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Book Review of The Oxford History of the Laws of England, Volume II

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Book Reviews

John Hudson, *The Oxford History of the Laws of England, Volume II: 871–1216*, Oxford: Oxford University Press, 2012. Pp. xxiii + 958. \$300.00 cloth (ISBN 978-0-19-826030-1).
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John Hudson's volume of *The Oxford History of the Laws of England* will be required reading for students of English legal history. At more than 900 pages, it provides a level of detail that cannot be found in any of the textbooks on the history of English law or even in more extensive works, such as Pollock and Maitland. The volume covers the period from 871 (the beginning of King Alfred's reign) to 1216 (the end of John's). The first volume of the *Oxford History* is topical; therefore, this is the first volume in the history's chronological run from the beginning of English law to the present. The decisions to begin the history of English law in 871 and to write a volume that spans the divide of the Norman Conquest require some explanation. Hudson argues that royal power provided a strong strand of continuity across the period. He sees the major development in law in the Anglo-Saxon period as being growing royal control over law and legal institutions. Although royal law codes exist from as early as the seventh century, it was Alfred the Great and his successors who established the courts of the shire and the hundred that continued, largely unchanged, across the divide of the Conquest. The Anglo-Saxons' Norman and Angevin successors built upon this Anglo-Saxon foundation. The Anglo-Saxon period, and the late Anglo-Saxon period in particular, is, therefore, in Hudson's view, important to the early history of the common law.

After a short introduction to legal history, Hudson organizes the work into three major sections, separated chronologically. The first is on Anglo-Saxon England from 871 to 1066. The second covers the Anglo-Norman period, from the Conquest to the end of Stephen's reign in 1154. Although Hudson argues that much of the Anglo-Saxon legal system survived the Conquest, the Conquest is still significant from the standpoint of legal history because of major changes in land law, particularly at the upper echelons of society, that took place with the arrival of the Normans. The third covers the reigns first three Angevin kings, Henry II,

Richard, and John, a period of royal experimentation in law when the courts and procedures that would later define the common law were developed and refined.

Within each section, Hudson provides a richly textured picture of legal practices and ideas in the period. He divides each of the major sections into subsections on topics such as kings and law, courts, procedure, movables, land, theft and violence, status, and marriage and family. The subsections are fairly self-contained, and, therefore, could be assigned to students individually. Hudson's command of the primary source material is striking. Instead of trying to reconstruct the model procedure for a late Anglo-Saxon land case, Hudson provides the reader with many, often conflicting, examples of procedures from actual cases and shows that legal practices could vary quite a bit within the same period. He endeavors to avoid anachronism—a difficult task when one considers that the notion of “law” itself underwent change between 871 and 1216—providing the reader with the terminology used in each period. When he does use anachronistic terms, as in his chapter division on “movables” in the Anglo-Saxon period, he explains why he is using them, and demonstrates that contemporaries actually did treat movables differently from land.

The book, or parts of it, could easily be assigned to graduate students, law students, or even undergraduates. Its one drawback as an introductory text is that there is little direct discussion of historiography. For example, on page 526, Hudson strikes a middle ground between S.F.C. Milsom thesis that Henry II's massive extension of royal jurisdiction was the unintended consequence of an attempt to simply “make the old system work according to its own terms” and Frederic William Maitland's thesis that Henry's reforms were essentially an act of royal aggression. Neither is cited at this point in the text, however, nor are more recent scholars who have weighed in on the debate, such as Joseph Biancalana, Robert Palmer, Mary Cheney, Donald Sutherland, Paul Brand, and Joshua Tate. One would have to already be familiar with Milsom and the debates surrounding his work to know that Hudson is wading into a longstanding debate here. Students new to the history of English law will, therefore, need the guiding hand of an adviser to supplement Hudson's volume with further reading. One can only do so much in a volume as ambitious as this, however, and Hudson's volume is an outstanding and very readable introduction to the period.

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