

Tim Stretton. *Women Waging Law in Elizabethan England.* Cambridge: Cambridge University Press, 1998. 304 pp. \$59.95, cloth, ISBN 978-0-521-49554-7.



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In recent years, scholars have begun to uncover and analyze women's role in litigation. Going beyond the rules enunciated in statutes and cases, historians have examined women's litigation strategies, the constraints on their actions, and the attitudes of judges, jurors and other participants in the legal process. Gowing's work on defamation in ecclesiastical courts [1] and Walker and Loengard's work on medieval dower litigation are notable examples of this growing literature.[2] Tim Stretton's *Women Waging Law in Elizabethan England* is a fine contribution to this body of scholarship.

Despite its broad title, Stretton's book focuses on one particular court, the Court of Requests. This court was a conciliar, equity court which heard a large number cases in the sixteenth and early seventeenth centuries. Most suits concerned disputes over lands and debts. The book makes fruitful use of the secondary literature on female litigants in other Elizabethan courts, but the primary research underlying the book and the bulk of its content relate to the Court of Requests. That is not, however, to downplay the achievement of

the book. The records of this court are massive, and Stretton's thorough research and clear analysis are much to be applauded.

The most interesting part of the book is the discussion of the informal barriers to women bringing suits. (Chapters 3 and 9) While an impressive number of women brought actions in the Court of Requests, they represented only about twenty percent of plaintiffs in that court, and, in over half of these cases, they brought suit together with their husbands. Legal rules, such as the doctrine of coverture (which barred married women from bringing most suits without their husbands) account for much of this under-representation. Such legal impediments, however, are well known. Stretton's main contribution is to document the cultural impediments to suit. By looking at a wide array of non-legal sources (such as plays and moral writings), Stretton shows that women were also discouraged from litigating by the idea that a modest woman speaks little, that a chaste woman does not appear in public, and that a good woman is ignorant of her rights. Because of this constellation of gender expectations, many women who

could legally bring actions did not do so. Instead, they suffered in silence or waited until they married (or remarried), so that their husbands could sue on their behalf.

In addition to documenting the way that cultural ideals of femininity discouraged women's litigation, Stretton also shows the ways in which these ideals shaped litigation itself. (Chapter 8) All litigants in Requests (except those in service of the royal household) had to plead their own poverty or the overwhelming power of their adversary in order to invoke the jurisdiction of the court. Nevertheless, women's complaints of poverty and powerlessness tended to be much starker. Whereas pleadings by male litigants usually suggested that their weakness was temporary and to emphasize the superior position of the defendant, women's pleadings tended to relate, at length, the abjectness of the plaintiff's position. To his credit, Stretton does not take the statements in the pleadings at face value as necessarily revealing the truth of women's situations. In fact, in some cases it is clear that the litigant claiming poverty actually possessed substantial wealth. Nevertheless, Stretton shows that the differential pleading strategies employed by men and women, even if they were not grounded in the truth of individual circumstances, did reflect societal (and, in particular, judicial) expectations of women and the conditions under which they could properly call upon the courts for assistance.

While these are the most interesting parts of the book, other parts reflect solid research and argument. Chapter 2 reviews the historiography of women and English courts. Chapter 4 provides helpful background on the Court of Requests. Since relatively little has been written about this court, even scholars with interests remote from women and gender will find this chapter of use. Chapters 5 and 6 examine the different litigation patterns of unmarried and married women. Chapter 6's discussion of the ability of wives to sue abusive husbands for maintenance in the Court of

Requests is especially interesting. Chapter 7 examines suits concerning a widow's right to a life estate in her deceased husband's copyhold lands. These chapters occasionally employ a plodding style which reflects the book's origins in a Ph.D. thesis. Nevertheless, they contain much careful analysis and will be of interest to students of legal doctrine as well as those interested in women's history.

It is hard to say much negative about this solid and well-researched book. At times, it would have been helpful if the author had more carefully distinguished between what he had directly observed in the Court of Requests records and what he had learned from secondary sources. In Chapter 7, for example, Stretton several times refers to the mutability of custom, but it is unclear whether he is merely repeating the conclusions of others or whether the Court of Requests cases provide additional support for this idea. Nevertheless, this is a minor quibble about a fine book which will be of considerable interest to both legal and social historians.

Notes

[1]. Laura Gowing, *Domestic Dangers: Women, Words, and Sex in Early Modern London* (Oxford: Clarendon Press, 1996).

[2]. See, e.g., the articles in *Wife & Widow in Medieval England*, ed. Sue Sheridan Walker, (Ann Arbor, University of Michigan Press, 1993)

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