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The Older, the Better

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Marco Veronesi's contribution on the »Precaria of the 9th Century in West Frankish and Alemannic Formularies« (131–156) asks »to what extent new instruments of monastic social policy were consciously created in Alemannic monasteries« and surmises that the consequences of such policies may have paved the way for the emergence of feudalism (156). Steffen Patzold draws a similar conclusion from his examination of the »Polyptycha of the 9th Century« (157–182), arguing that the Carolingian regulations constituted the »pre-history of the later feudal system« (181).

Levi Roach begins his contribution on the »Legal Historiography of the Late Salian and Early Staufer Periods« (185–211) by stating that nowadays the feudal system is generally regarded as a phenomenon of the high Middle Ages, and that it is therefore not possible to project its structures back into earlier times (185). However, he notes – a point that also emerges in the section on the early Middle Ages – that we are »still a long way from a feudal system that was in any way recorded in manuals« (211). Similarly, Roman Deutinger speaks of tentative beginnings in the context of the »Staufian Imperial Chronicles« (213–228). Rüdiger Lorenz evaluates the corpus of »Royal and Imperial Charters (1125–1250)« with regard to feudal law (229–287) and emphasises the differences in the development of legal practice north and south of the Alps. In the north, the decrees

tended to be pragmatic and problem-oriented, whereas in the south, the legal aspects were »named« and classified (282–287).

Four further areas from the high Middle Ages are then submitted to scrutiny: the Bamberg episcopal charters of the 12th and 13th centuries (Sebastian Kalla, 289–332), the Tegernsee cartularies (Jürgen Dendorfer, 333–373), private charters from Vercelli and Asti (Rebekka de Vries, 375–411), and the charters of the Milanese monastery of St. Ambrogio (Alberto Spataro, 413–436). All these contributions confirm, largely unanimously, the finding that the terminology in use was flexible, so that it would be more accurate to speak of »loan« rather than »fief«.

In conclusion, the two editors emphasise that the decision not to use the terms »fief« and »vassal« in this volume did not lead to any terminological or analytical gaps, whereas the term »feudalism« would have obscured the topics under discussion. This way, an »astonishing flexibility in the handling of fiefs« was revealed, and the debate on feudalism could now be »in a sense [concluded] or at least [continued] in a different way« (467 f.). It should be noted, however, that there are other approaches to dealing with these questions, which already existed at the time of publication of the anthology.⁴



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The focal point of Katja Bauer's dissertation, written in 2022 under the supervision of Heiner Lück (Halle / Saale), is the question of what »motives Eike von Repgow may have had in naming Charlemagne as the source of the law recorded in the *Sachsenspiegel*« (22 f.). Her work is divided

into three parts, the first of which offers a »conceptual classification: legislation – Saxony – Charlemagne« (27–114). The second part is entitled »Charlemagne, the real legislator of the Saxons« (115–164) and the third »Charlemagne, the mythical legislator of the Saxons« (165–288). The con-

4 For example, from the Frankfurt Cluster of Excellence »Normative Orders« in the anthology edited by SIMON GROTH (Hg.), *Der geschichtliche Ort der historischen Forschung. Das 20. Jahrhundert, das Lehnswesen und der Feudalismus (Normative Orders 28)*, Frankfurt am Main 2020.

* KATJA BAUER, *Karl der Große als Gesetzgeber der Sachsen. Von den Kapitularien bis zum Sachsenspiegel (Schriften zur Rechtsgeschichte 220)*, Berlin: Duncker & Humblot 2024, 412 S., ISBN 978-3-428-18980-9; English translations by Caspar Ehlers and Vera Mark

clusion (289–295) summarises the eight main theses of the work as well as three research questions, arising from the theses, which »have so far received little or no attention in literature« (293). An appendix provides excerpts from the most important legal texts in Latin and German (296–324) as well as a selection of »short biographies of rulers relevant to the study« (324–337). The latter echo the current biographical works in medieval studies and are therefore not essential for a legal history audience.

The refined and well-structured work reveals the author's legal training. The first and second parts draw on the current and, above all, interdisciplinary state of research, which goes beyond the usual scope in terms of the reception of sources and the current state of knowledge and establishes a solid foundation for the author's further considerations, which are intended to be retrospective in nature. The third part, which deals with Eike von Repgow and his prologue to the *Sachsenspiegel*, opens with the claim that »contrary to historical events, Charlemagne was repeatedly invoked during the Middle Ages as the source of legitimacy for various legal institutions and legal texts« (165). Katja Bauer first turns her attention to the author of the *Spiegel*, the transmission and the dissemination of his work; then she analyses its content, including the glosses by Johann von Buch († mid-14th century) (165–200). Eike referenced the great Christian legislators Charlemagne and Constantine the Great († 337) both to provide the *Sachsenspiegel* with a legitimising historical genealogy and to signal its timeless relevance. Bauer acknowledges that this reference applies not only to the *Spiegel* (216–235 on the traditions before Eike); however, her text would have benefitted from further examples from the field of *Überreste*, i. e. sources that do not have a specifically historical or record-keeping purpose attached, such as sources from art history and architectural history.

Katja Bauer's reflections on why Eike chose Charlemagne also show a certain »astonishment« (204) in light of the Saxon Wars with the »bloodbath of Verden« and the »(forced) Christianisation of the formerly pagan tribe« (sic). Apart from the fact that this phrasing does not correspond with the historical context of the 13th century, it would have been helpful here to give greater weight to the identity-shaping effect of works originating in Saxony in the 9th/10th centuries, such as those by Rudolf of Fulda, the Poeta Saxo or Widukind of

Corvey (cf. the useful overview on 216–235). Charlemagne assumes the mantle of saviour, succeeding the Roman emperors and the apostles, and the Saxons and Franks – as Widukind writes – become, »in a sense, a people in the faith of Christ«.

The main merit of the book undoubtedly lies in Bauer's source-based comparative analysis of Carolingian text passages and the provisions of Saxon land law as rendered by Eike, as well as in their classification by the author (235–262). The subsequent passages deal with Charlemagne as the »sole source of legitimacy« not only of the *Sachsenspiegel*, but also of the Westphalian Feme and the College of Electors (262–288).

The use of the terms »Carolingian feudal system« (*Lehnswesen*) and »tribe« in relation to the Saxons in the concluding part of the book appears somewhat problematic (elsewhere, the author acknowledges this by putting the article in parentheses so it reads »[the] Saxons«); but overall, the concise phrasing of the findings is convincing. New questions are raised, some of them by Katja Bauer herself (293–295), and this too is a testament to the quality of the dissertation. Above all, the insights gained from this investigation into the *Sachsenspiegel* must now be applied to other legal texts – and to comparable examples from other historical fields – that also refer to Charlemagne as their legitimising source. The author provides examples of this in an excursus to Part C (275–288).

Nevertheless, one critical comment on this overall very accomplished book seems appropriate. The term »legitimising source« actually falls short of Bauer's intention, as the distinction between actual and retrospective legitimisation – or, in the case of the *Sachsenspiegel*, construing legitimacy retroactively – seems unclear. The Lex Saxonum of 803 contributed, alongside religion, to the shaping of the identity of the inhabitants of what had become the Frankish part of the empire, which was probably Charlemagne's intention and is confirmed in Saxon sources from the 9th century. The *Sachsenspiegel*, on the other hand, is a later echo of this successful integration process, from which Eike, in the first third of the 13th century, derived symbolic legitimisation: he considered »the reduction of the legal principles contained in the *Sachsenspiegel* to one or, more precisely, two sources of legitimisation [Constantine the Great] to be noteworthy in any case« (201). ■