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THE POLITICAL BEHAVIOR OF LAWYERS IN THE LOUISIANA HOUSE OF REPRESENTATIVES

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INTRODUCTION

The preponderance of lawyers in the ranks of those chosen by voters to occupy important public policy-making positions has been noted frequently both by academicians and other observers of politics. Described as "an outstanding phenomenon of American political life,"¹ the ubiquity of lawyers in politics fascinated such an early and eminent student of the United States as de Tocqueville² and, if the literature of several disciplines is an indication, continues to intrigue political scientists, sociologists, and the legal profession itself. Only a fraction of one percent of the American labor force is engaged in the practice of law, yet lawyers are almost always the most numerous occupational group among incumbents in a variety of public offices.³ One such office is that of state legislator. Lawyers generally constitute from one-quarter to over one-half of the membership of most state legislative chambers. Given the disproportionate number of lawyers, it is understandable that lawyer-legislators would be considered a group deserving special attention,⁴ and it has become a common suspicion that their predominance carries with it a political significance.⁵ It is widely

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1. H. EULAU & J. SPRAGUE, *LAWYERS IN POLITICS: A STUDY IN PROFESSIONAL CONVERGENCE* 13 (1964).

2. 1 A. DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 281-97 (Vintage Books ed. 1945).

3. For occupational data on governors and congressmen, see Schlesinger, *Lawyers in American Politics: A Clarified View*, 1 *MIDWEST J. POL. SCI.* 26-39 (1957).

4. M. JEWELL & S. PATTERSON, *THE LEGISLATIVE PROCESS IN THE UNITED STATES* 66 (3d ed. 1977).

5. As expressed by Eulau and Sprague: "The mere fact that lawyers are highly visible in politics is not by itself proof that their presence makes a difference in the

assumed that the shared educational and occupational experiences of attorneys result in similar attitudes, values, and opinions which form the basis for cooperation in legislative politics, especially when the legal profession can be considered to have a stake in the outcome.

Lawyers have been the largest single occupational group within the Louisiana legislature in recent years, generally comprising over 30% of the membership.⁶ This article investigates whether lawyers serving in the Louisiana House of Representatives manifest distinctive types of political behavior, and particularly whether they, as a group, are distinguishable in important ways from their non-lawyer colleagues. Broadly addressed will be the question whether the large proportion of attorneys in the House makes a difference in the functioning of that institution. Based primarily upon an analysis of roll call votes in the 1972 through 1975 sessions of the House and upon personal interviews with representatives conducted in 1972,⁷ this study will contrast the thirty-five lawyers and seventy-six non-lawyers serving from 1972 to 1975 along several dimensions suggested as important in previous writing on the subject.⁸

FIVE THESES ABOUT THE DISTINCTIVENESS OF LAWYER-LEGISLATORS

The suggestions that lawyers in politics have discernible attributes stemming from their legal background—and that often they differ from non-lawyers in significant ways—fall into several broad categories. Five major theses or assumptions frequently surface.

functioning of political institutions. But many observers have certainly believed that it does." H. EULAU & J. SPRAGUE, *supra* note 1, at 16.

6. J. Savoy, *Personnel Factors in the Louisiana State Legislature: 1952 through 1972* at 22 (1974) (unpublished master's thesis, Department of Political Science, University of Southwestern Louisiana).

7. The survey was conducted during and immediately following the 1972 session of the legislature. One hundred of the one hundred and five members were interviewed, a completion rate of 95%. The interviewing was supervised by Patrick F. O'Connor and Richard L. Engstrom and supported by a grant from the National Science Foundation (GS-30405) received by Chong Lim Kim and Justin J. Green.

8. The 105 member chamber experienced some turnover during the four-year term from 1972 to 1975. As a result, 111 individuals served during the period.

1. *The Dominant Bloc Thesis*

The dominant bloc thesis asserts that lawyers, as a group, dominate the legislature, not only in the number of seats they occupy, but also in the political power they wield. The thesis exists in popular lore and can also be found in scholarly writings.⁹ It consists of two related parts: the alleged cohesion of lawyers and the relatively great power of the bloc that they form. It is possible that lawyers could form a legislative bloc, and yet not have it be a dominant one. However, the reverse is not true. If lawyers do not behave as a cohesive bloc then it hardly can be said that, as a group, they dominate legislatures. Research efforts that have addressed the dominant bloc thesis have approached it from this perspective. In a variety of legislative settings, researchers have sought evidence of roll call voting solidarity on the part of lawyers, but the findings have not shown that lawyers vote together with high cohesion, that they vote together to a greater extent than do non-lawyers, or that they exhibit any general tendency to line up on one side of issues while non-lawyers take the other.¹⁰ Only in connection with the issue of no-fault insurance has any data been reported that show lawyers differing from non-lawyers in their legislative voting.¹¹ It generally has been concluded that the lawyer-bloc thesis is empirically without merit. Indeed, after looking at the roll calls in both chambers of Congress from 1937 through 1968 which involved "attacks on the Supreme Court or the judiciary as an institution, and attempts to reverse or

9. For presentation, though not necessarily advocacy, of these views, see for example: W. KEEFE & M. OGUL, *THE AMERICAN LEGISLATIVE PROCESS* 120-21 (4th ed. 1977); Rutherford, *Lawyers as Legislators* 195, in *THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE* 53-61 (1938); Derge, *The Lawyer as Decision-Maker in the American State Legislature*, 21 *J. POL.* 426 (1959).

10. Brady, Schmidhauser & Berg, *House Lawyers and Support for the Supreme Court*, 35 *J. POL.* 724-29 (1973); Derge, *supra* note 9, at 426-29; Derge, *The Lawyer in the Indiana General Assembly*, 6 *MIDWEST J. POL. SCI.* 47-50 (1962); Berg, Green & Schmidhauser, *Judicial Regime Stability and the Voting Behavior of Lawyer-Legislators*, 49 *NOTRE DAME LAW.* 1012-22 (1974); Schmidhauser, Berg & Melone, *The Impact of Judicial Decisions: New Dimensions in Supreme Court-Congressional Relations, 1945-1968*, *WASH. U.L.Q.* 209-51 (1971); Green, Schmidhauser, Berg & Brady, *Lawyers in Congress: A New Look at Some Old Assumptions*, 26 *W. POL. Q.* 440-52 (1973).

11. Dyer, *Do Lawyers Vote Differently? A Study of Voting on No-Fault Insurance*, 38 *J. POL.* 452-56 (1976).

limit court decisions" and finding negligible differences in voting between lawyers and non-lawyers, Schmidhauser and his associates concluded:

This research should lay to rest the notion that lawyers are a breed of legislators apart from their colleagues. . . . [N]ow that possibly the most favorable test imaginable has been applied [support or opposition to judiciary-threatening legislative votes], and the hypothesis still found wanting, *the legal profession variable is justifiably branded as irrelevant.*¹²

2. *The Competence Thesis*

The competence thesis asserts that attorneys by training possess certain skills and attributes that are distinctly functional in the legislative environment. The concept of competence, an exceedingly broad one that may have many manifestations in a complex environment, has been addressed only generally in scholarly writing. Robert Agger, for example, hypothesizes that one contribution of lawyers in politics is "to provide the element of flexibility and the attitude of compromise necessary to multi-group politics,"¹³ a theme also emphasized by Eulau and Sprague.¹⁴ The suggestion is implicit that, particularly in a legislative setting, this facility for compromise gives the lawyer-politician a natural edge in job performance. Keefe and Ogul take a somewhat different tack by observing that legal training, "if deficient and illiberal on some counts, is extraordinarily successful in assisting its recipients to master the intricacies of human relations, to excel in verbal exchange, to understand complex technical information, and to employ varying tactics to seize advantage."¹⁵ While the tenor of these

12. Green, Schmidhauser, Berg & Brady, *supra* note 10, at 450 (emphasis added).

13. Agger, *Lawyers in Politics: The Starting Point for a New Research Program*, 29 *TEMP. L.Q.* 436 (1956).

14. Eulau and Sprague see a "convergence" of roles played by the professions of lawyer and politician. "As both are specialists in the accommodation of interests and the adjustment of conflicting demands, the roles of the lawyer and of the politician may be considered functionally equivalent." H. EULAU & J. SPRAGUE, *supra* note 1, at 100.

15. W. KEEFE & M. OGUL, *supra* note 9, at 120. See Gold, *Lawyers in Politics: An Empirical Exploration of Biographical Data on State Legislatures*, 4 *PAC. SOC. REV.* 84 (1961).

statements generally reflects the comments in the literature about the abilities of lawyers in the legislature, it must be noted that there are dissenting views. Those taking the negative side see legal education as deficient in developing "skills in negotiation, personnel management, . . . public relations, [and] those [methods] of observation and thinking that are necessary to effective policy-making" ¹⁶ Also expressed is the view that legal training "fails to educate the young lawyer in the clarification and selection of alternate values and goals [which is] a necessary requisite for achieving a democratic commonwealth." ¹⁷ Despite the force of these dissenting views, no suggestion is found that lawyers by training possess less competence for public service than do farmers, mechants, realtors, insurance agents, and other occupational groups that together with lawyers thoroughly dominate the membership of American legislatures.

3. *The Conservatism Thesis*

The conservatism thesis maintains that lawyers are "conservative" both with respect to substantive political philosophy and their approach to decision-making. Social or philosophical conservatism is said to flow from the close relationship that lawyers develop with the powerful economic interests that they often represent in private practice. ¹⁸ A "conservative" approach to their political jobs is asserted to result from the legal profession's reverence for and reliance upon precedent. This attitude is transferred, it is said, into the political realm as well. Harold J. Laski states this contention most forcefully, and according to him, the study of precedent focuses the lawyer's attention on the past. This preoccupation with the legal handiwork of past generations renders attorneys "more definitely the servants of tradition, than any other class in the community." ¹⁹ However, despite these assertions, available evidence tends to refute the contention that lawyer-legislators

16. H. EULAU & J. SPRAGUE, *supra* note 1, at 27.

17. *Id.*

18. For a discussion of the political philosophy of lawyer-legislators and some empirical evidence, see H. EULAU & J. SPRAGUE, *supra* note 1, at 22-27; Derge, *supra* note 9, at 429-31.

19. H. LASKI, *A GRAMMAR OF POLITICS* 572 (1925).

are more philosophically conservative than non-lawyers. A study by Derge of members of the Missouri House found no differences between lawyers and non-lawyers either in voting on selected roll calls "which invited a liberal or conservative stand on a social or economic issue" or on a fifteen-item attitudinal index measuring liberalism.²⁰ In fact, Eulau and Sprague, based upon an attitudinal scale constructed for legislators in New Jersey, Ohio, Tennessee, and California, actually found attorneys consistently more liberal than their colleagues.²¹

The characterization of lawyers as precedent-bound is harder to grapple with empirically, and no systematic evidence on this point is known to have been gathered.²² Given the general inability of scholars to document any behavioral differences between lawyers and non-lawyers, it is safe to say that this view of attorneys is empirically questionable.

4. *The Independence Thesis*

The thesis that lawyers in legislatures are more "independent" politically than non-lawyers is expounded from time to time in the literature, although it does not recur with the frequency of the previous theses. Robert Agger attributes the putative political independence of attorneys to the economic independence of a law practice.²³ An attorney may, with relative ease, divert time from his legal practice and devote it to politics, and then, if he wishes, shift back to the full-time practice of law without serious professional consequences. In fact, the "advertising" that accompanies political campaigns and officeholding may enhance the earning power of the lawyer-legislator. These occupational advantages of attorneys are said to account in part for the fact that so many are found in politics,²⁴ and they are also seen as factors which provide for

20. Derge, *supra* note 9, at 430-31.

21. H. EULAU & J. SPRAGUE, *supra* note 1, at 26.

22. For an excellent essay calling this trait into serious question, see Hyneman, *Who Makes Our Laws?*, 55 POL. SCI. Q. 556-81 (1940).

23. Agger, *supra* note 3, at 441.

24. The literature on the reasons for the large numbers of lawyers in politics is fairly extensive. On the "dispensability" theme, see H. EULAU & J. SPRAGUE, *supra* note 1, at 39-46; M. JEWELL & S. PATTERSON, *supra* note 4, at 68; D. MATTHEWS, *THE SOCIAL BACKGROUND OF POLITICAL DECISION-MAKERS* 31-32 (1954); Derge, *The Lawyer in the Indiana General Assembly*, 6 MIDWEST J. POL. SCI. 29-30, 37, 43-44 (1962); Bromall,

greater political independence. Furthermore, it has been suggested that, just as the reverence for precedent in the law is transferred into reliance upon tradition in politics, so also does another attribute of the legal profession manifest itself in political activity: professional ethics demand that the lawyer be free from certain outside pressures in his relationship with his clients and that "the risks of captivity . . . be kept to a minimum."²⁵ Eulau and Sprague write in a similar vein that, "lawyers have, of course, always taken great pride in their independence. The lawyer's independence is assumed to be a necessary condition of his effective performance of the functions he is called upon to undertake"²⁶ Canon 5 of the Code of Professional Responsibility deals expressly with the principle of independence in the practice of law,²⁷ and there is little doubt that socialization in the legal profession is designed to sensitize attorneys to the need for independence.

The concept of independence is only very vaguely defined in academic treatments of lawyers in politics. The forces from which lawyers are more likely to be independent are not specified. In addition, the proposition has not been directly tested, though some empirical findings are consistent with it. For example, lawyers in the legislature have been found more likely than non-lawyers to report that in deciding to run for office they were "self-motivated" rather than recruited to candidacy by others.²⁸ Also, Derge found that among Indiana legislators

Lawyers in Politics: An Exploratory Study of the Wisconsin Bar, Wis. L. REV. 751-64 (1968). For explanations of lawyer predominance that focus on factors other than characteristics of the legal profession itself, see Pedersen, *Lawyers in Politics: The Danish Folketing and United States Legislatures*, in *COMPARATIVE LEGISLATIVE BEHAVIOR: FRONTIERS OF RESEARCH* ch. 2 (S. Patterson & J. Wahlke eds. 1972); Hain & Piereson, *Lawyers and Politics Revisited: Structural Advantages of Lawyer-Politicians*, 19 AM. J. POL. SCI. 41-52 (1975); Patterson, *Comparative Legislative Behavior: A Review Essay*, 12 MIDWEST J. POL. SCI. 599-616 (1968); Schlesinger, *supra* note 3, at 26-39.

25. Pedersen, *supra* note 24, at 41.

26. H. EULAU & J. SPRAGUE, *supra* note 1, at 133-34. After noting that traditionally there has been criticism of how well lawyers actually attain the goal of professional independence, Eulau and Sprague go on to observe: "Nevertheless, in view of the fact that most lawyer-legislators are private practitioners, it can be assumed that they are reasonably independent." *Id.* at 135-36.

27. ABA CANONS OF PROFESSIONAL ETHICS No. 5 reads: "A lawyer should exercise independent professional judgment on behalf of a client."

28. H. EULAU & J. SPRAGUE, *supra* note 1, at 68-70.

running in primary elections, lawyers were more likely than others to say that party leaders were hostile or neutral to their candidacies.²⁹ Derge concluded that the most likely explanation was that the attorney tries to direct his own political career to a greater extent than the non-lawyer. He is more active in initiating his opportunities rather than waiting to be called upon.³⁰ Despite these findings, it is fair to say that the intriguing and important possibility of more independent behavior on the part of lawyer-legislators remains to be verified.

5. *The Generalist Thesis*

The proposition that lawyers are more likely than non-lawyers to be generalists, that is, to be active in several different policy areas, represents an important distinction with respect to political behavior. However, the thesis has not been extensively explored. Two separate rationales can be offered to explain why such an orientation might be expected. First, Eulau and Sprague suggest that legal training may impart a particular concern with the technical oversight of legislation, specifically a desire to insure that the language of bills accurately conveys legislative intent.³¹ This is a general concern and actually pursuing it would take the lawyer-legislator into many different policy areas. Second, it is argued that a law practice, involving contact with a wide variety of clients and public officials, broadens the attorney's interests and information and may result in a generalist stance.³²

Eulau and Sprague in their four-state study showed that there was a slight tendency for more non-lawyers than lawyers to designate themselves as experts in three or more policy areas. However, the differences, although consistent across the states, were very small and averaged under 4% over the four states studied.³³

29. Derge, *supra* note 24, at 29.

30. *Id.*

31. H. EULAU & J. SPRAGUE, *supra* note 1, at 115.

32. Agger, *supra* note 13, at 441-42. Additionally, Agger has suggested that the broad professional role of lawyers as "guardians of 'the law' and justice" may incline lawyers to develop a broad focus for their political role as "representative." Lawyers, Agger hypothesizes, may be more likely to think of themselves as representing the community or "everyone" rather than narrower specific interests, thus promoting a generalist orientation. See Agger, *supra* note 13, at 438.

33. H. EULAU & J. SPRAGUE, *supra* note 1, at 113.

Conclusion

Two facts stand out in the scholarly treatment of lawyers in legislatures. First, along those dimensions that have been studied to a substantial degree (the conservatism and dominant bloc theses), expected differences between lawyers and non-lawyers have not been found. Second, in other important areas in which differences have been suggested (the independence, competence and generalist theses), little or no effort has been made to verify or reject their existence. However, so firm have been the conclusions of the most recent studies that scholars have been explicitly invited to abandon as hopeless the task of documenting disparities in lawyer/non-lawyer behavior.³⁴ After looking briefly at some of the background characteristics of both groups in the Louisiana House, this study will present evidence that bears upon each of the five theses discussed above, which in several cases departs significantly from the findings of previous research.

CHARACTERISTICS OF LAWYERS AND NON-LAWYERS IN THE LOUISIANA HOUSE OF REPRESENTATIVES

A great deal of what is already known about lawyers and non-lawyers in legislative bodies consists of information about their personal and political backgrounds. While the primary purpose of this research is to go beyond background and into behavioral differences, it will be useful to attend briefly to some individual attributes. Even though this study is confined to Louisiana legislators, it is possible that the findings will have a broader applicability. To the extent that the characteristics of lawyers and non-lawyers in Louisiana parallel those found in other settings, confidence is increased that these results are not merely the idiosyncracies of one state, although similar research elsewhere would be highly desirable.

1. *Personal and Background Characteristics*

Other studies typically have found lawyer-legislators to possess several characteristics that distinguish them from their

34. Green, Schmidhauser, Berg & Brady, *supra* note 10, at 450.

colleagues: they tend to be younger,³⁵ to come from higher status family backgrounds,³⁶ to come from more politically motivated families,³⁷ to have developed an earlier interest in politics,³⁸ to have more pre-legislative political experience,³⁹ to be more self-motivated in their political activity,⁴⁰ and to be more ambitious to achieve political office beyond the legislature.⁴¹ Despite the younger age of lawyers, they have generally accumulated about the same amount of tenure in legislative service as their non-lawyer colleagues.⁴² Although lawyers may come to the legislature earlier, the length of their stay is not much different from others. Finally some studies have reported that lawyers are more likely to be chosen to represent metropolitan areas,⁴³ while other research has found no urban-rural differences in the type of district represented.⁴⁴

The Louisiana data are consistent with most, but not all, of these findings. Table 1a shows that in 1972 Louisiana lawyer-legislators were indeed substantially younger than the non-lawyers. Nearly two-thirds (64.7%) of the attorneys were under forty years of age, while over three-quarters (76%) of the non-lawyers were forty or over. Despite the age discrepancy, there was not much difference in length of legislative service (Table 1b). However, a few percent more non-lawyers were either first-termers or had served more than two four-year terms, while lawyers tended to constitute a disproportionate share of those in their second term.

35. H. EULAU & J. SPRAGUE, *supra* note 1, at 45; Hain & Piereson, *supra* note 24, at 46; Derge, *supra* note 9, at 419; Ruchelman, *Lawyers in the New York State Legislature: The Urban Factor*, 10 MIDWEST J. POL. SCI. 486 (1966); Derge, *supra* note 24, at 36-37, 53; Gold, *supra* note 15, at 86; J. Savoy, *Socialization and Background Characteristics of Louisiana Legislators: 1968 and 1972* at 16 (March 8-9, 1974) (paper presented to the annual meeting of the Louisiana Political Science Association, New Orleans, Louisiana; J. Savoy, *supra* note 6, at 31-32.

36. H. EULAU & J. SPRAGUE, *supra* note 1, at 75-76; Derge, *supra* note 24, at 22; Derge, *supra* note 9, at 418.

37. H. EULAU & J. SPRAGUE, *supra* note 1, at 56-64; Derge, *supra* note 9, at 417; Derge, *supra* note 24, at 23.

38. H. EULAU & J. SPRAGUE, *supra* note 1, at 56-57.

39. Derge, *supra* note 9, at 416-17; 24, at 25, 27; Gold, *supra* note 15, at 67. However, this finding was not consistent in all states studied. See H. EULAU & J. SPRAGUE; Derge, *supra* note 1, at 66; Ruchelman, *supra* note 35, at 486.

40. Derge, *supra* note 24, at 28; H. EULAU & J. SPRAGUE, *supra* note 1, at 67.

41. H. EULAU & J. SPRAGUE, *supra* note 1, at 79-80; M. JEWELL & S. PATTERSON *supra* note 4, at 67; Hain & Piereson, *supra* note 24, at 47-49; Ruchelman, *supra* note 35, at 487-88; Derge, *supra* note 9, at 419; Derge, *supra* note 24, at 45.

42. H. EULAU & J. SPRAGUE, *supra* note 1, at 46-47; Derge, *supra* note 9, at 422; Ruchelman, *supra* note 35, at 487; Derge, *supra* note 24, at 39, 41-42.

43. Derge, *supra* note 9, at 420; Ruchelman, *supra* note 35, at 493.

44. Derge, *supra* note 24, at 35; Hyneman, *supra* note 22, at 570-72.

TABLE 1. PERSONAL AND POLITICAL CHARACTERISTICS (IN PERCENTAGES)
OF LOUISIANA STATE REPRESENTATIVES, 1972-1975

a.	<u>Age</u>			
	Under 40	40-50 Years	Over 50	
Lawyers	64.7	23.5	11.8	100.0 (N=34)
Non-Lawyers	24.0	40.0	36.0	100.0 (N=75)

b.	<u>Tenure</u>			
	First Term	Second Term	Third Term or More	
Lawyers	52.9	32.4	14.7	100.0 (N=34)
Non-Lawyers	66.7	10.7	22.6	100.0 (N=75)

c. Non-Incumbent Legislators' Self-Report of Motivation to Run for Their Seats

	Self-Motivated	Urged by Others to Run	
Lawyers	78.6	21.4	100.0 (N=14)
Non-Lawyers	70.4	29.6	100.0 (N=31)

d. Previous Public Officeholding:* All Legislators

	None Held		One or More Held	
Lawyers	67.9		32.1	100.0 (N=28)
Non-Lawyers	44.4		55.6	100.0 (N=63)

*This includes appointive as well as elected offices.

e. Previous Public Officeholding:* Legislators Under Forty Years of Age When First Elected

	None Held		One or More Held	
Lawyers	78.9		21.1	100.0 (N=19)
Non-Lawyers	43.8		56.3	100.1 (N=16)

*This includes appointive as well as elected offices.

	<u>Education of Father</u>			
	Less than High School	High School Graduate	Some College or More	
Lawyers	37.9	17.2	44.8	99.9 (N=29)
Non-Lawyers	61.4	18.2	20.5	100.1 (N=44)

	<u>Political Activity of Family</u>			
	None or Vote Only	Support Candidates and/or Work in Campaigns	Manage Campaigns and/or Run for Office	
Lawyers	34.5	41.4	24.1	100.0 (N=29)
Non-Lawyers	23.9	47.8	28.3	100.0 (N=46)

	<u>Age of First Interest in Politics</u>			
	Under 15	15-20 Years	21 and Over	
Lawyers	32.1	42.9	25.0	100.0 (N=28)
Non-Lawyers	10.9	32.6	56.5	100.0 (N=46)

	<u>Age of First Activity in Politics</u>			
	Under 21	21-29 Years	30 and Over	
Lawyers	37.9	48.2	13.8	99.9 (N=29)
Non-Lawyers	6.8	54.6	38.6	100.0 (N=44)

	<u>Stated Ambition to Seek Other Office</u>			
	Yes	Undecided	No	
Lawyers	40.0	12.0	48.0	100.0 (N=25)
Non-Lawyers	25.8	11.3	62.9	100.0 (N=62)

k. <u>Stated Ambition to Seek Other Office by Legislators Under 40</u>				
	Yes	Undecided	No	
Lawyers	66.7	20.0	13.3	100.0 (N=15)
Non-Lawyers	30.8	23.1	46.2	100.1 (N=13)

l. <u>Stated Ambition to Seek Other Office by Legislators Over 40</u>				
	Yes	Undecided	No	
Lawyers	0.0	0.0	100.0	100.0 (N=9)
Non-Lawyers	25.0	8.3	66.7	100.0 (N=48)

m. <u>Religion</u>				
	Catholic	Protestant		
Lawyers	72.4	27.6	100.0	(N=29)
Non-Lawyers	48.5	51.5	100.0	(N=68)

Lawyers, as has been true elsewhere,⁴⁵ reported that they were a bit more "self-motivated" in their decision to seek legislative seats (Table 1c),⁴⁶ but the percentage differences were small. However, the pre-legislative political experience of Louisiana legislators shows a pattern of lawyer/non-lawyer difference that is not typical of other assemblies. Louisiana lawyer-legislators had less frequently held public office prior to assuming legislative seats, and the difference was substantial: only 32.1% of the lawyers but 55.6% of the non-lawyers had held prior public office (Table 1d). One might suspect that the younger age of lawyers would contribute to this, the lawyers simply having had fewer years in which to seek other office. However, Table 1e shows this suspicion to be unfounded, because the same relative position holds for those legislators under forty years of age. It seems that in Louisiana, regardless of age, lawyers more often achieve a state legislative seat as

45. See note 40, *supra*.

46. This question, from the 1972 legislator survey, was only asked of first-term legislators.

their first public office in a political career, while non-lawyers arrive with more prior officeholding experience.⁴⁷

Patterns in the parental background and early political experience of Louisiana representatives conform, with one exception, to those that the literature would suggest. Lawyers came from families in which the father was relatively well-educated (Table 1f).⁴⁸ Of the fathers of lawyers, only 37.9% lacked a high school degree, while for non-lawyers the figure was 61.4%. While this was to be expected given previous research, it is somewhat surprising that these better educated families were not more politically active than the relatively less well-educated families of non-lawyers (Table 1g). Though the differences were slight, smaller percentages of lawyers' families were found in the more intense categories of political activity (supporting candidates or working in campaigns, managing campaigns or seeking office), and this result is inconsistent with findings elsewhere.⁴⁹ Despite this, the typical conclusion that lawyers developed a relatively early interest in politics is warranted in Louisiana also. Tables 1h and 1i show that by a fairly substantial margin, lawyers more often reported that they first became interested in politics under the age of 15 (32.1% versus 10.9%) and that they first became active in politics before the age of 21 (37.9% versus 6.8%). In terms of future political activity, lawyers indicated that they were more ambitious than non-lawyers in their desire to achieve political office beyond the legislature (Table 1j). It might be thought here too that the lawyer/non-lawyer differences could reflect not the effects of occupation but the effects of the gap in age between the two groups. The relatively young have potentially longer remaining careers to contemplate, and at an earlier age they may be less likely to consider avenues of advancement as

47. Data not presented here showed that lawyers were less likely than non-lawyers to have unsuccessfully sought public office prior to being elected to the House. Lawyers apparently have less prior officeholding experience not because they have tried and failed, but because they did not as often make the attempt.

48. The data on father's education, political activity of family, and age of first interest in politics were collected in 1972 by June Savoy, who graciously allowed us access to her study. A mail questionnaire was used and responses were received from 74 of the 105 members of the 1972 House. The overall response rate was 70.5%, but for lawyers it was 87.5% and for non-lawyers 63.0%. For a complete description of these and other data, see J. Savoy, *supra* note 6.

49. See note 37, *supra*, and accompanying text.

cut off to them. Indeed, the data showed that among legislators in general, the younger ones were more likely to express post-legislative office ambitions.⁵⁰ However, it is not the case that lawyer/non-lawyer differences in ambition appear merely because of the age factor. When young lawyers are compared to young non-lawyers, the ambition differential is actually greater than when all ages in both categories are considered. Table 1k shows that among legislators under forty years of age, 66.7% of the lawyers expressed a desire for office beyond the legislature while only 30.8% of the non-lawyers acknowledged such ambitions. Among legislators over forty, there generally was much less expressed ambition among both groups, but the non-lawyers actually were more likely than the lawyers to claim post-legislative political aspirations (Table 1l).

Table 2 contains data relating to the types of districts that send lawyers and non-lawyers to Baton Rouge. The differences between urban and rural districts were so slight as to suggest that lawyers are about as likely to be selected in one place as another (Table 2a). However, when legislative districts were broken down by the percent of white-collar employees in their work forces (Table 2b), a tendency was seen for high white-collar areas to more strongly prefer lawyers than non-lawyers as representatives. Where the white-collar percentage exceeded 50%, 44.4% of the districts were represented by lawyers, but for both categories of districts with less than half the work force in white-collar jobs the figure was around 27%.

TABLE 2. DISTRICT CHARACTERISTICS (IN PERCENTAGES)
OF LOUISIANA STATE REPRESENTATIVES, 1972-1975

a.	<u>Urbanism</u>			
	0-35%	36-62%	63-89%	90-100%
Lawyers	23.1	29.6	37.5	34.1
Non-Lawyers	<u>76.9</u>	<u>70.4</u>	<u>62.5</u>	<u>65.9</u>
	100.0	100.0	100.0	100.0
	(N=26)	(N=27)	(N=16)	(N=41)

50. Of legislators under forty years of age, 50% indicated an ambition to achieve some post-legislative office, while only 21% of those forty or over expressed this desire.

b.	<u>White-Collar Employment</u>		
	Under 35%	35-50%	Over 50%
Lawyers	27.3	27.5	44.4
Non-Lawyers	<u>72.7</u>	<u>72.5</u>	<u>55.6</u>
	100.0	100.0	100.0
	(N=36)	(N=38)	(N=37)

c.	<u>Region in Louisiana</u>			
	North	Florida Parishes	Southwest	N.O. Area
Lawyers	22.6	26.7	39.4	35.5
Non-Lawyers	<u>77.4</u>	<u>73.3</u>	<u>60.6</u>	<u>64.5</u>
	100.0	100.0	100.0	100.0
	(N=31)	(N=15)	(N=33)	(N=31)

The traditional regions of Louisiana differed somewhat in the extent to which they were represented by attorneys (Table 2c), and the southern part of Louisiana seems more hospitable than North Louisiana or the Florida parishes to lawyer politicians aspiring to the legislature. This tendency undoubtedly contributed to the religious differences between lawyers and non-lawyers shown in Table 1m. It seems that more lawyers were Catholic (72.4% as compared to 48.5% for non-lawyers) because more lawyers represented the most Catholic parts of the state.

With slight exception, based upon the characteristics of legislators, Louisiana lawyers and non-lawyers seemed to parallel those same groups in other legislative bodies. If it should be proven by subsequent research that behavioral differences between them were unique to Louisiana, then factors other than the nature of the two groups themselves will have to be looked to for the explanation.

2. *The Independence Thesis*

The view that attorneys in legislative assemblies behave more independently than non-lawyers is one of the more politi-

cally significant hypotheses concerning their behavior. However, as noted above, the concept of independence has not been explicitly defined. In a complex political environment in which myriad demands are made upon our elected representatives, the challenges to their personal independence no doubt come often and from many directions. The present study conceives of the notion of independence as involving the legislator's ability to resist these pressures and to act in accordance with his or her own attitudes and values. The executive branch, interest groups, and even a legislator's constituents may pose potential challenges to his ability to decide questions on the basis of personal judgment, although, of course, a legislator's predilections will not necessarily conflict with the views of any of the three possible sources of pressure.

The data contain several items that bear directly on the independence of legislators in each of these contexts. In the 1972 survey of Louisiana legislators, each was asked: "In general, how heavily do you think a legislator ought to weigh the governor's preferences in making his decision on how to vote on a bill?" Table 3a contains the responses for lawyers and non-lawyers. Lawyers were more likely to indicate that the governor's views should be given limited or no consideration (46.7%, as opposed to 25.7% for non-lawyers), and lawyers were less likely to respond that consideration should be heavy or greater than other factors (6.7% for lawyers and 24.3% for non-lawyers). These self-reports of the lesser weight that lawyer-legislators felt should be placed on the governor's preferences corresponded to a reputational measure of how much support lawyers had in fact given the governor. A panel of seven close observers of the Louisiana legislature was asked to rate each representative's "stance relative to support for Governor Edwards in legislative matters."⁵¹ Based upon the cumulative re-

51. The seven individuals were members of the capitol press corps or employees of the legislature during 1972 through 1975. The panel was asked to place each legislator in one of these categories: Strongly Tends to Support, Tends to Support, About Equal Support and Opposition, Tends to Oppose, and Strongly Tends to Oppose. The responses were given numerical scores and then totaled and averaged for each legislator. Based on the average rating, legislators were placed in the three categories shown in Table 3b. The members of the panel tended to rate legislators similarly, enhancing confidence in this reputational measure. Coefficients of association (gamma) among the seven ratings were all above .64 and averaged .80.

sponses of the panel, legislators were categorized according to whether they tended to support the Governor, supported and opposed him in about equal proportions, or tended to oppose the Governor. Table 3b shows that lawyers were less likely to be found among Governor Edwards' supporters. Only 37.1% of the attorneys, but 78.7% of their colleagues, were classified as tending to support the governor. Over twice as many lawyers as non-lawyers were in the equal-support-and-opposition category and a larger percentage of attorneys were considered inclined to oppose the governor.

TABLE 3. THE INDEPENDENCE THESIS: ATTITUDES AND BEHAVIOR (IN PERCENTAGES) OF LOUISIANA STATE REPRESENTATIVES, 1972-1975

a. <u>Legislators' View of the Weight That Should Be Given to Governor's Preference in Casting Roll Call Votes</u>			
	None or Limited Consideration	Equal to Other Factors	Heavy Consideration or Greater Than Other Factors
Lawyers	46.7	46.7	6.7 100.1 (N=30)
Non-Lawyers	25.7	50.0	24.3 100.0 (N=70)

b. <u>Reputational Assessment of Tendency to Support Governor Edwards in Legislative Voting</u>			
	Tend to Support Governor	About Equal Support, Opposition	Tend to Oppose Governor
Lawyers	37.1	40.0	22.9 100.0 (N=35)
Non-Lawyers	78.7	16.0	5.3 100.0 (N=75)

c. <u>Support for Gubernatorial Candidates in 1971 Primaries</u>			
	Supported Some Candidate	Supported No Candidate	
Lawyers	30.4	69.5	99.9 (N=23)
Non-Lawyers	47.1	52.9	100.0 (N=51)

d. Self-Report of Whether Legislators Feel They Ought to Represent Specific Groups*

	None Named	One or More Named	
Lawyers	43.3	56.7	100.0 (N=30)
Non-Lawyers	31.4	68.6	100.0 (N=70)

*The list of groups that legislators were asked to choose from consisted of: business, labor, religion, agriculture, local government, and political party.

e. Legislators' Opinions of Whether the Legislature Would Work Better or Worse "If Interest Groups in General Were Less Active in Trying to Influence Legislation"

	Better	About the Same	Worse	
Lawyers	27.6	20.7	51.7	100.0 (N=29)
Non-Lawyers	16.6	25.8	57.5	99.9 (N=66)

f. Self-Report of Whether There Are Groups Whose Approval of the Job Performance of a Legislator is Especially Important to the Legislator

	Some Group Named	No Group Named	
Lawyers	28.6	71.4	100.0 (N=21)
Non-Lawyers	50.0	50.0	100.0 (N=54)

g. Representational Role Orientation

	Delegate	Politico	Trustee	
Lawyers	14.3	42.9	42.9	100.1 (N=28)
Non-Lawyers	33.9	45.2	21.0	100.1 (N=62)

h. Legislators' Assessment of the Extent to Which the "Average Voter" in Their Districts Has Specific Preferences On the Most Important Bills That Are Voted On

	Only a Few Do	Some Do	Most Do	
Lawyers	46.7	26.7	26.7	100.1 (N=30)
Non-Lawyers	27.1	31.4	41.4	99.9 (N=70)

i. Extent to Which Legislators Report That They Know the Feelings of the "Average Voter" in Their Districts On Issues That Concern Them

	Hardly Ever	Sometimes	Almost Always	
Lawyers	6.9	34.5	58.6	100.0 (N=29)
Non-Lawyers	4.3	15.7	80.0	100.0 (N=70)

j. Percent Support for Strengthening the Legislative Institution on Ten Roll Calls

	0-50%	51-80%	81-100%	
Lawyers	3.1	28.1	68.8	100.0 (N=32)
Non-Lawyers	28.6	47.1	24.3	100.0 (N=70)

The lesser legislative support of Governor Edwards by attorneys, of course, could reflect attitudes toward this particular chief executive. However, the 1972 survey suggested that in general there may be a greater aloofness by lawyers from the governorship, whoever occupies it. When asked whether they had supported any candidate for governor in the heavily contested 1971 primaries, only 30.4% of the lawyers responded affirmatively while the corresponding figure for non-lawyers was 47.1% (Table 3c).

Three items in Table 3 relate to legislators' views of interest groups in the legislative process. All legislators interviewed in the 1972 survey were asked a series of questions about the way in which they approached the job of being a representative. One question presented a series of specific groups—business, labor, religious, agricultural, local government, and political party—and asked each respondent whether he or she felt that they "ought to represent" these groups. As Table 3d shows, lawyers were somewhat less likely than non-lawyers to designate any group. The percentage differences were only moderate, however; 43.3% of lawyers and 31.4% of the non-lawyers identified none of these groups. The legislators also were asked whether they felt that the legislature would work

better, the same, or worse if interest groups were less active in trying to influence legislation. By a modest margin (Table 3e), lawyers said the legislative process would work better with less active interest groups (27.6% for lawyers and 16.6% for non-lawyers). It is interesting to note, however, that a majority of representatives in both categories felt that the legislature would be harmed by reduced interest group activity. Finally, legislators were asked whether there were "any particular groups or individuals whose approval of your performance as a legislator is especially important to you?" Table 3f shows that just over a quarter of the lawyers but exactly half of the non-lawyers identified some group (no individuals were named). Desiring approval by particular groups may in no way necessitate a surrender of independence to them, but it suggests at least that lawyers may operate with fewer outside reference points in their legislative decision making.

The third potential source of pressure on legislators is their constituency. One might suppose that if lawyer-legislators are more inclined to resist executive and interest group demands, then they may be relatively free to reflect the views of their constituency. This expectation is bolstered by the observation of some that the lawyer representing his constituents plays a role with which he ought to be particularly comfortable given the analogy with the professional role of representing clients.⁵² However, the data suggest that attorneys indicate less responsiveness to constituents than non-lawyers. The most direct evidence of this attitudinal stance is shown in Table 3g, which compares lawyers and non-lawyers according to the three traditional "representational role orientations,"—trustee, politico, and delegate. As the term is used in political science, the trustee feels that "in his decision-making he should be left free to reach an independent judgment—independent, that is, from his [political] clientele—on the basis of his principles and convictions, or on the basis of his appraisal of the facts." The delegate, on the other hand, "feels obliged to follow whatever mandate or instructions may be given him by his [political] clientele," or at least feels it necessary to weigh their views heavily.⁵³ The politico is one who either rejects both of these

52. H. EULAU & J. SPRAGUE, *supra* note 1, at 89.

53. *Id.* at 90.

views, asserts that he accepts them both, or claims to follow sometimes one and sometimes the other position. Table 3g classifies lawyers and non-lawyers into each of these categories.⁵⁴ The differences are fairly substantial, with lawyers about twice as likely as non-lawyers to be trustees. The discovery that lawyers disproportionately adopted the more independent role orientation is consistent with expectations and with the pattern of the other evidence on independence. However, one study of several states which presented data on these same roles for lawyers and non-lawyers produced varying results. In their four-state study, Eulau and Sprague found no lawyer/non-lawyer differences in representational roles in New Jersey and Tennessee. In California, lawyers were more likely to be trustees, but in Ohio it was the non-lawyers who were trustees to a relatively large degree.⁵⁵ The tendency for Louisiana lawyer-legislators to adopt the trustee role is not necessarily part of a general inclination of attorneys to do so.

Two other items relating to legislators and their constituencies are of interest. Tables 3h and 3i show the extent to which legislators felt that "the average voter" in their district had preferences on the most important legislative measures and the extent to which legislators said that they knew the preferences of "the average voter" on the issues that concerned him. On both counts lawyers ranked behind non-lawyers. Attorneys were not as likely to feel that as many voters had pref-

54. The classification was based on two items in the 1972 survey. Legislators were asked to indicate on a scale of from -4 to +4 the extent to which they agreed or disagreed with these two statements: 1) "My job as a representative is to work for what the group [that the legislator feels he ought to represent] wants even though this may not always agree with my personal views;" 2) "As a legislator I expect to have better sources of information than the group I represent. Therefore, I would vote as I think best even when the group that I represent disagrees." Legislators who agreed with statement 1 and disagreed with statement 2 were called delegates. Those who agreed with statement 2 and disagreed with statement 1 were classified as trustees. Additionally, a legislator was classified as a delegate if he or she agreed with statement 1, but answered "don't know" to statement 2; the legislator was classified as a trustee if the response was to agree with statement 2, but give a "don't know" answer to statement 1. All other legislators interviewed—those who agreed with both statements or who disagreed with both—were put in the politico category.

55. H. EULAU & J. SPRAGUE, *supra* note 1, at 91. Eulau and Sprague used different methods of assigning legislators to categories than the present study does. Their data showed that 28.1% of legislators could not be classified and were shown in a "not ascertained" category.

erences, and they were not as inclined to say that they knew whatever voter preferences did exist. These opinions could justify in a legislator's mind the adoption of a trustee role orientation, or perhaps a trustee's perception of constituency is colored by pre-existing positions about the preferred representational role. Whatever the causal processes, the present data on representational roles and perception of constituency all seem to suggest that lawyer-legislators possess more substantial mental buffers between themselves and their constituencies than non-lawyers.

The evidence of legislator independence examined so far all tends to support the hypothesis that lawyers are relatively more independent in their behavior than non-lawyers. This was true with respect to the executive and constituency, and to a somewhat less dramatic degree, with interest groups. With the exception of the reputational indicator of support for Governor Edwards, the analysis has been based on attitudinal data collected from legislators. However, the record of the 1972-1975 Louisiana House presents an excellent opportunity to see whether the voting behavior of legislators varied when issues relevant to legislative independence came before them.

In Louisiana, as in many American legislatures, the period from the late 1960's to the mid 1970's was an exceedingly productive period in terms of changes designed to strengthen the legislative institution.⁵⁶ While the reform agenda was by no means exhausted and not all proposed reforms passed, significant improvements were made in committee structure and functioning, floor procedures, legislative facilities, compensation, and staff capability. Many of these reforms were offered with the intent to give the legislature a greater capacity to make decisions in a more efficient, competent manner and to make the institution less dependent on the informational input of outsiders, especially the executive. In short, one may reasonably perceive legislative changes that occurred as being directly related to legislative independence.

This study has been examining the personal political independence of legislators, and this quality suggests an hypothe-

56. Patterson, *American State Legislatures and Public Policy* in *POLITICS IN THE AMERICAN STATES: A COMPARATIVE ANALYSIS* 143 (H. Jacob and K. Vines eds. 3d ed. 1976).

sis: if lawyers are politically independent, then they more than others may strive to develop legislative institutions that are independent also. Indeed, if lawyer-legislators are personally independent, then they may feel that they require a relatively independent institutional environment in which to operate effectively. Specifically, lawyers may possess a greater sensitivity to the separation of the legislative and executive branches and to the need for a competent, professional legislature.

To investigate this behavioral dimension of support for the legislature as an independent institution, all 1365 "contested" roll call votes (those in which at least 10% of those voting were on the losing side) in the Louisiana House from 1972 through 1975 were examined to identify votes on measures commonly recognized as innovations that potentially would have strengthened the legislative branch of government.⁵⁷ Ten such votes were identified, involving final passage of bills relating to four distinct "reform" issues (Table 4).⁵⁸ Although each proposal was favored by a majority of the representatives, the percentage in opposition varied considerably, ranging from only 13.5 to 46.3.

Four of the votes involved the issue of increased benefits and/or resources for legislative service. These included one vote on a bill providing funding to rent and equip an office in each legislator's district and to hire one or more full or part-time legislative assistants for each representative (Vote 1, Table 4). Three other bills increased the compensation for legislators based upon travel expenses. One bill (Vote 2) increased the rate of compensation, while Votes 3 and 4 both increased the rate and extended the applicability of the allowance in terms of the number of trips and types of legislative activities covered.⁵⁹

57. For discussions of such innovations, see, e.g., M. JEWELL & S. PATTERSON, *supra* note 4, at 118-19; Press, *Second Thoughts on Strengthening State Legislatures*, 4 *PUBLIUS* 117-122 (1974). The years 1972 through 1975 correspond to the four-year term of office of the legislators interviewed in 1972.

58. Although each of the ten votes happened to be on final passage, the 1365 roll-calls examined included votes on amendments and a variety of procedural motions as well. To be selected, a vote had to present clearly the issue of legislative independence or professionalism. In making these judgments, the following sources were utilized: the text of bills and amendments, the existing statutes, press coverage of legislative sessions (two Baton Rouge newspapers and one New Orleans newspaper), and interviews with present and former employees of the Louisiana Legislative Council.

59. Vote 3 was on a bill that, in addition to raising the rate of compensation per

TABLE 4. SUPPORT FOR STRENGTHENING THE LEGISLATIVE INSTITUTION
ON TEN ROLL CALLS IN THE LOUISIANA HOUSE, 1972-1975

Vote No.	Subject (Bill, Year)	Percent Support For Bill		
		Lawyers	Non- Lawyers	All Legis- lators
1.	To provide funds to legislators for rent and supplies for a district office and to pay salary of legislative assistants. La. H.B. 937, 35th Reg. Sess. (1972).	86.2	80.9	82.5
2.	To increase the rate of compensation for travel. La. H.B. 408, 37th Reg. Sess. (1974).	82.6	70.4	74.0
3.	To increase rate of compensation for travel and remove restrictions on the number of trips covered (eight per year under then existing law). La. H.B. 336, 37th Reg. Sess. (1974).	90.0	76.8	80.3
4.	To increase rate of compensation for travel; liberalize the limit on number of trips covered; and extend coverage to attendance at interim committee meetings and other interim legislative functions. La. H.B. 392, 1st Reg. Sess. (1975).	95.7	82.4	86.5
5.	To permit pre-filing of measures and the pre-session consideration of such measures by the standing committees. La. H. Res. No. 17, 36th Reg. Sess. (1973).	83.3	75.0	77.7
6.	To dedicate \$6 million to construct a Legislative Facilities Complex to house legislators' offices and committee meeting rooms. La. H.B. 149, 35th Reg. Sess. (1972).	80.0	61.5	67.4

Vote No.	Subject (Bill, Year)	Percent Support For Bill		
		Lawyers	Non-Lawyers	All Legislators
7.	To authorize \$8.5 million in bonds to construct a Legislative Facilities Complex to house legislators' offices and committee meeting rooms. La. H.B. 219, 36th Reg. Sess. (1973).	81.3	67.7	72.2
8.	To abolish the gubernatorially appointed Legislative Budget Committee and transfer its budget review powers to the standing committees. La. H.B. 291, 36th Reg. Sess. (1973).	90.5	52.6	62.8
9.	Same issue as Vote 8. La. H.B. 1591, 37th Reg. Sess. (1974).	82.8	40.9	53.7
10.	Same issue as Votes 8 and 9. La. H.B. 1348, 1st Reg. Sess. (1975).	78.3	53.2	60.0

A second issue involved a 1973 change in the rules to allow the pre-filing of bills and the holding of hearings on these bills by standing committees prior to the beginning of a legislative session (Vote 5). Especially in a legislature which at the time was authorized to meet only sixty days in even numbered years and thirty days in odd numbered years,⁶⁰ the extension of com-

mile, removed entirely any limits on the number of trips that were covered (eight per year at that time). Vote 4 raised the rate of compensation also and retained a liberalized limit on the number of trips (one per calendar week rather than eight per year), but additionally extended coverage to attendance at interim committee meetings, meetings of the Legislative Council and its subcommittees, and attendance at the annual Pre-Session Orientation Conference for legislators. Louisiana legislators receive no flat salary and their compensation consists of a per diem allowance, a flat rate expense allowance, and a mileage allowance. In 1977, Louisiana's legislators received an average of over \$18,000 per year from these sources. *New Orleans Times Picayune*, May 5, 1978, § 1, at 5.

60. LA. CONST. of 1921, art. 3, § 8. Louisiana's legislature under the new state constitution, which became effective in 1975, is still a part-time body, although its sessions have been extended to sixty legislative days within an eighty-five calendar day period each year. LA. CONST. art. 3, § 2.

mittee activity into the interim period had the potential to increase the capacity for thorough, competent, and independent consideration of proposed legislation. The third issue involved a two-year effort to fund the planning, construction, and equipping of a Legislative Facilities Complex that would provide space for offices for individual legislators and staff and meeting rooms for standing committees (Votes 6 and 7).

The fourth issue involved a three-year attempt to abolish the gubernatorially-appointed Legislative Budget Committee (Votes 8-10)⁶¹ and to transfer its powers to the House Appropriations and Senate Finance Committees.⁶² The Legislative Budget Committee bills involved issues of separation of powers, not only because of the Committee's composition, but also because of its function. The Committee is responsible for working with the Office of the Governor and the Division of Administration on the preparation of the executive budget, which is later submitted to the legislature. The Budget Committee receives executive agency requests for funds, holds interim hearings, and may subpoena witnesses and require the production of books and records. It is authorized to hire a staff and to engage in research generally pertaining to its budgetary functions. Its recommendations are advisory to the executive branch, and only when the executive budget is completed and introduced as legislation, does it go to the House Appropriations and Senate Finance Committees. These committees have the authority to amend the executive budget, but their activities are largely compressed into the time constraints of a legislative session. The bills abolishing the Budget Committee provided that standing legislative committees would receive agency budget requests, and, using the same powers and resources formerly given the Budget Committee, would prepare a legislative budget separate and distinct from the executive budget. This legislation clearly involved issues of legislative

61. Of the twenty-three legislators serving on this committee, nineteen are appointed by the governor for a four-year term concurrent with his own. The other legislators serve *ex officio*.

62. The 1972 version of the bill did not specify the House Appropriations and Senate Finance Committees, but rather allowed the respective chambers to designate the committees that would perform the expanded budgetary role. The three bills—one each in 1973, 1974, and 1975—differed in some details but were essentially the same.

independence from the executive branch, and the issue was presented precisely this way in floor debate.⁶³

As evident from Table 4, lawyers were overwhelmingly supportive of all these proposals. The proportion of lawyers in favor of them ranged from 78.3 to 95.7%, and only once did it drop below 80%. The average support by lawyers was 85.1%, an impressive record of cohesive voting. Non-lawyers also tended to support these proposals, but to a substantially lesser extent. Over the ten roll calls, non-lawyers' support varied from 40.9 to 82.4% and averaged 66.1%. Among the non-lawyers, support was greatest for proposals increasing legislative benefits. The legislative facilities complex issue received less support from the non-lawyers, and the issue of abolishing the Budget Committee substantially divided that group. Lawyer-legislators, however, maintained impressive cohesion in support of reform on all issues, including those that divided their colleagues. In general, as overall legislative support for these reforms declined, it was the lawyers who stood firm and the non-lawyers who dropped back. The relative differences between lawyers and non-lawyers are rather dramatically shown in Table 3j, which shows breakdowns of a simple index that is based upon the percent of votes cast in support of a more professional and independent legislature over the ten roll calls. While the support was generally high from all legislators, 68.8% of the lawyer-legislators supported the reform position on over 80% of the votes, as compared to only 24.3% of non-lawyers. Similarly, only one attorney (3.1%) fell below 50% support while 28.6% of the non-lawyers were found in that range.

As noted earlier, this study cannot claim to have exhausted with these data all possible dimensions of the notion of independence. Legislators make thousands of decisions in a session and each one may afford an opportunity to exercise judgment in a different fashion. However, a substantial amount of evidence has been presented on an aspect of legisla-

63. The bill's principal author, Rep. Frank Simoneaux of Baton Rouge, stated in debate: "Members of the legislature have no business performing the duties and functions of preparing the executive budget When they cross that line and perform the executive function, they give something in return. It's not corruption I'm suggesting. It is legislative independence." *Morning Advocate* (Baton Rouge), July 4, 1974, § A, at 8.

tive behavior on which lawyers and non-lawyers have not been previously compared. This evidence runs clearly in one direction: relative to non-lawyers, there are grounds to believe that lawyer-legislators exercise a greater degree of political independence.

3. *The Dominant Bloc, Competence, and Conservatism Theses*

The expectations that underlie the dominant bloc thesis are not supported by the data on Louisiana House members. In an attempt to discover whether lawyers agreed more among themselves than with non-lawyers, the percentage of votes on which each legislator agreed with each other legislator was calculated for all 1365 contested roll calls between 1972 and 1975. This operation produced a matrix of percent agreement scores with one entry for each legislator paired with every other legislator. Analysis of the average agreement levels among lawyers and among non-lawyers shows that in general roll call voting, neither group constituted a cohesive voting bloc. Among lawyers only, the mean percent agreement was 60.4%, and among non-lawyers, 61.3%. When each lawyer was paired with every non-lawyer and the cross-group percentages of agreement were averaged, a figure of 60.1% resulted. It is evident that in *general* roll call voting lawyers and non-lawyers as groups did not constitute voting blocs. If two subsets of representatives had been drawn by random sample from the general legislative population, it is unlikely that their overall voting agreement would have been much different than that of lawyers and non-lawyers. With these findings in mind it is not surprising that an analysis of the 1365 contested votes also shows that only rarely did lawyer and non-lawyer groups significantly oppose one another. On just 8 of 1365 votes did as many as two-thirds of the lawyers vote on one side of an issue while at least two-thirds of the non-lawyers occupied the other. If the standard is relaxed to 60%, then only another 31 votes are added.⁶⁴

However devastating these figures are to the possibility of bloc voting on the basis of occupational background, the analy-

64. These votes have no discernible subject matter focus, but rather span a wide range of substantive areas.

sis of voting on measures designed to strengthen the legislature demonstrated that occasionally there may be politically significant subsets of issues on which there are at least important relative differences in lawyer/non-lawyer voting patterns. The issue of no-fault insurance is another example. Consistent with the findings of Dyer,⁶⁵ Louisiana legislators seemed influenced by their professions in the degree of support that they gave to the "no-fault" insurance plans that came before the legislature. Tables 5a and 5b show the voting on no-fault bills on final passage in 1972 and 1974. In both years, 1972 especially, there was a marked difference in lawyer and non-lawyer support for no-fault. In 1972 just over half (54.8%) of the lawyer-legislators supported no-fault, while 81.8% of non-lawyers cast a yea vote. On the 1974 bill lawyer support was about the same (51.9% yea) while non-lawyers dropped back to 68.3%, still appreciably above that of lawyers.⁶⁶

TABLE 5. THE DOMINANT BLOC, COMPETENCE, AND CONSERVATISM THESES: ATTITUDES AND BEHAVIOR (IN PERCENTAGES) OF LOUISIANA STATE REPRESENTATIVES, 1972-1975

a. <u>Support For "No-Fault" Insurance, 1972</u>				
	Yea	Nay	Total	
Lawyers	54.8	45.2	100.0 (N=31)	
Non-Lawyers	81.8	18.2	100.0 (N=66)	

b. <u>Support For "No-Fault" Insurance, 1974</u>				
	Yea	Nay	Total	
Lawyers	51.9	48.1	100.0 (N=27)	
Non-Lawyers	68.3	31.7	100.0 (N=63)	

c. <u>Reputation as Effective Legislators</u>				
	Below Average	Average	Above Average	
Lawyers	6.1	60.6	33.3	100.0 (N=33)
Non-Lawyers	42.0	40.0	17.4	99.4 (N=68)

65. See Dyer, *supra* note 11.

66. Several procedural votes on no-fault were taken over these years and they also show substantial differences in voting by lawyers and non-lawyers.

d. Average Number of Bills Introduced Per Session, 1972-1975

	15.7-40.0	40.1-60.0	60.1-132.0	
Lawyers	17.6	38.2	44.1	99.9 (N=34)
Non-Lawyers	42.1	34.2	23.7	100.0 (N=76)

e. Average Number of Floor Amendments Introduced Per Session, 1972, 1974, and 1975*

	1.5 or less	1.6-3.5	3.6 or more	
Lawyers	3.4	34.5	62.1	100.0 (N=29)
Non-Lawyers	44.9	36.2	18.8	99.9 (N=69)

*The 1973 session was excluded because it was a fiscal session and did not include the same range of bill subject matter as other legislative sessions.

f. Self-Described Political Philosophy

	Conservative	Moderate	Liberal	
Lawyers	21.4	35.7	42.9	100.0 (N=28)
Non-Lawyers	55.4	35.4	9.2	100.0 (N=65)

In discussing the views that underlie the competence thesis, it was acknowledged that the concept is not a precise one. There undoubtedly are many kinds of competence relevant to legislative service, and even more opportunities for legislators to demonstrate that they have it or lack it. This study is able to provide some general data on the question, but cannot claim to offer definitive tests of hypotheses about lawyer/non-lawyer differentials in ability.

Tables 5c, 5d, and 5e contain three breakdowns of interest. The first is a reputational measure of legislator effectiveness obtained from the same panel of close legislative observers that rated tendencies to support or oppose Governor Edwards. Each member of the panel was asked to designate each representative as average, above average, or below average "in their ability to influence the outcome of the legislative process."⁶⁷ Table

67. The responses from the panel were totaled and averaged in the same manner

5c contains the results, and it is evident that lawyers fared relatively well. More lawyers than non-lawyers were rated above average (33.3% versus 17.4%), but it is in the category of below average legislators that the contrast is most striking; 42% of the non-lawyers were rated in the lowest category of effectiveness, as compared to only 6.1% of the lawyers.

Tables 5d and 5e present evidence on the frequency with which legislators offered amendments and introduced bills and resolutions. These measures do not necessarily relate directly to competence, because an amendment may be well or poorly drawn and presented; but they do reflect activities that constitute important elements of a legislator's job. Lawyers were considerably more prolific on both counts (Table 5d and 5e); almost twice as high a percentage of lawyers (44.1% to 23.7%) were found in the category of legislators who introduced the most measures.⁶⁸ The difference in sponsoring amendments is even more striking: 62.1% of the lawyers, but only 18.8% of the non-lawyers, were in the high category.⁶⁹

The tendency for attorneys to introduce more bills may be a product of greater individual motivation, but it may be related as well to their reputation for effectiveness. Interest groups, the executive, and other outsiders, who frequently spawn the legislation that friendly representatives sponsor, would seem likely to seek out the most effective members of the legislature to promote their cause. Presumably more demands of this type are placed on the more competent legislators.

The substantial differences found in the frequency of offering amendments demonstrate that occupational background relates to the way this aspect of a legislator's job is performed. The training of lawyers immediately suggests the possibility that their prolificacy results from technical amendments designed to improve the language and clarify the meaning of new legislation. While this is plausible, there is no evidence available on the nature of the amendments, and it may be equally

as with the ratings of support for Governor Edwards. See note 51, *supra*. Coefficients of association (γ) among these seven ratings were all above .52 and averaged .73.

68. A legislator was counted as introducing a measure if he or she was its sole author or co-author.

69. The figures reflect only amendments to other legislators' bills because amendments to legislation initially sponsored by the individual were excluded.

reasonable to believe that attorneys offer more amendments because their legal training gives them greater skill and confidence in drafting amendments of all sorts.⁷⁰

The greater effectiveness and legislative activity of lawyers, while relevant to the competence thesis, may also be germane in considering the dominant bloc theme. It has been shown that neither lawyers nor non-lawyers constitute cohesive voting blocs and that neither group can be said to dominate the legislative process. However, if lawyer-legislators are both more effective and more active, then on an individual and personal basis they might be considered dominant. Perhaps it is these characteristics that have led some observers to feel that lawyers tend to run legislatures.

The lack of distinctive roll call patterns by lawyers and non-lawyers in general legislative voting does not compel the conclusion that the two groups are indistinguishable in their political attitudes. Table 5f shows that there were marked differences in the self-described political philosophies of the two groups. The conservatism thesis to the contrary, lawyers in the Louisiana House were much more likely than non-lawyers to describe their own political philosophy as liberal: 42.9% of the lawyers chose the liberal label, while only 9.2% of the non-lawyers placed themselves in that category. Almost identical portions of each group said that they were moderates (around 35%), but only 21.4% of the lawyers preferred the conservative designation as opposed to over half (55.4%) of the non-lawyers. That lawyers and non-lawyers differed substantially in their self-described political philosophy, and yet did not generally vote differently, is perhaps a telling comment on the relevance of the traditional philosophical categories with respect to issues coming before the Louisiana legislature.

4. *The Generalist Thesis*

It is a distinctive feature of many American legislative bodies that their rules, structures, and informal norms promote specialization and expertise. This is especially true of Congress

70. For an analysis of differences between lawyers and non-lawyers based on the number of bills they introduced and how far the bills went in the legislative process, see Singleton, *Attorney Members of the 1972 Kentucky Senate*, 1 J. Pol. Sci. 93-104 (1974).

with its committee system, and in varying degrees the states follow the national model. The extent to which legislators tend to specialize in certain policy areas is accordingly a significant dimension of how they perform their jobs, and the premise of the generalist thesis is that lawyers may not be as inclined to concentrate their interests and activities as their colleagues.

In the 1972 survey, legislators were asked directly whether they considered themselves especially well informed on any particular type of legislation. The results shown in Table 6a indicate that a generalist perspective may indeed characterize lawyer-legislators more so than non-lawyers. While a healthy majority of all legislators claimed some specific area of expertise, lawyers were less likely (63.3%) than non-lawyers (81.2%) to do so.

TABLE 6. THE GENERALIST THESIS: ATTITUDES AND BEHAVIOR (IN PERCENTAGES) OF LOUISIANA STATE REPRESENTATIVES, 1972-1975

<u>a. Legislators' View of Whether They Consider Themselves Particularly Well Informed On Any Particular Type of Legislation</u>				
	Yes	No		
Lawyers	63.3	36.7	100.0	(N=30)
Non-Lawyers	81.2	18.8	100.0	(N=69)

<u>b. Legislators' Self-Description of Importance of Committee Work</u>				
	Relatively Important	Same As Other Factors	Relatively Unimportant	
Lawyers	69.0	20.7	10.3	100.0 (N=29)
Non-Lawyers	89.9	4.3	5.8	100.0 (N=69)

<u>c. Total Legislators' Pay (at \$50 Per Diem) For Attending Interim Committee Meetings, 1973-1975*</u>				
	\$100-\$1800	\$1850-\$3200	\$3250-\$6800	
Lawyers	63.3	16.7	20.0	100.0 (N=30)
Non-Lawyers	20.3	46.4	33.3	100.0 (N=69)

*Only legislators who served for all three years were included; the 1972 figures were unavailable in a form that distinguished 1972 service before and after May, when the newly elected legislators took office.

Since standing committees are the principal legislative vehicles for achieving specialization, legislators' participation in committee processes may be relevant to the specialist/generalist question. However, the previous writing on lawyers in the legislature, reflected in the various theses under consideration, could lead to two conflicting expectations. On the one hand, the generalist perspective suggests that lawyers may not be concerned with the work of standing committees, because they are so specialized. On the other hand, being a generalist may not imply a reticence to participate in the deliberations of the specialized standing committees at all. A generalist approach to legislative politics could mean that a representative simply works in a broad range of subject matter areas, with specific areas being only *relatively* less important to him. The independence thesis comes into play here also, because the expertise achieved through committee specialization is a major cornerstone of the independence of legislatures. The committee system in Congress is widely regarded as a basis of Congress' ability to resist the executive, and it has been observed that foreign legislatures that are more nearly "rubber stamp" assemblies tend to lack important committee institutions.⁷¹ If, as has been argued, lawyers are more independent than their colleagues, they might be expected to place more emphasis on committee service.

There are two items of data that speak to this issue. As seen from Table 6b, substantial majorities of all legislators in the 1972 survey rated committee work as "relatively important," and very few felt that it was "relatively unimportant." However, differences between lawyers and non-lawyers did exist, and fewer lawyers cited committees as relatively important. In addition, there are data on the frequency with which legislators attended interim committee meetings. When they attend *interim* committee sessions, legislators are compensated at the rate of \$50 per diem, and the amount of such compensation during the legislators' term may give an indication of the emphasis that legislators place on committee work. Table 6c supplies the figures for lawyers and non-lawyers and shows that

71. N. POLSBY, *Legislatures* 257-320, in 5 F. GREENSTEIN & N. POLSBY, *HANDBOOK OF POLITICAL SCIENCE (GOVERNMENTAL INSTITUTIONS AND PROCESSES)* 278 (1975).

lawyers participated significantly less in the interim activities of the committee: 63.3% of the lawyers fall into the category of legislators who attended the fewest interim meetings, while only 20.3% of the non-lawyers were found there.⁷²

It can only be speculated as to why these results were obtained. It is possible that a generalist perspective, as mentioned, induces lawyers to place lower value on committee participation. Despite the fact that on several counts lawyer-legislators were found to value independence highly, including voting to extend committee activity into the interim,⁷³ they did not participate nearly as extensively as non-lawyers in the interim deliberations that they had favored. It is possible that the demands of a legal practice operate against extensive interim participation by lawyers. Although lawyers, as discussed earlier,⁷⁴ may find it easier than others to leave their occupations to participate in politics, there nonetheless may be more finite limits on their willingness to give of their time beyond the confines of regular legislative sessions. This possibility suggests a fruitful avenue for future research on occupational differences in legislative service.

CONCLUSION

Lawyers in politics have been the subject of considerable contemplation in scholarly literature, and some aspects of their behavior have been placed under close scrutiny. Previous research has documented fairly consistent differences in the personal, political, and family backgrounds of lawyer-legislators and their colleagues. Some studies have also shown differences in political philosophy, a generalist approach to legislative work, patterns of recruitment to candidacy, and ambitions to achieve post-legislative offices. When it comes to political behavior, however, both specific and general conclusions have led authors to assert that lawyers and non-lawyers as groups are basically similar.

72. However, lawyers and non-lawyers fared about the same in holding committee chairmanships in the 1972-1975 House. Exactly 20% of the lawyers chaired a standing committee, as did 17.1% of their non-lawyer colleagues.

73. See the description of Vote 5 in Table 4 at note 60, *supra*, and accompanying text.

74. See notes 23 and 24, *supra*, and accompanying text.

This study has confirmed that there are similarities in some areas of behavior. There is no evidence, for example, that attorneys generally vote alike in the Louisiana House. However, with respect to other aspects of performance, some rather consistent and striking differences were documented, particularly along dimensions of behavior that have been scantily attended to in empirical investigation. Compared to non-lawyers, attorneys in the legislature appeared more independent politically. This was seen in many of their attitudes and also in a willingness to support reforms that promote the independence of the legislative institution. They were rated more effective as legislators and certainly were more active in sponsoring legislation and offering amendments. Finally, lawyer-legislators have been shown to be more inclined than non-lawyers to be generalists in their approach to the subject matter areas of legislation. If the factor of occupation accounts for few of the differences in voting patterns that one observes in the legislature, the same cannot be said for its influence on the way that legislators go about their jobs. While the behavioral distinctions that have been addressed are differences of degree and not of kind, the conclusion is inescapable from this research that several dimensions of job performance are affected by the presence or absence of legal training and practice. Certainly the results argue forcefully that now is not the time to abandon the task of investigating further the influence of occupational background on the behavior of legislators, and indirectly, on the performance of our legislative institutions themselves.

