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The 'legalisation' of education : a study of New South Wales teachers and their professional development needs in the area of law

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**The 'Legalisation' of Education – A study of New
South Wales teachers and their professional
development needs in the area of law**

**A thesis submitted in fulfilment of the
requirements for the award of the degree**

Doctor of Philosophy

from

University of Wollongong

by

David J. Newlyn B.Ed(Hons), LLB (Syd)

Faculty of Law

2006

Volume 1 of 2

ABSTRACT

This study is concerned with the legal knowledge held by teachers of New South Wales Government schools and the need for continued professional development in this area. The study commenced in 1997 and primary research concluded in 2000. The Australian experience seems to be mirroring international experiences, particularly those of the United States of America, which have seen an increase in the legalisation of the field of education. From this increase there emerged a need for a systematic programme of instruction to address the problem of a lack of legal knowledge held by teachers in order to adequately perform their professional duties as teachers and protect themselves and their employer from potential legal liabilities.

The main purposes of this study were to determine the degree of legal knowledge that teachers in the State of New South Wales possessed, the need for the development of a course of instruction to address the perceived problem of a lack of legal knowledge and to investigate the methods available to address this problem. The study then proceeded to develop and trial a systematic curriculum designed to provide a background for teachers to education and the law.

This was a multimethod ethnographic exploratory study that integrated aspects of both quantitative and qualitative research paradigms. An initial focus group interview schedule was developed and then trialled with a group of teachers in order to gauge their experiences and knowledge of the law. This interview schedule was then refined and trialled with a larger sample of teachers drawn from

a wide variety of educational backgrounds. From those focus groups there emerged clear evidence that the majority of teachers lacked knowledge of the law as it affected the performance of their professional teaching duties. What legal knowledge teachers did possess was often based on myth or misunderstanding.

Therefore there emerged a need to canvas the views of the dominate stakeholders in the field of education to gain their interest/views on developing a course of legal instruction devised to address this problem. Additionally the question of which elements of the law would be necessary in such a course was also addressed. To this end the views of the teachers, their union and their government employer were all engaged. It became clear that there was general support, particularly high amongst the teachers, for the need for such a course of instruction.

This study then moved on to develop a course of instruction which could be used at either the pre or post service levels of teacher professional development. The study examined a number of potential models of curriculum and the conclusion was reached that no single model of curriculum could be used to devise a successful and progressive course. Instead the curriculum devised was based upon a hybrid model using elements from the process and dynamic models of curriculum.

This curriculum was then trialled with a sample of teachers. At the end of the trial, course participants were asked to complete a brief survey and their comments were reported to show that the majority believed they had engaged in a positively

rewarding experience, which made them more aware of how the law was a pervasive influence on their teaching.

Overall the findings indicate that there is a definite need for pre service and practising teachers to have a degree of legal knowledge which is provided in a professional manner. There is broad support for such a course of instruction amongst the teaching profession and its dominant union body. Unfortunately there was not the same degree of enthusiasm shown by the government employer.

The study concludes with a statement that there needs to be a unilateral effort between the teachers, their union and their employer towards a common goal of instructing teachers about the law if such a course of instruction is to gain credibility and acceptance amongst the members of the teaching profession.

All information, data and law is stated as at December 2000.

TABLE OF CONTENTS

VOLUME ONE:

Abstract	i
Table of Contents	iv
List of Figures	xi
List of Tables	xii
List of Appendices	xiv
Statement of original authorship	xv
Acknowledgements	xvi

CHAPTER ONE: INTRODUCTION

1.1 Background	1
1.2 Need for the study	2
1.3 Design of the study	3
1.3.1 Background to the design	3
1.3.2 Specifics of the study	5
1.4 Rationale for the design of the study	5
1.5 Outline of the study	6
1.6 Summary of Chapter One	7

CHAPTER TWO: REVIEW OF THE LITERATURE

TEACHERS AND THE LAW

2.1 Introduction	9
------------------------	---

2.2	Nature of the law	10
2.2.1	Introduction	10
2.2.2	What is ‘law’?	11
2.3	Nature of educational law	13
2.3.1	Introduction	13
2.3.2	Difficulties in defining the law affecting teachers	15
2.4	Law affecting teachers	18
2.4.1	Generally	18
2.4.2	The common law	21
2.4.3	Statute law	23
2.5	Legalisation of Education	26
2.5.1	Introduction	26
2.5.2	Defining the legalisation of education	27
2.5.3	Identifying the legalisation of education	28
2.6	Reducing the risk of liability	31
2.7	Content of courses	33
2.8	Summary of Chapter Two	35

CHAPTER THREE: OUTLINE OF RESEARCH QUESTIONS

3.1	Introduction	37
3.2	Conceptual framework	37
3.3	Research Questions	39
3.3.1	What knowledge do teachers in NSW government schools have about the law and how it affects them in the delivery of their professional duties	39

3.3.2	Is it essential or even of use for NSW government teachers to have any degree of knowledge in legal areas? ...40	40
3.3.3	What substantive areas of the law do NSW government teacher require a working knowledge of in the performance of their usual duties?41	41
3.3.4	How can this knowledge be most effectively delivered to NSW government teachers?41	41
3.4	Summary of Chapter Three42	42

CHAPTER FOUR: RESEARCH METHODOLOGY

A CONCEPTUAL BASIS

4.1	Introduction44	44
4.2	Concept of research44	44
4.3	Methodological stance46	46
4.4	Characteristics of approach adopted47	47
4.4.1	Ethnographic studies47	47
4.4.2	Exploratory studies51	51
4.4.3	Integration of research methodologies53	53
4.4.4	Multimethod research strategies55	55
4.4.5	Triangulation60	60
4.4.6	Benefits of approach adopted63	63
4.5	Discussion of data collection procedures65	65
4.5.1	Introduction65	65
4.5.2	Focus groups66	66
4.5.3	Questionnaire78	78

4.5.4	Other sources of information	86
4.6	Population and Sample	92
4.6.1	Description of population – the schooling system	92
4.6.2	Description of population – the university system	100
4.6.3	Description of sample	101
4.7	Treatment of the Data	107
4.7.1	Quantitative data	107
4.7.2	Qualitative data	108
4.8	Limitations of the study	109
4.9	Summary of Chapter Four	109

CHAPTER FIVE: REVIEW OF THE LITERATURE

CURRICULUM DESIGN AND IMPLEMENTATION

5.1	Introduction	111
5.2	Defining a curriculum	111
5.3	From curriculum to models	115
5.4	Models of curriculum	116
5.4.1	Introduction and background	116
5.4.2	Rational model	119
5.4.3	Cyclical model	122
5.4.4	Dynamic model	125
5.4.5	Process model	128
5.5	Implication	136
5.5.1	In general	136
5.5.2	A comparison with technology education	136

5.5.3	Further implications	139
5.6	Designed Curriculum	141
5.6.1	Introduction	141
5.6.2	Course outline	142
5.6.3	Participant workbook	142
5.6.4	Extracted materials	143
5.6.5	Facilitator's notes	144
5.7	Curriculum evaluation and review	145
5.8	Summary of Chapter Five	146

CHAPTER SIX: PRESENTATION AND DISCUSSION OF DATA

6.1	Introduction	147
6.2	Research Question One: Teachers' knowledge of the law	148
6.2.1	Overview	148
6.2.2	Potential sources of legal information	149
6.2.3	Focus groups	163
6.3	Research Question Two: Do teachers require legal knowledge?.....	201
6.3.1	Overview	201
6.3.2	Views of the teachers	202
6.3.3	Views of the unions	205
6.3.4	Views of the employer	210
6.3.5	Summary and discussion of material from Research Question Two	219
6.4	Research Question Three: What should teachers know about the law?	220

6.4.1	Overview	220
6.4.2	Views of the teachers	220
6.4.3	Views of the union	226
6.4.4	Views of the employer	230
6.4.5	Summary and discussion of material from Research	
	Question Three	234
6.5	Research Question Four: How can legal knowledge be given to teachers?	236
6.5.1	Overview	236
6.5.2	Views of the teachers	237
6.5.3	Views of the union	241
6.5.4	Views of the employer	244
6.5.5	The curriculum	249
6.5.6	Summary and discussion of material from Research	
	Question Four	272
6.6	Summary of Chapter Six	274
6.6.1	Research question one	274
6.6.2	Research question two	275
6.6.3	Research question three	275
6.6.4	Research question four	276

CHAPTER SEVEN: CONCLUSIONS AND IMPLICATIONS

7.1	Background	277
7.2	Overview	277
7.3	Conclusions	280

7.4	Implications	281
7.4.1	Implications for future research	281
7.4.2	Implications for teachers	282
7.4.3	Implications for the employer	283

BIBLIOGRAPHY	284
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APPENDICIES	311
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VOLUME TWO:

THE CURRICULUM

Education Law: Course Outline and Participant Workbook	1
Education Law: Facilitator’s Notes	19
Education Law: Extracted Materials	26

LIST OF TABLES

CHAPTER FOUR: RESEARCH METHODOLOGY

Table 4.1	Details of New South Wales Government Schools	95
Table 4.2	New South Wales Government School Staff – Primary Schools	98
Table 4.3	New South Wales Government School Staff – Secondary Schools	98

CHAPTER FIVE: REVIEW OF THE LITERATURE

Table 5.1	Models of curriculum	117
-----------	----------------------------	-----

CHAPTER SIX: PRESENTATION AND DISCUSSION OF DATA

Table 6.1	Statistical Details of Education Entities surveyed for information in regard to legal education for teachers in Australia	151
Table 6.2	Details of the number of education entities offering legal information sessions in Australia	152
Table 6.3	Level of legal education delivered at Australian Universities in 1997	155
Table 6.4	Level of legal education delivered at Australian Universities in 2000	156
Table 6.5	Details of Education Entities surveyed for information on legal education for teachers in the State of New South Wales	157

Table 6.6	Details of the number of education entities offering legal information sessions in the State of New South Wales	158
Table 6.7	Level of legal education delivered at New South Wales Universities in 1997	159
Table 6.8	Level of legal education delivered at New South Wales Universities in 2000	160
Table 6.9	Characteristics of trial focus group	169
Table 6.10	Characteristics of live focus groups	171
Table 6.11	Characteristics of curriculum groups	251
Table 6.12	Characteristics of curriculum group participants who completed the questionnaire	253

LIST OF APPENDICIES

Appendix A: Letter of enquiry to all Educational Entities within Australia	312
Appendix B: Education Law Course Questionnaire.....	314
Appendix C: Letter of approval from the New South Wales Department of Education and Training to undertake research in Government schools.....	317
Appendix D: Notices of approval to undertake research obtained from the Ethics Committee of the University of Wollongong	319

STATEMENT OF ORIGINAL AUTHORSHIP

I, David J. Newlyn, declare that this thesis, submitted in fulfilment of the requirements for the award of Doctor of Philosophy, in the Faculty of Law, University of Wollongong, is wholly my own work unless otherwise referenced or acknowledged. The document has not been submitted for qualifications at any other academic institution.

Signed:.....

David J. Newlyn

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