

Ian Mitchell's Law-related BOOK RECOMMENDATIONS

41 – *Judicial Corruption*
(18 April 2019)

JUDICIAL CORRUPTION IN THE UNITED KINGDOM

Author: Andrew Dewar Gibb

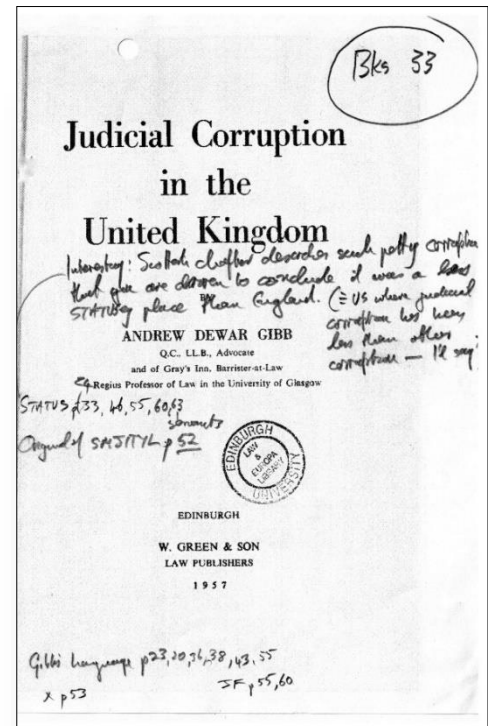
Publisher: W. Green & Son, 1957
(forgive the image – book unavailable outside libraries)

Descriptor: Story of three major cases of judicial corruption in England, and one in Ireland, with some comments on the historical position in Ireland and Scotland.

RusRoL relevance: *Judicial corruption is a grotesque offence against CONTRACT in a world which is supposed to be immune to the charms and commands of STATUS, but often is not.*

Reason to read: A short but interesting book which tells the story of four major cases of judicial corruption in the UK. If those are the worst that can be shown, from Sir Francis Bacon onwards, our history has been juridically cleaner than most counties', at least as far as overt financial corruption is concerned. The situation is rather different with the unspoken favouring of this side of an argument or that, depending on the views of the judge. That is prejudice, or bias, and is, in the strictly original meaning of the word, "corruption". But it is not how the word is generally used these days. Prejudice and bias are what John, **Lord Campbell** dealt with in his coruscating book called *Atrocious Judges*. Lord Campbell was a Scot who became Lord Chief Justice of England in the 1860s (see [Hardiman review](#)). Gibb's book focusses more on pecuniary corruption. Arguably the difference is that Gibb is talking about *personal* corruption, while Campbell wrote about the *political* variant.

However, both types subvert the rule of law. A Member of Parliament said when speaking about **Lord Macclesfield**, the Lord Chancellor, in 1725, in the second of Gibb's three English examples (The first is **Sir Francis Bacon** in the 1620s and the third **Lord Westbury**, who succeeded Lord Campbell as Lord Chancellor.): "Corrupt practices... have deformed the beauty of justice, and rendered the administration of it grievous, and even fatal to the subject. They have beheld that the minister of justice, whom the laws of the land have invested with an extraordinary power to punish frauds and deceits, himself carrying on a most pernicious deceit, to the great dishonour of the court, and the ruin of its suiters." (p. 19)



Main talking points: Points in relation to STATUS in the system of justice:

1. The correct duty of STATUS in the state is to uphold the lack of STATUS in the administration of the justice, even royal justice. An eighteenth-century parliamentarian is quoted as saying: “Posterity will with due veneration observe that neither the greatest favour, the nearest access to his sacred person, nor any former merits towards himself, and his royal family, could in his Majesty’s reign, shelter the highest officer of the Crown from justice, who, presuming, on those advantages, would venture to oppress his Majesty’s loyal and faithful people.” (p. 24)
2. Professor Gibb reminds us what **James V** promised when the Court of Session was founded: “He should not by any privy writing, charge, or command, at the instance of anyone, desire them to act in any matter that came before them otherwise than as justice required, or do anything that might infringe the rules made by their predecessors the first Senators of the College of Justice.” (p. 55) Compare that with the “telephone justice” in Stalin’s courts as described in [The Justice Factory](#), chapter 2.
3. **Sir John Gilmour of Craigmillar** was Lord President of the Court of Session from 1661 to 1670, the years immediately following the Cromwellian interlude, during which English judges were placed on the Scottish Bench. Sir John was considered an “upright” man but he did resent it when people said how fair the judges that Cromwell had sent up from England were. He called them “a when kinless loons”. (p. 60) The word “kinless” is key because it implies that they had no anchorage in the social structure of the society whose members they were judging, and therefore no feeling for the prejudices and biases which inform all public opinion and, by extension, the opinions of the judges. Only unconnected outsiders can be totally impartial judges, which is, of course, the unattainable ideal behind the idea of blindfold justice.

Incidental interest: Professor Gibb gives the original of **Hamilton’s Rule** (“Show me the judge and I’ll tell you the law.”) when he quotes **Lord Balmerino**, a seventeenth-century Lord President who is alleged to have said: “Show me the man and I’ll shew you the Law.” (p. 52)

The book ends with a good account of the impeachment of Sir Jonah Barrington, the only judge to have been sacked this way since the Act of Settlement in 1701, which in itself is a tribute to judging in the British Isles. Barrington, whose [Recollections I have already reviewed](#), was found to have misappropriated funds while a judge in the Irish Court of Admiralty. Thirty years after the event, he came to trial in London, from his exile in France, and was unseated, though that act had no practical point three decades after Barrington’s departure for the Continent.

Surprising points: The Scottish and Irish chapters reveal “corruption” that is so minor that, in the historical context, counts for very little. The judges may have had their failings, and petty peculation does seem to have been one of them, but compared with England, their record is good.

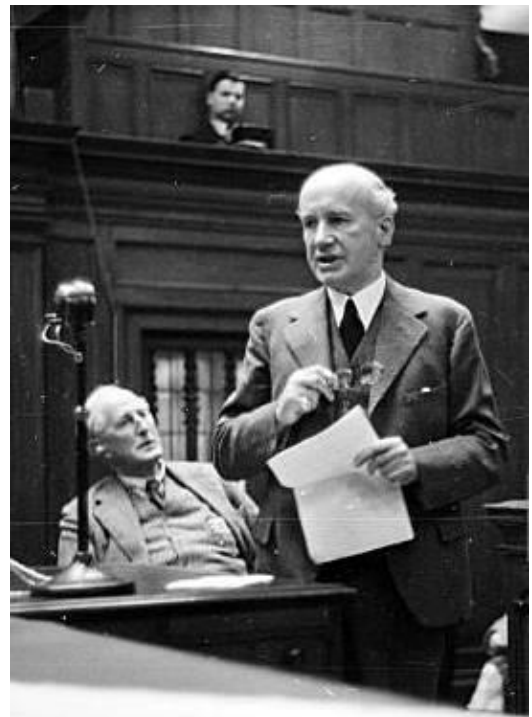
Smile(s): I liked this description of the head of **Lord Hardwicke**, who was Lord Lieutenant immediately after the Act of Union in 1801: “Not, Sir, that I would be understood literally. I do not mean to assert that the head of my Lord Hardwicke is absolutely built of timber... yet at the same time I

cannot avoid suspecting that if the head of his excellency were submitted to the analysis of any such investigator as Lavoisier it would be found to contain a superabundant portion of particles of a very ligneous tendency.” (p. 65)

Negative issue(s): More of a long essay than a full book—and largely without contextual analysis.

Style: Professor Gibb had a rather pompous approach to language. He quotes in other languages without translation, as if all his readers knew **Law French** (extended quote on p. 36) and **Latin**, as in: “This whole *fasciculus* of accusation...” (p. 38), or “The cases, which it is not *huius loci* to discuss...” (p. 43). Was it, даже в 1957-ом г., действительно de rigueur ag ainmeachadh ann an cànanan eile?

Author: Andrew Dewar Gibb was born in Paisley to a doctor. He served with **Winston Churchill** in the trenches in World War One and wrote a book about the experience, which emphasised Churchill’s courage and humanity. He studied law and became an advocate, academic and finally the **Regius Professor of Law** at the University of Glasgow from 1934–1958. He was the leader of the Scottish National Party (SNP) from 1936 to 1940 but left in disgust at their Scottish pacifism in the face of Hitler and the Nazis. Like the militant Republicans in Ireland, they saw “Britain’s difficulty as Scotland’s opportunity”; a few were actual fascists. Gibb was not at home in such company. He wrote an angry book about the Nuremberg Trial, which he called *Perjury Unlimited* (1951).



Link(s): None

Overall recommendation level: MODERATE, though useful on each of the individual cases

About the reviewer: Ian Mitchell is the author of four books, including [Isles of the West](#) and [The Justice Factory](#). He is writing a comparative study of Russian and Western constitutional history to be called *Russia and the Rule of Law*—hence the “RusRoL Relevance” section at the top. He can be contacted at: ianbookrec@gmail.com. For other reviews in this series, see [Ian Mitchell’s Book Recommendations](#).