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Love Elegy and Legal Language in Ovid

Summary: Ovid's engagement with legal discourse is a version of the elegiac *recusatio*, a simultaneous appropriation and denial of legalisms. Set against the background of Augustus' adultery laws, Ovidian elegy aspires to dictate and reform the rules of amatory conduct. The *Ars Amatoria* exemplifies the profile of love elegy as legal discourse by attempting to regulate love affairs under a regime that institutionalized passion. The conflict and interaction between the world of elegiac seduction and that of Roman law feature prominently in Aconitius' letter to Cydippe (*Heroides* 20). In this letter, literary sources legitimize poetic imitations; fanciful innovations mirror established traditions; wedding contracts converge with amatory deception and witness-statements with love letters. By construing an intricate nexus between the fantasies of desire and the reality and materiality of legal documents, Ovid suggests that, in the end, Cupid is in charge of both the letter and the spirit of the law.

Keywords: elegy; law; *recusatio*; adultery; marriage; love letter; materiality; witness-statements; magic; seduction

Elegiac Denial and Legal Commitment

Latin love elegy is a literary genre that defines itself by denial. The so-called *recusatio*, the disavowal of epic war for the sake of love, shapes the profile and agenda of elegiac discourse. Yet this denial is simultaneously an appropriation.¹ Roman elegy may apparently refuse to engage with the world of wars and men, but actually enlists martial epic in the service of love poetry. Elegy's strategy is more aggressive than it looks at first sight; the genre conquers by feigning a retreat and transforms epic narratives into elegiac metaphors.² From that perspective, elegy is more imperialistic than epic since it expands by dividing and conquering the martial and amatory aspects of epic poems. The denial of an active military and political life is a powerful political statement. By refusing actively to

¹ Hinds (1998) 52–5 discusses Latin poets' simultaneous appropriation and denial in the rather different context of the so-called *primus* motif.

² E.g., the motif of *militia amoris*. On this elegiac motif and its ironies, see Gale (1997); Drinkwater (2013).

take part in Roman imperialism, the Roman elegists make a revolutionary poetic and political choice. Elegy's action is its pretense of inaction.

A similar combination of denial and appropriation applies to elegy's stance towards Roman law. The elegiac motif of *seruitium amoris* is not only a reworking of epic imagery for elegiac purposes, but also a legal concept that is employed as poetic metaphor.³ In the manner of the traditional *recusatio*, Propertius reassures Cynthia that Roman laws and Jovian weapons are incapable of separating elegiac lovers (2.71–6).⁴ Ovid's decision to abandon a career in law for the sake of a career in poetry is another twist of the *recusatio*.⁵ The exiled poet implies that courtroom rhetoric is reprocessed for poetic effects.⁶ Ovid's autobiographical poem (*Tristia* 4.10), in which he contrasts his brother's inclination for legal studies with his own poetic pursuits, is a case in point:

frater ad eloquium uiridi tendebat ab aeuo,
fortia uerbosi natus ad arma fori;
at mihi iam puero caelestia sacra placebant,
inque suum furtim Musa trahebat opus.
Tristia 4.10.17–20

My brother inclined towards oratory from his tender age, born for the strong weapons of the garrulous forum; but I even as a boy delighted in heavenly rites and stealthily the Muse was pulling me into her dear work.⁷

The forensic eloquence required for a legal career is cast in epic language; the strong weapons (*fortia arma*), an unmistakable symbol of martial epic, are enmeshed with the busy verbosity of the forum. Ovid denied this wordy and worldly career for the divine pleasures of poetry. His reference to his boyhood not only suggests his affinities with the *puer* Cupid, but also alludes to the boyish nature of Ovidian and Callimachean poetics with its schoolboy frivolity which pointedly punctures the manly *grauitas* of epic.⁸ By contrast, his brother's green age subtly puns on his latent manhood (*VIRidi...ab aeuo*), ready to take up strong weapons. The juxtaposition of Ovid and his brother is a version of the elegiac *recusatio*. The

³ See Kenney (1969) 250–1, for *seruitium amoris*; cf. Kenney (1970) 392; Gebhardt (2009) 107–20.

⁴ On *recusatio* in Propertius 2.7, see Cairns (1979) 200.

⁵ Ovid models his poetic career on Vergil and his literary aspirations replace the public *cursus honorum*; see Farrell (2002); (2004); Barchiesi and Hardie (2010) 64–5.

⁶ Recent scholarship has focused on legal diction in Ovid's exile poetry; see Lowrie (2009) 360–82; McGowan (2009) 41–55; Gebhardt (2009) 335–57.

⁷ Translations are my own, unless otherwise indicated.

⁸ On this topic, see Morgan (2003).

priority of pleasure (*placebant*), the attraction to the female Muse, and the stealthy work (*furtim*) of the Muse's divine seduction all point to main preoccupations of Roman love elegy. The lure of amatory poetry is more persuasive than the noisy rhetoric of forensic litigations.

When his father admonishes him to try more profitable pursuits, Ovid attempts to abandon the realm of poetry and write prose. But whatever he tried to write would turn into verse on its own accord (*Tristia* 4.10.21–6). This is the common interpretation of *sponte sua carmen numeros ueniebat in aptos* ('of its own accord a poem would come upon suitable meter', *Tristia* 4.10.25), a line which, in this context, draws attention to the poetic and legal meaning of *carmen*. While forsaking a public career for the sake of poetry, Ovid pointedly uses *carmen*, a word that not only refers to verse as opposed to prose, but is also closely associated with legal and authoritative statements.⁹ Ovid's prosaic and futile attempts to engage with public administration end up in verse. Thus, the transformation of Ovid's prose into poetry is simultaneously a denial and an appropriation of legal diction. Ovid did not simply refuse forensic speech; instead legal discourse magically and spontaneously morphed into poetry. The word *carmen*, which is equally applicable to legal and poetic diction, remains the same, but its form changes. True to the spirit of his *Metamorphoses*, Ovid's *carmen* shifts shape while its nature continues to be essentially unchangeable.¹⁰ The poet manages both to disavow and highlight the legal nature of his poetry.

The Word of the Law

Poetry builds its own imperial program and passes its own laws. The overlap between the politics of poetry and the poetics of empire that features so prominently in Augustan poetry¹¹ is partly enabled by the Latin language, which uses words and phrases that apply both to poetic and imperial authority. Recent scholarship, for instance, suggests that the verb *cano* has little, if anything, to

⁹ See Putnam (2000) 131–2; Lowrie (2009) 327 notes that *carmen* is used to refer both to poetry and law. The semantic range of the Greek νόμος ('melody' and 'law') corresponds to the Latin *carmen* ('song' and 'law'). Svenbro (1993) 111–12, 116–17 argues that in Greece the law was originally sung out by the law-chanter. More on *carmen* below.

¹⁰ Metamorphosis often highlights continuity rather than change. Feldherr (2002) 171 points out that human beings who undergo metamorphosis do not lose the enduring aspects of their being, rather they take on a form that reveals them; cf. Anderson (1989) 97–8.

¹¹ See Hardie (1997); Lowrie (2009); Feldherr (2010).

do with a distinction between singing and speaking. Instead, *canere* seems to describe a statement that carries authority independent of external ratification.¹² Similarly, *carmen* describes powerful language that can bring about a physical reaction that reifies the speaker's wishes.¹³ *Carmen* can refer to law and by regularizing *carmen* as a word for a poem the Augustan poets claim a quasi-legal status for their poems. Augustan poetry appropriates legal discourse, and Ovid's *Ars Amatoria* is probably the best example of the rivalry between Augustus' and Ovid's *carmina*.

Ovid composed his *Ars Amatoria* against the background of Augustus' *lex Iulia de adulteriis coercendis*, which made adultery a criminal offense. In spite of or maybe because of Ovid's conceited statements that his love lessons do not break the law (see, e.g., *Ars Amatoria* 1.31–4, 2.599–600, 3.57–8; *Tristia* 2.247–50), the *Ars Amatoria* was presumably one of the reasons why the emperor relegated Ovid to Tomis. The accusation was that Ovid's didactic poem teaches adultery, which is illegal under the *lex Iulia*. Some scholars, such as Mario Labate,¹⁴ argue that Ovid's *Ars* does not really go against Augustus' legislation, but this seems to be a minority view, especially in Anglophone scholarship. Most critics now focus on Ovid's playfully subversive diction and some argue that his *Ars Amatoria* clearly breaks Augustus' adultery laws.¹⁵

In my view, the *Ars* is a politically provocative work not only because it transgresses the boundaries of Roman law, but mainly because it presents itself as an authoritative document that sets the rules on a subject that is legally prescribed by the new regime. Poems and shows that involve obscenity and adultery may not be *per se* subversive. In his defense of the *Ars*, Ovid points out that marriageable girls and married women regularly watch obscene adultery mimes and there has never been any problem with it (*Tristia* 2.497–506).¹⁶ Why would Augustus mind his *Ars Amatoria*? Alison Sharrock responds that obscenity is not politically sensitive: rather it is the undermining of authority which might be so.¹⁷ An adultery mime may show characters breaking the law but this is differ-

¹² See references in Lowrie (2009) 14–16, 328–9.

¹³ Putnam (2000) 132. See also Habinek (2005).

¹⁴ Labate (1984).

¹⁵ Davis (2006). On the *Ars Amatoria* and Augustus' adultery laws, see Wallace-Hadrill (1985); Gibson (2003) 25–37; Davis (2006) 85–108; Lowrie (2009) 361–2. On the adultery laws, see Raditsa (1980); Treggiari (1991) 277–98, 454–7; McGinn (1998) 216–47.

¹⁶ Admittedly, this might be a subversive thing to say.

¹⁷ Sharrock (2006) 249. She further argues that after Vergil politicized didactic poetry with his *Georgics*, it is impossible to read Ovid's *Ars Amatoria* as apolitical, especially since it repeatedly subverts Vergil. In my view, didactic poetry has been deeply political since Hesiod.

ent from challenging the validity of the law or defining legal boundaries. And Ovid's *Ars* does undermine Augustus' authority because the *praeceptor* assumes the pose of a legislator who dictates the legal code which should govern love affairs. Ovid and Augustus compete for control over the highly disputed and controversial area of extra-marital sex.

The *Ars* opens with a couplet that seeks to establish the poet's authority as the *praeceptor* addresses any Romans who may need instruction in love:

*Si quis in hoc artem populo non nouit amandi,
hoc legat et lecto carmine doctus amet.*

Ars Amatoria 1.1–2

If there is anyone in this nation who does not know the art of loving, let him read this poem and by reading it let him fall in love as a learned man.

Ovid's diction suggests the beginning of a rhetorical speech and thus the poem begins with bringing together the art of loving and the art of speaking.¹⁸ The address to the Roman people is characteristic of rhetorical discourse and the *praeceptor* assumes right from the beginning a Ciceronian pose. The first words strongly suggest the opening of a Ciceronian speech.¹⁹ In the *Pro Caelio*, for instance, Cicero imagines a certain stranger who might be ignorant of Roman law: *Si quis, iudices, forte nunc adsit ignarus legum...miretur profecto* ('If someone ignorant of our laws, jurors, were by chance now to be present...he would certainly be surprised', *Pro Caelio* 1.1). The relevance of the *Pro Caelio* for the *Ars Amatoria* has not been studied, as far as I know, but it is certainly worth examining given that both works are preoccupied with the legal aspect of extra-marital affairs.²⁰ Cicero and Ovid start with the hypothesis of an ignorant man and proceed to instruct this imaginary person. Ignorance commonly compels poets to write didactic poetry, but rendering the jurors open to teaching is also a distinctive charac-

¹⁸ Ovid's didactic poem repeatedly draws a parallel between *ars amandi* and *ars orandi*, and its title, *Ars Amatoria*, puns on *Ars Oratoria*.

¹⁹ Several of Cicero's speeches start with *si quis*: see *Pro Caelio* 1.1; *Diuinatio in Q. Caecilium* 1.1; *Pro Sestio* 1.1; *de Prouinciis Consularibus* 1.1; *Pro Rabirio Postumo* 1.1; cf. the highly rhetorical opening of the prologue in Terence's *Eunuchus* 1–3. Cicero opens his *Pro Caelio* like a Terentian prologue and it has been argued convincingly that comedy plays a crucial role in this speech; see Geffcken (1973); Leigh (2004). The comic plot of erotic deception is also central to Ovid's *Ars Amatoria*. Ovid opens his *Remedia Amoris* with an exordium of similar diction (see *Remedia Amoris* 13–16).

²⁰ Overall, the influence of Cicero on the *Ars Amatoria* has been by and large ignored. Gibson (2007) 80–6, 95–6, 103–9, a study of the importance of Cicero's *De officiis* in the *Ars Amatoria*, is an exception.

teristic of the rhetorical exordium.²¹ In Cicero, the hypothetical foreigner would be surprised at the peculiarity of a law which ordered that certain cases had to be tried even on public holidays²² and Plato employs a similar hypothesis in order to provide critique in the *Laws*.²³ Thus, Ovid not only assumes the pose of an orator beginning his speech, but opens his work with a rhetorical exordium that implies instruction on legal issues.

Advice on love affairs under Augustus is legally fraught and Ovid's instructions are inevitably entangled with legal statements. The opening couplet evokes an authoritative declaration. A condition marked by *si quis* in the protasis and the imperative or the jussive subjunctive in the apodosis is a distinctive stylistic feature of legal *tabulae*.²⁴ Thus, the jussive subjunctives (*legat*, *amet*) in the apodosis of the protasis *si...non nouit* suggest the authority of legal *carmina*.²⁵ The opening couplet of the *Ars* performs a speech act structured like a legal statement; the participial resumption *hoc legat et lecto carmine* conveys the rapidity and efficiency with which reading and the practical application of what is read merge together. Ovid's *carmen* defines the socio-political dynamics of love affairs, and its performative aspect – which breaks the boundaries between reading and doing – endows it with legal power.²⁶ This is the very nature of a *carmen*; a *carmen* is powerful language that changes the physical world and both *carmen* and *legere* are closely associated with legal discourse.²⁷ The etymological link between *legere* and *lex* in combination with the legal connotations of *carmen*

21 Ignorance compels a poet to write didactic poetry: see Lucretius, *De Rerum Natura* 1.112 (*ignoratur enim quae sit natura animai* 'for they ignore what the nature of the soul is'); Verg. *Georgics* 1.41 (*ignaros...uiaae...agrestis* 'ignorant of the rustic way'); Grattius, *Cynegetica* 98 (*ignarum perfudit lumine uolgu* 'he enlightened the ignorant multitude'). The ploy is as old as Hesiod (see *Opera et Dies* 40–1, 456–7) and Empedocles (fr. 2 D-K). For the rhetorical doctrine that the exordium should render the jurors open to teaching (*dociles*), see Lausberg (1998) 263–88; Dyck (2013) 58–9.

22 Cicero does not openly criticize the law but rather its application to Caelius' case.

23 Noted in Dyck (2013) 53.

24 See Meyer (2004) 45–8.

25 Cf. *si defexit...ferito*, Livy 1.24.8; *si quis...faxit...esto*, ILC 4907 = CIL 3.1933; *si quis...fecerit...esto*, *Lex de imperio* 3–9, 34–9; see Crawford (1996) 1.549–53; cf. *si quis aduersum ea fecerit...iurent omnes socii*, Cato, *de Agri Cultura* 144.4 'if someone has violated these rules...all the associates should take an oath'.

26 On the performativity of Ovid's legal statements in *Tristia* 2, see Lowrie (2009) 360–82. Lowrie (2009) 361 notes that Ovid sets the poet and the lawmaker in contest as authors whose writings contradict each other. She further focuses on the dynamic interaction between Augustan poetry and Augustan law and examines the performative dynamics of literature and law; Lowrie (2009) 327–82.

27 See Lowrie (2009) 327–30, 360–1.

point to the oral reification of a law. Magdelain argues that *lex* is etymologically related to *legere* because the law was read aloud in the Senate before it was ratified by oath.²⁸ Along similar lines, Meyer (2004: 97–101) examines the interaction between writing, reading, and posting the law as a ‘unitary act’ for the law’s ratification. Ovid’s first couplet performs all the procedures of senatorial ratification. The author (*auctor*) writes down a legal statement (*carmen*), which needs to be read by his readers in order to be sanctioned. Once this speech act is performed, Ovid’s *carmen* has the power to fulfil the authoritative statement that a law would carry within itself.²⁹ From the very beginning Ovid pits his poetic diction against legislative acts.

Appropriation of legal acts for amatory purposes is not unknown before Ovid.³⁰ In Plautus’ *Asinaria* 746–809, a parasite draws up a contract between the young lover Diabolus, the courtesan Philaenium, and the procuress Cleareta.³¹ The terms of the contract are referred to as *leges* and the author as *poeta* (*Asinaria* 747–9, 809), a telling conflation of legal and poetic authority. The etymological figure *leges pellege* (*Asinaria* 747) evokes the style of a *carmen* and suggests that a law is put into effect by being read aloud.³² The parasite’s contract contains conditional sentences typical of legal language: ‘If the girl has looked at another man, she should become blind on the spot’ (*si quem alium aspexit, caeca continuo siet. Asinaria* 770).³³ At this point, legal and magical language merge together.³⁴ Appropriately, the word *carmen* refers to laws and incantations since both legal and magical words are powerful speech acts with punitive force. The parasite’s curse is both a magic spell and a legal state-

28 Magdelain (1978) 18–21. Svenbro (1993) 109–22 argues that a similar connection between reading and the law applies in Greek. For Svenbro, νόμος (‘law’) is etymologized from νέμω (‘I read’, not just ‘I distribute’) and Greek culture developed a conception of law inseparable from its conception of reading.

29 Cf. Lowrie (2009) 329, citing Pierre (2008).

30 See Meyer (2004) 66–72, a discussion of parodies of legal language.

31 Meyer (2004) 66 points out the legal language and style of the parasite’s contract. See also Cynthia’s *formula legis* in Propertius 4.8.73–82.

32 Etymological figures are a distinctive characteristic of legal style (cf. *dedit dono, Asinaria* 752, *nomen nominet, Asinaria* 780). For *figura etymologica* as a stylistic element of *carmina*, see Meyer (2004) 49, 53.

33 Cf. *et si qua inutilis/ pictura sit, eam uendat, Asinaria* 763–4 ‘if there is any useless picture, she should sell it’; *si magis religiosa fuerit,/ tibi dicat, Asinaria* 782–3 ‘if she is further obliged by religion, she should tell you’; *si dixerit,/ haec multa ei esto, Asinaria* 800–1 ‘if she has said, let this be her punishment’; *si...dixerit,/...reddat, Asinaria* 806–7 ‘if she said... she should give’.

34 Magical spells were treated as an extension of or substitute for courtroom rhetorical efforts and legal punishment in Athens; see Allen (2000) 147–8.

ment that binds Philaenium to a monogamous affair with Diabolus. The comic contract takes on added meaning if we take into account that prostitutes used their charms to seduce lovers and bawds routinely resorted to magic spells.³⁵ The parasite's contract usurps this power from Philaenium and Cleareta and turns it against them.

To some extent, the *praeceptor* of the *Ars* also usurps the magical power of the bawd and employs her erotodidactic discourse.³⁶ Ovid's *hoc legat et lecto carmine doctus amet* (*Ars Amatoria* 1.2) combines the legal and magical power of reciting a *carmen*. Since the reading of Ovid's poem will transform the readers and turn them into learned lovers, the ablative absolute (*lecto carmine*) functions as an ablative of means and thus Ovid's students will fall in love by reading his fascinating poem. The *Ars Amatoria* is a charming poem and an authoritative law and the reading of such a work is a speech act that validates its contents and casts a spell on its readers.

The Letter of the Law: Acontius and Cydippe

The motif of falling in love by reading features prominently in Latin poetry. Catullus, for instance, tells us that a certain girl was consumed by the fires of passion after reading Caecilius' forthcoming *epyllion*, the *Magna Mater* (35.13–15). The myth of Acontius and Cydippe is also a case in point. Cydippe is bound to marry Acontius after she reads the hero's message, which is inscribed on an apple, and inadvertently swears to marry none other than Acontius (see Callimachus, *Aetia* fr. 75.23–7 Pf.). But there is more to the myth than a cheeky trick. Cydippe virtually falls in love by reading Acontius' words. Hardie argues that Ovid's Acontius redirects his message with his elegiac epistle (*Heroides* 20); he further examines the magical power of the apple and its message and notes that

the repetition of the inscription on the apple in the epistle lends to the latter something of the magical power of the oath to act at a distance, to produce effects in the physical world through the insubstantial tokens of words spoken or written, and ultimately to bring together the lovers in physical presence.³⁷

³⁵ The *lena* Dipsas, for instance, is an expert in magic spells; see *illa magas artes Aeaeaque carmina nouit*, Ov. *Amores* 1.8.5 'She knows magical arts and Aeaeae spells'. See McKeown (1989) ad 1.8.5–18 for further examples of *lenae* and prostitutes with magical powers.

³⁶ See Gibson (2003) 19–21, 109–10, 119–20; cf. Fear (2000).

³⁷ Hardie (2002) 113.

Acontius' message is a *carmen*, a magical speech act that causes Cydippe's physical lovesickness. Interestingly, Acontius' letter repeatedly employs the language of law.³⁸ For Acontius, Cydippe is legally bound to marry him after reading his message. The hero dresses up Cydippe's involuntary oath in legal terms: she is his *res* (*Heroides* 20.150) in the legal meaning of 'chattel', and her reading resulted in a *pactum* (*Heroides* 20.151, 155).³⁹ In objectifying Cydippe, Acontius employs the legal language that describes a slave (*res*) and thus the elegiac poet gives another twist to the legalistic motif of *seruitium amoris*; the hero's alluring inscription makes the heroine the slave of his desire. Magic spells become the basis of legal claims and the reading of love poetry is the cause of erotic passion. The recitation of charming verses is essentially a legal action.⁴⁰

Acontius' expertise in law seems to be Ovid's innovation.⁴¹ In Callimachus, Eros taught Acontius the art of winning over Cydippe, a variation of the motif of Eros as a teacher of love poetry.⁴²

Αὐτὸς Ἔρως ἐδίδαξεν Ἀκόντιον, ὁππότε καλῇ
ἦθετο Κυδίππῃ παῖς ἐπὶ παρθενικῇ,
τέχνην – οὐ γὰρ ὄγ' ἔσκε πολύκροτος – ὄφρα λέγο..[
τοῦτο διὰ ζῶης οὖνομα κουρίδιον.
Callimachus, *Aetia* fr. 671–4 Pf.

Eros himself taught Acontius the art when the boy was burning for the beautiful maiden Cydippe – for he was not cunning – so that he might gain the name of husband for the rest of his life.

³⁸ See Kenney (1970); Videau (2004); Alekou (2011) 387–506.

³⁹ See Kenney (1970) 396–7; Alekou (2011) 397–8, 470–2.

⁴⁰ Acontius' letter exemplifies Goodrich's thesis, that the love letter is both more than law and in breach of law; see Goodrich (1997). For Goodrich, the love letter expresses the priority of desire over duty, of freedom of choice over marital subjection, of feminine autonomy over property interest. The political project of the love letter is aimed at nothing less than the subversion or transformation of institutions as spaces of relationship. Whether it supplements current legislation or violates it, the love letter is fundamentally a legal action— in fact, Goodrich argues, it is the original legal discourse that still survives in the affectivity of the legal subconscious.

⁴¹ See Kenney (1970) 393–4. Cydippe's legal voice is also Ovid's innovation. Stella Alekou (*per litteras*) points out that Ovid enriches Callimachus' *polypaideia* on history, medicine etc. with legal nuances.

⁴² See ποιητὴν δ' ἄρα Ἔρως διδάσκει, κἄν ἄμουσος ἦ τὸ πρὶν, Euripides, *Stheneboea* fr. 663 Nauck 'but Eros instructs a poet then, even though he was songless before'; οἱ γὰρ Ἔρωτες ποιητὰς πολλοὺς ἐδίδαξαν τοὺς πρὶν ἀμούσους, Theocritus, *SH* 566 'for the Erotes taught many poets who were songless before'; see also Plato, *Symposium* 196d.

Erotic desire turns inexperienced boys into resourceful lovers. Ovid's Acontius is aware of this conceit when he writes to Cydippe that even though he is not naturally cunning, she makes him an expert.⁴³ Cydippe seems to have replaced the anthropomorphic Eros of the *Aetia*, but Ovid's rational interpretation of erotic desire is followed by a distinctly anthropomorphic Amor, who gives Acontius legal advice:⁴⁴

*te mihi compositis (siquid tamen egimus) a se
adstrinxit uerbis ingeniosus Amor.
dictatis ab eo feci sponsalia uerbis,
consultoque fui iuris Amore uaffer.
Heroides 20.27–30*

If indeed we played any part in the matter, ingenious Love joined you to me with words that he contrived. I made the betrothal with words he dictated and I became cunning in the law since Amor was my counselor.

Acontius takes legal advice from Amor, a counselor learned in the law who prepares his client for appearance in court.⁴⁵ The passage is rife with legal diction: *adstringo* refers to the language of a binding oath, the κατάδεσμος of Greek love charms,⁴⁶ but it can also mean 'to bind by laws or promises' (*OLD* s.v. 8); the prosaic and legalistic *ab eo feci sponsalia* conveys the formal tone of Amor's dictation of the act of betrothal;⁴⁷ *iuris* ingeniously applies both to Acontius, who becomes cunning in law (*iuris...uaffer*), and Amor, who is Acontius' jurisconsult (*consulto...iuris*).⁴⁸ Ovid builds on Amor's traditional role as a teacher of love and love poetry, and adds a legal dimension to this motif. In *Heroides* 20, Amor's dictation of an elegiac message is indistinguishable from his legal instructions since elegiac discourse has the power of making and enacting a contract.⁴⁹ Cydippe is legally bound by what she reads, but also falls in love

⁴³ *non ego natura nec sum tam callidus usu; /sollertem tu me, crede, puella, facis. Heroides 20.25–6* "I am that cunning neither by inclination nor by practice; you, trust me, girl, make me wily" alludes to and rationalizes Ἔρως ἐδίδαξεν Ἀκόντιον... τέχνην – οὐ γὰρ ὄγ' ἔσκε πολύκροτος, Callimachus, *Aetia* fr. 67.1–3 Pf.

⁴⁴ On Amor as both a god and desire or a god who is Desire, see Hardie (2002) 114–16.

⁴⁵ "Ovid makes Acontius say that he has taken the best professional advice: the picture is that of a consultation, with Cupid as counsel learned in the law, sending his client away well primed for his appearance in court." Kenney (1970) 394.

⁴⁶ See Barchiesi (1993) 356; Rosenmeyer (1996) 24.

⁴⁷ Acontius' 'I made a betrothal' is provocative, given that two parties were necessary for a betrothal; see Kenney (1996) ad loc.

⁴⁸ See Kenney (1996) ad loc.

⁴⁹ On elegiac love as contract, see Gebhardt (2009) 137–44.

by reading Acontius' seductive message. Amor dictates the laws of erotic persuasion and the legal details of a nuptial contract.⁵⁰

Acontius' amatory missive is reminiscent of a *sponsio* (an oral betrothal) or a *stipulatio* (an oral contract). The verb *spondeo* is used in the contractual formula of the *stipulatio/ sponsio*; it means 'I give a pledge' to do something in general or 'I give a pledge to give in marriage' in particular. According to traditional Roman law, the *stipulatio* was binding even if it was the result of a trick; it was a contract of strict law (the promisor was still bound even if he had entered the contract as a result of fraud or extortion). This was remedied by praetors around 80 BCE.⁵¹ Ovid's Acontius takes part in a juristic dispute by claiming the validity of his oral contract, even though it was the product of *dolus*. The elegiac discourse of seduction merges with Roman property and family laws. Erotic desire acquires juridical authority and tricks are the justified means for winning over the beloved.

Ovid manages to add a legal dimension to Callimachus' *Aetia* by alluding to his source with the key word *causa*, the Latin translation of the Greek αἴτιον. A particularly perceptive student of Cupid's lessons in law, Acontius mischievously complains that he is forced to plead his case *in absentia*.⁵²

nunc reus infelix absens agor et mea, cum sit
optima, non ullo **causa** tuente perit.
Heroides 20.91–2

Now I am prosecuted in my absence as an unfortunate defendant and my case, though the best, is lost since I have no defense counsel.

Acontius' *causa* is the best since it derives from Callimachus, an excellent model for poets like Ovid. At the same time, Acontius' legal pose recontextualizes Ovid's appeal to his source. The *Aetia* turns out to be more important than a literary model or a source for etiologies since it provides Acontius with authoritative evidence that offers invaluable support to his trial (*causa*). Acontius bases his case on a mythological version that comes straight out of Callimachus' *Aetia* and thus expects his readers to consider his arguments truthful:

⁵⁰ The confluence of law and love has been the focus of recent studies in legal theory; see Bankowski (2001); Goodrich (2006).

⁵¹ See Watson (1995) 22. From a different perspective, Videau (2004), (2010) 109–15, and Alekou (2011) 398–404, 448–50, argue that Acontius refers to the legal concept of *dolus bonus*. Acontius asks Cydippe to summon him in order to defend himself in court (alluding to *in ius uocatio*), at *Heroides* 20.79–80.

⁵² Videau (2004) and Alekou (2011) 394–5 point out that a procedure by default was not *in iure*.

*ei mihi, Cydippe, timeo tibi dicere uerum,
ne uidear **causa** falsa monere mea;
dicendum tamen est.
Heroides 20.107–9*

Woe to me, Cydippe, I fear to tell you the truth, lest I seem to lie for my cause. However, I should speak.

Acontius shares with Callimachus a concern about the true cause (*causa*/αἴτιον) of Cydippe's illness. The Alexandrian poet reveals that his source was Xenomedes, an old historian who was concerned with the truth of the tale of Acontius and Cydippe (πρέσβυς ἐτητυμῆι μεμελημένος, fr. 75.76 Pf.).⁵³ In the *Aetia*, the reason for Cydippe's illness is given by Apollo (fr. 75.22–37 Pf.), an oracle that solves the mystery and is a catalyst for the fulfillment of Acontius' plan. Apollo is proverbially a god of truth (Pindar, *Pythian Odes* 3.29–30, 9.42; Ovid, *Ars Amatoria* 3.789–90) and his oracle straightforwardly explains that Cydippe is bound with an oath to marry none other than Acontius. The reason which Ovid's Acontius gives (*Heroides* 20.109–16) to explain the cause of Cydippe's illness is a version of Callimachus' *Aetia* (fr. 75.10–12, 16–37 Pf.) and that is why the hero's claim to truth needs to be taken seriously. A number of authoritative voices resonate in Acontius' statement: Apollo, the prophet of truth, Xenomedes, the truthful historian, and Callimachus, the poet of the *Aetia* and ultimate source of Acontius' letter. Ovid's Acontius does not invent excuses for his own benefit (*causa... mea*), but appeals to a long and authoritative tradition of history and etiology.⁵⁴

Acontius has indeed a strong case and that is what he says in his apostrophe to his rival:

*nam quod habes et tu gemini uerba altera pacti,
non erit idcirco par tua **causa** meae.
Heroides 20.155–6*

even though you too have another agreement with identical words, your cause will not be for that reason equal to mine.

⁵³ Commenting on Callimachus' citation of the historian Xenomedes, Rosenmeyer (1996) 11 notes: "By pointing to these historical origins, Callimachus subtly argues for the 'truth' of his own writings. The direct reference to the historical source supports his claim to scholarly authenticity, as he builds his text on the foundation of yet another text." Historical documents confirm mythological truths.

⁵⁴ Rimell (2006) 166 notes that Ovid's Cydippe is framed by the onus of canonical texts.

Acontius imagines that he is settling a legal dispute with Cydippe's fiancé.⁵⁵ They both have identical contracts that claim the same woman, but Acontius' *causa* is superior since it originates in Callimachus' *Aetia*. Ovid's *causa* refers simultaneously to legal action and poetic tradition. Literary sources are recast as evidence in a legal dispute and intertext becomes the trope of law within the court of elegiac love. As he elaborates on his claim that his *causa* is superior to his rival's, Acontius suggests a legal reform based on the laws of amatory passion. His contract, he argues, is based on love and that is why it is superior to any legal commitment that ignores the rules of desire.

There are several levels of correspondence in *Heroides* 20–21. There is the correspondence between Acontius and Cydippe, the imaginary dispute between Acontius and Cydippe's fiancé, the correspondence between love elegy and Roman law, between divine and human law, and between Ovid and his sources. Discussing the precedence of the love letter over legal codes, Goodrich (1997: 285) notes that the “[l]aw shares the lover's concern with the structural significance of originals— with authenticity and the iconic status of written expression”. Acontius' obsession with legal evidence intersects with Ovid's love for literary texts. Not unlike Ovid's intertextual authentication, law is a matter of originals because it is always bound to the inscription of prior forms. Legal writing is a correspondence, a writing that is always a rewriting of older sources, of precedents which repeat or customs which inscribe a prior, superior or divine law (see Goodrich 1997: 286).

But the Roman law is an odd companion of elegiac persuasion. Acontius makes sure to stress that he is seeking lawful marriage, not an illegitimate affair:

*coniugium, pactamque fidem, non crimina, posco;
debitus ut coniunx, non ut adulter, amo.*

Heroides 20.7–8

I seek marriage, and a loyal contract, not adultery; I love you as your destined husband, not as a womanizer.

Despite his overall deceptive strategy, Acontius is sincere here; he actually wants to marry Cydippe, not simply have an illicit relationship with her, and his language creates a sharp distinction between marital bonds and extra-marital affairs. Legally fraught terms polarize the loyalty of a husband and the reprehensible behavior of an adulterer. On the one side of the couplet we have *coniugium*, *pactamque fidem*, *debitus coniunx*, while on the other *crimina* and *adulter*. The distinction is between following the law and breaking it, but also between ele-

55 Note the transactional tone of the prosaic *idcirco*.

giac passion, typically extra-marital and often described as a *crimen*, and conjugal union. Ovid's Acontius ostensibly denies playful loves and criminal adulteries for the serious commitment of wedlock. Yet his peculiar marriage contract is attempted adultery, given that Cydippe is already engaged with another man and bound with a betrothal that is legitimate, unlike Acontius' shenanigans. We are dealing with a love triangle typical of Roman elegy: Acontius is the *amator* who tries to seduce a woman who belongs to another man.⁵⁶

Acontius' language creates tensions and intersections between elegiac and legal discourse. His formal betrothal is at odds with his elegiac passion, while the law becomes a servant of elegiac deception. Ovid's readers know that a lover's oaths and pledges are proverbially void⁵⁷ and that Cydippe's involuntary oath would have no value in Rome. Kenney (1970: 395) notes that it was a principle of Roman law that no claim founded on *dolus* could stand, but Acontius evokes the legal concept of *dolus bonus*⁵⁸ and the *stipulatio* as a *stricto iure* contract. While the legitimacy of *dolus* is exceptional in the world of Roman law, treachery and deceit rule over elegiac seduction. In fact, the words Acontius sent to Cydippe literalize the common Latin idiom *uerba dare* ('to deceive'); in some manuscripts, *Heroides* 20 opens with precisely this pun (*Accipe, Cydippe, despecti nomen Aconti—/ illius in pomo qui tibi uerba dedit. Heroides* 20.1a-2a 'Receive, Cydippe, the name of scorned Acontius who deceived you/ sent you a message on his apple')⁵⁹ and, in her response, Cydippe plays on the literal and transferred meaning of *uerbum* (*uerba quid exultas tua si mihi uerba dederunt...? Heroides* 21.121 'why do you rejoice in your words if they deceived me...?'). A message sent to be read aloud is a pledge exacted with deception and Acontius' lawful fraud both brings together and polarizes legal and elegiac *carmina*. In *Heroides* 20, the law has become a rhetoric of seduction, a discourse manipulated by Amor for deceiving a beautiful woman.

To some extent, Ovid employs legal language in order to stress the weakness of the law in the face of true passion. A rational interpretation of the myth would suggest that a beautiful woman would be more excited about the love of a passionate young man than the prospect of an arranged marriage. Cydippe's sickness caused by her reading the apple is lovesickness; the young woman has fallen in love by reading Acontius' message and suffers from the typical symptoms

⁵⁶ Acontius twists this and warns his rival that he is getting close to committing adultery (*Heroides* 20.148).

⁵⁷ See Callimachus, *Epigram* 25; Meleager, *AP* 5.8; Catullus 70; Ovid, *Ars Amatoria* 1.633–6.

⁵⁸ Videau (2004); (2010) 109–15; Alekou (2011) 398–404, 448–50 on the legality of *dolus bonus*.

⁵⁹ Kenney (1996) 183 is sure that the couplet is spurious; see also Kirfel (1969) 80–2.

of elegiac infatuation. The temptation of Acontius' inscribed apple is far more powerful than an unemotional engagement and the language of desire trumps the technicalities of a wedding pact. Acontius' legal claims are unconvincing, even ludicrous, but this is the point. Ovid casts Amor as an authority on legal issues, in order to stress that true passion is not only above the law, but also is the law.

Cupid and Diana join forces in order to make the marriage of Acontius and Cydippe happen. The collaboration of these antithetical divine archers who enable Acontius to wound Cydippe with his love missile (see *Heroides* 20.229–39) is as striking as the collusion of Roman law and elegy. The hero ends his letter with a fantasy; he imagines the dedication of a golden apple to Diana in imitation of the original fruit, which helped him to possess Cydippe. An elegiac couplet will be inscribed on a votive offering, Acontius muses, acknowledging the authorization of the message on the original apple:

aurea ponetur mali felicitis imago
causaque uersiculis scripta duobus erit:
 EFFIGIE POMI TESTATUR ACONTIVS HVIVS
 QUAE FVERINT IN EO SCRIPTA FVISSE RATA.
Heroides 20.237–40

A golden image of the fruitful apple will be set up and the reason will be written in two little verses:

WITH THE LIKENESS OF THIS APPLE ACONTIVS SOLEMNLY DECLARES THAT WHAT WAS WRITTEN ON IT HAS BEEN CERTIFIED.

The language of prayer merges with the language of law. The votive apple attests that Acontius' prayer to marry Cydippe or rather Cydippe's involuntary oath to marry Acontius was granted fulfillment (*rata*). At the same time, the diction is distinctly legalistic. The phrase *testatur Acontius* evokes the language of a *testatio*, the written declaration of a witness that was commonly taken into account in court. Witnesses often wrote these statements in the third person and attested or declared (*testantur*) that this or that had occurred.⁶⁰ The statements commonly speak of obligations that have been discharged or contracts that have been fulfilled.⁶¹ Acontius' couplet is exactly this sort of witness-statement. The phrase *in eo scripta fuisse rata* is a declaration that the message on the original apple has been rendered legally valid.⁶² In this context, *testatur* means that Acontius

⁶⁰ There are several examples from Pompeii and Herculaneum; see Meyer (2004) 223–4.

⁶¹ See Meyer (2004) 177–8.

⁶² Note the prosaic *in eo* that conveys the dry style of legal transactions.

certifies the message on the apple as authentic (see *OLD* s.v. *testor* 2b). A deceptive oath inscribed on a piece of fruit is treated as a legal document and the golden likeness of this apple, the votive offering for the marriage's fulfillment, authenticates the legitimacy of the original message. In a genuinely Ovidian manner, imitation validates deception.

The medium of witness-statements played a crucial role in court and it was their physical form that made them authoritative. A *testatio* had to be written on a *tabula* or *tabella*, while other forms of documents, such as letters and testimonies on papyri, were an invitation to objections. As Meyer puts it, truth was embodied in *tabulae*; the other forms of documents were bitterly contested ground.⁶³ Given the importance of the physical form of legal statements, it is worth examining the material on which Acontius' statement is inscribed. His first message is delivered via an apple, a potent symbol of enchantment and temptation, but a medium that could hardly be authorized in a Roman courtroom. Yet the source of Acontius' apple is Callimachus' *Aetia*. Ovid's *causa* activates the reference to Callimachus' *Aetia* and *imago* is a marker of an intertextual echo.⁶⁴ From an intertextual perspective, the story of Acontius and Cydippe is inscribed on and prescribed in the *Aetia*, a work in which the poet draws attention to the fact (or the fiction) that he is writing on a δέλτος (fr. 1.21–2 Pf.), the Greek equivalent to the Latin *tabula*. Callimachus brings up the material medium of his poetry in the famous epiphany of Apollo in the prologue:⁶⁵

καὶ γὰρ ὅτ' ἐπὶ πρ[ώ]τιστον ἑμοῖς ἐπὶ δέλτον ἔθηκα
γούνασι, Ἄ[πό]λλων εἶπεν ὃ μοι Δύκιος
Callimachus, *Aetia* fr. 1.21–2 Pf.

And when I first put a writing-tablet on my knees, Lycian Apollo told me

Ovid reworks this passage in the epiphany of Janus at the beginning of the *Fasti* (*haec ego cum sumptis agitare mente tabellis, / lucidior uisa est, quam fuit ante, domus. Fasti* 1.93–4 'While I was pondering these after taking up my tablets, the house looked brighter than it was before'). Ovid translates δέλτος as *tabellis* and

⁶³ Meyer (2004) 227. On the importance of the physical form of the *tabulae* in legal statements, see Meyer (2004) 225–7. Other forms of letters were also cited by advocates (especially in the last century of the Republic), but their validity depended mostly on the authority of the sender.

⁶⁴ See Barchiesi (1993) 355 for *causa* in *Heroides* 20.238 as alluding to the *Aetia* as Ovid's model. For *imago* as intertextual echo, see Barchiesi (2001) 129–40; cf. Hinds (1998) 5–8.

⁶⁵ Callimachus mentions the writing-tablets of Xenomedes in the episode of Acontius and Cydippe. The authoritative mythographer chronicled the history of Ceos in his δέλτοι (γέρων ἐνεθήκατο δέλτοις, fr. 75.66 Pf. 'old Xenomedes recorded in his writing-tablets'). Callimachus' writing-tablets reproduce the work of Xenomedes of old.

marks his allusion to Callimachus with a subtle wordplay on Λύκιος-*lucidior*. In the *Fasti*, a work whose very title is a legal term, Ovid becomes a scribe who writes down the words of Janus. The Roman poet programmatically blends divine inspiration with legal directions in a passage that replaces the Greek Apollo of the *Aetia* with the distinctly Roman Janus.⁶⁶ If we take into account the importance of the *Aetia* in *Heroides* 20–21, we realize that Acontius' imaginary inscription works on two levels: within the fiction of the epistles, the hero refers to his original message on the apple, but outside the fictional world, Ovid has Acontius certify the authoritative text of Callimachus' *Aetia*, a work written on a δέλτος/*tabula* and thus carrying the significance of a legal statement. The cause that binds Cydippe to her oath is to be found in Callimachus and Ovid turns the literary authority of the *Aetia* into legal evidence.

In the *Heroides*, fictional objects converge with intertextual realities. Yet the division between wishful thinking and wish fulfillment is also crucial within the framework of the mythological tale. Even within the fictional world the likeness of the apple is merely a fantasy, yet its realization depends on Acontius marrying Cydippe, a happy ending known to the reader, who can thus entertain the realization of the golden apple by indulging in Acontius' fantasy. Ovid's readers can venture to predict the mythological future because they are aware of the literary past. At the same time, the daydream of a votive offering is flimsy if we consider that it is a fanciful Ovidian innovation that has no basis in literary tradition. Ovid likes to draw attention to his belatedness by simultaneously alluding to literary traditions and inventing playful novelties. The future projection of another apple is an imitation of and an innovation on Callimachus' original. What is more, the second apple is a comment on Ovid's *Heroides* as texts composed after the *Aetia*. Ovid's epistle both imitates and updates Callimachus.

The materiality of messages inscribed on apples should be examined vis-à-vis the writing-tablets of Callimachus and Ovid. Both poets mention the δέλτος/*tabella* on which they are writing and Ovid mentions the *tabellae* of love letters several times.⁶⁷ And once we suspend our disbelief and give credit to the mythological realities of Acontius' letter, we realize that the hero's imaginary authorization of his original message is actually written on a *tabella* sealed with his signature. From that perspective, the medium and diction of his inscription look more like a *testatio* and less like a fanciful reverie. It is also important to bear in mind that witness-statements were ratified by being read aloud. The reader

⁶⁶ On law and etiology in the *Fasti*, see Gebhardt (2009) 283–303.

⁶⁷ See *Amores* 1.11.7, 15, 24–5, 1.12.1–7, 2.15.5, 15, 2.19.41, 3.14.31; *Ars Amatoria* 1.383, 2.395, 543; *Metamorphoses* 9.523, 571–5.

embodied the voice of the witness and his or her recitation was a simultaneous validation of the witness' statement. Acontius wants to make Cydippe play this role.⁶⁸ The hero has resorted to a similar trick in his apostrophe to Cydippe's fiancé. Acontius demands that the words of the contract be read and encourages his rival to have Cydippe read them (*recitetur formula pacti;/ neu falsam dicas esse, fac ipsa legat. Heroides* 20.151–2 'let us have the actual terms of the agreement read out; and lest you say it is false, make her read them'). Kenney notes that Acontius uses the language of an advocate in court demanding the production of documents.⁶⁹ By reading aloud his message, Cydippe would declare Acontius' statement valid and she would once more fulfill his wishes. At the end of his letter, Acontius attempts to deceive the heroine again with an inscription, which would trick her into certifying his fantasies, and Ovid inventively replays and Romanizes the Callimachean scenario.

The authorization of witness-statements depends both on textual materiality and oral delivery. The myth of Acontius and Cydippe revolves around the controversial idea that the heroine's recitation validates the hero's message and Ovid repeatedly resorts to the realities of the Roman legal system in order to legitimize his playful appropriation of a Greek myth. While reading is etymologically grafted into Roman law, the erotic aspect of the author/reader relationship is essential to understanding Acontius' success. According to Greco-Roman perceptions of reception, the author penetrates the reader by means of a written message.⁷⁰ Reading aloud someone else's words is how an author enters the body of a reader. This sexualization of recitation is the key to understanding how Acontius manages to possess Cydippe by means of written words read aloud. As Cydippe finishes the recitation of Acontius' letter, she embodies the imaginary inscription on a golden apple and thus she embodies the imaginary apple.

The heroine's name puns on the Greek word for quince (κυδώνιον μήλον) and Aristaenetus attests that Acontius deceived Cydippe with a Cydonian apple (Aristaenetus 1.10.27 Vieillefond).⁷¹ Ovid relies on the Cydippe-κυδώνιον wordplay in order to show that Acontius' message collapses Cydippe's identity with that of the apple of temptation. In her epistle, the sick (or lovesick) heroine compares her bloodless complexion with the pale color of the fruit (*concidimus macie, color est sine sanguine, qualem/ in pomo refero mente fuisse tuo, Heroides*

⁶⁸ Cydippe tries to protect herself from the risk of reading Acontius' words aloud and opens her epistle by saying that she read his letter silently (*Heroides* 21.1–2). Ovid's heroine does not want to repeat the mistake of her Callimachean counterpart.

⁶⁹ Kenney (1996) ad 20.151.

⁷⁰ See Svenbro (1993) 187–216; Rosenmeyer (1996) 13.

⁷¹ See Rosenmeyer (1996) 17 n. 22; Trumpf (1960).

21.215–16 ‘I am enfeebled with emaciation, my complexion is bloodless, just like the color that, as I recall, was in your fruit’).⁷² The pallor of the fruit subtly but clearly suggests that it is a pale quince, not a red apple.⁷³ The passionate message transforms the woman’s complexion into the color of a quince and the effect of Acontius’ trick is that it assimilates Cydippe to the Cydonian apple; the heroine turns into Acontius’ passion fruit.⁷⁴ While reading the projected inscription of *Heroides* 20.239–40, Cydippe becomes an imitation of the votive apple, a corporeal realization of a fictive image. The heroine’s delivery bears the fruit of Acontius’ fantasy and her body becomes the medium of a message that symbolizes Acontius’ possession of herself. This is a fine example of Ovid’s favorite interplay between the textual and sexual nature of love elegy’s object of desire.⁷⁵ An imaginary inscription on a Cydonian apple is materialized with the oral recitation of a Cydonian heroine, an addition to the interchangeability between the *corpus* of elegiac poetry and of elegiac *puellae*. Cydippe is the vocal embodiment of Acontius’ passion.

The reception of *Heroides* 20 is further nuanced if we take into account that Ovid likes to draw attention to the language and materiality of the letters in order to highlight their fictionality. In *Heroides* 3.1–4, for instance, Briseis apologizes for her broken Greek and the teary blots on her letter. We are invited to imagine Achilles reading a foreign woman’s clumsy Greek in a letter littered with misprints, but what Ovid’s readers actually face is the poet’s clear and fluent Latin.⁷⁶ The involvement of the reader in the text (Achilles in *Heroides* 3 or Cydippe in *Heroides* 20) should be distinguished from the experience of the reader of the text (Ovid’s readership). From our perspective, a formal ratification of

72 Cf. *quam tibi nunc gracilem uix haec rescribere quamque/pallida uix cubito membra leuare puta!* *Heroides* 21.15–16 ‘how wasted away you must imagine her to be who can scarcely pen this answer to you, how sallow the limbs that she can scarcely raise on one arm’ (transl. Kenney). Ovid echoes Callimachus’ τὴν δ’ εἶλε κακὸς χλόος, fr. 75.12 Pf. ‘but evil pallor seized her’.

73 Cf. *palluit, ut.../...quaeque suos curuant matura Cydonia ramos* (Procris) Ovid, *Ars Amatoria* 3.703–5 ‘She grew pale, just as ripe quinces which bend their own branches’.

74 Cf. Cydippe’s *forma noui talis marmoris esse solet*, *Heroides* 21.20 ‘such as the usual appearance of a new marble’, on which Alekou (2011) 486 comments: “un appariement original est introduit qui dépasse celui esquissé par Acontius, lorsque la comparaison avec le marbre confirme la virtualité allégorique de la peinture. La mise en valeur du support d’épigrammes et du matériau à sculpter transforme la figure en œuvre d’art. Toutefois, de la pomme au marbre, l’objet iconique se transforme jusqu’à ce qu’il s’identifie à la lettre en soi. L’inversion concerne autant la figure que le texte, puisque le “sujet” syntaxique est en même temps l’objet iconique.” (My emphasis).

75 See Wyke (2002); (2006).

76 See Ziogas (2011) 301–3. Similarly, Cydippe refers to her poor handwriting in *Heroides* 21.28.

Acontius' *tabula* is nothing more than part of Ovid's insubstantial poetics. Instead of conflating Greek myth with Roman reality, the anachronistic application of the legal realities of the Romans to an ancient Greek myth ultimately stresses the irreconcilable gap between the fictional world of Ovid's characters and the real world of his readers. Witness-statements, seals, and ratifications of authoritative documents belong to the Roman legal system, but become immaterial rhetoric at Ovid's hands. Yet pure rhetoric is what matters above all in Latin love elegy and the technicalities of the law are useful only if they serve the purposes of elegiac persuasion and deception. In the end, hard evidence fades away and illusion reasserts its power in matters of desire.

Libertine Love and Legal Limitations

Roman law and love elegy are brought together at the beginning of the *Ars' inuentio*. The prologue of the *Ars* opens with an invitation to the reader to authorize the *praeceptor's* instructions, as we have seen above, and the first couplet of the *inuentio* brings up issues of legal and amatory license:

*dum licet et loris passim potes ire solutis,
elige cui dicas 'tu mihi sola places.'*
Ars Amatoria 1.41–2

While it is permitted and you can go everywhere on a loose rein, pick a girl and tell her: 'you alone please me.'

Ovid's *dum licet* implies the legal restrictions to the carefree period of amatory pursuits. Emilio Pianezzola reads this couplet as drawing a distinction between the frivolous love affairs of youth and the serious commitments of a more mature age.⁷⁷ The license granted to young men's playful affairs with prostitutes is counterbalanced by grown-up-men's legal obligations to marriage; the leisure of youth gives way to the business of adult life. This transition from youthful playfulness to adult responsibilities is a defining characteristic of Roman comedy. In Terence's *Adelphoe*, for instance, the lenient *senex* Micio says that young men should be allowed to have affairs with prostitutes (101–10). The rationale is that this license should be given to youth, so that inappropriate love affairs do not occur at a more responsible age. Ideally, a young man will eventually get fed up with prostitutes and devote himself to the good old Roman values.

⁷⁷ Pianezzola (1991) XXIII and ad *Ars Amatoria* 1.41–2. For a similar approach, see Labate (1984) 34–5.

Even the censor Cato approved of a young Roman whom he saw coming out of a brothel since sex with prostitutes protected Roman citizens from committing adultery (see Hor. *Satires* 1.2.31–5). From that perspective, Ovid's *dum licet* refers to youthful extra-marital affairs with prostitutes, that is, affairs which do not break adultery laws. As the slave Palinurus puts it: *dum ted apstineas nupta, uidua, uirgine, / iuuentute et pueris liberis, ama quidlubet* ('So long as you stay away from the married woman, the widow, the maiden, the youth, and freeborn boys, love whatever you fancy' Plautus, *Curculio* 37–8). Young men should make sure to choose eligible women for their playful loves.

In his *Pro Caelio*, Cicero employs similar rhetoric. Caelius is cast as an *adolescens* from Roman comedy and Cicero reminds the jurors that license to playful loves is traditionally granted to young men (*Pro Caelio* 48). Cicero appeals not only to the *licentia* of his age but also to the customs and consent of the ancestors (*maiorum consuetudine atque concessis*, *Pro Caelio* 48) when it comes to young men's love affairs with *meretrices* and thus he makes sex with prostitutes part of the *mos maiorum*. Ovid's *Ars Amatoria* often gives the impression that it is addressed to jurors⁷⁸ and at this point it echoes the rhetoric of the *Pro Caelio*. Cicero's *licentia* corresponds to Ovid's *dum licet* and Cicero's *concessis* parallels Ovid's *concessaque furta* (*Ars Amatoria* 1.33), the wittily subversive 'legitimately illegitimate affairs' that forms part of the legal language of the programmatic disclaimer.⁷⁹ Ovid seems to subscribe to a long tradition of Roman comedy and rhetoric according to which it is lawfully permitted to young men to indulge in affairs with prostitutes. Such frivolous liaisons ultimately protect the chastity of Roman women and buttress traditional Roman morality.

This interpretation is certainly legitimate, but there is another way of reading *Ars* 1.41–2, which renders the traditional concerns of Roman law and the Augustan legislation irrelevant. Ovid's focus here is not necessarily on young age in general and its entitlement to playful love affairs in particular, but in a period when a man has not lost his freedom due to love's constraints. Freedom does not follow the laws and customs of conventional Roman morality but is subject to the constrictions of amorous passion. Hollis (1977: 41) points out that *dum licet* implies that there might come a time when Ovid's addressee is really in love and no longer a free agent. In the world of Roman love elegy, Cupid enslaves the lover and puts an end to his free will; freedom is something one enjoys before

⁷⁸ The disclaimers are the most prominent examples (e.g., *Ars Amatoria* 1.31–4, 2.599–600).

⁷⁹ See also the legal language in Seneca, *Controversiae* 2.6.11 (*concessis aetati uoluptatibus utor et iuuenali lege defungor; id facio quod pater meus fecit cum iuuenis esset*. 'I am enjoying the playfulness granted to my age and taking advantage of the law for young men. I am doing what my father did when he was young').

one falls in love. Within the generic framework of Roman love elegy, Hollis' reading makes sense, especially if we take into account another Ovidian couplet that begins with *dum licet*:

*dum licet, et modici tangunt praecordia motus,
si piget, in primo limine siste pedem.
Remedia Amoris 79–80*

While it is permitted and moderate emotions touch your heart, even if it is unpleasant, stop your step at the edge of the threshold.

Obviously, Ovid is not talking about the Roman legal system or the free rein given to youthful liaisons with prostitutes. Instead, the poet refers to the first symptoms of erotic desire. Not unlike a disease, love can be cured more easily and efficiently at the start, before the infection spreads throughout the body and the mind. Resist passion before it is too late and thus impossible to fight back, advises the poet of the *Remedia Amoris*. The message of *Ars* 1.41–2 is similar. Rational selection (*elige*) is possible at this early stage of looking for the right woman. The first stage of a conscious and calculated choice of the appropriate object of desire will inevitably end once the lover is entangled in the nets of monogamous obsession. The commitment of *tu mihi sola places* signals the beginning of the end of a lover's freedom. To be sure, such confession is conceited and the beloved's uniqueness is undermined by the banality of the statement.⁸⁰ In the *Ars*, the echo of the conventional statement of elegiac devotion is part of a self-conscious strategy of seduction, not a sincere confession of true love.⁸¹ Yet while the *praeceptor* urges his students to parrot a common tag of Latin love elegy, there is always the danger that the man who plays the role of the lover will actually fall in love (see *Ars Amatoria* 1.615–16). Feigned love may become real and, as an antidote to true passion, Ovid recommends that men should have two or, if possible, more girlfriends (*Remedia Amoris* 441–2). Similarly, Lucretius suggests that the festering obsession of a monogamous lover can be cured with the wandering pleasures of a wandering Venus (*De Rerum Natura* 4.1068–78). An exclusive desire for a single woman can be the source of suffering that leads to loss of freedom. *Ars* 1.41–2 is appropriately framed by *dum licet*... 'tu

⁸⁰ Ovid here quotes and encourages his students to repeat the elegiac lover's conventional declaration of faith to his exclusive beloved (see Prop. 2.7.19; [Tib.] 3.19.3).

⁸¹ Ovid will later advise his students to seduce the maid before seducing the lady (*Ars Amatoria* 1.351–98) and instruct them how to be successfully unfaithful to their girlfriends (*Ars Amatoria* 2.373–466).

mihi sola places’ since freedom of choice is lost once the lover devotes himself to a single woman.

Ovid’s *tu mihi sola places* echoes a common elegiac dictum, but in a couplet that brings up issues of love and legislation it further activates a specific reference to Propertius’ *tu mihi sola places* (2.7.19), which concludes a poem that celebrates the triumph of elegiac love over marriage legislation.⁸² Propertius begins his poem by stating that Cynthia is happy because a law that threatened their affair is now repealed.⁸³ In a twist of the elegiac *recusatio*, Propertius declares that Caesar’s Jovian arms are mighty in war but have no power over love affairs (2.7.3–6). The nature of Propertius’ love is above the law of Rome and his Roman duty to father children. The confession of his exclusive love for Cynthia (*tu mihi sola places*) emphasizes that the uniqueness of his affair defies social norms and legal categorizations (e.g., marital, extra-marital, illicit, adulterous). Cynthia can rejoice in Augustus’ repeal of a marriage law, but Propertius reminds us that imperial legislation has no power over true love anyway. Cynthia alone pleases the poet and *sola* pits the elegiac *puella* not only against other women but also against the Augustan ideals of fighting battles and fathering children for Rome.⁸⁴ Ovid’s Propertian echo in *Ars* 1.42 reminds his readers that the love for a special woman matters more than anything else and that the shackles of elegiac passion are stronger than any legal constrictions.

In sum, there are two ways of reading *Ars* 1.41–2: one is concerned with Roman law, while the other refers to the laws of elegiac passion. Both of these readings deal with time and timing: the former refers to a transition from the frivolities of youth to the serious responsibilities of adulthood, while the latter refers to a transition from the playful affairs of a libertine to the dire constraints of monogamous passion. Both interpretations are valid and both should be taken into account, but it should be noted that they can hardly co-exist. In Freudian terms, this is a case of *Kompromissbildung*, a semiotic manifestation which makes room, simultaneously, for two opposite meanings, which stand in an ir-

⁸² On Propertius’ stance at Augustus’ marriage law in this poem, see Cairns (1979); Stahl (1985) 140–56; Gale (1997) 86–90.

⁸³ We do not know much about the legislation and its contents, and reconstructing the law from Propertius’ elegy is an unreliable method. On this issue, see Cairns (1979); Stahl (1985) 142–3. Badian (1985) argues that this was not Augustus’ law but an old law repealed by Octavian in 28 BCE along with other Triumviral measures. He speculates that the repealed law was about taxation of bachelors. Badian’s theory is not supported by Propertius’ text, or actually by any other evidence, and unsurprisingly did not find many followers; see Treggiari (1991) 59–60.

⁸⁴ Cf. Rothstein (1966) ad loc.; Stahl (1985) 151–2.

reconcilable relationship to one another.⁸⁵ The reader needs to choose one and when Ovid makes readers choose, he prompts them to make a political decision. This is an example of what Frederick Ahl calls “the art of safe criticism”:⁸⁶ Ovid forces the reader to “find the points for himself and suppose the judgment he passes is his own, not one suggested by the writer.”⁸⁷ The poet tries to protect himself by remaining noncommittal, while triggering a disclosure of his readers’ biases and political affiliations.

We can choose to interpret the couplet as Ovid’s subscribing to conventional morality and validating Augustus’ adultery laws, but we cannot ignore that an alternative reading trumps traditional Roman *mores*. Whatever we choose, our choice would probably reveal more about ourselves and less about Ovid’s intentions. Ovid’s text is a mirror that reflects our own prejudices. And this is precisely what objective critics fear the most. Scholars sometimes argue that a single interpretation is objectively the correct one or more often try to resist commitment to a single reading and have it both ways. It is part of the scholarly style to assume a detached and disinterested pose, but it is a characteristic of a passionate reader to commit to one reading. Admittedly, Ovid expects his readers to be both disinterested and passionate, but, like the elegiac lover’s sober reasoning, dispassionate judgment fades away once we dedicate ourselves to Ovid’s poetry and let his charm seduce us. Shedding all pretensions of critical impartiality, I confess that I prefer to read Ovid as undermining Augustan legislation. Passion has its own rules and its power exceeds moral and social norms. Once erotic desire incapacitates free choice and rational decision, there is little room for heeding legal restrictions. Overall, the *Ars Amatoria* replaces moral for aesthetic criteria⁸⁸ and makes desirability rather than eligibility the main characteristic of the beloved. It is legitimate to argue that in Ovid the law of love annuls the law of Rome.

Concluding Remarks

Personal passion is the foundation of elegiac love, while family and public duty dictate the terms of marriage contracts. But the fantasies of Latin love elegy and the realities of Roman marriage laws can hardly be reconciled. We can attempt to

⁸⁵ See Casali (2004) 326 for *Kompromissbildung* in the *Aeneid*.

⁸⁶ Ahl (1984).

⁸⁷ Ahl (1984) 179. Ovid draws attention to the open-ended nature of reception in his letter to Augustus (*Tristia* 2); see Gibson (1999).

⁸⁸ See Gibson (2003) 32–5, 149–50, 162–3; (2006).

harmonize elegiac ideals with Roman legislation by positing a distinction between elegiac love as youthful, frivolous, and extra-marital but permitted on the one hand, and marriage as befitting a mature and responsible age aware of a man's duty to his fatherland on the other. Yet elegy's claims about Amor's universal dominion seriously undermine neat categorizations that would buttress Roman morality. True passion knows no social, moral or legal limits and Amor's agenda is as imperialistic and ambitious as Augustus'. The tension between elegiac love and marriage is only exacerbated with Augustus' marriage legislations which break the boundaries between personal and public affairs.⁸⁹ As a *pater patriae* Augustus sees Rome as his own family and his rule leaves no space for unregulated affairs. By contrast, love elegy creates and validates a legal code that utterly confounds the branding of relationships as marital, extra-marital, and adulterous. In this generic framework, laws and legislations are subjected to the rules of erotic deception. Love conquers everything, the Roman law included.

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⁸⁹ On Augustus' marriage laws and the obliteration of the distinction between private and public, see Raditsa (1980) 281–3, 311–12, 330–4.

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