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The Smiths of Horbling: Country Attorneys

by Albert J. Schmidt

This is a study of two Benjamin Smiths, father (1731-1807) and son (1776-1857), country attorneys in Horbling, Lincolnshire.¹ Their respective careers spanned a century, from the earliest professional activities of the father in 1758 to 1854, when the son's career was effectively ended by a stroke. The solicitors' firm of "Benjamin Smith and Company" exists today, considerably enlarged from the one founded over two hundred years ago.

The Smiths of Horbling make possible a case study of lawyer professionals who, despite modern notions of pettifoggery, proved indispensable to their landholding clients. Besides practicing law, they collected rents and fines, held manorial courts, and clerked for enclosure, fen drainage, and turnpike commissions. Altruistic in promoting charities, they were also stern in putting down lawlessness by establishing a self-help, or extra-legal, group which aimed at keeping the peace and punishing those who disrupted it. In all, the Smiths and others like them were important cogs in the wheels of a changing rural economy that had begun interacting with a nascent industrial one.

In addition to facilitating the works of "improver" landlords, the Smiths were money scribes—money lenders and investment brokers—to a local society that was sorely in need of cash and necessary banking services. Both Benjamins were, moreover, part of a society which, according to recent scholarship, was driven by a revolution in consumption—consumption in housing, fashions, food, furnishings, leisure, indeed, in nearly every facet of life. The monied classes who enjoyed these fruits required the services of professionals—attorneys like the

Smiths—to secure and enjoy this good life. These attorneys, in their turn, acquired wealth and status for their services.

The south Lincolnshire Parts of Kesteven and Holland, where the elder Benjamin Smith was born and came of age, was famous more for its pastures—“the glory of Lincolnshire”—than for arable farmland. The grasslands of the fen were the best in England and fetched the highest rents in the county while those in neighboring Kesteven were only slightly inferior. Despite some enclosures and drainage in the quarter century before 1750, farming was inhibited not only on these pastures but also on the barren heaths, marshlands, and fens nearby.

The demands of emerging industrial England changed Lincolnshire’s pastoral image. Because consumption of large quantities of cereals and potatoes by workers in the cotton mills of the Midlands and West Yorkshire brought great profits to those who met the demand for these crops, landholders were persuaded to alter the way in which land had been tilled for generations.² They enclosed their land, reclaimed the waste and fens, and built roads and canals.

The landscape after 1750—surveyed fields and roads and new farm buildings—reflected these changes. Land use benefited from experimentation with new fertilizers and machinery, both of which transformed heaths and wolds from sheep pastures and rabbit warrens into wheat fields. Lincolnshire’s graziers also realized unprecedented profits when they improved their livestock through selective breeding and better feeding. For such reasons the pastoral, sheep-studded Lincolnshire of 1750 was transformed into a prosperous, mixed farming county by 1850, a century coinciding with the professional careers of the first two Benjamin Smiths.

Because the country attorney was inevitably involved in land transactions, we must ask what effect these changes in agricultural practice had on the land market. We have been taught to believe that land during the eighteenth century was entangled in the conveyancer’s web, the strict family settlement, which depressed the market. What Frederick Pollock called the propensity for “fettering inheritances and suspending absolute ownership”³ appears to have reached a logical conclusion in H. J. Habakkuk’s belief that “the general drift of property in the sixty years after 1690 was in favor of the large estate and the great lord.”⁴

On the other hand, there are those who have rejected this analysis of the land market. F. M. L. Thompson expressed some doubt nearly twenty years ago, suggesting that “we must at least regard very skeptically the view that the volume of land sales was actually declining in the sec-

ond half of the eighteenth century."⁵ Especially pertinent to this paper has been B. A. Holderness's observation that

the eighteenth century in Lincolnshire offered little by way of hiatus in the general pattern of continuity from medieval times. . . . The passage of wealthy natives of the country from grazing, tannery, commerce, law, estate stewardship, or money-lending to modest affluence and the trappings of gentility, including a landed estate, seems scarcely to have been more limited in the eighteenth century than any other period.⁶

The chronicle of the Smiths of Horbling confirms the views of Holderness, who has also emphasized that tradesmen of market towns, prosperous farmers and graziers, and especially professionals—clergy and physicians as well as attorneys—traded in land and accumulated estates.⁷ Doubtless, attorneys were the most important of these when it came to land matters.

The development of professionalism is basic to understanding the Smiths in their societal context. From the end of the seventeenth century, professionals, whether in government, law, university, church, or the military, contributed notably to England's material development. That the professional should no longer be a generalist but one who selected a career for purposes of livelihood was the truly new notion. The post-Restoration epoch, with its urban-development schemes, its increased material prosperity and comfort, and the consequential requirement for services to accommodate a more status- and amenities-conscious society, presented unprecedented opportunities for such a budding professional. As Geoffrey Holmes has noted,

In England between circa 1680 and 1730 there existed a society which increasingly required new services, or a greater volume and variety of existing services, on a scale never before approached. What was equally vital, both private citizens and the king's government had the capacity as never before to pay for these new assets. The former, for instance, were able to foot the bills for a widening range of legal services as well as financing the mounting volume of litigation in the courts, and at the same time they managed to absorb the higher fees which many lawyers were now demanding. Less willing to tolerate discomfort and therefore pain than their more stoical forebears . . . they looked for relief, with an optimism that in retrospect seems little short of awesome.⁸

The relatively simple preparation for a career as attorney, a clerkship instead of the university, suggests that it could or should have been an

ideal one for advancing poor men's sons. Studies indicate, however, that the new professions were more often a refuge for the younger sons of the privileged or for the "middling sort" than a departure point for an upwardly mobile "poorer sort," and this was especially true of the profession of attorney.⁹ Although the record is absent for the origins of Benjamin Smith, Sr., we suspect that he was "middling."¹⁰

Smith's earliest employment linked him with the Brown family.¹¹ He was already twenty-seven when he first appeared in 1758 as deputy steward of the Brown's manor of Meres, near Donington.¹² He assumed the same position at Monks Hall in Gosberton in late 1760 and became steward of Newton Manor the year following. By 1769 he was steward of Monks Hall, succeeding Adlard Squire Stukeley, and deputy steward of Baston Manor, south of Bourne. He thereafter acquired other manorial stewardships and lordships, all of which he eventually passed on to his son Benjamin.¹³

Early in his career Benjamin Smith, Sr., personified a phenomenon increasingly commonplace in the eighteenth century—the attorney as court-holder and estate manager.¹⁴ The complexity of legal problems concerning land demanded an attorney's expertise. Smith the attorney would have been uniquely equipped to combine his manorial stewardships with the role of estate manager, if, indeed, he had served in that capacity for the Browns.¹⁵ Estate management required a mastery of more than a single craft to succeed at it. One authority has observed that

we need not go as far as the contemporary writers on estate management who claimed that no steward ought to be employed before he had acquired the experience of middle age, or before he had a thorough knowledge of every type of rural undertaking—including the culture of wastes and timber, methods of irrigation, drainage, embanking, building of canals, laying-out and repair of roads, construction of bridges, mills, and engines, rural architecture, and so forth—as well as a command of economics, statistics, accounting, banking, and many other desirable branches of knowledge. Such omni-competent paragons never existed, and landlords had to make do with less-accomplished mortals.¹⁶

That Benjamin Smith was a country man possessing at least a smattering of these qualities may account for his success as an attorney dealing in country matters. As attorney-agent he would have seen to it that the land was well attended and the leases and agreements fulfilled. While loyalty to the landlord was paramount for a good agent, he would have been more than a collector of rents: he would have conveyed the wishes of the tenants to the landlord as well. When Sir Charles Anderson

observed that "I have long been of the opinion that the county of Lincoln is ruled chiefly by agents and attorneys, and that in no other county have they such power,"¹⁷ he may have referred to the likes of Smith Sr., who as attorney conceivably drew up an agreement, as agent enforced its conditions, and as a money scrivener lent on or obtained cash for mortgages.

What specifically signified Benjamin Smith's emergence as an attorney? If he clerked for Matthias Brown of Walcot, as has been suggested, he appears to have circumvented some of the regulations imposed on law clerks in 1729.¹⁸ His bill books show that he was performing as attorney by 1761, six years before he was enrolled as one in the courts of Chancery, Common Pleas, and King's Bench.¹⁹

There are fewer ambiguities about other members of the Smith firm. William Worth, initially Smith's clerk and subsequently his partner, signed articles of clerkship for Smith Sr. on 8 April 1793.²⁰ These clearly stated the mutual obligations of master and clerk for the stipulated five-year term.²¹ The clerk "shall faithfully and diligently serve him the s[ai]d B Smith" and shall accept numerous constraints on his behavior; in return, the master "in the best manner he can well & sufficiently instruct & inform the s[ai]d. W Worth as his Cl[er]k in the Business & Practice of an Att[orn]ely entering Cl[er]k in his s[ai]d Majesty[']s C[our]t of K[ings] B[ench] at Westminster & also as a Sol[icito]r. in s[ai]d C[our]ts w[hi]ch he the s[ai]d B. Smith shall use & practice in during the s[ai]d. Term." Smith, in agreeing to pay Worth the sum of fifty guineas a year, exacted from him a bond for one thousand pounds to dissuade his clerk, should he be admitted as attorney, from dwelling, keeping an office, and practicing as attorney within eight miles of Horbling.²²

A picture of Worth's duties as a clerk emerges from the many precedent books which he compiled and from Benjamin Smith Jr.'s diary, where it is mentioned that he collected rents and attended meetings of the Black Sluice Commission.²³ The Worths, as noted below, acquired a quarter partnership in the firm.

The clerkship of Benjamin Smith, Jr., is less clearly established than that of Worth Sr. If he served as an articulated clerk, there are no surviving documents to prove it. Possibly, no such formal contract was ever drawn. What we know of his apprenticeship is revealed in his commonplace book and diary.²⁴ From an entry in his commonplace book dated 2 July 1793, we discern young Benjamin's clerkship curriculum. This book is a meticulously compiled glossary of legal terms and their sources and such other information that might prove useful to an attorney.²⁵ If anything, this book suggests that he was a serious student who did not take his professional future for granted.

Young Benjamin Smith left a full account of his initiation into the pro-

fession.²⁶ Twice, in the spring of 1795 and again in the winter of 1796-97, he was in London. He made the first visit with his father, who introduced him to business contacts and took him to the law courts and the like.²⁷ The second occurred after he had concluded his clerkship. While awaiting admission into the common law courts, he renewed acquaintance with his father's London associates and even conducted business on his father's behalf.²⁸

During these weeks in London before his admission and enrollment as an attorney, young Smith read a good deal, some for pleasure, much on law. In general, he was preoccupied with the law: on 7 January 1797 he "began to make my preced[en]ts book for wills." When his friend was admitted on 23 January, Smith wrote: "Mr Sharpe & I went to Westminster Hall in morn—for day of term. Saw the Chancellor & Judges go[ing] into ye C[our]ts—& drank tea with Mr Johnson with Mr Sharp & aft[er]w[ar]d went with them to Judge Ashhurst[']s for Mr. S[harp] to be admitted." The next day the pair returned to Westminster Hall for Sharp to be sworn in. Two weeks later, on 9 February, he went with Johnson and Gaskell to the Master of the Rolls.²⁹

With no evident excitement Smith duly recorded the process whereby he, too, became an attorney: on a rainy day in early May he walked to the Bank and Custom House before dinner and then with Mr. Gaskell went to Lord Kenyon's Chambers "for my fiat" but saw only his clerk (2 May 1797). In his next entry he noted that "this morn [3 May] I was admitted in ye K[ings]B[ench]"—nothing more. On 30 May he and Sharp were "admitted sol[ici]t[o]rs in chancery."

By the eighteenth century it was not uncommon for attorneys to assist in the administration of parish business, especially to clerk on enclosure commissions. As early as 1764 Benjamin Smith, Sr., was clerk of the Horbling Enclosure Commission and perhaps served in this capacity for Bicker, too. Three years later he served similarly for Newton and in 1769 for the parishes of Thurlby and Threckingham. He clerked for the Helpringham Enclosure Commission in 1772 and for Wilsford and Surfleet in about 1775. Two years after that he undertook the same task for the Quadring Enclosure Commission, in 1779 to the one for Baston and Langtoft, in 1786 for Stow, and in 1790 for Pointon.³⁰

The clerk's task was a burdensome one, as evidenced by the details that Benjamin Smith, Sr., recorded in his bill books for the Pointon enclosure: drawing up an application to Parliament, placing the notices on the church door, returning to make sure that these notices were read, journeying for consents and signatures for petitions, attending the commissioners, writing innumerable notices and letters and studying those received, explaining rival claims to claimants, publicizing meetings in

the Cambridge and Stamford newspapers, and attending countless meetings.³¹

Did Smith's energetic pursuit of enclosures signify that he was a callous promoter of undertakings ruinous to poor farmers? In certain respects he was, although one authority who studied the Horbling and Pointon enclosures has suggested that the commissioners (and presumably the clerk as well)

appear to have been honest men—careful, conscientious, and even considerate. If they could come back to life to-day they would probably repudiate with indignation any suggestion that they had been the instruments of injustice or oppression. They would assert that they had made every effort to obtain a true record of all the rights that would be extinguished by the enclosure, and that due compensation had been made for all such rights that were recognized in law.³²

That these enclosures greatly benefited the proprietors and did injury to the poor farmer resulted, according to this thesis, not from illegalities perpetrated by the commissioners but from the inadequacy (or unfairness) of the legislation. Yet its failure to allow the poor their ancient common rights—those of entering land for grazing and gathering herbs and timber, now defined as trespass—had devastating consequences for the small farmer.³³

What has been said of the commissioners probably also applied to the attorney-clerk Benjamin Smith. He was fully committed to the propertied class, as he himself affirmed when in 1773 he thanked Lord Willoughby de Broke for supporting him for Helpringham enclosure solicitor. Because Willoughby held considerable land in the parish, Smith could say that he would

use my utmost endeavours to prove to your Lordship you have not made an improper Choice. I will have an Eye to y[ou]r Lordship's Int[erest] & hope by my *Impartiality* [my emphasis] to please not only your Lordship but the rest of the proprietors, too.³⁴

In their lifetimes the Benjamin Smiths witnessed revolutionary changes in transport—the coaching network established during the life of the father and rail service during that of the son. Improvements in roads, canals, ports, and markets were likewise a necessary concomitant to agricultural and industrial expansion. The estimates of capital formation in England between 1780 and 1860 indicate clearly that buildings and transportation systems absorbed the largest amounts. Because building

generally was undertaken through private means, development of transport systems became a main objective of overhead capital. Improving parish roads, moreover, was perceived as an integral part of the process of enclosure.

In a burgeoning economy, the difficulty of financing a road system through parish rate assessments or building and maintaining it through labor obligations imposed on the local inhabitants soon became obvious. The solution to the problem was the turnpike trust, which assumed responsibility for improving those roads used constantly for both local and long-distance traveling. The trust did so by maintaining a section of a road and levying user tolls to pay for this upkeep.³⁵ Improvements, moreover, could be financed on anticipated future tolls, and such loans could be serviced by them as well.³⁶

Because a turnpike trust required capital, the funding forthcoming in Lincolnshire, as elsewhere, resulted from the enterprise of the local landholders and those whom they hired.³⁷ Just as Benjamin Smith, Sr., had, in clerking for enclosure commissions, made application for enclosure legislation, he similarly engaged in the turnpike bill process, specifically for the Bridgend Pike from Horbling to Donington. He worked for this commission as early as 1770; in 1784 he appeared as clerk and in 1794 as treasurer. Beyond that, attending turnpike meetings became a routine for both father and son, as young Benjamin's diary indicates. Indeed, it is with respect to turnpike matters that we first perceive young Benjamin Smith's legal apprenticeship.³⁹

The elder Smith's involvement in turnpike trusts was another mark of his allegiance to and membership in the propertied class. Like enclosures, turnpikes often caused popular resentment, for roads formerly open to all were increasingly checkered with toll gates and houses. As a nineteenth-century historian noted: "The turnpikes were by the lower classes, universally regarded as an obnoxious regulation—more adapted for the convenience of the wealthy portion of the community whose carriages could hardly pass on the old roads."⁴⁰ Mob action, such as it was, was directed at destroying the toll gates and houses.

William Albert, a principal authority on turnpike building, has concluded that

[turnpikes] did make a valuable contribution to economic development, but it must be remembered that they were promoted by a relatively few economically and politically powerful people in their own interests and at the immediate expense of the great majority of the population. Also, the trusts were similar to enclosures in that they involved a fundamental redefinition in the nature of property. Both enclosures and turnpike trusts were helping to transform the

face of the English countryside during the eighteenth century, as common lands increasingly gave way to fenced fields and the once open roads were closed off by toll gates. In most cases the men standing behind the fences and the gates were the same—the improvement-minded gentry. This is not unexpected, for enclosure and road improvement were highly complementary investments.⁴¹

During the years when the elder Smith was engaged in turnpike matters, he served as clerk of the Black Sluice Drainage Trust. This scheme, which focused on fen drainage in the Donington area, east of Horbling, was also initiated by south Lincolnshire “improver” landlords.⁴²

The great flood of 1763, which spared hardly an acre of the twenty-two thousand in Holland Fen, precipitated the action.⁴³ Fenland proprietors met at the White Hart Inn in Boston at the end of April 1764 and there decided to improve the drainage by repairing the old Black Sluice, which had lain in ruins for a century.⁴⁴ The landholders and corporation of Boston obtained a parliamentary act for this purpose.⁴⁵ Responsibility for undertaking this scheme rested with a commission consisting of a single representative from each of the numerous parishes involved.⁴⁶

The act authorized the commissioners to appoint a receiver of taxes and a treasurer, a clerk and a surveyor, and such other officers as needed.⁴⁷ The Black Sluice enterprise was to be financed from rates collected by a vestry of two persons from those living in each parish or township. If the funding proved inadequate, the commissioners were empowered by a later amendment to double the taxes. The commissioners had also to be alert to fenmen who, resenting this encroachment on their fishing and hunting domain, might vandalize the banks or works. In 1768, just two years after the passage of the Drainage Act and with Holland Fen enclosed and divided, some rioting did ensue.

Both Smiths clerked much of their lives for Black Sluice. Benjamin Smith, Sr., who was clerk by 1782, owed his appointment to Daniel Douglas, who was both a Black Sluice and a turnpike commissioner. Douglas paid Smith’s stipend for Black Sluice, as he had that for his turnpike clerking, directly from his personal account, which Smith administered.⁴⁸ Although the elder Smith was nominated for commissioner in 1793, he failed to win acceptance, evidently because of conflicting interest with his clerkship.⁴⁹ Benjamin Jr. continued his father’s work on the commission, serving for a half century after his father retired.⁵⁰

The gentry of south Lincolnshire, like those elsewhere in England, were “improvers” of people as well as things: they established charities designed to develop character and intellect among the less fortunate in much the same spirit as they fostered agriculture to enhance their own and the region’s prosperity. Furthermore, philanthropy may have served

as a device of the middle class to control and discipline a subservient class.⁵¹

The most notable of these charities in the Horbling area was one founded by Thomas Cowley of Wikes in Donington parish early in the eighteenth century. Its purpose was to assist the poor and the aged, and, especially, to hire a schoolmaster "for teaching 20 poor children in Donington to read English and write."⁵² As the years passed virtually all the proceeds from the Cowley bequest supported two boys' and two girls' schools.⁵³ The Anthony Barnes will of 1727 undertook to provide for impoverished clergymen's widows, the education of clergymen's sons, and "chaldrons of coals" and shoes for the poor.⁵⁴

In Billingham a Toller bequest established a school late in the seventeenth century; Robert Kelham similarly endowed his native Billingham with monies and six New Testaments for poor students. Additionally, there were charities established by Thomas Buckberry, Mary Gould, and an earlier school in Horbling founded by an Edward Brown in 1691.⁵⁶

One or the other of the Benjamin Smiths, frequently both, served as clerk, or secretary, for some if not most of these charities.⁵⁷ Their professional association and close personal ties with Robert Kellam and the Browns, Tollers, Buckberrys, and Goulds facilitated such a role. Benjamin Smith, Jr., succeeded his father as secretary for the Barnes and Cowley charities, retaining the position until, or just before, his death. To the present day the firm of Benjamin Smith and Company designates one of its own employees as secretary of the Cowley charity.⁵⁸

Late eighteenth-century England was—to judge by enclosure, turnpike, fen, flood, riot and other kinds of encroachments on property⁵⁹—a lawless realm. At least, it was so perceived by landlords, not excepting those of south Lincolnshire, who were confronted by rioting and a rash of cattle, horse, and sheep thefts. Although the guilty were often punished severely, law enforcement was amateurish and provincial courts were not always coordinated by Westminster. In such circumstances gentlemen sought extra-legal means to protect their interests. From a historical perspective such organizations are of more than passing importance. In the evolution from ad hoc law enforcement by unpaid justices of the peace and constables to the mid-nineteenth-century bureaucratic police force, the voluntary organization funded by subscription represented a transitional institution.⁶⁰

In 1788 Benjamin Smith, Sr., joined other landholders in forming the Falkingham [Folkingham] Association for Prosecuting Felons and other Robbers—a self-help group intended to preserve peace and safeguard property, particularly livestock.⁶¹ The membership nominated Smith clerk and treasurer.⁶² The articles of the association stated the intent of

bringing to justice and punishment anyone committing felonies against the subscribers or their property within a ten-mile radius of the town of Folkingham. If the felony victim were unable to prosecute, "the Clerk of this Association shall immediately call a Committee . . . for the Purpose of considering whether such Person ought to be allowed the Assistance of the Society."

A scheme of rewards, based on the seriousness of the offense, was incorporated in the articles. Constables, peace officers, and subscribers were generally excluded from the reward system. The dues of the subscribers, the procedures for informing the association of a felony, the duties of the clerk and treasurer—these and other details were incorporated in the articles signed by the membership, all clients of Attorney Smith. At the initial meeting on 5 February 1789 the dues paid amounted to £10.5.0. The clerk/treasurer reported at each annual meeting on income from dues, expenses for advertising the meeting, thefts, copying the rule book, the meeting, etc. Clerk/treasurer Smith did not accept a stipend.

The annual meeting was usually held at the Five Bells Inn in Folkingham, although occasionally it assembled at the Greyhound nearby. That this organization lasted for many years testifies to the cohesiveness of the community of which the Benjamin Smiths were a part. Benjamin Smith, Jr., succeeded his father as clerk/treasurer of the association in 1799.⁶³

Concerns about security at home were related to conflict abroad, specifically in France. Because of war and upheaval across the Channel the grand jury at the Lincoln Lenten Assizes resolved in 1794 to raise and equip a force of volunteers to be financed through subscriptions. It was determined that coastal towns would supply volunteer infantry, while farmers and gentry of the rural areas would organize into corps of infantry. One of the first yeomanry troops formed was that under Sir Gilbert Healthcote at Bourne and Folkingham. Young Benjamin Smith "exercised with the troop" in Folkingham frequently and appears to have been involved with Thomas Forsyth in supplying it.⁶⁴

Apart from holding stewardships and clerkships, the Smiths of Horbling naturally engaged in diverse aspects of lawyering. Throughout his career, the elder Benjamin Smith, especially, was constantly on the road. That they based themselves in Horbling was therefore something of an anomaly. Unlike other Lincolnshire attorneys of this time—Charles Tenyson in Great Grimsby, David Atkinson in Louth, or attorneys in Sleaford and Lincoln—the Smiths did not operate from a sizable market town. Working from the village of Horbling, the Smiths were obliged to call upon their constituents rather than await their coming to Horbling. Their catchment area seems to have extended to Sleaford in the north,

Grantham in the west, Boston and Spalding in the east, and Stamford in the south. Father and son traveled frequently to Folkingham, Bourne, Billingborough, and Donington.

The bill books record such time on the road. For example, Mr. Holt's account, which noted the "mortgaging [of] 2 Houses in Grantham to Mrs. Toller for £150," itemized a "Journey to Grantham to view the Repairs of the Inn & to know if you had a Wife & whet[he]r you made any Settlem[en]t on her etc.":

Journey to Grantham with the Money & to get the Writings executed	10s 6d
Horsehire Exp[ense]s	3s 6d
Procuring the Money, getting it from Lincoln & writing L[ette]rs.	10s 6d
23rd Jan 1762. This was paid.	£4 0s 2d ⁶⁵

Despite their country environment, the Smiths were resourceful in providing good service for their clients. William Worth's precedent books no doubt made possible a certain consistency in confronting recurring problems; moreover, the Smiths consulted experts elsewhere. They used their London agents Robert Kelham and Johnson and Gaskell for assistance, and Lincoln's Inn attorneys for opinions.⁶⁶ Once received these opinions were carefully filed with a notation "Examined by Ben Smith."

Competence and dependability brought the Smiths of Horbling a solid reputation and a measure of wealth as well. Computing their total income from diverse sources, however, is difficult if not impossible. Clearly, the Smiths' stipends from enclosure, turnpike, and drainage clerkships were of small consequence in their total income. The records show that clerking for the turnpike trustees earned Benjamin Sr. £5.13.0 in 1789; in the next years the amounts recorded were £5.15.8 and £7.9.6; in 1791 £5.13.6; in 1792 £6.5.6. His clerkship for the Black Sluice commissioners during the same years was more lucrative: in 1788 £16; in 1789 £30.7.0; in 1790 £25.0.7, but he may have received an additional £130; in 1791 £21.12.11; and in 1792 £30.0.3.⁶⁷

It is difficult to be precise about Benjamin Smith Sr.'s income from his practice of law, for his ledgers generally did not indicate annual profits. Attorneys in late eighteenth-century England are said to have averaged about £200 to £300 per annum from their practice.⁶⁸ One Smith ledger did, for specified periods, distinguish between "money received" and "neat profit." For example, his receipts from 6 April 1771 to the same date a year later were £368.8.11¹/₂; of this amount £263.3.9¹/₂, or 71%, was profit.

In two other instances Smith recorded both income and profit: for the three-month period 6 April 1776 to 7 July 1776 he received £116.2.4¹/₂, of which £97.7.5 was designated profit. From 10 April 1778 to 11 October 1778 his receipts totaled £105.18.1¹/₂, of which £76.5.1¹/₂, or 72%, was profit. That the quarterly profits for 1776 exceeded the semi-annual ones for 1778 indicates the risks of using these quarterly and semi-annual figures.

Benjamin Smith Sr.'s legal fees for the most part were modest, appearing in line with attorneys' earnings elsewhere in England.⁷⁰ His bill books, which read like a business diary, contain such entries as the following one under the heading of "Mr Green":

Drawing assignm[en]t of your mort[gage] from the Ex[ecuto]rs of the late John Newton to Mr. Child [a banker] for receiving £200 & Int[erest]	£1
Ingross[in]g the same 2 Skins	£1
Parchm[en]t & Duty	8s
Bond to perform Cov[enan]ts	6s
Writing L[ette]rs, going to Aswarby & procuring the Money	10s
27 July 1761 pd.	£3 4s ⁷¹

Making abstracts of deeds, assigning mortgages, drawing up leases, making wills—all of these were his stock in trade.

There appears a consistency in the billing for the various kinds of services rendered. Very likely both Smiths followed what was standard practice among attorneys. Travel increased their fee; so did extensive perusing of materials. Yet there was a looseness about the whole process. Specificity in the number of hours expended was often lacking. Rather, phrases like "Writing many letters to you" or "extra trouble" inevitably added to the fee; on the other hand an "I charge nothing" occasionally appeared in the account alongside the services rendered. The bill books appear well kept, even by modern standards. The cash books, however, are disturbing to modern eyes in that the Smiths, especially the elder, did not distinguish between business and personal receipts and expenditures.⁷²

Although it is difficult to determine Smith Sr.'s annual earnings from fees, Smith Jr.'s were specifically recorded. From 1807, the year the father died, the son took three-quarters of the net profit per annum; the elder Worth one quarter; and Worth's son, the clerk, received fifty guineas per annum. Receipts and payments fluctuated each year, but the following record of annual earnings gives a clear indication both of the firm's profitability and of individual accumulation:

- 1807 Benj. Smith Jr.: £834.2.6³/₄; William Worth Sr.: £278.0.10¹/₄
 1808 Smith: £1,657.4.2¹/₂; Worth: £552.8³/₄
 1809 Smith: £832.10.0; Worth: £277.10.0
 1810 Smith: £1,989.11.3; Worth: £663.3.9
 1811 Smith: £1,441.11.5¹/₄; Worth: £480.10.5³/₄
 1812 Smith: £1,377.4.6; Worth: £459.1.6
 1813 Smith: £1,856.9.4¹/₂; Worth: £618.16.4¹/₂
 1814 Smith: £2,069; Worth Jr.: £670
 1815 Smith: £1,647.11.0; Worth: £549.3.8
 1816 Smith: £1,480.0.6; Worth: £493.6.10
 1817 Smith: £1,830.5.9³/₄; Worth: £610.1.11¹/₄
 1818 Smith: £1,730.4.3; Worth: £576.14.9
 1819 Profits were divided three ways—Smith, Worth, and the new partner Wilkinson—along with reimbursement to Worth for bills outstanding.
 1820 Smith: £807.18.2¹/₂; Wilkinson: £269.6.0³/₄.
 1821 Smith: £1,446.8.9; Wilkinson, £482.2.11⁷/₃

When Benjamin Smith, Sr., died, he left his widow an annuity of £100 to be paid semi-annually⁷⁴ and bequeathed his sister £24 annually with a similar prescription for payment. Elizabeth, the daughter, received £7,000 and land, Edward, £8,000, and Francis, £2,500. The value of lands designated for Benjamin and Francis no doubt exceeded these amounts.⁷⁵ The firm passed to Benjamin Jr., but its value in terms of good will was at this date not a consideration.⁷⁶ That a nephew (Francis's son) amassed some 3,000 acres a generation later⁷⁷ and that Benjamin Jr.'s net worth in 1857 was £140,000 suggest that Benjamin Sr.'s heirs built significantly upon his own rather substantial estate.⁷⁸

How could such wealth result from a less than systematic billing of clients, commission clerking, and collecting manorial rents and fees? Annual earnings after 1807 elevated the income level of the Smith/Worth partnership well above that of most hard-working professionals. The answer appears to have been in their handling of money. The Smiths were, like other country attorneys, a conduit for credit, that is, money scriveners.

The local money market was crucial in the so-called agricultural and nascent industrial revolutions.⁷⁹ Before country banks were well established the role of financial intermediary was performed by those having access to collateral and clients, and those who understood both the land and the law. For shrewd, respected, and diligent attorneys unprecedented opportunities existed.⁸⁰ A contemporary of the elder Benjamin Smith described a country attorney as

one engaged in the drawing of Deeds, Mortgages and Conveyances of Estates. This is the most profitable Branch of the Law; for to that of Drawing Deeds they commonly add the Trade of a Money-Scrivener; that is, they are employed to find out Estates to purchase, or have Money to lay out for some, and borrow for others, and receive Fees from Borrower and Lender; and of course are employed to draw the Securities.⁸¹

While the attorney made himself useful, even indispensable, to his clients—the gentry, farmers, graziers, widows, and tradesmen—in the matter of deeds, mortgages, conveyances, and wills, he served them (and himself) best by finding mortgagees. In doing so, his having ready cash, or knowing someone who could and would lend it, was a great advantage.⁸² Smith's accounts show the extent of his involvement with mortgages, which, as one authority put it, were "one of the most efficacious forms of investment in the eighteenth century."⁸³ This was true despite a decline in interest rates from six percent in the late seventeenth century to five or even four in the eighteenth.

The mortgage was an important financial instrument in a boom economy because it met specific societal needs—certainly the needs of the kinds of clients served by the Smiths. Because the strict family settlement and long-term mortgages made it more difficult to reduce debts by disposing of land, borrowing offered the best means to pay off old or inherited debts, improve or enlarge property, finance elections, provide portions for younger sons, and, to use modern economic parlance, "finance industrial capital formation."⁸⁴

Three additional factors favored mortgage-financing in eighteenth-century England. First, mortgages no longer engendered risk at law. The equity of redemption had become a secure property right the previous century: the mortgagor was the owner. Second, mortgagees and brokers increased their volume of business as falling interest rates proved irresistible to mortgagors. Third, mortgage-borrowing greatly facilitated general economic growth.⁸⁵

Attorneys like the Smiths functioned most effectively as financial intermediaries when they had the complete trust of the investor and the consequent access to the funds, possibly left on deposit with them, and the discretion for investing these funds. The elder Benjamin Smith was such a trusted counselor to the widows Toller and Douglas,⁸⁶ and so important was the Douglas account to him, that he continued managing it for Daniel's widow, Jane, even after his retirement. Benjamin Jr. oversaw it after his father's death until Jane died in 1821.

The Douglas account, mentioned earlier, represents the clearest evidence of the role taken by the Benjamin Smiths as managers of money.

The record of this account, dating from 17 January 1788 to 23 October 1805, is interesting in that it designates "Benjm Smith Debtor" on the left page and "B. Smith Creditor" on the right. The left is really a record of monies Smith received in behalf of Douglas; on the right, monies Smith paid out for or invested for his client. Douglas, as noted, used the account for both personal matters and ventures such as the Black Sluice Drainage and Bridgend Turnpike commissions. Receipt was recorded for Black Sluice taxes from villages surrounding Horbling; payments were disbursed to investors in Black Sluice and to Smith for his salary as clerk of Black Sluice.⁸⁷

Material accumulation was by no means the only measurement of one's status. Benjamin Smith, Sr., possessed valuable London contacts in Thomas Forsyth, Robert Kelham, Messrs. Gaskell and Johnson, the banker Marmaduke Langdale,⁸⁸ the Lincoln's Inn attorneys Ryder and Harvey, and the Northamptonshire surveyor Edward Hare—all of whom helped to launch young Benjamin professionally. Beyond that, they represented one kind of network—in this case, of attorneys, bankers, surveyors—who facilitated England's economic growth during this crucial period.

Distinctions between professional and private lives were sometimes narrowly drawn. We can only speculate about what manner of persons the Smiths were and the figure they cut—beyond their bill, cash, and account books—in their village society. When the Tollers, Douglasses, Forsyths, and Kelhams are mentioned, the narrative touches on private as well as business matters, for the Smiths counted them as friends as well as clients.

Although the elder Smith left virtually no correspondence,⁸⁹ Benjamin Jr. did breathe life into the individual members of the Smith family through his diary, which covered his father's last active years as well as much of his own life. A reconstruction of a life, or lives, can be derived, therefore, from coordinating the diaries with the cash and bill books, although the diaries from 1799 to 1817 were lost and the later ones, which continued until 1854, are sometimes not detailed enough.

The facts are these. The elder Benjamin Smith was born in 1731 in St. Peter's Eastgate, Lincoln, to Benjamin and Elizabeth Smith.⁹⁰ In 1767 he married Elizabeth Fryer, nearly ten years his junior, from nearby Spanby.⁹¹ Of their seven children, four survived.⁹² Elizabeth—"Bess," as her father affectionately called her—was the eldest, born in 1769. She married a Dr. Bloomfield in her later years and resided in Folkingham. The eldest surviving son was Benjamin, born on 21 January 1776. The second son, Francis, was born in 1778 and died in 1844. He became a grazier residing at Monks Hall in Gosberton; through him the Smith line continued. The

youngest son was Edward, "Ned," born in 1780 and schooled at Uppingham and St. John's, Cambridge, before his ordination in 1804. In 1809 he married Sarah, the eldest Langdale daughter, but died four years later. Edward fathered two children, neither of whom had issue.⁹³

The personalities of the Smiths invite some speculation. The elder Benjamin Smith, much consumed with business and business associates, is revealed as a patriarch in his household, one who planned carefully for the material well-being of his children but who seems to have allowed little individuality for his wife. Periodically, generally once a month, he designated in his accounts five or ten guineas for "Wife." For her part, she regularly attended church on Sundays and was attentive to sick and grieving neighbors.⁹⁴ Young Benjamin emerges as a dutiful son, respectful of his father and very devoted to his mother. In the absence of his father, he generally accompanied her to church. While Benjamin Jr. showed himself to be a loyal friend and loving husband, he could be stern, even ruthless, with those who crossed him. He was diligent in his affairs, somewhat self-righteous, religious, at times quarrelsome and depressed, and decidedly hypochondriacal. His great loyalty to friends and his love and worry for parents, siblings, and wives suggest his having been a very thoughtful person.⁹⁵

Although Benjamin Smith, Sr., spent much time riding his circuit of clients, he rarely traveled far. In later years, when he did so it was generally with young Benjamin.⁹⁶ He made an occasional trip to Walsingham in Norfolk, to London with young Benjamin, or to Derbyshire, on the annual family outing. This journey by way of Nottingham, Matlock, and Dove Dale occurred on virtually the same day each year, 13 or 14 August, 1795, 1796, 1797, and 1798.⁹⁷ At home, the Smiths rarely missed a fair, those in the neighborhood in Swaton, Folkingham, and, of course, the Stow Horse Fair.

Benjamin Smith, Jr., traveled more frequently and farther than his father: besides the annual family trips to Derbyshire and the trips to London in 1795 and in 1796-97, he went again to London in 1799 and innumerable times afterward. The London visit in 1796-97 was both for business and a reduced "grand tour" of sorts.⁹⁸ Departing Folkingham by chaise on 2 November in the company of the Horbling curate, the Rev. Mr. Shinglar, he transferred at Peterborough to the Boston Coach, arriving in London the next morning. Young Smith, parting company with Mr. Shinglar, took up lodgings at "No. 19 Castle Street, Falcon Square, Aldergate St." Before the day was done, he went by the Thames to see the courts in Westminster Hall.

Not every day in London was spent at the courts. He developed, as noted earlier, a close friendship with young Sharp, who, like Smith, was

soon to be enrolled as attorney. They missed hardly a day taking tea, dining, walking, partaking of music, theater, art, visiting ladies young and old, or going to church.

Young Benjamin recorded the following in his London diary: “[16 Nov. 1796] A rainy and cold day. Mr Sharp & I went Covent Garden Playhouse at night. The Jew & Hartford Bridge—we went in 2d Gallery as we co[ul]d not get in the Pit. The King, Queen & 3 Princesses were there.” On Saturday evening, 25 March, Smith and Sharp went to the Drury Lane Theatre for “Tamerlane and Lodvishi,” which they enjoyed so much that they returned for a repeat performance with Sharp’s brother George the following Thursday. On 7 April Sharp and Smith went to an oratorio at Covent Garden. On 24 April they went to a “concert” at the “opera house.” Occasionally young ladies joined them. In early May Smith referred to Misses Prat and Hall: “Mr Sharpe & I went in Aft[er-noon] with Miss Prat & Hall to see St. Pauls—went to Drury Lane in Eve[ing] but co[ul]d not get in” (8 May). On the next day: “Walked with Miss P & H before Breakfast—went with them in Eve to Drury Lane Theatre.” The next day they went to the Exhibition, and the following day he and Sharp took them to the coach for their departure from London.

We have fewer insights on the amusements of the father. The cash books reveal that the father occasionally won or lost at cards; the diaries indicate that he frequently attended court dinners, took tea with or entertained friends like the Tollers, Douglasses, Tomismans, and the village curate Shinglar and his wife.

Young Benjamin’s pastimes, according to his diary, were cricket, shooting larks and rabbits, walking, riding, fishing, and reading. We glimpse his reading preferences when he mentions concluding the second volume of Blackstone. His visits with friends appear very relaxed: on 1 April 1797 he dined at the Forsyths in Wimpole Street and lost a pound and sixpence at cards. He may have had fewer interests in the land than did his father, whose cash books of the 1770s abound with sales of sheep, mutton, sheep skins, tallow, ewes, hog skins, raven quills, lambs, heifers, and pear, cherry, and apple trees.⁹⁹

In October 1798 the elder Smith took the first steps toward retirement. The official papers record his relinquishing manorial stewardships and lordships and various clerkships in favor of his son. His daily routine slackened, although he continued to keep his books, particularly the Widow Douglas account. In the same month he moved his household from Horbling to Folkingham; this was the clearest indication that young Benjamin would continue business from the old location.¹⁰⁰ Benjamin Smith, Sr., died in Folkingham in 1807 and his wife Elizabeth in May 1820.¹⁰¹

Benjamin Jr., who assumed most of the responsibilities after his father's retirement and death, greatly expanded the firm's office space during the next two decades.¹⁰² For years the elder Smith had practiced law from a small building behind Red Hall, where he lived. Benjamin Jr. used this until 1814 when he had an office built in the Donington market place. In 1825 he saw completion of what has long been the firm's main office in Spring Lane, Horbling, across from Red Hall.¹⁰³

The firm of Benjamin Smith had a succession of partners during its first century. The elder William Worth became a partner in the firm in 1807 and died in 1813. He was succeeded in the partnership by his son, who also had apprenticed in the firm. This partnership with the Worths, always three-quarters Smith and one-quarter Worth, lasted until 1817 when it was dissolved at the initiative of Smith, who charged Worth with drunkenness.¹⁰⁴

After Worth's departure Smith invited young William Wilkinson, who was clerking in the firm, to join him as junior partner. Wilkinson's tenure in the firm lasted until 1846 when he had a seizure and "became violent and quite mad." He died in Lincoln two years later. That same year Benjamin Smith took one George Wiles as his partner. In 1854, after suffering a stroke, Smith himself retired from the partnership.¹⁰⁵

Benjamin Smith Jr.'s withdrawal from the firm occurred nearly a century after his father had first served the Browns in Walcot. In that time England's economy had, in modern economic parlance, "taken off."¹⁰⁶ Provincial attorneys like the Smiths and the attorney-networks of which they were a part greatly facilitated this process.

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N O T E S

1. I wish to thank the University of Bridgeport for a sabbatical leave in 1984-85 and for two Mellon Fund grants awarded to facilitate research at the Lincoln Archives Office (LAO) in 1984 and 1986; and to express gratitude to the staffs of LAO and the University of Bridgeport Law Library, particularly Christina DeLucia. Joan Varley, retired archivist of the LAO, and Harry Bowden, Esq., a retired partner of Benjamin Smith and Co., have been particularly helpful with suggestions and, in the case of Mr. Bowden, with documents that supplement those in the LAO. I also appreciate a critique of an earlier version of this paper by Professor John H. Baker of St. Catharine's College, Cambridge, and by Professor William Nelson and members of the New York University Law School legal history colloquium, and of this paper itself by participants in a workshop sponsored by UCLA's Center for 17th and 18th Century Studies at the William A.

Clark Memorial Library. For a related paper see A. J. Schmidt, "The Country Attorney in Late Eighteenth-Century England: Benjamin Smith of Horbling," *Law and History Review*, 7 (1990): 237-72.

2. See David Grigg, *The Agricultural Revolution in South Lincolnshire* (Cambridge, 1966), 66; and Hugh C. Prince, "The Changing Rural Landscape, 1750-1850," in G. E. Mingay, ed., *The Agrarian History of England and Wales*, vol. 6, 1750-1850 (Cambridge, 1989), 7-83.

3. *The Land Laws*, 2d ed. (London, 1887), 114-15, as quoted in Lloyd Bonfield, *Marriage Settlements, 1601-1740: The Adoption of the Strict Family Settlement* (Cambridge, 1983), xiii.

4. "English Landownership, 1680-1740," *Economic History Review*, 1st ser., 10 (1940): 2-17.

5. "Landownership and Economic Growth in England in the Eighteenth Century," in E. L. Jones and S. J. Woolf, eds., *Agrarian Change and Economic Development* (London, 1969), 51.

6. "The English Land Market in the Eighteenth Century: The Case of Lincolnshire," *Economic History Review*, 2d ser., 27 (1974): 558.

7. *Ibid.*, 564; and T. W. Beastall, *The Agricultural Revolution in Lincolnshire* (Lincoln, 1978), 85-107, *passim*.

8. *Augustan England: Professions, State, and Society, 1680-1730* (London, 1983), 13. Several older studies on the profession of attorney are Robert Robson, *The Attorney in Eighteenth-Century England* (Cambridge, 1959); Michael Birks, *Gentlemen of the Law* (London, 1960); Henry Kirk, *Portrait of a Profession: A History of the Solicitor's Profession 1100 to the Present Day* (London, 1976); Barbara Kerr, "Country Professions," in G. E. Mingay, ed., *The Victorian Countryside*, 2 vols. (London, 1981), 1:188-299; J. H. Porter, "The Development of Rural Society" in *The Agrarian History of England and Wales*, 6:836-65; and C. W. Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge, 1986).

See especially the recent studies by Aylett and Miles: Philip Aylett, "A Profession in the Marketplace: The Distribution of Attorneys in England and Wales 1730-1800," *Law and History Review*, 5 (1987): 1-30; and "Attorneys and Clients in Eighteenth-Century Cheshire: A Study in Relationships, 1740-1785," *Bulletin of John Rylands Library*, 69 (1987): 326-58. Both of these are derived from "The Distribution and Function of Attorneys in the Eighteenth Century, with Special Reference to North-West England" (M. Phil. thesis, University of Manchester, 1984). See also Michael Miles, "'A Haven for the Privileged': Recruitment into the Profession of Attorney in England, 1709-1792," *Social History*, 2 (1986): 197-210; and "Eminent Practitioners: The New Visage of Country Attorneys c. 1750-1800," in G. R. Rubin and David Sugarman, eds., *Law, Economy, and Society, 1750-1914: Essays in the History of English Law* (London, 1984). Both of these are derived from

“Eminent Attorneys’: Some Aspects of West Riding Attorneyship c. 1750-1800,” (Ph.D. diss., University of Birmingham, 1982), hereafter cited as “Eminent Attorneys.”

9. Miles, in particular, is skeptical about this so-called upward mobility as offered by the profession of attorney in the eighteenth century. He believes that most who entered the professions were sons of gentry and “well-endowed ‘middling people’” (“Eminent Attorneys,” 374). See also his “A Haven for the Privileged.”

10. One genealogy identifies the elder Benjamin Smith’s grandfather, also a Benjamin Smith, as a weaver who died in 1729, but provides no occupational label for his father, called Benjamin as well. (Genealogy provided by Mr. Harry Bowden.) Apprenticeship records at the Public Record Office generally did not include parents’ names after 1752.

11. Benjamin Smith’s connection with the Browns seems inseparable from his career as attorney. It has been suggested that Smith clerked for Matthias Brown, a Walcot attorney and agent for the Brown estates, and succeeded him as agent (H. Bowden/Memo by George Smith, a descendant and partner in the firm, in 1940).

Professor John H. Baker has suggested (letter of 14 October 1988) that Smith was a managing clerk attending copyholds. It does seem that before or about 1760 he may have been land agent and/or managing clerk as well as deputy steward and steward of a manor—all having some connection with the Browns and all before he practiced as an attorney.

12. LAO Smith 4/Manorial, Meres (microfilm), *passim*. The Meres Manorial papers have been withdrawn from the LAO. The steward of Meres was one Edward Brown, gentleman, of Walcot, and the lord of the manor was Adlard Squire Stukeley, who had married into the Brown family. Having long been prominent gentry in the eastern Kesteven, the Browns, in favoring young Smith, linked his fortunes with theirs. So it remained for the lives of both Benjamin Smiths.

13. The following, compiled from LAO Smith 4/Manorial, *passim*, is a chronological listing of stewardships and lordships acquired by the elder Benjamin Smith:

1761: Steward of Newton in succession to Thomas Brown.

1769: Steward of Monks Hall, Gosberton, succeeding Adlard Squire Stukeley.
John Calcraft lord until 1797.

1769: Listed as deputy steward of Baston Manor. Thomas White steward and Sir Gilbert Heathcote lord.

1774: Steward of court of Wikes Manor.

1784: Steward of Threckingham West Hall to Richard Wynne and subsequently Sir Gilbert Heathcote, lords. (William Worth deputy steward by 1786.)

- 1786: Steward of Baston and Langtoft manors, but perhaps as early as 1783. (William Worth deputy steward in 1793. In 1798 Benjamin Smith, Jr., deputy steward of Langtoft Manor and in 1799 steward to Sir Gilbert Heathcote, lord of Baston Manor.) Steward of Threckingham.
- 1787: Lord of Monks Hall. (William Worth steward. In 1798 Benjamin Smith, Jr., steward and in 1806 lord.)
- 1791: Steward of Thurlby Manor to Sir Gilbert Heathcote lord. (Benjamin Smith, Jr., steward in 1799.)
- 1796: Lord of Wikes Manor. "One of the lords of the said manor and steward to the other lords there." As a result of his affiliation with Wikes, Smith became, as noted below, a clerk of the Cowley Charity. The lordship of Wikes was owned half by Cowley and half by the lord. Benjamin Smith, Sr., as steward of the manor and eventually lord, became clerk to the Charity. Benjamin Smith, Jr., became deputy steward in 1798 and steward in 1799.
- 1799: Lord of manor of Meres.

The manor, as such, was by the late eighteenth century an anachronism: copyhold tenancies were virtually as secure as freehold. They could be purchased, sold, mortgaged, inherited, and entailed, and they no longer carried the onerous labor service that they had in ages past (A. A. Dibben, *Title Deeds 13th-19th Centuries* [London, 1971], 23-24).

14. See Michael Birks, *Gentlemen of the Law*, 116. Such a court late in the eighteenth century was invariably a court baron, which could include a court leet. The former was a private jurisdiction on the estate of the lord, the latter a franchise held of the crown with public jurisdiction. While this ancient distinction was usually maintained in the formalities of the session, it amounted to little more than that by the late eighteenth century.

15. A distinction should be made between a land agent and a steward engaged in holding manorial courts. A manorial stewardship as such was frequently honorific though no less lucrative than the other post. On the other hand, Smith Sr.'s cash books confirm his broad knowledge of country life—that he was perhaps a farmer or grazier as well as attorney—thereby making plausible his evolution from land agent. Even during the 1790s, the last years of the elder Smith's career, he was preoccupied with lands and tenants (see Bowden/Smith Jr., *Diary no. 1, 1794-99*, passim). Besides managing their own holdings the Smiths attended to those of the Browns, Douglasses, and absentee landowners like Robert Kelham and Thomas Forsyth.

16. Quoted from G. E. Mingay, "The Eighteenth-Century Land Steward," in E. L. Jones and G. E. Mingay, eds., *Land, Labour, and Population in the Industrial Revolution* (New York, 1967), 3-4. See also Edward Hughes, "The Eighteenth-Century Estate Agent," in H. A. Cronne, T. W. Moody, and D. B. Quinn, eds., *Essays in*

British and Irish History in Honour of James Eadie Todd (London, 1949); Eric Richards, "The Land Agent," in G. E. Mingay, ed., *The Victorian Countryside*, 2:439-56; F. M. L. Thompson, *English Landed Society in the Nineteenth Century* (London, 1963), 151-83, especially 161-62; J. V. Beckett, "Landownership and Estate Management," in *The Agrarian History of England and Wales*, 6:545-640; T. W. Beastall, *Agricultural Revolution in Lincolnshire*, 94-99; and R. J. Olney, *Rural Society and County Government in Nineteenth-Century Lincolnshire*, 46-51.

17. Quoted in Olney, *Rural Society and County Government*, 46.

18. Certainly no formal note of Benjamin Smith's clerkship was taken in the usual places—King's Bench, Articles of Clerkships and Affidavits (PRO, Chancery Lane), or the Stamp Office Registers for Apprentices (PRO, Kew). That many attorneys practiced with minimal training was no doubt true. Michael Miles suggests that "great numbers of bankrupt merchants, dealers and tradesmen . . . set themselves up as attorneys or solicitors. Attorneyship was being used as a safety net for hard times in business which could be conveniently folded up when their principal vocation again proved financially viable" (letter, 31 July 1986). Geoffrey Holmes also discusses the hard-dying assumptions that attorneys could make it on their own without much formal instruction. At the very least, a short clerkship would suffice (*Augustan England*, 154-55). On regulation of attorneys see "An Act for the Better Regulation of Attornies and Solicitors" (2 Geo. II c23 [1728], ss 1, 2, 3, and 5). On 13 February 1739 attorneys, solicitors, and proctors from the church courts united to form the Society of Gentlemen Practisers in the Courts of Law and Equity. This Society, which in 1831 became the Law Society, to this day is the accrediting body for solicitors.

19. Cf. LAO Smith 11/Firm's Business, Bill and Debt Books, 1761-66. Smith's formal enrollment was 28 November 1767. See PRO, KB 105, Roll of Attorneys, 1729-88, p. 261; and Law Society, Chancery Rolls, 1729-91.

20. LAO Smith 11/Firm's Business, William Worth's Articles of Clerkship, 1793.

21. William Worth was deputy steward for several manors to Benjamin Smith during the late 1780s, some years before his formal clerkship in the law began.

22. LAO, Smith 11/Firm's Business, Worth's Articles of Clerkship. William Worth, Jr., also earned fifty guineas per annum as clerk before succeeding his father as one-quarter partner in the firm.

23. Mentioned in Benjamin Smith Jr.'s diary. See LAO Smith 11/Firm's Business, William Worth's Precedents, *passim*. These books, consisting of such diverse legal forms as covenants, conveyances, deeds, trusts, notices to quit, etc., were begun about 1788 and continued by William Worth, Jr., after his father's death. Worth Sr. apparently relinquished his deputy stewardships when Benjamin Smith, Jr., entered the firm. He married in Horbling in 1788 and his son William was born the following year (*Horbling Registers*, Henry Peet, Liverpool & London [1895], 152, 161, 174, as cited by Varley, *Archivists' Report*, 13 [1961-62]: 47).

24. Both the *Commonplace Book* and the Benjamin Smith, Jr., diaries, owned by the Smith family, are presently in the custody of Harry Bowden, Esq., of Spalding, Lincolnshire. The author is grateful to the Smiths and Mr. Bowden for permission to cite these materials.

25. Smith cited the following works:

Woods Inst. [Thomas Wood (1661-1722), *Institute of the Laws of England* (1722)]

C. L. D. Cunninghams Dict. [in two vols., by T. Cunningham]

B. E. L. Burns Eccles. Law [Richard Burn, *Ecclesiastical Law* (1763) in two quarto volumes. It reached a ninth edition in 1842.]

B. Ab: Bacons Abridgemt. [Mathew Bacon's *Abridgement*, published between 1736 and 1766.]

N. T. C. Newmans Theory Convey. [W. Newman, *The Complete Conveyancer; or the Theory and Practice of Conveyancing in all its Branches* (c. 1785)]

B. R. Burrows Reports [a collection of cases, 1732-53, on the law of settlement by Sir James Burrow (1701-82), Master of the Crown Office, 1733-82.]

C Bl. Christians Edit of Blstone [William Blackstone, *Commentaries on the Law of England*. The 12th through the 15th editions were by Christian, the first Downing Professor of Laws of England at Cambridge.]

Lovel. Lovelasson Wills [Peter Lovelass, *Intestate Succession* (1785)]

Practice in C.P. Atty's Practice in the Common Pleas. [R. Richardson, *Attorney's Practice in the Court of Common Pleas* (1739)]

Atkyns Rep. [Published 1765-80]

Co: Litt. [Coke on Littleton]

A casual survey suggests that of these, Blackstone was most often cited.

In the back portion of his commonplace book young Smith devoted much space to estates, tenancies, leases, rules of descent, and the Statute of Distribution (22 & 23 Car. 2. c. 10).

26. The references to Benjamin Smith, Jr., in London are Bowden/Smith Jr., Diary no. 1, 1794-99.

27. Benjamin Smith, Jr., recorded that en route to London they stopped overnight with Mr. Edward Hare, surveyor, business associate, and friend, in Castor, Northamptonshire. See note 28 below.

On a cold and rainy morning, 15 June, father and son walked to Westminster Hall where they "saw all the Judges sitting in the sev[era]l differe[n]t C[our]ts & the Chan[cery]." The next day they visited the House of Commons, where they stayed four hours (Bowden/Smith Jr., Diary no. 1, 1794-99).

28. Smith noted that on 26 November 1796 he went to Somerset House to "get Deeds stamped [*sic*]." The next day he dined at Mr. Harvey's in Lincoln's Inn Fields. In an entry of 3 April 1797 he wrote that "I went to office by self at night." This would suggest that he followed a routine for conducting his father's busi-

ness. In an entry of 3 May he again recorded that “I went office in Aft[ernoon] by self.” For 8 April he noted that “I attested ye Execu[tio]n of a Codicil to L[or]d Brownlowes will.” Also on a “fine morning” in early April [the 10th] Smith and Sharp walked to the King’s Bench Prison to see a prisoner—which the diary entry suggests was a business matter.

During the eight months in 1796-97 that young Smith spent in London he saw a great deal of his father’s business associates Kelham, Forsyth, Robinson, Johnson, and Gaskell—all of whom evidently kept an eye on the boy.

Robert Kelham is interesting for several reasons. An antiquarian scholar of the law, he was himself an attorney, living in Edmonton, Middlesex, and referred to as early as 1762 as Smith’s agent in London (LAO, Smith 11/Firm’s Business, Bill and Debt Book 1761-66, p. 12). The Kelham papers, deposited at the Lincoln Archives Office, show the extent of his holdings in the Horbling area in Smith’s day. They also confirm the notion gained from Smith’s account books—that he performed numerous services for Kelham in Lincolnshire, principal among them the collection of rents.

Thomas Forsyth is more elusive than Kelham, although it is clear that both Smiths collected his rents and perhaps in other ways managed his properties in Lincolnshire. When he visited Folkingham, the Smiths saw him frequently. The same was true in London. Young Smith visited the Forsyths frequently [November 1796; 12, 19, 20 February 1797, and *passim*].

In Devonshire Street Benjamin called on his father’s agents, Attorneys Robinson and Johnson of the firm of Johnson and Gaskell [6, 14, 22, 23, 25, 27, 29 December 1796]. On the 23rd both Gaskell and Robert Kelham, Esq., were there; on Christmas day he took dinner at Mr. Johnson’s; on the 29th Gaskell and others joined them at Johnson’s. On 31 May 1797 young Benjamin and Johnson went to Westminster to receive Tontines.

In Lincoln’s Inn Fields he drank wine with Mr. Harvey [24 November 1796], dined with him three days later, and supped with him and Mrs. Harvey on another occasion [2 February 1797]. The day following his wine with Harvey he called at “Mr. Ryder’s Chambers,” where Benjamin Sr. had first taken his son for tea on 15 June of the previous year. And so it went. These business and social contacts no doubt proved both an education for Benjamin Jr. and a boon to the firm’s business.

The elder Smith, meanwhile, corresponded regularly with his son. In one instance the son noted that he did not attend church on Christmas day in order that he could write to his father and sister. In turn, he was remembered by his father, receiving [11 March 1797] a letter with a basket from father and sister.

29. On another occasion [9 March 1797] Mr. Johnson and a Mr. Baskerfield escorted him to the Antiquarian and Royal Societies at Somerset House.

30. For Smith’s work on enclosures see LAO Smith 5/Enclosures, *passim*.

31. LAO Smith 11/Firm’s Business, Bills, 1789-1804, Pointon Enclosure (pp. 1-6)

and LAO Smith 5/Enclosures, Pointon. His work on the Bicker enclosure is recorded in LAO Smith 11/Firm's Business, Bills, 1765-89, pp. 5-11, 77-78.

See Eleanor and Rex C. Russell, *Making New Landscapes in Lincolnshire: The Enclosures of Thirty-Four Parishes* (London, 1983), 5, for an account of the enclosure process.

32. W. H. Hosford, "Some Lincolnshire Enclosure Documents," *Economic History Review*, 2d ser., 2 (1949-50): 78. See also M. W. Beresford, "Commissioners of Enclosures," *Economic History Review*, 1st ser., 16 (1946): 130-42.

33. Hosford, "Lincolnshire Enclosure Documents," 78-79.

34. Smith to Willoughby, 16 June 1773, LAO, Smith 5/Enclosures, Helpringham.

35. Turnpike trusts were established by act of Parliament and, as with enclosure acts, were a consequence of local landholder initiative.

36. G. R. Hawke and J. P. Higgins, "Transport and Social Overhead Capital," in Roderick Floud and Donald McCloskey, *The Economic History of Britain Since 1700*, vol. 1, 1700-1860 (Cambridge, 1981), 230. For more on turnpike building, see William Albert, *The Turnpike Road System in England 1663-1840* (Cambridge, 1972); E. Pawson, *Transport and Economy: The Turnpike Roads of Eighteenth-Century Britain* (1977); and B. J. Buchanan, "The Evolution of the English Turnpike Trusts: Lessons from a Case Study," *Economic History Review*, 2d ser., 34, no. 2 (1986), 165-243.

37. Turnpiking had begun in Lincolnshire as early as the late seventeenth century; one of these was near Spalding in the fenland. Although several more were established in the decades before 1750, the 1760s witnessed the greatest development. See T. W. Beastall, *The Agricultural Revolution in Lincolnshire*, 99-101.

38. LAO Smith 6 Turnpike 1/3 Southeast District Minute Book of the Road from Donington High Bridge to Hacconby Cross Post, 6 February 1784. Smith collected his stipend as clerk from Daniel Douglas, whose accounts he managed. See Bowden/Smith, Douglas Account, and notes 48, 67, and 87.

39. The first diary reference to a turnpike meeting in Billingborough was 10 November 1794. Although Benjamin Jr. had succeeded his father as clerk by 30 May 1799 and was treasurer by 28 May 1801, Benjamin Sr. continued to sign papers as a trustee as late as 30 May 1804.

40. John James, *The History and Topography of Bradford* (1841), 155, as quoted in William Albert, "Popular Opposition to Turnpike Trusts in Early Eighteenth-Century England," *The Journal of Transportation History*, new ser., 5 (1979): 1.

41. *Ibid.*, 13.

42. This undertaking contributed to Lincolnshire's prosperity during the first three-quarters of the nineteenth century when the fens, in particular, showed notable demographic growth. See Joan Thirsk, *English Peasant Farming: The Agrarian History of Lincolnshire from Tudor to Recent Times* (London, 1957), chaps.

15 and especially 10. Drainage schemes in the century or so before that date were more often imagined than realized: only the drainage of Deeping Fen, after the Restoration, proved effective. Until the great burst of energy in the 1760s, the old channels were patched as necessary.

43. For more details, and the reasons for the success of fen drainage in the 1760s, see W. H. Wheeler, *A History of the Fens of South Lincolnshire*, 2d ed. (Boston, Lincs., 1896).

44. Old Black Sluice in Skirbeck Quarter had been built for draining the Holland and Kesteven fens between Kyme and Bourne. This new undertaking, achieved by allowing the passage of waters through the South Forty-foot Drain into the Witham River at the Black Sluice, was overseen by the Black Sluice District Commission of 1765. Flooding, which had long been a way of life for the villagers of Holland Fen, made the Boston-Swineshead turnpike and other roads impassable and forced country people to bring their produce to Boston by boat. The present narrative is based on Wheeler, *Fens*, 244-89.

45. The Act for Draining and Improving Certain Low Marsh and Fen Lands Lying between Boston Haven and Bourn, in Parts of Kesteven and Holland, in the County of Lincoln.

46. See Wheeler, *Fens*, 254.

47. The act stipulated qualifications for those landholders having a voice in Black Sluice matters and those acting as commissioners. The latter were elected for three years but could be continued in office. Each commissioner was empowered to appoint a deputy and allowed five shillings a day for expenses when executing the act. This amount was to be paid by the parish represented. The act further determined the taxes to be paid by the parishes, set out the boundaries of the district, designated the works to be carried out, the bridges to be built, and stated the nature of the machinery to be used for drainage.

48. After Douglas's death in 1793, Smith ceased being paid from the Douglas Account. See notes 38, 67, and 87.

49. This matter is discussed in LAO, 2 BNL 7/3, Forsyth to Lord Brownlow, 18 September 1793; 7/4, 21 September 1793.

50. A glass window in Horbling parish church was paid for by monies "raised by subscriptions among Black Sluice Commissioners and other friends of Benjamin Smith esq. . . . as a testimonial to that gentleman in acknowledgement of the assiduity and fidelity with which he discharged his duties as clerk . . . and as a token of their esteem for his public and private character."

51. For more on this theme see F. K. Prochaska, "Philanthropy," in Thompson, ed., *The Cambridge Social History*, 3:358-59.

52. Report of the Commissioners Appointed in Pursuance of an Act of Parliament 5 and 6 William IV. c. 71 intitled An Act for Appointing Commissioners to

Continue the Inquiries Concerning Charities in England and Wales, until the First Day of March One Thousand Eight Hundred and Thirty-seven, 30 June 1837 (London, 1839), 23-29; hereafter cited as "Charity Commissioners' Report." The general information about Lincolnshire charities is from this source.

53. What little the LAO Smith papers contain about the Cowley Charity largely pertains to Benjamin Smith, Jr. Most of the Barnes and Cowley papers remain in the Horbling office of Benjamin Smith and Company.

54. LAO Smith 8/1, Barnes Charity. Will of Anthony Barnes, 1727.

55. The Tollers were Smith's friends and clients. See page 152 above.

56. Charity Commissioners' Report, 198-203.

57. Benjamin Smith, Jr., also managed the Buckberry and Gould charities (*ibid.*, 199).

58. Harry Bowden, Esq., has for many years served in this capacity. It all began with the elder Benjamin Smith's designation as clerk to the Cowley: the lordship of Wikes manor was owned half by the charity and half by the lord. As steward of the manor, Smith became clerk for the charity. For Benjamin Smith Jr.'s involvement in the Cowley Charity during the 1840s, see Joan Varley, *Archivists' Report*, 13: 40-41.

59. Much has been written lately on this subject. See, for example, George Rudé, *The Crowd in History, 1730-1848* (New York, 1964); John Brewer and John Styles, eds., *An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries* (New Brunswick, N.J., 1983); Andrew Charlesworth, ed., *An Atlas of Rural Protest in Britain 1548-1900* (Philadelphia, 1983). See Joanna Innes and John Styles, "The Crime Wave: Recent Writing on Crime and Criminal Justice in Eighteenth-Century England," *Journal of British Studies*, 25 (1986): 380-435.

60. For more on this see David Philips, "Good Men to Associate and Bad Men to Conspire: Associations for the Persecution of Felons in England, 1760-1860," in Douglas Hay and Frank Snyder, eds., *Policing and Prosecution in Britain in 1750-1850* (Oxford, 1989), 114-15. See also P. J. R. King, "Prosecution Associations and their Impact in Eighteenth-Century Essex," *ibid.*, 171-207. This article contains a useful bibliography on such associations.

61. LAO Smith 11/Firm's Business, Falkingham Association for Prosecution of Felons, 6 February 1788. Benjamin Smith, Jr., succeeded his father 1799. A printed booklet of the Rules and Articles of the Association, as revised in 1850 and 1884, but undated, lists Benjamin Smith III of Horbling as clerk and treasurer. Thus, this solicitor's firm remained a fixture in the administering of this group.

62. LAO Smith 11/Firm's Business, Falkingham Association, 6 February 1788.

63. *Ibid.*, 28 March 1799.

64. Besides the numerous diary references (Bowden/Smith Jr., Diary no. 1, 1794-99) to exercising with the troop, young Smith recorded on 15 December 1794 that

"I went to Bourn this Morn to meet the Captains & Mr Forsyth to settle the accts for the Troops." On 11 August 1796 he noted that "Father went to Falk[ingha]m—I and Ned rode there in aft[er]noon—I met Digby & Rawnsley ab[ou]t clothing ye troop."

65. LAO, Smith 11/Bill Book 1761-66, pp. 4-5. The range of services which the Smiths provided their clients was further evidenced by Benjamin Jr.'s journal entries: On 3 November 1794: "Fa[the]r. and I went [to] Falk[ingha]m. Adjourned Court." On 4 November 1794: "Swaton Rent Day." 6 November 1794: "Fa[the]r went this morn to Mrs Westmoreland for her to pay him his Bill." 9 November 1794: "Fa[the]r went Don[ington].—Mr. Hudson, Surveyor, came home with him & stayed all night." 10 November 1794: "Turnpike Meeting at Billingb[o]ro'. Fa[the]r dined there." 12 November 1794: "Fa[the]r & I went [to] Dunsby in morn to receive Rents." 13 November 1794: "Fa[the]r & I with Bourn[e] and Falk[ingha]m officers dined with Capt. Heathcote."

By the 1790s the elder Smith could depend on his clerk William Worth no less than his son. Diary entries indicate Worth did a good deal of traveling, too; for example, 16 November 1794: "Fa[the]r & Worth went to Donington to look over Bl[ack] Sl[uice] Papers." The next day: "Fa[the]r & Worth at Don[ington]—did not come home last night." As late as 30 April 1798 the elder Smith held court at Langtoft and Baston, but young Smith held court at Thurlby the next day and at Hacconby Kirkby the day following that. By October 1798 William Worth and young Benjamin Smith appear to have taken over courtholding (Bowden/ Benjamin Smith, Jr., Diary no. 1, 1794-99).

66. Characteristic is an opinion from W. Ainge of Lincolns Inn in LAO Smith 11/Firm's Business, W. Worth's Precedents, pp. 24-25. In Smith 11/Cases 1797 a letter addressed to Benjamin Smith, Jr., referred again to the answers given by Mr. Ainge.

A routine entry in the Smith Bill and Debt Book for the "Legatees of the late John Newton dec." indicated the time consumed in obtaining opinions: "Drawing Case being long, for Counsel's opinion—6s 8d....Pd Mr. Barsham for his opinion—£1 3s 6d....Attend[ing] Mr. Barsham sev[er]al times—6s 8d....Counselor Cust, Mr. Barsham's Opinion not being Satisfactory—2s 6d....Pd. Mr. Cust for his Opinion—£1 1s....Attending Mr. Cust sev[er]al times—6s 8d....Cust's Opinion 7s 6d" (LAO Smith 11/Firm's Business, Bill and Debt Book, 1761-66, pp. 2-3).

67. Bowden/Smith, Douglas Account Book. Smith Sr.'s turnpike stipends were recorded on 28 July 1789, 27 February 1790, and 26 February 1791. Even after his election in 1794 as treasurer, he continued as clerk to the turnpike commission, drawing £6.6.6 for that year and £5.7.0 for 1795 and for 1796.

Recorded in Smith's hand, these turnpike and Black Sluice accounts show Smith as banker for Douglas. They are hardly a tribute to Smith's accounting finesse, for Douglas's personal funds are fused with Black Sluice and turnpike monies. See notes 38, 48, and 87.

68. Alan Harding, *A Social History of English Law* (Gloucester, Mass., 1973), 351; and Michael Miles, "Eminent Attorneys," 116ff.

69. LAO, Smith 11/Firm's Business, Account of Money Received, 1771-94. For example, the following excerpt shows how Smith distinguished between money received and "neat profit":

	Money rec[^l d	Neat Profit
6 Ap[ri]l Mr T. Armston for looking over some writings	3s 6d	3s 6d
11 Ap[ri]l David Low, a Bond to Mr Jefferson	5s	2s 6d
. . . Mr Greenberry for a Pair of Parish Ind[entur]es	7s	5s 9d

70. Benjamin Smith Sr.'s earnings do not appear to match those of his son from 1807, but, of course, we cannot be sure. See below, note 73.

71. LAO, Smith 11/Firm's Business, Bill Book 1761-66, p. 1.

72. See LAO Smith 11/Firm's Business, Cash Books, *passim*.

73. LAO, Smith 11/Firm's Business, Ledger A-B, Receipts/Payments, 1807-19, and Ledger A-B, Receipts/Payments, 1819, 1820, 1821. Presumably, these profits greatly exceeded what Smith Sr. netted annually during his active decades between 1760 and 1800.

74. Marmaduke Langdale of Gower Street, London, and Edward Brown of Stamford were charged to administer Benjamin Smith Sr.'s will (PRO, Probate 11/1460, Benj. Smith).

75. Benjamin Smith bequeathed to his son Francis a portion of the Monks Hall tenement and some 150 acres in Gosberton and Quadring. Elizabeth received properties in Folkingham, forthcoming after her mother's death. The largest share of the holdings went to Benjamin Jr., who took the largest part of the Monks Hall lands, holdings in Gosberton, Quadring, and Donington, and the Donington manor of Meres, and properties in Folkingham not designated to sister Elizabeth. With these young Smith procured rights to the profits from their manorial courts as well as the rents. The same was true with lands and tenements inherited in Morton and Bourne. Although the will is indefinite about these holdings, it appears that manorial courts included land (PRO/ Probate 11/1460, Benj. Smith).

76. Smith also designated one share, or certificate, of government life annuities of the year 1789, no value indicated, for each of his children. He left in trust for his niece Audrey Wood in St. Peter's Eastgate, Lincoln, the sum of £30 and the same amount for another niece, Sarah Webb. Besides these amounts he left £5 each for the poor of Folkingham, Horbling, and St. Peter's Eastgate (*ibid.*).

77. Olney, *Rural Society*, 43.

78. LAO, Benjamin Smith II, Will.

79. Cf. S. Pollard, "Fixed Capital in the Industrial Revolution in Britain," *Journal of Economic History*, 24 (1964): "Financial intermediaries other than the banks are largely ignored . . . and about the local markets in which long-term capital was provided through solicitors and other intermediaries in the early days of industrialization we are also very much in ignorance," as quoted by B. L. Anderson, "The Attorney in the Early Capital Market in Lancashire," in François Crouzet, *Capital Formation in the Industrial Revolution* (London, 1972), 223-24.

80. Even after they were established in the smaller towns, banks did not seriously inhibit the work of the country attorney and his credit lines. Michael Miles has observed that "the quantity of such business conducted by the attorneys here [West Riding of Yorkshire] was, if anything, increasing at the end of the eighteenth century rather than showing any signs of dwindling. There was so much money-lending business available that the attorneys were unlikely to have their position usurped" (quoted from "The Money Market in the Early Industrial Revolution: The Evidence from West Riding Attorneys c. 1750-1800," *Business History*, 23 [1982]: 127-46). It seems not far-fetched to apply the same conclusions to the Lincolnshire of the same period. See also L. S. Pressnell, *Country Banking in the Industrial Revolution* (Oxford, 1956), 41-44, 265, and passim. See also Rondo Cameron, "England, 1750-1844," in Rondo Cameron, O. Crisp, H. T. Patrick, and R. Tilly, eds., *Banking in the Early Stages of Industrialization* (Oxford, 1967), 15-59.

81. R. Campbell, *The London Tradesman, being a compendious view of all the trades, professions, arts, both liberal and mechanic, now practised in the cities of London and Westminster. Calculated for the information of parents and instruction of youth in their choice of business* (London, 1747), 79ff. Cited in M. Miles, " 'Eminent Practitioners,' " in Rubin and Sugarman, eds., *Law, Economy, and Society, 1750-1914*, 475.

82. B. L. Anderson has concluded that "the part played by rural-based savings in financing the early states of the Industrial Revolution, in particular capital raised on real security, has been given scant consideration to date, yet it is now clear that money-scrivening attorneys, among others, were able to effectively mobilize such resources fully a century or more before the industrial and technological changes of the later eighteenth century" ("The Attorney in the Early Capital Market in Lancashire," in Crouzet, *Capital Formation in the Industrial Revolution*, 254). B. H. Holderness has observed how much of this mortgage lending involving lawyers was directed to the farm and small business community in eighteenth- and nineteenth-century Lincolnshire ("Credit in a Rural Community, 1660-1800: Some Neglected Aspects of Probate Inventories," *Midland History*, 3 [1975]: 109). See also his "Credit in English Rural Society before the Nineteenth Century, with special reference to the period 1650-1720," *Agricultural History Review*, 26 (1976): 97-109.

83. B. L. Anderson, "Provincial Aspects of the Financial Revolution of the Eighteenth Century," *Business History*, 11 (1969): 12.

84. *Ibid.*, 18. For mortgages in Lincolnshire see R. J. Olney, *Rural Society and County Government in Nineteenth-Century Lincolnshire* (Lincoln, 1979), 46-51; T. W. Beastall, *The Agricultural Revolution in Lincolnshire* (Lincoln, 1978); and B. A. Holderness, "Rural Society in S.E. Lindsey, Lincolnshire, 1660-1840" (Ph.D. diss., Nottingham University, 1968).
85. Financial crises, however, accompanied economic growth. See Julian Hoppit, *Risk and Failure in English Business 1700-1800* (Cambridge, 1987); and, specifically, Hoppit, "Financial Crises in Eighteenth-Century England," *Economic History Review*, 2d ser., 39 (1986): 57.
86. Smith Sr. had done business with their husbands, the Reverend Brownlow Toller of Billingborough and Daniel Douglas of Folkingham. Benjamin Smith Jr.'s diary confirms the social bonds between the Smiths and these families; Benjamin Sr.'s accounts showed the extent of their business association. When Daniel Douglas died in 1793, he left Benjamin Smith, Sr., £800 (LAO, Daniel Douglas, Will, 1793). For widows and investments see B. A. Holderness, "Widows in Pre-industrial Society: An Essay upon Their Economic Functions," in Richard Smith, ed., *Land, Kinship, and Life-cycle* (Cambridge, 1984), 423-42.
87. Cf. Bowden/Smith, Douglas Account Book, 28 May 1789 and 14 July 1789. See above, notes 38, 48, and 67.
88. Langdale's daughter married Edward, Benjamin Sr.'s youngest son, and with Edward Brown, administered the elder Smith's will. See note 74 above.
89. Nor are there any characterizations of him by others. No portrait of the elder Benjamin is known to exist; two likenesses of the younger Benjamin Smith are in the possession of Harry Bowden in Spalding, Lincolnshire.
90. Harry Bowden believes that Benjamin Sr.'s paternal grandfather, also Benjamin, was a Lincoln weaver who died in 1729 and that his father may have survived until 1778.
91. LAO, Marriage Bonds, 1760-68, 26 September 1767, p. 29. Elizabeth was born in 1742.
92. LAO records show that three babies did not survive. Francis was born in 1773 and died the following year; a son Benjamin was born in 1774 and died early the following year; still another Benjamin was buried in March 1776.
93. That Edward's marriage was a financial success is suggested by the Langdale account. See LAO Smith 11/Firm's Business, Ledgers A-B, 1811-20, *passim*.
94. LAO, Smith 11/Firm's Business, Cash Books, *passim*. He did provide for her in his will. For church attendance see Smith diaries, *passim*. Mother never joined father, son Benjamin, and daughter Elizabeth on annual trips to Buxton in the Peak District of Derbyshire or to Walsingham in Norfolk or to London. A plaque on the wall of the Folkingham parish church refers to her as "long-suffering" in her later years.

95. This construction of character traits is based on the Smith business records and Benjamin Smith Jr.'s diary.
96. The Smiths, father and son, had their favorite inns both for trips of business and pleasure. In London father and son often stayed at Will's Coffee House, as on 8 June 1795 when sister Elizabeth stayed at "a guest house on the corner of Serle Street." Various inns are mentioned in Benjamin Smith Jr.'s diary.
97. See Bowden/Smith Jr., Diary no. 1 for these years.
98. The details of this London venture are recorded in Bowden/Smith Jr., Diary no. 1.
99. See LAO Smith 11/Firm's Business, Cash Book no. 1, late 1773 and early 1774. In the second half of 1777 he sold steers, heifers, and sheep and bought a filly, a foal, and a German pheasant (Cash Book, 1778-79). Young Benjamin's diary records his father's selling wood on a number of occasions.
100. Benjamin Jr. recorded in his diary that on 2 October 1798 "Fa[the]r and Ned [Edward] went to Falk[ingha]m to new house to stay—rem[nan]t Goods go tomorrow." The next day's entry reads: "A load of Goods went Falk[ingha]m & Sister went to stay" (Bowden/Smith Jr., Diary no. 1).
101. A tablet on the wall in the rear of the church reads: "This marbel is erected as a token of filial respect to perpetuate the Memory of Benjamin Smith Esqre who died 27th January 1807, Aged 75. Also sacred to the Memory of Elizabeth Relict of the above who was released from suffering (bourne with exemplary patience) the 6th of May 1820, Aged 78 years."
102. Benjamin Jr. married Harriet Martin on 20 January 1806; however, she died two and a half years later, on 15 August 1808. He subsequently married Frances Graves on 3 January 1821. He died 6 January 1858 and she the following year, March 1859. They had no children. Very little is known of Harriet Martin. Smith's diary is lost for the period of their marriage. He was dreadfully lonely after her death and generally cared for by a quarrelsome housekeeper named Newbat. His longing for companionship appears frequently once his diary resumes in 1817. Frances Graves, his "Fannie," was an old friend and client from Horncastle. Their marriage in 1821 concluded several years of courtship and was by every indication a happy one.
103. The offices in Donington and Horbling are still very much in use. Although Red Hall, Benjamin Smith Jr.'s home, disappeared in the 1960s, the outhouse that possibly served as the firm's original office has survived.
104. Cf. Bowden/Smith Jr., Diary, 5 and 7 October 1817. An advertisement of the dissolution was also printed in the *London Gazette*, Saturday, 18 October 1817: "Notice is hereby given that the Partnership heretofore subsisting between the undersigned, Benjamin Smith and William Worth, of Horbling, in the County of Lincoln, Attornies and Solicitors, has been dissolved by mutual consent." This

was dated 11 October 1817 and signed by both. Worth, who subsequently practiced law in Bourne, was the father of Charles Frederick Worth, the famous fashion-designer.

105. A handwritten agreement of 3 August 1854, presently in the possession of Harry Bowden, stated that "Benjamin Smith having relinquished Business in favor of Geo Wiles from first January last . . . for which Geo Wiles agrees to pay £1200 in three installments of £400 each. . . . Benj Smith places £3000 in the hands of Geo Wiles for the purpose of meeting any claims of clients or deficient securities." Smith's will merely stated that the business had passed to Wiles. The same year (1858) that Benjamin Smith died, Wiles accepted William Emerson Chapman into the partnership, which became Wiles and Chapman. When Charles Smyth Wiles, a nephew of George, became the third partner, the firm name changed to Wiles, Chapman, and Wiles.

Both Chapman and the elder Wiles died in 1879, and the younger Wiles invited Benjamin Smith III, a son of Francis and nephew of Benjamin II, into the partnership. When in 1883 Charles Wiles retired, Benjamin Smith III took his brother George Smith into the partnership, and the firm became "Benjamin Smith & Co.," which it remains to this day. Benjamin Smith III died in 1914, but George lived until 1945; George's son, Francis Gould Smith, became a partner in 1925.

When Frank Smith died in 1959 the firm once again was without a Smith, although its name remained unchanged. Harry Bowden, who joined the business in the late 1930s, ran it virtually alone in the 1960s. Presently retired and serving as consultant, he is truly the firm's link with its past. Today, besides the old offices in Horbling and Donington, there are newer "Benjamin Smith and Co." establishments in Bourne and Spalding.