

H-Net Reviews

in the Humanities & Social Sciences

Sebastian Sobceki. *Unwritten Verities: The Making of England's Vernacular Legal Culture, 1463-1549*. Notre Dame: University of Notre Dame Press, 2015. x + 257 pp. \$38.00 (paper), ISBN 978-0-268-04145-8.

Reviewed by Jamie Taylor (Associate Professor of English, Bryn Mawr College)

Published on H-Law (October, 2015)

Commissioned by Michael J. Pfeifer



Vernacular Legal Culture in Early Modern England

Unwritten Verities: The Making of England's Vernacular Legal Culture, 1463-1549 traces the origins of English ideologies of commonality and conciliar government by arguing that the peculiar oral hermeneutics of English common law were foundational for conceptualizing “commonwealth” as a political and ethical principle. Focusing on a period that is often overlooked by medievalists and early modernists alike (that is, the late fifteenth and early sixteenth centuries), *Unwritten Verities* actually performs the cross-period work that is so often done only superficially. The book deftly draws together late medieval and early modern legists, philosophers, poets, and theologians to offer a full picture of English humanism, arguing on behalf of its oral traditions and unwritten customs.

Unwritten Verities takes its title from a phrase frequently deployed in sixteenth-century scriptural debates, which denoted the oral and customary traditions attacked by Protestant polemicists as “untrustworthy” in the face of scriptural citation. Common law, Sobceki argues, stubbornly relied on the hermeneutics of “unwritten verities” through and beyond the print revolution, even as print technologies catalyzed Protestant critiques of them. Strikingly, the rapid dissemination of printed legal books and statutes inaugurated a specifically English legal culture that rested upon unwritten modes of authority as a counternarrative to the centralizing impulses of the Tudor state, which relied upon the printed word.

This book thus offers a fresh look at medieval and early modern vernacular culture, legal history, and English humanism, shedding light on little-studied figures, such as John Rastell and Christopher St. Germain. Moreover, by moving across the medieval-early modern divide, *Unwritten Verities* investigates our own periodizing practices in terms of what they privilege (print) and what they minimize (orality). Accordingly, this book must be contextualized with such seminal works as M. T. Clanchy’s *From Memory to Written Record* (1979) and Emily Steiner’s *Documentary Culture and the Making of Medieval English Literature* (2009); like those texts, *Unwritten Verities* depicts the rich ways legal thought and modes of argumentation filtered beyond lawyers to enable new political and social practices.

However, as compelling and rewarding as this book is, *Unwritten Verities* suffers from some organizational confusion, resulting in elliptical discussions that reiterate arguments without fully developing them. The most egregious example is when the book repeats, verbatim, an entire paragraph on the humanistic call to self-governance as a reframing of Middle English pastoral literature of self-improvement (pp. 139, 147). This is a copy-editing error, to be sure, but it exposes the ways the book never quite offers an obvious argumentative arc. Neither does it simply offer case studies. Instead, the book suggests a chronology of common law’s reliance on unwritten hermeneutics (from Lancastrian thinking about conciliarism to sixteenth-century debates about common-

wealth) without offering an organizing principle to structure that chronology.

Likewise, it is not clear why the book is divided into two sections, titled “Foundations” and “Transformations,” respectively, nor do those titles particularly reveal the supposed cohesiveness of the chapters within each. Sobecki explains that the first section focuses on “fifteenth-century underpinnings” of sixteenth-century vernacular legal culture, while the second discusses “vernacular legal culture proper,” presumably meaning the sixteenth-century efflorescence of common-law texts in the age of print. But separating the book into sections like this not only fails to clarify the book’s sense of chronology, it belies one of its stated purposes: that is, to “divest its historical subject of the periodization that continues to structure our own hermeneutic practices” (p. 16).

Nonetheless, *Unwritten Verities* boasts persuasive and original arguments that genuinely reframe the ways we understand English humanism, the history of print, and vernacular culture. The first chapter traces the origins of Inns of Court, focusing particularly on the use of the moot as a pedagogical tool. It argues that oral pleading, as taught via the moot, forms the central mode of authority for lawyers. By extension, this peculiar mode of legal authority—that is, unwritten convention taught generation to generation—offers a sophisticated understanding of textuality that filters beyond the Inns. Moreover, as chapter 2 argues, common lawyers understood law French as a linchpin between spoken English and written Latin, functioning as a shared professional language. Thinking of law French and Middle English as a single vernacular disrupts our own normative categories—vernacular vs. Latin, common vs. prestige, oral vs. written—that subtend our understandings of medieval and early modern translation practices.

The third chapter turns its attention to John Fortescue’s importance in articulating the political role of the common law and its unwritten hermeneutics, arguing that he is “a premodern prophet of Anglo-American liberalism” (p. 73). Indeed, his conciliarist view of political governance is directly indebted to the vernacular legal culture from which it emerges; accordingly, Fortescue can be understood as a theorist of popular consent and its institutionalization, rather than as a pawn of Lancastrian interests (as he is more commonly read). By presenting common law and its unwritten verities, rather than Parliament, as the locus of the *vox populi*, Fortescue is the crucial bridge between Lancastrian conciliar government

and early modern ideals of the commonwealth.

The second section of the book, “Transformations,” begins by examining exactly how the conceptual cargo of “unwritten verities” migrated from religious polemic to common law. It tracks how vernacular legal culture’s orality survived the revolutions in reading ushered in by the age of print, seeing Christopher St. German as its critical defender. By examining St. German’s religious and legal treatises, the chapter skillfully navigates the overlaps and fissures between theological and secular idealizations of textuality. St. German critiques writing as a form of redundancy and laziness, akin to Plato’s worry that text will supplant communal memory; in turn, the communal knowledge conferred by unwritten verities formulates English law as site of political and ethical cohesion. The chapter convincingly situates St. German as a champion of unwritten common law in the face of Reformation textual ideologies, but it misses the opportunity to understand the Wycliffite and Lollard heritage of St. German’s defenses. Indeed, Lollard ideology critically engages with many of the issues explored in *Unwritten Verities* (including vernacularity, textuality, and legal and religious authority), and its absence is sorely felt. This chapter could have accommodated such an exploration.

The next chapter examines the explosion of early modern printed legal texts, beginning by conceptualizing Caxton’s printing of the 1490 statutes in English as an act of political negotiation, one that envisioned vernacular legal culture as a way to support Henrician authority while also suggesting that common law belonged to the people as much as to the Crown. John Rastell builds on Caxton’s translation project to disseminate vernacular legal culture widely. Indeed, Rastell sees English law as “a universal articulation of the public good” (p. 139), and in so doing, he counterbalances elitist humanism advanced by writers such as Thomas More, Thomas Starkey, and Thomas Elyot.

For writers like Caxton and Rastell, then, the vernacular legal culture inherited from Lancastrian thinkers offered an opportunity to displace “the elitist associations of its institutional practices” and to formalize the antiquity of English law as the foundation of a diverse, horizontally structured commonwealth. But there were unintended consequences of Rastell’s politics of access, as chapter 6 outlines. By the sixteenth century, the arguments in favor of wide dissemination of English law and the social engagement it encouraged had been “digested by the common people of England” (p. 173) and were be-

ing deployed in the 1549 “Prayer Book Revolt” to demand limits on royal prerogative. The vernacular legal culture shaped in the later Middle Ages thus emerges in the sixteenth century as resource to negotiate the possibilities and limits of self-governance and commonwealth.

Unwritten Verities is a welcome addition to critical work on vernacular culture, legal history, and English

humanism, redressing serious lacunae on the late Middle Ages and very early modern period. Making a very convincing case for the centrality of the common law to English ideals of commonwealth and emphasizing a number of little-studied writers and thinkers, *Unwritten Verities* will surely become an indispensable text for anyone working on English law and vernacularity.

If there is additional discussion of this review, you may access it through the network, at:

<https://networks.h-net.org/h-law>

Citation: Jamie Taylor. Review of Sobecki, Sebastian, *Unwritten Verities: The Making of England’s Vernacular Legal Culture, 1463-1549*. H-Law, H-Net Reviews. October, 2015.

URL: <http://www.h-net.org/reviews/showrev.php?id=44365>



This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 United States License.