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0521890837 - Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch'
of the Legal Profession in Early Modern England

C. W. Brooks

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CAMBRIDGE STUDIES
IN ENGLISH LEGAL HISTORY

Edited by

D. E. C. YALE

Fellow of Christ's College and Reader

in English Legal History at the University of Cambridge

PETTYFOGGERS AND VIPERS
OF THE COMMONWEALTH

THE PUBLISHER WISHES TO THANK
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THE PUBLICATION OF THIS BOOK

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Historians have long recognized that members of the lower branch of the legal profession, the ancestors of the modern solicitors, played an important part in early modern English society, but difficulties in establishing their identities and recovering their career patterns have hitherto left them virtually unstudied. Attorneys, solicitors, clerical officials, and court holders were the most numerous groups of legal practitioners of their day and the lawyers most often in direct contact with ordinary people who were seeking legal remedies. Based on source material in both local and national repositories, this book aims to reconstruct their professional and social history. It examines changes in the size, education, work, and organization of the profession over the course of the period. It considers the social origins of practitioners, the material rewards and possibilities for social mobility offered by a legal career, and the role of lawyers in the life of the localities. Finally, it evaluates the nature and quality of the legal services they provided for the public. The work charts the massive sixteenth-century increase in central court litigation and offers an explanation of it largely in terms of social change and the decline of local jurisdictions. It also comes to the surprising conclusions that litigation was relatively cheap and that social groups other than the landed gentry constituted the majority of those who used the courts. At the same time, it argues that the period witnessed a major turning point in the relationship between the legal profession and English society. The number of practitioners in the lower branch who were associated with the legal institutions of London grew to such an extent that by 1640 the ratio of lawyers to population was not much different from that in the early twentieth century. Although this tremendous growth in the amount of legal business and the number of legal practitioners created some serious administrative problems, the commonly held view that the lower branch in this period was largely untrained, dishonest, and uncontrolled is no more than a myth. The potential for social mobility offered by a legal career changed over the period and should not be exaggerated, but by the mid seventeenth century members of the lower branch were well established as responsible and respectable members of the middle ranks of local communities, especially in towns.

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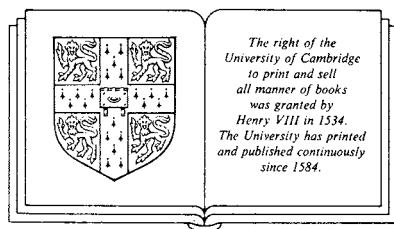
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*The 'Lower Branch' of the Legal Profession
in Early Modern England*

C. W. BROOKS

Department of History, University of Durham



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PREFACE

This book has been a long time in the making, and it is a pleasure to acknowledge here some of the many people who have helped me along the way, although I alone am responsible for all errors and interpretations.

My greatest debt is to S. H. Brooks, who did so much to make it possible for me to undertake the project, and who has always managed to combine patient encouragement with trenchant criticism. Professor S. F. C. Milsom aided my early attempts to learn something about legal history. Professor J. S. Cockburn has been a constant and valued source of friendship and advice. Mr C. A. F. Meekings kindly passed on to me some of his vast knowledge of King's Bench records. Mr Philip Styles helped me to see how the resources of local record offices could be used to illuminate the activities of attorneys. Dr J. H. Baker, Mr C. S. L. Davies, and Dr K. M. Sharpe read through earlier drafts of the work and made many valuable points about the content and the way it was expressed. I am particularly grateful to Dr P. H. Williams for his very generous help at a number of difficult stages as this project progressed from an Oxford doctoral dissertation to a book. Also I thank the examiners of my thesis, Drs G. E. Aylmer and E. W. Ives, for their careful reading and helpful comments on that work.

The research has been carried out in many different places in England and also in the United States. Financial assistance from various sources has therefore been invaluable. Grants from the British Academy and Durham University have contributed towards travel expenses. A fellowship from the Huntington Library made it possible for me to consult the Ellesmere manuscripts. I am especially grateful to the Principal and Fellows of Brasenose College, Oxford for extending my research fellowship at the college to a fourth year, which enabled me to continue my research and to benefit further

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from the stimulating company which I found amongst my historical and legal colleagues there. I also thank the many librarians and archivists who have assisted me, and in particular I thank Messrs Hawkins and Co. of Hitchin for allowing me to consult the account book of George Draper and the history of their firm by Reginald Hine.

Finally, and above all, two people have helped me more than I can easily say. My first graduate supervisor, Dr W. R. Prest, has for many years given friendship, encouragement, constructive criticism, and innumerable references on a scale far beyond the call of duty. I hope that this book is in some degree a small recompense. At Oxford, the late J. P. Cooper directed my research and set a scholarly example which I am very glad to have known. Anyone who knew John Cooper will remember him for the generous way in which he shared his remarkably profound knowledge of late medieval and early modern history. I benefited and learned from this quality as well as from the crucial advice which he gave me at many stages during the course of my work.

Durham

C.W.B.

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ABBREVIATIONS AND CONVENTIONS

Bodl.	Bodleian Library, Oxford
Brit. Lib.	British Library, London
<i>CSPD</i>	<i>Calendar of State Papers, Domestic</i>
HCRO	Hertfordshire County Record Office, Hertford
Hunt. Lib. EL. MS	Ellesmere manuscripts, Huntington Library, San Marino, Calif.
PRO	Public Record Office, London
SBT	Shakespeare's Birthplace Trust, Stratford-upon-Avon

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