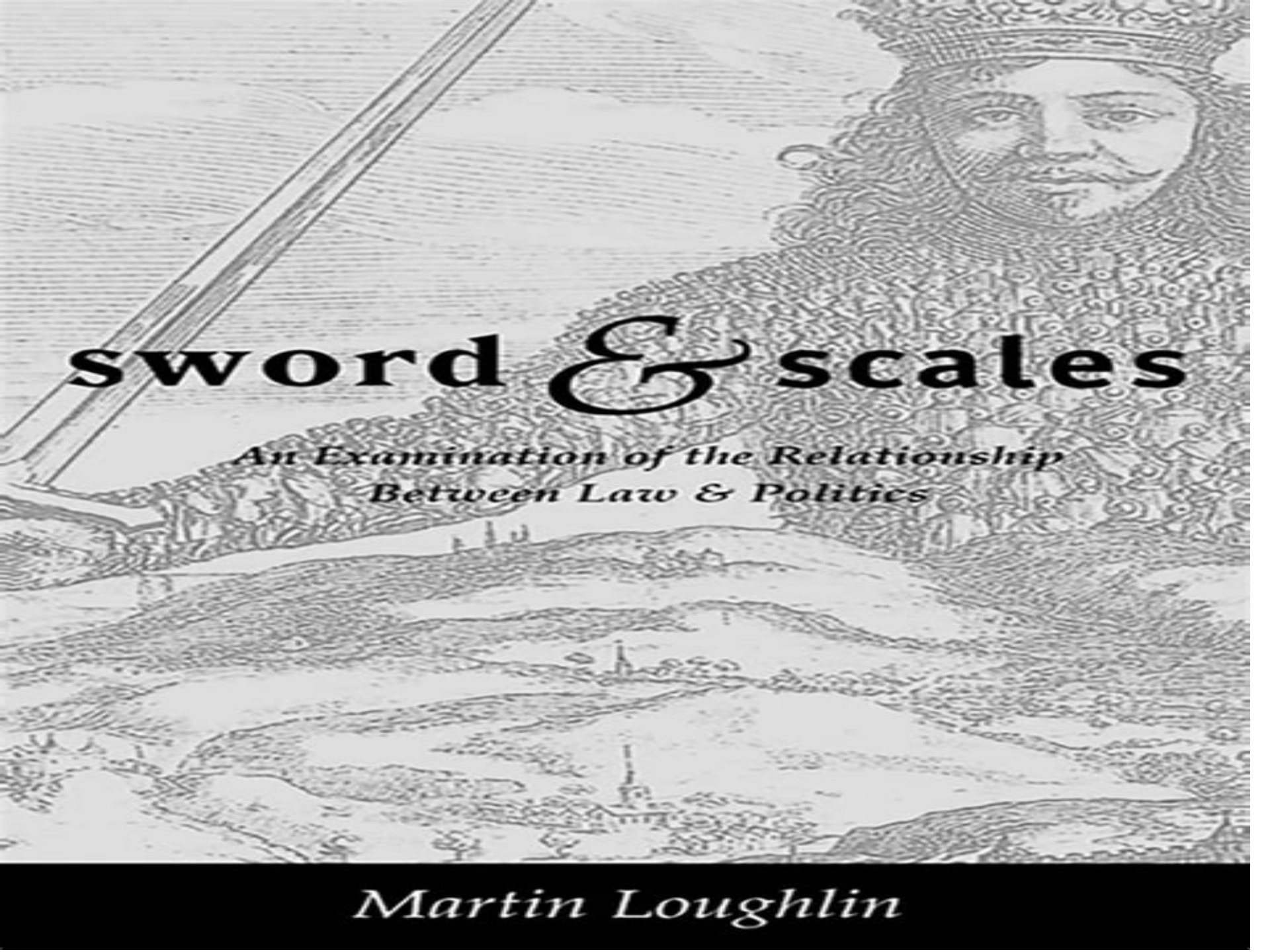




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*An Examination of the Relationship
Between Law & Politics*

Martin Loughlin

Sword And Scales An Examination Of The Relationship Between Law And Politics

Lauren Gardner



Sword And Scales An Examination Of The Relationship Between Law And Politics:

Sword and Scales Martin Loughlin, 2000-07-24 This short and accessible book provides a provocative re assessment of the various tangled relationships between law and politics and in so doing examines legal and political thinking on such critical areas as justice the state constitutionalism and rights It introduces lawyers especially to certain important themes in some of the key texts in political thought and introduces political scientists to the legal dimensions of a number of central themes of political studies Written by one of the leading theorists in constitutional law the book should prove to be an indispensable companion for any student or teacher interested in law and politics Contents I Law and Politics in the Conversation of Mankind II Justice III The State IV Constitutionalism V Conclusions **Reasoning with Law** Andrew Halpin, 2001-12-31 The reader is invited to follow a route that visits Fish s view of theory and practice Raz s legal reasoning thesis theoretical models of judicial review Dworkin s right answer thesis the law of the excluded middle and Lukasiewicz s development of three valued logic Wittgenstein s language games and Moore s metaphysical realism The destination is the practice at the heart of legal reasoning It is suggested that this manifests the way in which the limitations of language and the incompleteness of human experience allow the opportunity for coherent development of the law and at the same time produce an inherent incoherence within the law The central part of the book seeks to demonstrate how the problems of understanding legal reasoning replicate difficulties encountered in the philosophy of language but challenges the attempts that have been made to harness approaches from within that discipline to illuminate legal reasoning Instead it is argued that law provides an unrivalled test bed for examining the limits of the capacity of our words and that the study of law may be used to confront in a robust and illuminating manner the limitations of that discipline The final chapter considers some of the implications of recognising the incoherence at the heart of legal reasoning commenting on an institutional approach to law the legitimacy of law legal definitions different approaches to legal reasoning the role of appellate courts the general possibility of providing a theoretical model of law the use of legal rules and the nature of law s critical aperture The book should be of interest to advanced undergraduate students particularly on jurisprudence courses postgraduate students academics and practitioners concerned to reflect on the nature of the discipline they practice Constitutional and Administrative Law Roger Masterman, Colin Murray, 2022-06-02 Provides an accessible discursive and scholarly treatment of the key contemporary issues in UK Public Law The Making of Constitutional Democracy Paolo Sandro, 2022-01-27 This open access book addresses a palpable yet widely neglected tension in legal discourse In our everyday legal practices whether taking place in a courtroom classroom law firm or elsewhere we routinely and unproblematically talk of the activities of creating and applying the law However when legal scholars have analysed this distinction in their theories rather than simply assuming it many have undermined it if not dismissed it as untenable The book considers the relevance of distinguishing between law creation and law application and how this transcends the boundaries of jurisprudential enquiry It

argues that such a distinction is also a crucial component of political theory. For if there is no possibility of applying a legal rule that was created by a different institution at a previous moment in time then our current constitutional democratic frameworks are effectively empty vessels that conceal a power relationship between public authorities and citizens that is very different from the one on which constitutional democracy is grounded. After problematising the most relevant objections in the literature the book presents a comprehensive defence of the distinction between creation and application of law within the structure of constitutional democracy. It does so through an integrated jurisprudential methodology which combines insights from different disciplines including history, anthropology, political science, philosophy of language and philosophy of action while also casting new light on long standing issues in public law such as the role of legal discretion in the law making process and the scope of the separation of powers doctrine. The ebook editions of this book are available open access under a CC BY NC ND 4.0 licence on bloomsburycollections.com [Constitutional Rights After Globalization](#) Gavin

Anderson, 2005-05-18 *Constitutional Rights after Globalization* juxtaposes the globalization of the economy and the worldwide spread of constitutional charters of rights. The shift of political authority to powerful economic actors entailed by neo liberal globalization challenges the traditional state centred focus of constitutional law. Contemporary debate has responded to this challenge in normative terms whether by reinterpreting rights or redirecting their ends e.g. to reach private actors. However globalization undermines the liberal legalist epistemology on which these approaches rest by positing the existence of multiple sites of legal production e.g. multinational corporations beyond the state. This dynamic between globalization and legal pluralism on one side and rights constitutionalism on the other provides the context for addressing the question of rights constitutionalism's counterhegemonic potential. This shows first that the interpretive and instrumental assumptions underlying constitutional adjudication are empirically suspect: constitutional law tends more to disorder than coherence and frequently is an ineffective tool for social change. Instead legal pluralism contends that constitutionalism's importance lies in symbolic terms as a legitimating discourse. The competing liberal and new politics of definition the latter highlighting how neoliberal values and institutions constrain political action are contrasted to show how each advances different agenda. A comparative survey of constitutionalism's engagement with private power shows that conceiving of constitutions in the predominant liberal legalist mode has broadly favoured hegemonic interests. It is concluded that counterhegemonic forms of constitutional discourse cannot be effected within but only by unthinking the dominant liberal legalist paradigm in a manner that takes seriously all exercises of political power. **Constitutional Acceleration within the European Union and**

Beyond Paul Blokker, 2017-10-12 Modern constitutionalism as an idea and practice is facing great uncertainty in current times. Scholarly debates focus predominantly on constitutions beyond the state while the predicament of domestic constitutionalism is much less considered. This volume contributes to a theoretically informed analysis of the key challenges and changes affecting domestic constitutionalism in Europe and beyond departing from the idea of constitutional

acceleration or the increased propensity of different actors to engage in formal reform of the constitutional order The volume points to a fundamental change in the function of constitutions in that constitutions themselves are increasingly subjects of political contestation rather than framing political debates The collection of essays addresses a range of critical challenges including societal acceleration depoliticization civic engagement multi faceted constituent power modernization populism and nationalism and transnationalization The volume includes a variety of disciplinary and in some cases interdisciplinary approaches including political sociology political science constitutional law and constitutional and legal theory and will be of interest to researchers and students in any of these areas Case studies focus on the EU and the wider European context and include highly relevant but little known or ill understood cases such as the recent constitutional events in Iceland Italy or Romania and cases of democratic reversal such as Hungary while also engaging with traditional but rapidly changing cases of constitutional interest such as the UK **The International Legal Order in Global Governance** Alain

Germeaux,2022-10-18 The space occupied by international law in shaping political action is subject to continuing debate and controversy This book aims to answer the question of how and why international law impacts the behaviour of actors on the international stage in the absence of central authority and faced with asymmetric power At a time when the role of normative restraints in international relations and international law in particular has come under renewed questioning it advances an analytical framework for understanding the effect of norms on behaviour that is not contingent on material restraints or a given political constellation while being informed by the practical realities and practice of international organisation In doing so this book draws on an interdisciplinary range of sources including international law political theory cognitive psychology and behavioural economics to explore a communicative action based approach of how norms and ideas persuade actors to engage in a course of action consonant with international law to achieve a particular outcome In probing the role of norms on questions such as the use of force and accountability and issues of equity and justice it examines the challenges international law faces and what the way forward may look like **Constitutional Semiotics** Martin Belov,2022-06-30 This book offers

an outline of the foundations of a theory of constitutional semiotics It provides a systematic account of the concept of constitutional semiotics and its role in the representation and signification of meaning in constitution constitutional law and constitutionalism The book explores the constitutional signification of meaning that is stretched between rational entrenchment and constitutional imagination It provides a critical assessment of the rationalist entrapment of constitutional modernity and justifies the need to turn to shadow constitutionalisms textual symbolic imaginary and visual constitutionalism The book puts forward innovative incentives for constitutional analysis based on constitutional semiotics as a paradigm for representation of meaning in rational textual symbolic imaginary and visual constitutionalism The book focuses on the textual imaginative and visual discourse of constitutionalism which is built upon collective constitutional imaginaries and on the peculiar normativity of constitutional geometry and constitutional mythology as borderline phenomena entrenched in rational

textual symbolic imaginary and visual constitutionalism The book analyses concepts such as constitutional text and texture authoritative constitutional narratives and authoritative constitutional narrators constitutional semiotic community constitutional utopia constitutional taboo normative ideology and normative ideas constitutional myth and mythology constitutional symbolism constitutional code and constitutional geometric form It explores the textual entrenchment of constitutionalism and its repercussions for representation and signification of meaning

New Courts in Asia Andrew Harding, Penelope Nicholson, 2010-01-21 This book discusses court oriented legal reforms across Asia with a focus on the creation of new courts over the last 20 years Contributors discuss how to judge new courts and examine whether the many new courts introduced over this period in Asia have succeeded or failed The new courts under scrutiny are mainly specialist courts including those established to hear cases involving intellectual property disputes bankruptcy petitions commercial contracts public law adjudication personal law issues and industrial disputes The justification of the trend to judicialize disputes has seen the invocation of Western style rule of law as necessary for the development of the market economy democratization good governance and the upholding of human rights This book also includes critics of court building who allege that it serves a Western agenda rather than serving local interests and that the emphasis on judicialization marginalises alternative local and traditional modes of dispute resolution Adopting an explicitly comparative perspective and contrasting the experiences of important Asian states China Japan Korea Malaysia Vietnam Brunei Thailand and Indonesia this book considers critical questions including Why has the new court model been adopted and why do international development agencies and nation states tend to favour it What difficulties have the new courts encountered How have the new courts performed What are the broader implications of the trend towards the adoption of judicial solutions to economic social and political problems Written by world authorities on court development in Asia this book will not only be of interest to legal scholars and practitioners but also to development specialists economists and political scientists

The English Constitution Ian Ward, 2004-07-30 The English Constitution addresses two burning contemporary and complementary questions one regarding the so called English question the changing identities of England and English ness and a second regarding the changing shape of the Anglo British constitution It is suggested that there are both internal and external pressures that are driving the reformation of our constitutional order There are internal pressures of decay even corruption and popular apathy and there are external pressures brought to bear by the geopolitical challenges of the new world order and the new Europe The present project of constitutional reform inaugurated by the present government is supposed to reflect these pressures This book challenges this assumption arguing that a far more radical re constitution is required involving deeper institutional reforms the most pressing being the abrogation of monarchy and the established Church geopolitical reforms to recast the devolutionary settlement and redefine English regionalism and perhaps most importantly conceptual reform reform that will embrace the need to rebalance the constitution and to promote greater accountability and

democracy It is intended that the book will provide a stimulating text for both academics and students advancing a series of original ideas on a subject of considerable contemporary interest Along the way it discusses most of the major topics institutions and debates which are ordinarily addressed in public law courses and equivalents in non law disciplines

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