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For a young aspiring scholar of marital litigation eager to expand my knowledge beyond the church courts, reading Tim Stretton’s *Women Waging Law in Elizabethan England* back in the 1990s was an eye-opening experience.[1] Among other reasons was the simple fact that all his material was drawn from a court that I had never heard of: the Court of Requests. One of the equity courts, or more accurately for this era, courts of “conscience,” developed in the late medieval period, the court shares much in common with Chancery and Star Chamber. All three emerged to address cases without remedy at common law and its judges were not bound by common-law rules or precedent, but instead ruled according to their consciences. Of the three, Requests is by far the least well known. Much has been written on Chancery; if not in book form, there is a plethora of articles about the late medieval and early modern Chancery, presumably enhanced by the availability of these petitions also in digital format on the AALT website.[2] Star Chamber has also recently had its moment in the sun, with a dedicated conference and the subsequent publication of a volume edited by Krista Kesselring and Natalie Mears.[3] Yet, despite Stretton’s follow-up Camden volume, almost nothing has been written on the subject of the Court of Requests—until now.[4] Laura Flannigan’s commendably organized and cogently argued book is the definitive study of the origins and early history of the Court of Requests. This is no easy feat, given that the court has no defining moment of foundation, nor did it have a stable enough identity for it to be consistently referred to by one name well after it had come into existence. More important still, in working to put the court in context, Flannigan provides a clear understanding of why all these courts of conscience emerged during roughly the same period, how they fit in with the larger process of state formation, and how each of these courts served different purposes.
The book is divided into three parts with three chapters each. The first part focuses on the emergence of the Court of Requests as a component of a revolution in royal justice ushered into being by the first two Tudor monarchs. As Flannigan is keen to emphasize, legal change is driven from below. Petitioning the king for justice had always been an English subject's right. For much of the Middle Ages, this charge belonged to the Court of King's Bench, which accompanied the king upon his travels and was authorized to address both civil and criminal matters. However, by the early fifteenth century, when the king left Westminster, King's Bench remained behind. The absence of a mechanism for itinerant justice giving did not deter the crowds: as Flannigan writes, “Petitions would come, whether invited or not.” Increasing demand for justice in the wake of the Wars of the Roses was resolved with a proliferation of central courts alongside a “shift from a flow of informal, oral complaint and resolution to a system of documented petitioning, pleading and judgment” (p. 47).

Flannigan investigates the various conciliar means by which the Crown addressed the needs of the people, upon which the Court of Requests was modeled and from which it naturally emerged. Royal justice functioned on the premise of the king “as the ultimate judge and lawmaker (p. 43). A busy man, he was accustomed to delegate: thus, royal justice was usually justice by committee, that is, a matter for his trusted counselors and household clergy, who adhered to the norms and procedures in place for mediation and arbitration, the most common means of dispute resolution in the medieval period. Arbitration stood as the exemplar also for conciliar justice doled out by the Council of the Duchy of Lancaster, as well as the Councils for the Marches of Wales and the North. All of these were effectively courts of conscience. What was new about Chancery, Star Chamber, and Requests, then, was not their procedures or their jurisprudence, but their centrality. Requests eventually replaced King's Bench as the court existing within the king's orbit and is a testament to the “expectation of personal royal justice” as a live concern (p. 65).

Part 2 puts Requests under the microscope to better understand who brought their cases to court, the nature of their disputes, and the needs of the process. Litigants came from all over England. As one would expect, litigation was male dominant, but women made up 20 percent of the petitioners. In terms of status, litigants came chiefly from the church, the rural landed elite, and the urban trades. Why petitioners chose to take their case to Requests helps us to better understand the place of the court in England’s massive legal network and how it differentiated itself from other courts of conscience. Requests specialized in disputes over possession of lands and estates, which formed a full 70 percent of its business (p. 123). Star Chamber was dominated by matters touching the king or civil suits between nobles (p. 73), while Chancery focused on disputes arising from some form of debt or obligation. Both the enclosure movement and the dissolution of the monasteries contributed to the popularity of Requests, creating petitioners in need of royal affirmation of their rights. Despite the informality of the process, litigation in Requests was not something to wing: both plaintiff and defendant needed the assistance of legal counsel. As Flannigan writes, “petitioning to the king required time, solid social networks, and considerable expenses” (p. 169).

The final part examines the petitionary process. Flannigan begins by asking, to whom did the king delegate the job of justice giving? Early on, it was the Dean of the Chapel Royal and the royal almoner who oversaw the procedural and judicial business of the court. These men were charged with cure of the king's soul. The prominence of their positions may well have led petitioners to see the hand of the king in the court's rulings. Flannigan does not ignore the defendant's perspective. Defendants engaged in a wide variety of avoidance tactics (such as eluding the summoner), and
legal feints, which included criticizing the very existence of royal justice. Finally, Flannigan investigates how these cases concluded. Many had no formal conclusion, about which Flannigan astutely concludes: “litigation was not necessarily about acquiring a firm judgment. Just as often, it was about invoking a higher authority in the name of peace, about out-maneuvering and overwhelming opponents; and so, a writ of summons, a commission, or an informal arbitration could be enough to achieve a litigant’s goal” (p. 224).

Flannigan’s book upends much of what we thought we knew about the legal revolution of the early Tudor era. Rather than “outright innovation or revolution,” we see continuity with medieval legal traditions (p. 256). Where Geoffrey Elton has argued for “ruthless efficiency,” Flannigan demonstrates instead “relatively informal and flexible” justice (p. 256). And while much of the initiative for new streams of justice may have come from the government, its officials were simply responding to rising demand for justice from subjects who saw it as their right to petition the king. She also takes on the long-ingrained notion that Requests was the poor man’s court. While its judges waived legal fees for the poor and occasionally sent the rich off to other jurisdictions, the expenses, legal expertise, and social connections needed to petition in Requests meant that the truly poor were not able to make use of the court.

Perhaps what is most impressive about Flannigan’s study is that it tackles a period that is constantly overlooked. On the one hand, medievalists snub the fifteenth century because the records of the fourteenth century are numerically superior and centrally organized. Early modernists, on the other hand, pay almost no attention to the fifteenth century and very little to the early sixteenth. Flannigan describes it best when she writes, this era is “characterised by early modernists in terms of decline, darkness, and dimness before a golden age of state and society beginning c. 1550” (p. 263). Nonetheless, this transitional era is vital: it gave birth to an array of new courts and witnessed tremendous centralization of government processes, the expansion of an increasingly adept bureaucracy, and a routinization of government administration. Flannigan’s book makes it clear that we cannot understand state formation without including also the courts of royal justice, which Flannigan transforms from curiosities to an essential means of communication between king and subjects.

Notes
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