A Realistic Professionalism – The Next Step?

By Thomas Gibbons*

I. Introduction

The 20th Anniversary of Te Piringa – Faculty of Law, is certainly something to be celebrated. From a difficult birth,[1] the School has consolidated and grown. I am proud to be one of its graduates.

I have written elsewhere on how the Waikato Law Review has itself reflected the School's three core goals of professionalism, biculturalism, and law in context.[2] In this article, I want to consider the topic of professionalism in more detail, and, in particular, the link between professionalism and the law school experience. I have had the benefit of reading drafts of the articles by Professor Wilson[3] and Judge Spiller,[4] both of whom taught me during my undergraduate LLB years. In Professor Wilson's case, she taught me Public Law A (constitutional law) shortly before she entered Parliament in 1999; Judge (then Professor) Spiller lectured in Legal Systems, and later consumer law, before he became Principal Disputes Referee and then a judge. Both were excellent lecturers, bringing a combination of theoretical and practical knowledge, though there are plenty of others who could be mentioned as well as being particularly influential – without wanting to single anyone out, in addition to Judge Spiller and Professor Wilson, the surnames Morgan, Manyam, Havemann and Gillespie were as important to my undergraduate studies as Barton and Farrar were to graduate research.

Some comment on my own background may be useful. Hamilton born and bred, I was enticed to law school not by any particular sense of social justice, but by "glamorous media images", reading John Grisham's The Rainmaker at 16, when I was contemplating tertiary study; and recalling the brilliant courtroom battle in A Few Good Men (noting, of course, that both these media do have a sense of social justice about them, and that whenever I re-read The Rainmaker, I am reminded – if ever needed – that the practice of law is fundamentally about helping people). I initially enrolled in a Management degree, later adding Law, and then switching to a conjoint degree in Social Sciences and Law. I commenced my university studies in 1998, at a time when the economy seemed slow, and legal jobs hard to come by. I was therefore quite job-oriented (what Judge Spiller might call a "teleological" approach to my degree as a whole), and kept in mind I wanted a job at the end of degree. That said, within a few weeks of commencing my LLB studies, I had decided I wanted to be a legal academic, and read widely and academically throughout my stud-

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1 See Margaret Wilson "The Making of a New Legal Education in New Zealand: Waikato Law School" (1993) 1 Wai L Rev 1 at 4. Readers of Professor Wilson's article may or may not wish to summarise her comments on the Law Faculty's difficult beginnings as "Labour pains".

2 See Thomas Gibbons "Waikato Law Review: The First Ten Years" (2002) 10 Wai L Rev at 39-54.

3 Margaret Wilson "Challenges to Legal Education: the Waikato Law School Experience" (2010) 18 Wai L Rev at 15-25.

4 Peter Spiller "Principles of Professionalism in Law Teaching and Judicial Practice" (2010) 18 Wai L Rev at 26-39.

ies, though I decided along the way I would need some practical experience on completing my degree. Alongside the compulsory LLB papers, I majored in History for my Social Science degree, focused on commercial law in my optional LLB papers, and did research in constitutional law for my research-based Honours papers. I had articles published in the Waikato Law Review and New Zealand Law Journal while a student. I also clerked with a large Auckland firm the summer before completion, and returned there when my studies were finished. Auckland and the large firm environment did not suit, and I returned to Hamilton in 2004 to a job at McCaw Lewis Chapman, a prominent Hamilton firm with a long history, and a strong relationship with the Law School.[5]

I have enjoyed being a practising lawyer more than I thought I could, with the client work stimulating, the client interaction enjoyable, and the office camaraderie positive and supportive. I became an Associate with the firm in 2006, and a Partner in 2008. I have also continued academic pursuits, with regular articles in the Waikato Law Review, contributions to Hinde McMorland & Sim Land Law in New Zealand and the Laws of New Zealand, and time as a tutor and lecturer in equity and securities law respectively. My colleagues may comment on whether I am a better lawyer or academic: I respectfully hope the former is the case.

With the influences of Te Piringa in mind, this article begins with a discussion of the topic of professionalism, with particular attention to how the term has been understood in Te Piringa's own contributions to legal education thought and practice. It continues with some historical comments on the New Zealand law school experience from the perspective of its students; a topic largely ignored by legal historians. These discussions serve to illustrate the inherent tensions in the notion of professionalism – between the legal profession, law students, and the law faculty. Aspects of this discussion draw on my own experience as a student of the School, as a graduate, and now as a commercial lawyer in Hamilton, the city in which Te Piringa – Faculty of Law is based. At the time of writing, I am also co-teaching a course at the Faculty while maintaining my legal practice. This personal perspective is more anecdotal than deliberately post-modern; it does however help demonstrate these tensions.[6]

II. The Goal of Professionalism

The context of the establishment of the Waikato Law School has been considered elsewhere, and it is not my intention to revisit it here. Clearly, the establishment of a law school is not a simple exercise, and the Faculty as it stands today is a testament to the dedication of those involved. What can be noted for these purposes is to remember that one of the key drivers for the School was a perceived need for "more lawyers". Turning to Te Mātāhauariki - the Report of the Law School Committee – we see: [7]

5 Associate Judge David Gendall was a Partner at McCaw Lewis Chapman before becoming Dean of the Law School in 2000; Senior Lecturer Les Arthur previously worked at the firm; as did Judge Craig Coxhead and Stephen Hooper, both former Senior Lecturers. McCaw Lewis Chapman focuses its employment on Waikato graduates. The firm has particular strengths in commercial and business law, Māori legal issues, property law, and alternative dispute resolution.

6 Like Leah Whiu, there is an element of the "dichotomised experience" of coming full circle, from student, to graduate, to lecturer (albeit part-time). See Leah Whiu, "Waikato Law School's Bicultural Vision – Anei Te Kuarahi Hei Wero I A Tatou Katoa: This is the Challenge Confronting Us All" (2001) 9 Wai L Rev 265 at 268. That article of Whiu's is focused on the goal of biculturalism, as this article is more directly focused on professionalism.

7 Donald M Gilling, et al Te Mātāhauariki: The Report of the Law School Committee (University of Waikato, Hamilton, 1988) 1 at 27.

> New Zealand is a society that needs not only more lawyers, but lawyers who must respond to the needs and concerns of people in a bicultural society …. We have found an increasing, accelerating demand for law graduates by the community, and by the legal profession. Side by side with this growing demand, there has been a perceptible slowing in the rate of production by law graduates.

Further, in an article on the establishment of the Waikato Law School and the (then very original) structure of the Waikato LLB degree, founding Dean Professor Margaret Wilson echoed the comments in Te Mātāhauariki, noting that the "dominant factor" in the decision to establish a new law school at the University of Waikato was "the shortage of law graduates to meet the demand from the profession for new graduates, especially in the regions south of Auckland."[8] That is, one of the key drivers for Te Piringa was a desire to train more lawyers to become members of the profession. Professor Wilson noted that of the three goals for the school, the first "was to provide a professional legal education, in the sense that [the LLB degree] complied with the requirements to practice law."[9] Te Piringa must therefore produce lawyers, and good ones. This may be difficult to measure, but in a qualitative sense, this has clearly been achieved. Waikato law graduates have secured jobs – and succeeded in them – in firms throughout the world: New York, London, Sydney, Melbourne, as well as New Zealand centres - including Hamilton.

Professionalism is of course about more than training lawyers for the practice of law, and a "professional legal education" is not just about meeting the requirements of Council of Legal Education. Professor Wilson recognised as much:[10]

> It may be argued that the essence of being professional is to consider matters beyond the individual alone. The legal professional person must provide a competent legal service to her or his client, but advice tendered should always be in the context of the ethical rules and practices that accompany the legal rules. The behaviour of lawyers who responded to the new ideology [of the post-1984 period] by putting their clients, and on occasion their own financial well-being, above all else has brought the legal profession into disrepute. It has also raised the questions of who should teach this aspect of professionalism and how it should be taught. Academic institutions have not seen the teaching of legal ethics as their primary responsibility, as it is difficult to teach professional responsibility unless it is related to practical legal situations. The more conceptual the degree course becomes the more difficult it is to teach professional responsibility. Yet it is difficult to argue that a degree that is intended as a professional qualification should not address this issue.

This extract hints at the different ways that terms like "professional" and "professionalism" can be understood. Professor Wilson mentions a professional legal education as leading into the requirements to practice law, or membership of the legal profession: that is, a professional can be understood as a member of a profession.

Professor Wilson also mentions professionalism as being grounded in ethical behaviour: that is, a professional is one who behaves ethically. This can be seen as part of "training for the profession" (in other words, a professional is one who complies with Rules of Professional Responsibility, or Client Care Regulations); or can be seen as something more: that ethical behaviour demands scrupulously correct actions, the avoidance of unethical action, even on matters not covered by rules or regulations. Compliance with rules is not inherently the same as good ethics. These aspects - membership of a profession, compliance with the rules of that profession, and compliance

8 Margaret Wilson above n 1 at 4.

9 Ibid.

10 Ibid, at 3.

with the practices and correct habits of that profession beyond those rules – would probably be at the heart of many understandings of professionalism.

However Professor Wilson goes further, noting that the "Waikato Law School is expected to provide an education that will train people to be not only lawyers, but legal professionals."[11] These words can be read to mean that "legal professionals" are something apart from practising lawyers, and this last point is the crux of what I want to discuss here. "Being professional" is something law school should encourage and demand of its lawyers, whether or not they become members of "the profession"; and this of course means that being professional is about more than ethical behaviour: it is about effort-based behaviour. Professor Wilson mentions that professionalism includes being able to look beyond the individual. I submit that a professional is not simply a member of a profession, nor simply one who behaves ethically. Rather, a true professional must go even further, in providing excellent service, being client-oriented, having a focus on producing quality results, adhering to required ethics and professional practices, having a degree of toughness and resilience (including being able to deal with failure), being able to be business-oriented and pragmatic as well as rule-oriented, having a commitment to the task at hand, being able to work cooperatively as well as competitively, and with a mind to the importance of the work at hand.

In terms of curriculum, a course like Dispute Resolution, with time spent on exercises like client interviewing, can assist with this, but the focus for assessment purposes is very much on the one-off interview, not the strong relationship orientation many business and personal clients require. I recall David Gendall (now Associate Judge Gendall) emphasising in a professional responsibility module of Legal Systems the difficulty of conflict of interest situations in family transactions, or with long-standing clients. More could be done in some areas, like company law, to illustrate these difficulties. In a company law dispute, the question "who is the client?" may come to the forefront. Is it "the company"? A particular director? A particular shareholder? On what basis are the instructions received? To provide another example, in the first year Legal Systems and Legal Method courses, legal ethics were inculcated both at a conceptual and practical level (example: "those who hide library books won't obtain 'certificates of character' required for admission as a barrister and solicitor"). However this is to treat professionalism as primarily something that exists between professionals: more can be done in this area to reinforce that being a good, "professional", lawyer involves not just "thinking like a lawyer", but also "thinking like a client".

As professional services firm consultant David Maister has put it:[12]

> A really professional consultant, I am told:
>
> - Gets involved and doesn't just stick to their assigned role.
> - Reaches out for responsibility.
> - Does whatever it takes to get the job done.
> - Is a team player.
> - Is observant.

11 Ibid, at 4.

12 David Maister "Professionalism in Consulting" in L Greiner and F Pulfelt (eds) *The Contemporary Consultant* (Thomson-Southwestern, USA, 2005) <http://davidmaister.com/articles/1/3/>. One of my colleagues describes the essence of these characteristics as "grunt".

- Is honest.
- Is loyal.
- Really listens to the clients' needs.
- Takes pride in their work, and shows a commitment to quality.
- Shows initiative.

As Maister adds, this list "reveals that a high level of professionalism doesn't stop with a foundation of technical qualifications and analytical skills. In addition to these basic attributes, the right *attitudes* and *behaviour* must also be in place, and these become the distinguishing factor for achieving real professionalism."[13]

A legal education that is oriented towards professionalism, then, should look not only to its students becoming members of the profession, but also to the qualities that illustrate that professionalism. It is important to note that these factors are not related to whether legal education is skills-oriented or academically-oriented;[14] rather, these requirements of "attitudes and behaviour" are applicable to all types of legal education, whether entirely theoretical, entirely practical, or somewhere in between.

III. Students and Professionalism

A. Some Thoughts on Student Requirements

My own experiences of law school, both as a student and as a part-time lecturer, reinforce these notions. While not all law graduates will become lawyers, it must be recognised, particularly in certain subjects, that many students do wish to become practising lawyers, and for those who do not, requiring professionalism remains important. Though some may find the suggestions awkward, "what if" lecturers were to:

- Require that students attend all classes (in the working world, turning up is required, whether one is in a law firm or not).
- Require that students be on time (turning up late to a client meeting would not create a good impression).
- Require that all assessment be completed on time (clients may make some allowance for work being late by reason of illness, but generally, a deadline is a deadline).
- Require that students engage in class discussion (clients do not generally like it when their lawyers shrug their shoulders; nor do supervising partners). In particular, Maister's list would suggest that a degree of "enthusiastic engagement" is required.
- Require that work be error-free (clients do not appreciate errors; even one is more likely to lead to the client saying "fail" than "C pass").
- Require a wider range of assessment, including (for example) letter-writing. Much of legal practice involves communication other than by way of exam answer or opinion: it requires clear and succinct letters between lawyers and clients, lawyers and other lawyers, and lawyers and other professionals. It

13 Ibid. See also generally, David H Maister, *True Professionalism* (Free Press, New York, 1997), drawing the distinction between a "professional" and a "technician".

14 Compare Margaret Wilson, above n 1 at 1.

takes little to require that a student prepare a formal opinion; and then convert this to a letter to the client in easy-to-read language. It is in this context that many "immaterial facts" (such as that the client has an elderly mother who is sick) can become very material in the context of providing an appropriate professional service.

- Require a range of group work, with less emphasis on individual assignments. Collaborative or team-oriented group work is an essential part of both legal practice and the wider working world.

Some of these ideas will already be implemented by particular lecturers, or in particular courses: I can recall courses where attendance was required, where participation was graded, where assessment required strict compliance with presentation templates, and where work was required to be oriented towards a client rather than a lawyer. Some will also be difficult with which to comply: the Council of Legal Education continues to mandate that certain courses must have formal examinations, though formal examinations are "almost never" required in practice, unlike turning up, engaging in discussions, producing error-free written work, and writing letters clients can understand. What is argued here, however, is that there is a link between these kind of requirements and the professionalism required of lawyers, not only in formal rules of professional responsibility, but also in the habits and practices of lawyers, and in the expectations of clients – the kind of professionalism that Maister envisages.[15]

Needless to say, some of these proposed requirements concern the "attitudes and behaviour" of students, and some more directly relate to the attitudes and behaviour – or requirements – of law lecturers. Some of these considerations require a reassessment of the nature of university teaching. It is increasingly common to perceive students as "consumers" or "clients" of tertiary education.[16] If students are to learn a client orientation, then they must come to see the lecturer as the client, someone who has an interest in quality documentation, attention and results.[17] One should not stretch the analogy too far: some clients can be more challenging than any lecturer should be, but if the lecturer, rather than the student, is the "customer", then some students will need to re-orient their perspective. This is likely to provide them with good professional training.

B. Reflections from Experience

Professionalism in this sense goes well beyond "Professional Responsibility":[18] it is a way of thinking, and acting. It has many facets, and the facets I wish to emphasise are best illustrated by a return to anecdote and student experience.

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15 See also Mary Ann Glendon *A Nation Under Lawyers* (Farrar, Strauss and Giroux, New York, 1994) at 249, on how lecturers' requirements of students may play a role in preparing them for the profession.

16 See J Goodman-Delahunty and B Walker "Academic Life: an interpersonal dimension" in Cantwell and Scevak (eds) *An Academic Life: A Handbook for New Academic*s (ACER, Victoria, 2010) 160 at 165. JP Raines and CJ Leathers (2003) *The Economic Institutions of Higher Education* (Edward Elger, Cheltenham, 2003) at 172.

17 It is important to note that I do not propose the wholesale use of the Socratic method. Particularly in their first years of study, I believe students will benefit more from a combination of lecturing and small-group tutorial discussions (as works quite well in, say, History), than from the kind of factual recall (and some would say fear-oriented recall) that the Socratic method requires. Lecturing allows for the presentation of the lecturer's knowledge, including, where appropriate, political, sociological, and economic approaches, in a way less possible with the Socratic method. Tutorials allow discussions based on lectured material, and beyond. That said, further on in the LLB, there is a place for more students to be expected to be able to summarise briskly cases, answer questions, and follow a line of reasoning in front of others. But I do not wish to get distracted: the point of this discussion is to orient the focus towards what is expected of students in terms of professionalism, rather than the way particular lecturers approach a class.

18 Kaye Turner "Teaching Professional Responsibility: the Waikato Experience" (1994) 2 Wai L Rev at 151-159.

I recall one Crimes lecture where we were examining the *Gay Oakes* case and "battered woman's syndrome" in the context of provocation. The lecturer noted that Oakes' partner was Doug Gardiner, "and he was buried in the garden". The lecturer paused, smiled, and waited for laughter: it was forthcoming from the students present (students being only slightly less inclined to laugh at lecturers' jokes than lawyers are at judges'). Some of the subject matter of law school can be fairly arid, and everyone deserves a good chuckle at that stage of the LLB. However, in the context of the practice a law, anything other than a straight face would be forbidden. Part of being a professional would be to be able to listen to the facts, express empathy, and seek to advance the client's interests without any sign of the mental links that might be drawn. Law lecturers can help advance professionalism by taking a second pause after the laughter, and observing that any merriment of this kind would be entirely inappropriate in the context of a client meeting or defended hearing.

Another example comes from Land Law: the case *Efstratiou v Glantschnig*,[19] where Mr Glantschnig sold his house at undervalue after returning from overseas to find his wife and her boarder in compromising circumstances. It has significance in land law as a "fraud" exception to indefeasibility. Law students love that one – perhaps partly because of the use of judicial euphemism – and a student text even refers to it as "that case".[20] But it was not just "that case" for Mr Glantschnig: it was likely his only case, his only experience with the judicial system. The relevant lawyer, at the initial client meeting, could not have been permitted to fall off his chair laughing as though the client's story were a Monty Python sketch. Rather, the lawyer would have been required to approach the problem empathetically, clinically, professionally (as an aside, it is notable that we still talk of "clinical legal education" rather than "empathetic legal education", when the latter is often what clients really want). Humour can of course assist with learning: there is a reason that the case of *Efstratiou* is called "that case", and a reason people remember it (and perhaps law students deserve more laughs). But to treat cases like this as opportunities to provide a "hook" for learning a "rule" is to miss a large part of their value, in helping students understand the importance of professionalism in their legal careers.

A final example is of a different kind. In one course, according to anecdote, a relatively large number of students obtained an extension on one of the assignments. One can surmise that law lecturers tend to be more forgiving of tardiness than clients; needless to say, I believe that keeping to deadlines is an important aspect of professionalism. In fact, my own views go further. It might be common in a university environment for a student to be given, say, three weeks to complete a written assignment. To prepare the student properly for legal practice, the day before that first assignment is due, a second assignment should be set, also due the next day. Client demands can be unpredictable, and the earlier this kind of lesson is learned, the better.

It is acknowledged that many LLB graduates take on jobs and careers other than the private practice of law. Some other environments are more forgiving. However, large numbers of graduates do commence law school envisioning themselves as future lawyers, and even though many might leave the profession, law schools still have a place in preparing them for careers within it. It is important to note that these ideas are not about requiring something more of students, but rather of requiring something different of students: a mindset change about the requirements of professionalism in any kind of job, task or role.

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19 *Efstratiou v Glantschnig* [1972] NZLR 594.

20 Andru Isac, *Butterworths Student Companion: Land Law* (2nd ed, Butterworths, Wellington, 2001) at 37. This phrasing has been removed from the current (4th) edition.

IV. The New Zealand Law Student Experience

There is voluminous overseas literature on the experience of being at law school.[21] In New Zealand, various studies have examined the history of New Zealand legal education,[22] or the experiences of particular groups of students,[23] but the literature base is much smaller. This section of this article does not attempt to provide a fully rounded or contextual view of this law school experience. Rather, it considers a series of anecdotes. There are a number of limitations on the use of these anecdotes. Many are part of a memoir, and therefore contain an element of a "rose-tinted glasses" perspective on the relevant writer's own past. It can also be suspected that not all experiences are usual: a number of those who have written memoirs are prominent for reasons other than their legal careers, and some have been involved in politics, for example, and may therefore be atypical. In addition, no particular attempt is made to contextualise these experiences. Rather, their main use is to show that "no one is alone": others have shared the joys, difficulties, and frustrations of law school, and also to draw attention to the specific elements of the law school experience.

A. Workload

Law school is hard work: this is presumed by most law students to be deliberate – perhaps as preparation for the challenges of practice – and seems to be something celebrated by incoming law students, who joyfully carry heavy piles of books, or happily spend hours in the library, eschewing other pursuits. Those students who study conjoint degrees have an easy comparison: I personally found each LLB course involved significantly more work than an equivalent level course for my BSocSc, a view shared by 1980s student Peter de Bres, who thought the LLB workload "one and a half times an arts degree", with an "enormous" annual workload.[24] Similarly, 1960s student (and later Minister of Finance) Ruth Richardson saw the study of law as part of a "political apprenticeship", and described her law school years as "socially abstemious";[25] and Peter Williams, who attended law school in the 1950s, "swotted" and "worked hard", avoiding extra-curricular activities to complete his degree.[26] Of course, it is easy to suspect as a law student that while you find it hard, others find it easy. Bryan Gould's recollection of how he scored 94 per cent in an exam he almost skipped is one story that may confirm this suspicion.[27]

Does this mean Richardson was "professional" about her studies, and Gould not? Perhaps, though some would see the ability to "wing it" as being as important a component of professionalism as hard work. My own assessment is that being a good lawyer is hard work (though very enjoyable), but that there is more to it than that. Qualities like rapport and empathy with clients are also important – and we could ask, for example, how the "abstemious" Richardson would have fared in private practice. The challenges of law school in terms of workload are part of preparation

21 See Scott Turow *One-L* (Farrar, Straus and Giroux, New York, 1988).

22 See Peter Spiller "The Legal Profession" in P Spiller, J Finn and RP Boast *A New Zealand Legal History* (Brookers, Wellington, 1995) at 263; Geoff McLay "Toward a History of New Zealand Legal Education" (1999) 30 VUWLR at 333.

23 See Makere Papuni-Ball "Caught in the Cross-Fire: The Realities of being Māori at a Bicultural Law School" (LLM thesis, University of Waikato, 1996).

24 Peter De Bres "The LLB degree course: some observations by a 'young', yet 'not so young' graduate" (1986) 62 NZLJ 344 at 344-347.

25 Ruth Richardson *Making a Difference* (Shoal Bay Press, Christchurch, 1995) at 18-19.

26 Peter Williams *A Passion for Justice* (Shoal Bay Press, Christchurch, 1997) at 28.

27 See Bryan Gould *Goodbye to All That* (Macmillan, London, 1995) at 20-21.

for the profession. But good law students – like good lawyers – must also work smart. Therefore, "hard work" – particularly if seen as being able to read a multitude of cases – can both reinforce and detract from inculcation in professionalism. In a professional career, what really matters is effectiveness.[28]

B. Broader Perceptions

I found the first few weeks of law school an eye-opening experience, with new concepts, new jargon, and new ideas. Legal Systems introduced the language of law: the courts, the appeals, the stare decisis and cur adv vult. Legal Method introduced the idea of "thinking like a lawyer", the material/immaterial facts split, and the nature of legal reasoning. Law and Societies introduced a new world of concepts, including, inter alia, what it might mean to be "Pakeha", the reforms of the 1980s-1990s and the "New Zealand Experiment", the "limits to growth", "hegemony", "neo-liberalism" and a range of other polysyllabic terms.[29] The latter course, to the befuddlement of many contemporaries, remains my favourite from law school, and certain frameworks from that course still guide aspects of my worldview (though I am probably now more conservative than that course would have permitted). Perhaps the profession demands a degree of conservatism: a notion some would criticise, and others acclaim; still others might say the reality is otherwise. In terms of political outlook, I believe Law and Societies provided certain frameworks for understanding the world that were oriented towards a "progressive" and/or "liberal" approach to political, social and personal issues: for example, the role of social factors in inequality. Reflection on these factors and the persons raising them (that is, the identity politics of academics), wide reading, and perhaps a greater degree of life experience led me to question some of these frameworks. However, these conceptual frameworks have helped make me a better professional, through a better ability to understand and reflect on the role of law.

Others took different things from their law school experience. Professor Wilson, the founding Dean of the Law School, wrote of her 1960s legal education: [30]

> Through studying law I gradually came to understand the deliberative nature of legal decision making. The legal system was created by men who held positions of power in politics or the legal system. It served their interests and what they perceived to be the needs and interests of the community. If the legal system was to be changed, it would be necessary to influence these men or to replace them with people who were sympathetic and understanding of a different world view.

Prominent lawyer Mai Chen was less confident of her views when she attended law school in the 1980s:[31]

> Even when I wanted to question the impact of certain laws on the oppressed, and to query the 'fairness' of laws, I sometimes said nothing. When you are naturally an outsider, the desire to conform and to be one of the crowd is very strong …. I did not fit the mould and I agonised over whether I had any contribution to make to the law.

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28 See generally Ronald J Baker *Measure What Matters to Customers* (Wiley, Hoboken NJ, 2006) especially chapter 4.

29 See Paul Havemann "'Law in Context': Taking Context Seriously" (1995) 3 Wai L Rev at 137-162.

30 Margaret Wilson *Labour in Government 1984-1987* (Allen and Unwin/Port Nicholson Press, Wellington, 1989) at 5-6.

31 Mai Chen "Discrimination in New Zealand: A Personal Journey" in E McDonald and G Austin (eds) *Claiming the Law: Essays by New Zealand Women in Celebration of the 1993 Suffrage Centennial* (Victoria University of Wellington Law Review and Victoria University Press, Wellington, 1993) 137 at 144.

Perhaps no one "fits the mould"; perhaps part of the point is that law school is supposed to mould the student. Even those who might not perceive themselves as naturally "outsiders" find law school difficult and agonising. That said, my legal education certainly recognised the role that "insiders" and "outsiders" (whether self-perceived as such or not) can play in our legal system.

C. Feeling the Pain

One senses that Chen's experience was not entirely enjoyable. One student of the 1970s (and it is perhaps significant that this was written about while being experienced, rather than being a memoir), observed that "males are more happily adjusted to the competitive environment of the law school, and females generally are not".[32] I cannot prove otherwise, but while I look back very fondly on the law school experience (and have in fact returned for a part-time LLM), I do not believe law school is challenging only for certain groups of people. One verse read while working in the library sums up the challenges of law school, which become particularly acute at about the third year:

> I wish I'd never been to law school
>
> I wish I'd never known the truth
>
> That law school takes your humanity
>
> While it robs you of your youth

A few years in practice makes one less cynical, but to say that law school is hard for everyone is not to seek to marginalise the experiences of those in particular groups; it is simply an effort not to lead some to assume that others find it easy. That said, not everyone finds law school a challenge. As a mature, part-time student in the 1980s, Anne Holden's greatest frustration was carparking.[33] A number of contemporary students will, no doubt, be able to relate to that – and perhaps many practising professionals as well.

V. Conclusion

As described above, it is easy to hold the view that one of the reasons the LLB workload seems so high is that law is deliberately designed as a challenging degree, so that students are ready for a challenging career. Demanding professionalism of law students can be seen as "part and parcel" of what they sign up for. A career in law is challenging: it requires learning, commitment and *professionalism*.[34]

To date, Te Piringa has met the goal of professionalism in a number of ways: through an LLB that meets the requirements of the Council of Legal Education, and so provides (most of) the formal training students require to enter the profession. It produces good lawyers, who have achieved success in their roles and – presumably – in client service. It has emphasised practical skills, such as mooting in Legal Method, and client interviewing in Dispute Resolution. It has provided a legal education strongly grounded in professional ethics and professional responsibility, developing

32 Anonymous "Law: Sexist Beginnings" *Broadsheet*, 37 (March 1976) 20 at 21-22.

33 Anne Holden "Law in the Slow Lane" in E McDonald and G Austin (eds) above n 31 at 152.

34 Karl Llewellyn "Elements of the Law" (1957) <http://www.law.uchicago.edu/audio/llewellyn101857>, a sound recording of Llewellyn contains insightful thoughts on professional challenges facing lawyers within the first five minutes.

specific courses in these areas, although there is more to be done. In particular, students need to be oriented towards the requirements of being "good professionals", seeing the course lecturer, rather than themselves, as the "client" or "customer". They must appreciate the contextual elements of a law degree, and take a teleological approach that a law degree is preparation for a professional career (whether as a lawyer or not). This is not an easy exercise. Student practices and expectations are formed over the whole degree, and the requirements of a Maister-like professionalism cannot simply be introduced in a particular course.[35] Rather, much as "hard work" is perceived as embedded in the degree, so too must professionalism, and a service orientation, be embedded into student requirements and understandings from the beginning of law school. Llewellyn himself followed this approach;[36] and to reiterate, this approach is not about requiring more of students, but rather something *different* of students: a more realistic professionalism.

The title of this article draws on that of an article by Karl Llewellyn, a famous legal scholar and law reformer, and one of the most prominent legal realists.[37] Llewellyn said on many occasions: "technique without ideals is a menace, but ideals without technique is a mess."[38] In the law school of the 21st century, both ideals and technique are critical, but professionalism – including these ideas, and also going beyond them – must remain an essential part of Te Piringa's mission and practices.

35 Similarly, it may not be easy for lecturers to take a different approach: professionalism as a law teacher requires, at least to some extent, that students are nurtured, that passions for areas of law are shared. A cold, clinical, "demanding" approach to teaching may serve to advance student professionalism, but may also discourage their engagement and enjoyment. In other words, the kind of approach advocated here required careful "reflexivity" (see Havemann, above n 29) on the part of both students and lecturers.

36 See Karl N Llewellyn *The Bramble Bush: on our law and its study* (Oceana Publications, New York, 1960 [reprint of 1930 edition]).

37 The title of this article draws on Karl Llewellyn "A Realistic Jurisprudence – The Next Step (1930) 31 Columbia LR at 431.

38 Ibid.