

A Career in the Law: Clerkship and the Profession in Late Eighteenth-Century Lincolnshire*

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Although much has been written about the 'professions in transition' - those of the late seventeenth- and early eighteenth-centuries - little has been done to move this subject along into the nineteenth. This paper touches on an important aspect of professionalism, the phenomenon of apprenticeship - specifically, a Lincolnshire attorney's clerkship in the 1790s.¹

The selection of case method was a conscious act. Because it is one which establishes a context for the subject, it better demonstrates the underlying theme of this exercise - the role played by professionals in the social and economic change occurring in England during the second half of the eighteenth and the first quarter of the nineteenth centuries.²

The professions emerged in a vibrant state after the Restoration because society - one of new wealth and sophistication created by a burgeoning economy - had a need for them.³ Individuals seeking to improve their material well-being, businessmen having to cope with increasingly complex transactions, and an antiquated state structure having to adjust to a host of new conditions - all of these required an expertise in services hitherto unforeseen.

This plea for professionals received a quick response, especially, from attorneys and solicitors.⁴ They undertook both to widen the range and improve the quality of their services. Their payoff came, of course, in larger fees and enhanced social status.

The expanded and highly mobile profession particularly became a lure to the respectable or, as one historian has put it, a 'haven for the privileged' - the 'upper middling sort'.⁵ This change in composition occurred in large part because an attorney's career in the 'lower branch' of the law became one neither fostered by patronage nor perceived as 'learned', in the university sense. Instead it became populated by young men whose family had the means to buy a son's apprenticeship.⁷

The legal clerkship, intended primarily to regulate and improve the quality of attorneys, has its origins in parliamentary legislation of 1729, the Act for the Better Regulation of Attorneys and Solicitors. It nominally imposed professional standards on the 'lower branch' of the English legal profession by stipulating that

no person... shall be permitted to act as an attorney... unless such person shall have been bound, by contract in writing, to serve as a clerk for and during the space of five years, to an attorney duly and legally sworn and admitted... and examined, sworn, admitted and enrolled.⁸

The undertaking of 1729 did not end the uneven merit of attorney aspirants.⁹ Some unqualified continued to be admitted;

moreover, able candidates were often denied entry because of the costs of instruction or establishing themselves in a firm.¹⁰ In the end it was, as noted, the young man of affluence or, say, an attorney's son who was most likely to succeed professionally.¹¹ Those unable to afford a practice or having slight prospect for entering an existing partnership had little recourse after completion of the clerkship but joining the legions of managing clerks.¹²

This study is about Benjamin Smith Jr (Fig. 2) of Horbling, Lincolnshire, who had the luck of being an attorney's son. Although his father did not hold him to a written contract, he followed a programme quite as rigorous as any formalized one.¹³ He was, moreover, of both serious and diligent temperament, never complaining:

Must I for ever declarations draw,
And fill up process for a man of law?
For ever deeds engross, and copy fair,
And like a lacquey, traverse here and there.¹⁴

While elements common to clerkships in the 'lower branch' for this period are discussed here, the intent is to examine Smith's in the context of his and the firm's future. There was, after all, never any doubt that he would take over his father's business - a classic example of the then prevalent family or personal capitalism.¹⁵

Benjamin Smith Jr's apprenticeship also included a London phase which was less commonplace and certainly less predictable in its consequences. Not only did it serve to differentiate him from his father's career, but it foreshadowed a lifetime of doing business in and around the confines of legal and financial London and admitted him to a culture quite alien to that of his village. Although the London experience did not oblige him to disavow his country origins, it did help decide how and with whom the firm subsequently did business.

In fact, this Lincolnshire/London duality of both his clerkship and career permitted him to operate in a complex web of economic and social relations with lucrative results for both his country clients and himself. That events turned out as they did further highlights the benefits which could accrue from improved professional training even in a rural backwater of late Hanoverian England.¹⁶

Basically, three sources recount Benjamin Smith's clerkship: his commonplace book, in which he described his course of study; his diary of daily occurrences during his formative years;



Fig. 1. Portrait of Harry Bowden Esq.

* This article is affectionately dedicated to Harry Bowden Esq., retired partner in the solicitors' firm of Benjamin Smith and Company, Horbling, Lincolnshire (Fig. 1). Harry oversaw transfer of the firm's business records from Horbling to the Lincolnshire Archives Office in Lincoln in the early 1960s and has subsequently shared with me his vast knowledge of the contemporary as well as historical Smith establishment.



Fig. 2. Portrait of Benjamin Smith about 1800, in the possession of Harry Bowden.

and the firm's records - principally the cash, bill, and receipts and payments books - which confirmed and often embellished upon the purely business diary references. These documents also showed Smith's scrupulous care for and attention to detail and his facility for keeping accounts - each possibly traceable to his clerkship.¹⁷

From the glossary of terms and their sources which Smith inserted in his commonplace book and diary references to his readings in the law - it is possible to reconstruct his curriculum. Similarly, the legal practicum which Smith pursued in Lincolnshire and London - his work in the office and on the road, professional relations with father, fellow clerk, and clients, and the social/business activities which consumed his leisure - are treated with a view to validating or querying generalizations about clerkship. These elements of clerkship helped formulate his assumptions and judgments for a long career which proved both materially more profitable and socially more enhancing than that of his father.

* * *

When Benjamin Smith Sr established himself as an attorney in Kesteven, on the edge of south Lincolnshire's fen country, about 1760, pastures - 'the glory of Lincolnshire' - more than arable farmland brought this region fame. The grasslands, the best in England, fetched the highest rents in the county while those in neighboring Kesteven were only slightly inferior.

Yet this landscape began changing after mid-century: farmers and graziers responded to the lure of higher profits by enclosing their land, reclaiming the waste and fens, and building turnpikes and canals. Increasingly, surveyed fields and roads and new farm buildings replaced heaths and wolds, transforming sheep pasture and rabbit warrens into glistening fields of wheat. The Smith firm became not only a party to this process but lent its expertise in managing aspects of it. Doing so proved key to a successful business which increased the wealth and status to its proprietor.

Benjamin Smith Sr's career in Horbling began as a mix of managing estates and practising law.¹⁸ Working out of a small shed behind his Red Hall mansion in Spring Lane (Figs 3 and

4), he served from the outset several old gentry families, 'improver' landlords. He managed their properties, collected rents, sold wood, kept their accounts, convened copyhold courts, and attended land tax meetings.¹⁹ In time he became lord of his own copyholds, always enjoying the comradeship to be found at copyhold banquets and always buying and selling land.²⁰

Smith's law practice closely identified with these country routines - the drawing up of agreements, enforcing their conditions, and lending money, especially holding mortgages and notes.²¹ The elder Smith's enterprise and the character of his son's Lincolnshire clerkship confirm Sir Charles Anderson's remark that 'the county of Lincoln is ruled by agents and attorneys'.²²

Once established as an attorney, Benjamin Smith Sr became a valued facilitator for the gentry and wealthy farmers in their various efforts to improve their land and develop the region. He clerked for enclosure, turnpike, and drainage commissions, charities, and an association for the prosecution of felons, which he helped found. He also engaged in the lucrative practice of managing the finances of select clients while accumulating a sizeable holding in land for himself. He counted many clients among his friends and became a fixture in the community. In all, his was no small achievement for one of humble origins; he was, no doubt, pleased that his elder son proved amenable or possibly elected to join him in the business.²³

The world of adolescent Benjamin Smith Jr - he was fourteen when he finished his schooling in June, 1791 - was one of strife, however much he chose to ignore it. According to one historian, it was an age of 'popular contention'. If issues such as the slave trade, food scarcity, and taxes fostered contention so especially did England's political system. As one radical put it, 'The obvious cause of all our misfortunes is the want of a due representation of the people.' Combative responses to these questions were no doubt engendered by the French war, which both diminished food stores and inflated prices. Above all, war against a revolutionary neighbour served as an excuse to repress both radicals and Irish insurgents.²⁴

Likely more important to young Benjamin Smith than the uncertainties of a world beyond Horbling were the immediate ones which he encountered as he began clerking in his father's firm in 1792.²⁵ There was a certain urgency that he perform well in his apprenticeship: the senior Smith, sixty-one at the time, had begun pondering retirement. Although another clerk had been in the firm since the late 1780s, Smith Sr had determined that his son would succeed him. His impending retirement depended, therefore, upon young Benjamin's catching up - acquiring knowledge of the firm's operations and of the law in good time.

Although clerks often served as little more than cheap labour for the master, young Smith seems not to have been exploited. Father no doubt had a hand in the detailed study and work plan which he followed in Lincolnshire and London.²⁶ The clerk's

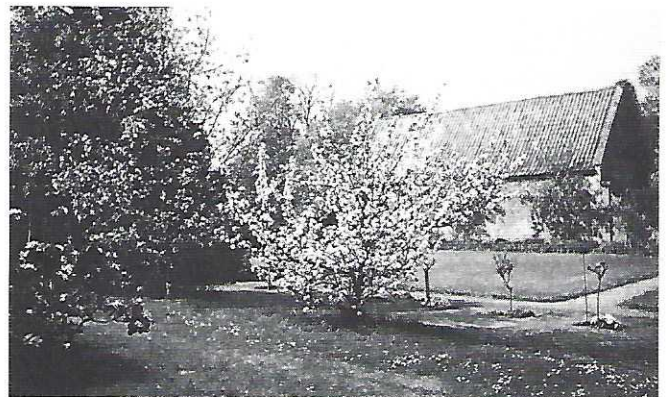


Fig. 3. The office shed behind Red Hall, used for years by both Benjamin Smith Sr and Jr.



Fig. 4. Red Hall in Horbling, before its demolition in the 1960s.

routine was one of reading legal texts, pondering legal terminology, and performing not unimportant lawyerly tasks assigned by his father.²⁷

Benjamin Smith Jr's commonplace book, dated 2 July 1793, constituted the core academic programme. Intended as neither a liberal learning text nor a 'how to' manual, it was simply a glossary of practical legal terms and other such information useful to an attorney. Inside the cover he listed his sources - extensive and sophisticated considering the access to law books enjoyed by most country attorneys. They were certainly indicative of the high standards to which he was held in his clerkship.²⁸

Frequently, works not mentioned in this preface were cited in the glossary itself.²⁹ Although Smith did not remark critically about these texts, he occasionally recorded in his diary his progress in reading them - the second volume of Blackstone, Sanders on uses and trusts, and the second volume of Fonblanque on equity. He completed these before going off to London and read Boote's *Historical Treatise of An Action or Suit at Law* (1766) early in 1797, while preparing for his examinations.

Young Smith may have found a sometime tutor and otherwise mentor in the eminent Robert Kelham, a dear family friend from Lincolnshire and his father's client and London agent. Kelham, a legal scholar and antiquarian, had authored numerous works.³⁰ If such notable legal 'classics' as Glanvill, Bracton, Fleta, and the Yearbooks were absent from Smith's reading list, he could have become acquainted with them through Kelham's printed and manuscript editions of Britton.³¹

There is no indication of how young Benjamin procured his books - whether they came from his father's library or were borrowed, possibly from attorney colleagues in Lincolnshire or London.³² That many of them had been published in the 1780s or 1790s by Edward Brook suggests that the Smiths may have taken advantage of the burgeoning market in law texts.³³

As a course of study, Benjamin Jr's commonplace book reveals how he organized his thoughts. His careful preparation of a legal glossary evidenced a disciplined mind and seriousness of purpose; moreover, the terms which he selected for it suggest his perception of the profession, one no doubt influenced by his father.

His topics, listed alphabetically and of varying lengths, numbered 280. Terms such as Authority, Bargain and Sale, Baron and Feme, Copyhold, Devises, Evidence, Writs of Execution, Fines, Fraud, Factors, Assumpsit for Goods, Heir and Ancestor, Idiots and Lunatics, Infancy and Age, Jointure, Legacy, Mortgage, Notes (Bills), Parliament, Partners, Recovery, Sale, Schoolmaster, Ships, Sailors, Estate in Tail, Tithes, Uses and Trusts, Work and Labour - all of these merited detailed explanations as well as numerous source citations.

In back of the book Smith wrote at length on Executors and Administrators, Joint Tenants and Tenants in Common,

Duration and Continuance of the Estate, various kinds of leases, and Rules of Descent - certainly germane subjects to an attorney's craft.

Some terms, on the other hand, were dismissed with only the briefest of definitions:³⁴ 'A lease of Land to an Alien will be forfeited to the King. 1 Christian's Blackstone, 372... Annuity is different from Rent Charge. See 2 Blackstone, 40... Copyhold Inheritances are not assets to bind the heir. Woods, Institute... A Clergyman is liable to be made a Bankrupt 1 Christian's Blackstone, 377... Churchwardens must be removed before they can be brought to account 1 Blackstone, 394... A Woman may be a Constable 1 Bacon's Abridgement, 439.' Besides these exercises, he began while in London early in 1797 making 'my precedent book for wills'.³⁵

Father's tutorial role was not explicit. He possibly suggested topics and texts - although Kelham might have had a hand doing so, too. Conscientious supervision of the clerk's written work - while not surprising in a father-son relationship - would have been uncharacteristically benevolent for most legal clerkships.³⁶

Absent 'liberal' learning and the new notions about legal education then advocated by reformer/solicitor Joseph Day, Smith's curriculum was, if conservative, at least reliant on numerous recent publications.³⁷ He clearly delved into Blackstone, who had assigned a certain structure to the common law and lucidly depicted property law, but avoided the likes of Jeremy Bentham and the philosophical debates about the law which prevailed during his student years.³⁸ The omission suggests his priorities - study tried and true works, write relevant definitions, and, as we shall see, engage in a practicum that related to the firm's work. It was neither his nor certainly his father's intention to permit the apprenticeship to become irrelevant by allowing it to drift into uncharted jurisprudential waters.

* * *

Assigned tasks, no less than curriculum, became crucial in a law clerk's apprenticeship, particularly for understanding of the firm's business. Benjamin Jr's diary and bill books³⁹ confirm the routine of collecting rents, holding court, and the like: for instance, on 3 November 1794 'Father and I went to Falkingham. Adjourned [copyhold] Court.'⁴⁰ On 12 November 1794 'Father & I went to Dunsby in morning to receive rents... [On 19 November 1794] Father & I went to Donington to sell... land... [On 6 February 1795] Father & I to Crosley's land sale at Billingborough.' On 14 May young Smith wrote that his father and he had gone to Folkingham to settle the Towns' account with Elston before dining at Richardson's.⁴¹ A billing in 1797 included a 'Clerk's Journey to Stamford with £500 and to get the Writings executed by Mr Brown.'⁴² Time spent on the road, especially when carrying money, was not without risk; therefore, it is not surprising that Benjamin Jr carried two brass horse pistols to deter highwaymen.⁴³

Routine legal undertakings were often obscured by brevity such as 'Father, I, & Worth [the other clerk] at Donington. Got home about 10 o'clock' (4 April 1795). In other instances Smith was more forthcoming: 'William Tomisman & I this morning to Sleaford to serve Blackbourn with a writ' (2 February 1795), or 'Father & I dined at Budzlers of Billingborough receiving Willerton's Notes' (13 February 1795).

Clerking also had its sedentary aspects: Benjamin Jr was expected to lighten his father's burden at the office by improving upon and taking over some of the firm's record-keeping. This was important because his father did not keep good books.⁴⁴

That young Smith also assisted his father in his various commission clerkships further signified the firm's involvement with 'improving' landholders. He attended various commission meetings - taking the minutes and maintaining the accounts - eventually becoming their clerk in his own right. These firm

clerkships became lifetime undertakings for Benjamin Jr as they had for his father. He continued as clerk to the Black Sluice Drainage until his retirement more than a half century later.⁴⁵ The same kind of longevity applied to his clerking for the Cowley Charity and the Falkingham, or Folkingham, Association for the Prosecution of Felons. In due course he did divest himself of the enclosure and turnpike commission clerkships.⁴⁶

* * *

Because so little is known about the interface of business with personal relations two centuries ago, a measure of the present study is its success in articulating of such linkages. The elder Smith's voluminous business records and the son's diaries testify that this patriarch commanded wide respect in family and community. It is not surprising that such a father who charted so exactly his son's legal odyssey should become his role model. He introduced his son into his world of business, to clients and colleagues alike. The tone and substance of his son's diary suggest that young Smith revered his father and apparently got on well with him.⁴⁷ The father's paternalism - joined with his diligence, competence, and camaraderie - were each and all appropriated and nurtured by a respectful son.⁴⁸ They would constitute the 'sum and substance of his professionalism, for the next six decades.

The conceivably complicating factor in this father-son relationship was the other clerk, William Worth. On the face of it, another clerk should not have mattered. Worth, however, was senior to young Smith, having served the firm responsibly at least six years before being articulated in 1793. Besides compiling precedent books for the firm, Worth also had been named deputy steward of some of the Smith copyhold manors. These had occurred before son Benjamin completed his clerkship.⁴⁹ One wonders whether Worth's eventual articling in 1793 was a way of assuring him that he had a future in the firm. Benjamin Jr wrote, perhaps peevishly, on 5 April 1793 that 'Father articulated Worth for 5 years but reserved a condition to make it void when he pleased.'⁵⁰

Whatever the personal dynamics between the two clerks, they performed similar tasks - attending Black Sluice Drainage meetings, collecting rent, and the like. Young Smith could not but have learned from the more experienced Worth's example. Nor was a rivalry evident during their post-apprenticeship years. After Benjamin Jr had succeeded his father, about 1800, he allowed Worth to handle large sums of money; moreover, he invited Worth to a quarter partnership in the firm when Benjamin Sr died in 1807.⁵¹

The education of a clerk was further enhanced by informal encounters with business acquaintances.⁵² Besides Smith's and Worth's meeting with them in the firm's office, at copyhold courts, and diverse meetings, young Smith - but not clerk Worth, who with his family lived elsewhere - joined his father in entertaining them at home for dinner, tea, or supper. The Smith home never lacked for guests. Benjamin Jr's entry for 8 November 1794 makes this point: 'Father went to Donington. Mr Hudson, surveyor, came home with him and stayed the night.' Hudson, involved in navigational survey affecting both Billingborough and Folkingham, had been engaged with Smith Sr for 'several hours' that day.⁵³ One imagines that they continued their business discussion at the supper table with young Benjamin listening attentively if not actively participating.

One of father's good friends and a colleague in enclosure matters was the surveyor Edward Hare of Castor, Northants. Father and son occasionally visited Hare, who, in turn, stayed with the Smiths in Horbling. Typically, Benjamin Jr recorded: 'I went to Mr Hare's at Castor via Peterborough. Stayed all night at Mr Hare's & we walked in Park in evening.'⁵⁴ He wrote warmly of Hare and retained his good will and business after father had retired.

Father and son traveled often to nearby Donington, Bourne, Billingborough, Folkingham, and even Sleaford, Stamford, Boston, and Lincoln. These journeys were an occasion for visiting as well as transacting business. When they did not go to the homes of their friends/clients, they dined and slept at an inn - the Greyhound (Fig. 5) or Five Bells in Folkingham, the Red Cow in Donington, the Bull in Bourne, or the Reindeer in Lincoln.

At least once during his clerkship, early in 1795, the Smiths went to the Assizes in Lincoln because Father had business there.⁵⁵ Later, in early May, Lincoln again afforded his young apprentice an opportunity to see friends and at the same time conduct business alone. With clients/friends Watson and Walker of Folkingham, he dined at the Reindeer with 'the Swinethorp Tenants'. Later he took supper with Watson and stayed the night.

The firm's records show that there were perhaps a half dozen very privileged clients - some his father's earliest benefactors - who also counted as his closest friends.⁵⁶ Connections with Edward Brown of Stamford, Daniel Douglas and subsequently his widow Jane of Folkingham, the Brownlow Tollers of Billingborough, Thomas Forsyth of Folkingham and London, as well as Sir Gilbert Heathcote - all were a gauge of the Smiths' place in the local social and power structure. The elder Smith's badge of identity with these families was one which his son gracefully assumed during his apprenticeship.

Wealthy and cantankerous Edward Brown (1748-1841), whose mother was a Toller, would be a source of both largesse and annoyance for Benjamin Smith Jr for half a century.⁵⁷ Like Brown, Daniel Douglas had furthered the interests of Benjamin Smith Sr, even leaving him a legacy of £800 in 1793.⁵⁸ The Rev. Brownlow Toller was also a patron, client, and close friend of the elder Smith until his death in 1791. Afterwards the Smiths, especially the mother, were very caring for the widow Toller, comforting her especially after daughter Charlotte's death in 1795. While he was a clerk Benjamin and his sister Elizabeth often called at the widow's to dine or take tea with her. In July 1796 Benjamin joined his father in spending two days packing Toller books for shipment to Mr Brown in Stamford.⁵⁹

Early in his clerkship Benjamin became party to a business undertaking forged by his father with Thomas Forsyth and Sir Gilbert Heathcote.⁶⁰ Forsyth, a crony and client of Benjamin Smith Sr, had been until retirement Heathcote's accountant. Although he moved to London sometime in the mid-1790s, Forsyth continued his ties with Lincolnshire where Smith managed his properties;⁶¹ in turn, Benjamin Jr, while studying in London in 1796 and 1797, often called on the Forsyths in Upper Wimpole Street.

Forsyth and Smith Sr struck a business deal late in 1794 which involved both Heathcote and young Smith. Heathcote's unmistakable political ambitions very possibly motivated his raising volunteer cadres. Nominally, these were for



Fig. 5. The Greyhound Inn in Folkingham.

safeguarding the Lincolnshire coast against French invasion; however, they just as easily intimidated a disgruntled local populace.⁶² Enclosures, turnpike building, fen drainage, and hard times brought on by war - all of these had produced an incendiary situation in the Lincolnshire countryside by the mid-1790s.⁶¹

Heathcote consequently looked with favour to a proposition offered by Forsyth and the Smiths to victual his troop. Young Benjamin was designated to work with Forsyth in the matter and appeared pleased, as well, to exercise almost daily with Heathcote's cavalry. This deal was evidently consummated by numerous Smith/Forsyth encounters to which Benjamin Jr was party.⁶⁴

Just as young Smith's involvement with Sir Gilbert's troop at this time certainly cast him with the propertied 'party of order', it invited collaboration on still another level - electioneering for Heathcote in his run for parliament.⁶⁵ On 26 May 1796 he noted that he had ridden to Swaton, Helpringham, and Hale in the morning 'to get votes for Sir Gilbert Heathcote', and so it went until election day.⁶⁶ On that morning, 2 June, the Smiths and Edward Brown went to Lincoln in a chaise for the nomination of the candidates.⁶⁷ They dined at the Reindeer with a large number of Heathcote people before returning with Brown to Folkingham where they spent the night. When the elder Smith became ill on the 5th, his son dined with Sir Gilbert. On the 7th young Benjamin returned by chaise to Lincoln for the elections and stayed for Sir Gilbert's victory celebration afterward. Having reveled for some hours at the Reindeer, young Smith did not reach home until past midnight. Two days later he was with the cavalry contingent that welcomed Sir Gilbert to Folkingham. Heady days for a young law clerk introduced to the world of parliamentary politics!

* * *

Benjamin Smith Sr was resolved to extend his son's practicum beyond Horbling - indeed, to London. Twice Benjamin Jr was sent to London: the first visit in 1795 was but an introduction; the second in 1796 and 1797 was longer and intended to facilitate his enrollment as attorney and admission to in the common law courts.

That London of the mid-1790s could be a lure to visitors is, on the face of it, puzzling. Despite a recent spree of paving, many city streets were little more than mud or cobble tracks. These along with rioting, crime, filth, polluted air, foolhardy coach- and hackney-drivers, and jostling pedestrians constantly challenged those making their way on foot to, say, one of London's many markets or churches. No doubt fashionable shops, concerts, theatres, exquisite parks, and grand monuments like the Tower, Royal Exchange, St Paul's, and for the ever curious Tyburn and Bedlam were inviting. For the likes of young Smith, opportunities to form new friendships and even business alliances more than offset the negatives of London life. In fact, the months in London would educate the young clerk in new dimensions of lawyering and politics, both of which in good time would help mold his firm's business.⁶⁸

It was in late spring, 1795 that Benjamin Sr, then sixty-four, took his eldest child, Elizabeth, and his eighteen-year old son to London for ten days to show them the sights.⁶⁹ Father and son stayed at Will's Coffee House in Searle Street near Lincoln's Inn; Elizabeth took lodgings nearby in the same street. Several excursions were specifically linked to young Benjamin's clerkship: in successive days his father escorted him to Westminster Abbey and Hall, where they 'saw all the judges sitting in the several different courts and the chancery' and to the House of Commons, where they spent four hours. Otherwise, young Smith ventured to Smithfield Market, and father took Elizabeth and him to Covent Garden one evening to see *Macbeth*.

Since father's principal purpose for the trip was no doubt to arrange for his son's meeting his London contacts, they

immediately made the rounds of attorneys' chambers. They dined and took tea with Thomas or William Ryder at Lincoln's Inn,⁷⁰ and, more importantly, dined with Christopher Johnson, Smith's London agent in Hatton Gardens.⁷¹ The Smiths also called on old Lincolnshire friends, particularly Thomas Forsyth, whom they entertained at Will's and, in turn, were twice received by the Forsyths. Visits with Forsyth almost always included business. The Smiths' numerous calls during this brief stay in London clearly laid the groundwork for young Benjamin's return the following year.

Residence in London during the winter and spring of 1796 and 1797 - eight months in duration - was for young Benjamin Smith at once an occasion for study, a business practicum, and an exhilarating social life. He seems, if we may believe his diary, to have been singularly detached from the political and social problems which affected London at the time: never did he allude to such elements of political radicalism as Jacobinism, the London Correspondence Society, or the Mob.⁷²

Benjamin Jr departed Folkingham for London by chaise on 2 November 1796 in the company of the Rev. Mr Shinglar, the Horbling curate and a family friend.⁷³ Once in London Smith took up lodgings at 19 Castle Street, Falcon Square, Aldergate Street.⁷⁴ His excitement at being on his own, combined with a curious nature, led him immediately to the Thames, where he took a boat to Westminster Hall to observe the courts again.

Nor did Benjamin lose any time in renewing acquaintance with his father's associates and clients. He especially endeared himself to Christopher Johnson and his new partner, Alexander Forbes Gaskell. Treating him like a son, the Johnsons invited the young clerk to their home many times during his London stay. He was there for Christmas day 1796 and three days later as well.⁷⁵

Even the ageing Robert Kelham, almost eighty but only recently retired, occasionally joined his former partner at these affairs. That he did may have been crucially important to young Smith, for whatever speculation his father undertook in the money market had surely been engineered by Kelham.⁷⁶ That he was still about in 1796 and 1797 could not but have had considerable consequence for the young clerk - more, indeed, than his erudition in the legal classics!

At one time or other, Kelham was instrumental in bringing young Smith into his business circle. He was clearly the link between him and his own son-in-law, the stockbroker Marmaduke Langdale. By 1804, at the latest, Benjamin Smith Jr had initiated very lucrative business ties with the Langdales, father and son, which endured for half a century. This connection - no doubt cemented in 1809 when Benjamin's younger brother Edward married the Langdale daughter, Sarah - greatly accentuated Smith's London enterprise.⁷⁷

Nor were Smith's clerkship encounters with his father's agents limited to social affairs. Johnson and Gaskell evidently invited him to use space in their chambers, presumably their new ones in Queen's Square (Fig. 6), for he had night-time access and received letters from his father there.⁷⁸ Conceivably, such letters conveyed business instructions no less than fatherly advice. Once, 31 May 1797, he went with Johnson to Westminster to 'receive Tontines'. On 26 November 1796, he had gone to Somerset House to get deeds stamped, and in early April 1797 he 'attested the execution of a codicil to Lord Brownlow's will'.

Smith's encounters with Forsyth and the solicitors Harvey and Ryder in Lincoln's Inn Fields almost certainly involved business. Shortly after arriving he called on the Forsyths in Wimpole Street; frequent visits followed. He called regularly on William Harvey in New Square. On 24 November 1796 the two 'drank wine' together and on the 27th they dined. Smith had tea and supper with Mr and Mrs Harvey and with two old Lincolnshire friends, Shilcock and Dixon, on 2 February. He dined again with Harvey on both 3 and 4 June and called to take leave of him on the 29th. The Smith firm occasionally engaged



Fig. 6. Johnson's and Gaskell's Queen's Square office.

Harvey for consultation.⁷⁹ Doubtless, young Benjamin positioned himself to cultivate relationships potentially beneficial to his own career as he attended his father's business.

Johnson and Gaskell certainly assisted young Smith's admission and enrollment as attorney: on a rainy day in early May he walked to Bank and Custom House before dinner. In the company of Gaskell he proceeded to Lord Kenyon's Chambers 'for my fiat' but saw only the jurist's clerk.⁸⁰ Next morning 'I was admitted in the King's Bench'. He was about as sparing in the details of his admission and enrollment as he had been about other business matters.

Smith may have discovered an advantage, as students often do, in studying and generally consorting with a fellow student preparatory to taking the same examinations. From almost his first day in London, he established a close friendship with another aspiring attorney named Samuel Sharp. Next to nothing is known about him: although a central figure in Smith's London life at this time, he disappeared from it some three years later almost as suddenly as he had entered it. For weeks on end these young sophisticates rarely missed a day drinking tea, dining, calling on friends young and old, strolling, and on Sundays listening to their favorite preachers.⁸¹ Their church of preference was St Botolph in Aldersgate Street, although they certainly varied their options.

They enjoyed music, theatre, and art together. On Benjamin's second night in town, 4 November 1796, he and Sharp saw a play. Two weeks later, on a 'rainy and cold' November 16, they 'went to Covent Garden Playhouse at night'.⁸² On 7 April they heard an oratorio at Covent Garden and on the 24th a 'concert' at the 'opera house'. Occasionally young ladies joined them.⁸³

Smith brought Sharp into his circle of acquaintances. The latter frequently joined Smith in taking tea or spending an evening at the Johnsons'.⁸⁴ Sharp, in turn, introduced Smith to his friends - principally, his brother George and Messrs Crutchfield and Newdick.⁸⁵ Smith joined Sharp in their

company many times, dining and taking supper with them and visiting even the Foundling Hospital, west of Gray's Inn Lane.

Despite their full social calendar Smith and Sharp eventually attended to their professional reasons for being in London. Benjamin recorded Sharp's and his own induction into the profession. When Sharp was admitted to the courts on 24 January, he wrote: 'Mr Sharp & I went to Westminster Hall in the Morning for day of term. Saw the Chancellor & Judges going into the Courts - & drank tea with Mr Johnson and Mr Sharp & afterward went with them to Judge Ashhurst's for Mr Sharp to be admitted.'⁸⁶ The next day the pair returned to Westminster Hall for Sharp's swearing in; two days later Sharp was admitted to the Court of Common Pleas. Smith's own admittance and enrollment occurred later, in May, as noted above. On 30 May he and Sharp together were 'admitted solicitors in chancery'.⁸⁷

The Smith-Sharp relationship is important in assessing the role of personal relations in the clerkship venture. These young men had been inseparable during the months prior to their admission and enrollment. Had this bond endured, it would have provided an even better insight than exists here on a law clerk's social/ professional maturation.⁸⁸

What can be said of this relationship? Apart from displaying Smith's capacity for friendship, it allowed both young men to make much more of their London apprenticeship than if each had remained closeted in his dwelling. Together they greatly expanded themselves intellectually, culturally, and socially. Who is to say how much this comradeship with Sharp during this formative period affected Smith's *mentalité* for a professional lifetime?

* * *

Ben Smith, fully accredited as an attorney in his twenty-first year, left London at the end of June, 1797. On the 25th father, sister, and younger brother Edward had arrived. On the 26th they dined at Will's; on the 27th they all dined at Christopher Johnson's; the next day they dined and took tea at Forsyths'. The retinue paid a few last calls on the 29th before dinner and supper again at Will's. Finally, after a few remaining visits, the Smiths left London on 30 June, arriving in Horbling in time for dinner the next day. In such a manner the London phase of Benjamin's clerkship concluded.⁸⁹

When Benjamin Smith Jr returned to Horbling in the summer of 1797, he appeared to return to essentially the same life that he had left. In reality, he did not; he was much more in command. There was, moreover, more leisure - a more pronounced social life. He loved the outdoors and readily adapted to the life of a countryman: he enjoyed cricket, shooting larks and rabbits, walking, riding, fishing, and, above all, calling on friends.⁹⁰

Benjamin Smith Sr signaled his intention to retire from the firm when in October, 1798 he moved his household from Horbling to the nearby market town of Folkingham.⁹¹ Thus, Benjamin Jr at twenty-two became master of the homestead, rambling Red Hall in Spring Lane, and the *de facto* head of the firm, housed on the same estate.⁹² In the course of the next few years the father relinquished his manorial stewardships and lordships and various commission clerkships to his son. Despite an initial nervousness in this role, young Benjamin made the transition rather well.⁹³ His apprenticeship clearly accorded him an understanding of the operation.

* * *

This case study examines a late eighteenth-century clerkship and by so doing attempts to show its broader implications for the legal profession and society. Benjamin Smith Sr reasonably assumed that his son would continue the same country routines - those of conveyancing, lending money on mortgages and notes, managing property, clerking for commissions, and

holding copyhold court - which he himself had charted during nearly four decades. While Benjamin Jr did, in fact, continue these, unforeseen economic and political changes would alter his strategy.

Smith Jr would involve the firm in London - booming commercial London - in ways which his father could only minimally have anticipated. He would spend much of a long career investing clients' and his own monies in the money market.⁹⁴ While such ventures were often hazardous, they could be lucrative for both attorney and client.⁹⁵ At the same time, they provided access to the provinces for London brokers. With credit unpredictable, country banking primitive, and investments always risky, an attorney conversant with town and country alike and one who had the trust of both client and broker was a rare and valuable commodity.

Benjamin Smith Jr's London stint as a clerk is important for understanding how he performed such a dual role for more than half a century and how he gave his country firm a decided City orientation.⁹⁶ Beginning with his clerkship young Smith acquired the learning and polish to graduate from provinciality:⁹⁷ his apprenticeship further enabled him to make the right contacts in order to operate comfortably in Westminster, legal London, and the City. This cosmopolitanism almost certainly left its imprint on the ethos of the firm, for a clerkship closeted in Lincolnshire would have produced a very different kind of entrepreneur and establishment.⁹⁸

Benjamin Smith Jr's entry into the legal profession occurred at a critical juncture in England's political as well as economic history. The political reforms in the 1830s largely sealed the fate of 'local self government'. The centralized polity which replaced it required adaptable attorney professionals - frequently operating in networks and abetted by law societies. Smith Jr's apprenticeship equipped him for this new political environment, one, also, that his father could never have foreseen.

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Notes

1. For recent accounts of eighteenth- and nineteenth-century lawyer professionalism see Penelope J. Corfield, *Power and the Professions in Britain 1700-1850* (London and New York, 1995); David Sugarman, 'Simple images and complex realities: English lawyers and their relationship to business and politics, 1750-1950', *Law and History Review*, 11 (1993), pp. 257-301; Vivienne Parrot, *A Route to Respectability: Solicitors and Their Changing Image 1830-1910 and Nineteenth-Century Manchester Solicitors: Provincial Leadership and Professionalisation*, Occasional Papers in Politics and Contemporary History, 26 and 27, University of Salford (n.d.); 'Manchester attorneys: occupation, communication and organisation. A study of the profession before 1838', *Transactions of the Lancashire and Cheshire Antiquarian Society* (1994), pp.87-103; and J. Stuart Anderson, *Lawyers and the Making of English Land Law 1832-1940* (Oxford, 1992).
Pat Hudson, *The Genesis of Industrial Capital: A Study of the West Riding Wool Textile Industry c.1750-1850* (Cambridge, 1986) treats the role attorneys played in the world of credit. Sugarman, 'Simple images', in particular, calls for more cultural, social, and political histories of the legal profession (p.285). A recent and important work which is generally applicable here is Thomas Broman, 'Re-thinking professionalization: theory, practice, and professional ideology in eighteenth-century German medicine', *Journal of Modern History*, 67 (1995), pp.835-72.
2. See Trevor Dean and K. J. P. Lowe, *Crime, Society and the Law in Renaissance Italy* (Cambridge, 1994), pp.3-4 for new thinking on the merits of case methodology.
3. Older accounts of the professions in eighteenth-century England include Geoffrey Holmes, *Augustan England: Professions, State and*

Society, 1680-1730 (London, 1982), which contains a good section on attorneys, and Barbara Kerr, 'Country professions', in *The Victorian Countryside*, edited by G.E. Mingay, 2 vols (1981), I, pp.188-299.

For the legal profession, see Harry Kirk, *Portrait of a Profession: A History of the Solicitor's Profession, 1100 to the Present Day* (1976); Robert Robson, *The Attorney in Eighteenth-Century England* (Cambridge, 1959), and Michael Birks, *Gentlemen of Law* (1960).

Other important writings regarding eighteenth-century attorneys are those by Philip Aylett and Michael Miles. See Aylett, 'A profession in the marketplace: the distribution of attorneys in England and Wales 1730-1800', *Law and History Review*, 5 (1987), pp.1-30. For Miles, see "'A haven for the privileged": recruitment into the profession of attorney in England, 1709-1792', *Social History*, 2 (1986), pp.197-210; 'The money market in the early Industrial Revolution: the evidence from West Riding attorneys c.1750-1800', *Business History*, 23 (1982), pp.127-46; "'Eminent practitioners": the new visage of country attorneys c.1750-1800', in *Law, Economy and Society, 1750-1914: Essays in the History of English Law*, edited by G. R. Rubin and David Sugarman (Abingdon, Oxon., 1984), pp.470-503; and the dissertation from which these are derived, "'Eminent Attorneys": Some Aspects of West Riding Attorneyship, c.1750-1800' (unpublished Ph.D. dissertation, University of Birmingham, 1982).

A standard work on the legal profession in modern Britain with useful historical references is Richard L. Abel, *The Legal Profession in England and Wales* (Oxford, 1988). See especially pp.137-260 on solicitors.

4. Attorneys and solicitors had imperceptibly separate identities until the middle of the last century. After the Judicature Act of 1873, especially, the title of solicitor simply replaced that of attorney (Abel, *The Legal Profession*, pp.141-42; see also Birks, *Gentlemen of the Law*, pp.195-96). In this paper I have used the two terms interchangeably because the Smiths of Horbling did.
5. Michael Miles treats the matter of social status for entrants into the profession to the end of the eighteenth century and finds that their status had indeed improved. Many were by then 'upper middling' or minor gentry) "'A haven for the privileged"', p.201).
For more on class and the professions, see Peter Earle, *The Making of the English Middle Class: Business, Society and Family Life in London 1660-1730* (1988) and John Smail, *The Origins of Middle-Class Culture: Halifax, Yorkshire 1660-1780* (Ithaca, N.Y., 1994). Smail's thesis on a 'cultural theory of class formation' (pp.3-17) and his discussion of lawyers, credit, and consumption (pp.82-113) are especially germane to this article. See also John Seed, 'Class formation in early industrial England', *Social History*, 18 (1993), pp.17-30.
6. It should not be supposed that the practice of legal clerkship was universally popular. In making the case for law in the university curriculum, William Blackstone denounced clerking unequivocally:
The evident want of some assistance in the rudiments of legal knowledge has given birth to a practice, which if ever it had grown to be general, must have proved of extremely pernicious consequence. I mean the custom by some so very warmly recommended, of dropping all liberal education, as of no use to students in the law; and placing them, in its stead, at the desk of some skilful attorney; in order to initiate them early in all depths of practice, and render them more dextrous [*sic*] in the mechanical part of business.
(*Commentaries on the Laws of England*. A facsimile of the first edition of 1765-1769, 4 vols (Chicago & London, 1979), I, pp.31-32).
The issue of the university's role in legal education did not go away. A Select Committee on Admission of Attorneys and Solicitors (1821) recommended that
it would be advantageous that a Bill should be brought in, to enable Gentlemen, who shall have taken a Degree, in either of the English Universities, to be admitted as Attorneys and Solicitors after a service of Three Years. 5 March 1821. (Quoted in W. H. Manchester, *Sources of English Legal History* (1984), p.52).
7. Holmes correctly perceives the 'immense' social implications of this new process in which the expanded professions became 'instruments of social fusion . . . [and] a bond that helped more closely to integrate numerous units of local society' (*Augustan England*, p.17).
Very little has been written about attorney clerkships. The best accounts are Peter Quennell, *The Prodigal Rake: Memoirs of William Hickey* (New York, 1962); Birks, *Gentlemen of the Law*, pp.161-80, in a chapter entitled 'A smart and dashing clerk'; Robson, *The Attorney in Eighteenth-Century England*, in chapters on 'The making of an attorney' (pp.52-67) and 'Two attorneys' (pp.119-33).
Robson, M. Miles, H. Kirk, and to a lesser extent Birks contain useful attorney bibliographies - handbooks, treatises, and polemics - some of which treat law clerks and legal education. Abel, *The Legal Profession* (pp.149-56) discusses both historical and contemporary clerkship.
8. The 1729 Act (2 Geo. II c 23, 1728) as quoted from A. H. Manchester, *Sources of English Legal History*, pp.51-52.
9. Michael Miles in "'A haven for the privileged'" dispels the notion of a chain of reasoning . . . that most attorneys were of low social origins, got themselves articulated cheaply and because they had no private

- income to support them on the expiration of their clerkships, were driven by extreme penury to turn barrator and pettifogger (p.198). While the ill-qualified were no doubt attracted by the increasingly lucrative rewards of the profession, the legislation of 1729 was meant to limit entrance into the profession, especially allowing the London-based profession to govern access in the provinces. Exercising controls over provincial attorneys from London was feasible, however, only so long as provincial attorneys practised there. During the course of the eighteenth century they increasingly remained in their locale, hiring a London attorney, as did the Smiths of Horbling, as their agent (Miles, "Eminent Attorneys", pp.31-35).
10. Miles regards £100 the national average between 1710-1750 for premiums paid to practitioners in return for taking clerks. While country attorneys usually charged about £50, those in London might charge as much as £150. By the end of the century he estimates the overall average about £180, noting that 'an apprenticeship premium of £50 paid to a country attorney would be in the reach of many "lower middling people"' ("A haven for the privileged", p.203).
 11. The term 'articled clerk' is derived from the articles of agreement governing the apprenticeship. By these the clerk was bound, like any other apprentice, to serve in the office of a master, in this case of an attorney, in consideration of professional instruction. Miles in "A haven for the privileged" discusses the over-production of attorney clerks and their means of entering a firm – most likely through either kinship or purchase (pp.205-06). For those who attempted starting on their own costs in London could reach £1,000; in the country £200 seemed the minimum needed (p.207).
 12. An attorney's firm typically was managed by a senior clerk, often called a managing clerk. He frequently served many years, thus providing continuity for the business. As Harry Bowden observed with respect to the Smith firm in Horbling: 'a Managing Clerk is unqualified [e.g. unqualified as a lawyer with his name on the roll of solicitors] but usually has vast practical experience. He cannot become a Partner . . . [nor], of course, can he appear in Court.' It was 'traditional for [the Donington office] to be run by an unqualified Managing Clerk, a Partner visiting at least once a week' (personal communication, 14 October 1992). For a fuller discussion, see Abel, *The Legal Profession*, pp.207-10.
 13. This is not to suggest that an articled clerkship was unknown to the Smith firm. William Worth, discussed below, did sign such a contract at almost the same time young Benjamin began his apprenticeship, Lincolnshire Archives Office (hereafter L.A.O.), Smith 11/Firm's Business, Worth's Articles of Clerkship, 8 April 1793.
 14. *The Lawyer's Clerk* as quoted by Birks, *Gentlemen of the Law*, p.161.
 15. See John F. Wilson, *British Business History, 1720-1994* (Manchester, 1995), pp.21-23.
 16. The increasing complexities of life eventually resulted in a reconfiguration of government. While this tendency to centralize authority did not manifest itself until the mid-1830s, it would have been broadly relevant for one who had clerked during a period when a landed elite was the dominant political power. For more on this political change, see David Eastwood, *Governing Rural England: Tradition and Transformation in Local Government 1780-1840* (Oxford, 1994). Eastwood does speak to attorney roles in government on pp.52-53, 61-62, 68 and 83.
- Philip Aylett in 'A profession in the marketplace' concludes that:
 With a strong village and agricultural clientele, and good practices in county towns and mixed counties, many eighteenth-century attorneys seem to have inhabited an economy of their own, both independent of the manufacturing districts and able to survive the vicissitudes of agricultural boom and slump. The eighteenth-century attorney may have helped to lay the foundation for the growth of the autonomous service sector – made up partly of professionals – which is increasingly important in the twentieth-century economy (p.30).
 Such engagement required an expertise never expected from conventional clerkships. As Miles observed:
 The eighteenth-century attorneys needed to be far more learned than their seventeenth-century predecessors. There was now so much to learn that even those attorneys who had served a first-class clerkship for five years could not hope to be experts on every aspect of their work and we see practitioners beginning to specialise for the first time ("A haven for the privileged", p.210).
17. Benjamin Smith's commonplace book and diaries are in the possession of Harry Bowden of Spalding, Lincolnshire. The diaries begin 4 November 1794 and conclude 14 January 1854; there is, however, a gap from 1 May 1799 until 22 June 1817. The firm's papers have been in the L.A.O. since the early 1960s. The first reference to Benjamin Jr is in his father's business papers, 3 June 1790, when Father dispensed seven shillings to him, brothers Francis (Frank) and Edward (Ned), and three others (L.A.O., Smith 11/Firm's Business, Cash Book 1789-94). For more on numeracy and keeping books, see Jacob M. Price, 'Directions for the conduct of a merchant's counting house, 1766', in *Business in the Age of Reason*, edited by R. P. T. Davenport-Hines and Jonathan Liebenau (1987), pp.134-49; Patricia C. Cohen, 'Reckoning with commerce in eighteenth-century America', in *Consumption and the World of Goods*, edited by John Brewer and Roy Porter (1993), pp.320-34; and David Sugarman, 'Who colonized whom? Historical reflections on the intersection between law, lawyers and accountants in England', in *Professional Competition and Professional Power: Lawyers, Accountants and the Social Construction of Markets*, edited by Yves Dezalay and David Sugarman (1995), pp.226-37. Perhaps indicative of his fascination with numbers, Smith in later years was a member of the Statistical Society.
 18. The senior Smith's own clerkship is subject to scrutiny. Although his bill books show that he practised as an attorney in 1761, he was not enrolled as one in the common law courts until 1767 (P.R.O., K.B. 105, Roll of Attorneys, 1729-88, p.261 in Law Society, Chancery Lane). Nor is there hard evidence of a clerkship: certainly one is not mentioned in the usual places – King's Bench, Articles of Clerkships and Affidavits or the Stamp Office Registers for Apprentices (all P.R.O.). That many attorneys practised with minimal training was no doubt true; however, it is surprising that he eventually gained formal admission. Could his good contacts at Lincoln's Inn have helped him over this hurdle?
 19. The agricultural historian G. E. Mingay believes that a good steward or estate manager ought have 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. Further, he observes that the work of a part-time management was usually undertaken by local farmers or attorneys, who for a commission of sixpence or a shilling in the pound collected rents, supervised repairs, found new tenants when farms fell vacant, and saw that the farmers honoured their covenants. (Quoted from 'The Eighteenth-century land steward', in *Land, Labour and Population in the Industrial Revolution*, edited by E. L. Jones and G. E. Mingay (1967), pp.3-5). See also J. Lawrence, *The Modern Land Steward* (1801) and Barbara English, 'Patterns of estate management in east Yorkshire c.1840-c.1880', *Agricultural History Review*, 32 (1984), pp.29-48.
 20. It is not clear whether Smith ever resorted to a collusive legal procedure which would have allowed him a clear title to his copyhold properties. Cf. Smail, *Origins of Middle-Class Culture*, p.87. See also B. A. Holderness, 'The English land market in the eighteenth century: the case of Lincolnshire', *Economic History Review*, 2nd ser., 27 (1974), pp.557-76.
 21. See Smail, *Origins of Middle-Class Culture*, pp.82-92 and Hudson, *Genesis of Industrial Capital*, pp.96-104 for two very lucid explanations of solicitors' expanding the web of credit through mortgages. Among others, see B. L. Anderson, 'The attorney in the early capital market in Lancashire', in *Capital Formation in the Industrial Revolution*, edited by Francois Crouzet (1972) and Peter Mathias, 'The lawyer as business man in eighteenth-century England', in *Enterprise and History*, edited by D. C. Coleman and Peter Mathias (Cambridge, 1984).
 22. R. J. Olney, *Rural Society and County Government in Nineteenth-Century Lincolnshire*, History of Lincolnshire, X (Lincoln, 1979), p.46. The Smith account for Messrs. A. Lawrence & Buckworths typified the firm's handling of a property sale:
 '1797 March.
 Attending you & taking Instructions for Conditions of Sale & drawing the conditions 6s. 8d.
 Fair Copy 2s.
 Clerk attending the Sale at Billingborough 5s.
 Drawing & Ingrossing [sic] Agreement with Mr Armes 6s. 8d.
 Stamp & Paper 7s. 1d.
 Notice to the Tenant to quit & fair Copy 3s. 6d.
 Service on Wm Shaw at Billingborough 3s. 6d.
 Drawing Relative to Mr Armes & Assignment of the Mortgage Term to attend the Inheritance fo: 45 £2 5s.
 Ingrossing £1 2s. 6d.
 Duty & Parchment £2 5s. 6d.
 Attending the Execution at Falkingham. Writing to Mr Buckworth for ye deed he took & several attendances 6s. 8d.
 Received 10 Oct 1797 £9 8s. 1d.'
 (L.A.O., Smith 11/Firm's Business, Bills, 1790-1803/04, p.227).
 23. For more on Benjamin Smith Sr see my 'The country attorney in late eighteenth-century England: Benjamin Smith of Horbling', *Law and History Review*, 8 (1990), pp.237-71.
 24. Charles Tilly, *Popular Contention in Great Britain 1758-1834* (Cambridge, Mass., 1995), pp.221-24. The quotation is Tilly's (p.223) of Thomas Walker, a Lancashire radical.
 25. Smith's early education is largely a blank. That his school-leaving age

was older than that of most country boys possibly accounts for his acceptable literacy and numeracy. While he could have been educated in one of the local grammar schools, it seems more likely that he enjoyed private tutoring.

His father's listing an expenditure of £1 10s. for readers and spellers (12 April 1790), followed by 'Ben & Ned to make them up 8s. each' and 'Ditto [Ben & Ned] & Mr Pacey for their Dinners 6s. 6d.' (13 April 1790) suggests that Dr Pacey was Ben's tutor (L.A.O., Smith 11/Firm's Business, Cash Book, 1789-94). The Horbling curate Shinglar may also have tutored young Benjamin. The lad received an occasional sum – five, six, or even ten shillings – from Father while he was working at his lesson (L.A.O., Smith 11/Firm's Business, Cash Book 1789-94, *passim*). See both Lawrence Stone, 'Literacy and education in England 1640-1900', *Past and Present*, 42 (1969), pp.112-18 and Michael Sanderson, 'Literacy and social mobility in the Industrial Revolution in England', *ibid.*, 56 (1972), pp.75-104.

Written in Benjamin Smith's *The Daily Journal or Gentleman's Merchant's and Tradesman's Complete Annual Account Book* for 1851 is the following notation in a hand other than Smith's but clearly referring to him: 'I left school June 1791 aged 14½. Frank ditto December 1793 aged 15½.'

Another note (also not in Smith's hand) states that young Benjamin went to nearby Donington for the first time in December 1792, when he was almost sixteen. Possibly, he began clerking about then. In a diary entry of 28 October 1842 Smith observed that it had been fifty years since he first attended the Folkingham copyhold court.

26. No articles of clerkship for Benjamin Jr have been found. Even assuming that he was not held to strict contractual terms, he certainly was not pampered. According to Robson, a nominal premium, like 5s., was occasionally paid by a son articulated to his father (*Attorney in Eighteenth Century England*, p.56).

27. Although an attorney's clerkship for most of the eighteenth-century was eminently

practical in character, concerned with the forms of legal processes and the application of the laws to a wide variety of situations: he [the attorney] was judged by his acquaintance with the techniques of the law, rather than by his knowledge of its more theoretical aspects (Robson, *Attorney*, p.52).

Benjamin Jr assumed a professional look during his first months as apprentice: in November, 1793 he acquired a new hat and waistcoat, the former for £1 4s. 6d. and the latter for 9s. (L.A.O., Smith 11/Firm's Business, Cash Book 1789-94, 2 and 11 November). Father had spent 13s. for a hat and 3s. 6d. for buckles on 12 November 1791. Father entrusted Ben with large sums during this first year of clerkship. On 7 November 1793 he collected 'Lloyd's Rents etc' £154 9s. 9d.' (*ibid.*).

28. Smith listed his main sources as Thomas Wood's *Institutes of the Law of England* (1722); Timothy Cunningham's *New and Complete Law Dictionary*, 2 vols (1782); Richard Burn's *Ecclesiastical Law* (1763) in two quarto volumes, Mathew Bacon's *New Abridgement of the Law*, 5 vols (1736-1766); William Newnam's *The Complete Conveyancer; or the Theory and Practice of Conveyancing in all its Branches* (1781, 1782) in three large folio volumes; Sir James Burrow, *Reports of Cases . . . in the Court of King's Bench* (1766-71); and Francis William Sanders, *Essays on the Nature and Laws of Uses and Trusts* (1791).

In addition, there were Edward Christian's edition of Blackstone, *Commentaries on the Laws of England* (the twelfth through the fifteenth editions were by Christian, the first Downing Professor of Law of England at Cambridge); Peter Lovell's *Law's Disposal of a Person's Estate Who Dies without Will or Testament*, or as Smith wrote it, *Intestate Succession* (1785, 1788); *Attorney's Practice in the Court of Common Pleas*, either Robert Richardson's 1739 or later edition or one by 'A Gentleman of the Inner Temple', the author of *The Attorney's Practice in the Court of the King's Bench* (1746); John Tracy Atkins, *Reports of Cases in the High Court of Chancery in the Time of . . . Hardwicke et al., 1736-1754* (1765-80) and *Coke on Littleton*.

Of these the most often cited were Christian's Blackstone and Mathew Bacon's *Abridgement*. Possibly, there are earlier editions than those which I have cited. In any case, there is no way of knowing which Smith used.

It is surprising that Smith never cited any of the 'usual handbooks, books of precedents, and conveyancing manuals that clerks normally coveted – e.g. *The Practique Part of the Law. Shewing the Office of a Compleat Attorney* (1676); Edward Cocker's *The Young Clerk's Tutor Enlarged* (1700); W. Bohun's *Practising attorney and Lawyer's Office Containing the Business of an Attorney in all its Branches* (1724); *The Attorney's Pocket Companion* (1733); *The Attorney's and Solicitor's Companion* (1725); *The Attorney's Compleat Pocket-Book. Containing Near Four Hundred of such Choice and Approved Precedents in Law, Equity, and Conveyancing, as an Attorney may have Occasion for* (1743); *The Young Clerk's Vade Mecum, or Compleat Law-Tutor, Being a Useful Collection of a Great Variety of the Most Approved Precedents in the Law* (1776); *The Young Clerk's Magazine or English Law-Repository*, 7th edn (1792); the *Compleat Affidavit Man; and Bird's Pocket Conveyancer or Attorney's Pocketbook* (1796). More substantial than any of those was Giles Jacob, *The Compleat Attorney's Practice*

in English, in the Courts of King's Bench and Common-Pleas, 2 vols (1730). See Kirk, *Portrait*, pp.58-59.

29. These included Sir Francis Buller, *Introduction to the Law Relative to Trials at Nisi Prius*, 3rd edn (1781); John de Grenier Fonblanque, *Treatise of Equity*; Peere Williams, *Reports of Cases . . . in the High Court of Chancery 1664 or 1695-1735* (1787); *Reports and Arguments of Sir John Vaughan 1603-1674 Late Chief Justice of the Court of Common Pleas, 1665-1674*, published posthumously by his son (1677); and Sylvester Douglas, *Reports of the Cases . . . in the Court of King's Bench in the 19th, 20th, and 21st Years of the Reign of George III, 1778-1790* (1790).

The following were also included: Sir John Impey, *The New Instructor Clericalis, Stating the Authority, Jurisdiction, and Modern Practise of the Court of Common Pleas* (1782); [Thomas] Vernon's *English Chancery Reports or Cases Adjudged in the High Court of Chancery 1681-1720 or 1736* (1st edn, 1726-28); George Wilson's *English Plea Reports or Cases Argued and Adjudged in the Kings Courts at Westminster from the 16th to the 26th Year of King George II and the Common Pleas from the 26th Year of George II to the 14th Year of King George III, 1742-1774* 3 vols (1st edn, 1770); John Comyn's *Digest of the Laws of England* (1st edn, 1744); Thomas Barnardison's *Reports of Cases Determined in the High Court of Chancery 1740-1741*; and possibly selections from the *Reports, Notes of Opinions* (1802) of Sir John Eardley Wilmot (1709-1792), whose King's Bench judgments were reported in Burrow (1766-71) and Wilson (1770).

Harry Bowden possesses Smith, Jr's *The Compleat English Copyholder by a Gentleman of the Inner Temple* (1735), vol 1. Whether he used this during his apprenticeship is unknown.

30. Robert Kelham (1717-1808), originally from Billingborough in Lincolnshire, had practised law in London probably from the 1740s. Early in the 1760s he became Benjamin Smith Sr's agent in London; the elder Smith, in turn, managed Kelham's Lincolnshire properties. Presumably, young Benjamin was familiar with Kelham's scholarship and may even have had first-hand tutelage from him. Smith recorded that he had seen Kelham both in Lincolnshire (18 September 1796) and London (23 December 1796).

The *D.N.B.* and Kelham's obituary in *Gentleman's Magazine*, 78 (1808), p.370 list his publications: *An Alphabetical Index to all the Abridgments of Law and Equity, and to Several Books of the Crown Law, Conveyancing and Practise; Calculated to Facilitate the References to the 'General Abridgement of Law and Equity', by Charles Viner. (1758); Britton, Containing the Antient Pleas of the Crown; Translated, and Illustrated with References, Notes, and Antient Records* (1762); *The Dissertation of John Selden, Annexed to Fleta, Translated, with Notes* (1771); *A Dictionary of the Norman or Old French Language . . . Calculated to Illustrate the Rights and Customs of Former Ages, the Forms of Laws and Jurisprudence . . . to which are added The Laws of William the Conqueror, with Notes and References* (1779). This dictionary appeared in *Domesday Book Illustrated* (1788) and was reprinted again in 1843 in Philadelphia to be included in Bouvier's *Law Dictionary*.

31. The *Year Books* were case reports published annually from the reign of Edward I to that of Henry VII. Kelham's vast knowledge of early English law is evident in his numerous references to Glanvill, Bracton, Fleta, and *The Mirror of Justices* (c.1290) in his published and manuscript versions of Britton, *Containing the Antient Pleas of the Crown . . .* Kelham's printed Britton omitted a very substantial twenty-fifth chapter which he presented to Lincoln's Inn in manuscript (Lincoln's Inn Misc. 4).

32. Of course, all of this is speculation. How many books might a country attorney like Benjamin Smith Sr have? Perhaps twenty-five, fifty at the outside, or maybe just the books which Benjamin Jr cited.

In late 1992 Jordan D. Luttrell, owner of Meyer Boswell Books Inc. and a specialist in antiquarian law books, advertised a complete mid-eighteenth-century country attorney's library, which contained twenty-eight titles. One wonders Benjamin Sr's purpose in spending 6s. for a 'Geographical Dictionary' during his son's clerkship (L.A.O., Smith/Firm's Business, Cash Book 1789-1794, 23 January 1794).

33. Cf. John Worrall, *Bibliotheca Legum, or a Catalogue of the Common and Statute Law Books of this Realm* (1732, 1736, 1777, 1788, and a supplement in 1800), *passim*. These were full listings of available law books with prices. Clarke's *Bibliotheca Legum or Complete Catalogue of Common and Statute Law Books* was a similar listing, but I have seen no edition earlier than 1819.

Advertisements of law books in print also appeared occasionally in *Browne's Law Directory*. Smith mentioned none of these; nor did he ever comment on visiting bookstores or purchasing books during his wanderings about London.

34. I have completed many of Smith's abbreviated words, particularly source references, and modernized his punctuation.

35. Diary, 7 January.

36. Father penned a critique in the margin beside his son's commentary on the Statute of Distribution (22 & 23 Car. 2. c. 10).

37. Smith's notes on a placemark in his commonplace book indicate his reading preferences beyond legal texts:

- Read Hume's *History of England*, particularly observing the rise, progress, and declension of the feudal system. Minutely attend to the Saxon Government that preceded [*sic*] it & dwell on the reigns of Edward 1, Henry 6, Henry 7, Henry 8, James 1, Charles 1 & 2, & James 2d.
- By the end of the century there was talk, besides Blackstone's, of providing clerks with a more liberal education in order to enhance respectability for the profession, and hence profits (Robson, *Attorney*, pp.53, 64-65 and Kirk, *Portrait*, pp.48-53). Even as Smith clerked in 1795 and 1796, Joseph Day was urging reform in legal education to improve the profession's image (Robson, *Attorney*, pp. 31-34).
38. See Michael Lobban, *The Common Law and English Jurisprudence 1760-1850* (Oxford, 1991).
 39. Often diary and bill books must be used together to make sense of what the clerk was about. For example, Benjamin Jr often recorded travels in his diary but gave no reasons; the bill books, on the other hand, often detail a clerk's undertaking without identifying the clerk. By matching dates and locations in the two sources, it is possible to identify the clerk and determine his mission. Although the 1790s' clerks were Benjamin and William Worth, there were individuals like 'old Stredder' who occasionally helped out, e.g. 'Paid old Stredder for journey to Bourn . . . to get notices to quit signed by Mr Halford & Miss Musson & afterwards to Morton to serve Hogand' (L.A.O., Smith 11/Firm's Business, Bills, 1790-1803[04], p.228, Proprietors of the Morton Estates, 1803).
 40. The elder Smith's status and prosperity in the greater Horbling community were linked to his steward- and lordships of copyhold manors. The ritual of holding court was one which fully engaged the elder Smith and became very much a part of his son's apprenticeship. For example, 'Father & I kept Langtoft Court in morning & Baston in afternoon. Stayed all night at Bull in Bourn' (Diary, 11 April 1796). For more on Smith copyholds, see my article 'The Smiths of Horbling: country attorneys'. *Huntington Library Quarterly*, 54 (1991), p.163.
 41. The abbreviated diary reference to 'Towns' is clarified in the Thomas Towns' account (L.A.O., Smith 11/Firm's Business, Bills, 1790-1803[04], pp.275-77). In detailing the items for this billing Benjamin Sr referred to Benjamin as clerk, e.g. 'Self and clerk journey to Falkingham' or 'Clerk all day at Falkingham' (p.276).
 42. L.A.O., Smith 11/Firm's Business, Bills, 1790-1803[04], Account of Mr John Hanley, 1797, p.228. The clerk mentioned likely was William Worth, but the routine no doubt was the same as that followed by Benjamin Jr.
 43. Hugh Smith, a resident of Ipswich and living descendant of Benjamin Smith, remembers these as 'two beautiful horse pistols, made in brass by Knabley [Anton Knablay, an Austrian gun maker] . . . They had still the original flints and a second trigger which caused a cross between a bayonet and a poniard to snap down and forward, locking itself' (personal communication, 4 October 1992).
 44. Just when Benjamin Jr began keeping the books is unclear. Probably, his father had fallen behind, for some of the entries in young Benjamin's hand refer to transactions of the mid-1780s. He evidently began about 1795; by 1797 to 1798 he was penning most of the entries. Although Benjamin Sr retained control of the cash books until he died in January 1807, he gradually allowed his son to take over the other records.
 45. Young Benjamin recorded these meetings: 'Black Sluice meeting at Donington. Father, I & Worth there' (20 March 1795). A similar entry occurred for 2 and 27 November 1795, 19 February 1796, and 10 and 18 June 1796. At least once, clerks Smith and Worth were charged with responsible matters: on 5 April 1796 they went to Birmingham Hall to meet the Black Sluice commission to hear a report of prepared by some of its members. On 11 July 1796 the three journeyed to Boston for the annual meeting. This routine continued even after Benjamin had concluded his clerkship. He noted that on 10 July 1797, 6 October 1797, and 16 March 1798 his father and he had attended a Black Sluice meeting, the first at Bourn and the others in Donington. On June 6 1798 he went alone to one in Donington and with his father and Worth to the annual meeting in Boston the next month (9-10 July). When Benjamin did not attend these affairs his father and Worth usually did. Not only did young Smith and Worth appear at Black Sluice meetings, they were occasionally required to write reports, as on 19 March 1795. For his more than half century of clerking for Black Sluice Drainage Benjamin Smith Jr was recognized by the Black Sluice Commissioners with a plaque and window in the Horbling parish church:
 - 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.
 46. The first Turnpike Commission meeting he attended was in Billingborough on 10 November 1794 when 'Father dined there. I came home to dinner.' He appears to have resigned this clerkship in the 1820s.
 47. The clues to their relationship are sparse. Father once jotted in his cash book that he and Ben had gone to a play (L.A.O., Smith 11/Firm's Papers, Cash Book, 1789-94, 23 March 1792). Benjamin and his siblings routinely went with their father, but not their mother, on annual holidays to the Peak District of Derbyshire. Commission meetings, courtholding, and informal gatherings related to business brought father and son together; moreover, the elder Smith, as we shall see, took his son to see the sites of Legal London and visit friends there and elsewhere. When Benjamin Jr was in London during the spring of 1797, his father corresponded regularly with him (e.g. 17 December 1796 and the son's response 25 December). In one instance (11 March 1797) father and sister sent Benjamin a letter and a basket (of food?). To judge from the energy he expended in educating his son in the law, Benjamin Sr was entirely devoted to the boy's interests.
 48. The professional demeanor of Benjamin Smith Sr is evidenced by his trips to London and contact with agent Kelham, frequent consultation with Lincoln's Inn solicitors, and his occasional purchases of legal literature, i.e. the *Lawyer's Magazine* in the early 1770s (L.A.O., Smith 11/Firm's Business, Cash Book No.1, 1773-1774, 6 December 1773, 10 January 1774, 9 March 1774, 4 April 1774, and 9 May 1774). On 25 April 1777 he bought a 'law book' (Cash Book 1777-78). The elder Smith's paternalism was a critical factor during the formative years of his son and certainly affected the course of his career. Despite its obvious importance, paternalism's role in the business world of family capitalism has not been examined. See David Roberts, *Paternalism in Early Victorian England* (New Brunswick, New Jersey, 1979), pp.1-22.
 49. Worth apparently relinquished his deputy stewardships when Benjamin Smith Jr entered the firm. He had begun making a book of precedents for Benjamin Smith Sr about 1787; moreover, transactions regarding him appear before 1790 (Benjamin Smith Sr's hand) in the L.A.O., Smith 11/Firm's Business, Cash Books, 1789-1794, *passim*. Worth married in Horbling in 1788, and his son William, Jr was born the following year: see Henry Peet, ed., *Horbling Registers* (Liverpool & London, 1895), pp.152, 161, 174, as cited by Joan Varley in *Lincolnshire Archives Committee Archivists' Report*, 13 (1961-62), p.47).
 50. Noted in Smith's *The Daily Journal, or Gentleman's Merchants and Tradesman's Complete Annual Account Book* (1851), as if written by Smith but in another's hand. This journal is in the possession of Harry Bowden. In 1807, after his father's death, Benjamin Smith Jr invited the elder Worth to be a one-quarter partner in the firm. After Worth Sr's death in 1811 his son, who had dutifully clerked in the firm, succeeded him. Because Smith and Worth Jr did not get on well, the partnership was dissolved in 1817 (Smith Diary, 5 and 7 October 1817 and *London Gazette*, Saturday, 18 October 1817). Worth, who subsequently practised law in Bourn, was the father of Charles Frederic Worth, the famous fashion-designer of Second Empire France.
 51. The elder William Worth having become a partner in the firm in 1807, 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. See Schmidt, 'The Smiths of Horbling', pp.161 and 175, n.104.
 52. For example, at a land tax meeting on 30 March 1795 young Benjamin, his father, and Worth encountered many friends/clients. Such incidental diary references about social matters sometimes masked real business – e.g. on 23 July 1795 'I went to Spalding and dined with Dr. Wayet' etc. really meant that Smith 'first went to Donington and Quadring to serve Robinson & Baldwick with Notices & to Spalding 16 miles to swear to affidavit'. Socializing with Wayet came at the conclusion of the day's business (L.A.O., Smith 11/Firm's Business, Bills, 1790-1803[04], p.295, Fraser, Staple Inn account). On another occasion Benjamin recorded that he and his father had dined at the Greyhound in Folkingham with numerous friends/clients – including Green and Cheales – having 'finished Green's release today'. The Green account reveals more: Father described the occasion as a 'Journey to Falkingham & attending the Execution of the above mentioned writings Self & Clerk. Writing many letters & many attendances on you [Green], Mr Pickworth & Mr Cheales' (Diary, 14 April 1796 and L.A.O., Smith 11/Firm's Business, Bills, 1790-1803[04], p.349, account of Richard Green, same date).
 53. L.A.O., Smith 11/Firm's Business, Bills, 1790-1803[04], p.226, Navigation. Smith's charge was 6s. 8d. for 'attending' Hudson the afternoon of the 8th.
 54. Diary, 3 May 1795. That the Hare friendship was a family one was evidenced by sister Elizabeth's staying with the Hares from 19 May 1795 until joined by Ben and his father who stayed the night en route to London on 6 June. Both Mr and Mrs Hare and their son stayed with the Smiths (See Diary, 19 January 1796, 9 May 1796, 3 August 1798). One assumes that these 'social' calls incorporated business talk to which young Ben was, at least, an attentive listener.
 55. Diary, 8-10 March 1795. Benjamin Jr's detailed account shows the importance which he attached to this experience: Father and he went by chaise to Folkingham where they were joined by a client, Jackson of Stamford. *En route* to Lincoln they dined in Sleaford before taking tea

at the Reindeer, the elder Smith's favourite lodging in Lincoln. Because Jackson's cause was an ejection, Father had brought the Thurlby court rolls. Almost certainly, the young clerk was assigned tasks related to this action.

On the 10th they started back, dining in Sleaford again, and taking tea with their good friend Richardson in Folkingham. Jackson stayed the night in Folkingham, while the Smiths proceeded home. So much for the Assizes in the education of this clerk.

56. An excellent treatment of attorney-client relations is Philip Aylett, 'Attorneys and clients in eighteenth-century Cheshire: a study in relationships, 1740-1785', *Bulletin of the John Rylands University Library of Manchester*, 69 (1987), pp.326-58. Aylett is especially helpful in showing how this interaction presents a 'picture of a competitive, businesslike profession . . . [which] contained elements of several other later professional men – land agents, stockbrokers, the company secretary, and others' (p.358).

57. Smith rarely missed visiting Brown when he was in the vicinity of Stamford (where Brown lived in later life) and often called on him en route to London – a practice father and Ben initiated during Ben's apprenticeship (29 June 1795). Often these visits left Smith exasperated because of the shabby treatment he had received. Still, in appreciation of Smith Jr's services Brown gave him £5,000 in 1823 (Diary, 14, 15, 16 January) but left him nothing in his will, much to Smith's chagrin.

58. L.A.O., Daniel Douglas Will, 1793. Benjamin, during his apprentice years, and Elizabeth frequently visited the widow Douglas (e.g. Diary, 20 November 1794) and she, in turn, visited the Smiths (e.g. Diary, 1-4 December 1794). In the latter instance Sister returned with her for a week. Once, when Benjamin and his father were in Folkingham for Appeal Day (5 February 1795), they took tea with her. During Jane Douglas' long lifetime – she lived until 1821 – her affairs were managed by Benjamin Smith Jr.

59. Diary, 26-27 July

60. The account of this business arrangement is from Smith's diary, beginning in November 1794.

61. The Smiths, father and son, frequently dined (as on 5 May 1795) or transacted business with Forsyth when he came to Folkingham (6 May: 'Father and I at Falkingham with Mr Forsyth & the Towns till 10 o'clock at night settling their accounts'). The next day young Benjamin dined alone with Forsyth as his father had gone elsewhere. On their trip to London in 1795 his father and he called on Forsyth twice (14 and 17 June). Before the end of the year Forsyth was back in Folkingham where the Smiths dined twice (22 and 23 November) with him.

62. The following letter, L.A.O., 3 Ancaster 9/4/4, from Willoughby de Broke, Stratford on Avon, 4 September 1794 to Sir Gilbert Heathcote, Normanton Park, Stamford, suggests that he at least perceived domestic peril as central:

[I] think you have done very right in relinquishing your pretensions to represent the County of Lincoln in parliament for the present in order to preserve the peace of the county, so desirable an object at all times, but particularly at this Juncture.

63. Heathcote (1773-1851), a prosperous young landowner, had connections in both the Folkingham area and Rutland. For a short biography, see R. G. Thorne, ed., *The History of Commons 1790-1820*, 5 vols (London, 1986), IV, pp.171-73.

The case that the volunteer movement of the 1790s was aimed at domestic radicalism, exceedingly worrisome to the government, quite as much as French invasion is made by J. R. Western, 'The volunteer movement as an anti-revolutionary force, 1793-1801', *English Historical Review*, 71 (1956), pp.605-14. See also Western, *The English Militia in the Eighteenth Century* (London, 1965). J. E. Cookson, 'The English volunteer movement of the French wars, 1793-1815: some contexts', *Historical Journal*, 32 (1989), pp.867-91 offers new interpretations with extensive bibliography.

For rural protest in Lincolnshire, see T. L. Richardson, 'The agricultural labourers' standard of living in Lincolnshire, 1790-1840: social protest and public order', *Agricultural History Review*, 41 (1993), pp.1-19; and David Neave, 'Anti-militia riots in Lincolnshire 1757 and 1796', *Lincolnshire History and Archaeology*, 11 (1976), pp.21-27.

There is much general literature on this subject. See, for example, *Class, Conflict and Protest in the English Countryside 1700-1800*, edited by M. Reed and R. Wells (1990). Rural protest is also the theme of J. M. Neeson, 'The opponents of enclosure in eighteenth-century Northamptonshire', *Past and Present*, 105 (1984), pp.114-139; William Albert, 'Popular opposition to turnpike trusts in early eighteenth-century England', *Journal of Transportation History*, n.s., 5 (1979), pp.1-17; and Michael Freeman, 'Popular attitudes to turnpikes in early-eighteenth-century England', *Journal of Historical Geography* 19 (1993), pp.33-47.

64. Benjamin and his father dined with Captain Heathcote and his Bourn and Folkingham officers on 13 November 1794; on the 20th his father dined in Folkingham with Forsyth, and young Benjamin exercised with Heathcote's troops; on the 22nd both father and son dined with Forsyth. Benjamin's exercising with Heathcote's troop, beginning on 20

November appeared to confirm the Smiths' bargain with Heathcote.

On 15 December clerk Benjamin went to Bourn to meet with the captains and Forsyth in order to settle accounts for the troops. He and his father met with Forsyth again on 6 May for the same purpose. The next day young Benjamin exercised with the troop and dined with Forsyth. His diary indicates no further meeting with Forsyth until November 1795 and then not until April 1796. Whenever Forsyth visited in Lincolnshire both Smiths endeavored to combine business and pleasure over tea or at dinner. So it was on 19-21 and 23-24 April 1796.

That young Smith was involved with Heathcote's troop for several years, even after his clerkship had concluded, could not but have endeared him to that gentleman. Smith noted that once when he exercised in July, 1795 (Diary, 7 July) Sir Gilbert and Lady Heathcote as well as Captain John were present. Presumably, he continued the victualling, and periodically consorted with the officers and other locals to reaffirm ties of business and solidarity. Benjamin mentioned that on 2 April he, after exercising with the troop, joined his father for tea and supper with a Captain Robinson and Messrs Richardson and Cragg at Richardson's in Folkingham.

65. Forsyth's politics are particularly interesting if they influenced the thinking of the young and impressionable Smith. Cf. L.A.O., 3 Ancaster 9/4/16, Forsyth to Heathcote, 4 August 1795:

If Democracy could be governed by reason, at all times, I hereafter, would be its votary; for I feel so indignant at the insult offered to my own understanding, as a *poor* freeholder; as well as, to the understandings of those of the County at large who *dare to think*; that if I had at this moment an opportunity, I am much disposed to utter my humble sentiments against Aristocracy, and in favour of *certain reforms* [all italics Forsyth's], without any sort of mental reservation. Is this little County still to be governed by three, or four overgrown individuals, overgrown only in what they falsely call honor (Don't they know that they are liable to Impeachment for interfering in the Commons Election?).

For more on Heathcote's career in parliament, see Thorne, *House of Commons*, IV, pp.171-73. Benjamin's involvement with Heathcote's political career initiated his long-term tenure in county politics. Lincolnshire M.P. Sir Robert Heron observed per the county election in 1818 in which he ran against Charles Chaplin that 'Smith of Horbling, an attorney, probably carried against me more votes than any other individual in the county', *Notes*, 2nd edn. (Grantham, 1851), p.97. Smith and his law partner Benjamin Wilkinson actually managed Heathcote's 1832 campaign, although he grumbled about the time and expense of it all (Diary, 26, 28 June, 2 July, and summary for 1832 and L.A.O., 3 Ancaster 9/13 *passim*).

66. On the 30th he went to Swaton, Helpringham, and Sleaford and on the 31st to Aslackby and Dunsby. Father, Worth, and Forsyth were involved as well. Benjamin Jr had conferred with Sir Gilbert on the 29th; Worth went to Donington on the 30th 'to get people to go to nomination at Lincoln on Thursday'. The same day Father and Benjamin dined with Sir Gilbert, Forsyth, and others, as well as Captain Williams of the troop. The next night the Smiths and Edward Brown and others from Stamford slept in Folkingham in order to have an early start for Lincoln the next morning.

67. Because of his age and residence in Rutland Heathcote had given up the notion of running in 1794, but it was a different matter two years later. Having established himself in Lincolnshire he contested Sir John Thorold and Robert Vyner for the nomination. Thorold, unable to compete, dropped out.

68. I have explored the Smith firm's subsequent business ventures in London in 'The Smith-Kelham-Langdale nexus: country attorneys, family connections, and London business in the early nineteenth century', *Lincolnshire History and Archaeology*, 29 (1994), pp. 17-27. One can only speculate whether Smith's political conservatism was influenced by his having experienced the volatile politics of 1790s' London.

69. Diary, 8-18 June.

70. Smith did not identify which Ryder brother, Thomas or William. Both had chambers at 1 New Square, Lincoln's Inn Fields.

71. The 1795 Browne's *Law List* showed Robert Kelham Sr and Christopher Johnson as partners at 90 Hatton Gardens where Robert Kelham Jr, also an attorney, had an address. The senior Kelham, according to the rolls in the Law Society in Chancery Lane, was admitted and enrolled as attorney in November, 1739; Johnson, a native of Durham, entered the profession in June 1758. After Kelham's retirement in the summer of 1795 Johnson invited Alexander Forbes Gaskell, who had been admitted and enrolled in July, 1791, to join him as partner sometime before young Smith's return to London in the autumn of 1796. Johnson and Gaskell moved their business to 13 Queen's Square, Bloomsbury, on 28 February 1797 (Smith, Diary).

72. It is difficult to comprehend how young Benjamin Smith could have completed his London clerkship in – but was largely oblivious to – the highly charged political climate described by E. P. Thompson, *The Making of the English Working Class* (1966), *passim* and J. Ann Hone, *For the Cause of Truth: Radicalism in London 1796-1821* (Oxford, 1982).

73. They transferred at Peterborough to the Boston Coach, arriving in London next morning. Smith, who remained there until returning to Lincolnshire on 1 July, recorded his London experience in Diary, no.1. For more of these first two London visits, see Schmidt, 'The Smiths of Horbling'. The elder Smith apparently used Shinglar to carry a £100 draft to his London agents to cover expenses for his son's London sojourn (L.A.O., Smith 11/Firm's Business, Cash Book, 1794-1807, 3 April 1797).
74. The location of Ben's lodgings, in Falcon Square, will be evident on any late eighteenth- or early nineteenth-century map of London. Today only the name remains, for Falcon Square was an early casualty of the August 1940 Blitz. Given the oversight exercised by Johnson and Gaskell of Benjamin's clerkship and their frequent hospitality, the Smiths opted for his taking lodgings in town. In deciding that his son reside alone, the father contradicted the wisdom of William Wright who wrote:
The advantages which a young man receives from proper superintendence are sufficient to turn the scale much in favour of placing him in a respectable attorney's family, in preference to lodgings, where he will be at liberty to act as he pleases, and where he will consider himself conferring an obligation rather than receiving one.
As quoted by Robson, *Attorney*, p.60 from William Wright, *Advice on the Study and Practice of the Law* (1815), pp.165-66.
75. Ben was at Johnsons' on 6, 14, 23, 27, and 28 December 1796 and frequently during the next months as well. Once, on 9 March 1797, Johnson and a Mr Baskerfield escorted Ben to the Antiquarian and Royal Societies at Somerset House.
76. The large amounts in Kelham's 1795 account signify Smith investments through him. The same applies to that of Johnson/Gaskell after Kelham's retirement in 1795 (cf. L.A.O., Smith 11/Firm's Business, Bills 1790-1803[04]).
77. For more on the Smith-Kelham relationship, see Schmidt 'The Smith-Kelham-Langdale Nexus', *passim*.
78. On 3 April 1797 he 'went to office by self at night' where a letter from his father awaited him. As noted above, Johnson and Gaskell moved into their Queen's Square chambers in later February 1797.
79. L.A.O., Smith 11/Firm's Business, Bills, 1790-1803[04], p.388 shows agent charges for such consultation. Smith's diary records that he also called on attorney Ryder, probably Thomas, whom he saw twice in his No. 1 New Square chambers in November 1796. That Smith Sr frequently sought the counsel of still another Lincoln's Inn attorney, William Ainge Jr, suggests that Benjamin Jr might have conducted business with him, too, during his clerkship (*ibid*, pp.120 and 380). Young Smith called on various other personages – Messrs Robinson in Devonshire Street (13 November 1796), Hurst at Dover Place, Newington (Diary, 13 January 1797) and Walker in Great Queen Street (5 February 1797) – all of whom were clients of the Smith firm (cf. L.A.O., Smith 11/Firm's Business, Bills, 1790-1803[04] and Cash Book 1794-1807, *passim*).
80. This was Lloyd Lord Kenyon, Chief Justice of England. The date was 2 May 1797 (Diary). For details of Smith's apprenticeship in London, see Schmidt, 'Smiths of Horbling', p.148.
81. On 9 November 1796, for example, they witnessed the Lord Mayor's procession from St Paul's Churchyard. Their leisure included walks in Queen's and Finsbury Square, the Poultry, to Islington and Highgate, Kensington Palace and Hyde Park, the Foundling Hospital, Vauxhall, and even a Roman Catholic chapel. Once (Diary, 10 April 1797) they went to the King's Bench prison 'to see a prisoner'. On a spring weekend Sharp and Smith sailed to Gravesend, Southend, and Greenwich (Diary, 29 April to 1 May 1797) – immediately before Smith's appearance at Lord Kenyon's chambers for his examinations on May 2!
82. Smith further recorded in his diary that they were 'in 2d Gallery as we could not get in the Pit. The King, Queen & 3 princesses were there.' On 25 March they were equally thrilled to see Sarah Siddons perform at the Drury Lane and returned there within the week with Sharp's brother George for more of that theatre's repertoire.
83. In early May Smith referred in his diary to Misses Prat and Hall: 'Mr Sharpe & I went in Afternoon with Miss Prat & Hall to see St Paul's – went to Drury Lane in Evening but could not get in.' 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 (May 10) he and Sharp took the ladies to the coach for their departure from London.
84. Smith's diary entries show that just before Christmas, on 23 December, Smith was at Johnsons' along with retired partner Kelham and current partner Gaskell. Sharp accompanied Ben to Johnsons' on the 28th when Gaskell again was there. Two weeks later, on 9 January 1797, Smith, Sharp, and Gaskell played whist at Johnsons' until 10.30pm. On 17 April they again took tea and played cards there with Gaskell. A week later the two young men went to a concert at the opera house, having obtained tickets from Mr Johnson.
85. The uncommon names of Newdick and Crutchfield appear in Baldwin's *New Complete Guide* 12th edn (1770), which lists an H. Newdick, colourman, 73 Cornhill and a William Crutchfield, colourman, 4 Holborn Bridge. *Lowndes' London Directory* (1786) lists John and William Crutchfield as colourmen, same address, as well as a James Crutchfield, a brandy merchant of 54 St Martin's le Grand. *Lowndes'* (1799) continues with John and William Crutchfield and adds a John Crutchfield, Esq., a director of the Hand-in-Hand Fire Office, 2 New Bridge Street. A George Sharp (and Sons), Russia brokers, 37 Threadneedle Street, appears in *Lowndes'* (1799) and *Kent's Directory of London* (1811).
86. Sir William Henry Ashurst (1725-1807), Judge of King's Bench.
87. Cf. Diary. Clerks were admitted attorneys in the common law courts and solicitors in Chancery (Abel, *The Legal Profession*, p.140).
88. Smith had departed London at the end of June 1797, yet by 25 July Sharp was a guest in Horbling and remained so for two months. During that summer he frequently accompanied Benjamin in his work, calling on and dining with Smith friends/clients throughout the area. Some occasions were more purely social as when they were joined by young ladies and the Smith siblings, Edward and Elizabeth. Sharp was even invited to accompany the Smiths on their annual August holiday in the Peak district in Derbyshire.
On two trips to London in 1798 (February – March) Smith resumed a routine with Sharp much like that of 1796 and 1797. They strolled, dined, and called on Johnson and others. Once they went to Clarke's Optical Museum (27 February). In London again in early June Smith saw Sharp as well as Crutchfield and Newdick. They again called at Johnson's. Nothing had changed.
Smith dined with Samuel Sharp for a last time on 10 June 1798. When he returned to London on the following February, he dined with only George Sharp, Newdick, and Crutchfield. If there had been a falling out between Smith and Samuel Sharp, it is surprising that Smith would have persisted with Sharp's kin and friends. *Browne's General Law List* for 1798 lists an attorney Samuel Sharp at 36 Kirby Street, Hatton Garden; the one for 1800 omits this listing. Sharp possibly died; however, I have found no obituary.
89. In L.A.O., Smith 11/Firm's Business, Cash Book 1794-1807 the entry under 'Payments' for 4 July 1797 in his father's hand reads 'Sundries to in and from London £3,740.' One can but speculate whether this extraordinarily large sum included travel and lodging costs for the group and perhaps the expenses incurred during Benjamin's entire stay in the city prior to his examination.
As noted, young Smith returned to London three additional times in the 1790s – twice in 1798 and again in early 1799. His routine was much the same as during his clerkship sojourn: a mix of social calls and business with Forsyth, Messrs Johnson and Gaskell, and Harvey at Lincoln's Inn.
90. Benjamin Jr's pastimes now clearly differed from those of his father. The latter enjoyed consorting with his Horbling area cronies, especially at court dinners or in a game of cards. The son also had fewer interests in the land than did his father whose cash books of 1770s abound with sales of sheep, mutton, sheep skins, tallow, ewes, hog skins, raven quills, lambs, heifers, pear, cherry, and apple trees.
The young attorney did enjoy bottling an occasional half-pipe or pipe of wine. He visited his brother Edward, to whom he was especially devoted, at Uppingham and subsequently Cambridge. Indeed, making social calls would remain his principal pastime. Once he dined at the Greyhound in Folkingham with members of the Book Club (Diary, 22 March 1798). He made it a point to visit with Kelham when this octogenarian came to Lincolnshire (as on 10 August 1797 and 14 and 17 September 1798).
Benjamin Smith Jr appears to have developed a special interest in the Graves family, his clients in Aslackby. He called on Mrs Graves steadily in late 1797 and into 1798 (Diary, 4 August, 5 October, 29 December, 23 and 24 January). His motives may have become clearer: on 27 May daughter Fanny Graves called. For 10 October Benjamin entered in his diary: 'Miss Graves of age today.' If Smith pursued Fanny Graves at this time, nothing came of it. Twenty years later, having lost his first wife in 1808, he resumed courting Fanny, whom he married in 1821.
91. Smith noted in his diary on 2 October 1798: 'Father and Ned went to Falkingham to new house to stay – remnant Goods go tomorrow'. The next day he recorded 'A load of goods went Falkingham & Sister went to stay'.
92. Benjamin Smith Jr greatly expanded the firm's physical plant during the next two decades. He continued using the small office behind Red Hall until 1814, when he built a larger and more functional one in the Donington market place. In 1825 he built in Spring Lane, across from his Horbling residence, what became the firm's main office. Although Red Hall was demolished in the 1960s, the original outhouse office still stands.
93. The day after his father moved to Folkingham, Ben complained of an uneasiness because he 'could not make my accounts' (Diary, 4 October 1798). Two days later he again admitted that 'my accounts make me very uneasy'.
94. Shortly after taking over from his father, Benjamin Jr began doing business with the London broker and banker, Marmaduke Langdale,

Robert Kelham's son-in-law (see my 'Smith-Kelham-Langdale nexus', *Lincolnshire History and Archaeology*, 29, *passim*). Smith conducted business with Marmaduke Langdale on behalf of Edward Brown and Thomas Forsyth in 1803, opened a Langdale account in 1804, and had agents Johnson and Gaskell engage Langdale early in 1805 (L.A.O. Smith/Firm's Business, Ledger A-B (1803) A, *passim*).

95. It is not surprising that handsome rewards came to such attorneys, who became, *par excellence*, the embodiment of the 'middle class'. See John Smail, *Origins of Middle Class Culture*, *passim*. Distinctions between a rural and urban middle class, however, require further examination.
96. The firm's very considerable London business was most likely an outgrowth of Smith's expertise in matters of the City. In his lifetime Smith made more than 150 business trips to London. His journeys during the 1830s and 1840s were, besides attending investments, to

move Black Sluice drainage bills through Parliament.

97. Benjamin Smith Jr would retain throughout his life an interest in public affairs and the arts as well as the pleasures of hobnobbing – all most likely stimulated by his early London sojourns.
98. Firm ethos is not much addressed in management literature. The way B. Smith and Company does business today seems to mirror Benjamin Smith Jr's *mentalité*. At least, this is the opinion of Harry Bowden (personal communication, 14 October 1992). Care should be exercised in exaggerating the uniqueness of Smith's early London experience. Provincial solicitors of Benjamin Smith's generation not infrequently were exposed to London in their work and pleasure. It remains to document more of these cases.

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