

Practitioners – WE, SW

WE: In the Anglo-Saxon and Anglo-Norman period there were certainly people who had good knowledge of the law and who could bring their expertise to bear during a case. In Penenden Heath trial, we are told that Æthelric, a former bishop, was wheeled to court in a cart to bring his legal expertise to bear on the dispute. The Abingdon Chronicle mentions the fact that in the Anglo-Norman period the abbey retained certain English pleaders, *causidici*, who were able to protect and represent the abbey in various legal disputes, and while these people were associated with the abbey no one dared opposed them in any legal matter. It's often said that it was in the twelfth and thirteenth centuries that the legal profession began to emerge as a regulated formal body of individuals practicing law. Although this really began to happen in the thirteenth century, in the twelfth century – and certainly in common law records of the king's court which began to survive from the end of the twelfth century – we see family members of litigants being appointed as attorneys. These were just to stand in the place of the litigant. Later on in the thirteenth century, we begin to see sergeants. Sergeants actually represented their clients as pleaders; they made formal legal arguments in court, whereas attorneys represented a pleader who had to have someone represented in court for whatever reason. Sergeants became the most respected of the legal professionals of the period. Apprentices who hoped to obtain the rank of sergeant were able to learn their craft in the Inns of Court in London. These Inns of Court had been established to provide hospitality and lodgings for lawyers and to provide formal legal education. They provided the most part of the legal education for English lawyers. Civil law was taught in universities, but English lawyers tended to learn their law through the education at the Inns of Court.

SW: You see a similar picture to the English common lawyers with the legal practitioners in the ecclesiastical courts as well. At the start of the twelfth century, many litigants would self-represent or they would hire someone from outside the court who had legal training who might be able to help them. It was an informal system. They would also use proctors, which is similar to an attorney in that it's someone who appears in court on their behalf. There was no training requirement imposed on them and the representation was more a matter of convenience than of seeking legal expertise. In order for the courts to operate smoothly and for litigants to make the best use of these courts as procedure became more complex, legal representation was needed. That's even noted in some of the procedural treatises, for example *De edendo*, which dates to somewhere around 1140–1170. It's noted that the assistance of legal professionals was necessary for the parties and judges should provide this or they should provide better legal assistance for those who didn't have it. From 1190 onwards, the study of canon law became available at new English universities and paid canon law experts start to be treated as members of a profession. Advocates were at the top of these professions and they advised litigants as well as judges. They functioned simultaneously as legal advisors and as courtroom pleaders. These two roles were almost inseparable. They also served as assessors or legal advisors to the judges. When a judge pronounced his decision, they almost invariably took the precaution of saying that they had consulted with legal experts, the *iurisperiti*, and that they had arrived at their decision following that discussion. Proctors were less well trained than advocates at the start of the century, but they were more familiar with the practicalities of cases and they appeared in court on behalf of their clients. Legal training wasn't required, but some of them were referred to as *magister*, so it's likely that you'd find someone who had been to university for at least a little bit to represent you in court. There's a bit of ambiguity in the profession at the time, between proctors and advocates. In the inferior courts, there doesn't seem to be a clear line between the two, but at the provincial level there's a clear distinction about who can do what. The appearance of an increased number of legal experts representing clients in the church courts led to the imposition of

educational and professional requirements for both proctors and advocates near the end of the thirteenth century. The Council of Lambeth in 1281 has Archbishop Peckham complaining about poorly trained advocates practicing law and impeding judicial process. For this reason, the council decided that you had to have attended lectures in canon and civil law for three years at least before practicing in courts.