

— THE —
HAMLYN
LECTURES
— 2019 —

To be delivered by

Professor Sir John Baker QC

Downing Professor Emeritus of the Laws of England

English Law under Two Elizabeths

**Lecture 1 –
Tuesday 19 November, 17:00-18:00**
Drinks Reception: 18:00

Venue: LG18, The Sir David Williams Building
10 West Road, Cambridge CB3 9DZ

Booking: <https://www.eventbrite.co.uk/e/the-hamlyn-lectures-2019-tickets-65794243353>

**Lecture 2 –
Thursday 21 November, 18.00-19.00**
Drinks Reception: 17:00

Venue: Palmer Building 1.09, Whiteknights
Campus, Reading RG6 6UR

Booking: c.l.smith@reading.ac.uk

**Lecture 3 –
Thursday 28 November, 18.00-19.00**

Venue: Chancellors Hall, Senate House,
University of London, WC1E 7HU

Booking: <http://ials.sas.ac.uk/events/event/20380>

English Law under Elizabeth I

Chair: Professor David Ibbetson
President of Clare Hall, University of
Cambridge

The Age of Common Law and the Age of Statute

Chair: Dr Ian Williams
Faculty of Laws, University College London

The Elizabethan Inheritance

Chair: The Rt Hon the Lord Judge

www.law.ex.ac.uk/hamlyn
www.cambridge.org/haml



CAMBRIDGE
UNIVERSITY PRESS

ENGLISH LAW UNDER TWO ELIZABETHS

Comparative law is generally understood as involving the comparison of contemporary legal systems in different countries. These lectures will be an experiment in a different kind of comparative law, a comparison over time between two systems operating within the same country at a distance of nearly half a millennium. The past is not a wholly different country. The common law is still, in an organic sense, the same common law as it was in Tudor times. And Parliament is legally the same Parliament. Yet we self-evidently have a different legal system. The lectures will explore some of the differences, and will end by asking what has been gained and lost over four and a half centuries.

Lecture I: English Law under Elizabeth I

The first lecture will survey some of the main features of English law in the time of Elizabeth I. Criminal law was not the concern of practitioners and trials were unsophisticated. The civil legal system was more accessible than today, since litigation was less expensive, and habeas corpus was beginning to provide remedies against governmental authority. Contemporaries, especially when looking back from the time of James I, regarded the reign of Elizabeth as a golden age, in which personal freedom flourished under the rule of law. Every educated person knew something of the law, though its dominant branch (the law of real property) was complex and fraught with controversy.

Lecture II: The Age of Common Law and the Age of Statute

The reign of Elizabeth I fell in the middle of the Age of Common Law. The basic principles of law were attributed to timeless natural reason. Legislation was a gloss upon it, and regarded as less perfect. The reign of Elizabeth II, on the other hand, falls well within the Age of Statute. The law is seen as a vast body of legislation and regulation, accessible only via the internet, resulting from political decisions focused on the short term and befogged by endless tinkering. This contrast, even if it rings true, is exaggerated. This lecture will address changes in the character and function of legislation, and consider whether statute has finally eclipsed common law.

Lecture III: The Elizabethan Inheritance

The third lecture will look back from the present. The criminal law still includes some major common-law offences, such as murder and manslaughter; it is now less severe but more complex. Much of the common law of contract and tort still rests on Elizabethan foundations. So do the principles of administrative law. But there have been major changes in the civil legal system. Debt-collection, which rarely troubles the superior courts, is essentially timeless. On the other hand, contentious litigation is less often conducted between ordinary people – who can no longer afford it – and more typically takes the form of vertical claims against authority. Civil juries have gone and the law courts are less familiar to the general public than 400 years ago; the law itself is arguably less accessible as well. The lectures will end with the question of what has been gained and lost since the first Elizabethan age.