

**LAW AND TEXT:**  
**THE IMPACT ON LEGAL AUTHORITY AND JUDICIAL**  
**ACCESSIBILITY IN THE LATE MIDDLE AGES**

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In the future may they have laws that are straightforward as well as brief, and easily available to all and also such that it is easy to possess the books containing them, so that men may not need to obtain with a great expenditure of wealth volumes containing a large quantity of redundant laws, but the means of procuring them for a trifling sum may given to both rich and poor and great learning be available at a very small cost. (JUSTINIAN C. Tanta, 13).

This paper explores the impact that the embodiment of law in text had on its authority and accessibility both within the legal profession and on the general populace. Authority in this context has a number of dimensions, namely jurisdictional, jurisprudential, educational and popular and is intimately linked with the issue of accessibility, both in terms of the courts and the substantive law. The main questions to be addressed are whether the written text enhanced the law's authority and, moving on from this, how far such authority was enhanced by accessibility (not only in terms of the law's wider dissemination and general intelligibility, but also with regard to the encouragement this gave to would-be litigants). The prevalence of the spoken word in court and a reliance on oral traditions in many areas of the legal process (especially in relation to evidence and the work of juries) necessitates some consideration of the overlap between oral and textual traditions and the extent to which there were tensions between the two. The advent of printing towards the end of the Middle Ages offered future generations new opportunities for dissemination of the written word and a new dimension in which to perceive it. Although the effects of this technological advance are largely outside the ambit of this paper, I shall briefly examine some of the advantages and consider whether legal text appearing in print rather than in manuscript brought any significant alteration in the law's authority and accessibility.

The scope of this paper will necessarily range from the thirteenth century, when textual versions of laws and legal procedures started to be produced (in the form of statutes and legal treatises), to the seventeenth, in order to take stock of the initiatives in printed texts. The main chronological focus of this paper, however, is the late Middle Ages. This period is particularly important in that it

marks the transition from a predominantly oral tradition in both substantive and procedural law to a textual tradition where forms of action, their interpretation and elucidation, are invariably given written expression, whether in statutes, treatises or law reports.<sup>1</sup>

For the benefit of non-specialists it is important to make clear at the outset the differences of authority inherent in legal texts, a distinction between the formal sources of law (the respective texts and embodiments of law) and informal ones (examples of legal thought, practice and procedure). The former comprises statutes and case law, but also original writs.<sup>2</sup> Writs have a dual nature: in one sense they were procedural instruments, but they also embodied the substantive law since they were issued from chancery on the basis of decided cases and statutory enactments.<sup>3</sup> The informal legal sources include court records, petitions and legislative memoranda, examples of legal practice such as wills, deeds of settlement or conveyance, and treatises on legal and administrative procedure.

Let us look now at the various dimensions of legal authority: the jurisdictional, jurisprudential, educational and the popular. First, we need to consider the jurisdictional aspect. In the Middle Ages law was a characteristic of the exercise of jurisdiction. In addition to areas of local jurisdiction, such as urban centres, manors or other franchise regions, where customary practices formed the basis of law, the two main bodies of law in England were those pertaining to the Church and the crown. The former relied heavily on the codes and texts forming the governing rules of the Church, the canon law, and aspects of Roman civil law.<sup>4</sup> To a considerable extent, then, the ecclesiastical jurisdiction was already a textually bound one and will not concern us further: we will concentrate on royal jurisdictional authority through law.

The law pertaining to the realm of England is generally known as ‘the common law’, although contemporaries never referred to it as such.<sup>5</sup> The name is derived from the standardised general principles that were applied across the entire kingdom and in territories where the king’s writ ran. The common law is itself regarded as unwritten law in the sense that it represents the prevailing custom and practice of the realm. Unlike Roman civil law or canon law it has not been set down as a comprehensive almost unchanging code, but evolves largely on the basis of decided cases and in this period on the basis of the writ actions which they initiated. Its ‘unwritten’ status does not mean that nothing was ever written down (as various Anglo-Saxon and Anglo-Norman collections of laws survive),<sup>6</sup> but rather the law was not set in stone. These early collections can be said to represent ‘an index of governing mentalities’ rather than the strictures of written law codes.<sup>7</sup>

Royal commands (whether instructions or rules of behaviour) were usually effected by means of oral proclamation. Up until the late thirteenth century it was rare for the crown to commit its legislation to writing. Much of Henry III's legislation, for instance, is lost because the emphasis was on oral proclamation rather than the generation of written text. Our knowledge of many of the early statutes, ordinances and assizes comes in fact from other textual traditions (inclusion in chronicles) or as a result of developing written practices (the letters close containing the instructions for the proclamation of statutes).<sup>8</sup>

From Edward I's reign statutes were increasingly committed to writing thereby providing an almost unbroken stream of legislation preserved for posterity. The promulgation of statutes (described in the thirteenth and early fourteenth centuries as 'new law' or 'special law') provided an additional tier of law to be enforced along with the common law. This supplementary body of law was regarded as national legislation and was binding from the moment of its decree. Significantly when interpreting cases in the courts, fourteenth-century judges gave statutes precedence over the common law, referring to the former as the 'law now in force'. This points towards the growing power of textual law and the early recognition of statutes as *primary* law.<sup>9</sup>

The association of sessions of parliament with the issuing of statutes in the early fourteenth century and the emergence of parliament as a body considering and making legislation not only lent a new weight to the authority of statutes, but also engendered a fresh attitude towards their text.<sup>10</sup> In the thirteenth and early fourteenth centuries when statute law did not arise directly or solely from parliamentary deliberation judges were quite prepared to override or redefine provisions that were unsatisfactory. The famous retort to counsel by Ralph Hengham (chief justice of the court of king's bench 1274-89 and of the common bench 1301-9), 'Do not gloss the statute; we understand it better than you do, for we made it', indicates an organic relationship to legislation.<sup>11</sup>

It is important, however, to draw a distinction between the 'bare', textual version of a law as found in a statute and its actual judicial interpretation in the courts. The statutory language had to be placed within a framework of rules governing its interpretation, but this did not provide a uniformity of interpretation.<sup>12</sup> As statutes became embedded in the routine work of the courts, so rules of statutory interpretation developed, in many ways paralleling the church's interpretation of the scriptures.<sup>13</sup> Fortescue, writing in the mid fifteenth century, regarded 'human laws' as 'holy' (*sanctum*) and equated the role of judges and lawyers as priests (*sacerdotes*) of the law.<sup>14</sup> Like holy scripture, statutes could be 'dark and intricate' (as Serjeant Robert Callis a Reader at Gray's Inn made clear). Indeed, by the

sixteenth century the close proximity between judges and legislation had faded and a reverence for the legal text had developed. As Sir Francis Bacon explained in *Chudleigh's Case* (1594): 'for as you my lords judges better know, so with modesty I may put you in remembrance, that your authority over the statutes of this realm is not such as the papists affirm the Church to have over the scriptures, to make them as a shipman's hose or a nose of wax; but such as we say the Church has over them, *scil.* To expound them faithfully and apply them properly...' <sup>15</sup>

Knowledge and understanding of the common law was largely restricted to the legal profession and those who had experience of the royal courts. To what extent, though, was statutory legislation accessible within the legal profession and the wider population? Judges and serjeants would have been aware of statutory provisions initially from being present in parliament when they were promulgated. Many statutes would have been drafted by or at least reviewed by royal lawyers. Some legal officials may even have retained legislative memoranda for future reference. Parliament aside, the texts of statutes were made available to those who wished to purchase them through teams of manuscript copiers producing first rolls of statutes and later the same in book form. These private collections usually began with Magna Carta, perceptually accorded pride of place as the 'first statute', <sup>16</sup> and then proceeded in chronological order with certain enactments of Henry III, Edward I and Edward II. The earliest collections contained only these *statuta vetera* or *antiqua* (the old statutes), while later ones concentrated on the *nova statuta*, enactments from the beginning of Edward III's reign in 1327 up to the early sixteenth century. <sup>17</sup> The books were produced to order in a handy pocket size for practitioners to refer to readily. The language of the texts (with perhaps the exception of Magna Carta) was Anglo-Norman French rather than Latin. By the mid-fourteenth French had achieved respectability as a language of government, a status not accorded to English until the fifteenth century. <sup>18</sup>

It was not just the legal profession who purchased or benefited from statute books. Individuals from a variety of backgrounds (landowners, churchmen and merchants) had *statuta Angliae* compiled for them or possessed a copy, including Anthony Bek, bishop of Durham, Isabella de Fortibus (dowager countess of Aumale and countess of Devon) and Sir William Breton, a minor Lincolnshire landowner. Ecclesiastical landowners especially ensured they had access to these texts: in 1421 a copy was among the library books available to Durham Priory, while the chapter library at Lincoln around 1500 possessed a statute book containing the laws of the preceding two centuries. <sup>19</sup> Written texts of certain pieces of legislation were as a matter of course sent to (or obtained by) monastic foundations (copies of Magna Carta, for instance, were sent out in 1215 and still survive in several Cathedral

libraries),<sup>20</sup> while the ordinary person would sometimes find laws posted on church doors. In a specific effort to afford accessibility to legislation, in 1279 Archbishop Pecham ordered that copies of Magna Carta were to be publicised in a prominent place in every cathedral church with a fresh copy substituted annually.<sup>21</sup>

Significantly, the royal government's practice of drawing up written texts of statutes was followed in manorial and urban jurisdictions from the early fourteenth century. Village by-laws were brought together to form distinct codes which can be found in the manorial court rolls.<sup>22</sup> Similarly, the customs of the city of Norwich (*Leges et Consuetudines antiquitus in civitate Norwicensi usitate*) were drawn together sometime before 1340.<sup>23</sup> In Bristol, too, in the mid-fourteenth century there was a concern to reduce to writing the prevailing mercantile practices in what is known as the *Little Red Book of Bristol*.<sup>24</sup> York's municipal regulations were drawn together in the 1370s in the *York Memorandum Book* and in the city of London in the early fifteenth century a comprehensive code of regulations, customs and practices was drawn up by the common clerk (John Carpenter) and the mayor (Richard Whittington) to form the *Liber Albus*.<sup>25</sup> It is not known how accessible these collections of local 'statutes' were, whether they were available for consultation by people outside the local governing hierarchy or compiled purely for the benefit of civic officials. Manorial and urban jurisdictions may not have regarded codification of prevailing practices as an end in itself, but as Green has argued, their actions may have represented a desperate attempt to save the customary law from what they perceived as the encroaching literate technology.<sup>26</sup>

In spite of the new emphasis on reducing customs and practices to written codes, the spoken word continued to play an important part in the promulgation and dissemination of law. The texts of statutes were made available to the general population through the medium of proclamation. Even in the fourteenth and fifteenth centuries oral proclamation remained the most effective method of communication and the most immediate way of publicising royal intentions and policy. By Edward III's reign all statutes were proclaimed as a matter of course, though special directions were given for their dissemination including an indication of specific places where this should be carried out. Generally statutes were read out at the monthly county court meetings, and in designated public places (such as town crosses and churchyards) and at fairs and markets. Writs to sheriffs also reveal that threats were sometimes issued by the king to ensure that they (or their deputies) complied with the instructions and duly communicated the relevant parts of the legislation. The crown even checked up on where and on what dates the proclamations had been made. There was, therefore, scope for the

public to be aware of major pieces of legislation and of how their provisions affected them.<sup>27</sup> The two most important pieces of legislation, Magna Carta and the Statute of Winchester (the statute detailing arrangements for local policing) were required to be formally recited four times a year. Moreover, the text of royal commissions, which were read out in advance of judicial sessions, also provided details of the particular statutes being enforced. Although the actual written texts of both statutes and judicial commissions were usually in Latin, their substance was capable of reaching a wide audience as they were proclaimed impromptu in the vernaculars (French and English).<sup>28</sup>

The law's jurisdictional authority was theoretically enhanced because the texts of statutes were regularly disseminated (or distributed) to lawyers and the wider population in both written and oral forms. Neither the written word, nor language, however, were obvious barriers to comprehension (even though some of the terminology might be) since publication occurred (at least) in French and (most likely) in English through impromptu translations by officials. Oral proclamation remained a key feature of medieval government, though, in reality, there would have been considerable reliance on the ability of the translators, and unless notes were taken, the listener would probably only retain the gist of a piece of legislation rather than the finer points. An exception to this might be those statutes that received regular reinforcement at quarterly intervals, but even these were liable to misinterpretation.<sup>29</sup> The accessibility of statutes in a real sense should also be questioned. Even though a lay person might know the form of words, they still required judicial interpretation and he or she probably required the services of a lawyer to make legal sense of it. Moreover, it was only 'bare' statute law that could impinge on the mind since the finer points of case law, the judicial interpretation of common law or statute, were neither publicly available, nor probably of interest outside the legal profession. The real authority of the law remained guarded by its priests and in private copies of texts of the law reports.

In many ways the authority of the law stems from more than the mere written text. The key to the wider authority of the law in jurisdictional terms is enforcement. The ability to enforce the law transforms its textual nature and gives it practical existence. Passing statutes as a means of ordering behaviour without considering their workability or attempting to replace longstanding laws without thought to their entrenchment reduces or seriously erodes their power. For example, attempts by Edward I to rescind or abrogate the native laws of Wales and Scotland (following conquest or jurisdictional subjugation) and replace them with English legislation may have been desirable in theory (the laws of Scotland, for instance, were felt to be 'clearly displeasing to God and to reason'), but their negation was virtually impossible to achieve in substantive terms and impractical to enforce in areas

where the crown had little direct control territorially.<sup>30</sup> Similarly, over the course of Edward III's reign an increasing amount of legislation was promulgated for substantive areas of social and economic legislation over which the royal government had considerable enforcement problems, particularly with regard to the various sumptuary statutes and the labour legislation. The government had the requisite intention to extend its authority by creating law and telling its subjects about it, but with limited resources the crown was not always able to enforce its laws and writs successfully or at all.<sup>31</sup> Symbolic and literal negation of royal law was given expression during Edward I's reign when a writ which interfered with the liberty of Leominster in Herefordshire was seized and 'trampled in the mud so that it could not be found and the king's command therein could not be executed'.<sup>32</sup> If the legal provision was impractical or unworkable in reality then the ideals were unattainable and it was literally a dead letter.<sup>33</sup> This weakness then in fact served to undermine royal authority.

In jurisprudential terms submission of law to text was beneficial primarily to the legal profession as it enabled the development of an intellectual domain based on legal texts.<sup>34</sup> A significant new resource was offered from the mid thirteenth century through the birth of law reporting (that is the recording by lawyers or 'apprentices' of whole cases, important decisions, or interesting points of law) and the compilation of the Year Books (cases deriving from the law terms in the court of common pleas or occasionally the general eyre). Although not formalised as textual law until 'The Reports' of Sir Edward Coke in the early seventeenth century, the provision of essential details of previous cases facilitated both reference to and an understanding of what had occurred in the legal past and the development of the concept of precedent as a means towards uniformity and consistency in pleading and in judicial decision making. This in turn had jurisdictional implications. As William Bereford, later chief justice of common pleas once argued when still only a serjeant-at-law, 'I have seen it adjudged before you yourself: and there ought to be one law for all people in this kingdom'.<sup>35</sup> It also reflected the importance of continuity in decision-making. As a judge in the court of common pleas asked as early 1287: 'On what basis should we give judgment: under the ancient laws customary in the time of those who preceded us, or under the laws alleged by you and others?'.<sup>36</sup> Although the statements in the law reports/Year Books were not binding (in the modern sense of authority), nevertheless by the end of the fifteenth century it is clear the profession relied upon them. The continuity previously sustained by memory, continued to be so, but was increasingly supplemented by reference to written documentation.<sup>37</sup> In an action in Henry VII's reign, for example, the serjeant Thomas Kebell 'prayed

that the judges would be advised, and he would produce books where this plea was accepted as sound'.<sup>38</sup>

Plea rolls, which were an account of business in the courts as recorded by the clerks, were written repositories of the common law in that they contained the details and outcomes of cases. It should be stressed, however, they did not contain a verbatim account of the trial and tend to provide a rather truncated, business-like view of proceedings. Although they did not always highlight legal principles in the same way that early law reports did, they were nevertheless a source of reference for particular facts and judicial decisions. They were not generally available for public scrutiny and since the rolls were either deposited in chancery or the exchequer or remained in the possession of particular judges, were primarily utilised by judges and lawyers.<sup>39</sup> An example of the accumulation of such material comes from 1361 when William Shareshull retired from his post as chief justice of king's bench and handed over to his successor, Henry Green, 'rolls, records, processes and indictments and all other memoranda touching the king's bench' stretching back to 1339. There were also seventy-five bags and 189 boxes full of indictments and items that had been sent into or related to the court.<sup>40</sup>

The general public did, however, have some opportunity for access to judicial decisions. The practice of obtaining 'exemplification', a sealed copy of a judicial decision, which was increasingly employed during the fourteenth century (particularly among peasant communities seeking to show their manor had ancient demesne status), not only enabled ordinary people access to the particular judicial record they required, but engendered some appreciation of the jurisprudential qualities of a legal text or at least the feeling of security that a document sealed with the royal impression could afford.<sup>41</sup> Moreover, by the early thirteenth century the county court rolls, as Professor Palmer notes, 'had already attained the status of a public resource'. Care was taken in their keeping (although in fact few survive today) and it is likely the judges of the court refreshed their memories of the relevant rolls before a session as well as litigants who wanted to avoid procedural slips. Defendants sometimes wanted to prove their defence on the basis of the record of the rolls.<sup>42</sup> Manorial courts too began compiling records of court proceedings from the mid-thirteenth century and there was frequent use of the court rolls by both jurors and litigants to substantiate decisions of claims.<sup>43</sup> The accessibility of the law in the form of the text of previous cases was clearly not an issue. The Peasants' Revolt revealed that people knew where records of both local and central government were kept and they were familiar enough with them to be able to identify specific things they wished to excise or make their own copies of.<sup>44</sup>

The admissibility and therefore the value of such records in jurisprudential terms depended to a large extent on whether the proceedings of the court itself were regarded as being 'of record'. As Chief Justice Bereford retorted to arguments put forward by counsel in 1315 'He proffereth matter of record, while you bring forth naught but your wind'.<sup>45</sup> This was not a question of whether a written record of the sessions was compiled, but whether the status of the proceedings was such that they could be cited in court as authority. So, even though manorial courts kept a record of proceedings only the royal courts were courts of record. This meant the written record (certainly by the fourteenth century) could in certain circumstances preclude the oral evidence of a jury.<sup>46</sup> The significance of this is expounded by William Lambard in his treatise *Of the Office of the Justice of the Peace* (1581): 'One may affirm a thing, and another may deny it, but if a Record once saye the word, no man shall be received to Averte (or speake) against it...And therefore, to avoid all contention that may arise, whilst one saith one thing and one other saith an other thing, the Lawe reposeseth it self wholly and solely in the report of the Judge'.<sup>47</sup> Similarly a document that had been drawn up, signed and sealed by a notary public was admissible as legal evidence and deemed to contain 'the historical truth' even if its contents were in fact a fiction.<sup>48</sup> The implication – the legal record cannot lie (if all the appropriate measures have been taken) - is a significant one as it not only confirms the power that the written word had attained, but also attests to the concentration of that power in the hands of lawyers, royal officials and literate churchmen, who could on occasion manipulate and exploit the apparent sanctity of the written record to their own advantage.<sup>49</sup>

In the fourteenth century the written word was not a replacement for memory, but a supplement. However, it increasingly dominated proceedings as a way of deciding the correctness of a decision or pointing the way forward. Given the vagaries and fallibility of human memory,<sup>50</sup> there was a definite awareness of the administrative advantages to be gained from possessing the written texts of statutes. Transcripts of Magna Carta were sent to all judges in 1300, while in the 1360s justices of the peace requested copies of recent statutes for their reference.<sup>51</sup> The reduction of law to text also brought a more critical attitude.<sup>52</sup> The eye and brain were allowed to linger on the written words and this fuelled concern for accurate and authentic statements of the law. In sessions of the court of common pleas, for instance, where statute was cited by counsel, the justices did not rely on memory, but insisted on a copy of the relevant statute being produced in court for careful scrutiny. The relative interest or disinterest of the scribes and the copying of texts from exemplars brought the possibility of differences in word order and spelling as well as corruption to or abridgement of private texts. The compilation of the Great Roll

of the Statutes at the Tower of London in 1299 was an attempt to establish an 'official' version, though, as Richardson and Sayles have demonstrated, it depended on many (sometimes garbled) accumulated texts.<sup>53</sup>

The importance of a correct and reliable text from which further textual analysis could then proceed was not restricted to the central courts, but recognised by men such as Andrew Horn, chamberlain of the city of London, who carried out research on the Guildhall's collection of records in order to correct existing copies of legal records and obtain reliable statements of the law.<sup>54</sup> It was not without sincerity, therefore, that Chaucer talked of the Man of Law's professional world as his 'science'.<sup>55</sup> In academic terms at least, then, the authority of the law was venerated and upheld. Yet, it was not just an academic concern since the availability of statute books or the familiarity with certain aspects of law through frequent proclamation clearly stimulated the thoughts of ordinary people (though perhaps those with access to legal practitioners) who as litigants and petitioners were able to cite statutes back at the crown.<sup>56</sup>

In jurisprudential terms writs as summonses to court were by the fourteenth century probably no longer carried out orally by summoners, but had become instructions embedded in writing. In the twelfth century the parties to an action were summoned orally and publicly and up to Edward I's reign this was duplicated and supplemented by written authority. The authority of writs lay in the embodiment in writing of the legal command and up until they became stylised and drawn up from a register of writs, they embodied the action itself. The spectacular growth in the number of writs available corresponded with an increase in use of the legal system and its authority to remedy in the royal courts a growing number of wrongs and situations that had not previously been covered by the common law.<sup>57</sup> Some idea of the accessibility of obtaining law in this way can be gained from the methods of obtaining a writ. This could be done through an attorney, or by approaching the clerks themselves and explaining the situation or, alternatively, through a courier. In order to have the opportunity for success in court, it was important to get the correct writ, in other words, the one most suitable for one's situation.<sup>58</sup> The practice of making available copies of the chancery register of writs enabled individuals or corporations who possessed one to locate the most suitable remedy themselves. Indeed, some registers included 'finding aids': little pictures symbolising the rights that were in need of protection.<sup>59</sup>

An alternative form of initiating suits in the royal courts was begun in the mid thirteenth century when the omnicompetent itinerant court, the general eyre, accepted oral complaints for various

petty wrongs previously remediable only in the local courts. Over the course of the fourteenth century the oral complaint, while not dying out completely, was superseded by bill procedure (the writing down of complaints in the form of a request or petition). In terms of accessibility, the advantage here lay in the lack of formality required and the possibility of remedying a whole range of wrongs. Where in the case of writs, copying mistakes of name or place were not tolerated in court and where the Latin also had to be grammatically correct for legal validity, bills by contrast were in French, rambling phrases were permissible and significantly (unlike writs) could not be held defective for errors in spelling or grammar. Bills were allowed to stand as almost oral transcriptions of complaints. They may have been compiled in a particular way, emphasising certain elements and containing certain formulaic phrases, but they were not imbued with the same degree of formalism as a writ. Bills were already a familiar method of prosecution in the urban and manorial courts, but their adoption by the royal courts enabled the crown significantly to extend its jurisdiction and widen access to justice, while at the same time providing litigants with the benefits of potentially higher awards in damages and of having their suit heard in a court of record.<sup>60</sup>

Changes in jurisprudential practices also had an effect on other informal forms of law which were embodied in writing. By the mid-fourteenth century criminal indictments had to be watertight (containing all the necessary legal details) or they would be dismissed by the gaol delivery justices. This was in part associated with the development of the legal profession and the demarcation of this particular role to central court justices, but it was also a recognition that in order to be truly authoritative a legal document need to be precise in terms of its form. Precision in the wording of indictments was therefore necessary both as a requirement of natural justice (a defendant should not be bound and charged if the details are not correct) and as a reflection of new attitudes towards legal text.<sup>61</sup> The later fourteenth century witnessed an expansion in the use of legally binding practices, such as entering into sealed bonds (recognisances), the practice of tenure by lease, wills, enfeoffment to uses and bills for equitable consideration in chancery. Significantly, this new trend was reflected in an increase in the number of writers of legal documents (scriveners and notaries) to cope with the demand.<sup>62</sup>

Committing the law to text for educational purposes was a significant feature of the period. By the late fourteenth century it could be said that the legal profession was a book-learned profession at all levels. Legal education, like all teaching, may have been conducted orally and indeed, much legal training was carried out (as it is now) through lectures, disputations and forms of 'roleplay'.<sup>63</sup> Students

also learned by listening to and observing what went on in court and by undertaking tasks themselves. The production of manuscript (and later, of course, printed) texts was also part of the educational process.<sup>64</sup> Those embodying the law as it stood were produced in the late twelfth and early thirteenth century in the works attributed to and known as *Glanvill* and *Bracton*. Revisions of the latter appeared in the late thirteenth and early fourteenth centuries as the treatises *Fleta* and *Britton*. ‘Course texts’ on legal subjects were tailored to the different needs and requirements of the would-be reader. Advanced literature on pleading and forms of action were available in manuscript at the upper end of the market, for the serjeants-at-law and ‘apprentices’, while at the lower end, texts on conveyancing and court procedure and works on management and accounting, were aimed at local legal professionals, royal officials and estate administrators. The law reports were also available as learning tools and indeed, some of them have come down to us in ‘lecture’ format. The Inns of Court, which by the mid fourteenth century were beginning to play an educational (rather than purely accomodational) role also contributed by putting on cycles of ‘readings’ on particular statutes. These formed the basis of the men of court’s instruction, with mootings on legal points raised by the ‘reading’ usually occurring afterwards.

In terms of language accessibility, *Glanvill* and *Bracton* were in Latin, but most other educational treatises were in French, which it was assumed that the manorial reeve could understand in 1300.<sup>65</sup> The dissemination of such material is hinted at in the popularity of statute books, which usually included some of the basic treatises. On the basis of surviving books or references to owners, at least 249 owned law books in the late thirteenth and fourteenth centuries.<sup>66</sup> Such treatises were not restricted to male ownership or readership since several works were written specifically for women who had the task of administering estates in the absence, either temporary (through war service) or permanent (through death) of their husbands.<sup>67</sup> Surviving manuals include one by Bishop Robert Grosseteste for the countess of Lincoln and one for Lady Denise Montchensy by Sir Walter Bibbesworth.<sup>68</sup>

In the fifteenth and sixteenth centuries the numbers of people possessing legal literature increased as texts were brought out especially for justices of the peace and other local officials. The earliest surviving such manual compiled in Worcestershire in c.1422, is not a comprehensive account of the duties and jurisdiction of the office, but (in the words of Bertha Putnam) ‘does contain almost everything that justices of the quorum and the clerk of the peace ought to know. Moreover, the exclusion from the compilation of extraneous matter means that the documents form an exceedingly useful precedent or formula book easily handled, and therefore accessible for practical purposes.’<sup>69</sup> In about 1460 for example, the corporation of Rochester employed John Ryponden of the Guildhall in

London ‘to make us a boke of French into Latin and out of Latin in English for the enquiry of all manner of things that belong to the justice of the peace’.<sup>70</sup> In addition to Lambard’s manual, mentioned above, the most useful treatise for the early modern justice of the peace was a synthesis of law, tradition and practice by Michael Dalton with the title *The Country Justice, Containing the Practice of the Justices of the Peace out of their Sessions, Gathered, for the Better Helpe of such Justices of the Peace as have not been much Conversant with the Studie of the Lawes of this Realm*. It proved a valuable tool for the next 128 years and went into a second edition a year after its first publication in 1618.<sup>71</sup>

The advent of printing may have had an enormous impact in educational terms in the late fifteenth and early sixteenth centuries. One of the earliest books printed in London and the earliest English legal treatise produced this way, Sir Thomas Littleton’s *Tenures* (published in 1481 or 1482), went through over seventy editions before the production of Sir Edward Coke’s *First Institute* in 1628. Printed Abridgements of the Year Books by Statham in the fifteenth century and in the sixteenth by Callow, Fitzherbert and Brooke, although in Law French, clarified points of law for many practitioners and provided a useful resource for the citation of legal authorities. The first law dictionary was compiled and printed by John Rastell in 1527 and the first printed editions of registers of original and judicial writs and of statutes (the latter being *A collection of statutes from the beginning of Magna Carta unto the year of our Lord, 1557*) were produced by Rastell’s son, William, in 1531 and 1557 respectively.<sup>72</sup>

The written word not only influenced legal education in terms of the availability of legal texts, but also in terms of its conveyance and function. Encapsulation in print rather than personal recollection precipitated, as Ross has argued, a ‘decline of memory and oral tradition as carriers of legal knowledge’.<sup>73</sup> At the same time the advent and growing ascendancy altered attitudes towards the law itself, crystalising legal opinions and focussing attention more retrospectively, engendering a ‘memorial culture’.<sup>74</sup> As Ives notes, ‘When [during the sixteenth and early seventeenth centuries] instruction by book began to impede instruction by ear, the law became a good deal more firmly riveted to its past’.<sup>75</sup>

The explosion of activity during the first part of the sixteenth century and the continued popularity of treatises such as Littleton’s, tends to mask the fact that by the 1590s, to quote David Ibbetson, ‘legal literature was undoubtedly in something of a crisis’. No new treatises had been written and the Year Books ended their reign in the 1540s with reports from 1535. Some privately made law reports and reports prepared by students were circulated in manuscript among the profession, but until

the printing and public dissemination of Coke's *Reports* there was little of educative value.<sup>76</sup> Moreover, it is not to be assumed that the increased potential availability of legal literature afforded by printing meant that many more people actually benefited from the enterprise (in terms of the availability of texts) since it was presumably largely a speculative enterprise. It therefore differed in commercial terms from the bespoke trade of manuscript book production where each copy had a designated home. On the other hand, it is important to bear in mind that the recorded ownership of legal books represents only the tip of the iceberg so to speak of accessibility, since books could be borrowed for private reading or their contents read aloud to others. Occasionally legal books were stolen from their owners.<sup>77</sup> It was also common for them to be left to others or monastic libraries in wills.<sup>78</sup>

Let us turn to the final area under consideration, the popular authority of the law. Whilst for practitioners the legal text was pre-eminent, for the general populace what the law said was of secondary importance to what it symbolised. The actual detailed provisions of certain statutes or texts of quasi-law (notably Magna Carta and Domesday Book) could be transcended by the symbolic nature accorded them. These sources were regarded by medieval people (both literate and non-literate) albeit in different contexts as having special authority as containing fundamental rights that made them synonymous with accountability, justice and even freedom.<sup>79</sup> A key example of this phenomenon is the enigmatic 'law of Winchester' claimed as fundamental law by Wat Tyler during the Peasants' Revolt in 1381. I have written elsewhere about the resonances evoked by this particular icon, but even if its symbolism is contentious and difficult to fathom for us today, its authority was nevertheless apparent to the rebels in the late fourteenth-century.<sup>80</sup> We can also see how the use of roll format for private copies of statutes associated them with royal records and, as one commentator puts it, 'could have imbued private statute rolls with an aura of quasi-public authority, especially if they were designed to function like those kept by the king's clerks'.<sup>81</sup>

An understanding of the symbolic power of the law was embedded in political and literary culture as evinced by the behaviour of rebellious subjects and its appearance in works of literature. In *Piers Plowman*, for example, Langland cites 'Folville's Laws' as if they genuinely existed and imbues them with the authority of royal law. In fact the citation acquires resonance from the criminal exploits of a band of brothers of the same name who were outlaws operating in the Midlands in the 1320s and early 1330s. 'Folvilles Laws' gained symbolic currency in the minds of readers/listeners because in reality they represented the antithesis of (or an alternative to) royal law.<sup>82</sup> In Chaucer's *Wife of Bath's Tale* written statute yields to the alternative imagined jurisdiction offered by 'the queen herself sitting

as a justice' in 'courts of love'.<sup>83</sup> The adoption of royal style for the issuing of proclamations (as was the case in both large and smaller scale uprisings in the fourteenth century) and for mock indictments and libels should not simply be regarded as parodies of legal forms. The prime examples of these, the letter purporting to be from 'Lionel, king of the rout of raveners' sent to Master Richard Snowshill in 1336,<sup>84</sup> and the libel (an ecclesiastical form of bill) defaming John of Gaunt that was posted in various places in the city of London in 1377,<sup>85</sup> demonstrate not only an understanding of the mechanisms of the law and the power of its forms, but also a desire to participate in the political processes and debates.

The symbolic destruction of legal documents also attests to their inherent authority. The burning of legal records during the Peasants' Revolt, for instance, should be viewed as a statement of appreciation of the significance of written documents, rather than (more simplistically) as an unthinking demonstration against literacy. Similarly, the public burning of Richard II's 'blank charters' on the end of a pitchfork signified an end to the arbitrary power the king had exercised over the lands of certain individuals. A further example of this appreciation can be found in 1290 when an attempt was made to serve a writ on Bogo de Clare within the precincts of the palace of Westminster (a privilege reserved to the steward and marshal of the king's household) during a session of parliament when he was under the special protection of the king. As a result, one of Bogo's servants forced the messenger to eat the writ seal and all.<sup>86</sup> Ironically the very incomprehensibility of legal jargon and sometimes the proceedings themselves probably for many ordinary people imbued the law (as it did scripture) with an air of mystery that in turn lent it gravitas and authority.<sup>87</sup>

In conclusion: the administration of justice during the later Middle Ages was underpinned by a growing concern with written text. Not only did this in many ways enhance the authority of the law, but it was of importance in jurisprudential and educational terms. Although written text came to be an accepted part of the operation of the law and indeed provided a focus for the growing corpus of statutory enactments, the spoken word remained important, not only in court (where oral pleadings and the personal evidence of witnesses and jurors were paramount), but also in the conveyance of royal will through proclamations. In either case language was not necessarily a barrier to understanding, although the continued use of law French as the language of legal literature, even in the fifteenth century (by which time English had become a language of government), seems to indicate a desire on the part of the legal profession to reduce accessibility to law and promote exclusivity.<sup>88</sup> Reducing the essentially 'unwritten' law to text engendered a more critical attitude and focused attention on the increasingly important written word and its interpretation. In time printing added to the significance of the written

word by bringing uniformity in the presentation of text, though it also provided more scope for the perpetuation of error, and by shifting the culture from a readiness to accept the gist of a passage to focus on the import of the exact words.<sup>89</sup>

Finally, while the oral tradition and memory retained some vitality even in the early modern period in the communication of customary practices,<sup>90</sup> the importance of the period covered by this paper lies in the fact that it is the precursor of that stage in the development of English legal theory when the relationship between textual form and the law is fundamentally altered with recognition of the doctrine of judicial precedent. Although it was not until the nineteenth century that the doctrine reached its zenith,<sup>91</sup> it was recognised under this doctrine that the text itself becomes authoritative law and therefore provides the ultimate of textuality and authority.

- <sup>1</sup> The foundations of this important move are charted in Michael Clanchy's highly influential *From Memory to Written Record. England, 1066-1307*, 2<sup>nd</sup> edn (Oxford, 1993).
- <sup>2</sup> J. H. Baker, *An Introduction to English Legal History*, 4<sup>th</sup> edn (London, 2002); J.-Ph. Genet, 'Droit et Histoire en Angleterre: La Préhistoire de la "Révolution Historique"', *Annales de Bretagne et des Pays de l'Ouest*, 87 (1980), pp. 321-32.
- <sup>3</sup> *Early Registers of Writs*, ed. E. de Haas and G. D. G. Hall, Selden Society, 87 (London, 1970).
- <sup>4</sup> The key texts were Gratian's *Decretum* and Justinian's *Institutes*.
- <sup>5</sup> It should be distinguished from the law of the Western church that was known as *ius commune*.
- <sup>6</sup> See P. Wormald, *The Making of English Law* (Oxford, 1999); *Leges Henrici Primi*, ed. and trans. L. J. Downer (Oxford, 1972); and B. O'Brien, *God's Peace and King's Peace: the Laws of Edward the Confessor* (Philadelphia, 1999).
- <sup>7</sup> Wormald, *Making of English Law*, pp. 477-83 (quotation at p. 481).
- <sup>8</sup> Clanchy, *Memory to Written Record*, pp. 168-71, 263-4.
- <sup>9</sup> A. Musson, 'Second "English Justinian" or Pragmatic Opportunist? A Re-examination of the Legal Legislation of Edward III's Reign', in J. Bothwell (ed.), *The Age of Edward III* (Woodbridge, 2001), pp. 74-7.
- <sup>10</sup> For a the growth of a self-conscious attitude towards the deliberations in parliament as legal record see W. M. Ormrod, 'Usage and Abusage: The Parliament Rolls of the Mid-Fourteenth Century' unpublished paper given at the International Medieval Congress, Kalamazoo, 2002.
- <sup>11</sup> *Year Books of the Reign of Edward I: Years 33 and 35*, ed. A. J. Horwood, Rolls Series, 31 (London, 1979), p. 82.
- <sup>12</sup> C. Holmes, 'Statutory Interpretation in the Early Seventeenth Century: the Court, the Council and the Commissioners of Sewers', in J. A. Guy and H. G. Beale (eds), *Law and Social Change in British History* (London, 1984), pp. 107-9.
- <sup>13</sup> Despite a hostility to legal documents challenges to orthodox notions of textual authority were made by Lollard preachers and polemicists through their borrowing of real and fictitious legal documents (such as Christ's charter and records of heresy trials) see E. Steiner, 'Inventing Legality: Documentary Culture and Lollard Preaching', in E. Steiner and C. Barrington (eds), *The Letter of the Law* (Ithaca, NY, 2002), pp. 185-201. For an examination of links between the law and the church (and in particular the dissemination of the printed word) at the time of the Reformation see R. J. Ross, 'The Commoning of the Common Law: the Renaissance Debate over Printing English Law, 1520-1640', *University of Pennsylvania Law Review*, 146 (1998), pp. 329, 338-55.
- <sup>14</sup> Sir John Fortescue, *On the Laws and Governance of England*, ed. S. Lockwood (Cambridge, 1997), pp. 6-7.
- <sup>15</sup> *The Works of Francis Bacon*, ed. James Spedding (Boston, MA, 1861), pp. 15, 168 cited in Holmes, 'Statutory interpretation', pp. 108-9.
- <sup>16</sup> J. C. Holt, *Magna Carta and Medieval Government* (London, 1985), pp. 18-19.
- <sup>17</sup> D. C. Skemer, 'From Archives to the Book Trade: Private Statute Rolls in England, 1285-1307', *Journal of the Society of Archivists*, 16 (1995), p. 201 n16.

- <sup>18</sup> For an examination of the language of legal records see Clanchy, *Memory to Written Record*, pp. 207-9, 220-3.
- <sup>19</sup> A. Bennett, 'Anthony Bek's Copy of Statuta Angliae' in W. M. Ormrod (ed.), *England in the Fourteenth Century*, Proceedings of 1985 Harlaxton Symposium (Woodbridge, 1986), pp. 1-21; Skemer, 'Book trade', pp. 194-5, 200 n. 7.
- <sup>20</sup> R. L. Poole, 'The Publication of Great Charters by the English kings', *EHR*, 28 (1913), pp. 448-53.
- <sup>21</sup> Clanchy, *Memory to Written Record*, p. 265.
- <sup>22</sup> W. A. Ault, 'Some Early Village Bye-laws', *EHR*, 45 (1930), pp. 209, 211-12.
- <sup>23</sup> *Leet Jurisdiction in the City of Norwich during the Thirteenth and Fourteenth Centuries*, ed. W. Hudson, Selden Society, 5 (London, 1892), p. lxxxiv.
- <sup>24</sup> *The Little Red Book of Bristol*, ed. F. B. Bickley (Bristol, 1930); G. Martin, 'English town records, 1200-1350', in R. H. Britnell (ed.), *Pragmatic Literacy, East and West, 1200-1330* (Woodbridge, 1997), pp. 126, 129.
- <sup>25</sup> *York Memorandum Book, Part 1 (1376-1419)*, ed. M. Sellers, *Surtees Society*, 120 (1912); S. Rees Jones 'York's Civic Administration, 1354-1464,' in S. Rees Jones (ed.), *The Government of Medieval York*, Essays in commemoration of the 1396 Royal Charter, *Borthwick Studies in History*, 3 (York, 1997), pp. 111-12, 115; *Liber Albus: the White Book of the City of London*, ed. H. T. Riley (London, 1861).
- <sup>26</sup> R. F. Green, *A Crisis of Truth: Law and Literature in Ricardian England* (Philadelphia, PA, 1999), p. 126.
- <sup>27</sup> J. A. Doig, 'Political Propaganda and Royal Proclamations in Late Medieval England', *Historical Research*, 71 (1998), pp. 258-64.
- <sup>28</sup> Clanchy, *Memory to Written Record*, pp. 264-5.
- <sup>29</sup> See for example the misreading of Magna Carta in M.T. Clanchy, 'Magna Carta and Common Pleas', in H. Mayr-Harting and R. I. Moore (eds), *Studies in Medieval History Presented to R. H. C. Davies* (London, 1985), pp. 226-7.
- <sup>30</sup> C. Neville, *Violence, Custom and the Law: the Anglo-Scottish Border Lands in the Later Middle Ages* (Edinburgh, 1998), pp. 15-17; L. B. Smith, 'Statute of Wales, 1284', *Welsh History Review*, 10 (1980), pp. 151-2.
- <sup>31</sup> This discrepancy may of course simply reveal a difference between medieval and modern notions of legislation and what is intended by it.
- <sup>32</sup> *CPR 1292-1301*, p. 113; M. C. Prestwich, *Edward I* (London, 1988), p. 414.
- <sup>33</sup> This is paralleled by servants or messengers being forced to eat the writs they carried, see below.
- <sup>34</sup> Arguably this was enhanced with the advent of printed texts, which served to promote the intellectual dominance of publisher and author as well as the authority and correctness of texts (Ross, 'Printing English Law, 437-43).
- <sup>35</sup> *The Earliest English Law Reports*, ed. P. Brand, Selden Society, 111 & 112 (London, 1996), vol. 2, p. 293.
- <sup>36</sup> *Ibid.*, p. 349.
- <sup>37</sup> See Clanchy, *Memory to Written Record*.
- <sup>38</sup> E. W. Ives, 'The Origins of the Later Year Books', in D. Jenkins (ed.), *Legal History Studies 1972* (Cardiff, 1975), pp. 136-9.

- <sup>39</sup> The dramatic events during the Peasants' Revolt reveal that many ordinary people knew where judicial and administrative records were stored: W. M. Ormrod, 'The Peasants' Revolt and the Government of England', *Journal of British Studies*, 29 (1990), pp. 5-9.
- <sup>40</sup> *Select Cases in the Court of King's Bench*, ed. G. O. Sayles, Selden Society, 55, 57, 58, 74, 76, 82, 88 (London, 1936-71), vol. 6, pp. 128-9
- <sup>41</sup> R. Faith, 'The "Great Rumour" of 1377 and Peasant Ideology', in R. H. Hilton and T. H. Aston (eds), *The English Rising of 1381* (Cambridge, 1981), pp. 47-8.
- <sup>42</sup> R. C. Palmer, *The County Courts of Medieval England, 1150-1350* (Princeton, NJ, 1982), pp. 39-40 (quotation at p. 39).
- <sup>43</sup> *Select Cases in Manorial Courts*, ed. L. R. Poos and L. Bonfield, Selden Society, 114 (London, 1998), pp. lxxviii-lxix.
- <sup>44</sup> Ormrod, 'Peasants' Revolt', pp. 5-16.
- <sup>45</sup> *Year Books of Edward II: 8 Edward II (1314)*, ed. W. C. Bolland, Selden Society, 37 (London, 1920), p. 128.
- <sup>46</sup> *The Eyre of Northamptonshire, 1329-30*, ed. D. W. Sutherland, Selden Society, 97 & 98 (London, 1983), vol. 1, pp. 131-2 (*per* Scrope, CJ).
- <sup>47</sup> Lambard, *Eirenarcha* (1581), p. 71 cited by J. K. Weber in 'The Power of Judicial Records', *Journal of Legal History*, 9 (1988), p. 180.
- <sup>48</sup> Clanchy, *Memory to Written Record*, pp. 304-5.
- <sup>49</sup> For lawyers altering plea rolls see P. Brand, *The Origins of the English Legal Profession* (London, 1992), pp. 130, 133; for Richard II's falsification of the parliament roll see J. G. Edwards, 'The Parliamentary Committee, 1398', in E. B. Fryde and E. Miller (eds), *Historical Studies of the English Parliament* 2 vols (Cambridge, 1970), vol. 1, pp. 316-28.
- <sup>50</sup> For examples of lawyers misquoting statutes see T. F. T. Pluknett, *Statutes and their Interpretation in the First Half of the Fourteenth Century* (Cambridge, 1922), pp. 37, 103-6. Note also in Chaucer's *Canterbury Tales* the Man of Law's distortion of misinterpretation of sources (S. H. Rigby, *Chaucer in Context* (Manchester, 1996), p. 90).
- <sup>51</sup> Clanchy, *Memory to Written Record*, p. 265; A. J. Verduyn, 'The Attitude of the Parliamentary Commons to Law and Order under Edward III', unpublished D.Phil thesis, University of Oxford (1991), p. 145.
- <sup>52</sup> In his late twelfth century *Dialogue of the Exchequer*, FitzNeal is concerned about the accuracy of texts (Clanchy, *Memory to Written Record*, pp. 130-1). The concern was also a product of their use as archival resources, see for example royal justice Roger Seaton's disparaging remarks about the carelessness of clerks: *Select Cases*, ed. Sayles, vol. 1, p. clxviii.
- <sup>53</sup> G. Sayles, 'The Early Statutes', *Law Quarterly Review*, 50 (1934), pp. 201-23, 540-71.
- <sup>54</sup> J. Catto, 'Andrew Horn: Law and History in Fourteenth Century England', in R. H. C. Davis and J. M. Wallace-Hadrill (eds), *The Writing of History in the Middle Ages* (Oxford, 1981), pp. 367-91.
- <sup>55</sup> *The Riverside Chaucer*, ed. L. D. Benson, new edn (Oxford, 1987), p. 28 line 316.

<sup>56</sup> Clanchy, 'Magna Carta and Common Pleas', pp. 226-7; J. R. Maddicott, 'The County Community and the Making of Public Opinion in Fourteenth Century England', *Transactions of the Royal Historical Society*, 5<sup>th</sup> series 28 (1978), pp. 36-7; see also extensive references in A. Musson and W. M. Ormrod, *The Evolution of English Justice: Law, Politics and Society in the Fourteenth Century* (Basingstoke, 1998), pp. 234-5 nn 12-15.

<sup>57</sup> See A. Musson, *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt* (Manchester, 2001), pp. 156-9.

<sup>58</sup> *Early Registers of Writs*, pp. xviii-xix, cxxvii-cxxviii; *Select Cases*, ed. Sayles, vol. 1, pp. 173-4, 175-6.

<sup>59</sup> M. Camille, 'At the Edge of the Law: An Illustrated Register of Writs in the Pierpoint Morgan Library', in N Rogers (ed.), *England in the Fourteenth Century*, Proceedings of the 1991 Harlaxton Symposium (Stamford, 1993), pp. 7-8.

<sup>60</sup> A. H. Hershey, 'Justice and Bureaucracy: the English Royal Writ', *EHR*, 113 (1998), pp. 829-51; A. Harding, 'Plaints and Bills in the History of English law', in Jenkins (ed.), *Legal History Studies*, pp. 74-6.

<sup>61</sup> A. Musson, *Public Order and Law Enforcement: The Local Administration of Criminal Justice, 1294-1350* (Woodbridge, 1996), pp. 176-7.

<sup>62</sup> N. Ramsey, 'Scriveners and Notaries as Legal Intermediaries in Later Medieval England', in J. Kermode (ed.), *Enterprise and Individuals in Fifteenth Century England* (Stroud, 1991), pp. 118-19, 123, 127.

<sup>63</sup> The following paragraph draws on the work of Dr. P. Brand and Professor J. H. Baker. See P. A. Brand, *The Making of the Common Law* (London, 1982); J. H. Baker, *The Legal Profession and the Common Law* (London, 1986) and *idem*, *The Common Law Tradition* (London, 2000); and essays in *Learning the Law: The Teaching and Transmission of English Law, 1150-1900*, ed. J. A. Bush and A. Wijffels (London, 1999).

<sup>64</sup> E. W. Ives, 'A Lawyer's Library in 1500', *Law Quarterly Review*, 85 (1969), pp. 104-16. Ives makes the point that demand for the first printed texts of the Year Books was not for ancient tomes of the law, but recent cases.

<sup>65</sup> Clanchy, *Memory to Written Record*, p. 236.

<sup>66</sup> I am grateful to Dr J. Arkenberg for allowing me access to his list of book owners.

<sup>67</sup> For example: R. E. Archer, "'How ladies... who live on their manors ought to manage their households and estates": Women as Landholders and Administrators in the Later Middle Ages', in P. J. P. Goldberg (ed.), *Women in Medieval English Society* rev edn (Stroud, 1997), pp. 149-81.

<sup>68</sup> Clanchy, *Memory to Written Record*, pp. 95, 197-9, 276.

<sup>69</sup> B. H. Putnam, *Early Treatises on the Practice of the Justices of the Peace in the Fifteenth and Sixteenth Centuries*, Oxford Studies in Social and Legal History, 7 (Oxford, 1924), pp. 60-93. The compiler of the manual was probably John Weston, who was one of the 'working' justices of the peace in Worcestershire and Warwickshire and a justice of gaol delivery for Worcester, Warwick and Coventry gaols in the early fifteenth century. He was a common pleader of London (1402-c1415), recorder of Coventry (1417-c1434) and in 1425 became a serjeant-at-law.

<sup>70</sup> Ramsey, 'Scriveners and notaries', p. 122.

- <sup>71</sup> L. R. McInnis, 'Michael Dalton: the Training of the Early Modern Justice of the Peace and the Cromwellian Reforms', in Bush and Wijffels, *Learning the Law*, pp. 255-72.
- <sup>72</sup> H. A. Hollond, 'English Legal Authors before 1700', *Cambridge Law Journal*, 9 (1945), pp. 299-307.
- <sup>73</sup> R. J. Ross, 'The Memorial Culture of Early Modern English Lawyers: Memory as Keyword, Shelter, and Identity, 1560-1640', *Yale Journal of Law and the Humanities*, 10 (1998), pp. 229-326 (quotation at p. 233).
- <sup>74</sup> *Ibid.*, pp. 319-20.
- <sup>75</sup> Ives, 'Lawyer's library', pp. 108-9.
- <sup>76</sup> D. Ibbetson, 'Law Reporting in the 1590s', in C. Stebbings (ed.), *Law Reporting in Britain* (London, 1995), pp. 73-88 (quotation at p. 73).
- <sup>77</sup> For example: *Year Books of Edward II: 12 Edward II (1319)*, ed. J. P. Collas and T. F. T. Plucknett, Selden Society, 70 (London, 1953), p. 122. The case concerns the lack of payment for a Code, a Digest and other books worth £10.
- <sup>78</sup> C. T. Allmand, 'Civil Lawyers', in C. T. Clough (ed.), *Profession, Vocation and Culture in Later Medieval England* (Liverpool, 1982), p. 171.
- <sup>79</sup> Musson, *Medieval Law in Context*, pp. 251-4.
- <sup>80</sup> A. Musson, 'Appealing to the Past: Perceptions of Law in Late-Medieval England', in A. Musson (ed), *Expectations of the Law in the Middle Ages* (Woodbridge, 2001), pp. 165-179.
- <sup>81</sup> Skemer, 'Book trade', p. 198.
- <sup>82</sup> E. L. G. Stones, 'The Folvilles of Ashby -Folville, Leicestershire, and their Associates in Crime, 1326-1347', *Transactions of the Royal Historical Society*, 5<sup>th</sup> series, 7 (1957), pp. 117-36.
- <sup>83</sup> *Riverside Chaucer*, ed. Benson, p. 119 lines 1028 and 1048-9; B. Holsinger, 'Vernacular Legality: The English Jurisdictions of *The Owl and the Nightingale*', in Steiner and Barrington (eds), *Letter of the Law*, pp. 158-9.
- <sup>84</sup> This letter was copied into the king's bench plea rolls: KB 27/306 *Rex m27*. For further analysis see A. Musson, 'Attitudes to Justice in Fourteenth-Century Yorkshire', *Northern History*, 39 (2002), pp. 183-4.
- <sup>85</sup> S. Justice, *Writing and Rebellion: England in 1381* (Berkeley and Los Angeles, CAL and London, 1994), p. 29.
- <sup>86</sup> *RP*, vol. 1, pp. 24-5; Prestwich, *Edward I*, p. 462. This trope appears in other contexts such as a private litigant forced to eat his charters (*Select Cases*, ed. Sayles, vol. 6, pp. 118-19) and an emissary of the Archbishop of Canterbury was forced to eat his mandate (A. Gransden, *Historical Writing in England c.1307 to the Early Sixteenth Century* (London, 1982), p. 165).
- <sup>87</sup> For argument raised in the seventeenth century that the air of mystery was designed to cultivate a professional monopoly see Ross, 'Printing English Law', pp. 361-3.
- <sup>88</sup> For a fresh perspective of the use of English as a language of law and government see W. M. Ormrod, 'The Use of English: Language, Law and Political Culture in Fourteenth-Century England' (forthcoming). I am grateful to Professor Ormrod for allowing me a copy of his as yet unpublished paper, some parts of which were aired in a paper given at the

International Medieval Congress, Leeds, 2002.

<sup>89</sup> Clanchy, *Memory to Written Record*, pp. 265-6, 278-9.

<sup>90</sup> A. Wood, 'Custom and the Social Organisation of Writing in Early Modern England', *Transactions of the Royal Historical Society*, 6<sup>th</sup> series (1999), pp. 257-69.

<sup>91</sup> *London Street Tramways Co. v. LCC* [1898] AC 375: In this case it was held that a decision of the House of Lords on a question of law bound the House in subsequent cases.