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L'ADVOCACIE NOSTRE DAME AND THE PROFESSIONALIZATION OF CANON LAW PRACTICE AND EDUCATION IN FOURTEENTH CENTURY FRANCE

Sumant Rao



Mary Discussing a Contract with Satan. Illustration from “The Queen Mary Psalter,” held by the British Library.

Introduction

The fourteenth century Anglo-Norman narrative poem *L'Advocacie Nostre Dame* (c. 1321-4) belongs to a body of medieval, Western European texts known as *processus Sathanae* (“Satan’s lawsuit”), in which Satan lays legal claim to the souls of humankind, while the Virgin Mary acts as a legal advocate for humanity in the suit to sway the judgment of God. While this label provides a useful classification for this group of texts based on a common theme and narrative, it says little about the genre, audience, and intent of the individual texts subsumed under this category. Explicating this classification further, the legal historian Karl Shoemaker argues that most of the works included under this label borrow heavily from

Jacob van Maerlant's late thirteenth century Middle Dutch text *Boek van Merline* (c. 1260), a popular Arthurian narrative poem that contains a brief *processus Sathanae*.¹ While this argument provides a plausible origin for the narrative theme of the *processus Sathanae*, it does not reveal how individual texts in this category adapt or alter this theme for their own purposes or how audiences belonging to a different literary, linguistic, and cultural tradition—not to mention a different time period—might interpret this theme.

Thus, to contribute to the growing scholarly effort of adding specificity to the analysis of this grouping of texts, I argue for a reading of *L'Advocacie Nostre Dame* that considers the interaction between the text and the shifting legal culture of early fourteenth century northern France—namely the professionalization of canon law and its practice and the impact of the medieval university on legal thinking and culture in this period. The command the author of this text displays over issues of canon law, French customary law, Roman civil law, Mariology, and both past and contemporaneous theological treatises has led several commentators to speculate that the author was likely “a canon lawyer attached to an episcopal court,” perhaps the commune of Bayeux in Normandy.² However, shifting focus away from its argumentative sophistication and mastery, I argue that the text reveals its connections to legal professionalism and education through its commentary and satirization of early fourteenth century legal culture and practice. While the text posits to approach and answer serious theological questions through the rhetoric and procedures of medieval French law, it also critiques and humorizes the intentions, beliefs, and cultural associations attached to the archetype of the professional canon lawyer—namely the self-glorification of their occupation, their stereotypical mutability and unreliability, and their supposed disregard for serious theological study and appreciation.

L'Advocacie Nostre Dame as Legal-Theological Exploration

L'Advocacie Nostre Dame engages established theological and legal-philosophical questions through the narrative's framing as a trial and through the arguments of its characters, suggesting the capabilities of legal study and practice in resolving contentious and not strictly legal issues. The primary theological issue at stake concerns ecclesiastical debates stemming from the ransom theory of salvation. The apocryphal yet often cited *Gospel of Nicodemus*, likely distributed in Latin Christendom in the fourth century, appears to be the earliest extant document purporting the ransom theory of salvation.³ The theory claimed that in the intervening time between humankind's Fall from Paradise and Christ's Resurrection, Satan held or *possessed* human souls in Hell. After the Crucifixion and Resurrection, the former of which acted as the payment of the ransom, Christ descended into Hell and freed the souls of humanity, seemingly depriving Satan of what he viewed as his *property*.⁴ The notion that Satan once had legitimate ownership of human souls was further popularized by St. Augustine, who not only believed in Satan's previous rights over human souls but also expanded Satan's property rights to his meditations on divine justice and power. As Shoemaker translates from volume forty-two of the *Patrologia Latina*, Augustine argued that "it was agreeable to God that in freeing man from the power of the devil, the devil should be vanquished not by power but by justice."⁵ The distinction reflects an anxiety over Satan's legal rights to humankind; namely, if Satan did once have ownership of human souls, Christ would have acted unjustly if Satan was forcibly dispossessed by an act of raw power, rather than of divine justice. By the end of the twelfth century, although St. Anselm had provided a clerically accepted refutation of the theory on theological grounds, the *processus Sathanae* topos and other textual evidence suggest that the anxiety over the rights of Satan and Satan's relationship to humankind was ongoing.⁶ This lengthy explication of the ransom

theory of salvation accentuates the markedly legal ideas at stake in this theological debate—namely the nature of justice and of property rights and rightful possession. Moreover, *L'Advocacie Nostre Dame* takes this legal-theological matrix of ideas to its natural conclusion by staging the prominent arguments related to this issue in a physical trial space, governed by trial procedure and expressed in the lexicon of the professional practice of law.

Thus, one reading of the text is that it is a serious exploration of contested legal-theological issues through the medium of poetic narrative fiction, which uses the forms inherited from the practice of medieval law in France. In fact, this interpretation seems to be the predominant view of scholarly commentators.⁷ Using Barbara Newman's formulation, one might characterize this text as belonging to the genre of "imaginative theology," characterized by an engagement with serious issues concerning "the nature and knowledge of God, salvation, sin and grace, creation, incarnation, and so forth," alongside the utilization of "images" and "the devices of literature" as its primary mode of expression.⁸ For example, central to the theological issues at play in the ransom theory of salvation is the question of the legitimacy of Satan's ownership of human souls after the Fall. Following his failure to prosecute humanity in a criminal trial and to cast doubt on Mary's credentials as an advocate for humanity, Satan invokes Roman and canon law and requests a *restitutio in integrum* ("restoration to a prior condition") on the souls of humankind: "when someone feels dispossessed, \ if he wants to proceed honestly, \ he must first and foremost \ ask to recover possession."⁹ While based in notions of property rights in Roman civil law, this request exploits the fact that fourteenth century canon law appeared to allow a substantial amount of discretion by the judge in cases involving property.¹⁰

The legal standing of the request rests on Satan's claim to "long adverse possession" of human souls, based on the Roman civil law and later common law principle of *novel disseisin*, which placed a statute of limitations on the time at which a litigant could

challenge the rights of possession of property that had been held peacefully for a long period of time.¹¹ Satan argues that he had uninterrupted ownership of human souls since the Fall and was suddenly dispossessed by Christ, despite his long, unproblematic period of ownership. The Virgin Mary however, portrayed as an expert in canon, Roman, and customary law herself, points out that “no long adverse possession \ can suffice to establish possession \ where good faith was not kept.”¹² According to canon law, the title to ownership of human souls is not in question. God created all of humanity, so Satan was merely holding and using human souls with no title to the property, which in canon law implies ownership in “bad faith.”¹³ Thus, the text posits a solution to the anxiety embedded in the ransom theory of salvation over Satan’s rights. Even if Satan did hold the souls of humanity between the Fall and the Resurrection, by the legal standards of fourteenth century northern France, it was never legitimate ownership, and Satan was lawfully dispossessed by a righteous God reasserting his legitimate property rights and saving the faithful.

A similar episode occurs when Satan invokes inquisitorial criminal procedure, which holds that some crimes were so heinous that justices could pursue them in the absence of an accuser, and asks God to “punish humankind [for the Original Sin] \ on your own initiative.”¹⁴ While Mary responds to this claim in the language of canon law by pointing out that a plaintiff abides by an “election of remedies” and cannot change the nature of the case from civil to criminal, Satan’s argument coaxes the emotional climax of the narrative, in which the Virgin Mary cries, bares her breasts, and lies suppliant at the feet of Christ and appeals to his mercy and the suffering he underwent for the sake of humanity.¹⁵ One could argue that by the conclusion of the narrative, while Satan follows a “strict justice” paradigm, which emphasizes following the letter of the law and punishing criminality, Mary invokes the spirit of the law, allowing space for the merciful discretion of the judge.¹⁶ While this formulation can be useful, it is not consistently true across the text. Mary

previously caught Satan on a technicality by disputing whether Satan's possession of the souls of humanity was in "good faith." Further, it is in fact Satan that initiates the shift in the trial toward the judge's discretion by requesting inquisitorial procedure.

An alternative rendering of the position of the two characters is that both are equipped with a legal lexicon and legal system of knowledge capable of confronting the complexities and nuances of philosophical and ethical inquiry, although it is Mary who comprehends a more expansive conception of justice. Davis associates Mary with the Anglo-Norman word *equite* ("equity"), which is repeated throughout the poem.¹⁷ Following the usage of Hostiensis, the thirteenth century canonist, Davis interprets equity as a "higher form of justice which makes up for deficiencies in law by interpreting its intent" that involves "consideration for the circumstances."¹⁸ An alternate understanding of the use of *equite* involves the medieval dissatisfaction with the oft-repeated phrase that begins the Justinian *Digest*: *In iustitia est constans et perpetua voluntas ius suum cuique tribuendi* ("Justice is the constant and perpetual wish to give to each his due"). Kuttner points out that medieval canonists, most notably Bulgarus, that glossed this line complained that it restricted justice's scope to a single legal object, "giving to each his due" (*ius suum*); they desired an expansive justice, "equity," that accounted for what is due to God and to the collective.¹⁹ Mary purports duty to God and to the collective repeatedly in the text.²⁰ Regardless, this analysis of the text shows an optimism about the capabilities of legal language and procedure to approach complex theological, philosophical issues. Shoemaker writes, "The text... suggest[s] that the theology of Christian redemption could be coherently presented through the processes of the canon law."²¹ The text assures us that the language and practice of the legal profession is equipped to handle contestations of the highest importance, including those of theology, even in the absence of an explicit legal framework.

L'Advocacie Nostre Dame as Literary Entertainment

While the capabilities of medieval legal practice and the sophistication of its thought and argumentation are put on display in the text, another important function of the text is its role as a means of entertainment. There are several indications that this poem was intended to be recited and enjoyed with some amount of leisure. The form of *L'Advocacie Nostre Dame* is the dit, a verse genre that became popular in medieval France in the late thirteenth century and remained so well into the fifteenth century. Dits had a wide range of themes, were generally written in octosyllabic couplets to ease the work of recitation and remembrance, and were told in a first-person narrative voice.²² *L'Advocacie Nostre Dame* displays this rhyme scheme in the original Anglo-Norman, and the earliest use of the narrative first-person occurs within the first stanza, when the narrator says, “the Virgin, whom I salute \ by saying AVE MARIA.”²³ Similarly, as Baldwin and Marchand note, *L'Advocacie Nostre Dame* appears to be unique among extant vernacular *processus Sathanae* texts in the “pageantry” of its ending, in which the saints of Heaven and perhaps the exegetical audience sing the *Salve Regina* in devotion to the Virgin Mary.²⁴ While the precise audience of this text is impossible to ascertain, the ending suggests that this work is in part a celebration of the Virgin Mary. Medievalists of Latin Christendom often regard the thirteenth and fourteenth centuries as the peak of “Mariocentrism” in Western Europe, during which the cult of Mary flourished, and cultural productions devoted to her peaked in the extant archive.²⁵ According to ecclesiastical records, between 1170 and 1270, approximately eighty cathedrals and over a hundred churches were built in France in her name.²⁶ Further, it became common practice among clerics to compile massive volumes of Marian lyrics and miracles for lay audiences, most notably William of Malmesbury’s twelfth century and Gautier de Coinci’s thirteenth century famous Marian devotional works.²⁷

The final piece of evidence that subverts the expectations associated with a sophisticated, nuanced, legal-theological text

is the number of pejoratives exchanged between Satan and the Virgin Mary. Mary calls Satan the Anglo-Norman word *ort*.²⁸ Based on surviving Anglo-Norman literature, this word can mean physically “dirty,” “repulsive,” or “putrid,” morally “vile” or “base,” and, perhaps as a moment of irony in the poem, figuratively “vulgar” or “uncouth.”²⁹ Likewise, after Mary systematically uses canon and Roman law to dismantle Satan’s claim to property rights, during which she even cites the Justinian *Digest*, Satan calls her argument the Anglo-Norman word *jargonner*.³⁰ While Davis and Akehurst translate this word as “lawyer talk,” the word is derived from *jargun*, which could mean “a foreign (or incomprehensible) language,” “foolish talk,” “nonsense,” and even “twittering (as in a bird).”³¹ This is not only an insult, but also constitutes another moment of irony, as the canon lawyer who likely authored this text calls the language of his own profession and its authoritative sources like the *Digest* “foolish talk” and “nonsense.” Of course, this is not to say that all of these definitions fit in the context of the poem, but to a medieval Anglo-Norman observer, words like *ort* and *jargun* would carry multifarious definitions and a variety of connotations. Moreover, this last example suggests that the text provides entertainment at the expense of the professional class of canon lawyers.



Mary Overcoming Satan. Illustration from “The Teymouth Hours,” held by the British Library.

L'Advocacie Nostre Dame as a Satire of the Professional Canon Lawyer

Previously, I examined the text as a celebration of the capabilities of legal reasoning and the legal profession and suggested its potential as a form of entertainment—but entertainment to what end and for what purpose? In the following sections, I will analyze the text as a satire of the professionalization of canon law in medieval France and the stereotypes associated with legal education in the medieval university. This satire functions along three primary axes: the self-glorification of the legal occupation, canon lawyers' stereotypical mercuriality, and canon lawyers' supposed disregard for serious theological study and appreciation. Reading the text along these axes reveals the degree to which legal practice and education had become standardized by the fourteenth century in Latin Christendom. Moreover, I argue that an effect of this standardization was that the legal profession became culturally legible, socially established, and thus capable of being satirized and stereotyped—even self-referentially, by canon lawyers themselves.

Before engaging in this line of inquiry, a stable definition for the word “profession” and some basic premises concerning the history of professional law in Latin Christendom need to be established. For the purposes of this paper, the following definition of “profession” will suffice:

a highly skilled terminal occupation that can be entered only through formal admission, whose practitioners undertake to abide by professional standards, and who enjoy in return a publicly-sanctioned monopoly on the practice of their trade and a measure of authority resulting from their peculiar skills, coupled with high social status and esteem.³²

The operative parts of this definition are the existence of professional “standards,” a system of “formal admission,” in this case a university education, “a monopoly” on the practice of the legal trade, and a “high social status and esteem.” The medieval historian James Brundage splits the professionalization of canon law in Western Europe into four phases that elucidate the development of professional law by the estimated date of authorship of *L'Advocacie Nostre Dame*: the proto-professional stage (1150-1190), incipient professionalization (1190-1230), decisive professionalization (1230-1274), and consolidated professionalization (1274-1350).³³ *L'Advocacie Nostre Dame* appears in the early fourteenth century, which means that the professionalization of law in Latin Christendom had been ongoing for a little under two centuries. In other words, most of the professional standards, educational practices, and social mores concerning canon lawyers were already well-established by this time.

To get a sense of the progression of the legal profession leading up to the mid-fourteenth century, I will briefly summarize each phase. In the first of Brundage's phases, the position of the “canonist” was nebulous, and very few of those educated in canon law practiced it or had a monopoly on advising and representing clients.³⁴ In the second phase, the study and practice of canon law became a lifelong occupation for a larger number of people. Still, there were no definitive ethical standards, formal admission processes, or monopolies on practice associated with the occupation.³⁵ In the third phase, the medieval university became the admission ritual into the profession, and an explicit body of rudimentary professional standards as well as social prestige began to emerge. Canonists spent most of their working lives studying, teaching, and practicing canon law; they almost all had academic degrees in law; they were formally admitted via swearing an oath, eventually becoming standardized through the Lyon oath drafted by William Durandus in 1274.³⁶ The final phase,

during which *L'Advocacie Nostre Dame* was likely authored, is characterized by the rise of professional legal associations in the form of guilds and confraternities, the restriction of legal practice to members of these associations, and the monopolization of legal practice by professional lawyers.³⁷

Satirizing the Self-Importance of the Canon Lawyer

One aspect of the professionalization of law that is satirized in the text is the high esteem vested in canon lawyers in the fourteenth century, particularly the self-glorifying language with which lawyers described their profession. There are numerous examples of this self-glorification, as the elevation of an occupation to the status of a “profession” confers social hierarchical value. For instance, Shoemaker remarks on how canonists, particularly drawing from the twelfth century commentators Stephen of Tournai and Paucapalea, believed that their profession was sacred because Christian history began with a legal process—the charge of disobedience made by God against Adam, Adam’s attempt to lay a criminal countercharge against Eve, their judgement, and their exile—and will end with a legal process in the Last Judgement.³⁸ Shoemaker also points out Hostiensis’ famous description that canon law was *scientia scientiarum* (“the science of sciences”) as “a purposeful elevation of canon law above theology in the scholastic hierarchy of knowledge.”³⁹ Indeed, by the mid-thirteenth century, in the midst of the phase of “decisive professionalization,” we find textual evidence of canon lawyers describing their profession with dignified terms from the monastic tradition, expressing the study of law as a secular priesthood: *ministerium*, *ordo*, *officium*, *professione*, etc.⁴⁰ As translated by Brundage, the German canonist Peter Lenuaerius wrote that “the knowledge of the learned lawyers illuminates the world, and their light shines upon the earth like the splendor of the firmament.”⁴¹ Part of this propensity for

self-indulgence fits into the literary culture of the Late Middle Ages in Latin Christendom. Michel Zink has the following conclusion about French literature and writing in the Late Middle Ages:

A world apparently ignorant or unmindful of its own decline seems to have contemplated itself smugly in a series of chivalric or princely spectacles....
Consecration, coronation, surrender,
diplomatic reception or conference, trial,
execution: everything served—
as did plays themselves—as an
occasion for theatrical self-representation.⁴²

While I am hesitant to label the Late Middle Ages as a period of “decline” in France, Zink’s position represents a common scholarly stance on the literature of the Late Middle Ages, characterized by a focus on the culture of chivalry and courtly love that accentuates aspects of indulgence and excess. However, the phrase “theatrical self-representation” seems to undermine Zink’s larger point since any self-representation creates space for critical reflection, irony, and satire, no matter how theatrical and performative that representation might be.

This “theatrical self-representation” is precisely how *L'Advocacie Nostre Dame* satirizes the self-indulgence of the professional lawyer class. For instance, the text juxtaposes Satan’s initial entry into the heavenly court with Christ’s ambivalent, curt reply:

The aforesaid attorney
appeared before God in his official robes,
properly appointed, full of malice and well-prepared
...Then Jesus Christ turned His face to him
and said, ‘Have you a court date
against them? Have you had them summoned?’⁴³

After having a pretrial council with the other devils and drafting a meticulous, error-free attorney's appointment, Satan dons his "official robes" and feels "well-prepared." Christ's business-like and uninterested response to his arrival and to his serious request for a criminal trial against humanity deflate his air of self-importance. The text performs a similar juxtaposition in the following set of lines: "[Satan] can speak French and Latin \ and knows how to give answers and raise defenses \ and gloss the whole of Scripture, \ and he has more than a hundred false premises."⁴⁴ The first three lines suggest Satan's mastery of law, his scholarly acumen, and his legal education, portraying him as an impressive figure. The fourth line, while hinting at his legal education, undercuts the briefly impressive characterization of Satan; his legal acumen is built upon false premises, rendering him a foolish although still deceptive and dangerous figure.

By the "consolidated professionalization" phase, legal education had become standardized across Latin Christendom; the prospective canon lawyer entered university, studied some civil law as well as theology, pivoted to focus on canon law proper, and heard lectures on Gratian's *Decretum*, then on Raymond of Penyafort's *Liber Extra*, the official casebook of papal law commissioned by Pope Gregory IX in 1234, and then on other decretal law.⁴⁵ Thus, the mention of Satan's "hundred false premises" could act as a scathing critique of the established curriculum of the medieval legal university. However, specifically in a French medieval context, the line could also be a jab at the quality of Satan's legal education. While legal curricula became standardized, medieval observers seem to have had opinions about which medieval universities conferred prestige. In 1219, Pope Honorius III banned the study of Roman civil law at the University of Paris to counteract the growing secularization of the University of Bologna.⁴⁶ Following this, there is textual evidence that the quality of a law degree from the University of Paris was held in lower esteem, in comparison to other French universities.⁴⁷

The line could be a humorous allusion to the perceived poor quality of the University of Paris' legal education or of a whole generation of French lawyers. Regardless, a French audience would recognize the self-indulgence of professional lawyers since unlike in Italy, where law students obtained special privileges through treaties with the university town's citizens, the Parisian government conferred on all university students the benefits of a monastic cleric, including the use of ecclesiastical courts.⁴⁸ All in all, a reader's first diegetic impressions of Satan abate the esteem and glory of his position as a lawyer by undercutting his self-seriousness and his air of self-importance—on the level of the narration, of character dialogue, and of French legal culture.



A Group of Devils. Illustration from "Breviari d'Amor," held by the British Library

Satirizing the Mercuriality of the Canon Lawyer

Another aspect of legal professionalization that is satirized in the text is the mutability and unreliability of the stereotypical canon lawyer. The medieval historian Susan Reynolds argues that the need for lawyers grew dramatically in the twelfth and thirteenth centuries in Latin Christendom both as a product of the increasing complexity of legal practice and the development of a plethora of different litigations and as a response to the growing importance of written charters, contracts, and legal documents.⁴⁹ The growing technical complexity of legal practice and society's dependence on lawyers for basic functions were not lost on medieval observers. Nigel Wireker, a twelfth-century satirist, reflected on the effect that the University of Bologna had on Parisian students who came back to France: "They speak in new tongues and with sesquipedalian words teach men to engage in lawsuits... [But,] neither princes nor prelates can do without them."⁵⁰ Roger Bacon, the thirteenth century theologian and philosopher, remarked, "Would that the obfuscation and tricks of the jurists could be ended and cases handled without argumentation of litigation, as used to be done forty years ago!"⁵¹ This dependence led to a scramble among medieval cities and towns to secure law clerks to fill the burgeoning government bureaucracy and law professors to teach in universities. Brundage describes this process in the following manner: "Academic lawyers were often peripatetic, shifting posts repeatedly as one city after another tendered more lucrative offers to attract them."⁵² The flow of legal expertise away from towns and cities became such a concern that the city of Modena offered a lifetime contract to the law professor Guido da Suzzara in 1260. By the fourteenth century, it became common practice for medieval universities to require law professors to put down a monetary security deposit if they had to leave town and miss class, in order to ensure their return.⁵³ Thus, it was common for professional lawyers to stay in towns and cities for a limited

amount of time, until the next lucrative contract whisked them away. Likewise, this mutability in the physical presence of legal professionals coincided with a common theological critique of canonists and their ideals. In his *Dialogus* between a master and a student, William of Ockham writes, "Theology's superiority to canon law was also deduced from the fact that sacred scripture... could not be added to or subtracted from whereas aspects of canon law were subject to changing context and circumstances."⁵⁴ Thus, professional lawyers came to be associated with mutability, changing ideas and motivations, and a general untrustworthiness.

This social understanding of the stereotypically mercurial professional canon lawyer is best captured in *L'Advocacie Nostre Dame* through Satan's constant shifts in legal strategy. Satan appears to flounder from one legal tactic to the next upon the slightest amount of resistance. After failing to win the case in the realm of civil law and property rights, as aforementioned, Satan turns to Christ, asks for inquisitorial criminal procedure, and encourages him to punish humanity at his own discretion.⁵⁵ Mary is quick to paraphrase the legal principle of the election of remedies from Justinian's *Digest* 14.4: "You know that when a plaintiff / has multiple good ways of proceeding / ...the judge can oblige him / to choose only one of these ways."⁵⁶ Once the plaintiff pursues a cause of action, they must bring it to some natural conclusion. It would be unacceptable to change the circumstances of a case from civil to criminal midway through a trial. However, Satan persists, causing Mary to emphasize different legal principles that make his mercurial choice of legal argumentation foolish. Mary states that the trial should be over because the original charge is *res iudicata* ("a thing already decided"): "Did he not present a request / to be restored to possession? / But he was refused very clearly."⁵⁷ Mary then invokes the principle of "double jeopardy" and posits that Satan will just keep proposing different charges and causes of action: "no one says a word about permitting this; / it would be arguing in a circle, / which the Law strictly forbids."⁵⁸ The

humor lies in Mary's repeated invocation of legal principles to point out Satan's everchanging standards, as she again invokes *res indicata* when Satan makes a final plea that the bad souls be apportioned to him, the good souls to Christ; Mary says that this weighing of souls already occurred on Good Friday.⁵⁹ Another humorous connotation behind Satan's antics is the text's relationship to the academic *disputatio* of the medieval university, a public dialectical style of argument, presented as "a thesis against all comers."⁶⁰ The purpose of the *disputatio* in legal education was the defense of a thesis against multiple opponents. The key is that the original thesis never changes. In this way, an audience of canon lawyers might view Satan as a disastrous student at a *disputatio*, changing his thesis with regularity and defending none of them. Regardless, the critique involves the mercuriality of the professional canon lawyer—the shifting nature of his allegiances, his intents, and his ideas.

Satirizing the Canon Lawyer's Lack of Theological Understanding

Another aspect of the culture and practice of professional canon lawyers that is critiqued is their disregard for theological concerns. Theologians throughout the Middle Ages expressed their displeasure with the canonists and the success of canon law in universities. As aforementioned, the theologians' main objection was that canonists prized canon law above theology in the scholastic hierarchy of knowledge—an understandable criticism given Hostiensis' *scientia scientiarum* remark. Bernard of Clairvaux, the twelfth century Benedictine monk, was incredulous that the pope, "a pastor and bishop of souls," could tolerate "the lawyers and their accompanying litigious prattle that beset him daily."⁶¹ Dante quipped in *Paradiso* that the "study of the Gospels and the great doctors suffered while the margins of the decretals were full of scribbles."⁶² The uniqueness of the critique in *L'Advocacie Nostre*

Dame is that it extends this same displeasure with canon lawyers to the realm of Mariology by portraying Satan as incapable of comprehending Mary's multifarious theological forms and powers.

Medieval audiences at the height of the Mariocentric fervor of the fourteenth century would immediately associate the depictions of Mary in *L'Advocacie Nostre Dame* with Marian miracles, liturgy, and lyrics—bringing a nebulous and complex matrix of overlapping Mariological ideas and accounts to their interpretations. From the beginning of the poem, the narrator portrays the canon lawyers as no match for the capabilities of the Virgin Mary: “and each one a master trained / to answer and present arguments / yet they could not explain, / ... the gifts, the power, and the grace / of the sweet Virgin Mary” and “No clerk has ever studied enough to plumb the depths of [her grace].”⁶³ While this sounds hyperbolic, the sublimity and incomprehensibility of the Virgin were consistent throughout cultural productions devoted to her. In her study of medieval English Marian miracles and love letters, the literary scholar Kate Koppelman argues that Mary is not “singularly a vessel of passivity, unity, mercy, or grace,” but rather can be “active, aggressive, capable of outbursts of anger and of forgiveness” since she is “a signifier of divine benevolence and divine admonishment.”⁶⁴ Koppelman tracks the shifting significations of the Virgin in the Marian lyrics of Bernard of Clairvaux, who believed that the only way to describe Mary was “through polysemy—through paradox,” and in the Theophilus topos, in which Mary acts as the feudal sovereign, the vassal of God, the vengeful angel, and the merciful queen.⁶⁵ Thus, medieval audiences of the fourteenth century were accustomed to a theologically endorsed image of the Virgin that was contradictory yet vivid and capable of signifying an array of ideas.

With this Mariological context in mind, Satan's attempt to discredit Mary as an advocate based on her womanhood and

her status as the mother of Christ might have come across as narrow and ignorant to medieval observers.⁶⁶ Indeed, when Mary appears in court, Satan immediately reminds God of her gender and familial relation to Christ:

I advise You that the Law requires
that a woman must not be a plaintiff, nor appear
on behalf of another; that's the whole truth....
You are her Son, she is Your mother,
the suspicion of bias is quite evident⁶⁷

While Mary musters a legal argument for her accreditation, namely that customary law allows for women to represent dependent, vulnerable persons, medieval audiences familiar with Marian literature would have been swayed by her refusal to debase her status both as a woman and as Christ's mother and a member of mortal humanity.⁶⁸ For a medieval audience, there is no contradiction in Mary, a woman, acting as a legal agent in a heavenly suit. There is no complication with her being Christ's mother because she is equally a human being with the right to defend the interests of her "party." This is not to downplay the significance of Mary's gender in the dynamics of the poem. In her analysis of the legal status of women in Chaucer's work, Eleanor Johnson concludes that although the legal space can offer women agency through testimony and the claiming of precedent, all too often the medieval legal system transforms them into objects under contract and places them at the whims of "the hermeneutic practices of the men who surround them."⁶⁹ It is precisely for this reason that Mary reaches sublimity in the medieval Mariological imagination. Although a feminine figure in a patriarchal society, she is not confined by human contradictions or limitations; as a signifier, she can cross seamlessly into multiple areas of discourse and thought.

Many commentators interpret Mary's seemingly histrionic emotional upheaval at the climax of the poem as evidence of a lapse in her ability to be a capable advocate and as antithetical to the rationality of law.⁷⁰ Even Satan attempts to make this argument.⁷¹ There are several

issues with this interpretation. First, the status of emotions in the Middle Ages, particularly in trials, is an active area of research. For example, Merridee Bailey, in her analysis of chancery court records in late fifteenth to early sixteenth century London, argues that petitions often employed emotional language and were not invalidated because of it; emotions were used to cast doubt on the character of a plaintiff, to justify the actions of a defendant put in a stressful situation, and to evoke sympathy from justices.⁷² Shoemaker argues that tears in the Middle Ages acted as “a profound and necessary medium for intercession, spiritual renewal, and justification.”⁷³ Marian miracles attest to her compassion and sympathy, even for the undeserving: “She affirms a priest who knows only one Mass and the poor soul who could scarcely say the hours of her praise.”⁷⁴ Thus, we have to be wary of projecting modern ideas of emotions, rationality, and legal standards of evidence onto medieval actors. Regardless, medieval audiences might not have interpreted this scene as histrionic. Again, it was not contradictory for the Virgin to be assertive and vengeful by hurling pejoratives at Satan and to be compassionate and maternal by evoking Christ’s affinity for mercy, his suffering for the benefit of human souls, and her rights over him and all of humanity. Ultimately, Satan’s narrow view of the Virgin would not have agreed with the Mariology of the time. His attempt to limit her by human legal norms by attacking her status as woman and as emotional sympathizer suggest an ignorance of the theological forms of the Virgin and her sublime qualities in the fourteenth-century French medieval imagination. The theological disregard of the canon lawyer is put on full display.

Conclusion

To conclude, there are two primary ways in which *L'Advocacie Nostre Dame* interacts with and responds to the increasing professionalization of legal practice and education in fourteenth century northern France. Namely, the text

both celebrates the capabilities of legal language and forms to approach issues of theological and philosophical importance and satirizes the culture and practices of professional canon lawyers. These satirizations function along three axes: the indulgent self-image of lawyers as a collective, the unreliability of lawyers, and the theological ignorance of lawyers. As an intervention into the academic discourse surrounding the poem, this paper situates the text within the particular legal, cultural, and theological context of fourteenth century Anglo-Norman France; this approach displays the pitfalls of subsuming the text under the generic moniker of *processus Sathane* and of treating it as a purely derivative work. Further, *L'Advocacie Nostre Dame* gives us insight into the way law and lawyers became culturally legible to the broader society. The presence of stereotypes of the legal profession and legal education as well as the adoption of satire as a literary form to convey these stereotypes accentuate the rapid rate at which professional law had become standardized and established by the fourteenth century in Latin Christendom. Professional law had become so entrenched in the social fabric as to produce detractors and to generate a matrix of negative associations—implying that the growing integration of professional lawyers into societal institutions during this period was far from seamless. The fact that the author of this satirical text likely belongs to a canon law background suggests a capacity for self-referentiality and irony that is not often afforded to medieval subjects by commentators of the Late Middle Ages. Likewise, this analysis adds to the ongoing scholarly exploration of the Virgin Mary as a multiplicitous, complex figure in medieval culture, literature, and thought.

Notes

- ¹ Shoemaker, Karl, "The Devil at Law in the Middle Ages," *Revue De L'histoire Des Religions* 228, no. 4 (2011): 578.
- ² Davis, Judith M., "The 'Imaginative Theology' of Mary in Medieval French Literature," *Marian Studies* 40, no. 1 (2009): 171. For further discussion on the possible canon law background of the author, see Terkla, Dan, "A Basochien Proto-Drama and Its Mariological Conte: L'Advocacie Nostre Dame," *Medieval Perspectives* 6 (January 1991): 89-90, and Gros, Gérard, "*Le diable et son adversaire dans L'Advocacie Nostre Dame (poème du XIV^e siècle)*," in *Le Diable au Moyen ge: Doctrine, Problèmes Moraux, Représentations*, 237. Aix-en-Provence, France: Presses Universitaires de Provence, 1979.
- ³ See "Passion of Christ and apocryphal stories, including translations from the *Nicodemus Gospel?*" c. 1450-1499. Oversize Ms. Codex 340, Penn in Hand: Selected Manuscripts. Philadelphia: University of Pennsylvania Libraries, 1948. <https://colenda.library.upenn.edu/catalog/81431-p3fb4wm76>. for a fifteenth century Italian digitized manuscript of the *Gospel of Nicodemus*.
- ⁴ Davis, Judith M., "The 'Imaginative Theology' of Mary in Medieval French Literature," 164.
- ⁵ Shoemaker, Karl, "When the Devil Went to Law School: Canon Law and Theology in the Fourteenth Century," in *Crossing Boundaries at Medieval Universities*, edited by Spencer E. Young, 265, Leiden, Netherlands: Brill Publishers, 2010.
- ⁶ Shoemaker, Karl, "The Devil at Law in the Middle Ages," 571.
- ⁷ See Judith M. Davis, Karl Shoemaker, Spurgeon W. Baldwin, James W. Marchand, and F. R. P. Akehurst (in the introduction to the translation of *L'Advocacie Nostre Dame*) below in my references.
- ⁸ Newman, Barbara, *God and the Goddesses: Vision, Poetry and Belief in the Middle Ages*, Philadelphia: University of Pennsylvania Press, 2003, 297-98.
- ⁹ "L'Advocacie Nostre Dame," in *Our Lady's Lawsuits in "L'Advocacie Nostre Dame" (Our Lady's Advocacy) and "La Chapelierie Nostre Dame de Baiex" (The Benefice of Our Lady's Chapel in Bayeux)*, translated by Judith M. Davis and F. R. P. Akehurst, edited by Gérard Gros, 17 (lines 322-5), 47 (lines 972-7), Tempe, AZ: Arizona Center for Medieval and Renaissance Studies Press, 2011; *Ibid.*, 49 (lines 986-91).
- ¹⁰ Davis, Judith M., "Giving the Devil his Due: Justice and Equity in *L'Advocacie Nostre Dame*," in *Courtly Arts and the Art of Courtliness: Selected Papers from the Eleventh Triennial Congress of the International Courtly Literature Society, University of Wisconsin-Madison, 29 July - 4 August 2004*, edited by Christopher Kleinhenz and Keith Busby, 377, Cambridge: D.S. Brewer, 2006.

¹¹ “L’Advocacie Nostre Dame,” translated by Judith M. Davis and F. R. P. Akehurst, 55 (lines 1125).

¹² *Ibid.*, 53 (lines 1080-2).

¹³ Della Rocca, Fernando, *Manual of Canon Law*, translated by Anselm Thatcher, Milwaukee: The Bruce Publishing Company, 1959, 180.

¹⁴ “L’Advocacie Nostre Dame,” translated by Judith M. Davis and F. R. P. Akehurst, 61 (lines 1275-6).

¹⁵ *Ibid.*, 63 (lines 1313-18); *Ibid.*, 67-73 (lines 1384-1504).

¹⁶ Baldwin, Spurgeon W., and Marchand, James W., “The Virgin Mary as advocate before the Heavenly Court,” *Medievalia et Humanistica* 18, no. 1 (1992): 80; Shoemaker, Karl, “When the Devil Went to Law School: Canon Law and Theology in the Fourteenth Century,” 585.

¹⁷ “L’Advocacie Nostre Dame,” translated by Judith M. Davis and F. R. P. Akehurst, 29 (lines 581).

¹⁸ Davis, Judith M., “Giving the Devil his Due: Justice and Equity in *L’Advocacie Nostre Dame*,” 381.

¹⁹ Kuttner, Stephan, “A Forgotten Definition of Justice,” in *The History of Ideas and Doctrines of Canon Law in the Middle Ages*, 77, London: Variorum Reprints, 1980.

²⁰ “L’Advocacie Nostre Dame,” translated by Judith M. Davis and F. R. P. Akehurst, 115 (lines 2424-34).

²¹ Shoemaker, Karl, “When the Devil Went to Law School: Canon Law and Theology in the Fourteenth Century,” 275.

²² Huot, Sylvia, “Dit,” in *The New Oxford Companion to Literature in French*, edited by Peter France, 249, Oxford: Clarendon Press, 1995.

²³ “L’Advocacie Nostre Dame,” translated by Judith M. Davis and F. R. P. Akehurst, 3 (lines 28-9).

²⁴ Baldwin and Marchant, 91; *Ibid.*, 117 (lines 2460-2484).

²⁵ Terkla, 92.

²⁶ *Ibid.*, 92.

²⁷ *Ibid.*, 92.

²⁸ “L’Advocacie Nostre Dame,” translated by Judith M. Davis and F. R. P. Akehurst, 51 (lines 1035).

²⁹ “Ort,” *The Anglo-Norman Dictionary*, Arts and Humanities Research Council of the United Kingdom, 2017, accessed November 2020.

³⁰ “L’Advocacie Nostre Dame,” translated by Judith M. Davis and F. R. P. Akehurst, 53 (line 1089); *Ibid.*, 55 (line 1121).

³¹ “Jargun,” *The Anglo-Norman Dictionary*, Arts and Humanities Research Council of the United

Kingdom, 2017, accessed November 2020.

³² Brundage, James A., "The Rise of Professional Canonists and Development of the *Ius Commune*," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 81, no. 1 (1955): 30.

³³ *Ibid.*, 31.

³⁴ *Ibid.*, 32.

³⁵ *Ibid.*, 31.

³⁶ *Ibid.*, 40.

³⁷ *Ibid.*, 49-55.

³⁸ Shoemaker, Karl, "The Devil at Law in the Middle Ages," 569.

³⁹ Shoemaker, Karl, "When the Devil Went to Law School: Canon Law and Theology in the Fourteenth Century," 264.

⁴⁰ Brundage, 46.

⁴¹ *Ibid.*, 55.

⁴² Zink, Michel, "Part IV - End of the Middle Ages," in *Medieval French Literature: An Introduction*, Binghamton, N.Y.: Medieval & Renaissance Texts & Studies, 1995: 126.

⁴³ "L'Advocacie Nostre Dame," translated by Judith M. Davis and F. R. P. Akehurst, 15-6 (lines 293-314).

⁴⁴ *Ibid.*, 23 (lines 448-51).

⁴⁵ Brundage, 44-5.

⁴⁶ Clark, David S., "The Medieval Origins of Modern Legal Education: Between Church and State," *The American Journal of Comparative Law* 35, no. 4 (1987): 704.

⁴⁷ *Ibid.*, 707-8.

⁴⁸ *Ibid.*, 702.

⁴⁹ Reynolds, Susan, "The Emergence of Professional Law in the Long Twelfth Century," *Law and History Review* 21, no. 2 (2003): 351.

⁵⁰ Wireker, Nigel, *Tractus Contra Curiales et Officiales Clericos*, edited by A. Boutemy, Paris: Université libre de Bruxelles, Travaux de la Faculté de philosophie de lettres vol. 16, 1959, 158-9.

⁵¹ Bacon, Rodger, *Opera Quaedam Hactenus Inedita*, edited by J.S. Brewer. London: Kraus, *Rerum britannicarum medii aevi scriptores* no.15, 1965, 85.

⁵² Brundage, 51.

⁵³ Clark, 686.

⁵⁴ William of Ockham, "Chapter 32," in *Dialogus*, edited and translated by John Kilcullen et al., London: British Academy Publishing, *Auctores Britannici Medii Aevi*, 2008, 32: 1.1.

⁵⁵ "L'Advocacie Nostre Dame," translated by Judith M. Davis and F. R. P. Akehurst, 61 (lines 1245-76).

⁵⁶ *Ibid.*, 63 (lines 1295-98).

- ⁵⁷ Ibid. 65 (lines 1329-31).
⁵⁸ Ibid. 65 (lines 1340-2).
⁵⁹ Ibid., 81 (lines 1682-8).
⁶⁰ Clark, 698.
⁶¹ Shoemaker, Karl, "The Devil at Law in the Middle Ages," 573.
⁶² Alighieri, Dante, *The Divine Comedy: Volume 3: Paradiso*, translated by J.D. Sinclair, Oxford: Galaxy Books, 1961, 138.
⁶³ "L'Advocacie Nostre Dame," translated by Judith M. Davis and F. R. P. Akehurst, 3 (lines 4-31).
⁶⁴ Koppelman Kate, "Becoming Her Man: Transcoding in Medieval Marian Literature," *Exemplaria* 22, no. 3 (2010): 201-2.
⁶⁵ Ibid., 208-13.
⁶⁶ "L'Advocacie Nostre Dame," translated by Judith M. Davis and F. R. P. Akehurst, 42-3 (lines 855-72).
⁶⁷ Ibid., 43 (lines 859-65).
⁶⁸ Ibid., 44-5 (lines 890-900); Ibid., 45 (lines 907-26).
⁶⁹ Johnson, Eleanor, "Objects of the Law: The Cases of Dorigen and Virginia," in *Medieval Women and Their Objects*, edited by Adams Jenny and Bradbury Nancy Mason, 218, Ann Arbor: University of Michigan Press, 2017.
⁷⁰ For the climax of the poem, see "L'Advocacie Nostre Dame," translated by Judith M. Davis and F. R. P. Akehurst, 67-73 (lines 1384-1504). For the opinion that this emotional upheaval casts doubt on Mary's legal and rational ability, see Terkla, 96, and Baldwin and Marchand, 82.
⁷¹ "L'Advocacie Nostre Dame," translated by Judith M. Davis and F. R. P. Akehurst, 73 (lines 1531-7).
⁷² Bailey, Merridee L., "'Most Hevynesse and Sorowe': The Presence of Emotions in the Late Medieval and Early Modern Court of Chancery," *Law and history review* 37, no. 1 (2019): 15-16.
⁷³ Shoemaker, Karl, "The Devil at Law in the Middle Ages," 584.
⁷⁴ Davis, Judith M., "The 'Imaginative Theology' of Mary in Medieval French Literature," 157.

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