

without conditions, may be sought. This procedure would appear to mean that even where the initial contract is defeasible (as when it was entered into on the basis of misrepresentations by the promisee), the promisor must seek an order for discharge rather than exercise his remedies under the Contractual Remedies Act (which, in the misrepresentation example, might entitle the promisor to cancel the contract and be excused from further performance). There may be times when the seeking of an order for discharge is not immediately practical—it might then be more prudent for the promisor to commit a deliberate breach of contract and rely on the vitiating factor as a defence available under clause 9(2)(b) of the Bill than to rely on the Contractual Remedies Act. While it is hard to conceive of an instance where the promisor would be seriously prejudiced, it is perhaps unfortunate that this reform is not better integrated with its predecessor.

Conclusion

Although several criticisms of the draft Bill have been advanced, the approach taken by the Committee is one that should be capable of giving rise to a clear, and long overdue, reform of the rules in this area of the law.

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THE DUNEDIN COMMUNITY LAW CENTRE — A MATRIX FOR REFORM?

Although the Dunedin Community Law Centre caused a few raised eyebrows in its idea stage, the end product settled unobtrusively into the legal landscape. To this extent, the enterprise reflects an ambience with current thinking and represents little out of the ordinary. However, it can also be said that the presence of the Law Centre is generating gentle tremors that are being felt outside the locus of its immediate activity. Here one finds the Law Centre in the enviable position of having wide appeal without sacrifice to its original ideals in the process. This note will look at this phenomenon in terms of the Law Centre's operation, its setting, and its influence, respectively.

Operation

The Dunedin Community Law Centre came into existence in June of 1980. Unlike other innovations in legal services, the initiative came from outside the profession. The Law Centre is a charitable trust founded and operated by law students at the University of Otago. The core of its operation is a legal advice and referral service located in a storefront premises near the university. The service is open to the public four evenings a week and is staffed by senior law students under the supervision of

solicitors drawn from a roster of volunteers. Further activities consist of speaking to organisations, publishing a "Law in the Community" booklet, and exploring the possibility of engaging in wider law reform and community activity. Student activity in the Law Centre can be regarded both as a service to the community and as an educational experience that complements the classroom component in their law course.

Community Service

In its first year of operation, the Law Centre conducted more than eight hundred interviews. The single largest area was tenancy and often the student was instrumental in the resolution of the problem. In addition to approaching tenancy on a case basis, the Law Centre drafted and distributed standard tenancy agreements, placed articles in student publications, and spoke at forums.

Matrimonial problems constituted the next largest area. At first, students regarded themselves as not competent in conducting such interviews, and so arranged for referrals to solicitors or the appropriate social agency. Gradually, as students listened to their clients' problems, it became evident that people regarded the non-professional atmosphere of the Law Centre as its greatest asset. Before seeking out someone more qualified, many people preferred to discuss their problems at first instance with students, whose lack of expertise precluded any possibility of judgment.

The remainder of client interviews covered a continuum of areas and concerns. Solutions ranged from simple advice to sorting out complex transactions. Problems concerning litigation or beyond the competence of the student were referred to the appropriate law firm or social agency.

In direct contradiction of an earlier survey, few people materialised with social welfare problems. Through discussion with community groups, the Law Centre is developing insights into the matter. Whether anything can be done is a matter under consideration, though it is now apparent that one cannot purport to provide a service in this area merely by waiting for clients to walk in off the street. Nevertheless, the area is illustrative of the fact that the Law Centre regards itself as a continually developing concern.

Educational Service

The educational experience students gain from dealing with actual clients is self-evident, though a few matters are worth noting:

Firstly, the experience represents more than a flirtation with practice. Students are put through an introductory training programme and become familiar with a comprehensive practice manual before seeing their first client. Their performances are subject to solicitor and peer scrutiny and form the basis of seminar sessions.

Secondly, the Law Centre has not felt it necessary to meet its educational objectives through the duplication of law office routines. Instead of vocational drilling, the experience in dealing with live clients coupled with an opportunity for critical evaluation operates as a vehicle for the study of lawyering skills and responsibilities. Here, it can be said that the educational concern is academic as well as practical.

Finally, in contrast to the largely passive learning experience of the lecture theatre, students are engaging in their education as full participants. Problem solving in the Law Centre demands a full range of intellectual and emotional resources, and the student response to these challenges has been enthusiastic.

Continuity

In July of this year, the leadership of the Law Centre changed hands. The new student executive is considering the next developing stages of the Law Centre. Rather than operating as a static service, the Law Centre sees itself as an organisation that responds creatively to changing circumstances. The growth process is necessarily slow, but from an untested premise two years earlier the Law Centre as an operation represents a solid achievement.

Setting

Although community legal services and legal education give rise to lively discussion, the Law Centre's existence underscores a wide consensus in attitude. In a manner of speaking, the Law Centre would not exist if prevailing opinion were otherwise.

Looking first at the availability of legal services, one finds a fifteen year trend that began with the expansion of Legal Aid and the introduction of duty solicitor and referral schemes and culminated in the establishment of a neighbourhood law office in the Auckland suburb of Grey Lynn. More significantly, as evidenced in the Law Conference address of the President of the New Zealand Law Society, Mr Tom Eichelbaum QC, the need for a continued dynamic of change is one that is widely recognised. To quote briefly from his speech:

We may go through various experiments—neighbourhood law offices, perhaps community law centres, storefront offices. We will I believe need to be more bending in some of our attitudes towards less than completely orthodox ways of providing legal services.

If developments in legal education have been more difficult to perceive, there is every indication to believe that this may no longer be the case. To quote Professor Richard Sutton, Dean of the Law Faculty at the University of Otago:

Legal education is going through . . . changes, to which law teachers must accommodate themselves as well as they are able. There is, indeed, some thinking going on at the moment about possible changes in the course structure—changes which, while they will not adversely affect those presently enrolled, could have a far-reaching effect on the character and quality of the education the future law student receives. We are wrestling with jurisprudential issues which, in my day as a student, seemed no more than theoretical; these issues seem to us to be vital to the practicalities of law teaching now.²

¹ Eichelbaum, "Law Conference—Closing Address", (1981) NZLJ 319.

² Sutton, Message in "Headnote", a student publication.

It can be argued that the success of any undertaking appears as a nearly inevitable occurrence stemming from previous developments. Seen in its wider context of community service and legal education, the Dunedin Community Law Centre is the expression of a range of events rather than an isolated project. As a result, the centre has experienced little difficulty in drawing upon professional, university, and community support.

Influence

Despite its support, the Law Centre sees itself as more than a manifestation of the status quo. The attention it has attracted indicates that this view is shared by others.³ While limited resources can restrict the Law Centre's activity, its presence has promoted critical evaluation in professional and educational circles—in essence generating an influence that has extended beyond the capabilities of those students who operate the Law Centre. Such concerns, of course, are impossible to measure. Nevertheless, even adopting a minimum index, the presence of the Law Centre on law society and law faculty agendas has forced consideration of its related conceptual issues. This in itself is not without significance. If such discussion leads to other things, then so much the better.

On a more concrete plane, the effort in Dunedin has inspired a similar venture by students at the Victoria University of Wellington. A further project is in the talking stage at the University of Canterbury. Additionally, the Law Faculty of the University of Otago resolved to introduce a clinical component into the degree structure as soon as practicable. The course would take advantage of, and build upon, the resources of the Law Centre. Finally, it can be said that the Law Centre is part of a phenomenon in community legal services that is inspiring changes in the legislation governing the legal profession. A recent amendment to the Law Practitioners Act 1955 now permits the Law Society to financially assist and grant exemptions from professional practice rules to law offices and legal advice bureaux that operate in areas of unmet legal need⁴ The whole issue will receive closed scrutiny when the Law Practitioners Bill is debated in Parliament in 1982.⁵

If the Law Centre has proved anything, it is that overall effectiveness can best be realised not by fighting the system or in blindly accepting its values, but in assuming a position of permeability that encourages a two-way transmission of ideas. In this manner, a symbiosis is established that makes the Law Centre neither a glorious Don Quixote doomed to failure or an impotent youth auxiliary that apes its elders, but instead serves as a matrix of reform with considerable future prospects.

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³ See, for example, the extensive report on student community law centres prepared by Mr David Hurley for the New Zealand Law Society.

⁴ 1981 Law Practitioners Amendment Act, section 2.

⁵ The Bill was introduced to Parliament at the end of the 1981 session.