

# The Magical Legalism of Marcel Aymé : Charming Rogues and the Suspension of Physical, Natural, and Positive Law

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Volume 53, Number 3, September 2012

URI: <https://id.erudit.org/iderudit/1011942ar>

DOI: <https://doi.org/10.7202/1011942ar>

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Publisher(s)

Faculté de droit de l'Université Laval

ISSN

0007-974X (print)

1918-8218 (digital)

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## Article abstract

Some of Marcel Aymé's most delightful work concerns charming rogues, protagonists who lack the heroism of moral outlaws such as Robin Hood or the golem of Jewish literature but act outside the rule of law in a way that is psychologically if not always morally coherent. On other "law and literature" occasions, Aymé employs what is sometimes called fantasy, but has the sardonic bite of magical realism — what this analysis considers "magical legalism", where individuals circumvent physical, natural, and positive law in attempts to achieve pure self-expression or egocentric notions of justice.

## Cite this article

Miller, J. (2012). The Magical Legalism of Marcel Aymé : Charming Rogues and the Suspension of Physical, Natural, and Positive Law. *Les Cahiers de droit*, 53(3), 649–665. <https://doi.org/10.7202/1011942ar>

# The Magical Legalism of Marcel Aymé : Charming Rogues and the Suspension of Physical, Natural, and Positive Law

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Jeffrey MILLER\*

*Les œuvres de Marcel Aymé traitant de « coquins charmeurs » sont parmi ses plus attachantes. Ces personnages ne manifestent pas l'héroïsme d'un Robin des bois ou d'un golem de la littérature juive, mais leur comportement, qui reste en dehors de la règle de droit, demeure cohérent sinon sur le plan moral, du moins sur le plan psychologique. Ailleurs, Aymé juxtapose droit et littérature dans des histoires qui pourraient être qualifiées de fantaisistes, mais qui possèdent aussi le mordant du réalisme magique. Dans cette analyse, l'expression de « légalisme magique » s'applique aux situations où des individus contournent le droit—physique, naturel et positif—dans une tentative de s'exprimer sur le plan personnel ou de tirer parti d'une vision égocentrique de la justice.*

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When the rule of law fails, imagination supplies moral outlaws like Robin Hood, who practises redistribution of wealth long before there are Marxists. Then there are revolutionaries like Winston Smith of George Orwell’s *1984*, and super-heroes like Superman, Batman, and guardian angels, all of whom intervene on behalf of the oppressed, and on the side of natural law. More lately, in *The Puttermesser Papers*<sup>1</sup>, Cynthia Ozick has resorted to magical realism, via Jewish mysticism, to “fix” a politically corrupt and crime-ridden New York City. After political skullduggery and nepotism force Ruth Puttermesser from her job as a bookish lawyer with municipal government, she creates a teenaged golem—the prototype of Frankenstein’s monster, evolved from Kabbalistic legend to defeat anti-Semitic pogroms—who temporarily renders Manhattan paradisaical, only to see it deteriorate all the further, and to see Puttermesser (in a later story) brutally murdered and raped (in that order). Ultimately, as creations of a mortal world, of a Creation itself fallen, these heroes all fail as well. Adam’s gravity pulls them from the heights, back to earth and entropy. There is no perfect justice this side of Heaven.

This fatalism is at the heart of a different sort of “magical legalism” featured in the stories of Marcel Aymé<sup>2</sup>, where metaphysical powers some-

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1 Cynthia OZICK, *The Puttermesser Papers*, New York, Vintage International, 1998.  
2. Here I look at stories collected in Marcel AYMÉ, *Le vin de Paris*, Paris, Gallimard, 1947 (“La grâce” and “Dermuche”) and M. AYMÉ, *Le passe-muraille*, Paris, Gallimard, 1943 (all others), in which volumes there is a particular concentration of magic realism. My

times alter the law though it is not necessarily viewed as corrupt. Often, as we shall see, the metaphysics is driven by egocentrism, self-actualization that suspends mundane law to favour the individual over community; now and then, however, the magic works some form of alternative or poetic justice, more nearly perfect in a fallen world.

### 1 Magical realism and magical legalism : working definitions chez Aymé

Typically, readers do not describe any of Aymé's work as employing magical realism. The stories I discuss here, those which graft supernatural elements onto what the reader accepts as fictionalized versions of "actual" French society of the nineteen-thirties and -forties, are generally termed fantastic, mistakenly relegated, in this writer's view, to the "fantasy fiction" sub-genre firmly beneath *belles lettres*. The stories would be great literature, critics seem to suggest, if only they were not wry. But of course their archness is what makes them seem light-hearted (another favourite critical description<sup>3</sup>), on a superficial reading, if not light *simpliciter*. In *Le nouveau dictionnaire des auteurs*, for example, Sylvain Roumette writes: "Bon observateur des mœurs, Marcel Aymé est un ami de la fantaisie qui nous délivre de la pesanteur du quotidien<sup>4</sup>." As Somerset Maugham once said of the fiction reader, "[m]ake him laugh and he will think you a trivial fellow, but bore him the right way and your reputation is assured<sup>5</sup>". And so have critics damned Aymé with faint praise (if not always with evident *mens rea*), calling his work witty, memorable, and unfairly ignored outside of France while (unjustly) denying it the first rank of literature. Because it is not grave but clinical in a bemused, often funny, way, celebrating—if darkly—humanity in all its flaws, the literary establishment frets that it

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pagination is from the collection M. AYMÉ, *Le nain – Derrière chez Martin – Le passe-muraille – Le vin de Paris – En arrière*, Paris, Gallimard, 1989. Everything I quote is my own translation from the original texts.

3. See, for example, Robert BOURGET-PAILLERON, "Réalités romanesques et poésie du passé", *Revue des deux mondes*, 1938, p. 681, at page 686, where he adds that readers "like Aymé insofar as he makes them forget reality" (translated by author).
4. Robert LAFFONT (ed.), *Le nouveau dictionnaire des auteurs. De tous les temps et de tous les pays*, vol. 1, Paris, Robert Laffont, 1994, s.v. "Marcel Aymé": "A keen observer of morality, Marcel Aymé is an amateur of fantasy that delivers us from the weight of the quotidian. He teaches us no lessons, delivers no message".
5. George PLIMPTON (ed.), *The Writer's Chapbook*, New York, Penguin Books, 1989, p. 223.

is trivial<sup>6</sup>. Roumette continues: “Il ne nous donne aucune leçon, ne nous adresse aucun message<sup>7</sup>”. Damning, as I say, with praise.

Magical realism seems to me a more precise description of what Aymé practises, given that, as with all serious humour from Chaucer and Shakespeare to Molière and Beckett and Queneau, these narratives tell us something transcendent about the human condition (*pace* Roumette). Then again, what serious readers mean by magic realism or magical realism remains a vexed question. In her useful examination of the logomachy, Maggie Ann Bowers distinguishes those terms even from each other, not to mention from “marvellous realism” (which apparently is much the same as magical realism), “surrealism”, “fantasy”, and “allegory”<sup>8</sup>. I use “magical realism” here, as distinguished particularly from “fantasy”, insofar as Aymé presents what would otherwise be fantastic events—such as a man’s ability to walk through stone and brick walls at will—“as ordinary events in a realist story”. The fantastic in Aymé is deadpan<sup>9</sup>, closer to, if more charming than, what we read in Kafka, where Bowers finds a sort of dance between surrealism and magical realism, illustrating “that it is possible to have magical realist elements in a text that is not consistently magical realist in its approach<sup>10</sup>”. In any event, I adopt her view that in magical realism, magical or supernatural “aspects are accepted as part of everyday reality throughout the text<sup>11</sup>” as in (I would say) Ozick’s Puttermesser stories featuring the golem.

Bowers suggests that, generally speaking, magic (as opposed to magical) realism describes artistic expression that celebrates life’s inherent wonder but does not bring the supernatural directly into its depictions. On

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6. As Sydney Smith once wrote to the Bishop of Blomfeld, “You must not think me necessarily foolish because I am facetious, nor will I consider you necessarily wise because you are grave.” Quoted by the American comic novelist Peter De Vries as the epilogue to his *The Tents of Wickedness*, Boston, Little, Brown & Company, 1959. In publicizing a 1996 biographical documentary on Aymé, television broadcaster France 3 remarked, “En quoi Marcel Aymé n’est pas un pessimiste ordinaire (ce qu’il s’est toujours défendu d’être) mais une sorte d’optimiste-malgré-tout, sur le modèle du professeur Watrin d’*Uranus*, lequel trouve dans les pires catastrophes des raisons de ne pas désespérer de la vie et des hommes. Des raisons surtout de mettre en pratique ce qu’il y a de plus précieux dans sa propre humanité: la compassion, la solidarité, la fidélité – toutes qualités dont était pétri l’homme Marcel Aymé.”

7. R. LAFFONT (ed.), *supra*, note 4.

8. Maggie Ann BOWERS, *Magic(al) Realism*, London, Routledge, 2004.

9. As Camille R. La Bossière puts it, he is a “disinterested ironist”: Camille R. LA BOSSIÈRE, “Marcel Aymé and Colin Wilson on the Bourgeois, the Outlaw, and Poetry”, *Dalhousie Review*, vol. 61, n° 1, 1981, p. 103, at page 104.

10. M.A. BOWERS, *supra*, note 8, p. 27.

11. *Id.*

that ground I have opted for “magical realism” here, given that the supernatural is central to the Aymé stories under discussion. “Magical legalism” is my coinage, light-hearted in intent, for the interplay between this magical realism and the treatment of legal or justice themes in literary fiction.

## 2 The charming rogue archetype in wartime France

Moral outlaws can seek revolutionary change in the larger society, as Robin Hood does, or establish their own subcultures under an alternative vision of justice. In the latter, perhaps lazier (or less idealistic) category, we occasionally find protagonists of the traditional poacher ballad. The British-Irish *Van Diemen's Land*, for example, describes with great empathy a man transported to Tasmania for fourteen years after he poaches game on a wealthy landlord's or “squire's” estate, apparently to make his living<sup>12</sup>. Typically, such outlaws congregate at the fringes of a larger society in which they have no reasonable stake, sometimes because of the corruption—at least from the underclass point of view—of the rule of law. (In Robin Hood, the greedy clergy is in cahoots with corrupt law-enforcement officials, and even a chief justice<sup>13</sup>.) They therefore feel a more circumscribed sense of duty, a moral if not legal obligation to their gang or cult rather than to society at large, a duty colloquially described as honour among thieves. Robin Hood and his men are, of course, the *ne plus ultra* among such poacher sub-societies<sup>14</sup>, but we see some of this, ambivalently,

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12. Come all you gallant poachers that ramble void of care,  
That walk out on a moonlight night with your dog, your gun and snare.  
The harmless hare and pheasant you have at your command,  
Not thinking of your last career out on Van Diemen's Land.

Me and five more went out one night into Squire Duncan's park,  
To see if we could catch some game, the night it being dark.  
But to our great misfortune we got dropped on with speed,  
And they took us off to Warwick gaol, which made our hearts to bleed.

Then at Warwick assizes at the bar we did appear.  
And like Job we stood with patience, our sentence for to hear.  
But being old offenders, it made our case go hard.

And for fourteen long and cruel years we were all sent on board.

From a version performed by Shirley COLLINS, “Van Diemen's Land”, [Online], [www.informatik.uni-hamburg.de/~zierke/lloyd/songs/vandiemensland.html] (April 8th 2012). The “old offenders” seems to suggest the narrator is a repeat offender.

13. Francis James CHILD, “A Gest of Robyn Hode”, in F.J. CHILD (ed.), *The English and Scottish Popular Ballads*, vol. 3, New York, Dover Publications, 1965, p. 39.
14. As Robin tells the king (who is disguised as an abbot for the moment), while demanding money of him in his amicably extortionate way, “We be yeomen of this forest / Under the greenwood tree / We live by our king's deer / Under the greenwood tree”. *Id.*, lines 1505-1508. See also lines 1461-1464.

in Aymé, as in “La traversée de Paris<sup>15</sup>”—concerning the black market in meat during the Nazi occupation of France—and his post-war novel, *Uranus*<sup>16</sup>.

Generally the disaffected in Aymé are not moral outlaws but charming rogues: their actions are mostly selfish. Some, of course, are more charming than others. Consider, for example, Gauthier-Lenoir, of “The Wife-Tax Collector<sup>17</sup>”, a particularly ironic development of the charming-rogue archetype. Though proudly scrupulous in his work, Gauthier-Lenoir tempers it with mercy. His wife’s lavish spending on clothes and the beauty parlour have made him sympathetic to those who are short of cash come tax-payment time. He is harsh with only one taxpayer, Rebuffaud, precisely because the latter always pays his taxes long before the deadline, gloating about it as his civic duty. Perplexed, at first, as to why this troubles him as a tax collector, Gauthier-Lenoir has an epiphany, otherwise feeling outcast on the dark, rainy streets outside his local bistro, the dreaded taxman when he’d rather be everyman. (He has, after all, just posted to himself the same demand letter he has sent his neighbours, and later justifies this to his wife, remarking, “‘I’m a taxpayer like everybody else’. Gauthier-Lenoir’s eyes shone with pride as he repeated, ‘Like everybody else’.”)

He now understood clearly the meaning of the vehement if mute reproach M. Rebuffaud’s attitude sparked in his heart. In making good what he owed straight away, or nearly so, he avoided the risks most taxpayers took of wilfully forgetting to pay, and of enduring the consequences. To the taxation officer’s mind, the notion of duty, of taxpayer’s duty, was inseparable from temptation, hesitation, come-back, peril. By forbearing from demanding immediate payment of tax, the Revenue accorded the taxpayer a sort of free will of the purse, a testing period during which he could commit imprudence, spend his tax-money on bad works, but also triumph over all temptation and succeed fully at his fiscal duty. By the very fact that he paid in cash, M. Rebuffaud robbed himself of these austere triumphs and succeeded at only one part of his duty, the tiniest, most negligible.

Archetypal duty is Kantian, or at least Ogden Nashian<sup>18</sup>: you have to suffer for it, like Adam and Eve, Moses, and Jesus before you. Selfish temptation is duty’s necessary nemesis. At law, the reasonable man, the Rebuff-

15. “La traversée de Paris”, in M. AYMÉ, *supra*, note 2, p. 554.

16. Marcel AYMÉ, *Uranus*, Paris, Gallimard, 1948.

17. “Le percepteur d’épouses”, in M. AYMÉ, *supra*, note 2, p. 462.

18. “O Duty / Why hast thou not the visage of a sweetie or a cutie? [...] Why art thou so different from Venus / And why do thou and I have so few interests mutually in common between us? [...] When Duty whispers low, Thou must, this erstwhile youth replies, I just can’t” from “Kind of an Ode to Duty” (a parody of William Wordsworth’s *Ode to Duty*), in Ogden NASH, *I Wouldn’t Have Missed It. Selected Poems of Ogden Nash*, Boston, Little, Brown & Company, 1975, p. 141.

faud, pays his taxes promptly. In life, the really reasonable man allows for contingencies, grace, tender mercies. Justice, the soul of law, demands it.

This is already a sort of parody of moral outlawry, and the tragic-comic irony broadens as the story progresses. When Mme. Gauthier-Lenoir leaves the collector for a handsome soldier, Gauthier-Lenoir (G-L) copes by deciding she has been collected as a form of tax by the Ministry of Revenue. He goes to his office to complain to himself of the injustice, taking either side of his desk to make both sides of the argument, always temperate. He doesn't contest the taxation of his wife, taxpayer G-L argues, but revenue authorities failed to give him proper notice, and the bailiff never served him with a writ of execution. Had correct procedure been followed, G-L "could have enjoyed [his] wife for several more weeks" before she was forfeit.

Sure enough, he is describing what more recently we have come to call breaches of natural justice. As is his sympathetic wont, tax collector G-L admits that there were procedural irregularities in taxpayer G-L's case. But he satisfies taxpayer G-L that, while he has "the right to hope that the authorities would return his wife for five or six weeks" it would take years, decades, even, to accomplish this. In the interim his wife would have become "wrinkled, altogether old, toothless, her skin gone gray and her head balding". And besides, as a tax collector by profession, taxpayer G-L is professionally obliged to set a good example.

The capper, though, is that collector G-L sends other taxpayers notices requiring them to forfeit their wives to the treasury. When Rebuffaud complains, G-L advises him that, for once, maybe he shouldn't be in such a hurry to pay his bill.

Clearly the tax collector is no moral outlaw. He has the utmost respect for the status quo, and his "revolt" against it is entirely personal, a coping mechanism that by chance is adopted by the community as more or less desirable. When Gauthier-Lenoir goes to his local bistro to see how the husbands are reacting to their new wife-tax notices, he watches the "pastry chef Planchon, widowed the previous year, [trying] unsuccessfully to incite the taxpayers into rebellion. 'Surely you're not going to give up your wife?' he said to Petit, who owned the hardware store. 'If necessary', Petit replied, and others repeated, 'If necessary'." And when the Minister of Revenue visits the local taxation centre and happens upon a roomful of the forfeited wives, many of them attractive—or at least they seem so, having titivated for the outing, sporting their most expensive jewellery—his thoughts turn to his own appetites, personally and on behalf of the Republic. He promotes Gauthier-Lenoir to Tax Collector First Class and institutionalizes wife taxation.

In spite of his normally dull, bourgeois self, but because of his narrow-minded conceit, Gauthier-Lenoir becomes a charming rogue: a tool of corrupted law, and law corrupted to phallocratic self-interest. He might rationalize his behaviour as outward-looking duty, but its motivations and goals are purely selfish. In this sense he is typical of the moral universe in much of Aymé's work: his "innocence" is wilful, self-serving.

Such is the case with M. Duperrier, as sardonically delightful as Gauthier-Lenoir, in the celebrated story "La grâce"<sup>19</sup>. Duperrier is the best Christian not just on his street, but in all of Montmartre of 1939. He is so "just and charitable" in fact, that one day he finds a halo hovering rakishly about his forehead on a slant, like a beret. He cannot dislodge this luminous distinction no matter how hard his wife tries to wrench it off. She, it turns out, finds the halo profoundly embarrassing. What will the neighbours think? Cousin Leopold, with his fancy car and villa? What will the local shopkeepers say?

Too embarrassed to leave the house with her husband in his cocked, over-sized and slightly luminescent head-covering, unable to sleep because of the heavenly glow by which Duperrier reads the bible in bed, the devout Mme. Duperrier hits on a plan: "It's simple" she tells her pious spouse. "All you have to do is sin." Duperrier prays to God. These were the days before the law—or conventional (arguably male-dominated) wisdom—knew reasonable persons; there were only reasonable men<sup>20</sup>. Women, rightly or wrongly, were generally viewed as ruled by impulse and passion more than reason. "You know women", Duperrier tells God. "My wife is losing the will to live. Worse, the day is coming that her hatred of my halo will cause her to curse the heaven which has given it to me." Duperrier decides that it is his "duty of Christian charity" to take his wife's advice.

He outdoes himself in envy, sloth, and anger—when Mme. Duperrier complains that the halo just keeps hanging on, he howls, "You wallow in sin as a favour to women, and here's the thanks you get"—but, given the price of lobster and fine wine, he struggles with the conflict between avarice and gluttony, never mind that he economizes by donating buttons from his underpants in the parish charity box. By 1944 he resolves the ambiguities sufficiently to maintain his newfound obesity, no longer envisioning Paradise as "a symphony of souls in diaphanous robes" but as "a vast dining room". Though he occasionally beats Mme. Duperrier when not rounding on her to "shut her face", she decides that a husband who is "an atheist,

19. "La grâce", in M. AYMÉ, *supra*, note 2, p. 604.

20. See, for example, Robert E. MEGARRY, *Miscellany-at-Law. A Diversion for Lawyers and Others*, London, Stevens and Sons, 1955, p. 261.

playboy, and potty-mouth like cousin Leopold was preferable to a haloed one. At least he didn't embarrass her in front of the milkman".

Though Duperrier and his wife have avoided lust as the most Satanic of the deadly sins, at last the desperate Mme. buys her husband a sex manual and he ends up a pimp, "kicking the arse" of his 25-year-old *putain* to "reinvigorate her flagging ardour" in the streets. The young woman, whose earnings Duperrier tots up by the light of his halo, had come to Montmartre to serve as maid to a municipal councillor. But he turned out to be a socialist and atheist, and she could not stand to work for "godless people". By profoundly ironic contrast, Duperrier and his halo "could not help but make a strong impression on this little pious soul" who sees him as "the equal" of Saint Ives—patron saint of lawyers—and Saint Ronan. Indeed, while Mme. Duperrier has suggested it would be more economical to practise the sin of lust in the marriage bed, as "a loyal husband" Duperrier has "courageously" determined that he should take his appetites elsewhere so as not to risk his wife's salvation.

And what of that persisting halo? As Northrop Frye puts it, Duperrier's "motive in doing all this was so fundamentally innocent that the halo stayed firmly in place<sup>21</sup>". "But from the depths of his failures and abjection", Aymé recounts in the story's final sentence, "throughout the dark night of his conscience, a murmur of thanks sometimes passes his lips, to God, that His gifts are absolutely unconditional<sup>22</sup>". By Heaven's judgment, Duperrier, steadfast in his faith in a higher rule of law, has acted reasonably.

An earlier Aymé story makes the same point by the more conventional and direct route. In "L'huissier"<sup>23</sup>, "The Bailiff", the title character—sporting the Dickensian surname of Malicorne ("Badhorn")—arrives at Heaven's Gate to be cross-examined by St. Peter. The Gatekeeper shows blatant bias against those of Malicorne's profession and is further offended that Malicorne lists in his favour that, not only did he leave no debts of his own, but he did his job of enforcing against widows and orphans cheerfully and efficiently. Malicorne appeals to God, who is loath to admit him directly to Heaven but cannot send him straight to Hell because St. Peter has denied him natural, procedural justice. So God gives Malicorne another chance on earth to redeem himself—a new trial, as it were.

21. Northrop FRYE, "Crime and Sin in the Bible", in Martin L. FRIEDLAND (ed.), *Rough Justice. Essays on Crime in Literature*, Toronto, University of Toronto Press, 1991, p. 3, at page 12.

22. M. AYMÉ, *supra*, note 2, p. 617. I have translated *gratuité* as "unconditional", but it perhaps is pertinent that it also means gratuitousness.

23. "L'huissier", in M. AYMÉ, *supra*, note 2, p. 510.

Resurrected, Malicorne becomes an obsessive donor to the poor and oppressed, and spontaneously offers pay-raises to his assistant and maid, never mind—as he earnestly remarks on his ledger of good and bad deeds—that they don’t deserve them, and that, in particular, his maid is a slut. He approaches his redemption as literally and assiduously as he does his job, so that the “bad” column (by his own reckoning) remains nearly spotless. Finally, he visits a building owned by his biggest client, a slum landlord, where Malicorne gives a poor seamstress some money and dandles her little son on his knee. In his former life, he would have been at the flat, of course, but to seize the single mother’s furniture in lieu of unpaid rent. Sure enough, the landlord arrives and tells the seamstress that she is out of chances to pay her arrears of rent. Spontaneously, Malicorne intervenes and tells the landlord to get lost. The landlord shoots him dead.

Back before St. Peter and God, Malicorne tries to enumerate all the donations totted up in his moral accounts book. But, beaming at him, they don’t want to hear of these supposed good deeds. “You have only one to your credit”, St. Peter says—the fact that in Malicorne’s final confrontation with the landlord he yelled “Down with landlords!” “Absolutely beautiful”, God agrees. “He yelled it twice”, St. Peter elaborates with pride, “and he died the very moment he was defending a poor woman against the rapaciousness of her landlord”. Where motive is generally irrelevant to crime under mortal positive law, it is crucial in the world of sacred law. And where the law might side with landlords, Heaven mitigates for the poor.

### 3 Sin versus “the relativity of crime”

In this world below we are governed by shadows of Heaven (real or perceived); the secular godhead is the legislature and common law. Our secular priests—the interpreters of mortal law—are judges, mediating between us and the supreme authority. And our judges tell us that the negligent or self-absorbed—not to mention gluttons and leches, the covetous, and slothful—are by definition unreasonable, more often than not blots on the rule of law. This is why reasonableness is epiphanic in our law, determining the legal duty we must uphold, and emblematic of perfect justice in an imperfect world.

“La grâce” makes graphic that, though crime is archetypally the equivalent of sin, the two notions are not always commensurate. In most of western society, adultery, atheism, and even promoting non-violent anarchy are not crimes under secular law. While the seven deadly sins can lead to crime, they are not criminal in themselves. Otherwise, our prisons would be even more crowded with the greedy, overfed, and oversexed. At the same time, it is true that in secular law a reasonable person is probably

not an anarchist or a welfare bum or a glutton, and generally he does not let sexual desire interfere with his better judgment. If he covets his neighbour's wife, he probably thinks better of seducing her. Reasonableness, in other words, often tracks morality: while all sins are not crimes, sin can almost always correspond with legal unreasonableness.

In his essay on crime and sin in the bible, Frye remarks that the "original Christian distinction between sin and crime was a part of the revolutionary aspect of Christianity, and the progressive blurring of the distinction was the result of the revolutionary impulse being smothered under new forms of entrenched privilege [...] Christianity holds that Jesus was without sin, yet he was put to death as a criminal<sup>24</sup>."

Justice lies in the interstices, or at least that is how our literary narratives see it: to be just, law must have a moral component<sup>25</sup>. Thus arises what Frye calls "the relativity of crime", the situation where a Robin Hood or Winston Smith of Orwell's *1984* (or Nelson Mandela or a resistance fighter in Vichy France) becomes a reasonable man. Frye then notes, "Whether the relativity of crime could also apply to sin or not is a more difficult question<sup>26</sup>" and he proffers "La grâce" as an example. The point is, while a man might remain pious when he sins for the right reasons, it is generally no legal excuse that to feed his family X robs banks—or poaches deer. Consider, as well, John Donne's *A Hymne to God the Father*, where the poet writes, "I have a sin of fear that when I have spun / My last thred, I shall perish on the shore<sup>27</sup>". While it is sinful to doubt the Christian doctrine of life after death eternally, in secular democracies it is no crime to doubt or even speak against the rule of law. Anarchism is legal, at least to the extent that you don't act on it. The relativity that Frye mentions is one of social-political perception: crime and tort are what a given society

24. N. FRYE, *supra*, note 21, at page 11.

25. Presumably the point is obvious enough, given that it makes up the core geography of law-and-literature studies. Examples from "the canon" include Melville's "Billy Budd", Van Tilburg Clark's *The Ox-Bow Incident*, and Lee's *To Kill a Mockingbird* where legalism trumps justice, never mind that the more "moral" outcome is readily apparent. In less conventional, more nuanced readings of Shakespeare's Shylock, Portia is not so much "just" as intemperately legalistic (and racist) amid a blatant conflict of interest. Consider, too, in sacred law, the narratives of the lives of Moses and Christ; both are servants of the Law, but narratively only one is permitted to be godlike in his obedience so as to enter Paradise, where the fall is reversed (he rises up), justice reperfected – our sorrow for the tragedy of Moses, denied entry into the new earthly paradise despite all his personal sacrifice, consoled.

26. N. FRYE, *supra*, note 21, p. 11.

27. See, e.g., Meyer Howard ABRAMS, *The Norton Anthology of English Literature*, New York, W. W. Norton, 1968, 1962, p. 912.

defines them to be, such that Nazism or Jim Crow laws or apartheid can be “legal” in a given time and place. Sin, on the other hand, always retains its character as sin. Even if sometimes it is forgivable, it is absolute.

In other words, what differs in sacred narratives about sin and secular narratives about crime is the law’s reaction. In being favoured by intangible, unearthly forces, Duperrier has one foot in the realm of metaphor. (This is true, too, of poor, cuckolded Gauthier-Lenoir, of course.) He is, by Heaven’s lights, an irrevocably reasonable man, above us mere mortals, halfway to Paradise. He is subject to grace, forgiveness, redemption. But stuck here on Earth, we have no empirical proof of this: grace is all narrative, an imagining of received law and wisdom, stretching from classical myth through the Hebrew and Christian bibles to Marcel Aymé’s writing desk in the nineteen-forties.

It must be said, however, that while Aymé, a product of fundamentally Catholicized France, writes often about piety and sin, his conception of religious justice can be inconsistent. In his “Poldève Legend<sup>28</sup>”, a woman who has lived a long, pious life dies a virgin. But at Heaven’s gate she is made to wait in a long line behind the legions of soldiers dying in World War II, all comers on both sides admitted without question. Both factions, after all, claim God on their side. Outraged, the woman bends an attending angel’s ear about her long years of devotion to God and the church—“Morning prayers, thanksgiving, six hours of mass every day. After mass, special prayers to St. Joseph and of thanks to the Virgin”—and she is about to be waved through the gate when St. Peter’s attention is distracted by the spring offensive beginning on the Poldevian front. At last the woman is able to jump the queue, dubiously accepting a ride on a horse with her soldier-nephew, a ruthless thief and rapist she previously has disowned. When St. Peter challenges the nephew about “that woman” behind him on his saddle, the nephew replies that she is the regimental whore. “Oh, okay, then”, St. Peter says, “go on in”. Is this poetic justice encapsulated, or pure cynicism? (For Aymé, at least here and in “The Bailiff<sup>29</sup>” apparently St. Peter can be cavalier as a supreme judge.)

Insofar as mortal law is irredeemably imperfect, there is no redemption for completely earthbound mortals, at least outside poetic justice—some sort of ending contrived by the author of their narrative (the ultimate Lawgiver in the context) that makes what they do all right. This of course is where law and literature generally meet, to bridge the gap between law and justice. Where the law by itself cannot forgive the studiously unrea-

28. “La Légende poldève”, in M. AYMÉ, *supra*, note 2, p. 451.

29. “L’huissier”, *supra*, note 23, p. 510.

sonable or anti-social man, literature, like sacred law, can grant him grace. Literature permits reperfected justice, pure justice that stretches back towards Eden, if often ironically these days, Eden being pre-law: there is only one rule, a sort of leasehold covenant that you can stay in the garden if you stay away from a particular tree, the one whose fruit imparts omniscient knowledge. You are not to touch it because, as the Supreme Ruler's creations and subjects, you must not aspire to be like him. Breach of that covenant brings immediate eviction and, commensurately, sin and death, as you are driven down the mountain into the material (decidedly non-paradisaal) world, the valley (as it were) of death, where positive (mortal) law is necessary for survival.

This is the central analytical point one can make about the story "Dermuche"<sup>30</sup>. The title character is an idiot—an apish, mostly docile simpleton who kills three pensioners simply so that he can have one of their phonograph records for his own unimpeded use. He just can't get enough of the tune (a "ritornello", Aymé says) they listened to every Sunday. He is sentenced to the guillotine but does not mind, insofar as he is confident of spending eternity with Jesus. But the prison chaplain despairs of getting him to feel enough remorse for redemption or at least suspension of the death penalty. In matters of religious feeling, Dermuche cannot get beyond what the chaplain tells him about Christ's birth—that the saviour was born in a stable between a cow and an ass to show us mortals that he is a friend of the dispossessed, including prisoners. Dermuche takes this to mean that Christ could as easily have been born in a prison, but not among "*les rentiers*" (the pensioners). Nothing else in the narrative of Christ's life makes sense to him, not literally let alone metaphorically. Oblivious to the social harm he has done, he writes a letter to Jesus in which he describes the *rentiers* as bastards and asks that, after he is guillotined, the lord provide him the beloved phonograph record in Heaven. Doubting that simple-minded Dermuche could have formed the requisite intent to commit capital murder, the chaplain prays for him and deposits the letter in a crèche. On December 24, the day scheduled for Dermuche's beheading (Aymé lays it on a bit thick here), the chaplain and prison officials discover that, overnight in his prison cot, Dermuche has time-travelled back to infancy. Anxious that their careers will be compromised should Dermuche use any ruse to escape the guillotine, the prison officials guillotine the infant. He is not as innocent as the baby Jesus (in their view), he is Dermuche the murdering simpleton, and still has the tattoos to prove it. After the execution, it occurs to Dermuche's lawyer that, if God has wiped out his client's first go at life,

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30. Collected in *Le vin de Paris*, in M. AYMÉ, *supra*, note 2, p. 631.

then by the same magic the murders never happened. He verifies that the *rentiers* are alive and that their neighbours are unaware of any recent crime in Nogent-sur-Marne. However, the *rentiers* complain that, the previous night, someone stole their phonograph record, which was sitting on the dining room table. Where mortal law is weak and subject to human materialism, sacred law provides perfect, poetic justice. Born innocent into this world of sin and crime, everybody gets that second chance. Like Christ, Dermuche has died for our (and his own) sins. And in this case, they are commensurate with crimes.

One wonders if Aymé had at least some of this in mind when a lawyer in Aix-en-Provence asked him, in 1961, for his thoughts on “the art of judging”. This was nine years after Aymé had become *auctor non grata* in some parts of the French legal community, for *La tête des autres*<sup>31</sup>, his play dramatizing the legal system’s supposedly complacent disregard for the possibility of wrongful convictions in death-penalty cases. Aymé responded that he’d had only two personal experiences with the legal system. Playing hooky from school when he was fourteen, he had watched court proceedings before a “*Justice de classe*” (a judge of high standing) at the *Tribunal correctionnel*, only to be “profoundly moved and scandalized by the harshness and rudeness with which the judges treated poor people”. The second time was in the days following World War II, an “unprecedented spectacle in France, with justice so exceptionally set on vengeance that a fearful judiciary failed to do its job”. He went on to say, however, “Certes, des Juges peuvent se sentir à l’aise dans une recherche consciencieuse du verdict, lorsqu’il s’agit de *l’assassinat d’une rentière* ou de l’attaque d’un coffre-fort. Mais est-ce là tout l’exercice<sup>32</sup>”. For Aymé, any murder was against natural law, even if by the state, even as punishment for the murder of feeble pensioners. Violations of that principle called for poetic — supernatural — intervention.

31. Marcel AYMÉ, *La tête des autres. Pièce en quatre actes*, Paris, B. Grasset, 1952.

32. Posted on Oct. 10, 1998 by the Aymé scholar Michel Lécureur. Marcel AYMÉ, “Sur la justice...”, [Online], [www.parutions.com/index.php?pid=1&rid=1&srid=321&ida=2846] (April 8th 2012) (Emphasis added). The text quoted is my translation of: “J’ai été profondément remué et scandalisé par la dureté et la grossièreté avec lesquelles les juges traitaient les gens pauvres. La deuxième fois, ce fut à la Libération, le spectacle sans précédent en France, d’une justice d’exception acharnée à la vengeance, et à laquelle une magistrature craintive n’a pas ménagé son concours.” The second fragment translates as, “Certainly when it’s a question of *the murder of an old lady pensioner* or a safe-breaking, judges can feel easy in their consciences while reaching a verdict. But is that all there is to the exercise?”

#### 4 Magic as a diversion from materialism

In Aymé magic can also be a diversion from bourgeois, materialist experience. While proudly capable of breaking in and out of prison at will, and greedy of the celebrity it brings him, Dutilleul, protagonist of “The Man Who Could Walk Through Walls<sup>33</sup>”, ends up encased in a courtyard wall, outside his married lover’s home. Although he has become a folk hero whose powers have allowed him to drive his obnoxious boss mad, amass a fortune through burglary, and win over a beautiful mistress, they fail him at last, horrifically, as in an Edgar Allan Poe story. His mortality defeats his vanity of godliness, punishing him capitally for his sin/crimes not of burglary or even adultery, but of pride and taking onto himself the trappings of ultimate authority—sedition and idolatry all wrapped up, as in biblical times, tasting the forbidden fruit. This again is characteristic of Aymé, who likes to confound physical and metaphysical, sacred and profane, perhaps as a product of a deeply Catholic culture coming to grips with the harsh realities of wartime Europe.

The story can also be seen as an extended parody of the archetypal symbol that Frye calls the *hortus conclusus* or enclosed garden “derived from the Song of Songs” where the bridegroom says of his bride, “A garden enclosed is my sister, my love; a spring shut up, a fountain sealed”. The symbol, of conquering barriers to earthly (commonly sexual) Paradise, “derives”, Frye says, “of the body of the Virgin<sup>34</sup>” Mary. It recurs in tales where suitors attempt to scale walls and towers or cross moats, etc., to tryst with captive or reluctant lovers (as in “Rapunzel”, for example). Here, the symbolic narrative takes an ironic turn when the tryst kills the suitor. For Dutilleul, Paradise is not only within various enclosures, but without, insofar as he is able to move in or out of anywhere, even the securest prison, at will. But this gift is also his entrapment—in Hell on Earth, where practising godlike magic is suicidal.

In “The Ration Card<sup>35</sup>” and “The Decree<sup>36</sup>”, law—now itself a form of human vanity—is used to alter the passage of time. In the former, set in wartime<sup>37</sup>, non-productive citizens are permitted to exist only a certain

33. “Le passe-muraille”, in M. AYMÉ, *supra*, note 2, p. 353.

34. Northrop FRYE, *Anatomy of Criticism. Four Essays*, Princeton, Princeton University Press, 1971, p. 152.

35. “La carte”, in M. AYMÉ, *supra*, note 2, p. 397.

36. “Le décret”, in M. AYMÉ, *supra*, note 2, p. 415.

37. In many ways, the perfect setting for Aymé’s explorations of legal and moral ambiguity, given that it shows human society *in extremis*, and the milieu of some of his best work. C.R. LA BOSSIÈRE, *supra*, note 9, at page 105, remarks “Moral confusion is a social analogue or a consequence of a mystical spirituality substituting aesthetics for ethics.

number of days per month. But human nature is such that the system fails—a black market develops for extra days and the rich and useless (including writers) find their way around the law. Scalpers defeat its purpose. In “The Decree”, arrogant governments attempt to avoid the depredations of war by moving time ahead by seventeen years. Law becomes an opiate, imposing a sleep and a forgetting; the causes and horrors of war remain unaddressed. The narrator finds that by fiat, he has lost seventeen years of his life without living them, never mind that he has fathered two more children and lost his youth. He is like the Cumean sybil, who forgot to ask for eternal youth when the gods granted her eternal life.

(By contrast, the time-travel magic in “Dermuche” is a product of divine law, in reparation for the failings of mortal law. In “The Decree”, time travel is forward, attempting by government fiat to wipe out the interim, which it does only in consciousness: it is law as denial of material truth and human immorality. In “Dermuche”, there is no denial but redemption from a failure of mortal law and order, not to mention morality and justice.)

We find a similar if particularly creepy fatalism in *Les Sabines*<sup>38</sup>. To rationalize her magical ability to commit adultery across the planet, with sixty-seven thousand lovers simultaneously, Sabine Lemurier tries to finesse both morality and law intellectually: she has broken neither sacred nor secular law, she reasons, insofar as marriage is not a union of bodies but of souls, and anyway secular law has not considered the question of ubiquity. “But she had too refined a conscience to take advantage of such lawyerly reasoning,” Aymé tells us. Sabine’s adulteries are “perfectly damnable”. There follows the horrific come-uppance, beyond Dantesque, suffered at first by a scapegoat iteration (every community needs a goat, after all, to mitigate the harshness of the law), Louise Mégnin, but ultimately by the Sabines worldwide. The scapegoat lives in a hovel, where she is regularly raped by a stinking apeman, and the torture is all the harder for the reader to bear given the otherwise bemused charm—typically Aymesque—of the narrative. When Louise-Sabine dies, so does her worldwide cohort: as with Duperrier and his halo, as with wall-walker Dutilleul—and as with the fragile, pre-law immortality of Adam and Eve in Eden—Sabine’s gift is her curse.

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In the absence of unambiguous distinctions between yes and no, truth and falsehood, right and wrong, everything is permitted”. The context is Marcel Aymé’s, *Le confort intellectuel*, Paris, Flammarion, 1949, in which, as La Bossière suggests, Aymé at last makes public some of what are apparently his conservative views on literature, where normally he let his fiction speak for itself.

38. “Les Sabine”, in M. AYMÉ, *supra*, note 2, p. 364.

## Conclusion

Analytically, these stories conjoin to show us the dark heart of Aymé's unique blend of charm and sadism (or at least fatalism): his magical realism is, finally, deeply cynical, about human nature and also its attempts to civilize itself under law. The childlike magic, playful and jokey in context, ends up, at best, childish illusion, mirroring the egocentric and wilful innocence of his protagonists. It doesn't achieve anything permanent, let alone perfect justice, because its metaphysics are firmly bound to the physical, fallen world. In this sense the stories are also deeply entrenched in the underlying Judeo-Christian narrative: the protagonists are punished for sin more than crime—pride throughout, plus murder (and all the other sins of war) and playing at god in "The Decree", greed and playing at god in "The Ration Card", adultery and lust in *Les Sabines*. Everywhere there is a religious or moral tension between carnality and guilt: sin is beyond commensurate with crime; as subject to a higher law, it is worse, yet often excusable as inevitably human.