

## Book Reviews

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Bronach C. Kane, *Popular Memory and Gender in Medieval England: Men, Women, and Testimony in the Church Courts, c.1200–1500*. Woodbridge, UK: The Boydell Press, 2019. Pp. vii, 301. \$99.00 hardcover (ISBN 9781783273522).

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In this stimulating study of the use of memory in medieval English ecclesiastical courts, Bronach Kane examines how gender shaped non-elite men and women's perceptions of the past and their testimonies. Kane argues that men and women had distinctive ways of remembering, which were "often related to the patriarchal ideologies and practices that saturated aspects of everyday life" (3). These attitudes shaped patterns of witness selection, influenced perceptions of trustworthiness, and were embedded within the narratives that men and women offered in court. One of the book's central questions revolves around the agency of litigants and witnesses. Kane argues that agency is "especially instructive in considering how women and subaltern men operated within the strictures of patriarchy and the law" (22).

Kane primarily deploys the cause papers and Act Books from the Archdiocese of York, including cases that were sent on to Canterbury. These documents provide "vivid testimony" that Kane marshals productively to examine the ways in which litigants and witnesses articulated their versions of the past (24). In Chapter 1, Kane carefully teases out how gender and testimony were imbricated in judicial inquiry and pastoral care. She charts the growing importance of memory as proof in canon and secular laws and courts. This form of evidence was constructed in large measure around misogynistic assumptions about women. In Chapter 2, Kane begins to untangle the narrative strategies that men and women deployed. For example, women had to negotiate negative assumptions about their credibility, reputation, and economic status (as did poorer men), and confront the many "exceptions" (objections) that men presented. To countermand the obstacles, female litigants and witnesses constructed narratives that often drew on "complex conjugal histories...based on memories of cohabitation, love, and childbearing" (69). Men's testimony, on the other hand, often recalled specific memories to provide an alibi regarding an alleged conjugal or sexual interaction. They remembered specific homosocial events, their roles in local or parish affairs, and acts of piety. Both men and

women drew from the deep well of gendered expectations regarding courtship, marriage, and the life cycle, but men were able to substantiate their claims in “a range of public experiences” simply unavailable to women.

Chapters 3 and 4 examine the embodied and material nature of memory, bound to clothing, material objects, and recollections of violence or trauma, death, sex, sexuality, and reproduction. Chapter 5 focuses on the memories that men and women produced of marriage and widowhood, neighbors, and kindred. Marriage provided an effective “memory strategy” for both men and women. Married and widowed women appropriated patriarchal motifs to counter claims against their property rights or characterizing them as “the enemy of family cohesion” (typically as stepmothers or widows) (169). Such memories functioned as proof of their legal and social place within the family. For men, too, memories of marriage could reinforce their adult masculine identities as heads of families or contributing members of kindred networks. Chapter 6 deals with memories of custom, oral transmission, and writing. Kane demonstrates that “competence in canon and common law, as well as local custom” could be significant sources of agency and authority for women. Chapter 7 focuses on the spaces that men and women occupied and moved through, observing that the materiality of memory and its physically embodied nature contributed to its credibility. Memories of sex in particular locations were used strategically as sources of “narrative agency” for women (229–30), mirroring the way that men deployed similar memories in their testimony.

Given the geographical scope of this study, it is not surprising that Kane draws predominantly from histories of law and gender in English contexts. More comparative analysis could have been productive. For example, whereas Kane’s study supports P.J. Goldberg’s earlier findings that the ecclesiastical courts in York were biased against women as witnesses, Susan McDonough’s 2013 study on witness testimony in Marseille (*Witnesses, Neighbors, and Community in Late Medieval Marseille*) demonstrates that women there drew on their varied professional, social, and moral expertise in offering testimony. Additionally, Marie Kelleher, in her 2010 book, *The Measure of Women*, and her chapter in *The Oxford Handbook of Women and Gender in Medieval Europe*, found that in places where the *ius commune* transformed legal codes and courts (such as Aragon), women actively crafted their own self-representations. This resonates with Kane’s arguments regarding the role of gender in shaping attitudes toward the authority of witnesses and the strategies of men and women in drawing upon the social grammar of patriarchy to situate and legitimize their memories as solid proofs. To engage more directly with these studies as points of comparison would help readers further contextualize the opportunities and limitations for both women and men within the legal systems in England, relative to other societies in medieval Christendom. Overall, Kane’s study is an invaluable resource for understanding the complex

interactions between overlapping discourses on gender, legal culture for non-elite Christians, and people's agency within the courts. Methodologically, as well as conceptually, the book is sure to enrich current and future conversations about the importance of memory and memory making in medieval Europe.

**Emily J. Hutchison**  
Mount Royal University

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Thomas J. McSweeney, *Priests of the Law: Roman Law and the Making of the Common Law's First Professionals*. Oxford: Oxford University Press, 2019. Pp. xvi, 287. \$90.00 hardcover (ISBN 9780198845454). doi:10.1017/S0738248021000341

In this admirable first book, Thomas McSweeney casts new light on the professional culture of the early English common law. He argues that at the turn of the thirteenth century, the proliferation of Romanist legal learning and the growing professionalization of the king's courts combined to create a generation of English judges and clerks who understood themselves as expert jurists—the titular “priests of the law.” In doing so, he neatly shifts the terms of the long-standing debates over the influence of Roman law in England. Rather than searching for doctrinal similarities and differences, he argues that we should try to understand how contemporary lawmen understood the relationship between the two laws. He presents a compelling case that while they understood common law to have its own distinctive rules and concepts, they found in the *ius commune* a jurisprudential framework that gave their work a deeper meaning.

His analysis is founded on an extended gloss of the massive, complex treatise known as *Bracton*, written and revised during the first half of the thirteenth century. For McSweeney, *Bracton* was the textual expression of this particular professional milieu of clerks and justices employed in the royal courts; neither an educational text nor a reference book, it was written to demonstrate to this community that they were “part of the broader legal culture of Latin Christendom” (6). If this seems a rather quixotic reason to write a treatise of several hundred folia, McSweeney's proposal is made compelling through his exploration of the constellation of texts that orbited *Bracton*. From the Romanist writings that its authors evidently knew in great detail, to the writs and plea rolls of their working lives, thirteenth-century justices spent their lives swimming in legal texts of one kind or another; *Bracton* was written