The purpose of this book is to demonstrate how reverence for the common law, England’s unwritten legal system, evolved to eventually provide a legal basis upon which the authority of crown and church could be questioned. It attempts, with some success, to integrate the history of ideas into a sociopolitical history of early modern England, and it furnishes, with greater success, a coherent explanation of the long-term legal background to the outbreak of the English Civil War. Throughout, Alan Cromartie refers to “constitutionalism” as the assertion that common law defined the monarch’s power, and he traces its emergence over an ambitious chronological sweep. Cromartie shows how the belief that a properly constituted council or parliament could act as a check upon royal misdemeanors was expressed as early as the mid-fifteenth century by the Chief Justice of King’s Bench and Lord Chancellor Sir John Fortescue. He confirms many of the preconceptions about the reign of Henry VII by stressing the increasing significance of lawyers among the king’s councilors. He then assesses the development of legal thought during the reign of Henry VIII, in particular that of Christopher St. German, who emphasized the significance of custom in English law, and envisaged ways in which judges might exercise more influence and control over kingship. He argues that the Protestant statesmen of the reign of Edward VI were keener to invoke the law than their successors as councilors under Mary I. A resurgent respect for judicial independence emerged during the reign of Elizabeth I, with her councilors increasingly showing pride in their concern for legal values. The rise in litigation that peaked under Elizabeth accompanied the still grander claims made for common law by the 1580s, when the Presbyterian lawyer Robert Snagg developed a legal theory based on a “fully constitutionalist position” (p. 114).

Throughout *The Constitutionalist Revolution*, Cromartie displays a sophisticated sense of the importance of religion in debates over what constituted legitimate political authority. He rightly portrays the Reformation as central to the development of English common law, and shows how the monarch’s religious preferences impacted upon how the law was interpreted. Henry VIII’s very reliance upon the Reformation parliament to advance his royal supremacy implied that succeeding parliaments might influence future definitions of that supremacy. Cromartie’s view of early Stuart religion is very top-down in focus, with an emphasis on the similarities between the personal preferences of James I and Charles I. It was not, he holds, Charles’s support for “high conformists” (p. 239) that was new, but the aggressive clericalism of his archbishop of Canterbury which constituted a novel style that clashed with increasing respect for legal values. While this provides a fruitful perspective on Caroline religion, it remains questionable whether Puritans were as far removed from noble and academic circles as Cromartie suggests.

Cromartie’s emphases upon the significance of Sir Edward Coke, “constitutionalist” perspectives on the primacy of common law, and the domination by lawyer MPs of the 1626 and 1628 parliaments all help explain why Charles I had such difficulty acquiring consent to royal expedients that were scarcely opposed only seventy years earlier. After the disastrous royal defeats in the Bishops’ Wars, the legal theories upon which Charles’s opposition drew were so sufficiently well developed and widely respected that the “first nine months of the Long Parliament witnessed the final victory of English com-
mon law as the criterion of authority: a constitutionalist revolution” (p. 261). Much of Cromartie’s argument here neatly complements the current historiographical shift back to 1640-42 as a revolutionary turning point.[1]

Like most historical narratives that terminate in 1642, this study takes a retrospective look at early modern England that is geared towards explaining the outbreak of the English Civil War. Cromartie is well aware that this raises a methodological problem of a concentration on notions of progress and development, and he acknowledges that the shift towards venerating the common law was uneven and complex. The book is organized as a chronological series of analytical reviews of the key contemporary legal treatises, most of which were printed and published. A deeper exploration of the impact in practice of these treatises and writers discussed by Cromartie would have been helpful, while the identities and significance of these theorists would have been better understood with more biographical and background context. For the nonspecialist, a lack of signposting and topic sentences render Cromartie’s prose laborious reading and, in places, a daunting prospect. However, this important book presents a coherent argument and will be required reading for scholars of the political philosophy and high politics of early modern England.

Note