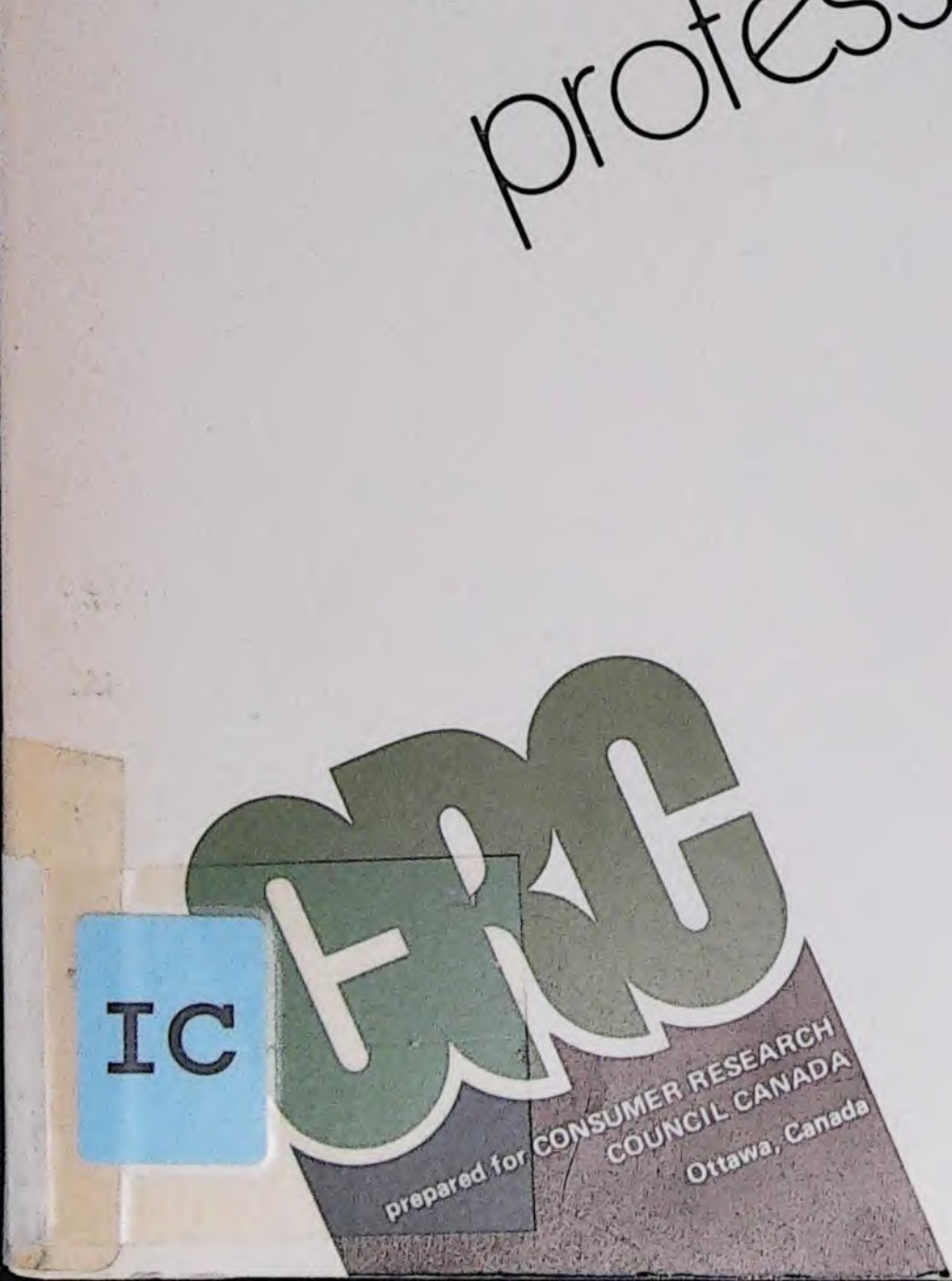
four aspects of professionalism



CONSUMER RESEARCH COUNCIL CANADA

The Consumer Research Council carries out independent research of relevance to the consumer. It is funded by Consumer and Corporate Affairs Canada.

CONSUMER RESEARCH COUNCIL CANADA

MESSAGE FROM THE CHAIRMAN

The Consumer Research Council was instituted in 1974 as part of a reorganization of the functions of the Canadian Consumer Council. Funded by Consumer and Corporate Affairs as an independent research body, the Consumer Research Council has operated under the following terms of reference:

1. to advise the Minister and Consumer and Corporate Affairs on consumer research activities which are being carried on in Canadian universities and elsewhere, and on the available sources of research on particular consumer problems;
2. to review research proposals in the field of consumer affairs; and
3. to commission research on consumer affairs, to provide assessments of completed research projects, and decide on their publication and distribution to the public and presentation to the Minister.

During the first year of the Council's operations, a stock-taking was made of research on consumer issues currently being undertaken in Canada. Outlook papers were commissioned and seminars held to assist in the development of future research priorities. In 1975, with a budget of $145,000, a series of research studies was commissioned in the following areas:

The professions

Redress mechanisms

Federal-provincial relations in the field of consumer protection

Product information preferences of consumers

Consumer interest in Canadian food policy

Access to government information

Business as an interest group in Canada: the case of competition policy, 1971-1975

The administration and enforcement of the Combines Investigation Act, 1960-1975

Consumer credit billing practices

Comparative advertising in Canada

Methodologies for measuring the effectiveness of consumer protection programs

Consumer co-operatives in the Maritimes

These studies are now being reviewed for publication by the Council.

Future activities of the Council were suspended in March, 1976, as part of current policies to reduce government spending.

March 1977.

Michael J. Trebilcock
Chairman

Published by:

Consumer Research Council Canada
P.O. Box 94, Station "A"
Ottawa, Canada
K1N 8V1

FOREWORD

In 1971 the Honourable Ron Basford, then Minister of Consumer and Corporate Affairs, requested the Canadian Consumer Council to embark on a four-stage study of the consumer interest in four areas of regulation of economic activity: (1) "independent" federal and provincial regulatory agencies, (2) agricultural marketings boards, (3) the self-regulating professions and (4) Crown corporations. With the restructuring of the Canadian Consumer Council in 1974, the newly created Consumer Research Council inherited the task of commissioning research in the last two of these four areas. The collection of papers in this volume deals with four aspects of the self-regulating professions: the sociology of professionalism (Ms. Linda Bohnen); the concept and the role of self-regulation (Professors Tuohy and Wolfson); professional education (Professor Slayton); and an assessment of the methodology of human capital analysis as it might be applied to the professions (A.R.A. Consultants Ltd.). A bibliography of selected literature on the professions, prepared by Mr. Robert Timberg, is available on request from the Consumer Research Council. Further research commissioned by the Council on a socio-economic profile of selected professions in Canada should be available shortly.

Michael J. Trebilcock,
Chairman, Consumer Research Council.

MAIN TABLE OF CONTENTS

MAIN TABLE OF CONTENTS (Cont'd)

THE SOCIOLOGY OF THE PROFESSIONS IN CANADA

by

Linda S. Bohnen, B.A. LL. B.

Prepared for
CONSUMER RESEARCH COUNCIL CANADA
Ottawa

October 1975

TABLE OF CONTENTS

LIST OF TABLES

TABLE OF CONTENTS (cont'd)

INTRODUCTION

In our society, to be a professional is to be something very good indeed. Parents want their children to be "professionals", by which they most often mean that they want their sons and daughters to work at high status occupations which produce large incomes. People who earn their livings at certain kinds of activities insist that they are professionals and not, on the one hand, mere amateurs, or on the other hand, mere entrepreneurs; hence a person might insist that he or she is a "professional photographer" or a "professional artist".

One occupation after another lays claim to professional status – social workers, primary school teachers, librarians – entitled to all the benefits that go with professional status in our society. Indeed, the observer is justified in asking if it means anything to be a professional any more. For if everyone is a professional, it cannot be quite the exalted thing it once was.

At the same time, the established professions are facing new challenges from within and without. In different ways, practitioners and consumers have begun to question the heretofore undisputed moral and technical authority of doctors, dentists, lawyers and others. There is a growing concern, for example, about the apparently increasing number of medical malpractice suits, which themselves reflect a greater willingness of laypeople to criticize and make judgements. For the first time in its long and placid history, the procedures Ontario's Law Society of Upper Canada elects its benchers (governors) where challenged at the last election by a young lawyer who wanted to campaign publicly instead of relying on the "old boy" system.

Over the past few years several provincial governments have established Royal Commissions and task forces to investigate different aspects of some or all the professions, and a sizable body of new legislation has been one result.[1] Nor have the professions themselves been deaf to the challenge. The Ontario medical profession, for example, has been sufficiently concerned about its image to commission a survey of public attitudes to doctors.[2] The report concluded on this note:

> The profession can either adapt and change to meet the public need or it can wait until a growing body of public discontent forces it . . . The profession can no longer take the position that the public is not entitled to criticize or that its criticism is necessarily unjustified or uninformed.[3]

And finally, rising costs in health care seem to be inexorably leading to the conclusion that without drastic changes in the health care delivery system, Canada will soon be unable to afford the quality of care Canadians believe they are entitled to.

---

[1] See for example: Alberta, Select Committee of the Legislature on Professions and Occupations, *Report II on the Professions and Occupations*, 1973; Quebec, Commission of Inquiry on Health and Social Welfare, *Report*, v.1, t.1, *The Professions and Society*, 1972; The Health Disciplines Act, S.O. 1974, c. 47.

[2] *Report of the Special Study regarding the Medical Professions in Ontario*, submitted by Edward A. Pickering, project director, to the Ontario Medical Association, 1973.

[3] Ibid., pp. 124-125.

This report is concerned with the role of the professions in Canadian society from the point of view of the consumers of professional services, individually and collectively. At its most immediate level, this report is concerned about whether individuals are able to obtain the services they want at a price within their reach. More generally, the concern is whether the public interest is served by the way the professions function in Canada. What impact have the professions had on our society?

It is believed that the discipline of sociology can give some assistance in answering vital questions about the professions, and so this report takes a sociological view. The questions it seeks to answer are these: What does the concept of profession mean? What role do the professions, *qua* professions, play in our society? What role should we expect them to play in the future?

The first part of the report will discuss the problem of defining the professions. The second part presents a statistical outline of the professions in Canada so as to fit the theory into a real context. The third part discusses various sociological views of the professions and presents one particular theory in some detail. The fourth part discusses some episodes in Canadian professional history. Finally, some conclusions are set out and policy directions suggested.

CHAPTER 1

THE PROBLEM OF DEFINITION: WHAT IS A PROFESSION?

Attempting to define a profession has been a favourite activity of social scientists, and sociologists have been among those who have especially enjoyed it. Perhaps not surprisingly, social scientists have not agreed on what a profession is, or what its essential attributes are. Nor have very many of them explained the importance of an exact definition.

For reasons that will become clear, it is believed that trying to define professions is not a fruitful way of understanding how they function in our society. It is believed more important to know the significance of the concept of professionalism than it is to know what professions are. Nevertheless, because it may be helpful to some readers, and for the sake of completeness, some notes on how the term profession has been defined will be presented.

Producing such a definition is not as simple as it might seem. As Eliot Freidson, a sociologist who has written extensively on the medical profession explains:

> First, the word is evaluative as well as descriptive. Virtually all self-conscious occupational groups apply it to themselves at one time or another either to flatter themselves or to persuade others of their importance. Occupations to which the word has been applied are thus so varied as to have nothing in common save a hunger for prestige. This state of affairs has led Becker, for one, to claim that is is hopeless to expect the word to refer to more than a social symbol which people attach to some occupations but not to others. A second reason for the disagreement surrounding the meaning of the word lies in the strategies commonly underlying the process of definition. People frequently draw up definitions first by deciding that certain occupations "are" professions and then by attempting to determine the characteristics these occupations have in common. Since people do not agree on which occupations "are" professions – librarians? social workers? nurses? – their definitions vary with the occupations they include (and exclude) or else are alike on such an abstract level as to be virtually inapplicable to the task of distinguishing real professions.[4]

1.1 LIST OF OCCUPATIONS

As Freidson suggests, one approach to definition would be to start by listing occupations popularly considered to be professions. Unfortunately, people have different conceptions of occupations and therefore are likely to differ on which occupations should go into the list and on their reasons for being there. And to stop at the list leaves the reader no better off than before the exercise began.

---

[4] E. Freidson, *Profession of Medicine*, 1971, p. 10.

1.2 ESSENTIAL NATURE OF PROFESSIONS

Another approach is to state the essential nature or quality of all occupations generally considered to be professions. Alfred North Whitehead defined profession in this way as "an avocation whose activities are subject to theoretical analysis, and are modified by theoretical conclusions derived from that analysis"; a craft, on the other hand, is "an avocation based upon customary activities and modified by the trial and error of individual practice."[5]

This definition seems less valid today than when it was written half a century ago, for today few occupations indeed proceed primarily by trial and error. And to reverse the coin, trial and error certainly enters into the activities of occupations which nearly everyone would agree are professions; a lawyer, for instance, does not know whether a legal argument will persuade a judge until judgement is delivered.

1.3 CLUSTER OF ATTRIBUTES

Other writers have identified clusters of characteristics which professions allegedly have in common. The sociologist Wilbert Moore lists a "scale of attributes" consisting of (1) full-time occupation, (2) commitment to a calling, (3) formalized organization, (4) specialized education, (5) service orientation, and (6) autonomy.[6] The Committee on Legal Education in the United Kingdom has suggested five attributes: (1) a highly complex body of knowledge combined with an ability to use intellectual processes which are, to some extent, peculiar to the profession; (2) practical skills and techniques without which the knowledge cannot be applied; (3) the capacity to use knowledge to service other people's interests or solve their practical problems; (4) a relationship with clients who, because of the complexity of the subject, are deprived of the ability to make informed judgements and are thus dependent on the professional; and (5) a self-imposed code of ethics intended to correct imbalance and resolve conflicts between the interest of the professions and the interests of clients and the community.[7]

1.4 LIST OF TRAITS

A similar approach taken by other sociologists is to write long lists of traits which may be applied to one or more occupations generally considered to be professions.

Both the cluster of attributes and the list of traits approaches lose validity to the extent that they merely adopt the image the professions project about themselves instead of abstracting qualities from empirical findings about the professions. For example, "service orientation", or a variant thereof, almost invariably appears in catalogues of characteristics; yet there is no reliable evidence actually demonstrating the existence of a strong service orientation among the members of a profession.[8]

---

[5] Quoted in *Professional Education: A Policy Option*, Study prepared for the Commission on Post-secondary Education in Ontario, 1971, p. 41.

[6] W. Moore, *The Professions: Roles and Rules*, 1970.

[7] Quoted in *Professional Education: a Policy Option*, Op. cit. pp. 11-12.

[8] Ibid., p. 14.

These definitions are also less useful than they might be because they are descriptive and not analytical. For example, lists of traits tend not to separate core traits from derivative ones, and fail to explain the relationships between the score or more traits listed. Often, too, they fail to distinguish between the occupation and its practitioners. Finally, they are non-historical, in that they pertain only to forms of organization and practice which have appeared in English-speaking cultures at a particular point in time.

In sum, the most use these definitions can be put to is picking out which occupations are professions and which are not. They do not explain in a meaningful way why some occupations are professions or why others are not, or what the significance of this is.

1.5 HISTORICAL APPROACH

Another approach to definition is to take an historical view.[9] Traditionally, the three "learned professions" were medicine, law and theology. Before the Industrial Revolution the people with the highest social status did not have occupations at all in the modern sense; instead, social position was based on traditional or policital title, which itself was based on inherited wealth. Occupations were judged according to their compatibility with the good life: an occupation suitable for a gentleman was one which did not dull the brain, as might manual labour, or corrupt the soul, as might commerce. The professions, as they then were, filled the bill, sharing with the aristocratic way of life, leisure, defined as the freedom to choose one's own activities.[10]

> The characteristic of the professions in pre-industrial society was their compatibility with the 'good life' of gentlemanly leisure. The ideology of professionalism at this time stressed the independence of the professional from employer, client, economic pressure, even from work itself.
> . . . Professional work itself was not sufficiently specialized to be limited to the routine application of a particular expertise to a particular set of problems. The performance of the professional function seems to have been a less important aspect of the professional role than the ability to live a suitably leisured and cultured life.[11]

During and after the Industrial Revolution the old social order, and with it the professions, were challenged by industrialism and commercialism. The professions reacted by embroidering on the ethic of gentlemanly leisure and gentlemanly values, adding components such as the dislike of competition and advertising and, particularly, the public service orientation. At the same time, labour was becoming an important commodity; occupation, rather than title, was becoming the chief indicator of social status. Technological and commercial developments created new specialized occupations which asserted their own claims to professionalism. Philip Elliott explains well the convergence of the two streams of professions:

> Professionalism at the end of the nineteenth century was a composite product of two trends. On the one hand there was professional tradition claiming a right to social position rather than responsibility to perform any particular function. This claim was

---

[9] See example, P. Elliott, *The Sociology of the Professions*, 1972.

[10] T.H. Marshall, "The Recent History of Professionalism in Relation to Social Structure and Social Policy" (1939), 5 Can. J. Econ. 6 Pol. Sci. 35.

[11] Elliott, Op. cit. pp. 14-15.

> supported by a cultured and gentlemanly ideology and style of life. On the other hand, changes in knowledge, economic and social organization created opportunities for occupations to meet specialized demands. Such professions seem to have been anxious to assert their knowledge and competence as a support for their claim to economic security and professional standing. . . . Professionalism in contemporary society is based on occupational specialization, but new professions have drawn on the ideology and models of organization set out in the older tradition, just as the older professions have developed directly from it.[12]

The rise of professionalism at this time was also facilitated by the rise of the university. Just as the three traditional professions had been closely connected with universities – law with universities on the Continent, medicine with the nineteenth century British universities and theology with American and the older British universities – the new professions continued to seek legitimation within the university. The university affiliation perpetuated the notion that professional wisdom is based on and interconnected with the move generalized learning of the humane disciplines, and not merely on craft factors, which are nevertheless important in learning the techniques of each profession. Thus the university added new authority to the ideals of detachment and public service – even as the professional schools added prestige to the young and aspiring universities.[13]

1.6 PROFESSIONALISM AS A FORM OF SOCIAL CONTROL

There is one final approach to definition which has been found especially helpful. This approach views professionalism as an institutionalized form of control of certain occupations. Freidson, for example, defines a profession as an occupation which has assumed a dominant position in the division of labour so that it has gained control over the determination of the substance of its own work – it is autonomous.[14] Terence Johnson, and English sociologist, has argued:

> A profession is not . . . an occupation, but a means of controlling an occupation. Likewise, professionalization is an historically specific process which some occupations have undergone at a particular time, rather than a process which certain occupations may always be expected to undergo because of their "essential" qualities.[15]

According to this view, the institutional attributes of a profession should not be seen as absolutes, but should rather be analyzed as devices mediating between the practitioners of an occupation and consumers.

One final quotation from a critical article by Dietrich Rueschemeyer will indicate some of the main points of this approach, which will be discussed at length in the third part of this report:

> Accepting the pledge to a self-controlled "collectivity orientation" as trustworthy, society grants in return privileges and advantages, such as high income and prestige, and protects the profession's autonomy against lay control and interference. Non-professional competitors, customers, mass media, and especially government agencies exert control too, but the autonomy of the profession is sheltered against them by such means as laws against "quacks", professional referral patterns and norms which

---

[12] Ibid., p. 56.

[13] J.A. Jackson, ed., *Professions and Professionalization*, 1970, p. 4.

[14] Freidson, Op. cit., p. xvii.

[15] T. Johnson, *Professions and Power*, 1972, p. 45.

restrict certain forms of competition, insistence on exclusive professional competence in judging performance, and professional personnel in and professional advice to government agencies.[16]

[16] D. Rueschemeyer, "Doctors and Lawyers: A Comment on the Theory of the Professions" (1964), 1 Can. Rev. Sociology and Anthropology 18.

CHAPTER 2

CHARACTERISTICS OF PROFESSIONAL WORKERS IN CANADA

In order to provide a context for the theoretical discussion that follows, this part of the report presents a description of the members of some of the professions in Canada.

It will be noted that the four important personal service professions – medicine, law, dentistry and pharmacy – are emphasized and that many other professions have been left out entirely. This is not to deny the existence or the importance of such professions as accountancy or architecture, engineering or library science. But it does recognize the fact that the four professions stressed are the ones most consumers have regular contact with, and that the contacts pertain to important areas of their lives. Furthermore, these contacts are direct, in a way that most consumers' relationships with such professionals as engineers and accountants are not. Another reason to concentrate on medicine, law, dentistry and pharmacy is that contact with these professions is often involuntary – if one needs a doctor or a lawyer, then one must have one – and is therefore less susceptible to control by the consumer at the time of the contact.

2.1 NUMBER OF PROFESSIONAL WORKERS

In highly developed modern economies, such as ours, the professions are the most rapidly growing occupational category.[17] This is due to two factors: first, the proliferation of new professions – that is, the upgrading of old occupations into new professions and the creation of entirely new occupations which are accorded professional status at birth; and second, the growth in the memberships of the traditional professions. It may seem that the increase in the number of professionals is primarily due to the conventions of the census-takers; nevertheless, among social scientists it is part of the conventional wisdom that a modern society is a professionalizing society.

In Canada in 1911, 2.41% of the male labour force and 12.74% of the female was professional. By 1961, 7.68% of the male labour force and 15.52% of the female labour force was professional.[18] Between 1931 and 1951, the total civilian labour force increased by 26%, while the professional category increased by 51%.[19] Table 1 shows the increases from 1961 to 1971.

TABLE 1 Number of professional workers in Canada, 1961 and 1971

Occupation	1961	1971	Increase %
Lawyers and notaries	11,777	16,315	38.53
Physicians and surgeons	19,835	28,580	44.09
Dentists	5,234	6,425	22.76
Pharmacists	6,443	9,410	46.05
All occupations	4,705,518	8,626,925	83.34

Source: Statistics Canada, Census of Canada, 1961, Vol. III, Part 1; 1971 Census of Canada, Vol. III, Part 2.

---

[17] Moore, Op. cit., p. 20.

[18] Canada, Statistics Canada, *Census of Canada, 1961*, Vol. III, Part 1.

[19] Canada, Dept. of Labour, *Skilled and Professional Manpower in Canada, 1945-1965*, 1967, p. 25.

The same trend is evident in the United States. There, the professions accounted for only 4.0% of the labour force in 1900; by 1966 the percentage was 13%.[20]

2.2 PROFESSIONAL INCOMES

Census and taxation statistics indicate that professionals are the best-paid workers in Canada.

TABLE 2

Part A: Employment income for full-time, full-year workers by sex and occupation for Canada, 1971 ($)

Occupation	Average (males)	Average (females)
Lawyers and notaries	21,933	10,469
Physicians and surgeons	28,896	14,965
Dentists	23,956	13,873
Pharmacists	13,118	8,034
All occupations	8,045	4,748

Part B: Employment income for self-employed workers by sex and occupation for Canada, 1971 ($)

Occupation	Average (males)	Average (females)
Lawyers and notaries	23,930	8,972
Physicians and surgeons	33,201	17,346
Dentists	22,819	12,940
Pharmacists	14,931	3,045
All occupations	6,413	2,976

Source: Statistics Canada, Census of Canada, 1971, Vol. III, Part 6, Tables 18, 16.

Table 2 shows the average incomes of workers in all occupations and those in the four key professions as reported in the 1971 Census. Part A refers to all full-time, full-year workers (that is, those who were employees as well as those who were self-employed) and Part B refers to self-employed workers only. In both parts, income means gross receipts minus expenses of operation.

Because the 1971 census utilized different occupational definitions and techniques than were used in previous censuses, it has not been possible to make comparisons between income figures reported in 1971 and in earlier years. Fortunately, taxation data compiled and reported by Department of National Revenue over a number of years is available.

---

[20]Moore, Op. cit. p. 20.

TABLE 3 Average income of selected occupations, 1967 and 1972

Occupation	Average income 1967	Average income 1972	Increase %
Physicians and surgeons	27,347	41,195	50.64
Lawyers and notaries	22,014	30,603	39.02
Dentists	18,273	28,363	55.22
Engineers and architects	22,111	25,477	15.22
Accountants	14,517	20,247	39.47
Other professionals	7,672	12,676	65.22
Salesmen	7,062	10,004	41.66
Investors	6,844	9,178	25.43
Property owners	5,984	8,925	49.15
Business proprietors	6,269	8,160	30.16
Employees	5,300	7,762	46.45
Farmers	5,530	6,954	25.75
Artists and entertainers	6,224	6,724	8.03
Fishermen	4,796	6,482	35.15
Unclassified	4,047	3,501	- 13.49
Pensioners	3,410	5,383	57.86

Source: Revenue Canada, Taxation Division, Taxation Statistics 1969 Edition and Taxation Statistics 1974 Edition

Table 3 shows the average income earned in a number of occupations in 1967 and 1972; the percentage increase or decrease in income between these years is also given. For the professional occupations, the income figures are self-employed practitioners only; salaried professionals are included in the category "employees." Again, in this table income means net income or the amount remaining when operating expenses are deducted from gross receipts.

It appears from the table that doctors, lawyers and dentists, in that order, were the highest paid workers in 1972, followed by engineers and architects, accountants and the category "other professionals." Between 1967 and 1972 "other professionals" increased their incomes by the highest percentage, followed by pensioners, dentists and doctors. Engineers and architects have evidently failed to keep pace with their professional colleagues.

In 1972, 74.77% of the doctors who filed taxable returns had incomes of over $25,000, as did 50.93% of the dentists, 50.14% of the lawyers, 33.21% of the engineers and architects and 13.29% of the "other professionals."[21]

---

[21] Canada, Revenue Canada, Taxation Division, *Taxation Statistics*, 1974 Ed., 138.

2.3 PLACE OF BIRTH AND ETHNIC ORIGIN

With the exception of doctors, professional workers are more likely to be native born Canadians than are other kinds of workers. Nevertheless, immigrants make up a significant proportion of Canada's professionals. Between 1946 and 1960 approximately 92,000 professionals immigrated to Canada.[22] The 1961 Census showed that postwar immigrants accounted for one in three architects, draftsmen, mechanical engineers and physical and occupational therapists; they also accounted for one in four civil and electrical engineers, doctors and economists.[23]

It is less costly for a country to import its professionals than to train its own. One conservative estimate is that it would have cost $532 million (1961 prices) for Canada to have duplicated the additional university instruction, books and facilities necessary to train the professional immigrants who arrived in Canada between 1953 and 1963. Since about 9,800 professional and skilled workers emigrated to the United States each year, Canada's net gain in educational costs was in the order of $240 million. The education replacement costs for the engineers alone would have been about $133 million, for the doctors, $86 million.[24]

TABLE 4 Native born professionals, 1961 and 1971

Occupation	Born in Canada, 1961	Born in Canada, 1971
Physicians and surgeons	76.11	63.76
Lawyers and notaries	90.00	89.18
Dentists	90.06	82.63
Pharmacists	90.48	86.82
All occupations	78.32	79.86

Source: Statistics Canada, Census of Canada, 1961, Vol. III, Part 1, Table 21: Census of Canada Vol. III, Part 3, Table 4.

Table 4 shows that between 1961 and 1971 the proportion of native-born professionals decreased slightly while the proportion of native-born workers in all occupations increased slightly.

In terms of ethnic origin, a comparison of 1961 and 1971 census statistics shows a trend toward greater ethnic diversity. (By "ethnic group" Statistics Canada means ethnic or cultural background traced through the father's side.) Slightly over 71% of all workers in 1971 were of British or French origin; the corresponding figure for doctors was 65.34%; for lawyers and notaries, 73.28%; for dentists, 62.54%; and for pharmacists, 68.01%.

---

[22] See J. Porter, *The Vertical Mosaic: an Analysis of Social Class and Power in Canada*, 1965, p. 45.

[23] See L. Parai, *Immigration and Emigration of Professional and Skilled Manpower During the Post-War Period*, Economic Council of Canada, Special Study No. 1, 1965, p. 2.

[24] Ibid., p. 4.

However, while people of German origin made up the next largest category for all workers (6.31%), for each of the professions Jews made up the next largest group, accounting for 8.19% of doctors, 12.90% of lawyers and notaries, 13.70% of dentists and 9.94% of pharmacists, but only 1.61% of workers in all occupations. Table 5 shows the percentage of professionals belonging to seven ethnic groups.

TABLE 5 Ethnic origin of professionals, 1971 (%)

Occupation	U.K.	French	German	Italian	Jewish	Asiatic	Native Indian
Lawyers and notaries	50.97	22.31	2.97	1.35	12.90	1.13	0.06
Physicians and surgeons	44.98	20.36	3.67	1.10	8.19	8.33	0.09
Dentists	44.16	18.38	4.67	1.48	13.70	3.74	0.08
Pharmacists	46.22	21.79	4.62	0.85	9.97	3.56	0.05
All occupations	45.81	25.28	6.80	3.61	1.61	1.52	0.70

Source: Statistics Canada, Census of Canada, 1971, Vol. III, Part 3, Table 4.

In a survey of the Toronto legal professions, published in 1971, Arthurs *et al.* found 86% of the lawyers were born in Canada.[25] Of their fathers, 58% were born in Canada, 14% in Britain and 11% in Poland. Of all the respondents over half (55%) were Protestant, 25% were Jewish and 13% were Catholic. In view of the city's ethnic makeup, Arthurs *et al.* concluded that Germans, Italians, Greeks and Portuguese were considerably under-represented.

2.4 SOCIAL CLASS

It is frequently observed that professionals tend to be the children of professionals. The Toronto study found this to be to some extent true of the Toronto legal profession.[26] The study found that of the lawyers' fathers 75% had been graduated from elementary school compared with a national average of 56%; 38% had finished high school, compared with a national average of 39% and 34% had been graduated from university, compared with 17% nationally.

Over one-quarter (26%) of the lawyers' fathers were professionals, although only about 8% of the Canadian labour force were professionals in 1961. Only 13% of the fathers were blue-collar workers, compared with 35 or 68% nationally, depending on how blue-collar workers are defined. Forty-three percent were self-employed, compared with 10% nationally who were classified as proprietors. More than half the lawyers had some relative other than their father who was a professional.

Arthurs *et al.* concluded that since World War II the legal profession had not opened up to people from the lower economic strata:

---

[25] H. Arthurs, J.Willms and L. Tamar,"The Toronto Legal Profession: An Exploratory Survey" (1971), 21 Univ. of T.L.J. 498.

[26] Ibid., p. 502.

It might have been anticipated that the general expansion of educational opportunities in the past two decades would have led to greater recruitment of children of blue-collar workers into the legal profession. This does not seem to have occurred. While 22% of the lawyers aged 56 to 65 were recruited from blue-collar families, there has been a steady decline over the years to the point where only 9.4 per cent of those lawyers aged 25 to 35 come from blue-collar families. The same general pattern emerges in the case of the children of fathers in both the white-collar and self-employed categories[27]

A study of medical students at Dalhousie University in the mid-1960s obtained similar results.[28] Only 13.4% of the students came from farming, mining, logging and fishing backgrounds, although these occupations employ 28.5% of the workers in the Atlantic Provinces; 23.6% of the students came from commercial or financial occupational backgrounds, although commerce and finance employ only 5.8% of the labour force.

2.5 SEX

Table 6 shows that the professions in Canada are dominated by men.

TABLE 6 Sex of workers in key professions for Canada, 1971

Occupation	Total workers	Total females	% females
Lawyers and notaries	16,315	780	4.78
Physicians and surgeons	28,580	2,890	10.11
Dentists	6,425	310	4.83
Pharmacists	9,410	2,170	23.06
All occupations	8,626,925	2,961,210	34.33

Source: Statistics Canada, Census of Canada, 1971, Vol. III, Part 2, Table 2.

It is interesting to note that female professionals are more likely to be foreign-born than male professionals, indicated in Table 7.

TABLE 7 Workers in key professions in 1971, born in Canada,(%)

Occupation	Males	Females
Lawyers and notaries	89.25	87.82
Physicians and surgeons	65.29	50.17
Dentists	84.79	39.34
Pharmacists	88.95	79.72
All occupations	79.76	80.05

Source: Statistics Canada, Census of Canada, 1971, Vol. III, Part 3, Table 4.

---

[27] Ibid, p. 519.

[28] Canada, Royal Commission on Health Services, *Medical Education in Canada*, 1965, p. 69.

CHAPTER 3
THEORIES OF PROFESSIONALISM

Just as social scientists have not agreed on how to define, the term profession, so too have they disagreed on the role played by the professions in society. Although there is, as was noted above, a general consensus that the drive towards professionalization and the increase in the number of professional workers are important characteristics of modern industrial society, different views are held about the implications of this.[29]

3.1 SURVEY OF VIEWS OF PROFESSIONALISM

Two general and contrasting streams of thought can be distilled from the literature. One view is that the professions exert a positive force in social development, standing for stability and altruism and against the extremes of laissez-faire individualism and state collectivism. The other view is that professions are harmful, monopolistic oligarchies whose control of technology will lead to some form of meritocracy.

One contributor to the first view was Durkheim. He believed that the fragmentation of the division of labour in the modern industrial economy had destroyed the traditional moral order. The gap thus caused could only be filled by the formation of new "moral communities" based on occupational membership. It was up to the professions to become "moral milieux", bringing cohesion to society.[30]

Somewhat similarly, Tawney wrote that in the acquisitive society, the ethic of individual self-interest had undermined the broader community interest. He thought that the professions could be a major force in subordinating excessive individualism to the needs of the community.[31]

A number of sociologists have thought that the true essence of professionalism is concern for others – either concern for the individual client or concern for the community. Halmos has gone farther, writing that the service ethic typified in the personal service professions has penetrated the ideologies of many other groups and institutions in society, including, most especially, business. He sees the personal service professions as leaders in the creation of a new, higher morality for society.[32]

Another view, taken by Carr-Saunders and Wilson, is that the professions serve as a bulwark against threats to democracy. Because the professions inherit, preserve and pass on intellectual and technical traditions, they are a force in favour of peaceful social evolution and against revolution. Further, by maintaining international channels of communication, they encourage understanding and world peace. Ironically, the work in which these sanguine ideas were expressed was published in 1933.[33]

---

[29] See Johnson, Op. cit., for a good summary of the various views.

[30] E. Durkheim, *Professional Ethics and Civil Morals*, 1957.

[31] R.H. Tawney, *The Acquisitive Society*, 1921.

[32] P. Halmos, *The Personal Service Society*, 1970.

[33] A.M. Carr-Saunders and P.A. Wilson, *The Professions*, 1933.

A number of economists have been proponents of the other view, that the professions are harmful. The frequently focus on the fact that professions control entry to occupations by means of statutory licensing requirements and control over professional education. They see smaller numbers of professionals and higher prices resulting. For example, Lees writes:

> The professions . . . are a means of reducing uncertainty for consumers. But less uncertainty can be had only at a price and the price charged by the professions may be too high for some consumers. These consumers prefer to assume more risks themselves in exchange for lower prices. This is of course the standard case for practice by the "unqualified." Professional insistence on high minimum standards is technological, not economic. It treats some given reduction of uncertainty as desirable in itself and not, as it correctly should, as simply another choice that consumers make in their complex of choices.[34]

Friedman, another outspoken adherent of this view writes:

> The most obvious social cost is that . . . licensure almost inevitably becomes a tool in the hands of a special producer group to obtain a monopoly position at the expense of the rest of the public. There is no way to avoid this result . . . . The result is invariably control over entry by members of the occupation itself and hence the establishment of a monopoly.[35]

Other writers doubt if professionals are any more altruistic than any other occupational group. Daniels, for example, focuses on the codes of ethics adopted by professional organizations, noting how they vary from one group to another. She writes:

> Perhaps an analysis of the variations in codes indicated the different concerns professions possess. In all codes, some attention is focused upon the direct responsibility to the individual client. But in medicine . . . the greatest attention is upon responsibilities to colleagues and related professionals. In social work, considerable emphasis is given to appropriate relations with employers; engineering devotes much space to the responsibility of the practitioner to the public at large in its code. But it seems reasonable to argue that occupations attempting to secure professional status for members (psychologists, purchasing agents) show the greatest concern about any or all of these matters and urge their membership to adopt stringent ethical codes. Occupations with secure professional status, like medicine, may not worry so much about the matter.[36]

Daniels concludes that professional codes of ethics have a public relations function, helping to justify the professions' high status in society, and to reassure society that the profession is fit to police itself.

Professionalism has also been seen as an obstacle to the development of fresh ideas and new structures in society, and as a barrier to individual mobility. Instead, professionalism fosters narrow-mindedness and rigidity.

Finally, the catastrophes experienced by and still facing mankind in the atomic age, coupled with the continuing destruction or our natural environment by industry, have led many observers to question the benefits provided by professionals in the scientific and technological fields.

---

[34] D.S. Lees, *Economic Consequences of the Professions*, 1966, p. 13.

[35] M. Friedman, *Capitalism and Freedom*, 1962, p. 148.

[36] A. Daniels, "How Free Should the Professions Be?", in *The Professions and their Prospects*, 48 (F. Freidson, ed. 1973), p. 48.

3.2 PROFESSIONALISM AS AN INSTITUTION OF SOCIAL CONTROL

As has already been said, it has been found to be most helpful to analyze the professions as an institutionalization of a mechanism for controlling specific occupations. The theory discussed here leans heavily on a model proposed by the English sociologist, Terence Johnson.[37]

In modern industrial societies occupational skills are highly specialized. Specialization creates, on the one hand, relationships of social and economic dependence, and, on the other hand, social distance. For example, a business today depends on bookkeepers and outside accountants to keep its books in order, whereas a hundred years ago it might well have maintained its accounts by itself. Today a family depends on plumbers and electricians to keep its home in order, whereas a hundred years ago its own members would have performed most of the maintenance tasks around the home. As producers, each of us today is a specialist, expert in a narrow area; as consumers, each of us is a generalist, necessarily inexpert in a wide area.

Dependence on the skills of others tends to diminish the realm of shared experience and knowledge among members of a society, while increasing the social distance between them. For example, a school teacher and an automobile mechanic may have attended different schools and have moved in different social circles since adolescence.

The diminution in shared experiences and knowledge which stems from specialization increases the social distance between producers and consumers (as well as among producers) and thus uncertainty in the producer-consumer relationship is created. Uncertainty, in turn, creates tensions which must be resolved. One obvious element in the tension is the possibility that the ignorant consumer may be exploited by the producer.

At the same time, specialization and the resultant social distance create the opportunity for an occupational group to achieve autonomy. Whether a particular occupation *will* achieve autonomy at a particular time depends on a variety of factors which will be examined below.

Social institutions arise to cope with and reduce the ineradicable but variable degree of uncertainty in any producer-consumer relationship. Which institution will arise is again dependent on a variety of factors. Important among them are the resources of power available to the producer group, the social composition and character of the potential consumer group, and the nature of the occupation's activities. Another element is the esoteric nature of the knowledge applied by the producer; this may make consumer judgment particularly ineffective and may enable the producer group to increase the social distance and therefore enhance the potential for autonomy by means of mystification.

Different occupational activities vary in the degree to which they give rise to uncertainty and tension. The greater the social distance and the greater the helplessness of dependence of the consumer, the greater the uncertainty and the tension (including the possibility of exploitation), and the greater the need for effective social control. Medicine, law, dentistry and pharmacy illustrate this: the consumer's ability to help himself or herself and to judge the quality of services he or she is receiving are limited, and in order to utilize the professional's services the consumer must permit intrusion into the most private and vulnerable areas of life – the body, the psyche, family relationships, actionable or illegal business activities.

---

[37] See Johnson, Op. cit.

Professionalism is just one possible controlling mechanism designed to resolve tensions between practitioners and their clients. Other institutional mechanisms include the use of the family connection (for example, in organized crime), the device of the contract, or state control. Johnson arranges the various possible types of control into a threefold typology. First, there is *collegiate control*, which includes professionalism; second, there is *patronage*, which may be oligarchic or corporate and includes, for example, accountancy; and third, there is *mediation*, which may be capitalistic or state-controlled and would include, for example, Britain's National Health Service.

Professionalism operates by defining the needs of the consumer and the manner in which they are to be met. It imposes a self-contained institutional framework on the producer-consumer relationship. The producers, or professional organization, determine who the producers will be, how they will be educated, what services they will provide and on what terms, what standard of ethics they must meet, and what sanctions will be imposed on those who deviate from the rules and standards set by the organization. As will be seen below, almost every aspect of professional life and the professional institutional structure can be analyzed according to the way in which it adds support to the profession's control of the producer-consumer relationship.

It is apparent that only rarely does an occupation have the power to impose its own definition on the producer-consumer relationship:

> It is only where an occupational group shares, by virtue of its membership of a dominant class or caste, wider resources of power that such an imposition is likely to be successfully achieved, and then only where the actual consumers or clients provide a relatively large, heterogeneous, fragmented source of demand.[38]

Under what conditions will professionalism emerge as the controlling mechanism of a particular occupation? Johnson has identified several conditions,[39] important among them is the demand for services from a large, relatively heterogeneous group of consumers – consumers who are unorganized, dependent and therefore easily controlled. Such a group of potential consumers did not develop until the rise of a large, urban middle class during the Industrial Revolution.

Until the Industrial Revolution, the professions that existed serviced a small elite. But the new middle class provided an expanding market for old and new kinds of professional services, as well as providing new recruits to the professions. As business and commerce have grown more complicated and as people's expectations for comfortable, effortless living have risen, the demand for professional services has continued to increase. For example, businesses now seek professional managers with MBA degres, and individuals now seek preventive as well as corrective dental care.

Professional services are sought and obtained on an individual basis, be it entrepreneurial or private. Individualization makes it difficult for consumers to compare their treatment and develop criteria by which to evaluate the services they have received. The esoteric nature of the services makes evaluation difficult. The personal nature of the services tends to discourage consumers from organizing themselves, as does the intermittency of utilization. Finally, there are psychological factors at work: consumers place serious problems in the hands of professionals and it would be disconcerting to challenge the competence or ethics of those on whom they must rely.

---

[38]Ibid., p. 40.

[39]Ibid., pp. 44-52:

All of these characteristics of the consumers of professional services tend to weaken the ability of consumers to direct the content or form of professional services. They correspondingly strengthen the ability of the producers to control them.

Another condition favouring the rise of professionalism is a producer group which has access to resources of power.[40] Resources of power are necessary to impose on consumers the terms on which services are to be provided. One way in which such resources are obtained for the use of the profession is by selecting new professionals from the middle and upper strata of society – strata which already have resources of power or access to them. Personal wealth, superior education and strategic social contacts are important resources of power.

Still another condition is a relatively homogeneous producer group.[41] This condition is related to the condition discussed in the preceding paragraph, but it is also related to the ability of the professional organization to organize its members around a single set of goals and values. It will be seen that professional schools and organizations seek to preserve homogeneity of outlook within the ranks of the profession, encouraging feelings of solidarity and separateness from the rest of society.

The value placed by the public on the content of the occupation's work also influences what social mechanism will arise to control the occupation.[42] Professionalism depends on a general public belief in the occupation's competence plus a belief in the value of its skills. A belief in competence requires that the occupation has reached a certain level of expertise and that it has been able to disseminate learning about its expertise to all its members. The public must believe that the work of the occupation is extremely valuable to society.

The medical profession in the United States is illustrative of the importance of the widespread belief in the profession's competence:

> Only in the twentieth century was licensing widely established in the United States, and based on uniform standards for medical education. With uniform training, every licensed physician could be expected to have a basic technical education more or less equivalent to every other's and distinct from that of any other kind of healer. With the political consolidation of the nation could come also the possibility of enforcing licensing laws. With a sound technical basis to his training, the physician could win confidence and establish the justice of his claims to privilege. And finally, with mass education, the public developed knowledge and belief that became more like that of the physician himself and therefore it became more receptive to his work. The outcome was control over the practice of healing that had never before been enjoyed by medicine.[43]

Professionalism accomplishes important social tasks. From the point of view of consumers, it resolves, or at least diminishes, the tension emanating from the uncertainty in the producer – consumer relationship by providing a structure for dealings between the parties. The structure

---

[40] Ibid., p. 43.

[41] Ibid., p. 53.

[42] See E. Freidson, Op. cit., pp. 10-11.

[43] Ibid., p. 21.

dictates to some extent the services which it is permissible to demand, to a large extent the manner in which the demands may be satisfied, and rules of behaviour or "manners" for the parties. It is often reassuring to the consumer that professionalism requires him or her to lay his or her problems in the lap of a parent-like professional.

In the individual context, the professional takes responsibility for the consumer's problems. While it is the consumer, of course, who takes the medicine or pays the fine, it is the producer who defines the consumer's problem and decides how it is to be solved. In the broader context, the profession assumes the responsibility for ensuring competence and ethics, or at least purports to do so. And professional organizations have largely determined the structure for the delivery of professional services in Canada.

For the producers, professionalism is almost an ideal form of organization, conferring significant material and psychological benefits. It permits professionals to "run their own show" – indeed, the genius of the ideology of professionalism is that it *requires* them to do so – with minimal interference or input from either consumers or the state.

Provincial licensing statutes authorize professional organizations to monopolize occupations – no one without a licence may practise in the occupation. The organizations determine the conditions of entry to the occupation – such as how many years of schooling – and this goes a long way towards determining how many practitioners there will be. Some professional organizations are instrumental in setting fee schedules, while others at least provide guidelines or "suggested tariffs." Organizations set the rules for competition within the profession, often prohibiting price-cutting and most forms of advertising.

The psychological benefits conferred by professionalism should not be underestimated. Professional organizations, and the ideology of the profession, provide members with an identity, a comforting sense of belonging to a group that has well-defined rules, norms and values, and wide respect and prestige. In this sense a professional organization is perhaps not very different from men's lodges or women's leagues. Professionalism also insulates professionals from the economic and psychological uncertainties that order workers are exposed to; in this sense professional organizations are perhaps not very different from unions. Freidson has described the psychological component of professionalism like this:

> All more or less sustained by the prestige of the professional status, insulated from the force of other occupational perspectives, buoyed up by the helplessness of the client, segregated even from the judgment of peers by the sanctified privacy of the consulting room, the classroom, the confessional and the office, lulled by their indubitably ethical intent, all consulting professions are able to forget that they are composed of men, that in the practice of knowledge there is often so much uncertainty as to preclude the pretense of expertise. Indeed, they have not only come to create their own conception of themselves as professionals, (but also to) see their conception adopted by outsiders, including sociologists, to represent what professionals actually are rather than who professionals think they are or claim to be. Confusing their knowledge with their practice. they claim all they do to be their exclusive prerogative; confusing their intent with their practice, they claim ethicality as their specially redeeming quality. Sustaining this confusion of claim and wish with the reality of

> action is the protection from external scrutiny provided by their official monopoly and the protection from self-scrutiny provided by their view of themselves and their occupational customs.[45]

A theory is valuable to the extent that it sheds light on phenomena in the real world and actual events. Accordingly, the theory outlined above will be applied to the various stages of professional life; then, it will be applied to two controversial events in Canadian professional history.

3.3 RECRUITMENT

It was stated earlier that professionalism is more likely to emerge if the producers compose a relatively homogeneous group with access to resources of power. The data presented above show that professionals in Canada are for the most part native born Canadians and of English or French ethnic origin. Even during the post-World War II immigration boom, over one-half of immigrant professionals came from Britain and another one-sixth came from the United States.[46] Professionals are overwhelmingly male and they come from above average economic backgrounds. It has not been possible in this report to examine comparable data for the point in time when each profession was becoming established in Canada, but one would expect to find similarities. It is perhaps not too much of a caricature to describe the typical Toronto doctor or lawyer like this: he is the son of a professional, he is Protestant and his ancestry is Anglo-Saxon. He probably grew up in a "good" neighbourhood and he probably attended "good" schools.

Homogeneity is supportive of group solidarity within the profession. It minimizes the possibility of challenges to the prevailing ideology coming, dangerously, from within the profession. It ensures that most of the members of the profession will share the same values and outlook. It makes it likely that the members will protect their colleagues from outside attacks (as, for example, in being reluctant to testify against a colleague in a malpractice suit) and will be supportive of each other's practices, (as, for example, in making referrals).

As well, since professionals come from prosperous, well-established family backgrounds, they have resources of power. They tend to be articulate spokesmen for their causes, skilled in the art of lobbying at legislatures and at justifying their position to the public. Their task in lobbying and self-justification is no doubt made easier by the fact that the leaders of one profession often have close personal contacts with the leaders of other professions; they may well have gone to school together, grown up together or even have married into each other's families. In the case of the legal profession, these contacts frequently extend into the corporate world and politics.

In his seminal work on Canadian elites, John Porter noted that lawyers provide a link between the corporate and political worlds. He found, for example, that 108 lawyers held 16% of the directorships in dominant corporations, 19% of the directorships of banks and another 19% of the directorships of life insurance companies. At the same time, 22 of the lawyers had held office at one time or another in federal or provincial cabinets, the courts or the Senate and 6 were members of Parliament or provincial legislatures. Fifteen dominant corporations and two banks insurance companies were "represented" in the Senate by lawyers.[47] Porter writes:

---

[45] Freidson, Op. cit. p. 380.

[46] See Parai, Op. cit., p. 3.

[47] Porter, Op. cit. p. 74 ff.

> The lawyers might be called the intellectuals of the corporate world from the point of view of their academic training and, in some cases, high achievement, but their intellect is rather narrowly directed. The law firm is an additional social nucleus within the structure of the economic elite, and like the law school constitutes another area of interaction which makes for social homogeneity of the elite.[48]

Domination of the professions by particular socio-economic groups is disturbing from a consumer perspective if it is believed that who professionals are affects the kinds and the quality of the services they provide. First, individuals who belong to one socio-economic group may find it difficult or impossible to empathize with individuals who belong to other groups, and this may impair the ability of the first group to help another solve its problems.[49] For example, recent immigrants who are unfamiliar with Canada's laws and customs are often quite vulnerable to social, economic and legal problems; yet they may find it difficult, because of language and psychological barriers, to confide in Anglo-Saxon, unilingual lawyers. Women may find it difficult to explain personal and medical difficulties to male doctors. On the other side of the coin, Anglo-Saxon lawyers and doctors may fail to recognize the cultural component of illnesses or legal problems they are asked to cure or solve.

An everyday example of the cultural imperialism sometimes practised by professionals is the model diet and menu plan for a family drawn up by a nutritionist and home economist at the instance of the Food Prices Review Board. The plan was circulated nationally in a newspaper supplement in October, 1975.[50] As the family who actually tried out the diet pointed out, the suggested menus consisted entirely of Anglo-Saxon dishes; the plan would be useless to a family that wanted to maintain its cultural heritage.

Data on the Toronto legal profession reported by Arthurs *et al.* showed a correlation between socio-economic background and the type of legal practice entered into.[51] Protestant lawyers are more likely to be found in large, downtown firms which specialize in corporate work. Jewish lawyers, on the other hand, are more likely to be found in smaller firms, conducting more general practices, including family law work.

About the somewhat differently structured American legal profession it has been written:

> Legal talent from quality law schools has flowed heavily into the large firms for many years, and there has been extensive elaboration of legal procedures to handle the problems of corporate enterprises opposed to those who care for the problems of private citizens. One result has been a high development of corporate protection, often at the expense of individual citizens. Areas of law unrelated to the operation of corporate enterprises have not, however, had the same level of creativity devoted to them.[52]

A similar phenomenon with a similar impact on jurisprudence and statute law may be detected in Canada.

---

[48] Ibid., p. 278.

[49] See *Professional Education: a Policy Option*, Op. cit., p. 61.

[50] Weekend Magazine, Oct. 11, 1975.

[51] Arthurs *et al.*, Op. cit., p. 518.

[52] Landinsky, "Impact of Social Backgrounds of Lawyers" (1963), 16 J. Legal Education 127.

3.4 PROFESSIONAL EDUCATION

The existence of professional schools attached to universities supports the claims of occupations to professional status. Connection with a university, as was suggested above, supports the profession's claim to a substantial and unique body of theory and abstract knowledge; this in turn enhances the occupational group's power in bargaining for a monopoly over the work of the occupation. Universities themselves are usually receptive to having professional faculties because they enhance the prestige of the university and support the university's claim to being truly a centre of learning.[53]

Professional schools in universities are usually quite independent from other faculties. The theory of professionalism requires this, for recruits to the profession must be imbued with the idea that they are joining an exclusive club. Such isolation protects the recruits from possible corruption by the ideas and ideologies of other disciplines.

Thus the period of professional education is crucial to developing the sense of professional identity in new members. Quite apart from imparting new skills and knowledge, professional education inculcates values, attitudes and norms. This process of socialization is vital to maintaining the ideology of the profession and to discouraging challenges from within.

Of course, the particular norms and attitudes students are taught vary from one profession to another, although probably all can be analyzed as dealing with client relations, colleague relations or public relations. In law school, for example, students learn that they must assume sole responsibility for the way an action or defence is presented; they learn that the proper stance for a client is one of passivity. They learn that they must take a case even if they are morally opposed to the client's position. Like doctors, dentists and pharmacists, they learn that the proper professional relationship is a private one existing between a single practitioner and a single client; thus the law student learns to be much more concerned about individual cases than about the overall distribution of legal services. Law students still learn that some areas of the law – usually business law fields – are more worthy of their labours than other areas; although this doctrine is becoming less prevalent. A former dean of the Harvard Law School has written, "Almost invariably, our students are led to feel that it is in business and finance that the great work of the lawyer is to be found. By methods of teaching, by subtle and often unconscious innuendo, we indicate to our students that their future success and happiness will be found in the traditional areas of the law."[54]

Teaching methods used in many professional schools teach conformity and submission, both of which are valuable to the professional organization. Educational psychologists can identify classroom conditions conducive to creativity in students; but on the whole, professional schools seem to provide the opposite. One analysis of traditional law schools illustrates this point.[55] Law teachers make use of ridicule and threats of failure despite the fact that classrooms which are personally threatening to students are known to eliminate potential to show creativity. Creativity

---

[53] See Hughes, *et al.*, *Education for the Professions*, Report prepared for the Carnegie Commission on Higher Education, 1963, p. 104.

[54] Ibid., p. 120.

[55] Yeomans, "Creativity and Legal Education" (1971-72), 5. J. Legal Education, 381.

requires a relaxed, permissive environment; law classrooms tend to be formal and highly structured. A competitive atmosphere discourages creativity; law schools thrive on competition. In creative classrooms, students are allowed to structure their learning for themselves; this happens rarely in the law school. Creative teachers ask questions to encourage the process of inquiry and discovery; law teachers ask questions to prove that they can dominate the classroom by virtue of their superior knowledge.

Of course, it may be said that professional schools exist to train competent professions, not creative ones. But it bodes ill for consumers and society in the long run that professional education discourages creativity at the same time that it serves the needs of the professional organization.

3.5 CONTROLS WITHIN THE PROFESSIONAL ORGANIZATION

After an individual becomes a professional practitioner, his or her relations with clients, colleagues and the public must be controlled in the sense that has been used above. It is important to the profession that its members continue to believe the ideology presented to them during their education, and that their sense of professional identity and loyalty to the profession be maintained. Professions therefore create a "myth of community."[56] Members of the profession are told that they are all equals. They are discouraged from competing with each other for clients; thus advertising is almost invariably forbidden. They are discouraged from criticizing colleagues in public, although they are encouraged to report malefactors to the professional organization.

Sole practice tends to induce individuality and possible disruption of the profession's ideology. Such tendencies are combatted by the referral system, whereby practitioners are encouraged to maintain contact with and make use of their colleagues. Professional journals, conventions and continuing education sessions are also useful in this regard.

The fact that professional malefactors usually face disciplinary committees formed within the professional organization before they face courts of law reinforces the notion that professionals owe their first loyalty to the profession and not to society. By means of disciplinary committees, and codes of ethics, professional organizations set standards of conduct for their members which may be different from the prevailing standards of society.

The structure of colleague relations, while highly supportive of professionalism, has disadvantages for consumers and society. The near monopoly over discipline may make it difficult for consumers to get redress for professional wrongdoing. The professional conspiracy of silence may make it very difficult, especially in small communities, to obtain expert testimony critical of professional defendants. Moreover, the prohibition on advertising and other forms of competition probably increases the cost of professional services. The curtailment of new ideas from within the profession prevents the advancement of the consumer interest and inhibits social change.

A major source of professional power is the diagnostic nature of the producer – consumer relationship. The four key professions assume absolute authority to diagnose the client's ailment or problem and almost absolute authority to prescribe the cure or solution. This right to diagnose and prescribe, which is based on the professions' special expertise and professed good faith, gives the professional power over the client, for the professional tells the client *what is wrong* and what

[56] Johnson, Op. cit., p. 53.

he or she *must do* to remedy the situation. In the broader context, the profession assumes the right to determine what kinds of problems may appropriately be dealth with by the profession and in what manner services are to be dispensed. For example, in Canada it has been the doctors who have insisted that medical services are most appropriately paid for on an individual fee-for-service basis.

The essence of professionalism is that the professional producer exercises complete control over the producer-consumer relationship. This has a number of adverse consequences for consumers and society.

Professional control rests on and reinforces the idea that only the professionally trained can make any valuable contribution towards helping people solve their problems. It therefore diminishes the area in which people have control over their own lives and the society in which they live. The extent to which legal problems and solutions are left to be defined by lawyers, for example, reduces the extent to which lay people can influence the law. The extent to which doctors are permitted to define the nature of medical problems reduces the extent to which individuals are responsible for their own health. As a result individuals may feel alienated from the judicial system and the health care system.

A profession can maintain its autonomy only if it is permitted to do so by society. The professions's *quid pro quo* for the grant of autonomy is its promise of selflessness, competence and probity. Therefore it is important that the profession present an image of a community of skilled, honest practitioners. As was suggested above, codes of ethics are intended, at least in part, to reassure the public that its faith in the profession is justified. Similarly, disciplinary committees are intended in part to demonstrate that the profession itself will take care of the errant few.

It is important that the profession express its opposition to unlicensed practitioners, i.e. – competition, in terms of the public interest. Thus quacks or divorce counsellors or denturists are attacked not on the grounds that they interfere with the doctors' or lawyers' or dentists' ability to make money, but as menaces to their clients. This is not to say that professions do not sincerely believe they are serving the public interest by opposing competition. But the professions' interests are different from consumers' interests, and for this reason it may be unwise to give the professions the unfettered right to make decisions which affect consumers.

CHAPTER 4

EPISODES IN CANADIAN PROFESSIONAL HISTORY

One use of a theory, as well as one test, of its validity, is to apply it to an actual event to see if it assists in understanding the event. In the next few pages, the social control theory of professionalism will be applied to the Saskatchewan doctors' strike and to the continuing dispute between Ontario's dentists and denturists.

4.1 THE SASKATCHEWAN DOCTORS' STRIKE

The Saskatchewan doctors' strike of 1962 was probably the most dramatic episode in the history of the professions in Canada. It is not possible in this report to analyze all the events of that episode or even to make more than one or two general comments about it. However, it is hoped that by applying the social control theory to it, a few important lessons can be learned.

Briefly, the 23-day withdrawal of physicians'services in July of 1962 was the organized response of Saskatchewan's doctors to the implementation of the Saskatchewan Medical Care Insurance Act, 1961.[57] The Act was the fulfilment of the long-standing promise made by the C.C.F. government led by T.C. Douglas and W.S. Lloyd. The insurance plan created by the Act provided for universal pre-paid insurance coverage for nearly all health services; the plan was to be administered by the Saskatchewan Medical Care Commission, assisted by an advisory committee of doctors, an was to be financed by premiums paid by individuals or, in the case of indigents, by the public purse.

> Although Saskatchewan, largely because of its precarious agrarian economy, had a long history of co-operativism and government participation in welfare matters, and indeed had had a provincial hospital insurance plan since 1947, the medical services insurance plan was opposed by the province's College of Physicians and Surgeons. The College announced that its members would withdraw their services rather than co-operate with the plan. During the period of the strike, only emergency services were supplied, while the government recruited doctors from other parts of Canada, the United States and, primarily, Great Britain.

Eventually, the College agreed to ask its members to return to work. In return, the government agreed to amend the legislation and to affirm the right of a doctor not to participate directly in the plan and the right of a beneficiary to assign his or her right to receive payment to a private health insurer.

Statements made by the College of Physicians and Surgeons during the dispute make it clear that the College felt that the insurance plan posed a threat to the profession's control of the manner in which health services would be provided. The College's fear went far beyond the fear that doctors' incomes would be adversely affected by the plan. This is evident from the College's submission to the province's advisory planning committee; the submission adopted the Canadian Medical Association's 1960 policy statement on health insurance and included the following demands:

---

[57] This outline was prepared from R. Badgley and S. Wolfe, *Doctors' Strike*, 1967, and E.A. Tollefson, *Bitter Medicine*, 1963. The Act may be cited as S.S. 1961 (2nd session), c. 1.

3. That the competence and ability of any doctor is determined only by professional self-government.
4. That within his competence, each physician has the privilege to treat his patients in and out of hospital.
5. That each individual physician is free to select the type and location of his practice.
9. That medical services insurance programs do not in any way preclude the private practice of medicine.
13. That members of the medical profession, as the providers of medical services, have the right to determine the method of their remuneration.[58]

That the College perceived the plan as a threat to the profession's control of the practice of medicine is also evident from the form letter provided to doctors to send to their patients withdrawing their services:

> Dear Patient:
>
> You are probably aware that the decision of the Government to put their Medical Care Insurance Act into operation on July 1st prevents me and the other doctors of this Province from continuing to provide medical services to you and to other patients without accepting the terms and conditions of the Act.
>
> I cannot, in all conscience, provide services under the Act and thus my office will be closed on July 1st. It will stay closed until the Government will allow me to treat you, as I have in the past, without political interference or control. . .
>
> If you disagree with the action of Government, you too should state your objections to your Elected Representatives. It is only in this way that Government will be forced to abandon its plan to institute political control of doctors and patients. . .
>
> I support medical insurance. I am willing to accept an arrangment which is purely insurance and which does not attempt to control your doctor or tell your doctor how to treat you.[59]

It is important to appreciate that professional suspicion of medicare schemes is founded merely on concern about incomes but on the fundamental issue of who is to control the delivery of medical services; who is to decide what services will be paid for, where and when they may provided (hospital? office?) and by whom (doctors? nurses?). The social control theory of professionalism explains why control is so important to a profession; the reaction of Saskatchewan doctors demonstrates that the issue of control can be so important to a professional organization that it will lead its members to withdraw their services when faced with the loss of a mesure control.

Another interesting lesson to be learned emerges from the pressures exerted and the sanctions imposed on pro-medicare doctors by the majority who were opposed to the plan. Some specialists would not take consultations from pro-medicare doctors, anaesthetists would not work them and some doctors would not reply to their requests for information about patients.[60] number of doctors employed by the clinics which sprang up during the strike found it very difficult to obtain hospital privileges, privileges which were granted by hospital advisory committees.

---

[58]Quoted in Tollefsen, Op. cit., p. 67.

[59]Quoted in R. Badgley and S. Wolfe, Op. cit., pp. 53-54.

[60]Ibid., p. 104.

A Royal Commission was established to investigate complaints by five community clinic doctors who were refused privileges. Although he concluded that the committees did not act in bad faith, the Commissioner nevertheless stated that "the problem in each case is attributable to the marked division of opinion among Saskatchewan physicians as to how medicine should be practised."[61] In one case, a Regina doctor was denied hospital privileges merely because of his affiliation with a community clinic. In the other cases it appeared that the applicants lacked sufficient training or experience. In all cases the applications were dealt with in a less forthright manner.

The point to be made here is that a professional organization will use the powers conferred on it by statute for purposes which may be at odds with the public interest – in this case to quell dissenters. If this is so, as the Saskatchewan experience seems to indicate, it may be unwise to vest in one and the same professional body licensing and disciplinary functions as well as trade union functions. And it may be prudent to establish review mechanisms so that professional bodies cannot exceed their proper jurisdiction with impunity.

4.2 THE ONTARIO DENTISTS – DENTURISTS DISPUTE

The events of the dispute between Ontario's dentists and denturists (technicians who make and install dentures) illustrates how a profession and an occupational group seeking professional status will behave in protecting or trying to break a professional monopoly.

Prior to 1971 Ontario had approximately 125 denturists operating 70 denture clinics; they were acting in quiet defiance of the Dentistry Act[62] which gave licensed dentists a monopoly over the provision of all dental services. However, there seemed to be tacit acceptance of their existence. The trouble began in 1971 when the Denturist Society of Ontario decided to wage a public campaign to achieve open legitimacy and legal status. The thrust of the campaign was that denturists could provide dentures much less expensively than dentists. Not unexpectedly, the Ontario Dental Association and the Royal College of Dental Surgeons opposed giving legal recognition to denturists which would enable them to deal directly with the public. The thrust of the dentists' argument was that denturists were insufficiently trained and therefore unable to provide services of an adequate quality.

The Ontario Government displayed remarkable indecision in reacting to the lobby of the denturists on the one hand and the lobby of the dentists on the other. The Minister of Health, Dr. Richard Potter, first proposed to license the denturists outright provided they could pass qualifying examinations. Then, bowing to pressure from the dentists, he proposed that denturists be required to pass examinations *and* that they be permitted to work only under the supervision of dentists. Dr. Potter said that his reason for having made the first proposal was to provide inexpensive dentures to the public; in return for complying with the dentists' demands he had obtained agreement from the Ontario Dental Association and the College that they would operate a low-cost denture program. He rejected the recommandation of an advisory committee that denturists be permitted to deal directly with the public provided they took three years of dental and anatomical training, maintaining that this would be inconsistent with the goal of providing cheap dentures.

---

[61] The Commission's Conclusions and Recommendations are reproduced as Appendix G to Tollefson, Op. cit., p. 225.

[62] R.S.O. 1970, c. 108, s. 17.

Needless to say, the reversal in policy incensed the denturists who continued to work in open contravention of the law. The College laid charges of violation of the Dentistry Act, and the denturists continued their newspaper advertisement campaign; one full-page advertisement read:

SEARCH AND SEIZE

> An expose concerning the remarkably ruthless exercise of extraordinary powers conferred by statute on a private professional organization, which has enabled members of the Ontario Dental Association to perpetuate a monopoly over the provision of all types of dental services to the public.[63]

A year and a half later, with a new Minister of Health, the Government reversed its stand again. Denturists who passed qualifying examinations would be permitted to make complete dentures without a dentist's supervision; partial dentures would continue to require a dentist's supervision. The denturists were also granted self-government by Governing Board. The dentists would continue to be required to operate their low-cost denture program.

Neither group was entirely satisfied by the policy, which became law.[64] The denturists said that the limitation on partial dentures would penalize the poor person who happened to have a few teeth left in his mouth; he or she would be forced to pay the high rates charged by dentists.[65] The dentists said that denturists would be unable to make a living by providing complete dentures only and would be forced to provide other services illegally.[66]

The dispute highlights the fact that in arguing over who should have the right to provide certain services to the public, professional organizations and groups seeking professional status will both resort to claims that their stand is truly in the public interest. Thus the focus of the denturists' campaign was that they could work less expensively, while the focus of the dentists' campaign was that only they could provide services of high enough quality. The Government was forced into the position of having to choose between low cost to the public and high quality.

The Goverment, of course, need not have accepted the characterization of the dispute that was presented to it by the opposing groups. The facts indicated that regardless of the high quality work done by dentists, a very large proportion of Ontarians did not have access to dentists largely because of cost.[67] At the same time, the denturist dispute was part of the much larger issues of the use of para-professionals and greater rationalization in the provision of professional services. The dentists and denturists did not present their dispute in these terms because they would not benefit from doing so; the dentists wanted to resist the use of denturists in order to maintain their monopoly, while the denturists wanted autonomy, not merely the right to work as dental auxiliaries.

---

[63] The Globe and Mail, Toronto, April 29, 1972.

[64] The Denture Therapists Act, S.O. 1974, c. 34.

[65] See the Globe and Mail, Toronto, May 17, 1974.

[66] Ibid.

[67] Ibid., May 16, 1972.

CONCLUSIONS

The social control theory of professionalism and the lessons to be learned by applying it to such events as the Saskatchewan doctors' strike and the Ontario dentists – denturists dispute suggest certain conclusions about the way in which professional services are delivered in our society. For convenience, these conclusions are set out below in numbered form.

1. A profession is not the same thing as an occupation, but is a means of controlling an occupation. In certain identifiable circumstances a powerful group of workers will be able to impose its definition of the work of an occupation and dictate how the work will be done by it. The group will have achieved autonomy and will be popularly regarded as a profession. In time, the appellation "profession" will cease to be applied merely to the group of workers and will be applied as well to their work.

2. An occupation need not be controlled by a group of workers; that is to say, it is not a law of nature that any particular type of work be organized as a profession. Professionalism, although it is more likely to arise in some occupations than in others, is just one of many possible forms of organization. Professionalism is not inevitable.

3. A society may decide that only qualified individuals may work in certain occupations and that therefore licensing is necessary in the public interest. In our society the power and responsibility to license and the concomitant power to set criteria for obtaining a licence have been conferred on professional organizations. These organizations have also been granted the function of making sure unlicensed individuals do not work in the occupation. It is not essential that these powers be conferred on professional organizations, but only that they be given to an agency composed of individuals who have expertise to make the necessary decisions. Since the only justification for restricting entry to a profession is to protect the public interest, the powers are best conferred on an agency whose *only* interest is the public interest.

4. Law and custom treat issues which in reality concern all of society as issues which are the sole concern of professional organizations. For example, by discouraging certain forms of practice, e.g. community clinics, or by requiring very long periods of post-graduate education, professional organizations are in fact making important manpower decisions. However, because the issues are regarded as belonging to the professional organization, society is denied the opportunity of making any effective contribution to their resolution.

5. One basis of the theory of professionalism is that patients or clients are unable to make judgments on professional work: the consumer is regarded as not knowing what he or she needs. Accordingly, professional organizations are unlikely to grant to consumers an effective voice in determining how services will be provided. Consumers cannot expect to receive a gift of power by professional organizations.

6. The goal of professionalism is monopoly. Therefore, a professional organization will not voluntarily share its control of an occupation with another group of workers. A professional organization will not lead the way in making use of para-professionals unless it can be sure of controlling how the para-professionals operate. A profession will delegate tasks but it will not share authority.

7. Professions operate by imposing a mythology on ordinary activities. Thus competitive practices which society encourages in private enterprise are actively discouraged by professional organizations. Society need not mutely accept the work of the professional organization that competition becomes a bad thing when it is practised by professionals.

8. Professional organizations frown on dissent from within their memberships, especially in times of conflict. Other reasons to restrict the powers held by professional organizations are therefore to protect the right of dissenting individuals to practise and to enable society to benefit from dissenting points of view.

9. Some of the social conditions which fostered professionalism in the past no longer exist. For example, medicare and denticare schemes mean that the real consumer is not a large number of individuals but a single government agency. This alteration in the market structure for professional services may have far-reaching consequences.[68] It is important that society think through these consequences and make appropriate policy decisions; the decisions should not be left to be made by default by professional organizations.

10. The proclaimed assertion of professional organizations is that they serve the public interest, that more than ordinary entrepreneurs they are unselfish and put the interests of their clients ahead of their own. It must be recognized that although this is necessary to professional ideology, it has nothing to do with the behaviour of any particular practitioner. Society as a whole must assume the burden of protecting itself.

11. Professionalism is a fundamentally inegalitarian theory and is therefore less appropriate now than in days gone by. It is unacceptable that consumers should have no effective input into decisions made by professional organizations or that they should find it impossible to change patterns of practice because of their assumed lack of expertise. Not every decision affecting a doctor or a lawyer requires a medical or a law degree.

[68] See the discussions of "Mediation" in Johnson, Op. cit.

THE POLITICAL ECONOMY OF PROFESSIONALISM: A PERSPECTIVE

by

Carolyn J. Tuohy, Ph.D.
Alan D. Wolfson, Ph.D.
University of Toronto

February 1976

TABLE OF CONTENTS

TABLE OF CONTENTS (Cont'd)

INTRODUCTION

Professions are concentrations of political and economic power. Under what conditions are they likely to threaten or to serve the public interest? What is the appropriate role of the state in responding to, averting, or creating these various sets of conditions.

If any meaningful public policy toward the professions is to be developed, these questions must be addressed. In what follows, we shall suggest a way of thinking about the political and economic causes and consequences of professions which emphasizes the decision-making activities of professionals, both at the level of practitioner-client relationships and at the level of group-state relationships. Furthermore, we shall suggest ways in which this perspective might inform the development of public policy.

CHAPTER 1

WHAT IS PROFESSIONALISM?

"Professionalism" is a term not easily defined. One of the problems in arriving at a definition is the fact that it is an epithet to which so many occupational groups lay claim. As one sociologist has noted, "whatever else the word profession may mean, it is in modern English a symbol of high ranking among occupations".[1] Attempts at a disinterested academic definition of the term run up against the problem that different academic disciplines have tended to focus on different aspects of professionalism. Sociologists have looked at professional careers and norms; economists have focused on imperfect markets for professional services; and political scientists have been concerned with mechanisms and institutions of professional regulation.

It may be useful, then, to think not of "professions" as an observable and definable group of occupations, but of "professionalism" as an analytic spectrum along which occupational groups may be measured. A political-economic view, furthermore, suggests that professionalism is best defined in *relational* terms, as characterizing a type of relationship between producers and consumers of service. The form of our definition, then, is as follows: "producers of services are 'professional' to the extent that their relationships with their clients show characteristics a, b, c." It remains to specify these characteristics.

1) Professionalism as an agency relationship: *the producer stands in a professional relationship with his client to the extent that the client delegates decision-making authority to him.* The client, in other words, designates the professional as his agent, and entrusts him with the making of decisions on behalf of and in the interest of the client.

2) Information gaps: The delegation of decision-making authority arises out of differences in the types of information to which each party in the producer-consumer relationship has access. "Professionals" are producers who have access to a specialized body of knowledge and whose function it is to apply that specialized knowledge to the solution of practical problems. The function of the professional lies midway between that of the theoretician and that of the technician. The theoretician is involved solely in the creation of a knowledge base; the technician is involved solely in the performance of practical procedures. The professional brings theory to bear in practice. The second criterion of professionalism, then, can be stated: *producers of services stand in a professional relationship to consumers to the extent that the delegation of decision-making authority from client to practitioner is based on differential access to specialized knowledge.*

3) Professional relationships at two levels. An individual client establishes an agency relationship with an individual practitioner in order to ensure that specialized knowledge is brought to bear upon the resolution of a practical issue in the client's interest. An analogous relationship may also be established between the state and a group of practitioners. In order to ensure that the provision of a particular service is regulated in the public interest, the state may establish an agency relationship with an organization of the providers of that service. It delegates decision-making to the group because that group has access to the specialized knowledge relevant to the regulation of

---

[1] Everett C. Hughes, "The Professions and Society", 6 The Can. J. Econ. and Polit. Science, (Feb. 1960).

a particular service, and on condition that the group exercises its delegated authority in the public interest. Hence the third criterion of professionalism: *the providers of a service stand in a professional relationship to consumers to the extent that the provision of that service is regulated by an organization of providers exercising authority delegated by the state.*

A group of producers may be more or less "professional" with respect to each of these characteristics. Furthermore, it is often the case that a group appears to be "professional" according to one or two criteria, but not according to the other(s). A group may, for example, exercise discretionary authority which cannot be traced directly to its purchase upon specialized knowledge. It may enjoy self-regulatory status as a group even though its individual members exercise little discretionary authority in the provision of services. Consequently, individual practitioners may enjoy considerable discretion although the group is not organized for purposes of self-regulation. Our definition of professionalism does not preclude the consideration of such cases. And it is important that such cases not be excluded by definition. They raise an issue of considerable importance for the development of both theory and policy: groups which are "professional" to different degrees are in an inherently unstable situation. We return to this issue later in the paper.

CHAPTER 2

PROFESSIONALISM AT THE INDIVIDUAL LEVEL

We shall discuss professional relationships at the individual level, between practitioner and client, in three sections. First, we will describe the conditions under which the establishment of professional relationships is appropriate. Second, we will analyze an idealized professional decision-making process to elucidate where the agency function fits in. Finally, we will examine the actual functioning of professional relationships in an attempt to discover their susceptibility to deviations from the idealized model.

2.1 APPROPRIATENESS OF PROFESSIONAL RELATIONSHIPS

We have argued that the identifying characteristic of the professional role is that it centres on a decision-making function; that a person is a professional insofar as he is his client's agent in making decisions. Furthermore, we have argued that the professional acquires these decision-making prerogatives and responsibilities by virtue of his familiarity with specialized knowledge, difficult to master and of strategic importance in the lives of his clients.

In other words, professional relationships are appropriately established where the client requires information which is costly to acquire, and costly to do without; where the costs of access to information and the costs of error are high. By transferring decision-making authority to a professional agent in such circumstances, the client reduces the likelihood that costly errors will be made, without having to acquire costly information himself.

It should be noted that high "acquisition" costs may occur even in situations where there is no informational differential *per se* between the professional and his client, but when stress and anxiety prevent the latter from drawing on this knowledge in an objective and rational manner. The most obvious example of this phenomenon is in the case of physicians delegating medical decision-making authority to other physicians (who may be no better informed) when they or members of their families are ill. The high acquisition costs here result from non-objectivity, not from the lack of information.

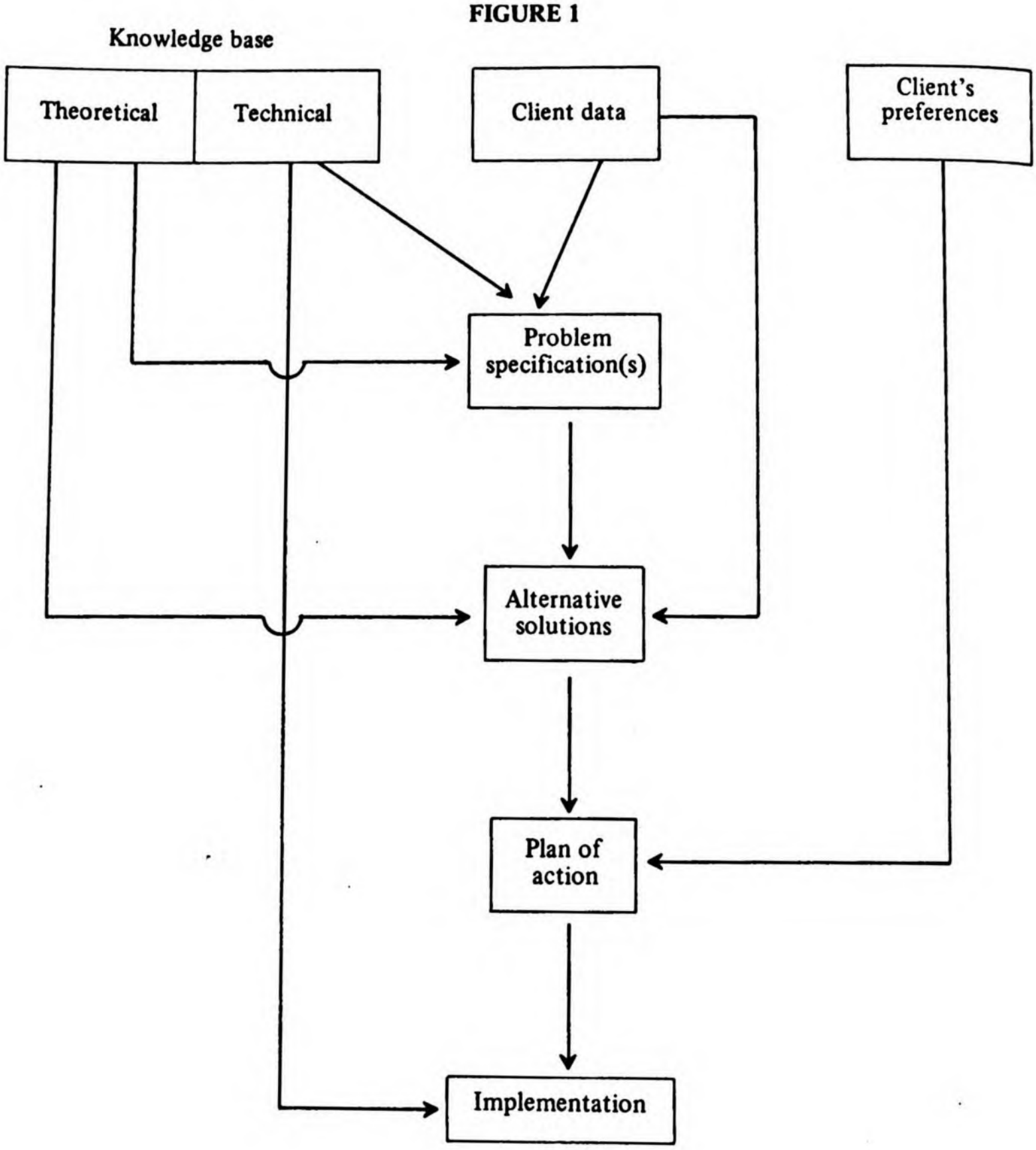
It is paramount for the proper functioning of the agency relationship, that when the decision-making authority is transferred, it is accompanied by the assumption of the responsibility for promoting *only* the client's interests. So long as the client himself is the decision-maker, he promotes his own interests naturally; no one has to assume this responsibility. Once the decision-making function is transferred from the client, the interests of the client will be promoted only insofar as the new decision-maker must assume this responsibility. The agency relationship is in fact established to ensure this transferance of the client's interests to the new professional decision-maker. We shall return to this point later.

Hence the primary function of the professional is to give the client access to the information necessary to make decisions by assuming the decision-making authority and the responsibility for promoting the client's interests.

2.2 THE IDEALIZED PROFESSIONAL DECISION PROCESS

In an idealized context, several sources of information are tapped by the professional in reaching a decision which is optimal in terms of his client's well-being. Figure 1 is a diagram of this decision process.

FIGURE 1



As depicted, there are three basic sources of information for the decision-maker in dealing with a client's problem. First there is the knowledge base to which the client needs access in order to solve his problem. This knowledge base consists of two different, if not distinct, types of knowledge. First there is the specialized knowledge, usually of a systematic nature, which allows a trained practitioner to isolate particular characteristics of the problem and recommend alternative solutions. In the medical context, this type of knowledge would be tapped by the physician in order to diagnose and identify treatment. This knowledge is generally theoretical, though it need not be academic; it can also be derived from accumulated experience.

The second type of knowledge is that embodied in particular technical skills. The performance of specific procedures may or may not require mastery of the theoretical knowledge base, and therefore may or may not be practically as well as conceptually separable. One might plausibly argue that heart surgery requires the integrated application of both types of knowledge. On the other hand, allergy testing and therapy design might be done by a physician, but a nurse, or even a lesser-trained paramedic, can give the desensitization injections.

There are, then, two conceptually different types of knowledge not generally possessed by the client, but to which he requires access in order to solve his particular problem.

The second major source of information required by the professional decision-maker is specific descriptive information about the client's particular circumstances (as opposed to his values or preferences). To continue with our medical example, the physician requires knowledge of the patient's symptoms, generally derived from a history and a physical examination, as well as from self-reporting by the patient. In addition, he needs to know what resources the client has, financial and other, to bring to bear on the problem at hand. It is this specific information which allows the professional to apply the general knowledge base to his client's particular case.

Finally, in order to optimize the decision process in terms of the client's well-being, the professional needs information about the client's preferences. Primarily this involves the relative importance of different dimensions of well-being which may be affected by the client's problem and its solution. In the medical case these include pain, disfigurement, disability, isolation, money and time costs, as well as fatality. However, to the extent that uncertainty is present, either at the problem or at the solution stage, information about the client's attitude towards risk-bearing is also required. The importance of this category of information is often underestimated by professionals, although it is clear that any decision process must be informed by *somebody's* preferences.

As indicated in Figure 1, the first stage in the decision process is the specification of the client's problem. To accomplish this the decision-maker must draw on both the knowledge base and client information. For the most part, the theoretical component of the knowledge base will be used at this stage, although there may also be occasion to apply technical knowledge, as in the use of medical diagnostic tests and procedures. The resulting specification will involve greater or lesser degrees of uncertainty, depending on the nature of the problem and the exactness of both sources of information.

Having defined the problem, the next step involves the development of possible solutions. Again at this stage, both knowledge base and client information are required, although in this context only the theoretical part of the knowledge base need be tapped. The result of this part of the process is the specification of alternative solutions or strategies, each with its own probability of success and its own implications for each of the dimensions of the client's well-being. Thus, in the medical case there may be two alternative treatments for a given diagnosis, one with a marginally greater chance of cure than the other but also involving much greater pain and disfigurement (radical mastectomy may be a case in point).

The decision-maker can select from among these alternative treatment strategies only by obtaining information about the client's preferences. In other words, he chooses that treatment which maximizes the client's well-being, as defined by the client's own values and preferences, subject to whatever constraints may be relevant.

This yields a plan of action, which can usually be implemented only by drawing on the knowledge base once again, this time for the application of specific technical skills.

Let us review this idealized decision process to see where the agency function of the professional takes effect. Up to the point where a plan of action is chosen from the available alternative strategies the professional simply provides an information service. Armed with client information he taps the knowledge base (primarily, though not exclusively, the theoretical component) to determine the specification of the problem and the alternative solutions. In then selecting the plan of action, the professional assumes the agency function and, having secured information on the client's preferences, decides the issue in the latter's best interests as defined by those preferences.

To the extent that the professional also provides technical services in the implementation stage, this is not an agency function but a service one. In that context, he is acting not as a professional *per se* but as a skilled technician, a role which could in some cases be partially or entirely delegated.

It is clear from this analysis that the proper execution of the agency responsibilities by the professional requires the introduction of client preferences. Ideally, this should be limited only by the costs to the practitioner (and thereby to the client) of obtaining this information either explicitly or implicitly. The professional relationship is not one in which a practitioner presents complicated alternatives to a client so that he can make up his own mind. That would represent a service function rather than an agency function. Instead the unification of interests and information in the decision process occurs in the opposite direction by bringing preferences to bear on the professional who has the information. This is the function of the agency relationship.

We can in fact view the agency relationship as a general response to the problem of unifying information and interests. Any decision process, concerned with the consumption or production of goods and services can be analyzed in terms of three functions: benefit-receiving, cost-bearing and decision-making. In order for the allocation process to work "properly"[2], the decision-maker must have information about the benefits and costs resulting from his decisions and he must take the interests of both benefit-receiver and cost-bearer into account.

In some markets this internalization of benefit-receiving, cost-bearing and decision-making does not present a problem. The consumer making a purchase decision about potatoes for example, integrates all three functions – he receives the benefits (eats the potatoes), he bears the costs (both monetary and non-monetary!) and he makes the purchase decision. He has all the necessary information about the benefits and costs and since he, the decision-maker, is also the benefit-receiver and the cost-bearer, he considers both interests in making his decision. We can, therefore, expect the consumer to make optimal decisions in this area, given adequate information about the potential non-monetary costs and nutritional benefits associated with potato consumption. Figure 2 represents this kind of situation.

In the market for professional services the natural integration of these three functions breaks down, by definition. In the first instance of a professionalized relationship there is a separation of the decision-making function performed by a practitioner, and the benefit-receiving and cost-bearing functions retained by the client. This situation is represented by Figure 3.

---

[2]The allocation process is functioning "properly" if it proceeds to the point where the incremental benefit of producing or consuming one more unit is equal to its cost. Given certain assumptions, this is where total benefit minus total cost is maximized.

FIGURE 2

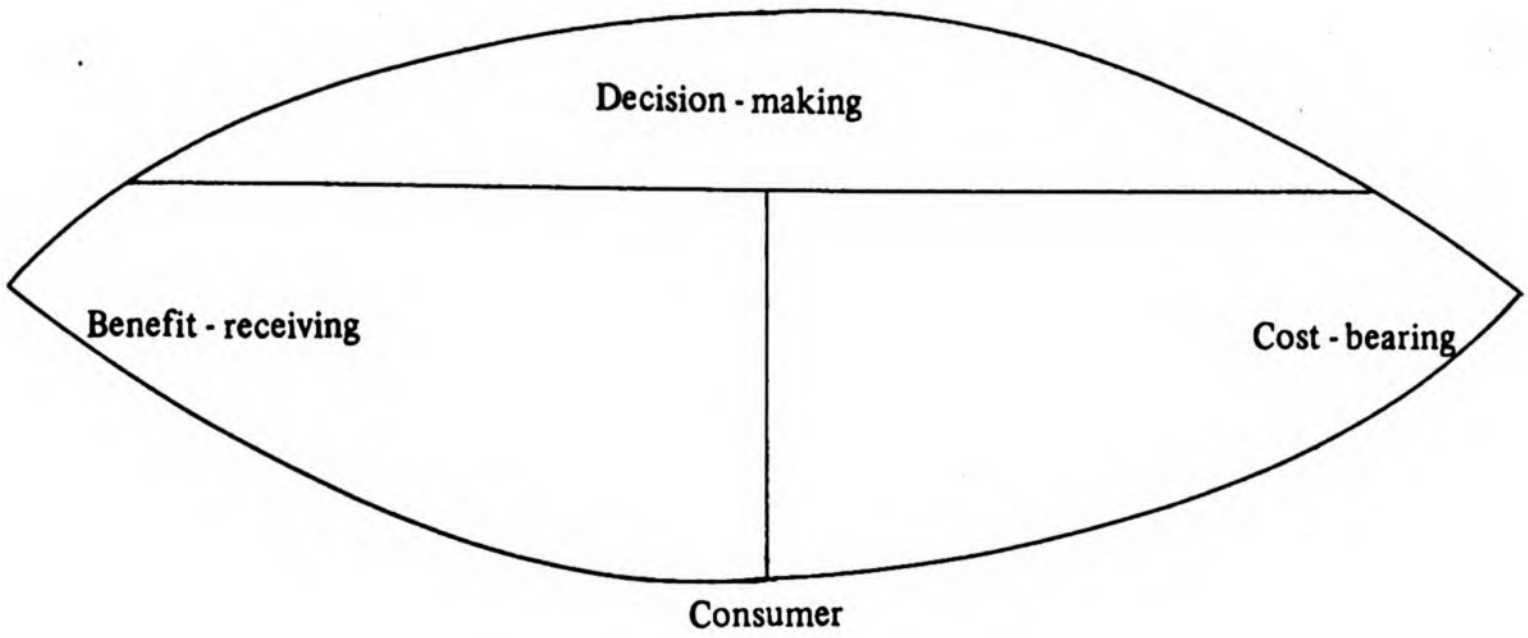
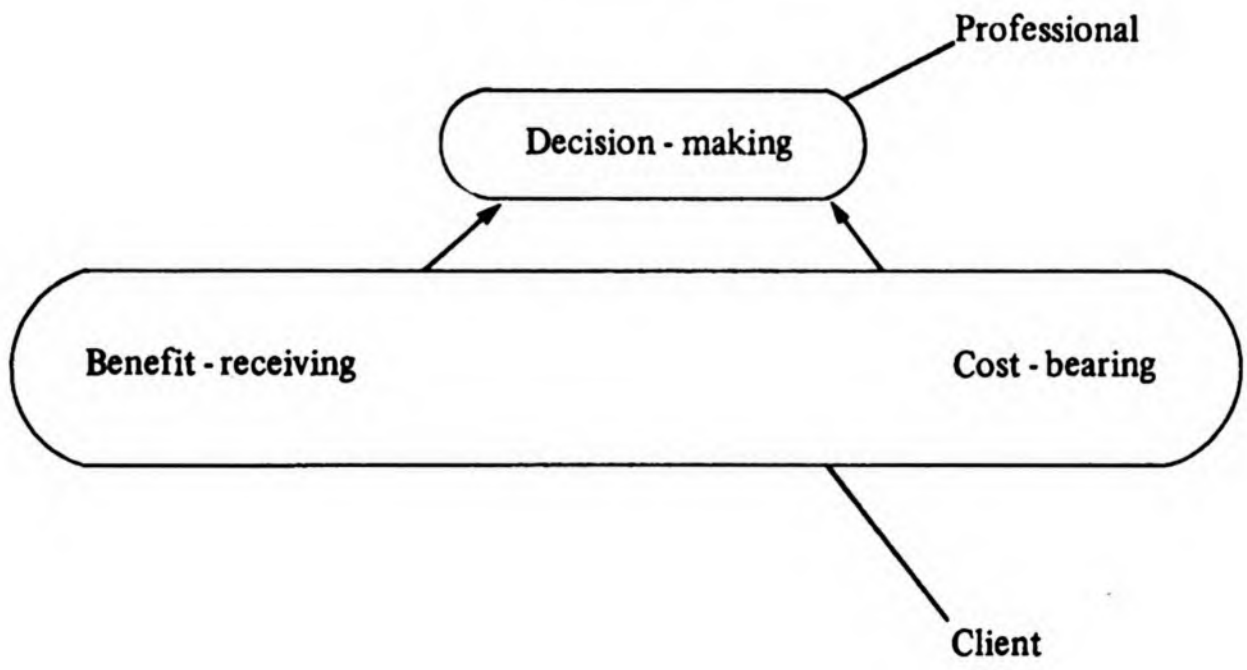


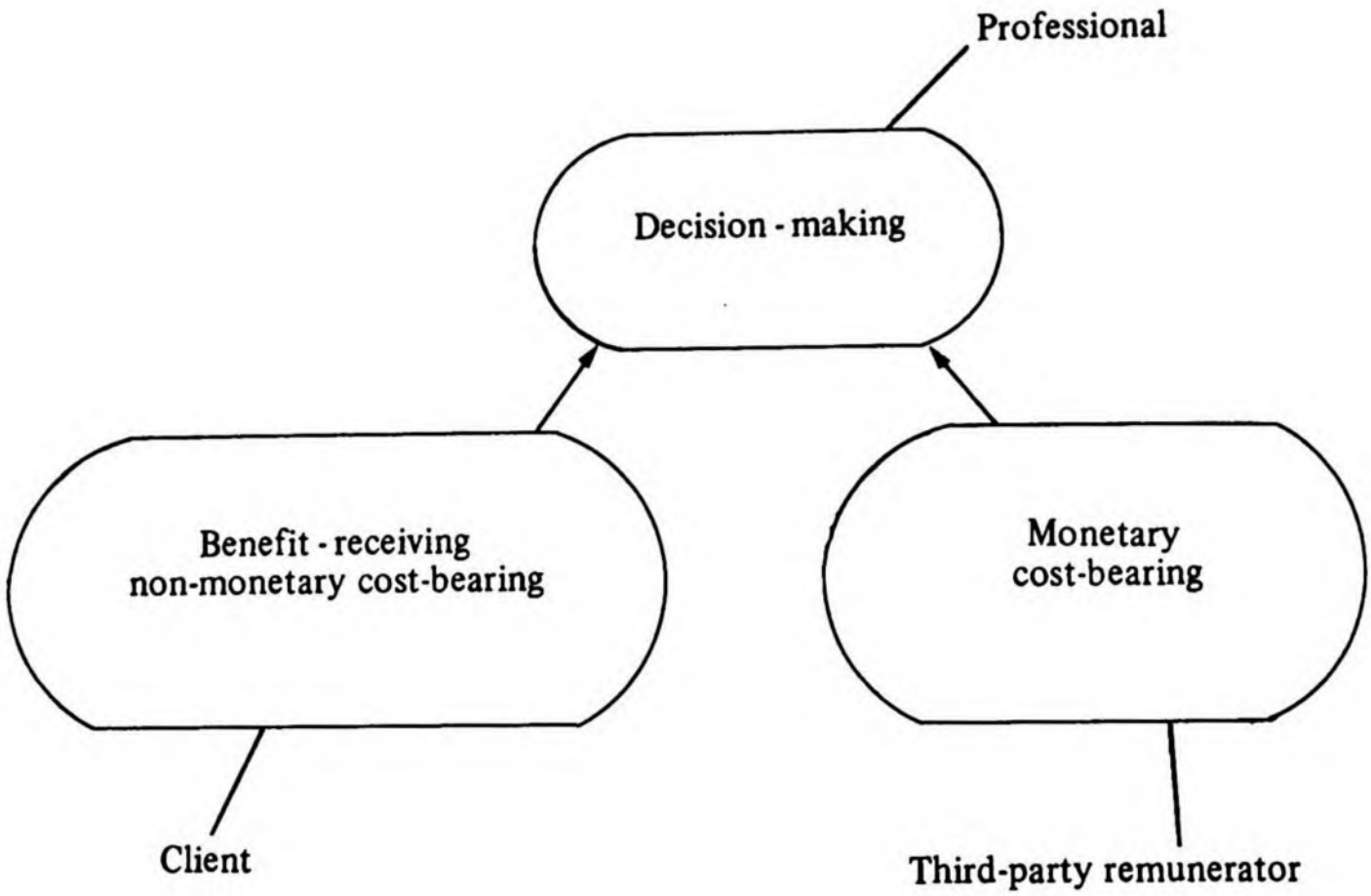
FIGURE 3



In order for optimal decision-making to occur in this situation there has to be a transfer of relevant information *and interests* between the client and the professional. This is illustrated by the double arrows in Figure 3. An agency relationship must be established so that the practitioner can obtain client information relevant to benefit-receiving and cost-bearing, and so that he will act in the client's interests as benefit-receiver and cost-bearer. If this agency relationship is successfully established, the three functions will be re-integrated and the decision-making process can operate properly.

In some professional markets, the separation of functions proceeds even further. Wherever third-party remuneration exists, as in the case of insurance or direct public provision of services, the cost-bearing function, at least with respect to monetary costs, is separated from the benefit-receiving function. This situation is illustrated in Figure 4.

FIGURE 4



Here we make an argument analogous to the one presented above; the decision-making process will function properly in this context only insofar as separate agency relationships are successfully established to transfer information and interests both from the client to the professional and from the third-party remunerator to the professional. Both agency functions must be performed by the professional if the system is to work properly; both benefits and costs must be taken into account.

Whether or not this final separation occurs, we have seen that professional relationships inherently require the establishment of at least one agency relationship to transfer information and interests.

2.3 ACTUAL PROFESSIONAL DECISION-MAKING

Thus far we have considered the nature of the professional role in an idealized sense only. The arrows in Figures 1-4 depict unencumbered information flows and perfectly functioning agency relationships, where all the client's interests (and *only* the client's interests) are taken into account in the decision-making process. Actual professional decision-making may diverge from this ideal in a number of ways and we turn now to a consideration of these divergences under three headings: information transactions costs, mis-specification of information requirements, and conflicts of interest.

2.3.1 Information Transactions Costs

The diagram in Figure 1 maps the relevant sources and flows of information required to yield optimal decisions. If gaining access to information were costless, all relevant information should be brought to bear at the various nodes of the decision-process as indicated by the arrows in that diagram. In other words, optimal decision-making would require that all relevant information (including preference information), and no irrelevant information, be made available to the decision-maker, and that he then use this to make decisions which maximize the client's well-being. Unfortunately information is not costless, and therefore the optimal decision process in a realistic context involves the introduction of something less than all relevant information. In particular, information should be obtained only insofar as the additional benefits derived from its use are greater than the acquisition costs.

The application of this principle is commonplace in the context of professional relationships. In preparing a brief for a particular case a lawyer should not examine in detail *all* possibly related precedents; the costs of acquiring information in this detail and completeness would surely not be justified by the potential benefits. Rather the lawyer, or any professional, makes an implicit judgment about the extent to which the specialized knowledge base should be tapped, weighing the costs against the potential benefits. A similar judgment is appropriate regarding information about the client's circumstances and preferences. The costs of drawing out the latter information may be substantial, although we will argue below that this may not be the only reason such information is not obtained – professionals may systematically under-value this type of information *per se*. The general proposition being advanced is quite straightforward: the existence of "transactions" costs in getting information from the source to the decision-maker implies that not all relevant information should necessarily be tapped. This first divergence from the idealized model does not then reflect a distortion or bias in the decision-making process itself; it simply recognizes the existence of information costs as well as benefits.

2.3.2 Mis-specification of Information Requirements

A qualitatively different problem arises when there is a divergence from the idealized decision process because of mis-specification of the types of information deemed relevant.

The professional's definition of information requirements is based on his perception of the client's interest, but this perception may itself be biased. In other words, the types of information actually used by the decision-maker may not represent all the relevant aspects of his client's real interests. There may be some aspects of problems and potential solutions, such as the client's anxiety for example, that a professional might not adequately consider in his decision-making.

We suggest that these distortions in the *definition* of the relevant kinds of information arise from the ideological context within which a professional works. Professional ideology emphasizes that the client's interests are best served through the application of a high level of expertise in individual cases. It is biased towards the application of objective rationality in solving problems and depreciates the importance of subjective non-rational considerations. The systematic nature of the specialized knowledge base and the orientation of the professional's long training in abstract reasoning set in impersonal contexts create this bias. It is also true that the professional's "property" interests, discussed in chapter 4, are promoted by this restrictive interpretation of relevant information. Those areas to which the professional has exclusive access are weighted heavily in the decision-making process; those areas in which the professional has no special competence may be largely ignored.

These distortions are systematic in nature, and not simply a reflection of information costs. The correct specification of information requirements is crucial to the proper functioning of the professional relationship. It is not enough that the professional act only in the client's interests; it is essential that his perception of the client's interests be unbiased.

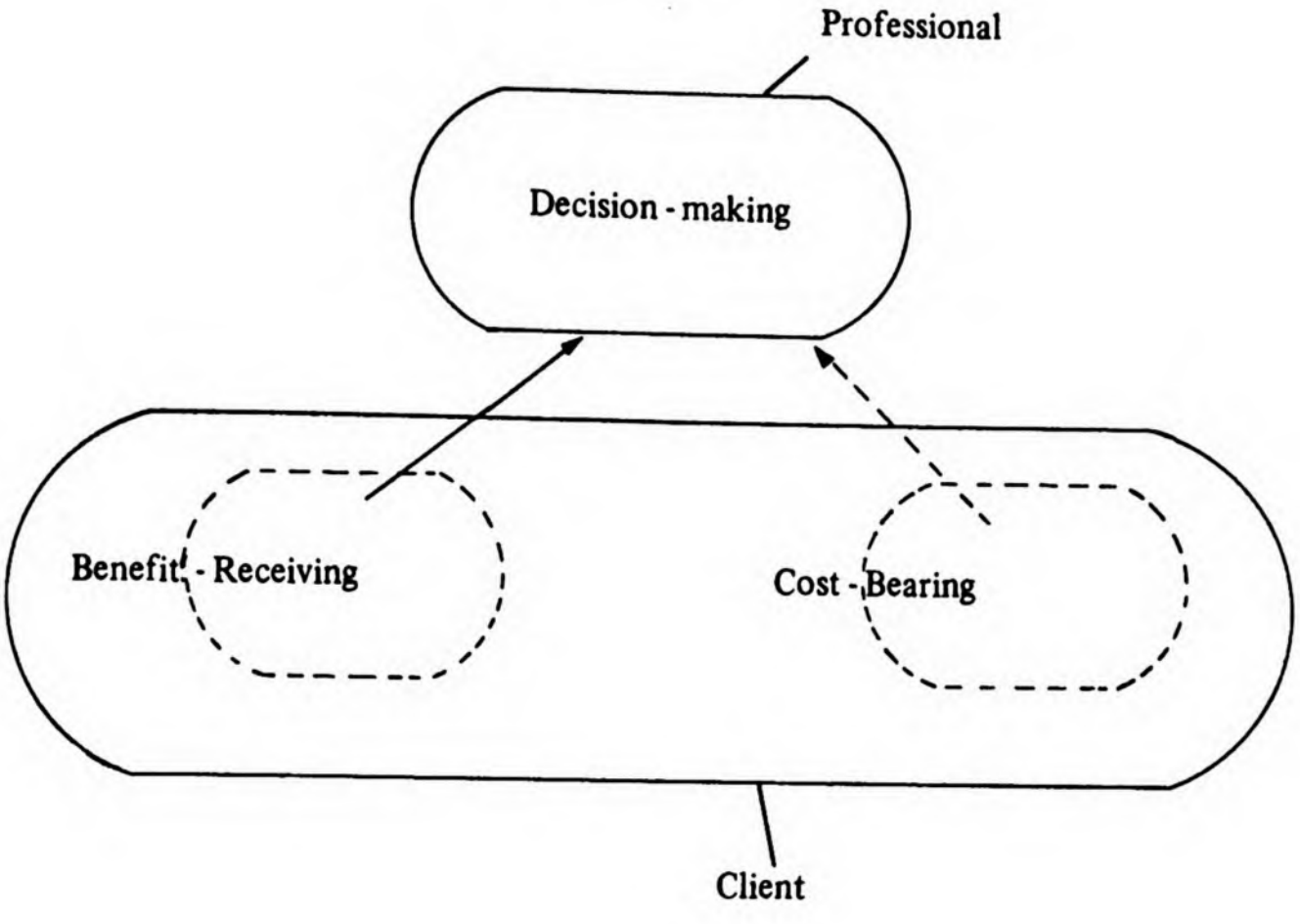
2.3.3 Conflicts of Interest

The previous section described a distortion which arises out of mis-specification of information requirements in the decision process, but it continued to assume that professionals act faithfully as their client's agents given these information specifications. In other words, although we have raised the possibility that the client's interests may not receive complete consideration, nobody else's interests have so far been explicitly introduced into the decision process. Unfortunately the possibility of the introduction of extraneous interests cannot be ignored in an analysis of the actual workings of the professional relationship. Indeed, in almost every profession, the conflict of interest between the professional as an agent of his client and the professional as a provider of services poses a central problem. Until this point we have assumed that the professional decision-maker is "disinterested" in the plan of action prescribed for the client – he simply internalizes the client's interests and decides the issue in his favour. In reality, however, the professional is rarely disinterested in this sense. He generally has a stake in the prescribed decision insofar as it involves a further demand for his own services, particularly of a technical nature, but perhaps also in terms of further "professional" decision-making services. Thus, part of the plan of action may involve further consultation with the professional to specify more accurately the problem or alternative solutions. And to the extent that the practitioner acts not only in a "professional" capacity in mining the theoretical part of the specialized knowledge base but also in a service capacity in drawing on the technical part, the plan of action may create demand for his technical services. Thus although the two parts of the specialized knowledge base may be conceptually distinct, in practice they are often integrated in a single practitioner. The conflict of interest is then apparent. The professional in his agent capacity can, at his discretion, create demand for his own services as a technical provider. As a supplier, he will wish to create demand at least as great as the amount he is willing to provide at the going price. As an agent for his client he may wish to demand somewhat less than this level of services. To the extent that the supplier's interests are introduced into the agent's decision-making process a serious distortion results.

We are now in a position to amend the ideal arrangement, as depicted in Figure 3, to take account of the three kinds of distortions discussed. Figure 5 shows the results of these distortions of the ideal. Because of transaction costs, not *all* relevant information will flow to the decision-maker, hence the arrows are shrunk to indicate a reduced information transfer. The mis-specification of information requirements means that the actual benefits and costs of alternate solutions (indicated by the dotted circles) considered by the professional do not include *all* aspects of the client's interests (indicated by the solid circles). Finally, conflicts of interest, namely the professional's financial interest in promoting the purchase of services whose costs are not warranted by the benefits accruing to the client, give rise to an incomplete agency relationship. This situation is indicated by a dotted arrow between the decision-making and the cost-bearing function.

The mechanism by which the actual professional relationship is structured and reinforced is the code of ethics. This can be seen as an embodiment of the agency relationship; the code is an articulation of the terms of reference within which particular agency relationships are established between individual practitioners and their clients. It constitutes not only a set of prescriptions, but is treated as a set of enforceable rules governing individual practitioner-client relationships.

FIGURE 5



A perfectly constituted code of ethics for any profession would therefore require members to act as perfect agents for their clients. It would insist that the practitioner consider all relevant aspects of the problem and its solutions in making professional decisions, and not bias his consideration toward certain aspects and against others. Furthermore, it would exhort the professional to take all of his client's interests into account, and *only* his client's interests, and it would instruct the professional to resolve conflicts of interest entirely in the client's favour, enjoining him from introducing his own interests into the decision-making process.

In practice, codes of ethics are imperfect in two ways. They do not require professionals to take *all* aspects of the client's problem and its solution into account. Instead, codes of ethics reflect the biases inherent in professional ideologies and thus embody a restrictive interpretation of the scope of relevant information and interests to which the individual practitioner is instructed to pay heed. And because these biased definitions exclude considerations of costs, the problem of conflicts of interests is "defined away". So long as financial considerations are treated as irrelevant to the professional decision-making process, conflicts of pecuniary interest between professionals as providers of services and their clients as consumers of these same services are not explicitly considered by the code of ethics. The professional is exhorted to promote his client's good as much as possible, and to minimize the harm done to him as much as possible, but the client's financial well-being is not considered especially relevant.

These failings in codes of ethics reflect the deviations of the actual professional relationship from the ideal model.

CHAPTER 3

PROFESSIONALISM AT THE GROUP-STATE LEVEL

Agency relationships between professional bodies and the state parallel those at the individual level. Professional regulatory bodies, such as the College of Physicians and Surgeons, the Law Society, and the Institute of Professional Engineers, are particular occupational groups organized for the purpose of establishing and maintaining certain standards of practice in their respective occupations and exercising power delegated by the state for that purpose. Through its elected councils and committees, such a group admits to its membership only those individuals who have attained such standards; it polices its individual members to ensure that they maintain these; and it may revoke, suspend, or otherwise alter the membership status of individuals who fail to do so. Membership in a professional group may be required by law in order to practise a particular skill or technique, in which case it becomes a *licence*; or it may simply indicate that the individual has been judged by his peers to have attained and maintained certain standards in his practice, in which case it amounts to *certification*.

It should be noted that at the group-state level we encounter a conceptual problem which has only a limited parallel at the level of individual relationships. At the individual level we assumed a rational consumer; that is, a consumer who has a consistent set of preferences and who does not act against his own interests. At the group level, the assumption we make with respect to the "client" – in this case the state – is considerably more heroic. In what follows, we assume the integrity of the institutions of the state. That is, we assume that the institutions of the state embody the public interest in an idealized sense. In other words we will not assume the existence of a pluralist state, swayed by the pressures of various factions, nor a state committed to the promotion of particular class interests. Our assumption requires an abstraction from reality, of course, but it is an assumption which is appropriate to a paper intended to generate policy options. Given a state which embodies the public interest, under what conditions is it appropriate for that state to establish an agency relationship with a professional group? How would such a relationship ideally function? What deviations from this ideal are likely to occur even if the state maintains its integrity? Later, in chapter 6, we shall relax our assumption. Until then, however, it is useful for an analysis of the ways in which governments ought to act to promote the public interest in professional regulation.

3.1 THE APPROPRIATENESS OF AGENCY RELATIONSHIPS

Before the state decides to designate a particular group of producers as its agent in regulating the provision of a service, it must of course have determined that *some* form of regulation is necessary. It must be persuaded that the consumers of the service in question cannot protect their own interests in the marketplace and that the market cannot be "rehabilitated" by an appropriate policy of stimulating competition among the providers. Moreover, if the consumer interest is inadequately served because of artificially restrictive market practices resulting from imperfect competition, the promotion of competition may be a suitable or even preferred substitute for regulation. In the case of professional services however, the vulnerability of the consumer lies not only in the absence of competition among providers of services, but in the nature of the product itself, i.e. in the lack of information that would enable the consumer to properly evaluate the benefits associated with the purchase of the service. It is here that the principle of "consumer sovereignty" breaks down, and a truly competitive market cannot be resurrected. Regulation, then, is seen as essential to the protection of the consumer interest, or, more broadly, the interest of the potential beneficiaries and the bearers of the cost of service.

Once the need for regulation has been established, the appropriate mechanism of regulation must be chosen. The state may exercise regulatory power directly, or it may delegate its regulatory power to an institution representing the providers of service themselves. Under what conditions will it choose the latter course, and establish an agency relationship with a producer group? The conditions are analogous to those which influence an individual consumer in deciding to establish an agency relationship with an individual producer. The state, like the individual consumer, wishes to choose that option which maximizes benefits subject to cost constraints. But, again like the individual consumer, the state may have no measure of the benefits of the service provided. Where there is this fundamental ignorance, the state's decision tends to turn on estimates of cost – the costs of the information on which decisions must be based, the costs of enforcing those decisions once taken, and the probable costs of error in making these decisions without sufficient knowledge. Where delegation of regulatory authority is seen as reducing any of these types of cost without an offsetting increase in the others, it is the preferred option.

Let us consider the costs of information. Where the distinctive competence of a group consists in the practical application of a specific body of knowledge, the regulation of that service activity requires, among other things, access to that body of knowledge. And the state may perceive the costs of access to be high for a number of reasons. In particular, access is seen to be costly to the extent that the body of knowledge in question is *systematic*, involving the relationships among the parts of a system (be it a human body, a system of law, or a physical structure). The state may be persuaded that actions which affect one part of this system have system-wide implications; hence both practitioners and regulators must have a grasp of an entire large and complex body of knowledge. Mastery of such a knowledge base, however, is costly; it requires long and expensive training.

If the state seeks to employ in its own institutions those who have a grasp of the systematic knowledge base, if it attempts to "co-opt" experts, it faces the costs of hiring very expensive personnel. Much more importantly, however, this option may increase the costs of obtaining the compliance of the regulated group. As we shall see, the mastery of a specialized body of professional knowledge tends to engender attitudes of suspicion and hostility toward bureaucratic mechanisms, and particularly toward governmental bureaucracy. In the face of such hostility, governmental agencies might continually have to increase the tightness of their surveillance of professional activity and the coerciveness of their measures of enforcement. The enforcement of regulations may be much more cost-effective if the state recognizes the importance of professional autonomy, and delegates authority to the group itself. By pursuing this course, it may decrease the costs of obtaining compliance by appealing to the positive values of self-discipline and peer review, and by de-emphasizing state authority and coercion.

Delegation may also be appropriate where the costs of error are high. The more closely the service in question touches on the "vital practical affairs of man"[3] – the prototypical examples are health and legal services – the more important it is that errors be avoided in the regulation of that service. To regulate in ignorance of the specialized knowledge base of service may result in very costly errors; the state cannot risk foregoing access to specialized expertise. Although it is equally important that the state not abdicate responsibility in such matters ("war is too important to be left to the generals"), delegation, appropriately monitored, may be the most reasonable approach to regulation.

---

[3]The phrase is Morris Cogan's. See his "The Problem of Defining a Profession", Vol. 297 *The Annals of the American Academy of Political and Social Science*, (Jan. 1955).

Delegation of regulatory authority may decrease certain costs to the state, but it may incur others. As long as professional regulatory bodies act as perfect agents of the state, such delegation is less costly than direct state regulation. But to the extent that these bodies are imperfect agents, they may use their increased political and economic power to promote their own self-interest, and increase the costs of their services to consumers. Or they may mis-perceive the public interest, and direct their policies to the provision of an inappropriate mix of benefits.

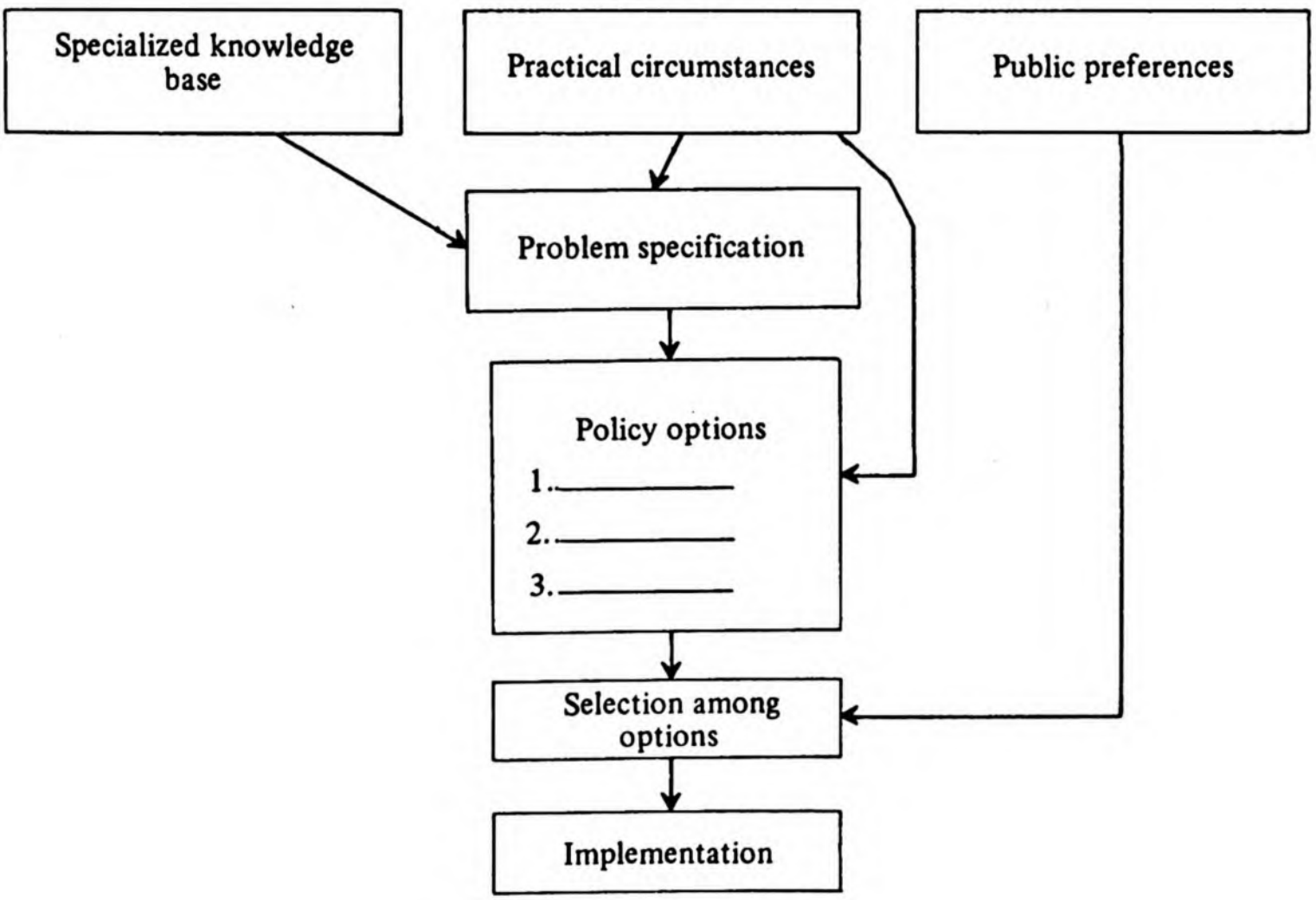
In weighing the costs reduced by delegation against the costs incurred by delegation, the state must have some notion of how its agency relationship with the professional group is likely to function. How does such a relationship function ideally? Under what conditions are deviations from this ideal likely to occur? In the remainder of chapter 3, we address ourselves to these questions.

3.2 AN IDEALIZED MODEL OF PROFESSIONAL DECISION-MAKING

The purpose of the establishment of an agency relationship between a professional group and the state is to ensure the provision of professional services of the greatest public benefit consistent with the costs which the public is willing to bear, either directly as individual consumers or indirectly through the public treasury. In order to think about the conditions under which the public interest is most likely to be served, let us consider an idealized model of decision-making at the group-state level, similar to the one considered at the level of individual decision-making.

Ideally, those charged with making regulatory decisions in the public interest will take all relevant information into account, and their decisions will be guided only by considerations of the public interest. The ideal decision-making process can be charted as in Figure 6.

FIGURE 6



We noted in chapter 2 that the individual professional requires not only specialized knowledge but also information about his client's practical circumstances (indicating his need for professional services and his resource constraints), and about client preferences. The information requirements of the professional body are analogous. It requires information from the specialized knowledge base as well as information regarding practical circumstances in order to determine whether there is a need for professional intervention, and what resources, financial and otherwise, are available to meet that need. Professional intervention may be required under two types of circumstances, and information is required to identify both. First, information regarding the process and the outcome of individual client-practitioner encounters may indicate circumstances in which individual practitioners have violated professional standards, in which case disciplinary action is required. Second, information on the overall pattern of supply and distribution of professional services to the population as a whole may indicate a need to use regulatory policies to influence this pattern. Particularly in the latter case, the regulatory body must also take into account information regarding resource constraints.

The policy options developed by the regulatory body to meet these circumstances involve trade-offs among various dimensions of public preferences – as, for example, between the accessibility of services and their technological quality. Are nurse practitioners to be licensed to provide medical care in under-serviced areas? Should para-legal practitioners be developed to handle the less complex legal procedures? Public preferences with respect to such questions must be weighed in the choice from among alternative policies.

As noted above, the ideal professional decision-making process requires not only that this varied information be brought to bear in the taking of decisions, but that the professional decision-maker act in the public interest. There must be some way of linking the interests of the public to the decision-maker. The professional body must *identify fully with* the public interest: it must, in other words, act as the state would act given the same information.

This linkage is especially important since the professional regulatory body is not a disinterested agent of the state; it represents a group of producers with their own interests in the provision of service. It is necessary to ensure, therefore, that the regulatory body's decisions are made not in the producers' but in the public interest. To this end, the agency relationship must be reinforced by both institutional and ideological guarantees. There must be provisions for the regular review of professional regulatory decisions by the representative institutions of the state, and these institutions must be prepared to over-ride professional decisions where they judge that the public interest has not been served. Even more important is the extent to which the members of professional governing bodies subscribe to an ideology that exalts the agency function of the group. Where such an ideology exists, professionals are likely to weigh the public interest more heavily than their private interests in making regulatory policy and decisions.

3.3 ACTUAL PROFESSIONAL DECISION-MAKING

There are several ways in which the actual decision-making process of professional bodies is likely to fall short of the ideal model sketched in the previous section. These shortcomings occur both because information is not freely available and because the system itself is susceptible to the development of biases.

Let us consider the first of these reasons for the shortcomings of the actual process: the fact that the relevant information is often difficult to obtain. We noted in the last section that the making of regulatory policy and decisions regarding the provision of professional service requires the specialized knowledge of the professional group, information regarding the practical circumstances of "need" and the availability of resources, and information regarding public preferences. The professional group has relatively easy access to specialized knowledge (after all, that is the rationale for the delegation of decision-making authority in the first place) but the latter two types of information are not readily available to decision-makers. In the first place, the instruments for measuring various kinds of practical circumstances indicating a need for intervention by professional bodies are far from perfect. Information regarding individual violations of professional standards requires access to professional records, and the costs of its collection are increased where professionals practise independently rather than in institutional settings, and where there is a need to ensure confidentiality. (Information regarding such violations may be offered freely to professional decision-makers in the form of client complaints, but, as we shall argue below, there may be systematic biases against the registering of these individual complaints.)

Data on the distribution of professional services present even greater collection problems. The data most often used in this respect are crude measures of supply and demand: practitioner/population ratios are compared with those for other jurisdictions; the utilization of professional services is studied for evidence of developing trends; waiting times for professional service are investigated for evidence of an excess of demand over supply. But there are two problems with this approach. In the first place, these data regarding supply and demand are difficult to compile accurately. Manpower supply data for licensed professionals are available from the registers of the licensing bodies, but these registers include an indeterminate number of professionals who maintain their licences but do not practise. The problem is complicated in the case of those professions, such as nursing, which certify but do not license – estimates of the number of non-certified (and therefore non-registered) practitioners are difficult to obtain. Utilization data are even more difficult to compile, especially in the case of those professionals who practise independently. To obtain an estimate of the volume and mix of services provided in hundreds or thousands of independent settings may require expensive surveys whose accuracy may be questionable. Even in the case of those professionals, notably physicians, who are reimbursed for their services on a fee-for-service basis by a centralized government agency, and for whom comprehensive utilization data are available, meaningful comparisons of these data inter-provincially and over time are made difficult by periodic changes in the way services are classified for payment.

Even if accurate manpower supply and utilization data were available, however, we should be left with the second problem of whether or not they accurately indicate a "need" for professional service. Certainly they do not provide objective evidence of need that is independent of professional decision-making. As agents of the state in setting the standards of entry into their ranks, professional bodies have great influence in determining the supply of practitioners who can be trained with available public and private funds. And in their role as consumption agents, as we have argued earlier, individual professionals are able to substantially influence the demand for their own services. Professional decision-making, then, has great influence in determining the level of the factors which are used in the estimation of aggregate "need" for professional services.

Turning now to the generation of information regarding public preferences, there is the problem that a consistent set of public preferences with respect to professional service may not exist. An individual consumer might be expected to have such a set of preferences, but how can the

conflicting preferences of millions of consumers be translated into a consistent set of preferences at the aggregate level? Welfare economists have despaired of developing a "social welfare function" which would allow this translation to be made according to a model of economic rationality. But public decision-makers must continue to struggle with the problem, and any mechanisms which they develop will involve substantial costs.

These problems of data collection are, in the end, technical problems, however thorny. Even if they could be overcome, we should be left with the problem of ensuring that there are no biases in the decision-making system into which information is fed. That is, we must ensure that decision-makers identify all relevant dimensions of the public interest, that no information regarding any of these dimensions is systematically excluded from consideration, and that the decision-makers do not act to promote their own interests at the expense of any dimensions of the public interest.

We have suggested that such potential biases might be overcome through ideological and institutional mechanisms. Let us consider first the nature of professional ideology.

The roots of professional ideology may be traced to the nature of the professional's technological role, which lies in the application of specialized knowledge to individual cases. Throughout his long training the professional comes to attach great importance to the values of objective rationality (as presented in a body of knowledge which specifies the relationship of particular means to the accomplishment of defined ends), of altruism, of individualism, and of professional autonomy.[4] He is drilled in the understanding that no two cases are the same, and that his special competence lies in adapting the general laws of a body of knowledge to the requirements of an individual case. And he is to exercise this competence without regard to his own interests; he is engaged in the provision of a "needed" service. In order to exercise discretion in individual cases, professionals hold that their judgment must be guided only by the laws of their respective discipline and the needs of their clients, and not by administrative rules or political exigencies. Traditionally, practitioners who are most highly "professionalized" in our terms have practised individually, assuming responsibility for their actions and for the organization of their practices. Although the solo private practice is becoming less and less the norm for most professional groups, and although professional ideologies are changing, the concepts of individualism and independence of judgment, as well as objective rationality and altruism, remain highly valued.

How does this ideology help to overcome potential distortions of the agency relationship between professional groups and the state? Although it does inhibit such groups from promoting the interests of their members at the expense of the public interest, in an important sense it shifts the problem. For while professional ideology commits professionals to promote the interests of their clients, it biases their perception of those interests. Its rationalistic orientation means that the public interest is likely to be defined in technological terms, as an interest in the quality of service rendered according to professional standards of competence. The individualistic orientation of professional ideology, furthermore, means that the focus of professional bodies will be on the technical quality of service rendered in individual encounters.

---

[4]See, for example, W.G. Menke, "Professional Values and Medical Practice," Vol. 280, *The New England J. of Medicine*, (April 24, 1969); and C.J. Tuohy, *The Political Attitudes of Ontario Physicians: a Skill Group Perspective*, unpublished doctoral dissertation, Yale University, 1974.

Professional groups, then, have tended to define the public interest in professional service as an aggregate of the interests of individual consumers – not *all* potential beneficiaries of professional service, but those who actually present themselves to a professional for service. As long as individual professional-client encounters operate for the client's benefit (professionally defined), the public interest is thought to be served. Working from this definition of the public interest, professional regulatory bodies have focused their efforts on the development of standards of technical competence and ethical behaviour, and the enforcement of these standards on individual practitioners. There has been much less concern with distributional questions; questions of the availability and costs of professional services, which would require the professional group to consider the differential impact of its decisions on various geographic and socio-economic groups in the population, as beneficiaries, potential beneficiaries and bearers of the costs of professional services.

If professional ideology tends to discount certain dimensions of the public interest, it similarly restricts the range of information considered relevant. The individualistic and rationalistic orientation of professional ideology means that the focus of professional bodies will be on the utilization of information relating to the technical quality of service rendered in individual encounters, rather than on information regarding broader questions of the distribution of professional services. Professional bodies will prefer to utilize information from the specialized knowledge base and professional records rather than from demographic and manpower supply data.

Furthermore, professional bodies are likely to discount information regarding public preferences that are directly elicited, or interpreted through the institutions of the state. The rationalistic orientation of professional ideology means that lay judgments, whether they emanate from individual clients or from the institutions of the state, are likely to be discounted. With respect to the state, moreover, this discounting of lay judgment may be reinforced by a mistrust of "administration" and "politics", which are seen as antithetical to professional values. If the professional is seen as dealing with man as an individual, on the basis of a rational theory, administrators are seen as dealing with man in categories on the basis of inflexible and contrived rules; politicians are seen as dealing with man in the mass on the basis of highly unsystematic hunches or "gut feelings". The following excerpts from the brief of the Ontario Medical Association to the Hall Commission in 1962 provide a typical expression of the rationalistic and individualistic orientation of medical ideology, and its relation to feelings of suspicion and hostility toward government:

> Just as we test a new drug before its general adoption in order to minimize the chance of its doing harm as well as good, so experience has taught us to shun quick solutions to organizational problems . . .
>
> It is essential to understand that an individual is a human being who is unique and different from all other human beings . . .
>
> We are convinced that a government-run plan of medical care will mean central control; that central control produces a mediocrity of care because it is geared to the masses and not to the individual and his needs.[5]

---

[5] Introduction to the Ontario Med. Assn. brief to the Canada, Royal Commission on Health Services, 1962; reprinted as P. Bruce-Lockhart, M.D., "Introducing Our Brief to the Hall Commission," Ontario Med. Rev. (June, 1962), pp. 453-5.

To summarize, professional ideology reinforces the agency relationship between professional groups and the state to the extent that it inhibits professional regulatory bodies from allowing individual professionals to dilute the quality of their services (defined as the application of a specialized knowledge base) in order to maximize their own self-interest. The injunction to weigh the public interests in accessibility and cost of service against the pursuit of economic self-interest is much weaker. In an important sense, the professional ideology resolves important conflicts between public and private interests by *defining them away*, by excluding certain relevant information and certain relevant dimensions of the public interest from consideration. (Indeed, many political scientists would argue that ideologies arise for the very purpose of accomplishing this sort of rationalization!)

In addition to its effects in encouraging professional bodies to discount the distributional and cost effects of their broad regulatory policies, professional ideology also makes it unlikely that these regulatory bodies will resolve a type of conflict of interest to which individual professional relationships are extremely vulnerable. In chapter 2 we saw that the individual professional, as supplier of service, has an incentive to make decisions, in his role as consumption agent, which create a demand for his own services. As long as these services are rendered according to professional standards of competence, professional regulatory bodies are not likely to resolve this conflict of interest at the individual level.

To the extent that professional ideology cannot ensure an optimal functioning of the agency relationship at the group-state level, institutional guarantees are necessary. And these guarantees must apply to all elements of the decision-making process: to ensure that all relevant dimensions of the public interest, including considerations of accessibility and cost, are specified; to ensure that all information worthy of consideration, including information about public preferences, is taken into account; and to ensure that decisions taken on the basis of this information do not weigh professional self-interest unduly heavily relative to other dimensions of the public interest. These institutional mechanisms must provide a counterbalance to professional ideology in the decision-making process (through some form of non-professional representation on professional bodies), as well as for state review of the outcomes of the decision-making activity of these bodies. As we shall see in our discussion of existing and recommended policy, both types of institutional guarantees have been weak or absent in most Canadian jurisdictions, although there are hopeful signs that governments are attempting to rectify these fundamental problems.

CHAPTER 4

INTERACTIONS BETWEEN PROFESSIONAL RELATIONSHIPS AT THE INDIVIDUAL AND GROUP LEVELS

Although professional relationships can be analyzed separately at the individual practitioner-client level and at the level of the group-state relationship, one of the most interesting aspects of professionalism lies in the interaction between the two levels. We have argued that the agency relationships at the two levels are analogous; in this chapter we shall demonstrate that they are also interdependent. Our discussion will focus on three aspects of interdependence: the establishment of trust, the nature of professional property, and the stability of professional relationships. In each case, we shall analyze how the development of the individual professional relationship is influenced by its development at the group level, and vice versa.

4.1 TRUST

One of the requirements for the establishment of a professional agency relationship, at either the individual or at the group level, is that important decisions are involved. In order to hand over decision-making authority in matters of consequence, we have to be sure that our interests will be well protected by the new decision-maker – in other words, we must *trust* the professional to act in our best interests. However, as we pointed out earlier, there are conflicts of interest facing the professional in the performance of this agency function. On what basis can it be assumed that these conflicts will be resolved in our favour? On what basis is our trust established? Similarly, on what basis can the state trust the profession to act in the public interest?

Most relationships of trust in our culture are established in one-to-one, face-to-face contacts over a period of time, and are supported by diffuse emotional ties (the prime example being the familial relationship). Traditionally, the professional relationship has had some of these features but has lacked others. It has occurred on a one-to-one, face-to-face basis and, at least for a number of professions, has been characterized by a considerable degree of continuity. On the other hand, the professional relationship is specific to a particular type of need and it is emotionally neutral, indeed the professional is enjoined against becoming emotionally involved with his client. In addition to the personal bases of trust in professional relationships, therefore, we have impersonal bases; we place our trust not only in individual professionals, but also in the professional group. We rely on the group to guarantee that their members fulfil their agency obligations, using two mechanisms: socialization and regulation. We trust professionals to act in our interests insofar as they are accustomed to an ideological acceptance of their agency responsibilities during their long period of training, and thereafter through exposure to explicit and implicit professional norms. And we trust professionals because the exercise of professional discretion at the individual level is governed by rules which are prescribed and enforced by the group.

What is notable about trust in professional contexts is that its existence at one level reinforces its establishment at the other. Only when there is evidence at the group level that the profession honours its responsibilities to the public interest, can the client rely on the profession to police its individual members. Furthermore, the group level relationship provides part of the ideological background of the individual practitioner. Conversely, the maintenance of trust at the group level is dependent on a general acceptance of the trustworthiness of practitioners by their clients. When

individual trust relationships break down, the capability of the profession as a whole to maintain a trust relationship with the state is seriously compromised. And to the extent that trust is diminished in the group-state agency relationship, the state will allow the group less discretion in the performance of its agency function: it will more tightly circumscribe the powers of the professional group and will more closely monitor its performance.

4.2 PROPERTY

Another concept which cannot be understood fully without considering both the individual and the group levels of professionalism is that of professional property, a concept essential to the understanding of the nature of professional self-interest in the provision of services. The self-interest of the professional is his interest as a proprietor of knowledge in maximizing the returns to his property, subject to the constraints imposed by the agency relationship. In what sense does the professional have "property rights" in a specific body of knowledge and technique? What gives him the right, in other words, to use and to derive income from the use of that body of knowledge?

The answer to this question requires that we broaden our thinking about property beyond its conventional interpretation in liberal democratic societies and market economies, or, as C.B. Macpherson puts it, in socio-economic systems based on a notion of "possessive individualism". Within such conventions, we are accustomed to thinking about property rights as *earned* by individuals through the investment of their time and labour, and therefore as not being conditional on membership in particular social groups, or on the fulfilment of social obligations. But such an understanding of property has not always and everywhere prevailed. It is a result of the seventeenth century liberal revolution against feudal concepts and institutions of property, in which property rights were seen essentially as derivative from membership in certain social groups, and as conditional upon the performance of certain social obligations. Corinne Lathrop Gilb has summarized the feudal notion:

> The guilds, the medieval counterpart of contemporary professional associations, defined the position of the guildsmen in the hierarchy of authority; defined and if necessary defended their rights, which in turn were correlated with their economic function; and defined and if necessary enforced their obligations, civic as well as economic.... Property rights were not an end in themselves; property was an instrument for the fulfilment of one's role and obligations.[7]

The current confused state of thinking about professional property rights shows the influence both liberal democratic and feudal traditions.[8] On the one hand, we tend to think of individuals having earned the right to use specialized knowledge by investing their labour in acquiring through a long period of training. In the economist's terms, their property lies in the "human

---

[6]C.B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke* (Oxford: Oxford Univ. Press, 1962). See also his "A Political Theory of Property," in C.B. Macpherson, *Democratic Theory: Essays in Retrieval* (Oxford: Oxford Univ. Press, 1973).

[7]Corinne Lathrop Gilb, *Hidden Hierarchies: the Professions and Government*, (New York: Harper and Row, 1966) p. 7.

[8]C.J. Tuohy, "Private government, property and professionalism," The Can. J. of Polit. Sci. (forthcoming 1976.) See also Quebec, *Report of the Commission of Inquiry on Health and Social Welfare*, Vol. VII, Tome 1, *The Professions and Society* (1970) p. 24.

capital" which they have built up.[9] On the other hand, we must recognize that the individual's right to use specialized knowledge is dependent on his relationship to a professional group. On this understanding, his property lies in his licence to practise; and in order to obtain and maintain his licence he must comply with conditions established and enforced by the group. One of those conditions, it is true, is the undergoing of a long period of training – the acquisition of human capital. But for professionalized occupations, human capital is a necessary, not a sufficient, condition for the establishment of the right to use specialized knowledge; only a licence conveys that right.

As long as the conditions of licensure have to do largely with the development and maintenance of technical competence, there is little apparent difference between these two forms of property. By developing his human capital the individual professional satisfies the condition for licensure; licensure becomes simply a recognition of human capital. But to the extent that considerations other than competence enter into decisions to grant, withhold, suspend, or revoke a licence, the two forms of property have quite different economic implications. These other considerations may be considerations of the public interest (as when the licensing body, acting as the agent of the state, constrains individual licencees from profiting at the expense of their clients), or they may be considerations of self-interest (as when the licensing body limits the number of licencees in order that those licensed may realize monopoly profits).

The nature of professional property cannot be understood apart from the relationships between professional individuals and professional groups, and between professional groups and the state. We argued in chapter 3 that licensing authority is more likely to be delegated to occupational groups whose individual members are highly trained in a specialized body of knowledge. In other words, the amount of human capital represented by the individual members of a group is an important factor in determining whether a system of professional licensure is established. The establishment of such a system, moreover, greatly increases the degree to which the property rights of professionals are conditional on the performance of social obligations. And these conditions apply at two levels. In assuming licensing authority, the professional group agrees to the general condition that it be exercised in the public interest. In order to fulfil this general obligation, the group then proceeds to impose on its individual members a more specific set of conditions.

From the consumer's point of view, this interpretation of professional property is important in understanding the ways in which decisions affecting the economic returns to professional property are taken. A system of professional licensure implies that such decisions are taken at both the individual and the group level, and that although the decisions are highly interdependent, those at group-level establish the parameters within which individual decision-making takes place. This argument can be considered with respect to two matters which substantially affect the returns to professional property: the allocation of functions among various types of professional and para-professional personnel, and the remuneration of professionals.

A professional group is empowered to license individuals to employ a body of specialized knowledge and to carry out those technical functions for whose performance a grasp of the specialized knowledge base is essential. The identification of the range of functions which require

---

[9] Editorial note: for a discussion of "human capital", see the report on "Human Capital Analysis" by A.R.A. Consultants Ltd., contained elsewhere in this volume.

that specialized knowledge is of great importance in determining the extent of a profession's property. The profession, of course, has a strong economic incentive to expand that property Moreover, the very conditions under which the state delegates licensing authority to a professional group – the costliness of information, error, and enforcement – make it likely that the state will rely on the professional group to specify the range of technical functions which can be performed. Professional groups are thus able to "appropriate" a wide range of functions on the basis of the argument which we discussed in section 3.1, the argument that the performance and regulation of acts performed upon one part of a system must be informed by an awareness of the system-wide repercussions of those acts. For those functions which are appropriated on the basis of this argument, the professional group has the right to specify the conditions under which they may be performed. The professional group may judge that certain of the functions derived from its knowledge base may be performed by personnel drawn from other than its own members, but only on conditions specified by the professional group. Such conditions may require, at the group level, that the profession itself regulate the personnel to whom it allows professional functions to be delegated. Hence in several Canadian provinces, professional law in various ways has subordinated dental technicians and dental hygienists to the College of Dental Surgeons; registered nursing assistants to the College of Nurses; radiological technicians and mid-wives, where they exist, to the College of Physicians and Surgeons. It is extremely difficult, if not impossible, for a layman to judge the extent to which this appropriation of functions by professional bodies is warranted by their specialized knowledge. Must the making and fitting of partial dentures, to take a recent and highly controversial example, be supervised by a dentist, or can it be carried out independently by denturists? Our argument is not intended to resolve such questions, but to point out that there exist both the *opportunity* for an unwarranted appropriation of functions and the *incentive* for such appropriation. Ideally, the agency relationship between the professional and the state should overcome any tendency to unwarranted appropriation. But the actual terms of this agency relationship have not provided such an inhibition. As noted above, the agency relationship has been primarily concerned with the enforcement of standards of technical competence and ethical behaviour on individual practitioners, and such standards are not threatened by unwarranted appropriation; a professional may perform very competently and ethically a function for which he is overtrained. What *is* threatened by unwarranted appropriation of function is the public interest in a cost-effective allocation of functions.

In discussing the remuneration of professionals we must consider both its form and its level. The traditional form of professional remuneration has been fee-for-service, a mode which professionals have long held to be most compatible with the individualized and intermittent nature of professional services. The fee-for-service mode has meant that the level of the remuneration of the individual professional, the returns to professional property, has been influenced by both individual and group-decision making.

Two factors determine the level of professional remuneration: the price and the volume of services. To some extent, the price of a professional's services has been a matter for agreement between the individual practitioner and his client, and fees might vary according to the type of service performed and the financial circumstances of the client. Increasingly, however, the group has come to play an important role in the determination of the price of professional services, and the discretion of the individual professional has been reduced correspondingly. Most professional groups now publish recommended schedules of minimum fees to guide their members in setting fees in individual cases. Although most groups officially emphasize that such schedules are not to be considered binding on their members, but only as guides to appropriate charges, the danger exists that the regulatory powers of the professional group might be used illegitimately to enforce

a structure of artificially high prices by bringing pressure to bear on "price-cutters", and thus to maintain a high level of return for the group as a whole. In other words, the danger exists that since the individual holds the right to his property conditionally on his status with respect to his professional group, the group may threaten to alter that status unless he conforms to accepted norms regarding the appropriate return to that property. By challenging group decisions regarding returns to property, the individual may jeopardize his own claim to that property. Such a danger is particularly acute where the regulatory and fee-setting functions are performed by the same institution at the group level.

We have been discussing the establishment and enforcement of schedules of *minimum* fees; however, the individual professional retains considerable discretion, subject to the constraints of whatever imperfect market in professional services remains, to charge fees above the recommended minimum. Where professions have been "socialized", group-level decisions are increasingly limiting this remaining area of discretion as well.

It must be noted, of course, that group decisions regarding fees are not taken in isolation from the individual decision-making process. Group judgments regarding appropriate levels of minimum fees are based on the experience of individual professionals in adjusting the price and volume of their services to the conditions of a very imperfect market. If individuals find that a certain minimum level of fees does not ensure them what they believe to be an adequate return, and if they are unwilling or unable to raise their prices in individual cases, they will press at the group level for an upward revision of the fee schedule. If they are unsuccessful at the group level, they must resort to changing the quantities of the various services they provide, increasing the total number of these services and/or the ratio of more expensive to less expensive services.

This last point brings us to a consideration of the volume of services which a professional provides, the second determinant of his level of remuneration. Here it is primarily at the individual level that the relevant decisions are taken. As we have seen, the individual professional, in his role as consumption-agent for his client, makes decisions which affect the demand for his own services. By recommending different plans of action to his client, the professional can vary the volume of services he provides. The professional's discretion in this regard is limited, of course, by the number of clients who present themselves for service (and here the professional is prevented by group regulations from creating a demand for his service by advertising) and by the willingness of his clients to comply with his decisions. Nonetheless, he retains some discretion over the volume of services which he provides. And because the group usually has little interest in the volume of services provided, the individual professional does not jeopardize his property rights by exercising this discretion. It should be noted that important exceptions to this general statement are developing in the case of those professions whose services have been "socialized".

4.3 STABILITY

The interaction between professional relationships at the individual and the group level can best be stated in terms of stability: the stability of a professional relationship at either level is contingent on the solidity of that relationship at the other level.

There are some professions in which relationships are quite well-developed at the individual practitioner level, but for which there exist no group analogues; investment counselling is a case in point. We argue that the absence of a state-profession relationship, evidenced by the lack of self-regulatory mechanisms, destabilizes the individual sphere. Thus, in the case of investment

counsellors, because their "territory" is unprotected by licensure, inroads are continually being made by stock brokers, bankers, insurance agents and the like. The investment counsellor is indeed a professional according to two components of our definition; he exercises decision-making authority, and this is delegated to him because of his access to a specialized body of knowledge. But his professional status is jeopardized because there is no professional body of investment counsellors which has established a group-level agency relationship with the state, to protect the public interest.

At the other end of the spectrum we find a profession such as pharmacy, which enjoys a well-established group-level relationship with the state, increasingly insecure because of the lack of a parallel relationship at the individual client-practitioner level. The technology of drugs has made the pharmacist-practitioner obsolescent; he no longer serves as his client's agent in selecting components and compounding pharmaceuticals. Increasingly, the pharmacist is becoming druggist, simply dispensing pre-fabricated drugs on a retail basis. Without the individual agency relationship in evidence, the rationale for a group professional status is increasingly obscure; the stability of the profession as a whole is jeopardized. In this context, it is interesting to note the recent emphasis by the pharmacy profession on the development of a clinical arm. In so doing, the profession may be responding to a perceived need to re-establish professional agency relationships at the practitioner level.

Professional agency relationships at the individual and the group-state level, then, exist in delicate balance. This balance, moreover, is in need of constant re-adjustment, because professions do not exist in a static environment. Rather, the professional relationships which we have been discussing exist in the context of changing technological, economic, and political circumstances, and any analysis of professionalism would be incomplete without a consideration of the effects of such changes.

CHAPTER 5

THE CHANGING CONTEXT OF PROFESSIONAL RELATIONSHIPS

We are concerned here with two major recent changes in the environment of the professions: the rise of the technological society, and the emergence of the welfare state. The development of a highly complex technology is continually creating new and specialized functions, and new and specialized aids to the performance of existing functions. As technological knowledge mushrooms, moreover, the range of knowledge which any individual can claim to master becomes ever narrower. As functions and personnel have become increasingly specialized, the scale of the organizations necessary for their integration has expanded as well. More and more, professionals find themselves practising within the context of large-scale organizations, and find it necessary to accommodate themselves to a proliferation of specialized occupational groups.

The emergence of the welfare state has heightened the state's awareness of and interest in the political and economic impact of professions. The state is bearing more and more of the costs of professional services, not only under such programs as health insurance and legal aid, but also as a client of the large-scale technological organizations that employ professionals in a number of sectors such as housing, transportation and defence.

In general, the technological society has increased the number of specialized occupational groups that aspire to professional status. But as the state bears an increasing proportion of the costs of professional services, it needs to define more carefully than in the past the terms of any agency relationship it establishes.

More specifically, these changes are likely to affect professional property rights. The emergence of a complex and highly interdependent technology has increased, and made more visible, the power of groups that have appropriated certain aspects of that technology. It has also increased the conflicts among these groups. As professional groups have expanded their technologies, the areas in which they respectively claim property rights have come to overlap; current conflicts between architects and engineers regarding the "ownership" of the design function, and between nurses and physicians regarding the expanding role of "nurse-practitioners" are cases in point. Such property disputes exist not only among professional and para-professional groups but also between professional groups and industrial corporations that have established, through economic and often legal processes, property rights in particular technological resources. They also exist *within* professional groups. For while professional groups as a whole are expanding the technological areas in which they claim property rights, the areas in which an individual can assert a claim to property rights on the basis of a mastery of the relevant specialized knowledge are becoming progressively narrower. In such circumstances professional groups such as law and medicine are debating within themselves whether the issuance of general licences is any longer appropriate, and whether some form of limited licensure in professional sub-specialties has greater merit. Such an intra-professional allocation of property rights is unlikely to be accomplished without conflict.

The increasing role of the state as the bearer of costs of highly professionalized services, as in the provision of health care and legal aid, has also demonstrated the need to re-examine professional property rights in these areas. As a cost bearer, the state has a direct interest in achieving a cost-effective allocation of functions. Hence it must be concerned with reducing the extent to which a profession's property rights allow its individual members to inflate costs artificially by charging "professional" prices for services performed by para-professionals.

As a cost-bearer, the state must also be concerned with the overall *level* of professional remuneration. As we saw above, under the prevailing fee-for-service mode, the level of professional remuneration is a function of the price and the volume of services provided. The price of professional services has been determined at both the individual and the group level (with the group establishing schedules of minimum fees and the individual negotiating with his client on that basis), and the volume of professional services has been determined largely at the individual level. The entry of the state as direct cost-bearer is changing this pattern. The very fact that the state bears the cost of professional services under fee-for-service conditions may cause the overall level of those costs to rise. In chapter 2 we argued that third party remuneration separates the benefit-receiving from cost-bearing aspects of the consumer's role. The individual consumer receives the direct benefit of professional services but bears their costs only indirectly, through payments to the third-party remunerator. The individual agency relationship between client and professional cannot counteract the professional's financial incentive to ignore the interests of the cost-bearer, since costs are not directly borne at the individual level. When the state is the third-party remunerator, these problems are exacerbated. For one thing, state intervention extends the coverage of third-party remuneration. Furthermore, to the extent that the state finances the provision of professional services from general taxation revenues, rather than through premiums, the bearing of costs by individuals is made even more indirect. Hence the overall level of costs generated in individual practitioner-client encounters is likely to rise.

Even if the general level of costs does not rise, the financing of professional services through the public treasury makes the state more sensitive to the magnitude of their cost. In any case, the emergence of the welfare state heightens the state's concern with the costs of professional services, and hence (as long as fee-for-service remuneration remains the norm) with their price and their volume. It is likely to turn to its agent, the professional group, for help in controlling these costs, by establishing *maximum* as well as minimum fees, and by monitoring the volume of services provided by individual practitioners in order to identify over-servicing and to enforce sanctions against it. Or indeed it may seek to replace fee-for-service remuneration with other modes less subject to manipulation by individual practitioners. The emergence of the welfare state is likely to mean that more and more decisions affecting the level of returns to professional property are likely to be taken at the group level, and are likely to involve state participation and influence.

Technological and political-economic changes have an impact on other characteristics of professionalism noted in our earlier analysis. The establishment of trust in professional relationships, for example, is also affected by changing technology. Those characteristics of individual professional relationships which have allowed for the development of trust on a personal basis – the existence of one-to-one relationships extending over a period of time – are less and less possible in a context in which the client receives service from a number of highly specialized practitioners in a large-scale organization, rather than from one individual "general practitioner" A decline in trust in professionals at the individual level also threatens public trust in the professional group. We can anticipate, then, that unless professional groups are very careful to fulfil, and to appear to fulfil, their agency obligations, there will be increasing public pressure on the state not to freely delegate its authority to professional groups, but rather to carefully define and monitor its agency relationships with them.

The stability of a profession, the extent to which it is professionalized at both the individual and the group level, is an important factor in allowing it to resist the growing pressures, created by technology and the welfare state, for greater state participation in the regulation of occupational

groups. As the state becomes more aware of the political and economic consequences of freely delegating authority to professional groups, it is more careful in establishing and defining its agency relationships with those groups. A group whose individual members have established professional relationships with their clients, but which has not as yet established an agency relationship with the state, will find the state more reluctant to grant it professional status at the group level in the present context than in the past. Direct state regulation, or some modified form of agency relationship, is the more likely response of the state to the need to resolve the instability inherent in such a situation. Similarly, where a group's agency relationship at the state level is not grounded in the existence of individual agency relationships, it may find that this instability is resolved through tighter state control of its activities.

Technological and political changes are affecting not only professional relationships but professional ideology. As the demands of managing a complex and rapidly changing technology result in less rigid and categorical forms and styles of large-scale administration, and as professionals operate more and more in the context of large organizations, professional ideology may well become less anti-organizational. Conflicts over resources are as likely to occur among or within professional groups in such contexts as they are to occur between professionals and administrators, and professional ideology may well be changing to reflect these changes in the nature of conflict. A monolithic professional consensus is less and less likely. Disagreement regarding the appropriate political and economic role of the professional is likely to increase. Nonetheless, the importance of the independence of professional judgment in applying specialized knowledge is likely to remain central to professional ideology, and it is likely to continue to imply a mistrust of the non-specialized lay judgments of individual clients and political groups and institutions.

CHAPTER 6

POLICY RESPONSES TO THE ISSUES OF PROFESSIONALISM

At this point, we shall relax our assumption of an ideal state embodying the public interest; we shall look at what Canadian governments have done and are doing to resolve the problems of bias to which professional agency relationships are susceptible, and to respond to the challenges of technology and the welfare state.

In general, Canadian governments, both in the establishment and the conduct of agency relationships with professional groups, have shown themselves more responsive to producer than to consumer groups. Whether this is because of the advantages enjoyed by producer groups, due to their superior organization, cohesiveness, and access to information, in putting their case to governments, or whether it is because the state is structured to favour propertied over non-propertied interests, are questions of political science beyond the scope of this paper. The fact remains that the policies of Canadian governments have been inadequate to protect fully the public interest in the regulation of professional services. Professional groups have been allowed very broad discretion in regulating the provision of their respective services – in determining their scope of practice (their "property"), in determining the rates of economic return to that property, and in policing the behaviour of their individual members. The ideologies and interests of professional groups themselves, then, have shaped the standards and patterns of provision of professional services. And although these ideologies and interests have favoured the development and maintenance of generally high standards of technical quality in the provision of professional services, they have militated against a cost-effective and equitable distribution of services, and have restricted the influence of consumer preferences.

Recently there have been signs of change in this situation, particularly in the health sector. The entry of the state on a large scale into the financing of professional services has made both the state itself and the professional groups aware of the need to improve the functioning of professional agency relationships at both individual and group levels.

In what follows, we shall consider several problems of professionalism pointed up by our discussion, and shall look at the policies which have been addressed to these problems. Finally, we shall speculate about new policies. Our speculation will, of course, be informed by our understanding of professionalism as a set of interdependent agency relationships which are susceptible to the development of biases, and whose traditional forms are increasingly challenged by technological, political, and economic change.

6.1 PROBLEMS OF INFORMATION

The problems related to information in professional decision-making are of two types. One, the availability of information, is primarily technical and requires technical solutions. The other, the selective perception of information, is a problem of bias and requires changes in the institutions of professionalism.

6.1.1 The Availability of Information

One of the reasons that the information relevant to the making of professional policy is costly for decision-makers to acquire is that the importance of establishing multi-purpose data banks has not been sufficiently recognized. The compiling of information has largely occurred as a by-product of

other processes, such as registration of practitioners and the paying of bills by third-party remunerators. Information so collected is of limited applicability to the broader purposes of public policy. Hence when decision-makers address themselves to these broader purposes, such as the redressing of distributional imbalances, they face the costs of collecting the relevant information *de novo*. These costs could be considerably reduced if the relevant information had been collected in the course of the registration and bill-paying processes.

There ought to be recognition, then, that information has value beyond the limited purposes of certain programs, and that these programs may provide relatively cheap access to information of broad applicability. In the course of registering individual practitioners, for example, information regarding the distribution of their time over various areas of professional practice might be obtained, in order to gain a sharper estimate of the actual availability and accessibility of professional services than is provided by the mere number of practitioners. Information collected by third-party remunerators should be filed in such a way that utilization rates can be compared across clients (or at least across various socio-demographic groups of clients) as well as across practitioners. At present, the way in which utilization data are filed by third party remunerators reflects the structure of their payment systems. Those who pay professionals directly are likely to file information by practitioner; those who reimburse clients are likely to use client files. But decisions about the distribution of professional services are to be made, decision-makers must be aware of utilization rates from both the producer and the consumer perspectives, they must know what services are being provided by various types of practitioners, and what services are being consumed by various types of clients.

Finally, there is the thorny problem of comparability. There seems to be a propensity among professional bodies, government agencies, and others involved in the collection of information to make continual changes in the ways in which they categorize and file the data they collect. Although such changes may be quite rational for the achievement of administrative purposes, they greatly complicate the problem of identifying trends in the provision of services, and the comparison of these trends across jurisdictions. Again, it is necessary to take into account the broader uses to which information can be put, and to take these into account in the structuring data systems.

Technically, the compiling of information which has applicability beyond the narrow purposes particular programs is facilitated by modern technology and the welfare state. Information regarding the provision of services is technically easier to compile when those services are provided in large organizations rather than in myriad independent practices. Computer technology greatly facilitates the processing of this information. And, in the course of carrying out their growing program responsibilities in various economic sectors, governments gain access to a wider range information about individuals as producers and as consumers – information once available, if all, only in scattered pockets throughout the private sector.

6.1.2 Problems of Bias

The problems of bringing relevant information to bear in decision-making regarding the provision of professional services are not primarily technical; they are not primarily problems of improving the cost-effectiveness of data collection. The primary problems are those of bias in determining what information is to be considered relevant.

There is the problem of bias at the individual level: the tendency, arising from professional ideology, for individual practitioners to discount certain dimensions of their clients' interests and certain categories of information. There are mechanisms which might be employed to overcome bias in individual decision-making – for example, the structure of financial incentives, the educational process, the code of ethics. But all of these mechanisms have been administered by professional bodies. They have been shaped by the same forces that guide individual decision-making, and hence have tended to reinforce individual biases. Where professional fees are related to the performance of specific services for example, and not to time spent, there is no incentive for the professional to spend time in eliciting preference information which he sees as of limited relevance to his decision. Furthermore, professional curricula, with their heavy emphasis on the professional specialized knowledge base, do little to inculcate a tendency to consider a broad range of information in decision-making. The introduction of courses in the behavioural and social sciences into the curricula of the health professions, and the broadening of admission criteria in some medical schools beyond demonstrated scientific aptitude, may be evidence of limited change in this respect.

The ethical codes prescribed by professional groups have served to reinforce biases inherent in individual decision-making. Consider, for example, the tendency among individual professionals to discount the client's preference with respect to cost-bearing (although they may take his *ability* to bear costs into account). Ethical codes may enjoin the professional not to impose financial hardship on his client, but rarely enjoin him to consider the client's cost-bearing *preferences*. In a recent departure, the medical profession appears to be taking some cognizance of this responsibility. The revised version of the Canadian Medical Association code of ethics, adopted in 1970, notes that the ethical physician:

> in determining his fee to the patient, will consider his personal service, the patient's ability to pay, and the fee recommended by his provincial medical association or syndicate. He will be prepared to discuss his fee with his patient and will initiate the discussion when his fee will exceed the recommended fee.[10]

Overcoming definitional biases in professional decision-making presents problems at the group as well as at the individual level.

In chapter 3 we noted the need for institutional mechanisms providing for lay input into the decision-making process of professional bodies, as well as state review of the outcomes of that process. Such mechanisms have been weak or absent in most Canadian jurisdictions. Since the late 1960's, a number of government reports have noted these weaknesses, have called for lay representation on the governing bodies of professions, and have urged the rationalization and strengthening of the mechanisms for review of the decisions of professional bodies.[11] In 1968, the Commission of Inquiry into Civil Rights (the McRuer Commission) in Ontario, for example,

---

[10] "Revised C.M.A. Code of Ethics." Vol. 103, Can. Med. Assn. J., (July 18, 1970) p. 204.

[11] Ontario, Royal Commission of Inquiry into Civil Rights, *Report* No. 1, Vol. 3, Section 4 Toronto: Queen's Printer, 1968; Ontario, Committee on the Healing Arts, *Report*, 3 vols. (Toronto: Queen's Printer, 1970); Quebec Commission of Inquiry on Health and Social Welfare, Op. cit.; J.T. McLeod, Consumer Participation; Regulation of the Professions; Decentralization of Health Services. Report submitted to the Minister of Public Health, Saskatchewan, August, 1973; British Columbia, Health Security for British Columbians, Tome 3, *Educational and Professional Issues* (1974).

pointed to the lack of standardization and systematization of the mechanisms for state review of the decisions of professional bodies, which ranged from *ex officio* representation of a Cabinet minister on professional governing councils, through provisions for Cabinet veto or prior approval of professional regulations, to the detailed spelling out of certain rules (e.g. those governing admission procedures) in a statute, rather than in regulations passed by the professional body itself.[12]

The operation of these mechanisms was further complicated by the confused terminology applied to the rules passed by professional bodies. "Regulations" might require Cabinet approval, while "by-laws" did not – and the distinction between the two might be very unclear.[13] In 1970, Ontario's Committee on the Healing Arts echoed these concerns,[14] as did Quebec's Castonguay-Nepveu Commission.[15]

In response to these reports and their recommendations, legislation has been passed in both Ontario and Quebec which requires lay representation on the governing councils and certain committees of professional bodies, and which systematizes and standardizes the mechanisms for review of the decisions of these bodies. The Quebec legislation[16] is the more extensive in its scope: it applies to all occupational groups in the province (some 38) with the powers to license or certify. The Ontario legislation[17] applies only to the health professions of medicine, dentistry, nursing, optometry, and pharmacy. The Quebec legislation also goes further in the degree of surveillance which it prescribes for professional bodies. In addition to providing for lay representation on professional governing councils and executive committees, it provides a general Professional Code, applicable to all professions, and creates a Quebec Professions Board composed of five members appointed by the Lieutenant-Governor-in-Council (three from a list submitted by the professional bodies), to enforce the Code. The Board is empowered to make regulations pursuant to the Code where professional councils have failed to act, or have not acted to the Board's satisfaction.

The Ontario legislation provides for lay representation on the governing councils, and on the executive, registration, and complaints committee of the five professional colleges. It further creates a five-to-seven-member lay Health Disciplines Board to hear appeals from the decisions of the registration and complaints committee of professional bodies on a case-by-case basis. The Ontario Board is not empowered to make regulations. It appears to have been established to provide another mechanism, in addition to lay representation on registration and complaints committees, to ensure that lay judgment is brought to bear on the decisions of these professional bodies with regard to non-professionals (either applicants for registration or dissatisfied clients).

The Ontario and Quebec reforms are laudable initiatives. Both recognize the importance of broadening the perspective of professional decision-making by including lay representatives on professional bodies. It is worthy of note that, perhaps influenced by the passage of these acts, several professional bodies have moved voluntarily to incorporate lay representation within their

[12]Ontario, Royal Commission of Inquiry into Civil Rights, Op. cit., pp. 1164-5.
[13]Ibid. pp. 1167-1171.
[14]Ontario, Committee on the Healing Arts, Op. cit., Vol. 3, pp. 52-55.
[15]Quebec, Op. cit., p. 34.
[16]Professional Code, S.Q., 1973, c. 43, and accompanying statutes.
[17]The Health Disciplines Act, S.O. 1974, c. 47.

structures. Both the Ontario and the Quebec reforms further recognize, however, that such lay representation is likely to be ineffective without further institutional mechanisms of surveillance of professional decision-making. But there are advantages and disadvantages to the particular institutional forms chosen to accomplish this function in the two provinces. Quebec's Board has the powers necessary to deal with professional regulations, but the fact that a majority of its members are professionals means that its own decisions may well be shaped by professional ideology. Ontario's Board is an administrative tribunal dealing not with regulations, but with decisions in individual cases. It does, however, have the advantage of being an entirely lay body.

6.2 PROBLEMS OF CONFLICT BETWEEN THE PROPERTY INTEREST OF PROFESSIONALS AND THE PUBLIC INTEREST

The legislation described above is, of course, intended to do more than broaden the perspective of professional decision-making at the group level. It is also addressed to the problems of resolving conflicts between the property interests of professionals and the public interest.

Traditionally, Canadian governments have shown themselves willing to grant fairly extensive property rights to professionals, and to be loath to interfere with those rights once established. True, they have treated professional property rights as conditional on the fulfilment of social obligations, but they have allowed these obligations to be specified largely by professional groups themselves. And these obligations have been specified as injunctions on individual professionals to maintain standards of technical competence and ethical behaviour. The social responsibility of the group as a whole has been interpreted as the responsibility to enforce the standards on individual practitioners.

In chapter 4 we showed that inherent in professional property rights is the danger that professional groups will maintain the returns to their property at artificially high levels. More specifically, we noted the danger of an unwarranted appropriation of functions by professional groups in order that they might charge monopoly prices for the performance of these functions. We noted also the danger that professional groups might restrict entry to their ranks and misuse their regulatory controls over their individual members in order to maintain prices at an artificially high level. Finally, we pointed out the danger that individual professionals might, in their roles as consumption agents for their clients, generate a demand for their own services, thereby increasing the volume of services which they provide and hence the return to their property.

Canadian public policy with respect to the professions has not adequately guarded against any of these dangers. Canadian governments have not provided mechanisms for a continuous review of professional regulations to detect abuses of the regulatory power in maintaining an artificially high level of return. They have not, in general, sought to negotiate with professional groups a "just price" for professional services. And neither governments nor professional bodies have attempted to monitor the volume of services provided by individual practitioners. Given the economic advantages conferred by property rights, it is appropriate that they be accompanied by social obligations not to abuse those prerogatives. But by refraining from interfering with professional property rights, by failing to attach conditions to those rights beyond the maintenance of standards of technical competence and ethical behaviour in individual encounters, Canadian governments have allowed the dangers inherent in the nature of professional property rights to materialize.

There is some indication that Canadian governments are becoming aware of these problems, if only in areas in which they themselves are bearing the major proportion of costs of professional services.

6.2.1 Achieving a Cost-effective Allocation of Functions

The Quebec legislation, discussed previously, lays great emphasis on the corporate responsibility of the professions to adapt the definitions of their respective scopes of practice to allow for a "rational distribution of professional services . . . adapted to the needs of the time and the context".[18] Accordingly, the statutes governing the health professionals of medicine, nursing, dentistry, optometry, and pharmacy require their governing bodies to designate by regulation those activities within their respective fields of practice which might under specified conditions be performed by persons other than their own members. More importantly, it provides for the enforcement of this responsibility upon professional bodies by the Quebec Professions Board. The Ontario Health Disciplines Legislation emphasizes the ultimate responsibility of the Minister of Health to "ensure that the activities of health disciplines are effectively regulated and coordinated in the public interest,"[19] but in effect it continues to treat the skills of the senior professions as their exclusive property. It allows the professions of medicine, dentistry and optometry to determine the conditions under which individuals other than physicians, dentists or optometrists may use the "property" of these groups and allows for the appropriation of monopoly rents in such cases. The Colleges of Physicians and Surgeons, Dental Surgeons, and Optometry are empowered to "authorize persons other than their members to perform specified acts in the practice of their respective disciplines *under the supervision or direction of a member*".[20]

Furthermore, the Ontario legislation provides no continuing mechanism for the review of professional legislation, other than the Minister himself. In other contexts (where it is not the major bearer of costs), the Ontario Government has chosen in the past to maintain its stance of non-intervention with professional property rights, even where their inherent biases are drawn to its attention by the eruption of an inter-professional property dispute. Contentious legislation regarding the practice of architecture, whose interpretation is a matter of dispute between architects and engineers, has not been actively enforced, and the government has delayed legislative change pending a voluntary resolution of the dispute.[21]

If Canadian governments are, however slowly, beginning to attach to professional property rights a responsibility to achieve a cost-effective allocation of functions, they are also moving to limit professional discretion over the price and volume of services, again in the health sector where government is the major cost-bearer. They have insisted on a strict institutional separation of the fee-setting from the regulatory function, in order to guard against the danger that regulatory power will be abused to enforce a monopolistic price structure.[22] The fee-setting function rests

---

[18] René Dussault and Louis Borgeat, "La réforme des Professions au Québec," *Revue du Barreau du Québec*, Tome 34, (May, 1974); translated in *Canadian Public Administration*, Vol. 17, No. 3 (Fall, 1974), pp. 414-415.

[19] The Health Disciplines Act, 1974, S.O. 1974, c. 47, Pt. I, s. 3.1.

[20] Ibid., ss. 25 (1), 50 (k), 96(i). Emphasis added.

[21] Author's note: as we go to press, however, the province is undertaking an enquiry into professional organization and regulation to resolve this and other inter-professional disputes.

[22] See, for example, Quebec, Commission of Inquiry on Health and Social Welfare, Op. cit., p. 32; Ontario, Committee on the Healing Arts, Op. cit., Vol. 3, pp. 68-9.

with the voluntary associations of health professionals, which are organizationally distinct from the regulatory bodies. Furthermore, all provincial governments have entered into some form negotiation with the provincial medical associations to determine the schedule of fees forming the basis of payments to physicians under the medicare program. Finally, provincial governments are collaborating with the regulatory colleges of the health professions in establishing mechanisms for peer review of professional servicing behaviour under the health insurance program, particularly with an eye to monitoring and controlling the volume of services rendered by individual practitioners. Ontario's Medical Review Committee, a strange hybrid mechanism established as committee of the College of Physicians and Surgeons but appointed by the Minister of Health,[23] one outgrowth of such collaboration.

These attempts to control the volume of professional services rendered by individuals may be seen as elaborating the conditions which are attached to professional property rights, or as redefining the agency relationship between the state and the professional group to ensure that the professional body assumes a responsibility for protecting the state's cost-bearing interests. In either case, the intent is the same; it is to overcome the dangers arising from the conflict between the property interest of individual professionals and the public interest in a cost-effective provision of professional service.

6.2.2 Controlling Price and Volume

If Canadian governments are, however slowly, beginning to attach to professional property rights a responsibility to achieve a cost-effective allocation of functions, they are also moving to limit professional discretion over the price and volume of services, again in the health sector where government is the major cost-bearer. They have insisted on a strict institutional separation of the fee-setting from the regulatory function, in order to guard against the danger that regulatory power will be abused to enforce a monopolistic price structure.[22] The fee-setting function rests with the voluntary associations of health professionnals, which are organizationally distinct from the regulatory bodies. Furthermore, all provincial governments have entered into some form of negotiation with the provincial medical associations to determine the schedule of fees forming the basis of payments to physicians under the medicare program. Finally, provincial governments are collaborating with the regulatory colleges of the health professions in establishing mechanisms for peer review of professional servicing behaviour under the health insurance program, particularly with an eye to monitoring and controlling the volume of services rendered by individual practitioners. Ontario's Medical Review Committee, a strange hybrid mechanism established as a committee of the College of Physicians and Surgeons but appointed by the Minister of Health,[23] is one outgrowth of such collaboration.

These attempts to control the volume of professional services rendered by individuals may be seen as elaborating the conditions which are attached to professionnal property rights, or as redefining the agency relationship between the state and the professional group to ensure that the professional body assumes a responsibility for protecting the state's cost-bearing interests. In either case, the intent is the same; it is to overcome the dangers arising from the conflict between the property interest of individual professionals and the public interest in a cost-effective provision of professionnal service.

---

[23]The Health Insurance Act, 1972, S.O. 1972, c. 91, s. 5.

6.2.3 Changing the Structure of Financial Incentives

We have so far considered ways of dealing with conflicts of interest at the individual level by working through the relationship between the professional group and the state. But these conflicts can also be addressed at the individual level by changing the structure of financial incentives in the practitioner-client relationship.

In chapter 2 we noted the conflict of interest inherent in a situation in which the individual practitioner functions as consumption agent as well as supplier of services provided on fee-for-service basis. The possibility of higher costs in this situation is, as noted in chapter increased when costs are borne directly by the state, and hence only indirectly by the individual client. The decision-making, benefit-receiving, and cost-bearing functions are separated at the individual level; the individual professional makes decisions, the individual consumer receives the benefit, and government directly bears the cost. The individual agency relationship between practitioner and client links the interest of decision-maker and benefit-receiver, but no mechanism for the linking of decision-maker and cost-bearer exists at the individual level. One response to this problem is a redefinition of the cost-bearer's agency relationship with the professional group that requires the group to enforce on its individual members a responsibility to consider the cost-bearing interests of the state in determining the volume of services provided in individual practices. But agency relationships are not the only way to deal with the problem of integrating interests at the individual level. Other possible alternatives involve the re-integration of the functions themselves. One might, for example, seek to re-integrate the cost-bearing and benefit-receiving functions by having the consumer directly bear some proportion of the costs professional service through a form of co-payment. Hence the individual client might have financial deterrent to demand, or to comply with, professional "overservicing".

This alternative appears currently to hold attraction for some government decision-makers, but argue against its adoption for a number of reasons. First, it appears to rest on one or other of two faulty assumptions. One is that the individual agency relationship between practitioner and client ensures that all of the client's interests, including his cost-bearing interests, are fully taken into account by the practitioner. If the practitioner were a perfect agent and the client bore some the costs of services, this financial burden would be taken into account in making servicing decisions. We have, however, argued that this assumption of a perfect agency relationship untenable. The other fallacious assumption is that the client participates to a considerable extent in making decisions about the volume of service rendered by his professional agent. Through form of co-payment, therefore, the decision-making and cost-bearing functions are to some extent re-integrated in the person of the individual consumer. There is some truth in the assumption that the individual consumer makes some decisions which affect the over-all volume of services provided (at least, he makes a decision to present himself to a practitioner for service). But the most costly decisions regarding the provision of services are still made by the practitioner, and we argue that a much more direct and effective way of linking the interests of decision-maker and the cost-bearer is to re-integrate to some extent the decision-making and cost-bearing functions in the person of the provider of service, by having the provider bear some portion of the costs of a high volume of services. Such an integration of functions requires a change in the payment mechanism – from fee-for-service payment to some form of capitation or capitation-cum-salary system, for example. In such a system, the individual provider might receive the same level remuneration regardless of the number and type of services provided. The financial incentive generate demand for service would be removed. Conflicts of interest may re-appear in such system in another form, of course. Given a guaranteed monetary return to his property, and

unable to increase that monetary return, the professional may seek to increase non-monetary returns such as leisure. In general, the incentive may be not to over-service but to under-service. Changing the form of remuneration does not do away with the need for an agency relationship to overcome conflicts of interest, although it may require some re-definition of the agency relationship appropriate to fee-for-service conditions.

The number of professionals who are not remunerated on a fee-for-service basis is increasing as the scale of organization of professional practice expands. Salary and capitation schemes, administered by groups of professionals or by firms employing professionals, are becoming more and more common. In particular, most provinces are experimenting with the payment of groups of physicians on a capitation or salary rather than a fee-for-service basis under their health insurance plans.

The re-definition of agency relationships to take account of the changes in the structure of financial incentives implied by these payment mechanisms presents an interesting challenge. Because these mechanisms tend to be associated with firms and group practices rather than with solo practices (although such is not necessarily the case), it may be appropriate to think of interdependent agency relationships, not only at the levels of the individual and the professional group as a whole, but also at the intermediate level of the firm or the group practice. The responsibilities of a new agency relationship might be both enforced on and enforced by such intermediate bodies.

6.3 FUTURE DIRECTIONS FOR POLICY DEVELOPMENT

Given the biases to which professional agency relationships are susceptible, the state, and indeed individual consumers, need to consider very carefully the appropriateness of such relationships in certain situations. They should be established only where there is reason to believe that the reduction in information, error, and enforcement costs outweighs the costs which might be incurred because of their imperfect operation. In particular, the state must delegate authority to professional groups only in response to the need to reduce the costs of information, error and enforcement in the regulatory process, and not in response to the power and persuasiveness of organized interests. In establishing agency relationships moreover, the state must be aware of the potential distortions in these relationships, and must guard against the development of such distortions. It must accordingly be very careful to define the responsibilities of its professional agents, and to provide institutional guarantees that these responsibilities are fulfilled.

The state must recognize the danger that a profession's agency responsibility to maintain a high technical standard of quality in the provision of service may be used to justify an unwarranted appropriation of functions and an unwarranted restriction of entry to its ranks. Both of these abuses, by limiting the number of persons who may perform or authorize the performance of particular services, raise the costs of those services and complicate the problem of achieving an equitable distribution of professional services among geographic and socio-economic groups in the population. The state must therefore broaden the terms of its agency relationships with professional groups to include a professional responsibility to promote not only technical quality but also a cost-effective allocation of functions and an equitable distribution of professional services.

To ensure that these responsibilities are fulfilled, institutional changes are essential. There must be mechanisms for full-time, continuous review of professional decision-making bodies, for the generation of information regarding the social, economic and political impact of professional decisions, and for the overturning of professional decisions and regulations where the state judges them not to be in the public interest. The appointment of lay representatives to professional decision-making bodies, although a promising step toward broadening the base of professional decision-making, is not sufficient to meet these criteria. Nor, by itself, is the Ontario device of making explicit in legislation the Minister's power to review (and if necessary revoke) delegated legislation passed by professional bodies. What is required is a state body, capable of full-time research and analysis, with the constitutional authority to enforce its decisions, if necessary, on professional councils. The Quebec Professions Board provides one model of such a body. Its balance of lay and multi-professional representation promises to reduce problems of bias; and has regulatory "teeth". Experience with this model should be most instructive. Legislative committees, with expanded staff and research funds, provide another possible monitoring mechanism. Less appropriate, because less open to differing perspectives, are specific staff units that advise Ministers in the exercise of their regulatory powers.

Whatever model is adopted, it must provide for the consideration not only of staff advice but also of information and preferences expressed by lay groups and individuals. The disadvantages suffered by consumer groups vis-a-vis professional groups in the regulatory process[24] have been well documented. It is doubtful if these disadvantages can be fully overcome, although consumer advocacy programs and agencies and state financing of consumer groups are welcome initiatives. recognition of the problems inherent in the expression of a lay perspective, the state must not allow the responsibility for the defence of the public interest to be borne by such interest groups.

Those state representatives charged with overseeing of professional decision-making, therefore, must interpret their role not as that of impartial arbiter between the professional and the public interest but as that of defender of the public interest itself.

Finally, professional groups must assume, as part of their agency relationship with the state, responsibility to enforce a broader set of obligations on their individual members. They must define and enforce a code of ethics which directs individual practitioners to consider a broad range of the client's practical circumstances and preferences, particularly those which relate to the bearing of costs. They must collaborate with governments in monitoring the individual practices their members to ensure not only that a high standard of technical quality is maintained, but also that the volume and type of services provided are determined by the circumstances and preferences of the client, and not by the pecuniary interests of the provider.

Some Canadian governments and professional groups are slowly beginning to take such initiatives. With few exceptions, however, the initiatives are related to professions whose services are largely financed through the public treasury. The state which truly embodies the public interest should equally concerned with guarding against all distortions of professional agency relationships, whether or not it directly bears the costs of professional services. And professional groups should be equally conscientious in fulfilling their agency relationships whether or not they are faced with watchful state. In an imperfect world, however, we can expect the reform of professional agency relationships to advance most rapidly in "socialized" professional sectors.

---

[24] See, for example, Michael Trebilcock, "Winners and losers in the modern regulatory state: must the consumer always lose?" Paper presented to the annual conference of the Institute of Public Administration of Canada, Ottawa, September 5, 1975.

PROFESSIONAL EDUCATION AND THE CONSUMER INTEREST

A Framework for Inquiry

by

Philip Slayton
Faculty of Law
McGill University

January 1976

TABLE OF CONTENTS

INTRODUCTION

Those occupations generally called "professions" are increasingly under attack. The offensive comes from various quarters. Rebel professionals criticize from within. Big government seeks further to regulate these occupations, as it seeks further to regulate everything; in a time of economic uncertainty and inflation, large incomes are a particular target. A new and aggressive consumer movement is now fixing its critical eye on professional organizations.

A "professional" becomes a professional through a lengthy process of education. If the professions become a subject for inquiry, then so, inevitably, must professional education. One may expect consumer advocates, and others who see themselves as guardians of the consumer interest, to scrutinize closely what takes place in professional schools and institutions. And that leads to the question that this paper explores: what is the consumer interest in professional education?

The inquiry has particularly revealed the need for the gathering of data. Theorizing on this subject must have a factual base, and for the moment it is sorely lacking.[1] It was far beyond the scope of my study to remedy this deficiency. This essay will have served a useful purpose if it helps stimulate surveys of the kind so clearly required.

I have tried here to provide a framework for inquiry. The paper offers a theoretical construct – a series of models or paradigms – which might assist other researchers. Occasionally I offer facts in support of hypotheses; but in the main it is hypotheses only that I have to offer.

I begin with a brief discussion of what is a profession. There is much difficulty in defining this term, and the discussion cannot be conclusive. But enough can be said to permit the derivation of general assumptions underlying professional education. I suggest four controlling presumptions. These lead in turn to what I describe as the static paradigm of professional education; this paradigm is illustrated by reference to education for medicine, law and social work (the latter being representative of the so-called semi-professions). I describe this model as static because, as I shall try to show, it is characterized by an inflexibility and an inability to respond to changing circumstances and important pressures.

The paper then turns its attention to the consumer interest in professional services. It explores the general notion of the consumer interest describes a *prima facie* consumer interest in professional services, and examines whether existing data confirm this description. Finally, I consider to what extent the static paradigm of professional education satisfies the consumer interest in professional services, and suggest, as a modification of the static paradigm, a dynamic model – dynamic because it is a model capable of response to an evolving consumer interest.

In *The Doctor's Dilemma*, one of George Bernard Shaw's characters utters the single most famous comment on the professions: "All professions are conspiracies against the laity." If that is true, professional schools are the breeding ground for the conspirators.

---

[1] Exceptions which show the way are H.W. Arthurs, J. Willms and L. Taman "The Toronto Legal Profession: An Exploratory Survey" (1971) 21 U. of T. L.J. 498; "Pickering Commission Report" (1973) 109 Can. Med. Assn. J. 1160; Andrew Roman, *A Study of Legal Education in Ontario*, (Toronto: Queen's Printer, 1971), a study prepared for the Commission on Post-Secondary Education in Ontario.

CHAPTER 1
PROFESSIONAL EDUCATION: THE STATIC PARADIGM

1.1 WHAT IS A PROFESSION?

There has probably never been a wholly satisfactory definition of profession. Until recent times that did not matter much. Most people felt able to identify the actual professions– make a list of them, if necessary – and that was what counted.

But lately a large number of occupational groups have advanced claims to professional status.[2] If government accepts a claim of this kind, a number of consequences could follow. The new profession may acquire self-regulating powers and it may exercise control over the nature of the service it provides and the terms on which that service is offered. Therefore it is important for the public good to have sound criteria for adjudicating on a claim to professional status. Just as it has become more important to know what (in this sense) a profession is, it has become more difficult to reach any kind of agreement, because increasing numbers of people are party to some self-serving claim to professional status.

What are the characteristics of a "true" profession?[3] A recent formulation is that provided in the report of the Committee on Legal Education (Ormrod Committee) to the Lord High Chancellor of Great Britain. This report states that all professions have the following characteristics:

(1) a highly complex body of knowledge combined with the ability to use intellectual processes which are, at least to some extent, peculiar to the profession;
(2) certain practical skills and professional techniques without which this knowledge cannot be applied in the practice of this profession;
(3) the capacity to use such knowledge, from day to day, in the service of other people's interests and to solve, or help them to solve, practical problems arising within the sphere of the profession;
(4) a particular kind of relationship with clients or patients, arising from the complexity of the subject matter which deprives the client or patient of the ability to make informed judgments for himself and so renders him, to a large extent, dependent upon the professional man; and
(5) a self-imposed code of professional ethics intended to correct the imbalance inherent in this relationship and to resolve inevitable conflicts between the interests of the client or patient and the interests of the professional man himself or of the community at large.[4]

---

[2]For an account of this phenomenon, see Howard M. Vollmer and Donald L. Mills (eds.) *Professionalization* (Englewood Cliffs, N.J.: Prentice Hall, 1966).

[3]In this part of my discussion I rely on my own earlier study *Professional Education: A Policy Option* (Toronto: Queen's Printer, 1972), a study commissioned by the Commission on Post-secondary Education in Ontario, and on the paper *The Sociology of the Professions in Canada* by Linda Bohnen, contained elsewhere in this volume.

[4]Government of the United Kingdom, Committee on Legal Education, *Report*, (London:, H.M.S.O., 1971), p. 35. The report's "definition" is in part based on that of Brandeis: see *Business – A Profession*, (Boston: Hale, Cushman and Flint, 1914). For a more complex multiple criteria definition, see Edgar H. Schein and Diane W. Kommers, *Professional Education*, a profile sponsored by The Carnegie Commission on Higher Education, (New York: McGraw-Hill, 1972) pp. 8-9.

Moore has offered what he describes as a scale of professional attributes:

(a) practice of a full-time *occupation* which comprises the principal source of earned income;
(b) commitment to a *calling*, that is, the treatment of the occupation and all of its requirements as an enduring set of normative and behavioural expectations;
(c) formalized *organization*, which presupposes a distinctive occupation with a common commitment by those engaged in it to protect and enhance its interests;
(d) specialized *education* of exceptional duration and difficulty;
(e) *service orientation*;
(f) *autonomy*, restrained by responsibility.[5]

There are many other such lists of characteristics or attributes, some of which are mistakenly offered as a definition of the term profession.

Any list of characteristics or attributes is vulnerable to criticism. Bohnen makes a general criticism of such lists:

> Another serious objection to these definitions is that they are almost useless because they are descriptive and not analytical. The most use they can be put to is picking out which occupations are professions; they do not explain in a meaningful way *why* some occupations are professions and others are not or what the significance of this is. In my opinion, these so-called "definitions" (they are descriptions rather than definitions) do not even enable us to identify those occupations which are professions; we may have to consider an occupation or profession simply because those in the occupation describe it as such, or because government has taken a purely political decision to grant the occupational group self-regulating powers.[6]

Hence the concept of profession does not provide any useful instruction to the state on how to adjudicate on a claim by an occupational group to professional status and the concomitant powers normally granted the professions by statute. The public policy question remains untouched.

1.2 GENERAL ASSUMPTIONS UNDERLYING PROFESSIONAL EDUCATION

What is the proper scope of a discussion about professional education? How can it be coherent, if the concept of "profession" has no substance? Must one, in a discussion about professional education, consider the education provided for all those occupations which have been statutorily recognized as professions? [7] Or can the discussion properly be restricted to those which might be described as the "major", "traditional" or "true" professions – law and medicine, and perhaps architecture, engineering, dentistry, accountancy, and so on?

There is good sense in concerning oneself only with the so-called traditional professions. The inquiry then becomes manageable as only a few occupations have to be considered. Educational patterns for such professions share certain characteristics,but differ fundamentally from education for land surveyors for example, or industrial relations counsellors. A discussion covering both types would be fragmented, if not incoherent.

---

[5] Wilbert E. Moore, *The Professions: Roles and Rules*, (New York: Russell Sage, 1970). Chap. 1.

[6] Bohnen, Op. cit.

[7] In Quebec, chiropractors and hearing-aid acousticians are "professionals" by virtue of s.1 (c) and Schedule I, s.1(a) of the *Professional Code* S.Q. 1973, c.43.

I do not think the subject is distorted if the field of inquiry is limited in this way. If the word profession and the associated concept have no meaning, or have been debased in the course of a political process, there is no need for that fact to be reflected in a study such as this one. Moreover, there remains a powerful residual sentiment among those who consider a true profession to be a learned profession that learning in this sense implies and extensive educational process.

In this paper, therefore, I am almost exclusively concerned with the true or learned professions, and limit the discussion largely to medicine and law. These two professions are pre-eminent and offer clear models for discussion. From time to time, to illuminate a point, reference will be made to social work as representative of occupational groups emerging as professions or aspiring to that status.

Those in a learned profession need to be learned men. The occupation is called learned because to pursue it the practitioner must master a large body of theory. The traditional place for this process is the university. Thus the first specific step towards becoming a professional is usually taking professional studies at a post-secondary institution.[8] This is a major assumption underlying education for the occupations I am concerned with.

Professionals of the sort I am describing must additionally be learned in a more general sense. It is not enough to be a technically skilled doctor, lawyer, or whatever. To be a good professional means being a humanitarian and perhaps a humanist, as well as a scientist. This requires a liberal as well as a professional education, and preferably the liberal education should come first. Accordingly, another assumption of professional education, growing as much as anything out of actual practice, is that it is preceded by (or perhaps includes) a liberal education.

One characteristic shared by every occupation ever designated a profession is that most people trained for it practice it. It is generally thought that in order to practice medicine, law, engineering or architecture – perhaps even theology – a purely theoretical training is insufficient. Hence another general assumption about professional education is that following a period of theoretical training permitting the practitioner to employ the epithet learned, there is some period of practical training or apprenticeship.[9]

A profession is a learned occupation; professional education must accordingly produce learned men fitted to use their learning in a practical manner. The presumptions of learned occupation result in a pattern of higher education followed by apprenticeship. These presumptions I shall term *inherent nature* presumptions.

---

[8] It is not an invariable step. Sometimes theoretical studies are pursued in a different sort of establishment – for example, the Inns of Court where English barristers are trained. But it is extremely rare to find someone qualifying as a traditional professional in the absence of a study of theory. In some countries at some times no formal training at all was required for some professions. In the United States, for example, it was not until the end of the nineteenth century that physicians and lawyers normally received a university education.

[9] Varying degrees of emphasis are place on the apprenticeship stage of professional education. Sometimes a substantial formal practical training is required – for example, by the Law Society of Upper Canada. Sometimes there is almost no requirement – for example, most of the State bars in the United States. Sometimes it is considered that substantial practical training is necessary, but it is of an informal kind; no particular requirements *must* be met.

There are in addition what I call *work environment presumptions*. Most members of the traditional professions still regard typical professional practice as solo practice or practice in a small partnership; they still expect to be paid on a fee-for-service basis by individual clients[10]; and they still believe that the professional can think and act autonomously, without relating to or working with professionals in another discipline. These work environment presumptions prevail, even although, as Schein and Kommers point out, "the employment settings of most professionals have shifted dramatically away from the single-practitioner model toward corporate employment."[11] Schein and Kommers note also that the needs of society are changing rapidly; one particular effect of changing needs, they argue, is the desirability of an interdisciplinary approach to the solving of complex problems.[12]

The four presumptions of professional education that I have advanced – the two *inherent nature* presumptions that a profession is both a learned and a practical occupation, and the two *work environment* presumptions that a professional is self-employed (the term includes membership in a partnership or related organization) and intellectually autonomous (that is, draws only the knowledge peculiar to his profession) – are part of a much larger body of presumptions. But these four in particular appear to me to be *controlling presumptions*, in the sense that most others are derived from them. I have adduced no rigorous empirical evidence that these presumptions are widely accepted, explicitly or implicitly. However, the literature appears to support my theory.

1.3 PROFESSIONAL EDUCATION – THE STATIC PARADIGM

It is my thesis that the professional education presumptions I have mentioned, themselves loosely derivative from a doubtful concept of true profession, lead directly to the *static paradigm* of professional education, that is, an inflexible model unable to respond to changing circumstances and important pressures. An extensive preliminary – generally liberal – education is required. A theoretical professional education, normally at a university, follows. Finally, the practical knowledge and techniques necessary for interpreting and applying theory so that a profession can be practiced are acquired through an apprenticeship of some kind. Throughout, the process is autonomous; that is, reference is always to a finite and identifiable body of knowledge and collection of techniques peculiar to the profession in question. And all is designed, in the main, to offer success in self-employment.

It is the static paradigm that prevails in English-speaking countries. There are numerous examples. Take the medical profession in the United States.[13] In 1969, 89% of those entering United States' medical schools had a bachelor of arts degree.[14] Internship and two to four years of residency

---

[10] That doctors still think this way is strikingly illustrated in articles by Peter Banks, M.D. ("Stick it on the mantlepiece") and M.A. Baltzan, M.D. ("The cake is bottom-heavy") in (1975) 112 Can. Med. Assn. J. 656-658. Banks and Baltzan are replying to Sidney S. Lee, M.D. and Lawrence M. Butler, "Paying the doctor: the three-layered cake revisited", (1975) 112 Can. Med. Assn. J. 642.

[11] Committee on Legal Education, Op. cit.

[12] Many others have noted the developments described by Schein and Kommers. See, for example, Sir Alexander Morris Carr-Saunders, "Metropolitan Conditions and Traditional Professional Relatinships", in Robert Moore Fisher (ed.), The Metropolis in Modern Life, (New York: Doubleday, 1955).

[3] The discussion of the medical profession in the United States is based on Barrie Thorne, "Professional Education in Medicine"; in Everett C. Hughes, Barrie Thorne, Agostino M. DeBaggis, Arnold Gurin and David Williams, *Education for the Professions of Medicine, Law, Theology, and Social Welfare*, a report prepared for The Carnegie Commission on Higher Education, (New York: McGraw-Hill, 1973).

[4] (1970) 214 J. of the A.M.A. p. 1514

following the M.D. degree have become an accepted part of medical education. The pre-clinical part of the M.D. program, concerned mainly with the scientific roots of medical knowledge, is emphasized. The whole is designed to facilitate a particular kind of professional career notable for its autonomous nature:

> As medical schools become more isolated from their surrounding communities, with highly specialized and research-oriented faculties, students were exposed to few models of community-based practice. With clinical training postponed until the last two years of training and often limited to teaching hospitals (which are far from representative of community practice), students were encouraged to enter academic or highly specialized medical careers. Students remained in the isolation of the hospital, seeing patients referred and preselected for their "clinically interesting" (or unusual) problems. Primary and preventative medical care became dirty work, "clinically uninteresting" the domain of less valued careers.[15]

Thorne emphasizes the "cloistering effect" of medical education; he says of medical students that "they are cut off from equal and close fellowship with those outside the world of medicine."[16]

There is little reason to think that the position in Canada is any different. McGill University, for example, stipulates as a requirement for entrance to the four-year program in medicine that students have a Bachelor degree prior to registration. Quebec CEGEP (College of General and Professional Education) graduates are eligible for admission, but they are admitted to a *five*-year program and in their first year are registered in the Faculty of Science. In fact, the McGill medical faculty seems successfully to have resisted pressure to lower the formal requirements for admission. The McGill curriculum is divided into three phases. Phase I lasts for 51 weeks (all of first year and the first 12 weeks of second year) and is devoted largely to instruction in the basic biological sciences. Phase II takes 42 weeks and consists largely of the introduction to the clinical sciences, clinical rotations, and the biology of disease course. The 68-week Phase III is predominantly the clerkship phase.[17]

One should in fairness acknowledge that the winds of change are beginning to affect medical education. Thorne notes, among other things, attempts in the United States to introduce a shorter and more flexible timetable of medical studies. A 1969 survey showed that one-third of all United States medical schools had either instituted or thought they might institute a three-year program[18]; he notes also a breakdown of the distinction between pre-clinical and clinical training and, in particular, a greater emphasis on health care delivery. However, Thorne observes that "many of the changes in medical education which are advertised as efforts to reorient the profession to problems of distribution seem to be more rhetoric than reality."[19] A new McGill medical

---

[15] Thorne, Op. cit., p. 53. A recent study, commissioned by the Manitoba Government and written by Graham Clarkson and Eugene Vayda, suggested that Manitoba's medical school may have too much research space. The report states that "the province should expect the major efforts of the medical faculty to be directed towards appropriate education and service programs." See Lynda Woodcock, "Manitoba's dean of medicine disagrees with consultant's conclusions", February 1976 *University Affairs*, p. 28.

[16] Ibid., p. 85

[17] A good survey of the position in Ontario can be found in *Report of the Committee on the Healing Arts*, Toronto: Queen's Printer, 1970, Vol. 2, pp. 64-81. An out-of-date but excellent analysis of the Canadian situation is J.A. MacFarlane, *Medical Education in Canada*, Royal Commission on Health Services, (Ottawa: Queen's Printer, 1965).

[18] Thorne, Op. cit. p. 27.

[19] Ibid., p. 64. Thorne may not be entirely fair. A recent survey conducted by the American Medical Association indicates "a striking shift from specialization back to general practice . . ." In 1974, 58% of newly graduated students from medical schools in the United States entered advanced training for primary care specialties, compared with 38% in 1968. "A.M.A. finds drop in specialization," *New York Times*, January 4, 1976.

curriculum was introduced in 1973, the proclaimed goals of which are to increase flexibility, enable the student to appreciate better the relevance of the basic sciences to clinical medicine, to improve the integration and co-ordination of courses, and to "humanize" an "over-professionalized" curriculum.[20] The McGill medical faculty calendar also notes that constant curriculum review is important because of "probable changes in the role of the medical school in relation to the community with concomitant changes in the delivery of health care."[21] Other Canadian medical schools have been re-examining and revising their programs. McMaster University, for example, has devised a program with considerable elective time which may be completed in three academic years by studying during two summers, and which by eliminating an obligatory rotating internship reduces specialist training at the postgraduate level by one year.

Legal education appears to offer another example of the static paradigm. In the United States, Christopher Langdell, dean of the Harvard Law School, insisted (in about 1870) that three years should be spent on study of the general principles of law, and that entering students should already have at least three years of college study. This pattern quickly became established. Thorne makes a number of interesting observations concerning the "Harvard model" of legal education. He notes that "the familiar professional claim to a unique body of knowledge has inhibited the full integration of law schools into universities. Like medical schools, law schools tend to be autonomous, with little sharing of faculty, curricula, or resources with other branches of learning."[22] He draws attention to the fact that over three-quarters of accredited American law schools require a Bachelor's degree before admission; that most state bars require at least three years of college prior to legal training, and that three years is the minimum stipulated by the American Bar Association; and that, in any event, figures indicate that at least 70% of those admitted to a United States' Bar have four years of college.[23] He observes that "lawyers, as do physicians, regard the ideal professional relationship as a private transaction with an individual client . . ."[24]; and that "The legal profession tends to define service to the propertied as its central or true work, and law schools orient their students toward profitable clients and problems."[25]

Canada appears to adhere to a similar static paradigm, although the model was not in place until much later. A university law degree was not generally required for entry into the legal profession until after World War II; in Quebec, for example, this requirement was not introduced until 1948. Now it is necessary – a necessity normally imposed by the bar and endorsed by the law school – to have not just a law degree, but extensive pre-law post-secondary education as well. The normal justification is well put in a brief presented by Osgoode Hall Law School:

> The modern academic education in law presupposes a general level of intellectual maturity and sophistication that is not ordinarily achieved by the end of the secondary system of education, and it is therefore highly desirable that a person should have a period of undergraduate university education before entering the study of law. We believe that a minimum of two years of pre-legal university education is essential, and that it is desirable that a person have obtained an undergraduate degree in all but exceptional cases.[26]

---

[20] *Calendar*, Faculty of Medicine, McGill University, 1975-76, p. 18.

[21] Ibid., p. 20.

[22] Thorne, Op. cit., p. 107.

[23] Ibid., p. 109.

[24] Ibid., p. 120.

[25] Ibid., p. 123.

[26] Osgoode Hall Law School, *Brief to the Special Committee on Legal Education of the Law Society of Upper Canada*, (1971), pp. 2-3.

A survey of the most recent calendars of Canadian law schools indicates some emphasis on traditional law courses, particularly those with a commercial flavour. There are very few courses that can claim an interdisciplinary component. A survey of the ten Canadian legal jurisdictions shows that all require a post-law degree apprenticeship of at least six months.

But, as with medical education, changes have been apparent in the last five years or so, although it is doubtful how real and permanent they have been. In the United States, for example, many law schools have instituted clinical programs; a great interest has developed in the provision of legal services for the poor and in what is termed "public interest law"; new subjects have been introduced in the law schools[27]; and minority recruitment programs have been introduced. These changes were, for the most part, instituted in the turbulent waning years of the last decade, in response to unusual demands and social trends. There is strong evidence of a return to more tranquil and conservative days, although some residue of law school reform remains. Thorne notes, for example, that "reports of a 'new breed of lawyer,' of elite law students massively deserting corporate and private practice for careers in poverty and public interest law, have apparently been exaggerated"[28], and says of the new courses:

> Such courses ... represent additions to, rather than transformations of, the core curriculum. They are typically electives offered during the third year, perhaps too late to influence career choices. The fare of required courses has remained substantially unchanged in its commercial and business orientation ...[29]

What has happened in the United States has its pale imitation in Canada. Most Canadian law schools have instituted clinical programs (perhaps the best known is that of Osgoode Hall Law School) and a number of new courses and programs have been developed.[30] But in Canada, as in the United States, most legal educators will agree that there has been no *fundamental* change.

A glance at social work – an occupation that is variously termed an emerging profession, an aspiring profession, or a semi-profession – suggests that the static paradigm may be as prevalent in the new professions as in the old. In a new profession, of course, the static model will be less rooted in an historical sense than in an old profession; but it may receive even greater emphasis in an occupational group determined to take on and maintain professional trappings. Social work has a pluralistic nature; the result is that the curricula of social work schools exhibit considerable diversity, and there are few general attempts to enforce rigid requirements for entry to the profession. Gurin and Williams suggest that in the United States for a majority of students "the curriculum operates ... as a market or grab bag from which they may select a unique combination of courses taken in a unique sequence."[31] But this was not always the position; a study in 1958 of the curricula of 52 schools of social work found that the theories of Freud and Rank were considered the basic theoretical knowledge, and that there were uniform core courses.[32]

---

[27] Thorne, Op. cit. Race, Racism and American Law (Harvard), Law for the Poor in an Affluent Society (Columbia), Consumer Protection (Stanford), Natural Resources (California), and Urban Public School Systems (Chicago). Some of these courses – notably Consumer Protection and Natural Resources (Environmental Law) – would now be offered by almost every United States' law school.

[28] Ibid., p. 128.

[29] Ibid., p. 133.

[30] For example, Poverty Law (Dalhousie), Correctional Law and Legal Assistance (Queen's) Problems Encountered in Community Law Clinics (Toronto), and Citizen Advocacy, Native Rights, and Women and the Law (Osgoode).

[31] Arnold Gurin and David Williams, "Social Work Education", in Hughes *et al.*, Op. cit. p. 221.

[32] Grace Coyle, *Social Science in the Professional Education of Social Work*, (New York: Council on Social Work Education, 1958); discussed Ibid., pp. 223-4.

Some commentators have detected in the literature on social work a resistance to professionalization, and perhaps even a tendency to deprofessionalization:

> The writers who give expression to this tendency base their argument on two major issues: first, that "over-professionalization" in social work will cause the loss of its basic "humanitarian" values, and second, that the professions will be drawn away from its commitment to social reform.[33]

The suggestion that there is a move to deprofessionalize social work is unconvincing, certainly to the casual observer. Perhaps the analysis reflects an unsurprising tension within the emerging or aspiring professions; on the one hand there will be a desire to conform to the traditional static paradigm to bolster claims to professional status; on the other hand, the character and premises of the occupation will remain to be finally established, and the observer will note flexible and sometimes erratic response to various pressures. A more plausible note is struck by the calendar of the McGill University School of Social Work in an introductory discussion of the School's objectives and educational philosophy:

> The School of Social Work is a professional school . . . Students are expected to acquire the necessary knowledge, values, attitudes and technical skills of professional practice . . .
>
> (The Bachelor of Social Work degree) program now constitutes the first professional degree, preparing graduates for direct entry into practice, with general professional skill.[34]

Solid evidence that the static paradigm dominates education for the traditional professions, and is at the very least a powerful influence on the emerging and aspiring professions, could only be assembled, if at all, as a result of a considerable empirical study. It would be necessary to identify "professions" that are both "traditional" and "emerging". Such a study would have to accept as a tool for analysis the static paradigm I have described. It would then be necessary to consider the details of education for all the identified traditional and emerging professions, and to judge the extent of their conformity to the static model. Does a profession require a post-secondary pre-professional liberal education? Extensive theoretical training? Apprenticeship? Does the relevant training exhibit intellectual autonomy? An entrepreneurial cast? At the end of such a study, some overall evaluation of the static paradigm's relevance to professional education should be possible. I suggest that were such a study undertaken, it would confirm the static paradigm.

1.4 THE RECIPIENTS OF PROFESSIONAL EDUCATION

The nature and quality of professional services depends in part on who is providing those services. In turn, the impact of any particular type of professional education depends in part on who is taught. What kind of person is given access to professional education? And how (if at all) is that person changed – or socialized – by the professional education he receives? These are very broad questions, requiring much research into the background and characteristics of persons seeking admission to professional schools; into the various criteria for admission established by such schools; and into what, if any, changes in social attitude take place during, and as a result of the process of professional training. Comprehensive data on these and other questions are required.

---

[33] Nina Toren, "Semi-Professionalism and Social Work: A Theoretical Perspective", in Amitai Etzioni (ed.), *The Semi-Professions and Their Organization*, (New York: Free Press, 1969), p. 148.

[34] *Calendar* School of Social Work, McGill University, Montreal, 1975-76, p. 8.

A first step might be to administer attitude tests to a carefully chosen sample of medical and law students at both the beginning and the end of their university professional training. But for the moment, all this essay can do is note the relevance of such research subjects to the framework for inquiry presented.

Obviously, socio-economic factors beyond the scope of this paper primarily determine those who seek access to professional education, and those who are successful in their search. Only persons of a certain background and circumstances are likely to consider applying for admission to a professional school; and the chances are that only persons of a certain background, because of the advantages they thereby enjoy, will have any likelihood of success, in either getting admitted or being graduated. A contributing factor may be that the static paradigm is likely to appeal only to certain conservative elements in society – primarily those whom the paradigm is designed to serve, together with those seeking upward mobility. Offsetting these considerations are, first, attempts within the traditional professions to solicit applications for professional education from non-traditional candidates (with commensurate adjustment of admission and sometimes other standards); and, second, the greater ease of admission to, and the increasing appeal of, the emerging or semi-professions. These two factors taken together tend to enlarge the availability of professional education.

What evidence there is indicates that hitherto almost all the recipients of traditional professional education come from the middle class. In 1971, Arthurs *et al.* noted that of the subjects of a survey of the Toronto legal profession 86% were born in Canada and 72% had fathers of Canadian or British national origin; 55% were Protestant; 34% had fathers with university training (compared to 17% nationally); 26% of the respondents' fathers were classified as professionals (compared to 8% of the national labour force); and 53% of the respondents were related to professionals.[35] Authurs *et al.* observe that "the over-all impression is that the lawyers in our sample come from families significantly better educated than the population at large", and, "in comparing the occupations of the respondents' fathers with the occupational profile of the population at large, one is again left with the impression that lawyers come from particularly advantaged home situations ..."[36] These seem to be the persons who in the past successfully sought admission to schools of professional education.

Special admissions programs may be slightly mitigating this situation. Such programs are particularly prominent in the United States, where they are designed to provide special opportunities for members of minority groups, particularly negroes.[37] Similar programs are to be found in Canada. The University of Saskatchewan, for example, has established a "Program of Legal Studies for Native People"; this program is not one of preferential admission, but is designed to offer special preparation for formal legal studies. But in general, although there may be a tendency towards greater flexibility and imagination in the admission policies of the traditional professional schools in Canada, there is little to suggest any substantial change in the student profile.

---

[35] Arthurs *et al.*, Op. cit. pp. 500-503.

[36] Ibid., p. 502.

[37] A considerable recent literature exists on what is commonly termed preferential admissions. A particularly useful article is R.M. O'Neil, "Preferential Admissions: Equalizing the Access of Minority Groups to Higher Education", (1971), 80 Yale L.J. 699.

Schools training for the emerging or aspiring professions present a somewhat different situation. As they have no obvious and well-established curricula, they have no obvious clientele. Fewer preconceptions about what is to be done and how it is to be done mean fewer barriers to entry. Further, some of these professions view themselves in a way that encourages wide-ranging admissions policies. So, for example, the McGill School of Social Work announces that its policy is "to ensure that social workers are as diverse as the communities they serve, and when reviewing prospective applicants . . . special consideration is given to persons of varied backgrounds, including members of minority groups, (and) members of low-income communities . . ."[38]

Finally it is a fact, to which all professionals and their educators will attest, that professional education in some measure changes its recipients. Socialization has been described as "the processes by which people selectively acquire the values and attitudes, the interests skills and knowledge – in short, the culture – current in the groups of which they are, or seek to become a member."[39] The process in professional schools has been much discussed and well documented,[40] although further research would be useful; I have already suggested the value of a comparative attitudinal survey.

---

[38] School of Social Work, McGill University, Op. cit. p. 9.

[39] Howard S. Becker and Blanche Geer, "Medical Education," in Howard E. Freeman, Leo G. Reader, and Sol Levine (eds.), *The Handbook of Medical Sociology*, (New York: Prentice-Hall, 1963); quoted by Samuel W. Broom, "The Process of Becoming a Physician", (1963) Annals of the American Academy of Political and Social Science, p. 78.

[40] A particularly useful general discussion is Wilbert E. Moore, *The Professions: Roles and Rules*, (New York: Russell Sage Foundation, 1970), pp. 67-83.

CHAPTER 2

PROFESSIONAL EDUCATION AND PROFESSIONAL SERVICES: CONSEQUENCES OF THE STATIC PARADIGM

I earlier noted the difficulty concerning the concept of profession. Partly as a consequence, this study has dealt mainly with two traditional occupations always described as professions, although some reference has also been made to the semi-professions. Occupations traditionally and unanimously described as professions impose a number of presumptions on their educational component (presumptions often embraced by occupations aspiring to professional status). I suggested four controlling presumptions: two inherent nature presumptions – that a profession is learned and is an occupation; and two work environment presumptions – that a professional is self-employed and intellectually autonomous. These presumptions led to the static paradigm of professional education.

What are the consequences of the static paradigm of professional education for the nature, quality and quantity of professional services provided to the consumer? The presumption that a profession is learned – that it requires a pre-professional liberal education followed by extensive training in a body of theoretical knowledge – may result in ignorance of and lack of interest in practical low-grade professional activity; indeed, professionals may consider the provision of such services as unworthy of their theoretical education and consequent understanding. The presumption that a profession is an occupation, and accordingly requires something akin to an apprenticeship, may in some measure offset the consequences of the learned presumption. The presumption that a professional is typically self-employed is likely to lead a professional to offer services which provide some (and probably a good) financial return, and to encourage an entrepreneurial frame of mind. One should note that there is nothing inherently undesirable about being entrepreneurial and that the market for professional services is strictly regulated by government, which willy-nilly limits the entrepreneurial instincts of professionals. The presumption of intellectual autonomy is likely to produce professionals who are unable or unwilling to engage in certain kinds of work (requiring interdisciplinary skills or sympathies), and who have a somewhat limited vision.

But to proceed directly from presumptions to consequences is to omit a key step and distort the model. The presumptions produce the static paradigm; it is the consequences of expressions of the paradigm that should be investigated and evaluated. The model appears in various guises, with any one expression incorporating some of the presumptions and not others, or emphasising one more than another. It becomes particularly difficult to maintain a coherent discussion when one strays from consideration of the traditional professions to examine the semi-professions, or occupational groups aspiring to professional status. The rational course seems to be to study the apparent consequences of particular expressions of the paradigm, or of various static paradigms. But caution should be the watchword, as the consequences of one such expression may be incapable of generalization. Moreover, the scope of this paper permits only a cursory glance at the consequences. The best that can be done here is to put forward a framework for further inquiry.

Earlier I mentioned education for the medical profession in the United States and Canada, and noted that the predominant model involves substantial post-secondary pre-professional education; highly specialized and research-oriented training in medical school; and extensive internship and

residency requirements. Thorne has noted that academic medical centres have become aloof from the problem of primary medical care. The result is that the medical system "provides second-class or no professional services to large segments of the population and has a shortage and maldistribution of manpower, inadequate facilities, and rising costs."[41]

The static paradigm of medical education, by stressing the presumptions of learning and autonomy, may well impede the equitable distribution of medical care. But it also incorporates the presumption of self-employment, what Thorne calls "professional individualism". He writes of solo practice as an ideal:

> This ideal reflects not only the values of individualism and autonomy but also the entrepreneurial side of the professional's role. Under a fee-for-service arrangement, professionals provide services primarily to those who can pay, and the success of one's practice is measured in terms of the class of people whom one serves. Care of the poor is either ignored or handled through various forms of charity.[42]

These remarks are not entirely appropriate in the medicare context, where, in a sense, everyone can pay for medical services. Yet under medicare, the basis for payment remains fee-for-service, encouraging entrepreneurs. And it may still be that success is measured in part in terms of the social status of one's patients.

Similar consequences can be attributed to the static paradigm of legal education. The notion of law as a learned profession, based on a unique body of highly theoretical knowledge, inhibits development of capacity to provide a wide range of legal services, highly practical services and those requiring interdisciplinary endeavour. The work environment presumption that a professional is self-employed – a presumption particularly strong in the legal profession – reinforces these tendencies. To test these theses, more data are needed of the kind supplied by Arthurs *et al.*[43] Their study notes of "patterns of practice" that the Toronto bar spends 32.9% of its time on corporate, commercial and tax law; 20.7% of its time on real estate; 12.8% of its time on civil litigation; 10% of its time on wills and estates; 6.8% on criminal law; 2.8% on family and matrimonial law; and 14% on "other".[44] In this pattern one observes some reflection of law school curricula, although we learn nothing about which way the causal relationship works. The same study offers data on the relationship between background and patterns of practice, and on the availability of legal services. The results of the study seem inconclusive, but research of this kind is essential to evaluate the effects of education paradigms, and to come to a full understanding of the problems of professional education. Of particular interest would be a research design seeking to determine whether legal needs in the community can be met on the basis of present legal education. The problem is that need is a difficult concept ot define and even its existence may be difficult to perceive. Moreover, whether needs are met depends on many variables other than the nature and content of education. But it should be possible to survey needs in some fashion, and then correlate findings with an analysis of legal education.

---

[41] Thorne, Op. cit. p. 23.

[42] Ibid., p. 38.

[43] Arthurs *et al*, Op. cit.

[44] Ibid., Fig. I, p. 508. These figures, because of their generality, may be of limited interest; more informative are the figures dealing with specialization, distribution of workload, percentages of time spent by lawyers in varying sizes of firms on each area of the law, and the table comparing type of practice to firm size. See pp. 509-513.

There are particular difficulties in considering the effects of the static paradigm on the provision of semi-professional services, or the services provided by emerging or aspiring professions. This is because in this context the paradigm is far less developed. In some instances there may be an undue emphasis on the paradigm as the occupation attempts to legitimize its claims to professional status. In other cases, these may be uncertainty and confusion. On rare occasions, opportunities resulting from the tenuous hold of the static paradigm will be seized, and new and creative patterns will emerge. A glance at social work suggests these conflicting responses. For example, on the one hand there is continued emphasis on the importance for professional social workers of a Master's degree, while on the other hand the curricula of social work schools has lately taken on a new flexibility.

The consequences of professional education models of the prevailing kind can only be fixed with any precision following very considerable empirical research; I have given some suggestions as to how this task of research might begin. At present we can only make hypotheses. Yet the paradigm I have outlined is nonetheless useful. It identifies some hypotheses as more reasonable than others. And it should be of assistance in formulating a plan for empirical research.

CHAPTER 3
PROFESSIONAL SERVICES AND THE CONSUMER INTEREST

3.1 THE NOTION OF CONSUMER INTEREST

The notion of consumer interest is elusive indeed. For one thing, the consumer is not entirely distinct from the producer. Most consumers are also producers, perhaps even at times depending on corporate profits and endorsing a capitalist economy. It may be that the "innocent consumer" does not dispute the economic (or even moral) validity of the actions of the "exploiters".[45] As Professor Trebilcock puts it, "if we work on an automobile production line, we may see questions of public transit, pollution and safety standards, and lower tariffs on imported cars differently from other consumers."[46]

Consumers, then, are only part-time consumers; what they do the rest of the time inevitably colours their attitudes towards goods and services they receive and those who provide them. Nor is there even a representative part-time consumer. There is no single consumer interest, but very many interests – conceivably as many as there are consumers. It cannot be assumed, for example, that all car buyers share the same concerns. One purchaser may stress economy or safety or both; another's main interest may be styling and speed. Yet another may try to balance these four considerations and others. And so on. A similar range of concerns can come into play with respect to almost any kind of goods or service, with any one consumer exhibiting a unique attitude towards the particular transaction in which he is engaged.

In general, then, the concept of consumer interest must be employed with extreme caution.

3.2 THE CONSUMER INTEREST IN PROFESSIONAL SERVICES: THEORY

In the context of professional services, the notion of consumer interest, although still difficult, is in some respects easier. The general problem that consumers are also producers is of far less relevance to the question of professional services. First, relatively few people are engaged in providing these services. Second, the capitalist or mixed-economy machinery to which consumers as a whole are likely to be committed is not obviously the machinery whereby professional services are provided. Some professions exhibit some free-enterprise characteristics – for example, solo practice and fee-for-service – but in general the structure of the professions and the mechanism for delivery is *sui generis*. The consumer is not a participant in that structure, and this permits him to have a much clearer view of the professional services he seeks.

Again, although there almost certainly is not any single consumer interest in professional services, the various interests exhibited will probably have much in common. There is a particular and incontestable need for certain professional services, notably certain kinds of medical care; these particular and shared needs provide some basic content to the notion of consumer interest in professional services.

---

[45] To utilize the dramatic title of Sidney Margolius' book: *The Innocent Consumer* vs. *The Exploiters* (New York: Pocket Books, 1968).

[46] Michael Trebilcock, "Winners and Losers in the Modern Regulatory State: Must the Consumer Always Lose?" (1976) Osgoode Hall L.J. (in press at time of writing).

Accordingly, I think it permissible to advance a description of a *prima facie* consumer interest in professional services. Its first and most important component is access. Access has many aspects. There must be enough to the professionals in question. They must be geographically well-distributed. They must offer a wide range of skills. The cost of the services must not be prohibitive. There must not be psychological barriers inhibiting the consumer from approaching the professional; this may imply, among other things, that professionals should be drawn from all sections of the community, and that professional services be delivered in ways that put the consumer at ease.

The second component, coming into play when access is achieved, is quality. Access is the prime component, because even poor services are likely to be better than none. But good services are better still. In this context quality is a simple concept; it is measurable by consequences. Quality health care is that which, if possible maintains or restores good health. Quality legal services are those that when possible avoid or solve legal problems for the client. Clearly there are situations when the concept of quality is difficult to apply. What, for example, is quality health care for terminally ill patient in great pain? What is quality legal service for a person accused of a crime who admits the offense? But these and other difficult cases do not mean that there is not a well-understood concept of essential consequence-measured quality.

Access and quality do not stand separate and apart from one another; they are related in a complex and very important way. Indeed, the nature of this relationship is probably the single greatest public policy question facing the professions today. Quality is never an absolute value; what is the trade-off between quality and price? How much quality should the system sacrifice to improve access? What is the right price, if there is one, of a marginal increase in quality?

3.3 THE CONSUMER INTEREST IN PROFESSIONAL SERVICES: PRACTICE

I have already suggested that there are severe conceptual difficulties accompanying the notion of consumer interest, difficulties which may jeopardize or destroy any attempt to have professional education respond to a consumer interest in professional services. Nonetheless, I have ventured to suggest components of a *prima facie* interest of this sort. Is there any evidence in support of the existence of these components?

Almost no Canadian surveys of general attitudes towards professional services have been undertaken. An important need for empirical research is again apparent. The one study of any significance is the public opinion survey conducted by the Pickering Commission.[47] That survey showed in part that 54.7% of those sampled said there were not enough doctors in their communities; only 50.1% were confident of getting a doctor in an emergency situation; 46% did not agree that public respect for doctors was growing; 46.4% felt the single most important quality of a doctor is good human relations; 31.2% felt that doctors should work for the government and be paid a salary; 95% were in favour of neighbourhood clinics; 82% thought the use of paramedics a good idea; 93% accepted the need for neighbourhood doctors to work in depressed areas. These figures outline a three-dimensional consumer interest in medical services. First, there must be access (enough doctors, available in emergencies, neighbourhood clinics, paramedics, doctors in depressed areas). Second, there must be a sympathy between doctor and patient (good human relations). Third, the concept of self-employment is not over-riding.

---

[47] Ontario Medical Association, "Pickering Commission Report." (1973) 109 Can. Med. Assn. J. 1160. For an interesting recent survey of public opinion of lawyers, see Susan Jacobs and June Wagoner, "Public and Professional Assessment of the Nebraska Bar," (1975) 55 Nebraska L.R. 57.

This three-dimensional consumer interest coincides in important respects with the *prima facie* consumer interest suggested earlier. (Pickering notes "the degree to which in general, the views of individuals in 779 representative Ontario households have supported the views of those articulate and committed individuals who took the trouble to make submissions."[48]) The prime component of the *prima facie* interest – access, defined in a complex way – indeed seems to be the major concern, at least to Ontario consumers of medical services. The stress on the need for good human relations can be viewed as part of the access question, bearing on the psychological barriers to which I have referred. What does not appear from the Pickering survey is concern over the absolute quality of medical care. That may be because of an overwhelming concern for access, or because good service was assumed, or because the layman is in no position to make a judgment on this matter. It may be because the opinions on access reflect a sophisticated view of the access/quality trade-off; emphasis on neighbourhood clinics, neighbourhood doctors and paramedics may incorporate a recognition of appropriate levels of quality.

As I have mentioned, there is little if any empirical data of the Pickering kind with respect to Canadian professions other than medicine. One can only speculate on what such data would reveal. In the absence of anything to the contrary, I suggest that it would support and further define the described *prima facie* interest in professional services.

---

[48] Ibid., p. 1163.

CHAPTER 4

PROFESSIONAL EDUCATION AND THE CONSUMER INTEREST: TOWARDS A DYNAMIC PARADIGM

4.1 PROFESSIONAL EDUCATION AND THE CONSUMER INTEREST

I have set forth certain presumptions of professional education (based on a rough notion of the term profession); have argued that these presumptions lead to and are incorporated in a "static paradigm" of professional education; have indicated what the consequences for professional services of the static paradigm may be; and have described a concept of the consumer interest in professional services. The questions now arise: does professional education serve the consumer interest? Does a learned, intellectually autonomous occupation practised by the self-employed promote access to and the quality of the service provided?

Consider access; for there to be adequate access, there must first be enough people to service the community in a reasonable manner. Of course, views will differ on what is "reasonable" service; how many people it takes to provide it; and who can best provide what service. But, with respect to any particular kind of service, general agreement could probably be reached on a minimum or threshold number, for example, how many general medical practitioners per hundred thousand people are necessary to maintain properly a community's health.[49] The number of professionals necessary, and the method of calculating numbers, will of course vary from profession to profession.

The static paradigm does not directly concern itself with this aspect of access. The reason for this is that the presumptions, on which the paradigm is based, are inward-looking directed to the inherent nature and work environment of the professional himself, and not outward-looking, contemplating the needs to be fulfilled or the demands to be met.

Although not directly concerned with the quantitative aspect of access, the static paradigm is not neutral in effect. Curiously, the underlying presumptions seem to pull in opposite directions. The emphasis on self-employment puts the professional in the marketplace (a strange controlled kind of marketplace, but marketplace nonetheless).[50] Accordingly, supply may in some measure respond to demand. But the extraordinary preparation required for a professional career, consequent on the presumption that a profession is a learned occupation, stifles supply at the source. On balance, I suggest that the static paradigm does not satisfactorily provide for the quantitative aspect of access.

---

[49] *The Report of the Committee on the Healing Arts* (Toronto: Queen's Printer, 1970) stated that "in the present state of our social and economic knowledge, the criteria for "adequacy" of a public service must be arbitrary; there are no precise means of measuring the optimum quantity of the service which "ought" to be available." (Volume 2, p. 54). It is true that there are no precise means, but to say that criteria for adequacy are accordingly arbitrary is to overstate the case.

[50] The Committee of the Healing Arts considered, with respect to medical services, that "orthodox economic, market analysis is irrelevant because, through public policy, we have deliberately created a situation in which both supply and demand are administered." Idem.

Another element of access is geographic distribution. Most agree it would be desirable for many professionals to establish themselves, not in Toronto, Montreal or Vancouver, but in rural or remote communities, thereby promoting an equality of access. But almost everyone wants to live in a city. On the face of it, professional education bears little relation to this problem. Geographic distribution is more directly affected by selective licensing or taxation policies. Yet, in some ways, the nature of professional education is relevant. The work-environment presumption of intellectual autonomy may tend to depreciate those factors that might encourage a person to move away from densely-populated parts of Canada. A highly-specialized and research-oriented doctor, for example, will want to be near teaching hospitals, laboratory facilities, and a population large enough to present sufficient problems requiring his particular expertise. The work environment presumption of self-employment may encourage professionals, when establishing themselves, to ignore social service in favour of market considerations. The relationship between the work environment presumptions and the distribution component of access is subtle and speculative. But one can justly say the the static paradigm of professional education does not address this question.

The range of professional skills required by the consumer is enormous, ranging from the simplest to the extraordinarily complex. Some doctors remove splinters; others treat cancer. Some lawyers arrange uncontested divorces; others solve tax problems for giant corporations. Some architects plan kitchens; other design cathedrals. Yet the static paradigm of professional education does little to recognize the diversity of need. The intellectual autonomy of professionals permits ignorance of the full complexity and extent of needs to flourish. Self-employment encourages well-financed needs to be met first, or , in some cases, exclusively.

Yet another aspect of access is the cost of professional services (bearing in mind again the importance of the access/quality trade-off). Here, comment is particularly difficult. Medicare, legal aid, and other similar plans that are or may come into existence are promoting access through cost-sharing, although some professions as yet remain largely or completely untouched. It is said, for example, that only the rich and the poor can afford a lawyer, although it is the middle-class which needs him most. But in the long run such schemes may not eradicate the access problem, merely change its shape. The exchequer is not a bottomless pit; if professional services remain extremely expensive, cost-sharing plans may not increase the general level of access, although access for the economically-deprived might improve.[51]

Research into human capital analysis [52] supports the common view that the many years that a professional must spend in acquiring the required education encourages, and may justify, substantial fees for his service. Thus the inherent nature presumption that a profession is a learned occupation (putting aside for the moment any justification that this presumption might have) affects access adversely by raising the cost of professional services. This aspect of the access problem is further aggravated by the work environment presumption of self-employment. Professional services are in great demand. To the extent that fees can be set in the marketplace, they will be considerable.

---

[51] The Committee on the Healing Arts ignored this point when it commented: "Supply is determined largely by considerations of quality of standards and the quantity of resources which the Province is prepared to devote to medical education; demand is determined largely by public programs of health insurance which provide consumers with access to physicians' services without being subject to market restraints. In other words, medical services are not rationed by price." Ibid., pp. 54-5.

[52] A.R.A. Consultants Ltd. *Human Capital Analysis*, contained elsewhere in this volume.

Finally, with respect to access there is the matter of psychological barriers. This factor may be elusive, but it seems nonetheless real. We have noted the importance placed on good human relations by those the Pickering Commission surveyed. The reluctance of persons to seek legal advice is well-known. It is very difficult to attribute this phenomenon to any particular cause. But one can observe, again, that the static paradigm of professional education apparently does not address itself to the problem.

I conclude that the access component of the consumer interest is not well-served by the static paradigm of professional education. The inherent nature presumption that a profession is a learned occupation adversely affects the supply of professionals, the range of skills available, and the cost of professional services. The work environment presumptions of intellectual autonomy and self-employment do not promote an equitable geographic distribution of professional services, or the establishment of a satisfactory range of skills. The presumption of self-employment also tends to elevate costs. In sum, learned, intellectually autonomous occupation practised by the self-employed does not promote optional access to the service provided.

I believe this is not so with respect to the consumer interest in the absolute quality of professional skills provided. Of course, quality might be viewed as incorporating aspects of access; one might argue that quality service in a particular context is a specific service easily available. But for the purposes of this part of my discussion, I am disregarding access, which I have dealt with differentially, and I am disregarding the trade-off phenomenon. I am referring only to the level of professional skill provided to those having access to it.

Professional expertise is above all else a function of professional education (the other important factor is experience). Here, the emphasis on learning – the first inherent nature presumption – almost certainly promotes quality of service. Intellectual autonomy, on the other hand, may prevent professionals from perceiving some aspects of a problem with which they are dealing, and may in some circumstances militate against satisfactory results. A presumption of self-employment, and particularly fee-for-service payment regimes, may also impair quality service by encouraging professionals to reduce the time spent dealing with any particular case, and by emphasizing a curative rather than preventive approach. There are, then, contradictory tendencies promoted by the static paradigm. But because of the primordial significance of learning for quality, and the emphasis on learning placed by the static paradigm, that paradigm well serves the second component of the consumer interest in professional services. A learned, intellectually autonomous occupation practised by the self-employed promotes the quality of the service provided.

Hence we have a dilemma. One part of the consumer interest is, in good measure, satisfied by the static paradigm. Another, by and large, is not satisfied. The modern challenge to professional education is to develop a dynamic paradigm which will permit a move to greater access, while quality is protected. I want to suggest that this objective can be accomplished by refinement of the access/quality trade-off. The concept of quality or level of service appropriate to need must be further developed. It should be developed by changes in professional structure, with corresponding and facilitating changes in the structure and content of professional education.

4.2 TOWARDS A DYNAMIC PARADIGM

The goal is to preserve appropriate quality while promoting access. The means is to move from a static to a dynamic paradigm. How can this be done?

To protect quality, the general learned character of the professions must be maintained. There must be no widespread derogation from the learned presumption and its place in the paradigm. But to promote access, first, the learned presumption must be modified so that the supply of professionals increases. Second, the work environment presumptions of intellectual autonomy and self-employment must be adapted so as to encourage a more equitable geographic distribution of professionals. Third, all presumptions must be adjusted to promote the offering of a wider range of skills. Fourth, presumptions that professionals are learned and self-employed must change to the extent that exorbitant fees no longer result; and fifth, any presumptions that create psychological barriers for the consumer must be abandoned.

If the learned presumption is modified (not abandoned), then the supply of professionals will increase, the offering of a wider range of skills will be promoted, and professional fees may in some measure be brought under better control. That is because if one has regard for the concept of *appropriate* learning, relevant to the level of service required for the needs in question, it becomes evident that at present many professions are over-educated. The consequences of over-education are undue educational preparation that puts professional careers beyond the reach of many; the offering of a uniform and narrow range of skills; and high cost of professional services.

The corrective is a structure of professional education based on a concept of appropriate learning. More than that, such an educational structure must necessarily reflect a professional structure that provides multiple levels of service, with specialists at the apex of the service pyramid and so-called para-professionals at the base. At the apex, extreme institutionalized specialization might be desirable, with particular professional schools (perhaps on a provincial or national basis) offering advanced training not widely available. With such a system in place, the educational barriers for many who aspire to provide professional services would be dramatically reduced, and the supply of professionals (then more loosely defined) would inevitably increase. A reduction in costs may be anticipated since not only would the supply be greater, but the "human capital" invested by many of the new professionals would be less than in the past. Finally, a wider range of service levels would be available.

Professional education's content, as well as its length, must be modified in the move to the dynamic paradigm. The work-environment presumptions of intellectual autonomy and self-employment have, as I suggested earlier, interfered with an equitable geographic distribution of professional services and the offering of a wide range of skills at reasonable cost. The unfortunate aspects of the static paradigm will in part be mitigated by a modification of the learning presumption alone, but full reform requires curricula change as well. Monolithic professional education, providing uniform and extensive training for all its graduates, produces uniform and very expensive skills. The professional who thinks only of his profession, and who is concerned to operate in the best possible market, is likely, for reasons I have given earlier, to want to be a big-city professional.

The corrective is inter-disciplinary and service-oriented curricula. So, for example, lawyers of every stripe, from the corporation tax counsel to a legal para-professional doing simple property conveyance work, must be encouraged to explore the function of law and lawyers in society, and must be taught to appreciate the impact of the profession on the whole community. So too, to give another illustration, primary care in medicine must be emphasized at least as much as the frontiers of research. Needs of this sort have been recognized by some in Canada. For example, a 1970 report on engineering education in Ontario stated that "the role of an engineer requires him to face situations in which he takes account of psychological, sociological, aesthetic and political

factors as well as scientific and technological matters. . . the modern engineer requires more than traditional skills, and for success in the future he must have a basic knowledge and understanding of the applied humanities."[53] Lynn has put the problem well: "our professionals need to liberate themselves . . . from monopolistic notions of who should do what job and narrow-minded conceptions of their obligations to the community at large."[54]

Curricula revision must, of course, reflect the new character of professions restructured to provide multiple levels of service. A single curriculum will be impossible in a non-monolithic profession; as a more sophisticated view of professional learning develops with a move to the dynamic paradigm, a variety of curricula will develop for any one professional discipline. The extent to which training will be inter-disciplinary and service-oriented will depend on who is being trained for what. Para-professionals providing strictly practical services might not need to be philosophers and humanists, but may need an intense awareness of their role. For the research scientist, the equation may be reversed. Always there will be a subtle interplay between professional role and length and content of professional education.

As the professional structure is modified, so the work environment presumption of self-employment will have less and less validity, a change that will no doubt find expression in various ways within professional education programs. It is already the case that within some disciplines many professionals are salaried; engineering is perhaps the most striking example. Within almost all professions, there is a tendency in this direction. But regardless of current facts and trends, the unfortunate effects of the presumption require that programs of professional education should not be founded on the assumption, explicit or implicit, that professionals will be solo practitioners.

An outline of the dynamic paradigm now emerges: the learned presumption of the static paradigm must be modified to permit multiple levels of education; the professions should be restructured so that only the level of skill appropriate to the problem is brought to bear; individual professionals should be educated only to the point necessary for them to provide the service that is their responsibility within the structure. Multiple curricula must be developed for the multiple levels of education. Curricula will differ not only in rigour and comprehensiveness, but in the extent to which they are interdisciplinary and service-oriented. I anticipate that, if well thought-out changes of this sort are introduced within any scheme of professional education, the availability of professional services – in terms of quantity, geographic distribution, cost and even attitude – will increase dramatically, with no concomitant sacrifice of quality. In short, the legitimate consumer interest in professional service will be satisfied.

The next step is the development for one profession of a precise and detailed plan for change based on the model proposed. Such a plan will permit further exploration of the practical problems involved in a move to the dynamic paradigm. It is unlikely that any impetus for change will come from within a profession. In effect, the professions control professional education (if only by setting educational requirements for membership in professional corporations), hence the tendency is for them to maintain the static paradigm. which is the model that colours the attitudes of their members. Intervention by the government agencies that finance much of professional education, coupled with a reduction in control of professional education by the professional corporations, seem necessary for any major move to the dynamic paradigm.

---

[53] Committee of Presidents of Universities of Ontario, *Ring of Iron: A Study of Engineering Education in Ontario* (1970), p. 39.

[54] Kenneth S. Lynn, "Introduction" (to the Issue "The Professions") (1963) 92 *Daedalus* 649, at 653.

CONCLUSION

I have suggested a way of looking at professional education. I have outlined a notion of the consumer interest, and have tried to show that the contemporary model of professional education, the static paradigm does not satisfy legitimate aspects of this interest. Finally, I have proposed a move towards a dynamic paradigm that would provide a better level of professional services. In general, the argument is designed to stimulate a new and critical examination of the accepted manner of educating professionals.

My argument has been theoretical. The function of a theoretical argument is to stimulate thought and to assist in structuring empirical research. The argument does not rely on or interpret empirical data, simply because there is little such data to work with. That need should be quickly filled if the debate about professional education is to be rational and well-informed.

The professions can be noble occupations. Education of future professionals is one of the most important functions in society. Professional education and its consequences merit considerable thought; there should be more of it.

HUMAN CAPITAL ANALYSIS:

ITS APPLICATION IN THE STUDY OF THE CONSUMER INTEREST IN THE PROFESSIONS

by

Brian Riera
Murray Glow
Donald Siddall
William Klein

in association with

A.R.A. Consultants Ltd.
Toronto, Ontario

February 1976

TABLE OF CONTENTS

TABLE OF CONTENTS (Cont'd)

LIST OF TABLES

LIST OF TABLES (Cont'd)

INTRODUCTION

In the Spring of 1975, the Consumer Research Council embarked on a two-phased research program related to the "professions". The term is used here in its widest sense to refer to those occupational groups which have some form of self-regulating power and, for that matter, groups currently aspiring to achieve that power. The Council was particularly interested in the impact on consumers of the current approach in Canada to the practice and regulation of professions.

The first phase of the Council's research program comprises a number of basic studies, of which the present work on human capital analysis is one. As originally planned, the studies in phase one were intended to provide concepts and data for the design and implementation of a second phase, which would involve a more detailed analysis of particular issues. The second phase might also have included case studies focusing on the consumer interest with respect to particular professions. Beyond direct application in a possible phase two, it is hoped that the present background studies will be useful to a wide range of research workers, students, consumer groups, government officials and occupational groups with an interest in pursuing more detailed analysis in this area.

Human capital analysis is an economist's concept which suggests that investment in human resources can be measured and analyzed in a manner analogous to the traditional financial treatment of capital investment. It provides several possible applications in the study of the professions, inasmuch as the professions can be regarded as investments to which a great deal of society's resources have been allocated, primarily in the form of education and training. It can be used to perform both quantitative and qualitative analysis. From the point of view of the consumer, one can use human capital analysis in considering how and to what extent society should invest in its stock of professional manpower, assessing the appropriate level of professional incomes and reasonable prices for professional services, and evaluating the manner in which professional resources are deployed. More specific questions may also be posed: to what extent does a particular level of professional income represent a monopoly profit gained by abuse of self-regulating powers in restricting the supply of professionals? To what extent does the educational requirement for particular professional licences represent an over-investment in terms of the nature of the knowledge and skills actually required to perform the professionals' duties?

There are a great many methodological problems associated with the application of human capital analysis. It involves the collection of data from a wide variety of sources and requires that a number of fundamental assumptions and estimates be made. How does one decide on the appropriate measure of opportunity cost? What would an individual lawyer have earned in his lifetime had he done something other than law? To what extent is income a reflection of the risks taken? Can one deal with professions one at a time or must groups of occupations be used in the analysis? How does one take into account the trend towards more uniform distribution of income in our society?

In Chapter 1 of this report, we attempt to bring together the three central foci for this study: the professions, the nature of the consumer interest in the professions, and human capital analysis. The chapter provides a discussion of each of these and indicates the general areas where human capital analysis might be useful in furthering our understanding of the consumer interest in the professions.

Chapter 2 is a general description of recent applications of human capital analysis, most of which have been in the area of educational planning. Although very little of the work in human capital analysis has dealt directly with the consumer interest in the professions, the work done in educational planning lends itself readily enough to our purposes inasmuch as most of this work deals with analysis of the public and private returns from investment in education. The Chapter provides a discussion of the theoretical and methodological problems which have been encountered and a cross-section of studies in the application of human capital analysis is summarized to illustrate the range of purposes it has served.

Chapter 3 explores the quantitative application of human capital analysis which the Consumer Research Council might consider pursuing in the second phase of its research on the professions. It points out the very real difficulties encountered in data collection and the problems related to methodology which have detracted from other research efforts. The Chapter also discusses the possibility of using human capital analysis to identify the nature and extent of "monopoly profits" which might accrue to professionals because they use their self-licensing powers to erect barriers to entry into their professions. We are forced to conclude that the present state of human capital analysis techniques will not provide conclusive results in this area.

Chapter 4 enlarges on how the general concepts embodied in human capital analysis might be used in more qualitative studies to analyze the social investment and returns related to professional education, the influence of self-regulating bodies in setting educational requirements and the impact on the consumer interest. Two brief case studies, one of the legal profession and the other of the dental profession are provided to illustrate the application in this area.

CHAPTER 1

SELF-REGULATING OCCUPATIONS, THE CONSUMER INTEREST AND HUMAN CAPITAL ANALYSIS

The present work represents an effort to relate three different areas of study in order to identify those common elements which might provide opportunities for further insights into all three fields. In this first chapter we lay the groundwork for the report by discussing each of the three areas and analyzing a range of issues common to all three. The first section provides a discussion of the self-governing occupations in Canada and their powers of self-regulation and the second section considers how the consumer interest might be affected by these powers. The third section describes the concept of human capital analysis, its elements and characteristics, and considers in a general way how it might be useful in the study of the consumer interest in the professions.

1.1 SELF-GOVERNING OCCUPATIONAL GROUPS

The Canadian labour force is becoming increasingly and rapidly more skilled. The technical and professional occupations increased as a proportion of the labour force from 6% in 1931 to 10% in 1961 and are expected to have reached 16% in 1975. The majority of people in this group are members of self-governing professions and many of those who are not are now seeking self-regulating status.

The figures in the accompanying tables provide an indication of the place this segment of the work force takes in our society. The 12 occupations dealt with in these tables are associated with health services, legal services, architecture and engineering.

In 1970, the 12 occupations included 146,570 men and 23,070 women, representing 2.4% of the male labour force and 0.7% of the female labour force. As we would expect, these people have a standard of education far above the average level (Tables 1.1 A and B); 100,550 men (69%) and 6,375 women (28%) had university degrees, compared to the proportions of the total Canadian labour force with university degrees which were about 8% and 5% respectively.

In addition to their high standard of education, they were generally well paid. The average annual income for all occupations in 1970 was $6,574 for men and $3,199 for women (Tables 1.2 A and B), while for all the 12 selected occupations, only female dental hygienists had an average income below the national average. In addition, of the 80,400 men in Canada who earned in excess of $25,000 in 1970, 22,315 (28%) were members of these 12 occupations.

Comparing education groups, those in the selected occupations received on average a higher annual income than other occupation groups (Tables 1.3 A and B). For people with university degrees the national average income in 1970 was $12,176 for men and $5,851 for women; of the 12 selected occupations for men, 10 had incomes above the national average; for women, 8 of the selected occupations had average incomes above the national average.

Members of the self-licensing occupations are highly educated and highly paid. In addition, they occupy positions in areas which are critical to our health, physical safety and economic prosperity.

TABLE 1.1.A

Level of schooling for males (who worked in 1970) in selected occupations, for Canada

Occupations	Number of males										
	Total*	Less than Grade 9		Grades 9 - 11		Grades 12 - 13		Some University		University	
		No.	%	No.	%	No.	%	No.	%	No.	%
Architects	3,985	15	0	80	2	330	8	300	8	3,255	83
Engineers	77,395	2,760	4	8,455	11	14,900	19	9,565	12	41,720	54
Lawyers & notaries	15,735	45	0	115	1	340	2	360	2	14,880	95
Physicians & surgeons	26,010	–	–	–	–	–	–	500	2	25,515	98
Dentists	6,285	–	–	–	–	–	–	85	1	6,200	99
Veterinarians	1,660	–	–	–	–	–	–	65	4	1,595	96
Osteopaths & chiropractors	1,010	–	–	30	3	230	23	130	13	620	61
Pharmacists	7,465	10	0	245	3	280	4	1,590	21	5,340	72
Optometrists	1,445	5	0	35	2	70	5	245	17	1,095	76
Dispensing opticians	1,195	160	13	470	39	390	33	125	10	55	5
Radiological technicians	1,780	95	5	425	24	830	46	350	20	85	5
Dental hygienists	2,605	385	15	1,015	39	825	32	185	7	190	7
Total of selected occupations*	146,570	3,475	2	10,870	7	18,195	12	13,500	9	100,550	69
Total of all occupations*	6,023,355	1,918,420	32	2,030,190	34	1,159,635	19	454,395	8	460,690	8

*Both totals and individual figures are subject to rounding errors (see note (1) at the end of this Chapter). For this reason percentages are approximate and may not sum to 100.

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-768.

TABLE 1.1.B

Level of schooling for females (who worked in 1970) in selected occupations, for Canada.

Occupations	Number of females										
	Total*	Less than Grade 9		Grades 9–11		Grades 12–13		Some University		University	
		No.	%	No.	%	No.	%	No.	%	No.	%
Architects	110	–	–	–	–	5	4	10	9	100	87
Engineers	1,310	100	8	300	23	270	21	130	10	510	39
Lawyers & notaries	850	5	1	60	7	135	16	25	3	625	74
Physicians & surgeons	3,070	–	–	–	–	–	–	230	7	2,845	93
Dentists	310	–	–	–	–	–	–	40	13	270	87
Veterinarians	75	–	–	–	–	–	–	–	–	70	100
Osteopaths & chiropractors	75	–	–	20	25	25	31	10	13	25	31
Pharmacists	2,450	10	0	220	9	285	12	285	12	1,645	67
Optometrists	100	5	5	15	15	25	25	20	20	35	35
Dispensing opticians	240	30	12	90	37	80	33	25	10	20	8
Radiological technicians	5,335	90	2	540	10	3,810	71	785	15	110	2
Dental hygienists	9,145	370	4	2,775	30	4,455	49	1,420	16	120	1
Total selected occupations*	23,070	610	3	4,020	17	9,090	39	2,980	13	6,375	28
Total of all occupations*	3,249,440	648,350	20	1,205,530	37	955,725	29	277,500	9	162,335	5

*Both totals and individual figures are subject to rounding errors (see note (1) at the end of this Chapter). For this reason percentages are approximate and may not sum to 100.

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-768.

TABLE 1.2.A

Employment Income of males (who worked in 1970) in selected occupations, for Canada

Occupations	Total with employment income*	Employment income reported†														Average income of all persons with employment income ($)
		Under $2,000		$2,000–4,999		$5,000–9,999		$10,000–14,999		$15,000–19,999		$20,000–24,999		$25,000 & over		
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	
Architects	3,985	200	5	395	10	790	20	1,250	31	610	15	275	7	465	11	14,405
Engineers	77,395	2,935	4	6,335	8	22,735	29	29,805	39	12,110	16	2,235	3	1,245	2	11,074
Lawyers & notaries	15,735	745	5	1,380	9	2,405	15	2,785	18	2,175	14	1,740	11	4,495	29	19,850
Physicians and surgeons	26,015	930	4	1,575	6	3,500	13	2,325	9	2,215	9	2,810	11	12,650	49	26,990
Dentists	6,290	265	4	300	5	625	10	810	13	1,125	18	925	15	2,235	36	21,688
Veterinarians	1,665	110	7	110	7	285	17	500	30	350	21	130	8	185	11	14,912
Osteopaths & chiropractors	1,010	35	3	110	11	195	19	190	19	155	15	100	10	220	22	18,276
Pharmacists	7,470	345	5	590	8	2,135	29	2,645	35	965	13	330	4	465	6	11,992
Optometrists	1,450	80	6	60	4	190	13	335	23	300	21	195	13	290	20	17,021
Dispensing opticians	1,195	95	8	240	20	625	52	185	15	35	3	10	1	15	1	7,562
Radiological technicians	1,780	205	11	275	15	1,015	57	235	13	40	2	5	0	10	1	7,011
Dental hygienists	2,605	290	11	525	20	1,255	48	375	14	85	3	35	1	40	2	7,272
Total of selected occupations*	146,595	6,235	4	11,895	8	35,755	24	41,440	28	20,165	14	8,790	6	22,315	15	15,542
Total of all occupations*	6,023,325	1,057,185	18	1,317,195	22	2,614,320	43	725,730	12	168,495	3	59,990	1	80,400	1	6,574

*Both totals and individual figures are subject to rounding errors (see note (1) at the end of this Chapter). For this reason percentages are approximate and may not sum to 100.

† Employment income is defined in note (2) at the end of this Chapter.

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-765.

TABLE 1.2.B

Employment Income of females (who worked in 1970) in selected occupations, for Canada.

Occupations	Total with employment income*	Employment income reported†								Average income of all persons with employment income ($)
		Under $2,000		$2,000 – 4,999		$5,000 – 9,999		$10,000 & over‡		
		No.	%	No.	%	No.	%	No.	%	
Architects	115	45	39	20	17	25	22	25	22	5,391
Engineers	1,310	185	14	330	25	545	42	245	19	6,446
Lawyers & notaries	850	125	15	160	19	240	28	315	37	8,402
Physicians & surgeons	3,070	475	15	475	15	930	30	1,190	39	11,054
Dentists	310	30	10	50	16	90	29	140	45	10,889
Veterinarians	75	20	24	25	29	20	24	20	24	6,731
Osteopaths & chiropractors	75	10	14	15	21	30	43	15	21	7,017
Pharmacists	2,450	540	22	635	26	930	38	345	14	5,680
Optometrists	100	15	15	30	30	40	40	15	15	6,708
Dispensing opticians	240	55	23	110	46	70	29	5	2	4,230
Radiological technicians	5,335	1,205	23	1,405	26	2,630	49	95	2	4,597
Dental hygienists	9,145	2,840	31	5,020	55	1,245	14	40	0	3,108
Total of selected occupations*	23,075	5,545	24	8,275	35	6,795	29	2,450	11	5,336
Total of all occupations*	3,249,440	1,258,725	39	1,279,230	39	649,950	20	61,545	2	3,199

*Both totals and individual figures are subject to rounding errors (see note (1) at the end of this Chapter). For this reason percentages are approximate and may not sum to 100.

† Employment income is defined in note (2) at the end of this Chapter.

‡ Because of the small number of women employed income data is not available for the same categories as for men.

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-765.

TABLE 1.3.A

Average income of males (who worked in 1970) in selected occupations, for Canada ($)

Occupations	Average income					
	All education groups	Less than grade 9	Grade 9 – 11	Grade 12 – 13	Some university	University degree
Architects	14,405	9,710	10,119	10,908	10,704	15,232
Engineers	11,074	8,653	9,608	10,042	9,118	12,348
Lawyers & notaries	19,850	11,031	9,876	13,167	14,964	20,222
Physicians & surgeons	26,990	–	–	–	15,303	27,218
Dentists	21,688	–	–	–	11,472	21,833
Veterinarians	14,912	–	–	–	9,244	15,143
Osteopaths & chiropractors	18,912	–	54,014	17,939	14,875	17,444
Pharmacists	11,992	7,070	7,850	9,653	10,629	12,722
Optometrists	17,021	7,936	9,395	12,344	18,405	17,289
Dispensing opticians	7,562	6,081	7,181	7,645	8,256	12,953
Radiological technicians	7,011	6,911	6,926	6,911	6,397	11,217
Dental hygienists	7,272	6,993	7,492	7,608	6,431	6,024
All occupations in Canada	6,574	5,511	6,169	6,822	6,557	12,176

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-768.

TABLE 1.3.B

Average income of females (who worked in 1970) in selected occupations, for Canada ($)

Occupation	Average income					
	All education groups	Less than grade 9	Grade 9 – 11	Grade 12 – 13	Some university	University degree
Architects	5,391			3,000	5,896	5,423
Engineers	6,444	4,860	5,578	5,420	5,206	8,144
Lawyers & notaries	8,402	3,136	5,741	4,908	5,757	9,566

TABLE 1.3.B (Cont'd)

Occupations	Average income					
	All education groups	Less than grade 9	Grade 9 - 11	Grade 12 - 13	Some university	University degree
Physicians & surgeons	11,054	–	–	–	3,855	11,634
Dentists	10,889	–	–	–	4,093	11,867
Veterinarians	6,731	–	–	–	–	6,888
Osteopaths & chiropractors	7,017	–	2,216	8,726	8,014	8,023
Pharmacists	5,680	3,680	3,425	3,155	4,741	6,592
Optometrists	6,708	2,850	6,661	4,431	7,148	8,268
Dispensing opticians	4,230	3,025	5,019	4,075	3,437	4,279
Radiological technicians	4,597	4,924	4,808	4,499	4,729	5,713
Dental hygienists	3,108	3,221	3,069	2,970	3,584	3,159
All occupations in Canada	3,199	2,595	2,884	3,395	3,751	5,851

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-768.

Governments in this and other countries have granted self-regulating powers to selected occupational groups for many years; dentists, for example, were first given self-licensing powers in Ontario in the 1860's. The original intentions were to protect the public from unqualified and unscrupulous practitioners by providing supervision of education and the establishment of malpractice guidelines. Not everyone agrees that licensing is wholly good. Dodge [1] argues that the justifications commonly advanced for self-licensing are not supported by logic. The single most celebrated critic of licensing is perhaps Milton Friedman. He accuses the professions of using licensing for motives of their own which go well beyond the original intent of legislation:

> The most obvious social cost is that any one of these measures, whether it be registration, certification, or licensure, almost inevitably becomes a tool in the hands of a special producer group to obtain a monopoly position at the expense of the rest of the public. There is no way to avoid this result.[2]

---

[1] David Dodge, "Occupational Wage Differentials, Occupational Licensing, and Returns to Investment in Education" in Sylvia Ostry (ed.), *Canadian Higher Education in the Seventies*, Econ. Council of Canada, 1972.

[2] Milton Friedman, *Capitalism and Freedom*, Univ. of Chicago Press, 1962.

There have been two important reports published in Ontario which have also indicated some of the inherent dangers of self-licensing. One of these, the McRuer Report (Royal Commission on Civil Liberties[3]) made the following point:

> The granting of self-government is a delegation of legislative and judicial functions and can only be justified as a safeguard to the public interest. The power is not conferred to give or reinforce a professional or occupational status. The relevant question is not, "do the practitioners of this occupation desire the power of self-government?", but "is self-government necessary for the protection of the public?". No right of self-government should be claimed merely because the term 'profession' has been attached to the occupation. The power of self-government should not be extended beyond the present limitations, unless it is clearly established that the public interest demands it.

A similar point was made by the Committee on the Healing Arts[4]:

> The history of the regulatory bodies in Ontario abounds in decisions, policies and regulations of a truly or apparently restrictive practice nature. Our examination of the practices of the professions discloses an inclination on the part of the statutory governing body to see itself as the defender of the interests of its members.

Friedman's view is founded on his purist capitalist philosophy, whereas the reports from Ontario stress the need to allow free entry as a means of ensuring an adequate supply of professionals, and of permitting those who want to enter a profession to do so with the minimum of restriction.

Depending on the province and the profession in question, the power of self-government ranges from the exclusive right to the use of an occupational title to a wide set of powers related to the establishment of educational standards, accreditation of public educational institutions, enforcement of professional ethics and the prescription of fee schedules.

Perhaps the most important of these powers is the right to license would-be practitioners. The licensing of occupations is the preserve of the provinces and so there is some variation across Canada in the types of occupations which receive self-licensing and in the legislative authority provided.

The so-called self-licensing occupations may be considered as two distinct types: those which have exclusive rights to practise and those which have exclusive rights to a name. The Quebec Professional Code (March, 1975) defines *exclusive professions* as those which have the exclusive right to practise, and this right is restricted to professions "where the acts done by these persons are of such nature and the freedom to act they have by reason of the nature of their ordinary working conditions are such that for the protection of the public they cannot be done by persons not having the training and qualifications required to be members of the corporation." The occupations named in the code include: "advocacy, notary, physician, dentist, pharmacist, optometrist, veterinary surgeon, agrologist, architect, engineer, land surveyor, forest engineer, chemist, chartered accountant, radiological technician, dental technician, dispensing optician, chiropractor, hearing-aid accoustician, podiatrist or nurse."

The Quebec code lists the following occupations as *professions with reserved titles*, i.e. those which have an exclusive right to a name: registered industrial accountant, certified general accountant, dietician, social worker, psychologist, industrial relations counsellor, vocational

---

[3] *McRuer Report*, Ontario, Royal Commission on Civil Liberties, 1968.

[4] Ontario, Committee on the Healing Arts, *Report*, 1970.

guidance counsellor, town planner, chartered administrator, chartered appraiser or assessor, dental hygienist, dental technician, speech therapist, physiotherapist, occupational therapist, nursing assistant, medical technologist.

Although the difference between the categories is clearly defined by law, the level of control exercised by particular occupational associations is perhaps less clear. Strictly, self-licensing refers only to those occupations which have the exclusive right to practise, but in reality the other types of licensing and certification may allow associations to exercise significant influence over entry into the occupation and significant control over professionals. In Ontario there are a number of trades which are subject to compulsory certification, including barbers, plumbers, auto body repairers, and watch repairers, as well as the more obvious trades such as auto vehicle mechanics and fuel and electrical system mechanics. On the other hand, voluntary certification is considered sufficient for chefs and heavy duty equipment mechanics. The difference between the two groups seems to have arisen both from historical reasons and from the need for public safety (for instance, licensing of barbers is enforced primarily to ensure that they can recognize communicable disease).

1.2 THE CONSUMER INTEREST

The powers of the self-regulating occupational groups may have an impact on consumer interest in a number of ways. The primary economic considerations from the consumer point of view are discussed below.

The Supply of Professionals

Consumers require there to be an adequate supply of professionals. To the extent that self-licensing may prevent free entry into an occupation, professional associations may be artificially restricting this supply. There are several basic means by which the "natural" supply of professionals may be restricted: by restricting the number of recognized schools; by requiring unnecessarily high entry qualifications; by requiring such lengthy and arduous training that prospective applicants are discouraged from entering the profession; and by influencing the rate of failure of those engaged in the prescribed training. Although such restrictions on supply need not always work to the disadvantage of consumers, they will tend to increase the cost and reduce general access to professional services.

Immigration may also play a significant part in the supply of professionals. An association may restrict supply by refusing to recognize the equivalency of professional qualifications from other jurisdictions, thus preventing qualified immigrants from entering the ranks of the profession.

The Cost of Training

The cost of training is important to consumers, as they are also investors. The largest proportion of training costs is borne by the public which, in most cases, supplies the institutional facilities for training. The costs of training are mainly related to the length of time required for the student to acquire pre-entry qualifications and professional training. The professional associations which determine training requirements do not themselves carry any of the costs; these are shared by the students and the public.

The Cost of Services

The public not only invests in the training of students, but also pays for the service when it finally becomes available. The professional associations may set fee schedules, and even when members

are not obliged to charge the set fees, they are strongly encouraged to do so. In addition, the student may be expected to regain the costs of his investment in his education from consumers. The longer the training, the greater the investment to be returned, and the shorter the period over which it may be amortized. These factors provide the principal arguments used by many professionals for their entitlement to higher-than-average incomes. It is interesting to note that many of the professions have "no competition" clauses as an integral part of their codes of ethics. In most cases, advertising and price competition are strictly forbidden.

The Productivity of Professionals

The way in which professional training is utilized may be of importance to consumers. Low productivity may result from a poor distribution of professionals, leading to overwork in some areas and underwork in others. The insufficient use of available labour-saving technology or of para-professionals may also lead to a failure to make optimum use of the professional's time and training.

Quality of Service

There is an implicit trade-off between cost and quality in developing a stock of manpower in any professional group. The more that quality is emphasized, the smaller and more highly qualified will be the group practising the profession in question, and the cost of services will be correspondingly higher. The consumer's best interest may not be served by having the best possible professionals if this means there are so few that he cannot obtain access to, or afford, their services.

1.3 CHARACTERISTICS OF HUMAN CAPITAL ANALYSIS

Despite its relatively recent origin, the concept of human capital is simple enough, and in economic texts rarely rates more than a line or two of explanation. Whereas the nature of physical capital is a fundamental component of economic thinking, the expansion of the definition of capital to include people (as distinct from labour) is perhaps still not wholly accepted. The point is made well by Davis and Morrall[5]:

> Investment is anything that accumulates capital; capital is a stock of assets that yields a stream of income or utility over time; thus income is the product of capital. Despite its apparent simplicity, most economists, until recently, would have objected to this broad usage of the terms of capital and income.

Investment in people, therefore, perhaps in the form of education, accumulates human capital. And human capital, just as physical capital, may yield income or utility over time. To the extent that there is investment in an individual, he represents to society a stock of human capital. If an individual earns more income as a result of the human capital he represents, then that income may be considered to represent a return on the initial investment. The importance of this notion is stressed by Schultz:[6]

> Much of what we call consumption constitutes investment in human capital. Direct expenditures on education, health, and internal migration to take advantages of better job opportunities are clear samples . . . The failure to treat human resources explicitly as a form of capital, as a produced means of production, as the product of investment, has fostered the retention of the classical notion of labour as a capacity to do manual work requiring little knowledge and skill . . . This notion of labour was wrong in the classical period and it is patently wrong now.

---

[5] J.R. Davis and J.F. Morrall, *Evaluating Educational Investment*, Toronto: Lexington Books, 1974.
[6] T.W. Schultz, *Investment in Human Capital*, Collier Macmillan, London, 1971.

Some economists find the linking of education and individuals with investment and returns to be both abhorrent and impractical. Nevertheless, the message is persuasively simple. Inasmuch as education represents a cost and increased incomes represent a return on that investment, it is plausible to evaluate expenditure on human capital in much the same way as that on physical capital.

The activities which may improve human capabilities or add to society's stock, as listed by Schultz, are discussed below:

Formally Organized Education

This includes primary, secondary and post-secondary education. Clearly everyone in Canada represents a certain amount of human capital. In our study of the self-licensing occupations, we are principally interested in highly qualified manpower which predominantly receives post-secondary education, often in large doses. Most research into human capital has concentrated on post-secondary education.

On-the-Job-Training

Although on-the-job training clearly represents an investment in human capital, its informal nature makes it difficult to assess. The dividing line between experience and training may not be easy to establish, but even in those occupations where it is easily identifiable, such as the articling of law students or the residency of doctors, the costs and benefits are more difficult to measure than those of formal education.

Study Programs for Adults

Adult study programs are increasingly identifiable as consumption oriented rather than investment-oriented. Their importance remains to be established, but they are a comparatively minor source of human capital formation.

Migration

Migration is important in two distinct ways. First, Canada imports human capital from abroad; in some occupations this amounts to a sizeable proportion of the total stock. Migration of skilled manpower also takes place within Canada, so that some provinces may receive a net gain in labour to the detriment of other provinces. Second, migration of human capital from areas of oversupply to areas of undersupply will tend, all things being equal, to increase the overall productivity of labour.

Health Services

The stock of human capital may be enhanced by the provision of health services. In developing countries, investment in health facilities which increase life-expectancy will also increase the length of time that society and the individual can benefit from the investments made in him.

Human capital is subject to the same forces as physical capital:

Depreciation and Deterioration

Because human capital is to a large degree a function of knowledge, as that knowledge diminishes in importance or relevance, so that human capital may be considered to depreciate. Occupations

with a high technological content are perhaps the most subject to this depreciation. In the normal course of events this depreciation is minimized by further training, which in most cases is on-the-job training, but may also include mid-career training.

Occasionally new technology may result in an entire occupation being replaced by another. The creation of many computer-based professions has led to a significant redrawing of the demarcation lines between occupations.

Just as the value of knowledge itself may become of less value to employers, so there may occur some deterioration of human capital within an individual. The main reason for this is aging; the productivity of an individual may decrease as he becomes older and is perhaps unable or unwilling to work long hours.

Leakages

Human capital may be lost from society by various means, migration being the most important. Just as human capital can be added through migration, so it can also be lost. This may prove to be an important consideration for the less prosperous provinces which are unable to offer the opportunities or incomes that would prevent highly skilled labour from leaving. Leakages may also occur through sickness, or pre-retirement mortality. Losses may also result from the failure of individuals to take up the career for which they have been trained, or through failure to complete training courses. When this occurs after lengthy vocational training, the costs to both the individuals and to society may be substantial.

Market Restrictions

The formation and utilization of human capital may be subject to a variety of non-economic restrictions. One of the most important occurs when occupational associations impose restrictions on the free entry of individuals into an occupation. In addition, a range of class, sex, and racial restrictions, which have little to do with the human capital intrinsic to an individual, may influence both entry to an occupation and the productivity and remuneration of its members.

1.4 CONCLUSIONS

It is clear that the consumer has a wide range of interests in the development of Canada's stock of professional manpower and the manner in which professional services are rendered.

This interest covers many aspects of life which are of critical importance to the well being of every member of our society, including health care systems, legal advice, education, and the structural safety of roads, buildings and bridges. In large measure these areas are left to the management of self-regulating occupational groups. Governments have taken increasingly active roles in all these areas to ensure that the public interest is protected, but the relationship between public and private responsibility and the interface between governments and occupational groups is by no means clear.

The questions which the Consumer Research Council might address include the extent to which the delegation of self-regulating powers to occupational groups is in the public interest, the nature of additional safeguards which governments might provide, the role of government in "manpower planning" with respect to the professions, and the responsibility of government for specifying the

nature and delivery of professional services. These issues are related very directly to the broader questions facing our political/economic system at present. Will the heavy reliance on private decision making continue to be an important part of our political/economic philosophy or will it be necessary to move towards a system which relies more on direct government action in the regulation of private activities?

This report deals with the potential for the application of human capital concepts and techniques in the analysis of these questions. As we shall see in later chapters, human capital analysis provides a useful framework within which an essentially economic analysis can be carried out. It has the major strength of providing a basis for a quantitative approach, which will permit a more rigorous analysis.

Notes to Tables in Chapter 1

1. Some of the 1971 Census figures in this report have been subjected to a confidentiality procedure to prevent the possibility of associating small figures with any identifiable person. The particular technique used is known as "random rounding". Under this method, all last or "unit" digits in a table (including totals) are randomly rounded (either up or down) to 0 or 5. Since totals are independently rounded they do not necessarily equal the sum of individual rounded figures in distribution. Also, minor differences can be expected for corresponding totals and cell values in various census reports.

2. Statistics Canada define employment income as the total income received in 1970 as wages and salaries, net non-farm business or professional income (gross receipts minus expenses of operation including depreciation).

3. For the purposes of this report, engineers have been taken to be group 214/215 less group 2141 (architects). Group 2159 (architects and engineers n.e.c.) has been included under engineers.

CHAPTER 2

HUMAN CAPITAL ANALYSIS AND RETURNS FROM INVESTMENT IN EDUCATION

Most of the research into human capital relevant to our study of the professions has concentrated on the analysis of investment returns from formal education. Although this does not cover the entire area of our interest in human capital, it does represent the most important component. In this chapter, we shall briefly review the basic methodology of investment return analysis, several recent studies which are particularly pertinent to our interests in the self-licensing occupations, and some of the more general points raised in the calculations. The purpose is to provide the reader who is unfamiliar with the background of human capital analysis with an introduction to the subject. It is not intended to be an exhaustive survey of current research.

Our principal concern is with formal, post-secondary education, and this chapter does not deal with secondary education, on-the-job training, or mid-career training. The value of each of these to the formation of human capital is undisputed, but they are of relatively less importance to an examination of the self-licensing occupations.

The investments which students make in their careers by buying education may be related to their prospective earnings. In this way, the return on investment realized by the individual may be calculated. This is a more difficult procedure than it first appears; there are many other factors that also contribute to an individual's earnings and these must be estimated before the earnings directly attributable to education can be assessed. There is no common agreement on the detailed method of calculation, but the results are interesting as they give some indication of the relative returns of various occupations.

The return to society on its investment in students may be calculated in a similar fashion. Whereas an individual's return on his investment may be measured in terms of his lifetime earnings, this is a far less satisfactory measure of the benefit which society obtains from the individual. Even so, in the absence of better alternatives, gross earnings are used to estimate society's returns. However, the inadequacies are such that few researchers are prepared to recommend this method of calculation as the sole basis for resource allocation in education.

The orientation of this type of analysis is firmly towards monetary values. However, no one could suppose that the many considerable benefits of education can be expressed in dollars alone. The value to the individual of good working conditions, job security and job satisfaction may be substantial. And in the same way, the value to society of doctors and engineers is difficult to equate with simple income differentials. Nevertheless, until more adequate measures are developed, the monetary returns provide us with a useful guide. As long as the quantitative components are not emphasized to the exclusion of the qualitative, investment return analysis can provide an important adjunct to the analysis of human capital.

2.1 ANALYSIS OF THE PRIVATE RETURNS FROM EDUCATION

Much of the work done in human capital analysis has focused on the evaluation of the return which individuals gain by investing in particular courses of education. The aim has been to assess the fees which should be charged for education or to arrive at an understanding of the importance

of economic considerations in the educational choices made by students. An assessment of the private returns from education may be important in the context of consumers' interest in the professions, in that it might allow for a quantification of excessively high returns which may accrue to the professions because of their self-governing powers.

The private returns from education are determined as the relation between the costs to the student of obtaining his education, and the benefits which he receives through the remainder of his working life from increased earnings. The procedure is as follows:

- establish the costs of education;
- establish the monetary benefits attributable to that education;
- relate monetary benefits obtained over a period of perhaps 40 years, back to the time at which the initial investment was made. A positive result indicates that the student, in monetary terms at least, has made or may expect to make a sound investment.

By comparing the benefits which result from various educational programs, the student may, if he so chooses, select the program which will maximize the return on his investment. In this way the market, in theory at least, will keep a proper balance between the demand and the supply of skilled manpower. If the supply of students entering an occupation increases faster than the demand, the market price for those services will tend to drop and the return on investment will decline correspondingly. To the extent that students can perceive this, and as the return falls below that of other occupations, students will tend to enter occupations providing higher returns. Although in reality the labour market is less than perfect and the earnings received by various occupations may be attributable to factors beyond simple demand and supply, human capital analysis can provide a general indication of how well the market system is working.

Central to the theory of human capital is the premise that education increases the productivity of an individual, and thus the income which he is able to command. So, by determining the difference between an individual's income and what he might otherwise have earned without the education, we may establish, more or less, the value that society places upon that education. In fact it is more complicated as education is only a contributing factor. In understanding the income accruing to education, we should in the first place have some understanding of how this differential in earnings is composed.

Dodge[7] quotes Rottenberg's description of the possible composition of this differential in earnings. Essentially, we may think of the differential as being composed of two distinct elements:

1. a compensating differential, which is the earnings which an individual may expect because of the special and real qualities which he brings to his job. This would include factors such as education, ability and the length of a working week;
2. a real differential, which is any other income which is not accounted for by the compensating differential. This may be ascribed to a variety of factors, including race, location, and market imperfections (such as may be caused by restrictions in the supply of people, or unwarranted bargaining power in establishing wages or fees).

---

[7]Dodge, Op. cit. See Simon Rottenberg, "On Choice in Labour Markets".

In establishing the benefits which accrue to society and to the individual as a *direct* result of education, it will be necessary in the first place to distinguish between the real and compensating differentials, and in the second place to remove those other components of compensating differential such as ability and long working hours which may influence an individual's income. However, in the studies described in this chapter, the assumption in each case was that there were no imperfections in the labour market, so that the whole earnings differential may be attributed to compensating factors. The implications of this assumption are important in the context of our study of the professions because we might well want to use earnings differentials to identify and quantify particular kinds of market imperfections due to the self-governing powers of occupational groups. This is discussed further in Chapter 3.

2.1.1 Assessing Private Costs of Education

The costs to the student of post-secondary education are of two types:

Direct Costs

The costs of education which are carried by the student include tuition fees, books, loan charges and any other expenditures which are over and above what he would be required to pay were he not attending university.

Indirect Costs or Opportunity Costs

By attending university the student forfeits the earnings which he might otherwise have obtained from a full time job. These foregone earnings, net of income tax, represent an indirect or opportunity cost to the student. (This loss of earnings, gross of taxes also represents a loss to society and so would also be counted as a social cost).

As opportunity costs are substantial, failure to account for them in investment return analysis will cause the costs of education to be considerably undervalued.

Berg makes the point[8] that one of the problems of determining foregone earnings is that although the calculation is valid in individual cases, if a major reduction in post-secondary education occurred, the labour market would be inundated with unskilled labour, unemployment would result, and the value of foregone earnings would fall correspondingly. This argument is not considered valid by the majority of writers; Wilkinson[9] makes the point that government policy could relieve such unemployment.

However, education by its very nature is not simply an investment good. To the extent that a student is consuming education as a pleasure, as something to be done for its own value, the investment costs of education should be reduced. This presents a problem in determining the proportion of education which may be considered as consumption and that which may be considered an investment in the future. We may speculate that it will not be a constant relationship, as it may vary from student to student and from course to course. Dentistry, for example, might be considered as being primarily investment, whereas history would be largely

---

[8] Ivar Berg, *Education and Jobs: The Great Training Robbery*, New York: Praeger, 1970.

[9] Bruce Wilkinson, *Studies in the Economics of Education*, Dept. of Labour, Ottawa, 1965.

consumption. There would be little agreement on these points, and in fact those studies which have considered such consumption aspects either left the consumption component as zero, or set some arbitrary percentage. Despite the small consideration that it has received, the value used in the calculation is clearly of major importance in the calculation of investment returns.

2.1.2 Assessing Lifetime Earnings

The return to the individual student on his investment is normally taken to be his projected lifetime earnings, subject to certain modifications. For non-vocational post-secondary education, such as a history degree, it will be necessary to ascribe appropriate occupations to the students. For vocational courses, it is assumed that the student will take up the career for which he has been trained.

Cross-sectional Earnings

Having established the student's probable occupation, lifetime earnings are calculated from current cross-sectional data relating to that occupation. Implicit in the use of cross-sectional data is the assumption that the labour market is in a state of equilibrium, that is, that there will be no real shifts of earnings of one occupation relative to another, or within a single occupation. There is considerable doubt about whether this is an acceptable approach, and some further discussion on this point is provided in Chapter 3. Unfortunately, although it may be felt that cross-sectional data are a poor guide to the following 40 years, there is little alternative to its use as the basis for projections.

Adjusting for Growth Rates

Accepting cross-sectional data as an imperfect though necessary base, certain additional adjustments can be made to reflect more accurately the earnings which the student may anticipate. The most important of these is the anticipated real growth in income. In common with many other variables, projections of growth rate must remain highly speculative, as there can be little hope of accurately predicting fluctuations during the next 40 years.

The Systems Research Group study of returns from investment on education in Ontario,[10] discussed later in this chapter, concluded from a sensitivity analysis that the calculation of return on investment is highly sensitive to the choice of growth rate. This is an unavoidable feature of forecasting and is simply indicative of the many uncertainties associated with such analysis.

Adjusting for Other Factors

Other adjustments to the earnings stream may be made, though they tend to be of comparatively minor significance. An adjustment may be made to reflect the likelihood of unemployment, which may cause a loss in lifetime earnings. Although this has rarely been a major factor in the highly skilled occupation groups, recent events indicate that it might become more significant in the next several years. Similarly, the labour force participation rate may be a consideration, particularly for female students. The probability that women will withdraw from the labour force at certain times in their careers will reduce their average lifetime earnings. Pre-retirement mortality and morbidity

---

[10] Systems Research Group, *Cost and Benefit Study of Post-secondary Education in Ontario*, Commission on Post-secondary Education in Ontario, 1971.

are also factors that will reduce average lifetime earnings. In reality, a student is unlikely to take pre-retirement mortality into consideration when estimating expected return on educational investment, although in the analysis of social returns it may be a significant factor. Finally, lifetime earnings are usually reduced by the anticipated level of progressive income tax. The net earnings stream will therefore reflect the actual monetary returns which the student may anticipate.

2.1.3 Calculating the Earnings Differential

The net lifetime earnings represent the total income which a student may expect from a particular occupation. But even without post-secondary education he would be earning something. To establish the income which is directly attributable to post-secondary education, it is necessary to deduct the earnings which might have been received without the benefit of such an education from the projected lifetime earnings. The resultant, the earnings differential, is then the actual monetary return from the individual's education.

The average earnings of high school graduates would generally be taken as the income the individual would have received without post-secondary education. Some researchers believe that the average is a poor indication as the student would probably be of above average ability, and therefore capable of earning more than the average high school graduate. Some allowance (which could be considerable), may be made for the influence of *ability*, so that the earnings differential will be correspondingly reduced.

One further modification of the differential proposed by Eckaus[11] is the reduction of earnings to reflect a standard 40-hour work week. For example, the earnings of doctors working an average of 70 hours a week would be reduced by the earnings acquired in the extra 30 hours. These additional earnings may be considered as part of the compensating differential and therefore would be removed when calculating the real earnings differentials among occupations. However, it may also be argued that not everyone has the option to work 30 hours extra, so that the additional earnings should be counted as a return from education.

Another factor which might be considered in a return on investment analysis is the risk inherent in entering a particular field of studies. One might fail to complete that course of studies or completion there may be no suitable positions available, so that all or part of the investment might be lost. The nature of the work in which one must engage to earn the benefits of the investment might also be considered. A doctor might be considered to pay a premium in terms of the conditions in which he must work and the pressures and responsibilities which he must shoulder.

2.1.4 Discounting the Earnings Differential

Notwithstanding the fact that both costs and earnings as calculated are in constant dollars, they are not directly comparable. The time difference between the payment of costs and the receipt of earnings has to be taken into consideration. As money itself, through interest payments, is capable of earning money, over a period of 40 years the difference in real terms of the same sum in constant dollars may be substantial. In order to compare educational costs to the student with the subsequent earnings during his lifetime, a discounting procedure is used. There are two common means by which an investment earning may be discounted and evaluated:

---

[11] Richard Eckaus, *Estimating the Returns to Education: a disaggregated approach*, Carnegie Commission, McGraw-Hill, 1973.

Net Present Value

The earnings stream may be discounted to a base date, usually taken to be the year of commencement of post-secondary education, to give the present value. The residual obtained by subtracting the educational costs (which may be discounted in the same manner), from the discounted earnings, is the *net* present value. If this is positive, the educational investment, measured in money terms alone, may be said to be advantageous to the individual. A comparison of the net present values of occupations demonstrates their relative profitability.

The Net Present Value is given by the following formula:

$$NPV = \sum_{t=1}^{n} \frac{E_t}{(1+r)^t} - \sum_{t=1}^{m} \frac{C_t}{(1+r)^t}$$

Where: NPV = the Net Present Value at the base date (first year of the educational program)

E_t = the earnings in year t

N = the length of working life, in years

t = the year variable

r = the discount rate

C_t = the educational costs in year t

m = the lenght of post-secondary education in years

The choice of discount rate is critical to the calculation. The Systems Research Group study chose 7% as a normal rate; tests showed that the net present value is very sensitive to the rate selected.

Internal Rate of Return

The difficulty of selecting the appropriate discount rate may be avoided by using the internal rate of return as a measure of investment. Instead of selecting an arbitrary discount rate, the equation is solved for the discount rate for which the net present value is zero, or in other words when discounted costs are considered to be equivalent to discounted earnings. A high discount rate indicates an advantageous investment; as an example, the Systems Research Group study estimated a rate of return of 56.5% for male dentists (an NPV of $95,300), compared to 13.6% for male architects (an NPV of $16,700).

There is no common agreement about which measure is the most appropriate, and perhaps they are best used in conjunction.

2.2 ANALYSIS OF PUBLIC RETURNS FROM EDUCATION

Just as with the analysis of private returns from post-secondary education, the analysis of public returns involves the determination and comparison of the costs and benefits. Although the process is essentially the same, there is less agreement as to the usefulness of the evaluation. Primarily this is because of the problems associated with the calculation of benefits. In this section, a brief survey of the more common quantitative methods is provided.

2.2.1 Assessing the Public Costs of Education

The individual student faces both direct and indirect costs in obtaining post-secondary education, and the costs to society may usefully be considered under the same headings. The direct costs of post-secondary institutions are documented in provincial and institutional accounts. They include staff salaries and the costs of buying and maintaining capital equipment and plant.

The indirect costs of education are far less evident, though nonetheless substantial. The capital and land taken up by institutions represent a significant opportunity cost in terms of the earnings which they might otherwise generate. There is a range of municipal and provincial subsidies in the form of services and loss of tax revenues which never enter the traditional accounts. In addition the student himself, while studying, is an indirect cost to society, which must therefore forfeit the production and taxes which his employment would have generated.

It is difficult to put a price on many of these items – either they never come on the market for valuation, or they are lost in the complexities of government finance. So the extent to which the public contributes to the education of students is less than clear, and the additional difficulty of assigning costs to specific educational programs means that estimates can only be approximate.

2.2.2 Assessing the Public Benefit of Education

Whereas the returns to an individual may reasonably be measured by his earnings, there is no similar method of assessing the benefits which accrue to the public. However, it has generally been assumed that, at least within a perfect labour market, an individual will receive his "true worth", so it can be assumed that the public gain is also reflected in the lifetime earnings stream. The natural response to this is to question the assumption that labour markets in Canada are indeed perfect. Some consideration is given to this point in Chapter 3, but researchers have generally taken the view that, imperfect markets notwithstanding, an investment analysis which accepts the shortcomings of the data may still provide interesting and useful results. Although we have thus far failed to find any specific applications of the analysis in the formulation of educational policy, it is to be expected that more successful quantitative techniques will eventually be developed.

Lifetime Earnings

The measure of economic contribution to society made by the individual is taken to be the lifetime earnings stream, gross of taxes (as, of course, these also revert to society). But to establish the likely contribution to be made by a group of students, certain adjustments are required, just as they are for the determination of private benefits.

Students who fail to graduate may represent a cost to society without any corresponding benefits. Similarly, the emigration of graduates from the province or the country represents a loss of benefits. Pre-retirement mortality and morbidity, and the level of labour force participation may

also amount to losses which diminish the overall average return per student entering into a course of study. In terms of labour force participation, the education of female students, for example, may represent a substantial loss in the benefits which might accrue to society.

Discounting the Earnings Differential

The pre-tax lifetime earnings stream may be discounted back to the year of enrolment to obtain the present value of the investment. By the deduction of the discounted average earnings stream of high school graduates, the net present value of the public's investment in the education program is obtained. Some further adjustment may be made to allow for the extra earning potential of the above-average ability of post-secondary graduates. As little is known about this aspect, the adjustment would necessarily be arbitrary.

The Value of Earnings as a Measure of Productivity

It is not clear to what extent the earnings differential may truly be attributed to the level of education attained. Even under perfect market conditions, the natural time lags between changes in the demand for highly qualified manpower, and the eventual matching in supply, ensure that there will be fluctuations in earnings. And in a less than perfect market there will be further distortions to the "natural" level of earnings. At any one time, therefore, it must be expected that earnings will not accurately reflect an individual's true social contribution.

This point is emphasized in R. W. Judy's "Some Economics of Post-secondary Education"[12] in a quotation from John Vaizey, who points out that existing income distribution does not necessarily reflect the value of effort, talent or skill, and that market imperfections are so serious that they invalidate any attempt at measuring productivity in terms of earnings.

Judy himself adds:

> There can be little doubt that the returns to education in certain professions are exaggerated because of the market power of professional societies.

The value of these types of calculations of public benefits of post-secondary education is in dispute. Wilkinson[13] bluntly states the case as follows:

> In short, one can use social rates of return analysis to prove anything one wants to. To justify more educational spending, one can add in more non-monetary benefits or assume only a portion of the total outlays will be investment. Either technique raises the yield on educational investment. If one assumes that a portion of the tax money spent on schools comes from individuals' consumption expenditure, then even an extremely low yield rate on the investment in education justifies the outlay, because it will still be above the zero rate from consumption expenditures.

Nevertheless the process is of interest if only because it encourages a strict analysis of the manner in which major decisions relating to human capital are taken. Although it is clear that a rigorous methodology is not available, the analysis has helped to focus our attention on an area of considerable economic importance.

---

[12] John Vaizey, *Economics of Education*, 1973, quoted by R.W. Judy in *Some Economics of Post-secondary Education*, Commission on Post-secondary Education, 1971.

[13] Wilkinson, Op. cit.

2.3 REVIEW OF RESEARCH ON HUMAN CAPITAL

The brief summaries of five different studies on human capital analysis that follow illustrate a number of the specific applications to which human capital analysis has been put and the problems encountered. This review is not intended as a comprehensive survey of the field, nor can it be said that the examples represent a true cross-section of the work which has been done. Rather, they provide a general overview of the ways in which human capital analysis has been applied in the past and suggest, indirectly, ways in which the Consumer Research Council might consider using human capital analysis techniques in the future and the problems it must expect to encounter in sponsoring such work.

2.3.1 Costs and Benefits of Post-secondary Education in Ontario

The Systems Research Group's study was prepared in 1970 for the Ontario Commission on Post-secondary Education.[14] The objective of the study was to examine the economic costs and benefits of post-secondary education for individual students and society as a whole. The Systems Research Group's study is probably the most detailed and complex of its kind prepared in Ontario, and provides a wealth of information and analysis. In this brief introduction to the subject it is possible only to summarize some of the more significant components of the study and to illustrate a few of the most interesting findings.

Three analytical models were constructed and used to develop analyses of economic costs and benefits, and the income redistributive effects of post-secondary education. Each of these models is described below.

The Cost Analysis Model

This model was used to calculate all the costs associated with post-secondary education as they accrue to the public and to individuals. The cost components generated by the model were of four distinct types:

1. The total private costs associated with a particular educational program, including the direct costs to the student and his family, such as tuition fees, and the indirect, opportunity costs of foregone earnings.
2. The total institutional costs associated with a particular program, including the direct costs of buildings and salaries, together with the indirect, opportunity costs of the foregone earnings on land.
3. The total social costs for each student, in each year, which is the sum of private and institutional costs, both direct and indirect.
4. The institutional cost of degrees, which, for each program, requires a conversion of annual institutional costs per student to the institutional costs for each degree. This includes an apportionment of the costs of students failing to complete degree programs.

Among other findings, the cost model shows that up to 80% of the costs to a student of obtaining a degree may be composed of the indirect costs of foregone earnings. The implications of this are particularly pertinent to our later examination of legal education in Ontario in which there is evidence that the significance of these costs was largely ignored in the determination of the length of professional training.

---

[14] Systems Research Group, Op. cit.

The Income Redistribution Analysis Model

This model was designed to study the relationship between the income groups which pay for public investment through their taxes, and those income groups which receive the benefits of that public investment through attendance at post-secondary educational institutions. Regressive redistribution occurs when lower income groups receive less in benefits from a specific public investment than they pay towards it in tax support.

The model developed was termed "an intra-generational income redistributive model". It compared the income class-specific private costs of the various educational programs to the public contributions of these programs made on behalf of five income classes, as defined by the income class-specific distribution of students in educational programs.

The authors of the study warn against the dangers of misinterpretation of the analysis of income redistribution, which required important simplifying assumptions. However, they note that in general, post-secondary education in Ontario tends to benefit the upper income groups (students whose parents earn over $7,000 a year), to the detriment of the lower income groups (students whose parents earn between $3,000 and $7,000 a year). The income levels are, of course, based on 1970 figures. The results are summarized in Table 2.1.

TABLE 2.1

Costs and benefits of post-secondary education by income group

Component (%)	Under $3,000	$3,000–$4,999	$5,000–$6,999	$7,000–$9,999	$10,000+
Costs to society	8.86	16.58	23.65	22.66	28.25.
Student benefit	8.98	12.24	19.94	24.93	33.91

Source: Systems Research Group, Op. cit.

The general conclusions of the study were summarized as follows:

> In light of the available information it can be concluded that expenditure on post-secondary education is regressive, though not extremely regressive.

The redistributive effects of specific programs were also examined. A selection of programs shown in Table 2.2. It was found that programs in medicine and law are highly regressive (nearly 50% of benefits of the law program go to the upper income groups which bear only 30% of costs), compared with programs in dentistry, engineering and social work, which result in net benefits to the lower income groups.

TABLE 2.2

Income redistributive analysis, for Universities, by program

Share of costs by income group

	Under $3,000	$3,000–4,999	$5,000–6,999	$7,000–9,999	$10,000+
Costs to society (%)	9.1	16.7	22.8	22.3	29.2

Share of benefits by income group

Program	Under $3,000	$3,000–4,999	$5,000–6,999	$7,000–9,999	$10,000+
Dentistry	10.1	10.3	20.0	26.1	33.5
Engineering	11.5	15.0	19.5	24.6	29.4
Law	6.2	6.7	15.5	22.2	49.4
Pre-medicine & medicine	9.0	11.0	15.6	24.0	40.4
Nursing	7.2	10.0	18.6	25.9	38.3
Social work	11.1	14.7	17.6	22.6	34.0
Veterinary medicine	7.8	11.0	18.4	25.2	37.6

Source: Systems Research Group, Op. cit.

It is important to reiterate the warning of the authors of the study that too much significance should not be read into these results. These analytical techniques are in the early stages of development and should be taken only as general indications of the redistributive nature of post-secondary educational programs.

A Benefit Analysis Model

This model examined the direct economic benefits of post-secondary education in Ontario. Comparison was made between the lifetime earnings of high school graduates with those of graduates of post-secondary educational institutions. The difference between the lifetime earnings of these two groups was the basis for measuring the returns from post-secondary education, both to society and to individuals.

To provide a measure of the earnings differential which might be expected to follow from a specific post-secondary educational program, it was necessary to assign program graduates to appropriate occupations. For example, whereas a degree in law tends to lead to a career in the legal profession, geography graduates may take up a range of occupations. Simplifying the assumptions about future occupations of graduates allowed the estimation of lifetime earnings.

Further important assumptions about future levels of taxation, labour force participation, real growth in per capita income, and mortality rates were required. Additional factors which have a less clear effect on the total sum of benefits of education were also considered. These included the influence of ability on earning capabilities, the consumption value of education, the non-monetary benefits of certain occupations, and the influence of migration on levels of available human capital. Rather than arbitrarily assigning a value to these factors, sensitivity analyses were made to determine which of these factors, and which of the more basic assumptions, were likely to be critical to the final calculations.

Clearly, the value and nature of the assumptions included in the calculation of the benefits of post-secondary education are of major importance. For this reason the reader is reminded that the results of these complex analytical studies can only be properly appreciated if he is fully aware of the underlying assumptions and data employed. For example, sensitivity analyses performed in the study showed that the model was sensitive to assumptions about ability, consumption of education, and discount rates, and was "highly" sensitive to real growth rates in income data. The selection of appropriate growth rates is, therefore, of fundamental importance to the analyses.

Despite these reservations, the findings of the Systems Research Group study are of considerable interest. Table 2.3 shows the private and social rates of return, net present values and benefit/cost ratios resulting from investment in selected post-secondary educational programs. The principal assumptions include: a discount rate of 7%, an ability factor of 20%, a growth rate of 2.7% and net migration of 0%.

TABLE 2.3

Analysis of returns from education program for selected occupations (males)

Program	Private			Social		
	Rate of return (%)	Net present value ($)	Benefit/ cost ratio	Rate of return (%)	Net present value ($)	Benefit/ cost ratio
Dentistry	56.50	95,348	8.14	19.59	103,646	2.95
Veterinary medicine	36.57	35,291	4.83	9.84	16,731	1.37
Medicine	25.45	75,551	5.60	13.11	81,020	2.35
Pharmacy	24.73	25,492	3.99	9.96	15,137	1.46
Law	20.60	45,789	4.74	12.74	49,417	2.37
Architecture	13.65	16,769	2.24	8.03	2,047	1.06
Engineering	13.59	11,307	2.20	6.56	- 4,732	0.86

Source: Systems Research Group, Op. cit.

As a further example of the importance of interpreting the results in the full knowledge of the underlying assumptions, it is interesting to note that the calculation for law graduates assumes a total of five years post-secondary education, composed of two years pre-law school and three years law school. But our examination of legal education in Ontario (described in Chapter 4), suggests that 90% of law students have at least an undergraduate degree (approximately three years) and were all required to spend one year articling and a further six months studying for the Bar Admissions Course. In reality then, the total time required for training is closer to seven years than five. This greater length of training, together with a correspondingly shorter career life would, in all probability, substantially alter the benefit/cost ratio attributable to a legal education.

2.3.2 Returns from Education by Occupation

A study by Eckaus,[15] sponsored by the Carnegie Commission on Higher Education, provides a valuable supplement to the Systems Research Group's study discussed above.

Eckaus argues that neither education nor labour markets may reasonably be treated as monolithic or homogeneous in nature. There is great diversity inherent in each, so that to speak of a single rate of return is meaningless. The observable differences among individuals in mental ability, family background and many other characteristics, are further justification for this vew. Eckaus asserts that although a disaggregated approach does not overcome all the difficulties of estimating returns to education, it is "likely to be helpful".

> In general, the rationale of disaggregation stems from the fact that the labour force as a whole is made up of heterogeneous groups whose relative significance in the aggregate is changing. The expected consequence of disaggregation is that relationships estimated for the component groups will be more stable than the aggregate relationships.[15]

Eckaus suggests that if there are "differential returns to education in various occupations", they must be casued by one or more of the following factors:

- labour market imperfections reflecting the costs of occupational mobility
- failure of the market to achieve an equilibrium of equalized returns
- differential 'rents' to inherent qualities of individuals, or varying qualities of education

In order to calculate the rate of return from investment in education for all labour within any single educational level, none of these factors must be present. If they are, then differential earnings cannot be attributed to education alone. Eckaus, in fact, argues forcefully that each of these factors is a major influence on earnings, so the assumptions that labour markets, education and individuals are homogeneous items is wholly unwarranted. Eckaus notes, however, that there is no agreement that a disaggregated approach is valid.

In addition to the validity of the method, there remains a significant problem of selecting appropriate occupational bases for comparisons. This presents a continuing complication in the evaluation of returns, and will be discussed more fully in the following paragraphs.

---

[15] Eckaus, Op. cit.

In his research, Eckaus calculated the rates of return to specific occupations. He estimated lifetime earnings according to three separate concepts:

- unadjusted, reported income
- income adjusted to a 2,000 hours annual basis, and adjusted for expected mortality, unemployment and taxes
- a growth adjustment made to reflect expected future increases in income

In reviewing graduate education, which was associated mainly with "professional, technical and kindred workers", and "managers, officials and proprietors, except farm", Eckaus found that there was a wide range of internal rates of return. However, although there were some substantial, positive rates of return, the rate was often negative. As explained, the critical assumption was the comparison occupation chosen. He described it in this way.

> Suppose, for example, one regards professors as persons who have the same innate aptitudes and interests as secondary school teachers and differ only in their amounts of education. Then the internal rate of return associated with the additional graduate education runs above 10%. On the other hand, if professors think that the differential between their incomes and those of secondary school teachers is in part due to a differential in "native abilities", not all of the 10% can be credited to education.
>
> Suppose professors are regarded as persons who might just as well have become professionals (not elsewhere classified, n.e.c.), then the return to their graduate education is negative. This in spite of the fact that graduate education in the latter category itself does not "pay-off" when compared to professionals (n.e.c.) with only four years of college education.

Eckaus found that the rate of return to graduate legal education was positive only for the first (unadjusted) income concept, and even then provided only an average rate of return. More surprisingly, he found that the returns to graduate medical education were at or below the aggregate result for the second income concept (standardized for hours of work).

The implications of these results are not easy to determine. Eckaus himself, with some caution, concludes:

> The variety in the results presented above does not, I believe, lead to the conclusion that the results of education are without economic significance. But it does suggest that the influences of education on income are quite complex and cannot be caught by calculations for all members of the labour force at each level of education.

The disaggregated approach gives us no clearer conception of the returns from education, but rather raises a new set of questions. But as Eckaus explains, the disaggregated approach does not create them but simply exposes them. They are equally present and critical in aggregate calculations. This work is important in that it demonstrates that the economic returns from education cannot be estimated as a single rate or calculated by simplistic methods.

2.3.3 Returns from Graduate Study

Dodge and Stager[16] examined the returns from graduate study in science, engineering and business by applying return on investment analysis. In the same way as post-secondary educational benefits

[16] David Dodge and David Stager, *Returns to Graduate Study in Sciences, Engineering and Business*, Institute for the Quantitative Analysis of Social and Economic Policy, Univ. of Toronto, 1970.

may be compared with benefits from secondary education, Dodge and Stager compared the lifetime earnings of those holding bachelor degrees. To facilitate the calculations, the groups were considered to vary from one another only in terms of the education which they had received and no allowance was made for differing abilities.

Surprisingly, it was found that social and private returns were low for graduate studies. Only a Master's degree in Business Administration provided a social return in excess of 5%. At the other end of the scale, when discount rates of 5 to 10% were used, the social returns to Ph.D.'s were discovered to be negative. In addition, the indications were that for Ph.D. degrees in engineering, the social rate of return will likely be even lower unless employment opportunities increase to accommodate the considerable expansion in Ph.D. programs in universities.

Dodge and Stager also noted that there were differences between the returns provided by public employment and those of private sector employment. Private and social returns alike were found to be greater in the public sector for students with graduate degrees in chemistry, physics and mathematics but less for those in engineering.

2.3.4 "Economic Returns to Education in Canada"

The Current Economic Analysis Division of Statistics Canada published a report in December 1974 entitled "Economic Returns to Education in Canada".[17] In this study a regression analysis was made of micro-economic data collected in the 1967 survey of Consumer Finances. The nature of these data enabled an analysis to be made within educational classes so as to determine the characteristics, other than education, which affect income.

The regression model prepared was fitted separately for males and females, by seven educational classes (no education, some elementary, elementary, some high school, high school, some university, and university), to provide fourteen regression equations. In each equation income was the dependent variable. Altogether nine independent variables were examined. These were:

- age
- weeks worked
- region (Atlantic, Quebec, Ontario, Prairies and British Columbia)
- residence (metropolitan, other city, urban and rural)
- immigration status
- marital status
- class of worker (paid worker, self-employed, etc.)
- occupation
- nature of work (full-time, part-time).

The authors describe the regression equation as follows:

> Our dependent variable "earnings" include wages and salaries before deductions and net incomes (i.e. gross income less operating expenses) from non-farm and farm self-employed. The dependent variable in each of the fourteen education/sex classes is taken to be a quadratic function of age, a linear function of weeks worked and step functions of the dummy variables reflecting the various other characteristics previously described (region, residence, immigration status, occupation, and nature of work).

[17] Statistics Canada, Current Economic Anal. Div., *Economic Returns to Education in Canada*, 1974.

The findings showed that earnings differentials reflected the general levels of wealth in the regions, with large positive differentials in Ontario and British Columbia, and negative differentials in the Atlantic region, and with especially high benefits accruing in Ontario to males with university education.

Metropolitan areas also provided high positive differentials for males with university degrees, particularly in comparison to those same education-class residents of small urban and rural areas. The authors note that this may be explainable to some extent by the disproportionately high percentage of holders of higher level degrees resident in the larger urban centres.

Interestingly, the study found that the managerial class was the only occupational group to receive large positive income differentials for both males and females at all educational levels. A more detailed classification of occupations within this category might assist in the appreciation of the impact of professional associations on income levels.

2.3.5 Mental Ability and Earnings

Taubman and Wales have contributed a number of important studies on human capital research. One of particular interest is their analysis of the relative importance of mental ability and higher education in determining earnings differential.[18]

Whereas opinion about the importance of mental ability in determining earnings has varied, little specific research has been done on it. The Systems Research Group's study noted that return on education calculations are sensitive to this variable, and experimented with a range of values. They favoured a proportion of 20% of the earnings differential as a reasonable measure of the earnings differential attributable to mental ability. In the light of the research by Taubman and Wales, this seems to have been a good choice.

Taubman and Wales used as their basic data the NBER-TH sample (National Bureau of Economic Research – Thorndike and Hagen). This sample originated during the Second World War, when American Army Corps volunteers were given a range of aptitude tests. As the required pass level was equivalent to that of the median high school graduate, the sample has a higher average level of ability than the population as a whole. The volunteers were given 17 tests that measured mathematical and reasoning skills, physical co-ordination, reaction to stress, and spatial perception. In 1955 Thorndike and Hagen made a further sample of 17,000 of the 75,000 individuals originally tested to establish their subsequent careers and earnings. And in 1965, the NBER completed another sample using the 1955 respondents.

These data offer a unique opportunity to study the relationship of mental ability, education and earnings. Further, the data, being longitudinal in form, avoid some of the dubious assumptions required for the analysis of cross-sectional data, which have been the basis of most other research in human capital analysis.

Taubman and Wales used these NBER-TH data to perform regression analyses to determine the principal factors contributing to earnings differentials. They found that, in 1969, those with some college education received about 17% more income than high school graduates, while those with

[18] Paul Taubman and Terence Wales, *Higher Education and Earnings*, Carnegie Commission on Higher Education, New York: Nat. Bur. of Econ. Res., 1974.

an undergraduate degree, some graduate work or a Master's degree received between 25% and 30% more. They also noted that between 1955 and 1969 the earnings differentials increased at all education levels, with the greatest percentage increase occurring for the most highly educated. These results are shown in Table 2.4. The regression equations included measures of education, mathematical ability, personal biography, health, marital status, father's education and age.

TABLE 2.4

Percentages by which earnings of those with higher levels of educational attainment exceed those of the average high school graduate, 1955 and 1969

Educational level	Percentage increases	
	1955	1969
Some college	11	17
Undergraduate degree*	12	31
Some graduate work*	15	26
Master's degree*	10	32
Ph. D.	2	27
M.D.	72	106
LL.B.	19	84

*For those not teaching elementary or high school.

Source: Taubman and Wales, Op. cit.

In examining the part played by ability in the rate of return from education, Taubman and Wales found mathematical ability, as measured in the tests, to be a "significant determinant of earnings". Table 2.5 illustrates their estimates of the extent to which earnings of a high school graduate in each ability level differ from the earnings of the average high school graduate.

Those tested who were in the top ability fifth earned 9% more than the average high school graduate in 1955, and 15% more in 1969. Taubman and Wales note that "in 1955, the 17% differential between the top and bottom ability fifth is greater than the differentials attributable to education, except for the M.D. and LL.B. categories (Table 2.4). In 1969, the 25% differential was greater than the differential for some colleges and is quite close to the differentials at all education levels except LL.B. and M.D."

The authors drew the following conclusion:

> Since our sample was drawn only from the top half of the ability distribution, it is almost certain that for those in this cohort who are at least high school graduates, ability is a more important determinant of the range of the income distribution than is education.[19]

[19] Ibid.

TABLE 2.5

Percentages by which earnings of high school graduates of a given ability exceed those of the average high school graduate, 1955 and 1969

Ability fifth*	1955	1969
1	−7.6	−10.0
2	−3.0	−3.9
3	−1.0	−0.4
4	2.4	2.9
5	9.2	15.0

*Levels 1 – 5 in increasing levels of ability.

Source: Taubman and Wales, Op. cit.

To help determine how omission of an ability factor might overstate the importance of education in creating earnings differentials, Taubman and Wales re-calibrated the regression equations without the ability variables. They found that when mathematical ability was excluded, the education co-efficients in the model were increased by about 25% for 1955 and by about 15% for 1969.

Although this research by itself cannot be considered conclusive, it provides strong evidence for the belief that ability is a major determinant of income. Future studies of the rate of return on investment in education should make appropriate allowances for the proportion of earnings differentials which may be attributed to ability alone.

CHAPTER 3

QUANTITATIVE APPLICATIONS

In Chapter 1 we discussed, in general terms, the use of human capital analysis in studying consumer concerns about the professions. The main issues are the economic analysis of the impact of the delegation and use of regulatory power, the investment made by both society and individuals in developing the stock of professional manpower, the return realized on that investment, its effect on the cost of the services and the incomes of professionals, and alternative ways of deploying the stock of professional manpower which are now available.

Human capital analysis, in focusing on the quantitative aspects of the consumer interest in the professions, seems to offer a variety of tools which may be used both in public and private decision making. The identification of the social returns on public investment in particular professions can be used in educational planning and in the planning of social service delivery mechanisms. The assessment of private returns can influence decisions made by individuals and institutions. In the next few years, many provincial governments will revise their legislation governing the profession and sound quantitative analysis will be useful for this task.

3.1. PROBLEMS OF APPLICATION

In using human capital analysis to address the issues raised in Chapter 1, there are several important problems to be resolved. These include assumptions about market equilibrium, the valuation of the non-monetary benefits of education and the need to separate the influence of self-regulating power from other kinds of market imperfections.

3.1.1 Market Equilibrium

One of the central problems in the methodology commonly used in human capital analysis is the assumption that the market is in a state of equilibrium. Hence the base year cross-sectional data reflect the relative income streams for the whole of the projected period. Such an assumption is indeed convenient, for we have no way of projecting the changing relationships among occupations. But as Eckaus[20] notes:

> If the economy is not in a steady-state, the estimating procedure must explicitly try to measure the net shift of the income-age profiles of successive cohorts. There are grave identification problems involved in this as the income-age profiles may also shift as the result of the accumulation of physical capital and technological changes in production.

The information available through the Census provides little opportunity to evaluate historical trends in occupational earnings, although taxation data available for self-employed professionals do give us some rough indication of earnings (Table 3.1).

Clearly, the relative earnings of occupations have been changing over a short period, and quite substantially. Although these data cannot be taken as conclusive (and given the way they are collected, they are not acceptable for rigorous analysis), there is strong reason for believing that the labour market, for these occupations at least, is not in equilibrium. This being so,

---

[20] Eckaus, Op. cit.

cross-sectional data cannot provide an adequate guide for future earnings streams. Investment return analysis founded on a single cross-section of earnings data may be entirely misleading with regard to both social and private returns on investment in human capital.

TABLE 3.1

Average net income in $ (from all sources) of taxable, self-employed professionals for selected years

Occupations	1957	1959	1961	1963	1965	1967	1972
Physicians & surgeons	13,996	15,737	17,006	19,433	23,229	27,347	41,195
Engineers & architects	14,581	14,982	14,692	14,989	19,279	22,111	25,477
Lawyers & notaries	13,244	14,123	15,718	16,283	19,192	22,014	30,603
Dentists*	10,234	11,605	12,337	13,679	15,693	18,273	28,363
Accountants	10,879	11,033	11,627	10,994	13,448	14,517	20,247

*Dentists' income is not adjusted in precisely the same way as that of other professionals in this table, and therefore is not exactly comparable.

Source: Taxation Statistics, Dept. of National Revenue, as quoted in Atkinson *et al.*, Op. cit., and Taxation Statistics 1974.

3.1.2 Valuation of Non-Monetary Benefits

Perhaps the most significant hurdle to purely quantitative analysis in this area relates to the non-monetary benefits of education. Our evaluation of the benefits to society of education and human capital rests entirely on the assumption that the monetary returns to individuals provide a sufficient measure of the worth of their investment in education. Yet, paradoxically, it is the non-monetary benefits, the intellectual and psychological rewards, of education which are typically placed above all others.

Sadly, the paucity of research into these aspects is such that we have no way of incorporating non-monetary benefits into our calculations. Indeed, there is such little understanding of the characteristics of these benefits, that all we can say is that intuitively most researchers appear to consider them to be important.

3.1.3 Market Imperfections

Although it is clear that imperfections in the labour market do exist, we have noted both in the description of the investment return calculations and in the summary of specific studies that in all

cases the assumption has been to the contrary. Certainly this need not rule out the value of the technique in developing theory, but it does cast considerable doubt on the specific rates of return determined for educational investment. Again, Eckaus[21] notes:

> It can hardly be overstressed that the interpretation and the usefulness of the internal rate-of-return calculations depend on the structure of the markets in which the returns to education are valued. Prices and discount rates tell us little about real relative scarcities unless they are generated by reasonably good markets. Yet labour markets are heterogeneous and imperfect for a variety of reasons. There are the obvious discriminations associated with race and sex. There are also the barriers to entry to particular occupations due to control of the market by entrenched groups. There are costs in moving labour markets, in part because they may be regionally distinct and partly because of the other adjustments in life and work habits which may be entailed. Although these barriers and sources of immobility are far from complete and there is evidence of movements of labour along the various dimensions of labour markets, we cannot on *a priori* grounds, or on the basis of casual empiricism assert that such movements are enough to make labour market imperfections insignificant.

In the face of these problems we must consider what the Consumer Research Council might realistically hope to accomplish through a strictly quantitative application of human capital analysis.

3.2 THE USE OF HUMAN CAPITAL ANALYSIS TO IDENTIFY MONOPOLY PROFITS

One topic has been put forward as being particularly important to the Consumer Research Council's interest in this area. This is the measurement of the "monopoly profits" which might accrue to professional practitioners as a result of the use (inadvertent or intentional) of self-regulating powers to limit the supply of professional practitioners.

The proposition is straightforward. If the supply of professionals is artificially curtailed, those providing services will be able to charge higher prices and provide fewer units of service than would be the case if a perfect market situation existed. To identify whether or not this situation exists with respect to a particular profession one would measure the rate of return to the practitioner on the investment made in achieving his professional status. Comparing this rate of return to that of individuals in similar occupational groups but with no self-regulating powers, we can determine whether and to what extent the monopoly power of the professions has been exercised.

Such an analysis takes us back to the problem of assumptions about market imperfections, mentioned earlier in this Chapter. Whereas most work in human capital analysis has assumed that the effects of market imperfections are insignificant, in this situation we must identify the exact magnitude of one particular type of market imperfection. This is not easily done and there is very little work in the area to assist in the development of a research design.

Given the present state of technical sophistication in this area and the data available to the Consumer Research Council, we have to conclude that a research effort which focuses solely on the quantitative assessment of such economic variables as income differentials due to self-regulating powers will at this time be costly and will not yield *conclusive* results. The problems set out at the beginning of the chapter and the problems of measurement, comparisons and data gathering referred to in Chapter 2, lend further support to this conclusion.

---

[21] Ibid.

To produce purely quantitative data to prove or disprove such assumptions as monopoly profit, requires a great deal of confidence in the data and techniques of analysis. Consider the points made in an article in the February 1, 1975 edition of Financial Post, by Dr. Bette Stephenson, then President of the Canadian Medical Association:

> At present the doctor's net earnings, after he has paid the cost of his practice but before income tax, are close to $45,000 a year. Medicine is the highest-earning profession in this country, a fact that is widely publicized by government. But could I remind you of just a few facts:

- The average physician has about nine years of post-high school education.
- The average physician is approximately 28 or 29 years of age before he starts to make any major earnings, and his life expectancy and the number of years of earnings are considerably fewer than those of the average Canadian.
- The average physician is self-employed, with all the problems and hazards that that status entails. He has no company-paid pension, no sick leave, no insurance program, and none of the normal fringe benefits; he has to pay for those himself.
- The average physician carries a very heavy work-load and considerable responsibility. A 55-60 hour work-week or even longer is not the exception; it is the norm. Decisions that have life-and-death ramifications are not made more easily by the physician than by you, but they do occur more frequently.

If one is to say to a professional association "Even though you have a larger investment in education, a heavier work-load, greater risk, more responsibility and, in all likelihood, greater intelligence, ability and initiative, you earn on average 10% too little in your early years of practice and 30% too much in later years", the analysis will have to be based on very solid data and on acceptable assumptions where no data exist. It will also require a realistic base to which the incomes of the association members may be compared.

We have to conclude that the present state of technical sophistication and available data do not allow for such a rigorous analysis. This is not to say that human capital analysis is not and will never be useful in studying the relationship between self-regulating powers and incomes. Rather, the above discussion is meant to caution the Consumer Research Council against expecting specific and conclusive figures which will indicate whether and/or to what extent the professions in general, or any given professional group, may be using self-regulating powers to their own ends.

3.3. A PROPOSED QUANTITATIVE ANALYSIS

Notwithstanding the caveat of the preceding section, we feel it is possible for the Consumer Research Council, at relatively low cost, to obtain some quite useful quantitative data which would at least give some indication of the dimensions of the monopoly profits question. The proposed study would examine the relationship between self-regulating power and income for a number of occupational/sex categories. The analysis would control for the income effects of education, age, hours worked per week, size of municipality, province or region and official language.

The approach is based on a methodology presented by Statistics Canada's Current Economic Analysis Division in its paper entitled "Economic Returns to Education in Canada" – summarized briefly in Section 2.3.4 of our report. The regression analysis used in that study, modified to fit our somewhat different focus, provides a way of analyzing relevant information from the 1971 Census data, now available on tape from Statistics Canada.

Appendix A of this report presents a discussion of the technical aspects of the proposed methodology, the variables which should be included and the manner in which they might be treated. Although we feel that, for its limited purposes, the research design is basically sound, there remain several questions which those wishing to pursue this work will have to clarify, largely through discussion with Statistics Canada personnel.

We should stress that this approach is still subject to many of the problems discussed earlier in the present chapter and in Chapter 2. It uses cross-sectional data which imply a constant relative relationship between occupational group incomes over time. It does not take into account all of the market imperfections, other than the exercise of monopoly power, that might distort income. It does not account for the differences in income which might accrue from differing levels of ability or risk. It does not allow for an accurate assessment of the educational investment made by various occupational groups; and no estimate is made for the non-monetary returns to education.

Although the proposed analysis will not screen out all of the various influences on income, it will address a number of the major factors and provide some indication of whether or not significant income differentials exist as a result of self-regulating powers.

CHAPTER 4

THE FORMATION AND UTILIZATIONS OF HUMAN CAPITAL

Much of our discussion in the previous two chapters has focussed on the problems and benefits associated with the application of human capital analysis in quantitative studies. The general theme has been that although quantitative analysis offers the eventual prospect of precise analysis of consumer issues, for the present, at least, problems of technique and data collection limit its usefulness. In this chapter we discuss the more general qualitative uses of human capital *concepts* in pursuing the consumer interest in the professions. The approach suggested here focuses on the formation and use of human capital. It makes use of the economic concepts embodied in human capital analysis to create a general framework to help us understand the nature of society's interests in the development of skilled professionals and the delivery of professional services.

Two brief case studies are presented here, of the legal and dental professions, illustrating how human capital concepts might be used to create a framework within which the consumer interest might be better understood. The legal and dental professions are described in terms of educational requirements, numbers of professionals, factors which affect our total stock of professional and general economic considerations which govern professional incomes. These case studies are then used in an analysis of how decisions affecting the formation and utilization of professionally skilled groups can affect the consumer interest.

It is to be stressed that our review of the two self-governing occupations is intended to be illustrative only. The analysis provided is neither rigorous nor necessarily precise. No specific implications should be drawn regarding occupations. The background information and preliminary analysis is a general vehicle for initial speculation, and will be useful to the extent to which it provides a focus for discussion.

Law and dentistry are both administered by provincial associations which operate under provincial statutes. In each case there is a national organization, the Canadian Bar Association and the Canadian Dental Association, but these are voluntary organizations and have no statutory authority. Our survey of the two occupations is specific to Ontario, which represents the single largest association in each profession and information on them is readily available. General information for the whole of Canada is given where this is available, to demonstrate approximate differences among provinces.

4.1 THE LEGAL PROFESSION

The principal sources of information have been Statistics Canada, Roman's report on the legal profession in Ontario[22] prepared for the Commission on Post-secondary Education, and a study of the legal profession in Toronto, prepared by Arthurs *et al.*[23]

---

[22] Andrew Roman, *Legal Education in Ontario*, Commission on Post-secondary Education in Ontario, 1972.

[23] H.W. Arthurs, J. Willms and L. Tamar, "The Toronto Legal Profession: and Exploratory Survey", 21 U. of T.L.J. 1971.

Training

The training for lawyers in Ontario is composed of four distinct elements:

Entry qualifications: a minimum of two years university. Ninety per cent of candidates already have an undergraduate degree with a high pass standard. The minimum of two years is acceptable only for especially good applicants.

Law school: three years at one of the six law schools in the province, culminating in an LL.B. degree.

An articling period: served in the office of a practising lawyer for a minimum of twelve months.

The Bar Admissions Course: a six-month course set and supervised by the Law Society of Upper Canada, culminating in the successful applicant being "called to the Bar".

Thus, from beginning first year university to final admission to the Bar takes a minimum of six and a half years, but in all probability will take closer to eight years. Roman notes that this is a longer period of training than required anywhere else in the world. The responsibility for establishing training requirements lies with the Law Society, and has generally resulted in a compromise between the often conflicting demands of the law schools and the Law Society.

The number of places at law school is decided between the law schools and the provincial government. The Law Society admits all qualified applicants to the Bar Admissions Course.

The 1971 Census recorded 16,315 lawyers and notaries in Canada, and 1,265 judges and magistrates (Table 4.1). There were 6,845 lawyers in Ontario, which was nearly 42% of the national total (compared with 35.7% of the population), and an increase from 4,902 in 1961, which is a growth of 39.6% (and 102% from 1951) (Table 4.2). This represents a lawyer to population ratio in Ontario of 1:1357 in 1951 and 1:1125 in 1971. The increase in the number of graduating students over the same period has been remarkable. The number of LL.B. degrees granted in Canada and Ontario is shown in Table 4.3. From the 305 degrees granted in Ontario in 1961, there was an increase to 873 in 1973, a growth of 186%. There has been a growth of 69% in the four years 1969 to 1973 alone. A similar increase has taken place across Canada. The 873 graduates in 1973 from Ontario law schools represented something in the order of 12% of the total Ontario profession (lawyers, judges and magistrates).

Watson and Butarac[24] noted, in their survey of qualified manpower in Ontario published in 1968, that the number of lawyers seems to be correlated not so much with population as with economic factors, such as the number of businesses. At the time they noted that the growth in lawyers had not maintained pace with growth of businesses, but the considerable number of additional graduates since 1968 has probably redressed this balance.

---

[24] Cicely Watson and Joseph Butarac, *Qualified Manpower in Ontario, 1961-1986*, Toronto: Dept. of Educ. Planning, Ont. Institute for Studies in Education, 1968.

TABLE 4.1

Occupations in the legal profession, 1971

Occupations	Canada		Ontario	
	No.	%	No.	%
Judges & magistrates	1,260	6.1	450	5.0
Lawyers & notaries	16,315	78.4	6,845	76.7
Other occupations in Law	3,235	15.5	1,630	18.3
Total occupations in law and jurisprudence	20,810	100.0	8,925	100.0

*Both totals and individual figures are subject to rounding errors (see note (1) at the end of Chapter 1).

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-717.

TABLE 4.2

Occupations in the legal profession in Ontario, 1931 - 1971

Occupation		1931	1941	1951	1961	1971
Judges & magistrates	– Males	176	163	191	270	
	Females	–	1	5	12	
	Sub-total	176	164	196	282	450
Lawyers & notaries	– Males	2,760	2,744	3,281	4,740	
	Females	32	73	107	162	
	Sub-total	2,792	2,817	3,388	4,902	6,845
Total		2,968	2,981	3,584	5,184	7,295

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-717.

Note: For 1971 both the total and the individual figures are subject to rounding errors (see note (1) at the end of Chapter 1).
Occupation group 2349 (occupations in law and jurisprudence, not elsewhere classified) are not included in the total.

TABLE 4.3

LL.B. degrees awarded in Canada and Ontario

Year	Canada		Ontario		
	No.	% of 1961 degrees	No.	% of 1961 degrees	% of Canada
1972 - 73	2,268	325.4	873	286.2	38.5
1971 - 72	2,152	308.8	777	254.8	36.1
1970 - 71	1,949	279.6	726	238.0	37.2
1969 - 70	1,502	215.5	600	196.7	39.9
1968 - 69	1,323	189.8	517	169.5	39.1
1967 - 68	1,190	170.7	520	170.5	43.7
1966 - 67	1,041	149.3	419	137.4	40.2
1965 - 66	932	133.7	400	131.1	42.9
1964 - 65	767	110.0	315	103.3	41.1
1963 - 64	701	100.6	298	97.7	42.5
1962 - 63	588	84.3	249	81.6	42.3
1961 - 62	661	94.8	260	85.2	39.3
1960 - 61	**697**	**100.0**	**305**	**100.0**	**43.8**
1955 - 56	629	90.2	244	80.0	38.8
1950 - 51	712	102.2	231	75.7	32.4

Source: Statistics Canada, Catalogues 81-211 and 81-229.

Migration

The provincial Law Society restrictions tend to prevent the migration of lawyers, not only into Canada from the United States and the Commonwealth, but also among the provinces. Nevertheless, the flow of immigrants rose from 35 in 1961 to 91 in 1968, but declined to 49 in 1973.

Nature of the Practice

An understanding of human capital must be closely related to a knowledge of the manner in which it is utilized. In fact this is the most difficult area in which to obtain information. Our only source was a study of the Toronto legal profession made in 1971 by Arthurs *et al.*.[25] which the authors themselves describe as being exploratory and not based on a statistically unbiased sample. The results are therefore no more than indicative, but sufficient for our purposes. Ideally, we would like to have information for 1975, in order to determine how the tremendous increase in law graduates is being absorbed by the profession.

[25] Arthurs *et al.*, Op. cit.

The employment status of lawyers is shown in Table 4.4, and the time devoted to each area of the law is shown in Table 4.5. It is interesting to note that 33% of the time is spent on corporate, commercial and tax law, which together with real estate, and wills and estates, takes 64% of the total time of the Toronto Bar. Criminal law on the other hand constitutes only 7% of the time. These figures reflect the special business status of Toronto in Canada.

TABLE 4.4

Employment status of lawyers in Toronto, 1970

Employment status	%
Partner	64
Associate	9
Employee	5
Solo practitioner	11
Non-private employee	11
Total	100

Source: Arthurs *et al.*, Op. cit.

TABLE 4.5

Percentage of time spent by Toronto Bar on each area of the law, 1970

Area of law	% of time
Corporate/commercial & tax law	32.9
Real estate	20.7
Civil litigation	12.8
Wills & estates	10.0
Criminal law	6.8
Family & matrimonial	2.8
Other*	14.0
Total	100.0

*Includes municipal, administrative, labour, legislation drafting, patents, trademark laws, and school laws.

Source: Arthurs *et al.*, Op. cit.

In the five years since the study there have been nearly 3,500 new admissions to the Law Society of Upper Canada, nearly 50% of the Ontario profession (a similar growth has occurred in the rest of Canada). This must surely have had substantial impact on the characteristics of the profession although we are unable to specify in what ways.

The Demand for Lawyers

From the account of the time spent by the Toronto Bar on each area of the law, we may suppose that, in Toronto at least, lawyers primarily serve the corporations and higher income groups. Arthurs *et al.* note that a Canadian Bar Association survey conducted in 1967 concluded that across Canada 67% of the people had used a lawyer at one time or another, ranging from a low of 43% in Quebec to 81% in Ontario, and that more than 55% had used a lawyer within the previous two years, primarily for the purpose of buying or selling a house. Even so, Arthurs *et al.* noted that an astonishing 84% of the lawyers they surveyed practised in downtown Toronto, and only 7% practised in the suburban municipalities where most people live.

We were unable to find information on the changing patterns of demand for lawyers. The Carnegie Commission,[26] in 1973, expected that in the United States there would be a continued increase in the number of lawyers in corporations and government, and that although there would probably be a rise in the demand for legal services for consumer and environmental actions, simplified divorce laws and the increase of no-fault auto insurance would cause a decline in other areas. The Commission noted that some of the functions once performed by lawyers were being taken over by a variety of occupational groups, including claims adjusters, realtors, and accountants, although the para-legal professions had scarcely begun to develop.

Economics of the Legal Profession

Table 4.6 provides a summary of incomes for male full-time lawyers in each province for 1970. The average income, net of expenses, for all full-time lawyers in Canada was $21,933, but from province to province there was a wide range of average incomes. The highest was for lawyers, in Ontario – the average income being $24,440 – and the lowest was for lawyers in Newfoundland, who received an average of $15,969. In Table 4.7 a summary is provided of the number of lawyers, the ratio of lawyers to the population of each province and a composite index of incomes, which relates the index of income for lawyers in the province to the index of incomes for all occupations in that province. This composite index is interesting; a positive number indicates that lawyers, relative to all incomes in the province of their residence, were receiving relatively more than lawyers in other provinces. This helps to rule out overall provincial differences, but does not account for structural differences in employment among provinces. Incomes generally in B.C. are high; the index is 109.5 compared with the national average of 100. But the income index for lawyers in B.C. is only 88.5 compared with 100 for the national average. If the income of lawyers in B.C. was proportionally as high as all occupations, an index of 109.5 could be expected. Thus the composite index suggests that the income of B.C. lawyers is 21 points below what would be expected (109.5 - 88.5). The relatively low income of lawyers in B.C. may be explained in part by the low lawyer-to-population ratio. However, in Ontario a similarly low lawyer-to-population ratio does not result in a low average income, probably because of the concentration of corporate work in Toronto.

---

[26] Carnegie Commission on Higher Education, *College Graduates and Jobs*, New York: McGraw-Hill, 1973.

TABLE 4.6

Income of male full-time lawyers, by province, 1970

Province	Employment income net of expenses for 1970†									
	Total no. of lawyers*	Under $2,000	$2,000–4,999	$5,000–9,999	$10,000–14,999	$15,000–19,999	$20,000–24,999	$25,000 & over	Average income($)	Income Index§
Newfoundland	80	10	–	10	15	10	10	25	15,969	72.8
Nova Scotia	330	10	20	75	75	50	25	70	17,524	79.9
New Brunswick	280	5	10	60	70	40	30	65	18,146	82.7
Quebec	3,635	75	130	595	830	620	415	965	20,900	95.3
Ontario	5,680	100	150	595	1,040	820	810	2,165	24,440	111.4
Manitoba	620	5	50	90	120	110	60	190	19,777	90.2
Saskatchewan	360	–	15	110	50	60	50	75	17,461	79.6
Alberta	1,075	20	40	175	190	165	100	390	21,649	98.7
British Columbia	1,550	30	70	295	290	240	190	425	19,420	88.5
Canada*‡	13,665	265	495	2,005	2,695	2,125	1,690	4,385	21,933	100.0

*Both totals and individual figures are subject to rounding errors (see note (1) at the end of Chapter 1).
†Employment income is defined in note (2) at the end of Chapter 1.
‡Totals for Canada include PEI, NWT and Yukon.
§The income index shows the relation between the provincial average incomes for lawyers and the national average income for lawyers.

Source: Statistics Canada, Census of Canada, 1971, Catalogue 94-767.

TABLE 4.7

Ratio of lawyers to population in 1971, and relative average incomes of male lawyers, by province, 1970

Province	1971 Population (000)	No. lawyers 1971*‡	Population per lawyer	Average income of male full-time lawyers	Income index of male lawyers	Income index of all occupations	Composite index§
				$			
Newfoundland	522.1	95	5,500	15,969	72.8	85.5	−12.7
Prince Edward Island	111.6	40	2,800	–	–	–	–
Nova Scotia	789.0	400	2,000	17,524	79.9	86.1	−6.2
New Brunswick	634.6	335	1,900	18,146	82.7	82.7	0
Quebec	6,027.8	4,400	1,400	20,900	95.3	95.3	0
Ontario	7,703.1	6,845	1,100	24,440	111.4	108.4	+3.0
Manitoba	988.2	690	1,400	19,777	90.2	89.4	+0.8
Saskatchewan	926.2	425	2,200	17,461	79.6	74.5	+5.1
Alberta	1,627.9	1,220	1,300	21,649	98.7	97.8	+0.9
British Columbia	2,184.6	1,835	1,200	19,420	88.5	109.5	−21.0
Canada†	21,568.3	16,315	1,300	21,933	100.0	100.0	0.0

*Both totals and individual figures are subject to rounding errors (see note (1) at the end of Chapter 1).

†Totals for Canada include NWT and Yukon.

‡"Lawyers" include all lawyers in the labour force; excluded are persons looking for work, who last worked prior to January 1, 1970, or who never worked.

§This composite index provides an indication of the relation of incomes of lawyers to incomes of all occupations, province by province. As some provinces have a higher average income for all occupations than others, this helps to standardize incomes. This composite index is calculated by deducting the income index of all occupations from the income index of lawyers. Thus a composite index of 0 shows that lawyers in that province receive an income equivalent to the Canadian average, scaled to the appropriate level for the province. A positive index indicates that the lawyers receive an income higher than the Canadian average, scaled to the average income of the province. As the index uses "all occupations" rather than "professional and managerial", it does not accurately account for structural differences in employment for each province.

Source: Statistics Canada, Census of Canada, 1971, Catalogues 94-767, 94-717, and 92-772.

Provincial law societies set a level of recommended fees, but there is no obligation for lawyers to abide by this, although they are strongly encouraged to do so. There is evidence that in Toronto at least, lawyers do undercut the recommended fees for matters such as conveyancing. We might therefore expect to find that the average income will tend to decrease as the ratio of lawyers to population drops.

4.2 THE DENTAL PROFESSION

The principal sources of information on the dental profession have been House's study of dentistry in Ontario for the Committee on the Healing Arts, 1970,[27] and Paynter's report on dental education in Canada, prepared for the Royal Commission on Health Services in 1964.[28]

Training

Training for dentistry in Ontario requires one or two years of university in general arts or science, followed by a four-year course at an approved dental school which provides entry to the Royal Ontario College of Dental Surgeons.

There have been no shortages of applicants although the Canadian Dental Association (CDA) would prefer a larger number in order that a higher quality of students might be selected. Preference at dental schools is given to residents of Ontario, and an effort is made to have as many students from the rural areas as may be obtained without sacrificing the quality of students accepted.

Numbers of Dentists

Data from Statistics Canada and the CDA are not entirely compatible, and for that reason 1961 data have been adjusted to reflect the number of dentists in the labour force more accurately. On this basis, in 1961 there were approximately 5,270 dentists working in Canada, of whom 2,250 (42.7%) lived in Ontario. By 1971 there were 6,425 dentists in the labour force, and 2,815 (43.8%) in Ontario. This represents a growth rate of 22% for Canada and 25% for Ontario. During the same period the population of Canada grew by 18% and that of Ontario by 23%.

The number of degrees awarded by Canadian dental schools is shown in Tables 4.8 and 4.9. There has been a consistent growth in the number of degrees granted, from 179 for all of Canada in 1961, to 369 in 1971 (over 100% growth), and in Ontario the number of degrees granted increased from 72 in 1961 to 143 in 1971 (also a growth of 100%). The number of degrees granted in 1973, 414 for Canada and 159 for Ontario, represents an annual growth rate of approximately 7%.

The distribution of dentists in Canada is uneven. Table 4.10 shows by province the number of dentists in 1971 and the ratio of dentists to population. The ratio for the whole of Canada was one dentist for 3,400 people, but ranged from a high of 1:7,500 in Newfoundland to a low of 1:2,600 in British Columbia, which until recently did not have a dental school, and even now is producing each year graduates equivalent to only about 4% of its practising profession.

Dentists are poorly distributed within provinces as well as among them. In Ontario there is a marked concentration of dentists in the larger urban areas. This was thought by House to be attributable to factors such as the lower incomes of the rural population and the lower priority given to preventive dental care, as much as to the unwillingness of dentists to work in these areas.

---

[27] R.K. House, *Dentistry in Ontario*, Committee on the Healing Arts, Ontario, 1970.

[28] K.J. Paynter, *Dental Education in Canada*, Canada, Royal Commission on Health Services, 1964.

TABLE 4.8

Degrees awarded by Dental Schools in Canada and Ontario

Year	Canada		Ontario		
	No.	% change in degrees awarded since 1961	No.	% change in degrees awarded since 1961	% of Canada
1972–73	414	231	159	220	38
1971–72	398	222	158	219	40
1970–71	369	206	143	199	39
1969–70	341	191	136	189	40
1968–69	340	190	130	181	38
1967–68	311	174	128	178	41
1966–67	310	173	126	175	41
1965–66	304	170	122	169	40
1964–65	286	160	120	167	42
1963–64	258	144	123	171	48
1962–63	259	145	126	175	49
1961–62	229	128	85	118	37
1960–61	**179**	**100**	**72**	**100**	**40**
1955–56	160	89	70	97	44
1950–51	294	164	151	210	51

Source: Statistics Canada, Catalogue 81-211.

TABLE 4.9

Degrees awarded by dental schools, by province.

Province	1950–51		1955–56		1960–61		1965–66		1970–71		1972–73	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Nova Scotia	12	4.1	13	8.1	16	8.9	25	8.2	22	6.0	24	5.8
Quebec	106	36.1	49	30.6	67	37.4	86	28.3	108	29.3	123	29.7
Ontario	151	51.4	70	43.8	72	40.2	122	40.1	143	38.8	159	38.4
Manitoba	–	–	–	–	–	–	–	–	29	7.9	27	6.5
Saskatchewan	–	–	–	–	–	–	–	–	–	–	9	2.2
Alberta	25	8.5	28	17.5	24	13.4	71	23.4	48	13.0	36	8.7
British Columbia	–	–	–	–	–	–	–	–	19	5.1	36	8.7
Canada	294	100.0	160	100.0	179	100.0	304	100.0	369	100.0	414	100.0

Source: Statistics Canada, Catalogue 81-211.

TABLE 4.10

Ratio of dentists to population in 1971, and relative average incomes of male dentists by province, 1970

Province	1971 population (000)	No. dentists 1971*,‡	Population per dentists‡	Average income of full-time dentists (males only) ($)	Income index of dentists (males only)	Income index of all occupations (males only)	Composite index§
Newfoundland	522.1	70	7,500	25,016	104.4	85.5	+18.9
Nova Scotia	789.0	165	4,800	19,380	80.9	86.1	−5.2
New Brunswick	634.6	120	5,300	21,101	88.1	82.7	+5.4
Quebec	6,027.8	1,375	4,400	19,708	82.3	95.3	−13.0
Ontario	7,703.1	2,815	2,700	26,046	108.7	108.4	+0.3
Manitoba	988.2	245	4,000	23,235	97.0	89.4	+7.6
Saskatchewan	926.2	195	4,700	23,286	97.2	74.5	+22.7
Alberta	1,627.9	580	2,900	26,133	109.1	97.8	+11.3
British Columbia	2,184.6	850	2,600	24,498	102.3	109.5	−7.2
Canada†	21,568.3	6,425	3,400	23,956	100.0	100.0	0.0

*Both totals and individual figures are subject to rounding errors (see note (1) at the end of Chapter 1).

†Totals for Canada include PEI, NWT and Yukon.

‡Dentists include all dentists in the labour force; excluded are persons looking for work, who last worked prior to January 1, 1970, or who never worked.

§The composite index is explained in note § to Table 4.7.

Source: Statistics Canada, Census of Canada, 1971, Catalogues 94-717, 94-767 and 92-772.

Migration

Provincial association regulations tend to restrict the immigration of dentists, as they do lawyers. Dentists from dental schools in the Commonwealth may be admitted to the fourth year of a dental school in Canada, although this is not a prerequisite in all provinces. Atkinson *et al*[29] noted that in 1967 only about 459 dentists of a total of 6,582 (CDA figures), had obtained their qualifications from dental schools outside Canada. Even so, the 1973 immigration statistics show that 72 people intending to take up occupation as dentists were admitted to Canada, 20 of whom were heading for Ontario and 24 for B.C. This represents a substantial proportion of the yearly addition of new dentists, adding about 17% to the Canadian total and a further 66% to the additional dentists in B.C.

Nature of the Practice

The large majority of Canadian dentists are in private practice. Table 4.11 shows that in 1967 about 90% were self-employed in private practice, a further 1% were employed in private practice, the remainder working for various levels of government.

TABLE 4.11

Dentists in Canada, by type of employment, 1967

Type of employment	Full time	Part time
Self employed	5,570	342
Salaried (in private practice)	52	24
Federal government	216	2
Provincial government	65	10
Municipal government	110	33
University dental school	98	263
Other	35	57
Total	6,146	366*

*Items do not add to total for part-time dentists since part-time practitioners can work both in private practice and in some other field.

Source: Canadian Dental Association, quoted by Atkinson *et al.*, Op. cit.

[29] Atkinson, Barnes and Richardson, *Canada Highly Qualified Manpower Resources*, Ottawa: Dept. of Manpower and Immigration, 1970.

Until recently there have been very few specialists in dentistry, and this is changing only slowly. Atkinson *et al.* attributed the low incidence of specialists to the policy of provincial jurisdictions and professional associations.

The Demand for Dentists

Canada has a lower level of dental services than many other western countries. House,[30] quoting statistics collected by the American Dental Association, showed that the dentist to population ratio for Sweden in 1958 was 1:1,500 and for the United States was 1:1,900. The ratio for Canada even by 1971 was still only 1:3,357. The Canadian Dental Association, in a brief to the Royal Commission on Health Services in 1962,[31] complained that the supply of dentists is far below the level which they would consider adequate.

Unlike medicine, dental treatment seems to be considered by many people to be a luxury. House makes the point:

> .... only about one third of the population of Canada have regular dental care. And although the people who do use the dentist are generally in the higher socio-economic groups, the price of services may not be that influential. In the United Kingdom, the utilization of dental services is still closely correlated with income (even though dental treatment is virtually free).[32]

In analyzing the supply and use of dentists, it is important to take account of the fact that the productivity of dentists may vary considerably under different circumstances. House notes that despite the generally low ratio of dentists to population, the number of patients seen by dentists has been rising. An evaluation is complicated by two contradictory trends. First, the productivity of dentists has been steadily increasing with the greater use of dental auxiliaries and improved technology. This trend is especially apparent in the urban areas where the growth of "two-chair" practices has been most marked. Second, the nature of dental treatment itself has changed substantially in recent years. There is a far greater emphasis on restorative and preventive dental care and this is much more time consuming than a simple extraction. The level of service is clearly not just a function of the number of patients treated.

The Economics of the Dental Profession

The average income for fully employed dentists in Canada for 1970 was $23,956 and the highest provincial averages were for Alberta and Ontario. Of special interest is the fact that the average for Newfoundland was $25,016. Table 4.10 shows the composite index to be 18.9 for dentists in Newfoundland, i.e. relative to the average income of the province, dentists in Newfoundland were much more highly paid than most other dentists in the country. We would certainly expect this to be a result of the relative scarcity of dentists in Newfoundland.

The reader is reminded that this composite index is only a rough indicator, and does not take account of structural differences in employment among provinces.

---

[30] House, Op. cit.

[31] See Paynter, Op. cit.

[32] House, Op. cit.

4.3 APPLYING HUMAN CAPITAL CONCEPTS

The economic concepts inherent in human capital analysis provide a general framework within which these general descriptions of the legal and dental professions can be viewed. From the consumers' point of view one could consider the following questions: What is the impact of the current educational requirements for law and dentistry in terms of the cost, quality and availability of services? To what extent are social costs and the nature and cost of professional services affected by policies governing the licensing of trained immigrants? How are licensing decisions made and what factors are taken into account?

4.3.1 Educational Requirements

An important assumption in investment return analysis which surprisingly receives relatively little attention is that the educational requirements set out for various occupations should be relevant to the performance of the job. There are grounds to suspect that in many jobs educational requirements are higher than might be expected given the nature of the job. Research by Berg[33] strongly supports this suspicion. He gives the following explanation for the phenomenon:

> Employers have been induced to accept a parallel logic without much question in administration of wages and salaries, believing in general that better-educated employees will be better for their organizations. According to managers in private enterprise, educational achievements have been taken as evidence of self-discipline and potential for promotion. Moreover, trainability is presumed to correlate with educational achievements, as are productivity, personality and adaptability.

In assessing the implications of this type of behaviour for investment return analysis, Sewell[34] asserts that much of the rate of return from private investment in education results from the fact that more education facilitates entry into higher-paying occupations. However, he observes that because in many occupations the educational attainment of a worker seems to have little influence on his earnings, it frequently does not pay an individual to advance his education.

We cannot be sure of the precise implications of these assertions to our study of the self-governing occupations, but there is reason to believe that education is increasingly used by educational institutions as a screening device. As an example, law schools in Ontario, which receive many more applications than they have places, not surprisingly admit the best qualified students. Even though the Law Society requires only two years post-secondary education, very few students are admitted with less than a full degree. The influence of professional associations in determining the entry requirements both for post-secondary educational institutions and for their associations may be directed as much towards an expedient means of candidate selection as it is to the inherent demands of the occupation.

The great discipline that human capital analysis has to offer is that it encourages us to think in terms of the economics of education, rather than of education as somehow being above the mundanities of economic scarcity. It may not be necessary to view everything in terms of precise quantitative cost/benefit analysis, but certainly the wider economic implications of decisions should receive close scrutiny. In our brief survey of the self-licensing occupations, we were struck by the apparent absence of such considerations in the establishment of educational requirements.

---

[33] Berg, Op. cit.

[34] David Sewell, "Educational Planning Models and the Relationship Between Education and Occupation" in Sylvia Ostry (ed.), *Canadian Higher Education in the Seventies*, Econ. Council of Canada, 1972.

Decisions on entry and course requirements have economic considerations far beyond the simple and immediate costs of tuition. Failure to calculate the impact on students and society of these decisions is sure to lead to sub-optimization in the allocation of resources. The desire of the Law Society for excellence is certainly understandable, but as consumers we may wish to evaluate the worth of this excellence against its very real and significant costs. The legal profession has opted for the best students and the best lawyers, assuming without question that this is also the best for society. But is this a reasonable assumption? We are unlikely to see law schools selecting mediocre students in preference, but it may be that average students have as much to contribute to the general practice of law as those who are academically superior.

Roman[35] quoted the associate law dean who stated that the gold medal student of ten years before would today have difficulty obtaining a place at law school. Is the practice of law so complex as to exclude all but the brightest students? To the extent that certain aspects of law are highly complex and deserve the best lawyers, it seems probable that the more competent lawyers would, through a process of natural selection, end up practising in these areas. The danger lies more in the situation in which an excessively trained Bar, educated at considerable private and public costs, will occupy itself with the commonplace trivialities of every day law practice.

In a submission to the Commission on Post-Secondary Education, by a prominent law school, the following points were made:

> The modern academic education in law pre-supposes a general level of intellectual maturity and sophistication that is not ordinarily achieved by the end of the secondary school system of education, and it is therefore highly desirable that a person should have a period of undergraduate university education before entering upon the study of law. We believe that a minimum of two years of pre-legal university education is essential, and that it is desirable that a person have obtained an undergraduate degree in all but exceptional cases.[35]

For the law school, such a level of maturity makes sound enough sense, but from our appreciation of the considerable costs of human capital we would perhaps do better to ask whether the extra cost is likely to provide sufficient benefits to society to make such an investment worthwhile. Three or four years of undergraduate study represent half of the cost to society of producing a lawyer. In institutional and tuition costs alone this is certain to be an expensive provision. In addition, the cost of such front-end training when calculated in foregone earnings, should in reality be measured against the salary of lawyers, and not unskilled high school graduates. The cost of this maturity to society is therefore more than half of the cost of producing a lawyer, and inasmuch as it reduces the working life of lawyers, it also reduces the benefits accruing to society. By all measures, a provision of this nature is expensive. The strength of the human capital approach is that such implications require to be taken fully into account. With the knowledge of the real costs and benefits of any policy option, decision-makers are far better equipped to make the essential and far-reaching judgements required.

If major decisions were made in this fashion, there would be grounds for confidence. But it is doubtful if this is the case. Roman[36] comments on the decision process as follows:

> That legal education in Ontario is too long is explained by the manner in which the length and content of the curriculum was determined in 1957 – as a political compromise between warring factions.

---

[35] Roman, Op. cit.
[36] Roman, Ibid.

Political compromises may be a legitimate basis for decision making, but in this case the antagonists may not have been disinterested parties. Roman's assessment is severe:

> From the viewpoint of the practising Bar, the longer the students can be kept in school the better. In the first instance, the longer, more expensive and more unpleasant the process of entry to the profession, the more potential competitors will be deterred from the field. Secondly, for senior partners in the firm, it means less time (and therefore money) will have to be spent in training the student: the more of the training costs which can be transferred to the taxpayers and the student, the better for the firm. Third, it is flattering to the professional ego, for greater length of training implies greater importance in the work and skill in the practice. Finally, the legal profession has a long tradition of "initiating" the students by the sub-ordination of his self-respect.

Not everyone would ascribe such malicious intent to the professional associations. It is far more likely that they become forced into a situation of having to choose between what they may honestly consider to be a real need for professional improvement, and the necessarily unavoidable consequence of limiting the entry of students into the profession. This is how House described the role of the Royal College of Dental Surgeons:[37]

> Clearly, the intention of licensing is to raise the level of competence of those actually practising dentistry. Not so clear, however, is the answer to the question of how high a level of competence should be demanded. This is an important question and one that seems to have been virtually ignored. As the level of competence and training is raised, the costs of education rise rapidly and the numbers of those capable of attaining the requisite standard fall sharply. Quite simply, as the quality is refined, the number of dentists decreases. This is practically axiomatic under present institutional arrangements. The Royal College of Dental Surgeons then, is faced with a trade-off between numbers and quality, with very little guidance in making the decision.

4.3.2 Availability of Places

The availability of university places is vital to the supply of the type of human capital represented by the self-licensing occupations. For both dentistry and law, the number of places at universities has been below, often well below, the demand of suitably qualified applicants. As far as we have been able to determine, the implications in each case are different; there is a shortage of dentists in Canada, and despite requests from the Canadian Dental Association for more places, there has been a relatively slow rate of growth. On the other hand, the supply of law students has considerably increased in recent years, such that we may now have reached a stage of oversupply of lawyers, with all the waste of human and capital resources that this implies.

House, for one, absolves the Dental Association from blame for the shortage of dental school places:

> Since financial constraints prevent it [Royal College of Dental Surgeons] from having any direct significant influence over numbers, the College has directed its concerns towards quality. Numbers have been left to the government and the universities to work out, with the Royal College of Dental Surgeons bringing moral suasion to bear wherever possible. Ultimately, the government decides the number of dentistry students for virtually no provincial university could contemplate establishing a professional school without massive aid from the provincial government. To the extent that the licensing procedure has failed, the failure must be borne by the provincial government, and to the extent that it has succeeded, the success may be attributable to the Royal College of Dental Surgeons and the universities.[38]

---

[37] House, Op. cit.

[38] House, Ibid.

And whereas Roman suggests that the Law Society may have discouraged the growth of law schools in Ontario, there is little evidence that they met with much success – in recent years at least. The astonishing growth in the number of law students graduated raises the question of whether there have been adequate attempts to establish the number of lawyers who may find employment.

The public is concerned as both the consumer of, and the investor in human capital. For this reason the public will bear must of the cost of both an undersupply and an oversupply of human capital. The desirability of providing sufficient places at law school for any student able to meet the requirements must be weighed against the costs of investment. And, in the same way, the insufficient places at dental school will result in increased profits for dentists.

In each case, the financial implications of miscalculation are substantial. Analysis of investment returns has shown that whereas we may be a long way from successfully quantifying the multitude of benefits from education, it is entirely possible to quantify many of the costs. This, in itself, is of significant assistance in determining the number of places to be made available at universities. That we lack a complete set of analytical tools to evaluate satisfactorily the need for places is less important than an appreciation that the issue is one of investment in human capital. This appreciation, if it does nothing else, encourages evaluation within a full economic and educational context.

4.3.3 Immigration

Immigration is a substantial component of the formation of Canadian human capital; and at no cost to taxpayers, it represents a substantial subsidy to the country. In 1973 for example, Canadian medical schools graduated just over 1,600 medical students, while immigration contributed a further 1,170. At the current level of the direct costs in medical schools alone of $100,000 per student, this amounts to a subsidy of approximately $100 million in just one year.

Yet the medical profession may not be typical of the self-licensing occupations; in law and dentistry the impact of immigration is, by comparison, low. The number of immigrant dentists in 1973 represented only a further 17% of the total students graduated. It is not easy to attribute this relatively low immigration of dentists to any single factor, although there is reason to believe that provincial regulations controlling the registration of dentists may act as a deterrent. Unfortunately, there are no data available for the number of applicants who are not admitted as landed immigrants.

Immigration is a clear case in which the somewhat simplistic economics of human capital represent only one side of a complex argument. Although Canada benefits from the influx of highly trained manpower, acquired at no cost to ourselves, it does raise two important issues – our dependence on other countries for a supply of professional manpower and the ethics of depleting the resources of other countries. Nonetheless the economic considerations should be recognized and become an explicit part of the decision-making process, especially in dealing with such questions as the moves by professional associations to limit the number of immigrants in their particular profession.

4.4 BALANCING COST, QUANTITY AND QUALITY

We have shown that from the consumers' viewpoint human capital analysis can be useful in establishing some optimal balance among the costs, quantity and quality of professional

manpower. We do not believe that present techniques and data will provide precise quantitative answers, but the frame of reference provided by human capital concepts enables us to understand better those factors which affect the consumer interest. A number of recent events suggest that a more analytical and economically-oriented approach will be used more extensively in the next few years.

In the last ten years the secondary and post-secondary education systems have expanded to the limit of the capacity of society to support them. At the same time there are indications that, for the immediate future at least, our economy will not be able to absorb all of the highly educated people which these systems are now producing. There is now, and will probably continue to be, public pressure to reduce our expenditures in the health services area where the major portion of the budget consists of fees and salaries paid to professionals. The Anti-Inflation Board, as part of its strategy, focuses on professional incomes. There are also indications that provincial governments will take a much more active role in manpower planning for some professions. The tendency for professional associations to take on the role of collective bargaining units is now understood, and for the most part, accepted.

In general the trend seems to be away from a laissez-faire approach to the professions in favour of a planned, or at least regulated, approach where an administered price system rather than price competition will be the main determinant of costs, quantity and, inevitably, quality of professional services. Such changes seem to mirror the general trend towards more central planning evident in the prevailing political/economic philosophy which we have seen emerge over the last few decades. Clearly, to the extent that these changes are real and persist there will be a growing need for public officials, professionals and consumer representatives to approach professional manpower and service issues from the more quantitative and economically-oriented perspective of human capital. This will require a continuing effort to develop and refine the methods of analysis and to educate those most directly concerned in both overall approach and methodology.

BIBLIOGRAPHY

Armen, A. *The Rate of Interest, Fisher's Rate of Return Over Cost, and Keynes' Internal Rate of Return* (1955) Am. Econ. Rev. (Dec.) 938.

Barlow, R., Brazer, H. and J. Morgan *Economic Behaviour of the Affluent* Brookings Institute, Washington, 1966.

Barzel, Y. *Productivity and the Price of Medical Services* (1969) J. Polit. Econ.

Becker, G.S. *A Theory of the Allocation of Time* (1965) The Econ. J. 75 (Sept.) 493-517.

— *A Theory of Social Interaction* (1974) J. Polit. Econ. 82 (Nov./Dec.) 1063.

— *Human Capital: a Theoretical and Empirical Analysis with Special Reference to Education* 2nd ed., Columbia University Press, N.Y. 1975.

Becker, G.S. and B.R. Chiswick *Education and the Distribution of Earnings* (1966) Am. Econ. Rev. (May) 358.

Ben-Porath, Y. *The Production of Human Capital and the Life Cycle of Earnings* (1967) J. Polit. Econ. (Aug.) 352.

Canada, Dept. of National Health and Welfare *Task Force Reports on the Cost of Health Services in Canada* Queen's Printer, Ottawa, 1970, p. 3.

Carnoy, M. *Class Analysis and Investment in Human Resources: a Dynamic Model* (1971) J. Rad. Polit. Econ., col. 3, ro. 4.

Chiswick, B.R. *Human Capital and the Distribution of Personal Income* Ph. D. Thesis (unpub.), Columbia University, 1967.

Chiswick, B.R. and J. Mincer *Time Series Changes in Personal Income Inequality* (1972) J. Polit. Econ. (May).

Davis, J.R. and J.F. Morrall *Evaluating Educational Investment* Lexington Books, Toronto, 1974.

Dodge, D.A. "Occupational Wage Differentials, Occupational Licensing and Returns to Investment in Education: an Exploratory Analysis" in Ostry, S. (ed.) *Canadian Higher Education in the Seventies* Economic Council of Canada, 1972.

Dodge, D.A. and D.A. Stager *Economic Returns to Graduate Study in Science* University of Toronto Press, Toronto Press, Toronto, 1972.

Drummond, I. "Labour Markets in Educational Planning" in Kruger, A.M. and N.M. Meltz (eds.) *Manpower Economics* University of Toronto Press, Toronto, 1968.

Dryden, M. *Capital Budgeting: Treatment of Uncertainty and Investment Criteria* (1964) Scottish J. Polit. Econ. vol. 11-12.

Eckaus, R.S. *Estimating the Returns to Education: a Disaggregated Approach* A technical report sponsored by the Carnegie Commission on Higher Education, McGraw-Hill, 1973.

Feldstein, M.S. *The Rising Price of Physicians' Services* (1970) Rev. Econ. and Stat. 52 (May) 121-133.

Fischer, J. *The Social Sciences and the Comparative Study of Educational Systems* International Textbooks, Scranton, Penn., 1970.

Freeman, R.B. *The Market for College-Trained Manpower: a Study in the Economics of Career Choice* Harvard University Press, Cambridge, 1971.

Friedman, M. and S. Kuznets *Income from Independent Professional Practice* National Bureau of Economic Research, New York, 1945.

Griliches, Z. and W. Mason *Education, Income and Ability* (1972) J. Polit. Econ. (May) S.74.

Handa, M.L. *Human Capital: Some Theoretical Explorations and Empirical Results.* Educational Planning Occ. Pap. No. 73/74-6. From the Ontario Institute for Studies in Education, Toronto, 1973.

Hanoch, G. *Personal Earnings and Investment in Schooling* Ph.D. Thesis (unpub.) University of Chicago, 1965.

— *An Economic Analysis of Earnings and Schooling* (1967) J. Human Res. (summer).

Hansen, W.I. *The Shortage of Engineers* (1961) Rev. Econ. and Stat. (Aug.).

— *Total and Private Rates of Return to Investment in Schooling* (1963) J. Polit. Econ. (Apr.).

— *Education, Income and Human Capital* Columbia University Press, New York, 1970.

Hause, J.C. *Earnings Profile: Ability and Schooling* (1972) J. Polit. Econ. (May/June) Pt. 2.

— "Ability and Schooling as Determinants of Lifetime Earnings, or If You're so Smart Why Aren't You Rich?" in Juster, F. (ed.) *Education, Income and Human Behaviour* McGraw-Hill, Toronto, 1975.

Heckman, J. and S. Polachek *The Functional Form of the Income-Schooling Relationship* National Bureau of Economic Research, New York, 1972.

Hirshlever, J. *On the Theory of Optimal Investment Decision* (1958) J. Polit. Econ. (Aug.) 329.

Johnson, T. *Returns from Investment in Human Capital* Am. Econ. Rev. 60 (Sept.) 546.

Juster, F.T. (ed.) *Education, Income and Human Behaviour* Carnegie Commission on Higher Education, McGraw-Hill, New York, 1974.

— (ed.) *Education, Income and Human Behaviour* McGraw-Hill, Toronto, 1975.

Kiker, B.F. *The Historical Roots of the Concept of Human Capital* (1966) J. Polit. Econ.

— *Investment in Human Capital* University of South Carolina Press, S. Carolina, 1971.

Lindsay, C.N. *Measuring Human Capital Returns* (1971) J. Polit. Econ. 1195.

McMahon, W.W. *Investment in Higher Education* Lexington Books, Toronto, 1974.

Miller, H.P. *Education and Lifetime Income* Current Population Survey, 1967.

Mincer, J. *The Distribution of Labour Incomes: a Survey* (1970) J. Econ. Lit. (March).

— *Schooling, Experience and Earnings* Columbia University Press, New York, 1974.

— "Education Experience and the Distribution of Earnings and Employment: an Overview" in Juster, F. (ed.) *Education, Income and Human Behaviour* McGraw-Hill, Toronto, 1975.

Podoluk, J.R. *Incomes of Canadians* Dominion Bureau of Statistics, Ottawa, 1963.

Psacharopoulos, G. *The Rate of Return on Investment in Education at the Regional Level* Economic Research Centre, University of Hawaii, Honolulu, 1969.

Reder, M. "A Partial Survey of the Theory of Income Size Distribution" in *Six Papers on the Size Distribution of Income and Wealth* Studies in Income and Wealth 33, National Bureau of Economic Research, New York, 1969.

Rottenberg, S. "The Economics of Occupational Licensing" in *Aspects of Labour Economics* Princeton University Press, Princeton, N.J., 1962.

Schultz, T.W. *Capital Formation by Education* (1960) J. Polit. Econ. vol. 68, p. 571.

— *Investment in Human Capital* Collier-Macmillan, London, 1971.

— *Optimal Investment in College Instruction: Equity and Efficiency* (1972) J. Polit. Sci. (June).

Solomon, L.C. and P.J. Yaubman *Does College Matter?* Academic Press, New York 1973.

Stigler, G.J. *Employment and Compensation in Education* Occ. Pap. No. 33, National Bureau of Economic Research, 1950.

— *The Demand and Supply of Scientific Personnel* National Bureau of Economic Development, New York, 1957.

Taubman, P. and T. Wales "Education as an Investment: A Screening Device" in Juster, F. (ed.) *Education, Income and Human Behaviour* McGraw-Hill, Toronto, 1975.

— "Mental Ability and Higher Educational Attainment in the Twentieth Century" in Juster, F. (ed.) *Education, Income and Human Behaviour* McGraw-Hill, Toronto, 1975.

Wachtel, P. "The Returns to Investment in Higher Education: Another View" in Juster, F. (ed.) *Education, Income and Human Behaviour* McGraw-Hill, Toronto, 1975.

Walsh, J.W. *Capital Concept Applied to Man* (1935) Q.J. Econ. 49 (Feb.) 256.

Weiss, Y. *Investment in Graduate Education* (1971) Am. Econ. Rev. (Dec.).

Wilkinson, B.W. *Studies in the Economics of Education* Queen's Printer, Ottawa, 1965.

— *Present Values of Lifetime Earnings for Different Occupations* (1966) J. Polit. Econ. (Dec.) 556-572.

Wood, W.D. and H.F. Campbell *Cost-Benefit Analysis and the Economics of Investment in Human Resources: an Annotated Bibliography* The Industrial Relations Centre, Queen's University, Kingston, 1970.