

‘RENAISSANCE SCHOLASTICISM’ STRIKES AGAIN: NICOLETTO VERNIA AND THE DEBATE BETWEEN MEDICINE AND CIVIL LAW

Amos EDELHEIT

Abstract

This paper is focused on one of the most important philosophers in Italy during the last decades of the fifteenth century – Nicoletto Vernia – and on his account of medicine and civil law. This is the first attempt at presenting Vernia’s achievements in the context of Renaissance scholasticism, a particular philosophical context which is still and by and large neglected by many scholars of Renaissance philosophy, of which Vernia was a genuine representative. Questions regarding, for instance, what science is or what a proper scientific procedure should be are discussed through this debate between disciplines, where Vernia shows just how much he is willing to go beyond the Aristotelian framework. It is here that we find one of the earliest formulations of the notion of a universal rationality, while reducing moral philosophy to natural philosophy, which turns out to be the necessary foundation for every other science.

In 1482 Nicoletto Vernia had completed two *Questions* which appeared in print as part of his edition of Walter Burley’s commentary on Aristotle’s *Physics*: his *Quaestio de divisione philosophiae*, and his *Quaestio an medicina nobilior atque praestantior sit iure civili*. In both *Questions* one notices a redrawing of standard Aristotelian categories and classifications, which were at the heart of the Aristotelian discourse, and pushing it towards new boundaries. It is the second *Question* which will stand at the centre of the present article,¹ but

1. NICOLETTO VERNIA, *Quaestio an medicina nobilior atque praestantior sit iure civili*, in: *Expositio excellentissimi philosophi Gualterii de Burley in libros octo de physico auditu Aristotelis Stagirite: emendata per me Nicoletum Verniam Theatinum publice et ordinarie*

since fifteenth-century scholastic philosophy, part of what I regard as ‘Renaissance scholasticism(s)’ is still, for many scholars, *terra incognita*, let me begin with a short biographical note.

Nicoletto Vernia (ca. 1420-1499) was probably the most important and influential philosopher, in the ‘formal’, academic-institutional sense of this term, in Italy during the last decades of the fifteenth century. He received his basic formation in the arts (mainly logic and natural philosophy) in the Venetian *Scuola di Rialto* and later joined the University of Padua, where he studied both natural philosophy and medicine, and became professor in these two disciplines. In this regard, Vernia was, in many respects, at the centre of the scientific activity of his time.² He represents not only the continuation of the Aristotelian traditions in the Renaissance³ – and one

philosophiam in gymnasio Patavino legentem, Venice 1482, fols. 3v-5r. For the purposes of this article I shall be using both NICOLETTO VERNIA, *Quaestio est an medicina nobilior atque praestantior sit iure civili*, in: *Quaestiones. Ristampa anastatica delle rispettive edizioni originali*, Casarano 1998, pp. 24-27 (henceforth: Vernia, *Quaestio*), and the edited text of this *Question*, where most of the references to ancient and medieval sources can be found, published in E. GARIN (ed.), *La disputa delle Arti nel Quattrocento. Testi editi ed inediti di Giovanni Baldi, Leonardo Bruni, Poggio Bracciolini, Giovanni d'Arezzo, Bernardo Illicino, Niccolotto Vernia, Antonio de'Ferrariis detto il Galateo*, Florence 1947, pp. 111-123 (henceforth: GARIN (ed.), *Quaestio*). For the first *Question* see A. EDELHEIT, “From Logic to Ethics and from Natural Philosophy to Mathematics: Nicoletto Vernia and the Division of Philosophy – Continuation and Innovation,” in: Y. Z. LIEBERSOHN – I. LUDLAM – A. EDELHEIT (eds.), *For a Skeptical Peripatetic. Festschrift in Honour of John Glucker*, Sankt Augustin 2017, pp. 308-328.

2. For a basic orientation on Vernia see e.g., S. CAROTI, “Note sulla biblioteca di Nicoletto Vernia,” in: V. FERA – A. GUIDA (eds.), *Vetustatis indagator. Scritti offerti a Filippo Di Benedetto*, Messina 1999, pp. 183-206; E. P. MAHONEY, *Two Aristotelians of the Italian Renaissance. Nicoletto Vernia and Agostino Nifo*, Aldershot 2000, chapters I-IV; E. DE BELLIS, *Nicoletto Vernia. Studi sull'aristotelismo del XV secolo*, Florence 2012. And see also E. KESSLER, “Nicoletto Vernia oder die Rettung eines Averroisten,” in: F. NIEWÖHNER – L. STURLESE (eds.), *Averroismus im Mittelalter und in der Renaissance*, Zürich 1994, pp. 269-290; J. DE CARVALHO, “Gomes de Lisboa e o Averroista Nicoletto Vernia,” in: *Estudos sobre a Cultura Portuguesa do Século XV*, vol. 1, Coimbra 1949, pp. 269-282. A reference to Vernia's *Question* in the context of Ficino's attitude towards medicine as it is reflected in his *Consilio contro la pestilentia* can be found in T. KATINIS, *Medicina e filosofia in Marsilio Ficino. Il Consilio contro la pestilentia*, Rome 2007, p. 87.

3. On this see e.g., C. B. SCHMITT, *Aristotle and the Renaissance*, Harvard 1983; *The Aristotelian Tradition and Renaissance Universities*, London 1984; L. OLIVIERI, *Certezza e gerarchia del sapere. Crisi dell'idea di scientificità nell'Aristotelismo del Secolo XVI*, Padua 1983; L. BIANCHI, *Studi sull'Aristotelismo del rinascimento*, Padua 2003; “Continuity and Change in the Aristotelian Tradition,” in: J. HANKINS (ed.), *The Cambridge Companion to Renaissance Philosophy*, Cambridge 2007, pp. 49-71. For the Averroist tradition see

should be reminded that 'continuation' does not mean 'repetition', and certainly does not necessarily imply lack of originality – but his intellectual activity as an interpreter and editor of philosophical texts, belonging to different scholastic schools, 'ancient' and 'modern' alike (thus, his 'Paduan roots' were balanced by a visit to the *Studium* of Pavia where he studied terministic logic and physics – especially the theory of Richard Swineshead – and by his interest in the 'modern way'), clearly reflects innovative elements, in matters of both methods and practices.

Vernia's importance is evident not only through his scholarly and pedagogical activities (he was the teacher of Giovanni Pico della Mirandola, Pietro Pomponazzi, and Agostino Nifo, among others), but also through his personal relations with leading figures in the emerging humanist circles such as Ermolao Barbaro,⁴ reflecting the increasing interest shown by different Renaissance humanists in Aristotelian philosophy. These relations may have been the reason for Vernia's unique practice of publishing emended editions of Aristotle and Averroës in Latin, and of some other scholastic masters belonging to different schools, recognising that these texts, in their present form, were corrupt. Thus, it is not surprising that the University of Florence tried very hard during 1481 to bring him as a lecturer to the *Studium* in Pisa, without success.⁵

D. N. HASSE, *Success and Suppression. Arabic Sciences and Philosophy in the Renaissance*, Cambridge, Mass. 2016, pp. 179-247, and more specifically on Vernia see pp. 201-205. See also the classical works on Padua by A. POPPI, e.g., *Scienza e filosofia all'Università di Padova nel Quattrocento*, Padua 1983, and by B. NARDI, e.g., *Saggi sull'Aristotelismo padovano: dal secolo 14. al 16.*, Florence 1958; and more recently M. T. GAETANO, *Renaissance Thomism at the University of Padua, 1465-1583*, Publicly Accessible Penn Dissertations 2013.

4. See VERNIA, *De divisione philosophiae*, in: *Quaestiones*, pp. 21-24, at p. 21: "Est enim ut operis medicina ita omnia philosophiae perfectio et hoc est quod Themistius inquit in eodem prohemio de phisico auditu quem nuper transtulit de greco in latinum in omne disciplinarum genere eruditissimus Hermolaus Barbarus qui etsi nomine barbarus sit, re tamen non barbarus." As we shall see, Themistius plays a significant role also in this *Question* concerning medicine and civil law. The dramatic shift from Averroës to Themistius and Simplicius as the best interpreters of Aristotle in both Nicoletto Vernia and Agostino Nifo during the 1490s was pointed out by Mahoney; see MAHONEY, "Philosophy and Science in Nicoletto Vernia and Agostino Nifo," in his *Two Aristotelians of the Italian Renaissance*, I. And see also DE BELLIS, *Nicoletto Vernia*, pp. 87-94.

5. On this episode see, e.g., DE BELLIS, *Nicoletto Vernia*, pp. 42-48.

Why did Vernia dedicate a *Question* to arguing that medicine is more honourable and important than civil law? What is the intellectual context of this debate? We should, perhaps, first of all, avoid any schematic attempt to associate the Renaissance humanists with ‘law’, and the Renaissance scholastics with ‘medicine’, following the advice of Garin.⁶ But at the same time, one should admit, following in this case both Garin and Kristeller, that focusing on Renaissance discussions concerning sciences and arts is necessary for understanding some of the motives behind Renaissance humanism⁷ – and also, I would contend, Renaissance scholasticism(s). Overall, although this subject may seem like a typical scholastic theme, stemming from medieval academic circles and echoing some ancient resonances,⁸ it is probably more than anything else yet another product of Renaissance culture. It reflects the increasing professional tensions between physicians and lawyers in the Italian universities and cities, in the context of the emerging bourgeois classes of bankers and merchants. In such a context honour and reputation are commonly translated into economic status and higher salaries. Such tensions and their consequences are a recurring theme in several texts from the fourteenth and fifteenth centuries.⁹

6. GARIN (ed.), *Quaestio*, p. xvi: “Chi segua umilmente i testi vede spesso sfuggirsi tra mano ogni schema, ogni presupposto, in una straordinaria fluidità di motivi.”

7. *Ibid.*, p. xiii: “Il Kristeller, nel medesimo saggio [“Humanism and Scholasticism in the Renaissance”], sottolinea un punto, credo, fondamentale: la necessità, cioè, di mettere a fuoco la discussione fra scienze e *arti*, per intendere alcuni dei motivi dell’umanesimo.”

8. For the relation between philosophical and medical terminology on causality in the ancient context see, e.g., M. VEGETTI, “Culpability, Responsibility, Cause: Philosophy, Historiography, and Medicine in the Fifth Century,” in: A. A. LONG (ed.), *The Cambridge Companion to Early Greek Philosophy*, Cambridge 1999, pp. 271-289.

9. For a basic orientation see L. THORNDIKE, *Science and Thought in the Fifteenth Century. Studies in the History of Medicine and Surgery, Natural and Mathematical Science Philosophy and Politics*, New York 1929, pp. 24-58 and 261-264. Thorndike focused on several texts by different authors (Coluccio Salutati, Poggio Bracciolini, John Baldus, John of Arezzo), found in the manuscript collections of the Laurentian Library at Florence dated between 1399 and 1450, all associated with Florence and discussing medicine and law. These texts, according to Thorndike, “mirrored a tendency to depart from the set form of scholastic disputation to a more informal and discursive dialogue between historic or contemporary personages of note, and in a lighter vein though retaining something of argumentative character” (p. 58). Vernia’s *Question* on medicine and law, which was written in Padua is not mentioned by Thorndike, who holds a very negative view of Renaissance scholasticism, being “the period of declining scholasticism” (p. 24). For a different, and more nuanced approach regarding scholastic and humanist contributions to the

One obvious possible starting-point for investigating the philosophical question concerning methods of research and their proper objects, that is 'disciplines' through which we can establish 'knowledge', is found in the opening sections of Aristotle's *De anima* and its vast commentary tradition from antiquity to the Renaissance. Isidore of Seville, for instance, mentioned medicine among the disciplines which belong to natural philosophy, and defined it as the science of treatments which was discovered for checking the temper or the health of the body.¹⁰ By contrast, Pedro Garsia, the bishop of Barcelona and a member of the papal commission which in 1487 famously condemned 13 of Pico's theses, stated (following William of Auvergne, Albert the Great and Roger Bacon) that medicine is related to natural magic, as well as alchemy, mathematics, agriculture and other mechanical arts.¹¹ Civil law, on many occasions, was associated with moral philosophy and politics. Two early attempts to deal with this topic are Francesco Petrararch's *Invective contra medicum* (1355) and Coluccio Salutati's *De nobilitate legum et medicinae* (1399).¹²

debates on medicine and law, including a detailed account of Giuliano Preonti's 1342 "sermon on the comparison between the science of medicine and the science of law" (which is published in the appendix) and its Bolognese background, see T. DURANTI, "Una disputa tra medicina e diritto del primo Trecento all'Università di Bologna", in: *Archivio Storico Italiano* 174/4 (2016), pp. 607-638; Vernia's *Question* is mentioned on p. 623, n. 58, as an example of later debates on the same issue. For the German academic context see J. M. SCHÜTTE, *Medizin im Konflikt. Fakultäten, Märkte und Experten in deutschen Universitätsstädten des 14. bis 16. Jahrhunderts*, Leiden 2017, where a reference to the Italian debate on disciplines, including a mention of Vernia, can be found on pp. 135-136.

10. ISIDORE OF SEVILLE, *De differentiis rerum* (PL 83), par. 150, col. 94: "Hoc trimodum philosophiae genus, juxta sapientes mundi in partibus suis, ita distinguitur. Ad physicam pertinere aiunt disciplinas septem, quarum prima est arithmetica, secunda geometria, tertia musica, quarta astronomia, quinta astrologia, sexta mechanica, septima medicina"; par. 152: "Medicina est scientia curationum, ad temperamentum corporis, vel salutem inventa."

11. PEDRO GARSIA, *Determinationes magistrales contra conclusiones apologeticas Joannis Pici Mirandulani Concordie comitis*, Rome 1489, fol. h8r: "Ad hanc magiam naturalem pertinet mirificentia operum que in medicina, alquimia, mathematica, agricultura et ceteris mechanicis artibus fiunt; de quibus omnibus Guillelmus Parisiensis, Albertus Magnus, Rogerius Bachon et plures alii theologi tam antiqui quam moderni plura experimenta mirifica referunt et scribunt."

12. FRANCESCO PETRARCH, *Invective contra medicum*, in: *Invectives*, ed. D. MARSH, Cambridge, Mass. 2003, pp. 2-178; COLUCCIO SALUTATI, *De nobilitate legum et medicinae*, ed. P. M. SCHENKEL, Munich 1990.

Petrarch is reacting against an angry response by a physician to a letter he sent to Pope Clement VI, advising the Pope to count on one doctor only rather than on a crowd of physicians. While accusing the physician of challenging Christ and preferring Averroës, Petrarch points out the uncertainty in medicine, reflected in the discord among physicians, and argues that medicine as a mechanical art is inferior to a liberal art such as rhetoric, it is restricted and surely has no power to subject rhetoric to itself.¹³ The tension presented in this text is between a personal response to one specific physician on the one hand,¹⁴ and more general implications of some of the arguments against medicine as a discipline – for instance, mocking the efforts to connect medicine to philosophy – on the other hand.¹⁵ As we shall see, this line of argumentation – connecting medicine and natural philosophy – is crucial to Vernia's *Question*.

When Petrarch is 'sending' the physician to his 'proper' place among other artisans of the mechanical arts, he is doing it in his capacity as a physician, and thus he clearly implies that medicine as a discipline belongs to these mechanical arts.¹⁶ The contrast between

13. PETRARCH, *Invective contra medicum*, p. 28: "Cur autem indignè audere te aliquid adversum me, cum adversus Christum, si impune liceat, sis ausurus, cui Averroëy, tacito licet iudicio, pretulisti?"; p. 8: "Negas ecce medicos discordare, que publica totius humani generis est querela. Utinam tamen ita sit! Malim me esse mentitum, quanquam hac in re mentitus esse non possim; ceterum, salvis omnibus, errasse maluerim, quam, me veridico, periclitari tot hominum milia, qui discordi et vario et prorsus incerto medicorum imperio gubernantur"; p. 12: "Quid te autem non ausurum rear, qui rethoricam medicine subicias, sacrilegio inaudito, ancille dominam, mechanice liberalem?"; p. 14: "[...] [fortuna] medicine suppeditare rethoricam non poterit: extra suos fines imperium non habet."

14. *Ibid.*, p. 30: "Hec non adversus medicinam – quod sepe testatus sum – neque adversus excellentes medicos, qui irasci non debent si, semper rari, nostra sint etate rarissimi, sed adversus te delirantesque similiter dicta sint."

15. *Ibid.*, p. 40: "Quid autem de te dicas, quem te facias audiamus: 'Sum,' inquis, 'medicus'. Audis hec, medicine repertor, Apollo, vel amplificator, Esculapi? 'Consequenter et philosophus'. Audis ista, Pithagoras, qui nomen hoc primum omnium invenisti? Flete repertores artium: fines vestros proterit asinus infulatus, non se modo philosophum, sed philosophiam insuper suam iactans. 'Philosophia nostra,' inquit. Heu, quid hoc est? Peiora sunt audienda, si vivimus. Iam, ut suspicor, ad finem seculi propinquamus. 'Erunt signa in sole et luna et stellis'; hoc signum in Evangelio non fuit: quando asinus philosophabitur, celum ruet."

16. *Ibid.*, p. 72: "Quomodo ego te philosophum credam cum mercennarium mechanicum sciam? Repeto libenter hoc nomen, quia novi quod nullo magis ureris convitio; non casu, sed sciens sepe te mechanicum voco, et, quo gravius doleas, non primum. Percontare qui mechanica literis mandaverunt: ab illis digito tibi monstrabitur locus tuus."

medicine and philosophy is reflected by Petrarch, for instance, through constantly reminding his readers of the connection between medical practice and urine; as shown by Thorndike, in the fifteenth century Giovanni d'Arezzo took a similar line of argumentation, using pleasant and unpleasant practical aspects of both medicine and law as a criterion for their superiority or inferiority, in his treatise, written in a dialogue form, *De medicina et legum prestantia*.¹⁷ In the same fashion Petrarch refuses to see any connection between medicine and 'living well' from a moral perspective, the purpose of moral philosophy.¹⁸ For him there is no doubt that rhetoric, just like poetry and all the other liberal arts, which are devoted to the soul, are superior to the mechanical arts, which are related to the body, including, of course, medicine.¹⁹

Salutati is responding to an attempt by a certain physician, Bernardo of Florence, to show that medicine is more noble than law.²⁰

17. *Ibid.*, pp. 102-104: "Responde michi, vir doctissime, oro te, et quid sis responsurus examina. An poeta talis, qualem tibi describo, et qualem esse posse, et forsitan esse non est incredibile, an Ypocras ipse, si viveret, vel medicorum unus, qui de urinis semper, non superficie tenus ut tu, sed profundissime disputasset? Puto: nemo est, nisi omnino depuduit, qui in respondendo hereat"; p. 162: "Quid tibi, medice, videtur? Quid de hac urina iudicas Platonis? Certe Augustinus, magnus medicus animorum, sani hominis eam censet." For the discussion and reference to John of Arezzo, see THORNDIKE, *Science and Thought in the Fifteenth Century*, p. 32, n. 31. For John's text see GARIN (ed.), *La disputa delle Arti nel Quattrocento*, pp. 37-100.

18. *Ibid.*, p. 128: "Primum enim, ut dixi, medicina ad recte vivendum nichil omnino, nisi quantum una mechanicarum corpori famulantium."

19. *Ibid.*, p. 134: "Siquidem, sicut anima rationalis, nisi rationem amiserit, corpori suo imperat, corpus autem illi servit, sic omnes artes, propter animam invente, imperant propter corpus inventis; ille autem serviunt. Constat autem liberales propter animam, mechanicas propter corpus inventas. Conclude, dyaletice: ergo medicine rethorica serva est." This should of course be considered in the light of Petrarch's overall critique of the scholastic methods and practices; on this vast topic see, e.g., P. O. KRISTELLER, "Il Petrarca, l'umanesimo e la scolastica", in: *Lettere Italiane* 7/14 (1955), pp. 367-388; C. TRINKHAUS, *The Poet as Philosopher. Petrarch and the Formation of Renaissance Consciousness*, New Haven 1979, pp. 90-113; S. CRACOLICI, "The Art of Invective", and W. J. KENNEDY, "The Economy of Invective and a Man in the Middle", in: V. KIRKHAM – A. MAGGI (eds.), *Petrarch. A Critical Guide to the Complete Works*, Chicago 2009, pp. 255-273.

20. SALUTATI, *De nobilitate legum et medicinae*, p. 2: "Tu itaque, mi Bernarde, vis atque determinas artem medicine, quam et altam et subtilissimam fateor, nobilitate precedere professionem quam legistarum sibi vendicat amplitudo, cum michi tamen semper visum sit atque videatur leges cunctis nobilitatis gradibus antecellere medicine." For the text of Bernardo, see BERNARDO DA FIRENZE, *Questio que scientiarum vel artium nobilitate prefulgeat an medicine vel legis*, eds. P. M. SCHENKEL – C. KAISER, Fribourg

While discussing the origin of law (divine, natural, human), he deals with the issue of the relation between art and nature and between the human and the divine, pointing out that human matters are determined partly by nature and partly by invention (*inventio*), and nevertheless they all originate in God; and so, in the case of law, we have divine law, as well as its natural reflection and its promulgation, which we call human law.²¹ Medicine, on the other hand, is not regarded by two of its main ancient authorities – Hippocrates and Galen – as a science but rather as an art.²² In this manner Salutati implicitly contrasts the divine origin of law with the status of medicine as a practical art. Apparently, according to Salutati, the idea that medicine is a mechanical art is ascribed by Averroës to Aristotle, and it is repeated – as we have seen – by Petrarch, and also by Hugh of Saint Victor.²³ Worse than this: medicine was associated in the beginning with magic.²⁴

Science or art – Salutati quickly shifts his focus and prioritizes ‘goodness’ over ‘truth’. Goodness is the object of law, which provides both the reason (*ratio*) and rule (*regula*) for our actions. Truth can be

2015. For Salutati’s approach to contemporary scholasticism see, e.g., B. L. ULLMAN, *The Humanism of Coluccio Salutati*, Padua 1963, pp. 39-70, 85-92; R. G. WITT, *Hercules at the Crossroads. The Life, Works and Thought of Coluccio Salutati*, Durham, North Carolina 1983, pp. 227-271.

21. *Ibid.*, p. 14: “Nam sicut ars sequitur imitaturque naturam, sic humana respiciunt ad divina; et quoniam hominis esse quedam natura, quedam inventionem dicuntur, que tamen a Deo sunt, non est inconveniens legem esse divinam, et eius vestigium naturalem, et promulgationem eius quam legem appellamus humanam.” And see also *ibid.*, p. 160: “Divina quidem lex instituit, naturalis inclinatur, humana promulgat et iubet.”

22. *Ibid.*, p. 20: “Sed antequam ad diffinitionem veniam, illud premitendum censeo, quod idem auctor [Galen – mentioned in the previous sentence] non vult medicinam esse scientiam, quoniam scientia sit cognitio certa et firma et impermutabilis a ratione; que quoniam philosophorum sint, merito dicit medicativam esse quidem artem et non scientiam.” Salutati contends that the view according to which medicine belongs to practical rather than speculative disciplines is found also in Hippocrates; see *ibid.*, p. 22: “Nam quod Hypocratem asserit voluisse medicativam esse adiectionem et ablationem eorum que corporibus abundant et desunt, huiusmodi vides esse quod ex eo concludatur medicinam non ad speculativam, sed ad practicam pertinere [...]”

23. *Ibid.*, p. 24: “[...] dixit enim [Averroës – mentioned and cited just before this sentence, *ibid.*, p. 22] quod Aristoteles suos numerat hanc artem inter mechanicas in virtute, ut minus indignis si noster Petrarca vel Ugo de Sancto Victore ipsam inter mechanicas collocavit auctoritate tanti philosophi et fide testimonii tanti viri.”

24. *Ibid.*: “Quis non novit ab initio per vanas artis magice ludificationes medicinam constitisse, cuius inventorem Apollinem tradiderunt?”

associated with both natural and moral evil and thus it is inferior to goodness.²⁵ In other words: 'truth', which is the object of science, can be more exposed and open to evil than goodness, which is also logically contrasted to evil.

A standard argument we find in *Salutati*, a variation on an argument found in Petrarch (see n. 19), contrasts medicine, which is focused on curing bodies, with politics, understood as belonging to law, which is focused on curing souls. The superiority of the soul over the body guarantees the superiority of politics and law over medicine.²⁶ Moreover, while law is the product of the best faculties of the human soul (the light of the intellect, the examination of reason, satisfaction and choice of the will), medicine is dependent on experience.²⁷ *Salutati* maintains that the evolution of law (*legum progressus*), which never deserts reason, has been more noble, while the starting point of medicine, before arriving at reason, consisted in magical incantations and experience.²⁸

The inferior and not wholly rational nature of medicine is further 'exposed' by *Salutati* through the claim that legal experts use better reasoning (the causal *propter quid* arguments), while physicians use conjectural inference (*coniectura*) more than rational argument (*ratio*), and when they do use rational argument, it is effect-to-cause reasoning,

25. *Ibid.*, p. 34: "Ratio igitur et regula nostrorum actuum, que lex est, bonum habet in obiectum, cuius, sicut diximus, rationem nobiliorem esse ratione veri nemo negaverit, quandoquidem verum ens sic ens sit, quod malum esse possit tam nature quam culpe. Bonum autem, quod obiectum est legum, tale quidem est quod ens et verum est, et bonitas tam nature quam morum, bonum efficiens quemlibet cui contingit. Ut cum bonum progrediatur ultra verum, quoniam verum quod est nature potest cum malo culpe concurrere, quod quidem reperiri nequit nisi in natura bona, nec bonum potest esse moraliter nisi naturaliter sit et verum, certum esse debeat morale bonum ultimatius bonum esse quam verum."

26. *Ibid.*, p. 50: "Nam cum medicina curet corpus, politica quidem curat animam. Ex quo fit quod, quanto nobilior et honoratior est anima corpore, tanto plus debeatur honoris politice quam medicine. Leges autem ad politicam pertinere, sicut tu ipse fateris, sic nemo negaverit."

27. *Ibid.*, p. 76: "[...] leges ortum habent ab intellectus lumine, rationis examine, voluntatisque complacentia et electione, que tres potentie maxime et nobilissime sunt in anima. Medicina vero, prout aliquid iuvans est, a rerum proprietatibus ortum et vim habet; prout autem in artem redacta est, ab experientia sine dubio principium cepit [...]."

28. *Ibid.*, p. 82: "Verum in isto crescendi cursu nobilior legum progressus fuit, qui numquam a ratione discesserit, quam medicine, que cepit ab incantationibus magicis et in experimenta procedens, tandem ad rationem pervenerit [...]."

which does not work for many natural phenomena such as magnetism.²⁹ The scientific and universal nature of medicine is questioned by Salutati, who employs here concepts taken from Epicurean physics: human beings are made out of different combinations (*complexiones*), and the state of the combination of an individual is changed according to single atoms. If this is the case, who among the physicians will know the present combination of a sick person? Or who could mix the right remedies, according to the right measure, quantity or proportion? All these medical practices can be done only by estimating, having opinions and guessing, not by proper scientific knowledge, claims Salutati.³⁰

A comparison between the subjects of law and medicine also reveals, according to Salutati, the superiority of law: man as a political agent and his unique or proper behaviour is the subject of law; laws, in this regard, provide reason and rule for human actions which are regulated by, and proceed from, habits, passions and faculties of the soul which are all unique to human beings.³¹ The subject of medicine is not only the human body which should be cured, but also the qualities and virtues of all things which is relevant for removing sickness and producing health.³² Law as an art considers how man as

29. *Ibid.*, pp. 90-92: “[...] completius atque perfectius in ultimum opus suum leges exire, que ratione *propter quid* utantur, quam medicinam, que coniectura magis utitur quam ratione. Licet enim in tuis litteris et tractatu scribas certius opus esse medicine quam legum, video tamen vos rationes vestras elicere per considerationem effectus in quos multotiens impossibile sit venire. Formam quidem specificam cui multa traditis, quis intelligit? Quis novit cur ferrum trahitur a magnete?”

30. *Ibid.*, p. 92: “Differunt equidem hominum complexiones, et unius eiusdem hominis complexionis status singulis horarum atomis immutatur. Et quis medicorum novit instantem complexionem egroti? et naturam rerum quas medicaminibus permiscetis? morborum naturam? et qua mensura quove numero sive proportione convenient applicari? Crede michi, Bernarde, vos contra veritatem vobis blandiri, si rerum istarum vobis certitudinem promittatis; estimare, putare, coniectarique potestis ista, non scire.”

31. *Ibid.*, p. 94: “Legalis autem scientie suppositum, quod usitato vocabulo subiectum dicimus, homo est in quantum politicus est et civiliter operatur. Scientia quidem legum, sicut et politica, considerat hominem, non corpus humanum, sed eius propriam operationem qua distinguitur ab omnibus aliis, que composita sunt ex materia et forma, animantibus”; “Quo fit <quod> qui considerant hominem ut politicum, sicut leges, habent scrutari de anima et anime partibus, habitibus, passionibus atque potentiis ex quibus regulantur atque procedunt actus humani, quorum leges; ratio et regula sunt.”

32. *Ibid.*: “Subiectum autem artis et scientie medicine, sicut asseris, est, non corpus humanum solum quod curandum sit, sed omnium rerum proprietates atque virtutes quibus removendus est morbus et sanitas procuranda.”

a political being should act, and since human actions proceed from the will and free choice, it is a regulating art.³³ One can add that law is focused on universal goodness while medicine is only focused on singular goodness, which makes it inferior to law.³⁴

Many of these and similar arguments are found in fifteenth-century accounts and treatises by Giovanni Baldi da Faenza, Leonardo Bruni, Poggio Bracciolini, Giovanni d'Arezzo, Bernardo da Siena and Antonio De'Ferraris.³⁵

Let us move on now to discuss Vernia's *Question*, which he completed in Padua on the 4th of March 1482.³⁶ The *Question* is structured

33. *Ibid.*, p. 98: "Tractat enim ars legalis atque considerat qualiter politicus homo debeat operari, que considerata sancit et iubet. Scientia vero legalis, quoniam humanorum actuum, qui de voluntate et libertatis arbitrio proficiscuntur, regulatrix est, et animam que vult, et eius partes, habitus atque potentias speculatur [...]." One notes that the word *regulatrix* is not classical and rather rare; it can be found three times in Thomas Aquinas's proem to his commentary on Aristotle's *Metaphysics*; see THOMAS AQUINAS, *In Metaphysicam Aristotelis commentaria*, Turin 1915, pp. 1-2. Thomas introduces here the features of the supreme science, being the most intellectual science, and the science which focuses mostly on intelligible matters and on the first causes. Such science should naturally be regarded as regulating science for all other sciences. Thomas uses words such as *rectrix*, *princeps* and *domina* as synonyms to *regulatrix*, arguing for the superiority of this supreme science which has three names: theology, metaphysics and first philosophy. Salutati might have had in mind a passage concerning the hierarchy among sciences from the beginning of Aristotle's *Ethics*, where expressions such as τὰ τῶν ἀρχιτεκτονικῶν τέλη (1094a14), and the idea that πολιτικὴ ἐπιστήμη is κυριωτάτη καὶ μέγιστα ἀρχιτεκτονικὴ (1094a26-27), since it is this ἐπιστήμη which determines the place of other ἐπιστήμαι in the *polis*, can be found. Moreover, Salutati was probably influenced by the scholastic understanding of law as "the rule of human actions" (cf. e.g. THOMAS AQUINAS, *Summa theologiae*, I-II, 90, 2, resp.; 96, 1, arg. 3; 96, 2, resp.).

34. *Ibid.*: "[...] ut leges universale bonum tractent et respiciant, medicina vero solummodo singulare; ut, quocumque te verteris, medicina ratione subiecti a legibus superetur."

35. These texts were edited and published in GARIN (ed.), *La disputa delle Arti nel Quattrocento*.

36. GARIN (ed.), *Quaestio*, p. 123: "Istam quaestionem compilavi ego Nic<holet>us Vernias Theatinus in celeberrimo gymnasio Patavino, dum publice ordinarie philosophiam legerem. Quarto Kalen. Martii 1482." VERNIA, *Quaestio*, p. 27. For previous attempts to deal with this text by Vernia see E. DE BELLIS, "La medicina nel pensiero di Nicoletto Vernia: Metodologia logica e scienza medica nella Scuola di Padova del XV secolo", in: *Bollettino di Storia Della Filosofia dell'Università Degli Studi di Lecce* XII, Lecce 1996, pp. 237-248. De Bellis provides the context of discussions concerning the proper scientific method in Padua by the end of the 15th century, and ascribes to Vernia (p. 243) a position which prioritizes *demonstratio quia* (that is, proceeding from the effects to the causes), as against *demonstratio propter quid* (that is, proceeding from the causes to the effects). Although referring to some tensions between theoretical and practical aspect in Vernia's account (pp. 246-248), De Bellis does not discuss this essential issue with sufficient detail

in an interesting manner and it can be divided into four sections: after a brief presentation of four arguments supporting the superiority of civil law over medicine, Vernia, in the second section, presents in a more detailed and elaborate manner four contrary arguments, in support of medicine. These arguments are then followed by a fifth argument which is in fact the main part of the entire *Question* and the longest argument, making a strong case for the superiority of medicine over civil law. In the last section Vernia provides a more straightforward answer to the four arguments of the first section in a concluding fashion.

It is rather difficult to determine just how serious Vernia is in his first argument supporting civil law, where we find that a science or a discipline which brings more honour to those who hold it is also more honourable. And so while jurists (*iuristae*) and law scholars (*scholares iuris*) are called 'masters' (*domini*), professors of medicine are only called 'teachers' (*magistri*).³⁷ The counter-argument appears

and precision. See also A. C. CIUFELLI, "Nicoletto Vernia e la Quaestio est an medicina nobilior atque praestantior sit jure civili", in: *Atti della IV Biennale della Marca e dello studio firmano per gli studi storici dell'arte medica sotto il patronato e la presidenza onoraria di Adalberto Pazzini*, Fermo 1961, pp. 421-438. Ciufelli in a short introductory note emphasizes the inductive method of Vernia and regards this aspect as his main achievement (p. 422); this note is followed by a photocopy of Vernia's text and an Italian translation (pp. 423-437). Ciufelli's approach reflects a rather naïve scientific positivism in which Vernia plays a role in the scientific progress towards Galileo and the more established figures of the Scientific Revolution. The same approach but with regard to another *Question* by Vernia (*Quaestio an ens mobile sit totius naturalis philosophiae subiectum*) and while presenting a Scotist reaction to Vernia, can be found in DE CARVALHO, "Gomes de Lisboa e o Averroísta Nicoletto Vernia," pp. 281-282.

37. *Ibid.*, p. 111: "[...] illa scientia quae reddit homines magis honorabiles est nobilior; ius civile est huiusmodi, ergo etc. Tenet consequentia cum maiori; <minor> patet auctoritate Ciceronis dicentis, *Officiorum* primo, ius civile semper in summo honore habitum fuisse; et hinc est quod iuristae dicunt quod scholares iuris domini debeant appellari, professores vero medicinae magistri." VERNIA, *Quaestio*, p. 24. Garin cites *De officiis*, I, 44-45 as the source; but this must be due to some confusion. The proper source is *De officiis*, II, 65: "Itaque cum multa praeclara maiorum, tum quod optime constituti iuris civilis summo semper in honore fuit cognitio atque interpretatio [...]." The entire issue of Vernia and his sources deserves further research which is beyond the scope of the present article. It is interesting to note that while Vernia uses *iuristae* or *scholares iuris* for law specialists, we find in Salutati a less common term: *legistae*; see SALUTATI, *De nobilitate legum et medicinae*, pp. 50-52. Salutati's explanation regarding the origin of the term *ius civile* may be relevant here; see p. 58: "Sed tandem, crescente malitia, sicut legis duodecim tabularum causa fuerat auctoritas tribunitia, leges omnes in abrogationem et incertitudinem vertens, sic interpretationes prudentum per consuetudinem recepte sunt; quas quidem ius civile, non leges, appellare ceperunt [...]."

to be more serious: the criterion for determining which discipline is more honourable is its end or purpose. In this case medicine is more honourable since its end is to preserve the existence of man – which is regarded in Aristotelian terminology as a substance, while the purpose of civil law understood as politics is only to promote peace in the city – which is regarded as an accident.³⁸ The criterion for determining the superiority of civil law as politics in the second argument is its most princely nature among all the other disciplines.³⁹ The criterion in the counter-argument is having a more honourable method of arriving at its conclusions (*modus procedendi*).

Vernia is referring here to the first book of Aristotle's *De anima*, where the Philosopher argues that the science of the soul exceeds other sciences not only because of the nobility of its subject but also because of the certitude of its demonstration, which, in the case of medicine, is the result of a proper use of demonstrations; moreover, medicine has a reflexive consciousness that it demonstrates its conclusions.⁴⁰ By contrast, in civil law the starting point is the authority of doctors and whenever the method of demonstration is used, those law specialists, since they do not know how to demonstrate properly, cannot demonstrate their own arguments.⁴¹

38. *Ibid.*, p. 112: "[...] illa scientia est alia nobilior cuius finis est nobilior; sed medicina est huiusmodi; nam cum finis eius sit hominem in esse conservare, politicae vero finis est pacem in civitatem inducere et conservare. Constat autem quod esse, cum sit substantia, est omni accidente nobilior ex septimo *Metaphysicae*; quare etc." VERNIA, *Quaestio*, p. 24. Cf. ARISTOTLE, *Metaph.*, VII, 3,1029a21-24.

39. *Ibid.*, p. 111: "[...] illa scientia est alia praestantior, quae maxime architectonica est, et principalissima inter omnes scientias; sed scientia iuris, quae politica est [...]." VERNIA, *Quaestio*, p. 24. Notice the reminiscences of the passage in the *Nicomachean Ethics* cited in n. 33 above.

40. *Ibid.*, p. 112: "[...] illa scientia est nobilior alia quae habet modum procedendi nobiliorem, ut patet ex primo *de anima*, ubi Philosophus vult scientiam de anima excedere alias scientias, non solum propter subiecti nobilitatem, sed propter demonstrationis certitudinem. Medicina est huiusmodi, nam ipsa utitur aliquando processu quia, aliquando propter quid, et demonstrando scit se demonstrare [...]." VERNIA, *Quaestio*, p. 24.

41. *Ibid.*: "[...] cuius oppositum contingit in iure, cum ipsi innitantur auctoritatibus doctorum; <et> si aliquando discursu demonstrativo utantur, cum non intelligant se demonstrare, scire nullo modo possunt. Est enim scire, per demonstrationem intelligere." VERNIA, *Quaestio*, p. 24. For the idea that scientific knowledge is "understanding through demonstration," cf. *Auctoritates Aristotelis*, 35, 10, ed. J. HAMESSE, Louvain 1974, p. 312; ARISTOTLE, *An. post.*, I, 2, 71b17.

Already at this stage Vernia presents a very sharp critique of civil law as a discipline, casting serious doubts on its scientific nature. He refers to the most important specialist in matters of logic and demonstrations in Italy in the first half of the fifteenth century, Paul of Venice; but according to Vernia, even Paul will not be able to help the jurists since the subject of civil law is not apt at all for dialectic. What one finds in the jurists' discussions, instead of proper demonstrative syllogisms and an inclination to dialectic (*habitus dialectice*), is some inclination to the use of opinions (*habitus quidam opinativus*), confused and mixed with fear, which is by far less noble than science.⁴²

Vernia's unique dialectical, and indeed also rhetorical, skills are shown in the third argument, where we find the same criterion which was used in the counter-argument to the first argument – the end or purpose – used now in support of civil law, understood as politics. While the end of civil law is to make man virtuous, the end of medicine is preserving his mere existence, and the first end is more noble than the second.⁴³ To prove his point here Vernia uses a logical trick: he suggests a comparison between the two opposites, being vicious (*viciosus*) and being dead. In this case the first is worse than the second, and so the opposite of the worse is better than the opposite of that which is less bad.⁴⁴

In the counter-argument Vernia claims that a science which is subordinate (*subalternatur*) to a more noble science is itself more noble. This is, according to him, clearly the case of medicine since it is subordinate to natural philosophy, from where it receives its subject and principles. Vernia admits that he is going to discuss this matter

42. *Ibid.*, pp. 112-113: "Et si arguitur, ut Paulus Heremita in suis praedicabilibus: discursus quo isti utuntur cum sit demonstrativus, et demonstratio est syllogismus faciens scire, aggenerabit ergo scientiam; respondeo quod bene est demonstrativus et aggenerativus <discursus> scientiae, sed in subiecto apto et disposito per habitum dialecticae, qua isti carent, et non in eis; sed in eis ex tali discursu generatur habitus quidam opinativus formidini permixtus, qui longe scientia ignobilior est." VERNIA, *Quaestio*, p. 24.

43. *Ibid.*, p. 111: "[...] illa scientia est nobilior cuius finis est nobilior; sed politicae et iuris civilis est huiusmodi, nam finis iuris civilis est facere hominem virtuosum, finis vero medicinae est conservare hominem in suo esse. Sed esse virtuosum est nobilium quam in esse conservari [...]." VERNIA, *Quaestio*, p. 24.

44. *Ibid.*, pp. 111-112, with references to Aristotle's *Topics* and *Ethics*. VERNIA, *Quaestio*, p. 24.

further in the *corpus* of the *Question* (that is, in the third section).⁴⁵ Here he only highlights the superiority of natural philosophy over politics in matters of the objects investigated: celestial and glorious bodies, and that the focus of the investigation is on their quiddity or essence, and also on demonstrating the quiddity of the intellectual soul, God and the other intelligences. Vernia points out that Aristotle has managed to reach to a kind of abstract entities, without which the understanding of the quiddity of God and the intelligences is impossible, only through natural philosophy, thus describing the transition from the *Physics* to the *Metaphysics*, while emphasizing the importance of natural philosophy in this move.⁴⁶

The superiority of natural philosophy (in which medicine is included) over law is then shown by attaching it to speculative knowledge and thus also to the goal of human life: happiness (*felicitas*). The law specialists cannot reach this true happiness since the end of their 'practical' discipline is only "happiness of some sort" (*felicitas quaedam*), limited to human actions, claims Vernia.⁴⁷

45. *Ibid.*, p. 113: "[...] illa scientia quae subalternatur scientiae nobiliori, est nobilior; medicina est huiusmodi; ergo etc. Tenet consequentia cum maiori, quia subalternata recipit subiectum suum et principia a subalternante. Minor vero est per se nota; subalternatur enim medicina philosophiae naturali, ut in libello *de sensu et sensato* colligitur, cuius auctoritas tangitur in corpore questionis [...]." VERNIA, *Quaestio*, p. 24. Cf. ARISTOTLE, *De sensu*, 1, 436a19-b1; *Auct. Arist.*, 7, 2, p. 195.

46. *Ibid.*: "Ipsa [sc. philosophia naturalis] enim caelestia et gloriosa corpora contemplantur quantum ad eorum quidditatem; quidditatem intellectivae animae ipsa sola deum ceterasque intelligentias esse demonstrat. Divinus vero et primus philosophus recipit ab ista hoc genus entium abstractorum esse, sine cuius cognitione de quidditate dei et ceterarum intelligentiarum nihil contemplari posset." VERNIA, *Quaestio*, p. 24. The combination of 'god' and the 'intelligences' makes it absolutely clear for any worried theologian that Vernia discusses here standard Aristotelian physics. It is very likely that what Vernia has in mind here are the Commentator's words on the third book of *De anima*; see *Auct. Arist.*, 6, 228-229 (*De anima* III – commentator), pp. 192-193: "Omne ens sensibile dividitur in materiam et formam. Nisi esset hoc genus entium intellectus non possemus intelligere multitudinem in rebus abstractis." These words refer to *De anima*, 431b12-19, but there the examples are not divine or cosmic but rather a bodily quality and mathematical entities.

47. *Ibid.*, p. 114: "Item illa est vera felicitas secundum quam est summa et simplex delectatio intellectus humani, et summa perfectio eius; sed talis est speculatio veritatis, quae est per habitus scientificos respectu practici politici. Ergo felicitas intenta in naturali philosophia, quae est speculatio veritatis, est vera felicitas respectu felicitatis politicae. Consequentia nota cum maiori, quia verior felicitas in actibus humanis est, quae est simplicior et secundum particulam nobiliorem hominis, quae est intellectus speculativus" (VERNIA, *Quaestio*, p. 25); *ibid.*, p. 113: "Cum igitur sine ipsa naturali scientia neque deus neque aliae intelligentiae cognosci possunt, in quarum cognitione consistit vera hominis

In the fourth and last argument of this section Vernia comes back to the same criterion for determining the superiority of a discipline which he had mentioned in passing in his counter-argument to the third argument: superiority determined by the subject of the discipline. This makes civil law superior since its subject is “making man curable according to the soul,” while the subject of medicine is “making man curable according to the body”.⁴⁸ In the counter-argument to this, Vernia is using the criterion presented in the first argument: honour. Here he presents medicine as the discipline which was held as most honourable since it was regarded as part of wisdom in most ancient times.⁴⁹ This is followed by a catalogue of famous names associated with medicine such as the Homeric Asclepius and his sons Machaon and Podaleirios, Apollonius Empiricus, several Presocratic philosophers (e.g., Pythagoras, Empedocles, Democritus), Hippocrates and Chrysippus, all of whom, according to Vernia, were regarded as if they were gods on earth.⁵⁰

Vernia then presents a fifth argument, which is – as already mentioned – the third section and the *corpus* of the entire *Question*, where he puts forward a strong case against the scientific foundation of civil law. Vernia begins his attack by stating that

that knowledge or cognition which focuses on undetermined and variable matters which are in need of a directive power is delimited and irrational and cannot by any means be regarded as scientific.⁵¹

It is important to notice the dichotomy implied here by Vernia, which is not Aristotelian, between knowledge of determined matters which is

felicitas, ad quam legum periti ex solo habitu legali pervenire non possunt, quoniam finis legalis positionis est felicitas quaedam circa convivere et communicari secundum civilem conversationem. Talis autem non est vera felicitas, sed quaedam felicitas humanorum actuum [...].” VERNIA, *Quaestio*, p. 24.

48. *Ibid.*, p. 112: “[...] illa scientia est alia nobilior, cuius subiectum nobilior est subiecto alterius, ut primo *de anima* colligitur. Sed subiectum iuris civilis est huiusmodi, cum sit homo sanabilis secundum animam, qui nobilior est homine sanabili secundum corpus.” VERNIA, *Quaestio*, p. 24. Cf. ARISTOTLE, *De an.*, I, 1, 402a.

49. *Ibid.*, p. 115: “[...] nam medicina semper in summo honore fuit, in tantum quod sapientiae pars antiquissimis temporibus habebatur [...].” VERNIA, *Quaestio*, p. 25.

50. *Ibid.*: “Hi enim omnes sicut dii terrestres habitus sunt [...].” These names and others are mentioned just before this citation. Other names are mentioned after the citation. VERNIA, *Quaestio*, p. 25.

51. *Ibid.*, p. 116: “[...] illa notitia vel cognitio, quae est de rebus indeterminatis, variabilibus et directivo indigentibus, est determinata et irrationabilis, et nullo modo scientifica esse potest.” VERNIA, *Quaestio*, p. 25.

regarded as rational and scientific, and knowledge of undetermined matters, which is regarded as irrational and not scientific. Vernia rejects the Aristotelian idea of having valuable knowledge of, and proper science and scientific method for, investigating in a rational manner undetermined matters (or rather, in a typical Aristotelian formulation, found and discussed e.g., in the *Ethics* 1138a35-1139b14, "matters which could happen otherwise"), belonging to human concerns such as ethics, politics or economics. In other words: while in the Aristotelian framework there is room for non-scientific disciplines, or for different kinds of sciences and scientific conceptions, in which rational procedures should be used and various proper methods should be followed, Vernia associates 'scientific' with 'rational' and leaves out everything else, including, of course, civil law. But then he must clarify what he means by 'science'.

Science is about unchangeable and eternal matters, where it is possible to have a universal rule, and not about variable and undetermined matters, where it is impossible to have such a rule.⁵² Vernia argues that a rule applicable in particular human actions will have to change according to each particular case, and thus such a rule (or rather a set of such particular rules) is in need of guidance; a guidance which can be provided only by that which is naturally just (*per iustum naturale*).⁵³ In other words: Vernia is subordinating particular rules which are useful in determining undetermined human matters to a universal rule which reflects that which is naturally just – or else, he subordinates ethics to physics in a manner which is against and beyond the Aristotelian framework, where parallel different methods are used in physics and ethics, and a reduction of ethics (which is part of '*praxis*') to physics (which is part of '*theoria*') is just impossible. As we shall see, this is part of Vernia's efforts to move away from this sharp Aristotelian

52. *Ibid.*: "[...] patet, quia scientia est de immutabilibus et aeternis, et per consequens non ex variabilibus et indeterminatis. Minor patet per Aristotelem eodem quinto *Ethico-rum*, ubi vult quod lex debet universaliter poni et non particulariter [...]." VERNIA, *Quaestio*, p. 25. Vernia is referring to ARISTOTLE, *Eth. Nic.*, V, 10, 1137b10-29.

53. *Ibid.*: "[...] quia est ipsa lex de actibus humanis, in quibus est impossibile universaliter verum dicere, utile est in aliquo particulari casu oppositum legis observari. Ideo indiget lex directivo in talibus casibus particularibus, quae directio fit per iustum naturale [...]." VERNIA, *Quaestio*, p. 25. For a connection between *iumstum* and *naturale* see *Auct. Arist.*, 12, 97-98, p. 239: "Princeps debet custodire iustum. Duplex est jus scilicet legale et naturale."

distinction between ‘practical’ and ‘theoretical’, which is essential for his arguments supporting the superiority of medicine.

The perspective of natural justice provides a proper angle for assessing, and better interpreting, particular cases: thus, while according to strict law there is a death penalty for foreigners who climb the city’s walls, yet when this city is attacked by enemies and foreigners climb on its walls in order to save the city, then the principle of natural justice dictates that they should be rewarded as the liberators of the city.⁵⁴ Garin, the editor of the text, refers in this case to Aristotle’s *Nicomachean Ethics* 1137b10-29, but the example presented here by Vernia does not appear there. Aristotle in this passage emphasizes the need to correct the law, which is by its nature general and thus cannot account for all the particular cases. The mistake is not in the law itself or in the legislator, claims Aristotle, but rather in the nature of the matter (1137b17-19). In other words: Aristotle is not aiming at legislation for particular cases since ‘the principle of that which is limitless is limitless’ (1137b29-30: τοῦ γὰρ ἀορίστου ἀόριστος καὶ ὁ κανὼν ἐστίν). Vernia’s example presents a case where a serious modification in the law is required, but differently from Aristotle, he does offer a principle: the ‘naturally just’ (*iustum naturale*). Although even here he may have in mind *Magna Moralia* II, 2, 1198b31-33 ([ὁ ἐπιεικῆς] τῶν μὲν γὰρ φύσει καὶ ὡς ἀληθῶς ὄντων δικαίων οὐκ ἐλαττοῦται, ἀλλὰ τῶν κατὰ νόμον, ἃ δὲ ὁ νομοθέτης ἐξαδυνατῶν ἀπέλιπεν).

But in reality different places have different laws, and this is determined according to conveniences of places and people’s whim. And so, for instance, the Code of Justinian is not valid in France.⁵⁵ Vernia concludes, through yet another reference to the *Ethics* (1134b18-24), that the difference between legal justice and natural justice is the result of application.⁵⁶ In contrast to civil law, medicine, being universal,

54. *Ibid.*: “[...] quod, ut ibi Aristoteles ponit, eandem habet potentiam, ubique, exempli gratia, si lex ponit quod si qui peregrini muros civitatis ascendunt poena capitis puniatur, invadentibus hostibus civitatem, peregrini muros ascendunt et liberant civitatem ab hostibus, in isto casu lex observari non debet, sed iusto naturali dirigitur, quod est quod liberantes patriam debent praemiari.” VERNIA, *Quaestio*, p. 25.

55. *Ibid.*, pp. 116-117: “Unde leges variantur secundum locorum commoditates et ad libitum hominum. Leges autem Justiniani in Gallia nihil valent.” VERNIA, *Quaestio*, p. 25.

56. *Ibid.*, p. 117: “Idem Aristoteles eodem quinto, ubi ponit differentiam iusti legalis et naturalis, inquit sic: ‘legale autem, quod ex principio nihil differt, sic aliter quando autem ponitur differt: puta capram sacrificare, sed non duas oves.’” VERNIA, *Quaestio*, p. 25. One

that is being guided according to universal laws, is a science, and because of this it is superior and more noble than "that habit which is not scientific, that is law."⁵⁷

According to Vernia, legal knowledge should be regarded as some sort of practical knowledge (*practica quaedam notitia*) which has nothing to do with a safe way to happiness, while medicine is subordinated to natural philosophy and is regarded a noble science.⁵⁸ He identifies two main features in medicine: its "scientific character" (*habitus scientificus*) and its "productive character" (*habitus factivus*). The scientific aspect of medicine is determined by its demonstrative procedure (both *a priori* and *a posteriori*), investigating both the knowledge of fact (*scientia quia* = ἐπιστήμη τοῦ ὅτι), and the wherefore (*propter quid* = τὸ διότι) or the knowledge of causes (*scientia propter quod* = ἐπιστήμη τοῦ διότι), leaving no room for doubt.⁵⁹ Vernia points out that medicine proceeds mostly *a posteriori*, as is often the case in natural science, to which it is subordinated and from which it receives its fundamental principles.⁶⁰ The subject of medicine is the living body, and its principles are health and sickness, and so, these are the principles of the body's affections.⁶¹

notices that Aristotle discusses there the difference between that which is politically and that which is naturally just. As we have already seen, Vernia is interchanging 'law' and 'politics'.

57. *Ibid.*: "Cum ergo medicina sit scientia, ut ex dictis et dicendis patebit, erit praestantior et nobilior tali habitu non scientifico, scilicet legali, etc." VERNIA, *Quaestio*, p. 25.

58. *Ibid.*: "[...] medicina est scientia nobilis, valde naturali philosophiae subalternata, quae in nobilitate iuri civili comparanda non est, cum iuris notitia non scientia proprie dici potest, sed practica quaedam notitia nullam habens ad felicitatem munitam viam, ut Ciceroni placuit." VERNIA, *Quaestio*, p. 26. I could not find this reference in Cicero. Also Garin does not provide the source in this case.

59. *Ibid.* VERNIA, *Quaestio*, p. 26. Salutati, arguing for the superiority of law, claims that physicians use *scientia quia* while law experts use the more distinguished *propter quid*, moving from knowing the cause to the effect; see SALUTATI, *De nobilitate legum et medicinae*, p. 84: "Verum hoc interest, quod medicus ab effectu progrediens in ipsam pervenit rationem, que quidem sciendi ratio dici solet a logicis scientia *quia*. Legalis autem scientia, principium habens a natura et summis illis primis equitatibus, que humanis mentibus inserte sunt, scientia que dicitur *propter quid*, de ratione cause graditur in effectum; ut tanto nobilior sit in opus hoc processio legis, quanto praestantius est scire *propter quid* quam scientia *quia*."

60. *Ibid.*: "Verum tamen est quod ut plurimum procedit a posteriori, ut etiam contingit in scientia naturali; et sic sumendo medicinam, ipsa est naturali scientiae subalternata, a qua sua accipit principia." VERNIA, *Quaestio*, p. 26.

61. *Ibid.*: "Nam naturalis principia sanitatis et aegritudinis habet considerare, cum consideret eius subiectum quod est corpus vivum; habet etiam principia talis subiecti considerare. Illa autem quae sunt principia subiecti, sunt principia passionum eius." VERNIA, *Quaestio*, p. 26.

Citing Aristotle, Vernia makes a case for a strong connection between philosophers and medical doctors in matters of methods and practices. Medical doctors perform experiments, investigate causes, and start their medical considerations from natural matters. All this makes them rational and good natural philosophers, thanks to which they deserve maximum honour. Thus, coming back to a phrase he used already (see n. 50 and context) with regard to ancient doctors and sages associated in some way with medicine, medical doctors should be regarded as gods on earth. The list of names provided this time is much smaller and more restricted to technical issues concerning medicine – and, most importantly, Vernia is moving away from ancient sources like Pliny and Celsus (which include the standard set of names and authorities associated with the discipline) and towards a representative of the discipline “in our times.”⁶² By doing this he establishes a continuity in the discipline from antiquity to the present and rejects typical ‘humanist’ efforts to break such continuity, where most elements associated with the Middle Ages are sharply criticized.

However, as already mentioned, medicine has also an active or productive side. In fact, this side, according to Vernia, is the result or the outcome of the scientific aspect, and in this regard medicine is more an art than a science, in the proper use of the term ‘science’.⁶³ What Vernia probably means here is that medicine, in the first place, involves the scientific aspect, implying a logical dependence of the

62. *Ibid.*, pp. 117-118: “Et hoc est quod Philosophus inquit in libello *de sensu et sensato* circa principium: ‘plurimi medicorum, qui scilicet magis philosophice artem medicinae prosequuntur, non solum experimentis utentes, sed causas inquirentes, incipiunt medicinalem considerationem a naturalibus’. Istam medicinam habent medici rationales, qui scilicet sunt boni philosophi naturales, quibus hono<r> maximus debet exhiberi. Sunt enim sicut dii terrestres; unde si Athenienses Aesculapio pro herbarum cognitionem statuam erexerunt templumque ei constituerunt, et pro deo ipsum habuerunt; si cives Romani, ut Octavio Augusto gratificarentur, Antonio Musae medico, cuius opere ex ancipiti morbo convaluerat, statuam aere collato iuxta signum Aesculapii statuerunt, quid nos rationalibus medicis, et praesertim aetate nostra medicorum principi et integerrimo philosopho Gerardo Bolderio Veronensi facere deberemus? certe toto terrarum orbe ipsius nomine statua aurea dicari deberet.” VERNIA, *Quaestio*, p. 26. For the importance of Aristotle’s *De sensu et sensato* and of Thomas Aquinas’s commentary on this text in Vernia’s *De divisione philosophiae*, see *Quaestiones*, p. 23.

63. *Ibid.*, p. 118: “Secundo sumitur medicina pro habitu factivo, ex medicina primo modo sumpta generato, et sic sumendo est ars et non scientia, proprie loquendo de scientia.” VERNIA, *Quaestio*, p. 26.

active aspect on the scientific. So, referring to Aristotle's distinction between art and science, the proper name which will reflect this aspect of the discipline is 'medical art' (*ars medicativa*) rather than 'medicine'.⁶⁴ Vernia is clearly a deductionist, moving from the general to the particular and from the scientific aspect to the active aspect: the scientific one provides the fundamental propositions which are then used by the master of the art in his calculations concerning singular cases.⁶⁵

For Vernia there is no room for mistake: medicine is a science and not an art. But having also this practical feature, which, as we have just seen, might bring medicine closer to being classified as an art, may cause some confusion, and so Vernia needs to clarify this point. He distinguishes two kinds of arts: one which is obviously inferior but includes most arts; here we find arts which originate from, and use only, experiments, and thus they are not attached at all to any scientific element. People who practise medicine in this empirical manner bring it into disrepute and should be expelled from our cities.⁶⁶ The other kind is part of true medicine: while medicine is first of all a science, it yet has this active aspect, which differs from the 'scientific' aspect, and is based on practical intellect and called by Aristotle 'consultative'. But medicine as a discipline – just like all the other sciences – is first of all based on speculative intellect.⁶⁷

64. *Ibid.*: "Nan ars et scientia sunt habitus distincti, ut sexto *Ethicorum* ponit Aristoteles; et ista, non medicina, sed potius medicativa dici debet." VERNIA, *Quaestio*, p. 26.

65. *Ibid.*: "Neque mirum est quod ab habitu tali scientifico talis ars generetur, cum ab eo sumat maximas propositiones, quibus mediantibus artifex de singularibus ratiocinatur." VERNIA, *Quaestio*, p. 26.

66. *Ibid.*: "Ista est ars mechanica, qua vel consimili empyrici utuntur. Dixi *vel consimili* quia eorum ars ex experimentis generatur, ut primo *Metaphysicorum* patet, et non ex tali habitu scientifico; et ut plurimum ars sic generatur. Et isti sunt qui faciunt nostram medicinam in vilissimo precio haberi, unde isti sunt ab urbibus expellendi, solo scilicet experimento utentes [...]." VERNIA, *Quaestio*, p. 26. Cf. ARISTOTLE, *Metaph.*, I, 1, 980b27-981a7, esp. 5-7.

67. *Ibid.*, pp. 118-119: "Medicina autem primo modo sumpta nullo modo ars mechanica dici potest, sed vera scientia, quae etiam subiecto differt a medicina secundo modo dicta, cum illa fundetur in intellectu practico, qui consiliativus a Philosopho sexto *Ethicorum* appellatur, prima vero in intellectu speculativo, sicut omnes aliae scientiae, et propterea a Philosopho scientifica appellatur." VERNIA, *Quaestio*, p. 26. Cf. ARISTOTLE, *Eth. Nic.*, VI, 2, 1139a22-23. Also the fuller discussion at VI, 5, 1140a24ff.

And here Vernia raises an interesting problem:

But then there is a difficulty: how can a practical science be founded on the speculative intellect? I respond that it is not unsuitable that a practical science be founded on the speculative intellect, for a science is not called 'practical' because it is founded on the practical intellect, but because it is applied in a practical manner.⁶⁸

This is a crucial moment in Vernia's *Question*. What we seem to have here is a clear and explicit break in the Aristotelian dichotomy between 'practical' on the one hand and 'speculative' or 'theoretical' on the other. But does Vernia argue that medicine as a special discipline is not practical as such, and if this is the case, then perhaps using here the term 'active' would have been more proper and consistent with the efforts to distinguish practical sciences, which are really based on the practical intellect, and medicine, which is only applied in a practical manner. Or – and this seems to me the case – should one assume that Vernia rejects the possibility of having practical sciences (i.e., sciences based on the practical intellect) altogether, suggesting that the term 'practical' should always be understood in the way he interprets it here, that is, applied in a practical manner but in fact based on speculative intellect? This second and more radical possibility is in agreement with previous arguments in this *Question* (see n. 53 and context), and it should be compared with what Vernia says about medicine in his *Quaestio de divisione philosophiae*. In that *Question* Vernia puts forward a distinction between 'practical' and 'active', and he uses medicine as an example for clarifying this distinction: the discipline of medicine is regarded by Vernia here as 'practical' but not

68. *Ibid.*, p. 119: "Sed tunc est difficultas, quomodo scientia practica in intellectu speculativo fundari potest. Respondeo quod non inconvenit scientiam practicam in intellectu speculativo fundari, neque ideo dicta est practica quia in practico intellectu fundatur, sed quia in praxin ordinatur." VERNIA, *Quaestio*, p. 26. This passage is immediately followed by a reference, *ibid.*: "Haec pro magna parte accepta sunt a Plusquam Commentatore, primo *Tegni*." As the editor of the text Garin points out, this is a reference to the fourteenth-century theoretical physician Pietro Torrigiano de' Torrigiani, and to his commentaries on Galen's *Microtechni*, entitled *Plusquam commentum in Microtechni Galenii*. One notices the formulation *Haec pro magna parte accepta sunt* used here by Vernia, which leaves the question about just how much is Vernia relying here on Torrigiani rather open. In any case, Vernia presents here a general argument with far-reaching philosophical implications which are beyond any technical discussion of Galen and medicine. Obviously this is an issue for further research.

'active', and yet it is 'productive', since it is a "medicative art" (*medicativa ars*), it produces a state of health.⁶⁹ In the *Quaestio an medicina nobilior atque praestantior sit iure civili* Vernia is qualifying the term 'practical', and rejects the possibility of having 'practical sciences' on the one hand, while connecting, in a necessary fashion, 'sciences' to the speculative intellect only, on the other.

Having established the scientific nature of medicine, Vernia is moving on next to show that civil law just cannot be compared with medicine since it does not contain scientific knowledge. As we have seen the term 'scientific' has a very particular and rather demanding meaning for Vernia, who in this case is following closely the Aristotelian notion of ἐπιστήμη. It has specific objects – unchangeable things, and a specific method – using proper syllogisms. In this regard Vernia defines science as a habit which is obtained through demonstration, and knowing means understanding through demonstration.⁷⁰

The jurists, according to Vernia, do not understand through demonstrations simply because they are completely ignorant of this procedure. He then moves on to criticize contemporary lawyers (*iurisconsulti huius temporis*), for not having a clue as to 'our dialectic', by which he means demonstrative procedures used by physicians, without which nothing can be known. Instead of demonstrations they rely on the authorities of previous lawyers, but the views or sayings of these 'ancient' lawyers are dependent on their will (*dicta voluntaria*), and thus belong to a lower epistemic level.⁷¹ And since legislation is in fact a voluntary procedure, Vernia has some terminological updates

69. VERNIA, *De divisione philosophiae*, in *Quaestiones*, p. 22: "[...] patet etiam quia medicina, cum sit practica et non est activa, relinquitur ergo quod sit factiva, et isti deseruit medicativa ars que ex illa generari potest." On the implications and significance of these distinctions see EDELHEIT, "From Logic to Ethics and from Natural Philosophy to Mathematics."

70. GARIN (ed.), *Quaestio*, p. 119: "Ex quibus patet secunda pars conclusionis, quod scilicet ius civile nullo modo nostrae medicinae in nobilitate comparari potest, cum eius notitia non sit scientia. Nam scientia est habitus demonstratione acquisitus, et scire est per demonstrationem intelligere." VERNIA, *Quaestio*, p. 26.

71. *Ibid.*: "Isti autem iuristae non intelligunt per demonstrationem, cum ipsi demonstrationem penitus ignorent. Nullo igitur modo scire possunt, et maxime iurisconsulti huius temporis, nostrae dialecticae omnino expertes, sine qua, ut supra diximus, nihil sciri potest. Unde isti innuntur auctoritatibus priscorum iurisconsultorum, et dicta eorum sunt voluntaria." VERNIA, *Quaestio*, p. 26.

to offer. Thus, contemporary lawyers should in fact be called “promulgators of statutes” (*statutarii*). Ancient lawyers, instead of the inappropriate name “lawyers,” should be called “law-founders” (*iurisconditores*) and similar terms, being both consultants in matters of law and interpreters of laws. Vernia points out that he calls only the ancient lawyers “founders,” just as the greatest philosophers, after drawing the laws through philosophy, arrived at politics through the art of logic. First they learnt logic, which is necessary for the politician. Vernia refers to Aristotle’s *Ethics* in the midst of yet another attempt to present the essential dependence of moral philosophy on natural philosophy; thus, he concludes, logic is necessary in any part of moral philosophy.⁷²

After acquiring moral science by using logic, in order to perfect their knowledge, those greatest philosophers moved on and learnt natural science, and especially the science of the soul (*scientia de anima*), without which the moral philosopher will never be able to understand moral philosophy in a perfect manner. The unique significance of the science of the soul – which functions as the bond between natural science and moral philosophy – is then related to self-knowledge through a reference to the famous Delphic maxim “know thyself.”⁷³ At this point Vernia pulls the trigger once more:

The acquisition of all the virtues is the result of the acquisition of natural philosophy, as it is clearly declared in Themistius’ prologue to the *Lectures*

72. *Ibid.*: “Lex enim est voluntarie posita, ut primo *Caeli* dicit Aristoteles, unde statuarii potius quam iurisconsulti debent appellari. Prisci vero, non proprie iurisconsulti appellati sunt, sed iurisconditores et similia (iuris enim consulti et legum interpretes); prisci dico tantum conditores, summi philosophi ex media philosophia leges aurientes, qui politicam artificialiter acquirebant. Prius enim loycam addiscebant, quae necessaria politico est; unde primo *Ethicorum* dubitat Philosophus numquid moralis debeat uti processu quia, vel processu propter quid; et sic loyca omni parti moralis philosophiae est necessaria.” VERNIA, *Quaestio*, p. 26. Cf. ARISTOTLE, *Eth. Nic.*, I, 2, 1095a30-34; 1095a29-b1; AVERROES, *Commentum magnum super libro De celo et mundo Aristotelis*, I, 2, ed. F. J. CARMODY – R. ARNZEN, Leuven 2003, p. 7, 83-84: “[...] nos sequimur opus eius [sc. nature] in eis que ponimus per legem et institutionem: lex enim et institutio posite sunt voluntarie [...]” (cf. ARISTOTLE, *De caelo*, I, 1, 268a19-20).

73. *Ibid.*: “Post acquisitionem moralis scientiae, ut perlicerentur, naturalem philosophiam addiscebant. Sine enim scientia naturali, et maxime sine scientia de anima, moralis philosophus nihil perfecte intelligere potest, immo veluti bellua est. unusquisque enim seipsum cognoscere debet; *gnōti saphōn* quidem in templo Delphici Apollinis aureis litteris inscriptum erat, quod sine animae cognitione minime fieri potest.” VERNIA, *Quaestio*, p. 26. Cf. THOMAS AQUINAS, *Sententia libri de anima*, I, 1, ed. Leon. 45.1, Roma 1984,

on *Nature (Physics)*, and the Commentator [i.e., Averroes] in the prologue to that book.⁷⁴

What we seem to have here is a suggestion which probably would have provoked any contemporary moral philosopher who knows his Aristotle. Arguing that all the virtues are in fact acquired by a knowledge of natural philosophy is most unusual, to say the least. Vernia now proceeds to discuss one virtue which is most important for civil law: justice.

Justice is the most honourable of all virtues, claims Vernia, referring to Aristotle's *Ethics* and to Themistius' commentary to *De anima*.⁷⁵ Themistius, according to Vernia, regarded natural science as most important for acquiring active virtues. These are the Aristotelian 'ethical virtues', as distinct from the 'theoretical virtues' (in fact, Vernia may have a point here, whether he realized it or not. In Aristotle's Greek, ἠθικὰ

p. 6, 122-124. Compare this account and the one in the previous note with a passage from GIOVANNI PICO DELLA MIRANDOLA's *Discorso sulla dignità dell'uomo*, ed. F. BAUSI, Parma 2003; repr. Parma 2014, pp. 28-30: "Ergo et nos, Cherubicam in terris vitam emulantes, per moralem scientiam affectuum impetus cohercentes, per dialecticam rationis caliginem discutientes, quasi ignorantiae et vitiorum eluentes sordes animam purgemus, ne aut affectus temere debacchentur, aut ratio imprudens quandoque deliret. Tum bene compositam ac expiatam animam naturalis philosophiae lumine perfundamus, ut postremo divinarum rerum eam cognitione perficiamus." Pico studied in Padua between 1480-1482, and wrote his speech in 1486.

74. *Ibid.*: "Ex acquisitione naturalis philosophiae fit acquisitio virtutum omnium, ut clare Themistius declarat in prologo *de physica auditione* et Commentator in prologo eius libri." VERNIA, *Quaestio*, p. 26. Themistius' (that is, Simplicius') prologue is also used by Vernia in his *De divisione philosophiae*, in *Quaestiones*, p. 21: "Et visum est mihi necessario esse ipsius philosophiae divisionem premittendam in singulas eius partes ex qua totius philosophiae et singularum partium eius notitiam consequi commode valeamus. Volentes igitur ipsam philosophiam dividere pro eius diffinitionem tangamus quam Themistius prohemio libri de physico auditu ponit." Cf. SIMPLICIUS, *In Phys.*, I, Prooemium, ed. H. DIELS, Berolini 1882 (CAG 9), pp. 4, 23 - 5, 10 (on the moral usefulness of natural philosophy) and p. 5, 27-31 (on the division of philosophy); and AVERROES, *In Phys.*, I, Prooemium, Venetiis, Apud Iunctas, 1562, fol. 1vH-2vH. (As is well-known, Barbaro's translation of Themistius' paraphrase of the *Physics* started with Simplicius' prologue to his *Physics* commentary; see the 1500 edition of Themistius' paraphrase, fol. 14r, marginal note: "Non est Them. prohemium hoc [...] sed Simplicij"; cf. F. BOSSIER, *Filologisch-historische navorsingen over de middeleeuwse en humanistische Latijnse vertalingen van de commentaren van Simplicius*, PhD Leuven 1975, vol. I, p. 13.010).

75. *Ibid.*, p. 120: "Sed ad praesens sufficit de iustitia hoc explanare, circa quam maxime versatur ius civile. Quae iustitia praeclarissima virtutum est, et neque Hesperus nec Lucifer ita admirabilis, ut dicit Aristoteles quinto *Ethicorum*, pro cuius explanatione audi verba Themistii quae sequuntur." VERNIA, *Quaestio*, p. 26. Garin provides here the references to Aristotle's *Ethics*, V, 1, 1129a28, and to Ermolao Barbaro's translation of Themistius' commentary on *De anima*.

ἀρεταί was still a fresh expression, and it meant 'virtues of habit or character'. By the time of Vernia, 'ethical' meant 'moral'). With regard to justice, he thought that it is reflected in nature: we clearly perceive that the elements and the other parts of the entire orbit mutually give way to each other, love their order, and preserve geometrical uniformity, whereas because of avarice and desire for possession we become inconsistent (*abhorrentes*) with all these manifestations of justice in nature.⁷⁶ Thus it makes us recoil from avarice and the desire for possessions.

Returning to the crucial role of the 'science of the soul', understood as self-knowledge, or in modern terms philosophical psychology, which for Vernia is part of natural science, he argues that without it moral philosophy cannot be perfectly understood by the jurists. This is followed by a citation from Themistius, where the ancient commentator on Aristotle contends that the science of the soul is the source of constancy (*constantia*) and certainty (*certitudo*) of other sciences, since the nature of the soul (*ingenium animae*) is quite superior to other things of which the world is formed.⁷⁷ This means that nothing can be more admirable and divine than the soul, and the cognition of the soul is crucial for the knowledge of all matters. There is no part of philosophy which is not assisted by it or to which it is not most suitable.⁷⁸ And what about the virtues?

And indeed we shall more easily follow practical and active virtues, if we have a perfect knowledge of the substance and power of the soul, of which these

76. *Ibid.*: "Themistius videtur enim ad virtutes activas adipiscendas scientia naturalis maximum habere momentum, primum ad iustitiam quandoquidem elementa et reliquas partes orbis universi, et sibi invicem cedere, et suum amare quaeque ordinem aequalitatemque servare geometricam plane perspicimus. Unde ab avaritia et possidendi libidine nos facit abhorrentes." VERNIA, *Quaestio*, p. 26. The admixture of natural and moral elements here is intriguing. But it would not have surprised Anaximander or Heraclitus, and Themistius was familiar with them through Aristotle and the doxographic sources available to him. THEMISTIUS, *Paraphr. De an.*, I, 1, ed. R. HEINZE, Berolini 1899 (CAG 5.1), p. 1, 28-31, or rather SIMPLICIUS, *In Phys.*, I, Prooemium, pp. 4, 23 - 5, 10.

77. *Ibid.*: "Quod autem nihil perfecte moralis, et consequenter iuristae intelligere valeant sine scientia de anima, hoc idem Themistius in prologo libri *de anima* pulchre declarat dicens: 'At in ea scientia quae ad animam pertinet bonum utrumque reperies, et constantiam demonstrandi et naturae nobilitatem; constantiam ea ratione quod aliae scientiae ab hac scientia suam constantiam et certitudinem reponunt. Nobilitatem idcirco quia ceteris rebus quibus formatur mundus ingenium animae fere antistat.'" VERNIA, *Quaestio*, p. 26. Cf. THEMISTIUS, *Paraphr. De an.*, I, 1, p. 1, 11-24.

78. *Ibid.*: "Quid nam illa admirabilius esse potest atque divinius? una enim cognitio animae ad notitiam pertinet omnium rerum ad eamque magnum et incredibile habet

[virtues] are just like some decorations and ornaments. How can we truly become contemplators and explorers of nature and of the world if this nature – the origin and beginning of all movements, perhaps of all bodies and especially of animals and plants – is ignored by us?⁷⁹

The virtues decorate the soul and are part of the soul; one would have thought that Vernia is referring here to the faculties of the soul as 'virtues' or 'powers', but he explicitly mentions "practical and active virtues." These virtues are then connected through the soul to the study of nature which turns out to be an essential vehicle for those who wish to follow these virtues. In other words: in understanding nature we understand the soul and the virtues in it, and then we can more easily follow these virtues.

This essential bond between natural and moral philosophy suggested here by Vernia – and in fact, as we have seen several times in this *Question*, the essential dependence of 'moral' on 'natural' – is presented as ancient, implying that the separation between the two is a recent development; it was known to ancient philosophers who were also legislators. They were held in supreme honour not so much because of their competence in politics, claims Vernia, but rather because of their natural and divine philosophy, which was by far superior to politics, while their knowledge of law was less known than their scientific knowledge, including what Vernia calls "our rational medicine."⁸⁰

In sharp contrast to this 'rational medicine', the fundamental document of legal knowledge (*legalis notitia*), the Code of Justinian, is in fact not one but rather many *codices*, which contain Justinian's

momentum. Nulla enim pars philosophiae est, cui haec non praeserviat, cui non sit quam commodissima." VERNIA, *Quaestio*, pp. 26-27.

79. *Ibid.*: "Ac virtutes quidem negotiosas actuosasque facilius consequemur, si substantiam atque vim animae, cuius illae ceu decora quaedam honestamentaue sunt, habuerimus perfectam et cognitam. Naturae vero atque mundi contemplatores exploratoresque qui esse poterimus, si nobis ignorabitur ea natura quae fons atque initium sit omnium motuum, fortasse et corporum omnium praesertim animalium atque plantarum." VERNIA, *Quaestio*, p. 27.

80. *Ibid.*, pp. 120-121: "Et tales fuerunt antiqui philosophantes. Quis enim suis Atheniensibus leges instituit, nisi Solon, unus ex septem Graeciae sapientibus? Quis suis Stageritis leges composuit, nisi Aristoteles? Isti igitur sunt summo honore prosequeendi, non tamen propter politicam, quantum propter naturalem et divinam eorum philosophiam, quae longe praestantior est politica, et istorum legalis notitia est scientia ignobilior, etiam, ut puto, medicina nostra rationali, propter rationes supra tactas." VERNIA, *Quaestio*, p. 27.

sayings as well as the sayings of many other lawyers, and many of those sayings are simply full of lies.⁸¹ Vernia ends this section of his *Question* by suggesting that just as in antiquity a physician was held in much higher esteem than a lawyer, who is regarded in legal *codices* as midwife (*obstetrix*), so also in our age, when lawyers should, in fact, be called pettifoggers and interpreters of statutes or sellers of words, since they are nothing more than heralds (*praecones*) of our philosophers.⁸²

The fourth and last section of Vernia's *Question* contains four additional 'responses' to the four arguments supporting the superiority of civil law over medicine presented in the first section. In the first response Vernia refers to Cicero, who thought that civil law is obtained through art (i.e., by becoming skillful in the relevant arts), something which, according to Vernia, contemporary jurists are lacking. And while politics is indeed the most noble among all the active sciences, it is certainly not more noble than all the speculative sciences, nor is it more noble than the productive sciences; and so, as we have seen, since medicine combines a 'scientific' or 'speculative' aspect and a 'productive' or 'active' aspect, politics is not more noble than "our rational medicine," and it is most definitely not more noble than natural and divine philosophy, where the goodness (*bonum*) of the entire universe is considered and understood as God.⁸³

81. *Ibid.*, p. 121: "Conclusio autem maxime verificatur de legali notitia, qua pleni sunt codices Iustiniani, cuius dicta et multorum iurisconsultorum, quorum dicta ipse aggregavit, sunt multis mendaciis plena." Vernia cites here some critical statements regarding civil law which he found in Cicero's *Pro Murena*, but he points out that Cicero is not used as an authority but rather as a source for most truthful arguments, perhaps alluding to the humanist habit of using Cicero in a rhetorical fashion or imitating his rhetoric, and so contrasting *verissimae rationes* and *auctoritas*; *ibid.*: "Ista verba Ciceronis non induximus ut per ea, tamquam per locum ab auctoritate velimus arguere, sed quod in eis verissimae rationes sunt propositum concludentes." VERNIA, *Quaestio*, p. 27.

82. *Ibid.*, pp. 121-122: "Ex quo sequitur quod si medicus non est maioris valoris quam obstetrix, ut Cod. communia de legatis l. *si duobus*, existimatur enim a Iustiniano solidis LX sicut obstetrix, iurisconsulti temporis huius, qui verius statutorum interpretres legulei verborumque venditores appellantur, cum non sint maioris valoris praeconibus, sunt enim nostrorum philosophorum praecones, solidis duobus, sicut et praecones, existimari merentur." VERNIA, *Quaestio*, p. 27.

83. *Ibid.*, p. 122: "Ad primum dicitur quod Cicero intellexit de iure civili artificialiter acquisito, quo iuristae temporis huius carent. Et dico quod talis politica nobilissima est inter omnes scientias activas, et hoc intellexit Aristoteles primo *Ethicorum*, ut tangitur in secundo articulo ad partem negativam. Non autem est nobilior omnibus speculativis,

The master art (*ἀρχιτεκτονική*) and orchestrating nature of politics stands at the centre of the second response, where Vernia argues that politics is not princely with regard to all the sciences, but only with regard to the mechanical sciences, and even then, only with respect to usage and determining action.⁸⁴ The politician does not teach the geometer to draw a geometrical demonstration regarding a triangle, for this is not dependent on the human will but rather on the very order of things (*ex ipsa rerum ratione*). This is why Aristotle says that politics only ordains which disciplines are necessary in the city and what everyone should learn, and for how long.⁸⁵ Coming back to the issue of honour and nobility but from a different angle, Vernia argues that, since the nobility of a science is marked by the possession of freely chosen actions and not by the possession of imposed actions, and chosen action is more outstanding in speculative sciences than in politics, then it is unsuitable for anyone to think that the science of politics or prudence is the most desirable. From this Vernia concludes that professors of medicine should justly be called “masters,” while jurists should be called “heralds.”⁸⁶

In the third response Vernia identifies two different contexts for human activity: the social context and the natural context. In the social context virtue is a better choice than being and living, since it

neque factivis, quia non nostra medicina rationali, neque naturali philosophia et divina, quae bonum totius universi considerat, Deum scilicet.” VERNIA, *Quaestio*, p. 27. One notices here some very interesting tensions between natural and divine philosophy, and between *bonum* and *Deus*.

84. *Ibid.*: “Et cum dicitur in secundo argumento quod ipsa est architectonica respectu omnium, dico quod ipsa est architectonica respectu mechanicae, et quantum ad usum et quantum ad determinationem actus.” VERNIA, *Quaestio*, p. 27.

85. *Ibid.*: “Non enim praecipit politicus geometrae quod de triangulo concludat; hoc enim non subiacet humanae voluntati, sed dependet ex ipsa rerum ratione. Et ideo dicit Philosophus quod politica ordinat quas disciplinarum debitum est esse in civitate, et quisquam debeat addiscere, et usque ad quod tempus.” VERNIA, *Quaestio*, p. 27. Cf. ARISTOTLE, *Eth. Nic.*, I, 1, 1094a28-b2. This argument is a response to the view regarding the divine origin of laws and thus their reliance on divine and eternal reason reflected in nature rather than on human will. See SALUTATI, *De nobilitate legum et medicinae*, p. 76.

86. *Ibid.*: “Et quia penes actus elicitos attenditur nobilitas scientiae, et non penes actus imperatos; elicitus autem praestantior est in speculativis quam in politica, et hoc est quod Philosophus sexto *Ethicorum* inquit, sapientia honorabilissimorum est. Inconveniens enim si quis scientiam politicam, vel prudentiam studiosissimam existimat esse. Ex quo patet quod medicinae professores domini merentur dici, iuristae vero praecones.” VERNIA, *Quaestio*, p. 27. Cf. ARISTOTLE, *Eth. Nic.*, VI, 7, 1141b2-3; 1141a21-22.

is rather preferable to die than to live shamefully; in the same way the one who dies for the sake of virtue is much more worthy than someone who lives a life full of vice. But in the natural context it is exactly the opposite: here being and living, understood as substance, are more preferable than virtue, understood as accident. This means that the natural context or kind is more essential than the social, and absolutely speaking, it is better to exist and live – the end of medicine – than to exist virtuously – the end of law.⁸⁷

The subjects of civil law and medicine are at the centre of the fourth response. While virtue, which is acquired and maintained through voluntary education, is the subject of civil law, the human being as a whole (i.e., as *compositum*, body and soul) is the subject of medicine. Since living human beings are the subject of health and sickness, they are also the subject of a more noble virtue or power (as we have seen in n. 79 above, the virtues are placed in the soul). And so, the health of human beings and the preservation of their existence – the subject of medicine – includes the existence of the soul, since both body and soul are involved in human existence. But the existence of the soul, understood as its substance, is surely more noble than any virtue – the subject of civil law – understood as its accident.⁸⁸

The final point made by Vernia may seem a bit unusual: according to him the Church regards medicine as more noble than civil law, since that science which is recommended by the Church is more worthy than that which is not. This Ecclesiastic preference and recommendation is based on a biblical verse (*Sirach* [*Ecclesiasticus*] 38: 1),

87. *Ibid.*, pp. 122-123: “Ad tertium dicitur quod, licet virtus sit magis eligenda ipso esse et vivere in genere moris; in genere enim moris eligibilis est mori quam turpiter vivere; dignus enim est maiore laude qui propter virtutem moritur quam qui viciose vivit. In genere vero naturae est totum oppositum, quia in illo genere eligibilis est esse et vivere quam virtus, cum unum sit substantia, aliud vero accidens. Cum ergo unicuique sit magis essenziale genus naturae quam genus moris, sequitur quod simpliciter sit melius esse et vivere, quod est finis medicinae, quam virtuosum esse, quod est finis legis.” VERNIA, *Quaestio*, p. 27.

88. *Ibid.*, p. 123: “Ad quartum dicitur quod subiectum iuris civilis est virtus per voluntariam institutionem acquisibilis vel conservabilis, subiectum vero medicinae est corpus humanum, intelligendo per corpus humanum non solum alteram partem compositi, sed ipsum totum. Sanitas enim et aegritudo non fundantur nisi in vivente [...] Constat autem quod homo nobilioris est virtutis. Item homo sanabilis et in esse conservabilis includit esse animae, cum idem sit esse utriusque, corporis scilicet et animae; esse autem animae nobilioris est quocumque eius accidente, quare etc.” VERNIA, *Quaestio*, p. 27.

praising the physician for his necessary role.⁸⁹ As pointed out by Thorndike, exactly the same verse is used by Salutati, but he “turns this line of argument against them [i.e., the physicians], holding that God handed down the law in thunders from the sky, thus demonstrating its higher and more directly divine source.”⁹⁰ Vernia concludes his *Question* by emphasizing his method: presenting better arguments which are relevant to the nature of the matter discussed, and focusing on the level of certainty in the one instructed in a discipline (*disciplinatus*), pointing out that each discipline should employ the sort of proofs suitable to it, or else we would have a mathematician who uses persuasion and an orator who uses demonstrations.⁹¹

Let us draw some conclusions. We have seen how Vernia proposes the ‘naturally just’ as a universal criterion for particular cases, and thus offers an essential dependence of ethics on physics in a non-Aristotelian fashion. We have also noticed his unique classification of different disciplines: while civil law is deemed by him to be a merely practical knowledge of some sort, medicine combines a scientific and an actual aspect. Thus, Vernia presents here three different categories: ‘practical’, ‘actual’, and ‘scientific’. Medicine, according to Vernia, involves both ‘scientific’ and ‘actual’ element; its actual element raises the issue of whether medicine is an art or a science. Since arts are associated with practices, Vernia finds himself obliged to determine the term ‘practical’ in relation to medicine, which he regards as a ‘true science’.

Through his thorough critique of civil law Vernia presents his own ‘positivistic’ perception of what ‘science’, and ‘proper scientific

89. *Ibid.*: “Dicamus ergo cum Sacrosancta Romana Ecclesia, quod medicina nobilior est iure civili, quia illa scientia quae commendatur ab Ecclesia est dignior non commendata, nam ut Apostolus dicit, non qui seipsum commendat ille probatus est, sed quem Dominus commendavit; medicina est huiusmodi, ut patet *Ecclesiastic.*, XXXVIII, 1, ubi dicitur: ‘honora medicum propter necessitatem; creavit enim eum Altissimus’. Nunquam autem in sacris litteris invenitur ius civile commendatum etc.” VERNIA, *Quaestio*, p. 27.

90. THORNDIKE, *Science and Thought in the Fifteenth Century*, p. 50; SALUTATI, *De nobilitate legum et medicinae*, p. 68.

91. GARIN (ed.), *Quaestio*, p. 123: “Et sic est finis huius quaestionis, in qua meliores, ut potui, rationes adduxi, secundum quod natura materiae requiret. Disciplinati enim est in tantam certitudinem inquirere, in quantum rei materia recipit; proximum enim videtur mathematicum persuadentem acceptare et rhetoricum demonstrationes expetere, ut *Ethica* patet.” VERNIA, *Quaestio*, p. 27. The reference is, of course, to ARISTOTLE, *Eth. Nic.*, I, 1, 1094b25-27.

method or procedure' are; he thus contrasts determined objects which are proper subjects for scientific investigation and rational account with undetermined objects which are not scientific and irrational. The endorsement of a practical element, or, more precisely, practical arrangement, in a truly theoretical science like medicine (which is, for Vernia, essentially part of natural philosophy) means, once again, moving away from some strict Aristotelian presumptions.

What we seem to have here is one of the early explicit cases where the concept of rationality is associated with, and in fact reduced to, the notions of 'science' and 'scientific'. In doing this Vernia is aiming at a universal concept of rationality and challenging other concepts of rationality such as the one used to explain human actions as the result of two mental faculties: the will, understood as free choice, and reason or intellect, thus allowing for a broader sense of rationality.⁹² Vernia would rather prefer a dichotomy where the will is reduced to a natural and irrational appetite which requires the constant guidance of reason through the intellect, the manifestation of universal rationality. In contrast to this universal rationality we find will-dependent statements (*dicta voluntaria*) of lawyers, the manifestation of a lower epistemological stage.

Vernia completes his account of the essential dependence of moral philosophy (to which disciplines such as politics and civil law belong) on natural philosophy (to which medicine belongs) by arguing that the acquisition of all the virtues (and this must include both ethical and intellectual virtues in the Aristotelian vocabulary) relies on natural philosophy. This is yet again a very un-Aristotelian move which was made possible for Vernia through his reading of Themistius' paraphrase of *De anima*. The superiority of the soul is reflected in the superiority of the science of the soul with regard to all the other sciences. And since the soul is the subject in which the virtues inhere, the science of the soul is also the science of virtues. But the science of the soul is part of the science of nature and the soul is understood here by Vernia in the Aristotelian-biological sense. In this manner

92. See, e.g., SALUTATI, *De nobilitate legum et medicinae*, p. 182: "Voluntatis, inquam, que non sit naturalis vel sensitivus appetitus, quorum ille movetur sine cognitione, iste vero cuiusdam particularis boni noticia, sed voluntatis, cuius liberum sit arbitrium, quod est actus voluntatis et rationis."

natural science is essentially connected to the science of the soul and to the virtues.

In the course of Vernia's *Question* we have noticed his historical awareness of the fact that disciplines have their own historical development which changes over time, and these changes are often reflected in different terms, different names used for different disciplines and for the specialists in these disciplines (and of course the philosophical significance of these changes). Such historical awareness is still associated by many scholars with humanist-oriented philosophers only. In this regard Vernia is truly a genuine representative of a rather important, but yet relatively neglected, historical context: that of the scholastic philosophers of the Renaissance.

Amos EDELHEIT
Department of Philosophy
Maynooth University
Amos.Edelheit@mu.il