

10-1-2013

Review of *La Grâce du Roi: Les Lettres de Clémence de Grande Chancellerie au XVIII Siècle* by Reynald Abad

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H-France Review Vol. 13 (October 2013), No. 161

Reynald Abad, *La grâce du roi: Les lettres de clémence de Grande Chancellerie au XVIIIe siècle*. Paris: Presses de l'Université Paris-Sorbonne, 2011. 964 pp. Tables, notes, appendices, bibliography, and index. 28.00€ (cl). ISBN 978-2-84050-781-9.

Review by Julius R. Ruff, Marquette University

At the core of old regime criminal law was the principle that the king, as the source of all justice, could intervene in criminal procedures at any point. He could grant a defendant's request to be tried by a particular court in *lettres de juge*, create special tribunals to judge certain crimes (*grands jours*), intervene in a trial already in progress to judge the case himself or in council (*évocation*), annul court decrees (*cassation*), reduce penalties or grant pardons in *lettres de justice*, and commute a court sentence or grant legal rehabilitation to a convicted person in *lettres de grâce*. The latter two documentary expressions of royal mercy are at the center of Reynald Abad's study, and historians of French law and institutions will find this massive and rich book fascinating reading because it is a signal addition to our understanding of the workings of old regime jurisprudence.

The author's subject, the exercise of eighteenth-century royal judicial mercy in the vast jurisdiction of the Parlement of Paris, is little understood by historians, despite an extensive historical literature on such acts in earlier centuries.<sup>[1]</sup> Indeed, while historians of the late medieval period and the sixteenth and seventeenth centuries have founded studies on thousands of actual letters of pardon in the Archives nationales and provincial archives, historians of the eighteenth century until now have written little on this subject because of the destruction of the records of the Grande Chancellerie for their period during the Revolution of 1789. Abad's great merit is to have identified in the Fonds Joly de Fleury at the Bibliothèque nationale de France the only alternative source for reconstructing the eighteenth-century remission process.

By this time, the king was little involved in the actual business of judicial mercy, and for much of the century, the chancellor responded to formal requests for relief from old regime justice in the Parlement of Paris through a regular system of consultation with the *procureur général* of that court. This system of consultation, with its extensive documentary record, was established early in the century by two like-minded, conscientious magistrates who were long-time incumbents in their respective positions, the chancellor, Henri-François d'Auguesseau (1668-1751), and the *procureur général*, Guillaume-François Joly de Fleury (1688-1751). Since the son of the latter, Guillaume-François-Louis Joly de Fleury (1709-1787), assumed his father's duties upon his retirement, there was a remarkable continuity of practice by these two men who served the crown in the *parquet* of the Parlement of Paris for over seven decades. The responses of Joly de Fleury, *père et fils*, to the chancellor's request for counsel in response to 1,179 requests for royal mercy provide Abad the sources for a study that will force scholars to reconsider many assumptions about criminal justice in the last century of the old regime monarchy.

Illustrating all of his points with eloquent examples from the archival evidence, Abad shows, for instance, that the Joly de Fleury records give the lie to any idea that old regime mercy was excessively arbitrary or capricious. Abad finds that all requests for mercy passed through what he calls a "double filter" to assess their validity. While for much of the century the chancellor rendered the final decision

on mercy as one half of this filter, the other half of it was the *procureur general*, who provided the chancellor with carefully reasoned recommendations for action in the criminal cases that gave rise to requests for mercy. Often these memoranda were the products of extensive research by the busy *procureur général* or one of his *substituts* that allowed him to identify in case records inconsistencies in testimony, outright lies, and miscarriages of justice that required consideration in any grant of royal mercy.

Royal officials responded quite negatively to petitions for mercy in cases of theft, but often acted quite differently in cases of violence. Indeed, the recommendations of the *procureur général* for mercy reflected an extraordinary understanding of the roots of the quotidian nature of the interpersonal violence so common in the early modern period.<sup>[2]</sup> Thus, while the *procureur général*, in strict conformity to royal ordinances, resolutely opposed mercy in cases of dueling and acts of violence displaying premeditation, he seemingly bent over backwards to excuse individuals charged in the banal brawling, the *rixes*, so common in this period. Indeed, Abad's close reading of the Joly de Fleury records permits him to recreate the regular analytical process, remarkably uniform for a wide variety of criminals, by which the *procureur général* assessed the grounds for royal mercy in a large volume of cases. Such care earned the Joly de Fleury *procureux généraux* great respect from the chancellor and the king, who followed their recommendations in 80 per cent of cases.

The granting of royal mercy was not an especially venal process, either. While the society of eighteenth-century France certainly was one in which powerful aristocrats and clerics could wield considerable influence, Abad's research reveals a system of judicial mercy that was much less influenced by the interference of the great and powerful than some historians have assumed. Abad finds that the elder Joly de Fleury was particularly deaf to the importunities of powerful individuals, including the queen herself, who might try to influence decisions of judicial mercy on behalf of some favorite or client. And while the younger Joly de Fleury was somewhat less resistant than his father to such attempts to affect the outcome of judicial deliberations, Abad also finds that the chancellor often could marshal support at Versailles to neutralize many blatant attempts to distort the equitable and orderly administration of mercy. Officials of royal justice displayed remarkable concern for the legal rights of the poor as well. Thus, Abad finds that Auguesseau and the senior Joly de Fleury were instrumental in founding and funding an institution, the Fondation Billecoq, to provide impecunious beneficiaries of their mercy with subventions to defray the often substantial cost of registering their letters of mercy with royal courts.

If the granting of mercy was more even-handed than some historians have assumed, it was also much more common than many scholars have reckoned. Abad finds that petitioners for mercy secured their precise goals in about 40 per cent of their applications, and other supplicants secured at least some modification of their sentences in an additional 5 per cent of cases.

Finally, despite the pre-revolutionary political conflict between the crown and the judges of the *parlements* that has been the subject of extensive historical study, Abad's work reveals that, at the level of the actual administration of criminal justice, the judges of the Parlement of Paris and the legal officials of the monarchy interacted in considerable collegial harmony. Thus, when judges of the sovereign court exercised their prerogative to issue *arrêtés* that suspended active criminal proceedings against a defendant as a preliminary step to the issuance of a royal remission for that individual, the chancellor and the *procureur général* generally granted the judges' wishes for mercy, whether they agreed with the reasoning of their colleagues on the bench or not.

This is a book that all students of old regime French law and society will wish to consult. Those who are familiar with the immense and rich Joly de Fleury collection, one of the most valuable sources for the study of eighteenth-century France, will not fail to be impressed with Abad's research accomplishment in this study.

## NOTES

[1] A short list of such works includes Natalie Z. Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France* (Stanford, Cal.: Stanford University Press, 1987); Claude Gauvard, “*De grace especial*”. *Crime, état et société en France à la fin du Moyen Age* (2 vols., Paris: Publications de la Sorbonne, 1991); Robert Muchembled, *L’Invention de l’homme moderne: Sensibilités, moeurs et comportements sous l’Ancien Régime* (Paris: Fayard, 1988); Isabelle Paresys, *Aux marges du royaume. Violence, justice et société en Picardie sous François Ier* (Paris: Publications de la Sorbonne, 1998); and Romain Telliez, “*Per potentiam officii*”. *Les officiers devant la justice dans le royaume de France au XIVe siècle* (Paris: Honoré Champion, 2005).

[2] On this see, Julius R. Ruff, *Violence in Early Modern Europe, 1500-1800* (Cambridge and New York: Cambridge University Press, 2001).

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ISSN 1553-9172