

Court records – WE, MM, SW

MM: One of the big difficulties in legal history and in trying to reconstruct the history of legal practice across Europe in the central Middle Ages is the diversity of case material and the records recording legal practice. They come in different genres; they have different provenances, different kinds of authorship and structure. Can you talk a bit about what the sources are like for the royal courts in England or the ecclesiastical courts?

WE: In England, the records of the royal court begin to survive from the very end of the twelfth century. Before that, we're left searching through charters or even narrative sources, such as hagiography or chronicles, for instances and details of legal proceedings. In 1194, the first surviving plea rolls were made for royal justices in the royal courts. It's possible that plea rolls were made in earlier decades; some certainly thought they were because there is a request in the earlier thirteenth century that the rolls of Henry II's reign should be searched for details of a case. Whether this was a misconception or not, we do not know. But we do know that from 1194 onwards we have the plea rolls from royal courts. The following year, records of fines, compromises made in royal courts, begin to survive as well. They are called the 'feet of the fines', because of the foot, the bottom part of the tripartite chirograph made to record the terms of the settlement. These form an almost continuous series of records from that date onwards. They provide a useful, almost comprehensive source. They are comprehensive in the sense that they record certain key details of the case, though they are very terse and omit other details that a legal historian really wants to know. Later in the thirteenth century, we get the year books, which are informal records in French purportedly recording the actual words spoken in court. They were made by lawyers, for lawyers, for the purposes of legal education.

SW: In the ecclesiastical courts, we have a similar timeline. Prior to 1193, there are narrative sources and some bishops' registers and some correspondence. In 1193, we first start to see what we'd think of as formal court records, containing the activities of the courts on a specific day. This is the format we get throughout the thirteenth century. We still have bishops' registers, but the actual proceedings of the court are recorded separately, along with any documents that pertain to a particular case. That means the depositions of witnesses, claims of the parties and similar things. And we actually know from the records that the courts had records copied and distributed to the parties. Presumably there were private collections as well, but I don't think we have any of those still around.

MM: In terms of chronology, France is similar, if a bit later. Royal records don't start until the 1250s with the *parlement* records, which are known as *Les Olim*. We start to get seigneurial records, the actual court records, in the late thirteenth century and early fourteenth century. It is difficult for all our respective areas, because we are trying to look at a period of legal formation when we don't actually have court records. Within much of France, in the eleventh and twelfth centuries, a real formative period of legal history, all we have are charters or narratives in chronicles and hagiography. Charters are usually written by one of the parties in the dispute and they are very difficult to interpret for that reason. It is not until later that we get records written from the perspective of the court. That is one of the big challenges.