The Fall and the law in early Ireland

DAMIAN BRACKEN

The early Irish laws contain clerical elements that support legal provisions. In the more speculative material they are used in a highly creative way in discussions of legal principles. These ‘apocryphal accretions’ have been dismissed as late intrusions with little to tell us about the laws or their writers. However, some depend on patristic learning and others have clear Hiberno-Latin parallels. Their writers had some expertise in the theology on which they are based. By examining them in the context of Latin literature, their theological background and the clerical associations of their writers become obvious. They tell us a great deal about the sorts of people who wrote the laws and how ideas from the writings of the Fathers were transmitted to the laws.

Much of this material concerns the story of the Fall. The Fall was interpreted in a legalistic way from the earliest times to the ‘glacial legalism’ of Anselm of Canterbury. The punishments were seen as penalties for breaching the contractual bonds of society and could never be relaxed. The lawyers found this interesting. If Adam lost paradise forever and Lucifer’s punishment was unrelenting because of broken contracts, then all contracts must be honoured, even disadvantageous ones. Adam was expelled from the locus amoenissimus just for eating the forbidden fruit. The severity of the penalty was out of proportion to the offence, but Adam knew that his actions were wrong. The legists gave this precedent when warning that full awareness of a crime brought full culpability. Adam’s punishment also showed that if someone knowingly pays too much, the contract is still binding. The unwitting offender may have his penalty reduced, but Adam’s punishment showed that ignorance of the severity of the fine gave no grounds for leniency. The Fall and its binding penalties also support the rule that legal obligations have to be met and legal principles respected. Patristic treatments of Adam’s downfall and the devil’s role appear when the laws determine responsibility and apportion blame. Some Latin sentences in the laws use terms that had acquired a very specialised theological meaning. Furthermore, a short report in a biblical commentary indicates that Banbán, the learned cleric who had a hand in writing a vernacular law, taught on the Fall. Therefore, clerics with an interest in the explanations of the opening of Genesis were involved in writing the laws of early Ireland.

Dubthach’s Poem and the Fall

The introduction to the Senchas Már is unusual in the amount of recent attention it has attracted. The complex Old Irish poem that forms the centre-piece is a Christian justification of
capital punishment. It is an appeal for strong law and for the principle that justice should not be a matter of private vengeance, but belong in the public domain of the law. The poet or poets address a difficult question: how should the judicature of a Christian society respond to the New Testament counsel of forgiveness? The poem contrasts Old Testament talion law with New Testament forbearance and shows that the Christianisation of the law does not mean indiscriminate forgiveness. The law of the Old Testament and pre-Christian Ireland was seen as a law of the flesh, ‘an eye for an eye’. Christian law is interested not only in punishment, but in the motivation of the punisher who should be concerned with the fate of the criminal. The Christian is not to be governed by an external law that applies to the deeds of the flesh, but by an inner law that governs the conscience and motivation, the actions of the homo interior. This is brought home in the conclusion for the offender, Núada, is put to death out of concern for his soul (Breth ar neim Núada 7 ni ar bás berar ‘Núada is sentenced for the sake of heaven and not for the sake of death’). The prose piece at the end says, Ro-hort(a) in bibdu ina chinaid do-roilged dia hanmain ‘The criminal was killed for his crime and his soul was forgiven’. At first sight this looks like a hedge, but it can be read as an approval of capital punishment in a Christian context. Physical punishment is inflicted and the criminal undergoes a death of the body and so is saved from the spiritual death of damnation.

Some early Irish writers saw native law as talion law. In their perception of the past, the offender paid with his life for the crime of murder in pre-Christian times. The Christian poet inspired by the Holy Spirit also passes a capital sentence. Although there are biblical justifications of capital punishment in a Christian context, the poet gives examples of what can be seen as death penalties from patristic interpretations of the Fall and this reveals the depth of his theological knowledge. Verse xiv refers to the immortality of the prelapsarian Adam. His ‘perpetual renewal’ (bithmiagud) was revoked and this punishment continued after Christ’s mission for man’s mortal nature is the result of Adam’s sin. Forgiveness and redemption are possible, but only when punishment has been inflicted and ‘the death of all has taken place’.

In verse iv the poet gives examples of another death sentence that is fully consonant with Christianity and of an offence that cannot be forgiven, even in Christian times.

Ar ní-dlig demun dilgud in aimsir im-ruimdethar. Imthá samlaid duine dia- nDía-dílathar, is díles apthain, apthain ad-anai … ‘For the devil is not entitled to forgiveness when he sins. Likewise a person from whom God is expelled is liable to death, death that burns …’

There is a long tradition that characterises damnation as a second death (the ‘death that burns’). However, the perpetual damnation of the devil is more complex. Christianity preaches forgiveness, but not an automatic release from physical chastisement since, the Fathers argued, salutary punishment can save the sinner. The devil’s fall is an example of an offence that continues to be
punished under Christianity. But the devil's sin is unique since it can never be forgiven. The poet understood the theological explanation for this since he applies it in a highly imaginative way to support legal points. It can be seen as a justification of capital punishment. A purpose of the pseudo-historical introduction to the Senchas Már is to reconcile idealised native law with Christianity. Satan's sin was judged to be unforgivable and so his punishment was eternal and this did not change in New Testament times. What had been established practice is approved by Christianity. When the poet applies this to his own context, he can conclude that perceived native legal traditions are valid after the coming of Christianity. The devil's punishment also supports the principle that the full rigours of the law should be applied at all times. Duhtribh's poem is a good example of the legists' practical use of the legend of the Fall.

Ecclesiastical writers look at the Fall when discussing fundamental questions like free will and the perfection of free will, redemption and the origin of evil. Their legalistic approach does not change even in the eleventh and twelfth centuries when the sources continue to insist that any treatment of the Redemption must respect the 'rights' of the devil. The lawyers use the Fall for very different reasons, but they found this legalistic reasoning amenable and knew the theologians' conclusions. They understood the principles behind these conclusions and wrote them into their laws. Reasons for the devil's unpardonable fall are one example. These reasons inform the poem and are found in a later comment on the poem. They were developed as a recoil against early Christian ideas which held that creation was resolving toward the restoration of all things to their primal condition. Redemption was therefore possible for all, even the worst.

Of early writers, Origen is most associated with the belief that the devil and his satellites could be forgiven. Despite condemnations, he was popular with early Irish writers. By the twelfth century, parts of De principiis, his most influential work, were being translated – presumably by way of Rufinus – into the vernacular. A section is found in a homily in Leabhar Breac. Through Jerome's attacks they were familiar with his belief that shared rational and spiritual natures united the fates of man and angels and that redemption was possible for both. Pieces attributed to the wayward, see Ep. XCVIII, PL 33, 321–47. F.L. Cross and E.A. Donaldson, The Oxford dictionary of the Christian Church (Oxford 1997), s.v. 'apocatastasis'. Origen takes this view in De principiis (P. Koetschau, Origenes Werke v, De principiis, Die griechischen christlichen Schriftsteller (Leipzig 1913), pp 81–2). On Insular knowledge of Origen, see C. Bammel, 'Insular manuscripts of Origen in the Carolingian Empire', in G. Jondorf and D.N. Dumville (ed.), France and the British Isles in the Middle Ages and Renaissance (Woodbridge 1991), pp 1–16. Augustine, Liber operis imperfecti contra Julianum V, 47: 'Nisi forte dices, etiam diabolum voluerit a bono lapsum, si voluerit, et quando voluerit, in bonum quod deseruit reversurum; et Origenis nobis instaurabis errorem'. De ciuitate dei XLI, 17, CCSL 48, 783; De haeresibus XXXIV, PL 42, 33. Jerome, Ep. XCVIII, PL 22, 762 and Ep. CXXIV, PL 22, 1066–2, on Origen's De princ. 'Sicque permescit omnia, ut de Archangelo possit diabolus fieri, et rursus diabolus in Angelum revertatur'. 'Ar ind uli mhirbull dorigne Dia o thús domain is ar desmhirrcét dorigne iat ϲ. i int doróine na mhirbul móra eil co féthad comós di cau achievement a fól ìm mhiathgin ϲ hi fín. Tabart tra dian ϲoí ϲ mhirbhl gnáthbece ccech lathì ϲ. mar chomólsdu ar desmbhirrcét in slnne usdíre i feoil ϲ in cnámu nan anmanda ϲ mar fòis tra in talum ϲn in annandais ϲ i toirthi ϲ i cnámu, ϲ in cnámu i toirthi ϲ int usír i clochaib ϲ i tinedib ϲ a tseáin in usdíre; ocsus amal ϲusus toirthi in talmain ϲ na ϲnd i feoil ϲ in feoil ϲ i cnámu nan anmanda'. E. Hogan (ed. and trans.), Irish Nennius from L. na hUidre and bònisce and legends from L. Breac, Todd Lecture Series 4 (Dublin 1899), pp 24–5 = De principiis IV, 4, 6 (31), ed. Koetschau, Origenes Werke v, 337. 'La 'natura razionale' costituiscato elemento comune che unitisce gli angeli agli uomini; per questo Origen pone gli angeli molto vicini agli uomini ... Esistono angeli che possiedono una natura umana, come Giovanni il Battista, R. Lavatori, Gli angeli (Genoa 1991), p. 78 with references. Jerome (Ep. LXXIII, PL 22, 677) reports that in his commentary on Genesis, Origen argued that beings of exemplary holiness, like Melchisedek, approached an angelic state. The Reference Bible quotes this twice from Ep. LXXIII (BN lat. 11661, fol. 251 and 1961); also the Hiberno–Latin Liber de ortu et obitu patriarcharum, CCSL 108E, 5–6; see also a gloss in Liber Hymnorum, ed. J.H. Bernard and R. Atkinson, HBS 13–14 (London 1898), i, 27: ‘Secundum autem Augustinum et Origenem, non
Origen – and which have some association with his writings – describe man’s spiritual nature as close to the divine (Godlike in its eternal quality and characteristics,¹³ and sharing divine attributes).¹⁴ These were known to the early Irish, as was Jerome’s rebuttal. He asserts in Ep. CXXVI that Origen believed that the soul, angels and demons were manifestations of the same spiritual essence.¹⁵ This is quoted in the Collectio Canonom Hibernensis LXV, 1 which ends, Ego vero non dico, animam hominis de Deo esse, quia Deus solus immortalis est, et immutabilis et incorruptibilis et inpassibilis.¹⁶ Despite the passing reference to Origen, the writer may have had him in his sights for Origen had written that ‘our soul, invisible, incorporeal, incorruptible, and immortal … is made “according to the image of God”’.¹⁷ Jerome’s list of Origen’s ‘heresies’¹⁸ is found in Sedulius Scottus’ Collectaneum⁹ including criticism of his ideas on the angels’ redemption.¹⁰ One of the earliest, objective considerations of the problem of the devil’s irreversible fall is the work of an Irish writer. Augustinus Hibernicus wrote De mirabilibus sacrae scripturae in 655. He discusses the problem in Book I, 2, De rationabilium naturarum dissimili peccato ‘Of the different sin of the reasoning natures’.¹⁹ Augustinus Hibernicus says that humans had not fallen from their ‘highest level’. The protoplasts had a form of immortality in paradise but not the innate immortality of the blessed in heaven. Unlike the purely spiritual angels who occupied heaven, they were settled a rung lower in paradise and so ‘found the door of penance open more easily’ after their sin.²² There is a more complicated reason:

sui Creatoris confirmatus), he would persist in that state where he had been established. For that reason, once fallen, he, who had tumbled from the highest order of his state, could in no way be called back again.23

He follows Augustine here. All creatures were created good, but mutable.24 Despite their initial perfection, the angels’ nature could change and they could fall. To be confirmed in their good nature, rational creatures had to make a choice between good and evil. Those who chose good would be settled forever in their beatified state.25 The corollary is also true: those who chose evil are set immovably in their fallen state and can never be forgiven or motivated to repent. In many of the patristic treatments the verb confirmare is used.26 Here it means ‘to confirm unshakeably in grace’.27 Augustinus Hibernicus’ use of confirmare shows that he had these ideas in mind. This does not mean that the beatified have lost their free will, but that their perfected choice can be directed only to good.28 The fallen angels had lost this freedom from the power of erroneous choice and ‘the practical exercise of freedom in the preservation of justice’.29 Like Augustinus Hibernicus, the late seventh-century Liber de ordinare creaturarum (whose author was influenced by De mirabilibus) says that the perfected will sustained by contemplation of the heavenly creator (per contemplationem superi conditoris) cannot do or wish anything evil.30 This legalistic treatment of the concept of freedom interested the lawyers.

The Old Irish law on contract, Di Astud Chor, has been edited by Dr Neil McLeod.31 The lawyers who wrote it understood the theological position that Lucifer’s fall was irreversible and cite it in defence of the principle that contracts are indissoluble.

23 PL 35, 2153. 24 In De natura et gratia, PL 44, 257, Augustine argues that evil is an abstract quality, whereas goodness is a positive force. Also De natura boni contra Manichaeos, PL 42, 356–7, 363–4. ‘Nulla creatura Dei mala, sed ea male uti est malum: ... Malum est enim male uti bonum’ (162); Contra epistolam Manichaei quae vocat fundamentum XXXIV, PL 42, 199; Gennadius, De ecclesiasticis dogmatibus LX, PL 58, 995. 25 H. Freytag, Kommentar zur frühmittelhochdeutschen summula theologiae, Medium Aevum Philologische Studien 19 (Munich 1970), pp 55, 63 and references there; B. J. Bamberger, Fallen Angels (Philadelphia 1952), pp 202–6. 26 According to Gregory, Moralia in Job XXVII, 29, CCSL 143B, 1381, caelum in Gn 1:1 refers to the mutable perfection of the angels and subsequent references to firmamentum to their fixed blessedness (he has in mind a correlation between firmamentum and confirmare or firmare); repeated in Wicbod, Quaestiones super Genesim, PL 91, 245–6. Similar ideas in Isidore, Sententiae PL 83, 555–6 and Etymologiae VII, 3, 30; Gennadius, De ecclesiasticis dogmatibus LXII, PL 88, 996. 27 Dictionary of medieval Latin from British sources, s.v. confirmare, used in this sense ‘usually with reference to angels’. 28 É. Gilson, History of Christian philosophy in the middle ages (New York 1955), pp 137–8; A. A. Maurer, Medieval philosophy (New York 1962), pp 57–8. 29 Southern, Saint Anselm: a portrait in a landscape (Cambridge 1990), pp 218–19 and idem as at note 1 above, pp 104–5. 30 M. C. Díaz y Díaz, Liber de ordine creaturarum: un anónimo irlandés del siglo VII, Monografías de la Universidad de Santiago de Compostella 10 (Santiago de Compostella 1972) XV, De uita future. ‘In eo autem quod pries dixerat: “erunt sicut angelis in caelo” [Mt 22:30; Mk 12:25], hoc iuntendum est, quod sicut angelis prius per naturam motabiles facti – quod probatum est in his qui ceciderunt – nunc uero inmotabiles, ut peccare non metuant nec possint, per dei contemplationem effecti sunt, sic homines et ipsis per naturam motabiles, quod in Adam et eius semine exploratum est: creati ergo post resurrectionem conditoris contemplatione inmotabiles effecti nec desiderabunt peccare nec poterunt. Omnis enim rationabilis creatura, quae dei contemplatione reficiatur, peccare non potest, non quod liberare uoluntatis arbitrium uti carnem et homines non habeant, (omne enim quod uolunt in illa uita hoc faciunt) sed uelle aliquid quod bonum non sit nequaquam possunt’. Augustine, De ciuitate dei, X, 16, says that the angels are held in their blessed state by contemplating God. 31 Early Irish contract law, Sydney Series in Celtic Studies 1 (Sydney 1992). See Kelly, A guide to early Irish law (Dublin, 1988), p 277. 32 Ed. and trans., McLeod, pp 138–9. CHI 990.13–16.
There is an associated Latin sentence, followed by a rendering into the vernacular, that may be contemporary with the Old Irish text.

The angel was thrown out of heaven and never attained his liberty (libertatem); so too Adam when expelled from paradise, was thrown out in the flesh, he never returned there. That is, an angel cannot return after his banishment once and for all; that is, Adam, moreover, was not allowed back into paradise (i parrus) again.33

The word libertas shows the writer's depth of understanding of theories of the devil's irreversible fall. He understood the nature of the freedom of the elect; because he uses the word with reference to the particular freedom unattainable by the devil, he understood the concept of the perfecting of that freedom.34 The 'freedom' which Lucifer never reached was the beatification of the steadfast angels in their goodness. The writer was therefore a cleric with a knowledge of the finer points of the theology of the Fall. There is more evidence of theological expertise in this section of Di Astud Chor.

Augustinus Hibernicus, in the extract above, distinguishes between paradisus spirituum or caelum, the abode of the blessed from which Lucifer fell, and the paradisus corporum (or simple paradisus)35 of Adam and Eve.36 Man fell from paradisus corporum and could be redeemed: 'But if he had fallen from there [paradisus spirituum] like the angel, he would never have been recalled to it'.36a What may appear to be a mere refinement was part of the attempt to distinguish the devil's sin from Adam's and to explain Adam's redemption and the devil's perpetual damnation. This distinction between the devil's fall de caelo and Adam's de paradiso is found in Irish Latin texts37 and is made in this section of Di Astud Chor. The law concerns the indissolubility of contracts, a subject discussed often in the laws.38 Lucifer and the protoplasts broke the terms of their

33 Angelus de caelo iactus est, nuncam ad libertatem suam peruenit. Item adam de paradiso expulsus est, iactus carnaliter, nuncum reversus est. I. ní rolegad adhumh, dano, i parrus dorigise'. McLeod, 138–9; CCH 590.16–39; O Corriain, Breacnach and Brean, 'The laws of the Irish', Peritia 3 (1984), pp 382–438 ar pp 432–5, §§89, 56 and 86. 34 Catechesis Celtsica refers to the devil's possession of free will when he sinned: 'Diabolus enim per uitium suum, quod liberum arbitrium adeptus est, superbe elatus, de archangelo in servum fugitium et de celo in infernum deiectus est ', A. Wilmart, Analecta reginensia: extraits des manuscrits latins de la Reine Christine conservés au Vatican, Studi e Testi 59 (Vatican 1933), p. 41. Also William of Champeaux, Sententiae vel quaestiones XLVII: iii, 'Quod liberum arbitrium depressum est in angelo et in homine: ... Confirmatum vero dicitur liberum arbitrium in angelis qui in bono perseverunt ...', G. Lefèvre, Les variations de Guillaume de Champeaux et la Question des UniversaIes (Lille 1898), pp 50–4. 35 Augustine discusses this distinction in De genesi ad litteram VIII, 1: 'Non ignoro de paradiso multos multa dixisse', PL 34, 371–2, repeated in part in Ps.-Bede's commentary on Genesis, PL 91, 206. 36 Augustinus Hibernicus continues, 'Man, however, still placed on earth for the purpose of regenerating and assigned to eat food, would be changed to a higher, better life, a spiritual life without death, if, for as long as he was in this state, he had prevailed in keeping the commandment. But sin snatched him away before reaching that higher state. Therefore he immediately fell down from that lower state of his ....' Latin text, PL 35, 2153. These ideas are followed by Ps.-Isidore in De ordine creaturarum, as at note 30 above, pp 136–8. 36a PL 35, 2153. 37 Liber de ordine creaturarum X ('On paradise, the abode of the first humans'); 'And so it came to pass that just as the apostate angel and his followers were thrown down from the height of serenity in their paradise and were assigned to the gloomy place of this atmosphere, so too man was thrust down from the earthly blessedness of his paradise to the habitation of this accursed earth'. Latin text, Díaz y Díaz, p. 162. A commentary on Hebrews that circulated with Pelagius' commentary on the Pauline Epistles reads, '... quando lex data est Adam praecursus precemptione deique diabolus in superfam se elevans ictus unus a paradiso alius e caelum'. H. Zimmer, Pelagius in Island: Texte und Untersuchungen zur patristischen Literatur (Berlin 1901), p. 423. PLS 4, 1650. A close parallel for the law is found in CCHXXXVII. 34: 'Superbus angelus de caelo ictus est; Adam post peccatum de paradiso in terram ictus est'. 38 Córsus Béscnai names the three events which bring disharmony to society. These are times of plague, war, and the dissolution of contracts: 'Atait teora aimsera imbi bailethach in bith rechuairt duinebad. tuarathla coctha fuaslucad cor mbe', CCH 350.26–27; 522.18–9.
contracts and this brought binding penalties. However, man was forgiven so the legislist was left
with the task of showing that, despite forgiveness, man suffered lasting penalties. This is why the
law says that man was expelled de paradiso for this penalty was permanent. It was enforced despite
Adam's sorrow for he had to suffer death before he could be redeemed to heaven. Adam's sor
row for he had to suffer death before he could be redeemed to heaven. With the task of showing that, despite forgiveness, man suffered lasting penalties. This is why the
law says that man was expelled de paradiso for this penalty was permanent. It was enforced despite
Adam's sorrow for he had to suffer death before he could be redeemed to heaven. Adam's sorrow for he had to suffer death before he could be redeemed to heaven.

The Fall appears in the laws when the question of awareness is discussed. Awareness of the
nature of the exchange was important when deciding if a contract can be rescinded or the loss
recovered. The defect in a bad contract is termed dispart or derbdíupart. Dispart 'clear overpayment'
applies when the defect is concealed from the disadvantaged party. Derbdíupart 'clear overpayment'
is where it is known before contracting. Both the Senchas Már and Di Astud Chor give Adam's fall
as an example of derbdíupart: he exchanged humanity's immortality and 'the whole world died for
one apple'. The exchange was unequal, but Adam was aware of this and therefore his contract
was valid. The lawyer understood the doctrine that mankind's mortality is the result of Adam's
sin and a gloss on aenuball reinforces the point. The devil and his rights appear in Di Astud
Chor when discussing dispart. A concealed overpayment was open to challenge even if found long
after contracting. 'For the world has been released from the mouth of the devil though it wasted
away for a long time because of him' (Ar do-raithchecht in bith a béláid diabhal cia ro-ded ré clai
laith). The meaning is not clear. A tentative explanation is that the defect in the devil's hold
became apparent when Christ came into the world. The devil, in extending his rightful hold over
humanity, asserted himself over the innocent Christ. In so doing, he broke his contract and
invalidated his hold for he 'overstepped the bounds of the rule and forfeited his claim to justice'.
This and the other legalistic interpretations of the Fall and its consequences appealed to the
lawyers for it allowed them to cite it in support of their provisions.

There remains the question of how much the author of Dubhrach's poem understood of this
when he wrote that 'the devil is not entitled to forgiveness when he sins'. If his purpose is to
present a series of punishments which in many sense is not likely that he was aware not simply of
the theological principle but understood the reasoning behind it. The poem has a later, lengthy
comment which gives some of the theological background.

\textit{Cid fiodra co tabhar logud don duine o dorigne aimhais, 7 nach tabair logud don angél o darigné imarbas, cia nothiad re aithrighe? Is e in fath fodera: corp aibrisc daenda ata iman duine, 7 ata ic dia sosad is aitne na in sosad a raibh. Corp semide glan}

\textsuperscript{39} Isidore discusses the transition from the \textit{vita corporalis paradisi} to the \textit{vita paradisi caelestis} without the necessity for an intervening death (\textit{sine media morte}) had man not sinned in \textit{Differentiarum II}, 12, PL 83, 75. See Bracken, as in note 2 above, pp 177–9.

\textsuperscript{40} At cir Adam adaman / Do-rochta ina mignímeta / \textit{Ni ra-n-íc acobhar / Rob aithirgech tar taim} McLeod, as at note 31, pp 128–9.

\textsuperscript{41} This is based on McLeod, ibid., pp 43–6; Kelly, Guide, p. 160.

\textsuperscript{42} alce na stiuier cuir bel [la Féini] amail adrodad Adam in derbdísair, atbath in bith uile ar a aenubaill … in the same way, oral contracts are bound in Irish law, as Adam was bound in his clear overpayment: the whole world died for one apple'. 


\textsuperscript{44} \textit{… corpelesue in bith uile arn aenubail…'}, \textit{CH} 352–7.

\textsuperscript{45} McLeod, note 31, pp 184–5.

\textsuperscript{46} Southern, as at note 1 above, pp 93–9; at p. 94.
immorro ata imon aingel, 7 nochon uil ic dia sosad is airde na in sosad a roibi, 7 is uime na tard logad do o dorigne imarbus cia no tisad ria aithrigi.

What is the reason that forgiveness is granted to the man when he has committed a sin, provided that he performs repentance, and that it is not granted to the angel when he has committed transgression, even though he undertakes repentance? This is the reason responsible: it is a mortal, perishable body that is around the man, and God has a station higher than the station in which he can be. However, it is an insubstantial, pure body that is around the angel and God does not have a station higher than the station in which he can be, and it is for that he has not granted forgiveness to him when he has committed transgression, even though he undertakes repentance.\textsuperscript{47}

The commentator recognised that verse iv depends on the theological principle that man’s inferior status – his ‘mortal perishable body’ as opposed to the pure spirit of the angel and man’s potential for promotion to a higher station, \textit{sosad is airde}, – was counted in his favour. He seems to hold out the possibility of repentance for Satan which suggests ignorance of the detail that the fallen angels could never be motivated to seek forgiveness. The author of \textit{De ordine creaturarum} certainly knew that this inability to repent was the logical conclusion to the orthodox theories that confirmed the angels in their fallen nature. Yet having said so, he concludes ‘nor, if they did penance, would they be at all able to receive forgiveness’.\textsuperscript{48} The comment is a masterful reduction to essentials of theological points, but it is not the work of the commentator. He was translating material encountered in Hiberno-Latin sources. It shows how close the worlds of Latin and vernacular legal learning were in early Ireland.

Some of the closest Latin parallels for the comment in Insular literature\textsuperscript{49} are found in the Reference Bible. This gives the same reasons in the same format in the commentary on Genesis\textsuperscript{49a} and in a shorter version in the commentary on the Song of Solomon. I give here the second example (BN lat. 11561, fol. 72 r–v; Munich, Staatsbibl., Clm 14276 (+ 14277) fol. 115v–116r):

\begin{quote}
\end{quote}

\textsuperscript{47} \textit{CIH} 340.36–341.2. McCone, as at note 2 above, p. 7. \textsuperscript{48} ‘… the punishment was made irremediably. And so they do not and cannot merit remission or redemption because they fell from the highest state of their order and therefore they had nowhere else whither they might be recalled again after their sin was forgiven. For by transgression of the natural good in which they were and of the law of the Lord in which they were founded they fouled all their blessedness in which they had been placed. As a result, they neither desire to do penance nor, if they did penance, would they be at all able to receive forgiveness’. Latin text, as at note 30 above, p. 136. \textsuperscript{49} \textit{Prebatrum (sic) de multorium (sic) exemplaribus}: ‘Why were men redeemed from the sin of the first man and not the angels, who fell through pride? That is because the Lord knew the frame of humankind, which was frail, as he says in the psalm: For he knows our frame, he remembers that we are dust. The angels had no frailty created in them. Therefore they are not redeemed, as Pelagius said’. Latin text, \textit{CCSL} 108B, pp 168–9. The reference to the transmission of Adam’s sin makes it unlikely that Pelagius is the source. \textit{Also the Vita Severani}, in W.M. Metcalfe, \textit{Prudentius: Lives of the Scottish saints}, 3 vols. (Paisley 1886) ii, p. 126; W.F. Skene, \textit{Chronicles of the Picts, Chronicles of the Scott, and other early memorials of Scottish history} (Edinburgh 1867), p. 418. See M. Herbert and P. Ó Ríain, \textit{’Betha Adamnáin’: the Irish Life of Adamnán}, ITS 54 (Dublin 1988), pp 34–5. I am grateful to Professor Charles D. Wright for discussion of the hagiographic material. \textsuperscript{49a} The Genesis comment can be read in the Appendix.
Why should the devil perish for eternity while man is redeemed? The reason why the devil perished is because he did not have to bear the infirmity of the flesh and never hoped for anything higher than the place from which he fell and he is also the originator of evil. Not so man. Man, who must be brought back to that higher place and who had something of the weakness of the substance of the flesh in committing the fault, is however redeemed. Others say the devil could not be restored because he fell in his own malice. The malice of another, however, laid man low.

The legal comment clearly derives from such a source. The poem and comment raise what appears at first sight to be an irrelevant theological problem, but we have seen how the lawyers gave the Fall and the devil’s fate as precedents for the indissolubility of contracts. They saw the Fall as a justification for capital punishment, for applying the full force of the law and a support for strong law. The comment is significant because it is one of the longest continuous sections found in the laws with a Latin source and, therefore, an important pointer to those writing the laws.

The commentator read exegetical literature like the Reference Bible. If a lawyer, he was sufficiently interested in theories of the Fall to have searched out this information and written it in the law text in recognition of the poem’s theological sophistication. It is more likely that he was a learned cleric and such theological niceties were part of his literary environment. Whichever is true, the patristic sources of the Latin comment informed the milieu in which the lawyers worked. The Genesis comment names Ambrose and Augustine. The Reference Bible supplies many accurate references, but neither Ambrose nor Augustine discuss the irreversible fall of the devil in the formulaic manner of the comment.

Augustinus Hibernicus leads us to the source. In Book I, 2, he says: ‘The angel … had not the ability for change to a higher state’ (ad excellentiorem statum). (This is close to sosad is airde in the legal comment). The same point is made in the Genesis section of the Reference Bible: Item diabolus non habuit ex celsiorem locum ubi sperauisset ascender e. The compilers of the Reference Bible may well depend on Augustinus Hibernicus here. Gregory the Great has not been numbered among Augustinus Hibernicus’ sources, but his words at the beginning of I, 2 (… duas rationes,
unam in spirituali, alteram in corporali instituit creator naturas. Angelorum videlicet et hominum ...) may well be inspired by Gregory's Moralia in Iob IV, 3. Duas uero ad intelligendum se creaturas fecerat, angelicam uidelicet et humanam ... Here Gregory discusses man's redemption and the devil's perpetual damnation and this is the source of the comment in the Reference Bible. Part of his argument runs [Diabolus] uero nil infirmum ex carne gestavit. This is followed in the Reference Bible. Ideo diabolus perit quia nihil infirmum de carne gestavit et nihil altius speravit quam unde corrupt. The Reference Bible repeats the significance of the 'higher place' when it considers man's sin: Homo uero redemitur qui eo altius debuit reduci et qui in perpetratione culpa ex infirmitate carnalis materie alicujus habuit. This is clearly derived from the Moralia. Misterus ergo creator ut redimeret, illam ad se debuit reducere quam in perpetuatione culpa ex infirmitate alicujus constat habuisse, eo altius debuit apostatam angelum repellere quo cum a persistenti fortitudine corrupt, nil infirmum ex carne gestavit. Gregory's point that Lucifer's fall was his own responsibility, Est adhuc aliud quo et perditum homo reparari debuit et superbiens spiritus reparari non posse quia nimium angelus sua malitia cecidit, hominem uero aliena prostratuit is recast in similar terms in the Reference Bible: Ideo diabolus reparari non possit quia sua propria malicia caecidit. Hominem uero aliena malicia prostratuat. The Latin comment therefore comes from Gregory the Great and part of the Genesis commentary reflects the thought of Augustinus Hibernicus.

Augustinus Hibernicus was not the immediate source of the legal comment, but his work on the Fall continued to be influential, especially through Alcuin of York. Alcuin based sections of his Interrogationes et responsiones in Genesis (and of the Quaestiones de trinitate et de Genesi) on the Irish Augustine and he is quoted by Hincmar of Reims,57 Angelom of Luxeuil,58 the Glossa Ordinaria,59 an interpolation in the Elucidarium by Honorius Augustodunensis60 and Ælfric in his translation of Alcuin's work.61 The problem posed by the downfall of the devil was discussed at the end of the eleventh century62 and into the Scholastic period.63 It was a long-lived theme in these sources and equally so in the laws. A good example is found in late legal collectanea. Si diabolus existit in corpore humano, datur edibie legitimam defension: oir da mbeth in diabal a corp daena, cetaithi do a ditin, Si diabolus existit in corpore humano, datur edibie legitimam defension: oir da mbeth in diabal a corp daena, cetaithi do a ditin. The legist understood that man's inferior nature was the reason for his forgiveness and the devil's superiority made his sin inexcusable.

Bretha Étgid and Gregory the Great

Bretha Étgid, Judgments of Inadvertence, concerns crimes that are not the result of malicious intent, but those events where injury or death are caused by carelessness or bad luck. The seriousness of the offence and the fines are determined by the motivation of the wrongdoer. The late Old Irish introduction deals with the principles of the law. It gives examples of serious crimes that are not matched by an equally violent intent; Cú Chulainn's killing of his son Conlae is one. The murder of one so closely related was a serious crime. However, Cú Chulainn was unaware that the boy was his son. His ignorance freed him of the charge of *fingal* 'kin-slaying' and his penalty was therefore halved. The introduction enumerates the types of *étged* 'negligence'. The third and fourth types concern the first 'crime', the fall of Adam and Eve.

When is *étged* threefold? that is *corde*, that is from the heart; *ore*, that is from the mouth; *opere*, that is from the deed; that is from thought and from word and from deed.

When is it fourfold? Four things support crime: suggesting and consent; boldness and excuse. Suggesting by the serpent to Eve and Eve's consenting to it, and Adam's consenting to them. Boldness, excuse; that is a bold excuse is made by them, their saying that what they had committed is not a crime while they had knowledge of the crime they were committing.

It is evident from this that if a person has knowledge of the crime, even though they are ignorant of the *énice*-fine, that ignorance is subject to full fine.

This comes from Augustine and Gregory the Great. But it is more that an unfocused patristic intrusion. The legist must have understood the principles behind it to have interpreted it and applied it to the law as he did. These principles were fundamental to the Christian understanding of law, the question of guilt and the necessity for punishment. The clerical learning of the legist

and his ability to relate theology to vernacular law will be revealed by examining these short enumerations in their wider Hiberno-Latin and patristic contexts.

Patristic attitudes to law and how the Christian should respond to law are found in exegesis on the Sermon on the Mount where Christ claims to fulfil the law, not to abolish it (Mt 5:17). The old law applied to actions, the deeds of the flesh. Now it should govern intention and motivation. Quotiting the Old Testament, ‘You shall not commit adultery’ (Ex 20:14), Christ applies this prohibition to the conscience for ‘everyone who looks at a woman lustfully has already committed adultery with her in his heart’ (Mt 5:27). The command ‘You shall not kill’ (Ex 20:13) is internalised and applied to the emotion of anger (Mt 5:21).

Augustine’s De sermone domini in monte is the touchstone of medieval exegesis on Matthew 5. In his comment on Mt 5:28, Augustine shows that the New Testament concentration on motivation is not an innovation but the fulfilment of the old law by looking at the very first sin, the sin of Adam and Eve. He says that sin is not a matter of deed, but also of motivation. The disobeying of the command not to eat of the tree (Gn 3:3) was not simply the act itself. It began when the protoplasts consented to temptation; the sin began in the mind and manifested itself in action. Augustine proposes three steps from motivation to deed to show that a sinful action is a manifestation of a sinful disposition: suggestion [or urging or temptation] of a wrongful act, then pleasure and finally consent. He applies this schema to Adam and Eve’s fall: the serpent suggested, Eve took pleasure, and the man consented. This is repeated in the Matthean commentary in Munich, Clm 6233 (fol. 19r-6; 92v–93r) in Sedulius Scottus’ Collectaneum in Matheum (Vienna, Nationalbibliothek, MS 740, fol. 39v–40v) and in the commentary published under Bede’s name in the Patrologia Latina. All are said to exhibit affinities with Hiberno-Latin literature. All incorporate Jerome’s discussion on the difference between inner temptation and real experience, propassio and passio, from his commentary on Matthew.

In a carefully structured argument, Augustine pursues this theme in De sermone domini in monte I,12,33–36 and follows the triad of suggestion, pleasure and consent with two more triads. The three stages of sinning are compared to the three degrees of the gravity of a sin: sin committed in the heart, sin committed in deed and sin that has become habitual, ingrained in the nature of the sinner. These three degrees with the Old Testament sin that brought death into the world are balanced by three New Testament examples of resurrection. Augustine interprets the reanimation Jairus’ daughter, the widow’s son and Lazarus as follows:


Therefore, just as sin is reached in three stages – by suggestion, pleasure and consent – so there are three distinctions in that same sin – sin in the heart, in deed and habitual sin, just like the three deaths; the first as though in the home, that is when consent in the heart is given to lust; the second as though the one carried just outside the door, when assent becomes deed; the third just as the one now rotting in the grave, when the mind is oppressed by the weight of bad habit as by the mound of earth. Whoever reads the Gospel knows that the Lord revived these three types of the dead … when he says in one place: ‘Girl, arise’ (Mk 5:41); in another: ‘Young man, I say to you, arise’ (Lk 7:14); in another he … ‘cried with a loud voice, “Lazarus, come out”’ (Jn 11:43).

Gregory the Great found these enumerations useful and employed them often. In the *Moralia in Iob*, however, the triad of suggestion, pleasure and consent is expanded into a tetrad to include a further stage of denying the deed through boldness, but the subsequent triads are retained.

Quattuor quippe modis peccatum perpetratur in corde, quattuor consummatur in opere. In corde namque suggestione, delectatione, consensu et defensionis audacia perpetratur. Fit enim suggestio per aduersarium, delectatio per carnem, consensus per spiritum, defensionis audacia per elationem … Unde et illam primi hominis rectitudinem antiquus hostis histr quattuor ictibus fregit. Nam serpens suavis, Eu delectata est, Adam consensit, qui etiam requisitus, confiteri culpam per audaciam noluit.

Now sin is committed in the heart in four ways and consummated in deed in four ways; for in the heart it is perpetrated by temptation, pleasure, consent and boldness of denial. For temptation comes through the adversary, pleasure through the flesh, consent through the spirit and boldness of denial through pride … Hence the ancient enemy shattered that uprightness of the first man by these four strokes, for the serpent tempted, Eve took pleasure and Adam consented who, even when being questioned, refused to confess his guilt through boldness.

Gregory too compares the death of the synagogue leader’s daughter to the private sinner, the widow’s son raised at the city gate to one who sins in public and Lazarus to the habitual sinner weighed down by his wrongs.

Before discussing the relationship of *Bretha Étgid* to these sources, there is a further point to note in the Hiberno-Latin treatments. These patristic enumerations were well known in early
Ireland. Augustine’s *De sermone domini in monte* is the main source for the Lambeth Commentary (c.725). Gregory’s *Moralia* was known in the middle of the seventh century when Laithcenn mac Baith completed his abridgement. If, as some hold, the *Catechesis Celtica* was compiled in the tenth century, it is contemporary with the composition of the introduction to *Bretha Égid*. It incorporates a lengthy section of the *Moralia* dealing with the stages of sinning and the significance of the three brought back to life by Christ. However, when discussing the three raised from the dead, many Hiberno-Latin sources vary the patristic interpretation. Augustine and Gregory compare them to sinning in the heart or secretly, in deed or in public, and from habit. The Hiberno-Latin sources compare them to the much more popular triad of thought, word and deed, and, like *Bretha Égid*, the evil thought is said to originate in the heart and the evil word comes from the mouth. In its present edition, the material in Würzburg, Univ. MS M.p.th.f. 61 looks like a collection of Hiberno-Latin comments and glosses on Matthew’s gospel. It gives Gregory’s treatment of the stages of sinning as they applied to the Fall and names Gregory, and later his *Moralia*, as the source. But when it comes to an interpretation of the three raised from the dead, it gives first the triad of thought, word and deed and then the triad of heart, mouth and deed instead of the Gregorian or Augustinian interpretation (and this is followed in the threefold definition of égéd in the law text):

… *tetigit* (Mt 9:29) *tres mortuos suscitant Christus i.e. filiam principis in domu i.e. cogitationem in corde, filium viduae in porta civitatis i.e. verbum in ore, Lazarum vero quadriduum i.e. malum opus* ‘he touched’: Christ raised three dead, that is the leader’s daughter in the house, that is the thought in the heart, the widow’s son at the city gate, that is the word in the mouth, and Lazarus [who was dead for] four days, that is the evil deed. This interpretation is well attested in the Hiberno-Latin sources. In the next section, *Bretha Égid* gives clearer evidence of how the legists depended on patristics. The law, following Gregory’s *Moralia*, names the four things that sustain or support crime. Although it omits Gregory’s second stage – pleasure – the law, like Gregory, relates each stage to the sin of Adam and Eve. Gregory the Great’s *Moralia in Iob* has found its way into early Irish vernacular law, but this is more than a learned, Christian embellishment. The legist carefully selected this source because it was relevant to his law text and to its social context.

*Bretha Égid* deals with offences not just from the perspective of the injury caused, but takes into account the perpetrator’s awareness of his actions. It could be said that there is a concern here

---

with the legal principle of intentionality. According to early Irish law, the offender’s punishment is reduced if he can plead ignorance (\textit{anfis}).\textsuperscript{81} The legist uses the Gregorian account of the stages of Adam and Eve’s Fall to show that they fully understood their malfeasance. They met the four criteria that lead to sin and could not claim ignorance. Indeed, the law concludes that they were culpable ‘having knowledge of the crime they are committing’ \textit{fis in cinaig acu do denam}, (\textit{CIH} 927.16–17). These four stages apply to the motivation that lead to consent and show the wilfully malicious intent of the protoplasts. This patristic material is very much at home in a law dealing with intentionality. The severe punishment suffered for the minor offence of eating the forbidden fruit may appear disproportionately severe and Adam and Eve’s ignorance of the nature of their crime and the severity of the penalty may be considered mitigating circumstances. Yet \textit{Bretha Étgid} says that ‘that ignorance is subject to full fine’ \textit{anfis lanfiaachach}. Ignorance that a crime was being committed may count to mitigate the severity of the punishment because it shows that the crime is not the result of a wilfully evil motivation. Ignorance of the law is not a defence. This is not the only time the laws illustrate the principle that \textit{anfis} on the part of the legally competent, \textit{lan-fiaachach} ‘liable to full fines’, is no defence with reference to the Fall. Domnall Ó Dubhddábhóirenn’s legal glossary\textsuperscript{82} uses material from texts that are now lost. It ‘provides tantalising quotations’ from such works.\textsuperscript{83} Ó Dubhddábhóiren’s quotes: ‘the fully-responsible ignorance (\textit{anfis lanfiaachach}) of Eve was visited equally upon her and Adam both, because he did not ask, ignoring her’,\textsuperscript{84} Ignorance of the crime is no grounds for exculpation as Adam found out and the lawyers cited his experience as a precedent.

The lawyers refer to the Fall because it was the first transgression and the punishments were the result of the first judgement. Augustine shows that transgression had always been a matter of intention, not just deed, by looking at the stages of the first sin. Gregory says that these stages of ‘sinning in the heart’ or intention apply to all transgressions.\textsuperscript{85} The writers of the introduction to \textit{Bretha Étgid}, a law dealing with intentionality, can therefore see these ideas as applicable to their law. The legal piece under discussion is short, but the writers of the introduction to \textit{Bretha Étgid} must have understood the wider patristic context to have interpreted it as they did. The Gregorian tetrad of suggestion, pleasure, consent and denial applies specifically to sinning in the heart or conscience, not in physical action. It proved the malicious intent and full awareness of Adam and Eve. This clearly shows the theological competence of the lawyers who cite it in their discussion of intentionality. The lawyers must also have known the context in which the triad of thought, word and deed occurs in the Latin sources.\textsuperscript{86} They knew that it expresses in the most succinct way the theory that thought or motivation is the basis of action and that crimes must be judged according to the intention of the wrongdoer. They knew their Latin sources very well because they

were also aware that the triad of thought, word and deed is allied with the triad of heart, mouth and deed, examples of which are found in treatments of the topos of the three raised from the dead. Augustine, followed by Gregory, quotes these triads in the context of the stages that lead to sinning in the heart. So too does the law text. It must be said, however, that other Latin works associate these triads independently of the topos. Like Bretha Étgid, the *Expositio quattuor euangeliorum* and the so-called ‘Fragmenta d’apocryphae priscillianistae’ edited by De Bruyne link the triad of mind, mouth and deed to the triad of thought, word and deed. This section of *Bretha Étgid* illustrates how the early Irish legal experts conceptualised a point of secular law in terms of patristic ideas. Elsewhere I have written that the most persuasive evidence for Hiberno-Latin influence on the laws will be found not in direct quotations from the Latin sources, but in translations in the laws made from these sources.\(^89\)

Gregory’s replies to Augustine of Canterbury’s questions on the practicalities of his mission are preserved in the *Libellus responsonium* of Bede’s *Historia Ecclesiastica*. Augustine asks, ‘Can anyone receive the body of the Lord after an illusion such as is wont to occur in a dream; and if he is a priest can he celebrate the holy mysteries?’ Gregory understands this to mean whether it is possible to sin in the mind as in deed. He says that according to the Old Testament such a person is to be debarred from entering the church. But there is also a spiritual interpretation: ‘… if the sleeper’s illusion arises from evil thoughts while awake, then the guilt is clear to the mind … because what he thought of wittingly, he experienced unwittingly … For all sin is committed in three ways, namely, by suggestion, pleasure, and consent. The devil makes the suggestion, the flesh provides the suggestion, and the mind assents to the suggestion: so too does the law text. I t must be said, however, that other Latin works associate these triads independently of the topos.

When discussing this Gregorian idea, Robert E. McNally drew attention to another tradition of the four causes of the Fall found in Hiberno-Latin literature.\(^90\) This enumeration is found in Ps.-Jerome’s *Expositio quattuor euangeliorum*, which he took to be a Hiberno-Latin work,\(^94\) and the

---

four are ‘the man, the woman, the tree and the serpent’.95 The remedy is provided by Christ, Mary, the Cross and Joseph. Whatever questions may exist about the clerical status of the writer of the introduction to Bretha Étgid—and it must be said that he knew more theology than one would expect of a lawyer—he certainly had a lawyer’s eye for comprehensiveness because he includes this alternative tradition in the law.96

Enumerations are considered symptomatic of some Hiberno-Latin literature.97 They occur across a range of genres, but especially in florilegia and numerical collections like the Liber de numeris. They are good examples of the interest Hiberno-Latin writers frequently display in reducing an argument to its essentials. Biblical commentaries, for example, rarely quote lengthy sections verbatim from their primary sources, but condense information to the point where their meaning is not readily apparent except to those familiar with their Latin context. When read with this in mind their contents become less bizarre and more impressive as attempts to provide an overview of a patristic or even a number of patristic treatments. This same process of excerpting essentials and condensing information is seen in the introduction to Bretha Étgid and, like the enumerations found in biblical exegesis, the significance of these legal sources can be fully understood only in the broader context of Latin literature.

Banbán and the Fall

Aido), Brecán/Mo-Briccú (Brecannus) and our Banbán (Banbanus). He refers to Manchianus (Manchán) as his teacher. The contemporary Augustinus Hibernicus also names Manchianus as his teacher. There is even the possibility that Banbán was known to him.

Banbán, as sapiens, was an ecclesiastical of the highest learned grade. His literary activity is an example of how writing brought ecclesiastics into the law. However, there has been no examination of any possible interest by Banbán the legisl in the ecclesiastical ideas that preoccupied the lawyers. It must be admitted that Scottus Anonymus’ quotation from Banbán is short and there is not much to work with. Its significance is easily overlooked. The following is from his comment on Jm 4:6: Deus superbii restitit...

Superbia atque invidia his conuenient. Baunbannus ‘Pride and envy meet here, Banbán’. This comment, linking pride and envy, lies at the heart of theories of the devil’s downfall, theories that began with Augustine of Hippo and which influenced writers as late as Thomas Aquinas. Banbán, the writer of vernacular laws, taught on what seem the remote theories of the Genesis Tradition.

Augustinus Hibernicus observes that there is no account of the fall of the rebel angels in the Bible. The Genesis Tradition was an attempt to fill in this and other perceived gaps. One account centred on the mysterious ‘sons of God’ of Gn 6:2. Some apocrypha identify them as angels who fell through their desire for ‘the daughters of men’. In the Adam-books, Satan’s refusal to worship Adam constitutes the devil’s rebellion and the fall of the angels.

---

Seymour believed that the author of *Saltair na Rann* had read the *Life of Adam and Eve*. Professor Martin MacNamara and Dr Brian Murdoch express reservations. The most influential account of the devil’s rebellion and fall was based on the allegorising of the death song of Nebuchadnezzar in Is 14:12–15: "... sedeo in monte testamenti, in lateribus aquilonis. Ascendam super altitudinem nubium, similis ero altissimo. These are the words of the Day Star, ‘Lucifer’ in the Vulgate. Origen’s interpretation of Isaiah 14 as a proof-text of the devil’s rebellion and downfall became commonplace. Augustinus Hibernicus deals extensively with the devil’s downfall and with the words of Brecannus in Scottus Anonymus’ commentary and the *Liber de ordine creaturarum*, indicate that Banbán’s contemporaries gave much thought to the Fall. It was probably an important part of their teaching. Virgilius Grammaticus was perhaps another writer of mid-seventh-century Ireland. Even he claims to have written a commentary on the Creation directed, significantly, ‘against the pagans’.

Unlike the narrative accounts, theological treatments of the Fall required adherence to a consistent ordering of events for doctrinal reasons and these were understood by Banbán. Dramatic rather than chronological concerns were the priority in epic accounts. They did not allow theologians’ quibbles to spoil a good story. In the twelfth-century *Lebor Gabála*, Lucifer rebels after the leadership (archinnacht) of the earth was given to Adam after man’s creation. This same sequence is found in *Saltair na Rann* (and in the prose version in *Leabhar Breac*). Lucifer’s rebellion is motivated by pride, he declares *Ram rí ríl ... ni bia aile húasum*, which is an echo of Is 14:14, *ero similis altissimo*. However, the text confesses the devil’s premundane rebellion with the temptation of Adam and Eve. This causes a difficulty in the chronology for "The angelic fall, resulting from a refusal to worship Adam, comes before the narrative of the man’s creation."

---

R.A.S. Macalister saw a similar difficulty in Lebor Gabála. This confusion is a feature of epic accounts but is not confined to them. It is found in the Catechesis Celtica and in the Genesis commentary preserved in St Gall, Stiftsbibliothek, MS 908. Leabhar Breac has these chronological inconsistencies, and also a short poem giving the ‘orthodox’ ordering: creation, fall of the angel, creation of Adam and Eve and their fall. Because patristic writers had to show how Lucifer, the foremost of God’s creation, could sin or experience envy of man, they paid careful attention to the ordering of the events of the Fall.

Some early discussions identified the devil’s fall with the temptation of Adam and Eve. This is what Germanus claims in the second conference with Abbot Serenus in John Cassian’s Conclavationes. Serenus replies that the description of the serpent as calledor in Gn 3:1 indicates that ‘he had fallen from angelic holiness even before that deception of the first man … For Scripture would not have signified a good angel by such a word’. So Isaiah 14, quoted by Serenus, refers to the devil’s first fall caused by pride. The second fall was the result of Lucifer’s envy of Adam who retained his primal perfection and was intended to occupy the place that the devil lost. ‘And therefore his first fall, when he fell headlong through pride … was followed by a second downfall caused by envy’. The theory of the devil’s double fall, first through pride and then envy, is found in Augustine. He says that angels could not sin through ignorance or error. Nor, being spirits, could they commit the sins of the flesh. However, it was possible to sin by choosing something good but not for the right reason. The angel might desire to be godlike, but with the intention of acquiring powers that belong to God alone. This was the sin of pride. Having sinned through pride, the fallen angels were prey to another downfall: envy of man’s original goodness. It was therefore possible for an angel to sin only through pride and envy. One of Augustine’s lengthier treatments is found in De geneesi ad litteram XI, 14, ‘The cause of the angelic downfall: pride and envy’. This (with a piece

This confusion is again evident when the devil tempts Eve a second time. Greene and Kelly, as at note 109, pp 70–82; Stokes, as at note 118, pp 24–7; LB in MacCarthy, as at note 118, pp 68–9. See Seymour, as at note 110, above p. 12. 120 As at note 117 above, p. 206. 121 J.-M. Pont, ‘Homo angelorum decimus ordo’, Cahiers de Civilisation Médiévale 31 (1988), pp 43–8. 122 Wilmart, p. 41. 123 C.D. Wright, Apocryphal lore and Insular tradition in St Gall, Stiftsbibliothek MS 908’, in: P. Ni Chatháin and M. Richter (ed.), Ireland and Christendom: the Bible and the Missions, p. 150 and p. 132 for Catechesis Celtica. 124 MacCarthy, as at note 118, pp 46–7. See W. Stokes, Fílið Húi Gormáin: The Martyrology of Gorman, HBS 9 (1895), p. viii. The early Middle-Irish Ginninadrath in sheadadh lai binn (cAD 1000) places Lucifer’s temptation of Adam after his fall from heaven, M. Carney (ed.), Eríu 21 (1969), pp 148–66, at p. 154 (text), p. 161 (transl.); Táinig demhon ro-dhiult nemh, / i i n – di n – li r a i b i n n l u s i f e a r , / g n n – orchoir ti n n u d – A d h a i m d b e , / g e n g g e a r c h o i r c h o m a i r l e / A demon came who had rejected heaven, he who was called Lucifer, so that the race of Adam suffered harm thereof in that his counsel was not right’. On the Apologists, see n. 109, above Bamberger, p. 82: n. 112 above, Dustoor, pp 235–6. For Irenaeus of Lyons’s account, see J.P. Smith’s, The proof of the apostolic preaching (London 1952), p. 57. 125 E. Fichery, Jean Cassien. Conferences, SC 54 (Paris 1958), pp 17–18; PL 49, 736–8. 127 This is the doctrine of the replacement. Its most important patristic exponent was Gregory the Great, Homilae in evangelia, PL 76, 1250, where man is said to have been created to replace the lost choir of angels. This interpretation was later rejected by Anselm of Canterbury in his discussion of the numero perfectus of all rational beings in Car deus homo, SC 91, 288–309. Anselm was followed by Honorius Augustodunensis in his Liber duodecim quaestionum, see V.I. Flint, ‘The chronology of the works of Honorious Augustodunensis’, RBén. 82 (1972), pp 215–42 at p. 240, repr. in Flint, Ideas in the medieval west: texts and their contexts (London 1988). On the poet of Salsuir na Rann’s familiarity with this doctrine, see Murdoch, as at note 109 above, p. 44. See also the homily on the archangel Michael which refers to Gregory’s theory in LB, R. Atkinson, The passions and homilies from Leabhar Breac: text, translation and glossary, Todd Lecture Series 2 (Dublin 1887), p. 214 (text), pp 451–2 (trans.). The Cosmographia of Aethicus Ister expresses this idea succinctly: ‘Ordo idem decimus futurus cum hominibus sanctis’, H. Wuttke, Die Kosmographie des Ister Aethicus in lateinischen Auszüge des Hieronymus (Leipzig 1853), p. 2. See Pont, at note 121 above, pp 43–8. 128 For what follows, see n. 109 Bamberger, p. 205. 129 PL 34, 436. See also his Enarratio in psalmum LVIII, PL 36, 709; De sancta virginitate: Quibus duabus malis, hoc est superbia et invidentia, diabolus est, PL 40, 413.
THE FALL AND THE LAW IN EARLY IRELAND

from Isidore’s Sententiae is found in De superbia et invidia of the Liber de numeris, a text with Insular associations. This rationale satisfied the need to show how the angel could fall and how he was responsible for the fall of the protoplasts. It was popular and enduring.

The tradition of the double fall has left its mark on Hiberno-Latin literature. When Scottus Anonymus gets to ‘the proud’ of Jm 4:6, he interprets it as a reference to Lucifer and his followers whose rebellion was motivated by pride which led to envy. He attributes the gloss to Banbán who talks of how ‘Pride and envy meet at this point’. Banbán’s meaning becomes clear when his words are interpreted in the context of theories of the double fall of the devil. His ideas come from theological explanations of the Fall at their most developed. The quotation reads like a note made by a student from Banbán’s teaching. The work of his contemporaries shows that they too thought long about this problem. It is significant that Banbán, who had a role in writing Céin Phnaithirbe, taught on the fall of the devil, a subject the early Irish lawyers refer to many times. It is therefore not too surprising to see that one of the most creative interpretations of these ideas is found in a vernacular law tract.

The culpability of the offender is determined in Bretha Étgid by his awareness of his actions and, in support, the law quotes Gregory’s Moralia on the stages that led to the original sin. Theories of the Fall and their relevance for the principle of intentionality held a special interest for the writers of the introduction to Bretha Étgid. After the Gregorian material it classifies offences as ‘crime before crime’, ‘crime after crime’ and ‘crime of crime’. The first is explained as Eitged na neitged: cin ria sinaigh, amail dorigne in solustaiceadach lucifir i. ‘beidid aingil neime isum, niba ri nech uasum, dogentar sosad agum i nairter tuaitcirt nim’ ‘crime before crime’, such as the light-bearer Lucifer committed [when he said] ‘the angels of heaven shall be under me, no one shall be king over me, a station will be made for me in the north-east of heaven’. The devil’s words here are clearly based on Isaiah 14. The second class of crime is defined as . E. iar neitged: cin iar sinaigh, amail dorigne euw im torad in craid urgairthe i. toirmisid do tomilt i barrthus ‘crime after crime, such as Eve committed by eating of the forbidden tree, that is, to eat what was forbidden in paradise’. The third is . E. na neitged: cin na cinad, amail dorigne adam concertfadu frui ‘crime of crime, as Adam committed by giving consent to them’ (i.e. Lucifer and Eve). The writer avoids the confused chronology of the poetic accounts and presents the carefully ordered version found in theological treatises. The fall of Adam and Eve is preceded by the premundane fall of the devil (cin ria sinaigh ‘crime before crime’), a fact that in the Latin sources contributed to their exomeration but, even so, they were punished. Each stage is described as a crime (cin, not merely imarbas’ transgression) although Eve’s sin was a response to the devil’s temptation and Adam’s a response to Eve’s enticement. For the lawyers this meant that one encouraged to commit a crime by another is fully culpable if aware of one’s actions. The same point is made earlier when the law enumerates the stages that led to the first crime. Indeed, the question of complicity (comláithre) is itself discussed with reference to the Fall in the laws.

130 McNally, Der irische Liber de numeris, 40. 131 For example, Denis the Carthusian’s (Denys Ryckel) commentary on Genesis, D. Dionysii Cartusiani Opera Omnia, t (1896), pp 91–2 which quotes Bonaventure.

132 An example is found in Altus penator. The seventh stanza deals with the seduction of Adam and Eve which it identifies as the second fall of the devil: Gratmis primis disobus seductisse parentibus / secundo ruit zabulus cum nos satiatus, L.H, HBS 13, p. 72. Pz.–Hilary, Commentary on the Catholic Epistles, ‘Tres modis angeli peccauerunt: per superbiam et inuidiam et cupiditatem’, CCSL 108B, 102; Reference Bible, Paris MS, fol. 18r and 147v. 133 CIH 927, 23–7. Trans. based on ALI 1, 91. 134 Da triam na dreme dorochair do nim is a cinad comláithre dorochair. Is a cinad comláithre dorochair Adam a parrtus 7 nad[h]i miad dorindach Dia do. Is a cinad comláithre dono in gles fil forma duilth (CIH 212:18–23) ‘Two-thirds of those who fell from heaven fell because of c.c. It was because of c.c.
account of the Fall illustrate the principle of individual responsibility for actions and how the wrongdoer cannot blame his actions on another’s encouragement.

The paraphrase of Isaiah 14 and the rendering of Lucifer as soluaiscedach ‘light bearer’ further underline the clerical background of the legist. The law says that Lucifer wished his station (solas) to be in the north-east. This is based on in lateribus aquilonis of Is 14:13 but the biblical ‘north’ has been modified. Macalister describes information in Lebor Gabála that locates paradise in the south-east as reminiscent of Orosius.\textsuperscript{135} The logical inference is that hell lay in the opposite direction. Indeed, Jerome situated hell in the north-west.\textsuperscript{136} Although Bretha Étgid locates hell in the north-east – as does Leabhar Breat\textsuperscript{137} – the north-west location was the more popular in medieval literature. Yet the refinement of the northerly location in Bretha Étgid is probably a response to such attempts to localise hell.

Principles of law are discussed in the introductions to some Irish law tracts. It has been recognised that the theology of the Fall was important for the introduction to the Senchas Máir. The introduction to Bretha Étgid now emerges as an equally sophisticated application of this theology to the law and its social context. In many ways Bretha Étgid is more impressive. To illustrate abstract legal principles, it presents a number of narrative accounts of the Fall. Yet, these narratives are taken from the writings of the Fathers who were themselves using them in their discussions of abstract values. For Augustine they apply to moral standards, for the lawyers they provide sanction for their legal principles. The lawyers’ very practical use of the theology of the Fall is in keeping with the attitudes of the clerics who developed it. From the time of Gregory the Great to the Scholastics, discussion of the Fall and even the reasons for the devil’s eternal punishment are related to the practicalities of the Church’s mission. The later sources, in their concern for these everyday issues, were part of the movement for ecclesiastical reform and for the increased emphasis on the pastoral care of souls.\textsuperscript{138} The Fall and its consequences are the basis for discussion of matters like free will and perhaps that most Christian of ideals – the attempt to go beyond law and its technicalities to a psychological consideration of motive and intent. The early lawyers use the theology of the Fall in just this context: whether the accused was incited to commit the crime, whether he committed the crime with malice aforethought, whether he was fully aware of all circumstances before entering into an agreement. The Latin and vernacular literatures of early Ireland may be perceived as separate, but the lawyers took a broader view. They drew on both to suit their purposes. Thus, events such as the wounding of Cormac’s eye or Cú Chulainn’s kin-slaying are cited as leading cases. But the Fall\textsuperscript{139} is cited in these same contexts by the lawyers who saw it as the leading case par excellence.

that Adam fell from paradise and every honour that God had granted him. The present condition of creation is due to c.c., trans. Ó Corráin et al., as at note 2 above, p. 416, where c.c. is interpreted as guilt by association. The glossing on this section relates the first example to the fall of the rebel angels, the second to Adam’s acceptance of the apple from Eve and the third to the loss of heavenly protection, of regeneration without sin, life without death, etc. \textsuperscript{135} As note 117 above, p. xxxiii (discussion), p. 165 (text). The Reference Bible attributes to Orosius a piece which says that Adam’s paradise is an island in the east, Paris MS, fol. 19r. See Bischoff, ‘Turning–points’, p. 99. \textsuperscript{136} T.D. Hill, ‘Some remarks on “The site of Lucifer’s Throne”’, Anglia 87, pp 303–11; 305 with reference to Jerome’s comment on Zc 14:4–5, PL 25, 1525–6. \textsuperscript{137} MacCarthy, note 118, p. 44. \textsuperscript{138} R. Silvain, ‘La tradition des sentences d’Anselme de Laon’, Archives d’Histoire Doctrinale et Littéraire du Moyen Age 16 (1947–8), pp 1–52 at p. 11, believes the sententiae associated with Laon were intended to equip the clergy, especially the lower ranks, with simple instruction on the rudiments of church doctrine. Aaron Gutveich, Medieval popular culture: problems of belief and perception (Cambridge 1988), pp 153–4. Yes Lefèvre, L’Elucidarium et les lucidaires, 57 and 60 and V.I.J. Flint, ‘The Elucidarius of Honorius Augustodunensis and reform in late eleventh century England’, RBns, 85 (1975), pp 178–89, discerned similar motives behind the popular Elucidarium of Honorius Augustodunensis’. \textsuperscript{139} A law
Cur diabolus non redemitur per Christum ut homo? Ideo non redemitur diabolus quia non est de fragili materia terre factus ut homo: Ambrosius et Augustinus. Item, diabolus inuentor mali est, ideo non redemitur, non sicut homo. Item, diabolus non habuit ex celsior locum ubi sperauisset ascendere. Si enim habuisset, in illum redimisset dominus iuste ubi peccauit. Sic homo, ubi peccauit in terra, de poena mortis in terra non est redemptus. In paradiso aere celeste quem sperauit aedificavit et ubi non peccauit redemit eum dominus iuste ubi aedificavit non peccauit. Hic soluitur cur Adae anima redemitur, quae non de terra fragili facta est ut diabolus, et cur non redemit dominus mortem corporis ...