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### Book Review (reviewing Mary Elizabeth Basile, Jane Fair Bestor, Daniel R. Coquillette & Charles Donahue, Jr., eds. and transs., 'Lex mercatoria' and Legal Pluralism: A Late Thirteenth-Century Treatise and Its Afterlife (1998))

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cation” within the ruling aristocracy, to allow the man with the real power to occupy the throne. As king, Hugh behaved as kings had since the late ninth century, and so did the princes. The Peace of God is a sign of the stability of their regime, not its weakness, and of the ability of church and secular leaders to provide new judicial forms for changing times.

The last four chapters follow the history of the Peace from its beginnings in Aquitaine and Auvergne to its eventual spread, via the Truce of God, to most of the French “hexagon.” In an interesting turn, Barthélemy argues that the Truce, with its sacralization of time, emphasis on penitence, and purely episcopal jurisdiction, was actually more “of God” than the Peace. For the most part, though, the argument is reductive, as before. The peace councils, their decrees and oaths, even the presence of relics of the saints are everywhere fitted into prevailing methods of negotiating feuds and maintaining seigneurial authority. “Real change” occurred in the ninth century, and would again in the twelfth, but nothing fundamental happened in the tenth and the eleventh.

Barthélemy shines a brilliant light on certain aspects of the Peace of God, revealing clearly the ways in which it expressed or supported the goals of conservative churchmen hoping to maintain or increase their hold on the vast lands entrusted to them. His focus does not extend far enough, however, to convince me that the Peace had nothing to do with the year 1000. Were all churchmen so conservative? Barthélemy paints a fine picture of monastic reform in chapter 1 but never returns to the subject. Did the reform have nothing to do with the millennium? And what about the expressions of heresy that appear in the sources from that time? Barthélemy discusses the heretics of Orléans in chapter 2 but only to say that they did not prefigure Berengar of Tours. Otherwise, heretical dissent, popular or otherwise, plays no role in his story. He notes the massive influx of gifts to the church around the year 1000, and the way the disinherited fought back, but not how such things might have expressed support of or resistance to prevailing religious ideas. He admits that crowds of ordinary men and women were present at peace councils, accepting, for example, Ademar of Chabannes’s account of a near riot by people suffering from ergotism that forced a bishop to perform a ritual “clamor” against St. Martial (pp. 364–65). But he sees no reason to think that ordinary people had thoughts of their own about the meaning of peace councils. Focusing on politics alone is illuminating, but it can also obscure. This is evident even in Thomas Head’s recent essay on the Peace in this journal (*Speculum* 74), in which restricting the analysis to political and military events fails to account for the evidence presented of the religious motivations of people like William IV of Aquitaine and his wife Emma. Did feudal lords support monastic reform and seek monastic profession “ad succurrendum” for political reasons alone? Did monks offer them these things only to assure control over their own seigneuries? Might not some, at least, have acted out of a desire to prepare for the millennium of peace and justice, or the belief that it had arrived? Dominique Barthélemy knows the answers to such questions, but I am not so sure.

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MARY ELIZABETH BASILE, JANE FAIR BESTOR, DANIEL R. COQUILLETTE, and CHARLES DONAHUE, JR., eds. and trans., *“Lex mercatoria” and Legal Pluralism: A Late Thirteenth-Century Treatise and Its Afterlife*. Cambridge, Mass.: Ames Foundation, 1998. Pp. 213 and 118 (nos. 1–42 repeated) plus 4 black-and-white plates; tables and diagrams. Distributed by William S. Hein & Co., Inc., 1285 Main St., Buffalo, NY 14209-1987.

This volume prints and translates a small manuscript, written toward the close of the thirteenth century, called *Lex mercatoria*. It is found in the so-called Little Red Book of

Bristol, its home since the fourteenth century. Like an *ordo iudiciarius* in the *ius commune*, the text takes its readers through the steps of litigation. Beginning with the plaintiff's duty to supply pledges to prosecute, it ends with examples of one court's transferring its records to another in order to establish *res judicata* and preclude further litigation. Along the way it provides some incidental information, not confined to procedure, as, for example, the rules concerning goods of merchants lost at sea (c. 8) or those about the liability of masters for the acts of their apprentices (c. 7).

Unfortunately, little about this *Lex mercatoria* is straightforward, in part because it seems to be a unique manuscript, in part because its text is obviously corrupt, in part because it contains incomplete, confusing, and even contradictory information. The editors think it was probably written in London (p. 116), although its present resting place, the second largest population center in England and a home to merchants, cannot be ruled out. Its author is unknown, although on the basis of the contents the editors believe he must have "had training like that of the clerks and attorneys of the central royal courts" (p. 206). The purpose for which the text was compiled is likewise uncertain. It purports to state procedural rules to be applied in court, but the editors note that many things in it "do not seem to fit with what we know about contemporary practice," and they incline to the view that some of them may actually have been "recommendations for legislation" (p. 74).

Most significant and perplexing of the puzzles is the relationship between the law described here and the English common law. On the one hand, the author states clearly that the law merchant differs from the common law (c. 2); he speaks of a *curia mercatoria* as if it were a distinct entity (c. 6); and he believes that certain people have the right to have their claims tried by mercantile law (c. 9). On the other hand, the author also lists only three concrete differences between them, one of which is simply an assertion that law merchant is quicker (c. 2); he describes the common law as *mater legis mercatorie* (c. 9); and he envisions merchants invoking their law in the ordinary courts of the realm (c. 5). The modern reader is left in doubt about which side this treatise supports on the disputed question of whether or not there ever was a distinct law merchant in England. Fortunately, the editors of this volume have covered this topic at length in a learned introduction. Not only that, they deal with the history of the larger controversy down to our own day (the "Afterlife" of the title). They make connections with other treatises on the subject, such as the much more complete treatise by Gerard Malynes (d. 1623). They relate the subject to disputes to jurisdiction between common lawyers and civilians, and they bring to light its constitutional dimensions. The editors conclude their introduction by noting ruefully that "the expectations raised by the appearance of the treatise are undermined by its contents" (p. 203). This reviewer agrees. But that criticism cannot justly be made of the introduction. The technical treatment is exemplary; the description of the treatise is clear; the index is full; and the wider discussion of the place of the law merchant in English law is illuminating.

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DAVID BATES, ed., "*Regesta regum Anglo-Normannorum*": *The Acta of William I (1066–1087)*. Oxford: Clarendon Press; New York: Oxford University Press, 1998. Pp. xxxviii, 1153; 1 table. \$175.

This is a magnificent achievement. Three generations of scholars have relied for knowledge of William the Conqueror's acts on the calendar done by H. W. C. Davis as the first volume of the *Regesta regum Anglo-Normannorum* (Oxford, 1913), with addenda in the second volume (ed. C. Johnson and H. A. Cronne, Oxford, 1956). In its day Davis's work greatly facilitated scholarship, but an updating of the effort is long overdue. The earlier *Regesta*