Chapter 4

New Frontiers of Legal History

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History and legal history

Although grateful for the invitation to contribute to an analysis of the relationship between law and history, I am possibly not the best person to pronounce on that large and complex topic. Besides being no lawyer, I also tend to resist the designation "legal historian", preferring to characterise myself as an historian interested in the law, lawyers and legal institutions. By now this could be something of an affectation, if not an atavism; but the habit has become ingrained. It may also serve to introduce my basic theme, of the continuing uneasy state of relations between historians and lawyers: not quite total war, or outright hostility, but certainly cross-border tensions. Perhaps worst of all in the context of the likely audience, while Australian-born and largely bred, my main scholarly interests happen to lie in the broad field of English, or British, history; and that not of the post-colonial variety, but rather the period conventionally known as "early modern", extending from more or less the late 15th to the early 19th century. Yet, despite these various limitations, what follows may at least raise a few issues for further discussion. I shall begin with some general points about the nature of legal history as a specialised branch of historical study, then look at the current state of legal history teaching in Australian law schools, and finally offer some brief comments on the relationship between lawyers' work and legal-historical studies.

Transformations

It is no secret that since the 1980s in Australia, the 1970s in the United Kingdom, and the 1960s or perhaps even the 1950s in the United States, the historical study of law – or legal history, if you will – has undergone some major transformations. (Without knowing much about it, I suspect that something very similar also occurred outside the Anglosphere.) In geographical terms the focus has expanded to include the entire common-law world, often from a distinctly