



Gerald of Wales (c. 1146–1223): A Canonist Rediscovered

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2023 marks the 800th anniversary of the death of Gerald of Wales. Scholarship to-date has focused on Gerald's extensive non-legal literature. His contribution to canon law has hitherto been neglected. However, Gerald was a canon lawyer of considerable stature. He was a student and teacher of canon law, he administered canon law and defended it against the encroachment of the royal law, and he litigated in canon law to the highest level – the papal court in Rome.

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THE STUDENT OF CANON LAW

The year 2023 marks the 800th anniversary of the death of Giraldus Cambrensis—Gerald the Welshman (Gerallt Gymro) or Gerald of Wales.¹ He is a man best remembered today as an ecclesiastic and prolific author of some twenty-three books, of which two are especially well known: a journey through Wales (1191); and a description of Wales (1194).² There is an abundance of secondary literature on Gerald and his works: in it he is characterised variously as a historian, a political commentator and critic, and a scholar of language, natural science and ethnography; these studies also tell us much about the medieval world in which he lived and about his own voice within it.³ Yet, this literature does not uncover Gerald the canon lawyer: there is no single study on this subject.⁴ Also, modern standard works on the history of

1 This study is an expanded version of a lecture I gave at St Davids Cathedral, Pembrokeshire on 5 October 2021. I am very grateful to Revrend Dr Robert Ombres OP, Blackfriars Oxford, for invaluable comments on a draft.

2 See, e.g., L Thorpe (ed), *Gerald of Wales: The Journey through Wales and the Description of Wales* (London, 1978, reprinted 1987), 53–60, see 62 for a list of Gerald's writings.

3 Among recent studies, see especially R Bartlett, *Gerald of Wales 1146–1223* (Oxford, 1982); and G Henley and A J McMullen (eds), *Gerald of Wales: New Perspectives on a Medieval Writer and Critic* (Cardiff, 2018).

4 The literature simply states that Gerald studied and taught canon law: see, e.g., Bartlett (note 3), 3; Henley and McMullen (note 3), 2; and H Pryce, at 76, citing *Speculum duorum* (A Mirror of Two Men) (ed Y Lefevre, R B C Huygens and M Richter) (Cardiff, 1974), liii–lvi.

canon law neglect Gerald: for example, the distinguished scholar Richard Helmholz has just five lines on Gerald in a book of 700 pages.⁵ More specialised studies are a little closer to the mark, but still do not quite get there; for example, theologian Thomas O’Loughlin writes of Gerald as a ‘trained canon lawyer’ but ‘not in the technical sense of a canonista’.⁶ But Gerald was a canonist—in technical and so many other ways: he studied the church’s canon law; he taught canon law; he enforced canon law; he defended canon law against the encroachments of the royal law; and he litigated in canon law. All this we know because he wrote on canon law—and did so extensively. Gerald the canonist cries out for rediscovery.

Gerald was born in around 1146 into a Norman-Welsh family at his father’s castle at Manorbier in St Davids diocese. His father was William de Barry, knight vassal of the earls of Pembroke. His mother was Angharad, daughter of Gerald of Windsor (constable of Pembroke) and Nest who was the daughter of Rhys ap Tewdwr, king of Deheubarth (whose grandson was the famed Rhys ap Gruffudd, the Lord Rhys, ruler of south Wales).⁷ Gerald was the youngest child: he had at least one sister, two brothers, and a half-brother. His brothers were groomed as knights, but Gerald was ripe for the church: on Manorbier beach, he made sand-churches, not sand-castles; his father called him ‘my bishop’; and his uncle David fitz Gerald was bishop of St Davids. So Gerald was educated at St Davids and at St Peter’s Abbey, Gloucester. Even as a child, Gerald had an interest in canon law; he himself explains (in the third person): ‘as often as he heard disputes concerning the law of the land and the law of the Church, the boy would put himself forward with all his might as the advocate and champion of the Church’—for Gerald desired most on earth ‘the greatest glory of Christ’s Church’—and he practised this desire ‘in every age and circumstance of his life’.⁸

Next, c. 1165, he went to Paris. Gerald himself records that he spent there three periods over several years studying the liberal arts and doing some teaching on the *trivium*—grammar, logic and rhetoric. Around 1174, Gerald returned from Paris and was made archiepiscopal legate by Richard Archbishop of Canterbury and in 1175 Archdeacon of Brecon in St Davids diocese. In 1176, the cathedral chapter of St Davids elected Gerald as bishop of the diocese (to succeed his uncle David); Archbishop Richard approved it, but King Henry II

- 5 R H Helmholz, *The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s* (Oxford, 2004) 123, 127, 203; and Gerald is cited briefly in a note on John of Tynemouth (d. c. 1221) in J A Brundage, *Medieval Canon Law* (London, 1995) 220.
- 6 T O’Loughlin, ‘Giraldus Cambrensis and the Sexual Agenda of the Twelfth Century Reformers’ (2000) 8 *Journal of Welsh Religious History* 1–15 at 1; see also R Kay, ‘Gerald of Wales and the Fourth Lateran Council’ (1988) 29 *Viator* 79–93.
- 7 For Gerald’s Welshness, see Bartlett (note 3), 9–25.
- 8 *De rebus a se gestis* (On the things he has achieved), Bk I, c 1, in H E Butler (trans), *An Autobiography of Giraldus Cambrensis* (London, 1937) 35–36.

rejected it due to Gerald's kinship with the Lord Rhys at a time of discord between Henry and the Welsh rulers. Peter de Leia was appointed instead. Perhaps disappointed at this, but buoyed with funding from his prebends and benefices (at Angle, Laugharne and Mathry), Gerald returned to Paris, where he embarked on the higher studies of civil law, canon law, and theology.⁹ He studied these for three years (1176–1179). What did it involve, and why Paris?

Universities in Europe originated at the end of the eleventh century with the teaching of Roman civil law at Bologna. They were effectively ecclesiastical institutions of learning. It is not surprising, then, that canon law too became a subject for study. Gratian's *Decretum* was the basic textbook. Written at Bologna c. 1140, it was a huge compilation and synthesis of church law, and it launched the study of canon law as a legal science.¹⁰ Students had to master and memorise substantive and procedural laws on, e.g., church government, ministry, sacraments and wills. This led to the professionalisation of canon lawyers enabling them to administer the church, its law, and its courts. In the 1160s and 1170s, a second school of canon law was set up: at Paris. Teaching was largely by dialectical text analysis: first, summarise the title; second, set out the purpose of each law; third, read out the text word by word; fourth, restate the meaning; fifth, resolve conflicts in the text.¹¹ This was Gerald's Paris experience—and later he recalls that one of his law tutors at Paris was Matthew of Anjou (see below).¹² About the year Gerald died the Paris school became *faculté de décret*: faculty of canon law, and other such faculties followed at Oxford, Cambridge, and across Europe.

The laws which Gerald studied at Paris as a young man, he continued to draw on throughout his life—although he lamented the abuse of the discipline of logic in the study of human law.¹³ First, natural law: echoing Gratian, Gerald uses it for example to justify clerical poverty and frugality: 'The first thing to be noted is that all the goods of the earth are by natural law the common property of all. Therefore, every rich man who has laid hold of many goods for himself is either an unjust man or the heir of an unjust man. All things were held in

9 R Bartlett, 'Gerald of Wales (c. 1146–1223)', *Dictionary of National Biography* (Oxford, 2004).

10 While traditionally the *Decretum* has been ascribed to Gratian, modern scholars suggest that it had more than one author: A Winroth, *The Making of Gratian's Decretum* (Cambridge, 2000).

11 Brundage (note 5), 44–69 at 51 (for Paris) and 52 (for method—the five points were set out by Odofredus who began lecturing in civil law at Paris in 1228). See also, including a mention of Gerald, J A Clarence Smith, *Medieval Law Teachers and Writers: Civilian and Canonist* (Ottawa, 1975) 28–29, on the situation in 'Northern France and England'.

12 Gerald also mentions Mainerius as another of his Paris teachers: J A Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians, and Courts* (Chicago, 2008), 484, n. 60.

13 *Gemma ecclesiastica* (c. 1197), ii.37, p 348 (*De literaturae defectu ex legum humanarum et logices abusu proveniente*), in J J Hagen (trans), *The Jewel of the Church: A Translation of Gemma ecclesiastica by Giraldus Cambrensis* (Leiden, 1979), 266, cited by S LaVere, "A Priest is not a free person": condemning clerical sin and upholding higher moral standards in the *Gemma ecclesiastica*, in Henley and McMullen (note 3), 181–202 at 196.

common by the Apostles going out on the road to perfection, and not one of them called anything his own'.¹⁴

Second, he invokes canon law: for instance, from the ecclesiastical sphere, Gerald uses Gratian's *Decretum* for the proposition that 'priests, by prerogative of their order and rank, are sometimes called angels of Christ by the Lord, sometimes even gods';¹⁵ and 'once, priests and bishops were the same, and exercised all ecclesiastical offices and the sacraments in common'.¹⁶ Similarly, from the temporal sphere, he uses the *Decretum* for the elements of liability for homicide: 'let us not consider merely the deeds, but also, most carefully, the time, the cause and intention, the differences of person, and all the other circumstances of those deeds';¹⁷ however, once liability is established: 'The killing of homicides, the sacrilegious, and poisoners is not bloodshed but the administration of the law'.¹⁸ Gerald also discusses power and prayer on the basis of 'passages [which] are from Gratian's *Decretum*, causa 23, quaestio 8',¹⁹ and elsewhere he quotes a letter of Augustine which appears in the *Decretum*, in a discussion of the ambitions of monks for clerical office (which Gerald distrusted).²⁰ His Paris studies on canon law stood Gerald in good stead for his later ecclesiastical career—so much so, even the great English canonist John Ayton (or Acton) (d. 1349), in his famous gloss on the legatine constitutions of Cardinals Otho and Ottobuono, cited Gerald's work.²¹

Third, Gerald studied (Roman) civil law. His studies afforded him a technical knowledge of this system which he used in later life. For example, in one passage he relies on the *Digest*, *Institutes* and *Code*: 'a ruling was issued by the authority of the devout emperors that ownership should not be lost "even in the case of property that had been thrown overboard during a storm at sea in order to lighten the ship". For "no one cast it away because they did not wish to have it, but in order to escape danger". Therefore, "whoever "takes those things away for the sake of gain, commits theft", as in the *Digest* [*ut Digesto*], "explaining

14 *Gemma ecclesiastica*, ii.23, p 280–281: Hagen (note 13), 212–213.

15 *De principis instructione* (c. 1217), 1.19 in R Bartlett (ed and trans), *Gerald of Wales: Instruction for a Ruler* (Oxford, 2018), *Decretum*, C. 11 q 1 c 41, col 638.

16 *De principis*, 1.19: Bartlett (note 15), 333: *Decretum*, D. 95 c 5, cols 332–333 (citing Jerome).

17 *De principis*, 1.10: Bartlett (note 15), 120–121: *Decretum*, C. 23 q 8 c 14, col 956.

18 *De principis*, 1.10: Bartlett (note 15), 128–129: *Decretum*, C. 23 q 5 c. 31, col 939 (citing Jerome).

19 *De principis*, 1.10: Bartlett (note 15), 120–121: *Decretum*, C. 23 q 8 c 16, cols 956–957: Phineas' killing a man was 'a sign of his justice' (Num 25.1–15) and Peter bringing Tabitha back to life was through prayer (Acts 9.36–42).

20 R Bartlett, 'Gerald of Wales and the *History of Llanthony Priory*', in Henley and McMullen (note 3), 81–96 at 85: this reference to Gratian appears for example in *De invectionibus* (VI.187) in which Gerald discusses episcopal elections in Wales.

21 Helmholz (note 5), 203: i.e. in Ayton's *Constitutions*, 41–42. See also J H Baker, *Monuments of Endlesse Labours: English Canonists and their Work* (London, 1998) 38, n 24: Ayton refers to Gerald in the form 'Giraldus Menevensis archidiaconus li. De salubri exhortatione ad continentiam'.

the old law”.²² Similarly, he cites ‘the Digest, book 9’ for the passage: ‘The praetor says: “If someone is said to have seized or received anything obtained from fire, ruin, shipwreck, or attacks on ships, or to have committed fraud or damage in such things, I will give an action for quadruple damages within a year after the time when an action can be brought, and, after the year, I will grant an action for simple damages”’.²³ In litigation, Gerald himself put in one claim for damages in the form of an ‘estimate’ (*aestimatio*) from civil law’s action for injuries (*actio iniuriarum*).²⁴

THE TEACHER OF CANON LAW

After his studies, Gerald lectured at Paris on Gratian’s *Decretum* and so he acquired the title *magister* (master) for the rest of his life. The formal title of the *Decretum* is *Concordia discordantium canonum* (Concord of Discordant Canons). It gathered hitherto dispersed laws (like papal letters or decretals), analysed with commentary, and reconciled contradictions.

First, Gerald sets the scene of his own Paris law lectures: ‘When therefore he had for many years applied his studious spirit first to the Imperial [i.e. civil law] and then to the Pontifical Constitutions [i.e. canon law], and finally to the Holy Scriptures [i.e. divine law], he won such popularity by his exposition of the Decretals [i.e. the *Decretum*], which they were accustomed to discuss on Sundays, that on the day on which it was known in the city that he desired to discourse, the pleasure of listening to his voice drew such a gathering of almost all the teachers with their scholars, that scarce even the largest hall could contain his audience’.²⁵

Second, Gerald then takes us, a little, through his subjects, method and style: ‘For he reasoned on civil and canon law in such lively fashion and so enhanced his exposition with all the persuasions of rhetoric, and adorned it with figures and flowers of speech as well as with profound argument, and made such apt use of the sayings of the philosophers and other authors by the wonderful art with which he applied them to appropriate topics, that the more learned and expert his audience, the more eagerly and attentively they applied their ears and minds to drink in his words and fix them in their memory’.²⁶ For all its immodesty, here Gerald sums up the spirit of how in medieval Paris they taught and learned the canon law.

22 *De principis*, 1.20: Bartlett (note 15), 352–353; *Digest* 41.1.9.8; *Institutes* 2.1.48; but, in Gerald’s Latin text ‘de ueteri iure enunciando’ is from the *Code*, 1.17.1. Bartlett adds: ‘The whole paragraph, except for the citation of the *Digest*, is also in Gerald’s *De iure* [see below], i.p. 137’.

23 *De principis*, 1.20: Bartlett (note 15), 348–349; *Digest*, 47.9.1; he also quotes from *Digest*, 47.9.3 (350–351).

24 Helmholz (note 5), 123; *De rebus*: Butler (note 8), 67.

25 *De rebus*, Bk II, ch 1: Butler (note 8), 64.

26 *De rebus*, Bk II, ch 1: Butler (note 8), 64–65.

Third, Gerald describes how the students and their teachers responded—again this tells us about canon law study: ‘Wherefore numbers of students used to take down his lectures word by word just as they fell from his lips, and strove with great eagerness to take them to heart. But on a certain day, when a great throng had come to hear him, so soon as he ceased to speak a murmur of praise and applause arose from all the multitude, a famous doctor who had read at Paris in the arts and studied for a long time at Bologna in the laws, a certain Master Roger, a Norman who afterwards was Dean of the Church of Rouen, burst out suddenly as follows: “There is no knowledge under the sun, which brought to Paris, does not acquire incomparable strength, of an excellence that may not be found elsewhere in all the world”. And I have thought it not beside the mark here to set down the prelude of this discourse’.²⁷

Gerald then does so, devoting a chapter to ‘the beginning and prelude of [his] first discourse’. Following some flourishes in which he cites Seneca, Sidonius, Augustine, Pythagoras and Pliny, Gerald summarises the question he is to consider: ‘Whether a judge should give judgment according to what is alleged by witnesses or according to his own conscience’. Then Gerald explains how he will address the question with ‘cogent reasons drawn from the civil and canon law’.²⁸ That is all we have of the content of his lectures. The question was commonly debated in canonical theory and practice—and by the English common lawyers.²⁹

After the lecture, a cleric in the audience ‘spoke privately’ to Gerald ‘as he left the hall’. The cleric asked Gerald ‘how many years he had given to the study of the laws and canons at Bologna’—not Paris, but Bologna, the premier canon law school: this was praise indeed. Gerald continues: ‘on receiving the reply that [Gerald] had never been at Bologna, he asked [Gerald] again where he had studied law; and when [the cleric] learned from [Gerald] that he had given but three years to the study [the usual period], and that only at Paris, [the cleric] departed, marvelling much’. Gerald’s law tutor also with pride praised Gerald on his lecture. Moreover, Gerald recalls: ‘It also happened that Master Matthew of Anjou, whose discourses on the laws and decrees Giraldus used to attend, being summoned by Pope Alexander III to the Lateran Council that he might be made a cardinal, when he was taking leave of his comrades in his lecture room, advised them earnestly to make Master Giraldus their lecturer and teacher in his place; and this he did with much commendation of his talents. But though all the scholars were eager in their demand that he should do so, he none the less refused their request, since he proposed shortly to visit Bologna that he might yet further

27 *De rebus*, Bk II, ch 1: Butler (note 8), 65.

28 *Ibid.*, 65.

29 N Doe, *Fundamental Authority in Late Medieval English Law* (Cambridge, 1990), 144: the common lawyers held not, but the chancellor adjudged *secundum conscientiam et non allegata*.

improve his knowledge in that faculty. Yet at their urgent entreaty [Gerald] daily gave two lectures in his house to his comrades on the decrees of Gratian, one dealing with the “Distinctions”, the other with special cases’.³⁰ That is, one lecture interpreted the ‘distinctions’—chapters or sections of the *Decretum*—and the second lecture of the day applied them to concrete cases.

Another law tutor at Paris at the same time as Gerald, was Gérard Pucelle (115/20–1184) who had been ordained by Becket, and was a member of Becket’s household when Becket was in exile near Paris in the 1160s; Gerald knew and mentioned Gérard.³¹ Gerald did not go to Bologna for further legal study. But had he done so, he would have associated with students and teachers who would be remembered as the leading canonists of his day, such as Rufinus (d. 1192), a student and *magister* there; Bernard of Pavia (d. 1213); Geoffrey of Trani (d. 1245); and Hugolinus, later Pope Gregory IX (d. 1241). Indeed, Gerald’s compatriot, John of Wales, studied, taught, and wrote a major commentary on canon law at Bologna c. 1210–1215.³²

Scholars today see Gerald as a church reformer—they suggest that it was by teaching and studying canon law in Paris, and being in contact with clerics committed to high standards in church life, that he developed the ideal of reform.³³ Some examples follow. Gerald attacks practices which ‘prompt the hierarchy to sell Holy Orders, benefices, and consecrations, and the minor clergy to sell weddings, and burials, and even baptisms’.³⁴ He calls for bishops to return to the standards of those in the early church: ‘We are not saying that bishops cannot be saved, but we are saying that in these days it is more difficult for them to be saved than for others’—because in the past bishops ‘were not divided between the priesthood and earthly power [but] were priests purely and solely, not the prince’s, not the curia’s and not the king’s’.³⁵ Some bishops in his day issued sentences of excommunication ‘with little discretion, and too frequently, without just reasons and warnings’; this lack of due canonical process was for Gerald both ‘antique and antiquated’.³⁶ Gerald also criticises ignorance and illiteracy among the clergy—‘How can someone who has never studied and learned the gospel explain it to others? How can someone who has never entered a classroom presume to direct a

30 *De rebus*, Bk II, ch 1: Butler (note 8), 66–67.

31 *De rebus*, Bk II, ch 1: Butler (note 8), 68.

32 Brundage (note 12), 210–213, 219, 225. Gerald eventually visited Bologna after appearing at the papal court in Rome (for which see below): Butler (note 8), 265.

33 Bartlett (note 3), 29: his *Gemma* is heavily influenced by one such, Peter the Chanter (d. 1197).

34 *Gemma ecclesiastica*, ii.23, p 280–281: Hagen (note 13), 212–213.

35 *Gemma ecclesiastica*, ii.38, p 359: Hagen (note 13), 274.

36 R H Helmholz, *The Spirit of Classical Canon Law* (Athens and London, 1996), 373, citing *Gemma ecclesiastica*, c. 53 p 125 and J S Brewer, J F Dinnock and G F Warner (eds), *Giraldi Cambrensis Opera* (8 vols, Rolls Series, London, 1861–91) vol. 21.1 (*Epistolae*), 227–228.

school?’—this was ‘a constant refrain of episcopal legislation from the Carolingian period onwards’.³⁷

Many of Gerald’s criticisms and calls for reform with regard to clerical ministry were implemented at the Fourth Lateran Council (1215) under Pope Innocent III; yet, as one scholar says: ‘while the writings of Gerald and others may not have directly influenced the reform programme promulgated at the Fourth Lateran Council, they created the environment for legislation at both papal and episcopal levels’.³⁸ Ten of the 71 canons of the Council dealt with matters about which the reforming Gerald wrote, for instance on: the correction of offences and the reform of morals (Canon 7); clerical education (Canon 11); clerical incontinence (Canon 14); clerical gluttony, drunkenness, etc. (Canon 15); misconduct of prelates (Canons 16 and 17); nominations of prelates (Canon 26); clerical formation (Canon 27); and imposing penalties for giving benefices to unworthy clerics (Canon 30).³⁹

THE PRACTITIONER OF CANON LAW

Gerald was not a practitioner of canon law like the advocates and proctors who practised in the hierarchy of church courts: archidiaconal, diocesan, provincial and papal. However, needless to say, in discharging the various ecclesiastical offices he held, Gerald was also a practitioner of canon law, charged with its administration and enforcement. Three examples follow.

First, enforcing canon law as archiepiscopal legate.⁴⁰ Medieval canon law required the payment of tithes to the church. On returning from Paris, c. 1174, Gerald observed how in St Davids diocese ‘no tithes of wool or cheese were paid owing to the carelessness of its rulers’—so, he writes: ‘he went to Canterbury, to which at that time the Church of Mynwy, like all Wales, was subject to the provincial law [that is, of Canterbury], and there set forth these deficiencies to Archbishop Richard, who was then Primate of all England and Legate of the Roman Court; by whom he was straightway sent back to Wales as the Legate’s legate, that he might remedy these irregularities and such others as he should find there’. The archbishop’s ‘letters’ required the immediate payment of the tithes ‘but commanded that those who were obstinate and refused to pay should be strictly forced to do so by the censure

37 S Hamilton, *Church and People in the Medieval West, 900–1200* (New York, 2013), 73.

38 B Golding, ‘Gerald of Wales, the *Gemma ecclesiastica*, and pastoral care’, in C Gunn and C Innes-Parker (eds), *Texts and Traditions of Medieval Pastoral Care: Essays in Honour of Bella Millett* (York, 2009), 47–61 at 61 (cited by LaVere, ‘A priest’, at 197).

39 LaVere (note 38), 202, n. 59.

40 Gerald defines papal ‘legates’ in *De principis*, 1.19: Bartlett (note 15), 329: ‘Legates are so called from being sent (*legando*), namely, directed to various parts of the world by the lord pope on the business of the church’.

of the Church’—and then ‘the Welsh obeyed these salutary admonitions and consented to pay the tithes’.⁴¹

Second, as archiepiscopal legate, on what has come to be known as his visitation of the diocese of St Davids, Gerald visited the Archdeacon of Brecon. Gerald found that the archdeacon ‘publicly kept his concubine with him in his house’. So Gerald ‘admonished him and then, when he paid no heed to his admonitions, commanded him in the name of the Archbishop, Primate and Legate, to cast her from him and to cease from giving an example of misconduct and shameful living to those in his charge, whom it was his duty rather to chide and to correct’. But when the archdeacon refused, using ‘foul and insulting words’ against the Archbishop of Canterbury, Gerald ‘suspended him from holding any ecclesiastical benefice and took his Archdeaconry and Prebend [at St Davids cathedral] into the hands of the Archbishop, whose authority he had spurned and whom he had thus insulted’.⁴² Gerald here sums up elements of canon law on archdeacons’ duties and that against concubinage.⁴³

Third, after returning his legatine mandate to Archbishop Richard of Canterbury, his uncle David, Bishop of St Davids, appointed Gerald as Archdeacon of Brecon, an office he held from c. 1175 to 1203. As such, he presided over the archdeacon’s court and maintained clergy and lay discipline. Gerald expressly cites Gratian on archdeacons’ duties: ‘in modern times the archdeacon has the management of all external and rural clergy, archpriests, and deans. As can be seen from Gratian’s *Decretum*, in *distinctio* 63, a chapter from Isidore [of Seville], “If in parishes”, and in *distinctio* 25, in the canon “Having read through”, where, among other things, this is added: “The archpriest should know that he is subject to the archdeacon and should obey his commands, just as those of his bishop, and, what pertains especially to his office”, etc’. Again: ‘this from the same source, *distinctio* 63, is relevant: “If in parishes, archpriests die, or are ejected from some misdeed, the archdeacon should go to the place as quickly as possible and arrange for a worthy pastor to be appointed there”.’⁴⁴

In his charges to the clergy of his archdeaconry, appearing in *Gemma ecclesiastica* (c. 1197), Gerald deals with many aspects of clerical ministry and life, as Gerald puts it, ‘through examples as well as through the precepts of authorities’.⁴⁵ As an archdeacon it is not surprising that Gerald cites, as a fundamental to all church life, the well-known exhortation of St Paul:

41 *De rebus*, Bk I, ch III: Butler (note 8), 39–40: here he cites Augustine’s *Sermons*.

42 *De rebus*, Bk I, ch IV: Butler (note 8), 42–43.

43 Helmholz (note 5): archdeacons, 137–138, 215–217, 219–221; concubinage, 522, 530, 535.

44 *De principis* 1.19: Bartlett (note 15), 340–341: *Decretum*, D. 63 c 20, col 240; D. 25 c 1, col 91.

45 LaVere (note 38), 186.

‘Everything should be done decently and according to order’.⁴⁶ This is of course a foundational assumption underlying the whole of canon law as an ecclesiastical legal system.

The first part of *Gemma ecclesiastica* is on the sacraments and the second part is on holy living for the clergy. There are many canonical themes in the book. By way of illustration, Gerald comments on the authority to make canon law: ‘There is no dispensation [from the vow of celibacy], and there can be absolutely no recall of the vow except through a general council of the pope and cardinals with the consent of the whole church . . .’; although: ‘There is nothing in either the Old or New Testament, in the Gospels, or in the writings of the Apostles, prohibiting marriage [of clerics]’.⁴⁷ Gerald then echoes almost *verbatim* the rule from the First Lateran Council 1123 when he says that celibate men ‘should avoid above all living with women, except perhaps with their mother, or sister, or friend, or with those whose natural relationship would exclude suspicion of mortal sin’.⁴⁸ This is part of Gerald’s view that priests cannot be judged by the same standards as those for lay people; he quotes a papal pronouncement that ‘The order of priesthood is so excellent that what is completely free of fault for the laity is held illicit for priests’.⁴⁹ Gerald also echoes the provincial law of Canterbury in his attacks on nepotism, simony, clerical job-sharing (in portionary churches), and the inheritance of benefices—although he recognises that a bishop in Wales who fails to condemn the last two is ‘behaving in the manner of his country’.⁵⁰ As to anecdotes, for example, in part one there is an aside about a priest of Worcester who, when standing before the altar, breaks out into an English love-song instead of saying the *Dominus vobiscum*. The second part has many stories of episcopal avarice and clerical illiteracy and incontinence.⁵¹

THE CHAMPION OF CANON LAW

Enter Becket. Gerald’s defence of the church and its law against the king’s authority and law must be seen in the light of the dispute between Becket and Henry in the 1160s, when Gerald was in his late teens. Gerald must have been referring to this dispute when in his own words, as we have seen, he recalled

46 *Gemma ecclesiastica*, pp. 36–37 (citing Origen on St Paul’s exhortation): see Bartlett (note 3), *Gerald* (1982) 31.

47 LaVere (note 38), 187; *Gemma ecclesiastica*, ii.6, p 187; Hagen (note 13), 144.

48 LaVere (note 38), 189; *Gemma ecclesiastica*, ii.15, p 235–236; Hagen (note 13), 179. For Gerald on women, see J A Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago, 1987), 251 (cited by LaVere at 201) and O’Loughlin (note 6).

49 LaVere (note 38), 191; *Gemma ecclesiastica*, ii.20, p 265; Hagen (note 13), 201.

50 Bartlett (note 3), 31, n. 36: e.g. the legislation of the councils of Westminster (1102, 1125, 1127, 1138, 1175, 1200), London (1108) and York (1193); 34–35: for portionary churches and inheritable benefices.

51 Butler (note 8), 26–27.

that whenever ‘he heard disputes concerning the law of the land and the law of the Church’, he would join in as ‘the advocate and champion of the Church’.⁵²

As we know, Becket and Henry fell out over the respective jurisdictions of the spiritual canon law, and the temporal royal law. For Henry, royal law prevailed: ‘criminous clerks’ who broke the temporal law were subject to the royal courts—and 100 murders by clergy were reported in the first decade of his reign. For Becket, canon law prevailed: only the church courts had jurisdiction over clergy discipline, whatever their misconduct. And so Becket refused to sign the royal Constitutions of Clarendon 1164 bringing criminous clerks within the jurisdiction of the royal courts. He was certain he was on solid ground. Becket had studied canon law at Bologna. He knew Gratian’s *Decretum* and often referred to it in his letters. For Gratian, canon law flowed from God and so trumped human royal law. It was from the *Decretum*, other legal texts, and his lawyers’ advice, that Becket developed the conviction that Henry’s position violated the rights of the Church—and, after all, the Laws of Henry I provided that: ‘The bishops should have jurisdiction of all accusations, whether major or minor, against those in holy orders’. The Roman theocratic view of canon law was articulated in Becket’s household by John of Salisbury in his work *Policraticus* (1159) which was dedicated to Becket: ‘the prince is the minister of priests and their inferior’, he wrote.⁵³

Gerald shared the same outlook. Throughout his works he praises Becket time and again.⁵⁴ Yet, Gerald was both critic and beneficiary of royal authority. Around 1184, negotiating with the Lord Rhys, Henry appointed Gerald as a royal clerk; he served for about twelve years: in 1185 he went with Henry’s son to Ireland, and in 1188 with Archbishop Baldwin preaching the crusade in Wales; and he was a royal envoy. But he criticised court life: he wrote, it was ‘empty foolishness to follow the court’, and promotions at court were ‘unworthy and not according to merit’. He left c. 1196 probably as he did not get an English bishopric (although he says he was offered Welsh and Irish sees). Gerald later went to Lincoln, where he studied and wrote the lives of saints, *Gemma ecclesiastica* (supra), and *De principis instructione*.⁵⁵

In various works Gerald attacked Henry II as one who usurped church property, who always favoured the laity over the clergy, who engaged in simoniacal practices, and who confused the laws of the *regnum* and the

52 *De rebus*, Bk I, c 1: Butler (note 8), 36.

53 L de Beer and N Speakman, *Thomas Becket: Murder and the Making of a Saint* (London, 2021), 46–53 (with many references to the relevant and abundant secondary literature); R Williams, ‘“Saving our Order”: Becket and the law’ (2021) 23 *Ecclesiastical Law Journal* 127–139.

54 See, e.g., Butler (note 8), 30–31.

55 Bartlett (note 9): Gerald did not leave court in disgrace – the exchequer paid him at a rate of 5*d.* per day until 1202.

sacerdotium.⁵⁶ However, Gerald's approach to royal power is portrayed particularly in his *De principis instructione*—instruction for a ruler—started 1191 and completed c. 1217, around the time Magna Carta in clause 1 provided that the 'Church shall be free [with] liberties inviolate'. In *De principis* Gerald defends 'ecclesiastical liberty' against royal authority.⁵⁷ Like Gratian's *Decretum*, it is divided into 'distinctions'. The first sets out the marks of an ideal prince—justice, moderation, prudence, piety, etc; he cites scriptural, patristic and classical sources. The second and third trace the rise and fall of Henry II: Gerald condemns him as a tyrant, because he violated the rights of the Church, was 'author' of Becket's murder, and refused to join the crusade—Henry's sons' rebellion against him was a divine punishment. Also, *De principis* echoes John of Salisbury's *Policraticus*.⁵⁸

What is crucial for our purposes, is Gerald's use in *De principis* of canon and civil law.⁵⁹ As to canon law, for example, he relies on Gratian (who in turn relied on Isidore of Seville (d. 636)) for a statement of the purpose of human law: 'Laws are made so that human boldness may be constrained by the fear of them, and so that innocence may be safe in the midst of the wicked, and so that the boldness and ability to harm the wicked may be restrained by the fear of punishment'.⁶⁰ Gerald also uses Gratian for: how to deal with tyrannous rulers;⁶¹ images from nature apposite to rulership;⁶² the proverb that 'he is an unfeeling man who neglects his reputation';⁶³ and, how rulers should be merciful after the example of Christ towards Saul.⁶⁴

However, Gerald uses civil law far more than canon law. He often has quotes from the *Code*. First, faith is an essential for a ruler: "there is nothing that shines

56 Bartlett (note 3), 67. Gerald continued these themes in his life of Hugh Bishop of Lincoln (1186–1200), where he writes of the 'heavy blows [which] every day oppressed the church of Christ because of constant conflict between royal and ecclesiastical government' and of Richard I's 'raging against the church with hard exactions': see P Raleigh, 'Fere tirannicus: royal tyranny and the constitution of episcopal sanctity in Gerald of Wales's *Vita Sancti Hugonis*', in Henley and McMullen (note 3), 166–182 at 168, 171.

57 Bartlett (note 3), 67, 69–100. See also W Ullmann, *Law and Politics in the Middle Ages: An Introduction to the Sources of Medieval Political Ideas* (London, 1975) 258: '*De principis instructione* . . . despite its title does not excel in substantial contribution to governmental thought'.

58 R Bartlett (note 15), see 49 and 167 for *Policraticus*. *De principis* is in the medieval tradition of a 'mirror for princes'.

59 Bartlett in his introduction to his edition of *De principis* (ibid. xlvi–l at l) writes: 'Gerald shows off his legal learning by citations from Gratian's *Decretum* and a few other canon law texts'. While Bartlett helpfully lists the classical and medieval citations (at 757 fos), he does not collect the legal ones together or comment on them.

60 *De principis*, 1.10: Bartlett (note 15), 119; *Decretum*, D. 4 c 1, col 5, quoting Isidore of Seville's *Etymologiae*, ii. 10.5; v 20.1. For other references to Isidore of Seville, see Bartlett 74, 140, 496.

61 *De principis*, 1.17: Bartlett (note 15), 201; *Decretum*, C. 1 q 1 c 97, col 395.

62 *De principis*, 1.1: Bartlett (note 15), 41; *Decretum*, C. 7 q 1 c 41, col 582: e.g. bees have a 'king'.

63 *De principis*, 1.15: Bartlett (note 15), 185; *Decretum*, C. 12 q 1 c 10, col 680.

64 *De principis*, 1.7: Bartlett (note 15), 81; *Decretum*, C. 23 q 4 c 38, col 918; Augustine, *Epistulae*, clxxxiii.

with a clearer light than the true faith in a ruler; there is nothing that is so little subject to downfall as true religion”.⁶⁵

Second, therefore: ‘I have not considered it irrelevant to insert here some of the laws issued by the emperors, in which their devotion to God and the Holy Church is made apparent’. Gerald continues: ‘Hence, at the beginning of Justinian’s *Code*: “We wish all the peoples who are ruled by our merciful government to observe the religion that was introduced to the Romans by the divine Peter the apostle [which] Pope Damasus follows [and] Peter, bishop of Alexandria”’, namely: “following apostolic teaching and the doctrine of the Gospels, we should believe in one Godhead, of Father, Son, and Holy Spirit, of equal majesty in the holy Trinity. We order that all who follow this rule shall embrace the name of Catholic Christians, judging that the rest . . . shall bear the infamy of heretical teaching and be punished, first by divine vengeance, and afterwards by our efforts which are supported by heavenly power”.⁶⁶

Third, Gerald uses the *Code* for the regulation of government business on holy days: “the Lord’s day . . . always to be revered, shall be honoured by exemption from any executive action”.⁶⁷ Thus: “let the summoner be silent; let the advocate hide away; let judicial examinations be unknown on that day [and] let litigants rest from their disputes and have an interval of harmony”.⁶⁷ Moreover, for Gerald, ‘equity’ (*equitas*)—a fundamental category in both civil and canon law—like piety (*pietas*), ‘binds one to God, when in the *Code*, in the ruling “concerning judgments” [it states]: “It has been accepted that in all things justice and equity (*iusticie equitatisque*) should be foremost”.⁶⁸ This is all part of the theological basis of Gerald’s understanding of justice and law; and, indeed, one of Gerald’s favourite sayings was: ‘God in his judgment, which is never unjust but sometimes difficult to understand’.⁶⁹

Next, Gerald deploys the *Institutes*. First, he uses them to connect law and justice: ‘No virtue is more fitting for a ruler than justice, through which he may preserve the bonds of human society by defeating the ambitious attacks of the great and ensuring safety and tranquillity for the lesser folk’. In turn: ‘just as the ruler is bound to protect . . . the commonwealth with arms, so he must also rule and guide it with laws and justice. Hence you will find at the

65 *De principis*, 1.20: Bartlett (note 15), 343; *Code*, 1.1.8.2, a letter of John II (533–335) to the emperor Justinian. See also for the same citation in the *Code*, *De principis*, 1.20 and 1.21: Bartlett (note 15), 392, 406.

66 *De principis*, 1.20: Bartlett (note 15), 343; *Code*, 1.1.1. (Gratian, Valentinian and Theodosius, 380); Damasus was Pope 366–384, Peter II Bishop of Alexandria 373–381.

67 *De principis*, 1.20: Bartlett (note 15), 344–345; *Code*, 1.17.1 (Justinian to Tribonian, 530); *Code*, 3.12.8 (9) (Honorius and Theodosius, 408); *Code*, 3.12.9 (Leo and Anthemius, 469). But thieves may be examined on a holy day.

68 *De principis*, 1.20: Bartlett (note 15), 346–347; *Code* 3.1.8 (Constantine and Licinius, 314); this section also cites *Code*, 1.49.1 (Zeno, 479): at the end of their term of office, governors must answer all complaints (for fifty days)—this passage is also used in his *De iure*, I, pp 136–137.

69 Thorpe (note 2), 74, 170, 205 and 207.

beginning of the *Institutes*: “The Imperial Majesty ought to be not only adorned with arms but also ornamented with laws”.⁷⁰ Second, Gerald proposes that ‘rulers ought also to be bound by the laws’ – ‘speaking in the person of the emperor, it is written in the law: “Although we are exempt from the laws, nevertheless we wish to live by the laws”.’⁷¹ He also quotes the *Code* to explain the reason: “For a sovereign to acknowledge that he is bound by the laws is a statement worthy of the majesty of a ruler. To such an extent our authority depends on the authority of the laws, and indeed for the rulership to submit to the laws is greater than sovereign power, and by announcing the present edict we judge that we are not permitted to do”; again: “although the law of sovereignty releases the emperor from ordinary laws, nevertheless nothing is so appropriate for sovereign power as to live according to laws”.⁷²

Gerald sometimes (though rarely) comments on English royal law.⁷³ For example, two men were caught in Henry II’s wine cellar drinking his wine and slandering the king with indecent words. When the two men explained themselves ‘wittily’ before the king that those things they said about the king were insignificant compared with what they would have said had the wine not run out, Gerald reports that all fell about laughing and the king did not punish the men. He relied on a passage from Roman law (*Codex Theodosianus*) as the basis for the notion that Henry’s act of mercy towards the men was prescribed by ‘human law’ (*iure humano*) and that words critical of a ruler ‘if made in jest, should be met with contempt’ and not punishment.⁷⁴ Elsewhere, indeed, on the patience of rulers, Gerald quotes the *Code* for the rule that if a person acts ‘from levity, it should be treated with contempt, if from insanity, it is most worthy of pity, and if with malicious intent, it can be pardoned’, and not punished.⁷⁵

Likewise, Gerald rarely comments on Welsh law; one occasion upon which he does is this: a monk of Neath Abbey organised an armed raid on the cattle and horses of nearby Margam Abbey during a dispute between the two Cistercian houses; thus, the monk ‘obtained at last through Welsh law, which was

70 *De principis*, 1.10: Bartlett (note 15), 118–119: *Institutes*, preface. Gerald here also cites Sidonius, *Epistolae*, viii, 3.3: ‘As the people are to be restrained by arms, so arms are to be restrained by laws’.

71 *De principis*, 1.2: Bartlett (note 15), 44–45: *Institutes*, 2.17.8; this is also used at 1.20: Bartlett (note 15), 352–353.

72 *De principis*, 1.2: Bartlett (note 15), 44–45: *Code*, 1.14.4 and 6. 23. 3; see also 1.20: Bartlett (note 15), 353; the same passage quoted is preceded by the words from the *Code* ‘Concerning statutes, imperial constitutions and edicts’.

73 *De principis*, 1.20: Bartlett (note 15), 350–351: ‘In the old laws of the English, which were established we believe, by one of the holy kings . . . greater justice [*equitas*] is found, although that [in Roman law] was great’.

74 P J A Jones, ‘Gerald of Wales’s sense of humour’, in Henley and McMullen (note 3), 147–163 at 157: Gerald’s *Vita Remigii*, §28, p 63 cites the *Code* verbatim – P Krueger, T Mommsen et al (eds), *Codex Theodosianus*, 2.1 (Hildesheim, 1990) 9.4.1.

75 *De principis*, 1.5: Bartlett (note 15), 66–67: *Code*, 9.71 (Theodosius, Arcadius and Honorius, 392).

suitable for and accustomed to the country . . . the peace which he could by no means acquire for his house through the canon or monastic law'.⁷⁶ He was also critical of 'uncanonical practices' among the Welsh in relation to, for instance, oath-taking, the dissolution of marriages, and provision for inheritance by illegitimate children.⁷⁷

Importantly, Gerald practised in his earlier clerical ministry what he later preached in *De principis* about the limits on rulers. He often enforced the canon law against royal officials ostensibly acting on the authority of royal law. One example: in 1174 when Gerald was 'performing his duty as legate', the royal sheriff seized oxen belonging to the Priory of Pembroke—Gerald demanded their return, the sheriff refused. So: 'in virtue of his authority as legate he solemnly and with candles lit pronounced sentence of excommunication, in the presence not only of the monks but of many priests of that country, and forthwith caused all the bells to be sounded, as is the custom, to confirm the sentence or rather to announce that it was done'. However, the next day 'the robber [the sheriff] came with all speed to the Castle of Llawhaden, into the presence of David, Bishop of the diocese and likewise Giraldus and Master Michael his . . . assistant; and after he had made restitution, and satisfaction had been given, he was judged worthy to be beaten with rods, and then and not till then to receive absolution'.⁷⁸ Once more, a corporal penance was authorised by the medieval canon law.

THE LITIGANT OF CANON LAW

Gerald applies his view of the proper spheres of church and state, and the freedom of the church from royal control to his treatment of the election of bishops. For Gerald, the quality of bishops had declined because, he wrote, 'as long as God made bishops through canonical election, they were good and holy, but from the time when men and kings, rather than God, made them at their own command, they began to be such as you can see nowadays'; indeed, he laments how in his day episcopal elections were purely nominal, just 'a shadow', because in 'the kingdoms of tyrants . . . bishops are created at the prince's command'.⁷⁹ At the same time, the policy of the medieval English kings to expand the power of the English crown was buttressed by the expansion of the jurisdiction of Canterbury over Wales—as Hubert Walter stated in a letter to Pope Innocent III in 1199: 'If the barbarity of that wild and

76 H Pryce, *Native Law and the Church in Medieval Wales* (Oxford, 1993), 74: he cites Brewer et al (note 36), iv. 131–133 (quotation at 133).

77 Bartlett (note 3), 39–42.

78 *De rebus*, Bk I, ch III: Butler (note 8), 39–40: here he cites Augustine's *Sermons*.

79 Bartlett (note 3), 30–31 citing, respectively, *De Invectionibus*, 203–203, *Gemma ecclesiastica*, 338, and *Speculum ecclesiae*, 337.

unbridled nation had not been restrained by the censure of the church, wielded by the archbishop of Canterbury, to whom it is known that this race has until now been subject as being within his province, then this people would by continual or frequent rebellion have broken from their allegiance to the king, whereby the whole of England must have suffered disquietude'.⁸⁰ These two issues of freedom of episcopal election and defence of the Welsh dioceses against the reach of Canterbury, were both to dominate Gerald's own use of canon law as a litigant.

Gerald not only aspired to be bishop of St Davids: he wanted St Davids to be a metropolitanical see, the seat of an archbishop, independent of Canterbury. This was a very ancient claim.⁸¹ When the see fell vacant in 1198, the canons of St Davids favoured Gerald as next bishop.⁸² The Archbishop of Canterbury, Hubert Walter, did not: metropolitanical status was simply not possible, and Walter's policy was to appoint only Englishmen to Welsh sees—he argued in a letter to Pope Innocent III that Gerald should not be elected as Gerald was 'of the Welsh nation'. And so King John (who favoured Gerald) was dissuaded by the archbishop from confirming. Yet, the chapter of St Davids elected Gerald in 1199 on the understanding that he would seek consecration directly from the Pope and metropolitanical status for St Davids.⁸³

But a royal mandate ordered St Davids chapter to elect Geoffrey Henlaw; if it did not, the election would be dispensed with, and the archbishop consecrate Henlaw. The St Davids canons appealed to the Pope. The scene was set for a drama to rival that of Becket. In 1199 Gerald travelled to Rome with a canon and a vicar from St Davids cathedral. The papal court opened a hearing on 7 January 1200. Pope Innocent III (d. 1216) presided, a Bologna law alumnus; his relative Hugolinus (d. 1241) sat with him as judge, a Paris alumnus who became Pope Gregory IX. The Pope addressed Gerald as 'archbishop'; a good omen. Gerald put his case. Canterbury's envoy put his. The Pope decided to appoint a commission to try the validity of Gerald's election and the metropolitanical issue; the administration of St Davids, the Pope gave to Gerald. A win. But when back at St Davids, Gerald found a new election had already been held with St Dogmael's abbot elected; the English had collapsed the scrum.⁸⁴

80 *De invectionibus*, p 85; Bartlett (note 3), 49.

81 See, e.g., H Pryce, 'Gerald of Wales and the Welsh past', in Henley and McMullen (note 3), 19.

82 *De rebus*, Bk II, ch III: Butler (note 8), 68–69: Gerald explains how the canons of St Davids argued at the Lateran Council of 1179 that St Davids should become a metropolitanical see as 'their lawful due' and that judges be appointed as a commission to try the matter; but 'the business did not at that time go forward'.

83 Bartlett (note 3), 54.

84 W B Jones and E A Freeman, *The History and Antiquities of St David's* (1856), 286–290. Gerald had presented the Pope with a copy of his *Gemma ecclesiastica*.

Round two. Spring 1201: Gerald arrives back in Rome. Now the question for the Pope was which of the two elections prevailed: the earlier, of Gerald, or the later, of the abbot of St Dogmael's. Gerald argued that the abbot was disqualified as he was illiterate; the abbot excused himself from being tested. So the Pope deferred judgment until November 1203 when he would also hear argument on the metropolitan issue, if the majority of the St Davids chapter wanted this—which was in the circumstances unlikely. Gerald left Rome. The papal commissioners met several times in England, and at St Albans they judged against Gerald. Gerald thought the St Davids canons had given false evidence about the election and they no longer wanted to pursue the metropolitan issue. So Gerald appealed a third time to Rome. The Archbishop of Canterbury and Justiciar (senior royal judge) issued an order forbidding anyone from helping Gerald to leave England. Gerald escaped. Third and final round.⁸⁵

Gerald arrives in Rome in January 1203, the year in which he was declared to be 'an enemy of the realm' of England. Those against Gerald in court included Osbert (Archdeacon of Carmarthen), John Tynemouth (Walter's legal adviser), and a Welsh monk called Walwyn. The old question of the election was now re-opened. Gerald argued that the witnesses for the other side had been hired. Walwyn (whom Gerald had previously excommunicated) claimed Gerald had stolen a horse from him. Proceedings continued in this vein: back and forth. The Pope gave judgement: he quashed both elections (of Gerald and the abbot); ordered chapter to elect a new candidate; commissioned bishops in York Province to try the metropolitan issue; and appointed Gerald, again, as administrator of St Davids diocese during the vacancy. Gerald had an excellent court manner. He records how he then addressed the Pope before leaving court: 'Holy Father, I must now return to my country. I bid farewell to this court for ever'. The Pope replied: 'I hope not brother; what will become of the church of St Davids and its claims?'. Gerald: 'He who has quashed my election, has quenched that controversy too'. They parted amicably. Gerald left Rome, heavily in debt. At Bologna, the scholars refused to help. And so to France. John of Tynemouth warned his creditors of his arrival at Chatillon, and he was imprisoned briefly. On his return, there was a further round of chapter nominations—and eventually Geoffrey of Henlaw was appointed as bishop of St Davids.⁸⁶

In the proceedings at the papal court, Gerald had deployed three sorts of argument: historical, political and legal. First, he cited the ancient dignity of St Davids as seat of an archbishop, and the earlier attempt by Bishop Bernard of St Davids (1115–1148) to revive this. Second, he cited: the distinct

⁸⁵ Ibid, 290–291.

⁸⁶ Ibid, 291–295. When in Normandy, Gerald persuaded King John to defer one of the elections.

identity of the Welsh; the oppressive English treatment of Wales; and the support for the idea of the native Welsh rulers.⁸⁷ Third, Gerald deployed technical arguments from canon law and civil law; these Gerald sets out in detail in his legal work *De iure et statu Menevensis Ecclesiae* (The Law and Status of the Menevian Church) and *De invectionibus* (The Book of Invectives).⁸⁸ But that is another story. In any event, Gerald travelled—to Ireland, Rome (on pilgrimage), then to Lincoln for study, and he may have died in Hereford.

CONCLUSION

Since 1999, each year I give lectures on Anglican canon law at the University of Paris on their doctoral Gratianus Programme. Each year I tell the students that a Welshman has not lectured on canon law at Paris since the 1170s with Gerald. I have been saying this without knowing about just how much of a canonist Gerald was. Gerald the canonist. He was a student at a brand new law school at Paris, second only to Bologna—and his studies prepared the way for him to draw extensively on canon law in later life. He was a *magister* in canon law—and left us a fragment of his Paris lectures, on Gratian's *Decretum*, which tells us much about how canon law was studied and taught; and he considered further study at Bologna. His descriptions of his work as archiepiscopal legate and archdeacon of Brecon show us how he practised and enforced the canon law and of his ideal of reform in the clerical life. Gerald the champion of canon law: like Becket, Gerald was nurtured in the theocratic outlook of Gratian and so naturally considered that canon law trumped royal law. He practised this—excommunicating royal officials held no fear for him and his *De principis*, on the instruction of a ruler (and so critical of Henry II), is not only systematised on the model of Gratian's *Decretum* but makes ample use of Gratian and, more extensively, of Roman civil law as it applies to rulership and the limits on its exercise. Gerald's case at the papal court to confirm his election as Bishop of St Davids and to secure metropolitan status for St Davids unfolded with so many layers—Wales versus England; Church versus State; St Davids diocese versus Canterbury; Canterbury versus Rome. Gerald at the papal court certainly deserves further study at the Vatican Archives; likewise the arguments from canon and civil law which he deployed in his *De iure*. It was not, of course, until 1920 that the Church in Wales secured its independence from Canterbury and its status as a metropolitan province in the worldwide Anglican Communion.⁸⁹ Robert Bartlett, the scholar who in

87 Bartlett (note 3).

88 Butler (note 8), see e.g. *De invectionibus*, V.20.

89 For the longer history which led to this, see N Doe (ed), *A New History of the Church in Wales: Governance and Ministry, Theology and Society* (Cambridge, 2020).

recent years has worked so hard on Gerald, sums up the state of current scholarship: Gerald 'is remembered not as a vain and disgruntled clerical careerist but as a pioneering observer of the Celtic lands and peoples'.⁹⁰ To this we may add that Gerald was also a canonist from whom we learn much of studying, teaching, enforcing, championing, and litigating canon law in the Welsh and wider context. But above all, Gerald was a Welshman whose canonical outlook was set in a higher order: 'I do not think that on the Day of Direst Judgment any race other than the Welsh, or any other language, will give answer to the Supreme Judge of all for this small corner of the earth'.⁹¹

90 Bartlett (note 3).

91 *The Description of Wales*, Bk II, ch 10 (the last sentence); Thorpe (note 2), 274; this was on the basis that: 'The English are striving for power, the Welsh for freedom; the English are fighting for material gain . . . [and their] soldiers are hired mercenaries, the Welsh are defending the homeland'.