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## Book Review (reviewing John Hudson, *The Formation of the English Common Law: Law and Society in England from the Norman Conquest to Magna Carta* (1996))

Richard H. Helmholz

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John Hudson. *The Formation of the English Common Law: Law and Society in England from the Norman Conquest to Magna Carta*. (The Medieval World.) New York: Longman Press. 1996. Pp. xvi, 271. £42.00. ISBN 0-582-07027-9.

This is a thoughtful and attractive telling of a story that may seem familiar to most students of English history: the establishment of the basic institutions of the common law. F. W. Maitland's has long been the classic account, augmented by the more recent works of Lady Stenton and Raoul Van Caenegem. This account holds that formation of the basic patterns of English law occurred during the reign of Henry II (1154–89). Regularization of the grant of royal writs, expansion of the jurisdiction of royal courts, invention of the possessory assizes, and creation of the system of criminal presentment were the principal events in what has been called an "Angevin Leap Forward." The treatise commonly called *Glanvill*, written probably between 1187 and 1189, made the "leap" evident. When compared with the *Leges Henrici Primi*, the vastly more sophisticated approach of *Glanvill* also shows how great a change had taken place.

John Hudson's book does not wholly overturn this account. However, he adds materially to it by incorporating new research, both his own and that of other scholars. It allows him to see several aspects of the common law's foundation in a different light. His account also stresses different sources and different areas of the law than did Maitland and his successors. Again, that shift of viewpoint changes the overall picture.

What are the differences? There are two principal and related themes. The first consists of laying greater stress on the existence of antecedents to the legal reforms of Henry II's reign. In Hudson's depiction, royal power was regularly asserted even in trivial disputes well before the late twelfth century. Presentment of crimes to royal officials was also a normal procedure. And the variety of courts inherited from Anglo-Saxon times continued pretty much untouched by the coming of the Normans. Continuity extended even to the land law: "by 1135 much of the vocabulary and conceptualization...was in place" (p. 94). In this respect, contrasting the *Leges Henrici Primi* with *Glanvill* turns out to be misleading. The former was deliberately archaic. It stressed the old, giving a false picture of the actual state of the law during Henry I's reign. Its regular presentation of compounding for criminal offenses on the basis of a fixed table of wergelds, for instance, masks that the system "was disappearing during Henry I's reign at the latest" (p. 81).

Despite this emphasis on continuity, the picture that emerges from the book does not eliminate the central place normally ascribed to Henry II's reign. The creation of returnable writs still plays a significant part in the formation of the common law (p. 143). Whatever the antecedents, their "routinization" in the service of creation of a legal system was a vital step, and it occurred during the late twelfth century. The possessory assizes created under Henry II also still figure largely in the story of the common law's formation.

Second, Hudson lays more stress on "non-judicial" sources than have most legal historians. Concentration upon courts and litigation provides "too narrow a focus" (p. 15) to penetrate the realities of legal life. This shift in focus is not only a question of substituting charters and saints' lives for the plea rolls and *Glanvill*. It demands that historians pay greater attention to the law as part of the lives of individual men and women. It takes a person-centered view of legal history. Doing this demonstrates, for example, that Anglo-Norman society was more "sensitive to the vocabulary of 'law'" than has often been thought, and it allows readers to see the central role that "matters of honour and vengeance" (pp. 4, 186)

continued to play in the English law of 1200. It does not separate the world of feelings from that of the law.

This approach undoubtedly broadens one's perspective on this subject. But there are also dangers, not entirely avoided here. Using stories requires that the author put them in their legal context. The aim of the story's author will rarely have been to describe the law. For example, Orderic Vitalis's chronicle contains the story of Bricstan, falsely accused of a crime. In it Bricstan's wife offers to undergo an ordeal on his behalf. This was undoubtedly a dramatic gesture. But was it more than that? One wants to know. Did wives have the right to intervene in 1115? Or was her action unique? If it was unique, what information does it provide? Hudson describes the trials and tribulations of Bricstan at length, but readers are largely left to guess about the extent to which Hudson thinks the story is more than an anecdote.

This said, the work brings definite advances in understanding. Hudson draws attention to many aspects of law that need stressing, and he is particularly good on the problems in litigation caused incidentally by the Angevin reforms (e.g., postponements and lengthy travel). His stress on the personal and the "variety of perceptions" that were held at the time are valuable additions to the traditional account (p. 89). The book is as easy to read as it is to recommend.

*University of Chicago Law School*

R. H. HELMHOLZ

Richard Britnell and John Hatcher, eds. *Progress and Problems in Medieval England: Essays in Honour of Edward Miller*. New York: Cambridge University Press. 1996. Pp. xv, 317. \$59.95. ISBN 0-521-55036-X.

Edward Miller is a pioneer of medieval English economic history. He has written numerous books and articles, done yeoman service as editor for many volumes (most recently for volume three of *The Agrarian History of England and Wales: 1348–1500* [1991]), and has been the inspiration for several generations of students. In appreciation for a lifetime of distinguished and unselfish service to the discipline, his colleagues, students, and friends have provided this volume.

As with most festschriften, the contributions vary considerably according to interests, but all are rooted firmly in medieval economic history. Many chapters are clearly groundbreaking. One of these is Ian Blanchard's "Lothian and Beyond: The Economy of the 'English empire' of David I." Blanchard claims that David I's capture of the northern border counties of England for much of the period from 1136 to 1157 gave him access to the rich silver deposits currently being opened up there. The influx of huge amounts of silver energized the Scottish economy and secured the foundations for the medieval Scottish monarchy. Although the evidence Blanchard provides for relating the influx of silver to the growth of trade is thin, nonetheless it is an appealing thesis. Similarly, Pamela Nightingale's "The Growth of London in the Medieval English Economy" is a surefooted and authoritative analysis of London's place in the English economy from the thirteenth to the fifteenth century. She concludes that London was relatively small in size by the beginning of the fourteenth century, probably 60,000 people, and relatively poorly integrated into the national economy. For her, the later middle ages, and particularly the 1350s and 1360s and the later fifteenth century, were critical periods for increasing London's role in the national economy. Crucially, war, by weakening the activity in many of England's ports, increasingly redirected