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34

A Manlio Bellomo
Fondatore e Direttore della
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nell'occasione del suo
novantesimo compleanno

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Indice

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DAVID DE CONCILIO

Teaching Canon Law with Verses.
Poetic Quotes in Hostiensis's *Summa Aurea* (*c.*1253)

Sommario: 1. Introduction. – 2. The many verses of Hostiensis's *Summa*. – 3. Citation of classical poets. – 4. Citation of late antique poets. – 5. Citation of medieval poets. – 6. Not only the *Summa*: a quick comparison with the *Lectura*. – 7. Final suggestions: poetry as a legal teaching tool.

1. *Introduction*
1.1. *Law and poetry in the Middle Ages*

Throughout history, law and poetry have always been in a constant dialogue, sharing significant relations and often exerting mutual influences[1]. Both are artificial creations, products of human imagination which use language and metaphors to build meanings and to shape the world around us[2]. This profound bond has not gone unnoticed by jurists, and legal historians make no exception: indeed, in our discipline the interest in the interaction between law and poetry originates at the very dawn of legal-historical studies in the nineteenth century[3], thus

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** This study is a further development of a paper given at the conference *Law as Literature, Literature as Law: c. 1150–1850*, held at the University of Lancaster from 17 to 19 April 2023 and organised by Dr Clare Egan and Dr Sarah White, to whom I am grateful for the invitation.

[1] For an example in Antiquity, see I. Ziogas, 'Law and Literature in the Ancient World: The Case of Phryne', *Law and Literature*, ed. Kieran Dolin (Cambridge 2018) 79-93.

[2] See E.J. Eberle - B. Grossfeld, 'Law and Poetry', *Roger Williams University Law Review* 11:2 (2006) 353-401, especially 356-368; cf. also J. Boyd White, *When Words Lose Their Meaning* (Chicago 1984), xi, xxiv.

[3] J. Grimm, 'Von der Poesie im Recht', *Zeitschrift für geschichtliche Rechtswissenschaft* 2:1 (1815) 25-99, now in Id., *Kleinere Schriften von Jacob Grimm*, vol. 6 (Berlin 1884; repr. Norderstedt 2017) 152-191, where this relationship is interpreted as expression of the *Volksgeist*, in tune with the romantic sensitivity and ambitions of the German Historical School, engaged in building Germany's national identity.

significantly predating the current scholarly movement which goes under the name of "Law and Literature"[4].

In studying this deep entanglement between law and poetry, continental European scholars have dedicated particular attention to the Middle Ages and the tradition of the *ius commune*, which represents a period rich of remarkably significant examples of this relationship[5].

For instance, let us have a look at the learned legal literature of the twelfth and thirteenth centuries: a period of strong consolidations, when the law definitely established itself as a technical and autonomous form of knowledge[6]. It is sufficient to skim through any of the Roman and canon law legal *Summae* of the time to notice how extremely common it was for the Glossators to cite poetry in their technical discourses, with dozens of references to both classical and medieval authors.

This of course has raised the scholarly issue of how we should understand this phenomenon, especially considering that some Roman law jurists of the time – who were deeply engaged in asserting the self-sufficiency of the law as a *scientia* – did not spare attacks to the "grammatical tastes" of their colleagues. In this sense, it is famous the

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[4] For a historical account of this movement, see K. Stierstorfer, 'The Revival of Legal Humanism', *Law and Literature* 9-25; C. Baron, 'Droit et littérature, droit comme littérature?', *Tangence* 125-126 (2021) 107-124.

[5] On law and poetry in the Middle Ages, see D. Quaglioni, 'La Vergine e il diavolo: Letteratura e diritto, letteratura come diritto', *Laboratoire italien* 5 (2005) 39-55, available at <doi.org/10.4000/laboratoireitalien.425> [accessed 22 Jun 2023]; Id., '*Licet allegare poetas*: Formanti letterari del diritto fra medioevo ed età moderna', *Poesia e diritto nel Due e Trecento italiano*, edd. F. Meier - E. Zanin (Ravenna 2019) 209-219. More broadly on medieval law and literature, cf. for instance B. Pasciuta, *Il diavolo in Paradiso. Diritto, teologia e letteratura nel Processus Satane (sec. XIV)* (Roma 2015); J. Blanchard - R. Blumenfeld-Kosinski (edd.), 'Le droit et son écriture: La médiatisation du fait judiciaire dans la littérature médiévale', *Cahiers de Recherches Médiévales et Humanistes* 25 (2013), 3-178. On the relationship between legal history and literature in more general terms, see B. Meyler, 'Law, Literature, and History: The Love Triangle', *U.C. Irvine Law Review* 5:2 (2015) 365-391; C. L. Krueger, 'Law and Literature and History', *Law and Literature* 58-76; G. Little, 'Literature and legal history: analysing methodology', *Entertainment and Sports Law Journal* 3:2 (2005) DOI:10.16997/eslj.114.

[6] See E. Cortese, 'Legisti, canonisti e feudisti: la formazione di un ceto medievale', *Università e società nei secoli XII - XVI: nono convegno internazionale: Pistoia, 20-25 settembre 1979* (Pistoia 1983) 195-281, 222-225; D. Quaglioni, 'Autosufficienza e primato del diritto nell'educazione giuridica preumanistica', *Sapere e/è potere: Discipline, dispute e professioni nell'università medievale e moderna: Il caso bolognese a confronto: Atti del 4° convegno, Bologna, 13-15 aprile 1989*, edd. L. Avellini - A. Cristiani - A. De Benedictis (Bologna 1990), vol. 2 125-134, 126-127.

criticism by the leading Bolognese jurist Azo (*c*.1150-*c*.1230)[7] to his pupil and friend Bernardus Dorna (*c*.1180-1257)[8], who had dared to *allegare* Ovid in a legal *quaestio*: that is to say, to cite him as an *auctoritas* used to support the legal argument expressed by the jurist, with a proper normative value. "The legists – emblematically replied Azo, thus stating the autonomy of Roman law from literature – are allowed to adduce nothing but Justinian's law"[9].

These two apparently contrasting attitudes make it worthwhile to better understand the relationship between law and poetry during the consolidation of the *ius commune*: how can we understand the role of poetic citations in both canon and Roman law? Were the authors of the *Summae* using poetry as *allegationes* in a technical sense, i.e., as *auctoritates*? Diego Quaglioni, who dedicated some studies to the use of verses in late medieval criminal law treaties, seems to interpret the poetic references in the Glossators' *Summae* in this sense, stressing that the medieval culture, unlike ours, did not understand the legal argumentation as separated from other moral authorities, and that therefore this could ground its legitimacy and strength upon the moral value of sources that our modern mentality would rather consider as "extra-legal"[10].

1.2. *The object of this study*

This paper will start from the considerations outlined above, with the aim to contribute to understand the use of literature and poetry in the Glossators' legal discourse, further inquiring into our knowledge of legal learning in the Romano-canonical tradition. I will examine one of the most popular thirteenth-century canon law works: the celebrated *Summa super*

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[7] See E. Conte - L. Loschiavo, 'Azzone', *Dizionario Biografico dei Giuristi Italiani (XII-XX secolo)*, edd. I. Birocchi - E. Cortese - A. Mattone - M. L. Carlino - G. De Giudici - E. Fabbricatore, 2 vols (Bologna 2013) vol. 1 137-139.

[8] See M.F. Gámez Montalvo - J. Garrido Arredondo, 'Bernardo Dorna', *Juristas universales*, ed. Rafael Domingo, 4 vols (Madrid 2004) vol. 1 435-436.

[9] See Azo, *Die Quaestiones des Azo*, ed. E. Landsberg (Freiburg 1888) q. 10 pp. 71-75, 73-74. Cf. E. Cortese, *Il Rinascimento giuridico medievale* (Roma 1992) 39-40 and n. 101; Id., 'Scienza di giudici e scienza di professori tra XII e XIII secolo', *Legge, giudici, giuristi: Atti del Convegno tenuto a Cagliari nei giorni 18-21 maggio 1981* (Milano 1982) 93-148, now in Id., *Scritti*, ed. I. Birocchi - U. Petronio (Spoleto 1999) 691-746, 108 n. 46, 111 n. 58. This is motivated by the fact that "everything can be found in the body of the law", as Azo's successor, Accursius, will say a few years later: Accursius, 'Glossa ordinaria ad Digestum vetus', in *Pandectarum, seu digestorum Iuris Ciuilis*, vol. 1 (Venetiis 1569), ad D.1.1.10.2, v. *notitia*, p. 14.

[10] Quaglioni, 'La Vergine e il diavolo' §4. Cf. also Id., '*Licet allegare poetas*' 211. On this, see *infra* §6.

decretalibus (*c.*1253)[11] of Henry of Susa (*c.*1200-1271), also known as Cardinalis Hostiensis[12], written just a few decades after Azo's scolding to Bernardus Dorna. To whomever wants to understand the use of poetry in the work of the Glossators, in fact, Hostiensis represents one of the most paradigmatic cases. Not only because he was one of the most eminent thirteenth-century decretalists; nor merely because his *Summa* to the decretals experienced a wide and long-lasting success, deserving the name of *Summa aurea* or *Summa copiosa*. But first and foremost because, although as I have mentioned the practice to rely on poetry was extremely common at the time, Hostiensis used verses in teaching and writing law more often than any of his contemporaries.

Therefore, in this paper I will try to understand how and why Hostiensis resorted to poetry, and to what extent this can more generally shed some light on the use of poetic citations by the Glossators. Do the poetic allegations in the *Summa Aurea* have the same role of the other, copious moral *auctoritates* cited by Hostiensis[13], i.e., to use famous poets as an authoritative ground for legal argumentation (*allegationes*)? In order to try to provide some answers, it is necessary to look directly at the sources. However, before turning to these, it is worth spending some words on the appropriate methodology to follow.

1.3. *Methodology*

I have started this study by analysing all the verses contained in Hostiensis's *Summa*, in order to identify their origin. Since the intention is to verify if poetic quotations were used as *auctoritates*, among the many

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[11] Amongst the different early modern printed editions of the *Summa*, here I have used Hostiensis, *Summa Aurea* (Venetiis 1574; repr. Torino 1963), available at <web.colby.edu/canonlaw/tag/glossa-ordinaria/> [accessed 12 Jun 2023]. On the textual tradition of the *Summa*, see: F. Soetermeer, '*Summa archiepiscopi* alias *Summa copiosa*: Some Remarks on the Medieval Editions of the *Summa Hostiensis*', *Ius Commune* 26 (1999) 1-25, repr. in *A Ennio Cortese*, edd. D. Maffei - I. Birocchi (Roma 2001) vol. 3 280-98; K. Pennington, 'A *Quaestio* of Henricus de Segusio and the Textual Tradition of his *Summa super decretalibus*', *Bulletin of Medieval Canon Law* 16 (1986) 91-97; M. Bertram, 'Handschriften der Summe Hostiensis mit der *Quaestio* am Ende', *Bulletin of Medieval Canon Law* 16 (1986) 96-97.

[12] See K. Pennington, 'Enrico da Susa (Cardinal Hostiensis) (ca. 1200-1271)', *Law and the Christian Tradition in Italy: The Legacy of the Great Jurists*, edd. O. Condorelli - R. Domingo (Routledge 2020) 82-97.

[13] These include Christian references (like the Bible, letters of the apostles, the Doctors of the Church, liturgical prayers, homilies, and monastic rules), but also pagan authors like Aristotle, Cicero, and Seneca.

types of verses that we can find in this *Summa* I limited my interest to those that can be attributed to a specific author, in contrast to those that instead appear to be just proverbs or mnemonic tools[14]. Therefore, I separated these authorial verses from the others, and they constitute the *corpus clausus* on which the essay is based.

Afterward, I provided a quantitative analysis of these citations, subdividing them according to the authors and the works from which they are borrowed. Later in the study, I also tried to provide a possible explanation for the choice of the *auctores* cited, which I interpreted in light of the particular familiarity that the readers of the *Summa* had with these poets[15]. Therefore, for each author cited by Hostiensis I tried to sketch the reception and popularity in the thirteenth-century Latin culture, and especially in schools.

Subsequently, I provided the examination of each poetic quote: this constitutes the greatest part of the present contribution. The passages have been arranged into three categories: classical, late antique, and medieval poets. The *auctores* of each category are sorted alphabetically, and often there is a further subdivision by individual works. For each passage, I analysed the legal discourse in which the verses are inserted and presented their original literary context; finally, I compare the latter to the use that Hostiensis makes of them. Of course, this implies to deal with dozens of technical legal or theological questions which the canonist addresses; while I tried to provide some essential literature for each of them, I could not give an extensive treatment, because the encyclopaedic effort that it would have required would have been extremely onerous and beyond the scope of this study.

Finally, some words must be said on the tools to which I resorted. Such a work of textual reconstruction, which can be placed at the crossroads of legal history and literary criticism, until a few years ago would have been an extremely burdensome task that could have not been easily done by everybody. If the medieval reader knew intimately the verses quoted by Hostiensis[16], the same cannot be said for the contemporary scholar: their identification, therefore, would have required a deep knowledge of not only the legal and theological topics of the *Summa*, but also of both classical and medieval poetry.
The development of digital technologies of the last decades has made it possible to overcome these limits and paved the way for this type of

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[14] See *infra* §2.1-2.3.
[15] See *infra* §7.
[16] See *ibid*.

studies: thanks to the use of search engines and online scholarly databases, the recognition of textual borrowings has become much easier[17]. Indeed, this study is highly indebted to the use of these technologies, and it intends to be also an occasion of reflection on the use of digital humanities tools in our discipline, as well as on the opportunity that these digitised *corpora* offer for historical studies on law and literature. For this reason, in choosing the editions and translations of classical and medieval poetic works to use in this study, I have often decided to refer to such *corpora*, like the *Loeb Classical Library* (LCL)[18] and Migne's *Patrologia Latina* (PL) and *Patrologia Graeca* (PG)[19], despite the existence of other, more recent alternatives, for their easier accessibility to the reader. The same choice has been made for the early-modern printed editions of the *Summa Aurea* and the *Lectura*: I refer to the versions published in Venice, respectively in 1574 and 1581, both because they have been recently reprinted and because they are freely available online[20].

Given these premises, in the next pages I will firstly analyse the different types of poetic verses in Hostiensis's *Summa* (2). Subsequently, I will examine those verses that can be attributed to some *auctoritates*, dividing them into classical (3), late antique (4), and medieval (5) poets. Afterwards, I will draw a quick comparison of the poetic citations in Hostiensis's other major work, the *Lectura* on the Decretals (6). Finally, I will try to suggest some conclusions on the use of poetry in learned legal texts (7).

[17] Moreover, the constant progress of research in text reuse detection tools foreshadows the development of even more sophisticated tools and the automatization of such tasks: see, for instance, G. Franzini - E. Franzini - M. Büchler, 'Historical Text Reuse: What Is It?', available at <www.etrap.eu/historical-text-re-use/> [accessed 22 Jun 2023].

[18] T.E. Page - W.H.D. Rouse - J. Henderson (edd.), *Loeb Classical Library*, 523 vols (Cambridge MA 1912-2006) available at <www.loebclassics.com> [accessed 22 Jun 2023]. Despite being accessible only behind a paywall, the online version of LCL makes Greek and Latin literature accessible to a broader range of readers.

[19] Respectively J.P. Migne (ed.), *Patrologia Cursus Completus. Series Latina*, 221 vols (Paris 1844-64), and Id. (ed.), *Patrologia Cursus Completus. Series Graeca*, 161 vols (Paris 1856-66). The *Patrologia Latina* can be consulted on many websites, and it is fully searchable on *Corpus Corpororum: Repositorium operum Latinorum apud universitatem Turicensem*, available at <mlat.uzh.ch/home> [accessed 22 Jun 2023].

[20] See *supra* n. 22 and *infra* n. 35.

2. *The many verses of Hostiensis's* Summa

I have identified 124 pieces of poetry in Hostiensis's *Summa*[21] and 175 in his (much longer) *Lectura*[22]. These verses can be classified according to different criteria. For what concerns the authorship, we find some written by Hostiensis himself and others which he borrowed. Regarding instead their nature, we can find several types of poetic compositions: ornamental verses, mnemonic verses, proverbs, and authorial poetry. At times some of these quotes can be placed in more than one category: very often, for instance, authorial verses circulated also as popular proverbs. As I have mentioned, this study will focus exclusively on verses from classical and medieval *auctores*: nonetheless, it si worth to briefly sketch the other types of poetry that can be found in the *Summa*.

2.1. *Ornamental verses: Hostiensis as a poet*

The *Summa Aurea* is not only a citationist work: at the beginning of the introduction Hostiensis inserts a poem with an exhortative and ornamental purpose of which he might be the author, thus testifying to the fact that the canonist might have revelled in poetic activity and wrote verses himself. The quadruplet was meant to give guidance to those who were approaching the law for the first time:

> Si quis forte cupit iurisconsultus haberi
> Continuet studium velit a quocunque doceri.
> Invigilet nec vincat eum tortura laboris,
> Fortior insurgat cunctisque recentior horis,
> Nam "labor improbus omnia vincit"[23].

It is also noteworthy that his last line was a quotation from Virgil's second major work, the *Georgics*: a didactic poem on agriculture and were widely known and studied in Latin schools in the Middle Ages. In the original context, Virgil makes a long excursus, narrating the story of the

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[21] Cf. also W.E. Black, 'Teaching the Mnemonic Bishop in the Medieval Canon Law Classroom', *Envisioning the Bishop: Images and the Episcopacy in the Middle Ages*, edd. S.K. Danielson - E.A. Gatti (Turnhout 2014) 377-404, 385.

[22] See *infra* §6.

[23] Hostiensis, *Summa Aurea*, *proemium*, no. 1 col. 3: "If some wishes to be considered a jurist, / Let him continue his studies and be willing to learn from anyone. / Let him stay awake and not be overcome by the torture of labour / For "unrelenting labour conquers all". An alternative translation is given by Pennington, 'Enrico da Susa' 85. Cf. also Hostiensis, *In I-VI Decretalium Librum Commentaria* (Venetiis 1581; repr. Torino 1962), available at <amesfoundation.law.harvard.edu/digital/Hostiensis/HostiensisMetadataPrelim.html> [accessed 10 Jun 2023], I fol. 4rb, no. 28.

human transition from the golden age – the mythical time of prosperity – to the hardships of history, which men could overcome only through labour[24]:

> Labor omnia vicit improbus[25].

Since Virgil gives a historical/mythical account of the past, he uses the verb *vincere* at the perfect tense ("*vicit*"). However, the sentence assumed a moralising value and it circulated as a proverb extrapolated from its context, with the form "*vincit*"[26]. It is in this sense that the verse is used by Hostiensis.

2.2. *Mnemonic verses*

Going back to examining the different types of poetry that we can find in the *Summa aurea*, certainly the most common kind are mnemonic verses, which are meant to help students to memorise canon law. This genre was very common in the thirteenth-century scholastic teaching, and at the time it was abundantly used in canon law works as well[27], like in the *Glossa Ordinaria* to the *Liber Extra* compiled by Bernard of Parma (*c*.1200-1266)[28], or in the work of Raymond of Peñafort (*c*.1180-1275)[29], both of whom Hostiensis heavily draws from[30]. In this paper I will not delve into the study of this technique by Hostiensis, but it is worth to provide a few examples. For instance, in the proem to his *Summa*, Henricus talks about the origin of the law and makes an excursus about

[24] Cf. Virgil, *Georgics*, ed. R.A.B. Mynors (Oxford 1990) 30; *Ivi*, ed. R.F. Thomas, vol. 1 (Cambridge 1988) 92-93.

[25] *Ivi*, ed. and trans. H. Rushton Fairclough - rev. G. Goold (LCL 63), I:145-146: "Toil triumphed over every obstacle, unrelenting Toil".

[26] Cf. H. Walther, *Proverbia sentientiaeque Latinitatis Medii Aevii. Lateinische Sprichwörter und Sentenze des Mittelalters in alphabetischer Anordnung* (Göttingen 1963-4) no. 13363; Virgil, *Georgics,* ed. Mynors 30.

[27] Cf. for instance the Iberian collection of verses on the decretals contained in MS Biblioteca del Real Monasterio de San Lorenzo de El Escorial, K.I.9, analysed by A. García y García, 'Canonistica Hispanica (III)', *Traditio* 26 (1970) 457-469, 462-469.

[28] See O. Condorelli, 'Bernardo da Parma', *Dizionario Biografico dei Giuristi Italiani* vol. 1 230-31.

[29] See E. Molano, 'San Raimundo de Peñafort', *Juristas universales* vol. 1 414-21.

[30] The use of this technique in Hostiensis's work has been studied by Black, 'Teaching the Mnemonic Bishop'. For an example of Hostiensis quoting a long poem by Raymond, see Hostiensis, *Summa Aurea* ad X.1.30, *de officio legati*, no. 3 col. 319-320. On this passage, cf. also J.A. Watt, 'The Theory of Papal Monarchy in the Thirteenth Century: The Contribution of the Canonists', *Traditio* 20 (1964) 179-317, 260, n. 33.

the life of Adam and Eve in the Garden of Eden, where they lived – he says – according to natural law and communion. Subsequently, he defines the *ius naturale*, explaining that this consists of two principles, and he enunciates the first one with a couplet:

> Hi naturali lege et communi (quia erant eis omnia communia) vixerunt et potest dici haec lex jus naturale rationale, quod coepit ab exordio humanae naturae, ut dist. 5 § i. et haec lex naturalis rationalis in duobus praeceptis consistebat, unde versus:
>
> > Quod tibi vis fieri, michi fac: quod non tibi, noli.
> > Sic potes in terris vivere jure poli[31].

This distich is of unclear origin, but it had been inserted by Bernardus Parmensis in his Gloss (to X 1.1.1 v. *ordinatissimam*), from which Hostiensis may have taken it[32].

Sometimes the mnemonic verses are more practical in their didactic purposes, being just meant to help memorising things. Thus, commenting on the periods of the year in which fasting must be observed[33], Hostiensis quotes some popular verses that enlist the festivities of the Apostles in which fasting is customary[34]:

> Quando ieiunandum sit. Et est Sciendum quod vigiliae Nativitatis Domini et Assumptionis beatae Mariae et omnium Apostolorum sunt ieiunandae nisi consuetudo in contrarium sit quantum ad Apostolos aliquos, quorum festivitates non consueverunt ieiunari […]. Ergo quamvis doctores dicant hos versus arrogatos:
>
> > Petrus et Andreas, Paulus cum Simone Judas,
> > Ut ieiunemus nos admonet atque Matthaeus.
> > Hoc tamen non videtur verum, immo in aliis observabitur consuetudo[35].

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[31] Hostiensis, *Summa Aurea, proemium*, no. 5 col. 5. "What you wish be done to you, do to me; / Do not what you do not want for yourself; / Then you may live on earth according to the justice of heaven;" translation by Pennington, 'Enrico da Susa' 89.

[32] *Ibid*. See also K.W. Nörr, 'Recht und Religion: über drei Schnittstellen im Recht der mittelalterlichen Kirche', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung* 79 (1993) 1-15, 2-3.

[33] Cf. G. Boni, 'Digiuno e astinenza in diritto canonico. 'Residui' di una pratica religiosa dei secoli passati?', *Ephemerides Iuris Canonici* 54:1 (2014) 103-146; Id.,

[34] This distich was well known in the thirteenth century. For instance, it is quoted, as part of a longer poem, in the *Computus* of the English astronomer Iohannes de Sacrobosco (*c*.1195-*c*.1256), written between 1232 and 1235: see O. Pedersen, 'In Quest of Sacrobosco', *Journal for the History of Astronomy* 16:3 (1985) 175-221, 184-185. Cf. L. Thorndike, 'Unde versus', *Traditio* 11 (1955) 163-193, 172.

[35] Hostiensis, *Summa Aurea* ad X.3.46, *de observatione ieiuniorum*, no. 5 col. 1202.

Finally, we have many mnemonic verses which just enlist a series of things that the reader should memorise, or concepts that should stick in the readers' mind. For example, talking about the events that lead to the desecration of churches and therefore to the need to re-consecrate them[36], Hostiensis refers a popular distich which helps to memorise the cases:

> Antiqui autem doctors assignabant sex casus in quibus reiteranda erat consecratio, unde versus:
>
>> Ignis, adulterium, constructio, causa remota,
>> Mors dubium faciunt iterato templa sacrari[37].

2.3. *Proverbs*

Going back to our division of the verses in the *Summa* according to their nature, we can see that often Hostiensis cites popular proverbs of commons says. Sometimes these take the form of mnemonic verses, like the one we have just seen above; often, however, they embody a principle based on common experience or morality.

For instance, in his commentary on the rubric of the *Liber Extra* dedicated to provisions about the sons of clerics, Hostiensis analyses the reasons of the canonical prohibition for them to be ordained as priests[38]. The three motivations adduced by the canonist highlight the stain which falls upon the sons for the action of the parents: the dignity of the clergy, the execration of the parents' crime, and the fear that the son could follow the father in his actions. To mark this last reason the canonist just quotes a common say: often the son happens to be like the father:

> Prima dignitas et excellentia ordinis clericalis, quae turpibus et infamibus committi non debet […] et tales etiam ex incontinentia parentum quasi maculate et dehonestati intelligitur […]. Secunda causa est detestatio criminis paterni, quod plerunque detestamur in filios et punimus

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[36] Cf. G. Gulczynski, *The Desecration and Violation of Churches: An Historical Synopsis and Commentary* (Washington DC 1942).

[37] Hostiensis, *Summa Aurea* ad X.3.40, *de consecratione ecclesiae vel altaris*, no. 5 col. 1176. Cf. Walther, *Proverbia* no. 11390b, which more correctly reads "destructio" instead of "constructio" and "mensa" instead of "causa".

[38] On this topic, see K. A. Taglia, '"On account of scandal…": Priests, their children, and the ecclesiastical demand for celibacy', *Florilegium* 14 (1995-96) 57-70; L. Wertheimer, 'Children of Disorder: Clerical Parentage, Illegitimacy, and Reform in the Middle Ages', *Journal of the History of Sexuality* 15:3 (2006) 382-407; J. Jasmin - S. Paolini, 'La definizione dei criteri d'idoneità al presbiterato nelle decretali medievali', *Discernimento vocazionale e idoneità al presbiterato nella tradizione canonica Latina*, edd. N. Álvarez de las Asturias - G. Brugnotto - S. Paolini (Roma 2018) 75-94, 78-79; S. McDougall, 'Bastard Priests: Illegitimacy and Ordination in Medieval Europe', *Speculum* 94 (2019) 138-172.

temporaliter […]. Tertia causa est timor paternae incontinentiae, infra eod. literas et ca. fin. juxta illud:

> Saepe solet filius similis esse patri[39].

2.4. *The* auctores

Now that we have seen some examples of the other types of verses in the *Summa Aurea*, we can focus on the object of our interest: the passages extracted from famous poets, both classical or medieval.

Out of 124 pieces of poetry, I have identified 41 poetic citations through the *Summa* which can be attributed to specific poets, corresponding to 33% of the total. It is possible to note that all the authors quoted by Hostiensis were very popular in the thirteenth century. Moreover, almost all of them were included in the medieval canon of *auctores*[40]*,* that is to say, the writers whose study was regarded as fundamental in the grammar schools, from whose texts students learned Latin[41].

Most of them were also treated in the general introductions that were written for readers who first approached the studies, like the twelfth-century *Accessus ad auctores* edited by Huygens or the *Dialogus super auctores* of Conrad of Hirsau (*c.*1070-*c.*1150)[42]. The *auctores*, in turn, were traditionally divided into greater (*maiores auctores*) and lesser authors (*minores auctores*), according to their curricular role: the *maiores* were to be read by advanced students and the *minores* by beginners[43]. Indeed, according to this classification, all the five classical poets who appear in Hostiensis's works belong to the *maiores auctores*[44]*;* all the later Christian poets cited but two (Marbod of Rennes and Hildebert of Lavardin) were

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[39] Hostiensis, *Summa Aurea* ad X.1.17, *de filiis presbyterorum*, no. 6 col. 225-226. Cf. Walther, *Proverba*, no. 27299.

[40] Cf. R. Black, *Humanism and Education in Medieval and Renaissance Italy: Tradition and Innovation in Latin Schools from the Twelfth to the Fifteenth Century* (Cambridge 2001) 173-274.

[41] On medieval grammar schools, see V. Gillespie, 'From the twelfth century to c. 1450', *The Cambridge History of Literary Criticism*, edd. A. Minnis - I. Johnson, vol. 2 (Cambridge 2005) 145-236, 150-60.

[42] See respectively R.B.C. Huygens (ed.), *Accessus ad auctores* (Berchem-Bruxelles 1954); Conrad of Hirsau, *Dialogus super auctores*, ed. R.B.C. Huygens (Berchem-Bruxelles 1955.

[43] R. Copeland - I. Sluiter (edd.), 'Hugh of Trimberg, Registrum multorum auctorum, 1280', *Medieval Grammar and Rhetoric: Language Arts and Literary Theory, AD 300 - 1475*, edd. Ead. (Oxford: 2012) 657-669, 657.

[44] B. Munk Olsen, 'La réception de la littérature classique grecque et latine du IXe au XIIe siècle. Une étude comparative', *Classica (Brasil)* 19:2 (2006) 167-179, 170.

included, according to the list given by Hugh of Trimberg in his *Registrum multorum auctorum* (1280)[45], in the canon of the *minores*. This is a very significant element to understand the reason and the function of poetic citations in Hostiensis's work, as I will try to show later in the conclusions. Before, however, I will analyse more closely the use of these *auctores*, delving into both the legal reasoning behind their application and their original context.

3. *Citations of classical poets*

As it is predictable in a cultural milieu where the *antiqui* embodied the ideal of wisdom and knowledge[46], out 41 literary works quoted by Hostiensis in his *Summa*, 29 come from 5 classical Roman poets, which therefore represent the great majority (71%). Of these, 18 (hence, 44% of all the poetic citations and 62% of the classical ones) are to be attributed to Ovid[47], who dominates by far over the other *auctores*. After him comes the Roman poet par excellence, Virgil, who is quoted 5 times by the canonist[48]. Horace is another recurrent allegation, being cited 4 times[49]; the satirist Juvenal is referred to twice[50], while Lucan is quoted only once.

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[45] Hugh of Trimberg, *Das 'Registrum Multorum Auctorum' des Hugo von Trimberg: Untersuchungen und kommentierte Textausgabe*, ed. K. Langosch (Berlin 1942; repr. Nendeln 1969); a translation can be found in Copeland - Sluiter, 'Hugh of Trimberg'. Cf. also the inclusion of Marbord in the *Laborintus*, an *ars poetica* written in the mid-thirteenth century by the grammarian Eberhard the German: Eberhardus, *Laborintus*, edd. E. Faral - J. Vollmann (Basel 2020).

[46] On this topic in general, see B. Munk Olsen, 'La popularité des textes classiques entre le IXe et le XIIe siècle', *Revue d'Histoire des Textes* 14-15 (1984-1985) 169-81, now in Id., *La réception de la littérature classique au Moyen Âge (IXe-XIIe siècle)*, ed. K. Friis-Jensen (Copenhagen 1995) 21-34; Id., 'La réception de la littérature classique grecque et latine'; Id., *L'étude des auteurs classiques latins aux XIe et XIIe siècles. Tome IV - 2e Partie. La réception de la littérature classique manuscrits et textes* (Paris 2009) 57-121.

[47] The count includes two citations that are mixed with verses by later authors, such as Maximianus and Hildebert of Lavardin: see respectively *infra* §4.1.1 and §3.4.4.3.

[48] Including a citation hybridised with a verse of Walter of Châtillon (*infra* §5.8.1) and the final verse of Hostiensis's poem in the proem, which I have examined *supra* §2.1.

[49] One of which, however, is borrowed indirectly from a popular verse that will later end up in the *Carmina Burana*: see *infra* §3.1.2.

[50] One of which together with Ovid: see *infra* §3.2.2.

3.1. *Horace, Epistles, Book I*

Horace (65-8 BC) was among the most widely read classical poets throughout the Latin Middle Ages, with a veritable rediscovery in the ninth-century Carolingian renaissance and a peak of the *aetas Horatiana* in the twelfth century[51]. Some of his works (*Ars poetica*, *Satires*, *Odes*, and *Epistles*) were a core element of Latin studies in the grammar-school curriculum where they were considered as a model of grammatical purity and of literary criticism[52].

All the 4 occurrences of Horace's verses cited by Hostiensis come from his *Epistles*, and more specifically from the first book of this work: a collection of 20 hexameter poems of varying length, presented by Horace in the form of real letters, bound together by the poet's unifying concern for ethics and for the right living (*vivere recte*)[53]. It is noteworthy that, at the time of the composition of the *Summa Aurea*, the *Epistles* seemed to be (together with the *Ars*) the most successful Horatian work in Italy, thanks to a renewed interest in the poet's moral dimension from a theological and philosophical perspective[54].

[51] K. Friis-Jensen, 'The reception of Horace in the Middle Ages', *The Cambridge Companion to Horace*, ed. S. Harrison (Cambridge2007) 291-304, 293; see also the various contributions on the topic collected in Id., *The Medieval Horace*, edd. K.M. Fredborg - M. Skafte Jensen - M. Pade - J. Ramminger (Roma 2015); S. Calculli, *Le vie dell'Orazio medievale nell'opera di Dante* (PhD Thesis; Sapienza Università di Roma 2019/2020) 62-63. Cf., however, B. Munk Olsen, 'The production of the classics in the eleventh and twelfth centuries', *Medieval Manuscripts of the Latin Classics: Production and Use*, edd. C.A. Chavannes-Mazel - M.M. Smith (Los Altos Hills/London 1996) 1-17, 3, 17, and L. Traube, *Vorlesungen und Abhandlungen 2: Einleitung in die lateinische Philologie des Mittelalters* (München 1911; repr. 1965).

[52] See Huygens, *Accessus ad auctores* 43-46; Conrad of Hirsau, *Dialogus* 49-51, lines 1251-1330. Cf. also S. Lyons, 'Singing Horace in Antiquity and the Early Middle Age', *Early Music History* 40 (2022) 167-205, 187-188; R. Copeland, 'Horace's Ars poetica in the Medieval Classroom and Beyond', *Answerable Style: The Idea of the Literary in Medieval England*, edd. F. Grady - A. Galloway (Columbus 2013) 15-33, 16-18.

[53] See R. Ferri, 'The Epistles', *The Cambridge Companion to Horace* 121-131; E. Fantham, 'The First Book of Letters', *Brill's Companion to Horace*, ed. H.-C. Günther (Leiden 2013) 407-430; W.R. Johnson, 'The Epistles', *A Companion to Horace*, ed. G. Davis (Chichester 2010) 319-333. On the medieval view of Horace's moral in the *Epistles*, see Friis-Jensen, 'The reception of Horace' 302-303. For a description of Horace's *Epistles* in the medieval handbooks, see Huygens, *Accessus ad auctores* 45-46.

[54] Calculli, *Le vie dell'Orazio medievale* 91-92; S. Braund, 'The Metempsychosis of Horace: The Reception of the Satires and Epistles', *A Companion to Horace* 367-390, 367-368. On the manuscript tradition of Horace's

3.1.1. *Proteus and the arbor consanguinitatis*

Commenting the book on consanguinity, Hostiensis explains how to read an *arbor consanguinitatis*: the first thing to note, he says, is the blank middle cell in which nothing is written, which is usually called "Joachim", from which and to which everything is connected, and according to which the computation of the degrees is done[55]. Later in the exposition, Hostiensis explains the reason why that cell has to be blank, and that is because this is the trunk of the *arbor*, from which everything branches out; therefore, while the other cells have a stable denomination, the definition of the middle one changes according to the others to which it is related: it can be "father", "son", "nephew", and so on[56]. Hence, since the blank cell cannot have a stable name, it is commonly called blank cell or trunk, but also "Joachim", or "Proteus":

> non potuit ei congrue nomen imponi, sed dicitur cellula vacua, nominator et truncus, ad hoc 35.q.5 Series (C.35 q.5 c.1), et sed Ioachim dicitur et etiam Proteus, propter diversitatem proprietatum quae illi attribuuntur, iuxta illud:
>
> > Quo teneam modo mutantem Protea vultus[57]?

This verse is from *Epistles* 1.1: a letter addressed to the poet's patron, Maecenas (*c.*70-8 BC), to whom Horace explains why he has given up the

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Epistles in this period, see C. Villa 'I manoscritti di Orazio', *Aevum* 66 (1992) 95-135; *Ivi* 67 (1993) 55-103; *Ivi* 68 (1994) 117-146; Id. in *Orazio: Enciclopedia oraziana*, ed. S. Mariotti, vol. 1 (Roma 1996) 319-29; Munk Olsen, 'La réception de la littérature classique grecque et latine' 169.

[55] Hostiensis, *Summa Aurea* ad X.4.14, *de consanguinitate et affinitate*, no. 16 col. 1356: "Qualiter arbor legenda sit […] debet primo notare cellulam mediam in qua nichil scriptum est, quam Ioachim vocamus, a qua et ad quam computatio tota procedit et reducitur". The cell is called in this way after "the husband of Ann, the mother of the holy Virgin. Ann and Joachim stand at the center of the so-called Holy Kinship", which "could stand as a model for any kin-group": see S. Teuscher, 'Flesh and Blood in the Treatises on the Arbor Consanguinitatis (Thirteenth to Sixteenth Centuries)', *Blood and Kinship. Matter for Metaphor from Ancient Rome to the Present*, edd. C.H. Johnson - B. Jussen - D. Warren Sabean - S. Teuscher (Oxford 2013) 83-104, 91. Cf. Ioannes Egitanensis, 'Lectura arborum consanguinitatis et affinitatis magistri Ioannis Egitanensis', ed. I. da Rosa Pereira, *Studia Gratiana* 14 (1967) 155-82, 167-8.

[56] Hostiensis, *Summa aurea* ad X.4.14, *de consanguinitate et affinitate*, no. 17 col. 1356: "Ecce in primis quaeritur quare illa cellula in qua est Ioachim vacua depingatur. Et est illa ratio, quia pro trunco punitur a quo caeteri ramusculi producuntur et ideo etiam truncus appellatur, inde est qui in illa cellula non debent poni duae personae sicut in aliis cellulis sit, cum enim diversorum diversa nomina fortiantur. Nam quandoque vocatur pater, quandoque filius, quandoque nepos, quandoque avus".

[57] Hostiensis, *Summa Aurea* ad X.4.14, *de consanguinitate et affinitate*, no. 17 col. 1356-1357.

writing of lyric poetry. In this context, the poet professes his dissatisfaction for the mundane world, populated by capricious men who constantly change their opinions and views: it is this public opinion that he compares to a many-headed hydra (76) and then to the elusive and shapeshifter Greek sea god Proteus, herdsman of Poseidon's seals[58]:

Quo teneam voltus mutantem Protea nodo[59]?

Hostiensis use this poetic reference to explain why the *arbor*'s blank cell was called after this god, which "thus corresponds to the perception of the diagram as the representation of the panoply of possible kinship constellations"[60].

3.1.2. *The deadly sins: envy*

Within the rubric on penance, Hostiensis provides a description of the seven deadly sins, one by one[61]. At the beginning of his examination of envy[62], the canonist introduces it immediately with some poetic verses, thus defining envy as a sin which burns men from both inside and outside:

Invidia, quae intus et extra comburit hominem, unde versus:

Invidus invidia comburit intus et extra[63].

Then Hostiensis continues by enlisting, as for the other sins, the companions of envy: resentment for the good of others and joy for their evil:

Et habet hos comites: dolorem de bono alterius, gaudium de malo, de poen. dist. 5. Consideret (D.5 de pen. c.1), versus:

Invidus alterius rebus macrescit opimis.

Horatius:

Invidia Siculi non invenere tyranni

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[58] Cf. Horace, *Epistles. Book I*, ed. R. Mayer (Cambridge 1994) 106.

[59] See *Ivi*, ed. and trans. H. Rushton Fairclough (LCL 194) 1.1:90: "With what knot can I hold this face-changing Proteus?".

[60] Teuscher, 'Flesh and Blood' 90; cf. Ioannes Egitanensis, 'Lectura' 167-8.

[61] Cf. also *infra* §3.4.1.2. On the medieval conception of sins, see C. Casagrande - S. Vecchio, *I sette vizi capitali: Storia dei peccati nel Medioevo* (Torino 2000); R.G. Newhauser - S.J. Ridyard (edd.), *Sin in Medieval and Early Modern Culture: The Tradition of the Seven Deadly Sins* (Woodbridge 2012); R.G. Newhauser (ed.), *The Seven Deadly Sins: From Communities to Individuals* (Leiden 2007).

[62] See B.K. Balint, 'Envy in the Intellectual Discourse of the High Middle Ages', *The Seven Deadly Sins* 41-55.

[63] Hostiensis, *Summa Aurea* ad X.5.38, *de poenitentiis et remissionibus*, no. 10 col. 1758. It is worth noting that the word "comburit" should more correctly be "comburitur" as in the original verse, but I have decided to retain the errors of the early modern edition.

Maius tormentum[64].

All these verses were part of a poem which entered in the poetic collection known as *Carmina Burana*[65], as CB 13. The poem, however, has a composite nature[66]: the first sentence seems to have a popular origin and gives a heuristic anticipation of what follows[67]:

Invidus invidia comburitur intus et extra[68].

The last three verses cited here (and not only the last two, as Hostiensis indicates instead), despite being included in the same poem both in the *Summa* and in the *Carmina Burana*, come from Horace's *Epistles* 1.2. In this poem, addressed to a young student called Lollius Maximus, Horace stresses the importance of the moral lessons that can be learned from Homer's works. In particular, the sentences cited here come from a passage where the poet invites Lollius to scorn pleasures and rule his passions, like envy and anger:

Invidus alterius rebus macrescit rebus opimis.
Invidia Siculi non invenere tyranni
Maius tormentum[69].

The reference to the Sicilian tyrants must be interpreted in the sense that envy is an even worse torment than those invented by some egregious figures like Dionysius or Phalaris, known for their propensity to torture and regarded in Antiquity as examples of cruelty[70].

3.1.3.   *The function of punishment for unrepentant apostates*

In the rubric on apostates, talking about their punishments Hostiensis asserts that if someone persists in apostasy and cannot be

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[64] *Ibid.*

[65] See *infra* §5.1.

[66] On the various parts of this poem see A. Hilka - O. Schumann (edd.), *Carmina Burana* (Heidelberg 1930; repr. 1970) vol. 1.1 no. 13 and *Ivi* vol. 1.3 194.

[67] See Walther, *Proverbia* no. 12798.

[68] D.A. Traill (ed. and trans.), *Carmina Burana*, 2 vols (Cambridge MA 2018) 13:1: "The envious man burns inside and out with envy".

[69] Horace, *Epistles*, ed. Rushton Fairclough 1.2:57-59: "The envious man grows lean when his neighbour waxes fat; / than envy Sicilian tyrants invented / no worse torture". It corresponds to Traill, *Carmina Burana* 13:2, 2-3: "Sicilian tyrants devised no greater torture than envy".

[70] Cf., for instance, F. Pownall, 'Dionysius I and the Loneliness of Power (or, The Tyrant as Cyclops)', *Being Alone in Antiquity. Greco-Roman Ideas and Experiences of Misanthropy, Isolation and Solitude*, ed. Rafał Matuszewski (Berlin/Boston 2022) 167-184; O. Murray, 'Falaride: tra mito e storia', *Agrigento e la Sicilia greca: atti della settimana di studio, Agrigento, 2-8 maggio 1988*, edd. in L. Braccesi - E. De Miro (Roma 1992) 47-60. See also Traill, *Carmina Burana*, vol. 1 474 no. 13.

convinced otherwise, he should be imprisoned under strict custody until he desists from his wickedness, thus taking up almost literally the provisions of the *Libera Extra*[71]:

> Sed et ex quo de apostasia constiterit et minis et blandimentis non potest induci ad malem dimissum habitum resumendum, potest sub gravi custodia carcerari: ita quod sibi vita misera reservetur et sic teneatur, quousque a tanta nequitia resipiscat: ut infra eodem A nobis (X 5.9.5), et sic:
>
>> Oderunt peccare boni virtutis amore.
>> Oderunt peccare mali formidine poenae[72].

The distich derives from a passage from *Epistles* 1.16: a letter addressed to one Quinctus, where Horace comments the second Stoic paradox, according to which virtue is the sole requisite for happiness[73]. Within this framework, the poet focuses on the problem of what defines a good man (40-62)[74]. He states that those who observe the law often do it to *seem* rather than to *be* good, while good men are such exclusively for their intention:

> oderunt peccare boni virtutis amore,
> tu nihil admittes in te formidine poenae[75].

It is worth to note that the original Horatian distich has a different formulation, but its second verse was re-elaborated in the Middle Ages to symmetrically mirror the first and circulated widely in this form as a proverb[76].

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[71] Cf. X.5.9.5: "A nobis expetiit tua fraternitas edoceri, quid de apostatis sit agendum, quum in custodia detinentur, qui minis vel blanditiis nullatenus possunt induci, ut abiectum monachalem habitum reassumant. Ad quod tibi breviter respondemus, quod tales, si volueris, poteris sub gravi custodia carcerare, ita, quod solummodo vita sibi misera reservetur, donec a suae praesumptionis nequitia resipiscant".

[72] Hostiensis, *Summa Aurea* ad X.5.9, *de apostatis et reiterantibus baptisma*, no. 3 col. 1548: "Good men hate to sin because they love virtue / Bad men hate to sin because they dread punishment".

[73] Cf. Cicero, *Paradoxa Stoicorum*, ed. and trans. H. Rackham (LCL 349) 16-19.

[74] Cf. M.J. McGann, 'The Sixteenth Epistle of Horace', *The Classical Quarterly* 10:2 (1960) 205-212.

[75] Cf. Horace, *Epistles*, ed. Rushton Fairclough 1.16:52-53: "The good hate vice because they love virtue / you will commit no crime because you dread punishment". Cf. *Ivi*, ed. Mayer 226.

[76] See *Dizionario delle sentenze latine e greche*, ed. R. Tosi (Milano 2017) no. 2245, which, however, erroneously reports this distich in the *Collationes* of John Cassian (*c.*360-*c.*435), while in this text the verse appears only in the apparatus written by Allart Gazet in 1628: cf. John Cassian, *Vigintiquatuor collationes* (PL 49) col. 477-1328, 853. See also Walther, *Proverbia* no. 19717.

3.1.4.   *Interacting with the excommunicated*

In the rubric on excommunication sentences, Hostiensis examines the causes of justification for those who interact with excommunicated people; among these causes, there is the usefulness of the purpose. Thus, for instance, interaction is admitted for the activities which contribute to the benefit of the soul: preaching, administering confession, begging for alms, and collecting them[77]. Similarly, any word other than preaching or confession can be incidentally exchanged with the excommunicated if it is functional to these activities[78]. However, Hostiensis warns against any verbal exchange motivated by other reasons:

> Ergo si alia intentione hoc faciant, sententiae minoris vinculo astringuntur; caveant ergo sibi, nam:
> Evolat emissum semel irrevocabile verbum[79].

The verse is from *Epistles* 1.18. This long letter is addressed to Lollius, to whom the poet gives advice on how to behave properly with those in power and how to cultivate a patron/client relationship to climb the social ladder[80]. It is in this context that Horace recommends to "think often of what you say, and of whom, and to whom you say it"[81], because:

> Semel emissum volat irrevocabile verbum[82].

In the Middle Ages, the verse seems to have circulated also as a proverb[83].

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[77] Hostiensis, *Summa Aurea* ad X.5.39, *de sententia excommunicationis*, no. 15 col. 1930: "Utile, idest utilitas etiam participatis facit, quod participans nullo vinculo ligetur […]. Item utilitas animae excommunicati excusat, ut si quis enim corrigat et ad petendam absolutionem ei consulat et cum inducat, 11. q. 3 Cum excommunicato (C.11 q.3 c.18). Ideoque ad praedicationem admitti possint sine scrupulo conscientiae, infra eod. Responso nostro (X.5.9.43) respondemus i. Unde et excusantur hi qui causa praedicationis et confessionis habitant inter eos, a quibus etiam licite postulant et recipiunt eleemosynas, si aliter inter eos nequeunt habitare, infra eodem Cum voluntate (X.5.9.44) predicatores".

[78] *Ivi* col. 1931: "Excusantur etiam etsi alia verba a praedicatione vel confessione remota incidenter, ut apud ipsos magis proficiant, interponat, infra eodem Cum voluntate (X.5.39.54) respondemus i.".

[79] *Ibid.* The same verse is cited also by Id., *Commentaria*, I fol 91va, no. 32 and *Ivi*, III fol. 109vb no. 13.

[80] Cf. L. Bowditch, 'Horace's Poetics of Political Integrity: Epistle 1.18', *The American Journal of Philology* 115:3 (1994) 409-426.

[81] Horace, *Epistles*, ed. Rushton Fairclough 1.18:68: "quid de quoque viro et cui dicas, saepe videto".

[82] See *Ivi* 1.18:71: "The word once let slip flies beyond recall".

[83] Walther, *Proverbia* 8230.

3.2. *Juvenal, Satires*

The Roman satirist Juvenal is one the favourite Latin poets of the Middle Ages: his *Satires*, which, according to the genre, criticise the mores and customs of Roman society, were a standard reading in school classrooms as an ethical work[84].

In the *Summa Aurea*, Juvenal's verses appear twice.

3.2.1. *Public services and clerical exemptions.*

Within the rubric on ecclesiastical exemptions, Hostiensis examines that from public services (*munera publica*)[85]. Following a Roman law distinction that dates back at least to Hugolinus (*c.*1165-*c.*1235), Hostiensis distinguishes these services according to two different couples of criteria. Thus, *munera publica* can be *sordida* (consisting in a manual labour) or *honesta* (provision of a service); moreover, they can also be classified according to whether the services have a regular nature or not: respectively, *ordinaria* and *extraordinaria*[86]. Regarding this last type (*munera publica extraordinaria*), Hostiensis explains that they can be motivated by public utility, piety, or by the governor's will:

> Distinguunt doctores legum et dicunt quae munerum alia sordida, alia honesta [...]; alia ordinaria, alia extraordinaria. [...] Extraordinariorum alia pertinent ad publicam utilitatem, alia ad pietatem, alia ad capitaneam voluntatem:
>
>> Sic volo, sic iubeo, sit pro ratione voluntas[87].

The verse is borrowed from Juvenal's sixth Satire, an unusually long poem which alone constitutes the second book of the poet's work. This

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[84] See Conrad of Hirsau, *Dialogus* 54 lines 1439-1445. Cf. also E. Pérez Rodríguez, 'Reading Juvenal in the Twelfth Century', *The Journal of Medieval Latin* 17 (2007) 238-252, 238; Munk Olsen, 'La réception de la littérature classique grecque et latine' 169.

[85] Called in this way in the Roman law tradition in opposition to *munera privata*, which are obligations that arise from private relationships; on this distinction, cf. D.50.4.14. On *munera publica* in general, see H. Horstkotte, 'Systematische Aspekte der *munera publica* in der römischen Kaiserzeit', *Zeitschrift für Papyrologie und Epigraphik* 111 (1996) 233-255. For the ecclesiastical provisions on *munera*, see A. Rigaudière, 'Le clerc, la ville et l'impôt dans la France du Bas Moyen Âge', *Fiscalità e religione nell'Europa cattolica: Idee, linguaggi e pratiche (secoli XIV-XIX)*, ed. M.C. Giannini (Roma 2015) 21-69.

[86] The *distinctio*, beg. "Munerum alia sordida alia honesta", has been edited by F.C. von Savigny, *Geschichte des Römischen Rechts im Mittelalter*, vol. 5 (2nd ed., Heidelberg 1850; repr. Aalen 1986) 629; cf. Rigaudière, 'Le clerc'.

[87] Hostiensis, *Summa Aurea* ad X.3.49, *de immunitate ecclesiarum*, no. 3 col. 1210.

satire is a misogynistic warning against the dangers of marriage addressed to one Postumus[88]. The latter, however, ignores Juvenal's advice and marries anyway, facing many evils at the hand of his wife, and ultimately death. The poet describes marital life as a yoke, exemplifying the ways in which the wife exerts total control over the husband. Thus, Juvenal says, she would order a slave killed at her wish, even if he has not done anything and despite the protests of the husband, because her reason alone is enough to command so[89].

Hostiensis takes this last verse in his discourse on extraordinary services, thus establishing a humorous parallelism between the ruler's will and the will of the wife, which seems more aimed at evoking laughter than at adding some real strength to the reasoning. In the Middle Ages, however, sentence circulated also as a proverb[90].

3.2.2. *Clerical clothing and bad customs*

In the rubric about how clerics should conduct their life and in what their honourableness consists, Hostiensis deals in detail with the clothing that priests should follow[91]. At the end of his considerations on this point, after remarking that priests should not go around without their stole, he adds that the same is true for when they are in community, because sharing bad habits corrupts good mores:

> Item consistit in societate, quia saepe consortia malorum, bonos mores corrumpunt, 28. q. Saepe (C.28 q.1 c.12) et ideo "Cum sancto sanctus eris" etc. (Ps. 17:26); unde versus:
>> Uvaque conspecta livorem ducit ab uva.
> Et alibi:
>> Cum spectant laesos oculi, laeduntur et ipsi,
>> Multaque corporibus transitione nocent[92].

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[88] Cf. W.S. Smith, Jr., 'Husband vs. Wife in Juvenals Sixth Satire', *The Classical World* 73:6 (1980) 323-332; E. Courtney, *A Commentary on the Satires of Juvenal* (Berkeley 2013) 252-303.

[89] Juvenal, *Satires*, ed. and trans. S. Morton Braund (LCL 91) 6:223: "It's my wish and my command. Let my will be reason enough".

[90] Walther, *Proverbia* no. 29559.

[91] On this topic, see M.C. Miller, *Clothing the Clergy: Virtue and Power in Medieval Europe, c. 800-1200* (Ithaca 2014); T. M. Izbicki, 'Forbidden Colors in the Regulation of Clerical Dress from the Fourth Lateran Council (1215) to the Time of Nicholas of Cusa (d. 1464)', *Medieval Clothing and Textiles*, edd. R. Netherton - G.R. Owen-Crocker, vol. 1 (Woodbridge 2005) 105-114; D.-D. Schimansky, 'The Study of Medieval Ecclesiastical Costumes: A Bibliography and Glossary', *The Metropolitan Museum of Art Bulletin* 29:7 (1971) 313-317.

[92] Hostiensis, *Summa Aurea* ad X.3.1, *de vita et honestate clericorum*, col. 853.

We have two authors cited here: the first verse is from Juvenal's *Satires*, the other two are from Ovid. Juvenal's passage comes from his second Satire, an indignant and angry condemnation of homosexuality and effeminacy, as well as the hypocrisy of moralisers[93]. It is in this context that Juvenal describes the debasement of Roman mores as infectious disease (78-81)[94].

Ovid's distich, instead, comes from his *Remedia Amoris*, which likewise propose the idea of love as a disease that should be cured with the help of the poet, who acts as a doctor[95]. After explaining how to break the love bond, the poet suggests some ways to prevent its renewal, which predictably includes shunning the woman (613-626), because seeing her could cause a relapse of the infection:

> Dum spectant laesos oculi, laeduntur et ipsi,
>
> Multaque corporibus transitione nocent[96].

Hostiensis takes both the passages and applies them to the propagation of clerical bad examples, because they all symbolise contagion[97]: in Juvenal, the discolouring grapes represent corruption and widespread immorality in sexual habits; in Ovid, the eyes can infect with love the whole body.

3.3. *Lucan, The Civil War.*

Like the other *auctores* cited by Hostiensis, Lucan (39-65) enjoyed a widespread popularity in medieval times[98], and among the Roman poetic works read between the 9th and the 12th century his manuscript tradition is second only to Virgil's *Aeneid*[99]. Notably, he was included among the Latin *auctores* studied in schools[100]. His only surviving work, *The Civil*

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[93] See C. Nappa, '*Praetextati Mores*: Juvenal's Second Satire', *Hermes* 126:1 (1998) 90-108; Courtney, *A Commentary on the Satires* 99-125.

[94] Juvenal, 'Satires' 2:81: "Just as a bunch of grapes takes on discoloration from the sight of another bunch". Cf. Courtney, *A Commentary on the Satires* 111.

[95] See *infra* §3.4.6.

[96] Ovid, *Remedies for Love,* ed. and trans. J.H. Mozley - rev. G. Goold (LCL 232) 615-16: "The eyes, in beholding the afflicted, themselves suffer affliction, / and many things harm our bodies through chance encounter".

[97] On the metaphorical use of the concept of contagion in classical poetry, see Ovid, *Ovidi Nasonis Remedia Amoris*, ed. A.A.R. Henderson (Edinburgh 1979) 116-117.

[98] J. Crosland, 'Lucan in the Middle Ages: With Special Reference to the Old French Epic', *The Modern Language Review* 25:1 (1930) 32-51, 32.

[99] Munk Olsen, 'La réception de la littérature classique grecque et latine' 169.

[100] See Huygens, *Accessus ad auctores* 34-38; Conrad of Hirsau, *Dialogus* 47-49, lines 1200-1250.

War also known as *Pharsalia*, is an epic poem in ten books, describing the struggle between Caesar and the Senate[101].

We can find only 1 quotation from Lucan in Hostiensis's work.

3.3.1. *City walls as sacred spaces*

After defining religious places, Hostiensis draws a differentiation between religious and sacred places, echoing the Roman law distinction of the *res divini iuris* (things subject to divine law) into *religiosae*, *sacrae*, and *sanctae*.

As for *res religiosae* in Roman law[102], for Henricus religious places are first and foremost graves, but he considers as such also non-consecrated places like xenodochia, hospitals, and orphanages[103]. Subsequently, according to a genus/species model, he defines sacred places as those religious places which have been consecrated with a certain rite[104], echoing again the Roman model, for which *res sacrae* are those places of worship properly consecrated[105]. Finally, Hostiensis mentions the concept of *res sanctae*, which according to Roman law are those things that cannot be violated because of a *sanctio*, despite not being consecrated[106]. Then, to

[101] For further readings, see S. Bartsch, *Ideology in Cold Blood: Lucan's Civil War* (Cambridge MA 1997); J. Masters, *Poetry and Civil War in Lucan's Bellum Civile* (Cambridge 1992).

[102] See Inst. 2.1.9. Cf. Y. Thomas, '*Corpus aut ossa aut cineres*. La chose religieuse et le commerce', *Micrologus* 7 (1999) 73-112; Id., '*Res religiosae*: On the Categories of Religion and Commerce', *Law, Anthropology, and the Constitution of the Social: Making Persons and Things*, ed. A. Pottage M. Mundy Cambridge 2004, 40-73.

[103] Hostiensis, *Summa Aurea* ad X.3.36, *de religiosis domibus*, no. 1 col. 1150: "Quid dicatur locus religiosus. Dictum est supra de sepulturis (X.3.28) § Quid sit sepultura. Sed sciendum quod hic ponitur domus religiosa pro sacra, unde exponendum est de religiosis idest sacris vel ideo dixit religiosus, ut includat loca religiosa et non consecrata, sicut xenodochia idest hospitalia […]".

[104] *Ivi*, no. 2 col. 1151: "Et nota quod locus religiosus et sacer habent se tanquam genus et species: transit enim nomine speciali et dicitur sacer, remanet in generali quod dicitur religiosus […]. Ergo locus sacer religiosus est, sed non convertitur; ideo dixit de religiosis et non de sacris, ut sub genere speciem comprehendere posset. Dicitur autem locus sacer ille qui rite, idest iuxta ecclesiasticam formam, et per Pontifices Deo dedicatus est […]".

[105] Cf. Inst. 2.1.8.

[106] Cf. Inst. 2.1.10. On this point see also D.J. Bloch, '*Res Sanctae* in Gaius and the Founding of the City', *Roman Legal Tradition* 3 (2006) 48-64; C. Smith - E. Tassi Scandone, 'Diritto augurale romano e concezione giuridico-religiosa delle mura', *Scienze dell'Antichità* 19:2-3 (2013) 455-473; E. Tassi Scandone, *Quodammodo divini iuris. Per una storia giuridica delle res sanctae* (Napoli 2013);

make an example of *res sanctae* Hostiensis mentions the city walls[107], whose violation leads to the death of the desecrator: this is what happened in the founding myth of Rome to Remus, killed by the hand of his brother Romolus:

> Sed et murus civitatis ideo sanctus appellatur, quia si aliquis delinquat circa murum rumpendo vel transcendendo, quia scilicet non vult intrare per portam sed per murum, secundum legem decapitandus est: Inst. de rerum distinctione § Sanctae (Inst. 2.1.10), et ideo quia Remus frater Romuli transcendit murum decapitatus fuit, unde Lucanus:
>
> Fraterno primi maduerunt sanguine muri[108].

The verse quoted by Hostiensis is borrowed from the long prologue of the first book of the *De bello civili*, in which the poet laments Rome's tendency to fall into fratricidal wars and self-destruction. In this context, Lucan meditates on the causes of the civil war (67-97), among which he identifies the rivalry between two men for the rule over Rome (84-97), comparing the competition between Caesar and Pompey to that between Romulus and Remus (93-97)[109], whose blood was spilled in the fratricide and stained the first walls of Rome[110].

Hostiensis takes the passage as a mythical precedent to stress the inclusion of city walls among the *res sanctae*, according to a well-established model which in the legal discourse can be found mentioned already in the Digest[111].

Y. Thomas, 'La construction de l'unité civique. Choses publiques, choses communes, choses n'appartenant à personne et représentation', *Mélanges de l'École française de Rome. Moyen Âge* 114:1 (2002) 7-39; Id., 'De la "sanction" et de la "sainteté" des lois à Rome. Remarques sur l'institution juridique de l'inviolabilité', *Droits, Revue française de théorie juridique* 18 (1993) 135-151, now in Id., *Les opérations du droit*, ed. M.A. Hermitte - P. Napoli (Paris 2011) 85-102.

[107] The medieval legal doctrine assimilates and often juxtaposes *res sacrae* and *res sanctae*: see S. Menzinger, 'Mura e identità civica in Italia e in Francia meridionale', *Cittadinanze medievali. Dinamiche di appartenenza a un corpo comuintario*, ed. Ead. (Roma 2017) 66-109, 78-80, 100-101.

[108] Hostiensis, *Summa Aurea* ad X.3.36, *de religiosis domibus*, no. 3 col. 1151.

[109] See A. Roche, *Lucan, De bello civili: Book 1* (Oxford 2009) 146-147, 163. Thus, Lucan adopts a literary *topos* that had been already established by other Roman authors, like Horace and Livy: C.M.C. Green, ' "The Necessary Murder": Myth, Ritual, and Civil War in Lucan, Book 3', *Classical Antiquity* 13:2 (1994) 203-233, 202-208.

[110] Lucan, *The Civil War (Pharsalia)*, ed. and trans. J.D. Duff (LCL 220) 1:95: "The rising walls [of Rome] were wetted with a brother's blood".

[111] See D.1.8.11. Cf. G. de Sanctis, 'Solco, muro, pomerio', *Mélanges de l'école française de Rome* 119:2 (2007) 503-526.

3.4. *Ovid*

With 18 references, Ovid is by far the most cited poet in Hostiensis's *Summa*. This popularity is not surprising: the author had enjoyed a continuous success since Antiquity and up until the time of our interest[112]. In particular, from the twelfth and thirteenth century the study of Ovid saw a strong renaissance[113], to the point of deserving the name of *aetas Ovidiana*[114], in light of both the immense number of his manuscripts copied in this period and the poetry flourished on the Ovidian model all over Europe, both in Latin and vernacular. Of course, Ovid was included in the canon of the *auctores* and his literary works were widely diffused in medieval schools[115], accompanied by plenty of pedagogical commentaries and *accessus*[116].

Ovid's presence in the school curriculum was justified by attributing a strong moralist role to his poems, which balanced their inherently scandalous and sexual dimension[117]. However, for medieval scholars and students Ovid was not only a moral author, but also a stylistic example

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[112] In general, see *A Handbook to the Reception of Ovid*, edd. C.E. Newlands - J.F. Miller (Malden 2014); R. Tarrant, 'Ovid', *Texts and Transmission: A Survey of the Latin Classics*, edd. L.D. Reynolds - N.G. Wilson (Oxford 1983) 257-296.

[113] See 'Ovid in Medieval Culture: A Special Issue', ed. M. Desmond, *Mediaevalia* 13 (1987); J.G. Clark - F.T. Coulson - K.L. McKinley (edd.), *Ovid in the Middle Ages* (Cambridge 2015), and especially J.G. Clark, 'Introduction', *Ivi* 1-25; J. Dimmick, 'Ovid in the Middle Ages: Authority and Poetry', *The Cambridge Companion to Ovid*, ed. P. R. Hardie (Cambridge 2002) 264-87; B. Munk Olsen, 'Ovide au Moyen Âge (du IXe au XIIe siècle)', *Le strade del testo*, ed. G. Cavallo (Bari 1987) 67-89, now in Id, *La réception* 71-94; R. Hexter, 'Ovid in the Middle Ages: Exile, Mythographer, and Lover', *Brill's Companion to Ovid*, ed. B.W. Boyd (Leiden 2002) 413-442; W. Engelbrecht, '*Carmina Pieridum multo vigilata labore / exponi, nulla certius urbe reor*: Orléans and the reception of Ovid in the *aetas Ovidiana* in school commentaries', *Mittellateinisches Jahrbuch* 41 (2006) 209-226.

[114] Traube, *Vorlesungen und Abhandlungen 2*.

[115] On the study of Ovid in medieval schools, see R.J. Hexter, *Ovid and Medieval Schooling: Studies in Medieval School Commentaries on Ovid's Ars Amatoria, Epistulae ex Ponto, and Epistulae Heroidum* (München 1986) 1-13; Munk Olsen, 'Ovide au Moyen Âge' 76-82; E.H. Alton - D.E.W. Wormell, 'Ovid in the Mediaeval Schoolroom', *Hermathena* 94 (1960) 21-38, and *Ivi* 95 (1961) 67-82; J.H. McGregor, 'Ovid at School: From the Ninth to the Fifteenth Century', *Classical Folia* 32 (1978) 29-51.

[116] See. Huygens, *Accessus ad auctores* 24-34; Conrad of Hirsau, *Dialogus* 51-51, lines 1331-1439. Cf. F.T. Coulson and B. Roy, *Incipitarium Ovidianum: A Finding Guide for Texts related to the Study of Ovid in the Middle Ages and Renaissance* (Turnhout 2000); P. Leone Gatti, *Ovid in Antike und Mittelalter: Geschichte der philologischen Rezeption* (Stuttgart 2014).

[117] Dimmick, 'Ovid in the Middle Ages' 267ff.

and a love poet: his amatory verses contributed to shape greatly the medieval courtly concept of love from the twelfth century, and the use itself of the distich – the couplet so common in the medieval verses and in Hostiensis's *Summa* too – derives from the imitation of Ovid's amatory works[118]. And indeed, most of Hostiensis's citations of the Sulmonese poet come from his erotic works[119]: 2 from the *Amores*, 3 from the *Heroides*[120], and 3 from the *Remedia Amoris*, with the noticeable absence of his most famous amatory poem, the *Ars Amatoria*. Other 3 quotes, instead, belong to his greatest work, the *Metamorphoses*[121], and an equal number to one of his two collections of exile elegiac compositions, the *Epistulae Ex Ponto*. A single quotation, finally, is borrowed from his unfinished *Fasti*.

3.4.1. *Amores, Book I*

As already mentioned, the *Summa Aurea* contains two citations from the first book of the *Amores*. This work represents Ovid's first collection of erotic elegies, often characterised by humorous and exaggerated tones, narrating the love between the poet's *persona* and a girl named Corinna[122]. In the Middle Ages, Ovid's *Amores* were studied in grammar schools for their stylistic qualities, as testified by works like the *Accessus ad auctores*[123].

3.4.1.1. *Women and crusade vows*

In the rubric on religious vows, Hostiensis talks about the admissibility of vows to join crusades taken by married women without

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[118] M. Desmond, 'Venus's Clerk: Ovid's Amatory Poetry in the Middle Ages', *A Handbook to the Reception of Ovid* 161-173, 161-162. See also M.L. Stapleton, *Harmful Eloquence: Ovid's Amores from Antiquity to Shakespeare* (Ann Arbor 1996); Hexter, 'Ovid in the Middle Ages' 432-439.

[119] On Ovid's amatory works, see A. Sharrock, 'Ovid and the discourses of love: the amatory works', *The Cambridge companion to Ovid* 150-162.

[120] This count includes a citation that is mixed with verses by the medieval French poet Hildebert of Lavardin: see *infra* §3.4.4.3.

[121] Including one quote that is mixed with verses by the late antique poet Maximianus: see *infra* §4.1.1.

[122] On the *Amores*, see B.W. Boyd, 'The *Amores*: The Invention of Ovid', *Brill's Companion to Ovid* 91-116.

[123] Huygens, *Accessus ad auctores* 32-33: "finalis causa scilicet utilitas est ornatus uerborum et pulchras hic cognoscere positiones".

their husband's consent[124]. Usually, these vows may be taken under any circumstances without the prior permission of another, but Hostiensis presents his doubts about their admissibility in case of women, because of the dangers of 'taking the cross' to Jerusalem[125]. He concludes with his suspicions that the virtue of such women could not endure the journey to the Holy Land:

> Nunquid ergo et uxor potest Hierosolymitanum votum viro invito emittere? De hoc nihil dicitur expresse et videtur quod sic, quia non ad imparia iudicantur […]. Si enim vult ire sine viro, suspecta est mihi, quia fragilis est, et sic dicit Ovidius:
>
>> Casta est quam nemo rogavit[126].

The verse is from *Amores* 1.8: the longest poem in the work, which consists of the lustful counsels given by an old bawd, Dipsas, to Ovid's girlfriend Corinna, which poet heard eavesdropping[127]. Dipsas tries to convince Corinna to leave the poet for a wealthy young man and more generally to abandon chastity and take many lovers[128], since the only chaste woman is the one nobody wanted[129].

This verse is used here by Hostiensis to express a not very gallant view of women's qualities, in order to shed doubts on the opportunity for them to take and fulfil crusade vows.

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[124] On crusade vows in general, see J.A. Brundage, 'A Note on the Attestation of Crusader's Vows', *The Catholic Historical Review* 52:2 (1966) 234-239; J.A. Price, *Cruce signatus: The form and substance of the crusading vow, 1095-1216* (PhD Thesis; University of Washington 2005). On women's involvement in crusades, see C.T. Maier, 'The roles of women in the crusade movement: A survey', *Journal of Medieval History* 30 (2004) 61-80; H.J. Nicholson, *Women and the Crusades* (Oxford 2023).

[125] Cf. J.A. Brundage, 'The Votive Obligations of Crusaders: The Development of a Canonistic Doctrine', *Traditio* 24 (1968) 77-118, 113.

[126] Hostiensis, *Summa Aurea* ad X.3.34, *de voto et voti redemptione*, no. 9 col. 1132.

[127] Cf. N. Gross, 'Ovid Amores 1.8: Whose Amatory Rhetoric?', *Classical World* 89 (1995-96) 197-206; K. S. Meyers, 'The Poet and the Procuress: The Lena in Latin Love Elegy', *Journal of Roman Studies* 86 (1996) 1-21; Ovid, *Amores (Book 1)*, ed. W. Turpin (Cambridge 2016) 99-120.

[128] Ovid, *Amores. Text, Prolegomena and Commentary in Four Volumes*, ed. J. C. McKeown (Liverpool 1989) 2:198-256.

[129] Ovid, *Amores,* ed. and trans. G. Showerman - rev. G. Goold (LCL 41) 1.8:43: "Chaste is she whom no one has asked". Cf. Id., *Amores*, ed. McKeown 2:222-223.

3.4.1.2. *The deadly sins: lust*

Within the rubric on penance and in his description of the seven deadly sins[130], Hostiensis defines lust as the weakness that breaks the energies of nature, which estranges the man from God in several ways[131]. Lust's companions are gluttony, effeminacy in clothing, lethargy, and sexual pleasure:

> Et habet hos comites, scilicet ventris ingluviem, 44. dist. § i. (d.p. D.44) et c. Commessationes (D.44 c. 1), vestis mollitiem, 21. q. 4.c. i. (C.21 q.4 c.1), soporis resolutionem, unde Ovidius:
>> Mollierant animos lectus et umbra tuos.
>> coitus delectationem [...][132].

The verse quoted here is from *Amores* 1.9: this is a poem addressed to Atticus on the common motif of the parallelism between love and war (and lovers and soldiers). The citation is from its last lines, where Ovid explains how he used to be lazy before being in love, but then passion shook him from is slothful ways[133]:

>> Mollierant animos lectus et umbra meos[134].

The sentence (with a change in the pronoun) is used by Hostiensis to explain the relationship between lethargy and luxury.

3.4.2. *Ex Ponto*

Together with the *Tristia*, the *Epistulae ex Ponto* represent the Ovid's elegiac exile poetry[135]. This is a collection of letters mostly addressed to the poet's friends and written after his banishment from Rome by Augustus. Like the other Ovidian works, the *Ex Ponto* were widely read

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[130] Cf. also *supra* §3.1.2.

[131] Hostiensis, *Summa Aurea* ad X.5.38, *de poenitentiis et remissionibus*, no. 10 col. 1757: "Luxuria, quae est infirmitas frangendi vires naturae et multi modis quibus homo a Deo separatur agitur et optatur, 32. q. 7 Non solum (C.32 q.7 c.15)".

[132] *Ibid*.

[133] Cf. P. Murgatroyd, 'The Argumentation in Ovid *Amores* 1.9', *Mnemosyne* 52:5 (1999) 569-572; Ovid, *Amores*, ed. McKeown 2:257-280.

[134] Ovid, *Amores*, ed. Showerman 11.9:42; cf. Id., *Amores*, ed. McKeown 2:277-278: "My couch and the shade had made my temper mild".

[135] See B.R. Nagle, *The Poetics of Exile: Program and Polemic in the Tristia and Epistulae ex Ponto of Ovid* (Bruxelles 1980); G. Williams, 'Ovid's exile poetry: *Tristia, Epistulae ex Ponto* and *Ibis*', *The Cambridge companion to Ovid* 233-248; Id., 'Ovid's Exilic Poetry: Worlds Apart', *Brill's Companion to Ovid* 337-381; M.M. McGowan, *Ovid in Exile: Power and Poetic Redress in the Tristia and Epistulae ex Ponto* (Leiden 2009).

during the Middle Ages[136], especially for their philosophical and ethical value, as testified by their presence in the *accessus* and by the commentaries written on them[137]. In particular, together with the *Tristia*, the *Epistulae ex Ponto* became a model for medieval exile poetry[138].

This popularity transpires well from Hostiensis's work, which refers to the *Ex Ponto* 3 times.

3.4.2.1. *Repentance, guilt, and infamy*

In the rubric about the time of ordination of priests, Hostiensis delves into what happens if a criminal makes penance ("*Quid si criminosus poenitentiam egit*"). Subsequently, he proceeds to address the different opinions regarding specific cases. For what concerns those crimes which automatically cause infamy[139], Hostiensis explains that, even if the guilt might be removed through penance, the infamy will not be abolished, borrowing a model that we can also find in Odofredus (*c*.1200-1265)[140]:

> Item omnem peccatum quod ipso iure infamiam inducit 3. q. 7. § Porro (C.3 q.7 p.c.2), quia licet culpa per poenitentiam tollatur, infamia non aboletur, 2. q. 3. § Hinc colligitur (C.2 q.3 d.p.c.7), C. de generali abolitione Indulgentia (Cod. 9.43.3), unde versus:
>
>> Poena potest demi, culpa perennis erit[141].

The verse is a quotation from *Ex Ponto* 1.1, addressed to one Brutus. In this passage (59-66) Ovid proclaims his repentance for the deed which has caused his exile, and that his anguish is caused more by his guilt than

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[136] Hexter, *Ovid and Medieval Schooling* 89-97; Id., 'Ovid in the Middle Ages', 416-422.

[137] See Huygens, *Accessus ad auctores* 30; Hexter, *Ovid and Medieval Schooling*, 86-136.

[138] C. Keen, 'Ovid's Exile and Medieval Italian Literature: The Lyric Tradition, *A Handbook to the Reception of Ovid* 144-160.

[139] The medieval doctrine elaborated three different categories of *infamia*: *ipso iure, per sententiam*, and *ex genere poenae*. The *infamia ipso iure* defines those cases when the crime is particularly egregious and therefore directly leads to infamy in the very moment it is committed, without the need for a court judgement: see F. Migliorino, *Fama e infamia: Problemi della società medievale nel pensiero giuridico nei secoli XII e XIII* (Catania 1985) 93-112.

[140] See Odofredus, *Lectura super Codice* (Lugduni 1552; repr. Bologna 1967) ad C.9.43.3 *de generali abolitione*, l. *Indulgentia* fol. 211va. Cf. Migliorino, *Fama* 161.

[141] Hostiensis, *Summa Aurea* ad X.1.11 *de temporibus ordinationum*, no. 8 col. 176. This verse is also cited by Id., *Commentaria*, I fol 90vb, no. 10.

by his banishment[142]. However, the poet says, while the punishment can cease, the guilt cannot[143]. This verse seems to be Ovid's admission of guilt for his exile and has often been interpreted by scholarship as an ironic passage, meant to actually stress his innocence[144].

Lost the original spirit, however, the verse (which in medieval times circulated as a proverb[145]) is here used by Hostiensis in its literal sense.

3.4.2.2. *Grammatical considerations around the deposit*

In the rubric on the contract of *depositum*, after providing the etymology of the word[146] Hostiensis follows Ulpian's statement (Dig. 16.3.1pr) according to which the preposition "*de*" increases the meaning of "*positum*". Then he makes a grammatical consideration, observing that the preposition "*de*" sometimes increases the meaning of words, sometimes diminishes it, and other times does nothing:

> Unde dicatur. Ex "de" et "positum": nam praepositio "de" auget "positum", ut significet de custodia mea seorsum positum et in tua translatum, ergo aliud est "pono" aliud "depono" […]. Sic praepositio aliquando auget, ut 35. di. c. i. (D.35 c.1), ff. pro socio Cum duobus § damna (Dig. 17.2.52.3), et de liberis et posthumis Gallus § ille casus (Dig. 28.2.29.15); aliquando diminuit, ut supra de consuetudine Ad audientiam (X 1.4.3), infra de fideiussoribus (X 3.22); alias nihil operator, ut ff. de dote praelegata (Dig. 33.4); unde versus:
>
> > Saepe precor mortem, mortem quoque deprecor idem[147].

The verse cited here is the first part of a distich from *Ex Ponto* 1.2, addressed to Ovid's friend and patron Cotta Maximus, to whom the poet describes the misery of his exile[148]:

> saepe precor mortem, mortem quoque deprecor idem,
> ne mea Sarmaticum contegat ossa solum[149].

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[142] See M. Helzle, *Ovids Epistulae ex Ponto: Buch I-II: Kommentar* (Heidelberg 2003) 67-68; Ovid, *Epistulae ex Ponto, book 1*, ed. and trans. J. F. Gaertner (New York 2005) 127-128.

[143] Ovid, *Ex Ponto*, ed. and trans. A.L. Wheeler - rev. G. Goold (LCL 151) 1.1:64: "The punishment can be removed, the fault will remain forever".

[144] See McGowan, *Ovid in Exile* 59-61.

[145] Walther, *Proverbia* no. 21841.

[146] On the contract of *depositum* in Roman law, see R. Zimmermann, *The Law of Obligations: Roman Foundations of the Civilian Tradition* (Oxford 1996) 205-219.

[147] Hostiensis, *Summa Aurea* ad X.3.16, *de deposito*, no. 2 col. 929.

[148] See Helzle, *Ovids Epistulae ex Ponto* 93-94; Ovid, *Epistulae ex Ponto,* ed. Gaertner 168-171.

[149] Ovid, *Ex Ponto* 1.2:57-58: "Often I pray for death, yet I even beg off from death / for fear that the Sarmatian soil may cover my bones".

Hostiensis uses Ovid's play on words "*precor*" (I pray for) and "*deprecor*" (I beg off) to make a parallelism on the abovementioned effect of the proposition "*de*" on the words to which this is affixed.

3.4.2.3. *The gratuity of* commodatum

In the rubric on *commodatum*, which is the free concession of something for a certain use, talking about the definition of this contract Hostiensis explains the requirement of gratuity[150]. In fact, the canonist says, if there were a profit, the contract would become a leasing and therefore be a business, while a *commodatum* must be done out of friendship:

> Quid sit commodatum. Alicuius rei ad aliquem certum usum gratuita facta concessio. […] "Gratuita" ideo dicitur, quia si merces interveniat, transit in locationem et sic est meretricabile; debet autem esse gratuitum sicut et mandatum, quod ab amicitia nomen sumpsit: ff. mandati l. i. (Dig. 17.1.1). Inde in Ovidio de Ponto:
>
>> Illud amicitiae quondam venerabile nomen
>> Prostat et in quaestu pro meretrice sedet[151].

The couplet is from the introduction to *Ex Ponto* 2.3: another letter addressed Cotta Maximus. Here the poet shows gratefulness for Maximus's help, which he considers a rare act in an age where, as he laments, men's loyalty is moved only by profit and fortune (1-20)[152], and even friendship is based on mercenary motives[153].

It is the condemnation of this meretricious friendships that is expressed by the distich quoted by Hostiensis. The latter borrows the passage to stress that a *commodatum*, like Cotta's help, must be done out of friendship and not expecting a reward.

3.4.3. *Fasti, Book I*

In the *Summa Aurea* we find a single citation from the *Fasti*, Ovid's unfinished poetical treatise on the Roman calendar, its events, and the movement of stars, which begins with January and ends abruptly with

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[150] Cf. Zimmermann, *The Law of Obligations* 188-203, and especially 189-190.

[151] Hostiensis, *Summa Aurea* ad X.3.15, *de commodato*, no. 1 col. 923-924. The distich is quoted also by Id., *Commentaria*, III fol 55vb, no. 1.

[152] See Helzle, *Ovids Epistulae ex Ponto* 298.

[153] Ovid, *Ex Ponto* 2.3:19-20: "That once revered name of friendship / is exposed for sale, awaiting gain like a courtesan".

184

June[154]. Like the other works of this poet, in the *aetas Ovidiana* the *Fasti* became part of the curriculum in medieval schools[155].

3.4.3.1. *The* actio legis Aquiliae *as Janus*

In the rubric on damages and injuries, Hostiensis addresses the judicial estimation of the damage (*aestimatio damni*) and he explains the cases in which the damaged person can obtain the estimation protected by the *actio* (*directa*) *legis Aquiliae*[156]. and those in which the estimation is obtained through an *actio in factum*[157]. Subsequently, Hostiensis explains that both these actions look retrospectively for the estimation of the damage (since this is done by referring to the maximum value of the *res* in the past 30 days), and therefore he compares them to the double-faced god Janus, who looks both forward and backwards:

> […] et fit haec aestimatio quanti plurimi retro fuit res intra 30. dies. Probantur haec omnia: Inst. eodem § capite (Inst. 4.3.13), ff. eodem Si servus servum § huius legis (Dig. 9.2.4) et § tertio capite (Dig. 9.2.5) et § si quis (Dig. 9.2.6) et § inquit lex (Dig. 9.2.13). Sic istae duae actiones retro respiciunt, sicut Ianus, de quo dicitur:
>
> > Iane biceps anni tacite labentis origo,
> > Tu solus super his post tua terga vides.

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[154] See C.E. Newlands, *Playing with Time: Ovid and the Fasti* (Ithaca/London 1995); J.F. Miller, 'The *Fasti*: Style, Structure, and Time', *Brill's Companion to Ovid* 167-196; E. Fantham, 'Ovid's *Fasti*: Politics, History, and Religion', *Ivi* 197-233; P. Murgatroyd, *Mythical and Legendary Narrative in Ovid's Fasti* (Leiden 2005); M. Pasco-Pranger, *Founding the Year: Ovid's Fasti and the Poetics of the Roman Calendar* (Leiden 2006).

[155] E.H. Alton, 'The Medieval Commentators on Ovid's *Fasti*', *Hermathena* 44 (1926) 119-51; Id. and Wormell, 'Ovid in the Mediaeval Schoolroom'; McGregor, 'Ovid at School'. Cf. Huygens, *Accessus ad auctores* 33-34.

[156] That is, according to Hostiensis, in the cases "ubi res corrumpitur vel mutatur". An *actio directa* is a Roman *actio* that is clearly identified in its content and limits, such as the *actio legis Aquiliae*, being established by a law. On this topic, see A. Corbino, *Il danno qualificato e la lex Aquilia: Corso di diritto romano* (Padova 2008); S. Schipani, *Contributi romanistici al sistema della responsabilità extracontrattuale* (Torino 2009).

[157] An *actio in factum* is an honorary action granted by the magistrate after the specific evaluation of the case. See A. Corbino, '*Actio directa, actio utilis* e *actio in factum* nella disciplina giustinianea del danno aquiliano', *Studi per Giovanni Nicosia*, vol. 3 (Milano 2007) 1-43.

> et dicitur super his, scilicet mensibus q. d. tu solus superas alios menses in hoc, quia post tua terga vides, ideoque depingitur cum facie duplici, ante et retro respiciens[158].

The verse is from Ovid's invocation to Janus (63-74), the Roman god of beginnings and doorways, which – after a brief preamble – opens the first book of the work, dedicated to the month consecrated to this god, January[159], although with a slightly different formulation:

> Iane biceps, anni tacite labentis origo,
> solus de superis qui tua terga vides[160].

3.4.4. *Heroides*

Three poetic quotations in Hostiensis's *Summa* come from Ovid's *Heroides*, which represents one of the poet's major literary innovations. This collection of epistolary elegies can be divided into two parts: *Heroides* 1-15, the so-called "single epistles", consist of imaginary letters by heroines from epic and mythological stories to their beloved; and *Heroides* 16-21, which instead are at times defined "paired epistles", as they also give the fictive responses of the addressees[161]. All the three passages quoted by Hostiensis are borrowed from the single epistles.

Together with the other texts of Ovid's amatory poetry, the *Heroides* circulated widely in medieval Europe from the twelfth century onward[162], becoming both a core pedagogical unit for the teaching of Latin grammar

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[158] Hostiensis, *Summa Aurea* ad X.5.36, *de iniuriis et damno dato*, no. 8 col. 1730.

[159] See S. Green, *Ovid, Fasti I: A Commentary* (Leiden 2004) 58ff.; P. Hardie, 'The Janus episode in Ovid's *Fasti*', *Materiali e Discussioni* 26 (1991) 47-64; Murgatroyd, *Mythical and Legendary Narrative* 32-34.

[160] Ovid, *Fasti*, ed. and trans. J.G. Frazer - rev. G. Goold (LCL 253) I:65-66: "Two-labeled Janus, opener of the softly gliding year, / thou who alone of the celestials dost behold thy back". Cf. Green, *Ovid, Fasti I* 58-59.

[161] Among the literature on the topic, cf. A.R. Baca, 'Ovid's Claim to Originality and *Heroides* 1', *Transactions and Proceedings of the American Philological Association* 100 (1969) 1-10; M.O. Drinkwater, 'Which Letter? Text and Subtext in Ovid's 'Heroides' ', *The American Journal of Philology* 128:3 (2007) 367-387; D.F. Kennedy, 'Epistolarity: the *Heroides*', *The Cambridge Companion to Ovid* 217-232; P.E. Knox, 'The *Heroides*: Elegiac Voices', *Brill's Companion to Ovid* 117-139; S.H. Lindheim, *Mail and Female: Epistolary Narrative and Desire in Ovid's Heroides* (Madison 2003); L. Fulkerson, *The Ovidian Heroine as Author: Reading, Writing, and Community in the Heroides* (Cambridge 2005).

[162] Tarrant, 'Ovid'.

and an educational text on the treatment of love[163], paired with a strong moralising dimension[164].

3.4.4.1. *Rhetorical figures: the hyperbole*

In the rubric on the meaning of words, Hostiensis explains some rhetorical figures to the reader, among which the hyperbole:

> Sunt et quaedam figuae latentes propria habentes nomina. […] Sexta Hyperbole, scilicet excessus veritatis, ut tu es "albior nive", et illud:
>
> Frigidius glacie pectus amantis erat[165].
>
> Fit etiam cum plus dicitur et minus significator, puta "nihil est gravies adulterio": 32. q. 7. Quid in omnibus (C.32 q.7 c.16).

The verse cited by Hostiensis is from the first poem of the *Heroides*: a letter from Penelope to Odysseus, in which she begs her husband to return and rescue her from her suitors[166]. At the beginning of the letter, the woman tells her emotions during the Trojan war (11-22). Through the metaphor of the ice, Penelope expresses the crescendo of her fear for her husband's life while the tales of the conflict and the news of the fallen Greek heroes reached her ears[167].

Hostiensis uses this figure to exemplify the concept and use hyperbole to the reader.

3.4.4.2. *Cohabitation between clerics and women*

Within the rubric on cohabitation between clerics and women, Hostiensis examines the cases when this can be tolerated by canon law[168]. This is said to be possible for close relatives (mother, sister, aunt, or niece), because the natural bond does not arouse suspicion. However, if any

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[163] Desmond, 'Venus's Clerk' 162; Hexter, *Ovid and Medieval Schooling* 137-218. See also the treatment given by Huygens, *Accessus ad auctores* 24-25.

[164] Dimmick, 'Ovid in the Middle Ages' 267f.

[165] Hostiensis, *Summa Aurea* ad X.5.40, *de verborum significatione*, col. 1940-1941.

[166] Cf. Ovid, *Ovid's Heroides: A New Translation and Critical Essays*, edd. P. Murgatroyd - B. Reeves - S. Parker (London/New York 2017) 7-21; Ovid, *Epistulae Heroidum 1-3*, ed. A. Barchiesi (Firenze 1992) 57-104; Id., *Heroides: Select Epistles*, ed. P.E. Knox (Cambridge 1995) 86-111. For the medieval commentary on this poem, see Hexter, *Ovid and Medieval Schooling* 171-173.

[167] Ovid, *Heroides*, ed. and trans. G. Showerman - rev. G. Goold (LCL 41) 1:22: "Colder than ice grew the heart of her who loves you".

[168] Cf. A.G. Weiler, 'The requirements of the *pastor bonus* in the Late Middle Ages', *Nederlands archief voor kerkgeschiedenis* 83 (2003) 57-83, 74-76.

suspicion should occur, either on the behaviour of the cohabitants (because of their youth or their "natural heath") or regarding their consanguinity, Hostiensis warns that no cohabitation can be accepted:

> Utrum cohabitatio toleranda sit. Sic possunt enim habitare simul mater, soror, amita, et etiam neptis: nam in his naturale foedus non permittit aliquid saevi criminis suspicari […]. Alia vero iura prima intelliguntur de illis, quae nec suspectas personas secum habent, vel dicitur quod duplex est suspicio: iuventutis seu caloris naturalis, juxta illud:
>
> > A juvene et cupido credatur reddita virgo?
>
> Vel extraneitatis, ut ita loquar, scilicet quia nullo grado consanguinitatis attingit et ubicunque aliqua istarum interveniat, non est cohabitatio toleranda[169].

The verse comes from the fifth poem of the *Heroides*, where the nymph Oenone, first wife of Paris, sends a letter to the Trojan prince after he abandoned her for the sake of Helen, trying to make him remember their love[170]. To do so, Oenone tries to draw a comparison between the Spartan queen and herself. Reminding Paris that Helen had already abandoned her husband twice, having been abducted by Theseus before him, the nymph questions the queen's past behaviours, disbelieving that a young and eager man like Theseus would have left her virtue untouched[171].

In applying this verse to clerical cohabitation with women, Hostiensis shares Oenone's reasons for suspicion against the virtuous behaviour of the youth.

3.4.4.3. *The office duties of archpriests*

In the rubric on archpriests, Hostiensis examines their office duties, including those towards cardinals when performing mass. Subsequently, he specifies that the archpriest must perform these duties tirelessly and persevering without fail:

> Tertio debet providere ministerium sacerdotum cardinalium […]. De his cardinalibus providere debet archipresbyter quis in qua hebdomada serviet, ita quod si a sacrosanto die Dominico, idest vespera sabbati sancti diei Dominicae incipiat, 75. distin. Quod a patribus (D.75 c.4), infra de feriis Quoniam (X 2.9.2), et per omnes horas canonicas de quibus habes, infra de

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[169] Hostiensis, *Summa Aurea* ad X.3.2, *de cohabitatione clericorum et mulierum*, col. 856.

[170] See Id., *Heroides*, ed. Knox 140-170; *Ivi*, ed. Murgatroyd - Reeves - Parker 56-65; S.H. Lindheim, '*Omnia Vincit Amor*: Or, Why Oenone Should Have Known It Would Never Work out (Eclogue 10 and Heroides 5)', *Materiali e discussioni per l'analisi dei testi classici* 44 (2000) 83-101.

[171] Ovid, *Heroides*, ed. Showerman*,* 5:129: "Is it to be thought she was rendered back a maid, by a young man and eager?".

celebratione missarum c. i. (X 3.41.1) "perseveret indeclinabiliter", idest non declinando, sed sine intermissione et indefesse, idest non fesse, supra de aetate et qualitate Intelleximus (X 1.14.12) ad finem; unde versus:

> Exitus acta probat; finis, non pugna, coronat[172].

To strengthen the importance of perseverance, Hostiensis cites a popular verse which is actually the combination of two different poetic citations.

The first part of the verse is from the second poem of Ovid's *Heroides*, written in the form of a letter written by Phyllis, daughter of the Thracian king Lycurgus, to Demophoon, son of Theseus king of Athens, who had seduced and abandoned her[173]. In her desperation, among the other things Phyllis laments that her love for Demophoon has alienated some of her subjects from her, and that the Thracians now scorn her for having naively preferred a stranger to her own people:

> atque aliquis "iam nunc doctas eat', inquit, "Athenas;
> armiferam Thracen qui regat, alter erit.
> exitus acta probat[174].

The second part is from the *Vita Mariae Aegyptiacae* (BHL 5419-20) of the medieval poet Hildebert of Lavardin[175]: a hagiographic work on Saint Mary of Egypt in leonine exametres[176]. Faithfully following the model of Sophronius's *Life of Mary of Egypt* (PG 87/3, 3697-3725), in the first *Canto* of the poem, Hildebert begins by telling the story of St Zosimas of Palestine, to whom St Mary recounted her life after meeting him in the desert. Thus, Hildebert describes how Zosimas lived a monastic life in ascetism and contemplation (1-34), but eventually became tempted to pride, thinking to have reached sainthood (35-44). A certain man, however, reproached him for his failings, telling him that all his endeavours would be vain if in the end he were to fail in his struggle against pride, since one's fight is judged by its outcome (45-61):

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[172] Hostiensis, *Summa Aurea* ad X.1.24, *de officio Archipresbyteri*, col. 269.

[173] See Ovid, *Heroides*, ed. Murgatroyd - Reeves - Parker 22-31; Id., *Epistulae Heroidum*, ed. Barchiesi 105-182; *Ivi*, ed. Knox 111-140; L. Fulkerson, 'Writing Yourself to Death: Strategies of (Mis)reading in Heroides 2', *Materiali e discussioni per l'analisi dei testi classici* 48 (2002) 145-165. For the medieval commentaries on this epistle, se Hexter, *Ovid and Medieval Schooling* 173-177.

[174] Ovid, *Heroides*, ed. Showerman 2:83-85: "And someone says: "Let her now away to learned Athens; / to rule in armour-bearing Thrace another shall be found. / The event proves well the wisdom of her course"".

[175] See *infra* §5.5.2.

[176] For more information on this work, see N.K. Larsen, 'Einleitung', Hildebert of Lavardin, *Hildeberti Cenomanensis episcopi Vita beate Marie Egiptiace*, ed. N.K. Larsen, (CCM 209; Turnhout 2004) 7-200, and R.E. Pepin, *Saint Mary of Egypt: Three Medieval Lives in Verse* (Kalamazoo 2005) 23-30.

Ut Scriptura sonat, finis, non pugna coronat[177].

The two verses circulated often as part as the same proverb[178], as it happens also in Hostiensis's *Summa*.

3.4.5. *Metamorphoses, Book II*

The *Metamorphoses* represent Ovid's *maius opus*: an epic poem on universal history from the creation of the world to the death of Julius Ceasar, which provides an account on hundreds of Greek and Roman myths[179].

Initially, in the Middle Ages the inherently pagan and mythological nature of this work met the hostility of the Church; however, from the twelfth century we can see a renewal of interest in the study of the *Metamorphoses*, which were object of many adaptations, glosses, commentaries, *accessus*, and allegories[180]. The medieval readers were interested in various aspects of the so-called *Ovidius Maior*: its textuality, its encyclopaedic treatment of Greek and Roman myths (to the point of

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[177] "As Scripture says, 'the end crowns, not the fight'". See Hildebert of Lavardin, *Vita beate Marie Egiptiace* 53. The translation used here is by Pepin, *Saint Mary of Egypt* 75.

[178] "The result proves the acts; the end, not the trial, crowns the victory". See F. Citti, '*Finis coronat opus*: per la semantica di *corono*', *Lexis, poetica, retorica e comunicazione nella tradizione classica* 22 (2004) 419-429, 421 n. 13; Walther, *Proverbia* no. 8481b

[179] Just to give a small selection among the vast literature on the subject, on this work see K. Galinsky, *Ovid's Metamorphoses: An Introduction to the Basic Aspects* (Oxford 1975); J.B. Solodow, *The World of Ovid's Metamorphoses* (Chapel Hill 1988); F. Bömer, *Ovidius Naso, Metamorphosen: Kommentar*, 7 vols (Heidelberg 1969-1986); A. Keith, 'Sources and Genres in Ovid's *Metamorphoses* 1-5', *Brill's Companion to Ovid* 235-269; G. Rosati, 'Narrative Techniques and Narrative Structures in the *Metamorphoses*', *Ivi* 271-304; G. Tissol, 'The House of Fame: Roman History and Augustan Politics in *Metamorphoses* 11-15', *Ivi* 305-335.

[180] G. Dinkova-Bruun - J. Haig Gaisser - J. Hankins - F.T. Coulson - H.L. Levy - H. Anderson (edd.), *Catalogus Translationum et Commentariorum: Medieval and Renaissance Latin Translations and Commentaries*, vol. 12 (Toronto 2022); F.T. Coulson (ed.), *The "Vulgate" Commentary on Ovid's Metamorphoses: The Creation Myth and the Story of Orpheus* (Toronto 1991) 1-13; Id., 'Ovid's *Metamorphoses* in the School Tradition of France, 1180-1400: Texts, Manuscript Traditions, Manuscript Settings', *Ovid in the Middle Ages* 48-82; A. Keith - S. Rupp (edd.), *Metamorphosis: The Changing Face of Ovid in Medieval and Early Modern Europe* (Toronto 2007); Hexter, 'Ovid in the Middle Ages', 424-432.

being called "the Bible of the pagans")[181], and its ethical dimension, moralised through allegorism and visual representation[182].

Hostiensis cites the *Metamorphoses* 3 times. Below we will examine two of these quotations, while the third, which is combined with some verses by the Christian poet Maximianus, will be investigated later[183].

3.4.5.1. *The importance of facial cues to understand intentionality*

Making some considerations on inquisition, Hostiensis explains the importance for the inquisitors to look at the face of the inquired, in order to understand his interior dimension from external signs[184]:

> Item inquisitores debent inquisitum seu inquirendum respicere in vultu, quia per exteriora comprehenduntur interiora, infra de praesumptionibus ex studiis (X 2.23.3) et de clericis non residentibus c. i. (X 3.4.1) et ideo dictum est:
>
> > O quam difficile est crimen non prodere vultu[185].

The verse, which often circulated as a proverb in the Middle Ages[186], is borrowed from the second book of the *Metamorphoses*, which among the other stories narrates the myth of Callisto (401-530), one of Diana's maids who was raped by Jupiter. When Callisto re-joins Diana's train of nymphs, she fears the goddess's reaction and attempts to hide the deed committed by Jupiter[187]; however, she is almost betrayed by her blushing, which the poet comments with the sentence quoted by Hostiensis[188].

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[181] Hexter, 'Ovid in the Middle Ages', 424-425.

[182] Among the vast literature on this point see recently G.Z. Zanichelli, 'The Reception of *Ovidius moralizatus* in Northern Italy in the Late Middle Ages', *After Ovid: Aspects of the Reception of Ovid in Literature and Iconography*, ed. F. E. Consolino (Turnhout 2022) 189-211; J.C. Fumo, 'Commentary and Collaboration in the Medieval Allegorical Tradition', *A Handbook to the Reception of Ovid* 114-128.

[183] See *infra* §4.1.1.

[184] On the importance of external signs in inquisitorial practices, see P. Biller, "Deep Is the Heart of Man, and Inscrutable': Signs of Heresy in Medieval Languedoc', *Text and Controversy from Wyclif to Bale: Essays in Honour of Anne Hudson*, edd. H. Barr - A.M. Hutchison (Turnhout 2005) 267-280; I. Bueno, *Defining Heresy: Inquisition, Theology, and Papal Policy in the Time of Jacques Fournier* (Leiden 2015) 203-226.

[185] Hostiensis, *Summa Aurea* ad X.1.6, *de electione et electi potestate*, col. 114.

[186] Walther, *Proverbia* no. 19533.

[187] Cf. Ovid, *Ovid's Metamorphoses, Libri 1-5*, ed. W. S. Anderson (Norman 1997) 284.

[188] Ovid, *Metamorphoses*, ed. and trans. F. J. Miller - rev. G. Goold (LCL 42) 2:447: "Alas, how hard it is not to betray a guilty conscience in the face!".

3.4.5.2. *Active life and contemplative life*

Talking about the reasons why priests should not be married, Hostiensis makes a metaphor: when a cithara and a psaltery are together, they do not work well with each other. The sense is that a cleric should not be married because he cannot reconcile the active life of the marriage with the contemplative life of his ministry. The metaphor is borrowed from Peter Lombard's commentary on Davidic Psalms, where the theologian repeatedly delves into the allegorical meaning of the musical instruments usually mentioned by psalms. Following Peter, Henricus explains that the psaltery (accompanied by the canticle) represents contemplative life, while the cithara (or the timbrel) represents earthly actions[189]. Hence, Hostiensis says, as the two musical instruments do not work well together, the same happens for the two types of life that they symbolically represent:

> Ideo haec duo male concordant in clerico coniugato, quia nec cantare potest, nec operari, sicut deceret et ecclesiae expediret; alii sic exponunt: male convenit cithara, idest vita activa sive opus, cum psalterio, idest cum vita contemplative sive loquela, secundum hoc intellige, idest diversis, quia
>
> > Non bene conveniunt nec in una sede morantur
> > Maiestas et Amor[190].

This famous distich, which was often used as a proverb in the Middle Ages[191], comes from the second book of the *Metamorphoses*. The last myth narrated in this book is that of Europa (833-875), the Phoenician princess abducted by Jupiter. Explaining why the Greek god decided to relinquish his sceptre and to descend on earth in the form of a bull to seduce the girl, Ovid comments that ruling and loving often clash[192].

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[189] See Hostiensis, Hostiensis, *Summa Aurea* ad X.3.3. *de clericis coniugatis*, col. 863. The references are to Ps 80:3 ("Sumite psalmum, et date tympanum; psalterium jucundum cum cithara": "Take a psalm, and bring hither the timbrel: the pleasant psaltery with the harp") and Ps 91:2, 4 ("Bonum est confiteri Domino […] in decachordo, psalterio; cum cantico, in cithara": "It is good to give praise to the Lord […] upon an instrument of ten strings, upon the psaltery: with a canticle upon the harp"). Cf. Peter Lombard, *Commentarium in Psalmos Davidicos* (PL 191) col. 769 no. 2 and *Ivi* col. 857 no. 3. The latter is based on Augustine, *Enarrationes in Psalmos* (PL 36) col. 1174 no. 5, which also entered into the *Glossa Ordinaria* to the Bible: cf. *Biblia cum Glossa Ordinaria*, vol. 2 (Straßburg 1480-81; repr. Turnhout 1992), available at <dhb.thulb.uni-jena.de/receive/ufb_cbu_00000255> [accessed 22 Jun 2023] ad Ps 91:4 v. *In decachordo*, p. 577.

[190] Hostiensis, *Summa Aurea* ad X.3.3. *de clericis coniugatis*, col. 863-864.

[191] Walther, *Proverbia* no. 17277.

[192] Ovid, *Metamorphoses*, ed. Miller 2:846-47: "Majesty and love / do not go well together, nor tarry long in the same dwelling-place". On this dualism see C. Segal, 'Jupiter in Ovid's *Metamorphoses*', *Arion: A Journal of Humanities and the Classics* Third Series 9:1 (2001) 78-99, 82.

The distich is employed by Hostiensis to establish a metaphor within the metaphor, where majesty corresponds to the psaltery of contemplative life and love to the cithara of active life.

3.4.6. *Remedia Amoris*

Together with the other texts of Ovid's amatory poetry, the *Remedia Amoris* circulated widely in medieval Europe from the twelfth century onward[193], and were particularly influential within the francophone literary culture[194]. This work is a didactic poem in which Ovid, like a doctor who wants to cure a disease, tries to bring relief to his reader who is suffering from love feelings by offering a cure to his passions[195].

The *Remedia* are by far the poem most cited by Hostiensis, who resorts 5 times to this work: we have already examined one of them in combination with Juvenal's *Satires*[196]. The others are the following.

3.4.6.1. *Why one should confess promptly*

In the rubric on penance, when listing the requirements of the confession, Hostiensis says that this should be prompt (*festina*), i.e., it should be made as soon as possible after the commission of the sin. Among the various reasons for such promptness, he adduces a parallelism between the confession of sins and the principles of education of children given by the book of Sirach 30:12: "Bow down his neck while he is young, and beat his sides while he is a child, lest he grow stubborn, and regard thee not"[197]. Subsequently, Hostiensis explain that in this context the son should be understood as one's senses or as the sins one has committed, and "while he is a child" must be interpreted as "while the sin is still recent":

> Quinto, propter minorem ad convertendum habilitationem, Ecclesiasticus 30. (Sir. 30:12): "Curva cervicem filii tui in iuventute, et tunde

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[193] Tarrant, 'Ovid'. See Huygens, *Accessus ad auctores* 29-30.

[194] Desmond, 'Venus's Clerk' 165.

[195] For a recent account of the literature on this subject, see S.J. Green, 'Lessons in Love: Fifty Years of Scholarship on the *Ars Amatoria* and *Remedia Amoris*', *The Art of Love Bimillennial Essays on Ovid's Ars Amatoria and Remedia Amoris*, edd. R.K. Gibson - S.J. Green - A. Sharrock (Oxford 2006) 2-20, 14-16; P. Watson, '*Praecepta Amoris*: Ovid's Didactic Elegy', *Brill's Companion to Ovid* 141-165, 162-165.

[196] See *supra* §3.2.2.

[197] "Curva cervicem eius in iuventute, et tunde latera eius dum infans est, ne forte induret, et non credat tibi". I choose the Douay-Rheims Bible translation. Note that Hostiensis changes the first "eius" into "filii tui" for the sake of clarity.

latera eius dum infans est, ne forte induret, et non credat tibi". Et dicit "filii tui", idest sensus proprii vel peccati quod commisisti; "dum infans est", id est tempore primi motus vel dum recens est peccatum, versus:

> Qui non est hodie, cras minus aptus erit.
> Principiis obsta; sero medicina paratur,
> Cum mala per longas convaluere moras[198].

These verses cited here to strengthen Hostiensis's argument are borrowed the beginning of a section of the *Remedia Amoris* which contains Ovid's precepts on how to cure love passion. Here the poet stresses the utmost importance of acting promptly: love must be crushed at the first signs, before it grows irreparably[199]. Similarly, Hostiensis uses the triplet to mark the importance of acting promptly, thus establishing a parallelism between sins and erotic passion.

3.4.6.2. *The purpose of sacraments*

In the rubric about unrepeatable sacraments, Hostiensis makes some considerations on why sacraments were instituted in the first place. Following Peter Lombard[200], he identifies three reasons: humility (so that men could revere God), erudition (so that men could learn virtues through them), and exercise (because sacraments help men to avoid idleness and thus the devil). Regarding the last reason, Hostiensis models again his discourse on Peter Lombard in considering sacraments a useful and healthy exercise to escape idleness, to avoid bad thoughts, and to commit good deeds. The cardinal follows the theologian almost word by word[201], and subsequently he adds some canon law references and three poetic verses:

> [...] propter exercitationem, cum enim homo ociosus esse non debeat, proponitur ei sacramentis utilis et salubris exercitatio, per quam vanam et noxiam ociositatem declinet, immunda vel vana non cogitet vel loquatur, sed se ad bonam operationem exerceat, quia fides sine operibus mortua est [...].
> Ergo secundum Hieronimum "facito aliquid operis, ut te diabolus inveniat

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[198] Hostiensis, *Summa Aurea* ad X.5.38, *de poenitentiis et remissionibus*, col. 1762.

[199] Ovid, *Remedies for Love*, ed. Mozley 94: "He who is not ready to-day will be less so to-morrow". And shortly before (*Ivi* lines 91-92), stressing the medical metaphor which shapes the whole work: "Resist beginnings; too late is the medicine prepared, / when the disease has gained strength by long delay". Both the passages quoted also circulated as proverbs: Walther, *Proverbia* no. 24398 and no. 22420.

[200] Cf. Peter Lombard, *Sententiae in IV libris distinctae* (Grottaferrata 1971) IV, 1, 5.

[201] *Ivi* IV, 1, 5, 4, 11-16.

occupatum" (PL 22, 1078), de conse. dist. 5. Nunquam (D.5 de con. c.33). Nam ocium et voluptas arma sunt antiqui hostis ad miseras animas captivandas, supra de renunciatione Nisi cum pridem (X 1.9.10) § verum. Versus:

> Ocia si tollas, periere Cupidinis arcus.
> Et iterum:
> Quaeritur, Aegysthus quare sit factus sit adulter?
> In promptu causa est: desidiosus erat[202].

All the three verses come from the *Remedia Amoris*. The first one is extrapolated from the general rule that Ovid gives to his reader to defeat love (133-148): to keep oneself always occupied[203].

The distich, instead, is borrowed from one of the more specific precepts provided by the poet to break the attachment: after suggesting practicing law (!), Ovid recommends joining the army (151-166); the reason is again to keep the lover's mind busy. To stress the importance of this advice and to warn against the perils of idleness, the poet makes the mythical example of Aegisthus who, while the Argive heroes were busy fighting in the Trojan war, stood idle in Sparta and became Clytemnestra's lover[204].

Like in the previous passage that we have examined, Hostiensis establishes again a parallelism between love and sin: thus, Ovid's suggestion to occupy oneself as a remedy to love is paired with Peter Lombard's understanding of exercise as a way to avoid sins.

3.4.6.3. *Donations between consorts and female cosmetics*

In the rubric regarding the cases of valid donations between consorts[205], Hostiensis mentions the money given by the husband to his wife to buy cosmetics, on the condition that this would not make the wife

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[202] Hostiensis, *Summa Aurea* ad X.1.16, *de sacramentis non iterandis*, col. 217-218.

[203] Ovid, *Remedies for Love*, ed. Mozley 139: "Take away leisure and Cupid's bow is broken". Like many other poetic verses, it also circulated as a proverb: Walther, *Proverbia* no. 20513.

[204] Ovid, *Remedies for Love*, ed. Mozley 161-2. Cf. *Ivi*, ed. Henderson 63: "Is it asked why Aegisthus became an adulterer? / The reason is near at hand: he was a sluggard". Like the previous verse, also this distich is attested as a proverb by Walther, *Proverbia* no. 23191.

[205] These donations, in fact, were usually prohibited by Roman law, with the admission of certain exceptions. On the topic in the Middle Ages, see N. Laurent-Bonne, *Aux origines de la liberté de disposer entre époux* (Issy-les-Moulineaux 2014); Id., 'Why prohibit donations between husband and wife in medieval Europe?', *Frontiers of Law in China* 7:4 (2012) 644-655; more generally, see O. Cavallar - J. Kirshner, *Jurists and Jurisprudence in Medieval Italy: Texts and Contexts* (Toronto 2020) 738-758 and the bibliography cited there.

wealthier. In fact – remarks Henricus – as Ovid says, in the chamber of a woman one will find many beauty products[206]; moreover – the canonist adds – for the validity of the donation it does not matter if these cosmetics were bought with the woman's money or with an equal amount from the husband's:

> Item valet si ad unguenta emenda vir dederit uxori, cum uxor locupletior non fiat vel ad alios colores emendos; nam in cameris mulierum "pixides invenies et rerum mille colores", ut dicit Ovidius, nec refert utrum eandem pecuniam vel tantundem de sua ibidem erogaverit, ut ff. eo. Quod autem § si maritus (Dig. 24.1.7.1)[207].

The verse is taken from a part of the *Remedies* where Ovid suggests focusing on the worst physical aspects of the beloved in order to be cured from the love passion; and, since love deceives the eye, one should arrive unexpectedly to see her face without makeup, while she is still at her table with her awfully smelly cosmetics.

In Hostiensis's *Summa*, the quotation does not seem to have a real practical purpose, but rather to embellish the reasoning.

3.4.6.4. *Poverty as a cause of impossibility*

In the rubric on rescripts, Hostiensis comments upon X 1.3.13, which distinguishes between two different causes of impossibility: the *impotentia iuris* (e.g., infamy or any other lawful impediment) and the *impotentia facti* (e.g., death or an unavoidable necessity). Regarding the latter, Hostiensis makes the example of someone who cannot give back the money they owe because of their state of poverty:

> De facto enim non potest aliquoties aliquis solvere quod debet, quia "non habet unde suum paupertas pascat amorem", unde escusare videtur etsi iuraverit[208].

To make his point, the canonist quotes a verse from the *Remedia Amoris* which circulated also as a proverb[209]. Among his other recommendations, Ovid observes that being poor is a great way to avoid wanton love (741-749), for this is fed on riches and is precluded to the

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[206] Ovid, *Remedies for Love*, ed. Mozley 353: "boxes you will find, and a thousand colours". Cf. *Ivi*, ed. Henderson 86.

[207] Hostiensis, *Summa Aurea* ad X.4.20, *de donationibus inter virum et uxorem*, col. 1426.

[208] Hostiensis, *Summa Aurea* ad X.1.3, *de rescriptis*, col. 78.

[209] Walther, *Proverbia* no. 17844.

poor[210]. Yet, the poet adds, it is not worthwhile to wish to be poor for that[211]!

Hostiensis borrowed the verse to excuse the poor's impossibility to fulfil their obligation (unless, the canonist adds, they took an oath).

3.5. *Virgil*

It is not surprising to find in the *Summa* several citations of Virgil, the Roman poet par excellence: in the Middle Ages, he represented the apex of the European literary canon[212], and his *opera maiora* (*Aeneid*, *Eclogues*, *Georgics*) had been continuously the cornerstone of literary education and grammar teaching in schools since their own time, constituting the standard textbooks to learn Latin[213]. After a veritable renaissance of his tradition in the Carolingian era[214] and a persisting success during the twelfth century[215], Virgil had obviously been included in the canon of the *auctores*[216]. At Hostiensis's time, however, both in poetry and in teaching the popularity of the Mantuan poet was declining in favour of other authors, like Ovid[217].

[210] Ovid, *Remedies for Love*, ed. Mozley 749: "Poverty has no means to feed its passion".

[211] *Ivi* 750: "Non tamen hoc tanti est, pauper ut esse velis".

[212] C. Martindale, 'Introduction: "The classic of all Europe"', *The Cambridge Companion to Virgil*, ed. Id. (2nd ed., Cambridge 2019) 1-19.

[213] M. Geymonat, 'The transmission of Virgil's works in Antiquity and the Middle Ages', *A Companion to the Study of Virgil*, ed. N. Horsfall (Leiden 1995) 293-312; *La fortuna di Virgilio nei secoli: Atti del Colloquium Vergilianeum tenutosi presso l'Istituto universitario di Magistero di Catania il 19 maggio 1981* (Catania 1981); L.D. Reynolds, 'Virgil', *Texts and Transmission* 433-436, 433; J.M. Ziolkowski - M.C.J. Putnam (edd.), *The Virgilian Tradition: The First Fifteen Hundred Years* (New Haven 2008); D. Comparetti, *Vergil in the Middle Ages* (London 1966; repr. Princeton 2021).

[214] L. Holtz, 'La redécouverte de Virgile aux VIIIe et IXe siècles d'après les manuscrits conservés', *Lectures médiévales de Virgile: Actes du colloque de Rome (25-28 octobre 1982)* (Rome 1985) 9-30; Id., 'Les manuscrits Carolingiens de Virgile (Xè et XIè siècles)', *La Fortuna di Virgilio: Atti del Convegno internazionale (Napoli 24-26 ottobre 1983)* (Napoli 1986) 127-149.

[215] B. Munk Olsen, 'Virgile et la renaissance du XIIe siècle', *Lectures médiévales de Virgile* 31-48, now in Id., *La réception* 55-69; Id., 'La réception de la littérature classique grecque et latine' 169.

[216] See Conrad of Hirsau, *Dialogus* 56-58, lines 1500-1582. Cf. Ziolkowski - Putnam, *The Virgilian Tradition* 739-744.

[217] P.G. Schmidt, 'Virgilio e l'epica latina del Duecento', *La Fortuna di Virgilio*, 153-165, 153-155; L.-J. Bataillon, 'Virgile chez les maîtres Parisiens (Intervention)', *Lectures médiévales de Virgile* 143; P. Bourgain, 'Virgile et la poésie latine du bas Moyen Âge', *Ivi* 167-187, 167.

In his *Summa*, the canonist quotes all the 3 major works of Virgil: the *Aeneid* 3 times, the *Eclogues* 1, and once the *Georgics*. We have already examined this last citation, as it appears in the last verse of the poem given by Hostiensis in his introduction to the *Summa*[218].

3.5.1. *Aeneid*

Between the ninth and twelfth century, Virgil's epic *maius opus*, which tells Rome's mythical origins from Aeneas of Troy, was the most copied classical work in the Latin West[219], and it represented the fundamental text of this poet in the schools. Together with the Latinised versions of Homer, the *Aeneid* was also the major source of knowledge of the Matter of Troy[220]. Moreover, this poem became a major model for medieval epic poetry: a role that it still exerted in the thirteenth century[221], when the popularity of Virgil was otherwise declining.

Out of 5 quotations from Virgil in the *Summa Aurea*, 3 come from this work. While two will be analysed now, the third will be examined later, because it is rephrased and merged with a longer passage from the *Alexandreis* of Walter of Châtillon, addressing the problem of the impartiality of the judge[222].

3.5.1.1. *Public knowledge: repute*

In the rubric on the cohabitation between clerics and women, Hostiensis draws a differentiation between the various types of public knowledge of a fact, including notoriety, *fama* (repute), and rumours[223]. Subsequently, he examines the different types of *fama*, including that which spreads among people, defined as a slanderous insinuation or common accusation based only on suspicion and proceeding from an uncertain author. The canonist stresses how kind of repute by itself does not prove anything, from which it is said that "repute flies":

> […] dicitur quod aliud est fama, aliud manifestum, aliud notorium, aliud
> rumor, aliud occultum omnino, aliud penem occultum. Fama vero duplex est,

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[218] See *supra* §2.1.

[219] Munk Olsen, 'La popularité des textes classiques' 169.

[220] Cf. Conrad of Hirsau, *Dialogus* 56-58, lines 1556-1571.

[221] Schmidt, 'Virgilio'; Bourgain, 'Virgile'; J. Haynes, *The Medieval Classic: Twelfth-century Latin Epic and the Virgilian Commentary Tradition* (New York 2021).

[222] See *infra* §5.8.1.

[223] On these concepts and the differences between them, see Migliorino, *Fama e infamia*, especially 45-57.

quia alia est quae habetur de homine, alia inest fama que habetur inter homines. […] Famam autem quae habetur inter homines, sic describes: fama est publica seu famosa insinuatio vel proclamatio communis ex sola suspicione et incerto authore proveniens, ut de cons. di. 4. Sanctum est (D.4 de con. c.36). Haec per se nihil probat, unde dicitur "fama volat", ideo non est ei credendum de facili[224].

The words cited here come from the third book of the *Aeneid*, which contains Aenea's tale to Dido of the wandering of the Trojan survivors to the Mediterranean. He explains that:

Fama volat pulsum regnis cessisse paternis Idomenea ducem, desertaque litora Cretae […][225].

This news convinced the hero and his companions to sail to Crete and build there a city called Pergamum, which soon they will desert[226]. In the Virgilian passage, however, the meaning of word *fama* is "rumour", or "news"[227], while in Hostiensis it has the technical legal meaning of "repute".

3.5.1.2. *Adultery and admissibility of accusers*

In the rubric on adultery and rape, Hostiensis enlists those who can be admitted as accusers in a case of adultery. The canonist asserts that before the ecclesiastical judge, only the husband of the adulterer can be admitted; before the civil judge, however, the father of the woman can be also admitted, and he is to be preferred if he shows that the husband is disreputable or if he accuses him of being colluded with his wife. Apart from these cases, however, the husband is to be preferred regardless of any other circumstance, because he is likely more inclined to prosecute the accusation, since he is the subject most injured by the crime. Thus, Hostiensis proposes, almost word by word, the position of Ulpian in Dig. 48.5.2.8[228]:

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[224] Hostiensis, *Summa Aurea* ad X.3.2, *de cohabitatione clericorum et mulierum*, col. 859.

[225] Virgil, *Aeneid*, ed. and trans. H. Rushton Fairclough - rev. G. Goold (LCL 63) III:121-22: "A rumour flies that Idomeneus, the chieftain, has left his father's realm for exile, that the shores of Crete are abandoned […]".

[226] Cf. N. Horsfall, *Virgil, Aeneid 3: A Commentary* (Leiden 2006) 123-125.

[227] Cf. M.B. Ogle, 'Dame Gossip's Rôle in Epic and Drama', *Transactions and Proceedings of the American Philological Association* 55 (1924) 90-119, 92; Horsfall, *Virgil, Aeneid* 124.

[228] On this subject, cf. F. Giumetti, '*Accusandi necessitas incumbet domino servum suum.* Questioni pregiudiziali in caso di *accusatio adulterii*', *JUS-online* 5 (2020) 11-49, 17-19.

Quis admittatur ad accusatione. Et quidem si accusetur coram ecclesiastico iudice, nullus admittitur, nisi maritus […]. Sed si accusatio fiat coram civili, tunc admittitur maritus prae omnibus, nam maritum genitalis tori iudicem esse oportet […]. Pater mulieris praeferendum est nisi pater doceat generum infamem aut arguat eum magis colludere cum uxore quam animo accusare, alias autem praefertur maritus, ut dictum est qui propensiore iniuria et maiori dolore motus accusationem exequitur, etiamsi pater primo libellos obtulerit. Nec distinctio teneat matrimonium aut non, sit vulgaris uxor vel non: "nec enim soli Atrides uxores suas amant". Inde Virgilius:

Coniuge praecepta non solum tangit Atrides[229].

Here we have a double poetic citation. The first is a quote of another passage by Ulpian on the *lex Iulia de adulteriis*, where he asserts that the husband can accuse the wife of adultery regardless of whether she is a lawful wife or not (respectively *uxor iusta* and *iniusta*). In support, the Roman jurists cites and translates from Greek a verse from the *Iliad* (9:340), in which Achilles, resented by being deprived of Briseid (who, as a concubine, here is compared to an *uxor iniusta*), exclaims that not only the sons of Atreus love their wives[230], thus lamenting his damage.

The second citation, instead, is the rendition of the same dialogue by Virgil in his *Aeneid* [231]. More precisely, the verse extrapolated by Hostiensis (138) cuts and merges two different sentences of the Latin poem:

[…] sunt et mea contra
fata mihi, ferro sceleratam exscindere gentem
coniuge praerepta; nec solos tangit Atridas
iste dolor, solisque licet capere arma Mycenis[232].

This further quotation, certainly redundant in itself, can be explained by the necessity to provide the readers with a familiar poetic reference to

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[229] Hostiensis, *Summa Aurea* ad X.5.16, *de adulteriis et stupro*, col. 1573.

[230] D.48.5.14(13).1: "Plane sive iusta uxor fuit sive iniusta, accusationem instituere vir poterit: nam et Sextus Caecilius ait, haec lex ad omnia matrimonia pertinet, et illud Homericum adfert: nec enim soli, inquit, Atridae uxores suas amant. οὐ μόνοι φιλέουσ' ἀλόχους μερόπων ἀνθρώπων Ἀτρεῖδαι". On this passage see E. Pezzato, 'L'*amor* delle fonti giuridiche romane', *JUS-online* 6 (2021) 173-202, 178-81, and R. Fiori, 'La struttura del matrimonio romano', *Bullettino dell'Istituto di Diritto Romano 'Vittorio Scialoja'*, *Quarta serie* 11 (2011) 197-233, 203-204; T.A. J. McGinn, 'Concubinage and the *Lex Iulia* on Adultery', *Transactions of the American Philological Association (1974-2014)* 121 (1991) 335-375, 368 n. 149.

[231] "Taken the bride, not only the sons of Atreus are touched". See Virgil, *Aeneid*, ed. and trans. H. Rushton Fairclough - rev. G. Goold (LCL 64) 9:138.

[232] *Ivi* IX:136-139: "I too have my own fate to meet theirs–to cut down with the sword a guilty race that has robbed me of my bride! Not only the sons of Atreus are touched by that pang, not only Mycenae has the right to take up arms".

the otherwise unknown verse cited by Ulpian, since the other Latin texts of the Matter of Troy (like the *Ilias Latina* and the accounts of Dares Phrygius and Dictys Cretensis)[233] do not contain such passage.

Both Ulpian and Hostiensis use this quotation to explain that the man suffers a damage even in the case of *uxor iniusta*, and therefore the preference accorded to him by the law in accusing the woman.

3.5.2. *Eclogues*

Virgil's *Eclogues*, which freely imitated Theocritus's Greek idylls and deal with pastoral life and love, were widely studied in the schools and represented the model for the Christian and medieval pastoral poetry[234]. The poem is cited once by Hostiensis in his *Summa*.

3.5.2.1. *The unification of monasteries*

In the rubric dedicated to religious houses, after examining how to determine to which bishop a church or a monastery is subordinated, Hostiensis enlists in which cases two ecclesiastical bodies should be merged into one, giving four reasons: circumstances of time, proximity of two churches, poverty, and religious discrepancy. Regarding the second case, the canonist makes a poetic example:

> Sunt autem 4. causae quae unionem inducunt. […] Secunda duarum ecclesiarum vicinitas, ut in d. c. Cum tempore. Inde versus:
>
>> Mantua ve miserae nimium vicina Cremonae.
>
> Quia propter solam vicinitatem fuit a quodam Imperatore submissa Cremonae[235].

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[233] See *Ilas Latina: Text, Interpretation, and Reception*, edd. M.J. Falcone - C. Schubert (Leiden 2022); *Dictys Cretensis Ephemeridos belli troiani libri sex*, ed. F. Meister (Leipzig 1872); *Daretis Phrygii De excidio Troiae historia*, ed. Id. (Leipzig 1873). On the relationship between these works and Virgil, see S. Spence, '*Felix Casus*: The Dares and Dictys Legends of Aeneas', *A Companion to Vergil's Aeneid and its Tradition*, edd. J. Farrell - M.C.J. Putnam (Chichester 2010) 133-146.

[234] J. Fontaine, 'La conversion du christianisme à la culture antique: la lecture chrétienne de l'univers bucolique de Virgile', *Bulletin de l'Association Guillaume Budé* 1 (1978) 50-75; A. Schäfer, *Vergils Eklogen 3 und 7 in der Tradition der lateinischen Streitdichtung: eine Darstellung anhand ausgewählter Texte der Antike und des Mittelalters* (Frankfurt am Main 2001). For instance, the *Eclogues* clearly influence the style and the setting of the *Ecloga Theoduli* that I will examine *infra* §5.7.

[235] Hostiensis, *Summa Aurea* ad X.3.36, *de religiosis domibus*, col. 1152.

The quotation comes from the ninth Eclogue, which represents Virgil's lamentation regarding the centuriation of the territory of Mantua. In fact, after the end of the civil war against the Cesaricides, as it was customary the victors arranged a distribution of land to their demobilised veterans, confiscating it from the city of Cremona which had sided with the republicans. However, since this territory proved to be insufficient, the triumvirs proceeded to seize also the land of the city of Mantua, including that belonging to Virgil's family, despite the fact that this city had not been partaking into the civil war[236]. In the Eclogue the facts are narrated from the perspective of two herdsmen, Lycidas and Moeris, who discuss their fate and that of Menalcas, a singer who, like Moeris, has been dispossessed by the centuriation. In this context, the shepherds refer Menalcas's (and indirectly Virgil's) petition to Alfenus Varus to get his land back (27-29)[237], from which the verse quoted by Hostiensis is extrapolated[238].

It is noteworthy that Hostiensis dismissively calls Augustus "a certain emperor"[239] and mistakenly says that Mantua was submitted to Cremona, which makes the parallelism with the unification of two churches possible.

4. *Citations of late antique poets*

In contrast with the abundance of reference to classical Roman poets, in the *Summa Aurea* we can find quotations from only two late antique authors (5%), both being Christian poets with a strong moralising and ethical dimension: Maximianus and Prosper of Aquitaine.

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[236] Cf. G. Libertini - G. Petrocelli, 'Le due centuriazioni di MANTVA', *Rassegna Storica dei Comuni* 182-184 (2014) 1-18; E. Mutti Ghisi, *La centuriazione triumvirale dell'agro mantovano* (Brescia 1981) 12-13.

[237] See L. Wilkinson, 'Virgil and the Evictions', *Hermes* 94:3 (1966) 320-324, 321; A. Becker, 'Poetry as Equipment for Living: A Gradual Reading of Vergil's Ninth Eclogue', *Classics Ireland* 6 (1999) 1-22, 10-11; A. Perutelli, 'Bucolics', *A Companion to the Study of Virgil*, 27-62, 59; Virgil, *Eclogues*, ed. W. Clausen (Oxford 1994) 275-276; H. Casanova-Robin, *Virgile: Bucoliques*, ed. and trans. A. Videau (Paris 2014) 234.

[238] Virgil, *Eclogues*, ed. and trans. H. Rushton Fairclough - rev. G. Goold (LCL 63) 9:28: "Mantua, alas! too near ill-fated Cremona".

[239] In this regard, Hostiensis is much more accurate in Id., *Commentaria*, V fol. 88vb no. 8, where he provides the historical context of the same verse, cited in another occasion.

4.1. *Maximianus, Elegies*

The sixth-century Latin elegiac poet Maximianus was very influential among the twelfth- and thirteenth-century Western European writers. His *Elegies* – which narrate the author's erotic life from his youth to his death, dealing with the topics of old age and infirmity[240] – were a core part of the elementary education in Latin schools as an ethical example of how to avoid carnal desires in old age[241]. They were included – like another work cited by Hostiensis, the *Ecloga Theoduli*[242] – in the *Liber Catonianus* or *Sex Auctores*: an anthology of six writers who in the thirteenth century formed the basis of the educational curriculum because of their moral didacticism [243].

4.1.1. *How a priest should behave in his household*

In the rubric on the time of ordinations of priests, Hostiensis gives some advice on the balanced attitude that a prelate should show towards others. His considerations here are modelled on D.95 c.10, which deals with the physical position which clerics of the higher orders are to take when in presence of their subordinates[244]. If in church, the canon says, the bishop must seat above the others, while in the household he should acknowledge the other priests as peers. Hostiensis takes almost literally the same passage and adapts it to priests in general rather than solely

[240] J. Uden - I. Fielding, 'Latin Elegy in the Old Age of the World: The Elegiac Corpus of Maximianus', *Arethusa* 43:3 (Fall 2010) 439-460, 440.

[241] *Gabriele Zerbi, Gerontocomia: On the Care of the Aged, and Maximianus, Elegies on Old Age and Love*, ed. and trans. L. R. Lind (Philadelphia 1988) 313-14. See also Huygens, *Accessus ad auctores* 20.

[242] See *infra* §5.7.

[243] Apart from Maximianus and Theodolus, the *Book of Cato* included also writings of Cato, Avianus, Statius, and Claudian. See M. Boas, 'De Librorum Catonianorum historia atque compositione', *Mnemosyne, New Series* 42 (1914) 17-46; *Latin Schooltexts of the Later Middle Ages: Translated Selections*, edd. and transs. I. Thomson - L. Perraud (Lewiston 1990) 5-48; Y.-F. Riou, 'Quelques aspects de la tradition manuscrite des Carmina d'Eugène de Tolède: du *Liber Catonianus* aux *Auctores octo morales*', *Revue d'Histoire des Textes* 2 (1972) 11-44, 26-30; Gillespie, 'From the twelfth century to c. 1450' 153-160.

[244] D.95 c.10: "Episcopus in ecclesia in consessu presbiterorum sublimior sedeat. Intra domum uero collegam se presbiterorum esse cognoscat". This canon is often attributed to the fourth council of Carthage of 398, but has been proved to originate from Gallic collection of disciplinary canons produced in *c.*475 by Gennadius of Marseilles, known as *Statuta ecclesiae antiqua*: see C. Munier, *Les Statuta ecclesiae antiqua: Édition-Études critiques* (Paris 1960) 79 c. 2 and 209-236; Id. - C. de Clercq (edd.), *Concilia Galliae* (CCL 148; Turnhout 1963).

bishops; however, the canonist warns, one must be careful to avoid that this equal treatment could lead to disregard of his standing in the eyes of the others. Hence, a middle ground must be kept, as discretion is known to be the mother of all virtues:

> Ut praelatus in ecclesia sublimior aliis sedeat, intra domum vero collegam presbyterorum se esse agnoscat, 90. dist. Episcopus in ecclesia (D.95 c.10), sed caveat, ne ex conversatione aequali nascatur contemptio dignitatis, ff. de officio praesidis Observandum (Dig. 1.18.19), medium ergo tenendo, cum discretione cuncta peragat, quae omnium virtutum noscitur esse mater, i. q. 5. Praesentium (C.1 q.5 c.3), infra de officio custodis c. i. (X 1.27.1) § lampades. Unde versus:
>
>> Cum media semper gaudebam ludere forma,
>> Major enim mediis gratia rebus inest.
>
> Et illud:
>
>> Inter utrumque vola, medio tutissimus ibis[245].

Here Hostiensis includes two different poetic citations. The first, a distich, is from Maximianus's first elegy, the largest poem of the collection, in which the author "delivers an explicitly autobiographical lament of almost three hundred lines on the ills of the aged body"[246]. The verses are taken from the first section, in which after setting up his persona (1-6) Maximianus commemorates the erotic deeds of his youth (7-100)[247] In this context, the poet explains how he scorned women who were not perfect, avoiding those too slender or too fat, too short or too tall, thus sticking to a middle standard:

> Cum media tantum dilexi ludere forma,
> Major enim mediis gratia rebus inest[248].

In his discourse on priestly behaviour, Hostiensis takes the distich to stress the virtue of moderation and the Latin concept of *aurea mediocritas*. The same role is played by the third verse cited which, instead, is a re-elaboration from the second book of Ovid's *Metamorphoses*, where the poet continues narrating the story of Phaethon, son of the sun-god Helios, which had begun in the first book. The sentence merges from two different recommendations that Helios gives to Phaethon, who was about to begin

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[245] Hostiensis, *Summa Aurea* ad X.1.11, *de temporibus ordinationum*, col. 186.

[246] Uden - Fielding, 'Latin Elegy' 441. For an analysis of this elegy, see *Ivi* 442-450. Cf. M. Roberts, 'Introduction', Maximianus, *The Elegies of Maximianus*, ed. and trans. A. M. Juster (Philadelphia 2018) 1-14, 3.

[247] Uden - Fielding, 'Latin Elegy' 443-444.

[248] Maximianus, *Elegies* 1:81-2: "I loved to frolic only with a middling figure– / for the greater charm is in the midsized things". The original distich reads "tantum dilexi" instead of Hostiensis's "semper gaudebam" ("I always delighted in").

his disastrous attempt to drive the sun's chariot[249]; the first is to keep a middle path and to not fly too low nor too high, because that would either burn the earth or the heavens:

> Medio tutissimus ibis[250].

The second advice is to steer the wheels between two different constellations to keep the chariot on track: Serpens on the right, Ara on the left:

> Inter utrumque tene[251].

Like in Hostiensis, the two verses were often merged into one single proverb, as a general advice of moderation[252].

4.2. *Prosper of Aquitaine, Epigrams*

The Christian poet Prosper of Aquitaine (*c*.390-*c*.455)[253] wrote a collection of 106 *Epigrammata*, each of which is based on a *sententia* of his master, Augustine of Hippo. This work was very popular in the Latin West, as proved by its high number of surviving manuscripts[254]. In medieval schools Prosper was studied as both a source to access to the Augustinian thought and for his ethical value[255].

4.1.2. *Moral considerations: faith, hope, charity*

Within the rubric on penance, in a digression of moral tenor Hostiensis explains that four are the "pillars of the celestial building"[256]; subsequently, he continues by enlisting the three theological virtues (faith, hope, and charity) which he calls the "wings necessary for flying". In this way, he uses a terminology that comes from Augustine, but that the latter

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[249] Cf. Ovid, *Metamorphoses*, ed. Anderson 244.

[250] Ovid, *Metamorphoses*, ed. Miller 2:137: "In the middle is the safest path".

[251] *Ivi* 2:140: "Hold on between the two".

[252] "Fly between the two; the middle is the safest path." See also Walther, *Proverbia* no. 12631.

[253] See A. Hwang, *Intrepid Lover of Perfect Grace: The Life and Thought of Prosper of Aquitaine* (Washington 2009).

[254] D.M. Cappuyns, 'Le premier représentant de l'augustinisme médiéval, Prosper d'Aquitaine', *Recherches de théologie ancienne et médiévale* 1 (1929) 309-337, 335.

[255] See Huygens, *Accessus ad auctores* 23; Conrad of Hirsau, *Dialogus* 31-32, lines 630-668.

[256] See *infra* §5.2.1.

had applied only to the precept of charity: i.e., love of God and one's neighbour[257], a concept that is also reprised by Hostiensis:

> Adhuc tamen alae necessariae sunt ad volandum, alioquin volare non poteris, et sunt hae: fides recta et vera; spes firma ex uno latere; charitas geminata ad Deum et proximum ex altero, inde Prosper:
>> Unde istis geminis virtutum qui caret alis,
>> Coelorum ad regnum non habet unde volet[258].

At the end of the passage, the canonist strengthens the influence of its Augustinian model by citing a distich from Prosper's epigram on the virtue of charity, which adopts the same definition of his master and uses the same metaphor of the wings[259].

5. *Citation of medieval poets*

Even if most of the poetic citations in Hostiensis's *Summa* come from classical poets, it is also possible to find a significant number of verses borrowed from French medieval authors. I have counted 10 of these quotations, corresponding to 24% of the total, most of which can be dated between the eleventh and thirteenth century. As we will see, most of these poets were studied in schools like their ancient counterparts, while others seem to have had a popular circulation.

It is noteworthy that a significant part of these verses belongs to poets of the so-called "Loire school": a regional literary milieu of central France to which clerical poets like Marbod of Rennes (c. 1035-1123) and Hildebert of Lavardin (c. 1056-1133) belong[260].

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[257] Augustine, *Enarrationes in psalmos* (PL 37) 149, 5: "Quae sunt duae alae charitatis? Dilectio Dei, et proximi". It is noteworthy that in the Hiberno-Latin theological tradition the same metaphor is used to indicate the cardinal virtues as "the four wings of the soul": D. Macmillan McDougall, *Studies in the Prose Style of the Old Icelandic and Old Norwegian Homily Books* (PhD Thesis; University College London 1983) 2:477; J.E. Cross - T.D. Hill, *The Prose Solomon and Saturn and Adrian and Ritheus* (Toronto 1982) 150 no. 27.

[258] Hostiensis, *Summa Aurea* ad X.5.38, *de poenitentiis et remissionibus*, col. 1818.

[259] "Whence who lacks these paired wings of virtues, / Has no way of flying to the kingdom of heavens". See Prosper of Aquitaine, *Epigrammatum ex sententiis S. Augustini liber unus* (PL 51) col. 498-532, VII, 501; more recently, Id., *Liber epigrammatum*, ed. G.A. Horsting (Berlin-New York 2016).

[260] Cf. W. Verbaal, 'Loire Classics: Reviving Classicism in some Loire Poets', *Interfaces: A Journal of Medieval European Literatures* 3 (2018) 109-128. It is worth to note the deep influence of the Ovidian tradition on the poets of the Loire school: G.A. Bond, *The Loving Subject: Desire, Eloquence, and Power in Romanesque France* (Philadelphia 1995).

5.1. *Anonymous verses transmitted by the* Carmina Burana

For not all the poems cited by Hostiensis we know the exact author: there are some anonymous verses which are not proverbs or mnemonic maxims, but rather authorial verses whose paternity is lost. 4 of these anonymous quotations can be also found in the *Carmina Burana*, a manuscript composed around 1230, possibly in the Augustinian abbey of Novacella/Neustift, and discovered in the German monastery of Benediktbeuern[261]. The manuscript is an anthology of Latin satirical poems and songs, mostly written by Goliards but containing also poetic works of authors both known and unknown, composed between the eleventh and the early thirteenth century all over Western Europe[262]. The presence of these verses in the *Carmina Burana* testifies to both their authorial origin and their popularity at Hostiensis's time, and that is why I have decided to include them in this study.

We have already encountered one of the poems which appear both in Hostiensis and in the *Carmina Burana* in our examination of Horace[263], and I will analyse another one, attributed to Romée de Villeneuve[264], later in our study. Here, instead, I will delve briefly into other two quotations that can be traced back to this tradition: one is a short poem of uncertain author and the other one seems to be a popular distich.

5.1.1. *Public knowledge: rumour*

Similarly to what we have seen for the concept of *fama*[265], in the rubric on the cohabitation between clerics and women Hostiensis gives a definition of rumour as a form of public knowledge[266]. This consists of a specific insinuation based only on suspicion and proceeding from an uncertain author. For this reason, Hostiensis says, a rumour does not prove anything and produces only a presumption; however, after citing

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[261] Different editions can be found in: Hilka - Schumann, *Carmina Burana*; P. Diemer - D. Diemer - B.K. Vollmann (edd.), *Carmina Burana: Texte und Übersetzung; mit den Miniaturen aus der Handschrift und einem Aufsatz* (Frankfurt am Main 1987); Traill, *Carmina Burana*.

[262] See the introduction given by Traill, *Carmina Burana*, vii-xxix.

[263] See *supra* §3.1.2.

[264] See *infra* §5.6.

[265] See *supra* §3.5.1.1.

[266] See C. Gauvard 'Rumeur et stéréotypes à la fin du Moyen-Âge', *La circulation des nouvelles au Moyen-Âge* (*Actes des congrès de la Société des historiens médiévistes de l'enseignement supérieur public* 24 (1993)) 157-177; M. Billoré - M. Soria (edd.), *La Rumeur au Moyen Âge. Du mépris à la manipulation Ve-XVe siècle* (Rennes 2011). Cf. also Migliorino, *Fama e infamia*, 49, 54.

some poetic verses, the canonist warns against the perils of giving too much credit to such rumours, dismissing the trustworthiness of the popular voice:

> Rumor est particularis insinuatio ex sola suspicione et incerto authore preveniens […] et hoc non probat, sed solam praesumptionem inducit, unde illud:
>
> > Rumor de veteri faciet ventura tueri
> > Cras poterunt fieri turpia sicut heri.
>
> Sed talis rumor non est multum prosequendus, quia vanae voces populi non sunt audiendae[267].

The verses cited here come from a quite famous poem of uncertain author on the fall of Troy, beginning "*Pergama flere volo*", much copied in the twelfth and thirteenth century[268], which found its way in the *Carmina Burana* among the love songs of international circulation (56-121)[269], as CB 101. Here the couplet is apostrophising Helen: as cause of the war, it says, the woman will be forever blamed for her actions, even if she were to conduct the rest of her life admirably (15-21), because her past will shed suspicion on her future behaviour:

> Rumor de veteri faciet ventura timeri
> Cras poterunt fieri turpia sicut heri[270].

The distich can be often found as a proverb in the Middle Ages[271], and Hostiensis uses it to refer to the potential destructive consequences of a rumour.

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[267] Hostiensis, *Summa Aurea* ad X.3.2, *de cohabitatione clericorum et mulierum*, col. 861. The couplet is also quoted by Id., *Commentaria*, I fol 61ra, no. 27.

[268] The poem was edited by Migne in PL 142, col. 1205-1210, and attributed to Berno, abbot of Reichenau (*c*.978-1048), but it has been sometimes also attributed to Hildebert of Lavardin: H.L.D. Ward, *Catalogue of Romances in the Department of Manuscripts in the British Museum*, vol. 1 (London 1883) 27. See also W.B. Sedgwick, '*Pergama flere volo*', *Speculum* 8:1 (1933) 81-82, and A. Boutemy, 'Le poème *Pergama flere volo* et ses imitateurs du XIIe siècle', *Latomus* 5 (1946) 233-244. More recently, Traill, *Carmina Burana*, vol. 1 564-565 no. 101.

[269] P. Dronke, *Medieval Latin and the Rise of European Love-Lyric*, vol. 1 (Oxford 1965) 564.

[270] Traill, *Carmina Burana* 101:18: "Rumors about the past will create fears for the future / Yesterday's misdeeds can be repeated tomorrow".

[271] Walther, *Proverbia* no. 26973.

5.1.2. *Penance, contrition, and grace*

In his rubric about penance, Hostiensis delve deeply into contrition, which is the inner repentance for sins[272], and asks whether the mere contrition without confession is sufficient or not the remit sins. In the twelfth and thirteenth century this issue – which had been framed but not solved by Gratian in the *Tractatus de penitentia* of his *Decretum*[273] and by Peter Lombard in his *Sententiae*[274] – was much debated in canon law and penitential theology[275], dividing scholars among "contritionists" and "confessionists".

Hostiensis refers all the diverging theological opinions on the point, including the most common among the masters, based on Ambrose and Augustine, according to whom it is God's grace which removes the sin through contrition, which therefore makes confession not essential. However, Hostiensis eventually takes a confessionist stance, concluding that, as the contrition of heart precedes the grace, likewise the external satisfaction must precede the contrition:

> Illud autem quaeri consuevit, utrum sola contritio sine confessione peccatum deleat, super quo variae sunt opiniones. […] Haec ultima opinio celebrior est et hanc teneas, non tamen intelligas quod ipsa contritio peccata dimittat, sed in ipsa contritione gratia Dei condonat omnia liberaliter, unde Ambrosii verbum, idest "filius Dei tollit peccata": de poen. dist. i. (D.1 de pen.), verbum Augustini: "nemo tollit peccata nisi solus Christus, qui est agnus tollens peccata mundi", de cons. dist. 4. Nemo tollit (D.4 de con. c.141). Sed et cordis contritionem praecedit gratia Spiritus sancti, sicut exteriorem satisfactionem praecedit interior contritio, intelligas in omnibus gratia praeveniente, unde versus:
>
> > Quicquid habes meriti, praeventrix gratia donat;

[272] On the medieval doctrine of penance in general, see R. Means, *Penance in Medieval Europe, 600-1200* (Cambridge 2014); A. Firey (ed.), *A New History of Penance* (Leiden 2008).

[273] See J. Gaudemet, 'Le débat sur la confession dans la Distinction I du *de penitentia* (Decret de Gratien, C. 33, q. 3)', *Zeitschrift der Savigny-Stiftung für Rechtsgesichte. Kanonistische Abteilung* 71 (1985) 52-75; A. Larson, *Master of Penance: Gratian and the Development of Penitential Thought and Law in the Twelfth Century* (Washington D.C. 2014) 16 n. 36 and 35-99.

[274] See M. L. Colish, *Peter Lombard*, 2 vols. (Leiden 1994), 2:583-609.

[275] See P. Anciaux, *La Théologie du Sacrament de Pénitence au XII Siècle* (Louvain 1949), especially 608-614; J. Goering, 'The Scholastic Turn (1100-1500): Penitential Theology and the Law in the Schools', *A New History of Penance* 219-237; I.C. Levy, 'Contrition, Confession, and the Power of the Keys in the *Summa Halensis*', *The Summa Halensis: Doctrines and Debates*, ed. L. Schumacher (Berlin 2020) 275-302.

Nil Deus in nobis praeter sua dona coronat[276].

Here Hostiensis cites what seem to be a popular distich on the doctrine of merit[277], which found its way in the *Carmina Burana* as CB 40[278]. This couplet comes from a short poem on God's gifts and rewards to man. The verses, in particular, seem to epitomise Augustine's doctrine on prevenient grace[279].

5.2. *Malachy of Armagh (?)*

Apart from the verses included in the *Carmina Burana*, we have another authorial distich in the *Summa* whose paternity cannot be attributed with certainty. As we are about to see, today it is believed to have been composed by the Irish saint Malachy (1094-1148), archbishop of Armagh.

5.2.1. *Moral considerations: the pillars of the celestial building*

Right before the passage on the theological virtues that we have examined earlier[280], Hostiensis makes another consideration of moral tenor, enlisting four precepts that he defines as "the four pillars of the celestial building". These are to despise the world; to despise no one; to despise oneself; and to despise being despised:

> Sunt etiam quatuor columnae coelestis aedificii, quibus sine aestu diabolico potest quis ad coelum levari. Prima columna est ut despicias mundum, quia ipse perit et concupiscentia eius secundum Apostolum: 23. q. 5. Quid ergo (D.23 q.5 c.6). Secunda columna est ut neminem despicias, quia nescimus qualis unusquisque in die iudicii apparebit, 11. q. i. Sacerdotibus (C.11 q.1 c.41), 45. dist. Vera iustitia (D.45 c.15). Tertia est despicias te ipsum, non tamen quo ad virtutes et opera ipsarum, sed quo ad hoc ne credas nimis valere, 21. q. 4. c. i. (C.21 q.4 c.1), 30. dist. Si quis virorum (D.30 c.15). Quarta

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[276] Hostiensis, *Summa Aurea* ad X. 5.38, *de poenitentiis et remissionibus*, col. 1751.

[277] On this topic in general, see A.E. McGrath, *Iustitia Dei: A History of the Christian Doctrine of Justification*, 4th ed. (Cambridge: 2020) 156-68.

[278] Traill, *Carmina Burana* 40:1: "Any merit you have, prevenient grace gave you / What God crowns in us are simply his own gifts". The circulation of the distich as a proverb is attested by Walther, *Proverbia* no. 25286. Cf. also the information given by Hilka - Schumann, *Carmina Burana* vol. 1.3 197.

[279] Cf. Augustine, *De gratia et libero arbitrio* (PL 44) 6, 15: "si ergo Dei dona sunt bona merita tua non Deus coronat merita tua tanquam merita tua, sed tanquam dona sua". See also Traill, *Carmina Burana*, vol. 1 492-493 no. 40.

[280] See *supra* §4.1.2.

est ut contemnas te sperni, quia secundum Apostolum si hominibus complaceres, servus Christi non esses, 2. q. 7. Accusatio (C.2 q.7 c.15), unde versus:

> Spernere mundum, spernere nullum, spernere sese,
> Spernere se sperni: quatuor haec bona sunt[281].

The architectural metaphor of the pillars is not uncommon: it has some scriptural grounds and is attested since the early days of the Church[282]: here it is used to stress the soteriological importance of the virtue of humility, which is embodied by the verses he quotes.

The theological message of the couplet, however, is not only an invitation to be humble: Godfrey of Auxerre (*c.*1120-after 1194) interprets each of these four ascetic qualities as a cardinal virtue: temperance (*mundum*), justice (*nullum*), prudence (*sese*), and magnanimity (*se sperni*)[283].

It is impossible to establish with certainty the paternity of the distich cited by Hostiensis: through time, it has been wrongly attributed to Hildebert of Lavardin[284] and to Bernard of Clairvaux. Recently the verses have been ascribed to Malachy of Armagh, who died at Clairvaux in the hands of his friend and biographer Bernard, thus possibly explaining the circulation in the latter's school and their success among the Cistercians[285]. They also circulated as a very popular proverb[286]. Being as it may, the verses were certainly popular at Hostiensis's time, especially among a clerical audience.

5.3. *Marbod of Rennes,* De ornamentis verborum

With the exception of the anonymous verses examined so far, the medieval poetic allegations in Hostiensis's *Summa* can be mostly attributed to French authors of the eleventh and twelfth century. Among

[281] "Despise the world; despise no one; despise oneself, / Despise being despised: these are four good things". Hostiensis, *Summa Aurea* ad X 5.38, *de poenitentiis et remissionibus*, col. 1818.

[282] See D. Georgi, *The City in the Valley: Biblical Interpretation and Urban Theology* (Atlanta 2004) 166 n. 17, and more generally K. Kinsella, *Edifice and Education: Structuring Thought in Twelfth-Century Europe* (PhD Thesis; University of Oxford 2016).

[283] I. Bejczy, *The Cardinal Virtues in the Middle Ages* (Leiden 2011) 106.

[284] Beaugendre included it in the *editio princeps* of the poet's works: see Hildebert of Lavardin, *Carmina Miscellanea* (PL 171), CXXIV (*De quatuor bonis et quatuor malis*) col. 1437. However, A.B. Scott, *Hildeberti Cenomannensis episcopi Carmina minora* (Leipzig 1969), has reasonably excluded it.

[285] J. Leclercq, *Études sur Saint Bernard et le texte de ses écrits* (Roma, 1953), 169 and *ivi* n. 7.

[286] Walther, *Proverbia* no. 30154 and 30155.

these, the canonist cites the leading French literate and poet Marbod of Rennes (1035-1123)[287], who belonged to the so-called "Loire school": a regional literary milieu of clerical poets in central France[288].

Specifically, Hostiensis quotes Marbod's *De ornamentis verborum*: a youthful tract on poetry and rhetoric, composed when the poet was *magister* at the cathedral school of Rennes (1067-1096). In this work, following the model of the *Rhetorica ad Herennium*[289], after a short introduction Marbod illustrates the rhetorical figures of diction, explaining the meaning of each technical term and providing some examples in verses. For these didactic merits, the work became the standard point of reference for medieval composition handbooks in connection with the teaching of poetics in schools[290].

5.3.1. *Ordination of priests with physical impairments*

In the rubric dedicated to this topic, Hostiensis examines the possibility to ordain people with physical impairments as priests. Generally – the canonist says – only impairments which can be attributed to the subject's fault prevent his ordination: thus, who lays violently hands on himself inflicting a self-mutilation[291] must be barred from priesthood for reasons of caution, because it is presumed that he could do the same to others[292]:

> Et quae impediant et qua non. Breviter discitur, si in parvis membris […] aut culpa potest ei imputari, aut non. Si culpa ei imputari non potest, et potens sit ad frangendam eucharistiam, nec deformitatem magnam inducat,

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[287] See 'Marbodius', *Catholic Encyclopedia*, edd. C.G. Herbermann et al. (New York 1913), *s.v.*

[288] Cf. W. Verbaal, 'Loire Classics: Reviving Classicism in some Loire Poets', *Interfaces: A Journal of Medieval European Literatures* 3 (2018) 109-128. It is worth to note the deep influence of the Ovidian tradition on the poets of the Loire school: G.A. Bond*, The Loving Subject: Desire, Eloquence, and Power in Romanesque France* (Philadelphia 1995).

[289] Cf. *Rhetorica ad Herennium*, ed. and trans. H. Caplan (LCL 403) 4, 13ff.

[290] K.M. Fredborg, 'Rhetoric and Dialectic', *The Rhetoric of Cicero in its Medieval and Early Renaissance Commentary Tradition*, edd. V. Cox – J.O. Ward (Leiden 2006) 165-192, 166; M. Camargo, 'Latin Composition Textbooks and Ad Herennium Glossing: The Missing Link?', *Ivi* 267-288, 270-274; J.O. Ward, *Ciceronian Rhetoric in Treatise, Scholion, and Commentary* (Turnhout 1995) 106 n. 130. More in detail on the work, see R. Leotta, 'Introduzione', Marbod of Rennes, *De Ornamentis verborum. Liber decem capitulorum. Retorica, mitologia e moralità di un vescovo poeta (secc. XI-XII)*, ed. R. Leotta - C. Crimi (Firenze 1998) xvii-xxxiii.

[291] On this topic in general, see G. Constable, *Attitudes Toward Self-inflicted Suffering in the Middle Ages* (Brookline MA 1982).

[292] Cf. Jasmin - Paolini, 'La definizione' 79.

non impeditur. [….]. Is ergo qui sibi manus intulit, non promovetur, et promotes dejicitur, et est prima ratio, quia praesumitur quod in aliis omnem tyrannidem tutem exerceat, qui in se ipsum ausus est desaevire, ff. de red.ac. ac. Cum autem § excipitur, unde versus:

> Qui sibi non parcit, tibi vel mihi quomodo parcet[293]?

The verse cited here by Hostiensis, which can be often found also as a proverb[294], is an example given by Marbod for the rhetorical figure of reasoning by contraries (*contrarium*). The poet, like the *Rhetorica ad Herennium*, defines the *contrarium* as the figure which uses one of two opposite statements to prove the other neatly and directly[295], then gives some examples, beginning with our verse:

> Qui sibi non parcit, mihi vel tibi quomodo parcet[296]?

Of course, in the *Summa* Hostiensis borrows the example for his argumentative and moral value.

5.4. *Matthew of Vendôme,* Tobias

Among the other twelfth-century French poets, in the *Summa Aurea* we can find a citation of Matthew of Vendôme[297], and specifically of his epyllion *Tobias* (*c*.1185) [298]: a versification of the Biblical book of Tobit, which is the only poetic work of this author to be known to survive. This work was widely studied in medieval schools, where it became a standard Latin elementary textbook. The popularity of the *Tobias* is testified by its manuscript tradition[299] and, retrospectively, by its inclusion in the late fifteenth-century printed anthology of pedagogical authors known as *Auctores octo morales*[300].

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[293] Hostiensis, *Summa Aurea* ad X.1.20, *de corpore vitiatis*, col. 242.

[294] Walther, *Proverbia* no. 24730.

[295] See Marbod of Rennes, *De Ornamentis verborum* 8 no. XI: "Contrarium est, quod ex diversis duabus rebus alteram breviter et facile confirmat". Cf. *Rhetorica ad Herennium*, 4, 18 and the translation given there.

[296] "The one who does not spare himself, how will spare me or you?". See Marbod of Rennes, *De Ornamentis verborum* 9.

[297] See B. Harbert, 'Matthew of Vendôme', *Medium Ævum* 44:3 (1975) 225-237.

[298] An edition can be found in Matthew of Vendôme, *'Tobias'*, *Mathei Vindocinensis Opera*, ed. F. Munari, 3 vols (Roma 1977-1988), vol. 2 160-255.

[299] F. Munari, 'Introduzione', in Matthew of Vendôme, *Opera*, vol. 2 23-42, 25-26.

[300] Cf. R.E. Pepin, *An English Translation of the Auctores Octo: A Medieval Reader* (Lewiston 1999) 25-40; Riou, 'Quelques aspects' 38-40; Gillespie, 'From the twelfth century to c. 1450' 158.

5.4.1. *The cleric as watchman and mirror*

In the rubric on accusations, inquisitions, and denunciations, Hostiensis enlists the subjects against whom the inquisitorial procedure can be conducted. In this context, the canonist stresses the necessity to repress crimes among clerics, because their misconduct gives example to the people, causing scandal and inducing others to follow their bad example[301]. Hence, he says, through his conduct the priest must be both a watchman and a mirror:

> Si ergo sacerdos qui est victus delinquat, faciet delinquere populum[302]: quae enim a praelatis fiunt, de facili trahuntur a subditis in exemplum, ut supra de voto et voti redemptione Magnae (X 3.34.7), nam si clerici unum Deum praedicant et alium colunt, dicent laici: "Ubi est Deus clericorum?"[303] ut ibi dicitur. Debet ergo praelatus esse speculator et speculum, unde in principio Tobiae versificati:
>
> Ecclesiae Turonensis apex, omnium speculator
> Et speculum, praesul Bartholomeae, fave.
> Et probatur supra de electione Cum in cunctis (X 1.6.7)[304].

The expression, as Hostiensis explicitly declares, is borrowed from Matthew's dedication of the work to the bishop of Tours Bartholomew, under whose protection he wrote the *Tobias*, who is invoked as follows:

> Ecclesiae Turonensis apex, ovium speculator
> Et speculum, praesul Bartholomeae, fave[305].

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[301] On the canon law concept of scandal, understood as a "conduct that threatened to disrupt the harmony of a community by tempting men and women to do wrong", see R.H. Helmholz, '*Scandalum* in the Medieval Canon Law and in the English Ecclesiastical Courts', *Zeitschrift der Savigny-Stiftung für Rechtsgesichte. Kanonistische Abteilung* 96 (2010) 258-74. The removal of the scandal was used, in the theories of the twelfth and thirteenth-century Church reformers, to justify the *ius coercendi* of the Church: A. Fossier, '*Propter vitandum scandalum*. Histoire d'une catégorie juridique (XIIe-XVe siècle)', *Mélanges de l'École française de Rome* 121-2 (2009) 317-48, 329ff.; C. Leveleux-Teixeira, 'Le droit canonique médiéval et l'horreur du scandale', *Cahiers de recherches médiévales et humanistes* 25 (2013) 193-211, 203.

[302] Cf. Lev. 4:3: "si sacerdos, qui est unctus, peccaverit, delinquere faciens populum".

[303] Cf. X.3.34.7: "Praeterea non videbatur aliquatenus expedire, quum ex absolutione tua, si fieret, scandalum posset laicorum mentibus generari, dicentium: "ubi est Deus clericorum?" et hoc exemplo credentium, se ad voti observantiam non teneri".

[304] Hostiensis, *Summa Aurea* ad X.5.1, *de accusationibus, inquisitionibus et denuntiationibus*, col. 1475. The passage is cited also by Id., *Commentaria*, I fol 40rb, no. 4.

[305] Matthew of Vendôme, '*Tobias*' 11-12: "O pinnacle of the Tourangian church, of sheep watchman / and mirror, bishop Bartholomew, be gracious".

5.5. *Hildebert of Lavardin,* Epigrammata biblica

The French ecclesiastic Hildebert of Lavardin (*c.*1056-1133), bishop of Le Mans and later archbishop of Tour[306], was one of the most popular medieval poets and a member of the so-called Loire school[307]. For modern scholars, however, reconstructing the canon of his works has not been easy: they often circulated in *florilegia* and anthologies, and Hildebert's fame led to the attribution to him of several works which were not his[308].

Hildebert's popularity is also testified by two references to his poems in Hostiensis's *Summa*. The first is to his *Vita beatae Mariae Aegypticae*, in in the form of a popular proverb which combines a passage of this work with some verses from Horace's *Heroides*, which we have analysed earlier[309]. The second quotation, instead, which we are about to examine, is from Hildebert's *Epigrammata biblica*, or *Diversorum Sacrae Scripturae locorum applicatio moralis*[310]: a collection of epigrams which provide Biblical allegorical interpretations in verses.

5.5.1. *Sins in thought, speech, and deed*

The passage that we are about to examine is not explained too clearly by the *Summa*, so it is worth to give some additional explanation to the reader. In his rubric on this subject, Hostiensis refers the conventional theological distinction on the three steps of penance: contrition of heart, confession of mouth, and satisfaction of work, which are the respective remedies to the three ways in which one can sin: by thought, by speech, and by deed.

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[306] A. Dieudonné', *Hildebert de Lavardin, évêque du Mans, archevêque de Tours (1056-1133), sa vie, ses lettres* (Paris 1898); 'Hildebert', *Encyclopædia Britannica*, ed. H. Chisholm, 11th ed. (Cambridge 1911) 2:460; P. von Moos, *Hildebert von Lavardin, 1056-1133: Humanitas an der Schwelle des höfischen Zeitalters* (Stuttgart 1965).

[307] See A. Wilmart, 'Le florilège de Saint-Gatien. Contribution à l'étude des poèmes d'Hildebert et de Marbode', *Revue bénédictine* 48 (1936) 3-40, 147-181, 235-258; A.B. Scott, 'The Poems of Hildebert of Le Mans: A New Examination of the Canon', *Mediaeval and Renaissance Studies* 6 (1968) 42-83; cf. also A.B. Scott - D.F. Baker - A.G. Rigg, 'The *Biblical epigrams* of Hildebert of Le Mans: a critical edition', *Medieval Studies* 47 (1985) 272-316, 272.

[308] See *supra* §5.3.

[309] See *supra* §3.4.4.3.

[310] See A.B. Scott, 'The Biblical Allegories of Hildebert of Le Mans', *Sacris Erudiri* 16 (1965) 404-424.

Subsequently, Hostiensis borrows an example from Augustine's *Our Lord's Sermon on the Mount*[311], which had also been incorporated into Gratian's *Decretum* as D.2 de pen. c.21. Referring this passage, the canonist draws a parallelism between each of these forms of sin and three different types of deaths suffered by the people resurrected by Jesus. Thus, the sin by thought can be exemplified by the death Jairus' daughter, who was resurrected inside her house (Mark 5:35-43), because thoughts remain inside. A sin by speech, instead, is like the death of the son of the widow of Nain, who was raised from the dead at the city gate (Luke 7:11-17), because the mouth is the gate between the interior and the exterior. Finally, a sin by deed is like the death of Lazarus, who was already rotting in the sepulchre when Jesus found him (John 11:17-44).

However, Hostiensis's example partly departs from Augustine's: the latter, in fact, distinguishes between sins by heart, by deed, and by habit, instead of sins in mind, in speech, and in deeds. Nonetheless, soon after his division, the canonist provides also Augustine's alternative interpretation, which identifies the death of the widow's son with a sin by deed and Lazarus's one with a seen by habit.

Finally, like Augustine, Hostiensis connects these three resurrections to different types of actions performed by Jesus to raise the dead: he raised the girl with his word, the boy with movement, and Lazarus with noises, cries, and tears:

> Et quidem tribus nam tres sunt dietae, videlicet Cordis contritio, Oris confessio, Operis satisfactio. […] Quia enim tribus modis Deum offendimus, scilicet delectatione cogitationis, impudentia locutionis et superbia operis. Ut contraria contrariis curentur, delectationi cogitationis opponitur contritio, impudentiae locutionis confessio, superbiae operis satisfactio […]. Hi sunt tres mortui quos Dominus legitur suscitasse, scilicet filia Archisynagogi, quam suscitavit intra domum, quia ipsam intus invenit, ecce peccatum cogitationis […]. Item filius viduae, quem suscitavit ad portam civitatis, ecce pecatum locutionis […]. Lazarus quem suscitavit in sepulchro iam faetentem, ecce peccatum operationis […]. Vel dicitur quod per filium viduae intelligere possumus peccatum operationis, in quo includitur peccatum locutionis, quia vix per perpetratur malum opus, quin et malum verbum praecedat, per Lazarum vero peccatum consuetudinis. Et notandum quod puellam verbo, puerum motu, Larazum cum fremitus, clamore et lachrymis resuscitavit, unde versiculus:
>
>> Mors mala, mors intus; malus actus, mors foris; usus;
>> tumba: puella, puer, Lazarus ista notant.
>> Hanc verbo, hunc motu, lachrymando suscitat illum.

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[311] Cf. Augustine, *De sermone Domini in monte*, ed. A. Mutzenbecher (Turnhout 1967), 1, 12, 35.

Scilicet Lazarum Christus; in suscitatione enim puellae non invenimus aliquas lachrymas emanasse[312].

The first two verses cited here come from a poem in the New Testament series of Hildebert's *Biblical Epigrams*, in which the poet, on the model of Gregory the Great's *Moralia in Iob*[313], explains the allegorical meaning of Lazarus's episode ("*Quid significant tres mortui a Domino resuscitati, quid quattuor dies Lazari*")[314].

It is difficult, however, to say where Hostiensis took the verses from: these two lines (sometimes with "*Mens*" instead of "*Mors*") had a certain separate circulation in the Middle Ages and are cited by many works[315]. The third verse, instead, does not appear in the poem but must have had a certain circulation during the thirteenth century, because it can be also found in Augustine of Dacia (d. 1285)[316]. Moreover, with the addition of a fourth verse (and "*Mens*" as first word), they are attested in the *Glossa Ordinaria* to D.2 de pen. c.21, v. *tamquam*:

Mens mala, mors intus; malus actus, mors foris; usus;

tumba: puella, puer, Lazarus ista notant.

Hanc verbo, hunc motu, lachrymando suscitat illum

Christus, et in medico noscitur aeger homo[317].

It is noteworthy that the oldest manuscripts of the *Glossa*, Hostiensis's *Summa*, and Migne's edition of Hildebert's work (PL 171)[318] read "*Mors*", while Scott's modern edition, like later versions of the *Glossa* and some other sources which report this quotation, gives "*Mens*", which makes much more sense. I have not been able to identify the last line in any other source, nor its origin.

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[312] Hostiensis, *Summa Aurea* ad X.5.38, *de poenitentiis et remissionibus*, col. 1746-1747.

[313] Cf. Gregory the Great, *Moralia in Iob* (CCL 143.196; Turnhout 2010) 4.27.52.

[314] Cf. Scott - Baker - Rigg, 'The *Biblical epigrams*' 310 no. 66.

[315] See *Ibid.*; cf. also H. Walther, *Initia carminum ac versuum Medii Aevi posterioris Latinorum. Alphabetisches Verzeichnis der Versanfänge mittellateinischer Dichtungen* (Göttingen 1969) no. 10911 and 11255; Id., *Proverbia* no. 14699.

[316] Id., *Proverbia* no. 15171c.

[317] *Glossa Ordinaria* ad *de paen.* D.2 c.21, v. *tamquam*: "Evil mind, death within; evil deed, death outside; habit; / tomb: the girl, the boy, and Lazarus signify these things. / Christ raises her with a word, this with a movement, that by weeping, / And the sick man is recognised in the physician". Cf. also Scott, 'The Biblical Allegories' 407.

[318] Cf. Hildebert of Lavardin, *Applicatio moralis locorum scripturae ex Novo Testamento* (PL 171) XXIII, col. 1279.

5.6. *Romée de Villeneuve*

In his *Summa Aurea* Hostiensis does not always attribute explicitly the verses quoted, often using just the expression "*unde versus*"[319]. Luckily for us, one of the authors mentioned by name is the Provençal Romée de Villeneuve (*c.*1170-*c.*1250). Romée is better known as a statesman, having been Constable and Seneschal of Count Ramon Berenguer IV of Provence and as a character in Dante's *Divina Paradise* (VI, 127-135)[320], but I have not been able to find any information regarding his poetic activity[321]. My knowledge of him as a poet, indeed, relies exclusively on two quotes by Hostiensis: one in his *Lectura*[322] and this, which attributes to him some verses which can be also found in the *Carmina Burana* and that scholars have so far considered anonymous, as we are about to see.

5.6.1. *Avoiding physical contact with women*

Romée's citation can be found in the rubric on those who had sexual intercourse with one of their wife's female relatives. Hostiensis, following the text of the decretals, indicates these intercourses with the verb "*cognoscere*" used in the Biblical-euphemistic sense of carnal knowledge[323]. At the beginning of the rubric, the canonist explains this word, saying that there are two ways to "know" a woman: spiritually (i.e., attributing to the word the meaning we commonly use) and carnally (i.e., in the Biblical sense used here by the decretals). The former – Hostiensis says – consists in visiting a woman; however, one must beware to not visit her too often, since it is not appropriate for an honest woman. Therefore, cohabitation with her is to be excluded and especially physical contact with women shall be avoided, to prevent that a spiritual knowledge might lead to a carnal knowledge:

[319] See *infra* 80 n. 386.

[320] See E. Bigi, 'Romeo di Villanova', *Enciclopedia Dantesca* 4 (1973) 1032-1033; F. M. Powicke, 'Dante's Romeo', Id., *Ways of Medieval Life and Thought* (New York 1967) 239-248.

[321] Certainly there is no notice of such activity in J.J. Vaissete, *Dissertation pour servir a l'histoire de Romée De Villeneuve, baron de Vence, connestable* (Paris 1751).

[322] See *infra* §6.

[323] Cf. for instance Gen. 4:1. On the biblical uses of the Hebrew word "*yada*", see P. Haupt, 'To Know = to Have Sexual Commerce', *Journal of Biblical Literature* 34:1-4 (1915) 71-76; S. Singer, 'A Linguistic Note on the Sexual Meaning of "Knowing" and "Seeing"', *American Imago* 20:4 (1963) 345-347; R. Pirson, 'Does Lot Know about *Yada*?', *Universalism and Particularism at Sodom and Gomorrah: Essays in Memory of Ron Pirson*, ed. D. Lipton (Atlanta 2012) 203-213.

Quod modis cognoscontur mulieres. Et quidem duobus, scilicet spiritualiter et carnaliter. Spiritualiter, diligendo, visitando, quod tamen non multum frequentandum est: ut supra de vita et honestate clericorum Monasteria (X 3.1.8), quamvis ergo quaelibet bona mulier, tam consanguinea quam affinis vel extranea, religiosa vel alia, diligenda sit, tamen familiaritatis nimia et cohabitation reprobatur [...] Praecipue etiam tactus vitandi sunt, inde Romaeus de Villanova:

> Ni fugias tactus, vix evitabitur actus.
> Hos ergo vita, ne moriaris ista[324].

The distich, attributed by Hostiensis to Romée, strengthens the point made by the canonist. The first verse seems to have had a certain circulation separately from the second, as part of a small poem on the *topos* of the *quinque lineae amoris* or five stages of love (looking, addressing, touching, kissing, sex)[325], and can be found in some medieval manuscripts[326], also in the form of proverb[327]. It is also found in the *Carmina Burana* as CB 63a[328], which is "an advice addressed to a youth about avoiding homosexual rape"[329]. The whole distich as cited by Hostiensis, however, can be found only in a thirteenth-century pancarte from the former Chartreuse Notre-Dame de Durbon[330], in the Hautes-Alpes, which therefore suggests a connection with Provence (and thus, could confirm Hostiensis's attribution to Romée).

In the context of the *Summa*, therefore, Hostiensis seems to borrow the literary *topos* around the stages of love, admitting the second with moderation and warning against the third to avoid the fifth, but the advice is transposed from a context of homosexual love to a heterosexual one.

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[324] "If you don't run away when touched, you will hardly escape the sexual act. / Then avoid these, so you don't die from that". Hostiensis, *Summa Aurea* ad X.4.13, *de eo qui cognovit consanguineam uxoris suae*, col. 1344.

[325] Cf. J. Carracedo Fraga, 'El tópico literario de los grados hacia la culminación del amor y el cuento del muchacho de Pérgamo (*Satiricón* 85-87)', *Latomus* 56:3 (1997) 554-566.

[326] P. Dronke, *Medieval Latin and The Rise of European Love-Lyric* (Oxford 1966), vol. 2 488. Cf. also K. Helm, '*Quinque lineae amoris*', *Germanisch-Romanische Monatsschrift* 29 (1941) 236-247, and F. Wagner, 'Ovid in den *Carmina Burana*', *Studii Clasice* 37-39 (2001-2003) 157-163, now in *Mente caelum inhabitans: Kleine Schriften zur Philologie und Geistesgeschichte des Mittelalters*, edd. Id. - T. Klein (Göppingen 2009) 47-54, 161 n. 29.

[327] Walther, *Proverbia* no. 16595.

[328] Traill, *Carmina Burana* 63a: "If you don't run away when touched, you will hardly escape being molested".

[329] *Ivi*, vol. 1 527 no. 63a.

[330] Gap, Arch. dép. Des Hautes Alpes, 1 H 2/7, described in *Répertoire de cartulaires français: Provinces ecclésiastiques d'Aix, Arles, Embrun, Vienne: Diocèse de Tarentaise*, edd. I. Vérité - A.-M. Legras - C. Bourlet - A. Dufour (Paris 2003) 122-123, no. 245.

5.7. *Theodolus,* Eclogue

The *Eclogue of Theodulus* is a Latin verse dialogue probably written in the ninth or tenth century[331]. The work is called in this way because the eleventh-century cleric Bernhard of Utrecht, who wrote an allegorical commentary to the text[332], attributed it to an Athenian writer named Theodolus. It is a debate between two shepherds: Pseustis (Falsehood: classical paganism) and Alithia (Truth: Christianity), predictably won by the latter and presided over by Phronesis (Wisdom)[333]. For his setting and themes, the *Ecloga Theoduli* shows clear influences from both Virgil[334] and Ovid[335], thus embodying the popularity of these authors in the Middle Ages. In this period, in fact, the *Eclogue* became a standard scholastic textbook as part of the *Liber Catonianus*[336] and then of the *Auctores octo*[337], in light of its moral value in exalting Christianity[338].

5.7.1. *Rhetorical figures: tmesis*

We have already seen that in the rubric on the meaning of words Hostiensis explains some rhetorical figures[339]. Among these there is

[331] Editions can be found in J. Osternacher (ed.), *Theoduli Eclogam recensuit et prolegomenis instruxit* (Ripariae prope Lentiam 1902); R.H. Green (ed.), 'Theoduli ecloga', *Seven Versions of Carolingian Pastoral*, ed. Id. (Reading 1980) 26-35.

[332] Bernhard of Utrecht, *Bernard d'Utrecht: Commentum in Theodolum (1076-1099)*, ed. R. B. C. Huygens (Spoleto 1977).

[333] For literature on this work, see R.H. Green, 'The Genesis of a Medieval Textbook: The Models and Sources of the *Ecloga Theoduli*', *Viator* 13 (1982) 49-106; Id., *Seven Versions* 111-149; J. Meyers, 'L'Églogue de Théodule: *Démonisation* ou *sacralisation* de la mythologie?', *L'Allégorie de l'Antiquité à la Renaissance*, edd. B. Pérez-Jean - P. Eicher-Lojkine (Paris 2004) 335-347; F. Mosetti Casaretto, 'Il caso controverso dell'*Ecloga Theoduli*', *Studi medievali* 54:1 (2013) 329-364.

[334] Mosetti Casaretto, 'Il caso controverso', 333-337; F. Vallana, 'La cornice bucolica dell'*Ecloga Theoduli*: una lettura virgiliana', *Letteratura e Bibbia. Atti delle Rencontres de l'Archet. Morgex, 14-19 settembre 2020*, (Torino 2022) 164-170; Schäfer, *Vergils Eklogen* 161-178.

[335] Hexter, 'Ovid in the Middle Ages', 428-429.

[336] Boas, '*De Librorum Catonianorum*'; Thomson - Perraud, *Ten Latin Schooltexts*; Gillespie, 'From the twelfth century to c. 1450' 153-160.

[337] G.L. Hamilton, 'Theodulus: A Mediaeval Textbook', *Modern Philology* 7:2 (1909) 169-185; A. Soons, 'The didactic quality of Theoduli *Ecloga*', *Orpheus* 20 (1973) 149-161; C.E. Lutz, 'A medieval textbook', *Yale Library Gazette* 49 (1974) 212-216.

[338] Cf. also Huygens, *Accessus ad auctores* 21-22; Conrad of Hirsau, *Dialogus* 32-34, lines 669-748.

[339] See *supra* §3.4.4.1.

tmesis, that is the insertion of a word between the two parts of a compound word:

> Nona, Thesis, ut cum eadem dictio interdicitur, Theodorus:
>
> > Quo res cunque cadit, testis nisi sedulous adsit[340].
>
> "Quo res cunque", idest: "quocunque res" cadit, testis nisi sedulus adsit", ad hoc ff. de mininoribus Quod si speciali (Dig. 4.4.26), ff. de iudiciis Si post acceptum (Dig. 4.1.18).

To explain it, Hostiensis cites a verse from the *Ecloga Theoduli* which uses the tmesis "*quo res cunque*" instead of "*quocunque res*", thus separating the compound word "*quocunque*". The passage cited by Hostiensis comes from the proem of the work (1-36), which sets the debate in a pastoral framework modelled on Vergil's *Eclogues*; more specifically, it is part of Alithia's answer to Pseustis's poetic challenge, for which she requires an impartial witness (Phronesis)[341]:

> Quo res cumque cadit, testis nisi sedulus assit,
> Si victus fueris, non me vicisse fateris[342].

5.8. *Walter of Châtillon,* Alexandreis

The last author that we are going to examine is the twelfth-century jurist, theologian, and leading poet Walter of Châtillon, who wrote a Latin epic poem on the life of Alexander the Great: the *Alexandreis* (*c.*1180)[343]. Like with almost all the other *auctores* cited by Hostiensis that I have analysed, Walter was not only very well known, but widely studied in grammar schools. His *Alexandreis*, in fact, was one of the most popular medieval Latin epic poems and became an instant classic in the schools, where it was studied on a par with the *Aeneid*[344], to the point that the

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[340] Hostiensis, *Summa Aurea* ad X.5.40, *de verborum significatione*, col. 1941.

[341] Cf. Green, *Seven Versions* 117-121 and especially 120.

[342] Osternacher, *Theoduli Eclogam* 22-23. "However things turn out, without a careful witness here / If you should lose, you won't admit that I have won". The translation used here is by G. Rigg, *The Eclogue of Theodulus: A Translation* (Toronto 2005), available at <https://www.medieval.utoronto.ca/research/online-resources/eclogue-theodulus-translation> [accessed 25 Feb 2023].

[343] On this work se above all M.K. Lafferty, *Walter of Châtillon's "Alexandreis": Epic and the Problem of Historical Understanding* (Turnhout 1998).

[344] Cf. G. Cary, *The Medieval Alexander* (Cambridge 1956) 64ff.; D.J.A. Ross, *Alexander Historiatus: A Guide to Medieval Illustrated Alexander Literature* (London 1963) 72-80; V. Bridges, *Medieval Narratives of Alexander the Great: Transnational Texts in England and France* (Woodbridge 2018).

philosopher Henry of Ghent complained that it was usurping the role of classical texts from the grammar curriculum[345].

5.8.1. *The impartiality of the judge*

Talking about the prerogatives of ordinary judges in the pertaining rubric, Hostiensis passage remarks the importance of impartiality in trials and exhorts the ecclesiastical judge to not be swayed by gifts, threats, enmity, or love[346]:

> Non declinet etiam ad extram vel sinistram, non corrumpatur munere, non timore, non odio vel amore: his enim quatuor modis consuevit perverti iudicium, 9. q. 3 Quatuor et c. seq.; unde versus:
>
> > Si lis inciderit te iudice, dirige libram
> >
> > Iudicii. Nec flectat amor, nec munera palpent.
> >
> > Munus enim a norma recti distorquet acumen
> >
> > Iudicis, et tetra involvit caligine mentem.
> >
> > Aura sacra fames, quae non mortalia cogit[347]?

The first four verses come from the first book of the *Alexandreis*, where Aristotle gives to the young Alexander a long advice on the art of statecraft (85-216)[348], including the qualities that a judge should have[349].

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[345] V. Bridges, 'Reading Walter of Châtillon's *Alexandreis* in Medieval Anthologies', *Mediaeval Studies* 77 (2015) 81-101, 81; Walter of Châtillon, *The Alexandreis of Walter of Châtillon: A Twelfth-century Epic: A Verse Translation*, ed. and trans. D. Townsend (Philadelphia 2015) xv.

[346] On the ideal of the judge and his qualities in the *ius commune* tradition, see C. Natalini, '*Bonus iudex, iustum iudicium.* Esperienze giuridiche sulla corruzione del giudice nei secoli XII-XIII', *Studi senesi* 119 (2007) 61-118, now in *Tra diritto e storia: studi in onore di Luigi Berlinguer promossi dalle Università di Siena e di Sassari* (Catanzaro 2008) 2:321-366 and in Ead., *"Bonus iudex". Saggi sulla tutela della giustizia tra Medioevo e prima età moderna* (Trento 2016); J.M. Carbasse - L. Depambour-Tarride (edd.), *La conscience du juge dans la tradition juridique européenne* (Paris 1999), and in particular J.M. Carbasse, 'Le juge entre la loi et la justice: approches médiévales', *Ibid.* 68-76. On the treatment of this subject in Hostiensis, cf. C. Gallagher, *Canon Law and the Christian Community: The Role of Law in the Church According to the Summa Aurea of Cardinal Hostiensis* (Roma 1978) 157.

[347] Hostiensis, *Summa Aurea* ad X.1.31, *de officio iudicis ordinarii*, col. 332.

[348] On this, see Lafferty, *Walter of Châtillon's "Alexandreis"* 65-101.

[349] "If you are the judge in a dispute, balance the scales / of judgment. Let not love ben you, nor gifts flatter you. / For a gift turns from the rule of right the keenness / of the judge, and envelops his mind in a foul darkness". See Walter of Châtillon, *Galteri de Castellione Alexandreis*, ed. M. Colker (Padova 1978), 1, 105-110. A revision of this edition, with inclusion of a French translation, has been

The last verse, instead, is a rephrasing of a sentence from the third book of Virgil's *Aeneid*. Narrating his peregrinations to Dido, Aeneas tells his landing in Thrace, where he discovered the ill fate of the Trojan prince Polydorus (49-57)[350], sent by king Priam with payment to the Thracian king, to ensure his protection in case the war was lost. At the news of the fall of Troy, however, the king sided with Agamemnon and slew Polydorus, taking the gold for himself, which Virgil comments:

> Quid non mortalia pectora cogis, auri sacra fames[351]!

The verse is used here by Hostiensis to warn the judge against the peril of bribes.

6. *Not only the* Summa*: a quick comparison with the* Lectura

Now that we have examined the use of poems in Hostiensis's *Summa*, it is worth to briefly compare it with his other *maius opus*: the *Lectura* (or *Commentaria*) on the Decretals, which was based on Henricus's lectures in Paris in the 1240s and on which the canonist worked for most of his life, completing it in 1270, just one year before his death.

In the *Lectura* we have 175 occurrences of verses. Of these, 44 (25%) can be attributed to specific poets, while the others are either memorial verses or proverbs. In turn, only a small minority of these authorial citations (9 out of 49) can be also found in the *Summa* (although in a different context), while the others do not find any correspondence. Likewise, most of the poetic citations contained in the *Summa* (32 out of 41) do not appear in the *Lectura*.

In the *Lectura*, most of the authorial verses can be attributed to classical Roman poets: 30, which corresponds to 68% of the total. Horace is cited 8 times: 7 from the first book of the *Epistles*[352], and 2 from his *Ars*

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recently provided by Id., *Gautier de Châtillon. Alexandréide*, ed. M. Colker, rev. and trans. J.-Y. Tilliette (Turnhout 2022). English translations can be found in Id., *The Alexandreis*, ed. and trans. R.T. Pritchard (Toronto 1986), and Id., *The Alexandreis*, ed. Townsend. Here, however, I have preferred to translate the verses differently. A recent Italian translation has been offered by *Gualtiero di Châtillon. Alessandreide* (Pisa 2019).

[350] Cf. Horsfall, *Virgil, Aeneid 3* 77-81.

[351] Virgil, *Aeneid*, 3:56-57: "To what crime do you not drive the hearts of men, accursed hunger for gold!".

[352] Hostiensis, *Commentaria*, I fol. 20rb (citing Horace, *Epistles* 1.1:90: see *supra* 3.1.1); I fol. 91va no. 32 (*Ivi* 1.18:71: see *supra* §3.1.4); III fol. 109vb no. 13 (*Ivi* 1.18:71: see *supra* §3.1.4); V fol. 8va no. 9 and fol. 62va no. 15 (both citing *Ivi* 1.18:71: see *supra* §3.1.4); V fol. 71v no. 8 (*Ivi* 1.16:52-53).

Poetica[353]. Juvenal[354] and Lucan[355] are quoted once each. With 13 quotes, like in the *Summa* the most cited poet is Ovid: we find 4 citations from the *Heroides*[356]; 2 references each to his *Amores*[357], *Metamorphoses*[358], and *Ex Ponto*[359]; 1 to the *Remedia Amoris*[360]; moreover, we have some citations from works not cited in the *Summa*: 2 from the *Ars Amatoria*[361] and 1 from the *Tristia*[362]. Another work cited here which does not appear instead in the *Summa* are the *Satires* of Persius (34-62 AD)[363], who was also one of the *auctores maiores* in the Middle Ages. Finally, we have 5 quotations from Virgil: 3 from the *Aeneid*[364] and 2 from the *Eclogues*[365].

For what concerns late antique products, we can find 3 citations from the *Disticha Catonis*: a collection of proverbial wisdom from the third or

[353] Hostiensis, *Commentaria*, I fol. 3ra and I fol. 192va no. 7, citing respectively Horace, *Ars poetica*, ed. and trans. H. Rushton Fairclough (LCL 194) 360 and 350.

[354] Hostiensis, *Commentaria*, II fol. 63ra no. 18, mis-quoting Juvenal, *Satires* 7:105.

[355] Hostiensis, *Commentaria*, I fol. 4ra no. 14, which refers to Lucan, *The Civil War* 1:92.

[356] Hostiensis, *Commentaria*, IV fol. 32vb no. 2, IV fol. 33rb no. 12, IV fol. 41va no. 3, and IV fol. 43va no. 3. They refer to Ovid, *Heroides* 9:29, 2:85-86, 9:32, and 5:138.

[357] Hostiensis, *Commentaria*, IV fol. 34ra no. 2 and IV fol. 41vb no. 1, which cite respectively Ovid, *Amores* 3.4.17 and 2.13.6.

[358] Ovid, *Metamorphoses* 2:447 (see *supra* §3.4.5.1) is cited both by Hostiensis, *Commentaria*, I fol. 66ra no. 29 and II fol 97rb no. 6, the second time in combination with two popular verses.

[359] Hostiensis, *Commentaria*, I fol. 90vb no. 10 and III fol. 55vb no. 1, which borrows respectively from Ovid, *Ex Ponto* 1.1:64 (see *supra* §3.4.2.1) and 2.3:19-20 (see *supra* §3.4.2.3).

[360] *Ivi*, V fol. 124vb no. 3 quotes Ovid, *Remedies for Love* 343-344.

[361] Ovid *The Art of Love*, ed. and trans. J.H. Mozley - rev. G. Goold (LCL 232) 1.1.673 and 1.1.99, quoted respectively by Hostiensis, *Commentaria*, IV fol. 11vb no. 5 and III fol. 3vb no. 5.

[362] *Ivi*, II fol. 54vb no. 14, referring to Ovid, *Tristia* (LCL 151) 5.6.13.

[363] Hostiensis, *Commentaria*, III fol. 35va, which cites Persius, *Satires* (LCL 91) 5:43.

[364] Hostiensis, *Commentaria*, I fol. 34ra no. 25, II fol. 31va no. 9, and III fol. 95rb no. 7, quoting respectively Virgil, *Aeneid* 6:853, 1:137, and 12:898. The latter corresponds to Isidore of Seville, *Etymologiarum sive Originum*, ed. W.M. Lindsay (Oxford 1911) 18.15.4.

[365] Hostiensis, *Commentaria*, I fol. 15vb no. 3 and V fol. 88vb no. 7, quoting Virgil, *Eclogues* 3:60 and 9:28 (see *supra* §3.5.2.1).

fourth century that became an extremely popular textbook in Latin courses during the Middle Ages[366].

Finally, the *Lectura* provides 11 quotes from medieval poets, mostly from the twelfth century. Some of these authors are already familiar to us: Hildebert of Lavardin[367], Marbod of Rennes[368], Matthew of Vendôme[369], and some otherwise unknown verses of Romée de Villeneuve[370]. We can find also 2 anonymous passages that have entered into the *Carmina Burana*[371].

There are, however, also poetic works of *auctores* that we do not find in the *Summa*. Some are individual verses, like those of Hugh *Primas* of Orleans (*c*.1093-*c*. 1160)[372] and Johannes de Garlandia (fl. *c*.1270-1320)[373]. Others, instead, are borrowed from longer poems, like the *Cosmographia* of Bernardus Silvestris (12th c.)[374] and the *Aurora* of Petrus de Riga

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[366] See Hostiensis, *Commentaria*, I fol. 113ra no. 58 and III fol. 129rb no. 6, both citing M. Boas - H.J. Botschuyver (edd.), *Disticha Catonis* (Amsterdam 1952), 2.9 (the latter in combination with Bernardus Silvestris: see *infra* n. 374); Hostiensis, *Commentaria*, I fol. 195vb no. 12, which quotes *Disticha Catonis*, 1.31.

[367] Hostiensis, *Commentaria*, III fol. 160vb-161ra no. 5, which cites a poem called *de Septem Horis Canonici*, attributed to Hildebert by M. Hammond, 'Notes on Some Poems of Hildebert in a Harvard Manuscript', *Speculum* 7:4 (1932) 530-530.

[368] Hostiensis, *Commentaria*, I fol. 31vb no. 1, citing Marbod of Rennes, *De Ornamentis verborum* 18.

[369] Hostiensis, *Commentaria*, I fol. 40rb no. 4, which cites Matthew of Vendôme, '*Tobias*' 11-12 (see *supra* §5.4.1).

[370] Hostiensis, *Commentaria*, V fol. 73rb no. 2. Cf. H. Gilles, 'Peine de mort et droit canonique', *Cahiers de Fanjeaux* 33 (1998) 393-416, 397-398.

[371] Hostiensis, *Commentaria*, I fol. 61ra no. 27, quoting CB 101:18 (see *supra* §5.1.1); *Ivi*, I fol. 93rb no. 1 and 106vb no. 1, both citing CB 176.

[372] A French *clericus vagans* and goliardic poet, his verses were widely known: see P. Bourgain, 'Hugues d'Orléans', *Dictionnaire des lettres françaises. Le Moyen Âge* (Paris 1964) 695. Hugh is cited by Hostiensis, *Commentaria*, III fol. 4rb no. 3 and fol. 165rb no. 9, both citing the same poem, which corresponds to CB 194. An edition of Hugh's poems has been provided by F. Adcock (ed. and tr.), *Hugh Primas and the Archpoet* (Cambridge 1994).

[373] Johannes was a French poet, grammarian, and music theorist: see R. A. Baltzer, 'Johannes de Garlandia [Johannes Gallicus]', *Grove Music Online*, doi:10.1093/gmo/9781561592630.article.14358 [accessed 12 Jun 2023]. Hostiensis, *Commentaria*, I fol. 111rb no. 17 quotes a triplet attributed to him in PL 150 col. 1578. It should be noted, however, that Joannes was active around 1270, and Hostiensis completed his *Lectura* just before his death in 1271.

[374] Bernardus was a French philosopher and poet: see B. Stock, *Myth and Science in the Twelfth Century: A Study of Bernard Silvester* (Princeton 1972). His *Cosmographia* an allegorical poem on the creation of the world: see Bernardus Silvestris, *Cosmographia*, ed. P. Dronke (Leiden 1978) 80, cited by Hostiensis, *Commentaria*, III fol. 129rb no. 6, in combination with *Disticha Catonis*, 2.9.

(*c.*1140-1209)[375]. Many passages are extrapolated from popular twelfth-century elegiac comedies: the *Geta* of Vitalis of Blois (fl. 12th c.)[376], the *Alda* of William of Blois (fl. 1167)[377], and the anonymous *Pamphilus*[378].

7.   *Final suggestions: poetry as a legal teaching tool*

After this long analysis of the quotations of classical, late antique, and medieval poets in the *Summa Aurea* of Hostiensis, it is possible to try to draw some conclusive suggestions. The main question to be answered is, of course, what is the role of poetic citations in the work of our canonist.

This question, in turn, can be understood only by addressing the issue of how and why Hostiensis chose certain authors. As we have seen, what all of them have in common is that they were well known to the readers of the *Summa*. Most of the poets quoted were part of the canon in grammar courses in Latin schools, either as stylistic or moral models, and were included in basic medieval anthologies, like the *Accessus ad auctores* and Conrad's *Dialogus*[379], and commentaries, like the *Liber Catonianus* and the *Auctores Octo*[380]. These authors were usually chosen for their moral

[375] French poet and cleric, Petrus is the author of the *Aurora*, a versification and allegorical commentary of the Bible very popular in the Late Middle Ages: P.E. Beichner (ed.), *Aurore: Petri Rigae Biblia Versificata. Un commentaire verset sur la Bible* (Notre Dame IN 1965), 1:60 line 847, cited by Hostiensis, *Commentaria*, I fol. 6rb no. 43.

[376] A French poet, Vitalis was the author of two elegiac comedies. One of them, the *Geta* (or *Amphitryon*) is cited by Hostiensis, *Commentaria*, I fol. 100va no. 3. See A. De Montaiglon, 'Le Livre de *Geta et de Birria*, ou l'*Amphitryonéide*, poème latin du XIIIe siècle composé par un auteur inconnu nommé Vitalis, et publié d'après cinq manuscrits de la Bibliothèque nationale', *Bibliothèque de l'École des chartes* 9 (1848) 474-505, 492 line 173.

[377] William was a French poet, dramatist, and cleric, allegedly the author of an elegiac love comedy called *Alda*: see William of Blois, '*Alda*', *Commedie latine del XII e XIII secolo*, ed. F. Bertini, vol. 6 (Genova 1998) 11-109, 64, line 151, cited by Hostiensis, *Commentaria*, IV fol. 10ra no. 2.

[378] Composed in the twelfth century, either in France or Spain, the *Pamphilus* was one of the most popular elegiac comedies: see T.J. Garbáty, '*Pamphilus. De amore*, an introduction and translation', *The Chaucer Review* 2 (1967), 108-134, lines 207-208, cited by Hostiensis, *Commentaria*, III fol. 4va no. 11.

[379] Horace, Lucan, Maximianus, Ovid, Prosper, and Theodolus are included in the *Accessus*. Conrad, instead, contains a treatment of Horace, Juvenal, Lucan, Ovid, Prosper, Theodolus, and Virgil.

[380] Both Maximianus and Theodolus were part of the *Liber Catonianus*, while the latter and Matthew of Vendôme were included in the *Auctores octo*.

didacticism and their poetic value[381]. In fact, grammar was a polyvalent science, where the courses of language and literature were bound to lessons of ethical collections, and the moral end of the teaching was entangled with the stylistic one[382]: not by chance, they were defined *auctores morales* or *ethici*[383]. Other poets, although not part of the elementary curriculum, enjoyed a widespread and undisputed popularity[384]. Many of these passages, moreover, circulated also as proverbs[385]: although this makes it difficult to ascertain to what extent Hostiensis was aware of their provenance[386], it certainly testifies to the fact that they were well known to the readers.

This moral value of the *auctores* certainly plays an important role, and in fact it has been used by scholars to explain the presence of poetic citations in legal books. Diego Quaglioni, for instance, seems to interpret these quotations in thirteenth-century *Summae*, including Hostiensis's, as moral *auctoritates* or *allegationes*[387]. In order to verify this impression, however, it is necessary to pay attention to the function that the poetic citations in the *Summa Aurea* play with respect to the legal discourses in which they are embedded.

Certainly, sometimes the use of *auctores* seem to provide some argumentative strength to Hostiensis's legal reasoning[388], and often they offer an ethical judgement, usually with a catch phrase[389]. And yet, in

[381] Virgil and Walter of Châtillon, for instance, were undisputed stylistic models. Authors like Juvenal, Maximianus, Matthew of Vendôme, and Theodolus were appreciated for their moral dimension. Others, like Horace and Ovid, were peak models under both these aspects.

[382] On this conjunction of moral and grammar see Riou, 'Quelques aspects' 26-27.

[383] See *supra* n. 239 and Hugh of Trimberg, *Registrum Multorum Auctorum*. On the ethical dimension of the *auctores*, cf. also Copeland - Sluiter, 'Hugh of Trimberg'; Gillespie, 'From the twelfth century to c. 1450'.

[384] E.g., Hildebert of Lavardin and the verses that circulated in the *Carmina Burana*.

[385] We have 15 (36%) authorial quotations that are also attested as proverbs by Walther, *Proverbia*: see *supra* §3.1.3, §3.1.4, §3.2.1, §3.4.2.1, §3.4.4.3, §3.4.5.1, §3.4.5.2, §3.4.6.2, §3.4.6.4, §4.1.1, §5.1.1, §5.2.1, §5.3.1, §5.5.1, §5.6.1.

[386] In fact, 14 out of 15 of these passages are referred to with generic expressions like "*unde versus*", while only one (§5.6.1) is explicitly attributed to its author. More generally, we can notice that only rarely Hostiensis explicitly attributes the verses he cites: out of 41 poetic quotes, this happens only 11 times (27%): §3.1.2, §3.3.1, §3.4.1.1, §3.4.1.2, §3.4.2.3, §3.4.6.3, §3.5.1.2, §4.1.2, §5.5.1, §5.6.1, and §5.7.1.

[387] See *supra* §1.1.

[388] E.g., *supra* §3.1.3.

[389] For instance, *supra* §3.4.1.1.

many cases the poetic verses do not seem to add much to the technical legal discourse in terms of argumentation or moral value: perhaps the most emblematic examples are Ovid's line on cosmetics in case of donations between consorts[390] and that about *munera publica extraordinaria*[391]. How can we explain this type of passages? Should we then infer that Hostiensis cites them to show his erudition, as an ornamental element? This seems unlikely, since as we have seen, all the verses he cites were very well known to everybody with a knowledge of Latin, to the point that Hostiensis rarely feels the need to specify the author[392].

Perhaps, then, another possible interpretation can be suggested, which does not exclude the moral role of the citations but is rather based on it. In Hostiensis's *Summa* the *auctores* seem to perform first and foremost the same function of the other poetic pieces cited by the canonist, like mnemonic verses and proverbs: to help teaching and learning law. The readers of the *Summa* knew them intimately, either because they had studied Latin grammar through such verses, or because they were popular. By providing passages that the readers would immediately recognise, Hostiensis helped them to get better into the legal reasoning and to fix more easily the concept in their mind. This has been already suggested by Winston Black, who however considers the authorial poetic passages in the *Summa Aurea* to be by all means mnemonic verses, just in the same way as the other ones[393]. I believe, instead, that these poetic citations could be understood more correctly as exerting *both* the function of teaching devices and moral authorities.

To summarise, then, we have two possible different interpretations of the function of poetry in the Glossators' works, both of which ultimately draw their strength from the moral authority and the popularity of the poets quoted: an argumentative function and a teaching function. The argumentative function (*allegatio*) is the one that resorts to poetry as normative sources: we find it in works shaped on the needs of the forensic practice, like *quaestiones*, and it is the one Azo lunges at in his reply to Bernardus Dorna, whose fault, indeed, is not having cited Ovid in general, but having cited him *as an allegation* in the argumentative reasoning of the *quaestio*[394]. This use of poetry, which was common among Roman

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[390] See *supra* §3.4.6.3.

[391] See *supra* §3.2.1.

[392] See *supra* 80 n. 386.

[393] Black, 'Teaching the Mnemonic Bishop' 383.

[394] This has been correctly noted by Quaglioni, '*Licet allegare poetas*' 211.

jurisconsults and is widely attested in the Digest[395], is generally excluded by medieval jurists but can be admitted in certain cases[396]. The teaching function, instead, is the one that uses poetry to explain and help memorising the law, and it is the one that we find in most of the Glossators's exegetical works, like *summae*, *lecturae*, and *commentaria*, including Hostiensis's.

This second role of poetry in legal works can be understood better if we keep in mind the performative dimension of such works. In the case of Hostiensis, for instance, we must remember that Henricus was a teacher: he taught canon law in the Parisian schools in the 1240s, and his *Summa* might in all likelihood reflect the pedagogical structure and methods of the lessons that he orally gave in that earlier period. This methodology is confirmed by his other significant work, the *Lectura* on the decretals, which is indeed built upon his university lectures, and where poetic citations, as we have seen, are also extremely common[397]. Therefore, it is important to remember that, before being written down for his *readers*, the verses that we find in his work were meant to be a performative device with an immediate effect on an audience of *listeners*.

By having in mind this performative function, perhaps we can also better understand the reason behind the choice of certain authors. For instance, this could contribute to explain why the greatest majority of quotes belongs to Ovid. In fact, he was not only the most popular Latin poet, considered to have a strong moral value: most of his verses, including those cited in the *Summa*, were also caustic, amusing, humorous, often erotic. If we understand it in the context of an oral lecture, quotations like those on women's vows or on the *munera extraordinaria* had certainly the effect of causing hilarity among students[398], and thus helping to memorise the content with a maxim that was both well-known and entertaining. And indeed, keeping the attention alive and breaking the boredom of the legal technicalities through witty humour must have been a well-established

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[395] As it can be easily noticed by quickly skimming through the Digest: see M. Fiorentini, 'I giuristi romani leggono Omero: Sull'uso della letteratura colta nella giurisprudenza classica', *Bullettino dell'Istituto di Diritto Romano 'Vittorio Scialoja', Quarta serie* 3 (2013) 167-197; C. Masi Doria, *Poesia e diritto romano* (Napoli 2018).

[396] Cf. Azo, *Die Quaestiones*, q. 10 p. 74: "Nimirum ergo si poetarum auctoritatibus fides quandoque per leges habetur: illud enim ideo fit, quia legitimae probationes dificiebant". The same use is admitted by Gandinus in his *Tractatus de maleficiis*: Quaglioni, 'La Vergine e il diavolo' §4-5.

[397] See *supra* §6.

[398] See *supra* §3.4.1.1 and §3.2.1.

technique in school lectures, as testified by the many comedic examples that Hostiensis refers in the *Summa*[399].

In conclusion, Hostiensis's *Summa Aurea* is an extremely significant example of the use of poetry in the medieval legal discourse, both as a teaching tool and an authoritative source. This is in itself a useful exercise: to (legal) historians, because it helps us to understand better the context and methods of the Glossators; and to jurists as well, because it highlights the historical dimension and the deep roots of the Western legal tradition. For the former aspect, it tells us that "law does not exist in a void but interacts with and helps infuse culture"[400]; for the latter, it reminds us that the awareness of the benefits of literature as a legal teaching tool has a history that predates of many centuries its rediscovery by the American academia, which nowadays seems to be often the starting point for the discourses on this subject[401].

Summary: In the works of the Glossators and the Commentators, it can be noticed a strong presence of poetic citations embedded in the legal reasoning. This paper addresses this practice by using the *Summa super decretalibus* of Hostiensis (*c*.1253) as a case study. After a brief overview of the relationship between law, history, and poetry, the present essay will sketch the common habit of thirteenth-century jurists to resort to poetic verses in their writings. Subsequently, the poetic citations in Hostiensis's *Summa* that can be attributed to a specific author will be analysed. Finally, I will try to suggest some possible explanations for the choice of

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[399] For instance, talking about error as an impediment to marriage, Hostiensis makes the case of an English peasant who manages to marry a Roman noblewoman convincing her that he is the son of the king of England: Hostiensis, *Summa Aurea* ad X.4.1, *de sponsalibus et matrimoniis*, col. 1261.

[400] Eberle - Grossfeld, 'Law and Poetry' 387.

[401] The English-speaking literature has seen a proliferation of studies that highlight the importance to use poetry in legal classrooms: just to give a few examples, see G.D. Gopen, 'Rhyme and Reason: Why the Study of Poetry Is the Best Preparation for the Study of Law', *College English* 46:4 (1984) 333-347; D.A. Skeel Jr, 'Practicing Poetry, Teaching Law', *Michigan Law Review* 92 (1994) 1754-1775; J. Boyd White, 'Teaching Law and Literature', *Mosaic: An Interdisciplinary Critical Journal* 27:4 (1994) 1-13; S. Manley, 'Home-made poetry as pedagogical tool: an experience from the law classroom', *English in Education* 52:3 (2018), 213-224; L. Jukka, 'Storytelling and Poetry in Legal Design Education', *ICERI 2019: 12th International Conference of Education, Research and Innovation: Conference proceedings: Seville (Spain) 11-13 November 2019* (Valencia 2019) 6711-6716; B. de Vries, 'Law, Imagination and Poetry. Using Poetry as a Means of Learning. Special Issue on Active Learning and Teaching in Legal Education', *Law and Method* January 2019 (2019), DOI: 10.5553/REM/.000039; R. Nilon, 'Poetic License: Using Documentary Poetry to Teach International Law Students Paraphrase Skills', *InSight: A Journal of Scholarly Teaching* 15 (2020), 142-156.

certain authors by Hostiensis and more generally for the use of poetry in the legal discourse of the time.

Sommario: Nelle opere dei Glossatori e dei Commentatori, è possibile notare una forte presenza di citazioni poetiche incorporate nel discorso giuridico. Questo articolo esamina tale pratica utilizzando la *Summa super decretalibus* (ca. 1253) dell'Ostiense come caso di studio. Dopo una breve panoramica del rapporto tra diritto, storia e poesia, il presente contributo tratteggerà l'abitudine, comune tra i giuristi del XIII secolo, di ricorrere a versi poetici nei loro scritti. Successivamente, saranno analizzate le citazioni poetiche nella *Summa* dell'Ostiense che possono essere attribuite a uno specifico autore. Infine, tenterò di suggerire alcune possibili spiegazioni per la scelta di certi autori da parte dell'Ostiense e, più in generale, per l'impiego della poesia nel discorso giuridico coevo.