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PROFESSIONS, CLASS AND SOCIETY:
SOLICITORS IN 19TH CENTURY BIRMINGHAM

by

Andrew Swann Rowley

A thesis submitted for the
degree of
Doctor of Philosophy

THE UNIVERSITY OF ASTON IN BIRMINGHAM

July 1988

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SUMMARY

The thesis provides an analysis of an occupation in the process of making itself a profession. The solicitors' profession in Birmingham underwent a great many changes during the 19th century against a background of industrialisation and urbanisation. The solicitors' conception of their status and role, in the face of these challenges, had implications for successful strategies of professionalisation. The increased prestige and power of the profession, and especially its elite, are examined in their social context rather than in terms of a technical process, or educational and organisational change. The thesis argues that the profession's social relationships and broad concerns were significant in establishing solicitors as "professional men". In particular these are related to the profession's efforts to gain control of markets for legal services and increase social status. In the course of achieving these aims a concept of profession and a self-image were articulated by solicitors in order to persuade society and the state of the legitimacy of their claims. The concept of the gentlemanly professional was of critical importance in this instance. The successful creation of a provincial professional "community" by the end of the 19th century rested principally on a social and moral conception of professionalism rather than one which stressed specialised training and knowledge, professional organisations and credentials.

Key Words:

Solicitors, profession, 19th century, Birmingham.

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CHAPTER ONE

Introduction

"every man is to be regarded not only in his professional character, but as a moral and social agent, and a member of a political community...."

[Charles Rann Kennedy. Introductory Address 1850. Annals of the Queens College]

"Public opinion often exhibits the extremest ignorance of human nature.... It persistently merges the man in his profession, keeps him perpetually on the pedestal of his status, and on no account allows him to descend from it"

[Cornhill Magazine 16 1867] p 319.

This introductory chapter provides the conceptual and methodological background to the research. An outline of the research and its relevance is followed by a brief review of literature germane to the subject. Thereafter the chapter is devoted to the analytical framework and methodological approaches employed.

I. The Research

There has been little historical research on the legal professions until relatively recently. However, the thesis attempts to do more than merely contribute to filling a lacuna. It explores, in a variety of contexts, the experience of solicitors in Birmingham during the 19th century.

On a simple empirical level some basic research was needed to contextualise the profession and its structure. Beyond this exercise an attempt has been made to comprehend and explain the development of the solicitors' profession. Rather than describe a chronology of events a thematic approach has been adopted. These historical themes have been informed by concepts and insights developed during the research and adapted from an established and growing body of sociology. By so doing it was the intention to discern and elucidate the establishment of a profession through the interpretation of professional "strategies" conceived for that end and the articulation, by solicitors, of a concept of professionalism, which was accepted by society - or more accurately, those in positions of social, economic and political power.

As an historian by training a particular perspective was brought to the analysis of the development of the solicitors' profession. An interest in the subject grew out of the study of broader aspects of the role of experts in society and the decision-making process in the context of the increasing dominance of secular knowledge during the 19th century. However, instead of examining expertise per se it was thought relevant to study the practitioners, their social role as "interpreters" of knowledge and as members of wider social groups and classes. The historical literature revealed a bias towards the medical profession while other occupations, save perhaps the clergy, were poorly researched. Lawyers, as one of the trinity of "traditional" professions, seemed therefore a worthy subject for research, especially since they were often compared uncritically with medical men.

Despite significant changes in the solicitors' profession there is a striking continuity in some professional issues. Many late 20th century problems, debates and arguments which exercise the profession have antecedents rooted in the 19th century^[1]. The control by solicitors of debates about the profession, through the dominance of their concept of professionalism has important implications. An understanding of the values and features stressed by the profession in order to establish a convincing definition of professionalism during the 19th century (the period in which those features were forged)

and their success has important social consequences for understanding the nature of the late 20th century profession, their power, expertise and accountability.

Certain assumptions about professions have become well-entrenched. Since the late 19th century observers have been writing of the importance of professions in terms of the benefits they bring to society. This has underpinned a consensus that seemed to exist by the late 1970s amongst sociologists that professions were distinct kinds of occupations with special importance for society^[2]. Thus professions are accredited a significant role in society, but little critical work exists on how this position was reached and the role professions themselves played in producing it. Indeed empirical work may help assess the impact of the profession on society in the past.

While they were seen as increasingly important during the 19th century^[3], the social location of professions in social history literature has remained an unsolved problem^[4]. Though the subject of the 19th century middle class generally has been under-researched, what research there has been has tended to focus on the manufacturing and commercial fraction^[5]. Nevertheless to suggest that the professional members of the middle class "forgot themselves" while explaining the world and middle class to itself^[6] is difficult to accept. The task of relating the professions to the "making" of the middle class during the

19th century and examining the location in the class formation proved beyond the scope of the research, which sought to tackle the professionalisation process.

II. Literature and Analytical Framework

Naturally a review of the literature has contributed to the development of an approach to the subject. Before the effects of this are discussed a brief outline is drawn of the relevant literature, looking in particular at legal history, the 19th century middle class and the sociology of the professions.

(i) Legal History

Until recently it was common to begin any work on the legal profession with a statement to the effect that the field was sadly neglected. There were very few studies of the solicitors' profession itself, and the period of the 19th century often occupied only a small part in the general histories from the middle ages to the present^[7]. Legal history was typically written by academics or practising lawyers and tended to concentrate on the general

history of the law per se, with perhaps a chapter on the profession^[8]. Work that attempted a broader appreciation of the profession also suffered from various drawbacks^[9]. For example, much of the limited amount of literature on solicitors was superficial, on a national or central level, based on "official" sources, such as legislation, Royal Commissions etc. Much of the literature can be characterised as "whiggish". Such historical concerns of the professions as reputation, standards, regulation, exclusivity and education were treated as unproblematic, epitomising the linear whig-progressive approach - "only the successful (in the sense of those whose aspirations anticipated subsequent evolution) are remembered"^[10]. Consequently, homogeneity rather than internal conflict and contradiction is stressed; antagonistic relations with other occupations and wider society is minimised; educational reform and selection by merit are accepted at face value, as is the promulgation of a public service ideal. The process of professionalisation is assumed to have been a gradual, smooth journey to conformity with an "ideal" of what constitutes a profession. The modern profession had thereby achieved its full complement of "traits".

In addition the solicitor is treated as a legal practitioner and little else; there is no sense of a broader canvas in much of the literature. There is no idea of what it meant to be a solicitor in the social context of 19th century Britain^[11]. Yet the relatively high level of

participation of solicitors in 19th century and modern political and voluntary associations appears to be well documented^[12]. The assessment of solicitors' reasons and motivation for participation in the "public sphere" requires greater scrutiny. Similarly, solicitors' interaction with other classes and institutions, their social and economic origins, affiliations and beliefs are also overlooked^[13].

However, there has been since c.1980 a growth of interest in the social history of the law and legal professions^[14]. Yet this burgeoning is unfortunately tangential to the subject of this thesis. The focus of the new research has been on practitioners other than solicitors, or on different periods. In the 19th century attention has been directed towards the upper reaches of the legal profession - the bar and judiciary^[15]. The late medieval and in particular the early modern period have also seen increased research^[16]. Of interest in respect to the present thesis has been the work of Miles on 18th century attorneys in Yorkshire. This has provided useful insights for analysing the early 19th century profession in Birmingham^[17]. These recent studies have moved beyond institutional, whig histories and go a long way towards examining the profession in wider context^[18]. Yet whig and trait approaches to professions and professionalisation tend to retain a foothold in the literature.

Thus one aim of the thesis has been to expose a little known area of professionalisation to historical research and build on existing work on the legal profession as a whole. As Rubin and Sugarman have commented in their recent survey: "we still lack a large body of local or specific case studies grounded in archival work"[19].

(ii) The 19th Century Middle Class

The middle class in 19th century England has been an under-researched area. Social historians have tended to concentrate largely on the working class rather than the urban middle class[20]. This is, perhaps, surprising given the obvious economic and political importance of the middle class in industrial Britain[21]. However, the literature on the middle class, based on studies of towns, urban areas and regions, has been expanding in recent years[22].

Despite this interest, the treatment of professions in social history has remained inadequate. Studies tend to concentrate on urban political and municipal elites and the classic bourgeois - manufacturers and capitalists[23]. The question of professions' situation in the social formation and their role in class relations remains important and problematic. Are they middle class, a middle class

fraction or classless? Is the middle class monolithic or a conglomeration of fractions finding consensus to form a ruling bloc?[24]. This problem has occupied the efforts of a great many sociologists and political theorists as well as a few historians. Many models have been formulated to help explain the development and role of occupational strata and "intermediate classes" located between capital and labour. Yet the debate remains unresolved as to the "transitory" position of this "class" and its historical significance. Little is said regarding the relationship of professions to the middle class[25]. One is left with the impression that the professions, though located somewhere within the middle class, form a separate entity.

This idea of a professional middle class is also found in historical writing, perhaps most explicitly in Perkin[26]. Lawyers, doctors, public officials, journalists, clergy etc belonged to the middle class certainly, but not the capitalist middle class. They existed separately from the capitalist class in the form of a nebulous "social ideal" which was supported by the "common interest" of the diverse professional grouping. Separateness was further emphasised by the difference in source of income: "what characterised the emancipated professional men as a class was their comparative aloofness from the struggle for income"[27]. However, the "economic battle" could only be too real for some. Competition during the 19th century amongst occupational groups engaged in the sale of personal services is a theme of this thesis

and provides a way of understanding the motivations of professions in taking action typified as "professionalisation". Also, to base class location and consciousness simply on occupation and source of income is dubious. However important economic relations may have been in shaping classes, they have never been free of all cultural or political determinations. Therefore, in discussing the relations between middle class and professions one has to consider a range of social connections from kinship to clientele, which formed very important links (social, political, ideological, religious, familial) between middle class fractions of professions, manufacture and commerce[28].

A more convincing interpretation of the social location of professions in the 19th century and explanation of their changing position over time is to be found in the work of R S Neale[29]. There are problems with the three class model since the identification of a middle class is problematic and the model has difficulty explaining certain aspects of social change. The five class model, based on a heterogeneous view of the middle and working classes, provides insights into the relationship between professions and other fractions of the middle class that escape Perkin's analysis. In particular it is more useful in helping towards an explanation of aspirations, motivations and actions of relevant groups.

The central dynamic element is the concept of the "middling class", which is made up of petty producers, retailers, tradesmen and a class of professional men and "literate" enlarged by rapid industrialisation. Professions thus became a middle class sub-group "whose experience and status relations with other groups created conditions favourable to the development of a social class [i.e. "middling"] which was especially highly individuated and non-deferential"[30]. This is matched with a sense of difference from other sections of the middle class, i.e. there was an awareness of the contrast between themselves and the more cautious, propertied and outstandingly successful members of the commercial and industrial bourgeoisie, gentry and successful professional men - the middle class proper. Identifying a precarious "middling class" thus explains a number of phenomena pertinent to the class position of professions such as solicitors - "Distressed they may have been, aspiring they certainly were"[31]. Aspirations reflected the frustration of the ambitions of these people - in simplistic terms they had achieved (or were achieving) material gain, but were held back by the weight of prejudice, ancient restriction, "old corruption" and aristocratic privilege. Birmingham's solicitors can be located in this spectrum existing in the middle class from the "secure" to the "precarious" - with persistent instability and possible upward or downward mobility. This in turn may aid appreciation of actions, ideas, and strategies of the professional group. That

professional men took the initiative in writing, speaking and organising on behalf of the class conscious among the middle class is not surprising, Neale suggests, since they had more leisure and greater experience[32]. A sub-theme of this thesis examines the accuracy of this kind of statement about professional men. The importance of commitment along lines of altruism, ideology or increasing status should not be ignored. The implication of Neale's analysis is that professions, rather than constituting a separate social group with a distinct ideology, cannot be devoid of class interest.

Professional ideology becomes understandable in terms of legitimacy and aspiration in the face of authority and status. This thesis goes some way to exploring the social location of professions. This is an important part of the process of contextualising solicitors and seeing professions as less than unique functional groups, but firmly situated in a developing class formation. Unfortunately, there has been insufficient space to explore this aspect fully in comparison with the professionalisation process.

(iii) Sociology of the Professions

By the late 1970s the body of literature described as the "sociology of the professions" was reaching its zenith, undergoing noticeable change and diversification. In the 1980s the shifts in emphasis have influenced the direction of historical work including the present research. It is not the intention of this introduction to rehearse a conventional critique of the various sociological approaches to professions. This is not a chief concern.

It has been possible to identify at least seven sociological approaches to the professions^[33]. There has been however, much criticism of the earlier methods of analysis. The trait/attribute and functionalist approaches were inadequate for discovering the social and historical conditions under which occupational groups became professions. More often than not sociology acted as an "apologetic" or at least reproduced professional self-evaluations^[34]. To a large extent the isolated quest for a list of unique ingredients which gave certain groups the qualities of an "ideal" profession has been abandoned^[35]. The "tasks" for research on professions have been revised. Such revision has influenced this thesis.

The aim of this thesis has been to document and analyse the peculiarities of the profession and to explain its "privileged" characteristics in the light of empirical untidiness and inconsistency^[36]. Such a case study must be grounded in a wider perspective of the historical setting, attending to the broader sources of power underpinning professionalism^[37]. Attention has shifted towards the relationship between occupations and the market for their services, the settings in which motives and mechanisms for control over work emerged and their wider societal context^[38].

Two major contributions to the sociology of professions have had an influence on this research framework - M S Larson and R Dingwall^[39]. The impact of Larson is acknowledged, yet a brief summary of her complex and subtle analysis is very difficult to present^[40]. For Larson, professionalisation is closely associated with "modernisation". The industrial revolution brought about rapid change in the class structure and social division of labour that had profound effects on professions. These changes were dominated by a reorganisation of the economy and society around the market. Professionalisation was just one response to this process, and it is Larson's aim to examine how professions organised themselves to attain market power. Professionalisation was the means by which groups of specialists ("producers of special services") sought by organisational devices to constitute and control

a market for their expertise, ultimately for their material benefit. The object of establishing a monopoly over a specific area of the division of labour ("market control") was closely associated with collective social mobility, since professionalism translated one order of scarce resources - knowledge and skills - into another - social and economic reward. The maintenance of scarcity implies a tendency to monopolise both expertise and status (in the system of stratification). As marketable expertise is a crucial element in the structure of inequality, professionalisation was also a collective assertion of special social status and a process of collective upward mobility. Gaining status through work was a novel concept in the 19th century. This in essence is the "professional project".

At the core of the "project", states Larson, was the "production of producers", i.e. education. The "project" required the constitution of a monopoly of "creditability" with larger publics as well as a monopoly of practice based on dominance of a competitive market, due to exclusive knowledge - the cognitive base. The concept of official privilege and public favour was an external task of ideological persuasion which had an internal precondition: the unification of the corresponding areas of the social division of labour. The means of achieving this was systematic training, education and qualification - i.e. the "standardised production of producers" - involving close connections with the "modern university". Yet persuasion

was also based on "social credit". To "rise", an occupation needed to form "organic" ties with the ruling class. Persuasion and justification depended on ideological resources, the significance and legitimacy of which was defined by the context of class society. Larson holds that "ascriptive" criteria in such a process were replaced by those which the profession had autonomous control over - education, examinations - the "modern" criteria of professionalism. However, Britain appears to be an exceptional case and it is the intention of this thesis to demonstrate why and how ascriptive social criteria persisted[41].

Dingwall's approach offers a valuable way of examining the criteria used and mechanisms of persuasion. The starting point for Dingwall is the abandonment of an attempt to define "profession". Instead it is treated as a "folk concept". It is clear that the word has been widely used since before the 19th century and that its meanings have changed over time. Precise definition has long been illusive[42]. The word is used, or in various ways implied, by members of occupations in interaction with fellow members and outsiders. Dingwall set out to see how the term "profession" was invoked by an occupation (health visitors) in relation to its own and others' behaviour in elaborating professional and non-professional conduct.

The "accomplishment of profession" has two basic strands. An occupational group develops certain self-perceptions and features of professionalism, and seeks to convince outsiders to accept its self-image and definition of profession. Therefore "profession" is accomplished in interaction. Persuasion is based on claims of "being" professional. These "appeals" are legitimated in relation not simply to educational criteria but what Dingwall calls "existential qualities" which include a variety of personal and moral characteristics. The performance of the professional is thus inextricably interwoven with the personal aspects of the practitioner. Social recognition as a profession is thereby secured. Re-negotiation of the basis on which claims are justified may occur over time.

In addition, appeals to professional status involve the assertion of a claim to a particular kind of social location in relation to other social groups and occupations. These claims entail establishing exclusive rights to a particular area of work. The process of establishing an occupational hierarchy whereby a profession is able to define what is to count as truly "professional" can be exposed at its rawest during episodes of occupational boundary maintenance or self-defence^[43].

In the light of these contributions to the sociological literature, the analytical approach of the thesis is now outlined.

(iv) The Analytical Framework

The research aimed to combine, in modified form, the approaches of Dingwall and Larson. Thus the process of professionalisation was understood as the formulation of a number of strategies, in a similar fashion to the "professional project"[44]. Control of the market for services, the regulation of the production and conduct of the "producers" of such services, and the integral feature of social status were considered. Historical data in secondary sources provides evidence of these, but, it does not explain the process, how the strategies were worked out empirically, or an essential point - how they were legitimated. Returning to Dingwall and the notion of a "folk concept", the solicitors' profession can be examined for the development of self-perceptions and attempts to convince outsiders to accept the professions's self-image. The development and articulation of a concept of profession can thus be charted. "Appeals" made to society in order to secure legitimacy for that concept and to persuade society to accept it as a correct definition of legal professionalism can be elucidated[45].

It was important to develop and sustain claims in concrete forms in everyday life, otherwise the appeals would be merely rhetorical and remain no more than empty aspirations[46]. This consideration has important implications for conceptualising professional appeals and the mechanisms by which they were orchestrated. The formation of a professional "culture" and "image" and their transmission to the wider public and new professional entrants through professional organisations or schools was severely limited in the 19th century. The development and coverage of professional organisations was inadequate and restricted, if not non-existent. Of greater importance were general social agencies[47]. It was through contemporary social agencies and powerful ideologies that claims to professional status were articulated.

The basis of the definition of "professionalism" and the mechanisms of "appeal" were soundly based on the personal qualities of the legal practitioners. In particular notions of gentlemanliness were fostered. Thus "being" professional was equated with certain existential qualities and patterns of behaviour. In an adaption of Dingwall's aphorism "The performance is the person" becomes "Profession is the person"[48]. Strategies aimed at changing the professional position of solicitors and the appeals to legitimate those claims were imbued with references to gentlemanliness rather than special expertise. The validity of the "gentlemanly strategy" was

based on the premise circulated by the profession that a special, even unique, relationship existed between the legal profession and the client/public. A relationship that was as much moral as it was expert, if not more so. Trust and honour were the critical elements^[49]. In time the ideas of gentlemanly professionalism and the special relationship were mutually reinforcing.

A constant tension between the moral realities of survival or success in practice and the image of gentility lay beneath the surface. Solicitors' misbehaviour in the worst instance and their business activity as commercial practice solicitors and indeed speculators, especially after c.1880, threw the tension into very sharp relief. Warnings to the young against entering "commercial activity" were frequent^[50].

Therefore, "profession" is understood to be a title/status claimed by occupations at particular times, under certain conditions and for distinctive latent and manifest motives. Clearly, successful claims to professional status have power to legitimate particular occupational strategies. There is a reluctance in this thesis to define restrictively concepts such as profession in the limited form of lists of traits and so on. However, some initial notion of each word is needed to assist understanding of the development of the solicitors' profession in Birmingham. Profession is held to be an occupation which secures and maintains possession of an

honorific title which is a collective symbol and a term of approbation. Professionalisation represents the process whereby an occupation, in the prevailing social and political context, attains this status and negotiates the continuation of its concomitant privileges. Professionalism is a more complex and subtle concept. It describes the social, moral and technical characteristics of "being" professional. In addition it encapsulates the relationship obtaining between professional practitioners and society which manifests the characteristics deemed appropriate by the professional elite.

This research identifies the importance of the concept of professionalism and gentlemanliness in the professional strategies adopted by 19th century solicitors in Birmingham. It also examines the timing and location of appeals to professionalism; the conditions in which they were made and the consequences for understanding the nature of professionalism.

III. Methods and Sources

As noted above, recent literature has recommended empirically based approaches which examine the peculiarities of each profession in context. The methodologies involved can be suitably employed in an

historical study. In this study an attempt is made to move beyond sociological pronouncements on professions to study how members of the profession invoked the concept of profession to alter their circumstances. Thus an important part of the research necessitated "listening" to the voices of the past; studying what kinds of appeals were made, in what settings, and the responses of other groups in society^[51]. Dingwall's approach was intended for a participant observation methodology; however, accepting the limitations of historical evidence, it can be usefully employed in assessing the written and reported words and deeds of the past. The research is, therefore, essentially qualitative and evaluative.

A framework of analysis that postulates personal characteristics (rather than organisational or occupational ones) as a basis for professionalism and the process whereby professional status was accomplished suggests a number of methods. In this case two main approaches are used: a local study and prosopography. To tackle the identification of "existential qualities" and their role in "appeals" indicates that a study based on biographical information is justified. As a consequence, a local study of a relatively self-contained collectivity makes for research of manageable proportions, where sources can be studied in depth. An outline of the methodology and its relation to the sources follows below.

(i) A Local Study

The case study approach allows for the management of a number of different themes and aspects to be taken into consideration. This would be impractical at a national level. The development of the legal profession is a national phenomenon, yet beneficial insights into this can be gained from looking at a small, but nevertheless significant, part of it.

A study focusing on an urban centre was considered most appropriate and manageable since the period under scrutiny was one of increasing industrialisation and urbanisation. Therefore scope for investigating professional activity would probably be considerable. This does not rule out the possibility of taking into account solicitors from out-townships as a comparison, especially since these small towns were often closely tied to the regional metropoli. It is also worth remembering the strength of "localism" during much of the 19th century - anti-centralism remained a powerful force. Much responsibility for government and control operated at a local level and the emergence of a strong, central state was slow and contested^[52].

Though London was clearly the centre of legal England, a provincial town was selected. Only a minority of solicitors practised in the metropolis. There are numerous reasons why Birmingham was chosen. It was an important provincial town which grew in size and significance during the century, moving onto the national stage in a number of ways at a number of moments. In terms of politics alone Birmingham has become synonymous with the Reform politics of Attwood and the Birmingham Political Union, the Civic Gospel and Liberal Caucus of Joseph Chamberlain. Of more direct relevance to solicitors may be Birmingham's central position in transport networks and manufacturing.

Not least of the reasons was the availability of a range of sources and the existence of an active legal profession in the 19th century - a local law society and law students society having been established early on. It is fortunate that minutes of the Birmingham Law Society (BLS) remain from its inception in 1818. Scant records endure for the Birmingham Law Students Society (BLSS) formed in 1837 (and re-established in 1848); however it is claimed that it was one of the largest and most influential, besides being one of the oldest, student societies in England.

(ii) Prosopography

This is a convenient term for describing the chief research method. Prosopography or collective biography is the investigation of the background characteristics of a group of people in history by means of a collective study of their lives^[53]. However, there are limitations to the technique. Drawing statistical inferences from the data can be meaningless unless they are related to the social, political, economic and intellectual context of the group investigated. Even though the nature of the research means there will be no adherence to the "statistically minded mass school" it is important to ensure that general discussion and conclusions do not occur in vacuo. Prosopography is supposedly notorious for its concentration on the working of vested interests and its inattention to the role of ideas, principles, passions and ideologies. The aims of the research and sources used guarantee that these areas are not omitted, when studying the social composition, education, career pattern, wealth and political involvements of the Birmingham solicitors' profession.

This leads to another criticism of prosopography that this method of research leads to a diverse accumulation of data without a sufficiently rigorous conceptual framework within which to organise it. This problem is, at least partially, solved by the use of the analytical framework discussed above.

The "biographical approach" has been found to be of value in discussing groups and individuals in a number of contemporary and historical contexts^[54]. There are problems with the approach on the grounds of "scientific" adequacy, reliability and representativeness of data, but given that the research aims to document the development of a local profession in a qualitative fashion, such a methodology is justifiable. Using a method based on prosopography, embracing biographical material on the Birmingham middle class elite as well as solicitors, is appropriate as a means of teasing out the mechanisms, relationships and interconnections by which solicitors "accomplished" professional status^[55].

(iii) Selection and Treatment of Sources

There is, fortunately, a wide range of sources preserved in the Local Studies Department of the Birmingham Central Reference Library. This is one of the benefits of the middle class Victorian obsession for collecting materials related to a favourite locality or institution, born of pride and affection. Some of the deposits are directly related to the local profession. In addition a principal source to be consulted was the minute books of the BLS. Access to and facilities for studying the volumes

were kindly given by the Society. The records of the committee and Annual meetings begin at the foundation of the society in 1818. The minutes were examined thoroughly from their commencement to c.1914. The minutes gave an insight into the collective action of a section of the local profession in terms of legal matters. They were also useful in highlighting the leading professional men and indicating the central professional issues, to be followed through in other sources.

The BLSS is less well documented, such pertinent items as catalogues, rule books and very interesting annual addresses being found in the "Birmingham Collection". It was possible to supplement these with press reports of meetings for a large number of years and pieces in contemporary legal journals. The newspaper reports of the BLS and BLSS meetings presented an opportunity for "listening" to the disputes, debates and opinions not recorded in the minute books.

The most important single source for biographical aspects comprised the "Birmingham Collection", a vast stock of books, pamphlets, institutional records, local newspapers, press cuttings, local periodicals and magazines, family papers and so on. An examination of the plethora of material in this "collection" at the Birmingham Central Reference Library represented the largest period of the empirical work.

Contemporary works of local history were consulted in conjunction with the extensive run of directories which cover Birmingham from 1767^[56]. These acted as sources for general background and in particular provided the names and identities of solicitors practising in Birmingham, together with their relative prominence, that could be pursued in biographical material. The biographical data consisted chiefly of obituaries, contemporary sketches and other references in various "society", sporting, arts and religious publications. For example, from the latter part of the 19th century the growth of the suburbs spawned a crop of "magazines", distributed to middle class homes in fashionable localities, featuring gossip, fashion, sport, advertisements and biographical items on prominent residents.

The names obtained in directories were also used to comb the membership lists of organisations, clubs and societies that were known to be prominent or exclusive. Thus it was possible to develop a picture of the presence of solicitors in middle class circles, determine their participation and status and their movement in certain cliques and relationship with middle class elites. As an extension of this, local newspapers, Town Council and Chamber of Commerce records were examined for further insights into solicitors activities in broader fields. The laborious, time-consuming and possibly unproductive task of examining newspapers was eased by concentration on local

issues and dates given prominence in other sources - BLS minutes, biographical data and general literature.

The inspection of sources was not confined to the immediate Birmingham area. Relevant material existed elsewhere for example; in Lichfield, Walsall and Stafford. The solicitors practising in Birmingham were drawn from a wide area and the local history departments and County Record Offices of neighbouring towns and counties contained deposits of value.

Records pertaining to local solicitors' firms, in private or public hands, proved, as expected, disappointingly sparse^[57]. Nevertheless, in a small number of instances where documents survived the hospitality and cooperation of firms was exceptional. It was unfortunate that the removal to new offices by Ryland Martineau and Co. in Spring 1987 on amalgamation with Johnson and Co. prevented detailed examination of their strong room.

In order to obtain a richer picture and provide a wider professional context, national sources were also consulted. These consisted mainly of legal journals - Law Times, Solicitors' Journal and Legal Observer - and contemporary biographies and books by or about lawyers. Access to Law Society material at Chancery Lane was restricted to published items only, such as annual reports, and reports of the provincial meetings of the Incorporated

Law Society (ILS) and the Metropolitan and Provincial Law Association (MPLA).

Finally, where appropriate, cautious reference was made to Victorian fiction. The fictional portrayal of solicitors in Victorian literature has been helpful as background, but the known prejudice against lawyers by authors such as Dickens prevents unquestioning reference to their legal characters. The presence and characterisation of solicitors in novels was a constant source of discomfort to the profession^[58].

(iv) Limitations

The nature of the biographical approach poses one almost unsurmountable problem. There is a general tendency for history to record only the articulate, famous and powerful - and this applies equally to the solicitors' profession, not usually known for its reticence. This could affect the value of the research if it had relied on a quantitative analysis. However, since a statistical study was not intended an examination of over 200 solicitors combining the well-documented elite with the less conspicuous, ordinary or struggling solicitors, created a reasonably balanced picture of the Birmingham profession. In any case the public role of solicitors and

subjective opinions of and about solicitors in public environments were of chief interest.

Though limitations are imposed on any attempt to generalise from a local study, this does not make the research entirely parochial. The thesis tackles questions and matters that affected the whole profession, and not necessarily solicitors in Birmingham alone, in order to give the analysis a wider relevance. A limited amount of regional comparison is made. In addition evidence has been drawn from national sources, especially where it is known that they may have affected the local profession. National journals were taken by the BLS and individual solicitors; meetings of the ILS and MPLA took place in Birmingham, and local solicitors participated in such conferences in other parts of the country. A small band of men also represented the local Society on national organisations^[59]. The thesis thus attempts to produce a rounded interpretation of solicitors and their "universe".

Women are, in the main, absent from the thesis. They enter the 19th century legal world as victims, rarely as clients and, occasionally, as practically anonymous wives. The public and private spheres that solicitors moved in were predominantly male. Nevertheless, the importance of kinship and family is recognised. However, unlike the small master, solicitors' practices did not have similarities with the "family enterprise". The separation of office premises from household occurred early in the

solicitors' profession, as did the customary links between articled clerk and principal and his family. Still, the nature of the domestic establishment was important and could affect the success of a professional man. The extensive range of occupational, voluntary, civic, political, leisure and familial activities engaged in by solicitors could only have been managed with the contribution of wives and female relatives. They saw to the creation and maintenance of important kinship and friendship bonds[60].

IV. Conclusion

The thesis attempts to understand the solicitor's "universe", how it was structured, the processes and experience of change and the effects on conceptions of professionalism. In tackling questions of professionalisation the thesis does not present any theoretical solutions to debates on the professionalisation process. It tries to assess recent research in terms of the Birmingham experience and puts forward an eclectic approach and alternative explanation to those based on functionalist, attributive and whig interpretations for the emergence and achievement of professionalism by an occupation in interaction with the wider society.

From a discussion of the position of solicitors at the beginning of the 19th century, the origins of the profession's conception of professionalism and pertinent strategies for accomplishing it are discussed. The main part of the thesis examines the ways in which the strategies were worked through. The articulation of a concept of professionalism and the mechanisms of persuasion are analysed in the context of legal work, education, public work and professional issues. The concluding chapters assess the impact of these strategies on the social location of solicitors and the experience of "being" professional during the second half of the 19th century, particularly in relation to the urban elite. Finally, the implication of the development of a solicitor's profession in Birmingham is discussed in relation to legal professionalism.

CHAPTER TWO

The Local and Professional Context

I. The Local Context

This thesis argues that it is only possible to understand the development of professional occupations within a social context. The way in which a profession relates to local institutions and social change is crucial in the process of professionalisation. These relationships are explored in the thesis, but some information on the local and professional context is necessary by way of introduction. This chapter, therefore, provides a background. An outline, only, is presented which concentrates on aspects related directly and indirectly to the solicitors' profession, including local government, legal administration and the occupational structure of Birmingham.

(i) Birmingham

Birmingham sustained a rapid growth during the 19th century so that by 1900 it had become England's largest provincial city. However, Birmingham is not treated in this thesis as narrowly defined within borough boundaries. The extent and influence of the town (a city in 1889) crossed them and Birmingham was in effect the centre of the so-called "Hardware district". This area comprised the mining and quarrying districts and industrial villages of the Black Country as well as other parts of the surrounding counties[1].

Birmingham became a centre of commercial, cultural and professional activities. This thesis, therefore, refers to members of the profession from areas not strictly within the borough boundary. Solicitors' practices could cover large areas of the West Midlands, yet it is noticeable that from the 1830s a legal quarter grew in Birmingham containing the offices of solicitors resident in the salubrious suburbs and small towns of Warwickshire and Worcestershire[2].

The growth of Birmingham was tied to the economic structure of the West Midlands region. Contemporaries and historians have been aware of the intensely industrial nature of Birmingham and the dominance of manufacture in the "Toyshop of the world"[3]. Such an emphasis should

not, however, exclude consideration of the influence of mercantile and professional groups. Birmingham's economy was based on domestic industry and small-scale workshop production^[4]. The absence of large manufacturers and the centrality of the artisanry in the early 19th century has led to an interpretation of social relations which stresses consensus and negotiation rather conflict. The nature of artisan-based manufacture, the role of the petty bourgeoisie and the strength of non-conformity produced a particular form of Radicalism during the first half of the 19th century. Its most notable manifestations clustered around the Birmingham Political Union, Parliamentary reform and the incorporation movement. The petty bourgeois groupings of retailers, tradesmen etc were prominent in the leadership and support of these movements^[5]. This model of social class harmony has been challenged and revised and evidence exists for the collapse of the basis of the consensus by the mid-19th century^[6].

Important changes were occurring during the middle decades of the 19th century which gradually overwhelmed the petty bourgeoisie. The presence of large firms, the concentration of industry from the 1840s and the decline of the local structures of authority seriously affected the position of artisans and the petty bourgeoisie. As the significance of parochial institutions declined the petty bourgeoisie suffered a concomitant decline of influence which, in turn, had far-reaching social and political consequences.

Turning to Birmingham's regional setting, the relations between town and country were not so antagonistic as in other areas, such as Sheffield^[7]. Professional men who were able to cross the divide could expand their social role and play an important part in bridging the gap between urban and county spheres. As the importance of county and parochial life waned, professional men were able to exploit their skills and self-importance in new areas of municipal life.

The professions, then, had an important impact in a town dominated by manufacture. This was particularly so in the civic scene and philanthropy. Philanthropy was an increasingly important area of middle class life in Birmingham in which political and religious divisions were lessened^[8]. In municipal and civic life one has to recognise the significance of Dissenting religious leaders and the high point of Chamberlain's mayoralty in the 1870s. The dominance of the big bourgeoisie and the bureaucratisation of municipal government by that time forced the lower middle class into opposition through Ratepayers Associations and eventually the Conservative Party.

(ii) Local Government

The history of local government in Birmingham during the 19th century is interesting in itself and has attracted a great deal of attention, particularly its latter period associated with the mayoralty of Joseph Chamberlain^[9]. The structure and development of local government, however, forms an important context to research on the solicitor's profession. The significance of solicitors at this level is shown by Keith-Lucas in his study of local government in the early 19th century^[10]. In addition it should be noted that official posts had, for solicitors, a special attraction in that they were or could be sources of income, connection and status.

During the latter half of the 18th century the need for changes in the methods of local government in a rapidly expanding manufacturing town were becoming apparent. The existing authorities were inadequate^[11]. The oligarchic Street Commission, created in 1769, carried on the major local government functions in the early 19th century, whilst other manorial and parochial agencies remained, such as the Court Leet and Board of Guardians. The dominance of the Street Commissioners was not enough to stem the criticisms of Radical Reformers and other advocates of municipal reform. After 1832 open representative government, which Birmingham lacked all too clearly, came to be seen as a supreme goal of the incorporation

movement. The incorporation battles in Birmingham, as in most towns, involved a conflict between new and traditional forms of government and a struggle for supremacy between rival elites in local society^[12].

After a drawn-out contest the Borough Charter was granted in 1838. However, Tory resistance was not finished and the newly elected Council, comprised mainly of the Birmingham Political Union Radicals, faced a challenge to its validity. At the same time the Chartist riots occurred in unpoliced Birmingham which led to the establishment of a Birmingham police force under the control of the Home Office until 1842. This left the Council deprived of practically all its power and sources of revenue.

Problems continued to beset the Council until the confirmation of the Charter, and there were still a number of rival administrative bodies competing for jurisdiction. The Street Commissioners were hardly affected by the implementation of the Municipal Corporations Act and, in addition, eight parochial and improvement bodies existed in the immediate environs of Birmingham. Reformers turned their attention and efforts towards the amalgamation of these diverse bodies under the umbrella of the Town Council. Eventually the matter was settled in a compromise Improvement Act in 1851 vesting all powers previously held by the local Commissioners in the Town Council^[13].

The Town Council of the 1850s was dominated by the "Economist" group, led by Joseph Allday, a restaurant proprietor, which expressed the desire of small traders and petty producers to keep expenditure to a minimum and retained popular concern over abuses of public power and issues especially related to small tradesmen^[14]. However the start of the 1860s marked the beginnings of a transformation. Allday faded away and in the key year of 1860 under the mayoralty of the solicitor Arthur Ryland a town meeting voted to authorise an increase in Council powers - the Improvement Act of 1861. This period saw the origins of a number of trends, often of a curious public and private mix, in the fields of culture and education such as libraries, art galleries and so on. At this time in Birmingham one cannot ignore the influence of non-conformity and the role of such men as Dale and Dawson and their mission to evangelise the middle class. The congregations of these two men were to contain many of the most influential public men not least a number of solicitors prominent in civic life. Thus by the 1870s the foundation for Birmingham's municipal genesis had been laid on the pillars of improvement and the "Civic Gospel". Under the mayoralty of Joseph Chamberlain 1873-6 municipal activity reached its peak^[15].

In the suburbs of Birmingham local government legislation of the late 19th century established Local Boards which were soon to be replaced by boroughs such as Aston which had previously been under the control of Warwickshire. Solicitors were frequently members of these bodies and more often than not held posts as officials. However, by 1911 most of these neighbouring suburbs were part of an expanded Birmingham^[16].

(iii) Legal Administration

The 19th century legal system underwent many, sometimes subtle and gradual, changes which were reflected in particular at the local level. It is extremely difficult to detail all the specific transformations in full, but a brief outline of the background is useful. This is especially so since a variety of local courts had long formed part of a tradition of legal pluralism in England^[17].

The basis of the English Criminal Justice system was the Justice of the Peace or magistrate, who had the power of summary jurisdiction over relatively minor crimes at the Petty Sessions. More serious crimes were heard by superior

courts which had unlimited jurisdiction. These were the Quarter Sessions presided over by all the justices of the county, or the Assizes presided over by judges drawn from the central courts. By the beginning of the 19th century the county justices held petty sessions in Birmingham two or three times a week at the Public Office^[18].

Birmingham, when incorporated in 1838, established a Court of Petty Sessions for the Borough under a special Commission of the Peace and a Court of Quarter Sessions plus a Recorder for the trial of prisoners. A Borough or Mayor's Court for small civil cases with a recorder and deputy and a Coroner's Court were also set up. Formerly Birmingham had come under the county of Warwick for purposes of coroner's inquests. It was well into the 19th century before Birmingham obtained an Assize Court (1884), dealing substantially with indictable offences. Previously it was necessary to travel the 20 miles to the county town of Warwick. Here was located the county gaol, Birmingham possessing only the Public Office before the building of Winson Green prison in 1849.

Turning to civil matters, in the provinces there had long been a demand for an effective, inexpensive local tribunal for minor civil cases. During the 18th century a number of Courts of Requests sprang up around the country providing a new means of dealing with small disputes and recovering small debts. However, it was clear that the desire for cheap and local justice (especially by the petty

bourgeoisie) was not being fully met. The Court of Requests did not survive the establishment of the Mayor's Court^[19]. Other ancient forms of tribunal were found wanting if not wholly detrimental to administering the law by the mid-19th century, e.g. the Hundred Court which despite a bad reputation survived the establishment of County Courts until 1853.

Every county had a court for minor issues and debts being incident to the jurisdiction of the Sheriff, which was also known as the Sheriff's Court. By the 1830s they were seen as in a state of comparative inutility though solicitors were still concerned about the way they were administered. Trial before the Sheriff's Court was neither inexpensive nor expeditious^[20].

The establishment of new County Courts in the 1840s was protracted and acrimonious. Opposition came from the London-based solicitors involved in agency work and barristers^[21]. The amount of work undertaken by the new Courts was considerable and naturally expanded as additional jurisdictions were granted. Since much of the advocacy in the County Court was undertaken by the lower branch it is only reasonable to assume that the workload of some local solicitors likewise grew, though it is doubtful if many benefited to any large extent as far as heavy remuneration. The establishment of County Courts precipitated action for the abolition of the Hundred and Mayors Court in which causes were slow and expensive. This

was completed by 1853^[22]. Also, many solicitors continued to make use of the London courts, either travelling there themselves or employing agents.

By the end of the 19th century Birmingham had been made a county for the purposes of an assize. The County Court and Assize Court had been rebuilt, and the Borough Magistrates and Coroners Court were centrally located within the new edifice. Magistrates also sat at the Police Courts situated in the suburbs around Birmingham. The profession had been deeply involved in many changes affecting these courts, especially in removing the older ones and encouraging the establishment of new ones locally, whilst maintaining their interests within the new system.

II. The Professional Context

(i) Professions and Birmingham: an Introduction

It has been noted that the growth of professions over the mid-Victorian period was slow. However, the number of persons employed in commercial occupations increased dramatically^[23]. Yet in terms of strength of numbers it was the traditional professions that remained the dominant groups throughout the period. Their preponderance was,

however, increasingly under threat from the mid-century onwards as lesser professions began to proliferate, even though these occupational groups of the lower middle class tended to concentrate in governmental and trading centres rather than industrial towns like Birmingham. The reasons for this growth are manifold and complex, having origins in the emergence of Britain as an imperialist economy in the 19th century. Nevertheless, the internal service sector had long been of great significance. There was a long tradition of banking associated with Birmingham's particular 18th century industrial and religious nature. Yet the specific growth of this sector in the late Victorian economy thrust to the fore non-manual occupations and professions, characteristic of the lower middle class based on retailing, marketing, distribution, banking, property and finance^[24].

The most interesting group in the latter 19th century was the conglomeration of the "property professions". This comprised accountants, surveyors and various agents who often shared with solicitors a common source of income, and on occasion considerable overlapping of areas of work. There was a multitude of these professions and occupations. It is very difficult to obtain an accurate measure of their numbers from sources such as Trade Directories, since many firms and individuals pursued a number of these occupations simultaneously for much of the 19th century. Indeed in the latter part of the 18th and early 19th centuries these were not necessarily exclusive

occupations and were often carried on as a supplement to a completely unrelated trade, e.g. auctioneering was combined with toymaker and victualler, surveying with that of a plater; and accountant with canal agent^[25]. Most notably accountants were often synonymous with debt-collectors beyond mid-century. Such connections had serious consequences for status^[26]. It is clear that the size of these property occupations was growing, from the 1860s especially. If complaints about overcrowding seem spurious judging from Table 2.1 then the threat of competition from other occupations infringing on the boundaries of the solicitors' monopoly must be treated carefully and with some measure of accuracy.

The remainder of this section discusses briefly the nature of these and related occupations and the ways in which their work could have direct effects on local solicitors. It has been necessary to rely on a few general secondary sources. Apart from medicine, scholarship in this area is dominated by internalist accounts, if anything is readily available at all.

In the case of accountants for the period up to the 1880s a considerable proportion of their work came from insolvency and bankruptcy. This of course, was also a major concern of solicitors as indicated by the preoccupation of the BLS in changes in the bankruptcy legislation and practices^[27].

Table 2.1

Growth of Professions and other Occupations
in Birmingham 1800 - 1901

<u>Year</u>	1800	1820	1830	1841	1851	1861	1871	1881	1892	1901
<u>Occupation</u>										
Accountant	3	8	11	25	28	51	80	102	106	225
Architect	3	5	12	22	36	65	65	87	121	160
Surveyor	1	16	16	24	45	24	39	51	47	68
Auctioneer/ Estate Agent	5	20	22	39	53	60	72	106	117	168
Solicitor	36	51	68	127	152	171	192	234	301	359
Barrister	-	-	-	6	2	2	6	20	22	27
Medical Practitioner	46	49	72	122	146	148	155	191	229	308

Source:

P Ballard "A commercial and industrial elite" Ph.D.
Reading 1983, p 35.

Accountants were active at all stages of bankruptcy, even attending cases, but more especially collecting debts outstanding for the stricken individual or company and paying its creditors. This was also a task fulfilled by solicitors, who also saw to the investigation of doubtful proofs, conveyancing and other legal advice. In the last two decades of the century the situation and composition of the work was changing. The previous company legislation meant that auditing had taken on a new consequence. However, this shift to a growing importance of audit work affected only the elite of accountancy. While the elite attracted large institutional clients and competed for company secretarial work with other professions, the majority continued to perform a variety of related tasks which meant a continued threat to the livelihood of some solicitors. In addition many accountants still pursued other occupations, chiefly in the property market, often indirectly in competition with legal practitioners.

The property market provided work for an amorphous host of general practitioners and specialists "who primed the circulation of property" - surveyors, auctioners, valuers, appraisers, estate-, house- and land agents[28]. For much of the period up to 1914 it is impossible to tease out distinguishable "professional practitioners" from amongst these occupations since most combined at least two, if not more, "callings". However, the surveyor may be seen

as a common denominator of all these. Rather than "measuring", the primary activities of surveyors became valuation of and negotiation for land and property, and appearance as railway company expert witnesses, especially in compensation cases. This shift from the practicalities of land surveying, which was completed by the railway promotion of the 1840s, may be seen as a threat to solicitors' practices in conveyancing, property dealing and company work. At the lower levels of both occupations where competition was fiercest this was undoubtedly the case. However, it is probable that solicitors' domination of the market remained relatively intact especially in the upper reaches where, in Birmingham co-operation not conflict appears to have obtained^[29]. Even so by the second half of the century a valid definition of a surveyor was still difficult to formulate. Increasingly the minority elite associations, based in London, attempted to define away the disreputable fringe practices which overlapped with other occupations and claim the residue as a basis for "professional" status. For the majority of practitioners, however, the reality was different and meant continuing to indulge in work which resulted in "boundary disputes" with solicitors and other occupations. For example, the matter of auctioneering became a contentious issue. There were areas in which attorneys had traditionally operated, especially in the provinces^[30], and they appear to have been relinquishing them begrudgingly. Sales by auction were conducted by solicitors up to the point at which the property was put up to bid for. At the time anyone could

establish themselves as an auctioneer and solicitors were anxious to expound their contrasting honourable status, organisation and the consequent guarantees of "professionalism".

Auctioneering also came to be connected with another aspect of property management, which again appears to have been an important part of solicitors' practice on the outskirts of Birmingham - that of rent collecting. The benefits of this business were being advocated for auctioneers in the early years of the 20th century, whereby the owners of property could be relieved of all troubles^[31]. However, it appears that solicitors throughout the 19th century were acting as rent collectors for individuals and corporate, sometimes absentee, land owners in the North Warwickshire area^[32]. It may be that by the turn of the century solicitors were, in a city such as Birmingham, less concerned with a relatively troublesome and minor task. The lack of evidence from lesser solicitors makes this impossible to assess.

Naturally, Birmingham contained members of the "traditional" or "liberal" professions. Barristers, though professionally associated with solicitors, did not figure greatly in Birmingham until the end of the 19th century. Their numbers were few, even after the increase of the 1880s and their social activities were apparently confined to the private sphere rather than the public domain^[33]. Though tension and hostility between the two branches

simmered beneath the surface, boiling over occasionally in public outbursts, the nature of local justice for much of the century meant little direct competition and antagonism. The one lay profession that challenged solicitors for size in Birmingham was that of medical practitioners. Open inter-professional conflict is unrecorded, yet it was in "public life" that competition of any sorts existed. The "resources", especially for status, which the professions were seeking to marshal in the "professional project" were limited and tension between two such ambitious groups of practitioners, especially their elites, over visible public positions was to be expected^[34]. Nevertheless, the conflict between medical and legal men should not be exaggerated - as witnessed by personal, family and marital links.

Clergy, in professional terms, were losing much of their lay role in 19th century society, but not effectually to solicitors. The legal profession had already usurped any legal role the clergy may have had in the urban provinces^[35]. However, on a social level, these "callings" again formed part of the professional context, in that the period witnessed the emergence of what may be termed "professional families". This was noted from the beginning of the century. The Unitarian Ryland family long attached to the metal working trades was shifting into professions - medicine, non-conformist clergy and especially the law. Similarly the Bartleet family, after generations in button making moved into the "liberal"

professions to become solicitors and most notably, surgeons; while the Tory Anglican Wilkes/Unett family was established in the army and the law from early on. Marriages and personal ties often connected inter-professional links^[36].

(ii) The Solicitors' Profession

This section aims to outline a basic structure of the profession and its development in order to situate the discussion of professional strategies in the thesis. The 19th century is considered to be the period when solicitors became established as a respectable, economically secure and expert profession^[37]. This process is typically presented as a history of regulation whereby solicitors attained professional status and a better social standing. The effects of regulation are seen operating in a number of areas, education, entry qualifications and professional conduct. As professional status and social prestige increased so regulation was increasingly in the hands of the profession itself.

A constant source of concern for the profession and interested contemporaries was its size. The problem of growing numbers of practitioners, both qualified and otherwise, was an important question of regulation policy and a significant aspect of professionalisation. In 1800 there were approximately 5,300 attorneys (1,800 in London and 3,500 in the country)[38]. By 1832 this had risen to 8,702 (respectively 2871 and 5831)[39]. This figure may be an underestimate of those actually practising law since it is based on the number of certificates taken out and therefore excludes the unqualified, admitted staff and those who omitted to take out a certificate[40]. In the period 1841-1871 the number of practising certificates rose by 5% whilst the population as a whole increased by 44%[41]. (See Table 2.2).

There were naturally regional variations. Outside London solicitors were spread around the country with concentrations in the growing manufacturing towns and centres of commerce. Numbers grew rapidly in the North and the Midlands. (See Table 2.3). The size of the profession in Birmingham poses interesting questions in the light of debates on over-crowding and competition in the 1870s. The agitation of the 1870s is not matched (as would be expected) in the 1890s, a period of resignation and apathy[42]. (See Table 2.4).

Table 2.2

Solicitors' Profession in 19th Century England

<u>Year</u>	<u>Population</u> <u>(m)</u>	<u>Number of</u> <u>Practising</u> <u>Certificates</u>	<u>Number of</u> <u>Persons per</u> <u>Solicitor</u>
1821	12	7090	1700
1831	14	9083	1550
1841	16	10073	1500
1851	18	9957	1800
1861	20	10229	1950
1871	23	10576	2200
1881	26	12688	2050
1891	29	15175	1900
1901	32.5	16265	2000

Source:

H Kirk Portrait of a profession (Oyez, London 1976) p
108.

Table 2.3

Solicitors' Profession: Regional Variation

<u>Year</u>	1800	1830	1873	1900
<u>Town</u>				
Birmingham	44	68	193	359
Bristol	71	148	189	251
Manchester	61	169	295	465
Leeds	23	84	104	183
Liverpool	76	187	283	441

Sources:

H Kirk Portrait of a profession (Oyez, London 1976) p 108; R Robson The attorney in the 18th century (Cambridge University Press, London Press 1959) p 167; P Ballard "A commercial and industrial elite" Ph.D. Reading 1983, p 35; Local Trade Directories.

Table 2.4

Solicitors in 19th Century Birmingham

<u>Year</u>	<u>Birmingham</u> <u>Population</u>	<u>Solicitors</u> <u>in Birmingham</u>	<u>Persons per</u> <u>solicitor in</u> <u>Birmingham</u>
1831	114,868	68	1690
1841	177,922	127	1400
1851	232,841	152	1530
1861	296,076	171	1730
1871	343,787	192	1790
1881	400,284	234	1710
1891	478,113	301	1590
1901	522,204	359	1450

Source:

P Ballard "A commercial and industrial elite" Ph.D.
Reading 1983, p 35.

The national and local structure into which these solicitors fitted was changing during the 19th century. The development of the framework was tied closely to the establishment of solicitors' professional organisations according to the historical literature. Professional organisation was seen by the professions' elite as a solution to the problems it faced. The Society of Gentleman Practisers in the Courts of Law and Equity formed in London in 1739 was moribund by the early 19th century. A Law Institution had been established again in London in the 1820s which led to the formation of the Incorporated Law Society, which received a Royal Charter in 1831. However, a network of provincial societies had been growing during the late 18th and early 19th centuries and the Birmingham Law Society was formed in 1818. Membership of these societies was voluntary and the proportion of solicitors who became members never reached 100 per cent. Fewer still were members of the ILS. Country solicitors harboured antagonistic feelings towards the London profession and regarded the ILS as chiefly a representative body of metropolitan interests. In 1847 the major local Law Societies set up the Metropolitan and Provincial Law Association to coordinate activities. When it amalgamated with the ILS in 1873, the practice of holding annual meetings in the provinces was maintained. However, shortly after amalgamation the Birmingham, Manchester, Liverpool, Leeds and Newcastle Societies formed the Association of Provincial Law Societies. This suggests that country

solicitors still needed an independent organisation. Despite the fact that the ILS contained a minority of solicitors even by 1900 its control extended over the entire profession.

The gradual rise of the professional status of solicitors is traditionally accorded to the ILS's increasing responsibility for the regulation of the profession, and the efforts of the ILS to bring about reform within the profession as a whole. The ILS was soon active in its attempts to eliminate malpractice and the numerous unqualified men. In 1839 a National Register was begun which passed into the control of the ILS in 1843. During the 1860s and 1870s penalties were enacted for illegally practising as a solicitor and in 1888 a Discipline Committee of the ILS was empowered to bring actions against misbehaving solicitors. By 1919 the ILS had complete control over professional discipline^[43].

The regulation of education was also envisaged as a means of raising status and regulating the profession by controlling entry^[44]. Apprenticeship remained, but additional forms of education and examinations were introduced. By 1860 a national three tier system of examinations had been instigated, some 25 years after the first written examinations were set up. The ILS gained control of the admission examinations in 1877. The provision of educational facilities for articled clerks began in London in 1833. However, arrangements in the

provinces remained ad hoc and fragmentary for much of the 19th century. Though courses of lectures had been established by the 1880s the use of "crammers" persisted into the 20th century. The cumulative effect of these symbolic events during the second half of the 19th century has been seen as responsible for the achievement of professional status by solicitors^[45]. Respectability and status, as measured by high income, better education, credentials, respectable practice guaranteed by professional organisations and an ideology which raised the interests of the public and clients above the profession, was secured. Solicitors were part of the elite in the community^[46]. This "traditional" view as outlined above, is disputed in this thesis.

This chapter has provided a necessary contextual basis for the remainder of the thesis in that it furnishes a guide to the landmarks in professional development. The social context of important events in the professional project has been identified. In the following chapters issues raised in the first two chapters of the thesis are explored in detail.

CHAPTER THREE

Gentlemen of the Law?

Birmingham Attorneys in the first half of the 19th Century

"In no town does the legal profession stand higher both as regards its intelligence and its moral bearing than in this very important one of Birmingham".

[George Harris, barrister,
address to BLSS 1862]

"Lawyers grow like maggots in nuts"
[Charles Dickens Bleak House]

I. Introduction:

The Profession in the Early 19th Century

The secondary literature on the profession in the 18th and early 19th centuries talks mainly of a general rise in respectability and status. It starts from the premise that, in the 18th century and the period immediately before, the lower branch of the legal profession had been a "refuge for scoundrels and riff-raffs"[1]. Gradually, however, as a result of legislation, judicial supervision, professional organisation and self-discipline, the occupation of attorney came to be regarded as a worthy, successful profession, if not the vocation of a Gentleman. The growing need and demand for attorneys' services during the 18th century led to increasing prosperity for many, especially in the provinces, which in

turn meant that the malpractices associated with the "evil reputation" were resorted to with less frequency or even abandoned[2].

No matter how significant the changes for the better in the 18th and early 19th centuries, the position of the attorney and the nature of the profession's honour were, throughout the period, dubious and matters for speculation. Speculation and reflection about their status was increasingly prevalent amongst attorneys themselves. Despite numerous Acts of Parliament from 1729; the growing organisation of the profession in London and the provinces; the improvements in education and professional regulation; and the impressive and occasionally meteoric rise of some successful attorneys, the elite of the profession both locally and nationally was constantly preoccupied with the inferior status of the attorney, its causes and possible remedies. The professional elite's assessment of the position often focused on the social background of the entrants to the profession and their general character and education. It was alleged that by ensuring that articled clerks were selected only from respectable backgrounds, the profession would successfully remove the "bad elements" and maintain an honourable position. Educational, economic and social barriers were, therefore, gradually erected to raise the status of the whole body. These barriers, and the vigilance of the new professional organisations, were advocated countless times and on the whole regarded by historians of the profession as eminently successful[3].

However, this interpretation is not adequate. The social context of attorneys was much more problematic and heterogeneous, the processes of change more complicated and uneven. Miles has pointed to the deficiencies in the orthodox view of 18th and early 19th century attorneys as the stereotypical low-born, ill-educated, untrained pettifogger^[4]. During the 18th century attorneys were broadening their practice, away from the contentious areas of litigation which could attract so much opprobrium, into non-contentious work, particularly conveyancing. Consequently, the clientele with which attorneys dealt was increasingly of the "gentry" and "upper middling" sort. Turning to attorneys' social origins, Miles' research has shown that the social background of the vast majority of articled clerks in the 18th century consisted of the lesser gentry and an amorphous middle class of professions, petty producers, retailers, shopkeepers, traders and so on; i.e. from the social class above skilled craftsmen and artisans. At a time when legal and social commentators concurred that malpractice was due to the poor social origins of practitioners, the historian, in assessing the position and prospects of the attorney at the beginning of the 19th century is left with a significant dilemma. On the one hand the poor reputation of solicitors was attributed to their humble birth, yet on the other evidence suggests that this was not the case. This contradiction is noted by Miles^[5].

Yet the reputation of the profession was, at the turn of the 18th and beginning of the 19th centuries and indeed throughout much of the 19th century, a real problem for professional spokesmen and organisers. One only has to look at the preambles to the rules of various professional organisations in London and the provinces, including Birmingham, to be impressed by the concern for the character, status and respectability of the attorney and solicitor[6].

The problem of understanding this contradiction is to some extent resolved by indicating the diverse nature of the late 18th and early 19th century "middling" class - from wealthy merchants to successful shopkeepers of the petty bourgeoisie. Obviously, entry into the legal profession would be viewed in different ways from such a wide range of occupational groups, with divergent incomes and cultures. So attorneyship could provide a vocation compatible with a "genteel" or "professional" upbringing and background: for others it was an opportunity for upward mobility or swapping the vagaries of trade and industry for something perhaps more secure and stable. Yet, despite the relatively high social class backgrounds of most articled clerks, the fact remains that criticism abounded and attorneys and solicitors were often guilty of misconduct and dubious practices. Miles shifts the focus from articled clerks to newly admitted practitioners, and it is here, he suggests, the cause of poor reputation rested.

Though from socially acceptable backgrounds, success as an attorney (without familial or professional connections) depended on the procurement of a place in an established firm, or setting up on one's own account, making a reputation and attracting clients. Both options required considerable capital or financial support^[7]. Penury, the struggle to become established, fierce competition and the general uncertainty of legal life could result in sharp practice or worse. In other words it was not necessarily the humble social origins of attorneys which was responsible for poor professional conduct, but the structural conditions of legal practice at the time. However, this only allows for instances of extreme cases - the crooked and the eminent - there must have been many more who fitted into the majority of anonymous practitioners who achieved neither success nor infamy.

So, for the early 19th century, the historian of attorneys is faced with a number of problems and contradictions. Claims are made for the improvement in status of the profession during the first half of the century, yet criticism both from within and without remains. The validity of this criticism is, however, not to be taken too literally, particularly that from literary sources and instances where it derides the professions' social backgrounds. Nevertheless, the profession of 1900 was obviously qualitatively very different from that of 1800. This change was, at the time, discussed in terms of "improvement", and can be so treated historically.

An attempt has to be made to understand these contradictions and their effect on the actions of solicitors. In this chapter the general status of the profession is discussed in relation to the social location of solicitors in early 19th century Birmingham. Subsequently, the problems facing the profession are analysed and their implications assessed for explaining the solicitors' conception of "professionalism" and the means for "accomplishing" it.

II Marginality

This section examines five aspects of marginality: the notion of an uneasy stratum in 19th century England, the social origins of solicitors, hostile attitudes towards the law, the unpopularity of solicitors and finally the uncertainty in defining profession.

The early stages of industrialisation brought about a proliferation of petty producers, retailers and tradesmen (the petty bourgeoisie) and a class of professional men, as well as the large industrial and commercial capitalists. The petty bourgeoisie was typified by its humble education, few liquid assets, and little property or "connections". They were inclined to assert the rights of man as against

the rights of property, status and traditional authority. Prominent among this group were doctors and lawyers. A distinctive element in their social class consciousness was a sense of difference from other sections of the "middle class". It was not always congruent with the more cautious, propertied and ostensibly successful members of the commercial and industrial bourgeoisie fractions, the gentry, senior and successful professional men or those on fixed incomes, annuities etc - i.e. the "solid middle class".

Edward Gibbon Wakefield had a collective name for the petty bourgeoisie and lesser professions - "the uneasy class". He wrote in 1833:

"Distress is not confined to those small capitalists who employ a material capital. The learning skill and reputation, united, of a professional man may be called his capital....none of those, whose learning or skill or reputation is small make enough to live upon.... Two thirds, therefore at the very least, of professional men may be reckoned amongst the uneasy class"[9].

This theme is picked up by Inkster in his study of medical men in early 19th century Sheffield. He uses the concept of "social marginality" to explain professionals' awareness of their social location and how it affected their beliefs and actions. Professionals, being removed from the all too apparent polarities of capitalist social relations of production, had no established social status as regards their clients. They were therefore in an awkward

situation and for this reason were likely to be concerned with the complex and changing problems of their own social identity. In the context of an established provincial industrial society they can be thought of as marginal in a number of ways. They could experience marginality in that they were mobile, in terms of location, income and occupation. This could be thrown into sharper relief by the adoption of a politics, religion and culture that enhanced distinctiveness, and led to exclusion from patronage and privilege. In addition many attorneys in the early 19th century came from non-legal origins and their backgrounds were quite plainly "middling" or petty bourgeois rather than genteel. The precariousness, uncertainty and marginality of this "uneasy stratum" has been seen as a persistent feature of recent historical and contemporary society; at the same time it has been noted that the petty bourgeoisie is gaining in importance and influence as society expands and relationships become more complex^[10].

Before turning to some contemporary views of the law and its practitioners, it is appropriate to consider briefly the social and geographical origins of Birmingham solicitors. The evidence for the early 19th century is sparse and undoubtedly skewed towards the more prominent members. The limited sources for the beginning of the century indicate that the majority of practising solicitors were themselves sons of solicitors. The occupations of other fathers included clergymen, (Anglican and Dissenting)

merchant, button manufacturer and one "Gentleman" who derived his income from land and mines^[11]. Though not mentioned in sources (such as evidence to the Select Committee on Legal Education in 1846), it appears that the practice of handing-down practices from father to son had been long established. A more accurate impression can be obtained from a sample of those practising in Birmingham in 1850 (Table 3.1). Again, of note is the predominance of those with fathers from the profession and the large number of sons of clergymen. Clearly, those with "professional" family backgrounds outnumbered those with middle class backgrounds in manufacture and commerce. It is also important to note the small number from "lesser gentry" origins. Those of more humble origin may be concealed in the "unknown" category. The strong indication of self-recruitment may be the result of bias within the sample, but such a trend is found in many other professions.

Table 3.1

Social Origins of Solicitors Practising in 1850
(By Father's Occupation)

<u>Father's Occupation</u>	<u>Number of Solicitors</u>
<u>Professional</u>	19
Solicitor	10
Clergy	7
Medical	0
Other ^[1]	2
<u>Manufacturing/Commerce</u>	5
Large	4
Small	1
<u>Retail/Trade</u>	1
<u>Gentry/"Gentleman"</u> ^[2]	3
<u>Unknown</u>	10
<u>Total</u>	38

1. Other category includes teaching and military professions.

2. "Gentleman" includes those described by this term and those who derived income from the land.

Source: Birmingham Collection, Local Studies
Department, Birmingham Reference Library.

Though the information on other legal men (barristers and judges) does not reveal the same level of self-recruitment, and casts doubt on the idea that professional status derived from aristocratic recruitment, it shows that callings such as the bar (and similarly clergy) had implicit connotations of prestige, especially in relation to their higher education^[12]. The various occupations that made up the medical profession may be of more interest and relevance to the position of solicitors. Peterson concludes, from a study of medical elites and recruitment to one of the elite medical schools in London, that the low ranking and lack of social esteem "enjoyed" by the profession was fully justified, since very few gentlemen or gentry took up medical careers^[13]. The students at Saint Bartholomews were apparently an "undistinguished lot" given to drinking, gambling etc. In comparison with military officers, Bishops, Oxford Dons and a sample of Cambridge students, the medical elite was plainly of inferior social origins. This lowly status permeated down through all medical men^[14]. Medicine was clearly not as "genteel" as the Army, clergy and the law (barristers) and therefore surgeons and apothecaries, as a low status profession, faced similar concerns over recruitment and respectability as attorneys.

Geographically, most of the Birmingham attorneys practising in 1850 were born in the town or its close environs - Coventry, Lichfield, the Black Country. It was

not until the second half of the century that some of Birmingham's prominent solicitors were attracted from greater distances. Changes in communication must have made this mobility possible[15].

The sensitive social position of solicitors in the first half of the 19th century was heightened by criticism of the law and legal profession from many sources, both local and national. The most familiar and bitter attacks on the Law were contained in the Black Books and Red Books which chronicled the "Old Corruption" of Regency England, and added to the general clamour in the radical press against sinecures. There was severe criticism of the confused, contradictory, complex and unintelligible jumble of Statute and Common Law which provided "profitable employment" for "a multitudinous and rapacious profession" of "wrangling lawyers" and "dealers in the black art"[16]. The carping at expense, litigiousness, delay and detriment to the public was widespread and found fresh articulators down the century:

"Such numerous laws are no doubt useful to the profession, they afford a fruitful and endless source of litigation; they are glorious things....for attorneys, conveyancers, special pleaders, barristers and so forth, but most inglorious and calamitous for the public....A shameful system of extortion prevails in the courts, and many of the fees exacted by the officers, during the see-saw of a cause, can be considered nothing but legalised robbery of the suitor"[17].

Reformers both from within the profession, (such as A V Dicey), and from outside, considering the disorganisation and want of codification and "science" in the law, were to call for changes, throughout the century[18].

Stricture came from the local as well as national levels, for example, in the 1850s the profession was subject to much criticism regarding bankruptcy law from the business community in the shape of the local Chamber of Commerce - an important source of work and clients, one would expect. A committee of the Chamber remarked that the charges of solicitors formed "at once the most important, the most unpopular and in many cases the most needless item in the heavy expenses of bankruptcy"[19]. Some test as to the charges made by solicitors, their utility and necessity was desperately needed, the committee claimed, because of "the existence of unprincipled practitioners"[20].

Throughout the early part of the 19th century it was recognised by the profession that attorneys had a poor reputation, but the profession dismissed this as the result of public ignorance and prejudice. The imputations of expense in proceedings, delay and excessive remuneration were regarded as unfounded and unjust[21]. In his book (published in 1857) of advice to parents on the choice of a profession for their sons, H B Thomson felt compelled to paint a true but uncomplimentary picture of the attorney's profession:

"its position is one of unpopularity; it is continually the object of unjust attack and malicious aspersion"[22].

These sentiments were echoed by J W Whateley, solicitor, at the MPLA meeting of 1862 in Birmingham.

"He knew there was a general prejudice with regard to lawyers. It was said that they were a narrow-minded people, and that the lawyers never looked to the public good, but were very much inclined to look to that only which concerned themselves. That however was incorrect"[23].

However, such brave words did not answer the criticism. An atmosphere of anxiety about the unpopularity of lawyers continued to exist. This was due, the profession believed, to "sharp practices"; attorneys' "shabby treatment" of each other, dispensing with "professional traditions" hounding defendants through courts, and the habit of pursuing business for the "mere and avowed purpose of "making costs""[24]. The attorney's lack of education was also identified as a problem[25]. These circumstances had combined to produce an attitude, held by the public, of "disparagement and distrust" against the attorney. William Strickland Cookson of the ILS addressing the MPLA in Birmingham (1855) asked:

"Why were Messrs Dodson and Fogg or Messrs Quirk, Gammon and Snap looked upon as fair specimens of the whole?"[26].

The question of "distrust" was particularly important since the cornerstone of appeals to professional status was to rest on the association between trust, character and status.

Birmingham had examples of unpopular attorneys which exposed the dubious or marginal status of the profession. Yet the evidence is confusing and reveals problems of interpreting the fragmentary documentation which exists. William Spurrier (in practice c1790-1848) attracted a succession of diabolic anecdotes. His "evil reputation" rested on the trial of eight men for the forgery of Bank of England notes at Warwick Spring Assizes of 1802. Spurrier, as attorney to the Mint, had been involved in the investigation, arrest and conviction. All eight were hanged at Washwood Heath, and Spurrier was popularly believed to have caused one of them to be executed for "blood money". Despite the growth and adherence of such a noxious reputation it appears that he was regarded, as an "honorable" and respectable attorney within the profession, acting for a number of prominent clients and as one of the magistrates' clerks^[27].

The high reputation of the "Radical" George Edmonds was clearly the result of the work of subsequent Liberal sympathisers, enthusiastically carrying out with hindsight (and in the Whig tradition), a rehabilitation of his place in Birmingham history^[28]. His previous practice as an

unqualified man at the Public Office and his relationship with another "sharp" solicitor, John Palmer, brought punitive action from the BLS. The incident is mentioned nowhere else but in the BLS minutes.

The father of William Duignan of Walsall was referred to as a "gentleman". He was a legal man and obviously held a position in the locality. However, the diary of his son when an articled clerk in 1845 reveals a less respectable side. The father often returned home extremely drunk, and on other occasions William was sent by his mother to the New Inn tavern to remove him from card games that ran until dawn^[29]. Clearly, the validity of the publicly recorded evidence is open to question. There is a disparity between official history and the evidence of other (private) sources.

The expanding opportunities for legal services which began in the early 18th century led to a proliferation of the shadier periphery in the provinces and consequently greater competition. It was increasingly difficult to differentiate between legitimate, semi-legitimate and illegitimate. "Professional criteria" were breaking down and becoming less rigid as a result of the expansion of the untrained, unregistered and unqualified; and the increasing anomalies between bona fide professions and the "notorious" fringe. This affected both medicine and law, and must have had serious repercussions for the concept of "profession" throughout the 18th and early 19th centuries.

"A great jackal pack of illicit, unqualified operators snarled round the fringes of both professions by 1730, posing problems undreamed of by their modern counterparts. Running with them in their hundreds were unqualified lawyers' clerks; self-styled "solicitors" who would not have known the Court of Chancery from the local alehouse in which they did much of their business..."[30].

It is also important to remember that in the 18th and early 19th centuries there existed considerable overlap between professional groups. This is especially true of attorneys. Increasing scope for the versatility of the lawyer, associated with economic and social change, meant that specialist, discrete professional roles were blurred by a combination of private legal practice with other occupations (e.g. estate stewards, land managers, and transport innovators). This hazy and ill-defined characteristic of the attorney was to persist into the 19th century, creating obstacles to "professionalism". For example, John Ladbury of Birmingham, attorney, lived and practised in the Old Square and Whittal Street around 1800. His business was not extensive and he announced to his friends and the public in Aris' Gazette that he had opened a Boarding School at Barnt Green and that in addition: "He will attend on market days at the Unicorn, in Digbeth, in his professional line of business, and hopes for a continuance of their favours"[31]. Ladbury illustrates the problematic nature of many legal practitioners.

The definition of "profession" at the beginning of the 19th century as regards lawyers becomes problematic for the historian and, indeed, it was equally blurred for contemporaries. Though the definition was relatively flexible in pre-Victorian England it is increasingly difficult to consider changes to attorneys in the light of modern concepts of an ideal profession^[32], the precise meaning of which continued to remain confused in the late 20th century. This confusion is apparent in Rothblatt's discussion of Cambridge University Dons who were unable to reach a precise definition of "profession" or "professional education", especially towards the end of the 19th century^[33]. This was exacerbated, and the meaning further confused, when the word "profession" inferred a particular social role and style of life that was not just occupational but profoundly moral. Solicitors were very much part of this process of change in the definition of "profession". Its meaning in a book written specifically about professions in the late 1850s was subject to speculation. The author contended that social, economic and especially educational changes meant that the boundaries of the "honourable term" had become extended and therefore any attempt to define a profession was almost impossible^[34].

So, at a time when confusion existed over the exact nature of a "profession", when the qualified and unqualified appeared simultaneously plying the same "trade", and the occupational and social/moral boundaries of "profession" had not been fixed, the position of the practitioner of average ability and perhaps "middling" origin was likely to be marginal and at the very least sensitive. The prospects in the early 19th century for the able attorney of substance, assimilated into the ranks of the urban middle class were, by contrast, quite different. This adds another layer of complexity, confusion and contradiction. The implications of this distinction for professional status and professionalisation is discussed more fully below. *The vague conceptualisation* of "profession" by the educated suggests that it is plausible to assume that any choice of options for professionalisation and its accomplishment was relatively open. The opportunity existed for a dominant conception of "professionalism" to be forged through the agency of solicitors, their leaders and organisations.

The following section turns to examine the problem of the profession's social standing, its perceived causes and courses of action to improve it, plus the consequent bearing on professional strategy.

III Position and Prospects of Early 19th Century Attorneys

Peterson's conclusion that medical men typically came from backgrounds that were "respectable" but certainly less-than-gentlemanly holds good for the early 19th century attorney^[35]. In his advice on professional careers (c1850s) Thomson thought that the law was in "an unhealthy condition" but, despite the "humble" position of the attorney until recently, the circumstances had been "much raised" - "the solicitor is now required to be a man of education and gentlemanly feeling". The profession, he wrote held "a position in society only one pace lower than the bar, and that more from a kind of antiquated etiquette than from any real distinctions of families, manners, station or education"^[36]. This is an exaggeration and was plainly not the case in the provinces, to judge from statements made at meetings and in the local press. According to the evidence before the Select Committee on Legal Education of 1846, individuals entered the profession who "are not qualified to reflect honour on it". The report stated in addition:

"Sir George Stephen, throughout the whole of his evidence, insists with energy on the inferior state of morals, capacity and attainment, which under the existing system, prevails in his branch of the Profession"^[37].

The implication here is that personal characteristics were of primary importance. This is apparent from a number of sources and this theme can be seen in the literature. For example, Miles concludes that by the late 18th century there was in existence a large and respectable "middle class" of which attorneys formed an important part. However:

"Such men were...respected more as individuals than as a group, and this respect was dependent both upon their talents and legal knowledge, and also upon the wealth and lifestyle which their occupation conferred upon them. Individual merit, therefore, counted for a great deal in that it was up to the respective practitioner to carve out a career for himself"[38].

Similarly in the case of the medical profession it has been suggested that men of high social rank who chose medical careers could face a loss of social standing as a result[39].

The concern for the personal character and morality of admitted and student attorneys adds another dimension to the problem of marginality outlined earlier. It was made particularly explicit in the Law Times and it is worth following through the argument. The editors started from the premise that the influence of a profession depended mainly on the character of its members. So the social value ascribed to the reputation of individual members attaches to the whole profession and therefore it becomes

"of vital importance, both generally and individually, both for professional purposes and private position, that the character of the profession should take a lofty place in the public estimation"[40]. However:

"of itself, it [the profession] is not esteemed as a guarantee for the gentleman. The great lawyer in London, the leading solicitor in the country holds his place in society by virtue of his own individual merits, not by right of his profession; and though the profession does not operate as a bar to advancement in cannot be said to promote it"[41].

These arguments were repeated and rehearsed during the next two decades, culminating in 1860 with the passing of the Attorneys and Solicitors Act which set gentlemanly requirements for entry into the profession.

The position of the qualified practitioner was, then, still problematic in 1860. The introduction of a general educational preliminary requirement was seen as the solution to "rogues" entering the profession and as evidence of a "sort of pledge to society that they may be received with safety"[42]. It would presumably take time to work through, however, what with "sharp practice" and malpractice amongst the admitted and a disreputable fringe threatening status and livelihood. Thus the historian is made aware that the status and the experience of "being a professional" was very much a personal as well as an occupational phenomenon.

The contradiction mentioned earlier remains unresolved - though generally from "respectable" and "middling" backgrounds, attorneys far from characterised the stereotype/ideal Victorian gentleman when judged by their often relatively low income, limited liberal education and lack of social and public graces. A poor reputation was to dog the profession throughout the century, mainly as a result of the malfeasance of certain individuals. Yet, many solicitors became socially and economically powerful and the profession generally lost some of its dubious character. This situation is summed up by a correspondent to the Law Times in 1865:

"As a body, they [attorneys] say they have the respect of all classes of their fellow subjects. But with all this they fail to win themselves that social status which the real nature of their avocation undoubtedly ought to insure. They claim to be in the profession of law, and to constitute its "inferior" branch; and yet by men of culture, who generally deny attorneys a place in the learned professions at all they cannot be considered even an outermost twig. "Attorneydom" with a large class, is a current expression for the lowest term of Brummagem intellect, a beauteous compound of cunning, vulgarity and the self-confidence of ignorance.... Those awful entities, the "eminent" solicitors, escape coming under this derogatory estimation; but, in most cases, not by virtue of their individual qualities of legal learning or higher culture, but simply on account of the great extent and multiplicity of their transactions which are discharged by their staffs of competent clerks, and the potency of their large capital"^[43].

(i) Social Standing

Before the challenge of Chamberlainite Liberalism, many town-based attorneys moved within a traditional Birmingham milieu dominated by the petty bourgeois ideology of the various lower middle class and artisanal groups - trades and ratepayer groups. It was a local politics typified by "Old Radicalism" and "Economy", based on a public culture. Its aspirations were compatible with early 19th century Liberalism, - self-help and individual acquisitiveness in the economic sphere; the removal of privileges and no special favours in the political. Major triumphs were achieved in the 1830s, e.g. the success of the Birmingham Political Union 1829-32 and the Incorporation Movement, 1838. The dominant handful of figures included the attorney Henry Hawkes, while other less well known attorneys became prominent "Economists", e.g. Michael Maher (solicitor to the licensed victuallers) and C H Edwards^[44]. Some ideological legacies of this group impinged on the more "progressive" middle class in the 1850s through traditional assumptions of class collaboration (Arthur Ryland and the BMI) and the support of foreign nationalists. These men are indicative of the marginal, sensitive social location of attorneys in Birmingham c1820-50. They contrast sharply with individual "exceptional" cases. The status of this latter group was derived chiefly from their individual experience and

background. They were generally Tory Anglicans and enjoyed close ties with County society and its traditional forms of authority and prestige in Birmingham^[45].

Examples of the latter group were the attorneys George and J W Whateley of Edgbaston Hall who were closely linked with the structure and fortunes of early 19th century Birmingham. They were intimately associated with Tory Party leaders and the neighbouring gentry. Their clients included the Duke of Malborough, Lord Calthorpe, Mr Inge and other absentee local landowners, such as Sir Thomas Gooch. In addition they played an important role (social and professional) in various prestigious institutions in and around Birmingham - The Free Grammar School, the General Hospital, the Music Festival, the Coronership of North Warwickshire. Certainly there is evidence for their status and influence, though caution should be exercised in assessing the following obituary:

"he [J W Whateley] filled a large place in the public mind, from the social position he occupied, his personal influence, which was very great, and his professional engagements... when Birmingham was a smaller place there was a period in which politics, institutions and social life were capable of being "managed" - using this term in a legitimate sense - when certain persons of local importance had to be consulted before anything could be done and when a movement disapproved by them was doomed to failure. In this period Mr Whateley was a distinct influence in the town^[46].

The Whateleys were involved in other, mainly political, activities which brought them into close contact with other attorneys of similar circumstances, e.g. J W Unett. The latter was virtually the founder of the Society of Arts in 1820. He had "laboured earnestly and successfully to interest the nobility and local gentry in the institution"[47]. Unett and his former partner, Barker, had been secretaries to the committee of the early volunteer companies during the Napoleonic wars. They were also both involved in the Tory opposition to Reform movements and the incorporation of Birmingham. In 1834 the Loyal and Constitutional Association was formed by local Conservatives, including George Barker, Unett and R W Gem. Lord Dartmouth was President, while George Whateley and J B Hebbert (another attorney) acted as secretaries. Later in the 1830s J W Unett, J W Whateley and George Barker were to take leading roles in orchestrating the anti-corporation agitation; the firm of Barker and Son acting as solicitors to the opposition committee[48].

The Gem family supplied several generations of attorneys and were similarly involved in many local affairs - turnpikes, canals, etc. Thomas Gem was secretary of the Bean Club 1773-1811. This was a very old, select and exclusive Loyalist club, with "Church and King" leanings. It drew its membership from well-known County and Birmingham families. Several attorneys mentioned above were members - J B Hebbert, G Barker, George and J W

Whateley - along with other prominent Tory Anglican attorneys - John Meredith, John Arnold (vestry clerk and clerk to the Street Commissioners), R Docker, George Burrish (clerk to the Court of Requests) and George Bird (clerk to the magistrates)[49]. These attorneys obviously formed a close knit group, affecting the political and cultural development of Birmingham in the first three decades or so of the 19th century.

The examples of the above attorneys suggest that status was due to individual conduct and connection and not necessarily occupation or legal merit. The status of professionals was a complicated phenomenon relating the reputation of practitioners to personal conduct and, more tenuously, individual status to the body as a whole. This concept of "profession as person" has an early appearance in the comments of the BLS on the death of John Simcox:

"The simplicity and urbanity of his deportment, his unwearied industry, his great professional knowledge and above all his unsullied integrity have left a noble example to those sensorious remarks which persons even of education and generous principles are too apt to pass upon our branch of the law[50].

Thus while the majority of attorneys maintained a precarious grip on middle class status, the prominence of some individuals - a social more than a professional elite - was derived from non-occupational criteria - those of the Gentleman.

The structural supports of the influence of the petty bourgeoisie and its institutions on the one hand, and the "Old Order" centred on County connexion, kinship, patronage and its institutions on the other, were breaking down after the 1830s. These changes had significant and contradictory effects for the position of professionals, not least attorneys^[51]. The sources of solicitor's status in Birmingham thus began to shift.

The remainder of this section examines how attorneys envisaged the causes of their low social esteem.

(ii) Causes of Low Social Status

The evidence for Birmingham suggests that the profession identified three major sources of the poor reputation of attorneys - misconduct, unqualified practitioners and sharp practice. The evidence for such cases has largely been taken from the minutes of the BLS. It is only possible to discuss matters which were considered by the BLS Committee. This undoubtedly does not reveal the complete extent of illegal and "unprofessional" activity, but gives an indication of the types of bad

behaviour, the offenders and the remedial action taken. Judging from the early entries in the first minute book the Society took time to get established. However, after three years they commenced a policy of hunting out rogues, which took its place alongside other strategies articulated and designed to "elevate" the profession and protect its interests. The three sources of low status are discussed in turn.

The misconduct of qualified attorneys covered a wide range of offences and solicited a varied response from the BLS. Two minor areas are dealt with first. Certain practices were discouraged and any contravention of forms increasingly deemed "unprofessional" were dealt with. In this early period the BLS committee handled only one case of advertising, in 1833, a ruse which they thought "derogatory to the character of the profession"^[52]. It is possible that in the compact town of Birmingham, advertising was not really necessary. However, it was important to make clear the dangers that could arise from such practices. Advertising could spawn serious competition which could jeopardise standardisation and professional control of work and fees; it also smacked of "trade".

The committee on the other hand was preoccupied with the matter of practising certificates for much of the century. Instances of men neglecting to take out or renew their certificates were followed up by the BLS. In 1862 a concerted campaign against uncertified practitioners was

orchestrated by the BLS, after it was noticed that several names of solicitors in Birmingham were not in the Law List for that year. Though the minutes on this subject became confused a little later, it is clear that the committee had adopted a policy of checking entry in the Law List against knowledge of practising attorneys to ensure that they were duly authorised. This concern to see that attorneys had practising certificates is interesting, since throughout the century the proposal to abolish them was raised in Birmingham and nationally at meetings and in journals. The "tax on livelihood", which only applied to attorneys, always appeared to rankle within the profession yet it was never seriously challenged^[53]. The implication is that professional interests were well served by practising certificates, which helped secure protection from the competition of rival and unqualified practitioners. They marked off attorneys as "professional" because of their particular relationship with the state. Certificates fuelled the rhetoric of the special relationship of attorneys vis-a-vis clients and confidentiality. Such a responsible and influential position necessitated some financial barriers to exclude low-born charlatans in the public interest. A Mr Kimberley, "said to be an attorney" was severely handled at the Borough Sessions for having neglected to fee counsel on a prisoner's behalf though he had been supplied with money, and for practising without a certificate. In initiating action for such "an indictable misdemeanor" the Recorder, M D Hill, was reported as stating:

"It was his duty to see that the practitioners in his court practised according to the rules of honesty and propriety...."[54].

With regard to more serious offences, the BLS pursued several attorneys until they were struck off, e.g. Thomas Sadler in 1823 for a fraudulent scheme for issuing a commission of bankruptcy; Mr Marshall of "an honourable and respectable family" in 1843 for misconduct in a bankruptcy; J B Fuller in the 1840s for forming a partnership with two others who were not attorneys for transacting business as attorneys for their mutual benefit and using Fuller's name; and a similar case involving John Palmer of Coleshill, struck off for "covering" George Edmonds in 1835[55].

In other cases the BLS were not so successful, e.g. in their actions against Mr Weston in 1838 for absconding under charges of perjury and conspiracy; and the locally notorious John Smith for receiving money under false pretences (1842) and apparently "covering" John Palmer (1845), who had been struck off as noted above[56].

In the opinion of the BLS and its committee it was their "duty" to ensure that attorneys guilty of illegal and unprofessional acts were struck off or punished in the interests of the courts, the profession and the public. The incidence of "pettifogging" was assumed to have an effect on professional status. Yet it is difficult to assess the results of an occasional striking-off, since

they appear to have been largely internal professional affairs at this point in the century. The particular "public" problems of unqualified practitioners and sharp practice were of more significance.

The BLS dealt with a number of individuals who operated on the periphery of the profession as unqualified or "quasi-practitioners". These instances could apply to men resident in the area practising in the name of an attorney "at a distance". The implication is that such men were being "covered" by qualified attorneys. For example, T B Dumelow was apparently acting like a solicitor in the Hundred, Borough and County Courts during the 1840s. He first came to the attention of the BLS in 1841, and was again "in trouble" in 1846 and 1848^[57]. Other cases followed of individuals carrying out legal work in courts, and so on, without the necessary qualifications. This includes the classic hanger-on - the debt-collector. The BLS felt deeply threatened by these incursions (see Chapter Seven) which affected status and monopoly, and acted on any information of illegal practice brought before it^[58]. Perhaps the most notorious unqualified "advocate" was George Edmonds who became a "busy man" before the Court of Requests and magistrates of the Public Office, from the late 1820s^[59].

However, it would be unwise to envisage the actions of the profession in these instances as exclusively about improving status. The latent intentions appear to have been dealing with the problem of competition from these quasi-practitioners - i.e. establishing and maintaining a protected monopoly. Nevertheless, the "fringe" served as a scapegoat. To an extent the profession attempted to transfer the cause of their unpopularity onto the fringe. It was the latter's nefarious activities that led to the bad press for "proper professionals":

"The number of irregular practitioners bringing discredit on the law and unmitigated evil on the litigants, is enormous.... This is not an imaginary evil.... It is for the interest of the suitors and the respectability of the profession that unqualified persons, who assume the office of attorneys, should be prosecuted"[60].

In a public display of their opposition to such rogues (1854) the BLS took it upon itself to defend Elizabeth Cranmore, "a poor widow", who was being sued by Thomas Hill, of dubious legal credentials, and two men, Hatch and Kennington, who were practising in his name[61].

Sharp practice was clearly conceived by the profession as one of its biggest problems, since it directly affected the public and clients. The above cases were relatively unknown; there was little press reportage. Sharp practice was different. It was believed to have a major detrimental impact on status and claims to "professionalism". Sharp practice comprised those devious

habits of fee grubbing that only just kept within the letter of the law - e.g. the abuse of legal technicalities over slips in instruments and misspellings. The most widely remarked example was that of stirring up and spinning out litigation. Charles Saunders spoke thus to the Birmingham Law Students in 1866:

"Look upon your clients cases, not with a hungry eye to costs, but with a single eye to their interests....Do not encourage but so far as possible, check and restrain, litigation. A litigious attorney is an unmitigated evil in any community...."[62].

One particularly well-known Birmingham attorney stands out in this respect and illustrates the nature of sharp practice. John Smith lived well, keeping a carriage and servants, yet he was habitually short of money. In personal and professional relations he appears to have been opportunist and unscrupulous, with scant regard for professional probity. Even a sympathetic biographer was forced to admit:

"He certainly was no common man, and but for one or two unfortunate deficiencies in his character, he might have risen to great heights in his profession"[63].

The same author referred to Smith's confidence and imperturbable temperament, which made him such a successful advocate, but acknowledged:

"It is but justice, however, to add that his easy notions as to truthfulness occasionally carried him over difficulties which would have been insurmountable by a man of more acute moral sense"[64].

The Town Crier, commenting on Smith's failure to achieve election as a councillor, alluded to his well-known reputation - "coolness, pluck and quickness in repartee". However, there were no signs of genuine "public duty". His qualities were quite out of place in the Council and all his "cleverness" confirmed people's feelings on this. The Town Crier continued:

"If a man got into a scrape and wanted to beat his adversary by astute objections and clever manoeuvres, I should send him to you...."[65].

This suggests public caution against rapacious professional acumen and emphasises the importance of "character" as a balancing factor in "profession conduct". Smith was clearly, by objective, material criteria, middle class, but these did not compensate for the absence of the qualities of the gentleman.

What, then, was the significance and effect of such "sharp" conduct? Samuel Warren stated it was calculated to embitter professional intercourse and subject the law to "public ridicule and hatred"[66]. Speakers at BLSS annual meetings saw serious consequences for the profession - it led to "contempt" for solicitors. Arthur Ryland warned against the habits that beset young lawyers - "a juggling

dexterity, cunning, or smartness". A cunning lawyer was "disliked by everyone except those dishonest people who wish to use him"[67]. The effects were not just detrimental to the individual but the whole profession.

Advice was plentiful from established members of the profession, encouraging students to guard against sharp practice and stressing the salience of professional behaviour in the accomplishment of "proper" professional status. It is interesting that these sentiments should be so often repeated, particularly in Birmingham of the 1860s. It seems likely that this was because the problem was widespread at that time. Charles Saunders again is apposite:

"let your conduct towards the members of your own profession be marked by scrupulous honour and good faith. Let the words "sharp practice" be never applied to you or your dealings. Act so that your word may always be relied upon, and, while you are vigilant in protecting and securing your clients' interests, never, for the sake of a present triumph, take a dishonest or unworthy advantage"[68].

Clearly, by the 1860s, a concept of "professionalism" was being articulated which presented identified obstacles to the successful accomplishment of professional status, their nature and possible solutions. These processes of identification moulded strategies for and definitions of "professionalism" - the stress being laid on "character" and "status". In the terrain of professional discipline, the local profession and its elite were working,

falteringly, towards a consensus on what constituted "professionalism" and the correct role of a professional organisation within that local professional community.

IV. Conclusion

Why was a strategy based on "professionalisation" adopted as an optimum solution to the difficulties facing solicitors? This is a difficult question to answer, but an attempt can be made by first summarising the argument of this chapter.

The problems viewed as dominant by the profession can be conveniently divided into three areas. The first concerned the entry of "rogues" into the profession (but care needs to be taken in attributing too much to the arguments for stricter entry controls, since the social origins of attorneys, according to Miles, were not completely unrespectable). Second, the unqualified fringe had to be eliminated; and third, sharp practices and malpractice by solicitors had to be curtailed. The profession attempted to shift blame for poor reputation on to the unqualified and sharp practitioners ("the perversion of individuals"), but did not absolve itself of the responsibility to rectify the situation. On the contrary the profession was "disgraced" by it:

"and it is only by showing that it is so disgraced, that we can hope to attach to our profession the great and the good - or expect it can retain its wonted place in the scale of science, and be rendered worthy of the human mind"[69].

The construction of the problems, thus formulated, contained both strategies for solution and for their legitimation. These problems were rationalised and resulted in a more subtle, articulated approach to "professionalism", leading to strategies and complementary "appeals". So whether or not a poor professional reputation was justified or to what degree sections of society held solicitors in low esteem is inconsequential (and in any case, impossible to assess). What is important to note is that attorneys, both nationally and locally (or at least the "respectable" and the type that attended conferences and belonged to organisations) were aware of an antagonism towards their profession and felt this due inter alia to the practitioner of poor moral and educational "capacity", sharp practice, and to unqualified imposters. The opposition to the entry of "rogues" was strengthened by educational requirements which rationalised "Gentlemanly" barriers. The "Fringe" was tackled by professional organisations backed by legislation on the one hand and the creation of a social and occupational hierarchy on the other. This established correct meanings of "professionalism" as personal and organisational qualities which defined out certain occupations from professional status, certainly in legal work. The improvement in status

was finally to be achieved by checking sharp practice and malpractice by educational guarantees, plus "appeals" in private and public life to professional status in order to court and gain public confidence.

These interlinked strategies were underpinned by the notion of the creation of a gentlemanly profession:

"the accomplished attorney is constituted, not by the possession, in an eminent degree, of any single quality, but rather by the union of many... - knowledge of his profession, great moral probity, much prudence and gentlemanly deportment^[70].

Thus "professionalism" became associated ever more closely with "the person". In Birmingham this found expression in the statement made on the death of Simcox mentioned above:

"Let it not be forgotten that it is the object of this society (BLS) to maintain the character of the profession by excluding from it all that might contaminate or lower its standard by guarding its avenues with watchful jealousy and especially by the pattern of individual conduct"^[71].

The identification of and way in which problems were articulated shaped the response in terms of "professionalism". The critical aspect of these problems as formulated by solicitors was to be found in poor public opinion. Consequently "professionalism" as a strategy was dominated by ready-to-hand contemporary notions of gentlemanliness, character and honour rather than technical expertise. By

emphasising the need to strengthen the "integrity" and "character" of the profession monopoly barriers which ensured these were legitimised - in the interests of the public - to create "good" attorneys. At the same time the "gentlemanly" option contributed largely to the capturing of public confidence and, thereby, the accomplishment of professional status. For the "professional project" to be a success "the gaining of public confidence" had to be played out on a public platform by status conscious leaders rather than by purely "internal" professional developments. Professionalism was a concept that acquired significance in specific contexts in terms of concrete gains or losses. It could occur as an accompaniment to striving for other "goods" or against other "evils". Its worth remembering that the original members and committee were pragmatic, practical men who were interested in practical and immediate solutions as well as in long term professionalisation^[72]. How this worked out in Birmingham is traced in the following chapters.

CHAPTER FOUR

Professional Life

"No business, almost, can go on without the aid of this profession. Every public office, every joint-stock company, every occupation, every guild, every vestry, every association, whether charitable or uncharitable, every institution for the getting of money or the spending it, every private individual who has bought or sold a house, or had a quarrel with a refractory serving-man, must have an attorney.... To every man and every community the legal advisor is a person of very considerable importance; and, in fact, no serious step can be taken without him...."

(Johnston England as it is (1851) 11 ppl69-71)

1. Introduction

In examining a profession and its relations with wider society, it is impossible to ignore the work and occupational practices of that profession. The power and prestige of the profession and its practitioners will be significantly influenced by the types of work entered into, the clientele it serves and the social and economic meanings attached to them. The purpose of this chapter is to explore the relatively uninvestigated area of solicitors' work, professional practice and clientele during the 19th century.

The importance of the profession's position, based on high social and economic status and a disproportionately large role in public and private spheres (see Chapter Five); is related intimately to the work, tasks and services carried out by solicitors. The identification and analysis of solicitors' clients is especially problematic given the paucity of sources; however it is apparent from the evidence that in Birmingham the clientele was largely urban and middle class. Solicitors became providers of expert advice to an industrial and commercial middle class on business, property and family matters, rather than the recipients of aristocratic patronage.

The work of many solicitors combined public as well as private aspects; and the relationship of solicitors with clients and wider society cannot be underestimated in an understanding of the "accomplishment of profession"[1]. The relationship and interaction of solicitors with wealthy, prestigious and prominent clients (possibly on equal social terms) was crucial to the development of professional power and the emergence of a professional elite (in conjunction with other processes outlined in Chapters Five and Eight). Their role as administrators, organisers and advisers in business and various state and civil arenas, acquired as experts and members of an urban elite, led to control and influence over many aspects of Birmingham life and development which in turn led to greater power and therefore reinforced their social position.

It is important to examine the articulation of concepts of professionalism in the context of "everyday" life. Solicitors' work and public appointments not only show the changing nature of their status but also reveal the strategies employed by the profession to maintain dominance of certain areas of work (in commercial law and property auctions) and to erect an "occupational hierarchy" to justify exclusive claims[2].

This chapter examines the relationship of the profession with social groups/classes in Birmingham in order to understand how work, political and legal appointments shaped the structure and development of the profession, its power and status. It also provides the location to expand on the internal conflicts within the profession.

II. Solicitors' Work

The literature only provides generalised indications of the kinds of work performed by solicitors and the variety of consumers of legal expertise in the 19th century[3]. Emphasis tends to be put on work related to economic innovations of the "Industrial Revolution" - transport and joint-stock companies - and certain other

staples - wills, conveyancing etc^[4]. There also tends to be a metropolitan bias. Birks' reference to the narrow scope of legal work based on litigation, straightforward conveyancing and the frequent recourse to counsel for opinions on complex, though routine matters is very much a view from the centre^[5]. This typology is contradicted in the editorials of the Law Times where the provincial attorney is pictured more appropriately as a legal generalist in the first half of the century:

"He cannot so readily resort to an adviser; he is obliged to perform the work with his own head and hands. Therefore he needs to be tolerably well versed in law, and to know something of the principles, and a great deal of the practice, of every branch of it"^[6].

The country attorney was familiar with many aspects of the law of which the London attorney was ignorant - magistrate and parochial law, election law and advocacy.

There is some notion, then, of the early 19th century attorney being a "general practitioner", who, as the century progressed, became more specialised as legal and economic structures became more complex. This is true to a limited degree. There was some movement towards specialisation, but this was very gradual and uneven. Firms may have had areas of special concern, and a Managing Clerk who conducted particular work, but the era of the specialist partner was to come only in the mid-20th century^[7].

(i) Business, Commerce and Transport

What does the information on Birmingham reveal? Unfortunately, the biographical material is often unhelpful and the records of solicitors' business are scarce. While it is impossible, therefore, to compile an accurate analysis of the work of solicitors over time, certain important themes emerge which relate to the main contention of the thesis. The bald descriptions of solicitors' practices can be discouraging since such information lacks depth. Whilst some sources of biographical information give detailed accounts of professional activities, others give only a broad and therefore relatively meaningless category, such as common, family and criminal law or "general practice"^[8]. However, from the evidence available, major features and crucial areas soon became apparent. The centrality of certain trades to the local economy was reflected in and shaped the work of solicitors and created wealthy practices and prestigious official appointments. This is in addition to the vast amount of business common to all industrial centres.

It is fortunate that well documented evidence survives for the firm of Wragge and Co., originating some time in the late 18th century^[9]. By the mid-19th century Wragge and Co. was largely a commercial firm, doing incidental work for the proprietors of the businesses involved. The clientele included many important local

industrialists and companies in Birmingham and the Black Country. There was a great deal of work involving coal and ironstone mines and iron works and forges in the South Staffordshire area. The principal clients naturally being large and expanding coal- and iron-masters, particularly the Williams family and the Tipton Moat Colliery Co. Ltd^[10]. In Birmingham the firm acted for some of the most prominent and wealthy manufacturers, business families, and companies, the Galton family (bankers and established leisured businessmen), the Moilliet family (of a mercantile and banking fortune), S S and Sampson Lloyd (manufacturers and bankers), P M Muntz, the major local Canal Company - the Birmingham Canal Navigations, the London and North Western Railway and numerous companies - Witham Brothers, Westley Richard and Son (arms manufacturers), Chance Bros (glass), the *Birmingham and Staffordshire Gas Co* and the *Birmingham Daily Gazette* (the local Tory newspaper). They also acted for banks (Lloyds and the Birmingham Town and District Banking Co); by the end of the century this area was the particular concern of Walter Barrow, partner^[11].

The sources on Ryland Martineau and Co (established 1828) also reveal a preoccupation with local commercial matters and affairs; a practice being built up advising a large number of families and public companies. They also undertook personal work for these manufacturers and, it appears, some of the more prominent clients were drawn from within the tight circle of Ryland's family, co-religionists and social milieu - e.g. Richard Peyton, manufacturer and

the Peyton family,[12] and Nettlefold and Chamberlain (manufacturers) and the Chamberlain family.

Arthur Ryland took a deep professional interest in the question of Trade Marks, a subject that greatly occupied the "mercantile community" in the 1860s. Ryland, as a member of the Birmingham Chamber of Commerce, was actively involved in promoting reform in order to facilitate redress in cases of fraudulent imitation as well as dealing with trademarks and patent business in his own practice. Not a week went by, it was said, without some infringement occurring and resulting in court action. In the last quarter of the 19th century Mr Hall Wright, solicitor, of Handsworth and from a well-known Birmingham family, made a speciality of cases where alleged infringements of Patents or Trade Marks were involved, e.g; the El Destino Cigar case in which a long, heavy Chancery suit ensued. Similarly, it appears from the records of Ryland, Martineau and Co that they came to be considered experts on the law relating to Trade Marks, patents, joint-stock companies and partnerships[13].

It is not surprising that many firms were described as "commercial practices" - e.g. S J Porter, E C and H W Tyndall[14]. This took many diverse and related forms. The joint-stock boom of the 1860s and 1870s obviously had an effect on the work carried out by solicitors - company formation, management and winding-up; the drawing up of partnership articles and agreements was a complex technical

legal job. Many solicitors became authorities on company and commercial law, advising major business and mercantile firms in the area, e.g. c1900 John Moore-Bayley and R H Milward, whose expertise was sought by "many prominent people in all parts of the country"[15]. James Marigold (1839-1885), partner in Beale Marigold and Beale (later Beale and Co) was said to enjoy the confidence of a large number of firms and joint-stock concerns well-known in the area, such as the Midland Railway Co, the Birmingham and Midland Bank, the Metropolitan Carriage and Wagon Co, the Patent Shaft Co, and the Patent Nut and Bolt Co[16]. There are other examples of solicitors' deep involvement in local industrial and commercial affairs, though perhaps not quite on such a grand scale as Beale and Co. William Shakespeare, of Oldbury and Birmingham, was engaged in many commercial cases of importance, (including the Brierley Hill Colliery dispute and the piloting of Showells Brewery Co. Ltd. through a "tedious" reorganisation scheme)[17]. Harry Grenville Tanner (1848-1907) was an acknowledged authority on company law, but judging from the title of his book published at the beginning of the 20th century he also dealt with small scale businesses[18].

The firms selected here were recognisably eminent and clients were drawn from the bourgeoisie and upper middle class of Birmingham and its environs. From their business and public activities the partners were plainly part of a professional, economic and social elite. However, it is difficult to assess the contribution of such noteworthy

clients to their solicitors prestige and influence. Very often these solicitors came from well-established backgrounds in Birmingham and presumably attracted work through connections in middle class networks, yet it is probable that increasing business links with the rich and powerful in Birmingham, and the concomitant intimate social relations (e.g. G J Johnson and Josiah Mason)^[19] were crucial in the development, reproduction and maintenance of a powerful and influential group of solicitors.

In the rural outskirts of Birmingham, such as Sutton Coldfield, the emphasis on servicing the big bourgeoisie was diminished and the variety of work more pronounced, but clientele and professional connections were equally significant. The firm of Sadler and Eddowes (established in the early 18th century) handled commercial matters for many important local institutions and large landowners (Sutton Hotel, The Warden of Sutton Coldfield, Bishop Vesey school, the Bedfords and Colmores, Joseph Dutton, turnpike trusts and estates).

The rapid commercial and industrial growth of Birmingham (as elsewhere) rested on a system of credit and other financial activities which had as its corollary debt and bankruptcy^[21]. These subjects naturally held the attention of the business community in Birmingham and provided a vast source of work for solicitors, though perhaps not of the same prestigious nature as that noted above. Practising in areas of bankruptcy and debt-

collecting opened the solicitor to the accusation of being a "low rapacious pettifogger" judging from the law journals and contemporary literature^[22]. However, it is clear that the fees from debt-collecting and the court actions that could follow provided solicitors with an important source of income. A highly reputable firm such as Wragge and Co. engaged in a good deal of litigation which included straightforward debt-collecting^[23]. William Henry Duignan, whilst articled to George Stubbs of Walsall, and a future Clerk of the Peace, Borough Solicitor and Mayor, recorded in 1845 "getting in 32 debts" which necessitated much repeated letter writing, and communication with his client^[24]. The 1884 Letter Book of Lane Clutterbuck and Co. suggests that debt-collecting and bankruptcy represented a critical proportion of the work carried out. The rest being matters of a rather petty nature - conveyancing, settling minor personal disputes and assaults, articles of apprenticeship, nuisance, mortgages and workmans' industrial injury^[25]. This was plainly not the same calibre work as that performed by the likes of Arthur Ryland, Thomas Martineau, R A Pinsent and G P Wragge etc; yet Lane, the senior partner, and Edwin Clutterbuck were at the turn of the century very respectable local men, in a busy practice, holding esteemed positions in local municipal and cultural bodies^[26]. Still it is clear that Lane and Clutterbuck were not in the same league - their origins were not so solidly upper middle class, and their influence in the locality was less profound.

The experience of Joseph Rowlands conspicuously demonstrates that bankruptcy work could lay a firm foundation for professional success in the second half of the 19th century. It was said that 90% of the bankruptcy work passed through his hands - undoubtedly an exaggeration. As his office practice increased he gradually withdrew from court work and developed one of the largest commercial and conveyancing practices in Birmingham[27]. The son of a farmer, he returned to the country, purchasing a large estate and combined his legal practice in Birmingham with successful farming and cattle breeding until his death in 1926. T R T Hodgson (1812-1891) came to Birmingham in 1835, age 22, obtained a great reputation for bankruptcy work and rapidly acquired an extensive practice and fame in his profession. He was a Councillor, Alderman and Mayor in 1855, and Clerk of the Peace in 1868[28].

Solicitors' roles in financial institutions brought them into contact with wider social groups. The fire and life insurance business had undergone rapid growth by the mid-19th century, becoming an essential and much commented upon feature of Victorian middle class society. The vast majority of offices, based in London, appointed agents and paid commissions as the only effective means of gaining more business - "This inducement attracted solicitors and others whose professions brought them into contact with clients needing life insurance"[29]. There was even an internal hierarchy within the structure of insurance

offices. Many professional men disliked accepting fire insurance business, much of which was also handled by shopkeepers, small tradesmen and others who they regarded as socially inferior. Yet many solicitors, bankers and the like were quite content to take on a joint fire and life agency. This is readily apparent from the Birmingham Trade Directories. However, the number of solicitors and firms acting as agents for Insurance Companies fluctuated - rising to a peak of 23 in the mid-1860s; falling to no more than a handful in the mid-1880s and then rising to a higher level than before by the end of the century^[30]. It is difficult to say why this should be so, or indeed whether only certain types of firms applied for agencies. Whilst most solicitors appeared to be from the "middling ranks" there were a number, especially early on, from the elite. Apart from attracting and dealing with policy holders and premiums, agents were involved in other wide ranging activities, presumably related to their fields of expertise. T S Eddowes of Sutton Coldfield was an agent of the Norwich Union Fire office and in the early 1860s he was travelling quite large distances to make valuations of damage to farms and stock caused by fire^[31]. By the late 19th century solicitors were local directors of Insurance Companies, e.g. Henry H Monckton^[32].

Other financial institutions offered pecuniary attractions to solicitors. F M Burton (1842-1907), well known in Birmingham both as a solicitor and as the American Vice-Consul, had an extensive general practice with an emphasis on conveyancing, but was noted for being solicitor to two well-known building societies^[33]. Judging from an episode in the 1840s, positions as solicitors to Building Societies were very desirable for some solicitors, and not just those presumed to be struggling or recently admitted^[34].

Though dubious in terms of professional ethics some solicitors were "retained" by firms and trade associations on a permanent basis, receiving fees for work done, rather than a salary. This led to connections with powerful interests in Birmingham society, increasing visibility, economic security and status and a widening of the solicitors' sphere of influence. Trade associations were especially strong in the liquor trade - an important lobby in 19th century politics and a powerful interest in any major Victorian town. Of other trade associations, Henry Glaisyer (1850-1904), later Registrar of Birmingham County Court, was solicitor to the Chemists and Druggists Defence Association; Sidney Porter came to prominence as solicitor to the Birmingham Jewellers and Silversmiths Association; Alban Buller (1845 - 1924) was professionally connected with many trade associations, e.g. bakers, butchers, drapers and others. Arthur Smith (1864-1903) was legal advisor to the Midland Employers' Mutual Insurance Co. and

William Showell Rogers (1855-1899) was solicitor to the Medical Defence Union[35].

The drinks trade, always active, became highly organised, especially from the 1850s with the advent of militant temperance organisations. It was possibly a major power in early municipal politics. A peak of "publican" presence in the council was reached in 1850s and 1860s. Councillor M Maher, Solicitor to the Birmingham Licensed Victuallers (Friendly and Protection Society) in the 1870s was associated closely with the drink's interests[36]. His successor in this post was *Joseph Ansell, son of J Ansell* the major brewer and therefore intimately tied up with the trade.

"Closely connected by family and other interests with the brewing industry, Mr Ansell specialised in Licensing matters and became one of the leading authorities in the country"[37].

Ansell had developed a strong presence in this field with the emphasis on skill, background and general "character". By the early 20th century he was

"a "persona grata" with the bench of magistrates before whom he has to make his applications, and no one is more attentively listened to than Mr Ansell. The good feeling which has been a feature in the relations between the magistrates and brewers in the district has been undoubtedly due to his tact and experience, as well as his reputation of being a "good fellow""[38].

There was more than just one drink trade organisation in Birmingham after mid-century, and the trade provided solicitors with plentiful opportunities for work and advocacy. Alban Buller was also solicitor to the Birmingham Retail Brewers Beer and Wine Trade Protection and Benevolent Society and Arthur O'Connor (d.1911), regarded as a fine orator and first rate advocate, acted for the Licence Holders Association[39].

Though Birmingham was a manufacturing centre, land matters, conveyancing and so on were very important, especially when transport developments were concerned. Many of the best known and successful solicitors cultivated their reputations and influential connections through an abundance of property work. Of course conveyancing was also the mainstay of the lesser or most ordinary of solicitors. For example, Quintus Charles Colmore (1852-1904), as well as having a thorough knowledge of the criminal law due to his magisterial duties (as clerk to the Northfield bench), "enjoyed an extensive and lucrative practice, especially in conveyancing"[40]. Similarly, during the latter part of the 19th century, John Moore-Bayley also built up a high reputation and very successful practice based on conveyancing. He probably took on a number of important clients when he purchased the practice of the oldest legal firm in the City - Unett Page and Fisher. From this basis he launched his career in business and politics for the Conservative cause[41].

The changes in transportation (especially railways) depended to a great extent on the buying and selling of land and indeed the fortunes of many solicitors' firms were very closely tied to developments in transport. From the late 18th century until well into the 19th attorneys and solicitors were intimately connected with the establishment, organisation and administration of Turnpike Trusts and Canal Company schemes - both as legal advisers, secretaries and officers and businessmen. Of local turnpikes, R W Gem (President of the BLS, 1833 - 48) appeared most frequently, being clerk to the Hagley, Elmdon, Bromsgrove and Sutton Road Turnpikes^[42].

Birmingham grew into an important centre of the canal network, the major company being the Birmingham Canal Navigations. Early on the company was dominated by one or two controlling groups, the core of which usually contained the Lee family of solicitors, who also acted as solicitors and clerks to the other Canal Companies^[43]. By the 1830s railways were starting to become important in Birmingham, with the accompanying "rage" for shares and the initiation of schemes and companies^[44]. From the chaotic beginnings three firms came to dominate locally - Whateleys, Beale and Wragge and Co. George Whateley, with his long-standing connections, professional and social, with the major gentry and urban landowners and corporate property holders was at the centre of the negotiations between rail companies and often absentee landowners. His brother, John Welchman, became solicitor and secretary to the Great

Western Railway - the amalgamation of a number of lines which had been the responsibility of George Whateley at the Parliamentary stage. Indeed their professional reputation was largely based on their talents as Parliamentary solicitors involving extensive Parliamentary work^[45].

Parliamentary work, associated initially with railways, was a central part of the work of the other two firms. Wragge and Co., it seems, in the period after the early railway boom, was taking on the mantle of Parliamentary expert in the Midlands and Black Country, performing such work for a number of companies for whom it did not normally act^[46]. The Parliamentary practice of the Beales (both William and Charles Gabriel), dealing with railway business and private bills, became so considerable that a London office was set up, effectively replacing the need for agents^[47]. William John Beale (1808 - 1883), the founder of this legal dynasty, carried on the legal business of the Midland Railway Co - Samuel Beale being director and chairman (1844-1864) of the company and M.P. for Derby 1857-65, Director of The Midland Bank and Mayor of Birmingham 1841.

Railway mania reached a peak in 1844 when there were nearly 50 lines of railway in the Midlands alone. As W J Beale's obituary writer noted:

"In the exciting years of 1845 and 1846, few legal names were better known throughout the railway world than those of W J Beale and Samuel Carter, both of Birmingham, respectively representing the Midland and North Western systems and their branches and dependent lines. So great, indeed, were Mr Beales' professional labours at that time that his health was understood to have been permanently affected by them^[48].

Beale and Co remained solicitors to the Midland Railway (and the Midland Division of London Midland and Scottish) until nationalisation. The London office became almost a separate entity, having a distinct staff and attracting its own clientele^[49].

The relation of solicitors to land and property was not only via rail projects. Conveyancing was increasingly important despite fluctuations in the property market. For example, in the 1890s and early 1900s the firm of Sydney Mitchell was heavily engaged in the development of Joseph Gillot's Rotton Park Estate, involving complicated trusts and probate work, building leases, and conveying freeholds^[50].

From around 1870 people were using the petty sessions who had never contemplated the possibility earlier. Changes in legislation meant that matters relating to family law, control of the liquor trade, welfare and public health became concerns of the local magistrate. Thus there occurred a locally based expansion of legal services, controlled by solicitors without the necessity of counsel or London agents. Despite the fact that it was

characterised as rather lowly and unremunerative work, evidence in Birmingham suggests that a variety of local firms were participating in the field, both established and new firms. Lucrative specialisms were pursued leading to close ties with the influential interests involved. This was particularly so at the turn of the century. T S Tyler specialised in cases involving horses; Ebenezer Williams was a great authority on church matters and acted for many church and other charities; Alfred Lovatt was an authority on Rent Acts, frequently appearing in the County Court and published books on the subject in the 1920s^[51]. However, even at the end of the 19th century specialist firms were rare. There was a degree of concentration, and a large firm would perhaps have employed a managing clerk to do Common Law work, but it is unlikely that a practice could be maintained in one particular area. A broader approach was necessary, especially when the bottom could fall out of a market such as railways. A firm may have had one partner that specialised, but in the main they were generalist.

In biographical sketches and obituaries it is quite clear that the status of the solicitor was related to the "quality" or "rank" of his clients, the length of their relationship with each other and therefore the confidence and integrity that solicitors inspired in clients (and middle class society generally) because of this. One example is that of Arthur Ryland:

"The firm prospered greatly and because the advisors of a large number of families and public companies...no lawyer in Birmingham was more implicitly trusted than he was and no one more deserved that trust⁵².

Later in the century:

"Mr Moore-Bayley's clientele included prominent people in all parts of the country, and the name of the firm is synonymous with sound business and legal acumen"^[53].

Such statements were typically followed by a list of eminent people, business and charitable organisations, institutions, etc whom the solicitor represented, e.g. James Marigold of Beale and Co. During their long and honourable careers Thomas and Henry Tyndall maintained the highest possible character for straightforward integrity

"Their reluctance to embroil clients in litigation led to grateful clients presenting them with pieces of ornamental plate and valuable testimonials for having brought about honourable settlements of differences between members of families and partnership disputes"^[54].

Handling the affairs of such important clients, professional advice on legal and other matters, plus the trust implied in that relationship was part of the strategies and appeals for professional status and the definition of "professionalism" which would lead to greater prestige and recognition.

This process separated off the legitimate profession from the low pettifogger. One of the factors contributing to the achievement of professional status was the fact that solicitors dealt with large sums of money and crucial, heavy legal work. The emphasis on solicitors' work for prestigious clients; their trustworthiness, moral probity and honour; and the expertise and general liberal education required, ties in with the conception of professionalism outlined in Law Times based on "station, character and intelligence".

(ii) Arbitration

Disputes between businesses did not always go to law. The commercial community objected to the cost and delay of legal proceedings and therefore sought redress and a quick settlement by arbitration (see also Chapter Seven). The frequency and nature of these negotiations is difficult to assess since they were essentially private affairs, involving only the parties, their solicitors and perhaps counsel, expert witnesses and the arbitrator. In 1842 Arthur Ryland acted for his relation T H Ryland when the latter's screw factory burnt down and the fire insurance company rejected his claim. Wragge & Co with their strong links with commercial interests in the Black Country found

themselves involved in arbitrations related to surface damage caused by mineworkings or underground trespass[55].

In 1894 a Chamber of Arbitration was established in Birmingham, the committee of the BLS selecting four of its own members to act on the committee to further the scheme, and generally render assistance to the promoters

"feeling that it was in every way desirable that the legal profession should be represented on the committee, and should thus have a voice in the management of the Chamber"[56].

Whereas the local profession made a show of welcoming the Chamber, others were sceptical. Yet clearly the profession was ambivalent. Solicitors "took a warm interest" and were keen to be involved in the formalisation and exercise some control from within. (The committee expressed the opinion that the Chamber offered a convenient mode of settling many trade disputes). However, Moore-Bayley advocated caution; in the professional exuberance he saw "forcible affection".

The creation of the chamber hints at a professionalisation of arbitration, and points to the integration of the legal profession with the mercantile community. Increasingly arbiters were not neutral "lay" businessmen who understood the commercial world but experts and professionals capable of dealing with heavy legal and technical questions - i.e. solicitors, barristers, surveyors and engineers.

At the same time a growing trust in the efficiency of solicitors and their disinterestedness was demonstrated. Joseph Bennett Clarke was noted as prominent in the Midlands in association with arbitration work. Also Sir Thomas Martineau solicitor and President of the Midland Iron and Steel Wages Board, acted as arbiter in disputes arising between masters and men. He was hailed as a success since his awards were never questioned[57].

(iii) Advocacy

If solicitors found professional and social interaction with wider society through commercial routes, then advocacy, could extend this. Solicitors could cut their teeth on County Court work and make a reputation through advocacy, helped by local press coverage, especially when attached to a prominent local or national body or noteworthy case[58]. Some solicitors specialised in advocacy in early 19th century local courts, at the Hundred Court, Court of Requests, and Old Bankruptcy Court or after mid-century the County Court, magistrates' and police courts.

From the 1850s the jurisdiction of the County Courts was extended beyond mere debt-collecting and the procedures consequently became more complex with the addition of heavy and important work. Whereas in the early days of County Courts solicitors and counsel were rare, they became increasingly necessary for all parties by the latter decades of the century. Most provincial firms found it necessary to handle County Court work. From an early date there were specialised solicitor advocates. In 1857, 150 attorneys had appeared in the Birmingham County Court but practically all business was conducted by three men who did nothing else^[59].

Solicitors made reputations and respectable livings from advocacy, not least Henry Hawkes one of the fiercest critics of the "low" County Court attorney.

"In his profession Mr Hawkes had a high reputation for legal knowledge and was a most successful advocate in the local court until a pressure of business and public duties induced him, about 1865 to give up that branch of his business"^[60].

Others made names out of careers in advocacy and appearances in local courts. John Smith (1819 - 1867), because of a Petty Sessions base from which to make a start in a career, became a celebrity for his orchestration of the defence of William Palmer, "the Rugeley Poisoner" in 1854-6. At the time he had practically the monopoly of the greatest criminal cases in the district. Unfortunately for the zealous reformers of the profession, Smith's notoriety

had a questionable, ignominious side^[61]. Edwin Parry, once managing clerk to Smith, also "became one of the leaders of the county court bar" having the conduct of a number of large and important cases chiefly in criminal matters, e.g. he acted for Murphy against the Mayor after the "riots"^[62].

Principal county court advocates included Parry, Rowlands, Hawkes and Robert Duke^[63]. However, there were naturally other solicitors outside this tight clique practising in the local courts in the period 1850-1900 - William Shakespeare; W Edwards-Wood (1805-1877); former barrister A J Hayes, H G Tanner (1848-1907, articled clerk to Joseph Rowlands - "a shrewd and able advocate")^[64]; A J O'Connor (criminal work) and J B Bromfield. The latter was frequently found in the police courts and had previously conducted several important prosecutions on behalf of the Midland Rail Company having entered the office of Beale and Co. J C Lane remained with Beale and Co. on being admitted, conducting portions of their advocacy work. George Frederick Coopland Lowe was said to have practised continuously in the County Court from his admission in 1878 to his death in 1910. One or two solicitors became authorities on licensing law and related matters - J Ansell, J W Clulow (who frequently acted in prosecutions directed by the Chief Constables of Staffordshire and Worcestershire) and J G Hurst, who eventually expanded his court work and became a barrister around the turn of the century.

Advocacy, then, could have a number of benefits for the profession - a valuable source of income, status, a recognised area of exclusive expertise and the creation of popular figures. It demonstrated professional expertise and skill. However, viewed from the standpoint of polite, educated middle class society, advocacy could pose problems for the profession and its accomplishment of "professionalism". In the second half of the 19th century the social and legal values of advocacy came to be scrutinised; this brings us back to the "sharp practice" theme raised earlier. Criticism was made of the practitioners and the system in which they worked to the effect that advocates were mercenary, prepared to plead for clients regardless of circumstances and therefore uninterested in truth and justice - trickery and harassment were often the methods used to obtain the required verdict. These kinds of allegations were levelled against several solicitors of standing in Birmingham, including John Smith, as has been noted.

In an attack on Hawkes' public record and municipal and political chicanery, The Town Crier made reference to similar cozenage in a legal context

"It may be a great triumph of an attorney to confute his adversaries by a quibble - though I believe the leading members of the profession do not condescend to make use of such weapons - but, however successful this kind of dexterity may be for a time, it will never make any men really influential, or ensure him a position of honour or usefulness^[66].

The question of over-commitment to a client's cause (good or bad) and lack of objectivity was raised, probably innocently, in an obituary of Arthur O'Connor, one of Birmingham's "best known members of the legal profession". An old friend was quoted:

"He used to enter into the grievances of his clients in a very realistic way and he seemed personally aggrieved when the verdict went with the other side"[67].

However, this kind of criticism may have been diffused by the end of the 19th century for Joseph Rowlands, at the height of his career, was being lauded for his professional skills in Birmingham Faces and Places - "His forte was the cross-examination of his opponent's witnesses"[68]. At the same time William Showell Rogers was at the centre of the debate on the ethics of advocacy, defending advocates against criticisms of falsehood and chicanery and supporting the idea of the advocate as "partisan of his client"[69].

Nevertheless, the familiar theme of "sharp practice" and its relation to professionalism is raised. Advocacy was, in terms of professionalism, a two-edged sword. It brought benefits, bringing solicitors, individually and collectively, into the public eye in favourable circumstances (by demonstrating professional skill in a potentially dramatic setting) and into contact with

influential people and bodies - clients and judges - with whom a concept of professionalism was articulated. Solicitors were pushing the argument that they could practise like barristers and take the appropriate status. Yet, seen from a different angle, advocacy was a possible threat to the moral tenets of professionalism as they were being articulated at the time.

III. Politics: Registration and Elections

The solicitor's role in 19th century politics cannot be separated from his professional and personal life. A considerable amount of time (albeit intermittently) was spent by many solicitors in political party work throughout the century, despite the appearance of fulltime party agents. For example a committee meeting of the BLS had to be altered due to the attendance of members at Revision Courts in 1836. The legal knowledge and skills, as well as the general abilities of solicitors, were drawn on by party representatives and organisations. Solicitors' involvement represented an important relationship with wider society, but in similar ways to advocacy their activities could have problematic and ambiguous results. True, it brought solicitors into close proximity with local middle class leaders and important figures in the public arena, but a close proximity to and an inextricable association with

shady activities was also entailed. Solicitors were seen again to be a treacherous, duplicitous, mercenary body - the image of the few tarnishing the many.

The key figure in all election work was the registration agent. He advised local party leaders on all problems of local organisation, made himself available at elections, took charge of the supervision of the registration machinery and the voting qualifications of supporters and opponents. Claims and objections to the entries in the Electoral Registers were heard in the Registration Courts by a peripatetic revising barrister, the parties being represented by local solicitors if the agents were not themselves solicitors. Generally, the work was divided among solicitors who were competent to deal with the problems of electoral and registration law^[70].

The task of the election agent was quite distinct from that of the registration agent. It was essentially a matter of organising a team of workers engaged in canvassing, transporting supporters to the Poll and perhaps the odd stretching of the letter of the law and the hiring of "roughs". However, the two agents were often the same man, usually a solicitor of a firm which had special knowledge of election and political business, the office often being hereditary within the firm. Solicitors were ideally suited, since they were in close touch with local affairs and the people of the constituency as well as having knowledge appropriate to property qualifications.

Electoral reform in the 1880s introduced more technicalities which strengthened the hold of the profession.

Despite the development of party organisations and the "caucus", the day of the solicitor was not necessarily numbered even by the 1870s, particularly in neighbouring Warwickshire. The Conservatives had been the first to organise and apathy or complacency had prevented the Liberals from catching up until the late 1850s and 1860s. J B Hebbert had been the mainstay of the Tory cause, along with George Whateley, almost from the moment he was admitted in 1831. He promoted the Loyal and Constitutional Association in 1834, of which he was secretary, conducted the Tory election of 1832 in Birmingham and Warwickshire and was Honorary Secretary of the North Warwickshire Registration Association - "from the first establishment of the Registration Courts (he) had been the recognised agent for his party, both in the borough and the county"[71].

Even so, the Liberal Party was represented at Revision Courts early on (e.g. 1847) employing A S Field as agent. Electoral business was handled by the firm of Redfern Bray and Barlow - all of whom held borough posts. By the mid-1850s a Liberal Registration Society was formed, to be followed about 10 years later by the Birmingham Liberal Association[72].

For the Conservatives a number of prominent solicitors came to the forefront of political activity, contributing to continuing electoral success in the counties and the revival in the town. Sydney Mitchell, successor to J B Hebbert and secretary of the North Warwickshire Conservative Association, put in long service between 1850 and 1880 as registration agent for the county members of North Warwickshire, being referred to as "the Napoleon of registration agents" by George Whateley^[73]. In the urban areas the period 1880 - 1914 was dominated by Joseph Rowlands and T W Walthall. The latter was election agent to the M.P., Sir Francis Lowe, a fellow solicitor. Rowlands, commencing political activity in 1879 as legal adviser to the local Conservative Party, rendered assistance during the 1880 General Election, was Randolph Churchill's agent at the 1885 election and by 1888 was regarded "as virtual leader of the Conservative Party in Birmingham"^[74].

The Liberals, too, had several important solicitors actively engaged on their behalf. However, the support of the two in the City, Henry Glaisyer and Isaac Bradley, was cut short when they exchanged politics for judicial and municipal honours - County Court Registrar in 1894 and Coroner in 1897, respectively^[75]. In addition, in the counties, Charles Mathews acted as a registration agent and Joseph Ansell (Honorary Treasurer of the North Warwickshire

Liberal Association) had an extended career as election agent and party organiser from the late 1860s[76].

However, in terms of status and professionalism solicitors' participation in elections and politics could have drawbacks. A poor view of solicitors was often taken by candidates and public alike. Solicitors were identified with evils such as paid canvassing, corrupt practices, high fees, indifferent service and other nefarious methods, exposed in petition cases. The professional elite felt the isolation of their position and were anxious to promote political associations and to squash corrupt practices[77]. Glaisyer recounted elections during the 1870s and 1800s with episodes reminiscent of those at Eatanswill in The Pickwick Papers[78].

Less blatant, but nevertheless dubious, goings-on were revealed in the election activities of W S Perkins of Sutton Coldfield in the 1860s, and Joseph Ansell, a Liberal agent on numerous occasions in North Warwickshire contests, e.g. for William Phipson Beale, barrister and brother of Charles G Beale. The tactics involved the use of solicitors' clerks on electioneering activities[79]. Throughout the period accusations were made by both sides of "falsehood" and "trickery" and "manoeuvring" pursued by the other in order to gain advantage[80].

In the context of a professional strategy based on a moral ideal and moral definition of professionalism, the continued, persistent involvement in the more sordid aspects of politics is difficult to understand, given that it was potentially unremunerative, taxing and condemned all round. The participation of elite members of the profession in such activities is therefore particularly interesting. Electioneering and registration threw the solicitor into the very heart of bitter political and religious division which rent the urban middle class society during the Victorian era. Solicitors became identified solidly with one partisan section or another. Political motivations must, then, have been strong, indeed over-riding, considerations of those who participated. Yet was this all? There was the slim possibility of money and making a name, in spite of the disapproval of the professional elite. So, did solicitors' connections and aspirations push them into it? Longstanding political and social association with the major political figures and party involvement may have encouraged some solicitors to employ what were seen as highly relevant skills in election management and the like. Yet committed and connected non-conformists and Liberals like Arthur Ryland did remain aloof. The image the profession tried to convey of independence, objectivity and an "disinterested" expert occupation must have been tarnished during the vilification of election time. The presence of elite solicitors may have been interpreted as attempts to improve popular

opinion of the professions's involvement. In Birmingham the "caucus" may have done this for them by reducing the need for overt solicitor-agents. Nevertheless, solicitors' roles in such political activities continued and should not be neglected or passed over as unimportant in the professionalisation process. In a whig/internalist account it may be deemed insignificant to the final product. In fact the political role may have been important in shaping the development of professional status by reinforcing the conception of professionalism as a question of personal performance. Emphasis was on moral character rather than educational, institutional and organisational aspects.

The second part of this chapter explores other ways in which solicitors came before the public and interacted with the wider society, and which contributed to the professional strategy of solicitors and their emergence as professional gentlemen. Their skills in the public domain were lauded, the degree of praise often reflecting the prestigious nature of the office held or the organisation to which the solicitor was symbolically attached. This process too, could lead to contradictions and anomalies and problems which were not solved over-night, but its culmination sees solicitors established as a gentlemanly profession.

IV. Legal Appointments

This section describes the posts to which solicitors were legally or officially appointed, or those which they traditionally filled. Also considered are the roles of solicitors "retained" in an official capacity by local public organisations. The emphasis here is on local government and philanthropic institutions during the century. Kirk has noted the importance of solicitors in local government, taking on numerous clerkships to diverse bodies which only occupied a portion of their time. However, as will be seen, this arrangement was changing; bodies no longer engaged them part-time, but solicitors managed to maintain a hold on appointments. These posts were, says Kirk, very much sought after, bringing with them status and often additional income^[81]. In a period before developed, systematic local government structures and state intervention on a large scale, vis-a-vis health and welfare with its attendant professions and occupations, solicitors took on a number of roles. They represented, perhaps, the ideal "generalist" expert readily available in the industrialising provinces.

(i). **Local Government and Justice**

Keith-Lucas's study of early 19th century local government in England concludes that solicitors are essential to an understanding of the subject and played by far the largest part in its day-to-day running. Officials, including solicitors in these posts, could and did have a great deal of influence^[82]. Any study of solicitors cannot ignore this aspect of their work.

This section considers the nature of local government positions filled by solicitors in Birmingham and the surrounding area, principally after the reforms of the late 1830s. Attorneys had been active in the ancient and *ad hoc* local arrangements of the late 18th and early 19th centuries - e.g. John Meredith, with his partners William Smith and John Arnold and their successors, had acted as clerks to the Street Commissioners, and stewards of the Lord of the Manor^[83] - however, attention here is concentrated on the developments after incorporation in 1838. Various offices are considered and the advantages and drawbacks of local government for status and professionalism assessed.

Birmingham's local officials were particularly public, even political men; men who were personally identified with their public positions and very much to the front of local consciousness, being subjects of personal, sometimes critical, attention.

It is clear that by the 1850s the Town Clerk was conducting the routine legal and other business of the Corporation, which included dealing with compensation cases during the laying of sewers to the licensing of Hackney carriages. However, from the 1850s onwards the amount of legal and administrative work undertaken and initiated as a result of municipal expansion led to increased work for the Town Clerk and changes in its composition. This period saw the embryonic steps in municipal growth which meant increased servicing of committees, conveyancing, contractual work, as well as litigation and Parliamentary work. For example, Thomas Standbridge (1818-1869) was responsible for the passing of the 1861 Improvement Act with "distinguished ability, care and exertion" in which he provided supporting evidence at the Parliamentary stage; promoting other legislation of a local character and conducting Parliamentary opposition to Water, Railway and Gas Bills, the latter involving litigation and arbitration with the Birmingham and Staffordshire Company^[84].

In 1857 the Council decided that the Town Clerk should be relieved of the duty of conducting the prosecution of offenders on behalf of the Watch Committee; instead another solicitor was to be appointed - Alfred Walter was selected^[85]. He remained in the office of Public Prosecutor until his death in 1908, to be succeeded by J E Hill, a member of the prolific and influential Birmingham family^[86].

The Clerk of the Peace essentially handled the business of the Borough Quarter Sessions. As well as creating a Borough Quarter Sessions, Incorporation established petty sessions, magistrates and therefore justices' clerks. The nature of the work which was not full-time, expanded during the century as the town grew and magistrates' jurisdiction increased. One of the clerks, J B Hebbert bemoaned its detrimental effect on his private practice. The turnover of clerks was slow, and on occasion passed from father to son^[88]. From the 1880s Petty sessional Divisions of the County benches for the suburbs around the town of Birmingham were established and solicitors with experience and knowledge of criminal and magisterial law quickly gained a dominant position as clerks - Joseph Rowlands, J B and A H Hebbert and Q C Colmore.

So Birmingham solicitors held many significant and influential posts in local government of Birmingham and, indeed, in the various administrative bodies of the surrounding areas, individuals often accumulating them and passing them on. What were the attractions? It is undeniable that solicitors coveted these posts - many held more than one. Competition for them was fierce and could result in bitterness despite the complimentary platitudes of the press and profession[89]. Naturally, the additional income (regular and guaranteed) was important and considerable fortunes could be made from bills and fees for work done. Indeed the size of accounts for fees presented to the Corporation could provoke heated debate and eventually lead to the commutation of fees to a fixed salary for various offices - Clerk of the Peace, Town Clerk etc[90].

As well as the pecuniary benefits the status and visibility aspects were of central importance. As the century progressed the prestige associated with the Corporation and its officers increased as the business of the Borough increased both in magnitude and importance. Occupation of official positions also illustrates Larson's concept of the "demonstration effect" - a supposed indicator of an immature professionalism which in fact persisted remarkably well - whereby appointments (and a prestigious clientele) made publicly visible professional talent which could carry over into other areas of professional practice[91]. It seems this was particularly

so during phases in Birmingham's municipal development, which were widely reported and commented upon and the roles of Corporation officials being conspicuous. For example, Thomas Standbridge was closely identified with the "renaissance" of the Council in the 1860s "as the legal adviser and, so to speak, general representative of the Corporation"[92]. Edwin Hayes built up a reputation as "a gentleman of celebrity as a solicitor and of large experience in municipal law and in the general duties of a Town Clerkship" which was borne out, so the Rev. W Randall commented, by the fine turnout at his funeral. "Their presence that day" he said "showed how high a position he held in the hearts and affections and in the esteem of those with whom he was brought in contact, both in public and private life"[93].

Public approbation was often reserved for the particular combination of personal, moral and technical features characteristic of solicitors. The City of Birmingham secured a Coroner of "gentlemanly and polite manner" in the person of Isaac Bradley, solicitor, in 1897. He was described as a man of

"sound judgement, equable temper and commanding appearance - three attributes which are almost a necessity in a coroner"[94].

Status and experience gained in certain posts must have been an influential factor in determining the market value of their expertise since appointments in particular areas often led to similar ones being acquired elsewhere in the area - certain types of post or posts in a certain location were gravitating to a particular solicitor or firm, e.g. the voracious examples of the Docker family, Q C Colmore, the Shakespeares, Joseph Ansell etc. The increasing numbers of solicitors in local administrative positions cannot simply be explained in terms of increased local government complexity, there were after all alternatives, one in particular is discussed below concerning coroners.

This brings us on to the disadvantages associated with the holding of public office. By their very nature these positions were open to public criticism. Thus in difficult circumstances the "visibility" could have a negative effect in terms of status and professionalism. A dispute arose in 1854 between Morgan, the Town Clerk, and members of the Council. It was alleged that clerks paid for by the council were employed for Morgan's private purposes and that certain incidental charges against the Corporation were unfounded. Whatever the root causes, it was obvious the integrity of the profession and the office of Town Clerk (and of course Morgan) was impugned, though each was to recover in time^[95].

It is worth considering a case of inter-professional conflict which centred on the office of Borough Coroner - a prestigious but potentially controversial position. Solicitors were keen to preserve the post as part of their exclusive domain and put an end to "the popular fallacy that the coroner should be a medical man"[96]. The qualifications of solicitors were emphasised for a post that was seen as essentially "judicial". Proceedings involved technical and difficult questions on admissability of evidence, determination of points of the law between contending counsel and the coroner always had to sum up and explain the law which bore on the case, to the jury. Therefore, the interests of justice, it seems, and not the profession, demanded legally trained coroners[97]. In any case, claimed Samuel Warren, it was easier for a solicitor to gain the appropriate knowledge of forensic medicine and medical jurisprudence than it was for "lay competitors" or "medical men" to acquire the requisite legal knowledge, "to clothe himself at once with legal habits and exhibit a judicial temper and capacity"[98]. It is worth noting that even when an incumbent was a medical practitioner, deputies throughout the period as far as can be ascertained were solicitors. Like other local government posts, that of coroner offered material and psychological attractions. It could be a prestigious end to a public career or a recognition of skill and position early on. For example, Hawkes was prepared to give up his seat on the Council to stand as candidate. The coronership offered him the opportunity to change substantially the procedures followed

by his medical predecessor and institute far-reaching reforms which added considerably to his local distinction -

"As borough coroner he has further distinguished himself and has increased his claims upon the esteem of his fellow townsmen"[99].

With the rapid growth of suburbs into Birmingham's adjacent counties and the changes in local government structure, administrative authorities and local boards etc, proliferated during the second half of the 19th century. Birmingham solicitors in their residential localities were not slow in attempting to dominate recruitment to the newly created offices. In such cases the name and position of a solicitor could be synonymous with that of a district, e.g. Joseph Ansell and Aston. A solicitor's involvement in local government had the effect of catapulting him into wider social processes and broader social relations, to the extent of becoming embroiled in local controversies. Local government consisted of more than just doing bits of administrative and routine legal work.

Ansell's career closely followed the development of the Aston District, indeed he was responsible for many of the changes affecting the area. Ansell was admitted in 1862, aged 21. In 1866 he was elected clerk to the newly-established Highway Board, and set about instituting various "reforms" i.e. improving the state of the roads and pressing for the initiation of street lighting. Within a couple of years Ansell introduced the Watching and Lighting

Act which brought into existence a Local Board; to which he became clerk. 1868 was to be a crucial year. He presented the Board with a "programme" to include separate and independent Parliamentary representation and a Royal Charter of Incorporation. In this year Ansell headed the opposition to Birmingham's first (of many) attempts to incorporate or annex Aston within the borough boundary. The following year Aston adopted, at Ansell's encouragement the Local Government Act, and he continued as Clerk to the Local Board. The 1870s saw the first application by Aston for incorporation, led by Ansell and J B Stone, manufacturer. The scheme was successfully opposed by Birmingham.

By 1885 Ansell had left and moved to Sutton Coldfield. Yet he continued to play an important part in Aston's affairs, advising on incorporation, acting as clerk to Aston Urban District Council, solicitor to the Aston School Board and eventually as Town Clerk of the borough, 1904-1911. Thus in an entirely "official" sense Ansell was connected with Aston from 1866 to 1911. Astonians, it was said, were proud of their independence and "localism" which was attributed to the efforts of Ansell - the "guiding spirit" of local life:

"For years he has piloted Aston through the troublous waters incidental to the launching of a rapidly growing community on the sea of local government. No man has more thoroughly indentified himself with the interests of the manor and done more to further its progress"^[100].

However, one cannot ignore the importance of Ansell's family in Aston as a platform for his career - his father and brothers were large local employers and active in municipal affairs[101].

In similar, though less dramatic ways, other solicitors in later 19th century Birmingham had close official relations with out-townships and districts, e.g. William Shakespeare in Smethwick and Oldbury, E O Smith and Henry Sutton Ludlow in Solihull[102].

This picture of the profession monopolising local government with popular support and creating favourable impressions of honourable and gentlemanly practice has to be set against repeated, but sometimes veiled criticisms of solicitors in local government. The central theme here is "litigiousness" and the deliberate provocation of legal conflict - something legal men had been accused of since the middle ages. Various aspects of local government provided opportunities for legal officials to accumulate fees by promoting actions that incurred legal costs e.g. settlement law, road repair, etc[103]. It is difficult to be sure, but the extravagance of solicitors may be one reason why their "traditional" posts sometimes fell to laymen, e.g. Walter Bowen, clerk to the Birmingham Guardians and William Barradale, chief magistrates clerk. However, the inference that all solicitors engaged in local government were prodigal, wasteful and intent only on generating fees rather than pursuing duty and justice

should not be accepted as universal. The names of Ansell, Shakespeare and Smith recur as shining examples. Ansell's career was a concrete refutation of the popular (mis)conceptions outlined above, Astonia claimed:

"He has always striven and generally successfully to keep Aston out of litigation, although it has been against his own material interests... would that all other legal advisors were as considerate of the pockets of the ratepayers!"[104].

Shakespeare was acknowledged for his concern for the locality he "served"[105], E O Smith was commended, on his retirement as town clerk in 1907, for his thriftiness and thought for the ratepayers purse.

"Mr Smith, though firm and zealous in protecting the interests of the City, has never shown a litigious spirit, and while prepared to fight in an emergency, he has been more disposed to reduce litigation by the settlement of disputes upon terms fair and honourable to both parties. In this way he must have saved the Corporation an expenditure of many thousands of pounds in legal costs"[106].

Whatever the drawbacks, to judge from the press, participation in local government had benefits in terms of professional consciousness and status for individual practitioners and the profession as a whole. Ideally it provided opportunities to demonstrate professional skill, integrity, probity and gentlemanliness in a particularly public sphere. E O Smith stated in 1889 "I expect to be

judged not so much by what I say but by what I do"; and was credited with a high degree of tact, legal knowledge, shrewdness, judgement and "the unvarying courtesy of a gentleman"[107]. As the century drew to a close more and more solicitors were being drawn into the increasingly diverse range of official appointments - encouraged by example, tradition, material prospects and by professional spokesmen - with benefits for the profession as a whole. In the meantime solicitors had been participating fully in the civil and business life of the town in official capacities where opportunities were as diffuse and well known.

(ii) Local Institutions

Various local institutions - business, philanthropic, medical, religious and educational - "retained", permanently, a solicitor or had a specific post for a solicitor as a secretary or law clerk. The nature of the position varied with the organisation, there being doubt in some instances as to the exact tenure. Some were paid, others honorary. Payment could be in the form of a salary or fees; some posts were handed down, others had broken histories. One has to remember that in many cases secretaries, treasurers and the like were not exclusively solicitors and in these cases solicitors took their place

alongside other professions and middle class groups. It is contended, however, that solicitors' presence in such posts was more distinct and pervasive than that of other professions. Such was their extensive involvement in civil society, from Turnpike Trusts to Felons' Associations, that they handled a great deal of social administration and therefore came into contact with a wide variety of people and events. There is no doubt that such work and public awareness of occupation of these important posts conferred status on the solicitors concerned and reflected credit on the profession generally. Yet though they might be remunerative and prestigious, such posts could also be time-consuming and lead to friction between partners over attention to the "general business" of the practice[108].

Status was acquired from prominent association with major institutions of central importance to Birmingham's success, wealth and trade during the 19th century. Two examples in relation to the gun and metal working and jewelry trade were the Proof House and the Assay Office. The prosperity of one of Birmingham's principal trades depended on the reliability of the local assay mark and the Assay Guardians were drawn from the high status ranks of the local business community and gentry. This meant the institution and its personnel had a certain aura of elite status during the 19th century. The identity of the clerk to the Guardians is unknown before 1839, when Arthur Ryland was elected, still a relatively young solicitor though already a magistrates clerk and secretary to the BLS.

During his occupancy (1839-77) he took a keen interest in all its affairs, his advice being valued on general as well as professional subjects. The clerkship remained the preserve of the senior partner of the firm of Ryland Martineau & Co into the 20th century, Thomas Martineau (1877-93) and J B Carslake (1893-1923)[109].

The Gun-Barrel Proof House exhibits similar characteristics in that it, too, became a popular focal point of Birmingham industry and laterly became the preserve of one firm. The Proof House was established in 1813, but it was not until the 1860s that effective management and enforcement arose. It was at this time also that the law clerk (W S Allen) began to take a greater part in active administration. Little is known of Allen or his predecessors; however, his successor Joseph Rowlands was by the time of his appointment in 1883 an extremely successful and well-known solicitor. As noted above Rowlands had substantial experience and prowess in advocacy and, during his spell as clerk, successfully conducted several prosecutions in various parts of the country against offenders under the Proof Acts, as well as routine duties and legal advice. The clerkship passed to Rowland's son Hubert (1926-42) and subsequently his former colleague A E A Langhorne[110].

These two significant and widely regarded institutions retained solicitors of high repute, indeed of such established esteem that in their individual cases it could only serve to confirm an "honourable" position. Other bodies had the ability to confer status - not just to their members but also to their officials. This was due to their pedigree and long history (e.g. Lench's Trust, King Edward's School) or, by contrast, their novelty or social worth (e.g. Mason's College, the Bishopric, hospitals and charities). There were many others besides of a more mundane nature, nevertheless offering occasional prominence, often assured income, and (at least) visibility, connection and a form of advertisement.

In Birmingham and its suburbs during the 19th century there existed a plethora of charitable, "welfare" and educational institutions and trusts. Solicitors acted as administrators and advisers as well as acting on legal matters, such as Trusts and deeds which could be especially complicated. Judging from contemporary opinion it appears that one of the most important local charities was that of Lench's Trust established in 1525 to provide almshouses for "deserving" spinsters and widows. The first formal appointment of the solicitor to act as clerk was made on Charles Best's (of Lee, Pinson and Best) engagement in 1852. Yet he was the third solicitor from the same firm to be thus employed since 1794, and was succeeded by further partners, in 1879, 1894 and 1905, maintaining the

family and practice connection[111]. The firm, and in particular Charles Best, was the legal representative for several other old and notable charities, throughout the 19th and into the 20th centuries[112]. Though this firm appears to have dominated the more ancient charities (the practice was established in 1760) certain other solicitors who reached higher echelons of professional and social spheres were associated with renowned bodies. Fellow Unitarians C G Beale, Arthur Ryland and their firms acted for charitable institutions, which they were sometimes involved in setting up - e.g. Evan's Cottage Homes, the Neglected Childrens Aid Society and the Birmingham and Midland Hospital for Women[141]. Cornelius Saunders was adviser to William Dudley and law clerk to the Dudley Trust founded 1876; George J Johnson acted in similar fashion for the Queens' Hospital (1867-1912); Charles E Mathews, a close friend of Johnson and former articled clerk to Ryland, was Honorary Secretary to the Childrens' Hospital which he helped establish, before becoming its president[114].

However, it was not just in the charitable field that solicitors engaged in clerkships which brought them into prominence. There were other avenues, which for the elite were often complementary. For example, the Whateleys were synonymous with King Edward's Grammar School - just one aspect of their Tory Anglican connections[115]. Later in the century G J Johnson did not achieve public acclaim until his work with Josiah Mason and the foundation of the

Science College in the 1870s despite his activity (and prominence) in legal and educational circles beforehand. It seems from that decade his public career took off[144].

Naturally, solicitors were involved with religious institutions during the 19th century as legal advisers, honorary officers of churches and chapels and clerks to the various committees. For example Alban G Buller (1845-1924), solicitor and legal adviser to the Wesleyan Council, held many offices in the Wesleyan Connexion[117]. Developments in the local Anglican church became particularly associated with two solicitors. The schemes relating to the Birmingham Bishopric and cathedral question in the last two decades of the 19th century were orchestrated, in the main, by two ardent workers for the Anglican Church - Samuel Royle Shore and Joseph Bennet Clarke. The latter was secretary to the committee for obtaining the Bishopric, and on the successful conclusion of negotiations in 1905, was appointed Registrar of the Diocese and legal secretary to the Bishop. Charles Fairfax Crowder also took a large part, becoming an original member of the Birmingham Cathedral Council, and Honorary Secretary to the Birmingham Diocesan Trust for many years. Though already successful solicitors and well-known in public and religious life by the end of the 19th century, their elevation to such status in the Birmingham Diocese was clearly recognised, and their role as legal experts acknowledged[118].

Official positions in local institutions and so on could, then, play an important part in the career structure of solicitors and be instrumental in shaping and informing the nature of "professionalism". Whether status came from social prominence or prominence was gained from the achieved material status of the successful and propertied is a moot point, but it is apparent that the profession's role was being publicly acclaimed, fixing notions of professionalism in terms of public duty, service and gentlemanliness.

This latter section has covered those cases where professional work brought public awareness of these men both as organisational officials and legal men (for others see Appendix II). Perhaps most of this type of work was carried on anonymously and unrecognised, save by a small circle; according to convention this was the correct fashion. Such diligently performed duties came to light in eulogistic or biographical articles (on retirement or appointment) and obituaries. This is in marked contrast to the public glare of the local government officials who were a constant source of comment and carping speculation in the local press and, presumably in "polite", political and "club" society - the "public" being allegedly preoccupied with "officialism", efficiency and official stipends.

V. Conclusion

Much of this chapter has been descriptive but has been illustrative of certain central points in a discussion of the process of professionalisation. This is an area that warrants further research as to the exact nature of 19th century solicitors' clientele and the work performed for them. The argument has been that the context of work, clientele and appointments had a significant effect on status and the development of the profession. The place of status in the chronology of professionalisation is difficult to assess. It can be seen as a pre-requisite to professional success, a concomitant of advancing economic security or the result of wealth accumulated in a professional career.

The type of work performed by solicitors was increasingly sanctioned by inclusion or exclusion from an expanding boundary of professionalism. That is, some tasks became defined within the compass of "professional" whilst others were designated "unprofessional". In this way debt-collecting came, at least in the view of the elite to be "unprofessional", while advocacy, not hitherto seen as a solicitors' domain became an increasingly important part of the activity and as the century progressed, became more highly regarded. It is important to note that developments in spheres of solicitors' work were not merely extraneous

factors in the professionalisation process, but part of the process itself. The profession did not just passively respond to "external" developments, but attempted to shape and control them, thereby changing itself via a process of negotiation and interaction. In the Birmingham context it is undeniable that the interests and fortunes of the profession were closely tied to commerce and industry. W H King remarked, in 1882, on his firm's profits:

"Of late years trade and agriculture have been very bad and there has been in consequence but little buying, selling or letting property"[119].

Nevertheless, this should not diminish the importance of private clients, the firms of Whateley and Milward bear this out. This should not be seen in terms of patronage, but of a professional and client relationship. Yet it is clear that the replacement of a patronage/subjective relationship with an objective client/expert one was very gradual. This implies that envisaging patronage and professionalism as two polarities of a spectrum/continuum needs to be reassessed. In addition autonomy is demoted from its primary role.

Similarly the exploitation of appointments can be seen as securing and expanding professional and cognitive boundaries. In some ways this makes for comparison and contrast with the medical profession. The kinds of appointments on offer to doctors were qualitatively different from those taken up by solicitors, yet conferred

similar, intangible elements - prestige, connections, spiritual peace of mind and recognition of competence. However, the opportunities appear to have been mainly confined to posts concerned with the practice of the medical profession or the application of medical knowledge. Doctors held medical attachments in other institutions and organisations such as charities, insurance companies, businesses but these remained small in number and were very much medically orientated^[120]. By contrast the solicitor appears to have been a generalist expert, taking on work in a wide variety of organisations which had no direct connection with legal matters.

Solicitors became truly "advisers to the world", retained for their all round business and organisational skills as well as legal capabilities and general "culture". The question of "gentlemanliness" is again important here. The amount and nature of work done and the sort of appointments held became, along with other factors, the bench-marks of a professional hierarchy. From the pattern of successful solicitors, prominent in business, local government and local public institutions, a distinguishable elite emerges, from quite early on, to be relatively stable by the latter century. This seemingly tight-knit elite, overlapped considerably with the rich and powerful of Birmingham's social and political elite, yet remained flexible enough to allow a certain amount of mobility. Once established in the profession, a career structure emerged providing an avenue to a prestigious level,

depending additionally on the unquantifiable elements mentioned earlier, such as talent, connection and ambition.

For this group and the profession generally work and other commitments were crucial in making visible the prestige and value of solicitors. In this sense Larson's concept of a "demonstration effect" is apposite. It was a way of communicating within the profession, amongst other professions and with prospective clients. A concept of professionalism - what it was and meant to be a professional - was worked out in the realm of work, professional practice and public duty or service. Here a curious mix of the old and the new found expression in a combination of emphasis on the increasing expert nature of the profession - its education skill and knowledge - and the equally essential status of gentlemanliness and "honour". This strategy, conscious or not, lingered throughout the century. Professional status was not guaranteed by reference to strictly professional and educational criteria as Larson suggests, but to a greater extent and for a longer period on the imponderables and subjective factors which professionalisation is supposed to have supplanted^[121]. To be a gentleman and an expert was still important, especially for the elite.

Having considered solicitors' professional activities the following chapter examines the profession's relationship with the wider community in the context of Victorian public work.

CHAPTER FIVE

Public Men

"The attorney of the local town has been a conspicuous feature of the social and political life of the provinces for many years.

(LQR I[1885] p 517).

I. Introduction

The activities of professional men in the wider community, typified in the 19th century as "public work", have been taken by sociologists and some historians as part and parcel of what is the essence of professionalism. The presence of a public service ideal, however expressed, is seen as one of the criteria for the establishment of a profession in traditional approaches, or for the differentiation between professions and occupations^[1]. The preoccupation with the service ideal within the sociology of professions has been criticised, since the description of this "trait" does not further an understanding of the professions but merely repeats professional self-conceptions^[2]. Nevertheless the public service ideal has to be treated seriously as it carries

weight in terms of the ideology propagated by professions in order to justify their privileges. However, this ideal, ideology or "myth" did not and does not exist in a vacuum; yet in histories of the profession it is seen as "given" in the evolution of a professional ideology.

The development by the solicitors' profession of an altruistic or public service ideology can usefully be explored in the context of solicitors' involvement in "public work" during the 19th century. This exploration seeks to establish the motivations for political and voluntary activities and in turn throws light on their relation to ideas of "professionalism" and concerns with prestige and professional "elevation".

Before turning to an analysis of the historical data, it will be useful to consider briefly what has been written about the professions and the public service ideal. Subsequently, it will be necessary to examine the incidence of the public role of professionals and consider explanations given for their activities in the wider community. The important and defining principle of a "professional spirit" or "altruism" has been prevalent amongst "trait" approaches for a long time. Within both sociology and history this attribute is contrasted with the dominant ideology of western industrial society. Thus, for Parsons, in contrast with business the professions are supposedly marked by "disinterestedness"^[3]. This notion of professions being somehow above the sordid

considerations of the rest of society has found echoes in some historical writing on professions^[4]. For example, in Perkin's analysis the professional man was above the "economic battle" and characterised by esoteric expert service to the community which merged with a former aristocratic ideal stressing service and the social and political duties of the propertied^[5].

From this traditional interpretation of professions one is left with the over-riding conception of professions devoting themselves to the greater good of both their clients and the community to which they belonged. Yet, as Johnson points out, the claims of the "trait" approach for the dominance of altruism in the profession's social role, do not make it clear whether the ethic as an important part of the professional ideology is significant in motivating individual practitioners^[6]. In 19th century Birmingham when the legal profession was in the process of developing a professional ideology along a number of divergent and convergent routes it may be possible to assess the nature of the "ideal" in its formative period and tackle some of the criticisms made of it.

Before examining the historical data it is appropriate to comment on the public prevalence of professions and experts in modern society and sociological explanations for such presence. Historical research on the public work of solicitors has tended to come within studies on the nature of urban elites, and especially within the

field of municipal politics^[7]. From these it is clear that lawyers were present on town councils to varying degrees throughout the 19th century, in greater numbers than other professions, though usually outnumbered by manufacturing, commercial and retailing fractions of the middle class, depending on the geographical location.

In contemporary political life it is accepted that lawyers play a leading role in much of the western industrialised world^[8]. However, there is little evidence for the presence of solicitors in non-political activities during the 19th or 20th centuries, though American studies have indicated that lawyers are highly active in community affairs and local politics^[9]; more so than other professional groups. A number of factors have been suggested as in some way determining the extent of the involvement of solicitors in non-professional activities, such as age, type of practice and the sort of work performed. However, broader theoretical explanations have been used to understand the role of the solicitor in political and "community" organisations. These have been formulated largely in the modern context and as a result of empirical research carried out since 1945. Nevertheless, the arguments may provide significant insights into the 19th century solicitors' relationship with local political and social activities.

Podmore outlines six "conceptual schemes" that have been put forward to explain the involvement of lawyers in public life. These are dispensibility, the transfer of skills, and service ideal, visibility, careerism, and the expectations placed on high status occupations by society^[10]. Yet it seems that these sociological configurations formed to understand a contemporary profession take too much of the past for granted and neglect the historical processes that have informed the very ideas and reasons they used. In short these explanations cannot simply be used to study the past profession without caution and serious re-working. For example, it is a contention that solicitors did not just "happen" to have the skills etc that society needed and were therefore under pressure to "serve the public", but that they, solicitors, sought to ensure that society came to want and expect the sort of attributes and talents solicitors were able to give, thereby furthering aggrandisement, status, remuneration and various other benefits to the profession^[11].

The public lives of 19th century solicitors can be usefully divided into a number of areas - political, governmental, philanthropic, religious, cultural and the like - but it would seem more helpful and appropriate to study the evidence of these under a number of themes. First, however, the historical context as it relates to this topic and informs the subsequent argument needs to be sketched.

II. Public Life and the Middle Class

The ideas and motivations which drove men (and women) into public life had their foundations in very real, material problems which affected their everyday lives. The peculiar difficulties and "social evils", as identified by the 19th century middle class, associated with rapid industrialisation and urbanisation led to the formation of numerous institutions to manipulate and direct change, and to the articulation of ideas to cope with anxieties produced by those changes. These ideas were forged into a powerful ideology by the mid-Victorian period, typical in terms of "The Gospel of Improvement", "self-help", and the "cult of Respectability" - "...the great Victorian shibboleth and criterion..."[12].

"As the high priests of mid-Victorian culture middle class leaders preached the gospel of improvement. In countless secular sermons they affirmed the over-riding ideal of the community - the pursuit of progress and advancement for all"[13].

A virtue was made of individual improvement, the public pursuit of moral ideals was largely esteemed and the myth was promulgated by middle class spokesmen that the avenues to virtue and knowledge were open to all men in society[14]. At a time when informal, traditional forms of control were found wanting, the practical response of the

urban middle class to the crisis of industrialisation and the threat of working class Radicalism (along with the impulse of Evangelicalism and other popular slogans of improvement and moral duty) was the voluntary society[15]. These societies had a number of important effects - they fashioned the public role of the middle class in the urban environment, organised the hegemonic consent of the working class; and, just as important, formed the basis of an identity and consciousness for a middle class fragmented along numerous lines (political, religious, etc)[16].

These ideas and institutions have been examined for their relevance to the exercise of middle class control over the working class. However, as hinted above, they had important implications for the nature of middle class development and the expectations made of the middle class. In particular the milieu created of optimism and opportunities for boundless improvement and achievement seems to have implications for the solicitors' profession. It is argued that the leadership of the profession (if not the majority) saw the infinite possibilities for "elevation" offered by "improvement" and seized on the opportunity.

In this context, outside a desire to control the impact of industrialisation, a number of obligations were imposed on the middle class, based loosely around the concepts of "duty" and "good works". Here is seen, perhaps, a convergence of the "professional service ideal" with the aristocratic tradition of paternalism and "noblesse oblige" - all embraced in the amorphous concept "the gentleman". The social reformers who pushed these kinds of ideas most vigorously were the professional men[17]. Thus the opportunity for a middle class profession striving for self-respect (and its wider recognition) seemed to lie in self-help, emulation and an overtly public role. J F C Harrison comments: "Respectability was the goal to be striven for, and self-improvement the way to attain it"[18]. One way to go about this was the encouragement of individual and collective "good works"[19]. The virtues of self-improvement were usually extolled in a context suggesting that worldly rewards could also be counted on. One of the "avenues" to respectability open to the middle class was that of private philanthropy, "public work" and activities within voluntary associations. "Respectability", being both a moral and social ideal, cutting across fractions of the urban middle class and applied equally to the humblest solicitor and the wealthiest manufacturer.

III. Professions, Public Life and Status

In the above section a possible (one might say idealistic) motivation for solicitors (as part of a burgeoning middle class) has been briefly explored. It is now appropriate to look at the relationship between the middle class, professions and the status attached to public work.

(i) Marginality

The study by Inkster of medical men (referred to in Chapter Three) is interesting for the insights it provides into how a profession's awareness of its social location affected its beliefs and actions^[20]. It was seen how the concept of "social marginality" was employed in order to understand how professionals' individual social images and collective occupational interests served to determine many of their beliefs, actions and social behaviour. For the purpose of this thesis the concept of "marginality" seems appropriate since the concept adopted here of "accomplishing profession" also involved the efforts of professional men to legitimise their social and intellectual positions through social action.

In order to obtain reward and status (and perhaps a measure of social acceptance) the professional man had to appeal to the community. Through his social actions the upwardly mobile professional "established an image which coincided with, indeed epitomised, that held by the groups coming to power and influence in the local context"[33]. These activities, to be significant and effective, could only be made through an alliance with the industrial middle class and this both explains and defines their social behaviour. An example of this occurred in Birmingham in the 1850s when an alliance was formed between elements of the solicitor's profession and the petty bourgeois "Economist" party over the reform of local courts[22].

Simultaneously, the second area marked out as critical in the establishment of a social image was more profound and extended well beyond occupational interests and engendered a complex of social roles[22]. In Sheffield the medical community's attention was drawn to the health problems of an industrial town; in parallel fashion Birmingham legal men of all spheres developed interests in penal matters, for example[23]. Of perhaps more significance to the profession in establishing themselves was their involvement in local political and religious institutions voluntary societies and the cultivating of friendships within important groups, which could lead to closer and more influential contact with the rest of the

community. For medical men in Sheffield this meant involvement in a wide range of local interests, ultimately reducing social marginality by the 1840s.

"The social need which at first promoted a distinctiveness, produced also, through its very success in concrete areas of social action, status and security"[24].

In Birmingham the 1840s would seem a little early for the successful establishment of the solicitors' profession; the period 1870-1900 is suggested as more appropriate, (see Chapter Eight).

Summing up, the concept of marginality, as applied to a group whose social identity was precarious, has significance in contributing to an understanding of professionals' perception of themselves and their activities. A combination of collective occupational interests and the need to establish a definite social image forced the direction of their actions. Since the process of "accomplishing profession", its rewards, respect and prestige, implied more than just "the law", a public life was prompted[25].

It is contended that this direction of response was determined, to some extent, by the particular environment provided by the 19th century town. In other words professionals mirrored the pattern of other middle class factions seeking power, prestige and respect in the local context. To some extent a route was open to the profession - both as individuals and collectively. It would seem that this sphere was more important than emulation of other legal professionals, such as barristers. For one thing the Bar was not represented locally in any numbers until the end of the 19th century and, anyway, imitation of the Bar was fraught with complications. Though the ultimate goal of the spokesmen of the profession was a "gentlemanly" status and prestige associated with the Bar, completely different routes were adopted, which could be considered by the upper branch as far from "gentlemanly".

The possibilities for social elevation through public work were enormous. The participation of the middle class in such activities is now investigated.

(ii) "Fit and Proper Persons"

Local social standing was often associated with particular offices. This section is concerned with the practical social significance of public work in the 19th century using illustrations from the Birmingham solicitors' profession. The criteria for social standing could depend on the economic and occupational structure of the locality. For example, in mid-Victorian Kentish London, the relative absence of large capital concerns and a strong employer class, the employment of large sections of the work force in Government establishments and the predominance of professions, trade, etc, led to a conception of social success dependent on prestige, talent and respectability^[26]. Large industrial towns in the North, on the other hand, present a different picture, with large proprietors taking the lead^[27]. Generally, middle class status was not derived exclusively from the source of income.

"It was ... not occupation alone that gave a man a certain prestige in the local community, but a range of other criteria which, however much they might have been ideologically related to the source of income, were not occupation specific"^[28].

Though his concerns are different and mainly directed at Northern businessmen, Garrard has investigated the complexities of political and public work in relation to the urban middle class^[29]. The chief conclusion of interest is that public work acted both as a sign of progress up the social scale and as a channel to social esteem.

There was an underlying belief that only those with the largest accretions of property could fully understand the problems of a borough. Being the only men with enough time and sufficient breadth of view they were believed to have the skills appropriate to the management of municipal government; particularly since that government was (it was felt) simply business on a very large scale^[30]. Nevertheless, expertise rather than economic substance was becoming increasingly important as the century progressed - both for the council and its professional servants^[31] - and solicitors were not slow in encouraging this development.

Throughout the 19th century "localism" continued to be a reality as well as a slogan. Economic and social operations were substantially confined to the area and local (self) government was highly independent of central control. This led to a greater impact of and interest in "the local"^[32]. Though recruitment to the political and social leadership drew heavily on the established few, where "public work" could be traditional and automatic, the

members of such an elite were often reluctant to enter public life and in any case the number of offices to be filled, including the lowly but important positions, ensured that demand outstripped supply. So, for reasons of necessity and ideology, the field was open to the "self-made" and "self-improved" - municipal recruitment based on economic substance; but social position was not so much inherited as earned^[33].

At the centre of this process was the visibility of the philanthropic and social role. For the profession (indeed any middle class fraction) such undertakings also reinforced their own image and demonstrated their standing to the rest of the elite. Philanthropic concerns could express a genuine sense of duty along with a more calculating sense of the rewards accruing from such activity^[34]. The visibility and rituals associated with these "channels to social esteem" and indicators of "social prominence" already achieved were of great importance to the urban middle class in general and, it is contended, solicitors in particular. The rituals included the public celebration of the lives of public men, bordering on eulogies, at particular junctures in their careers. Ritual is most evident in the practically inviolate norm that, however strong one's ambitions, one should never put oneself forward or be seen to seek office. The significance of these rituals were clear - they had

"the important function of marking, confirming and re-affirming various stages in an individuals social arrival... particularly when it was bestowed by other members of the social and economic elite"[35].

How were these processes manifested in Birmingham? The deaths of a town's principal inhabitants were dramatic affairs - as Garrard puts it, local leaders died with "enormous panache". Death and funerals provided the opportunity for eulogistic obituaries, public display at funeral processions (every member of which was dutifully recorded in columns of the local press), memorial committees were established, and shops and factories often closed[36]. Additionally, in the case of solicitors, lengthy tributes were paid at the magistrates and County Courts. In the 1890s the burials of the solicitors Henry Chinn and Arthur Barnes in Lichfield were marked by the tolling of the Cathedral bell and the closure of business in the City[37]. Reports of the death of civic worthies was accompanied by praise for a full and useful life with a list of all the "good works" done, charities supported and offices held. Death may be considered the final stage in the public career, but similar rituals accompanied the staging along the way - for example retirement or resignation from a public or voluntary office.

In 1875 Henry Hawkes resigned from the Birmingham Town Council and his position as Alderman in order to stand as a candidate for the post of Coroner. However, he could not leave the Council without some comment from a political ally - Alderman Avery:-

"The various claims of a learned and laborous profession, and the still more exacting claims of personal interest, were insufficient to repress his zeal and anxiety for performing useful public work..."[38].

On retirement as the popular mayor of Lichfield in 1895, J H Hodgson was honoured with a complimentary banquet, at which Colonel T J Levett alluded to Mr Hodgson's father as "the honest lawyer" remarking that his honesty had passed into a proverb and that "the son... inherited that high character and splendid combination of integrity and legal training"[39]. This also shows the precarious status of the profession even in the late 19th century, in that "honesty", "integrity" and professional standing needed to be repeated and reinforced in the case of a man who was, obviously, highly successful and honourable in the terms of the day - (i.e. a Town Clerk, Clerk of the Peace, Councillor, Conservative agent and so on).

The pinnacle of achievement was that of the Mayoralty - a more important institution in Victorian towns than in the 20th century, conferring as it did possibilities of great power and influence[40]. The legal press was quick to grasp the potential of the position of Mayor and exploit it for professional purposes:

"The election of a solicitor to be mayor is not merely honourable to himself, as proving that he has won the respect, esteem and confidence of the community who are best able to appreciate his worth, but it is a valuable testimony that the vulgar prejudice against lawyers is passing away. The profession is not only asserting its claim to a high social status, but proving its title to the position it claims"[41].

The value of "public service" and its significance for the profession are illustrated in the career of C G Beale. On his becoming Mayor for the third time in 1899 the Birmingham Magazine ran an article on him, commenting on the rarity of the accolade:

"To be thrice Lord Mayor is a distinction which falls to the lot of the few.... The daily duties devolving upon the holder of this office alone are sufficient to constitute a days work for any ordinary busy man. And when it is considered that Lord Mayor Beale is a successful lawyer, and the duties referred to are only part of the work which falls upon the chief magistrate, it will be seen that Mr Beale is a man of no ordinary qualities, in fact we indeed have had few of such exceptional calibre"[42].

Mayoralty was an expensive business since the incumbent was expected to undertake, patronise and initiate a host of philanthropic activities as well as being a lavish entertainer of his colleagues and other members of the local elite[43]. At the end of his term of office he received an effusive resolution of thanks from the Councillors, which recorded their "high appreciation of the eminent services he has rendered to this Council and to the City...."[44].

The Birmingham Law Society (like the Law Times) was very conscious of the vicarious benefits to the many from the success of the few. Not only was the elevation of a solicitor to the Mayoralty a demonstration of the prestige of the profession as a whole, it could also be exploited to show the value of legal men in running vast municipal concerns as opposed to businessmen:

"In honouring councillor Beale, honour had been paid to the profession at large, and they felt it because it showed that the training which a solicitor received in his ordinary business capacity fitted him to hold ^{the} highest position in serving the community^[45]."

(iii) Visibility

Of course all this meant a high profile and visibility both for the individual solicitor and the profession generally. This had its advantages, but also its drawbacks. For as well as the successes, failures were exposed to the glare of a powerful local press.

Public work (political and philanthropic) must have had a positive effect in the attracting of clients and work - implying as it did moving in an intimate environment of the prominent, gentlemanly and (not least) wealthy and

propertied, in an atmosphere a little removed from the competitiveness of the commercial world. However, solicitors' visible participation in public work had wider implications for the accomplishment of profession. For the editors of the Law Times legal knowledge was not of itself sufficient evidence of a suitable candidate for the profession^[46]. Education, training and technical skills were not enough for general confidence in the profession. Legal astuteness was confused with nefarious practice. So apart from education and expertise something else was needed (see Chapter Six for a detailed examination of this aspect). This, then, was the dilemma that faced the profession.

How, then, was this dilemma to be rectified? It has been seen that one powerful argument was the promotion of good "character" generally and the ideal of the "worthy gentleman". The profession could be gauged individually and collectively as honourable by the active cultivation of a visible public image - and, as has been seen what, could have been better than an unselfish public life? Its important to remember here that it is the "image" that is of chief concern and not necessarily the reality. At a time when it was particularly difficult to separate expertise and "character" in "professionalism" the demonstration of "disinterest" was at a premium and rested as much as anything on the morality of attorneys and solicitors^[47]. This was more than adequately evidenced by Arthur Ryland, as the magazine Edgbastonia commented some

five years after his death, concluding that he "wore the white flower of a blameless life". However romanticised a view this may have been the author cites a material instance:

"One of the greatest proofs of the high character which Mr Ryland possessed, and the esteem in which he was held was the fact that he was chosen by many benevolent persons as the medium through which large and princely benefactions were made to the town"[48].

It would seem that the tarnished image of the solicitor was a hard one to shake off, even for the eminent in the last quarter of the century. Men whom one would expect to have been beyond reproach appeared to need the occasional reassertion of their standing, such as Thomas Martineau in 1884[49]. By this time, according to the literature, the profession was supposed to be rid of the more gross aspects of malpractice, yet the author of his portrait felt obliged to make reassuring statements about a man of impeccable pedigree, who moved in the best circles of the area.

The problem of sharp practice, has to be understood in order to comprehend professional strategies and how they worked out. Clearly it was part of the process in motivating solicitors to enter the public life of Victorian Birmingham. It brings us back again to the ideas of "duty", "integrity" and "the gentleman", mediated for the purposes of the profession. These responses to specific concerns of the profession, nationally and locally, have

been seen as contributions to the development and diffusion of a professional ideology, at least within the West Midlands region. A full public life offered a highly visible and successful demonstration of a solicitors' unimpeachable moral character.

Much of the chapter so far has laid the background for contemplating the development of professional ideology in Birmingham. The particular nature of that ideology and its social determinants has already been alluded to. What follows is a discussion of how an ideology is elaborated in a specific form, and its effects.

IV. . Public Work, Professional Ideology and the Service Ideal

(i) "A Sense of Independence and Calm Disinterestedness...."

Ideology is taken here to mean a collection, not necessarily a system, of beliefs intended to legitimate power and prestige thereby masking contradictions in and preventing threats to that power and prestige. Central to the development of professions was the formulation and diffusion of a unique ideology based on the concept of service as a moral imperative. This cornerstone of the

professional ideology provided professions with "an article of faith" with which to justify their claim to superior status and special privileges^[50].

An "ideal of public service", in Birmingham, came to be articulated and acted upon as the result of real professional problems and needs and practical solutions to them. This was not just a process confined within the community of solicitors but depended on the professions's interaction with other professions, middle class fractions and the state. The public service ethic was useful in that it could legitimate established professional privilege and also serve as a means of attaining that privileged position. It was seen as one answer to the problems of low status, marginality and poor respectability (another, parallel, answer being the introduction of further legal education, examinations, and the "push" for a "liberal education", see Chapter Six).

"Public work" was increasingly expected within the middle class response to urban problems and its perhaps not surprising that such an integral part of the middle class "being" and "consciousness" should have shaped the direction of the professional claim to altruism and public service in its ideology. "Public work" can be seen as an effective method of achieving and demonstrating the high status of the profession and in turn it fashioned an ideology to legitimate it, based on "altruism", "duty" and so on. It has to be understood that professional

imperatives for indulging in "public work" are only a partial explanation of reasons why solicitors were so prominent in society. In 19th century Birmingham such instrumentality has to be tempered with Radical Liberalism, reforming zeal, family traditions of public participation and of course religious feeling and genuine philanthropy^[51].

How did the ideal of public service come to be an essential part of professional ideology and why did it take the form it did? This task will be tackled by an examination, first, of national expressions of the issue and how they were reflected locally.

The BLS on its foundation in 1818 recognised the problems of the profession as resting on "respectability" and took it upon themselves as a duty to do something about it. "Respectability" was, as has been said, a common ideal in early 19th century England^[52]. The theme of "profession is the person" is frequently repeated in the legal literature from the mid-19th century onwards; for example, the contradictory relation between status, the individual and the profession as a whole which was analysed in Chapter Three.

Numerous methods were advocated of "elevating" the profession and an ideal of professionalism was postulated which consisted of the trinity of "station, intelligence and character", obtainable through the efforts of attorneys and solicitors themselves without state interference^[53]. Notions of "gentlemanliness" became common and found concrete expression in the desire for every entrant into the profession to have a background of a Liberal Education. Yet the attainment of status, honour and a "gentlemanly" position was not just a question of education and legal knowledge. In no other profession was the matter of private character so important, since the middle class entrusted so much to the hands of solicitors^[54]. The profession needed some indication of its social position and respectability and this could not be "written up" by any amount of praise or rhetoric in the legal press or at professional meetings. Reputation was therefore accompanied by a combination of strands - liberal education, organisation, moral duty, self-respect and so on - which could be achieved by the social means of cultivating a chain of connections and social rank, moving in polite society, doing "good works", leading to a life of public work. A social test of the "solicitor".

The conception of the problem and its remedy at a national level found an echo in Birmingham. The records relating to the BLSS provide an insight into a local analysis of the problem of status and the solutions peculiar to local solicitors. Though it was primarily an

organisation to promote educational ends, statements made in Annual Addresses by Presidents of the Society continually refer to the personal conduct and qualities required of the solicitor - trust, honour, integrity etc - as well as legal knowledge^[55]. Articled clerks were encouraged to develop the moral and gentlemanly qualities which would stand them in good stead in their future careers and make them honourable and respected solicitors - a credit to their profession and brethren^[56]. However, this was not all, George Harris, Barrister, Deputy Judge of Birmingham County Court urged the pursuit of general activities - i.e. non-professional - in order to qualify the solicitor for his vocation and (even more desirably) make him "a useful and honourable member of society"^[57].

The articulation of personal qualities and the benefit of non-professional activities was typified by A. Ryland in two addresses to the BLSS in the 1850s. Good solicitors, he said, were the result of more than just legal ability; "higher qualities" were of greater necessity - "a deep sense of responsibility, forgetfulness of your own immediate pecuniary interest, a calm temperament, decision, courage and an inviolable core of truth"^[58]. This was all very well, and indeed Ryland hoped he was "preaching to the converted"; but how was this to be demonstrated outside professional/client relations? Three years earlier Ryland had indicated, or rather recommended public work as a way of honing and demonstrating the superior qualities of the solicitor's profession^[59].

Thus, by the end of the 1850s, a public service ideal incorporating prominently "public work" had emerged as part of a professional ideology, being developed organically by the local leadership in order to increase respectability and encourage a better public image. This did not just develop internally from within the profession as perhaps the literature might suggest. There were, as suggested in the sections above, other social determinants of solicitors' involvement in public life. Sir Thomas Martineau was to write of his late partner, Ryland, some years after his death:

"He was deeply impressed with the duty of everyone, by sacrifice of time and money to serve the public among whom he lived to the best of his power, and this high sense of obligation to the community may be considered to have been the guiding spirit of his life"[60].

Such praise was not only to be found in memorials like this written by friends and partners, but during the subjects' lifetime; for example, G J Johnson:-

"He has ever held exalted views of the nobility and dignity of public life, of the claims of public service on every private citizen, of the necessity for every man to take some share of public duty, if the health and vigour of corporate life are to be maintained.... No man of his time has ever held or realised a loftier ideal of public life and enjoyed a career of honourable public service admired alike by opponents and by friends"[61].

Once it was recognised that "profession is the person" and that legal knowledge was not the single criterion for "professionalism" the way was open to establish other "defining" characteristics of the profession - suitable for the solicitors themselves and a critical public. It seems that of the current possibilities they drew on, the concept of "Gentlemanliness" came to dominate. The public service ideal was a way of cultivating a "social identity" and providing a moral justification for the claim to high status. The word profession began, during the second quarter of the century to connote a particular social role that was not merely occupational but profoundly moral, with an emphasis on professional behaviour, compliance with high ethical, altruistic standards as the predominant characteristics of a professional man. Thus "profession" came to mean not just an occupation but a "way of life" or a "social, domestic life, a pattern of work and leisure that would suggest gentility"[62]. The known man of "honour" was considered to be the "best" professional - as regards the wishes of the profession and public alike - and to this end the ideal professional man continued to be the "gentleman" or at least a form of "gentleman" that had been transformed to produce a definition which stressed a noble disinterested man of integrity, unimpeachable morality and public spiritedness[63]. The notion of service was an expanding concept. It clearly meant a practitioner's duty to consider his client, but it had been seen that it had wider moral and social implications - service to the community, self-sacrifice and so on.

ii Public Work

Though it is clear that during the 19th century solicitors were prominent in local affairs, the historical literature on the profession leaves the impression that, on the whole, solicitors were not greatly involved. Kirk's explanation is that young solicitors are generally too busy and by the time they might have more time they are too old^[64]. However, an examination of the Birmingham Town Council (1839-1918) shows the extent to which solicitors were involved in local politics and indicates the increasing status and prominence of solicitors within the Council itself.

Attorneys were unknown on the Council until 1846 when Henry Hawkes, only just admitted, was elected councillor for the Duddeston-cum-Nechells ward. After his election his political career was marked by rapid progress - by 1850 he was an Alderman and in 1852 he was elected Mayor^[65]. By this time he had been joined in the Council by two other attorneys - T R T Hodgson and F Mole. From this point on attorneys and solicitors were to be a permanent feature of the Council, rising steadily to a peak in the period of 25 years before 1914, and being rivalled by the medical profession only in the 1880s and 1890s^[66].

The frequency with which solicitors were elected Mayor provides an insight into the increasing prestige of the solicitor in Birmingham; and for some, one symbol of having achieved the just measure of status within the elite. Taking the 80 year period from 1838-1918 with a mid-point of 1877-8, the contrast between the two periods in terms of solicitor-Mayors is immediately apparent. Before 1877 there were only three solicitor mayors (Hawkes 1852, Hodgson 1855, Ryland 1860). However, in the period after 1878 solicitors were mayor for a total of 12 years out of 40. This included two occasions when the mayor was in office three years running - Thomas, later Sir Thomas Martineau (1884-6) and C G Beale (1897-99). C G Beale was Mayor again for a short period in 1904 and Thomas Martineau's son Ernest was Mayor 1912-13. (Indeed the Martineau family continued to provide Mayors until 1986 when Denis Martineau became the fifth member in direct father-and-son succession^[67]). Beale, the Martineaus and G J Johnson (mayor 1893) were by the late 19th century part of the economic and social elite and the leading lights of the local profession. Their status was already well established, the prestige attached to the mayoralty, as seen above, can be seen as confirmation, "icing on the cake". This goes some way to supporting the argument that it was the last quarter of the century that witnessed the establishment of the profession socially.

After this brief look at solicitor-Mayors it is worth studying in some detail the public lives of acknowledged professional leaders and, if possible, some lesser figures. A familiar problem recurs here in that generally only those solicitors who pursued vigorous professional and public lives are recorded in any detail in local sources. This can have a distorting effect, but it is not quite so serious when the aim is to examine the activities of the professional elite. The professional leadership has been assumed here to be represented by the Presidents of the BLS, 1818-1900. Information on the first seven Presidents is unfortunately very scarce or non-existent. Therefore, until the 1870s, the period when solicitors were achieving professional status, little is known of the activities of the professional leadership and any changes over time become difficult to assess.

The Tory Anglican John Welchman Whateley was President of the BLS 1855-73, longer than any other man (R W Gem coming close with 15 years, 1833-48). For such a prominent man surprisingly little is known. Despite his leading position in the profession the Post commented on his death in 1874.

"He was never a public man, though, years ago, he filled a large place in the public mind, from the social position he occupied, his personal influence, which was very great, and his professional engagements...."[68].

He was solicitor and secretary to King Edward's Grammar School, connected with the management of the General Hospital and with the direction of the Music Festivals. For some years he was one of the coroners for Warwickshire, but his duties ceased with Incorporation. Whateley was at the centre of a political contest with another solicitor, C T Saunders, over the constitution of the Governors of the Grammar School. Both he and his brother George, a partner, were involved as Tory party agents. J W Whateley was clearly a wealthy and influential man during the second quarter of the 19th century, which derived from professional, family and strong county connections. The public participation of the 12 Presidents after 1873^[69] exhibits a number of contrasts and similarities. The overlap of the professional leadership with the social, economic and political elite, in the field of public work, becomes ever more apparent and with the passing of time increasingly strong.

The qualitative change around the 1870s is immediately manifest in the successor to Whateley: Arthur Ryland. By contrast he was a Unitarian Liberal centred on the town rather than the "county". Though engaged in business and a tireless participant in professional affairs, he devoted much time to political, educational and charitable work; the "crowning glory of his life" being the establishment of the Birmingham and Midland Institute in

1853^[70]. The vast extent of his public work can be seen from the many full obituaries and memorials that were written on and after his death. He was a Street Commissioner, Councillor 1854-1858, 1859-74, Alderman 1858 and again 1860, Mayor 1860, member of the first Free Library Committee; involved in local institutions such as the General Hospital, a founder of the Children's Hospital, the Sanatorium, Women's Hospital, Neglected Children's Aid Society, the Old Library, a Governor of King Edward's, member of Lench's Trust, one of the first solicitors to be made a county JP, law clerk to the Guardians of the Assay Office. Other institutions and charities which he supported included reformatory schools, the Public Picture Gallery Fund, Magdalen Asylum, Bromsgrove Cottage Hospital, Industrial schools and the School of Art.

Indeed, the Tory Daily Gazette in summing up his life stated

"....it would be hard to name a local institution or organisation having for its object the improvement, relief, or rational enjoyment of the people in the founding, development or maintenance of which Mr Ryland had not a large, and often leading and essential share...."^[71].

Though Ryland's successors were often not as active publicly, it is plain that the interests of the professional leaders were not confined to legal matters. It would be tedious to describe the public work of the other Presidents. Naturally they were hailed as paragons

of their profession and recognised as cultured and valued citizens^[72]. (For details of the professional elite's public work see Appendix III).

Many solicitors who were not members of the professional leadership, social and economic elite or in any other way prominent, were active in local affairs. For example, it was said that S Jeavons was interested in public affairs to the last. He was conspicuously connected with Wesleyan Methodists; had a great interest in and was a munificent supporter of the Princess Alice Orphanage at Erdington; and endowed a bed at the General Hospital in memory of his wife Sarah^[73]. There are numerous other examples of such "middling" men who, nevertheless, made a whole string of contributions to Birmingham life. Men such as Montgomery Hooper, originally from Exeter, a highly respected solicitor with equally high esteem as a citizen and in social life; A G Buller and William Thomas, prominent in Moseley and Kings Heath circles; and Arthur Smith who had an active interest in the affairs of Harborne^[74].

As the suburbs around Birmingham expanded it became common to find solicitors practising in the town and living some distance away, or practising exclusively within the suburbs. These men became involved with the public affairs of their neighbourhood. An instance of the latter can be found in Sutton Coldfield. The Sadler family had been connected professionally with the area since the early 18th

century and by the mid-19th century had carved out a comfortable niche in the social, economic and corporate life in Sutton Coldfield. Edward Sadler had become something of a celebrity when, in 1817 he was the solicitor for the defence of Abraham Thornton in the Mary Ashford murder case^[75]. The chief professional rival of Sadler and his partner Eddowes in the second half of the century was the firm of Holbeche and Addenbrooke. Addenbrooke and Holbeche were closely associated with the Corporation, being essentially its legal advisers. Addenbrooke was also Coroner, clerk to the magistrates and Treasurer of the Benefit Society. Thomas Vincent Holbeche was the last representative of the firm, dying in 1904. On incorporation in 1886 he was elected Town Clerk; he was clerk to the Municipal Charities Trustees, and new school committee, clerk to the Jesson's Trust, plus a member of the committees of the Sutton Coldfield Provident Dispensary and the Birmingham Eye Hospital.

The Daily Gazette commented:

".... the deceased gentleman was more or less connected with all the principal institutions of the borough, and his general presence will be sorely missed at all gatherings which has for their object the welfare of the people"^[76].

Joseph Ansell was active in the suburbs, principally in the local government of Aston. In Sutton Coldfield he held many offices, including Mayor, after having secured the incorporation of the borough with J B Stone, the first Mayor. He was a JP for Sutton and President of the Workingmen's Club and Sutton Institute. In addition, outside Aston and Sutton, he was Deputy Coroner for Birmingham, a supporter of the Birmingham and Midland Hospital for Diseases of the Nervous System and President of Aston Villa Football Club.

A final example provides a useful insight into the public life of a suburban solicitor and the pressures on him to participate in the affairs of their own particular locality. The biographical sketch of Henry Sutton Ludlow in the series "Men of the Present" in The Yardley Newsletter is of especial interest for the opinions expressed. Ludlow lived in Solihull - "the suburban retreat of so many City men" - and up to 1894 followed the example of his father by not participating in municipal or county affairs. However

".... since the machinery of our local government has been placed upon a wider and an elective basis, few, if any, man of standing or ability can consistently with their duty to the community altogether escape from taking their share in one or more of the numerous Councils and Boards which control the domestic government of the people. It would, indeed be no compliment to any citizen to be able to say his friends and neighbours were not anxious for his assistance in these important matters, more especially when he possesses knowledge that must be of special

value to a governing body liable to be frequently concerned with questions involving legal technicalities"[77].

Within two years of his election he was chairman of the Finance Committee of the Solihull Rural District Council and the Solihull Board of Guardians.

The impression is gained that solicitors who fell outside the professional leadership tended to participate in public life on a less extensive scale, often within their particular residential locality, while the larger solicitors were major contributors to the public work of the town and, later, city. This may have been due to the fact that the professional leaders were partners in large town centre firms, with numerous partners and staff by the end of the century, whereas the others were sole or small partnerships, or were tied down by professional commitments. In a growing practice it was often only possible to indulge in public work by sacrificing income or taking on a partner. The Daily Gazette suggested that the introduction of Thomas Martineau to Arthur Ryland's office as an articled clerk and then partner allowed him (Ryland) to devote some time to public work and, in particular, the B.M.I.[78]. Jones, in his study of Wolverhampton Borough Council, suggests that as the practice grew professional demands on the time of the solicitor increased. He cites a solicitor councillor who bemoaned that his partners were complaining that the practice was suffering because of the long hours he devoted to local government[79]. This is

reminiscent of the disagreement between partners Bernard and King^[80] and was obviously a perennial problem that calls into question the assertion that legal professionals made the ideal political or committee man. The fact was not unknown to the press in Birmingham. References to solicitors who had to give up public posts due to pressure of work were numerous. The difficulties encountered by solicitors in combining the demands of a professional practice with public work were moreover widely recognised^[81]. Nevertheless, as the catalogue of good works in obituaries show, solicitors continued to take part at all levels of local affairs. By the second half of the century the benefits of solicitors' skills were increasingly recognised in public work, by solicitors themselves and their contemporaries. Solicitors were not slow to labour the fact. However, the argument for a "transfer of skills" is a delicate one - that some solicitors had the requisite skills for public work is not in doubt, but these skills changed over time and could vary from one issue to another. It is suggested that from the 1860s in Birmingham it was businessmen's entrepreneurial skills that were seen as the attributes most suitable for local government - not only by the businessmen themselves but by the Council and the ratepayers as well^[82]. Thus it was often the business, organisational and administrative skills of solicitors that are favoured most on the council. For example, it was considered that C G Beale's Council work benefited from his sound business training and knowledge of public affairs^[83]. Such "entrepreneurial"

skill was not just seen as beneficial in municipal work. The obituary writer of the Daily Post believed Arthur Godlee to be eminently suited for the office of Honorary Treasurer of the B.M.I. because of his financial ability, together with his legal knowledge and infinite acquaintance with every department of the Institute^[84]. This is by contrast with the earlier period. In the 1840s different skills had been praised as most appropriate. Thus Hawkes was distinguished for his "love of debate, his marvellous memory and his industrious attention to detail"^[85].

By the late 19th century legal qualities were seen as essential or at least a bonus in Council work. The legal skill of J B Clarke and T W Walthal was praised during the boundary changes of the late 19th and early 20th centuries. The combination of legal capability and negotiating skills ensured Charles Mathews successful organisation of improvement schemes and local Acts of Parliament^[86].

V. Solicitors, Leisure and Status

The social and professional aspects of public and philanthropic work have been discussed above. Though leisure and cultural activities were often private, the social dimensions and meanings attached to these had implications for the profession in similar ways to public work. Their very nature meant that, on occasions, leisure and public work could merge. Leisure allowed a public display, again legitimated in terms of Victorian moral behaviour, of social class solidarity or separation, wealth, status and identification of the solicitor with appropriate values and virtues, especially those of the middle class gentleman^[87].

The early part of the century was not one of fervent recreation by the middle class generally; moral and rational considerations prevailed^[88]. Nevertheless, cultural activities did exist, often thriving. As noted in Chapter Four the elite of the profession at the beginning of the century were very much associated with county connections and this was reflected in leisure, both private and public. The Whateleys were linked with the county patrons of the Triennial Music Festival; Thomas Henry Gem was mainly instrumental in running the Birmingham Cricket Club, established 1819, which comprised the young elite of the town, many of them solicitors such as George Barker, J

W Unett, W H Gem, W J Beale and Hall-Capper^[89]. Many of these solicitors were to be found in the select Tory and Royalist Bean Club. The links with aristocratic county families were long standing and extensive. Again the Gems and their partners the Dockers were central figures in official posts of the Club for generations. However, Liberal nonconformists such as the Rylands and their connections (e.g. Arthur Ryland's brother-in-law, H W Tyndall, solicitor, and the Kenricks) attended public lectures at the Philosophical Institute and mixed during the theatre season in Birmingham and London^[90].

A turning point in the development of middle class leisure can be discerned around the 1850s. In the period up to mid-century reformers realised that a dangerous separation of the classes was taking place and that a solution lay in the provision of new kinds of public leisure that promoted class collaboration, framed within beliefs that leisure time should be spent in some improvement of self and society - "rational recreation". Leisure was to be a powerful tool in class conciliation and the attempt to direct the working class into uplifting and self-improving channels. Many projects of a voluntarist and municipal nature were espoused^[91], aiming for the free public provision of parks, museums, libraries, art galleries and so on. Solicitors were significant in promoting and supporting these not only at their instigation, but throughout the remainder of the 19th century^[92]. In one sense the climax was reached with the

establishment of the Birmingham and Midland Institute in 1854, principally the work of Arthur Ryland. The project drew together many of the local progressive spirits such as Arthur Ryland's friend, the minister, George Dawson and solicitors J B Hebbert, Henry Hawkes, H W Tyndall and W J Beale. Other well-known solicitors participated in official capacities later on - e.g. Thomas Martineau, A Godlee, W Showell Rogers, J B Carslake, H C Pinsent, E O Smith and A Hayes^[93].

The second half of the 19th century was a time of rapid development in leisure facilities for the middle class and a departure from justifications based on moral, educational, spiritual or a class collaboration content. Recreation made explicit new meanings particular to middle class identity and status. There was a legacy from the period of rational recreation, i.e. concentration on uplifting intellectual subjects - art, music, literature, debating and the volunteer movement, but by the mid-century the emphasis had shifted. Lectures carried on at the BMI, but elsewhere changes were taking place. Clubs, societies and associations, financed by subscriptions beyond the means of the working class and in any case aimed at exclusivity, were flourishing.

The Birmingham and Edgbaston Debating Society attracted the Birmingham elite, providing a training ground for some of the town's social and professional leaders, and the opportunity for the exercise of oratory. One such

member being Charles Mathews, who among his contemporaries in the society included numerous civic dignitaries - Sir Thomas Martineau, George Dixon, J H Chamberlain, Joseph Chamberlain, George J Johnson, Dr Sebastian Evans and William Kenrick^[94].

The Central Literary Association discussed subjects other than literature, i.e. contemporary religious and political issues. The benefits the Association claimed to offer were considerable and extremely wholesome - moral improvement, intellectual development, a zest for study, a source of friendship, the inducement of social and brotherly feelings and a respite from the base rigours of incessant and harassing business "where the higher powers are necessarily blunted and worn". The Association was a means by which the man of business could "efface such influences and refresh themselves from a varied choice of intellectual springs in the company of a goodly fellowship of chosen spirits. Mental culture, personal friendship, genial and gentlemanly intercourse: all are comprised in membership of the Central Library Association"^[95]. Solicitors such as Ion Atkins were enthusiastic members, partaking in the debates and contributing to the magazine.

The even more select, Our Shakespeare Club, like the Central Literary Association, emphasised its role as an adjunct to work:

"In the life of a great and growing town... the claim of practical business made constant demands upon the thought and energy of its people, there was an increasing necessity that special provision should be made for the cultivation of their intellectual and artistic faculties"[96].

It also prided itself, like the Birmingham and Edgbaston Debating Society, on the number of great citizens included in its membership - MPs, Mayors, Councillors - many of them solicitors, such as Mathews, Johnson, C M Ingleby, J R Holliday and R A Pinsent.

Local history and its close relative genealogy were increasingly popular Victorian pastimes, spilling over into hagiography, the celebration of local institutions and journalism. Numerous local societies were set up in the late 19th century to promote the study of the past and the preservation of local archives, e.g. the Birmingham and Midland Counties Archaeological Association and the Midland Record Society. Some solicitors took a keen interest in particular subjects (e.g. place names and military history); the results of their researches forming the basis of lectures to local societies and publications[97]. Many of these ostensibly intellectual associations held conversaziones which were usually very successful social affairs, providing an informal, yet public occasion for the interaction of the town's elite[98].

The mid-century period marked a shift in emphasis away from the public areas of the centre of the town to the semi-public and private world of the middle class suburbs - clubs, institutes and the home. Here, solicitors were involved in the formation and running of various recreational associations and contributing to middle class private family and social life. Entertainment focused more extensively on the home and family - dinner parties, private dances and theatricals, reading, music, games, gardening and billiards^[99]. However, there was a reaction to this tendency towards discrete and insular households which went beyond house and garden parties for extended family and friends. The needs of greater social interaction lead to the building up of secondary associations and the regeneration of old patterns of neighbourhood and class solidarity which relied on the formally constituted club or society^[100]. Suburban institutes sprang up offering lectures reflecting middle class interests in travel, science and other entertainments, supplemented by material in local magazines. Solicitors were prominent in all these activities. The programme of the Sutton Coldfield Institute included lectures by the solicitors Charles Mathews and W Showell Rogers on such diverse subjects as Edgar Allen Poe and the Alps^[101]. These lectures extended to both sexes and all ages, as did other activities such as skating and cycling, yet one of the most significant

developments was that of gentlemens' clubs, which serves as a reminder of the heavy male dominance of cultural activities in the period.

Thomas Henry Gem of the extensive legal family and a leading figure "in all circles of society" was said to have been "the founder of Club life" in Birmingham^[102]. He is credited with the establishment of the Union Club - the most exclusive club in Birmingham throughout the period, palatially accommodated in Colmore Row. The development of this and other clubs can be seen as part of the general process of class formation and suburbanisation. The clubs reflected changes in middle class culture, education and expectations^[103]. The aim of the Union Club was to "promote social intercourse among its members, by establishing an elegant and orderly resort; combining the advantages of Dining, Reading and Drawing Rooms; Billiards, Chess and Card Tables etc"^[104]. The exclusivity and restricted entry (limited by numbers, high subscriptions and vetting) plainly demonstrated that members were not merely businessmen and professionals, but gentlemen^[105]. The membership lists of the Union Club and the University Graduates' Club read like a muster of the town's elite, and solicitors were prominent as Presidents, Vice-Presidents, officers and committee men as well as in the body of members.

The Volunteer Movement, was another major, yet ultimately unsuccessful, strategy of class collaboration employed by the Victorian middle class involving the mingling of classes under controlled circumstances and the diffusion of middle class ideals. Professional men were early adherents but, unlike club membership, the status of a volunteer officer was not unambiguous. Nevertheless, the volunteers attracted a number of officer solicitors, such as Ernest Martineau, aware of the need for "men of influence and good standing to give their adhesion to the cause"[106]. Indeed the Birmingham Corps itself *had been* established by T H Gem, aided by his fellow magistrates clerk, J B Hebbert, in the late 1850s[107]. Despite asperities cast on the status of Volunteers, the movement continued to appeal to leading men, including solicitors, possibly on the basis of social criteria, such as the cachet of a military title, the conversaziones, dinners, shooting parties and charitable functions. If membership of the Officer Corps did not necessarily aid upward mobility for the lower middle class, then those of known credentials were not inhibited by association with the Movement[108]. Clearly some prestige was to be gained from an often considerable outlay of time and money.

Exclusivity came to be the mark of late 19th century middle class leisure, as noted above in relation to clubs and suburban life. Cunningham[109] identifies three major routes by which the middle class captured the initiative in

leisure forms and created class specific sports and other activities from which the working classes were excluded. These routes comprised middle class infiltration into the leisure world of the aristocracy; appropriation and imposition of a middle class ethos on sports and leisure which might previously have been described as popular; and the invention of new leisure forms which were designedly class specific.

Social contact between Birmingham's leading aristocratic families and local magnates was limited almost entirely to philanthropic projects. Nevertheless new forms of elite behaviour were adopted by the middle class. Several solicitors in the second half of the century took up hunting regularly during the season with local hunts; those of South Staffordshire and North Warwickshire predominating^[110]. Solicitors were extensively involved in other country pursuits and field sports - angling, shooting etc. Walter Goodrick-Clarke was a life member of the Barnt Green Fishing Club, a keen shot and in later life a consistent follower of otter hounds and a keen naturalist, writing frequently on bird and fish life. Shooting on rented Scottish estates was popular with the elite family group of Kenrick, Beale and Nettlefold, Charles Beale having taken over a three year lease of Glen Lyon from his London based brother James Beale, solicitor^[111]. Yachting was the undoubted sport of the wealthy, adding visibility to status. Leslie Chatwin, son of a renowned Birmingham architect was on the committee of

the Royal Cruising club and had helped form the Barnt Green Sailing Club. Boating may have been more accessible - Stephen Gateley acquired a residence on the Avon for that purpose during the summer months[112].

The second route, (that of appropriation), concerned sports of the low social tone previously associated with the "crowd", public houses and gambling - rowing, cricket, athletics, football and so on. From the 1860s these were increasingly taken up by the middle class determined to impose order and organisation and infuse respectable ideals of "amateurism" and muscular christianity, thus rendering them acceptable. Organised sport gave expression to the predilection for the physical often gained during the extended education so essential for middle class gentility - grammar or public school and university, (e.g. the solicitors H Monckton and A V Blakemore who rowed, played football and cricket for their college)[113]. By the late 19th century the majority of known practising solicitors had had an active interest in sport at sometime during their life, cricket being by far the most popular. The game was revered as a metaphor for all that was best in the Victorian Gentleman[114]. Solicitors played for surrounding towns and villages, e.g. Knowle (C A Carter); Kenilworth and Leamington (J Lambert); A L Crockford captained the Sutton Coldfield team; E R Williams held the same position with the Edgbaston Cricket club, Frank Lowe had captained the BLSS team and A C Hayes played for the county[115].

Solicitors were also the backbone of local amateur theatrical, dramatic and operatic societies. They worked in organisational capacities - Frederick Burton and C E Innes were President and Hon. Secretary respectively of the Birmingham Dramatic and Literary Club. Leslie Chatwin was the Hon. Secretary of the Birmingham Amateur Dramatic Federation, Chairman of the Western Area Drama League Festival and producer of the Northfield Community Players, Herbert Monckton was Vice-President of the National Amateur Operatic and Dramatic Association, at one stage re-drafting its rules. Solicitors did not just work behind the scenes, some were credited with being capable actors and singers - T H Gem again, who was something of a playwright, Henry Hawkes, Walter Goodrick-Clarke and Herbert Monckton. These men were well known for their public performances (mainly Shakespeare and Gilbert and Sullivan) many of which were in aid of charitable causes - e.g. Monckton belonged to a company that put on plays for the benefit of local charities, such as the NSPCC, at the Edgbaston Assembly Rooms (opened 1884) and other local institutions[116].

Attention is now directed towards the invention or development of new leisure forms which were established as elite recreations, a process in which solicitors in Birmingham appear to have played a leading part. Alpinism was the upper middle class recreation par excellence, being dominated by successful professional and businessmen from mid-century. In Birmingham Richard Cadbury, Arthur Kenrick

and the barrister, Arthur Wills were keen climbers and walkers in Switzerland and indeed lawyers were especially connected with the sport. The solicitors W S Rogers, E H Lee and E F Freeland took walking and mountaineering holidays in Switzerland, as well as closer to home in North Wales and the Lake District. Walter Barrow counted mountaineering as his chief recreation, having climbed in Switzerland, Norway, the Tyrol, Scotland, Skye and the English Lake mountains. He was a member of the Scottish Mountaineering Club and Alpine Club. However, the leading exponents were undoubtedly the Mathews family - William, surveyor and Charles Edward, solicitor. These two played leading roles in the foundation of the Alpine Club and other mountaineering societies, building up international reputations as pioneers of alpine exploration and writers on the subject. Alpinism was attributed with those almost spiritual, yet solidly temporal moral qualities, central to the "manly character" of a Victorian gentleman^[117].

Other middle class innovations were not so well endowed with uplifting virtues, but nevertheless ensured the paramountcy of exclusivity and status enhancing settings. Tennis was one such popular sport. Though usually associated with Major Wingfield from the mid-1870s a strong case was made out for crediting T H Gem with its invention, along with J Perera, merchant, at an earlier date. Tennis's popularity spread during the 1880s with a burgeoning of clubs encompassing many well known solicitors, including J P Phillips who married Perera's

daughter. It is even stated that James Hall-Wright won the Lawn Tennis Open Championship in 1886[118].

Golf was another sport of the wealthy middle class, Birmingham's clubs originating in the 1890s, being exclusive, of restricted membership, high fees and careful vetting. Solicitors were again instrumental in establishing and running clubs - F H Pepper was founder and President of Handsworth Golf Club; C F Crowder was founder of the Edgbaston and Blackwell clubs, being Captain of the former, the President of which was Frank Lowe, and Arthur Godlee's experience in the organisation and management of the Harborne Club, of which he was President, was tapped by other clubs in the district which sought his advice. Solicitors must have come into contact with each other and the elite since many belonged to the same clubs, e.g. that of Kings Norton (W Barrow, H Monckton, Walter Goodrick-Clarke - a founder) and Handsworth (W Jeffrey and E Evershed, captain 1917-18)[119].

There were many other middle class leisure activities in the late 19th century in which solicitors took a lead, e.g. photography, horticulture, motoring and cycling - "all the rage" in the 1880s and 1890s[120]. These pursuits which occupied solicitors to a larger extent than hunting suggests that emulation of the aristocracy was not the principal motivation in cultural habits. Of more importance was an opportunity to consolidate and confirm middle class status and identity, rather than define

themselves upwards. Leisure forms provided a public demonstration of compliance with the intuitive distinctions which governed social behaviour and contact^[121]. Clearly, the profession of solicitor was no obstacle to the public display and pulling off of "gentlemanly character".

The successful involvement in prestigious and public leisure must have had tangible effects beyond confirming solicitors' acquisition of middle class gentlemanly status. It satisfied the need to fulfil a public role and "make a name". Solicitors were seen at the head of respectable middle class life. In private settings, the chance to mix with the right company on favourable terms and cultivate connections cannot have been passed over^[122]. Freemasonry was very popular with solicitors towards the end of the century, many of whom took prominent roles in the internal organisation. (A list of solicitor-masons is far too long to reproduce here). The partners of firms from the higher echelons were also to be found conspicuously in clubs which the elite frequented, i.e. the Union Club. Solicitors' increasing engagement in the elite leisure world, made possible for the successful by the growth of their firms, further strengthens the argument for an understanding of solicitor's status and "professionalism" based on strictly non-professional criteria and the "existential performance" of the solicitor as a person.

VI. Conclusion

The period covered by this thesis was one of great change and transition in all spheres of human experience. As a result a number of forces were acting on the solicitors' profession and pulling it in numerous and diverse directions. It was an age of uncertainty for many. The traditional source of status for the professional man - his relationship with the gentry of 18th century England - had been undermined, not only by economic and social changes but also by the development of the profession itself. The early 19th century saw a preoccupation with expert/client rather than patron/servant relationships. Independence was an important adjunct to bourgeois respectability. So there appears to have been a need for a new source of status and respectability as the definition of profession shifted. Professional leaders and spokesmen propounded many options, some based on traditional values others on new 19th century innovations, e.g. in the area of education, examinations and credentials. However, this was only one aspect, as shown in the next chapter.

The public role of the solicitor was increasingly viewed as an important part of the profession from the late 18th century onwards. Society was becoming increasingly complex and in the provinces the solicitor was in many instances the only readily available lay "expert". In

addition large towns like Birmingham were becoming important regional centres for professional services. So solicitors, as the quotation at the head of the chapter suggests, found themselves in public roles which, perhaps, had not formerly been seen as the preserve of the legal profession outside London.

Thus it has been shown that a strategy to "elevate" the profession as a whole by inculcating a public service ideal was formulated at national and local levels. Such a policy, if carried out, would reflect well on the profession generally, gain recognition from the people who counted and, therefore, increase the status of a profession which, at the top at least, was continually aware of its problematic reputation. The strategy of "educating" the public/client to regard solicitors as respectable via this ideal rested on public work - a visible manifestation of the disinterestedness, independence, integrity and honour of the individual, usually from the elite, and by extension the professional body. One has to remember the 19th century context of this strategy. For the middle class the accumulation of wealth, though not condemned, was not an assurance of status or gentility. In the case of solicitors it may have been regarded with suspicion and cynicism. The accretion of riches and its trappings was not enough.

For solicitors there was another side. Their worth was problematic. Professional spokesmen were keen to play up the important roles solicitors took on and carried off in their professional work. That is, solicitors looked after the cares and burdens of the propertied and wealthy. The confidence entrusted in solicitors by the elite and the supposedly rare breaches of trust was held up as another indicator of the profession's honour. However, this was carried on in private and was, therefore, of limited use as an argument for greater status. Public awareness of the solicitor's privileged position only occurred when trust was broken and temptation got the better of him. Similarly, the improvement of legal education and introduction of examinations was largely hidden from the public. Public work was, therefore, indispensable as it displayed the best qualities of the profession in a highly visible form at a time when awareness of and interest in local affairs was greater than it is in the late 20th century.

The public service ideal was not an inherent feature of professions. For solicitors it arose as a result of specific problems facing the profession and acted as a strategy for legitimating the achievement of professional status. Thus a public service ideal was important in directing the route of professional elevation which in turn shaped the development of that ideal. However, public work was not just a 19th century phenomenon exploited by the profession to justify privileges and status or to gain

respectability. There was a general milieu of self-improvement and moral obligation in order to curtail the worst aspects of political economy in practice. Consequently, the motivations of solicitors were wide and varied, and probably best seen as a curious mixture of ideology, professional aspiration, religion, family tradition and social mobility, all within the particular context of 19th century Birmingham.

Returning to the central theme of this thesis, this chapter has shown that the process of becoming "professional" was not simply about expert knowledge, training, qualifications or institutions. The word profession had an equivocal meaning. It did not separate the individual person from the occupation and, therefore, to be professional meant attainment and demonstration of a number of characteristics. Profession, then, was a way of life to be pursued, displayed and reproduced for fellow practitioners and the public. The rewards of professionalism could be great in terms of status and remuneration. On a broader level it was a method of disassociating respectable solicitors from the "sham" and unprofessional. On the other hand maintaining the public work strategy could be costly in terms of time, money, and the future of the practice.

The success of the strategy is not easy to assess. Certainly extra-professional activities were an indicator of economic weight and social prominence and a route to that end. Yet those solicitors most prominent in public life came from well-established Birmingham families and moved easily into the elite. Still, it worked also for geographical outsiders, middling sorts and those who had previously not been involved in community affairs. As seen above the success of a number of solicitors, such as George Johnson, was put down to personal character, professional knowledge and devotion to public work. Solicitors were regarded as prominent men, often because of their public lives, yet by the late 19th century it was often associated with their occupation. By 1914 solicitors were certainly part of the Birmingham elite. A process of mobility which was made smoother by public work. However, this was not the only route. The educational aspects are examined in the next chapter. Other professional issues are dealt with in Chapter Seven before returning to the profession's association with the elite in Chapter Eight.

CHAPTER SIX

Professional Education: Expert or Gentleman?

"Be you sure, that good and desirable, nay essential, as is the possession of the knowledge to the acquisition of which you devote yourselves in this society, such knowledge alone will not make you good lawyers"

(Address of A Ryland to BLSS 1861 p4-5)

I. Introduction

Education is typically located at the centre of the efforts of occupations to professionalise and establish high status. The nature of such education is usually couched in terms of lengthy formal training in order to acquire specialised esoteric knowledge. More recently analysis of this process has emphasised the relationship between the creation and diffusion of such knowledge and the rise of modern universities^[1]. The movement for increased professional training has largely been attributed to the aspirations of the "lower branches" of professions generally. Their social and occupational position forced a demand for "qualifications of the modern sort" based on "specialised studies and examinations"^[2]. In this they

differed from the smaller community of the "upper branches" assured of status by connexion and a liberal education. Thus a false division, in the case of the law, has been erected, attributing the Bar's status to traditional qualities and classical, usually university education; and the attorney's claims to modern "expert" education. This depiction may more accurately describe the latter stages of the professionalisation process in the early 20th century, but is not helpful for the early stages in the 19th century. This conclusion misinterprets the debates and struggles over the nature of an education suitable for a legal practitioner and their outcome. The result of this confusion can be seen in the contradictory assessments of historians of the profession over the importance of education to solicitors and their leaders^[3]. The research needs to establish the type of education envisaged within the context of professional attitudes and motives, and general movements in educational reform. An examination of the "education question" provides an opportunity of seeing a concept of "professionalism" emerge from debates drawing on professional and lay factors; and also how a consensus on the correct definition of "professionalism" for solicitors could be challenged and undergo change as a result of internal differences.

During the early to mid decades of the 19th century education was coming under growing scrutiny. In particular questions were being asked about the proper nature of a "middle class" education and, more generally, education was

seen as an important instrument of change - an essential aspect of self-improvement. Innovations, such as open competition and public examinations were the subject of much debate. The reforms brought about in the Home and India Civil Service and the accompanying discussion of their effects and prospects had implications for professional organisations. Examinations were taken up readily by solicitors; yet their effectiveness was suspect. It was doubted whether they measured anything more than "book learning" and "cramming". This was inadequate when jobs required qualities which could not be tested thus - loyalty, dependability etc. Therefore one had to look elsewhere for "a moral security" for "honour and trustworthiness" or as Disraeli phrased it "breeding culture and station". On the other hand it was stressed that open examinations did test character in that they required industry, perseverance, self-denial and other habits of virtue. To the Birmingham solicitor, Charles Saunders, they were a great incentive to study and allowed the student to show the world the "stuff" he was made of^[4].

Obviously, wider issues in education affected the ways in which the profession tackled legal training. However, the approach of the profession has to be set against the context of problems facing solicitors in the early 19th century, as outlined in Chapter Three. The problems rested on criticisms of inadequate professional "learning", low status and the high incidence of

pettifoggers and "sharp practice". The chief concern was for greater prestige, to be achieved by removing the tarnished image of litigious sharp pettifoggers. Education was seen as the single most effective solution, i.e. it tackled the problem by eliminating rogues before they entered the profession, and stamped the existing practitioners with a certain status. However, at this stage the concept of education for the profession was a very particular one. It was essentially a barrier and did not conform to what may be considered a professional education in the late 20th century, it was not a specialised legal training. The assertion that the provision of technical legal education was important to the professionalisation process in the Victorian era is questionable. It was not until the last couple of decades of the 19th century that a notion of systematic education for professional practice took off. It was not fully established until the 1920s.

Before examining how the concept of an education fitted to the requirements of the profession was shaped, a brief assessment is made of legal education in the first half of the 19th century.

II. Nature and Problems of Legal Education 1800 - 1860.

Before 1836, entry into the solicitors' profession was regulated by the judges of the respective courts who, by legislation of 1729, were required to examine orally a candidate's "fitness and capacity" to act as an attorney. However, this examination was a mere formality, passing into legal folklore as a joke. In effect articulated clerks were admitted without any enquiry, largely on the basis of the certificate or affidavit of their masters proving that articles had been served^[5].

In 1836 a Rule of Court (confirmed by the Solicitors' Act, 1843) entrusted the examination, a written one, to the Masters and twelve Examiners from the Council of the ILS. In addition to the compulsory written examination the clerk was still required to bring a certificate from his principal attesting to his moral character - that he had "diligently and faithfully employed himself during clerkship". Further enquiries may also have been made as a result of representations made to the examiners^[6]. Clearly, from criticisms levelled at the profession these examinations were not working. They were neither a test of adequate legal training nor personal fitness.

Many lawyers were severely critical of the way prospective solicitors were educated, i.e. the apprentice system of articles. The customary five years articles was allegedly inadequate to provide the clerk with a sound knowledge of the law. Though solicitors were permitted only two articled clerks each, it was generally accepted that solicitors did not have enough time to spend in tuition. The needs of business were too demanding. At best the articled clerk received a "mechanical" education in the law and technicalities suited to the needs of practice. Thus the clerk usually passed his time in drudgery, copying documents and reading. This overall view is confirmed by the diary of William Henry Duignan of Walsall. His time in the office of George Stubbs was divided between reading, copying, visiting clients, collecting debts, learning shorthand and various other professional engagements. On January 16th 1845 he briefly attended another solicitor on business, stating: "and in which quarter of an hour I sh'd gain more legal instruction than a y'r with Mr Stubbs"[7].

The articled clerk was effectively left to his own devices, but Birks has defended the merits of the system, since it did provide the opportunity to learn for those who wished to do so[8]. Some support for this view may be gathered from the Birmingham experience. No objection during the first half of the century was raised against the

principle of articles by the BLS. The implication is that it was satisfied with this method of education. Indeed, it was apparently hostile to alternatives - refusing to countenance lectures for articled clerks or even permit them to hold meetings in the Law Library^[9]. Clerkship, then, had its adherents. Arthur Ryland in two separate Addresses to the BLSS stressed the importance for success in a professional career of the "practicalities" of "daily office employments" and the habits to be gained "by patient and faithful attention to office duties during clerkships"^[10]. In his address in 1858 Ryland referred to George Johnson, a man who "proved" that for the dedicated clerk a high standard of legal knowledge could be attained. Johnson, a joint-founder of the BLSS, had been made Professor of Law at Queen's College in 1857 (age 31) only two years after admission.

The figure of Johnson and his role with the BLSS raises the issue of self-help. ILS lectures had been started in London for articled clerks in 1833, but it was to be some time before provincial facilities were firmly established. On the introduction of admission examinations in 1836 a tentative attempt was made by Birmingham articled clerks to form themselves into a Society "for mutual legal improvement"^[11]. They were unsuccessful in persuading the BLS to emulate the ILS in educational provision, despite several petitions in the late 1830s. The Students' Society appears to have had problems early on and was re-established on a sounder footing in 1847 by eight clerks

(quickly rising to 15) meeting fortnightly at the Public Office to discuss legal works, moot points and examination questions. At its annual meetings the Honorary Presidents continually praised its benefits for encouraging study and legal discourse as well as raising the professions' status. Whilst many Presidents directed their attention to practical advice on study, the meetings also provided scope for assessing the Society's wider benefits and instilling important notions of "professionalism". William Wills concluded his address in 1857 by expressing his "fervent aspirations" that the Society would

"Long be the means of diffusing the advantages of legal knowledge, and of promoting the usefulness and elevating the character of your honourable profession"^[12].

The BLSS, surviving various crises and slumps in membership, continued to hold regular meetings, adding the occasional invited lecturers, debates with other Law Students' Societies and the largely theatrical Mock Trials to their "educational" activities. (Moots, debates and trials held by BLSS suggest that advocacy skills were regarded as important from the mid-19th century).

However, in the early 19th century legal education per se was not, for the admitted elite, the major issue. Until at least the 1870s the problem of "a professional education" was not conceived in terms of equipping the future attorney for a career as a "professional man". The

essence of the education question - as far as the established profession were concerned - was inextricably interwoven with the problem of status. The preoccupation with status fashioned the view of legal education as an instrument to erect a barrier to inferior men entering the profession and swelling the population of "low attorneys". It was therefore a means primarily of raising status and excluding rogues. The means envisaged emerged gradually, but the panacea of a "liberal education", rather than a technical one (thereby ensuring respectable professional practice), was seized early on. This process is explored in the following section.

III. A Gentleman's Education - the Mid-Victorian Consensus

The historical literature, rightly points to the effect of social position on professional attitudes towards education^[13]. However, the motives attributed to the profession are misinterpreted. It is erroneous to see these motives as promoting the development of specialised professional education for a technically expert practitioner. It is equally incorrect to conclude that the compromise of a specialist education by general liberal education was detrimental to the formation of "professionalism" or professional skill and practice as

defined in Victorian England. The educational solution to the solicitors' acute consciousness of their poor social esteem and the problem of accomplishing professional status was a great deal more complex than the creation of "a regular system of professional education, with a recognised body of knowledge and acceptable standards of qualification" embellished with a veneer of classics for the sake of convention^[14].

In identifying education as the solution to the problem of status, the profession had to take into account a number of considerations having a bearing on concepts of "professionalism" and what was to constitute the "professional". To rectify poor status it was recognised that, though very important, professional organisation could only accomplish so much. Collective action could be brought to bear on "that pest of society the prowling pettifogger" and the unqualified, but it was not enough - something was needed "to prevent the future admission to that profession of personages who bring it into so great discredit". Looking to the Bar, its high social position was deemed the consequence of "a liberal education and gentlemanly feelings" and not necessarily any special respect for the calling. The answer was to introduce the "curb of education and station" not that of specialist legal education but "the education required to constitute the gentleman, and for the absence of which no other qualities can compensate"^[15].

By the 1840s a consensus was being reached on a liberal education as the essential prerequisite for the establishment of the status of the solicitors' profession. To understand how the classics and the other appendages of the Victorian gentleman came to be so integral to the profession it is necessary to explore the context of the debate which produced the consensus.

Strictly legal education was not an adequate option; in fact, it may have been part of the problem itself. An educational strategy aimed at raising status and simultaneously increasing professional cognitive exclusivity and therefore monopoly of certain identified areas of work was fraught with difficulties for the professional leadership. Though the professional knowledge of solicitors was criticised, even by the leadership, a strategy that sought to concentrate simply on technical professional education was doomed from the start. The possession of legal knowledge, professional skill and cleverness was often confused with "sharpness". Legal astuteness and expert knowledge of the intricacies, forms and jargon of the law was associated with cunning, self-interest and the ability to extricate every possible fee out of the client and use every legal tactic to cause delay and extend costly litigation. This view was compounded by the customs of remuneration:

"The false and mischievous principle of paying for what is not done, by way of compensation for not paying for what is done, pervades the whole frame of the law.... To give all practitioners an interest in form and prolixity, and so tempt them to spin out in every way instead of lessening the clerk work part of their business, manifestly tends to damage the integrity of their minds.... The interest in forms and words begets a bigoted love for forms and words"[16].

The dilemma was later summed up succinctly by E.B.V. Christian (solicitor, historian and author),

If a lawyer be not astute he is naught, and astuteness is a quality that is neither honoured, loved or trusted"[17].

So there was a general and persistent suspicion of legal knowledge and its relation to the interests of the public and client. Though indispensable, the services of a professional man were replete with complications for the practitioner and client:

"Outsiders feel their weakness and seldom venture to enter the lists against professional dogmatism; but their submission, for the most part, is the submission of sullen rebels rather than of reverent disciples. This is emphatically the case as regards law...."[18].

The provision of better legal education would in this context lead to the possibility of sharper trickery, more efficiently executed. The dangers envisaged of superior legal knowledge without the counterbalance of "gentlemanly feelings" were dire:

"the most extensive knowledge of law can only make the attorney a more mischievous personage; his professional skill would but enable him the more clearly to do what the emotions [of a gentleman] would teach him to shun"[19].

If more and better legal education were suspect, then so was a method of assessment based solely upon examination. As noted above, in the mid-Victorian period examinations were an innovation regarded with distaste by many. In the context of the legal profession, where quite plainly other (personal) attributes were increasingly seen as superior to those of book learning, such assessment of future practitioners was inadequate by itself. Samuel Smiles was not alone in commenting:

You may admire men of intellect; but something more is necessary before you will trust them"[20].

The other major argument in favour of a generalist liberal education rested on the premise that a technical legal knowledge was the least of a solicitor's needs in his practice. This justification of a profession comprised of classically educated gentlemen was promulgated in a wide

variety of legal sources. Basically, morality, honour, "character" and personal behaviour counted for as much if not more than knowledge of the law.

Charles Rann Kennedy, Barrister and first lecturer in Law at Queen's College, Birmingham, emphasised in his opening address (1850) that a liberal arts or classical education was a necessary foundation for eminence and success in the profession of law^[21]. The Cornhill Magazine in an article on professional etiquette ranked the tact and manners of a gentleman of equal importance with legal knowledge^[22]. William Johnston went as far as to state that a solicitor's legal knowledge constituted "the least part of their value"^[23]. The 19th century movement towards a consensus that legal knowledge was insufficient to successfully establish solicitors' professional status can be traced to the early 1830s. It would seem that initially the importance of professional skill was ranked equally alongside the qualities of honour, honesty and discretion. Nevertheless, the overall impression is firmly made "that a knowledge of law should not be of itself sufficient to admit a man into [the] profession...."^[24].

Pressure built up in the provinces, its journals like Law Times and organisations like MPLA, to erect a barrier in the form of a "gentleman's education" against the entry of undesirables into the profession. A classical education was seen as a remedy to the low status of solicitors. The committee of management of the MPLA conceived that an

improved system of professional education formed "the true basis for the honour and usefulness of the profession". Its first Annual Report in 1848 recommended a higher degree of general education before articles.

"With a view....of gradually raising the tone and position of the Profession, the Committee recommended that a higher degree of classical literature, of science and general knowledge, than is ordinarily possessed, should hereafter be required, before the clerk is allowed to be articled...."[25].

These sentiments echoed the arguments expressed in the pages of Law Times some years earlier, and were repeated at MPLA meetings during the next twelve years[26]. Suggestions for improving the educational requirements before articles were circulated amongst the provincial Law Societies in 1853. The response of the BLS is not known. However, it is clear that the BLS membership by this time placed their faith in education as a means of raising the status of solicitors. In fact the BLS adopted a quite drastic approach, advocating "that no Gentleman should be admitted on the Rolls as attorney or solicitor until he have obtained a Degree from one of the Universities"[27].

It was not simply a question of acquiring a liberal education to gain status or at least "to cultivate the tastes and to refine the manners"[28]. Nor was the strategy presented as a measure to prevent the influx of the uneducated and therefore "improper persons". Other

more complex themes were at work which relate more especially to the development of a concept of "professionalism". It has already been noted that a central part of "professionalism" as articulated by professional spokesmen and commentators was based on a professional/client relationship founded on trust, confidence and honour - i.e. the qualities of a gentleman[29]. The imposition of a barrier based on liberal education was conceived therefore as a matter of public interest, since it would act as a guarantee for "the gentleman". A profession of men learned in the classics would be a pledge to the public that solicitors could be trusted as men of station and honour. It proved that the solicitor's social position and early training had refined his moral senses and cultivated "those emotions which rise up on the instant to spurn whatever is base and unworthy, even though it may not be in the strict category of crime...."[30].

A background in the classics would render it likely that the solicitor had devoted some years to education and therefore acquired a "position in life", which bound him to an "honourable bearing" by the strong ties of self-respect and even stronger chain of connection and social rank. These attributes placed the professional above "those temptations which too frequently seduce the ignorant and needy practitioner from the paths of honour and integrity"[31]. Thus a liberal education would act as an inducement to the solicitor to eschew sharp practices and a

guarantee that he held a place in the world which he would not readily sacrifice. The notion that no other qualities could compensate for those of "the gentleman" became ascendant to the extent that in conceptions of legal professionalism they ranked above those of legal knowledge. This view found its most forceful expression in the Law Times of 1845:

"it is of greater importance to society that the attorney should be a gentleman than that he should be a lawyer. We do not pretend to assert that both are not needful qualifications; but if ever there should be a necessity of a choice, we should not hesitate to prefer to commit our affairs to the gentleman by education rather than to a man having more law, but less breeding... we want to retain in our attorney his character still more than his law"^[32].

By the 1850s such notions about the nature of "professionalism" and its relation to education and training were widespread among the organised elites in the provinces^[33].

IV. Liberal Education Triumphant: the Preliminary Examination

From the early 1840s, when momentum for a gentleman's education was growing, proposals were broached with reference to the mechanisms best suited for carrying out the necessary innovations. These came in particular from provincial Law Societies under the auspices of the MPLA. By 1852 the MPLA Committee had settled on a scheme whereby no one was to be allowed articles without previously obtaining a certificate of general knowledge in the traditional classical subjects. This proposal was circulated amongst the provincial Law Societies and the responses communicated to the ILS. Over the next seven years repeated calls were made at MPLA conferences for the establishment of an examination on general subjects preparatory to or during the period of articulated clerkship. By the late 1850s thinking had hardened into a demand for a Preliminary Examination, linked to an examination in legal subjects to be taken during articles (the Intermediate) thus creating three tiers of qualification^[34]. The MPLA was considerably disgruntled, despite making repeated suggestions, by the lack of response or action from the ILS. Eminent London solicitors, such as Edwin Wilkins Field, and his associate Arthur Ryland, of Birmingham, urged the introduction of a preliminary examination to be held at the provincial

centres of the profession. Eventually, in 1859, the Council of the ILS succumbed and prepared suitable clauses to be included in an Act to consolidate laws relating to solicitors^[35]. The Solicitors Act 1860 introduced the Preliminary Examination for all candidates wishing to enter the profession, with certain exemptions.

It is clear that the Act met with the entire approval of the BLS Committee who trusted that the new Examination would have "the effect of preventing men of inferior education from entering the Profession"^[36]. The Law Times was also highly pleased with the contents of the Act. It confirmed its belief in the necessity of a "gentlemanly profession". It was recognised that no examination could test moral qualities; however, the test of a liberal education offered a strong practical indication that the professional was a man of position and honour:

"The main purpose of the Bill is to secure for the Profession a higher social status, by raising and extending the educational requirements for admission to it. It is based on the principle....that it is far more important to the public that he should be a gentleman than he should be a lawyer... his honour can exist only within himself, and the best security for honour is that social position of which education is the best practicable test, although not the only one"^[37].

The strong association of "honour", social position and legal "professionalism" was important in the process of defining solicitors as a profession and the articulation of "appeals" to professional status. In this sense the

introduction of the Preliminary Examination can be seen as an important landmark in professionalisation - the culmination of changes within the profession not necessarily the cause. Clearly, social criteria of "professionalism", based on personal behaviour (the test of a gentleman) were dominant in the minds of leaders and the elite of the profession and those it mixed with and sought to influence. Yet, as Law Times suggested, this was part of a broader strategy to accomplish professional status. Honour and social position, individually and collectively, were attained by other means - other activities which could be interpreted as "practicable tests" or proofs of "character" and integrity rather than strict professional competence. (For how this worked out in business life, public work, private matters and social life, see Chapters Four, Five and Six).

The effects of the Preliminary Examination, begun in 1862 at regional centres, are difficult to assess. Certainly the numbers admitted continued to fall and the costs of gaining entrance were said to be rising. However, quite plainly, it was not a complete guarantee of "gentlemanly" behaviour. Malpractice continued and therefore affected status claims. Yet success, as far as the profession was concerned, could be derived from the erection of a barrier - of a general and to a lesser extent professional education - aimed at exclusiveness, the creation of status and justification of monopoly control of work. These were legitimised by appeals to a form of

"professionalism" which stressed the interests of clients and the public in the confidential professional relationship.

The consensus created for a liberal Preliminary Examination and its final introduction should be given a prominent position in solicitors' "professional project". It can be seen as an attempt to control further entry into articulated clerkship and the profession beyond informal and invisible restraints (connections, etc) by imposing a type of formal ascriptive demand on the student, justified in terms of a "guarantee" of professional behaviour in future practice. For the profession this clearly had anticipated benefits - especially in raising professional status. There are also implications for the emerging concept of "profession". It reinforced the notion of "profession as person" and, in particular, gave concrete expression to this formula, coupling "professionalism" with gentility. Such a restrictive definition of the ideal or "true" professional man found acceptable justification in appeals to public interest. It is significant that the dominant guarantee was social status rather than professional competence. The Birmingham barrister, James Motteram, reminded the BLSS in 1863:

"To be learned in your profession is no doubt a distinction and an honour; to surpass others in the same profession, using no unworthy means for that purpose, is a laudable ambition; but then do not forget that it is better to be good than wise"^[38].

V. "Scientific Legal Education": its Rejection and
the Persistence of a Gentlemanly Ideal

After the establishment of the Preliminary Examination the question of professional status took on a lively educational aspect once again in the late 1860s and early 1870s. Once more the major provincial organisations and societies were the instigators, but this time the BLS and a handful of its eminent personages were prominent nationally in advocating sweeping changes. The "liberal education strategy" was not the only option extant as holding the possibility of success in terms of limiting entry and raising status. Ideas and schemes proposing systematic and "scientific" legal education based on the "principles" of law rather than "technicalities" had been circulating since the 1840s, running concurrently with those favouring a "liberal education". However, though these alternative ideas were widely expressed and often repeated, they remained vague and subordinate to the notion of the education of an English gentleman^[39].

By the late 1860s the threads of a "scientific" education option were coming together in concrete form. The dissatisfaction with the state of legal education identified the crux of the matter as a need for systematic theoretical education, taught compulsorily, with thorough

examinations that beat "cramming"[40]. One product of the shifting debate became pre-eminent - the proposed formation of a Legal University, emanating from a meeting of the major provincial Law Societies at Leeds in 1868. Against a background of rivalry between attorneys and barristers over rights of audience and legal appointments, the issue of fusion was raised which had as its basis education and qualification. The fundamental proposition of a Law University or School, open to both branches and following the same education and examination before practising, was to remain during the subsequent "movement"[41]. Four eminent members of the BLS were present at the meeting - Arthur Ryland, W S Allen, Charles Saunders and George Johnson, - these were to play significant roles within the movement. A BLS sub-committee of these men recommended that

"there should be one and the same legal education and examination necessary for admission to the entire Legal Profession and for that purpose that a Law University should be established"[42].

Only after passing such an examination should a choice be made as to the branch to be followed. The plans for the University were submitted to the ILS, MPLA and Inns of Court, the latter recoiling at portents of fusion. From this point onwards the "movement" was divided. Attempts (in the main successful) were made to suppress the objective of fusion and avoid any confusion of social status with educational questions that may have jeopardised the

University scheme by alienating the Inns of Court. However, a radical element emerged, pushing for greater change. Birmingham solicitors supported by the vast majority of the local practitioners were active in this important though perhaps marginal group. For example, Charles Saunders, at the MPLA meeting of 1869 stated:

"To unite the two branches of the profession, especially when supplemented as it must be by a Law University would be to lift up the attorneys as a body in social status and national importance; it would remove from us that rankling sense of injustice under which we must always otherwise exist"[43].

The scheme, as promulgated by the Legal Education Association, (founded in 1870), proposed to teach all students irrespective of whether they intended to practise as attorneys or barristers (or not at all). Consequently the governing body would have to reflect this diversity. The University, as a public institution, was to be run by a Senate, presided over by the Lord Chancellor, with representatives from the ILS, attorneys, barristers, government law officers, chief judges, plus "public official persons, or of Crown nominees". Of course there was also a new role for legal academics and examiners[44].

This structure, it was anticipated, would meet with opposition from the solicitors' branch. Some solicitors held that the education of their profession (and the consequent admission) should not be taken out of the control of the ILS. It is clear that control of education

and supply of entrants into the profession was at the front of solicitors' minds in considering the scheme. The advantages of a University training were of no benefit unless it checked the influx of members to the profession^[45]. Clearly, these ideas were not discussed by the BLS which saw the matter almost exclusively in status terms, though these had important implications for the control of the supply of entrants. The consequences for the solicitors' profession of a "scientific" legal education out of the immediate control of solicitors and their organisations (i.e. ILS) were, perhaps, realised relatively early on during the negotiations between the LEA, ILS and MPLA, when the basic idea of the Law University was revised (so that the passing of an examination was not the only indispensable qualification for practice). It is significant that both the ILS and MPLA, while generally supporting the LEA, wanted the retention of apprenticeship in some form securely guaranteed.

"It is in the opinion of the Council [of the ILS] indispensable that every gentleman intending to practise as an attorney and solicitor should pass through a course of training as an articled clerk in the office of an attorney or solicitor, and that, at the termination of his period of clerkship and before admission, he should be examined, as at present, as to his qualifications to practise as an attorney and solicitor of experience, enjoying the confidence of their brethren in the profession"^[46].

The MPLA was similarly adamant that apprenticeship should remain^[47]. As far as can be ascertained, this was not the case with the BLS in supporting the general scheme. However, developments were taking place in Birmingham which suggest that a change of mind was, if not imminent, then the ground at least had been prepared.

The BLS had been an active supporter of the University scheme, the LEA and its President, Roundell Palmer, but by the mid-1870s, despite repeated legislative forays in Parliament 1874 - 1877 the momentum of the movement had been lost^[48].

From 1873 the BLS committee was seriously considering the possibility of establishing local lectures and, though they claimed otherwise in 1875, the subject of the Law University had diminished in importance. Major local and national issues were increasingly taking up the time of the active committee men - e.g. the proposed Land Transfer Legislation, the creation of Birmingham as an Assize town, and the site of new Law Courts^[49]. Emphasis was swinging away from the University scheme back to the Preliminary Examination and locally organised lectures under the auspices of the BLS which would lead to closer control over admission and education. Though the Law University movement was moribund it was recognised that the deficiency that had precipitated the scheme was still present. The solution, however, was taking a modified form of education

- more professionally orientated and parochial, based on a return to the power of ascriptive criteria^[50]. These changes had their origins during the early 1870s when the Law University scheme was at its height.

By the 1870s Queen's College, the only other local institution that had been providing legal education of a type suitable for articled clerks was defunct^[51]. The local articled clerks, through the BLSS, maintained pressure on the BLS, expressing their commitment to lectures. They urged the establishment of lectures of a "practical character" made "as far as possible conducive to passing the examination". The ILS provision formed a precedent. Again the BLS initially seemed very interested; a subcommittee examined the question extensively, but the committee itself was reluctant, concluding:

"while fully admitting the defects in the existing system of legal education [we] are not prepared to assent to the proposition that the only remedy is to be found in a system of lectures"^[52].

There may still have been vestigial hopes of successfully launching the Law University. The matter of lectures rested until 1878, when the BLSS put forward a strong case. A BLS subcommittee was very doubtful of the permanent success of any scheme of lectures, which would only appeal to active and thoughtful members of BLSS. Nevertheless, they decided that an "experiment" should be tried. Charles Saunders, a national figure in the Law

University movement, "did not hesitate to think that good results would follow" if lectures were established[53]. However, it was not until the subject was raised again by Saunders in 1881 that any positive action was taken[54].

The ILS, having successfully established classes in London (in addition to the lectures), communicated with various provincial Law Societies to elicit the feasibility of establishing similar classes in the provinces. The general response was that the idea could not be successfully carried into effect and the matter was dropped. However, early in 1881 the BLS proposed that the ILS should make an annual grant to enable them to engage the services of a Reader (or lecturer) for the local law students. (In support of their claim they pointed out that since 1862 the Preliminary Examination had been conducted gratuitously by local solicitors). The amount of support was such that a lecturer was appointed (local solicitor, Henry Glaisyer) and classes (junior and senior) were opened in 1882. Attendance was voluntary but the BLS committee hoped the project would meet with unanimous approval and support

"considering how difficult it is for members of our profession in active practice to devote sufficient time to the oversight of the studies of the pupils committed to their charge and how important it is that at the very outset of the students career he should have the benefit of viva-voce teaching and personal direction and supervision in his course of studies"[55].

However, disencouraging attendance was a recurring problem until the late 1890s. Although this caused financial difficulties, it was felt the lectures were too important to be discontinued. The knowledge imparted to students was considered "of great service to them in their subsequent professional career"[56] and the performance and application of students was usually praised as of a high order.

The agitation for and establishment of local lectures has to be set against the background of some concurrent processes. These included the continuing, and by then, regular and well-organised activities of the BLSS; plus the flourishing of "cramming" for the Finals, particularly for those serving the last years of articles in London. The success of "crammers" is implied by the poor attendance of students at the ILS lectures and the eventual decision to drop the programme in the early 1890s. Yet the most significant development was a renewed faith in the effects of the Preliminary Examination to keep out "rogues". This took the form of calls for tighter professional controls on the rules allowing exemptions and a more stringent test of general knowledge. C E Mathews called the attention of the BLS General Meeting of 1882 to the frequency with which the Preliminary was dispensed with, and the effects on the future character and status of the profession. The number of candidates who failed the previous year was evidence enough that an examination in general subjects before

students could be articulated was wise and justified. However, it was apparent solicitors were being prevailed upon to sign memorials to dispense with the preliminary. Consequently, continued Mathews, the Committee

"found that various gentlemen were now obtaining articles from solicitors in Birmingham who did not belong to that class from which the profession was usually recruited.... In the opinion of the committee it was extremely undesirable that these memorials should ever be signed by members of the profession, ... and the council [ILS] recommended that members of the profession should in no case sign such memorials until they had previously received the sanction of the local committee"[57].

In the early 1880s the frequency with which the judges dispensed with the Preliminary was a matter of national debate. Endeavours were made to restrict the powers of dispensing with it; and indeed locate that power with the Council of the ILS. Many believed that no exemptions should ever be granted; by so doing only those who had received "the education of English gentlemen" would be introduced to the profession[58].

The leniency of the ILS examinations, not least the preliminary, also came in for criticism. The emphasis on the status and educational competence considerations are important but the question of "supply" and exclusivity are all too apparent, particularly in respect to broader changes in general education provision. For example, Charles Saunders in his Presidential Address of 1888:

"There was no doubt that the Preliminary Examination had not hitherto been as difficult as it should be, considering that it was the basis of the educational character of the men who entered the profession. If they wished to raise the character of the profession they must begin by making the preliminary examination one which should really denote in those who passed it the acquisition of a thoroughly liberal education. This was the more important in view of the education now offered by the Board schools to the very humblest of the land"[59].

A Huddersfield solicitor at the 1882 ILS Annual Provincial Meeting had been more explicit in the conflation of education and supply:

"I venture to suggest that to become a solicitor in these days of overcrowding in our profession, is far too easy a task, and that the examinations are not sufficiently searching"[60].

The Law Students Societies Congress eleven years earlier had recommended that the preliminary "should be raised and made more general"[61].

Thus, even before "scientific" legal education ceased to be an issue, a tighter professional rein on education and admission was being sought through lectures and the Preliminary Examination. The mechanisms for doing so were based on local and national professional organisations, working, usually, in conjunction. This return to a belief in the efficiency of the Preliminary (and its associated

"ascriptive" criteria) reflected a broader persistence in the value of the "gentlemanly" formula for "professionalism" and "appeals" to gentility based on "professional as person". The rhetoric of the argument had shifted slightly, as if gentlemanly qualities were now an essential complement to expertise in the true legal professional, but one which deserved a higher ranking. Notions of the "complete man" and allusions to "manliness" were striking. The academic lawyer Frederick Pollock warned against the dangers, for the professional, of renouncing the liberal arts:

"if you be true men, you will not do this ...you will play the greater game in which there is none that loses and the winning is noble. Let go nothing that becomes a man of bodily or mental excellence"[62].

The Solicitor-General, Herschell, addressing the BLSS as its President in 1883 stated that

"no man would be a complete lawyer, or one worthy of the confidence of clients, who did not possess certain clearly defined moral qualities as well as mental (Applause)"[63].

The local elite, embodying the combination of attributes of which the "spirit of English gentlemen" was so important, were celebrated for their achievements. Thomas Martineau, on becoming Mayor of Birmingham for the third time, was praised for his "ability, integrity and kindness of heart"[64]. The ILS stubbornly adhered to its desire for direct professional control over education, admission and

the paramountcy of practical training as a complement to "scientific education"[65].

The educational background of the elite of Birmingham solicitors practising at the beginning of the 20th century suggests that the position of a liberal education had not weakened (see Table 6:1). Though very few had attended public schools, a pattern was emerging of schooling at either of the two local elite establishments (King Edward's Grammar School or the Edgbaston Proprietary school) followed by University or articles with a prestigious firm. The major middle class secondary schools during the second half of the century provided a solid "liberal" education, based on classics, which was an adequate preparation for University, competitive examinations, the Civil Service and the professions[66].

Table 6.1

Education: Solicitors' Elite Practising c1900^[1]

<u>Institution</u>	<u>Number of solicitors</u>
King Edward VI School	5
Edgbaston Proprietary School	6
Grammar School (or equivalent)	8
Private	7
Public School	3
University	8
Religious Institutions	6
Abroad	2
Unknown	7
Total	33 ^[2]

1. Selected from BLS officers and solicitors of known upper middle class status
2. The total is smaller than the sum of the categories since an individual solicitor could attend a number of institutions.

Source: Birmingham Collection, Local Studies
Department, Birmingham Reference Library.

VI. The Revival of a Law University

The idea of a Law University was revived in the mid-1890s in various quarters. The need was for "a more complete system of legal education" common to both branches^[67]. The "evils" then existing were identified as the Preliminary Examination which was becoming less stringent, frequently dispensed with; the lack of an adequate teaching system; and examinations that could easily be passed by "cramming". The only answer was a Law School or University. However, beneath the stated educational aims other considerations were significant. Again the subject of "professionalism" based on gentlemanly status and its effects on supply were present in the agitation. "Over-crowding" was a primary concern:

"It is undesirable that entrance to so responsible a body should be too easy. Literary and legal training must do good ... it is urged that the severity of this kind would deter men from entering the profession"^[68].

Yet the power of gentlemanly ascriptive criteria remained, despite the growing preoccupation with law as an academic subject:

"whether a Barrister or a solicitor, the English lawyer should be a gentleman of education, versed not only in law, but in those subjects which constitute an ordinary university curriculum"^[69].

The background to this revival is important. It appears the legal community was caught up in the national mood of the late 19th century of comparing British institutions to highly competitive and "progressive" developments abroad - especially in Germany and America. There was an abundance of articles and treatises on foreign law schools. In addition there was the promotion of provincial universities with their own law faculties and schools^[70]. However, it was a matter of "extreme regret" to some of the Birmingham legal profession that a department of law was not proposed in the plans for Birmingham University^[71].

After minor reservations about the value of a Law School the ILS had, by 1901, reconsidered the question of legal education and decided in favour of such a School, if the cooperation of the Inns of Court and other bodies could be secured. Yet, while considering the unresolved matter of a Law School, the ILS felt it could defer no longer improvements in its own system of legal education for the pupils of solicitors. Consequently a New Scheme of education was established in London by the Society, based on experience gained in the provincial schools, especially Liverpool. The Scheme comprised lectures, tutorial classes and moots held in the Society's new buildings, at times convenient for students and for low fees. However, fewer provincial articled clerks were spending their final year in London and Birmingham students were no exception. The

requirements of the provincial clerk were to be met by increased allowances and grants in aid to assist local schools^[72].

In 1906 the BLS's Reader, the solicitor Frank Pearson, resigned owing to the growing demands of his practice. During the following year the BLS obtained an increased grant from the Law Society in order to extend the system of education, (since it had proved impossible to obtain a legal curriculum at Birmingham University), to be controlled by the Birmingham Board of Legal Studies. This Board comprised representatives from the BLS, the Law Society, Wolverhampton Law Society, the BLSS and Birmingham University. In 1907 it appointed three Readers selected by the BLS - a barrister, a solicitor and a chartered accountant, (as there was a book-keeping class, the subject having been introduced into the Law Society examinations^[73]). While debates at the centre and among the leadership were grappling with the Law University schemes, the BLS was raising more immediate issues of low standard examinations which allowed "thoroughly unfit" candidates to pass and swell the profession^[74].

The creation of a Law University remained a forlorn hope, but criticism from the profession continued on the subject of a united system of "scientific education". The complaints raised were again familiar, combining concern with status at entry and sound legal knowledge. The Birmingham solicitor John Moore-Bayley was particularly

scathing about the "haphazard" and "spasmodic" training; the farcical apprenticeship; the low standard of the Preliminary which allowed "half-educated persons to gain access to the profession every year, who are totally unfit to deal with the many difficult questions that arise in practice"; and the narrow requirements of the Finals. He effectively anticipated the suggestions for compulsory systematic instruction which were to come in the period leading up to 1914^[75]. However, the proponents of "scientific education" were still facing strong opposition from those who doubted its benefits, even in the 1920s when the Solicitors Act 1922 made compulsory a year of attendance at a recognised law school for all entrants into the profession (with certain exceptions). This acted as "a powerful stimulus to academic as well as professional legal education" encouraging the strengthening of existing Law Faculties and the spread of new ones. In Birmingham the Board of Legal studies altered and enlarged its syllabus to provide for the requirements of the Act and a Department of Legal Studies was established at Birmingham University in 1923^[76].

VII. Conclusion

It is plain that in the case of English solicitors the development of Law School education was gradual and ad hoc, yet this is said to be a crucial aspect in conceptions of the development of "modern professionalism"[77]. In Larson's depiction of the "professional project" education (or "production of producers") is a foundation on which market control is justified in terms of improved service, but which also effectively regulates the supply of entrants and maintains exclusivity. It is also part of collective mobility whereby the profession's position of market control is again legitimised. This is justifiable, but the explanation needs attention. A brief revision is made of what is taken to be Larson's main points on education before any critical comments are made.

Larson states that "modern professionalism", dating from the beginning of the 19th century, is dependent on objectively legitimised competence closely associated with specific formal education and anonymous certificates. (It is difficult to dispute this, but the mechanisms and processes are suspect and unclear). A "scientific basis" for this education is best, superseding apprenticeship with a professional school system. The development of a "scientific education" is important for the professional

project in a number of ways. The superiority of scientifically-based knowledge is taken for granted; it unifies and standardises the "product" (i.e. future professionals) and it "depersonalises" professional practice and its products (services) - i.e. it reduces "indetermination" to the necessary minimum. The pre-modern criteria cease to be important. By the end of the 19th century formalisation of legal training and the rise of university based law schools instituted publicly visible criteria of talent - reputation was merged with the Law School; talent was attributed by educators. Consequently, Larson adds "standardisation" based on formal training was the basis for the success of the professional project and was more important than ascriptive criteria, replacing and becoming the basis for "the more diffuse subcultural aspects"[78].

The experience of provincial solicitors in and around Birmingham calls into question these propositions. It is acknowledged that the establishment and control of esoteric "objective" knowledge is significant, but the success of the solicitors' professional project was not determined solely by it. In the case of the "project" Larson is right to identify regulation of supply and the equipment of the profession "for the conquest of public confidence"[79]. There is a great deal of talk about "guarantees". However, the solicitors' profession does not conform entirely to her analysis. The methods of achieving these objectives did not, in the case of solicitors, rest on the development of

"scientific" knowledge and its universality. Confidence and trust was a central theme, but it is dubious whether it was secured by "appeals" to esoteric "neutral" knowledge. Indeed "scientific" legal knowledge and its institutions were very slow to develop and only approached an organised system during the inter-war period, after solicitors had accomplished a high degree of professional status. As late as the early 20th century the methods of education were diverse - a mixture of apprenticeship and examination, based on a "liberal" education. Legal education was not compulsory. The educational institutions attracting students were diverse too - universities, locally organised provision and "crammers". The preoccupation with George Johnson's individual educational accomplishments makes him appear exceptional, even in 1914^[80].

"Scientific" knowledge was a problem. In contrast to Larson's assertion, its superiority was not automatically taken for granted, but regarded as suspect. Also, the strategy adopted by the profession in achieving public confidence and thus define "professionalism" could not "depersonalise" the service/knowledge. Professional practice and behaviour were very closely associated with the "person". Thus merit did not eliminate "ancient tests" to be replaced by technical, universal examinations^[81]. The central theme of the chapter is therefore the appeal to gentility as a means of defining and "accomplishing" professionalism and regulating the supply of legal labour, achieving prestige for the whole profession and a practical

strategy for professional business success. These were couched in terms of public interest, but effectively raised barriers. The fact that this strategy ran counter to the prescriptions of Laissez-faire Political Economy was recognised, but the law was a special case even in the days of anti-monopoly. While competition was to be encouraged in every other calling it was to be discouraged in the law. As stated above, in the instance of solicitors more than a proof alone of legal knowledge was required^[82]. The trust necessarily imparted in the solicitor by his client required additional protection for the public. The "Gentlemanly" strategy was articulated early on in the context of criticism directed at solicitors' status and personal qualities. "Genial qualities" were espoused - knowledge, great moral probity and much prudence and a gentlemanly deportment^[83]. Honour and integrity, though effective tools in the achievement of "professionalism" were double-edged and could be turned against the profession. Nevertheless in the creation of their own (professional) history the "Gentlemanly" strategy (and conscripted qualities) was equated with success^[84]. The theme of the "Gentleman" dominated discussion from the mid-19th century and a consensus formed around it. Indeed, it is conceivable that at various times the profession envisaged that its "elevation" and control over professional regulation could have been jeopardised by the establishment of formal institutions, which led to internal conflicts. The educational route to "professionalism" was not one of smooth, gradual progress^[85].

The emphasis on "gentlemanliness" and personal character had some similarity with trends in the medical profession. Liberal education there was also a key to status claims; technical skills were secondary to a facility in personal relationships. As seen above, this was the case with solicitors where legal knowledge was not only subordinate to personal skills but, in addition, to moral attributes of trust and integrity. This does not appear to have been the case in medicine where "honour" was not so greatly involved in concepts of "gentility" and "professionalism" as the traditional tripartite divisions of labour[86].

Nevertheless, the point is that not only was a liberal education a mark of a profession's status, but it also shaped contemporary concepts of "professionalism" - i.e. what a "professional man" was and did. The solicitor needed a certain education beyond a knowledge of practical law to "carry off" existence as a "professional man". In terms of status, control over work and admissions, the solicitors' profession in Birmingham by the end of the 19th century was a success. However, J B Clarke's claim that solicitors were "a skilled and educated body of experts" is less certain[87].

While the power of the late 20th century professions may rest on the objectivity and wide acknowledgement of the prestige and legitimacy of "expert knowledge" itself, separated from the practitioners of it, to expect to find the search for this process in the successful professionalisation of 19th century solicitors is misconceived. Legal expertise was suspect. The evidence suggests a consensus (albeit unstable) within the profession on the primacy of the practitioners' "character" in a concept of "the professional man". Professionalism was not based on appeals to esoteric expertise in the sense of formal extended technical training, but an expertise based on appeals to a wide range of "knowledge" and personal characteristics, which were similarly inaccessible to the majority of the population. Appeals had to be made on a more secure "public" basis than "badges of professional talent" accrued as a result of professional education or "the reputation of the law school"[88].

This is not to deny that changes took place. In the 1830s legal education was in a state of uncertainty, proposals flourished and the choice of direction remained open. Yet, by mid-century, some educational strategies were effectively dead-ends. It is difficult to envisage the provincial solicitors of Birmingham as the vanguard of a movement to replace the "oligarchic" structure of "occupational practice" with technical qualification. Even the most radical solicitors were reluctant to "overturn"

the dependence on "social influences". A strategy of professionalism along these lines was associated with success. Reform of professional education shifting occupational status onto paper qualifications was a "leap in the dark". A simple division between ascription (social qualities) and achievement (technical education) is insufficient in professional strategy. Appeals to professionalism were based on personal qualities, but they conformed to the Victorian ideal of well-earned and deserved gentlemanly status.[89].

Education was an important route to establishing solicitors' professionalism. It can be envisaged as a largely "internal" process, but educational "appeals" were broad, shaped by external phenomena and interaction with other "appeals" in areas of public work, social life, and the day-to-day business of practice.

The following chapter examines some other professional issues which demonstrate different aspects of the professionalisation process. Whilst the "gentlemanly" theme remains important, attention is devoted to other ways in which solicitors' "appeals" to unquestionable professional status were asserted.

CHAPTER SEVEN

Professional Issues

"In all that pertained to the dignity and welfare of his profession Mr Saunders took a deep interest. He was jealous of its reputation and he associated himself with the various organisations which tended towards this end, and which have for their object the betterment of the members"

[Obituary Birmingham Daily Gazette]

"....people of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public or in some contrivance to raise prices".

[Adam Smith 1776]

I. Introduction

The development of professions is often presented as a series of issues confronting the community of practitioners and each one, as it is dealt with, leads to the advancement of the professional body and the achievement, by degrees, of the "professional ideal". This approach is common of much whig history, where "progress" and "evolution" are seen as the passage of isolated landmarks, events and movements, which are generally

successful in the terms of the subject being considered - in this case education, professional discipline and organisation could be chosen. Nevertheless, the "professional issue" can be of great interest, if placed in a more appropriate context and conceptual framework. Issues can be neither abstract nor purely institutional matters, but show how discrete professional subjects overlapped with other areas, impinged on other groups. So the professionalisation of legal men was not a case of internal reform and development, but was firmly rooted in the changing social relations of Victorian England.

An examination of issues which were specific to the profession can form an important part in understanding the professionalisation process (or project) in a number of ways. A consideration of issues gives an idea of the matters which were crucial to a provincial solicitor "community" - the purely local ones which often took on broader questions, and national ones which had a local aspect. Such issues can give an insight into a developing "professionalism" in a local setting, so that by examining the way problems were couched by the profession we can see a definition of "profession" being articulated. If the superficial level of a particular issue or problem is penetrated, a concept of "profession" can be seen employed by some solicitors within their occupational community and in reaction to and in conflict with other groups. As part of this process solicitors can be seen assessing their location within the social structure in terms of an

occupational hierarchy and measures of prestige, status, morality and respectability. Issues can expose the sensitivity and priority of professional interests, such as where "boundary disputes" occurred, illustrating the power of the profession to define and maintain the boundaries of its professional domain. This can reveal intra-professional rivalry. Of particular importance here is the creation of "market shelters" and the establishment of an occupational hierarchy that reinforced the division of labour which in turn legitimated exclusivity. An examination of issues also shows solicitors carving out a market in an area usually considered the professional domain of barristers - advocacy. This shows solicitors not merely responding to external developments but creating a need for their services in addition to a market^[1].

The issues selected for discussion are arbitrary. It could be said they are not all exclusively "professional", that other issues were more pertinent. However, it can be argued that an internalist history is neither needed nor appropriate in studying a profession in its social development; and in any case few issues could be isolated from their social context. The subjects chosen here have the advantage that they are fairly well documented, show a development of professional consciousness, and display an articulation of a concept of "profession". The issues of education and professional discipline are considered elsewhere. It is unfortunate that the examples discussed here do not reveal much dissent within the local

professional "community" of solicitors. This is probably due to the reliance on evidence which is derived chiefly from "professional" sources and therefore not likely to make known internal rifts.

Three main areas are considered. First, solicitors' reactions to encroachment on expanding or contracting areas of legal work; second, the question of the reform of the system of justice in England and professional demands for change, and the impact of changes on the profession; third the issue of "Solicitors as Justices". These issues occupied the attention of the profession simultaneously and therefore their separation for the purpose of this discussion is artificial.

II. Work

(i) "Our Invaders": "a tribe whose name is Legion"

The term "Invader" was used to describe the various groups who attached themselves to the legal profession and who, though untrained and unqualified, made a living doing small pieces of legal work.

The threat to solicitors' livelihoods from what Offer calls "boundary disputes" has not received a great deal of attention in the historical literature, which take up seemingly contradictory stances. On the one hand Kirk holds that the profession grew in status as the law became increasingly sophisticated and complicated, thereby curtailing the activities of any quasi-solicitors who might infringe the legitimate terrain of the true solicitor[2]. On the other hand Abel-Smith and Stevens believe the profession was unsuccessful in preventing encroachment by other occupational groups on work which was considered the lawyers' preserve[3]. From the editorials and letter columns of the legal journals, the Annual Reports of legal organisations and the minute books of the BLS, it is clear that whatever the real consequences for the profession, the problem of "Invaders" was considered very serious and reached high emotional levels. Though not a new issue, it was obviously becoming more than a mere irritant by the late 1860s; and in the early 1870s this concern found expression in the pages of the Law Times[4]. A correspondent in 1871 remarking on the apathy of the profession and ineffectuality of the solicitors bodies, stated there was a consensus.

"That the domain of the profession has been stealthily and gradually invaded, and that the paying portions of its business are being, bit by bit, sapped away; while the existing means of resistance at the disposal of solicitors, in the shape of Law Societies and Law Institutions, are powerless to do any real good"[5].

Where did this threat come from and why was it considered so serious? The second part of the question will be answered first. Birks states that the decline in litigation meant that solicitors came to rely more and more on non-contentious work for the main part of their income^[6]. This was particularly so in the provinces, where commercial and especially conveyancing work were main sources of earnings, and in marked contrast to the London profession. In addition County Court work was increasing and providing a livelihood for many country solicitors. Threats to these traditional and new sources of remuneration would have had serious repercussions. As a result of repeated encroachment a large group of occupations was designated as the bane of the solicitors profession. According to the correspondent quoted earlier the profession was being ground down between the "millstones" of the Bar from above and a motley collection of "agents, accountants, debt-collectors and others who usurp the functions of solicitors from below"^[7]. To this list, was added auctioneers, surveyors, house -, estate - and land - agents, patent agents, County Court agents and so on.

Using information from local and national sources, the threats from a number of occupations and in a variety of areas of work are treated in turn, and the implications for an articulation of "professional" assessed. First, debt-collecting is considered. Debt-collecting was once part of solicitors' income and practise, but, increasingly,

it was being taken out of their hands by agents "at so much a hundred". However, the reaction of the profession to this poaching was complex. It was not so much the collection of debts (though this was important) but the legal action taken by non-solicitors for their recovery, which roused local solicitors' ire.

The problem of debt-collectors encroaching illegally on solicitors' territory plagued the legal profession of Birmingham from the late 1860s to the early 20th century. Unfortunately the outcome of encroachment is seldom recorded, or if mentioned, then only in the initial stages. There is a good deal of some evidence of rival debt-collecting activities in Birmingham during the latter part of the 19th century^[8]. Presumably the reports made in the BLS minutes only represent the tip of an illegal iceberg. By the 1870s however debt-collecting was increasingly seen as disreputable and not the sort of money-grubbing activity which respectable solicitors should have been engaged in, if they were concerned about their individual and collective status^[9]. Yet it is plain from the experience of late 19th century solicitors in Birmingham and its neighbourhood that debt-collecting was a very important source of income; indeed, some firms appear to have depended on it. Those closely connected with debt-collecting were not "pettifoggers" or "scoundrels" but respectable men in the context of Birmingham society^[10], not necessarily part of the professional elite or upper middle class, though usually members of the BLS.

If professional attitudes towards the practice of debt-collecting were ambiguous, the concern about unqualified men initiating legal procedures and appearing in courts was straightforward. It was illegal under the Solicitors Act 1860 and also raised the question of "professionalism", or rather the lack of it. Debt-collectors who were not solicitors gave no guarantee of their honour and probity since they were tied to no professional body and in other ways they failed to meet criteria that were obviously coming to be regarded as defining "profession" - i.e. they did not have to pass examinations, serve periods of training or pay duties to the state^[11].

Accountants were also recognised as a serious threat to a number of lucrative areas of income which were usually (or at least formerly) considered the domain of solicitors. Accountants drew up wills, settled and passed residue accounts, wound-up estates, appeared in County Courts and advised on bankruptcy matters - "in fact act the part of the solicitor used and ought to do, nay more, a recognised status has been conferred on these same accountants"^[12]. In 1881 a solicitor could complain that "the accountant at present assumes to all intents and purposes the character of a lawyer" and unless the "gradual yet bold encroachments" were stopped the legal profession would become "greatly contaminated, injured and degraded"^[13]. In spite of this underlying feeling towards accountants, only one

incident was brought to the attention of the BLS^[14]. Accountants appear to have been less troublesome to the local profession than some other groups. Perhaps it was because there were fewer of them or members of the two occupations maintained cordial relations. However, there was undoubtedly a fringe of so-called "accountants" who were more than likely debt-collectors and who plied a trade of sorts in the County Courts. These will be dealt with after a consideration of an amorphous group that was taken very seriously by the profession since it directly attacked the solicitors' link with land, property and conveyancing.

This third group of "Invaders", "property professionals"^[15] or "property market middle men", consisted of auctioneers, appraisers, surveyors, valuers, estate, land and house agents and their numbers flourished in Birmingham from around the middle of the century. Though solicitors clearly dominated land and property business, they bitterly resented the encroachment. There are far more local references to this group than to any other. Conveyancing was too important to solicitors in the provinces to allow these "Invaders" to get their hands on it. The solicitors' fears were exacerbated by the possibility of land transfer reform, simplification of conveyancing, and state intervention (which the profession resisted most strenuously and to a great extent successfully) during the second half of the 19th century.

This group of property practitioners was taking on work which the solicitors' profession, traditionally, had seen as theirs - rent collecting^[16], estate management and drafting leases and agreements for sale, as well as appearing in local courts. The problem of unqualified property practitioners first came to the notice of the BLS in 1869 with the occurrence of two cases^[17]. The Committee was clearly concerned by these initial cases of infringement of the privileges of the profession and impressed upon the members "the duty and necessity of resisting these infringements and for that purpose obtaining evidence of them whatever opportunity occurs"^[18].

For the next 50 years the BLS was intermittently called upon to tackle the unqualified actions of auctioneers and the like, usually with little measurable success, the evidence usually being insufficient for proceedings to take place or the BLS felt unable to interfere^[19]. The frustration of the profession in the face of this multi-pronged attack on its interests found expression in the Presidential Address delivered by J S Beale at the 33rd Law Society Annual Provincial meeting held at Birmingham in 1908^[20]. The problem for the BLS persisted well into the 20th century. In 1915 several cases of unqualified practitioners performing work which should properly fall to solicitors were investigated, but proceedings were unwarranted, due to lack of evidence.

Again in 1922 three cases of unqualified practice were reported to the committee, two of which resulted in proceedings being taken by the ILS and in the third an apology was accepted[21].

The fourth area of "invasion", which has already been referred to, concerned agents and others encroaching on the privileges of the legal profession in the County Courts. This could involve any or all of the occupational groups so far considered but, in addition, there appears to have sprung up a practitioner, especially loathed by solicitors, called the "County Court Agent". Once again at the beginning of the 1870s concern was raised and the action of such men widely condemned in legal circles. The Law Times complained that if things were allowed to carry on as they were "much of the smaller business in County Courts will quietly slip out of the hands of Attorneys"[22]. A correspondent from the Midlands obviously thought this a little understated. After describing an advertisement in the Birmingham Daily Post in which a land and estate agent and general collectors announced (inter alia) that they conducted County Court cases, he exclaimed:

"What next? If this mode of procedure be allowed to remain unchecked, I, for one, shall not be surprised to find agents undertaking to conduct suits from bill to decree, and Nisi Prius causes from writ to trial"[23].

The episodes involving the presence of unqualified men in the County Court reveal interesting perspectives on solicitors' conception of their profession, its status and the meanings they attached to "professionalism".

At the 1862 MPLA Annual Meeting held in Birmingham, G J Johnson read a paper entitled "On the relations between the Profession, their clients and the Public". In this paper he attacked the attempts to deprive lawyers of some portion of their proper and regular employment, or so to lower the remuneration for it as to throw it entirely into the hands of "the lower class of that miscellaneous fraternity, the general "agent"". The reduction of fees in County Court proceedings, he said, made it impossible for a plaintiff in the majority of small cases to avail himself of professional assistance except at his own costs. This had led to the creation

"of a tribe of so-called "county court agents" who having non(e) of the restraints of professional life, indemnified themselves for the apparent moderation of their pretended charges by the most outrageous extortion, whenever they got the chance - which was not seldom"[24].

The policy of the BLS on this issue was quite clear. The Secretary informed the ILS in 1887 that it was "not the custom in Birmingham to allow such unqualified persons to address the [County] Court"[25]. Eleven years later the Vice-President, A H Coley, drew up a report on the subject of unqualified practitioners in County Courts after

consultation with Mr Registrar Parry and some County County solicitors. It was known that several debt-collecting agents took an active part in the business carried on in the County Court. Coley concluded that the practice of employing agents (who were usually ex-bailiffs or ex-solicitors' clerks) was most marked in the travelling drapers trade, but there were fewer agents generally employed than formerly. This decline in the number of agents and their relative subordinate position vis-a-vis solicitors was probably responsible for the committee's confident opinion that "no serious hardship is occasioned to the profession by the practice referred to in the report"[26].

These statements by solicitors concerning the issue of "an invasion in their very midst" suggest a concept of "profession" emerging in a variety of ways and also such a concept being "invoked" to maintain and extend occupational monopoly and privilege. They were articulating and defining in relation to their own and others' behaviour what it was and was not to be "professional". This distinguished solicitors from other occupational groups. Thus a concept of "profession" was invoked to satisfy solicitors' appeals for "professional" status and fend off incursions, by its inference of their superiority, and a guarantee of their greater worth to the "public"[27]. Consequently "invaders" were typified as "inferior" in terms of social status- they were not "gentlemen". The same social expectations were not made of this "tribe" as

were made of solicitors - "professional", intellectual or moral - a kind of traditional criteria. There were also the more tangible aspects which "invaders" lacked - the passing of examinations, "professional" training and a relationship with the state, whereby the occupation was recognised and certified. These two areas appear to be summed up in G Johnson's "restraints of professional life" - the measures and checks of professional behaviour. As well as revealing solicitors' own articulation of "profession", these cases provide the setting in which "appeals" to a notion of "profession" were made. The solicitors were clearly seeking to defend monopolies in areas of legal work (or on the fringes of strictly legal work) and justifying it in terms of "the public interest" and public benefit. This is the obvious message from Johnson's remarks on the comparable value of solicitors and County Court agents. The "public interest" was guaranteed it seems (and often assumed to be guaranteed) by something that was taken (by professional spokesmen at least) as read or occasionally articulated or alluded to, as "professionalism". Thereby in day-to-day action solicitors defined "professionalism" - and debt-collectors-cum-accountants, auctioneers and the like were plainly not regarded as "professional".

As the examples above have shown what may be thought a minor episode in the orthodox historiography of the legal profession can produce interesting and important insights into the solicitors' "professional project". After all it

is the ordinary everyday experiences that can be most pertinent - rather than events given significance by historians because they were recorded more saliently and symbolic meanings given then by lawyers looking for a "past"[28]. An occupation's claim to professional status is based upon its members' conception of the social structure of its society and their relative position in it. This problem of "self-location" directs the historians' attention to how the occupation under consideration relates to others in the social structure and how it understood and experienced that structure in terms of a "professional" or occupational hierarchy[29]. It has been seen above how this process was worked out in the case of "Invaders" it will now be explored in the setting of negotiations over the practice of holding auctions.

(ii) Auctions

Solicitors were becoming reliant on property and land transfer during the 19th century[30] and, in Birmingham, as well as working to prevent radical changes in the Law of Property, they sought to control the local property market. Typically, land was bought and sold at auctions and the campaign of the BLS to alter auction practices and conditions is interesting in that it reveals an attempt, at a local level, by solicitors to stamp their authority over auctioneers and at the same time establish, reproduce and

maintain an occupational hierarchy. The efforts of the BLS may also be seen as a strategy to improve status and respectability; something that was hampered by the intransigence of the auctioneers who were portrayed by solicitors as a somewhat inferior occupation.

Solicitors' attempts to control the property market became manifest when the discussion of the desirability of a form of condition of sale was mooted in 1838 and certain unwelcome practices were reported^[31]. A year later the BLS Committee bemoaned the spread of irregular conventions in conveyancing and selling land which reflected badly on the profession and threatened "one of the most lucrative branches of their business"^[32]. It was again strongly commended that prepared conditions of sale be adopted. However, it was not until the late 1860s that common form conditions were prepared, and settled after consultation with an eminent conveyancing barrister^[33]. It was at this time that pressure was mounting within the BLS for changes in the conduct of auctions. This agitation came during a period when the profession (and public) were questioning the propriety of other legal institutions such as the Mayor's Court and the custom of holding inquests in public houses. There was, then, an atmosphere of change (even reform) in which this "movement" for improvement must be set. It challenged traditions in the name of progress, professionalism and the public interest. In 1860 the BLS President (J W Whateley) was instructed by the Annual General Meeting to write to all auctioneers in Birmingham

asking them to alter the customs in auctioneering[34]. Plainly this had little effect since at the AGM of 1867 a motion from W S Evans (of Ingleby Wragge and Evans) calling for sales by auction to be held at Sale Rooms instead of public houses and the implementation of one general list of conditions (such as existed in Liverpool) was discussed. The general feeling of the meeting was that it would be desirable to hold mid-day sales at public rooms instead of hotels, if at all practicable. Evans in 1870 again referred to the "extraordinary mode of conducting sales by auction in Birmingham at public houses by night. The inconvenience was great to all parties and a positive injury, he was sure, resulted from the practice"[35].

The tangible result of this work was a meeting of all attorneys and solicitors practising in Birmingham. This meeting led to a discussion with local auctioneers on the convenience of morning sales. The auctioneers agreed to co-operate with the BLS proposals[36]. Agreement was reached or, more likely the solicitors, through the organised strength of the BLS, and the eminent local people in it, had imposed their wishes upon the auctioneers. However, the lack of co-operation and passive resistance by auctioneers meant that by 1873 there had been a gradual but uneven return to the former situation. The traces of the brief experiment had almost disappeared. A Ryland, chairing the 1872 AGM, argued that the "present arrangement of holding them (auctions) at taverns in the evening was not only inconvenient to them (solicitors) but to the

public"[37]. Though Birmingham was out of step with some areas of the country, the hope was expressed that attempts at reform would continue.

Only a century (perhaps even 50 years) earlier, public house and tavern life had been a respectable part of middle class male social and business life in Birmingham. However, the situation was changing[38]. From Behagg's work this change may be ascribed to the decline of a strong traditional artisanal culture in Birmingham by the mid-century[39]. Solicitors, through their organisation and upper echelons, were attempting to distance themselves from the cruder habits of an earlier culture and disassociate legal processes from a practice alien to "professionalism", thereby, reinforcing their position and status in social and occupational hierarchies. This was not easy in the case of auction sales. Solicitors found it difficult to impose their wishes on auctioneers. The matter was raised within the BLS every five years or so into the late 1890s when things again came to a head[40].

By the end of the 19th century a common form of conditions of sale had been adopted but the BLS had failed to change the practice of conducting auction sales. However, with the concurrent process of resisting "Invaders", the negotiation/conflict with this occupational group had revealed professional strategies for accomplishing status and brought articulations of their "concept of profession" to the surface. The worlds of work

and social status had been found to overlap, and in the early period it is plain that solicitors envisaged themselves as the dominant group within the property market. By the 20th century solicitors remained dominant, but the situation was less unambiguous and clear cut. Auctioneers could not be treated as contemptuously as they had been 50 years earlier. The episode shows it is also important to look at the professions' setbacks as well as successes.

(iii) Tribunals of Commerce

The idea that the accomplishment of professional status is best understood as one of "interaction" is pursued further in the case of solicitors' opposition to the establishment of Tribunals of Commerce. This was a national issue which had local implications for the profession in Birmingham. In terms of periodisation the debate occurred simultaneously with the beginnings of the "Invader" and "auctioneering" issues. An editorial of the Law Times ran:

"It is an adage that it never rains but it pours. The prospects of lawyers are becoming gloomier everyday. To state a few facts shortly. The Judicature Bill will ruin London agency firms; the Land Transfer Bill will take the backbone out of conveyancing; and the creation of chambers of commerce will take away from legal tribunals a considerable portion of the work...."[41].

Tribunals of Commerce were being promoted by businessmen and Chambers of Commerce as an answer to the cost and delay of the courts and the cost and uncertainty of arbitration in the settlement of commercial disputes. Bills were promoted during the 1870s by the Association of Chambers of Commerce of the UK to permit commercial men to act as adjudicators to decide disputes according to trade customs and usages, which were bitterly opposed in the legal press and by the ILS. The profession, apart from seeking to protect the integrity of the law, businessmen and the public from any possible injustice, were also deeply disinclined to "see their business gently gliding from under their feet..."[42].

The possibility of Tribunals of Commerce first saw light of day in Birmingham in 1865. At an ordinary monthly meeting at the Birmingham Chamber of Commerce a question of the proposed establishment of Tribunals was raised[43]. Naturally, Birmingham being the industrial, manufacturing and commercial centre of the Midlands, legal matters arising from commercial disputes were common and impinged on the practice of solicitors and the professional community. There were many solicitors engaged in company and commercial law whose interests were therefore threatened[44] by tribunals of commerce and the BLS soon came to grips with the implications of the Chambers' of Commerce proposals. The result of their deliberations were delivered in a paper by G J Johnson, a man experienced in

commercial matters. The inconvenience and lack of competence of existing tribunals was conceded, but it was argued that the remedy was not to create new or nondescript tribunals which combined the defects of judicial tribunal and non-judicial arbiter, but to improve the procedure of the ordinary tribunals. Johnson was keen to maintain the presence of solicitors within commercial disputes, not only as a valuable source of income, but as a legitimate and proper area in which the law and the profession should hold sway; otherwise the law's prestige and superiority would be dismissed^[45]. It is worth remembering that the profession at the time was pushing the benefits of a professional expertise as against an amateur volunteerism - professionals were independent, objective, free from bias and above all trained. Therefore it was in the public interest to maintain the lawyers' supremacy. The Judicature Revision Commissioners 1874 recommended against the creation of Tribunals of Commerce on the grounds that decisions needed to be taken by the legally trained. Amateur merchants would mean uncertain decisions and therefore led to a multiplication of litigation and confusion. The businessmen's response, after abandoning all hope, was to favour more arbitration and contractual freedom^[46].

The heated though brief episode about Tribunals of Commerce opens up another aspect of the development of the solicitors' profession that has received scant attention. It reveals a location of conflict over a central area of

work. The process of creating and consolidating markets for professional skill required constant effort and renegotiation.

III. Legal Controversies

(i) Solicitors and the Local System of Justice

The influence of the solicitors' profession over the structure and development of the local system of courts is an important theme in the "professional project". Solicitors were keen to ensure that any change was in accordance with their desires. The concerns of the profession in the early 19th century related to the extension and preservation of its interests in the plethora of small local courts. The main concern was with solicitors' exclusive rights to audience, and thereby the creation of a market shelter.

Soon after its formation in 1818 the BLS took an interest in the conduct of the Sheriffs' Court in Warwick. A special meeting was convened in 1833 to consider the propriety of addressing the High Sheriff of Warwickshire respecting the practice of his court. It was resolved to memorialise Sir John Mordaunt, Baronet, High Sheriff of Warwickshire via the undersheriff, asking that

in regulating the practice of his Court he should adopt the advice of the Lord Chancellor and allow either Barristers or Attorneys to practise as advocates. Of course, in suggesting that no person unless an admitted Attorney should be permitted to appear as an advocate, the BLS acted from the best possible motives:

"The Society submit with great confidence that the Dignity and Efficiency of this new tribunal would be greatly endangered if any persons except Barristers and Attorneys were permitted to act as Advocates"[47].

It is difficult to assess the effect of the Memorial since no direct reference was made to it later. However, 18 months later the Committee was again complaining:

"that is is highly important both to the interest of the suitors and the respectability of the court that the advocacy of causes in the sheriffs court should be confined to barristers and attorneys"[48].

The BLS President (R W Gem) was requested to write to the undersheriff urging upon him the adoption of this practice, which was established by his predecessor at his first court. This suggests either that the conduct of the court and its regulation vis-a-vis lawyers as advocates had fallen into disuetude, or the letter was simply a reminder to the new undersheriff.

A few days later the BLS resolved that a memorial be presented to the Judges of the Common Law Courts praying for a rule limiting the advocacy of causes on issues tried before the sheriff to barristers and attorneys. The memorial was prepared and despatched by the beginning of July, stating:

"that undersheriffs have in several instances allowed other persons than barristers and attorneys to act before them as advocates on the trial of issues and the execution of writs of enquiry and that difficulties and irregularities have been occasioned by such practice.

That in the opinion of your memorialists it is necessary to the utility and respectability of these courts and the orderly conducting of business therein, that, the advocacy of causes in which the parties themselves do not appear in person should be confined to Barristers and Attorneys"^[49].

It is clear that the profession was seeking to lay the reason for cost, delay and inconvenience in the legal process at the door of unqualified practitioners and unskilled laymen. The implication was that only properly qualified, competent specialists could be entrusted with the efficient management of the legal system.

It was intimated that the wishes of the BLS would be acceded to, but a month later a rather ambiguous reply from the undersheriff read:

"I beg to inform you that I do not feel myself justified in making any alteration in the rule laid down by the last undersheriff"[50].

No comment is attached in the minutes and so it is difficult to assess the real meaning of this reply. However, in August 1836 (nearly 3 years after the issue was first raised) the BLS committee received a ruling from the undersheriff of Warwickshire that no persons other than barristers and attorneys would be permitted to conduct themselves as advocates. This was confirmed by the new sheriffs of Warwickshire and Staffordshire and received the approbation of the Barons of the Exchequer in 1837. In their Annual Report of 1837 the committee seemed relieved to state the issue "may be considered as now finally established"[51].

However, the diversity of local courts in the early 19th century meant that this "victory" for the BLS was only partial. It is apparent from the legal press and other sources that solicitors were faced with problems in their dealings with magistrates. In the 1830s the Legal Observer reported a number of cases in which solicitors were prevented from obtaining their rights to appear before magistrates. The grievance was again couched in terms of the injustice such practice could cause - "when the law is clearly pointed out, the magistrate will hardly venture to infringe it, however his disposition may prompt him to do

so"[52]. The presence of the attorney was necessary therefore in the interests of the client and the proper working of the law.

In Birmingham the profession tackled a related though significantly different problem. Since Incorporation in 1838, a Court of Petty Sessions had been operating at the Public Offices, Moor Street. The problem concerned, as in the earlier case, laymen acting as advocates and was taken up by the BLS in 1843. However, the custom of laymen practising in local courts before this date was well-known. George Edmonds had been a successful advocate since 1823[56].

At the end of 1843 the secretary "in the name of the Law Society" (i.e. the BLS) "respectfully" requested the Birmingham Borough Magistrates to pay attention to an extract from the recent Attorneys and Solicitors Act which prohibited all but attorneys from practising before them. Each magistrate was told that he should have expected that this exclusive right would be claimed by the profession "as it is contrary to the rule or practice of the Public Office"[54]. The BLS Committee was not happy with the usurpation of their professional privilege, and clearly it was not getting anywhere with the Borough Magistrates[55]. Success seems to have eluded the committee but some sort of compromise was reached - the Annual Report noted that the Bench would not alter their rule allowing articled Clerks the privilege of pleading before them.

The profession on the other hand had widespread support in its attack on the local Hundred Court - that of Hemlingford, North Warwickshire, covering Birmingham. Once again objections were raised about the appearance of unqualified persons in the Court, but the issue also touched on the proposed new County Courts:

"if these courts are permitted to remain the Bill will have unremedied the worst evil and disgrace of our judicial system"[56].

The abuse, as it is presented from the profession's viewpoint, lay in the huge costs which fell on poor debtors brought before the Court, turning the "wretched legal institution" into an "engine of injustice, oppression and cruelty to the poor"[57]. The campaign reached its zenith in the early 1850s. An alliance formed with a view to abolishing the Court, consisting of leading solicitors and leaders of the lower middle class "economist" grouping of the town council. A wide-ranging and public agitation was kept up for a period of 18 months until abolition was achieved[58].

It is a familiar historical story that one only has the victor's version recorded - who the opposition was, even, is not known; but it must have included some attorneys who were content to make a living of sorts out of the Court[59]. It is interesting to note here the association of the abuses of the court with unrespectable

attorneys. The abolition of various local special courts may have been seen by respectable solicitors as a means of eliminating the lower end of the profession, as well as acting in the public interest by establishing better judicial administration. To some extent the attack on the Hundred Court was linked with a criticism of the Mayor's (or Borough) Court which succeeded the Court of Requests on Incorporation and survived the establishment of the County Court. Soon after the abolition of the Hundred Court, Hawkes, solicitor, was elected Mayor (1852) and set about abolishing his own Court - referred to as "a costly and dilatory tribunal". Trials were conducted with all the formalities of Westminster Hall and consequently they were attended with very heavy expenses, though the Court was intended for recovery of debts under £20. The oppressive practice and exorbitant costs provoked a strong agitation - again the chief promoters being J S Wright, Joseph Allday and H Hawkes. At the end of 1853 an Order in Council was issued excluding the Mayor's Court from jurisdiction in all causes which the County Court had cognizance, and had the effect of putting an end to the Tribunal. The livelihood of the "low attorneys" may, again, have been affected. It was remarked later:

"Mr Hawkes' conduct in the matter was greatly to his honour, for it will be at once perceived that the continuance of the Court was very much in his own interest, and moreover it is not every practitioner who would have cared to provoke the jealousy of professional men, as he must have done by his action"^[60].

Arthurs urges that it is necessary to pay closer attention to the role of the legal profession - as an interest group - and its impact on the architecture of the legal system:

"It would seem that lawyers were indeed an influential body. Their opposition to the old local courts was unrelenting.... The regime of "equity and good conscience" administered by the Courts of Requests was replaced by law, fees and costs in the new courts, originally fixed at low levels, were increased so that lawyers could afford to appear, and representation by "low attorneys" was ended, and the ability of parties to represent themselves diminished, leaving lawyers with a much expanded area of work"^[61].

The campaigns of local solicitors and their allies cannot, then, be seen as purely altruistic, but a question of furthering professional interests - expanding the market for their services, distinguishing the work of the respectable attorney and increasing the integrity of the system in which they operated.

(ii) The County Court Site

The question of a new site for the County Court is relevant for two reasons. It indicates the limitations of solicitors' power at this stage of the "professional project". The BLS may have been able to exert power over lowly occupations that threatened the integrity of legal work, but the collective strength of the profession was not equal to the political power of the Town Council. The incident also shows the lengths to which the profession went to demonstrate that the interests of the public were compatible with those of the profession.

The County Court was initially situated at the Waterloo Rooms, Waterloo Street, in 1847. However, at some time in the 1870s it was deemed necessary that a new building should be found or constructed. The County Court was an Imperial rather than a local institution and Government was in a formal and official sense responsible. It was presumed that the government did not act without some local advice. At any rate the choice of site lead to a public conflict between the BLS and Town Council, which lasted from June 1879 to February 1880. The dispute arose over plans to situate the new buildings on the proposed new street as part of the Improvement Scheme, some distance from the legal quarter where the original County Court had

been^[62]. The local press, 'as well as the profession took the issue up as a matter of public concern since the arrangements would severely inconvenience both the public and the profession.

"The clear and simple fact is that there is a determination to recklessly sacrifice the interests of a whole profession, with which the interests of the public are intimately associated, in order to benefit a pet improvement scheme"^[63].

Despite the profession's attempts to alter the plans by national and local lobbying, even accusing the Council of illegal proceedings in selling off the site, the matter was closed by 1880. Two years later the new County Court was opened^[64]. Constraints of space mean that the history of this controversy cannot be recounted in full. It is sufficient to say that this episode involving a small professional community and the local (and national) state serves to remind the historian that representation on political bodies by the profession in question does not necessarily lead to decisive influence in decision-making. So, despite an organised lobby outside and inside the municipal body, a prominent presence on the Council and a favourable press the profession did not succeed in its aims. A split within the profession's Council representatives probably did not help and shows that, even though on a small scale, political shading and loyalty could divide the legal profession. The defeat must have been a blow to the profession and especially its leaders who may have thought they had an ally in the Council.

Whether this setback was reflected in and a reflection of the status of solicitors it is difficult to say. They may have felt their prestige and pride blunted.

It is worth noting the impression (created by solicitors), of the profession acting in the public interest, or at least a confluence of public and professional interests. There is an apparent acceptance that the interests of the public (in legal matters) were closely tied to those of the profession, and that the profession was only acting in the interests of its present and future clients - i.e. the general public - in seeking to abate costs, and reduce convenience.

(iii) The Assize Court and Library

The decline of local courts has been noted above, yet the extension of County Court jurisdiction and the granting of Assizes to large provincial towns in the last quarter of the century was seen as part of a decentralisation process, whereby much of the legal business which was formerly necessary to take to London was disposed of locally. The demand for Birmingham to be created an Assize town was a long drawn-out struggle, which turned into a complex issue. From the professional point of view it came to be part of a general critique by provincial Law Societies of

the system of administration of justice and the arrangement for trials of causes in the large centres of population. As the campaign lasted such a long time, preoccupation with the demand for Assizes may have deflected attention away from the wider issues. However, the profession's desire for increased local jurisdiction was well supported by Birmingham's political leadership and bourgeoisie^[65].

After the dispute over the site of the County Court, the location of the Assize Courts was, as far as the BLS was concerned a fait accompli. It was resigned to the fact that the new Courts were part of Joseph Chamberlain's Improvement Scheme^[66]. However, the nature of the library for the use of lawyers engaged on business when the Assizes were sitting became very important to the solicitors' profession. This incident again exposed the importance of power in professionalisation together with the significance of status and interaction with occupational groups. The *Victoria Law Courts Library* issue brought to the surface the hostility of the solicitors towards barristers that had simmered for some time.

The social distance between barristers and solicitors was said to be so small by the second half of the 19th century as to be almost undetectable and if it existed at all it was a matter of educational differences. The Birmingham County Court Judge James Motteram could address the BLSS thus in 1863:

The practice of the law in this country is carried on by 2 distinct branches of the same profession...both branches equally honourable, and in my judgement, of the highest importance, to be kept distinct...if either is dissatisfied with the branch he has chosen, there is no difficulty in giving up the one and entering the other"[67].

This type of remark masked with "conviviality" the deep jealousies, envies and mistrust which existed between the two branches, based on solicitors' feelings of social inferiority and inequality[68]. Solicitors and barristers may have been "equally honourable" but it was certainly seen as an upward step for a solicitor to enter an Inn and become a barrister, whilst it was a degrading step for a barrister to practise as a solicitor, despite all the lists of Law Lords, Lord Chancellors and so on who had begun careers in attorneys' offices[69].

The inter-professional dispute over the Victoria Courts Library shows up the malevolent undercurrents between the two branches. These had long existed locally (e.g. Johnson in 1862 made disparaging remarks about the Bar in references to solicitors' efforts "to improve their status"[70]) but found greater expression during the last quarter of the century when increasing numbers of barristers were to be found in Birmingham. The dispute over the "Bar Library" - though outside professional circles potentially trivial, exposed a raw nerve and became a trial of strength involving the BLS, the Bar and the Council.

The issue centred on the proposals regarding access to the Law Library to be situated within the Assize Courts. Things got off to a cordial start, the BLS initiating negotiations with the Bar on circuit over the use of the Library in 1887^[71] when the Courts' foundation stone was laid. However, by 1891, on completion solicitors' feelings were starting to run high. The BLS secretary had received a memorial signed by 205 solicitors practising in and around Birmingham demanding that in any regulations which were made respecting the use of the Library at the Victoria Courts solicitors "should be placed on the same footing as the Bar both as to the use of the room and the law books placed there". They were very unhappy because of its description as "The Bar Library" in the official programme of opening^[72].

The Courts - comprising accommodation for Assizes, Quarter sessions, Petty sessions and Coroners inquests - were opened by the Prince and Princess of Wales on 21st July 1891. Birmingham Faces and Places in its description of the building and the ceremony wrote of the Bar Library -

"Two circuits meet in Birmingham; and consequently, the attendance of counsel at the Birmingham Assizes is usually very large. It will be the finest Bar reading-room in the Kingdom, and needless to say, counsel on the Oxford and Midland circuits are very delighted with it"^[73].

After the opening the BLS Committee referred the memorial to the Victoria Courts sub-committee of the Council. The solicitors, particularly offended by the rule which allowed barristers sole use of the Library during Assizes and Quarter Sessions and the delaying tactics employed by the Town Clerk, printed the following account:

"Under the present regulations a sum of £1000 was spent in providing a magnificent library and club room for the visiting Barristers, who are not ratepayers, at the cost largely of local solicitors, who are among the heaviest ratepayers. And on the point of practice and principle it is to be contended that it is sheer nonsense to have a law library at the Victoria Courts and to shut its doors against the very lawyers who are in constant practice in the courts"[74].

At a conference with the BLS the leaders of the Bar made no objection to equal use of the Library, providing a room in the building could be set apart for the exclusive use of the Bar and that only solicitors and not their clerks were admitted. Johnson reported that in his capacity as a member of the Victoria Courts sub-committee he had no doubt that these points could be met. A room was approved and the conference broke up with everyone happy[75]. The arrangements agreed were adopted by the Town Council and the BLS could triumphantly report "that all difficulties in connection with the matter have been satisfactorily surmounted". Nevertheless, the title "Bar Library" remained[76], presumably serving a constant

reminder of the differences between the branches. However much a compromise the solicitors' elite had succeeded in placing themselves publicly on an "equal footing". The profession's determination to be considered of equal status can either be seen as a confirmation of solicitors confidence and accepted standing, or as another step in the direction of becoming "established" and ranked with the Bar.

The investigation of Birmingham's development as a legal centre demonstrates the importance of considering the solicitors' profession in a wider context. As stated above, a crucial aspect of the "professional project" was "interaction" with other professions and other social groups. It is important too, not to look only for the successes.

The "Library" controversy is important because it reveals an instance of the efforts of the solicitors' profession to define their social position in relation to other occupations - in this case the Bar.

IV Solicitors as Justices

The "solicitors as justices" issue raises important questions about the profession's location in a social hierarchy and the moral and expert appeals to professional status. Until the late 19th century it was illegal and indeed deemed "unprofessional" for practising attorneys and solicitors to act as magistrates. The profession's efforts to reverse this position were wide-ranging and extended over many years. A relatively small issue at first, it mushroomed and encompassed numerous side issues and brought the profession into contact with the Bar, the local state and, naturally the Justices. In some ways it is a strange issue in that it clearly aroused much professional fervour, occupied a great deal of professional's time and attention and yet at the same time it remains ephemeral and unrecorded in the literature. The problem for the profession was an old one by the 1870s when agitation reached its first and highest peak. From its origins in the 1850s the nature of the issue and the tactics of the profession changed very little over time. The issue was further complicated by the distinction drawn between county and borough JPs after 1835 and the Solicitors Act of 1844.

The theme of solicitors' eminent fitness for the position of JP was to persist throughout the second half of the century. However, the solicitors' deeply felt grievance and discontent found vent at the MPLA meeting held in Birmingham, where Mr Rawlins

"considered it a great stain upon the profession that they were excluded from the Magistrates Bench of all counties and trusted some efforts would be taken to remove the obloquy"[77].

It was not long before the matter occupied the attention of the profession again. In 1863 the ILS was making enquiries regarding the rule that prevented any solicitor whose name was on the roll from being appointed a JP, with a view to approaching the Lord Chancellor for an alteration. The BLS believed that the rule "casts an unmerited slur on the character of the profession"[78]. At conferences and in the legal press it was raised continually during the 1860s and 70s. For example

... I feel satisfied that the removal of the disqualification would greatly benefit the country as well as raise the status of our profession...."[79]

... a most undeserved stigma upon all members of a profession which has always shown itself at least as trustworthy loyal and patriotic as any of the classes of Her Majesty's subjects on whom such dignities are freely conferred"[80].

However, as the above quotations imply, the problem as the solicitors saw it was not treated in isolation. In the various arguments that were put forward to justify solicitors' presence on the Bench two themes predominate - the solicitors relation with the Bar and the value of their expertise. Considering the first theme, solicitors thought themselves unjustly treated in comparison with the Bar when it came to judicial appointments. Kirk's claim that on every count other than the Bar's monopoly of legal appointments the professional and social distinction had by the end of the century lost its justification is inaccurate^[81]. Solicitors argued that they were ignored, there being no post of distinction to serve as a stimulus and incentive. New duties and responsibilities were put on solicitors, their education and social status raised, yet there were no judicial offices to compete for and attract a better class of person into the profession:

"There is practically no goal to which he can aspire, except the privilege of working hard through his life for his clients and accumulating a fair competency"^[82].

This exclusion fuelled feelings of social inferiority. In 1868 the reforming Leeds solicitor, Jevons, stated:

"All higher judicial offices...are exclusively appointed from members of the Bar...Attorneys and solicitors are declared by statute incapable of being appointed country magistrates and although legally eligible as borough magistrates, it has been the practice of late to refuse to appoint them"[83].

The jealousy aspect can be seen when turning to the second and perhaps more important theme in terms of "professionalism". Solicitors' qualities, objectivity and expertise were stressed when arguing that they were ideally suited for a Bench which had to deal with the increasingly complex legal, technical and commercial decisions of an industrial society[84]. Solicitors resented the presence of other professions on the bench who had no knowledge of legal matters, whereas they had so much to offer.

"From their education, knowledge of the laws and business habits, surely solicitors are not less eligible than clergymen, bankers, surgeons etc for the office of JP....[85]

The arguments in favour of solicitors' qualifications also included, as an adjunct to the benefits of the expertise, the undoubted benefits to the public and reference to the solicitors' conception of public duty. Solicitors should hold such judicial and public offices "as their special ability and expertise makes them well fitted to hold with advantage to the public service"[86]. Even though the argument was framed in terms of "expertise" the real issue is about the status of solicitors and was a matter of "character" and personal qualities.

The legislation which disqualified solicitors from being JPs was removed by an Act of Parliament in 1871. The BLS had during 1870 supported the ILS in its Parliamentary agitation^[87]. There is tantalising evidence that Arthur Ryland played a crucial part in the progress of the Bill and the lobbying in conjunction with Roundell Palmer (later first Lord Selborne). The BLS minutes make no reference to Ryland's role, nor is it mentioned in Palmer's memoirs or indeed any of the Selborne Collection^[88]. Yet, still, biographical sketches allude to this episode as one of Rylands' greatest professional achievements. On his death the Solicitors Journal commented

"his brethren... will not forget that it was mainly through his instrumentality that the Act... to amend the law disqualifying solicitors in practice from being JPs for counties was placed in the Statute Book"^[89].

Edgbastonia in its biographical sketch some years later made special note of the fact that it was "in a great measure through his labours" that the legislation was amended "and all members of the profession felt it to be a personal compliment when he was placed by the Lord Lieutenant on the Commission of the Peace for the County of Worcester"^[90].

The Act was seen as a success for the profession, but in reality it was only partial. Solicitors could now become JPs but not in the County in which they practised or maintained an office or place of business. Thus the profession was still tainted with the "slur" and lack of respect for their honour and objectivity. Birmingham was fortunate in its geographical position, in that many of the residential suburbs favoured by professional men lay outside the boundaries of Warwickshire and therefore permitted solicitors to sit on benches for surrounding counties.

Since the outcome of the agitation culminating in 1870, was incomplete the issue rumbled on throughout the rest of the century. The question of borough JPs was raised in the 1870s but with little or no effect^[91]. However, by the 1880s exceptional solicitors in Birmingham were appearing on the borough bench - Thomas Martineau in 1880, G J Johnson 1884 - still a rarity and symbol of great prestige^[92].

The late 1880s and 1890s saw renewed and repeated efforts to change the law respecting county JPs. Bills were annually introduced before Parliament, petitions presented and professional feeling stirred up, to obtain an Act allowing solicitors to be JPs in their own counties, subject to conditions. Legal expertise was again a central

feature of the argument, yet the general, non-professional "character" background was included in the "professional" package -

"it would be for the public's advantage that men who here had a legal training, and who possess the knowledge and experience which solicitors acquire, both before admission and in the course of their practice, should not be restrained from administering justice in magisterial courts..."[93].

Attempts were still being made at the beginning of the 20th century.

The efforts to remove the "slur" in this case fitted in with the other moves to "elevate" the profession in terms of status and broaden the ambit of the solicitor. The articulation of a concept of "profession" which may formerly have been unconscious or unspoken emerged, stressing solicitors' technical skills and general "character" combined unusually with such legal skills and public service ideal. The access to such an important position and symbol of power in the 19th century must be considered as a significant part of the professionalisation process in interaction with contemporary groups.

V. Conclusion

The varied collection of issues presented in this chapter demonstrate a number of themes in the process of establishing solicitors as a profession - the relationship of practitioners to the provision of legal services, the evaluation of status and the motivations behind the position of the profession on various controversies. In a number of instances the solicitors organised themselves to constitute professional markets, in this case, advocacy. On questions of local legal administration strong campaigns were mounted to create an area of work that had not, in effect, existed to the same extent before. In doing so a public need for legal services was established^[95].

By the third quarter of the 19th century the dramatic manifestation of solicitors' defence of their interests in the market for their services occurred in the public and drawn out struggle against "invaders". In large measure the solicitors were successful, but complete dominance remained elusive^[96]. The arguments for justifying the profession's position were, by that time, sophisticated. However, they had been forming for some time and could exhibit a complicated mixture of "appeals". It is important to remember, when considering "appeals" and the ensuing formulation of a professional ideology, the context in which they were developed^[97]. The interests of the

profession were threatened substantially by increasing competition and possible changes in judicial administration (e.g. the Tribunals of Commerce) which were repeated periodically during the rest of the century, e.g. the protracted struggle over Land Transfer legislation[98]. Professional ideology was shaped against this background. The most pronounced aspect of such "appeals" was that of public service. This was perhaps most dramatically shown in the issue of a new County Court site when the profession's assertion of a communality of interests was most strenuously and seemingly accepted. Yet there was a gradual emergence of arguments based on features that were increasingly viewed as specifications of professionalism. These arguments expanded on notions of the "professional" (e.g. institutions, examinations and so on) and the rationality and efficiency of expertise. Naturally, such efficiency was a matter of public benefit, e.g. in the case of solicitors as justices. Thus, a trend towards creating a definition of "profession" surfaced from solicitors participation in ostensibly narrow problems[99].

In the case of solicitor's relationship with auctioneers a number of processes were revealed. Efforts were made to "standardise" auction practice and control the work situation. The instigation of Common Form Conditions of Sale was an impressive success in comparison with the organisation of auction sales themselves. At the same time questions of status were raised in relation to the formation of an occupational hierarchy. It would appear

that solicitors used their status in order to define their social position in relation to other occupations - the construction of an occupational hierarchy which acted as an important strategy in the process of eliminating or controlling competition^[100]. Social status was not, then, a result of successful professionalisation, but an integral part of that process. Once again throughout the solicitors' discourse on these issues overtones of gentlemanly notions had a permanent presence. However, it is important to note that "appeals" became mixed with what Larson would call characteristics of "modern professions"^[101]. In the next chapter the emphasis returns to the changing social status of solicitors in the late 19th century.

CHAPTER EIGHT

From Legal Practitioner to Professional Gentleman

Birmingham Solicitors c1850 - 1900

"The crown and glory of life is character. It is the noblest possession of a man, constituting a rank in itself, and an estate in the general goodwill; dignifying every station, and exalting every position in society. It exercises a greater power than wealth and secures all the honour without the jealousies of fame. It carries with it an influence which always tells, for it is the result of proved honour, rectitude and consistency - qualities which, perhaps more than any other, commend the general confidence and respect of mankind".

[Samuel Smiles Self Help (1859) p 360]

I. Introduction

In Chapter Three the social standing of solicitors in the first half of the century, the nature of "professionalism" and problems associated with legal practitioners were discussed. The main conclusion to emerge was a conception of the marginality of the profession - in terms of social origins it was neither gentry nor working class, but "middling". Also, though not recruited from the "lower ranks" and eminent personages did

exist, the prestige and reputation of solicitors generally was not good. This was a central concern of the professional organisers and spokesmen during the second quarter of the century. In the subsequent chapters the strategies and practices employed by solicitors to develop a meaning of "professionalism" were examined. In addition, attention was paid to the success of these strategies in terms of their impact on the wider community and the acceptance of the solicitors' conception of "professionalism". The implications for status, monopoly of work, consolidation of legal and local frameworks were also examined.

However, by the beginning of the 20th century a qualitative change can be noted in solicitors self-appraisal and in their public reception. Complaints, by solicitors in the legal press or at conferences, about their relative status and the public's misconceptions appear to dwindle and are not repeated with the forceful regularity of 50 years earlier. By the late 19th and early 20th centuries solicitors were congratulating themselves on their professionalism and rise in status. Symbols of achievement were catalogued, such as increasing graduate entry, solicitor JPs and MPs. Typical is the solicitor who speaking in 1881 from half a century's experience, stated:

"he thought he might affirm without fear of contradiction, that no profession had risen so much in public estimation during the last 50 years as their own"[1].

Despite occasional setbacks the profession was characterised in the late 19th century as exhibiting "a certain complacency and insular self-satisfaction"[2]. Success was credited by contemporary solicitors to the action of the Law Society and the effect of examinations. It seems possible that this gave rise to the misplaced pre-occupation with professional organisations and certification in early writing on professions, and hinting at the success of the profession's propaganda[3].

These changes in how solicitors viewed themselves and how they thought the public saw them beg a number of questions, some of which can be answered here. How accurate was the assessment by solicitors? How and why had changes taken place? How secure was the newly - established prestige? On what basis of "professionalism" did it rest? Obviously some alteration in the profession's nature had taken place and certainly in the Birmingham context this can be detected. However, an explanation that concentrates on professional organisation, education and qualification is inadequate, and merely justifies the existence of "professional institutions" in the "correct" development of the profession. In addition, this mode of explanation takes no account of historical processes,

mechanisms connecting institutions with values and behaviour or human agency. Evidence from Birmingham suggests that analysis of the development and establishment of "professionalism" needs to be pursued in other directions. This entails examining more closely solicitors as members of an increasingly successful, powerful and wealthy middle class and analysing the "existential qualities" of "being" a legal professional which were deemed to be appropriate to "professionalism"[4].

This chapter examines some of the relevant "existential" or "personal qualities" which contributed to the forging of a reputable, high status local profession. Also, the precariousness of this status is assessed. The late 19th century was a period marked by legal scandals, and the solicitors' profession in Birmingham was no exception. However, there was a shift in the way in which these were interpreted and explained by solicitors and received by wider local society.

II. "A man of education and gentlemanly feeling....." solicitors and the middle class elite

An "ideal type" was projected by the profession, which, as in other occupations, the main body seldom managed to achieve in entirety. Yet, developments in the experience of large numbers of local solicitors were such that a transition has to be explained. This section looks essentially at cultural changes in the solicitors' universe as a means of understanding the high status of the profession by the early 20th century and the mechanisms by which this was achieved, which in turn shaped the concept of "profession".

The underlying concept in this process was that of the "Gentleman", a particularly difficult term to tie down. . However, the significance of the concept (or its everyday, commonsense meaning in the mid-19th century) in professional strategies has been examined in Chapter Six. The pursuit of a "gentlemanly" profession was envisaged as a solution to problems identified by the professional leaders. The ideal was to be a gentleman as well as (or even instead of) an expert professional. Pressure was exerted by the profession on its organisations, legal authorities and the state, to ensure that only gentlemen were recruited - an area in which education played a crucial role. However, from an examination of solicitors

practising in Birmingham as late as 1900 it appears that the social origins of recruitment had not radically altered from those in 1850 (see Table 8:1). The profession was still largely self-recruiting, though the entry of sons from larger manufacturing and commercial backgrounds suggests a possible "elevation" in status. Nevertheless, the guarantee of "gentlemanliness" seemed unsure, and in the Birmingham instance the solicitors' profession does not appear to have been the primary refuge of younger sons of the gentry.

The power of the concept of "gentleman" and its appropriation in the hands of the middle class (and their ideologues, such as Samuel Smiles) had far-reaching effects on the way "professionalism" was conceived. Just as mental and moral qualities came to usurp those of blood, heraldry and landownership in the "gentleman", so with "professionalism" morality, integrity, disinterestedness and a cultured education became the touchstones of a professional man encapsulated in "character". This was for good reason. If the public, as clients and recipients of professional services, were to accept solicitors' claims to independence, expertise and authority, a high degree of trust was essential. Trust was to be visibly demonstrated and guaranteed by the creation of a profession comprised of "gentlemen". A man could be a "gentleman" by education and profession. This theme returns us to the centrality of "interaction". That view of professionalism which lays great stress on abstract or remote processes of "corporate

control" over practitioners and the symbolism of educational institutions is misplaced. It is the argument of this thesis that the establishment of successful interaction via "character" takes on greater significance^[5].

One also has to recognise a shift in the social structure of Birmingham, in particular its Liberal elite. As noted in Chapter Two, from the 1860s the nature of Birmingham's middle class and dominant groups was changing. Economic and technological change had brought about large scale production, threatening the economic, political and cultural preponderance of the small master and artisan petty producers. The emergence of what has been called a "Chamberlain elite" deeply affected social relations and political, cultural and municipal developments^[6]. The outstanding feature of this elite was the predominance of businessmen with large scale wealth. For solicitors, whether within or outside this charmed circle, "being" professional meant demonstrating the outward signs of "being" a gentleman and undeniably bourgeois. It was argued above that the formula "profession is person" is useful in understanding professional strategies. Behaviour was crucial in the late 19th century context, particularly in a society finely tuned to subtle distinctions in class and status. Gaining wealth from a lucrative practice was not enough^[7].

Table 8.1

Social Origins of Solicitors Practising in 1900

(By Father's Occupation)

<u>Father's Occupation</u>	<u>Number of Solicitors</u>
<u>Professional</u>	50
Solicitor	30
Clergy	5
Medical	3
Other ^[1]	13
<u>Manufacturing^[2]/Commerce</u>	16
Large	10
Small	6
<u>Retail/Trade</u>	3
<u>Gentry/"Gentleman"^[3]</u>	4
<u>Unknown</u>	71
<u>Total</u>	145

1. Other category includes, e.g. three barristers, banker, surveyor, architect and mining engineer.

2. Manufacturing category includes, e.g. coach builder and brewer.

3. "Gentleman" includes those described by this term and those who derived income from land.

Source: Birmingham Collection, Local Studies
Department, Birmingham Reference Library.

The remainder of this section discusses the importance of bourgeois or middle class culture and "style of life". A bourgeois had to maintain an "appearance" which manifested itself through decorum, manners, dress and accommodation^[8]. These took on a heightened significance for solicitors, in that certain modes of dress, conduct and deportment were deemed to be "professional" (or "unprofessional") by the late 19th century. Certain symbolic attributes came to be accepted and shared amongst the profession and its public^[9].

It has been suggested that little change occurred in solicitors' social origins, yet, culturally the profession by 1900 was very different from that in 1850, having changed largely in line with the general trends noted in middle class formation. Some indicators of these changes are sketched below in broad terms, before examining in more detail some individual examples of solicitors.

(i) "A Respectable Address"

The first aspect of the middle class life to be considered is the domestic residence. The distinct visibility of solicitors' dwellings and their location reinforced the "public" middle class nature which professionals acquired by other personal activities in wider society. From the 1830s substantial numbers of the middle class started to move out to the developing suburbs, spearheaded by groups such as clergy, solicitors and merchants. Edgbaston became the most popular and by far the most salubrious, and by 1871 39% of the suburb's residents followed professional occupations. The suburbs, and particularly Edgbaston, offered the solution to the problem of successful professionals and businessmen of where to live. It was completely separate from the spreading working class housing and commercial development of the town and yet relatively close, offering "gentility" with access to work in the centre.

The other "village" suburbs of Moseley, Handsworth and Harborne were not slow in imitating the example of "Birmingham's Belgravia"^[10]. When the residential pattern of Birmingham's solicitors at the turn of the century is examined (Table 8:2) it is interesting to note that only one appears to be resident in the city centre. By far the largest majority lived in the fashionable suburbs or other

towns such as the Sutton Coldfield area or Solihull. It is also of interest that very few adopted the supposed traditional route for the parvenu - the purchase of a country estate. One or two had residences away from Birmingham, especially in Wales - W J Beale at Dolgellau, others at Llandudno (which was popularised by the fashionable Birmingham elite), but only Joseph Rowlands had what conforms to a landed estate, in the Cotswolds^[11]. So, the property of a solicitor and its geographic location could have implications for his status as a solicitor and the broader questions of how professionals fitted into, mirrored or indeed led a middle class lifestyle, and projected their "gentlemanly" self-identity.

(ii) "Public Persona"

In this section the public and private lives of solicitors are re-examined briefly, in that they contributed to the creation of a shared system of interaction, primarily with the middle class elite, in a variety of public and private settings. Business links, public work and leisure pursuits have already been dealt with in preceding chapters, but other "interaction" included clubs, weddings and suburban "events", recorded in the local magazines.

Table 8.2

Residential Pattern of Solicitors Practising in 1900

<u>Area of Residence</u>	<u>Number of Solicitors</u>
Edgbaston	39
Harborne	5
Handsworth	13
Moseley/Kings Norton	12
Sutton Coldfield	10
Other Suburbs ^[1]	19
Towns ^[2]	5
Country ^[3]	2
Unknown	40
Total	145

1. Other suburbs include Solihull, Yardley, Barnt Green.

2. Surrounding towns include Leamington, Redditch and Lapworth.

3. Country residences include Malvern.

Source: Birmingham Collection, Local Studies
Department, Birmingham Reference Library.

Solicitors mixed with the "Chamberlain elite" in voluntarist and municipal projects such as the General Hospital Music Festival, the Art Gallery Movement and the foundation of Birmingham University. The benefactors, committee members and trustees of these projects read like a roll call of the Birmingham elite and solicitors were present in significant numbers. To take one example the 1873 Orchestral Committee of the Musical Festival (numbering ten) included Timothy Kenrick, metal holloware manufacturer and Richard Peyton, bedstead manufacturer (both of prominent Unitarian families), George S Mathews, land agent/surveyor and brother of solicitor Charles E Mathews and the solicitors W J Beale (chairman) Charles Harding, R H Milward and George Whateley^[12]. Solicitors were also well represented in the Art Gallery Association, the Public Picture Gallery Fund and Our Shakespeare Club.

In a more private sphere, though of no less significance, the recollections of Sir Oliver Lodge, first Principal of Birmingham University in 1900, provide an interesting insight into the normally opaque workings of these networks. On his arrival he was "left free to make acquaintance with the leading citizens of Birmingham", and presumably the way he went about it typified the usual middle class methods of social intercourse. He joined golf, tennis, literary and elite social clubs:

"I used to lunch at the Union Club in Colmore Row, which I found an excellent place for getting to know the citizens of Birmingham, where I made many friends"[13].

These friends included the Town Clerk, E O Smith and Charles E Mathews, with whom he went climbing in Snowdonia. Naturally living in Edgbaston, he became involved in a Shakespeare reading club "which was attended by a few of the leading citizens". There he made friends with Joseph James, solicitor and partner of C E Mathews, George Albright and other members of Edgbaston families, to form "a sort of brotherhood". It was through these associations that he was invited on a trip to Egypt in 1911 with C G Beale and members of the Ryland and Chamberlain families.

Plainly, successful solicitors were very much part of the middle class elite and its culture by the end of the 19th century, living out the lives of "gentlemen" even down to the quasi-aristocratic pursuits of Alpinism and "Grand Tours". Professional standing and prestige was seldom solely the result of "technical knowledge", and the ideal of general culture remained crucial. Hence a preoccupation with arts and letters[14].

(iii) Personal Demeanour

Dress was an important element in the creation of "professionalism" and the diffusion of solicitors self-conception of gentlemanly status. (Self-presentation is acknowledged as relevant in the process of legitimating claims to be a particular kind of person within certain contexts^[15]). Historical writing and empirical evidence would appear to confirm this hypothesis. Birks times solicitors' appearance as advocates in local and county courts, c1840s, with the revival of "professional costume". The black coat had become "the hallmark of the professional man" by the 19th century and was readily identified with the respectable "gentleman of the law"^[16]. Dress was a visibly obvious way in which society was divided, with fine distinctions in quality compelling the Edwardian gentleman to invest in an exhaustive wardrobe^[17]. For example, David Davis, the son of an old Birmingham worthy, described in 1902 as "one of Birmingham's coming men" was noted for his personal appearance:

Mr Davis is a leading member of the Jewish community and as a solicitor he has rapidly advanced in his profession. He possesses excellent social qualities, dresses with scrupulous care, is ever courteous and obliging....."^[18].

Thomas Standbridge was also noted for his personal qualities - handsome presence, courteous, kindly - which earned the regard of those with whom business brought him into intimate association[19].

Thus personal qualities ("profession is person") persisted in importance until the end of the century and an emphasis on manner and appearance reminds one that the intangible "more diffuse and ascriptive" criteria[20] were still part of the accomplishment of profession. These criteria had a dual purpose. It was important to present an undeniable middle class front. Also, appearing to be dressed in a "professional manner" was essential to bringing off a successful social interaction in consolidating the solicitor's status as a "professional man". It was not sufficient to be merely admitted a solicitor, the professional had to act in ways compatible with implicit or explicit notions of what composed professional behaviour. Unprofessional performance could therefore be distinguished in several accumulative and visible ways.

(iv) "Connexion"

Solicitors were, by c1900, undeniably part of respectable middle class society and had obtained many footholds in the elite. Outwardly, their influence appeared extensive and assured. A number were prominent Mayors and Councillors involved in prestigious "projects" during the great period of Birmingham's civic expansion. So solicitors were socially integrated with the elite in the Town Council, on committees and so on. However, ties within this social network ran deeper, drawing on bonds of friendship and marriage, which even by the late 19th century were framed within shared religious beliefs. Social and marital links were *very important in terms of* integrating solicitors into the elite. George J Johnson's connection with Josiah Mason has been mentioned earlier. He was also a close friend of George Dawson, Samuel Timmins and members of the Church of the Saviour congregation. Joseph Ansell appears to have been part of a coterie based on the north side of Birmingham, including a wide ranging group of eminent men such as the businessman and Conservative politician, Sir J B Stone, librarian and writer R K Dent, the Coroner Isaac Bradley and J B Clarke, both solicitors^[21]. Astute marriages helped create connexions as well as advancing career prospects. For example, the aspiring Charles Fairfax Crowder's marriage to Theodora Milward (daughter of R H Milward, head of the

largest firm in 1891) after arriving in Birmingham the year before, cannot have hindered his professional ambitions[22]. An articulated clerkship with an eminent solicitor, often brought about by family or social relations, probably acted in a similar way.

The coverage of fashionable weddings by the local press with its lists of reception guests, presents and their bearers gives an idea of solicitors' network of relatives and friends. For example, the gathering at the marriage in 1904 of Frank Eden Smith - "a gentleman well known in legal circles" and son of T S Smith, - included many figures from big business (Wiggin, J B Stone, Avery, Elkington, Rabone) and the profession (Burman, S Balden, J B Clarke, T Horton, A Hayes, Milward and his partners H C and R A Pinsent). Such visible displays also acted to reinforce the unspoken assumptions about social and status considerations in determining suitable middle class marriages[23].

The significance of social connexion can perhaps be best appreciated by selecting some individual cases, that may be termed "ornaments" of their profession and class, e.g. C G Beale, Sir Thomas Martineau, C E Mathews and C T Saunders.

(v) "Ornaments"

The importance of the Unitarian circle, traditionally centred on Joseph Chamberlain, and the accessibility of evidence relating to it means the connections can be teased out with some success. The elite of Birmingham, based largely in Edgbaston by the late 19th century was described as a "powerful clan" by Beatrice Webb. She continued:

"The Kenricks and Chamberlains form the aristocracy and plutocracy of Birmingham. They stand far above the town socially in social position, wealth and culture, and yet they spend their lives, as great citizens, taking an active and leading part in the municipal, political and educational life of their town"[24].

The intimate circle included other Unitarian families wealthy and prominent on their own terms - the Martineaus, Rylands, Beales, Oslers, Mathews, Hardings, Peytons, Russells, Nettlefolds, Phipsons and the Chances. The solicitor members of this group were particularly well integrated. Marriage links and cousinships were innumerable, close and strong, covering several generations. Daughters of the brothers of Timothy Kenrick married Arthur and Joseph Chamberlain (twice), Sir Thomas Martineau and C G Beale. Sir Thomas's son, Ernest, also married into the Kenricks[25]. The patterns of inter-marriage within the congregation reflected lives of considerable sociability among the families.

There was abundant visiting, dining, entertaining and dancing engagements involving Joseph Chamberlain, Thomas Martineau and Charles E Mathews from the late 1850s. Joseph Chamberlain and Thomas Martineau were often called upon for their talents in family entertainments, private amateur theatricals and the telling of legal anecdotes, frequently held at the home of the Beales or Mathews. Theatre visits were also common, especially at Christmas^[26]. After Joseph Chamberlain entered Parliament (1876), his Birmingham home, Highbury, continued to be a focal point of the elite. Small dinner parties for the close circle continued up till his death in 1914. Frequent visitors included familiar (solicitor) names such as Mr and Mrs C G Beale, Mr and Mrs C E Mathews, Mr and Mrs Ernest Martineau and Sir Thomas and Lady Martineau. Also Mr and Mrs G J Johnson and Mr and Mrs H C Pinsent attended, as well as the expected Nettlefolds, Chances, Kenricks, Wiggins and other local and national dignatories^[27]. An annual event consisted of the custom of a dinner in honour of the current mayor at which leading local politicians and Liberal supporters would attend, e.g. 7 January 1892 - Sir Thomas Martineau, C G Beale, C E Mathews, E O Smith, F W Lowe, MP, solicitors, plus J Collings, O Pemberton, Councillors and Aldermen^[28]. The Beales reciprocated such hospitality, and Joseph and Mary Chamberlain paid visits to the Beale's house in Wales^[29].

The close circle also included the Marigolds - James Marigold senior and junior being partners in Beale and Co - and C E Mathews. Mathews became a lifelong friend of Joseph Chamberlain from his earliest days in Birmingham, easing his entry into the Birmingham and Edgbaston Debating Society in his capacity as Hon. Secretary in 1854. Their friendship continued along numerous avenues political and cultural. He joined Joseph Chamberlain in the formation of the Education League, coming into contact with central figures of the early Chamberlain era, George Dawson, Jesse Collings and George Dixon. He was a frequent guest at Highbury, and must have infused the atmosphere with his passion for mountaineering. Alpinism was a popular subject in the households of the Kenricks and associates from the 1850s. When Mathews died in 1905, Chamberlain was conspicuous at the memorial service held at St Martins Parish Church^[30]. Mathew's other interests brought him close associations with Dr Heslop (Childrens Hospital) and G J Johnson, W L Sargent, Liberal councillor and manufacturer and many others through his political and literary pursuits - a member of the Old Birmingham Library, the Speculative Club, Shakespeare Memorial Library and an original member of the Arts Club^[31].

Another stalwart of the profession and town of C E Mathews' generation and sharing a keen appreciation of literature and history was C T Saunders (1827-1903). He, too, was involved in local educational activities,

contributing in a large way to the promotion of the university extension movement and the establishment of the University Examinations Society. His intellectual pastimes show him to have been a cultured gentleman, being a member of the Birmingham and Edgbaston Debating Society, Old Library, Fellow of the Royal Historical Society, founder of the Birmingham Chess club, and close friend of the solicitor and cognoscente George Jabet. Both he and C E Mathews were active BMI council members^[32]. This section has demonstrated the extent and nature of the social interaction between the elite of the solicitors' profession and the upper middle class of Birmingham. Clearly, by 1900, respectable solicitors were firmly located within urban elites.

III. Dynasties and Parvenus : Becoming a Gentlemanly Solicitor

The emphasis of this section moves from the social to the more "professional" aspects of "connexion" and "performance". The discussion above has indicated a few of the leading members of the profession who stand out because of their intimate connection with the upper middle class "Chamberlain elite" of the latter 19th century and their "gentlemanly", "learned" characteristics. From consideration of these individuals it is appropriate to

examine solicitors in relation to successful legal "dynasties" and their implications for introducing new solicitors into the profession and social elite. Also, the possibility of social advancement obtained through entrance to the profession and successful exploitation of its advantages, without crucial contacts, needs to be considered in the light of "collective social mobility". This may go some way to showing that professional status did not necessarily only accrue to certain privileged individual solicitors, but that accomplished professional status offered limited mobility for those able to pass increasingly stringent, formal and informal, professional "gatekeepers".

The formation of an elite occurred against the background of developing professional firms. It is necessary to have an understanding of this professional background in order to see how pursuit of the solicitors' profession was made synonymous with status and respectability. Attention is directed on a few firms and the effects of their recruitment patterns in the late 19th century. That is, an examination of those solicitors who were brought into the practice and the effect it had on their careers and lives as "professional men". The firms studied were founded in the late 18th or early 19th centuries. By the late 19th century these were amongst the largest and most successful of Birmingham firms, and it was common for them to adopt an "hereditary" nature, the exception being Wragge and Co. The young men entering the

firms, sometimes third or fourth generation of the family, were by 1900 complete members of the respectable professional middle class. In the cases below, there is a distinct Unitarian bias in that most were Unitarians and moved into and within that rarified atmosphere.

Beale and Co provided the professional background for several leading citizens from within the extended family and social/Unitarian connections. Charles Gabriel Beale, articled to his father W J Beale, was thrice Lord Mayor, Councillor, Alderman, an able connoisseur in musical matters, and prominent supporter of the Music Festival and BMI. His eldest son Hubert Kenrick Beale (1869-1954) joined the firm, 1895, was associated with the Music Festival, the Middlemore Homes, the Blind Institute, Children's Hospital, Lench's Trust, the District Nursing Society, and became a Councillor in 1914. In 1903 he married Mabel, daughter of John Arthur Kenrick^[33]. The London office found opportunities for three other relatives - Arthur Geach Beale (1857-1908), James Samuel Beale (b.1840) and John Field Beale (1874-1935). James Samuel Beale was married to Margaret Field, daughter of the Unitarian solicitor and Clerk of the Peace for Warwickshire, Algernon Sydney Field (1813-1907)^[34]. Beale and Co also provided scope for the Beale/Unitarian circle, getting relatives and friends started in conducive circumstances and thereby ensuring continued status. For example, James Arthur Marigold (b 1859) of Edgbaston was articled to his father James Marigold, of Beale and Co, and

to C G Beale on his father's death, entering the firm in 1885. Thomas William Ryland (1860-1908) was also articled to James Marigold, admitted in 1884 and remained with the firm until 1890 when he left to practice on his own account. Ryland, resident in Edgbaston, was, as may be expected from his family and Unitarian background, active locally in many philanthropic movements (e.g. Boys' Homes) associated with John Nettlefold in Garden City Schemes, and belonged to the Edgbaston Debating Society and the exclusive Clef, Graduate and Union Clubs[35].

The history of Wragge and Co provides an example of a different type of "dynasty" in that it was not based on family recruitment. Nevertheless, the major partners to join in the late 19th century were men of largely independent means who benefited by and contributed to the maintenance of what was by then a successful and high status firm. Despite their various backgrounds they all moved within elite circles of Birmingham[36]. J R Holliday (1840-1917) came from a wealthy retail background, being chiefly involved in the Art Gallery movement. Arthur Godlee (1852-1920), nephew of Joseph Lister, was not from Birmingham, but on coming to Birmingham was soon in many local affairs - founder of the Harborne Golf Club, Councillor 1890 - 1915, Vice President of the BMI, Treasurer of Birmingham University - establishing many Quaker connections. He was known as "a widely cultivated man of an unassuming disposition" and "one of the most respected members of the community"[37]. Another partner

who exhibited gentlemanly qualities and was "very keen on keeping up appearances" was Walter Barrow (1867-1954). He, too, belonged to the tight Quaker circle which included many clients secured by Godlee - Cadburys, Sturges, Gibbins, Albrights, Lloyds, Middlemores and Chances. The fourth partner was Thomas William Horton (1870-1938) who had previously belonged to his father's firm of Horton Lee and Co, until the latter's death. He was not known by the profession to be a good lawyer but had wide and extensive connections with major local companies. The Wragge and Co "dynasty" founded in the early 1830s offered considerable advantages to those seeking a "gentlemanly professional career" without the otherwise requisite family connections. The security, credibility, not to say creditworthiness of expanding dynasties may have contributed to the improving position of the profession generally.

This leads on to another aspect of the well-established but not necessarily dynastic firm. Once admitted, or even as an articled clerk, belonging to a prestigious firm could further the professional career and social advancement of a solicitor. The difficulties of making a start in the profession were by the third quarter of the century, considerable, and as has been seen above, much depended on circumstance. There were basically three options. The newly admitted solicitor could set up on his own account, but unless he "be exceedingly fortunate and have rare advantages from fortune and connexion" this step

was inadvisable by the late 19th century due to the supposed overcrowding, competition inexperience and "deficiency in practical knowledge". If there was no practice to succeed to or it was impossible to purchase a share in one then a position as a managing clerk or admitted solicitor was invaluable^[38]. There were numerous advantages to be gained from a clerkship - conduct of a variety of business, opportunity to meet and advise clients and thereby gain the "power of imparting confidence in others - so essential to success" and in the meantime he became better known "as well to the public as also to the seniors in his own profession - the latter no small advantage..."^[39].

Solicitors without the appropriate means or connexions could use the attachment to an established or rising firm as a fairly good guarantee of success if combined with other "social" expectations outlined above. Richard Alfred Pinsent (1852-1948) was born in Devonport and articled to his uncle, Thomas Siviter Smith of an old Birmingham firm. Nothing is known of his background though he had a good dissenter's education. On admission in 1873 he must have worked in the office, because he was not made a partner until 1877. However, his rise to eminence was dramatic. He became President of the BLS and later the Law Society in 1918; he was a life Governor of Birmingham University (receiving two honorary degrees), he was a member and President of the Union Club, and married Laura Ryland, daughter of Thomas Ryland of Erdington. Later, in

1938, he was made a Baronet[40]. He came to dominate the firm, and introduced his brother into it who had previously been a barrister. Hume Chancellor Pinsent (1857-1920) had not moved to Birmingham until c1882, as a barrister, but on admission, quickly became a prominent figure in the University and Civic affairs of the City - on the Council of the BMI, a Governor of Mason College, and Governor and Treasurer of the University. His wife Dame Ellen Francis Pinsent (1866-1949) was a novelist, a pioneer worker in the mental health services and the first woman elected to the City Council, as a Unionist for the Edgbaston Ward[41]. By 1906 the Partnership agreement was describing Pinsent and Co as having a reputation of "first class standing". Business was good and profitable - partners were added, including son Roy Pinsent and Frank Eden Smith, the son of Pinsent's original partner.

The possibility of social mobility offered by the profession and the operation of "sponsorship" is clearly demonstrated in the career of Herbert Willison (1872 - 1943). Unlike the solicitors mentioned above he came from very modest beginnings and entered the office of Philip Baker, solicitor, as a junior clerk. The latter acted as Willison's mentor, gave him articles and ultimately took him into partnership[42].

A solicitor, either young or unknown, could find it a considerable advantage in the effort to behave like a "professional gentleman" if attached to a prestigious or rising firm. Being able to join established and successful firms appears to have been beneficial for the Carslake and Pinsent and other families^[43]. Naturally, for those with financial resources, an acknowledged practice could be bought up (and the material basis of the life of a gentleman thereby secured). Robert Harding Milward (1838-1903) the son of a wealthy Redditch needle manufacturer was articled to William Penn Alcock, a well known Birmingham solicitor, and shortly after admission became his partner (1862). On Alcock's death (1867) Milward continued the business as Alcock and Milward until 1873. In that year he purchased Whateley and Whateley, due to the death of George and the retirement of J W Whateley. This brought him the most lucrative practice and connections in the area, which was added to an already successful business. The Birmingham Daily Mail later commented

"it is questionable whether a more remunerative practice existed outside London in the whole of the country...The amalgamation, in short, brought him into the front rank of provincial lawyers"^[44].

The firm continued under the style Whateley Milward and Co until he was joined by his son John Henry (1869-1906) and son-in-law John Fairfax Crowder (1859-1950) when it became Milward and Co.

John Moore-Bayley (1858-1911) took a similar route. It is possible that he acquired wealth from his solicitor father, who had married the daughter of a large Birmingham manufacturer. After practising on his own account for a while in the 1860s he took the opportunity, on the death of Thomas Fisher, to purchase one of the oldest firms in the City - Unett, Page and Fisher - and carried it on independently as Unett, Moore-Bayley and Co. Moore-Bayley built upon this foundation and quickly became a central figure in local and national business and political circles. He died relatively young, aged 53, having been director and chairman of several large industrial concerns and prominent in Conservative Party politics, associating with Randolph and Winston Churchill, Lord Charles Beresford and others. His son later joined him; the firm changing its style to Moore-Bayley and Co. It would appear that retention of the prestigious name and its associated pedigree was necessary for a while, during a period of getting established. The old title could be modified or dropped when the newcomers had achieved a similar status.

The achievement of status in these circumstances was plainly rapid, though not necessarily assured. Unfortunately for Milward the extravagance of living up to "gentlemanly" standards led to his ruin. (This is discussed below in detail). It is possible that both he and Moore-Bayley were keen to convert backgrounds tainted with "trade" into the respectable gentlemanly life of professional men. "Professionalism", then, may, by the

late 19th century, have been synonymous with the traditional conception of early modern and pre-industrial "professions" as leisured gentlemen. The difference being that one hundred years or so later the profession itself offered possibilities of status, wealth and comforts, rather than background, connexion, patronage and a priori high social position.

Despite the pressures of competition and a growing local profession, it was still possible for solicitors to achieve success, in their own and society's terms, through pursuit of the profession. Three cases are chosen here because they concern men who were not natives of Birmingham and came in the late century with the intention of setting up in practice without any local connections, and succeeded largely by self-help. Edward Fricker Freeland from Kingston on Thames came to Birmingham on admission aged 21 in the mid-1880s; Joseph Rowlands (1840-1926) of Oswestry commenced practice in Birmingham in 1867, after completing articles in Newcastle-under-Lyme; Thomas William Walthal (1862-1936) born in Macclesfield came to Birmingham in 1883 to enter the office of Councillor Thomas. He remained there as articled clerk and managing clerk until 1895 when he set up on his own account. On arrival in Birmingham these men were unknown, yet by assiduous application to work, careful cultivation of middle class mores in the town or suburbs and exploitation of professional opportunities they came to form part of a professional and social elite. Freeland was described in 1904 as

"Now, one of the best known legal gentlemen in the capital of the Midlands"[45].

He was particularly active in Handsworth, on the District Council, in church and cultural matters - a founder of the Photographic Society, member of the Robin Hood Golf Club, cyclist and alpinist[46]. Rowlands "not known to more than half a dozen people" when he arrived, had within a matter of a few years acquired a large and lucrative practice, obtained a number of public appointments (county magistrate's clerk, law clerk to the Proof House Guardians) and assumed a central position in the local organisation of the Conservative party[47]. Walthal, too, very quickly entered public life, in municipal politics as a Councillor and Guardian, engaged in the artistic and literary life of the City and was a keen promoter of cycling[48]. All three were prominent Freemasons and staunch Conservatives. It was possible to succeed, then, without supportive social and religious networks, and rely on professional ability, energy and "character".

The achievement of professional standing and social prestige was not always quite so dramatic. The growth of a practice and its respectability could be a gradual process. The firm of Lane and Clutterbuck is a case in point. Both Edwin Clutterbuck (c1850-1918) and John Charles Lane (1841-1908) came to Birmingham in their youth and entered the offices of accomplished solicitors - Edwin Jacques and Beale and Co respectively. They commenced practice

together in 1884 with a lowly lower middle class and artisanal clientele, doing petty business. By the beginning of the 20th century they had built up a successful family practice, taking on a partner, William Tomlinson, in 1898. By this time Lane was very much involved in the affairs of Warwickshire County Cricket Club, which may account for the introduction of a third partner. He was also, after 1900, involved in public work in Kings Norton and Kings Heath. Clutterbuck appears to have become socially prominent by 1900[49].

The profession had undergone considerable change from the 1850s. There is evidence for the formation of a substantial elite, associated with the maturity of legal "dynasties". This professional elite formed a significant element in a larger social, economic and political elite in Birmingham. For these "solidly" middle class men, the profession provided the requisite independence and "gentlemanly" life so desired. At the same time it was possible to enter the profession with or without advantages, connections, partnerships, clerkships and/or background yet achieve, quite rapidly, success, wealth and gentlemanly status. As a corollary, however, it could be said that the formal barriers (institutional and educational) and the informal problems (suitable clerkships and getting started) were making access to the professional ranks more difficult. There was also a sense of the higher status of the profession percolating down and attaching itself to the minor solicitors who were on the margins of

the professional organisations and public life of Birmingham, vicariously living on the "exploits" of the elite.

The evidence suggests in some cases that the improvement in status and respectability of solicitors was not merely because certain individuals were able to capitalise on possibilities arising out of favourable circumstances. In various ways "belonging" to the profession, "being" a solicitor, with all that the notion of "professional" entailed contributed to a measure of collective social mobility, or at least the partial success of it. In other words, once the admitted solicitor "belonged" to the "community" of the profession then the opportunity was there to exploit the possibilities of "professionalism". Nevertheless, one needs to remember that generally the social mobility was limited within the flexible parameters of a subtly graded middle class^[50].

Some indications have been suggested for the altered nature of the profession and ways in which this was brought about. However, is this picture too cosy? Was complacency in the profession's status and security over-estimated? It is likely that the elite, who had more than their "professionalism" to vouch for them, could assume a certain confidence. For the majority, however, such status was probably precarious and the maintenance of such a life a struggle. This precariousness is probably best demonstrated in relation to certain professional scandals

and public acclaim. However, the profession, or rather its elite, were now in a position to do something positive about this problem too.

IV. Late 19th and Early 20th Century Scandals:

"Black Sheep" revisited

The anxiety over status appears to have been widespread in the profession throughout the latter years of the 19th century. At one end of the scale the prosperous and successful were attempting to secure various offices and honours pertinent to their position, whilst at the other periodic outbreaks of fraud and bankruptcy were attracting adverse publicity, leading to public disrepute and professional demoralisation^[51]. The profession was also coming in for criticism in these decades for its actions against Land Reform^[52]. Yet towards the end of the 19th century it had seemed that the problem of status had changed with favourable consequences for the profession. Solicitors had been granted certain "public" privileges which were held up as symbolising this advancement - the creation of the ILS Disciplinary Committee 1888, Solicitor Justices etc. However, optimism was short-lived and the elite were called upon to deal with renewed criticism.

Birmingham was no exception, and experienced a number of scandals. However, these were not of the same nature as in the first half of the century. The problem facing the profession was one of bankruptcies and defalcations rather than the existence of the unqualified and untrained or the crooked and "sharp" charlatan, the eponymous "pettifogger". The difference appears to be a question of a small number of large "crashes" compared with earlier petty malpractice on a larger scale. The shift in the nature of the problem brought about a different set of responses from the elite and professional leadership. Apart from advocating more of the strategies previously adopted, i.e. more stringent examinations and better gentlemanly education, in general the elite professionals' attitude was complacent. It was felt that very little could be done to improve the practitioners who tended towards bankruptcy and the like or guarantee their elimination from the profession. Nevertheless, the profession was now far from powerless to defend itself and drew on a variety of resources to protect its position. Before examining the ways in which scandals were accommodated and their implications for professionalisation and "professionalism" handled, a brief survey is useful to show the shift to the new type of problem in late Victorian and Edwardian Birmingham. The evidence is drawn from the minutes of the BLS, supplemented by newspaper reports.

The BLS appears, from the minute books, to have been capable only of dealing with minor infringements, and that the frequency of these cases distorts the important nature of major scandals. The majority of complaints concerned touting and practising without a certificate^[53]. Others included practice inconsistent with that laid down by the BLS, negligence and setting up branch offices operated solely by an articled clerk^[54]. Though significant breaches of etiquette, "contrary to the best usages and traditions of the profession" and "unbecoming to the position of a solicitor", they were of a different order to the major scandals.

The serious cases of misconduct, which usually resulted in the perpetrators being struck off or expelled from the BLS were, as a matter of course, found in the local press since they habitually featured court and bankruptcy proceedings. All but one case in the period being considered involved fraud, defalcation or absconding with clients' money, as a result of bankruptcy, impecuniosity or other severe financial straits. Occasionally, solicitors were simply guilty of deliberate fraud^[55]. These public scandals could be particularly dramatic when they involved leading lawyers and otherwise respectable man - e.g. Samuel Dinsdale Balden and R H Milward, dealt with below. Also of serious consequence for the local professional elite and profession generally was the growing penchant of the local press for coverage of

solicitor scandals in the rest of the Midlands and especially serious "crashes" in London^[56]. The issue came to a head in the years around the turn of the century. As stated earlier, in contrast to the early part of the century, no grand scheme for reforming the profession was broached. A number of seemingly ad hoc responses were adopted by the profession which took the form of special pleading. However, these responses, when taken together, do not appear so incoherent or pragmatic but reveal a common underpinning.

The process by which scandals were accommodated was an attempt to side-step the problems they posed for professional development and explain away or define out the difficulties. Solicitors sought to gain control of the ways in which these events could be explained and therefore define "legitimate" interpretations in accordance with their conception of what did and did not constitute "professionalism". By seeking control of the modes of discussion and legitimating meanings attached to "correct" interpretations, then, the damage and embarrassment caused could be limited. The first step was to argue that the cases of malpractice were greatly exaggerated, and that the public was receiving a false impression due to the conduct of the press. The President of the Law Society stated at the turn of the century that:

"It is true that the number of delinquents compared to the number of the Profession at large is extremely small. The proportion is very slight, but in consequence of such cases being fully reported... by the press they appear to be much more numerous than they are, and create in the mind of the public an impression that some considerable proportion of the Profession are unworthy of confidence"[57].

In Birmingham professional leaders and spokesmen were keen to emphasise that such reports were generally inflated and, in any case, they did not occur in Birmingham to the same extent as they did in London. Indeed they were much less likely to occur. A Special Committee of the BLS concluded that such cases were

"comparatively rare and far between, a circumstance which is no doubt due to the fact that the position and status of a country solicitor, and moreover his general style of living, are so much more open to common knowledge and observation than can be the case with London practitioners"[58].

These sentiments were reinforced by Joseph Ansell, BLS President in 1901,

"He dared say the state of things which had been brought about in London and elsewhere was mainly attributable to speculation and extravagance in living and he thought such a state of things was utterly impossible in a city like Birmingham, where everybody knew everybody else"[59].

These comments are particularly ironic in the light of later events involving Milward.

However, those cases that had arisen with "regrettable results" had to be confronted. Yet once the notion of a dishonest tiny minority had been established the defence could comfortably rest on what may be termed the "Black Sheep" argument. This was gaining currency in legal circles by the beginning of the 20th century. It rested on the belief that, by human nature, every walk of life would have its villains and the legal profession should not be expected to be any different. Therefore, this small minority of individuals should not be allowed to cast a bad light on the body as a whole. It was stated at the Annual Provincial meeting of the ILS in 1890 that:

"Some black sheep there have been, are and will, I fear, always be among us... But I can unhesitatingly say, speaking of the members of our profession as I have found them, that they are on the whole, hard-working, not over-paid, body of men, who conscientiously endeavour to do their duty to their clients to the best of their ability, and whose work is always responsible, involving much thought, labour and trouble"[60].

Justice Jelf, addressing the BLSS in 1902 took up the theme:

"No people, he urged, enjoyed greater confidence among the people of this country than the respectable solicitor - he meant the high class of solicitor. There were "black sheep" in every profession, there were "black sheep" in the legal profession, but he did not think the proportion was greater than any other profession"[61].

The local press was also drawn into the argument:

"It is a very regrettable fact that in recent years there have been many - far too many - instances of defaulting solicitors, and who in consequence of their misdeeds have been sentenced to penal servitude. But then there are black sheep in every flock"[62].

The creation of a "Black Sheep" category which was both inevitable and unavoidable allowed the profession to side-step the problem and permitted them to maintain the status of the body without responsibility for the actions of the tiny minority of solicitors who were, by definition, "unprofessional". The "Black Sheep" are effectively "defined-out" of the "community" of "professional" solicitors. This was reinforced by the BLS's keenness to make it known that the "Black Sheep" were often not members of the Society, e.g. Simmons and Mutlow[63].

The question remained how this minority came about. The profession, in absolving itself of responsibility and control, intimated that the "public" was as much to blame. Solicitors could not tackle, effectively, the "purging" of rouges with educational, admission and disciplinary measures alone. It was up to the vigilant client to eschew

the "shady" practitioner and thereby force them out of the profession. The professional bodies could only act after the event, when a man brought himself within the purview of the law. The Special Committee of the BLS investigating ILS proposals on defalcation felt it should be pointed out that

"in many cases the frauds which have been committed, which are detrimental to the best interests of the profession and so much at variance with its high traditions, have been to no small extent made possible by the indifference and carelessness of the public themselves"[64].

Nevertheless, some further explanation was necessary. A strategy was articulated in which the bad solicitor was depicted as victim of circumstance or weak personality. A subtle line had to be drawn between the moral probity of the profession as a whole and the individual weakness of the discreditable minority. In other words, while the profession was generally capable of keeping its house in order, a few succumbed to various pressures, often caused by "business life" itself. Thus solicitors' faults were the result of personal misfortune or incompetence. These were explained in terms of general economic movements and individual inadequacies. Solicitors were victims of fluctuations in business, even the stock market (e.g. Balden)[65], and the increasing competition in the market for legal services, or they succumbed to personal failings, e.g. gambling, luxurious living (Milward) or professional mismanagement.

A great hue and cry was raised over the issue of solicitors' accounts. The introduction of efficient book-keeping being envisaged as some sort of panacea^[66] - a precaution against dishonesty. The speech of the Law Society President in 1903 is again informative,

"not one in ten thousand enters the profession as an intentionally dishonest man. It is not deliberate dishonesty that we have to fear, but that weakness which yields to temptation when it becomes very strong"^[67].

In explaining his misconduct in liquidation proceedings to the BLS Secretary, Cotterell stated

"I have always endeavoured to live an honourable, a blameless and useful life and that in whatever degree I have fallen short of that it has been due to human weakness and not to any want of integrity"^[68].

The creation of a "professionalism" based on moral character attempted to defuse scandals, then, by reference to a definition of "professional" that excluded "failures". Failure in this sense was based on individuals and not the profession or its structure and organisation. These exceptions could be safely explained away by the profession since according to the system of professional organisation and society there would always be individuals who lapsed. By articulation of an argument based on inevitability, and in consequence the powerful concept of naturalness, the profession was capable of maintaining its position and dominant view of "professionalism".

However, this "individualist" approach came under severe strain in Birmingham at the beginning of the 20th century with the collapse of Milward and Co and the imprisonment in 1902 of the senior partner Robert Harding Milward for fraudulent appropriation of clients' money. "His failure was one of the sensations of a decade in Birmingham. It came on the City like a thunder clap"[69]. Though considered by some a poor lawyer and rather "uppish"[70], Milward conformed, perhaps rather too well, to the ideal of a middle class gentleman. He lived extravagantly in Edgbaston, was a JP for Worcestershire and Alderman for the same county, on Birmingham town council, law clerk to King Edward's Grammar School and connected with the Royal Historical Society, the Society of Arts and the Music Festival. His clients included major commercial concerns and influential landowners - the Dukes of Marlborough, Lord Calthorpe and the Inge Trustees. On his death in Parkhurst in 1903 the obituary writer of the Birmingham Daily Mail essayed a restitution of his "character".

"In appearance and demeanor Milward was the beau ideal of the family lawyer. Nobody could fail to be impressed with his suavity, his imperturbability, his courtesy and his seemingly unimpeachable business rectitude"[71].

His downfall was due, it was said, to manipulation by unscrupulous men who drew him into a number of "wild cat" schemes, which led to further desperate speculations. The profession, too, tried to salvage something from the disaster. The BLS President, R A Pinsent, at the Annual General Meeting after the trial, whilst recognising that "a very prominent member of their profession" had "brought disgrace upon himself (and) discredit upon his profession"

"felt personally that the profession still retained its most trusted position, which was the confidence of its clients - (applause) - and he was quite sure that members of that society would not only maintain but deserve that confidence in the future" (applause)^[72].

However, repercussions resounded for several years, and the controversy was still fresh in the 1920s^[73]. Agitation was renewed for reform of professional practice as it related to clients' accounts and auditing culminating in the 1930s with formal regulations.

Miscreants and scandals persisted into the 20th century, but the type of offence was of a different nature. The professional elite were able, because of the status which solicitors had gained and changes in professional organisation, to deal effectively with them. The continuance of sharp practice though embarrassing and irritating, was now explicable by reference to a concept of "professionalism" articulated over a period of time which had as its basis personal "character". The miscreants served to show to the profession and the public what

"professionalism" was not. The conception and diffusion of the idea that professional misconduct was the result not of professional and business practice, but a natural and inevitable process of human weakness, was very powerful in the maintenance of status and the legitimation of "professionalism" as an ethical as well as an expert phenomenon.

V. Conclusion

A qualitative change in the nature of the profession can be noted by the late 19th century. Solicitors were firmly established in the Birmingham middle class. Their elite were respectable, cultured gentlemen. The numbers and proportion of the elite were much greater. This change, reflected a shift in the nature of the middle class as a whole. A new middle class elite emerged in the 1860s which was based on the town's changing industrial structure and social relations. This was an elite centered on large scale, capital intensive industry and a plutocracy of families revolving around the Chamberlains, Kenricks and others. In the first half of the century solicitors, and in particular some of their more vociferous spokesmen, had been identified with the lower middle class group of small masters, merchants, tradesmen and retailers characterised by the "Economist" Liberalism of Joseph Allday and, to an

extent, Thomas Attwood. There was, then, a contrast between the social location of solicitors in the early and later parts of the century. The artisanal public culture and "Old Radicalism" were shaken off for the respectability of Chamberlainite municipal reform. In a similar way to the medical profession, solicitors ceased active involvement in the traditional Radical movements which they had previously favoured such as the support of foreign nationalists - e.g. the Friends of Poland, the Friends of Italian Liberty and meetings or receptions held for Garibaldi and Kossuth, especially the latter's visit in 1851^[74]. The agitation against the Hundred and Borough Courts described earlier was also a popular issue with small tradesmen and little masters. However by the latter years of the century solicitors were no longer associated with such movements.

The growth and maturity of practices, increasing scope for financial remuneration and the exploitation of connections allowed some social mobility for solicitors during the Chamberlain era. In Section III above it was seen how membership of the profession could lead to a connection with the social and economic elite. Generally, it was a "passport" to respectability. Nevertheless, the process was not merely one of solicitors conforming to changes in the cultural transformation of the middle class but orchestrating change themselves, e.g. by leading the retreat to the suburbs and the subsequent voluntary efforts in the town.

These social changes provided a background for a concept of "professionalism" based on a gentlemanly style of living and the moral probity of its practitioners. The practice of the profession became inextricably linked to "social performance". Solicitors, and young and future practitioners, were encouraged to see "professionalism" as a "moral" as well as an "expert" performance. As part of the practical advice given through addresses to the BLSS they were prevailed upon to distinguish themselves by honesty and integrity. The President in 1877

"exhorted them to avoid all trickery or deceit in the profession. There was such a thing as being a sharp practitioner, and there was also such a thing as being an honest and honourable man, and he urged them not merely to be successful lawyers, but kind and good men (applause)"^[75].

This tactic of raising and ensuring status was very flexible; it was subtly adapted to deal with the crises of the late 19th century. A noticeable shift seems to have taken place in the second half of the century. Rather than articulating a "collective" approach to raising status and generating "professionalism" as in the early to mid-century (by an organisational basis for association, lectures, training, etc) the emphasis was placed on the "individual". It was the responsibility of the individual practitioner to uphold the honesty, integrity and so on of the profession and to "perform" in congruence with accepted professional and social ideals as a gentleman. However, it was not

simply a question of dividing the profession into good or bad solicitors. "Professional performance" was more complicated than that. A split along the lines of respectable/unrespectable, charlatan/gentleman is inadequate. Other divisions were of more importance - education, politics, religion, wealth, status and seniority. Solicitors at different times in their careers could move up and down along a scale of respectability. Frederick Hooper was described in 1905 as the senior criminal solicitor in Birmingham. He was a Presiding Officer, a keen sportsman and regularly hunted with the Devon and Somerset Stag Hounds and the Blakemore and Cattistock hounds. Yet he had been in trouble twice with the BLS in fairly serious cases of professional misconduct relating to clients' money and practising without a certificate; as late as 1904 in the second instance^[76]. The well-known firm of J C Fowke and Sons built up a large reputation mainly in regard to conveyancing practice, yet a successful action for negligence was brought against it in a property matter^[77]. Edward Mallard was a well known solicitor and Freemason who died in 1902 shortly after going bankrupt; a most unexpected occurrence.

"Those acquainted with him believed him to have a good connection, and his recent failure, and the revelation of liabilities through the Birmingham Official Receiver, came as a painful surprise"^[78].

These men were neither in the professional or social elite, nor could they be considered humble. They lived in the fashionable suburbs and were eminently respectable. Yet it was possible to mix this reputation with transgressions without irredeemably damaging status. It could be accommodated within the same practitioner.

"Professional performance" though based on a style of life was not lived out solely in terms of "professional" goals and aspirations. The outward pursuance of a gentlemanly persona made sound business sense:

"The cultivation of manner... is highly necessary in a person who has occasion to negotiate with others in matters of business. Affability and good breeding may even be regarded as essential to the success of a man in any station and enlarged sphere of life... the world at large is not... forbearant, and cannot help forming its judgements and likings mainly according to conduct"[79].

The reward was professional success. Cornelius Thomas Saunders had a deservedly successful career according to his obituary writer:

"To a thorough knowledge of his profession he brought a high standard of professional and private conduct which secured him the esteem of a large number of clients, who found in him the best qualities of a family solicitor"[80].

When dealing with wide, but not necessarily anonymous publics this was a useful, indispensable, adjunct to the benefits of connexions, patronage and so on. It helped solve the problem of displaying professional skill and achievement and attracting clients in a relatively unquantifiable field which remained into the late 20th century[81].

This chapter has argued that solicitors completed by the early 20th century a shift to a status of "gentleman professional" which was as, if not more, important than the establishment of a legal expertise. This status was crucial in legitimating respect for the legal expertise as was manifest at the time. James Hall-Wright was described thus:

"You are a representative of a profession which has to solve and untie all the tangled knots of humanity. The mantle of Solomon with all its adhering wisdom seems to have fallen upon your profession, and much is expected of it when people fall out and "strive and strive"[82].

This situation was related to a process whereby membership of the profession conferred collective status, and a protean concept of "professionalism" based on morality and knowledge assured social position and dealt with criticism. The "professional gentleman" was therefore not a contradiction in terms.

CHAPTER NINE

Conclusion: Gentlemen and Professionals

"Although the interests of the profession itself have always been guarded with great zeal and the easy working of business between its members provided for, it is no exaggeration to say that much the larger portion of the work has been concerned with the good of the community at large".

(A Musgrove: A short history of the Birmingham Law Society 1818-1918 p.5)

I. Introduction

By the time Musgrove^[1] wrote his history of the BLS to commemorate the Society's centenary, a concept of what constituted professionalism had been established by solicitors in Birmingham. The quotation above encapsulates what may be labelled the traditional trait approach to professionalism. This is not surprising, given that much sociological analysis was culled from the self-descriptions of many professions. Such a view points up the importance of the profession's interests in monopoly and autonomy; intra-professional relations and ethics; and the pervasive notion of public interest. However, this kind of writing

by the profession itself hides more than it reveals. Such a cosy image of a long period of history conceals a multitude of events, processes, successes and mistakes. As the preceding chapters have shown the process of professionalisation was more complicated than this and the meanings of professionalism more intricate. To assess the attainment of a series of traits or the extent to which a particular market for services was dominated does not explain the attainment of professional status or the context in which it took place. In this chapter the argument of the thesis is summarised and some general conclusions drawn.

That solicitors wanted to bring about change in their occupation from the early 19th century is evident, as is their desire to alter the public perception of their occupation and legitimate claims to professionalism. More problematic are the questions as to why professionalisation was the adopted strategy and why the particular route described and conception of professionalism were chosen. Chapter Three identified a number of issues that were considered to be problems for the profession by practitioners themselves and contemporary commentators. The traditional professions (such as medicine and law) were aware of a possible low estimate of their worth in the strongly commercial milieu of the urban industrial centres. Certain solutions came to dominate the minds of the solicitors' elite, locally and nationally, and these ultimately came to form strategies for the accomplishment

of a state of professionalism defined by solicitors in interaction with the wider society. This process can be understood as one whereby the profession formulated a "social theory" to comprehend their social location and arrived at "recipes for action" and a scheme of orientation. Thus strategies emerged from a process of interaction and negotiation which led to a concept of what "profession" should be and how it should be accomplished^[2]. The successful pursuit of professionalism offered many advantages, not least the establishment of a special status for the law and legal practitioners at a time of severe and general criticism, and legitimation for its rewards.

The epithet "profession" had been used to describe practitioners of the law for some considerable time before the 19th century; however, there are reasons to believe that its meaning changed during the 19th century so that "professionalism" became a means of regulating the occupation and justifying changes in it. These changes, in the long term, raised the status of practitioners and their expertise and secured a dominant position in the market for the supply of legal services. This ensured superiority in the division of labour vis-a-vis charlatans, the unqualified and other rival occupations. The ways in which the profession (or more accurately its elite) understood the context of its strategies led to a particularly "public" manifestation of solicitors' appeals to "professionalism". This manifestation conformed to the

changing experience of the urban middle class and its elites, and represented an ideal social status to which professional men aspired. If the special status of legal practitioners was to be secured and claims to independence and autonomy in professional relations with clients and society thereby justified, social recognition had to be secured for both formal and informal professional credentials. The visible demonstration of these and the reproduction of a gentlemanly profession in a public sphere (through public work) was an important dimension, as was shown in Chapter Five.

Thus, the professionalisation process is more adequately envisaged as a number of concomitant strategies. The notion of such strategies implies a coherent framework for professional policies and the existence of goals, if not an idealised end-point to which the profession should aspire. However, it must be conceded that in early 19th century Birmingham the attorneys who formed the BLS were practical, pragmatic men whose aims were very often immediate and were certainly not conceived in terms of neat sociological categories. An end-point for the profession was seldom articulated explicitly, apart from vague notions of gentlemanliness and professional behaviour. Nevertheless, at certain periods and during particular events ideas about the nature of the profession and how these were to be achieved and legitimated were marshalled in public and private settings. Beliefs, aims and expectations beyond immediate interests were revealed

couched very often in terms of the interests of clients, the community and justice. This was not, however, a smooth process. Intra-professional conflicts could emerge over ends and means; from individual matters of discipline (as indicated in the case of Edmonds and his admission in Chapter Three) to broader aspects of "professionalism" (such as education and training described in Chapter Six.).

II. Routes to Professional Status

The attainment of professional status in this thesis is interpreted as a strategy, peculiar to solicitors, in order to organise and gain recognition as a profession and further, to maintain that status^[3]. This process was based on "appeals"^[4] to particular forms of institutional organisations, education, training, knowledge and skills which were of key importance to society. Of critical importance were the claims that these skills went beyond mere knowledge of the law, i.e. the insistence on claims to social, moral and ethical characteristics, which infused the "ideals" of professional conduct^[5].

This process of gaining recognition must be set in the context of interaction with other groups and changes in the economy and society. Two main strands of the process comprised combatting the effects of competition and raising status. Competition, from within an overcrowded profession and occupational rivals outside was a dominant underlying theme in professional discourse and collective action during the 19th century. It should be noted that competition was not just a product of industrialisation, though briefless barristers and clientless attorneys appear to have been more newsworthy by mid-19th century^[6].

The profession's strategy was legitimated by appeals to a concept of "professionalism" constructed by solicitors, in negotiation with wider society. The appeals were broad and encompassed social/personal characteristics within their ambit. This extension beyond narrow "professional" or technical parameters was essential to the success of the professional project and in defining a concept of professionalism which could legitimate the desired privileged position of monopoly, autonomy, status and connotations of disinterestedness and learning. Professionalism was defined as a relationship^[7] between the professional practitioners, the client community and the state. This relationship was the product of the special situation of solicitors vis-a-vis their clients and the public. Solicitors were in positions of great trust and honour; and they were not slow to emphasise this singular distinction.

"Your power over others is necessarily very great, because to you they intrust to so large an extent the management of their affairs.... If an honest man is the noblest work of God, surely an honest lawyer, considering his many and various temptations to swerve from the path of rectitude, and his opportunities of doing so, may be regarded as something almost superhuman"[8].

The central theme of this relationship was that of "gentlemanliness". In order to guarantee the integrity of the special relationship, the solicitors' elite asserted that the profession must be made up of men with a gentlemanly character. Of course, the concept of a gentleman was changing from the early 19th century and losing some of its indolent aristocratic trappings. Nevertheless it remained a moral as well as a social category and retained much of its exclusiveness^[9]. This "character" was to be possessed and enjoyed in public^[10], and it had to be demonstrated, not merely asserted. Thus in the name of public interest (to protect the sanctity of the special relationship and protect clients and the public from abuses in the relationship) institutionalised guarantees had to be built into the professional structure. In effect these became (or were intended as) professionally controlled gatekeepers to the profession. As noted in Chapter Six, expertise was something new and of a dubious nature (it being morally suspect and often equated with sharp practice). In periods of self-doubt and self-criticism the search for unquestionable criteria usually favours stability and the solicitors alighted on

tried and proven models of professionalism (e.g. see the case of Simcox in Chapter Three). Such public criteria for carrying off "professionalism" were readily understandable to relatively small, localised communities. Standards of professional practice were set, in a way, by social and professional interaction, though the dominant element in this interaction is difficult to discern in the first half of the 19th century. The breakdown of localised communities and markets, which, it is argued, promoted the development of a common professional consciousness, was therefore not necessarily so crucial in the professionalisation process during the 19th century^[11].

The "appeal" to gentlemanliness as an ideal characteristic of professionalism and a guarantee of integrity (based on education, public display of honour, and styles of life) was a powerful tool in legitimating claims to a privileged position in the market for legal services, control of practitioners and status^[12]. It reinforced the special case of the law in a context of *Laissez-faire*. The "public" securing of the status of professional gentlemen was not detrimental to the accomplishment of professional power^[13]. The barrier, or "Fence" as Bagehot called it^[14], imposed in the way of becoming a solicitor in the form of educational requirements; the difficulties and expense of setting up a practice and carrying off a "professional" performance according to the strictest code of middle class mores have been considered in Chapters Four, Five and Eight.

The manner in which the gentlemanly strategy legitimated status claims was shown in Chapter Seven. The establishment of an occupational hierarchy based on social and professional criteria separated solicitors off from other (rival) occupations. What distinguished the profession from others was the demonstrable guarantees of character, education, standing and service in the public interest. These attributes, claimed by the profession to be the foundation of professionalism, legitimated claims to (and the achievement of) special status and the control of certain areas of work - both the exclusively legal and other types of work which were increasingly subject to interference from other occupations. Some of these occupations were of very low status, whilst others were actively engaged in a process of professionalisation and therefore also competing for a "market shelter"[15].

It is useful to remember the context in which expressions of "professionalism" as a matter of "public interest" were made. Public interest ideology was not created in a vacuum. It has to be set against the background of action of solicitors in relation to their perceived difficulties - overcrowding, unqualified invaders, rival occupations, and "officialism". Clearly, it can be suggested that a public service ideology was formed in a context of anti-competition strategies that needed sufficient legitimation[16]. Appeals to ethical behaviour and a unique gentlemanliness based on public

interest were firmly fixed within a context very much associated with professional interests^[17]. Though professionalism may have been framed in terms of public interest it was forged in a milieu of inter- and intra-professional conflict and competition. This was coupled with solicitors' attempts to regulate and monopolise areas of work, as regards other occupations and professions (the bar, the amorphous property occupations and the unqualified) and sharp practice (advertising, undercutting)^[18].

By highlighting education, standing and its "professional" characteristics (organisation, disciplinary machinery, examinations, visible "guarantees"),^[19] solicitors engaged in a process of distinguishing themselves from non-professional occupations and "business". However, this declared uniqueness hid the realities of professional practice. The practicalities of business life, and market competition were an integral part of being a professional. In addition solicitors were socially located within the middle class of manufactures and commerce and were not hermetically sealed off from the middle class world^[20].

Gentlemanly status was not, as some have claimed, a result^[21] of professionalisation, but an integral part of the process. The gentlemanly core of the professional relationship was developed concurrently with the professional strategy; indeed the two fed off each other.

The strategy of professionalising (which encapsulated the emerging definition of professionalism) was brought about in response to the formulation of the profession's problems and their potential solutions. In essence these were framed in terms of social status.

The accomplishment of profession depended not on the development of professional institutions, journals, examinations, licensing, an esoteric knowledge base[22] and the like. Instead, it centred on the creation and diffusion by the profession of the idea of the practitioner as a "professional man", and the means to persuade a wide public that solicitors conformed to this ideal in a way no other occupations could[23]. Thus the emphasis on personal characteristics in the definition of "professional" ("station, intelligence and character") in turn fed into the mechanisms of the professionalising strategy. The articulation of a concept such as "profession as person" was a central means of gaining recognition and status[24]. The promulgation of personal characteristics contributed towards the solicitors' definition of themselves as "professional men" and establishing that certain kinds of work, leisure and civic duty were compatible with being "professional". These matters are discussed and illustrated in Chapters Four, Five and Eight. Success in gaining the confidence of anonymous public through this process (and thereby ensuring the foundation of solicitors as a "profession") was dependent on a public manifestation of the personal "professional" qualities. The emphasis on

publicly visible activities, mapped out according to Victorian middle class mores, found expression in a public work context and cultural life. As one writer expressed it, in 1870:

"character is like an inward spiritual grace of which reputation is, or should be, the outward and visible sign"[25].

In these public settings the making of the profession was reproduced and legitimated. For the special status of law to be accepted then credentials had to be visibly demonstrated. Public work was a crucial dimension. These claims, "guarantees" and credentials were also articulated at the same time as the professional interest in monopoly was needed and secured. These guarantees subsequently acted as gatekeepers as well as being, so the profession maintained, instruments to preserve the interests of the public.

III. A Provincial Profession Established:

Collective Social Mobility

Apart from elucidating the development of strategies and legitimating appeals for the accomplishment of profession, this thesis has also examined the changing social position of solicitors in 19th century Birmingham.

This involved an assessment of solicitors' self-conceptions (e.g. how they created their own history) based on the impressionistic evidence of contemporary observers and the changing patterns of solicitors' social lives, as shown in Chapter Eight. It is recognised that any attempt to study the social position of professions and notions of social mobility is fraught with difficulties[26]. From the discussion in Chapter Three of marginality, low esteem for the profession as a whole and the association of solicitors' prestige with personal qualities, it was intended that a shift from a situation in which status was accorded to individual character to one where status was attached to the occupation per se would be discerned. The hypothesis that, by the 20th century, "existential qualities" would be secondary and the occupation singularly the determinant of status, would be tested[27]. Though it was apparent that from mid-century a new generation of solicitors was having an effect in this direction it is clear that this shift was neither absolute nor complete by the beginning of the 20th century in Birmingham. Respect for the profession was perceptibly increasing, but respect was still derived from personal qualities and sources of social prestige outside the narrowly defined confines of the profession[28]. It may be that the anonymous power of expertise generally was growing during the latter stages of industrialisation, c.1880-1914[29].

Chapters Four and Five showed solicitors to be influential men in public life and the local economy and Chapter Eight demonstrated the highly regarded social position of certain key firms and practitioners in the late 19th century. The interaction of professional and social elites was evident. By the end of the 19th century solicitors could no longer be considered as occupying the marginal social position that they had experienced during the early decades of the century. A new marginal class or stratum had developed between the middle and working classes - the lower middle class. Solicitors had carved out a niche in the social and occupational hierarchy above this collection of occupations of the lower middle class, usually thought of in terms of small-to-medium manufacturers, retailers, clerks, white collar workers and struggling professionals. Some of the lower middle class groups (such as banking clerks) had been secure in the middle decades of the century, but after 1870 their position became increasingly marginalised and precarious^[30]. Again the structure of education and professional recruitment further operated to maintain the marginal position and prevent lower middle class advancement^[31].

The limited access of lower middle class occupations that were identified as "new professions" or attempting to professionalise (e.g. school teachers) to the higher reaches of education must have had a detrimental effect on

their social position. Similarly, the lines of demarcation between solicitors and those occupations which from the mid-century had been in direct or indirect competition with the legal profession for a precarious living off semi-legal work had become more rigid. In addition, the status of that "shady" type of work had itself changed over time within the structure of the solicitors' profession. The example discussed in Chapter Four concerned debt-collecting. Unless it was for large, established clients, debt-collecting was deemed suitable only for young, recently admitted and small practitioners^[32]. Nevertheless, there were minor solicitors who were more appropriately located in the lower middle class, rather than being categorised as members of the established middle class, operating on the periphery of the profession.^[33] Then there were those solicitors who experienced the nightmare of Victorian "surburbans" - the fall. For example, there was the "lamentable" tale of William Francis, of a good family, with a remunerative practice and "a wide circle". He died (1893) in a lodging house in a state of utter penury, the victim of drink, who eked out a living in the police courts, on the support of his married sisters^[34].

The question remains how much real change in the material conditions of the profession generally took place in the 19th century. Professionalisation, it is claimed, raised status materially^[35] but this was (like gentlemanliness) not necessarily a result of

professionalisation, but part of the process necessary to the accomplishment of profession itself. Status was a means of legitimating claims and setting barriers against those of humble origins entering through what the profession saw as irregular means, (as has been illustrated in Chapters Six and Seven). Social exclusiveness, argued by the profession in terms of public interest (see the debate over education and the preliminary examination), acted as a means of securing the protection of professional interests and extending professional control over recruitment and authority in its relationship with other occupations. The case for viewing the elite solicitors' concern over the influx of low class men into the profession as a strategy for justifying restrictive and exclusive measures in the name of public interest is furthered when the evidence available on social origins is studied. The frequency of low status recruits appears to have been exaggerated in the 19th century, perhaps to foster a climate of concern so as to facilitate substantial change. The problem of interpreting professional social origins has been indicated by Miles (for 18th century attorneys)^[36] and Peterson (for 19th century medical men)^[37]. Their evidence suggests that a majority of recruits came from respectable "middling" backgrounds^[38]. This poses a dilemma for the historian, for the picture created by the solicitors' professional elite, an informed and interested public and also contemporary literature is of a profession dominated by low status men, without "position", content to make a dubious living from

pettifogging practices^[39]. Thus there is a disparity between contemporary opinion and the evidence of historical research. The complexity of the problem is illustrated well by the BLS annual report on the Preliminary Examination in 1867. Clearly the Birmingham profession was aware of a contradiction, in that candidates were, by accepted social criteria, ostensibly suitable but did not match up to the requirements of the examiners:

"The necessity for such Examinations is fully shown by the amount of inefficiency in the very first elements of education - reading, writing - displayed by some of the candidates...most of whom appear to be of respectable parentage and all of whom are of course presumed to have completed their education preparatory to entering our learned Profession. The want of thoroughness indeed in the ground work of education is extraordinary considering the standing of the schools at which the candidates appear frequently to have been educated"^[40].

Such revelations confirmed the BLS committee's belief that a strict test of a student's fitness by examination in general knowledge would:

"result in raising the character of that profession by the exclusion of illiterate or imperfectly educated persons [and] cannot but be highly beneficial"^[41].

The institutionalisation of social/ascriptive criteria in the form of examinations was believed to raise standards of entry. In circumstances where solicitors thought their social position was not matched by public recognition, the public performance of the profession as

middle class men was essential to appeals to status and gentility. Evidence of the local professional elite's engagement in this process has been presented in Chapter Five. The public role was an arena for demonstrating the status of individual solicitors for the vicarious benefit of the whole, in addition to a practical manifestation of some of the notions held about "professionalism". It is clear that such activities had a number of motives, and the presentation of models for other and/or young solicitors was not the least important. Plainly the "great men" of the profession were to be emulated in all their facets - personal and professional - since these were deemed to overlap to such a degree. Such exhortations to follow the example of "ideals" of professionalism were found time and time again in the historical sources, such as biographical appraisals^[42] and addresses delivered to the BLSS. For example, there were the comments of Charles Saunders in 1867:

"you may...with reasonable ambition, aspire to such distinction as your Profession affords, following for instance, a John Welchman Whateley, or an Arthur Ryland to the Council Board of our great Incorporated Society; or, rarer and more enviable success still, perhaps even attaching to yourselves some share of that respect and affection which were in past days associated with the name of "honest" John Simcox; and in our own time with the no less honoured name of Clement Ingleby...."^[43].

The epitome of this approach was reached in 1914 with the opening of the G J Johnson Memorial plaque in the BLS Law Library, which recognised his

"high sense of humour, his marked ability, his absolute fairness, his genial wit and his never-failing kindness"[44].

Archibald Somerville Bennett stated that Johnson's long and successful career "inspired in everyone affection and claimed from them a persistent emulation"[45].

Public as well as material success was important. This is readily apparent from the lives of that generation of solicitors coming into prominence from the 1850s into the Chamberlain era. These men were keenly interested in professional matters and public affairs as has been shown in Chapters Five and Six[46].

By the end of the century status had been secured - both materially and in terms of a public acceptance of the profession's claim to status. This success was regarded by the profession as well deserved. A note of complacency can be detected. Professional concern naturally remained over the occurrence of frauds and other scandals but the panic induced in the early 19th century and the rush to do something (by way of remedy) about it was absent. By the early years of the 20th century criticism was successfully deflected and indeed the profession's explanations of their internal occupational embarrassment were accepted wholesale by their contemporaries. The law and legal system itself was more usually the subject of complaint[47], rather than

the profession itself. By the First World War the "professional project" had been successfully accomplished and the status of the solicitor as professional man was perhaps at its zenith.

IV. Conclusion

This thesis has charted some aspects of the experience of Birmingham solicitors during the 19th century, in the light of recent sociological work. The studies of Dingwall and Larson have been especially useful. This has led to a re-examination of the historical literature on the solicitors' profession in general. Thus an analysis was made of the development of a concept of "professionalism" by solicitors, in interaction with society. By contextualising Birmingham's legal practitioners it has been possible to understand the strategies, processes and mechanisms whereby a concept of professionalism was successfully articulated; its effects in terms of changes in the structure and status of the profession; and its success (or otherwise) in accomplishing "the production of an occupation as a "profession" for the purpose of its members"[48]. It has been seen that the definition of professionalism was not static, and that the profession was divided as to its meaning and ways of achieving it (as for example in the debate on education in

Chapter Six). Solicitors were not members of a homogeneous group with concerted aims, which necessarily makes discussion of a "professional class" or "community" problematic^[49]. This research suggests that in the case of the solicitors' profession an assessment of the professionalisation process needs to emphasise the social or "ascriptive" criteria as opposed to "rational" credentials or others impersonal symbols of professionalism. The importance of professional organisations has been noted where appropriate, but their determining role in professionalisation has been lessened.

As a social process in which the profession made itself rather than merely being a product of an industrialising society^[50], the concept of "gentlemanliness" was of critical significance. "Professionalism" as a strategy and a relationship was legitimised by social criteria congruent with the status observances of Victorian England, rather than esoteric impersonal expertise. "Appeals" were made, therefore, on the basis of gentlemanly character. It has been suggested that the "gentlemanly strategy" came to dominate the profession's perception of a successful route, and acted as the definition of professionalism that successfully established status and control. Professionalism and public confidence in solicitors was based on more than beneficial knowledge, merit or state credentials and licences. Ultimately, the appeals to and accomplishment of "professionalism" rested neither solely on legal expertise nor social and personal

criteria, but a merging of these in a set of conditions claimed by solicitors to be peculiar to their occupation. As a result, success was founded on the apparent contradiction - the "professional gentleman". The persistence of such appeals suggests that the transformation of the 19th century solicitors' profession needs to be understood as something more subtle and complex than "status" to "occupational" professionalism^[52].

Consequently, it is easy to make the simple assumption that "professionalism" was founded on "aristocratic" culture^[53]. However, the process was more complicated, and such assumptions fail to recognise changes in the concept of gentility and middle class culture during the 19th century. The fact that the concept of the gentleman was modified by the middle class, prised away from the aristocracy and even used in a critical fashion against it, is ignored.

Though the gentlemanly definition of profession had a protean quality, the concept of professionalism became increasingly rigid. The effect was significant for legal practitioners. The late 19th century solicitor was a gentleman unless circumstances proved otherwise. Formerly, the situation had been reversed - the attorney's honour and gentility was in doubt unless established by individual "character". The threads of this process need to be traced further. An understanding of this process would benefit from an extension of research into the inter-war period, in

order to assess whether expertise became less "personalised" as the status of the profession was consolidated and major developments were instituted.

This represents one avenue of further research. Other themes and areas of documentary evidence remain to be fully explored. A detailed examination of census and probate records, despite their drawbacks, would be useful in assessing changes in the social context of the profession. It would also bring the minor and otherwise anonymous solicitors within the scope of the research. The existence of kinship and friendship networks linking solicitors with the middle class can be pursued by an analysis of wills (of the local elite and selected solicitors), for instances where close associates were appointed executors. Records pertaining to solicitors practices are rare. A survey of those that exist in private hands and public deposits throughout England and Wales would be a valuable aid to further research. In addition, knowledge of the availability of local law society documents, firms' histories, and autobiographies would be welcome. It would introduce an important comparative aspect. The findings of this research might be contrasted with other professions, towns and regions (urban and rural) and, perhaps, legal practitioners in the colonies. The enduring division between the capital and the provinces warrants greater attention, in association with a re-examination of the London profession, its leaders, organisations, attributes and influences.

Important themes remain to be elucidated. The social location of professions in the formation of the British middle class still needs clarification, despite the expanding literature on the 19th century urban middle class. Clearly, concepts of a "professional class" are flawed, yet the relationships between different fractions of the middle class, within manageable settings, require analysis. In the late 20th century the prestige and authority of expertise appeared to be assured; historical studies of professions can develop an understanding of the social context of expertise.

APPENDIX 1 BIRMINGHAM LAW SOCIETY

Presidents and Secretaries 1818 - 1914

Presidents

Thomas Lee	1818 - 1825
John Meredith	1825 - 1832
John Simcox	1832 - 1833
Roger W Gem	1833 - 1848
Thomas Eyre Lee	1848 - 1852
Clement Ingleby	1852 - 1855
John W Whateley	1855 - 1873
Arthur Ryland	1873 - 1874
George J Johnson	1874 - 1876
Arthur Ryland	1876 - 1877
William Evans	1877 - 1879
James Marigold	1879 - 1882
Thomas Horton	1882 - 1885
Charles E Mathews	1885 - 1888
Cornelius T Saunders	1888
Sir Thomas Martineau	1888 - 1891
Lauriston W Lewis	1891 - 1893
Joseph B Clarke	1893 - 1895
Arthur Godlee	1895 - 1897
Thomas H Russell	1897 - 1899
Joseph Ansell	1899 - 1901
Richard E Pinsent	1901 - 1903
John B Carslake	1903 - 1908
Alfred Pointon	1906 - 1908
Walter Barrow	1908 - 1910
John G Bradbury	1910 - 1912
Alfred H Coley	1912 - 1914

Honorary Secretaries

Clement Ingleby	1818 - 1829
William Redfern	1829 - 1832
Arthur Ryland	1832 - 1835
Thomas Smith James	1835 - 1852
William Hare	1852 - 1853
Clement M Ingleby	1853 - 1857
Edward Sargant	1857 - 1865
George G Johnson	1865 - 1872
Thomas Horton	1872 - 1882
Arthur Godlee	1882 - 1889
Thomas H Russell	1889 - 1897
Walter Barrow	1897 - 1903
Edward Evershed	1903 - 1909
Charles Ekin	1909 - 1913

Source: Birmingham Law Society Minute Books

APPENDIX II PUBLIC APPOINTMENTS

Official Posts Held by Solicitors in Birmingham

(i) Town Clerk

William Redfern	1838 - 1840
Soloman Bray	1840 - 1852
William Morgan	1852 - 1854
Thomas Standbridge	1854 - 1869
Edwin J Hayes	1869 - 1881
Edward O Smith	1881 - 1908
Ernest V Hiley	1908 - 1916

(ii) Clerk of the Peace

George Edmonds	1838 - 1868
T R T Hodgson	1869 - 1891
Charles E Matthews	1891 - 1905
Joseph James	1905 -

(iii) Coroner

Dr Birt Davies*	1838 - 1875
Henry Hawkes	1875 - 1891
Dr O Pemberton*	1891 - 1897
Isaac Bradley	1897 -

* Medical Practitioner

(iv) Magistrates' Clerks

William Barlow	1838 - 1866
W H Gem	1838 - 1855
Arthur Ryland	1838 - 1842
T H Gem	1842 - 1882
J B Hebbert	1856 - 1882
W Barradale*	1882 - 1911
C A Carter	1888 - c.1920

* Not a Solicitor

Source: Birmingham Collection, Local Studies
Department,
Birmingham Reference Library.

APPENDIX III

PUBLIC LIFE

A Select, Concise Description of Birmingham Solicitors' Public Activities

Walter Barrow (1867 - 1954) Birmingham City Councillor 1898; Governor King Edward's School; Committee member Dental Hospital; Teacher Severn Street adult school; President Birmingham Chamber of Commerce 1929; Pro-Chancellor Birmingham University 1933 - 39.

Charles Gabriel Beale (1843 -) Councillor 1886; Alderman; Lord Mayor 1897 - 1900, 1904; member Birmingham Music Festival Committee, Steward 1876, Chairman Orchestral Committee 1895, 1897, Manager Choral Department 1879.

Isaac Bradley (1852 -) Councillor 1885 - 97; Coroner 1897; Governor King Edward's School; Deputy Chairman of Birmingham Justices; member Birmingham Festival Choral Society 1870 - 86; President Central Library Association 1888 - 89; Officer and Secretary Church of the Redeemer.

Alban Gardner Buller (1845 - 1924) Councillor Worcester-shire County Council 1894; member Birmingham Board of Guardians; J P 1896; Solicitor to Wesleyan Council; member Moseley and Kings Heath Institute Council.

Joseph Barham Carslake (1845 - 1923) Law Clerk to Birmingham Assay Office; member Council of the Birmingham and Midland Institute (BMI), member Council of the Edgbaston High School for Girls; member Volunteer Rifle Corps; President Birmingham skating club.

Joseph Bennett Clarke (1845 -) Councillor Staffordshire County Council; J P 1894; Registrar of Birmingham Diocese and legal secretary to Bishop 1905, Chairman of Birmingham General Hospital, Birmingham and Midland Eye Hospital and Graham Street School Committees; Churchwarden Handsworth Parish Church.

William Evans (1825 - 1907) Alderman Warwickshire County Council; JP, Chairman Kenilworth Local Board.

Arthur Godlee (1832 - 1920) Councillor 1846, Alderman 1850 - 75, Mayor of Birmingham 1852; Coroner 1875 - 91; Tamworth Town Clerk 1867 - 9, JP, Elected to School Board 1882; President Liberal Association 1867.

John Benbow Hebbert (1809 - 1887) Clerk to Birmingham Borough Magistrates 1856 - 87, Clerk to West Bromwich Division, Staffordshire Magistrates 1840 - 87, Council member BMI 1854 - 66, Vice-President 1857 - 61, Volunteer Rifle Corps 1857 - 72, Honorary Secretary Birmingham Art Union, Town Clerk Wednesbury 1868.

T R T Hodgson (1812 - 1891) Councillor 1847, Alderman 1852, Mayor of Birmingham 1855; Clerk of the Peace 1869 - 1890.

Thomas Horton (- 1894) Clerk to Lench's Trust 1883 - 94, Clerk to Piddocks Charity, Trustee Muntz's Trust and Middlemore Homes.

Clement Ingleby (1786 - 1859) Governor King Edward's School, solicitor to the Birmingham Canal navigation.

George James Johnson (1826 -) Councillor 1877, Alderman 1886, Mayor of Birmingham 1893; J P 1884; Governor King Edward's School 1874; Honorary Secretary Queen's Hospital 1867, Trustee Lench's Trust (Bailiff 1881); Trustee Dudley Trust; Trustee Dudley Trust; Trustee Mason's College; Professor of Law Queens College 1857 - 62.

J C Lane (1841 - 1908) Member Kings Norton District Council 1902 (Chairman 1903), J P, Committee member and Honorary Treasurer Warwickshire County Cricket Club.

Sir Thomas Martineau (1828 - 1893) Councillor 1876 - 83, Alderman 1883 - 92, Mayor of Birmingham 1884 - 86; JP 1880; Solicitor to the Assay Office, Governor King Edward's School; President Kyrle Society; President Sunday Lecture Society; Trustee and secretary to the Crowley, Jackson and Muntz Trusts; Treasurer Public Picture Gallery Fund; Knighted 1887.

Charles Edward Mathews (1834 - 1905) Councillor 1875 - 1881, Clerk of the Peace 1891 - 1905; J P 1904, Governor King Edward's School; member BMI Council; A founder of Birmingham Children's Hospital.

James Marigold (1830 - 1885) Chairman of the directors of the Edgbaston Proprietary School.

William Showell Rogers (1855 - 1899) Honorary Secretary to the Society for the Prevention of Cruelty to Children, Birmingham branch 1892 - 96; member BMI Council, Vice-President 1893 - 95; Governor Mason College; President of University Graduates Club 1892.

Joseph Rowlands (1840 - 1926) Clerk to the County Magistrates Birmingham Division 1877 - 1911; Chairman Bromsgrove Urban District Council; JP 1901 (Worcester); Law Clerk to the Proof House Guardians.

Thomas Hawkes Russell (1851 - 1913) Trustee Lench's Trust (Clerk, Bailiff 1913); member BMI Council; member Sunday Lecture Society and Minister's Benevolent Society; on Board of Management of the General Hospital, Fellow Linnaean Society.

Cornelius Thomas Saunders (1827 - 1903) Law Clerk Dudley Trust 1876; member BMI Council; Governor Handsworth Grammar School; Committee member General Hospital; Honorary Solicitor to General Institute for the Blind, Edgbaston; Founder and President of the Birmingham Chess Club 1851.

William Thomas (1841 - 1901) Councillor 1897; member Kings Norton Parish Council; Committee member of Dental Hospital and the Hospital for Skin and Urinary Diseases; member Committee of Balsall Heath Institute.

Edward Lant Tyndall (1841 -) On Committee of the Graham Street Dissenting Charity School, the Homeopathic Hospital, the Ear and Throat Hospital, and the Boatmen's Friendly Society; member of the Hospital Sunday Collection Committee; Birmingham Temperance Society; Founder of Birmingham Walliker Society.

Thomas William Walthall (1862 - 1936) Councillor 1899 - 1913; Board of Guardians 1894 - 98; member Stourport Urban District Council.

Sources: Birmingham Collection, Local Studies Department, Birmingham Reference Library.

ABBREVIATIONS

Abbreviations employed in References

<u>A</u>	<u>Astonia and Gravelly Hill Journal</u> (BRL 132548)
<u>AG</u>	<u>Aris' Gazette</u>
<u>BCP</u>	<u>Birmingham Council Proceedings</u>
<u>BDG</u>	<u>Birmingham Daily Gazette</u>
<u>BDP</u>	<u>Birmingham Daily Post</u>
<u>BFP</u>	<u>Birmingham Faces and Places</u> (BRL 96586)
<u>BJ</u>	<u>Birmingham Journal</u>
<u>Birm Biog</u>	<u>Birmingham Biographical Newscuttings</u> (BRL 60834)
<u>Birm Mag</u>	<u>Birmingham Magazine of Art and Industry</u> (BRL 144248)
<u>Birm Magnet</u>	<u>Birmingham Magnet</u> (BRL 157500)
<u>BLS Minutes</u>	Birmingham Law Society Minute Books
<u>Boase</u>	<u>F Boase Modern English Biography</u> (Netherton & Worth, Truro 1897)
<u>BRB</u>	<u>Birmingham Red Book</u> (BRL 6401)
<u>BRL</u>	Birmingham Reference Library
<u>BSB</u>	<u>Birmingham Scrapbook</u> (BRL 50987)

Cham Coll	Chamberlain Collection, Birmingham University Library
<u>DNB</u>	<u>Dictionary of National Biography</u>
<u>Edg</u>	<u>Edgbastonia</u> (BRL 34824)
EPO	Mss in possession of Eddowes Perry and Osbourne, Solicitors
<u>FF</u>	<u>Familiar Figures</u> (BRL 181888)
<u>H</u>	<u>Handsworth Magazine</u> (BRL 255366)
<u>HN</u>	<u>Handsworth Newspaper Cuttings</u> (BRL 241913)
HWRO	Hereford & Worcester Record Office, Worcester
<u>IM</u>	<u>Institute Magazine</u> (BMI) (BRL L48.74)
"I. Remember"	Reminiscences of Birmingham Public Men, cuttings from the Birmingham Gazette and Express 1907-9. (BRL 217750)
LSL	Law Society Library, Chancery Lane
LC & C	Mss in possession of Lane Clutterbuck & Co, Solicitors
<u>LO</u>	<u>Legal Observer</u>
<u>LQR</u>	<u>Law Quarterly Review</u>
<u>LT</u>	<u>Law Times</u>

<u>M</u>	<u>Moseley Society Journal</u> (BRL 228878)
<u>MKHJ</u>	<u>Moseley and Kings Heath Journal</u> (BRL 114946)
<u>OC</u>	<u>Our City</u> (BRL 135236)
<u>Osborne</u>	Newspaper Cuttings, Obituary Notices of Birmingham and District (BRL 243129)
<u>OR</u>	<u>Our Representatives</u> (BRL 244352)
<u>Pike</u>	W T Pike, <u>Birmingham at the opening of the 20th century: contemporary biography</u> (Pike's New Century Series, Brighton 1900)
RM & Co	Mss in possession of Ryland Martineau & Co, Solicitors
SCRO	Staffordshire County Record Office
<u>SJ</u>	<u>Solicitors Journal</u>
<u>TC</u>	<u>Town Crier</u>
WLSL	Walsall Local Studies Library
<u>YN</u>	<u>Yardley Newsletter</u> (BRL 74443)

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7. The main examples are:- M Birks Gentlemen of the Law (Stevens, London 1960); H Kirk Portrait of a Profession (Oyez, London 1976); E B V Christian Solicitors: an outline of their history (Stevens, London 1925); M M Krotter "The Rise of the English Solicitor" Law Society of Upper Canada Gazette 7, (1973) pp 152-65).
8. W Holdsworth A History of English Law 15 (Methuen Sweet and Maxwell, London 1965) pp 223-47; J H Baker An Introduction to English Legal History (Butterworth, London 1971) pp 133-49; A Harding A Social History of English Law (Penguin, Harmondsworth 1966) pp 167-92. For a more recent example see A Manchester A Modern Legal History of England and Wales (Butterworth, London 1980) pp 50-74.

9. B Abel-Smith and R Stevens Lawyers and the Courts (Heinemann, London 1967); W Reader Professional Men (Weidenfeld and Nicolson, London 1966).
10. E P Thompson The Making of the English Working Class (Penguin, Harmondsworth 1968) p 13.
11. Eg Reader op cit pp 190-203.
12. D Podmore Solicitors and the wider Community (Heinemann, London 1980) E P Hennock Fit and Proper Persons (Edward Arnold, London 1973); B Keith-Lucas The Unreformed Local Government System (Croom Helm 1980).
13. See the rare exception of A Offer Property and Politics 1870-1914 (Cambridge University Press 1981).
14. C Rubin and D Sugarman (eds) Law Economy and Society (Professional Books, Oxon 1984).
15. D Duman The English and Colonial Bars in the 19th Century (Croom Helm, London 1983); "The English Bar in the Georgian Era" in W Prest (ed) Lawyers in early Modern Europe and America (Croom Helm, London 1981); The Judicial Bench in England 1727-1875 (Royal Historical Society, London 1982).
16. W Prest The Rise of the Barristers: a social history of the English Bar 1590-1640 (Oxford University Press, London 1986); see also the collection of essays edited by W Prest op cit.
17. M Miles "Eminent Practitioners: The new visage of County attornies c1750-1800" in Rubin and Sugarman (eds) op cit; and "A haven for the privileged": recruitment into the profession of an attorney 1709-1792" Social History (2) 1986 pp 197-210. Cf R Robson The Attorney in 18th Century England (Cambridge University Press, London 1959).
18. See also G Holmes Augustan England: Professions, State and Society 1680-1730 (Allen & Unwin, London 1982).

19. C Rubin and D Sugarman "Towards a new history of Law and Material Society" in Rubin and Sugarman (eds) op cit p 89.
20. J Seed "Unitarianism, political economy and antinomies of Liberal culture in Manchester 1830-50" Social History 7(i) 1982 p 1.
21. J Garrard "Introduction" in J Garrard, D Jary, M Goldsmith and A Oldfield (eds) The middle class in politics (Saxon House, Farnborough 1978) p 1.
22. J Field "Bourgeois Portsmouth: Social Relations in a Victorian Dockyard town 1815-75" Ph.D. Warwick 1979; R H Trainor "Authority and social structure in an industrialising area: A study of three Black Country towns" D.Phil. Oxford 1981; R J Morris "The middle class and British towns and cities of the Industrial Revolution 1780-1870" in D Fraser and A Sutcliffe (eds) The pursuit of Urban History (Edward Arnold, London 1983); L Davidoff and C Hall Family Fortunes (Hutchinson, London 1987); A J Kidd and K Roberts City Class and Culture (Manchester University Press, Manchester 1985).
23. Hennock op cit; J Garrard Leadership and power in Victorian industrial towns 1830-80 (Manchester University Press, Manchester 1983); R H Trainor "Urban elites..." pp 1-17; A Howe op cit.
24. Trainor "Urban elites..." p 4; W D Rubinstein Wealth and Inequality in Britain (Faber & Faber, London 1986); H Perkin op cit; R Gray "Bourgeois hegemony in Victorian Britain" in J Bloomfield (ed) Class hegemony and Party (Lawrence and Wishart, London 1977).
25. N Poulantzas Classes in Contemporary Capitalism (Verso, London 1978); E O Wright Class State and Crisis (NLB, London 1978); D Johnson (ed) Class and Social Development (Sage, Beverly Hills 1982).
26. Perkin op cit pp 218-70.
27. ibid p 256.

28. Field op cit pp XXII-XXIV.
29. Class and Ideology in the 19th Century (RKP, London 1972).
30. ibid p 22. "Literates" were middle class products of Grammar and private schools, turned out half-educated, half-gentlemen, unfitted for industrial employment, often lacking the capital, connections and education to maintain themselves above the lower middle class.
31. ibid p 24.
32. ibid pp 23-9; Davidoff and Hall op cit p 261.
33. R Cotterrell The Sociology of the Law: an introduction (Butterworth, London 1984).
34. M Saks "Removing the blinkers?: A critique of recent contributions to the sociology of the professions" Sociological Review 31 (2) (1983) pp 2-3; D Duman "The creation and diffusion of a professional ideology in 19th century England" Sociological Review 27 (1979) pp 127-30.
35. See the introductions by R Dingwall in R Dingwall and P Lewis (eds) The Sociology of the professions (Macmillan, London 1983) pp 1-13 and Stacey, Reid, Heath and Dingwall op cit pp 9-13.
36. E Freidson "The theory of professions: state of the art" in Dingwall and Lewis (eds) op cit p 33; D Duman "English and Colonial Bars..." p 205. See also W Prest "Why the history of the professions is not written" in Rubin and Sugarman (eds) op cit p 319 and K Macdonald "Social closure and occupational registration" Sociology 19 (1985) p 541.
37. M S Larson The Rise of Professionalism (University of California Press, Berkeley 1977) p XIII; R Dingwall "Introduction" in Dingwall and Lewis (eds) op cit pp 11-12; Saks op cit p 10.

38. Dingwall ibid p 8 and "Introduction" to Stacy, Reid, Heath and Dingwall (eds) op cit pp 22-5.
39. Larson op cit; R Dingwall "Accomplishing Profession" Sociological Review 24 (1976) pp 331-349 and The Social Organisation of Health Visitor Training (Croom Helm, London 1977).
40. See R L Abel "The rise of professionalism" British Journal of Law and Society 6 (1979).
41. For the "professional project" see Larson op cit pp XV-XVII, 6, 9, 15-17, 34, 49, 50, 54 and 80-101. Persuasion is of critical importance, see, e.g. E Freidson Professional Dominance (Atherton Press, New York 1977) p 122 and J L Berlant Profession and Monopoly (University of California Press, Berkeley 1975) pp 146-76.
42. Prest "Why the history of the professions..." pp 305-9.
43. Dingwall "Accomplishing Profession..." pp 331-47; "Social Organisation..." pp 123, 137, 140, 165-6, 213. See also T J Watson "The professionalisation process: a critical note" Sociological Review 24 (3) p 606.
44. For evidence of a degree of coherence to this see the first four editions of Law Times I (1843), especially p 15.
45. For the importance of the power to define see H W Arthurs "Special Courts, Special Law: legal pluralism in the 19th century" in Rubin and Sugarman (eds) op cit p 411. See also Prest "Why the history of the professions..." For the idea that the concept of profession could be used as a resource in the process of creating the social reality of the solicitors' profession see T J Watson op cit p 600 and R Dingwall "Social Organisation..." p 117.
46. T Murray, R Dingwall and J Eekelaar "Professions in bureaucracies: solicitors in private practice and local government" in Dingwall and Lewis (eds) op cit p 195.

47. P Atkinson "The recreation of the professional community " in Dingwall and Lewis (eds) op cit p 226.
48. "Accomplishing Profession..." p 338 and "Social Organisation..." p 123.
49. G Horobin "Professional mystery: the maintenance of Charisma in General medical Practice" in Dingwall and Lewis (eds) op cit p 102; T Murray, R Dingwall and J Eekelaar op cit p 198; and Cotterrell op cit p 206.
50. See, e.g. Sir John Hollams The Jottings of an old solicitor (John Murray, London 1906) pp 246-7.
51. Dingwall "Accomplishing Profession..." p 347 and Prest "Why the history of professions..." p 319.
52. On localism see W Lubenow The politics of government growth (David and Charles, Newton Abbot 1971) and W L Burn The age of equipoise (Allen and Unwin, London 1964) pp 170-1, 216, 222. On local studies see A Macfarlane Reconstructing Historical Communities (Cambridge University Press, London 1977) pp 4-5. 24-5.
53. L Stone "Prosopography" Daedalus 100 (1971) p 46.
54. See, eg, Bill Williamson Class Culture and Community (RKP, London 1982) pp 9-13; M Johnson "Professional careers and biographies" in Dingwall and Lewis (eds) op cit pp 242-62. The value of prosopography has been fully discussed in research on the history of science, see, J McGuire "Newton and the Demonic Furies: some current problems and approaches in history of science" History of Science 11 (1973) pp 22-7; S Shapin and A Thackray "Prosopography as a research tool in history of science: The British scientific community 1700-1900" History of Science 12 (1974); L Pyenson "Who the guys were: prosopography in the history of science" History of Science 15 (1977) pp 155-88. For an example of the method in legal studies see R F V Heuston "Judicial Prosopography" LQR 102 (1986) pp 90-113. See also Macfarlane op cit p 34-5.

55. The task of the research is to examine the nature and implications of the ways in which society, through a network of social and economic relationships, is persuaded to accept an occupation's claims to professional status.
56. See J T Bruce History of the Corporation of Birmingham (Cornish Brothers, Birmingham 1885); R K Dent Old and New Birmingham (Reprint: E P Publishing, Wakefield 1973, First edition 1878-80), J A Langford A Century of Birmingham Life II (E C Osborne, Birmingham 1868) and Modern Birmingham and its institutions (Osborne, Birmingham 1873).
57. C Prestige "Historical records in solicitor's offices" Archives 14 (1980) pp 217-221; M Berlins "Introduction to the legal past" Law Magazine 18 (1988) p 18.
58. P Laslett "The wrong way through the telescope" British Journal of Sociology 27 (1976) pp 319-342; E B V Christian Leaves of the Lower Branch (Smith Elder & Co, London 1909) pp 76-103; W Holdsworth Charles Dickens as legal historian (Yale University Press, New Haven 1928).
59. The BLS took the Solicitors Journal (BLS minutes 30.1.1867). Many prominent local solicitors subscribed to Law Times (Law Times I Supp. ii List of subscribers). The BLS was strongly represented on the MPLA management committee. In 1884 C T Saunders became the first provincial solicitor to be elected President of the ILS. BLS members were continuously represented on the ILS Council from 1860 (G M Butts The Birmingham Law Society 1818-1968 [1968] p 22).
60. Davidoff and Hall op cit pp 32-3, 263-4; R P Graves A E Housman The Scholar-Poet (Oxford University Press, London 1981) pp 56-61; P Ballard "A commercial and industrial elite: a study of Birmingham's upper middle class 1780-1914" I Ph.D. Reading 1983 pp 345-354, 382-402; D Roberts "The paterfamilias of the Victorian governing class" in A S Wohl The Victorian family (Croom Helm, London 1978) pp 59-60.

Chapter Two

1. D Smith Conflict and Compromise (RKP, London 1982) PP 4-5; S Timmins (ed) Birmingham and the Midland Hardware District (London 1866) preface.
2. P Ballard "A Commercial and Industrial elite: A Study of Birmingham's Upper Middle Class 1780-1914" Ph.D. Reading 1983 I, pp 52-3.
3. L Davidoff and C Hall Family Fortunes (Hutchinson, London 1987) pp 36-9.
4. Smith op cit p 35.
5. A F Hooper "Mid-Victorian Radicalism: Community and Class in Birmingham 1850-1880" Ph.D. London 1978, pp 33-4, 48.
6. C Behagg "An alliance with the middle class: The Birmingham Political Union and early Chartism" in J Epstein and D Thompson The Chartist Experience (Macmillan, London 1982).
7. Smith op cit pp 30-2.
8. Davidoff and Hall op cit p 43.
9. D Fraser Power and authority in the Victorian City (Blackwell, Oxford 1979) Chapter 4.
10. B Keith-Lucas The unreformed local government system (Croom Helm, London 1980).
11. J Money Experience and Identity: Birmingham and West Midlands 1760-1800 (Manchester University Press, Manchester 1977) p 21.
12. Fraser op cit p 84.
13. ibid p 95.

14. Hooper op cit p 374.
15. E P Hennock Fit and Proper Persons (Edward Arnold, London 1973) pp 118-30.
16. W B Stephens (ed) Victoria County History, 7, The City of Birmingham (Oxford University Press 1964) p 17; A Briggs History of Birmingham (OUP 1952) pp 135-63.
17. H W Arthurs "Special Courts, Special Law: Legal pluralism in 19th century England" in G Rubin and D Sugarman (eds) Law Economy and Society (Professional books, Oxon 1984) p 380.
18. Stephens op cit p 337.
19. ibid p 336.
20. Sir John Hollams The Jottings of an Old Solicitor (Murray, London 1906) pp 21-2.
21. B Abel-Smith and R Stevens Lawyers and the Courts (RKP, London 1967) p 34.
22. Stephens op cit p 337.
23. G Best Mid-Victorian Britain (Panther, St Albans 1973) pp 105.
24. Ballard op cit I, pp 19, 83.
25. Birmingham Directory 1800.
26. E Jones Accountancy and the British Economy 1840-1980 (Batsford, London 1981) pp 26-7, 54; Birmingham Directory 1845 pp 201-2.
27. BLS Minutes 21.1.1854, 20.1.1875, 3.3.1875.

28. A Offer Property and Politics (Cambridge University Press, London 1981) p 98.
29. F Thompson Chartered Surveyors (RKP, London 1968) pp 131, 367; BFP III p 92; Boase I p 563.
30. E Hughes "The professions in the 18th Century" Durham University Journal XLIV (1952) p 49.
31. Offer op cit p 100.
32. Ledger Miss Pimm's Estate 1840-70, Call Book of R Sadler 1853, Dairy of John Ellison, Clerk, (EPO).
33. Pike pp 118-20.
34. Larson The Rise of Professionalism (University of California Press, Berkeley 1977) pp 6-8.
35. A Russell The Clerical Profession (SPCK, London 1980) pp 235-5.
36. R W Ram "Influences on the patterns of belief and social action among Birmingham Dissenters 1750-1870" in A Bryman (ed) Religion in the Birmingham area (University of Birmingham Institute for the Study of Worship and Religious architecture, Birmingham 1976) p 42, R Waterhouse "Arthur Ryland's First Journal" Central Literary Magazine 39 (1961) p 11; Edg 8 pp 65-7; Boase III p 1065-6.
37. P Elliott The Sociology of the Professions (Macmillan, London 1972); W Reader Professional Men (Weidenfeld and Nicolson, London 1966).
38. R Robson The Attorney in Eighteenth Century England (Cambridge University Press, London 1959) p 167.
39. LO 3 p 380.
40. H Kirk Portrait of a Profession (Oyez, London 1976) pp 114-5.

41. ibid p 108.
42. Offer op cit pp 54-8.
43. Abel-Smith and Stevens op cit pp 53, 62; W Holdsworth A History of English Law (Methuen, London 1965) 15 pp 223-247; Kirk op cit pp 23-46.
44. Offer op cit pp 61-2.
45. Abel-Smith and Stevens op cit p 187; M Birks Gentlemen of the Law (Stevens, London 1969).
46. E B V Christian Solicitors: an outline of their history (Stevens, London 1925) p 165; M Krotter "The rise of the English Solicitor" Law Society of Upper Canada Gazette 7 (1973) p 172.

Chapter Three

1. M M Krotter "The rise of the English Solicitor" Law Society of Upper Canada Gazette 7 (1973) p 159; E B V Christian Solicitors: an outline of their history (Stevens, London 1925) pp 115-117; W Reader Professional Men (Weidenfeld & Nicolson, London 1966) p 68; E Hughes "The professions in the 18th century" Durham University Journal 44 p 55.
2. H Kirk Portrait of a Profession (Oyez, London 1976) p 204.
3. W Holdsworth A History of English Law (Methuen, London 1965) 15 pp 223-35. For statements attributing the defects of the profession to social background see the evidence of Maugham, attorney, before the Select Committee on legal education 1846 (No. 686) p 35 and LTI (1843) pp 131-2.
4. M Miles "A haven for the privileged: recruitment into the profession of attorney in England 1709-1792" Social History 11 (1986) p 198 and "Eminent practitioners: the new visage of the county attorney c1750-1800" in G Rubin and D Sugarman (eds) Law Economy and Society (Professional Books, Oxon 1984) pp 477-9.
5. Miles "Haven for the privileged..." p 201.
6. See for example "A history of Nottingham Law Society 1875 - 1975" (typescript 1975) compiled by R J T Smith.
7. Miles "A haven for the privileged..." p 203.
8. R S Neale Class and Ideology in the 19th Century (RKP, London 1972) pp 22-3; T Tholfson refers to the professions and this middle class fraction as having a "somewhat undefined social position" in Working Class Radicalism in Mid-Victorian England (Croom Helm, London 1976) p 140. Perkin also remarks on their ambiguous position in The Origins of Modern English Society (RKP, London 1969) pp 220-1.

9. Quoted in Neale op cit p 6.

10. F Bechhofer and B Elliott "Petty property: the survival of a moral economy" in Bechhofer and Elliott (eds) The Petite Bourgeoisie. Comparative studies of the uneasy stratum (Macmillan, London 1981) pp 183-4; R Scase "The petty bourgeoisie and modern capitalism: a consideration of recent theories" in Bechhofer and Elliott op cit pp 149-51; I Inkster "Marginal men: aspects of the social role of the medical community in Sheffield 1790 - 1850" in J Woodward and D Richards (eds) Health care and popular medicine in 19th century England (Croom Helm, London 1977). On the Birmingham context see D Smith Conflict and Compromise (RKP, London 1982) p 152 and L Davidoff and C Hall Family Fortunes (Hutchinson, London 1987) p 36.

11. J Hill and R K Dent Memorials of the Old Square (Achilles Taylor, Birmingham 1897) pp 44, 53, 81, 115; G C Barrow Wragge and Co (privately printed) p 50.

12. D Duman "The English Bar in the Georgian era" in W Prest (ed) Lawyers in Early Modern Europe and America (Croom Helm, London 1981) pp 91-3; The English and Colonial Bars in the 19th Century (Croom Helm, London 1983) pp 18-19 and The Judicial Bench in England 1727 - 1875 (Royal Historical Society, London 1982) p 51. The officer corps of the Victorian army maintained a gentlemanly tradition, see C B Otley "The social origins of British army officers" Sociological Review 18 (1970) pp 224-5 and E M Spiers The Army and Society 1815-1914 (Longman, London 1980) p 7.

13. M J Peterson "Gentlemen and medical men" Bulletin of the History of Medicine 58 (1984) pp 458, 461-2, 464, 468-9.

14. V Zwanenberg "The training and careers of those apprenticed to apothecaries in Suffolk 1815 - 58" Medical History 27 (1983).

15. This contradicts the opinion of Erasmus Darwin to the effect that Birmingham attracted eminent professional men with the prospect of a flourishing practice. His assertion may have applied to the late 18th rather than early 19th century, see P Ballard "A commercial and industrial elite" Ph.D. Reading 1983, I, p 16.
16. John Wade The Extraordinary Black Book (London 1831) pp 250-3, 261.
17. ibid pp 255, 277.
18. T H Ford Albert Venn Dicey (Barry Rose, Chichester 1985) p 83.
19. Midlands Counties Herald 22.1.1857 p 16.
20. ibid.
21. LO 1 (1830) p 38; LO 39 (1849) p 29; LO 41 (1850) p 1.
22. H B Thomson The choice of a profession (Chapman and Hill, London 1857) p 135.
23. BDP 9.10.1862.
24. LO 39 p 420; LO 40 p 381; LO 41 p 11.
25. Select Committee on legal education 1846 (No. 686) p 35.
26. BJ (Supplement) 27.10.1855 and 24.10.1855.
27. G Barrow op cit pp 14-16; J A Langford A Century of Birmingham Life II (Osborne, Birmingham 1868) pp 268-70, 432.

28. E Edwards Personal recollections of Birmingham and Birmingham men (Midland Educational, Birmingham 1877) pp 140; Langford op cit pp 617, 624-5, 633.

29. W H Duignan Diary 1845 (WLSL Acc 138) entries for 7.1.1845, 29.1.1845, 25.3.1845, 18.4.1845; F Ludlow (ed) County Biographies - Staffordshire (Hammond & Co, Birmingham 1901) p 106. W H Duignan became a very respectable solicitor and prominent citizen - town clerk and clerk of the peace in Walsall. The father of the poet A E Housman was a solicitor in Bromsgrove. During the 1860s he kept up the outward appearances of a respectable gentleman, However, the circumstances of the family were straitened as he became an indolent drunkard with wild money-making ideas. The practice was seriously diminished by the 1870s. His main source of income came from his clerkship to the Income Tax Commissioners. The bulk of his work fell on his daughter, Clemence, who, aged 19, worked long hours to prepare the figures. See J Pugh Bromsgrove and the Housmans (Housman Society 1974) pp 124, 135-6 and R P Graves A E Housman: The Scholar - Poet (Oxford University Press, London 1981) pp 57-8.

30. G Holmes Augustan England (Allen & Unwin, London 1982) p 6. See also pp 4-5.

31. Hill and Dent op cit p 111.

32. W Prest "Why the history of the professions is not written" in Rubin and Sugarman (eds) op cit pp 306, 309, See also E Freidson Professional Powers (University of Chicago Press, Chicago 1986) p 29.

33. S Rothblatt Revolution of the Dons (Faber, London 1968) pp 252-5, and 90-1.

34. H B Thomson op cit pp 163-4.

35. Peterson op cit pp 463, 468. See also E Halevy England in 1815 (Benn, London 1949. First Ed. 1924) pp 21-2.

36. H B Thomson op cit pp 31, 129, 135.

37. Report of Select Committee on legal education 1846 (No. 686) p 35. Sir George Stephen was a prominent London solicitor until 1847 when he moved to the Bar. (DNB 18 1046).
38. Miles "Haven for the privileged..." p 197.
39. Peterson op cit p 469.
40. LT 1 (1843) p 93.
41. ibid See also LT 1 p 181.
42. "Attorney and Solicitor Bill" LT 35 (1860) p 65.
43. LT 40 (1865) p 621.
44. A F Hooper "Mid-Victorian Radicalism: community and class in Birmingham 1850-80" Ph.D. London 1978 pp 31-4, 49, 374, 410; E P Hennock Fit and Proper Persons (Edward Arnold, London 1973) pp 43, 47, 152; T Parsons "I Remember" CV1 p 141-2.
45. Smith op cit pp 11-12, 151.
46. Osborne 1 p 38, 91; Birm. Biog 4 p81.
47. Birm Biog 1 pt 1, pp 13-14.
48. C Gill History of Birmingham I (OUP, London 1952) pp 217-8, 224, 255; Langford op cit pp 290-8, 626, 633, 652.
49. J B Stone Annals of the Bean Club 1904 (BRL 184784) pp 3-4, 8, 10, 19, 21, 29, 34, 37, 40-2.
50. BLS minutes 19.8.1837.

51. Smith op cit pp 7-14; C Behagg "Masters and manufacturers: social values and the smaller unit of production in Birmingham 1800 - 50" in G Crossick and H G Haupt (eds) Shopkeepers and Master Artisans in 19th century Europe (Methuen, London 1984).
52. BLS minutes 7.12.1833.
53. ibid 5.3.1836, 7.5.1836, 23.4.1862, 18.6.1862, 14.7.1862, 26.7.1862, 21.11.1862, 31.10.1863. For examples of proposals to remove the certificate duty see ibid 2.4.1836, 27.1.1897. See also Kirk op cit pp 132-3.
54. BJ (Supp) 13.10.1855.
55. BLS minutes 30.8.1823, 8.11.1823, 27.8.1824, 1.7.1842, 27.7.1842, October 1842, 13.12.1842, 6.5.1843, 21.10.1843, 14.3.1846, 6.11.1852, 13.11.1852, 5.3.1853, 22.10.1853, 20.5.1854, 29.10.1854, 15.12.1855. "Covering" was thought to be widespread early in the 19th century in Birmingham, ibid 7.9.1822. On covering generally see A M Carr-Saunders and P A Wilson The Professions (Frank Cass, London 1964, First Ed 1933) p 442. For a discussion of similar problems faced by the medical profession, see F B Smith The People's Health (Croom Helm, London 1979) pp 357-9.
56. BLS minutes 7.9.1842, 4.11.1842, 13.12.1842, 6.12.1848, 8.5.1852, 20.12.1852, 5.3.1853, 11.3.1853, 22.10.1853.
57. ibid 13.3.1841, May 1841, 23.10.1841, 17.6.1848; BJ 12.11.1856.
58. BLS minutes 12.2.1869; BDP 8.10.1862. See also footnote 54.
59. Edwards op cit pp 141-2; G C Barrow op cit pp 83-89.
60. LO 40 p 254.

61. BLS minutes 25.2.1854, 28.6.1854. The case is reminiscent of the action by Dodson and Fogg, attorneys, against Mrs Bardell in Charles Dickens The Pickwick Papers Chapters 46 and 47.
62. C T Saunders BLSS Address 1866 (BRL 294413) p 14.
63. Edwards op cit p 168.
64. ibid p 165
65. TC Dec 1865 p 4.
66. S Warren The moral, social and professional duties of attornies and solicitors (Blackwood, London 1848, p 197.
67. A Ryland BLSS Address 1861 (BRL 294412) p 8; J Motteram BLSS Address 1863 (BRL 130500) p 4.
68. C T Saunders op cit p 14. See also Warren op cit p 239; A R Adams BLSS Address 1867 (BRL 294414) pp 9-10 and James Clegg (ed) Autobiography of a Lancashire Lawyer, being the life and recollections of John Taylor (Daily Chronicle, Bolton 1883) p 62.
69. J Motteram op cit p 5.
70. Letter from "Delta" LO 9.12.1830 p 131. See also Warren op cit p 100.
71. BLS minutes 19.8.1837.
72. See LT 1 p 217.

Chapter Four

1. R Dingwall "Accomplishing Profession" Sociological Review 24 (1976).
2. ibid; and M S Larson The Rise of Professionalism (University of California Press, Berkeley 1977).
3. M Birks Gentlemen of the Law (Stevens, London 1960); B Abel-Smith and R Stevens Lawyers and the Courts (Heinemann, London 1967). An exception is M Miles "Eminent Practitioners: the new visage of the country attorney c1750 - 1800" in G Rubin and D Sugarman (eds) Law Society and Economy (Professional Books, Oxon 1984).
4. H Kirk Portrait of a Profession (Oyez, London 1976) pp 88, 125-54; Birks op cit p 249.
5. Birks op cit p 169.
6. LT 5.12.1846 p 204.
7. A S Rowley, Interview with G C Barrow, 26.9.1986.
8. Common Law:- Birm Biog 1 p 32 (T Colmore); FF I 593 (M Hooper); FF II 823 (E Rowlands). Family Practice:- Birm Biog 10 p61 (E Clutterbuck); Edg 22 p 27 (S R Shore). Criminal Law:- Osborne 1 p 191 (T H Gem) HN p 244 No. 53 (Hall-Wright); Edg 8 pp 1-8 (J B Hebbert) HN 250 No. 62 (F Hooper).
9. I am grateful to Mr G C Barrow for this privately printed material on the firm of which he was lately a partner.
10. Wragge & Co deposits (SCRO D707/1-21). See leases (D707/3), sales (D707/4), conveyances (D707/13/5), mortgages (D707/6/2), and arbitrations (D707/11/9).
11. G C Barrow Wragge & Co (privately printed); Birm Mag 2 (63) p 9.

12. Birm Biog 1 p 66; Ryland Martineau & Co deposit (BRL Kay Ms 94); BRB 1867 pp 29-30; BRB 1880 p 27; Letter, Ryland Martineau & Co to Joseph Chamberlain 18th July 1900 (Cham. Coll. JC28/A/3/6); Bill Books 1837, 1866, 1873 (RM & Co).
13. IM December 1892 pp 53-4 (Ryland), HN 244 No. 53 (Hall-Wright).
14. Edg 5 p 177 (Tyndall), Birm Biog 4 pp 81-3 (Milward).
15. H 18 p 78 (Moore-Bayley), Birm Biog 4 pp 81-3 (Milward).
16. Osborne 1 p 259.
17. HN 265 No. 94.
18. Birm Biog 6 p 114, Edg 27 p 494.
19. J T Bunce Josiah Mason: A Biography (privately printed Birmingham 1882) pp 76, 101.
20. Call Book, R Sadler 1853; Day Book 1888-90, Ledgers (EPO).
21. T S Ashton The Industrial Revolution 1760 - 1830 (Open University Press, Milton Keynes 1980) p 45; AG 12.10.1857 and 19.10.1857; Edg 19 p 165 (Glaiyser); BFP 4 (1891) p 11.
22. W Johnston England as it is II (Irish University Press Reprint, Shannon 1971 First Ed. 1851) p 169; W Reader Professional Men (Weidenfeld & Nicolson, London 1966) p 27.
23. Barrow op cit p 22.
24. W H Duignan, Diary 1845 (WLSL Acc 138), entries for January 23, 24, 29, 30 and February 4, 10, 11.

25. Lane & Clutterbuck, Letter Book 1884 - 5 (LC & C); Kirk op cit pp 162-3.
26. FF I 395; L Duckworth The Story of Warwickshire Cricket (Paul, London 1974) p 79 (Lane); Birm Biog 10 p 61 (Clutterbuck). See also Reader op cit p 24.
27. Birm Biog 13 pp 120-1; BFP I (1888) pp 13-14.
28. Osborne I p 448.
29. R Ryan "The early expansion of the Norwich Union Life Insurance Life Society 1808 - 37" Business History 27 (1985) pp 173, 166-7.
30. Birmingham Trade Directories for 1845, 1865, 1870, 1886, 1890 and 1895. BRB 1867 p 30.
31. T S Eddowes, Ledger and R Sadler, Call Book, 24.5.1853, suggests that the firm had knowledge of agricultural matters (EPO).
32. Ryan op cit.
33. Birm Biog 6 p 79. F M Burton (1843 - 1907), of Harborne, was Vice-Consul in 1889, a Volunteer, Sportsman and Conservative.
34. BLS minutes 19.10.1844.
35. Birm Biog 5 p 74 (Glaisyer), FF I 546 (Porter), LT 115 p 159 (Smith), Edg 19 p 104 (Rogers), M 2 p 68 (Buller).
36. BRB 1869 p 40; E P Hennock Fit and Proper Persons (Edward Arnold, London 1973) pp 36, 152.
37. BRB 1880 pp 85, 90, 95. Birm Biog 11 p 182.
38. A 2 (1906) p 84.

39. BRB 1875 p 46, Birm Biog 11 p 234 (Buller), Birm Biog 7 p 157 (O'Connor), BRB 1885 p 49 (Phillips).
40. Birm Biog 5 p 34.
41. H 18 p 77, Birm Biog 7 p 215. He had close ties with major Conservative and business interests, e.g. Randolph and Winston Churchill.
42. AG 16.2.1818, 23.2.18, 30.8.19 and 21.2.31. Others included Barker and Unett, William Palmer and Clement Ingleby, see AG 26.1.1818, 16.3.1818, 6.9.1830. 5.9.1831, 7.8.1848. See also Reader op cit p 27.
43. S R Broadbridge The Birmingham Canal Navigations I 1768 - 1846 (David & Charles, Newton Abbot 1974) pp 120-1, 144, 101; AG 6.9.1830; J Hill and R K Dent Memorials of the Old Square (Achilles Taylor, Birmingham 1897) pp 115-6.
44. Solicitors were prominent in the formation of these companies, see J Langford A Century of Birmingham Life II (Osborne, Birmingham 1868) pp 460-1 (G Barker) and AG 30.8.1830 (J Corrie).
45. J R Kellett Railways and Victorian Cities (RKP, London 1979) p 129; Osborne 1 pp 38-9. Whateley was agent to the Gooch family.
46. Barrow op cit pp 22, 24-5.
47. A S Rowley. Interview with Charles Beale 10.11.1986.
48. Osborne 1 p 227. For the careers of Joseph Ludlow (1817 - 1890), auctioneer, Samuel Carter (1805 - 1878) and W J Beale (1808 - 1883) see BFP 3 (1890) pp 92-3, YN 2 (1896) p 57, Boase 563 and SJ 22 p 302.
49. Interview, C Beale.

50. R D W Evans "A short history of the Chattock and Mitchell families at Solihull and the practice of the law as solicitors in Birmingham and Solihull" (Typescript 1975). Joseph Gillott, a friend of Mitchell was a wealthy pen nib manufacturer. Mitchell married his cousin, Florence, granddaughter of Gillott. For fluctuations in the property market see A Offer Property and Politics (Cambridge University Press 1981) pp 51-62. However, there was a large amount of property business in the mid-1890s reflected in the sale of Common form Conditions of Sale, (BDP 20.2.1896).
51. H 20 p 236 (Williams), FF I 568 (Tyler), Birm Biog 45 pp 11-12 (Lovatt).
52. Birm Biog 1 p 66. See also IM December 1892 pp 35-4 (Ryland), SJ 22 pp 278, 302 (Carter).
53. Birm Biog 7 p 215.
54. Edg 5 p 177. See also L Davidoff and C Hall Family Fortunes (Hutchinson, London 1987) pp 234, 262.
55. W H Ryland Reminiscences of T H Ryland (Midland Counties Herald, Birmingham 1904) pp 113-6. For Wragge & Co see Barrow op cit pp 30-2 and arbitration of Thompson and Williams (SCRO D707/11/9). Generally, R B Ferguson "The adjudication of commercial disputes and the legal system in modern England" British Journal of law and society 7 (1980) pp 141-8.
56. BLS minutes 20.2.1895.
57. BDP 21.2.1895; BLS minutes 26.6.1895; Osborne 1 pp 508-11 (Martineau), HN 235 (Clarke). C G Beale was also known as a great conciliator and arbitrator in disputes, see Interview, C Beale, and BDP 17.10.1901 in "Notes, letters, newspaper cuttings... relating to the Beale family" (BRL 500970) p 71.

58. Arthur Smith represented the Board of Trade in legal matters in Birmingham (LT 115 p 159). Participation in conspicuous trials could bring solicitors a measure of celebrity, e.g. W Edwards-Wood (Birm Biog 1 pt 3, p 89), J B Hebbert (Edg 8 p 3), W Morgan (Edg 7 pp 97-9), A O'Connor (Birm Biog 7 p 157, FF I 94), J Rowlands (Birm Biog 13 p 120), H H Willison (Birm Biog 35 pp 160-3).
59. H Smith "The resurgent County Court in Victorian Britain" American Journal of Legal History 13 (1969) pp 126-138; M D Chalmers "The County Court System" LQR 3 (1881) pp 1-8; Kirk op cit p 159.
60. BSB 1 pt 2, p 206.
61. Osborne 1 p 731; E Edwards Personal recollections of Birmingham and Birmingham men (Midland Educational, Birmingham 1877) pp 164-8.
62. BFP 3 (1890) pp 32-3. Parry (1826 - 1899), admitted 1861, had a large and valuable practice, became County Court Registrar in 1876.
63. BFP 1 (1884) p 14.
64. FF I 604.
65. Birm Biog 11 p 182 (Ansell), FF I 128 (Clulow), FF II 598 (Hurst).
66. TC April 1863 p 3.
67. Birm Biog 7 p 159. He was known as a first-rate advocate with a considerable Public Office practice. For a literary discussion of the principles of advocacy see A Trollope Orley Farm Chapters 61-2, 75. For another example see Serjeant Buzfuz in Charles Dickens The Pickwick Papers Chapter 34.
68. BFP I (1888) p 14.

69. S Rogers "The ethics of advocacy" LQR 15 (1899) pp 259-80.
70. H J Hanham Elections and electioneering in the age of Disraeli and Gladstone (Longmans, London 1959) pp 233-6. Kirk op cit pp 190-2.
71. Edg 8 (1888) pp 2-4; BSB I p 190; Osborne I p 38 (Whateley); Hanham op cit p 244.
72. Liberal registration agents:- T Colmore, E Wright, T R T Hodgson (BJ 16.10.1847, 1.11.1856, BDP 18.2.1865, Osborne I p 32); A S Field (Birm Biog 5 pp 37-8, 120), W Morgan (Birm Biog 5 p 74), E H Lee (Edg 24 p 47), J W Clulow (Birm Biog 10 p 158), D Davis (Edg 22 pp 278-80). Conservative agents:- W A Williams (FF I 715), W F Jeffery (H 5 p 219) T E Forsyth (H 4 p 291), H Tanner (Birm Biog 6 p 114), W Goodrick-Clarke (Birm Biog 32 p 150).
73. Osborne I p 197; AG 19.10.1857; BDP 18.10.1862.
74. BFP 1 (1888) p 14. A Briggs History of Birmingham (OUP, London 1952) p 187.
75. Edg 19 p 161 (Glaisyer), Edg 18 pp 138-9 (Bradley). Bradley was the agent for Joseph Chamberlain in the 1880s.
76. BDP 19.10.1861 18.10.1862 (Mathews), Birm Biog 11 p 183, BFP 3 p 63 (Ansell).
77. Hanham op cit p 244, Kirk op cit pp 192-3.
78. C Dickens op cit Chapter 13, Edg 19 pp 163-4, Birm Biog 5 p 74 (Glaisyer).
79. BFP 3 p 63 (Ansell); W Perkins, Diary 1867 - 9 (EPO), Entries for October and November 1868.
80. BJ 1.11.1856; AG 2.11.1857.

81. Kirk op cit pp 193-7. Income from a legal appointment could mean the difference between failure and survival, see R P Groves A E Houseman, The Scholar - Poet (OUP, London 1981) pp 57-8.

82. B Keith-Lucas The unreformed local government system (Croom Helm, London 1980) pp 152-4; Hennock op cit p 9; P J Waller Town City and Nation 1850 - 1914 (OUP, London 1983) pp 281-88.

83. J Hill and R K Dent op cit pp 81-2, C Gill History of Birmingham (OUP, London 1952) pp 164-5; Keith-Lucas op cit p 119.

84. BCP 1851 - 4 (1853) pp 35, 110, 207-11, BCP 1861 - 3 (1862) p 193, BCP 1863 - 5 (1864) pp 270-6 (1865) pp 99-100, BCP 1875 - 6 pp 94, 97, 209; BCP 1878 - 9 (1879) p 480; BCP 1886 - 7 pp 186, 363. Osborne I p 30, BSB I p 316, Edg 27 pp 530-1, Birm Biog 6 pp 123-5, BFP I pp 147-8.

85. BCP 1854 - 7 (1856) p 239, (1857) pp 146, 152, 162-4.

86. Searchlight I. No. 53 (1913) p 8; BCP 1898 - 9 (1899) pp 242-5, BCP 1899 - 1900 (1900) pp 227-9, 605; FF I 234 (Nadin).

87. Keith-Lucas op cit pp 61-3; ILS Annual Report 1871 (LSL) Appendix pp 19-20; BCP 1882 - 3 p 468; BFP 4 pp 11-12; Pike p 94 (Powell), Edg 1 p 110; A I p 135 (Mathews) FF II 852, Birm Biog 5 p 163 (James).

88. Eg. W H Gem and his son T H Gem.

89. Regarding competition, there were 18 applicants for the post of Town Clerk in 1869 compared to 4 in 1854. The job of assistant solicitor in the Town Clerk's department attracted 72 applicants in 1881, perhaps young, newly admitted men.

90. Keith-Lucas op cit p 63.

91. M S Larson op cit pp 44, 260 note 11.

92. Osborne 1 p 30.
93. BSB 1 p 316.
94. OC (ns) II No. 28 p 1. See also Staffordshire Leaders: Social and Political (Alexander & Sons, London n.d) p 261 (Joy).
95. "Alderman Martin's Reminiscences. Cuttings from the Birmingham Weekly Mercury 1902 - 3" (BRL 211801) p 23; "Newspaper Cuttings relating to the Morgan Family 1851 - 1880" (BRL 214297) pp 21-7, BCP 1851 - 4 (1854) pp 200-15, 218; BJ 2.5.1854. A similar event occurred in Reading, see A Alexander Borough Government and Politics (Allen & Unwin, London 1985) p 73.
96. Presidential address delivered to MPLA meeting, Birmingham, reported in BDP 8.10.1862.
97. ibid
98. S Warren The moral, social and professional duties of attornies and solicitors (Blackwell, London 1848) p 217; BCP 1857 - 9 (1859) pp 106, 130 (1860) pp 65-6.
99. Osborne II p 45, 75; Searchlight 1 (53) (1913) p 36; BCP 1861 - 3 p 32; BFP II p 20.
100. A I p 113. See also A II pp 83-7; BFP 3 pp 61-4; Pike p 121; AG 11.6.1879; BDP 28.4.1868, 21.1.87, BCP 1878 - 9 pp 240, 521-2.
101. Ansell's partner, Ashford, was also clerk to the Erdington Urban District Council (Kelly's Directory of Birmingham 1909 p 1104); Birm Biog 5 pp 31-2 (Ansell family).
102. BLS Annual Report 1912 p 10 in Annual Reports Law Society Birmingham 1907 - 26 (BRL L43.06); HN 265 No. 94 (Shakespeare); OC (ns) II No. 37 (Smith); YN 2 (April 1896) pp 57-8 (Ludlow).

103. Miles op cit p 480; Keith-Lucas op cit p153; Birm Biog 4 p 67 (Bowen).
104. A II p 87.
105. HN 265 No. 94.
106. Birm Biog 6 p 125 (Smith). On Alfred Walter, Public Prosecutor and his successor, J E Hill see BFP 1 p 132 and Searchlight 24.7.1913 p 2.
107. BFP 1 pp 148-9.
108. Eg. Collis and Bernard. Articles of Co-Partnership 10.8.1850 (HMRO BA 9760/1 (i)) and King and Bernard Correspondence 1860 - 80 (HWRO BA 9760/2 (i) 1-3). On the prevalence of solicitors in posts. Davidoff and Hall op cit p 261.
109. IM (1892) 84 pp 51-2; Ryland Martineau & Co, Bill Books (1866) p 130, (1873) p 614 (RM & Co); Edg 4 p 4, 16 p 275.
110. C Harris The history of the Birmingham Gun Barrel Proof House (Published by the Guardians 1949) pp 71, 90, 116-7; Birm Biog 13 p 120.
111. A Musgrove History of Lench's Trust 1525 - 1915 (Birmingham 1926) p 38.
112. Charles Best was professionally attached to many well-known local charities. The firm of which he was a partner continued the connection, see BRB 1865 pp 47-8, 1870 pp 39-40, 1875 pp 43-4, 1880 pp 47-8, 1890 pp 47-50.
113. Edg 2 p 79; Birm Biog 1 p 68.
114. Birm Biog 4 p 103; Edg 2 p 189; BFP 2 p 166 (Johnson); BFP 2 p 36 (Mathews); Longford op cit p 479 (Ryland).

115. Osborne 1 p 91. The Whateleys were involved with Milward's Charity, the General Hospital and the charity for necessitous clergy.
116. BFP 5 p 143; J T Bunce op cit pp 101-6.
117. FF I 448; Birm Biog 11 p 233. See also Bradley, officer and secretary to the (Baptist) Church of the Redeemer, (Pike p 93).
118. P S Morrish "The struggle to create an Anglican Diocese of Birmingham". Journal of Ecclesiastical History 31 (1980) pp 59-88; FF I 89 (Shore); Edg 33 pp 244-5 (Clarke).
119. Letter, W H King to E W Bernard 1882 (HWRO BA9670/2 (ii) 4).
120. J Woodward To do the sick no harm (RKP, London 1974) pp 23-4. O Checkland and M Lamb (eds) Health Care as Social History (Aberdeen University Press, Aberdeen 1982) pp 21-42.
121. Larson op cit p 34.

Chapter Five

1. For the trait approach see, for example, A M Carr-Saunders and P A Wilson The Professions (Frank Cass, London 1964, First ed 1933) pp 418-22; G Millerson The Qualifying Associations (RKP, London 1964); H M Vollmer and D L Mills (eds) Professionalisation (Prentice Hall, Englewood Cliffs 1966).
2. D Duman "The creation and diffusion of a professional ideology in 19th century England" Sociological Review 27 (1979) pp 127-30.
3. T Parsons Essays in Sociological Theory (Free Press, New York 1954) p 35.
4. W Reader Professional Men (Weidenfeld & Nicolson, London 1966) p 161.
5. H Perkin The Origins of Modern English Society (RKP, London 1969) pp 254-6, 261.
6. T Johnson Professions and Power (Macmillan, London 1972) p 25.
7. For example, J Garrard Leadership and power in Victorian industrial towns 1830 - 80 (Manchester University Press, Manchester 1983); E P Hennock Fit and Proper Persons (Edward Arnold, London 1973), P Jones "The recruitment of office holders in Leicester 1861 - 1931" Transactions of Leicestershire Archaeological and Historical society 57 (1981 - 2) pp 64-77.
8. D Podmore Solicitors and the wider community (Heinemann, London 1980) pp 46-56.
9. ibid pp 57-8.
10. R Bendix Max Weber. An intellectual portrait (Heinemann, London 1960) pp 441-3; H H Gerth and C Wright Mills From Max Weber (RKP, London 1948) pp 85, 94-5; Podmore op cit pp XV, 67-72, 74-8.

11. Perkin op cit p 260.
12. G Best Mid-Victorian Britain (Panther, St Albans 1973) p 282.
13. T Tholfsen Working Class Radicalism in mid-Victorian England (Croom Helm, London 1976) p 199.
14. ibid pp 140, 124, 197.
15. R J Morris "Voluntary societies and British urban elites 1780 - 1850: an analysis" Historical Journal 21 (1983) pp 96, 101, 109-10.
16. ibid pp 104, 116; M Meller Leisure and the late Victorian City (RKP, London 1976) p 40.
17. Tholfsen op cit p 140; Perkin op cit pp 220-1.
18. J H C Harrison The Early Victorians (Weidenfeld & Nicolson, London 1971) p 135.
19. Tholfsen op cit p 201.
20. I Inkster "Marginal men: aspects of the social role of the medical community in Sheffield 1790 - 1850" in J Woodward and D Richards (eds) Health care and popular medicine in the 19th century (Croom Helm, London 1977) pp 128-9.
21. ibid pp 130, 139.
22. ibid p 143.
23. A Ryland was involved in establishing industrial schools (J A Langford Modern Birmingham and institutions I (Osborne, Birmingham 1873) pp 212-4) and his cousin T W Ryland was identified with the Birmingham Working Boys Home (Edg 28 p 163).
24. Inkster op cit p 149.

25. R Dingwall "Accomplishing Profession" Sociological Review 24 (1976) p 338; Inkster op cit p 130.
26. G Crossick An artisan elite in Victorian society (Croom Helm, London 1978) pp 91, 101.
27. Garrard op cit and "Social history, political history and political science: the study of power" Journal of social history 16 3.
28. Crossick op cit p 101.
29. See note 27.
30. Garrard "Leadership and power..." pp 24-6; "The middle class in 19th century national and local politics" in J Garrard, D Jary, M Goldsmith and A Oldfield (eds) The middle class in politics (Saxon House, Farnborough 1978) pp 41-5; L Jones "The public pursuit of private profit" Business History 28 3, (1983) pp 240-1.
31. Garrard "Leadership and Power..." pp 5,76.
32. W C Lubenow The politics of government growth (David & Charles, Newton Abbot 1971) *passim*; Garrard "Leadership and Power..." pp 6, 23-31; "The middle class..." pp 48-50.
33. Garrard "Leadership and Power..." pp 31-2.
34. B Harrison "Philanthropy and the Victorians in Peaceable Kingdom (Clarendon Press, Oxford 1982) pp 217-259.
35. Garrard "The middle class..." pp 57-8. For the reluctance of local solicitors see BDP 28.7.1886.
36. Crossick op cit p 88; Garrard "Leadership and Power..." p 35.
37. Lichfield Mercury 17.1.1890, 19.8 1892.

38. Osborne I pp 449, 451.
39. Lichfield Mercury 1.7.1898.
40. Garrard "The middle class..." p 59.
41. LT 30 p 109.
42. Birm Mag 2 (1899) p 32. See also LT 104 p 172.
43. Garrard "The middle class..." pp 59-60. For the role of C G Beale's wife see J Rimmer Troubles Shared : The story of a Settlement 1899 - 1979 (Phlogiston Publishing, Birmingham 1980).
44. BCP 1900 - 1901 (1900) p 5.
45. BLS meeting reported in BDP 24.2.1898.
46. LT 1 p 242 and 93.
47. S Warren The moral, social and professional duties of attornies and solicitors (Blackwood, London 1848) passim.
48. Edg 2 p 79.
49. Edg 4 p 3.
50. Duman op cit p 114.
51. For references to the religious, and especially Unitarian, aspects of involvement in public work, see R V Holt The Unitarian contribution to social progress in England (Lindsey Press, London 1958) pp 13-28; A Benton "The Unitarians" in N Tiptaft (ed) Religion in Birmingham (N Tiptaft Ltd, Worcs. 1972). Many solicitors came from families within a powerful Unitarian network.

52. BLS minutes 3.1.1818. For Perkin the professionalisation process was one of seeking respectability, Perkin op cit p 255.
53. LT 1 pp 15, 131.
54. LT 1 p 242.
55. Nearly every year for which records remain contains a reference to professional status as being more than just an educational matter.
56. Eg. Wills BLSS address 1857 (BRL D18) pp 15-16; Motteram BLSS address 1863 (BRL 130500) p 11; Saunders BLSS address 1866 (BRL 294413) passim.
57. Harris BLSS address 1862 (BRL 130499) p 17.
58. Ryland BLSS address 1861 (BRL 294412) passim.
59. LT 30 (1858) p 293.
60. IM Dec 1892 p 52.
61. Edg (1882) p 190.
62. Duman op cit p 117; S Rothblatt Revolution of the Dons (Faber, London 1968) p 91.
63. Duman ibid pp 118, 120, 124.
64. H Kirk Portrait of a Profession (Oyez, London 1976) p 197.
65. Dart 12.12.1890, 19.12.1890, 26.12.1890.
66. Hennock op cit pp 44, 47.
67. BDP 21.5.1886.

68. ibid 10.12.1874, Osborne 1 p 31.
69. There were 13 Presidents, but Lewis (1891-3) practised in Walsall.
70. Edg 2 (1882) p 78.
71. Birm Biog 1 p 69. See also Osborne 1 p 44.
72. Edg 2 p 188, BFP 2 p 164 (Johnson); Edg 1 p 110, Birm Biog 5 pp 161-7 (Mathews); Birm Biog 4 pp 103-4 (Saunders); Edg 4 (1884) p 1; Osborne 1 pp 508-11 (Martineau); H 1 pp 61-2, Edg 33 (1913) p 245 (Clarke); Birm Biog 10 p 187, IM 12 (1905) p 182 (Godlee); Birm Biog 11 pp 182-8 (Ansell); Osborne 1 pt. 3, p 94, Birm Biog 1 p 259 (Marigold); Osborne 1 pt.3, p 168, Birm Biog 1 p 575 (Horton).
73. Birm Biog 5 pp 63-4.
74. FF I 593 (Hooper) FF I 448 (Buller) Birm Biog 3 p 55 (Thomas) LT 115 p 159 (Smith).
75. FF I 555. For the Mary Ashford case see A K Clarke "Rape or Seduction? A controversy over sexual violence in the 19th century" in London Feminist History Group The sexual dynamics of history (Pluto, London 1983).
76. Birm Biog 5 p 2.
77. YN 2 (1896) p 58.
78. Osborne 1 p 69.
79. G W Jones Borough Politics (Macmillan, London 1969) p 119.
80. Correspondence E W Bernard and W H King 1866 - 80, 1882 - 4. (HWRO BA9670/2 (i) 1-8, BA9670/2 (ii) 1-16).

81. BFP 2 p 164. For examples of those relinquishing posts see BFP 2 p 36 (Mathews); H 15 p 158 (Pepper); MKHJ 8 p 161 (Rogers); LT 115 p 159 (Smith); Edg 22 p 181 (Walthal). For statements on the problem of combining public work with a solicitor's practice see BFP 2 p 164 (Johnson) and Edg 1 p 110 (Mathews).
82. L Jones op cit pp 240-1.
83. "Notes, letters, newspaper cuttings... relating to the Beale family of Birmingham" (BRL 500970) p 52.
84. Birm Biog 10 p 178.
85. BSB 1 pt. 2, p 206.
86. Edg 33 (1913) p 245 (Clarke); Edg 1 p 112, (Mathews); Birm Biog 26 p 33 (Walthal).
87. J Field "Wealth, styles of life and social tone amongst Portsmouth's middle class 1800 - 75" in R J Morris (ed) Class Power and social structure in British 19th century towns (Leicester University Press, Leicester 1986) pp 88-100.
88. P Bailey Leisure and class in Victorian England (RKP, London 1978) pp 57, 64.
89. Cutting T H Gem Scrapbook (BRL 150861) p 70.
90. R Waterhouse "Arthur Ryland's first journal" Central Literary Magazine 39 (1961) p 12, P Ballard "A commercial and industrial elite" Ph.D. Reading 1982 I p 292.
91. H Cunningham Leisure in the industrial revolution (Croom Helm, London 1980) pp 89-90, 155.
92. On the Art Gallery, Library and public parks movements see J A Langford Modern Birmingham and its institutions (Osborne, Birmingham 1873) I pp 304-37, 362-76; II pp 128-59, 294-5.

93. R Waterhouse The Birmingham and Midland Institute 1854 - 1954 (Birmingham 1954) pp 7, 11-21, 185-90.
94. Birm Biog 5 p 162.
95. Birmingham Central Literary Association "A Collection of Circulars, Reports etc 1868 - 1911" (BRL 263538) Annual Reports 1866 - 7, 1867 - 8, 1869 - 70, 1870 - 1.
96. W Harris History of Our Shakespeare Club (Private Birmingham 1903) (BRL 182808) pp 3-29. See also the career of George Jabet (Osborne 1 pt. 1, pp 61-4 and Notes and Queries (1902) 23.8.1902 pp 90-1).
97. W H Duignan Notes on Staffordshire Place Names (Froude, London 1902); The Warden 2 (1898) pp 17-29, 20-9.
98. Eg. Birmingham and Midland Counties Archaeological Association Conversazione, BDP 1.11.1862.
99. Ballard op cit I p 337, II p 722; Bailey op cit pp 59-60. Two well known legal billiard players were P Cohen (Pike p 125) and F Hooper (HN 250 No. 62).
100. Bailey op cit pp 76-7.
101. Ballard op cit I pp 338, 367; The Sutton Coldfield Institute Programmes 1884-97 (SH 48.750), Lectures of 26.1.1885, 13.12.1886 and 30.1.1893. Rogers was well known as a literary scholar and public speaker (Edg 19 (1899) pp 101-7). For Mathews see Birm Biog 5 pp 161-7.
102. Edg 1 p 129.
103. T Anderton A Tale of One City (Midland Counties Herald, Birmingham 1900) pp 105-6). For a broader perspective see B Harrison "Pubs" in H J Dyos and M Wolfe The Victorian City (RKP, London 1973) I pp 161-91.

104. Union Club "Rules and Regulations of the Union Club with a list of members 1858 - 1908" (BRL 316565) See 1858.
105. Expulsion from the Union Club could result if a member committed "any act derogatory to the character of a gentleman either in or out of the club house" ibid rules 15 and 19.
106. Searchlight 28.8.1913 p 6.
107. Edg 1 p 129; T H Gem Scrapbook op cit p 228.
108. J Field "Bourgeois Portsmouth. Social relations in a Victorian Dockyard Town" Ph.D. Warwick 1979 p 203; Gem Scrapbook p 62; H Cunningham The Volunteer Force (Croom Helm, London 1975) pp 52-65. Numerous solicitors from solidly middle class backgrounds were volunteers by 1900, e.g. E R Bickley, F M Burton, C Crosskey, T V Holbeche, M Hooper, E Parry, J P Phillips, J P Lambert and R H Whitcombe.
109. Cunningham op cit pp 132-6.
110. A 2 p 87 (Ansell). Other regular hunters included Colmore, Docker, Goodrick-Clarke, F Hooper, T G Tyler and J P Lambert.
111. Birm Biog 32 p 130; Ballard op cit 1 pp 373-4.
112. Birm Biog 21 p 230; G Barrow Wragge & Co (privately printed) p 9; Pike p 127 (Gateley).
113. Owl 29.11.1907 p 9 (Blakemore); Edg 30 p 126 (Monckton).
114. K Sandiford "Cricket and the Victorian Society" Journal of Social History 17 pp 303-4, 310-14.
115. FF I 634 (Carter); Pike p 197 (Lambert); Birm Biog 20 p 171 (Crockford); H 20 p 236 (Williams) "I Remember" p 24 (Lowe) FF I 334 (Hayes).

116. Pike p 123 (Burton); Birm Biog 21 p 23 (Chatwin); Birm Biog 32 p 130 (Goodrick-Clarke); Edg 1 p 126 (Gem); Edg 30 pp 126-7, OC 1 (15) No. 11, p5 (Monckton).
117. D Robertson "Mid-Victorians amongst the Alps" in U C Knoepfmacher and G B Tennyson (eds) Nature and the Victorian imagination (University of California Press, Berkeley 1977) pp 114, 120-1, 125-30. Birm Magnet 2 p 9 (Barrow); Edg 19 pp 107-8 (Rogers); Edg 24 p 49 (Lee); FF I 339 (Freeland); BFP 2 pp 38-9; DNB 2nd supp. Vol. 2. 590-1 (Mathews).
118. Edg 1 p 127 (Gem); Edg 33 p 87 (Phillips); HN 53 p 245 (Hall-Wright). Other tennis players included N Jeffrey, D Davis, S Taunton, F Lowe, F M Pepper, A L Crockford and H Monckton. Monckton was a member of many local clubs and a Vice-President of the Lawn Tennis Association (Edg 30 p 127).
119. H 15 pp 159-60 (Pepper); Birm Biog 42 p 152 (Crowder); IM 12 pp 182-3 (Godlee); Birm Biog 32 p 130 (Goodrick-Clarke); H 5 p 221 (Jeffrey); Edg 30 p 126 (Monckton). Other golfers included P Cohen, J P Phillips, A L Tangye, S Taunton, S Porter and A D Brooks, (FF I 546, H 18 p 63). On golf generally see J Lowerson "Scottish Croquet. The English golf boom 1880 - 1914" History Today 33 (1983) May pp 25-30.
120. Eg. for photography see Barrow (Edg 22 p 110); on horticulture see Buller (FF I 448); for motoring see Pepper (Birm Biog 26 p 53), and an example of one of the many cyclists, see Davis (Edg 22 p 282).
121. Bailey op cit p 76; Field "Wealth, styles of life and social tone..." p 96.
122. This space to make connections was equally important in legal associations such as the BLSS, see Johnson reported in BDP 19.1.1860.

Chapter Six

1. M S Larson The Rise of Professionalism (University of California Press, Berkeley 1977) pp 15, 34, 50; J A Jackson "Professions and professionalisation" in J Jackson (ed) Professions and professionalisation (Cambridge University Press, London 1970) pp 4-5; E Freidson (ed) Professions and their prospects (Sage, Beverley Hills 1973) pp 22, 29; E B V Christian Solicitors: an outline of their history (Stevens, London 1925) p 144; W Holdsworth, A History of English Law (Methuen, London 1965) 15 pp 250-1.
2. W Reader Professional Men (Weidenfeld & Nicolson, London 1966) pp 45-55.
3. A H Manchester Modern Legal history of England and Wales (Butterworth, London 1980) p 54, states that the legal profession was almost totally indifferent to the question of education in the first half of the 19th century, whereas B Abel-Smith and R Stevens Lawyers and the Courts (Heinemann, London 1967) p 53, suggest that the Law Society had an active interest in education.
4. J Roach Public Examination in England 1850 - 1900 (Cambridge University Press, London 1971) pp 29-31; R Blake Disraeli (Eyre & Spottiswoode, London 1966) pp 682-3; C T Saunders BLSS address 1866 (BRL 294413) p 8.
5. Christian op cit p 153; S Warren The moral social and professional duties of attornies and solicitors (Blackwood, London 1848) p 151; H Kirk Portrait of a Profession (Oyez, London 1967) p 52.
6. Report of the Royal Commission appointed to inquire into the arrangements in the Inns of Court and Inns of Chancery for promoting the study of law and jurisprudence 1855 (Cmnd 1988) BPP. Vol. 18, p 128. The BLS kept up a correspondence with ILS on this subject from early in the century (BLS minutes 7.9.1822).
7. W H Duignan "Diary 1845" (WLSL Acc 138).

8. M Birks Gentlemen of the Law (Stevens, London 1960) pp 167-8. For the alternative view see Kirk op cit pp 50-1 and Christian op cit pp 145-6.

9. BLS minutes 22.6.1836, 7.7.1838, 20.10.1838, 3.11.1838, 6.11.1852. Indifference is shown by the attendance of Gem only at the meeting called in 1836 to discuss lectures. See also apathy in Manchester, K H Atkinson A short history of the Manchester Law Society 1838 - 1924 (Manchester 1924) p 19.

10. Ryland BLSS address 1858 in LT 30 p 293 and BLSS address 1861 (BRL 294412) p 5.

11. J A Langford A century of Birmingham Life (Osborne, Birmingham 1868) II p 578-8. A list of law students societies was published by Law Times in 1848. Their aims were largely similar - the advancement of knowledge and the study of law by moots and debate, (LT II p 256).

12. Wills BLSS address 1857 (BRL D18) p 16.

13. Reader op cit pp 43, 45, 47-9; Kirk op cit p 48.

14. Reader op cit pp 115, 158.

15. LT 1 pp 131, and 93, 15 (emphasis in original). See also LT 1 p 218.

16. E W Field, solicitor, from his "Observations of a solicitor on defects in offices, practices and system of costs of the Equity Courts" quoted in T Sadler Edwin Wilkins Field: A memorial sketch (Macmillan, London 1872) pp 25-6. For a fictional example see Charles Dickens The Pickwick Papers Chap. 31.

17. E B V Christian Leaves of the lower branch (Smith Elder, London 1909) p 76. See also the characters of Dodson and Fogg in Charles Dickens op cit chapters 26, 46-7, 57 and Vohles in Bleak House chapter 39.

18. "The judicial investigation of Truth" Quarterly Review 138 (1875) p 230. The ambivalence of the client's position was summarised by Trollope, see Christian "Leaves..." p 88.

19. LT 1 p 242. See also G Harris BLSS address 1862 (BRL 130499) pp 4-5, who considered that an unprincipled solicitor with greater skill and learning was a still more dangerous "pest to society". These sentiments lingered until the end of the century, see Sir E Fry LQR 9 (1893) p 128.

20. S Smiles Self Help (Murray, London Centenary edition 1958, First Ed. 1859) p 361. On gentlemanly character and anti-intellectualism see M Girouard The Return to Camelot. Chivalry and the English Gentleman (Yale University Press, New Haven 1981) p 263.

21. C R Kennedy "Introductory Address 1850" in W S Cox (ed) Annals of the Queens College 4 (London 1873) p 4.

22. Cornhill Magazine 8 (1863) pp 108-9; Warren op cit pp 61, 76.

23. W Johnston England as it is II (Irish University Press reprint Shannon 1971. First Ed. 1851) p 171. See also LT 1 p 242, for professionalism based on the person.

24. LO 1 p 6 (emphasis in original).

25. MPLA Annual Report of the managing committee 1848 (LSL 64B) pp 30,32.

26. Eg. LT 1 pp 181, 217; MPLA Annual Reports op cit for 1853 p 7, 1858 p 16, 1859 p 18.

27. MPLA Annual Report 1853; BLS minutes 29.10.1854. See also Wills BLSS address (BRL D18) pp 11-12.

28. LT 1 p 218.

29. See also LO 1 pp 5, 131; Johnson op cit pp 170-1. On the medical profession see F B Smith The People's Health (Croom Helm, London 1979) pp 368-9.
30. LT 1 p 242.
31. LO 2 p 233. See also MPLA reports in BJ 27.10.1855 (Cookson speech).
32. LT 5 (1845) p 104 (emphasis in original).
33. Eg. The Manchester Law Association in 1852, see Atkinson op cit p 20. See also MPLA Annual Report 1853 p 10.
34. MPLA Annual Report 1853 pp 7-9; BJ 24.10.1855; LT 30 (1857) p 66.
35. MPLA Annual Reports 1858 p 16-17, 1859 pp 18-19; BJ 18.10.1856; LT 30 pp 10,66; Report of the Royal Commission on the Inns of Court and Chancery 1855 (Cmnd 1988) p 128.
36. BLS minutes 13.1.1860, 12.2.1860, 26.10.1861.
37. LT 35 (1860) p 65. See also LT 36 (1861) p 233.
38. BLSS address 1863 (BRL 130500) p 11.
39. LT 1 pp 371, 444-5; 40 p 261; BLSS address 1862 (BRL 130499), 1865 (BRL 254934), 1866 (130501); Select Committee on legal education 1846 (No. 686); Manchester op cit pp 54-7. For a similar debate in the clerical profession see A Haig The Victorian Clergy (Croom Helm, London 1984) pp 72-4.
40. SJ 14 (1870) pp 670-1.
41. LT 45 (1868) pp 408-10. Sometimes known as the "Liverpool Movement" after the Liverpool solicitor, Jevons.

42. BLS minutes 22.1.1869. Johnson was particularly vociferous in arguing the case (BLS annual meeting in BDP 30.1.1869). Saunders, Johnson and Ryland had a deep interest in professional and educational matters and took leading roles in advocating the scheme (SJ 44 p 786; IM Dec 1892 p 54). They were not young, newly-admitted men. They were very successful, Liberal, non-conformist and had not passed through a university education.
43. SJ 25.12.1869 p 158. See also LT 49 p 180; BLS minutes 25.5.1869.
44. LT 13.1.1872 p 198; SJ 10.10.1874 p 919.
45. Manchester op cit p 59; LT 51 (1871) p 111.
46. ILS Annual Report 1871 (LSL) Appendix p 25.
47. MPLA Annual Report 1872 p 16.
48. LT 52 pp 76-7; BLS minutes 19.1.1870, 20.9.1870, 14.2.1870, 10.1.1871, 21.4.1871, 28.2.1872, 24.1.1873, BDP 20.1.1870, 6.1.1872. For the failure of the scheme see R Palmer Memorials Personal and Political Part II, Vol. I. (Macmillan, London 1898) pp 51-3. The LEA dissolved in 1877.
49. BLS minutes 20.1.1875. The Land Transfer Bill was prominent from March 1874 (BLS minutes 25.3.1874), the assize question from July 1874 (ibid 23.7.1874) and the BLS Law Library from 1875 (ibid 17.4.1875). The Law University was no longer an exclusive, isolated issue (ibid 13.5.1875).
50. Report of BLS meeting in BDP 16.1.1879.
51. BLS minutes 25.11.1872 and 11.3.1872, 15.3.1872, 10.6.1872. See also events in Manchester, Atkinson op cit p 21.
52. BLS minutes 30.1.1874 and 13.1.1873, 3.2.1873, 24.6.1873, 8.7.1873.
53. BDP 16.1.1879; BLS minutes 23.1.1878, 15.2.1878, 13.3.1878.

54. BLS minutes 8.8.1881 (Saunders). See also BDP 29.1.1880.
55. BLS minutes 15.2.1882 and 8.8.1881, 18.10.1881, 31.1.1882, 15.2.1882, 1.3.1882. See also ILS Annual Report 1881 (LSL) pp 7-8; BDP 29.1.1881, 17.2.1882.
56. BLS minutes 5.3.1890 and 3.2.1886, 15.2.1888, 25.11.1891, 30.12.1891, 24.2.1897.
57. BDP 26.1.1876 (Mathews).
58. The report of the ILS meeting at Brighton, 1881, in LT 71 pp 394-5 is especially interesting; ILS Proceedings... Annual Provincial meeting 1882 (LSL 64A) p 132. As a general rule the BLS disapproved of total exemption except under special circumstances. Only four cases of exemption appeals were noted between 1862 and 1902, two being granted.
59. Reported in BDP 16.2.1888. The late 1870s and early 1880s had seen a substantial increase in the number of candidates for the Preliminary Examination in Birmingham with a pass rate in excess of 75%. By 1880 the numbers were decreasing but the pass rate remained high at around 85%.
60. ILS Proceedings... Annual Provincial Meeting 1882 p 132.
61. Correspondence of A Canning in BDP 27.5.1873.
62. LQR 9 p 128, and LQR 2 p 461. See also LQR 18 p 81.
63. BDP 27.1.1883. For the regulation of exclusivity through education policy see F B Smith on the medical profession op cit p 367. On credentialism and exclusivity see E Freidson Professional Powers (University of Chicago Press, Chicago 1986) p 63.
64. BLS minutes 29.6.1887; LT 71 p 395.

65. ILS Annual Report 1898 p 9.10; ILS Proceedings... Annual Provincial Meeting 1882 pp 196-7.
66. Eg. See T H Green in Borough of Birmingham Report of the Schools Enquiry Commission Mr Green's Special Report 1865 pp 302-4, 314-16, 319, 328; Birm Mag 3 p 35 (Edgbaston Proprietary School). Handsworth Grammar school exhibited a determination to emulate public schools, see Reverend J J Walton and D L Gregory (eds) Handsworth Grammar School 1862 - 1962 (n.d) p 21.
67. LT 17.10.1903 p 532; LT 96 p 424; Larson op cit p 95.
68. LT 103 p 333.
69. ibid. See also BLSS reports in LT 100 p 547 and LT 108 p 500.
70. Eg. LQR 6 p 47, 12 pp 387-8, 14 pp 288-90. For a general economic survey see E Hobsbawm Industry and Empire (Penguin, Harmondsworth 1974) pp 172-94. Objections were raised to professional education in Universities, see T C Albutt On Professional Education (Macmillan, London 1906) pp 21-38.
71. BLS minutes 23.2.1899.
72. ILS Annual Report 1902 p 13; LT 17.10.1903 pp 533-4; BLS minutes 5.1.1898.
73. Appendix B of BLS Annual Report 1907 pp 27-9 in Annual Reports of the Birmingham Law Society 1907 - 26 (BRL L43.06); BLSS Annual Report 1906 pp 7-9 in Law Students Society (Birmingham) Reports of the Committee and Treasurer 1888, 1903 - 39 (BRL 639408).
74. BLS minutes 15.1.1902.
75. J Moore-Bayley "The solicitor in the making" Law Society Annual Provincial Meeting 1908 pp 117-125. See also Abel-Smith and Stevens op cit pp 177, 180.

76. Eg. E Jenks "Possibilities in legal education" LQR 23 p 281 and "English legal education" LQR 51 p 169. Also BLSS Reports for 1922 and 1923 in Law Students Society (Birmingham) op cit.
77. Larson op cit p 4.
78. ibid pp 2-4, 15, 18, 34, 40-1, 44-5.
79. ibid p 4.
80. Eg. Birm Biog 9 p 36.
81. Reader op cit pp 49, 55, 116. LT 103 p 333.
82. LT 1 pp 242 and 218.
83. LO 1 p 131.
84. Eg. LT 71 pp 394-5.
85. For the consequences of a common educational background see R Abel "The Decline of Professionalism" Modern Law Review 49 (1986) p 10.
86. M J Peterson The Medical Profession in Mid-Victorian London (California University Press, Berkeley 1978) pp 41-59, 286; I Waddington The medical profession in the industrial revolution (Gill and Macmillan, Dublin 1984) pp 20, 40-2.
87. BDP 22.2.1894.
88. Larson op cit p 260, note 79. Larson does not expand on the mechanisms by which the reputations of the practitioner and the educational institution were merged and made publicly visible.
89. T Johnson "Professionalism: Occupation or ideology" in S Goodlad (ed) Education for the professions (SRHE & NFER-NELSON Guildford 1984) p 25.

Chapter Seven

1. R Dingwall "Accomplishing Profession" Sociological Review 24 (1976) pp 341-7; E Freidson "The theory of the professions: state of the art" in R Dingwall and P Lewis The sociology of the professions (Macmillan, London 1983) p 24; M S Larson The Rise of Professionalism (University of California Press, Berkeley 1977) pp 9-10, 14-17.
2. H Kirk Portrait of a profession (Oyez, London 1976) pp 200-14. The Scriveners had been eliminated as a rival group by the early 19th century, see , Birks Gentlemen of the Law (Stevens, London 1960) pp 75-85.
3. B Abel-Smith and R Stevens Lawyers and the Courts (Heinemann, London 1967) pp 58-9. See also Birks op cit p 229 and A H Manchester Modern Legal History (Butterworth, London 1980) p 73.
4. LT 49 (1870) p 179.
5. LT 51 (1871) p 375.
6. Birks op cit.
7. LT 51 p 375.
8. BLS minutes 17.4.1868, 15.7.1868, 10.7.1876, 17.1.1881, 13.2.1901, 20.3.1901.
9. LT 51 p 401.
10. Lane and Clutterbuck, Letter Book 1884 - 5 (LC & Co) reveals a reliance on debt collecting. See also Harward and Evers, Letter Book 1894 - 1900 (HWRO BA4000/527 (i)); cf W Johnston England as it is II (Irish University Press, Shannon Reprint 1971. First Ed. 1851) p 169.
11. LT 51 p 414.

12. ibid p 575.
13. LT 71 (1881) p 397.
14. BLS minutes 21.11.1900.
15. A Offer Property and Politics (Cambridge University Press, London 1981) pp 98-101.
16. Ledger and account of Rents of Miss Pimm's Estate (EPO). Ryland Martineau & Co collected rents for Arthur Ryland's cousin Louisa Ryland, the benefactress. (BRL Ms Kay 45 (1888)).
17. BLS minutes 12.2.1869.'
18. ibid 9.4.1869, 25.5.1869, 19.1.1870.
19. ibid 15.9.1876, 29.2.1888, 8.12.1901, 12.2.1902, 19.10.1904, 16.11.1904.
20. Law Society "Proceedings Annual Provincial Meeting 1908" (LSL 64A) pp 29-30.
21. BLS Annual Reports for 1915 and 1922 in Annual Reports BLS 1907 - 26 (BRL L43.06).
22. LT 49 p 179.
23. LT 50 (1871) p 185.
24. BDP 8.10.1862, BDP 3.11.1882, 17.7.1830. See also Abel-Smith and Stevens op cit p 61, Note 8.
25. BLS minutes 25.5.1887.
26. ibid 27.4.1898.
27. Dingwall op cit pp 335, 347.
28. ibid p 347.

29. R Dingwall Social Organisation of Health Visitor Training (Croom Helm, London 1977) p 141, "Accomplishing Profession..." p 341.
30. Offer op cit pp 49-65.
31. BLS minutes 2.6.1838.
32. ibid 26.10.1839.
33. G M Butts The Birmingham Law Society 1818 - 1968 (Birmingham 1968) p 15; BLS minutes 10.1.1871, 5.1.1872; A Musgrove A short history of the Birmingham Law Society 1818 - 1918 (BRL D21) pp 12-14.
34. BLS minutes 20.10.1860.
35. BDP 20.1.1870; BLS minutes 26.10.1867, 13.5.1870.
36. BLS minutes 13.3.1871, 4.4.1871; BDP 15.3.1871.
37. BLS minutes 24.1.1873; BDP 25.1.1873.
38. T Anderton A Tale of One City (Midland Counties Herald Birmingham 1900) pp 105-6.
39. C Behagg "Masters and manufactures: social values and the small unit of production in Birmingham 1800 - 50" in G Crossick and H G Haupt Shopkeepers and Master Artisans in 19th Century Europe (Methuen, London 1984) pp 137-54.
40. BLS minutes 31.1.1877, 22.11.1882, 14.3.1887, 29.7.1891, 30.9.1891, 25.11.1891, 23.2.1898,, 2.3.1898, 27.4.1898. See also experience in Manchester, K Atkinson A short history of Manchester Law Society 1838 - 1924 (1925) pp 11, 26.
41. LT 55 p 56.

42. LT 54 p 107, 55 pp 56, 215-17.
43. BDP 1.11.1865.
44. Noted commercial solicitors were the Wragge & Co partners Barrow (Edg 22 p 107) and T W Horton (Birm Biog 28 p 117) and J Marigold (Osborne 1 p 259), Moore-Bayley (Birm Biog 7 p 213).
45. BLS minutes 26.2.1873, 23.4.1873.
46. Manchester op cit pp 155-7; R B Ferguson "The adjudication of commercial disputes and the legal system in modern England" British Journal of Law and Society 7 (1980) pp 142-8; BLS minutes 28.3.1887.
47. BLS minutes 19.12.1833. See also LT 1 p 15.
48. BLS minutes 6.6.1835.
49. ibid 4.7.1835 (emphasis added).
50. ibid 22.8.1835, 5.9.1835.
51. ibid 6.8.1836, 19.8.1837.
52. LO I pp 139, 199 II pp 135, 250-2. See also the activities of Showell Rogers, Edg (1899) 19 p 104.
53. E Edwards Personal Recollections of Birmingham and Birmingham Men (Midland Educational, Birmingham 1877) pp 141-2.
54. BLS minutes 16.12.1843, 6.1.1844.
55. ibid 3.2.1844.
56. ibid 6.1.1844 (The case of Rudge), 12.6.1843.

57. Birm Biog 6 p 213 (Walter).
58. BLS minutes 26.5.1851, 8.7.1851; BFP 1 pp 133-4; Birm Biog 6 pp 212-3. The attorneys and "Economists" concerned were Hawkes, Walter, Maher, Allday, Skirrow-Wright and Baldwin.
59. C Gill History of Birmingham (OUP, London 1952) p 229.
60. BFP 2 p 20; Dart 26.12.1890 p11.
61. H W Arthurs "Special Courts, Special Law: Legal Pluralism in 19th century England" in J Rubin and D Sugarman (eds) Law Economy and Society (Professional Books, Oxon 1984) pp 408-9.
62. BLS minutes 4.6.1879, 10.6.1879.
63. BDG 11.6.1879, 9.7.1879.
64. BCP (1878-9) pp 460-3; BLS minutes 16.6.1879, 30.6.1879, 9.7.1879, 23.7.1879, 30.7.1879, 14.10.1879, 4.2.1880; BDG 11.7.1879; BDP 5.2.1880, 11.10.1882.
65. BCP (1857) pp 67-8, (1858-9) pp 23, 30-1, 52-4, 218-9; BLS minutes 10.11.1868, 11.3.1872, 13.7.1874, 23.7.1874, 19.8.1874, 10.7.1876, 31.1.1877, 15.2.1878, 3.6.1878; BDP 5.6.1878.
66. BLS minutes 31.1.1884, 8.7.1884.
67. J Motteram BLSS address 1863 (BRL 130500); Kirk op cit p 171.
68. Birks op cit pp 238-9.
69. R Robson The attorney in the 18th century (Cambridge University Press, London 1959) p 58.

70. Speech at MPLA meeting reported in BDP 8.10.1862. See also TC 11.6.1892 p 9 for statements in support of solicitors.
71. BLS minutes 14.3.1887.
72. ibid 25.11.1891.
73. BFP 4 p 53; and BDP 21.7.1891.
74. LT 93 (1893) p 135.
75. BLS minutes 22.3.1893.
76. ibid 21.1.1894 and Souvenir of the visit of the Canadian Manufacturers Association to the City of Birmingham, England, June 27 1905. (Birmingham Chamber of Commerce) p 35.
77. ABG 29.10.1855.
78. BLS minutes 19.6.1863, 31.10.1863.
79. LT 40 p 256.
80. Annual Report MPLA Management Committee 1864 p 26 and 1871 p 8 (LSL 64B).
81. Kirk op cit p 171; Birks op cit p 239.
82. Law Society "Proceedings... Annual Provincial Meeting 1882" (LSL 64A) p 139. See also BDP 8.10.1862.
83. Kirk op cit pp 181-2; ILS Annual Report 1871 pp 4-6, Appendix pp 19-20.
84. Letter "The magistrates - are they good lawyers?" BDP 9.10.1862. See also Report on the Select Committee on Legal Education 1846 (No. 686) p 37.

85. LT 40 pp 313, 256; 42 p 429; 46 p 495.
86. ILS Annual Report 1871 (LSL) p 4 (emphasis added).
87. BLS minutes 20.9.1870, 21.10.1870, 14.12.1870; Annual Report MPLA 1871 (LSL 64B) pp 8-9.
88. Roundel Palmer Memorials Part I Family and Personal I and II and Part II Personal and Political I and II (Macmillan, London 1896-8); Selborne Papers, Lambeth Palace Library. Contemporary journals are also unhelpful.
89. SJ quoted in BDP 31.3.1877 see Osborne 1 p 44.
90. Edg 2 (1882) p 77; Osborne 1 p 67.
91. BLS minutes 25.11.1872.
92. Cf events in Leeds, LT 64 (1878) p 189. J B Clarke and R H Milward were placed on the Bench for the counties of Staffordshire and Worcestershire, H 1 p 63, Pike p 73.
93. ILS Annual Report in LT 93 (1892) p 212.
94. ILS Annual Report 1896 (LSL) p 20, also ILS Annual Reports for 1897, 1898 and 1899; BLS minutes 22.3.1893. See also ibid 5.3.1890, 31.12.1890, 25.2.1891, 25.2.1891, 25.5.1892, 26.2.1896, 31.3.1897.
95. See, e.g. Larson op cit p XVI and E Freidson Professional Powers (University of Chicago Press, Chicago 1986) p 70.
96. Freidson "Professional Powers..." p 63.
97. R Dingwall "Social Organisation..." pp 140, 165; I Waddington The medical profession in the industrial revolution (Gill and Macmillan, Dublin 1984) pp 171-3; F B Smith The Peoples Health (Croom Helm, London 1979) p 418.

98. On the Land Transfer question and land reform see H Perkin "Land Reform and class conflict in Victorian Britain" in J Butt and I F Clarke (eds) The Victorians and Social Protest (David & Charles, Newton Abbot 1973) and E Spring "Landowners, Lawyers and land law reform in 19th century England" The American Journal of Legal History 21 (1977) pp 40-59.
99. Cf Smith op cit pp 377-8 and P Elliott The Sociology of the Professions (Macmillan, London 1972) pp 52-3.
100. Larson ibid. For the significance of relations with other occupations see Dingwall "Social Organisation..." pp 142-161, 166.
101. Larson op cit p 2.

Chapter Eight

1. W Ford "Position and Prospects of the Profession" LT 71 p 394; E B V Christian Solicitors: an outline of their history (Stevens, London 1925) pp 133, 159; BLS minutes 18.2.1891.
2. H A Smith "An Imperial School of Law" Journal of the Society of Public Teachers of Law (1927) p 12.
3. D Duman "The creation and diffusion of a professional ideology in 19th century England". Sociological Review 27 (1979).
4. R Dingwall The Social Organisation of Health Visitor Training (Croom Helm, London 1977) pp 337-8, 340; "Accomplishing Profession" Sociological Review 24 (1976).
5. G Kitson-Clark The making of Victorian England (Methuen, London 1976) pp 253-5, 261; M S Larson The rise of professionalism (University of California Press, Berkeley 1977).
6. A F Hooper "Mid-Victorian Radicalism: Community and class in Birmingham 1850 - 1880". Ph.D. London 1978 pp 48-50, 54-7.
7. R S Neale Class and Ideology in the 19th Century (RKP, London 1972) p 29; P Thompson Edwardians (Paladin, London 1979) p 299.
8. T Zeldin France 1848 - 1945 I (Clarendon, Oxford 1973) p 15.
9. L Smircich "Organisations as shared meanings" in L R Poudy et al Organisational Symbolism (JAI Press, Greenwich 1983) pp 55-65.
10. L Davidoff and C Hall "The Architecture of Public and Private Life. English middle class society in a provincial town in 1780 - 1850" in D Fraser and A Sutcliffe (eds) The pursuit of urban history (Arnold, London 1983) pp 336-9; Hooper op cit p 11; T Anderton A Tale of One City (Midland Counties Herald, Birmingham 1900) pp 89-95.

11. Birm Mag 2 (1899) p 39.
12. J T Bunce A history of the General Hospital and Music Festivals (Cornish Brothers, Birmingham 1873) p 62.
13. Sir Oliver Lodge Past Years. An autobiography (Hodder and Stoughton, London 1931) pp 324, 326-7, 317.
14. Zeldin op cit p 42. See the examples of Arthur Godlee (Birm Biog 10 p 187) and S Carter (SJ 22 pp 278, 302).
15. Dingwall "Accomplishing Profession..." p 338; "Social Organisation..." pp 125-7.
16. M Birks Gentlemen of the Law (Stevens, London 1960) p 241. See also D Read Documents from Edwardian England (Harrap, London 1973) p 42; E R Pike Human documents of the age of the Forsytes (Allen & Unwin, London 1969) p 56; BLS minutes 19.11.1902.
17. Thompson op cit pp 28-9, 299.
18. Birm Magnet 2 p 9; FF I 211.
19. Osborne 1 p 30; see also FF I 224 (Gateley).
20. Larson op cit p 75 and pp 68-71.
21. Birm Biog 11 pp 182-200 (Ansell)
22. P Ballard "A Commercial and Industrial Elite" Ph.D. Reading 1983 I pp 203-4, 227; Birm Biog 42 pp 152-3.
23. H 10 (1904) P 666. On marriage see P Jalland Women, Marriage and Politics 1860 - 1914 (Clarendon Oxford 1986) Chapter Two.
24. The Diary of Beatrice Webb (Virago, London 1982) I p 109.

25. Mrs W Byng Kenrick Chronicles of a Nonconformist family (1932) p 238-9.

26. Ballard op cit pp 347-50. J L Garvin Life of Joseph Chamberlain I (Macmillan, London 1932) pp 75, 177; "The Journals of Caroline Kenrick 1858 - 9" (Austen Chamberlain Collection AC 1/1/2) entries for 3, 10 September 1858; 5, 11, 17, 21 January; 17 April; 20, 23 June; 17, 21 October 1859.

27. Ballard op cit pp 384, 389; Mary E Chamberlain "Dinners at Highbury 1889 - 1913". List of Guests I and II (Cham. Coll. C4/11-12) entries for 7, 9, 26 Jan; 25 Sept; 10 Oct 1889; 15 June; 20, 21 Dec 1890; 9 Jan, 7 June, 16 Sept, 5 Oct, 5, 17 Nov 1891; 2 Jan 1892; 29 June 1893; 27 March; 26 August, 30 Oct 1894; 12 Dec 1895; 7, 9 Jan; 20 Dec 1896; 3 Jan, 29, 30 Oct 1898; 14 Dec 1898; 27 August 1899; 25 Jan 1900; 11, 17 Oct; 13 Nov 1901; 8 Jan, 9 Nov 1903; 2 Jan 1904; 13 May, 30 Nov 1905. See also "Mary Chamberlain's Diary 1900 - 1914" (Cham. Coll. 23/2/1) entries for 9 June 1909, 30 Sept 1911.

28. Ballard op cit p 391; Mary E Chamberlain "Dinners at Highbury" op cit 7 January 1892, 25 January 1900, 13 May 1905.

29. Eg. Sept 1901; Ballard op cit p 402.

30. Ballard op cit p 339; Garvin op cit pp 57, 73; Mary Chamberlain's Diary op cit 24 Oct 1905; "Journals of Caroline Kenrick" op cit 14 Nov 1858; 22 May; 20, 23 June 1859.

31. Birm Biog 5 pp 161-7.

32. Birm Biog 4 pp 103-4 (Saunders); Birm Biog 1 pt.1 pp 61-4 (Jabet); Notes and Queries 10 pp 90-1 (Saunders and Jabet).

33. Birm Biog 45 pp 6,9.

34. ibid 6 pp 119-22; ibid 5 p 37 (Field).

35. Edg 28 pp 161-6. See also Edg 19 pp 4-7 (Tyndall); Edg 22 pp 1-6 (Martineau); Obituary Notice 1916 in Pamphlets, Deeds, Cuttings etc relating to the manor of Bromsgrove and Kings Norton 1557 - 1897 (BRL 317223) (T G Lee); Edg 16 pp 273-6 (J B Carslake); Birm Biog 35 p 174 (H B Carslake).
36. G C Wragge Wragge & Co (privately printed) pp 58-66.
37. Birm Biog 10 pp 178, 187.
38. S Warren The Moral, Social and Professional duties of attornies and solicitors (Blackwood, London 1848) p 209.
39. C T Saunders BLSS address 1866 (BRL 294413) pp 8-9.
40. Birm Biog 28 p 73; 40 pp 164-5, 234.
41. IM 10 pp 41-2; Birm Biog 8 p 220; DNB (1941 - 50) p 673 (Pinsent). Articles Of Partnership, Pinsent & Co. 1.1.1906 (Ms in possession of Pinsent & Co, solicitors).
42. Birm Biog 35 pp 160-3 (Willison).
43. R Silverstone and A Ward (eds) Careers of Professional Women (Croom Helm, London 1980) pp 112-4, on "sponsorship".
44. Birm Biog 4 p 81.
45. H 10 p 660.
46. FF I 339; HN 242; H 10 pp 660-1.
47. BFP 1 pp 13-14; Birm Biog 13 pp 120-1.
48. Birm Magnet 2 (No. 66) p 9; Edg 22 pp 179-83. See also the similar experiences of T E Forsyth (H 4 pp 291-4), F Foulston (Birm Biog 7 pp 219-20), M Hooper (Pike p 129) and B Silverston (Pike p 136).

49. Pike pp 125, 131; Birm Biog 6 pp 196-8.
50. On success see Sir John Hollams The Jottings of an Old Solicitor (John Murray, London 1906) pp 246-7.
51. Kirk op cit pp 212-5; A Offer Property and Politics (Cambridge University Press 1981) pp 55-8. "Sharpness" appears, by the final decade of the 19th century, to have lost its derogatory implications and/or disappeared from use, to be replaced by the less pejorative euphemism "shrewdness". See references to William Thomas (M I (1894) p 332).
52. Offer op cit Chapter Three; SJ 34 pp 91, 121-2, 223-4
53. On touting see BLS minutes 22.12.1875 (Duke), 30.11.1887 (Anon), 30.12.1891, 27.1.1892 (Phillips), 21.11.1900, 19.12.1900 (Edalji). Practising without a certificate see BLS minutes 6.1.1904 (Hooper), BJ 13.10.1855 (Kimberley).
54. Inconsistent practices, see BLS minutes 27.10.1885 (Blewitt and Baler), 26.11.1889, 5.3.1890 (Hebbert). For branch office irregularities ibid 6.1.1879 (Rosenthal), and negligence, ibid 27.6.1887 (Fowke).
55. For instances of fraud, misconduct and bankruptcy see BLS minutes 4.2.1884, 18.2.1884, 27.2.1884, 1.12.1884; BDG 2.2.1884 (Cotterell); BLS minutes 27.6.1888, 24.7.1888, 8.8.1888, 24.10.1888 (Jelf), BLS minutes 25.9.1889, 29.1.1890, 2.7.1890, 18.2.1891, BDP 9.5.1890 (Ryland Crooke); BDP 30.7.1915, 31.7.1915, 13.10.1915, 4.12.1915, 14.12.1915 (Balden). Fraud and absconding: BLS minutes 21.5.1890, 2.7.1890, 2.7.1890, 26.11.1890, 18.11.1891, BDP 22.9.1886 (Anon), BDP 24.2.1897 (Brady). Gross professional misconduct: BLS minutes 1.3.1899, 18.10.1899, 20.12.1899 (Hooper).
56. BDP 29.7.1862, 14.6.1902 (Corbett and Spofforth), BDP 24.1.1904, 30.1.1904, 29.3.1904, 30.3.1904 (London).

57. Reported in LT Oct 17 1903 p 535.
58. BLS minutes 24.5.1900, and 16.5.1900.
59. Speech reported in BDG 28.2.1901.
60. Reported in SJ 34 p 787.
61. Reported LT 112 pp 486-7.
62. Birm Magnet 2 No. 81 p9.
63. Mutlow:- BLS minutes 1.3.1899, 18.10.1899, 20.12.1899, 17.1.1900, 28.2.1900; Simmons ibid 21.5.1890, 2.7.1890, 26.11.1890, 18.2.1891.
64. BLS minutes 24.5.1900. For a brief discussion of Social Darwinism and the biological arguments on crime and the exceptional circumstances of middle class criminals see C Emsley Crime and Society in England 1750 - 1900 (Longman, London 1987) pp 49, 64-7.
65. BDP 30.7.1915, 31.7.1915, 13.10.1915, 14.10.1915, 20.1.1916.
66. Birks ibid p 245.
67. LT 17 Oct 1903 p 535.
68. BLS minutes 18.2.1884.
69. Birm Biog 4 p 81.
70. For the opinion of Lord Calthorpe see D Cannadine Land and Landlords (Leicester University Press, Leicester 1980) pp 142-3, 163-4. See also G C Barrow, Interview 12.8.1987.
71. Birm Biog 4 p 81.

72. BDP 26.2.1903.
73. G C Barrow. interview 12.8.1987.
74. AG 15.10.1832; J Langford Modern Birmingham I (Osborne, Birmingham 1873) pp 401-6, 434, 474; II p 247. Cf the medical profession in F B Smith The People's Health (Croom Helm, London 1979) p 366.
75. Reported in BDP 30.1.1877. See also BLSS annual meeting 1873 reported in BDP 5.2.1874.
76. HN No. 62 p 250.
77. FF I p 591
78. Birm Biog 3 p 74.
79. S Smiles Self Help (John Murray, London 1958, First Ed. 1858) pp 368-9.
80. Birm Biog 4 p 103.
81. Law Magazine 10.7.1987 pp 16-18.
82. HN No. 53 p 244.

Chapter Nine

1. A Musgrove A short history of the Birmingham Law Society 1818 - 1918 (Birmingham 1918) (BRL D21).
2. R Dingwall The Social Organisation of Health Visitor Training (Croom Helm, London 1977) p 48; LT 1, p 15.
3. M S Larson The rise of professionalism (University of California Press 1977) pp 5-6, 49, 66, 136; E Freidson "The theory of professions: the state of the art" in R Dingwall and P Lewis The sociology of the professions (Macmillan, London 1983) pp 24-5, 33.
4. R Dingwall "Accomplishing Profession" Sociological Review 24 pp 331, 335, 347; E Freidson on "special excuses" see ibid.
5. Dingwall "Social organisation..." p 125; H Perkin The Structured Crowd (Harvester, Sussex 1981) p 139. For competition in the law before industrialisation see D Duman The Judicial bench in England (Royal Historical Society, London 1982) pp 173, 177 and G Holmes Augustan England (Allen & Unwin, London 1982) pp 150-4.
6. For comments on 19th century competition see Saturday Review 4 (1857) p 507; 10 (1860) p 77 and L O'Boyle "The problem of an excess of educated men in Western Europe 1800 - 1850" Journal of Modern History 42 pp 471-495.
7. T Johnson Professions and Power (Macmillan, London 1972) p 38.
8. Harris BLSS address 1862 (BRL 130499) p 8. For the argument that law was different from medicine see LT 1 p 242. The essence of the special relationship was accepted by A Carr-Saunders and P Wilson The Professions (Frank Cass, London 1964, First Ed. 1933) p 24.

9. R Gilmore The idea of the Gentleman in the Victorian novel (Allen & Unwin, London 1980) pp 3-5; B Dennis and D Skilton (eds) Reform and intellectual debate in Victorian Britain (Croom Helm, London 1987) pp 50-71.

10. S Collini "The idea of "character" in Victorian political thought" Transactions of the Royal Historical Society (5th series) 35 p 39. See also LT 85 p 36.

11. I Waddington The medical profession in the industrial revolution (Gill and Macmillan, Dublin 1984) p 194.

12. Dingwall "Social Organisation..." p 213.

13. This apparently contrasts with the experience of engineers, see R A Buchanan "Gentlemen engineers: the making of a profession" Victorian Studies 26 p 429.

14. W Bagehot "Bad Lawyers or Good?" Fortnightly Review 7 (1870) p 692.

15. Freidson ibid; Dingwall "Accomplishing Profession..." p 341.

16. N Abercrombie and J Urry Capital labour and the middle classes (Allen & Unwin, London 1983) p 76; J L Berlant Profession and Monopoly (University of California Press 1975) pp 145-176.

17. Waddington op cit pp 171-3; E Freidson Professional Dominance (Aldine, Chicago 1970) pp 151-4.

18. D Duman The English and Colonial Bars in the 19th Century (Croom Helm, London 1983) p 205.

19. See BDP 8.10.1862 (Johnson) and LT 1 p 15. See also the comments by a Parliamentary Agent in 1874: "the notion that practitioners in every profession ought to have received a certificate of competence from an examining (sic) body has become so prevalent". Quoted in D L Rydz The Parliamentary Agents: A history (Royal Historical Society, London 1979) p 136.

20. Duman "Judicial Bench..." p 5; W Reader Professional Men (Weidenfeld & Nicolson, London 1966) pp 117, 159-61.
21. Reader op cit pp 199, 203; W D Rubinstein Wealth and Inequality in Britain (Faber, London 1986) p 35.
22. It could be argued that the law was already esoteric by 1800 and it was only the teaching of it that needed change, see Duman "English and Colonial Bars..." p 204. Cf A T Scull Museums of Madness (Allen Lane, London 1979) pp 164-85.
23. It is worth speculating whether the "gentlemanly route" was a comparatively easy option. Was it easier to persuade society and the state that solicitors conformed to the canons of gentlemanly status rather than establish the validity of expertise?
24. This concept is adopted from Dingwall "Accomplishing Profession..." p 338.
25. Quoted in Collini op cit p 40, note 24.
26. R H Trainor "Urban elites in Victorian Britain" Urban History Yearbook 1985 p 4.
27. The measurement of status is, perhaps, part of a trend during the 19th century associated with "scientific" investigations of the population. (S Katz "Occupational Classification in history" Journal of interdisciplinary history 3 pp 63-4; Rubinstein op cit pp 38-9.
28. Larson op cit pp 102-3.
29. See, for example, the case of science in R Yeo "Scientific method and the image of science 1831 - 91" in R Macleod and P Collins (eds) Parliament of Science (Science Reviews, London 1981) pp 71-2.
30. G Anderson "The political economy of clerks' in G Crossick (ed) The lower middle class in Britain (Croom Helm, London 1977) p 129.

31. G Crossick "The emergence of a lower middle class in Britain: a discussion" in Crossick (ed) op cit p 38.
32. On debt-collecting and young solicitors see J Clegg (ed) Autobiography of a Lancashire lawyer being the life and recollections of John Taylor, attorney (Daily Chronicle, Bolton 1883) p 62 and C T Saunders BLSS address 1867 (BRL 294413) p 9. The status of police court work appears contradictory. For some it was the refuge of the desperate, while for others a lucrative career could be made from such advocacy. For example compare the careers of Francis (Osborne 1 p 508) and Willison (*ibid* 35 pp 160-3). See also Charles Booth Life and labour of the people in London (Industry), 4, 2nd series (Macmillan, London 1903) p 72 and J Davis "A poor man's system of justice. The London police courts in the second half of the 19th century". Historical Journal 27, 2, (1984) pp 309-35. Criminal litigation was not considered of the same order as big commercial work.
33. Crossick "Emergence of lower middle class..." p 12.
34. Osborne 1 p 508. Significantly his sisters paid his annual certificate and bought his clothes.
35. Reader op cit pp 148-58.
36. M Miles "A haven for the privileged: recruitment into the profession of attorney in England 1709 - 1792" Social History 11, 2, (1986).
37. M Peterson "Gentlemen and medical men: The problem of medical recruitment" Bulletin of the history of medicine 58 (1984) pp 457-73.
38. R Robson The attorney in the 18th century (Cambridge University Press 1959) pp 183-4.
39. There is evidence throughout the century of malpractice and "sharp" practitioners. There may have existed a sub-culture of "rogues", such as Edmonds, Palmer and Smith (see Chapter Three).

40. BLS minutes 26.10.1867.
41. ibid.
42. Eg. Thomas Martineau on A Ryland in IM Dec 1892 p 51.
43. C T Saunders BLSS annual address 1866 (BRL 294413) p 15.
44. Birm Biog 9 p 36.
45. ibid. See also Registrar Lowe on the election of A D Brooks as mayor in 1917, Osborne 10 p 1. On this role of leaders see C L Gilb Hidden Hierachies (Harper & Row, New York 1966) p 74.
46. Political and religious motives should not be ignored.
47. Bagehot op cit p 695. See also Carr-Saunders and Wilson op cit p 51 and R H Tawney The Acquisitive Society (Bell & Sons, London 1921) p 108.
48. Dingwall "Accomplishing Profession..." p 347.
49. D Duman "The creation and diffusion of a professional ideology in 19th century England" Sociological Review 27 (1979) p 116; Reader op cit p 146.
50. H Perkin op cit p 139; Reader op cit; P Elliott The sociology of the professions (Macmillan, London 1972) pp 14-57.
51. Collini op cit pp 39, 43-5.
52. Elliott op cit p 14.
53. Larson op cit p 103 and Chapter Seven; M Weiner The decline of the industrial spirit (Cambridge University press 1981) pp 14-16.