
Any monograph that casts light into the shadowy corners of early modern law is to be welcomed, especially one that is accessible to a non-specialist audience for whom most of early modern law is shadowy corners. Lloyd Bonfield’s *Devising, Dying and Dispute* is just such a monograph. Bonfield takes as his object of study nearly two hundred causes (or cases) related to wills probated (that is, proved valid or deemed invalid) between 1660 and 1700 in the Prerogative Court of Canterbury, the preeminent court for this kind of litigation in England at the time. Unlike some other historical studies, Bonfield’s is not so much concerned with the contents of these wills (that is, with who got what and why) as it is with the legal practices of making, remaking, probating, and administering them (this focus is indicated by the nominal solidity of “dispute” in Bonfield’s grammatically non-parallel title). These practices constitute what Bonfield calls “the culture of will-making” in early modern England. His most basic claim is that this culture tolerated and in some ways even encouraged a much higher degree of flexibility and uncertainty with regards to will-making than we would be comfortable with today: wills, for example, did not have to be registered, nuncupative (or oral) wills were recognized, and, more generally, courts made every attempt to discover and enforce what they felt to be the true final intentions of the dying testator, no matter how imperfectly or obscurely these final intentions were expressed in writing (another point Bonfield makes is that almost all testators during the period were dying and not infrequently *in extremis*: to write one’s last will and testament and to devise one’s estate while in good health was thought to promote a premature demise, though at whose hands it is not always clear).

Bonfield situates this brief episode in the history of will-making within three larger narratives about the emergence of modern Anglo-American legal practice: the transition from a feudal to an individualistic or Lockean conception of property ownership, from a mystical to a rational or scientific understanding of mental disease (important for judging the competence of testators and witnesses), and lastly—given
that the 1677 Statute of Frauds was adopted roughly in the middle of this episode and is still treated as a benchmark in the growth of legal formalism—from a flexible and oral legal culture to a formal and written one. Individual chapters approach these connected historical narratives from different directions: after a short Introduction, Chapter One discusses who made wills and what other roles (executor/executrix, witness, beneficiary, administrator/administratrix, attorney, scrivener, disputant) were available in the drama of probate litigation. Chapter Two examines the history and peculiarity of the ecclesiastic jurisdiction over testamentary causes in England, even after the Civil War. Chapter Three is effectively an introduction to and summary of Chapters Four through Seven, in which Bonfield takes up in absorbing detail the specific grounds for disputing the validity of wills: Chapter Four treats the problem of establishing the testator’s soundness of mind and freedom from undue influence at the time of the will’s making; Chapter Five considers the contested validity of and legal procedures surrounding nuncupative wills; Chapter Six addresses flaws, irregularities, or imperfections in the execution of written wills; and Chapter Seven enumerates the various problems raised by draft, revoked, or multiple wills. Using the same body of evidence but shifting more toward the social history to be gleaned from these probate disputes, Bonfield also discusses in three final chapters the laxity of England’s marriage-formation law (Chapter Eight), allegations of abuse and the darker side of family relations in the period (Chapter Nine), and the participation of women in early modern probate litigation (Chapter Ten). As an appendix, Bonfield offers “A primer on probate jurisdiction in early modern England” that is designed specifically for non-specialist readers and that defines basic terms and describes standard procedures.

The primary strength of Bonfield’s study is his ability to piece together the human drama recorded in the archival documents associated with each probate case and to link these fragmentary dramas to what was ultimately a fairly slender body of legal theory on the topic. Point by point and term by term, he patiently tests whether general statements of principle found in tracts such as Henry Swinburne’s _A Brief Treatise of Testaments and Last Wills_ (1590) and John Brydall’s _Non Compos Mentis_ (1700) were applied and honored in practice. The principle weakness of _Devising, Dying and Dispute_ (aside from some
spotty copy-editing) is one that Bonfield himself readily acknowledges
(see 257-58): his evidence yields up a wealth of information about these
legal disputes but not the reasoning of the judges who decided them.
Numerous kinds of legal documents chart the progress of these cases
through the courts but while the final verdicts, at least in cases that
were pursued to completion, are recorded, they are never explained.
Thus Bonfield can only infer from the arguments made by the various
interested parties what they thought the judges wanted to hear. Bon-
field concludes, quite reasonably if somewhat unsatisfactorily, that the
probate courts, given great discretionary leeway in the period’s culture
of will-making, simply must have ruled in favor of those litigants who
were, with the help of their witnesses and attorneys, best able to craft
persuasive narratives about testators, their will-making, and their dy-
ing intentions (see esp 106-07, 128-29, 154-55, and 175-76). But we
never hear the judges say just that. The effect is a bit like seeing four acts
of a Shakespeare play and then simply being told who marries whom
(or who kills whom) at the end. It is the Duke’s final speech—the
one explaining why things happened the way you thought that they
would probably happen—that you really want to hear.

Conrad Russell, King James VI and I and his English Parliaments. Edited
by Richard Cust and Andrew Thrush. Oxford: Oxford University
College London.

The late Conrad Russell—affectionately known as ‘the earl’—was
a towering, provocative and extraordinary presence within early Stuart
studies, and this book contains probably his final contribution to a
field that he did so much to shape. It is based upon, but not confined
to, the Trevelyan lectures that he delivered at Cambridge University
in 1995, the six instalments of which are supplemented by four other
chapters which were subsequently drafted as part of a planned mono-
graph. Thus, while the book has been edited from an unfinished type-
script by two former PhD students, it reflects Russell’s own plan, and
represents a project that he evidently hoped would sit alongside two
earlier volumes covering a later period: Parliaments and English Politics,