Is there a medieval legal theology? Legal learning, legal careers, and historical methodology in twelfth-century England

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Law by other means

What was legal knowledge in the twelfth century, and how was it measured? The question is far less straightforward than it appears, for our medieval sources tend to elide what we might consider to be distinct categories of legal education, legal experience, and legal reputation. This paper offers a series of methodological suggestions on that point, on the need for circumspection and specificity when we speak of 'legal learning' (or its cognate terms) in the later twelfth-century. The first is that the most distinguished judges were not always distinguished jurists, or even jurists at all. Our categories do not always align neatly. In recent decades, historians have suggested that the legal expertise of some of the celebrated 'lawyer popes' of the Middle Ages has been overstated.[1] Even popes learned law on the job, through the support of specialised administrators. This article aims to explore legal knowledge more broadly, by examining the lives of some less prominent lawyers and judges. Many individuals are lauded in the surviving sources as sound judges, but such accolades are often better read as praise of personal virtue rather than evidence of technical legal knowledge. Legal reputation was a complex and slippery thing. There is a counterpoint to this observation: there were a significant group of men who were trained in law but who ultimately abandoned legal careers, and then used their legal knowledge to lay claim to authority in non-legal matters. Substantial time spent in the schools, even years of legal study, could be used to give authority to moral and social critiques. In short, this article invites us to recognise the complexity and diversity of twelfth-century

'legal' careers. While the unit of study is twelfth-century England (a place which provides both a rich and focused body of material), its conclusions are intended to speak more widely to our understanding of legal learning in this period.[2]

It is worth first defining the term, 'legal education', 'legal experience', and 'legal reputation'. By legal education, I mean those who had studied law in the schools as part of a formal course of study; those who had engaged academically with jurisprudence. Legal 'experience', by contrast, equates to practice. It describes those who had acted in a formal role in cases involving the canons – either as advocates or as judges, delegated either by a bishop or by the papal curia. Finally, legal reputation was a matter of contemporary judgment: those men singled out by our medieval sources as distinguished by their facility with the law; the kind of commendation which ones finds in chronicles, memorials or letters.

These distinctions may appear to be small ones, but historians have often inadvertently blurred the lines between training, professional expertise, and reputation, either assuming that one quality sprang from another, or that the three were typically in alignment.[3] This, in turn, means we fail to appreciate which qualities medieval sources are praising. This leads me to my second point. It is only when we recognise how medieval authors choose to elide or separate these different categories of legal experience that we can properly understand how law and legal study related to the other scholastic subjects and other categories of knowledge and learning in the medieval schools.[4] Praise of legal learning did not exist in isolation; it was closely connected to claims about moral probity and personal virtue. This is particularly important for the twelfth century, the moment at which the relationships between the different subjects in the medieval schools were beginning to be more sharply defined.[5] Finally, this paper re-examines two under-studied legal careers – those of Gerald of Wales and Baldwin of Forde – in an attempt to place law within a twelfth-century life.

It is often the evidence of jurisprudential education which has spoken the loudest in the ears of historians. This is perhaps unsurprising: a faculty or school of law provides a useful institutional focus, as well as the increased likelihood of copying and preservation of manuscripts.[6] The evidence for this learning has survived in a significant

body of sources, both for the study of canon law and Roman law: the collections, *summae*, glosses, *distinctiones* and *ordines*, all part of a process in which learned masters in the schools attempted to epitomise and expand upon existing legal knowledge. For canon law, such works were the substantial focus of the seminal study of Kuttner and Rathbone, which provided them with the evidence for the prolific writing of Anglo-Norman canonists.[7] Kuttner and Rathbone's research remains the starting point for any work on canon law and lawyers in twelfth-century England; it is hard to overstate its enduring influence. It was an analysis constructed from those Anglo-Norman canonists who left evidence of their academic work. Thus, by the very nature of the work, those men who had no formal legal education, left no legal commentaries, or who came to legal activity through the schools of theology, rather than law, have never quite come into focus.

One of the chief problems is the ambiguity of titles and the difficulty of reconstructing 'legal' careers. We might take the career of *magister* John Grim. In the first years of the thirteenth century, John, who had been teaching theology in the schools of Oxford, was called upon to act as judge on behalf of the Archbishop of Canterbury on at least two occasions. He heard an appeal by the abbot of Eynsham against a knight accused of spoiling the abbey's lands and assaulting the abbey's clerks.[8] John also heard a dispute concerning a marriage, in which a potential new wife was alleged to be too closely connected by blood to the first.[9] He acted, at least once, as a papal judge-delegate for Innocent III.[10] These three records of judgments represent almost sum total of his surviving biography.[11] Evidently, John Grim's expertise lay in theology. His fellow judge in the case of Eynsham abbey was one Simon of Gloucester, similarly described as a student in the schools of theology at Oxford.

At Canterbury, Archbishop Hubert Walter called on several *magistri* from outside his household to settle judicial disputes for the see. In the late twelfth century, Jordan de Ros and Alexander of Hadham acted on his behalf, settling an argument over a disputed composition.[12] This was an unremarkable example of delegation to *magistri*; further examples can be found in the records of many other late twelfth-century English see.[13] Indeed, Baldwin, Hubert Walter's predecessor at Canterbury, rated two of his servants so highly that he

recommended them – Roger of Rolleston and Robert of Bedford – to Hugh of Lincoln, as capable servants to assist the newly-appointed bishop.[14] We do not know if they had served Baldwin as judges-delegate, but Roger of Rolleston certainly did so for the bishop of Lincoln.[15] Baldwin, commending Robert of Bedford to Hugh, explained that he possessed a distinguished theological education and a particular 'passion for righteousness' (*zelo iustitie*).[16] This perhaps is to be read as a comment on Roger's moral probity: the kind of standing which made him capable of issuing good, just verdicts.

Magistri were often employed to perform specific judicial tasks for bishops – they did not need to be permanent members of the episcopal household to do so. It will come as no surprise to any historian who has consulted these records to observe that the title 'magister' was a flexible one; it could denote several different kinds of learning, or administrative capacity, or it could simply represent a title bestowed by a writer to indicate respect. But this prompts a further question: what was it about these particular *magistri* that made them fit to judge? It may be the case that John Grim, Simon of Gloucester, Jordan de Ros, Alexander of Hadham, Roger of Rolleston, and Robert of Bedford were all recipients of significant formal legal education in the schools, and that the evidence for it has not survived.[17] Rather more likely, however, is that when bishops looked to appoint judges-delegate in the late twelfth century, it was not, primarily, a legal education that they sought – at least in cases which seemed to present straightforward problems for resolution. What qualified them for these temporary appointments seems to have been a combination of qualities: procedural knowledge of judicial processes gained from having been present in the courts and following cases, along with a reputation for learning and administrative efficiency. In the case of John Grim, knowledge of the higher subject of theology must have recommended him further: in part because of the closeness of the canons and theological principles; some significant overlap between theology and the canons. Moreover, a reputation as a theologian might offer a guarantee that the act of judgment would adhere to moral standards. These were judgments which, for the most part, did not require legal expertise in the sense of a deep knowledge of the law; most cases required the ability to handle plaintiffs, consider and weigh testimony, and decide on a course of action that would satisfy the

demands of morality and probity. It required the ability to explain and justify a decision: thus, as C. R. Cheney noted in passing in his work on bishops' chanceries, capacity in law was closely connected to facility in rhetoric – legal training did not instil eloquence, but without eloquence, no lawyer could hope to gain renown.[18]

Another figure who deserves more serious attention when tracing out the boundaries of the twelfth-century legal world is Benedict, prior of Canterbury and abbot of Peterborough (1177-93). Benedict is best known to posterity as the careful gardener who tended Becket's incipient cult, not least through bringing relics with him when he made his journey from Canterbury to Peterborough.[19] Benedict had no formal legal education, but in 1190 he served as the head of panel of itinerant royal justices; on several other occasions, he acted as a papal judge-delegate.[20] His legal knowledge must have accrued over time; as prior of a significant Benedictine house there would have been legal matters he could not avoid attending to.

At Canterbury, Benedict had enjoyed access to one of the best-stocked libraries in twelfth-century England, with significant canon law collections.[21] It is significant, therefore, that Benedict took with him to Peterborough a considerable collection of law books. This numbered a full volume of the *Corpus iuris civilis*, the *Institutes*, the *Authenticum*, the *Summa* of Placentinus, alongside the *Decretum*.[22] That choice looks purposeful: Benedict selected the key texts he might need on his elevation to the abbacy; both for disputes that might pertain to Peterborough's holdings, but also texts which he might need to utilise if called upon to judge. His book collection – whether the texts were read by Benedict himself or by his assistants – represents an acknowledgment that law had to be 'got up', sometimes only after one had been appointed to judicial office. While we cannot do more than speculate about how Peterborough's legal collections may have compared to those of other abbots, bishops, or monasteries, we might infer from this collection that there was a world of legal learning and study which did not depend upon contact with the schools.[23]

As Jane Sayers' work on thirteenth-century papal judges-delegate has emphasised, the factors at play in appointing a judge-delegate were largely extra-legal. The 'localness' and local reputation of a judge may often have been the decisive factor in their appointment. The process

in the twelfth century is unlikely to have been vastly different: depending on a judge's local knowledge, his personal reputation, and/or past service. Legal expertise, after all, could be brought in where it was needed. Judges could be advised.[24]

The principle that judicial reputation did not depend, exclusively, or even for the most part, on legal learning seems to hold true at both the highest and the lowest levels in twelfth-century England. In his *Vita Sancti Remigii*, written at Lincoln in the first decades of the thirteenth century, Gerald of Wales commended and commemorated the two most accomplished judges of the later twelfth-century English episcopate: Bartholomew, bishop of Exeter (1161-84), and Roger, bishop of Worcester (1163-79). Their reputation, Gerald explains, rested on the fact that Alexander III considered them to be preeminent in judicial matters – entrusting the two of them with the greatest number of cases as judges delegate.[25] Indeed, Gerald's claim is borne out by the surviving decretal collections: along with Gilbert Foliot, bishop of London, Bartholomew and Roger seem to have been the two most frequently employed papal judges-delegate in England in the 1160s and 1170s.[26]

The judicial activities of Bartholomew and Roger cannot be in doubt; what deserves scrutiny, however, are the rationale for these appointments. This should prompt us to consider what was really being praised. By Gerald's own admission, Bartholomew was more learned in the *leges* than the *canones*.[27] Bartholomew knew the canons; that much is demonstrated by his *Penitential*. But, as his biographer Morey observed, by the 1160s and 1170s, this was far from cutting-edge jurisprudence – his knowledge was formed by the older collections of Ivo of Chartres and Burchard of Worms, not the more recent work of Gratian or Peter Lombard.[28] Gerald had studied law at Paris in the 1170s – perhaps this accounts for his comment on Bartholomew's learning in the canons. Nonetheless, however, a lack of knowledge of the most recent developments in the canon law was not enough to diminish Bartholomew's reputation as a judge. Indeed, Gerald's praise for the two men is couched in terms of their moral excellence. This includes their *probitas* (probity) – a word which might be associated with impartial and scrupulous judgment; but he praises too a wider

range of moral virtues possessed by the two bishops: *eloquentia*, *religio*; *honestas*; *bonitas*.[29]

There is a similar challenge in interpreting Gerald's praise of his other great judge, Roger of Worcester. Roger had certainly studied arts and theology in the schools (the latter subject under the distinguished theologian Robert of Melun); whether he had undertaken any law is more difficult to assess; historiographical opinion is split.[30] We might take this as a comment on just how difficult it is to reconstruct the early careers of twelfth-century bishops, but we should at least entertain the possibility that formal jurisprudential expertise was not the reason for his appointment by Alexander. Alexander's trust in Roger could well have been vested in ties of personal friendship, founded in their time in the schools of Paris.[31] Roger's judicial reputation may have been a matter of his expertise in the canons; but it may also be (at least in part) explained by proven efficiency or trustworthiness, especially when acting at a remove from Rome. Like a rolling stone gathering moss, the more one judged – and judged without throwing up problems or complaint – the more one was trusted to judge again.

The criteria for having judged well, or having resolved a matter properly, lay somewhere between the administrative, moral, and the legal. This could produce some strange hierarchies and rankings in texts which praised moral probity under the guise of legal judgments and vice-versa. There were men in the English episcopate who could boast jurisprudential training which far outstripped that of either Bartholomew or Roger, and who acted in a similar fashion as judges, but who did not receive such laudatory notices (of one such individual, more will be said below).[32]

Whether on a national stage or a local one, a judge's accomplishments might be measured on a variety of criteria: formal legal learning in the schools was only one element of this (and not always determinative). This may have been the case in later centuries, when learning (of all scholastic kinds) became more formalised; it does not hold true for the twelfth century. Some of this is a problem of evidence: where we cannot 'flesh out' a master's early career – where, what or when they studied – we should not assume that law was a more likely object of study than theology. However, this is also a matter of recognising what kinds of knowledge our medieval sources prize.

Chronicles, hagiographies, and narrative sources of all types rarely treat jurisprudential facility as a discrete category. Rather, they tend to approach legal education and legal expertise as only one aspect through which good moral standing or personal virtue might be indicated or assessed. Those categories had – for the most part – porous borders. The corollary of this, moreover, was that knowledge of law was frequently set to other purposes. There were many men for whom law was not an end in itself, but could serve rhetorical, historical, and theological purposes.

Gerald of Wales: a little law goes a long way

How, then, did those men who had made an academic study of the law understand its purpose and place in their careers? One of the rare personal accounts we can turn to is that of Gerald of Wales. Gerald had studied the arts curriculum in Paris between 1165 and 1172; after the disappointment of seeing Peter de Leia elected to the see of St David's in 1176 – the office he had hoped to occupy – Gerald decided to find his comfort in the study of the law. He returned to Paris in 1176 with a new intellectual purpose. In his *Autobiography*, Gerald presents the study of the law as a necessary (indeed, integral) part of his vision for his own education and improvement.

> Thus, above the foundation of the arts and literature, I would build high walls of the law and canons [*legum et canonum*], and finishing above them with a holy roof of the study of theology. And then this threefold structure would stand strong, held together by the firmest bonds.[33]

Gerald's description of his own education accords with Richard Southern's characterisation of scholastic education as a project which sought to bring together the different kinds of knowledge of the created world in order to serve a higher purpose; each part of the school curriculum contributing something towards the work of 'restoration'.[34] The liberal arts, law, and theology support and inform one another. Indeed, Gerald's desire for completeness was such that he studied both

'imperial' and 'pontifical' constitutions – that is to say, both civil and canon law.[35]

Gerald's *Autobiography* recounts his rapid success in the laws. In the schools of Paris, Sundays were set aside for discussion of the Decretals: there Gerald's abilities won him both praise and acclaim. Crowds would come to hear him; there was scarcely a hall large enough to hold his audience, and his fellow students would write down each precious word which fell from Gerald's lips. One lecture was so commended that Gerald takes the trouble to describe his argument in his text. The lecture addressed the question of whether it was ever acceptable for a judge to judge out of his private knowledge (i.e. to determine his decision based on information which had not been presented to him by witnesses).[36]

Lest his readers fail to appreciate the innovation of his argument, Gerald explains that the prevailing legal orthodoxy was that a judge should not judge from 'private' knowledge, but only according to the information set before him in the court – although it should be noted that Gerald rather exaggerates how infrequently this question was subject to debate. Gerald defended the right of the judge to adjudicate on the basis of private knowledge. He reports that the scholars of Paris were so impressed with the lecture and the proofs of his argument that they sought to appoint Gerald as a lecturer, in place of the recently-departed Master Matthew of Anjou. But Gerald could not accept this offer, as he had plans to travel to Bologna. Instead, he hoped the scholars of Paris would be content by providing them two daily lectures on Gratian while he remained in the city: one on the distinctions, one on special cases.

The cynical reader of Gerald's *Autobiography* may doubt whether such a job offer was ever made. As in so much of Gerald's career, it is difficult to separate event from characteristic embellishment. The reality of the lectureship in Paris, however, is less pertinent to the matter under discussion. Gerald, in giving his own account of his life, set his second Parisian period in the context of his longer career. The study of the laws was no mere footnote; it was the culmination (and coming-together) of long-developing intellectual interests. Yet in the volume of scholarship recently produced on Gerald in recent decades (which in itself constitutes a minor Geraldine Renaissance), the legal dimensions of his

life and work have rarely come into direct focus. Recent research has documented Gerald's interest in ethnography, identity, in ghosts and in dreams, but his engagement with the law has not received the same attention.[37] The neglect is made more acute by the fact that Gerald, throughout his writing, repeatedly draws his readers' attention to his own legal learning and legal accomplishments. Gerald's evident pride in his legal knowledge, and his enthusiasm for inserting legal arguments, proofs, or talking points into texts which are not, *sensu stricto*, about law, exemplifies one of the most significant trends in the later twelfth century. Legal learning was increasingly a feather in the cap of young, ambitious men. Even for men who had no intention of becoming 'professional' lawyers, a claim to some level of legal expertise was one way of demonstrating one's suitability for office.

Gerald's career allows us to probe the idea of a spectrum of legal learning. There was no strict division between lawyer and non-lawyer; in fact, there was a sizeable group of young men who had picked up some level of legal training (either at the schools, or in episcopal households), but for whom law was not their full-time occupation. Gerald spent three years in Paris studying both civil and canon law; the usual course was to spend three years on civil law before three more on the decretals. That did not put him among the first rank of lawyers when he returned to England: Gerald was no Simon of Sywell or John of Tynemouth. But as an archdeacon and as one who aspired to a bishopric, he would have known enough of the law (canon and civil) to understand its principles, to receive and offer legal advice, and to navigate his way through key legal texts. More than that, Gerald was capable of using legal quotations to give strength and support to claims he made in other arenas, when writing. Most importantly, his ability to navigate the authoritative texts and principles of late twelfth-century law provided him with a further tool in his moral writing. It allowed him to claim a further kind of legal authority when he wrote or spoke about how law might be used in the creation of a virtuous society. Gerald never wrote a 'legal' work, but his writings are peppered with moral arguments which depend on legal principles, or which draw their strength or illustrations from legal ideas.

This much is evident from reading the first book of *De principis instructione*, Gerald's *speculum principis*, written and added to at

intervals between 1191 and 1217.[38] While the second two books work through historical examples from Angevin and French monarchies, the first examines virtue and the moral qualities needed to rule. Those qualities are demonstrated with reference to biblical and classical examples (as one might expect), but, also through reference to the principles of Roman law. To explain the importance of gentleness (*mansuetudine*) in the ruler, Gerald relies on *Codex* 1.14.4 and 6.23.3.[39] In the same chapter he records that the great Julius Caesar showed elaborate respect for advocates when entering the courts, putting aside his imperial dignity, and was himself willing to appear as a lawyer for a poor veteran.[40] Gerald elsewhere commends Roman laws which treated those who slander the imperial name with mildness and patience,[41] arguing that in this Roman law is in accordance with Solomon's proverbial praise of patience (Prov. 16.32). On show is a wide-ranging knowledge of the *Codex* and *Digest*, and an assumption that where virtue was to be found in the Roman polity, it was to be found in its laws. It was law which compelled Rome's rulers to fulfil their duties, and to conduct themselves with piety in office.[42]

Gerald's use of the law to engage his readers on the subject of virtue, however, goes beyond quotation. He includes in his work on the instruction of princes a comparative passage, discussing the difference between Roman law and English law on shipwreck. The comparison is intended to illustrate the matter of royal piety: a pious and compassionate ruler ensures that the law of shipwreck takes care of those who have lost goods or loved ones. Rulers should thus understand that they can shape the laws for public good. The very best of these laws concerning shipwreck, Gerald argues, were the 'ancient' laws of England, which decreed that any goods salvaged from a shipwreck were to be used to benefit the very poor and the heirs of those who had died in the wreck.[43]

In short, legal fluency allowed Gerald to elaborate on and enhance his moral arguments; to explain, moreover, how good moral principles could be properly codified in law. Of course, some of the display of legal learning was self-serving, and it would be naïve to think otherwise – Gerald was keen to demonstrate his own legal brilliance. At the same time, however, Gerald used the law he knew in the service of moral reformation. That was as true of his knowledge of the Decretals as it

was for the *Corpus Juris Civilis*. Gerald deploys the same type of techniques in his *Gemma ecclesiastica* (c. 1198), his case for the moral reform of the church.

Ostensibly, the *Gemma ecclesiastica* is quite the opposite of a legal work. It begins with an attack on lawyers who are merely interested in the study of law as a means of advancement and who embark on legal studies without establishing the basics of logic and the *trivium*.[44] This was by no means an uncommon complaint in the mid-twelfth century.[45] But the *Gemma ecclesiastica* itself provides a series of references to canon law and summaries of canonical arguments. There are principles of canon law which a priest must understand in order to perform his role in the church; principles which Gerald helpfully sets out. Those legal principles include the difference between clerical acceptance of gifts (a prohibited activity) and receiving a freely-given stipend (acceptable),[46] and the canonical support for the principle that the Eucharist is never to be denied to anyone seeking it at the moment of death.[47] In both the *Gemma ecclesiastica* and the *De principis instructione*, Gerald saw himself as distilling legal principles for the benefit of those who were unlearned in law, but who required some basic understanding of its rules in order to fulfil their office (royal, administrative, priestly). The legal knowledge which Gerald claimed made his arguments more potent; it supported his cry for moral reform.

When read in this fashion, Gerald's overlapping legal, moral, and literary activities bear a striking similarity to those of his more accomplished and acclaimed contemporary, Master Vacarius. Vacarius, who had studied at Bologna or Pavia in the 1130s, was the leading master of Roman law in twelfth-century England. As Jason Taliadoros has recently demonstrated, Vacarius' endeavours were not strictly 'legal': as a master he aimed at building bridges between theology and law, putting law in the service of pastoral theology, and using jurisprudential techniques to aid in the comprehension of matters of Christology. Gerald, of course, did not have the same depth of legal learning as Vacarius. But that did not prevent him from using the law he did know in the service of moral theology. Indeed, seen in this way, Vacarius' theological interests, as catalogued by Taliadoros, represent only the tip of the iceberg in twelfth-century England. Vacarius' work was, perhaps, the most refined and conceptually sophisticated – but

exchanges between theology and law happened at every level of legal literacy.[48]

Gerald is an important example, whose engagement with the law has been – unaccountably, given the volume of writing on other aspects of his life – overlooked. But there were still other men in twelfth-century England who, though they were not legal masters, utilised the law they knew. John Cotts has noted the case of Peter of Blois, who had studied for a period at Bologna.[49] Peter's attitude to his own legal learning was ambivalent. In his later years, he made much of the distinction between the world of law and the world of moral theology; however, as a young man, he repeatedly emphasised the utility of law – as a kind of rhetoric which could be made to speak to certain audiences. For much of his life, Peter thought that some level of legal training could be useful to the theologian or preacher. Indeed, he employed the 'language' of law as part of his persuasive rhetoric as a Christian orator: invoking a court setting, borrowing legal ideas and principles – all of these could give weight to his arguments.[50]

Two more authors – historians – should be added to this list. The first is Ralph of Diss, dean of St Pauls and author of two historical works, the *Abbreviationes chronicorum* and the *Ymagines historiarum*. Bruce Brasington has examined the legal dimensions of Ralph's learning. Ralph was no jurist, but was able to follow the norms of canon law and to utilise legal texts pertinent to his argument; bringing his legal learning to bear when discussing contemporary politics.[51] The second is Richard de Morins (d. 1242) who, before he was abbot of Dunstable, was a graduate of the university of Bologna; who, even after his entry into the religious life as an Augustinian canon, remained keenly engaged in legal matters – both as litigant and as a judge.[52] Richard, like Ralph and Gerald, wrote legally-minded history. While one might expect a monastic chronicle to keep a record of legal cases which affected the well-being and properties of the priory, or legal events which had considerable national political fallout, the *Annals of Dunstable Priory* are distinguished by their consistent attention to the technical detail of legal matters and legal process. They report, for example, how evidence was used in legal cases;[53] the wording and form of oaths which were sworn before itinerant justices;[54] how royal justices were dispatched in response to a crimewave;[55] how judicial combat was used to decide a

verdict; and a dispute over how appropriate punishment for specified offences was to be determined.[56]

Law and history were mutually reinforcing, in a way which should not surprise us. Legal details represented a useful embellishment of history – showing how legal decisions, legislation or judgment could be used as a spur (or obstacle) to moral improvement. Legal action was also the proper subject matter of history: like theological or classical texts, it showed the good engaged in a battle with the wicked. Men who had first studied the liberal arts curriculum and had then come to law (or who had picked up law in a non-academic setting) viewed it as merely another kind of knowledge to be borrowed and drawn upon: it was not a kind of knowledge set apart from all the others. If we take together the works of Gerald of Wales, Peter of Blois, Ralph of Diss, and Richard of Morins, we end up with a category we might call 'legal theology'; where law is layered into theological and moral thinking; where law is another type of rhetoric through which moral arguments can be advanced.

Baldwin of Forde and the occasional silence of the lawyers

Legal learning was – for the most part – rarely a distinct category; 'legal' virtues bled into others. The advocate or judge admired for his facility with law was praised too for his moral probity; men who had picked up parts of a legal education put that knowledge to work in the service of moral reform. Many who were not considered *iurisperiti* still claimed a level of legal expertise that gave them moral authority. In short, below the level of academic jurisprudence, further down the food-chain, legal, historical, rhetorical and moral arguments were often deliberately run together. This blurring of legal, historical, rhetorical, and moral was the norm. However, for twelfth-century England, there is at least one important and high-profile exception to this blurring. This was Baldwin of Forde, Archbishop of Canterbury (1185-90). Baldwin represents an important case for two reasons. First, because he has been surprisingly understudied. Despite his well-documented career, very little has been written about him.[57] Secondly, and perhaps more importantly, Baldwin has been positioned as someone whose moral and ascetic writings were indelibly marked by his legal training, and who presented a distinctive

'legal' kind of theology.[58] This is not an accurate reading of Baldwin. Indeed, unlike most of his similarly-learned contemporaries like Gilbert Foliot or Vacarius, Baldwin's moral writings exhibit almost no trace of his legal education.

In order to appreciate the novelty of Baldwin's intellectual orientation, one must first grasp the outlines of his career. Born in Exeter, likely the son of the archdeacon of Totnes, Baldwin was sent to the schools, most likely under the patronage of the Bishop of Exeter. At Bologna he studied canon law and theology, probably alongside the future Pope Alexander III and the canonist Stephen of Tournai. Baldwin's reputation as a canonist was such that he was appointed as tutor to the nephew of Eugenius III. He eventually returned to Exeter where he became archdeacon of Totnes, possibly teaching at the cathedral school there.[59] A promising career in the English church must have seemed on the cards, but, in around 1170, Baldwin's career took a less predictable turn – he entered the Cistercian order, becoming a monk at the abbey of Forde. Baldwin had played a role on the fringes of the Becket conflict; it may have been this which propelled him into the cloister. Entry into the Cistercian order did not, ultimately, arrest his progress. Baldwin quickly became of abbot at Forde, and from there to the see of Worcester in 1180, and from there to Canterbury. On this evidence, Baldwin must have been one of the more accomplished canon lawyers in the English church. Nor did Baldwin retire from the legal world after his entry into Forde: he served the papacy as judge-delegate as abbot, as bishop of Worcester and as archbishop.[60]

In the 1180s, at Worcester, Baldwin played a significant role in the creation of the decretal collection now known as the *Collectio wigorniensis*.[61] The *Collectio* is one of the most significant decretal collections in late twelfth-century England, primarily built upon papal letters to Worcester and Exeter. Baldwin himself is unlikely to have assembled the collections single-handedly; he must have drawn upon earlier endeavours at Worcester, possibly associated with his predecessor Bishop Roger. The *Collectio* is in itself, of course, evidence for the vitality and importance of legal writing and compilation outside the schools. As a canonist of some considerable reputation, Baldwin evidently fostered a circle in which members of his household devoted time to the collection and organisation of recent decretals.[62] There is no

doubt, therefore, that Baldwin continued to make significant use of his high-profile legal education. The argument I make here is not that Baldwin *lacked* legal expertise. It is rather that his legal knowledge was rarely, if ever, imported into his theological writing. This, in turn, reveals something about the limits of legal learning and its utility in the twelfth century.

David Bell has discussed Baldwin's surviving spiritual works at length. These include a series of nineteen surviving sermons, and two treatises, *De sacramento altaris* and *De commendatio fidei*. Most, if not all of these writings seem to have been produced while Baldwin was at Forde; the two treatises provided spiritual guidance and a distillation of the most important themes of faith and redemption for the monastic community. One further work – an anti-heretical treatise – seems to have been the product of his time in Canterbury; a small number of letters also survive relating to Baldwin's dispute with the monks of Canterbury over the foundation of a secular college of canons.[63] Bell has characterised Baldwin as a theologian who drew on all his legal expertise to make theological arguments, and who sometimes breaks into the language of the courts to express himself.[64] On Bell's account, Baldwin drew on his legal knowledge to frame a number of theological concepts for his audience, and utilised several technical legal terms to define his theology. For Bell, the culmination of this is found in the *De commendatio fidei*, in which Baldwin presents the Father, Son, and Holy Spirit each giving 'testimony' (*testimonium*), as if in a court, as a demonstration of the truth of the Christian Faith.[65] It is worth noting that Bell's characterisation of Baldwin as a writer of 'legal theology' stands in marked contrast to Landgraf's description of Baldwin as a writer in the 'ascetic-mystical' style.[66]

On closer inspection, however, there is very little which is evidently 'legal' in Baldwin's sermons or spiritual treatises. We might also wonder exactly what advantage Baldwin would have derived from presenting legal arguments to such an audience. There are, to be sure, a number of references to justice and judgment. But these are no more than one would expect given the themes on which Baldwin is sermonising; and they do not invoke any technical language. Indeed, across the corpus of sermons, the references to any kind of law, advocacy, or judicial scenes are scanty. What mentions there are of matters of judgment come from

biblical models, not those of contemporary law.[67] One would not need to be a canonist to access or utilise these sets of ideas. There are occasional, stray references to the contemporary law – but even then, these are used a point of general illustration. Discussing the principle that God does not punish twice, Baldwin glosses: 'just as in civil judgments, when those expert in law have determined that the damages be doubled in cases where debts are reneged...'.[68] This is a concept which most monks in the community of Forde would have been familiar with, but it hardly stands as a demonstration of any kind of technical legal expertise.

A secondary point of Bell's argument is to draw attention to the vocabulary deployed Baldwin. But, again, this is rather less 'jurisprudential' and technical than Bell suggests. In the *De commendatio fidei*, for example, Baldwin uses the term 'sententia' to describe the firmness of judgment arrived at by faith.[69] While this could be a deliberately 'legal' term, we should recognise the flexibility of this word in medieval Latin. The idea of divine *sententia* was a commonplace in moral theology; on its own it is not much substantial evidence of the deliberate employment of a 'legal' vocabulary. Elsewhere in the same text, Baldwin uses 'reatus' for sin, using the term to describe those guilty of the sin of unbelief.[70] Again, 'reatus' could bear a technical legal meaning, but that is in no way suggested by the context of the discussion, which is an examination of the Old Testament (Nb. 20.11-13); and it is not deployed in relation to any other legal terms. Moreover – as Bell himself notes – this was a term which Augustine and the Church Fathers had also used to describe sin. There is nothing here which can be claimed as distinctly legal, demonstrating that Baldwin was tapping into an expert jurisprudential vocabulary. These supposedly 'legal' terms would more likely have been familiar to the monks of Forde from the Vulgate, and in their 'theological' usage.

The most important part of Bell's case for Baldwin's integration of law into theology are the parts of the *De commendatio fidei* in which Father, Son, and Holy Spirit are asked to provide 'testimony' of the Christian faith, serving as witnesses (*testes*): 'quod tres testimonium dant in celo, et tres in terra'.[71] Once again, however, this is a term which is being used by Baldwin in a non-technical, non-legal sense. The chapters which describe these 'testimonies' have no other legal framing or

terminology: there is no suggestion, for example, that the reader or listener should imagine himself in a court-like setting. While the term *testimonia* might have legal implications, it was being used in twelfth-century theological and scholastic circles simply to mean proof, evidence, or demonstration. This is how the term is used by Alan of Lille, also writing in the later twelfth century. Alan's *Distinctiones* define *testimonium* in a purely spiritual way, through the use of biblical citations: 'testimonies' are merely proof of the greatness and goodness of the Lord; often worked through the Holy Spirit.[72] The term is used similarly in other of Alan's writings; testimony is a proof from scripture, a demonstration of God's power.[73] Indeed, when Baldwin expands on his definition of 'testimony' in a later chapter, his definition is solidly 'theological', not legal: 'the testimonies of our faith, therefore, are the works of the righteous, those works of righteousness and devotion which...please God and glorify God in himself'.[74] By testimony, Baldwin means signs and miracles, those worked and magnified by God. The idea of witness is tied up in making confession (90.4), most associated with the prophets and apostles.[75] To place this in a legal setting obliges us to imagine a connection which Baldwin never invokes.

I can find only one passage of the *De commendatio fidei* (a substantial treatise) which discusses law or legal frameworks in any detail. That is a passage which discusses a historical example: Pilate's condemnation of Christ.[76] But none of that discussion contains any material relevant to the practices and procedures of the twelfth-century courts that Baldwin knew: it is an account based on Mark 14 and Matthew 26, a re-telling and paraphrase of the events described in the New Testament. If the reader did not know that Baldwin – a trained jurist – was the author of these sermons and treatise, they would not be struck by any significant 'legal' character to the argument. A much stronger theme throughout the sermons is not law, but the traditionally monastic concept of obedience within the community.[77]

There is also a more fundamental historical problem for anyone looking to find Baldwin the lawyer in his writings from Forde. It is difficult to see what benefit Baldwin would find in speaking to a Cistercian audience in technical legal terms. While the order did not forbid its members from learning law, it did not consider legal learning appropriate for most of its brothers. The General Chapter of 1188

restricted those in the monastery who might have access to the 'corpus canonum et decretum graciani'.[78] Of course, the Cistercians were – in reality – not able to distance themselves from the world as much as their claims suggested. Cistercian monasteries certainly engaged in legal disputes, and dividing lines between 'law' and the cloister were not hard and fast.[79]

One complication which must be considered here is the possibility that certain English Cistercian monasteries did have a distinctive canon law tradition. Peter Landau has argued for considerable interest in canon law at Fountains Abbey in the late 1170s and early 1180s, culminating in the creation of the *Collectio Fontanensis*.[80] This was a repository of the kinds of law that particularly touched Cistercian houses, such as on property and tithes, as well as decretals which might be particularly useful for an abbot to study if he were called upon to serve as a judge-delegate – for example, on matters of marriage and judicial appeals. The creation of the *Collectio* seems to be connected to a more comprehensive project of canonical collection Durham. However, legal engagement at Fountains is not a particularly good guide to intellectual life at Forde. Fountains was particularly distinguished amongst English Cistercian houses; Forde was not of the same rank. Moreover, the intellectual tradition at Forde, as we can recreate it, seems to have been literary, spiritual, and even mystical, rather than legal.[81] The leading figure at the abbey in the late twelfth century was John (abbot 1191-1214). John, who had been a close friend of Baldwin, and possibly even his student, was known for writing a *Life* of the hermit Wulfric of Haselbury and a commentary on the Song of Songs. The latter followed a traditional, Bernadine model. Also associated with twelfth-century literary production at the abbey were Roger of Forde, the 'author' (more accurately, redactor) of the *Revelations* of Elizabeth of Schönau, and William, abbot of Bindon, who compiled a collection of miracle stories about the Virgin.[82] Holdsworth, making a survey of twelfth-century Cistercian writing, has characterised Forde as representing a traditional 'conservative' monastic tradition, associated with the Church Fathers, earlier Cistercian writers, and Victorine texts.[83]

In such a context, invoking legal language would have been unlikely to help Baldwin make his case before a monastic audience. Even recognising that there could be some measure of legal expertise

attached to individuals within Cistercian houses, the prestige of law must have been limited when talking to a broad audience of Cistercian brothers. By contrast, when Gerald of Wales wrote for an audience of courtiers and princes, the invocation of Roman Law and the concomitant Roman imperial authority packed a persuasive punch. Baldwin, who had studied the *trivium*, would surely had recognised the principle of classical rhetoric – that once adjusts one's material to suit one's audience. One adapted one's preaching according to those whom you addressed; a different language was suited to monks than to kings; to knights than to nuns.[84] Law was but one register; it was not rhetorically effective for every audience. Alain Boureau has suggested that one pattern that can be discerned in twelfth-century monastic recruitment is the deliberate attempt, by certain monasteries, to bring in highly-trained lawyers from the schools, offering them rapid advancement within the community.[85] That offer might in turn be appealing to those students of law who found limited academic success and no security. Baldwin, however, does not seem to fit this pattern, and Boureau's examples are from Benedictine monasteries – Battle and Evesham.[86]

The reason it has been worth examining Baldwin's theological lexicon in such fine detail is his place within a wider twelfth-century argument and set of trends. One of the hallmarks of that century was that men who had only a limited legal education sought to integrate that legal learning into their other works – whether in history-writing, in moral theology, or in letter collections for wider circulation. Gerald of Wales demonstrates how *magistri* and *eruditi* might seek to make use of every bit of their legal education, and its accompanying prestige and the persuasive power of legal argument, even many years after their time in the schools. This was a 'legal theology' in which law might be bent to many other uses – although not, it seems, by Baldwin of Forde.

Conclusion

One must, of course, be wary of arguments from silence. There may be questions of survival here: a lost corpus of sermons which might show Baldwin speaking in technical legal language to the monks of Forde (although it seems that most, if not all, of Baldwin's writings have

survived to the present day).[87] That possibility notwithstanding, we should recognise a deliberate choice here. Around 1170, the distinguished canonist Baldwin of Totnes joined the monastic order least likely to celebrate his chief intellectual achievement – the legal reputation won in the schools of northern Italy. The Augustinian canons of Dunstable in the early thirteenth century seem to have been rather more impressed by the fame of Richard de Morins – and more receptive to his interests – than the Cistercians at Forde were with Baldwin's previous career. One might speculate as to whether this was a deliberate choice on Baldwin's part, in the aftermath of the Becket controversy? Quite clearly, entry into the Cistercian order did not mean giving up the law, as his continued judicial work and engagement with the papacy makes clear. But it meant entering a community where legal knowledge had much less currency, and where legal knowledge was to be handled with caution.

What do Gerald of Wales and Baldwin of Ford show us if trying to sketch out a model for the 'legal theology' in the twelfth century? First, that the ways in which theology and law might interact were far from predictable. Law was just one kind of *scientia*; it continued to be valued for the contribution legal learning might make towards a man's moral formation. In judges, the lack of a legal education or training could be compensated for by demonstrating the right moral orientation or administrative capacity.[88] While the twelfth century saw the development of a sophisticated technical framework for the teaching of law and jurisprudence, learning in the law was still thought of as a moral attribute, one in a constellation of moral virtues, capable of many varieties of combination – as it had been in earlier centuries. One is tempted to suggest that, in this sense, the twelfth century was a moment of transition. In the thirteenth century, as the distinction between law and the other studies that one might pursue in the schools became more sharply drawn, there would be less room for this kind of 'legal theology', and fewer men who could boast sufficient training in both the *artes* and in *jurisprudentia* to work that combination. But in the twelfth century, that kind of symbiosis was still possible – legal theology was possible because the hard category of 'law' was still in formation.

Notes

1 See, for example, K. Pennington, 'The Legal Education of Pope Innocent III', *Bulletin of Medieval Canon Law*, 4 (1974), 70-7; R. Weigand, 'Magister Rolandus und Papst Alexander III', *Archiv für katholisches Kirchenrecht*, 149 (1980), 3-44.

2 Though working from English material, the present study does not consider the common law tradition, in which processes of legal learning and training and judicial formation were markedly different to that of the canon and Roman lawyers discussed here.

3 This is a point I discuss further in 'Legal Learning and Saintly Authority in Thirteenth-Century Hagiography: the Magna vita sancti Hugonis', *Journal of Medieval History*, 44 (2018), 39-55.

4 For some reflections on how historians try to reconcile the relationship between legal theory and legal practice, see the general remarks of G. R. Evans, *Law and Theology in the Middle Ages* (London, 2002), esp. pp. 83-4.

5 For example, J. H. Baker's *Monuments of Endlesse Labours: English Canonists and their Work, 1300-1900* (London, 1998), looks no further back than the 1190s. It cites the work of Kuttner and Rathbone, but begins from a time at which the disciplinary and professional relationships were more clearly defined; law had a more certain and fixed identity. For further discussion of where 'law' as a separate sphere of study might be seen to emerge, see M. Ascheri, *Diritto medievale e moderno* (Rimini, 1991).

6 See, for example, D. M. Owen, *The Medieval Canon Law: Teaching, Literature and Transmission* (Cambridge, 1990); G. Seabourne, *Royal Regulation of Loans and Sales in Medieval England: Monkish Superstition and Civil Tyranny* (Woodbridge, 2003); or, for an example from legal writing, Heikki Pihlajamäki, and Mia Korpiola, 'Medieval Canon Law: The Origins of Modern Criminal Law', in *The Oxford Handbook of Criminal Law*, ed. by M. D. Dubber and T. Hörnle (Oxford, 2014), pp. 201-24.

7 S. Kuttner and E. Rathbone, 'Anglo-Norman Canonists of the Twelfth Century: An Introductory Study', *Traditio*, 7 (1949), 279-358; the same focus is embodied in Leonard Boyle's important article, 'The Beginnings of Legal Studies at Oxford', *Viator*, 14 (1983), 107-31.

8 C. R. Cheney and E. John, (eds.), *English Episcopal Acta 3: Canterbury, 1193-1205*, ed. (Oxford, 1991), nos. 463 and 464 [hereafter *EEA 3*].

9 Ibid., no. 468.

10 C. R. Cheney and M. G. Cheney, (eds.), *The Letters of Pope Innocent III (1198-1216) concerning England and Wales* (Oxford, 1967), no. 279.

11 See further A. B. Emden, *Biographical Register of the University of Oxford*, 3 vols. (Oxford, 1957-9), ii. 826. John Grim is no longer considered the likely author of a *Summa super canonem missae*, now ascribed to John of Cornwall.
12 *EEA 3*, nos. 548, 549. The case dates to the period between 1198 and 1205. About Alexander of Hadham nothing else is known; Jordan de Ros is probably to be identified with the figure of the same name who became entangled in a legal dispute over land with Abbot Samson of Bury St Edmunds. See *The Chronicle of Jocelin of Brakelond*, ed. by H. E. Butler (London, 1949), pp. 61-2.
13 C. R. Cheney, *English Bishops' Chanceries 1100-1250* (Manchester, 1950), for an overview; pp. 11-17 for the household of Hubert Walter; see also C. E. Lewis, 'Canonists and Law Clerks in the Household of Archbishop Hubert Walter', *Colloquia Germanica*, 4 (1970), 192-201.
14 Adam of Eynsham, *Magna vita Sancti Hugonis*, ed. by D. L. Douie and D. H. Farmer, 2 vols. (Oxford, 1985), book 3, chapter 8, i. 112.
15 *English Episcopal Acta IV: Lincoln, 1186-1206*, ed. by D. M. Smith (London, 1986), nos. 116, 182, 191. Robert of Bedford did not live long after his move to Lincoln.
16 Adam of Eynsham, *Magna vita Sancti Hugonis*, 3.8, i. 112.
17 See the discussion in H. G. Richardson, 'The Oxford Law School under John', *Law Quarterly Review*, 57 (1941), 319-38, and idem, 'The Schools of Northampton in the Twelfth Century', *English Historical Review*, 56 (1941), 595-605.
18 Cheney, *English Bishops' Chanceries*, p. 11.
19 See E. King, 'Benedict of Peterborough and the Cult of Thomas Becket', *Northamptonshire Past and Present*, 9 (1996-97), 213-20.
20 Benedict led a panel of royal justices in 1190: D. M. Stenton, *Pleas before the King or his Justices, 1198-1202*, 4 vols. (London, 1952-67), iii, lxxxi.
21 For a sense of that library, see R. Gameson, *The Earliest Books of Canterbury Cathedral: Manuscripts and Fragments to c.1200* (London, 2008).
22 M. R. James, *Lists of Manuscripts formerly in Peterborough Abbey Library* (Oxford, 1926), p. 21.
23 Compare, for example, Philip de Harcourt, Bishop of Bayeux, who left a collection of legal texts to Bec on his death in 1163, from what must have been an extensive legal library. See A. J. Duggan, 'Roman, Canon and Common Law in Twelfth-Century England: The Council of Northampton (1164) Re-examined', *Historical Research*, 83 (2010), 390-1.
24 J. E. Sayers, *Papal Judges-Delegate in the Province of Canterbury, 1198-1254: A Study in Ecclesiastical Jurisdiction and Administration* (London,

1971), pp. 109-14. See K. Major, 'The "Familia" of Archbishop Stephen Langton', *English Historical Review*, 48 (1933), 529-33 – Major identifies William of Bardney and Adam of Tilney, both distinguished canonists, as Langton's primary legal advisors. For the lawyers associated with the household of Becket in exile, see Herbert of Bosham, *Vita S. Thomae* in *Materials for a History of Thomas Becket*, ed. by James Craigie Robertson, 7 vols. (London, 1875-85), iii. 523-9. See also F. Barlow, *Thomas Becket* (London, 1986), esp. p. 129.

25 Gerald of Wales, *Vita Sancti Remigii*, ed. by J. F. Dimock (London, 1877), c.28, pp. 57-67 (57 for Alexander's commendation of the two men).

26 Sayers, p. 10.

27 Gerald, *Vita Sancti Remigii*, p. 57; for an important discussion of the circumstances surrounding the writing of this text and its construct and purpose, see Matthew Mesley, 'The Construction of Episcopal Identity: The Meaning and Function of Episcopal Depictions within Latin Saints', PhD dissertation, University of Exeter, 2009.

28 A. Morey, *Bartholomew of Exeter* (Cambridge: Cambridge University Press, 1937), esp. pp. 44-78 and 172-4. See also the discussion in Kuttner and Rathbone, 'Anglo-Norman Canonists', p. 295.

29 Gerald, *Vita Sancti Remigii*, p. 57. One should also recognise that by the time Gerald was writing, Bartholomew's legal knowledge would no longer have been cutting edge; something which again points to Gerald as using Bartholomew as a means of praising good judicial conduct, rather than knowledge of specific legal procedure or argument.

30 See M. G. Cheney, *Roger, Bishop of Worcester 1164-79* (Oxford, 1980). For a more recent verdict – and one which is less convinced by the evidence for Roger's legal training – see also R. Helmholz, 'Roger, Bishop of Worcester (c 1134-1179)', *Ecclesiastical Law Journal*, 15 (2013), 75-80. Evans, *Law and Theology*, p. 46, notes the fact of Roger's theological training but does not discuss the implications for Roger's role as a papal judge-delegate.

31 Cheney, *Roger, Bishop of Worcester*, pp. 38-42.

32 Cf. Kuttner and Rathbone, 'Anglo-Norman Canonists', see below, 'Baldwin of Forde'.

33 Gerald of Wales, *De rebus a se gestis*, ed. by J. S. Brewer (London: Longmans, 1861), II.1, p. 45.

34 Southern, *Scholastic Humanism and the Unification of Europe: Volume 1, Foundations* (Oxford, 1995), esp. pp. 3-5.

35 Gerald, *De rebus a se gestis*, II.1, p. 45.

36 For the legal context, see K. W. Nörr, *Zur Stellung Des Richters Im Gelehrten Prozess Der Frühzeit: Iudex Secundum Allegata Non Secundum Conscientiam Iudicat* (Munich, 1967).
37 For example: though Robert Bartlett's *Gerald of Wales: A Voice of the Middle Ages* (Stroud, 2006) contains an entry for 'beavers', there are no references in the index for canon law, common law or Roman law. There is a brief discussion of Irish and Welsh customary law in the context of conquest and the attempts of the English church to reform local customs.
38 For the process of composition see further the discussion in Gerald of Wales, *De Principis Instructione*, ed. by R. Bartlett (Oxford, 2018), xv-xix [hereafter *DPI*].
39 Gerald of Wales, *DPI*, i.2, p. 45.
40 *DPI*, i.2, pp. 46-7.
41 *DPI*, i.5, pp. 66-7; *Codex* 9.7.1.
42 *DPI*, i.20, p. 347; *Codex* 3.1.8. Gerald makes use of quotations from the *Decretum* as a guide for rulers, e.g. *DPI*, i.10, p. 121, citing C. 23, q. 8, c.16.
43 *DPI*, i.20, p. 351, discussing *Digest* 47. For a more comprehensive discussion of these laws, see R. Meikan, 'Shippers, Salvors and Sovereigns: Competing Interests in the Medieval Law of Shipwreck', *Journal of Legal History*, 11 (1990), 163-82.
44 *Gemma ecclesiastica*, ed. by J. S. Brewer (London: Longmans, 1862), II.37, p. 349.
45 For an overview of such complaints, see S. Ferruolo, '"Quid dant artes nisi luctum?": Learning, Ambition, and Careers in the Medieval University', *History of Education Quarterly*, 28 (1988), 1-22.
46 *Gemma ecclesiastica*, II.33, pp. 324-9.
47 *Gemma ecclesiastica*, I.40, pp. 115-16. For other references, see I.2 (Dist. II c.29), pp. 13-14; I.5 (Dist. II. c. 14), p. 16; I.6 (Dist. II. c.8), pp. 20-1; I.9 (Dist. II. c. 16), p. 30.
48 J. Taliadoros, 'Synthesizing the Legal and Theological Thought of Master Vacarius', *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Kanonistische Abteilung*, 95 (2009), 48-77.
49 Cotts, *The Clerical Dilemma*, pp. 104-9. Gervase of Canterbury described Peter as 'legis peritus', but this seems an overstatement of Peter's legal abilities: see Gervase, *Chronica* in *Opera Historica*, ed. by W. Stubbs (London: Longmans, 1879-80), p. 356.
50 See PL. 207, Epp. 26, 71, 115, for Peter's references to his study of the law in Bologna.

51 B. C. Brasington, 'A Lawyer of Sorts: Ralph Diss' Knowledge of Canon and Civil Law', in *Law and Learning in the Middle Ages*, ed. by M. Münster-Swendsen and H. Vogt (Copenhagen, 2006), pp. 147-66.

52 C. R. Cheney has questioned whether Richard was the sole author of the chronicle to 1242, suggesting that it is more likely that parts of it were prepared by canons under his direction: see 'Notes on the Making of the Dunstable Annals', in *Essays in Medieval History presented to Bertie Wilkinson*, ed. by T. A. Sandquist and M. R. Powicke (Toronto, 1969), pp. 79-89. For Ricardus more generally, see R. C. Figueira, 'Ricardus de Mores at Common Law – The Second Career of an Anglo-Norman Canonist', *Proceedings of the Eighth International Congress of Medieval Canon Law, 1998*, ed. by S. Chodorow (Vatican City, 1992), pp. 281-99. See too the introduction to the new edition of the *Annals*, translated by David Preest and edited by Harriett R. Webster, *The Annals of Dunstaple Priory* (Woodbridge, 2018).

53 *Annales Prioratus de Dunstaplia*, in H. R. Luard (ed.), *Annales Monastici*, vol. 3 (London, 1866) [1219] p. 55.

54 *Annales Prioratus de Dunstaplia*, [1219] p. 55.

55 *Annales Prioratus de Dunstaplia*, [1225] p. 95.

56 *Annales Prioratus de Dunstaplia*, [1227] pp. 105-6.

57 Baldwin's varied career has largely only been considered in relation to the creation of the legal text known as the *Collectio Wigorniensis* (see below). The best summary of his life is to be found in David Bell's introduction to Baldwin of Ford, *Spiritual Tractates* (Kalamazoo, 1986). For an important addition to recent work on Baldwin, see Suzanne Grace Coley, 'Archbishop Baldwin of Canterbury and the Fear of Heresy in Late Twelfth-Century England', PhD dissertation, University of Southampton, 2018.

58 This argument has been made most strongly by Bell, the most assiduous modern scholar of Baldwin; e.g. *Spiritual Tractates*, p. 23: 'law and precedent were of first importance to him'. See also Bell's comments in his introduction to Baldwin of Ford, *The Commendation of the Faith* (Kalamazoo, 2000), p. 18.

59 For the teaching of law in England in this period, see Boyle, 'The Beginnings'.

60 For Worcester, see *English Episcopal Acta 33: Worcester 1062-1185*, ed. by M. G. Cheney (Oxford: Oxford University Press, 2007), nos. 243, 246, 247, 249, 257. For Canterbury, see *English Episcopal Acta 2: Canterbury, 1162-90*, ed. by C. R. Cheney (Oxford, 1986), nos. 297 and 309 (the latter, however, may have been addressed either to Baldwin or to his predecessor, Richard of Dover.)

61 C. Duggan, 'The Trinity Collection of Decretals and the Early Worcester Family', *Traditio*, 17 (1961), 506-26; and H. Lohmann, 'Die collectio Wigorniensis', *ZRG KA,* 22 (1933), 36-187.
62 Mayr-Harting suggests the work of assembly may itself have been done by Master Silvester – a clerk first to Roger of Worcester and then to Baldwin. H. Mayr-Harting, 'Master Silvester and the Compilation of Early English Decretal Collections', *Studies in Church History*, 2 (1965), 186-96.
63 The surviving writings are catalogued in D. N. Bell, 'The Corpus of the Works of Baldwin of Ford', *Citeaux* 35 (1984). For the letters: Stubbs, *Chronicles and Memorials of the Reign of Richard I*, vol. II (London, 1865), nos. 8, 22, 32, 84, 111, 140, 191, 338, 345.
64 *The Commendation of the Faith*, p. 24: 'we now encounter Baldwin the papal judge-delegate, Baldwin the lawyer'.
65 For the Latin text: Balduini de Forda, *Opera*, ed. David N Bell (Turnhout, 1991): c. 67, 'Testimonium Patris'; c. 68, 'Testimonium Filii', c. 69, 'Testimonium Spiritus Sancti', pp. 413-16.
66 A. Landgraf, 'The Commentary on St Paul of the Codex Paris Arsenal, Lat. 534 and Baldwin of Canterbury', *The Catholic Biblical Quarterly*, 10:1 (1948): 55-62.
67 E.g. Sermo 2.5, *Opera*, p. 26 (the future judgment of the good and the wicked).
68 Sermo 4.47, p. 79: 'Et sicut in civilibus iudiciis, ut cognitores litium diffiniunt, lis quandoque per inficiationem crescit in duplum'.
69 *De commendatio fidei*, 9.1, p. 352.
70 *De commendatio fidei*, 12.9, p. 359.
71 *De commendatio fidei*, 66, p. 412.
72 Alan of Lille, *Distinctiones*, PL.211.970D-71A.
73 Alan of Lille, *De fide catholica* 3.21, PL.211.420D. For a similar use of *testimonia* in the early thirteenth century, see Robert Grosseteste, *De cessatione legalium*, ed. by R. C. Dales and E. B. King (London, 1986), 2.III.3.
74 *De commendation fidei*, 77.2, p. 422: 'Testimonia ergo fidei nostre sunt opera iustorum, opera iusticie et pietatis...ut Deo placerent et Deum in se glorificarent'. Translation in Bell, *The Commendation of the Faith*, p. 212.
75 *De commendatio fidei*, 90.4, p. 438, 'prophete et apostoli veri testes sunt'.
76 *De commendatio fidei*, 94.3, p. 444.
77 For example, see Sermo 2 and Sermo 7, both 'de obedientia'.
78 C. Waddell, (ed.), *Twelfth-Century Statutes from the Cistercian General Chapter* (Cîteaux, 2002), 1188/7, p. 149. See also 1201/51, p. 500: the abbot of Bellevaux was rebuked and given a penance for acting as a lawyer for a woman in court.

79 See C. H. Lawrence, 'Stephen of Lexington and Cistercian University Studies in the Thirteenth Century', *Journal of Ecclesiastical History*, 11 (1960), 164-78.

80 P. Landau, 'Collectio Fontanensis: A Decretal Collection of the Twelfth Century for an English Cistercian Abbey', in K. Pennington and M. H. Eichbauer (eds.), *Law as Profession and Practice in Medieval Europe* (London, 2016), pp. 201-18. I am grateful to the journal's anonymous reviewer for their helpful suggestions on this point.

81 For the fullest discussion of Forde, see C. J. Holdsworth, 'John of Ford and English Cistercian Writing 1167-1214', *Transactions of the Royal Historical Society*, 11 (1961), 117-36.

82 Holdsworth, 'John of Ford', 125-6. For Roger's redactions, see R. J. Dean, 'Elizabeth, Abbess of Schönau, and Roger of Ford', *Modern Philology*, 41 (1944), 209-20.

83 Holdsworth, 'John of Ford', 127.

84 For a demonstration of this principle, see Alan of Lille's *Summa de arte praedicatoria*, PL. 211.189-91; c.XLIII on how to preach to monks.

85 Alain Boureau, 'How Law Came to the Monks: The Use of Law in English Society at the Beginning of the Thirteenth Century', *Past & Present*, 167 (2000), 29-74.

86 Although it should be noted that extant writing on Baldwin has been coloured by the assumption that his entry into the Cistercian order was the result of a spiritual and psychological crisis precipitated by the Becket affair; but this much is only speculation, a reading-between-the-lines of the facts of his biography. A more sceptical interpretation of the move from archdeacon to monk is sustainable.

87 See the discussion in Bell, 'The Corpus'.

88 When describing Baldwin, Gerald of Wales passes very quickly over his learning (describing him only as 'literarum studiis') and instead chooses to discuss his *moral* character: *Vita Sancti Remigii*, c. 29, p. 71.