

Institute of Legal and Constitutional Research



Annual report 2019–2020

Now into its sixth year, the St Andrews Institute of Legal and Constitutional Research (ILCR) has experienced another intellectually stimulating period. Over the past academic year, our members have enjoyed success in a number of areas: internationally recognized academic publications, innovative public engagement activities and unique research projects and workshops. The ILCR now has its own podcast series: 'Talking Constitutions', available on the ILCR website (<https://ilcr.wp.st-andrews.ac.uk/institute-projects/talking-constitutions>) and via PodBean (<https://ilcr.podbean.com/>) and Apple Podcasts (<https://podcasts.apple.com/gb/podcast/talking-constitutions/id1524474273>).

Since March 2020, the global Covid-19 crisis has posed a series of unprecedented challenges on multiple levels. As we move into a new academic year, we would like to say a huge thank you to all our administrative and academic staff, and also to our MLitt students, for their hard work and continued support. We are looking forward to welcoming our 2019 /20 Visiting Scholars, whose trips were postponed, to St Andrews as soon as feasible and we are also delighted to be welcoming a new cohort of students to the MLitt in Legal and Constitutional Studies which is now entering its fifth year. The ILCR will resume face-to-face events as soon as we are able to do so safely, in the meantime please join us for our exciting line-up of online activities which will be advertised soon on the ILCR website <https://ilcr.wp.st-andrews.ac.uk/>



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ILCR CONSTITUTIONALISM

PUBLIC LECTURES



DANIEL GREENBERG
COUNSEL FOR DOMESTIC LEGISLATION, HOUSE OF COMMONS

In Martinmas and Candlemas Semesters, the ILCR hosted a series of four well-attended, public, lectures by distinguished speakers on topics relating to UK constitutionalism and the rule of law, reflecting on challenges past and present and possible future roadmaps. On 19th September, we were delighted to host **Daniel Greenberg** - a lawyer specialising in legislation and member of the ILCR advisory board - for a lecture entitled "The Future of the Rule of Law: A Parliamentary Perspective". The lecture coincided to the hour with the conclusion of the Prorogation of Parliament cases in the Supreme Court.

On 4th October, the ILCR had the pleasure of welcoming **Stephen Gethins** - then Member of Parliament for North-East Fife and now member of ILCR Advisory Board and Professor of Practice in International Relations at the University of St Andrews - who spoke on the urgent topic: "Is Westminster Parliamentary Democracy Fit for Purpose in the Twenty-First Century?"

On 7th November, it was our pleasure to hear **Jim Gallagher** CB FRSE - former civil servant, now academic and currently Honorary Professor University of St Andrews and ILCR Steering Group member - speak on "Scotland: A Nation Squeezed Between Two Nationalisms", setting the polarising question of Scottish Independence into historical perspective and arguing for a renewed understanding of the 'united' in the United Kingdom.



JIM GALLAGHER
CB FRSE

Finally, the ILCR was delighted and honoured to open our Candlemas Semester's events with a lecture from **Sir David Edward** (KCMG PC QC) entitled "Saving the Union...? Creating the Scottish Parliament; the Calman Commission; the Scottish independence Referendum; the 'Vow'; the Smith Commission; the Brexit Referendum; 'We must save the Union' - the legal, constitutional, political and practical conditions of a workable and stable future", followed by a vigorous question and answer debate.

All the lectures can be viewed online at: [https://ilcr.wp-st-andrews.ac.uk/media/recordings/](https://ilcr.wp.st-andrews.ac.uk/media/recordings/)

ILCR

LEGAL HISTORY SEMINARS

Martinmas: **Mathias Schmoeckel** (Bonn), visiting the School of History as a 'Global Fellow' gave a fascinating seminar on his research into the complex relationship between Scottish legal and religious history entitled: "A Legal Perspective on the Scottish Protestant Reformation".

Candlemas: joint with Institute of Intellectual History, **John Robertson**, Honorary Professor University of St Andrews and emeritus Professor University of Cambridge, spoke on "The Refutation of Natural Law by Sacred History in Giambattista Vico's *New Science*" before a lively and packed audience.

THE LAW'S TWO BODIES



The Law's Two Bodies project, conducted within the Institute of Legal and Constitutional Research, asks the question 'what is law', but pursues an answer in a fashion different from typical jurisprudential studies. It examines what legal practitioners do; how they regard law; to what extent they think about law in the abstract.

This year, interviewees included **Daniel Greenberg**, barrister specialising in legislation (19 November 2019), **Justice Virginia Bell**, High Court of Australia (1 December 2019) and **Howard Dellar**, partner and head of Ecclesiastical Education & Charities, Lee Bolton Monier-Williams (6 March 2020). Videos of these interviews – as well as those from previous years – can be found here: <https://ilcr.wp.st-andrews.ac.uk/institute-projects/the-laws-two-bodies/>. Please email ilcrsta@st-andrews.ac.uk should you need a reminder of the video access password.

COVID-19 and the ILCR

We intend to reschedule events postponed from mid-March as soon as feasible, including our alumni and friends drinks reception. Also a note that we are looking forward to welcoming our 2019 / 20 Visiting Scholars, whose trips were postponed due to Covid-19 disruption, to St Andrews at the earliest possible opportunity: [Mary Ellen O'Connell](#) (Notre Dame), [William I. Miller](#) (Michigan Law), and [Michael Cook](#) (Princeton).

CONSTITUTIONAL THINKING PODCAST

'Talking Constitutions' is a series of podcasts in which we explore the constitutional arrangements that frame the day-to-day affairs of politics and that affect our lives in a myriad of ways. We have brought together a range of people, including politicians, civil servants, and scholars, to explore that interaction between constitution, politics, and other aspects of life. Those talking about constitutions include:

Lord Duncan of Springfield has been a Conservative Member of the European Parliament and more recently the UK Government's Climate Minister. Having been ennobled as a working peer in 2017, he is now Deputy Speaker of the House of Lords.

Jim Gallagher is a former Civil Servant, who headed the Scottish justice department. He was the UK government's most senior adviser on devolution and other constitutional issues, working in the Cabinet office and the number 10 policy unit under Prime Minister Gordon Brown.

Stephen Gethins has worked in the NGO Sector, specialising in peace-building, arms control and democracy in the Caucasus and the Balkans regions. He has been an MP at Westminster and the Scottish National Party's Front Bench Spokesman for International Affairs and Europe.

John Hudson is Professor of Legal History at the University of St Andrews.

Caroline Humfress is Director of the Institute of Legal and Constitutional Research at the University of St Andrews.

Colin Kidd is Professor of Modern History at the University of St Andrews.

Catherine Stihler was a Labour Member of the European Parliament for 20 years and from 17 August 2020 is Chief Executive Officer of Creative Commons.

The podcast can be found here: <https://ilcr.wp.st-andrews.ac.uk/institute-projects/talking-constitutions/> and via PodBean (<https://ilcr.podbean.com/>) and Apple Podcasts (<https://podcasts.apple.com/gb/podcast/talking-constitutions/id1524474273>).

Episode 1

This episode establishes what we mean by 'Constitution' and 'Constitutional', and considering how the nature of the United Kingdom constitution differs from that of other countries and affects broad issues of democracy.

Episode 2

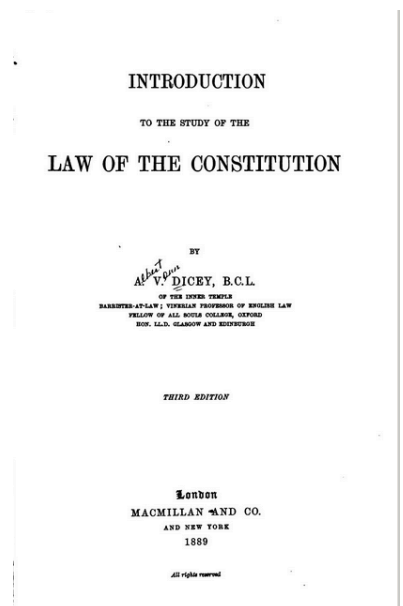
The subject of this topical episode is 'Constitutions and emergencies', considering how constitutions affect responses to emergencies and how emergencies lead to constitutional change

Episode 3

The subject of this episode is 'Second chambers and the House of Lords', considering the role - ideal and actual - of second chambers, and in particular the House of Lords, within constitutional arrangements.

ILCR Reading Group

During Martinmas Semester - in the ongoing context of what has been described as a 'Very British Constitutional Crisis' - the ILCR reading group held five sessions on probably the most influential theorist of British parliamentary sovereignty: Albert Venn Dicey (1835-1922). Our set text was Dicey's *Lectures Introductory to the Study of the Law of the Constitution* (1st ed. 1885, with many subsequent editions) and we read and discussed (almost) all eight lectures. We were exceptionally fortunate to have our concluding discussion led by Jim Gallagher, an Honorary Professor at the University of St Andrews and a member of our ILCR Steering Committee. Professor Gallagher gave us a uniquely valuable insight into Dicey's constitutionalism from the perspective of a leading civil servant and academic; the fact that our final discussions were held in the back room of the Whey Pat Pub made them even more memorable!



House of Lords Reception

On Wednesday 4 September the Institute held a reception attended by fifty alumni and friends at the House of Lords, to promote its work and to offer networking opportunities. We were kindly hosted by St Andrews alumnus Lord Duncan of Springbank, who spoke eloquently about the importance of the Institute's work in advancing the understanding of the history of constitutional law, and of its deep



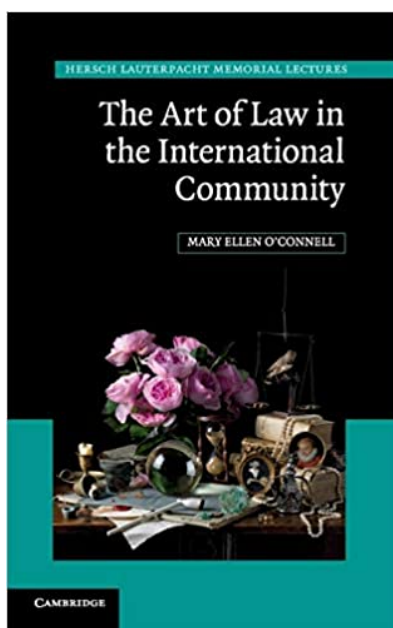
relevance in the contemporary context. He was followed by Professor John Hudson who outlined the Institute's recent work and future ambitions. Professor Hudson called on guests to engage with the Institute however they felt most able – whether by attending events, becoming Corresponding Members or providing philanthropic support. It was a genuine pleasure to see St Andrews alumni and connections from across the decades enjoying the networking opportunity, making and renewing acquaintances and relishing the chance to discuss constitutional matters within the seat of Government, while the political and constitutional debate raged around us in both chambers. We were flattered that Stephen Gethins, MP for North East Fife, found the time to drop in briefly as he walked his Bill from the Commons to the Lords!

CENTRE FOR GLOBAL CONSTITUTIONALISM

(from 2020/21 Centre for Global Law and Governance)

The Centre for Global Constitutionalism (CGC) is dedicated to exploring the development of global order in its many manifestations. We are concerned with contemporary developments in the study and practice of global governance, international law, and organisations as applied to a wide range of issues including security, justice, human rights, trade, refugees and migration, and the environment. We promote broad thinking and cutting-edge scholarship through our regular talks and workshops, working paper series, and student internships.

Despite an eventful end of the year, the Centre continued our tradition with a range of events in the 2019-20 academic year. In the Martinmas semester we hosted a roundtable *The International Criminal Court in Times of Turmoil*, with **Mr Simon Grabovec** from the ICC, **Dr Anni Poes** from the University of Glasgow, and the CGC Director **Dr Adam Bower**. We were also thrilled to welcome **Professor Stephen Toope**, Vice-Chancellor of the University of Cambridge, for an informal conversation with **Professor Anthony Lang** on *The Challenges to International Law and the Role of Academia in these Turbulent Times* (a recording of the event is available here: <https://cglg.wp.st-andrews.ac.uk/speaker-series/>)



In addition to the public events we organised masterclasses for postgraduate (MLitt and PhD) students focusing on professional skill development and in-depth conversations with leading scholars and practitioners. In the Candlemas semester, we teamed up with the ILCR to co-host a **CGC/ILCR Reading Group** on **Professor Mary Ellen O'Connell's** *The Art of Law in the International Community*. Our plans for Professor O'Connell to join us for our final session as part of her Visiting Fellowship were thwarted by the COVID-19 crisis. We had to postpone her visit as well as a workshop on *International Rules in Times of Fundamental Change* planned for May 2020 to next year. Our plan is to host the workshop, where we have asked prominent international lawyers, historians, and political scientists to reflect on lessons from past transitions for contemporary challenges to a rule-based order, early next year.

In addition to contributing to the MLitt in Legal and Constitutional Studies, CGC continued supporting student learning and professional development through two distinct programmes. We host a cohort of current PhD students as **Associate Fellows**. The Fellows assist in the Centre's operation and draw on CGC resources to advance their own research by presenting draft papers or thesis chapters at an internal workshop, publishing a CGC Working Paper, and through various networking opportunities throughout the year. Our Fellow **Lina Malagon** successfully completed her PhD thesis with the title *The Role of Victims' Organizations in Shaping Transitional Justice in Colombia*. Congratulations!

In 2019-20 we were again fortunate to have seven exceptional **undergraduate and postgraduate taught interns** who served as a vital point of contact between the Centre and the wider university community. The centrepiece of the internship programme is our Junior Scholar Working Paper Series (JSWPS) which serves as a platform for encouraging high-quality student scholarship. Each intern develops an original research essay on a topic of their choosing, based around an annual theme. The theme this year was *New Technologies and Global Governance*. Their work is supported through a collaborative peer review workshop and a mentoring scheme where we pair each intern with a PhD Fellow for one-on-one meetings to discuss their research. The final essays are published in the annual JSPWS, available here: <https://cglg.wp.st-andrews.ac.uk/files/2020/07/CGC-JSWPS-2020-FINAL-1.pdf>.

Centre for Global Constitutionalism
University of St Andrews



CGC Junior Scholar Working Paper Series

Vol. 4, no. 1 – June 2020

*New Technologies and Global Governance:
Challenge or Opportunity?*

Finally, we are starting a new academic year with fresh energy and under a new name – **Centre for Global Law and Governance (CGLG)**. CGLG will continue building on programmes and activities that have made the CGC successful and known in St Andrews and beyond. We will continue embracing normative, theoretical, and empirical concerns about the rules underpinning the global order(s), but have expanded our remit to become a broader church for colleagues working on questions of law and governance beyond constitutional issues. We are organising our work around five core pillars connecting members with shared interest: peace and security; economy and development; rights and ethics; environment and migration; and leadership and agency. You can read more about our current and upcoming activities on our new website: <https://cglg.wp.st-andrews.ac.uk>

Dr Adam Bower and Dr Mateja Peter

Directors of the Centre for Global Law and Governance

PUBLICATIONS

Milinda Banerjee, 'Sovereignty as a Motor of Global Conceptual Travel: Sanskritic Equivalents of "Law" in Bengali Discursive Production', *Modern Intellectual History* 17, no. 2 (2020): 487-506.

Milinda Banerjee and Kerstin von Lingen, eds., Forum 'Law, Empire, and Global Intellectual History', *Modern Intellectual History* 17, no. 2 (2020): 467-578.

<https://www.cambridge.org/core/journals/modern-intellectual-history/issue/59B4F6E7AEDA5710526AA1B43C2395FA>

Alex Davis, *Imagining Inheritance From Chaucer to Shakespeare* (Oxford, OUP, 2020)

Caroline Humfress, 'Cherchez La Femme!' Heresy and Law in Late Antiquity' in Charlotte Methuen and Andrew Spicer, eds., *Studies in Church History* (Cambridge, CUP, 2020)

———'Law, Bureaucracy, and the Practice of Government and Rule' in Peter Bang, Christopher Bayly, and Walter Scheidel, eds., *The Oxford World History of Empire* (Oxford, OUP, at press)

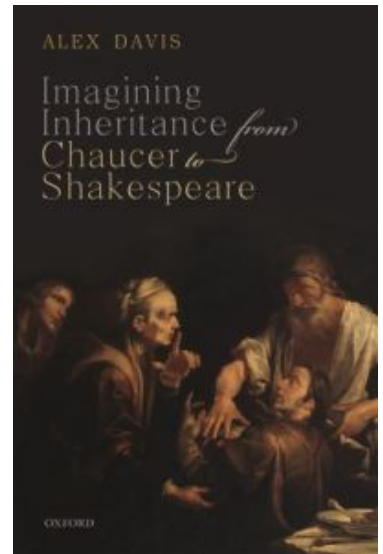
Ingrid Ivarsen, 'King Ine (688–726) and the Writing of English Law in Latin', *English Historical Review* (forthcoming)

———'Æthelstan, Wulfstan and a Revised History of Tithes in England' *Early Medieval Europe* (forthcoming)

———'A Vernacular Genre? Latin and the Early English Laws' *Journal of Medieval History* (forthcoming)

Sarah White, 'Thomas Wolf c. Richard de Abingdon, c. 1293-1295: A Case Study of Legal Argument', *Journal of Ecclesiastical History*, 71(1), 40-58.

———'The Procedure and Practice of Witness Testimony in English Ecclesiastical Courts, c.1193–1300', *Studies in Church History*, 56(1), 114-130.



LECTURES AND TALKS

John Hudson, keynote lecture, Australia and New Zealand Law and History Society Conference 2019: 'Common Law, Civil Law, and English Identity'

Caroline Humfress, Peter Chiene Lecture, Edinburgh Law School, University of Edinburgh (Centre for Legal History), "Beyond (Roman) Law and Empire", 31st January 2020



Ingrid Ivarsen, 'Æthelstan's Call to Alms: A Revisionist History of Tithing in Anglo-Saxon England', Institute of Historical Research, Earlier Middle Ages Seminar Series, 8 January 2020

Sarah White delivered a workshop for the LLM in Canon Law at the University of Cardiff on medieval Canon Law process.

Andrew Cecchinato, Emanuele Conte, Matt McHaffie, Attilio Stella, Kim Thao Le and Sarah White did a lightning round on "Civil Law, Common Law, Customary Law: Consonance, Divergence and Transformation in Western Europe from the later eleventh to the thirteenth centuries" at the American Society for Legal History, Boston, MA, USA.

OTHER NEWS

Ingrid Ivarsen, PhD student at the ILCR, completed her thesis entitled 'The Production of the Anglo-Saxon Laws: from Alfred to Cnut'. We wish Ingrid all the very best as she leaves us to join Emmanuel College, University of Cambridge, as a Junior Research Fellow. Congratulations Ingrid!

Sarah White was made a Fellow of the Higher Education Academy.

Sarah White and Will Eves received an Outstanding Teacher Award from the University of St Andrews Students' Association. Congratulations!

LEGAL AND CONSTITUTIONAL STUDIES MLITT

In 2019 / 20 St Andrews enrolled eleven students for the fourth year of the MLitt Legal and Constitutional Studies, with the very welcome addition of another Erasmus exchange student from Roma Tre for Martinmas Semester. The MLitt students have worked with scholars and researchers from across History and International Relations on independent research topics ranging from Brexit to USA Supreme Court rulings (past and present) to Merovingian history, mastering a wide range of theoretical frameworks, practice-based approaches and concepts. On December 4th we held another memorable 'end of Semester' party in the medieval Undercroft and were delighted to welcome back members of our 2018/19 MLitt cohort to meet and celebrate with this year's MLitts, PhD students, Postgraduates and staff. From mid-March onwards all teaching and student-staff contact were forced to move online. We would like to take this opportunity to say a sincere 'thank you' to all our academic staff, administrative staff and to our MLitt students - all contributed to making the digital shift possible through their sheer hard work and shared vision. We warmly wish the graduating class of 2019/20 every success and look forward to keeping up to date and in touch with you all. If you have not done so already, please join the many other members of our MLitt alumni community on our ILCR LinkedIn page and make sure that you update your contact details on the ILCR mailing list (ilcrsta@st-andrews.ac.uk). Further information about the MLitt in Legal and Constitutional Studies at the University of St Andrews can be found here:

<https://www.st-andrews.ac.uk/subjects/history/legal-constitutional-studies-mlitt/>

"This is truly an interdisciplinary programme which I had the opportunity to take a mixture of legal studies, history, politics, philosophy seminars. I am extremely grateful that St Andrews offers small class teaching. Since I did my undergraduate studies at HKU, a massive institution, I believe this close-knitted community is amazing. Despite postgraduate studies is mostly about autonomous learning and researching, I never felt lost as there is always a teacher I can reach out to. I also appreciate the opportunity to work as a research intern at CGC. Come September I will be working as an Instructor at the University of Macao for a year, and hopefully start my PhD in 2021 (would love to come back to St Andrews!)" **Christine Cheng, MLitt 2019/20**



"I had a fantastic time in the Legal and Constitutional Studies MLitt programme. The programme greatly deepened my knowledge of legal history, exposed me to several important research areas, and allowed me to complete multiple research papers and a dissertation focused in American law. The faculty are truly outstanding and were supportive throughout the entire year. I highly recommend the programme to anyone interested in law, history, or international relations. It was an exciting, challenging, and worthwhile educational experience. After finishing the programme, I will be earning my J.D. at Stanford Law School starting in the fall of 2020." **John Priddy, MLitt 2019/20**

"The program is a perfect stepping stone for lawyers of any jurisdiction wishing to concentrate more on the theoretical aspect of legal studies, as well as for those looking for a transitory degree that will best prepare them for the rigors of law school proper. And because the program has two tracks that divide a small class of twelve, there are so many opportunities for the close and candid exchange of ideas in both the fields of legal history and international relations—from the works of F.W. Maitland and S.F.C. Milsom to the issues and challenges of global intellectual history in a modern post-colonial world. I have had the privilege of interacting with a very diverse group of peers coming from England, Scotland, Hong Kong, China, Italy, Germany, France, and the United States. I myself come from the Philippines, and I have come to appreciate my own country's legal system and constitutional structure in a better light thanks to the program. The Institute and its people have prepared me well for a future in academia, which I hope to continue soon with a PhD in Law from another esteemed British university." **Paolo O. Celeridad, MLitt 2019/20**

"Coming from a law background, I decided on the MLitt as an alternative to various LL.M programmes since I assumed it would be the best choice to get to know legal theory and history more deeply without having to do compulsory courses in rather practical subjects. In this sense, the MLitt is unique. While I had been confident that I had made the right decision even before I started the course due to the description of the modules and direct contact with my future tutors, the programme ultimately exceeded my high expectations. The convenors and teaching staff are very devoted to enabling students to pursue their respective interests whilst providing the perfect amount of personal and substantive cohesion through a variety of small-group seminars, reading classes, guest lectures and social events. There are many possibilities to get to know people both inside and beyond the faculty. Being the perfect synthesis of a taught degree with a focus on research, the MLitt has helped me greatly with my decision to continue with a doctorate in medieval legal history, a subject that had not really been on my radar before." **David Ponwitz, MLitt 2019/20**

