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JUDGING THE JUDGES: LATE MEDIEVAL JUDICIAL IMAGES

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People in the late Middle Ages enjoyed a highly visual culture through the talents of artists and craftsmen, who worked in a whole range of media and materials. Judicial images can be found in stained glass windows, in wall paintings, stone or alabaster sculpture and wood carving, in pen and ink drawings, embroidery and in brass and metal work. Images may purport to capture legal situations and illustrate historical events frozen in time. They can appear to provide 'snap shots' of judges in session or individual judges in personal profile. But they may be beguiling in the extent they can provide researchers with elements of realistic detail in a historical setting or offer the insight into contemporary behaviour historians generally crave. Images are a valuable source, but like any historical source they can be problematic (to the extent of being misleading and unreliable) and should be treated with caution. If we want to discern realism or find the historical reality we need to go deeper and as well its legal setting consider the form and art-historical context of a judicial image and the ramifications thereof, which is beyond the scope of this present paper.

Here I shall be focussing on images of judges derived from illuminated manuscripts and funerary monuments and analysing not so much whether they afford

an accurate representation of judges or the law in action (although there will be some consideration of aspects of historical realism), but rather what they may tell us about contemporary understanding of judges and judging. We can avoid many of the methodological nightmares if we regard the use of images not simply as a source for reality, but as a mode of communication. In the genre of illuminated manuscripts (and to a limited extent the funerary monuments) images of judges, are usually found in tandem with text: illuminated miniatures in initial letters accompany the text in books of statutes, legal treatises and volumes of Roman and canon law. They may explain, particularise or contextualise the arguments or points of law made in the text; the pictures can also move beyond the text, subvert it or be entirely divorced from it thereby providing their own discourse. Similarly, funerary monuments usually have statements of piety or recommendation that can stand alongside or be augmented by commemorative visual images of the individual concerned. These are still able to have (as it were) a life beyond the text and communicate to the initiated observer, even where accompanying inscriptions have been lost or damaged. Judicial images can be analysed, therefore, in terms of an iconographic discourse identifying and commenting upon the jurisprudential concepts underlying medieval justice, the nature and exercise of judicial power and the personal and professional concerns of the judiciary.

Images of heavenly justice informed in an abstract way an understanding of the exercise of judicial authority on earth. Scenes of the Last Judgement are the most obvious symbol of heavenly justice and also of the universal quality of justice. To the medieval mind they were the most potent reminder that misdeeds would not go unnoticed and unpunished. In most pictures of the Last Judgment, Christ, placed centrally (often sitting on a rainbow) presides in a quasi court setting over the souls

coming for judgment. Below him, to the viewer's left, the Blessed Virgin Mary (and often St John the Baptist) are interceding for souls to go up to Heaven, while on the viewer's left, the devil seeks through his advocacy to draw souls down into the torments of Hell. The scene, which often highlights kings and bishops amongst the damned, is clearly designed to emphasise not simply the terrors of Hell and the wrongfulness of sin, but also drive home the moral that God's final judgment is no respecter of rank or position and that all shall be judged equally according to their good and bad deeds. Pictures showing the weighing of souls in the balance and the separation of good and bad souls (usually by the archangel, St Michael) reinforce this.

The discourse on judicial power is expounded further through images connecting heavenly and earthly justice. The executive power of rulers (a category which included the pope) derived from God, and through him, as his representatives on earth, they had the authority to do justice. This power was then delegated to lay and ecclesiastical judges respectively. These notions can be observed in the iconography. Christ is shown transferring authority: delegating powers to temporal and spiritual leaders or ordaining that emperors and kings have swords for carrying out secular justice. In one scene (a treatise on kingship) Christ is holding a crown over the head of a king, indicating that a ruler's authority comes directly from heaven. In another the king kneels while blessed by a divine hand protruding from a cloud. The relationship between earthly and heavenly monarchs is also characterised by marked similarities in appearance, notably (in one example) the overlap between the respective portrayals of Edward III and Christ enthroned.

The delegation of power from king to judge is depicted more subtly through iconographic associations and transpositions drawing on archetypal historical characters. Biblical icons were perceived by contemporaries to be very much part of

their historical world as well as forming part of their Christian heritage. They would be particularly alive to similarities in and correspondences between devotional images (familiar from Bibles, books of hours and psalters) and images placed in a legal context (whether accidentally or deliberately). Such associations probably arose from the nature of the work undertaken by artists and illuminators, who might consciously employ figures from the Bible as an exemplar or perhaps subconsciously draw on models from religious literature they had used in the past. The deliberate substitution of Old Testament kings David and Solomon for images of contemporary medieval kings is an interim stage that merits further analysis and will be explored elsewhere. In the present context, however, it is interesting to point to instances of a direct iconographic association between Biblical icons and portraits of judges. For example, a miniature of David dealing with prisoners corresponds in terms of the setting and positioning fairly closely to one depicting a judge with prisoners. Both show the king/judge on the left hand side: he is pointing at those facing him (David appropriately with a raised sword, the judge with his index finger), one of whom (bailiff or legal representative) is gesturing with his hands; the prisoners awaiting judgment have their hands tied (though there is only room enough to depict a single prisoner in the case before the judge). This can be taken further when it is considered that Solomon is cast in Biblical iconography as the paradigmatic figure for Wisdom and for equity (notably the eponymous judgment of Solomon). Associations between images of him and contemporary judges in action evokes thoughts and concerns about levels of legal knowledge, judicial fairness and ethical behaviour. One image, for instance, shows a judge refusing to accept in evidence a charter he believes to be false.

Aside from the correspondence between Biblical icons, the delegation of power from king to judge is a notable iconographic feature of books of Roman law where the Emperor Justinian is portrayed acting judicially in many legal scenarios (as if putting into practice his own codified laws). While a mental substitution of the emperor for a judge can obviously be made in these scenes, it is done visually by the artist at times as if demonstrating the effect of a legal rule in the real courtroom. In one miniature, an instructional note to the artist is still visible above the space for the picture: it says ‘imperator’, meaning there should be a picture of the emperor there. As it turns out, the resulting judicial figure does not look very imperial judging from the long brown gown with sleeves perhaps more commonly associated with lawyers. The interchangeability of king and judge in the minds of contemporaries is also apparent in the opening initial in surviving manuscripts of the English legal tract on pleading, *Novae Narrationes*, some of which show counsel addressing a judge, others which show pleading taking place before a king. Similarly in canon law treatises, the image accompanying an example of a dispute required to be heard before a magistrate sometimes results in the picture of a king, sometimes in a lay judge.

If we look at such apparent ‘snapshots’ of judges in action there may be elements of realism or useful historical detail to be gleaned, but in general the pictures are clearly subject to artistic whim, hide-bound by the conventions and limitations of the genre. As a result such scenes require careful consideration and interpretation. The four miniatures of the courts of King’s Bench, Common Pleas, Chancery and Exchequer from the fifteenth century Inner Temple manuscript probably are the closest representation we have of a medieval court (albeit the highest courts in the land) in action. Rarely do we find such well-populated and detailed scenes in law book miniatures. In most other scenes purporting to depict a court in action (or

implying that it is) only the bare essentials are provided: there is normally a single judge and the semblance of perspective means that often the faces and bodies of those present in court (litigants and/or counsel) are elided to give the perception of a group or crowd. The Inner Temple miniatures show clerks busy at a green baize table. The omission of any form of table in other pictures may be for artistic reasons since portraying a table would take up valuable space and conveying the notion of a court scene may be all that is required. Artistic shorthand or convenience is suggested by a miniature which includes clerks writing on sheets of parchment without any form of writing desk. The wooden bar, separating the judge from the litigants and marking off a distinct area of judicial space, is a feature we would expect to see in English courts but is not always present in judicial scenes, nor is it uniform in height or substance when it is. Sometimes it is depicted as solid and heavy, in other pictures it appears rather rudimentary. In one example, it is even portrayed as a complete enclosure around the judge (more a like a sheep pen). While there may have been variations in the material used for the bar, the latter example is unlikely to be realistic and is perhaps symbolising the stricture of medieval legal procedure.

Portrayal of the interaction of counsel and judge as well as the actions and responses of litigants is interesting to note and significant for assessing attitudes to judges. The images of the protagonists in a judicial session are themselves formal (and in this often formulaic). Size, gesture and posture relative to counsel or litigants are usually used to convey and emphasise a judge's authority. Being seated and with legs crossed or holding gloves (both marks of authority) can be contrasted with litigants who can be standing or kneeling. Naturally the cut and thrust of legal argument and the handing down of judgment are a key part of any judicial scene. While this very oral (and aural) experience may be difficult to convey in a visual

medium, it is indicated occasionally by speech bubbles, sometimes by parchment documents, but generally by gesture. Accordingly it is apparent from many of the miniatures that the actors are gesturing while disputing, itemising points (with the fingers of one hand on the palm of the other) as they argue, showing the unseen viewer that speech is occurring. The flow of conversation between judge and parties or judge and lawyers is also conveyed by finger and hand gestures. The judge is often portrayed with an enlarged index finger raised. In this context it is highly probable that judgment is being given and that there is a direct correlation between and play on the Latin *index* and *iudex*.

What though was the visual impact made by judges? For this we should consider their position and costume. The Inner Temple representations suggest that in the central courts at least the panel of judges was elevated. The degree of elevation may reflect an element of artistic license here, enabling the judges to be adequately placed in the portrait. A substantial height advantage is not reflected in any other English manuscript I have come across apart from the image for ‘iudicium’ (judgment) in the illuminated encyclopaedia *Omne Bonum*. This particular picture may well have been based on the compiler’s personal knowledge (since he has been reliably identified as a senior exchequer clerk). It is also one of the few representations of a judging scene with more than a single judge sitting. Even when working in the provinces judges normally sat at least in pairs and we know from the Year Books (and the Inner Temple miniatures, if they are reliable) that more were usually in evidence in the court of common pleas. Indeed, the *Omne Bonum* miniature may reflect the number of judges sitting in the court of common pleas at the time it was illuminated.

The robes worn by judges when sitting in court and the dress of advocates is usually distinctive marking them off from non-lawyers, but also denotes their particular rank or standing and the type of law they practise. Of course in reality the person looking at the volume containing the illuminated scenes would be aware of this from the very nature of the law book in their hands, but within the context of the miniature the costume would flag up whether the judicial scene were one expected in a common law court or a court operating under the aegis of canon law or Roman civil law. The ability to differentiate between scenes where laymen are sitting as judges as opposed to clerical judges (such as judgments of blood or certain disputes) can also be important in establishing the meaning intended to be conveyed (or implied) in a particular picture.

Historians of costume regard funerary brasses, incised effigial slabs and sculpted figures on tombs as an important source for contemporary styles of dress. As Sir John Baker has shown monuments to the judiciary can be indicative of the robes worn during their lifetime and greatly assist in determining an accurate chronology for the development of the judge's costume. Viewed in a wider context, however, funerary monuments can also tell us a lot about the self-image and aspirations of the commemorated (particularly where detailed instructions have been left either *inter vivos* or in a will). Analysis of how judges were represented and remembered after death provides a valuable insight not just into their religious beliefs, but also into their social and worldly concerns. Founders of ecclesiastical institutions (chantries, churches, chapels or colleges) were sometimes portrayed with the building in their hands. The monumental brass to Brian Roucliff (d. 1494), for example, depicts the judge and his wife carrying the entire church between them. William Hankford (d. 1423) was responsible for rebuilding Monkleigh church in Devon. While his tomb

chest no longer bears a recumbent effigy or brass (assuming it had one), the elaborate canopy frieze still remains, its central point being a carved angel carrying a shield.

Antiquaries observed (possibly referring to a stained glass pain in the window immediately above the tomb, which alas no longer has its medieval glass) that there were scrolls issuing from the mouth of the kneeling judge, presumably carrying prayers rather than legal judgments!

It is interesting to surmise in what manner of dress Hankford was commemorated since he was a knight of the Order of the Bath (as were judges Shardlow and Markham). Indeed, although normally judges were depicted in civilian dress, several unusually were commemorated wearing military attire: Roger Hillary's effigy, for instance, (now lost) showed him in full armour. This representation would be understandable if Hillary (d. 1356) had enjoyed a reputation as a soldier or as a jouster at tournaments, as did his contemporary Geoffrey le Scrope CJKB (d. 1340). Unfortunately there is no known memorial to Scrope which might have reflected his military prowess, though interestingly the memorial once observable at Easby parish church (North Yorkshire) to his brother Henry (d. 1336), also a judge, apparently showed him clad in full armour. The military attire should probably best be regarded as symbolic, representing the social status of knighthood, which was conferred on promotion to the bench, rather than suggesting a glorious military career. Other surviving memorials prove this was not just a fourteenth century phenomenon: the desire to be remembered for his social as well as professional status is apparent in the monuments to John Portington (d. 1462) and William Yelverton (d. 1477?), who clearly wanted the best of both worlds with the memorials showing them wearing a coif and judicial robes over full armour.

Such depictions had a wider impact than merely the commemoration of an individual since they also set the marker for the family and his descendents, demonstrating to all-comers their status and achievements. This desire to communicate status and rank from beyond the grave may go towards explaining why the earliest surviving judicial effigies, such as those of John Stonor and William Stowford who died in the 1350s, show them in the robes of serjeants at law. Now it may be, as Baker suggests, that up until the late fourteenth century (when we have evidence for a distinctive judicial attire) judges and serjeants dressed similarly. It may also be that these men chose to be commemorated in the robes of the new order as this represented the highest level in the English legal profession and suggested a degree of status that at the time (mid-fourteenth century) being part of the judiciary itself did not (or they did not want to draw attention to it).

I want to end with a couplet from the inscription accompanying the brass of Judge John Martyn (d. 1436), *'Ere was I judge in royal hall, now tremblingly I plead,/ Before my judge's bar for doom myself assigned, indeed,* (as rendered in rhymed English translation) which nicely brings full circle this discussion of medieval judges and judging with the image of the judge's expectation of his own appearance before the supreme court.