

# The Trials of Apuleius: An Ironic Legal History

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## Abstract

This article is an exercise in what might be termed ‘ironic’ legal history. The first part explores the idea of ‘ironic’ history, which aligns the insights of literary ‘ironism’ with those of micro and ‘anecdotal’ history and ‘new’ historicism. It will focus more particularly on the work of Richard Rorty, Carlo Ginzburg and Stephen Greenblatt. The second part of the article will present a ‘case-study’ in ironic legal history; revisiting the second-century trial of the Roman orator and writer Apuleius. Apuleius wrote two notably different accounts of the same experience, one pretending to fact, the other to fiction. To read these accounts is to engage in an exercise in ironic legal history.

## Keywords

Rorty, Greenblatt, Ginzburg, Apuleius, *Golden Ass*

One bright day in 158, the philosopher Apuleius arrived at the basilica in the coastal town of Sabratha in north Africa.<sup>1</sup> He was there to answer charges of sorcery. The air would have been full of rumour, and the smell of fish-sauce. Sabratha was famous for its *garum* production. The crowd would have been large and excited. After all Apuleius was a local celebrity, a philosopher and orator of note, and quite possibly a sorcerer too. And the assize was in town, an event which commonly only occurred once a year. For which reason, so was the proconsul, to act as judge. And Claudius Maximus was no ordinary proconsul. Not just *de jure* ruler of thousands of square miles of the Roman empire, but

1. One of three constituent settlements of Tripolitana, modern-day Tripoli, the others being Oea, where Apuleius was settled, and Leptis Magna. It is estimated that Sabratha was a medium-sized city, of around 30,000 inhabitants, famed for its olive as well as *garum* production, and thus reasonably prosperous.

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a renowned Stoic philosopher, student of Seneca, likely tutor to the emperor Marcus Aurelius. So not a man given to gullibility, Apuleius might have reasonably hoped. Unlike most of the rest of his neighbours. The elder Pliny identified north Africa as a haven of superstition.

The gist of the charge was that Apuleius had used his nefarious skills to trick a wealthy widow into marriage. There was also an imputation that he might have poisoned one of her sons along the way, though that charge had been recently dropped. Murder, sex and sorcery, a spicy mix, and, for Apuleius at least, a potentially fatal concoction; although, as a Roman citizen, the more likely sentence, if found guilty, would have been *relegatio* or exile. Costly enough, though, given that he would have had to leave the area, and his wealthy new wife. Fortunately, it would not prove necessary. Apuleius was acquitted of all charges. After which he wrote up an account of proceedings, entitled *Apologia*, in which the reader would learn that there were two reasons why he had won. The first was the integrity of Roman law. The second was the brilliance of his own oratory. An insinuated third was his innocence. It is the survival of this record which makes Apuleius's case one of the most famous in Roman legal history. It is not, though, the most famous testament that Apuleius bequeathed to posterity. For he also, at some point after, wrote the oldest Latin novel to have survived in complete form, which he entitled *Metamorphoses*, but which has become more familiar as *The Golden Ass*. It does not purport to retell the events at Sabratha; but it might.

We do not know why Apuleius wrote his *Golden Ass*, so we can only surmise the possibility that he set out to disconcert his own *Apologia*. Incoherent if so, of course, but then Apuleius does not really deal in coherence. He does though, as poet and sophist, deal in *fortuna* and *fallacia*, irony and evasion.<sup>2</sup> We will need to make a lot of presumptions if we are to make sense of the trials of Apuleius. For other than what he wrote, which also includes a set of lectures given at Carthage entitled *Florida*, an essay on demonology entitled *De Deo Socratis* and an intellectual life of Plato, *De Platone*, we know virtually nothing about him. Neither do we know much about the administration of justice at the edges of empire. Nor do we know if it really was sunny that day. There might have been a sea-mist. And the audience may not have been large, nor Apuleius's reputation that compelling. It might have been a different Claudius Maximus too. The smell of fish-sauce also requires a bit of poetic license. We can make these presumptions though, for two reasons. First, because they are credible, or at least not the converse; trimming the margins of 'proofs and possibilities', as Carlo Ginzburg puts it.<sup>3</sup> And second, because this is an exercise in ironic legal history, where poetic license is welcome.

When asked the most important tool of the aspiring historian, the celebrated French historiographer Fernand Braudel provided a succinct response; the 'imagination'.<sup>4</sup> Much

2. See here N. Shumate, "The Augustinian Pursuit of False Values as a Conversion Motif in Apuleius's," *Metamorphosis* 42 *Phoenix* (1998), 38, 49-50, and R. Fletcher, *Apuleius's Platonism: The Impersonation of Philosophy* (Cambridge: Cambridge UP, 2014), 16-8.

3. C. Ginzburg, *Threads and Traces: True, False, Fictive* (California: California UP, 2012), 71.

4. Quoted in T. Andrade, "A Chinese Farmer, Two African Boys, and a Warlord: Toward a Global Microhistory," *Journal of World History* 21 (2011), at 591.

of the time, Braudel appreciated, the historian does not know that much, and certainly not enough. For which reason the rest of what she writes, as both Hayden White and Natalie Zemon Davis have more recently suggested, will have to be ‘invented’.<sup>5</sup> It is certainly true that unless we are prepared to use our imagination in a case such as Apuleius’s we will not have much to say; or at least not much to add to what he chooses to tell us. We must, accordingly, accept the creative responsibilities that come with writing what we might term ‘ironic’ history. For the ‘past’, as Hilary Mantel rightly supposes, ‘changes every little time we retell it’.<sup>6</sup>

In the first part of this article, we are going to flesh out these responsibilities. We will question the idea of veracity in history, legal and other, and the place of contingency in its writing. The ‘devaluation’ of an arrogating truth, it might be said.<sup>7</sup> We will contemplate the consequence that ironic history infers too; that if there is a sense to be had, it will be created by us. We will also contemplate the extent to which the insights of ironic history chime with those of the micro and the anecdotal historian. We will discover common ground; first, in an embrace of incident and contingency; and then second, in a fundamental appreciation of textuality in the fashioning of the past. We will then return to Apuleius, to see what story, or stories, we might like to invent about him.

## **Ironies and Anecdotes**

The purpose of the first part of this article is then to get a closer sense of ironic history. The task will be simpler if we distinguish an evident affinity between textual irony and anecdotal history. It will also help if we note an intellectual coincidence, of different ‘schools’ of ironism approaching across different disciplinary boundaries. To this end, we will proceed by reviewing, in turn, the approaches of the literary and philosophical ironists, the ‘new’ historicists, and the anecdotal micro-historians.

### ***The Ironists***

We will start with the confessed ironists, and two particularly, Hayden White and Richard Rorty. In his *Tropics of Discourse* White suggests that history should be conceived as an exercise in ‘ironic reflection’, rather than scientific ‘discovery’, a matter of taking situational ‘incidents’ and writing ‘stories’.<sup>8</sup> And it is not, he emphasises, a matter of choice. The endemic ‘discontinuities’ of the past necessitate the imaginative intervention of the ‘realistic’ historicist who is prepared to reconcile us to the fact that ‘chaos

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5. See H. White, *Tropics of Discourse: Essays in Cultural Criticism* (Baltimore: Johns Hopkins UP, 1978), 82-3 and N. Zemon Davis, *The Return of Martin Guerre* (Cambridge: Harvard UP, 1983), 5.

6. ‘On dealing with history in fiction’, 17/10/2009. At [theguardian.com/books/2009/oct/17/hilary-mantel-author-booker](http://theguardian.com/books/2009/oct/17/hilary-mantel-author-booker)

7. C. Ginzburg, *The Judge and the Historian: Marginal Notes on a Late-Twentieth Century Miscarriage of Justice* (Verso, 2002), 16-7.

8. White, *Tropics*, 4-6, 27-9, 73-4, 82-3.

is our lot'.<sup>9</sup> Identifying history as the most 'conservative' of academic disciplines, White suggests that the ironist must put herself in open 'revolt', demanding the reinvestment of the 'figurative imagination' in the writing of the past.<sup>10</sup> Such an attitude, according to Keith Jenkins, characterises the 'ironic' historian as opposed to the 'certaintist'.<sup>11</sup> There is an evident affinity here with ideas of post-modernist philosophers such as Jean-Francois Lyotard. In his *The Differend*, Lyotard treated the idea of justice as fashionable in each sense of the word, as an *accoutrement* and an art-form.<sup>12</sup> Derridean deconstruction adopted a similar pose. In his *Specters of Marx*, Derrida raised 'generations of ghosts', intangible 'spectres' flitting about the historical imagination and inscribing it.<sup>13</sup> Poltergeists to his critics, smashing up the ornaments and giggling as they go.

It is this essential 'playfulness' which characterises Rorty's 'ironism', the idea that philosophy is nothing other than conversational practice, and judgement simply the product of this discursive engagement.<sup>14</sup> As he puts it in a renowned passage in his *Contingency, Irony, and Solidarity*:

To say that truth is not out there is simply to say that where there are no sentences there is no truth, that sentences are elements of human languages, and that human languages are human creations.<sup>15</sup>

The consequence is as simple as it can be unsettling: 'The world does not speak. Only we do'.<sup>16</sup>

Ironism is though about more than simply appreciating the textuality of our existence. It is also about confessing its 'contingency', the sense that something is 'out of joint', ambivalent, contradictory even.<sup>17</sup> Realising, as White supposes, that all history is 'accidental', and then embracing the liberating consequence. Rorty terms it the 'contingency of selfhood', the 'philosophy of us'.<sup>18</sup> We create our own morality, our own politics, and our own history, because we get to write the text. Critical here is the appreciation that no

9. White, *Tropics*, 49-50, 107-11.

10. White, *Tropics*, 28, 39, 104-7.

11. K. Jenkins, *On 'What is History?'* *From Carr and Elton to Rorty and White* (England, UK: Routledge, 1995). An echo can be found in Rosemary Jann's observation regarding the 'cult of original research'. See her "From Amateur to Professional: The Case of the Oxbridge Historians," *Journal of British Studies* 22 (1983), 126-7.

12. J-F. Lyotard, *The Differend: Phrases in Dispute* (Minnesota: Minnesota UP, 1989).

13. J. Derrida, *Specters of Marx* (England, UK: Routledge, 1994), xviii-xix.

14. See R. Rorty, *Contingency, Irony, and Solidarity* (Cambridge: Cambridge UP, 1989), 39 on the 'spirit of playfulness' which characterises philosophical 'ironism'.

15. Rorty, *Contingency*, 5.

16. Rorty, *Contingency*, 6.

17. 'The time is out of joint; O cursed sprite! That ever I was born to set it right!' *Hamlet* 1.5.211-12. On the 'contingency of language' more generally, see Rorty, *Contingency*, ch.1.

18. On the 'philosophy of us', see Rorty, *Contingency*, 54-6. For a more general consideration of the 'contingency of selfhood', see *Contingency*, ch.2. For White's comment on the 'accident' of history, see his *Tropics*, 29.

incident is described just once, even if there is only one so-called ‘original source’. There will always be descriptions and re-descriptions, and it is here that the contingencies are created, where these vying accounts come into interpretive contact. It is also where we find the gaps.<sup>19</sup>

Historians commonly aspire to fashion some coherence from these contingencies, to construct what Ginzburg terms a ‘chain of conjecture’, and there is nothing wrong in the ambition.<sup>20</sup> Edward Gibbon famously confessed the need to ‘deviate from the conditional into the indicative mood’ at times, where only ‘conjecture and analogy’ could keep the narrative together.<sup>21</sup> But it is important that we appreciate the artistry, and its implications. Most obviously, contingency is reductive. Every history is not only a history of chance, as Richard Brown affirms, but is also written ‘by chance’.<sup>22</sup> Here Rorty invokes the ‘strong poet’, someone who precisely embraces this responsibility in order to mediate the contingencies of ‘self’ and ‘community’, appreciating that all that they can do is refashion what ‘certain poets and revolutionaries of the past’ have earlier created.<sup>23</sup> Chance building on chance.<sup>24</sup> Ginzburg identifies the same conciliation in Collingwood’s idea of ‘re-enactment’, and then further back still in the writings of the Italian philosophers Giambattista Vico and Benedetto Croce, both of whom appreciated that the ‘act of making is intertwined’ with that of ‘self-deception’.<sup>25</sup> There is ‘no direct access to historical reality’, just the delusions and impressions of the past.<sup>26</sup>

The supposition that history is an endless process of re-enactment is a first ironic insinuation. It does not deny the possibility of truth, but it refutes the idea that it is anything other than discursive and contingent. A second insinuation follows directly. If history is nothing more than a process of refashioning, then no text can claim peculiar authenticity, or peculiar authority. Thus, it can be argued that Coke’s *Reports* are no more adept at telling the story of constitutional crisis in reformation England than Shakespeare’s *Richard II* or *King Lear*. Ginzburg makes the claim for Tolstoy’s *War and Peace*, as a vastly more affective account of Napoleon’s Russian campaign than any number of drier

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19. C. Ginzburg, *The Cheese and the Worms: The Cosmos of a Seventeenth-Century Miller* (Baltimore: Johns Hopkins UP, 2013), xii, xxiv.

20. Ginzburg, *Judge and Historians*, 116-17, and also *The Enigma of Piero*, (Verso, 2000), 40.

21. Chapter 31 of *History of the Decline and Fall of the Roman Empire*, quoted in Ginzburg, *Threads*, 67.

22. R. Brown, “Microhistory and the Post-Modern Challenge,” *Journal of the Early Republic* 23 (2003), 3.

23. As opposed to the ‘warrior, the priest, the sage, or the truth-seeking “logical” scientist’. See Rorty, *Contingency*, 53, 60-1.

24. Ginzburg refers to ‘dispersed’ fragments of the past ‘reaching us by chance’, in his *Cheese*, at xxxii.

25. See R. Collingwood, *An Autobiography*, (Oxford: Oxford UP, 1970), 112-14, and also J. van der Dussen, *The Idea of History* (Oxford: Oxford UP, 1993), 444. For critical commentary, see C. Ginzburg, “Microhistory and World History,” in *The Cambridge World History pt.4* (J. Bentley and S. Subrahmanyam, eds) (Cambridge: Cambridge UP, 2015), 448-50, 459, and White, *Tropics*, 59-60, 84-5.

26. Ginzburg, *Judge*, 17.

military histories.<sup>27</sup> Not because Tolstoy was a superior military analyst, but because he appreciated that wars are empathetic experiences. In this way fiction energizes history, making it vivid and vital.<sup>28</sup> This is Rorty's challenge too, that history might be best told in 'sad and sentimental stories' that aspire to 'produce tingles rather than truth'.<sup>29</sup> The abdications of Richard Bolingbroke and King Lear are moments of personal devastation as well as constitutional crisis; and we cannot hope to comprehend one without the other.

It is not a view that would have settled in the mind of John Robert Seeley writing at the close of the nineteenth century.<sup>30</sup> Historians were faced with a stark choice, Seeley suggested. They could cleave to the discipline of 'science', or they could see themselves reduced to little more than a 'department of *belles lettres*'.<sup>31</sup> A generation later, Herbert Butterfield famously railed against two centuries of Whig history, written as if by 'strolling minstrels'. Butterfield did not deny the 'imaginative sympathy' of the reader, but that did not mean that the historian should write to it.<sup>32</sup> The writing of history is supposed to be 'difficult', as Seeley affirmed, and in its purest form unlikely to appeal to 'public taste'.<sup>33</sup> The condescension of the historian who writes condescending history.<sup>34</sup>

It is this pretended distinction, between the scientific historian and the poetic, that ironism contests. The poetic historian invites us to look differently, and for different things. No-one objects to the architect decorating his palace, as the renaissance artist and scholar Sperone Speroni observed, so why should we feign surprise when the historian does the same.<sup>35</sup> To the extent that there is a compromise to be brooked, it might be found in the art of the judicious 'side-glance', as Lara Putnam calls it.<sup>36</sup> Richard Evans gestures in the same direction in his *In Defence of History*. History needs direction, which is why it creates it, but the historian should stay alert to all the decorative incidents and oddities

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27. C. Ginzburg, "Microhistory: Two or Three Things That I Know About It," *Critical Inquiry* 20 (1993), 24-8.

28. Ginzburg, *Threads*, 9.

29. See Rorty, *Contingency*, 152, and also his essay "Human Rights, Rationality, and Sentimentality," in *Truth and Progress: Philosophical Papers, volume 3* (R. Rorty ed) (Cambridge: Cambridge UP, 1998), at 172.

30. Seeley, appointed Regius Professor of Modern History at Cambridge in 1869, is chiefly remembered for his vigorous defence of imperialism entitled *The Expansion of England*. Like most ardent colonialists, and closet racists, he supposed that British governance of overseas territories was in the best interests of indigenous populations.

31. L. Howsam, "Academic Discipline or Literary Genre? The Establishment of Boundaries in Historical Writing," *Victorian Literature and Culture* (2004), 525.

32. H. Butterfield, *The Whig Interpretation of History*, (Bell, 1931), 11-3, 39-41, 64.

33. See Howsam, 'Discipline', 525-6, and Jann 'Oxbridge', 125-6.

34. To riff on Thompson's renowned comment on the 'enormous condescension' of history, and historians. In his *The Making of the English Working Class*, (Penguin, 1991), at 12. For a similar sentiment, focussed more closely on the structural misogyny which founds the presumptions of 'serious' historical writing, see Howsam, 'Discipline', 536-42. On Thompson's 'irony', see White, *Tropics*, 15-20.

35. In Ginzburg, *Threads*, 18.

36. L. Putman, "The Transnational and the Text-Searchable: Digitized Sources and the Shadows They Cast," *American Historical Review* 71 (2016), 377-8.

lurking ‘in the verges and ditches by the highway’.<sup>37</sup> The ‘traces’ of humanity, as Ginzburg puts it, and ‘the trails they leave’.<sup>38</sup> There is just as much history here as there is in the middle of the road; a resolution which chimes very obviously with the aspirations of the ‘new’ historicist.

### *The New Historicists*

Much as literary ironism is commonly associated with the work of Hayden White and Richard Rorty, ‘new’ historicism has become indelibly associated with the name of Stephen Greenblatt.<sup>39</sup> Preferring the term ‘cultural poetics’, in the hope that it might better capture the intellectual impulse, Greenblatt emphasises the constant interplay of text and context, that a text cannot be read in splendid isolation for the simple reason that it was not written in it.<sup>40</sup> Louis Montrose, another early apostle of ‘new’ historicism, captured the aspiration as well as the temper of ‘new historicism’:

To resituate canonical literary texts among the multiple forms of writing, and in relation to the non-discursive practices and institutions, of the social formation in which those texts have been produced while, at the same time, recognizing that this project of historical resituation is necessarily the textual construction of critics who are themselves historical subjects.<sup>41</sup>

‘The historicity of texts and the textuality of history’, as Montrose puts it, in a state of ‘mutual constitution’.<sup>42</sup> Where the ‘old’ historicist had admitted the supplementary significance of the contextual source in the interpretation of literary texts, the ‘new’ declined to recognise any original distinction.<sup>43</sup> Everything is text, everything is context.

Captured in the moment, but also transcending it. Society and culture bound together in history, and through history, in a constant state of ‘negotiation’, to deploy Greenblatt’s favoured metaphor. It is here that the idea of ‘social energy’, something generated by the interplay of text and audience, comes into play, constantly refashioning meaning and leaving its ‘traces’ for the future generations to continue the critical ‘conversation’.<sup>44</sup> Jonathan

37. R. Evans, *In Defence of History* (Granta, 2000), 244.

38. Ginzburg, *Threads*, 1.

39. Not that Greenblatt claims to have inspired anything as choate as a ‘school’ of new historicism, preferring to suppose a ‘trajectory’ shared by a bunch of like-minded critics. See his *The Enigma of Piero* (Verso, 2000), 3.

40. S. Greenblatt, *Shakespearean Negotiations* (California: California UP, 1988), 5, 19. See also S. Maza, “Stephen Greenblatt, New Historicism and Cultural History, or what we talk about when we talk about interdisciplinarity,” *Modern Intellectual History* 1 (2004), 251.

41. L. Montrose, “Renaissance Literary Studies and the Subject of History,” *English Literary Renaissance* 16 (1986), 6.

42. L. Montrose, “Professing the Renaissance: The Poetics and Politics of Culture,” in *The New Historicism*, (A. Veeger, ed) (England, UK: Routledge, 1989), 20, and also “New Historicisms,” in *Redrawing the Boundaries: The Transformation of English and American Studies* (S. Greenblatt and G. Gunn, eds) (MLA, 1992), 395.

43. J. Drakakis and M. Fludernik, “Beyond New Historicism?,” *Poetics Today* 35 (2014), 500-1.

44. Greenblatt, *Negotiations*, 14-20. For a comment, see Drakakis and Fludernick, ‘New Historicism’, 500.



Dollimore imagines a moment of activation, when the reader comes into context with text.<sup>45</sup> Terry Hawkes similarly, supposing that the past starts with us, in the present, as we turn the first page.<sup>46</sup> Greenblatt famously opens his *Shakespearean Negotiations* with a 'desire to speak with the dead' for they have 'contrived to leave traces of themselves, and those traces make themselves heard in the voices of the living'.<sup>47</sup> Voices again, and the familiar sense of allusion which inspires Rorty, White and Ginzburg.

The ironic affinity becomes further apparent in the same appreciation of contingency, of 'slippages, cracks, faultlines', of 'surprising absences'.<sup>48</sup> And curiosity, the liking to 'operate by pleasure and surprise'.<sup>49</sup> Peering into the 'margins of the text', as Greenblatt puts it, in search of 'wonder'.<sup>50</sup> He entitled his account of 'how the Renaissance began' *The Swerve*; a micro-history of a macro-moment, which moved around the recovery of Lucretius's *De rerum natura* by an early fifteenth-century 'book-hunter', and former papal secretary, named Poggio Bracciolini. Lucretius deployed the word, *climānen* in Latin, to denote the unpredictable movement of matter, and seeded a thought that would ultimately precipitate an intellectual revolution.<sup>51</sup> Absent Lucretius and the man who rediscovered *Re rerum natura*, we may never have heard of Galileo or Isaac Newton, and Montaigne may never have opined that 'human inconsistency' is the consequence of living in a world 'of constant motion'.<sup>52</sup>

Swerves, slippages, speculations; and anecdotes. Joel Fineman, another disciple, recommends the 'eccentric anecdote' as a kind of *agent provocateur* tasked with destabilising the 'totalizing' pretences of 'grand' theory.<sup>53</sup> The anecdote being the 'literary form' that 'uniquely refers to the real'.<sup>54</sup> The 'isolated scandal, the idiosyncratic vision, the transient sketch', the 'frisson' of 'anecdotal rupture' which opens portals into 'charmed spaces'.<sup>55</sup> Bracciolini stumbling across a surviving copy of *De rerum natura* in the dusty

45. J. Dollimore, "Shakespeare, Cultural Materialism, and the New Historicism," in *Political Shakespeare, New Essays in Cultural Materialism* (J. Dollimore and A. Sinfield, eds) (Manchester UP, 1985), 9-10.

46. See T. Hawkes, *The Shakespearean Rag: Essays on a Critical Process* (Methuen, 1986), 1-26, and *Meaning by Shakespeare* (Routledge, 1992), 42-60.

47. Greenblatt, *Negotiations*, 1.

48. S. Gallagher and S. Greenblatt, *Practicing New Historicism* (Chicago UP, 2001), 17.

49. D. Simpson, "New Historicism," in *A Companion to Romanticism* (D. Wu, ed) (Blackwell, 1999), 436.

50. Greenblatt, *Negotiations*, 4, and also *Learning to Curse: Essays in Early Modern Culture* (Routledge, 1990), 5-6, supposing classical literary criticism to be the 'enemy of wonder'.

51. S. Greenblatt, *The Swerve: How the Renaissance Began* (Vintage, 2012), 7, 188. *De rerum natura*, or *The Nature of Things*, posited an atomist theory of the universe, which was anathema to the Catholic Renaissance.

52. In *Of Repentance*, quoted in Greenblatt, *Swerve*, 244-5

53. J. Fineman, "The History of Anecdote: Fiction and Fiction," in *The New Historicism* (A. Veesser, ed) (Routledge, 1989), 61. See also Maza, 'Greenblatt', 260-2, and Drakakis and Fludernik, 'Historicism', 504, suggesting that the incongruent 'anecdote' is the 'defining feature' of new historicism.

54. Fineman, 'Anecdote', 56, and Gallagher and Greenblatt, *Historicism*, 52.

55. Gallagher and Greenblatt, *Historicism*, 16, 48, 67.



recesses of the library at the abbey of Fulda in 1417. The presentation of a chance encounter with a 'textual fragment', to borrow Auerbach's renowned 'gambit', is especially enticing, the more incongruous the better.

Very commonly aligning a 'shadow story' in 'conjunction' with a more familiar literary text, as Greenblatt puts it, in the hope of producing an 'almost surrealistic wonder at the revelation of an unanticipated aesthetic dimension in objects without pretensions to the aesthetic'.<sup>56</sup> Thus, essays on the historiography of the potato, and the respective, and strangely congruent, diets of mice and Worms.<sup>57</sup> The affinity may not always seem incongruous, at least not in terms of compositional moment, but the intimations can stretch. Thus, a reading of *Twelfth Night* alongside Jacques Duval's *On Hermaphrodites, Childbirth and the Medical Treatment of Women and Children*, published in 1612, which aligns the theatrical tradition of actorly cross-dressing with contemporary reflections on transvestitism.<sup>58</sup> Likewise an essay on Samuel Harsnett's 1586 *A Declaration of Egregious Popish Impostures* as a principal inspiration for Shakespeare's *King Lear*.<sup>59</sup> It is precisely such a 'conjunction' which we will explore in the second part of this article. In the meantime, we might note the same interest in conjunctions and incongruities amongst another species of ironic historian.

### The Anecdotalists

The emergence of a distinctive group of micro and anecdotal historians coincides with that of the 'new' historicists in the closing decades of the last century. Micro and anecdotal history are variants on an ironic theme; the latter evincing a greater interest in the textuality of moment and incidence. We will return to 'anecdotal' history shortly, after we have sketched the parameters of micro-history. The metaphor is apposite, for the question of parameters goes to the very heart of what micro-history might be, and what it might do.<sup>60</sup> When it comes to micro-history, as might be expected, size matters.

On the one hand it tends, as the term suggests, towards the intimate. In the spirit of William Blake:

To see the World in a grain of sand  
And a Heaven in a wild flower  
Hold Infinity in the palm of your hand  
And Eternity in an hour<sup>61</sup>

Thus, the tendency to focus on moments and marginal spaces. The closer you look, the more you see. The contention arises where the micro gestures towards the macro, and the

56. Greenblatt, *Negotiations*, 67, and Gallagher and Greenblatt, *Historicism*, 31, 35-7.

57. In Gallagher and Greenblatt, *Historicism*, chs.4-5.

58. Greenblatt, *Negotiations*, ch.3.

59. Greenblatt, *Negotiations*, ch.4.

60. Not that there is an established 'school' of microhistory as such, albeit the closest approximation might be the Italian *microhistoria*. See Lepore, 'Microhistory', 130-1.

61. W. Blake, *Auguries of Innocence* ll.1-4, in *Complete Poems*, (Penguin, 1977) at 506.

possibility that larger consequence might be drawn from smaller incidence.<sup>62</sup> The idea that the habits of those shopping for bread in the local market, whether in classical Rome or nineteenth-century Newcastle, might determine the movement of global grain markets.<sup>63</sup> Ginzburg terms it ‘inductive reconstruction’.<sup>64</sup>

Thus, George Stewart’s *Pickett’s Charge*, which reads an entire civil war through the lens of a desperate twenty-minute charge at the battle of Gettysburg in 1863.<sup>65</sup> Likewise, James Chandler revisits 1819 to prophesy an entire century of English cultural radicalism.<sup>66</sup> Each text exemplifying a tendency in micro-history towards moments, however elastic they might become. James Shapiro does likewise with 1606, the ‘year of Lear’, spotting in the process the seeding of a revolutionary age.<sup>67</sup> An alternative to moments is places. Thus, Le Roy Ladurie’s acclaimed study of medieval Montaignou and Michael Wood’s ‘history of England’ told in the Leicestershire village of Kibworth.<sup>68</sup> Or Jessie Child’s *The Siege of Loyalty House*, the history of the English civil war set in fourteen acres of Hampshire.<sup>69</sup> Moments, places.

And then people. A related aspiration of micro-history is to recover those ‘voices’ which, as Ariel Dorfman, puts it, otherwise remain ‘hidden, at the bottom of the rivers of silence of humanity’.<sup>70</sup> Retrieving the ‘obscure people’, as Jill Lapore infers, ‘tracing their elusive characters through slender records’.<sup>71</sup> Very slender in some cases, such as Natalie Zemon Davis’s *The Return of Martin Guerre*, record of which is so allusive that the author is obliged, by her own admission, to trip the margins of

62. See here Brown, ‘Microhistory’, 14-15, F. Trivellato, “What Differences Make a Difference? Global History and Microanalysis Revisited,” *Journal of Early Modern History* 27 (2023), 19-25, and J. Ghobrial, “Seeing the World Like a Microhistorian,” *Past and Present* supp.14 (2019), 4-5, supposing that ‘micro-history’, in its interest in the lives of ‘everyday’ persons, might save ‘macro-history’ from accusations that it ignores the fate of ‘others’. We will return to this thought imminently.

63. The example suggested by Giovanni Levi, in his “On Microhistory,” in *New Perspectives on Historical Writing*, (P. Burke, ed) (Pennsylvania UP, 1992), 96. A renowned early example, subsequently co-opted by historians of micro-history, is Norbert Elias’s supposition that the introduction of the fork underpinned the practice of renaissance state building. In his *The Civilizing Process and Psychogenetic Investigations*, (Oxford UP, 1939).

64. C. Ginzburg, “Latitude, Slaves and the Bible: an Experiment in Microhistory,” *Critical Inquiry* 31 (2005), 666.

65. G. Stewart, *Pickett’s Charge: A Microhistory of the Final Charge at Gettysburg, July 3 1863*. It is commonly agreed that Stewart was the first to use the term ‘microhistory’. For an overview of the parallel development of continental and American micro-history, see Ginzburg, ‘Things’, 10-20.

66. J. Chandler, *England in 1819*.

67. J. Shapiro, *1606: The Year of Lear*.

68. E. Le Roy Ladurie, *Montaignou, Village Occitan de 1294 at 1324*, (Gallimard, 1975), and M. Wood, *The Story of England* (Penguin, 2011).

69. J. Childs, *The Siege of Loyalty House: a New History of the English Civil War* (Bodley Head, 2022).

70. A. Dorfman, *Other Septembers, Many Americas: Selected Provocations 1980-2004* (Pluto, 2004), 232.

71. J. Lapore, “Historians Who Love Too Much: Reflections on Microhistory and Biography,” *Journal of American History* 88 (2001), 131, 141.

'invention'.<sup>72</sup> Another classic example of the genre is Ginzburg's *The Cheese and the Worms*, which re-imagines the sixteenth-century Inquisition through the eyes of an obscure Italian miller. It assumes a testamentary tone, even if it is a testament filtered through the pen of a court clerk.<sup>73</sup> The fact that Ginzburg wrote his story around a legal case is instructive; court transcripts are a cherished resource of the microhistorian.<sup>74</sup> Every case intimating its own story, however marginal or elusive.<sup>75</sup> Witchcraft histories commonly lend themselves to this strategy, such as Ginzburg's own *Night Battles*, or James Sharpe's *The Bewitching of Anne Gunter*.<sup>76</sup> Legal record tells us a bit about Anne Gunter, but nothing like enough to tell her story, still less the history of witchcraft in early modern England. It is here that the ironist steps in, to assume the responsibility of refashioning the story, filling whatever gaps they can, fining whatever incongruities.<sup>77</sup> Ginzburg refers to it as 'silent' inspiration.<sup>78</sup> Giovanni Levi terms it reading 'beyond the edge of the page'.<sup>79</sup>

It is this voice-raising aspiration which gestures towards a more 'anecdotal' species of micro-history, focussing its attention on the peculiarity of the textually situated person.<sup>80</sup> A history that can, as Tonio Andrade puts it, thereby recover the presence of 'real people' and the 'human dramas that make history come alive'.<sup>81</sup> The ironic affinity is self-evident, the same embrace of 'sad and sentimental stories'. In the broadening context, Jan de Vries refers to a 'cultural turn' in contemporary microhistory, a noticeable lean towards a more 'empathetic storytelling'.<sup>82</sup> Especially if the storyteller assumes a 'performative', presence in their own 'history'; something to remember when we turn our closer attention to the trial of Apuleius.<sup>83</sup> John Brewer recognises a species of what he calls 'refuge' writing that sustains the 'historian's sympathy and identification with actors in the past', appreciating that each situated individual has 'agency, motives,

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72. Zemon Davis, *Return*, 5. The problem discovered in the prosaic fact than none of the 'original' trial transcripts survive.

73. Ginzburg, *Cheese*, x.

74. For an intriguing variant, comparing modern trials of alleged anarchists with inquisitorial trials of supposed heretics, see his *Judge and the Historian*, 7-9, 19-22, 181, 205.

75. Ginzburg, *Threads*, 5.

76. C. Ginzburg, *The Night Battles: Witchcraft and Agrarian Cults in the Sixteenth and Seventeenth Centuries* (Johns Hopkins UP, 2013), and J. Sharpe, *The Bewitching of Anne Gunter* (Routledge, 2001).

77. As Ginzburg readily concedes, in recounting the writing of *The Cheese and the Worms*, in 'Things', at 22-4. Ultimately, he had a 'narrative' to create.

78. Ginzburg, 'Latitude', 671-2.

79. G. Levi, "Frail Frontiers," *Past and Present* supp.14 (2019), 41.

80. See L. Gossman, "Anecdote and History," *History and Theory* 42 (2003), 143-68.

81. Andrade, 'Farmer', 574.

82. De Vries, 'Scales', 23, 25-6. For a similar statement, see J. Higham, "The Limits of Relativism: Restatement and Remembrance," *Journal of the History of Ideas* 56 (1995), 673.

83. See here Lepore, 'Microhistory', 129-44, and P. Arnade and E. Colwill, "Crime and Testimony: Life Narratives, Pardon Letters, and Microhistory," *Journal of Medieval and Early Modern Studies* 47 (2017), discussing the example of medieval 'pardon letters', especially at 148-9.

feeling and consciousness'. Histories which are 'intimate', for reason of both scale and empathy.<sup>84</sup> Lepore uses the same term, commenting on the 'intimacy' which entices the anecdotal historian.<sup>85</sup>

The willingness to listen imports something else essentially ironic, the appreciation of moment and incongruity. History, as Levi puts it, as a constant process of conversation and 'negotiation'.<sup>86</sup> De Vries places the anecdotal micro-historian at the 'crossroads of multiple connections' and 'conflicting sources'.<sup>87</sup> Ginzburg assumes the responsibility to 'reconstruct the interconnections among diverse conjunctures' and voices.<sup>88</sup> Richard Brown identifies that 'existential moment' when all the seeming anomalies 'intersect'.<sup>89</sup> It is this for which the anecdotal historian is listening. The metaphors recur; conflict and reconstruction, incongruity and interconnection. A little earlier, we ventured a variant metaphor, supposing that the essence of microhistory is to see more by looking closer. And what we should see, when we look more closely, is all the imperfections, the gaps, the incongruities. A true diamond will have the tiniest of inclusions; the fake diamond has none. And so it is with history; there will always be contingencies, scratches in the story, things that will need to be touched up.

There is, in a sense, nothing new here. Brewer identifies the place of 'anecdotes' and 'fragments' in the writings of Georg Simmel and Walter Benjamin. The 'profane illumination' which the latter discovered in 'insignificant details'.<sup>90</sup> History told in the 'chance remark', as Plutarch put it.<sup>91</sup> The literary enlightenment was fascinated by the anecdotal *petite histoire*, Horace Walpole notably so. 'I write casual memoirs', Horace once proclaimed, 'I draw characters, I preserve anecdotes, which my superiors, the historians of Britain, may enclose into their weighty annals or pass over at the pleasure'.<sup>92</sup> Horace knew the difference, and he knew it was contrived. Anthony Ashley Cooper likewise, whose 1711 essay *Characteristiks of Men, Manners, Opinions, Times* is a classic of the genre. Nicholas Chalfont too, author and collector of *Maximes et Pensees*, published in 1795.<sup>93</sup>

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84. J. Brewer, "Microhistory and the Histories of Everyday Life," *Cultural and Social History* 7 (2010), 88-9, 92, suggesting that the counterpoint to 'refuge' is 'prospect' history. For a similar conclusion, albeit not from a microhistorical perspective, see J. Higham, "The Limits of Relativism: Restatement and Remembrance," *Journal of the History of Ideas* 56 (1995), 673, suggesting that it is only 'through the exercise of empathy, as well as the critical examination of records' that a 'historian can go far toward reconstructing the mentality of the subject'.

85. Lepore, 'Microhistory', 129-30, 144,

86. In Brewer, 'Microhistory', 96.

87. J. de Vries, "Playing with Scales: the Global and the Micro, the Macro and the Nano," *Past and Present* supp.14 (2019), 23-4. For the same sentiment, see Ginzburg, 'Things', 21-2

88. C. Ginzburg and C. Poni, "The Name and the Game: Unequal Exchange and the Historiographic Marketplace," in *Microhistory and the Lost Peoples of Europe* (E. Muir and G. Ruggiero, eds) (Johns Hopkins UP, 1991), 6.

89. Brown, 'Microhistory', 19.

90. Brewer, 'Microhistory', 99.

91. In his *Life of Alexander*, quoted in Gossman, 'Anecdote', at 156.

92. In T. Mowl, *Horace Walpole: the Great Outsider* (Faber and Faber, 2010), 257. Walpole developed his liking of the *petite histoire* following a tour round France, during which he met Voltaire.

93. For an overview here see L. Gossman, "Anecdote and History," *History and Theory* 41 (2003), 146-7, 150.

There is a necessary irony in discovering that Chalfont, an enthusiastic Jacobin, would become a late victim of Robespierre's 'terror'. Ginzburg is not alone in imputing the possibility that the French revolution, which in many ways encapsulated all the violent contradictions of the moment, might be supposed an ironic irruption.<sup>94</sup> Charles Dickens's *Tale of Two Cities* can be read on the same terms<sup>95</sup> Here again, we can spot an affinity with Rortian ironism, and the supposition that the fictive text is at least as well-placed to tell history, not least because it is part of that history. Dickens, like Tolstoy, recites an empathetic history. As, in a different way again, did Edmund Burke in his *Reflections on the Revolution in France*, pretty much all of which was the product of the author's febrile imagination, but at the heart of which was the same critical appreciation that the French revolution was always as much about drama as ideology. Thus, his renowned account of the 'rape' of Marie Antoinette, written so that men should shed 'tears' and reach for their 'scabbards'.<sup>96</sup>

Claude Levi-Strauss famously supposed that there were so many impressions of the French revolution that it should now be treated as a 'myth' rather than an historical event.<sup>97</sup> Or 'jest' perhaps, as Ginzburg teases, revisiting contemporary histories of the moment.<sup>98</sup> It is a provocation which resonates with Voltaire's famous comment regarding a joke shared between King Louis XIV and his father on the subject of princely performance. There was no provenance to the reported joke, as Voltaire conceded, but it was too good not to become history.<sup>99</sup> At this point, we have reached perhaps the edge of ironic history.

## The Trials of Apuleius

We have also reached a point where we can return to Apuleius and his *Apologia*. Cognisant of the fact that we will be re-reading one of the most renowned accounts of a criminal trial in Roman history, but also that we will be reading a text which might be significantly compromised; not least by a second text conjured by the same author. This should not make us unduly sceptical. There is, as we have inferred, an authenticity to the history which Apuleius creates for us. But as we embark on our re-reading, and re-telling, we should appreciate the irony of our endeavour; that it is an authenticity which we

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94. See here White, *Tropics*, 84-5, supposing that the revolution might, as imagined by contemporaries such as Michelet and Tocqueville, be 'emplotted as an ironic tragedy'. Gossman reaches a similar conclusion, in 'Anecdote', 152-8. Ginzburg's imputation is found in *Judge and Historian*, at 14-15.

95. For an interesting, if tangential, critique here see W. MacNeil, *Novel Judgements: Legal Theory as Fiction* (Routledge, 2011), ch.7.

96. E. Burke, *Reflections on the Revolution in France* (Penguin, 1986), 164, 175. For a commentary on the ironic and the fantastical in Burke's 'history', see White, *Tropics*, 96-7, and I. Ward, *Writing the Victorian Constitution* (Palgrave, 2018), 29-36.

97. C. Levi-Strauss, "The Structural Study of Myth," *Journal of American Folklore* 68 (1955), 428-44.

98. Ginzburg, *Judge*, 111.

99. In Gossman, 'Anecdote', 160, citing Burkhardt's original attribution.

create as accomplices in the author's wizardry. The case-study, as we have already inferred, is the ideal *modus* of the 'strong poet'.<sup>100</sup> The case as 'miniature' or micro story, the 'enigma' of a moment wrapped up in a textual fragment.<sup>101</sup> We have already evoked such a moment, at the basilica in Sabratha in 158.

The charge levelled against Apuleius, if we recall, was sorcery. The Romans took sorcery very seriously, not least because of its intrinsic relation with religion; a tension familiar to cultural historians. Rome was steeped in *religio*. There 'is no place in our city', Livy confirmed, 'that is not filled with' it.<sup>102</sup> In more metaphysical tones, Seneca talked of pervasive 'feelings of religious awe'.<sup>103</sup> Temples abounded across Rome, whilst a litany of festivals and rituals, discovered in texts such as Ovid's *Fasti*, provided the decoration. The poetics of devotion, the *cultus deorum*, at the centre of which was *placatio*; keeping the gods onside.<sup>104</sup> The elder Cato periodically processed farm animals around his fields, in the hope that Mars, the god of agriculture, would 'bestow good health' on his estate.<sup>105</sup> Mars was, of course, borrowed from the Greek pantheon of deities, along with Jupiter and the rest of the gang. Roman religion was intuitively acquisitive.

For which reason, as the empire expanded, so did the array of imported gods. It was here that the cultural margins further blurred. Some were welcomed, such as Aesculapius, the Greek god of healing, amongst whose initiates could be counted Apuleius. The Egyptian goddess Isis too, into whose priesthood Apuleius was also initiated, and to whom a vast temple was dedicated on the *Campus Martius* in Rome. More of Isis very shortly. Not everyone was welcoming. Juvenal bemoaned the invasion of cultish 'dregs' from the edges of empire.<sup>106</sup> Livy ascribed the Bacchanalian cult to 'pestilential evil' brought to Rome by a 'low-born' Greek 'magician'.<sup>107</sup> Early-day Christians were treated with similar suspicion. Tacitus denounced a 'pernicious superstition' imported from afar.<sup>108</sup> It was all the alleged miracles which drew the authorities' attention to the case of Jesus of Nazareth. 'This fellow doth not cast out demons', the *pharisees* reported, 'but by Beelzebub the prince of devils'.<sup>109</sup> The Saviour was a sorcerer by trade.

100. See his 'Microhistory', 446, 462 and 'Latitude', 665-83, coining the alternative term 'experiment'.

101. On the theme of 'enigma' in the appreciation of art more generally, see Ginzburg ?

102. Livy, *History of Rome, books 5-7*, (Harvard/Loeb, 1989), at 5.52.

103. Seneca, *Selected Letters* (Oxford UP, 2010), 41.3.

104. C. Ando, *The Matter of the Gods: Religion and the Roman Empire* (California UP, 2008), 3-4, 13-4, 107-8.

105. V. Warrior, *Roman Religion* (Cambridge UP, 2006), 20-1. Military defeats were commonly ascribed to angry gods. Straying vestal virgins were blamed for the crushing defeat inflicted by the Carthaginian general Hannibal at the battle of Cannae in 216 BC.

106. Juvenal *Satires*, (Oxford UP, 1991), 3.61. For a commentary here, see W. Watts, "Race Prejudice in the Satires of Juvenal," *Acta Classica* 19 (1976), 83-104. Tacitus was of similar opinion regarding the growing presence of Christians in Rome, a 'pernicious superstition'. See his *Annals*, (Oxford UP, 2008), 15.44.

107. Livy, *History of Rome* (Harvard/Loeb, 1989), bks.1-45, at 39.9.

108. Tacitus *Annals* (Oxford UP, 2008), 15.43. Suetonius deploys the same ascription, at *Nero* 16, in *Lives of the Caesars*, (Oxford UP, 2000).

109. *Matthew* 12:24. For the perception of Jesus as *magus*, see A. Watson, *The Trial of Jesus* (Georgia UP, 2012), 18-9, 82-5, 88-96.



The proscription of magic in Roman law was originally inscribed in the *Twelve Tables*; prohibitions against *veneficium*, for ‘whoever shall have bewitched’ or ‘cast an evil spell’, along with more specific condemnation of those who ‘sang evil songs’ and cursed harvests.<sup>110</sup> The elder Pliny’s account of magic, in his *Natural History*, starts here, after which readers are treated to myriad *exempla* variously deserving of proscription. Incantations summoning dead relatives, and exorcisms to get rid of them, rows of wax masks resembling the same lined up in Roman *atria* ready to ‘accompany family funerals’. The interest of the poets was to be expected. The fourth book of Virgil’s *Aeneid* closes with Dido resorting to ‘magical arts’ to prepare for her own self-immolation. In *Epode* 5, Horace treats his readers to a famously gory account of a boy buried alive by witches, with his head protruding above the sand, so that when he dies, they can use his liver for a love-potion.<sup>111</sup> There are wizards, but there are plenty more witches, ‘twisting men’s minds with spells and potions’ as Horace puts it.<sup>112</sup> A misogyny which is again familiar through history.<sup>113</sup>

For the ordinary Roman, though, magic was a more quotidian affair, a ‘coping mechanism’ for life in a world where so much could not otherwise be properly explained.<sup>114</sup> Ovid’s *Fasti* provides a more playful account of the myriad rites and rituals which determined this magical life. Spreading garlands on roof-tiles at *feralia* to placate the ‘gods that inhabit the depths of the Styx’, the sprinkling of black beans on the floor during the rite of *lemuria* to much the same purpose.<sup>115</sup> Streets teeming with *sagae* bestowing their coveted wisdom, for a fee, *cantatrices* singing spells, *haruspices* sniffing the weather.<sup>116</sup> The Roman was never far from a con-artist or a magician.

It was against the malevolent sorcerer that the law was chiefly targeted. The *lex Cornelia de Sicariis et Veneficiis* of 81 BC had refined the ancient law in three important ways. First, it distinguished acts of evil intent, *veneficium mala*. The word *sicarium* implies malice aforethought, whilst *venenum* had acquired a particular connotation with poison, the weapon of choice for the surreptitious plotter.<sup>117</sup> Second, the very practice of magic was prohibited, along with the possession of books on magic. Third, it created a

110. Discovered in the eighth ‘table’. The prohibition of ‘evil songs’ most likely relates to slander and injury to reputation. The cursing of harvests was proved by the spiriting away of a neighbour’s grain ‘into thin air’. Pliny discusses the original proscription in his *Natural History* (Penguin, 1991), at 28.181-19, 3.12.35-6.

111. Horace, *The Complete Odes and Epodes*, (Oxford UP, 2008), epode 5, at 7-10.

112. Horace, *Satires and Epistles* (Oxford UP, 2011), 1.8.

113. On the familiar gender pejorative in accounts of magic and sorcery in the Roman world, see N. Janowitz, *Magic in the Roman World* (Routledge, 2001), 86-96, noting that whilst *mageia* might indeed have been classified as good and bad, female witches were only ever the latter.

114. K. Bradley, “Law, Magic and Culture in the *Apologia* of Apuleius,” *Phoenix* 51 (1997), 209-12, and also *Apuleius and Antonine Rome* (Toronto UP, 2012), 8-9.

115. Ovid, *Fasti* (Oxford UP, 2013), 2.533-42, 5.429-43.

116. *Haruspices* were freelance soothsayers.

117. It is generally thought that the *lex* was a response to a contemporary scare regarding female poisoners. See H. Kippenberg, *Envisioning Magic* (Brill, 1997), 148-9, and J. Rives “Magic in Roman Law: The Reconstruction of a Crime,” *Classical Antiquity* 22 (2003), 318-22.



collateral offence, of making, selling, or possessing *male medicamenta*. A warning to all herbalists who might be tempted to dabble in the darker arts, even those who were trying to heal the sick or ‘give love-potions’.<sup>118</sup>

The sentence could vary, depending on class and consequence. But for the most serious malefactor there could only be one punishment, as confirmed in the third-century *Pauli Sententiae*. Those ‘addicted to the art of magic shall suffer extreme punishment, that is to say that they shall be thrown to wild beasts or crucified; magicians themselves shall be burned alive’.<sup>119</sup> In principle there was, accordingly, much for Apuleius to lose that morning at Sabratha. But, as we have already noted, as a Roman citizen of repute, and in the absence of an attributed fatality, the most likely consequence would have been *relegatio*. Bad enough though, given that he would have had to leave his wife behind, along with her lucrative olive groves and other business interests. Which as we will now see, was the real reason why he found himself on trial.

### A First Testament

We will start with the facts, or at least those which Apuleius provides. At the apparent urging of his former student Socinius Pontianus, Apuleius had married a wealthy widow named Pudentilla, who lived in the town of Oea. Socianus was her son. The marriage was opposed by the family of her first husband, the Socinii; led by Aemilianus, her brother-in-law, a man of ‘bitter heart’, Rufinus, her father-in-law, and Pudens, her younger son.<sup>120</sup> Rumours spread that Apuleius had bewitched Pudentilla and then murdered Pontianus, who had since died in uncertain circumstances. Apuleius records that Rufinus had gone into the town-square at one point, to read a letter from Pudentilla that purported to confirm her bewitchment. Family tensions, and a desire to retain control of Pudentilla’s considerable estate, including her original dowry, were evidently significant factors. But so was Apuleius’s reputation.

Only recently returned to the area, having travelled widely, studying in Carthage and Athens, before venturing to Rome, where he had practised as an advocate, and developed an interest in cults, becoming an initiate at the Temple of Isis and a priest of Aesculapius.<sup>121</sup> Commonly supposed to possess peculiar skills in healing and herbalism, Aesculapian priests were always a bit suspicious. Although Apuleius is quick to observe that he had given a ‘famous’ public lecture within days of arriving on Oea on the ‘majesty of Aesculapius’, earning the ‘sympathy of the religious people’ of the

118. S. Corcoran (ed) *Sententiae of Paulus, Encyclopaedia of Ancient History* (Wiley Online, 2012), 2.53.14, 18.

119. *Sententiae*, 5.23.17.

120. Apuleius, *Apologia, Florida, De Deo Socratis* (Harvard/Loeb, 2017), at 28.7-8 and 53.3. Apuleius suggests that he started tutoring young Pudens too, but that they had fallen out, leaving the latter semi-literate. The status of the Socinii remains uncertain. Apuleius describes them as little more than rustics.

121. Apuleius suggests that it was a desire to visit the famous Temple to Isis which inspired his journey to Rome.

town.<sup>122</sup> If not, by inference, the others. In sum then, a charismatic outsider arrives in town, entrancing the gullible, insulting the local elite, and bewitching their women. Unable to dispose of the matter themselves, the Socinii turned to their Roman governor to sort it out.

The matter duly arrives in court, prosecuted by Aemelianus on behalf of young Pudens.<sup>123</sup> Pudentilla was, of course, barred from giving evidence in court, for either side.<sup>124</sup> It is likely that the matter proceeded *ordo iudiciorum*; a preliminary hearing, followed by trial and judgement by the *iudex*.<sup>125</sup> Murder charges had been dropped, probably at the preliminary stage, but the sorcery charges remained. The evidence was various, starting with Apuleius's appearance, his unkempt hair particularly, and strange white teeth. He had also written erotic poetry, chiefly about young boys, one of whom he had entranced. Other dubious activities included a peculiar interest in genital-shaped flatfish commonly used for *venenum*, the stashing of a secret object in Pudentilla's house, and the commissioning of a 'ghoulish' wooden statue. All of which meant, and Apuleius stressed the personal nature of the charge, that he was accused of being *me magum esse*.<sup>126</sup>

A defendant in Apuleius's position had three options; to deny the actions in question, to dispute their characterisation as crimes, or to plead extenuating circumstances. Apuleius opts for the first and second and mounts his defence accordingly, opening with a brief *exordium* and *peroratio*, followed by particular refutations. The first is the *praemuntio*, in which he formally 'refutes all slanders', including evidentiary insinuations regarding his social background, dodgy verse and personal vanity.<sup>127</sup> There is nothing wrong with dental care, and if he comes over as witty and eloquent it is because he well-travelled and learned.<sup>128</sup> And his hair is just unmanageable, like 'mattress stuffing'.<sup>129</sup>

He then moves on to rebut the charges of sorcery, *ipsum crimen magiae*, welcoming the 'opportunity' and 'occasion to clear the name of philosophy' in the 'eyes of ignorant people'.<sup>130</sup> He is thus interested in fish, not as a prospective poisoner, but as a natural

122. *Apologia* 55.10. A long *encomium* to Aesculapius can be found in *Florida*, at 19.

123. Thereby dodging the *lex Remmia de calumniatoribus*, which was designed to inhibit false accusations, but which did not apply to minors.

124. Confirmed by Ulpian, in *Digest* at 50.17.2 prol.

125. More commonly known as the formulary system.

126. *Apologia* 25.8.

127. In effect a 'man on the make', as Rives) puts it, in 'Magic' at 22.

128. See *Apologia* 5, defending his eloquence, 23.2-3, on his 'distant travels', and also 6.3, on a poem he has written recommending an Arabian *dentifrice* made of 'fine, whitening, excellent powder/ Guaranteed to shrink swollen gums'. The accusation regarding *dentifricium* imputed a suspicious knowledge of herbal cosmetics.

129. *Apologia* 4.12. Long hair was anyway considered fashionable for a philosopher, in reputed imitation of Pythagoras. The Stoic Epictetus took considerable pride in sporting a beard 'more majestic than a lion's mane'. See J. Sellars, *The Art of Living: The Stoics on the Nature and Function of Philosophy* (Bristol Classical Press, 2009), 17 and also Bradley, *Apuleius* 148-53 on the semiotics of hair and deportment in the *Apologia*.

130. *Apologia* 1.3.

scientist dedicated to discovering healing remedies.<sup>131</sup> The same is true of the entranced slave-boy, who in fact suffers from epilepsy. Here Apuleius treats the court to a long digression on what he has learned from studying the condition.<sup>132</sup> The object kept wrapped in a ‘little napkin’ is an Aesculapian token.<sup>133</sup> The wooden figure is an image of the god Mercury, to whom Apuleius makes offerings on public holidays.<sup>134</sup> In sum, the voice of reason, of Plato indeed, of the *First Alcibiades*, carefully distinguishing the informing sophist from the ‘vulgar’ utterances of the goetic *magus*.<sup>135</sup> A distinction for the initiated, of course, and the man who really mattered that day, Claudius Maximus. Know your judge, Quintillian famously advised. Apuleius knew his.

Finally, Apuleius turns to the matter of his marriage, switching from philosophic reflection to matters of legal materiality. First, the marriage is in strict conformity with the Augustan *lex maritandis ordinarius*.<sup>136</sup> He has not bewitched Pudentilla, who entered her second marriage willingly on the advice of her elder son. And he will not gain from Pudentilla’s dowry from her first marriage, should she predecease him; as anyone who cares to read her will would discover. Neither is there anything suspicious in their getting married out of town, away from her boorish in-laws. In sum, there is nothing illegal, immoral, or magical about Pudentilla’s second marriage. As Pudentilla attests, or at least Apuleius purports to attest on her behalf, she needs a ‘conjugal life’.<sup>137</sup> If there is a *leno* in the house it is Rufinus, pimping his marriageable relatives around the town.<sup>138</sup> Character assassination, a key transferable skill of the successful Roman advocate.

And the proconsul agrees, or so Apuleius has us believe. It might be that the allegations were just too flaky.<sup>139</sup> Maybe Maximus recognised a kindred spirit too, a fellow gentleman amongst the savages, common advocates in the ‘name of philosophy’.<sup>140</sup> And

131. *Apologia*, 29–42. On Apuleius’s placing of himself in the tradition of the elder Pliny, as a natural historian, see Harrison (2008), 17. His collateral contention, that there is no association in the literature, between magic and fish, is more doubtful. Ovid cites an example in his account of the festival of Parentalia in *Fasti*, at 2.557–82. The elder Pliny devotes much of the thirty-second book of his *Natural History* to use of fish in magic, fish amulets to assist in childbirth, dolphin teeth for nightmares, starfish smeared with fox-blood and hung on the front door, to ward-off evil spirits.

132. *Apologia* 49–51. And another opportunity to flatter Maximus, who would have surely read Plato on the subject. An alternative reading of the entranced slave-boy might note that epilepsy was seen by some as evidence of divine, or conversely, demonic possession.

133. *Apologia* 53–5.

134. *Apologia* 61.

135. Part of the ‘Platonic family’, as he puts it, at 64.3–4. See Fletcher, *Platonism*, 198–200 and L. Costantini, *Magic in Apuleius’s Apologia: Understanding the Charges and Forensic Strategies in Apuleius’s Speech* (DeGruyter, 2019), 62–6, 79–81.

136. *Apologia* 88.

137. *Apologia* 69.2–3.

138. *Apologia* 75. Ulpian defined a *leno* as someone who kept slaves for prostitutes and profit. In *Digest* at 3.2.4.

139. For the suspicion that the accusation may have been too hastily drafted, see Bradley, ‘Magic’, 206.

140. *Apologia* 36.5–8, See Bradley, ‘Magic’, 3, 16, supposing that Apuleius and Maximus might be imagined as ‘the sole inhabitants’ in that moment, ‘of a rarefied atmosphere of intellectualism that separated them radically from the alternate, and far larger, world of ignorance and magical practice’.

a fellow Roman.<sup>141</sup> Maybe it was a show of force, impressing the reason of Roman law against primitive superstition. Most likely though, is the rhetorical brilliance of Apuleius, or so we are supposed to infer.<sup>142</sup> Unlike the Socinii, who come over as little more than illiterate yokels, barely capable of stringing together two sentences in vernacular Punic, never mind refined Latin.<sup>143</sup> The irony is immanent, as Apuleius admits. It is precisely this kind of poetic wizardry that has got him into a mess. ‘He has bewitched me, and I am in love’, Pudentilla’s letter confesses.<sup>144</sup> Indeed, Apuleius responds, he wooed her in a ‘spirit of irony and jest’.<sup>145</sup> Just as he is now wooing his readers.

## The Second Testament

We do not know when Apuleius wrote *The Golden Ass*, but it was almost certainly after his trial, given what was in it; a suspiciously informed knowledge of sorcery, which would surely have been cited by his accusers.<sup>146</sup> Neither do we know why, though given that everything else he wrote was designed to impress his brilliance as an orator and philosopher, we can reasonably infer that the same was the case in regard to the *Golden Ass*. The prologue proclaims a ‘Milesian’ tale, shorthand for a Latin bodice-ripper, with a fair bit of sorcery thrown in.<sup>147</sup> Modern commentators have variously supposed that it might be a ‘seriocomic’ love-story, in the spirit of Aristophanes perhaps, a moral fable, a narratology of Platonic philosophy, a redemption or ‘conversion’ text.<sup>148</sup> Or maybe, it is an ironic exercise in *aporesis*. The prologue opens with the promise that the narrator will ‘stroke your approving ears with some elegant whispers’.<sup>149</sup> Making asses of everyone?<sup>150</sup>

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141. The evidently wealthy and connected Socinii would also have been Roman citizens. But not Roman in the sense that Apuleius claimed to be, soaked in the culture of *romanitas*. See here Bradley, *Apuleius*, 54-7.
142. See Bradley, ‘Magic’, 213, J. Rives, ‘Legal Strategy and Learned Display,’ in *Padeia at Play: Learning and Wit in Apuleius* (W. Riess, ed) (Backhuis, 2008), 39-44, and S. Harrison, *Apuleius: a Latin Sophist* (Oxford UP, 2008), 5-6, 11-13.
143. *Apologia* 1.3, 3.5. See Bradley, *Apuleius*, 13-14 on the relative status of Punic, the first language of the emperor Septimus Severus. Whilst Apuleius is disparaging, Ulpian would later attest to the vitality of Punic in the *Digest* 32.11. On the affinity between Apuleius’s depiction of Aemilianus and stock comedic characters familiar in Roman drama, see Fletcher, *Platonism*, 196.
144. *Apologia* 82.2.
145. *Apologia* 87.6. On the idea that Pudentilla’s ‘letter’ was to be read ironically, see Fletcher, *Platonism*, 221-2.
146. See Harrison, *Apuleius*, 9-10, and 14-15, surmising that Apuleius might have used his triumph at Sabratha as a springboard to greater literary renown, including the writing of *De Florida* and *The Golden Ass*.
147. Apuleius, *The Golden Ass* (Oxford UP, 1995), 1.1.
148. See variously J. Winkler, *Auctor and Actor: A Narratological Reading of Apuleius’ The Golden Ass* (California UP, 1985), 5, 126, Bradley *Apuleius*, 229-30, and L. Graverini, *Literature and Identity in The Golden Ass of Apuleius* (Ohio UP, 2012), 56, 122-6, 131-2.
149. *Golden Ass* 1.1.
150. See here J. Svendsen, ‘Apuleius’s *The Golden Ass*: The Demands on the Reader’ 13 *Pacific Coast Philosophy* 1978, 103-4, and Graverini, *Apuleius*, xi-iii, and 133 supposing that the *Ass* is a ‘polyphonic’ text written precisely to deny generic categorisation.

The story moves around the experiences of its narrator Lucius, as he first falls prey to the temptations of sex and sorcery, and is then transformed into an ass, during which time he undergoes a series of violent and humiliating experiences, before being finally saved by the goddess Isis. The eye of the literary jurist is, of course, drawn to the trial scene which occurs in the third book. On the evening of the festival of Risus, Lucius has dinner at the house of his aunt in Hypata, where he drinks a lot of wine and listens to a lot of tall stories, chiefly about witches and magic.<sup>151</sup> Arriving at the house of his friend Milo, where he is staying, Lucius encounters three muggers, who he kills. The following morning, he is arrested and charged with murder, and led through the streets to his trial in the ‘forum’, escorted ‘like a sacrificial victim across the stage’.<sup>152</sup> The presiding *magistratus* appears to conduct a *cognitio* procedure in *consilium*, treating Lucius as *peregrinus*, or outsider.<sup>153</sup> The prosecution, advanced by the night constable, stresses that the safety of the entire community is threatened by the presence of this violent ‘stranger’.<sup>154</sup> The inference of the Socinii prosecution, pretty much.

It all seems terrifyingly real, and terrifyingly dramatic. In short order a couple of women arrive on stage, a first in mourning weeds, a second in ‘repulsive rags’, to raise a ‘din of lamentation’.<sup>155</sup> Rufinus in drag. Meanwhile Lucius mounts his desperate defence. Which is that he acted in defence of himself, his friend Milo, and by implication everyone else who lives in crime-ridden Hypata; a town that seems to be as full of robbers as it is witches. The defence of *salus rei publicae*, the safety of the state. Most importantly, he did not go armed for ‘the purpose of murder or robbery’, as proscribed under the *lex Cornelia*, merely carrying a ‘short sword’ for his own ‘safety’.<sup>156</sup> A ‘singing’ defence that starts in tears, and ends in tears, appealing for divine intervention.<sup>157</sup>

And then the pretence is revealed, though not before Lucius is casually threatened with torture.<sup>158</sup> It is a mock-trial, part of the festival indeed. The muggers that he thought he had attacked were in fact wineskins, magically transformed.<sup>159</sup> The magistrates, revealing themselves to be genial locals, rather than stern Romans, formally acquit Lucius. All very jolly, and thoroughly unsettling, the familiar ambivalence that attended Bacchanalian-styled festivals.<sup>160</sup> It transpires that the basilica at Hypata is

151. Hypata is in modern-day Thessaly.

152. Apuleius, *The Golden Ass* (Oxford UP, 1995), 3.2.

153. A non-citizen in Roman law.

154. *Golden Ass* 3.3. On the case moving around an alleged violation of *hospitium*, see R. Vander Poppen, “A Festival of Laughter: Lucius, Milo, and Isis Playing the Game of *Hospitium*,” in *Padeia at Play: Learning and Wit in Apuleius* (W. Riess ed) (Barkhuis, 2008).

155. *Golden Ass* 3.8.

156. *Golden Ass* 3.5.

157. *Golden Ass*, 3.4, 7.

158. *Golden Ass* 3.9.

159. A plot line borrowed from Aristophanes’s *Thesmophoriazousai*.

160. There is no evidence of any god named Risus, which suggests that Apuleius made him up. Though the Spartans did have a cult of *gelos*, or laughter, according to Plutarch, a variant of the Bacchanalian. See R. May, *Apuleius and Drama: The Ass on Stage* (Oxford UP, 2006), 183-8, 192-5, and G. La Bua, “Mastering Oratory: the Mock-Trial in Apuleius’s *Metamorphoses*,” *American Journal of Philology* 134 (2013), 676-7.

more commonly used as a theatre; something familiar in the Greek 'orient'. All of which contributes to the sense that whilst the *Apologia* might have made a case for the integrity of Roman law, the trial of Lucius leaves the converse impression. It is dangerous and ridiculous; indeed, it is dangerous because it is ridiculous.

And which leaves the reader to infer authorial presence too. Is the trial of Lucius purposed to question that of his creator? Both cases involve sorcery, both are premised on false accusations levelled against perceived outsiders, both are evidently theatrical and, of course, textual. It would be easy to surmise that Apuleius regards all trials as pieces of theatre, the resolution of which depends as much on rhetorical wizardry as anything else. The fallacy of the trial at Hypata might be meant to insinuate something less assuring about the legal integrity on display at Sabratha, or at least on display in the account written into the *Apologia*. Or the converse might again be true, the revealed mockery of the Hypata trial serving to cleanly distinguish it from the seriousness of the Sabratha trial.

The events at Hypata are though only the start of Lucius's trials. Shortly after his 'acquittal', he falls prey to sexual temptation and finds himself transformed into an ass. A series of variously ludicrous and horrifying escapades follow as he wanders through a dangerous world of 'random' injustices, full of rogues and robbers, murderous mothers, and malevolent witches.<sup>161</sup> The latter are everywhere, as the reader would expect, given that the novel opens with Lucius 'on my way to Thessaly', a place notorious for its sorcery.<sup>162</sup> The very first chapter relates the story of a friend killed by a witch, only to magically reappear, his wound covered by a sponge.<sup>163</sup> Shortly after, the reader encounters some 'aged sorceresses' mutilating a sleepy boy tasked with watching-over a corpse.<sup>164</sup> Later, an adulteress will hire the services of a local witch to get rid of her husband, found hanged after an encounter with a freshly raised ghost.<sup>165</sup>

The witch who matters most though is Pamphile, reputed to be a sorceress of the 'first rank, a specialist in all forms of necromancy', who 'can plunge all this light of day which descends from the starry heavens into the lowest depths of Tartarus, reducing it to the chaos of old'.<sup>166</sup> It is Pamphile who has orchestrated the mock-trial, momentarily transforming the wineskins into humans.<sup>167</sup> There is much about Pamphile that fits the dramatic bill, pottering about her 'infernal laboratory', stocked with all the *omen genus aromatis* that the reader might again expect. The ability to mix a good potion was, of course, a defining skill.<sup>168</sup> Alongside 'every kind of aromatic plant', Pamphile also keeps a 'large collection of corpses' limbs', a pile of noses and fingers, 'nails from the gibbet

161. R. Summers, "Roman Justice and Apuleius's *Metamorphoses*," *Transactions and Proceedings of the American Philological Association* 101 (1970), 511.

162. *Golden Ass* 1.1.

163. *Golden Ass* 1.6-19.

164. *Golden Ass* 2.21-30.

165. *Golden Ass* 9.29-30. There is an inference that she is a Christian, a monomaniac as well as a nymphomaniac; 'mad' either way. See Bradley, *Apuleius*, 28-9.

166. *Golden Ass* 2.5. Pamphile is also Milo's wife.

167. As her slave Photis infers, being her unwitting instrument, at 3.13.

168. Porphyrio supposed that Horace based his ur-witch Canidia on a famed Neapolitan herbalist named Gratidia.



to which there still clung flesh from the men there', phials of 'the blood of slaughtered men', and 'gnawed skulls, torn from the fangs of wild beasts'.<sup>169</sup> An obsession with death is another hallmark of the classic Roman witch. Erichtho, the star-turn in Lucan's *Pharsalia*, wanders battlefields and cemeteries, cutting out the unborn to make infernal sacrifices, slicing off the faces of the dying, and kissing the mouth of corpses. Inhabiting, quite literally, the margins of life and death, raising the gods of the underworld, and plundering the 'ashes of the Roman nation'.<sup>170</sup> And looking the part, 'oppressed by a Stygian pallor and weighed down with matted hair'.<sup>171</sup>

Perverse sexuality is another hallmark. Pamphile's speciality is emasculating 'handsome' young men. It is notable that Apuleius makes her Greek, rather than Roman, and thus more the alluring siren than the hideous old crone.<sup>172</sup> More importantly still, so is her 'pert and witty' slave Photis.<sup>173</sup> It is Photis who seduces Lucius and then facilitates his wish to see Pamphile at work.<sup>174</sup> The curse of *curiositas*, as Augustine would infer, heralding the inevitable fall.<sup>175</sup> Lucius is 'spellbound' with 'astonishment' when he sees the witch transform herself into an owl. If Photis will supply him with the same ointment, so that he might do the same, Lucius promises to be her 'slave for ever'.<sup>176</sup> Photis tries to oblige, but accidentally procures the wrong ointment, which transforms Lucius into an ass. His 'only consolation' is the 'swelling of my penis'.<sup>177</sup> A priapic mark of idiocy which, along with his asses' ears, marks Lucius out as a true satyr. All Photis can do is suggest that if he gets chance, he should 'chew some roses'.<sup>178</sup>

The roses matter, as becomes apparent in the final chapter, which sees Lucius transformed back into human shape courtesy of the goddess Isis. Familiar in a sense, redemption closing out the pilgrim's progress, but unlike anything that has gone before.<sup>179</sup> As we have already noted, critical speculation prefers the idea of a conversion narrative, a textual rebirth to complement the spiritual, and a prescient echo of the author's own initiation into the Isiac cult.<sup>180</sup> The chapter opens at night, but the moon glistens 'with special

169. *Golden Ass* 3.17.

170. Lucan, *Civil War* (Harvard UP/Loeb, 1928), 6.554-9, 565-9.

171. Lucan, *Civil War*, 6.516-18.

172. On this distinction, see B. Spaeth, "From Goddess to Hag: The Greek and Roman Witch in Classical Literature," in *Daughters of Hecate: Women and Magic in the Ancient World* (K. Stratton and D. Kalleres, eds) (Oxford UP, 2014), 46-9, 55-6.

173. *Golden Ass* 2.7.

174. *Golden Ass* 3.19.

175. Augustine, *Confessions*, (Oxford UP, 2008), 10.35. One of three cardinal sins, along with pride and carnal lust. See N. Shumate, "The Augustinian Pursuit of False Values as a Conversion Motif in Apuleius's *Metamorphoses*," *Phoenix* 42 (1988), 35, 52-3, and R. Fox, *Augustine: Conversions and Confessions* (Penguin, 2014), 61.

176. *Golden Ass* 3.22.

177. *Golden Ass* 3.24-5.

178. *Golden Ass* 3.26.

179. See Bradley, *Apuleius*, 24-5, Graverini, *Apuleius*, 54-5, and 251, and Shumate, 'Motif', 36-41, on the curiously awkward fit of the final chapter.

180. Graverini, *Apuleius*, 145-54.



brightness'. Lucius bathes himself in the 'seawaters, plunging my head seven times beneath the waves', a Pythagorean 'rite' which shares an evident affinity with rituals of both Roman *hospitium* and Christian baptism.<sup>181</sup> He prays to Isis and falls asleep, and then 'suddenly from the midst of the sea a divine figure arose, revealing features worthy of veneration even by the gods'.<sup>182</sup> Isis announces herself, 'the loftiest of deities, queen of departed spirits'.<sup>183</sup> If Lucius 'devotes' himself to her, he will be saved. He eagerly agrees.

The process begins with a *pompa* preceded by a parade of actors, a comic *anteludia*.<sup>184</sup> Evidently inspired by the *navigium isidis*, a harvest festival celebrated across much of north Africa, which concluded with a procession to the sea, and the launching of a barque festooned in roses, intended to symbolise the cycle of life.<sup>185</sup> As prophesied, it is the roses which save Lucius. Proffered by the head priest, Lucius gobbles a 'garland' of 'beautiful roses' and is transformed back into human shape.<sup>186</sup> The first stage of his formal initiation into the cult of Isis takes place that same night, after which follow ten days of ritual bathing and abstinence, during which Lucius undergoes a further initiation involving a descent into the realm of the dead. The next day he emerges in public, dressed in a *stola Olympico*, symbolising his rebirth as an Isiac priest. The same rituals that Apuleius would likely have undergone. Lucius's final transformation, into the person of his creator.<sup>187</sup>

Which if so, adds an edge to the counsel given by the teasingly named high priest, Mithras, who guides Lucius through his initiation.<sup>188</sup> Led astray by 'Fortune in her blind course', having 'tumbled on the slippery slope into slavish pleasures and gained the ill-omened reward of your unhappy curiosity', only when he gives himself solely to Isis, will Lucius know 'freedom'.<sup>189</sup> Lucius then goes to Rome, where he tries to scrape a living as an advocate, and undergoes two further initiation rites, intended to raise him to an elevated state of blessedness.<sup>190</sup> And baldness, his head newly shaven, and sported

181. *Golden Ass* 11.1. For a commentary on the ritualistic resonance, see Vander Poppen, 'Festival', 170-1.

182. *Golden Ass* 11.3-4.

183. *Golden Ass* 11.5.

184. Mostly representing assorted deities. For a commentary on the symbolism of the *pompa*, see S. Frangoulidis, *Witches, Isis, and Narrative: Approaches to Magic in Apuleius's Metamorphoses* (DeGruyter, 2008), 181-3 and Bradley, *Apuleius*, 33-4.

185. See J. Gaisser, *The Fortunes of Apuleius and the Golden Ass: A Study in Transmission and Reception* (Princeton UP, 2008), 50-1, and L. Mazurek, *Isis in a Global Empire: Greek Identity through Egyptian Religion in Roman Greece* (Cambridge UP, 2022), 35-6.

186. *Golden Ass* 11.13.

187. See Svendsen, 'Demands', 102.

188. See Winkler, *Auctor*, 245-7 supposing a conscious ambiguity in naming an Isiac high-priest after a renowned Persian deity. Though not so 'incongruous', perhaps, given ease with which Egyptian and 'oriental' gods tended to assimilate, as Bradley, *Apuleius*, observes at 213. The emperor Commodus, who saw himself as the incarnation of Mithras, was a devoted follower of Isis.

189. *Golden Ass* 11.15.

190. A first which initiates him into the 'sacred mysteries' of 'the unconquered Osiris', and a second which initiates him as a specifically Roman Isiac priest. At 11.27, 29.

‘wherever I went’.<sup>191</sup> No more ‘matted’ hair for the Lucius the ass. Saved, as if by magic.<sup>192</sup> Along with his shaggy-haired creator, if we are tempted to read the final chapter as a personal testament.<sup>193</sup>

And they all lived happily ever after, at least so far as we can tell. A peculiar happiness, of course, secured by an unthinking devotion to a mythic deity. But still, happier than being an overly-sexualised ass consumed by *curiositas*.<sup>194</sup> The speeches collected in *Florida* impute that Apuleius spent a good part of the rest of his life in Carthage, perhaps all of it. At some point he assumes office as *sacerdos provinciae* in the city.<sup>195</sup> It has also been surmised that he might have returned to Rome, perhaps serving as a priest at the temple of Isis.<sup>196</sup> Or maybe he retired to Sabratha, to supplicate at its Isiac temple, by repute one of the most impressive in north Africa.

Leaving us to ponder the sentiment Apuleius wrote into the prologue of his *Ass*:

Surely this lying tale of yours is only as true as the claim that when magic formulae are whispered, running rivers go backward, the sea is stopped and becomes idle, the winds die down and cease to blow, the course of the sun is halted, the moon runs dry of dew, the stars are plucked from the sky, daylight is blotted out, and darkness prevails.<sup>197</sup>

Writing as a kind of sorcery, a *fallacia* of textual evasion and human gullibility. We might imagine Apuleius a bit of an ironist, a purveyor of ‘strong poetry’.<sup>198</sup>

## Reconciling Apuleius

We might also wonder if it was the same ‘strong poetry’ which secured his acquittal that day in Sabratha. It is a thought which lends itself to ironic speculation. Scepticism is a necessary attribute of any critical reader. But there is, as already ventured, something more to the idea of ironic history. Appreciating that historical determinism is now ‘out of fashion’, the ironist embraces the interpretive and creative responsibilities that come with an appreciation that the past is messy.<sup>199</sup> She appreciates that to think about history is to engage a reflective and conversational process, rather than endeavour to discover

191. *Golden Ass* 11.30. On the Isiac iconography of Lucius’s shaven head, see Winkler, *Auctor*, 225-6 and Graverini *Apuleius*, 55-7, 82-9.

192. See Frangoulidis, *Witches*, 192-4.

193. P. Walsh, ‘Introduction’ to *The Golden Ass*, (Oxford UP, 1995), xxxvi.

194. See here Bradley, *Apuleius*, 206-13

195. A public office, held by a chief priest, tasked with ensuring smooth relations between state and religion. In Apuleius’s case, to liaise between the city magistrates and the temple of Isis.

196. See C. Jones, ‘Introduction’ to *Apologia, Florida, De Deo Socratis*, (Loeb/Harvard UP, 2017), xi, and K. Dowden, ‘The Roman Audience of *The Golden Ass*,’ in *The Search for the Ancient Novel* (J. Tatum, ed) (Johns Hopkins UP, 1994).

197. *Golden Ass* 1.3.

198. See Shumate, ‘Motif’, 56-60, and Bradley, ‘Magic’, 220, concluding in the closer context of the *Apologia* that the ‘defence’ which he deployed ‘ironically, was the magical power of words’.

199. Ginzburg, *Judge*, 16.

something new. Ginzburg deploys the term *dietrologia*, a scepticism that does not deny incident, but appreciates the contingency of its description.<sup>200</sup> She also realises that if anything makes sense, it is because we give it that sense when we fashion a story out of it. The truth is in the text, as Rorty insists, for there is nowhere else for it to be.

The argument is not entirely unfamiliar to the critical lawyer, of course, implicit in Duncan Kennedy's magisterial deconstruction of Blackstone's *Commentaries*, explicit in Allan Hutchinson's Rortian invocation of 'conversational' jurisprudence:

We are never not in a story. History and human action only take on meaning and intelligibility within their narrative context and dramatic settings. There are many stories being imagined and enacted, but we can only listen to them and comprehend them within the vernacular context of other stories. Our conversations about these narratives are themselves located and scripted in deeper stories which determine their moral force and epistemological validity. There is no truth nor knowledge outside the dramatic context and idiom of history. All conversations occur within history.<sup>201</sup>

Not unfamiliar perhaps, but maybe too readily forgotten. If, as White avers, history is the most 'conservative' of disciplines, so the same can be ventured of its sub-disciplines, including legal history. The arc of legal history over the last century and a half has bent towards the 'certaintists'. No longer though. The advance of a more empathetic, humanities-based approach, to legal history is undeniable. The recovery of the 'other', their voices especially.<sup>202</sup> This is not to disparage the importance of original source material to which the legal historian is naturally drawn, all the cases and codes. At no point does an ironic historian dismiss the value of such material. Indeed, as we have already noted, the micro-historian tends to cleave to it. But it is to acknowledge that these materials are not themselves history, for that is our creation, a 'stance we take'.<sup>203</sup> The playwright David Hare furnishes us with a useful analogy. When challenged about the writing of *verbatim* drama, which commonly works with documentary record, Hare likened himself to a beachcomber: 'You find the driftwood on the beach, but you carve the wood and paint it to make it art'.<sup>204</sup>

Once we appreciate that writing history and telling the stories is the same thing, we can appreciate the poignancy of Rorty's reference to 'sad and sentimental stories'. We have already suggested that Dickens's *Tale of Two Cities* should be read as part of the history of the French revolution, as well as part of its writing. The preface to a different Dickens novel teases a prescient irony. Disturbed by critical responses to the first serialised edition of *Oliver Twist*, Dickens added a preface to the third bound edition which appeared in 1841. It might be made-up, Dickens protested, but 'It is True'.<sup>205</sup> Hardly the

200. Ginzburg, *Judge*, 65.

201. A. Hutchinson, *Dwelling on the Threshold: Critical Essays on Modern Legal Thought* (Carswell, 1988), 13. For Kennedy's renowned critique, see 'The Structure of Blackstone's *Commentaries*', 28 *Buffalo LR* 1978, 205-382.

202. For an original statement here, see R. Weisberg,

203. M. Bunzl, "Pragmatism to the Rescue?," *Journal of the History of Ideas* 56 (1995), 657.

204. D. Hare, *Obedience, Struggle and Revolt* (Faber and Faber, 2005), 29

205. C. Dickens, *Oliver Twist* (Penguin, 2002), 460.

first to play the claim. Defoe made the same claim in his *Robinson Crusoe*, Fielding in his *Tom Jones*. Not the last either. Seven years later, Anne Bronte would write a preface to the second edition of *The Tenant of Wildfell Hall* in like tones:

My object in writing the following pages, was not simply to amuse the Reader, neither was it to gratify my own taste. . . I wished to tell the truth, for truth always conveys its own moral to those who are able to receive it.<sup>206</sup>

It is the calibration of a ‘moral’ truth which distinguishes Bronte’s ambition, the desire to write history that is empathetic. It finds an obvious echo in Ginzburg’s recommendation that it is ‘imaginative fiction’ which best ‘provides access to the real’.<sup>207</sup> We can only imagine if, had he been alive in the mid-nineteenth century, Aurelius might have been tempted to write a similar preface to his *Golden Ass*, or indeed his *Apologia*.

It is here then that the anecdotal historian finds herself strolling alongside the ‘strong poet’ and the new historicist, not only concentrating on incidents around which larger narratives might be written, but appreciating the value of poetic texts that are better able to engage the empathetic aspect of life, and law. In our case, the suggestion is that Apuleius account of his own trial in Sabratha in 158 is a classic example of the kind of text with which an anecdotal historian might work. It might just tell us about a particular legal incident, peculiar to its moment. Or it might invite us to infer something more, facilitating a more ambitious perspective on the operation of Roman law at the edges of empire, and more closely still the familiar interplay between matters of religion, sorcery, and the law. And then there is the still more intriguing perspective which we have already conjured, that the alternative trials which Apuleius inscribed are intended to create an inter-textual contingency that cannot be fined away. Testament to an innate ambivalence in the ‘life’, as well as the reception, of Roman law.

We have already admitted the likelihood that Apuleius wrote for show, as every testamentary writer does, leaning on the instinctive empathy of his reader. The presumption of ‘intimacy’ familiar to the anecdotal historian. He certainly wants the reader of his *Apologia* to leave with the impression that they, like the assembled at Sabratha, were momentarily in the presence, not just of an innocent man, but a brilliant. What he does not want them to ponder is the possibility that he was in fact guilty, not necessarily of sorcery, but of being an unscrupulous conman who had tricked an unsuspecting widow into marriage, whilst murdering her inconvenient son along the way, and then got off because his accusers are not so convincing in court, and the judge before whom they appears shares the same patronising disdain for the locals. Apuleius did not write that story; but we might.

To do this though we will need to conceive some context and imagine some quieted voices, most obviously those of Pudentilla and the Socinii. Might we imagine a resentful

206. A. Bronte, *The Tenant of Wildfell Hall* (Penguin, 1992), 3.

207. An insight which he discovered in Stendahl and Auerbach’s use of Proust and Virginia Woolf. See Ginzburg, *Threads*, 128-30, 138-40, 149, and ‘Latitude’, 665-6, 682-3, and also Brewer, ‘Microhistory’, 102.

Pudentilla regretting the day she ever met Apuleius? A couple of bitter brothers-in-law reconciling themselves to another example of overbearing Roman justice? The same might, of course, be readily said of the support in the *Golden Ass*, all the incidental characters, all the voiceless wives and witches. Maybe not the caricatures such as Pamphile, but what of her slave-apprentice Photis? Not many Roman slaves get their chance to speak down the centuries. Apuleius grants her an audience, however briefly. It is in his gift. Another quieted voice, of course, is the Claudius Maximus of the *Apologia*. It is tempting, as we noted earlier, to imagine that this is the same Claudius Maximus acclaimed in the *Meditations* of the emperor Marcus Aurelius. A judge of such 'rectitude' that 'nobody was ever made to feel by him inferior'.<sup>208</sup> Apuleius sings his praises too. The Socinii might have begged to differ though, and it might not be him anyway.

The further peculiarity of Apuleius case comes with this possibility of its inter-textual contingency, the intimation that the *Golden Ass* might be written 'against the grain' of the *Apologia*. The idea, taken from Walter Benjamin, requires us to conceive of two 'authors', even if they are identified in the same person. The presentation of two 'stories in miniature', as Ginzburg puts it, which read together fashion their own coherence and create a third.<sup>209</sup> There is certainly an incidental, as well as authorial, commonality. Both narratives witness the saving of Apuleius, in the first instance at the hands of Claudius Maximus and the majesty of Roman law, in the second by grace of the goddess Isis. In this sense, both are redemption stories. But the redemptions are very different, and there is surely reason why Apuleius deploys a grotesque trial scene as a trigger for Lucius's hideous transformation. The obvious reading suggests that the sorcery and the staging which characterise Lucius's trial are endemic, for which reason the obvious inference is that Apuleius trial was determined similarly, as is the case perhaps with any legal process. It is all show, all sorcery, all staging. If this is the case, the *Golden Ass* might be read as an implicit critique of the *Apologia*, scraping away at its legalistic veneer. That will depend on how readily we are distracted by this veneer in the first place, and how acutely we perceive its surface inclusions.

Conversely, it may never have occurred to Apuleius that his *Golden Ass* could disturb the certainties inferred in his *Apologia*. The trial scene in the former might be nothing more than a tool deployed to generate the narrative which follows. The idea that Isis saves Lucius when the law could not, when indeed the law seems complicit in the sorcery, might be a matter of interpretive incident, and nothing more. That is for us to decide, as Apuleius surely appreciated. But still, as the creator of the text, he enjoys a literal authority. We assume the *Apologia* to be the more authentic account of events at Sabratha because Apuleius casts the insinuation, and our empathetic instinct is to believe him. So, should we? Whilst we might know rather more about him than we do pretty much any other Roman citizen who appeared in court charged with sorcery, outside of what he tells us we know nothing. He hardly makes for a credible witness, even if he is a persuasive one. Acclaimed spinner of tall tales, sorcerer, and conman by popular repute;

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208. Marcus Aurelius, *Meditations* (Penguin, 1964) 1.15. None of Claudius's writings have survived.

209. Ginzburg, *Threads*, 4-5.

and a lawyer. It is for this reason, if we are to tell his story, we need to make some of it up, maybe most of it.

We might wonder what the poet Juvenal, a supreme ironist, would have made of it all, of Apuleius and his case especially. His seventh *Satire* condemning alike the ‘lazy’ writers of history and the ‘bragging’ advocates at law: ‘Then their capacious bellows puff out limitless lies, and their robes are beslobbered’.<sup>210</sup> Juvenal knew the type. He might have rather admired Apuleius the writer though, sensed a fellow ironist perhaps? A ‘playful’ writer, to borrow from Rorty, teasing his readers, casting charms and aspersions. Whether we fall under his spell is, as we have already intimated, up to us. We can if we want. We read the texts, we choose the context, we create the story.

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210. Juvenal, *Satires* (Oxford UP, 1992), 7.111-12.