

1981

Book Review (reviewing David M. Smith, ed., English Episcopal Acta I: Lincoln 1067-1185 (1980))

Richard H. Helmholz

Follow this and additional works at: http://chicagounbound.uchicago.edu/journal_articles



Part of the [Law Commons](#)

Recommended Citation

Richard. H. Helmholz, "Book Review (reviewing David M. Smith, ed., English Episcopal Acta I: Lincoln 1067-1185 (1980))," 25 American Journal of Legal History 251 (1981).

This Article is brought to you for free and open access by the Faculty Scholarship at Chicago Unbound. It has been accepted for inclusion in Journal Articles by an authorized administrator of Chicago Unbound. For more information, please contact unbound@law.uchicago.edu.

perform, Guinevere's trial ceases to be much of a problem—yet her trial is treated at much greater length (pp. 14-42) and in much greater depth than is Lancelot's (pp. 42-46).⁴ The very diction of the book, never easy, becomes especially turgid in the sections on law, as though Bloch were trying to write in a language which he did not fully comprehend.

Given the purpose of his discussion of legal developments, one would hardly demand that Bloch make an original contribution to the field of legal history *qua* legal history: for him, the subject is merely a means to a larger end. However, cumulatively the deficiencies in his treatment make his account an untrustworthy guide even to the current state of knowledge about the changes in legal procedure with which he concerns himself. It is, therefore, an insecure foundation on the basis of which to construct a broad thesis; and that is a shame, for, with a better foundation, the construction might have been quite elegant.

EMILY ZACK TABUTEAU
Assistant Professor of History
Michigan State University

4. The episodes take up approximately the same amount of space in the story: for Guinevere's trial, see *La Mort le roi Artu* ed. Jean Frappier (Geneva and Paris, 1956), pp. 83-106; for Lancelot's, see *ibid.*, pp. 181-204.

English Episcopal Acta I: Lincoln 1067-1185, David M. Smith ed., London, England. Oxford University Press for the British Academy, 1980. lxiv, 257 pp. \$125.00.

This meticulously edited and handsomely presented volume collects the surviving *acta* of the bishops of Lincoln, geographically the largest diocese in England, between the Conquest and the translation of Walter of Coutances to Rouen in 1185. Five bishops and one bishop-elect are represented. Sir Frank Stenton long ago urged the importance of the systematic presentation and study of the documents issued in the name of the English bishops. This volume, the first of a series to be published by the "Centre for Episcopal Acta" in York in furtherance of his plan, is a model for future work.

The editor has printed all documents preserved in original form in full. Most of the *acta*, however, survive only in monastic cartularies, and where a satisfactory modern edition includes a document, he has printed only the witness list. The monastic provenance of the *acta* doubtless explains the predominance of episcopal confirmations of grants to religious houses in the volume. Something like two thirds of the *acta* are confirmations, a total which may give a misleading impression of the activities of the episcopate unless principles of survival are borne in mind.

What useful information will the readers of the *Journal* find in these *acta* and will it be enough to justify the purchase of an expensive volume? The *acta* provide the legal historian with three principal kinds of informa-

tion. First, there is much relating to the history of diplomatic, the study of the form of documents. The lack of uniformity and florid verbiage of many of the *acta* contrast with those of the thirteenth century, suggesting the impact of papal influence, the incipency of precise legal thought, and the preparation of documents by the recipient rather than by the nominal issuer in the earlier period. Second, the *acta* refer to many specific points of canon and common law. The thirty-year period of prescription thought necessary to establish a right to tithes (no. 19) is one example of the former; the statement in 1130 of the principle which lay behind the English assize of mort d'ancestor (no. 63) is illustrative of the latter. Third, the *acta* shed light on the difficult subject of the early development of England's ecclesiastical courts. Repeated notices of cases decided personally by the bishops and references to pleas heard in bishops' synods suggest a lack of regular courts. References to episcopal *officiales*, however, point to at least the possibility of more permanent establishments.

The editor of the volume has not devoted his introduction to these questions. His attention has been fixed on the texts, and in this his work meets the highest editorial standards. He has purposely left interpretation of the evidence for a future date and for other historians. For libraries where such historians are at work, where advanced research on the history of English law and institutions is done, this volume will be a necessary acquisition.

RICHARD HELMHOLZ
Professor of Law and History
Washington University

Eleanor Searle, Editor, *The Chronicle of Battle Abbey*. Oxford Medieval Texts. Oxford, Clarendon Press, 1980. xiii, 357 pp. £ 20

A medieval chronicle may seem an odd choice of book to review in this journal. This chronicle has a special interest for lawyers, however, because it reports a series of cases from twelfth-century England in detail, including verbatim speeches allegedly made in court, the names of the advocates, and lively interjections by King Henry II and the judges. Although it has been known to specialists for many years, this chronicle had not been readily available because the nineteenth-century printed text and English translation are rare books. Dr. Searle has produced a revised Latin text, a new translation in parallel, and explanatory footnotes and other apparatus. The excellence of her work means that this chronicle can now be prescribed for advanced reading in legal history, like the volumes of the Selden Society. From a technical point of view the only shortcoming is in the indexing of subjects. References to "forged charters" or "guilds" for example do not appear in their appropriate alphabetical place but only as sub-headings under "Battle abbey."

The Battle chronicle brings lawsuits to life at a time, before the plea rolls and the year books, when coherent records of any sort are very rare. Some readers will already be familiar for instance with his description of