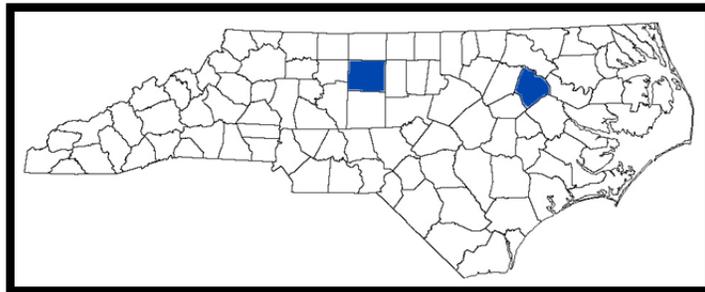


**A Distant Mirror:
How 19th Century Lawyers from
Guilford and Edgecombe Counties Are Models for
the Next Generation of Lawyers and Firms
Worldwide**

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Ed Winslow



Writers about the future of the legal profession seem persuaded that we are about to be replaced by machines. They are asking what lawyers and law firms can do in the future that machines cannot.

Jordan Furlong:

We're at least 10 years away, probably more, from machines that can completely replace lawyers. But we're already in the era when machines can displace lawyers — take on some aspects of their work, some percentage of their tasks, bump them aside, jostle into their seats, force them to go do something else. And that percentage is going to grow. I can't tell you at what rate, or how quickly. It will be different for different markets and different types of work.

Jordan Furlong, "The Walls Came Down," <http://www.law21.ca/2012/10/and-the-walls-came-down/> (October 17, 2012). Also see, "The Evolution of the Legal Services Market," <http://documents.jdsupra.com/7939755d-9ca8-409c-8424-ad49a29505ce.pdf> (November, 2012).

Richard Susskind:

If we can see the day when the average desktop computer has more processing power than all of humanity put together, it might be time for lawyers to rethink the way they draft documents. It just cannot be that the Internet is transforming all corners of society and the economy, and yet it doesn't apply to lawyers.

Richard Susskind quoted at <http://www.legalfutures.co.uk/latest-news/more-less-liberalisation-technology-susskind-lays-vision-future>" (July 2, 2012).

Bruce MacEwen:

[This] series addresses the implications for law firms' strategies in the wake of the great financial reset of 2008 and its continuing repercussions including:

- (a) relentless pricing pressures;
- (b) excess capacity;
- (c) unrealistic partner expectations; and
- (d) the accelerating entry of new "legal service provider" organizations,

with all their implications for career paths, the traditional leveraged staffing model of law firms, and much more.

Bruce MacEwen, *Growth is Dead: Now What? Law Firms on the Brink*, <http://www.adamsmithesq.com/2012/12/growth-is-dead-now-an-e-book/> (December 16, 2012).

Jordan Furlong:

I can see only two likely scenarios for law firms ...

1. The full-service law firm partnership will collapse. There will be insufficient reason for a broad array of lawyers to band together in a partnership when that model provides them with very few business benefits. ... The large, "full-service," multi-jurisdictional law partnership will shudder and start to break apart; small, local, intensely interlocked practice groups will peel off and become the new basic unit of private legal enterprise. ...

2. The law firm partner will lose his or her position as the driver of internal legal business. As apocalyptic as that first option above might sound, this would be the truly revolutionary outcome. ...

Jordan Furlong, “The Lawyer vs. the Law Firm,” <http://www.law21.ca/2012/12/the-lawyer-vs-the-law-firm/> (December 19, 2013).

Sounds like we may have about ten years to go.

Contrary to what the SEC teaches, the past may be the best guide to the future (what else do we have?)

The writers quoted above are looking to the future and asking what lawyers can do that technology cannot replace. But, looking to the past stimulates almost the same discussion.

What are the core roles and functions of lawyers in any times?

Guilford and Edgecombe Counties were exceptional places during the period from just before the Civil War extending to the end of the 19th Century. Both had claims to statewide, regional and even national significance. In some ways the two counties were strikingly similar; in others the contrasts are dramatic. And, almost without exception, the leaders in both counties were a generation of exceptional lawyers.

The models of those lawyers and their milieux provide a provocative frame for lawyers today, especially for those of us who are asking what we will be doing ten years from now.

19th Century: The Rise of the Lawyer

The second half of the 19th Century was marked in North Carolina by upheaval, volatility and change. During that time, a new generation of lawyers matured. They were shaped by their times; they developed distinctive attributes; and, to a remarkable degree, they assumed leading roles in North Carolina society. Tarboro African American lawyer and Congressman, George Henry White, said, “The lawyers in every community are the leading lights”

Looking ahead, the 21st Century looks likely to be marked by its own volatility and changes – those cited by Susskind, Furlong and MacEwen not least among them. And, the models of Guilford’s and Edgecombe’s lawyer-leaders a century and a half ago hold lessons both for lawyers (what core skills to develop) and for law firms (what management strategies to pursue).

Guilford County – The Context

Diverse. Guilford County was settled in the mid-18th Century by three distinct groups, English Quakers, Scots Irish Presbyterians, and German Lutherans. Later, a robust community of English Methodists arrived. These were separate and somewhat competitive groups. The population of African slaves was relatively small. Until the mid-19th Century, Guilford was a place of small, subsistence farms. Commerce was fettered by the lack of transportation.

Intent on commerce. Before the Civil War, Guilford was characterized by diverse communities and competing ideas. It was not conspicuously wealthy and its leaders were focused on building the base for a commercial economy. This in turn focused them on support for education, internal improvements, public welfare and transportation. They favored using the resources of the

government to build the infrastructure needed for trade (roads, railroads). Consistently with this, Guilford favored the federal union and opposed war.

It became an early center in the South for manufacturing, insurance and railroads. It was the location of the oldest “steam powered” cotton mill in the South. The Greensboro Mutual Life and Trust Company, North Carolina’s third insurance company, issued its own currency which bore the image of Greensboro lawyer Ralph Gorrell. Famously, Greensboro’s leaders (in turn led by lawyer and governor John Motley Morehead), pressed for (and invested in) the organization and state funding of the North Carolina Railroad and the location of the railroad’s principal junction at Greensboro. This secured Greensboro’s emergence as a business and commercial center.

Slavery. Led by Quakers and Wesleyan Methodists, Guilford County was a place in which slavery was debated vigorously and actively opposed by many. It was the headquarters of the North Carolina Manumission Society which chartered ships in 1826 and sent hundreds of freed slaves to Liberia and Haiti. It was the home of ardent abolitionists and a key junction on the Underground Railroad. Quakers in particular freed their own slaves and purchased others in order to set them free. They aided escaped slaves. Wesleyan Methodists spoke out publicly, often stridently, against slavery. Slavery-related controversies frequently found their way into the Guilford County Superior Court, contesting the status of slaves, inherited slaves, freed slaves, escaped slaves and North Carolina’s laws which prohibited distributing writings that criticized slavery. While Quakers and Wesleyans are most identified with active opposition to slavery, many in the other groups supported them, or in any event did not defend slavery.

War. Guilford opposed the Civil War until hostilities broke out. Guilford Congressman and lawyer John Gilmer was among the leading Southern proponents of preserving the union. Largely in recognition of this, President Lincoln invited him to join his first cabinet, although Gilmer declined as war approached. Even as it supported the war effort, Guilford County was a center for objectors. A delegation of Quakers from Guilford County successfully lobbied Jefferson Davis and the Confederate Congress for a statute that exempted members of “peace churches” from military service. As the war progressed the County became something of a haven for others who refused to fight: draft dodgers, deserters from the Confederate Army, deserters from the Union Army and escaped prisoners.

After the war. After Reconstruction, Greensboro came to be a notably vibrant and wealthy community with a prominent voice in State affairs. During the period extending to the 20th Century, it was diverse, contentious, and bustling and a strong center for the newly formed North Carolina Republican Party. Before and after the war, Greensboro’s lawyers were its most prominent social, political and business leaders. After the war, a noteworthy group of lawyers moved to Greensboro from the North, and so were labeled at the time as “carpetbaggers.” Still more came from other parts of North Carolina and the South.

First woman lawyer. The South’s first woman lawyer, Tabitha Holton, read law in Greensboro and was admitted to practice in 1878, following an application proceeding in which the general proposition of licensing women to practice law was contested. Edgecombe County native and Dean of the UNC law school, William Horn Battle, asserted that “no Southern lady should be permitted to sully her sweetness by breathing the pestiferous air of the courtroom;” while the *Greensboro Patriot* trumpeted, “Blast the prejudice that puts women down as only fit to be men’s playthings!”

Edgecombe County – The Context

Polarized racially. In contrast with Guilford, Edgecombe County was a wealthy agricultural county. Its wealth was founded on cotton, which depended heavily on slave labor and was raised most profitably on large farms. Edgecombe benefited from relatively better transportation than Guilford

(by river and with its proximity to Virginia and coastal areas). After 1850, its population was divided between a large African majority (slaves constituted between 60% and 70% of the population) and a principally English and Scots-Irish minority.

Agriculture and commerce. Although agriculture dominated, Edgecombe County was also focused on commerce. The second-oldest cotton mill (it was operated with slave labor) in the State was located at the falls of the Tar River. Ultimately, it became the oldest cotton mill in the South and was a key resource of the Confederacy. Investors from Tarboro and Edgecombe County were also credited with key leadership in building North Carolina's first significant railroad, the Wilmington and Weldon. The Wilmington and Weldon Railroad Company was a project of Wilmington (then the largest town in the state) investors, but threatened to fail when investors from Raleigh did not materialize. It was rescued when the planned line was relocated to run through Edgecombe County (with a branch to Tarboro) and to terminate at Weldon and the Roanoke River, instead of Raleigh. This attracted investors from Edgecombe. Following the Civil War, an Edgecombe County lawyer became president of the railroad and executed the series of mergers that created the Atlantic Coastline Railroad (now CSX).

Slavery. Edgecombe County was one of five counties in the State with more than 10,000 slaves (although fewer than 10% of families owned slaves). As the war approached, Edgecombe was “[o]ne of the strongest centers of Confederate sentiment in the South.” Where Guilford was opposed, the voters of Edgecombe County were “unanimous for secession.” (A key vote was recorded at 1588 to 17 in favor of a secession convention.)

War. In North Carolina's secession convention, Guilford lawyer John Gilmer was a leading advocate for the union. Edgecombe's Judge George Howard was chairman of the convention and voted to secede. When Lincoln called for troops though, Gilmer famously said to Howard, “We are all one now.”

Edgecombe lawyer Robert R. Bridgers, a leading proponent of secession, was selected to represent North Carolina at the Confederacy's constitutional convention and later served in its Congress. Jefferson Davis invited him to become Secretary of the Treasury but Bridgers declined, reflecting differences between himself and Davis over fiscal strategies. Out of a white population of approximately 7,000, 1400 Edgecombe men served in the Confederate army. The first Southern soldier to die in the war was Henry L. Wyatt from Tarboro. Tarboro lawyer Col. John L. Bridgers commanded Ft. Macon; and Edgecombe contributed three general officers to the Southern army, including William Dorsey Pender, the South's youngest major general (promoted on the battlefield by Jefferson Davis), who was fatally wounded at Gettysburg and of whom Robert E. Lee later said, “I ought not to have fought the battle of Gettysburg; it was a mistake. But the stakes were so great I was compelled to play; ... and we would have succeeded had Pender lived.”

After the war. Following the war, Edgecombe was prostrate. Sherman's army had gone out of its way to pass through it, burning the cotton mills and destroying the railroad. The pre-war cotton economy and much of the wealth of the county was decimated by the emancipation of the slaves. Edgecombe and its neighboring counties became a region the majority of whose voters were freed slaves. Until the North Carolina Constitution was amended in 1901 to disenfranchise blacks, Edgecombe and the Second Congressional District of which it was a part witnessed a robust political culture in which Republicans, black and white, were the majority; a short-lived populist party emerged; and the traditional white leadership of the county coalesced in the Democrat Party. The Democrats became focused on resisting “Negro Domination” and establishing White Supremacy.

First black lawyers. During this post-war period, the first African American lawyers were licensed. James O'Hara of Enfield (just across the Edgecombe County line in Halifax County) was North Carolina's first black lawyer. George Henry White who located in Tarboro was licensed in 1879 as the eighth. Elected to Congress in 1896, he was the most prominent black political leader of his day at the national level.

Guilford's and Edgecombe's Lawyers

Those times forged lawyers with the ability to navigate social differences, conflict and change. Indeed, the lawyers were the ones who led their communities in identifying, learning and implementing new ways, new social systems, new technologies and a new economy.

The Guilford County Bar in the 19th Century

Guilford County was a place of lawyers from its beginnings. It was created at all so there could be a courthouse between Hillsborough and Salisbury.

Models

The earlier-generation models for the Guilford's mid-19th-century lawyers, included Archibald Murphey, John Motley Morehead, and George C. Mendenhall. (Their mentors in turn had been Presbyterian minister David Caldwell and Quaker elders such as Nathan Hunt, all of whom had emphasized the overriding importance of education in the communities they led.)

Archibald Murphey

Lawyer, legislator and judge, Archibald Murphey was "the genius, leader, and mouthpiece of the progressive reform movement in North Carolina." "[A]n intelligent, well-educated, public-spirited lawyer," he rejected "the prevalent philosophy that government is a necessary evil" believing instead that "a democratic government is the servant of the people and their most effective agency for self-development." He is identified with Hillsborough but also lived in Greensboro and trained a number of the next generation's lawyers and leaders who read law in his offices and then practiced in Guilford and other counties. (After a career of service to the state as legislator and judge, Murphey found himself imprisoned in Greensboro for non-payment of his debts. When the door to his cell was left open to allow light and ventilation for the humiliated old man, Judge Murphey advised the sheriff that he should lock the door shut in order that the sheriff might avoid exposure to possible liability.)

John Motley Morehead

John Motley Morehead, the "Father of Modern North Carolina," was a lawyer (he read law with Murphey), legislator, governor, merchant, textiles manufacturer, railroad builder, planter and real estate developer. As governor and afterwards, Morehead championed government investment in internal improvements, public welfare projects and education. He moved from Rockingham County to Greensboro where he, his brother and nephew (both, named James T. Morehead) practiced law and conducted their enterprises.

George C. Mendenhall

George C. Mendenhall was a member of a leading Quaker family; his brother was president of the North Carolina Manumission Society. Mendenhall himself, a lawyer and perhaps the largest land

owner in Guilford County, married “outside the meeting,” and became the largest slave owner in the county. He trained his slaves in separate skills and contracted them out in teams for farming, construction, and other projects, including the services of a chef and serving attendants, whom the Governor retained when the President of the United States visited North Carolina. Although “read out of the meeting,” Mendenhall remained committed to Quaker principles. As a lawyer, he defended abolitionists and litigated slavery issues. In his will, he provided for his slaves to be freed and after his death his second (Quaker) wife famously escorted the newly freed slaves by train to Indiana, even as his stepson initiated litigation to stop her, contesting the will. Mendenhall operated Telmont, an early law school in Jamestown, in which a number of later leaders read law.

To Murphey, Morehead and Mendenhall’s names, should be added those of John A. Gilmer, Ralph Gorrell, John M. Dick and still others.

The Guilford Bar in the Second Half of the 19th Century

The generation of lawyers who followed Murphey, Morehead and Mendenhall was larger and also exceptional. For the most part, they entered upon the practice in the 1850’s and practiced into the 1890’s. This generation included Robert P. Dick, John A. Gilmer, Jr., James T. Morehead, Jr., D. Frank Caldwell, William L. Scott, Levi Scott, Robert M. Douglas, James R. McLean, Cyrus P. Mendenhall, Thomas Settle and John H. Dillard. North Carolina governor Jonathan Worth, who was raised in Guilford County but practiced law in Randolph County, might be added to this group. After the Civil War, these lawyers were joined by Albion Tourgée, Thomas Keogh, Junius Scales, John Staples, William Ball and others.

In a joint project of the Greensboro Bar Association, the Greensboro Historical Museum and Elon Law School, Elon Law students have written biographical sketches of a number of these lawyers and they are published at the Greensboro Historical Museum’s website.

<http://www.greensborohistory.org/index.php/for-researchers/-greensboro-history/local-attorneys>

Even the quickest review of the careers of these lawyers shows that they did much more than practice law. They were judges and appellate judges; state and federal legislators and military leaders; advocates on all sides of social issues including slavery and racial justice, union and secession, war, government support for internal improvements. After the war, some Greensboro lawyers participated in founding and became leaders in the North Carolina Republican Party, others became leaders of the Democrats, and they led their parties in bitter partisan fights.

These lawyers were also business leaders. Virtually every Guilford lawyer was in some measure a land owner and farmer; and, remarkably, they were principal owners, investors and leaders in ventures that included

- railroads
- insurance companies
- banks & savings and loan associations
- textiles manufacturing
- wooden handle and spoke manufacturing
- gun factories
- real estate development
- horticultural nurseries
- coal, copper, gold and salt mining
- petroleum

- boat lines
- newspapers
- hotels.

A closer look at two Guilford lawyers in particular gives a sense of the roles and characters of lawyers generally in that time.

Cyrus Mendenhall

Cyrus Mendenhall was born to a Guilford County Quaker family, he graduated from Haverford College and he read law with his uncle, George C. Mendenhall. Like his uncle, Cyrus married “outside the meeting” and was disowned, but he remained aligned with the Quaker community, among whom his brother Nereus Mendenhall was a prominent leader and president of what later became Guilford College.

Early in his career, Cyrus helped in the defense of abolitionists, and he represented his uncle’s estate upholding the emancipation of George Mendenhall’s slaves. Throughout his career, Cyrus participated in and at times led bar projects, such as mediating an inquiry into claims against Albion Tourgée.

Although apparently not active at the state or national levels of government, Mendenhall served for two terms as Mayor of Greensboro, during which he rented and furnished a mayor’s office for the first time (located in the “Mendenhall Building”); he established the Mayor’s Court, over which he presided every morning at 9:00 A.M; he oversaw the establishment of North Carolina’s first graded school, the construction of “a vast amount” of street improvements and measures for sanitation and health, and he led in the creation of a City market and in providing for free vaccinations. His first-term activism (and the unprecedented taxes) stirred “reactionary” opposition, but he was re-elected in an animated contest whose outcome prompted “a first class bust, the liquor having been turned loose, free gratis for nothing.” The bust was joined in both by those who were celebrating the victory and those drowning their sorrows. Unity was achieved, although perhaps at a price. In the next year (1877), the citizens voted to make Greensboro a dry city.

Mendenhall’s business activities are striking. He was the Treasurer of the North Carolina Railroad Company. He invested in land, mines and factories. At different times he was an owner and leader in a commercial nursery, a fire insurance company, a life insurance company, real estate investments (including an office building in Greensboro and broader development projects in Baltimore), a gun factory, a petroleum and mining company, and a cotton brokerage with offices in North Carolina and New York. He owned and operated a bank which stayed open throughout the war (lending money to the State of North Carolina), then he liquidated the bank after the war in order to generate capital to invest in more lucrative Baltimore real estate.

As early as 1857, lawyer William Scott’s father observed that “Siras [sic] has rose up here and got rich.”

Albion Tourgée

Albion Tourgée moved to Greensboro from Ohio after the war. There is a debate about whether he deserves the label he received in North Carolina as a “carpetbagger.” He brought with him and invested (and lost) his own capital in Greensboro; and, while there are debates about his fierce political partisanship, he did not abuse public offices or commit financial fraud. He is now ranked as one of the most remarkable Americans of the 19th Century.

Tourgée was indeed a remarkable and talented man. He was perhaps unique for his time – truly radical – in his vision of race relations, because he saw no basis – personal, social or legal – for distinctions between the races. Famously, he coined the phrase “color-blind justice” used in his brief to the Supreme Court in *Plessy vs. Ferguson*. Consistently, he battled in post-Reconstruction North Carolina for racial equality and social justice. In Greensboro, he entertained black citizens in his home and he and his wife adopted two African-American daughters for what appear to have been entirely personal and not in any way public or political reasons.

Tourgée was a businessman and investor, albeit an unsuccessful one. Upon arriving in Greensboro, he leased a commercial nursery from Cyrus Mendenhall. It failed. Later, he opened a handle and spoke factory, hoping to provide employment for freed slaves. It also failed. He was however, an able lawyer, Republican politician and judge. He is credited as a principal author of North Carolina’s Constitution of 1868 and he wrote a *Digest of Cited Cases* which was widely respected. Notably also, he instructed and then represented Tabitha Holton in her bid to become the South’s first woman lawyer. And, Tourgée was one of the most successful novelists in 19th Century America, having written *A Fool’s Errand*, which is loosely based on his experiences in Greensboro, and other books after that.

Tourgée was despised by his political opponents. In the extremely partisan election campaign for his seat on the superior court bench, one newspaper characterized him as “a shallow-brained revengeful yankee.” Another opined that he was “the meanest looking man it has ever been our misfortune to meet.” Not content with that general observation, it went on to say

The pirate; the cutthroat; the despicable, mean, cowardly, crawling, sneaking villain have been portrayed by nature ... in every lineament of his countenance. The mark of infamy is stamped indelibly on his brow in the shape of a large protuberance that strikes the beholder with ineffable disgust.

Still others saw in Tourgée “a cannibal, a gorilla, the wandering Jew, a Ku Klux or Anti-Christ” and charged (falsely) that he had served time in a penitentiary.

Tourgée’s opponents did not desist in their opposition after the election. Two or more plots to assassinate him were hatched – one of which contemplated an attack as he presided in his Guilford County courtroom over criminal proceedings against members of the KKK.

Yet, even Tourgée’s opponents credited him as able, fair and impartial:

As a judge, Tourgée was a bitter political partisan, seeking at all times the larger financial rewards and opportunities of a place in Congress and converting the bench into a stump. But with respect to causes that had no political implications, he became one of the best judges of the carpet-bag regime. He was utterly careless in attendance upon courts and won the enmity of the white people who doubt his honesty, but of his personal courage he excited admiration. In the public matters he was not so much immoral as unmoral, his private life was above reproach.

Although ostracized in Greensboro society and continuously at odds with his Democrat rivals at the bar, Tourgée was included in social interactions and remained on congenial personal, business and professional terms with Democrat as well as Republican lawyers. He regularly attended and spoke at Confederate Memorials and gave a noted address honoring former governor William Graham.

Ultimately, Tourgée and his wife left Greensboro and North Carolina having received continued threats to their safety, although Tourgée expressed his personal regrets about leaving the local legal community. A North Carolina biographer used Tourgée’s own words from *A Fool’s Errand* as a parting comment on Tourgée himself: “He was a good man according to my notion, and an earnest one; but – somehow it seemed as if his ideas wasn’t kalkilated for this meridian.”

The Edgecombe County Bar in the 19th Century

The Edgecombe County bar was not nearly as large as Guilford’s, but it boasted exceptional lawyers as well, with interesting parallels to Guilford’s.

In particular, Robert R. Bridgers, George Howard, Joseph B. Cheshire (not discussed below) and George Henry White merit attention.

Model

William Horn Battle might be claimed as an early model for the succeeding generation of Edgecombe County lawyers. Although he did not practice law for long if at all in Edgecombe County, Battle was an Edgecombe native. He was born and raised in Battleboro. (It was in Edgecombe County then.) During his career, he was a lawyer, a legislator, a judge and a Supreme Court justice; and at different times he also operated his family’s cotton mill in Edgecombe County and was president of the Raleigh National Bank. For a time he operated a law school in Chapel Hill, and then he was called to be Professor of Law at the University of North Carolina and to establish its law school.

In 1923, Frank Spruill wrote that “in 1845, without library or equipment, other than his own well-stocked mind, in one little room sixteen by eighteen feet, furnished with half a dozen split bottom chairs, William Horn Battle began the work which today finds its fruition in this great [UNC] school of law.” Recognized as a distinguished legal scholar, Battle twice codified the North Carolina general statutes.

Battle was conservative at his core. He opposed adoption of New York code pleading in North Carolina (he favored the common law forms); and he also opposed admitting Guilford’s Tabitha Holton to the practice of law (or, in any event, opposed exposing sweet Southern women to the pestiferous air of North Carolina courtrooms).

The Edgecombe Bar in the Second Half of the 19th Century

Edgecombe’s mid- and late-century lawyers parallel those in Guilford in many respects.

Robert R. Bridgers

Robert R. Bridgers was born near what is now Old Sparta in Edgecombe County. He graduated from the University of North Carolina and began his law practice in Tarboro in 1841. He was elected to the legislature in 1844, becoming the youngest member of that body. In subsequent years, he refused appointments to the bench and as Attorney General. Not only a lawyer and politician, Bridgers was a successful cotton farmer. He was a member of a group of Edgecombe farmers who sought to employ scientific farming practices, formed an agricultural society and published a journal about their practices. In one year before the Civil War, Bridgers raised the largest single crop of cotton in the history of the State. During this period, he also served as a director and then as president of the

Tarboro Branch of the Bank of North Carolina and later was a director of the Tarboro-based Pamlico Insurance and Banking Company.

Bridgers served in the General Assembly in the years leading to the Civil War and emerged as a leading proponent of secession. He was appointed as one of North Carolina's representatives to the Confederate Congress and served in that body throughout the war. He differed with Jefferson Davis on economic policy, arguing that the Confederacy should emphasize raising and selling cotton as a means of building gold reserves for foreign trade, rather than seeking to develop resources internally. As Davis's policy foundered, he asked Bridgers to become Secretary of the Confederate Treasury, but Bridgers declined.

Before the war, Bridgers had been among those who advocated for and invested in re-routing the Wilmington & Weldon Railroad and the construction of the Tarboro branch, and he was a member of the company's board of directors. In 1865, he became president of the company. In that role, Bridgers moved to Wilmington and oversaw the construction and expansion program that resulted in the creation of the Atlantic Coast Line Railroad, becoming in the process a national leader in the railroad industry. Bridgers is among those who played the most important roles in the economic development of eastern North Carolina after the Civil War.

George Howard, Jr.

Tarboro's George Howard, Jr. became at age fourteen editor of the *Tarboro Free Press* owned by his father. He later renamed it the *Tarboro Southerner*. From an early point, Howard's editorials, written in support of the Southern point of view, attracted attention and ultimately were reprinted throughout the South and in the North. In 1850, having studied at the University of North Carolina under William Horn Battle, Howard entered upon the practice of law and in due course became a prominent attorney, a legislator and a widely respected superior court judge. He was also a leading Democrat "both by heredity and conviction," before and after the war.

Although he personally opposed secession, Howard supported the South and its system. He was elected to North Carolina's secession convention (1861), voted for secession, and oversaw war preparations war in a legislative capacity.

After the war, as a delegate to North Carolina's Reconstruction Constitutional Convention of 1865, Howard steadfastly refused to vote to void North Carolina's pre-war Ordinance of Secession (such a vote was mandated by the federal government as a condition of restoring the citizenship of former Confederates). Howard had voted in favor of the ordinance at the Secession Convention, acting then on the view that the people of the State had the right to withdraw from the union should they choose. After the war, he felt that to repudiate the original ordinance would disrespect the people of his region, even as "amid the wreck of their prosperity and the desolation of their homes they stand ready to bury the past and to devote their energies to rebuilding the waste places and to developing the new civilization by which they are surrounded." Although unwilling to renounce the ordinance, Howard was quite willing to repeal it and to ratify the re-establishment of the union. Risking personal reprisals and denial of citizenship, he voted with a small minority of like-minded others against the Reconstruction resolution as it was worded.

Howard was a large land owner, publisher of the *Tarboro Southerner*, president of the Pamlico Banking & Insurance Company, president of the Tarboro Land & Trust Company, a director of the Tarboro Cotton Mills and Fountain Cotton Mills, and a director of the Wilmington and Weldon Railroad Company.

After the war, he supported, but did not play a leading role, in the White Supremacy movement. It was said of him that although he was

in all things true to the honor of the South and Democracy, he yet believed in burying the past, and promptly adjusted our laws to the civilization of freedom, and without hesitancy sustained all measures necessary to the adjustment of the law to the new conditions resulting from the war and the abolition of slavery.

In the North Carolina Senate, he introduced the Reconstruction era bill that permitted Negroes to testify in the courts. Of race relations, he said,

The Negroes are bound to us by so many ties and have been led, or forced into their present position, so little of their own choice, I do pray for their deliverance from destruction or further degradation and hope that enough good strong men may be found to protect them. ... The problem is an awful one with so many tendencies to the degradation of both races, yet I feel hopeful that our Christian civilization will be able to master it.

Although manifestly a deeply conservative, traditional Southern lawyer, Howard was consistently characterized by his contemporaries as principled, tolerant and open-minded. Unlike Battle, he favored adoption of New York Code pleading; he maintained good relations with prominent post-war Republicans (William B. Rodman of Washington); and he joined with his friend Henry Groves Connor in regretting the excesses of their fellow White Supremacists.

George Henry White

If Bridgers and Howard were distinguished and broadly representative Edgecombe County lawyers, Congressman George Henry White was the most extraordinary one. Among North Carolina's first African American lawyers, White was born to free and relatively prosperous parents in Duplin County. He got a good early education, then was schooled at a celebrated academy for African Americans in Lumberton and thereafter put himself through Howard University, where he received a teacher's certificate.

He returned from Washington to locate in New Bern in 1877. New Bern at that time was the second largest city in North Carolina, with a black majority and the largest black population in the state. It has been characterized as an enigma to the rest of the South: progressive, egalitarian and generous. White became a teacher there and soon was principal of, first, the black public school, and then both the public school and a black Presbyterian one. He was a leader in the Presbyterian Church.

After establishing himself in New Bern, White read law with New Bern lawyer William John Clarke. Clarke was an associate of Governor Holden, had been Comptroller of the State, was a hero of the Mexican War and a Confederate army officer and, after the war, became a Republican Judge. White established himself in short order as a successful lawyer with a reputation for civil litigation and for conveyancing. He was elected to the North Carolina House and then the Senate from Craven County. Then he became Solicitor for North Carolina's Second Judicial District, which at the time comprised ten counties, stretching from Craven County north and west through Edgecombe to Halifax, Warren and Northampton Counties. That district, known as "the Black Second" was composed of majority-black counties.

White served as Solicitor for eight years. He established a residence in Tarboro in 1887 following his marriage to a Tarboro resident and made it his sole residence in 1893, spurred by redistricting legislation which had removed Craven County from the Second District. Following his service as

Solicitor and an interim period during which he practiced law, White was elected to successive terms in Congress as a member of the House of Representatives.

During this period, White held the highest electoral offices of any black politician in the United States. He was the only black Solicitor in the country, and then the only black Congressman. He attracted national attention, becoming “the first black superstar.” For a time, he was regarded as

the political savior of his race, and nearly every word that he uttered quickly appeared on the printed pages before hundreds of eager readers, often picked up and reprinted in other black publications. ... For the white community, White was generally less of a lasting phenomenon than an irritant; the less said, the sooner he might fade away.

White’s philosophy of racial relations has its similarities with Judge Howard’s. Speaking to white audiences, he said:

You have two hundred and fifty years the start of us; and if you are honest, if you are fair, if you are not cowards, and of course you are not, you certainly will be willing to accord to us at this late day all the rights of American citizens enjoyed by you. An even chance in the race of life is all that we ask; and then if we cannot reach the goal, let the devil take the hindmost one.

In 1900, in an election characterized as “grossly fraudulent,” North Carolina adopted the “suffrage amendment” to its constitution which effectively disenfranchised blacks. During the campaign, White and his family were the target of withering and largely untrue attacks in the press led by the *News and Observer*. He elected to leave Congress at the end of his second term and left North Carolina, advising other blacks to leave as well. He moved first to Washington, D.C., then to Philadelphia, saying:

I cannot live in North Carolina and be treated as a man. In my intercourse with the bar of North Carolina in the past I was never made to feel that I was on a different plane to anyone else because I was a colored man, but I cannot feel so any longer.

In Philadelphia, White started a bank and a real estate company and later developed Whitesboro, an African American residential community in Cape May County, New Jersey.

Comparably to Tourgée, White’s legal ability and character when he was in practice in North Carolina were acknowledged, even by his opponents:

White was a man of great native ability, and had the reputation of being impartial in his prosecutions. ... His greatest weakness was his desire for social equality, which eventually resulted in his rejection by not only the white people of the county, but also by his race. [Note: The charge of a desire for social equality, although not shocking in the 21st Century, seems in any event not to have been true of White in the 19th, but instead the assertion of biased press reports.]

* * * * *

George White was occasionally described as ‘insolent’ or ‘familiar’ but never incompetent. ‘Solicitor White says that notwithstanding his color and his politics have been different from most of the lawyers and all the Judges in the courts, his associations with them have been of the most pleasant character,’ said the Scotland Neck Democrat at the end of White’s tenure

in office. “He has been impartial in his work, showing neither favors to his own race nor bitterness toward whites.

In a time when solicitors were compensated by the number of convictions they achieved, White was credited with rarely losing a case and almost never being overturned on appeal. He was said to be “a terror to evil doers.”

A Distant Mirror

These models – the Guilford and Edgecombe lawyers – point to answers for those who question what the role and function of lawyers may be in the times ahead.

The 19th Century lawyers

- were the first generation of North Carolinians with higher educations on a broad scale; they brought liberally educated minds to practical affairs;
- as lawyers, they were a community to themselves, set apart from their neighbors in their shared profession with its explicit ethics and common standards;
- from their work, which centered on litigation, they were experienced in the process of building trust and reconciling differences across boundaries and divides;
- they were holistic and they were generalists, operating in multiple domains;
- they were social and political leaders; and
- they were adventurers, most of whom had bracing records of stumbles, losses and failures to match their successes.

These may indeed be core attributes of “real” lawyers. Certainly, those attributes characterized leading lawyers in turbulent 19th Century North Carolina. Arguably, they receded in the 20th Century. And maybe, as will be discussed below, they are what will be needed in times to come.

Higher education

The North Carolina lawyers who began their practices in the decades around the Civil War were the first generation of North Carolinians to receive college educations on a broad scale. Most of them attended the University of North Carolina, receiving a classical, liberal education. All of them came out of cultural communities and from families that placed a high value on education. It seems reasonable to conclude that these lawyers viewed themselves as set apart by their educations from others in their local communities. Both their undergraduate educations and their legal training may have engendered in this particular generation of lawyers a sense of mission to interpret and set into a larger cultural context the practical and business affairs of their times. This sense of themselves as set apart, projected them into leadership roles that became a part of lawyers’ identities generally.

This is reflected in George Henry White’s comments to Howard University law students in March, 1899.

The lawyers in every community are the leading lights, the molders of public sentiment. This is true in the common councils of the cities, and also abundantly true in the management of state affairs.

[Lawyers tend to become legislators because of their training, but also because of their desire to serve the community. A lawyer is a] useful, intelligent and industrious citizen, [who] in order to succeed permanently, must be an honest and admirable man; must deal fairly and squarely with his clients.

A community of professionals

Some of these lawyers received legal training at the University of North Carolina and other formal law schools. More read law with the earlier generation's lawyers: Murphey, Mendenhall, Battle and others. Those earlier-generation models had in common that they were high-minded, ethical and moral men. And, the lawyers who studied with them were schooled by their mentors in a common body of case law and treatises, which in turn exposed them to a common ethic and world view. And then, the new lawyers practiced law together on a daily basis as sole practitioners or perhaps in two-man partnerships. The bar itself was a close community with shared values.

Looking back at the end of his life, in the 1930's, Tarboro lawyer, then Episcopal bishop, Joseph Cheshire observed:

The old lawyers and judges were more social and lived more together than members of the Bar do now. The country was more thinly settled; there were fewer people and fewer lawyers, less office business, and relatively more litigation and more of forensic controversy. Each lawyer, as a rule, attended all the courts in his district, or at least most of the terms of the Superior Court. And they usually, before the days of railroads, drove in company in their buggies or gigs or rode horseback from one country town to another with much sociability and joviality as they went "jogging along," or as they lodged together in the old taverns by the roadside or in the county towns.

All of these common cultural bindings surely contributed to a sense among 19th Century lawyers of themselves as a separate community with distinctive standards, values and responsibilities. In some ways, this shows most clearly in the careers of the outsiders, Tourgée and White. Despite rejection by the broader community, they made a place for themselves among their fellow practitioners based on their merits as lawyers.

That sense of themselves as members of a separate community gave them a basis for relationships of trust that crossed the political, cultural and racial boundaries that separated the different communities they came from.

Practiced in controversy and spanning boundaries

Lawyers of course, then and now, have the experience of managing differences among separate parties and interests. In broad terms, what lawyers do is make connections and reconcile adverse interests where there is complexity, uncertainty and ambiguity. They resolve disputes and controversies, negotiate agreements and counsel about compliance and risk.

The Guilford and Edgecombe lawyers functioned in these ways across the bitterest divides at a time of the most rancorous partisanship. They navigated (successfully and not) slavery and abolition, secession and union, war and peace, black and white, (new) Democrat and (new) Republican. Gail Williams O'Brien wrote of the Guilford lawyers just before the Civil War that

in the face of abolitionist charges, the best that voices of moderation like those of Gilmer, Gorrell, Mendenhall, and Morehead could achieve in Guilford in the decade before the war was the restriction of mob violence. ... [I]t was no small feat

After the war, lawyers carried the burden of rebuilding a civil society in the wake of defeat, destruction and a dismantled social system. They practiced in an environment of hostility and violence. According to Eric Anderson, as the century advanced the Second District, where Edgcombe was, developed

a political atmosphere of intense corruption. For many politically active citizens of the district – white and black – dishonesty had become standard procedure. It was a common thing to speak of a man’s political character as opposed to his character in general. ... [A]n opponent might say: “His character is good, but his political character I cannot vouch for.”

Lawyers often led the opposing camps and they were by no means above the fray. But, more than others, it was the lawyers who were able to span the divides and to build provisional relationships of trust sufficient to enable compromises and connections where they occurred. (See Attachments #1 and #2.) Speaking of Guilford, O’Brien says:

More accustomed than anyone else in the community to party politics, lawyers then fueled the flames of partisan warfare. Yet despite appearances of internecine wars, legal specialists cooperated far more frequently than they would have admitted. Drawn together by similar educational experiences, occupation of the same socioeconomic stratum, professional ties, and common economic assumptions and goals, the legal fraternity contributed a basic cohesiveness and stability to postwar society that its partisanship belied.

In the end of course, nobody was able to bind up the racial and political divides. But lawyers as a group contributed to the stability that was achieved; and where the gaps were not bridged, lawyers were at the boundaries.

Legalists, generalists, holists

Certainly, the lawyers discussed above were no narrow legal technicians. Few restricted their careers solely to the practice of law. The breadth of their ventures, business and otherwise, is extraordinary. O’Brien characterizes Guilford’s lawyers as “economically bold” and “socially conservative.” In this, North Carolina lawyers have been characterized as “engineers of the new business economy.” They were

at once legalists, businessmen, and planters, and the consolidation of all these attributes within the same persons had important ramifications. As planters, attorneys were in a position to ameliorate the fears of landholders, large and small, who derived their living solely from the soil, while as businessmen, they carried on an aggressive program for economic expansion. Additionally, as lawyers who were constantly in touch with a wider, modernizing world, legalists had their capitalist tendencies reinforced, and equally important, because of their strategic position in society, they made progress toward their goals.

Later, in the 20th Century, this role diminished almost to the point of extinction with the expansion and specialization of the economy and the advance of new classes of professional managers and consultants. But the model of 19th Century lawyers as connectors, guides and shapers of commerce remains. They embraced new concepts and applied them in new contexts. They

were inclined by training and experience toward a world of “contract and commerce” and their involvement in public affairs, particularly the legislature, placed them in a position to learn of new, wider opportunities and to make things happen as they did in the case of railroad construction and the establishment of the Greensboro Life Insurance Company.

Crucibles of leadership

Before and after the war, Guilford’s and Edgecombe’s lawyers consistently held primary positions of local and state leadership.

Sallie Stockard argues that Guilford’s vigor and success was the product of the creative encounter of Scots Irish Presbyterians with English Quakers. That combination certainly helped to account for Guilford’s distinctive pro-union, anti-slavery posture. And the jostling of multiple groups and competing ideas fostered a generation of lawyer-leaders who were adept at navigating the competitive and contentious new environment of the late 19th Century. Guilford lawyers became prominent jurists, politicians and, particularly, business leaders – the engineers of a new economy.

In race-bounded Edgecombe, Eric Anderson postulates that the experience of the racial politics of the Black Second similarly created a generation of white supremacist lawyer-leaders who, while they did not distinguish themselves in matters of race, achieved disproportionate prominence outside the District in non-racial State and national affairs. Speaking of the Second District (Edgecombe and neighboring counties), Anderson observes,

For a black and Republican stronghold, the second district produced a remarkable number of important white leaders. Former Confederate General Matt W. Ransom [*lawyer*], party leader from eastern Carolina and United States senator from 1872 to 1895, was born in Warren County and lived most of his life in Northampton. Furnifold M. Simmons [*lawyer*], who served for thirty years in the Senate, was first elected to Congress in 1886 as representative of the second district. For years North Carolina’s most powerful journalist, Josephus Daniels [*lawyer (never practiced)*] began his career as editor of the *Wilson Advance*, early evincing the fascination with politics that was to carry him to a place in Woodrow Wilson’s earliest cabinet. The House majority leader during the Wilson administration, Claude Kitchin [*lawyer*], was the son of a three-time Democratic nominee in the “black second.” Charles B. Aycock [*lawyer*], North Carolina’s famous “progressive,” “educational governor,” was a native of Wayne County. Henry G. Connor [*lawyer*] of Wilson County served as speaker of the North Carolina house and justice of the state supreme court, and “Fighting Judge” Walter Clark [*lawyer*], a man with long service on the North Carolina Supreme Court, including twenty-one years as chief justice, came from Halifax County. Elias Carr [*farmer*], leader in the Farmer’s Alliance and governor from 1893 to 1897, hailed from Edgecombe.

What was there about the second district that produced this strange profusion of eminent white Democrats?

The Second District and Edgecombe, like Guilford County, were places of contesting communities and competing ideas. The period from Reconstruction until the “suffrage amendment” of 1901, was a time of constant tension and flux, as Eastern North Carolina’s economy and society were being rebuilt and its race relations reinvented. Making things happen in that uncertain and challenging environment can only have challenged, stimulated and improved the lawyers who were at the boundaries separating the competing groups, even if, as leaders, they failed to meet every challenge.

Adventurers

The lawyers who practiced in the second half of the 19th Century weathered the loss of a war, the radical re-establishment of their society centered on creating a new paradigm for race relations, and building a new commercial and industrial economy out of an agrarian past, based on disruptive new technologies (railroads, manufacturing, telegraph).

They experienced wild swings of fortune – in war and peace, in politics, in business, and in personal wealth. Virtually all lawyers, like their neighbors, were ruined economically by the war. Perhaps most lawyers, having been political and military leaders, lost their rights of citizenship in the war's aftermath, until their citizenship was restored as part of the Reconstruction process. After Reconstruction and until the constitutional amendment disenfranchising blacks in 1900, they found themselves in a radically new political system – with black majorities in the East, and a vigorous, competitive new Republican Party seeking to instate a new class of leaders at every level statewide.

So, these lawyers won and lost political offices; they lost and regained economic stability; and they invested and made or lost money in a dizzying array of business ventures. It was no time for plodders and not a time for those who could not absorb setbacks or rebound from defeats.

Gail O'Brien has noted that lawyers provided a measure of stability to the system, given their multiple roles. And, differently from most of their neighbors, successful lawyers were able to generate steady cash incomes. This stabilized them in their personal lives and provided a basis for the business activities that virtually all of them seem to have pursued.

But, the times were volatile. And, lawyers, like their neighbors, had to cope with ups and downs, wins and losses, trials and errors. As a group therefore, these lawyers must have learned to bring to their affairs and perhaps to their clients' affairs, resources of resilience and capabilities for venturing and risking that have long since ceased to be associated with lawyers.

20th Century: The Rise of the Law Firm

It's hard to resist the conclusion that in the 20th Century the legal profession became something entirely different from its 19th Century parents.

In the transition from the 19th to the 20th Century, a national commercial and industrial economy was born. It grew and became increasingly specialized. The law and lawyers mirrored the changes around them. Law firms came into being in order to enable lawyers to meet the expanding needs of their expanding clients; to cover new areas of law; and to enable senior lawyers to retain control over client relationships and leverage their reputations.

Law firms came to be organized as partnerships which provided an economic structure for sharing access to information (law libraries), connecting practitioners in different practice areas, sharing administrative support and office facilities, and capturing the benefits of a shared, leveraged franchise.

Then, reflecting those needs and utilizing the forms of organization natural to an industrial economy, 20th Century law firms developed

- vertically organized, departmentalized structures,
- hourly rates
- leveraged staffing models, and

- billable-hour budgets and associated compensation schemes.

Those developments met the needs of their times, but they moved the profession away from earlier models of practice and they entailed professional and organizational costs that are beyond the scope of this discussion. (Attachment #3)

A new breed of lawyer evolved in the 20th Century – lawyers very different from earlier models. Increasingly, 20th Century lawyers became specialists, managers, and technicians, walled off in their separate firms.

21st Century: The Social Era, the Commoditization of Scale and the Parlous Future of the Law Firm

The 21st Century looks to be as different from the 20th as the 20th was from the 19th – with equally as profound implications for law firms and the legal profession – and equally profound implications for the attributes that will be most needed in successful lawyers.

Commenters on social and business developments observe that the 21st Century will come to be a period when

- access to information (e.g., law) is universal, immediate and nearly free,
- communications across the globe are universal, immediate and nearly free,
- the capability of making purposeful connections, creating networks and co-creating services with clients is vastly enhanced and expanded,
- the ability to limit or control access to information and relationships erodes as capabilities for collaboration expand, and
- commerce and public affairs are global rather than local (Davidson College President Carol Quillen says, “a Davidson graduate can live for her entire life in Charlotte and never leave it, yet be a fully engaged global citizen”).

See Nilofer Merchant, *11 Rules for Creating Value in the #Social Era* (Harvard Business Review Press 2012).

These developments, coupled with those identified by Susskind, MacEwen and Furlong at the beginning of this paper, promise to reshape the practice of law.

First, as Susskind and the others observe, the core services of lawyers can no longer be based on mere knowledge, or providing access to information (advising clients what the law is); or acting as guides through routine processes. The machines are coming for this work. Susskind proposes therefore that lawyers should focus their services in different domains: on advocacy (reconciling differences) and counseling (placing risk and uncertainty into an understandable context).

Second, 21st Century developments are dismantling the bundle of needs that were the impetus for the rise of law firms in the 20th Century. See B. Burk & D. McGowan, *Big But Brittle: Economic Perspectives on the Future of the Law Firm in the New Economy*, 2011 Colum. Bus. L. Rev. 1 (2011). If the 20th Century needs and forces identified above summoned firms into being, then the 21st Century developments identified above stand to meet those needs by vastly cheaper and less cumbersome (not to say, less annoying) means than law partnerships. (Attachments #3, #4, #5 and #6)

Of course, the future will not replicate any past period. Even as the original impetus for law firms fades, other needs remain and new ones will emerge. Firms will not disappear (Attachments #4, #6 and #7), but Susskind, Furlong, MacEwen and others agree that lawyers must bring different skills to the 21st Century than they brought in the 20th – indeed, they must bring skills in the future that sound very similar to those evinced by Guilford’s and Edgecombe’s lawyers in the 19th Century. And law firms must change to reflect that. (Resources, Attachment #12)

Also, if, as Nilofer Merchant believes, we are entering a time when (i) scale is commoditized, and (ii) networks, communities and connections are more nearly frictionless; and (iii) commerce readily crosses geographical and cultural boundaries, then capabilities such as those seen in the post-Civil War lawyers look very relevant – both for the interim period ahead when a new “social era” and economy come into being, and afterward, as society and the economy move into a constant state of making connections across boundaries in order to make things happen. The “social era” will be a natural environment for a community of professionals who are skilled at operating across cultural divides, with a shared set of standards and ethics, to resolve differences, forge agreements and chart courses through uncertain and risky landscapes.

In such times, law firms will certainly be reshaped. Firm management will be focused on new issues.

Principles for Managing 21st Century Law Firms

What can law firms bring to a world where (i) information is free and immediate; (ii) knowledge of the law and its processes is cheap; and (iii) networks among collaborating professionals can be established and maintained readily, at marginal costs and without elaborate control mechanisms? Why do we need law firms?

If the role of lawyers is as adumbrated in the preceding section, the practitioners needed for this new world will be those who bring experience, judgment, holistic vision, resilience, and the ability to establish connections with other professionals across the world, within the frame of a globally-shared legal culture. And, therein can be found the continuing role of the firm.

Lawyers in the 19th Century acquired essentially the attributes just listed, by reading law with leading lawyers, then taking their places in a closely knit local bar. (Attachment #8) That of course is not a system that can work in a networked, globalized environment. But law firms, if recast from 20th Century models, can foster 21st Century lawyers who acquire the attributes needed for the times ahead.

Following are principles that would support that objective:

Trust. Connections subsist on trust. Trust is at a premium in a networked world. Clients must trust and have confidence in their lawyers; networked lawyers must trust each other; and adversaries must have trust across the divides that separate them. This is even more so where everyone is at a geographic distance. At every level, means to establish trust must be found.

Trust and connections are more readily achieved in a system where the central element is a cohesive community. In Bishop Cheshire’s day, sole practitioners knew and trusted each other based on proximity. Now, in a far flung, networked world – law firms look more like the natural building blocks for a cohesive professional community than sole practitioners.

Lawyers within firms must build trust among themselves and form and project common values. The firm's broader relationships can then enable trust-based connections to other firms. Sole practitioners cannot engender trust on the same scale.

A firm ethic. The basis for trust among professionals who do not know each other, and the basis for trust from clients – what sets lawyers apart – is professional ethics. Lawyers' ethics are an assurance of competence, independence/loyalty and integrity. In a globally connected world and marketplace of both licensed and unlicensed service providers, competence, loyalty and integrity cannot be assumed.

A law firm with an established ethic provides a basis for trust. Firms must be managed to cohere around and project their ethics.

Models, mentors and practice communities. Lawyers as “legalists” provide access for clients to a system for managing adverse interests and getting things done. The system is held together by shared understandings among professionals about what is expected and how things will be done. That is what ethics are. Ethics in this sense are not merely rules. They are expectations that are grounded in the practical context in which they operate. They must be internalized by practitioners and shared among the community of practice.

New lawyers can only learn this (how things are done) *in practice*. The close knit local bars of the past no longer exist. The opportunity to read law with leading lawyers in-market no longer exists. In a networked, technology-enabled profession, firms may be the only sufficiently integrated communities in which professional standards and values can be instilled in and transferred to new lawyers. (Attachments #8 and #9)

Holistic practice environments. Clients will not bring easy questions to lawyers whose core service is advocacy and counseling. They will bring matters attended by uncertainty and complexity. What's needed to solve such problems is not so much information or knowledge as experience and judgment. Experience and judgment are best acquired as the product of trial and error. (Attachments #9 and #10) Narrow subject matter specialization, practice hierarchies and segmentation, and leveraged staffing, impede the acquisition of experience and judgment. Internal boundaries – departments, practice groups – create friction in that process. Holistic practice environments are the best practical medium for learning. This occurs where professionals at all levels of practice engage with each other and where all professionals are engaged with entire projects, rather than being segregated to smaller pieces of larger projects. See Rob Austin and Lee Devin, *Artful Making: What Managers Needs to Know About How Artists Work* (FT Prentice Hall 2003).

Control vs. collaboration. Functioning across boundaries to connect separated and adverse parties in unstructured and uncertain environments requires independence, self-reliance and resilience. Firms whose internal structures are open and collaborative, rather than structured and focused on control mechanisms, seem best suited to foster autonomy, confidence and resilience. In many ways, open and collaborative firms would mirror the common 19th Century pattern of solo and two-man firms who commonly affiliated with each other from case to case and project to project.

A community-service ethic. If the role of 21st Century lawyers is to make things happen among separated and diverse communities of interest, then the best preparation for that role – the best

incubator of advocacy and counseling skills – may be engagement in local communities. Nineteenth Century Guilford and Edgecombe Counties were homes to multiple competing groups. The experience of maneuvering in those environments formed remarkable lawyers. And the closest replication of that experience today is to be found in community service and leadership.

So, to end on a high note: encouraging service and leadership looks like a 21st Century practice-management principle – one that ties back to the models of the 19th Century forbears: Cyrus Mendenhall, Albion Tourgée, Robert Bridgers, George Howard and George White; and to their models before them: Archibald Murphey, George Mendenhall and William Horn Battle.