

Accusations of Magic

Legal treatment of magic

Greek Law

doing harm by magic
 impiety and introducing new gods
 mysteries and secrecy

Roman Law

Twelve Tables
Lex Cornelia de sicariis et veneficiis
 later Roman law

For Friday:

1. Read through the speech and try to figure out what, specifically, Apuleius was accused of under each type of charge - how does each charge fit with our definitions of magic? What specific passages from the speech fit with each charge?
2. Pick one reading from Ogden (278-300) and analyze it on the Moodle quiz. Answer the standard what, who, when/where, why and how questions, and then explain by what kind of criteria it might be considered magic. In what way is it extraordinary?

Apuleius' Trial and Defense

the people

Aemilia Pudentilla	Sicinius Pontianus
Sicinius Pudens	Sicinius Amicus
Sicinius Clarus	Sicinius Aemilianus
Tannonius Pudens	Herennius Rufinus
Appius Quintianus	Crassus
Claudius Maximus	Apuleius

the money

Pudentilla's money
 Rufinus' money
 Apuleius' money

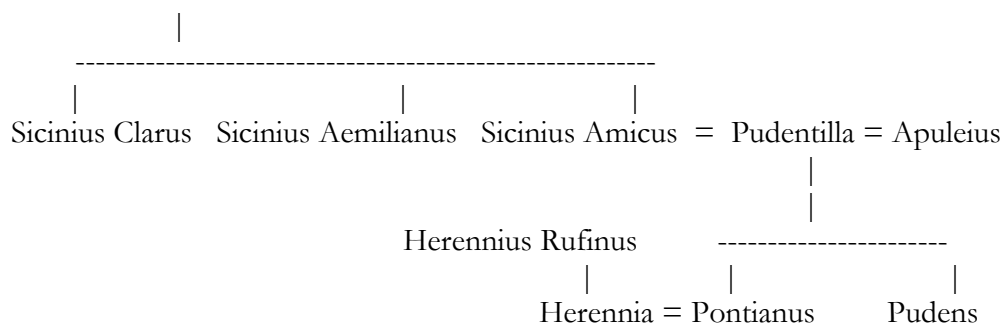
the charges

secret practices and nocturnal rituals
 causing trances
 procuring poisonous/magical substances
 erotic magic

strategy and social positioning

accusers' tactics
 marginalizing Apuleius
 suggestions of deviant practice
 Apuleius' defense
 redefining the social sphere - Oea vs. cosmopolitan empire
 transforming the margins and the center
 types of difference - subnormal and supranormal

Sicinius



Cult Association Rules (TAM V.3 1539 = LSAM 20.14-22)

Upon entering this house men and women, free and slave, must swear an oath by all the gods not to use trickery against men or women, not to devise or perform a wicked spell [*pharmakon*] against people, nor wicked charms [*epōidai*], nor a love charm [*philtion*], nor an abortifacient, nor a contraceptive, nor themselves to commit robbery/ rape or murder, nor to incite another person to do so, nor to be an accessory after the fact to these crimes.

Plato, *Meno* 80ab

And now, as it seems to me, you are ensorcelling me and bewitching me and completely enchanting me, so that I am filled with perplexity. And you totally seem to me, if I can joke about it, most like a flat stingray in the ocean, both in your appearance and in other ways too. For the stingray benumbs whoever comes near and touches it, and you seem now to have done the same to me. For truly I am numb in my soul and in my tongue, and I am unable to answer you. And yet I have spoken thousands of times about excellence, many speeches and for many people—and totally great speeches too, as they seemed to me. Now, however, I am completely unable to say what it is. **And it seems to me you would be well advised not to sail away from here or travel away from this city, for if you did such things as a foreigner in another city, you would swiftly be arrested as a sorcerer.**

Plato, *Laws* 933ae

[933a] We have now expressly mentioned crimes in which injury is done to bodies by bodies according to nature's laws. Distinct from this is the type which, by means of sorceries and incantations and spells (as they are called) [*μαγανείαις τέ τισιν καὶ ἐπωδαῖς καὶ καταδέεσι*], not only convinces those who attempt to cause injury that they really can do so, but convinces also their victims that they certainly are being injured by those who possess the power of bewitchment. In respect of all such matters it is neither easy to perceive what is the real truth, nor, if one does perceive it, is it easy to convince others. And it is futile to approach the souls of men [933b] who view one another with dark suspicion if they happen to see images of molded wax at doorways, or at points where three ways meet, or it may be at the tomb of some ancestor, to bid them make light of all such portents, when we ourselves hold no clear opinion concerning them. Consequently, we shall divide the law about poisoning under two heads, according to the modes in which the attempt is made, and, as a preliminary, we shall entreat, exhort, and advise that no one must attempt [933c] to commit such an act, or to frighten the mass of men, like children, with bogeys, and so compel the legislator and the judge to cure men of such fears, inasmuch as, first, the man who attempts poisoning knows not what he is doing either in regard to bodies (unless he be a medical expert) or in respect of sorceries (unless he be a prophet or diviner). So this statement shall stand [933d] as the law about poisoning:--Whosoever shall poison any person so as to cause an injury not fatal either to the person himself or to his employees, or so as to cause an injury fatal or not fatal to his flocks or to his hives,--if the agent be a doctor, and if he be convicted of poisoning, he shall be punished by death; but if he be a lay person, the court shall assess in his case what he shall suffer or pay. And if it be held that a man is acting like an injurer by the use of spells, incantations, [933e] or any such mode of poisoning, if he be a prophet or diviner, he shall be put to death; but if he be ignorant of the prophetic art, he shall be dealt with in the same way as a layman convicted of poisoning,--that is to say, the court shall assess in his case also what shall seem to them right for him to suffer or pay. In all cases where one man causes damage to another by acts of robbery or violence, if the damage be great, he shall pay a large sum as compensation to the damaged party, and a small sum if the damage be small; and as a general rule, every man shall in every case pay a sum equal to the damage done, until the loss is made good; and, in addition to this, every man shall pay the penalty which is attached to his crime by way of corrective.

Plato, *Laws* 909d-910d

For all these offenders one general law must be laid down, such as will cause the majority of them not only to offend less against the gods by word and deed, but also to become less foolish, through being forbidden to trade in religion illegally. To deal comprehensively with all such cases the following law shall be enacted:-- No one shall possess a shrine in his own house: when any one is moved in spirit to do sacrifice, [909e] he shall go to the public places to sacrifice, and he shall hand over his oblations to the priests and priestesses to whom belongs the consecration thereof; and he himself, together with any associates he may choose, shall join in the prayers. This procedure shall be observed for the following reasons--It is no easy task to found temples and gods, and to do this rightly needs much deliberation; yet it is customary for all women especially, and for sick folk everywhere, and those in peril or in distress (whatever the nature of the distress), and conversely for those who have had a slice of good fortune, to dedicate whatever happens to be at hand at the moment, and to vow sacrifices [910a] and promise the founding of shrines to gods and demi-gods and children of gods; and through terrors caused by waking visions or by dreams, and in like manner as they recall many visions and try to provide remedies for each of them, they are wont to found altars and shrines, and to fill with them every house and every village, and open places too, and every spot which was the scene of such experiences. For all these reasons their action should be governed by the law now stated; and a further reason is this--to prevent impious men [910b] from acting fraudulently in regard to these matters also, by setting up shrines and altars in private houses, thinking to propitiate the gods privily by sacrifices and vows, and thus increasing infinitely their own iniquity, whereby they make both themselves and those better men who allow them guilty in the eyes of the gods, so that the whole State reaps the consequences of their impiety in some degree--and deserves to reap them. The lawgiver himself, however, will not be blamed by the god; for this shall be the law laid down:--Shrines of the gods no one must possess [910c] in a private house; and if anyone is proved to possess and worship at any shrine other than the public shrines--be the possessor man or woman,--and if he is guilty of no serious act of impiety, he that notices the fact shall inform the Law-wardens, and they shall give orders for the private shrines to be removed to the public temples, and if the owner disobeys the order, they shall punish him until he removes them. [910d] And if anyone be proved to have committed an impious act, such as is not the venial offence of children, but the serious irreligion of grown men, whether by setting up a shrine on private ground, or on public ground, by doing sacrifice to any gods whatsoever, for sacrificing in a state of impurity he shall be punished with death. And the Law-wardens shall judge what is a childish or venial offence and what not, and then shall bring the offenders before the court, and shall impose upon them the due penalty for their impiety.

Ammianus Marcellinus 16.8.2, 19.12.14 "

If anyone consulted a soothsayer about the squeaking of a shrew-mouse, the meeting with a weasel on the way, or any like portent, or used some old wife's charm to relieve pain (a thing which even medical authority allows), he was indicted (from what source he could not guess), was haled into court, and suffered death as the penalty. ... Anyone who wore round his neck a charm against quartan ague or some other complaint, or was accused by his ill-wishers of visiting a grave in the evening, was found guilty and executed as a sorcerer or as an inquirer into the horror's of men's tombs and the empty phantoms of the spirits which haunt them."

Constantine's edict of 318 (Codex Theodosianus IX.16.3)

If any are discovered to have been using magic arts so as to threaten men's safety or pervert modest persons to libidinous practices, their science is to be punished and deservedly penalized according to the severest laws. However, no accusations are to be heard against remedies sought out for human bodies or, in rural districts, to protect the mature grapes from fear of rains or from being crushed by the pounding of hailstones.

Sententiae receptae Paulo tributae XXI, XXII.15-18

Any who perform, or procure the performance of, impious or nocturnal sacrifices, to enchant, curse, or bind anyone with a spell, are either crucified or thrown to the beasts. Any who sacrifice a man, or make offerings of his blood, or pollute a shrine or temple are thrown to the beasts or, if people of position, are beheaded. It is the prevailing legal opinion that participants in the magical art should be subject to the extreme punishment, that is, either thrown to the beast or crucified, but the magicians themselves should be burned alive. It is not permitted for anyone to have in his possession books of the magic art. If they are found in anyone's possession, when his property has been expropriated and the books burned publicly, he is to be deported to an island, or, if he is of the lower class, beheaded. Not only the practice of this art, but even the knowledge of it, is prohibited.

Prophets who pretend that they are filled with the god are to be expelled from the city to the end that public good behavior should not be corrupted by human credulity for the hope of some promised event, or, in any case, that the peoples' minds should not be disturbed by this. Therefore, they are first lashed, then expelled from the city. But if they persist, they are thrown into public prison, or deported to an island, or, at all events, sent elsewhere. Those who introduce new sects or religious observances unknown to reasonable men, things by which peoples' minds might be disturbed, are to be deported if upper class, executed if lower. Anyone who consults astrologers, soothsayers, readers of entrails, or diviners about the life expectancy of the emperor, or the stability of the government, is to be executed, as is the one who gives the response. One had better avoid not only the act of divination, but the science itself, and its books.

Augustine, *City of God*, VIII.19--*Of the Impiety of the Magic Art, Dependent on the Assistance of Malign Spirits.*

Moreover, against those magic arts, concerning which some men, exceedingly wretched and exceedingly impious, delight to boast, may not public opinion itself be brought forward as a witness? For why are those arts so severely punished by the laws, if they are the works of deities who ought to be worshipped? Shall it be said that the Christians have ordained those laws by which magic arts are punished? With what other meaning, except that these sorceries are without doubt pernicious to the human race, did the most illustrious poet say, "By heaven, I swear, and your dear life, Unwillingly these arms I wield, And take, to meet the coming strife, Enchantment's sword and shield." (Virgil, *Aen.* 4. 492, 493) And that also which he says in another place concerning magic arts, "I've seen him to another place transport the standing corn," (Virgil, *Ec.* 8. 99) has reference to the fact that the fruits of one field are said to be transferred to another by these arts which this pestiferous and accursed doctrine teaches. Does not Cicero inform us that, among the laws of the Twelve Tables, that is, the most ancient laws of the Romans, there was a law written which appointed a punishment to be inflicted on him who should do this? Lastly, was it before Christian judges that Apuleius himself was accused of magic arts? Had he known these arts to be divine and pious, and congruous with the works of divine power, he ought not only to have confessed, but also to have professed them, rather blaming the laws by which these things were prohibited and pronounced worthy of condemnation, while they ought to have been held worthy of admiration and respect. For by so doing, either he would have persuaded the judges to adopt his own opinion, or, if they had shown their partiality for unjust laws, and condemned him to death notwithstanding his praising and commending such things, the demons would have bestowed on his soul such rewards as he deserved, who, in order to proclaim and set forth their divine works, had not feared the loss of his human life. As our martyrs, when that religion was charged on them as a crime, by which they knew they were made safe and most glorious throughout eternity, did not choose, by denying it, to escape temporal punishments, but rather by confessing, professing, and proclaiming it, by enduring all things for it with fidelity and fortitude, and by dying for it with pious calmness, put to shame the law by which that religion was prohibited, and caused its revocation. But there is extant a most copious and eloquent oration of this Platonic philosopher, in which he defends himself against the charge of practising these arts, affirming that he is wholly a stranger to them, and only wishing to show his innocence by denying such things as cannot be innocently committed. But all the miracles of the magicians, who he thinks are justly deserving of condemnation, are performed according to the teaching and by the power of demons.