

KNOCKING WHICH CORNERS OFF? — THE STUDY OF LAW AS A MECHANISM OF SOCIAL INTEGRATION

This paper is concerned with the process of legal education. It suggests that this process is not confined to the teaching of skills and techniques, but goes far beyond this and in fact affects students' attitudes towards the profession and society. It further suggests that few educators recognise this and that more attention should be paid to the development of students' "professional identity". A survey was conducted to give support to the contention that legal education is essentially a process of socialisation.

"When the Pyrot case was brought to the Supreme Court by the Lord Chancellor, it fell to Justice Chaussepied to examine it for errors, if there were any After much difficulty and repeated refusals by General van Julep, Justice Chaussepied obtained access to the files. As he studied them, the Judge was filled with wonder. He found in the files advertisements of novelty shops, newspapers, fashion illustrations, bags, old business letters, school notebooks, sandpaper for polishing floors, playing cards, drafts, and six thousand copies of the 'Key to Dreams', but not a single document concerning Pyrot."

Anatole France, *Penguin Island*

I. INTRODUCTION

Do our law schools simply teach students the law, the skills necessary for its practice, and something of the role of law in society, or does the experience of law school have a subtle and more profound effect? The argument which follows is that the study of law is a mechanism of social integration, in the sense that it has the effect of moulding student attitudes and *weltanschauung*,¹ and that consequently young law graduates are to some extent initiated by the law school into the community of the legal profession, sharing the profession's attitudes and modes of relating to society at large. It is the writer's contention that the process of legal education causes significant changes in personality, *weltanschauung*, and social adjustment.

Yet, if indeed such changes do occur they are essentially unknown, and nowhere, it is suggested, are they more unknown than among legal educators and the legal profession. While many members of both these groups voice opinions as to the proper aims of legal education, few

1. Translated, 'world outlook', though it includes the concepts of ideology and personal philosophy as well.

appear, in New Zealand at least, to give much consideration to its more subtle effects.² Yet the effects suggested above are usually referred to, in New Zealand, in the following sort of remark: "The young entrant to the profession must bring with him from the university a profound sense of dedication and of the long term purpose which he is trained to fulfil in society."³

In a subsequent part of this paper it will be shown that New Zealand's legal profession has never really articulated the "hidden" results of law school training suggested above. The process which produces these results should, however, be a deliberate one (which it patently is not), especially in a profession as central to the functioning of society as the legal profession.⁴ (Though perhaps the belief that the legal profession has such a central place in society is peculiar to the legal profession.) It is also worth noting that the basic structure of the formal process of legal education has not changed fundamentally since the 1930s or even earlier. The premises of the structure of the courses remain the same, though individual subjects and approaches to them have come and gone. Legal education is operating within an old and, perhaps, outdated paradigm of initiation into the profession.

The general aim of this study is to attempt to examine some aspects of legal education and to examine some of the processes occurring in it beyond mere acquisition of skills and learning the role of law in society. It will be necessary to consider:

- the concept of "Profession" and some theories as to the functions of professions in society;
- some aspects of the purposes and effects of professional education processes; and
- the expressed and unexpressed aims of legal education in New Zealand as seen by legal educators and the practising profession.

Clearly any study along these lines would be meaningless without some form of empirical data from which inferences might be drawn that support the argument. To this end a survey was conducted among students at Victoria University of Wellington, with the object of obtaining information about the effects of legal education on students' personalities. More detailed objectives of this survey are set out in part IV.

II. THE CONCEPT OF "PROFESSION"

A. *Characteristics of Professions*

The examination of the concept of "Profession" and the characteristics of professions allows for an analysis of the manner in which

2. See part III of this paper.

3. Haslam, J., "F. W. Guest Memorial Lecture." (1970) 2 Otago L.R. 113, 119.

4. See part II of this paper.

professional training inducts the recruit into the community of the profession and into its world-view and ideology.

No definition of profession exists that all sociologists would agree on. Some writers, in fact, see "profession" as a useless device for any meaningful analysis, arguing that it is no more than a status claim.⁵ The writer believes that utilising an "ideal-type" definition, while recognising its limitations, enables a useful analysis of social reality to be made, by abstracting from that reality and examining the part that "profession" as defined plays within it.

The characteristics of professions identified by Elliot⁶ would probably be a fair amalgam of those set out by other writers. A profession will usually have a special skill, a lengthy period of intellectual training, autonomy and responsibility, control on methods and behaviour of members, control of recruitment and education, collective responsibility for members' action, and a fiduciary relationship with clients.

Other commentators emphasise that the professions are occupations where practice is founded on an understanding of the theoretical or conceptual structure of some department of knowledge.⁷ The importance of this characteristic will be pointed out in due course, suffice it to say at present that the heavy emphasis on conceptual, analytical, and theoretical exercises in legal education indicates the existence of this characteristic in the profession.

Some importance is also placed on the length of schooling for professions, and the fact that professionals are always in favour of selecting their own future colleagues by controlling admission to practice.⁸

Cogan⁹ suggests that an additional characteristic of professions is that they consider their first ethical imperative to be altruistic service to the client. However this is accepted by few writers. Goode,¹⁰ for example, points out that the claim of professions that they serve the client is not true altruism but merely a reflection of the fact that their ethical codes are such that conformity with these codes rewards more handsomely than ignoring them. Furthermore, the service to the community that professionals envisage is still the service rendered by individual professionals to individual members of the public, rather than concern with the overall distribution of social services.¹¹ The

5. R. W. Habenstein, "A Critique of 'Profession' as a Social Category" (1963) 4 Soc. Quarterly 291.

6. P. Elliot, *Sociology of the Professions* (London, 1972).

7. For example, M. Cogan in Vollmer (ed.), *Professionalisation* (Englewood Cliffs, N. J., 1966), 49; also M. Greenwood, "Attributes of a Profession" (1967) 2 Social Work No. 3 p. 144.

8. See E. C. Hughes, B. Thorne, et al., *Education for the Professions of Medicine, Law, Theology, and Social Welfare* (New York, 1973).

9. Vollmer op. cit.

10. Vollmer op. cit.

11. Thorne op. cit.

altruism of professions is thus merely "service orientation" as Schein¹² puts it; the use of skills for the individual client, with absence of self-interest or moral judgment.

Of the characteristics of professions mentioned above, those of principal interest to the present study will be the theoretical basis of training, the extended period of training, and the control of education and training.

B. *Professions in Society*

It will be suggested in the pages that follow that professional educational is a three-tiered process of socialisation. The first level is the absorption (or putative absorption) of the expressed and overt ideology of the profession. The second is the role imposed on students by the social situation of the law school, and the third is the world-view imposed on students by the theoretical and conceptual basis of the skills taught. It is the writer's contention that only the first level is admitted by the profession and its educators, and the following section is intended to elucidate this point.

It is difficult to find statements by legal educators as to what they see as the role of the profession in society. Most confine themselves to statements such as: "A function of legal education is to develop in students an appreciation of the role of the lawyer in the development of society's goals",¹³ without stating what that role is, or what they perceive "society's goals" to be.

Sociology on the other hand, has developed several approaches to studying the role of occupational groups in society. Durkheim,¹⁴ for example, saw the increasing division of labour in modern society, and its consequent anomie, as tending to lead to occupational groups becoming social institutions which acted as mediators between the individuals within them and society at large; a series of secondary groups interposed between the state and the individual to enable society to function. To apply this analysis to the present study, it might be postulated that the legal profession is a social institution within which identity and solidarity may be found, thus fulfilling the "mediating" role outlined above.

By way of contrast, however, it has been argued that the growth of professions and similar groups tends to increase fragmentation in society.¹⁵ Elliott observes that "the more professions achieve the status of a community within a community, the more likely they are to have a divisive as well as a cohesive influence".¹⁶

12. E. H. Schein, *Professional Education — Some New Directions* (New York, 1972).

13. See *Studying Law*, V.U.W. Law Faculty handbook 1975 pp. 7-8. For one interesting view of the lawyer as an avoider of disputes by "evidencing and establishing shared understandings", see Hawley, *The Solicitor's Law Job*, unpublished LL.B.(Hons) dissertation Auckland, 1973.

14. E. Durkheim, *The Division of Labour in Society* (New York, 1933).

15. T. Parsons, "Professions and Social Structure", (1939) 17 *Social Forces* 457.

An additional point to note is that there is a problem in the use of the Durkheimian analysis; essentially the problem of deciding how to determine what the role or function of a social institution is. Durkheim's theories push us toward accepting what the social institution (in this case the legal profession) or the popular knowledge of society claims to be that institution's role or function. In relation to the present study the danger is that of an acceptance of the current "overt" ideology of the profession as to its function at face value. If such an uncritical acceptance in fact occurs, then theories as to the nature and operation of the institutions which are supposed to carry out the purported functions must be closely scrutinised, because theories of the nature and operation of the institution depend on whichever of the various views of its functions is adopted.

Theories of the nature and function of the legal education structure are based upon an acceptance of the "overt" ideology of the profession (as to its function in society) are thus highly suspect. The needs of society (and, possibly, the psychological needs of individuals) which the professional group is fulfilling may bear little or no relationship to the functions supposed by the "overt" ideology of the profession.¹⁷ The real functions of the profession may be totally different from those which the profession claims for itself. Thus we must look behind the claims of the structure/institution itself if we wish to begin to perceive its real nature. For where theories as to the nature and functions of legal education, which are based on an acceptance of the overt ideology of the legal profession, are advanced, it is perhaps because of a failure, or a refusal, to recognise the possibility that, as time passes, old paradigms of social structures may have to be modified or replaced if they are not, through rapid changes in social circumstances, to produce distorting and harmful effects.

However, this is not to say that the present analysis of the function and nature of legal education as a mechanism of social integration should be unreservedly accepted. It is primarily based on Durkheim's explanation (not necessarily a correct one) of the function of professional groups in society. It is suggested that it is a rather better explanation, however, than that provided by the ideology of the profession itself.

It is clear that a profession is a community based on shared values, roles, and identity.¹⁸ Given such a community it is not unreasonable to expect that identifiable mechanisms for initiating potential recruits (and rejecting potential deviants) will exist. These mechanisms may exist in both the formal education process (the subject of this

16. *Elliot op. cit.* p. 12.

17. "Overt" because the writer suspects that the public statements of a profession as to its beliefs, and the beliefs which it holds in reality, are often quite disparate. The survey results suggests that this may be the case in the legal profession.

18. G. Millerson, in Cook ed. *Education and the Professions* (London, 1973).

study) and the informal processes of the first few years practice.¹⁹ However, the initiation given in the formal education period may in no way resemble the realities of practice, which in turn may in no sense resemble the "overt" ideology of the profession.

C. *The processes of Socialisation²⁰ and Integration*

Some of the points made above can now be drawn together. If a professional ethic, either overt or covert, can be discovered, assertions about the socialisation processes to which recruits to professions are subjected can be made.

The following definition of "socialisation" has been adopted in this connection:

The process by which people selectively acquire the values and attitudes, the interests, skills and knowledge — in short, the culture — current in the groups of which they are, or seek to become, members. It refers to the learning of social roles.²¹

Another way of understanding socialism is to regard conscious thought and awareness as being organised in "categories of perception".²² Some of these categories (e.g. time) may be common to all men. Others may be so specific as to form conceptual systems peculiar to sub-cultures within a society (for example, an occupational group). An individual within a particular social group will be forced, by a process of social conditioning, to utilise the categories of that group. The process by which the individual comes to utilise these categories rather than others is that of socialisation; the individual enters a "universe of discourse" where his modes of experience and awareness are similar to those of his peers.

What, then, are the roles and categories of thought that are learned in professional (and, more specifically, legal) education? If professions are indeed some sort of contemporary means of achieving solidarity and identity, then professionals can be expected to share certain beliefs. Obviously some of the characteristics of professions spring to mind. Autonomy is said to be a cherished and central value to professionals. So also is control over other members, and of recruitment and education, for a profession will claim that it is uniquely responsible for a particular sphere of action in society, and will consequently jealously guard against the incursion of "unqualified" outsiders. These may be seen as the "overt" beliefs and norms of the profession.

19. D. C. Lortie, "Law School and Professional Socialisation", (1959) 29 Harv. Ed. Rev. 352.

20. Two salient studies of professional socialisation have been R. K. Merton *et al.*, *Student Physician* (Cambridge Mass., 1957), and H. Becker *et al.*, *Boys in White* (Chicago, 1961).

21. Merton *op. cit.* p. 287.

22. E. Fromm, D. T. Suzuki, *Zen Buddhism and Psychoanalysis* (New York, 1970), 98 *et seq.*

Further to these obvious points, the very nature and intent of legal training serve to impose an ideology and categories of thought almost by default, and it is here that we begin to perceive the "covert" aspect of professional education. "Learning to think like a lawyer", the acquisition of analytical skills, and, most importantly, the understanding of the theoretical and conceptual basis of the various law subjects, all serve to get the individual to develop "within a groove", taking on the narrow *weltanschauung* and modes of experiencing life derived from one profession. This conception of the socialisation process at work in professional education does not entail the individual adopting and internalising the "overt" beliefs and norms mentioned above, but rather involves the moulding of the way in which he responds to social stimuli, and formulates his own goals. Thus does the process of socialisation instill a "world-view".

Redmont adds a further dimension to the above points. Speaking of the highly specific analytical approach adopted in much legal education, he argues that the end result of this type of approach may well be that the individual's mode of experiencing becomes almost exclusively intellectual. "The outcome is a relatively high degree of thinking and reasoning skill that serves as a system for identifying and interpreting experience".²³ Yet as Redmont points out, this at least raises a question as to whether such emphasis on the intellect inhibits or even destroys sensibilities for gauging and dealing with experience. Such a question, of course, ultimately gets back to the debate about the appropriateness, or even the value, of rationality as the sole or principal organisational basis for society. There seems to be no reason why this debate should be the exclusive province of the philosopher or psychoanalyst. Educators (though few legal academics are trained educators) have a responsibility to formulate and declare their views on the matter.

The overt ideology of a profession, consequently, will not reveal the world-view and values that professional socialisation imparts, and indeed may not even contain them. Moreover, the socialisation process, in addition to being carried on by the conceptual and analytical teachings of professional education, may also be carried on by the role-identification of the student within the social nexus of the professional school. The student is in a social setting where to feel that he belongs, he must accept or seem to accept the values and norms that his peers hold. His relationships with staff and students mould his perceptions of, and reactions to, this situation.²⁴ The individual develops a commitment, in terms of self-identification, to the role he sees himself in, and indeed there may be considerable social pressure on him not to

23. R. S. Redmont, "Transactional Emphasis in Legal Education", (1974) 26 J. Leg. Ed. 253, at p. 255.

24. H. S. Becker and J. Carper, "The development of identification with an occupation", (1956) 61 Am. J. Soc. 289; also R. M. Pavalko, *Sociology of Occupations And Professions* (Hasca, Ill., 1971).

deviate from this role. The extent to which the values and norms internalised in this fashion are shaped by the active process of professional education is unknown. (As is the extent to which they correspond to the overt ideology of the particular profession.)

There is also evidence that the development of identity is not only a process of "adopting a role", but also a process of "discovering who you are". This view has important implications for the present study, in as much as family background,²⁵ friends, and other influences outside the law school may shape the current identity of the student as much as the law school itself does. Socialisation may be to a large extent, an extension of existing tendencies.

In summary, it might be said that socialisation in professional education, to the extent that it is not an extension of existing characteristics, is a three tiered system. Firstly, there is the overt ideology of the profession, as presented by the educators. Secondly, there is the role imposed on students by the social situation of the law school, and the norms and values absorbed from this situation. Thirdly, there are the world-views and categories of thought imposed by the actual theoretical and conceptual basis of the skills taught — the "covert ideology" of the profession.

D. Limitations of the Study

There are some important limitations on the scope of this study which it is now necessary to point out. First, beyond the brief consideration in part II *B.*, the writer is not concerned with examining the present situation of the legal profession in society as such, but only as a means of formulating hypotheses about socialisation. Secondly, the point of departure has been structural functional theory, and there exists the danger of an overly whole-hearted acceptance of professional ideology mentioned above. Indeed, a salient finding of the survey was that some of the values thought to be included in the overt ideology of the legal profession were precisely those which legal education does not appear to inculcate. In this connection it must be emphasised that much socialisation probably takes place outside the formal education process, possibly in the first few years of practice.

III. THE AIMS OF LEGAL EDUCATION IN NEW ZEALAND: EXPRESSED AND UNEXPRESSED

While legal educators in New Zealand have been silent as to the process of socialisation involved in legal education, they have been willing to express the aims of legal education in more general terms. A brief survey of what has been said on the subject follows.

25. The survey revealed that of 75 students, 34 were of "white-collar" backgrounds, 28 "professional", and 13 "blue-collar".

A. *The Academics*

The aim of legal education at Victoria University is said to be the combination of a "general liberal education" with practical requisites.²⁶ The course seeks to develop an understanding of the role of law in society, knowledge of the institutional environment, analytical skills, research and communicative skills, practical knowledge of the law, professional knowledge and skills, and public responsibility.

These goals are very general and do not require teachers to really come to grips with the aims of legal education. In fact, some may receive little, if any, attention in the course at all.²⁷

Professor J. F. Northey, of Auckland Law School considers that the universities concern is with the study of principles and theory, legal reasoning, the development of reasoning and communicative powers, the production of "men who are educated in the most general sense", and the provision of the necessary foundation for the "apprenticeship" in law offices.²⁸

Dr I. L. M. Richardson, a former Dean of the Victoria University law school, maintains that the first role of the law school is to provide a flow of properly qualified recruits to the profession, and that the second is to provide a multi-purpose degree as an alternative to the B.A.²⁹ He points out that law has an increasing concern with social and economic policy and the current fabric of society.

Professor Sim of Otago University maintains that the law school must give the student a value system. "The law student will go out with, in a sense, a built-in value system derived from his study of law . . . a lifelong intellectual framework".³⁰ However this framework should, according to Professor Sim, come out of the study of the required courses, rather than be a primary aim. Professor Sim also cites³¹ the aims listed in the Ormrod Report;³² these aims are:

- to give a basic knowledge of law;
- to give an understanding of the relationship of law to the social environment;
- to teach ability to handle facts and skills of analysis.

Thus, in general, academic observers seem to see the role of the law school as being based on a balance between the practical require-

26. *Studying Law*, V.U.W. Faculty of Law handbook 1975 p. 7.

27. As pointed out by J. C. Thomas in *Legal Education — The Role of a Law School*, unpublished paper ANZALS Conference 1975.

28. J. F. Northey, "Legal Education and the Universities", [1962] N.Z.L.J.9

29. These remarks were made in a discussion between the writer and Dr. I. L. M. Richardson, the Wellington representative of the profession in the Council of Legal Education.

30. Professor P. B. A. Sim, of Otago University, in *Proceedings of the Forum on Legal Education*, Legal Research Foundation Occasional pamphlet, 1970 p. 35.

31. In "Legal Education in New Zealand — a Symposium", (1973) 3 Otago L. R.

32. *Report of the Committee on Legal Education* (1971 U.K. Cmnd. 4595).

ments of the profession, and the more academic requirement of "placing law in its social context". But rarely is there any recognition that the process of legal education is a process of socialisation. The only reference to this process is that contained in such phrases as "the development of social responsibility", or "public responsibility".

B. The Profession and the Judiciary

The profession is primarily concerned with the development of skills and practical expertise. At a Forum on Legal Education at Auckland in 1970, several practising barristers and solicitors maintained that the basic role of the law school was to cater for those who intended to enter practice, and criticised the universities for placing too great an emphasis on the theoretical. At the 1973 Symposium³³ similar sentiments were voiced. The general acceptance of this view seems to be borne out by the results of the 1970 Legal Research Foundation survey on legal education, where fifty-two percent of practitioners surveyed thought law courses should be primarily to provide professional training.

The comments of the judiciary, and of writers in the New Zealand Law Journal prior to about 1960, place greater emphasis on the ethical values that they feel legal education should inculcate. In fact these were the only really direct comments on "value formation" that the writer could find anywhere in the New Zealand literature.

Haslam J. supports those who maintain that legal education should be a synthesis of academic and practical training, but also asserts that, "a wisely selected law course should awaken the student to the greatness of his calling, and in those who by nature and temperament are fitted for the law, inspire a loyalty that should endure for a working lifetime".³⁴ Again, "do not some of our subjects offer a guide, even a philosophy, for all who seek them . . . the worthwhile practitioner must stand committed to the eternal quest for justice . . ." ³⁵

These comments are the most unequivocal of any of those examined so far, first, in articulating the "ethical aims" of legal education, and secondly, in hinting that legal education socialises recruits into the world view and philosophy of the profession.

Earlier commentators have stated that some kind of ethical socialisation should be an aim of legal education. N. Wilson³⁶ in 1960 maintained that legal education should guide the student in his professional and ethical relationships. Even earlier, in 1934, it was said that "an experienced practitioner examining a candidate in this subject (professional ethics — a proposed new paper) should be able

33. See footnote 31.

34. Haslam, J., "F. W. Guest Memorial Lecture." (1970) 2 Otago L. Rev. 113 at p. 117.

35. *Idem.*

36. N. Wilson, "A New Look at Legal Education", [1960] N.Z.L.J. 148.

easily to learn whether he is of the type desired in the profession".³⁷ Writers in the intervening years spoke in similar terms.

In summary the profession currently appears to see the aim of legal education as primarily that of preparation for practice in terms of skills *et al.*, though accepting the need for some "liberal arts" or "cultural" content. The judiciary, and perhaps writers in earlier years, place more emphasis on questions of responsibility and ethics.

C. *Expressed Aims — Unintended Effects*

The preceding survey of the expressed aims of legal education in New Zealand can be seen to support the thesis that many of the actual effects of legal education are unknown and unintended. The aims expressed by most contemporary legal educators in this country can be summarized thus:

- to train for practice;
- to enhance social understanding and re-examination of the law;
- to explore the possibilities of the subject matter.³⁸

But rarely is any concern exhibited for the actual effect of legal education on the personalities of students, even though these aims necessarily carry with them specific world-views. There appears to be a general hope, though it is unexpressed, that if legal educators address the more general aims mentioned above, the student will automatically have instilled in him the values, norms, and ethics that so few legal educators are willing to discuss openly. It is the writer's contention that this is a far from automatic process. The survey (part IV) was designed to produce empirical evidence that would demonstrate the truth or falsity of this contention.

IV. THE SURVEY

A. *Objects of the Survey*

The basic object of the survey was to examine some of the questions raised above as to the socialisation of law students by the law school. The survey attempted to discover whether the following aspects of students' personalities are changed as students move from junior to senior years of study:

- acceptance by students of some of the ethical values that law schools seem (on the basis of the previous section) to be trying to promote;
- changes in students' position on a liberal-conservative continuum of political attitudes;
- changes in the anxiety levels of students.

37. Editorial, (1934) 10 N.Z.L.J. 250.

38. These categories are used by M. Cohen in, "Objectives and Methods of Legal Education — an Outline", (1954) 32 Can. Bar Rev. 760.

The survey also attempted to discover whether the social background of students had any relationship with these variables.

B. *A Caveat*

The survey methods used were crude and the results roughly processed in terms of strict research methodology. The writer believes that the results indicated as significant are significant. However it must be emphasised that the survey was intended to operate only as a rudimentary measure in order to suggest possible effects of legal education that are presently unknown.

C. *Some Predictions*

1. *Socialisation scale* (Appendix, questions 10-16).

It was predicted that if a measure of socialisation into the professional community and its ethical norms could be constructed, three trends would become apparent. First, students would exhibit increasing involvement, in senior years, with the law school community. Second, students would increasingly accept, in senior years, the norms and values of the profession that the law school may be trying to promote. Third, students would increasingly think of themselves as "professionals".

To meet the objection that this type of approach, based on the theorised "internalising" of norms and values, depends too much on a conception of man as a passive recipient of "given" values,³⁹ many of the remaining sections of the survey attempt to gain more information about the common experiences of students within the social nexus of the law school.

2. *Liberalism-conservatism scale* (Appendix, questions 28-32)

If the conceptual and theoretical aspects of legal study impart a world-view then it can be surmised that the process will tend to move students towards the conservative end of the political continuum if the assertion that the conceptual perspective of law is a narrow one is well founded. Again, if students are socialised into a community, they may become less liberal in view of research findings that liberals tend to express greater feelings of social alienation.⁴⁰

3. *Study-related anxiety scale* (Appendix, questions 17-22), and *Manifest anxiety scale* (Appendix, questions 23-27).

One anxiety scale seeks to measure anxiety related specifically

39. Elliot, *op. cit.*, among others, makes this objection, contrasting the "internalising" approach of R. K. Merton *et al.*, in *Student Physician* 1957, with the more role-orientated study of H. S. Becker, E. C. Hughes *et al.*, *Boys in White* (Chicago, 1961).

40. W. R. Rambo, "Validation of a Scale measuring Liberal-Conservative Attitudes", (1973) 36 *Perceptual Motor Skills* 103.

to law school studies. The other scale attempts to measure manifest anxiety levels in the personality generally. It was thought that the second scale, if not the first, would show a marked decrease in mean scores in senior years, as students' conceptions of their roles matured and their anxieties about identity were alleviated by their taking on the professional identity and norms in the socialisation process. A further prediction was thus that students exhibiting high socialisation scores would exhibit lower anxiety levels.

4. *Social origins*

If socialisation is not so much an internalising of norms as an extending of identities and roles already latent, students from professional backgrounds should exhibit higher socialisation scale scores than students from white-collar (non-professional) and blue-collar backgrounds.

A further aspect of the social nexus of the law school that was felt worthy of exploration was the extent to which students perceived the structure of student relationships as a hierarchy. Question 6 examines this. It was thought that relatively "uninitiated" junior students would respond more positively to the notion of a "hierarchy" than would seniors.

Question 9 was intended to operate as a measure of political extremism/dogmatism. It was surmised that junior students, if more anxious and less well socialised than seniors, would exhibit more extreme political views.

D. *Survey Method*

The survey was conducted by interviewers taking verbal responses to questions on a cue-card (see Appendix). Eighty-one responses were elicited: ten from first year students, nineteen from second year students, twenty from third year students, thirteen from fourth year students, and nineteen from fifth year students. These respondents were selected at random.

All of the scales except the socialisation scale consist of selected items drawn from existing scales of high reliability and validity, adapted slightly where necessary. The study-related anxiety scale was based on a scale developed by Sarason.⁴¹ The manifest anxiety scale was based on the Taylor M.A. Scale.⁴² The liberalism-conservatism scale was derived from a scale developed by Rambo.⁴³ The writer believes that the measures provided are crude but sufficient for present purposes.

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41. S. B. Sarason, *Anxiety in Elementary School Children* (New York, 1960) p. 306.
 42. J. A. Taylor, "A personality scale of manifest anxiety" (1953) 48 *J. Ab. Soc. Psych.* 285.
 43. W. Rambo, "Measurement of social attitudes", (1973) 35 *Perceptual Motor Skills* 463.

The socialisation scale was developed by the writer, as were the remainder of the questions. The kind of ethical norms that were investigated were those that appear to be in the minds of legal educators, on the basis of research for part IV — i.e. dedication to justice, sense of purpose in society, self-image as a professional, etc. Every attempt was made to eliminate extraneous factors, and a number of similar scales were examined.⁴⁴ However this scale has not been subjected to reliability and validity testing.

No control group was used, and the writer makes no assertions about the anxiety, conservation *et al.* of law students in relation to the outside community.

Identification of the social group to which students belonged was made on the subjective basis of "father's occupation". This is an extremely crude determinant of social position, but it was found on pre-test that the more precise methods available⁴⁵ were cumbersome and evoked several refusals by students.

To ascertain the significance of the mean group scores obtained, F-ratios⁴⁶ and t-tests⁴⁷ were computed. These calculations enable assertions to be made as to whether the difference between two scores is significant or not.

E. The Results of the Survey

1. Socialisation (Questions 10-16).

The mean scores were:

year:	1	2	3	4	5
score:	13.80	13.89	12.50	13.08	13.00

The differences in scores were only marginally significant. It was suspected that the two factor nature of the scale might be responsible and consequently separate means were derived for scores on Questions 10-12, the "Social Involvement" questions, and for Questions 13-16, the "Ethical Norms" questions.

There was found to be no significant difference upward or downward in the mean scores on the "Social Involvement" scale.

However the mean scores for the "Ethical Norms" scale were:

year:	1	2	3	4	5
score:	9.90	9.36	7.90	8.38	8.15

44. E.g. Wallace, "Institutional Socialisation of College Freshmen" (1964) 70 Am. J. Soc. 303; also Hadja, "Alienation and integration of Student Intellectuals", (1961) 26 Am. Soc. Rev. 758.

45. For example, A. B. Hollingshead, *Two Factor Index of Social Position*, 1965.

46. Calculated on the basis of Bruning and Kintz, *Computational Handbook of Statistics* (Glenview, Ill., 1968) p. 22.

47. *Ibid* p. 112.

These scores indicate that students in the third, fourth, and fifth years are significantly less willing to accept the type values set out in the questions than more junior students. In this respect at least they might be said to be poorly socialised in the ethical norms that are often asserted to be one aim of legal education. This does not accord with the predictions made on the basis of theory, and it must be concluded that whatever socialisation is taking place, the inculcation of such values is not part of it.

Perhaps one suggestion as to what is taking place is given by a separate analysis of question 16, which asked for agreement/disagreement with the statement that "the rule of law is nothing more nor less than the rule of force". Mean scores were:

year:	1	2	3	4	5
score:	2.30	2.57	1.75	2.23	1.79

Agreement being represented by a low score, it appears that there is a significant increase in agreement with this statement in the third and fifth years, again with a "bottoming out" in the third year.

The statement might perhaps be taken as a measure of cynicism. Why then does the trend not accord with the decrease in cynicism from junior to senior years observed by Eron and Redmount in one study of law students?⁴⁸ One tentative answer might be that the younger New Zealand law students (U.S. law students are already graduates) find it harder to cope with the disillusioning experiences Redmount attributed to the law school elsewhere in his study.

2. *Liberal-conservative scale* (Questions 28-32).

None of the differences in scores (by year of study) on this scale were found to be significant. This failure of any significant change in liberal-conservative sentiments to emerge, contrary to predictions, is to some extent explained by the responses to Question 9, dealing with political orientation.

In most years, about thirty percent of students classed themselves as left of centre, thirty percent centre, and thirty percent right. The interesting feature here is that, in senior years, while the proportions to left and right of centre do not shift markedly the number prepared to label themselves as far left and far right increased. Thus, while an average position remained about the same, extreme views at both ends of the continuum increased. It might be inferred from this that while the direction of political leaning may not change, the dogmatism with which political opinions are held increases in the senior years.

48. L. Eron and R. S. Redmount, "The effect of Legal Education on Attitudes" (1957) 9. J. Leg. Ed. 431.

3. *Anxiety scales: study-related anxiety* (Questions 17-22).

year:	1	2	3	4	5
mean score:	3.20	3.00	3.00	2.77	2.42

None of these differences were significant. It can tentatively be asserted that work-related anxiety does not increase or decrease significantly with year of study. One explanation of this result may be that those who do not achieve the optimum anxiety level for productive work are weeded out by failure, as are those who exceed that level, the overall average thus being homogeneous.

4. *Manifest anxiety* (Questions 23-27).

year:	1	2	3	4	5
mean score:	1.70	2.26	3.25	1.77	2.11

Manifest anxiety was found to be significant between several years. The trend is to increase to a peak at third year, then to drop away again to levels not significantly different from those of the first year.

This can be read with the tendency of the third year to be a low point in terms of "Ethical Norms" socialisation. It may be tentatively asserted that anxiety and the socialisation process are correlated, for it appears from these results that, in terms of general personal anxiety levels, law school is an anxiety provoking experience. Yet the failure of any significant differences to appear in the work-related anxiety scale suggest that it is not the *fact* of law school work which provokes this anxiety but its content.

5. *Further analysis of manifest anxiety scale*

Responses were now grouped according to their score on the manifest anxiety scale, six groups being created, composed of the possible scores 0-5. On deriving means for the "Ethical Norms" socialisation scale for each of the groups thus created it was found that the lowest scoring group on the anxiety scale had the highest mean on the socialisation scale, significantly different from the other groups. It can reasonably be inferred that students who have accepted the type of norms exemplified in the socialisation scale have significantly lower manifest anxiety levels than those who have internalised these norms less successfully. Since these norms are increasingly rejected by senior students, the higher anxiety levels in later years take on new meaning. However, the tendency of the anxiety level to drop in the fourth and fifth year leads one to believe that some new set of norms has filled the anxiety provoking gap left by the rejection of those in the socialisation scale.

A check was made as to whether age was a significant factor on anxiety scores. It was found that age is not a significant factor in the level of anxiety experienced.

The response to Question 8, on the degree to which emotional reactions affected work was also calculated for each anxiety group. The low anxiety-level groups felt that emotional reactions interfered only to a small degree with their work, while the high anxiety-level groups felt that their emotional reactions interfered to a greater degree.

6. *Career intentions* (Question 5).

year:	1	2	3	4	5
Proposed career:					
(a) Private practice	30%	42%	40%	54%	60%
(e) Legal aid, social work community services	10%	5%	35%	8%	5%
(f) Other	20%	21%	10%	30%	25%

Proportions of students intending careers in the other options offered (see Appendix) remained fairly constant. It will be seen that while a fairly constant rise in those intending to enter practice occurred,⁴⁹ the number of those intending to do "philanthropic" work peaks in the third year. This increased number of philanthropic-type work responses in the third year might be interpreted as a "rebellion" against the socialisation that successful adoption of the conceptual modes of legal thought entails. When students realise that they must master these modes of thought to succeed at even philanthropic law-work, they perhaps begin to consider other possible careers, including private practice.

7. *Effect of emotional reactions on work* (Question 8).

Question 8 results revealed a clear tendency for senior students to feel that their emotional reactions affected their work less. A likely inference is that those students whose reactions affect their work too badly are eliminated by failure. Redmount⁵⁰ suggested that there is an "optimum" level of anxiety which spurs work effort, but beyond which reasoning and conceptualising ability is progressively destroyed.

8. *Perception of student social structure* (Question 6).

About 10-15% more senior students than junior students agreed that there was an "inner circle" of senior students in the law school. Some polarisation of views on this question occurred, with 0% in the fifth year undecided, compared with 30% in the first year. This suggests that while students' preceptions of the social nexus of the law school as a hierarchy increase only slightly, their perceptions of it as a social nexus etc. do increase.

49. This was also the tendency disclosed in a recent study at Auckland Law School, R. M. Noakes, *Law Careers*, unpublished LL.B.(Hons) dissertation, Auckland 1973.

50. R. S. Redmount, "A Conceptual View of the Legal Education Process", (1972) 24 J. Leg. Ed. 129.

9. *Student idealism* (Question 33).

Agreement with the statement in question 33, that law school dampens student idealism, showed a fairly steady increase from junior to senior years (reaching 74% in the fifth year). This is perhaps especially significant with regard to the trends in the "Ethical Norms" socialisation scale and the anxiety scale.

10. *Analysis by social group.*

Of 75 responses to the question as to father's occupation, 28 were found to be professional, 34 white-collar, and 13 blue-collar (including farmers, tradesman etc.).

The mean score on the "Ethical Norms" socialisation scale was calculated for each group. The variance of these mean scores was found not to be significant. This result suggests that changes in the ethical aspects of socialisation have no relation to social background.

The responses to question 4, reasons behind the decision to study law, were:

<i>Social Group:</i>	Professional	White-collar	Blue-collar
<i>Reasons</i>			
(a) Drifted into it	11%	21%	38%
(b) Law offers certainty	7%	6%	0%
(c) Interest in law	46%	38%	31%
(d) Autonomy and respect	11%	21%	8%
(e) Other	25%	15%	23%

The most distinct difference between the groups is that many more students of blue-collar backgrounds "drifted into" law school. This would accord with theoretical assertions as to the direction and impetus that middle-class families give to their offspring. Many more professional as opposed to blue-collar students entered law school because of "interest in law", perhaps reflecting a more intellectual orientation in the professional group. The white-collar group, on the other hand, placed more importance on the "autonomy and respect" aspect of a professional career.

Question 5, relating to the career aspirations of students, revealed that while about the same number of students in professional and white-collar groups intended to enter practice, only about a third of this number in the blue-collar group so intended. "Other" and "don't know" responses were, in the blue-collar group, double those in the white-collar group. In turn, white-collar responses of "other" and "don't know" were double those of the professional group. These results seem to confirm that students with professional and, to a lesser extent, white-collar backgrounds are more highly directed and, perhaps, motivated than those from blue-collar backgrounds. This gives some support to the theory that socialisation is in part an extension of what

the individual already is, though the results of the socialisation scale suggest that, in respect of the types of values contained therein, there are no predispositions according to social background. One study which may help to illuminate this set of results is that of Hall.⁵¹ The lengthy training involved in professional education requires, according to Hall, a motivation that will generate sufficient stamina to successfully complete the course of study. Only in professional and middle class families are the mechanisms necessary to generate the requisite ambition present. Vollmer⁵² develops this point in noting that professionals have usually learned principles of "deferred gratification" to a high degree, and are, typically, "inner directed" personalities.

Finally, the results of Question 7, on the extent to which student expectations of the law course had been fulfilled, indicated no significant differences by social group, suggesting that expectations about the law course are not instilled to any greater degree by a professional background than by any other.

V. CONCLUSIONS

In inferring conclusions from the survey the caveat as to methodology must be repeated, as must the warning that correlations do not demonstrate causes. The results are only intended to be indicators of possible effects, and tentative evidence in support of theories.

While they are at law school, significant changes occur in students' anxiety levels, in their socialisation into some of the "Ethical Norms" of the legal profession, in their work intentions, in their level of idealism, and, perhaps, in their level of cynicism. All of these changes except those relating to ethical norms are changes of which the stated aims of legal education in New Zealand take no account. Indeed, with respect to some ethical norms, it seems that students are "de-socialised" in terms of the stated aims. The general picture is that students go through a period of increased anxiety in the middle years of the law course, and emerge from this period more committed to private practice (or to its avoidance as a career option), more polarised and dogmatic politically, and less willing to say that the lawyer upholds ideals of justice and ethical conduct. They are perhaps more cynical and certainly less idealistic.

Overall, while it cannot be conclusively proved that the law school is responsible for these changes (the analysis of social origins suggests these are a force at work also) it seems that one of the following processes may be occurring: either the legal education process is rejecting those who do not exhibit or cannot take on the characteristics found in senior years, or legal education actually fosters these qualities in individuals. The social setting of the law school plays a part, but

51. O. Hall, "The Stages of a Medical Career", (1948) 53 Am. J. Soc. 327.

52. Vollmer, *op. cit.*

this social setting is largely dictated by the structural nature of legal education. (Many law teachers recognise this in their emphasis on the need for "community in the law school").⁵³

The third year seems to be something of a watershed. Thorne speaks of a "third-year malaise",⁵⁴ which on the data of the survey seems a more than apposite description. The conceptually taxing third year subjects, often taught by socratic methods, and following a year of similarly difficult core subjects, seem to be the main mechanisms by which students are forced to accept the conceptual premises of law, and whatever *weltanschauungen* these premises carry with them.

The contention of the writer is that legal education has effects which are largely unconsidered and unplanned, and that some of these effects are of great importance in the formation of personal and professional identity. If legal education is to be continued on its present basis the writer believes that students should consciously be started on the development of a coherent social and moral philosophy of their profession,⁵⁵ rather than continuing the present practice of allowing these values to grow in a totally undirected and unconscious fashion, at least during the period of law school training. Alternatively, some other basis of legal education might be sought, perhaps a "transactional"⁵⁶ basis, or a "functional-informational" approach, seeing law more in terms of social engineering.

If indeed social relations within professional communities resemble Durkheim's pattern of mechanical solidarity (the small "pre-industrial" community within which the individual finds identity and unity), and if the relationship of professional communities to society is in the pattern of organic solidarity (the fragmented relationship of industrial society, based on a division of labour), then in a sense the identification with a profession forms the basis of the social life of members. In a world of anomic relationships this becomes even more important, and partly explains the professions' strenuous defence of their prerogatives. Given the important and specialised role of professions in modern society, more information should urgently be sought about the formation of the professional identity that governs the relationship of the professions to that society.

What is the professional identity and role that law schools develop in students? Whatever it is, it may be very different from that which legal educators suppose.

53. For example, K. Llewellyn, *Bramble Bush* (New York, 1960); and also in *A Statement of Concern*, Unpublished paper of the V.U.W. Law Faculty, on the threatened demolition of its "home" in the Hunter Building, (1974) p. 4.

54. B. Thorne, *Education for the Professions of Medicine, Law, et al.* op. cit.

55. See W. Katz, "Human Nature and Training for Law Practice", (1948) 1 J. Leg. Ed. 205.

56. Redmount, "Transactional Emphasis In Legal Education", (1974) 26 J. Leg. Ed. 253.

APPENDIX**Survey of Law Student Opinion**

This survey is being conducted as part of an honours research paper. Its purpose is to examine students' opinions about legal education and to examine stresses on students. The results may be used by the faculty and it is consequently in your interests to answer as accurately and frankly as possible. However, if you do not wish to answer any question please simply state "object". Your name is not required and your responses will in no way be identified with you. Please work through the paper as quickly as possible to allow the maximum number of responses to be collected.

Question No.

1. Please state what year of study you are currently engaged in. (i.e. 1st, 2nd, etc.)
2. Please state your age.
3. Please state your father's occupation.

GENERAL ATTITUDE TO LEGAL EDUCATION

In this section please respond by stating the letter preceding the statement which you feel most represents your opinion.

4. Which of the following most represents the reason behind your decision to study law?
 - (a) I made no conscious decision — I drifted into it.
 - (b) Law offers certainty and clarity.
 - (c) Interest in law, intellectual challenge and stimulation.
 - (d) Antonomy, respect, and a responsible position.
 - (e) Other: please specify.
5. What type of work do you anticipate doing when qualified?
 - (a) Private practice.
 - (b) Commerce, business.
 - (c) Politics.
 - (d) Civil service.
 - (e) Legal aid, social work, community services.
 - (f) Other: please specify.
6. What is your reaction to the assertion that "senior students in the law school form an 'inner circle' of relationships and friendships".
 - (a) Strongly agree.
 - (b) Agree.
 - (c) Undecided.
 - (d) Disagree.
 - (e) Strongly disagree.
7. Since being in law school, have your expectations of law and the study of law been fulfilled, whatever they may have been?
 - (a) Not at all fulfilled.
 - (b) Partly fulfilled.
 - (c) Completely fulfilled.
 - (d) Had no expectations.
8. Generally, in your law school work, to what extent do you feel that your emotional reactions interfere with and lower your performance?
 - (a) Not at all.
 - (b) To a small extent.
 - (c) To some extent.
 - (d) To a moderate extent.
 - (e) A great deal.

9. In your own view, would you say that your personal philosophy is:
- (a) Far left of centre.
 - (b) Left or liberal.
 - (c) Middle of the road.
 - (d) Conservative.
 - (e) Far right.
 - (f) Don't know.

RELATIONSHIPS WITH STAFF AND OTHER STUDENTS

10. To what extent do you have contact outside lectures and tutorials with faculty staff?
- (a) Very often.
 - (b) Often.
 - (c) Sometimes.
 - (d) Infrequently.
 - (e) Never.
11. To what extent are your friends and acquaintances law students and lawyers?
- (a) Almost all.
 - (b) Most.
 - (c) Some.
 - (d) A few.
 - (e) Almost none.
12. How often do you feel uncomfortably different outside the law school in the presence of non-law students or lawyers?
- (a) Very often.
 - (b) Often.
 - (c) Sometimes.
 - (d) Infrequently.
 - (e) Never.
13. To what degree do you think of yourself as being in training for a profession?
- (a) To a great degree.
 - (b) To a moderate degree.
 - (c) To a small degree.
 - (d) Hardly at all.
 - (e) Never.
14. To what extent do you agree with the following statements.
- "The worthwhile lawyer must, in his work, stand committed to the eternal quest for justice, wherever it may be sought."
- (a) Strongly agree.
 - (b) Agree.
 - (c) Undecided.
 - (d) Disagree.
 - (e) Strongly disagree.
15. "The young entrant to the legal profession brings with him from the university a profound sense of dedication and of the long-term purpose which he is trained to fulfil in society."
- (a) Strongly agree.
 - (b) Agree.
 - (c) Undecided.
 - (d) Disagree.
 - (e) Strongly disagree.

16. "The 'rule of law' is nothing more than nor less than the rule of force."
 (a) Strongly agree.
 (b) Agree.
 (c) Undecided.
 (d) Disagree.
 (e) Strongly disagree.

The next section is concerned with the amount of stress which legal education puts on students. You are reminded that your responses are completely anonymous, and are again requested to be as frank and accurate as possible.

Please respond by stating "yes" or "no".

17. Do you worry when lecturers who expect students to prepare for class are likely to call on you?
 18. Do you worry about passing end of year examinations?
 19. Do you think you worry more about your work than other students?
 20. After you have sat a terms test or examination or handed in a piece of written work, do you worry about how well you did in it?
 21. Do you frequently wish you did not worry so much about your work?
 22. Do you often feel in class that most other students understand better than you do?

Please respond to the next set of statements by stating whether they are "true" or "false" as far as you are concerned.

23. I work under a great deal of strain.
 24. I find it hard to keep my mind on a task or a job.
 25. I am very confident of myself.
 26. I often find myself worrying over something.
 27. Life is often a strain for me.

YOUR GENERAL VIEWS

To what extent do you agree or disagree with the following statements?

28. Basic changes in people's character cannot be made by carrying out reforms.
 (a) Strongly agree.
 (b) Agree.
 (c) Undecided.
 (d) Disagree.
 (e) Strongly disagree.
29. Breaking the law can never be justified on grounds of conscience.
 (a) Strongly agree.
 (b) Agree.
 (c) Undecided.
 (d) Disagree.
 (e) Strongly disagree.
30. Power in society has shifted from practical hard-headed men to woolly idealists who know little about the real world.
 (a) Strongly agree.
 (b) Agree.
 (c) Undecided.
 (d) Disagree.
 (e) Strongly disagree.

31. Social reformers are prepared to destroy both good and bad to achieve their objectives.
- (a) Strongly agree.
 - (b) Agree.
 - (c) Undecided.
 - (d) Disagree.
 - (e) Strongly disagree.
32. There are natural leaders and followers and society would be better off if people accepted this.
- (a) Strongly agree.
 - (b) Agree.
 - (c) Undecided.
 - (d) Disagree.
 - (e) Strongly disagree.
33. One of the stabilising effects of law schools is to dampen undergraduate idealism and ardour for causes in favour of ardour for professional success in the established community, and acceptance into the law world.
- (a) Strongly agree.
 - (b) Agree.
 - (c) Undecided.
 - (d) Disagree.
 - (e) Strongly disagree.

Thank you for your co-operation.

JOHN HANNAN