

Bradin Cormack. *A Power to Do Justice: Jurisdiction, English Literature, and the Rise of Common Law, 1509-1625.* Chicago: University of Chicago Press, 2008. 406 pp. \$35.00, cloth, ISBN 978-0-226-11624-2.



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Law in modern English-speaking nations is sustained by a necessary myth. Citizens assume that the law is certain and therefore reliable—that lawyers "know" what the law is and can enlighten those who seek their advice. In a fundamental sense, however, legal opinion in a common law system is always out of date. "The law" is uncertain until it is decided—until a judge or jury makes a decision, until a panel of judges interprets a statute, or until an appellate court hears a final appeal. All that lawyers can do is make predictions about future decisions based on what they know of past decisions. Legal knowledge, in other words, is deeply unstable, but, in the interests of the preservation of civil society, the legal system presents itself as the very model of stability, certainty, and solidity.

Bradin Cormack's fascinating study exposes the fundamental instability of English law by examining literary engagements with the evolution of legal thought and practice between 1509 and 1625, a period of unusual upheaval and strain. Between the accession of Henry VIII and the death

of James I, English rulers and administrators made great strides in their efforts to expand state power through centralization and to consolidate legal authority by rationalizing law courts. Parliamentary statutes and crown proclamations increased in number, scope, and complexity; large courts, such as Common Pleas and King's Bench, took over the business of smaller courts; common lawyers clashed with canon lawyers and with doctors of civil law who worked in courts of equity; and crown agents sought to justify imperial ventures in Ireland and the New World. At the center of these enterprises lay the law in all its forms along with pressing questions about good governance and the effective exercise of power. Cormack's focus, as his title makes clear, is jurisdiction, the crucible in which notional power becomes real through the process of defining the boundaries and testing the limits of authority.

The clashes of jurisdictions that marked this period threw off sparks in the form of debates about the correct exercise of power within specific geographical regions or over particular subject

areas or categories of people. As Cormack demonstrates in a series of elegant and erudite close readings, these debates regularly spilled over into literary as well as legal works. In an age when criticizing royal policy or offering forthright advice for those in power could be dangerous undertakings, literary forms with multiple or ambiguous voices, such as dialogues, plays, and poems, provided useful instruments for exploring sensitive issues and airing potential grievances. The book is divided into three thematic sections of two chapters each, examining literary engagements with a range of different questions centered around jurisdiction. To capture a sense of change over time, Cormack also arranges his texts chronologically, beginning with John Skelton's *Magnyfycence* (ca. 1519-20) and ending with John Webster, Thomas Heywood, and William Rowley's *A Cure for a Cuckold* (1624).

Part 1 examines "Centralization." In his first chapter, Cormack reveals Skelton to be an astute commentator on the early Tudor consolidation of revenue raising power within the Royal Household at the expense of the Exchequer. In *Magnyfycence*, Skelton employs a fictional corrupt royal household to consider the ways in which reorganizations of royal finances affected relations between crown and subject. Along the way, he reveals the importance to monarchs of good counsel and a malleable vision of royal privilege and the extent of crown prerogative. Cormack argues persuasively that the context and inspiration for Skelton's work was not so much a single event or a specific group of advisors as it was the logic behind that event, in this case the ongoing process of redrawing the lines of royal fiscal power. In the next chapter, Cormack's sensitivity to legal forms allows him to detect an overarching continuity in the works of Thomas More. What unites the humanist project of *Utopia* (1516) and later conservative polemics against Protestantism is More's lawyerly recognition of the importance of jurisdictional boundaries and the potential dangers that arise from reconfiguring them. More was not

opposed to the consolidation of power, but he was uncomfortable with the mechanisms being used to achieve it, fearing that allowing the common law to swallow up or stifle rival ecclesiastical and equitable jurisdictions could threaten the foundations of royal power itself.

Part 2, entitled "Rationalization," looks at theoretical difficulties associated with imagining or applying common law outside of the English realm, whether attempting to extend its reach to cover Ireland or explaining its relation to French law in light of the Norman Conquest. In it, Cormack argues that the legal and literary exercise of accommodating the jurisdictions of other territories proved crucial to the development and shaping of English legal identity at home. Chapter 3 examines Edmund Spenser's writings, including *The Faerie Queen*, to determine his reaction to assertions of English law in Ireland, probing the interplay between theoretical claims to possession (*dominium*) and actual impositions of sovereignty (*imperium*) and the repercussions of English initiatives on native customary or Brehon law. Chapter 4 considers English military and legal nationalism in light of French conquest and the irony of the common law's reliance on Law French. Cormack explores this theme in William Shakespeare's history plays, in particular *Henry V* and *Richard III*, demonstrating the importance of discussions of Frenchness and English identity, along with rationalizations of the Norman invasion of England, in rival formulations and justifications of sovereignty.

Part 3 focuses on "Formalization," observing the fragility of apparently robust notions of jurisdiction as they expanded and came up against other, largely incompatible, regimes of law and authority, often producing new legal norms in the process. Chapter 5 employs Shakespeare's *Cymbeline* and *Pericles* to explore the ramifications of empire in the wake of the uniting of the Scottish and English crowns. The final chapter turns from this international context to a decidedly domestic

one, teasing out of *A Cure For a Cuckold* the convoluted and competing claims to authority made possible by the myriad laws and courts that coexisted and overlapped in Stuart London.

Cormack's focus on jurisdiction, coupled with his recognition of law's instability, provides a fresh model of the relationship between law and literature, one in which the traffic is not all one way. Literary works do not simply mirror, echo, or critique a fixed set of legal certainties; they engage with and have the ability to influence the legal debates going on around them. Exposing the fluidity of the law allows Cormack to emphasize the extent to which law is a process as well as an entity, and therefore open to outside influence. The result is a truly interdisciplinary work that devotes the same care and attention to the works of Sir Edward Coke and Sir John Fortescue as it does to those of Shakespeare and Spenser, and looks for its subject matter to woodcut images and political treatises as well as to works of drama, poetry, and fiction. Cormack's erudition may make this a challenging read for nonspecialists, and some textual scholars may balk at the hard work involved in comprehending technical aspects of land law or the jurisdictional extent of piepowder courts or gavelkind, but the results are well worth the effort.

There is little to fault, and much to applaud, in this magisterial study of questions of jurisdiction in sixteenth- and seventeenth-century English law and literature. Cormack's book does, however, raise questions for practitioners in other disciplines, for the legal scholarship on which he draws to such good effect is more conservative than the literary criticism with which he engages. This results, at times, in a lawyer's privileging of the common law at the expense of rival and ultimately unsuccessful alternatives, where each expansion of this national jurisdiction appears to derive from a noble respect for individual rights and liberties. He examines multiple jurisdictions, but his intellectual prey is English legal identity,

as if there were only one. It also encourages a focus on theoretical processes that progress from the top down and from the center out, as the inevitable consequences of state building, missing an opportunity to analyze the influence that ordinary citizens had on these transformations. The unprecedented boom in litigation that occurred during the latter half of Cormack's period not only provided elite judges with the grist for their ideological and jurisprudential mills, but also produced the astonishing legal literacy displayed by the authors Cormack studies and by the English men and women who bought, read, or watched performances of their works. Legal, political, and social historians should take note: Cormack's book emphasizes the unity of law and society and takes the study of jurisdiction to a new level of sophistication that they will need to strive hard to match.

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