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2006

## 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**

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**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.**

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### **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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