Scripting Justice in Late Medieval Europe: Legal Practice and Communication in the Law Courts of Utrecht, York and Paris, by Frans Camphuijsen, Amsterdam, Amsterdam University Press, 2022, 312 pp, €129.00 (hbk), ISBN 978-9463723473

Law as Performance: Theatricality, Spectatorship, and the Making of Law in Ancient, Medieval, and Early Modern Europe, by Julie Stone Peters, Oxford, Oxford University Press, 2022, 368 pp, £95.00 (hbk), ISBN 978-0192898494

If late medieval courts 'presented people with specific – and in hindsight highly successful – scripts to perform and define justice' (Camphuijsen 17), it is also worth remembering that 'law does not always follow scripts' (Stone Peters 148). Both individually and in dialogue with each other, the two books reviewed here make significant contributions to the fields of legal history and performance studies in their innovative approaches to understanding early legal narratives and practices as contingent, co-constructed performances. Frans Camphuijsen's *Scripting Justice in Late Medieval Europe* comprises a highly successful comparative study of three distinct late medieval courts: the archiepiscopal Consistory Court of York, the royal *Parlement* of Paris and the urban Council of Utrecht. The book's foremost innovation thus lies in its transregional comparison of the similarities and differences found in models of justice offered by royal, church and urban courts. Equally insightful is the socio-cultural perspective through which the book assesses the multimedia scripts offered by its chosen legal institutions and the carefully contextualized practicalities of how these were publicly performed. Julie Stone Peters's *Law as Performance*, on the other hand, encompasses an impressively broad temporal scope – from classical antiquity to the early modern period – expertly tracing the ways in which law has always been understood as and differentiated from theatrical performance, particularly where it does not follow the intended script. *Law as Performance* therefore contextualizes its legal examples, also taken from a range of

courts across Europe, in a different way: from the ancient political concept of 'theatrocracy', through medieval models of rhetoric and oratory, arriving at the kinds of training received by early modern legal practitioners, the book traces the ever-evolving history of legal performance through the intellectual ideals of its practitioners and critics. As works that combine in exemplary fashion the disciplines of history, literature and performance studies, these books mark a concerted and important turn in scholarship to understand literally and practically, as well as metaphorically, the performed nature of the law through the eyes of both its practitioners and spectators.

Having introduced the book's key arguments, Camphuijsen's *Scripting Justice* comprises five chapters; firstly, it profiles the three case-study courts and then considers the importance of legal space for the operation of justice across the three courts. Chapter three analyses court rituals and chapter four considers how written texts operated in the social contexts of each court. The book then brings these discussions together in its fifth chapter on the producers and consumers of justice before making more general conclusions. The appendices of the book, one for each of its courts of focus, comprising primary source material and accompanying translations alongside quantitative analysis will be of particular use to scholars in this area and are indicative of the depth and detail of research underpinning the book. Meanwhile, Stone Peters's *Law as Performance* will be invaluable to scholars across legal and performance studies for its brilliant treatment of such a wide range of writing about the law, as well as for the ways in which it places this material in direct dialogue with legal examples across its broad temporal scope. Beginning with two chapters on ancient legal and theatrical practice – one on Greek theatre and politics, the other on Roman advocates as actors – the book then moves onto two medieval chapters. Chapter three considers medieval writing about legal delivery and chapter four addresses the performances of those who would 'upend legal scripts' (144) in the courtroom and on the streets, particularly in instances of

public punishment. The final two chapters move into the early modern period with chapter five exploring delivery manuals for legal practitioners and chapter six focusing on the training received in England at universities or Inns of Court. The structural balance of chapters, where a focus on legal principle is paired with consideration of how such principles played out practice for each time period, works especially well to elucidate first the range of intended legal scripts and second the ways in which they did or did not shape the realities of legal performance.

Just one of the many shared strengths of the two books reviewed here is the space they make for spectators – for the multiple, multi-faceted interpreters and consumers of any legal performance – facilitating insight into the performed operations of early law far beyond the perspectives of its institutions and practitioners. Amongst the wealth of theatre scholarship that strives to determine what constitutes performance, particularly for the medieval and early modern periods, Philip Butterworth's concept of '*agreed pretence* between instigators and witnesses' as the 'basis upon which all theatre takes place' is perhaps most pertinent here; 'most frequently' Butterworth observes, 'the compact between the instigator and the witness is a tacit one and is upheld as long as the spectator voluntarily consents to witness the performed theatre'.[1] Crucially, Butterworth argues that staging conventions 'as determined by the purpose of the work, the conditions within which it is performed, and the time taken to move towards and complete its audience perception and reception' are what 'govern and guide' such interactions – they 'condition rules of engagement for audiences', 'establish relative realities'.[2]

[1] Philip Butterworth, *Staging Conventions in Medieval English Theatre* (Cambridge University Press 2014) 1–2 (emphasis in original).
[2] Ibid.

Butterworth's distillation of what constitutes theatre is useful here in foregrounding the shared innovation of the two books under review: both, in different ways, reveal, catalogue and theorize the 'staging conventions' – the purposes, conditions and time taken towards delivery – of attempted performances of justice undertaken in early European law courts. In this sense, they get to the very heart of how law functioned when understood as performance. Camphuijsen and Stone Peters's arguments emphasize the importance to our understanding of early law of considering the kinds of *agreement* (and indeed disagreement) that legal performances could occasion between producers and consumers, both of which had an equally important part to play as Butterworth's framing reminds us. Both authors also demonstrate the many ways in which the *pretence* of legal justice was conditioned by its emergent conventions. Whilst Camphuijsen engages the theatrical concept of 'scripting' to foreground the narratives constructed by practitioners and institutions of law, and Stone Peters understands law *as* performance (rather than the more commonly used 'law and performance') to emphasize spectatorship, both are concerned with how the theatrical compacts of *agreed pretence* drove the construction, day-to-day practice and reception of medieval and early modern law.

Indeed, it is the close engagement with the mechanics of legal performance that makes these two books particularly distinctive, whilst the different approaches they adopt for this undertaking make them an especially complementary pair. Camphuijsen's aim in focusing on 'scripting' is to direct historians to the active moments of negotiation and renegotiation of concepts of justice – the 'communicative interaction[s] between historical agents' (257) – preceding most court records. Paying attention to such underlying interactions prevents the building of historical interpretations solely from the post-event descriptions that such records often preserve. Engaging Austinian speech act theory via Bourdieu's emphasis on the 'social embeddedness of language' (37),

Scripting Justice argues that court records, for example witness testimony, should be understood as 'multi-authored and multidirectional' constitutive speech acts (258). Whilst not diminishing the significance of written texts in their own right, Camphuijsen's decision to focus chapter three on the 'rituality of court practice' and chapter four on 'legal text and social context' allows the book to unpack the complex ways that written texts represent many different performed and performative negotiations of justice, as well as revealing the 'major influence' (258) of intended audiences on what was recorded and how. Most notably, the argument that 'text-act relations' in court practice can be understood as functioning in 'descriptive, prescriptive and performative' (154) ways is indicative of how insightful such an approach is. Drawing chapters three and four together, chapter five places the more detailed mechanics of text-act relations in a wider context, arguing that 'at the basis of many forms of judicial practice and logic lies the conception of ordering a potentially disordered society' (233). The question of how such high-profile central courts balanced the demands of keeping peace and order with the continual threat of disorder, especially as only one option amongst others that people had for seeking justice, is of interest here: Camphuijsen convincingly argues that in the case studies considered each court 'claimed to be a solution to these threats, which was not necessarily a replacement of other forms of socio-legal practices and rationales, but a particularly legitimate and attractive part of the broader socio-legal landscape' (244). Central to how they achieved such apparent legitimacy was, *Scripting Justice* posits, 'the propagation of a normalizing court narrative' (244).

In contrast, Stone Peters catalogues the more overtly theatrical mechanisms of legal performance that persisted across Europe from the ancient to the early modern periods. Beginning with Athenian trials, *Law as Performance* emphasizes the importance of 'swaying the mass jury' – the audience – in winning a case; this relied, Stone Peters argues, on the art of rhetoric including coaching in

hypokrisis (translated as 'delivery' or 'acting a part on stage', and referred to as 'the art of performance') where the key to persuading the court's audience to 'signal approval or disapproval' was effective delivery (32). Seemingly spontaneous and designed to elicit emotional empathy, such performance – 'crucial to both the art of the actor (the *hypokritēs)* and the art of the orator' (32) – lies at the heart of the book's argument as to the nature of law and its practical operations. Exploration of visual aspects such as props, costumes and stages accompanies consideration of both the political principles and practical advocacy of early legal performance. Stone Peters highlights other aspects of 'bodily expression' or eloquence found in ancient court and theatre in the Roman concepts of *actio* and *pronuntiatio*, which are then followed into medieval rhetoric and early modern legal training. Notably, in the medieval period, such 'embodied action' takes a 'wayward' turn both in terms of commentary on the body in legal delivery and the 'irreverent' behaviour of women such as Calefurnia and Catharina Arndes, performers of 'obscenity-as-resistance' in late medieval Europe (140–43). With the humanist rediscovery of ancient texts in the early modern period, *Law as Performance's* chapter five considers renewed early modern debates around the role of rhetoric and delivery particularly in manuals for the rising numbers of professional lawyers. Writers of this period were 'not dismissing judicial oratory but seeking to recast it' (206), argues Stone Peters, to focus scrutiny on the 'mute eloquence' (205) of non-verbal communication such as faces, gestures and clothing. Above all, beyond the judges and clients, 'lawyers borrowed from theatre' – from 'comic and tragic stock figures' to 'classic narrative arcs' – to 'produce the desired emotions while entertaining the spectators' (241).

It is also striking that both books place significant emphasis on the importance of the spatial characteristics of the stages upon which early legal performances were enacted. Both books include detailed examinations of court spaces as stages and extensions of the law beyond them into wider

urban contexts, with Camphuijsen also touching on more expansive considerations of jurisdiction. Such spatial analysis allows both books to argue, albeit in slightly different ways, that the adoption of fixed spaces and the use of such spaces as effective stages were significant contributors to the successful performance of law as the dominant source of justice or arbitration. Both Camphuijsen and Stone Peters are careful to establish, however, that although the spatial fixity of early courts and theatres was significant, such court spaces were still multi-purpose, taking on different socio-political roles at different times, and characterized by a kind of semi-permeability that facilitated varying degrees of publicity and privacy as required during different parts of the legal performance process.

Thus, Camphuijsen argues that 'the development of marked judicial spaces was as much a feature of the institutionalization of law courts as was their growing documentary output' (73). Chapter two of *Scripting Justice* on 'legal space' explores how space is produced by 'social actors' (drawing on Henri Lefebvre) but also recognizes that legal spatial meaning was formed in part by what Leif Jerram observes as the 'material obduracy of spaces' (74). Camphuijsen considers the relationship between the internal spaces of the *Palais de la Cité* where the king's private business and his public judicial role took place in the Paris *Parlement*, along with the role of the *huissiers* in monitoring access and keeping crowds quiet in the royal courtroom. Analyses of the semi-permeability of the northern transept of York's cathedral where the Consistory Court held its sessions and the importance of the external cathedral close are also compelling. *Scripting Justice* thereby explores the nuanced roles of spaces of a 'semi-public character' and assesses public tensions surrounding the accessibility of experiencing justice. Camphuijsen demonstrates in meticulous detail the shifting nature of court spaces: how they were constructed and reconstructed during different parts of the legal process; how other business conducted there impacted how they might be interpreted;

and how entrances and exits could be used to regulate access to justice. Intriguingly, Camphuijsen also connects what took place in such court spaces to wider notions of how legal institutions attempted to communicate their jurisdictional responsibilities spatially. In the example of Utrecht's urban Council, the 'space-signified punishment' of fines levied explicitly in 'an amount of "stones"' (103) referred to money raised through fines being used to buy the stated number of stones from the city brick makers to repair the city walls. Camphuijsen argues that such fines, particularly when and how they were deployed, signified a shared sense of responsibility for city space between the urban community and the Council itself, extending the institution's narratives of power and justice beyond the courtroom.

Similarly, Stone Peters remarks on the distinctively early modern spatial fixity, not of judicial spaces as Camphuijsen stresses for the late medieval, but of 'permanent stages in cities and courts throughout Europe' (201) for theatrical performance. Coupled with the renewed interest in classical oratory as it was associated with acting, for Stone Peters 'the centrality of such performance venues made theatre arguably the central prototype for spectatorship in other domains' (201) amongst which was the courtroom. Stone Peters's opening example of the trial of Tothill Fields (1571), in which the Court of Common Pleas decamped from Westminster Hall to 'a "stage...representing the court"' (2) in Tothill Fields for a convoluted trial by combat that ultimately did not happen, vividly demonstrates, through a rare moment of spatial mobility, the early modern self-reflexivity surrounding both the overlaps between theatre and law and their distinctive differences. Connecting the early modern phenomenon of fixed playhouses with ancient coincidences between oratory, rhetoric and acting, which is given a spatial dimension via the major political trials held in the 'Theatre of Dionysus' (27) in ancient Athens, *Law as Performance* is also alive to the imaginative possibilities exploited somewhat differently by medieval court spaces. For example, in exploring

the construction of the chapel in the Church of the Holy Mother of God in Aachen beside Charlemagne's palace where he presided over religious proceedings 'beneath the dome representing the Last Judgement' (120), Stone Peters elucidates how 'spatial arrangements, furnishings, attire, and physical objects often served allegorical-theological functions in depictions of courts, but so did they in actual courts (119). In addition, the book explores the significance of the shared stages of moots and revels for English lawyers-in-training as developing the theatrical and fictive skills that would later serve such men in actual court spaces.

The attention both books pay to the spatiality of stages, and their consideration of the newly fixed aspects of such spaces, constitutes just one of their innovative aspects. Stone Peters is alive to the continuation of touring companies of players in the early modern period, and both Camphuijsen and Stone Peters draw interesting comparisons with other, more mobile aspects of medieval ritual or theatre from public punishments to biblical drama enacted in the streets. However, future work might consider at greater length how the continued mobility of some facets of both theatre and justice (legal circuits, for example) related to and interacted with such newly fixed forms of law and drama, given the significance that both books considered here attribute to the built environments of courtrooms or playhouses.

As John J McGavin and Greg Walker's *Imagining Spectatorship* powerfully asserts, 'the construction of an audience by and for a performance is … a complex, fluid, process, comprising both what a spectator brought to a play and what a play tried to do with [them] once they were there' – it is also always 'open to frequent, often subtle renegotiation in the course of a

performance'.[3] Although it is often difficult to find reactions from actual spectators of the past, it is through careful reading of the multiple intended audiences, or imagined spectators, to legal processes – the judges, the clients, the witnessing courtroom attendees, the public crowd gathered outside the immediate court space, and so many more – that the two works reviewed here make starkly clear the stakes of law's performed nature. For Camphuijsen, the 'texts, speech, activities and spaces' of medieval law courts 'propagating particular scripts of logic and practice' (22) were crucially attempting to influence people's conceptualisations, 'ideas and emotions', surrounding justice and how to achieve it – what the book conceives of as 'legal literacy' (20). Justice, the book's opening line asserts, is an 'ambiguous concept', but *Scripting Justice* engages the mechanisms of performance to demonstrate that 'a court-centred model of justice in the late medieval period [was] the result of concrete interactions between many agents, be they court officials, litigants or others' (23). The processes through which such early narratives of justice were shaped, Camphuijsen argues, 'have remained highly influential in subsequent centuries' (23).

Indeed, Stone Peters makes a compelling case for the importance of spectators in shaping such overarching narratives of justice through *Law as Performance's* refiguring of the concept of 'theatrocracy' (from Plato's *theatrokratia,* 'the rule of theatre' or 'the rule of the audience' (35–36)). Whilst Plato might seem to contrast theatrocracy with true law, Stone Peters observes, offering 'the paradigmatic vision of the evils of theatrocracy', nevertheless, he also provides 'the paradigmatic vision of the virtues of legal rule through theatre' (41). In other words, whilst some saw the power of the spectator in a theatre as dangerous when it was recognized as operating similarly in concepts of law and justice, in fact, a large part of that perceived danger lies in the

[3] John J McGavin and Greg Walker, *Imagining Spectatorship: From the Mysteries to the Shakespearean Stage* (Oxford University Press 2016) 179.

recognition that performance has long been 'the very thing on which law most depends for its persuasiveness and force' (41). As Stone Peters demonstrates, the 'law as performance' trope is not one-dimensional – it has been used to serve a variety of purposes across many temporal and geographical contexts. It is therefore crucial to examine, as both Camphuijsen and Stone Peters do, the 'scripting' and 'narrativising' processes by which central court systems came, seemingly inevitably, to be the dominant arbiters of justice across ancient, medieval and early modern Europe. Equally important, however, are the lived mechanisms – of bodily eloquence, emotional empathy, spatial fixity, and performative text – through which spectators interpreted and challenged such narratives.

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