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## Introduction to the Second Edition

Within a month of this book's first appearance, its author received a generous note of appreciation, which concluded as follows: 'I noticed a very few minor misprints and enclose a list, in case it is of some help when you come to a reprint'. It must be said that 'a very few minor misprints' was Keith Thomas's charitable characterisation of some twenty-three authorial blunders, errors and slips. The next year, Gerald Aylmer was even more forbearing. According to his review 'the standard of accuracy is very high', although 'once or twice the index appears to contradict the text', while 'the Robert Henley discussed here was not a knight', 'the reference to Burton's Diary is wrong' and 'there was no Caroline privy councillor called Minshall'. Less indulgent was the senior historian of Elizabethan Catholicism, who on the first page of an essay published in 1976 rightly observed that a citation of Lansdowne MS 102 should have credited Sir William Cecil, 'and not the duke of Norfolk as stated in W. R. Prest, *The Inns of Court under Elizabeth I and the Early Stuarts, 1590–1640* (1972), p. 174'.<sup>1</sup>

Even with these encouragements, merely correcting such unfortunate gaffes and oversights, as well as some genuine typos, might hardly justify a reprint of a book first published half a century ago, let alone a revised second edition. But although unavailable because out of print since 1977, this volume has evidently not been replaced or superseded, despite the appearance of much new research and writing that touches on the early modern inns of court. The standard bibliography of British and Irish history currently identifies well over 150 articles, books and chapters directly relating to the inns between the years 1575 and 1650 published after 1972, while Google Scholar shows more than twice as many citations of this book in other works. To take account of so extensive a body

<sup>1</sup> *History*, 58 (1973), 285–6. Geoffrey de C. Parmiter, 'Elizabethan popish recusancy in the Inns of Court', *Bulletin of the Institute of Historical Research, Special Supplement 11* (1976), 1. Cf. Patrick Collinson, in *Journal of Ecclesiastical History*, 29 (1978), 247.

of scholarship, something more than updating footnote references was plainly required, more especially where new scholarship appears to have significantly qualified or questioned the approach and conclusions of the original edition. That is one purpose of this new introductory chapter. But first, by way of introducing a historiographical product of the 1960s and early 1970s to a twenty-first century readership, the following brief account of its provenance may be helpful.

### Origins

Like most first academic books, this one originated as a doctoral thesis, the indirect offspring of a research essay written in my final undergraduate year at the University of Melbourne's History Department, supervised by the late Don Kennedy, whose first-year teaching had helped to quicken my interest in sixteenth- and seventeenth-century British (or more accurately, English) history. That essay or thesis – although the latter term was then supposedly reserved strictly for postgraduate work – investigated the effects of attendance at Cambridge University on the civil war allegiances of two sample groups of clergy and laymen. An accidental by-product was the discovery that while over half the Long Parliament's original MPs had spent time at Oxford or Cambridge, slightly more of them were associated with one of the four inns of court. Yet unlike the two ancient English universities, on which there was no lack of historical literature old and new, the four (or were there more?) inns of court seemed mysterious institutions, largely ignored by historians.<sup>2</sup>

So in November 1962, when it looked as though I must devote my Oxford scholarship to a doctorate in history rather than the initially contemplated second undergraduate degree in politics, philosophy and economics, the early modern inns of court suggested themselves as a possible thesis topic. While emphasising his ignorance of the subject, Christopher Hill cheerfully agreed to supervise, and Oxford's Faculty of Modern History, in the initially somewhat forbidding person of Hugh

<sup>2</sup> Mary F. Keeler, *The Long Parliament, 1640–1641: A Biographical Study of Its Members* (Philadelphia, 1954), 27–8. Keeler noted that her statistics were based on 'the four inns whose records have been published most fully', adding 'The records of the other inns would no doubt reveal an even larger total figure'. Cf. Roger Lockyer's reference to men completing their education 'at one of the inns of court. The four principal ones were Lincoln's Inn, Gray's Inn, Middle Temple and Inner Temple': *Tudor and Stuart Britain*, 3rd ed. (2005), 161.

Trevor-Roper, raised no objection.<sup>3</sup> I was determined to finish within the three years of my scholarship, then pursue a non-academic career. Despite being based in Oxford until January 1965, while my main sources were in London, the thesis was submitted in June of that year and accepted by its examiners in October.<sup>4</sup> I had already commenced as a trainee with Longman, which then billed itself as ‘the oldest commercial publisher in the English language’. The original plan was that after a UK induction, I would return to work for the company in Melbourne. But I soon developed serious doubts about becoming a publisher and reading back-files of correspondence between Longman’s London office and its Australasian offshoots was sufficient to deter me from joining their number. However, before leaving London in March 1966 for a History lectureship in Adelaide, it was agreed that if and when I wanted to publish my thesis, Longman would have the right of first refusal.

Despite those ‘misprints’ and other failings, the book that eventually materialised was on the whole well received. But by the time it went out of print, Longman had been swallowed by the Pearson publishing empire, my commissioning editor had departed and his successors showed no interest in a reissue, although they did cede the copyright with which I had imprudently parted on signing the original contract. I had also moved on, first to a study of the inns’ lawyer members during the same period, then a series of projects on English general and legal history in the later seventeenth and eighteenth centuries. But an invitation to a lively 2006 London conference on ‘The Intellectual and Cultural world of the Early Modern Inns of Court’ rekindled my interest in the earlier period and made it clear that my first book was by no means entirely obsolete. Thus the prospect of a corrected and revised second edition re-emerged.

### Continuities and Changes

Researched and written in England, Australia and the United States during the decade 1962–71, while the student-aged cohort from the post–World War II baby boom spurred an unprecedented expansion of

<sup>3</sup> After a slightly frosty interview, however, Professor Trevor-Roper did take me downstairs to consult the Faculty Library copy of F. W. Maitland’s 1901 Rede lecture, ‘English Law and the Renaissance’, a kind gesture for which I remain grateful.

<sup>4</sup> W. R. Prest, ‘Some Aspects of the Inns of Court 1590–1640’, DPhil. thesis, University of Oxford, 1965.

tertiary education throughout the western world, *The Inns of Court under Elizabeth I and the Early Stuarts 1590–1640* was very much a product of its times. Speculation about the likely economic, political and social impact of that contemporary upsurge in student enrolments generated renewed interest in the historical role of universities, schools and other educational institutions.<sup>5</sup> Lawrence Stone's identification of a comparable event in early modern England depended upon enrolment trends drawn from university matriculation records and the admissions' registers of the inns of court.<sup>6</sup> In a largely pre-digital age, when electronic calculators had not replaced mechanical calculating machines, such statistical evidence was painstakingly compiled by hand, then displayed in the tables which tended to feature more prominently in historical publications of that era (this one included), than they generally do today.<sup>7</sup> While positivistic conceptions of history as a science (or a social science at very least) had by no means displaced traditional emphasis upon the artistic and literary aspects of the historian's craft, historical narrative was generally discounted in favour of fine-grained analysis and explanation of cause and effect.

Those academic historians who would soon come to be identified as 'early modernists' (a term not in general use before the mid-1970s) devoted considerable attention to the causes and significance of the English – not yet British – Civil War(s), Revolution or Great Rebellion, the choice of terminology tending to reflect the ideological disposition of its user, whether agnostic/undecided, Whig/Marxist or Tory/conservative.<sup>8</sup> The global division between liberal democratic West and communist East lent apparent added relevance to scholarly debate over the validity of dialectical materialist, Marxist (or Marxisant) interpretations of a seminal event in the history of the world's first industrial nation. J. H. Hexter's essay 'Storm over the Gentry', first published in 1958 by

<sup>5</sup> Mark H. Curtis, *Oxford and Cambridge in Transition, 1558–1642* (Oxford, 1959); Mark H. Curtis, 'The alienated intellectuals of early Stuart England', *P&P*, 23 (1962), 25–43. J. H. Hexter, 'The Education of the Aristocracy in the Renaissance', in *Reappraisals in History* (1962), 45–70.

<sup>6</sup> Lawrence Stone, 'The educational revolution in England, 1560–1640', *P&P*, 28 (1964), 41–80.

<sup>7</sup> According to one reviewer, 'Dr Prest is happiest when he can present an array of figures in tabular order': D. S. Berkowitz, *AJLH*, 18 (1974), 80.

<sup>8</sup> Cf. Nicholas Tyacke (ed.), *The English Revolution c. 1590–1720* (Manchester, 2007), 1–7; Keith Wrightson (ed.), *A Social History of England, 1500–1750* (Cambridge, 2017), 1–5.

*Encounter* (a journal later revealed to be CIA-financed) brought this issue to international attention.

These large and indeed exciting themes were a legacy of the post-1945 Cold War and the conservative 1950s. As for decades to come, male historians dominated the groves of academe, still barely touched by family, feminist or women's (let alone gender) history, even if local and social history, micro-history and 'history from below' were slowly gathering followers and credibility. But the 1960s ushered in radical change on many fronts, not least within universities, where heightened political awareness and student activism created fertile conditions for successive waves of campus protest and rebellion across the western world – events that plainly helped shape the discussion of 'Discipline and Disorder' at the early modern inns in Chapter 5. Although the full impact of the digital revolution would not be felt for another generation, the basic tools of scholarship were already being transformed, with the introduction of relatively affordable photocopying and the use of computers to manipulate historical statistics, as in Figure 1.1 below (p. 27), which presents an interpolated reconstruction of enrolments at the inns of court from the mid-fifteenth to the mid-seventeenth century.

The book followed the thesis by considering the early modern inns of court from two viewpoints. The first five chapters are mainly concerned with matters of organization and structure, while the remainder concentrate on the societies' educational functions and politico-religious history. This division was not intended to be absolute, and the second half of the book depends heavily upon the first. For however desirable it may be to relate developments within the walls of the four houses to the wider world, some understanding of their internal structure and workings is essential for adequate assessment of their broader role. The book was slightly shorter than the thesis (since Longman had required a cut of about 10,000 words), with fewer chapters overall but the addition of a final chapter on 'The Inns of Court and the English Revolution', discussing the part the societies played in the gathering crisis that preceded the outbreak of armed hostilities in August 1642. These adjustments, particularly reducing the total word count by removing or abbreviating illustrative quotations, may help to explain why several reviewers characterized the text as 'highly compressed', or alternatively, 'highly succinct', and found at least some earlier chapters a little lacking in 'literary or anecdotal relish'.<sup>9</sup>

<sup>9</sup> Rodney M. Fisher, *HJ*, 15 (1972), 809; Berkowitz, *AJLH*, 18 (1974), 80.

The first edition nevertheless received some flatteringly positive assessments, as well as constructive comment and criticism, together with corrections and queries on points of detail.<sup>10</sup> While I have tried to incorporate most of these last in the text below, the reviews themselves and at least some of the substantive issues they raised are part of the new scholarship of the past half-century on the early modern inns of court which this second edition seeks to take into account. The most frequent concern of reviewers was that insufficient attention had been paid to the inns' practitioner or professional cohort, those would-be lawyers, barristers and benchers, as well as some attorneys and legal office-holders, who together constituted the societies' more stable residential membership, as distinct from the young gentlemen 'amateur' or 'non-professional' members, who spent perhaps just a year or so at the inns before returning to their families, travelling in Europe or otherwise following non-legal pursuits. While the original preface noted (p. iv) that the book's treatment of the inns' common-lawyer members was no substitute for a general history of the legal profession in this period, the truth of the matter is that such a history constituted a very large task, demanding nothing short of its own dedicated project. Or rather, two projects: for in 1986, my former student Chris Brooks published an outstandingly innovative study of the 'lower branch' of the early modern English legal profession, based on his Oxford doctoral thesis. The same year also saw the appearance of my own history of the bar, or 'upper branch', covering much the same period, as an avowed sequel to *The Inns of Court under Elizabeth I and the Early Stuarts*.<sup>11</sup> Chris and I both relied

<sup>10</sup> E.g. [G. R. Elton], 'Legal Fledglings', *Times Literary Supplement*, 28 July 1972, 898; J. H. Baker, *Cambridge Law Journal*, 30 (1972), 348–9; Austin Woolrych, *EHR*, 88 (1973), 628–9; T. G. Barnes, *American Historical Review*, 78 (1973), 1055–7; Rosemary O'Day, *History of Education*, 2 (1973), 203–5; P. E. Jones, *Journal of the Society of Archivists*, 5 (1973), 56–7; Thomas W. Evans, *Histoire sociale – Social History*, 7 (1974), 390–1. Cf. J. S. Cockburn, *Renaissance Quarterly*, 26 (1973), 484–5, who opined that by focusing on the period 1590–1640 and 'join[ing] the hunt for that fashionable wild goose, the origins of the English Revolution', the book provided 'neither a theory of educational development, a chronological account of growth over a fifty-year period, nor, in a sense, history at all', as distinct from 'episodic, at times almost anecdotal, treatment of a corpus of largely unconnected materials'.

<sup>11</sup> C. W. Brooks, *Pettyfoggers and Vypers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge, 1986); Wilfrid R. Prest, *The Rise of the Barristers: A Social History of the English Bar 1590–1640* (Oxford, 1986). As the preface to the latter explains, my previous book 'did not attempt a sustained account of the lawyer-members of the inns, an obvious deficiency which I envisaged supplying quite promptly. Now slightly older, and a little more experienced in historical research, I have

upon detailed biographical investigation of carefully chosen sample groups of individual lawyers to build fuller and – we hoped – more accurate pictures of the profession than was possible by any less laborious means. Where quantitative data presented in *The Rise of the Barristers* can now supersede the equivalent tables in the first edition of this book, these have been adjusted accordingly. Extended discussions of common lawyers' politico-religious leanings and affiliations are less easily accommodated in this manner. But since the material in the later book mainly amplifies or at most mildly qualifies my earlier treatment of these issues, it has seemed sufficient to draw the reader's attention to the relevant pages by way of footnote references.

Several reviewers and other readers also questioned what they perceived as excessive scepticism in Chapters 6 and 7 on the inns' effectiveness as law schools, especially so far as the amateur or 'gentleman student' majority of their membership were concerned. Drawing on his extensive study of the court of Star Chamber, the late Tom Barnes pointed to the prevalence of the 'learned lay client', who knew sufficient law 'to instruct counsel directly and intelligently', suggesting that even a short stay at one of the inns helped future landed proprietors gain 'a grasp of both the rhetoric and taxonomy of the law'. This enabled them to use the growing body of printed legal literature to attain a far from superficial understanding of the multiple lawsuits in which they were engaged in later life. At the same time, such attendance might instil respect for the common-lawyer's outlook and trade-craft, perhaps also a concern for due process and the subject's rights at law, as well as personal acquaintance with both present and future leaders of the bar.<sup>12</sup>

These are all quite plausible suggestions, which in some cases may be supported by scraps of corroborative evidence. The difficulty is that there is also much autobiographical and literary material testifying to the failure of gentlemen students to fulfil the hopes of parents and friends by learning something – or indeed anything – of the common law during their sojourn at an inn of court. Contemporary satire and stereotyping of the inns of court gallant doubtless exaggerated and possibly even

come to realize that a comprehensive study of the English bar in the half-century before the Long Parliament could easily take several lifetimes' (vii).

<sup>12</sup> Barnes, *American Historical Review*, 1056, and Barnes, 'Star Chamber Litigants and Their Counsel, 1596–1641', in J. H. Baker (ed.), *Legal Records and the Historian* (1978), 23. Woolrych, *EHR* (1973), 628; see also Vivienne Larminie, *Wealth, Kinship and Culture: The Seventeenth-Century Newdigates of Arbury and their World* (Woodbridge, 1995), 117–19.

exacerbated the problem, but it is hard to believe that the stereotype itself was entirely unfounded. Since Barnes published only offcuts from the comprehensive study of the Elizabethan and early Stuart Star Chamber on which he worked for many years, we still lack the detailed research into the educational backgrounds of litigants and their dealings with counsel that doubtless informed his 1978 chapter.<sup>13</sup> English-bill litigation in Star Chamber may also have been more accessible to and comprehensible by the laity than traditional Latin and French common-law proceedings in Westminster Hall. So there seems no compelling reason to abandon the position set out in the first edition, which accepted the possibility that some ‘non-professional’ students left the inns with more law than they entered, while cautioning that admission to an inn of court implied neither exposure to a formal structured law course (which did not exist, even for would-be barristers), nor the acquisition of more legal knowledge than most country gentleman of the time were likely to possess.<sup>14</sup>

Of course, much depended on individual circumstances and personalities. The experience of living in chambers and dining in commons might impart a heightened sense of identification with the common law and its practitioners, although it seems occasionally to have had no such effect, as with Sir Edwin Sandys MP, whose long-standing membership of the Middle Temple did not prevent him from claiming in 1604 that ‘the violence of lawyers hath, in former tymes, abused this House’.<sup>15</sup> There are also indications that at least some young gentlemen members tended to hold themselves apart from the practising and aspiring lawyers (see below, pp. 65–7), as much if not more for snobbish social reasons than any ‘hydroptique, immoderate desire of humane learning and languages’ akin to that which gripped the young Jack Donne at Lincoln’s Inn in the early 1590s.<sup>16</sup>

<sup>13</sup> However Edward Ewer, gent., whom Barnes cites as a particularly persistent and vexatious Star Chamber litigant, reportedly acquired his ‘experience in the law by reason of his multiplicity of suites wherein all his life tyme he had byn conversant’, not at an inn of court: Barnes, ‘Star Chamber Litigants’, 15.

<sup>14</sup> Cf. Penry Williams, *The Tudor Regime* (Oxford, 1979), 241.

<sup>15</sup> Quoted by Andrew Thrush, *The House of Commons 1604–1629: An Introductory Survey* (2010), 174. Cf. Conrad Russell, *Parliaments and English Politics 1621–1629* (Oxford, 1979), 349, citing Ralph Godwin’s 1628 Commons’ speech defending the jurisdiction of the Council in the Marches (where he held office) to illustrate parliamentary animus towards lawyers, although Goodwin seems merely to attribute a vested interest to lawyer proponents of the bill in question: *Commons Debates 1628 Volume III*, ed. Robert C. Johnson et al. (New Haven, 1977), 473.

<sup>16</sup> *Letters to Severall Persons of Honour Written by John Donne* (1651), 51; my thanks to Emma Rhatigan for this reference.



### New Ways and New Work

The late twentieth-century digital revolution has notoriously done much to transform research in the humanities and softer social sciences, not least by making primary sources and major works of reference readily accessible, in principle from anywhere in the world. There are also remarkably powerful if not always very discriminating search engines, together with proliferating internet databases, archival and library catalogues, bibliographies, networks (e.g., the recently established ‘Mapping the Early Modern Inns of Court’: <https://mappinginns.wordpress.com/>) and other sources of information, not least the massive *Oxford Dictionary of National Biography* and the biographies of MPs (together with much other relevant data) at [historyofparliamentonline.org](http://historyofparliamentonline.org). Notwithstanding the ever-present threat of information overload and occasional quality control problems, the combination of these developments with email, personal computers and word-processing software has greatly enhanced our capacity to identify and verify references, access manuscripts and printed books and change, correct or amplify text and footnotes wherever necessary.

So where new scholarship significantly supplements or effectively replaces items cited in footnotes to the first edition, every effort has been made to adjust those references accordingly. Thus, rather than the 1915 University of Minnesota thesis previously relied on for a deciphered transcript of the journal (now MS Harley 487) kept by Simonds D’Ewes at the Middle Temple in the early 1620s, the more accessible edition published by a French scholar in 1974 is cited, as likewise Sorlien’s full edition of another Middle Temple diary from 1602–3, instead of an incomplete nineteenth-century version.<sup>17</sup> It is more difficult to take adequate account of the vast amount of new work that might give a fuller sense of persons or events dealt with in the text than anything available before this book first appeared. Fortunately some cases are quite straightforward. Thus the publications of Michael Graves, especially his 1994 monograph *Thomas Norton the Parliament Man*, help to contextualise Norton’s proposals from the early 1580s for reforming both the educational function and religious regime of the inns, even if they also tend to play down his protestant fervour.<sup>18</sup> On a larger scale, the

<sup>17</sup> *The Diary of Sir Simonds D’Ewes 1620–1624*, ed. Elisabeth Bourcier (Paris, 1974); *The Diary of John Manningham of the Middle Temple, 1602–1603*, ed. Robert P. Sorlien (Hanover, NH, 1976).

<sup>18</sup> Cf. pp. 213 and 227 below, and the articles of another Antipodean scholar of Tudor England, Rodney M. Fisher, cited in Chapters 9 and 10 below.

published research of Chris Brooks is important in several major respects, not only for mapping the great litigation boom *c.* 1560–1640 and its massive impact on demand for legal knowledge and services (among many other things) but also for adding greatly to our understanding of the lesser inns of chancery and their relationship with the inns of court.<sup>19</sup> His work is part of the remarkable diversification and growth of legal-historical scholarship since this book first went to press, a historiographical phenomenon reflected in the swelling of the five successive editions of Baker's *Introduction to English Legal History* from 330 to over 700 (larger) pages between 1971 and 2019. This body of new research, much of it advanced by Baker himself in numerous different directions and modes, makes it possible to add references to more recent and fuller accounts of several matters outlined below, especially in relation to the content and structure of legal learning and self-education. By contrast, only a small fraction of the past half-century's huge tally of publications on the political, religious and social history of Elizabethan, Jacobean and Caroline England has been noticed below, although much of that scholarship has little direct bearing on the argument of this book.

In addition to the verification of references and silent correction of factual or typographical error, explicit comment on or allusion to post-1972 scholarship is sometimes required but not easily incorporated by way of a footnote, particularly when a different or conflicting interpretation of topics canvassed in the first edition is involved. Thus, the opening chapter 'Dimensions' places some emphasis on the hypothesis advanced in the 1950s by Samuel E. Thorne, who believed that legal education at the inns of court probably did not get under way before the fifteenth century.<sup>20</sup> John Baker and Paul Brand have more recently produced evidence of common-law instruction, including case-argument exercises (moots) and lectures (or 'readings') dating from as early as

<sup>19</sup> C. W. Brooks, 'Litigants and Attorneys in the King's Bench and Common Pleas, 1560–1640', in *Legal Records and the Historian*, ed. J. H. Baker, 41–50; *The Admission Registers of Barnard's Inn 1620–1869*, ed. C. W. Brooks (Selden Society, Supp. ser., 12, 1995); C. W. Brooks, *Lawyers, Litigation and English Society since 1450* (1998). See also pp. 19, 45, 68, 76, 168–9 below.

<sup>20</sup> The key sources are cited in notes to Baker's chapter 'The Third University 1450–1550: Law School or Finishing School', *ICWEMIC*, 14–16. See also P. Brand, 'Courtroom and schoolroom: the education of English lawyers before 1400', *Historical Research*, 60 (1987), 147–65; and E. W. Ives, review of S. E. Thorne and J. H. Baker (ed.), *Readings and Moots at the Inns of Court in the Fifteenth Century, Vol. II: Moots and Readers' Cases* (Selden Society, 105, 1990), in *EHR*, 109 (1994), 420–2.