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## LEGAL HEROES AND PRACTISING VILLAINS IN THE NINETEENTH CENTURY PRESS

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### **Abstract:**

This short piece will highlight the importance of the newspaper in the nineteenth century as a historical source for examining the public perception of the barrister. It will draw upon selected press extracts from nineteenth century newspapers to illustrate a sample of the differing representations of barristers in Victorian England. This piece will begin to analyse how these public portrayals of barristers created 'heroes' and 'villains' of some of Victorian England's most eminent and infamous legal minds and establish whether these 'heroes' and 'villains' perpetuated historical cultural stereotypes of lawyers.

**Keywords:** press, barristers, public perception, nineteenth century, legal history, law and popular culture, heroes, villains,

### **Introduction**

In recent years, the relationship between law and popular culture has been extensively examined through scholarship and particular attention has been given to the manner in which popular sources have represented the lawyer.<sup>2</sup> One of the aims of law in popular culture research has been to analyse and explore how cultural texts

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<sup>2</sup> For cinema and film see Asimow, M. R., 'Bad Lawyers in the Movies' 24 (2000) *Nova Law Review* 533; Asimow, M., 'When Lawyers were Heroes', 30 *USFL. Rev.* 1131 (1995-199) and Nevins, F.M., 'When Celluloid Lawyers Started to Speak: Exploring Juriscinema's First Golden Age' in Freeman, M. D. A., *Law and Popular Culture* (Oxford: OUP, 2005) p.109. For television see Denvir, J., 'Law, Lawyers, Film & Television' 24 (2000) *Legal Studies Forum*. 279 and Machura, S. & Ulbrich, S. 'Law in Film: Globalizing the Courtroom Drama' 28 (2001) *Journal of Law and Society* 117. For literature see Menkel-Meadow, C., 'The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft', 31 *McGeorge Law Review* (1999-2000) 1, and Posner, R.A., *Law and Literature*, 3<sup>rd</sup> ed. (Boston: Harvard University Press, 2009).

depict the profession, their ethics, their regulation, their educative processes and their professional practices, while examining how this has shaped societal perceptions of the lawyer. Much work has also been undertaken into the depiction of crime and punishment, law and legal process in cultural texts of the nineteenth century,<sup>3</sup> including the mainstream and popular press of the period.<sup>4</sup> Yet scant attention has been paid to the manner in which the lawyer, more specifically the barrister, has been represented in the press of the nineteenth century or the public image of the Bar that was thereby created.

My PhD thesis sets out to address this lacuna and examine how a detailed public image of the bar was constructed in the nineteenth century press through an investigation and analysis of the representation of the Bar in the mainstream and popular press of the period. This approach is necessary to achieve a more complete understanding of the modern public image of the Bar. By exploring the representation of the Bar at the foundation of press culture, and the subsequent popular culture that was created, motifs and characteristics found in contemporary cultural texts can be surveyed with greater understanding. Through a more focused approach on these sources, this work will outline a new approach to examining the manner in which the legal profession is represented in popular culture. My research will make connections between contemporary understandings of the popular cultural effect on law and historical accounts of the barrister in the nineteenth century. It will move these arguments in to a different historical context, raising pertinent questions about the origins of our modern public perceptions of the lawyer, while contributing substantial material to nineteenth century legal history and the histories of the Victorian Press. Scholars such as Sherwin, Asimow and Galanter discuss the concept of the law going 'pop' (or becoming popular) in the mid-1980s, however, my thesis will contend that the press of the nineteenth century popularised law and the lawyer far earlier than previously thought. It will also examine historical representations of the barrister in discipline cases and in discussions of the Bar's educational systems to draw

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<sup>3</sup> Ibid also see: Rowbotham, J. & Stevenson, K., (eds.) *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage* (Columbus: Ohio State University Press, 2005), Rowbotham, J. & Stevenson, K., (eds.) *Behaving Badly: Social Panic and Moral Outrage - Victorian and Modern Parallels* (Aldershot: Ashgate, 2003), Sindall, R., *Street Violence in the Nineteenth Century: Media Panic or Real Danger?* (Leicester University Press, 1990).

<sup>4</sup> See Gatrell, V.C., *The Hanging Tree* (Oxford University Press, 1996), Karloff, B., *Murder and Moral Decay in Victorian Popular Literature* (Michigan: UMI Research Press, 1986), Altick, R.D., *The English Common Reader: A Social History of the Mass Reading Public, 1800-1900* (University of Chicago Press, 1957), Elkins, C. 'The Voice of the Poor: The Broadside as a Medium of Popular Culture and Dissent in Victorian England', *Journal of Popular Culture* 14, (1980) p.262 and Dyos, H.H.J. & Wolff, M., (eds.) *The Victorian City: Images and Realities*, Vol. 1 (London: Routledge, 1999).

further connections with modern concerns in these areas of the legal profession's practice.

This short article draws upon these research aims and begins to outline the importance of the newspaper in the nineteenth century as a historical source for examining the public perceptions of the barrister. This work will use selected press extracts as a source and will draw out the principle themes of heroes and villains, as common motifs found across popular culture. This work will draw reference to poignant cultural stereotypes of the lawyer, namely those found in Galanter's work, *Lowering the Bar*.<sup>5</sup>

## **1 The Importance of the Newspaper in Examining Public Perceptions of the Bar**

In the first half of the nineteenth century, England underwent a period of unprecedented growth. The mass industrialisation and urbanisation indicative of the industrial revolution in England and Wales encouraged development and modernisation in other spheres of nineteenth century society and culture. The press was no different, and arguably underwent its own revolution, leading to the creation of the first mass media<sup>6</sup> and substantial popular culture of print.<sup>7</sup> The industrial changes, characteristic of the era, led to swifter and lower cost printing, and more efficient distribution as a result of the improvements to transport, mail delivery and the invention of the railways and canal systems<sup>8</sup>. Crone stated that 'the printing trade was opened to anyone who could purchase a £30 press and hire a small room'<sup>9</sup> clearly demonstrating the ease with which those who could afford the equipment and property rent could market their publications. The Victorians published over 25,000

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<sup>5</sup> Galanter, M., *Lowering the Bar: Lawyer Jokes and Legal Culture*, (University of Wisconsin Press, 2005).

<sup>6</sup> Shattock, J. & Wolff, M., *The Victorian Periodical Press: Samplings and Soundings*, (Bath: Leicester University Press, 1982) p.xiii.

<sup>7</sup> Storey, J., *Cultural theory and Popular Culture: An Introduction*, 4<sup>th</sup> ed. (London: Pearson, 2006) pp.4-11 - Culture in its historical context was traditionally divided into high culture and popular culture. Therefore, texts that were produced for mass consumption were considered popular culture, and texts that were produced for an elite group, such as classical music, opera, fine art and high literature, such as poetry and serious fiction were considered high culture. Newspapers and the press culture of the nineteenth century could fall into either of these categories, but he movement away from an ethos of printed media mainly for the elite towards a wide press for the masses encouraged this fusion of high and popular culture and is further illustrated by the massive growth in press publications aimed at all levels of the nineteenth century social hierarchy.

<sup>8</sup> Don Vann, J. & VanArsdel, R. T., *Victorian Periodicals and Victorian Society* (University of Toronto Press, rep.1995) p.7.

<sup>9</sup> Crone, R., *Violent Victorians*, (Manchester University Press, 2012).

journals and newspapers, as well as several hundred reviews, magazines and weeklies<sup>10</sup> to appeal to all classes of society. This growth in printing created a plethora of material available to the public, and led to the establishment of a popular culture through the press, which rivalled literature and other media. The development of the press also reflected that nineteenth century England was one of the most literate societies due to the significant governmental reforms to education. The press became a primary vehicle for the participatory democracy of Victorian England<sup>11</sup> and gave this highly literate public a forum through which they could educate themselves and engage with current issues.

The influence of the press has been recognised by nineteenth century commentators and contemporary scholars. Dr Macaulay in his consideration of Victoria's Reign acknowledged the power of the press in the construction of public opinion.

There are various factors of public opinion, but the one power beside which all others are of little account...is the newspaper press, the growth of which within the last fifty years is one of the wonders of the epoch. The removal of the so called 'taxes on knowledge'...called into existence a newspaper literature, which supplies by far the largest portion of what is read by the people, and influences public opinion.<sup>12</sup>

Contemporary scholars have also acknowledged the power of the press in constructing public opinion<sup>13</sup> and have recognised how the press was and still is a significant tool in creating societal attitudes, while also acting as a source of information and entertainment. Much like the cases that they reported, the press had the ability to capture, guide, then reflect, society's consciousness. The law and the press were continually entwined in a continuous symbiotic collaboration.

Law reporting in the press was primarily functional, and highlighted the inherent professionalism of barristers. Readers were able to appreciate legal procedure and the role that barristers played within it. It also informed those who required information about the law and about specific cases. For example, barristers would use such case reports to stay abreast of current developments in the law, as the

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<sup>10</sup> Houghton, W.E. 'Periodical Literature and the Articulate Class' in Shattock, & Wolff, *The Victorian Periodical Press*, p.3.

<sup>11</sup> Waterloo Directory of English Newspapers and Periodicals, 1800-1900. Re the significance of this Research Tool see <http://www.victorianperiodicals.com/series2/PurchaseInformation.asp>

<sup>12</sup> Macaulay, *Victoria R.I. Her Life and Reign* (London: William Clowes and Sons, 1887) pp.261-261

<sup>13</sup> Rowbotham, J. Stevenson, K. & Pegg, S. *Crime News in Modern Britain: Press Reporting and Responsibility, 1820-2010*, (London: Palgrave Macmillan, 2013)

reporting of cases in the press produced the most up-to-date reports available. In these reports, barristers were continually referred to as 'learned gentleman' or 'learned counsel' a pronominal title that was not shared with any other profession in the nineteenth century. This is clearly very different to the manner in which the press represents legal procedure and criminal cases in the modern press. Rowbotham, Stevenson and Pegg, in their recent work *Crime News in Modern Britain*, outline how the functional legally nuanced reporting in the nineteenth century was vastly different to the more sensationalist approaches taken by the modern press. The majority of press representations of barristers during the Victorian era were in these reports, and the regular, consistent, functional and factual representation of barristers in law reports transmitted the image of barristers as professional and often efficient.

Furthermore, nineteenth century society had a voyeuristic interest in crime and punishment,<sup>14</sup> and the press provided an outlet for the public to engage with crime. In the age of improvement,<sup>15</sup> nineteenth century society saw the end of public executions,<sup>16</sup> the shortening of the 'bloody code' through legislative reforms leading to a massive reduction in the number of capital offences, and saw certain humanitarian and abolitionist groups call for the repeal of the death penalty altogether. However, other members of society had a morbid fascination with crime and punishment, and, as executions moved off the street to behind prison walls, courtrooms became the new gallows. Courtrooms would be packed with members of the public<sup>17</sup> so they could hear the details of murders and other crimes, and the public became fascinated by legal procedure and cross-examination.<sup>18</sup> *The Pall Mall Gazette* acknowledges the Victorian lust for crime and legal procedure by highlighting the 'great crush at the Old Bailey...as there always is, indeed, when there is a murder trial on the calendar'.<sup>19</sup>

The press reporting of trials and cases appealed to those that had a macabre fascination with court cases and legal process, and allowed members of nineteenth century society to indulge their prurient interest in such cases. Extensive coverage of these *cause célèbres* and the subsequent representations of the Bar within, would

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<sup>14</sup> See recently Crone, R. *Violent Victorians* (Manchester: MUP, 2012) and Rowbotham, J. Stevenson, K. & Pegg, S. *Crime News in Modern Britain: Press Reporting and Responsibility, 1820-2010*, (London: Palgrave Macmillan, 2013).

<sup>15</sup> Briggs, A. *The Age of Improvement*, (London; Longman, 1965).

<sup>16</sup> Capital Punishment Amendment Act (1868) 24, 31 &32 Vic.

<sup>17</sup> *The Pall Mall Gazette*, 1 Jun 1891.

<sup>18</sup> *The Pall Mall Gazette*, 12 Apr 1886.

<sup>19</sup> *The Pall Mall Gazette*, 12 Apr 1886.

have influenced the public image accordingly. This public fascination with legal procedure and the morbid interest was widely acknowledged in the nineteenth century press. The press often refers to this ghoulish interest in trials underlining how to many in the middle classes a day at the courts was like a day at the theatre<sup>20</sup>. Therefore, if you could not attend in person, the progress of the trial could still be followed through the press<sup>21</sup>. Attending court was typically a pursuit for middle-class women<sup>22</sup> in London, with the attendees being described as 'fashionably-attired'<sup>23</sup> and queuing outside the court before the iron gates of the Royal Courts of Justice were open<sup>24</sup> to get the best seats in the most high profile cases. Some are even described in the press as attending with opera glasses!<sup>25</sup>

This growth in the press in the nineteenth century and the number of press publications related to crime news, legal intelligence and trial reports led to a nuanced view of barristers being portrayed, making heroes of some and villains of others. The 'press revolution' provides the first, significant, historical insight into the public image of lawyers; as for the first time these public representations of barristers were transmitted to a hugely diverse audience. Such engagement with crime and the legal process, demonstrates how the Bar would be continuously presented to the public through these cases, while the regular depiction of barristers would encourage and foster a particular public image. However, it was not only during high-profile murder trials or press *cause célèbres* that the barrister was at the forefront of the public consciousness. The press regularly reported the conduct of barristers in court through daily law reporting. The law reports of the nineteenth century that appeared in the daily press were far more detailed, in-depth and explicit than the reports that can be found in the modern press.<sup>26</sup> The trial reports were often verbatim reports written by junior barristers to supplement their meagre incomes,<sup>27</sup> but before the

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<sup>20</sup> 'many ladies had provided themselves with opera glasses', *The Pall Mall Gazette*, 1 Jun 1891.

<sup>21</sup> *Punch*, 22 Sep 1849.

<sup>22</sup> 'ladies were early admitted to reserved seats in the court' and 'The details of the case are by no means delicate, and yet alike on the floor of the court and in the public gallery all the best seats were occupied by women,' *The Pall Mall Gazette*, 12 Apr 1886.

<sup>23</sup> *The Pall Mall Gazette*, 1 Jun 1891.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> Rowbotham, Stevenson, & Pegg. *Crime News in Modern Britain: Press Reporting and Responsibility, 1820-2010*, (London: Palgrave Macmillan, 2013). The authors of this work discuss the move away from legally nuanced and informed reporting to sensationalist news and investigative journalism.

<sup>27</sup> *Ibid.* The authors also analyse the importance of barristers in law reporting during the nineteenth century

incorporation of the Council of Law Reporting in 1845<sup>28</sup> the mainstream press had been the primary method by which up-to-date law reports were published. These law reports, their case decisions and the conduct of the individuals within them, were often discussed and examined through editorial letters and commentary, providing a nuanced view of barristers. General-interest news periodicals, such as *John Bull* and *The Age and Argus*, often discussed, debated and provided commentary on professional conduct.<sup>29</sup> The reporting of trials in the press had been a long tradition, and the profession read and used these regular newspaper reports. We can also assume from their constant appearance in the press that the public also took an interest in the cases at trial. Therefore, barristers featured heavily in these reports of trials and as a result, some barristers became famous and others rose to notoriety.

## 2 Legal Heroes

*Cause célèbres* and high-profile cases glorified barristers and made celebrities of those at the peak of their profession. Barristers singled out as celebrities would have penetrated popular culture and the public consciousness with noteworthy rhetoric and cogent, well-argued defences. These celebrity barristers would have featured heavily in the press in the most high-profile cases and the public would have been aware of such famous advocates. Barristers such as Sir Edward Clarke<sup>30</sup>, Baron Charles Arthur Russell<sup>31</sup>, Sir Alexander Cockburn<sup>32</sup>, Baron Coleridge<sup>33</sup> and Sir Edward Marshall Hall<sup>34</sup> were considered the most eminent professionals at the Bar and through their exploits in the courtroom, became household names.

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<sup>28</sup> The Incorporated Council of Law Reporting for England and Wales – <http://www.lawreports.co.uk/>

<sup>29</sup> *The Age and Argus*, 28 Sep 1844.

<sup>30</sup> Macnaghten, M.M., 'Clarke, Sir Edward George (1841–1931)', rev. H.C.G. Matthew, Oxford Dictionary of National Biography, (Oxford University Press, 2004) [<http://0-www.oxforddnb.com.lib.exeter.ac.uk/view/article/32426>, accessed 23 July 2010].

<sup>31</sup> Mathew, J.C., 'Russell, Charles Arthur, Baron Russell of Killowen (1832–1900)', rev. Sinéad Agnew, Oxford Dictionary of National Biography, (Oxford University Press, 2004) [<http://0-www.oxforddnb.com.lib.exeter.ac.uk/view/article/24301>, accessed 23 July 2010].

<sup>32</sup> Lobban, M., 'Cockburn, Sir Alexander James Edmund, twelfth baronet (1802–1880)', Oxford Dictionary of National Biography, online edn, (Oxford University Press, Sept 2004) [<http://0-www.oxforddnb.com.lib.exeter.ac.uk/view/article/5765>, accessed 23 July 2010]

<sup>33</sup> Pugsley, D., 'Coleridge, John Duke, first Baron Coleridge (1820–1894)', Oxford Dictionary of National Biography, (Oxford University Press, Sept 2004); online edn, Jan 2008 [<http://0-www.oxforddnb.com.lib.exeter.ac.uk/view/article/5886>, accessed 23 July 2010]

<sup>34</sup> Biron, C. 'Hall, Sir Edward Marshall (1858–1927)', rev. Mike Clarke, Oxford Dictionary of National Biography, Oxford University Press, 2004 [<http://0-www.oxforddnb.com.lib.exeter.ac.uk/view/article/33651>, accessed 23 July 2010]



Sir Edward Clarke, for example, was portrayed as one of the finest forensic orators of the late Victorian period. Clarke was an 'extraordinarily powerful'<sup>35</sup> and 'magnificent'<sup>36</sup> speaker. His speeches were often described as 'eloquent' and 'fine' and in one such trial report as delivering one of 'the finest pieces of forensic oratory.'<sup>37</sup> His defence of Adelaide Bartlett in the Pimlico Mystery was described as 'no greater forensic triumph has been scored in our time'.<sup>38</sup> Depictions of barristers in such a way would have transmitted to the public positive images of the Bar highlighting their professional nature and dedication to their clients and to justice. However, this is clearly a subjective view of the Bar and to be on the opposite side of such fine pieces of oratory would have perpetuated a long held belief that barristers were ferocious.

Many themes that exist in legal culture relate to barristers in their professional capacity as advocates and the confrontational nature of their court role. This is naturally a subjective viewpoint as it would depend on what side you were on while being represented by a particular barrister, as to whether you saw the Bar as effective guardians of justice or a self-serving gun for hire. In the nineteenth century, however, advocacy was perceived as a gentlemen's sport, even noble, with it being depicted as fencing<sup>39</sup> or as pugilism<sup>40</sup> 'taking off the gloves'<sup>41</sup>. These associations with noble combat suggest that nineteenth century society was still adjusting to new conventions in adversarial procedure<sup>42</sup> but saw the battle of words between barristers as a dignified and righteous combat. Nevertheless, clear parallels can be drawn to the concept of the lawyer as a fomenter of strife,<sup>43</sup> a theme that has a long and established history in legal culture.

Barristers such as Clarke<sup>44</sup> and Hall<sup>45</sup> would also have provided role models to the public and profession, and their memoirs are revealing about the true nature of their purpose. Clarke's memoir is autobiographical and aims to 'interest lads whose early lives are spent as mine was, in somewhat; humble and difficult circumstances, and

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<sup>35</sup> *The Pall Mall Gazette*, 12 Jun 1891.

<sup>36</sup> *John Bull*, 13 Jun 1891.

<sup>37</sup> *Ibid*

<sup>38</sup> *The Pall Mall Gazette*, 19 April 1886.

<sup>39</sup> *Punch*, Vol. 36, 1859 (Collected edition).

<sup>40</sup> *Punch*, Vol. 35, 1858 (Collected edition).

<sup>41</sup> *John Bull*, 13 Jun 1891.

<sup>42</sup> See Cairns, D.J.A., *Advocacy and the Making of the Adversarial Criminal Trial 1800-1865*, (Oxford: Clarendon Press, 1999).

<sup>43</sup> See Galanter, *Lowering the Bar*.

<sup>44</sup> Clarke, E., *The Story of My Life* (London: OHN Murray, 1918).

<sup>45</sup> Marjoribanks, E., *The Life of Sir Edward Marshall Hall* (London: Victor Gollancz Ltd, rep. 1929).

who may be encouraged by the story of my happy and successful career'.<sup>46</sup> This interest in the publication of memoirs,<sup>47</sup> compendiums of cases<sup>48</sup> and the collected writings of individual barristers<sup>49</sup> would suggest that these celebrity barristers penetrated popular culture through more than the press. These books and compendiums demonstrate the barrister being portrayed through the literary sphere as well as the press. There are a number of portrayals of the Bar in fictional literature<sup>50</sup> but these true-life memoirs, cases and speeches contribute to literature in a genre of non-fiction, even the developing genre of true crime. Publications of Clarke's selected political speeches also emphasis the role of the barrister in politics, another sphere of society in which the depiction of the barrister would construct the public opinion.<sup>51</sup>

### **3 Practising Villains**

Not all barristers that became famous received celebrity status while obtaining public and professional acclaim. Some barristers received notoriety in the press for their unethical<sup>52</sup> or scandalous practices<sup>53</sup>, in or out of the courtroom.<sup>54</sup> Scandals such as this exacerbated and forwarded the belief in the Bar's self-serving nature that has been prevalent in legal culture through history<sup>55</sup> and would have encouraged negative opinions of the Bar and reaffirmed stereotypes found in satirical publications<sup>56</sup> and popular culture<sup>57</sup>. The ideas of barristers as unethical fomenters of

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<sup>46</sup> Clarke, E. *The Story of My Life* p.2

<sup>47</sup> Ibid, Marjoribanks, *The Life of Sir Edward Marshall Hall*.

<sup>48</sup> Walker-Smith, D. & Clarke, E. *The Life and Famous Cases of Sir Edward Clarke* (London: Eyre & Spottiswoode, rep. 1942), Marjoribanks, E. & Mortimer, J. *Trials of Marshall Hall* (London: Penguin, rep. 1989).

<sup>49</sup> Clarke, E., *Sir Edward Clarke (Her Majesty's Solicitor General) Public Speeches 1880-1890*, (London: Routledge, 1890).

<sup>50</sup> See Sydney Carton & Mr Stryver in Dickens, C. *A Tale of Two Cities*, (Oxford University Press, rep 2008), Serjeant Buzfuz in Dickens, C. *Pickwick Papers*, (Oxford University Press, rep 2008).

<sup>51</sup> The number of barristers in Parliament throughout the nineteenth century were between 11% and 24% - see Duman, D., *The English and Colonial Bars in the Nineteenth Century* (London, Croom Helm, 1983)

<sup>52</sup> See Cocks, R., *Foundations of the Modern Bar*, (London: Sweet & Maxwell, 1983) p.15: Fitzroy Kelly, Bribery and corruption during the Parliamentary election for Ipswich 1836.

<sup>53</sup> See Pue, W.W., 'Exorcising Professional Demons: Charles Rann Kennedy and the Transition to the Modern Bar,' *Law and History Review*, 5(1) (Spring, 1987), pp.135-174

<sup>54</sup> See ibid – Charles Rann Kennedy's rumoured sexual relationship with Mrs Swinfen, his client.

<sup>55</sup> See Galanter, *Lowering the Bar*; Newbery-Jones, C. J. *A Study of the Portrayal of the Legal Profession in Punch Magazine and Other Works of Victorian Satire* (Lancaster University Thesis, 2009).

<sup>56</sup> E.g. *Punch, Fun & Judy*.

<sup>57</sup> See Gilbert, W. S. & Sullivan, A. *Trial By Jury – When I Good Friends was Called to the Bar, HMS Pinafore – When I was a Lad*.

strife<sup>58</sup> and as morally deficient<sup>59</sup> were themes that would have been familiar to nineteenth century society through their appearance in the satirical press of the period. These continually reinforced stereotypes transmitted negative characteristics of the profession in shaping the public image. Sensationalist news stories and the vast amount of cases that appeared in the press on these scandals at the Bar, would have contributed to the distrust that some members of society would have felt towards the Bar, and made villains of those who featured.

The 'practising villain' upon whom this piece shall focus is Mr Edwin James QC: a successful QC who had interests both in the legal sphere and in the political sphere. He was a newsworthy QC due to his radical politics and radical approach to his legal practice. *The Spectator* described him and his practice as ... 'a leader in all actions for seduction, breach of promise of marriage, assault, and false imprisonment, and in all cases that involved the reputation of an actress or a horse.'<sup>60</sup> However suspect or radical his legal practice was, as a strong and loyal supporter of Palmerston, it was commonly believed that he was next to be appointed Attorney-General when Palmerston came to power, and as with all good tales, it was not to be. Edwin James resigned from all his public offices following the discovery of his extensive debts. The Inner Temple had subsequently begun an investigation and it was found that James had obtained money from a solicitor trustee through misrepresentation and had taken money by way of a loan from an opposition witness on condition he would give him a lighter cross examination.<sup>61</sup> These charges of misrepresentation and perverting the course of justice shocked the legal world. He was subsequently disbarred from the Inner Temple. National newspapers such as *The Standard*,<sup>62</sup> *The Morning Post*<sup>63</sup> and *The Examiner*<sup>64</sup> reported the disbaring of James as did provincial newspapers such as *The Sheffield & Rotherham Independent*,<sup>65</sup> *The York Herald*,<sup>66</sup> *The Hampshire Telegraph and Sussex Chronicle*,<sup>67</sup> *The Manchester Times*,<sup>68</sup> *The Aberdeen*

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<sup>58</sup> Galanter. *Lowering the Bar*, pp.31,114.

<sup>59</sup> *Ibid*, p.179.

<sup>60</sup> *The Spectator*, 8 Feb 1862.

<sup>61</sup> Boase, C.G., 'James, Edwin John (1812–1882)', rev. Eric Metcalfe, Oxford Dictionary of National Biography, Oxford University Press, 2004; online edn, Jan 2008 [<http://0-www.oxforddnb.com.lib.exeter.ac.uk/view/article/14599>, accessed 4 June 2012]

<sup>62</sup> *The Standard*, 20 Jul 1861 – Mr. Edwin James.

<sup>63</sup> *The Morning Post*, 20 Jul 1861 – Mr. Edwin James.

<sup>64</sup> *The Examiner*, 20 Jul 1861 – Mr Edwin James.

<sup>65</sup> *The Sheffield & Rotherham Independent*, 20 Jul 1861 – Mr. Edwin James.

<sup>66</sup> *The York Herald*, 20 Jul 1861 – Mr. Edwin James QC.

<sup>67</sup> *The Hampshire Telegraph and Sussex Chronicle*, 20 Jul 1861 – Mr Edwin James QC.

<sup>68</sup> *The Manchester Times*, 20 Jul 1861 – Mr Edwin James.

*Journal*,<sup>69</sup> *The Derby Mercury*,<sup>70</sup> and *The Royal Cornwall Gazette*.<sup>71</sup> This countrywide reporting of the disbarring of Edwin James suggests that this disciplinary process was of interest to the whole country, probably as he was a QC, but also due to the interest the public held in the image of the barrister. This representation of a barrister such as Edwin James and his financial indiscretions would not have discouraged the common held theme in the nineteenth century of the barrister as the economic predator,<sup>72</sup> motivated financially and influenced by fiscal reward.

Some papers did use the disbarring of Edwin James to ask wider questions surrounding the administrative and regulatory structures of the barrister's profession. During the period of Edwin James' disbarring, the Inns of Court were compared to trade unions. The press acknowledged that they were different institutions with very different traditions and customs; however, the comparison was drawn between their power to regulate or administrate their membership. Some papers talked with distain and even disgust as to the power the Inns wielded to remove a man's livelihood and comment that if a trade union had such power there would be violent opposition from Parliament and the people, however, this does not apply to the superior legal profession. *Reynolds' Newspaper* even refers to the Inns of Court as the blackleg legal union and directly calls upon Parliament to intervene. The discussions found in the criticism of the Bar's self-regulation of the nineteenth century has a clear resonance to the criticism of the legal professions' regulation processes in contemporary England and Wales. The on-going criticism of the way in which the profession regulates itself, discussions around its ethical reputation and the contemporary cultural representation has clear echoes to criticism levelled at the Bar in the press of the nineteenth century.

## **Conclusion**

The press of the nineteenth century provides an exceptionally valuable source for the legal historian to analyse the representation of the barrister at the birth of the first mass media. Newspapers ensured that the barrister was placed firmly in the social consciousness, creating a nuanced view of these legal professionals in the public mind and reinforcing their position in popular culture. The public appetite for real-life crime stories and legal intelligence placed the Bar at the heart of law reporting and

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<sup>69</sup> *The Aberdeen Journal*, 24 Jul 1861 – Mr Edwin James.

<sup>70</sup> *The Derby Mercury*, 24 Jul 1861 – Mr Edwin James.

<sup>71</sup> *The Royal Cornwall Gazette*, 26 Jul 1861 – Mr Edwin James.

<sup>72</sup> Galanter, *Lowering the Bar*.

this wide spread exposure glorified barristers at the peak of their profession as 'heroes' and quickly condemned those who brought their vocation into disrepute, making 'villains' of them. This diverse representation of the Bar encouraged existing cultural stereotypes of the lawyer, many of which are recognisable in contemporary popular culture. However, the exposure of legal 'heroes' made household names of these lawyers, a theme that has not so easily transcended to contemporary popular culture due to changes in the manner of law reporting in the mainstream press, from a legal-focussed factual representation towards a sensationalist manner of reporting more interested in the investigative elements than the legal representation.<sup>73</sup>

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<sup>73</sup> Rowbotham, Stevenson, & Pegg, *Crime News in Modern Britain: Press Reporting and Responsibility, 1820-2010*.