

about drunkenness among munitions workers, Lloyd George notoriously commented: 'We are fighting Germany, Austria and drink, and as far as I can see, the greatest of these three deadly foes is drink.' He persuaded King George V to pledge abstinence for the duration of the war, although he did not necessarily follow suit. But many of the measures that became a feature of how public houses operated for much of the rest of the twentieth century were introduced during this time. This included reduced licensing hours, reduced strength of beer and increased taxes. One experiment that was not so widely adopted was the experiment in Carlisle of

nationalising the production and sale of alcohol, a scheme that surprisingly lasted until 1973.

Dr Fahey, who is Professor Emeritus at Miami University, Ohio, is a reliable and informative guide to the different elements of the drink and temperance debate during this period of its greatest prominence as a political question. He brings to life the often-eccentric characters who drove forward the temperance movement, explains the nuances of their different approaches and of the frequent divisions within the trade, as well as clarifying some of the often-arcaic terminology associated with

the debate, whether 'disinterested management' or 'monopoly value'. It is a shame, albeit sadly not a surprise, that the cost of the book means that its circulation will be largely confined to academic libraries, as it could have been enjoyed by those with a more general interest in the political and social history of the period. But it is still a valuable and important contribution to the literature on this subject.

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Law and politics

Neil Hickman, *An Analytical Study of Lord Hewart: Despotism Renewed, Hewart Unburied* (Kindle Direct Publishing, 2024)

Review by David Dutton

Usually, this book begins with a gentle rebuke for the Liberal Democrat History Group, or at least for the failure of the group's website to make any mention in its 'People' section of Gordon Hewart, Viscount Hewart (1870–1943). Granted that Hewart, Liberal MP for Leicester and subsequently Leicester East (1913–22), having declined appointment as Lloyd George's home secretary, served in that prime minister's coalition government as both solicitor general (December 1916–January 1919) and attorney general (January 1919–March 1922), the point is

well-taken. In mitigation, however, the group could reasonably point out that Hewart's fame derives less from his political activity and more from his occupancy over nearly two decades of the (nominally at least) non-political office of lord chief justice (1922–40).

A serviceable biography of Hewart, written by Robert Jackson, was in fact published as long ago as 1959. Those who produce biographical revisions of the existing literature on significant figures generally rely on the availability of new sources – perhaps the private

papers of the individual under scrutiny – denied to earlier writers. Any such study of Hewart would, however, face a very different situation. Hewart's private papers, available to Jackson, have subsequently disappeared. The subject's widow revealed that the deed box storing this archive was taken by burglars in the mistaken belief that it might contain valuable jewellery. But Neil Hickman, a retired district judge, does not seek to write a new biography. His book begins with a brief narrative of Hewart's career, but this is only an introduction to more substantial chapters. Indeed,

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Hickman's handling of strictly political history is sometimes less than assured. He seems to conflate the Irish War of Independence with the immediately following Irish Civil War (p. 231), repeats an old canard about the origins of the 1922 Committee of Conservative backbenchers (p. 10) and dismisses without consideration half a century of revisionist endeavour on the part of historians keen to dispel the 'Guilty Men/Devil's Decade' image of Britain in the 1930s (p. 373). Hickman's primary concern is to offer a positive assessment of Hewart's performance and a defence of his judicial record against the assaults of contemporaries and later commentators. Some of this, relying on an examination of the detailed case law developed during Hewart's long career, is not for the faint-hearted, or at least demands the close attention and patient reading of those, like the present reviewer, who lack a legal training. Hickman also draws extensively on Hewart's own work *The New Despotism*, published in 1929. His aim throughout is to show the wisdom, prescience and continuing relevance of Hewart's opinions and observations eighty years after his death.

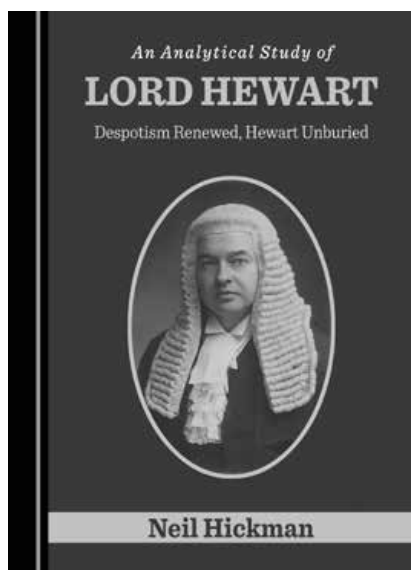
Hickman is particularly, perhaps excessively, exercised by the assessments made of Hewart's career by two distinguished authorities. According to Professor R. F. V. Heuston, whose two volumes on the *Lives of the Lord Chancellors 1885–1940* and *1940–1970* have long been used to advantage by twentieth-century political historians

as well as their legal counterparts, Hewart was 'perhaps the worst Lord Chief Justice of England since the seventeenth century' (p. 156). Lord (Patrick) Devlin who, Hickman concedes, was 'a fine lawyer and a capable judge' (p. 170), went even further. For him, Hewart was 'comparatively speaking ... the worst chief justice ever' (p. 157). The combined effect of 'Heuston's throwaway remark and Devlin's rhetorical flourish', Hickman concludes, 'has been that if Hewart is remembered at all, it is in terms that assume Hewart to be beneath contempt' (p. 179). At the end of reading this book, no one will fail to agree that these two hostile judgements need to be consigned to the dustbin of baseless denigration.

But Hickman's determination to disprove Heuston and Devlin initially takes him along a somewhat bizarre historical path. In response to Heuston, Hickman lists all the holders of the office between 1678 and 1922 and then offers potted biographies of several of them to illustrate that they were 'less than wonderful' (p. 161). The same approach is used to undermine Devlin, the incumbents deemed to be clearly inferior to Hewart ranging from Stephen de Segrave, LCJ 1239–49, to Lord Widgery, holder of the office as recently as 1971–80. While Segrave 'recommended arbitrary measures to the king and ... enriched himself by rapacity' (p. 171), Widgery was responsible for a deeply flawed enquiry into the events of 'Bloody Sunday' and held on to office long after becoming

unfit to do so. This trawl through history offers moments of amusement. When committing a man in an arbitrary fashion and being reminded of his responsibilities under Magna Carta, LCJ Kelynge responded with little regard to the dignity of his rank, 'Magna Carta – Magna Farta!' (p. 172). But the hazards of comparing holders of an office held in different circumstances and at different times – let alone across different centuries – are too obvious to enumerate.

Hickman is on stronger ground and proves much more successful when he turns his attention to Hewart's own positive qualities. *The New Despotism* was based on articles which Hewart had written, which he now re-presented as 'a note of warning' (p. 88). Considerations of space limit the number of Hewart's worries that can be examined here. The lord chief justice's principal concern was with the 'increase in Executive power at the expense of Parliament' (p. 288). Yet, nearly a century after the publication of his book, 'the potentially arbitrary power of the Executive appears to have increased markedly' (p. 365). Hickman is clearly of the belief that governments are too keen to legislate. 'It is by no means obvious', he writes, 'that a Government which left the Statute Book broadly as it found it, but which administered the affairs of the country competently, would in any way have failed in its task' (p. 369). But the quantity of legislation is not the only problem. Hewart had drawn attention to the issue of delegated legislation in which an Act of



Parliament gives the power to issue orders and regulations to a minister, government department or other authority. He was troubled by provisions which allow ministers to amend Acts of Parliament through the use of so-called 'Henry VIII clauses', which draw their legitimacy from the Statute of Proclamations of 1539. As recent history has shown, this practice, far from going away, has become ever more normal. The Conservative peer, Lord Blencathra, noted as recently as 2023:

There is a completely inappropriate use of excessive Henry VIII powers. This ... is a 584 [sic – ?484] year-old device, which allowed the King to make and unmake any laws he liked by proclamation ... If [Hewart] thought that it was a bit despotic [in 1929], I think he would struggle to find language pejorative enough to describe today's legislation. (p. 199)

Another of Hewart's worries which resonates in our own day relates to the possible abolition of the office

of lord chancellor and its replacement by a Ministry of Justice, 'with judges effectively being appointed by the permanent officials of that Ministry and becoming virtually a branch of the Civil Service' (p. 105). In such a situation 'the status and the position of the judges would certainly undergo a disastrous change; [and] the standing and calibre of members of the Bar who were ready and willing to accept judicial office would gradually be transformed' (p. 322). Though Tony Blair was unable to get rid of the post of lord chancellor completely, what survives is largely symbolic and the standing of its occupant, even in conjunction with the role of Minister of Justice, within the government is much diminished from earlier times. While Hickman concedes that the appointment of judges has not been passed to civil servants, he argues that the diminution of the status of the lord chancellor has resulted in 'the judiciary being more exposed to attacks, and indeed threats to safety, than previously' (p. 365).

Only in relation to proportional representation, not dealt with in *The New Despotism* but a cause which Hewart had favoured from the beginning of his political career, does Hickman overstate his case, the fair-minded judge reverting perhaps to the partisan barrister, presenting a powerful but one-sided argument on his client's behalf. Hickman himself is clearly a strong supporter of PR, suggesting that the current first-past-the-post system (which he prefers to

style the 'X-voting system') 'does appear to induce in its advocates a willingness to utter transparent nonsense as though it were uncontested fact' (p. 354). The cause of PR is of course dear to the hearts of Liberal Democrats who have skillfully equated it with the idea of 'fair votes' in the minds of many electors. But an academic discussion should admit that the argument is far more nuanced than this.

Hickman patiently lists examples of the shortcomings of the present system. In the 2019 general election, for example, more than a third of successful candidates did not receive the support of a majority of those voting in their respective constituencies. In 1951, the losing Labour Party polled nearly a quarter of a million more votes than did the victorious Conservatives; in February 1974 this situation was in effect reversed. But there is another way of looking at this question, which Hickman largely ignores. Tucked away in an endnote he does concede an important point: 'Superficially, the Conservative–Liberal Democrat Coalition of 2010 had the backing of a majority of those voting; but the collapse in support for the Liberal Democrats following the formation of the Coalition suggests that *the Government*, as opposed to *the two parties comprising it*, did not enjoy majority support' (p. 379; emphasis in original). But this point could be taken much further. The same could have been said had a Labour–Liberal Democrat coalition rather

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than a Conservative–Liberal Democrat one been formed. Prior to the announcement of agreement, the Liberal Democrats had been negotiating simultaneously with the two major parties. The final outcome was not an expression of the ‘will of the people’ but of the will of the hierarchy of the Liberal Democrats. This result was, of course, achieved within the context of the first-past-the-post system. Granted, however, that no party since the Second World War has managed to secure 50 per cent of the popular vote, it seems possible that under PR every government since 1945 would have been the outcome of a comparable process of bargaining within smoke-filled (or latterly smoke-free!) rooms. Would this have represented an advance for ‘democracy’ or a reversal to

something like the practice of the eighteenth century, with loosely affiliated MPs arriving in London to decide between themselves the shape of any new administration? And it is surely not ‘transparent nonsense’ to suggest that PR systems in countries such as Israel and Ireland have sometimes led to the formation of coalitions within which fringe parties have enjoyed an undesirable degree of influence; or to note that, at the time of writing, the Netherlands has been without a government for five months while post-election negotiations continue.

Generally, however, this is an interesting and persuasive book. The author succeeds in his declared intention of rescuing Hewart’s reputation and confirming his continuing relevance for modern

law and politics. It is well written and the whole is peppered by Hickman’s dry wit. This reviewer will long remember his discussion of s. 2(1) of the Constitutional Reform Act of 2005 under which, while it is no longer necessary for the appointee even to be a lawyer, the person recommended for appointment as lord chancellor must ‘appear to the Prime Minister to be qualified by experience’. Hickman comments: ‘It may be thought that the appointment of Christopher Grayling in 2012 and of Elizabeth Truss in 2016 suggest that s. 2(1) does not unduly constrain the Prime Minister’s freedom of action’ (p. 21).

David Dutton is a long-serving member of the *Journal of Liberal History*’s editorial board and the author of histories of the twentieth-century Liberal Party and the now defunct National Liberal Party.

Radicalism in England

Richard Taylor, *English Radicalism in the Twentieth Century: A distinctive politics?* (Manchester University Press, 2020)

Review by Michael Meadowcroft

The history of English Radicalism is highly significant to Liberals who grew up with an awareness that the ‘Radical Party’ within the Liberal Party of the late nineteenth century and early twentieth century was visibly more progressive than the early Labour Party which was weighed down by its class rigidity and its trade union sectionalism. The failure of the Liberal Party to

encompass the legitimate aspirations of working men eventually led to the establishment of a separate party to represent their interests. Even after a united Labour Party was established in 1918, open to individual as well as corporate members, it was clear that a significant number of ‘advanced radical’ Liberals espoused progressive causes unadopted by Labour.

Within this context, any prospective reader who thought that Richard Taylor’s book would follow in the footsteps of Maccoby (S. Maccoby, *The English Radical Tradition 1763–1914* (Allen & Unwin, 1957)) or or Emy (H. V. Emy, *Liberals, Radicals and Social Reformers* (Cambridge University Press, 2008)) will be disappointed. His selection of radicals is narrow and dominated by Labour figures. Liberal political