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Jeremy Hayhoe, *Enlightened Feudalism: Seigneurial Justice and Village Society in Eighteenth-Century Northern Burgundy*. Rochester, N.Y. and Woodbridge, Suffolk: University of Rochester Press, 2008. xii + 309 pp. Maps, figures, tables, notes, bibliography, and index. \$80.00 U.S. (cl). ISBN 978-1-58046-271-6.

Review by Jonathan Dewald, University at Buffalo.

Laws, law courts, and legal personnel hold a peculiar place in the historiography of the old regime. Social historians have long used the documents that legal conflict generated, as points of access to otherwise hidden aspects of early modern life; historians of violence, family relations, and economic exchanges have all had to immerse themselves in old regime judicial practices. The social and political lives of lawyers and judges have also attracted careful scrutiny, appropriately so given their prominence in most French cities. But the daily workings of the regime's jurisprudence are far less well known, partly because in this respect 1789 constituted so decisive a break: students of Anglo-Saxon law need a clear understanding of the early modern period because its laws and decisions still affect us, but old regime justice retains only faint relevance to contemporary practice. Hence our conventional wisdom on the subject rests mainly on a handful of examples and on the (often interested) comments of contemporaries. We know little about who went to law and what happened when they did; we don't know much about judicial standards, either intellectual or ethical; we don't know how most old regime lawyers made a living, given their high numbers and the low fees that they charged; we don't even know the exact number of *bailliages*, the most important courts in the system.

Over the last decade or so, however, a series of important studies have begun to explore the quotidian workings of old regime justice, providing some idea of what the system meant for ordinary people.[1] Answering questions of this kind, of course, requires confronting a series of technical issues, and has usually required a narrow focus on specific regions and institutions. Partly for that reason, the implications of this burst of legal history will probably take some time to work their way into our more general understandings of the old regime. But as Jeremy Hayhoe's fine new book makes clear, understanding its legal system is in fact essential to understanding the old regime and its eventual overthrow

Hayhoe examines one of the most widely criticized components of the old regime's judicial system, the seigneurial courts—law courts that belonged to estate owners and had the double charge of defending their owners' property rights and settling their inhabitants' minor crimes and litigation. Like most other recent examples of legal history, this is a regional study, focused on northern Burgundy. The example is of particular interest because Burgundian lordship was among the most burdensome in France. Lordships there took a heavy share of peasant revenues, and serfdom still remained a significant reality in the eighteenth century. This geographical focus gives particular force to Hayhoe's principal conclusion: over the eighteenth century, he finds, these feudal institutions were both effective and well-liked, providing rustics with cheap and competent justice. Well-trained legal professionals ran seigneurial courts, and villagers of all social classes showed up regularly in them, often with professional counsel.

They did so partly because judicial intervention was required for such inevitable occurrences as dividing inheritances and selecting guardians for orphans—partly because they expected fast and sensible decisions, and partly because they felt comfortable about using the formalities of the law against their neighbors. Scholars have been too ready to stress peasants' anxiety in the face of legal learning and the urban culture that went with it, Hayhoe argues. Peasants used the tools that the law offered them as well as anyone else; in fact village life required that they do so. Continually exchanging goods, services, and loans with their neighbors, their property rights constantly threatened by encroachment, villagers could not afford to imagine that they lived in a "moral economy" governed only by traditional values, informally enforced; readiness to litigate was a precondition for communal life, not its enemy.

Hence going to law in these villages was probably less traumatic than in our own society, for judicial institutions were both cheaper and more familiar, the site of much ordinary business as well as of extraordinary conflicts. In this respect, Hayhoe finds, the Revolution did not favor villagers' interests, and their nineteenth-century descendants were much less likely to make use of the courts that the Revolution established. Only in one respect was seigneurial justice less than satisfactory. Lords expected their judges to defend the seigneurie and its dues, and where these were concerned villagers could not expect impartiality. Some complaints about this seigneurial bias showed up in the *cahiers de doléances* of 1789, but for the most part these documents expressed satisfaction with how the institution worked. Burgundian villagers (the *cahiers* indicate) hoped for many changes in 1789, but the abolition of seigneurial justice was not one of them.

These conclusions rest on research that impresses for both its scope and its ingenuity. Hayhoe starts with two samples of cases, from the 1750s and 1780s, most of them civil litigation, amounting in all to about 6,000 examples. These are difficult materials to use, and Hayhoe does an admirable job with them; simply to understand what happened in a given case is no easy matter, often requiring the collation of at least two sets of court documents. He has turned as well to tax rolls in order to establish the sociological profile of his litigants, and the book concludes with a remarkable analysis of the region's *cahiers de doléances*, to establish the institution's popularity. Most of these materials lend themselves to quantitative analysis, and Hayhoe offers plenty of tabulations of what he has found. At the same time, he brings a suitable degree of skepticism to these quantitative results.

Based on such extensive archival research, the book is altogether persuasive as a depiction of one region at one time, the middle and latter years of the eighteenth century. One's questions, inevitably, concern the problem of typicality: to what extent are these findings to be extended to other regions and to the old regime as a whole? Anthony Crubaugh, for instance, makes exactly opposite claims about seigneurial justice in Aunis and Saintonge in the late eighteenth century, finding that it was slow, expensive, and corrupt.[2] Hayhoe is alert to the problem of regional difference and fair-minded in responding to it, yet Burgundy remains an awkward example on which to base larger assessments of old regime seigneurial justice. The very onerousness of Burgundian seigneurialism meant that lords there had a stronger interest in maintaining their private justices than lords elsewhere. Lordship remained vital to estate management, and lords were therefore willing to pay for competent seigneurial officials. In other provinces, the battle to preserve the seigneurial economy had already been lost by the 1750s, and seigneurial justice was a mere drain on the lords' income; estate owners happily let royal judges take over business that had once gone to their own courts.

Parallel questions arise about Hayhoe's choice of time-frame. His focus on the second half of the eighteenth century certainly helps in understanding the background to the Revolution, but it also hides from view conflicts and changes over the longer course of the old regime. Elsewhere, seigneurial justice decayed with particular speed in the later seventeenth and early eighteenth centuries, then functioned at a roughly steady level after 1760; and Louis XIV's investigations led harassed estate owners to relinquish many of their real powers.[3] From this longer chronological perspective, there is perhaps

more substance than Hayhoe allows in the view (first articulated by Alexis de Tocqueville) that essential conflicts set royal and seigneurial justice against each other.

Eventually, the study of old regime justice will thus need to move beyond regional investigations and beyond the eighteenth century. But Hayhoe's book provides a model for these future investigations, both in its careful analysis of complex topics and in its sensitivity to larger contexts. Understanding the institutions through which the old regime dispensed justice, Hayhoe demonstrates, is an essential step in assessing the justness of Old Regime society as a whole—and in assessing the Revolution that ended it.

NOTES

[1] Recent studies include Anthony Crubaugh, *Balancing the Scales of Justice: Local Courts and Rural Society in Southwestern France* (University Park: Penn State University Press, 2001); François Brizay, Antoine Follain and Véronique Sarrazin, eds., *Les justices de village: Administration et justices locales de la fin du Moyen Âge à la Révolution* (Rennes: Presses Universitaires de Rennes, 2002);); Hervé Piant, *Une justice ordinaire: justice civile et criminelle dans la prévôté de Vaucouleurs sous l'Ancien Régime* (Rennes: Presses Universitaires de Rennes, 2006); Hervé Leuwers, *L'invention du barreau français, 1660-1830: La construction nationale d'un groupe professionnel* (Paris: Editions de l'Ecole des Hautes Études en Sciences Sociales, 2006); Séverine Debordes-Lissillour, *Les Sénéchaussées royales de Bretagne: La monarchie d'Ancien Régime et ses juridictions ordinaires (1532-1790)* (Rennes: Presses Universitaires de Rennes, 2006); Amalia D. Kessler, *A Revolution in Commerce: The Parisian Merchant Court and the Rise of Commercial Society in Eighteenth-Century France* (New Haven and London: Yale University Press, 2007); Michael Breen, *Law, City, and King: Legal Culture, Municipal Politics, and State Formation in Early Modern Dijon* (Rochester and Woodbridge: Suffolk, University of Rochester Press, 2007); Zoe Schneider, *The King's Bench: Bailiwick Magistrates and Local Governance in Normandy, 1670-1740* (Rochester and Woodbridge: Suffolk, University of Rochester Press, 2008).

[2] Anthony Crubaugh, "Local Justice and Rural Society in the French Revolution," *Journal of Social History*, 34 (2000): 327-350.

[3] Jonathan Dewald, *Pont-St-Pierre 1398-1789: Lordship, Community, and Capitalism in Early Modern France* (Berkeley and Los Angeles: University of California Press, 1987), pp. 253-263.

Jonathan Dewald
University at Buffalo
jdewald@buffalo.edu

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