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BOOK REVIEW

Ada Maria Kuskowski, *Vernacular Law: Writing and the Reinvention of Customary Law in Medieval France*

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Ada Kuskowski has written an important book that will broaden the ways that medievalists and legal scholars think about the role and development of French medieval customary law. Two principal questions animate this study: what was custom and therefore customary law in medieval France; and what was the role of vernacular writing in the creation and legitimation of this corpus of texts? Although previous scholarship derided vernacular customary law as unlearned and excessively regional, Kuskowski is clear from the outset that it was a dynamic and coherent learned law that had wide use. To this end, the authors of the first *coutumiers*, Kuskowski argues, "deserve to be recognized as jurists... [who] wrote shorter texts in the vernacular for a lay audience that operated in lay courts—they aspired not to complexity but brevity and clarity" (7). Over the course of the second half of the thirteenth century, the *coutumiers* developed hand in hand with the expansive reach of Capetian royal jurisdiction. Royal justices, *baillis* in the north and *sénéchaux* in the south, were at the center of this process and convened the secular courts where customary law prevailed. The two authors of the best known *coutumiers*, Philippe de Beaumanoir and Pierre de Fontaines, both served as royal *baillis* and wrote from their own experiences; and their texts are at the center of the book.

Kuskowski begins by showing how vernacular writing and distinct patterns of thought and interpretation created the conditions for the rise of customary law and a vernacular legal culture. The argument of the book then unfolds in three parts. Part I focuses on defining what custom and customary law entailed as both a practice and a concept. The decision, beginning in the 1250s, to write down customs was transformative and called attention to and heightened the influence and stature of lay jurists. The act of writing down customary law fundamentally transformed its status from something unwritten and malleable to something

that could be referenced, learned—hence a learned law—and authoritative as it could be called upon and invoked in its more stable written form. In Part II, Kuskowski sets French customary law in the context of ecclesiastical law (Chapter 4) and Roman law (Chapter 5), legal jurisdictions and cultures with robust and universalizing claims made through a longer Latin written tradition that defined their use and authority. Lay jurists, however, in Kuskowski's estimation, were undaunted by these older traditions and rather preferred "creative mining" (226) and a kind of "*collage* or *bricolage*" (227) approach in the composition of a *coutumier*. With respect to canon law, although there were aspects of competition, or what Kuskowski sees as "uneasy jurisdictions," the *coutumiers* sought foremost to carve out a separate sphere of law for lay lordship. The vernacular texts moreover reflect the increasing "professionalization of lay lordship" (176) and lay law. By contrast, the *coutumier* authors cited and deployed Roman law to bulk up ideas and practices or to lend lay law an authoritative flavor.

In Part III, Kuskowski turns to the larger cultural and practical implications of these legal shifts. As she argues, "the importance of the *coutumiers* went far beyond the content of their specific rules and procedures, [for] they created a discourse and tradition for thinking about custom." The authors "taught their readers and listeners ways of thinking, knowing, and arguing that would empower them in diverse roles in the secular courts" (18). She urges us to consider written law as part of a broader shift in manuscript culture; part of "an authorial act of composition that was individual, intentional, innovative, and creative" (19). Indeed, it was the authors themselves who transformed a host of individuated experiences and memories of practice into a coherent corpus not as an act of inscription but rather as an act of composition that combined a choice of tone, subject matter, formulated narratives, anecdotes, experience, memory, and learning. To this end, as she shows in Chapter 7, in one of the most compelling arguments of the book, Kuskowski makes the point that contrary to how law codes or legal texts are often conceived of—as pronouncements or normative statements—customary legal culture even in its textual form was dialectical, constructed and brought into being through practice and quotidian acts of justice and law-making. To this end we can catch a glimpse of "how law worked in a culture that does not think in terms of fixed legal text(s)" (21). For Kuskowski, the thirteenth-century *coutumiers* reflect "a moment of intellectual ebullience … and were the linchpin of French legal thinking until the Revolution and beyond in some French colonies" (362).

In many respects this book should take its place next to Anders Winroth's *The Making of Gratian's Decretum*, for Kuskowski's *Vernacular Law* is similarly a history of textual creation and of the makers of these texts. Kuskowski rightly focuses on the French jurists and their concern with making juridical procedure legible and usable for a broad swath of French men (and in some cases, women). For the jurists recognized that men and women, pleading in the vernacular, needed to understand and use customary law to settle disputes, right wrongs, ensure the inheritance of property, and find their place in their worlds. *Vernacular Law* will serve as an invaluable resource for scholars seeking an overview and orientation within the *coutumiers* and for those working on lay life and law in medieval and early modern France.

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