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LEGAL ADVICE BUREAUX  
AND  
THE LEGAL PROFESSION  
MAINTAINING COLLEGIATE CONTROL

A thesis presented in partial  
fulfilment of the requirements for the degree of  
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ABSTRACT

Legal Advice Bureaux appear to minimise the traditional professional-client relationship in which the professional establishes his or her ascendancy over the client.

The present study investigates whether Legal Advice Bureaux are, therefore, weakening the New Zealand legal profession's control over its occupational domain. It is based on T.J. Johnson's "radical" theory of the professions and rejects both "conventional" and "reactionary" explanations of professions and professionalism.

Following this perspective, it is proposed that Legal Advice Bureaux and those who work in them are nevertheless engaged in establishing the legal profession's occupational dominance. An inquiry into the structure, processes and ideology of Legal Advice Bureaux and the personal and professional characteristics of those who work in them form the empirical core of the present study.

The findings presented are based on the responses of 29 Legal Advice Bureaux supervisors and 273 lawyers from a stratified multi-stage varying probability sample of four urban areas in New Zealand. Response rates were 71.9% (N = 32) and 84.5% (N = 323) respectively. Data are presented in 50 in-text tables.

Whilst finding some support for its propositions, the study concludes by raising some problems in Johnson's theory of the professions which remain to be solved.

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TABLE OF CONTENTS

	Page
Acknowledgements	iii
List of Tables	vii
Glossary	x
Introduction	1
Study Outline	4
Methodological Considerations	6
Notes	10
Chapter I	
Current Points of View on the Professions and Professionalism	11
The Conventional Perspective	13
The Revisionist Perspective	16
The Radical Perspective	22
Notes	28
Chapter II	
The Structure of Legal Advice Bureaux	33
Notes	58
Chapter III	
Legal Advice Bureaux Processes	60
Notes	73
Chapter IV	
Ideology and Legal Advice Bureaux	74
Economic Issues	75
Political Issues	84
Social Issues	91
Notes	104
Chapter V	
Legal Advice Bureaux and Professional Control	105
Legal Advice Bureaux in Political, Economic and Ideological Processes	110
Notes	117

	Page
Appendices	
Appendix I : Correspondence	122
Appendix II : Questionnaire to Legal Advice Bureau Supervisors	129
Appendix III : Questionnaire to Participants and Non-Participants	136
Bibliography	
Books and Journals	151
Reports and Surveys	157
Other Sources Quoted	158

LIST OF TABLES

Number	Title	Page
S	Survey Design and Sample	8
1	Years Since Admitted as Barrister and/or Solicitor in New Zealand	35
2	Main Areas of Practice	36
3	Lawyers' Incomes According to Experience in Years	38
4	Career Positions of Lawyers	39
5	Law Education	40
6	Ages of Lawyers	41
7	Sex Distribution of Lawyers	42
8	Father's Occupational Status	43
9	Mother's Occupational Status	44
10	Relatives in the Professions	46
11	Father's Occupational Status and Relatives' Professions	47
12	Frequency of Criminal Legal Aid Work	48
13	Frequency of Civil Legal Aid Work	49
14	Frequency of Duty Solicitor Work	50
15	Frequency of Involvement in Law Society Affairs	51
16a	Frequency of Work as Honorary Solicitor, Participants	52
16b	Frequency of Work as Honorary Solicitor, Non-Participants	53
17	Frequency of Involvement in Non-Legal, Voluntary Activities	54
18	Frequency of Involvement in Non-Legal, Voluntary Activities by Years of Practice	55
19	Major Sources of LABx Clients	65
20	Numbers of Clients and Participants in 23 LABx	68
21	Establishment of LABx	70
22	Participants' Length of Service in LABx	70
23	Clients' Legal Problems as Reported by LABx and Participants	71
24	There is no need to restrict the number of those wishing to enter the legal profession	76

Number	Title	Page
25	The market situation will assure that competent lawyers are successful	77
26	Real incomes of lawyers are nowadays considerably lower than six years ago	78
27	Civil legal aid work is uneconomic	80
28	Criminal legal aid work is uneconomic	80
29	Lawyers should be in partnership with specialists in other fields	82
30	The most serious professional competition to lawyers comes from accountants	83
31	Lawyers should not be restricted by special rules any more than businessmen are	84
32	Government inroads into traditional areas of practice are a serious threat to the profession	85
33	Too much power has been concentrated in the hands of the government executive	86
34	Too much power has been concentrated in the hands of the government bureaucracy	86
35	The legal profession should instigate legal reform in such areas as homosexuality and abortion	88
36	The law should be used in the service of social goals	89
37	More emphasis should be given to schemes which enable people to represent themselves in court	90
38	Laymen should be included in the law reform committee	91
39	People who use legal aid get as good a service as other, fee-paying clients	92
39a	Participants' opinion about the quality of legal aid	93
39b	Non-Participants' opinion about the quality of legal aid	93
40	Certain people like MP's, Social Workers and Trade Union Officials give "legal advice" of dubious value	95
41	The long period of training for law students is necessary because of the complexity of the law	96
42	The law is incomprehensible to ordinary people	97
43	Only the law can protect the ordinary citizen against the state	98

Number	Title	Page
44	The ordinary lawyer remains isolated not only from the world of business and industry but also from the day-to-day problems of the man-in-the-street	99
45	Lawyers' high standing in the community is well deserved	100
46	Criticism of the work of a fellow lawyer should only be made within the profession, if at all	101
47	Employment of Law Graduates	120

## Figure I

Rate of Attrition During Referrals to LABx	66
--	----

## GLOSSARY

CAB or CABx	Citizens' Advice Bureau(x)
LAB or LABx	Legal Advice Bureau(x) Agency in which gratuitous legal advice is given at set times by qualified legal practitioners who attend the LAB according to a roster
LAB Supervisor	Legal practitioner who arranges the roster of Participants
Non-Participant	Legal practitioner who does not work as a voluntary legal adviser at a LAB
Participant	Legal practitioner who has volunteered to attend a LAB as an unpaid legal adviser

## INTRODUCTION



New Zealanders tend to regard the professions with considerable awe. This exalted position is usually granted on the basis of claims to specialised knowledge and the exclusive possession of professional competence. The professions provide this "image" by instituting standards of practice, educational requirements for positions in the profession and licensing regulations. It is an "image" endorsed by popular culture and reinforced by social scientists who study "the professions".

The ideological promulgation of professionalism seems to be based on a number of assumptions. First - it is assumed that professional expertise is rooted in knowledge which is complex and enigmatic. Consequently, this knowledge can only be acquired by persons of rare intellect and probity. Secondly - the professions are believed to provide essential services for the efficient functioning and social well-being of society. The awarding of incentives for professionals is thus considered an appropriate means of facilitating "service".

Conversely, the professions are criticised for their single-minded pursuit of self-preservation as they maintain boundaries between themselves and other interest groups. As recipients of benefits which accrue to those who control some aspect of the power structure, "professionals" are considered unlikely to voluntarily jeopardise their status, their power, or their prestige by embracing a state of equipollency.

Although these contradictory images have provided information about the professions and insights into the nature of professionalism, the theoretical models which inform these images are deficient.<sup>1</sup> They are incapable of explaining the existence or persistence of "professionalism" and when applied to a particular field such as law, they are unable to cope with changes to the socio-economic and political environment. But it is this environment which over time conditions the social position and indeed survival of a profession in society.

Whereas most "theories of the professions" are content to justify the existence of professions, we have attempted to reveal the mechanisms which are used by one profession to maintain itself in its preeminent social position. More specifically, we are interested in identifying the structure, processes and ideological underpinnings of one particular set of social relations.

This thesis centres on LABx as mediators of the legal profession's superior social position and power in New Zealand society.

There are three reasons for adopting this particular focus. First - we see all social relations as the result of policies which determine the possible scope of action. Secondly - within the range of lawyer-client relations, social relations at LABx are most likely to be catalytic because of Bureau policy which aims at minimising the usual asymmetrical lawyer-client relations. Thirdly - the problems of maintenance and survival for the profession in the face of potentially deleterious processes is more likely to become acute if the characteristics of lawyers who are engaged in LABx as volunteer legal advisers differ significantly from those of lawyers who are not so engaged.

Having regard to these processes we attempt to establish two propositions which hold that:-

1. "The structure, processes and ideology of LABx in New Zealand are designed to assure the continuance of the legal profession (against potentially detrimental political, economic and ideological processes) by reproducing the dominant social relations."
2. "Lawyers who work as volunteer legal advisers in LABx do not differ significantly from lawyers who are not involved in LAB work."

### Study Outline

To examine these propositions the present study is arranged into five chapters. The first chapter provides an overview of current theoretical perspectives on the professions and professionalism. It must be stressed that the literature in this field is extensive and the selection which is presented has been limited by two factors. Knowledge of, and a degree of familiarity with, the work of an author and the potentiality of a theory or thesis to exemplify a certain ideological perspective.

Chapter I, therefore, surveys some of the contributions to "the theory of the professions". Theories are grouped in one of three sections, according to their ideological perspectives. "Conventional" theories which attempt to account for professions and professionalism by reference to cognitive foundations may be found in the first section. The next section deals with "reactionary" theories. These are theories which hold that the services which the professions provide are necessary for the well-being of society. Professions are, therefore, granted a mandate of autonomy by society so that they might be able to serve the community competently and selflessly. The third section subsumes theories within a "radical" tradition. Radical theories, while admitting the existence of such a mandate do not agree that it has been freely given to the professions. Radical theorists regard the task of a theory of the professions as accounting for the professions' ability to maintain their positions of power and privilege.

The present study rejects both "conventional" and "reactionary" perspectives and adopts T.J. Johnson's<sup>2</sup> "radical" theory of the professions. Johnson argues that a profession is a particular form of institutionalised control over an occupational domain and that the various forms of occupational control are linked to social relations of production. The decision to adopt Johnson's theory dictates the format of the present study. Its focus is limited, however, to three levels at which social relations may be reproduced within the LAB framework. An examination of LAB

structure, processes and ideology respectively are the subject of the next three chapters.

In chapter II it is argued that Participants constitute the most important element in the LAB structure as the delivery of LAB services is the task of Participants. Claus Offe<sup>3</sup> writes that:-

"the structure of each system of political institutions can... be interpreted as an institutional exclusiveness, as a selection-programme which establishes action premises and action barriers and itself sets up a more or less narrow scope of possible policies." (4)

Participants' characteristics, therefore, provide indicators of the limitations and scope of possible policies when compared with those of Non-Participants.

In Chapter III we examine the content and assess the outcome of LAB processes and gauge their effect on the legal profession's efforts to maintain control over its occupational domain.

By limiting their activities to verbal legal advice, LABx draw a fundamental distinction between themselves and other "free" legal services such as Neighbourhood Law Offices, Law Shops and Law Communes. It is recognised that this rule and the consequences flowing from it:-

"Are never mere procedural formalisms but...determine as such the possible content and possible outcome of the process." (5)

Chapter IV deals with the LAB ideology which enables LABx to be something other than what they are: Monuments to legal equal opportunity. We are not concerned with the content of this assertion but the image it projects. That image is not rejected out of hand, because:-

"diffuse ideological tendencies of a humanitarian and charitable kind (should not) be a priori denied all causal significance." (6)

Indeed, Offe suggests that:-

"there is something like an inarticulate ideology in political institutions...in the sense that it promotes the selective perception and articulation of social problems and conflicts." (7)

Chapter V concludes the study by drawing together the findings regarding LAB structure, processes and ideology and placing them into their theoretical contexts. Both propositions are supported. Having dealt with the focal concerns of this study, wider issues are briefly introduced. For whatever the effects of LABx on the collegiate professionalism of the legal profession in New Zealand it is recognised that both LABx and the profession are shaped by broader political, economic and ideological processes.

Finally, it is suggested that further advances in the sociology of the professions depend on the solution of several theoretical problems raised by the present study.

#### Methodological Considerations

The objectives of this study required an enumeration of LABx and Participants as well as a control group of Non-Participants. The research design for the present study was thus determined by two factors: First - the absence of any earlier systematic study of LABx rendered their number unknown; secondly - the percentage of Participants within the legal profession was also unknown.

#### Preparatory Work

Support in principle for this study was sought from the New Zealand Law Society. This was granted in March 1980, but withdrawn two weeks later in April, shortly after the commencement of the pilot study.<sup>8</sup>

All fourteen District Law Societies were asked for their support for this research project and asked whether any LABx operated in

their districts. Enclosed with each one of these letters was a synopsis of the research and a supporting letter by Professor G.S. Fraser, Head of the Sociology Department, Massey University (Appendix I). Eight District Law Societies responded by stating that there were LABx in their districts.

### Budget

This research was financed by means of a contractual agreement with the Department of Justice, Wellington.

### Methods of Data Collection

Questionnaires were used for stages 2 and 3 (c.f. Survey Design, below) of the survey. Facsimiles of these instruments are attached to this study as appendices II and III. The questionnaires used for stage 2 contained mostly open-ended items to obtain information relating to LAB processes (c.f. Chapter III). These questionnaires were mailed to 32 LAB supervisors. The questionnaires for stage 3 contained 63 precoded items. These were also mailed to all Participants and Non-Participants in the sample (N = 332). (A subset of 29 Participants was also interviewed in the course of this research but the analysis and evaluation of these interviews has been excluded from the present study).

### Survey Design and Choice of Sample Design

The survey design was a stratified multi-stage design which was related but independent for each one of the three strata. Eight Law Society Districts<sup>9</sup> formed the first stratum. A purposive sample was taken to represent one Metropolitan area, one South Island city and two North Island cities within different Law Society Districts. The next stratum was comprised of the 32 LABx within the four Districts sampled in the first stage. 1745 lawyers (196 Participants and 1549 Non-Participants) formed the third stratum. The number of Non-Participants sampled was derived by a systematic random sample (8.8%), choosing every eleventh unit

in the universe after a random number had been drawn to indicate the first unit. This rationale is represented below in Table S.

TABLE S  
Survey Design and Sample

Stage	Unit	N in Universe	N in Sample	Selection Method
1	D.L.S.	8	4	Purposive
2	LAB	32	32	Enumerative
3	Participants	196	196	Enumerative
	Non-Participants	1549	136	S.R.S.

Key: D.L.S. : District under a District Law Society which operates LABx  
S.R.S. : Systematic random sample

#### Pilot Test

The questionnaires used for Participants and Non-Participants (stage 3; Appendix III) were tested on 24 respondents, all practicing lawyers, in a central North Island city. Although pilot testing had to be abandoned after five days (c.f. "Preparatory Work"), thirteen questionnaires had been returned, leading to several alterations in the final questionnaire design.

#### Processing of Data

The questionnaires to LAB supervisors (stage 2; Appendix II) were hand-tabulated by the researcher. Questionnaires used for Participants and Non-Participants (stage 3; Appendix III) were first scrutinised by the researcher. Peter Davis'<sup>10</sup> 7 step "Occupational Prestige Ranking Scale for New Zealand" was used to code the occupational status of respondents' parents. The edited information was then transformed into "files" on Massey University's PDP 11 and batch processed on a Burroughs B6700. SPSS Version 7 was used throughout. Levels of significance are presented up to four decimal points in this study; this conforms to the data presentation of SPSS.

### Time Frame and Response Rates

32 questionnaires to LAB supervisors were mailed on 15 May 1980. Two reminders were sent but by 30 July only 23 (71.9%) had been returned.

323 questionnaires to Participants and Non-Participants were mailed on 29 August 1980. Nine (2.7%) could not be completed because respondents had left the area or had retired, leaving 323 questionnaires in the survey. Clearly, sample bias is small for these reasons but is increased to an unknown extent by lawyers with very short tenure. In any event it would only be a very small number.<sup>11</sup> Of these 323 questionnaires, 273 (84.5%) had been returned by 14 October 1980. As expected, there was a considerable difference in response rates between Participants and Non-Participants; the former clearly found the survey more relevant. Of 196 questionnaires to Participants, 181 or 92.35% were returned; by contrast only 92 (67.65%) of the 136 questionnaires to Non-Participants were completed.



## NOTES

1. These elements are suggested by GRAEME SALAMAN who argues that "A sociological approach to organisations...takes as the topic to be investigated exactly that which is assumed and glossed over by conventional organisational analysis: the relationship between internal organisational structures, processes and ideologies, and the society within which they exist." (:519)  
G. SALAMAN, 1978, "Towards a Sociology of Organisational Structure:", Sociological Review, 26: 519-554.
2. T.J. JOHNSON, 1972, "Professions and Power", MacMillan, London.
3. C. OFFE, 1974, "Structural Problems of the Capitalist State", in KLAUS VON BEYME (ed), German Political Studies, Vol.1, Sage, London.
4. Ibid.,: 39
5. Ibid.,: 40
6. GORAN THERBORN, 1978, "What Does the Ruling Class Do When It Rules?", N.L.B., London : 237.
7. C. OFFE, op.cit.,: 39.
8. While this turn of events was not entirely unexpected, c.f. ERWIN O. SMIGEL, 1958, "Interviewing a Legal Elite: The Wall Street Lawyer", A.J.S., 64 : 159-164, it jeopardised the research project severely. Separate approaches to each of the fourteen District Law Societies upset the timing of the research at an early stage.
9. New Zealand is divided into fourteen Districts, each one under the jurisdiction of a District Law Society. C.f. "The New Zealand Law Register", 1980, Sweet and Maxwell (N.Z.) Ltd, Wellington.
10. PETER DAVIS, 1977, "An Occupational Prestige Ranking Scale for New Zealand", University of Canterbury, Research Project 24.
11. The assistance of District Law Societies in supplying up-to-date membership records was an invaluable addition to the necessarily out-of-date information contained in The New Zealand Law Register, 1980, op.cit.

CHAPTER I

CURRENT POINTS OF VIEW  
ON THE  
PROFESSIONS AND PROFESSIONALISM

In suggesting that "sociologists have become the dupe of the established professions... and the arbiter of professions on the make", Roth<sup>1</sup> draws attention to the fact that most sociologies of the professions are theoretically sterile. Indeed, most of them are simply attempts to distinguish "profession" from "non-profession". Such attempts typically result in taxonomies of distinguishing characteristics, whilst the value-orientations underlying this approach are rarely explored. Sociologists who proceed in this way may be classified as conventional because of their implicit acceptance of prevailing societal ideologies. Conventionalists describe what professionals do for their clients, while emphasising the professionals' service ethos. Professions in this view are differentiated from other occupations or "non-professions" by the character of their work. Professional work, according to the conventional argument, demands "the possession of an intellectual technique acquired by special training".<sup>2</sup>

A more recent school of thought suggests an easier way to distinguish professions from other occupations than that advocated by conventionalists. According to this view which will be called revisionist, a profession is simply any occupation that is so regarded by society. Since reality is a social construct, it is society which shapes and classifies the world. In this view, social recognition is the crucial element. Society gives the profession a license to control a certain area of work and provides it with a mandate to define the meaning of that work for society at large. According to the revisionist view:-

"every profession considers itself the proper body to set the terms in which some aspect of social life or nature is to be thought of and to define the general lines of even the details of public policy concerning it." (3)

As well as describing what a profession might be, by stating what its members do, revisionists seek to account for and justify professional "characteristics".

Within the radical tradition, conventional description and revisionist "explanation" are both regarded as inadequate. It is of little theoretical interest, according to this view, what a professional group does or what its characteristics might be. What is of importance is not only how such a group comes to be regarded as a profession but more specifically how a profession maintains its status, power and prestige. The radical view agrees with the revisionist perspective that reality is socially constructed but it does not agree that this is brought about by consensus. A profession, in the radical view, is not a particular evaluation of an occupation but a particular form of control over an occupation.<sup>4</sup> Consequently, professionalism does not imply a "mandate" to define areas of meaning, but rather a mandate to exercise control over the political, economic and ideological domains. In the political domain a profession has control over conditions at the workplace; in the economic domain it has control over its market position; and in the ideological domain it has control over affect.

In summary, conventional, revisionist and radical views of the professions differ fundamentally from each other. The conventional definition of the professions seeks its answers in cognitive foundations; the revisionist definition draws attention to moral division and evaluation; while the radical definition focuses on the problem of autonomy. These perspectives on the professions emanate from the ideological positions of sociologists and as such simply reflect the range of world-views which one finds distributed throughout society.<sup>5</sup>

#### THE CONVENTIONAL PERSPECTIVE: The Search for Cognitive Foundations

The genesis of the legal profession within the Anglo-American tradition is a 13th Century phenomenon.<sup>6</sup> The growth and development of the profession appears to have been rather slow and Peter Laslett<sup>7</sup> comments of the 17th Century that "there were very, very few" professional people. Alexis de Tocqueville<sup>8</sup>, writing of the legal profession two centuries later, observes its close alliance with

the aristocracy in England and its hostility to the aristocracy in France. He asks whether this difference is due to "sudden and fleeting impulses" or to "instincts which are more or less natural to them (i.e. the lawyers) and which will always recur in history". De Tocqueville, observing that lawyers "form the most powerful, if not the only counterpoise to the democratic element", concludes that they "constitute a sort of privileged body of intellect".

This theme of lawyers' superior intellect is taken up by Carr-Saunders and Wilson<sup>9</sup> in their seminal work on the professions. They offer no definition of what a profession might be, but are concerned with those attributes which are seen as indispensable for its members. The most important professional attribute is identified as "an intellectual technique" which is supposedly acquired through special training and is based on a good education. Carr-Saunders and Wilson refute charges of exclusiveness against the legal profession for "it is not their (i.e. lawyers') fault, that only a small percentage of the population can fulfil these requirements."<sup>10</sup>

The major contribution of Carr-Saunders to our knowledge of the professions has led many sociologists to pursue two often, but not always, related problems. The first was how to distinguish professions from non-professions while the other was a concern with processes of socialisation.

The search for a definition of the professions based on common characteristics resulted in considerable unanimity. Cogan,<sup>11</sup> Greenwood,<sup>12</sup> Goode,<sup>13</sup> Hall,<sup>14</sup> Millerson,<sup>15</sup> Moore<sup>16</sup> and Vollmer and Mills<sup>17</sup> impress as the most prominent conventionalists. The only variations evident between these authors are omissions from the taxonomies of discriminating characteristics.

Millerson's work provides us with a good illustration of the conventional approach and at the same time stands as a testimony to the prolificity of "list-makers". By combing the work of

21 authors, Millerson derives a list of 23 common professional attributes. The most frequently cited characteristics are:-<sup>18</sup>

1. Skill based on theoretical knowledge.
2. The provision of training and education by the professional group.
3. The testing of the competence of its members.
4. The existence of a professional organisation.
5. The adherence to a professional code of conduct.
6. Altruistic service.

Parsons<sup>19</sup> perpetuates the idea of central values for the professions but writes in an earlier essay<sup>20</sup> that it may be fallacious to insist on altruism since it is impossible, in practice, to distinguish between business and professional activities in terms of egoistic and altruistic motivation. Having re-established the primacy of cognition, he makes it clear that in his opinion the professions in industrialised societies are a representation of the "primacy of cognitive rationality". Indeed, the professions are "a sector of the cultural system where the primacy of the values of cognitive rationality is presumed."<sup>21</sup> Parsons' enthusiasm for cognitive rationality as the leitmotiv of contemporary society eventually leads him to out-Weber Weber and argue that:-

"The massive emergence of the professional complex, not the special states of capitalistic or socialistic modes or organisations, is the crucial structural development in twentieth-century society." (22)

This emphasis on the cognitive foundations of professional practice is echoed by Greenwood whose definition of a profession is often cited. He writes:-<sup>23</sup>

"The skills that characterise a profession flow from and are supported by a fund of knowledge that has been organised into an internally consistent system, called a body of theory. A profession's body of theory is a system of abstract propositions that describes in general terms the classes of phenomena comprising the professions' focus of interest. Theory serves as a base in terms of which the professional rationalises his operations in concrete situations."

Barber<sup>24</sup> specifically excludes such characteristics as life-style, socialisation processes, structures and corporate solidarity from his definition as he does not consider these elements exclusive to the professions. Instead he argues that "A sociological definition of the professions should limit itself, so far as possible, to the differentia specifica of professional behaviour". He states that professional behaviour can be defined by "four essential attributes":-<sup>25</sup>

1. Generalised and systematic knowledge;
2. Primary orientation to community interest rather than individual self-interest;
3. Self-control through codes of ethics;
4. A system of rewards that are ends in themselves, not the means to some individual self-interest.

This definition emphasises both knowledge and altruism.

Despite continuing support<sup>26</sup> for the conventional perspective, serious shortcomings are evident. First, the inclusion or exclusion of certain characteristics rests on vague criteria and seemingly eclectic memories.<sup>27</sup> Secondly, there is no attempt to articulate theoretically the relationships between the elementary characteristics.<sup>28</sup> And thirdly, the conventional solution rests on the implicit assumption that there have been and there exist now, "true professions".

#### THE REVISIONIST PERSPECTIVE: A Mandate Bestowed

The revisionist perspective is in many ways an extension of the conventional view. The two have been differentiated because the revisionist perspective represents an ideological stance which justifies the activities of professional groups by reference to a "mandate"<sup>29</sup> which society is said to have bestowed upon the profession.

Early attempts to define a profession in a more theoretically fruitful way are characterised "by the identification of some sort of developmental sequence".<sup>30</sup> Caplow<sup>31</sup> and Wilensky<sup>32</sup> argue that the elementary characteristics of a profession are simply a reflection of a specific sequence of events during which an occupational group becomes a profession. The stages in the development of a profession are outlined by Caplow as follows:-<sup>33</sup>

1. The establishment of a professional association;
2. A change in the name of the occupation;
3. The development of a code of ethics;
4. Prolonged political agitation to obtain the support of the public (i.e. "a mandate");
5. The concurrent development of training facilities.

Caplow's developmental stages are made implausible by historical events. In 13th Century Britain "attorneys and apprentices" practiced without the assistance of a professional association, and five centuries later the Inns of Court had relinquished their educational role.<sup>34</sup> As a consequence the Inns:-

"...became little more than residential clubs for lawyers, even though they retained the right to confer the title of "barrister" on students who had nominally been in residence. Benchers were not adverse to manipulating the finances of the Inns to their own advantage and calling to the Bar simply 'by the favour of the bench' without any formal requirements at all". (35)

The history of the professions in colonial areas also does not conform to Caplow and Wilensky's developmental stages. In these areas, the professions together with a western elite were simply imposed on existing social structures.<sup>36</sup>

Hughes<sup>37</sup>, who is also classified as a revisionist, argues for the importance of group solidarity and stresses the centrality of trust and service. He conceives group solidarity to be nothing other than the institutionalisation of client trust. Even the term "professional", according to Hughes, evolved directly



from medieval times when a person who had taken vows within the Church was said to have professed. Despite their transformation from sacred<sup>38</sup> to secular, the professions have maintained their tradition of service and trust. It is a part of that tradition that the profession requests and is usually granted the client's trust. Indeed, Hughes suggests credat emptor (let the buyer trust) rather than the traditional caveat emptor as a more appropriate formula to inform the professional-client relationship. The profession, for its part, once it has obtained the mandate from the public,

"considers itself the proper body to set the terms in which some aspect of social life or nature is to be thought of and to define the general lines of even the details of public policy concerning it." (39)

Despite variations between revisionists one might discern the following elements as the basis for collective agreement:-

1. The activity involved is essential to the life, security and well-being of the members of society.
2. The skills used are based on theoretical knowledge.
3. There is a long period of training.
4. There is a code of professional conduct, the professionals' representative 'body' having power to enforce its precepts.
5. An emphasis on the service provided over and above the economic interests of the professional (altruism).
6. Autonomy both at the personal and professional group level.
7. Relatively high levels of remuneration compared with other occupations, and
8. A high correlation between professionalism and prestige.

According to the revisionist view, professionals perform tasks which are essential to the life, security and well being of the members of society. Professions differ from other occupations in that their members are involved in work which requires special

intellectual discipline and dedication and their domain of action is at once more extensive and profound.

Professionals alone are trained to properly perform these tasks since they acquire, during a long and arduous period of specialisation, a body of highly complex theoretical knowledge and professional skills which lead them to place their clients' economic interest before their own.

On the basis of these postulates, revisionist theorists develop the following, well known, arguments:-<sup>40</sup>

1. Since only members of the professions combine theoretical knowledge with service ethos, it is of utmost importance that professions should be free (i.e. autonomous) to decide how to satisfy the requirements of both clients and society. If they are not able to do this they cannot be of maximum benefit to the community. Professions must, therefore, be permitted to make their own rules and determine their own domain of influence and activity. Outside interference would clearly impair a profession's ability to serve the community competently and selflessly.
2. Since the application of professional knowledge demands a deep sense of responsibility, the selection and admission of candidates as well as their training and qualification must be the exclusive and autonomous concern of the profession itself. There must be no outside interference.
3. Only those candidates who have complied with the regulations and provisions for training as set down by the profession can be authorised to practice. The application, rather than the possession of professional knowledge must, therefore, be the monopoly of certified members of the profession.
4. The services performed by each profession are only part of a complex range of activities which are complemented by the

efforts of other occupational groups within a given domain. The field of justice, for example, requires in addition to barristers and solicitors the contributions of Justices of the Peace, police, court staff, probation officers, prison personnel and many others. The sphere of competence of each complementary occupational group and the type of training the members of each group must receive is moulded by the profession.

5. It is argued that a command of professional knowledge and a permanent commitment to the service ethos demands a combination of intellectual and moral qualities which are only possessed by a highly gifted, small minority in each society. It is, therefore, desirable that all who practice a profession should be members of this gifted minority. Since the long period of training entails considerable sacrifice, it is necessary to provide substantial incentives in terms of both income and status. Without such incentives it is thought likely that capable and suitable members of the community would turn to careers which would involve less sacrifice.

It can be seen that each one of these five points deals with a prerogative that depends on a power relationship and that these points provide the basis for a legitimating doctrine of the professions' privileged social, economic and political status.

Although revisionists would probably agree with the analysis presented above, they are also likely to insist that this "doctrine" simply mirrors the most important values of society.<sup>41</sup> Equality, equity and the harmony of interests can surely be identified as representing the fundamental values of democratic, capitalist society.

However, equality, for the purposes of this doctrine, has come to mean equal opportunity and as Marshall<sup>42</sup> has suggested that means an equal chance to reveal differences, some of which may be superiorities. As Bottomore<sup>43</sup> argues, equal opportunity is a

contradiction in a society which has classes and elites. Revisionist theorists will readily concur that equality of opportunity alone will not suffice. Equality without checks could lead to "meritocracy"<sup>44</sup> or a dictatorship of the elites.

Equity, which is best achieved through competition, is deemed to be one means of countering this form of dictatorship. Since it is inevitable that societies have elites, the public interest is mediated in the market place. If one elite no longer meets the requirements of society, another should take its place. The limitations of this argument stem from its inability to account for the cumulative tendency of acquired advantages.<sup>45</sup>

Another element advanced by the revisionists as a counter to professional dictatorship is harmony of interests. Neither equality of opportunity nor competition amongst the elites in society could ensure that all decisions taken were of benefit to society. This harmony of interests is only possible if one accepts that the "highest" interests of an individual necessarily coincide with the interests of the community. Thus, if an individual lets himself be guided by his highest interests, his actions will of necessity benefit his community and if he promotes the interests of his community he will at the same time act in his own interest. If this notion is accepted it is clear that conflict between an individual and society or a group and the community can only be the consequence of a mistaken interpretation of the real world.

In summary: the revisionist approach provides the necessary justifications for the professions to acquire, preserve and legitimate their mandate of power. It has spawned a host of studies on professional socialisation,<sup>46</sup> without being able to account for the existence of the professions in a theoretical way.

To revisionist theorists such as Becker,<sup>47</sup> who have become cynical, the term "professional" is simply a title which is used by some groups to protect themselves from usurpers and by others to improve their status position.

In searching for the behavioural foundations of professionalism the revisionists have regarded social recognition as the nidus of moral division and evaluation. Since it is society which has the power to create reality and classify and categorise the world, a profession is simply any occupation that is so regarded by society. Society, by bestowing a mandate of power upon an occupation, transmutes it into a profession. The profession for its part holds that mandate in trust.<sup>48</sup>

Despite the inconsistencies inherent in the revisionist approach it is clearly the dominant perspective on professions and professionalism within capitalist societies. It is based on the same ideology which provides the organising principles for capitalism's social, political and economic structures.

#### THE RADICAL PERSPECTIVE: The Mandate Seized

Radical theorists concur with the revisionists that reality is a social construct, but they do not agree that a "harmony of interests" prevails. In their view the mandate has not been freely given by society but seized by the professions through (a) processes of deceit and trickery or (b) because of processes which are inherent in the socio-economic system of society.

Theorists who subscribe to position (a) see professions as little more than a "confidence game"<sup>49</sup> or a "hustle".<sup>50</sup> According to this view professionals inevitably use their mandate to their own advantage. Knowledge, (altruistic) service and autonomy in this view are merely screens behind which professionals ply their nefarious trades.

The writings of these "anti-professional critics"<sup>51</sup> are flawed. Dishonesty, slyness, hypocrisy and other less endearing qualities are obviously not exclusive to the professions and are inadequate criteria to differentiate between professions and other occupations. It is difficult to understand, therefore, why well-known theorists should feel threatened by these polemics unless they feel that their own position needs strengthening.

An "Introduction" to a recent monograph by Halmos<sup>52</sup> is almost entirely devoted to an attack on these critics, apparently in an attempt to show that his own conceptualisation of "profession" is the most effective and meritorious. He writes that:-

"The contemporary climate of opinion is radically and bitterly antiprofessional. The mood of this anti-professionalism is such as to deny the basis of the distinctions I am making". (53)

One of the "anti-professional" critics chided by Halmos is T. Johnson. Halmos suggests that Johnson's paper:-

"is likely to come to be regarded as one of the seminal accounts of tracing the political and power roots of these younger shoots of professionalisation in the third world." (54)

but he criticizes Johnson for neglecting:-

"to enquire whether in the colonial setting, Halmos' notion of 'service' is a totally missionary-imported notion." (55)

These remarks show that Halmos misunderstands Johnson's argument.

Johnson first breaks with the conventional and revisionist perspectives in an earlier work by stating that "a profession is not an occupation but a means of controlling an occupation".<sup>56</sup> Opportunity for control arises in the consumer (client)-producer (professional) relationship which creates social and economic dependence as well as social distance. Since social distance creates the potential for autonomy "there is an irreducible but variable amount of uncertainty in every producer-consumer relationship... Power relationships will determine whether this uncertainty is reduced at the expense of producer or consumer."<sup>57</sup> A situation in which the producer defines the needs of the consumer and the manner in which these needs are to be met is regarded by Johnson as a COLLEGIATE form of control over an occupation. PATRONAGE is a form of occupational control in which the consumer defines his own need and the manner in which this need is to be met. In the case of HETERONOMY the producer-client relationship is mediated by a third party, usually the State. This formulation, while problematic, constitutes a major advance on prior attempts

to conceptualise "the problem of the professions" by asking how an occupational group maintains itself in a certain professional status position. One problem with Johnson's early formulation was that it still sought to explain professions by reference to their activities, without linking the explanation to a theoretical model that could account for "the irreducible but variable amount of uncertainty".

More recently, Johnson has radically departed from conventional and revisionist perspectives on the professions in a paper presented to the 1975 Annual Conference of the British Sociological Association,<sup>58</sup> Johnson abandons the Weberian underpinnings of his earlier model in favour of Carchedi's<sup>59</sup> neo-Marxist conceptualisations. Therein he seeks to explain the existence of professional occupations by reference to wider social processes rather than the attributes or behavioural characteristics which are supposedly displayed by professional groups.

Johnson bases his new analysis on the work of Jamous and Pelloile<sup>60</sup> who attempt to conceptualise the occupational organisation of knowledge in society by reference to the indetermination/technicality ratio in any occupational production process. Technicality includes rules and those aspects of professional knowledge which Parsons<sup>61</sup> argued were dominant in the professions - "the values of cognitive rationality". In other words, occupational groups have a tendency to utilise a systematic body of knowledge to justify their own competence and expertise. As a consequence, there are pressures within every occupational group to codify and create a more technical process of production. These processes ensure the ultimate routinisation and fragmentation of that body of knowledge in the production process. The trouble with technicality is, therefore, that it invites outside interference.

Indetermination or uncertainty encompasses "those aspects of the professional organisation of knowledge which function as barriers to intervention".<sup>62</sup> It refers to what Jamous and Pelloille call "the virtualities of producers"; the mystique, elements of ideology and legitimations to produce those conditions of



uncertainty or indetermination which underpin occupational control and outside interference. Occupational groups and their institutions for the transmission of professional knowledge are, however, subject to social structures of power which influence and "provoke new demands as far as the social use of the production of this (occupational) activity is concerned".<sup>63</sup>

The shortcoming of Jamous and Peloille's analysis lies in its failure to theorise the conditions for indetermination.<sup>64</sup> Johnson attempts to overcome these limitations by using Carchedi's analysis of the capitalist mode of production. Carchedi argues that the capitalist mode of production involves two fundamental processes: the labour process which involves the creation of real use-value and the surplus value producing process.

Johnson agrees with Carchedi that it is the surplus value production process that is specific to the capitalist mode of production and, falling back on Giddens,<sup>65</sup> he argues that it is also its determining feature. (Giddens suggests that a distinction be made between the economic significance of the labour theory of value and its sociological significance as a theory of exploitation underlying class formation). Johnson writes:-

"Let us be clear at the outset that I see the labour process as involving the processes of the social division of labour (and therefore its co-ordination) and technicality at the level of the occupational organisation of knowledge, and the surplus value process as involving the functions of capital (and therefore its forms of domination) and the conditions for indetermination at the level of the occupational organisation of knowledge." (66)

Then Johnson modifies his earlier notion of professionalism as a peculiar form of institutionalised control of an occupational activity<sup>67</sup> in which the professional group could define clients' needs and the manner in which these needs were to be met. He is critical of his own failure to link these forms of occupational control to an "adequate theory of class relations which would at the same time provide the possibility of conceptualising the conditions for the indetermination of the organisation of



occupational knowledge as work, beyond the generic structure of uncertainty characterising the social distance generated by all forms of the division of labour".<sup>68</sup>

Instead, he is now able to regard the forms of occupational control identified in his earlier model "as processes integral to class structuration and reflecting a dominant mode of production; that is to say that professionalism, involving the colleague control of work activities, can arise only where the ideological and political processes sustaining indetermination coincide with the requirements of capital, that is, where core work activities fulfil the global function of capital with respect to control and surveillance, including the specific functions of labour power".<sup>69</sup>

Conversely, it follows that where an occupational group's "core work activities" don't "fulfil the global functions of capital with regard to control and surveillance" that group cannot be sociologically regarded as a profession. The task of this thesis, therefore, will be to inquire into one activity of one professional group in New Zealand to establish whether that activity "fulfils the global function of capital".

If that activity (voluntary participation in a Legal Advice Bureau) weakens the profession's control over economic, political and ideological processes, that (legal) profession's future qua profession is threatened.

Given the existence in New Zealand of social relations characteristic of capitalist production, the legal profession's control over its occupational domain can only be maintained if it also serves the interests of the State. The maintenance and survival of the legal or any other profession is, therefore, not guaranteed but depends in the last instance on the profession's ability to reproduce existing relations of production.

In the three chapters which follow, LAB structure, processes and ideology are examined as they represent three important "levels"<sup>70</sup>

of reproduction. At the same time the personal and professional characteristics of those lawyers who participate in the LAB scheme (Participants) are compared to those of other lawyers who do not participate in the scheme (Non-Participants). Clearly, if Participants differed significantly from Non-Participants, LABx are a potential threat to the collegiate professionalism of the New Zealand Bar.<sup>71</sup>

## NOTES

1. J. ROTH, 1974, "Professionalism: The Sociologist's Decoy" in Sociology of Work and Occupations, 1 (February): 6-23
2. A.M. CARR-SAUNDERS & P.A. WILSON, 1933, "The Professions", Oxford: 491
3. E.C. HUGHES, 1958, "Men and Their Work", The Free Press, N.Y.  
see also  
E.C. HUGHES, 1963, "Professions" in "Daedalus," 92, 4, Fall: 647-653
4. T.J. JOHNSON, 1972, "Professions and Power", MacMillan, London
5. P. SHANNON, 1976, suggests the terms "Traditional", "Modern", "Radical" in his paper "The Legal Profession in Auckland", Mimeograph.
6. e.g. A. HARDING, 1966, "A Social History of English Law", Penguin Book, Harmondsworth, particularly: 167-175 on the beginnings of the legal profession.
7. P. LASLETT, 1965, "The World We Have Lost", Methuen & Co., London: 52  
R.D. SCHWARTZ & J.C. MILLER, 1964, "Legal Evolution and Societal Complexity", A.J.S., 70: 159-169, write that several specific legal institutions generally precede the development of the role of attorney. These are:-  
  1. The use of "property payments in lieu of other sanctions"
  2. The "regular use of non-kin third party intervention in dispute settlement"
  3. The existence of a "specialised armed force used partially or wholly for norm enforcement".
8. A. DE TOCQUEVILLE, 1945, "Democracy in America", Alfred A. Knopf Inc., N.Y.: 283, 284
9. A.M. CARR-SAUNDERS & P.A. WILSON, op.cit.
10. Ibid
11. M.L. COGAN, 1953, "Toward a Definition of Profession" in H.E.R. XXIII: 33-50
12. E. GREENWOOD, 1957, "Attributes of a Profession", in Social Work, 2, July: 45-55
13. W.J. GOODE, 1960, "Encroachment, Charlatanism and the Emerging Professions: Psychology, Sociology and Medicine", in A.J.S., 25, 6, December: 902-914  
W.J. GOODE, 1969 "The Theoretical Limits of Professionalisation: in A. ETZIONI (ed) "The Semi-Professions and Their Organisation", Free Press, N.Y.: 266-313

14. R. HALL, 1975, "Occupations and the Social Structure", Prentice-Hall, Englewood Cliffs, N.J.
15. G. MILLERSON, 1964, "The Qualifying Associations: A Study in Professionalisation", Routledge & Kegan Paul, London.
16. W. MOORE, 1970, "The Professions: Roles and Rules", Russel Sage, N.Y.
17. H.M. VOLLMER & D.L. MILLS, 1966, "Professionalisation", Englewood-Cliffs, N.J.
18. G. MILLERSON, op.cit., Table 1.1: 5.
19. T. PARSONS, 1968, "Professions" in "The International Encyclopedia of the Social Sciences, N.Y.: 536-546.
20. T. PARSONS, 1954, "The Professions and Social Structure", in "Essays in Sociological Theory", rev.ed., Glencoe, Ill.: 34-49.
21. T. PARSONS, 1968, op.cit.: 539.
22. Ibid: 537
23. E. GREENWOOD, op.cit.: 45
24. B. BARBER, 1963, "Some Problems in the Sociology of Professions", in "Daedalus", 92, Fall: 669-688.
25. Ibid: 671
26. R. HALL, 1975, op.cit., once again claims in this recent text on the Professions that "the best place to begin is with a consideration of the attributes of the professional model": 71.
27. As J. ROTH, 1974, op.cit., points out: even the same authors' lists of characteristics vary from publication to publication.
28. G. HARRIES-JENKINS, 1970, "Professionals in Organisations", in "Professions and Professionalisation": 51-107, raises similar problems.
29. This term has been used by E.C. HUGHES, 1958, op.cit.: 79.
30. T. CAPLOW, 1954, "The Sociology of Work", New York.
31. C. TURNER & M.N. HODGE, 1970, "Occupations and Professions", in J.A. JACKSON, op.cit.: 23
32. H. WILENSKY, 1964, "The Professionalisation of Everyone?", in A.J.S., LXIX, September: 137-157.
33. T. CAPLOW, 1954, op.cit.: 139-140.
34. A. HARDING, 1966, op.cit.: this situation was not helped by the fact that neither Oxford nor Cambridge taught English Law.

35. B. ABEL-SMITH & R. STEVENS, 1967, "Lawyers and the Courts", Heineman, London: 17.
36. T. JOHNSON, 1970, "Imperialism and the Professions", in J.A. JACKSON, op.cit.: 281-309.
37. E.C. HUGHES, 1958, op.cit.
38. M.D. FELD, 1964, "The Military Self-Image in a Technological Environment", N.Y., argues that the key dimension in distinguishing professionals from non-professionals is in the former's control of the sacred.
39. E.C. HUGHES, 1963, op.cit.: 652.
40. Much of this discussion has benefitted from G.GYARMATI K., 1975, "The Doctrine of the Professions: Basis of a Power Structure" in I.S.S.J., Vol.27, 4: 629-654
41. These views are also at the roots of phenomenology and labelling theories. E.g. A. SCHUTZ, 1967, "The Phenomenology of the Social World", Evanston.
42. T.H. MARSHALL, 1961, "Social Selection in the Welfare State", in A.H. HALSEY, J. FLOUD, C.A. ANDERSON (eds) "Education, Economy and Society", Free Press, Glencoe: 148-163, particularly: 154.
43. T.D. BOTTOMORE, 1966, "Elites and Society", Pelican Books, London.
44. M. YOUNG, 1958, "The Rise of the Meritocracy", Penguin, London.
45. M. TUMIN, 1963, "On Equality", A.S.R., 28, 1, :13-26, among these initially acquired advantages inherited wealth is particularly important.
46. E.g. H.S. BECKER, B. GEER, E.C. HUGHES, A. STRAUSS, 1961, "Boys in White: A Study of Student Culture in Medical School", Chicago.  
E.C. HUGHES, 1958, op.cit., "The Making of a Physician".  
V. OLESON & E.W. WHITTAKER, 1970, "Critical Notes on Sociological Studies of Professional Socialisation", in J.A. JACKSON, 1970, op.cit.
47. H.S. BECKER, 1962, "The Nature of a Profession", in B.H. NELSON (ed), Education for the Professions, U.C.P., Chicago.  
also others e.g. R. HABENSTEIN, 1963, "Critique of 'Profession' as a Sociological Category", in "The Sociological Quarterly", 4, 4, Autumn: 291-300.
48. E.g. C.E. BIDWELL, 1970, "Students and Schools: Some Observations on Client Trust in Client-Serving Organisations", in W.R. ROSENGREN, M. LEFTON (eds) "Organisations and Clients": 37-69, C.E. Merill, Ohio.

49. A.S. BLUMBERG, 1967, "The Practice of Law as a Confidence Game", in Law and Society Review, Vol.1: 15-39.
50. J.B. MONTAGUE JR & R.J. MILLER, 1973, "The New Professionalism in Sociology", in P. HALMOS (ed), 1973, "Professionalisation and Social Change", U. of Keele: 139-158.
51. J. CAPLAN, 1977, "Lawyers and Litigants: A Cult Reviewed", in I. ILLICH, 1977, "Disabling Professions", Marion Boyars, London.  
 P. GOODMAN, 1962, "Compulsory Miseducation and the Community of Scholars", Vintage, N.Y.  
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 P. FREIRE, 1970, "Cultural Action for Freedom", H.E.R. and Centre for the Study of Development Monograph, No.1, Cambridge, Mass.  
 F.M. NEWMAN & D.W. OLIVER, 1967, "Education and Community", H.E.R., 37, 1 (Winter): 61-106.  
 and many others
52. P. HALMOS, 1973, op.cit. Halmos' own perspective is reactionary according to our classification.
58. Ibid.: 6.
- 54, 55. Ibid.: 19.
56. T.J. JOHNSON, 1972, "Professions and Power", MacMillan, London: 45.
57. Ibid.: 41.
58. T.J. JOHNSON, 1975, "The Professions in the Class Structure", reprinted in R. SCASE (ed), 1977, "Industrial Society: Class Cleavage and Control":93-110.
59. G. CARCHEDI, 1975, "On the Economic Identification of the New Middle Class", in Economy and Society, Vol.4, No.1.
60. H. JAMOUS & B. PELOILLE, 1970, "Professions or Self-Perpetuating Systems? Changes in the French University-Hospital System", in J.A. JACKSON, 1970, op.cit.: 109-152.
61. T. PARSONS, 1968, op.cit.: 6
62. T.J. JOHNSON, 1977, op.cit.: 99
63. H. JAMOUS & B. PELOILLE, 1970, op.cit.: 142
64. T.J. JOHNSON, 1972, op.cit. & E. FREIDSON, 1973, "Professionalisation and the Organisation of Middle-Class Labour in Post-Industrial Society", in P. HALMOS, 1973, op.cit.: 47-59, suffer from similar problems.

65. A. GIDDENS, 1973, "The Class Structure of the Advanced Societies", Hutchinson, London, see particularly: 93-97,
66. T.J. JOHNSON, 1977, op.cit.: 101
67. T.J. JOHNSON, 1972, op.cit: 38
68. T.J. JOHNSON, 1977, op.cit.: 106. This failure has also been the nub of P. SHANNON's continuing criticism.  
 P. SHANNON, 1975, "Professing the Law", unpublished M.A. Thesis, Auckland University: 35-38.  
 P. SHANNON, 1976, "The Legal Profession in Auckland", paper read at SAANZ Conference, La Trobe University.  
 "Professionalism and Social Work in New Zealand: Form and Substance", in D.C. PITT, "Issues in Social Welfare", forthcoming.
69. T.J. JOHNSON, 1977, op.cit.,: 106
70. This term is merely used for conceptual clarity and should not be taken to suggest an attempt at empirical identification.  
 C.f. E. THOMPSON, 1978, "The Poverty of Theory", Merlin, London : 289 for a critique of ALTHUSSER's notion of "Levels".
71. Since the profession in New Zealand is not bifurcated as in England this term should be taken to include both barristers and solicitors for the purposes of the present study.

CHAPTER II

THE STRUCTURE  
OF  
LEGAL ADVICE BUREAUX



LABx are "channels for the presentation of grievances".<sup>1</sup> The limits and scope of LABx to act, their policies both in theory and practice, are conditioned by their structure. While this structure consists of a number of elements such as the legal context, the internal division of labour and the control over finance, this analysis will be confined to lawyers' background characteristics. This element has been chosen, because it was thought to be the most important element in the delivery of services characteristic of LABx; moreover, it constitutes the nexus at which potential change within the legal profession should be most readily detected.

Two forms of analysis are presented. The first is a comparison between the background characteristics of Participants and Non-Participants. These background characteristics vary by age, experience and position in the profession but, except where indicated, controlling for these factors did not change the substantive conclusions presented.

The second aim of this comparison is to assess to what extent the LABx structure could be said to contain deprofessionalising elements characteristic of Participants. For if Participants differ markedly from Non-Participants in their background characteristics and interests, LABx are likely catalysts for change in the legal profession.

Years of experience as lawyers: Respondents were asked to indicate the year when they had been admitted as barristers and/or solicitors.

As might be expected, Participants had not practiced law for as long as Non-Participants. In fact the picture presented by this variable is substantially the same as that for age. The mean years Participants had practiced law was 8.46, compared with 11.77 years for Non-Participants. (This is slightly below the 12 years of the Heylen survey of two years earlier).<sup>2</sup> This difference was statistically significant ( $t=3.32$ ;  $p<0.001$ ). The variance in the pattern of responses of Participants and

Non-Participants were 42.35 and 95.39 respectively, suggesting that Participants represent a younger, less experienced group of practitioners. A  $\chi^2$  test of association confirms this at the 0.002 level of statistical significance (Table 1).

TABLE 1

	Years since admitted as Barrister and/or Solicitor in New Zealand					
	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
5 years or less	67	37.6	28	30.4	95	35.2
6-10 years	69	38.8	22	23.9	91	33.7
11-19 years	30	16.9	28	30.4	58	21.5
20 years or more	12	6.7	14	15.2	26	9.6
	178	100	92	100	270	100

3 missing observations  
 $\chi^2 = 14.60$ ; d.f. = 3;  $p = 0.002$

Main areas of practice: These are presented in Table 2, which shows that there is a relationship between group membership and specialisation at the 0.015 level. ( $\chi^2 = 15.77$ ;  $p = 0.015$ ).

As shown in Table 2, 24% of Participants but only 8.7% of Non-Participants were working mainly in the area of family law. Conventional wisdom suggests that this finding is not too surprising since one would expect Participants to be more sensitive to the kinds of problems presented at LABx. Similarly, criminal lawyers are also overrepresented amongst Participants whereas lawyers involved in commercial law and conveyancing are underrepresented.

A supplementary question asking whether respondents' main area of practice was also their preferred area of practice showed almost identical satisfaction/dissatisfaction for Participants and Non-Participants (143 or 79% and 73 or 79.3% respectively). The majority of dissatisfied respondents from both groups indicated

a preference for company and commercial law practice. (10 or 5.5% and 5 or 5.4% respectively). These figures are, despite the small numbers involved, congruent with political and economic indicators.

The increase in family law practice has been strongly linked to the corresponding increase in Legal Aid. In England and Wales "the Bar now derives about half its income from public funds".<sup>3</sup> The greater popularity of company and commercial law practice among the dissatisfied respondents appears to be a reflection of the uncertainties surrounding conveyancing.

TABLE 2  
Main Areas of Practice

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Conveyancing	70	39.1	47	51.1	117	43.2
Company & Commercial	6	3.4	9	9.8	15	5.5
Family	43	24.0	8	8.7	51	18.8
Criminal	11	6.1	3	3.3	14	5.2
Other Litigation	15	8.4	9	9.8	24	8.9
Estate, Town Planning	4	2.2	3	3.3	7	2.6
Other & Misc.	30	16.8	13	14.1	43	15.9
	179	100	92	100	271	100

2 missing observations

$$x^2 = 15.77; \text{ d.f.} = 6; \text{ p} = 0.015$$

Incomes: Some interesting, though statistically non-significant differences were found between Participants and Non-Participants. Participants were more likely to earn between \$5,501 - \$10,000, \$20,001 - \$25,000 and \$25,001 - \$30,000 than Non-Participants, whereas Non-Participants were more likely to earn between \$15,001 - \$20,000, \$30,001 - \$40,000 and \$40,001 - \$50,000. This pattern reflects the overall lesser experience (as measured in years since admittance) of Participants. As expected, incomes within groups were again strongly related to respondents'

experience ( $p < 0.001$  for both groups) as reported in Table 3. Indeed, the high values of the asymmetric lambdas show that prediction of Participants' or Non-Participants' years of experience would be improved by 37% if we knew their incomes. If we knew how many years of experience they had as lawyers our ability to predict incomes would only be improved by 9% for Participants and 11% for Non-Participants.

(Table 3 on next page)

TABLE 3  
Lawyers' Incomes According to Experience in Years

Income/p.a.	Years of Experience																							
	Participants								Totals		Non-Participants								Totals					
	5 years or less		6-10 years		11-19 years		20 years or more		N	%	5 years or less		6-10 years		11-19 years		20 years or more		N	%				
Up to \$5,000	3	4.5	1	1.5	0	0	0	0	4	2.3	1	3.7	0	0	1	4.0	0	0	2	2.3				
\$5,001-\$10,000	28	41.8	3	4.5	0	0	0	0	31	17.7	8	29.6	0	0	1	4.0	1	7.7	10	11.6				
\$10,001-\$15,000	26	38.8	13	19.7	5	16.7	0	0	44 <sup>1M</sup>	25.1	15	55.6	4	19.0	3	12.0	1	7.7	23	26.7				
\$15,001-\$20,000	5	7.5	16	24.2	1	3.3	1	8.3	23	13.1	3	11.1	5	23.8	3	12.0	4	30.8	15	17.4				
\$20,001-\$25,000	3	4.5	8	12.1	4	13.3	3	25.0	18	10.3	0	0	1	4.8	2	8.0	1	7.7	4	4.7				
\$25,001-\$30,000	1	1.5	11	16.7	8	26.7	3	25.0	23 <sup>2M</sup>	13.1	0	0	4	19.0	1	4.0	1	7.7	6	7.0				
\$30,001-\$40,000	1	1.5	10	15.2	9	30.0	2	16.7	22	12.6	0	0	4	19.0	6	24.0	4	30.8	14	16.3				
\$40,001-\$50,000	0	0	2	3.0	2	6.7	0	0	4	2.3	0	0	3	14.3	3	12.0	1	7.7	7	8.1				
\$50,001 and more	0	0	2	3.0	1	3.3	3	25.0	6	3.4	0	0	0	0	5	20.0	0	0	5	5.8				
	67	100	66	100	30	100	12	100	175	100	27	100	21	100	25	100	13	100	86	100				
	3 missing								1 missing				1 missing				3 missing				1 missing			
	$\chi^2 = 113.84$ ; d.f. = 24; p = 0.0000										$\chi^2 = 59.84$ ; d.f. = 24; p = 0.0001													
	Lambda (asymmetric) = 0.37 with years of experience dependent										Lambda (asymmetric) = 0.37 with years of experience dependent													
	0.09 with income dependent										0.11 with income dependent													

Career Position: Almost one third of Participants and close to a quarter of Non-Participants were employees of a firm of barristers and solicitors. This contrasts quite sharply with the Heylen survey of 1978 which reported only 19% of the lawyers sampled were so employed.<sup>4</sup>

The reasons for such a difference may be due to sample variance. Nevertheless, demographic shifts within the profession, brought about by economic conditions are more likely to be the basis of this difference. It seems that with the retirement of older practitioners the vacant partnerships are not filled; younger practitioners must expect longer periods of being employees than in the past.

The likelihood that this difference is not due to sampling factors is increased by the fact that there was no significant difference between Participants and Non-Participants in this survey. In other words, there is a general trend towards prolonged employee status for many lawyers in New Zealand.

TABLE 4  
Career Positions of Lawyers

	Participants		Non-Participants	
	N	%	N	%
Barrister sole	0	0	1	1.1
Barrister & Solicitor or Solicitor in sole practice	14	7.7	5	5.4
Partner in partnership of 2-3	37	20.4	21	22.8
Partner in partnership of 4-6	38	21.0	18	19.6
Partner in partnership of 7-11	25	13.8	16	17.4
Partner in partnership of 12 or more	3	1.7	4	4.3
Consultant or Consultant Partner	1	0.6	1	1.1
Employed by Firm of Barristers & Solicitors	60	33.1	22	23.9
Employed in legal capacity by Government or Local Body	2	1.1	2	2.2
Other	1	0.6	1	1.1
Unemployed			1	1.1
$\chi^2 = 8.55$ ; d.f. = 7; p = 0.29	181	100	92	100

This pattern of arrested career mobility for younger lawyers holds true for both groups ( $p < 0.001$  for Participants and Non-Participants). More than 37% of all Participants had 5 years or less experience as lawyers, but those employed within that cohort accounted for 27% of all Participants. The corresponding data of Non-Participants revealed a similar picture. (More than 30% and 22.8% respectively). This trend towards a higher proportion of employed lawyers has had no effect on the pattern of characteristically small legal practices with 2 to 6 partners in New Zealand.

Law Education: One interesting dimension measured in the present study was the kind of training lawyers had received prior to admission. Participants were significantly ( $p < .05$ ) more likely than Non-Participants to have gained an LLB during a course of full-time study as a prerequisite to admission.

This is a reflection of changed training patterns for aspiring lawyers during the past 10 years, following the Parry Committee's Report on the advantages of full-time over part-time university study.<sup>5</sup> Present-day senior practitioners invariably underwent a programme which combined university with practical training in a law firm or the legal department of a government office. Participants on the other hand are more likely to be lawyers with less practical experience.

TABLE 5  
Law Education

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Full-time Student	87	48.1	30	32.6	117	42.9
Part-time Student	18	9.9	13	14.1	31	11.4
Full & Part-time Student	76	42.0	49	53.3	125	45.8
	181	100	92	100	273	100

$$\chi^2 = 6.03; \text{ d.f.} = 2; p = 0.49$$

There is little doubt that the uniportal system of admission based on full-time university training will eventually replace the older, mixed system.

Age: Respondents were asked to indicate their age on a scale from 1 to 5. Step 1 included all ages up to and including 25 years while step 5 encompassed all those 56 years and older.

The relative youthfulness of Participants is reflected in the mean age category of 2.19 (27 years 10.8 months) for this group compared with 2.72 (33 years 8.4 months) for Non-Participants. A t test shows that this difference is significant at well beyond the 0.001 level of confidence ( $t = -4.12$ ). In addition and perhaps of equal interest, the variances of the two groups differ significantly ( $p < .001$ ) with that of the Non-Participants' being twice as large as the Participants (1.22 and 0.59 respectively). Hence it can be concluded that Participants are somewhat younger and more homogeneous than the legal profession in general. This finding is quite consistent with anecdotal observation.

TABLE 6  
Ages of Lawyers

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
25 years or younger	20	11.1	6	6.5	26	9.6
26-35 years	121	67.2	44	47.8	165	60.7
36-45 years	28	15.6	22	23.9	50	18.4
46-55 years	7	3.9	10	10.9	17	6.3
56 years and older	4	2.2	10	10.9	14	5.1
	180	100	92	100	272	100
	1 missing					
1 missing observation						
$\chi^2 = 21.02$ ; d.f. = 4; $p = 0.0003$						



Sex: This study showed a slight increase in the number of female lawyers over that reported by Heylen. But even in the Participant group, females accounted only for one lawyer in twelve while there was only one female lawyer amongst fifteen Non-Participants.

TABLE 7  
Sex Distribution of Lawyers

	Participants		Non-Participants		Total
	N	%	N	%	N
Male	165	91.7	86	93.5	251
Female	15	8.3	6	6.5	21
	180	100	92	100	272
	1 missing				
1 missing observation					

Marital status and children: No differences were obtained between the groups either in marital status or the number of children. About three quarters of respondents in each group were married (75.7% and 76.1% respectively) and only 2.8% of Participants and 4.4% of Non-Participants reported that they were either divorced or separated. Just over half in each group had neither son nor daughter. The means for the numbers of sons and daughters were somewhat higher for Non-Participants than Participants. .94 and .71 for sons and daughters of Non-Participants and .69 and .60 for sons and daughters of Participants respectively. This finding is of course quite consistent with the greater age of Non-Participants.

Parents occupational status and educational levels: More than one quarter of each group reported fathers in the highest level of occupational prestige which leads us to believe that lawyers tend to come from elite families. This impression is further supported by data presented in Table 8 which demonstrates that almost two thirds of lawyers had fathers who occupied a position of high occupational status (68% of Participants and 59% of Non-Participants respectively).<sup>6</sup>

It is interesting to note that Participants' mothers tended to have higher occupational status overall than the mothers of Non-Participants (see Table 9). Indeed, this difference was almost statistically significant ( $p = 0.07$ ); however, this result should be interpreted cautiously because of the well-known difficulties regarding the placement of women on occupational status scales.<sup>7</sup>

TABLE 8  
Father's Occupational Status

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
I ) White Collar/	45	25.7	26	29.2	71	26.9
II ) Non-Manual	31	17.7	11	12.4	42	15.9
III )	43	24.6	16	18.0	59	22.3
IV Intermediate	25	14.3	18	20.2	43	16.3
V ) Blue Collar/	21	12.0	10	11.2	31	11.7
VI ) Manual	8	4.6	8	9.0	16	6.1
VII )	2	1.1	0	0	2	0.8
	175	100	89	100	264	100
	6 missing		3 missing			
9 missing observations						
$\chi^2 = 6.70; \text{ d.f.} = 6; p = 0.35$						

TABLE 9  
 Mother's Occupational Status

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
I ) White Collar/	0	0	3	3.4	3	1.1
II ) Non-Manual	2	1.1	2	2.2	4	1.5
III )	36	20.2	14	15.7	50	18.7
IV Intermediate	24	13.5	7	7.9	31	11.6
V ) Blue Collar/	110	61.8	57	64.0	167	62.5
VI ) Manual	5	2.8	6	6.7	11	4.1
VII )	1	0.6	0	0	1	0.4
	178	100	89	100	267	100
	3 missing		3 missing			

6 missing observations

$$\chi^2 = 11.53; \text{ d.f.} = 6; \text{ p} = 0.07$$

As anticipated, the educational levels for parents of both groups were high. Almost one in five fathers (19.7% of Participants and 18.7% of Non-Participants) had professional qualifications, while a slightly smaller percentage (19.1% of Participants and 11% of Non-Participants) held a university degree. Together these two cohorts accounted for 38% and 29.7% of Participants' and Non-Participants' fathers respectively. The largest single cohort was formed by those who had completed some or all of secondary school. Fewer than one in ten fathers (9.6% and 9.9% for Participants and Non-Participants respectively) had only attended primary school.

The educational levels of mothers were somewhat lower, but it is interesting to note that 30.9% of Participants' and 40% of Non-Participants' mothers had completed some or all of secondary school, while 18.5% and 18.9% of mothers had U.E. In addition, more than one in ten (11.2% of Participants' and 10% of Non-Participants') mothers held professional qualifications.

Collectively, these findings are hardly remarkable, given the well-known tendency of professional groups towards self-recruitment. Under the circumstances the fact that a small percentage of lawyers had parents who were semi-skilled or unskilled workers (5.7% and 3.4% of Participants' fathers and mothers and 9% and 6.7% of Non-Participants' fathers and mothers) is mildly surprising.<sup>8</sup>

Relatives in Professions: To gain a better understanding of the significance of kinship relations to the legal profession, respondents were asked to indicate any relatives, including children, whom they considered to be professionals. Before discussing the data, attention is drawn to the fact that these indicators were derived from multiple response items. As a consequence, the following points need to be considered: First - it is not possible to apply statistical tests of association; secondly - not all respondents were able to contribute; and thirdly - it must be realised that there are upper limits on some possible responses; for instance, a respondent may not have more than one spouse or two parents. Despite these qualifications the results were interesting.

128 or 70.7% of all Participants and 63 or 68.5% of all Non-Participants reported one or more relatives who were professionals. It can be seen that the proportions of these subgroups reflected the total sample. 181 or 66.3% were Participants and 92 or 33.7% were Non-Participants. While 128 of Participants or 67% of the new total (N = 191) and 63 of Non-Participants or 33% have relatives who are also professionals.

As shown in Table 10, brothers were most often reported as being professionals. Among lawyers' relatives about one in four is likely to be a brother (25.7% for Participants with relatives and 23.5% for Non-Participants with relatives). If lawyers who have relatives in the professions had an even share of brothers there would be one brother for every other lawyer (55.5% for Participants and 50.8% for Non-Participants). The next largest group of relatives in the professions was spouses. More than one in three

(38%) of the married Participants (N = 137) and more than one in four (28.6%) of the married Non-Participants (N = 70) had a spouse who was a professional.

TABLE 10  
Relatives in the Professions

	Participants N=128			Non-Participants N=63			Totals N=191		
Son	5	1.8%	(3.9%)	10	7.4%	(15.9%)	15	4.6%	(7.9%)
Daughter	5	1.8%	(3.9%)	10	7.4%	(15.9%)	15	4.6%	(7.9%)
Spouse	52	18.8%	(40.6%)	20	14.7%	(31.7%)	72	16.7%	(37.7%)
Brother	71	25.7%	(55.5%)	32	23.5%	(50.8%)	103	24.6%	(53.9%)
Sister	37	13.4%	(28.9%)	15	11.0%	(23.8%)	52	12.2%	(27.2%)
Parent	24	8.7%	(18.8%)	8	5.9%	(12.7%)	32	7.3%	(16.8%)
Brother/Sister- in-law	23	8.3%	(18.0%)	11	8.1%	(17.5%)	34	8.2%	(17.8%)
Uncle or Aunt	18	6.5%	(14.1%)	9	6.6%	(14.3%)	27	6.6%	(14.1%)
Other	41	14.9%	(32.0%)	21	15.4%	(33.3%)	62	15.2%	(32.5%)
	276	100%		136	100%		412	100%	

Percents (%) based on Respondents

Another dimension examined was the position occupied by the relatives of lawyers. Teachers at all levels (N = 67) narrowly led the list ahead of lawyers (N = 62) for Participants whereas the situation was reversed for Non-Participants (39 lawyers and 33 teachers). Nursing (N = 26) and medicine (N = 24) were in third and fourth place for Participants while medicine and accounting shared third and fourth place (N = 13) for Non-Participants.

Although this pattern suggests that the relatives of Participants are more likely to be engaged in "people" professions than Non-Participants, an examination of the results in Table 11 shows that there appears to be a much clearer relationship between the legal profession and father's occupational status.

TABLE 11  
Fathers' Occupational Status and Relatives' Professions

	1	2	3	4	5	6	7	Totals	
Law	52	19	14	10	4	1	0	(100)	(100)
Medicine	18	9	4	2	1	0	0	34	(34)
Accountancy	10	6	8	5	2	4	0	35	(35)
Architecture	1	1	0	1	1	1	0	5	(5)
Engineering	8	1	9	4	2	1	0	25	(25)
Dentistry	5	3	2	0	1	0	0	11	(11)
Teaching	21	14	29	13	10	7	3	97	(97)
Nursing	7	5	8	6	3	1	1	31	(31)
Other	18	12	14	8	3	4	0	59	(59)
	140	70	88	49	27	19	4	397	(186)
	(59)	(29)	(40)	(31)	(17)	(9)	(1)		

Totals in ( ) based on Respondents

Work Related Activities: Respondents in both samples stated their degree of involvement in a range of ten activities, eight of which are reported below. Those not reported relate to CAB/LAB work and apply only to Participants, while the others relate to criminal work undertaken for the Crown. Criminal work on behalf of the Crown was omitted because it only involved a very small number (N = 16; 6.4%) of respondents.

As the data reported in Tables 12 and 13 indicate, Participants are considerably more likely than Non-Participants to undertake criminal or civil legal aid work. In fact, Participants were more than twice as likely than Non-Participants to take on criminal legal aid work: 39.7% of Participants stated that they had carried out at least some criminal legal aid work during 1979, while only 14.3% of Non-Participants had done any at all. When those from both groups who reported that they had done this kind of work only "rarely" were excluded from the calculations, the differences between groups became striking. Participants who regularly or frequently took on criminal legal aid work outnumbered Non-Participants by 5.75 to 1. Of even greater interest perhaps is

the apparent reluctance of both groups to take on legal aid work. Almost two thirds (60.3%) and more than three quarters (85.7%) of Participants and Non-Participants respectively had not carried out any criminal legal aid work at all. In any case, a  $\chi^2$  test showed these differences to be significant at the 0.0003 level.

These differences could not be accounted for by lawyers' difference in experience, as measured by the length of practice. No statistically significant differences were found between different "experience" cohorts when they were controlled for group membership.  $\chi^2$  tests yielded a  $\chi^2$  of 9.9 with 12 degrees of freedom at a significance level of 0.62 for Participants and a  $\chi^2$  of 12.0 with 12 degrees of freedom at a significance level of 0.45 for Non-Participants.

TABLE 12  
Frequency of Criminal Legal Aid Work

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Not at all	105	60.3	72	85.7	177	68.6
Rarely	21	12.1	8	9.5	29	11.2
Regularly	28	16.1	1	1.2	29	11.2
Often	13	7.5	1	1.2	14	5.4
A Lot	7	4.0	2	2.4	9	3.5
	174	100	84	100	258	100
	7 missing		8 missing			
15 missing observations						
$\chi^2 = 21.39; \text{ d.f.} = 4; p = 0.0003$						

Although the level of involvement in civil legal aid work was higher for both groups, the overall findings were similar to those of lawyers' involvement in criminal legal aid.

TABLE 13  
Frequency of Civil Legal Aid Work

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Not at all	45	25.9	51	59.3	96	36.9
Rarely	37	21.3	15	17.4	52	20.0
Regularly	38	21.8	14	16.3	52	20.0
Often	26	14.9	4	4.7	30	11.5
A Lot	28	16.1	2	2.5	30	11.5
	174	100	86	100	260	100
	7 missing		6 missing			

13 missing observations  
 $\chi^2 = 33.48$ ; d.f. = 4;  $p = 0.0000$

More than a quarter (25.9%) of Participants and more than half (59.3%) of Non-Participants had not engaged in any civil legal aid work during 1979. There was a pronounced difference between those Participants who stated that they had been "often" or "a lot" involved in civil legal aid work (31%) and those Non-Participants who reported the same degrees of involvement (7%). These differences between groups involved in civil legal aid work were again not attributable to differences in experience.  $\chi^2$  tests yielded a  $\chi^2$  of 13.78 with 12 degrees of freedom at a significance level of 0.32 for Participants and a  $\chi^2$  of 13.42 with 12 degrees of freedom at a significance level of 0.34 for Non-Participants.

These findings show that only a very small proportion of New Zealand lawyers is regularly, or frequently, engaged in any legal aid work. Furthermore, less experienced lawyers are more likely to take on this kind of work than more experienced lawyers. This distinction is particularly pronounced for criminal legal aid work. Of all lawyers in this study (N = 273) only 41 (15%) who had practiced for more than five years reported that they had undertaken any criminal legal aid work during 1979.



Respondents were asked to state their level of involvement in the duty solicitor scheme during 1979. As anticipated, a  $\chi^2$  test difference between Participants and Non-Participants was statistically significant ( $\chi^2 = 24.84$ ;  $p = 0.0001$ ; d.f. = 4). Table 14 shows that about half (50.9%) of all Participants but more than three quarters (80.7%) of all Non-Participants had never acted as duty solicitors. More than one quarter (26.3%) of Participants had acted regularly as duty solicitors, whereas only one sixteenth (6.0%) of Non-Participants had done so.

It is interesting to note that Participants and Non-Participants differed when the variable of "experience" was entered as a control. This finding is at variance with those relating to the involvement of lawyers in criminal and civil legal aid as reported above. The involvement of Participants in the duty solicitor scheme differed by experience at the 0.0048 level of significance ( $\chi^2 = 28.44$ ; d.f. = 12) whereas Non-Participants were more evenly distributed with the level of significance at 0.23 ( $\chi^2 = 15.19$ ; d.f. = 12). This finding suggests that the involvement of Participants in the duty solicitor scheme declines with increasing experience, whereas the level of involvement for Non-Participants remains relatively stable with increasing experience. It is clear that these findings should be treated with caution, since the small number of involved lawyers would make it more appropriate to speak of large and increasing levels of non-involvement.

TABLE 14  
Frequency of Duty Solicitor Work

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Not at all	87	50.9	67	80.7	154	60.6
Rarely	13	7.6	4	4.8	17	6.7
Regularly	45	26.3	5	6.0	50	19.7
Often	17	9.9	2	2.4	19	7.5
A Lot	9	5.3	5	6.0	14	5.5
	171	100	83	100	254	100
	10 missing		9 missing			
	19 missing observations		$\chi^2 = 24.84$ ; d.f. = 4; $p = 0.0001$			

An item requesting respondents to report their level of involvement in Law Society affairs revealed some interesting data. Almost two thirds (64.8%) of all respondents reported no involvement in the affairs of the Law Society. There was little difference between Participants and Non-Participants, as Table 14 shows. About one in every seven respondents (12.9% of Participants and 14.6% of Non-Participants) stated that his involvement had been "regular". But when years of experience were taken into consideration, it became clear that there was a reversal of the pattern of disengagement reported for levels of involvement in duty solicitor and civil legal aid work. More experienced respondents were more involved in Law Society affairs than less experienced respondents. This difference was more pronounced for Participants

TABLE 15  
Frequency of Involvement in Law Society Affairs

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Not at all	107	62.6	57	69.5	164	64.8
Rarely	26	15.2	8	9.8	34	13.4
Regularly	22	12.9	12	14.6	34	13/4
Often	9	5.3	1	1.2	10	4.0
A Lot	7	4.1	4	4.9	11	4.3
	171	100	82	100	253	100
	10 missing		10 missing			

20 missing observations

$$\chi^2 = 4.14; \text{d.f.} = 4; p = 0.3879$$

than Non-Participants. A statistical analysis of Participants' involvement in Law Society affairs by years of experience yielded a  $\chi^2$  of 31.09 with 12 degrees of freedom at the 0.0019 level of significance. Of the 128 Participants who had less than 11 years of legal experience, 46 or 35.9% had varying degrees of involvement in Law Society affairs, whereas 31 or 75.6% of the 41 Participants with more than 11 years experience were to some degree involved.

The asymmetric lambda was 0.16 with years of experience as the dependent variable which means that knowledge of Participants' level of involvement in Law Society affairs increases our ability to predict years of experience by 16%. The corresponding data for Non-Participants showed consistently lower levels of involvement in Law Society affairs. Only six (13.6%) of the 44 Non-Participants with less than 11 years experience reported some involvement with Law Society affairs. This rose to 19 or 50% of the 38 Non-Participants who had more than 11 years of experience. The asymmetric lambda of 0.157 with years of experience as the dependent variable was almost identical to that of Participants.

Analysis of respondents' reported frequency of honorary solicitor work showed a similar pattern as that for involvement in Law Society affairs. There was no statistically significant difference between Participants' and Non-Participants' levels of honorary solicitor work between the two samples. About half (50.6%; N = 129) of the 255 respondents reported that they had never acted as honorary solicitors, although a larger percentage of Participants (53.8%; N = 171) than Non-Participants (44%; N = 84) stated that they had not acted as honorary solicitors.  $X^2$  was 6.51 with 12 degrees of freedom at a significance level of 0.1644. When years of experience were taken into account, different patterns emerged, as shown in Tables 16a and 16b.

TABLE 16a

## Frequency of Work as Honorary Solicitor, Participants

	5 yrs or less		6-10 yrs		11-19 yrs		20 yrs or more		Totals		
	N	%	N	%	N	%	N	%	N	%	
Not at all	49	75.4	32	50.8	10	34.5	0	0	91	53.8 (1M)	
Rarely	12	18.5	17	27.0	10	34.5	2	16.7	41	24.3 (1M)	
Regularly	4	6.2	9	14.3	5	17.2	8	66.7	26	15.4	
Often	0	0	4	6.3	3	10.3	2	16.7	9	5.3	
A Lot	0	0	1	1.6	1	3.4	0	0	2	1.2	
	65	100	63	100	29	100	12	100	169	100	
	2 missing		6 missing		1 missing				(1M)		
12 missing observations			$x^2 = 51.16$ ; d.f. = 12; p = 0.0000;								
Lambda (asymmetric) = 0.14 with years of experience dependent											

TABLE 16b

## Frequency of Work as Honorary Solicitor, Non-Participants

	5 yrs or less		6-10 yrs		11-19 yrs		20 yrs or more		Totals	
	N	%	N	%	N	%	N	%	N	%
Not at all	20	80.0	9	45.0	8	30.8	0	0	37	44.0
Rarely	4	16.0	8	40.0	11	42.3	4	30.8	27	32.1
Regularly	0	0	3	15.0	4	15.4	7	53.8	14	16.7
Often	0	0	0	0	2	7.7	0	0	2	2.4
A Lot	1	4.0	0	0	1	3.8	2	15.4	4	4.8
	25	100	20	100	26	100	13	100	84	100
	3 missing		2 missing		2 missing		1 missing			
8 missing observations										
$\chi^2 = 40.94$ ; d.f. = 12; $p = 0.0001$ ; Lambda (asymmetric) = 0.28 with years of experience dependent										

The values for lambda show 14% and 28% increases in our ability to predict Participants and Non-Participants level of experience respectively, given a knowledge of the frequency with which they act as honorary solicitors. Plainly, both Participants and Non-Participants showed a strong tendency to become more involved in voluntary work for which their occupational training suited them. Every one of the respondents from both groups who had had more than 20 years of legal experience had acted at least occasionally as honorary solicitor.

Another interesting dimension was the frequency with which respondents were involved in non-legal voluntary activities, such as clubs, Parent Teacher Associations and the like. Unlike most activities discussed above, three in every four respondents indicated at least some involvement in such activities. Participants were, however, almost twice as likely to be involved than Non-Participants; 19.7% and 37.6% of Participants and Non-Participants reported no involvement at all. In addition, Participants were twice as likely to be "regularly" involved than Non-Participants. (35.3% of Participants compared to 18.8% of Non-Participants). Table 17 presents these data in more detail. When controlled for experience,

TABLE 17

## Frequency of Involvement in Non-Legal, Voluntary Activities

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Not at all	34	19.7	32	37.6	66	25.6
Rarely	35	20.2	20	23.5	55	21.3
Regularly	61	35.3	16	18.8	77	29.8
Often	30	17.3	7	8.2	37	14.3
A Lot	13	7.5	10	11.8	23	8.9
	173	100	85	100	258	100
	8 missing		7 missing			

15 missing observations

$\chi^2 = 17.11$ ; d.f. = 12;  $p = 0.0018$

the data for each group showed further differences. Whereas the levels of involvement for Participants rose steadily with experience, the levels of involvement for Non-Participants were not only lower overall but also did not show the same steady pattern of increase with experience. A simplified representation of these trends is presented in Table 18, which shows that the differences for Non-Participants were somewhat greater at the 0.0531 level of significance than those for Participants which reached a significance level of just 0.1247. As shown, asymmetric lambdas are at the 0.09 level and the 0.17 level for Participants and Non-Participants respectively, showing the impact of controlling for experience. It is interesting to note the consistently higher values for asymmetric lambdas scored by Non-Participants when data are controlled for experience as measured in years of practice. This suggests that the behaviour of Non-Participants should be easier to predict than the behaviour of Participants.

TABLE 18  
 Frequency of Involvement in Non-Legal Voluntary Activities  
 By Years of Practice

	Participants			Non-Participants		
	NI	%I	T	NI	%I	T
5 years or less	48	73.8	65	12	50.0	24
6-10 years	42	80.0	65	13	61.9	21
11-19 years	26	89.7	29	16	61.5	26
20 years or more	11	93.7	12	12	85.7	14
			171			85
8 missing observations				7 missing observations		
$x^2 = 17.71$ ; d.f. = 12; p = 0.1247				$x^2 = 20.82$ ; d.f. = 12; p = 0.0531		

Legend: NI = Number of involved respondents  
 %I = Percent of involved respondents in cohort  
 T = Total number of respondents in cohort

Only two more "work related" activities remain to be discussed. Both are concerned with political involvement. One relates to involvement in party political activities, the other relates to involvement in general political activities such as human rights, Repeal or SPUC.<sup>10</sup>

One perhaps surprising aspect was the very small percentage (12.3%; N = 253) of respondents who reported any involvement at all in party political activities, given the prominence of lawyers in the political life of the State.<sup>11</sup> A  $x^2$  test yielded a value of 0.966 with 4 degrees of freedom at a significance level of 0.9149. Clearly, there is almost no difference between the observed proportions of Participants and Non-Participants. The null hypothesis, that the proportion of Participants involved in party politics is equal to the observed proportion of Non-Participants, remains tenable.

Respondents' involvement in general political activities was somewhat higher, but more than two thirds (69%) of all Participants

(N = 171) and nearly three quarters (74.1%) of all Non-Participants (N = 81) stated that they had not been involved at all. Another 18.1% (N = 31) and 19.8% (N = 16) of Participants and Non-Participants respectively, reported that they had been only "rarely" involved. The remaining 12.9% (N = 22) of Participants and 6.2% (N = 5) of Non-Participants clearly indicate that Participants are more likely to become involved in general political issues than Non-Participants but that only a small percentage of lawyers is likely to become involved in general political activities. A  $\chi^2$  test gave a value of 4.06 with 4 degrees of freedom at a significance level of 0.3978.

Considered overall, the typical Participant is relatively young and less experienced than Non-Participants. The parents of Participants enjoy high status and have reached high educational levels. The relatives of Participants are also likely to be professionals, usually in what might be termed "people" professions. In these "family dimensions" Participants do not differ significantly from Non-Participants. Conversely, the parents of Non-Participants are of relatively lower status when compared with the parents of Participants. Furthermore, the positions held by relatives of Non-Participants tend to be less "people" oriented.

Participants are less likely to be occupied with conveyancing, company and commercial law than Non-Participants. Hence, in addition to their voluntary work at LABx, Participants have a tendency towards "human" rather than "property" law. This inclination is also expressed by their willingness to take on Criminal and Civil Legal Aid and Duty Solicitor work. Apart from these work related activities, Participants also get more frequently involved in voluntary activities not directly related to their work.

Thus, having grown up in families with "human service orientations" and in professional households, it would not be surprising if Participants also displayed a strong political commitment to change. No such political commitment, however, could be discerned.

This complex of Participants characteristics, suggest an "ameliorative" or "charitable" rather than a "radical" orientation towards clients' problems. That is, clients' problems are likely to be interpreted as "legal" and the visit to the LAB becomes only one stop among many on the "referral roundabout".<sup>12</sup>

Occupational control mechanisms will be left intact as the client will be advised in accordance with traditional (i.e. conservative or reactionary) perspectives.



## NOTES

1. GORAN THERBORN, 1978, "What Does the Ruling Class Do When It Rules?", New Left Books, London: 226.
2. THE HEYLEN RESEARCH CENTRE, 1978, "The Legal Profession: A Survey of Lawyers and Members of the Public", was carried out for the New Zealand Law Society with the assistance of the Commercial Bank of Australia Ltd and the Marac Group. In four parts, Auckland. Part I: 18.
3. M. ZANDER, 1978, "The Unmet Need for Legal Services", paper presented at the New Zealand Law Society Conference, Auckland.
4. HEYLEN, 1978, op.cit., Part I: 10.
5. REPORT OF THE COMMITTEE ON NEW ZEALAND UNIVERSITIES, 1959, Wellington, Ch.V.
6. H. ERLANGER, 1978, "Lawyers and Neighbourhood Legal Services", in Law and Society Review, 12, 253-274; comments on the high status background of Legal Service Lawyers.  
  
P. DAVIES, 1979, "Social Mobility in New Zealand: Preliminary Results from a National Survey:", in The Australian and New Zealand Journal of Sociology, 15, 1: 50-56; argues that New Zealand is a more "open" society than Australia or the U.S.A. but reports tendencies to occupational inheritance at the upper and lower levels of the occupational status scale with the manual/non-manual line being the transition point.
7. We have coded "housewife" as 5 because there are no guidelines or indeed allowances in occupational prestige scales which consider the position of women. For a recent comment see A. DANIEL, 1979, "It Depends on Whose Housewife She Is: Sex, Work and Occupational Prestige", a research report in The Australian and New Zealand Journal of Sociology, 15,1: 77-81.
8. For research findings in the U.S.A. which is of only limited relevance to New Zealand see S. ADAMS, 1950, "Regional Differences in Vertical Mobility in a High Status Occupation", A.S.R., 15: 231; also  
  
J.E. CARLIN, 1966, "Lawyers' Ethics", N.Y.  
  
D. RUESCHEMAYER, 1973, "Lawyers and Their Society", Havard U.P., Cambridge: 96-101
9. c.f. THE ROYAL COMMISSION ON LEGAL SERVICES, 1979, Final Report, Vol.2, "Social Background of Entrants to the Legal Profession", H.M.S.O., London: 57-61.
10. Repeal was a coalition of groups and individuals attempting to lobby the Government to repeal The 1978 Contraception, Sterilisation, and Abortion Act.  
  
SPUC, the Society for the Protection of the Unborn Child had done much to rally the anti-abortion groups and prevailed upon the government to introduce the new Act.

11. To give one example: 13 Members of Parliament (1980) are former lawyers.
12. This term is used by R. HEEPS, 1980, in his "Report on the Legal Services of the Auckland City Council Citizens Advice Bureaux", mimeographed: 2.

CHAPTER III

LEGAL ADVICE BUREAUX  
PROCESSES

Robert van Krieken writes in his essay "The Capitalist State and the Organisation of Welfare" that:-

"The variety of rules and routines of welfare agencies must be seen not as the most 'efficient' way of doing things, but as a way of ensuring the continuity of certain types of relations between welfare workers and between them and their 'clients'." (1)

In this chapter we will enquire whether mutis mutandis the same is true for LABx. Although LABx have rules and routines which limit activities, control knowledge, co-opt and screen personnel, for the purposes of this study our analysis will be restricted to administrative processes. These include a consideration of the sources of client origin and access to gauge client flow and LAB relations with CABx; an assessment of staffing and the indexation of client problems to discern possible discontinuities in Participant-client relations.

#### Administrative Processes

Before the typical LAB client arrives at the bureau he or (more often) she has been screened, advised and referred by CAB personnel. Should the CAB worker consider the client's problems to be in need of qualified legal advice she will advise the client to take all relevant documentation to the legal adviser (i.e. a Participant) and refer the client by making an appointment.

In this study LAB supervisors were asked to identify the kinds of records kept by their bureaux. Responses indicated that all LABx kept index cards which recorded the client's name, address, brief facts of the case, action taken and the name of the lawyer to whom the case had been referred. These cards were in all cases kept in locked filing cabinets and were only accessible to Participants and presumably LAB supervisors and law students when and where they attended.

Further investigations demonstrated that there were also other records made by LAB personnel. These records (not specifically mentioned) included the following:-

1. A Day Book - a diary which contained for every LABx session:-
  - (a) the name of the Participant attending;
  - (b) the name of the law student who might have attended;
  - (c) the names and initials of all clients seen that day;
  - (d) the names and initials of all bureaux clients spoken to by telephone; and
  - (e) any other information which might have been useful to another Participant attending another session.
  
2. Referral Letters:-
 

These were form letters which were used by the Participants when they considered referral of the client necessary. They were in duplicate so that the top copy could be given to the client and the bottom copy posted to the lawyer to whom the client had been referred.
  
3. Legal Aid Forms:-
 

For use when a client had been advised to apply for Legal Aid.
  
4. General Correspondence:-
 

Letters written on behalf of clients or those written by them.

These processes are backed up by notes to Participants which set out the most important ground rules:-

"A lawyer must not act for payment for a person first seen at the Bureau without the prior permission of the Law Society nor must he use his association with the Bureau as a means of canvassing for clients." (2)

Since it is possible that Participants could be held liable for advice they have given, they are also told to preface their advice, where they feel it appropriate, with a disclaimer by telling the client:-

"I'm here to help you but while I will do my best for you you must understand that you can't sue anybody if what I say is wrong." (3)

The possibilities of wrong advice are clearly increased in those LABx with a high Participant/client ratio. In those LABx Participants are asked to refer clients, whose problems cannot be solved quickly, to a solicitor:-

"This is not an attempt to drum up trade. It is a reflection of the fact that on an average night there are so many clients that we cannot spend more than 7 or 8 minutes with each." (4)

Clients whose problems are deemed to need action by a solicitor are first asked whether they have ever engaged one of their own or whether they know of one which might be approached to act on their behalf. If the answer to both questions is no, clients are referred to one of the solicitors who are willing to accept referrals from the LAB. It is clearly recognised by the profession that this referral process is a very difficult task for the Participant, given the profession's rules against touting.

"On the one hand the legal adviser should use his discretion in selecting a solicitor as particularly suited to the particular client or problem but every effort should be made to share the work fairly between those solicitors on the list and the list should be noted with a tick as the referral is made." (5)

It appears that in practice clients will often be referred to solicitors who are known to Participants making the referral. This practice is merely a recognition of the fact that not all solicitors are experienced in every field of law and Participants are apparently concerned about any loss of confidence in the profession arising out of an inappropriate referral.

"We have had a number of 'mis-matches' in this area with the result that people have come back...and had to be referred again. This reduces confidence in the (LAB) and in the legal profession and should be avoided." (6)

Clients whose problems are not considered legal by Participants are either referred to an agency which is thought appropriate for their problem or they are referred back to a CAB.

### Client Sources and Access

Close working relationships between LABx and CABx were further revealed when 17 out of the 23 LABx surveyed reported that most (or in two cases, all) of their clients were referred to them from CABx. Although four respondents did not reply to this question<sup>7</sup> and must, therefore, be excluded from this discussion, their likely responses could be inferred from another, related, question<sup>8</sup> regarding client access to LABx. It appears that the non-responding LABx also had clients referred to them from CABx.

Despite this information gap left by non-responses it is clear that access and referral to LABx has become routinised in all but three cases. Only three of the 23 LABx in the sample reported that clients simply arrived at the bureaux and waited.

Potentially the most interesting responses, as shown in Table 19, were those which indicated that LAB clients had arrived for a consultation at the behest of a lawyer. While we cannot be certain about the reasons behind these referrals from lawyers to LABx, this reversal of the intended client flow suggests that some lawyers were using LABx as sorting houses in which the legal problems of potential private clients could be established and classified.

Of the remaining responses "word of mouth" will have to be considered further, as this element may have contributed considerably to client flow. The reported referrals by the Department of Social Welfare and the Consumer Institute indicated that these agencies were aware of the existence of LABx and held some (as yet unresearched) expectations of them.

TABLE 19  
Major Sources of L.A.Bx Clients

	N of Responses
CABx	17
Word of mouth	3
Private Lawyer	3
Department of Social Welfare	1
Consumer Institute	1
	25 responses from 19 respondents
No response	4 respondents

Clearly, CABx are the most important source of LAB clients. We, therefore, sought to establish the percentage of clients who had been referred to LABx after their initial approach to CABx and the percentage of those clients who were referred from LABx to private lawyers.

Robert Heeps<sup>9</sup> in his study of eight CABx in the Auckland City Council Area reported 3342 legal enquiries (not clients) during a 6 month period (May-October 1979). After deducting 220 enquiries which needed immediate attention from a lawyer he was left with 3122 legal enquiries which needed advice. Only 971 (31.1%) were referred to a LAB, whilst the others were dealt with in alternative ways.

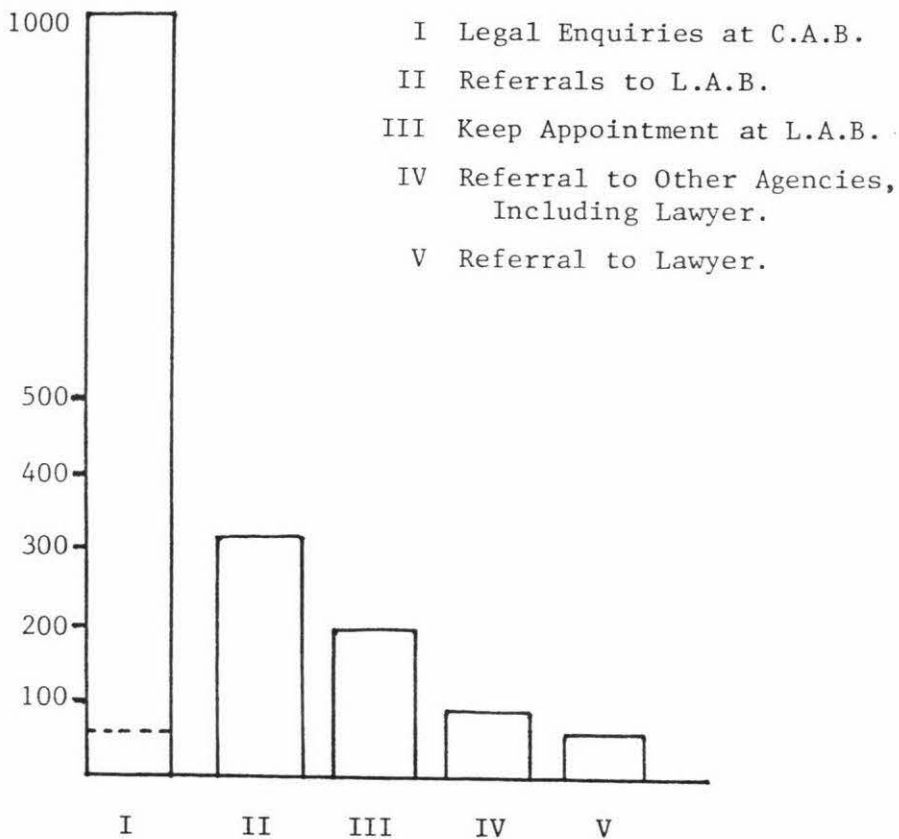
To obtain an idea<sup>10</sup> of client flow over the entire year we should allow for slightly more enquiries during the remaining 6 months of the year because of post-holiday domestic problems. By rounding up and doubling Heeps' figures a number of 2000 referrals per year was reached. But the LABx to which these referrals were made reported only 1200 clients over the same period. Approximately 40% of all clients referred to LABx do not keep their appointments.

Of those clients who do see a lawyer at the LAB approximately 50% are referred to other agencies. The present study shows that



clients of North Island LABx were more likely to be referred than their South Island counterparts. About 60% of those LAB clients who were referred were sent to a lawyer. Since there was no follow-up from LABx to check whether referred clients actually kept their appointment, the rate of attrition at this step in the overall process could not be established.

FIGURE 1  
Rate of Attrition During Referrals to LABx



What we do know is, that only 56 of every 1000 legal enquiries at the C.A.B. will eventually be referred to a lawyer, even if the most favourable circumstances are assumed.

Two additional factors affect the accessibility of LABx for potential clients: Location and office hours. Twenty-two respondents expressed satisfaction with the location of their LABx, with one respondent describing the location of the LAB as no longer suitable. This dissatisfaction was expressly linked

to a drop in patronage over the 18 months preceding this study. Given the fact that LABx usually share CAB premises it is reasonable to assume that most bureaux are located adjacent to shopping areas. We also assume that this association between Citizens' and Legal Advice Bureaux has direct consequences for LAB patronage.

CABx are typically open and staffed during normal business hours on weekdays whereas LABx are most likely to operate on weekday evenings or Saturday mornings. Nineteen LABx opened once every week for two hours and all but one (which operated during the lunchhour on a weekday), opened weekday evenings or Saturday mornings. Three LABx opened once every two weeks because of low client numbers and one had ceased to operate on a face to face basis. This latter bureau is now available as a telephone service during office hours on two days a week.

The client loss between CABx and LABx may, therefore, be attributable in part to alternative office hours.

#### Service at LABx

LABx are supposed to limit their services "to on the spot legal advice by properly qualified solicitors".<sup>11</sup> Participants were, therefore, constrained to listening and "helping clients to crystallise their own ideas". In this way non-legal problems were distinguished from legal problems, including those legal problems which were deemed to need assistance by other non-legal agencies. Although Participants were meant to stop short of acting for a bureau's client, the rule against action did not preclude occasional telephone calls or letters on behalf of clients.

4828 clients sought assistance during 1979 according to the data supplied by 22 LABx. But as shown in Table 20 there were marked differences in reported client volume between LABx. In this context it is also interesting to note that the total number of clients assisted for the same period as reported by Participants was 5753, a difference of 925 clients which cannot be accounted for by one non-responding LAB. Because of this discrepancy and because of the considerable differences in the quality of

responses, these figures must be regarded very cautiously.

TABLE 20  
Numbers of Clients & Participants in 23 LABx

No. Clients/Year	(No. Participants)	No. Clients/Participant/Year
750	20	37.5
600	12	50.0 (Highest)
387	10	38.7
300	15	20.0
300	8	37.5
300	8	37.5
290	13	22.3
260	6	43.3
225	22 (Highest)	10.2
192	8	24.0
139	10	13.9
131	12	10.9
129	11	11.7
129	7	18.4
112	8	14.0
102	5 (Lowest)	20.4
94	15	7.8
94	8	11.7
87	10	8.7
80	9	8.9
71	12	5.9 (Lowest)
56	6	9.3
<u>Missing</u>	<u>Missing</u>	<u>Missing</u>
4828	235	Mean 20.5

Even guarded consideration of the data presented in Table 20 shows considerable differences in workload between LABx. Participants in the bureau with the highest client ratio for the year saw about 8.5 clients for every one client that went through the bureau with the lowest ratio. These differences were even greater on an

individual level with one Participant reporting that he had dealt with 101 bureau clients during the same period.

### Staffing

Changes in staff levels at LABx are primarily the concern of LAB supervisors. If more Participants are needed for a bureau they are sought through advertisements in the newsbulletins of the respective District Law Societies.

Eighteen LAB in this study reported that there had been no problems with finding volunteers to become Participants. Of the remaining five LABx, four stated that they had experienced some difficulties in the past and one LAB stated that it had suffered severe difficulties in finding volunteers.

Two of the LABx which reported difficulties in attracting Participants felt that this was "because of young lawyers' lack of interest". Conversely there are regional differences which make it difficult for young lawyers to become Participants. This was confirmed by a report of three volunteers on the waiting list of a LAB and the remark of a Participant who stated that:-

"...actually I applied three times, but it seemed they were over-subscribed."

Some of the reasons for the apparent over-subscription of volunteers in some areas may be found in Tables 21 and 22. The data presented in Table 21 again suffers from the varied quality of responses, but it is plain that there has been a slow down in the establishment of LABx. In addition Table 22 shows that Participants tend to continue their work with LABx once they have started. 42.2% of all Participants had worked for four years or longer at LABx, whilst 27 Non-Participants (N = 92) indicated that they had at one time been Participants.

TABLE 21  
Establishment of LABx

Years Since L.A.B. Established	No. of L.A.Bx
2	4
3	1
4	2
5	7
6	2
7	2
8	3
10	2
Mean years since establishment: 5.6	23 L.A.Bx
Mode: 5	

TABLE 22  
Participants' Length of Service in LABx

Years of Service	N	%
1 or less	29	16.1
1 to less than 2	18	10.0
2 to less than 4	57	31.7
4 to less than 6	43	23.9
6 to less than 8	22	12.2
8 to less than 10	7	3.9
10 or more	4	2.2
	180	100
1 missing observation		

#### Clients' Problems

CABx as well as individual respondents were asked to indicate the types of legal problems which had been presented to them by their clients. It was hoped that we would, in this way, glean precise information about the actual distribution of legal problems as

reported by LABx as well as less reliable information about the perceived distribution of legal problems as reported by Participants. In the event, the varied quality of responses from LABx prevented this. While some LABx responded with detailed reports, others indicated their clients' problems only in a very general manner. For this reason we have presented both LABx and Participants' responses in Table 22 in a rather unsatisfactory way.

TABLE 23  
Clients' Legal Problems as Reported by LABx  
And Participants (Percentages)

	LABx	Participants; N = 177
Matrimonial	≈45%; Highest ≈60%, Lowest 14.7%	34.7%
Tenancy	)	13.7%
Traffic	) ≈45%	13.5%
Neighbourhood	)	11.9%
Debt	)	11.7%
Consumer	) ≈10%	9.5%
Criminal	)	3.2%
Other	)	1.8%
All Problems	100%	100%

Despite the shortcomings of these data it is clear that matrimonial problems accounted for at least one in every three problems which were brought to LABx.

A related question asked whether there had been any observed changes in the types of problems which had been presented over the past five years (1974-1979). This question was answered by 21 LABx.

The reported increase in domestic problems reported by one LAB during this period was offset by the reported decrease in matrimonial problems by another LAB. The category in which most change was noted was in the sphere of tenancy. Five LABx reported changes which related to tenancy. Three LABx stated that there had been

increases in tenancy problems whereas the other two reported fluctuations in tenancy problems. One LAB responded that there had been an increase in the difficulties between ratepayers and the local council while another reported an increase of debt related problems. The remaining 12 LABx stated that there had been little change in the type of problem that had been brought to the attention of their bureaux.

#### Future Plans

Twenty-two LABx responded to a question which asked whether they had "any plans to expand, cut back or change the services offered" by their bureaux.

Seventeen LAB stated that they had no such plans. Four planned to change by adjusting their services to perceived client demand. This meant in one case relocation, in another a cutback in the frequency of the service and in two cases, expansion. One LAB was not certain about possible future plans.

Thus it appeared that LABx had no anxiety about their future. Nineteen anticipated no difficulties at all, whereas four did not comment at all about possible future difficulties.

An analysis of LABx processes shows that supposedly informal processes have actually become quite routinised.

This routinisation of LABx processes assists in the preservation of Participant-client relations which differ little from the typical lawyer-client relationships. Rules which are "binding" on Participants may also be seen to help them negotiate the critical advice and referral phases.

Rules and routines in addition to shaping Participant-client relations also facilitate the co-optation of CAB workers. High levels of client attrition between CABx and LABx suggest that this co-optive process is not yet complete.

## NOTES

1. ROBERT VAN KRIEKEN, 1980, "The Capitalist State and the Organisation of Welfare", in The Australian and New Zealand Journal of Sociology, Vol.16, 3: 23-25, : 29
2. This is quoted from a mimeographed document "Citizens' Advice Bureaux, Legal Advice Service, Notes for Legal Interviewers", n.d., no pagination, section 2
3. Ibid., section 9
4. This is quoted from another mimeographed document for Participants in a busy LAB, n.d., no pagination
5. The document mentioned in note 2 states in section 2 that "A lawyer must not act for payment for a person first seen at the Bureau without the prior permission of the Law Society nor must he use his association with the Bureau as a means of canvassing for clients."
6. From the document referred to in note 4
7. Question 25 in Appendix II
8. Question 24 in Appendix II
9. ROBERT HEEPS, 1980, Report on the Legal Services of the Auckland City Council Citizens' Advice Bureaux, Mimeographed, Auckland
10. It was unfortunately not possible to obtain precise rates of client flow for the entire year because of the frequently poor standard of numerical responses. The existing figures were used to indicate certain, clear trends.
11. From a mimeographed document "Citizens' Advice Bureaux, Notes for Law Student Assistants", n.d., no pagination, Opening sentence.



CHAPTER IV

IDEOLOGY  
AND  
LEGAL ADVICE BUREAUX

The ideology which gives rise to the image of LABx as monuments to legal equal opportunity, forms the subject matter of this chapter.

Goran Therborn<sup>1</sup> in commenting on the frequent neglect of ideological factors, writes that:-

"diffuse ideological tendencies of a humanitarian and charitable kind (should not) be a priori denied all causal significance."

Claus Offe<sup>2</sup> writes in similar vein that:-

"there is something like an inarticulate ideology in political institutions...in the sense that it promotes the selective perception and articulation of social problems and conflicts."

Hence it is by reference to such ideological concepts that the legal profession locates itself and its activities within society and perceives that society in its own peculiar way.

The analysis of legal ideology in this chapter is limited to Participants' and Non-Participants' responses to a series of 23 statements. These statements relate to either economic, political or social issues of some moment to the profession. Although not in the order presented below, these statements formed the final 23 items on the questionnaire sent to all Participants and Non-Participants. (Appendix III).

In keeping with the twofold aim of this study we considered the nature of that ideology as shown in the analysis of all responses and those differences which occurred between Participants and Non-Participants.

#### Economic Issues

Eight items<sup>3</sup> were primarily intended to ascertain Participants' and Non-Participants' perspectives of economic issues facing the legal profession.

TABLE 24

"There is no need to restrict the number of those wishing  
to enter the Legal Profession"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	12	6.7	11	12.1	23	8.5
Agree	80	44.4	36	39.6	116	42.8
Disagree	64	35.6	34	37.4	98	36.2
Strongly Disagree	17	9.4	10	11.0	27	10.0
Don't Know	7	3.9	0	0	7	2.6
	180	100	91	100	271	100
	1 missing		1 missing			
2 missing observations						
$\chi^2 = 6.17$ ; d.f. = 4; $p = 0.1869$						

As Table 24 shows, no statistically significant difference was found between Participants and Non-Participants. Both groups had a slight preponderance to agree with the statement and remained fairly evenly divided when controlled for income, experience and employment status. Only when controlling for the type of legal training was there a statistically significant difference between Participants and Non-Participants who had gained their law degrees through full-time, part-time or a combination of full and part-time study ( $\chi^2 = 17.23$ ;  $p = 0.0278$ ; d.f. = 8). 41.9% of former full-time students (N = 117) compared to 74.2% of part-time students (N = 31) and 54.5% of full and part-timers agreed with the statement. However, this difference disappeared for Participants when separate analyses controlling for type of education were effected for each group. The results for Participants (N = 180) were  $\chi^2 = 9$ ;  $p = 0.3423$ ; d.f. = 8. For Non-Participants (N = 91) there was still a statistically significant difference between those who had gained their law degrees through different types of study. ( $\chi^2 = 13.82$ ;  $p = 0.0318$ ; d.f. = 6). Only 30% of all Non-Participants who had been full-time students (N = 30) agreed with the statement, whereas 69.2% of former part-time (N = 13) and 60.5% of full and part-time

students (N = 48) expressed agreement. This last analysis also showed an asymmetric lambda of 0.2, indicating that knowledge of a Non-Participant's type of legal training would increase predictive ability by 20%.

The findings for this item are clearly interesting. They suggest that there is a degree of anxiety about an oversupply of candidates for the profession among those who have been full-time students. This feeling appears to be strongest among Non-Participants. Another possible explanation is that those practitioners who have gained their law degree through part-time study have more confidence in their own ability to succeed in their chosen occupation.

TABLE 25

"The market situation will ensure that competent lawyers are successful"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	12	6.7	10	11.0	22	8.1
Agree	95	52.8	51	56.0	146	53.9
Disagree	54	30.0	23	25.3	77	28.4
Strongly Disagree	9	5.0	5	5.5	14	5.2
Don't Know	10	5.6	2	2.2	12	4.4
	180	100	91	100	271	100
	1 missing		1 missing			

2 missing observations

$\chi^2 = 3.55$ ; d.f. = 4;  $p = 0.4698$

Table 25 shows that there was no statistically significant difference between Participants and Non-Participants; 59.5% of Participants (N = 180) and 67% of Non-Participants (N = 91) agreed more or less strongly with the statement. After having introduced a number of controls into the analyses no significant differences were found between Participants and Non-Participants, but there were again significant differences within the sample of Non-Participants when it was controlled for employment status and income.

Among Non-Participants, those who were sole practitioners or in partnerships with a membership of 3 or less, were more likely to disagree with the statement than those in larger partnerships or in employment ( $\chi^2 = 47.46$ ;  $p = 0.0122$ ; d.f. = 28). An asymmetric lambda of 0.1 indicated that knowledge of a Non-Participant's employment status would improve the ability to predict his opinion about this statement by 10%.

Non-Participants' opinions also differed according to income. ( $\chi^2 = 50.13$ ;  $p = 0.0217$ ; d.f. = 32). The size of the matrix demanded, however, that this finding needed to be interpreted very cautiously. 54.3% of those earning up to \$15,000 per year ( $N = 35$ ) agreed with the statement but the percentage of respondents in agreement with the statement rose to 76.5% among those earning \$15,001- or more per year.

Overall, therefore, both Participants and Non-Participants appeared to be confident in the profession's economic future. Only a small group of Non-Participants working in solo or small practices (3 members or less) seemed to have misgivings about the market situation of lawyers.

TABLE 26

"Real incomes of lawyers are nowadays considerably lower than six years ago"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	36	19.9	19	20.9	55	20.2
Agree	68	37.6	36	39.6	104	38.2
Disagree	23	12.7	10	11.0	33	12.1
Strongly Disagree	2	1.1	1	1.1	3	1.1
Don't Know	52	28.7	25	27.5	77	28.3
	181	100	91	100	272	100

1 missing

1 missing observation

$\chi^2 = 0.27$ ; d.f. = 4;  $p = 0.99$

The basic analysis of this variable was remarkable for the almost complete absence of any difference between Participants and Non-Participants. 57.5% of Participants (N = 181) and 60.5% of Non-Participants (N = 91) agreed more or less strongly with the statement, whereas most of the remaining respondents stated that they "didn't know" how they felt about the statement. It was thought that the large percentage of "don't knows" reflected uncertainty about the past among relatively new practitioners.

A  $\chi^2$  test, controlling for respondents' length of experience, supported this secondary hypothesis ( $\chi^2 = 53.52$ ;  $p = 0.000$ ; d.f. = 12). 46.3% of all respondents who had 5 years or less experience (N = 95) "didn't know" whereas the percentage of "don't knows" in the cohort which had between 6 and 10 years of experience (N = 91) dropped to 26.4%. As anticipated, a  $\chi^2$  test controlling for employment status showed similar differences ( $\chi^2 = 89.28$ ;  $p = 0.000$ ; d.f. = 28). 52.4% of all employed respondents (N = 82) stated that they "didn't know", but only 17.9% of the remaining respondents (N = 190) "didn't know". This distinction also held between and within Participants and Non-Participants when the analysis was controlled for income. Thus Participants and Non-Participants combined, controlled for income (N = 264) resulted in  $\chi^2 = 53.62$ ;  $p = 0.0097$ ; d.f. = 32. Participants only, when controlled for income (N = 178), yielded  $\chi^2 = 49.74$ ;  $p = 0.0236$ ; d.f. = 32; but Non-Participants only, controlled for income (N = 82) showed no statistically significant difference ( $\chi^2 = 35.06$ ;  $p = 0.3248$ ; d.f. = 32).

These patterns suggest that less experienced lawyers among both Participants and Non-Participants are uncertain about their economic situation in society compared to more experienced lawyers who tend to feel that their economic situation as measured by lawyers' incomes has declined over the past six years.

TABLE 27  
 "Civil Legal Aid work is uneconomic"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	21	11.6	12	13.2	33	12.1
Agree	76	42.0	40	44.0	116	42.6
Disagree	54	29.8	18	19.8	72	26.5
Strongly Disagree	4	2.2	1	1.1	5	1.8
Don't Know	26	14.4	20	22.0	46	16.9
	181	100	91	100	272	100

1 missing

1 missing observation

$\chi^2 = 4.97$ ; d.f. = 4;  $p = 0.2899$

TABLE 28  
 "Criminal Legal Aid work is uneconomic"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	88	48.9	32	35.2	120	44.3
Agree	52	28.9	22	24.2	74	27.3
Disagree	4	2.2	8	8.8	12	4.4
Strongly Disagree	1	0.6	1	1.1	2	0.7
Don't Know	35	19.4	28	30.8	63	23.2
	180	100	91	100	271	100

1 missing

1 missing

2 missing observations

$\chi^2 = 12.53$ ; d.f. = 4;  $p = 0.0138$

No statistically significant difference ( $p = 0.2899$ ) between Participants and Non-Participants was found with regard to the statement on civil legal aid. A majority of both groups felt more or less strongly that civil legal aid was uneconomic work (53.6% of Participants and 57.2% of Non-Participants respectively). Whereas almost one third (32%) of Participants disagreed more or less strongly with the statement, indicating satisfaction with the remuneration for civil legal aid work; only a little more than one fifth (20.9%) of Non-Participants did so. The lower level of involvement in civil legal aid work by Non-Participants was reflected in a higher percentage of "don't know" returned by them.

As Table 28 shows Participants and Non-Participants differed significantly ( $p = 0.0138$ ) from each other in their responses to the statement concerning criminal legal aid. Indeed, the strength of agreement (48.9% "Strongly Agreed") among Participants with the view that criminal legal aid work was uneconomic, was remarkable. More than three in every four Participants (77.8%) agreed more or less strongly with the statement, whereas more than half (59.4%) of the Non-Participants did so. Again Non-Participants were less certain about the statement and almost one third (30.8%) responded that they "didn't know".

These findings make it clear that there is widespread dissatisfaction among lawyers with remuneration rates for legal aid work. Dissatisfaction with rates of pay for criminal legal aid work is particularly strong among Participants who are the most likely to engage in such work. Given these high levels of discontent, particularly among lawyers who are directly involved in the situation, it is difficult to see how the quality of legal aid work in general, and criminal legal aid work in particular, could not be negatively affected.<sup>4</sup>



TABLE 29

"Lawyers should be in partnership with specialists in other fields. E.g. accountants, social workers"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	4	2.2	4	4.4	8	3.0
Agree	47	26.0	16	17.8	63	23.2
Disagree	89	49.2	44	48.9	133	49.1
Strongly Disagree	22	12.2	19	21.1	41	15.1
Don't Know	19	10.5	7	7.8	26	9.6
	181	100	90	100	271	100

2 missing

2 missing observations  
 $\chi^2 = 6.40$ ; d.f. = 4;  $p = 0.1711$

Little support was found among both Participants and Non-Participants for the statement shown in Table 29. Similar percentages of Participants and Non-Participants disagreed with the statement (49.2% and 48.9% respectively) but Participants were more likely to agree than Non-Participants (26% and 17.8% respectively). Conversely, Non-Participants were more likely to strongly disagree (21.1%) than Participants (12.2%). Controlling for years of experience did not change the substantive findings, although it was interesting to observe a mellowing of attitudes among the small number of Participants who had more than 20 years of experience. Five of the 12 in that cohort agreed that lawyers should be in partnership with other specialists.

These findings suggest that most lawyers can see no advantage in closer working relationships with specialists in other, affined occupations.

TABLE 30

"The most serious professional competition to lawyers comes from accountants"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	1	0.6	0	0	1	0.4
Agree	40	22.1	19	21.1	59	21.8
Disagree	92	50.8	50	55.6	142	52.4
Strongly Disagree	14	7.7	9	10.0	23	8.5
Don't Know	34	18.8	12	13.3	46	17.0
	181	100	90	100	271	100

2 missing

2 missing observations

$\chi^2 = 2.20$ ; d.f. = 4;  $p = 0.6997$

This was an interesting item, given the historic rise of accountancy as a profession at the expense of the legal profession.<sup>5</sup> As anticipated there was no statistically significant difference between Participants and Non-Participants ( $p = 0.6997$ ) with a majority more or less strongly in disagreement with the statement (58.5% and 65.6% of Participants and Non-Participants respectively). Fewer than one in four respondents agreed with the statement.

This shows quite clearly that lawyers in New Zealand do not regard accountancy as a threat to their profession. Of particular interest, given Non-Participants greater involvement in property and money matters than Participants, is the propensity of Non-Participants to disregard accountancy as a rival to law.

TABLE 31

"Lawyers should not be restricted by special rules any more than businessmen are"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	2	1.1	2	2.2	4	1.5
Agree	11	6.1	8	8.7	19	7.0
Disagree	121	67.2	51	55.4	172	63.2
Strongly Disagree	42	23.3	27	29.3	69	25.4
Don't Know	4	2.2	4	4.3	8	2.9
	180	100	92	100	272	100

1 missing

1 missing observation

$\chi^2 = 4.19$ ; d.f. = 4;  $p = 0.3808$

As expected, there was no statistically significant difference between Participants and Non-Participants on this item. Large majorities (90.5% and 84.7% respectively) of Participants and Non-Participants disagreed more or less strongly with the statement presented in Table 31.

These findings demonstrate the strong commitment of lawyers to their professional association's rules and codes. Participants are perhaps more conformist than Non-Participants.<sup>6</sup>

#### Political Issues

The focus of the seven items<sup>7</sup> below is on political issues which affect the legal profession. The first three (Tables 32-34) are related to lawyers' perception of governmental power. These items are followed by two (Tables 35 and 36) which are intended to gauge lawyers' perception of their profession's domain. The final two items (Tables 37 and 38) measured lawyers' willingness to surrender some of the profession's powers.

TABLE 32

"Government inroads into traditional areas of practice are a serious threat to the profession"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	24	13.4	9	10.0	33	12.3
Agree	76	42.5	36	40.0	112	41.6
Disagree	63	35.2	40	44.4	103	38.3
Strongly Disagree	1	0.6	3	3.3	4	1.5
Don't Know	15	8.4	2	2.2	17	6.3
	179	100	90	100	269	100
	2 missing		2 missing			

4 missing observations  
 $\chi^2 = 8.69$ ; d.f. = 4;  $p = 0.0695$

The difference between Participants and Non-Participants did not reach statistical significance on this item. About half (55.9% and 50%) of Participants and Non-Participants agreed more or less with the statement. As shown in Table 32, Non-Participants were more likely to disagree than Participants that governmental inroads constituted a serious threat to the profession, whereas Participants were more likely to express uncertainty and responded "don't know".

These findings suggest that a majority of lawyers are wary of the government's power to interfere with the profession's domain. The higher level of disagreement with the statement among Non-Participants probably reflects the confidence of more experienced lawyers in the profession's ability to realise its own interests. Similarly, the higher percentage of "don't knows" among the less experienced Non-Participants may be indicative of that group's uncertainty about the profession's ability to realise its own interests in the face of government action detrimental to the profession.

TABLE 33

"Too much power has been concentrated in the hands of the  
government executive"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	87	48.1	27	29.7	114	41.9
Agree	83	45.9	53	58.2	136	50.0
Disagree	6	3.3	8	8.8	14	5.1
Strongly Disagree	0	0	2	2.2	2	0.7
Don't Know	5	2.8	1	1.1	6	2.2
	181	100	91	100	272	100
			1 missing			

1 missing observation

$$\chi^2 = 15.01; \text{d.f.} = 4; p = 0.0047$$

TABLE 34

"Too much power has been placed in the hands of the  
government bureaucracy"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	76	42.2	32	35.6	108	40.0
Agree	87	48.3	43	47.8	130	48.1
Disagree	8	4.4	13	14.4	21	7.8
Strongly Disagree	0	0	1	1.1	1	0.4
Don't Know	9	5.0	1	1.1	10	3.7
	180	100	90	100	270	100
	1 missing		2 missing			

3 missing observations

$$\chi^2 = 12.83; \text{d.f.} = 4; p = 0.0121$$

The two items concerning governmental power (Tables 33 and 34) elicited similar responses, although there were statistically significant differences between Participants and Non-Participants. ( $p = 0.0047$  for the item analysed in Table 33 and  $0.0121$  for the item in Table 34). 91.9% of respondents agreed more or less strongly with the statement presented in Table 33 and 88.1% of respondents agreed more or less strongly with that shown in Table 34. In both instances Participants agreed more strongly than Non-Participants. Indeed, almost half (48.1%) of Participants "agreed strongly" with the notion that the government executive wielded too much power compared to 29.7% of Non-Participants, who also agreed strongly. The difference between Participants and Non-Participants who agreed strongly was also pronounced for the item shown in Table 34 (42.2% of Participants as compared to 35.6% of Non-Participants), but Non-Participants were considerably more likely to disagree with the statement than Participants (14.4% or almost one in seven Non-Participants but only 4.4% or one in about 23 Participants disagreed).

These findings indicate that there is considerable disquiet among the legal profession about the power of the state. With regard to "the power of the executive", differences between Participants and Non-Participants are largely a matter of intensity. One in two Participants is strongly critical of what he or she regards as excessive executive power. There is also agreement between Participants and Non-Participants about the inordinate "power of the bureaucracy" but the existence of a group of Non-Participants who don't share the majority sentiment indicates that Non-Participants are more sanguine about the bureaucracy than Participants.

TABLE 35

"The legal profession should instigate reform in such areas as homosexuality and abortion"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	10	5.6	5	5.4	15	5.5
Agree	40	22.2	17	18.5	57	21.0
Disagree	99	55.0	44	47.8	143	52.6
Strongly Disagree	24	13.3	21	22.8	45	16.5
Don't Know	7	3.9	5	5.4	12	4.4
	180	100	92	100	272	100

1 missing

1 missing observation

$\chi^2 = 4.65$ ; d.f. = 4;  $p = 0.3250$

Not surprisingly, more than two thirds of both Participants and Non-Participants (68.3% and 70.6% respectively) disagreed with the statement shown in Table 35. While there was no statistically significant difference between Participants and Non-Participants, Non-Participants were more likely to register strong disagreement (22.8% compared to 13.3% of Participants). However, approximately one quarter of both Participants and Non-Participants (27.8% and 23.9% respectively) were in favour of action by the profession.

The strong disagreement by both Participants and Non-Participants with the idea that the legal profession should press for law reform in contentious areas, indicates yet again the profession's conservatism.<sup>8</sup> In the context of the present study the conformity of Participants is of particular interest, since LABx have been regarded by some in the profession as a comparatively radical approach to legal intervention.

TABLE 36

"The law should be used in the service of social goals"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	24	13.5	9	10.2	33	12.4
Agree	117	65.7	55	62.5	172	64.7
Disagree	21	11.8	14	15.9	35	13.2
Strongly Disagree	4	2.2	4	4.5	8	3.0
Don't Know	12	6.7	6	6.8	18	6.8
	178	100	88	100	266	100
	3 missing		4 missing			

7 missing observations  
 $\chi^2 = 2.39$ ; d.f. = 4; p = 0.6645

As anticipated, there was no statistically significant difference between Participants and Non-Participants in respect of the statement presented in Table 36. Approximately three out of every four Participants and Non-Participants (79.2% and 72.7% respectively) agreed with the notion that law should be used in the service of social goals. However, Non-Participants were more likely to disagree with this notion than Participants (20.4% of Non-Participants compared to 14% of Participants). The percentage of those who were uncertain (as illustrated by the response "don't know") was almost identical (6.7% and 6.8% of Participants and Non-Participants respectively).

These findings as displayed in Table 36 indicate that lawyers believe the legal processes should be used for certain (unspecified) social goals. When combined with the findings discussed above (Table 35) it becomes apparent that the nature of these goals is likely to be conservative.



TABLE 37

"More emphasis should be given to schemes which enable people to represent themselves in court"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	3	1.7	4	4.4	7	2.6
Agree	57	31.7	32	35.2	89	32.8
Disagree	90	50.0	41	45.1	131	48.3
Strongly Disagree	16	8.9	7	7.7	23	8.5
Don't Know	14	7.8	7	7.7	21	7.7
	180	100	91	100	271	100
	1 missing		1 missing			

2 missing observations  
 $\chi^2 = 2.37$ ; d.f. = 4;  $p = 0.6669$

Participants and Non-Participants did not differ significantly from each other on the issue of people's self-representation in courts. More than half of the respondents in each group (58.9% of Participants and 52.8% of Non-Participants) disagreed more or less strongly with the statement presented in Table 37. Also apparent was the slightly greater inclination of Non-Participants to support such a notion.

These findings are very interesting as they suggest that Participants are less inclined than Non-Participants to support a policy which would give non-professionals more control if such a policy diminishes the importance of the profession. Two out of every three Participants are clearly not regarding LABx as resource centres which exist to help people to help themselves in matters of law.

TABLE 38

"Laymen should be included in the law reform committee"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	23	12.8	13	14.4	36	13.3
Agree	128	71.1	57	63.3	185	68.5
Disagree	22	12.2	13	14.4	35	13.0
Strongly Disagree	0	0	4	4.4	4	1.5
Don't Know	7	3.9	3	3.3	10	3.7
	180	100	90	100	270	100
	1 missing		2 missing			

3 missing observations  
 $\chi^2 = 8.93$ ; d.f. = 4; p = 0.0628

Although the difference between Participants and Non-Participants did not reach statistical significance, Participants were more likely to agree to the inclusion of non-professionals in law reform committees. There was strong support for such a policy from both Participants and Non-Participants (83.9% and 77.7% from Participants and Non-Participants respectively). While a small percentage of respondents disagreed, (12.2% of Participants and 18.8% of Non-Participants), it should be noted that there was no Participant who disagreed strongly.

At first sight these findings appear to conflict with those discussed above (Table 37), since both Participants and Non-Participants are strongly in favour of lay representation on law reform committees. On reflection it becomes plain, however, that these are not identical situations. Lay people included in law reform committees are co-opted and as such they are subject to control by legal experts. On the other hand, their presence on such committees may be seen as conveying a degree of impartiality.<sup>9</sup>

#### Social Issues

The eight items<sup>10</sup> comprising this section are concerned with lawyers' sentiments about their profession's position in society.

The items progress sequentially from lawyers' opinions about the quality of state funded Legal Aid (Table 39) to their feelings about legal advice given by lay-people (Table 40). These analyses are followed by an item which questions whether lawyers link their extensive training to the complexity of the law (Table 41). The two items below consider lawyers' views of "the man in the street"; his ability to comprehend the law (Table 42) and his relationship to the law as his only protection against the state (Table 43). The final three items analyse lawyers' opinions about their own isolation from "every-day life" (Table 44), their status in society (Table 45) and their willingness to criticise professional colleagues (Table 46).

TABLE 39

"People who use legal aid get as good a service as other, fee-paying clients"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	12	6.7	2	2.2	14	5.2
Agree	65	47.8	34	37.0	119	44.1
Disagree	55	30.9	28	30.4	83	30.7
Strongly Disagree	10	5.6	7	7.6	17	6.3
Don't Know	16	9.0	21	22.8	37	13.7
	178	100	92	100	270	100

3 missing

3 missing observations

$\chi^2 = 12.9$ ; d.f. = 4;  $p = 0.0118$

The statistically significant difference between Participants and Non-Participants on this variable was not unexpected, given the statistically significant difference between Participants' and Non-Participants' in respect to their involvement in legal aid work. Table 39 shows that a greater percentage of Participants agreed with the statement than did Non-Participants (54.5% of Participants (N = 178) and 39.2% of Non-Participants (N = 92)

respectively). There was a marked difference between Participants and Non-Participants who stated that they "didn't know". More than twice as many Non-Participants (22.8%) than Participants (9%) responded that they "didn't know".

TABLE 39a  
Participants opinion about the quality of Legal Aid

**	*	S.A.		A		D		S.D.		D.K.		Totals		
		N	%	N	%	N	%	N	%	N	%	N	%	
Yes		5	41.7	31	36.9	37	68.5	10	100	5	33.3	88	50.3	2M
No		4	33.3	30	35.7	11	20.4	0	0	2	13.3	47	26.9	1M
Don't Know		3	25.0	27	27.4	6	11.1	0	0	8	53.3	40	22.9	
		12	100	84	100	54	100	10	100	15	100	175	100	
				1 missing		1 missing				1 missing				

$$x^2 = 32.12; \text{d.f.} = 8; p = 0.0001$$

TABLE 39b  
Non-Participants opinion about the quality of Legal Aid

**	*	S.A.		A		D		S.D.		D.K.		Totals		
		N	%	N	%	N	%	N	%	N	%	N	%	
Yes		0	0	10	29.4	21	77.8	4	57.1	9	42.9	44	48.4	
No		2	100	14	41.2	3	11.1	1	14.3	1	4.8	21	23.1	
Don't Know		0	0	10	29.4	3	11.1	2	28.6	11	52.4	26	28.6	
		2	100	34	100	27	100	7	100	21	100	91	100	
				1 missing										

7 missing observations.

$$x^2 = 31.11; \text{d.f.} = 8; p = 0.0001$$

Key: \* People who use legal aid get as good a service as other, fee-paying clients.

\*\* Is the quality of representation for Legal Aid clients at present limited by the number of practitioners willing to undertake such work?

- S.A. Strongly Agree  
A Agree  
D Disagree  
S.D. Strongly Disagree  
D.K. Don't Know
- 

Agreement with this statement did not always entail a denial that "the quality of representation for Legal Aid Clients (was) at present limited by the number of practitioners willing to undertake such work". 37.9% of Participants (N = 88) who had agreed with the original statement that legal Aid clients got "as good a service as other fee-paying clients" (Table 39), also agreed with a statement which suggested that the quality of Legal Aid clients was limited (Table 39a). Conversely, 23.4% of Participants (N = 47) who had disagreed with the original statement, also disagreed with the second statement. ( $\chi^2 = 32.12$ ;  $p = 0.0001$ ; d.f. = 8). It is also noteworthy that these logical discrepancies were less frequent among Non-Participants. 22.7% of Non-Participants (N = 44) agreed with both statements, whereas 14.3% (N = 21) disagreed with both (Table 39b).

These findings indicate that Participants are not only likely to be significantly more certain about the standard quality of Legal Aid work than Non-Participants but that they also feel that not enough practitioners are willing to do their share of such work. The implied reluctance of many lawyers, who are also frequently Non-Participants, to engage in Legal Aid work is thought by many Participants to be a cause of the limited quality of Legal Aid work.

TABLE 40

"Certain people like MP's, Social Workers and Trade Union  
Officials give 'legal advice' of dubious value"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	28	15.5	11	12.1	39	14.3
Agree	99	54.7	55	60.4	154	56.6
Disagree	9	5.0	8	8.8	17	6.3
Strongly Disagree	1	0.6	0	0	1	0.4
Don't Know	44	24.3	17	18.7	61	22.4
	181	100	91	100	272	100

1 missing

1 missing observation  
 $\chi^2 = 3.61$ ; d.f. = 4;  $p = 0.4618$

There was no statistically significant difference between Participants and Non-Participants in their responses to the statement concerning legal advice given by lay-people. 70.2% of Participants and 72.5% of Non-Participants expressed their doubts about the worth of such advice. Participants were more likely to strongly agree with the statement than Non-Participants (15.5% and 12.1% respectively); in addition Participants were also less likely than Non-Participants to disagree more or less strongly (5.6% compared to 8.8%). On the other hand almost one quarter of Participants (24.3%) stated that they "didn't know", whereas not quite one fifth of Non-Participants (18.7%) expressed such uncertainty.

These findings indicate that Participants' views of lay-people's ability in the legal domain are as guarded as Non-Participants. Whereas some lawyers are not certain about the value of non-lawyers' "legal advice", very few are certain that any such advice could be sound.

TABLE 41

"The long period of training for law students is necessary  
because of the complexity of the law"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	19	10.6	12	13.2	31	11.4
Agree	114	63.3	52	57.1	166	61.3
Disagree	39	21.7	25	27.5	64	23.6
Strongly Disagree	2	1.1	1	1.1	3	1.1
Don't Know	6	3.3	1	1.1	7	2.6
	180	100	91	100	271	100
	1 missing		1 missing			

2 missing observations  
 $\chi^2 = 2.78$ ; d.f. = 4;  $p = 0.5961$

As expected, there was no statistically significant difference between Participants and Non-Participants. Almost three quarters (73.9%) of Participants and more than two thirds (70.3%) of Non-Participants agreed more or less strongly that a long period of training was necessary because of the complexity of the law. It was interesting to observe that Participants were also less likely than Non-Participants (21.7% compared to 27.5%) to disagree with the statement in Table 41.

These findings again demonstrate that Participants are firmly embedded in and conform to a general "legal ideology".

TABLE 42  
 "The law is incomprehensible to ordinary people"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	13	7.3	8	8.8	21	7.8
Agree	91	50.8	44	48.4	135	50.0
Disagree	67	37.4	36	39.6	103	38.1
Strongly Disagree	1	0.6	1	1.1	2	0.7
Don't Know	7	3.9	2	2.2	9	3.3
	179	100	91	100	270	100
	2 missing		1 missing			

3 missing observations  
 $\chi^2 = 1.1$ ; d.f. = 4; p = 0.8949

As the analysis in Table 42 shows, there was only negligible difference between Participants and Non-Participants. Almost six out of every ten respondents (58.5% and 57.2% of Participants and Non-Participants respectively) agreed that the law was too complex for ordinary people, whereas more than one third of respondents (38% of Participants and 40.7% of Non-Participants) disagreed with this notion. Strong disagreement with and uncertainty about the statement was of no significance (4.5% and 3.3% of Participants and Non-Participants).

Most lawyers agree that law is too complex to be left to anyone other than a lawyer. Even if lay-people can grasp the law (as a large minority of lawyers apparently think), it is clear that it should only be operated by lawyers. As yet Participants have not shown any "radical" tendencies which might weaken the legal profession's control over its domain.



TABLE 43

"Only the law can protect the ordinary citizen against the state"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	56	31.1	32	35.6	88	32.6
Agree	76	42.2	39	43.3	115	42.6
Disagree	34	18.9	15	16.7	49	18.1
Strongly Disagree	5	2.8	2	2.2	7	2.6
Don't Know	9	5.0	2	2.2	11	4.1
	180	100	90	100	270	100
	1 missing		2 missing			

3 missing observations  
 $\chi^2 = 1.75$ ; d.f. = 4; p = 0.7812

As anticipated, the majority of respondents in both groups (73.3% and 78.9% of Participants and Non-Participants respectively) agreed more or less strongly with the statement that the law was the only protection the ordinary citizen had from the state. About one fifth of respondents disagreed (21.7% of Participants and 18.9% of Non-Participants) and a small percentage stated that they "didn't know".

These findings show that lawyers place considerable faith in the efficacy of the law and when combined with the statements discussed above (Tables 32 - 34, 39 - 42) they also cast the legal profession in the role of defender and guardian of "ordinary people" against the power of the state.

TABLE 44

"The ordinary lawyer remains isolated not only from the world of business and industry but also from the day-to-day problems of the man-in-the-street"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	6	3.3	8	8.7	14	5.1
Agree	15	8.3	8	8.7	23	8.5
Disagree	92	51.1	47	51.1	139	51.1
Strongly Disagree	63	35.0	28	30.4	91	33.5
Don't Know	4	2.2	1	1.1	5	1.8
	180	100	92	100	272	100

1 missing

1 missing observation

$\chi^2 = 4.22$ ; d.f. = 4;  $p = 0.3775$

No statistically significant difference between Participants and Non-Participants was expected and none was found in the analysis of their responses. Respondents in both groups disagreed overwhelmingly (86.1% and 81.5% of Participants and Non-Participants respectively) with the statement that ordinary lawyers were remote from the day-to-day problems of the man-in-the-street. Those in agreement were only a small percentage but more Non-Participants agreed (17.4%) than Participants (11.6%).

Lawyers clearly assess themselves as people who understand and are involved in life as it affects others. But it is equally clear that this assessment does little to alleviate lawyers' anxiety about the image of the profession which they suspect "the man-in-the-street" to hold. This ambivalence is not helped by the need to realise economic and political goals which militate against the development of a desired "image".

TABLE 45

"Lawyers' high standing in the community is well deserved"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	6	3.4	10	11.8	16	6.2
Agree	97	55.4	52	61.2	149	57.3
Disagree	26	14.9	8	9.4	34	13.1
Strongly Disagree	4	2.3	5	5.9	9	3.5
Don't Know	42	24.0	10	11.8	52	20.0
	175	100	85	100	260	100
	6 missing		7 missing			

13 missing observations

$\chi^2 = 14.51$ ; d.f. = 4;  $p = 0.0058$

This proved to be an interesting item as demonstrated in Table 45. There was a statistically significant difference between Participants and Non-Participants ( $p = 0.0058$ ). A majority of both Participants and Non-Participants agreed (Non-Participants were considerably more likely to agree) that lawyers deserved their high status (73% of Non-Participants compared to 58.8% of Participants). Indeed, more than one in nine Non-Participants (11.8%) agreed strongly. There was no great difference between the percentage of Participants and Non-Participants who disagreed with this statement (17.2% and 15.3% respectively) but almost one quarter of Participants (24%) were uncertain and "didn't know" how to respond compared to 11.8% of Non-Participants who so responded. Also noteworthy was the high number of refusals.

These findings indicate that a majority of lawyers are satisfied that they deserve high status. The higher rate of satisfaction displayed by Non-Participants, coupled with the large proportion of uncertain Participants, suggests that the greater exposure of Participants to "need" may inhibit the development of self-satisfaction.

TABLE 46

"Criticism of the work of a fellow lawyer should only be made within the profession, if at all"

	Participants		Non-Participants		Totals	
	N	%	N	%	N	%
Strongly Agree	10	5.6	4	4.5	14	5.2
Agree	44	24.6	25	28.4	69	25.8
Disagree	102	57.0	46	52.3	148	55.4
Strongly Disagree	17	9.5	11	12.5	28	10.5
Don't Know	6	3.4	2	2.3	8	3.0
	179	100	88	100	267	100
	2 missing		4 missing			

6 missing observations  
 $\chi^2 = 1.43$ ; d.f. = 4;  $p = 0.8391$

The high level of disagreement with the statement presented in Table 46 was unexpected. There was no statistically significant difference between Participants and Non-Participants ( $p = 0.8391$ ). About two thirds of respondents (66.5% of Participants and 64.8% of Non-Participants) stated that they disagreed with the statement and that criticism of fellow lawyers should be confined to the profession. The remaining one third of respondents (30.2% of Participants and 32.9% of Non-Participants) took the opposite view and agreed with the statement. Only a very small percentage expressed uncertainty about this issue. Although the differences between groups held when controlled for years of experience, there was no significant difference within the respective groupings.

These findings demonstrate that lawyers are expressing a willingness to criticise fellow professionals and that this willingness is not related to the length of experience. Although it is not known how frequently such criticisms are made it is assumed that they are rare. In the absence of data one can only surmise, but clearly a low level of criticism would indicate that the members of the legal profession are generally content with the work of professional colleagues.

### Summary

The findings in this chapter indicate that lawyers are primarily concerned with the maintenance of their image in society.

Most lawyers are confident in the future of their profession but think that they are now economically worse off than they used to be a few years ago. Some types of uneconomic work such as Legal Aid and particularly criminal (i.e. offenders) Legal Aid is, therefore, becoming the preserve of relatively inexperienced lawyers. There is little enthusiasm for closer ties with specialists in related fields and despite the concerns expressed by lawyers about economic issues, accountants are not thought to impinge on potential areas of legal business.

The growing power of the state causes some disquiet but lawyers are divided about the potential threat this power poses to the profession. A strong conviction exists within the profession that lawyers should not become involved in contentious issues, but this is contradicted by even stronger expressions of support for the legal process to serve social ends. These conflicting positions leave the profession divided over such questions as the greater self-representation of lay-people in court. The inclusion of lay-people in law reform committees, however, is no longer an issue and has found strong acceptance by the profession, probably because of the favourable image the presence of lay members on legal committees is thought to give the profession.

The profession's need to present a good image is underscored by its feeling about Legal Aid work. Although approximately one in every three lawyers believes that such underremunerated work could not be executed to the same standards as other, better financed work, the majority of lawyers believe that the standard of Legal Aid work is not impaired. Lawyers are convinced that competent legal advice can only be conveyed by a member of the legal fraternity. Their agreement on the need for extensive training because of the complexity of legislation and the consequent inability of "ordinary" people to comprehend the law, mirrors the

conventional and reactionary views of professionalism discussed in chapter I of this study. There is strong agreement among lawyers that the law acts as a bulwark between the ordinary citizen and the State.

Lawyers are also overwhelmingly in agreement on their being "in touch" with the world around them and feel that their high status is well deserved. If necessary they would even criticise each other in public.

Participants are, if anything, more conservative than Non-Participants. It is not possible with the data in this study, to indicate whether this is a function of their relatively shorter experience in the profession, but it seems that the explanation must be sought elsewhere since comparable Non-Participants are overall less conservative than Participants. It is interesting to note that the greater involvement of Participants with "ordinary" people (Legal Aid, LABx, family law) does not appear to motivate them to seek "radical" solutions. It does, however, leave them frequently less certain than Non-Participants.

## NOTES

1. GORAN THERBORN, 1978, "What Does the Ruling Class Do When It Rules?", N.L.B., London : 237
2. CLAUS OFFE, 1974, "Advanced Capitalism and the Welfare State", in KLAUS VAN BEYME (ed), "German Political Studies", Vol.1, Sage, London: 39
3. These appear in Appendix III as questions 41, 42, 43, 45, 46, 59, 60 and 61.
4. ETHERIDGE argues that lawyers defending "indigent" clients do not always put clients' interests first. C.F. ETHERIDGE, 1973, "Lawyers Versus Indigents: Conflict of Interests in Professional-Client Relations in the Legal Profession", in E. FREIDSON (ed), 1973, "Professions and Their Prospects", Beverley Hills, Sage: 245-265
5. A.M. CARR-SAUNDERS & P.A. WILSON, 1933, :210
6. M. ZANDER, 1968, Lawyers and the Public Interest, London, Weidenfeld and Nicolson  
M. ZANDER, 1978, Legal Services for the Community, London, Temple Smith: 164-199, and B. ABEL-SMITH & STEVENS, 1968, have criticised the profession for what they see as restrictive practices adding to the cost for the client.
7. These appear in Appendix III as items 48, 50, 51, 57, 62, 63
8. MORRIS FINER, Q.C., stated in a radio talk that "The lawyer, almost irrespective of politics, is by training and self-interest a conservative in the affairs of his own profession. The status quo is part of his mental capital. Every legal reform robs him of an asset he has worked hard to acquire." M. FINER, 1970, "The Legal Profession", in M. ZANDER (ed), "What's Wrong with the Law?", London, BBC Publications: 44-51
9. A major part of the "Report of Public and Administrative Law Reform Committee: Discipline Within the Legal Profession", 1977, Wellington, addressed itself to the desirability of lay representation. The argument, although not specifically concerned with law reform, pressed for lay representation because it would increase public confidence in the Law Society's treatment of complaints from the public. :5 passim; see also recommendations i - v
10. These appear in Appendix III as items 44, 46, 48, 52, 53, 54, 55 and 58
11. B. ABEL-SMITH & STEVENS, 1968, :403

CHAPTER V

LEGAL ADVICE BUREAUX  
AND  
PROFESSIONAL CONTROL



In this, the concluding chapter of the present study, the findings are drawn together, demonstrating that:-

"the very services themselves represent mechanisms of control in the processes of production." (1)

Because of the LAB ideology which is akin to the ideology of the legal profession and pervades other levels such as the LAB structure and processes, this control function is not generally recognised as such.<sup>2</sup>

On the structural level, the informality of the LAB conceals a hierarchy of decision-making power which reproduces bureaucratic forms of client control. Although CABx and LABx were designed to eschew this hierarchial relationship, the relations of domination are maintained through the division of labour.<sup>3</sup> In New Zealand, as elsewhere, such relations of domination are linked to social processes of capitalist production and patriarchal reproduction. At the most basic level they are reflected in the sexual division of labour. Van Krieken writes:-

"it is no accident that the dominant professions - medicine, psychiatry, psychology, law, administration - are mainly the province of men, whereas nursing, teaching, social and welfare work tend to be mainly occupied by women." (4)

These assertions were corroborated in this study. CABx were mainly staffed by females whereas LABx were staffed primarily by males. This patriarchal dominance was further enhanced at the policy-making level. District Law Society committees responsible for LAB policy were composed of representatives from the Law Society and the local LAB supervisors. All the supervisors in the research sample were found to be males. The LAB structure is, therefore, defined from within by the division of labour and from the outside by the decision-making power of the Law Society. But the most important element in the LAB structure are its personnel (the Participants), because it is they who actually deliver the service.

The present study has demonstrated that there are minimal differences between Participants and Non-Participants when their personal and professional backgrounds are compared. Participants were generally younger and less experienced than Non-Participants and furthermore showed an inclination towards "human" rather than "property" law.

These findings suggest that the personal background of Participants, who tend to come from "human service oriented" families, predisposes them towards this kind of activity. Since the parents of Participants frequently belong to the highest strata of society there is possibly an element of "noblesse oblige" in their orientation which lends further meaning to their voluntarism.<sup>5</sup>

Another possible explanation lies in the Participants' professional background. Many Participants are employees and law firms are likely to encourage younger staff to avail themselves of the "practical training" offered by LAB service which is now absent from the official curriculum.<sup>6</sup>

These findings support, with some minor qualifications, the proposition that Participants do not differ significantly from Non-Participants.

Moreover, nothing in the study suggested that Participants were engaged in LAB service for "radical" reasons. The Participant-client relationship corresponds essentially with the traditional professional-client relationship in which the professional defines both the problem and its solution for the client. Structurally, therefore, LABx are able to assure and extend the legal profession's occupational dominance over its clients, as well as over adjacent agencies such as CABx.

"Because the exercise of authority cannot depend on the structures themselves"<sup>7</sup> LABx processes further serve to affirm social relations of domination. Some of the most important elements in these processes are the routinisation of activity, the co-optation

of personnel and the control of knowledge. The organisational rules which shape these processes are not, then, simply the formalisation of certain routines for the purpose of achieving greater operational efficiency.

This study has shown that LABx use an elaborate series of recording routines to document Participant-client transactions. Index cards were commonly used to record clients' personal data and to describe the nature of their problem and the action taken. Such records, apart from their organisational usefulness also serve to individualise clients' (social) problems and inhibit clients' potential control over their problems.<sup>8</sup>

Sources of client problems are generally social rather than uniquely personal, whereas the successful routinisation of LAB processes is predicated on the placement of client problems into one of a limited set of categories. This apparently objective classification of problems is the result of the definitions which Participants make of clients' problems. Once this definition has been made the prescription of possible action ("meeting the need") is further simplified by transmuting the individual client into "a case". In becoming a case a client also becomes a stereotype which can be treated according to routinised formulae. These processes assure the occupational control of the legal profession in a number of ways. First - social issues are individualised and contained within stereotypes which accord with the dominant ideological definitions. Secondly - Participants' ideological commitments are kept under (collegiate) surveillance and consequently within limits acceptable to the profession.<sup>9</sup> Thirdly - client problems are brought under the control of the legal profession.<sup>10</sup> And fourthly - future contact by the client with a lawyer can be "type-specific".

The selection<sup>11</sup> and co-optation of Participants enables LABx to operate with a modicum of rules. As Charles Perrow writes:-

"A...means of reducing the number of written rules is to 'buy' personnel who have complex rules written into them. We generally call these people professionals..." (12)

Some of the rules "written-into" professionals concern the control of knowledge and information. Possession of legal knowledge and its decodification is, of course, the bedrock of the legal trade, but rules also limit information content and flow. What March and Simon write about bureaucracies can be used to describe the professions; they are perceived as:-

"controlling the premises available for decision; they set up expectations so as to highlight some aspects of the situation and play down others; they limit the search for alternatives when problems are confronted, thus ensuring more predictable and consistent solutions." (13)

Predictability and consistency are highly valued attributes in any group as they serve to reproduce existing social relations.

As well as reflecting traditional lawyer-client relations, LAB processes are cementing Participants to the profession. Through the process of individualisation the professional takes control of his or her clients' problems.

It is difficult to overestimate the importance of ideology since it enables LABx to appear to be something other than they are: Agencies which enhance the legal fraternity's collegiate professionalism through the imposition of control and the reinforcement of existing social relations of capitalist production.

LABx achieve this in the political domain by means of an ideology which stresses the profession's independence from the state.<sup>14</sup>

The present study has demonstrated the serious misgivings of lawyers over the power of the state. This attitude serves not only as an expression of the profession's autonomy but assists the profession to define itself as a bulwark between the power of the aggressive state and the supposedly defenceless citizenry. The profession's role, however, is ambivalent. This study has found that lawyers want to use the law for social ends and thus assert their independence. At the same time they are reluctant to become identified with contentious social issues, because of their role which requires them to strengthen existing social

relations. A similar determination to remain autonomous is reflected in the profession's resolve to resist any encroachment on its occupational domain by any other occupational group.

While this closure is generally to the political advantage of the profession, it may be economically disadvantageous, where other occupational groups (such as accountants) are taking up areas of increasing economic importance. The present study has indicated that lawyers feel economically worse off than some years ago. LABx are not bringing direct economic advantages, but they provide a way of extending the use of the law by attracting potential clients for the profession.

The legal profession's preoccupation with its own image again serves to highlight the tensions created by a legal ideology which demands that lawyers be at once both quite ordinary and very extraordinary people. This study has shown that lawyers regard themselves as firmly rooted in the same everyday life as other ordinary citizens experience it. But at the same time lawyers expect to receive a high degree of esteem because of their extraordinary qualities which clearly separate them from lay-people.

Thus the proposition that LAB structure, processes and ideology may combine to reproduce existing social relations of capitalist production, appears to be sustained.

#### Legal Advice Bureaux in Political, Economic and Ideological Processes

Before concluding the present study we will indicate the broader milieu within which the LAB scheme operates and consider some of the political, economic and ideological processes which impinge on the legal profession in New Zealand.

#### Political Processes

Politically the growth of State control is the single most serious challenge to the collegiate professionalism of the legal profession.<sup>15</sup> Paradoxically, however, the State's efforts to strengthen its own position also safeguards the position of the legal profession where

and when the interests of the State coincide with those of the profession.

The clearest example of such a symbiosis is the 1961 Law Practitioners Act. The provisions of this Act relate to the enrolment and admission of candidates to the profession, practice discipline, trust accounts, the Fidelity Guarantee Fund, Law Societies, legal education and costs. In short, the Act gives the Bar an extraordinary degree of control over that domain of practice which it claims as its own.

The advantageous provisions of this Act are further augmented by other legislation. "Collective pricing agreements" are evidently considered against the public interest by the 1975 Commerce Act. Yet section 27 of that Act exempts the Lawyers' Fee Schedule from the provisions of the Act. This is no doubt a rather felicitous provision, given the monopoly over conveyancing which section 18 of the Law Practitioners Act bestows on the Bar.

But the interests of the Bar do not always prevail. The 1972 Accident Compensation Act is a good example of an Act that was introduced against the overt opposition of almost all interested groups. It was resisted not just by lawyers but employers and trade unions as well. The history of this Act has been documented elsewhere and need not concern us here.<sup>16</sup> Nevertheless, one of the consequences of that Act for the Bar was the elimination of a major part of tort. This in turn meant that a considerable area of control passed from the legal profession. Loss of control in this case also meant loss of income. In a textbook dealing with these changes McKenzie, et.al. wrote in 1976:-<sup>17</sup>

"The law of torts in New Zealand is at the crossroads. The Accident Compensation Act 1972 has cut a swath through it. Teaching negligence without injury is rather like playing Hamlet without the Prince."

Meanwhile, some of the slack created by the Accident Compensation Act has been made good by the growth of the Legal Aid Budget which increased from almost \$200,000- in 1972 to \$2,748,951- in 1980.<sup>18</sup>

Quite apart from any possible economic consequences it is of vital importance for the legal profession to exercise political control over its occupational domain. The professional status of the legal occupation is imperilled without it, since political control of its domain enhances the profession's position at the work place.

#### Economic Processes

The decline of New Zealand's economy during the last decade, particularly since the mid-1970's, has affected not only the general population but the legal profession as well. Some of these economic processes which cause pressures on the profession are:-

1. Inflation
2. The downturn in the real estate market
3. Unemployment

While a discussion of the causes and effects of inflation may be left to the experts in the field<sup>19</sup> it is plain that inflationary processes have reduced real income.<sup>20</sup> The present study has demonstrated that lawyers are not exempt from these processes. Most lawyers can expect to earn no more than \$15,000- during their first five years of practice. This is true for both Participants and Non-Participants, although Participants are likely to earn even less than Non-Participants. The incomes of lawyers who have more than five years experience, are, however, significantly higher.

This pattern is corroborated by recent press reports based on figures released by the Department of Statistics.<sup>21</sup> These reports indicate that self-employed lawyers' average, tax assessable income for the 1979/80 tax period was \$26,700. This figure reports an increase of \$8,080- over the 1977/78 financial year, when the median income of lawyers stood at \$18,640-. Despite this increase and the comparative advantage in relation to other professions (doctors), this study shows that lawyers perceive that their real incomes have been deteriorating.



Some of this feeling is doubtless caused by the decline of the real estate market. The number of dwellings built in New Zealand has decreased sharply since 1974. In that year 21,500 building permits for houses were issued but by 1980 the number was down to 11,687, a decrease of 54.36%. Building permits for flats were down from 11,600 to 3,510 over the same period.<sup>22</sup> Land transfers and mortgages showed a similar pattern.<sup>23</sup>

Legal business is of necessity affected by such processes because of the profession's monopoly over conveyancing. This means that every time the ownership of a piece of land or a building changes hands, a lawyer becomes professionally involved in the transaction. While this study has shown that conveyancing is still the single most popular area of legal practice in New Zealand, decreases in the volume (and value) of property transactions obviously lead to diminishing returns from these sources.

New Zealand's weakening labour market became visible in 1977 when unemployment rose steeply. A sharp reversal of the government's restrictive demand management policies could not save New Zealand from a budget deficit of 8.5% of GDP in 1978/79. It did, however, contribute towards a levelling out of the official unemployment rate.<sup>24</sup>

Unemployment affects Law Graduates too. Indeed, it is as difficult to establish precise figures for the incidence of unemployment among Law Graduates as it is for any other group. An analysis of New Zealand Law Graduates employment statistics by the Department of Labour and the National Research Advisory Council<sup>25</sup> shows a steady deterioration of the employment opportunities for Law Graduates. This analysis also includes the preliminary figures of the 1979 Auckland survey and in comparing it to the 1978 statistics, the report comments on the "huge increase in the number and proportion (of Law Graduates) going overseas".<sup>26</sup>

It is clear that there is little room for complacency in the economic sphere. Inflation, a downturn in real estate market transactions and unemployment threaten the legal profession's control over its market position.



### Ideological Processes

The significance of ideology has been demonstrated in the present study. Given New Zealand's capitalist, welfarist ideology, it is important to explain political, economic and social relationships as mere "technical rationality".<sup>27</sup> Where ideology succeeds, rationality, management, legitimacy, efficiency, effectiveness, professionalism and so on are regarded as being:-

"...beyond interests and sectional priorities."<sup>28</sup>

Sinclair<sup>29</sup> ascribes the genesis of the welfare state in 1936 to:-

"...the general will - a will which had sought expression from the earliest days; which had been inspired, in the colonial cradle, by the humanitarianism of the missionaries and by the utilitarian creed, 'the greatest good of the greatest number'."

This "general will" was again enunciated by the "Task Force on Economic and Social Planning"<sup>30</sup> who defined the goal for social planning for New Zealand as:-

"a social, cultural, physical and economic environment which provides the maximum opportunities for each person now and in the future to achieve self-fulfilment in a caring community concerned for the rights and well being of all."

These concerns have, over the years, found expression in two separate but closely related developments. The first was the growth and proliferation of helping occupations and agencies and the other was the belief that intervention in the social and economic affairs of certain "needy" people was the unique task of social welfare.<sup>31</sup>

Halmos<sup>32</sup> has gone so far as to claim that the destiny of industrial society is to become a "Personal Service Society". If he is right the future of professionalism must lie with the "Personal Service Professions" like "the clergy, doctors, nurses, teachers, social workers and so on", rather than with the "Impersonal Service Professions" like "lawyers, accountants, engineers and architects".

The difference between these two types of professionals, according to Halmos, is that the Personal Service Professions are charged with the responsibility to bring about changes in the body and personality of the client. Personal Service Professionals are required to show a greater amount of "self denial, matter-of-fact self-effacing care and even human warmth and kindly solicitousness" than Non-Personal Service Professionals.

Given the pervasiveness of ideology, the growth and development of Personal Service Professions could pose a serious ideological challenge to the legal profession. Personal service professionals do not claim to possess legal expertise over a wide range of areas, but they do often work with people whose problems are amenable to legal intervention.

The claims of social workers for more professional power "to aid people who are distressed, disadvantaged, disabled, deviant, defeated or dependent"<sup>33</sup> rival identical claims by the legal profession.<sup>34</sup> In many cases the claims of the legal profession have priority but in others the claims of social workers have become established. Whilst neither side has a clear monopoly to act, the ambiguity of the situation leads to tension. It has become difficult in some areas to demarcate with any precision the respective domains of lawyers and social workers.

Yet this ability to demarcate and control a domain is, it has been argued, the sine qua non of an occupation's professionalism. This study has shown that the legal profession's claims for the ubiquity of the law risk being undermined by social workers' (i.e. CAB workers') propensity to aid people in a non-legal way. Furthermore, a "personal service" ideology would tend to favour "personal service professions" like social workers over "non-personal service professions" like the legal profession.<sup>35</sup>

The position of the legal profession in New Zealand is, therefore, challenged on many fronts and the LAB programme represents an ingenious solution to many of these dilemmas.

Politically LABx assert the legal profession's independence from the State while at the same time reproducing and strengthening existing social relations of production. The profession's autonomous control over its workplace is not threatened but reaffirmed by LABx.

Economically LABx have little direct effect on the legal profession. By confining their services to advice and referral they do not challenge but rather support the legal profession's control over its position in the market place.

Ideologically LABx are a great boon to the legal profession's image and affect. They represent "all that is best" in the profession by giving it a caring image. In addition, the LAB programme provides the legal profession's counterclaim to demands for greater occupational control by personal service workers.

It can thus be stated that this study, within its self-imposed limitations, provides some support for Johnson's theory of the professions. Conversely, it must be stated that much more work is required for a fully developed theory.

Johnson's failure to state the conditions under which the State is likely to intervene in the determination and content of occupational practice is a major deficiency. Also lacking in his theory is an indication of the elements comprising the "control and surveillance" functions which are said to characterise the professions. Finally and most seriously, Johnson omits to discuss the structures of societies in which the professions are located.

## NOTES

1. T.J. JOHNSON, 1977 b, "What is to be known? The Structural Determinants of Social Class", in Economy and Society, 6: 194-231
2. It is recognised that the representation of LABx as agencies which assist people to discover their legal needs in an informal setting, is not an image which emanates from a deliberate distortion by the legal profession. On the contrary it is necessary for the profession itself to believe in this image if LABx are to "work".
3. ROBERT HEEPS' (1980) report on the eight LABx in the Auckland City area offers a good, recent example of hierarchization and domination through the division of labour. Robert Heeps found that the greater the workload of a CAB the greater became the likelihood that legal problems would be dealt with by CAB workers. While the report conceded that the workers in busier CABx had become more experienced, it stated that there was a direct correlation between the rising rate of legal enquiries and an increasing rate of wrong advice. The report hastened to add that:-

"This (was) not a criticism of the bureau workers, they (had) been forced into an untenable position. It (was) rather a criticism of our legal system..."

Three possible solutions were suggested to lower the levels of wrong legal advice: First - to raise the legal expertise of bureau workers; Secondly - to increase the number of referrals to LABx and thirdly - to employ a qualified legal adviser. The first two solutions were rejected in the report. It held that any attempt to raise CAB workers' level of legal expertise was "on its own...unreasonable". To increase the number of referrals was also regarded as impractical, because it would involve a "100-200% increase in the work of volunteer solicitors" (i.e. Participants). This left the third solution: To employ a lawyer full-time.

Both the analysis and the proposed solution are thus attempts by the legal profession to hierarchise relations of domination within the CAB-LAB complex.

4. ROBERT VAN KRIEKEN, 1980, "The Capitalist State and the Organisation of Welfare: An Introduction", in The Australian and New Zealand Journal of Sociology, Vol.16, 3, November: 23-35: 29
5. GORAN THERBORN, 1978, What Does the Ruling Class Do When It Rules?, N.L.B., London
6. "Insufficient practical training for law students" was considered to be the single most serious problem facing the Legal Profession according to the HEYLEN survey of the Legal Profession (1978, Vol.1: 26)

7. NANCY DITOMASO, 1978, "The Organisation of Authority in the Capitalist State", in Journal of Political and Military Sociology, 6: 189-204: 195
8. The development of "public interest" work in the U.S.A. during the 1960's was an attempt to overcome this individualisation of social problems. Legal Services lawyers engaged in law reform litigation and brought class cases. In recent years these programmes have come under a cloud because of political and economic pressures. c.f. JEROLD AUERBACH "Unequal Justice", 1976, O.U.P., New York: 280-288, for a historian's perspective and HOWARD S. ERLANGER, 1978, "Young Lawyers and Work in the Public Interest", in the American Bar Foundation Research Journal, Winter: 83-104, for a sociologist's evaluation of the effects of restricted funding.
9. This is in accord with T.J. JOHNSON's argument that divisive tendencies "may be contained within an occupation already characterised by professional institutions" (1972: 53)
10. JONATHAN CAPLAN's remark that "most litigants are required to surrender complete control of their case to the lawyers on the ground that they do not know what is best for them..." is applicable here and needs widening. "Lawyers and Litigants: A Cult Reviewed", in I. ILLICH, et.al. "Disabling Professions", 1977, Marion Boyas, London
11. Selection is achieved by a process of control over training and employment. If aspirants to the profession have not learned "appropriate behaviour" - such as "stability", "dress", and "normal" sexual identity - they are unlikely to find employment.
12. CHARLES PERROW, 1979, Complex Organisations: A Critical Essay, Glenview, Ill, Scott, Foresman & Co.: 26
13. Quoted by C. PERROW, 1979: 149
14. JOHNSON (1977 b) asserts that the state and the professions do not represent a "monolithic, undifferentiated 'ideological' and 'repressive' apparatus" (: 229) because the professions are inclined to oppose the tendency of the State to centralise and formalise institutions of reproduction ( of which the professions form a part).
15. This does not imply that we regard the State as a monolithic, seamless entity. Numerous government departments and quangos (quasi-autonomous national governmental organisations), needed to exercise control on behalf of the State are frequently at odds with each other. Such inter-departmental rivalry is usually solved in favour of that department which demonstrates most convincingly that the realisation of its own interests is to the best advantage of the State.

16. G. PALMER, 1979, "Compensation for Incapacity: A Study of Law and Social Change in New Zealand and Australia", O.U.P., London  
 P. SHANNON, 1979, "The New Zealand Accident Compensation Act", in R.TOMASIE (ed) "Legislation and Society in Australia", forthcoming, Allen and Unwin, Sydney.
17. P.D. MCKENZIE, G.W.R. PALMER, R.S. CLARK, 1976, "Tort in Transition", Fourth Estate, Wellington: 6.
18. Annual Report of the Legal Aid Board for the Year Ending 31 March 1981, Government Printer, Wellington.  
 The introduction of the Duty Solicitor scheme in 1974, although costing the state \$211,000 for the year ended 31 March 1979, cannot be described as financially rewarding for the profession, even by its worst critic. Mounting dissatisfaction with some aspects of Legal Aid have made it the subject of a current investigation by the Department of Justice.
19. R.S. DEANE, Chief Economist of the Reserve Bank of New Zealand prepared a very lucid paper "On the Effects of Inflation", Discussion Paper G80/7, August, 1980, Reserve Bank, Wellington, for presentation to the Wellington Rotary Club and the New Zealand Institute of Engineers.
20. The OECD Economic Survey "New Zealand", January, 1980, Paris, demonstrates that New Zealand suffered the greatest decline of all OECD countries in real income per capita when adjusted for terms of trade. Between 1973 and 1977 New Zealand's per capita income decreased by 11.5%, the United Kingdom's which was next decreased by 4.9%. On the opposite end were Austria and Canada with increases of 11.2% and 9.6% respectively.
21. This was a news item widely carried in the New Zealand press. E.g. "Manawatu Evening Standard", 21.3.1981.
22. "Monthly Abstract of Statistics", New Zealand Department of Statistics, Wellington, July, 1980.
23. "Monthly Abstract of Statistics", New Zealand Department of Statistics, Wellington, September Supplement, 1: 6.
24. The "true" unemployment rate, that is the number of all those who are willing and able to work, has been the subject of considerable controversy. The "official" rate of unemployment is based on Labour Department criteria which limit the classes of those entitled to register and discourage registration by all who are entitled to register. Registration of unemployment in New Zealand does not entitle the registered person to receive unemployment benefits. Despite these difficulties of measurement, the total of "official" unemployed has not fallen below 40,000 since April 1979 and has been around the 50,000 mark since 1978.



25. New Zealand Department of Labour and National Research Advisory Council, 1980(?) n.d., "Law Graduate Statistics", mimeographed, no pagination; presents the figures below:-

TABLE 47

## Employment of Law Graduates

	1974	1975	1976	1977	1978
Total graduates who responded to survey			369	375	412
Estimated total graduates			377	383	421
New admissions (most of whom might have graduated a year earlier)	287	352	302	326	307
Total of Law Graduates having found employment			234	224	235
			63.4%	59.7%	57%
"Other" (presumably includes jobless, overseas tourists, further study, etc.)			135	151	177
			36.5%	40.3%	43%
"Graduates still looking for employment"				56	75
				14.9%	18.2%

26. Ibid. second page

27. Weber's preoccupation with a definition of rationality is itself based on a capitalist, utilitarian ideology. He defines rationality, of the kind being discussed, in the following way:-

"A system of economic activity will be called 'formally' rational according to the degree in which the provision for needs...is capable of being expressed in numerical, calculable terms and is so expressed."

M. WEBER, 1947, "The Theory of Social and Economic Organisation", O.U.P., N.Y.: 185

28. G. SALAMAN, 1978, "Towards a Sociology of Organisational Structure", in Sociological Review, 26: 519-554.
29. K. SINCLAIR, 1973, "A History of New Zealand", rev. ed., Penguin, Australia: 271.
30. Report of the Task Force on Economic and Social Planning, 1976, "New Zealand at the Turning Point", Wellington.
31. See R. TITMUS, 1958, "Essays on 'The Welfare State'", Allen & Unwin, London: 35-55, for a dissenting view.

32. P. HALMOS, 1970, "The Personal Service Society", Schocken, London: 22.
33. c.f. Report of the Standards and Salaries Committee; "Unionism and The N.Z.A.S.W.", 1980, in New Zealand Association of Social Workers Newsletter: News and Views in Social Work, August, no pagination.
34. c.f. the claims of the New Zealand Law Society in a series of advertisements, e.g. The Listener, 22 November 1980, About the Law: "It affects virtually everything we do..."
35. Given the fundamental social relations under capitalism it is quite unlikely that social workers achieve professional (i.e. collegiate) control over an occupational domain.



APPENDIX I  
CORRESPONDENCE



# Massey University

PALMERSTON NORTH, NEW ZEALAND

TELEPHONES, 69-099, 69-089.

In reply please quote:

19th August, 1980

Dear

Re: Survey of Lawyers and Legal Advice Bureaux

I would like to ask for your help in a forthcoming study. This study will focus on lawyers' attitudes to and their perception of Legal Advice Bureaux. A synopsis of the actual study is enclosed.

Next week you will receive a questionnaire which has been carefully designed to gather information regarding your attitudes to and perceptions of Legal Advice Bureau services.

All information gathered will of course be treated strictly confidential and at no time will individuals be identified.

So that this study may most accurately reflect the opinions of all, I would greatly appreciate your participation in this research by returning the forthcoming questionnaire at your earliest convenience.

Sincerely yours,

Peter Suschnigg.

## A SYNOPSIS OF THE PROPOSED RESEARCH INTO LAWYERS AND LEGAL ADVICE BUREAUX

The research is financed through a contract between Massey University and the Department of Justice and will be carried out in the University's Department of Sociology by Peter Suschnigg.

### OBJECTS

Legal Advice Bureaux provide institutionalized settings relatively free from the trappings of professionalism. I.E.: The cultivation of an informal atmosphere, no financial demands on the client. Legal Advice Bureaux may thus be seen as an attempt by the legal profession to change the form of the professional-client relationship. The question is - how is this new relationship seen by its participants?

Limiting the enquiry to legal practitioners, we will ask:

- 1 How, if at all, do lawyers who participate as volunteers in Legal Advice Bureaux services differ from lawyers who do not engage in this service?
- 2 Are "participating" lawyers more likely to anticipate a shift from collegiate professionalism than "non-participating" lawyers?

### FIELDWORK

To be carried out between mid-May 1980 and mid-August 1980.

### DATA GATHERING METHODS

- 1 Open-ended questionnaires: To all legal practitioners administering (i.e. organising rosters) of Legal Advice Bureaux.
- 2 Closed-ended questionnaires: To (i) all legal practitioners participating as volunteer advisers in Legal Advice Bureaux in the target areas; (ii) a random sample of "non-participating" legal practitioners in the target areas.
- 3 Interviews: A random sample of "participating" legal practitioners in the target areas.

Key: Target Areas - Auckland, Hamilton, New Plymouth, Wellington, Christchurch.

Open-ended questionnaires: Contain questions which leave the format of the answer "open". The respondent usually writes an answer in a blank space left after the question.

Closed-ended questionnaires: Each question is followed by a number of possible answers. The respondent indicates the best answer.



# Massey University

PALMERSTON NORTH, NEW ZEALAND

TELEPHONES, 69-099, 69-089.

In reply please quote:

27th August, 1980

Dear

Re: Survey of Lawyers and Legal Advice Bureaux

As you recall from my letter of 19 August 1980 I am conducting a study of lawyers attitudes to and perceptions of Legal Advice Bureaux. I am now sending the questionnaires to you and those other legal practitioners who are included in the survey sample.

Since I would like the results of this study to be as accurate as possible and legal practitioners situations may differ greatly from each other some questions which might appear to have little direct bearing on the research are included. While you are naturally free to choose your own degree of participation I cannot overemphasise the importance of your completed questionnaire. Also enclosed with this letter and questionnaire is a supporting statement by Professor G.S. Fraser.

#### A NOTE ON CONFIDENTIALITY

Confidentiality in research is of vital concern to every reputable researcher. The code number on your questionnaire will be used only to facilitate follow-up techniques and to prevent you from receiving bothersome reminder letters. At no time will questionnaires be identified by respondent.

If you have any questions regarding this study please write to me or call me (Palmerston North 69-099, ext. 695). I appreciate your time and cooperation and look forward to receiving your completed questionnaire very soon. A resumé of the study will be sent to all participants on the completion of the study early next year.

Yours sincerely,



Peter Suschnigg.

GSF:BJR

SUPPORTING STATEMENT : HEAD OF DEPARTMENT

I hope you will participate in Mr Peter Suschnigg's research project because I think that the topic which he is investigating is important.

After a great deal of planning and consultation with interested parties, funds to enable the project to be undertaken were provided through a research contract between the Justice Department and Massey University.

Your honest answers to the items contained in the questionnaire are an essential part of the project. With your full co-operation the reliability and validity of the survey will be assured. Because Mr Suschnigg is under my direction I assure you that your answers will be held in the strictest confidence; moreover, the results from the survey will be reported in such a way as to make it impossible to identify the answers of individual respondents.

Because your full co-operation is an essential part of this survey, I hope you will answer and return the enclosed questionnaire.

Yours faithfully,



Graeme S. Fraser, M.A.(Hons), Ph.D,  
PROFESSOR OF SOCIOLOGY,  
HEAD OF DEPARTMENT.



PALMERSTON NORTH, NEW ZEALAND

TELEPHONES, 69-099, 69-089.

In reply please quote:

PS:BJR

15 September 1980

Dear

SURVEY OF LAWYERS AND LEGAL ADVICE BUREAUX

So far there has been a very gratifying response to this survey and more than half of the questionnaires have already been returned. To ensure a high degree of validity and reliability, however, I would very much appreciate your completed questionnaire. I realise that you are an already busy person. Other more pressing matters may have intervened or you may have just forgotten. If this is the case please do take some time to help me out. Your response will help to make this study truly representative.

I have also enclosed a new questionnaire, synopsis, supporting statement by Professor G.S. Fraser, and a stamped return envelope in case they have been lost in the mail. Please be assured that your questionnaire will be kept strictly confidential.

Should you have any questions regarding this survey please do not hesitate to contact me at Massey. I am looking forward to receiving your completed questionnaire and thank you for your time and co-operation.

Yours sincerely,

Peter Suschnigg,  
DEPARTMENT OF SOCIOLOGY.



8 October 1980

Dear

SURVEY OF LAWYERS AND LEGAL ADVICE BUREAUX

More than 75% (=243) of questionnaires have by now been completed and returned and I would like to conclude this phase of the survey. Since your questionnaire has not yet reached me, please let me explain how much I need your co-operation, for at least two reasons.

The first is personal. Your completed, returned questionnaire would bring me a little closer to a creambun of my choice promised to me by Professor Fraser in an unguarded moment, on condition that I achieved an 80% (=260) response rate. In a very real sense my creambun is in your hands!

The second reason is less exciting, but statistical. A higher response rate means better research results.

Please do not feel, therefore, that your questionnaire will make but little difference.

I have again enclosed a questionnaire and stamped, addressed return envelope in case you have mislaid the others. Would you please complete and return the questionnaire. I am very much looking forward to receiving it.

Yours desperately,

Peter Suschnigg,  
DEPARTMENT OF SOCIOLOGY.

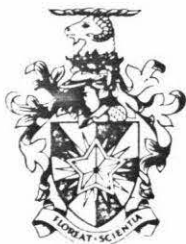
APPENDIX II

QUESTIONNAIRE

TO

LEGAL ADVICE BUREAU SUPERVISORS





**MASSEY UNIVERSITY**  
**Department of Sociology**

## **A SURVEY OF LAWYERS AND LEGAL ADVICE BUREAUX**

This questionnaire has been sent to a sample of legal practitioners who are concerned with the administration and organization of Legal Advice Bureaux. Because of the nature and the size of the sample it is extremely important that you answer all questions as accurately as possible.

**PLEASE WRITE YOUR ANSWER IN THE BLANK SPACE AFTER EACH QUESTION**

## ORGANISATION, SERVICE AND FINANCE

1. When was your Legal Advice Bureau established?
2. In response to what circumstances was it established?
3. Could you identify whom you consider the significant person in the establishment of your Legal Advice Bureau?
4. What kinds of records do you keep for your Legal Advice Bureau?
5. What types of service does your Legal Advice Bureau offer?
6. What hours is your Legal Advice Bureau available to the public?
7. What do you feel are the main contributions Legal Advice Bureaux make to the community?
8. What are the major needs met by Legal Advice Bureaux which could not be met by other agencies?
9. What are the most pressing problems in carrying out the aims of your Legal Advice Bureau service?
10. How is your Legal Advice Bureau financed and from which source does your main income arise?

11. Are your financial resources adequate to maintain your current provision of services?
12. Do you think that the government, both central and local, should financially support the running and maintenance of legal advice services?

### LOCATION AND STAFFING

13. Where is your Legal Advice Bureau located?
14. Would you prefer your Legal Advice Bureau to operate from a different location? If so, please state the area you would prefer.
15. How many lawyers participate in your Legal Advice Bureau?
16. Do you have any problems recruiting volunteers? If yes, please elaborate.

### RELATIONSHIPS WITH OTHER ORGANISATIONS

17. With what other organisations do you have working relationships?
18. What other organisations (if any) are to your knowledge working in similar areas to your Legal Advice service?
19. In what ways do these other organisations differ from Legal Advice Bureaux?

## CLIENTS

20. From which geographical areas did you draw your Legal Advice Bureau's clients last year?

21. How many people did your Legal Advice Bureau assist last year?

22. For what types of problems did your clients seek advice last year? Please state the number of clients and/or cases as accurately as possible.

Problem	Number of clients	Number of cases
---------	-------------------	-----------------

Matrimonial		
-------------	--	--

Other Family (e.g. adoption, guardianship)		
---	--	--

Debt		
------	--	--

Neighbourhood		
---------------	--	--

Tenancy		
---------	--	--

Consumer		
----------	--	--

Social Welfare		
----------------	--	--

Tax		
-----	--	--

Other (please specify)		
------------------------	--	--

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23. Have you observed any change in the types of problems brought to your Legal Advice Bureau during the past five years? What were they?

24. How do clients get access to your Legal Advice scheme? (e.g. by referral; appointment)

25. If clients are referred to you what are the major sources of referral?
26. What proportion of clients you advised last year was referred to other destinations by your Legal Advice service?

27. What were these destinations and in what proportion did you refer your clientelle to them?

Destination	% of total
-------------	------------

Legal firm	
------------	--

Voluntary agency	
------------------	--

Department of Social Welfare	
------------------------------	--

Local Government	
------------------	--

Other (please specify)	
------------------------	--

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28. How would you describe the financial situation of the majority of your clients?

**PLEASE TICK THE MOST APPROPRIATE ANSWER**

On low incomes

Average

Reasonably well off

Well off

A range of these

In financial difficulty

Don't know

### THE FUTURE

29. Are there any plans to expand, cut back or change services offered by your Legal Advice Bureau within the next two years?
  
30. Do you see any major stumbling blocks ahead that may prevent you from reaching your goals?

MANY THANKS FOR YOUR ASSISTANCE. YOU ARE ASSURED THAT YOUR ANSWERS WILL BE TREATED IN THE STRICTEST CONFIDENCE.

PLEASE RETURN THE QUESTIONNAIRE IN THE STAMPED ADDRESSED ENVELOPE PROVIDED

APPENDIX III  
QUESTIONNAIRE  
TO  
PARTICIPANTS AND NON-PARTICIPANTS

**A Survey of Lawyers  
and  
Legal Advice Bureaux**

**Department of Sociology, Massey University**



1

MASSEY UNIVERSITY  
DEPARTMENT OF SOCIOLOGY

A Survey of Lawyers and Legal Advice Bureaux

GENERAL INSTRUCTION: You may use either pen or pencil to complete this questionnaire. Most of the questions may be answered by simply placing a ✓ in the appropriate box. You may, however, write in additional comments whenever you wish to do so. Please ignore the numbers beside the questions and answers, they are for machine tabulation only.

		FOR OFFICE USE	
<u>SECTION 1 : SOME QUESTIONS RELATED TO YOUR CAREER</u>		1	<input type="checkbox"/>
1.	When were you first admitted as a barrister and/or solicitor in New Zealand? Please write in the year of your admission:- 19 _____	2-5	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
		6-7	<input type="checkbox"/> <input type="checkbox"/>
2.	Did you attend law school as -		
	Full-time student <input type="checkbox"/> 1		
	Part-time student <input type="checkbox"/> 2		
	Both full and part-time student <input type="checkbox"/> 3	8	<input type="checkbox"/>
3.	Which one of these categories best describes your present occupation?		
	Barrister sole <input type="checkbox"/> 1		
	Barrister and Solicitor or Solicitor in sole practice <input type="checkbox"/> 2		
	Partner in partnership of 2-3 <input type="checkbox"/> 3		
	Partner in partnership of 4-6 <input type="checkbox"/> 4		
	Partner in partnership of 7-11 <input type="checkbox"/> 5		
	Partner in partnership of 12 or more <input type="checkbox"/> 6		
	Consultant or Consultant Partner <input type="checkbox"/> 7		
	Employed by Firm of Barristers and Solicitors <input type="checkbox"/> 8		
	Employed in Legal Capacity by Company <input type="checkbox"/> 10		
	Employed in Legal Capacity by Government or Local Body <input type="checkbox"/> 11		
	Other (Please specify) _____ <input type="checkbox"/> 12		
	Unemployed <input type="checkbox"/> 13	9-10	<input type="checkbox"/> <input type="checkbox"/>

4. How involved were you in each one of the activities listed below during 1979? Please tick the box which comes closest to your assessment.

FOR OFFICE USE

	1 Not at all	2 Rarely	3 Regularly	4 Often	5 A lot		
Criminal Legal Aid	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11	<input type="checkbox"/>
Civil Legal Aid	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12	<input type="checkbox"/>
Criminal Work for the Crown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	13	<input type="checkbox"/>
Duty Solicitor Work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	14	<input type="checkbox"/>
C.A.B./Legal Advice Bureau	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	15	<input type="checkbox"/>
Law Society Affairs, e.g. committees, council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16	<input type="checkbox"/>
Honorary Solicitor, e.g. Trusts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17	<input type="checkbox"/>
Non-legal voluntary activities, e.g. clubs, P.T.A.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	18	<input type="checkbox"/>
General political activities, e.g. Human Rights, SPUC, Repeal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	19	<input type="checkbox"/>
Party political activities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	20	<input type="checkbox"/>

5. In which of the general areas of practice listed below have you worked most during 1979?

PLEASE TICK ONLY ONE BOX

Conveyancing	<input type="checkbox"/>	01	
Company and Commercial Law	<input type="checkbox"/>	02	
Estate	<input type="checkbox"/>	03	
Family	<input type="checkbox"/>	04	
Criminal Law	<input type="checkbox"/>	05	
Other Litigation	<input type="checkbox"/>	06	
Town Planning	<input type="checkbox"/>	07	
Tribunals	<input type="checkbox"/>	08	
Other (Please specify _____)	<input type="checkbox"/>	10	21-22 <input type="checkbox"/> <input type="checkbox"/>

6. Is that area of practice in which you worked most during 1979 your preferred area of practice?

YES, it is my preferred area  1

NO, it is not my preferred area  2

If you answered YES to this question, please skip the next question and go to question 8.

7. If you answered NO to the last question, in which area of practice would you like to work?

PLEASE TICK ONLY ONE BOX

Conveyancing  01

Company and Commercial Law  02

Estate  03

Family  04

Criminal Law  05

Other Litigation  06

Town Planning  07

Tribunals  08

Other (Please specify) \_\_\_\_\_  10

8. Have you handled any legal aid cases during 1979?

YES  1

NO  2

If you answered NO please skip questions 9 and 10 and go on to the next section.

9. Of the criminal cases you handled during 1979 what percentage were legal aid cases?

\_\_\_\_%

10. Of the civil cases you handled during 1979 what percentage were legal aid cases?

\_\_\_\_%

FOR OFFICE USE

23

24-25

26

27-29

30-32

SECTION 2 : LEGAL AID

FOR OFFICE USE

11. Do you think all people should be equally entitled to Legal Aid?

- YES  1
- NO  2
- DON'T KNOW  3

33

12. Should people's eligibility for Legal Aid be subject to means testing?

- YES, ALWAYS  1
- NO, NEVER  2
- IN SOME CASES  3

34

13. Do you think that specialisation in Legal Aid work by some lawyers would help to make this type of work financially more attractive?

- YES  1
- NO  2
- POSSIBLY  3
- DON'T KNOW  4

35

14. Is the quality of representation for Legal Aid clients at present limited by the number of practitioners willing to undertake such work?

- YES  1
- NO  2
- DON'T KNOW  3

36

SECTION 3 : LEGAL NEED

15. Do you think that there are areas of "unmet legal need" in the community?

- YES  1
- NO  2
- DON'T KNOW  3

37

If you answered NO please skip the remaining questions in this section (Questions 16 and 17) and go to Section 4.

16. In your opinion, which are the most important areas of unmet legal need?

PLEASE TICK THE THREE AREAS YOU THINK ARE THE MOST IMPORTANT.

- Subsidised "first" consultation  1
- More Small Claims Tribunals  2
- Advertising by solicitors  3
- Written constitution to protect civil rights  4
- A public defender scheme  5
- Government funded Neighbourhood Law Offices  6
- Prisoners rights  7
- Other (Please specify) \_\_\_\_\_  8

FOR OFFICE USE

38-40

17. Do you think that many people are not aware that there are often legal remedies for many of their needs?

- YES, they are generally not aware
- NO, they are generally aware
- DON'T KNOW

41

IN THE NEXT SECTION ARE QUESTIONS ABOUT LEGAL ADVICE BUREAUX.

IF YOU ARE NOT NOW WORKING AS A VOLUNTEER IN A LEGAL ADVICE BUREAU OR LEGAL REFERRAL CENTRE PLEASE ANSWER QUESTION 18, AND IF APPROPRIATE, QUESTIONS 19 AND 20, BEFORE GOING ON TO THE NEXT SECTION (SECTION 5).

SECTION 4 : LEGAL ADVICE BUREAUX

18. Are you currently working as a volunteer legal adviser for a Legal Advice Bureau?

- YES  1
- NO  2

42

IF YOU ANSWERED YES PLEASE SKIP QUESTIONS 19 AND 20 AND CONTINUE WITH QUESTION 21.

IF YOU ANSWERED NO PLEASE ANSWER QUESTION 19 AND IF APPROPRIATE, QUESTIONS 20 AND 21, BEFORE GOING ON TO THE NEXT SECTION, (SECTION 5 : BIOGRAPHICAL QUESTIONS).

19. Have you ever worked as a volunteer legal adviser for a Legal Advice Bureau?

- YES  1
- NO  2

IF YOU ANSWERED YES PLEASE ANSWER QUESTIONS 20 AND 21 BEFORE GOING ON TO THE NEXT SECTION. IF YOU ANSWERED NO PLEASE SKIP THE REMAINING QUESTIONS IN THIS SECTION (QUESTIONS 20 - 28) AND GO ON TO THE NEXT SECTION.

20. Why did you stop working for a Legal Advice Bureau? PLEASE TICK ONLY THE BEST ANSWER.

- Lack of time
- Lost interest
- Growing doubts about the value of Legal Advice Bureaux to the public
- A feeling that people who most need the service offered don't come
- Legal Advice Bureau discontinued operating
- Other (Please specify) \_\_\_\_\_

21. For how long have you worked as a volunteer legal adviser in a Legal Advice Bureau?

- 1 year or less  1
- More than 1 but less than 2 years  2
- 2 to less than 4 years  3
- 4 to less than 6 years  4
- 6 to less than 8 years  5
- 8 to less than 10 years  6
- 10 years or more  7

22. Do you think that Legal Advice Bureaux meet the needs for which they were designed?

- YES  1
- NO  2
- DON'T KNOW  3

FOR OFFICE USE

42

44

45

46

23. Are you satisfied with the location from which your Legal Advice Bureau operates?

- YES  1
- NO  2
- HAVE NO OPINION  3

FOR OFFICE USE

47

24. Are you generally satisfied with your Legal Advice Bureau's administrative arrangements?

- YES
- NO

48

25. Approximately how many clients did you assist last year at your Legal Advice Bureau?

PLEASE WRITE NUMBER \_\_\_\_\_

49-51

26. What are your legal advice clients most common problems?

PLEASE TICK THE THREE MOST COMMON

- Matrimonial  1
- Traffic  2
- Debt  3
- Neighbourhood  4
- Tenancy  5
- Consumer  6
- Criminal  7
- Other (Please specify) \_\_\_\_\_  8

52-54

27. How would you describe the financial situation of the majority of your legal advice clients?

PLEASE TICK THE BEST ANSWER ONLY

- On low incomes  1
- On average incomes  2
- Reasonably well off  3
- Well off  4
- In a range of incomes  5
- In financial difficulties  6

55

FOR OFFICE USE

28. Do you think that central and local governments should give greater recognition to voluntary and gratuitous legal services by giving monetary support?

- YES, BOTH Central and Local Governments should give monetary support  1
- CENTRAL Government ONLY should give support  2
- LOCAL Government ONLY should give support  3
- NO, NEITHER Central nor Local Governments should give monetary support  4

56

SECTION 5 : BIOGRAPHICAL QUESTIONS

29. Was the last secondary school you attended as a student a

- Private School  1
- Public School  2

57

30. Was that school a

- Single Sex School  1
- Co-educational School  2

58

31. What is or was your father's (main) occupation?

PLEASE BE SPECIFIC \_\_\_\_\_ 1-7

59

32. What is or was your father's highest educational attainment?

- Primary School  1
- Secondary School  2
- School Certificate  3
- University Entrance  4
- University Degree  5
- Professional Qualification  6
- Trade Certificate  7
- Technicians Certificate  8
- Other (Please state) \_\_\_\_\_  0



33. What is or was your mother's (main) occupation?  
PLEASE BE SPECIFIC \_\_\_\_\_

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1-7	61 <input type="checkbox"/>

34. What is or was your mother's highest educational attainment?

- Primary School  1
- Secondary School  2
- School Certificate  3
- University Entrance  4
- University Degree  5
- Professional Qualification  6
- Trade Certificate  7
- Technicians Certificate  8
- Other (Please state) \_\_\_\_\_  0

62	<input type="checkbox"/>
----	--------------------------

35. If you have any relatives, including children, in professions, please specify the relationship and profession. If none of your relatives are in professions, please skip this question and go on to the next question.

Below please write in the relationship and the profession. (E.g. Wife.....Barrister)

<u>RELATIONSHIP</u>	<u>PROFESSION</u>
_____	_____
_____	_____
_____	_____
_____	_____

63-64	<input type="checkbox"/>	<input type="checkbox"/>
65-66	<input type="checkbox"/>	<input type="checkbox"/>
67-68	<input type="checkbox"/>	<input type="checkbox"/>
69-70	<input type="checkbox"/>	<input type="checkbox"/>

36. Please tick your sex:

- MALE  1
- FEMALE  2

71	<input type="checkbox"/>
----	--------------------------

37. Please tick your age group:

- 25 years or younger  1
- 26 - 35  2
- 36 - 45  3
- 46 - 55  4
- 56 years and older  5

72	<input type="checkbox"/>
----	--------------------------

38. Please tick your marital status.

- Single  1
- Married  2
- Separated  3
- Divorced  4
- Widowed  5

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73

39. If you have children please specify their sex and age. E.g. female, 8. If you have no children please go to the next question.

<u>SEX</u>	<u>AGE</u>
_____	_____
_____	_____
_____	_____
_____	_____

74

75

76

40. What was your gross income from your professional practice for the year 1979?

- Up to \$5,000  1
- \$5,001 - \$10,000  2
- \$10,001 - \$15,000  3
- \$15,001 - \$20,000  4
- \$20,001 - \$25,000  5
- \$25,001 - \$30,000  6
- \$30,001 - \$40,000  7
- \$40,001 - \$50,000  8
- \$50,001 and over  0

77

SECTION 6 : YOUR OPINIONS

Listed below are some statements which people have made regarding the legal profession and the law. Beside each one of the statements please indicate by ticking one box whether you STRONGLY AGREE; AGREE; DISAGREE; STRONGLY DISAGREE; or DON'T KNOW how you feel.

Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

41. There is no need to restrict the numbers of those wishing to enter the legal profession.

78

11

						FOR OFFICE USE	
	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know		
42. The market situation will ensure that competent lawyers are successful.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	79	<input type="checkbox"/>
43. Real incomes of lawyers are nowadays considerably lower than six years ago.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	80	<input type="checkbox"/>
44. People who use legal aid get as good a service as other, fee-paying clients.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	81	<input type="checkbox"/>
45. Civil legal aid work is uneconomic.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	82	<input type="checkbox"/>
46. Criminal legal aid work is uneconomic.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	83	<input type="checkbox"/>
47. Lawyers' high standing in the community is well deserved.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	84	<input type="checkbox"/>
48. Government inroads into traditional areas of practice are a serious threat to the profession.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	85	<input type="checkbox"/>
49. The law is incomprehensible to ordinary people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	86	<input type="checkbox"/>
50. Too much power has been concentrated in the hands of the government executive.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	87	<input type="checkbox"/>
51. Too much power has been placed in the hands of the government bureaucracy.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	88	<input type="checkbox"/>
52. Only the law can protect the ordinary citizen against the state.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	89	<input type="checkbox"/>
53. Certain people like MP's, Social Workers and Trade Union Officials give "legal advice" of dubious value.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	90	<input type="checkbox"/>
54. The long period of training for law students is necessary because of the complexity of the law.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	91	<input type="checkbox"/>

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	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know		
55. Criticism of the work of a fellow lawyer should only be made within the profession, if at all.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	92	<input type="checkbox"/>
56. The legal profession should instigate legal reform in such areas as homosexuality and abortion.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	93	<input type="checkbox"/>
57. More emphasis should be given to schemes which enable people to represent themselves in court.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	94	<input type="checkbox"/>
58. The ordinary lawyer remains isolated not only from the world of business and industry but also from the day-to-day problems of the man in the street.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	95	<input type="checkbox"/>
59. Lawyers should be in partnership with specialists in other fields. E.g. accountants, social workers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	96	<input type="checkbox"/>
60. The most serious professional competition to lawyers comes from accountants.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	97	<input type="checkbox"/>
61. Lawyers should not be restricted by special rules any more than businessmen are.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	98	<input type="checkbox"/>
62. The law should be used in the service of social goals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	99	<input type="checkbox"/>
63. Laymen should be included in the law reform committee.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	100	<input type="checkbox"/>

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THANK YOU VERY MUCH FOR YOUR ASSISTANCE. THIS QUESTIONNAIRE WILL BE TREATED IN THE STRICTEST CONFIDENCE AND AT NO TIME WILL YOUR ANSWERS BE DIVULGED SEPARATELY.

PLEASE RETURN THE COMPLETED QUESTIONNAIRE IN THE STAMPED, ADDRESSED RETURN ENVELOPE PROVIDED.

IF YOU HAVE ANY QUERIES REGARDING THIS SURVEY PLEASE DO NOT HESITATE TO CONTACT ME AT MASSEY UNIVERSITY.

PETER SUSCHNIGG  
DEPARTMENT OF SOCIOLOGY  
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