

Now printed in (2010) 14 *Edinburgh Law Review* 178-180.

doi: <http://dx.doi.org/10.3366/E1364980909001218>

Christopher W Brooks, LAW, POLITICS AND SOCIETY IN EARLY MODERN ENGLAND

Cambridge: Cambridge University Press (www.cambridge.org), 2008. xii + 456 pp.

ISBN 9780521423918. £65

Unhappy commentators observed that early-modern England had an unprecedented number of lawyers and an unprecedented number of law suits. Brooks is happier with this development, taking the pervasiveness of the law in early-modern life as the basis of an ambitious project. He argues that legal, like religious, ideas were part of general (not merely elite) public discourse and uses this starting point in an attempt to (re)integrate narrowly conceived legal history with political and social history, and to use law as a bridge between political history and social history. This book covers an impressively wide range of issues and material in pursuit of those aims.

The book falls into two overlapping halves. Chapters 2-8 consider legal ideas and their relation to politics. Chapters 9-13 discuss the place of law in, and legal ideas about, diverse social institutions ranging from personal behaviour, the household and economic relations all the way to community and “the state”. Each half is a convincing piece of scholarship, with ideas and conclusions on a wide range of issues which cannot be adequately addressed in this review.

The first half is a broadly chronological account of developments in legal thought throughout the period. The first two chapters set the scene, and it is in the subsequent chapters (on Elizabethan and Stuart thought) that Brooks comes into his own. This half provides the first thoroughly researched examination of Elizabethan legal and constitutional thought, especially significant as Brooks shows that Jacobean figures such as Edward Coke were essentially Elizabethan in their outlook (152). In 2006, Alan Cromartie observed that later sixteenth-century legal thinking was still largely unknown, with the relevant manuscripts “still very largely unstudied” (*The Constitutional Revolution* (2006, Cambridge), 99). Brooks corrects the deficiency impressively. He utilises a wide-range of material, most notably when discussing legal theory. There is extremely effective use of largely unexamined manuscript material from a wide range of archives and modes of discourse. The inclusion of a manuscript bibliography is very welcome.

Brooks demonstrates that Elizabethan legal thought was heavily influenced by Ciceronian and Aristotelian ideas, as lawyers praised the role of law as ensuring stability in uncertain times. As Brooks puts it, “Elizabethan technical writing on constitutional subjects integrated technical common law learning with the broader tradition of European juristic humanism” (81). Like other legal historians, Brooks considers that cosmopolitanism's turn has (finally) come round, indeed he suggests that English law could only be seen as intellectually insular in the narrow sense that there were few references to civilian material in curial discussions (425). Brooks' arguments and evidence in this section provide a good explanation of a question raised by Cromartie in *The Constitutional Revolution*: why did late-Elizabethan and Jacobean lawyers consider that the Common Law could resolve the problems of the commonwealth? From Brooks we can see that these ideas were taken from the classical sources upon which Elizabethan legal theory relied so heavily.

If Elizabethan England had a collection of broadly accepted ideas and tropes which could be reconfigured in constitutional discourse, Jacobean England experienced increasing differentiation in the stock of political ideas (142). These new ideas (such as scepticism) were incompatible with the Elizabethan consensus. Brooks suggests that the *Case of the Post-Nati* (*Calvin's Case*) was a turning point, observing that some of the arguments deliberately rejected Elizabethan arguments, whilst Coke (that “long-lived Elizabethan”) sought to maintain them (133-135). In such a changed environment, the Common Law was unable to resolve the disputes which arose and could not meet

the expectations engendered by the assertions of the law's role in ensuring security, stability and peace.

The second half is less analytical and more descriptive. There is an abundance of information here for readers interested in the specific topics discussed, although the chapter headings are not always a helpful guide (for example, in the chapter on the household and its members, sections can be found that discuss, *inter alia*, the use and enjoyment of property, gender and privacy). The issues are appropriately placed in Brooks' analysis, but a more detailed contents page might assist readers (although the book does have an excellent index).

Brooks' discussion of these seemingly disparate topics contributes to his main thesis. Language taken from local tenurial relationships entered political discourse concerning the relationship between King and his subjects, just as Caroline financial policy often followed the methods used by lords to maximise their returns from their tenants (344-351). Theories about the role of law that had been advanced in constitutional debates underpinned the legal handling of social and economic issues, enabling lawyers to express views on all manner of matters pertaining to everyday life. Law truly was pervasive.

At times, this reader considered that the structure was not always assist Brooks in achieving his objectives, although given the breadth of Brooks' work and the depth of his scholarship some such difficulties were bound to arise. The most pertinent example concerns the investigation of legal ideas relating to "constitutional" matters. The first section of the book considers this material from a perspective internal to the Common Law, although also Brooks uses material by lawyers intended for dissemination beyond the small elite linked directly to the Inns of Court. This systematic use of extra-parliamentary speeches (such as charges to grand juries) is unprecedented, interesting and extremely welcome, as it opens a new vista in the study of early-modern English legal culture. Nevertheless, Brooks acknowledges that such a study is incomplete without examination of the communication of legal ideas by non-lawyers (161). Brooks does engage in such a study, but several chapters of dense and careful scholarship (on a wide range of issues) later (298-306). A more immediate relation between the two sets of discourse, would have linked the elite culture of London-based lawyers with the legal and constitutional ideas of people elsewhere in the realm, and more effectively reintegrated political and social history. The comparison and links can be made by the reader, but the analysis in this regard is reliant on the reader moving between different sections of the book via the helpful cross-references, and on the conclusion of the book as a whole.

Brooks demonstrates how central law was to every person in every aspect of early-modern life and the similarities and links between elite and more "popular" ideas. The book gives strong support to further links between social, political and intellectual history, with law as a bridge, but this line could have been argued more strongly. As an important contribution to many fields of early-modern history, the book is a great success.

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