

Consilium 74

Regarding the second title of Book 5: Concerning Wounds

Argument

With plague pressing hard in the city, Silvius Amorus suddenly attacked a certain Ansovinus, a fellow citizen who had done him some injury or other, and hit him on the head; the wound was conspicuous in size, but there was no fracture of the bone and no other condition which was considered serious, if you except the fact that the bone was exposed. On the third day after receiving the wound, Ansovinus was taken with a high fever accompanied by severe head pain, vomiting of bilious matter and vertigo, as well as considerable inflammation of the wounded area. On the following day, the wounded area turned gangrenous, and he was completely covered with dark blotches and complained of pain in the groin. On the sixth day he died, and his body appeared to be black everywhere, but especially the head and shoulders. Although the Fiscal Magistrate rejected the idea that the wound was the entire cause of death, he contended that Silvius should be condemned to the ultimate punishment,

as if he were guilty of homicide. At the request of a friend, I have set down the following arguments against his unjust and harsh demand.

Summary

1. How serious head wounds may be.
2. Serious injuries to other parts [of the body] are more safely neglected than the most trivial head injury.
3. The primary cause must be seriously considered, since it moves of itself.
4. The first cause influences the effect more than the second.
5. The primary cause and also the proximate cause are the same together with the immediate cause.
6. What is the immediate cause?
7. Only the immediate cause should be considered.
8. When a mortal wound exists, there is always the strong presumption that the wounded person perished from that wound.
9. A man who wounds someone who is in poor health is considered guilty of homicide if the wounded man dies, even if the wound was not fatal.

For the contrary see number 20.

- 10.** To have a strong disposition to become ill is just the same as it is to be actually ill. See number 21.
- 11.** Cause of cause and cause of effect.
- 12.** The effect of the second cause is brought brought back to the first.
- 13.** Consequence is attributed to the proximate cause.
- 14.** Sickness is the proximate cause of death, not the accidental [secondary] symptoms of the sickness, if they are not arguably produced by the sickness.
- 15.** Simple wounds of the head are not mortal in accordance with the first heading.
- 16.** The plague is a more reasonable cause of death than any head wound, even a mortal one.
- 17.** The primary or the secondary cause is not assigned in respect to anterior or posterior time, but only in respect to its effect.
- 18.** When a cause is very evident in respect to effect, it is not appropriate to abandon it to search for another cause.
- 19.** Sores appearing on the body are symptoms of the plague.
- 22.** If they do not belong naturally to a disease, accidental symptoms should not be ascribed to the disease.

23. A comparison made between swiftness of death from the plague and from a clearly mortal wound shows that death from the plague did not follow after death from a wound.

It is certain that Ansovinus died from the plague, not from the evil effects of his wound; for that reason it is completely contrary to justice to place all the blame for his death on the man who wounded him and to condemn him to the ultimate punishment, as if he were guilty of homicide; for the arguments which the Fiscal Magistrate and his adherents offer publicly are empty and foolish beyond reason, while they try to demonstrate the opposite: for it is readily apparent that their arguments have no weight, as will be clearly evident if the following arguments are weighed in the balance.

1 - 6.

In the first place, it is said that Ansovinus' wound was mortal by its very nature, not only because it was a large wound, but on account of the significant nature of the wounded part, which is so great that, whatever the slightness of the wound, even the smallest, a head wound must be considered serious according to earlier teachings; and so, for this reason,

even grave wounds to other parts of the body may be more safely neglected than the most trivial head wound, as doctors, cited elsewhere by me, teach on the authority of Hippocrates, *lib. 5. Quaest. Medico-leg. tit. 2. quaest. 9. num. 1.* Therefore, since the wound was fatal by its very nature, no subsequent cause should be considered as the cause of death, since the primary cause must always be considered, since it moves of itself, and certainly not a secondary cause which moves by happenstance, *Galen de symt. causs. cap. 1. trans med.*; and so the primary cause of death in this case was the wound, the secondary cause was the subsequent fever; for the wound was sufficient to assume death, for as the first cause has greater influence on the effect than the second cause, *Tiraq. in tract. cessant. litmate. 20. num. 6.*, so we seek in vain for another cause, since the primary cause and also the proximate cause is the same together with the immediate cause: *l. socii. qui in eo ff. pro socio.* Moreover, when the immediate cause is put in place, the effect is put in place, and when it ceases, the effect ceases, *Tiraq. loco tit. limitat. ead. num. 1.*, and thus it must be considered the sole cause: *l. sed si plures, & in arrogat. ff. de vulg. & pupill.* Therefore, since death was subsequent to the wound, which was sufficient cause of death, it must be concluded that it was the

immediate cause of death, since just as death would not have followed without the infliction of the wound, so once the wound was inflicted death followed.

7 - 8.

In the second place, the symptoms which followed the wound were themselves commensurate to the wound and related to it; indeed, since events come about according to the order of nature, so inflammation follows wounds, especially large wounds in a prominent place, and gangrene, necrosis and mortification of the parts, as well as other symptoms observed in Ansovinus follow inflammation; whence it follows that, without the wound, no inflammation or any other ill effect would have resulted; indeed, if it is given that the illness which appeared was the plague (which should not readily be admitted), it ought to be asserted that the wound was the cause of the plague; for, because of the wound, all his humours were disturbed, and then, gathering corruption from the corruption of the wound, produced symptoms which were very similar to those which belong to the plague. Therefore, since the wound, which was fatal by its own nature, degenerated into malignancy, and became more deadly because of the resulting symptoms, which were not unrelated because of

the very nature of the wound, there must always have been a strong presumption that the wounded man died from his wound and not from some other cause: *l. Art. Lex. & quod si mortifere ff. ad leg. Aquiliam*, since from the very first infliction of a deadly wound the wounded man is deemed to have been killed: *Alciat de praesumpt. part. 1. num. 1*

9 - 12.

In the third place, a person who gives a man a wound which is not fatal is considered a murderer if the wounded man dies, according to the dictates which *Thom, Aetius de infirm. par. 2 . vers. vulnus, n.1. and following states*. Thus it is certain that in a time of pestilence each person must be considered as sick, since everyone has a consequent disposition to contract the plague from the air which we breathe: and so, in fact, to be attacked by some disease is just the same as to have the consequent disposition to contract such a disease. And so, according to Horace *lib. 1. epist. num.7.*, he begged Maecenas as follows:

Quam mihi das aegro, dabis aegrotare timenti

Maecenas veniam.

[Just as you indulge me when I am ill, Maecenas, so you indulge me when I only fear that I am ill. *Epistle 7, 4-5*]

Since in each case an infection of the body is found, and a pollution from which disease usually spreads, so it is not unusual if, in a time of pestilence, wounds easily give rise to gangrene, and virulent and malignant symptoms appear, as happened in our case, in which Ansovinus, even if he had not suffered a deadly wound, died by occasion of it because of the proximate tendency to contract the plague: if, therefore, the cause of the cause is the cause of the effect, *D. Thom part. 1. summ. quaest. 49. art. 2. ad 2.*, since, as this same D. Thomas adds, the effect of the second cause is brought back to the first cause, it follows rightly from this that, since the inflammation was produced by the wound and from this a deadly and pestilential fever, the wound was the true and immediate cause of the effect which followed, not the pestilential fever.

13 - 14.

In the fourth place, the outcome is attributed to the nearest cause, not to a distant cause; *Bald. from whom Tiraq. in tract. Cess. caus. limitat. 20. num. 20.*, and so disease is the proximate cause of the resulting death, accidental [secondary] symptoms of the disease are the remote cause: but in this illness, in the case of this wound, the plague (if that fever merits the name plague) was accidental, and a symptom consequent to the wound

itself; for symptoms do not occur without illness, indeed they follow illness as the shadow follows the body, and are the cause of all the symptoms of the illness: *Gal. lib. de symp. disper. ead*, and for that reason treatment is not owed to the symptom, but to condition which created it: *Gal. in lib. 6. de morb. vulg. comm. 1. tex. 9.*; therefore, to avoid death in the case of Ansovinus, one ought to remove the cause of the symptoms which appeared, which cause was the wound, from which, just as to an illness, the previously mentioned symptoms followed; and thus the wound was the proximate and true cause of death, not the secondary symptoms of the wound, except insofar as they derived from the wound.

15 - 16.

But if an impartial desire for obtaining the truth ought to concern us, it will be very clear that it is with great prejudice and against justice that the Fiscal Magistrate urges the condemnation of Silvius as if guilty of homicide, since Ansovinus clearly died of the plague, not from his wound; for although we freely concede that Ansovinus' wound was in some way deadly, it can in no way be denied that it was not mortal according to the first heading, as is very clear from a sufficient enumeration of similar wounds examined by our authors *in tractatu proprio de vulneribus*, and also the account of these

wounds which I also reported *lib. 5. Quaest. Medico-Leg. tit. 2. quaest..2.*, where no mention is made concerning superficial wounds of the head and those having no aggravating condition, such as a fracture or fissure or a contusion of the bone, and anything otherwise of this nature; so although this wound might be fatal, as the Fiscal Magistrate wishes, as to everything worse, it was neither good nor bad in respect to health or to death; and thus, with this truth evident, it was not, of necessity could not, be a sufficient, certain, and arguable cause of death: wherefore, the death must be ascribed to a more sufficient, more certain, more undoubted cause, namely to the plague itself, for who will not affirm this to be a more sufficient cause for bringing death than a wound which was not fatal under the first heading.

17 - 18.

Nor could it be any argument to the contrary that the Fiscal Magistrate publicly states that such a wound would be deadly and especially worthy of consideration because of its prominent location, namely the head. Since the head is the principal member, containing many parts of diverse nature, some of these, such as the pericranium, even when wounded visibly, are not of great concern on account of the shallowness of the lesion, although

injuries to other parts ought to be considered very seriously, since they are full of danger: and when one adds that the smallest of minor injuries of the head is worthy of consideration and attention, before wounds to any other part, this contributes to the fact that surgeons are easily misled in respect to head wounds, as sometimes the bone may be broken or cracked from a very minor wound, and sometimes surgeons may not notice this when treating head wounds. For this very reason Hippocrates himself warns that it is easy to make a mistake *in lib. de vuln. capit. num. 1*. Therefore, the danger is not equal in all wounds of the head, nor are all head wounds fatal because of the importance of this part of the body, since some parts of the head are of more significance than others. Therefore, the whole discourse of the Fiscal Magistrate is false, as long as he tries to conclude from the supposed gravity of a wound of this kind that this was the primary cause of death, and that the fever was the secondary cause; since the primary cause affects the wound by itself, the secondary cause, namely the fever, acts by accident. But he does not observe, for the purpose of designating a cause, what is primary or secondary, he does not pay attention to the priority or posteriority of time, but only to the efficacy of the causes themselves; for the cause which is more effective and more sufficient for

the effect is called the primary cause and of itself, as in our case, in which, although the wound was earlier in time than the plague, yet on the grounds that it lacked sufficient efficacy to cause death, it does not merit the name of the primary cause of the death, because of the arrival of the plague, which was a much more sufficient cause of death; *viri ergo causa est magis evidens ad agendum, non est conveniens discedere ab ea quaerendo alias causas; ut dicebat Galen lib. de mot. museus. cap. 5. [Therefore, when the cause is very evident in its effect, it is not fitting to abandon it by seeking other causes], as Galen says liber de mot. muscul. cap. 5.*

From which it follows that the cause of death in our case should not be attributed to the wound, since it was not a clear and sufficient cause, but to the very evident cause, namely the plague.

Indeed, if the truth of the matter is to be divulged freely, in this case there is no argument for the wound being any sort of cause, since the subsequent effect was completely separate from it, moreover, the aggressiveness of the manifest cause, that is the plague, completely removed the efficacy of the wound, and did not allow it to produce any effect, especially since the wound was benign in nature, and thus it easily surrendered all efficacy to the fiercely aggressive cause which emerged.

19.

And at the same time it can be deduced from these arguments that the Fiscal Magistrate and those writing to support him are assuming falsely that the wound was the cause of the plague, for how could a wound, which was not deadly and was certainly without malignancy, produce these terrible symptoms which are accustomed to be produced solely from the violence of the plague? Furthermore, the wound was so far from being able to cause the plague that it could rather have been a remedy for the plague, one by which nature could be unburdened and provide an opportunity for the evil humours to be purged; for we know that for the purpose of producing the effect mentioned before, namely to preserve and also save men, doctors cause sores with the pestilence in diverse parts of the body, indeed, it is even agreed that in times of pestilence those who suffer certain sores by which the body is purged from the uncleanness of the humours are easily preserved by this treatment, *Ambros. Paraeus lib. 21. which is de Pest. cap. 3.*

But how greatly the Fiscal magistrate and those writing to support him seem to desire that the wound of Ansovinus be determined fatal and the true cause of his death, so that afterwards Silvius, as guilty of homicide,

may be condemned to the ultimate punishment: for in the first place, he proposes the false conclusion, one rejected by many, that a man who wounds a sick man, although not fatally, may be held for homicide if the sick man dies; as it further appears, by this claim he produces another proposition from which he strives to prove that Ansovinus ought to be considered a sick man because he stayed in a place infected with the plague, and on account of this proximity he was disposed to become sick and contract the plague.

20 - 21.

But it is clear that neither the earlier nor the subsequent proposition is true; as to the former, it is agreed and supported in Aetius, at the place cited, where he cites both advocates of the contrary opinion and those holding the following preferable opinion. As to the second false opinion, we will readily accept the opinion not only of all doctors, but of all well disposed men. But if it is given also that it is the same to be ill with a condition and to have a strong disposition to illness, then this should have a place, especially when the cause of the illness is intrinsic to the person; but the proximate disposition to sickness in those who, at a time of pestilence, remain in a place infected with this disease, is extrinsic, since it depends on

infection of the air or on contagion, as is the general opinion, or from either one, as is my opinion. Therefore, it is not possible to affirm that Ansovinus should be thought of as a sick man because he had a proximate disposition to becoming ill by contracting contracted the plague, as this proximate disposition was not intrinsic to him, but extrinsic; and it is not the same to have an intrinsic disposition and to have an extrinsic disposition, as wood does not have the same disposition to burn when it is near fire as it does when it is placed on the fire.

22.

But the Fiscal Magistrate also proffers publicly another false supposition, namely that the fever, (for he does not want the diagnosis of plague to be true) occurred as secondary from the wound, and from this he proposes that the cause of death must be attributed to this affliction, that is to the wound, and must not be attributed to its accidental symptoms. But this supposition follows well had the accidental symptoms been proportionate to and related to the affliction or the wound, as we indicated earlier, as when they are accustomed naturally to follow such a disease, and when they begin with the disease itself, for then they may be said to be characteristic of the disease, *Galen. lib. 1. de Cris. cap. 6.*, but the

symptoms which happened to appear in this wound, did not begin with the wound itself, therefore they were not occurrences characteristic of the wound, but of another disease to which they were more appropriate: for what proper relationship can those writers supporting the Fiscal Magistrate present to us between a benign wound, or to one not completely malignant, and the accidental symptoms which followed? For whoever has seen, or what man with a grazed face is there, who contends that terrible and deadly symptoms necessarily follow a wound. The Fiscal Magistrate is seen to proceed with the utmost rigour in this discussion and is seen to want to deduce, beyond all fairness and reason and based on a false supposition, that Silvius ought to be punished as guilty of homicide, despite so many serious contrary opinions which demolish the adverse judgement in this case.

But let us take away from the Fiscal Magistrate and his adherents all possibility of telling a true story; certainly I think we must return to examine scrupulously the truth of the story thus far. Therefore, when Ansovinus was wounded in the head by Silvius, he took himself home with the help of two friends, who chanced to be present, and on the following day he was visited by Andreatius, one of these friends just mentioned, who, when he

had visited him again early on the third day, after he had been examined by the Fiscal Magistrate concerning the case of Ansovinus, was taken by the plague on his return home, and on the fourth day he died: therefore, from this account, it is clearly evident that Ansovinus contracted the contagion of the plague from Andreotius, and died from its virulence and not from the wound

Nor are there any valid arguments which the Fiscal Magistrate offers against this true version of the case, since he suggests that Andreotius was infected with the plague by Ansovinus, not Ansovinus by Andreotius, as he assumes that on that day, which was the third day after he had suffered the wound, Ansovinus began, so he says, to suffer from the plague or pestilential fever; it is agreed that Andreotius visited Ansovinus early on the third day without being examined, when he had already begun to suffer in his head and already had admitted that he was not well, to such an extent that his appearance had completely changed, as witnesses, examined on behalf of Silvius testify; Andreotius freely came to visit Ansovinus, as one wounded and in no way a person suspected of the plague. Afterwards, in the evening, Ansovinus began to suffer from a severe fever accompanied by great pain in the head, symptoms which were followed by other

symptoms, which attacked him in this illness right to the end, and from the severity of which he he gave his last breath on the sixth day. Therefore, since it must be clear that Andreotius contracted the plague some time before Ansovinus, and it is not true or even probable that he was infected by Ansovinus, but on the contrary it seems as clear as the midday sun that Ansovinus contracted the disease from Andreotius, and from its severity only, and not from any blame from his wound, he exchanged life for death.

23.

Moreover, howsoever the matter settles itself, whether Ansovinus had been attacked by the plague on the third day after his wound, or whether he contracted it from Andreotius, whether the wound was fatal or not, the wound was not the cause of death, since there existed a much more efficacious and swifter cause of bringing death; even a fatal wound was completely incapable of causing death, incapable especially in such a short time: whence the swiftness of his succumbing, which was in no way characteristic of the nature and quality of the wound; on the contrary, he displayed quite clearly the very familiar and expected symptoms of the plague, and so we are compelled to determine, without any hesitation, that

the death of Ansovinus occurred from pestilence as the most swift and efficacious cause, and not from the less swift and efficacious wound, since the effect should be attributed without doubt to the the cause more capable of producing the the result, as has already been demonstrated.