general consent. The king should first be prevailed upon by arguments to listen to reason, and if he should hearken no further course is to be taken. If he despises the warning given by the people and there is no hope for amendment, he may lawfully be declared deposed. If he should take up arms, the people may defend themselves and may declare him an enemy of the country whom anybody may lawfully kill.³

But what if it is impossible to assemble the people? Mariana's opinion is that if there is no other chance of getting rid of the tyrant, no one can rightly blame the private citizen who, at his own initiative and with the tacit approval of the people, makes an attempt on the king's life.⁴ To meet

¹ Haec sunt utriusque partis praesidia, quibus attente consideratis, quid de proposita quaestione statuendum sit, explicare non erit difficile. *De Rege*, Lib. I, cap. 6, p. 58.

² Attente tamen cogitandum quae ratio ejus Principis abdicandi teneri debeat, ne malum maius cumuletur, scelus scelere vindicetur. *Ibid.*, Lib. I, cap. 6, p. 59.

³ Monendus in primis Princeps erit atque ad sanitatem revocandus, qui si moram gesserit, si reipublicae satisfecerit, peccataque correxerit vitae superioris, resistendum arbitror, neque acerbiora remedia tentanda. Si medicinam respuat, neque spes ulla sanitatis relinquatur, sententia pronunciata licebit reipublicae ejus imperium detrectare primum. Et quoniam bellum necessario concitabitur, ejus defendendi consilia explicare, expedire arma, pecunias in belli sumptus imperare populis: etsi res feret, neque aliter se reipublica tueri possit, eodem defensionis jure ac vero potiori auctoritate et propria, Principem publicum hostem declaratum ferro perimere. Eademque facultas erit cuicumque privato, qui spe impunitatis abiecta, neglecta salute in conatum juvandi rempublicam ingredi voluerit. *Ibid.*, p. 60.

⁴ Roges quid faciendum, si publici conventus facultas erat sublata: quod saepe potest contingere. Par profecto, mea quidem sententia, judicium erit, cum Principis tyrannide oppressa republica: sublata civibus inter se conveniendi facultate voluntas non desit delendae tyrannidis, scelera Principis manifesta modo et intoleranda vindicandi, exitiales conatus

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the objections advanced against such a doctrine, our author tries to show that it will not unduly threaten the common good. He emphasizes that it is not left to the arbitrary judgment of a private citizen to take the life of his prince. One should first seek the advice of "erudite and grave men," unless the cry of the people against the tyrant be so evident that nobody can doubt that he deserves death. Nor is it to be feared that many will venture on so dangerous an enterprise. Very few are ready to risk their lives and, as a matter of fact, very few tyrants have died a violent death. On the other hand, it will be salutary for rulers to realize that they must not abuse their power over their subjects and that they may be called to account by the people.

In the seventh chapter Mariana discusses the question whether it be lawful to poison a tyrant. Even though it be certain that the tyrant deserves death, our author would not grant that it is lawful to make him take poison with his own hand. This would be cruel and contrary to natural law.¹ If, however, the poison were to work from the outside the case would be different. If the tyrant were to succumb to an attempt on his life by poisoned garments or furniture or weapons, this would no longer be damnable, it always being understood that he really deserves death. This distinction seems silly indeed, because there could be no question of suicide if a person should unknowingly poison himself. Here Mariana tries to avoid a gnat and swallows a camel, as B. Antonides pointed out.²

Such is Mariana's notorious teaching on tyrannicide. No one who calmly reads the sixth and seventh chapters of the

comprimendi: ut si sacra patria pessundet, publicosque hostes in provinciam attrahat: QUI VOTIS PUBLICIS FAVENS EUM PERIMERE TENTARIT, HAUDQUAM INIQUE EUM FECISSE EXISTIMABO. *De Rege*, Lib. I, cap. 6, p. 59.

¹ G. Jellinek calls attention to the fact that in this question Mariana closely followed John of Salisbury, using almost the same words. G. Jellinek, *Die Monarchomachen*, p. 44.

² Der gute Mariana verschluckt das Kamel und sucht die Mücke auszuseien. *Die Staatslehre des Mariana*, in *Archiv für Geschichte der Philosophie*, V. 21, 1908, p. 315.

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first book of *De Rege* can absolve him from being guilty of very serious error in his doctrine on the killing of tyrants, a doctrine which would greatly endanger the common good and which cannot, therefore, be accepted as sound political philosophy. It was not accepted by the Jesuit Order. As we have said before,¹ the first edition of *De Rege* had no sooner been published than the General of the Order told the author to correct the offensive passages. Later, in 1610, he addressed a solemn decree to his subjects, forbidding them to teach that it is lawful to kill tyrants.² One must deny, therefore, that Mariana simply pronounced openly what was taught by all Jesuits secretly.

P. Janet³ indicates that tyrannicide was commonly advocated in those days. The monarchomachs who opposed royal claims to unlimited power had representatives among both Catholics and Protestants. G. Jellinek classifies Mariana among these writers.⁴ The defenders of the divine right of kings endeavored to show that the people must under all circumstances suffer the rule of a legitimate king, no matter how grievously he might abuse his power, for the reason that he had received his authority directly from God. If his rule became tyrannical, it is because God wanted to use him as an instrument of wrath for punishing the sins of the people. Naturally, this extreme view aroused the opposition of these who defended the rights of the people. It had always been the clear conviction of mediaeval philosophy that

¹ Page 4.

² The French version of the decree reads: "Nous enjoignons, en vertu de la sainte obéissance, sous peine d'excommunication et d'inhabilité à tous offices, et de suspension a divinis et autres peines arbitraires à nous réservées, qu'aucun religieux, soit en public ou en particulier, lisant ou donnant avis, et beaucoup plus mettant quelques œuvres en lumière, n'entreprenne de soutenir qu'il soit loisible à qui que ce soit, et sous quelconque prétexte de Tyrannie, de tuer les Roys ou Princes, ou d'attenter sur leurs personnes, afin que telle doctrine n'ouvre le chemin à la ruine des princes, lesquels nous devons honorer et respecter comme personnes sacrées et établies de nostre Dieu." (Franciæ histor., t. III, p. 79.) Henri Fouqueray, S.J., *Histoire de la Compagnie de Jésus en France*, Tome III, p. 247.

³ See footnote 2 on page 5.

⁴ *Die Monarchomachen*, p. 44.

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the people do not exist for the king, but that the king does exist for the people. Catholics were not alone in opposing the unreasonable claims of rulers. Luther, Melanchthon and other reformers were similarly antagonistic. Luther says that the community as a whole may condemn a tyrant to death. Melanchthon maintains that the killing of a tyrant is the most agreeable offering man can make to God. The Calvinist Junius Brutus believed that subjects had no right to kill a legitimate tyrant, but that resistance must be authorized by a representative council of the people. John Knox affirmed that it was the duty of the nobility, judges, rulers, and people of England to condemn Queen Mary Stuart to death.¹

Bearing these things in mind, we need not be amazed to find similar doctrines professed by some scholastics. St. Thomas Aquinas had conceded the right of rebellion against extreme tyranny; and Mariana, who hated nothing more than he did tyranny, believed that if the community had no way of ridding itself of a tyrant, a private citizen, acting in the name of the whole people, would have the same right as the community to act. He thereby went farther than any of the great Catholic theologians. St. Thomas gives the community the right to depose a tyrant,² but says that if it is impossible to achieve this end through popular action, the only lawful thing remaining is to ask the King of Kings to relieve his people.³

¹ *Catholic Encyclopedia*, article "Tyrannicide."

² Primo quidem si ad jus multitudinis alicujus pertineat (i.e. si tyrannus non habet supra se superiorem) sibi providere de rege, non injuste ab eadem rex institutus potest destrui, vel refrenari ejus potestas, si potestate regia tyrannice abutatur. Nec putanda est talis multitudo infideliter agere tyrannum destituens, etiam si eidem in perpetuo se ante subjecerat: quia hoc ipse meruit, in multitudinis regimine se non fideliter gerens, ut exigit regis officium, quod ei pactum a subditis non reservetur. *De Regimine Principum*, c. 6.

³ Videtur autem magis contra tyrannorum saevitiam non privata praesumptione aliquorum, sed auctoritate publica procedendum. . . . (Then follows the place quoted in the preceding footnote.) Si vero ad jus alicujus superioris pertineat multitudini providere de rege, expectandum est ab eo remedium contra tyranni nequitiam. . . . Quod si omnino contra tyrannum auxilium humanum haberi non potest, recurrendum est ad omnium regem Deum, qui est adjutor in opportunitatibus in tribulatione. Ejus enim potentiae subest, ut cor

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Suarez, who has sometimes been charged with defending tyrannicide, makes a very careful distinction between a usurper who is always a tyrant because he has no right to the royal power and a legitimate king who rules tyrannically. According to him a usurper is an enemy of the State and is engaged in actual warfare with the community. Consequently, every citizen may treat him as an enemy of the country, i.e., kill him, since it is a correct assumption that the State wants to urge its right against an unjust usurper. Even in this case, however, it may not be lawful for a citizen to act in the name of the State. If the people consent to the rule of the illegitimate ruler, he thereby becomes legitimized; and if action against tyranny threatens to throw the country into disaster or if a greater tyranny is likely to result, it would be inexpedient for the State to remove the usurping tyrant and hence no private citizen could lawfully kill him. Moreover, it is never lawful to kill even an illegitimate ruler if there be other ways and means of ending his tyranny.¹

If a legitimate king becomes a tyrant, the community as a whole alone has a right to remove him. Suarez, following St. Thomas, clearly denies a private citizen the right to make

tyranni crudele convertat in mansuetudinem . . . secundum Salomonis sententiam Prov. 12,1: "Cor regis in manu Dei: Quocumque voluerit, inclinabit illud." *De Regimine Principum*, c. 6.

¹Tyrannus in titulo licite occiditur. . . Communiter enim inter haec duo genera tyrannorum constituitur discrimen, nam asseritur hunc tyrannum quoad titulum, interfici posse a quacumque privata persona, quae sit membrum reipublicae quae tyrannidem patitur, si aliter non potest reipublicam ab illa tyrannide liberare. Ita sentit D. Thomas, in 2, dist. 44 . . . quem fere omnes Doctores citati secuti sunt. . . Ratio ergo est, quia tunc non occiditur princeps, sed hostis reipublicae.

Quae requiruntur ut tyrannus in titulo a privato occidi possit. Addit vero supra D. Thomas limitationem, nimirum hoc licere quando nullus recursus est ad superiorem, per quem iudicium de invasore fieri possit. . . . Etiam quando non est superior ad quem recurratur, necessarium est ut tyrannis et iniustitia sit publica et manifesta; nam si sit dubia, non licet per vim depellere eum, qui possidet, cum in dubio melior sit ejus conditio, nisi certum etiam sit possessionem fuisse tyrannicam. Praeterea, ut licita sit occisio talis tyranni, oportet, necessaria sit ad libertatem regni obtinendam, nam si alia via minus crudeli possit tyrannus depelli, non licebit statim eum occidere sine majori potestate, et causae examinatione. . . . Praeterea intelligenda est communis sententia, nisi inter tyrannum et populum foedus aloquod, vel tregua, aut pactum juramentum firmatum intercesserit. . . . *Defensio Fidei Catholicae*, Lib. VI, cap. 4, nn. 7, 8, 9.

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an attempt upon the life of the tyrant.¹ Mariana, then, has gone further than any of the great Catholic thinkers in that, under certain conditions, he allows a private person to kill a legitimate ruler who has become a tyrant.

A detailed survey of Mariana's teaching on tyrannicide seemed necessary, not because the matter is intrinsically important enough to deserve a full treatment, but because it has often been misrepresented. Some of Mariana's critics seem to feel that all he taught was tyrannicide, while others insinuate that his is merely the clearest and most typical expression of a dangerous "Jesuitical doctrine." Still others assert that he did not teach tyrannicide at all. There can be no doubt that our author went too far on the question of tyrannicide, but it is also certain that his brethren in religion did not share his opinion, and that his order as a body did not sanction his views.

¹ At vero in praesenti non tractamus de illo casu, in quo rex actu infert bellum aggressivum ipsi reipublicae ad destruendam illam, et multitudinem civium occidendum, sed quando in pace regnans aliis modis rempublicam vexat, eisque noxius est, et tunc non habet locum defensio per vim vel insidias contra vitam regis, quia tunc non infertur actualis vis reipublicae, quam vi repellere liceat. Unde tunc aggredi principem esset bellum contra illum movere privata auctoritate, quod nullo modo licet, quia ordo naturalis mortalium paci accommodatus, hoc poscit, ut suscipiendi belli auctoritas penes rempublicam seu principem sit, ut dixit Augustinus, lib. 22, contra Faustum, cap. 74. *Ibid.*, Lib. VI, cap. 4, n. 6.

Chapter VI

Principles of Government.

MARIANA'S work on royalty is a practical handbook for kings and so we must expect it to contain many practical principles of government. It would lead us too far and it would also be beyond the purpose of this monograph to give an exhaustive description of all of them. We shall, therefore, touch only upon those which are characteristic of our author and which show his originality. His suggestions regarding the appointment of officers and his principles of law and justice seem to bring out best two outstanding characteristics, common sense and democratic spirit.

Some writers have maintained that Mariana defends, in a measure, the same principles of government as Machiavelli. This view is an error or a misrepresentation. Our author undoubtedly knew Machiavelli's works but explicitly denied his adherence to them. He tells us that certain "men of great and excellent talent"¹ have maintained that a ruler cannot always be honest like other people but must use simulation, fraud, lying and similar means in order to promote the common good. These men even go so far as

¹ Magno et excellenti ingenio viri, prudentiae opinione maxima, Principem ad regendam populi multitudinem, alta dissimulatione opus habera persuadent Caeteros mortales simplici via ad honestatis studia aut utilitatis contendere: Principum non eandem esse rationem, quibus salus multitudinis credita est, variae, multiplicis, inconstantis, neque ejusdem semper voluntatis aut judicii. . . . Itaque hi Principem ex dolo, fraude et mendacio componunt: fronte probitatem ostentare jubent: libidinem, saevitiam, avaritiam, ut res erunt, suscipere concedunt. quae res privatis probro essent. Principi afferre laudem. *De Rege*, Lib. II, cap. 10, p. 163.

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to say that "he who does not know how to simulate does not know how to reign."¹ Mariana not only rejects these principles, but even maintains that a prince must hate lying more than anything else, since otherwise he would lose the confidence of his subjects.² This does not mean that he should imprudently tell every one about his plans, and so run the risk of causing great harm to the State and himself. Prudence is to be the cardinal virtue of a ruler.³

Regarding the candidates for State or Court offices, Mariana demands that the latter especially be of blameless character. Otherwise they would corrupt the king's character and morals. Officers of the royal household, however, should not meddle with the administration in order to prevent evil talk. Nor should one of them be favored too much, lest he become arrogant and dangerous to the freedom of the king.⁴

Prospective candidates for offices should, if possible, be proposed by the people as was the custom in the early

¹ It is not difficult to recognize in these quotations Macchiavelli's doctrines as set forth in *Il Principe*. "He (the prince) had need then be a Fox that hee may beware of the snares, and a Lion, that he may scare the Wolves. Those that stand wholly upon the Lion, understand not well themselves. And therefore a wise Prince cannot, nor ought not keep his faith given, when the observance thereof turnes to disadvantage, and the occasions that made him promise, are past. Nicolo Macchiavelli's *Prince*, translated by E. D. ch. 18, p. 137.

... for that man who will professe honesty in all his actions, must needs go to ruine, among so many that are dishonest. Whereupon it is necessary for a Prince, desiring to preserve himselfe, to be able to make use of that honestie and to lay it aside again, as need shall require. *Ibid.*, ch. 15, p. 118.

² Illud contendo Principi a primis annis esse inculcandum amorem veritatis, mendacii odium: nihil ut turpius ea foeditate arbitretur, nihil regia dignitati magis contrarium. Est enim veritas bonum stabile, Deo gratum, ad benevolentiam conciliandam aptissimum, praesidiaque comparanda. *De Rege*, Lib. II, cap. 10, p. 165.

³ Ne nos quidem cautione Principem opus habere negamus, quam populus vocat calliditatem et fraudem, virtuti, ut solet, vitii vicinum nomen affingens. Iidem certe poëtae Achillem Phoenici instituendum traditum affirmant, prudenti homini, atque in arte dicendi exercitato. Quibus virtutibus instructus accedat, uti superius est dictum, qui multitudinis rector, patriae defensor, copiarum dux constituitur. *Ibid.*, p. 168.

⁴ Et quidem de ministris aulae expedita praecepto est: ex omni nobilitate Principe majore, ii diligantur, quos vitae innocentia, ingenium, prudentia, magnitudo animi, obsequendi dexteritas commendabit. perverso homines ingenio, juvenes luxu perditos, ne eorum colore mutetur, diligenter arcebit ab aula, atque familiaritate. . . . Si quis ex aulicis egregie fidelis fuerit, sit in domesticis rebus et privatis: quae res ad officium imperii, atque ad aliquam partem reipublicae pertinebunt, de his rebus ne quid attingat. . . . Multa enim quae recte committi servis fidelis (fidelibus) possunt, tamen sermonis et vituperationibus vitandi causa committenda non sunt. Simul eorum arrogantiae consulendum, ne licentia insolentes evadant, quae maxima pernicies est. *De Rege*, Lib. III, cap. 1, pp. 212-13.

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Church; but at any rate their lives should be carefully investigated. Nor ought favor to be the deciding element in conferring honors and offices. Not self-recommendation but ability should be the all-abiding principle.¹ There may be good reasons why the king will, to a certain extent, favor nobles in view of the merits of their ancestors and of the desirability of guarding them from torpor and inactivity. It will be wise to give the rich a goodly share in the rule, for the king needs their financial help and if he passed them over they might cause discontent and revolts. But they must not be employed unless they are capable men. If they are greedy and avaricious, they must by all means be kept out of public offices where they would simply rob the people.

Favors granted the nobles and the rich should, however, not exclude from public honors men who are poor and obscure but at the same time capable. It would plainly be of great harm to the State if these persons should lose all hope of promotion so that the many valuable men amongst them would be unable to devote their talents to the service of the general good. If they are given no chance of reaching honors, they will become discouraged and lose all ambition to accomplish great things. Foreigners also should have a chance if they are worthy and capable. Every one should be trusted in so far as he shows probity and prudence.

The king should promote plebeians if they are good and capable men rather than give all the honors to degenerate

¹ Ita tamen his nervis rempublicam universam et omnes ejus partes constringat, ut sit omnibus persuasum neque nobilitatem neque divitias, si alia desint praesidia, fore satis cuiquam ad reipublicae honores consequendos, fugienda supplicia: neque passurum, ut cujusquam tenuitas, aut generis obscuritas sit imperiosis hominibus praedae atque ludibrio: AC POTIUS OMNIBUS ESSE, SI VIRTUS ADSIT, CURSUM AD SUMMOS HONORES, MAGNASQUE COPIAS APERTUM. *Ibid.*, Lib. III, cap. 4, p. 237.

Si igitur Princeps suae dignitati et saluti publicae servire cupit, non opes ingentes, si virtute nudatae sint, respiciat: non generis nobilitatem fovebit, si fuerit honestatis luce destituta: sed potius virtutem amplectetur et industriam, ubicunque erit. *Ibid.*, p. 238.

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and cowardly nobles. It will also be advisable to reinvigorate the nobles by conferring the diploma of nobility upon men of the people if they deserve it, for the nobles also were once plebeians. If even foreigners and heretics have sometimes been ranked among the nobles, why should not plebeians have the same chance? Summing up the general principle, Mariana says: "In conferring honors, whether military or ecclesiastic, the nobles should be preferred in such a way that there seems to be some room left for the others."¹

Should bad but at the same time capable men be kept out of office? If they are decidedly bad they should be excluded altogether, or removed if they have been promoted. In case they have only minor faults, a somewhat different course may be followed, because if all these were ignored, they would cause great dissatisfaction by reason of their great number. Moreover, the king's duties are so numerous that he cannot possibly inquire minutely into the lives of his candidates. Many want to obtain public honors at any cost, and not a few become better men as soon as they have been raised to high places. If the king were to be too inquisitive, many good men might be calumniated by rivals and so be lost to the common good. After officials have been appointed, the king can personally find out what is in them.²

In making the practical application of his scheme, Mariana comes to a conclusion very different from the common practice of rulers. These ordinarily appoint bad men to high offices. Bishops must always be irreproachable. Of-

¹ Ergo id Principi imprimis curae esse debet: id contendat suo exemplo sancire in hominum delectu nihil virtuti praeferendum. . . . Honoribus dandis sive militares sint, sive ecclesiastici, ita nobiles praeferantur, ut caeteris locus aliquis relictus esse videatur. *De Rege*, Lib. III, cap. 1, p. 242.

² W. D. Dunning does not seem to do full justice to the author of *De Rege* when he imputes "something of that peculiar quality which gave Macchiavelli a doubtful reputation," to Mariana's scheme for appointing State officials. Dunning's treatment of the question is too brief and summary to bring out Mariana's reasoning. He omits the reasons why the king may appoint men of ability rather than of blameless life to certain offices. *A History of Political Theories from Luther to Montesquieu*, p. 73.

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ficers of the army should first of all be capable and brave men, even if they may not be blameless in every respect. Ambassadors, sheriffs, tax agents and many other minor administrative officers need not necessarily be virtuous men provided they do not lack experience and ability. Magistrates who are to pass on questions of law must always be blameless and ought to be appointed with popular approval, since the people usually have a better knowledge of candidates than the nobles, who speak according to favor and self-interest.¹

Mariana knows very well the principle of division of labor as applied to the administration of the State. He maintains that no one should hold many offices at the same time. One man, in fact, should have one office. The reasons he gives are very much to the point and are now questioned by nobody. If a man has only one task to perform he will do it more efficiently, and he will not break down under too heavy a burden. The king will also make many friends by employing in his service men who otherwise would have leisure to think of innovations and to cause trouble.²

In advocating the appointment of one man to each office, Mariana does not mean that numberless honorary positions should be created for idle people who will waste the king's

¹Componere cum aulis scholas plane difficile est. dissidentes rationes et argumenta utriusque partis aliquo temperamento conciliare tentabimus. Equidem nunquam ea mente sim, ut sanctissimos Episcopos ac vero reliquos temporum ministros et sacerdotes legi concedam, nisi ex probatissima disciplina, itaque integra probitatis fama. . . . Rursus non negabo (qui enim possim?) belli curam prudenter viris fortibus demandari, quamvis moribus non satis integris idemque sanxerim de aliis functionibus minoribus. . . . Nam et ad conficiendos calceos, extruendas aedes, paranda ferramenta, non viros probos, sed peritos earum rerum artifices advocamus. *De Rege*, Lib. III, cap. 3, p. 233.

Magistratus iuridicundo me quidem iudice nunquam Princeps creabit, nisi integra probitatis fama, atque proclamatos. *Ibid.*, p. 235.

². . . Placet etiam ut uni homini una tantum cura demandetur: neque plures magistratus in unum hominem cumulandi videntur. . . . Neque enim unius vires et prudentia multis procurationibus sit satis, concidat pressus onere: gemat ipse, gemant subditi neesse est, temporis et rei familiaris dispendium, dum liti aut negotio finis aut nunquam aut post longas moras, ingentes sumptus imponitur. Et ut unus ad multos gerendos magistratus satis esset, id incommode accidit, quod iis honoribus ministerisque inter plures magistratus, plurium benevolentia Principi conciliaretur, multis ejus beneficiis constrictis: praeterea occupatis negotio civibus minor novarum rerum et imperii cupiditas esset. *Ibid.*, Lib. III, cap. 1, p. 216-17.

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resources and do nothing but wear empty titles and draw large salaries.¹ He was not speaking abstractly but was making a practical application to the Court of the Spanish king, where the number of good-for-nothings was very great.

Should officers be appointed for a short term or for life? Plato favors the life term on the ground that long experience gives greater efficiency. Aristotle is of the opposite opinion, believing that old age decreases efficiency. As a matter of fact, the usual practice is to change officers frequently to prevent carelessness in their administration and to restrain them from tyrannical methods.

Mariana believes that the administration of the State will profit greatly if the royal officers are obliged to give a strict account of their stewardship. The scheme used at the time seemed to him objectionable, for the reason that if officers were examined by their successors it was to be feared that they would deal too leniently with each other, thus playing into one another's hands. In former times it had been customary for a board of nobles and bishops to inquire at certain intervals into the lives and the administration of public officials. A similar method, Mariana thought, would no doubt be a long step in the direction of sound administration. He does not advise the king to inquire too minutely into the lives of his officials nor be too severe in punishing their least faults, but holds he should have a sufficiently accurate knowledge of their defects and abilities to know how far he can rely upon them.²

¹ Illud contendo, ut magistratum nomina inania esse non debent: ita procurationes multas, magistratus sive ministeria in aula Principis non esse uni demandanda, quo nimirum partito onere facilius singula expediuntur negotia. *De Rege*, Lib. III, cap. i, p. 217.

² Exigere rationem administratae reipublicae esse imprimis salutare. In eam rem video antiquis temporibus usitatum, legeque Caroli Magni Imperatoris sancitum, ut certis temporibus rempublicam universam delecti ex utroque ordine Episcopi et viri primarii lustrarent, inquisitionemque instituerent de singulorum iudicium vita, moribus (,) integritate, quae ratio si in nostros mores revocaretur, non posset non esse imprimis salutaris. Nam quae ratio tenetur, ut successor in prioris vitam inquirat incommodis est obnoxia: ac periculum ne severi in caeteros inter se mutuo parcant, in erratisque dissimulent. Mihi

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One of the most important principles of government, says Mariana, is justice. It is the bond which holds together the various parts of the body politic and unites the head with the members and the members with each other.¹ Without justice social life would become impossible and man would be reduced to isolation and savagery. The great philosophers speak of three kinds of justice:² "Legal justice" consists in the obligation to obey the laws of the country. Without it, there would be lawlessness, violence and disorder. In their contractual dealings with each other, men are bound by "commutative justice" to be honest and faithful. Commerce and all social intercourse would become illusory if every one could seek his own interest at the expense of his neighbor. "Distributive justice" regulates the proportion of each citizen's share in the honors and burdens of the community. Mariana does not believe that it would be fair to apportion honors and burdens in an arithmetical proportion so that all would have absolutely equal shares, but holds all should share honors according to their worthiness and burdens according to their ability. Absolute equality would in reality be the greatest inequality.³

Justice must also be observed in the administration of law. The laws must be binding impartially on all members of the community in an impartial way. They must apply to the rich as well as to the poor. Every one must have a fair trial, no one must be executed without a hearing by a

sane non placet, praesertim cum nostri mores tantum ad nimiam levitatem et ambitionem incubuerint, scrutari Principem omnes sordes, vindicare levissima etiam magistratuum peccata . . . *De Rege*, Lib. III, cap. 1, p. 218.

¹ Quid enim aliud justitia est, quam compages membrorum et nexus quidam summi cum infimis atque cum his medii aequabili jure constricti tenentur? *De Rege*, Lib. III, cap. 12, p. 308.

Quid autem aliud justitia est quam ratio singularum partium atque ordo inter ipsas et cum suo capite majori aliqua potestate? *Ibid.*, p. 309.

² Omnino justitia trifariam a magnis Philosophis divisa est: in legalem, et quae commercio servit, quaeque in divisionibus versatur. *Ibid.*, p. 310.

³ Ac vero qui ferant aequo animo cives, ut qui minores opes prudentiae dexteritatis, virtutis attulit ad rempublicam, is honores omnes et praesidia reipublicae unus obtineat? *De Rege*, Lib. III, cap. 12, p. 311.

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judge or without being found guilty of his crime. The king should never have any one done away with by secret murder, for this is always a sign of fear and a blight on royal dignity.¹ Justice must be strict, yet not cruel. It is always good for the country if the laws are obeyed even though their usefulness may be questioned, as some criticize the Spanish laws concerning the export of precious metal.² Though in general justice must be strict, yet it must be combined with clemency according as the general good of the State dictates.

In case of rebellion the king may appoint severe judges; but when the uproar is over they ought to be called to account and punished for unwarranted cruelty. Mariana maintains that crimes must be punished, lest they arouse God's wrath and draw His curse upon the whole community. Though the purpose of all law is to repress lawlessness, the king should endeavor to prevent crime rather than to punish it.³ Here our author pronounces a very modern principle of government, namely, the endeavor of the authorities to prevent crime and lawlessness. Law is not an end in itself but should serve the commonweal. In punishing crime the king must not merely follow the advice of his counsellors but must also listen to the voice of the people, who are, as a rule, less prejudiced than courtiers who often cater to the whims of the king or speak in their own interest.

Small law suits should be settled promptly and speedily. For the hearing of major causes, a definite time should be set and strictly observed. If suits at law are protracted end—

¹ Nunquam adversus aliquem nullo crimine, nullo accusatore iudicis persona deposita ad vim dominationis convertatur, quod est tyranni proprium. . . . De nullo occulte supplicium sumeret, formidinis indicium, majestatis dedecus. Ergo iudicium sententiis consentientibus atque suffragio, Princeps nefas putet secus de re proposita statuere. Alioque certam pestem, gravia incommoda denuncio, si iudicium suum aut alicorum sequatur. *Ibid.*, p. 335.

² Pro incommodo quis afferri contra arguat legibus Hispaniae stare, quibus argentum ad alias nationes deferri vetitum prorsus est. *De Monetæ Mutatione*, cap. 9, p. 206.

³ Flagitia prohibere potius debet, quam vindicare, eo consilia, instituta, legesque referantur. Et est medicina præstantior, quæ morbum prohibet, quam quæ sanat aegrum. *De Rege*, Lib. III, cap. 15, p. 335.

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lessly, there will be great danger of subterfuge and fraud. Many idle people seek an existence out of the procrastination of the courts and very often jealousy also arises among judges as to whose jurisdiction the case belongs. Supreme judges should, therefore, be appointed with ample power to settle differences between judges.¹

In summing up Mariana's principles of government, it can be said that he shows a remarkable bent for democratic ideas, a matter quite surprising in view of the fact that he lived in an age when the king of Spain had practically absolute power, and when all rights and privileges were in the hands of the nobility and the clergy. Mariana's contention that officers should be appointed according to their ability must have been an unheard-of novelty. Popular voice, promotion according to merit and ability without regard to blood or wealth,—ideas so self-evident in our age,—must have seemed revolutionary to Mariana's contemporaries. Just as our author has greatly influenced the development of constitutional government, so also he has prepared the way for democratic principles in the various fields of administration. Justice and equity, not regard for wealth or family relations, should guide rulers in the administration of the State. The laws should protect the weak as well as the rich and the powerful. Criminals belonging to the ruling classes should be treated with the same justice and severity as wrongdoers who are obscure people. Crime should not remain unpunished, but no one should be sen-

¹ Quod extremum est praeceptum, riserit aliquis fortasse: est enim non tam acutum, quam necessarium, magisque monitoris non fatui, quam eruditi magistri: ut finiendi lites ne infinitum progrediantur, ratio aliqua excogitetur. Minores controversias delecti in id iudices brevi cognitione finiant nulla appellationis facultate. Majoribus causis tempus praescribatur, ultra quod non procedant, quod fiet tum aliis remediis, tum testes ex remotis regionibus advocandi sublata spe, quae via fraudis est. Extinctos putent, qui intra breve tempus adesse non poterunt. . . . Postremo, quoniam saepe inter iudices controversiae contingunt, ad quem cuiusque litis cognitio spectet; optima ratio ea dissidia componendi esset, si consensu eorum quorum interest, in singulis urbibus unus praeficiatur cum ampla potestate componendi eas iudicum controversias. . . . *De Rege*, Lib. III, cap. 1, pp. 218-219.

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tenced or executed without a fair trial. Justice must be the abiding principle in all the affairs of the commonwealth. If we bear in mind that in Mariana's time most offices were given to those who paid most or knew best how to flatter their rulers; that a man of lowly birth scarcely ever had a chance to rise above the level of his class; and that law suits were very often decided according to favor and not according to law and justice; it must be said that Mariana's contribution to the development of sound, democratic principles of government is no less notable than is his fearless defense of the rights of the people against royal absolutism.

PART II
ECONOMIC IDEAS

Section I

ECONOMIC AND SOCIAL FUNCTIONS OF THE STATE

Chapter I

The Regulation of Private Property

BECAUSE the State was formed by men to satisfy their wants, it follows that one of its chief duties is to correct social evils and to promote social and national welfare. In Mariana's time, it was commonly held that the State should limit individual liberty for the benefit of the nation. He himself was an advocate of State interference, though not to an unreasonable extent. The State (he holds) should restrain people from actions harmful or dangerous to the common good, but can neither desirably nor feasibly regulate everything down to the smallest details. Mariana writes regarding the use of things harmful to public health: "But to prescribe a definite mode to all would be just as foolish as to forbid eating altogether. The magistrates must therefore remove (by their regulations) dangers to life and health, but in such a way as nature and the weakness of human condition allow."¹

¹ . . . quae tamen omnia pericula undecumque proveniant magistratus, quantum in seipsis situm erit, praestare debent, quemadmodum ne annona vitio corrupta morbi consequantur, ne ex pestilenti loco venientes in urbem admittantur: neque satis excusarat si singulorum culpa dicerent, et audacia evenire mala. Peponibus aliisque fructibus aut hausta frigida ne intemperantes pereant, cavere quis possit? cum usus sit saepe salutaris ad mitigandos aestus, praesertim per aestatem. *De Spectaculis*, cap. 20, p. 180.

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Mariana considers the unequal distribution of private property one of the greatest social problems. It almost seems as if he were a communist or socialist, as P. U. Gonzalez de la Calle appears to believe.¹ Such an assumption cannot, all things considered, be termed justifiable. Mariana makes some utterances which, taken as they stand, seem to imply that he deplores the institution of private property and that he wishes to abolish it. In the very beginning of his book on royalty appears the assertion that in the first stage of humanity men possessed everything in common. In the same place Mariana remarks mournfully and with apparent displeasure “that as yet greedy and furious avarice had not laid its hands upon the divine gifts and claimed everything for itself.”² This remark Mariana repeats in the third book of *De Rege*, where he discusses the duty of the State to take care of the poor. In *De Morte et Immortalitate* it is averred that “nature has made all men equal and that all were born in the same condition. But by chance and the tyranny of the powerful, it happened that some took from the supply which all possessed, as it were, in common, many things for themselves; the others, who were born under equal conditions, being deprived of all.”³

Nevertheless one must not hastily conclude from these texts that Mariana rejects the institution of private property. Directly after repeating his apparent condemnation of this institution he tells us that “the corrupt nature of man made

¹ El P. Mariana niega que sea legítima la propiedad individual y desconoce, por tanto, el progreso que la misma representa en la historia de la cultura en general y de las concepciones en particular. No ignora que lo propiedad se organizó colectivamente en un principio; pero sin razón supone que solo la avaricia produjo fenómeno tan natural como el de la propiedad privada. *Ideas político-morales del P. Juan de Mariana* in *Revista de Archivos, Bibliotecas y Museos*, Vol. 30, 1914, p. 201.

² Nondum rabida et furens avaritia divina beneficia interceperat, sibique omnia vendicarat, sed ut quidam ait: Mallebant tenui contenti vivere cultu: Ne signare quidem, aut partiri limite campum. Fas erat. *De Rege*, Lib. I, cap. 1, p. 13.

³ Natura cunctos homines exaequavit. Una est omnibus conditio nascendi. Fortunae seu potentiorum tyrannide factum est, ut ex communi quasi cumulo multa occuparint aliis nudatis, qui pari conditione erant nati. *De Morte et Immortalitate*, Lib. I, cap. 8, page 382.

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a division of (all) things necessary." He seems, then, to deplore the system of private property but to admit its necessity under the present condition of humanity. Resigned to consider it as a great though necessary evil, he consoles himself with the thought of heaven where there will be perfect communism, and where no one will have anything for himself alone but all will possess everything equally in God, their common Father.¹ Plato, the great philosopher, had been so impressed by this heavenly vision that he wrongly believed that it might be realized even in this life.²

Mariana, then, cannot be called a socialist or a communist. Nevertheless, he maintains that earthly goods would suffice for all if they were rightly distributed. According to him, the rich are under obligation to help their less fortunate brethren. Holy Scripture accordingly strongly insists on helping the poor. It would bring no real hardship upon the rich to cut down their superfluous expenditures in order that their starving fellowmen might benefit. They would make much better use of their money if they ransomed slaves instead of buying horses, fed the poor instead of feeding dogs, gave to the needy what they spend on articles of adornment.³

If the rich should neglect their duty of charity and by heaping up treasures oppress and exterminate the poor, the king would be obliged to set a limit to their ever-growing

¹ Beati quoque nihil se junctum ab aliis habent, quoniam divino omnes inflantur et inspirantur numine, in bonis suis numerant singuli, quae ab omnibus possidentur, praeclara via ad immensas construendas opes, aliena vendicant sibi, Dei ipsius infinitas opes sibi adscribunt verissime, qui est supremus laetitiae et copiarum cumulus. *De Morte et Immortalitate*, Lib. III, cap. 2, page 421.

² Tentavit eam reipublicae formam inducere rerum omnium inter cives communionem suis praeceptis Plato, sola tanti boni deceptus imagine: quam terra certe non caperet, sibi caelum vendicaret. *Ibid.*

³ Hoc est verum humanitatis officium, copiarum promptuaria benigne omnibus patefacere, quas Deus omnibus voluit esse communes. quippe terram cunctis proposuit, ut fruges, cibos promiscue animantium in usum funderet. . . . Non ergo mirum si tantopere in divinis libris, pauperum cura commendatur: si praecipimus ut saltem partem aliquam rei familiaris, quae in supervacua impenditur, ad meliora convertas: si unde equos emis, hinc captos redimas, unde canes pascis, hinc pauperes alas, quae inani cultu consumis, ea ad sublevandos egenos convertas. *De Rege*, Lib. III, cap. 14, p. 321.

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fortunes.¹ Mariana believes that one's gain necessarily means others' loss, and that consequently no one can amass a great fortune without injustice to others. He likewise considers it injurious to the welfare of the State that some be extremely rich and the rest wretchedly poor; for the rich will no longer exert themselves and will grow idle, whereas the poor will lack the means to devote themselves to the various profitable trades.² The result will be general stagnation in all trades, and disaster for the whole people. It is, therefore, best for the general good that citizens be neither too rich nor too poor. A golden mean for all would be the ideal.

Our author is so firmly convinced of the possibility and desirability of bridging the gap between the rich and the poor that he proposes a number of schemes to bring it about with the help of the State. The tax on luxuries should be very high, whereas the necessaries of life should bear only a slight charge. In this way, the poor would be relieved of a heavy tax burden and the rich would either abstain from extravagance or contribute a greater share to the public treasury. Wealthy people attaining to high offices in the State ought to serve the community without any financial remuneration and be content with the honor attendant upon their position. Such a practice would tend to make these offices less desirable and so protect the people from avaricious men. Highly salaried officials, on the other hand, should be obliged to spend part of their revenues for public buildings and other civic improvements, as well as to arm military forces.³

¹ Ergo ut ad rem redeamus, quod Deo placet, id sit Principi propositum, ne in republica quosdam divitiis et potentia crescere immensum sinat, extenuari, quod ex eo necesse est supra modum aliquos. *Ibid.*, p. 322.

² Placetque quod Plato ait, ut in artibus contingit, ut divitiis et inopia deserantur, cum neque dives artem amplius exercere velit partis copiis et otio contentus, neque inops possit, parandi instrumenta sublata propter indigentiam facultate. *Ibid.*, p. 322.

³ Princeps ergo vectigalia populis moderata imperabit, commercio serviet et agriculturæ,

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From what has been said, it appears that Mariana does not identify the State with an institution existing merely to afford protection as did Adam Smith, but recognizes also some of its social functions. The socialists reject private property as being the achievement of theft and robbery, and advocate ownership of all productive goods by the State. The modern State has learned from the bad consequences of extreme individualism that socialism, though unacceptable as a whole, calls for remedial action against social evils. Graduated taxation and social legislation are intended to serve this end.

artes ut in pretio sint diligenter curabit, potentioribus magistratus aut procuraciones publicas ipsorum sumptu demandabit: ut specie honoris objecta partem divitiarum cogantur consumere. singulis eos annis in bellum producet, cogetque certum militum numerum armare, quasi hostis lacessat de finibus, aut bello ultro inferendo. Eo denique curas et cogitationes referat, ne ulli potentia nimium crescant: quod reipublicae noxium sit, illis exitiale. *De Rege*, Lib. III, cap. 14, p. 322.

Chapter II

The Promotion of Agriculture

THE State as a social organization must encourage everything that tends to increase national prosperity, and must remove or remedy all that is detrimental to it. Mariana believes that agriculture is the backbone of the national economic life because it supplies food for the people. It must therefore be one of the principal duties of the king to care for this industry. Mariana's views on this subject are similar to those later held by the French Physiocrats, who taught that land is the ultimate source of all wealth.¹ There must be no barren land. What is unfit for the raising of crops should be planted with forests to supply the country with lumber and fuel and thus make it independent of importations from abroad. Arid land must be improved by irrigation, which may be instituted by digging canals. This irrigation will also increase evaporation and favorably influence rainfall. Such improvement, together with forestry, will decrease the numberless droughts so fatal to Spain's food supply.

A special board should supervise agriculture. Those farmers who keep their land in good condition ought to be encouraged and stimulated by premiums. If, on the other hand, land is not well taken care of by the owner, it should be taken from him and cultivated by the State. A part

¹ Sed et aratoribus atque pastoribus prospiciendum est, quorum labore universa provincia sustentatur et viget. *De Rege*, Lib. III, cap., p. 281.

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of the produce will serve to cover the expenses of operation and another part can go to the public treasury. This practice will make farmers diligent and secure the cultivation of all arable land.¹

Not profit, but usefulness, must determine the kinds of crops to be raised. Our author finds fault with the ever increasing wine production on the ground that it serves only to increase luxury and extravagance. It may be more profitable for the farmer, but it is harmful for the people as a whole. In olden times, Mariana complains, only men drank wine; but now all, even the children, yield to this extravagance.

The poor farmer especially needs the protection of the king. He is already heavily burdened with the ecclesiastical tithes, so that it is unfair to make him pay high taxes. Moreover, he very often lacks food for himself on account of the frequent droughts. The king must also protect him from oppression by the nobles. Tenants (serfs) should be exempted from the legal price for agricultural products.²

Although Mariana deserves credit for taking the part of the poor farmer, yet some of his suggestions, while well-intentioned, are not feasible. He does not explain the practical operation of his plan to exempt poor tenants from the legal price. If they should demand a higher price than the

¹ Eo ergo consilio, quod Aristoteles etiam secutus est, per urbes et oppida magistratus creetur, cui cura sit praedia omnia agrosque lustrandi. Sit de publico praemium industriae ejus, qui prae ceteris oppidanis possessiones diligenter coluerit, cujus nitidiores fuerint agri majorum fructuum ubertate. ignominia pecuniaque mulctetur ignavia ejus, qui eam curam neglexerit, praesertim si inopia rei familiaris oppressus non erat: et nihilominus publice ii agri colantur, quod insumptum fuerit, primum omnium de fructibus detrahatur: deinde reliquorum fructuum pars tertia, aut omnino quarta regio fisco addicta sit aut publice oppido, civitatis cedat, quae in publicos usus insumatur. multum ea diligentia proficeretur, *De Rege*, Lib. III, cap. 9, p. 280.

² Primum cujusquam fraudi aut potentibus hominibus ne praediae sint: sed potius eorum rationibus ne quis adversetur, magistratus et Principes diligenter efficient. Deinde placet, quod video antiquis temporibus Carolum Magnum, et Ludovicum Pium ejus filium fuisse secutos, sanxisse lege, quando annonae pretium lege taxabitur, praesertim frumenti, quod servatur in Hispania, ea lege ne agricolae comprehendantur, certe qui nullos agros proprios habent aut praedia, sed tantum in mancipio, pecunia aut parte fructuum conducta ac tantum taxato pretio vendere cogantur, qui ampla praedia aut reditus frumentarios habent, sive ii de populo sint atque nobilitate, sive e sacro ordine Episcopi et sacerdotes. *Ibid.*, Lib. III, cap. 9, p. 281.

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rich farmers, either no one would buy from them, or the rich would follow suit and insist on receiving more than the legal price. Thus all fixing of price would prove a useless makeshift, or would prevent all sale of agricultural products, with the results of a disturbed commerce and an increased cost of living.

If farmers are not free to choose the crops which yield more profit, they will lose all interest in their farms and neglect them altogether. This again would be fatal to the general welfare. On such topics Mariana is too much of a moralist and too little of an economist. He does not realize that the economic behavior of man is in the main influenced by self-interest. Gonzalez de la Calle charges him with placing the State above the individual, but it would rather seem that moral considerations were at the basis of his suggestions. The fact that Mariana would like to discourage the consumption of luxuries shows his ignorance of the interrelation of production and consumption, one of which tends to grow when the other does. This ignorance is not surprising, for economics had not as yet been developed as an independent science. Moreover, the moralist's asceticism inevitably asserted itself from time to time. Mariana realizes the importance of agriculture, though he may overestimate it as did the Physiocrats. His endeavor to improve arid land and to influence climatic conditions is noteworthy. But though it is surely desirable that all land be cultivated, such cultivation may not always be economically sound. Here he is influenced by the tendency of the age to make the country self-sufficient, a matter especially important in preparing for war. The World War has certainly proved that Germany's chance for victory was greatly impaired by the inability to produce at home a sufficient supply of food and of war materials.

Chapter III

The Encouragement of Commerce and Trade

THOUGH Mariana strongly emphasized the importance of agriculture, he was aware that it is not the only important factor in national welfare. Trade and commerce are also absolutely necessary for the prosperity of a country. It is true that he is somewhat critical of excessive commerce for the mere sake of profit. This shows once again that he is a theologian and a moralist. He knew that the Fathers of the Church had denounced commerce in general as a trade which could hardly be carried on without sin.¹ On the other hand, he was convinced that the world of his day could not do without exchange of goods; that without it human society would perish and men be reduced to a solitary life.²

The purpose of commerce is to effect a balance between the needs and surplus products of countries, so that each one will have what it needs and will be able to dispose of what it can do without. The important function of commerce, then, is to supply an abundance of everything to every country.³ It must, therefore, be encouraged in every way

¹ Sic credam primis Ecclesiae temporibus Christianos, cum impiae genti essent confusi, a mercatura, quae vix sine crimine exerceri potest, abhorruisse; non secus atque hoc tempore, qui ex sacro ordine sunt et vitam sine labe puriorem consecutur, iis commercia sunt interdicta. *De Spectaculis*, cap. 13, p. 153.

² Sublato commercio societas inter homines peribit et ad solitudinem cuncti mortales redigentur. *De Rege*, Lib. III, cap. 12, p. 311.

³ Sic fiet ut quibus rebus abundat provincia, cum iis mutantur, quarum penuria existit, apud alios major copia: qui est verus mercaturae usus et finis, quo tota ea ars referri debet. *Ibid.*, Lib. III, cap. 9, p. 279.

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and nothing must be allowed to interfere with it. This is so much the more the case because commerce is a most delicate process which is greatly affected by the slightest disturbance. It is like milk, which is spoiled by the slightest breeze.¹

High tariffs are, above all, harmful to foreign trade, for the burden of them is shifted to the buyer, with a resultant increase in the prices. Consequently, tariffs on the necessities of life must be moderate so as to encourage and facilitate imports from abroad. Mariana thus opposes high revenue tariffs, at least in so far as necessities are concerned. Merchants should enjoy the special protection of the law because their traffic is so necessary for the welfare of the State.

Adulterated money is another great drawback to both domestic and foreign commerce. Foreigners will be discouraged from bringing their goods to Spain if they receive in return nothing but cheap coin. Debasing the coinage will result in higher prices. If the king should try to fix a lower price no one would sell and a general disturbance of trade would follow.

Thus Mariana though not an out and out free trader was far in advance of his age which believed in high tariffs as a means of enriching one's own country at the expense of foreigners. If our author advocated a high tax on luxuries this was primarily for the reason that they destroy the good old simplicity of living. If the consumers will not listen to reason, they should at least be compelled to pay a high price and so benefit the treasury. Our author also enters a blanket objection against all trade carried on by foreigners in Spain on the ground that they will introduce their vices and bad

¹ Sic commercium impediatur, quod instar lactis auræ tenuissimo afflatu corrumpitur, usque adeo delicata res est. *De Monetæ Mutatione*, cap. ii, p. 214.

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customs into his beloved country, thus rendering the Spaniards unfit for war.

Mariana as a bullionist strictly adheres to the Spanish law which forbade the export of precious metals. Such prohibitions had been issued throughout all Europe during the later Middle Ages on account of scarcity of these metals.¹ Even after Spain had received enormous supplies of silver and gold from the new world, she still persisted in her old prohibition. Whereas the real and valid reason for the prohibition of precious metal had been scarcity of gold and silver, there arose in the course of time the strange opinion that a country is rich in as far as it has an abundance of precious metal. This opinion still prevailed during Mariana's time but was soon afterwards replaced by the fallacy of a favorable balance of trade, which notion was not altogether unknown to our author. On the other hand, he can scarcely be called an orthodox believer in the Spanish prohibition against export of silver and gold. He sees that foreigners will get the Spanish silver anyway, simply because they need it, and believes that they will find ways and means of obtaining it. It is interesting that he also knows the real basis of this very true observation, namely, Spain's unfavorable trade balance.

Protectionism, which plays so important a role in modern commercial policy, was not unknown to Mariana. To him it meant, however, not so much the protection of native industry already in existence but rather a means of creating new industries in Spain. He remarks that every year a great quantity of Spanish money is going abroad for the purchase of frippery and luxuries.² Why not produce these

¹ J. W. Horrocks, *A Short History of Mercantilism*.

² Atque eam rationem praesertim in scrutis servari volo, quae ex aliis provinciis venient, magno imposito vectigali vendantur. Sic pecuniae minus deferetur ad externos: multi earum rerum artifices spe quaestus in Hispaniam confluent, quo civium multitudo augeatur:

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goods in Spain? The advantages would be many. First of all, there would be a greater supply of those things which serve to embellish life. Spain would preserve for herself much of her supply of precious metal which must otherwise flow abroad and be lost to Spain. Why should not Spaniards instead of foreigners make the enormous profit on such goods?

If Spain lacks skilled workmen, such as silversmiths, embroiderers and carpet makers, they must be brought into the country from abroad. If their trades do well in Spain, these artisans will be attracted to the country, with many favorable consequences. The population will be increased, which means greater prosperity and higher tax returns. If the native industry is prospering, very few Spaniards will be tempted to emigrate,—again a great advantage. Here Mariana follows the reasoning of orthodox Mercantilism.

We find still another very modern and also a very beautiful idea in our author's discussion of commerce. The discovery of America and of the passage to the East Indies had brought about an enormous increase in international trade. Goods were exchanged between the most distant countries, and it seemed almost as if distance had been annihilated. This growing commercial intercourse seems to Mariana a symbol of growing charity and a means of uniting the various nations of the world in the bonds of friendship.¹ And yet, if we look back over the time between the publication of *De Morte et Immortalitate* and the present, we can hardly say that international friendship has grown to any great extent. The opposite is rather the case.

qua re nihil est commodius ad augendas opes tum Principis tum provinciae. *De Rege*, Lib. III, cap. 7, p. 266.

¹ Mutuae inter homines amicitiae praecipuum a commercio vinculum. Sic factum ut nulla regio bonis omnibus abundaret, nulla sua dote careret, in remotissimas nationes et solis ardoribus exustas gemmas, aurum, aromata relegavit, quae cupidissime peterent gentes aliae. *De Morte et Immortalitate*, Lib. II, cap. 9, p. 404.

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The political and economic life of Europe, from the moment feudalism was overthrown and replaced by strong national monarchies, followed the narrow lines of nationalism rather than that of mediaeval universalism. The division of the one universal Church caused by the Reformation was another obstacle to mutual understanding and friendship between nations. It destroyed even national solidarity in countries like Germany and France, and brought about fierce religious conflicts, especially the Thirty Years War. When religious intolerance later gave way to a liberal attitude, nationalism had grown to such an appalling degree that it could precipitate the World War. If Mariana had lived 300 years later, he might not have ventured to make his remark about an ever growing friendship among nations.

It seems as if the Great War has at last convinced the human race that all men are members of one great family and that they need each other, economically at all events. The League of Nations may be considered a new attempt to promote amity among peoples, and the ever growing commercial and economic solidarity of the nations may some day realize Mariana's beautiful vision of one great family of nations united in charity and friendship.

Mariana is an ardent defender of State intervention, which we should call State paternalism rather than State Socialism. As a moralist he holds with the other scholastics that a "just price" must be the basis of business transactions. This just price was fixed in mediaeval days by the government, and it was considered wrong to demand more than the legally fixed amount. Mariana sees, however, that in practice it is not always possible to determine prices in a satisfactory way, and that if they do not agree with the common popular estimate they cannot be enforced. To be fair a price must not be fixed once and forever, but must

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take into account various conditions which change with the demand and supply of the articles in question. Prices must therefore be revised from time to time.¹

As we have seen,² Mariana contended that poor tenant farmers should be exempted from the legal price for their crops. We do not learn, however, just how this plan can be carried out. The very fact that such an exemption is recommended shows that Mariana no longer quite believes in State intervention, to regulate prices. The unreasonableness of such intervention is clearly shown in the case of adulterated coinage, or as we should say today, inflation. If the face value of a coin is more than its metal value, merchants will naturally demand a price up to the amount of the difference. Even if the king were to insist that they sell for the old price, he would not succeed in enforcing his edict, since the price would be patently unfair. If the government should insist on the law, the result would simply be that nobody would be willing to sell and a general confusion would result. Mariana proves his assertion from the history of Spain. Every time the Spanish kings adulterated the coinage, there followed a general rise in prices, and all government interference proved futile.³ Mariana also maintains that it is practically impossible to fix prices for everything.

Here, then, we see that our author applies the very important economic principle that prices regulate themselves according to the demand and supply of goods and the amount

¹ Quod si ea lex non in omne tempus feratur, neque toti provinciae serviat, ubi tanta varietas est, sed singulis annis atque in singulis urbibus pro rerum ubertate pretia rebus, frumentoque constituantur, uti in aliis provinciis fieri scimus, multo melius rebus communibus consultum erit. Quid enim, an locis uberrimis atque indigentibus, variis temporibus et discrepantibus multum annonae copia, idem praescribatur? *De Rege*, Lib. III, cap. 9, p. 281-82.

² Page 90.

³ Porro ad merces alias extendetur procul dubio . . . ut crescant eorum pretia, quantum de monetae bonitate fuerit detractum, aut valor monetae crescet: perinde enim est. . . . Sic factum quoties moneta pejor effecta est. *De Monetae Mutatione*, cap. 10, p. 210.

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of money in circulation. If the coinage is genuine and scarce, prices will be lower; if it is debased and plentiful prices will necessarily rise.¹ This is an application of the quantity theory of money which is the underlying principle in Irving Fisher's scheme for stabilizing the money unit.²

Mariana also shows himself an enemy of monopolies which raise prices beyond reason. They are another form of taxation; and since the king cannot impose a new tax without the consent of his subjects, monopolies not approved of by the people are unjust. Repeated sales of the same commodities for the sake of raising their prices are likewise condemned by our author. The State should prevent merchants from such manipulations, because these burden the people unjustly and without necessity.

The problem of unemployment is not unknown to Mariana. When he encourages public improvements calculated to beautify life and promote trade, he has also a secondary end in view. Unemployed people will find in this way an opportunity to earn their daily bread, and the community will be relieved of the duty to render charitable assistance.

Summing up, we may say that Mariana saw the importance of commerce and trade and advocated their encouragement by the authorities: that he realized the impossibility of fixing prices, although he apparently adopted the idea: that he knew that prices regulate themselves according to the laws of demand and supply with regard to both commodities and currency. He believes, though not to an unreasonable extent, in Mercantilism as a whole. Tariffs on necessities must not, he holds, be so high as to discourage importation: superfluous and harmful luxuries should by

¹ Neque est dubium in novam monetam conspirare: quae singula mercium caritatem afferunt, nempe multitudo ejus immensa eam reddere vilem, uti in aliis mercibus contingit copia vilesce. *Ibid.*

² Irving Fisher, *The Purchasing Power of Money, Stabilizing the Dollar.*

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all means be kept to a minimum, or else be made to yield a high revenue to the State. Home production of useful articles must be encouraged to increase national prosperity and to secure a favorable trade balance. All artificial manipulations for raising prices are harmful and must be stopped by the authorities. The government has the obligation and also the power to create employment by undertaking public improvements during times of business depression. More generally, the king should spare no endeavor to encourage commerce and to make trade remunerative.

If trade and commerce are to prosper, it is necessary that the means of transportation be kept in good condition. Spain's roads must have been in a miserable state, for Mariana tells us of the merchants' carts stuck in the mud. It should, therefore, (he asserts) be the endeavor of the king to keep the old Roman highways in good repair and to build new roads for the improvement of transportation. Bridges also must be repaired in due time if commerce is not to suffer.¹ Solid fortifications and a strong army will prove necessary for the protection of commerce.

Some had proposed to make the Spanish rivers navigable, and so create new and cheaper means of transportation. Mariana opposed this scheme. His arguments are that these rivers are too rapid and that too much water power is tied up by mills. For his chief argument he relies upon history. Considering the Romans the great masters of national economy, he was convinced by the fact that they did not try out the proposed scheme and that it would not pay.² And

¹ Ac primum muniendae viae Romanorum instituto, ne luto viatores impediuntur, quam enim turpe id est? reficiendi pontes multis locis, magno viatorum incommodo collapsi. *De Rege*, Lib. III, cap. 10, p. 285.

² Postrema consideratio occurrebat: an flumina Hispaniae navigabilia ut sint, ingenio efficere e republica futurum sit. De quo alii majori prudentia majorique usu statuent, et multa in utramque partem dici possent. Illudere Principis opibus quidam contendunt, et tentare per artem quod est a natura negatum. Neque dubium est in aliis provinciis ea facultate multum annonam juvari, vehendi res necessarias parvo, ex locis quamvis distantibus opportunitate magna. Verum in Hispania, aspera regione, praecipitibus fluviorum alveis,

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public improvements must be economically sound, if they are to serve the common good. It might be questioned whether all those arguments could stand a critical test, or whether there may not be other deciding factors, for example, the meagre water-power furnished by Spanish rivers. As a matter of fact, the project has never been carried out, a fact which shows that in the main Mariana must have been right in opposing it.

praeterea ex omni parte occupatis molis frumentariis, fortassis nihil expediat novare quod risum moveat, irriti conatus vestigia ad posteritatis memoriam maneant, certe plus incommodi ea molitio quam utilitatis afferat: pertinaci contentione si ad exitum perducatur. . . . Quod a Romanis ea potentia atque usu, quo . . . tempore rerum in Hispania potiebantur, factum non est, . . . vix quisquam possit praestare. *De Rege*, Lib. III, cap. 9, p. 283.

Chapter IV

The Fostering of Social Well-Being

IT has been said repeatedly that Mariana advocated public improvements for the benefit of commerce and trade. This is not the only reason why he would have them promoted. Some of them may (he holds) at the same time serve to embellish life and to give recreation to the people, the result of which will be that they will resume their work more willingly and do it more efficiently.

Castles should be erected to afford protection but also to increase the beauty of the Spanish cities. Magnificent churches and other public buildings will add to the glory of the king and of the nation. By way of example, Mariana describes at length the marvelous church of the Escorial, which is a wonderful monument to Spain's greatness and an eloquent witness to Philip II's magnificence. He spares neither space nor eloquence to pay tribute to his king for this accomplishment which will be for all times an impressive reminder of the great Pyrenean monarchy.¹ In the same way, private citizens should take pride in erecting beautiful homes which will adorn the cities like gems and be the glory of the inhabitants. The suburbs and the river banks ought to be covered with magnificent buildings to

¹ Quam laudem nostra aetate Philippus secundus Hispaniae Rex maximus habeat necesse est, tum ob alia tota provincia aedificia, arces, villas superbo structuræ genere, sed praesertim insana atque regia substructione ejus templi quod a Laurentio Martyre nomen habet. Cujus si formam, spatia, partes explicarem, opere pretium me facturum putabam. . . . *De Rege*, Lib. III, cap. 10, p. 287.

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please the eye, to give rest and recreation from hard work, and to restore strength and energy for new undertakings.¹ This improvement would be better for individuals and also for the whole people than spending large sums of money for vanities, rich food or harmful pleasure, to no advantage but rather to the ruin of the profligates.

This last remark indicates how Mariana believes the funds for these undertakings can be secured. If the rich abstained from extravagance in food, dress and recreation, heaps of money could be obtained for the benefit of the poor, the erection of hospitals and other public buildings. The example of the king in building should inspire the nobles and the rich to vie with him in magnificence. Other nations, by far less prosperous than Spain, are doing wonders in architecture. Why, then, should it not divert a part of the enormous treasures which flow to it every year from the Indies to the erection of noble structures? King Solomon obtained fame by building the magnificent temple in Jerusalem and numberless cities and castles throughout his kingdom. Augustus boasted of having changed Rome from a brick town into a marble city. And Philip II of Spain has followed their example and made himself immortal through the many magnificent structures he has erected all over the country, notably the wonderful Escorial.

Mariana is ashamed to say that the Roman roads in Spain are in miserable shape, and that bridges and town walls are collapsing everywhere because of the carelessness and inertia of the people. He would wish to see all unstable structures of earth and woodwork replaced by solid stone

¹Addantur aedificia privata, aedesque elegantes, et ornatae, quibus oppida quasi gemmis aurum distinguantur et niteant. . . . Ager suburbanus omnis villis exaedificatus, omni ex parte colluceat. Sequantur fluviorum ripas, locorum aliorum amoenitates. Quae omnia non ad hauriendas nimias voluptates, quod noxium est, referenda sunt: sed praeter ornatum ut alterna requie civium animi vegetiores ad virtutum studia efficiantur: captoque honesto otio ad negotiosam vitam promptiores revertantur, taedio civili procurato. *De Rege*, Lib. III, cap. 10, p. 285-86.

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walls, to please the eye and to avoid the danger of collapse.

We may divine our author's ideal of city life when we read the following description of the heavenly Jerusalem in *De Morte et Immortalitate*: "Imagine in the spirit only a city where there are no needy, no sick; where all are clad in gold; all wise; where you see no huts of straw and woodwork, but each dwelling appears like a palace."¹ This description, though idealistic, shows what Mariana had in mind when he wrote his chapters on buildings and public charities.

Mariana surely was a friend of the people and above all of the poor. His suggestions regarding buildings and works of art show that he was a true Spaniard, animated by high ideals, inspired by great things and eager to impress the world with the glory of his nation. Here we scarcely recognize the austere ascetic who always exhorts his readers to practice simplicity of life and manners. But though he is an out and out democrat who hates all flattery and the ceremonies of the Court, he is a genuine aristocrat when Spain's glory is at stake. He does not begrudge people the comfort of beautiful homes. He wants every citizen to be proud of his native town and to do all in his power to make it a magnificent place.

The austere moralist is evidenced so much the more strongly, however, when our author discusses the topic of public recreations. About that time, theatres and show houses began to be erected all over Spain and the plays were not always free from objectionable characteristics. Religious celebrations and even processions gave rise to plays which were sometimes of a rather questionable character. Churches were used for religious and sometimes, unfortu-

¹ Fingite tantum animo urbem ubi nulli egeni, nulli aegroti, omnes in aureis vestibus, omnes sapientes, nullae casae paleis constructae et ramalibus, sed aedes singulae regiarum instar." *De Morte et Immortalitate*, Lib. III, cap. 1, p. 420.

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nately, immoral shows. All this arouses the indignation of the author of *De Spectaculis*. He sees nothing in the theatre but an occasion of sin and an incitement to immorality.¹ He considers it blasphemous to celebrate religious festivals with shows; the performances of actors in churches will draw upon the people the wrath of God Almighty, while the spread of regular theatres will increase the number of unproductive and idle people whose only business it is to corrupt the people and to draw money from their pockets. Mariana speaks in the strongest terms against the stage in general, and would have it removed altogether.

He admits that some will object and say that the theatre yields a large revenue to the State and greatly increases the funds for public charity. He replies that it is immoral to derive advantage from a thing bad in itself, and that it is a fallacy to call the theatre a source of public revenue. If theatre directors are forced to pay a high tax, they will endeavor in every way to get their money back by increasing the number of shows and by charging higher entrance fees. They will thus draw people from their homes and work, and will employ an ever growing number of actors who must be withdrawn from productive trades.² Sons and daughters of respectable parents will devote themselves to this objectionable profession, which practice will help to corrupt and emasculate young men and make them unfit for war.

¹ Quid enim continet scena, nisi virginum stupra, et amores prostituti pudoris foeminarum lenonum artes atque lenarum, ancillarum et servorum fraudes versibus numerosis et ornatis explicata, sententiarum luminibus distincta, eoque tenacius memoriae adhaerentia, quarum rerum ignoratio multo commodior est. Histrionum impudici motus et gestus, fractaeque in foeminarum modum voces, quibus impudicas mulieres imitantur et exprimunt, quid aliud nisi ad libidinem inflammant homines per se et ad vitia satis proclives? *De Spectaculis*, cap. i, p. 128.

² Alterum est frequentiores fore ludos perpetua sede publice designata, quam omnino sit opus alliciente ad ludendum spectandumque loci opportunitate, et praefectus cum magno domum eam aut theatrum conduxerit, histriones undique conquirat necesse est, nullumque diem elabi sine ludo patiatur, diebusque noctes continuet, quod magna pernicietas esset. . . . Opifices et agrestes, quorum res fidesque in manibus sitae sunt, relicto opere quotidiano frequentabunt ea loca, quanta cum calamitate familiae dicere non attinet, res ipsa loquitur,

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The defenders of the stage will say that people want these shows, that they need relaxation from their toil and that recreation will make them more fit for future work. Mariana replies that the people will get no benefit from being corrupted at the theatre, and that one never can fight evil by making concessions. Moreover, shows on Sundays and feast-days of obligation will keep people from Mass. Mariana realizes nevertheless that he will not succeed in having the theatre suppressed altogether. His real hope is to have a number of safeguards applied.¹ A strict censorship should be exercised by men not less than fifty years old. No women should be allowed to appear on the stage, either in masculine or feminine dress. Never should a play house be erected from public means, nor must any revenue be hoped for in this way. Shows must not take place during Lent or on great feast-days. Shows in churches ought not to be tolerated, nor should the drama be connected at all with religious festivals. Minors must be prohibited from attending shows. Supervisors, paid for by the actors, should watch the performances and should have ample power to remove all that is scandalous and to punish immodest conduct. Actors should be merely tolerated by the State, which finds that the people want them and cannot be prevailed upon to do without them.

In no less vigorous terms, Mariana denounces public houses. He knows that the Church has always tolerated them, in accordance with the statement of St. Augustine "that if you take away the prostitute women you will disturb everything with lust."² Mariana rejects this toleration of what theologians call a necessary evil. He believes that it

eo amplius quod otio et desidia deditos ad laborem revocare si velis, nae tu multum laborabis, neque tamen multum proficies. *De Spectaculis*, cap. 9, p. 148.

¹ *Ibid.*, cap. 15, pp. 166-168.

² Aufer meretrices de rebus humanis, turbaveris omnia libidinius. *De Spectaculis*, cap. 16, p. 168.

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is merely a remnant of paganism, which Christianity has not as yet been able to suppress. He is inclined to think that the reason why theologians do not dare oppose this evil is the fact that St. Augustine tolerated it. He even declares his agreement with the Hussites, who opposed this shameful practice, and remarks that this thesis of theirs was not condemned by the Council of Constance. If the Jews were not allowed to tolerate public houses, how much less ought Christians to put up with them! St. Louis of France prohibited them, Mariana points out, but is honest enough to say that the result was not very satisfactory and that they were reintroduced shortly afterwards. He does not admit that it will raise the standard of morality or diminish the danger of immorality if concessions are made in this respect. It only will give people of the lower classes a chance to sin more easily, since people of the higher classes will not go to these places. Concupiscence is not only not checked by indulgence but rather grows stronger, in the same way as fire is fostered by supplying new fuel.¹ Therefore the only remedy will be complete removal of the public houses. Our author takes from experience another argument to the effect that public houses are an inducement to modest girls to lose their innocence. Many country girls were good as long as they lived in places where there were no such dangers, but were corrupted when they came to the large cities.

Not even the national entertainment of the Spaniards, the bull fights, find grace with Mariana.² He believes that they are a remnant of the Roman gladiatorial fights and are unbecoming to Christians. They are cruel entertainments and contradict Christian meekness and modesty. The

¹ Non ergo indulgendo libidini medemur, sed eam amplius inflamamus, non minus quam si igni materiam addas. *De Spectaculis*, cap. 16, p. 170.

² *Ibid.*, cap. 20, pp. 178-181.

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Church had forbidden them for some time under penalty of excommunication, but the Pope withdrew this censure after Philip II had urged that they fostered courage and boldness among young men. Mariana will not admit this educational influence, but maintains that they rather teach the young men cowardice, showing them how to avoid danger. When the Pope yielded to King Philip's importunity, he made the reservation that no danger to life be involved in these fights. This precaution, Mariana declares, has never been observed.

If, then, our author denounces all plays and public entertainments customary in Spain, what kind of recreation is he willing to allow the people? The answer is that he would like best if they would do without all earthly entertainments and find their only delight in things heavenly.¹ It is surprising that the man who always showed so much common sense betrays here an absolute ignorance of the world as it is and of human nature, which needs occasional relaxation and, if denied it, will seek it anyway, even unlawfully. Here Mariana is the austere ascetic who is severe with himself but forgets that he should be kind and charitable to his neighbors. He quotes as his model Tertullian—the man who fell away from the Church on account of his rigidity, believing as he did that the reception of sinners after they had relapsed into their sins had been made too easy.

The only amusements that Mariana is willing to grant the people are military games, fighting, shooting and the old Spanish dances.² The people will be entertained by these

¹Haec Tertullianus, pluraque in hanc sententiam, ut Christianis hominibus persuadeat incorporeas voluptates sufficere, quae ex rerum divinarum fructu et contemplatione atque naturae spectaculo percipiuntur uberrimae. *De Spectaculis*, cap. 25, p. 187.

²Quod quoniam magna ex parte abjecimus, ne nimium severi et rigidi videamur, neque mores nostros antiquae disciplinae pares esse quis contendat, alias oblectationes dabimus, sed neque obscenas neque noxias. Concurrant inter se equites, peditesque ludicro certamine in justae pugnae modum cum singulis singuli, aut facto agmine. *Cursis juvenes, lucta,*

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and the young men exercise themselves in the game of war without running any moral danger or being enervated and made unfit for campaign life. This last point is stressed numberless times in Mariana's works. He knows from Spanish history that Spain grew great by her wars with the Moors, and that she can preserve her prestige only by following in the footsteps of those old Spanish knights who won the admiration of the world with marvels of bravery. But now, Mariana mournfully remarks, Spain has lost the spirit of her heroes. Her power and riches have emasculated the people. When they were surrounded by enemies, they were defeated by no one; now, when they have conquered the world, they are being defeated by vices and ease. The nobles who were knighted on account of their bravery have now degenerated: they are going about in soft garments, feeding on sugar and wine and soft meats. Spain's wars are being fought by well-paid mercenaries and the Spanish youth are leading an idle and soft life. Spain's fortresses are moldering, her town walls need repairs, but her sons enjoy themselves in dancing, feasting and immoral plays, neglecting altogether fighting, shooting and the martial exercises which foster bravery and warlike spirit. As a result Spain, formerly renowned for bravery and chivalry, is being defeated by her enemies and is losing her world power.¹

jactaque certent, praemiis etiam victoribus propositis ad accedendum certamen. Inter se exequis jaculentur Mauricae pugnae genere, qua alterius agminis pars magno impetu primum procurrit, missisque in adversarios arundinibus, jaculorum imagine, pedem referunt ceduntque prementibus adversariis, quos excipit pars altera agminis quasi in subsidiis relicta, hanc ex adversa parte alii, ludus sic continuatur, quae sunt omnia bellorum imitationes et imagines viribus corporis exercendis idonea dexteritate comparanda. . . . Addantur tripudia more Hispanico choreae, tibiae et tympani sonitum pedum pulsus modulante. *Ibid.*

¹ . . . ya con su peso y grandeza trabaja España y se va a tierra. . . . Demás desto, la envidia que las otras naciones nos tienen es grande, nacida ciertamente de la grandeza y mojestad. . . . Grandes son estos peligros. ¿quien lo niega? quien no lo ve? pero lo que más temo es a los vicios y torpezas (los cuales como hecho un escudron han conspriado) que no acarreen la muerte a los mismos que los siguen. . . . Muchas provincias y gentes han sido sujetadas. . . . y las armas de los españoles no conocidas antes, han alcanzado grande gloria: muchas riquezas con el trato de las Indias y navegaciones de cada año se han traído; oro, plata y piedras preciosas sin número y sin medida; pero los mesmos hemos sido derribados de los vicios domésticos. *Contra los Juegos públicos*, cap. 26. (ed. Rivadeneyra, Vol. 31, pp. 459-460.)

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The remark may explain why Mariana speaks so strongly against the theatre and other popular entertainments. He wants to revive among the Spanish youth the old warlike and chivalrous spirit, so incompatible with a soft and effeminate life. Not enervated young men will restore the old glory of Spain, but brave and bold soldiers who have been trained in all the arts of war, who have learned to bear toil and privation with equanimity, and whose lives are free from all blame. If we bear this in mind, Mariana seems less rigorous in his demands. As a matter of fact, the Spanish stage in those days was very immoral, and Gonzalez de la Calle tells us that our author was right in denouncing it. Moreover, he did not attempt to do away with all plays, (he considers this impossible) and his project for purifying the stage is reasonable and feasible.

Chapter V

Public Charities

WHEN Mariana's views of private property were developed, it was said that he strongly insists on the duty of charity on the part of the rich, and maintains that the State may, if necessary, enforce this social obligation. He believes it is one of the foremost duties of the king to succor the needy, to support orphans and to aid all who need assistance. The beauty and necessity of charity are discussed very eloquently, as we have intimated.

"The greatest gain is derived from riches when one does not use them solely for one's own pleasure but for the benefit of many; not for one's own gratification in this life but for that righteousness which alone will never pass away. It is a really humane duty to open to everyone the store houses of nature which God wished to be common to all, because he gave to all the earth to bring forth grain and food for the indiscriminate use of all living creatures."¹ But unfortunately the avarice of a powerful few soon claimed as private property what had been intended to serve the many. God did not object to this innovation, as it would seem from what Mariana tells us, but He imposed upon the rich the obligation of setting aside a part of their property for the support of the poor, because it was still

¹Hic divitiarum maximus et verissimus fructus est, non uti opibus ad propriam unius voluptatem, sed ad multorum salutem: non ad praesentem suum fructum, sed ad justitiam quae sola non interit. Hoc est verum humanitatis officium, copiarum promptuaria benigne omnibus patefacere, quas Deus omnibus voluit esse communes, quippe terram cunctis proposuit, ut fruges, cibos, promiscue animalium in usum funderet. *De Rege*, Lib. III, cap. 14, p. 321.

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His intention that the earth should feed all. Its produce is never too limited to suffice for all.¹

At the same time Mariana indicates clearly enough how charity may be practised without burdening anyone, and urges that useless and luxurious expenditures should be avoided and the money thus saved given to the poor. This remark is covertly intended for the king himself. For, with the money used for vain and foolish purposes he could relieve an immense number of needy and poor. This would be a better use of public funds than wasting them in costly vestments, for the sake of show, or for rich food which irritates the palate and causes disease, for packs of expensive hunting dogs, or finally for feeding flatterers and parasites.²

Let the king, therefore, take up the care of the poor. Let him set limits to the amassing of excessive fortunes lest the rich, in their boundless ambition to pile up money, exterminate the poor. Let him force the wealthy to contribute a part of their goods to a common fund for the relief of the needy.³ Mariana dares not hope to reintroduce the practice of the primitive Church, when the faithful divided all they had among the poor, but he does maintain that the community itself must aid the poor. This it could do in various ways.⁴

¹ Nunquam tam maligne terra fruges et necessaria suppeditat, ut non omnibus sufficiant, si cumuli frumenti et pecuniarum a potentioribus constructi, in commune ad alendosque inopes conferantur. Id enim Deus vult, id ejus lege sancitum est: ut quando corrupta hominum natura, rerum divisio necessario invecta est, ne omnia pauci occupent, sed partem aliquam ad communes usus convertant. *De Rege*, Lib. III, cap. 14, p. 321.

² O quantum pauperum ali potuit, quantis miseris succurri, eo quod in republica male atque in usus inanes consumitur, vestem pretiosam qua alitur superbia, cupedias quibus irritatur palatum, et nexiorum morborum causae existunt: quod in venaticis canibus et eorum alimenta consumitur, quod parasitis et assentoribus datur. *Ibid.*

³ Atque ea prima ratio sit inopiae succurrendi, sublevandi plebem, si copiosi effundere cogantur quae sine modo acervarunt, ad plures eae copiae pertinebunt: neque deerit annona ulli, quae omnibus nascitur. Atque utinam, o utinam tanta esset beneficentia civium, tanta liberalitas ut quod nascentis ecclesiae temporibus memoratur, et inter Judaeos divino praecepto susceptum erat, nulli existerent in populo Christiano mendici, qui porrecta ad stipem manu vitam miseram sustentarent, multo illustrior nostrae professionis et gentis facies esset. *De Rege*, Lib. III, cap. 14, p. 323.

⁴ Sed quando nostri id mores non recipiunt in tanta praesertim gentium colluvione, quanta Christiana sacra populariter suscepit, detur opera diligenter, ut ii de publico vivant. Quod trifariam fortassis accedat. Primum si antiquum institutum revocetur in mores, quod

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In the first place, the good old custom of feeding the poor from Church revenues should be reintroduced. Mariana wonders why this salutary custom has been abandoned. Formerly, when churches were few and had only small revenues, they took upon themselves the entire duty of relieving the poor. It is surprising that now when they are extremely wealthy, they can no longer do the same work. The blame for this situation rests upon the ministers of the Church, who use their revenues in a less orderly way than was formerly the rule. Mariana does not wish them to be deprived of Church property, but he insists that they must spend their revenues in the good old fashion. So doing, they could relieve communities from the whole support of the poor. Then, there would be no need of other charitable institutions for the sick, the poor and the homeless. Even if this program might not be feasible in small places where the churches are less wealthy, let the king try it at least in the principal cities of the country where no difficulty exists. Our author realizes, however, that it is dangerous to say more, and so contents himself with pointing to the source of the evil and the remedy to be applied.¹

Another way of helping the poor would be to employ the method that has been recommended by several Councils of the Church, and have the various cities take care of their own poor lest the whole country be flooded with beggars.²

nescio cur fuerit antiquatum, nisi quod praeclare sancita passim collabuntur, in pejus nostri mores quotidie ruunt ut sacris templorum reitibus alantur egeni. quod si primis temporibus fieri poterat in tanta tenuitate, cur modo non fiat, cum jam non magis mole sua et vetustate quam copiis templa laborant fatiscuntque? *Ibid.*

¹ Ego sane nunquam ea mente sim, ut putem convenire rebus communibus, sacro ordini opes a majoribus traditas detrahi, illud tamen contendo, saluberrimum fore, si ipsis sacerdotibus administris curetur, ut ad meliores usus magis antiquis consentaneos conferantur. et quis dubitat multo majori fructu reipublicae atque sacrae ordinis quam nunc fiat, in pauperum usum collocari et quasi postliminio veris dominis restitui? . . . Verum desperatae curationis vulnera, reipublicae vetera carcinomata stylo amplius contractare, non vacat periculo et invidia: locum indicare intento in fontes digito satis habeam. *De Rege*, Lib. III, cap. 14, p. 324.

² Admonere etiam non semel a Patribus recentiori memoria fuisse ad minuendam mendicorum multitudinem excogitatum atque praeceptum, ut unaquaeque civitas et oppidum suos inopes alat, ne tanta errorum turba sine fructu tota provincia vagetur, sine ope sine laere familiarum. *Ibid.*

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Some may reply that this is impossible because a number of districts are too poor to support their needy. Then, too, the high cost of living and the scarcity of food make it imperative that the poor travel from place to place to seek help where there is a greater abundance of food. Mariana admits that there may be some serious difficulties in his scheme but he thinks that the plan might be tried with a slight modification so that each city would feed its own poor and allow beggars from abroad to wander about from city to city, if they are unwilling to settle down and work. In this case they should not be permitted to stay longer than three days in one place, unless they decide to change their mode of life. This might be a better way of solving the problem both for the poor and the various cities; the last would not be burdened forever with a heavy poor relief, and the first would not be tied to a destiny of contempt and wretchedness.

A third suggestion to solve the charity problem is to erect charitable institutions in all the larger cities of the country. Unless this is done, private charity will prove unable to give help to the endless number of beggars scattered about at present. These institutions should be endowed with annual revenues by the authorities, and there should be various classes of them, each with a different sphere of activity, and, if possible, separate buildings and an independent administration.¹ Strangers (*hospites*) should be lodged in lodging houses, the poor should be fed in poor houses, the sick should be nursed in hospitals, orphans should be kept in orphan asylums, old people should reside in homes for

¹ Atqui haec ratio si teneretur, quod saepe tentatum est, saepe intermissum, quominus hospitia generalia praesertim in praecipuis tota ditione urbibus constitui possint, nihil vetabit. . . . Ac praesertim velim annuos redditus designari, et constitui unde sumptuum pars certe aliqua toleretur. Alioqui quotidianis eleemosynis publice collectis non facile omnes inopes alantur. Quos tamen proderit in classes esse distinctos, ac vero si facultas adsit domiciliis etiam discretis. *De Rege*, Lib. III, cap. 14, p. 325.

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the aged, and exposed children should be taken care of in foundling-hospitals.

Mariana realizes that the State or, at all events, the community, has an obligation to attend to charities. It is impossible to give effective help to all the helpless by means of private charity. The modern State has taken up this social function and developed a system of charitable institutions that would doubtless meet with the heartiest approval of our author. The progress of the social sciences has advanced this function of the State to a considerable degree, and what formerly was an almost exclusive domain of the Church is now also one of the most important and most beneficent activities of the State. So much the more credit must we give a man who three hundred years ago outlined a detailed scheme of the social obligation of the State.

As was said above,¹ Mariana radically differs from those who would restrict the sphere of the State to protection against domestic and foreign violence, as do Adam Smith and other individualists. He still adheres to the old custom of price fixing, although he practically abandons it by exempting the poor peasants from selling at the legal price. Mariana is convinced that the State has, in addition to its other duties, many social obligations. Those who are unable to defend themselves against the wealthy and powerful look to the State to espouse their cause. Since the State was founded to supply the common wants, it is only right that it should devote special care to the economically weak. For it is fatal for the commonweal if some are extremely rich and others are wretchedly poor.

Various schemes are proposed by our author to bridge the gap between the wealthy and the needy: restriction of private fortunes, enforced charity, implicit and direct con-

¹ Page 87.

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tribution on the part of the wealthy toward the satisfaction of common needs. The State should also promote national welfare by making trades remunerative and by encouraging commerce. If commerce and trade flourish, the country as a whole enjoys prosperity which, like protection, is one of the most important functions of civil society. Those who can contribute more than their proportionate share toward the defrayment of public expenditures without suffering material impairment of their economic position, should be called upon for additional taxes. This summons can be carried out best if articles of luxury are heavily taxed.

Public improvements and charitable institutions are other fields for the social activity of the State. Our author sees that the Church alone can no longer properly attend to them, and that therefore Church and State should co-operate. Here again Mariana has anticipated what in our days is taken as a matter of course. The Industrial Revolution, industrial capitalism and its reaction in socialism have directed the attention of the government in the economic and social problems for whose solution Mariana proposed various schemes. Our author thus deserves credit for emphasizing duties of the State which were little attended to in his age, but which are in a very special way connected with that common weal which is the end of civil society.

Section II

PROBLEMS AND PRINCIPLES OF MONEY

Chapter I

Summary of *De Monetae Mutatione*

ONLY one of Mariana's works can be called an economic treatise in the strict sense. It is number four of *Tractatus VII* and bears the title *De Monetae Mutatione* or the "alteration of money." The Spanish title is clearer, indicating as it does more in detail the intention of the pamphlet. It reads: "*Tratado y Discurso sobre la Moneda de Vellón que al presente se labra en Castilla y de algunos Desórdenes y Abusos,*" which means in English, "A treatise and discussion on the copper coins struck at present in Castille, and on some disorders and abuses (connected with it)."

Philip III had adulterated the Spanish copper coinage to solve his financial difficulties. Thereupon general indignation followed but scarcely anybody had the courage to come out in public and criticize the king. Mariana, knowing from numberless instances of history that each debasing of coinage had always been followed by great civic hardships, considered it his duty to warn the king of the dangers to which he had exposed his country. In *De Monetae Mutatione* he shows the fallacy of a procedure which attempts

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to heal one evil with a greater evil, or rather with a clear injustice. What the king seems to gain, the people will lose, and in the end both king and people will face many hardships. There is only one way of escaping these evil effects, and that is to restore the coinage to its former state.

De Monetæ Mutatione is one of the early treatises on money, and it may be of interest to present a detailed synopsis of this extremely interesting booklet. At the outset the author gives a short summary of the whole work. To help the royal treasury many devices (he says) have recently been tried. One of them was debasing the copper coinage. This was done in two ways: the face value of each coin was doubled, and half of it went as profit to the royal treasury; or the silver alloy was taken out and the coins were struck of pure copper, their weight moreover having been decreased. In this case the profit for the king was even two thirds. This apparent gain is, however, a mere fallacy, because great evils will follow. For this reason, many have criticized the king's device, and subsequent events have shown the correctness of their views. To heal the evil effects of a debased coinage, some have proposed adulteration of silver money also, hoping thus to compensate for the loss to individuals by an increase in the face value of money. Fortunately this has not as yet been done. Indeed, it has been ordained by law that the new coin should be suppressed and the holders indemnified from the royal taxes.

On the occasion of the late adulteration, Mariana had already written a short treatise which he inserted in the new edition of *De Rege*. Now he comes out with a more complete discussion of the same subject to show his and all later generations that the coinage can never be debased without doing great harm to the country.

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In the foreword the author apologizes for taking a step which some will call inconsiderate and others bold. How can he, a non-expert, know much about things outside his sphere, and venture to criticize the king's counsellors who must know better? But Mariana justifies himself on the ground that he has the most sincere intention of helping the country, and that he can base his arguments on the experience of the past. All are groaning under the hardships imposed by the new change in the copper coinage but none has the courage to appear with his criticism. Therefore it seems only just that one at least should venture to say openly what everybody thinks for himself, and what is being discussed in all places where the people gather.

When Athens was beleaguered by the Macedonians and all citizens were engaged in saving their city, Diogenes came out of his barrel and rolled it along the streets to the great surprise of everybody. When some accused him of making fun of the general calamity, he answered: "It is not right that while all are busy I alone should be idle." In the same way Mariana wishes to do all he can, at a time when others are prevented from speaking freely, some by fear, others by bribes. All should know that there is at least one man in the country who espouses the truth and dares to point out the evils that threaten the community. Perhaps his endeavor will meet with success, since all are desirous of hearing the truth; but at all events no one should question the honesty of his intention or condemn him before carefully reading his paper.

In the first three chapters, the author tries to show that the royal power is not absolute and that consequently the king cannot dispose of the private property of his subjects. The king must not, therefore, impose taxes without the consent of the people, or do anything burdensome to them

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without their approval. Debasing the coinage is only another way of getting the people's property, and thus is in reality a very heavy tax. Now, if the king cannot impose taxes without consulting the people, whence does he derive permission to adulterate the coinage without their consent?

Many exalt the royal prerogative unduly, saying that it is without limitation. Some do this in order to flatter the king and to enrich themselves; others do it because they identify the king's majesty with the security and welfare of the nation. The first are hypocrits and really pestiferous, the others have judged erroneously. Obviously, if power becomes excessive it degenerates into weakness just as virtues become vices when they exceed the bounds of discretion. Power is not like money, the more of which you have the richer you are, but rather like food which must be neither scanty nor excessive if the individual is not to suffer harm. Excessive power degenerates into tyranny, which is not only a bad form of government but also a weak rule and of short duration, because it will arouse the wrath of the people whom no armies nor weapons can resist for a long time.

The king has no property rights over the private goods of his subjects, nor can he take anything from them according to his whim and will. For the royal power, if it be legitimate, had originated with the people. According to Aristotle, kings were instituted to lead the people to battle and to defend them against their enemies. This power was later extended to the administration of law. To sustain the king's authority and to support the royal household, the people assigned to him certain revenues and also fixed the manner in which these were to be raised. Over these revenues and over those goods which he possessed before his election to the throne, the sovereign has property rights;

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but he has no such right over anything the people have reserved to themselves or to the State as private or public property. If it were otherwise, we could not understand why Jezebel was blamed by the Prophet Elias for taking away the vineyard of Naboth. For if Jezebel had property rights over all land, she did not commit an injustice in claiming Naboth's vineyard.

This being so, the jurists in common hold that the king cannot decide anything to the detriment of the people against their will, e.g., take away the property of the citizens in full or in part. How could the monarch be called to account or charged with injustice if all goods were his property, or why would he pay for land or houses if he could simply take them? It is tyrannical for a king to claim unlimited power or to consider everything as his own. A legitimate king imposes limitations on his power, checks his passions and exercises justice and equity. He looks at private property as something entrusted to his protection and takes nothing of it, except in a manner prescribed by law.

Some maintain that if the king needs the consent of the people in imposing new taxes, the people are sovereign and not the ruler. They say that he is not bound by the will of the representatives of the people, but can act independently according to his will and the needs of the royal treasury. If the *Cortes* have anything to say about taxation, it is only by reason of royal grant. Kings like this kind of reasoning and have often been deluded by it. When Charles VII of France was pressed hard by the English, he bribed the nobles by annual pensions to grant him the right of taxing the people at will. The absolutists, therefore, say, that the kings of France have entered into their rights, being freed from the tutelage of the people. But the truth is that the king has taken unjustly from the

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people that to which they had a right. This disorder is, Mariana believes, the real reason for the many civil wars in France. The people, exhausted by excessive taxation, have lost their property and, as a result, risk their lives in a desperate struggle, hoping either to better their condition or to end their miserable lives. Religion is used only as a pious cloak.

In Castille taxes are granted by the representatives of the cities, but this representation of the people is worse than none at all. It is composed of careless and incapable men who have only the one desire, to win the king's favor and to become rich as a consequence. Moreover, they are strongly influenced by the urgings, beggings, threats and promises of the courtiers,—a test that not even the cedars of Lebanon could withstand. These are the actual facts. The next step in Mariana's discussion will show how taxes ought to be imposed. He maintains that the people should freely grant them.

They should not deal churlishly with the king, but should listen patiently when he points out the need of the treasury. The king, on the other hand, should listen to what the people have to say and should consider whether they can bear a new burden or whether there might not be another way of getting out of the financial difficulty, even though it should involve a personal sacrifice. He might possibly be obliged to save, and to avoid superfluous expenditures. Whatever may be the case in other countries, Castille has a clear law which forbids taxation without the consent of the people. In confirmation of his assertion Mariana quotes the law of Alphonsus XI of the year 1329.¹

¹ Adhaec quoniam supplices postularunt, ne insolutum tributum imperetur, neque publice, neque privatim nisi gente in conventum prius vocata, concessoque ab omnibus procuratoribus civitatum qui aderunt: ad hoc respondemus placet id nobis, atque ut ita fiat statuo. *De Monetæ Mutatione*, Cap. II, p. 194.

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A king who imposes taxes without the consent of the people not only acts in a spirit of violence and tyranny, but also incurs the excommunication threatened by the Bull *Coena Domini*.¹ In this document the Pope declares all those excommunicated who impose new taxes. In some copies is added the clause: Unless (greater) power has been granted to them, or permission vouchsafed by right or law. Comineus, from whose writings Mariana quotes, maintains that kings who impose new taxes without the consent of the people incur this censure, and our author adds that this was the common opinion of the theologians of the sixteenth century. Mariana extends this penalty also to monopolies if introduced against the will of the people, holding that under them the State sells various articles to the public for more than they are worth. This is nothing else but a real tax. Our author does not intend to criticize the already existing monopolies on salt, sublimate and lotteries, as he assumes that they are wise and that the king has acted according to the law, but in principle he holds that monopolies do not differ in substance from taxes, and hence need the people's consent. This he proves from history. In Castille there had been for a long time a strong opposition to a flour tax. If the king could lawfully buy up all grain and resell it for more than what it is worth, he would surely not beg the people to grant him a tax on grain. A monopoly would give him the same results. Therefore, a monopoly also needs the consent of the people.

The same principle is to be applied to the adulteration of the coinage. Jurists give the king the right to change the coin, but this permission refers only to a change of form

¹ The section of the bull referred to reads: Item excommunicamus et anathematizamus omnes, qui in terris suis nova pedagia seu gabellas, praeterquam in casibus sibi a jure, seu ex speciali Sedis Apostolicae licentia, permissis, imponunt vel augent, seu imponi vel augeri prohibita exigunt. *Bullarum et Diplomatum et Privilegiorum Sanctorum Romanorum Pontificum Taurinensis Editio*. . . . Tom. XIII, pp. 531-32.

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or stamp, and not to a debasing of the metal or a decreasing of the weight. In case of urgent need the king might also debase the coinage without the explicit consent of the people but would be under obligation to restore the old coinage as soon as normal conditions returned and to make good any loss sustained by those concerned. This was done by Emperor Frederick II when he found himself in financial stress at the beleaguering of the city of Faventia. He issued leather money and redeemed it in gold after the conquest of the city. In another instance paper money was made at Leyden, in Holland, in 1574.

The question is whether the king can debase the coinage at will to help his treasury. The common opinion of jurists is that he cannot do so without the consent of the people, since he is not the owner but only the protector of the people's private property. He takes from them a part of their goods when he assigns to metal a higher value than it has by nature or common opinion. This is only another way of getting at the people's purse, differing little from a tax or a monopoly. Mariana, therefore, does not see how the king can escape the excommunication threatened by *Coena Domini*. Nor can the king say that the people have consented, because the coinage laws of Ferdinand the Catholic and Philip II say nothing about this point. Hence the conclusion is that it is unlawful for the king to debase the coinage without the consent of his subjects.

The fourth and fifth chapters are devoted to a discussion of the nature of money, and the sixth deals with the frequent (unlawful) changes which have occurred in the history of Spain. Mariana distinguishes a twofold value of money: the natural or intrinsic value, and the legal or extrinsic value. The natural value is equivalent to the metal content of the coin, and the legal value is fixed by

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royal law as in the case of other commodities. In a well conducted commonwealth care will be taken that the legal price agrees with the natural value, because it would be unfair to ask a price of ten for what is worth only five. Precisely this happens when the legal value of money exceeds its metal content. If these two values may lawfully disagree, why not issue money made of leather, paper or lead, which would cheapen the cost of labor and material? Mariana does not object to making a slight charge for the labor of coining or even to a small profit to enrich the king and signify his sovereignty. It would be unfair to expect gratuitous coinage and to compel the king to coin money at his own expense. But it is absolutely necessary that the metal value plus seigniorage agrees as nearly as possible with the face or legal value of the coin.

In the rest of the fourth chapter, the author gives us the substance of the Aristotelian theory of the origin of money and a short review of Spain's monetary system. The great philosopher tells us that men first exchanged commodities by barter. This involved transportation of all commodities to be exchanged, and so metal was substituted for an exchange of goods. Coins were introduced to save repeated weighing of these metals and to safeguard a correct weight. This, according to Mariana, is the first and the only legitimate use of money; all other uses have been invented by the malice of men and are foreign and hostile to the salutary purpose of money.

A short review of Spain's monetary system shows that the natural and legal values of the various coins agree almost exactly. One mark of silver (eight ounces) was coined into sixty-seven silver pieces (*argentei*), the natural value being sixty-five; and one silver piece was worthy thirty-four maravedis, which is only one maravedi more than its natural

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value. Eight ounces of gold were coined into sixty-eight crowns, which was almost exactly their metal value.

In the case of copper coin, the facts are much more complicated. From the year 1497 on, one mark of copper (eight ounces) plus seven grains of silver yielded ninety-six maravedis, the silver being worth fifty-one maravedis and the eight ounces of copper plus labor cost about forty maravedis, which makes in all approximately ninety-one maravedis or a little less than their face value (of ninety-six maravedis). In 1566, Philip II made the following change: To one mark of copper only four instead of seven grains of silver were to be added, and the whole was to yield 110 maravedis. As the cost of labor was about twice as much as before, this new coin was still very near to its natural value. But copper coin issued by the recent order of Philip III contains no silver at all and is valued at 280 maravedis, though the natural value is only about eighty maravedis. Thus the profit for the royal treasury amounts to 200 maravedis for each silver mark. This means that the face value exceeds the metal value by five-sevenths. It follows, then, that the late change is greatly at variance with a sound monetary policy.

Many, attracted by the enormous profit to be derived from it, will falsify money. People will also demand higher prices for their goods, so as to make up the difference between the face value and the metal content of the new coin. If the king should step in and ordain that they must sell for the legal price, he will not succeed, as the experience of the past proves. When the French silver coin was debased, the result was that Spanish silver pieces sold for seven as compared to four, which was the price of the new French coin. Whenever the legal value of debased coin is not equal-

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ized with its natural value, prices will be high and financial chaos will ensue.

In the fifth chapter, Mariana shows how the bases of exchange must be kept stable if commerce is not to suffer. Most articles sell by weight and measure, and all sell for money. Accordingly these standards must be guarded most carefully. In olden times standard measures were kept in temples, so as to make possible at any time a comparison with the measures used in business transactions. The Old Testament prescribed that "all . . . estimations shall be according to the shekel of the sanctuary,"¹ and similar customs prevailed among nations other than the Hebrews. When the Castilian measures for oil and wine were changed for the purpose of a new tax, the people severely criticized the step, which resulted in widespread confusion. Changes of money have always caused so many hardships that, as will be shown later, they could be remedied only by still greater ones. In spite of the precaution exercised of keeping standards of the various measures, weights and coins in temples, they almost everywhere deteriorated in the course of time. The Romans debased their coinage during the first Punic war and once more when Hannibal threatened the very existence of their commonwealth. Their poet Plautus derides the new "poetical products," in his humorous way: "Those who use old wine I consider wise, for the new comedies which come to light are much worse than the new coins."² Various adulterations also took place in the course of the history of Spain. Under Alphonsus XI eight ounces of silver were worth 250 maravedis; but in 1388 the

¹ *Levit.*, 27, 25.

² *Qui utuntur vino veteri sapientes puto.*

Nam nunc novae, quae prodeunt comediae.

Multo sunt nequiores quam Nummi novi.

De Monetae Mutatione, Cap. 6, p. 199.

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number rose to 400 and later went as high as 2,500. Mariana believes that this rise was not due to the use of a variety of metals in the Spanish silver coin, which always had a slight alloy of copper, but to the adulteration of the maravedis and other small coins. This he knows from his sources and his opinion is confirmed by the base quality of surviving coins and by what we know of the licentiousness of the respective Spanish rulers.

To put an end to the abuse of further adulteration, Ferdinand the Catholic and Isabella ordained that the metal value of one mark of silver should be 2,210 maravedis and its legal value 2,278. This regulation was observed up to the time of the adulteration discussed by Mariana excepting for a slight change made by Philip II, which did not, however, materially affect the value of silver in regard to copper coin. But the new change had resulted in one mark of silver selling at more than 4,000 maravedis as over against 2,278.

After developing the principles of a sound coinage, Mariana discusses the advantages and disadvantages of a debased coinage. Having given the reasons for adulteration, he shows with much historical sagacity and an enormous amount of learning that we must exercise care in interpreting historical figures. Figures apparently the same do not always mean the same but must be taken in their historical meaning and context. History, then, will yield to Mariana his principal arguments against adulteration of the coinage. He first enumerates everything that might be said in favor of adulterated coinage in order to weigh against these affirmations the many disadvantages, and to find the truth which alone is the point at issue.

The patrons of the new coinage advance the following arguments: A great deal of silver is being saved, which

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formerly was mixed with copper to no advantage whatever. The decreased weight of the new coin will facilitate its transportation. There will be plenty of money in the country to pay debts and to encourage commerce. Foreigners will be less eager to trade with Spain, and so will not remove precious metal from the country. Everybody will gladly spend his cheap money, which will mean better loan facilities, as opposed to usurious interest formerly paid. This in turn will mean the prosperity of agriculture and the trades which have suffered from lack of money. The result will be a plenty of grain, cattle, linen and woolen cloths, and various kinds of other commodities, and a consequent decreased demand for foreign goods as well as a smaller export of silver and gold. If less foreign goods are imported, native customs will avoid infection by foreign vices and the warlike Spanish nation will not be enervated and become unfit for war. Foreigners will have less occasion to come to Spain because the country itself will produce almost all it needs. Those who do come will not wish to carry cheap money home with them but will rather exchange it for native products. This again will be of great advantage to Spain. Finally, the king will be able to pay his debts by the simple device of debasing the coinage without harming the people.

Mariana admits that the king has beyond all question derived great profit from his device and that he has satisfied all the creditors to whom his tax revenues were mortgaged—in itself a great calamity. It was a hope for similar gain which induced the Romans to adulterate their coin; and they were relieved from their financial trouble, as Pliny tells us. Adulteration of the coinage has also many times wiped out the debts of the Spanish kings. No one can deny that these advantages deserve consideration. To realize

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their importance, one must for the moment overlook the disadvantages which might be enumerated on the other side. This method is not unreasonable. There is nothing in this world altogether free from harm or blame. Therefore, it is a sign of a wise man to choose what has greater advantages, and fewer disadvantages, so much the more so because human nature is wrongly inclined to find fault with everything new and to stubbornly adhere to old customs as if nothing could be added to the old wisdom. Having been told all this, nobody can say that Mariana does not give his opponent fair treatment.

In the following chapter our author warns us, as said before, against accepting historical data without precaution, for what they seem to mean. They must be taken in the meaning prevalent in their time and in their historical setting. The differing valuations of silver coin in Spanish history did not arise from a different fineness of silver, which, as Mariana concludes from the grade used for Church vessels, was always the same. Moreover, the old maravedis which very often circulated along with new ones and had a different valuation. They were sometimes called "old" maravedis and then again "good" maravedis. But the term "good" maravedis was also sometimes applied to gold maravedis, so that we must first study the respective periods before we can judge which of the two meanings is the correct one. In this discussion the author shows a great deal of historical sense and a remarkable ability to interpret apparently contradictory records.

After doing full justice to the reasons for an adulteration of the coinage, Mariana treats in two chapters of its many disadvantages. He arranges these disadvantages into two groups. The first consists of arguments which seem to carry much weight, but might almost as well be used to prove the

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opposite. They are, in part, nothing but the reverse aspects of the arguments produced in favor of debased money. Mariana does not care to argue with subtle theoretical reasons; he wishes to deal with historical facts. This seems to him the better method, because the present is very much like the past and what has happened once will happen again. Consequently, from methods used at present similar to those used in the past we can forecast the future.

In the first class of arguments are the following: It is a novelty to debase the coinage, and novelties are always bad because it is a sign of boldness and insolence to change old customs. The answer to this assertion is not difficult because, as Mariana has shown in many chapters of his treatise, the practice of adulteration is by no means new but was used many times in the history of the country.

The farmer will not cultivate his land if his reward is to be nothing but adulterated money. As was shown before, others will prove that the reverse will happen,—that agriculture will flourish by reason of loan facilities. Thus this reason also seems to carry very little weight.

It is said that commerce will suffer if the coinage is bad. Foreigners will be discouraged from coming to Spain if they no longer receive silver in exchange for their goods, and this will injure Spain's trade with the Indies since Spain exports to her colonies what foreigners bring to Spain. The first answer is, that Spain cannot be harmed by obedience to her laws, which forbid the exportation of precious metal. Moreover, of what advantage can it be to the country to lose its silver? On the other hand, Spain will benefit if adulterated coinage keeps out foreigners. If they should come nevertheless, they will prefer to exchange their goods for Spanish products, since they will be unwilling to take copper coins home. This again will result in a great advan-

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tage for Spain since it is just the thing which all desire.

Nor will the Indian trade suffer much. Most articles exported to the Indies are native products, such as wine, oil, woolen and silk cloths. If there should be need of other goods, Spanish merchants can easily purchase with silver such articles as linen, paper, books, various nicknacks and so on. It must be remembered that debased copper money will not prevent the simultaneous coinage of silver.

The king, it is said, cannot borrow money from abroad for the upkeep of the army and navy, if Spain has an adulterated coinage. The reverse seems actually to be the case. The king can pay his domestic debts in copper and save all silver to satisfy his foreign creditors. Nor is the copper coin so bad as to drive all silver out of circulation. As a matter of fact, however, silver is disappearing, and this seems to be one of the greatest disadvantages accruing to debased copper coin. Taxes must be paid in silver, so that only silver flows to the treasury and never appears again. The king pays out nothing but copper, of which there is plenty, and all silver accumulated by the treasury is sent abroad. Even the silver which remains among the people disappears, as everyone first wishes to spend his copper and will hide his silver until compelled to deliver it. Consequently, an enormous amount of copper is necessary. Mariana does not deny these facts, but the reasoning seems unconvincing to him.

It is said that genuine money cannot be distinguished from counterfeit because there is no longer any silver in the new copper coin. The hope of profit tempts many to falsify money, for the legal value is now nearly three times greater than before, when it came very near to its metal content. Mariana admits that the hope of gain is a strong incentive to counterfeiters,—for people will risk anything if they

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can swell 200 units into 700 and become rich over night,—but points out that it is an erroneous assumption that copper was mixed with silver in order to make genuine coin distinguishable from falsified money. The true explanation is, that originally, the maravedi was made of pure silver. Then it was more and more deprived of silver but in such a way that some silver remained always. At last the Catholic Kings ordained by law how much silver was to be mixed with copper so as to prevent further adulteration.

The point at issue here is not that copper coin ought to contain a certain percentage of silver, which would only involve an unnecessary expense, but that the stamp used should be very intricate so as to baffle falsification. A much more important remedial action, however, would be to give more copper coins for a silver coin, so that the natural value of the copper, together with the mint cost, would equal the natural value of silver. Thus, all hope for profit would disappear and an end would be set to all counterfeiting.

Other objections are more apparent than real. For example, it is alleged that if the money were not debased rich people could not pile up treasures that would serve the poor. Mariana answers that many waste a great deal of money on vain and even harmful things, and that, consequently, it would do no great harm if adulterated money were to render this prodigality impossible. Moreover, silver comes every year from the Indies and those who wish to do so can hoard as much as they please.

The difficulty of transportation is likewise advanced as an argument against debasing the coinage, as is also the trouble involved in counting large sums. Mariana has heard from experts that the transportation cost to the most distant

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parts of the country does not amount to more than one per cent, which means only a slight expense. He admits that it is difficult and laborious to count large sums of copper coin, but this disadvantage disappears when the many advantages are borne in mind.

The last objection is the rise of the price of copper, which now costs forty-six maravedis an ounce in Spain, whereas it can be bought for eighteen maravedis in France and for even less in Germany. This is doubtless a great disadvantage, but there are other greater ones which convincingly condemn every adulteration of the copper coin as harmful for the country.

Adulteration of the coinage is against the country's laws. The law of 1497 allowed any amount of gold or silver to be coined but limited the copper coinage to 10,000,000 maravedis. In 1566 Philip II forbade the coining of copper altogether excepting in cases where his special permission had been granted, in order that there would be just as much in circulation as was necessary for the common use. Mariana is of the opinion that copper should be employed only for small payments and for change, and he believes all surplus over and above this demand is harmful. For in Aristotle's opinion money was invented to facilitate exchange; and hence such money is the best which serves this purpose best. What, then, is the virtue of an adulterated copper coinage? It takes at least a whole day to count one thousand ounces of copper and the difficulty and cost of transportation are considerable. The Spanish law, therefore, rightly forbids an excessive amount of copper coin. This does not mean that there should be only a silver coinage, as is the case in England and in various parts of Germany. There is real need for small units of money for small payments, making change, and giving small alms to the poor. Yet it

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is doubtless better to have only silver coin than to be deluged with a flood of copper pieces.

Another and even more important consideration is the fact that adulterated coinage is against reason and natural law. The king cannot lawfully take private property from his subjects. If he were to claim half the crop of the farmers as his own, giving them permission to sell the rest for double its value, every one would condemn this action as unjust. Yet this is exactly what happens in case the coinage is adulterated. Nor would anyone approve of the king if he should fix the price of woolen and silk cloths three times as high as heretofore. Precisely this, however, has been done with copper coin at the latest debasing: owners receive less than one-third, and the king takes the rest for himself, with evident injustice.

As a result of a debased coinage, prices will rise as much as money falls in metal value. This can easily be proved from the history of Alphonsus the Wise. Whenever prices rose, the king would fix a new legal price; but merchants would not sell, and the law could not be enforced. Finally the king was expelled by the nobles. The same will happen again at present. Mariana's conclusion is, therefore, that money is never debased without a general rise of prices.

Those who have debased coin will be eager to spend it but merchants will not accept it without demanding a higher price. Thus commerce will be upset, which is a fourth disadvantage. The king will compel them to sell for the legal price, but to no avail, and high prices will prevail. The consequence will be that the new money must be withdrawn or lowered in its face value, as has happened many times in the history of almost all European nations.

The king himself will also suffer from an adulteration

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of the coinage, for how can he draw profit from the people's necessity? If commerce is interfered with, the people will not be able to pay taxes as high as those levied before, and the tax farmers will not pay the same amount to the sovereign as in former times. Finally, the people will hate the king and blame him for the whole trouble because every one ascribes the good things to himself but attributes all hardships and misfortunes to the nation's leaders.

Convinced of the evil effects of coinage adulteration, the Aragonians at the inauguration of a new king make him declare under oath that he will never tamper with their coinage. This is a wise and salutary precaution. Mariana wonders why those in high places do not know of the evil effects of inflation or why, if they do know, they nevertheless fail to learn the lesson of abstaining from practices which involve numberless hardships.

Thus far Mariana has dealt only with the adulteration of the copper coinage. He now questions whether the same rule holds good for silver and gold. The answer to this question is even more important, because silver is the standard coin. Gold will always be scarce and copper coin must be made scarce in a well-organized commonwealth. Silver coin is the nerve of commerce because it is best fitted to make all kinds of exchange and to pay all kinds of debts. If, then, silver were to be debased as some have suggested, everything in the State would necessarily be turned topsy-turvy. The patrons of this scheme say that if silver were adulterated foreigners would no longer wish to export Spanish silver. Now they do export it despite the prohibition of the law. Moreover, this device will remove the financial difficulties of the king, for if he gained an enormous amount by debasing copper, how great would be his profit if he were to manipulate silver? Nor would Spain have to buy

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silver abroad as is the case with copper. She receives plenty of silver every year from her colonies.

Mariana cannot deny that it would be very profitable for the king to follow the advice of these counsellors, but he sees many difficulties connected with it and many reasons against it. If silver coin is to be debased, what about the silver to be used for industrial purposes? If this were debased in the same way, the price of silver would necessarily fall and great confusion would result. Moreover, silver-smiths will maintain that low grade silver cannot be worked as well as pure metal. If only silver in coins is debased, bullion will sell higher than coin. Should old coin be exchanged at par for the new? That would be unfair. If it is sold at a premium no injustice will be involved, but confusion and complication will ensue. If old coins were to be suppressed, the king would do the same as in the case of copper coin, i.e., rob the people. And if silver were to be adulterated, should the same happen with gold coin? If so, the same confusion would result as in the case of copper and silver. If not, the proportion between silver and gold could not be maintained, with the result that it would not sell as at present in the ratio of 12:1, but rather of 14 or 15:1, according to the degree of adulteration. The same rise of prices would ensue. Price fixing would be of no avail, not to mention that not everything can possibly be priced by the government.

The same disturbance of commerce would result, so much the more because silver is the soul of all business, which is so delicate a thing that it is greatly affected by the least disturbance. If all the disastrous results of the adulteration of copper have not as yet appeared, this is because silver has not been touched. Even at present a silver piece is exchanged for thirty-four maravedis. But if silver be adul-

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terated, rents and annuities will shrink and many people will lose a part of their revenues. This would be equivalent to a new and heavy tax falling upon churches, monasteries, poor and orphans, in short upon all exempted persons.

If, then, it is harmful to change copper, how much more evil is involved in attempts to debase silver! The king should not wish to make profit out of the sacrifices of his subjects and it is a fallacy to believe that an adulteration of Spanish silver would prevent its being exported abroad. At present the French silver is a little finer than that of Spain, and yet there is plenty of Spanish coin in France. The reasons are obvious. Spain has more imports than exports, and the royal pensions and payments to foreign creditors draw the silver out of the country. If some one insists that the fineness of the Spanish silver attracts foreigners, Mariana will not quarrel with him but will content himself with remarking that no one can prevent them (foreigners) from keeping the fineness of their silver below that of Spain in order to draw the latter to themselves. They cannot do without Spanish silver since they need it as much as they need life and blood. The general conclusion, then, is that one evil is not to be healed by another and greater one.

The only remedy against the flood of bad money is the lesson of deflation which is taught by history. This means lowering the value of the new coin by one-half or two-thirds. Should such a readjustment not suffice, the new coin might be suppressed altogether and replaced by genuine money. In either case the loss should be borne by him who has profited by adulteration—that is, the king. Mariana dares not hope that this will happen, because it has never happened before and would be most extraordinary. Even so, it would be less evil to suffer the loss than obsti-

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nately to persevere in the old error and let the illness grow worse. Another method, of course, would be to debase silver, but this would mean general disaster.

The gist of the whole discussion is, as Mariana tells us, that the two values of money must balance each other as nearly as possible, and that whenever they are disturbed the whole country will be exposed to numberless hardships and disorders. The people of Spain would act wisely if they made the king promise never to touch their coinage whenever he asked for new subsidies. If this assurance had been exacted in time, Spain would long since have obtained a stable coinage.

There have also been, Mariana notes, several changes in gold coin within the last hundred years. Originally, Spain's neighbors used the same fineness of gold; but when Spain received new and rich supplies from the Indies, the other nations adulterated their gold coin to attract Spanish gold to their countries. Thereupon the Spaniards raised their gold exchange and finally debased their coinage, both of which amount to exactly the same thing. But their greedy neighbors went on debasing their gold more and more. If Spain should follow their example it might easily happen that Spanish gold would be rejected abroad or evaluated at a lower rate. The one could hardly redound to the credit of the Spanish nation and the other would not be of any advantage whatever.

Nevertheless Mariana looking at the history of the last hundred years during which four changes were made without grievous results believes that it would do little harm to adulterate gold. The reason is the fact that gold will always be scarce, so that its adulteration will not greatly interfere with business. But no change ought to be made without the consent of the people. As to silver and copper, it is abso-

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lutely necessary that their face values agree as nearly as possible with their metal content. The proportion between gold and silver should also be regulated. Gold of twenty-four grades corresponds in fineness to silver of eleven grades. This is their natural relationship unless demand and supply change, as is the case with all commodities. At present the proportion between the two metals is about 12:1, and it has almost always been the same. If some writers give a different proportion, it is because the gold and silver supply varied at times. If this ratio were changed for example to 16:1 or 18:1; it would mean fraud and injustice unless the gold grade were higher and that of silver lower.

In his final chapter Mariana makes a number of suggestions calculated to help the needs of the king without burdening the people. It is said (he remarks) that statesmen very often act according to the principle that necessity knows no law. But it is always wrong to change the coinage without consulting the people. It would be far better if the royal expenditures were decreased, for royal majesty gains by moderation rather than by luxurious extravagance. History tells us that formerly the Spanish kings spent very little; and if some will say that times have changed, the example of the late Philip II will show that this assertion does not hold good.

The great problem is to ascertain how the royal expenditures may be diminished. Our author admits that he does not know how this could be done but that prudent men in the royal palace are in a position to know. At all events it is whispered among the people that the stewards of the royal household waste a great deal of valuable food. It might also be possible to diminish the number of large donations, or to make them less liberal. This does not mean that the king ought to be niggardly in rewarding his friends.

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But the number of high offices is so great that a reasonable distribution of them would make extraordinary presents superfluous. Nor is it advisable to be too generous in making rewards. A better practice would be to give small rewards at different times. If favorites of the king receive all their emolument at once, they will expect no more and lose all interest in serving the king. They will, indeed, be tempted to withdraw from the Court to enjoy in leisure and idleness what was given them for their services.

It is unlawful for the king to dispose of tax revenues at will, because the people pay them to defray public expenditures. Only after all common wants have been satisfied may the king use the rest for other purposes. As the sovereign is not the owner of the private property of his subjects, he must avoid unnecessary expenditures and unnecessary wars. If a province can be maintained only at the cost of continuous war, it ought to be given up just as a sick member which causes disease to the whole body is amputated. Philip II acted wisely in giving up the Netherlands. The same policy was followed by the Roman Emperor Adrian, who destroyed the bridges across the Danube and across the Euphrates which had been built by his predecessor Trajan. As a wise ruler he saw that a further extension of the Roman Empire would be harmful to the general good of the people.

It is essential to a wise administration that a strict account be demanded of all officers, and that offices be distributed according to merit and not through the use of bribes and in other dishonest ways. It is a pity to hear people say commonly that all royal offices are for sale, bishoprics not excepted, and that they never are conferred according to merit or worthiness. Many officials start their careers as beggars and within a short time emerge rich. Whence do they get

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their spoil? From the blood of the poor, from the bribes of candidates for governorships. To remedy this abuse it would be a good thing if all officers were to render an account from time to time and be deprived of all for which they cannot definitely account.

It is said that tax administrators make agreements with the tax farmers in such a way as to get for themselves by far the greater share of the amount paid for the royal revenues. Governors of cities use various dishonest means to enrich themselves, granting in public privileges for which they receive payment in private. There is, indeed, no end of corruption by which the people are oppressed and robbed in various ways. Royal treasurers do not meet bills in time, but invest the king's money in business, thus enriching themselves and defrauding the sovereign. It is also charged that some of them have friends and protectors in the royal courts with whom they divide their spoils. To stop these abuses and to relieve the king from financial stress, the royal taxes and rents must be carefully administered. As things are now, not even half of the proceeds find their way to the king's treasury. They go through a great many hands and, like a liquid poured from one vessel into another, leave a residue in every palm.

Finally, luxuries ought to be burdened with a high tariff to discourage their importation, which is so harmful to the country; or at all events to yield a revenue to the king. If the king were to follow Mariana's advice, he would gain much more than by the late adulteration of the copper coinage. No hardship to anyone would be involved but rather the wholehearted approval of the people would be gained.

Some will say that it is quite natural for the government to resort to the same device that was used by former kings—the adulteration of the coinage. That is true, but the

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times are not the same as they were before but have changed for the better. At present, Spain has many more sources of revenue, controls a much greater territory, is verily a world power and has had great success in war. The whole trouble lies in the fact that the expenditures are not balanced against the revenues, with the result that all public finance is disorderly. Ferdinand the Catholic, one of the most powerful Spanish kings, once declared himself unable to pay to Emperor Maximilian the comparatively small sum of 100,000 gold pieces, in spite of the great flow of gold and silver from the new colonies. This wise ruler knew what his finances could afford because he kept a very careful account and budget. Nothing of the kind is done at present, and this is the root of the whole trouble.

In conclusion Mariana once more pronounces sentence on the damnable custom of adulterating the coinage: "If it is done without consulting the people it is unjust; if with their consent, it is fatal in many respects." If this opinion is right, thanks be to God, writes Mariana. If not, let the readers forgive the author out of regard for his good intention. His experience as an historian has put the pen into his hand. If he should have offended anybody, it ought to be borne in mind that salutary medicines are sometimes bitter. He (Mariana) wrote this treatise because he believed that in matters concerning all, every one should have freedom to say what he thinks best, be it right or wrong.

Chapter II

Mariana's Theory of Money

THE whole of Mariana's treatise on money might be called an historical refutation of inflation, although naturally he never used the word *inflation* in its modern significance. By inflation we now mean a supply of paper money far in excess of the demand and consequently having less purchasing power than the old currency. The enormous advance of prices during and shortly after the world war was due in the main to a vastly increased supply of paper money.

Exactly the same thing happened in Spain when Mariana wrote his treatise. The king had wiped out his domestic debt by adulterating the copper coinage, i.e., by increasing its supply nearly three-fold. This again was made possible only by decreasing the amount of metal used in minting the coins. The silver alloy was extracted, the face value raised and the weight reduced. One old maravedi was thus changed into nearly three.¹

The chief difference between modern inflation and the adulteration criticized in our text is the fact that in those times everybody adhered to the metallic theory of money whereas at present the chartal theory² is partly accepted.

¹ Quo tempore magna pecuniae inopia in Hispania erat, bella multis locis ac diuturna multaeque aliae difficultates aerarium penitus exhauserant. Ejus supplendae inopiae multae rationes sunt excogitatae atque tentatae. Inter alia visum est aeream monetam vitare idque bifariam. Duplicato primum veteris monetae valore, unde ad Regem rediret quod adiciebatur, nimirum totius summae (quae ingens erat) dimidium. Deinde nova ex aere puro moneta est conflata, nullo argento admixto, uti antea moris erat, ac potius de pondere semisse detracto. Unde amplius duabus tertiis lucri Regi accessit. *De Monetae Mutatione*, Argumentum, p. 190.

² The expressions "chartal theory," "chartal money," "chartalism" and "chartalist" are

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According to Mariana, money is an exchange commodity and not simply a means of exchange. He holds that the face value of the coin must exactly or, at all events, as nearly as possible coincide with its bullion value. Otherwise, the king would charge an unjust price for the respective metals. Here we confront the mediaeval idea that business transactions must be carried through with a regard for the just price. The price fixed by law for almost all commodities was held binding in conscience. The royal stamp on the various coins was nothing more than a special case of legal price fixing. Consequently, if the face value was higher than the bullion value, the king charged too high a price for the precious metal and so acted unjustly. But since every one received for his old coin nominally the same amount in new money, the royal adulteration of the money appeared to be harmless. Only the diminished purchasing power of the new coin made it evident to the people that they had been robbed.

Mariana invokes historical facts to prove that every adulteration of the coinage necessarily results in a rise of prices for all commodities¹ or, to use a modern expression in a diminished purchasing power of the monetary unit. It is true that in the case under consideration these harmful effects have not as yet worked themselves out to their full extent. There is only a question of time.² People know

taken from G. F. Knapp's *The State Theory of Money*. Knapp holds that the value of all modern money is derivative from the law of the State. Accordingly to him notes and coins, gold coins not excepted, are merely tokens of a claim of the holder guaranteed by law. He coins the word chartal means of payment (derived from the Latin word *charta* to which he gives the meaning of mark or token) in opposition to metallic or rather "autometallic" money. The chartalist considers the legal (face) value as the more important element; the metallist insists upon the intrinsic or bullion value. cf. G. F. Knapp, *The State Theory of Money*, translated by H. M. Lucas and J. Bonar, pp. 25sq.

¹ Ut credam ac pro certo ponam, nunquam non moneta mutata subsecutam caritatem. *De Monetæ Mutatione*, cap. 10, p. 210.

² Ad tertium incommodum procedamus mercium caritatem omnium non minorem brevi futuram, quam quae est de pecuniae bonitate et pondere detractum. An id ex nostro capite fingimus? et non potius quae majores experti sunt mala, quoties eo ventum in provincia est, ut pecunia detereretur. (Then follow a number of instances from Spanish history) . . . Quo loco considerandum mercium caritatem non continuo et manifesto ex

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very well that the bullion value of the new coin is five-sevenths less than before and will, therefore, demand a price correspondingly higher. In vain will the king fix a legal price at which the merchants have to sell, for such a price will be unjust. Moreover, it is impossible to fix all prices in detail.¹ The result will be that no one will be willing to sell for an unfair price, that commerce will be disturbed, and that the people will suffer from the resulting high cost of living. General business depression having set in, people will be unable to pay high taxes and consequently the king will suffer in the end. Thus the specious gain will turn out to be a delusion.

It is evident that Mariana as an extreme metallist was absolutely right in his reasoning. According to him credit money was an unsound medium of exchange, and indeed is not even today altogether free from danger. If we had free coinage of silver and copper we should face the same problem as our Spanish Jesuit. Had the Spanish king kept the new coinage at the same amount as before, there would have been no fatal effects. But since this limitation would not have served the king's purpose, he would not have made the change. He wanted primarily to pay off his domestic debts, and this was possible only through an increase, i.e., an inflation of the coinage. It is apparent that from his standpoint and in view of the monetary policy of the time, Mariana was absolutely right in condemning the king for having robbed the people.

Though an extreme metallist, our author is not ignorant of some of the advantages of a chartal means of payment. He says in one place that if it be advantageous to debase

nostra mutatione subsecutam. . . . Verum ex iis quae sunt dicenda constabit, diu hoc non posse constare, quin rerum perturbatio consequatur. *Ibid.*, p. 209.

¹ Quod si taxam mercium minantur, quid ex eo remedio consequetur superius est explicatum: neque vero vaenalia omnia taxari possunt. *Ibid.*, cap. 11, p. 214.

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the coinage, the proper thing to do is to make money of paper, leather or lead and so diminish the cost of production.¹ He mentions two examples of paper and leather currency, but it is understood that recourse to either should be only a temporary measure. Among the advantages of such adulterated coinage, he enumerates the salvage of precious metal and the facility of transportation.² These are exactly the reasons why in modern times credit money is preferred to coin. But Mariana does not at all approve of chartal money. He was unable to see how the interests of the people would be protected under such a monetary system. He had good reason to distrust his government, which did not aim to facilitate exchange but to rob the people under various pretexts. Mariana, it is true, knows some of the advantages of the chartal theory, although he could not prevision a time when governments would utilize this system for the common good and without detriment to the people. As a matter of fact, the monetary history of the war and the post-war period has shown clearly enough that even today governments may impoverish their people in using the right to issue credit money. When the currency becomes inconvertible the chartal theory breaks down.

One of the results of adulteration of the coinage (he says) is the fact that good coin will disappear and cheap money become the standard or as Gresham puts it, "Bad money will drive out good money." Mariana also knows this law, though his suppositions are a little different.

¹ Et alioqui si valores hos (i.e., bullion value and face value) disjungere licet, cudant monetam e corio, cudant e papyro, cudant e plumbo, quod aliquando in rerum angustia factum scimus: eodem enim recidet ratio, minorque operarum sumptus erit, quam si ex aere conflabitur. *De Monetæ Mutatione*, cap. 4, p. 196.

² Ac primum hac facta mutatione argenti sumptu liberamur, cujus magnum pondus multaque talenta antea aeri miscebantur quotannis nullo prorsus fructu, id præstat bonitatis imminutio. Ex minore pondere consequenter vecturæ major facultas expeditæ, quocumque mercatores eam voluerint pecuniam deferre, eaque in commerciis uti, quod magno antea constabat. *Ibid.*, cap. 7, p. 200.

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Gresham supposes that good and depreciated coins of the same denomination are circulating at par, or that either gold or silver are over-valued. Mariana contends that cheap money will have less purchasing power than good coin, and that consequently both may circulate simultaneously, not at their face values but according to their bullion content. The reason for the necessity with which Gresham's law will operate is the chance to make a profit by selling good coin as bullion. This reason does not apply directly in Mariana's case. If copper was over-valued in his time, it was to no advantage to melt down old coins and sell them as bullion abroad because copper was already much dearer in Spain than elsewhere. Nor would the king pay a higher price than the face value of the new coin for genuine money. In this case Gresham's law worked in a somewhat different way. Since copper was five-sevenths over-valued, many were tempted to falsify coin, that is, to coin money of their own and make an enormous profit. This is exactly what happened, as Mariana tells us. People will (he says) risk anything if they have a chance to become rich over night. The danger of falsification is, therefore, one of the greatest evils attendant upon an adulterated coinage. Another result of the same law is the fact that the adulterated coin will become the standard. The king wants to have his taxes paid in silver, although he never pays out anything but copper. All silver that flows into the treasury never reappears but is shipped abroad to pay the royal foreign debts. Even private individuals wish first to spend all copper coin and then to hide their silver. Thus there is a flood of cheap money, and silver is disappearing from circulation.

Normally it is impossible to replace one coin with another; and so there is a limit to the operation of Gresham's law. The Spanish king seems to have guarded himself

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even against this natural limitation. In order to make copper coin the only domestic money, he bought copper abroad in enormous quantities, paying an excessive price. In Spain one mark (eight ounces) of copper cost forty-six maravedis, whereas it sold in France for eighteen and in Germany for even less.¹ Thus it is not surprising that the king succeeded in withdrawing all precious metal from circulation, to the great detriment of the national resources. He sent almost all silver and gold abroad to pay his foreign debts, thus breaking the laws of the country in the most grievous manner. He made all domestic payments in copper so that this clumsy coin became the national standard. No wonder that people took fright and refused to deliver what little silver was left to them.

The danger of counterfeit money was, as we have seen, one of the worst effects of debased coinage. As copper was greatly over-valued, many would take great risks, in order to enrich themselves by changing genuine old money into new coin.² The adversaries of inflation maintained that the extraction of silver from the old coin had made counterfeiting possible. Mariana does not agree. He believes that it is not only not harmful to coin small units without silver alloy, but that it involves a saving of precious metal and a diminution of production costs. It does not appear how Mariana conceives of this saving, for, if the small coin is to contain no silver alloy and yet to have full metal value,

¹ Postremo aeris caritatem accusant tanta ejus copia signata. . . . Ante paucos quidem annos in Gallia centenarius aeris emebatur decem et octo francis. Ita octo unciae (quod nos pondus marcum dicimus) tredecim Maravedinis constabat, in Germania etiam minoris erat. Nunc in Castella idem pondus quadraginta sex stat nihilominus: quod pretium in dies crescet cudendi monetam aeream sine fine necessitate, aut potius aviditate. *De Monetæ Mutatione*, cap. 9, p. 207.

² Deinde quod spes lucri multos alliciet triplo majoris quam antea, uti superius est dictum, quoniam a naturali valore parum discrepabat, legalis nunc multum. Ex his rationibus non negabo, qui enim possim? posteriorem magnam vim, quae ab spe lucri sumitur, quando ducenti aurei in septingentos excrescunt ea pecunia adulterata, quod multos haud dubium alliciet ut se et sua, quo id assequantur, cuius discrimini offerant? quis enim fraenet incensam cupiditatem ex inopia repente per hunc modum emergendi. *De Monetæ Mutatione*, cap. 9, p. 206.

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the coins must be heavier than if they were mixed with silver. Consequently the difficulty of transportation will increase and a rise in the price of copper bullion will follow. To set a limit to falsification, two remedies should be applied: The stamp must be very intricate so as to make imitation practically impossible, and the hope for gain must be eliminated by not over-valuing copper. If it is no longer advantageous or easy to coin false money, the abuse will disappear.¹

Among the so-called advantages of inflation, Mariana mentions the abundance of money. If there is plenty of money, borrowing will be easy and interest low, so that agriculture and all trades will flourish. The adversaries of adulteration maintain, on the contrary, that the trade and agriculture will suffer if the remuneration be nothing but cheap coin. The history of our present post-war period may throw some light on these contradictory viewpoints. It would seem that both assertions are partly true. When the mark was low there was, for instance, a temporary apparent prosperity in Germany. German industry was producing all kinds of commodities at high speed, because everybody was eager to buy in Germany at the ridiculously low prices. It was, however, very doubtful whether the country profited on the whole and in the long run. Since foreigners could easily outbid natives, the result was that prices went up to such an extent that the German people could no longer buy their own products. Although the prices paid by foreigners seemed to be high, they were really not half of what the goods were worth. Therefore the German people living from hand to mouth practically worked gratuitously for the

¹ Si mea tamen ratio valeret aliquid, cuperem ut nota monetæ elegantior esset, qualis Segobiae signatur ad molas monetarias, præterea monetis pluribus æreis mutaretur argenteus regalis. . . . Quæ eo pertinent omnia, ut cum metallo et sumptu signandi valor argentei exaequetur, quod est legalem valorem naturali adaptare. Sic enim minori lucro pauci aggredierentur eam monetam adulterare. *De Monetæ Mutatione*, cap. 9, p. 207.

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rest of the world. The government, aware of the danger, placed high tariffs on goods going abroad, but even so, the country suffered severely.

The other negative assertion that inflation discourages production because it renders remuneration very precarious has also been verified by the experience of the post-war period. People found out that it was useless to save because time would wipe out all their savings. If, for example, a German farmer sold a horse for 50,000 marks, the only thing he could do was to buy something else on that very same day, because the next morning his 50,000 marks might have no more than one-half their purchasing power. A week later they would perhaps amount to scarcely their paper value. The result was that everyone who had money spent it at once, either buying something useful or disbursing what he had for pleasure. Nor could anyone be blamed. Saving was equivalent to losing everything. The only advantage a man could derive from his money was contingent upon spending it immediately. Needless to say, this was a very unhealthy condition and it demoralized the people. It was perhaps the greatest evil brought on by inflation. Exactly the same thing seems to have happened at the time of Mariana, for he tells us that everyone was most eager to spend his copper money first,¹ because its purchasing power was obviously destined to fall.

If the evil effects of inflation are so numerous, it is of the greatest importance to stabilize the monetary unit. This is still a great problem in our own day when even the gold standard has proved imperfect. Various schemes have been proposed to stabilize the purchasing power of the monetary unit with the help of a new device known as Index Num-

¹ Sed et quod argentum inter cives manet, disparet, CUNCTIS PRIUS AERIAM MONETAM EXPENDENTIBUS, recondentibus argenteam, nisi re necessaria cogantur illam proferre. *De Monetæ Mutatione*, cap. 9, p. 206.

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bers. We are still far from a satisfactory solution of the vexing problem. Mariana had, of course, to face an altogether different situation. Nominally Spain then had a silver standard, but the adulteration of the small coin had created a copper standard that was very unstable and also very clumsy. It was unstable because the depreciation of the new coin took place gradually, until at length it could no longer be exchanged for its face, but only for its bullion value. Meanwhile the country was suffering all the hardships of progressive inflation.

To safeguard the units of exchange, men of earlier historical periods had kept standard examples of them in their temples, so that at all times those in use might be verified or checked by those of the sanctuary. Despite this precaution, no unit escaped diminution, and in the end the ideal standards were actual multiples of reality.¹

Amidst all the confusion of the late adulteration of the copper coinage the question naturally arose, Mariana observed, as to how to get back to normal conditions. He replied that the only way, is deflation. Either the face value of the new coin must be lowered, or the new coin must be withdrawn and replaced with genuine money. This will naturally involve a heavy loss for the holders of copper coin. The proper thing to do would be to indemnify them. But who should do this? Mariana fearlessly maintains that the one who has derived advantage from the adulteration ought to make good the losses resulting from it. And since the king alone has gained, he should sustain the loss. This is the right solution, but our author does not dare to hope that

¹Commercii haud dubium fundamenta, quibus universa mercaturae moles incumbit, pondera et mensurae sunt atque pecunia. Pleraque enim pondere et mensura vaeneunt, cuncta pecunia. Quae eo pertinent, ut sit omnibus persuasum uti in structuris fundamenta immota manent et intacta, non secus pondera, mensuras, pecuniam, sine periculo non moveri et commercii detrimento. Id intelligebant antiqui, cum quo major cautio esset, specimen harum omnium rerum in sanctissimis templis reponebant, ne a quopiam temere vitiarentur. *De Monetae Mutatione*, cap. 5, p. 198.

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the king will ever act upon it. No, such a course has never been taken in the past, and it would be an unheard-of thing. Therefore it will be necessary that the actual possessors of the new coin stand the losses resulting from deflation.¹ This will no doubt mean a great sacrifice, but it is better to apply even a bitter medicine in time rather than to let the disease grow steadily worse until it causes destruction.

It has been said repeatedly that Mariana was aware of a vacillation of gold and silver according to their respective abundance or scarcity. During the whole Middle Ages the ratio between these two metals had almost always been as 12:1, and many writers, of whom Bodin was one, thought that this was a fixed ratio. Mariana says that this is the ordinary proportion, but adds that it may change according to the abundance or scarcity of the respective metals,² and that it can be preserved only if both gold and silver maintain the same fineness. Should one of them be debased, the ratio would naturally change. As this had happened repeatedly in the past it is not surprising that various writers disagree in their estimates of the valuation of gold and silver.

Another proof that Mariana knew the quantity theory of money is his observation that an increase of the gold and silver supply will raise prices. The fact that in the time of Philip II not only single crowns but also multiples of them

¹ Quae ergo ratio institui poterit, dicat aliquis ad resarciendum incommoda ex mutatione aereae monetae et copia nata? Ego sane nunquam ea mente sim, ut incommodum factum majori incommodo resarciatur, peccatum peccato, Sunt enim remedia quaedam ipso morbo pejora. Deinde addo, me mali medicinam ignorare praeterquam majores ab omni memoria sunt usi in simili angustia, nimirum ut valor novae monetae minuatur dimidium aut duas tertias. Deinde si id satis non erit sanando vulnere, penitus prava moneta abrogetur, substituat proba. Utrumque damno ejus qui fecit ex communi calamitate lucrum, praestari aequum profecto videbatur. Sed quoniam id parum usitatum video, imo nunquam usurpatum, praestiterit eorum qui possident fieri detrimento, quam ut in errore diutius perstandi obstinati morbi causas augeamus; aut vero eo recurratur ut argenti bonitas minuatur, quod sine exitio communi omnium non contingat. *De Monetae Mutatione*, cap. 11, p. 215.

² Atque haec proportio (12:1) fere servatur inter haec metalla, nisi alterius inopia copiae ea mutetur ratio, ut in aliis mercibus copia detrahit de pretio penuria addit. *De Monetae Mutatione*, cap. 12, p. 217.

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were coined was due, as we learn, to a vastly increased gold supply, and, so it would seem, to a greater demand for currency in high denominations as a result of rising prices.¹ This latter reason is indicated by the greater gold content of these new coins.

The metallic theory of money does not imply that face and bullion values should exactly agree. The mint cost and a slight seigniorage may take the place of a fraction of the bullion value. Mariana knows that some advocate gratuitous coinage—that is, no charge for mint cost or seigniorage,—but he believes that it is unfair to oblige the king to coin money at his own expense. The king would, however, act unjustly if he made the brassage charge so enormous that it decreased greatly the divergence between face value and metal cost.²

Our author is convinced that good coinage must create lower units for small transactions and change. He therefore finds fault with the English system, which had no coins of baser metal than silver. Small coin must not, however, exceed the need. Otherwise it will become the standard, as has always happened when copper coin was debased and at the same time inflated.³

¹ Atque propter magnam copiam auri non simplices (coronae) cuduntur modo, sed duplices, quadruplices, majorique pondere. *De Ponderibus et Mensuris*, cap. 22.

² Non equidem in ea sum sententia, ut Principem statuum suo sumptu debere monetam confiare: ac potius aequum arbitror ut pro cudendi labore, universoque monetali ministerio addatur valoris aliquid ad metalli aestimationem, ac ne fore quidem absonum, si in signum dominii et praerogativam pars aliqua exigua lucri Principi ex ea administratione accedat. . . . Idem tamen contendo hos duos valores diligenter et accurate exaequandos. *De Monetae Mutatione*, cap. 4, p. 196.

³ Atque in usum communem aerea moneta solum minutis emptionibus servire debet, et ad permutandas monetas majores auri argenteae. Quidquid hos fines excedit, id vero non sine publico damno, et rerum perturbatione continget. Pecunia enim ad commercii facilitatem inventa, haud dubium ea commodior existat, quae id melius et opportunius praestabit. Sic Aristoteles testatur primo Politicorum libro cap. VI. Quod in aerea moneta contra accidit, si multa sit. Gravis molestia numerandi, vix integro die unus homo mille aureos in ea moneta numeret. Quid de vectura dicam? non sine labore et sumptu deferatur in remotas regiones, unde merces comparantur. Sic illuvies hujus monetae nostris legibus adversatur. Non equidem probarim, ut solum cudatur argentea moneta, quod fit in Anglia jussu Isabellae Reginae non ita pridem defunctae, et in quibusdam Germaniae civitatibus. Quantumvis enim in minutas partes tribuatur . . . non erit ad manum, unde minuta et vilia scruta emantur, et quod egenis tribuatur. Verum multo magis est noxium, si in alteram partem peccetur, moneta aerea provinciam si inundet, instar fluvii hibernis inflati imbribus. *Ibid.*, cap. 10, p. 208.

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Though Mariana strongly opposes any kind of adulteration, he attributes less importance to a debasing of gold. Gold, he believes, will always be scarce; hence its inflation would not greatly interfere with business. He surely did not surmise that 300 years later all great nations of the world would have adopted the gold standard. In his day Spain, like most other European countries, had a silver standard; and so he strongly insisted that silver should never be debased, because it is the nerve of business. Silver and copper must have par value because they are the most important coins. But though gold should be adulterated, it would be impossible to substitute a debased gold standard for silver and copper, as the gold supply would not suffice. Thus he states one of the limitations of Gresham's law.¹

Mariana, like all orthodox bullionists of his age, was opposed to the export of gold and silver, as forbidden at that time by the laws of Spain. The fact that the law forbade it was sufficient to induce him to uphold this prohibition; for it can be to no disadvantage for the country that its laws be observed. At the same time he knew very well that Spanish gold and silver would flow abroad anyway. And why? Because foreigners needed Spain's silver "like life and blood" and would get it under any circumstances.² Unfortunately he does not tell us why foreigners needed Spanish silver. But he does explain why they obtained it: because Spain had more imports than exports. Prior to the discovery of America, all of Europe was suffering from a

¹ Credam tamen noxium magnopere haudquaquam futurum, si aurum mutatur parte bonitatis detracta auctove pretio. Hoc maxime argumento, quod intra non multos annos toties repetita mutatio incommoda insignia non attulit. Auri copia prae argento exigua semper existit, minor ejus monetae frequentia et usus. Sic non credebam fore magnopere incommodum, si contingat mutationem fieri. *De Monetae Mutatione*, cap. 12, p. 216-17.

² Quod si quis obstinate contendat argenti bonitatem id etiam praestare, (viz., that precious metal goes abroad) non equidem negabo, modo adversarius cogitet nulla arte posse retineri externos, quin continuo nostra moneta suam deteriorem faciant, ut nostrum argentum avertant ad se, quo carere sane non possunt magis quam vita et sanguine. *Ibid.*, cap. 11, p. 214-15.

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shortage of precious metal. For this reason laws which forbade the export of gold and silver were enacted. Mariana does not seem to have noticed that this reason no longer held good for Spain, which obtained enormous stocks of gold and silver from the mines in the new world. The other nations, seeing Spain's abundance of precious metal, were eager to share her riches and to trade with her in order to receive gold and silver in return. Consequently Spain's imports exceeded her exports. She had, to put it in modern language, an unfavorable balance of trade, and was perforce obliged to pay the excess of import over export in precious metal. This was one of the reasons why foreigners would get Spain's silver under all circumstances. Moreover, the Spanish king had to meet large payments abroad in silver and gold, and thus personally violated the laws of the country in the most flagrant fashion.¹ It is clear, at all events, that Mariana saw the impossibility of enforcing the law; and the only reason why he does not advocate its abolition seems to be his inertia in adhering to old customs, although such conservatism was at variance with some of his other most progressive views.

¹ Praecipuae causae duae sunt, altera mercium externarum invectionio, quibus Hispani egent, neque possunt compensare terrae opibus tantam copiam, ut necesse sit pecunia suppleri, quod deest . . . quas merces gratis dare externi non debent, sed aliis mercibus quarum suppetit minor copia, et argento mutare. Regis deinde expensae et pensiones annuae externis factae ad ter millies sextertium perveniunt, milliones septem quotannis, quae summa nisi mensariis numeretur cum facultate eo deferendi pecuniam, ubi ea Rex opus habet, nullo modo expediatur. *De Monetae Mutatione*, cap. 11, p. 214.

Chapter III

Contributions to the Theory of Money

WE may now find it profitable to compare Mariana's treatise on money with the works of earlier writers on the same subject. Is this treatise as outlined in the last two chapters a real contribution or merely a repetition of what had been discovered by earlier writers? Pascal Duprat in the article to which reference has been made¹ maintains that *De Monetæ Mutatione* was an independent work. "Such is Mariana's book on money," he writes. "It is written in that beautiful Spanish of the sixteenth and seventeenth centuries which is the classic speech of the peninsula and which reminds the reader more than once of the firm and vigorous tone of Latin."² According to the usage of his age the author has been lavish with his erudition. He refers on every occasion to the Greek and Roman antiquities. The historians of the following periods also furnish him with numberless arguments, and each one of his propositions is, as it were, based upon some testimony afforded by the past.

"But what is doubtless the most remarkable feature of this work is the idea which inspired it from beginning to end. The theory of money returns, so to speak, on each page in all its scientific rigor. We must not forget that this treatise on money dates back to the last years of the six-

¹ Page 1.

² P. Duprat has used the Spanish version for his article on the Spanish Jesuit economist.

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teenth century. Our Oresme had doubtless discovered the true principles of money two centuries earlier; Copernicus, who also preceded Mariana by a few years, remained in obscurity until recently. Bodin, Scaruffi and Davanzati, who are of the same epoch, could have been known to the Spanish Jesuit, but apparently he did not know them despite his extended visits to France and Italy. England did not contribute anything of value to the discussion of the subject until the seventeenth century; and only in the eighteenth century was the theory of money definitely fixed by the very founders of the (new) science (of Political Economy).

“Mariana’s work can therefore be considered an original book. Until now it has escaped the attention of writers who in France and elsewhere have essayed the history of economic thought under various aspects. This is an omission which must be rectified in the future for science, justice and truth demand it.”¹

Although we should like to subscribe to this eulogy of our hero, we must in the interest of truth demand considerable modification of it. One need not wonder that Pascal Duprat was somewhat inaccurate in his statements. His

¹ Tel est le livre de Mariana sur la monnaie. Il est écrit dans cette belle langue espagnole les XVI^e et XVII^e siècles, qui est celle des classiques de la Péninsule et qui rappelle plus d’une fois le ton ferme et vigoureux de la langue latine. L’auteur, suivant l’usage du temps, y a semé l’érudition à pleines mains. Il invoque à chaque instant l’antiquité grecque et romaine. Les historiens des temps qui ont suivi lui fournissent aussi de nombreux arguments. Chacune de ses propositions s’appuie, pour ainsi dire, sur quelque témoignage du passé. . . .

Mais ce qu’il y a sans contredit de plus remarquable dans cet écrit, c’est la pensée qui l’inspire d’un bout à l’autre. La théorie de la monnaie s’y retrouve, pour ainsi dire, à chaque page dans toute sa rigueur scientifique.

Il ne faut pas oublier que le traité de Mariana date des dernières années du XVI^e siècle. Notre Oresme avait sans doute découvert deux siècles auparavant les vrais principes de la monnaie. Copernic, qui devança aussi Mariana de quelques années, est resté dans l’ombre jusqu’à ces derniers temps. Bodin, Scaruffi et Davanzati, qui sont de la même époque, auraient pu être connus du jésuite espagnol; mais il paraît les avoir ignorés, malgré son double séjour en France et en Italie. L’Angleterre n’a donné sur le même sujet des écrits de quelque valeur qu’au XVII^e siècle, et ce n’est qu’au XVIII^e siècle que la théorie de la monnaie a été définitivement fixée par les fondateurs mêmes de la science.

L’ouvrage de Mariana peut donc être considéré comme un livre original. Il a échappé jusqu’ici aux regards des écrivains qui, en France ou ailleurs, ont abordé, sous différentes formes l’histoire des doctrines économiques. C’est un oubli qui doit être réparé désormais: la science, la justice et la vérité l’exigent. *Journal des Economistes*, Paris, V. 17, pp. 90-91.

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article was the first of the kind and of a summary character. Mariana's treatise does not "date back to the last years of the sixteenth century" but to the early seventeenth century, as can easily be proved. The first edition of *De Rege* which appeared in 1599 did not contain that eighth chapter of the third book which summarizes *De Monetæ Mutatione*. This chapter is found in the edition of 1605, which has been used in writing the present monograph. Since there appeared no second edition of *De Rege* before 1600, it is clear that Mariana did not publish his treatise on money before that year, so that it cannot be considered a sixteenth century publication.

The question whether Mariana knew some of the early treatises on money must also be answered in a way different from Duprat's opinion. He certainly had read some of them, as he tells us himself. There are no clear indications that Oresme's and Copernicus' works were at his disposal. Nor can we say with certainty that he used Davanzati's or Scaruffi's treatises. But he certainly did know Bodin's reflections on money. He tells us that he used Budelius,¹ *De Monetis* which means that he did know also a great many other similar publications, at least in substance, for Budelius had compiled in his voluminous work all the early writings on money which he could find, that is, twenty-nine treatises. Two of the more important among them are Bodin's third chapter of the third book of *De Republica* and his *De Augmento et Decremento Auri et Argenti*. We must therefore conclude that our author did not formulate an entirely independent theory of money.

How much did Mariana borrow from Budelius, and in how far did he supersede all earlier writings on money?

¹ De qua re tum alii, tum Budelius disputat lib. I. De Monetis nu. VII . . . Tum Lugduno in Batavis obsessa e papyro monetam factam memorat, anno salutis 1574. Budelius li. I, de monetis c.I.nu. XXIV. *De Monetæ Mutatione*, cap. 3, p. 195.

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Budelius treats the theory of money in a very laconic fashion. In the first book of his work he discusses very briefly the metallic view and the abuses of adulteration and falsification, and then attempts an exposition of how money may be coined in the most practical way. The second book deals with the problem of how a debtor will meet his obligation if the coinage has been debased since the time the debt was contracted or the loan received. Budelius vigorously maintains that the same bullion value must be repaid, though the medium may be a depreciated coin—a view then commonly held. At the same time, he criticizes Molinaeus for holding the opposite view, that the debtor need pay only the face value of his debt, even though the coin contain less precious metal than he received at the time of the loan.¹ Even when a country is on a gold basis problems of fluctuating purchasing power may arise. Irving Fisher and others have suggested to remedy this evil by a modification of the gold standard.

The third book of Budelius' work is, as we have noted, a compilation of almost every earlier treatise on the subject. In nearly all of them, the central problem is the same as the one discussed in the second book of Budelius' work.

We may say, then, that Mariana took over from Budelius the principal idea of his work that care must be exercised to bring the legal and the natural values of money in as close agreement as possible. This is, he tells us himself, the point he wants to make.² But the way in which he treats his

¹ Budelius, Renerus (Ruremundanus), *De Monetis et re numaria libri duo quorum primus artem cudendae monetae: secundus vero quaestionum monetarum decisiones continet. His accesserunt tractatus varii atque utiles, necnon consilia, singularumque additiones, tam veterum, quam Neotericorum Authorum, qui de Monetis, earundemque valore, liga, pondere, potestate, mutatione, variatione, falsitate ac similibus scripserunt.* (Title page)

² Omnino cardinis quibus vertitur universa haec moles duo illi valores pecuniae sunt in ca. IV. (chapter IV) explicati, quos componere inter se opus est, si res salvae volumus; quod perinde est ac si dicam, monetam debere esse legalem. Quodsi sejungantur (quod futurum videtur si argentum deteratur) nullum erit genus mali quod in rempublicam non incurrat. Finis esto hoc addito. *De Monetae Mutatione*, cap. 11, p. 215.

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problem is unique and constitutes a contribution of his own. He bases his arguments upon history, ancient and modern. His vast knowledge of the past furnished him with the material to establish his thesis, that every time the coinage has been adulterated, the result has been a rise in prices and a serious unsettlement of business. This point has not been emphasized nearly so strongly by any of the early writers, nor had any one of them used the historical method. Here we may repeat what Duprat pointed out, "that the theory of money returns, so to speak, in all its scientific rigor on each page" and that "the most remarkable feature of this work is the idea which inspires it from beginning to end."¹

Nicholas Oresme's² main idea is that adulteration of the coinage does not so much bring gain to the king as enrich the kind of people who take advantage of the situation. He also discusses the phenomenon which is now called Gresham's law but mentions only incidentally that inflation of the coinage will cause a rise in prices. Copernicus calls³ attention of the Polish king to the fact that bad money will drive out good money, an idea which was developed a little later by Gresham, who alone received credit for it from the economists. Gabriel Biel,⁴ who wrote about a century before Copernicus, seems to have used Oresme's work, because he cites one of his examples by way of illustration. He was content with treating the problem of coinage adulteration from the viewpoint of a moralist. Nor did Aquila go⁵ farther than this in the development of monetary principles. His work is incorporated into Budelius' volume. Bodin gives full attention to the evil effects of adulteration saying

¹ See page 164.

² *De Origine, natura, jure et mutationibus Monetarum.*

³ *De Monetae cudendae ratione.*

⁴ *De Monetarum Potestate simul et Utilitate libellus aureus.*

⁵ *Libellus de Potestate et Utilitate monetarum.*

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that it causes universal uncertainty “so that nobody can make out how much he has.”¹ He suggests coining gold and silver of the purest grade, and reducing the number of mints to one single central office, and compelling silversmiths to use the same grade of precious metal as the minters. He believes that the ratio between gold and silver is absolutely stable,—that is, 12:1—and does not realize that it has changed and may change again according to the supply and demand of the respective metals. He advocates the abolition of all coin of baser metal than silver and gold in order to avoid adulteration. Bodin’s greatest contribution consists, however, in assigning the increase of gold and silver as the main cause of rising prices.

Budelius refutes Bodin, saying that it makes no difference whether coin is struck of pure or adulterated metal, because it will always circulate at its gold or silver bullion value. Nor is it advisable to use pure gold and silver, which are badly affected by abrasion. Indeed, it is practically impossible to have absolutely pure gold or silver. He advises making an end of the abuse of debasing the coinage, since it is impossible to heal the evils already arisen. The only lesson to be drawn is to avoid a repetition of these evils in the future. Budelius even goes so far as to say that a coin containing an alloy is in one way preferable to pure gold and silver, because it exchanges for its content of precious metal, the alloy being a gift to the receiver. Nor will it be advantageous or feasible, he avers, to require by law that the same grade of precious metal be used for artistic purposes. This would involve an enormous expenditure for recasting gold and silver plate already in existence. Silversmiths are also likely to work upon gold

¹“Quo fit ut nemo quantum in bonis habeat, constituere possit.” Joannes Bodinus, *De Republica Libri sex*, Lib. VI, cap. 3.

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and silver only when these have been mixed with an alloy. Budelius maintains furthermore that the confusion attendant on debased coinage does not arise from the fact that the circulating medium contains an alloy, but from the circumstance that its composition is being changed by adulteration and falsification.¹

Budelius devotes a great part of his second book to a refutation of Molinaeus,² a very subtle French jurist, who held that in the sight of the law a debtor has discharged his duty when he has paid his creditor the nominal amount of what he owes, regardless of whether the metal content be more or less than what he received. He holds that money is merely a creature of the State, that it is entirely the product of law, and that what it consists of makes no difference. This is in substance the chartal theory of money, which has been followed to its logical consequences by G. F. Knapp.³

Scaruffi endeavored to establish an international means of exchange. The Bologna pound, he says, should serve as the standard of weight for gold and silver; on the face of each coin there should be stamped its metal weight and bullion value; the international ratio of exchange between gold and silver should be as 12:1; bullion may also be used for payments if it bears the stamp of the mint, declaring its weight and grade; and finally, gold and silver plate may be used as media of exchange according to their bullion value. By such international stabilization of the coinage, Scaruffi would root out the abuses of clipping and falsifying money.⁴

¹ *De monetis et re numaria*, Lib. I, cap. 21.

² Caroli Molinaei, *De Mutatione monetarum quaestiones* II.

³ Cf. p. 147, footnote 2.

⁴ The very title of Scaruffi's work indicates its purpose. It reads: *L'ALITINONFO di Gasparo Scaruffi Regiano per fare ragione, et concordanza d'oro, e d'argento, che servira in universale; tanto per provvedere a gli infiniti abusi del tosare, et guastare monete; quanto per regolare ogni sorte di pagamenti, et ridurre anco il mondo ad una sola moneta.*

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Davanzati pays more attention to the effect of adulteration upon prices and suggests that the suppression of adulterated coin or its redemption at bullion value might be the remedy. Like Molinaeus he advocates free and gratuitous coinage.

Mariana follows Budelius in so far as he adheres faithfully to the metallic theory of money. He has practically all the ideas of the earlier writers on the subject and a few more. He gives a much more exhaustive treatment of the evil effects of inflation and proves his assertions from numerous references to history, a method not previously employed. As remedies he suggests deflation and a strictly metallic standard. The holders of debased coin should be indemnified by the king, who has derived advantage from adulteration; or, if this be a hopeless ideal, it should be considered the lesser evil to suffer a temporary loss in order to restore a sound standard.

Our author does full justice to the champions of a debased coinage by discussing the pros and cons of their position, but he finds that on the whole a metallic standard is preferable. The advantages of inflation are more apparent than real and will in the long run turn out to be mere fallacies. Though Mariana will not admit the reasoning of Molinaeus who is an extreme chartalist, he is aware of the advantages of chartal money. But he does not see how the interests of the people can be safeguarded under such a system.

Adulteration is an injustice on the part of the king because it imposes upon his subjects a heavy tax to which they have never consented. If, then, the king cannot tax his people without their consent he cannot lawfully debase the coinage of the country without their consent. Adulteration of the coinage causes inflation and plays havoc with

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business. Business depression in turn means decreased taxability of the people, and so the whole mistaken policy will ultimately react against the king. To debase the coinage is harmful to both the people and the sovereign. Mariana surely deserves credit for pointing out the effects of inflation, and perhaps even more credit for his fearlessness and courage. He was the only man in Spain who dared expose himself to great danger and come out openly in defense of the rights of the people. Love of truth and justice made him the advocate of the poor and the oppressed.

Mariana knows the substance of principles underlying Gresham's law, shows how this law works in various ways and is also aware of its limitations. He does not believe, with many writers of the time, that the prices of gold and silver are stable and that their ratio never undergoes a change. He shows from history that there have been changes and that they are necessarily contingent upon fluctuations in the demand and supply of the metals, and upon alterations of their respective fineness.

Although our author repeatedly emphasizes the fact that prices will adjust themselves to the metallic value of the coinage, he knows that the abundance of the circulating medium and the rapidity of its circulation are not less important factors. Modern students of Economics enumerate three factors that affect the general price level: the bulk of trade, the amount of currency and the rapidity with which money changes hands. Of these the last two were known to Mariana,¹ but he considered them less important

¹ Neque est dubium in novam monetam conspirare: quae singula mercium caritatem afferunt, nempe multitudo ejus immensa eam reddere vilem, uti in aliis mercibus contingit copia vilesce. *De Monetae Mutatione*, cap. 10, p. 210.

Verum ut fateamur quod res est, aeris quando copia nimia est, argentum certe inter cives evanescit et perit, quod in praecipuis incommodis debet numerari. . . . Sed et quod argentum inter cives manet, disparet, cunctis prius aeream monetam expendentibus, recondentibus argenteam nisi re necessaria cogantur illam proferre. *De Monetae Mutatione*, cap. 9, p. 206.

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than the quality of the coinage. This consideration no longer applies, provided a country is on a gold basis, making it possible to redeem both silver coin and paper money in gold. As soon as the belligerent nations of Europe stopped payment in specie, their currency went below par—a phenomenon which is exactly the same as that observed by our author. Mariana knew, too, that an increase of precious metal would raise prices, because it added to the quantity of money.¹ Consequently he adhered to the quantity theory of money.

Summing up the whole discussion, it must be said that *De Monetæ Mutatione* is a most remarkable publication by reason of the originality and abundance of its ideas, its historical treatment, the vigor of its style and the fearlessness of its author. But it was demanding too much of a Spanish king of the seventeenth century to expect him to accept without resentment so sharp and fearless a criticism as that made by the author of *De Monetæ Mutatione*. Not even the fact that Mariana had rendered very valuable services to his sovereign could shield him from royal vengeance. Both himself and his work fell foul of seventeenth century absolutism.

¹ After quoting the law of 1368 which fixed the prices of almost everything our author calls attention to the fact that many of these prices seem low compared to those paid in his days and then gives his explanation for the rise. He writes: *Vides ex hac lege, quantopere rerum pretia mutata sint ab antiquo. Cujus mutationis duplex causa extitit. pecuniae olim probitas majorque valor, uti proximo capite dictum est. Praeterea argenti aurique multo minor copia quam nostra aetate. De Ponderibus et Mensuris, cap. 24.*

Section III

FISCAL PROBLEMS

Chapter I

General Theory of Taxation.

Definitions

IT is essential that a commonwealth have a sound fiscal policy. We may therefore expect Mariana to give this phase of political science special consideration. But, as his object is to remedy abuses rather than to present a thorough philosophic treatment of political theory, he does not enter very deeply into a theoretical discussion of the principles of Public Finance. He is content rather with making a number of suggestions designed to help establish a sound fiscal policy in his country.

Other Spanish Jesuits treated the theory of taxation more thoroughly than did Mariana; and we shall therefore draw upon their writings to supplement his scanty theoretical treatment.¹ We shall first discuss the general theory of taxation so as to see how much of the modern science of Public Finance was known to these Spanish Jesuits, and how they met the vexing fiscal problems which even today still await a definite solution. In a second chapter, we shall

¹A similar examination of scholastic opinion concerning taxation has been conducted with great skill and learning by R. Amberg:—*Die Steuer in der Rechtsphilosophie der Scholastiker*—to his work the present writer is indebted for helpful suggestions.

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examine the various criticisms and suggestions regarding the fiscal policy of the King of Spain to which Mariana has given full expression. Finally, we shall see his new methods of public financing.

There have always existed great differences between various definitions of a tax. Even today no uniformity exists.¹ It is therefore most interesting to note that the Spanish Jesuits of the sixteenth and seventeenth centuries all adhered to substantially the same definition, which contained all the elements of the most modern interpretations. Professor Seligman offers the following definition: "A tax is a compulsory contribution from the person to the government to defray the expenses incurred in the common interests of all, without reference to special benefits conferred."²

Mariana, for his part, does not give a direct definition of a tax, but simply tells us why taxes are paid and how they are to be used. He claims they are for the maintenance of internal and external peace, which implies that their object is not personal benefit but the common good.³ Molina declares at the beginning of his treatise on taxation: "Now we shall have to speak . . . of the taxes, in the light that they are due to the lay authorities with regard to their jurisdictional dominion and for the common good of the State."⁴ De Lugo closely resembles Molina: "(By a tax) is meant that which the subjects or members of the State con-

¹ This is very well brought out by C. F. Bastable in the following paragraph: "First of all we have to settle the meaning of the word 'tax.' This term, so clear and simple to the ordinary citizen, has been very variously defined, sometimes at astonishing length, and often with the, it may be unconscious, design of aiding a particular theory as to the character of the facts denoted by it. *Public Finance*, p. 262-63.

² *Essays in Taxation*, p. 432.

³ Enimvero regius census trifariam divisus est. aut enim ex praediis gentilitiis pecunia aut fructuum parte locatis redditus percipiuntur. Ex iis regia familia, universae aulae apparatus debet sustentari. Deinde vectigalia ordinaria quacunquē ratione atque ex quibuscunquē rebus suppeditentur, ad rempublicam in pace regendam destinata sint. Inde annuae mercedes publicis ministris pendantur, urbes muniuntur, aedificantur arces, viae publicae sternantur, reficiantur pontes, alantur milites praesidiarii. *De Rege*, Lib. III, cap. 7, pp. 261-62.

⁴ Nunc autem disserendum consequenter nobis est de tributis, quae laicis potestatibus ratione dominii jurisdictionis quaeque in commune reipublicae bonum debentur. *De Justitia et Jure*, Tom. III, Disp. 661.

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tribute compulsorily for the common utility and for public needs.”¹ Suarez says: “(A tax) is a public payment distributed over all the people for royal expenditures, or (rather) for the common needs of the State, and paid under a definite law.”²

Taken collectively, these definitions enumerate all the elements necessary to constitute a tax, although Molina emphasizes the source of taxing power, De Lugo the compulsory character of the tax, Suarez its universality and Mariana the purpose for which it is to be paid. The last point is also explicitly mentioned by the other three, for all of them say that taxes are paid for the common good. Another element common to these definitions is the compulsory character of these public payments. That a tax is to be paid without reference to special benefits conferred is indicated by the emphasis laid by all four on the purpose for which it is to be paid: the common good. If a tax has for its purpose the defraying of public expenses, immediate personal benefit seems, indeed, not to be a consideration.

This becomes even clearer when we see what is meant by “common good.” In analyzing this, Molina enumerates the following items: “Salaries for public officers, repair of bridges, public buildings and town walls, common utilities or needs and the fighting of enemies.”³ According to Mariana, taxes are levied for the maintenance of the king, the payment of salaries, the fortification of towns, fortresses and castles, the building of roads and the construction of

¹ Tributum, gabella, vectigal . . . illud intelligitur quod subditi seu membra reipublicae ad communem utilitatem et publicas necessitates ex obligatione contribuunt. *De Justitia et Jure*, Disp. 36, sect. 1, n. 1.

² . . . significat (tributum) pensionem publicam, quae ad regios sumptus seu communes reipublicae operas per singulos de populo distribuitur, et stata lege persolvitur. *De Legibus*, Lib. V, cap. 13, n. 1.

³ Unde si, quae illi (principi) a populis tributa, non sufficiunt ad stipendia competentia ministrorum publicorum, ad reparationem pontium, domorum publicarum, moenium et ad similes, aut majores utilitates ac necessitates publicas, aut ad resistendum hostibus, tunc princeps imponere potest nova tributa aut antiqua augere, quantum et quamdiu similes causae id postulerint. . . . *De Justitia et Jure*, Tom. III, Disp. 667.

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bridges, the compensation of garrisons and the defrayment of war expenses. If, then, taxes are to be paid for the common good and this comprises such things as have been mentioned above, the question of personal benefit can scarcely have entered into the case.

Today, we are accustomed to make careful distinctions between taxes, special assessments, fees, return from government business and other public revenues. These distinctions were familiar to de Lugo¹ and even more familiar to Molina.² Although both vigorously defend the tax exemption of the clergy, they do not in so doing exempt the clergymen from all compulsory contributions. When improvements of land and property immediately benefit the churchman, he must shoulder his share of the expense. This may happen in the case of irrigation, protection against inundation, drainage or the building of roads leading through his property. The very fact that they believed the clergyman should pay in these cases shows clearly enough that both de Lugo and Molina considered such contributions not real taxes, but rather, as we would say today, special assessments. Here, indeed, there is question of personal benefits; but, since the clergyman is free from taxes and yet not from these contributions, it follows that, according to Molina and de Lugo, a real tax is always paid without regard to personal benefit.

Molina, moreover, carefully discriminates between taxes and the other revenues of the king. This he manifests by

¹ nunc dicendum est de illo alio genere contributionis ad ea, quae concernunt immediate etiam et directe bona ecclesiasticarum, et non solum consequenter, ut quando contribuendum est ad avertendum fluvium cuius impetus perdit agros non solum laicorum, sed clericorum, qui in litore sunt, in quo casu dubitari potest, an eadem condiciones requirantur, nempe consensus et facultas summi Pontificis, et quod laicorum facultates non sufficient. . . . Ergo in hoc casu distinguendum puto: possunt enim tunc ecclesiastici, quorum interesse agitur, et qui praedia habent vicina, quibus subvenire intenditur, convenire, et pacto se obligare ad contribuendum ad expensas pro parte sua: vel potest haec contributio illis imponi per modum tributii a superiore. *De Justitia et Jure*, Disp. 36, Sect. 8, nn. 128-129.

² Quoniam bonum, quod intenditur, et ad quod contribuitur, directe ac proxime respicit bona Ecclesiae aut Ecclesiasticorum. *De Justitia et Jure*, Tem. III, Disp. 672, n. 4.

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the Spanish nomenclature for the various payments to the sovereign. In the case of taxes he uses the word *pechos*. *Derechos* is more general and comprises as well the revenue from the *regalia*, or royal privileges. *Rentas del Rey*, the most general of all, includes over and above the content of *derechos* the rents from the royal domain. We can, therefore, confidently assert that Molina in particular had a very clear concept of a tax as distinguished sharply from other types of royal revenue.

Bearing all this in mind, it would seem that the composite definitions of Suarez, Molina, de Lugo and Mariana are sufficiently comprehensive and exclusive and contain all the elements essential to a tax. Although none of these authors expressly excludes from his definition the regard for personal benefit, this element is implicitly contained in their explanations of the purpose for which taxes are paid. So far as we know Professor Seligman is the first fiscal scientist who adds to his definition the clause that a tax is paid without regard to personal benefit. C. F. Bastable e.g., defines a tax as "a compulsory contribution of the wealth of a person or body of persons for the service of the public or the public powers."¹ Therefore it is not surprising that the Spanish Jesuits did not explicitly make mention of an element which only very recently has been brought out by experts in the field of Public Finance. In his scholarly monograph, *Die Steuer in der Rechtsphilosophie der Scholastiker*, R. Amberg comes to the conclusion that "the very definition of the scholastics shows that they had a correct idea of the main characteristics of a tax."² He believes, however, that it is not exclusive enough, and that

¹ *Op. cit.*, p. 263.

² Schon die blosse scholastische Definition der Steuer zeigt, dass man einen richtigen Blick für die Hauptmerkmale der Steuer hatte. . . . Nur die korrekte Unterscheidung von "Steuern" und "Gebühren" findet sich noch nicht klar und deutlich genug als solche ausgesprochen. *Dies Steuer in der Rechtsphilosophie der Scholastiker*, p. 121.

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it makes no sharp distinction between taxes strictly so called and fees. Our analysis shows, we believe, that this distinction was clearly enough indicated by the fact that, according to the authors examined, a tax is paid for the common good and not for personal benefit.

Classifications

Modern Fiscal Science makes a great many classifications of taxes. The most common of these we can easily discover in the writings of the Spanish Jesuits. Mariana, who says very little about the theory of taxation, classifies public payments not from a systematic but from a practical viewpoint. According to him, there are three sources of public revenue: The royal domain, the ordinary tax and extraordinary contributions. The first class is intended for the maintenance of the royal household, the second for the administration of the State in time of peace, and the third for extraordinary expenditures in case of war.¹

Suarez divides all taxes into personal (*tributa personalia*), impersonal (*tributa realia*) and mixed taxes (*tributa mixta*). By an impersonal tax he means the rent on the royal domain. This, however, is not a real tax but a payment with reference to an individual benefit. By personal taxation Suarez means what we would call a per capita or poll tax, and by a mixed tax a payment on persons or on mov-

¹ See page 172, footnote 3.

² Ut autem commodius fiat, oportet prius distinctionem tributi adnotare in reale, personale, et mistum. . . . Solent igitur ita (scl. tributa realia) vocari pensiones quaedam, quae penduntur Regibus, et Principibus ex terris, et agris, quae a principio ad eorum sustentationem illis applicata fuerunt, ipsi vero in emphyteusim, vel feudum aliis ea donarunt sub certa pensione annua, quae in jure civili solet Canon appellari. . . . Personalia tributa dicuntur, quae ratione tantum personae solvuntur, et vocantur census. . . . Mixta dicuntur, quae pro rebus praesertim mobilibus, et personis solvuntur, hujusmodi sunt Gabella, quae solvitur de rebus, aut venditis, Hispanae Alcaballa. Item, Vectigal quo nomine in jure significat tributum debitum ex mercibus vectis in provinciam, vel ex illa evectis. . . . Et ita distinguitur vectigal a tributo tamquam species a genere, licet interdum videantur condistingui tamquam duae species. *De Legibus*, Lib. V, cap. 13, n. 2.

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able goods, under which head he also includes indirect taxes. The classification thus proposed by Suarez seems exclusive and comprehensive but is, nevertheless, very arbitrary and inexact.

Molina distinguishes much better between the various taxes. He sees clearly the difference between taxes by assessment and taxes on transportation and exchange of commodities. The one he designates by the Latin word *Tributum*, and the other by *Vectigal* and *Quasi-vectigal*. He begins with a discussion of the use of these words in the Roman Empire; then he enumerates the various taxes in Spain and Portugal by analogy with those of Rome; and next he finds that there existed in Rome a tax on land and on immovables in general, which was raised by assessment. This assessment was called census, the same name being applied also to the tax itself. A tax similar to this existed in Castille during Molina's time. He also speaks of a per capita tax, and of a number of other payments to the king. All these contributions he calls taxes in the strictest sense of the word.

Moreover, he observed a per capita tax in Castille and Leon which was assessed according to the number of persons in a family. It was a sign of subjection to the King of Spain and was entitled *Moneda forera*. The *Martinega* (St. Martin's tax), another form of tribute, was levied every year upon each independent individual and was collected regularly at Martinmas, the eleventh of November.

Every third year a tax of 300 cuentos was paid to the king, the sum being equally apportioned over each year. Its name, *Servitium indictum*, is derived from the fact that it was solemnly proclaimed at the termination of each three-year period. Another contribution of 154 cuentos, *Servitium extraordinarium*, was likewise distributed over the

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same term. These payments constituted the ordinary taxes on property and persons.

Molina's division of these contributions into personal, impersonal and mixed taxes is noteworthy. The Roman property tax he calls "mixed," explaining his use of the word by means of an example: A sells a piece of land to B without having paid the property tax. The question arises whether B has to pay it. The answer is in the negative if the tax was imposed upon the land whilst and because it was A's property. If it were an impersonal tax, B would have to pay it because he took over the tract of land with all burdens placed upon it. This example, one sees, explains very well the difference between our general property tax and real estate tax.¹

During times when there was especially urgent need extraordinary taxes were levied called *Collectae*, *Praestantiae* or *Talliae*, or *Derremas* in Spanish, *Finitas* in Portuguese. Upon occasion the king might call for a special contribution to carry on war against the Turks or the French, but the amount was left to the generosity of the donor. This Molina does not consider a real tax but rather a free or liberal contribution (*Liberalis praestatio*.) All assessed taxes Molina classifies under the head of *Tributa* and calls them taxes in the strictest sense of the word.²

Quite different in nature from these contributions were the taxes on the transportation and the sale of goods. They are recorded under the head of *Vectigalia* and *Quasi-vectigalia* and were in the main charges on imports and exports (*Portoria*, Spanish *Aduana*), on transportation (*Pedagia*, *Guidagia*), and on sales and all other kinds of business trans-

¹ *De Justitia et Jure*, Tom. III, Disp. 661, n. 3.

² Uterque etiam census (viz., property and capitation tax) propriissime et praecise appellatur tributum ut tributum a vectigali distinguitur. Vectigal presse et proprie, quod solvitur ex rebus ac mercibus, quae vehuntur de loco in locum, ratione loci publici per quem transeunt aut quo afferuntur. *Ibid.*

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actions (*Alcavala*). This latter tax played the most important rôle in Spain and was characteristic of Spanish finance. De Lugo, like Mariana, speaks almost exclusively of this tax. It was the chief source of public revenue; and as it was extremely high and burdensome, it was complained of frequently and grievously. In addition, it was more easily exposed to fraudulent treatment than any other tax and called, therefore, for special consideration from the moralists.

According to Molina, the *Alcavala* originally amounted to one thirtieth of the value of the goods involved in the transaction but was later raised to one twentieth. After the State bankruptcy under Philip II, it was again raised and amounted to one tenth. Formerly it had been exacted with leniency; now it was collected most rigorously and fraudulent returns were punished severely. Practically the whole of de Lugo's treatise and the greater part of Molina's are devoted to this general sales tax.

Only a few commodities enjoyed freedom from the *Alcavala*.¹ Of the necessities of life, bread was exempt, but grain was taxed. When the baker bought grain, he could pay by furnishing in turn a certain number of loaves tax-free; but if he offered bread for sale to a farmer in exchange for grain the tax had to be paid.

Another concession was made in favor of the poor peasant. Should he sell a grown and broken-in horse or ass with saddle and harness, he was free from the *Alcavala*. But if he sold a young animal, or one grown up that had not been broken in or was not harnessed at the moment of the sale, he was compelled to pay the tax.

Recoining of old money was likewise free; books, even when imported from abroad bore no tax; falcons and other

¹ *De Justitia et Jure*, Tome. III, Disp. 663 nn. 1-18.

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hunting birds were not assessed. Dowries were considered presents made to the bridegroom and thus passed tax-free. An inheritance was exempt from the *Alcavala* when it was divided amongst the heirs without the intervention of money, mutual exchange or sale. When a heritage was made over to a pious cause it was considered *ipso facto*, property of the Church and as such free from taxation.

Some professions enjoyed the privilege of exemption from the *Alcavala* under certain conditions. The work of a farrier, performed in the camp or on guard, was not subject to it. Armorers could sell weapons ready for use and instruments of torture without the payment of a sales tax, but other instruments such as kitchen knives were taxed. Pharmacists were required to pay the *Alcavala* upon simple medicines, not upon their more complicated preparations.

As has been explained in the preceding chapter, the difference between a tax, strictly so called, and contributions in the nature of special assessments was known to both de Lugo and Molina. The second also differentiates between the tariffs on the transport, import and export of goods, and the general sales tax. The former, he tells us, were originally paid by the merchants for the protection of commerce from seafaring and landfaring pirates.¹ Here, too, there was question of personal benefit and therefore these charges are not taxes in the strictest sense of the word. Although, in the course of time, they became so high that they took on more and more of the character of real taxes, they were originally held to be what we might call fees for personal benefits.

Mariana and the other Jesuit writers were also aware

¹ Quando vero exigitur propter bonum, quod peculiariter respicit quosdam, illi praecipue sunt gravandi. Ut mercatores et alii, qui peculiariter indigent defensione a piratis, grassatoribus et latronibus, praecipue sunt gravandi tributo ad sumptus ad id necessarios. *De Justitia et Jure*, Tom. III, Disp. 668, n. 3.

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of the difference between taxes borne by the taxpayer and those shifted to other persons. Both the tariffs and the general sales tax were of the second type: that is, they were indirect taxes. Thus we find them consonant with direct and indirect taxes, taxes on property and persons on the one hand, and on commodities on the other, fees and special assessments. Molina calls taxes on property and persons taxes in the strictest sense of the word, because they evidently were borne by the taxpayer, whereas tariffs and sales taxes were, as he believed, always shifted to the consumer.

Philosophical Basis of Taxation

Mariana and all the Spanish Jesuits agree that taxation is based upon the natural law. According to their doctrine, the State is a necessary and essential human institution. This State cannot, however, accomplish its end without the necessary means. Since, therefore, the State is but a consequence of the natural law, the means necessary to the State are also dictated by that law. This is, in brief, the scholastic basis for taxation. It was expounded by St. Thomas Aquinas and was retained and developed by later scholastics. Modern writers on Public Finance are in the habit of saying that the benefit theory prevailed until recently, and that the social theory is an accomplishment of the latest decades. H. L. Lutz ventures the following belief: "The contributory elements in the tax concept is its contrast . . . with the earlier view that was held concerning the tax, according to which it, too, (like special assessments and fees) was regarded as a payment for services or benefits rendered. This view was quite generally held during the seventeenth and eighteenth centuries."¹ A. Wag-

¹ *Public Finance*, p. 240.

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ner wrote as late as 1890: "Until very recently another 'foundation' was held to a great extent, (i.e., another than his own social-political theory), the tax obligation being based upon the protection the State grants to (persons and) property. Thus, there was formed a 'benefit' and 'assurance' theory to give a basis to the right of imposing taxes and the obligation of paying them. The tax was also, perhaps, considered as in the nature of 'exchange' (compulsory exchange) or a 'price': an 'exchange' between the public services benefiting the individual and the return service of the tax, the tax being the price to be paid for these services."¹

R. Amberg puts the same idea in this way: "Until very recently (Fiscal) Science knew no other basis (of taxation) than the benefit and assurance theory. This theory we owe to the English philosopher Hobbes, who first formulated it in 1609; and it has been followed as late as 1871 by L. von Stein in the second edition of his text book. Only the most recent progress in contemporary Fiscal Science has succeeded in revealing the incorrectness of this theory and in freeing itself from these old and false concepts." Then Amberg, giving due credit to the scholastics, continues: "Now we see that some mediaeval philosophers, at a time when Fiscal Science did not as yet constitute a special branch of study apart from general Philosophy, entered upon a road leading toward the explanation of the philosophical foundation of taxation; and this, when followed

¹ In der theoretischen Erörterung über Besteuerungsrecht des Staates u.s.w. und Steuerpflicht der Einzelnen ("Bürger," "Untertanen") ist die hier vertretene Auffassung jetzt wohl die herrschende, auch in der Finanzwissenschaft. . . . Bis unlängst wurde indessen vielfach eine andere Begründung vertreten, indem die Steuerpflicht auf die Vorteile im Staatsverband, namentlich auf den Schutz des Staates für (Person und) Eigentum zurückgeführt, so eine "Genusstheorie" und eine "Assekuranztheorie" zur Begründung von Besteuerungsrecht und Steuerpflicht gebildet, dabei auch wohl die Steuer als eine Art "Tausch" ("Zwangstausch") oder als eine Art "Preis" aufgefasst wurde: ein "Tausch" zwischen den dem Einzelnen zu Gute kommenden öffentlichen Leistungen und der in der Steuer gegebenen Gegenleistung, und die Steuer der Preis, welcher für den Genuss dieser Leistungen gezahlt wird. *Finanzwissenschaft*, Zweiter Teil, p. 217.

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consistently, would lead to the modern view and, to a great extent, has already led to it.”¹

Mariana does not offer a strictly philosophical justification of taxes, but simply tells us that the people, having elected the king, assigned to him certain revenues for the maintenance of his household and of the royal splendor. These revenues are not only due to the king, but he has property rights over them.² Whenever in the past there arose a need for greater revenues, he would call on the people and they would grant additional funds by the way of taxation. As has been said repeatedly, Mariana contends that the king cannot raise a just tax without the people's consent. But once they have granted a tax they have bound themselves by their free decision to pay it. It is evident that under this supposition taxation needs no further philosophic justification. Promises must be kept.

Suarez and Molina have a different and, one feels, more correct explanation of the obligation to pay taxes. According to them the State is nothing but a fulfilled demand of the natural law: i.e., a necessary consequence of man's social and political nature. Man needs the help of his fellowmen in order to satisfy numerous wants which he cannot satisfy alone. Domestic and external peace, for instance, cannot be maintained without a strong political

¹ Bis in die neueste Zeit hinein kannte die Wissenschaft keine andere Begründung als die Vergeltungs- und Assekuranztheorie, eine Theorie, die wir dem englischen Philosophen Hobbes, der sie zuerst im Jahre 1669 ausgesprochen hat, verdanken, und die noch im Jahre 1871 von L. v. Stein in der zweiten Auflage seines Lehrbuches vertreten worden ist. Erst den jüngsten Fortschritten der zeitgenössischen Finanzwissenschaft ist es gelungen, die Unrichtigkeit dieser Theorie zu durchschauen und sich von den angestammten falschen Vorstellungen frei zu machen.—Und nun haben wir einige mittelalterlich geschulte Philosophen vor uns, die in einer Zeit, wo die Finanzwissenschaft noch gar nicht als eigene Fachkenntnis von der allgemeinen Philosophie losgelöst war, zur rechtsphilosophischen Begründung der Steuer einen Weg einschlagen der folgerichtig zu der heute geltenden Anschauung führen musste und auch vielfach schon geführt hat. *Die Steuer in der Rechtsphilosophie der Scholastiker*, p. 122.

² Quam auctoritatem ut cum dignitate tuerentur, certos reditus designavit (respublica) unde vitam principalem sustentarent; formam quoque praescripsit ejus pecuniae redigendae. Quae omnia eorum redituum quos respublica attribuit, dominium dant, eorum praeterea possessionum, quae aut idem privatus obtinebat, aut Rex factus accepit a populo, non eorum quae sibi cives publice aut privatim retinuerunt. *De Monetae Mutatione*, cap. 1, p. 192.

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power. Moreover, there are many wants common to all which no individual can supply by himself but which must be attended to by an authority whose object is to care for the common good. In other words, the insufficiency of human nature makes the establishment of a political society necessary. Thus far both Suarez and Molina are in exact agreement with Mariana. For their philosophic justification of taxation they simply refer to the natural law.

To recapitulate: The State is necessary to man because he cannot attain his end without it and will inevitably establish a political society wherever many families live together. In other words, the State is based upon the natural law. But the State cannot accomplish its object, the common good, unless it has the necessary means. Since, therefore, the State is a postulate of the natural law the same is to be said of the means necessary for the right functioning of the State. Hence, the payment of taxes is an obligation binding under the natural law. As Molina tells us: “(Taxes) are due as things to be paid, according as the nature of the matter and the obligation of the subjects to the State and to the sovereign require, by virtue of the very institution of the State, that is, for the good of the State, for its conservation, administration and defense.”¹ The reason, then, why citizens must pay taxes is purely a necessary consequence of the nature of the State. Taxation enables the State to achieve its end.

The whole of their discussion of political power and taxation is bound up with actual conditions in Spain and Portugal. Because Spain is a monarchy, the person of the sovereign and the State are used almost synonymously. This

¹ . . . sed deberi (tributa) ut res solvi praeceptas juxta id, quod postulat natura rei ac debitum subditorum suae reipublicae, ac principi, vi institutionis ipsius reipublicae, in reipublicae bonum ac conservationem atque pro administratione ac defensione reipublicae, esse proindeque res eo ipso ex justitia debitas. *De Justitia et Jure*, Tom. III, Disp. 674, n. 3.

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is not surprising in view of what we have seen in the first part of the treatise; that, according to Suarez, the State has transferred to the king the whole sovereign power. Consequently it is only natural that the maintenance of the king and government expenditures are indiscriminately associated as calling for taxation. Occasionally also taxes are called a stipend (*Stipendium*), which seems to imply that they were to be a personal remuneration for the king's services to his subjects. It must be admitted that the term *Stipendium* is sometimes used in such a way that it could be taken to mean that taxes are in the nature of a personal remuneration but it can be proved to almost anyone's satisfaction that this was not the meaning intended by these writers.

Thomas Sanchez used expressions which seem to indicate clearly that he considered the tax merely a salary paid to the king in accordance with an agreement entered upon when he was appointed the head of the State. He says that taxes were instituted "as a reward and a price for the work which the Prince does for the conservation and administration of the State, of the same order as remuneration given to a mercenary."¹ But from other places in the same context it becomes clear that Sanchez regarded the common good of the State as the real reason why taxes are paid. For "it is to be noted that all these pensions (the general term used for taxes) agree in this that they are public measures for the common good. . . ." ² When the "just cause" for taxes is under discussion, the author says "that the second condition is that there should be a just cause for

¹ Probatur, quia tributa non sunt poenae, sed sunt instituta tanquam praemium et merces Principis pro labore, quem substinet in conservanda, et gubernanda republica, sicut datur merces mercenario. *Consilia seu Opuscula moralia*, Lib. II, cap. 4, dub. 1.

² Est tamen advertendum, quod omnes pensiones (pension is the general term for every public payment) istae in hoc conveniunt, quod sunt actiones publicae pro bono communi, et solet una accipi pro altera, v.g. census publicus et tributum solent accipi pro eodem, scilicet pro pretio, quod datur Principi, vel reipublicae de proprio solo. . . . *Ibid.*

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imposing a tax, and that this is, according to all, the common good and not the private interest of the Prince, unless this redounds to the common good of the realm, as would be the case if the indigence of the prince or lord were so great that the ordinary revenues would not suffice for his maintenance, or if he were taken prisoner by the enemy and had to be ransomed. . . . And the reason is because the king is set up for the good of the people, and not the people in the interest of the king.”¹

Consequently, the reason why the king must be maintained by the people is the fact that this is necessary for the common good of the State. It is true that the terms “*Praemium*,” “Price” and “Pension” are misleading, but the context shows that they cannot be taken as signifying a real remuneration for work done. They simply mean that it is only just that he who labors for the common good should be maintained by the State, and that it is to the common interest that the king be well taken care of.

Sanchez is more inclined than any other Spanish Jesuit to accept the contractual theory of taxation. But if even he admits that the reason why the king must be maintained is the interest of the common good, it is evident that not even he holds the contractual theory. Molina also uses the word *Stipendium* or rather *Quasi-stipendium* but at the same time explains how this is to be understood. The maintenance of the king is but one item in the disbursements to be covered by taxation. He writes: “It is, as it were, a proper stipend to the prince from his subjects and is to be numbered among the needs of the State. With

¹ *Secunda conditio est causa justa imponendi tributum, quae secundum omnes est bonum commune, et non privata utilitas ipsius Principis, nisi ea redundet, in bonum commune regni, ut si tanta esset Principis, aut domini inopia, ut communes reditus ad ipsius sustentationem non sat essent, vel esset captus ab hostibus et indigeret pretio ad sui redemptionem, etc. et ratio est, quia Rex propter populi utilitatem, et non populus propter Regis commodum datus est. Ibid., dub. 2.*

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regard to this stipend and the reverence and obedience which the subjects owe and exhibit to their sovereign, he in turn is bound, as it were, by a contract to rule and defend them, to administer justice and to care for their common good." And a little later he says that these charges (for maintenance) "are to be numbered among the needs of the State."¹

In order to show still more clearly that the measure of taxes is not to be determined by the private wants of the sovereign but by the common needs of the State, Molina writes as follows: "The people are not for the prince, but the prince is for the people, since he has been set upon his throne for the good and the benefit of the people. For this reason, taxes are not to be measured by the will and benefit of the prince but by the public good and the needs of the community, as whose administrator, defender, watchman and ruler he was constituted. He must, therefore, be satisfied with a proper maintenance and the means for his own expenditures as the prosperity and the dignity of the State warrant. He must also content himself with what is sufficient for the common needs; nor are his subjects obliged to contribute more."²

From this text it seems clear that the outstanding reason for all taxation is held to be the common good and not the private interests of the king. He has, indeed, a right to royal circumstance, not so much for his own sake, however,

¹ . . . quippe est quasi pronrium stipendium a subditis principi debitum, computaturque interrepublicae necessaria. (Sic S. Thomas, Medina et doctores communiter) Ratione vero hujus stipendii, reverentiae atque oboedientiae, quae subditi suo principi debent, ac praestant, ipse vicissim tamquam ex contractu, tenetur eos gubernare ac defendere, administrare illis justitiam et curare bonum commune ipsorum. . . . Quoniam illi sumptus computantur inter res necessarias reipublicae. *De Justitia et Jure*, Tom. III, Disp. 667, n. 4.

² Neque enim populus est propter principem, sed e contrario princeps est propter populum, qui est praepositus, in bonum ac commoditatem illius; eaque de causa tributa non ad voluntatem, et utilitatem principis sunt admetienda, sed ad utilitatem ac necessitatem publicam ejus communitatis, cui tamquam administer, defensor, custos, ac rector est constitutus: contentusque esse debet princeps iis quae ad competentem sustentationem et sumptus ipsius, pro qualitate status et reipublicae, et ad publicas necessitates sufficiunt, neque plus republica subditorum tenetur ei tribuere. *De Justitia et Jure*, Tom. III, Disp. 667, n. 1.

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as for the welfare and the dignity of his kingdom. We can therefore say with certainty that Molina did not agree with the benefit theory, according to which a person pays taxes in so far as he receives personal benefits from the State. All the benefits which Molina enumerates are common to the State as a whole; and he says that taxes are simply required as a necessary means for bringing about the general welfare of the community. It follows, finally, that a person is bound to pay taxes because he is a member of a community to the satisfaction of whose common wants he must contribute his share.

Some Jesuit authors use the terms *Stipendium* and *Praemium* to indicate that there exists between the king and his subjects a relationship of strict justice, the king being bound in justice to devote proper care to the interests of the community and the citizens being obliged in the same way to give their support to the king. This relationship is considered by Molina, Suarez and the other writers as in the nature of a quasi-contract, not indeed in the sense of Hobbes, Locke or Rousseau but in the sense that an onerous donation of the supreme power of the State has been conferred on the king by the people, the king being bound to use this power for the good of the State and being granted the right to demand the necessary means, the people obliging themselves to obey their sovereign and to supply the means needed to promote the common interests. It is therefore wholly evident that the Spanish Jesuits conceived of taxes as based not upon personal benefit, but upon the natural obligation incumbent upon the members of a body politic to contribute their share toward defraying expenses incurred for the common good. As Molina puts it: "The members of the State are each one obliged to give

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aid on behalf of the common good and the public needs according to his ability.”¹

Principles and Canons

I

One cannot expect to find in the writings of the sixteenth and seventeenth centuries a minute treatment of the problem of taxation in all its aspects. Public Finance has only recently been developed as an independent branch of Political Science. Today we speak of criteria, principles and canons of taxation, although we have not succeeded in establishing uniformity of terminology, much less of opinion.

The first author who speaks of “maxims with regard to taxes in general” is Adam Smith. Every tax should, he holds, comply with four general maxims: It must be equal, certain, convenient and economic.² These four “maxims” or, as they were often called, principles, have since been constantly reiterated and revered as the wisest things ever said about the doctrine of taxation. But it has been and still is overlooked that in substance the scholastics knew these very “maxims” and several more, long before Adam Smith wrote his *Wealth of Nations*.³ It is true that neither Thomas Aquinas nor the Spanish Jesuits spoke of “maxims” or “principles” of taxation, but their three “conditions” (*Condiciones*) contain substantially all the elements of a sound tax. Moreover, Mariana, Molina and de Lugo touch upon many of our “modern” principles and canons of tax-

¹Partes enim reipublicae juxta vires cujusque subvenire tenentur communi bono necessitatibusque publicis. *De Justitia et Jure*, Tom. III, Disp. 668, n. 3.

²*The Wealth of Nations*, Book V, chap. 2, part 2.

³*Die Steuer in der Rechtsphilosophie der Scholastiker*, p. 104.

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ation. Mariana, the most democratic and progressive among them, suggests several measures which have actually been put into effect in the tax policies of several commonwealths.

According to these various scholastic authors, the abiding principle of taxation is justice: justice in its cause, justice in its imposition and justice in its distribution. These are the three "conditions" with which every tax must comply.

Let us see what the first condition, justice in cause, implies. Who can justly impose a tax? In seeking the answer to this question, we must distinguish between Mariana and the other Spanish Jesuits. Mariana holds that the king cannot impose a new tax without the consent of the people, and he tells us that this was the common opinion of jurists and theologians in the sixteenth century, according to the authority of the French writer Comineus.¹ The reason advanced is that the king has no right of proprietorship over the goods which his subjects own as private citizens, and that therefore he cannot take them away in full or even in part contrary to the wish of the legitimate owners. Since taxing the people means taking a part of their property, it follows that they must be consulted. This idea underlies the treatise on money, which declares that the king cannot adulterate the coinage because in so doing he takes something from the people against their will. In a well organized commonwealth the people must reserve to themselves certain supreme rights, of which taxation is one. Mariana, we have seen, is more extreme than are his bretheren in religion, who attribute to the king supreme power in so far

¹ Sit ergo fixum nunquam Principi licere subditos novis oneribus premere, nisi accedat consensus quorum interest, certe populi caput et reipublicae. . . . Sed potius quando a republica cam potestatem accepit redditibus designatis quibus vitam principalem sustineret, impositis muneribus satisfaceret si ea vectigalia augeri cupit, adeat necesse erit eos qui infio eos redditus numero definito designarunt. . . . Quod cum is auctor (Comineus) ex ordine sacratio non fuerit, ac potius litterarum prorsus experts, quod tanta asseveratione affirmatum reliquit, utique ex auctoritate posuit ea aetate theologorum in ea re sententiae non discrepantium. *De Monetæ Mutatione*, cap. 2, p. 194.

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as the interests of the State are concerned, provided the law of the country or general custom have not decreed otherwise.

Taxes are destined to defray the expenses incurred in the common good, and so it follows that they can be imposed by those, and only those, who have charge of the common good. Primarily, this means the sovereign. If any one has the duty to look after the welfare of the State it is he. But the question arises as to whether he is the only one who possesses the right to impose taxation.

Lessius and many others say yes; but de Lugo refutes their reasoning. Lessius holds that no subordinate officer of the king can impose a tax, because this is the inalienable and exclusive right of the sovereign, who is supreme. Having received his authority from the community, he alone has the right to demand of the community the means to discharge his office properly. De Lugo replies that in many republics the subordinate officers likewise take their authority from the people; and it follows that they also may impose taxes both for their maintenance and for the expenses of their administration. Lessius, however, would not accept this conclusion. On the other hand, he admitted that if the common good should require so drastic a measure, the governor of a province could undoubtedly exercise the right of expropriation. But if he can rightfully proceed to the extent of expropriating a citizen, it would seem that he can also do that which is less extreme—that is, take a part of a citizen's property through the imposition of a tax. De Lugo, therefore, concludes that it is in itself possible that a subordinate officer justly tax the group whose care has been entrusted to him. But, as a rule, de Lugo continues, sovereigns reserve this right to themselves, although they may delegate their right to their ministers or even to a local

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community. A tax, therefore, complies with the first condition when it is imposed either by the prince himself or by someone else who has the authority from him.¹

Molina and de Lugo subsequently discuss the question of a nobleman's acquiring the right to a tax by prescription. If when the legitimate time for prescription has elapsed there exists no doubt as to the justice of the tax, it may lawfully be collected. This, naturally, does not give the nobleman the right to impose a new tax unless the king specifically grants him permission to do so.

In view of the pitiless exploitation of the people by the aristocracy, so common in those days, we may add in passing, that due credit should be given the scholastics for their attempts to protect the poor from all unjust extortions.

It has already been said that Molina and de Lugo differ from Mariana in that they allow the king to impose taxes without the consent of those concerned. They took the view that unless the people have reserved certain rights to themselves, the king has unlimited power and is superior to the people. They do not mean, however, that his power has no limits at all. He must rule his subjects according to justice and equity. In a general way he is responsible to the community in so far as he could be deposed should he commit enormous injustices or go beyond the limits set by the constitution. Ordinarily he is not subject to the supervision of the people and can, therefore, impose taxes unless the constitution of the country specifies otherwise.

The fact that the King of Spain cannot tax his subjects

¹ Sicut ergo ob necessitatem communem potest gubernator obligare hunc civem ad dandam rem suam, cur non poterit ob eandem necessitatem communem obligare cives ad contribuendum modicum, ut necessitati subveniatur? Plus enim videtur esse auferre ab uno aliquid magnum, quam a multis, paucum a singulis, quod videtur esse exigere tributum. Sicut ergo illud primum non superat potestatem ordinariam gubernatoris subordinati, cur hoc secundum illam superabit? Haec ratio mihi suadet, loquendo ex natura rei . . . de facto tamen id non posse fieri ab his gubernatoribus, sine speciali commissione principis, quia de facto principes supremi hanc potestatem sibi reservarunt, nec censentur illam concedere in ordinaria concessione potestatis gubernativae, nisi id expriment. *De Justitia et Jure*, Disp. 36, sect. 1.

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without the consent of the estates does not imply that this limitation arises from the very nature of the matter. It is according to Suarez¹ only a local custom. Molina tells us that it was introduced through the kindness of the king himself, at a time when Spain was prosperous and the tax rate very low. Foreseeing that such a state of affairs might easily induce an avaricious sovereign to increase the tax burden to the detriment of the country, the king desired to make every new tax depend upon the consent of the *Cortes* and thus to prevent abuses of the taxing power.

What are the chief doctrines involved? With the exception of Mariana, the Spanish Jesuits hold that, directly, only the sovereign who has no superior over him on earth can impose taxes, and that subordinate officers or local communities can do so only in so far as the ruler delegates this right to them. Where the laws of the country require the consent of a diet, the king is bound to submit to its decision. But unless the people have reserved this concession to themselves, the king is free to tax without consulting any person or group of persons.

II

The philosophic basis of taxation is the fact that the State, which is a necessary institution, needs the help of the members of the community to promote the common good. Taxes must be paid because the State has a right to demand of its members the means to defray expenses incurred on behalf of the general welfare. From this all scholastics infer that there must be a strict relationship between taxation and the public need. Without exception, they hold that a tax ought to be the means of last resort in

¹ *De Legibus*, Lib. V, cap. 17.

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raising funds for common needs, that all other methods must have failed, and that the levy must cease as soon as the need no longer exists.

From this it might seem as if the scholastics considered the tax an evil, and one would probably not be very wrong in saying they did. People never have paid taxes gladly, and they resent every new contribution as being an encroachment upon their property. Mariana's declaration that the people cannot but reserve to themselves the right of taxation seems to be based on the general unwillingness of the people to contribute toward meeting the common needs. Another reason for his opinion is that according to his theory of the origin of the royal power the people assigned to their elected king revenues, most likely lands, the income from which was to support him and yield the means for the administration of the State. It was understood at the time that no further revenues would be required for the royal administration. If then the king nevertheless soon called upon the people for help, it is only natural that he met with opposition to a new grant.

Under such circumstances the king would first have to try to find a way out of the difficulty without burdening the people, even though a sacrifice on his part might be involved in cutting down unnecessary expenditures. When he calls upon the representatives of the people, he must listen patiently to their pleading in behalf of those whom they represent. They, in turn, should lend a willing ear to their embarrassed king; and, if his situation absolutely demands new contributions, they must grant them. From all this it appears that Mariana was of the opinion that a tax ought to be the last thing tried to solve the difficulties of the royal treasury.¹

¹ Populus quidem, uti monet historicus idem (Comineus), debet se facilem exhibere,

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Molina and the other Spanish Jesuits, though attributing to the king the right to tax the people, nevertheless maintain that he should exercise this right only when all other means have failed, and only for so long a time as the need exists. Molina requires of a tax "that it be imposed for a just reason, that no more be demanded than the cause requires, and that with the disappearance of the cause the tax must likewise cease." He then advances his reasons: "For the subjects who are the members of the State are obliged to come to its aid by exhibiting and exposing not only their property but their lives as well, when the common good and the public need require it. Thus they may be compelled, whenever the common and the public good demand it and no other means is available, to contribute as much as and as long as the public good and the common welfare command it. . . . When, therefore, the contributions of the people do not suffice to pay fair salaries to public officers; to repair bridges, public buildings, town walls or such like things; to meet the charges for even greater public utilities and needs; or to fight the enemy: then (the sovereign) may impose new taxes . . . or increase old ones as much as and as far as such causes still call for help. When these causes have ceased, the taxes also must cease or be decreased in accordance with the public causes or needs that have ceased."¹

neque Principis votis repugnare, sed potius, ut res se dabunt, aerarii inopiae pro virili parte succurrere. Sed et Principis etiam aures patientes esse debent, populum audire ac diligenter considerare copiae ne suppetant et vires ad ferendum novum onus, an rationes aliae inveniuntur ad occurrendum angustiae; etiamsi opus sit Principe ad modestiam revocato castigatisque sumptibus supervacaneis, quod video passim facitatum in paulo antiquioribus regni conventibus. *De Monetae Mutatione*, cap. 2, pp. 193-94.

¹ Ut imponatur ex justa causa, neque plus exigatur quam causa postulat, et ut cessante causa . . . cesset etiam tributum. . . . Etenim subditi reipublicae cujus partes sunt, subvenire tenentur, non solum sua, sed et seipsos exhibendo, ac exponendo, quando bonum ac necessitas publica id ita efflagitat: eaque de causa, exigente id communi publicoque bono, cui non possit aliter commode subveniri, cogi possunt contribuere, quantum postulat et quamdiu id postulat, publica necessitas et bonum. . . . Unde si, quae illi a populis tributa sunt, non sufficiunt ad stipendia competentia ministrorum publicorum, ad reparationem pontium, domorum publicarum, moenium, et ad similes, aut majores utilitates ac necessitates publicas, aut ad resistendum hostibus, tunc princeps imponere potest nova tributa, aut

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Molina therefore believes that a tax is justified only when there exists a common need, and that, as a rule, it is unjust, when its cause no longer exists. This does not mean, however, that all taxes should be only temporary, for when one need has been supplied, there may have arisen a new and still greater need—in which case the old tax could run on and suffice to meet the new difficulty. He uses an example to illustrate. Tariffs on the transportation of goods originally had for their object the protection of commerce from brigandage. Although this purpose may seem out of date now, yet there may arise a new danger of the same kind in the future. In this manner the king can justly maintain the tariffs to insure against a recurrence of the same emergency. He may use the surplus for other common needs, or else deposit it in the treasury for the national benefit. Charges such as these ought not, however, to be excessive or otherwise burdensome. Molina is the more inclined to justify these tariffs, since they are not so much a great burden to the merchant as a bother to the consumer, who has to pay a somewhat higher price for goods so taxed. Should commerce never be threatened again, the king might still be justified in collecting a moderate amount, for fiscal reasons. In this case, however, these charges would no longer be fees but real taxes. Here we find an application of the canon of adequacy.

A tax may also become perpetual through legitimate custom. The king may rightly demand its payment after the time of prescription has expired, even though the original reason for the levying of the tax has been forgotten. Since from his point of view the supposition is always in favor

antiqua augere, quantum et quandiu similes causae id postulaverint: iis vero cessantibus, cessare, ac minui debent tributa, juxta causas, atque exigentias publicas, quae cessaverint. *De Justitia et Jure*, Tom. III, Disp. 667, n. 1.

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of the justice of an old tax, the contrary must definitely be proved before the tax can be declared unjust.

Without exception all the Spanish Jesuits maintain that the king is in conscience strictly bound to impose only just taxes. If he is excessive in his demands, the confessor must remind him that he is not the proprietor of the public funds, but the steward, and as such responsible before God for all excessive charges placed upon his subjects. In this matter, Mariana again is, as we shall see later, more explicit and direct than the other Jesuits.

Concerning the royal debts, the difficulty arises as to whether the people are bound to meet obligations of this sort incurred by their ruler. In general (Mariana excepted) the Jesuit answer is yes, provided, of course, there is no other way of meeting the situation. The sovereign being a public person and the representative of the nation, the community must not allow him to be disgraced. But he, for his part, is bound to save as much as he can and is, moreover, obliged to make restitution to his people of whatever has been disbursed to cover his debts, at such time as he is in a position to do so.

The doctrine that a tax must be imposed only for a just cause is evidently based upon the assumption that it is odious and should, therefore, be kept at a minimum. Only as long as there is no other way to defray the public expenditures should the taxing power go actively into effect. Furthermore, a tax should be no higher than is absolutely necessary and should automatically cease at the same moment the necessity ceased to exist. Another reason for a just reason being insisted upon so strongly was perhaps the old prejudice that paying taxes is unworthy of a free citizen. This conviction was very strong in the days of the Roman Republic and the early Empire because of numberless

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abuses of the taxing power. The injustice and cruelty of Spanish tax farmers and collectors were certainly not apt to make taxes popular; and the exemption of the ruling classes threw the entire burden upon the middle class, thus creating an extremely trying situation. Bearing this in mind, it is easy to understand why the Spanish moralists, who championed the poorer people, were relatively inclined to be suspicious of any new tax.

III

A tax, though justly imposed by the proper authority for a just cause, is not yet necessarily just in every respect. It must also be distributed according to the principles of justice. This has always been the most vexing problem faced by students of Fiscal Science. Should all pay the same amount?—Or, if a distinction should be made, what is the norm of distribution? Is it the amount of property or the amount of income? Is it the expenditure made by each citizen? Or, finally, is it the personal benefit the individual derives from the State? A clear and in every way satisfactory answer to these questions has not been found even yet. We need not concern ourselves here with the benefit theory, since we have already seen that the Spanish Jesuits did not maintain it. But what do they consider a just norm of taxation? Generally speaking, we may answer that all of them believed in distributive justice as the proper norm, i.e., they held that the burdens of the community should be borne by each citizen according to his ability to pay.

How is this "ability to pay" to be understood? Is the Jesuit interpretation the same as that proposed by Adam Smith about one hundred and fifty years later? "The subjects of every State," he wrote, "ought to contribute toward

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the support of the government, as nearly as possible, in proportion to their respective abilities: that is, in proportion to the revenue which they respectively enjoy under the protection of the State. . . .”¹ Smith speaks, indeed, of the “respective abilities” as the norm, and he even introduces the idea of revenue or income as a basis for determining a person’s ability to pay. But since he considers protection granted by the State to the individual the reason why this individual should contribute in proportion to his respective abilities, he openly professes himself a defender of the benefit theory, and in this respect, is wholly at variance with the thinkers of the period under consideration.

Molina and de Lugo agree with Adam Smith (or vice versa) that payment should be made in proportion to respective abilities, but their reasons are not identical with his, because, as we have seen, they did not share his allegiance to the benefit theory. What interpretation, then, did they place upon the ability to pay? They are not explicit as to this point; but, since they repeatedly mention property as a basis for taxation and never speak of income or revenue in this connection, we must conclude that they held the old view according to which property is the proper measure of a man’s ability to pay. In general, they demand that all pay in proportion to their possessions, so that those who have more pay correspondingly more, and those who have less pay less.

De Lugo declares: “The third condition is that a geometric proportion be observed in the imposition of a tax. . . . When the need is common (to all), all should be burdened in common and, as far as possible, equally. This equality, I hold, must be conceived of as a geometric propor-

¹ *The Wealth of Nations*, Book V, chap. 2, part. 2.

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tion, so that those who have greater resources pay more and those who have less pay less. Otherwise the common burdens would be distributed not in formal, but material equality, which would be the greatest inequality, as may be seen in the case of an infant and an adult man carrying equally heavy weights.”¹ Molina maintains the same position. According to him, all should contribute according to their ability, so that the rich and the poor be not constrained to pay the same amount. The reason he gives is this: “The members of the State are bound to contribute towards the common good and the common needs according to the strength of each.”²

At this point de Lugo remarks that if the need were local, those to be benefited should be called upon first; and only if they could not pay all, would the rest of the country be obliged to aid them, because in such an event, the rule that the various members of the State must help each other is in force. The charges in question here are more in the nature of special assessments or local taxes for local needs, and therefore the principle of immediate benefit applies to them. Where general needs exist, all must contribute commensurately with their means.

Two difficulties are advanced against this principle of just distribution: the general sales tax (*Alcavala*), which seems to be at variance with equality, and tax exemption, apparently opposed to universality of taxation. How is this problem met by the Spanish Jesuits?

¹ Tertia conditio, quae exigitur, est proportio geometrica in tributi impositione servanda: (ut scilicet, si ad necessitatem non omnibus communem, sed aliquorum imponitur, ii primo loco graventur ad quos necessitas illa spectat; iisque non potentibus, ab aliis exigatur, quatenus membra ejusdem corporis debent sibi invicem subvenire.) Si vero necessitas est communis, omnes communiter et quoad fieri possit, aequaliter graventur. Aequalitas, inquam, aequalitate et proportione geometrica, ut ii, qui majores vires habent, plus solvant, et qui minores minus; alioquin non distribuuntur onera communia aequaliter aequalitate formali, sed aequalitate materiali, quae est summa inaequalitas, ut si parvulo, et viro adulto aequale pondus singulis portandum imponatur. *De Justitia et Jure*, Disp. 36, sect. 2, n. 23.

² Partes enim reipublicae juxta vires cujusque subvenire tenentur communi bono, necessitatibusque publicis. *De Justitia et Jure*, Tom. III, Disp. 668, n. 1.

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IV

Molina, Suarez and de Lugo frankly admit that the general sales tax appears to be contrary to the principle of equality because the poor are burdened more heavily by it than the rich. Although the wealthy will ordinarily buy more than the poor, yet proportionately to their means the poor are the heavier spenders. Furthermore, an indigent man may have a much larger family to support than his more fortunate neighbor, and so be much more heavily burdened by a sales tax, whereas the moneyed landlord, deriving a great many articles from his farms, need buy very little.

In spite of all these apparent injustices, scarcely any one of the Spanish Jesuits condemns the general sales tax point-blank, though Suarez would have it restricted to luxuries, and Lainez holds that it is unjust in so far as the necessaries of life are concerned. It must be noted, however, that Lainez speaks of this tax primarily as he found it in Venice, and is inclined to believe that it is more just in Spain.¹

Molina says that he would not venture to condemn the sales tax as unjust. He demonstrates that, as a matter of fact, people in general do not find the *Alcavala* unbearable, and he presents a number of considerations designed to mitigate to some extent the impression that it is not equitable. The tax is found everywhere, but people do not com-

¹It is to be noted that Lainez is one of the first Jesuit writers to treat the subject of taxation. He was the second General of the Jesuit Order and played an important rôle as a theologian during the Council of Trent. Thus he lived in the very beginning of the period under consideration. Up to that time the great theologians had almost unanimously denounced the sales tax and the various other indirect charges, as R. Amberg has pointed out and as becomes clear also from the authorities quoted by our authors. It would seem that Lainez marks the turning point in the attitude of theologians towards indirect taxes. Molina who is sometimes charged with being a little too favorably disposed towards the Spanish Court, finds a great many reasons to justify the general sales tax. Suarez would rather have it restricted to luxuries. De Lugo, who lived a generation later than Suarez, advances much the same arguments as Molina. It seems that by this time theologians generally admitted the defensibility of the *Alcavala*.

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plain bitterly about it; no concerted effort has ever been made to have it changed; and in point of fact, should it be changed into a tax on property, the opposition of the people would prove serious and its reintroduction would be demanded.¹

What reasons reconcile the people to this undoubtedly burdensome tax? Paid as it is in small portions, at each purchase of goods, the masses do not feel the sacrifice as keenly as they would if they had to pay a lump sum. This is in the nature of the third maxim of Adam Smith, viz., that "every tax ought to be levied at the time or in the manner which is most convenient for the contributor to pay it. . . . Taxes upon such consumable goods as are articles of luxury, all are finally paid by the consumer, and generally in a manner that is very convenient for him. He pays them little by little, as he has occasion to buy the goods."² Though Smith, unlike Molina, does not defend the sales tax on the necessities of life, he invokes the same principle to justify the tax on luxuries as Molina does to justify the general sales tax. This same reason,—convenience of payment,—we find advanced by Adolf Wagner;³ and it still holds good in our own days for purposes of expediency in some cases, and, to a certain extent, as a norm of taxation.⁴

Molina believes that a direct tax by assessment would bring in its wake numerous brushes between the people and the royal assessors, and that enforcement of it would require a host of such officers. This, in turn, would be followed by

¹ *De Justitia et Jure*, Tom. III, Disp. 668, n. 2.

² *The Wealth of Nations*, Book V, chap. 2, part 2.

³ *Finanzwissenschaft*, Zweiter Teil, pp. 463-64.

⁴ Charles J. Bullock also can justify indirect taxes on the ground of convenience of payment. He writes: "On the other hand, it is some advantage on the side of indirect taxes, that what they exact from the contributor is taken at a time and in a manner likely to be convenient to him. It is paid at a time when he has at any rate a payment to make; it causes, therefore, no additional trouble, nor (unless the tax be on necessities) any inconvenience but what is inseparable from the payment of the amount. *Selected Readings in Public Finance*, p. 419.

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additional taxes in order to supply the salaries of the numerous taxing staff. Here, Molina points to another psychological factor and applies the canon of economy. His last reason is based upon his experience as a moralist. An assessment of each citizen would occasion great violence, injustice and hatred, and cause much uneasiness of conscience.

De Lugo holds that the general sales tax is ultimately borne by the rich and not by the poor. Although the less wealthy will have to pay a somewhat higher price because of the *Alcavala*, yet they will be reimbursed by higher wages and so these charges will burden not the laborer but the employer. The small farmers will not be heavily burdened by the sales tax because they will not only not have to buy many articles supplied by their farms, but will even sell a great part of their produce.¹

Suarez, de Lugo and Molina arrive finally at the conclusion that the general sales tax can be justified from the standpoint of proportionate distribution, and that it observes justice in as far as it can be observed.² Should an apparent injustice occasionally result, this unavoidable evil is more than compensated for by other important considerations: convenience of payment, economy of collection, higher

¹ Melius alii probant primo, quia servatur aequalitas, quantum servari potest, quia licet pauperes cogantur emere, plura tamen emunt divites, et nobiles una die propter majorem familiam, quam habent, et propter lautiores victum, quo utuntur. . . . Secundo, quia si tributum imponendum esset taxando cujusque vires et facultates, et a singulis exigendo quod solvere possunt, difficilis id fieret, et magis gravarentur subditi propter dependentiam ab exactoribus, et ministris. . . . Tertio, quia si tributa exigenter solum a mercatoribus ex iis, quae negotiationis causa afferunt vendenda, idem inconveniens reipsa sequeretur, cum mercatores soluta gabella carius postea merces venderent, quae ad gabellam cariores ipsis existunt; quare jam pauperes ab illis ementes sentirent idem onus quod vitare intenditur. Quarto, quia, quod aliqui pauperes plura emant, per accidens est: nam plures etiam divites multo plura emunt; cum pauperes agricolae ex suis fructibus plerumque ea necessaria habeant. . . . Adde quinto, licet divites non solvant aliquando immediate tributum in illis rebus, sentire tamen mediate idem onus: quia cum artifices, operarii, et alii, majori pretio comparent sibi victum propter tributa, quae in illis rebus solvunt; carius suas operas divitibus locant, ut lucrum et victum solitum sibi comparent. *De Justitia et Jure*, Disp. 36, sect. 2, n. 25.

² Denique ratio a priori est, quia cum aequalitas illa geometrica adeo difficile obtineri possit, nec consistat in indivisibili; illa via tenenda est, quae pauciora et minora incommoda habet, licet aliqua habeat, cum omnia prorsus vitari non possint, et usus docuit, minus turbari populum, quando haec tributa imponuntur, quam si a singulis pro mensura, et ratione propriae facultatis exigenter. *Ibid.*

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wages and the prevention of many moral evils. Suarez tolerates that the sales tax be placed on the necessaries of life, only because otherwise the public revenues might not suffice for the needs of the State. This is an application of the canon of adequacy.

May not the sales tax have been devised in order to reach, to a certain extent, the exempted classes of society? One might very well believe so. But both de Lugo and Molina vehemently protest against any attempt to deprive the clergy of its privilege by indirect taxation or by any other covert means. As a matter of fact, the clergy succeeded in remaining free from absolutely all taxes, even the general sales tax and the various tariffs. Only when they engaged in business did they forfeit this privilege. The nobility, on the other hand, were obliged to subscribe to the indirect taxes. Molina does not tell us why the clergy was free whilst the nobility was taxed, but merely mentions the fact without entering into any discussion of it.

It may be of some interest here to remark that Spain is the only country in which the general sales tax has played any considerable rôle. It seems to come more naturally to the Latin races, but it is now fast disappearing. The fact that all of the Spanish Jesuits were enthusiastic monarchists, Mariana not excepted, may in part explain why they found so little fault with this undemocratic tax. In democratic countries it has always been rejected as a norm of taxation.¹

V

Another difficulty of fiscal justice presents itself in the exemption of the clergy and the nobility. What solution do the Spanish Jesuits offer? They deny that the exemption

¹ Edwin R. A. Seligman, *Studies in Public Finance*, pp. 124-138.

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is unjust and maintain that it is, on the contrary, reasonable and necessary.

All of them are convinced that the Church and its ministers should be free from the tax burden and all of them discuss the question at length. Some, de Lugo for instance, think that exemption was ordained by divine law. Molina, on the other hand, believes that it is suggested by divine but established by human law. According to his view, the Church grants the State so many benefits of a higher order that it is only fair that its ministers be exempted from material contributions. Mariana shows that Church property belongs to the poor, and that it was intended from the very beginning to serve charitable purposes. In the event of a serious calamity the Church has always contributed generously, as for example in times of war against the infidels or other national enemies. Mariana thinks of Church property as being like a public depositary to be drawn upon in times of great national need. Thus the exemption of the Church is more apparent than real.¹ Mariana does, however, think that it would do no harm if high ecclesiastics were requested with the approbation of the Pope, to use a considerable portion of their revenues for embellishing the cities and erecting magnificent buildings and charitable institutions.²

¹ Deinde sacri ordinis immunitates et jura intacta ut sint, curare Princeps debet. . . Quo plura religioni ipse (Princeps) dederit, majora coelo accipiet opes, honorem, potestatem. . . Ego parvum quiddam instar eorum quae animo concipio, praesentia mala putabam: ac vellem potius non tantum quae a majoribus data sunt, Episcopis non auferri, sed etiam firmissimas arces eorum in fidem tradi. . . Postremo sit persuasum, templorum divitias, sive vasa sint auro et argento gravia, sive annui redditus, agrorum decumae, praedia, reipublicae esse in primis salutare. . . Deinde sacerdotum copiis magna inopum multitudo alitur: qua potissimum causa a majoribus sunt datae. . . Qui ergo templorum copias et redditus otiosos esse disputant, et debere contendunt in meliores usus converti, nae ii opinione sua falsi magnum reipublicae malum, si fides habeatur, parant, et credam potius non subtrahendis iis divitiis quaeri salutem, sed potius cura, ut ad pristinos usus alendosque pauperes convertantur. . . Ad haec templorum ornamenta, redditus annui, aurum argentumque factum signatumque, quasi in quodam sacro aerario servantur ad supremos reipublicae casus: cum hostis bello lacessit victoria ferox formidabilisque, aut de religione sanctissima certamen est, non arbitror incommodum fere, si iis copiis respublica ad tuendam publicam salutem utatur. *De Rege*, Lib. I, cap. 10, pp. 89-92.

² Praesertim si qui honores militares suscipient, ecclesiarum praefecturam, aut omnino alios magistratus, iis necessitas imponatur, venia Pontificum si opus erit, redditum partem et proventum in ornamenta publica insumendi: pontes instaurandi, inopibus et aegrotis hospitia extruendi, haud leve operae pretium existet. *De Rege*, Lib. III, cap. 10, p. 286.

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He is also ashamed to admit that not all ministers of the Church spend their means in the way intended by the donors.

The exemption of the nobility is just as vigorously defended by our authors. They consider it only just that extraordinary service in the national wars should entitle heroes to some consonant reward. Grateful recognition of distinguished conduct is meet and fitting, is consequent upon the proper administration and dignity of the State. What better acknowledgment could be made than to exempt such benefactors and their descendants from taxation? The same privilege may likewise be granted to doctors, scholars and soldiers, in view of their importance to the general welfare and of the effect of their example upon young men qualified to devote themselves to these professions. On the whole, the Spanish Jesuits do not exert themselves trying to prove the legitimacy of the exemption of the nobility, but take it for granted rather and refer to it repeatedly as offering confirmation of the justice of the ecclesiastical exemption. Molina explains the justice of exemption by saying that it is right and fitting to grant immunity when it is demanded by the good of the State. But it would be an injustice for a prince to exempt citizens from paying taxes without a legitimate reason, because it would not be consonant with distributive justice, would burden the rest of the community and would endanger the general good as a result of inadequate public revenues.¹

May the king sell tax exemption? Very seldom and only for very grave reasons. In cases of urgent necessity, when the people are unwilling or unable to bear a new tax, the king may grant tax freedom to a wealthy citizen in return

¹ Fas expediensque id esse, quando ita postulat reipublicae bonum. . . . Absque legitima causa, nefas est principi eximere quosdam a tributorum solutione. *De Justitia et Jure*, Tom. III, Disp. 673, n. 1.

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for a large sum of money. This would be only a payment in advance of taxes, and would serve the general good of the community. It should, however, be granted only when all other means have failed. Otherwise the number of taxpayers would soon be materially reduced, the burden of the remainder of the community proportionately increased, and the sources of public revenue seriously diminished.

If taxes must be paid by all subjects of the king, how is the taxation of foreigners justifiable, since they are not subjects? Today we speak of a political and an economic adherence to a country, and say that either of these may be considered a proper basis for taxation. In the sixteenth and seventeenth centuries, political adherence was looked upon as the primary and proper foundation for paying taxes. Nevertheless, non-citizens were in most cases subject to the tax laws of the country in which they traded. Molina is of the opinion that this situation is not ideal but only a necessary evil. Still, as it exists everywhere, the charges will more or less compensate each other and thus restore justice.

In treating the same problem, de Lugo advances four reasons why it may be lawful to tax non-subjects: If foreigners are not taxed, many natives will try to evade their obligations by pretending to be strangers or by buying through strangers. Foreigners enjoy the advantages of the improvements for which the tax returns have been used, and should, therefore, bear a reasonable part of the expense. The Law of the Nations (*Jus Gentium*), it is true, gives foreigners freedom to trade with all nations that are not hostile; yet this concession seems to imply, by custom at least, the obligation of sharing the public burdens of the place where they trade. The fact that all nations tax foreigners will compensate for all eventual inequity.¹

¹ Alii tamen communiter et verius dicunt, non esse damnandum usum illum exigendi ab

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The poor, according to de Lugo, should be taxfree. By the poor he means not only the class of beggars but also every one of those who must spend all they have for the support of their families. Suarez, a little stricter, would exempt only the extremely poor.

The Spanish Jesuits, Mariana above all, maintain that taxes ought not to be higher than the resources of the country can bear without economic loss. This again is an application of the canon of economy, for taxes are meant to help the general welfare of the nation and not to diminish its economic power. Mariana calls attention to the fact that in the northern part of Spain, which is to a very great extent mountainous and suffers frequently from droughts, poor farmers can often scarcely raise enough produce for their own use. It would, therefore, be unfair to expect of them high taxes; and, indeed, they should be supported by the State. Moreover, the tithes of the Church are already a heavy burden upon these hard working people, especially when they are tenants of wealthy land owners.¹

C. Besold, whom W. Roscher calls the greatest German political writer of the first half of the seventeenth century,² gave due credit to the author of *De Rege* for calling attention to these facts. After quoting a long passage, he proves from it that taxes must be moderate and in accordance with

exteris. . . . Probant primo, quia si exteri non solverent, multi ex incolis fingendo se exteros, vel per exteros emendo, non solverent. Secundo, quia exteri etiam plerumque fruuntur bono illo communi fontis, pontis, viae, propter quod tributum illi loco imponitur. Tertio, quia licet de jure gentium sit libera negotiandi facultas exteris, qui hostes non sunt; haec tamen communi usu non videtur concessa, nisi cum onere subeundi gravamina, quae ad regis sustentationem, et ad necessitatem loci illius communiter imposita sunt. Quarto, quia incolae etiam hujus loci, quando ad alias provincias, et locos confluent, solvunt tributa illorum locorum: quare non fit inaequalitas, si incolae aliorum locorum cogantur, et ipsi solvere tributa hujus loci ex pacto tacito inter homines diversorum locorum jure gentium into. *De Justitia et Jure*, Disp. 36, sect. 2, n. 28.

¹ Atque illud sit persuasum, non convenire Hispaniam magnis vectigalibus gravari, Primum quoniam magnam ejus partem squalida siccitate loca, rupes horridae et saxa tenent, praesertim qua parte ad Septentrionem vergitur. . . . Saepe propter aeris siccitatem pluviarum inopia in aestate, annonae penuria laboramus, ut proventus labori et sumptibus non respondeat. grave sit novis tributis et magnis temporis calamitatem augere. Deinde ab aratoribus in Hispania et pastoribus, aliisque omnibus agricolis decumae fructuum omnium integra fide templis persolvuntur. . . . *De Rege*, Lib. III, cap. 7, p. 266.

² Cf. W. Roscher, *Geschichte der Nationalökonomik in Deutschland*, p. 195.

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the economic power of a country. He calls Mariana a wise and pious political philosopher even though his views on some matters may not be wholly sound.¹

Mariana mournfully remarks that the king listens to flatterers who care little for the welfare of the country but wish only to win the royal favor. They tell the sovereign that Spain, being a rich country, can bear just as heavy a tax as France and Italy. The pitiable conditions brought about in France by over-taxation should warn the king. Unfortunately the very opposite of this warning is apparently proffered him: every one who invents a new scheme to draw further revenues from the people is sure of a welcome at the Court, because the royal treasury is always on the verge of bankruptcy.²

The canons and principles thus stated by Spanish Jesuits, almost self-evident in our days, were by no means so generally understood a few decades ago. The astonishing thing is that most of them were known to the scholastics beginning with St. Thomas Aquinas,—that is, to men who lived some six or seven hundred years ago,—whereas the “Father of Political Economy” evidently did not know one of the most fundamental of them. The scholastics had clearly stated that ability to pay must be the norm for a just tax, and yet Adam Smith considers the amount of protection granted by the State to the citizen a proper norm.³ His view prevailed until the end of the last century. The utter neglect of the

¹ *De Aerario Publico*, cap. VII, n. 2.

² Errant ergo qui Principibus nostris exemplo Italiae atque Galliae persuadent, majora in tributa Hispanis imponant, beatissimae, ut praedicant, provinciae, omnibus bonis et felicitate affluentis, vaniloqui videlicet, assentatores, fallaces, quorum magnus est numerus, certa pestis, quia blanda. . . . Ac ne illi quidem satis considerant, in quae mala fuerit praecipitatum in Gallia, praesertim ex quo tempore immensum regia vectigalia creverunt, nulloque consensu civium aucta a Regibus, pro potestate proque arbitrato sunt. *De Rege*, Lib. III, cap. 7, p. 267.

³ Wenn wir schliesslich noch die Behandlung des Besteuerungsgrundsatzes der Gleichmässigkeit bei den Scholastikern und bei A. Smith vergleichen, so muss es uns wirklich erstaunen, wie es möglich war, dass jene vollständig der Vergessenheit verfiel, während diese mit geradezu sklavischem Pythagoräismus bewahrt wurde. R. Amberg, *Die Steuer in der Rechtsphilosophie der Scholastiker*, p. 125.

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study of scholasticism must account for the strange fact that economists had to rediscover what was taught uninterruptedly by churchmen since the later Middle Ages.

R. Amberg offers an explanation of why scholasticism was never consulted by students of Public Finance until the most recent past. He says that it had become customary among scholars to despise and repudiate scholastic philosophy without making even the slightest effort to understand it.¹ Whether this was due to prejudice or to the fact that it requires a good deal of patience to follow the reasoning of metaphysicians so different from modern thinkers, or whether the size of scholastic foliants deterred almost every one from attempting to make a serious study of them, the fact remains that the treasures hidden in scholasticism have only until very recently been sought for. It is noteworthy that modern tax policy has more and more returned to the view held by the Spanish Jesuits, that justice must be the abiding principle in fiscal policy.

Moral Obligation to Pay Taxes

Every just tax must comply with the three conditions discussed in the preceding pages. These being met, what obligation in turn does the tax imply? The Spanish Jesuits almost unanimously maintain that it obliges in conscience under the pain of mortal sin. In the case of fraudulent return, restitution must be made.

The principal argument for this moral obligation is drawn from Holy Scripture. Christ's enemies had sent a delegation to ask of Him the delicate and much discussed question:

¹ Überhaupt ist es merkwürdig, dass man die Schriften der Scholastiker bis jetzt nicht für wert gehalten hat, ihnen irgend welche Beachtung zu schenken. Noch sonderbarer ist es, mit welcher Leichtfertigkeit man sich daran gewöhnt hat, über alles, was irgendwie mit der Scholastik zusammenhängt, abzuurteilen und abzusprechen, ohne auch nur die elementarste Kenntnis davon zu haben, ohne auch nur einen Versuch gemacht zu haben, sich in dieser uns fremden Ideenwelt irgendwie zurechtzufinden. *Ibid.*

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“. . . Is it lawful to give tribute to Caesar. . . ?” And Jesus answered them: “Render (therefore) to Caesar the things that are Caesar’s, and to God the things that are God’s.”¹ St. Paul, in his Epistle to the Romans, was even more explicit. After having explained that all lawful authority is from God, he concluded: “Render therefore to all men their dues: Tribute, to whom tribute is due, to whom custom, custom, fear to whom fear, honor to whom honor.”²

Other arguments are found in the documents of the Church and in the teaching of the Fathers. Some of the later scholastics believe that the tax regulations have only the obligation of penal laws: that they only oblige either to compliance or to the payment of the penalty, that a tax must be paid only upon a direct order of the courts. This opinion is uncompromisingly rejected by the great Jesuit authors Molina, Suarez and de Lugo. The last explains that: “the tax is not designed to be paid as a penalty, but as a stipend due by reason of natural law to the prince for his support and for the public good.”³ Suarez declares the tax obligation to be binding “because it is a matter of justice and a most important point in regard to the common welfare; nay, it is morally necessary for the conservation and government of the State.”⁴

Molina’s argument is, perhaps, the strongest and clearest. The text has been cited previously in demonstration of his philosophic basis of taxation: “(Taxes) are due as things to be paid, according as the nature of the matter and the

¹ Matthew, 22, 21.

² Rom., 13, 7.

³ Ratio est clara, quia tributum non debetur ut poena, sed ut stipendium jure naturae debitum principi, ad suum statum et bonum publicum sustinendum. *De Justitia et Jure*, Disp. 36, sect. 4, n. 38.

⁴ Unde est tertia ratio, quia materia talium legum maxime postulat hujusmodi obligationem, quia est materia justitiae, et in re gravissima, ac pertinente ad commune bonum: imo necessaria moraliter ad reipublicae conservationem et gubernationem. *De Legibus*, Lib. V, cap. 13, n. 12.

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obligation of the subjects to the State and to the sovereign require by virtue of the very institution of the State, that is, for the good of the State, for its conservation, administration and defense.”¹

If, then, there be a grievous obligation in conscience to pay taxes, how is defraudation to be judged? When the tax is incontrovertibly just, defraudation is a mortal sin and forgiveness can be obtained only after restitution has been made. All of our authors agree on this point, since they reject, as we have noted, the penal character of the tax laws. But if a tax transgresses against any one of the three “conditions,” it is unjust and does not bind in conscience. The injustice must, of course, be thoroughly evident and certain. This rule applies in the following and similar cases: a tax imposed by a nobleman without the consent of his sovereign; a needless tax, or one substantially higher than necessary; and a tax which violates the principle of distributive justice. Upon this point again there is perfect unanimity among the Spanish Jesuits.

Very often it proves difficult to demonstrate that there is an evident injustice; and moreover the taxpayer is easily inclined to consider a tax unjust in order to avoid paying it. What is the individual citizen’s obligation when he entertains a serious doubt as to the justice of the tax? Here we find Suarez, Molina and de Lugo divided betwixt several opinions.

Even when the doubt is purely negative, i.e., when the individual believes that the tax is unjust but is unable to advance a definite reason for his belief, the opinion of many scholastics is in favor of the subject. De Lugo is inclined to endorse this opinion, provided the individual tries to clear up his doubt in every possible manner. “When it

¹ See page 184, footnote.

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is impossible to know or even to judge with probability as to the justice of the tax, I do not believe that the subject can be obliged to pay. The reason is that in case of doubt the burden of the proof lies with him who asks. And since it is the sovereign or the exactor who asks, with him lies the burden of proving that the tax is just.”¹

When the doubt is positive, i.e., when the citizen has a solid reason for believing that the tax is unjust, de Lugo agrees with Sanchez and Lessius that he need not pay. He fortifies his opinion behind the fact that it is held by many authors and that even the defenders of the opposite view excuse the subject from any obligation when the payment of the tax would mean a serious harm to him.²

Suarez' point of view is, on the whole, much more exacting than de Lugo's. He maintains that in the case of a negative doubt the citizen is always obliged to pay, and that ordinarily he must also pay in the case of a positive doubt unless he can see no reason why the sovereign may impose the tax.³

Molina differs from both Suarez and de Lugo. He believes that an old tax must be paid, even though one is not certain that it is just. This view is based upon the common supposition of the scholastics that an old tax is to be considered just until its injustice is definitely proved. Here the sovereign occupies the better of the two positions, “for in case of doubt the position of the possessing part is the

¹ Quando igitur sciri non potest nec judicari etiam probabiliter, tributum esse justum. non videtur obligandus subditus ad illud solvendum. Ratio est, quia in dubio semper onus probandi incumbit ei qui petit cum ergo princeps, vel exactor tributum sit qui petit, ei incumbit onus probandi tributum esse justum. *De Justitia et Jure*, Disp. 36, sect. 6, n. 89.

² Haec sunt de dubio negativo; nunc dicendum est de dubio positivo quando sunt rationes probabiles pro justitia, et pro injustitia tributum, an possit subditus illud non solvere. In quo casu negant aliqui posse non solvi. . . . Alii tamen verius negant talem obligationem, sed dicunt, posse subditum amplecti opinionem probabilem contrariam de injustitia tributum, et operari juxta illam non solvendi. *De Justitia et Jure*, Disp. 36, sect. 6, n. 91.

³ Alio vero modo potest subditus ita opinari injustam esse tributum impositionem, ut nihilominus judicet contrarium esse etiam probabile, et tunc censeo, non posse excusari ab obligatione legis propter illam probabilem opinionem. *De Legibus*, Lib. V, cap. 18, n. 20.

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better one.”¹ Molina adds, however, that there must never previously have been a doubt concerning the justice of such taxes, regardless of whether the king has actually heard the complaints of his people or not. For usually the many flatterers around the throne will fail to speak the truth concerning the feelings of the subjects, and the timidity of the people restrains them from voicing open and loud complaints.

Regarding new taxes Molina is of the opposite opinion: “When it is not known for certain that they (the taxes) are just, there is no obligation in conscience. Thus the doctors generally affirm.” In confirmation of this opinion he quotes the following passage from an ecclesiastical document: “taxes are generally contrary to both civil and canon law.”²

Molina goes on to say that the sovereign has no right to impose taxes such as these, and that in doing so he sins against justice and is bound to make restitution. De Lugo maintains that the king may justly impose a tax only probably just, but that the people coincidentally could justly refuse or avoid it. He applies the doctrine of probabilism to the case.

These, in general, are the principles by which the moral obligation of paying taxes is to be determined. But all of our authors, Suarez not excepted, are forced to admit that in practice a decision is difficult in the extreme. As all of them are loyal royalists, they hardly dare to denounce any of the existing taxes, the great number and heavy burden of which would seem to indicate that they actually transgressed the limits of justice.

Molina, in particular, enters into a long discussion of this

¹ In dubio melior est condicio possidentis. *De Justitia et Jure*, Tom. III, Disp. 674, n. 6.

² Si non constat de eorum justitia, non deberi in conscientia. Ita affirmant doctores communiter.

. . . tributa regulariter esse contra jura, tum canonica, tum civilia. *De Justitia et Jure*, Tom. III, Disp. 674, n. 7.

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subject. He points out that Victoria called the tariffs simply "robberies." What, then, would he call them now, increased so enormously as they are? Molina admits, of course, that there may be new needs which partly justify new charges. This he follows with a disquisition upon the sales tax, which, in the course of time, had increased from one-thirtieth to one-twentieth, and ultimately to one-tenth, of the business transacted. Lainez alone condemns the sales tax on necessities of life as patently unjust, and sets down what ought to be the maximum of the sales tax for other commodities. It should not, he says, greatly exceed four per cent of the value of the goods sold.¹ This would seem to imply that the Spanish sales tax was excessive; but it must be borne in mind that at that time the *Alcavala* had not as yet been increased to one-tenth. Sotus and Victoria believed that the sales tax should be paid only upon formal request, but Molina held that the king required payment without request, as was indicated clearly by the enormous penalties imposed upon defraudation. These penalties were unjust if payment had to be made only upon request.

Molina sums up his views on the whole subject by giving a piece of practical advice to the confessor: When convinced that in a country all taxes are just, the confessor must urge payment and in the case of defraudation restitution. When he knows positively that some of the taxes are not just, he must not only not insist on payment, but must even allow compensation for taxes already paid. When in doubt as to the justice of the charge, he should proceed as follows: prior to the fact, that is to say, when the penitent seeks counsel as to what course to follow, he should incline him to pay; after the fact, that is to say, when the penitent has

¹Immoderata dicuntur tributa, quae exiguntur ultra tertium octavae partis, . . . Tertium octavae partis, si bene computetur sit quattuor et aliquid amplius pro centenario. *Disputationes Tridentinae*, v. 2, p. 396.

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already defrauded some taxes, if the defraudation be not excessive, he need not urge restitution. In support of the last opinion, Molina gives as reasons: (a) in case of doubt the position of the possessing party is the better one; (b) the confessor would, otherwise, expose himself to the danger of demanding too much of his penitent; (c) great authors,—Cajetan, Driedo and others—advocate this opinion; (d) the extensive number of taxes would seem to indicate that the king does not expect payment of any tax in full by all, and so the citizen is not obliged to pay everything to the last drop. It is, moreover, the business of the king and his officers to see to it that an exact payment is made.¹

This decision is suggested by pastoral circumstances. On the one hand it is not correct for the confessor to condemn the king; on the other, he must not burden the consciences of his penitents in the cases of a tax only probably just or of a moderate defraudation, and by denying absolution he would preclude to them the hope of heaven. De Lugo declares that the wise decision of Molina has always appealed to him, and he gladly accepts it as a practical norm for the confessor.

Even Suarez, who in general is much stricter than either Molina or de Lugo, makes two concessions:—when all complain about a certain tax, even if it be not evidently unjust, one need pay only after formal request. When there are so many taxes that they are universally considered excessive, there may arise a legitimate custom of paying them only upon request, “because human laws must be adapted to the customs of those who use them.”² By these concessions

¹ *De Justitia et Jure*, Tom. III, Disp. 674, n. 8.

² Nihilominus declaratur ultima pars; (viz., that taxes must be paid even without a formal request) nam contingere potest, ut aliquod tributum absolute spectatum censeatur nimis grave, et in suspicionem injustitiae veniat, ita ut communiter subditi male de justitia illius opinentur. . . . Ergo nihil obstat, ut in tali casu lex non obliget ad ferendam

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Suarez shows that principles of law, no matter how clear, cannot always be followed to their last consequences; for there may arise cases in which a strict application would mean unnecessary hardship, and therefore injustice.

solutionem, obligat autem ad parendum exigenti. Duobus autem modis hoc accidere potest, unus est, si tributi quantitas, vel aliae circumstantiae ejus cogant ad ita interpretandam legem, ut justa sit arbitrio virorum prudentium considerata proportione tributi ad res *sulper* quas imponitur, et ad personas, quibus imponitur. . . . Alio modo potest, intelligi talis moderatio facta vi consuetudinis, in qua (ut dixi) Navarrus maximam vim facit, et potest habere magnam, quando constat, vel probabilius est juxta publicam formam, nimium esse gravatos subditos. . . . Princeps vel non potest, vel non debet in hoc ei (populo) resistere, quia leges humanae debent esse moribus utentium accommodatae. *De Legibus*, Lib. V, cap. 18, nn. 22-23.

Chapter II

FISCAL REFORMS

Abuses to be Stopped

AS has been said before,¹ Mariana deals scarcely at all with the theory of taxation; his concern is, in the main, the practical problem of how to meet the fiscal needs of the king without imposing hardship upon the people. He holds that taxes are so enormous because of the numberless abuses in their administration.

A heavy drain upon the royal revenues is tax farming—a practice so common in those days that some of our authors, de Lugo for instance, hardly find fault with it but accept it as a matter of course. Mariana condemns it altogether, and for very good reasons. He has been told that royal officers arrange matters with tax farmers in such a way as to deflect the greater part of public payments to themselves.² Mortgaging of the tax revenues is another grievous abuse which should by all means disappear. Royal debts are likewise to be avoided because of the usurious interest to be paid to creditors.

The administration of the royal treasury also needs careful reform. It is a great abuse that treasury officers must

¹ Page 171.

² Qui regia vectigalia administrant, eos frequens fama damnat, quasi foedere cum Publicanis facto lucri et pecuniae ea conducentibus pactae partem multo maximam ad se derivent; quod ad rectores singularum urbium promanat, eo peiori exemplo quod leges provinciales seu pragmaticas vendunt populis quotannis iis obtemperare recusantibus: publica iis addicunt palam a quibus ex arcano pecuniam acceperunt. *De Monetae Mutatione*, cap. 13, p. 219.

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pay a large sum to obtain their desirable positions, so that once they have succeeded they naturally try to reimburse themselves. They do not meet the royal bills for several years, and in the meantime make profit with the king's money, by investing it in business. They can easily pay their debts in four or eight months and, moreover, receive from the creditors a substantial reduction.¹ People also say that all of them have friends in the royal courts with whom they share their spoil.

Another grievous abuse is the corruption of practically all royal officers. Any office can be had for money, not merit but sordid bribery opens up prospects to candidates. Mariana realizes that it is dangerous to make these discoveries, and therefore insists that he is simply stating what is the general talk. Although it may not be so, it is a pity that it is being said. Another indication of the dishonesty of royal officers is the fact that many go into office as beggars and within a short time grow wealthy from the blood of the poor and the bribes of applicants for public offices.²

The only remedy against these terrible abuses will be to demand a strict accounting of all royal officers. All they cannot definitely account for should be entered in the royal treasury. Mariana feels sure that in this way large sums would be recovered and the king's financial stress disappear. As it is now, the public revenues are passing through numberless hands all of which keep a portion of them just

¹ Quæstores eam functionem cum magno compararint, (quæ nova corruptela est argumentum inversæ reipublicæ) iidem vendant necesse est, atque ex aliena miseria lucrum capient. Pecuniam regiam ad mercimonia convertunt, sic regis litteris uno et duobus annis non satisfaciunt. Qui commodissime post quattuor aut octo menses debita solvunt parte etiam aliqua expensione deducta, uncia nempe et duabus unciis ex universa summa, ut cum creditore convenerunt. *De Monetæ Mutatione*, cap. 13, p. 220.

² Verum quod vulgo fama est, plane est miserabile; nullum hoc tempore in provincia magistratum, nullam procurationem, ne sacerdotia quidem et Episcopatus meritis dari, cuncta esse vaenalia, neque sine pretio concedi, conficta hæc fortassis, esto certe aucta: sed ita dici calamitosum est. Omnino regios ministros videre est terræ plane filios exuccos ad publicas procurationes accedere, puncto mox temporis beatos evadere, multa aureorum millia annua numerare. Unde hæc nisi ex pauperum sanguine, ex medullis litigantium publicasque procurationes ambientium. *Ibid.*, p. 219.

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as some residue liquid poured from one vessel into another is left in each. Not even half of the tax returns find their way to the royal treasury.¹

Mariana also suggests saving. The royal household could very well be conducted with considerably more economy than at present. To prove this our author again resorts to history. He has seen the accounts of John II for the year 1429, which show an expenditure of only about 30,000 gold pieces for the royal household. If some allege that times have changed, that prices are much higher, that the country has grown in power and demands a more magnificent representation of its sovereign, Mariana will answer that Philip II, one of Spain's most powerful kings, did not lay out more than 40,000 gold pieces for himself, his son Don Carlos and Prince Juan d'Austria. These figures in no way compare with the enormous expenditures of the present, which run up as high as 1,200,000 pieces.

But how shall the king save? Mariana sarcastically replies that he is not in a position to know, but that the wise men who surround the king will surely know. He merely repeats what people say: that the royal stewards waste a great deal of precious food. The king should remember that royal splendor and majesty will gain more by prudent moderation and parsimony than by reckless extravagance.

Another point is the question of royal donations. The king of Spain has so many offices to distribute that a sound policy regarding appointments would render further presents to favorites unnecessary. Mariana does not want to say that the king should be stingy or that great deeds on behalf of the national honor should not be generously rewarded; but he maintains that it is not good policy to bestow

¹ Ante omnia regia vectigalia censusque diligenter et ex fide curari debent, ut modo res sunt vix dimidium in regios usus convertitur. Per multos ministros traducta pecunia liquoris instar semper aliquid in vase relinquit. *De Monetæ Mutatione*, cap. 13, p. 220.

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all favors upon one person, or to give too liberal presents. It is far better to grant smaller favors and to distribute them over a long period; for, if favorites receive too much at once, they will no longer expect new favors and grow loathsome in the king's service. Instead of persevering they will wish to withdraw and spend the rest of their lives in idleness. Thereby the royal treasury will be exhausted and the country lose the valuable help of capable men. Hope is the best incentive to secure the services of the leaders of the nation and to induce them to do their very best for the national welfare.¹

One of the principal reasons why Spain's finances are in a deplorable condition is the fact that expenditures are not balanced against revenues. If a careful estimate of expenditures were made beforehand, these could be equalized with the tax returns expected. Ferdinand the Catholic, one of the most capable kings, once declared himself unable to pay a comparatively small sum to the Emperor Maximilian because he could not see how the finances of his country would allow of the disbursement. He was in a position to declare the country's inability because he had kept accounts of the expenditures and revenues of his kingdom.² At present, the public funds are wasted without any budgeting or accounting, and the result is that the treasury is always in a desperate condition. After pointing out these abuses in Spanish financing, Mariana proposes a number of remedial

¹ Deinde regia dona fortassis minora si essent magnum vectigal accederet. Non ea sum mente, ut Regem parci infamiam subire velim, aut parum munificum existere in suorum praeclaris facinoribus et obsequiis. Duo tamen considerata credebam. Nimirum nullum sub caelo gentem esse, cui majora et plura praemia publice suppetant, procurationes, officia, pensiones, sacerdotia, militaria oppida et census, iis ex ratione et cum delectu tribuendis extraordinaria munera excusari possent ex regio thesauro aliisque vectigalibus. Deinde cogitandum muneribus, cum sunt nimia, homines non reddi promptiores ad obsequia, ne ad benevolentiam quidem dantis, ut spe magis futurae mercedis quam accepti memoria beneficii ducamur humanum est, usque eo ut qui multum in aula creverunt, continuo cogitent de secessu et tranquilla vita. *De Monetae Mutatione*, cap. 13, p. 218.

² Rex Catholicus id ut concederet adduci non potuit: excusabat aes alienum publice ad quingenta aureorum millia excrevisse. Mirabile plane responsum. . . . Nimirum prudentia insigni Princeps accepti et expensi rationes comparabat, neque ultra niti volebat. Quae magna sapientia est. *De Monetae Mutatione*, cap. 13, p. 221.

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schemes which, together with conscientious accounting and budgeting, might surmount the financial crisis of the country.

New Methods of Public Financing

The crux of the Spanish tax system was the general sales tax. Almost every writer on taxation could not help finding this burdensome charge hard or even unjust. Molina tried to justify it for fiscal reasons and on account of convenience of payment, but Suarez would have it restricted to luxuries. De Lugo held it inadvisable to restrict it to luxuries because certain classes would then be exempt of all tax burden. It would, however, be very desirable to place a much higher charge on these goods than on ordinary commodities. Lainez as has been seen before¹ openly denounces the sales tax on the necessaries of life. Mariana's plan is similar to de Lugo's: luxuries ought to be taxed very high and necessaries of life very little, so that what would be lost in the one case would be more than made up for in the other. Such a method would have the further advantage that it would discourage the use of commodities which are apt to effeminate the youth and to spoil the native customs. At the same time Mariana has a social consideration in mind: a high luxury tax would bridge the gap between the rich and the poor in so far as wealthy citizens would not acquire too much power if they had to pay enormous prices for luxuries. He writes concerning this tax reform:

“Goods which people need for the maintenance of life—such as ordinary wine, grain, meat, woolen and linen cloth, especially if it be not elegant—should be sold bearing only a slight tax. What is lost on these may be recovered by a high tax on fancy goods such as perfumes, which Spain

¹ Page 201.

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might very well do without, sugar, silk, heavy wines, meat of fowl, game and many other things without which a human being may very well exist and which, indeed are very apt to enervate the body and debilitate the mind. In this manner the great mass of the poor would be served, and the luxury of the rich kept in proper check so that they would not recklessly waste their money and cater to their bellies. If, however, they should not wish to be cured, it would be only just that some fruit should accrue to the State from their madness. Coincidentally, the poor would not be so completely exhausted, which oftentimes is the principal cause of numerous uproars. Nor will the rich acquire too much wealth and power when they have to pay extremely high prices for their luxuries. One of these evils is equal to the other, as the great philosophers say and as experience shows.”¹

Another way of bridging the gap between the social classes would be to make wealthy citizens serve the community at their own expense. The results would be beneficial and salutary for all. Avaricious men would be kept out of high offices wherein they hope to grow rich at the expense of the poor. The king would save large sums which now he has to disburse for salaries, and the rich would spend a part of their money for the common good and receive as their

¹ Sed et alia excogitari ratio potest, ad sublevandum inopiam provincialium, merces quibus ad vitam sustentandam populous opus habet, vinum frumentum, carnes, vestis lanæ lineæque, si praesertim nimia elegantia absit, modico vectigali imposito vendantur, quod ex his rebus detractum fuerit, ex curiosis mercibus supplicatur, aromatis quibus Hispania carere potuisset, sacharo, bombyce, vino generoso, avium ferarumque carnibus, multisque aliis mercibus, sine quibus humana vita traducitur: et quae potius ad emollienda corpora, debilitandos animos magram vim habent. Sic enim et inopibus consulatur, quorum est magnus numerus, et luxui hominum potentium modus erit, ne facile opes effundant, ventri gulaeque servientes, quod si sanari noluerint, ex eorum amentia fructum aliquem ad rempublicam redire aequum erit. Simul continget, ut neque inopes potius exhauriantur, unde novi et graves motus existant: neque divites, qui rebus fere curiosis aucto praesertim earum pretio soli utentur, nimium crescant opibus et potentia. Utrumque enim noxium est, uti magni Philosophi affirmatum reliquerunt, et res ipsa indicat. *De Rege*, Lib. III, cap. 7, p. 265.

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only reward the honor of high offices and the gratitude of the people.

By a similar method cities might be improved and beautified. Officials with large revenues, churchmen not excepted, should be obliged to disburse a part of their income for the erection of beautiful buildings, the repair of roads and bridges, and the building of charitable institutions. Such a burden would make these offices less desirable and check avaricious ambition—both of which results would greatly benefit the people.¹

Mariana knows very well that the heaviest drain upon public revenues is war. If he can provide ways and means of financing wars, the public expenditures will dwindle down to almost negligible figures. In short he maintains that war should finance itself or as he says: "War must feed itself."²

Our warlike Jesuit believes that the best means to preserve peace is to be prepared for war: "*Si vis pacem para bellum.*" A strong army and navy are, therefore, absolute necessities. Nor will domestic peace endure if there be no war for a long time. Soldiers will grow idle and cowardly if they have no chance to cross swords with the enemy.³ To forestall both of these dangers, it will be expedient for the navy to engage in brigandage, which the infidels are carry-

¹ Praesertim si qui honores militares suscipient, ecclesiarum praefecturam, aut omnino alios magistratus, his necessitas imponatur, venia Pontificum si opus erit, reddituum partem et proventuum in ornamenta publica insumendi: pontes instaurandi, inopibus et aegrotis hospitia extruendi, haud leve operaepraetium existet. sic fiet ut virorum praestantium tota provincia innumera monumenta extent: honorum ambitus minor sit, multorum cupiditate restincta eo onere imposito. quod alioqui faciendum Aristoteles monuit, ut minori invidia publico commodo honores et magistratus viris copiosis et praestantibus demandentur. *De Rege*, Lib. III, cap. 10, p. 286.

² Prima ergo cura Principi sit, ut bellum seipsum alat. *Ibid.*, cap. 5, p. 246.

³ Non ita sim mente destitutus, ut bellum paci praeferam, qui sciam tum demum bellum recte geri, cum ad pacem refertur, neque bellum in pace quaerendum, sed in bello pacem: idem tamen contendo, pacem domesticam diu stare non posse, nisi arma cum externis exerceantur, neque enim aut causa justa deesse potest, aut militum otio marcescere pati debemus: sed potius terrae marique praedas agere, in alienos fines irrumpere, urbes praesertim impiorum diripiendas militi tradere: quibus spoliis ditatus haud magnopere militaria stipendia requirat. *De Rege*, Lib. III; cap. 5, p. 246.

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ing on all the time and to a return dose of which they are clearly entitled. The army should from time to time invade the territory of some enemy, seeing that just reasons for war are never wanting.¹

But the great question is how to finance these wars. As was said before,² Mariana believes that war will do this itself, the soldiers receiving booty for their pay and other expenses being met in the same way. Moreover, martial forces should be armed by private citizens or local communities. In time of war the citizen is far more eager to make the greatest sacrifices than he is to spend a single farthing under the head of a tax in times of peace. If people are encouraged to contribute voluntarily toward a civilian war force they will most surely be very generous.³ Thus the king can refrain from spending large sums to pay foreign mercenaries, an expense which has sometimes proved onerous. The result will be another great advantage in that the safety of the country is entrusted to the care of the citizens who are most intimately concerned about the national protection whereas mercenary troops care for nothing except good pay.

Unnecessary wars should be avoided. If a province can be maintained only by constant war it should be given up, for it is better to separate an infected member from the body than to endanger the well-being or even the life of the whole organism. Therefore Philip II acted wisely in abandoning the Netherlands. The same policy was followed by Em-

¹ To understand this war morality of our author we must bear in mind that the war against the Moors was considered by Spaniards a crusade, a holy war. Moreover, in view of the fact that the Moors continually broke their treaties and threatened Spain's trade by brigandage, Mariana thought that his country had the right of retaliation. He writes: *Quid enim, cum hostibus facultas libera sit, mareque utrumque infestum piratae omnibus annis reddant, cum bello saepe lacessant, de nostris praedas agant, eam facultatem nostris hominibus penitus esse praecisam velimus?* *Ibid.*, p. 247.

² Page 225.

³ *Quod si proceres et civitates quasi symbolis collatis equos, viros, arma suppeditare contingat, aliaeque rationes instituantur voluntarios milites ad signa bellumque provocandi, quantum de regiis sumptibus detrahatur, res ipsa indicat. Porro molestius contingit quamvis exigua pecuniam in aerarium tributi nomine conferre, quam multiplicem in bello castrisque sua quemque manu suoque arbitrio expendere.* *De Rege*, Lib. III, cap. 7, p. 261.

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peror Adrian, who destroyed the bridges across the Danube and the Euphrates, because he thought it of no advantage for the Roman Empire to extend its frontiers beyond the territory which could easily be maintained.

If the King of Spain had listened to these suggestions he might have saved the country from financial ruin. Instead Mariana, the fearless champion of truth, was sent to jail and made to stand trial for *lese-majesté*, while flatterers who devised new schemes to oppress the people by additional taxation were always welcome at the royal court.

Chapter III

Fiscal Contributions

OUR investigation of the fiscal ideas of Mariana and the other Spanish Jesuits of the sixteenth and seventeenth centuries has brought to light many significant facts. We have discovered matters not usually looked for in studying scholasticism. We have found that almost all the elements of modern Fiscal Science were applied or, at any rate known, by the Spanish Jesuits.

Their definitions enumerate the substantial requisites of a tax. This, they say, is a compulsory payment to the government without regard to immediate personal benefit. It is thus different from a free contribution. Its purpose is to defray the expenses incurred for the common wants or the general good. All these points the Jesuit definitions touch upon. Even the absence of direct personal benefit is clearly enough indicated, and so a tax is distinguished from fees and special assessments.

Molina's classifications demonstrate that the character of direct and indirect taxes was well understood. Property and per capita taxes he calls "taxes in the strictest sense of the word" because they, if any, must be borne by the taxpayer, whereas charges on commodities are usually shifted to the consumer. Molina also understood the difference between personal, impersonal and mixed taxes.

Most interesting is Molina's statement of the philosophic

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basis of taxation. That this has not received more attention in the past is really surprising. To this day practically all students of Fiscal Science believe that the benefit theory was, until very recently, the only known explanation of the taxing power. In part, this misconception must be due to the wholesale neglect of scholasticism. This type of learning was regarded with contempt, and hardly anyone thought it worth his while to examine scholastic ideas. The concept of the State as a social organism and the obligation, on the part of the individual citizen, of shouldering his share of the public burden were known to the scholastics from the time of St. Thomas Aquinas, who, following Aristotle, in substance developed the same principles as the authors under consideration as early as the thirteenth century.

Though none of the Spanish thinkers had formulated the principles and canons of taxation, almost all of them are contained in their three "conditions." The primary canons of uniformity and universality were treated in practically the same way as they are today. A large portion of Molina's treatise is devoted to the uniformity of taxation. The theory of the "ability to pay" was likewise set forth much more correctly by the Jesuits than by Adam Smith who lived some hundred and fifty years later. Not the protection which the individual enjoys from the State is the reason for the proportionate payment of taxes, but the principle of social or distributive justice according to which the burdens must be apportioned with regard to the ability to pay. To the Jesuits it seemed only just that those who had more should contribute accordingly towards the common good.

For this reason the general sales tax is pronounced contrary to the principle of uniformity. The *Alcavala* can justify itself only in part by some of its other advantages. Molina sees also the inequality of the per capita tax, the amount

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of which is the same for all; but since it is only a slight charge, he does not consider it worth his while to impugn its justice. He finds, after a fashion, some confirmation of this view in the tithes of the Church, which were the same for all and yet were paid without remonstrance.

Can we find any indication of progressive taxation? Not in the strict sense of the word, but there seems to be at least some trace of it. Practically all of our authors advocate a higher tax on luxuries; and Mariana in particular wishes to reduce the charge on the necessities of life materially and to make up for this loss by a high tax on luxurious articles, thus burdening the rich and relieving the poor. This advice he gave not only for fiscal but also for social reasons, wishing as he did to equalize the fortunes of the rich and the poor.

The reason why de Lugo does not advise the restriction of the sales tax to luxuries is the consideration that all should pay taxes. If only luxurious articles were taxed, one class of people would be freed entirely from all tax obligation. This would militate against the canon of universality. Amongst the four maxims of Adam Smith, we do not find this maxim or canon. The Spanish Jesuits, however, were acquainted with it. They saw that the exemption of the nobility and of the clergy were apparently contrary to this principle. Nevertheless they held that both of these classes contributed their share to the common good in another way. It was, furthermore, agreed among them that the king might not grant exemption to any number of citizens, because otherwise the remainder of the community would be overburdened or the sources of public revenue would soon yield no revenue at all.

Exemption has the same basis as taxation: that is, a regard for the common welfare. It is necessary for the com-

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mon good that people should contribute their share toward the common needs; and likewise the common weal demands that extraordinary service to the State be rewarded adequately. Even though our own age looks askance at tax exemption, it has, nevertheless, not entirely disappeared. In many countries churches, schools and charitable institutions are still free from the burden of taxation.

Suarez goes so far in urging the application of the universality of taxation as not to exempt even the ordinary poor, but only the beggarly class. De Lugo maintains, however, that the obligation to support the State arises only after a person has paid his debts and taken proper care of his family.

Mariana also knows that double taxation may outrage social justice. He realizes that the poor Spanish peasant cannot bear a heavy tax because he is already heavily burdened by the tithes of the Church. It is interesting that in answering the question as to whether foreigners might justly be taxed, Molina and de Lugo do not speak of the problem of double taxation but merely discuss the question whether and for what reasons a non-subject may be taxed. Molina can justify it only by general custom and considers it a necessary evil.

Most of the secondary canons of taxation are also used by the Spanish Jesuits. Taxes upon the necessities of life Molina justifies upon the ground of fiscal adequacy. He considers the general sales tax more economical than a direct assessment, believing that it obviates the employment of a large number of officers. Convenience of payment is another consideration in favor of the *Alcavala*. Mariana advocates tax relief for the poor farmer, so that his economic position may not be weakened.

Quite apart from fiscal and social considerations, taxation

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may also pursue an economic purpose. This is the underlying principle in the modern protective tariff policy. Mariana advocated high tariffs on imported goods partly in order to protect native simplicity, and partly to encourage home production. According to him it would be better to draw various artisans and skilled laborers to the country than to export precious metal abroad for goods which might easily be produced in the country. This would also mean an increase in population and would meet the problem of emigration.

Our survey shows that the history of Public Finance as it has been taught in the past needs considerable modification. If it is true that until recently the benefit theory was accepted both as a basis and a norm for taxation, this is in part due to the utter neglect of scholasticism. It is not the German Cameralists who discovered the principle of "ability to pay," as German scholars are in the habit of asserting. Had these scholars interrogated mediaeval scholasticism, they would have found that this principle was clearly understood by the Churchmen of the later Middle Ages. The three "conditions" to which every just tax must conform were likewise considered by these writers as a matter of course. St. Thomas had accepted the Aristotelian view of the State and the principle of distributive justice in apportioning the honors and burdens in a commonwealth. The principle of "ability to pay" is but a practical application of distributive justice. It was further amplified by the three "conditions" with which every just tax must comply.

The author of this monograph does not claim for the Spanish Jesuits the credit of having first set forth the scholastic doctrine of taxation but he does maintain that they have more fully elaborated what was already in substance taught by St. Thomas and other earlier writers. It is Molina

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who above all deserves the credit of having most clearly and thoroughly developed the philosophic basis of taxation. He has also advanced the best arguments for the "general sales tax," to which confessedly even today a good deal of weight is attached.

Conclusion

NOW that we have scrutinized so much of sixteenth and seventeenth century discussion, it remains to sum up Mariana's contributions to political science and more particularly to political economy. His explanation of the origin of the State is in the main the scholastic view that man needs a political society in order to supply the common wants. Men will of necessity organize themselves into a body politic as soon as they realize how unavoidable the division of labor is and how unable they are to supply the needs common to all by their individual strength. It was God's will that men should satisfy these wants by entering into a political society; but He left man free to determine at what moment the State was to be formed. Thus natural law and human liberty became the two forces that cooperated toward the formation of the civil society. Although Mariana follows in the main Aristotle and St. Thomas, he is also influenced by Polybius and Pliny.¹ The point he wants to make is that legitimate governments were not formed by conquest but by voluntary agreement.

Although our author has not clearly elaborated his views concerning the creation of political power, it would nevertheless be wrong to classify him with writers like Locke and Rousseau who hold that all power is created by voluntary agreement or convention. It had always been the clear teaching of the scholastics that all legitimate power comes

¹ Cf. W. A. Dunning, *A History of Political Theories from Luther to Montesquieu*, pp. 68, 70.

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directly from God, the source of all power, and that it is a necessary sequence of the natural law. As the father is by natural law the head of the family, so the State, once entered into by voluntary agreement, has with necessity political power. This is, above all, the clear teaching of Suarez. Both Suarez and Mariana hold that the State comes into existence only by voluntary agreement and that it receives political power at that very moment. Hence it follows that this power resides directly in the whole social group and that democracy is the most natural form of government. Here, the Spanish Jesuits differ from the writers of the time who defended the divine right of kings. These writers maintained that God immediately communicated political power to Adam who transmitted it to his descendants. According to Suarez, however, no man has either by nature or by divine ordinance a right to rule over his fellow men.

The fact that political power resides primarily with the whole community does not mean that the people must retain it. It may be transferred to one person or to a body of persons. Concerning the character of this transfer Mariana differs from Suarez. According to the latter it is a real alienation and gives the king absolute authority, unless provision to the contrary be made in the agreement between sovereign and subjects. The people can reclaim their grant only in case the king becomes a tyrant. Mariana holds that ordinarily the people will and must retain certain supreme rights, such as, for instance, the right of granting taxes, enacting laws and regulating the succession to the throne in case the king is without an heir. This doctrine of Mariana, though philosophically inferior to that of Suarez, shows at any rate that it is desirable that the people reserve certain rights to themselves. In this way he has contributed to the development of constitutionalism and democracy.

CONCLUSION

His ideal of government is a limited monarchy which has the advantage of absolute monarchy without the danger of tyranny.

On the question of tyrannicide our author was led astray by his democratic spirit. His hatred of tyranny was so great that he did not realize how dangerous a doctrine he taught. Despite the number of reservations he specified, he went too far in granting that an individual citizen ever has the right to decide whether his sovereign is a tyrant. He did not teach all that his enemies have charged him with, but he erred.

It must have seemed very novel to find Mariana advocating the principle that ability more than anything else should recommend a person for high positions, even though here too he upheld class privileges to a certain extent. It was too much for his time to give equal rights to all.

More remarkable still are Mariana's contributions to economic thought. He recognizes the social duties of the State but is opposed to an unreasonable State interference. He adheres to the policy of bullionism though he sees its shortcomings and its impracticability. The teaching of the Physiocrats is foreshadowed in the importance he attributes to agriculture. He realizes the importance of commerce and international trade and anticipates the modern tendency toward international economy.

Mariana's greatest contribution to the science of economics is his treatise on money. He sees the evil effects of instability of currency, and presents a masterly refutation of inflation. His arguments are drawn from history, a source little utilized at the time. He adheres strictly to a metallic standard but also sees the advantages of chartal money. The various effects of Gresham's law are touched upon but its limitations did not escape his keen observation.

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Our author was not instructed in the theory of taxation but his Spanish brethren developed and applied many fiscal principles in a masterly fashion. They clearly distinguished between taxes strictly so called and other forms of public payments and they knew most of the modern classifications of fiscal revenues. Molina developed the philosophical basis of taxation with truly astonishing thoroughness and assigned a much better norm for measuring a person's taxability than did Adam Smith nearly two centuries later. In so far as modern students of Public Finance read the scholastic authors, they no longer maintain that the benefit theory was the only one advanced until very recently. The canons of equality and universality were a matter of course to the Spanish Jesuits, and practically all of the secondary canons are found in their three "conditions."

Mariana called the attention of his king to the numberless abuses in Spanish administration, touched upon the problem of double taxation and adumbrated the modern practice of a graduated tax system. He denounced royal extravagance and insisted on accounting and budgeting in the field of public financing.

The results of our investigation would seem to show that scholasticism is after all not so barren and backward as its adversaries maintain. A careful study of this much neglected and slandered type of learning would doubtless bring forth much good fruit. Mariana was a representative of this school, but he was also an historian and a political thinker. It is truly astonishing to see how vast an amount of learning he had at his command. This monograph has confined itself in the main to a discussion of his economic ideas, treating his political views only in a summary fashion. Mariana's contributions to economic thought suffice, however, to secure him an honorable place among the early economists. If

CONCLUSION

Oresme, Copernicus and Gresham are numbered among the great writers on money, it would seem just to rank Mariana in the same category. He treated the problem of inflation for the first time in a thoroughly scientific fashion, and by employing the new historical method. What his works lack in originality of thought, they certainly make up for by their originality of treatment.

When we finally ask ourselves why it is that Mariana has not received all the credit to which he is entitled, the answer seems to be that he had both Catholics and non-Catholics against him. Non-Catholics eagerly pointed to his doctrine on tyrannicide as characteristic of Jesuit teaching; Catholics, on the other hand, in order to forestall as much as possible these attacks said very little about Mariana. There can, however, be no doubt that our author was one of the greatest Jesuits of his day. Had he been great in one field only he might have attracted greater attention; but his greatness lies in his astonishing versatility. He had at his command an enormous amount of learning in the most diverse fields. He is doubtless inferior to Suarez as a philosopher, but taken all in all he compares favorably with this most distinguished Spanish Jesuit.

APPENDIX
LATIN TEXT
of
DE MONETAE MUTATIONE¹

¹The author has not attempted to present a critical edition of this interesting treatise. Mariana's manuscript not being available and there being no second edition of *Tractatus VII*, the author had to confine himself to a faithful reproduction of the text as it stands in the first and only edition of 1609. He has not tried to correct Mariana's peculiarities and inconsistencies in spelling and capitalization. Only where there appeared to be an evident error or misprint, have corrections been made in the text and reference given in the footnotes. To facilitate the reading for those not familiar with seventeenth century Latin and its numberless abbreviations, these latter have been spelt out with the exception of & (*et*), which presumably is generally understood.

IOANNIS MARIANAË.
DE MONETAE MUTATIONE.

DISPUTATIO.¹

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¹ orig. Disputatio?

² orig. ponderae.

ARGUMENTUM.

QUO tempore magna pecuniae inopia in Hispania erat, bella multis locis ac diuturna multaeque aliae difficultates aerarium penitus exhauserant. Eius supplendae inopiae multae rationes sunt excogitatae atque tentatae. Inter alia visum est aeream monetam vitiare, idque bifariam. Duplicato primum veteris monetae valore, unde ad Regem rediret quod adiciebatur, nimirum totius summae (quae ingens erat) dimidium. Magnum in praesenti compendium. Deinde nova ex aere puro moneta est conflata, nullo argento admixto, uti antea moris erat, ac potius de pondere semisse detracto. Unde amplius duabus tertiis lucri Regi accessit. Improvidas hominum mentes. Praesenti copia illecti non considerarunt, in quae mala, ea ratione suscepta, praecipitent. Non defuere tamen qui factum in circulis aut etiam de scripto vituperarent ex memoria praeteriti temporis & malorum ex eo forte cautiores. Quos ineptos vates non extitisse, brevi rerum eventus declaravit. Neque eatenus restitit malum. Eius monetae consumendae aut abrogandae ratio aliqua non incommoda quaerebatur. Accessere non pauci, qui in eam rem de argenteae pecuniae bonitate partem detrahendam consulerent, ut ex eo lucro dispendium compensaretur, quod aerea pecunia antiquata futurum necessario providebant. Remedium multo exitius morbo: quod hactenus repudiatum est: ac potius novo decreto sancitum, ut pars maxima novae pecuniae aereae abrogetur, ex regiis vectigalibus dominis fiat compensatio. Ea occasio huius disputationis a nobis ante institutae novo conatu evulgandae: ut certe posteris nostris malis castigati admoneantur, vix unquam pecuniam in peius mutari nisi reipublicae malo: praesens lucrum cum maioribus incommodis multiplici labe implicari.

PRAEFATIO.

FECISSET Deus immortalis superique omnes, ut nostris laboribus aliquid opis publice esset allatum, uti votis omnibus expetivimus, nullum praemium appeterem haberemque carum amplius, quam ut Rex noster, quique illi sunt a consiliis, regiique adeo ministri alii, penes quos rerum est administratio, hanc schedam attente legerent; in qua sin minus graphice, certe depingere conati sumus vitia quaedam & incommoda, quae avertenda pro viribus cogitabam; ac proprie de moneta aerea cura erat, quae hodie in provincia cuditur minoris quam antea bonitatis. Quae vero occasio fuit in hunc conatum ingrediendi, huncque laborem levem quidem, nonnullum tamen suscipiendi, quid de me iudicaturi sint homines, nulla cura: quorum alii, haud dubium, me audaciae, quidam etiam fiduciae & temeritatis accusabunt, quando periculi immemor improbare non dubitem & sugillare, quae maiori prudentia & usu viri quasi malorum medicinam excogitarunt & invenerunt. Hac me tamen nota & culpa ex parte liberabit sincera iuvandi voluntas, & quoniam nihil in hac disputatione ex nostro sensu ponetur. Ac potius quando universa gens clamat & sub onere gemit, senes & iuvenes, divites & egeni, docti & indocti, absonum videri non debet, si inter tam multos aliquis audet de scripto pronuntiare, quae palam & arcano in conclavi, & in plateis & circulis non absque animorum motu vituperantur. Ut nihil aliud praestitero, officio sane satisfaciam, quod praestare reipublicae aequum est multa lectione virum atque ex ea non ignarum rerum, quae ab omni memoria in orbe contigerunt. *Corinthus* urbs praeclara, uti Lucianus retulit, ex nuntiis & fama cognovit Philip-pum Macedonem armatum adversus eam festinare. Cives ut in repentino motu & timore, alii arma parare, alii muros reficere, alii conneatum expedire & bellica instrumenta. Agebat in ea urbe Dogenes Cynicus, is ubi se videt ad nullam laboris & procurationis partem vocari, quippe inutilis ab omnibus habitus, e dolio egressus, in quo morabatur, coepit illud sursum deorsum magno

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ardore versare. Indignati cives quasi communem calamitatem pergeret ut alia ridere, facti causam ex illo rogarunt. Tum ille: *aequum*, inquit, *non est ut caeteris negotiosis*, ego solus sim otiosus. *Solon* etiam Athenis in civium motu, cum omnes partes arderent seditione, uti Plutarchus ait, cum propter aetatem nullam amplius opem patriae posset praestare, pro aedium foribus armatus constitit; ut in ea virium imbecillitate ostenderet non deesse voluntatem opitulandi. Nam & tubicen officio defungitur, si inflet statis temporibus buccinam, eoque sonitu tum bellicum, tum receptui canat, uti fuerit a duce imperatum, ut maxime milites signo dato non obsequantur, uti Ezechiel ait. Id certe hac disputatione praestabitur, quando quosdam metus retardat, alios ambitio quasi ferro vinctos tenet, non paucis linguam adimit, fauces occludit aurum donaque, ut omnes intelligant non deesse in gente qui e secessu veritati patrocinetur, periculaque indicet & mala, quae publice instant, nisi tempestive occurratur. Denique cum Diogene in publicum prodibo, agitabo dolium; aperiam quod ego quidem sentio, quocumque tandem eventu. Fortassis nostra diligentia proficiet aliquid, quando omnes veritatis cupiditas tenet, iuvandique studium. In bonam certe partem hoc decretum accipiatur sincero ex animo susceptum. Quod ut contingat, tum caelestem maiestatem precor, tum terrenam illius vicariam, omnesque adeo caeli cives. Homines quacumque conditione & dignitate obtestor, ut priusquam nostrum conatum damnent, sententiam non prius ferant in alteram partem, quam hac scheda attente perlecta & contestata lite de qua disceptatur, gravissima meo iudicio inter omnes, quae in gente ante multos annos inciderunt.

CAP. I.

Num Rex sit dominus bonorum quae subditi possident.

MULTI regiam potestatem amplificanc, quam ratio & aequitas patitur magis, alii ut se in Principis gratiam insinuent atque ex eo privatas opes construant, nulla praeterea honestatis cura genus hominum exitiale, sed in aulis Principum frequens. Alii persuasi hac ratione regiam augeri maiestatem, qua publicae salutis tutela haud dubium continetur. In quo falluntur errantque: quando ut virtutum aliarum, sic potestatis certi quidam fines sunt, quibus transgressi non fortior tantum non evadit, sed potius debilitatur penitus & concidit. Neque enim, uti viri graves perhibent, instar pecuniae potestas est; quo maiores quis auri acervos construxit, locupletior evadit & beatior: sed alimenti cum stomacho comparati, quo sive careat, sive oneratur plus satis, ex aequo utrinque gemit & premitur. Atque illud in confesso est regiam potestatem amplificatione extra fines in tyrannidem degenerare, genus principatus & formam non pravam modo, sed debilem, neque diuturnam offensis subditis & inimicis, quorum furori nullae vires, nulla arma resistant. Sane Regem dominum non esse bonorum, quae possident subditi privatim; neque in eius arbitrio fore ut irruat in civium aedes & praedia, inde sumat & demetat quod insederit animo, ipsa regiae potestatis natura declarat, a republica orta, si legitima iustaque sit. Quae Reges in fastigium evexit, primum, uti Aristoteles ait, ut in bello ab ingruenti hostium procella cives tuerentur populo ad signa vocato. Ab hoc gradu ulterius progressum est, dataque est illis in pace potestas vindicandi fontes supplicio, dirimendi inter populares pro auctoritate lites omnes. Quam auctoritatem ut cum dignitate tuerentur, certos redditus designavit unde vitam principalem sustentarent: formam quoque praescripsit¹ eius pecuniae redigendae. Quae omnia eorum reddituum quos respublica attribuit, dominium dant, eorum

¹ orig. praescripsu.

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praeterea possessionum, quae aut idem privatus obtinebat, aut Rex factus accepit a populo, non eorum quae sibi cives publice aut privatim retinuerunt. Neque enim in bello potestas data Duci, neque gubernandi subditos auctoritas iudici facultatem attribuit involandi in bona singulorum. Itaque inter Novellas constitutiones ea quae incipit *Regalia*, in qua regii muneris partes omnes absolvuntur, id dominium non continetur. Prorsus si Regum in arbitrio essent subditorum bona omnium, non usque adeo Iezabelis factum vituperaretur Nabothi vineam occupantis, quando sua, mariti certe Regis iura, prosequeretur, vendicabat quod suum erat: ac potius Naboth accusaretur contumaciae, quasi reddere debitum iniuria detrectasset. Ita iureconsultorum communis sententia est, (quam explicant in Cod. si contra ius vel utilitatem publicam, lege ultima, affertque eam Panormi. c. quanto. de Iureiurando), Reges sine consensu populi nihil posse in subditorum detrimentum sancire, nimirum bona illis aut partem detrudere in regiamque avertere nefas est. Et vero fas non esset Principi ad iudicium tribunalia movere litem, diem dicere, si cuncta in eius potestate iureque essent. In promptu responsio, si quid alicui detraxisset, id non iniuria, sed suo iure fecisse. Neque aedes privatas aut praedia pretio redimeret, cum iis opus habet, sed potius manu caperet tanquam sua. Pluribus exequi rem manifestam esset supervacaneum, quam nulla mendacia obruent, nullae assentationes luci apertae noctem inducent. Tyranni id proprium est, nullis finibus coërcere imperium, omnia esse sui iuris putare. Rex contra modum imponit potestati, cupiditates fraenat, iustitia atque aequitate definit, neque ultra progreditur. Bona privatorum in sua fide atque tutela esse statuit, neque illis detrahit quidquam, nisi forte ex legum praescripto & forma.

CAP. II.

An Rex possit tributa subditis imperare non consentientibus.

GRAVE quibusdam videtur, neque cum maiestate consentire, Principis rationes pendere a populi voluntate, atque ita ut non possit nova illis tributa imperare nisi de eorum consensu. Quod est Regem non arbitrum rerum facere et moderatorem, sed subditos. Atque eo progrediuntur, ut affirmant, si regni conventus coguntur, cum nova imponuntur tributa, id Principis modestiae potius tribuendum, alioqui valentis pro sua voluntate id facere, ne consultis quidem subditis, sed ut res postularint aerariiue angustia. Blandi profecto sermones, gratique auribus regentium, quibus aliquando finitimi Principes in fraudem inducti sunt, ac nominatim in Gallia. Ubi Philippus Comineus testatur in Ludovici undecimi Regis Galli vita extrema, eius Regis patrem Carolum septimum, primum eam rationem secutum. Angustiae premebant, maxime magna provinciae parte ab Anglis occupata. Ita proceribus delinitis, quibus annuas pensiones largitus est, reliquum populum pro libidine novis tributis oppressit. Quo ex tempore praedicant vulgo, Reges Gallos in suum ius venisse quasi sublata populi tutela: cum revera ea plaga sit ab offensione populari accepta, quam tot anni non sanarunt, & unde ad hunc diem sanguis manet, quae sunt eius historici verba. Addam ipse bella ea quae in Gallia nostra aetate tot annis viguerunt civilia, non ex alio fonte nata. Populus enim oppressus, ac plerique sine lare, sine re familiari, bonis eversis, arma consensu corripuerunt perire aut perdere destinantes, aut morte finem malis, aut praeda si vicissent, divitias et copias exoptantes; quod ut facilius contingeret, religionis velamen obstinationi praetulerunt, perversitati honestatem: unde innumera¹ mala sunt consecuta. Procuratores civitatum in conventus vocari certe in Castella parum prodest, plerique eorum rebus gerendis parum sunt idonei, quippe forte ducti, leves homi-

¹ orig. immunera.

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nes, ingenio vaenali, nihilque prae oculis habentes prae cupiditate ex publica calamitate gratiam Principis promerendi, ex ea lucrum captandi. Solicitationes, adde aulicorum minas imiscentium precibus et pollicitationibus, quibus vel Cedri Libani everterentur et caderent. Nemini id est dubium; atque ut res sunt nunquam eos votis Principis repugnatos, satis constat, ut non impetret tandem quaecumque voluerit: foretque consultius si ii conventus nunquam haberentur: quo inutiles excusarentur sumptus multiplicesque corruptelae. Verum nos hoc loco non quod fit despiciamus, sed quod ratio exigit, populi consensu libero non vi aut precibus minisve expresso tributa nova subditis imperari. Populus quidem, uti monet historicus idem, debet se facilem exhibere, neque Principis votis repugnare, sed potius, ut res se dabunt, aerarii inopiae pro virili parte succurrere. Sed et Principis etiam aures patientes esse debent, populum audire ac diligenter considerare copiae ne suppetant & vires ad ferendum novum onus, an rationes aliae inveniantur ad occurrendum angustiae; etiamsi opus sit Principe ad modestiam revocato castigatisque sumptibus supervacaneis, quod video passim factitatum in paulo antiquioribus regni conventibus. Sit ergo fixum nunquam Principi licere subditos novis oneribus premere, nisi accedat consensus quorum interest, certe populi capitum & reipublicae. Id satis confirmat, quod paulo ante dicebamus, in Regis arbitrio non esse privata civium bona. Non ergo aut universa aut partem decerpit nisi ex eorum voluntate, quorum in iure sunt. Praeterea si ex iureconsultorum oraculo nihil Rex potest statuere in privatorum perniciem iis recusantibus, non poterit honorum partem occupare novo tributo excogitato & imposito. Quid! quod nec ducis munus nec rectoris eam facultatem dat. Sed potius quando a republica eam potestatem accepit redditibus designatis quibus vitam principalem sustineret, impositis muneribus satisfaceret si ea vectigalia augeri cupit, adeat necesse erit eos qui initio eos redditus numero definito designarunt. Eorum partes erunt pro re nata, & ut visum erit, quod petitur concedere aut denegare. Quod si in aliis gentibus secus fieret, in nostra certe lege vetitum est, qua Alfonsus undecimus Castellae Rex populi precibus dedit in regni conventibus Madriti, anno salutis 1329. petitione 68. ne unquam iniussu populi tributum genti imponatur. Legis verba sunt: *Adhaec quoniam supplices postularunt, ne insolutum tributum imperetur, neque*

APPENDIX

publice, neque privatim nisi gente in conventum prius vocata, concessoque ab omnibus procuratoribus civitatum qui aderunt: ad hoc respondemus: placet id nobis, atque ut ita fiat statuo. Philip-
pus quidem Comineus, quo loco iam diximus, his subiecta verba Gallice repetit. Quare ut in proposito pergam, nullus est Rex aut Princeps in orbe terrarum, qui possit a gente sua, vel quadrantem unum exigere nisi iis volentibus qui debent repraesentari, nisi per violentiam & tyrannidem. Quin paulo deinceps adiicit praeter tyrannidis notam, anathematis etiam sententia involvi, qui secus facit Princeps. In quo mihi respicere videtur sextum caput diplomatis, quod in coena Domini promulgatur, execratione ex ritu Christiano devinciens, quicumque in ditione nova tributa imperarit. Ubi quaedam diplomata habent, *Nisi concessa ad id facultate, alia, nisi quo eventu id fuerit a iure et legibus concessum.* A qua execratione an Reges eximantur contra facientes aliorum esto iudicium, nobis sane eximi non videbatur, quando neque faciendi secus habent potestatem, neque id a iure conceditur. Quod cum is auctor ex ordine sacro non fuerit, ac potius litterarum prorsus expertus, quod tanta asseveratione affirmatum reliquit, utique ex auctoritate posuit ea aetate theologorum in ea re sententiis non discrepantium. Adde ipse non modo Principem eius delicti et supplicii esse reum, quicumque tributum nomine id facit; sed etiam qui monopolii specie & fraude, nisi populi consensus accedat. Perinde enim¹ est & nominis alieni persona detracta eodem pertinet ea fraus, nempe ut rebus carius quam aequum esset divenditis, subditorum pecuniae partem domum avertat, nulla ad id auctoritate. Ab aliquot quidem annis monopolia aliquot sunt a Principe in provincia invecta aleatoriarum chartarum, sublimati, atque salis. De quibus non disputo: ac prudenter potius instituta arbitror, & de principis probitate & religione credendum, nihil in eo commisisse quod a ratione quod a legibus exorbitaret. Id tantum contendo monopolia a tributis non discrepare, neque minori cautione opus fore ut ea rite instituantur, neque minori populi consensu. Exemplo res erit apertior. In Castella saepe agitata est, ut ex farina certum vectigal publice exigatur. Gens hactenus restitit magnis difficultatibus victa. Quod si monopolio instituto Regi licet frumentum omne coëmere in universa gente, quod maio-

¹ orig. perinde, n. est.

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ris deinde vendat, supervacaneum erit & vanum ad imponendum tributum ex populi pendere voluntate, si tantundem ac vero maiori lucro & compendio est in Regis arbitrio per monopolium consequi, quod cupit. Omnino ex iis, quae sunt dicta illud efficitur, si Regi non licet nova tributa imperare, ne posse quidem rerum venalium monopolia instituere nisi consulto approbanteque populo cuius de re agitur.

CAP. III.

Num Rex monetam vitiare possit pondere aut bonitate mutatis, populo inconsulto.

DUO hic sunt manifesta. Primum Regis in arbitrio esse mutare monetam quoad formam & expressam in ea imaginem, modo eam deteriore solito non efficiat. Sic ego iureconsultos interpretabar, cum Regi dant monetæ mutandæ facultatem. Officinae monetariæ sunt in Regis iure, in iisque liberam habet administrationem. Ita in lege Regalia inter alia regia iura numeratur moneta. Quod ergo sine subditorum detrimento contingat, monetæ cudendæ eam rationem instituat, quæ magis placuerit. Deinde si aliqua premat angustia belli aut obsidionis Regem damus posse sine populo vitiare monetam, modo vitium non ultra tempus angustiae prorogetur, rebusque tranquillis integra fide satisfaciatur iis qui damnum pertulerunt. Faventiam Fridericus secundus Augustus obsidione premebat durissima hyeme. Obsessi nihil voluntate faciebant, producebatur obsidio deeratque in stipendium pecunia. Percuti monetam e corio iussit, ex altera parte eius effigies, ex altera imperii aquilæ, aurei unius valor singulis. Quod fecit sua voluntate nullis imperii comitiis. Salutare consilium rei eventus aperuit. Ea arte recreato milite urbem in suam ditionem redegit. Peracto item bello integra fide pro coriaceis monetis totidem aureos nummos reposuit. Sic refert Collenucius factum historiae Neapolitanae lib. IV. In Gallia etiam aliquandi moneta ex corio percussa est claviculo argenteo distincta. Tum Lugduno in Batavis obsessa e papyro monetam factam memorat, anno salutis 1574. Budelius li. I. de monetis c. I. nu. XXXIV. Atque hæc quidem in confesso sunt, illud dubium: possit Princeps sine exceptione, aerarii inopie succurrere suamet auctoritate & pro imperio monetam adulterare de pondere aliqua parte detracta aut vero de bonitate. Sane iureconsultorum communis sententia ea est cum Hostiensi in tit. de censibus § ex quibus

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Inno. & Panor. C. Quanto de iureiurando, Principem id facere non posse, nisi de consensu subditorum. Ex iis quae sunt dicta, & hoc efficitur, nam si Rex honorum, quae subditi privatim possident, rector & non arbiter est, neque hac neque alia ratione & arte poterit eorum partem decerpere pro voluntate: quod contingit quoties vitiatur moneta: pluris enim datur, quod valet minus. Quod si Princeps subditis tributa imperare non potest invitis, neque rerum vaenaliū monopolia instituere, non poterit ex moneta adulterata novum lucrum captare: eodem enim pertinent hae artes ad emungendum populi marsupia construendamque pecuniam provinciae in aerarium, ne fucō capiaris & fraude, metallo dantis legis maiorem valorem, quam pro sua natura & communi aestimatione. Quod profecto sine communi nocumento non contingat, non secus ac sanguine detracto quacumque arte & prudentia, corpus haud dubium debilitatur & concidit. Sic Princeps captare lucrum non poterit sine subditorum dolore & gemitu. Ubi lucrum uni cedit, inde alterius damnum exurgit, quod Platonem dixisse memorant. Haec fundamenta naturae nulla quis industria convellat. Sic invenio cap. Quanto de iureiurando ab Innocentio tertio irritum iudicari iuramentum, quo Iacobus Aragoniae Rex cognomento *expugnator* pecuniae conservandae, aliquanto tempore se reum fecit a patre Petro secundo percussae minore quam antea bonitate: atque inter alia sententiae eam causam attingit consensus populi praetermissi. Quod verbum tum Inno. tum Panor. explicantes quod superius est dictum, confirmant in Principe situm non esse aliquid statuere cum populi nocumento coniunctum. nocumentum vocamus id quo rei familiaris pars aliqua detrahitur. Ac vero nesciam qui possint id facientes execrationem censuramque evadere in coena Domini promulgari solitam omnibus annis, quando ut in monopolis est dictum, artes hae omnes quacumque simulatione eodem omnes pertinent, ad gravandum populum novis oneribus & pecuniam corradendam quod non licet. Nam si quis contendat nostris Regibus ab antiquo concessam populi dissimulatione & patientia facultatem pro arbitrio mutandae monetae, ego quidem eius moris & licentiae ne vestigium quidem: ac potius leges monetariae omnes tum Regis Catholici, tum Philippi secundi pronepotis, tum Regum priorum in gentis conventibus semper fuisse latas invenio.

CAP. IV.

Geminus pecuniae valor.

GEMINUS pecuniae valor est: alter *intrinsecus & naturalis* ex metalli conditione & pondere sumptus, quibus accedat cudendi labor & apparatus non sine sumptu susceptus, *alter legalis* vocatur & extrinsecus nempe lege Principis constitutus, penes quem est uti aliarum mercium, ita pecuniae praescribere pretia. In bene constituta republica penes quos rerum arbitrium, iis curae esse debet, uti hi duo valores exaequentur neque discrepent inter se: nam ut esset iniquum in aliis mercibus quod ex se atque communi aestimatione valet nummos quinque, taxare decem, tantundem in pecunia contingit si legalis valor exorbitet. De qua res tum alii, tum Budelius disputat lib. I. de Monetis nu. VII. qui omnes consona voce ridiculum et puerile vocant si quis contra sentiat. Et alioqui si valores hos disiungere licet, cudant monetam e corio, cudant e papyro, cudant e plumbo, quod aliquando in rerum angustia factum scimus: eodem enim recidet ratio, minorque operarum sumptus erit, quam si ex aere conflabitur. Non equidem in ea sum sententia, ut Principem statuam suo sumptu debere monetam conflare: ac potius aequum arbitror ut pro cudendi labore, universoque monetali ministerio addatur valoris aliquid ad metalli aestimationem, ac ne fore quidem absonum, si in signum dominii & praerogativam pars aliqua exigua lucri Principi ex ea administratione accedat, uti lege Madriti promulgata anno 1566. expressum est, ubi agitur de argenteis quadrantibus conflandis (*quartillos* vocant) quod Inno. etiam in cap. Quanto de iureiurando indicat, nisi dicit aperte. Idem tamen contendo hos duos valores diligenter & accurate exaequandos: quod ex Aristotele colligitur primo Politico cap. VI. asserente, initio inter homines susceptum, ut res inter ipsas permutarent. Deinde communi sententia fore optimum visum est, si res vaenales cum metallis mutarentur ferro atque auro, ad vitandum sumptum & levandum

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molestiam conferendi ex longinquo merces ab utraque parte graves praesertim & impeditas. Sic ovem aeris tot libris, aequum argenti pondere commutabant. Grave erat ea metalla identidem appendere. Publica auctoritate susceptum, ut metalli partes iuxta cuiusque pondus signarentur ad commercii commoditatem. Is primus & legitimus pecuniae usus est, artes alias & fraudes tempus invexit & malitia, ab antiquo & salutari usu profecto alienas. Et ut veteres leges mittantur, nostratibus plane id fuit propositum, ut hos duos valores exaequant. In auro quidem & argento id non est dubium, quando ex besse argenti (*Marcum* nos dicimus) argentei nummi sexaginta septem conflantur nihilominus, cum rude argentum eo pondere sexaginta quinque argenteis permutetur, utrumque ex legis praescripto. Ita pro cudendi industria bini modo argentei adduntur: ac singuli argentei cum triginta quatuor maravedinos valeant, argentum cuiusque sublato signo fere triginta tribus maravedinis aestimatur. Quid de auro dicam? Ex auri besse cuduntur aurei LXVIII. quos Coronas vocant, tantundem rude aurum ferme valet. Id etiam servatum in aerea moneta, in qua difficilius videbatur cum naturali valore legalem componere. Ac Reges quidem Catholici lege Medinae Campestris lata anno 1497. sanxerunt ex aeris besse, cui miscerentur septem argenti grana, hoc est argentei & dimidii amplius pondus, conflari maravedinos seu quadrantes nonaginta sex. Argentum plures uno & quinquaginta quadrantibus valebat. Accedebant octo aeris unciae & conflandi labor minimum alios quadraginta quadrantes exaequantia valore. Sic legalis valor cum metalli valore & labore facile componebatur. Deinde Philippus Rex Madriti anno 1566. abrogata priori lege statuit, ut octo aeris unciis miscerentur quatuor argenti grana, nempe unius argentei pondus. Ex iis cuderentur quadrantes centum & decem, sic ex bonitate metalli detraxit dimidium argenteum & aliquid amplius, ad antiquum valorem addidit quatuordecim quadrantes. sumptus ut arbitror respexit haud dubium ex tempore spatio duplicatos, tum ut lucri aliquid ex ea administratione accederet. Qua modica quamvis et tenui spe illecti multi mortales a Rege facultate impetrata, ipsorum sumptu eam monetam conflandi, ingens fecere compendium; atque ita ut superioribus annis ea negotiatio imprimis quaestuosa sit habita. Neque tamen ea ratione suscepta duo valores inter se multum discrepabant: quando in besse aeris argentei valor con-

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tinebatur, tum aeris & conflandi aestimatio, quae duo haud dubium duobus aliis argenteis minimum aestimabantur, eo amplius quod minutae monetae frequenter cudebantur, quas blancas dicimus valore dimidii quadrantis maiori multo molestia & taedio. In aerea moneta quae hoc tempore conflatur, aeri nullum argentum miscetur, & ex octo unciis aeris prodeunt ducenti octoginta quadrantes. Signandi sumptus non ultra argenteum omnis excrescit, aes emitur sex & quadraginta quadrantibus. Sic signi et metalli valor ad octoginta quadrantes pervenit. Cedunt praeterea aerario ducenti quadrantes, quibus legalis valor superat valorem intrinsecum & naturalem eius monetae, quanta cum perniciose reipublicae iam pergitur explicare. Ac primum a pecuniae id natura & prima inventione abhorreere superius est explicatum. Deinde nulla diligentia praestabit, quo minus ex omnibus partibus eam monetam adulterent alia simili supposita, spe ingentis lucri illecti. Postremo ii tandem valores exaequantur populo recusante pluris pecuniam in commerciis dari accipique quam pro valore naturali. Fictiones enim & fraudes, brevi, arte detecta cadunt: neque si Princeps contra nitatur quidquam proficiat. An possit efficere ut saga rudia vendantur pro serico eteromallo, laneae vestes pro aureis? non plane ut maxime conetur, idque alioqui legibus esset permissum, neque cum aequitate pugnaret. In Gallia saepe a Regibus solidi deteriores sunt facti, continuo argentei nostri pluris quam antea expendebantur: & qui quatuor solidis aestimabantur, brevi, quo tempore in ea provincia sumus morati, ad septem & ad octo solidos aestimatione excrevere. Quod si pecuniae valor legalis non decrescit, certe merces omnes maioris comparantur, quantum de pecuniae bonitate aut pondere fuerit detractum necessario: neque ulla arte resisti poterit: sicque eodem omnia devolvuntur, ut ea pecunia minoris sit quam prior et proba, uti consequentia declarant.

CAP. V.

Commercii fundamenta moneta pondera, et mensurae.

COMMERCII haud dubium fundamenta, quibus universa mercaturae moles incumbit, pondera & mensurae sunt atque pecunia. Pleraque enim pondere & mensura vaeneunt, cuncta pecunia. Quae eo pertinent, ut sit omnibus persuasum uti in structuris fundamenta immota manent & intacta, non secus pondera, mensuras, pecuniam, sine periculo non moveri & commercii detrimento. Id intelligebant antiqui, cum quo maior cautio esset, specimen harum omnium rerum in sanctissimis templis reponerent, ne a quoquam temere vitiarentur. Sic Fannius testatur in libello de Ponderibus & mensuris, extatque de ea re Iustiniani Augusti lex Authen. de collat. colla. IX. Tum ex illis verbis Levit. cap. 27. nu. 25. *Omnis aestimatio siclo sanctuarii ponderabitur*, quidam colligunt suceptum inter Iudaeos more, ut siclus quatuor drachmas argenti appendens in sanctuario servaretur, ne quisquam illum auderet vitiare, de bonitate aut pondere partem detrahere facili ad legitimum siclum recursu. Tanti fuit haec intacta conservare, ut nulla diligentia supervaecanea iudicaretur: ipse etiam Thomas Aquinas lib. II. de reg. Principum c. XIV. monet *non temere* aut ex libidine Principis *monetam mutandam* videri. Quocirca *Azumbris* seu congii mutatio hisce annis facta in Castella, quo novum ex vino & oleo tributum minore populi gemitu exigeretur, vituperatione non caruit. Nam praeter alia incommoda novus ex eo labor exurgit volentibus cum recentibus comparare antiqua, nostra cum externis, nova confusio. Ut videntur parum esse eruditi, penes quos rerum potestas est, quando non animadvertunt perturbationes & mala, quae in nostra gente & inter externos ex hoc fonte saepe exstiterunt. Monetae depravationem fore quaestuosam Regi intelligere promptum erat, saepeque antiquos ea spe in fraudem inductos constat. Iidem tamen advertere potuerunt incommoda, in quae continuo ea suscepta

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mutatione praecipitarunt. Atque adeo ut iis incommodis mederi, fuerit opus novis saepe & maioribus malis uti suo loco explicabitur: Non secus ac potus intempestive datus aegroto, in praesenti, tantisper recreat, vestis mutatio: in posterum tamen morbi causas exaggerat, auget febris ardorem. Quanta praeterea cautione olim curatum sit, ne haec fundamenta humani convictus moverentur, argumento sit, quod libro *de Ponderibus et mensuris* explicuimus ca. VIII. unciam Romanam tot saeculis mansisse immotam, eandemque esse cum nostra, quod de aliis ponderibus tantundem fateamur necessum est: nostra ab antiquis non discrepare.

CAP. VI.

Moneta saepe est immutata.

IUDAEOURUM sententia communis est, monetas, mensuras & pondera sanctuarii, vulgaribus dupla fuisse maiora, *Bathum, Gomor, siclum*, alia omnia. Huius rei ea imprimis causa extitit, quod asservandi mensuras & pondera in sanctuario diligentia efficere non potuit, ut populus pro rerum eventu vario, ea non minueret, minoraque dimidio redderet. Qua ratione varia scriptorum veterum loca conciliantur inter se discrepantia in speciem, aut cum divinis litteris pugnancia. Inter Romanos constat, atque ita testatur Plinius lib. XXXIII. c. III. Assem monetam aeream valore quatuor quadrantum nostri temporis, cum initio librae pondere cuderetur nihilominus, premente deinde primo bello Punico ad duas uncias redactam, quos asses sextantarios vocarunt, quasi sextam librae partem appendentes, quae duodecim unciarum erat tunc, uti hoc tempore libra Italica atque Gallica. Deinde Annibale bello premente Romanos ad unciam redegerunt asses priorum partem duodecimam, ac tandem ad semunciam ponderis detractio pervenit. Denarius valore quadrantum quadraginta initio signatus ex argento puro, deinde a Druso Tribuno plebis octavam aeris partem accepit priori bonitate immutata. Sic Plinius eodem loco affirmat. Quin consequenti tempore plus aeris immixtum est, quando hodie denarii non pauci effodiuntur ex argento minori multo bonitate propter aeris maius pondus immixtum tertia amplius. Aurea item moneta praecipua bonitate atque duarum drachmarum pondere, tempore primorum Imperatorum, deinde ex uncia auri signabantur sex, quos solidos nominabant, nostri Castellani circiter pondere. De quo Iustiniani Augusti lex extat. C. de susceptoribus, praepositis, & arcariis, cuius initium est. *Quotiescumque* Plautus, quin etiam ea antiquitate vates ad hanc novandi licentiam, respiciens in prologo quodam Romanorum vitiandi monetam. Sugillare videtur. cum ait:

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*Qui utuntur vino veteri sapientes puto.
Nam nunc novae, quae prodeunt comoediae.
Multo sunt nequiores quam Nummi novi.*

Monetae quoque quae hodie extant, indicio sunt saepe factam mutationem earum a Romanis. Idem recentiori memoria in omnibus gentibus factum est. Principes sive volentibus subditis, sive invitis frequenter monetam mixtura vitiarunt, aut de pondere detraxere partem. Externa exempla requirere supervacaneum esset, quibus domesticorum affatim suppetat. In historia Alfonsi XI. Castellae Regis cap. XIV. affirmatur a Ferdinando Rege sancto, eiusque filio Alfonso sapiente, tum a Sanctio, cui Fortis cognomen fuit, & a Ferdinando huius filio & nepote Alfonso XI. monetam fuisse mutatam. Itaque quinque horum Regum tempore, quod satis prolixum fuit, nulla fuit in moneta constantia: saepe mutata est deteriorque facta. Quod plane mirabile est, Petrum Castellae Regem Alfonsi postremi filium monetam vitiasse non invenio. Suspicio potius incommodis castigatum, quae ex monetae mutatione extiterant rerum potiente patre abstinuisse, ac potius probam monetam signandam curasse argumento earum monetarum, quae eius nomineveniuntur percussae. Nam Henricus II. eius frater aere alieno oppressus, quod dono dedit vindicandi regni sociis & adiutoribus, & maioribus in posterum illicitis onustus ad id remedium recurrit. Monetae duo genera conflavit Regales trium Maravedinorum, & unius Maravedini valore cruciatos. Sic historia de rebus eius testatur anno 4. cap. X. Gravia incommoda ex eo commento continuo extitere, neque successores tamen id exemplum imitari sunt veriti. Ioannes primus ut Alencastrio Duci de regno rivali pactam ex foedere pacis pecuniam numeraret, novam monetam excogitavit Blancam nomine unius Maravedini valore, quam paulo post imminuto valore ferme dimidium, sanxit sex modo denariolis aestimari, quos Novenes vocabant. Viruescae in conventibus id referunt habitis salutis anno 1387. Depravandi monetam licentia minori bonitate auctoque valore usque ad Henrici IV. regnum tenuit omnium perturbatissima tempora. Ab historicis eius temporis praetermissum ex vario argenti valore aperte colligitur. Nam Alfonso XI. Castellae rege octo argenti unciae seu his 125. Maravedinos valuit. Henrico secundo rerum potiente argenteus regalis tribus Maravedinis pendebatur, atque

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adeo bis ducentis Maravedinis. Sub Ioanne primo Henrici filio crevit ad ducentos quinquaginta, argenteus quatuor Maravedinis erat, aureus quinquaginta, aut argenteis duodecim. Burgenses id conventus testantur habiti anno 1388. leg. I. Succedit Henricus tertius: quo tempore pervenit is valor ad Maravedinos 480. vel etiam 500. Quin sub finem huius Regis & initia Ioannis secundi ad mille Maravedinos crevit aestimatio. Demum Henrico quarto res gerente bis mille, & bis mille quingentos Maravedinos valuit. Quae omnis varietas & incrementa non ex metalli varietate veniebat, semper enim octo uncias argenti modica aeris admixtione continebat; sed Maravedini aut aliarum monetarum frequens depravatio efficiebat, ut argenti eodem pondere cum illis comparati aestimatio maioris esse videretur. Porro varia haec argenti aestimatio ex Antonio Nebrissensi ferme omnis desumpta est in suis repetitionibus, & vero monetae horum Regum quae extant, fuscae sunt omnes ad indicium licentiae iis temporibus frequentis pecuniam vitiandi. Verum haec omnis inconstantia lege Ferdinandi & Isabellae Regum Catholicorum hactenus restitit, quae octo argenti unciis pretium statuit Maravedinorum rudis quidem 2210. signati autem 2278. ad hanc quidem diem retentum. Philippus quidem secundus de Maravedini bonitate & pondere aliquid detraxit, quod ob exiguitatem in aestimatione argenti ad Maravedinos relata nihil mutavit. Quae modo mutatio pecuniae aereae facta est, valorem ut puto, mutabit, atque efficiet, ut octo unciae argenti ad Maravedinos supra quatuor millia aestimatione pertingant, eorum qui in praesenti signantur. An fallit coniectura?

CAP. VII.

Commoda quae ex mutatione aerae monetae proveniunt.

OPERAE pretium putabam, si commoda, quae ex mutatione aerae monetae veniunt & incommoda accurate examinarem, oculis utraque subiicerem, ut quae sint maioris ponderis & momenti prudens lector & cordatus consideret sedato animo neque infecto aliquo praeiudicio, sic pro veritate victoria maneat: quod enim aliud votum esse debet! Ac primum hac facta mutatione argenti sumptu liberamur, cuius magnum pondus multaue talenta antea aeri miscbantur quotannis nullo prorsus fructu, id praestat bonitatis imminutio. Ex minore pondere consequetur vecturae maior facultas expeditae, quocumque mercatores eam voluerint pecuniam deferre, eaque in commerciis uti, quod magno antea constabat. Deinde eius pecuniae magna in provincia copia erit; ex eo commercio locus amplior externorum cupiditate praecisa, qui alioqui in auream & argenteam monetam tum avidas, tum tenaces manus iniiciunt. Qui eam habebunt, libenter cum aliis communicabunt, unde nomina solvantur, praedia excolantur maiori proventus spe, opificia instaurentur, quae saepe ob penuriam pecuniae iacent, unde maior existat pecoris frugum & mercium copia lineae, lanae, & bombycinae vestis, tum rerum aliarum vae-nalium. Ex copia existet haud dubium vilitas, cum ante nisi magno faenore dato pauci mutuam ad id pecuniam invenirent. Sic nostra contenti sorte & copia minus requiremus externas merces, quibus advectis argentum nostrum avertunt & aurum, peregrinis moribus gentem nostram inficiunt, certe ex mercium molli-tie homines ad bella nati, & ad arma corpore debilitantur, & vigor animorum martius extinguitur. Neque externi qua solent frequen-tia ad nos venient, tum propter copiam mercium nativarum, tum propter pecuniam, quam cum suis rebus mutatam recusabunt in patriam deferre nullo fructu. Omnino redacta ex suis mercibus pecunia, provinciae merces alias comparabunt, ut erit commodum,

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quas in patriam revehant. Ac quantum illud est, quod Regis in aerarium ea industria multum pecuniae inferetur unde debita solvantur, iis qui regia tributa habent oppignorata,¹ quae magna rerum calamitas, idque sine cuiusquam iniuria & gemitu sola monetae immutatione. Magnum haud dubium Regi lucrum accedet. Sic Plin. loco superiori confirmat assium pondere imminuto Romanos e magnis angustiis emersisse, nomina exolvisse, quibus premebantur. Idem de Alfonso XI. Castellae Rege refert historia de eius reb. ca. IIC. tantundem de Henrico II. anno quinto cap. X. respirasse deposito ea arte onere quo premebatur gravissimo, solvendi reus propter bella gesta, magnam pecuniam tum aliis, sed praesertim Bertrando Kilaquino promissam, externisque, quorum ope regnum abstulerat fratri. His adiungo tum Romanos veteres, tum hoc tempore gentes alias aerea pecunia uti penitus, nulla argenti admixtione, neque alterius pretiosi metalli. Quin olim usitatio ea videtur fuisse aliis monetis & magis communis, quando aeris nomine pecunia promiscue inter Romanos intelligebatur; unde ad nos fortasse defluxit, ut per Maravedinos explicemus, quantum quisque in bonis habeat, quanta annuatim vectigalia. Ac illud constat olim Hispanos usos aureis Maravedinis, quod tempus cuius sunt magnae vires, ex ea moneta aurum penitus detraxit, ut mirum videri non debeat, si nunc argentum ex nostro aere detrahitur, cuius nullus usus erat, neque ex eo cuiquam mortalium commodum unquam extabat. Quae omnia magni momenti sunt commoda, quibus ut sit locus, aequum erit incommoda dissimulare, quaecunque ex novo commento extare curiosus aliquis accusabit. Omnino nihil est in hac vita syncerum liberumque omni noxa & reprehensione. Ita prudentis partes sunt ea persequi, quae maiores commoditates afferant, minus vituperentur, praesertim cum humana natura hoc quoque sit nomine prava, quod semper accusare solet recentia commenta & artes, moris antiqui vel maxime tenax, quasi nihil possit corrigi addique veterum institutis.

¹ orig. oppignerata.

CAP. VIII.

Maravedini multiplices et varii valoris in Castella.

PRIUSQUAM incommoda explico, quae cum novo commento aeream monetam depravandi necessario videntur implicata, operaepretium fore sum arbitratus, si varia Maravedinorum genera aliis atque aliis in Castella temporibus usitata, ac singulorum valores explicarem. Implicata & multiplex disputatio: sed bene erit opera collocata, si per nos veritas densis tenebris obruta hactenus desideratam lucem videbit, quod non desperamus. Ac primum in hoc genere Maravedini aurei locum occupabunt Gotthorum tempore in frequenti usu. Romani quidem Imperat. recentiori tempore aureos signarunt minores antiquis, ex auri uncia 6. ex besse seu marco octo & quadraginta nostris Castellanis paulo maiores. Hos aureos solidos vocarunt, duodecim denarii singulorum valor. Quod si denarius Romanus quadraginta quadrantibus seu Maravedinis aestimatur, solidi valor ad 480. excrescet quantum noster Castellanus. Sic consequenti tempore solidi quamvis ex argento percussi ac tandem maiori ex parte facti aerei, semper retinuerunt tamen ut duodecim aestimentur denariis, & ipsis non iam argenteis, sed aereis. In Gallia certe atque inter Aragonios, ubi solidorum nomen manet, singuli solidi efficiunt denariolos duodecim. Adhaec, Romanum imperium vigeat in Hispania, & cum eo, ut fit, moneta, leges, moresque Romani, quo tempore in eam provinciam Gotthi ferro penetrarunt. Imperio tamen quamvis commutato, mores victores & dederunt victis, & ab illis acceperunt. Ac praesertim moneta Romana initio sunt Gotthi usi, deinde stabilito novo imperio novam ipsi monetam excogitarunt percusseruntque, quam Maravedinos dixere. De vocis notatione laborare non est necesse: sed singuli tamen Maravedini valore erant decem denariorum, quadrantum quadringentorum, quanti hodie noster aureus aestimatur, nempe Maravedinis seu quadrantibus quadringentis. Ab eo principio retentum, ut Maravedini quamvis argentei

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facti primum, deinde aerei; aestimantur tamen decem denariolis. Ea enim¹ Maravedini lex est, ut duas blancas contineat, sex coronatos, decem denarios, sexaginta meagias. Eae quidem monetae minores ad vilitatem penitus evanuerunt: sed cum vigebant, tamen ad eum modum cum Maravedino comparabantur. Inter solidum Romanum & Maravedinum aureum Gotthorum, exiguum erat in valore discrimen. Ita pro solidis in mulctarum modo positis in Romanis legibus in foro iudicum libro, unde iura dabantur populis Gotthorum imperio, substitui pari numero Maravedinos aureos solenne est. Effodiuntur hodie multae Gotthorum monetae in Hispania ex auro non probo, nam experientibus ferme dimidium decoquitur, quae monetae semisses sunt aut potius tremisses Maravedini Gotthici, tertiam appendentes Maravedini, quod earum profecto valor arguit, uti paulo post indicabimus. Excepere tempora turbida rerum omnium & monetae saeva permixtio, Maurorum armis domita Hispania, contra nova Regum progenies extitit in salutem gentis omnibus malis oppressae caelo data. De moneta Maurorum non disputamus, sed Regum legionis & Castellae imperio Maravedini triplices extitere. Aurei qui boni etiam dicti sunt, veteres atque currentes sive usuales. Ac de usualibus primum dicendum est, eorum valor & bonitas explicanda, quoniam priorum generum cognitio, cum horum explicacione est implicata. Usualium quidem Maravedinorum valor non idem fuit, sed varius et cum temporibus alternans. Eam varietatem certo definire difficile est: coniectura assequi non aliunde licet, quam ex ipso marci argentei seu bessis valore. Qua proportione marcus cuiusque aetatis quo ad aestimationem cum nostro comparatur, eadem prorsus Maravedini illi & nostri comparentur necesse est. Valet autem hoc tempore marcus rudis quidem Maravedinos 2210. signatus autem atque in monetam redactus 2278. Porro de bonitate argenti laborare non convenit: omni tempore eadem qua hodie probitate fuit plus minus, argumento calicum, ac vero reliqui sacrorum apparatus & instrumenti, quae ab antiquo in templorum aerariis conservata videmus. Adde argenti marcum in ea valoris varietate ad Maravedinos quidem collati, semper retinuisse tamen ut quinque aureos valeret aut paulo amplius, quos duplas vulgo vocarunt, 12. argenteos valentes, non 14. ut quidam ait. Valebat item Marcus

¹ orig. Ea. n. Maravedini.

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argenteos sexaginta, aut sexaginta quinque. Quod ex legibus Ioannis primi Castellae Regis perspicimus. Verum alio festinat disputatio. Marci valor antiquissimus, qui quidem inveniatur, fuit Maravedinorum centum viginti quinque. Alfonsi certe undecimi Regis aetate is fuit marci valor, uti historia de eius rebus testatur capite omnino nonagesimo octavo. Sic argenteus duobus tantum Maravedinis erat, qui modo continet quatuor & triginta: eoque Maravedinus eius aetatis valuit quantum decem & septem e nostris & paulo amplius: eratque haud dubium ex argento, quod valor ipse declarat. Henrici secundi regno argenteus numus tres Maravedinos valuit, uti eius historia refert anno quarto, capite secundo. Sic marcus ad ducentos Maravedinos excrevit eorum qui tunc in usu erant, valentes singuli quantum e nostris undecim. Henrico Ioannes filius successit eo nomine primus, quo Rege marcus ad ducentos & quinquaginta Maravedinos seu quadrantes excrevit, quando argenteus quatuor, aureus quinquaginta Maravedinis expendebatur. Indicio lex est prima ab eo Burgis in regni conventu lata anno M.CCC.LXXXVIII. sic Maravedinus ea aetate novem aut decem e nostris valore exaequavit. Quod manifestius convincit lex altera Viruescae anno superiori promulgata convitium in parentes sexcentis Maravedinis plecti mandans. Qui enim Ferdinandi & Isabellae Regum tempore eam legem retulerunt in opus, quod dixere ordinamentum libro octavo titulo nono, lege prima illos sexcentos Maravedinos bonae monetae esse dixerunt, valereque sex millia eius aetatis Maravedinos nempe nostrae: neque enim ab eo tempore in marci seu Maravedini valore facta est immutatio. Ad alios Reges progrediamur. Henrici III. regno marcus ad quadringentos octoginta, atque adeo quingentos Maravedinos pervenit, uti in schedis antiquis invenio. Ita argenteus octo Maravedinos circiter valuit, Maravedinus e nostris quatuor aut quinque Ioannis secundi regno, qui Henrici filius fuit, praesertim sub vitae finem marcus mille Maravedinos valuit. Sic Maravedinus eius e nostris duos & semissem. Miram varietatem, sed quae his se finibus non continuit, quando Henrici IV. regno inter alia mala multa & gravia argenti marcus ad duo millia Maravedinos pervenit, deinde ad duo millia & quingentos, auctor Nebrissensis in repetitionibus. Maravedinus eius quantum noster: neque enim ab eo tempore in Maravedini valore magna alicue immutatio facta est: quod Ferdinandi & Isabellae diligentiae acceptum feramus necesse est, atque

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eorum qui illis in regno succedere. His constitutis ex legibus & chronicis, Regum priorum, Maravedinos alios expendamus. Maravedinus quidem aureus sex exaequabat ex iis, qui Alfonsi sapientis aetate in usu erant. Lex styli CXIIII. id affirmat, examine ab eo Rege facta inventum Maravedinum aureum sex eius aetatis appendisse. Non quod Alfonsi Regis Maravedini essent aurei, uti suspicantur quidam; sed ex pondere Maravedinorum utriusque generis, & proportione auri ad argentum, quae fere duodecupla est, eum valorem deprehensum. Accedit lex Alfonsi undecimi in conventu Legionensi era M.CCC.LXXX.VII. in qua affirmatum invenio centum Maravedinos bonae monetae nempe aureos, valere sexcentos eius aetatis. Quo loco licet colligere duo ad memoriam praecipua, alterum a tempore Alfonsi Regis sapientis, qui & decimus eo nomine fuit usque ad Alfonsum undecimum prioris pronepotem marci & maravedini valorem nihilo fuisse mutatum: quando utroque Rege Maravedinus aureus sex ex usualibus aequavit. Alterum, quando Maravedinus qui in usu tunc erat, valuit quantum e nostris septendecim, aut paulo etiam amplius, uti superius est dictum, fieri necessario, falli qui Maravedinum aureum sex et triginta, aut sexaginta e nostris valere dixerunt: ac potius valere quantum argentei tres centum amplius Maravedinos. Nova quidem sententia, sed firmis stabilita praesidiis. Ita suspicabar Maravedinos aureos eius aetatis non alios esse quam Gotthorum tremisses, quibus ii primi Castellae Reges uterentur, neque novos ipsi signarent. Nam & valor consentit trium argenteorum paulo amplius ab experientibus inventus, & quoniam eae Gotthorum monetae passim effodiuntur, Regum Castellae signo & nomine percussi Maravedini aurei nulli prorsus inveniuntur. Perissee omnes, ut ne vestigium extet, quis credat? Hactenus de Maravedinis aureis. Veteres Maravedinos plerique statuunt e nostris unum & semissem valere singulos: de quo legum nostrarum, qui maiori cognitione praestant, certius pronunciabunt; & fortassis in multarum modo consensus iure consultorum obtinuit, ut pro Maravedino veteri, quoties in nostris legibus occurrit, substituatur unus e nostris cum semisse: quemadmodum Maravedinus aureus in iis legibus inventus triginta sex aut sexaginta ex usualibus taxatur vulgo. Quod si exacte loquamur, Maravedini veteris non unus valor fuit, sed varius prorsus & multiplex. Quoties enim de monetae bonitate aliquid detrahebatur, quod saepe factum est, ne

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priores Maravedinos abrogare esset necesse, ut cum novis currerent, abs Regibus concedebatur, dicebanturque veteres. Sic ex Maravedinis usualibus ultriusque generis facile erit eos inter se & cum nostris comparare. Nempe Alfonsi undecimi Maravedinus, si cum Maravedino ab eius filio Henrico secundo percuso comparetur, vetus dici potest, valebitque ex iis unum & semissem, si cum nostris valebit septendecim nihilominus. Itaque Maravedini veteres aliquando fuerunt usuales. Ergo ex usualium valore a nobis explicato, statui debet quantum veteres valeant, ex iis qui novi dicuntur, quantumque cum nostris Maravedinis collati. Minuta haec & spinosa sunt, & nos ad finem festinamus, addito in legibus fere nostris Maravedinos novos vocari, qui nostra aetate currunt, & Ferdinandi Regis Catholici tempore currebant. Quo tempore leges priorum Regum in pauca volumina sunt collata. Maravedini veteres aliorum Regum Maravedini vocantur. Sic ex valore Maravedini, qui sub singulis Regibus fuit in usu, de veteribus Maravedinis statuatur, Maravedinus Alfonsi undecimi valuit e nostris decem & septem, Henrici secundi Maravedinus e nostris undecim, Ioannis primi Maravedinus decem e nostris, Henrici tertii Maravedinus quinque e nostris, Ioannis secundi Maravedinus e nostris duos & semissem. Tempora ergo consideranda diligenter, & iuxta ea statuendum, quantum vetus Maravedinus in qualibet lege, quantum novus valeat, tum inter ipsos, tum cum nostris facta comparatione. Neque praetermitti debet Maravedinum veterem aliquando bonum dici, certe lege prima superius allata titulo nono libri octavi Ordinamenti sexcenti Maravedini, quibus mulctandum praecipit Ioannes primus convitium in parentes, qui legem in eum librum contulerunt, addiderunt de suo eos esse bonae monetae sex millia ex usualibus exaequantes. Nempe non loquitur de aureis lex, qui multo maioris erant, sed de veteribus, qui eo Rege in usu erant valentes singuli, quantum decem e nostris. Memento a Ferdinandi Catholici tempore Maravedini valorem mutatum non esse. Ad haec lege prima Ordinamenti titulo quinto, libro octavo, quae lex a Ioanne secundo¹ lata est, Caraccae anno M.CCCC.VIII. sancitur ut anathemate devinctus diebus triginta, centum Maravedinos bonos pendat, qui faciunt sexcentos e veteribus. Quod si ad sex menses perstiterit pervicaciae ad mille Maravedinos bonos multa crescat, qui sex millia veteres aequant. Eo loco Maravedini

¹ orig. secunda.

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boni aurei sunt, veteres ii qui Regibus Alfonso sapiente & Alfonso undecimo currebant. Nam illo tantum tempore Maravedini aurei sex e currentibus singuli efficiebant, uti superius dictum est. Quod si multa gravis videatur, quippe ad tria millia argenteos e nostris pertingens, cum singuli aurei Maravedini quanti tres argentei essent, gravior profecto hodie infligitur, quando ut suspectus de haeresi punitur, qui totum annum eo se anathematis nodo non expedierit. Postremo superioribus adiicio in historia Ioannis secundi Regis anno vigesimo nono cap. C.XXXX.IIIII. referri in conventu Burgensi mandatum, ut Maravedini semisses, quas Blancas dicimus a candore, cuderentur, qua bonitate & pondere pater Henricus tertius fecerat. Deprehensum tamen eam monetam factam deteriore, eoque regni procuratores evicisse re tota ad examen vocata, cognito vitio & fraude, ut Maravedinus prior, nempe Henrici Regis pro uno & semisse e novis expenderetur. Sic anno quadragesimo secundo eius Regis capite trigesimo sexto refertur. Quo ex loco sumpsisse videntur pronunciandi occasionem, qui in universum sanxerunt, Maravedinum veterem valere e nostris unum & semissem, cum dicere potius debuissent, Maravedinum ab Henrico tertio percussum, valuisse unum & semissem ex iis, quos Ioannes II. percussit. Imo si valorem marci seu bessis utroque Rege consideremus, non satis est fraus detera, ac prior Maravedinus duos integros e posterioribus valebat. Quod si cum nostris Maravedinis comparatio fiat, Maravedinus Ioannis secundi e nostris duos & dimidium aequabat, Henrici tertii Maravedinus e nostris omnino quatuor aut quinque. Uti ex iis quae tota hac disputatione sunt posita, manifestum efficitur & planum.

CAP. IX.

Incommoda ex hac aerae monetae mutatione.

IN RE gravissima aequum est, non ex meo capite & cogitationibus subtilia & theorica ducere argumenta, quae fucum saepe faciunt, sed exemplis potius pugnare rerum gestarum nostra aut maiorum aetate. Eam rationem tutissimam puto, viamque ad veritatem certam, quoniam praesentia tempora haud dubium praeteritis sunt similia. Quod factum est fiet. Sic superiores rerum eventus magnam vim habent ad persuadendum pares habituros exitus, quicumque eandem viam fuerint ingressi. Ac primum incommoda quaedam explicabo in speciem quidem magna, re non usque adeo, certe quae tolerari possunt, ne maioribus commodis excidamus, quae ex mutatione pecuniae veniunt. Ac primum novum hoc inventum esse accusant, nunquam antea in provincia usurpatum. Nova omnia ab insolentia periculis maioris mali & metu non carere. Verum quae tanta confidentia dicuntur, ex iis quae sunt dicta falsa esse convincuntur, saepeque constat in provincia eam tentatam rationem, de successu qualis fuerit, nondum disputabam. Addunt terrae & praediorum cultum minorem solito fore deterritis civibus a labore, cui merces proponitur tantummodo pecunia depravata. Recte: nisi adversarii inter alia comoda mutatae & multiplicatae pecuniae aerae, unum afferrent obvia ea pecunia & parata cuique, fore quae ex terrae cultu, atque quae ab artificio proveniunt ad frugem facilius perventura, antea ob inopiam pecuniae saepe neglecta. Ita ex hoc capite argumentum ducitur anceps: & quoniam in utramque partem verti potest, in alterutram magnam vim non habet. Deinde fore praedicant, ut commercium impediatur praesertim externorum confluentium in Hispaniam, unam ob spem nostrum argentum mercibus, quas advehunt, mutandi: quanta cum calamitate Indici commercii explicare non attinet, res ipsa loquitur, quando pleraque ad eas regiones mittuntur, quae ab externis nationibus comportantur in Hispa-

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niam. Verum neque hoc difficilem responsionem habet. Pro incommodo quis afferri contra arguat legibus Hispaniae stare, quibus argentum ad alias nationes deferri vetitum prorsus est. Et alioqui qui commodum sit provinciam argento suo spoliare? Ac potius videatur fore e republica, si pecunia aerea in commerciis suscepta externi rarius veniant in Hispaniam, aut certe pro suis mercibus nostras mutabunt pecuniae asportandae spe sublata; quod votum gentis commune & est, & esse debet. Neque vero periculum est, ut Indicum commercium impediatur, quoniam praecipue nativis copiis terra sustinetur vino, oleo, veste lanæ & bombycina, quae mittuntur quotannis. Quod si quid opus est ab externis mutuari, identidem mercatoribus nostris venit argentum Indicum, quo possint id comparare, ut lineam vestem, papyrus, libros, scruta & similia. Neque enim aerea moneta impedit, quo minus advectum argentum signetur uti antea. Novae ex hoc obiectioni satisfacere promptum erit, qua negant Regi facultatem fore ab externis pecunias mutuandi, qua classibus sumptus necessarii, militibus stipendia solvantur. Ac potius contra dicat aliquis, maiorem Regi argenti fore copiam, si debita provincialibus aerea pecunia solvantur, ut argento, quod ad illum defertur omnibus annis, externis nominibus satisfiat. Neque enim aerea pecunia tam erit maligna, ut argentum penitus dispareat, quasi maligno carmine & venefico fugatum. Verum ut fateamur quod res est, aeris quando copia nimia est, argentum certe inter cives evanescit & perit, quod in praecipuis incommodis debet numerari. Nempe in regium aerarium confluit argentum, quoniam tributa in ea moneta solvi mandat, neque in orbem recurrit, quoniam ipse si quid subditis debet, aerea moneta satisfacit, cuius facultas magna & copia erit, argentum per eum ad externos deferetur. Sed & quod argentum inter cives manet, disparet, cunctis prius aeream monetam expendentibus, recondentibus argenteam, nisi re necessaria cogantur illam proferre. Adhaec pecuniae adulteratae magnam fore copiam arguunt, & merite, sed causae cur ita sentiant non placent, certe altera. Geminas enim afferunt, nempe quod dignosci regia moneta ab adulterina non possit argento penitus detracto, quod misceri usitatum erat. Deinde quod spes lucri multos alluciet triplo maioris quam antea, uti superius est dictum, quoniam a naturali valore parum discrepabat, legalis nunc multum. Ex his rationibus non negabo, qui enim possim? posteriorem magnam habere vim, quae

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ab spe lucri sumitur, quando ducenti aurei in septingentos excre-
scunt ea pecunia adulterata, quod multos haud dubium alliciet
ut se & sua, quo id assequantur, cuivis discrimini offerant? quis
enim fraenet incensam cupiditatem ex inopia repente per hunc
modum emergendi. Prior ratio ex falso procedit misceri aeri ar-
gentum, ne monetam aeream adulterandi facultas sit, cum potius
id relictum esset ex Maravedini pristina bonitate, cui olim ex
solido argento, & consequenti tempore multa admixtione foedato,¹
semper tamen aliqua pars argenti mansit. Neque primi Reges
Catholici id sanxerunt, sed potius sua lege, quantum argenti aeri
misceretur, ne ulterius procederet licentia eam monetam depra-
vandi maiori identidem aeris mixtione. Atque ego quidem non
arbitrabar noxium fore, si aereae monetae nullum misceretur ar-
gentum, quo is sumptus excusaretur nullo in perpetuum usu. Si
mea tamen ratio valeret aliquid, cuperem ut nota monetae elegan-
tior esset, qualis Segobiae signatur ad molas monetarias, praeterea
monetis pluribus aereis mutaretur argenteus regalis, uti in Gallia
contingit, ubi pro solido argentei fere quadrante dantur duodecim
denarioli, iique singuli in ternos liardos valore tribuuntur. Nea-
poli carlinus nostro argenteo minor, valensque viginti octo Mara-
vedinorum non amplius, sexaginta caballis mutatur singulis pon-
dere & mole duorum Maravedinorum e prioribus, antequam hanc
labem usitatis. Quae eo pertinent omnia, ut cum metallo & sumptu
signandi valor argentei exaequetur, quod est legalem valorem natu-
rali adaptare. Sic enim minori lucro pauci aggredierentur eam
monetam adulterare: neque facile plebei homines, quales fere sunt
qui monetas falsant molas monetarias ad signandam similem pecu-
niam haberent: quod si quis liquato aere conflabit, in promptu
erit inter conflatas & impressas discrimen. Quid quod in iis molis
non sine dispendio argentum signatur multo; neque monetae
aequalis ponderis prodire possunt propter subiectae praelo argen-
teae laminae inequalitatem: quod incommodum in aere nullum
est propter materiae vilitatem. Missa facio alia, quae adducuntur
incommoda, verisimilia magis quam vera, ut ad maiora incom-
moda gradum faciant non ab inanibus cogitationibus profecta, sed
usu priorum temporum & memoria antiquitatis comprobata, sed
addunt tamen fore, ut aerea pecunia multiplicata, & vigente nulli
thesauri a copiosis viris construantur, qui cedant in opera pietatis.

¹ orig. foedati.

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Sed sane tam multi acervos pecuniae consumunt in rebus aut noxiis & ludicris, ut non magnum detrimentum videatur, si nulli recondantur thesauri. Adde pecuniam aeream non impedire, quominus quotannis magna vis argenti ab Indis veniat. Ex eo argento dominis recondere quam voluerint partem quis vetabit? Vecturae impensam accusant alii, ne mercatores ea pecunia e longinquo emptas merces advehant. Verum iidem impensa ad calculos revocata fatentur ad finem regni, nempe Murciam & Contestanos iactura unciali tantummodo deferri nempe centum asses pro uno asse. Numerandi labor magnus est, & praecipua molestia eam monetam asservandi. Verum eae molestiae dicunt alii satis compensantur iis commodis, quae hanc monetam secum deferre superius est explicatum. Postremo, aeris caritatem accusant tanta eius copia signata, & domesticae ex eo supellectilis faciendae difficultatem: quo externi, qui eo metallo abundant, nostro ex malo copiis augeantur. Ante paucos quidem annos in Gallia centenarius aeris emebatur decem & octo francis. Ita octo unciae (quod nos pondus marcum dicimus) tredecim Maravedinis constabat, in Germania etiam minoris erat. Nunc in Castella idem pondus quadraginta sex Maravedinis stat nihilominus: quod pretium in dies crescet cudendi monetam aeream sine fine necessitate, aut potius aviditate. Verum hoc incommodum est, non simulatum: sed sunt alia maiora multo, quorum comparatione hoc quidquid est damni, ludicrum videri possit certe non tanti.

CAP. X.

Maiora incommoda ex ea monetae mutatione.

AC PRIMUM tanta aerae monetae copia quantam in praesenti videmus, nostris Hispanorum legibus adversatur. Quando Regum Catholicorum decreto anno 1497. promulgato de auro & argento nihil definitum legimus, ut non liceat cuique signare, quantum ex his metallis habuerit. De aere autem lege tertia sanciverunt, ut cuderentur Maravedini centies centena millia non amplius, cura in septem monetarias officinas certa ratione partita. Tum Philippus secundus Hispaniae Rex anno 1566. lege lata negat expedire, ut aerae monetae amplius conflatur, quam quod in communem usum & commercia sit satis: eoque mandat, ne absque regia facultate ea moneta cudatur. Atqui in usum communem aerea moneta solum minutis emptionibus servire debet, & ad permutandas monetas maiores auri argenteae. Quidquid hos fines excedit, id vero non sine publico damno, & rerum perturbatione contingat. Pecunia enim ad commercii facilitatem inventa, haud dubium ea commodior existat, quae id melius & opportunius praestabit. Sic Aristoteles testatur primo Politicorum libro cap. VI. Quod in aerea moneta contra accidit, si multa sit. Gravis molestia numerandi, vix integro die unus homo mille aureos in ea moneta numeret. Quid de vectura dicam? non sine labore & sumptu deferatur in remotas regiones, unde merces comparantur. Sic illuvies huius monetae nostris legibus adversatur. Non equidem probarim, ut solum cudatur argentea moneta, quod fit in Anglia iussu Isabellae Reginae non ita pridem defunctae, & in quibusdam Germaniae civitatibus. Quantumvis enim in minutas partes tribuatur, ut de Renato Andegavensi Duce proditur ex uncia argenti (libra malle) mille monetas conflasse, non erit ad manum, unde minuta & vilia scruta emantur, & quod egenis tribuatur. Verum multo magis est noxium, si in alteram partem peccetur, moneta aerea provinciam si inundet, instar fluvii hibernis inflati imbribus.

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Atque hactenus de primo incommodo. Alterum est, non modo id commentum legibus provinciae adversari, id enim dissimulari poterat, sed etiam cum recta ratione pugnare, & cum naturae ipsius legibus, quas movere nefas est. Id ut ostendam, meminisse oportet, quod superius est confirmatum, in Regis arbitrio non esse in subditorum bona involare, ut ea pro voluntate dominis legitimis detrahat. Nunc age: an liceat Principi in horrea singula irrumperere, dimidium frumenti reconditi sibi sumere, nocumentum compensare facultate Dominis lata vendendi, quod relinquitur quanti integrum cumulum ante? Non arbitror fore, tam praepostero iudicio hominem, qui factum excusaret. At in moneta aerea veteri hoc ipsum est factum. Rex sibi dimidium universae pecuniae arrogavit, duplicato tantum cuiusque monetae valore, ut quod duo valebat, quatuor deinde Maravedinos valeat. Addo an fas esset ut Rex vestis laneae & bombycinae pretium triplo maius quam pro praesenti copia lege sua faceret, dominus penes se tertiam retineret, tantum Regi cederet reliquum? Quis hoc probaret? At in moneta aerea nova hoc ipsum fit, quae recens conflatur. Possidenti eam minus quam pars tertia datur. Rex reliqua in suum commodum vertit. Quod si hoc in mercibus aliis non fit, in moneta usurpatur: eo contingit, quoniam Regi maior in monetam potestas est quam in alia. Monetariae officinae ministros omnes constituit, & mutat pro voluntate, monetae notas & typos penes se habet,¹ atque ex eo commutandi eam, & pro puriori substituendi deteriorem, & e contrario plenam facultatem. An id iure, an contra fas & aequitatem, de eo suscipitur disputatio. Quod si nominibus factis, quo tempore pecunia proba erat, hac nova & prava moneta se exolvere satagit, nova ea iniquitas erit iuxta Menochii sententiam consilio XLVIII. confirmantis multis, moneta deteriori facta non recte exolvi,² quod in proba pecunia fuit numeratum. Ad tertium incommodum procedamus mercium caritatem omnium non minorem brevi futuram, quam quod est de pecuniae bonitate & pondere detractum. An id ex nostro capite fingimus? & non potius quae maiores experti sunt mala, quoties eo ventum in provincia est, ut pecunia detereretur. In Alfonsi sapientis rebus gestis cap. I. refertur regni sub initia mutasse pecuniam: pro pepionibus proba moneta vulgo usitata Burgaleses subrogasse minus probos, eorum

¹ orig. habeat.

² orig. exoli.

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nonaginta Maravedinum valore aequabant certe aerei. Ex ea mutatione consecutae rerum omnium caritati, ut remedium afferret, lege vaenalia omnia taxavit, quanti quodque venderetur, uti cap. V. eius historiae commemoratur. Medicina malum recrudit mercatoribus eo pretio vendere recusantibus. Itaque necessario destiterunt, quin odium gentis propterea excitavit, vel maxime (sic credimus) & procerum arma, quibus eo pulso res sunt in Sanctium minorem filium eius translatae.¹ Nam priori errore non contentus & fraude, sexto regni anno abrogatis Burgalesibus monetam nigram substituit, quindecim Maravedini valore. Quod nil aliud fuit, quam in malo obstinare, ut qui natura captiosus esset ingenio praefracto, quod malo tandem fuit. In Alfonsi XI. Castellae Regis historia cap. XCVIII. legimus conflasse eum novenes & coronatos eius bonitatis & notae, cuius pater eius Ferdinandus Rex. Ex ea mutatione ne annona cresceret, quoniam haud dubium pecunia proba non erat, nova diligentia cautum, ne argenti pretium cresceret: atque octo unciae aestimarentur 125. Maravedinis, ut ante non amplius. Quae cautio praestitit nihil, subsecuta rerum caritate, aucto argenti pretio. Quo loco considerandum mercium caritatem non continuo & manifesto ex nostra mutatione subsecutam, quod argenteus nummus 34. modo Maravedinis his pravis pendatur non secus atque ante mutationem, tum argenti octo unciae (marcum dicimus) 65. argenteis ematur, quod ante in usu erat. Verum ex iis quae sunt dicenda constabit, diu hoc non posse constare, quin rerum perturbatio consequatur. Ioannes I. ut Alencastrio Duci rivali pactam ex foedere pecuniae vim maximam repraesentaret, monetam non probam signavit, quam candidam dixit: eamque paulo post ne rerum caritas extaret, fere dimidio minoris expendi sanxit, uti ipsemet in conventibus regni Viruescae habitis testatur an. 1387. Quid de Henrico II. Ioannis patre dicam? bellis exhausto aerario penitus quae gessit adversus Petrum fratrem regni compos, tandem in suprema rei numariae angustia eodem recurrit, geminam monetam conflavit regales trium Maravedinorum, & cruciatos unius Maravedini valore. Crevit ex eo annona, crevere res aliae. Aureus quem duplam dicebant, ad 300. Maravedinos pervenit, equus 60000. emebatur. Sic in eius historia affirmatur anno 4. cap. X. Quin anno sexto cap.

¹ orig. ttunslatae.

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VIII. invenio equum ad 80000. Maravedinos excrevisse. Prodigiosam iis temporibus caritatem; qua compulsus is Princeps de utriusque monetae valore duas tertias nova censura detraxit. Et quidem aureus antea triginta Maravedinis erat, uti Antonius Nebrisensis affirmat in quadam repetitione. & ex argenti valore deducitur, cuius octo unciae seu marcus 125. Maravedinis aestimabatur, aut certe parum aliquid, tum aurei, tum argentei valor iam excreverat propter ea quae a nobis capite octavo sunt explicata. Ita ea facta monetae mutatione aurei valor decuplo ferme maior repente evasit. Ut credam, ac pro certo ponam, nunquam non moneta mutata subsecutam caritatem. Hoc ut melius percipiatur, fingamus argentei valorem duplicari, qui 34. Maravedinis aestimatur, crescere ad 68. nec enim desunt, qui existiment atque statuunt fore e republica, si argenti valor augeatur, quidam minus, alii amplius. Num hoc posito si quis velit octo argenti uncias infecti emere quinque & sexaginta argenteis qui valor lege est taxatus, erit venditor qui morem gerat? non plane, imo minoris non dabit quam centum & triginta argenteis novis, quod est fere pondus ipsius argenti. Quod si argenti valor duplicaretur ob monetae valorem duplicatum, si ad sextam aut quartam crescet, tantundem in rudi argento continget. Idemque in aereis monetis usu venire experimur, mutari in argenteas quibusdam in locis ad rationem usurae centesimae, in aliis ad semissis. Porro ad merces alias extendetur proculdubio, quod in argento monstravimus fore necessarium, ut crescant eorum pretia, quantum de monetae bonitate fuerit detractum, aut valor monetae crescet: perinde enim est. Neque est dubium in novam monetam conspirare: quae singula mercium caritatem afferunt, nempe multitudo eius immensa eam reddet vilem, uti in aliis mercibus contingit copia vilesce. Deinde monetae pravitas efficiet, ut qui possident, abdicare quam primum cupiant, mercatores nolint merces ea pecunia mutare, nisi auctis immensum pretiis. Ex hoc quartum incommodum necessario extabit commercii difficultas, quo vigente opes publicae & privatae stant. Sic factum quoties moneta peior effecta est. Malo remedium exitius erit, nempe rerum & annonae taxatio, quo res singulae pretio vendantur. Quod mercatoribus institutum grave erit: recusabuntque eo pretio vendere, sublato commercio, & propter rerum caritatem ad inopiam gens universa redigetur, inde tumultus extabunt. Sic necessario quod in his angustiis saepe factum

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scimus, nova pecunia aut penitus abrogabitur, aut certe de eius valore detrahetur, verbi gratia, dimidium aut duae tertiae. Fietque ut repente & quasi per somnium, qui ad trecentos aureos in hac pecunia obtinebat, ad centum aut centum quinquaginta redigatur: ac pari proportione caetera alia. Sic factum est Henrico II. Rege, uti in eius historia refertur anno 6. cap. VIII. re necessaria e Regalis tribus Maravedinis, quot ante valebat, duos detraxit, cruciatum ad duos Coronatos reduxit prioris valoris tertiam. Ioannes primus Henrici filius suam monetam candidam ad sex denariolos redegit, dimidium fere valoris prioris. Sic in conventibus Viruescae habitis anno 1387. affirmatum invenio, & caritas tamen propterea excitata perstitit, quod ipsemet Rex fatetur in conventibus Burgensibus proximo anno. Quata molestia provincialium dicere non est opus: res ipsa indicat. Quid in hoc genere Ioanne II. Rege contigerit, fine capituli VIII. explicatum est. In Lusitania Ferdinando Rege ob mutationem monetae caritatem consecutam invectam ab externis magnam eius pecuniae vim commemorat Eduardus Nunnus in suis Lusitanis annalibus.¹ Addit etiam coactos re necessaria minores pendere eam pecuniam nova censura facta, quo multi mortales sunt ad inopiam redacti. Et nostra tamen aetate ait, per imprudentiam ad eundem lapidem offendisse, nimirum Sebastiano Rege aeream pecuniam signarunt, Batacones dictam, atque ex eo eadem mala, atque necessitatem eadem remedia instaurandi. Vetera exempla mittamus, tametsi quod in Lusitania accidit, antiquum non est prorsus. Sed certe Sanderus libro primo de schismate Anglicano affirmat inter alia mala, in quae Henricus octavus Angliae Rex praecipitavit ex quo ab Ecclesia discessit, monetae depravationem extitisse tantam, ut cum antea argenteae monetae misceretur aeris undecima modo pars, ille sensim eo perduxit, ut sextam non amplius argenti haberet, aeris quinque alias. Deinde priorem monetam antiquatam iussit in aerarium conferri, & pari numero novae pecuniae mutari, magnum nefas. Eo defuncto Eduardum filium adierunt provinciales medicinam malis postulantes. Neque aliud est praestitum quam ut novae monetae valor ad semissem decresceret. Subsecuta est Isabella,² Eduardi soror quae semissem alterum valoris ex ea nova moneta detraxit. Sic repente, qui quadringentos aureos in ea pecunia possidebant,

¹ orig. annalibus. Addit.

² orig. Isabella. Eduardi.

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ad centum non amplius redacti sunt. Neque tamen ibi restitit fraus. Sed cum mala ex ea moneta non remitterent, novo decreto sancitum, ut universa ea moneta deferretur ad officinas monetarias spe compensationis quae nunquam est facta. Infame latrocinium, turpissimum peculatum. Prudens lector advertat, an iisdem vestigiis ingrediamur: an in eo facto imago depicta contineatur tragoediae nobis haud dubium instantis. Regis inopia ex his fontibus consequetur, quod quintum incommodum est superioribus nescio an maius certe inevitabile. Nam praeterquam, quod Rex ex subditorum labe quaestum captare non potest: neque illi bene esse provincia aegrotante; quod utraeque rationes aptae inter se sunt & complicatae; si provinciales laborabunt inopia, si commercia turbabuntur, Regi pendere solita vectigalia qui possint? minoris multo regia tributa a publicanis conducentur. An somnia haec sunt, & non potius testata exemplo veteris memoriae. Quo tempore Alfonsus XI. Castellae Rex aetate minor nondum in suam tutelam venerat, tutores eius ad rationes reddendas compulsi sunt regionum vectigalium: inventumque centum sexaginta Myriades maravedinorum universa non superare. Sic in eius historia refertur c.XIV. Erant quidem illi maravedini nostris maiores, ac singuli decem & septem huius temporis exaequabant: tenuitas nihilominus reddituum mirabilis, & quae fidem superare videatur. Tanta calamitatis geminam causam designat historicus. Earum prior procerum aviditas multa regni oppida & arces occupantium. Altera quoniam a tempore Ferdinandi Regis sancti ad eam aetatem, quo intervallo quinque Reges numerantur, omnes pecuniam mutarant bonitate imminuta scilicet, valoreve aucto. Ex iis mutationibus factum, ut impedito commercio & provincia ad inopiam redacta, ad Regem commune gentis incommodum manarit. Verum finis esto si adiecero postremum. Sed maius omnibus aliis incommodum, id est, commune odium, quo Princeps profecto flagrabit. Prospera omnes sibi vindicant, ut quidam historicus ait, adversa imputantur capiti. Quare victoria est amissa? nempe dux summus acies imprudenter ordinavit, militibus debita stipendia non solvit. Philippus Pulcher Galliae Rex circiter salutis annum 1300. primus, quod sciatur, inter eos Reges pecuniam depravavit. Quare Dantes eius aetatis nobilis poëta eum¹ monetae falsarium vocavit; idem

¹orig. cum.

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tamen sub mortem subeunte facti poenitentia filium Ludovicum Hutinum monuit, se quidem propterea odium populare sustinere, mutaret proinde & ad veteres calculos errata revocaret. Refert Robertus Gaguinus sub finem vitae eius Regis. Nihil ea diligentia profectum: neque prius odium populare sedatum est, quam Enguerrano Marinio pravi consilii auctore publice vindicato Hutini Regis iussu, procerum quorundam hortatu, tota plaudente provincia. Clarum noxae exemplum, non retinuit tamen Reges consequentes, quo minus iisdem vestigiis ingrederentur. Carolus Pulcher Hutini frater contra quem extat lex de crimine falsi Ioannis XXII. Pont. M. & Philippus Valesius utriusque successor & patruelis, quanta molestia gentis ex Gallicis historiis cognoscere promptum est. His ducti incommodis ab omni memoria testatis Aragonii gens in retinenda libertate diligens & attentata, a Rege cum primum inauguratur iusiurandum exigunt monetae nunquam mutandae. Sic Petrus Belluga testatur in speculo Principum rubrica XXXVI. num. V. productis duobus privilegiis ab iis Regibus Valentinae genti datis annis 1265. & 1336. cautio haud dubium salutaris & prudens. Aviditas excaecat, angustia aerarii premit, praeteritorum obliviscimur. Sic facile malorum orbis recurrit. Ego quidem miror si penes quos rerum moderatio est, harum rerum sunt ignari, quod si noverunt, qua temeritate scientes & prudentes volunt in haec pericula praecipitare.

CAP. XI.

Num argentea pecunia mutari debeat.

QUAE incommoda ex mutatione aerae pecuniae subsequi explicatum est, ea omnia in argentea maiorem vim habent propter eius bonitatem & copiam aureae semper minori numero, aerae item non magna copia, si prudenter respublica geratur. Et vero commercii nervus argentum est propter commoditatem cum eo caeteras omnes merces mutandi, contracta nomina exolvendi. Sed quoniam quidam nihil deterriti incommodis, quae ex mutatione pecuniae aerae experimur, magna, haud dubium, fore e republica statuunt, si argenti de bonitate aliquid detrahatur, decrevi nova disputatione explicare, an hoc commento sanari possint plagae, quas accepimus? an potius rationes omnes reipublicae subvertantur, sursum deorsum eant omnia, uti ego quidem arbitrabar fore, utinam falsus sim vates. Hac illi quidem arte affirmant argento incolunitatem parari & pacem, ne in illud, illecti eius bonitate externi avidas iniiciant manus, derivent lucri cupiditate ad alias nationes invalido legum remedio, quae fraude corrumpuntur & ambitu. Et constat argenteam Hispaniae pecuniam meliorem esse quam finitimorum octava circiter parte. Potior tamen cura, etsi id non explicant, regiae inopiae supplendae. Nam si ex mutata moneta aerea vili et exigui valoris supra sexcentas auris myriades intulerunt in aerarium; quid futurum cogitamus si argentum deteratur, cuius immensa copia est in Hispania, quotannis ex Indis maiori atque incredibili pondere advehitur. In quo nova ostenditur commoditas, non fore necessum hoc metallum ab externis petere, quod in aere contingit magno nostro dispendio, illorum lucro ad quos ex nostris copiis per eum modum fructus redit multo maximus, quando aes illorum argento auroque nostro mutatur: quod Glaucum cum Diomede accidisse memorant. Non dubium quin ingens lucrum debeat accedere hac arte, praesertim si de bonitate argenti tertia aut quarta detrahatur.

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Quae omnia ut apertiora sint, cogita argenti mutationem trifariam posse contingere. Aut enim moneta incolumi valor eius augetur, ut argenteus, qui triginta quatuor maravedinis appenditur, crescat lege ad quadraginta, quinquaginta sexagintave. Aut immutato pondere, qui modo ex argenti octo unciis cudebamus argenteos 67. deinde cudamus octoginta, aut etiam centum, cuique monetae valor pristinus constet marvedinorum 34. Quae ratio si penitus inspicatur parum a superiori discrepat, quando in utraque de argenti pondere detrahitur, valor augetur. Tertio contingat pecuniam mutare ampliori aere permixto: quo vere hi tricones contendunt. Nirmirum si hodie octo unciis argenti miscentur viginti aeris grana; deinde nova mutatione facta misceantur alia viginti aut triginta, unde in octo unciis argenti accedat lucri quantum sex argentei, quando quodlibet granum octo circiter maravedinos valore exaequat. Quod si omnibus annis mille millia argenti marci afferruntur ab India navigationibus anniversariis, hac facta mutatione in aerarium inferantur annuatim quingenta minimum millia aurei. Qui proventus si usura ad assem redacta vendatur; ut aureum vectigalem percipiat quolibet anno qui viginti numerarit, excrescet ex ea venditione lucrum ad decies mille millia aureos, nostro more dixeris decem milliones, Romano quatermillies sestertium. Quod si aeris amplius misceatur, uti indidem futurum putamus hac semel invecta fraude, lucrum crescet, qua proportione mixtio corruptelaque. Deinde id etiam considerandum a multo tempore observari in Hispania, ut argentum signetur undecim graduum (quos gradus denarios vocant monetarii) & quatuor granorum, nempe admixtis viginti aeris granis non amplius. Sic constat ex legibus regni monetariis. Idem aurifices observant in rudi & informi argento, ut eadem bonitate sit quod ipsi in suis officinis operantur & in varia vasa conformant. Id a multis saeculis susceptum satis perspicitur ex argento templorum veteri; tum lex extat Ioannis secundi Castellae Regis id sancientis Madriti in conventibus promulgata anno 1435. petitione 31. Quae lex proxima est novae recopilationis part. I. libr. V. titul. XXII. His positus libenter ego ex iis hominibus rogarim, qui argentum depravari volunt, num id statuunt in officinis monetariis, an decretum extendant ad aurificum officinas argentarias? si dicant utrobique, certe rerum confusionem inducant, neque argentum factum eodem pretio constabit ut ante, sed vario pro ratione temporum quo

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factum fuerit. Addo quod periti eius artis negant argentum, si aere ampliori depravetur propter asperitatem idoneum fore artificio & elegantiae. Si in moneta resistere corruptelam volunt, neque in alias officinas extendi, debent dispicere semper iudicatum necessarium, ut factum & signatum argentum eadem sit bonitate, & alioqui argentum rude necessario depravata moneta maioris constabit quam ante, quantum de bonitate monetae detractum fuerit nihilominus. Compages haec rerum subtilissimarum tot annorum spatio coaluit: neque convelli poterit, ut ego arbitror, sine convellentium & totius provinciae exitio, uti in re simili disputat Tacitus libro XX. suorum annalium. Deinde de argento iam signato quid statuat? Num tanti aestimabitur quantum nova pecunia pravaque? Iniquum id esset, quando vetus melior erit, argenti habebit amplius, cunctique eam novae praeferent optione data. At maioris aestimabitur? aequum id erit: non tamen sine confusione, si eodem pondere notaque argentei alii maioris, alii minoris aestimentur: Quod si antiquari placet, atque totidem e novis mutari, uti superioribus annis factum in Anglia diximus, quaestuosa ea Regi nundinatio erit non minus quam quae in aerea moneta est facta; videndum autem an novus is peculatus sit pravo syncerum mutare. Neque vero expedit toties periclitari, quid provincialis¹ patientia possit tolerare, ne cum exitio communi omnium exasperetur et pereat. Praeterea de aurea moneta quid fiet? necessum erit eam etiam attrectare, quod summa imis utique confundat, & invertat, quae immota melius starent, & ad easdem recurretur difficultates. Quod si aurum non deteritur, sane illud consequetur ut aureus (quem coronam vocant) non duodecim argenteis appendatur, ut modo fit, sed quatuordecim aut quindecim iuxta argenti depravationem. Quid quod res vaenales continuo maioris erunt quam ante qua proportione argentum deteretur. Externi enim ipsique provinciales ratione inita dicent; duodecim argentei novi non plus afferunt argenti quam decem superiores, ego etiam de meis mercibus tantundem detraham eius quod dare eram solitus. Quod si taxam mercium minantur, quid ex eo remedio consequetur superius est explicatum: neque vero vaenalia omnia taxari possunt. Sic commercium impediatur, quod instar lactis aurae tenuissimo afflatu corrumpitur, usque adeo delicata

¹ orig. provinciales.

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res est. Nempe pecunia ac praesertim argentea propter suam bonitatem verissimum fundamentum commercii est, quo mutato caetera quae incumbunt necessario corrument. Quod si haec incommoda ex mutatione aereae monetae non adeo aperte extiterunt, id argenteae pecuniae constantia factum est, qua aerea fraenabatur, quando pro 34. maravedinis, ex his novis & pravis datur argenteus, ut antea. Detracto hoc fraeno commercia penitus non constabunt, omnia maioris erunt multo quam antea. Alioqui fingamus praeter aeream, aliam monetam non esse, aut ex India argentum non devehit: repente quasi agmine facto incurrent ea omnia mala, quae superiori capite explicata sunt. Argentum arcet ea mala, quoniam probum est, magna eius in provincia copia. Quod si nova censura deteritur, inde novum & validum extitit argumentum, redditus omnes pecuniarii minuentur ex quanto fuerit argenti facta mutatio. Sic repente qui mille aureos annuos habebat, octingentos tantum percipiet aut eo minus pro argenti depravationis modo; quippe mille aurei novae monetae neque argenti amplius habebunt, neque ad vitae usus pluris erunt quam octingenti antea, solutione certe in nova moneta facta, quod erit necesse. Sic novo & gravissimo tributo gens premetur, quae vix superiora tolerat. In quo numero templa, monasteria, nosocomia, ingenuae conditionis homines & pupilli comprehenduntur nullo relicto immuni. Et quidem superius satis est explicatum novum tributum imperari non posse, nisi ex consensu provincialium. Superest ad argumenta in contrariam partem proposita respondere. Ac Regi quidem non expedit lucrum captare quod cum subditorum tanto detrimento coniunctum est: neque vero unquam Regi licuit provincialibus bona aut bonorum partem detrahere, neque vi aperta neque artificio & fraude. Nam ubi quis lucrum, ibi alius iacturam facit: neque commento ullo & arte secus contingat. Quod si in priori argumento afferebatur argenti bonitatem efficere quod ad externos deferatur, praecise nego eam esse praecipuam eius incommodi causam argumento quod Gallici aurei quamvis sint paulo meliores nostris, & pluris appendantur: e nostris tamen infinita vis in ea provincia visitur. Praecipuae causae duae sunt, altera mercium externarum investio, quibus Hispani egent, neque possunt compensare terrae opibus tantam copiam, ut necesse sit pecunia suppleri, quod deest. Vestis linea, papyrus, libri, metalla, coria, scruta, varia opera afferuntur, frumentum aliquando; quas merces

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gratis dare externi non debent, sed aliis mercibus quarum suppetit minor copia, & argento mutare. Regis deinde expensae & pensiones annuae externis factae ad ter millies sextertium perveniunt, milliones septem quotannis, quae summa nisi mensariis numeretur cum facultate eo deferendi pecuniam, ubi ea Rex opus habet, nullo modo expediatur. Quod si quis obstinate contendat argenti bonitatem id etiam praestare, non equidem negabo, modo adversarius cogitet nulla arte posse retineri externos, quin continuo nostra moneta suam deteriore faciant, ut nostrum argentum avertant ad se, quo carere sane non possunt magis quam vita & sanguine. Quae ergo ratio institui poterit, dicat aliquis ad resarciendum¹ incommoda ex mutatione aerae monetae & copia nata? Ego sane nunquam ea mente sim, ut incommodum factum maiori incommodo resarciatur, peccatum peccato. Sunt enim remedia quaedam ipso morbo peiora. Deinde addo, me mali medicinam ignorare praeterquam maiores ab omni memoria sunt usi in simili angustia, nimirum ut valor novae monetae minuatur dimidium aut duas tertias. Deinde si id satis non erit sanando vulnere, penitus prava moneta abrogetur, substituaturs proba. Utrumque damno eius qui fecit ex communi calamitate lucrum, praestari aequum profecto videbatur. Sed quoniam id parum usitatum video, imo nunquam usurpatum, praestiterit eorum qui possident fieri detrimento, quam ut in errore diutius perstandi obstinati morbi causas augeamus; aut vero eo recurratur ut argenti bonitas minuatur, quod sine exitio communi omnium non contingat. Omnino cardinis quibus vertitur universa haec moles duo illi valores pecuniae sunt in ca. IV. explicati, quos componere inter se opus est, si res salvas volumus; quod perinde est ac si dicam, monetam debere esse legalem. Quod si seiungantur (quod futurum videtur si argentum deteratur) nullum erit genus mali quod in rempublicam non incurrat. Finis esto hoc addito. Quo tempore Anglis Regibus magna Galliae pars serviebat Walliae Princeps pro Rege patre in ea provincia res gerens anno 1368. exhausto aerario iis bellis, quae gessit pro Petro Castellae Rege, novum tributum iis urbibus imperavit, quod per familias solvebatur. Recusarunt pleraeque novum suscipere onus, alii ut Pictavienses, Lemovicenses, Rupela in Xantonibus annuerunt, ea tamen lege, ne Princeps intra septem annos pecuniam mutaret. Auctor Froissartes primo volumine suorum annalium de

¹ orig. resarciendum.

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rebus eo tempore gestis Gallicus scriptor eius aetatis. Ex quo intelligitur satis, Principibus usitatam pecuniae depravationem: semper tamen id provinciales improbasse detrectasseque pro viribus. Neque esset incommodum si hoc exemplo admonita gens nostra, cum a Rege subsidium fuerit postulatum, ita concedat, si pecuniae constantiam Princeps polliceatur futuram, quam diutissime impetrare poterunt.

CAP. XII.

De pecunia aurea.

IN aurea moneta magnam inuenio varietatem. Mitto primos Imperatores Romanos, quos ex auro purissimo eam monetam conflasse indicio sunt aurei nummi, qui extant eorum nominibus incisi. E contrario Gotthis rerum in Hispania potentibus aurum signatum est non syncerum, sed multa mixtura pravum duodecim modo aut tredecim graduum bonitatis, tametsi monetae aliquae eorum Regum effodiuntur melioris auri: nosque Witterici Regis vidimus unam graduum viginti duorum nihilominus. Quid in hoc genere Reges Legionis & Castellae primis resurgentis Hispaniae temporibus fecerint, explicare non attinet: neque eius temporis aurum videre contigit, neque in eo morari magnum operae pretium. Eas tantum mutationes attingam, quae a tempore Ferdinandi & Isabellae Regum in auro factae sunt, ii sane Principes regni sub initia ex auro purissimo trium & viginti graduum & dodrantis seu quadrantum trium nummos signarunt, quos Castellanos dixere, ex besse quinquaginta, singulos valore marvedinorum 485. Sic bes in monetam redactus ad 24250. maravedinos valore pertingebat, rudis eadem bonitate tantundem minus 250. maravedinis, qui inter ministros monetarios & auri dominum dividebantur ex aequo, quando signabatur aurum. Eodem tempore rudis auri duorum & viginti graduum octo unciae appendebatur maravedinis viginti duobus millibus, Castellani pondus 440. rudis, inquam, nam eius legis aurum tunc temporis non signabatur, sed aurificibus tantum deserviebat ad varia opera facienda. Finitimae gentes auro utebantur signato qua nostri bonitate & pretio: neque ex eo ullum incommodum extabat. Accidit aliquanto post, ut occidua ad Indos navigatio aperiretur magna nostrae nationis gloria fructuque, aurique magna vis quotannis adveheretur. Finitimi avidi nostri auri, sui alii de bonitate diminuerunt, ab aliis nostri pretium est auctum. Ea arte gens nostra considerata de sui auri bonitate nihil

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tunc quidem detraxerunt, valorem auxere tantum. Sic iidem Reges anno salutis 1497. in Medinae conventibus ne amplius Castellani signarentur lege promulgata sanxerunt, sed pro illis Ducati, quos excellentes dixere, ea besse prioris puritatis sexaginta quinque & tertiam, singuli maravedinis 375. appenderentur. Sic auribus signatus quidem crevit ad marvedinos 24500. rude aut factum eodem pondere valuit 24250. maravedinos. Eodem tempore auri graduum viginti duorum infecti bes seu marcus valuit maravedinos 22500. Castellani pondus 450. Tenuit ea ratio aliquot annis, donec finitimos depravare amplius aurum est animadversum. Sic Carolus Augustus anno 1537. in conventibus Vallisoleti habitis id penitus commutavit lege sanciens, ut aurum signaretur duorum & viginti graduum praecise. Ex besse cuderent sexaginta & octo nummos, quos coronas dixere valore singulas maravedinorum 350. Quo factum ut bes huius monetae valeret Maravedinos 22800. De auro rudi neque signato, neque facto nihil est sancitum: sed ab eo tempore ut merces aliae emitur ut cum venditore convenit emptor. Aurifices quidem non aliud aurum operantur, praeterquam aut purissimum aut viginti duorum, certe viginti graduum, quos vulgo characteres dicimus, uti leg. IV. tit. XXIV. lib. V. par. I. novae recopilationis sancitum est. Ita aurum rude non semper consentiebat, neque consentit cum signati auri lege, secus quam in argento. Tametsi fere graduum viginti duorum aurum, tum signatur, tum aurificibus in usu est. Pergebant externi aurum variis artibus & mercibus mutatum ad se avertere poppter tenuem eius in Castella valorem. Quae res compulit Philippum secundum Hispaniae Regem, ut Madriti in conventibus anno 1566. auri pretium augetet in singulas coronas maravedinorum quinquaginta, ut quae 350. appendebantur ad 400. maravedinos excrescerent. Qua facta lege bes auri signati pervenit ad maravedinos 27200. Castellani pondus ad sedecim argenteos nummos. Disputari hoc loco potest, quomodo aerae monetae bonitas est imminuta, idemque in argentea efficere cogitant, quod fama praedicat an e republica sit futurum; si tantundem in auro praestetur bonitate imminuta auctove pretio, perinde enim est. Ego quidem omnem monetae mutationem plenam periculi arbitror neque expediat unquam illegitimam ita cudere, ut amplius lege detur pro re in communi aestimatione minoris. Neque caveri poterit, quin nostro exemplo finitimi suam monetam amplius deterant. Satisque usu est com-

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probatum quatuor mutationibus in auro factis a tempore Ferdinandi & Isabellae Regum, eversionem auri tamen prohiberi non potuisse. Quid, quod si multum moneta aurea depravetur, contingat fortassis ut reiiciatur ab externis, certe de valore eius multum detrahatur, quod nescio an cum Hispaniae maiestate satis conveniat. Credam tamen noxium magnopere haudquaquam futurum, si aurum mutatur parte bonitatis detracta auctove pretio. Hoc maxime argumento quod intra non multos annos toties repetita mutatio incommoda insignia non attulit. Auri copia prae argento exigua semper existit, minor eius monetae frequentia & usus. Sic non credebam fore magnopere incommodum, si contingat mutationem fieri. Semper equidem ea mente sim, ut velim res suum cursum teneri, neque attrahere pecuniam; neque video fructum maiorem e contrario quam Principis compendium, quod captari semper non debet, praesertim hoc itinere depravandi monetam. Verum modo aerae monetae & argenteae pristina constaret bonitas & ratio, de auro in magno discrimine non ponam utro fiat modo. Duplex tantum adhibeatur cautio, altera ut subditorum censu id fiat, quorum de re agitur, altera ut semper moneta legitima seu legalis sit, non secus. Id ut contingat, & ut uterque valor exaequetur, in aerea quidem, metalli valor considerandus sive argentum misceatur sive non, tum cudendi expensae. Ita si aeris bes seu marcus cum labore signandi ad octoginta tantum maravedinos pertingit, ut lege ad 280. extendatur, quod modo fit, nulla ratio patiat. Quantum enim exorbitat, tantumdem a lege recedit. In auro & argento ut idem servetur opus est dispicere, qua proportione inter se comparentur, nimirum duodecupla si pari bonitate. Sic Budaeus statuit libr. III. de Asse. Pari, inquam, bonitate, quoniam ut auri puritas dividitur vulgo in viginti quatuor gradus, quos characteres aurifices vocant; sic argenti in duodecim denarios, ita argentum undecim denariorum auro viginti duorum characterum bene respondet. Atque haec proportio fere servatur inter haec metalla, nisi alterius inopia copiave ea mutetur ratio, ut in aliis mercibus copia detrahit de pretio penuria addit. Quominus mirari debemus in analogia auri & argenti inter se veteres sententiis dissentire. Curandum ergo ut si auri & argenti monetae eodem pondere sunt, neque in puritate discrepant, ut aurea duodecim argenteis mutetur, ut modo fit, id enim legitimum. Si is valor exceditur aut minuitur, ad fraudem id totum spectabit verbi gratia

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si corona auri mutetur sedecim aut decem & octo argenteis, is excessus contra monetae legem totus erit, nisi auri puritas cresceret, argenti minueretur. Sic enim quod iniquum videbatur, legitimum redderetur, consonum aequitati. Denique maximi refert ne Principes ex moneta lucrum captent ea depravata. Alioqui nulla industria aviditas externorum & provincialium fraenetur, quin spe lucri maximi obtrudant nobis pecuniam eiusdem formae, sed adulterinam & pravam.

CAP. XIII.

Principis inopiae succurrendi num via se aliqua ostendat?

VULGARI proverbio verissime dicitur; *necessitas caret lege*. Tum illud, *venter non habet aures*. Importunus exactor est: nullis argumentis cedit. Parvi tamen eam redimas anxietatem, ingesto cibo conquiescit. Omnino in republica eae sunt angustiae, tam gravis inopia, ut non sit mirum penes quos rerum administratio est, insolentia aliqua remedia somniare & inepta, qualis profecto videatur, quam modo arripuere, pecuniae depravatio, iis argumentis quae universa hac disputatione sunt explicata. Quod si id commentum non placet, supplendi aerarii viam aliam¹ inveniamus commodiorem necessum erit. Verum nostri instituti non est de re tanta deliberationem suscipere: Id modo erat propositum, pecuniae mutationem improbare quasi noxiam magnisque incommodis pravam. Placet tamen quasdam alias rationes & artes ditandi Principem attingere fortassis hac commodiores, & quae fructus plus afferant: adde sine ulla gentis iniuria & gemitu, contra plausu maximo. Ac primum Regiae sumptus aliqua ex parte minui possent. Moderata enim cum ratione & prudentia magis splendeant, maioremque prae se ferant maiestatem, quam supervacanea si intempestive prodigantur. Ratio regionum vectigalium & sumptuum, accepti & expensi extat Ioanne secundo Castellae Rege anno 1429. Ex qua ratione constat Regiae sumptus annuos, computatis salariis ministrorum sportulis mensaque regia vix ad aureos triginta millia pervenisse. Dicat aliquis rationes eas antiquas admodum esse, immutata omnia, annonam multo cariorem, Reges potentiores, eoque maiori aulae apparatu maiestateque. Non negabo, verum haec omnia proportione non exaequant intervallum inter triginta millia, & duodecies centena millia aureorum, quae hoc tempore in regiae alimenta consumuntur. Sed & recentioris temporis schaedam vidimus regionum vectigalium, qua continetur anno 1564.

¹ orig. alia.

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in regia Philippi secundi Hispaniae Regis, in alimenta Caroli Principis eius filii & Ioannis Austriaci,¹ expendi solita quotannis quadringenta non amplius aureorum millia. Dicas in quo regiae sumptus restringi possint? Id ignoro: qui in aula versantur prudentes homines statuunt. Sed in vulgus tamen fama prodiit, sine ratione ulla expendi, quaecumque cellariis ab opsonatore traduntur in penuque inferuntur. Deinde regia dona fortassis minora si essent magnum vectigal accederet. Non ea sum mente, ut Regem parci infamiam subire velim, aut parum munificum existere in suorum praeclaris facinoribus & obsequiis. Duo tamen consideranda credebam. Nimirum nullam sub caelo gentem esse, cui maiora & plura praemia publice suppetant, procurationes, officia, pensiones, sacerdotia, militaria oppida & census, iis ex ratione & cum delectu tribuendis extraordinaria munera excusari possent ex regio thesauro aliisque vectigalibus. Deinde cogitandum muneribus, cum sunt nimia, homines non reddi promptiores ad obsequia, ne ad benevolentiam quidem dantis, ut spe magis futurae mercedis quam accepti memoria beneficii ducamur humanum est, usque eo ut qui multum in aula creverunt, continuo cogitent de secessu & tranquilla vita. Nullus in Castella Rex munificentior vixit Henrico eius nominis quarto: neque ullo tamen tempore maiores tumultus extiterunt, eo progressis proceribus ut Henrico abdicato Alfonsum eius fratrem substituerint: & eo extincto Isabellae utriusque sorori regnum obtulerunt. Tacitus etiam libr. XIX. extremo. *Vitellium* ait, *quia munerum magnitudine magis quam morum constantia amicos habere voluit, magis meruisse quam habuisse*. De Ludovico sancto Galliae Rege in vita Roberti Sorbona, qui fuit illi a confessionibus Tornacensis Diaconus, refertur, cum Lutetiae vellet constituere collegium, quod extat de suo nomine *Sorbonicum*, cui in eo genere litterario, nullum toto orbe comparetur, Regem rogasse subsidium aliquod. Respondit ille facturum libenter quae postulabat, si modo delecti Theologi prius publicis oneribus & vectigalibus expensis statuerent, quantum ad id opus elargiri fas esset. Magnum Regem & vere sanctum. Si in opus tam pium non sine iudicio & examine pecuniam profudit, an ad impingandum aulicos in inanes hortorum amoenitates & fabricas supervacaneas prodigeret? Sic est, a gente Rex habet tributa, quibus publica onera sustineat, ea ubi compleverit poterit ad alia digredi,

¹ orig. tustrici.

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non ante. An si quem ego Romam procuratorem mitterem ad mea negotia expedienda, ei liceret pecuniam in sumptus necessarios a me datam in alios usus convertere? Non licet Regi, non licet pecuniam a subditis datam ea libertate insumere, qua privatus fructus praedii. Ad haec, sumptus non necessarios, & bella excusare debet, quae membra sanari non possunt, tempestive a reliquo corpore abscindere. Prudenti consilio Philippus secundus Hispaniae Rex Belgas a reliquo imperii corpore seiunxit: Sinarum gens multo latius quam hoc tempore cum imperaret, quasi emisso sponte sanguine & castigata luxuria multas provincias abdicavit, quibus commode¹ imperare non poterat, auctor Mapheus Indicarum historiarum libro sexto initio. Tantundem inter Romanos Imperatores praestitit Hadrianus Augustus everso ponte quo Danubium iunxerat Traianus, illum ad septentriones, & Euphratem ad ortum Romanae ditionis fines esse volens sua iam mole laborantis. Quartum praeceptum sit, ut ad rationes adigantur primum aulae ministri omnes, deinde provinciae magistratus, atque alii omnes, quicumque reipublicae partem aliquam attingunt. In lubrico versamur, ubi vix tuto quis consistat. Verum quod vulgo fama fert, plane est miserabile; nullum hoc tempore in provincia magistratum, nullam procuratorem, ne sacerdotia quidem & Episcopatus meritis dari, cuncta esse vaenalia, neque sine pretio concedi, conficta haec fortassis, esto certe aucta: sed ita dici calamitosum est. Omnino regios ministros videre est terrae plane filios exuccos ad publicas procuraciones accedere, puncto mox temporis beatos evadere, multa aureorum millia annua numerare. Unde haec nisi ex pauperum sanguine, ex medullis litigantium publicasque procuraciones ambientium? Hac rerum inversione commotus soleo saepe cogitare, fore e republica si quemadmodum Episcopi priusquam in eum gradum ascendant, bonorum, quae possident, rationem testato describunt, ut ea relinquere cui voluerint sub mortem possint, non alia: sic putabam faciendum cum iis qui² ad aulae ministeria, aut magistratus, aliasve procuraciones leguntur; ut suis temporibus examine instituto cogerentur rationem reddere quaesitarum denuo divitiarum, spoliarentur, quorum origines certas & causas minime designarent. Immane quantum lucri aerario accederet hoc examine instituto & iudicio repetundarum.

¹ orig. comode.

² orig. quae.

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Qui regia vectigalia administrant, eos frequens fama damnat, quasi foedere cum Publicanis facto lucri & pecuniae ea conducentibus pactae partem multo maximam ad se derivent; quod ad rectores singularum urbium promanat, eo peiori exemplo quod leges provinciales seu pragmaticas vendunt populis quotannis iis obtinere recusantibus: publica iis addicunt palam a quibus ex arcano pecuniam acceperunt. Finis non sit corruptelarum formas varias commemorandi, emungendi provinciales. Et constat annis superioribus cum Philippus secundus Rex constituisset coronarum valorem augere octava parte, nihilominus quendam Regi gratiosum ea deliberatione cognita, aurum prius omne corrasisse quod mari Atlantico defertur quotannis, ex eo ingens deinde lucrum fecisse. De quodam e superioribus Castellae Regibus Ioanne credo secundo, aut Henrico eius patre Iudaeus quidam eius quaestor maximus rogavit, occur fallendo tempore cum aulicis tessera non luderet, respondit Rex, *qui id faciam cum centum aureos non habeam?* Dissimulavit in praesentia Iudaeus, deinde opportunitatem nactus, quod superiori die verbum, o Rex ait es locutus, vehementer me pupugit: quippe eo me perstrictum ex obliquo putavi. Verum si morem gesseris, ego te ex inope locupletem faciam & beatum. Annuit Rex postulato. Tum ille, volo in meam potestatem tres arces contradas, quibus condere pecuniam cogitabat, servare vinctos quos attactu pecuniae regiae noxam commisisse probasset. Tunc ex quaestoribus minoribus inquisitione facta excussis schedis inveniebat nomina regia aliasque donationes a Principe factas, detracta tertia aut quarta parte solutas iis qui regias ad eos syngraphas afferrebant. Rursus ex iniuriam passis rogabat, an eius peculatus dimidio contenti reliqua Regi cederent. Annuebant illi, vero in lucro ponentes quod offerebatur, nulla antea spe compensationis ullo tempore futurae. Iudaeus rebus sic constitutis in ferrum & vincula quaestorem eiusque adeo fideiussores trudebat, neque liberabat nisi pecunia integra persoluta. Sic aerarium magnopere locupletavit. Qua utinam arte hoc uteremur tempore, magni instar compendii esset. Quaestores eam functionem cum magno compararint, (quae nova corruptela est argumentum inversae reipublicae) iidem vendant necesse est, atque ex aliena miseria lucrum captent. Pecuniam regiam ad mercimonia convertunt, sic regiis litteris uno & duobus annis non satisfaciunt. Qui commodissime post quatuor aut octo menses debita solvunt parte etiam aliqua

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expensione detracta, uncia nempe aut duabus unciis ex universa summa, ut cum creditore convenerunt. Quae corruptelae coërceri possent, si identidem in eos inquireretur. Tametsi id etiam praedicant, vero an falso non dixerim, sed affirmatur tamen vulgo, nullum ex his quaestoribus esse, qui in aula in regiis tribunalibus fautores non habeant parte nempe peculatus speque invitatos, quae alia miseria est superioribus non minus exitialis. Ante omnia, regia vectigalia censusque diligenter & ex fide curari debent, ut modo res sunt vix dimidium in regios usus convertitur. Per multos ministros traducta pecunia liquoris instar semper aliquid in vase relinquit. Hac cura suscepta Henricus tertius Castellae Rex ex pudenda inopia vix ut aliquando in regia esset, unde arietinas carnes ad prandium emerent, uti nostri annales testantur libr. XIX. capit. XIV. in locupletissimum evasit: filioque Ioanni secundo ingentes thesauros reliquit sine ullo provincialium gemitu, cautione tantum ipsius & Ferdinandi fratris, ne ministri in pecuniam publicam rapaces manus iniicerent. Postremo curiosae merces & delicatae quibus gentis corpora enervantur, & sine noxa iis carere possumus, gravi aliquo tributo vendantur. Sic enim aut non invehentur, quod optandum imprimis est, aut ex quaestu externorum provincialium delicis aerarium sublevaretur, eo instituto vectigali, ex auro illusa veste, ex aulaeis, ex aromatis omne genus, ex saccharo & cupediis omnibus: quod ab Alexandro Severo institutum olim Romae sine fine laudatur. Et nos de hac re copiosius disputavimus libr. III. de Rege & Regis institutione cap. VII. quo minus necesse sit diutius hoc loco immorari. Id modo subiiciam, ex iis quas monstravimus supplendi regiam inopiam vias imo ex earum quacunque plus accessurum lucri quotannis, quam ducenta millia aurei quos primi auctores aerae monetae mutandae annuos scheda publicata, sunt ex ea Regi polliciti, quodque est amplius sine ulla populi reprehensione, contra magno plausu omnium, pauperum ope. Si quis obiiciat nil esse mirum, si ad eas rationes revertimur quas superiori tempore varii Reges sunt secuti, uti superius est dictum; responsio in promptu est, multum ab antiquo mutata tempora, Regis reditus multo tunc minores, nulla rerum vaenalium instituta decima, nullum Indicum aurum, non octava vini & olei pars, nulla monopolia, ex decumis templorum, & cruciata nulla subsidia, militum sacrorum Reges magistri non erant, unde opimi census quotannis. Angustiae multo maiores, ad portas & moenia Mauri, cum finitimis

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Regibus bella; proceres saepe rebelles, intestini ex eo tumultus: Nunc contra divino munere intus pacata omnia in Hispania. De externis nihil dicam omnino: in Gallia Franciscus Rex eo nomine primus anno 1540. solidos monetam in ea gente frequentem detrivit, Henricus Francisci filius ulterius progressus aeris amplius miscuit. Carolus nonus avi & patris exemplo de bonitate & pondere detraxit non parum. Angustiae haud dubium graves premebant, incommoda tamen ex eo fonte tanta, ut non sit opus illis aliena lugere mala. Provinciales exacerbati tumultuantes, veterum de religione placita passim mota, compulsi plerique ob inopiam solum vertere, & ex aliena misericordia vivere. Quod in nostris annalibus retulimus lib. XXIX.c.XXI. insigne profecto est, neque hoc loco praetermittendum. Maximilianus Augustus & Ferdinandus Rex Catholicus de Castellae administratione propter obitum Philippi Austriaci & uxoris imbecillitatem rectore destitutae diu dissidentes concordiae ineundae viam aliquam excogitabant. Id ut contingeret Augustus sibi inter alia ex Castellae vectigalibus centum millia aureos semel numerari sibi flagitabat. Rex Catholicus id ut concederet adduci non potuit: excusabat aes alienum publice ad quingenta aureorum millia excrevisse. Mirabile plane responsum. Vectigalia minora multo erant, quam in praesenti bella, quam ullo tempore graviora, spesque pares tentatae. Lusitanus superatus finibusque pulsus, Atlantica navigatio aperta, Granatae regnum subiugatum, Africana littora Vascones, Neapolitani expugnati, prater regni motus compositos, & Italica bella in quibus magna semper pars fuit, conqueritur tamen regnum eo onere premi levi quidem si cum debitis nostri temporis conferatur. Nimirum prudentia insigni Princeps accepti & expensi rationes comparabat, neque ultra niti volebat. Quae magna sapientia est. Neque verum est tempora accusare, id enim anno 1509. accidit, quo iam tempore magna vis auri quotannis Indici in aerarium inferebatur. Mutata ex eo tempora non crediderim, sed homines, ingenia, mores, deliciae, quibus malis hoc imperium quasi mole imposita ad terram affligitur, nisi Deus sua benignitate & salutari manu sustentet. Haec ego sentiebam in iis omnibus articulis, de quibus in hac scheda disputatum est, ac sigillatim de aerae monetae mutatione depravationeque. Quae inconsulta gente facta iniqua videtur, consentiente multis modis exitialis. Si vere & cum ratione huc usque sumus progressi, erit

APPENDIX

quod Deo gratias agam; sin fallor, iuvandi syncera voluntas veniam certe meretur. Notitia enim aliqua praeteritorum malorum facit, ut verear ne in ea mala incidamus unde emergere sit difficile. Quod si quis exacerbabitur iis quae in nostra disputatione ponuntur, is cogitet, remedia quae sunt salutaria eadem amara saepe esse & aëria. Tum in re quae ad omnes spectat, cuius liberum esse, de ea quid sentiat explicare sive verum dicat, sive fallatur. Deum ad extremum precor, ut eorum, penes quos rerum arbitrium est, oculos & mentem illustret luce veritatis; qua sine perturbatione ulla cognita salutaria consilia amplecti & executioni mandare non detrectent.

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