

EIGHTEENTH-CENTURY LAWYERS AND THE ADVENT OF THE PROFESSIONAL ETHOS¹

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*'Well, let them say what they will ...
the profession of the law is a glorious one,
it gives a man such opportunities to be a villain.'*
- extract from play *The Pettyfogger* (1797)²

*'I think it my duty ... to promote the happiness of society
as far as possible & I know not in what manner
I would more willingly undertake to do so
than by studying the Law.'*

- private letter from William Pattisson, a young trainee lawyer, 1793³

The sharp contrast between these two opening quotations highlights the paradoxical reputation of England's lawyers in the eighteenth century. On the one hand, they have a high calling, in the service of the public good; they are consulted eagerly by many clients; and they are revered experts in all legal matters, in a country that bases its unwritten constitution on the 'rule of Law'. The letter from the young William Pattisson, quoted above, is the more compelling because his affirmation of faith was not a pious platitude for public consumption but was written in a private family letter. He believed in the social value of 'the Law' as promoting the

'happiness of society as far as possible'; and Pattisson went on to make a solid career as a respectable local attorney in the small town of Witham in Essex, where he had been born.⁴

At the same time, however, lawyers are deeply controversial figures. Lawyers are habitually portrayed as villains and cheats; they talk in riddles and jargon; and they make themselves rich by deceiving their trusting clients with all the obscurities and technicalities of the law. These techniques are known as nit-picking or 'pettyfogging', as satirised in the 1797 play quoted above. It is the most frequently-repeated complaint. Why cannot lawyers make things more straightforward? 'There is nothing more Absurd and Ridiculous, than to find many of the *Attornies* of this Age value themselves on their being Masters of a *Quirk*, or *Quibble*, a *Turn*, or an *Evasion*; and whose boasted Qualifications lie in these, without any substantial Knowledge and Learning in the Law ... And I am sorry to say that there are even *Gentlemen at the Bar* with are not free from Imputations of this kind.'⁵ So carped an anonymous handbook in 1724, entitled *Law Quibbles*. It then proceeded to offer advice on an array of legal technicalities, from 'Acceptances' to 'Writs' - demonstrating that the business of law was indeed very complicated. As a result, people had to employ lawyers, if only to combat the wiles of rival lawyers. But the clients' need for legal advice did not necessarily make them happy.

These rival perspectives of reverence and suspicion therefore had a long history. A sixteenth-century dictum accused the legal profession of selling justice for 'an angel' (a large sum of money). Consequently, Shakespeare's *Henry VI, Part 2* (1592) put into the mouth of a rebellious peasant the pertinent suggestion: 'The first thing we do, let's kill all the lawyers'.⁶ If well delivered, this line still draws applause from audiences today. Its resonance is powerful, playing upon the lay public's traditional suspicion of the legal profession. A satirical comedy from 1736 obviously

intended to make its audience cheer, when the anti-hero was addressed to his face as: ‘You fusty, musty, dusty, rusty, filthy, stinking old Lawyer’.⁷

Such criticisms are not - a some historians sometimes argue - simply an irritant and irrelevance to the long-term history of the profession. Certainly many of the attacks upon the lawyers were exaggerated and overdone. That is the way with satire.⁸

Yet the implications of this barrage of criticism are very important, even if the details were not always fair. Because the lawyers were constantly under attack, they became conscious of the need to police their own activities. And they did that by a process of self-regulation. At first, they did so informally, and on their own authority; but, ultimately - as will be seen - their actions were endorsed by the power of the state. It was a momentous development, that marked the start of the distinctive Anglo-American tradition of professional self-regulation, as opposed to the initial continental European pattern of state-regulation.

To probe these developments in detail, the analysis that follows examines in turn (1) the growing importance - and self-importance - of the legal profession; (2) the meaning of satire; and (3) key moments in the evolution of legal self-regulation, inaugurating the modern so-called ‘professionalization project’. The unfolding discussion also raises some more general issues. These relate to: the nature of social power and (qualified) resistance to social power; the nature of professional self-organisation; and, lastly, the impact of professionalisation as a very long-term and still continuing process in social and economic history.

1: Lawyers - Importance and Self-importance

‘He who aspires to a thorough acquaintance with legal science, should cultivate the most enlarged ideas of its transcendent dignity, its vital importance, its boundless extent, and its infinite variety’
- law textbook (1836).⁹

Lawyers themselves valued their own professional status, based as it was upon their specialist knowledge of the law and their appreciation of its majesty and importance. The early Victorian textbook quoted above presented the law as a powerful ‘science’, organised into a coherent body of knowledge with its own internal rules. Such praise would be imbibed by all student lawyers, encouraging their own self-importance as the initiates who understood the mysteries of this important subject. To critics, the strange twists and turns of legal processes were annoying and irritating. To the lawyers, however, these intricacies were integral to the proper working of England’s venerable system of case law.

By the later seventeenth century, the old prerogative powers of the Stuart monarchy had been effectively ended, after the hiatus of the Civil Wars and Interregnum. Instead, there was a marked expansion of the common law system - and, with that, a growth in the number of common lawyers.¹⁰ Within the framework of statute law, issues were decided on a case-by-case basis, each case setting a precedent for other cases to follow. It took a great deal of time and determination to master this information, which was highly specific and quite uncodified. Even the experts conceded that getting to grips with this mass of detail was often ‘dull toil’.¹¹

There were two ‘branches’ of law, each with its own tradition and claims. Most dignified in status were the barristers - the elite of the profession, who conducted cases in court and provided legal counsel. Alongside them, came the rank-and-file attorneys, who formed the ‘lower branch’. It was they who dealt with the general public on a wide range of day-to-day business and brought cases to the attention of the barristers. Admittedly, there were sometimes tensions between the two branches. Superior barristers often expressed a certain disdain for the humbler

attorneys. But the emotion was not mutual. Attorneys generally admired the rich and reputable barristers and dreamed that their own sons might advance to such a position. Thus, although there was an asymmetry of prestige between the two branches of the profession, there was not a deep fissure in terms of aspirations, attitudes and ideology.

On the contrary, it became *de rigueur* to keep any such tensions well away from the public eye. A stroppy barrister who criticised the ‘lower branch’ in 1766 was quickly challenged. He apologised publicly, regretting his ‘unguarded and very improper expression’. Moreover, a number of barristers gave their services free in the 1750s to assist the attorneys in defending their own position ‘on behalf of the whole profession of law’.¹² Such developments fostered a collective *esprit de corps*, as an effective bulwark against public criticism. Already by the early eighteenth century, the lawyers were seen as a single interest group. The critical author of *Law Quibbles*, for example, referred in 1724 to the ‘Profession of the Law’, noting that it was ‘in itself both Laudable and Honourable’.¹³ And a guide to occupations in the mid-eighteenth century agreed that a legal career was an acceptable avocation, ‘worthy of a Scholar and a Gentleman’.¹⁴

So emerged the common lawyers as new social power-brokers within eighteenth-century England. Of course, there is no easy way of measuring such intangibilities. Social power is not a fixed commodity; and its precise deployment varies from situation to situation. Nonetheless, the figure of the lawyer was emerging in this period as a formidable one. Not infrequently, he was seen as the power behind the throne; the man in the shadows who pulls the strings. By 1700, after the late seventeenth-century surge in the number of practitioners in the common law courts, there were as many lawyers in England and Wales as there were clergymen (see Table 1). These calculations, by Gregory King, were not

absolutely precise; but historians have accepted their general validity. The new profession of the law had thus caught up with the old-established one of the church; and, 150 years later, by the mid-nineteenth century, there were more lawyers than there were clerics.

Moreover, the men of law were dispersed throughout England, in comparison with the traditional aristocratic power-brokers. In 1700, there were perhaps 10,000 lawyers, while there were no more than 1,500 titled heads of household (remembering that these calculations excluded the ‘mere’ gentlemen, who were legally commoners). The relative scarcity of the nobility gave them rarity value. When encountered, they were generally accorded reverence and treated with esteem. But they were not ubiquitous. By contrast, the lawyers were more easily encountered. They were the day-to-day power-brokers, who had ready access to their clients. Leading lawyers moved confidently among the social elite, while lesser lawyers were out and about seeking custom everywhere. Indeed, critics complained that the legal profession was far too widespread: habitually meeting people in taverns and fomenting disputes amongst the drinkers, in order to generate legal business.¹⁵ That complaint was no doubt exaggerated, at least to some extent. The general point about the ubiquity of the lawyers, however, was a fair one. They were everywhere, like ‘caterpillars’ exclaimed Dean Swift, in distaste.¹⁶ Perhaps there was an element of professional jealousy here, as the clergy found themselves facing new competition in their traditional role as domestic counsellors.

Location was important in consolidating the power of the lawyers. They were dispersed widely across the country as a whole but they also had a strong core, resident in the capital city. Thus, throughout the eighteenth century, approximately one-third of all attorneys lived in London. Many resided in close proximity to the four ancient Inns of Court (Gray’s Inn, Lincoln’s Inn, Inner Temple and Middle Temple),¹⁷

with their network of quiet courts and quadrangles around the ancient Temple church, hidden from the main streets but conveniently sited between the commercial world of the City of London and the nation's political-cum-legal capital in Westminster. Most of the barristers were also clustered here. These august leaders of the profession were equally at home in the world of politics and the law courts. In the eighteenth century, they were kept busy, drafting advice, giving counsel, and appearing in court, as their presence was increasingly required in litigation.¹⁸ (This is the process known as the 'lawyerisation' of the criminal trial).¹⁹ Anecdotes about famous speakers at the bar and of celebrated judges on the bench were integral to the stuff of eighteenth-century polite culture, as well as manna for satirists.

A strongly nucleated 'legal London', in and around the Inns of Court, provided the profession with its locational headquarters. It was a 'rookery' where hundreds of chattering black-gowned figures came and went, in a constant bustle. Lawyers, whether from town or out-of-town, knew that here they could always find the company of their fellows. The Inns were thus places of work, places of sociability, and places of learning, where would-be barristers read their law books and listened to the experts. At the Inns of Court, 'youth are bound to spend five years to learn the art of confounding truth, supporting falsehood, and torturing justice', snarled a distinctly hostile account in 1782.²⁰ But that was a deliberately unkind view. 'Legal London' was not a hot-bed of intellectualism, certainly. It was, however, the undisputed centre for those who sought an apprenticeship in the art of pleading and the chance to imbibe knowledge of 'the paramount science' of Law - a subject which a bullish supporter in 1805 declared to have 'an importance which no other profession or science can reach'.²¹

This strong professional focus within the capital city was complemented by an equally notable dispersal of the ‘lower branch’. Another third of all attorneys lived in the leading provincial towns, and the remaining third were to be found in even smaller places: very small towns and villages across England and Wales.²² The profession was distributed to create an informal national grid with a national headquarters. To sustain that, most country attorneys had their own direct links with specific barristers in the capital city. That promoted a mutually beneficial two-way flow of business. Barristers sent legal advice to country attorneys, who in return forwarded cases for adjudication or litigation to the metropolitan bar. The profession thus sustained its own internal distribution of labour. Indeed, in this period it became established as a convention (not a law) that barristers did not treat with clients directly, but dealt only with cases referred to them by attorneys. Neither ‘branch’ could thrive without the other.

While the barristers therefore enjoyed glory and prestige in London, the provincial attorneys had their own local fame. They walked the streets with confidence. Many of them owned the smartest town houses in their local bailiwicks. One example comes from the later career of William Pattisson, the keen young apprentice attorney of 1793. His respectable town house was sturdy rather than showy (it is now a bank)²³ but it was his small town’s grandest residence, situated at the central cross-roads in Witham. Another example comes from the small town of Haslemere, in Surrey. In 1754, its population numbered some 700 people - or 350 adults. The occupations of 117 heads of household there are known: among a population of craftsmen, small retailers, and labourers, there lurked two attorneys, one of whom was retired.²⁴ Both occupied large houses (as was shown on a contemporary map), close to their clientele. The retired attorney dwelt in the High Street, between a

blacksmith and a carpenter, and opposite a widow and labourer; while the other attorney lived near to the market place, next to a labourer and facing a school-teacher and another blacksmith.²⁵ There was no resident clergyman in town; and no major landowner, either. The attorney was, however, available for instant consultation - and, not least, in Haslemere one of his tasks was to organise the electioneering that frequently animated this small parliamentary borough.

An extensive range of business of all kinds kept the profession hard at work. Acting as election agents for borough patrons was one demanding task (which explains why lawyers were characteristically found in England's parliamentary boroughs). In addition, the attorneys were legal advisers for all sorts of family and business affairs.²⁶ They also busied themselves as financial brokers, property conveyancers (which was one of their staple sources of income), and estate stewards for landowners. Some of these were tasks that are now performed by other specialists (such as estate agents and financial dealers).

In the eighteenth century, however, it was the confidential lawyer who dealt with everything requiring financial and legal acumen. He was the one who always knew what to do. 'To counsel a Counsellor, or advise a Lawyer, is to light a Candle at Noon-day', declared a theatrical attorney proudly, in 1736.²⁷

Here, then, was scope for social tension as well as for social power. The lawyers had their fingers in every pie. That meant that they knew everyone's secrets. As a consequence, they were admired but also feared and resented. There was a perceptible current of anti-lawyerism - rather as there is often a tradition of anti-clericalism in Catholic countries, where the priests also know the secrets of the confessional. All providers of professional services are potentially vulnerable to this sort of criticism, because their 'product' is 'invisible' and cannot be easily scrutinised.

Hence the clients always fear that they are being deceived. However, it should be stressed that anti-lawyerism was not the same as opposition to the principle of Law, just as anti-clericalism in Catholic countries is not associated with irreligion. On the contrary. The higher the esteem for the cause, the greater the pressures on those serving the cause to live up to its high ideal.

Two particular issues added specific fuel to anti-lawyer feeling. One was the cost of getting legal advice and of going to law. In fact, the remuneration of the professional lawyers was very varied. Few reached the heights of the great barristers at the end of the eighteenth century, who might earn the massive incomes of £10,000 a year or more. But the lawyers were, popularly, believed to be making money from other people's troubles. That was never appreciated, especially when legal procedures were very slow as well as costly.

Another quite different grievance was the role of the so-called 'under-strappers' at law, also known as the 'hedge' attorneys or 'Wapping attorneys', on the margins of respectability.²⁸ These were the profession's 'tail' of poor lawyers - multitudinous, competitive, and often unscrupulous - who scraped a living by undertaking small tasks for the poor and illiterate. These poor attorneys did in fact perform a valid social and commercial role. Their help (for example in writing letters) enabled illiterate people to gain access to the world of literacy and business. However, at the foot of the profession, life was particularly cut-throat. A verse satire in 1797 denounced the lawyer as a 'pettifogger' (originally a term for a minor law officer, but by this period a critical term implying one who made his living by pedantic trickery). When a poor man brought him some business, the attorney accepted the case with glee, 'with quirks and quibbles in his face', and exulted in his good fortune in having acquired a new bird to pluck.²⁹

Notoriety of this sort was problematic, not only for the bemused clients but also for the respectable members of the legal profession. The attorneys, who were in the front-line in terms of contact with clients, were particularly sensitive about their collective reputations. They needed public approbation but that was not easily won.

2: *Satire and Public Scrutiny*

Ignoramus [wooing Rosabella]:

*'Madam, suppose you were my Client,
and I were to examine your Cause, or your Case, 'tis all one in Law, I
may do 't - Causa patet - I have you by Consent of Parties;
but shall I find your Case to be as your Uncle ... has declar'd it?*

Quaere. ...

Rosabella: *If all Men spoke such Gibberish,
'twere a Happiness to be deaf ... '*

- extract from *Ignoramus: Or, The English Lawyer* (1736), Act 1.³⁰

Satire is intended to bite. It seizes upon the known, and then exaggerates unmercifully, to cauterise by caricature. One early targets for satire was the legal jargon that surrounded the practice of law. The teasing portrait of the lawyer Ignoramus, in the popular play of that name, turned on his ignorance masquerading as learning, which was always conveyed in Latinate terms even when he is talking of commonplace things. ‘Oh, how I sweat! O, hot, hot: *Meltavi meum pingue*, I have melted my grease ... *Rubba me cum Towallia, rubba*: rub me with a towel’, he grunts. This badly invented Latin must have amused the audience; and his verbal incompetence is stressed when the young heroine protests, when he woos her in inappropriate legal language: ‘If all Men spoke such Gibberish, ’twere Happiness to be deaf’.³¹

Attacks on the lawyers’ incomprehensibility were particularly heated in the later seventeenth and early eighteenth centuries. That was

because legal proceedings were still conducted in law-French and law-Latin. During the radical years of the Interregnum in the 1650s, English had been adopted, to general public approval. But in 1660, in a return to tradition, the old terminology had been restored. It meant that only those educated in the ways of legal Latin could understand any writ taken out in their name. This was too much, even for admirers of the law. In 1731, Parliament, with the disreheet support of the Walpole government, enacted that all proceedings should be in English.³²

Interestingly, this reform seems to have been introduced following a petition from a number of lawyers themselves. They, after all, were sensitive to their clients' approval; and the case for keeping business secluded in traditional Latin was not an easy one to make. On this specific issues, satire had worked. Laughter had undermined confidence in the old ways, and had softened up opinion to think that change was necessary. Satire of the professions therefore may be regarded as the client's revenge. It is a form of what Freud termed 'hostile wit';³³ and satirical laughter remains a weapon that is commonly by the relatively powerless against the powerful.

Of course, satire does not always 'win' the case for reform. Even when things remain unchanged, however, the venting of disrespectful laughter allows the satirists some way of expressing their discontent with the powerful. Satire thus acts, in a witty and disorganised way as a safety valve for public indignation, as well as, sometimes, a catalyst for reform.

Jibes and jokes often attacked the men of law in person. They were seen as both greedy and dangerous. They were knaves, cheats, tricksters. By way of analogy, they were depicted as scavenging cormorants; or as vultures, vipers, foxes, wolves. Indeed, anything suitably verminous would do. In 1794, a reformer in the House of Lords called for legislation to control 'those locusts in the law', the attorneys who were said to be

infesting the commonwealth.³⁴ But the most common alignment was between the lawyer and the Devil himself. This was definitely intended to be unkind. Lawyers were said to be either the Devil in person, or in league with him, or simply his agents upon earth. Like their master, they were smooth-talking trouble-makers; and they had no scruples. Morality and probity were absent from their world. As was pity. ‘We Gentlemen of the profession, like the professors of Surgery, must not have very tender feelings’, said one stage lawyer coolly.³⁵ The barristers to some extent domesticated the critique, by naming the unpaid juniors who prepared briefs for senior counsel as ‘devils’.

Nonetheless, if taken literally, the diabolic connection was a black indictment. In 1700, one verse satire upon all the professions imagined a contest for predominance in Hell between the lawyers and the physicians. Who would win? It was a close-run thing; but the satirist gave the palm, narrowly, to ... the lawyers.³⁶

Exactly how many people read or took notice of this sort of material is impossible to know with any precision. After 1695, with the lapsing of the old Licensing Laws, the quantity of material in print of all sorts grew very rapidly; and the weakness of the law of libel conferred great press freedom. Satires were circulated freely, and also copied, plagiarised, and recycled without let or hindrance. It is true, of course, that written material, in the form of books and pamphlets, was aimed at the literate population only; but songs and ballads, as well as prints and cartoons, were also accessible to the illiterate and semi-literate. England’s entire culture was therefore pervaded with satirical reminders to the legal profession that it might be needed but was not loved. ‘The people of England have been War-ridden, they have been Priest-ridden, and now they are Law-ridden’, wrote a critic sternly in 1795.³⁷ And he addressed

his tract both to the public in general and to the legal profession in particular.

One sign that England's attorneys were aware of the torrent of criticisms came in their abandonment of their old occupational name. So unpopular had that become, that many began to describe themselves instead as 'solicitors'. This was an alternative legal office, that was free from the unpleasant associations of being a 'pettifogging attorney'. That term meant chicanery and lack of fair dealing. '*Pettifogging*' is the vile practice of setting persons together by the ears, and promoting quarrels, by assuring each party of gaining advantage by going to Law upon trifling occasions', announced the author of *Pettifogging Dramatized*, which was performed on stage in 1797 as a dire warning to the general public.³⁸ Accordingly, the 'lower branch' silently renamed itself, without any general resolution but by common consent. Later, too, Parliament confirmed the shift in the 1873 Judicature Act. This remarkable adaptation indicated clearly that the profession was aware of the criticisms that surrounded it. In the American common law system, by contrast, the attorneys kept their traditional name, as they still do, whereas in England the title of attorney has completely disappeared for all but the official position of the government's law officer or Attorney General.

Other targets of criticism were more specific. The time-consuming nature of the English legal system, when every deposition could be met by a counter-deposition, every ploy by a counter-ploy, was one major annoyance to all clients. In 1732, for example Sarah Byng Osborne, an aristocratic widow, complained in a private letter about the lawyers that 'Nobody that has not experience of the delays of that profession can imagine the plague of them.'³⁹ A closely related and even more serious problem, from the client's point of view, was the cost of going to law.

Again, the satirists made the point neatly. In the play *Ignoramus*, a distressed man asks the lawyer for help, prefacing his request with the remark ‘I am very poor, Sir.’ At once, the attorney replies: ‘Then your Cause is bad’.⁴⁰ This was sharp and also had an element of truth to life, for an impoverished client was handicapped in any protracted legal contest.

Within all this, however, it should be noted that the principle of ‘Law’ itself remained inviolate. Critics might campaign for improvements to the system of litigation or to reform particular statutes. But, just as anti-clericalism targeted the clergy but upheld true religion, so anti-lawyerism challenged the pettyfoggers but supported the ideal of due legal process. A commentator in 1797 made that point specifically. His criticisms, he reassured his readers, were not intended ‘to stigmatize that beautiful system of Reason, on which the Law itself is founded; but to expose the practices of abandoned and vicious attorneys’.⁴¹

Conventionally, within this genre of criticism, it was assumed that the population at large was trusting, even rather gullible, and morally beyond reproach. The obloquy for misdeeds therefore fell always upon the professionals, who were the ones who bamboozled their clients. By contrast, the lawyers themselves rejected that picture. Instead, their knowledge of everyone’s private motivations and secret machinations encouraged in them a low view of human nature. William Roscoe, a reform-minded Liverpool attorney, greatly disliked his experience of dealing with grasping and self-seeking clients. In the mid-1790s, he explained to his wife: ‘Believe me, I am almost disgusted by my profession, as it affords me a continual opportunity of observing the folly and villainy of mankind. ... [When it should become possible] it is my fixed resolution to withdraw myself from so hateful an employment.’⁴² Many lawyers, however, took a more robust, even cynical view about the

dark side of human nature. This, they felt, was simply realistic. In that way, they returned the compliment to their critics, by being suspicious of them in turn. ‘Never believe above half of what an angry client may say’, advised one eminent attorney, ‘but most patiently endure the whole of it.’⁴³ Discretion was a professional requirement, and an impartial judgement aided the chances of success.

For practical purposes, therefore, the world of law had to accommodate a public that ranged from the gullible to the greedy, while the clients equally had to discriminate between a competitive horde of lawyers, who represented a potential spread of qualities from trustworthiness to trickery. None was the unalloyed repository of virtue. But the lawyers needed the clients and, however reluctantly, the clients needed the lawyers. And all parties wished to be sure of the *bona fides* of the others. *What* was to be done?

3. The evolution of self-regulation

‘I have found by Experience - and, to use a common Expression, Woeful Experience it is! - that as soon as a Man initiates a Law-Suit, he becomes the Slave of those whom he employs; and the only Resource he has ... is to exchange them [his lawyers] for other Tyrants’

- public letter of complaint by dissatisfied litigant, 1774⁴⁴

‘This [malpractice by some attorneys] is an evil which cries aloud for speedy remedy, and we do trust that in fairness, and for the protection of an honourable profession, something will speedily be done.’

- an admirer of the English legal system and its lawyers, 1840⁴⁵

Well, what *was* to be done? Various answers were proposed in the course of the eighteenth century. The angry author of the first complaint quoted above was uncertain exactly how things were to be remedied but he dreamed of ‘some salutary Institution, some guardian Power, that may protect the helpless Client, and deliver him from the Grip of such

relentless Spoilers'.⁴⁶ 'Something' was to be done, agreed an eager admirer of the law and lawyers in 1840. Others had called already for the number of attorneys to be curbed drastically. Thus, in 1785, a writer enraged by their 'Enormous Increase' argued that the country could manage with no more than six hundred, rather than the thousands in real life: surely, he wrote sarcastically, '*even this Profession* might (from so extensive a Body) afford six hundred Men, both of Intelligence and Probity'.⁴⁷ It made for good polemics but was hardly practical advice.

Historically, the resolution of what was to be done eventually came via the regulation of the professions. This created a legal framework within which these knowledge-based specialist services were able to operate, simultaneously consolidating their respectability and reassuring their clients.⁴⁸ It was by no means clear, however, how the procedures of professional regulation would come about and which mechanisms would be adopted. Within continental Europe in the *ancien régime* era, the characteristic response was via state action. Prussia was an exemplar, instituting bureaucratic controls over a relatively restricted number of University-trained and state-registered attorneys.⁴⁹ This has been described as a process of 'professionalization from above'.⁵⁰ In the unfolding Anglo-American tradition, however, self-regulation was the preferred mechanism from the start. There was still a role for the state. But it characteristically acted at 'arms-length', providing a legal framework but leaving the implementation to the professionals. This compromise was first brokered by the common lawyers - and more specifically, it was the much-abused 'lower branch', the attorneys - who led the way. As will be seen, however, the route was far from straightforward or linear or conflict-free. There was no one right answer to the question of how to regulate the professions; and certainly no single route to establish an ethos of professional responsibility to the lay public.

Traditionally, all attorneys and solicitors had to be enrolled before a court of law and transgressors, if found to be at fault, could be ‘struck from the rolls’. Little supervision, however, followed in practice; and the weakness of the system rapidly became apparent as the number of attorneys rocketed in the later seventeenth century. Parliament in 1725 showed an awareness of the problem when it legislated to disqualify as an attorney any individual, who had been convicted of perjury or forgery.⁵¹ The Act, however, lacked teeth.

Accordingly, in 1729 more far-reaching legislation ensued, again with discreet support from the Walpole government.⁵² The new scheme required attorneys to undertake a five-year articled clerkship before enrolment, which would be permitted only after a personal interview with a judge and upon payment of a fee. This was interesting, in that it showed that eighteenth-century governments were not afraid to intervene when they deemed it necessary. Since almost 11 percent of the House of Commons at this point were practising lawyers,⁵³ there was no lack of awareness of the problem. The solution, however, was also highly characteristic of the English system: the assessment of basic professional competence was not considered a matter for the state but for the law courts.

Continuing complaints, however, indicated that the legislation had not succeeded. The judges had too little time to undertake careful tests and, given that they did not themselves employ attorneys, they had no direct interest in making the system work. The understrappers and adventurers did not go away. There were frequent scandals, such as the case of a gaoler in 1757, who had articed himself to a lawyer in order to solicit business from the prisoners. His articles were cancelled, on the cogent grounds his occupation constituted ‘a very improper education for the Profession of an Attorney.’⁵⁴

Worried by such cases, the lawyers themselves began to take a hand. In February 1740, a private society had been established, in the ‘associational’ style that was so typical in eighteenth-century England.⁵⁵ It was organised by a handful of London attorneys and solicitors, who dubbed themselves the Society of Gentlemen Practisers of Law. The name in itself was very significant. It indicated the lawyers’ intense desire for respectability. No reference was made to the dire term ‘Attorney’. The Society was in part a social club, drawing upon the lawyers’ long traditions of gathering together for debates and drinking. It met initially at the appropriately named ‘Devil Tavern’, next to Temple Bar, at the hub of ‘legal London’ (the site is now commemorated by a plaque on the wall). There had been earlier legal debating clubs in and around the Inns. But none matched this one.

Confidently, if quite informally, the Law Society began to act as a lobby group for the profession. It monitored changes to the legal system; it petitioned parliament on legal questions; and it provided advice on drafting bills. This was relatively controversial. But, remarkably, the Society also decided sweepingly ‘to detect and discountenance all male [= bad] and unfair practice’. To do that, it began to vet candidates for enrolment before the courts and, on its own authority, to prosecute notorious examples of lawyers who were unsuitable for the occupation.⁵⁶

Given that the Society of Gentlemen Practisers was a private body, with limited resources and no official standing, its supervision was far from systematic. The continuing complaints about the behaviour of attorneys testify to that. Nonetheless, it was remarkable that an elite group of London lawyers had established its right to speak for the profession. Moreover, the ‘Gentlemen Practisers’ were publicly accepted in this role, both by the law courts and by successive governments. By the 1790s, the London attorney’s club was styling itself simply as ‘the Law Society’.⁵⁷

Limited as were its powers, it had already won two important demarcation disputes in the mid-eighteenth century. These victories strengthened the position of the ‘lower branch’ and accordingly heightened the Society’s prestige. The first issue brought it into conflict with the City of London Scriveners’ Company in the 1750s, over rights to lucrative property conveyancing within the City of London. The Society brought a series of test cases, and finally won in 1760, with the help of a number of London barristers who gave their services free. The second demarcation dispute was a matter within the legal profession itself. It was a matter of convention rather than of law in England and Wales, that barristers had a monopoly of addressing the courts, while the attorneys had a monopoly of dealing directly with the clients. That would allow the two branches to work harmoniously side by side. In the mid-eighteenth century, however, a number of barristers were *de facto* challenging this rule. In 1761, therefore, the Society of Gentlemen Practisers decided firmly that they would prosecute all offenders. Considerable argument followed this declaration; but, again, the Society triumphed. The convention remained intact and was later upheld in a test case in 1846 as a convention (though still not a rule of law).⁵⁸ The attorneys’ had staked out their professional terrain and established their rights successfully.

Conviviality aided their group bonding. New provincial clubs and societies also began to multiply in the later eighteenth century. A group was meeting in Bristol by 1770; another in Yorkshire by the mid-1780s. Within another fifty years, there were at least eighteen legal societies outside London. As these were often informal gatherings, their numbers waxed and waned. In Newcastle upon Tyne, for example, a fraternity club of lawyers met monthly at each other’s houses, to discuss points of law, to play whist, and to drink port. Its history sounds pleasant but its dates are uncertain. It had certainly ceased to meet by 1815, when a successor

body was established, known as the Newcastle upon Tyne Law Society. Boldly, it too declared its high ambitions: ‘to preserve the Privileges and support the Credit of Attorneys and Solicitors, to promote fair and liberal Practice, and prevent abuses in the Profession’.⁵⁹

Clearly, the lawyers hoped to link advocacy of their own respectability with fair dealings for their clients. It was a variant of the old maxim ‘*noblesse oblige*’, now rendered for practical purposes into ‘professionalism *oblige*’. So insistent was the case for defending group identity that other societies were similarly established within the common law system world-wide. Early examples were the Law Club of Ireland in 1791 and numerous lawyers’ clubs and associations within North America from the 1730s onwards. All this indicated a clubbable profession, with a strong sense of identity and corporate pride, which counter-acted the satire and criticisms encountered in the wider world.

Problems, however, still circled around the vexed question of the relationship between lawyers and clients, and the means of ensuring that all practitioners were properly qualified. In 1795, one reform-minded lawyer Joseph Day proposed a new Royal College for Attorneys and Solicitors, which would be required to test new entrants into the profession and to provide a general code of practice.⁶⁰ His proposal, however, still required the vetting to be done by judges. The Law Society, among others, was not enthusiastic about that proposal. After all, it was the body that had been *de facto* scrutinising the lists of candidates and advising on suitability. The idea of an independent Royal College of Law was therefore not pursued. Nonetheless, Day’s proposal indicated that some lawyers themselves were seeking for ways to improve and to formalise the process of accreditation.

It was not until 1843, however, that a workable solution was found. The ‘march’ towards self-regulation was proceeded via considerable

debate and improvisation. In the 1810s, the legal profession itself had been through a process of some turmoil, leading to the creation of a new reform-minded London Law Institution in 1823. This body quickly won support and built itself a sumptuous headquarters in Chancery Lane, close to Temple Bar. It inaugurated public lectures and set examinations for articled clerks. Such vigour carried all before it, and in 1832, the two attorneys' associations merged into one.⁶¹ This combined association operated from the impressive new building in Chancery Lane but kept the resonant old name of 'the Law Society'. Such was its renewed confidence that, in 1843, it sponsored legislation that would give itself powers to undertake the examination and accreditation of lawyers, on behalf of the state. To this novel step, Parliament promptly agreed.⁶²

Professional self-regulation, with the 'arms-length' blessing of the state, had thus officially arrived. The activities that the Law Society had been undertaking, with varying diligence and effect, for the last hundred years now became their official remit. Regulation was also made compulsory. It was necessary to pass the qualifying examinations and to hold accreditation by the Law Society, in order to practice throughout England and Wales. In this way, the political system both acknowledged and enhanced what had already been instituted in an *ad hoc* way within the profession itself. The pre-existing role of the Law Society made this solution seem simple and obvious. There was no great outcry. Moreover, there was no vested legal interest to oppose the change, as the Law Society itself proposed the reform. The 'quack lawyers', like the 'quack doctors' after them, did not dare to oppose the righteous demand for qualified professionalism.

Once self-regulation was successfully in operation, this became a model that Parliament could borrow again. In 1858, the medical profession was similarly reformed, with the creation of the General

Medical Council. Again, the state provided the framework, bringing to an end a prolonged period of controversy within the medical profession, with a compromise solution. As there was no one Medical Society that directly matched the Law Society, but instead a plethora of medical regulatory bodies, they were all given representation on the new General Medical Council.⁶³ That re-confirmed the principle of self-regulation by the professionals. These were the experts, with the specialist knowledge that was required to test the merits of would-be practitioners. Yet regulation and accreditation was done on the ultimate authority of the state, which in effect defended the rights of the general public. Clients needed the reassurance that those who purported to be professional experts were validly accredited and that those who defaulted could be struck from the register.

Service to the public rather than pure money-grubbing became enshrined as the required professional ethos. Of course, it was not always followed perfectly; and arguments still continue as to how effectively the professional bodies carry out their regulatory mission. But the principle was clear. An unfettered *laissez-faire* had yielded eventually to the case for formalised regulation by the experts themselves. As the regulatory bodies on behalf of the state, the modern professional associations are thus *sui generis*. They are sometimes compared with either the medieval craft guilds or the modern trade unions. But neither comparison is exact. The professional associations have a much wider nation-wide membership than had the localised medieval guilds; and the professional associations have a state-appointed regulatory role as ‘masters’ of their business that is not shared by the employee-based trade unions.⁶⁴ A new organisational force had arrived within the modern economy.

4. Conclusions

*'He did not care to speak ill of anyone behind his back,
but he believed the gentleman was an attorney'*
- reported comment on an absent friend by Dr Johnson in 1770⁶⁵

*'The only road to the highest stations in this country [England],
is that of the law'*

**- Sir William Jones, orientalist, jurist,
and later High Court judge in Calcutta⁶⁶**

Three final points stand out from this analysis. The first was the continuing rise in status and wealth of the lawyers, notwithstanding all the criticisms. As Sir William Jones's comment, quoted at the head of this section, indicated, the prestige of 'the Law' was one weapon that could be freely used as a mechanism of social advancement. Englishmen and women were proud of 'their rights' and of their legal traditions. There was therefore a distinct ambivalence in public attitudes towards lawyers, who were admired as the experts who understood the mysteries of the common law even while they were deplored as blood-suckers seeking money in payment for their advice. The satire, however, was not sufficient to halt the rise in status of the profession. Nor did it harm their collective wealth. The family history of one successful provincial lawyer provides an example. Isaac Greene, a Lancashire attorney, made a huge fortune in the early eighteenth century. One of his two daughters and co-heiresses married the son of a Lord Mayor of London, who was the heir to a great brewing fortune. In the early nineteenth century, Isaac Green's doubly wealthy great-grand-daughter then married one of Britain's premier peers of the realm. And their son, the third Marquess of Salisbury (1830-1903), became Britain's prime minister - the very epitome of aristocratic and paternalistic conservatism - in the later nineteenth century.⁶⁷ It was a far from uncommon heritage. Supporting every

successful noble family came a stream of wealth from commerce, banking, sometimes industry - and from the learned professions. Moreover, despite strong parental objections from his own noble father, the aristocratic Salisbury himself had married the dower-less daughter of a judge.⁶⁸ The lawyers had undeniably found their way through to social respectability.

Secondly, the role of ‘hostile wit’ and criticism was crucial in highlighting the need for the professions to earn the trust of their clients. Sardonic jibes at the legal profession have never gone away. Indeed, the anti-lawyer joke is rumoured to be the one joke that remains today internationally acceptable, in an era of heightened sensitivity to all matters of status and reputation. However, historically the tradition of laughter at the legal ‘devils’ bore important fruit. In early eighteenth-century England, it was no surprise that the attorneys, one of the most vehemently satirised of all occupational groups, should have been the first to institute their own counter-attack in the form of an initially *ad hoc* system of self-regulation. The London lawyers who did that, in the guise of the Society of Gentlemen Practisers, thought highly of their own avocation and sought to make their clients accept that verdict upon the profession. It was crucial for success to gain and to keep trust. Equally, it was important for the public too that there should be some guarantee of professional probity. The barristers, who were represented by the traditional authority of the Inns of Court, were slower to follow suit. But they too established a coordinating Bar Committee in 1883, which later metamorphosed into the Bar Council in 1894.

Thirdly, therefore, it may be observed that social and cultural power is not simply exercised from on high. It is also contested dialectically from below. The role of the lawyers was important in showing how these power-brokers in daily life were simultaneously

subjected to a light bath of constant criticism and satire. That was at once a tribute to their importance, and a restraint upon them. Their power, in other words, was far from absolute. Urban/industrial/commercial societies constantly generate new knowledge-based services⁶⁹ within the fast-growing tertiary sector - but also new critical consumers. All power is contestable and cultural power more than most. That is an important lesson for the professions to recollect - and for other occupations also to realise, even as they are now codifying their practices and trying to raise their status, in what has been termed, somewhat teasingly, the long-term and spreading world-wide ‘professionalization of everyone’ or, less grandiosely, the ‘professionalization project’.⁷⁰

5. *Coda:*

Signs of the times come in many guises. Which occupational groups have power and influence on a daily basis? The nineteenth century in England is sometimes described as the ‘century of the doctor’. Armed with their pills and stethoscopes, the white-coated medical men were becoming the new social force. In subsequent years, others have joined them, in a process of continuing professional specialisation.

How should the twentieth century be characterised? Will it become known as the ‘century of the scientist’ (another man in a white coat)? There are good grounds for arguing their case. Or was it, more prosaically, ‘the century of the accountant’ (a man in a grey suit)? Perhaps, however, that occupation operated really too self-effacingly to control the tone of the *Zeitgeist*.

Eighteenth-century satirists, at any rate, were not in doubt. They did not nominate as day-to-day power-brokers the landowners or the bankers or the overseas merchants or the inventors or even the clergy or doctors. Instead, the hegemonic palm was accorded to the men in black

robes and horse-hair wigs, who knew everyone's secrets, and who carried out everyone's business, wielding their command of their own specialist jargon and esoteric mysteries, and cloaked in the prestige of 'Law'. Legal knowledge was thus one key to power, provided that the trust of clients was retained, Lawyers could then find plentiful work in the processes of litigation, as well as of administration. Legal expertise, furthermore, was increasingly valued as governmental administrations were gradually bureaucratised and as state structures became eventually - whether by evolution or revolution - constitutionalised. Other professions, not only in Britain but also in France, were frequently envious. A career in law was 'the most alluring today', as Charton's *Guide* advised his French readership in 1842.⁷¹ So the satirist John Arbuthnot (himself a physician and the son of a Scottish clergyman) had already noted in England, voicing in 1712 many standard in 1712 criticisms of the legal profession - but also paying frank tribute to its power:⁷²

I have read of your golden age, your silver age, and so forth.

One might justly call this:

'the Age of the Lawyers'.

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TABLE 1:

***Comparative Numbers of Different Professional Groups
in England & Wales, 1688-1851***

	1688	1750	1803	1851
<i>lawyers</i>	<i>10,000</i>		<i>11,000</i>	<i>32,000</i>
<i>clergy</i>	<i>10,000</i>	<i>10,000</i>	<i>13,000</i>	<i>30,000</i>
<i>doctors</i>	<i>10,000?</i>			<i>33,500</i>
<i>teachers</i>			<i>20,000</i>	<i>28,300</i>
<i>army/navy officers</i>	<i>9,000</i>	<i>10,000</i>	<i>11,000</i>	<i>10,000</i>
<hr/>				
<i>peers of the realm (UK)</i>	<i>396</i>	<i>375</i>	<i>504</i>	
<i>baronets + knights</i>		<i>1,150</i>	<i>721</i>	<i>859</i>
<i>Total noble*</i>				
<i>heads of household</i>	<i>1,546</i>	<i>1,096</i>	<i>1,363</i>	
<hr/>				
<i>Total population</i>	<i>5.4 million</i>	<i>6.1 million</i>	<i>9 million</i>	<i>18 million</i>

Sources: The professions in 1688, 1750, 1803, from contemporary estimates; those for 1851 from national census - detailed figures quoted in P.J. Corfield, *Power and the Professions in Britain 1700-1850* (Routledge, London, 1999), pp. 29, 32.

The nobles in 1700, 1750, 1800 from J. Cannon, *Aristocratic Century: The Peerage of Eighteenth-Century England* (Cambridge University Press, Cambridge, 1984), p. 32.

Note: * In England, elite 'gentlemen' with the non-noble title of 'Sir' were ranked as commoners, whatever their actual social status. This complicates comparisons of the relative size and composition of the aristocracy internationally. See P.J. Corfield, 'The Rivals: Landed and Other Gentlemen', in N.B. Harte and R. Quinault (eds), *Land and Society in Britain, 1700-1914* (1996), pp. 1-33.

ENDNOTES

- ¹ The author expresses warm thanks to all those who attended the Colloque Franco-Britannique, held at Bordeaux, 26-29 September 2001, for stimulating questions and discussions. In addition, grateful thanks are due to all colleagues who have participated in seminars/conferences at the Universities of London, Oxford, Paris, and York, where earlier versions of this essay have been debated.
- ² T.B., *The Pettifogger Dramatized* (London, 1797), p. 12.
- ³ Pattisson Papers, unpublished letter from William Pattisson to his father, Jacob Pattisson, dated 18 February 1793, as cited in P.J. Corfield, *Power and the Professions in Britain, 1700-1850* (Routledge, London, 1999 edn), p. 71.
- ⁴ For William Pattisson, see P.J. Corfield and C. Evans, *Youth and Revolution: Letters of William Pattisson, Thomas Amyot and Henry Crabb Robinson* (Sutton, Stroud, 1996), pp. 5-6, 11-13, 17.
- ⁵ Anon., *Law Quibbles: Or, a Treatise of the Evasions, Tricks, Turns and Quibbles, Commonly Used in the Profession of the Law, to the Prejudice of Clients and Others ...* (London, 1724), preface pp. 4-5. [NB: 'Attornies' was the eighteenth-century spelling].
- ⁶ W. Shakespeare, *Henry VI, Part 1* (1592), Act 4, sc. 2. [in idem, *Complete Plays* (1951?), p. 522].
- ⁷ Anon. [E. Ravenscroft], *Ignoramus: Or, The English Lawyer - A Comedy* (London, 1736), p. 39: speech by Polla, the book-seller's wife, Act 3. This was an updating of G. Ruggle's play *Ignoramus* (first pub. 1630).
- ⁸ For further discussion of the nature and role of satire, see Corfield, *Power and the Professions*, pp. 42-69.
- ⁹ D. Hoffman, *A Course of Legal Study, Addressed to Students and the Profession Generally* (Baltimore, 1836), p. 23.
- ¹⁰ The *locus classicus* for the late seventeenth-century growth of the legal profession is G. Holmes, *Augustan England: Professions, State and Society, 1680-1730* (Allen & Unwin, London, 1982), pp. 115-65.
- ¹¹ From G. Canning, 'Friendship', quoted in Anon. [A. Polson], *Law and Lawyers: Or, Sketches and Illustrations of Legal History and Biography* (London, 1840), Vol. 1, p. 17.
- ¹² Corfield, *Power and the Professions*, p. 81.
- ¹³ Anon., *Law Quibbles*, preface p. 4.
- ¹⁴ Anon., *A General Description of All the Trades* (London, 1747), p. 6.
- ¹⁵ A. Grant, *The Progress and Practice of a Modern Attorney ...* (London, 1795), p. 25.
- ¹⁶ Jonathan Swift, *Travels into Several Remote Nations of the World ... by Lemuel Gulliver* (London, 1726), pt. 4, p. 70.
- ¹⁷ For a survey and illustrations, see S. Ireland, *Picturesque Views, With an Historical Account, of the Inns of Court in London and Westminster* (London, 1800); and for a retrospective history, see W.J. Loftie, *The Inns of Court and Chancery* (Ashford, Southampton, 1985).
- ¹⁸ For the role of barristers, see summary in Corfield, *Power and the Professions*, pp. 73, 85-93; and detailed discussion by D. Lemmings, *Gentlemen & Barristers: The Inns of Court & the English Bar 1680-1730* (Oxford University Press, Oxford, 1990); and idem, *Professors of the Law: Barristers and English Legal Culture in the Eighteenth Century* (Oxford University Press, Oxford, 2000).

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- ¹⁹ J.H. Langbein, ‘The Criminal Trial before the Lawyers’, *University of Chicago Law Review*, 45 (1978).
- ²⁰ Anon., *London: A Satire, Containing Prosaical Strictures on Prisons, Inns of Court ...* (London, ?1782), p. 3.
- ²¹ R. Holloway, *Strictures on the Characters of the Most Prominent Practising Attorneys* (London, 1805), p. 13.
- ²² Corfield, *Power and the Professions*, pp. 79-80, 216-17. See also idem, ‘Small Towns, Large Implications: Social and Cultural Roles of Small Towns in Eighteenth-Century England and Wales’, *British Journal for Eighteenth-Century Studies*, Vol. 10 (1987), p. 134; and P. Aylett, ‘A Profession in the Market Place: The Distribution of Attorneys in England and Wales, 1730-1800’, *Law and History Review*, Vol. 5 (1987).
- ²³ Corfield and Evans, *Youth and Revolution*, p. 6, has illustration: the brick-built house was three stories high, with seven sash windows across the frontage (on the ground floor that made three each side of the imposing pillared front door.).
- ²⁴ M.E. Clayton, ‘A Contemporary Electoral Map: Occupation and Votes in Mid-Eighteenth-Century Haslemere’, *Parliamentary History*, 16 (1997), p. 338.
- ²⁵ Ibid., p. 335.
- ²⁶ Corfield, *Power and the Professions*, p. 73. See also for fuller discussion, R. Robson, *The Attorney in Eighteenth-Century England* (Cambridge University Press, Cambridge, 1959).
- ²⁷ [Ravenscroft], *Ignoramus*, p. 9: speech by Ignoramus, Act 1.
- ²⁸ The number of these casual lawyers is unknown and the exaggerated estimates bandied about in the early eighteenth century (20,000, 60,000 or even 100,000 were claimed at various times) were clearly too high. But, equally clearly, the profession was becoming very numerous, drawing in a long ‘tail’ of cheap practitioners catering essentially for the middling sort and the poor: see Corfield, *Power and the Professions*, pp. 77-8.
- ²⁹ Anon., *La Curiosité: Or, the Gallant— Show, Displaying the Following Characters ... A Pettifogger* (London, 1797), p. 30.
- ³⁰ [Ravenscroft], *Ignoramus*, p. 11: still in Act 1.
- ³¹ Ibid., pp. 7, 11.
- ³² The 1731 Act, which was passed despite opposition from the Lord Chief Justice, came into force in 1733. Its impact was, however, muted slightly by further legislation in 1733, which allowed the Exchequer to continue using the old ways and which allowed various technical terms (including names of famous writs such as *Habeas Corpus*) to remain in Latin.
- ³³ Sigmund Freud, *Wit and its Relation to the Unconscious*, ed. A.A. Brill (Fisher Unwin, London, 1916), p. 148-53, 154.
- ³⁴ Lord Abingdon, speech in the House of Lords, 17 June, 1794: *Parliamentary Register*, 39 (London, 1794), pp. 403-4.
- ³⁵ T.B., *Pettyfogger Dramatized*, p. 61.
- ³⁶ Anon., *Hell in an Uproar, Occasioned by a Scuffle ... between the Lawyers and the Physicians for Superiority* (London, 1700).
- ³⁷ Grant, *Progress and Practice*, pp. 5-6.
- ³⁸ T.B., *Pettyfogger Dramatized*, p. 109: glossary.
- ³⁹ J. McClelland (ed.), *Letters of Sarah Byng Osborne, 1721-73, from the Collection of the Hon. Mrs McDonnel* (Stanford University Press, Stanford, 1930), p. 13.
- ⁴⁰ [Ravenscroft], *Ignoramus*, p. 27.

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- ⁴¹ T.B., *Pettyfogger Dramatized*, p. viii.
- ⁴² H. Roscoe, *The Life of William Roscoe, by his Son Henry Roscoe* (London, 1833), Vol. 1, p. 206.
- ⁴³ [George Stephen], Adventures of an Attorney in Search of Practice (London, 1839), p. 47.
- ⁴⁴ Anon., [P. Mawhood], *The Necessity of Limiting the Powers of the Practitioners in the Several Courts of Justice ... In a Letter to ... His Majesty's Solicitor-General* (London, 1774), p. 6.
- ⁴⁵ Anon. [A. Polson], *Law and Lawyers*, Vol. 2, p. 312.
- ⁴⁶ Anon. [Mawhood], *Necessity*, pp. 9-10.
- ⁴⁷ Anon. [H.C. Jennings], *A Free Inquiry into the Enormous Increase of Attorneys ... by an Unfeigned Admirer of Genuine British Jurisprudence* (Chelmsford, 1785), p. 31.
- ⁴⁸ For the continuing debates about these issues, see R.D. Blair and S. Rubin (eds), *Regulating the Professions: A Public-Policy Symposium* (Lexington Books, Florida, 1980); and contextual case studies, such as K.J. Jarausch, *The Unfree Professions: German Lawyers, Teachers and Engineers, 1900-50* (Oxford University Press, New York, 1990).
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- ⁵⁰ Ibid., p. 46.
- ⁵¹ See Act 'to Prevent Frivolous and Vexatious Arrests', 12 Geo. I, cap. 29 (1725), clauses 4-6: the penalty for disobedience was to be seven years' transportation.
- ⁵² Act 'for the better Regulation of Attorneys and Solicitors', 2 Geo. II, cap. 23 (1729), For the relevant debates, see Robson, *Attorney*, pp. 9-13.
- ⁵³ Between 1727 and 1734, 74 out of 684 MPs were practising lawyers [ie. 10.82%]: see R. Sedgwick (ed.), *The House of Commons, 1715-54* (History of Parliament Trust, London, 1970), Vol. 1, p. 155.
- ⁵⁴ Corfield, *Power and the Professions*, p. 77.
- ⁵⁵ See, for general context, Peter Clark, *British Clubs and Societies, 1580-1800: The Origins of an Associational World* (Clarendon, Oxford, 2000).
- ⁵⁶ W. Holdsworth, *A History of the English Law* (Methuen, London, 1938), Vol. 12, pp. 63-75.
- ⁵⁷ For details of its history, see E. Freshfield (ed.), *The Records of the Society of Gentlemen Practisers in the Courts of Law and Equity, Called the Law Society* (Law Society, London, 1897) and also summary in D. Sugarman, *A Brief History of the Law Society* (Law Society, London, 1995).
- ⁵⁸ E.B.V. Christian, *A Short History of Solicitors* (London, 1896), pp, 135-8.
- ⁵⁹ R. I. Duncan, *From Quills to Computers: A History of the Newcastle upon Tyne Incorporated Law Society* (Northumbria Law Press, Newcastle upon Tyne, 1997), pp. 24, 30.
- ⁶⁰ J. Day, *Thoughts on the Necessity and Utility of the Examination ...* (London, 1797).

⁶¹ Hence all surviving documentation from the original records of the old law Society (notably the early minute books from 1740-1819) are held in the Library of the present-day Law Society.

⁶² The legislation was known as the Solicitors Act, 6 & 7 Vict. cap. 73 (1843): note that the controversial term of ‘Attorney’ had been quietly discarded.

⁶³ The Medical Act followed prolonged arguments over the necessity or otherwise of reform: for the campaigns, see I. Waddington, *The Medical Profession in the Industrial Revolution* (Gill & Macmillan, Dublin, 1984), pp. 53-132.

⁶⁴ Corfield, *Power and the Professions*, pp. 84-5.

⁶⁵ R.W. Chapman (ed.), *Boswell: Life of Johnson* (Oxford University Press, Oxford, 1976), p. 443.

⁶⁶ Sir William Jones (1746-94) as quoted in Anon., *Law and Lawyers*, Vol. 1, p. v. Sir William Jones himself rose to prominence from relatively modest (though not completely impoverished) background as a scholar and lawyer: see *Dictionary of National Biography*.

⁶⁷ See R.S. Brown, *Isaac Greene: A Lancashire Lawyer of the Eighteenth Century* (Spottiswoode, Liverpool, 1921). At the marriage of Isaac Green’s great-granddaughter, Frances Mary Gascoyne (1802-39), to James, the second Marquess of Salisbury (1791-1868), the Cecil family added Gascoyne to the family surname, making them the Gascoyne-Cecils.

⁶⁸ R. Taylor, *Lord Salisbury* (Allen Lane, London, 1975), p. 4; also D. Cecil, *The Cecils of Hatfield House* (Constable, London, 1973), pp. 225-7: his bride was the energetic and devoted Georgiana Alderson, daughter of Sir Edward Hall Alderson, a judge who sprang from a middle-class East Anglian professional background.

⁶⁹ For an introduction to this field, see variously H.J. Perkin, *The Rise of Professional Society: England since 1880* (Routledge, London, 1989); A. Abbott, *The System of Professions: An Essay on the Division of Expert Labor* (University of Chicago Press, Chicago, 1988); and M. Burrage and R. Torstendahl (eds), *Professions in Theory and History: Rethinking the Study of the Professions* (Sage, London, 1990); and idem (eds), *The Formation of Professions: Knowledge, State and Strategy* (Sage, London, 1990).

⁷⁰ For the world-wide spread of the professions, see C.M. Cipolla, ‘The Professions: The Long View’, *Journal of European Economic History*, Vol. 2 (1973), pp. 37-51.

⁷¹ Eduoard Charton, *Guide pour le choix d'un —tat* (1842), as quoted by J. Goldstein, ‘“Moral Contagion”: A Professional Ideology of Medicine and Psychiatry in Eighteenth- and Nineteenth-Century France’, in G.L. Geison (ed.), *Professions and the French State, 1700-1900* (University of Pennsylvania Press, Philadelphia, 1984), p. 200.

⁷² Anon. [J. Arbuthnot], *John Bull Still in his Senses: Being the Third Part of Law is a Bottom-Less Pit* (London, 1712), p. 27.