The Barristers of Toulouse in the Eighteenth Century
(1740-1793)
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I

THE PROFESSIONAL LIFE
OF THE BARRISTERS

TOULOUSE—THE LEGAL CITY

Legal institutions determined the pace and tone of life in eighteenth-century Toulouse, so the city assumed a new sense of animation each year after November 12, Saint Martin’s Day. This date marked the annual convocation of the Parlement, after which the city was busy handling the legal affairs of the huge province of Languedoc whose capital it was. Litigants came to Toulouse in very large numbers, on foot, by coach, or by sedan. Everyone, from the sharecropper to “Monsieur,” the king’s brother, brought cases to the bar of Toulouse. The courts in this proud capital were numerous, and anyone who contested a will, attempted to collect a debt, or defended himself against criminal accusations might well have found himself called before a Toulousan magistrate.

This renewed flow of litigants was supplemented by the arrival of nearly 400 law students. Toulouse was the home of the most important law faculty in the Midi. Some revered legal scholars, Cujas in particular, had lectured there and endowed it with much prestige. That academic standards had become scandalously low by the late eighteenth century did not diminish the éclat of a degree from the Law Faculty of Toulouse. On the contrary, low standards probably encouraged more students to matriculate.

1 Toward the end of the Old Regime, the barrister Jamme defended some property belonging to the count of Artois at the Parlement. Tragans, “Eloge de M. Jamme,” Recueil de l’Académie des Jeux Floraux, 1819, p. 36.
With its tribunals and law school, Toulouse was the legal city par excellence. In one corner of the city stood the Palace of the august Parlement. This was the second Sovereign Court of the kingdom in age and extent of jurisdiction, the court of last resort for an immense area encompassing fourteen present-day departments. The Parlement received cases on appeal from fifteen seneschal-présidial courts, ten seneschal courts, and thirty-one royal jurisdictions. Near another end of Toulouse stood the University, whose heart was the Law Faculty. Between the Parlement and the University were the numerous tribunals which, though far humbler than the Parlement, were nonetheless active. These included the Seneschal-Présidial Court of Toulouse, the Mastery of Waters and Forests, the Salt-Tax Court (Grenier à sel), the Court of Coinage (Cour des Monnaies), the Municipal Tribunal, the Merchants' Court (Bourse des Marchands), the Bureau of Finances, and numerous others. The judicial institutions of Languedoc were heavily concentrated in Toulouse; they gave the city its profound sense of being a capital.

No great commercial center, Toulouse depended on its courts and university to animate its economic life. Litigants traveling to the city required lodging, food, drink, paper, pens, and innumerable other items. So did the students who, by the end of the Old Regime, were coming in such large numbers. It was thus understandable that in 1789 the aldermen (capitouls) of Toulouse viewed the possible suppression of the Parlement with apprehension, claiming that the city's "principal resources, its unique means of work and existence, were founded on the great current of strangers whom the pursuit of cases and studies attracted here." Revolutionary administrators would seek unsuccessfully to create a textile industry in order to generate revenue formerly provided by the Parlement.

If these secondary and incidental expenditures of the litigants were important to the Toulousan economy, so too were the sums spent directly upon the legal procedure. A myriad of people were attached to the courts by profession. There were over 140 magistrates in Toulouse, including the 100 at the Parlement. Nearly 300 barristers and 120 attorneys (procureurs) handled the cases of the parties. Many barristers had secretaries, and almost all attorneys had one or two clerks. To

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5The _Cour des aides_ in Montauban and the _Cour des comptes_ in Montpellier were exceptions, but both lacked the éclat of the Parlement.
8For a study of these clerks and secretaries, see Maurice Gresset, "Les praticiens à Besançon au dernier siècle de l'ancien régime," _Annales de démographie historique_, 1970, pp. 231-36.
these must be added a substantial number of minor clerical officers working directly for the courts (*huissiers* and *greffiers*). The total number of functionaries attached to the courts may have approached 1,000 or more. When the wives, children, and servants of these men are considered, it is easy to imagine that nearly a tenth of the population of Toulouse was tied by function or family to the various tribunals.\(^9\)

These legal functionaries constituted the dominant social groups of the city. The most outstanding commoners in terms of number, influence, and prestige were the judges, barristers, attorneys, and lesser court officials. The barristers alone were nearly as numerous as the important merchants, those of the *Grande Bourse*.\(^10\) Court personnel heavily outnumbered merchants on all governing councils and administrative bodies of the city.

At the very pinnacle of Toulousan society were the magistrates of the Parlement. Indisputably the richest men in the city—more than ten times wealthier than the average commoner\(^11\)—they served also as the cultural and political elite. These *parlementaires* were the "fathers of the people," from whom the populace expected paternalistic guidance.\(^12\) When the Garonne River inundated the city, when a bad harvest raised bread prices, Toulousans looked to the parlementaires to deal with public disaster. The stern justice issuing from the Parlement was thought to be the bulwark of religion, morality, and order.\(^13\) The magistrates of Toulouse, more than judges of other sovereign courts, enjoyed the reputation of being austere, learned, and upright.\(^14\) It was a commonplace encouraged by the provincial resentment of the capital to compare the stern virtue of the Toulousan magistrates to the foppishness and immorality of Parisian aristocrats.

Since the Law Faculty and the courts had such a profound influence upon the economic and social structure of Toulouse, it is not surprising that the cultural life of the city had a strong legal foundation. Before the educated Toulousan read Voltaire he studied the *Digest*. The aristocratic salons buzzed with discussion of the most interesting cases; the man who could not talk of their legal implications with insight

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\(^9\)The population of Toulouse was about 52,000 in 1750 and 58,000 by 1790. See Jean Rives, “L’évolution démographique de Toulouse au XVIII\(^e\) siècle,” *Bulletin d’histoire économique et sociale de la Révolution française* 10 (1968): 85-95.


\(^13\)See the manuscript diaries of Pierre Barthès, a minor legal clerk, *B.M.T.*, MSS. 704-6.

was considered uncultivated. Toulouse was the home of the oldest literary society in the world, the Academy of Floral Games, and the muse most honored by its poets was Themis. The educated of Toulouse admired, above all else, the eloquence and the rhetorical skill displayed at the bar. They read Cicero with zeal as a model of eloquence and hoped to find a new Cicero at the bar of Toulouse. The appearance of a new talent was a source of pleasure to the magistrates.

The éclat of the magistrature, the reverence for legal knowledge, and the pomp of the court ceremony dazzled the minds of Toulousans and heightened the prestige of legal careers. Young men were avid for the respectability of a career in one of the courts, especially the Parlement, and their fathers shared their enthusiasm. Toulousans themselves claimed that the centuries of cultural domination by the Parlement and the university had turned the "genius" of the residents from commerce to law. There was a general awareness that the legal institutions virtually determined the way of life in the city. It was probably of a provincial capital like Toulouse that the municipal officers of Lyon were thinking when they denounced all plans to establish a superior court or university in their city; they feared that this would undermine its commercial mentality. In Toulouse these Lyonnais had an example of complete social domination by legal professions.

**Professional Functions of Barristers**

There was much pride and satisfaction in being associated by profession with a court in Toulouse, but this honor was divided unequally among the various courts and occupational groups. The magistrates of the Parlement, so respected by the populace, enjoyed the greatest portion of this honor. Just below them, superior even to the judges of nonsovereign courts, were the avocats or barristers of Toulouse. These were the legal experts who pleaded and offered their university training and juridical knowledge to clients in need of counsel. All that Toulousans admired—profound legal learning, impressive displays of eloquence, honorable participation in the ceremonies of the Parlement, the trust and regard of important people—was attainable by barristers. Their opinions were sought by men at

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15The local newspaper carried information about the latest cases, and the court personnel were requested to contribute articles about interesting cases. See *Affiches, annonces, et avis divers, ou Feuille hebdomadaire de Toulouse*, 4 janvier 1775.

16See the collection of prize-winning poems in the *Recueil de l'Académie des Jeux Floraux* (1750-1789).


all social levels, from magistrates to miserable criminals in need of defense. The most important barristers became well-known and highly respected figures. After the successful defense of a widow, an orphan, or a pauper, the barrister's humanitarian concern might be celebrated in verse, and when he handled a case involving socially prominent people, he could become the center of public attention. The barrister was, without question, a key figure in the legal and social structure of Toulouse.

These barristers were a product of three years at a law faculty, where they acquired at least the licence. In Toulouse these years were occupied with lectures in civil law (the Institutes, the Digest) and French law (the royal ordinances and decrees). Upon receiving their degrees, the prospective barristers could present themselves to the magistrates of a court and take the oath of their profession. After the oath, the young men had the right to entitle themselves “advocates at the court” in which they took the oath. Professionally, however, they were not yet fully advocates and were not considered ready to practice. A career as a practicing barrister required two years of attendance at court sessions and lectures given by leading advocates. During this period of apprenticeship, the young men were known as “listening barristers” and were expected to learn from their more experienced colleagues. Whether every aspirant to the bar was more conscientious as a “listener” than he had been as a law student is debatable, but those who hoped for serious careers learned the basics of their vocation during these years. Their full admission to the profession came when their names were inscribed on the tables of their professional association, the Order of Barristers.

With this background, the barrister was the most highly trained and esteemed legal professional, but he did not handle a litigant's case alone, nor did the law define him as the “master” of the case. At all times the barrister was associated with a procureur or attorney, who was an officer of the court and his professional inferior. The attorney was not required to attend university but learned his work through apprenticeship. His role was to guide the case through all the proce-

19The local journal proclaimed that barrister Jerome Taverne died “with the esteem of the Court, the praise of the bar, and the confidence of the public.” Affiches, annonces, et avis (17 mai 1775), p. 85.
20The poem “Epitre à M. le Cauchois,” Recueil de l'Académie des Jeux Floraux, 1787, celebrates the defense of a poor girl by the barrister Jamme.
21When Jean Mascart pleaded a case involving the partition of the fortune of President d'Aspe, even the Intendant in Montpellier heard of it. A.D., C-278, letter from Subdelegate Raynal to Intendant, 26 July 1766.
23Alain Madrange, “Les avocats au Parlement de Toulouse de 1610 à 1715” (D.E.S., Faculty of Law of Toulouse, 1966), pp. 28-29. This work is based almost entirely on published materials and deals only with the barristers' professional life.
dural details, from inscribing it on the court dockets to accepting the final sentence. The attorney was, by convention, the procedural expert, whereas the barrister was the legal expert. The barrister performed the most learned and intellectually demanding activities: pleading, instructing, consulting, and arbitrating. In practice, however, this segregation of activities broke down. Attorneys and all sorts of practitioners performed these four functions, too. But the barrister felt that they were distinctively and most properly his own. They embodied his professional ideals of erudition, eloquence, and independence. The barrister had a finely developed sense of the professional activities suitable to his status, and he left the "mechanical" ones to his inferiors.

Because the barrister confined his interests to the learned, purely legal elements in a case, his services were sometimes superfluous. All parties had to engage an attorney whenever the court had one, and the procureur was the first person to whom a litigant went with his case. For many suits, especially those in which facts rather than points of law were in dispute, his counsel alone sufficed. And, since the Parlement of Languedoc permitted the attorney to plead and instruct, the services of a barrister were necessary even less often. Indeed, the court dockets indicate that many cases were heard without the presence of a barrister. However, litigation involving sophisticated legal arguments did require the ministry of a barrister.

The barrister did not enter a case until these arguments were needed. The attorney instituted a civil suit before the Parlement by having it inscribed on the dockets. He then procured from his client all documents bearing on the case and the papers from the lower courts if it was on appeal. The attorney deposited these papers with the office (greffe) of the court, and within the next three days he decided whether the arguments would be presented in oral or written form. Both procedures were practiced in the Parlement, with the choice depending on the nature of the case. By this time, the attorney and client would

25See the memoirs of the Parisian barrister Pierre-Nicolas Berryer, *Souvenirs de M. Berryer*, 2 vols. (Paris, 1839), I: 80. He refused to handle certain details even if there were no attorney conveniently near.
27A.D., E-1181, fol. 248, deliberations of Community of Attorneys.
28A.D., B-registers of audiences for all chambers of the Parlement.
have determined whether a barrister was necessary and which one would argue the case.

If the written procedure was selected, the barrister's work took the form of a brief, known as an *instruction*. He prepared it by studying the documents, meeting with the client, if possible, and searching for the laws that supported his argument. In important disputes, many instructions, replies, and counter-replies were penned for each party before the termination of the case. Once the opposing barristers had agreed to end the instruction, the case was out of their hands. A magistrate, called the reporter (*rapporteur*) studied the documents and briefs (together known as the *production*) and wrote an abstract of the arguments for his colleagues. The judges met, voted on the case, and the reporter wrote the decision.

In the written procedure, only the barrister's erudition was on display. The oral procedure, however, provided him an occasion to display his eloquence in pleading and to take part in the intricate pageantry of the court. On the day of the trial, the barrister rose early, for he had to attend six o'clock mass at the Parlement. The judicial sessions (*audiences*) began at seven, but only the minor cases were heard so early. The barrister with more consequential matters to argue waited on the porch of the Great Chamber and consulted with his client and his attorney. The conscientious barrister, of course, prepared his plea in advance, though the less diligent ones might have had to compose it on the spot.

From the moment the barrister and attorney entered the chambers, their demeanor was precisely regulated by etiquette designed to maintain the dignity of their respective professions. The barrister wore a black cloth robe with a black, square hat and hood (*chaperon*), and sat on a specially-designated bench behind the benches reserved for noblemen. As the time for pleading neared, he stepped to the bar with his head bared. The advocate waited for several invitations from the presiding judge to put on his hat, as a matter of courtesy, and then began his argument. He usually spoke from memory, though he might have notes and other necessary papers. The form of his plea was traditionally divided into several parts, proceeding from the *exordium*, in which basic legal questions were raised, to the refutation of the

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32See the instructions by Jacob Londois, *Observations pour Dame Perimon . . . contre M. Benzech . . .* (Toulouse, n.d.), and *Réplique pour Dame Perimon* (Toulouse, n.d.). These were the last of six instructions.
33Madrange, "Les avocats," pp. 70-71. The barristers pleading the minor cases were called "advocates of seven o'clock."
34For the details of this ceremony, see Antoine-Gaspard Boucher d'Argis, *Règles pour former un avocat . . .* (Paris, 1778), pp. 134-42.
opponents' case. When the barrister read a document, he was careful to remove his hat, for this was the "mechanical" work that an attorney could do. But when he cited a law or ordinance, the barrister wore his hat, for he alone was the master of the law.

The attorney, in the meantime, stood behind the barrister and furnished him with the necessary documents and papers. Overall, the professional stature of the attorney had improved during the eighteenth century. Until 1697, attorneys at certain sovereign courts were required to kneel while the barrister pleaded and to speak only to the barrister, who then addressed the court. The Parlement of Toulouse may never have relegated the attorneys to such a humiliating position, and in the eighteenth century the attorneys claimed to be the near equals to the barristers. Undoubtedly, the barristers resented this claim, but there was little they could do about it.

At the end of his plea, the barrister returned to his seat and listened to his opponent's case. If the pleas had been informative enough, the magistrates would vote on the case at once. If not, the judges would request both parties to produce instructions solely for the elaboration of arguments already presented in the plea. From this point on, the case followed the lines of the written procedure.

Of all the professional functions of the barrister, pleading was the most admired. It was at the bar that the advocate, expounding his legal insights and citing his authorities, gained the esteem of both magistrates and public. The skillful pleader embellished his legal points with appropriate classical allusions and rhetorical devices to capture the interest of the judges. In a criminal case, the barrister often hoped to move the court to tears of sympathy for his innocent client. Erudition and eloquence at the bar could bring the barrister a fine reputation.

Not all barristers could plead, for many lacked the good memory, sonorous, powerful voice, and fecund imagination necessary for success. But even lacking these, a barrister could defend clients through the written procedure, and the "instructing barristers" devoted their careers completely to writing briefs. If the pleader withheld learned references for the sake of total rhetorical effect, the instructing advocate was expected to display the depths of his erudition through numerous citations of laws, canons, and authorities. In almost all important cases, briefs called mémoires were printed and circulated with the hope

34A.D., E-1181, deliberations of Community of Attorneys (28 December 1754). "... Que lesdits procureurs sont confondus avec les avocats dans le barreau sans qu'il y ait aucun rang qui les distingue . . . ."
36Madrange, "Les avocats," pp. 79-81. This was called assignation en droit.
37The pleading was supposed to be addressed to the audience in the court chamber as much as to the judge.
of arousing public opinion in the client's favor. These printed briefs brought the advocate to the attention of a circle much wider than the officers of the court. The most learned mémoires were collected in the libraries of advocates and magistrates.

If the barrister used his expertise to defend private interests through pleading and instructing, a third important function, arbitration, was a sort of public service. Parties who wished to avoid an open airing of their differences often sought a private, amicable settlement through arbitration. This was a practice especially common in family quarrels. Disputing parties were not compelled by law to select barristers as arbiters, but the fact that they almost always did so indicates the high level of public confidence that barristers enjoyed. Only with a reputation for insight and impartiality could they have imposed a settlement as arbiters.

Consultation may have been the professional function barristers performed most frequently, and at its highest level, it was another public service of considerable importance and prestige. Barristers had no monopoly over the mundane matters of consultation: the proper way to compose a will, foreclose a mortgage, and so on. Toulousans could seek such advice from notaries, attorneys and a host of minor practitioners. But for the more abstruse legal problems, barristers were the final resort. In important cases, several barristers were consulted jointly, and their opinion had authoritative weight in a suit. A few especially learned and scholarly barristers specialized in consultation, and distinguished pleaders often retired to this activity after a long and successful career in the court chambers. These "consulting barristers" were recognized as the leading legal minds of the city and region, and they were honored as such. Colleagues customarily called upon these revered colleagues for advice when working on a difficult case. Magistrates, too, sought their help for solutions to intricate legal questions. The Parlement rewarded them with special honorific privileges, and if a chamber ever lacked the required number of magistrates, a consulting barrister would temporarily sit on the fleur-de-lys bench.

Consulting barristers served not only clients and colleagues but also the law itself, by helping the magistrates to preserve and interpret it. In this age before legal journals systematically collected judicial decisions, much of the jurisprudence of the Parlement would have been

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12 See the arbitration reports for the second half of the century: *A.D.*, 3E 12731-12736.
lost without the work of consulting barristers.\textsuperscript{45} Their notes, printed opinions, and mémoires, informally collected and circulated, were an important supplement to the few major published collections of decisions.\textsuperscript{46} Furthermore, barristers of the late eighteenth century began to serve the law in a new way, by editing and publishing the jurisprudence of the court.\textsuperscript{47} They thus continued the work of the seventeenth-century arrêtistes, all of whom had been magistrates. Finally, consulting barristers exerted an important influence on the decisions themselves through their advice to the magistrates. Thorny legal questions were often put before them, so their opinions were incorporated into the jurisprudence of the Sovereign Court itself.

In performing his professional activities of pleading, instructing, arbitrating, and consulting, the barrister assumed a position of independence vis-à-vis the client, and he had no personal identity with the case. It was the attorney who directed the action step by step and who was defined by law as the "master of the case."\textsuperscript{48} The attorney, not the barrister, signed all relevant papers presented to the courts, including the barrister's briefs.\textsuperscript{49} Even in pleading, the barrister retained his independence: he spoke for the litigant but he did not represent the client symbolically or legally. If the attorney and his party were not present when the case was before the judges, the barrister was under no obligation to plead. The barrister took an oath to defend only just causes, and he could withdraw from a case at any time. Moreover, when the decision was finally rendered, the barrister returned all papers and documents concerning the affair to the attorney. This independence was a mark of the high status of the barrister's profession: he was an intermediary between the law and the public.

Conscientious barristers hoped to perform all of their honorable functions or to specialize in one of them. The extent to which they

\textsuperscript{45}Raymond Benech, \textit{De l'enseignement du droit françois dans . . . l'ancienne Université de Toulouse} (Toulouse, 1847), p. 97.
\textsuperscript{46}The major collections of the jurisprudence of the Parlement were by La Roche-Flavin, Cambolas, d'Olive, de Catellan, de Maynard, de Lestang, Vedal, and de Juin. Florentin Astre, \textit{Les arrêtistes du Parlement de Toulouse} (Toulouse, 1856), p. 6. For a collection of briefs and memoirs that were eventually published in the nineteenth century, see Jean Laviguerie, \textit{Arrêts inédits du Parlement de Toulouse}, 2 vols., (Toulouse, 1831). Laviguerie was a leading consultant.
\textsuperscript{47}Jean-Antoine Soulatges issued a revised edition of the \textit{Observations sur les questions notables du droit décidées par divers arrêts du Parlement de Toulouse} (Toulouse, 1784). The original was the work of Simon d'Olive, counselor in 1638. Another collection by a barrister was Aguier, \textit{Recueil d'arrêts notables, ou Supplément au Journal du Palais de Toulouse}, 2 vols. (Nîmes, 1782).
\textsuperscript{48}Rodier, \textit{Questions}, p. 150.
\textsuperscript{49}The Departmental Archives of the Haute-Garonne possesses about 80,000 sacs à procès from the Parlement. I have examined fifty of them from the last years of the Old Regime.
could do so depended not only on their talents but also on practical matters and opportunities. It is necessary to examine these, too, in order to understand the nature of the barristers' professional life.

**Structure of the Toulousan Bar**

The presence of a Parlement and a university in Toulouse ensured the existence of a large population of barristers within the city. Each year during the eighteenth century, an average of fifty-six holders of the licence took the professional oath in the Sovereign Court and became avocats au Parlement.50 The great majority of these new barristers had no intention of remaining in Toulouse to exercise their professional skills. Most judges in royal courts were required to be barristers, so among the oath-takers were several who went almost immediately to the bench of a court. Each year about three oath-takers became parlementaires and about eight became officers in one of the many inferior courts within the jurisdiction of the Parlement.51 Other oath-takers left Toulouse to become barristers at one of these tribunals. A certain number were attorneys or notaries who wanted a law degree to help them in their own careers. A few would occupy financial offices or would become estate agents. Still others, perhaps the majority, wanted the title of avocat for reasons of prestige but did not enter specifically legal careers. They lived "nobly" without a profession or entered financial, administrative, or even ecclesiastical positions. Only about one out of ten oath-takers remained in the city of Toulouse to practice the law. Nevertheless, this influx was sufficient to make the advocates in Toulouse very numerous—indeed, excessively so.

The absence of the official tables of the Order of Barristers, listing all practicing men at the bar, renders the task of enumeration somewhat precarious. Fortunately, the almanacs of the period provide copies of the tables and seem fairly reliable.52 In 1789, there were 276 practicing barristers in Toulouse. The great majority, 215 of them, were attached to the Parlement. Forty-two were at the bar of the Merchants' Court. The Seneschal Court had only 14 advocates, and

50 A.D., B-registers of audiences of the Grand'Chambre. The names of the oath-takers were supposed to be inscribed in a special register known as the matricule; there is no trace of such a register in Toulouse. But the dockets of the Grand'Chambre of the Parlement recorded the names of the oath-takers.


52 Unfortunately, the almanac that covers the longest period, Calendrier de Toulouse (1732-1790) did not usually contain a list of barristers. The most useful almanacs include the Almanach historique de la ville de Toulouse (Toulouse, 1780-1783); the Calendrier de la cour de Parlement de Toulouse for 1740, 1767, 1775, and 1778; and the Almanach historique de la province de Languedoc (Toulouse, 1785-1790).
the Municipal Court had 5. The other courts of the city did not seem to have a distinct body of advocates at their bars.

Never before had the number of advocates been so great. This figure of 276 was reached after a dramatic expansion which started at mid-century. In 1740, there were only 87 barristers at the Parlement; twelve years later there were 119; and on the eve of the Revolution, 215. This was a 140 percent increase in a period of fifty years. Similarly, the number of barristers at the Seneschal Court doubled in this period (from 7 to 14). The expansion began slowly in the early 1750s, when the number of university graduates taking the oath first rose above the seventeenth-century average of 42 a year. The increase in number of oath-takers became dramatic by the mid-1760s, when their annual average rose from 50.5 to 74.1. The number of new barristers reached its peak in 1779, with 125 graduates taking the professional oath. It is not possible to follow the trend after 1780 because the registers of the Great Chamber have been lost, but it certainly remained at a high level. In 1789, for example, 72 barristers took their professional oath. The proportion of avocats au Parlement who took their two-year apprenticeship and had their names inscribed on the tables of the Order of Barristers remained fairly constant at about 10 percent throughout this period. From the incomplete almanac lists, it seems that the average number of barristers to begin practice in Toulouse each year rose from 3.8 in the first half of the century to 7.5 during the last twenty-five years of the Old Regime.

Unfortunately, tracing these trends is much easier than explaining them. It would be tempting to attribute the growth of the bar to the national economic prosperity from 1760 to 1778, since the timing of the legal expansion coincided with this economic upswing. However, Toulouse and its region were not commercial centers, so the manifestations of the prosperity must have been minimal. Perhaps, indirectly, the upswing created both an atmosphere of optimism and a new pattern of vocational aspirations for men who would not have entered

53Jean Baour, ed., Almanach historique de la province de Languedoc (Toulouse, 1789).
54Calendrier de la cour de Parlement de Toulouse (Toulouse, 1740); Almanach historique et chronologique de Languedoc (Toulouse, 1752); Almanach historique de la province de Languedoc (Toulouse, 1789).
55Alain Madrange has listed all the oath-takers received by the Grand’Chambre in the seventeenth century: “Avocats inscrits au Parlement de Toulouse, 1610 à 1715” (A.D., MS. 88).
56A.D., B-registers of audiences of the Grand’Chambre, 1750-82, 1788-1790. The number of oath-takers was about 70 percent of the number of students who received the licence, but the percentages varied somewhat from year to year.
57The almanacs cited above list the year in which each barrister took his oath. From this information, one can calculate the number of barristers who entered the Order each year.
the bar earlier. A more certain cause of the expansion was the declining mortality rate, which was especially pronounced among young people (ages fifteen to thirty-nine) in the social strata from which barristers were recruited.\(^{59}\) Whatever the proper combination of economic and demographic factors, the dramatic rise in the number of Toulousan barristers was part of a larger movement that was bringing men in greater numbers than ever before to law faculties and bars all over France.\(^{60}\)

There was no minimum age qualification for practicing barristers, but a royal decree of 1690 restricted the law faculties to youths of at least sixteen years.\(^{61}\) This made nineteen or twenty the lowest practical age for entering the bar. In Toulouse, the actual age for becoming a fully inscribed barrister varied from as young as twenty to as old as thirty-three, with the mean at 24.1 years.\(^{62}\) The modal age of entry was twenty, the minimum, indicating that many youths prepared directly and without interruption for this profession. The limited biographical material available indicates that a few barristers had tried careers in the army, teaching, or literature before entering the bar. But the youthfulness of most new barristers suggests that this was their first and only profession.

These law graduates entered a bar that was populated by relatively youthful men. At mid-century, more than 40 percent of the barristers were under forty years of age. By 1789, the proportion of barristers under forty had risen to 54 percent.\(^{63}\) A full third were in their twenties and early thirties. This reflected the influx of young graduates evident since the 1770s and was significant in a profession that had valued maturity and experience. But at the Toulousan bar, at least, relative youth did not preclude professional success, as we shall see.

Access to the bar could not have been especially difficult or restricted. But was it as easy to acquire clients and a substantial practice? Was the rapid growth of the bar a response to increased demand for legal service, or was it an autonomous movement that occurred

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\(^{60}\) Professor Richard Kagan is currently investigating enrollment in law schools. I am grateful to him both for information on this subject and for data on matriculations in Toulouse.


\(^{62}\) The barristers' ages are difficult to obtain. I found the ages of fifty-four in the documents of Toulousan Freemasonry at the *Bibliothèque Nationale* and the dossiers of revolutionary "suspects," *A.D.*, L-283-344.

\(^{63}\) These are approximate figures. To arrive at the age structure for a given year, I used the average age (twenty-four) and the date at which each barrister took his oath as points of calculation. For example, if a barrister took his oath in 1776, I assumed he was born in 1752 and was thirty-seven years old in 1789. This method may err on the side of age.
without much relation to the volume of legal affairs? To answer these important questions, we need to study the barristers’ career patterns and the size of their practices. Unfortunately, documents that provide careful and conclusive answers are lacking. It is not possible to count the number of cases heard in the courts of Toulouse, nor are professional papers available to illuminate the day-to-day activity of consulting. The printed briefs collected in the library and archives indicate the identity of only a few instructing barristers. The only useful sources are the registers of the various courts, in whose margins were recorded the names of the barristers pleading each case. To be sure, pleading was only one of a barrister’s professional functions and cannot be taken as a complete measure of his practice. But it was the most glorified of the barristers’ services and a key to success in all other legal functions. The leading pleaders wrote briefs for the clients they defended orally and established a reputation that made them frequently-sought consultants and arbiters. Indeed, whenever royal officials discussed the competence of a barrister, it was always in terms of his pleading. Though far from fully adequate, these registers of pleaders do provide important insights into professional conditions and opportunities at the Toulousan bar.

The registers demonstrate that at the Parlement, where the expansion was most pronounced, even a limited amount of pleading was rare. From 1760 to 1790, there were about 300 different advocates inscribed on the tables of the Order of Barristers, and only 140 of them pleaded during this period. In any one year, far fewer than half the barristers at the Parlement appeared at the bar of any chamber. In 1777, for example, only 35 of 173 barristers argued cases, and in 1788, when there were 215 advocates attached to the Parlement, only 42 of them pleaded.

Not only did the majority of barristers fail to argue cases in the Parlement, but those who pleaded did so very unequally. The career structure at the bar of the Sovereign Court might be likened to a pyramid with an extremely narrow pinnacle and a very wide base. At the top of the profession were twelve to fifteen advocates who nearly monopolized the bar. The registers of the Parlement record their names with monotonous regularity, and they were undoubtedly as familiar at the court as any of its officers. The names of these leading barristers are worth listing here, for they will appear repeatedly throughout this study. In the 1760s and 1770s, the masters of the bar of Toulouse were

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64 The thousands of sacs à procès have not yet been cataloged or indexed. It is not possible to determine the number of cases from court dockets because suits often appeared more than once and the parties to the suit were not identified by name.

65 See especially the correspondence of the subdelegate, A.D., C-268-278.

66 A.D., B-registers of audiences of all chambers of the Parlement.
Jean Baptiste Jouve, Guillaume Chabanettes, Jean Pierre Carbonel, Jean Mascart, Alexandre Augustin Jamme, Jean Forent Monyer, Jean Baptiste Viguier, Jean Antoine Joly, Jean Carrière, Jean Desirat, Pierre Alexandre Gary, and Joseph Marie Duroux. Many of these men (Viguier, Mascart, Jamme, Gary, Duroux) retained their predominance at the bar until the very end of the Old Regime. With the death or retirement of some (Carbonel, Joly, Jouve, Carrière, and Chabanettes), new pleaders entered this elite group of barristers: Jean Douyou, Joseph Dominique Monyer fils, Claude Castor Bragouse, Pierre Roucoule, and Jean Raymond Marc Bastoulh. Such was the narrow elite of barristers at the end of the Old Regime.

The next echelon of the professional pyramid was considerably below the group just described. Its members appeared in the court dockets only a half to a third as often as the masters of the bar, yet it was still a small, select group. At most, twenty-five barristers might have been included, among them Hughes Nully, Professe Detté, Michel Malpel, Jean Baptiste Lafage, Jacques Marie Rouzet, Jacob Londois, and Jean Joseph Gez. Within this category were several younger barristers who seemed to be on the verge of even more distinguished careers by 1789: Bernard Etienne Arbanere, Jean Baptiste Mailhe, Jean Joseph Janole, Pierre Roques, and Bertrand Barère.

Below this second echelon, the career pyramid broadened rapidly. The barristers who pleaded infrequently or at long intervals numbered between forty and fifty. Jean Ignace Vidal de Lacoste, for example, pleaded once in 1762, 1763, 1767, and 1768. In the next year he appeared at the bar three times, but rarely after that. Antoine Cahusac addressed the judges twice in 1766 and once again in 1768. Some of the barristers in this group may well have been more frequently employed as instructing advocates than as pleaders; this would explain the long intervals between their appearances at the bar. Others may simply have lacked cases.

Near the bottom of the professional pyramid was a group of thirty to forty advocates who appeared at the bar only once or twice in their careers. How many of these had learned from their limited experience as pleaders that instructing or consulting was more suitable to them cannot be ascertained. Such was the case of Jean Baptiste de Laviguerie, who pleaded only once but became one of the most respected consulting barristers in Toulouse. At any rate, below this group was the majority of the bar, which did not plead at all.

Thus, it seems that even a moderate degree of success was the exception rather than the rule. Although the number of barristers

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67 It is particularly difficult to assess the size of this group because of the large portion of new men at the bar in 1789.
specializing in instructing might possibly have been large, there was clearly a superfluity of barristers at the Parlement. This was true even for the attorneys, who numbered only 120 in 1765 and whose employment on every case before the Parlement was obligatory. A royal edict of 1768 recognized this and reduced the number of attorneys’ positions to 60. There was no similar way to reduce the number of barristers with marginal practices. As a result of the expansion of the bar, they existed in unprecedented numbers.

In assessing the final impact of the legal expansion at the Parlement, several points must be made about the barristers’ vocational expectations and motivations. Overcrowding and severe competition for cases was nothing new at the bar. As far back as one may look in the court dockets, the number of active pleaders was always a small minority of the total inscribed on the table of the Order. The mid-century growth of the bar only exacerbated a long-standing situation, and young barristers entered a profession that was well-known as a highly competitive one, offering absolutely no assurances of success.

A large practice, however, was not the goal of all barristers. In this preeminently legal city, where the advocate was a highly respected figure, many men sought the barrister’s status without intending to practice. It has been noted that the number of bourgeois (in the sense of rentier) in Toulouse was quite low. The reason seems to have been that men who wished to “live nobly” sought the status of an advocate, so those who might have been bourgeois elsewhere became titular barristers in Toulouse. We cannot ascertain just how many such men there were at the bar. In Paris, perhaps half of the 600 inscribed pleaders at the Parlement did not practice. The portion at the Toulousan bar was probably considerable, too. A third would not be an unreasonable guess.

Finally, it is important to note that the level of professional ambition at the Toulousan bar does not seem to have been very high. Though the number of barristers at the Parlement more than doubled within fifty years, there were no signs of crisis and few recognizable

69Florentin Astre, Les procureurs près le Parlement de Toulouse (Toulouse, 1858), pp. 31-32.
69Sentou, Fortunes et groupes sociaux, p. 185. Of 2102 acts of succession, he found only 19 belonging to bourgeois. Michel Vovelle estimated that 7 to 15 percent of the Parisian population were bourgeois, and 8.3 percent of the households at Chartres were headed by bourgeois. See his “Bourgeois, rentiers, propriétaires: éléments pour la définition d’une catégorie sociale à la fin du XVIIIe siècle,” Actes du 84e congrès des sociétés savantes (Dijon, 1954), pp. 421, 428.
69Berryer, Souvenirs, 1: 19.
69Studies of “middle-class” groups usually attribute to their subjects an energy and ambition that may not have existed. Serious work on “ambition” as a social attitude and practice would be most useful. For an interesting start, see Theodore Zeldin, France, 1848-1945, vol. 1, Ambition, Love, and Politics (Oxford, 1973).
responses to the entirely new professional conditions. Caseless barristers did not violate professional taboos in search of clients; as we shall soon see, they certainly did not avail themselves of all opportunities to use their legal expertise. In this sense, the titular barrister was more typical of his colleagues than was the young Robespierre, who wrote with flaming ambition: "Of all the qualities necessary to distinguish oneself in this profession, I bring to it at least . . . an extreme desire to succeed." If this had been the spirit in which many young barristers entered their profession, the bar of the Parlement would have been seething with discontent, frustrated ambitions, and disregard for traditional norms—and it was not.

Thus, the expansion of the bar was not quite the financial and psychological catastrophe it might have seemed. It undoubtedly created some hardship, but most barristers were able to face the limited professional opportunities with equanimity, because their ambitions had never been those of the young Robespierre.

Thus far, we have concentrated on the bar of the Parlement, for it merited special attention by virtue of its size and prominence. But the barristers did not compose a unified profession; rather, they were divided along corporate lines, and the advocates of each court had their distinctive status, interests, and career perspectives. The fourteen barristers at the second tribunal of Toulouse, the Seneschal-Présidial Court, faced a vocational situation that was more favorable than that of their colleagues at the Parlement. Their numbers had doubled since 1750, but in this case, the expansion might have reflected enhanced opportunities. An edict of 1774 greatly enlarged the competence of the Seneschal Court by permitting its magistrates to judge cases up to 2,000 livres in value; their previous limit had been only 250 livres. Even though the Parlement constantly fought this edict and whittled away some gains, the Seneschal Court surely had more legal business than before. Its registers show that the number of barristers inscribed at the bar was not excessively large; in fact, twelve of the fourteen pleaded with some frequency. But if career prospects were brighter at this tribunal, the improvement was achieved at the expense of status. Being at the bar of the Parlement entitled a barrister to much more prestige, and the advocates at the Sovereign Court were very sensitive

73Georges Michon, ed., Correspondance de Maximilien et Augustin Robespierre (Paris, 1926), p. 22. Robespierre wrote this, while still a student, to the well-known parlementaire and criminal law reform proponent Dupaty.
75Still, there were some barristers who pleaded more than others: Jean-Antoine Romiguieres, Guillaume Bordes, and Michel Martin. A.D., B-registers of audiences of the Seneschal-Présidial Court.
to this difference. They refused to admit Seneschal Court barristers to full participation in their Order, and they would never have pleaded in the inferior court. Moreover, the Seneschal Court barristers had more modest origins than their colleagues at the Parlement; they could not so easily afford the possibility of unemployment which being at the Parlement entailed. Their place at the Seneschal Court reflected different financial needs and, perhaps, a different set of professional motivations and expectations.

The two other courts regularly receiving barristers were the Merchants' Court and the Municipal Tribunal. The advocates at these courts differed from those of the Parlement not only in status but also in function. Since these courts lacked the attorney's office, the barristers must have handled the procedural details which were usually the responsibility of the procureurs. This placed these barristers in an inferior branch of the profession. The very nature of the actions at these tribunals did not usually require pleading or instructing, so procedure might have been the core of their work. Summary matters formed the bulk of affairs at the Hôtel de Ville; as the alderman (capitoul) Desirat stated: "We see daily twenty to thirty people, one demanding his wages of two or three days, another a payment of small value, a domestic who cries against his master who refuses him some wages." In the Merchants' Court, too, disputes concerned mainly questions of fact and did not usually require the legal skills of the barrister. This tribunal was said to have heard a hundred summary cases a day, and for a long time the presence of barristers had been prohibited for fear that they would complicate simple questions of fact. The advocates at the bar of the Bourse were, thus, professionally more akin to attorneys than to the pleaders at the Parlement and Seneschal Court.

Structurally, the Municipal and Merchants' Courts were similar to the numerous courts of exceptional or special jurisdiction in Toulouse. Most of them did not have a separate body of attorneys, and the cases in most did not warrant pleading. The Mastery of Waters and Forests, the Bureau of Finances, the Court of Coinage, the Salt-Tax Court, and the Court of the Canal du Midi heard mostly criminal actions, and the Ordinance of 1667 prohibited the counsel of barristers in criminal cases.

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76For further discussion of this point, see chapter 2.
78Almanach de la province de Languedoc (1783), p. 164.
79Almanach historique de la ville de Toulouse (1780), part 2, p. 29; Florentin Astre, Essai sur l'histoire et les attributions de l'ancienne Bourse de Toulouse (Toulouse, n.d.). In addition to barristers, there were legal counsels, called postulans, who were not law school graduates.
80One exception was the bureau des finances, which had its own attorneys.
of the first instance. The advocates at the numerous courts of exceptional jurisdiction must have functioned more as *procureurs* than as *avocats*, too.

It is unfortunate that the records of these minor courts are so often missing or lacking in information about the court personnel. Only the papers of the *Officialité diocésaine*, an ecclesiastical tribunal, and the Court of Coinage (*Cour des Monnaies*) provide some insight into the identity of the pleaders. They indicate that the legal personnel of the lower courts accumulated positions at several tribunals simultaneously. Vincens, Wizer, and Sepierre, who belonged to the bar at the Municipal Court, also served in the *Officialité*. Penaveyre, an attorney at the Seneschal Court, was also a barrister at this ecclesiastical court, and the notaries Richard and Mirepoix were advocates at the Bureau of Finances and Merchants' Court respectively. Accumulating legal positions was beneath the dignity of the Sovereign Court barristers, even the caseless ones. The image of the poor barrister seeking clients where he could find them does not fit the caseless men of the Parlement, many of whom lived in honorable indolence, but it was an accurate picture of their professional and social inferiors, the advocates of the minor courts in Toulouse.

The separation between the upper, respectable branch of the profession and the lower one seemed fairly complete. The barristers at the Parlement would never have served at the bar of the inferior tribunals: the status of the courts and the procedural details handled in them were beneath their dignity. Only as special or temporary magistrates (*assesseurs* or *opinants*) did they enter the courts of exceptional jurisdiction, and such positions were usually held by the more distinguished pleaders of the Parlement. Thus, because of functional and status gradations within the profession, Toulouse presented the paradoxical situation of a city filled with courts and, at the same time, with briefless barristers.

How did barristers, especially those at the Parlement, obtain cases? The well-known pleaders, of course, did not search for clients; litigants came to them and were fortunate to engage these very busy legal

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81 This tribunal heard cases concerned largely with disputes over the administration of the sacraments. See Marcel Marion, *Dictionnaire des institutions de la France aux XVIIe et XVIIIe siècles* (Paris, 1923), p. 407.

82 *A.D., B*-registers of *audiences* of *Officialité*; *A.D., 3E*-10875, Testament of Vincens. Vincens may also have been an attorney at the Bureau of Finances. Wizer may have been secretary to the barrister Albaret; see *A.D., E*-12733.

83 *A.D., 3E*-5971, fol. 437; *Almanach historique de la province de Languedoc* (1789), p. 116.

84 *A.D., B*-2-11, registers of *Cour des monnaies*. The Parlement barristers Jean Ozun and Jean Soulatges were assessors. Jamme and Duroux were *opinants*. 
experts. The new or less respected barristers must have employed a variety of methods to gain clients if they were at all interested in doing so, but only the most important methods can be discussed here. The best source of cases was the attorney: litigants first engaged an attorney, who then directed his client to a suitable barrister. For this reason, the president of the Parlement wrote a letter to the Community of Attorneys, requesting its members to “give cases to plead to young barristers because the older ones are too occupied and lack the time to prepare all the affairs they are given.”\(^8^5\) The barrister had to be on good terms with the attorneys and, perhaps, supplicate them for cases. Some barristers, however, strongly conscious of their superior status, bitterly resented this dependence upon their inferiors. The advocate Géliert recorded this resentment in his “Epistle to My Pleading Robe”:

Mais à propos des Procureurs, ma chère
Pour s’illustrer il faut, dit-on, leur plaire.
Aussi voit-on des avocats du jour
De notre état obliant la noblesse,
A ces messieurs faire une indigne cour
Et devant eux plier avec supplées.\(^8^6\)

For Géliert, the idea of humbling himself before an attorney was unthinkable:

Qui moi, que j’aille en lache adulation
Brûler sans honte un encens mercenaire!
Non . . . je sens trop les devoirs de l’honneur.\(^8^7\)

Géliert’s overweening attitude toward attorneys may explain why he never pleaded in the Parlement. A second important method of winning clients was through contact with older, more successful barristers. A young advocate would enter the office of an established pleader and handle the more routine work until ready to establish his own practice. The Parisian barrister Linguet complained about the subordination and dependence in which this placed the newcomer to the bar,\(^8^8\) and some Toulousans may have shared his view. But many successful pleaders must have begun their careers in this manner nonetheless.

Building a large practice required uncommon talent. That law was a profession in which individual ability determined success was considered one of the long-standing glories of the bar. This ideal had

\(^{8^5}\)A.D., E-1190, deliberations of attorneys (session of 30 January 1773).
\(^{8^6}\)Recueil de l’Académie des Jeux Floraux, 1783, p. 4.
\(^{8^7}\)Ibid.
\(^{8^8}\)Nécessité d’une réforme dans l’administration de la justice et dans les loix civiles en France (Amsterdam, 1764), pp. 93-94.
been enunciated in the late seventeenth century by the chancellor d'Aguesseau in an oft-quoted apotheosis of the profession:

Men are esteemed, not for what their fathers did, but for what they do themselves. When a barrister enters his Order, he leaves behind the rank given to him by prejudices that dominate in the world and assumes the rank that reason gives in an order of nature and truth.89

This was not merely a glorified description of the legal profession; at the Toulousan bar it had some basis in reality. Men of humble birth became important barristers entrusted with consequential cases, and in some instances their colleagues made them heads (or batonniers) of the Order.90 Clients seemed to weigh talent more heavily than any personal consideration in selecting a barrister. Even a bishop and a parlementaire allowed the Protestant barrister Lavaysse to handle their cases.91

Good "connections" were insufficient to assure success at the bar. Barristers who were sons or nephews of attorneys had a familial claim upon the clients of their relatives and an initial advantage over others, but such advocates were often professionally obscure. Likewise, the sons of leading pleaders were not able to benefit from their fathers' clients and reputations unless they, too, were professionally competent. The children of Jean Baptiste Jouve, Jean Chipoulet, or Alexandre Jamme were pleaders of moderate or little stature though their fathers had been masters of the bar.92 In this aristocratic society, where achieved status was not the rule, the barristers' profession was probably the most distinguished one to reward personal merit in so unqualified a manner.

The few barristers who did attain professional success had deep knowledge of the law, superior rhetorical skills, quick, penetrating minds, and an authoritative air, all of which gave confidence to their clients. A perfect familiarity with the corpus of French law—a formidably large body of material—was expected of leading advocates. One of them, Jean Desirat, was criticized for having "the instinct rather than the science of law," for he was often unable to cite a text though he could affirm its existence.93 The leading pleaders were old enough to have acquired profound legal knowledge and experience but were not


90 The careers of these barristers will receive more attention in chapter 3.

91 Aguiex, Recueil d'arrêts notables ou Supplément au journal du Palais de Toulouse, 2 vols. (Nîmes, 1782), 2:272; Defos, Mémoire pour Messire de Cassagnaur... (n.p., n.d.), p. 2. In theory, of course, Protestants were not permitted to be barristers; tacit tolerance was practiced in a few cases.

92 Sons of the leading pleaders Gary, Laviguerie, Taverne, and Duroux were successful barristers, however.

93 Benech, De l'enseignement du droit, p. 100.
so old that they had lost the forcefulness of their voices and minds. It was a very significant feature of the profession that younger barristers of talent were able to rise quickly to a place of preeminence. At the very top of the legal profession in 1785, there were seven pleaders in their early or mid-fifties, two in their forties, and four in their thirties. Claude Castor Bragouse was only thirty-nine years old. Pierre Bruno Roucoule attained the height of his profession at the age of thirty-two, and Jean Raymond Marc Bastoulh was only thirty-five years old. Barristers like Giles François Astre, Joseph Etienne Poudaroux, and Bernard Etienne Arbanere had pleaded many times in the Parlement by the time they were thirty years old and were probably on their way to becoming masters of the bar.  

Barristers attained their professional status early and remained at this level for most of their careers. If an advocate did not receive cases while he was young, he was unlikely to do so later in his career, and almost all successful barristers made early appearances at the bar. Jean Baptiste Viguier took his oath in 1758 and first pleaded in January of 1761. From then on, he pleaded regularly, and by 1776 he had attained the pinnacle of the professional pyramid. The career of Pierre Roucoule advanced even more rapidly. He was received as a barrister on 13 January 1777 and first addressed the magistrates of the Chamber of Inquests in April of 1778. After 1784, he was certainly among the top twelve pleaders at the bar. Most remarkable of all was the career of Joseph Marie Duroux. An attorney from 1754 to 1766, he then became a barrister. From the moment that he entered the profession, he was one of the leading pleaders. The early attainment of success explains the professional longevity of the leading barristers. Viguier, Duroux, Gary, and Mascart were able to dominate the bar for the last thirty to forty years of the Old Regime because they had achieved their ascendency at the start of their careers. The tendency of practices to flourish or wither at an early stage was a result of the considerable ability required by legal work, the severe competition for cases, and the conservatism of the clients. Not all barristers had the opportunity to make a reputation, and still fewer had the talent to do so, even when an opportunity presented itself. Then clients, encouraged by their attorneys, continued to bring all their cases to the few select barristers who had proven their ability. The circle of pleading barristers was thereby restricted to the successful few.

94 This might be compared to the dismal picture of young barristers at the bailliage court of Bayeux. See Olwen Hutton, Bayeux in the Late Eighteenth Century (Oxford, 1967), p. 62.
95 A.D., B-registers of audiences of Parlement chambers.
96 A.D., B-1950, fol. 314–16. This is the only example I have found of professional migration from the attorney’s office to the bar, but attorneys did obtain law degrees frequently.
Young advocates who received few or no clients in the first several years of their careers could presume they would never build a solid practice. Many became resigned to this, while others left the profession, living as rentiers or acquiring a civil office. Defection from the bar may have been assuming considerable dimensions by the end of the Old Regime, and at least one successful barrister lamented it. Of twenty-eight advocates received from 1775 to 1780, nine were not inscribed on the tables of the Order in 1789; there were at least twenty young barristers on the table of 1784 who were not on that of 1789. This large-scale professional migration was the clearest—perhaps the only—response which young barristers made to the overcrowded conditions that existed at the bar of the Parlement in the second half of the eighteenth century.

BARRISTERS AND SEIGNEURIAL COURTS

The city walls did not encompass all the tribunals in the immediate region of Toulouse. Outside were the numerous seigneurial courts, whose benches had to be filled by graduates of a law faculty. Theoretically, these courts provided opportunities for the Toulousan barristers, especially the caseless ones, to find honorable employment; in practice, however, the courts did not do so. The judges on seigneurial benches were all "avocats au Parlement," but few were in the Order of Barristers and had practices in Toulouse. Apparently, they had taken their oath at the Parlement but had never intended to practice there. Their function as seigneurial judge was a substitute for a career at the bar, not a supplement to it. The typical seigneurial officer served at several courts at once, since the bench was not particularly lucrative. Jean Desclaux, for example, was judge of Vacquins, Capet, and St. Sauveur, lieutenant judge of Castelnau and St. Jory, and, finally, assessor of Bouloc. Raymond Entraigues was judge of St. Géniès, St. Loup, Pechbonnieur, Montbrun, Labastide, Gaignac, and Mondonville, and lieutenant judge of Fenouillet. Neither practiced law at the bar.

97Jean Joseph Gez, Discours adressé à une société d’avocats au Parlement de Toulouse . . . (n.p., 1783). This interesting speech can be found only in the library of the departmental Archives.
98Of course, death may have removed some of these men from the tables.
99Most aspects of the seigneurial regime are covered in an excellent study by Jean Bastier, "La féodalité au siècle des lumières dans la région de Toulouse," 2 vols. (Doctoral thesis, Faculty of Law of Toulouse, 1970). M. Bastier has been most generous in giving me advice and assistance.
100A.D., B-seigneurial justice records. See also Félix Pasquier and François Galabert, eds., Cahiers paroissiaux des sénéchaussées de Toulouse et de Comminges en 1789 (Toulouse, 1928), and Daniel Ligou, ed., Cahiers de doléances du tiers état du pays et jugere du Rivière-Verdun (Paris, 1961).
101Bastier, Féodalité, 1: 120.
102A.D., B-seigneurial court records for these communities.
of a court in Toulouse itself. Even when barristers were owners (or co-
owners) of seigneurial rights, they did not appoint themselves to the
benches of their courts. The rich barrister Jean Prévost was lord of
Fenouillet, but the seigneurial judge was the _feudiste_ Tremolières.
Jean Raymond Bastoulh, an important pleader at the Parlement and
seigneur of Nogaret, appointed his uncle Raymond to his court.\(^\text{103}\)

The available (and incomplete) evidence suggests that no more than
10 percent of the barristers who practiced at the Parlement were also
seigneurial justices. Interestingly enough, those who took these posi-
tions were not the obscure, caseless advocates at the Parlement; rather,
the younger barristers who were already beginning to have successful
careers at the Sovereign Court were the ones who supplemented their
practices with magisterial service in the countryside. Thus, Jean
Baptiste Mailhe was judge at Rouffiac, Jean Joseph Janole served at
Auzeville, and Jean Boubée presided at Bonrepos.\(^\text{104}\) Each of these was
a promising young pleader at the Parlement in the 1780s. This suggests
that service as seigneurial judge was a practical matter, undertaken by
the younger, more ambitious barristers, often those from relatively
modest backgrounds.\(^\text{105}\) Most of the caseless barristers at the Parlement
apparently had no interest in exploiting this opportunity for legal
employment.

The Seneschal Court barristers, generally men of a more practical
temperament than their colleagues at the Parlement, presided over
seigneurial courts fairly frequently. Half or more of them seem to have
been seigneurial judges. Paul Guion, for example, was judge at
Blagnac; Guillaume Bordes and François Passeron were officers at
Castelnau d'Estrefonds and Fronton respectively. Serving in seigneu-
rial courts placed these barristers in a strategic position to encourage
villagers to appeal cases to the Seneschal Court—where they could
plead the suit as barristers. Some _cahiers_ of 1789 complained of this
practice,\(^\text{106}\) and it is possible that barristers of the Seneschal Court were
guilty of taking advantage of their seigneurial offices in this manner.

If the benches of the seigneurial courts were not a source of
employment for many practicing advocates of Toulouse, neither were
the bars. The seigneurial courts had their own barristers, who were
usually not university graduates. Very often, they were notaries or law
clerks who lived in villages and market towns. The table of barristers

\(^{103}\) A.D., B-seigneurial justice of Fenouillet and Nogaret.

\(^{104}\) A.D., B-seigneurial justice, and L-223, list of deputies of Third Estate Assembly for
these communities. One exception was the important older barrister Joseph Bonaventure
Dutour, judge at Rebigue. Attorneys also served as seigneurial officers.

\(^{105}\) For a good example of this type of young barrister, see Geneviève Thoumas, "La

(or postulans) of Castelnau in 1784, for example, contained six names: three notaries, from St. Jory, Castelnau, and Grenade respectively, a greffier of the Estates of Foix, and two villagers from Castelnau and Boulouc. Like the seigneurial justices, these barristers served at several courts at once. A barrister at the Parlement would never have inscribed himself on the table of a seigneurial court nor pleaded at its bar—not even if he were a party to the dispute. Toulousan barristers had a role in cases before seigneurial courts only occasionally. When seigneurial advocates wanted a sophisticated legal argument or an outside opinion to embellish a case, they could call upon a Toulousan barrister to prepare a brief. But such briefs were rarely a part of litigation before seigneurial tribunals.

Outside the small group of Toulousan pleaders who served as seigneurial officers, the barristers’ main role in the rural courts was an honorific one. Noted barristers at the Parlement and Seneschal Court were consulting judges (opinants) who assisted the regular court officer in rendering a decision. The distinguished pleaders Alexandre Jammes and Louis Doazan appeared in this capacity at the court of Rebigue in 1787, and the leading barristers of the Seneschal Court, Bordes and Martin, were frequently opinants. Thus, the practicing barristers of Toulouse were a repository of advice and expertise for the seigneurial courts on the specific occasions such outside authority was required. By and large, the Toulousan barristers—especially those at the Parlement—were not attached by profession or financial interest to the seigneurial regime.

**Professional Fees**

The barrister could trace his proud history back to a stage in which pleaders did not accept payment from clients. The professional ideal was—and remained—that of the barrister as an economically self-sufficient gentleman who defended clients for the sake of justice, not for gain. While the advocate did not, in theory, solicit remuneration, he was free to accept what the client offered out of gratitude. This was why the client’s payment was an “honorarium” instead of a “fee.” The barrister always endeavored to present a public image of unconcern

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107 A.D., B-seigneurial justice of Castelnau.
108 Barrister Joseph Cluzet was involved in a suit in Fenouillet, but he engaged a seigneurial barrister to handle it. See A.D., B-seigneurial justice of Fenouillet (case of 1783).
109 One such brief was prepared by barrister Marie Joseph Gratian in 1768. He received twenty-one livres for it. See A.D., B-seigneurial justice of Pompijan.
110 Bastier, Féodalité, 1: 145. Among the papers of the seigneurial courts preserved in the archives, there are very few such briefs.
111 Boucher d’Argis, Règles, p. 176.
about pecuniary matters and, at least in part, he was successful. Although the cahiers of 1789 very frequently contained complaints about the high costs of justice, the grievances were usually directed against the attorney, not the barrister, for his exorbitant charges.112

Here we are concerned less with the barristers’ total revenue, the subject of a later chapter, than with the arrangements by which he received individual fees. A few barristers, known as pensionnaires, were retained as permanent counsels, primarily by religious and corporate bodies, and paid on a yearly basis.113 Sometimes, barristers followed the traditional standards and allowed the client to pay what he thought appropriate. This was the method by which one barrister at the Merchants’ Court received his honorarium when he defended the interests of the municipality of Toulouse.114 In general, the barristers set their own charges for each plea, brief, or consultation. They vigorously resisted all attempts by the Parlement to regulate their fees, as it had done to those of the attorneys. This resistance cost them the right to sue clients for nonpayment of fees.115

Since the barristers set their own compensation, it would be useful to know on what basis they did so and what effect this had on the general cost of justice. Did they compete for the none-too-numerous clients by lowering fees? Did well-known barristers charge more than their obscure colleagues? Were the charges adjusted to suit the importance of either the client or the property being defended? Unfortunately, a dearth of documents permits only tentative answers to these questions and no insights at all into other important matters. It seems fairly certain, though, that the fees for the most common professional activity, consulting, were set by custom or convention at about six livres per session. This did not change during the last fifty years of the Old Regime116 (as far as we can tell from existing documents), nor did it seem to vary with the stature of the consultant. The minor Seneschal Court advocate, Resplendy, charged six livres for a consultation,117 as did the most distinguished legal experts at the Parlement for both consultation and arbitration.118 Even the attorneys, notaries, and feudistes expected the same compensation for a consultation.119

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112 Aubin, L’organisation judiciaire, pp. 166–69.
115 Bastard-d’Estang, Parlements de France, I: 95; Astre, Procureurs, pp. 80–83.
116 See A.D., 3E-12731–12736, arbitration papers, 1740–1793. The consultation fee remained constant at six livres per session.
117 A.D., 3E-10854, fol. 219, marriage contract of Jeanne Soulié.
118 A.D., B-sac à procès civil, no. 3, 1780. Six consultations with each of seven leading barristers (Delon, Courdurier, etc.), plus three more sessions with each of three others cost the litigant 306 livres. This was six livres per session.
119 A.D., E-1190, letter of syndic of attorneys, 3 January 1771.
charges for pleas and instructions, however, could vary widely. We have examined the instructions contained in fifty sacs à procès (burlap sacks in which were stored all papers relating to the case), twenty-two of which indicated the compensation demanded by the barrister. The amounts varied from twenty-five to eighty livres. But for what was the client paying? Professional ethics permitted the advocate to increase his fee in proportion to the value of the property he was defending, and barristers undoubtedly did so when they had the opportunity. But for the instructions we have examined, the honorarium varied only with the length of the brief. That is, barristers usually conceived of their fees as compensation for the amount of work done rather than as a payment for property defended.

Evidently, it would have required many instructions or hundreds of consultations to yield a very substantial revenue. But in relation to the general distribution of fortunes and income in eighteenth-century Toulouse, barristers' fees were very high—prohibitively so for much of the population. In 1789 the value of a day's labor was assessed at one livre, a figure which may have been too high. Laborers could not afford even a simple consultation, which would have cost a full week of work. Moreover, the practice of charging in proportion to the length of the brief made legal fees proportionately more expensive for the small property-owners, whose litigation would presumably involve only small sums. Cases that required a plea or instruction and several consultations could easily cost 100 livres or more. It is quite possible that many litigants tried to avoid engaging a barrister whenever possible, since the inevitable fees of the attorney were high enough.

Though already expensive, legal charges seemed to be increasing. A protest from the Community of Attorneys provides indirect evidence of a sizeable rise in barristers' charges. The group was disturbed by the rapid increase in the fees paid to the barristers' secretaries, who customarily received a fifth of the advocates' honorarium. One must suppose, then, that the barristers' compensation was rising proportionately. Moreover, the attorneys complained that secretaries were receiving as much as barristers had thirty years ago. No doubt this claim was exaggerated, but it does suggest a very substantial increase, probably

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129 The charge was written in the margin of the last page of the instruction. It included the fee for copying the document and was called the "solvit."
121 Boucher d'Argis, Règles, pp. 176-89.
123 The cahiers may have criticized the high fees of attorneys much more than barristers because the populace in general had little contact with barristers. Studies of the type of legal counsel accessible to different social groups would be useful to scholars in the field.
124 A.D., E-1881, fol. 223, deliberations of attorneys, 23 March 1754.
enough to keep pace with the general inflationary trend of the period. In 1772, the Parlement granted attorneys a new schedule of fees that was about 25 percent above the one in effect since 1754. Surely, the barristers raised their fees for pleas and instructions by at least this much. These higher charges by both barristers and attorneys set the stage for the ubiquitous complaints about legal costs that filled the cahiers of 1789.

But not all barristers were able to raise their fees with equal facility. As we have seen, consultation fees seemed to have been almost invariable. This meant that the older consulting barristers, who had retired from pleading, and the less important barristers, whose practices consisted largely of consultations, were not beneficiaries of the general rise in legal costs. Only those who pleaded and instructed regularly could increase the compensation for their services. But receiving fees was only one aspect of a profession that was, for most of its practitioners, much more than a livelihood.

**Function and Profession**

The extent to which Toulousan barristers exercised their traditional professional functions varied enormously, especially at the Parlement. A few pleaded very frequently and must have worked incredibly hard to prepare the cases they argued. Many others practiced little or not at all. What did being a barrister mean to those 215 Toulousans who wrote “avocat au Parlement” after their names from the day they took their oath to the end of their lives? It seems that the barristers’ professional self-conception was much more general than present-day vocational identifications. For them, being a barrister was as much a social status as a career, a way of life more than a function. Their profession—or “state” (état) as they often referred to it in family documents—determined where they would live, with whom they would associate, and how others would regard them. The uniting factor among barristers was not a common type of work but rather a participation in the honor of the profession.

The barristers took great pride in their “state.” They gloried in the fact that nobles could and did become barristers, and the claim was often made that being a barrister conferred a sort of personal nobility. The barristers of the Parlement experienced a special pride in being associated with that august court and with its magistrates, the most prominent men in Toulouse. Their sense of identify with the Parlement was very strong; as the barrister Courdurier proclaimed in

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125 A.D., B-1729, fol. 491-498; B-1605, fol. 109-119.
126 Boucher d'Argis, Règles, pp. 190-93.
1775, "The glory of the magistrates belongs to us in a way. Our honor is bound to yours."\textsuperscript{127}

Residential patterns and habits of social interaction reinforced this identification with the court and with the profession as a way of life. Virtually all barristers of the Parlement, titular or practicing, lived in the parishes of Dalbade or Saint-Etienne (the quarters or \textit{capitoulats} of Saint-Etienne, Dalbade, La Pierre, Saint-Barthélemy).\textsuperscript{128} No less than eighteen of them lived along the extended street called, at various points, Rue des Coutelliers, du Temple, de l'Inquisition, Sainte-Claire, and de la Dalbade (see figure I-1). Ten lived in the Petite Rue Montgaillard. The other personnel of the courts lived here, too—magistrates, attorneys, \textit{hussiers}, \textit{greffiers}, clerks of all kinds, and even law students. On the Rue Nazareth, in 1789, there were twelve barristers, seven magistrates of the Parlement, and three attorneys. Vieux-Raisin had five magistrates, five advocates, and two attorneys, and Rue Verlane was similar. The functionaries of the same court—from the highest to the lowest—were also fellow-parishioners and neighbors. To be sure, living so near the court was convenient for the pleaders, who had to arrive at an early hour, but non-practicing barristers lived in the area too. It seems clear that residence in this section was a way of identifying with the professional group—a part of its definition.

The spirit of the Parlement totally permeated this section of the city and wove it into a community—not of equals, certainly, but of people with shared interests, loyalties, and outlooks. What transpired at the court was, of course, of central interest to the entire community. In this sense the Parlement was more than a tribunal; it was a total environment that offered the barristers a place in the community, the city, and the world.

The young barrister entered this community not only by moving to the environs of the \textit{Palais de Justice} but also through a process of acculturation. This process began at the Law Faculty and intensified, after he began his practice in Toulouse. Through lectures and instruction offered by experienced colleagues, the new barrister learned jurisprudence and a veneration for Roman law as the embodiment of "reason." At the same time, he was inculcated with professional standards and outlooks. Constant contact with colleagues and other court personnel reinforced these lessons.

The professional functions that barristers performed composed only one dimension of their professional self-conception, albeit an important one. These activities were part of the barristers' total social role and

\textsuperscript{127}\textit{Journal de ce qui s'est passé à l'occasion du rétablissement du Parlement de Toulouse dans ses fonctions} (n.p., n.d.), p. 8.

\textsuperscript{128}The streets of residents were listed in the \textit{Almanach historique de la province de Languedoc} (Toulouse, 1789).
FIGURE I-1. Residences of Toulousan Barristers (1789).
were subject to the standards and values shaping that role. Consistent with this was the opinion, expressed by Gélibert, that actively seeking cases from an attorney was "mercenary" and dishonorable. Better not to plead than to do so at the cost of independence and professional pride. And, certainly, a busy barrister at the Parlement felt a greater sense of affinity with a caseless colleague at the Sovereign Court than with an equally busy advocate at a minor court.

Pleading, instructing, and consulting were more than "work"; they were part of the barristers' social role. Like the magistrates, who were not economically dependent on their offices but, nonetheless, were tied to these charges by pride and identity, so the barristers received dignity and meaning from their functions. Hence, the very wealthy and prominent barrister Savy de Brassalières, possessing a fortune of perhaps 180,000 livres,129 defended the interests of a small shopkeeper against the claims of the merchant's brother for a share in the shop.130 Surely, he received only a pittance for this defense, but it allowed him to fulfill his honorable social role. For the same reason, the rich and ennobled advocate Pierre Arexi pleaded for a greffier of the Seneschal Court at Béziers.131 These so-called petites-affaires were the typical ones, and all important barristers argued them, not just for financial reasons, but as part of their social function.

It is clear that this solidarity and this consensus on professional values did not persist undiminished during the entire eighteenth century. The economic, demographic, and social forces which expanded the bar also forced the legal community to assimilate men at an unprecedented rate. As we shall see, too, the Enlightenment and changing attitudes opened the legal world more than ever before to outside influence and interests. The fact that barristers no longer pursued their legal studies through to the doctorate, as they had done in the seventeenth century,132 may have denoted a weakening of that intense identification with the law and with the legal community. But just as dramatic as the changes was the persistence of these solidarities and sources of collective identification. Individuals became, often unconsciously, less submerged in the framework of values and loyalties imposed by the profession, but the legal community itself endured. And despite the rapid influx of new men, the bar was able, if not to employ them all, at least to impose its standards and expectations upon them.

129A.M., CC-1008, capitation roll of Dalbade, 1788. Savy paid the very high head-tax of ninety livres.

130Instruction contenante réponse pour le sieur Antoine Talansier, marchand de Maruejoles . . . (Toulouse, n.d.), in B.M.T.

131Mémoire pour M° Brèz . . . contre les maires, lieutenant de maire . . . (n.p., n.d.), in B.M.T.