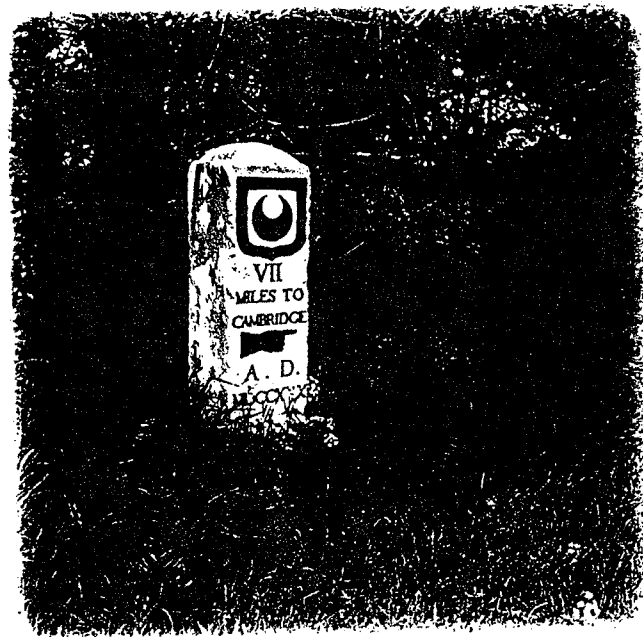


# TRINITY HALL CAMBRIDGE



## The Milestones Lectures

*In celebration of 650 years of education and learning*

(2001)

*Trinity Hall and the Relations of European and English Law from the  
Fourteenth to the Twenty-First Centuries*

**Professor John Langbein**

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Those of us who are Trinity Hall lawyers relate to the antiquity of this place in a special way, on account of Trinity Hall's renown as a law college. Trinity Hall is the only college in either Oxford or Cambridge that was founded exclusively for the study of law.

We lawyers may be tempted to regard the rest of you people as latecomers, and very late at that. Not until the university reforms of the mid-nineteenth century did Trinity Hall take on its modern breadth, as a college whose fellows and students are drawn from all the academic disciplines.

But the non-lawyers would have a potent response to pretensions of this sort on the part of the lawyers. In truth, we lawyers are as much newcomers to the traditions of Trinity Hall as are the chemists or the classicists. The subject that we studied at Trinity Hall, English law, was introduced here at the same time that Trinity Hall began to teach chemistry and classics and medicine and English literature – that is, in the last decades of the nineteenth century. The long line of royal judges, queens' counsel, and eminent barristers and solicitors of the common law who have poured forth from Trinity Hall – that line actually extends back only to late Victorian times.

What Trinity Hall purveyed for its first five centuries was not the English common law, but rather the common law of Europe, also called the *ius commune* or the civil law. Trinity Hall was the Cambridge outpost or beachhead for the study and transmission of this European law.

The history of Trinity Hall provides a fascinating vantage point on one of the great sagas in legal history: the complex and ever-shifting relationship between the two great branches of the Western legal tradition, the European and the English. In this lecture, I want to sketch for you the main outlines of that relationship, with particular attention to the role of Trinity Hall. I will then conclude with a few words about the future of the relationship of English and European law.

#### *Roman-Canon Law*

The legal systems of all the modern Continental states trace back to the law of classical Rome. In the Sixth Century, as the Roman Empire crumbled, the emperor Justinian caused an extensive body of sources from classical Roman law to be compiled and preserved. These materials were rediscovered at the end of the eleventh century and rapidly became the basis of study and instruction in the universities of the North Italian city states. Across the twelfth and especially the thirteenth centuries, university-trained

lawyers brought the vocabulary and the conceptual structure of Roman law into the legal systems that were then developing in the secular states and in the church.

The Roman church was in many respects the most important institution of governance in the later Middle Ages. The church drew upon the Roman sources in developing the canon law, which came to be studied in the Italian universities alongside the civil law.

The study of this Roman-canon law spread in the thirteenth century to universities in France and Spain, then north to the German states and Holland in the fourteenth century.<sup>1</sup> This university-based legal culture seeped into the secular law of the European states. To this day, even after the nineteenth-century codifications of national law, the Roman-canon law underlies the legal systems of all the modern nation-states of the Continent. They share a common intellectual tradition, especially in their law of obligations, commercial law, the law of persons, and in the law of civil and criminal procedure.

The English universities shared in this European-wide movement towards university study of the *ius commune*. Oxford was teaching Roman-canon law as early as the 1190s,<sup>2</sup> and Cambridge by the second quarter of the thirteenth century.<sup>3</sup>

Unlike the experience on the Continent, however, in England the *ius commune* did not achieve primacy in shaping the national legal system. By the time the Roman-canon learning reached England, the English common law had already been moulded in an indigenous tradition that limited the relevance and thus the influence of the civilian materials.<sup>4</sup>

What became the English common law was the law common to the courts of the king. Those courts were largely confined to hearing legal claims that were authorized by royal writs. Medieval English legal practice centered on the pleading of the writs. The usual question in a case before the court of Common Pleas or Exchequer or King's Bench was whether the alleged facts of the case brought the case within the scope of the particular writ. The Roman-canon sources could not throw much light on legal issues formulated in that way.

The English legal tradition was shaped, therefore, by court practice rather than by university study. The bearers of the English common law were pleaders and judges, as opposed to professors. Professors peddle theory, English law was a-theoretical. To invoke the aphorism of Henry Sumner Maine, the celebrated legal anthropologist who was the Master of Trinity Hall in the 1870s and 1880s, in England substantive law was secreted in the interstices of procedure.<sup>5</sup>

Cambridge and Oxford were the wrong places to study such a legal system. Novices had to learn English law by coming into association with the practitioners, hence by observation and apprenticeship as opposed to formal instruction in the schoolroom. We now know that a practice-oriented system of legal education was operating around the royal courts in London in the later thirteenth century.<sup>6</sup> In the fourteenth century this non-university, court-centered educational system gravitated to the newly forming Inns of Court.

When Trinity Hall appeared on the scene in the middle of the fourteenth century, it

was already well settled that the two English universities would not teach English law—that is to say, they would not teach the English common law. As late as the 1880s, Dicey was still echoing this tradition. In his inaugural lecture at Oxford he observed: “English law must be learned and cannot be taught...the only places where it can be learned are the law courts or chambers.”<sup>7</sup>

Although we understand why the early English universities did not <sup>teach</sup> English law, the question remains, why would they teach Roman-canon law? Why teach European law to the English? The main answer is that Roman-canon law had an important but subsidiary sphere of application in England, in jurisdictional enclaves that stood outside the English common law.

By far the most important employer of Oxbridge-trained civilians was the English church. The medieval church is in many respects best thought of as a co-ordinate government, in the sense that it performed many of the functions that we now expect the secular authorities to undertake. The church was the ministry of health, the ministry of education, and the ministry of human services. The church, not the state, ran the hospitals, the orphanages, the almshouses, and the schools.

The church also operated law courts, both to deal with internal matters, and as forums for certain classes of secular jurisdiction. The English ecclesiastical courts had exclusive jurisdiction over the law of marriage and over the probate of wills, right the way down until 1857.<sup>8</sup> In addition to these core areas of subject-matter jurisdiction, the church courts stood open to receive other business. By means of the pledge of faith (which was what modern lawyers would call a forum selection clause) persons engaged in commercial or other transactions could agree to have disputes arising from their transactions resolved in the church courts.

Today we would think it quite odd for the parties to a deal to insert a clause in their contract providing that in the event of a dispute, the court of the Bishop of Ely should decide it. Why did medieval English deal-makers often do the equivalent of that?

The answer, broadly speaking, is that the church courts offered real advantages both in substance and in procedure. Substantively, the church courts were unconstrained by the writ system, hence they could entertain disputes raising subject matters not addressed or not well addressed at common law. And on the procedure side, by comparison with the common law courts, the church courts were hands-down superior. They could examine parties and witnesses on oath. By contrast, the common law courts did not routinise the use of witnesses until the Elizabethan Statute of Perjury of 1563, and the parties to civil litigation were disqualified to testify as witnesses until Lord Brougham's Act of 1851.<sup>9</sup> At common law, judgement was by a jury of local rustics who rendered an unreviewable verdict with no statement of reasons. Decision in a church court was rendered by a professional judge, commonly Oxbridge trained, who gave a reasoned opinion that was subject to appellate review.

Beyond the church courts, there were other important enclaves of Roman-canon law in England, most importantly the High Court of Admiralty and the vice-chancellors' courts of the two universities. Civilian-trained personnel were also used in other employments: as ecclesiastical administrators, and in the royal service as diplomats.<sup>10</sup>

### *Trinity Hall*

I turn to the founding of Trinity Hall. Who was Bishop Bateman, and why did he pick the year 1350 to found a college restricted to the study of Roman-canon law?

William Bateman came from a leading Norwich family. He was born about 1298 and studied Roman-canon law at Cambridge. His career in the church included appointments as Archdeacon of Norwich in 1328, Dean of Lincoln in 1340, and finally Bishop of Norwich from 1344 to his death in 1355. His career in the church included appointments as Archdeacon of Norwich in 1328, Dean of Lincoln in 1340, and finally Bishop of Norwich from 1344 to his death in 1355. These posts were bestowed in some measure in reward for his service to the papacy (which was then seated in Avignon). In the late 1320s Bateman was active at the papal court, where he served as an administrator, judge, and diplomat. In 1329 he was appointed a judge of the papal Rota, the highest court of the church, and for a time he was a chaplain to the pope. Bateman also served in secular employment: Edward III used him on Anglo-French diplomatic business in the 1340s and 1350s.<sup>11</sup>

Bateman founded Trinity Hall, in his words, "for the promotion of divine worship and of canon and civil [law] science...and also for the advantage...of the...commonwealth and especially of our church and diocese of Norwich."<sup>12</sup> He had rather a long-winded name for the place: he called it "The College of Scholars of the Holy Trinity of Norwich." (The name got trimmed down to Trinity Hall in the sixteenth century.) Bateman's statutes required every fellow of the College to agree to promote the interest of the church of Norwich. The fellows had to promise to act professionally (that is, as lawyers) always for and never against the church of Norwich or its bishop.<sup>13</sup>

We see, therefore, that Bateman envisioned Trinity Hall not just as a training ground but also as a captive supply station for civilian legal talent for his diocese.

Now why would Bateman have such a thing on his mind in the year 1350? He left no explanation, but his motive is not in doubt. In 1348-49, the Black Death (which broke out in central Europe in 1347) crossed the channel and swept this country. It was the worst epidemic of plague in Western history. In England it killed between a third and a half of the population over the course of a few months.

The resulting dislocations affected every corner of life, leading to wage and price controls (the so-called Statutes of Labourers), and to the suspension and reordering of many civil obligations. Whole villages and their parishes disappeared. Customary obligations, including the church's claims to tithe support, were thrown into doubt.<sup>14</sup>

We can well imagine that, as the church attempted to cope with the challenges of helping to restore civic life, Bateman found himself short-handed<sup>15</sup> in his roles as diocesan administrator and ecclesiastical court keeper. In founding Trinity Hall, Bateman was attempting to restock and to lock in a supply of canon law expertise to replace the plague-decimated ranks.

If this emphasis on church law and church administration strikes you as an odd mission for a Cambridge college, do remember that in a deep sense Cambridge University in its entirety (and Oxford as well) were not much more than seminaries. We actually have some data on this: as late as the middle of the eighteenth century, seventy-six percent of Cambridge graduates entered the church.<sup>16</sup>

Bateman arranged for Trinity Hall to acquire its present central site, which had belonged to the Priory of Ely. (Bateman acquired it in exchange for a rectory elsewhere.)<sup>17</sup> Thus, we can say with some confidence that law has been continuously studied and taught on this spot for 650 years. When Bateman died in 1355, he bequeathed to the College his library of ninety-odd manuscript volumes, of which two survive in the present chain-book library.<sup>18</sup>

Trinity Hall was a tiny and not-well-endowed foundation<sup>19</sup>. On occasion there were plans to merge the College with Caius or Clare, but nothing came of them, and for the next two centuries the Trinity Hall continued mainly as a foundation devoted to the study and practice of canon law.

If I were to divide the history of Trinity Hall into epochs, I would treat the first epoch as the period from the founding down to the reign of Henry VIII. I would regard the English Reformation as launching the second epoch, a period that endured until the university reforms of the nineteenth century, which I would treat as commencing the third epoch, which endures to the present day.

Because Trinity Hall was so centred on the canon law, the Reformation shook the College with special force. The canon law of Rome was, after all, the law of the papacy. Among the steps that Henry VIII took to sever the English church from the papacy was his prohibition upon the teaching of the Roman canon law. He suppressed it. Henry was by no means hostile to the civilian legal tradition. Because he now had to staff national courts for the newly reformed Anglican church, Henry undertook in 1540 to reinforce the English civilians, by establishing the Regius chairs, one each at Cambridge and Oxford. The Cambridge chair was held at Trinity Hall several times from its founding until the Interregnum; and from 1666 to 1875, all twelve holders of the Regius chair were fellows of Trinity Hall.<sup>20</sup>

Across the sixteenth century Trinity Hall reoriented itself in three ways: from Norwich to London, from the canon law of Rome to the civil law enclaves of England; and from academia to the practice of law. In his *History of the College*, Charles Crawley put his finger on what caused these transitions. "The fellows, having no longer license nor motive

for the formal study of canon law, soon came ... to be mostly laymen practising the civil law..."<sup>21</sup>

For two centuries, from the 1560s to the 1760s, Trinity Hall became in effect the sponsor and alter ego of the principal London professional organisation for the practice of civil law, called the "College of Doctors and Advocates of the Court of the Arches," or Doctors' Commons for short.

Doctors' Commons was the civilian counterpart to the Inns of Court. It had been organised in 1512 as a society of London practitioners active in the Court of the Arches (the principal ecclesiastical court), but included practitioners from the Admiralty, the lesser ecclesiastical courts, and other civilian courts.

Doctors' Commons resembled the Inns of Court in that it provided chambers and a common table, but Doctors' Commons did not gain that absolute control over admission to practice or preferment to judgeships that characterized the Inns of Court on the common law side. Still, Doctors' Commons dominated the professional life of the civilian branch of the legal profession in England. Indeed, some of the civilian courts convened their sittings in the hall of Doctor's Commons, including the Admiralty, the Court of the Arches, and the Prerogative Court of Canterbury.<sup>22</sup>

In the 1560s, in connection with a relocation of the premises of Doctors' Commons to a site owned by the Dean and Chapter of St Paul's Cathedral, Trinity Hall took over the leasehold and the sponsorship of Doctors' Commons. Trinity Hall remained the landlord to Doctors' Commons for the next two hundred years. And from 1552 to 1803, every master of Trinity Hall was a member of Doctors' Commons (except for one, John Bond, who served during the turmoil of the Interregnum). In the seventeenth and eighteenth centuries, more than a quarter of the fellows of Trinity Hall were members of Doctors' Commons.<sup>23</sup> Fellowships in Trinity Hall appear to have become in many cases Cambridge sinecures for London-based advocates practising in Doctors' Commons.

Membership in Doctors' Commons was limited to advocates, which was the barrister-equivalent profession in the civilian world. Not all Trinity Hall civilians became advocates. Some acted as proctors, which was the attorney- or solicitor-equivalent role. Working as a proctor could be a training station on the way to becoming an advocate, or it could be a life-long career. This side of the work of Trinity Hall lawyers in late-Tudor, early-Stuart times has been studied in recent scholarly paper by Alexandra Shepard. She examined the records of the Vice Chancellor's Court of Cambridge, the University's own court, which dispatched a good deal of Cambridge-area commercial business. The Vice Chancellor's court was a civilian enclave. By Shepard's count for the years 1560-1640, the fellowship of Trinity Hall supplied the proctors who conducted 80 percent of the court's business.<sup>24</sup>

In its second epoch, therefore, Trinity Hall became primarily a society of practising civil lawyers. It kept this character for three centuries – from the English Reformation to the mid-nineteenth-century reform of the English universities. During this second

epoch of Trinity Hall, education of any sort, even in the civil law, appears to have been a sideline at best. Trinity Hall looked more like a law firm than a law school. We know that the Regius professor gave a few public lectures, but just how the civilian tradition was handed on to new recruits in this period is something of a mystery. One suggestion, which has echoes in the way that would-be barristers were commonly apprenticed to solicitors in order to learn the common law in the seventeenth and eighteenth centuries,<sup>25</sup> is that novice civilians at Trinity Hall practised as proctors en route to becoming advocates.<sup>26</sup>

Trinity Hall dominated the civilian world of early modern England, but across the eighteenth and especially the nineteenth centuries, that world imploded. The civilians steadily lost business as the ecclesiastical courts lost jurisdiction. Chancery took over ever larger portions of the administration of decedents' estates. The development of commercial law in King's Bench under Lord Mansfield in the second half of the eighteenth century came at the expense of the Admiralty. Finally, in the 1850s, the secular jurisdiction of the civilian courts was eliminated, and Doctors' Commons was abolished. Probate and admiralty jurisdiction was transferred to the common law courts, and Trinity Hall was out of work.

This demise of the civilian courts and of the civilian legal profession occurred just at the time when the reform of Oxford and Cambridge was getting underway. And as I have said, it was in this third epoch of Trinity Hall that the College developed its modern character as a general-purpose college with a pronounced strength in English law.

### *Roman and English Law*

Let me now speak about the legacy of Trinity Hall's civilian tradition for the development of English law.

In the light of historical hindsight, we might be tempted to rank the civilians among the losers of English legal history. For their epitaph we might ascribe the legend, "too little, too late." In their heyday they occupied only tiny enclaves of English jurisdiction. They were never more than bottom fishers, and in the end, the powerful currents of the dominant English legal tradition, the English common law, swept them away.

There is, however, another view of the influence of the English civilians, a view that has been emerging in legal historical scholarship across the past generation. We are coming to see that although the civilians failed to survive as an independent branch of the English legal profession, they exercised an abiding influence on the character of the English common law that ultimately subsumed them.

It has been known for more than a century, since Maitland's time, that the organizing treatise of the English common law, Bracton (written in the 1230s and amended into the 1250s), was deeply influenced by Roman-canon law. The judges, clerical officials, and



juristic writers of the first half of the thirteenth century – the men who gave the English writ system its definitive shape – did so with an eye on the Roman-canon texts.

What has not been understood until lately is the extent to which the English civilians influenced the internal doctrinal content of the English common law (including equity) in late medieval and Renaissance times. The main scholarly contribution here has been the work of my former colleague at the University of Chicago, Richard Helmholz. Helmholz has spent three decades exploring the archives of the English ecclesiastical courts. Time and again he has shown that central components of the English common law and of equity appear to have grown up in church court practice before being absorbed into the common law or into equity. Among the landmarks of English law that he has traced to the practice of the church courts are the trust device (the use),<sup>27</sup> the action of *assumpsit*,<sup>28</sup> the privilege against self-incrimination,<sup>29</sup> doctrines of family law such as the paternal obligation to support an illegitimate child,<sup>30</sup> even notable features of Magna Carta.<sup>31</sup> Thus, much of what Maitland and other pioneers of English legal history thought was doctrinal innovation in the common law courts now appears to have been jurisdictional absorption from the ecclesiastical courts. Major chapters of the English common law turn out to have been shaped in the shadows of the Roman-canon tradition. On this reading of English legal history, what was going on at Trinity Hall was not a dead end, but rather a back door to the common law.

The other great channel by which the Roman canon tradition influenced the contents of the English common law opened toward the end of the eighteenth century, with Blackstone and the nineteenth-century treatise writers. This was the age in which it became clear that the writ system would no longer suffice to supply the organisational and analytical structure of English law. One writ, trespass, had become so dominant that it effectively subsumed most of the law. Writ-based categorization of the law, which was the inherited, indigenous English tradition, no longer worked.

Blackstone and the treatise writers began the work that endures to this day of supplying a doctrinal account of the law, to replace the old writ-based categories of thought. They broke English substantive law free from the writs.

Blackstone was a fellow of All Souls, Oxford's closest analogue to Trinity Hall, a college that also specialised (but not exclusively) in the Roman-canon law. He was steeped in the Roman-canon tradition, as his citations disclose, and he often turned to Roman-canon concepts and sources to explicate the English common law.

This tendency to draw upon the conceptual richness of European law to explain results being reached in English law spread from the academic writers to the courts. In a prominent article, Brian Simpson, has pointed out how extensively English judges in the nineteenth century drew on Pothier's eighteenth-century account of French contract law when articulating the English law of contract.<sup>32</sup>

When, therefore, in the twenty-first century, English lawyers find themselves under the

impulse of European integration having to negotiate the gulf between English and European law, they find that it is usually not such a gulf after all. From the days of Bracton, then across late medieval and early modern times to the days of Blackstone and the great Victorian judges of the common law, the Roman canon traditions of European law that were enshrined in Trinity Hall have been continuously at work upon the English common law.

### *The Future of European and English Law*

I conclude with an eye to the future of the relations between European and English law.

I ask you to imagine yourself present for a gathering in this hall on the 700th anniversary of Trinity Hall, in the year 2050. To set the stage, I borrow from a recent book by Trevor Hartley, presently professor of European Union law at the London School of Economics. He asks us to imagine that:

In twenty years, there could be a European Federation, a United States of Europe, of which Britain would be a part. ... Brussels will be the capital of Europe; Strasbourg and Luxembourg will also be important centres. There will be a President of Europe and a European Government; the European Parliament will make laws and the European Court will give rulings. The European Police Force will see they are carried out and the European Army will undertake operations, probably in Eastern Europe and the Arab world.

Britain will be a province of Europe, as it was in Roman times long ago. There will still be a Parliament at Westminster, dealing with local matters, but its sessions will be much reduced. Able, ambitious people will look to the European Parliament for a career; Westminster will attract only second-raters. The British courts will still function, but important matters will be beyond their jurisdiction. They will have the last word on British law, but only if their rulings do not conflict with European policies.<sup>33</sup>

Let me embellish Hartley's account by projecting it out a further thirty years, to 2050, and by extending it to the inner life of the legal system.

The speaker standing in my shoes in this hall in the year 2050, discussing the relations of European and English law, will be telling a story that would be close to the heart of Bishop Bateman. Your speaker will look back to a time, no more than fifty years ago, in the early part of this twenty-first century, when there was still something called the English common law. It was a mass of uncodified caselaw, deeply historically contorted, costly to administer, often hard to predict, and nearly impossible to explain or to justify to ordinary citizens. This English common law was entangled in a deeply deficient procedural system called the adversary system, which rewarded combat over truth and allowed lawyers to

distort and suppress the truth. If you want to see what such a juridical dinosaur actually looks like, you can take a tourist's trip to North America or New Zealand or Australia, now quaint Jurassic Parks of English-derived law, places still afflicted with the system that we English foisted off on them in imperial times.

We English have, of course, escaped these relics of our legal infancy. We have come to live under the comprehensive codes of private law, commercial law, administrative law, and criminal law, that were promulgated in the great harmonisation movement that swept the European Union in the 2010s and the 2020s, largely on the models of the German and the Dutch codes. We have also replaced the truth-defeating adversary system with truth-seeking non-adversarial civil and criminal procedures drawn from the Continental tradition.

For those among you who are nostalgic for English law, you can take pride in the survival of one small island of English law in this European sea. English law made one contribution to the jurisprudence of Western private law so valuable and distinctive that the European Union absorbed it into European law and spread it to all corners of the Continent. That contribution is the trust, an institution effectively non-existent in Continental law. The European Union imported the trust from England in the harmonisation period, that is, in the 2010s and the 2020s, when policymakers came to understand that the phenomenon of burgeoning human longevity made it no longer realistic to rely upon governments to supply retirement income for the elderly. The most important reason that the trust device endured is because one form of it, the pension trust, proved to be the ideal vehicle for organising the system of individual pension saving that has become necessary everywhere. Apart from the trust however, the private and procedural law of the European Union is drawn prevalingly from the legal tradition of the European Continent.

Back in the early twenty-first century, as the trajectory of this development became clear, some observers were concerned that the transition to European law might be difficult for us in England, but it turned out that the legacy of the English civilians, exemplified in the history of Trinity Hall, had kept English law close enough to European law across the centuries of separation that, when it came time for harmonisation, the Europeans were able to absorb us without difficulty. Today in the year 2050 Trinity Hall has returned to its roots, teaching what Bishop Bateman wanted it to teach, that is, European law. We see, therefore, just how far-sighted Bishop Bateman was, 700 years ago, to found Trinity Hall for the study of European law.

- 1 Helmut Coing, 'Die Juristische Fakultät und Ihr Lehrprogram' in *Handbuch der Quellen und Literatur der neueren europäischen Privatrechtsgeschichte, Mittelalter*, ed. H Coing (Munich, 1973) vol.1, p.39, pp.41ff.
- 2 Peter Stein, *Roman Law in European Legal History* (1999), p.56
- 3 See John H Baker, *750 Years of Law at Cambridge: A Brief History of the Faculty of Law* (1996), p. 3
- 4 R C van Caenegem, 'History of European Civil Procedure', in *International Encyclopedia of Comparative Law* (1971) vol. 16, ch. 2, pp. 2-13, 2-25, concluding pp 2-25 that the English "central courts, their practice and their personnel were too firmly established in the national life to be seriously threatened by Continental example."
- 5 "So great is the ascendancy of the Law of Actions in the infancy of Courts of Justice, that substantive law has at first the look of being gradually secreted in the interstices of procedure." Henry Sumner Maine, *Dissertations on Early Law and Custom* 389 (New York: 1883).
- 6 Paul Brand, 'Legal Education in England before the Inns of Court' in *Learning the Law: Teaching and the Transmission of Law in England 1150-1900*, ed. J Bush and A Wijffels (1999), pp. 51ff.
- 7 Albert Venn Dicey, *Can English Law Be Taught at the Universities? An Inaugural Lecture 1* (London: 1883).
- 8 20-21 *Victoria*, chs. 77, 85 (1857).
- 9 14-15 *Victoria*, ch. 99 (1851).
- 10 On the patterns of employment, see Brian P Levack, *The Civil Lawyers in England: 1603-1641*, pp. 21-28, (1973).
- 11 Charles Crawley, *Trinity Hall: The History of a Cambridge College: 1350-1992* (1992), pp. 4-5, John H. Baker, *Monuments of Endlesse Labours: English Canonists and Their Work, 1300-1900* (1998), pp. 18-20. See also John H Baker, 'Bishop Bateman and the European Legal Tradition' in *Trinity Hall 2000: Legal Education and Learning* (Cambridge: 1997) (conference proceedings: pamphlet volume published by Trinity Hall), pp. 44-49 [volume hereafter cited as *Trinity Hall 2000*].
- 12 Crawley, *supra* note 11, p. 4.
- 13 *Ibid.*
- 14 For the view that the Black Death reshaped the administration of secular justice, see Robert C. Palmer, *English Law in the Age of the Black Death: 1348-1381*, (1993).

- 15 About forty percent of beneficed clergy died. See John Hatcher, *Plague, Population and the English Economy 1348-1530* (1977), pp. 21-22.
- 16 John Gascoigne, 'Church and State Allied: The Failure of Parliamentary Reform of the English Universities, 1688-1800' in *The First Modern Society: Essays in English History in Honour of Lawrence Stone*, ed. A L Beier, et al. (1989), pp. 401, 402. For Oxford in the early eighteenth century, the figure is 70 percent. *Ibid.*
- 17 Crawley, supra note 11, p. 28.
- 18 Livinia Hinton, 'The Library of Trinity Hall' in *Trinity Hall 2000*, supra note 11, p. 26.
- 19 Crawley, supra note 11, p. 58.
- 20 *Ibid.*, p. 86.
- 21 *Ibid.*, p. 43.
- 22 F L Wiswall, Jr., *The Development of Admiralty Jurisdiction and Practice Since 1800* (Cambridge: 1970), p.78.
- 23 Crawley, pp. 73-79.
- 24 Alexandra Shepard, 'Trinity Hall Civil Lawyers and the Cambridge University Courts, c. 1560-1640' in *Trinity Hall 2000*, supra note 11, pp. 6-13 (1997).
- 25 David Lemmings, *Gentlemen and Barristers: The Inns of Court and the English Bar: 1680-1730* (1990), pp. 75-78, 93-107.
- 26 Shepard, supra note 24, p. 10.
- 27 R H Helmholz, 'The Early Enforcement of Uses', 79 *Columbia L. Rev.*, 1503 (1979).
- 28 R H Helmholz, 'Assumpsit and Fidei Laesio', 91 *Law Quarterly Rev.*, 406 (1976).
- 29 R H Helmholz et al., *The Privilege against Self-Incrimination* (1997).
- 30 R H Helmholz, 'Support Orders, Church Courts, and the Rule of *Filius Nullius*: A Reassessment of the Common Law', 63 *Virginia L. Rev.*, 431 (1997).
- 31 R H Helmholz, 'Magna Carta and the *ius commune*', 66 *U. Chicago L. Rev.* 297 (1999).
- 32 A W B Simpson, 'Innovation in Nineteenth-Century Contract Law', 91 *Law Quarterly Rev.* 247 (1975).
- 33 Trevor C Hartley, *Constitutional Problems of the European Union* (Oxford: 1999).

