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Genovese Sermon

Albertanus of Brescia
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Introduction

Status Questionis: Good-bye to the Protestant Ethic?

The careful study made by the late Professor Oscar Nuccio of ancient, preclassical economic thought has clear title to a place among the most significant works that have tackled the debate on the origins of the spirit of capitalism and on the developmental role of the civil jurists of the Low Middle Ages in the formation of the social sciences. Economic science belongs to the family of social sciences and went through the same travails and important events that contributed to their evolution. Albertanus was a jurisconsul from Brescia who lived an intense intellectual and political life in Italy in the first half of the thirteenth century. Nuccio makes a point of informing the reader that the emphasis placed on an author far removed from us is not meant to tout the presence, during the Middle Ages, of a complete system of scientific theories that could lay out the complexity of social and natural phenomena. In this case, the task of the historian is to underline the possibility of grasping, even in the epoch in which Albertanus worked, the signs of an era in profound transformation in which conscience and individual interests were changing radically.

This revisitation of the work of Albertanus is aimed at demonstrating, first of all, the possibility of "making his work present" in a modern key; his is a work that cannot be described with the cliché of the medieval era as the

"Dark Ages," an epoch of unified thought, long described as "shadowy," "static," unitary," and "dense." In the second place, the internal analysis of the texts of Albertanus aims at catching the precursors of certain economic categories typical of modern economic epistemology, which can thus make sense of market processes. Nuccio, we will try to show, criticizes sharply that which he calls "the old historical-literary judgment" that relegates the Brescian lawyer to a niche of "didactic-religious" writers. To the contrary, Nuccio presents an original reading in which there clearly appears the figure of a medieval intellectual who is concerning himself with typically modern problems. Albertanus, Nuccio recognizes, despite being a man of the Middle Ages, adopts a thoroughly modern analysis of "human action," of a "double legitimization of work and profit," and of an "ethical consecration of utility."

In identifying some doctrinal aspects of the thought of Albertanus—the concept of "natural man," the virtue of discernment that accompanies every phase of situational analysis, and of the legitimization of profit—Nuccio assesses his contribution to the origins of the social sciences and introduces us to the definition of that "bipolar cosmology" typical of modern thought. The exclusive character of the monastic ideal does not seem to have attracted da Brescia, whose work displays a continuous tension of reconciling the *vita contemplativa* and the *vita operativa*, a well-rounded individual who, as Nuccio affirms, reconciled the *vir sapiens* with *homo faber*, a man who, to use the expression of Ludwig von Mises, is profoundly a *homo agens*.

Bio-bibliographical Note

Born in the 1190s, Albertanus was a jurist and writer. Unfortunately, reports of his life are meager and are given only by Albertanus himself in the prologues and in the explicit references of his treatises. In particular, Nuccio notes, it was Thomas Sundby, in his introduction to the *Liber Consolationis et Consilii*, who subdivided the life of the Brescian jurist into two periods: the first, which did not last past 1238, during which Albertanus was involved in intense public activity, and the second, which went from 1238 to 1250–1253, characterized by a vivacious literary production. (The year of his death is uncertain.)[1]

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[1] The bibliographical references are treated in Oscar Nuccio, *Il pensiero economico italiano*, vol. 1, tome 2 (Cagliari: Edizioni Gallizzi, 1985), 1283–84. For a full bibliography of the work of Albertanus, see ibid., 1295ff.

As far as the first period is concerned, Albertanus was the protagonist of important political events of his epoch. In particular, on April 7, 1226, he participated at Modesto, together with officials of the *podesta* (magistracy) of Brescia, in confirming the pacts sworn by the Second League, which the Lombard cities formed against Frederick II. In 1231, as a consequence of the reentry of the emperor into the Papal States (Terra Santa), he proposed, as the mayor of Brescia, the renewal of the League, to which the cities of Mantova and Ferrara adhered. In 1238, defending the city of Brescia, he was caught in a siege by the armies of Frederick II, taken prisoner, and transferred to the prison in Cremona, where he wrote his first tract: *Liber de Amore ed dilectione Dei et proximi at Aliarum Rerum, et de Fortuna Vitae*. As recorded earlier, definite reports of the political activity of Albertanus are exhausted by 1238, and we do not have further information on his life until 1250–1253.

In 1243, having returned to Genova, he wrote his first sermon: *Sermo inter causidico et quondam notarios super confirmatione vitae illorum*.[2] In 1245, he wrote his second tract: *Liber de doctrina dicendi et tacendi*; in 1246, his third tract: *Liber Consolationis et Consilii*.[3] This last tract would be an unheard-of success during the entire medieval era, and three popular editions were produced, the first in 1268 at Paris from the house of Andrea Da Grosseto, another anonymous one between 1272 and 1274, and the third in 1275 in Provence, by Soffredi del Grazia. We know of translations, among others, into French, Spanish, German, Dutch, and Czech. Albertanus is the author of another four sermons, three undated, while the fourth carries the date of 1250 or 1253.[4] The attribution of a fourth tract, the *Tractatus de epistolari dictamine*, remains uncertain.

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[2] Albertani Judicis Brixiensis, *Sermo Januensis ad Causidico set Notarios*, translated into Latin by Oscar Nuccio, in *Albertano da Brescia: Alle Radici dell'Umanesimo Civile* by Oscar Nuccio (Brescia: Industrie Grafiche Bresciane, 1994).

[3] For the treatises of Albertanus, we have adopted the following edition: *Tre trattati di Albertano giudice di Brescia*, Nella Stamperia di S. Benedetto, per Alberto Pazzoni Stampatore Arciduca, con Licenza de' Superiori (Florence: Mantova, 1733).

[4] The four sermons were collected in the publication: *Sermones Quattuor*, edited by M. Ferrari (Lonato: Fondazione Ugo da Como, 1955).

His Formation

Albertanus' formation took place principally in Bologna and was certainly many-sided. We know that he studied grammar, dialectics, rhetoric, and theology. His theological knowledge is evident as much in his moral tracts, through which he opposed the spread of Catharism, particularly common in Brescia, as it is in his sermons. Nonetheless, next to the numerous biblical citations from the New and Old Testaments, which, without a doubt, occupy the great part of references by Albertanus in his sermons and tracts, a place of honor goes to juridical sources, whether from civil or canon law. Among the most important, we can identify the *Digest*, the *Codice*, and the *Novel*, while among the canonical sources the *Decretum* of Gratian and the *Decretals* of Gregory IX are counted. Nuccio also records that, among the nonjuridical sources, those deserving of notice include the works of Aristotle, Cicero, Seneca, Sallust, Horace, Ovid, Augustine, and Cassiodorus. This makes Albertanus an extremely interesting author, according to Nuccio, and one who can be counted in that formidable array of thinkers such as Guido Faba, Bono Gamboni, and Brunetto Latini, whose works came to form the so-called literature of the *Podesta* (Magistracy).

The literature of the *podesta* is that collection of training and precepts to which, in the exercise of his public functions, the *podesta* must conform himself. Nuccio writes: "Albertanus possessed that culture fully so that from the same sources—Roman law, canon law, moral and religious treatises, biblical authors—he constructed his system of values, where juridical norms and religious norms were intimately connected; Roman law and canon law were employed by da Brescia to join them together and make up a harmonious juridical edifice."[5]

To Albertanus we owe memorable passages, through which he not only dispensed wise counsel, but he also brought forward the sentiments of an epoch not at all homogeneous—a culture open to confronting the disbelief of modernity and to a vision of the world that is aware of the complexity of human reality. He did not make any declarations of "contempt for the world," he did not

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[5] Nuccio, *Il pensiero economico italiano*, 1284–85.

confound *cupiditas* with *avarizia*, he did not consider insurmountable the barrier between *necessarium* and *superfluum*. He pointed to poverty as an evil to vanquish, and he went beyond the frontal confrontation between the "value" of man regenerated by baptism and the "nonvalue" of natural man. He took advantage of the Roman law definition of natural law, and he reevaluated the role of "the wisdom of the laity." He imposed a bipolar vision on social reality, he legitimated the *amor pecuniae*, and created a justification of profit. Nuccio writes: "The theory of *duo ultima* secured the rational foundation of the lay principle in the *duplex ordo*: on one side the *humana civiltas*, the *humana universitatis*, or the *universitas humani generis*, and on the other the *congregatio fidelium*, the organized body of the faithful, *Christianitas*."[6] To the two different organizations there belonged two different systems of law, principles, and ends. To earthly society belonged the pursuit of its own ends, from which it follows that neither political action nor economic actions are founded on "superior principles"—metaphysical ones—but on the ground of practical applications of the dictates of *ratio naturalis*.[7]

The theme of "two cultures in contrast" is found also in the pages of "economic ethics," that emerges from reading the treatises of Albertanus. It is a dogmatic teaching that regards economic action that appears as a result of pondering the spiritual exigencies of the *fidelis* in his earthly existence as a "natural man," an expression that Nuccio calls the "bipolar concept" of life and culture. While it is not fully explicit, it is nonetheless present in the works of da Brescia. The invitation that, at this point, Nuccio gives us is to read integrally and with care the writings of Albertanus, to avoid distorting the significance and the risk of locating the lawyer "in the wrong place" in the story of "medieval economic ethics."

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6 Oscar Nuccio, *Razionalità economica ed epistologia dell'azione umana nel '200 italiano: Il caso Albertano da Brescia* (Cantalupa: Effatà Editore, 2004), in press (page numbers not yet finalized).

7 Oscar Nuccio, "Epistemologia economia: il ruolo dei concetti di 'natura' e di 'diritto naturale' nella genesi dell'economia politica," *Rivista di Politica Economica* 76, no. 7 (July 1986): 947–1023.

The Polyarchy of the Middle Ages

The historiographic work of Nuccio reconfigures an historical reality—the medieval era, to be exact—as something completely other than "a world of peace and happiness in Christian society," a sort of Golden Age that characterized the life of European society. This was a complex reality, articulated in a myriad of political, economic, and cultural experiences, conditioned pluralistically by civil and political conflicts, which resulted in a polyarchy dictated by the actions of individuals and of the community more or less grand, more or less influential, but nonetheless determined to define the future political, economic, and cultural order of the old Continent.[8] Certainly, it is undeniable that these realities are recognizable within the context of a unified religious faith, but not for that reason united on one economic, political, and cultural model for the main relationship between the City of God and the earthly one. It was exactly, writes Nuccio, the more significant professional and intellectual figures who represent, with their work, a similarly complex articulation of interests, principles, and values in affirming "a diverse way of living, even the religious life, and of feeling the eternal 'problems' of the sons of Adam."[9] Among those figures, the jurists take pride of place. From this perspective, Nuccio identifies two fundamental points that define his historiographic method and

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[8] "Questa posizione antagonista della chiesa e dello stato si riattacca a un principio fondamentale della sociologia, quello della limitazione del potere. Non vi è potere illimitato nel mondo; il potere illimitato sarebbe non solo tirannia sociale, ma assurdo etico. Il problema che lo stato moderno ha posto consiste proprio in questo. Esso ha negato una limitazione esterna, di un principio diverso dal suo (eteronomia dicono i filosofi); perciò il pensiero laico ha affermato l'autonomia dello stato. Per poterne limitare i poteri, si è fatto appelli alla libertà del popolo. Non potendo questo esercitare il potere in atto, n'ebbe soltanto il titolo originario e la potenzialità; mentre l'attualità passò allo stato, quale potere legislativo ed esecutivo. La limitazione reciproca fra il popolo e lo stato, finì per essere un fatto formale e organico, senza una sostanza etica. Questa veniva ricercata volta per volta e si risolveva in pragmatismo positivista." Luigi Sturzo, "Chiesa e Stato: Studio sociologico—storico," in *Storia e Letteratura*, vol. 1 (Rome: Edizioni di Storia e letteratura, 2001), 239–40.

[9] Nuccio, *Albertano da Brescia*, 8.

allow us to plumb the course of history in its actions and its currents of thought, and to recognize in Albertanus a precious source for comprehending the process of the formation of bourgeois society, the source of modern social science, including economic science and its autonomy.[10]

In the first place, Nuccio maintains, it is necessary to assign an adequate importance to all the documents of the past—"without any *a priori* discrimination, one must deal with the *Summa* of Saint Thomas, with the norms of communal statutes, of notarized instruments, of the verses of a 'playful' poet such as Cecco Algiolieri."[11] In the second place, one should never commit the error of separating the multiform experiences of human action into stagnant compartments—placing law here, philosophy there, and theology who knows where, not to mention economics and the other sciences. The problem for the historian is to individuate the "unified roots" of thought that made the modern era emerge, wherever they might be dispersed, as with every form of consciousness. These roots are present as much in the codes and commentaries of the jurists as in the philosophical and theological works and, thus, in notarized acts and civil statutes and in contracts between merchants and businessmen. Only in this way, knowing and declaring what we are looking for, with the humility of one who is aware that the next discovery will be nothing more than one step in an infinite process that approaches the truth, covered with restraints, revisions, and momentary confirmations, apparently insignificant facts begin to speak to us, revealing the secrets that they hold.

The Genovese Sermon

Albertanus was part of a new generation of professionals and intellectuals, the expression of an unheralded lay culture, that placed itself near, and sometimes far away from, the Church. Nuccio believed he was able to recover in the furrows traced by these figures the seeds of a new political, economic, and

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[10] It is Nuccio himself who tells us how he has made his own the lesson of E. Garin: "The studies of Ullmann and of Garin, which are impossible to enumerate here, are fundamental for the serious student of the political and philosophical thought of the Middle Ages." Ibid.

[11] Ibid.

cultural attitude, whose matrix was essentially modern. These figures—*podesta*, notaries, judges, merchants, and men of affairs—would be the artisans of the first commercial and humanist revolution, whose notable traits were all present in the sermons that Albertanus wrote between 1243 and 1250. Among these sermons the so-called Genovese Sermon stands out for its clear and profound analysis. The sermon was delivered to his Genovese colleagues, giving them an inheritance of a most elevated moral lesson. The Genovese Sermon represents a most useful instrument for analysis for whoever wishes to study Albertanus's thought. In a certain sense, it represents the moment of transition between *On Love* from 1238; *Of Speaking and Silence* from 1245; *The Six Manners of Speaking*, also from 1245; and the dialogue *On Consolation* from 1246. The Genovese sermon constitutes, in the opinion of Nuccio, the "hinge" necessary to make clear the conceptual system of that last dialogue, the most noted work of Albertanus. The moral lesson evident in the Genovese Sermon allows us to frame the dialogue in the right perspective; with it, in fact, the author intends to highlight not so much the theme of revenge as the rational analysis of human action. The dialogue between Melibeo and Prudenza is the literary expedient through which Albertanus intends to demonstrate the method of analysis at the center of which he placed situational analysis. To use Popperian terminology, we can say: a conjecture about a specific combination of initial conditions or causes that have put into existence a given event.[12]

The internal conceptual framework of the sermon is centered on a concept borrowed from the *De officiis* of Cicero: the exercise of virtue on the part of learned men, who, acting thus, have a way of reasonably optimizing the foreseeable successes of their action. In the sermon, Albertanus indicates the praxeological norm, whose nature and function will be explicated in the dialogue between Melibeo and Prudenza, from which will emerge its moral and rational stature. Regarding the praxeological norm, Albertanus affirms that the prime thing for men of law—and in general learned people—when they find themselves confronted with those they help, must be to look after them with respect

[12] Cf. Karl Popper, *Conoscenza oggettiva: un punta di vista evoluzionistico* (Rome: A. Armando Editore, 1975), 235.

and love.[13] In the second place, he underlines the necessity of conversing lovingly and proffering gentle words. In the third place, he counsels speaking with gentleness and giving pleasant responses. In the fourth place, the exercise of virtue obligates the learned to converse with clearness and honesty and to make use of a noble vocabulary. In the fifth place, one is to never forget to discourse sedately and to make use of measured and elegant terms. In the sixth place, the rules of the game for men of laws prescribe speaking with cognizance of the cause. Finally, the seventh norm espoused by Albertanus to his Genovese jurist colleagues is to speak wisely, without malice, fraud, or cunning but with a well-disposed mind and with care without inflicting harm on others.

In that way, for Albertanus, by respecting the aforementioned seven praxeological norms of eloquence, knowledge assumes the characteristics of virtue. That last is truly such if it respects the three conditions borrowed from Cicero: first, to penetrate to that which is good and sincere in each object; second, to control the turbulent emotions of the spirit and to make the appetites obedient to reason; and third, to use judiciously and with moderation the things we acquire. An undeniable objective of da Brescia is clearly the identification of a rational ethic of action that adopts the delicate discrimination between acts that harm the existence of others and acts that do not harm others in the pursuit of profit. If the rational analysis of a problematic situation that one intends to resolve is the expression of a virtuous action and of subjecting the emotions of one's spirit to reason, then the virtuous action cannot be other than the responsible use of material goods. From this, it follows that we cannot exclude the gains arising from professional activity from the sphere of what we consider virtuous. This concerns a lay ethic, Nuccio affirms, that "is the product of the same rationalism asserting itself at that same time in the discovery of and the higher value placed on the rationality proper to Roman Law, as the Genovese Sermon demonstrated well in the pages which treat questions on 'reason,' on the relation between 'justices' and 'law,' and on equity."[14]

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[13] The passages from the Genovese Sermon of Albertanus are in the critical edition by Nuccio, *Albertano da Brescia*, 12.

[14] Ibid., 14.

The Rationalization of Human Action

One of the key passages of the Genovese Sermon, highlighted by Nuccio, regards the connection made by Albertanus between two citations in the *Digest* of Justinian: the identification made by Paul (1.1.11) of equity with natural law (because for the law to be natural one must say of it that it is good and fair) and a passage from Papiniano (28.7.5) where he affirms the necessity that individuals be persuaded about the impossibility that acts against public morality can be taken without compromising one's own sensibility and reputation:

> Friend, you cannot let this happen, because it is credible that we can do things that offend our piety, or esteem, or sense of shame, and to speak in general, that are against good morals.… And if, perhaps, some friend or neighbor or powerful man or acquaintance should insist that we do the aforementioned things, we should manfully resist him, and should not let ourselves be dragged into evil. Rather, like a magnet that attracts iron, we ought to draw him or them to our good proposal by following Saint Paul's command, "Do not be overcome by evil, but overcome evil with good" (Rom. 12:21).

Elements of natural law, Roman law norms, and the principle of equity run through the teaching of Albertanus on economic ethics and the professions. This composite system makes Albertanus an original author, in Nuccio's opinion. His reflections on themes such as avarice and profit are characteristic and differentiate him from the method and conclusions given by theologians and by ecclesiastical writers of the epoch. In particular, having already dealt with the relationship between avarice and cupidity, we will linger for a moment on the relevant question that informs the debate on natural law.[15] Nuccio affirms,

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[15] Concerning this debate, we note a renewed interest that is owed primarily to the so-called "Grisez-Finnis" school. Cf. John Finnis, *Natural Law*, 2 vols. (Aldershot, U.K.: Dartmouth Publishing Company, 1991). Critics of this school, which, in their opinion, represent an excessive concession to Kantian philosophy and a moving away from the concept of natural law understood metaphysically include: H. B. Veatch, *Human Rights: Fact or Fancy?* (Baton Rouge: Louisiana State University Press, 1985); Russell Hittinger, *A Critique of the New Natural Law Theory* (Notre Dame: University of Notre Dame Press, 1987); Hittinger, *The First Grace: Rediscovering the Natural Law in a Post-Christian World* (Wilmington

> If for theologians and canonists the *ius naturae* is the same as divine law, with all that follows from that, it was not so for lay jurists. They considered natural right as nothing more than a "jus" proper to men, that is, a collection of regulatory norms for their comportment as rational beings to which the laws of nature consent, excluding actions forbidden by the Church, for pursuing profit, on the condition that this happens without hurting others: *sine aliena iactura*.[16]

That which distinguishes the discourse on natural law conducted by the lay jurists from that proposed by medieval theologians is, according to our author, the significant difference between what the former assign to the term *nature* as opposed to the latter. The theologians, writes Nuccio, identify the authentic nature of man with "that pure state of innocence possessed by him prior to original sin";[17] that which, in this view, one intends by human nature must not be confused with that which man is or appears to be. On the contrary, the natural law of the lay jurists appropriates an idea of nature as it really is—and appears—as a result of original sin; in short, writes Nuccio, "From bondage to the metaphysical concept of (divine) natural right the jurists freed themselves with determination, certain that only a definition of nature different from the Augustinian one would allow them to rediscover the old Adam, the empirical and natural man … and thus to reach a recognition of the naturalness of the whole man, formed of body and spirit."[18]

Del.: ISI Books, 2003); A. J. Lisska, *Aquinas's Theory of Natural Law: An Analytic Reconstruction* (Oxford: Clarendon Books, 1996). On this debate, cf. R. Cubeddu, *Leggi naturali o diritti naturali? Alcune questioni concernenti la filosofia politica liberale* (Rome: Istituto Acton, 2004).

16 Nuccio, *Albertano da Brescia*, 16.

17 Nuccio, *Razionalità economica*, in press (page numbers not yet finalized).

18 "This eternal law was for Augustine identical with the supreme reason and eternal truth, with the reason of God Himself, according to whose laws the internal life and external activity of God proceed and are governed.… God, supreme reason, unchangeable being and omnipotent will: This is oneness in its highest form. But the natural moral law and its component part, the *ius naturale*, is precisely this divine law with reference to man." Heinrich A. Rommen, *The Natural Law: A Study in Legal and Social History and Philosophy*, trans. Thomas R. Hanley, O.S.B. (Indianapolis: Liberty Fund, 1998), 33.

The distinction made by Nuccio looks back to one of the more important controversies of the patristic era: the Pelagian controversy (but surely also the Manichean one). Within this controversy, Augustine reflected on nature and grace, faith, and of the psychology of man, a man profoundly jealous of his liberty. The Pelagians upheld nature and free will, contesting Augustine's discussion of the necessity of redemption and grace, as well as his emphasis on human fragility. To the charges of the Pelagians, Augustine responded pointedly that the doctrine of original sin is not his own invention but belongs to the Church itself; that baptism absolutely remits all sins, but not *infirmitas*; that the free will was not negated so much as helped and given the potential to receive grace; that Catholic teaching is distinguished as much from that of the Manicheans as from that of the Pelagians. So, therefore, if the anthropological dimension defines the field of battle in the Pelagian controversy, Augustine involved himself in it through searching for an adequate way of demarcating the two errors: naturalism and a misunderstood supernaturalism. If, on one side, the first, exalting nature, negates grace, the other, exalting the spiritual, ends in negating nature.[19] On this point, Trapè notes that the comprehensive judgment of Augustinian doctrine cannot be said to prescind from the general consideration of occidental theology that reaches to our day and that poses intransgressible questions.

In sum, all the essential elements of the Pelagian and Manichean controversies coexist in Augustine, which, looked at historically, have gone far beyond the epoch in which the Bishop of Hippo worked and are involved in successive interpretations of the relationship between nature and grace, a relationship over which the debate on modernity has played out and still plays out.[20] Modernity oscillates between a *Machiavellian way of operating*, that is, with the identification of the self with a totally self-sufficient political and scientific project, and a *nominalist way of operating*, that is, the rupture between Aristotelian-Thomistic realism and the triumph of subjectivism and typically

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[19] Cf. Agostino Trapè, "Introduzione generale," in S. Agostino, *Natura e grazia* (Rome: Città Nuova Editrice, 1981), x.

[20] For a complete picture of successive interpretations of the Pelagian controversy—semi-Pelagian, predestinarian, Lutheran, Baiana, Jansenist, Neopelagian, of Church teaching and Catholic theology, cf. Trapè, "Introduzione generale," xi–xvi.

modern individualism. The position of Augustine has undoubtedly withstood both those who maintain that nothing in the world can lead us to God, as the world is intrinsically evil, and also those that affirm that the world is intrinsically good, so that we are able to reach God by force of a grace given by the Creator himself as a necessary attribute of human nature.[21]

We are able to synthesize this argument—not without a little hesitation given the complexity of the theme and the fundamental implications that sustain it—and affirm that the analysis by Nuccio, starting with a reading of the Augustinian tradition, proposes a profound distinction between *natura naturans*—a creative force identified with God himself—and *natura naturata*[22] which, while it depends on the first, expresses "the world of created beings" and is a product of the same men. It is a distinction that concerns not only the work of Augustine as such, but it also plays its part in the Augustinian heritage—unilateral Augustinianism (Luther, Baio, Jansen) and the "Catholic reaction"—in which that indispensable equilibrium is lessened, that fruit of the

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[21] A possible interpretation of the Augustinian position, which recovers the essential elements of both controversies, is developed by Rocco Buttiglione in the line of thought that, from the Bishop of Hippo goes to Pascal, whom Descartes criticizes, in as much as the latter rediscovered Augustine while depriving his thought of its anti-Pelagian elements. This line of thought in Italy is encountered in the tradition of Vico and of Rosmini. Cf. Rocco Buttiglione, *Il problema politico dei cattolici: Dottrina sociale e modernità*, edited by Pierluigi Pollini (Piemme: Casale Monferrato, 1993), 298–99.

[22] As Thomas says, "… the universal nature is an active power in some universal principle of nature, for instance, in some heavenly body; or again belonging to some superior substance, in which sense God is said by some to be 'the Nature who makes nature.' This power intends for the good and the preservation of the universe, for which alternate generation and corruption in things are requisite. And in this respect corruption and defect in things are natural, not indeed as regards the inclination of the form, which is the principle of being and perfection, but as regards the inclination of matter, which is allotted to its particular form according to the regulation of the universal agent." *Summa Theologica*, 5 vols., trans. Fathers of the English Dominican Province (New York: Benziger Brothers, Inc., 1948), I–II, 6.

analysis of all the elements that participate in and are enumerated in both of the controversies.[23]

Therefore, Nuccio emphasizes the metaphysical *natura naturans* and the physical *natura naturata*, and from this decisive distinction he derives another distinction: the first *Justicia*, *costans et perpetua*, the second *jus*, *variabile*, that is, the contingent and perfectible work of man who, with limited and fallible reason that distinguishes him, brings into being the law regulating his existence with other individuals. From the *Fragmentum Pragense*, we quote a significant passage that shows this historical and contingent dimension of law: "*Sed differt iusticia a iure, quia iusticia est costans, ius autem variabile*."[24]

The reference by Albertanus to the ancients is not a mere glance to the past so much as an attempt to show the essential humanistic legacy already present in the literature of the epoch. Therefore, the work of Albertanus presents itself as a study of the individual, a careful reflection on the essence of humanity not in contraposition to the divine, yet distinct from it in method and in epistemological rules. It is a study, therefore, on the "natural essence of man" and on "authentic humanity"—according to the example of Cicero[25] and of Seneca

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[23] This is the opinion of Buttiglione according to which a notion of modernity reconciled with Augustinianism would be exposed to two dangers: "Unilateral Augustinianism" and "Catholic Reaction." "In the attempt to preserve the truth, the Catholic reaction has rendered the truth less flexible and less capable of responding to the questions of modern man. It has undertaken to eliminate from Thomism that which is related to Augustinianism.… The attempt of Lubac … is to return to the position that seeks a modernity reconciled to Thomism that has not expelled Augustinianism." Buttiglione, *Il problema politico dei cattolici*, 302.

[24] "While not generalizing about doctrinal positions, it is nonetheless possible to say that the civil jurists held that no juridical system, no matter if it was elaborated with extreme care by man, could be an adequate manifestation of all of the principles of justice. Such a concept espoused is expressed with extreme clarity in a passage from the *Abbreviato Institutionum*, where it is said that justice has many elements in common with 'jus,' but at the same time differs from it, because God is the author of the one, while He has made man the author of the second." Nuccio, "Epistemologia economica," 987–88.

[25] Cicero, *De republica*, 3.22.33.

("*ratio naturae imitati*")—in order to know profoundly and to demonstrate, in terms recognizable in reality, the way of living in the thirteenth century. This period was itself distinguished by single individuals and by greater and smaller communities that related to each other and organized themselves, acting to resolve problematic situations, using reason as their starting point. From Cicero and Seneca, Albertanus assumed certain conceptual instruments that he used to exalt the value of "human rationality," placing it on a distinct plane from that on which theological reflection operates. "A different concept of natural law, and above all the identification of it with the law of peoples, had to consent to the legitimization of economically motivated human action."[26] The melding of *jus gentium* and *jus naturale* would signal the gradual victory of the distinction present in the *Decretum* of Gratian between *jus naturale* and *mores* and the progressive identification of the first with natural laws codified in positive law.[27]

This is the perspective from which Nuccio criticizes the way in which Schumpeter argues the proposition: "And in the social sciences … awareness (of themselves) was shaped in the concept of natural law."[28] The epistemological value of Schumpeter's affirmation produces effects on the cognitive plane, Nuccio affirms, if he draws the distinction between the tradition of natural

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[26] Nuccio, "Epistemologia economica," 997.

[27] An extensive interpretation of natural rights would make these ends coincide with the notion of *human rights*, comprehending a whole series of rights excluded by the theoreticians of classical liberalism and libertarianism. Cubbedu writes: "The belief is established among the theoreticians of amplitude that rights must be found in their organization and realization. With that, obviously, one registers another of these unjust, useless, and damaging extensions of the competence of the state so deprecated by liberal theoreticians of natural right." R. Cebbedu, *Margini del liberalismo* (Rubbettino Editore, 2004), 216.

[28] "For the first discovery of every science is the discovery of itself. Awareness of the presence of a set of interrelated phenomena that give rise to 'problems' is evidently the prerequisite of all analytic effort. And in the case of the social sciences, this awareness shaped itself in the concept of natural law." Joseph A. Schumpeter, *Storia dell'analisi economica*, vol. 1, trans. Claudio Napoleoni (Turin: Bollati Boringhieri, 1972), 131.

law theologically understood and that of natural law typical of the classical tradition.[29] Once nature was embedded in the supernatural, knowledge for this reason lost all its significance. Nonetheless, one must clearly recognize that this argument was not used by Nuccio to debase the "highest value" placed on theological teaching so much as to point out the way in which nascent lay thought proposed, next to theological "knowledge," a human "knowledge" that exalts the capacity of humans to know and to explain political, economic, and cultural phenomena having recourse to philosophical arguments.

It is scarcely necessary to state how Albertanus was plainly aware of the admonition of Saint Paul in the first letter to the Corinthians, that worldly wisdom is foolishness in the eyes of God. On this point, it will suffice to read the *incipit* of the Genovese Sermon: "May our assembly be in the name of the Lord 'from whom is every good endowment and every perfect gift, coming down from the Father of lights with whom there is no variation or shadow due to change'" (James 1:17). Also, "Although the wise man said 'Do not dare to speak among the wise,' I, nonetheless, do not trust in my own knowledge but in the mercy of Christ who said, 'It is not you who speak, but the Spirit of your Father speaking through you'" (Matt. 10:29–30).[30] Even though it seems that the reflection of Albertanus does not differ substantially from the classic cliché of the epoch, it is enough to read certain more advanced lines to grasp the characteristics of an original attitude that distinguishes the position of the jurist from Brescia from the vulgar stereotype of the medieval man. Revealing himself to his colleagues, he affirms: "I am also confident of your kind attention and in the midst of you wise men I shall talk about the Lord's words, 'You are

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[29] The representation by Schumpeter results in a scarcity, or nothing, of usefulness for the purpose of a real or objective historical reconstruction, because the author remained uncritically faithful to the usual, dominant Aristotelian-Thomistic cliché … about the medieval period, and to the 'natural law' schema for the modern age." Nuccio, "Epistemologia economica," 949.

[30] The incipit of the Genovese Sermon coincides substantially with that of the *Book of Love*, in *Tre trattati di Albertano giudice di Brescia*.

the salt of the earth; but if the salt has lost its taste how shall its saltiness be restored? It is no longer good for anything except to be thrown out and trodden under foot by men'" (Matt. 5:13).

His awareness of the high value of theological reflection, and of its superiority in everything that concerns supernatural questions, does not serve as an impediment for Albertanus to grasp the significance of another form of knowledge that is highly significant for understanding and explaining questions regarding the nature of man. "Our Lord Jesus Christ addressed those words to his apostles. Nevertheless, by some sort of analogy the aforementioned words are also spoken to you wise men." To argue in unequivocal terms, this point uses a bold analogy that has the honor of clarifying immediately the position of the jurist. "You are the salt of the earth because, just as the apostles have brought back Christians to an appreciation of the faith and the love of eternal life, so you, as well, and by your wisdom should bring back all acts of men who come to you for advice and assistance to the appreciation of reason and a relish for justice and the love of the precepts of justice." Following the lines of the Genovese Sermon, Albertanus rivets to his sermon at Brescia of 1250 the same concept:

> Neither let anyone say that our wisdom is worldly wisdom that is foolishness to God. In fact, the science that is carried out from malice and with a malicious aim is science of this world and it is an abuse to call it science. Alternatively, the science that is done with the flavor of virtue is true science, to the study of which we must dedicate our greatest work, because without it no one would be able to live in a blessed way.[31]

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[31] Albertano, *Hic est Sermo, quem Albertanus ... composuit ed edidit inter causidicos brixiensis*, in *Sermones quattuor*, 62.

Knowledge and Knowledge

One gathers from this passage that for Albertanus there is knowledge, and then there is knowledge.[32] Consider the contribution of the major work that Nuccio has offered on the debate over the genesis of modern social science. He has in great part opened it through having pointed out in a highly original way the relevant characteristics of an epoch through the work of a personality such as Albertanus. Authors such as the jurist gave themselves the objective of reinterpreting the scriptural propositions and sayings, confronting the absolute character of theological doctrine with the contingency and provisional nature typical of the epistemological rules that define the modern social sciences. Without wishing to say that which Albertanus did not say, and which he probably would not have been able to say, we are not able to remain silent about a definition of science that appears to us particularly original and signifies the borders of the discourse that we have elaborated. After having estimated that which is original in this wisdom, in what this thing consists and which advantages derive from it, Albertanus can affirm that wisdom is "knowledge seasoned with a relish for virtues," and by knowledge he means "a noble possession that is distributed in many ways. It grows and scorns a grasping owner. If it is not made available to the public, it quickly collapses and disappears." Albertanus' definition is not limited to emphasizing the necessity that knowledge should be diffused lest it evanesce, that it should be "made available to the public that it may grow and increase." It is perhaps important to note that, besides the refined distinction between science and knowledge—if one considers the famous pro-

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[32] "Sciences, Augustine argued in his book on the Trinity, dealt with temporal things, whereas wisdom was devoted to the Eternal, that is to God as the highest good, but this did not mean that knowledge and wisdom excluded each other. The various branches of knowledge could lead to wisdom. For this to happen, however, the aspects of knowledge that the sciences acquired from transitory, temporal things must be ordered in relation to the highest good. Knowledge and science must serve wisdom, which was also the goal of philosophy, the pursuit of wisdom. Augustine found the perfection of philosophy in the teaching of Christianity, which he called 'true philosophy.'" Wolfhart Pannenberg, *Theology and the Philosophy of Science*, trans. Francis McDonagh (Philadelphia: Westminster Press, 1976), 8–9.

nouncement of Wittgenstein: "We feel that even if all possible scientific questions be answered, the problems of life have still not been touched at all"[33]—we register awareness—essentially modern—that science proceeds through critical reflection, through attempts and errors, assuming epistemological progress centered on repeated tests and observations of consequences that confirm or falsify the initial proposition.[34]

It is clearly easy to share the judgment of Nuccio that, speaking of the medieval era, the use of the term *rationalism* would be entirely inappropriate, just as it would be inappropriate to identify the epoch of Albertanus with the problem of nature and the limits of reason. Yet, the fact remains that the complex results of the work of da Brescia demonstrates that the jurist knew how to incite reason to be conscious of itself and of its own nature, and even thought that would come about fully only in a later era, following the speculative exploration on the relationship between reason and the spiritual life. Once affirmed in its own autonomy, Nuccio maintains, reason "reactivated" the faculties of the spirit and "restored" an awareness of the creative activity of man: "it went on to create a spiritual world, to renovate science, art, faith, morals, law, and institutions," and it went on "to build the modern world," which project belongs to the medieval era, an age in which logic and life encountered

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[33] Ludwig Wittgenstein, *Tractatus logico-philosophicus*, trans. G. C. M. Colombo (Milan: Fratelli Bocca, 1954), prop. 6.52. Dario Antiseri writes: "In the trail of Kant came Wittgenstein and Weber—and not only them—to insist on the existence of questions (the most important for us) to which science is not able to respond on principle. In accord with them was Edmund Husserl who, at the very beginning of *The Crisis of European Sciences* wrote, 'in the misery of our life … this science has nothing to say to us.' This excludes in principle those questions that are the most burning for man, who, in our tormented times, feels himself at the mercy of destiny; the problems of the sense and nonsense of human existence in its complexity." *Cristiano perché relativista perché cristiano: Per un razionalismo della contingenza* (Rubbettino Editore, 2003), 63.

[34] For a careful study of the methodology of the social sciences, cf. Dario Antiseri, *Trattato di metodologia delle scienze sociali* (Turin: UTET, 1996); Antiseri, *Teoria unificata del metodo* (Turin: UTET, 2001); and Luciano Pellicani, *L'individualismo metodologico: Una polemica sul mestiere dello scienziato sociale* (Milan: Franco Angeli, 1992).

each other in the law, and *sapientia* was no longer the exclusive patrimony of the clerics. The identification of knowledge and philosophy made by Albertanus is a sign of great originality, whether one considers the discredit with which the theologians belittled its claim to being philosophy or whether one gives attention to the elements of economic ethics as proposed by him. In both cases, Albertanus places "the problem of the role of reason" in the comprehension and explication of social phenomena and "shares in restoring" that which for many studies is the "essential character of Western civilization," its "radioactive power" since the time of Socrates.[35]

—Flavio Felice

[35] Cf. Ibid.; *Book of Love*, chap. 51.

THIS IS THE SERMON THAT THE ADVOCATE ALBERTANUS OF BRESCIA WROTE AND GAVE IN THE ASSEMBLY OF THE ADVOCATES OF GENOA AND CERTAIN NOTARIES ON THE CONFIRMATION OF THEIR LIFE IN THE TIME OF THE LORD MAYOR OF GENOA MANUEL DE MADIO IN THE YEAR 1243 IN THE HOUSE OF THE FORESTER LORD PETER DE NIGRO ADVOCATE ON SAINT NICHOLAS' DAY.

Genovese Sermon*

[*267v*] May our assembly be in the name of the Lord "from whom is every good endowment and every perfect gift, coming down from the Father of lights with whom there is no variation or shadow due to change" (James 1:17). Although the wise man said "Do not dare to speak among the wise," I, nonetheless, do not trust in my own knowledge but in the mercy of Christ who said, "It is not you who speak, but the Spirit of your Father speaking through you" (Matt. 10:29–30). I am also confident of your kind attention and in the midst of you wise men I shall talk about the Lord's words, "You are the salt of

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* *Ed. note*: This English translation has been rendered from Professor Oscar Nuccio's critical edition of Albertanus' Latin text (Codice C. VII. 14: Civica Biblioteca Queriniana di Brescia). Nuccio's critical Latin text—which compiles textual variants among the only other known manuscripts (7)—and his own annotations of scholarly sources, along with an Italian translation with an alternate set of annotations, were first published under the title *Albertano da Brescia: Alle Radici dell'Umanesimo Civile* (Brescia: Industrie Grafiche Bresciane, 1994). (It should be noted that the English translation here does not reproduce Nuccio's Latin edition textual-critical apparatus.) Albertanus' citations of Scripture, which Nuccio interspersed among his annotations, have been checked and corrected in relation to the Vulgate and, in this translation, have been placed in the body of the sermon.

the earth; but if salt has lost its taste how shall its saltiness be restored? It is no longer good for anything except to be thrown out and trodden under foot by men" (Matt. 5:13).

Our Lord Jesus Christ addressed those words to his apostles. Nevertheless, by some sort of analogy the aforementioned words are also spoken to you wise men: You are the salt of the earth because, just as the apostles have brought back Christians to an appreciation of the faith and the love of eternal life, so you, as well, and by your wisdom should bring back all acts of men who come to you for advice and assistance to the appreciation of reason and a relish for justice and the love of the precepts of justice. For, you ought to know, brothers, that our priests when they made us Christians placed salt in each of our mouths as they said: Receive the salt of wisdom that it may avail you unto everlasting life. We must always have the salt of wisdom in our mouth, according to Saint Paul, who says in his epistle to the Colossians: "Let your speech always be gracious, seasoned with salt, so that you may know how you ought to answer every one" (Col. 4:6).

Therefore, we have to consider what is the beginning of wisdom; what is wisdom; what are the advantages of wisdom.

For, as the prophet said, "To fear the Lord is the beginning of wisdom" (Sir. 1:14).

[*269r*] For all things are afraid of the man who fears God. The man who does not fear God is afraid of all things, as a certain philosopher said;[1] and another said, "Let the fear of the Lord be your concern and you will have wealth without labor."[2] Wisdom is, as Seneca says, "the perfect good of the human mind and the knowledge of divine and human things."[3] Indeed, the benefits of wisdom are infinite. For, as Solomon said in Proverbs, "Wisdom is better than jewels, and all that you may desire cannot compare with her" (8:11). Again, "Say to wisdom, 'You are my sister,' and call prudence your intimate

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1 Petrus Alfonsi [1062-ca. 1110], *Disciplina clericalis*, ed. Alfons Hilka and Werner Söderhjelm (Helsinki: Druckerei der Finnischen litteraturgesellschaft, 1911), 2.

2 *Disciplina clericalis*, 2.

3 *Ad Lucilium epistulae morales*, 15.1.4-5: "Sapientia perfectum bonum est mentis humanae.… Quidam et sapientia ita quidam finierunt, ut dicerent divinarum et humanarum scientiam."

friend" (7:4). Yet again, "To get wisdom is better than gold and silver" (16:16). Jesus the Son of Sirach said, "Wine and music gladden the heart, but the love of wisdom is better than both" (40:20). One should definitely know that wisdom is of such value that no one can live happily unless he pursues wisdom, and, as Seneca said in his *Letters*, without wisdom one may be called sick in spirit.[4] For wisdom strengthens and forges the spirit, arranges life, governs actions, shows what must be done and what left undone. It should protect us.[5] Wisdom will teach you to follow God;[6] it settles difficult cases; it demands that each person live in accordance with her law, and not disagree with her way of life.[7]

This virtue so makes a man wise that, as a certain philosopher said, "The wise man is ready for all battles as long as he is thinking."[8] For wisdom is said to be knowledge seasoned with a relish for virtues. To this end, then, that we may have knowledge seasoned with a relish for virtues, let us consider the nature of knowledge, the nature of virtue, and how knowledge may be seasoned with a relish for virtues.

Knowledge is a noble possession that is distributed in many ways. It grows and scorns a grasping owner. If it is not made available to the public, it quickly collapses and disappears. Therefore, knowledge should be made available to the public that it may grow and increase. Accordingly, Seneca says [*269v*] in

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4 *Epistulae morales*, 2.4.1: "Liquere hoc tibi, Lucili, scio, neminem posse beate vivere, nec tolerabiliter quidem, sine sapientiae studio.…"

5 *Epistulae morales*, 2.4.3: "[Philosophia] animum format et fabricat, vita, disponit, actiones regit, agenda et omittenda demonstrat, sedet ad gubernaculum et per ancipitia fluctuantium dirigit cursum, sine hac nemo intrepide potest vivere, nemo secure.…"

6 *Epistulae morales*, 2.4.5: "philosophia nos tueri debet"; "haec [philosophia] docebit, ut deum sequaris, feras casum.…"

7 *Epistulae morales*, 2.8.2: "… et hoc exigit [philosophia], ut ad legem suam quisque vivat, non rationi vita dissentiat.…"

8 Publilius Syrus [first century B.C.], *Publilii Syri mimi Sententiae*, ed. Gulielmus Meyer (Leipzig: B. G. Teubneri, 1880), sent. 587: "Sapiens contra omnes arma fert, cum cogitat."

de formula honestae vitae, "Do not look down upon anyone's lack of knowledge. You are to speak little, but be patient with those who speak, sober and serious, cheerful not contemptuous, eager for wisdom and docile. What you have looked into without arrogance share with one who asks. What you do not know kindly ask for it to be bestowed upon you without concealment of your ignorance."[9]

According to Augustine, however, virtue is a habit of a mind that has been well constituted in accordance with human nature and that is in conformity to reason.[10] Indeed, knowledge is seasoned with a relish for virtues and becomes wisdom, and so, through her, the acts of men might be reconciled with rational judgment and a relish for justice and a love for the commandments of the law in two ways, that is by means of the seven ways of speaking and the three exercises of virtue.

For, first of all, when men come to us for advice and assistance, we should be careful to seem reverent and loving. Then, indeed, we ought to address them well and say good things to them to attract them to friendship with us. For, as Solomon says, "Speaking well is the beginning of friendship. Speaking poorly is the beginning of hostilities."[11]

According to the second way of speaking, we should speak pleasantly and say pleasant words. For, as the same man says, "A pleasant word multiplies

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[9] Saint Martinus of Braga [ca. 515–ca. 579], *De quattuor virtutibus cardinalibus s. de formula honestae vitae*, in *Annaei Senecae philosophi Opera Omnia. Ad optimorum librorum fidem, accurate edita*, 5 vols. (Leipzig: C. Tauchnitii, 1832), 4:17: "Nullius imprudentiam despicias. Rari sermones ipse, sed loquentium patiens, severus ac serius, sed hilares non aspernans, sapientiae cupidus ac docilis, quae nosti, sine arrogantia postulanti impartiens, nescis sine occultatione ignorantiae tibi impartiri."

[10] Saint Augustine, *De diversis quaestionibus 83*. Liber Unus, in *Patrologia Latina*, vol. 40: Augustini *Opera Omnia*, vol. 6, col. 20, quaestio 31 [Sententia Ciceronis, quemadmodum virtutes animi ab illo divisae ac definitae sunt (Cic. 1.2 *de Invent.*)]: "Virtus est animi habitus naturae modo atque rationi consentaneus."

[11] Isocrates, *Orationes ad Demonicum*, ed. Aldo Morpurgo (Edizioni scolastiche Sansoni, 1960); C. Balbi, *De nugis philosophorum quae supersunt*, ed. E. Woelfflin (Basel: n.d.), 25, 41.

friends and pacifies enemies" (Sir. 6:5). Consequently, the adage had it: The forest has the hare; the tongue of the wise man has charm. Pamphilius said, "Sweet eloquence arouses and nourishes love."[12]

According to the third way of speaking, however, we ought to speak agreeably and make mild responses. For, as the same man says, "A soft answer turns away wrath, but a harsh word stirs up anger" (Prov. 15:1).

According to the fourth way of speaking, we ought to use fine and honorable speech and put forth noble words and completely avoid base ones.

[*271r*] For, blessed Paul said, "Bad company ruins good morals" (1 Cor. 15:33). Seneca in his *de formula honestae vitae* says, "Stay away from bad words also, because their wantonness fosters inconsideration."[13] Solomon said, "A man accustomed to use insulting words will never become disciplined all his days" (Sir. 23:20). Socrates says, "I consider it dishonorable to say what it is base to do."[14]

In accordance with the fifth way of speaking, we should speak in an orderly manner and use measured and ornate speech. For, as Solomon says, "Pleasant words are like a honeycomb, sweetness to the soul and health to the body" (Prov. 16:24). Cassiodorus said, speech is a common gift to mankind: that man alone is excellent who discerns the uneducated.

In accordance with the sixth way of speaking, however, we ought to speak intelligently so that what we say may be clear and understood. Therefore, when someone asked a certain wise man, how best to speak, he replied: by speaking only what you know well. For, we should not speak unintelligibly or ambiguously or with deceptive words. For, it really makes no difference whether one refuses or remains silent or makes an unintelligible reply inasmuch as one leaves the questioner with no certitude, as the law says. Therefore a certain philosopher also says, "It is better to remain silent than to say something no one understands."[15] Jesus Son of Sirach says, "A man skilled in words may be

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12 *De amore* (Paris: 1510), f. D.I.v.

13 Martinus, *De formula honestae vitae*, 4:6.

14 Balbi, *De nugis philosophorum*, 18.

15 Cicero, *Orationes philippicae*, 3.9.22: "Nonne satius est mutum esse quam nemo intelligat dicere?"

hated; he will be destitute of all food" (37:23), "for grace was not given him by the Lord" (37:24).

According to the seventh way of speaking, however, we ought to speak wisely without deceit and malice, with good judgment and intent, and without injuring another. In this way, the seven ways of speaking season knowledge with a relish for virtues.

As I said earlier, the triple exercise of virtue also seasons knowledge.

For, as Cicero says, every virtue expresses itself in three ways. The first of them [*271v*] consists in considering in each and every thing what is true and authentic, what is consistent, and what is its consequence. From these considerations, we conclude what things come from what sources and what is the cause of each.

The second way is by controlling the troubled movements of the spirit and by making the appetites obedient to reason.[16]

The third way is by making moderate and intelligent use of what we have gained.[17] Let us reflect on each one of these. Therefore, in the first exercise of virtue, when men come to us for advice or assistance, one must discern what the truth is because, after God, truth has to be cherished and it alone makes men close to God, because God himself is the truth, as he himself bears witness, "I am the way, and the truth, and the life" (John 14:6). Cicero, however, added on the adjective *authentic*. Therefore, he said that we must pursue this authentic and pure truth while absolutely dismissing falsehood. Cassiodorus, therefore, said, "The good is the true if nothing of the opposite is mixed in it."[18] The Lord said, "The Devil is a liar and the father of lies" (John 8:44). Solomon said, "A thief is preferable to a habitual liar" (Sir. 20:27). Moreover,

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[16] Cf. Cicero, *De officiis*, II.5.18.

[17] Cicero, *De officiis*, II.5.18: "Etenim virtus omnis tribus in rebus fere vertitur, quarum una est in perspiciendo, quid in quaque re verum sincerumque sit, quid consentaneum cuique, quid consequens, ex quo quaeque gignantur, quae cuiusque rei causa sit, alterum cohibere motus animi turbatos … appetitionesque … oboedientes efficere, rationi, tertium iis, quibuscum congregemur, uti moderate et scienter.…"

[18] Senator Magnus Aurelius Cassiodorus [ca. 487–ca. 580], *Variarum liber*, 3.7: "bonum quidem votum, si tamen non ibi aliquid misceatur adversum."

Cicero indeed added the word *consistent*. As soon as we are involved in an enterprise, we ought to investigate whether this enterprise is consistent with reason. Likewise, we have to consider who opposes this enterprise and who goes along with it that we may know whether it can be realized. He added, however, consideration of the consequence: There are some things that initially seem good in their beginnings but result in many evils. For, in all good things you will find a pair of evils, as the wise man said (Sir. 12:7). Therefore, we must examine what things come from what sources, and what is the cause of each thing. Therefore, Seneca said in his *de formula honestae vitae*, "Look for the cause for each thing and when you find the beginnings you shall consider the outcome."[19] Hence, also [*273r*] Pamphilus said, "Knowledge simultaneously considers the beginning and end of things, and the end of things contains its confirmation and every beginning of a word looks to the end of a word that it may be better able to say what was intended."[20]

According to the second exercise of virtue, we should restrain the aroused movements of the spirit and make the appetites obedient to reason. This should be done in two ways, that we may, of course, control the aroused movements of our spirit and the spirit of the person addressing us. For, as soon as we are involved in an enterprise, we should have recourse to God and to our conscience, and act like a cock that beats its wings three times when it crows. If the movements of our spirit are in any way disturbed either by hatred or pleas or fear or envy or finally by any aforementioned excess, we should utterly drive it from our spirit, and keep God and our conscience before our eyes. Likewise, if the motions of the spirit of the person talking with us are disturbed by any of the aforementioned causes, and he wants advice and assistance from us in an evil case or to reveal wickedness or collusion or to do or say something that would offend our piety or esteem or sense of shame, or his own, or even anything that might be against good morals, we should immediately, as we keep God before us, openly determine to control as best we can his disturbed spirit. We should address him kindly: Friend, you cannot let this happen, because it is not credible that we can do things that offend our piety, or

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19 Martinus, *De formula honestae vitae*, 2.6: "Cuiuscumque facti causam require: cum initia inveneris, exitus cogitabis."

20 *De amore*, c. 4r.

esteem, or sense of shame, and to speak in general, that are against good morals.[21] For, as our laws proclaim, what can be rightly done is ultimately said to be done. If, perhaps, some friend or neighbor or powerful man or acquaintance should insist that we do the aforementioned things, we should manfully resist him, and should not let ourselves be dragged into evil. Rather, like a magnet that attracts iron, we ought to draw him or them to our good proposal by following Saint Paul's command, "Do not be overcome by evil, but overcome evil with good" (Rom. 12:21) and by following the advice of Solomon who says, [*273v*] "Take care not to be lead astray, and not to be humiliated in your folly" (Sir. 13:11). For, according to the law of love, to sin for the sake of a friend is no excuse for sin.[22] For, if you tolerate the crimes of a friend, you make them your own.[23] It further states, "He who defers to sin sins twice,"[24] and he who helps one who does harm commits a crime. Let us not be afraid of the powerful and let us not be closely connected with them. For, as Seneca said, if you enter into a very powerful man's friendship or patronage, either friendship or trust has to be destroyed. Therefore, Solomon says, "When a powerful man invites you, be reserved, and he will invite you the more often.… And do not remain at a distance lest you be forgotten" (Sir. 13:12–13).

Now we must consider the third exercise of virtue, as Cicero says. The third is the moderate and intelligent use of our acquisitions.[25] Here we should note that we ought always to win over to ourselves those who come for our advice and assistance and profit from them and make use of their friendship and riches

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21 Cf. *Corpus juris civilis, Digest* 1.1.11; 28.7.15; and Cicero, *De amicitia*, 12.40: "Haec igitur lex in amicitia sanciatur, ut neque rogemus res turpes nec faciamus rogati."

22 Cicero, *De amicitia*, 11.37: "Nulla est igitur excusatio peccati, si amici causa peccaveris"; and Publilius Syrus, *Sententiae*, sent. 283: "In turpi re peccare bis delinquere est."

23 Publilius Syrus, *Sententiae*, sent. 10: "Amici vitia si feras facias tua."

24 Publilius Syrus, *Sententiae*, sent. 52: "Bis peccas cum peccanti obsequium accomodas."

25 Cicero, *De officiis*, II.5.18.

with moderation and intelligence[26] in keeping with the peculiar nature of virtue. For, as the same Cicero said, "It is characteristic of virtue both to reconcile the spirits of men and to unite them for their usefulness, that is, their benefit."[27] We ought to derive, then, benefit, wealth, and advantages from them. For, as Augustine says, an advocate may sell upright counsel, and a legal expert may sell upright advice. Indeed, profit or advantage should be honorable and not base; it should be moderate; it should also be natural and not against nature.

It should be honorable, because, as our law said, base riches are to be stripped from heirs. Therefore, Seneca said, flee base gain like a loss, and another person said, "Profit with a bad reputation should be called a loss."[28]

It should be moderate, namely with moderation. The mean is to be observed in all things.[29] [*275r*] Therefore, we are accustomed to say: There is a mean in things and ultimately definite limits and it cannot be considered correct to go above and beyond them. The word for advantage, *commodum*, is made up of *cum* "with" and *modus* "measure." As Cassiodorus says, "If the advantage exceeds equal measure it will be bereft of the force of its meaning."[30]

It ought to be natural and common, namely to our advantage. For, as the law of nature says, it is not fair for someone to get richer at another's expense. Cicero goes even beyond this. For, he says, "Neither fear, nor sorrow, nor death, nor any other such external occurrence is so against nature as it is for

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[26] *De officiis*, II.5.18: "… tertium iis, quibuscumque congregemur, uti moderate et scienter."

[27] *De officiis*, II.5.17: "Cum igitur hic locus nihil habeat dubitationis, quin homines plurimum hominibus, et prosint et obsint, proprium hoc statuo esse virtutis, conciliare animos hominum et ad usus suos adiungere."

[28] Publilius Syrus, *Sententiae*, sent. 135: "Damnum appellandum est cum mala fama lucrum."

[29] Orazio, *Satire*, I.1.106.

[30] *Variarum liber 9*, epistola 14 (Gildiae viro sublimi Comiti Syracusanae civitatis Athalaricus Rex), in *Opera Omnia*: "commodum enim debet esse cum modo. Nam si mensuram aequalitatis excesserit, vim sui nominis non habebit."

someone to increase his advantage at the disadvantage of another."[31] This is especially true of the penury of a beggar. For, as Cassiodorus says, it is absolutely unbelievable that anyone would want to get rich off the penury of a beggar. Therefore, we ought to be most ready to help beggars, and the poor, and the weak, orphans and widows, and wretched people *gratis* and not for money. To serve self and God in this way is the greatest gain. Well, then, after we have carefully investigated and understood the aforementioned in accordance with these seven ways of speaking and the triple exercise of virtue we can flavor our knowledge with a relish for virtues and by means of our wisdom bring all the acts of men who come to us to a rational judgment and a relish for justice and the love of the precepts of law. Let us consider, then, what reason is, what justice is, and what the precepts of law are.

Indeed, reason is an aspect of the mind that is called the imitation of nature, as Seneca says in his *Letters*, and it is defined as follows: "Reason is the power to discern good and evil, licit and illicit, the honorable and the dishonorable along with choosing the good and avoiding evil."[32] Hence, it is also called reasoning, that is, rational enquiry, and reason involves much pleasure. Therefore, reason, properly employed, fits in with what would be the best, but when neglected it gets enmeshed with many errors.[33] The man who makes use of reason conquers the entire world. Therefore, a certain philosopher said, "If you want to conquer [*275v*] the entire world subject yourself to reason."[34] We should, therefore, subject ourselves as well as our associates as best as we can to reason, and we ought to bring our actions back to the love of justice.

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[31] *De officiis*, III.5.21: "Detrahere igitur alteri aliquid et hominem hominis incommodo suum commodum augere magis est contra naturam quam mors, quam paupertas, quam dolor, quam cetera, quae possunt aut corpori accidere aut rebus externus."

[32] *Epistulae morales*, 7.4.33 and 36; and Cicero, *De inventione*, II.53.160.

[33] Cicero, *Tusculanarum disputationum ad M. Brutum*, 4.27: "Itaque bene adhibita ratio cernit quid optimum sit, neglecta multis erroribus."

[34] Seneca, *Epistulae morales*, 4.8.4: "Una ad hanc fert via, et quidem recta, non aberrabis, vade certo gradu: si vis omnia tibi subicere, te subici rationi."

Actually, according to Cicero, justice is the lady and queen of all the virtues. Therefore, the same Cicero said, "Justice is the foundation of everlasting praise and reputation. Without it nothing is praiseworthy."[35] Seneca, indeed, gave this definition of justice: Justice is tacit agreement of nature and is found in assisting many. In fact, in moral teaching, justice is defined as follows, "Justice is the virtue that preserves human society and common welfare."[36] Legally, however, justice is defined as "the constant and permanent disposition to render each person his right."[37] What has been said about justice, and many other things that can be said as well, deserve our consideration. Jesus, Son of Sirach says, "Strive even unto death for the truth and the Lord God will fight for you" (4:33).

The sweetest of legal precepts are these: to live honorably, to do no harm to another, to give to each his own.[38] Let us therefore observe these precepts and that law will be found in us that says: for, certainly advocates who find their support in glorious speech strive to defend the hope, the life, and the posterity of those who are oppressed. For our voice, that is our fame, will be glorious. For reputation is frequently fame in one area that is connected with praise, and we should earnestly strive for this fame. As Paul says, "If there is anything worthy of praise, think about these things" (Phil. 4:8). Jesus, Son of Sirach said, "The light of the eyes rejoices the heart and good news refreshes the bones" (Prov. 15:30), and elsewhere, "Have regard for your name, since it will remain for you longer than a thousand great stores of gold" (Sir. 41:15). Someone else said: If reputation is not widespread, all virtue comes to an end,[39] and we will depend on the support or love of the citizens. "For one thing resists

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35 *De officiis*, III.6.28: "Haec (iustitia) enim una virtus omnium est domina et regina virtutum." See also *De officiis*, II.20.71: "fundamentum enim est perpetua commendationis et famae iustitia, sine qua nihil potest esse laudabile."

36 William of Conches [1080–ca. 1150], *Das Moralium dogma philosophorum des Guillaume de Conches, lateinisch, altfranzösisch, und mittelniederfränkisch*, ed. John Holmberg (Uppsala: Almquist & Wiksells, 1929), chap. 8.

37 *Corpus juris civilis*, *Digest*, 1.1.10.

38 *Corpus juris civilis*, *Digest*, 1.1.10.

39 Publilius Syrus, *Sententiae*, sent. 266: "Iacet omnis virtus, fama nisi late patet."

all attacks: the support or love of the citizens," [*277r*] as Cicero said.[40] He also says, "of all things, nothing is more suitable for protecting and keeping possessions than being loved."[41]

Nothing, however, is more unsuitable than to be feared. As a matter of fact, men clearly hate the person they fear because everyone seeks the destruction of the person he fears. Even if it is commonly held to be known, no power can resist the hatred of the masses.[42] As a matter of fact, nothing is more stupid than to want to be feared in a free state.[43] For, of necessity, he whom many fear should fear many. Thus, we defend the hope and life of others as well as our own, and our life ought to be a model to others. We shall also be involved in our posterity's affairs and be defending them by teaching them for virtues' sake. For, as Cicero says, "the best inheritance that parents entrust to their children and more outstanding than every patrimony is the reputation for virtue and accomplishments."[44] Therefore, Seneca also said, "I spend no day at leisure. I give part of the night to studies. I have no time for sleep, but I surrender my eyes that are both weary from vigils and drooping to work; I am involved in the affairs of my posterity; I write what could be useful for them; I

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40 Albertanus incorrectly attributes this quotation to Cicero. The correct author is Seneca, *De clementia*, 1.1 and 19.6: "unum est inexpugnabile munimentum amor civium."

41 Cicero, *De officiis*, II.7.21: "Omnium autem rerum nec aptius est quicquam ad opes tuendas quam diligi nec alienus quam timeri."

42 *De officiis*, II.7.23: "Praeclare enim Ennius [probabilmente nella tragedia Thyestes]: 'quem metuunt oderunt; quem quisque odit per [i]sse expetit'. Multorum autem odiis nullas opes posse obsistere, si antea fuit ignotum, nuper est cognitum (7.24). Etenim qui se metui volent, a quibus metuentur, eosdem metuant ipsi necesse est." "Qui vero in libera civitate ita se instituunt, ut metuantur, hiis nihil potest esse dementius."

43 *De officiis*, II.7.21. Cf. note 41.

44 *De officiis*, I.33.121: "Optima autem hereditas a patribus traditur liberis omnique patrimonio praestantior gloria virtutis rerumque gestarum, cui dedecori esse nefas et vitium iudicandum est."

make salutary admonitions in the fashion of healing remedies."[45] Everything that I have said to you is to be understood as addressed to you, advocates and notaries. Indeed, by way of analogy, one can say to you notaries that you are the salt of the earth, because, just as almost all food is seasoned and receives flavor by means of salt, so through your service and wisdom almost all human acts are seasoned and receive lasting flavor, and lay people can say that we can do nothing without you learned men. For, as Cassiodorus says, "No worldly condition is so good that the glorious fame of letters does not increase it."[46] Let us, then, be the salt of wisdom, and let us keep it in our mouths because if salt looses its flavor with which it is salted you will not be judges, because, as the Lord said, a man is said to be a judge, as long as he is considered just. For a name [*277v*] that is derived from justice is not held on to by means of pride, and you will not be true defenders. For, as the same Cassiodorus says, he is truly said to be a defender who blamelessly defends,[47] and you will not be wise but foolish because the wisdom of this world is foolishness with God (1 Cor. 3:19). Nor will you be notaries but deceitful and forgers. One will be able to say about each of you with the prophet, "His mouth is filled with cursing and deceit and oppression; under his tongue are mischief and iniquity" (Ps. 10:7). One will be able to say about all of you, "Their throat is an open grave,

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45 *Epistulae morales*, 1.8.1-2: "Nullus mihi per otium dies exit, parte noctium studiis vindico. Non vaco somno, sed succumbo et oculos vigilia fatigatos cadentesque in opere detineo. Secessi non tantum ab hominibus, sed a rebus, et inprimis a rebus meis: posterorum negotium ago. Illis aliqua, quae possint prodesse, conscribo. Salutares admonitiones, velut medicamentorum utilium compositiones, literis mando, esse illas efficaces in meis ulceribus expertus, quae, etiamsi persanata non sunt, serpere desierunt."

46 *Variarum liber 3*, epistola 33 (Argolico viro illustri, praefecto urbis, Theodoric rex): "Gloriosa est denique scientia litterarum, quia quod primum est, in homine mores purgat; quod secundum, verborum gratiam subministrat: ita utroque beneficio mirabiliter ornat et tactitos et loquentes."

47 *Variarum liber 9*, cap. 25: "Nam illud defensor proprie dicendus est, qui tuetur innoxie."

they use their tongues to deceive" (Ps. 5:9); "The venom of asps is under their lips" (Ps. 140:3). Judge them, God. We shall have to be thrown outside, to be trod under foot by all, not just by human beings but also by devils in hell. Let us have, then, in our mouths the salt of wisdom to avail us into everlasting life. May he who lives and reigns forever lead us to this life.

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