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STUDENTS, IDEOLOGY, AND CRIMINOLOGY

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This paper will be divided into four sections. The first three ("Politics and the Law", "The Student Rebellion" and "One Dimensionalism") will cover an essentially theoretical discussion of the implications of the so-called "student rebellion"(1). The fourth will consist of an anlysis of replies to a questionaire sent to a sample of students from Victoria University of Wellington. It is hoped that the connection between the first three and the fourth will become obvious.

STUDENTS, IDEOLOGY AND CRIMINOLOGY

"The hypocrisy of objectivity, of apoliticism, of the innocence of study is much more flagrant in the social sciences than elsewhere and must be exposed."

Daniel Cohn-Bendit (2)

"Within a period of about thirty years after the depression man had achieved something which he had been struggling for for centuries and centuries. It was a momentous period in human history.
      At the end of it we started to get the first signs of a transition from the goal of economic security to the goal of what one might call psychic security. A transition from materialism to humanism, quality of life."

Tony Brunt (3)

INTRODUCTION

Thanks to the media the student rebellion of the sixties is a phenomenon with which most are familiar. Indeed, the student activist appears to have displaced the communist subversive in the pantheon of Western folk devils (4). In the past the "enemy within" worked

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(1) The description is neither scientific nor accurate although it seems to have been accepted in New Zealand. The Director of the New Zealand Security Intelligence Service, Brigadier H.E. Gilbert, considered the "student rebellion" a threat "second only in danger to the Soviet Espionage network" (WEEKLY NEWS, June 16, 1969).The description will be persisted with only because of the lack of an alternative.
(2) As quoted in Student Power (Eds Robin Blackburn, and Alexander Cockburn),(Penguin, 1969) p.378.
(3) "The Values Revolution" , (1972) 13 N.Z.L.J. p.303, pp.303-304.
(4) Some religious groups were apparently of the opinion that the German activist, "Red" Rudi Dutschke, was the antichrist – an opinion at least partly validated by the decision to exclude Dutschke from the United Kingdom for reasons of "National security". See SALIENT, 8 July, 1970. The description was later applied to Daniel Cohn-Bendit.

quietly, insidiously and fanatically to ensure the erosion of values on which Western institutions are reputed to be based; the new malcontent is thought to express his opposition in, and base his tactics on, open confrontation with the forces of law and order. This tendency has not gone unnoticed by propagandists of the status quo and is frequently denounced as "anarchism"(5). Whilst the perjorative element in the word thus used is recognised, there may, at another level, be something in this label, since there are indications that the tactics of donfrontation are not merely a manifestation of the politics of frustration. Commentators (6) have noted that some student militants (7) consciously draw on the libitarian insight of the anarchist tradition in an attempt to avoid the totalitarianism endemic in Marxist ideology. If this is an explanation of the trend, however, it is only a partial one, for an equally valid explanation subsists in the relationship between law and politics in a liberal democracy - a relationship that will be explored further in the first subsection. Whatever the cause, however, and whatever the chronological relationship between the tactics and the philosophy, the trend inevitably forces confrontation between the radicals and the law. This fact alone should ensure the interest of the criminologist.

There is another aspect of the student rebellion that is of

(5) "Police will oppose "Anarchist Trend" by Protesters to Resort to Violence".(EVENING POST (16.5.72) headlining a report of a speach by the Minister of Police, Mr Allen.)
(6) Neil Middleton: "Left Wheel" - NEW SOCIETY, November 1971.
(7) Notably the French anarcho-syndicalist Daniel Cohn-Bendit.

greater ~~interest~~ interest. Much of the "New Left" critique has been
directed at the universities (8) and whereas the general response to
student militancy has been reaction, the response in some of these
institutions has been re-evaluation. A catalyst of and guideline for
much of this re-evaluation (9) ~~XXXTOXELITOME~~ is to be found in the
work (10) of the neo-Hegelian philosopher Herbert Marcuse whose attack
on what he terms the prevailing "one dimensionalism" in modern
technological societies neither begins nor ends at the gates of
higher learning. It is important at this point to draw a distinction
between Marcuse the philosopher and Marcuse the left-wing tactician. As
far as the latter role is concerned it is sufficient at this point to
note that Marcuse's impulse is towards anarchism, and that the tactics
he advocates are of the type that have in fact been used (11).

The first section of this paper, then, will work at two levels,
both of which demand that some attention be paid to the work of Marcuse.
The first involves a study of the student rebellion as a phenomenon
which necessarily involves violation of legal norms (here Marcuse the
tactician is relevant). The second involves a discussion of the
prevalence of "one dimensionalism" in criminological thinking~~xfiss~~
(here Marcuse the philosopher is relevant). Since both of these aspects
owe their genesis to the same factor it is appropriate that their
thrust should fuse in a conclusion which, it is hoped, will contain

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(8) See _Student Power_ (Ed. Cockburn and Blackburn) (Penguin, 1969.)
(9) It is possible to ogerestimate the effect of Marcuse and the milit-
ants. Stanmeyer (45 St. John's Law Review) records that the effect on
the academic world has been "uneven" (p.1). Penguin, 1960
(10) Writing includes _Eros and Civilisation_ ( ), _One Dimensional Man_ (Routledge, 1964), _An Essay on Liberation_ ( ), ~~Repressive Tolerance~~.
(11) The cover of _One Dimensional Man_ boasts that in France the book
"sold more copies than Mao's _Little Red Book_". The intended implication
is obvious.

some suggestions. The issue to which this paper addresses itself -
one hitherto avoided - is perhaps best illustrated in the specific
by a question (rhetorical) reputedly posed by an American activist:
"How will they go about reforming a draft-dodger?"(12). It is hoped that
the paper might also shed some light on aspects of the tension
between the <u>consensus</u> and the <u>conflict</u> models of society. It will be
submitted that crime produced by the student rebellion differs from
from much "ordinary" crime only in the <u>consciousness</u> which directs it.
This contention will depend on acceptance of Ehrenzweig's distinction
between <u>oedipal</u> and <u>post oedipal</u> crimes(13).

POLITICS AND THE LAW

Lawyers and criminologists have, in general, been reluctant to
acknowledge the political content of law (14). Some sort of causal
link, however, has long been accepted:

> "A crisis of scoiety challenges the law more directly,
> perhaps than any other branch of social activity." (15);

and:

> "All great political changes were prepared or accompanied
> by legal philosophies. At the beginning there was legal
> philosophy, at the end revolution." (16)

Friedmann has noted (17) that movements for political change
frequently invoke a "higher" natural law as their justification. Periods
of social stability, however, usually see the dominance of a positivist

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(12) Alan Sitwell, BERKELEYBARB, June 1971.
(13) <u>Psychoanalytic Jurisprudence</u>, Oceana, 1971.
(14) The work of scholars such as Franz Neumann (<u>Democratic and Auth-
oritarian State</u>, Free Press, 1957) and Richard Quinney (<u>The Social Real-
ity of Crime</u>, Little, Brown and Company, 1971) constitute exceptions.
(15) W. Friedmann. See <u>Legal Theory</u> (4th ed) Stevens, 1960, pp 14
(16) Radbruch, <u>Rechtsphilosophie</u>, p. 10
(17) Supra.

approach, an approach which (excepting the reaction to the excesses of Nazism) seems to have flavoured contemporary legal thinking[18]. This analytical positivism, when coupled with the liberal conception of the role of law in society, has combined to produce a degree of sterility in legal thinking. It is necessary to examine the liberal conception of the role of law in order to take this point further.

The essence of the liberal approach is revealed in the syllogism <u>the rule of law not men</u>[19]. The liberal concern, according to Neumann, is "the erection of fences around political power which is, allegedly, distrusted"[20]. The aim is the dissolution of power into legal relationships, the eradication of autocratic rule, and the rendering of social relations predictable and calculable. The origin of the doctrine may be traced to the rise in England of the middle classes or bourgeoisie in the seventeenth century. The more broadly based politcal power becomes, the less easy it is to wield it with accuracy and discrimination. The problem thus presented is solved by the introduction of an organisational basis in which power becomes institutionalised or "dissolved". Whatever the cause, however, the result is twofold:

> "In reality, of course, this is in large measure an
> ideology tending (often unintentionally) to prevent the
> search for the locus of political power and to render
> more secure its actual holders."[21]

The second result is a function of the first. The positivist approach

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(18) Analytical positivism has, of course, been influenced by the empricism of the natural sciences, an empiricism that has been imported into the social sciences as well. The accuracy of the implied analogy will be discussed post (pp 40/41).

(19) See Neumann (op. cit).

(20) <u>Democratic and Authoritarian State</u>, page 6.

(21) Ibid.

does not necessarily imply a lack of concern with the content of the

law (4). Excessive preoccupation with the particular, however,

combined with the concealment of the locus of political power, is

bound to draw attention away from ethical questions of this nature:

> "In the age of liberalism, natural law declines to the
> same degree as democracy and the social contract theory
> find acceptance. The generality of the positive law
> acquires a position of central importance in the legal
> system." (5) (23)

The "masking" effect of this approach is perhaps best illustrated

by the contention (very probably technically correct) made by a member

of the New Zealand Judiciary to the effect that the "rule of law" is

upheld in South Africa (6). It is only at the extremes that the question

can be seen to be begging.

We can begin to build a model of the liberal democracy by viewing

the state and its apparatus as a prism which harnesses political

power, separates it, and directs it towards specfic ends in the form

of law. The questions remain: who and what control the power input; to

what end is the processed power put? It is at this point that the

conflict and consensus models of modern society become relevant. The

former will be dealt with first.

According to Marxist doctrine the history of society is the history

of class conflict: From this insight flows a particular

view of the state, and hence of law:

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(4) Kelsen spoke of distinguishing 'good law' from 'bad law' (What is
Justice? 1957)
(5) Neumann, op cit., p28.
(6) The Chief Justice, Sir Richard Wild, see SALIENT, May 28
1969.

"The state is, therefore, by no means a power forced on
society from without; just as little is it 'the reality
of the ethical idea','the image and reality of reason',
as Hegel maintains. Rather, it is a product of society
at a certain stage of development; it is the admission
that this society has become entangled in an insoluble
contradiction with itself, that it is cleft into
irreconcilable antagonisms which it is powerless to
dispel. But in order that these antagonisms, classes
with conflicting economic interests, might not consume
themselves and society in sterile struggle, a power
seemingly standing above society became necessary for the
purpose of moderating the conflict, of keeping it within
the bounds of ʀ 'order'; and this power, arisen out of
society, but placing itself above it, and increasingly
alienating itself from it, is the state." (7) (25)

If the state and the law are the vehicles and the instrument of class

rule, it follows that the content of the latter will reflect class

interest:

"As the state arose from the need to hold class antag-
onisms in check, but as it arose, at the same time, in
the midst of the conflict of these classes, it is, as
a rule, the state of the most powerful, economically
dominant class, which, through the medium of the state,
becomes also the politically dominant class, and thus
acquires new means of holding down and exploiting the
oppressed class. (8) (26)

As class interest is a question of economics it follows that the

law has no autonomy of its own but is rather a reflection of a

deeper structure:

"In the social production of their life, men enter
into definite relations that are indispensable and
independent of their will, relations of production
which correspond to a definite stage of development
of their material productive forces. The sum total
of these relations of production constitutes the
economic structure of society, the real foundation   27
on which rises a legal and politcal superstructure..."(9)

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(7)   Frederick Engels,"The Origin of the Family,Private Property and
the State"(Karl Marx and Frederick Engels,Selected Works,Eng ed.,Moscow
1951,Vol 11,pp.288-89).   (Foreign Languages Press, Peking, 1970)
(8) Engels. Quoted (unsourced) in Lenin:The State and Revolution ʌ,P 14.
(9) Marx, Selected works (op.cit) ʌ Vol I, p 362.

Thus, for a Marxist, power and politics are essentially matters of economics, and law the means by which political power is expressed. Thus, indirectly, law becomes a function of economics. The Marxist approach concludes that the "socialisation" of the means by which classes are differentiated (private property and the means of production) will lead to the eradication of class conflict. As a consequence the state and its law will become redundant and "wither away". That class rule would be abolished Marx never doubted - the widening of the economic gap between the ruling class and the proletariat in capitalist society would inevitably lead to revolution and the temporary period of proletarian dictatorship.

The Marxist approach has been the subject of many telling criticisms, not least amongst them being those which point out that the projection proceeding from the analysis has, for the most part, yet to be realised. The link between economics and law, however, remains (28) as does the link between economics and power. Most important of all, there persists the picture of a state mantle cast over a complex of groups and sub-groups whose interests compete and are thus in conflict. In commenting on the function of the criminal law Quinney sums up these points thus:

> "Criminal definitions describe behaviours that conflict
> with the interests of the segments of society that
> have the power to shape public policy." (29)

The conflict model, then, has it that society is founded upon constraint and coercion exercised by a group or groups which impose their values on society as a whole.

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(29) Acknowledged for example by Friedmann, Ehrenzweig and Stanmeyer.
(30) *The Social Reality of Crime* (op. cit.) p 16.
(~~Sixties Student Power~~

The <u>consensus</u> or <u>integrative</u> model seems to have found greater

favour with sociologists (30). The postulate is that there are a set

of values basic to every society. These basic values act as a cohesive

force and serve to provide both continuity and the criteria by which

individual and group actions are judged. This model forces the view

that the criminal law comes into operation when informal methods

of social control break down; that it serves to control essentially

aberrant behaviour; that crime is a pathology. The last conclusion

serves to highlight one of the weaknesses inherent in this model -

its positivistic ethnocentricity, its refusal to acknowledge the

principal of relativity. It is worthwhile recalling Neumann's comment

at this point:

> "In the age of liberalism, natural law declines to the
> same degree as democracy and the <u>social contract</u> theory
> find acceptance. The generality of the positive law
> acquires a position of central importance in the legal
> system." (31)

In addition to the above criticism this model is having difficulty

coping with established facts and trends. The schisms within many

Western societies indicate that the number of shared values must

in fact be very small. This is discernable on a general level (issues

such as the Vietnam war, racism etc) as well as in the particular. As

far as the latter is concerned Radzinowicz (32) records that calculations

based on 1962 criminal statistics for England and Wales indicated that

29% of the male population of those two countries were likely to be

convicted of indictable offences during their lives. He also points

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30) A perusal of almost any text prior to 1970 will confirm this view.
31) See note (5) page 6. (emphasis added).
32) <u>Ideology and Crime</u>, (Heinemann 1966) pp.61,62,63,64.

out that crime rates are still on the increase and that statistics

give no indication of undetected or unsolved crime, the dark figure.

He estimates this dark figure:

> "My own (guess) would be that the crime fully brought
> into the open and punished represents no more than
> about fifteen percent of the total." ~~(6)~~ (33)

Even allowing for ~~recidivism~~ undetected recidivism this estimate plays

havoc with the ~~xxxx~~ consensus model in light of the estimates referred

to on the previous page ~~(7)~~ (34).

    The distinction between the two models is vital because they

provide different answers to the question posed earlier: who and what

control the power input; to what end is the processed power put? The

consensus model would stress the democratic theory: universal

sufferage, free elections, ~~and~~ the accessability of elected representati-

es and the influence of public opinion on government policy. Supporters

of the conflict model, on the other hand, would de-emphasise the

role played by free elections, perhaps citing the dictum "free election

of masters does not abolish the masters or the slaves" ~~(8)~~ (35). They would

point to a dominant class by whose standards candidates are judged,

by whose media the candidates are presented, public opinion moulded and presented, by whose influence

elected representatives are manipulated. They would emphasise the

fact that the economic structure ensures that the economic interests

of this class form the key economic interests of the society as a

whole and are thus likely to be protected by the government in the

~~interests~~ name of the interests of the whole.

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(33) ~~(6)~~ Ideology and Crime (op. cit.) p.64.

(34) ~~(7)~~ It should be pointed out that Radzinowicz refers to "serious"
crime, such as murder, as having a very low dark figure. This may be
all that is left of a consensus.

(35) ~~(8)~~ The origin of the ~~prediction~~ dictum is obscure although it has recently been
popularised by Marcuse - One Dimensional Man (op. cit) p. 23.

It is the opinion of the writer that both models are true representations although one more so, and at a deeper level, than the other. A tension between the two exists within society in much the same way as it does ~~within~~ within the social sciences, simply because the latter, by reason of their "one dimensionalism", are a function of the former.(~~9a~~)[36]

There are various factors which can serve to draw a society together. Ehrenzweig and Neumann, for example refer to the integratory effect of the perception of a common enemy, the ~~latter~~ former even adverting to the possibility of the "creation" of an alien enemy to promote the easing of international tensions.(~~9b~~)[37] The common enemy can be found internally (as in Nazi Germany, particularly during the rise of the National Socialists) or externally (the "great power" standoff during the fifties and sixties provides an example here). Marcuse (~~9~~)[35], on the other hand, points to affluence or material satiation, particularly where it follows a period of shortage, restriction and deprivation. These factors are compounded by the media which may counsel a national girding of loins or the advertising industry which may ∧ counsel~~ing~~ a loosening of belts. The emphasis in politics is on national unity and greatness (the speechmaking of Sir Winstone Churchill) or on ~~peace~~ the trinity of peace, prosperity and progress. Group conflicts are either forgotten or resolved. In conditions such as these the consensus model has some truth and the social sciences

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[37] (~~9~~) These references are to be found in Pschoanalytic Jurisprudence ~~and~~ (op. cit.) and Democratic and Authoritarian State (op. cit.) respectively.

[35] (~~9~~) One Dimensional Man (op. cit.)

[36] (~~9a~~) It is important to note that the conflict model seems to be becoming more popular — see Gurvny (op.cit.).

tend to gain in specificity, thus by implication (sometimes expressly) helping to validate the _status_ _quo_. In a society in the midst of new found prosperity liberalism can be fully realised: the emphasis on the resolution of conflict rather than its repression leaves the criminal law free to deal with a specific criminal class which receives its share of investigation and study. Crime thus becomes a pathology.

To a certain extent, however, the apparent _consensus_ is illusory, often being accompanied by idealisations of institutions and norms. The conflict between various groups or sub-groups is not erased but forgotten, ameliorated, or resolved by a government that can afford to make concessions. In a relatively integrated society the interests of the economically dominant can easily be represented as the interests of the whole.

The factors which tend to dissipate this consensus are many (2). The absence of a common enemy, economic depression or even continued prosperity can serve to space a society and allow for the re-emergence of group conflict. Under these circumstances governmental protection of the interests of the dominant group is seen to be more partisan; as the demands of the less powerful groups become more insistent the possibility of resolution of conflict becomes less. The only remaining possibility in a crisis situation is repression and the tool which is used by the dominant group is the criminal law:

"A crisis of society challenges the law more directly

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(2) Some of these factors will be discussed more fully in the next section which will deal with the student rebellion and its causes.

perhaps than any other branch of social activity."(40)(5)

The greater the conflict, of course, the less the consensus. In the
final stage - civil war or revolution - consensus is ~~maire~~ non-existan
and the most strongly held prohibition of all falls.

Thus it is the writer's opinion that the more constant model
is the conflict model simply because as long as inequalities in the
distribution of wealth persist the seeds of group conflict remain.
Specific conditions may give rise to a greater degree of consensus
and the functioning of the state may, as a consequence, move closer to
the liberal democratic ideal (41)(4). As soon as these factors dissipate,
however, the nature of political power is clarified and the criminal
law becomes a necessary adjunct to that power:

> "There are, however, situations which may reveal in a flash,
> so to speak, where political power resides. These are emergency
> situations......(I)t is clear that the study of such emergency
> situations will yield valuable hints as to where political
> power resides in normal periods." (5)(42)

It is submitted that a prime example of this in New Zealand was the
declaration of a state of emergency by the New Zealand Government in
1951 (43)(6). It is also submitted that the events at that time tend to
validate the approach taken above.

It is now possible to provide a tentative answer to the question:
who and what control the power input; to what end is the processed
power put? The answers seem self-evident. The power input is naturally

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(40) (5) Friedmann, see note (15)(6), page 4.

(41) (4) Marcuse has added another - more ominous - dimension to this, part
of the blame for which he attributes to the social sciences and, to a
lesser extent, the law. This will be discussed in the third section.

(42) (5) Neumann (op. cit.) p. 17.
For an introduction see

(43) (6) There is a growing volume of literature on this point. ~~Specifically~~
see Oliver, The Story of New Zealand (Faber, 1960), Sutch, The Quest for Security.

controlled by the most powerful group which may or may not constitute a numerical majority. Where the latter is the case power is likely to be maintained through the inculcation of the group's mores and ethical criteria per media of the control of the means of communication and hence the popular culture of the community (44). What controls the power input? The answer is the demands of the particular situation:

"The liberal state has always been as strong as the political and social situation and the interests of society demanded." (45).

To what end is the processed power put? The answer to this, at a general level, is the maintenance of the organisational status quo, a function which law, with its in-built inertia, is well suited to fulfil. Often this involves the utilisation of the law to make a social adjustment in response to a demand which is deemed legitimate - that is, a demand which does not threaten the basis of the social order (46). The mainten-

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(44) One of the few lawyers to have commented in this area is Charles Reich in his optimistic The Greening of America(Penguin,1970):"Power rests on control of consciousness"(p.226)."The apparatus of consciousness creation and manipulation is vaste and formidable.We can start with the entire advertising industry which deliberately sets out to influence the values and wants of the people it reaches.The mass media are perhaps an even more important factor..."(p.58). See note (46)

(45) Neumann(op.cit.)p.22

(46) A demand which does threaten the basis of the social order can herald the crisis situation referred to on the previous page.The 1951 lockout again provides an example.The militant unionists who broke away from the Federation of Labour to form the Trades Union Congress represented a threat to the industrial and thus economic stability (the militants "demanded a far-reaching programme of social and economic reform"...they were possessed of "a socialist urgency...which objected to official Labour's concordat with the capitalist system.."Oliver(op.cit.)p213).This was a threat which the more conservative unionists wished to overcome as much as did the government:"The National government..was..responsive to business and farmer fears...In their hour of need few other workers came to the watersiders' assistance...Under emergency regulations, the government took extraordinary powers for the control of opinion, the supression of news,and the curtailment of liberty of assembly and movement...(A) smoothly working alliance of government and newspapers made protest difficult. The defenders of civil liberty made their influence felt later on - not in the near panic conditions of the dispute(!)...There was

ance of the <u>status</u> <u>quo</u> leads us to the <u>specific</u> end to which processed

power is put: the maintenance of the economic, organisational (47) and

thus political power base possessxed by the dominant group (the basis of

the social order).

The reasons for the confrontation between the student rebels and

the forces of law and order (48) should by now be apparent and probably

remain true whether or not the approach taken above is correct or

accepted. Since the law in a liberal democracy conceals power, an attack

on the law is an attack on power; since the law in a liberal democracy

provides a framework for the exercise of power, an attack on the law

is an attack on the means by which power is maintained (49).

It remains to clarify the proposition put forward earlier (50)

that analytical positivism coupled with the liberal conception of the

rôle of law in society has produced a degree of sterility in legal

thinking; a clarification, it will be recalled, that was said to be

dependent on the foregoing examination of the liberal democracy (51).

Positivism is little concerned with the <u>content</u> of law; it

receives its strongest impetus in stable social situations when the

emphasis is not on <u>fundamental</u> change, it goes hand in hand with

empiricism and the <u>consensus</u> model of society. During stable periods

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little public dismay when, at the end of the dispute, the ~~shipping~~
shipping companies took their chance to raise freight rates 50 per cent.
.."Oliver (op.cit.)pp212-214. The press played a similarly supportive
role during the de-registration of the Seaman's Union in 1972.
(47)Reich (op.cit.)p223: "..power is a function of orgainisation, not
merely of economic position."
(48) "These words have always had an ominous sound; the entire necessity
and the entire horror of legitimate force are condensed,and sanctioned,
in this phrase." Marcuse, <u>Liberty</u> (op.cit)p77.
(49) There is yet another dimension to this which will be discussed post.
(50) See page 5.
(51) It is conceded, with regret, that the "examination" is necessarily
skeletal.

the locus of political power in a liberal democracy remains hidden and the law appears even more isolated from the realities of political power. As a consequence of all this the law takes on a character of immutability and spurious strength binding both the governed and the governing (take, for example, the concept of a constitutional "convention"). The stage, it is often thought, of the rule of law, not men, has been reached. This trend is often manifested in a resultant complacency and fsistance to change of a fundamental nature. Reich complains:

> "...lawyers talk about the rationality and equality of the
> law, but they simply do not get outside the accepted assumption
> to think about how the law operates as an instrument of
> one class in society against another." (6) (52)

Friedmann, too, has noted the affect of positivism:

> "Legal theory cannot provide a magic escape from the
> need for decision between alternative ideals and ways
> of life. But it is not condemned to the purely passive
> and subordinate function which both analytical positivism
> and earlier Marxist theories ascribe to it." (7) (53),

and:

> "There is no escape for the law from the struggles of
> life. Each legal philosophy, each legal system, each
> judgement is necessarily related, though possibly
> remotely, to a political ideology. The self sufficiency
> of law is an illusion." (8) (54)

Where the purely passive, the illusion of self sufficiency, and the sterility of complacency reign, the scene is set for an upheaval of the kind that students in many liberal democracies attempted to provide.

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(52)(6) The Greening of America (op.cit.)p55.
(53)(7) Legal Theory(op.cit.)p24. Earlier Marxist theories did not allow for the possibility of the law adjusting to provide some measure of protection for the "oppressed classes".
(54)(8) LegalTTheory (op.cit.)p24

Whether human society (and thus law) will ever break free of this

cycle is essentially a matter of politics (55).

    If the link between law and power (or politics) is accepted, the

above argument can be explained thus: all political struggle results

from the conflict between the "is" (<u>status quo</u>) and various "oughts".

Legal empricism or positivism is a concentration on the "is" to the

exclusion of the "ought". Positivism, albeit - though not always -

unwittingly, thus plays a supportive role to the political <u>status</u> quo(56).

    There is evidence (57) that in some countries (58) the law (as

distinct, perhaps) from legal theory) is beginning to make the response

to a decade of "rebellion" necessary to, in part, negate the charge

that it is merely and totally a tool in the hands of the <u>status</u> quo;

"in part" because, in accordance with the view expressed above, the

changes being made are by way of adjustment within the present

normative structure (59). It is hoped that the next section will show

the need for a similar response in the criminaligical field, while the

third section will deal with a fundamental weakness in the theory

of criminology that this will expose ███.

<u>THE STUDENT REBELLION</u>

    The conclusion that has been reached theoreticially above has

been reached by the student militants through praxis:

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55) (55) The Maoist theory of "perpetual revolution" is one attempt to break
this circle.

56) (56)The often expressed preference for "hard law" over "soft law" is an
example of the way positivism permeates legal thinking. ████████████████
███The assertion footnoted depends on the distinction between law and
legal theory. It is possible, of course, for the latter to transcend
the former - positivism,in effect, denies this, The philosophical implic
ations of this will be discussed in the third section.

57) (57)See C.Murphy,45 St. John's Law Review,p39, "Social Criticism and Legal Philosophy".

58) (58) Notably, the "home" of the student rebellion,the United States.

59) (59) Notable changes are in the "conservation" area - see Reich (op. cit.) p 248. It is significant
that there is no "group" interest involved.

"It might take a consciousness ll person twenty years
of reading ~~radical~~ radical literature to know that law
is a tool of oppression; the young drug user just
plain knows it." (5)(60)

Demonstration, occupation, confrontation, rebellion and the resultant

invocation of the law had drawn , for them, the mask from political

power. This is the essence of the student rebellion:

"There are two very different routes to a radical
consciousness. One, which only a few people have taken,
is a slow process of reading and studying over many
years. That is the route taken by some members of the
Old Left, and even some members of the New Left. It
requires an exceptional dedication to scholarship, and
a scholar's willingness to pursue the truth wherever it
may lead...But the transformation that takes place
within the spave of a year in college...does not occur (61)
because of reading....or any intellectual process at all.(6).

It is difficult to locate the underlying reasons (62)(7) for the student

unrest ~~which~~ that has occured - to a greater of lesser degree - in

America (63)(8), France (64)(9), United Kingdom (65)(1), Japan (66)(2), Germany (67)(3),

Australia (68)(4), New Zealand (69)(5), South Africa (70)(6) and many other countries

Kenneth Keniston (71)(7) has noted that one of the most important forces

producing the political ideals of the new generation of actvists is

the schism between parental ideals (which are largely accepted) and

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(5) Reich (op.cit.)p55. A "consciousness 11" person is defined by Reich
as a liberal "reformer", as a member of the generation immediately
preceeding the "new" generation.
(6) Reich (op.cit.)p203.
(7) The _immediate_ causes are usually both easily found and diverse.
(8) See Keniston (note(7) below),Reich (op.cit.),Kunen-_The Strawberry
Statement_, for example.
(9) Cohn-Bendit; _Obsolete Communism - A Left Wing Alternative_(Penguin,1968)
(1) See Blackburn and Cockburn (eds) _Student Power_ (op.cit)
(2) See McSporran; "_Japan - An Antipodal Prospect_"(SALIENT,June 25,1969)
(3) See note (9) above.
(4) See interview with Gregor Macauly, then President of the National
Union of Australian University Students,SALIENT,22 April,1970.
(5) See, for example,SALIENT,June 25,1969;SALIENT,June 25 1970.
(6) See SALIENT,6 May 1970, 13 June 1970.
(7) _Young Radicals_ (Harcourt ,Brace and World,1968)

parental failure to live these ideals through force of social and
political circumstance. Keniston found that the young radicals showed
a continuity of ideals from childhood on. After perception of the
schism between private parental life and public parental life the next
step is to afix the cause. Almost inxariably the cause is traced to
the "corporate state", "industrial society", "corpoxate capitalism" or
"the establishment" (8)[72] whose totalitarianism (9)[73] orders and manipulates
into servitude its citizens, cutting down their freedom and separating
them from their own ethics (7)[74].The fear of being repressed into a unit
for the repression of others is commonly found in the writings of
student actvists:

> "As your question implies universities are becoming
> degree factories; by doing this -cranking out more
> and more specialists - they are making capitalist
> society itself more like a machine or factory where
> the maximum amount is produced for the minimum cost.
> One of the most common features in the development of
> universities has been the burgeoining growth of the
> social sciences; here the people are trained who in
> the future are going to be the personnel managers,
> the political pundits, those working in the media
> and so on - the growing points of late capitalist
> society. These are the men who will make our societies
> more efficient in a machine-like sense.....one very
> often finds that the most militant advocates of
> student power come fromm precisely these areas. They
> don't want to become manipulators because the system
> requires that they shall manipulate themselves through
> the examination system. T$_h$ey find the role which they
> have beenx asigned degrading and they reject it and their
> rejection often spreads to many other sections.
>   It's not so much the colonisation of different lands

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(72)(8) There appears to be no agreed upon terminology.
(73)(9) Reich (op. cit.) defines totalitarianism as:" simply enough power,
of whatever sort, to exercise full control over those within the system"
(74)(7) Reich (op.cit.)p.238 cites the example of a large chemical manufactur
reassuring employees that they need not concern themselves with the use
to which one of their products was being put (napalm).It was none of
their business as employees.

although that does go on, but rather more the colonisation
of everyday life in our countries. What I mean by that is
that, in order to preserve the structure of late Capitalist
Society, it's necessary to produce a whole host of technicians
and social engineers.....The present mode of social organisation
happens to be built on a very high degree of individual
competition but actually in an increasing loss of identity.
People have to, in a way, resemble one another more and more
in order to get ahead in the rat race. They have to acquire
the same skills, the same orientation to life. I think in
a different social orgainisation one could have a flowering
of truer individuality." (2) (76).

placard displayed during a sit-in protesting the recruiting on a

university campus by the Dow chemical company stated:

"The United States uses napalm, a savage and horrible torture,
against village families; Dow manufactured napalm and sold it
for a profit to be used in the manner described; Dow is
recruiting students to use their minds and bodies, for money,
to produce and develop this and other agencies of horror, and
it tells them that they should nor feel responsible for the
way what they produce is used; the university cooperates in
the whole system, from research to recruitment to the
deadening of conscience; the views and participation of the
students are not wanted in any of these decisions, they are
only wanted as mindless parts in the process.The relation of
university, corporation and government appears if the police
are called in; their repression serves all three and repeats
the pattern of Vietnam." (5) (76).

French psychology students had this to say about contemporary psychology:

"Considering that psychology as such aims at the systematic
subordination of individual behaviour to false social norms;
Considering that psychology is increasingly being forced into the
mould of American psycho-sociology, aimed at perfecting the
system by conditioning the workers to consume more and more
rubbish while acquiescing in economic exploitation;
considering that psycho-sociology is nothing but the justification
of 'ideal' norms and a means of concealing the monstrous
discrepancy between the ideal and the real;
considering that this type of psychology is being used on the
one hand to subvert the workers' struggle and on the other hand
is being disseminated by means of the universities,.the

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(2) Robin Blackburn,interviewed by the writer in 1970, printed in SALIENT
March 4 1970.
(3) Recorded by Reich (op.cit)p238

professional classes, and the advertising media;
considering that many students have embraced pschology in
ignorance of its true nature, and because they are seduced by
its professional glamour;
considering that they have been deceived by a form of
obscurantism hiding under a ridiculous pseudo-scientific
cloak, and representing a vicious assault on liberty;
considering that the total rejection of modern psychology
is a reaffirmation of personal liberty, of the innocence of
desire, of the forgotten joys of creativity, play,irony
and happiness...
the AGEN UNEF therefore calls on all students of psychology
to abandon their studies." (4)(77)

Under the headline "University Sellout" a New Zealand activist records:

"The growth sector education-wise in GodsOwn at the moment
is capitalism...Marketing, Finance, Business Studies,
Industrial Relations - are all coming or have already arrived
at Victoria University...All of these efforts are either
financed by, or catering directly to, the business community.
Is this what a University is for? Academics are too stuck
in their own little niches to think about it, and sit silently
by as academic standards, integrity and university independence
go flying out the window....The pattern must be clear by now.
The almighty dollar is taking over."(5)(78)

Another student representative has alleged that New Zealand universities

are becoming "mere service stations" for a capitalist economy (6)(79).

Several points should be noted about these statements from

English, Amercian, French, and New Zealand activists. The first is that

they have a striking amount in common; the second is that there is an

implied, if not express, criticism about the nature of "capitalist"

society; the third is that there is an express condemnation of the

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77) (4) Quoted by Cohn Bendit (op.cit.)pp.30.31. He isolates this strike
as the starting point of the 1968 "riots".
78) (5) R. Campbell,SALIENT,Vol 33,No. 12 (no date given).
79) (6) D.Phelps, student representative on the University Council in 1971.
As reported in SALIENT 10 June,1970. Notes (5) and (6) are but two examples
of many statements of this kind.

universities and their present function trend; the fourth is that,

in the first three at least, fear is expressed at the ability of

the universities to mould students into economic units, into cogs

about which a mistrusted system revolves; the fifth is that the first

two make comparisons between the universities' present role in society

and colonialism (7) [80]; the sixth is that the first and third deal with

the social sciences; the seventh is that the second illustrates well

the perception of the relationship between law and economic power (8) [81].

Having established what some student militants have thought

students to be reacting to it is reasonable to ask: why them? Why the

lack of support from the general population (9) [82]? A homely answer

would probably be reasonably satisfactory: that the students are

standing outside "the system" and can therefore evaluate it more

objectively; that it is more easy to opppose something of which one

has never been a part. A further explanation suggests itself, however,

which has the advantage of revealing a link between ~~their attitudes~~ Marcuse's theory
and Reich's observation
~~and legal theory, a link which may provide tools whereby lawyers and~~

~~criminologists can evaluate the student rebellion and its consequences.~~

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[80] (7) The Vietnam war has been widely spoken of as a colonial war. This
fact may pay tribute to the catalising effect the war has had:
    "When students in Western Europe take as their war cry the chant
    "Ho,Ho,Ho Chi Minh," they are not merely protesting the Vietnam
    War and the crushing of the poor by the rich that it symbolizes;
    they are also reacting against the values of industrial society,
    protesting the role assigned to them as managers of this society,
    and rejecting the kind of rationality uninformed by any sense of
    justice, which - as they see it with considerable accuracy - trans-
    lates into practice as the knoweledge how to preserve privelige
    and order but not how to meet human needs. The American student
    movement is also animated in part by such concerns." Noam Chomsky;
"The Function of the University in a Time of Crisis", a contribution to
a symposium on "The University Today", published in the 1969 edition of
Great Ideas Today(p58).
[81] (8) It is hoped that the reason for the lengthy quotes is now apparent.
[82] (9) Cohn-Bendit (op. cit.) claimed considerable and widespread support
for the French students in 1968.

As early as 1956 Marcuse, in his reworking of Freudian histreical speculation (1) [83], asserted that modern industrial society is labouring under "excess pepression". Freud had seen man as bound in an interminable struggle with nature, a struggle which demanded that he channel off energy from (that is, repress) his basic drives (eros - the pleasure principle; and nirvana - the desire of all organic matter to "return" to inorganic matter), which are otherwise in harmony, and turn it into "work" which was essential to his continued existance. This repression caused a "warping", or disharmony, which manifested itself in violent, predatory behaviour. The greater the repression, the greater the disharmony. Central to Marcuse's thesis is the judgement that this struggle is not interminable and that, even if it is, the amount of energy channelled away from the basic drives can be minimised. Marcuse asserts that man posseses the technological capability to provide enough of the necessities of life for all - with the aid of the machine nature could, in effect, be conquered. Useless "gadgetry", however, the creation of false needs and devices such as planned obsolescence - all proceeding from the profit motive - causes technology to be put to, in human terms, uneconomic use. If man could put his technology to use in providing solely the true necessities, he argues, the creation of enough for all would both destroy and render unworkable the profit motive because it both proceeds from and depends on scarcity. Under the present situation, Marcuse maintains, man is drawing more energy from his basic drives than is necessary for his ~~xxxixxxix~~

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(83) (1) Eros and Civilisation (op.cit.)   This work, highly technical, is less well known than One Dimensional Man (op.cit.) and has not received ~~achieved~~ the same acclaim from the "New Left".

continued existance; this "excess repression" serves to provide profit

for the rulers of the technological society (84)(2). Judicious use of techno-

logy would see a reduction in work hours which would, in turn, provide

more time for "play"(85)(3).Sensible use of machinery, then, would see the

removal of want and the demise of "profit". The excess repression thus

realeased could be channelled once again into the basic drives between

whic harmony could be re-established.

The theory thus adumbtated is done little justice; the essence,

howeter, is there. The important point is not so much the psychologival

ramifications of the theory but the fact that Marcuse asserts the

existance of a real possibility of a world with material sufficiency

for all and - having done this - turns his attention (<u>as he says man</u>

<u>would</u>) to the search for higher values in play.

Read in light of the above a comment made by Reich has a double

significance:

> "Consciousness 111 could only have come into existance given
> today's technology. And only consciousness 111 can make
> possible the continued survival of man as a species in this
> age of technology."(4)(86)

Reich argues that dissident youth understands technology and the

promise it offers; that the affluence in which they were brought up

allows them the chance to by-pass the struggle for existance and turn

their minds to the quality of that existance. He views society as

though it were the supermarket of the"victimologist's" study. Advertising,

he argues, holds forth the promise of the good life, the promise of

freedom, relaxation and comfort. His "consdiousness 111" people, he says,

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(84) (2)"Excess repression" can be seen as the psychological analogue of
Marx's "surpluss value", more than that: it is a function of it.
(85) (3) In light of this the book <u>Play Power</u> takes on an added significance.
(86) (4) <u>The Greening of America</u> (op.cit.)p259. 'Conscousness III' is the mark of
the 'new' generation. See also the quote at the begining of this paper.

have internalised the promise and viewed the inequalities. If the latter

were ironed out, the argument goes, the former would be open to realisation

for all. Reich sees advertising and controlled scarcity as setting up

new contradictions in late capitalist society (5).

The link between Reich's observations (admittedly "unscientific") and

Marcuse's extrapolation of Freudian theory is clear. A generation reared

in affluence, as yet unregimented in terms of occupation (therefore

relatively "unrepressed"), has turned its mind to aspirations beyond the

struggle with nature, aspirations which the previous generation could

either not afford or could not see itself as being able to afford. (6)

The efforts made to make these aspirations a reality have given rise to a

view of society that holds that present modes of organisation deny

fulfilment for all but a few. Present modes of organisation are sanctified

in, and perpetuated by, the law for the benefit of that few. The perception

of political power in the economic and legal functioning of the state has

manifested itself in a singular view of politics - the Platonic (also

(57) (5) The Greening of America (op.cit.),p
(58) (6) There is a possible link here with Professor Fuller's "morality of
duty" (analagous to the struggle for existance) and "morality of
aspiration" (analagous to the search for "liberation")(see The Morality of
Law (1964, Yale University Press). If the law does protect the scarcity
necessary to maintain the tension vital to the capitalist market, if plenty
is (as Marcuse asserts) a pre-requisite for "liberation", if plenty is (as
Marcuse suggests) a possibility, then the law in a capitalist economy is
failing to fulfil the task set it by Professor Fuller: "In one aspect our
whole legal system represents a complex of rules designed to rescue man
from the blind play of chance and to put him safely on the road to
purposeful and creative activity"(p.9). Fuller overlooks, in the drive
towards the morality of aspiration, the interplay of law and economics. The
similarity between Fuller's two moralities and Marcuse's minimum require-
ment before liberation suggests the possibility of an interesting fusion.
On Professor Fuller's scale students, raised in an era of affluence, are
obviously free to occupy themselves with the morality of aspiration (a
linguistic analysis of student rhetoric suggests this is the case). This
privilege may suggest the inequality they criticise.

Aristotilian) view. This view of the nature of politics holds that every

activity of the community and of its citizens is political. Thus, an

American writing for a New Zealand student newspaper on environmental

problems points to the difficulty of bringing about change in the face of

vested interests and concludes:

> "In Berkeley, ecological living is regarded as a revolutionary
> lifestyle. Thousands of volunteers work to protect the Bay from
> fill and pollution, the Delta from the California Water Plan, the
> open space from new subdivisions and freeways. They don't expect
> any help from the Federal Government. They just wait for the
> revolution." (7) (8a)

This approach provides another justification for the assertion (page 3)

that the student rebellion is "a phenomenum which necessarily involves

violation of legal norms". Before going on to explain this further by

reference to the theory of Marcuse and the observations of Reich, however,

it may be fruitful to recap the points necessary to the discussion thus

far:

(AG) →

(1) There is a close connection between economics, politics and law, the

last providing a framework for, and protecting the exercise of, the

power which the former two imply.

(2) Legal positivism, coupled with the seeming primacy of law in a liberal

democracy, tends to hide the relationship between politics and law by

lending the latter a spurious air of self-sufficiency.

(3) The consensus model of society is closely allied to legal positivism

(8) 90, is only ever true at a superficial level, and serves to obscure

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(8a) (7) Janice Marriott, SALIENT (27 May, 1970) "Waiting for the Revolution –
and in the meantime there's something in the air."

(90) (8) See quote from Friedmann, page 9.

the conflict, or the seeds of conflict, existing at a deeper level.

(4) Social conflict, by the injection of consciousness, can be converted into political conflict.

(5) Political conflict is the conflict between the 'is' (status quo) and various 'oughts'.

(6) By denying the legal "ought", legal positivism denies the political "ought".

(7) The consensus model forces a view of crime as a pathology.

(8) Because of the connection between politics and law, violation of legal norms (that is, "crime") can be a political tactic in the service of an "ought" proposition.

(9) Legal positivism and the consensus model thus lend law an "objectivity" which tends to validate the political status quo. (9) [91]

2. THE STUDENT REBELLION.

(1) Demonstration, confrontation and rebellion have revealed the relation-ship between political power and the law, "de-objectifying" the latter.

(2) Opposition to the political status quo is a conscious rebellion based on a critique of the status quo.

(3) The student rebellion is therefore an example of social conflict rendered "political" by the injection of "consciousness".

(4) (To be discussed) The student rebellion involves the violation of legal norms as a tactic in the service of "ought" propositions.

Marcuse's criticism of "technological" society is as sweeping as

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(9) [91] The implications of this point will be discussed in Section Three (post).

his student readership is wide (see note (2̶), ~~page 3~~)(1̶). [92] The actual

content of the criticism need not concern us here (2̶) [93]; it is his proposals

for change which are of interest. Technological society, the argument goes

is capable of surviving freedom of speech and dissent (3̶) [94]; piecemeal

reform is likely to be ineffectual since it is the basic structure that is

at fault (4̶) [95]. The only effective tactic, Marcuse maintains, is a total

denial of the life forms of the technological society. This he terms the

"Great Refusal" and it encompasses refusal, as far as possible, of the laws

occupations, life-style, sexual mores, moral norms and even the language

of the technological society. Such a refusal has a two-fold result: first,

it ensures the purity of the refusers by bringing about their alienation

from the irrational reality principle that governs the technological

society; second (and most importantly) it hastens the destruction of the

technological society. It is perhaps unnecessary to point out that this

involves an attack on a broad front and would constitute the creation of a

"counter-culture" (96). Of greatest concern to us here is the exhortation to

refuse the law of the technological society. This has as its aim the

destruction of the order (the concern of the criminal law) in which the

economic functioning of society is continued. Marcuse justifies the

deliberate breach of the law by reference to the points established in the

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(92) (1̶) Contained in Eros and Civilisation (op.cit.), One Dimensional Man (op.
cit.), An Essay on Liberation, (1969), Penguin, and "Repressive Tolerance"
in A Critique of Pure Tolerance, (Eds. K. Wolff, B. Moore, and H. Marcuse)
(1969).

(93) (2̶) Except to emphasise that the criticisms quoted on pages 19, 20 and 21
(above) bear a marked similarity.

(94) (3̶) Argued in "Repressive Tolerance", (op.cit.)

(95) (4̶) Besides, there is little time.

(96) (5̶) This, to a certain extent, has happened. ~~See page~~ ~~post.~~ "Counter
Culture" is a description often used re "the movement".

first section of this paper with the addition of a value judgement on the

nature of the society the law expresses and protects:

> "An opposition which is directed, not against a particular form
> of government or against particular conditions within a society,
> but against a given social system as a whole, cannot remain legal
> and lawful because it is the established legality and the
> established law which it opposes. The fact that the democratic
> process provides for the redress of grievances and for legal and
> lawful changes does not alter the illegality inherent in an
> opposition to an institutionalised democracy which halts the
> process of change at the stage where it would destroy the existing
> system.... Genocide, war crimes, crimes against humanity are not
> effective arguments against a government which protects property,
> trade and commerce at home while it perpetrates its destructive
> policy abroad. And indeed, there is no enforceable law that could
> deprive such a constitutional government of its legitimacy and
> legality. But this means that there is no (enforceable) law other
> than that which serves the status quo, and that those who refuse
> such service are eo ipso outside the realm of law even before
> they come into actual conflict with the law." (6)(97)

To a certain extent, the behaviour Marcuse advocates has been

adopted. This is borne out by comments (based on observation) made by Reich

about the student radicals:

> "One device is particularly important: an individual cannot hope
> to achieve an independent consciousness unless he cultivates, by
> whatever means are available, including clothes, speach mannerisms
> , illegal activities, and so forth, the feeling of being an
> outsider. Only the person who feels himself to be an outsider is
> genuinely free of the lures and temptations of the corporate
> state." (7)(98);

and:

> "Simply by using marijuana in defiance of the law, young people:
> 1. maintain their own community and radical consciousness; 2. give
> a demonstration of the hypocrisy and irrationality of society;
> 3. make this showing effective by forcing it on public notice
> through what is in effect civil disobedience; 4. affirmatively
> demonstrate cultural liberation to the rest of society; 5. produce
> a repressive reaction that involves others and eventually makes
> these others realize their own lack of freedom." .(8)(99)

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(97)(6) An Essay on Liberation, (op.cit.), pp. 66,67.
(98)(7) The Greening of America, (op.cit), p.188.(first emphasis added).
(99)(8) ibid. p.240.

The range of illegal activities contemplated by the "Great Refusal"
is, of course, as wide as the law itself. The most common, however, would
appear to be the following.

(1) The use of drugs, particularly marijuana.

    (A recent survey conducted at Canterbury University suggests
some correlation between drug-use and 'left-wing' views (100)).

(2) Resistance to the "draft" or National Military Service.

    (The predominantly university-based organisation – OHMS –
counsels active opposition and refusal).

(3) Bombings, particularly of military installations.

    (In 1969 six Auckland University students were imprisoned ~~for
periods of up to~~ ~~months~~ for the bombing of the Waitangi
flagstaff. Subsequent bombings of Auckland military installations
produced six year gaol terms. (101). Bomb attacks have also been made on
military and security installations in Wellington and Christchurch).

(4) Theft. (102)

    (The writer has been made aware of the "cult of rip-off"
whereby needed articles are "liberated" from their owners, usually
large shops. It is impossible, of course, to gauge the extent of this
particular activity – the writer has reason to believe that it is
extensive, however).

(5) The use of obscenity.

    (An examination of practically any student newspaper and a

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(100) Unpublished paper.

(101) See *Bullshit and Jellybeans*, Shadbolt (published by Alister Taylor) 1972

(102) ~~See ibid.~~ Paradoxically, justification of theft derives from a
"non materialist" outlook.

comparison with its forbears illustrates the point. In 1972 a demonstration involving the deliberate use of what had previously been regarded as obscenity saw several arrests ([103])).

(6) The adoption of life styles coming within the ambit of vagrancy.

(New Zealand poet, James K. Baxter, has criticised the use of section 3.D of the Police Offences Act 1927 to "harrass" commune dwellers ([104])).

(7) Disorderly behaviour and associated offences.

(This form of offending is likely to result from demonstrations and associated activities. Demonstrations held in Wellington against the 1970 All Black Tour of South Africa, for example, resulted in forty six arrests. There is the possibility of relatively serious offences resulting from such situations).

(8) Refusal to pay fines.

(Several examples of this can be found in the New Zealand context ([105])).

(9) Illegal possession of firearms and explosives.

(The writer has reliable information concerning the existance of arms and explosives caches maintained for political purposes).

(10) Sedition.

(The writer is unaware of any prosecutions in this area although he is aware of many statements and articles which would satisfy the requirements of the Crimes Act, 1961).

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(103) See SALIENT, 15 June 1972.

(104) See DOMINION, 9 May 1972.

(105) See Bullshit and Jellybeans, Shadbolt (published by Alister Taylor, 1972).

(11) Criminal lible.

(The writer is unaware of any prosecutions in this area
although the possibility was recently raised (6)[106]. The publishers of
radical tracts obviously run some risk of prosecution here).

(12) Breaches of the Official Secrets Act.

(Once again, radical publishers run the risk of prosecution
under this legislation. The Act was invoked for the purposes of search
in 1969 (7)[107]).

(13) Conspiracy to commit an offence.

(The writer has no knowledge of section 310 of the Crimes
Act being utilised for political purposes but the possibility and
scope are obviously there).

Many of the offences listed above are minor. It is submitted,
however, that lengthy terms of imprisonment are a possibility as a
consequence of radical political activity. Ehrenzweig, in his recent work
(8)[108], borrowing heavily from the work of Bienenfeld (9)[109], draws a distinction
(definitional problems remain) between oedipal crime and post oedipal
crime. Loosely speaking the first is crime (invariably crimes of violence)
committed in "passion" and its perpetrators are both unlikely to be
deterred and unlikely to be reformed. Post oedipal crime, however,
responds

".... to desires whose repression occurs at a postoedipal stage.
This repression is essentially weaker than that of oedipal urges.
Since it is also wholly or partly conscious, punishment can

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(106) (6) See SALIENT, 28 September 1972.
(107) (7) See Bosher, FOOTSTEPS UP YOUR JUMPER (N.Z.C.P, Farm Road Branch, 1969).
(108) (8) Psychoanalytic Jurisprudence (op.cit.), pp.207 et seq.
(109) (9) See "Prolegomena to a Psychoanalysis of Law and Justice", California
Law Review, Vol.53 No.4, p.957.

often fortify it effectively. Here the administration of criminal law is, therefore, susceptible to rational improvement by effective deterrence, reformation, and restraint. (1)(110)

Obviously enough property crimes come within the post oedipal category:

"Here a shallow, post-oedipal repression can often be decisively enhanced against temptation." (2)(111)

It can be seen that most, if not all, of the crime committed for political purposes comes within the definition of post oedipal crime; it is therefore open to deterrance, and the offender can be, theoretically, reformed by reinforcement of post-oedipal repressions.

However, in the 'treatment' of persons receiving terms of imprisonment for political activity the criminologist or penologist is presented with difficult ethical questions. The danger is, of course, the imposition of political ideology on the offender. It is a danger which increases with the improvement of techniques (3)[112]. A narrow positivistic approach, or an approach governed by a consensus view of society, would demand that no differentiation be made between "political" and "ordinary" prisoners. The "political" prisoner, like anyone else, would be open to be 'persuaded' that he was wrong, not only in his act but in the motivation for his act. It is submitted, however, that the criminologist or penologist taking this view is acting out a supportive role, perhaps unconsciously, to the status quo and that such an approach overlooks the fact that human society is dynamic and that laws change, sometimes radically. History is replete with

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(110) (1) Psychoanalytic Jurisprudence (op.cit), p.212. Ehrenzweig excludes "mob" actions. "Here, the effort of overcoming even oedipal repression may be left to the father figure of the leader or to the "family" of the group or nation." (p.212)

(111) (2) ibid, p.214.

(112) (3) It is axiomatic (as the extracts from Ehrenzweig suggest) that treatment of individual offenders goes beyond discouragement of the criminal act as a matter of prudence - punishment alone is enough to establish this.

examples of reformers that have spent time languishing in prisons. Had

techniques been capable of it, what would /be the implications of their

"reform"? It is submitted that the denial of the political content of law,

and the viewing of crime as a pathology, forces the view of the given as

the right. It leaves no room for the views of Bertrand Russell:

> "Without rebellion, mankind would stagnate, and injustice would be
> irremediable. The man who refuses to obey authority has, therefore
> , in certain circumstances, a legitimate function, provided his
> disobedience has motives which are social rather than personal."
> (4) (113)

There is already evidence of attempts to change the political views of

offenders, simply because it was a political view that motivated their

crime. In 1967 the leader of the New Zealand Nazi Party threw a brick

through a synagogue window for which offence he was given an eighteen

month prison sentence. He had this to say about attempts to "reform" him:

> "They had three different head shrinkers work on me. A chap
> called Harry Cohen. A Jew. He tried to convince me that everything
> I was doing was wrong....He was a Jew, an orthodox Jew, happened
> to be an ex prison officer, he happened to suddenly decide he
> was going to study psychology and took on that job....he tried to
> convince me but after a few sessions he gave me up as a bad job."
> (5) (114)

In September 1968, the Minister of Defence of the Black Panther party

(Huey P. Newton) was convicted of voluntary manslaughter (6) and sentenced

to a two to fifteen year term of imprisonment. A recent article on Newton

in EVERGREEN (7) commences: "After more than twenty one months in prison

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(113) (4) Power (New York. W.W. Norton & Co., Inc.) 1938, p.252.
(114) (5) SALIENT (6 May, 1970). Interview with Colin King Ansell.
(115) (6) The facts surrounding the killing giving rise to the conviction are
disputed. Newton is regarded by the radical left as a "political" prisoner
who was "framed".
(116) (7) August, 1970. Article written by Kaye Boyle.

Huey Newton still refuses to be rehabilitated. "He remains intact". The article continues:

> "The pamphlet (8) makes clear that the Correctional Officer comes
> close to being all things to all people because of his friendly
> counselling, and because he even becomes, at times, a trusted
> "confidente [sic]. The Correctional Officer, says the text,
> "helps each man to refocus his aims, his perception of self."
> But as one reads, one asks oneself about the aims and the self
> of political prisoners such as Huey Newton. Would not the
> Correctional Officer's "counsel" be more in the nature of a
> condemnation of the value of the political prisoner's beliefs?
> Huey Newton keeps himself apart because he knows that prison must
> of necessity, destroy individual conviction. The individual,
> whatever his name, whatever his crime, must be fragmented, and
> then the pieces of the man and his beliefs can be reassembled in
> a quite different mold. This is rehabilitation. This is the way
> of saving not the "perception of self", but the correctional
> system's perception of our society." (9)(118)

The writer goes on to record how Newton's refusal to cooperate with the "rehabilitation" process resulted in an almost permanent withdrawal of privileges.

One more example will suffice. Present experiments at California's Vacaville jail - involving the use of drugs, electric shock treatment and (it has been suggested (119)) contemplation of the possibility of leucotomy have attracted some criticism. A Dr Opton of the Wright Institute at Berkeley has alleged (120) that prisoners may be being sent to Vacaville not for the crimes they have committed, but for their political beliefs.

Accepting that the allegations and arguments cited above are correct, it is submitted that the difference between the allegations made

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(117) (8) A pamphlet published by the prison authorities.
(118) (9) Kay Boyle, EVERGREEN (August, 1970), p.64.
(119) (1) Mr D. Green, president of Campaign against Psychiatric Atrocities,
letter to the SPORTS POST, Sept. 23, 1972. Mr Green concludes: "Psychiatri
"treatment" is used in Russia to keep political prisoners quiet and it is
likely that the Americans are employing similar techniques".
(120) (2) Los Angeles "Herald Examiner", date unknown.

in the first two examples and the allegations in the last is only one of consciousness. In the last case there is a deliberate prostitution of psychiatric (121) (3) and criminological techniques in the service of the political status quo. In the first two, penological techniques blindly support the status quo because of a particularised view of *law and an idealised view of* society. In terms of effect the two approaches present the same danger.

Criminologists and penologists run a risk of devaluing their discipline if they leave themselves open to the sort of charges made by the writer in EVERGREEN. They will also add weight to the picture of society as repressive and totalitarian (122) (4).

A more broad view of the role and function of law in society would have the virtue of preventing criminologists from becoming the rear-guards of ailing ideologies. Such an approach, however, would have the disadvantage of failing to supply the criteria supplied by the positive law, thus forcing distressing value judgements. An argument which proceeded on this basis, however, would contain a central fallacy: the acceptance of the positive law as a criterion is no less a value judgement, one that involves accepting the given as the right. Accepting the given as the right appears to be the current stance adopted by criminologists and both `justifies' and explains an obsession that exists with the personal psychological and social history of the individual offender. Criminologists and penologists can obviously avoid the criticism that is beginning to make itself felt (123) (5) by leaving overtly 'political' prisoners well alone.

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(121) (3) This use of psychiatry is not restricted to the penological field — see the arguments of the French students on pages 20 & 21. The tendency criticised by the French students is discernable in all areas of the social sciences and will be discussed post.
(122) (4) Using this word in the sense of control of consciousness.
(123) (5) Such as the article in EVERGREEN (op.cit.), for example.

Yet this, in itself, is unsatisfactory. It suffers the disadvantage of being an expedient half measure, of tying criminologists and penologists closely to the ups and downs of societal trends. Further, it does not deal with the final proposition that will be put forward in this section.

The important point about the student rebellion is the political consciousness that characterises it. It is this consciousness which gives the student radicals 'moral' justification for their breaches of the law. Because of this moral justification, breaches of the law become a matter of conviction and it is the perception of this conviction that provides the force behind the argument put forward by Russell (5) [124] and makes clear the connotations of totalitarianism subsisting in attempts to overbear it. An isolated concession to political law-breaking smacks, however, of elitism, given acceptance of a conflict model of society. This is so because, stripped of the element of consciousness (largely the privilege of the educated) the student rebellion becomes just another ~~aspect~~ example of group conflict. The ethical questions raised by attempts to "rehabilitate" political prisoners may well apply to any <u>post oedipal crime</u> which can be diagnosed as the product of group (or culture) conflict, particularly if "consciousness" is not regarded as a sufficient or justifiable differential The criminal law demands conformity to the norms protective of the most powerful group's property and morality at the pain of punishment. Should penology and psychology attempt to go further and create the world in the

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(124) ~~(5)~~ See page 34.

dominant group's image? (7) The inculcation of behaviour patterns that are more easily maintained in affluence may demand excessive repression of the person who is never likely to experience it. Further than this, such repression might involve the ideological function of concealing (in the words of the French students) "the monstrous discrepancy between the ideal and the real". The "rehabilitative" or "conditioning" process might involve a palpable lie.

The ethical difficulties referred to above, particularly those co‌ncerning "non-conscious" offenders, might never be resolved until the advent of the "just" society. The objections to current criminological and penological trends, however, might be ameliorated. Obviously enough the possibility of amelioration lies, in part, in the words: "until the advent of the "just" society".

ONE DIMENSIONALISM.

The history of the search for knowledge has been the history of growing particularisation. Gone are the Dr Johnsons, who could, without reproof, comment in all fields. In the twentieth century the man who can transcend the complexity of his <u>own</u> <u>discipline</u> stands out - the sciences have ~~their~~ Hoyle, history has Toynbee, economics and political science had Marx, politics and psychology have Marcuse, mathematics and philosophy

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(7) An example of this is the teaching of borstal girls the niceties of dinner table ettiquette for when the "husband brings the boss home". To tell her that, uneducated, having no marketable skills, being a member of a racial minority, having a criminal record (any one of these might be sufficient), she can look forward to a life of menial tasks and relative deprivation (but to abide by the rules anyway), might be less palatable but at least has the advantage of avoiding the possible creation of expectations which can only turn to bitterness.

had Russell. It is significant that all of these men were or are essentiall
critical: their generalised projections and comments were and are often
found unpalatable, particularly by those who are supporters of (usually
having substantial interests in) the status quo. Particularisation, then,
tends to obscure general pattern and trend. To take a simple example: a
biologist (w) might devote himself to the examination of the life-cycle
of a particular fresh-water fish. He might, in so doing, discover that the
species is being adversely affected by a particular pollutant discharged
by a nearby industrial plant. Another biologist (x) might devote himself
to the study of a fresh-water plant. In the course of his study he might
note that the plant is spreading and clogging the stream in which it
grows. He might determine that the cause of the plant spreading is that
the fish (the fish studied by (w)) which feeds on it is unaccountably
dying out. Yet another biologist (y), working at a different geographical
point, might devote himself to the study of a particular bird. He might
discover that, due to the pollution of the bird's habitat by nearby
industry, it is dying out. (z) may study the life-cycle of a grass grub.
He may note that the grass grub population is increasing due to the fact
that the bird which feeds on it (the bird studied by (y)) is unaccountably
dying out. Neither (w), nor (x), nor (y), nor (z), unless they exchange
the information which their research reveals, know enough to assert
anything more than a single fact. The man who collates the information,
however, can put forward a series of tentative propositions.

(1) Industry tends to cause pollution.

(2) The incidence of pollution may be widespread.

(3) Pollution is dangerous to animal life.

(4) The damage pollution causes does not stop with the animal it affects
but rather is transmitted through a life-chain.

The man putting forward these propositions has the beginnings of a theory
which is inherently critical whereas the four specialist biologists have
nothing but observations. The trend towards particularisation, as it gains
impetus, is marked by the increasing difficulty of collation. This is as
true of the social sciences as it is of any discipline.

The second major trend in the search for knowledge bears some
relation to the first and owes its origin to the natural sciences; this is
the trend towards empiricism. There are two related aspects to empiricism
in the natural sciences. The first is that an empirical approach receives
philosophical validation by reason of the fact that the matter under study
exists as an independent and positive fact. As a rule the scientist has no
choice but to accept the existance of a force which he has labelled
gravity. The second aspect is that the interaction of matter obeys
immutable laws and is essentially amoral (*)[126]. The importation of empiric-
ism into the social <u>sciences</u> is a search for <u>method</u> that is fraught with
danger. First, the material under study does not (within very broad limits
owe its existance to laws over which man has no control. The social
scientist who proceeds to examine and analyse the <u>given</u> overlooks a
fundamental question that need never concern the natural scientist. Such
an approach is exemplified by legal empiricism or <u>positivism</u> which
concentrates on the 'is' to the exclusion of the 'ought'. Second, the
interaction of human beings does not obey immutable laws and is not
essentially amoral. A vital aspect of human interrelationship is the
existence of ethics and morality. No matter what the content of the

(126) (*) To what purpose knowledge will be put is essentially a matter of
technology.

ethical or moral code, no matter what their origin, they exist. Empiricism, by overlooking or ignoring these two vital points tends to bestow on human organisation the same general immutability that characterises the matter studied by natural scientists. The inherent differences in the nature of the matter examined by natural scientists on the one hand and social scientists on the other could and should provide the social scient- ist a measure of freedom unknown to the natural scientist. The latter finds philosophical justification for his study in the uncontrollable existance of matter which obeys immutable laws; for this very reason he is bound to the matter he studies and to the laws which govern its behaviour - there is little, if any, room for speculation that can be put into operation. Empiricism is a recognition of a fact central to his study. The social scientist, however, does not find a philosophical justification for his study in the uncontrollable existance of matter which obeys immutable laws. The justification for his study is far more general - that human beings tend to interact and organise. He is not, therefore, bound to the particular matter which he studies and he is not bound to the laws which govern its behaviour at any particular point in time - he is granted the luxury of transcendent speculation which has some prospect of being consciously converted into actuality. Empiricism, for the social scientist, is not a recognition of a fact of his study but is rather a choice of tools. Taken alone it is a bad choice since it condemns him to the task of running along behind social trends, rising and falling with them. Thus at a time of social conflict the social scientist will tend to adopt the conflict model of society; during times of stability he will accept the evidence before him and adopt a consensus

model. The social sciences can in this way tend to become a _function_ of

the society they purport to study.

The importation of empiricism into the social sciences has thus

resulted in a trend away from metaphysics and a devaluation of conceptual

thinking, simply because the social sciences tend never to move away

from the given. The trend is now compounded by the operationalist approach,

an example of which is given by P. W. Bridgman (127):

> "The concept of length is .... fixed when the operations by which
> length is measured are fixed: that is, the concept of length
> involves as much and nothing more than the set of operations by
> which length is determined. In general, we mean by any concept
> nothing more than a set of operations; the concept is synonymous
> with the corresponding set of operations."

Bridgman concludes:

> "To adopt the operational point of view involves much more than a
> mere restriction of the sense in which we undestand "concept",
> but means a far-reaching change in all our habits of thought,
> in that we shall no longer permit ourselves to use as tools
> in our thinking concepts of which we cannot give an adequate
> account in terms of operations." (128)

It is recorded by Marcuse (129) that the "new mode of thought" is now the

predominant trend in (amongst other things) sociology where it takes the

form of"behaviorism". The implications are clear: no 'ought' concept of

any magnitude can be adequately "validated" in terms of operations or

behaviour (130). This is particularly so when the 'ought' concept is one

that is fundamentally opposed to vested interests and the current holders

of power. In the operationalist approach a tool has become dogma,

metaphysics anathema. The extent to which this mode of approach permeates

(127) The Logic of Modern Physics (New York, Macmillan, 1928) p.5.
(128) ibid. p.31.
(129) Since, in part, the "is" conditions behaviour.
(130) One Dimensional Man, (op.cit.) p.27.

modern sociology is evidenced everywhere: a suggested new mode of social

organisation becomes "utopian"; the words "purely speculative" contain

a perjorative element; endeavour based on intangible belief becomes

"ideology". In the field of "social engineering" the operationalist or

behaviorist approach has far reaching implications. It is power that

governs the scope of experimentation and thus the scope of "operation".

It is power (through law) that governs the scope of behavior. It follows

from this that it is power that determines the scope of ~~sociological~~ concept. In turn it

follows that it is power that determines the scope of sociological

∧enquiry. Sociological enquiry thus becomes bound by the political

framework of the society in which it takes place. It is thus limited,

not by repressive intervention on the part of state power, but by its

own search for scientific tools — a search which relies on the false

analogy between (truly) scientific enquiry and social enquiry. By reason

of this approach sociological enquiry becomes enquiry in the narrowest of

senses; it is denied speculation, it loses its critical thrust and

becomes a tame tool in the hands of the beneficiaries of the status quo:

> "The operational and behavioral point of view, practiced as a
> "habit of thought" at large, becomes the view of the established
> universe of discourse and action, needs and aspirations. The
> "cunning of Reason" works, as it so often did, in the interests
> of the powers that be." (#)(131)

The process outlined above can be explained in terms of the

corruption of objectivity. Classical philosophy saw the world in terms

of an eternal dialectic between the empirical "is" and the posited

"ought". It found its objectivity in a stance between these two poles,

an objectivity which lent itself to manipulation neither by status quo

nor opposition. The shearing off of the "ought", however, has demanded

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(131) (#) H. Marcuse, One Dimensional Man, (op.cit) p.29.

that objectivity find a new locus. It is sought, in accordance with the
form of the classical approach, between two poles, but the poles are
determined by what is. It follows, then, that for a sociologist objectivity
is determined by the poles of the structure which he attempts to study -
objectivity becomes political centrism, a stance between "legitimate"
political forces (5). Since "legitimacy" is determined by the prevailing
ideology it follows that the sociologist will speak from the heart of
that ideology: under the guise of objectivity he affirms the political
status quo by which his concepts are shaped.

> "The hypocrisy of objectivity, of apoliticism, of the innocence of
> study is much more flagrant in the social sciences than elsewhere
> ...." (6) (133)

The devaluation of objectivity has been paralleled by the devaluat-
ion of logic; linear thinking has developed a cut-off point at either
end of the line - logic is now confronted by a blank wall at the end of
the "is" (which is synonymous with the "permitted").

Bound by the framework of the system in which he operates the
social scientist becomes a tinkerer, one who attempts to apply balm to the
trouble spots. In so doing he may become a manipulator in the hands of
those who wield power in his society. His experimentation is allowed to go

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(132) (5) Thus in common parlance the political scientist who criticises "both
parties" is being "objective". The tendency towards centrism is aided by
the determination to view political views in a linear spectrum. The
dispute, for example, between private ownership of property and community
of property implies no centre. If the dispute is translated into terms
of"right"and"left" a centre is implied - a purely existential or personal
concept is translated into "objective" reality. French students have
referred to the tendency amongst 'political sociologists' to plan "huge
studies - most of them mystifying - which presuppose that electoral choice
is, today, the locus of politics..." Quoted in Student Power (op.cit) p.374
(133) (6) Daniel Cohn-Bendit - see note (1) page 1.

only so far, his "science" invalidates concepts which are not "operational".

Thus the industrial psychologist can fiddle with the man but not the job.

As a consequence the "given" system dominates: the man is fitted to the

job - "Considering that psychology as such aims at the systematic

subordination of individual behaviour to false social norms.."(134);

"totalitarianism is simply enough power, of whatever sort, to exercise

full control over those within the system"(135). The switch from structural

adjustment to 'adjustment' of the human psyche (particularly on the scale

contemplated and actualised by industrial psychology) is the end-point of

the development and a tacit admission that current structures have been

exhausted of their flexibility. This being so it seems reasonable to

suggest total change in structure. The beneficiaries of the status quo,

those who hold power, will have none of it. The social scientist, bound

to the scientific "is", heedless of the ethical "ought", continues with

his restructuring of man. The same trend is discernable in the criminolog-

ical field. Lower socio-economic groupings have tended to manifest greater

criminality than higher groupings. The early view had it that poverty

produced crime. The rise in affluence, however, that has caused Ivan Illic

to remark

> "From ice-box to toilet and from anti-biotic to television,
> conveniences are found necessary in Harlem which Washington
> could not have imagined at Mount Vernon" (136)

has done little to lower the predominance of "lower class" crime. One

could assume the scope existed for the conclusion that the cause might

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(134) See page 20.

(135) See page 18, note (9)

(136) "The Need for Cultural Revolution", contribution to "The Idea of
Revolution", The Great Ideas of Today (1970) p.31. Mr Illich is director
of CIDOC, an educational centre devoted to improving the cultural and
social environment of Latin American peoples.

subsist not in poverty <u>per se</u>, but in <u>relative</u> poverty — that is, inequality. Such a conclusion <u>must</u> have some validity — abolish inequality and there is no lower class crime to measure. The criminologist eschews such speculative generalisation in favour of positivism and empiricism. He turns to the 'permissable' possibility — the individual offender, for it is with the individual offender that he has scope for action. If the system will not ~~want~~ bend the man must. (137). The <u>status quo</u> ~~here~~ is aided here by the particularisation of study referred to above:

> "The practical organisation of capitalism produces a host of
> contradictions, which various branches of sociology are expected
> to remove. Some are set to study juvenile delinquency, others
> racism, yet others slums. Each group seeks solutions to its
> particular problem and leaves it at that, thus adding its bit to
> the jig-saw puzzle of "sociological theories". The resulting
> confusion is reflected in the interdisciplinary fragmentation
> of the social sciences, so widespread today (cf. Althusser). The
> incomprehension of each specialist when confronted with the
> research of his fellows makes them collectively incapable of
> any <u>general</u> <u>statement</u> beyond mere platitude."(138)(139)

In this light legal positivism becomes just a small part of a general trend; the <u>consensus</u> model a convenient rationalisation. The two combine to give criminology its distinctly ideological function. The trend can be illustrated by reference to three works.

Ehrenzweig makes claim, in the early pages of <u>Psychoanalytic</u> <u>Jurisprudence</u> (140) to have found a basis for the resolution of the conflict between positive and natural lawyers. After much scholarly argument the thrust of his work takes him to the division between <u>oedipal</u> and post

(137) See Etzioni, " The Active Society

(138) From pamphlet published by students at Nantarre (1968) as quoted in <u>Obselete Communism — a Left-Wing Alternative</u> (op.cit.) p.36.

(139) In a recent book — <u>Social Sciences as Sorcery</u> (Andre Deutsh, London) Stanislav Andreski apparently mounts a sustained attack on the "meaningless scientism" endemic in modern sociology. Apparently the book is not yet available in New Zealand. See TIME (Sept. 25, 1972) p.41.

(140) op.ct.

oedipal crime. Oedipal crime, he convincingly argues, is not susceptible to deterrance, its perpetrators not open to "reform"; imprisonment is of little use except as a means of relieving societal guilt-agression in the form of revenge. The prospects as far as post oedipal crime is concerned, however, are much brighter:

> "This repression is essentially weaker than that of oedipal urges. Since it is also wholly or partly conscious punishment can often fortify it effectively. Here the administration of criminal law is, therefore, susceptible to rational improvement by effective deterrance, reformation, and restraint."(141)

One searches in vain for the promised resolution, finding instead an assumption based on the "is", as assumption that the preoccupation of the criminologist should be with the criminal, not with the normative structure which defines him.

In Crime, Justice and Correction (142) Professor P.W. Tappin provides "four sound reasons" to "limit" emphasis on "cultural (143) influence in theoretical and applied criminology". The first rests on the question: "Why, in an "exploitative" and criminogenic (144) culture are not all individuals/criminals?"(145). The argument is lent rhetorical force by the inclusion of the word "habitual" which is otherwise unjustified since rehabilitative techniques are not confined to habitual criminals (in any event the word thus used overlooks the possible effect of the first conviction). The question becomes: "Why are not all individuals criminals?"

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(141) p/212
(142) McGraw Hill, 1960
(143) Presumably economics and politics hide behind this clinical obfuscation.
(144) Ideology intrudes: Professor Tappan is more atxxxxx ease with the word "criminogenic" than with the word "exploitative".
(145) Professor Tappan obligingly rephrases the question in a "more realistic" form:"In a society where there is some balance of forces that, on the one hand, promote conformity,and on the other non conformity, how should the criminality of a minority be explained?" His marked egalitarianism overlooks the possibility of a different "balance" being achieved for

Professor Tappin's failure to come to grips with his own society and, worse, his own question is revealed by the consideration that some individuals might be more exploitated than others – why are not all individuals millionaires? The second "sound" reason is the lack of "tools of empirical research" to measure the impact of a "criminogenic culture "; and about it little more need be said. It is the third and ~~fouth~~ fourth reasons that are of the greatest interest since their ingenuous cynicism is rarely so clearly revealed:

> "(3) We lack both the means and the will planfully to alter the economic, social, and political context to which crime is commonly attributed. Even if more effective devices for measuring the content of culture are developed, they will presumably not produce deliberate social revolution to reduce crime (146). (4) In applied penology we do and apparently must rely in the main upon manipulation of individuals and their relationships to the going social system in order to produce increased conformity to law. We achieve a limited but apparently real measure of success in doing this through dealing with offenders rather than through evaluations of culture." (147)

Put baldly this means that Professor Tappan lacks the will to "alter" structure but has it in abundance when it comes to "manipulating" men. His refusal to evaluate "culture" saves him the awkward task of having to evaluate the word "success".

The final example – Radzinowicz, _Ideology_ and _Crime_ (148) – is the most telling simply because, while purporting to include an historical survey of criminological thinking, it quite unconsciously, in its short compass, reveals the trend referred to above. Radzinowicz concludes an account of "The Liberal Position" by quoting Francisco Carrara who, in

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(146) This is hardly the point. Professor Tappan seems to preclude the possibility of crime being symptomatic of a deeper malaise.
(147) _Crime, Justice and Correction_ (op.cit), Preface, p.V11.
(148) (Heinemann Educational Books, 1966)

1893, enjoined undergraduate students to concentrate on criminal procedure
rather than on the substantive law since "there remains little to be
added to what has already been done by your fathers"(149). Radzinowicz
concludes:

> "The records of history are full of such complacent assumptions,
> followed by their irreverent reversal"(150).

He moves on to what he terms the "Deterministic Position" and notes the
source of two fundamental approaches to the study of crime; "crime as
a product or expression of society and crime as a product or expression
of the individual constitution"(151)

> "It is easy enough to point out that these propositions, unless
> carried to their extremes, are not mutually exclusive..."(152)

After reviewing the Deterministic approach Radzinowicz concludes:

> "A criminological doctrine which regards crime as a phenomenon
> deeply embedded in the structure of society will naturally
> concentrate its proposals for reform on fundamental changes in
> that structure...In contrast, a criminological doctrine which
> sees the sources of crime in the individual will advocate a
> programme including specific proposals for the reform of the
> criminal law and procedure and above all of the penal system.
> The first approach will be more closely identified with social
> reform(153), the second with penal reform. Once again, the two
> are obviously related."(154)

Immediately the author moves into a chapter entitled "Towards a _Pragmatic_
Position I" (155). The word "pragmatic", he explains, describes "the
method of treating each problem as it arises and in its _particular_

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(149) See _Ideology and Crime_, (op. cit.)p.28.
(150) ibid. p.28.
(151) ibid. p.30.
(152) ibid. p.30.
(153) The realm of possibility is thus narrowed:"fundamental changes in
the structure" mutes to "social reform".
(154) _Ideology and Crime_ (op.cit)p. 58.
(155) Ibid.p.60 (emphasis added).

context..."(156) Such an approach must result, it is sumitted, in an

exclusion of the possibility of "fundamental" change (which was earlier,

though cautiously, acknowledged as a possibility), since a problem must

be seen in relation to the whole - as, perhaps, a manifestation of the

whole - before the need for 'fundamental' change can be perceived. From

this point on the scope of Ideology and Crime narrows, almost imperceptibly,

until the preoccupation is with the individual. It is significant, in the

light of the lines quoted above, that the route is via "reform of the

criminal law and procedure and above all of the penal system"(157). The

limited realm of possibility that pragmatism implies is compounded by an

almost inevitable denunciation at the conclusion of the book:

"Now we distrust philosophizing and call for facts."(158)

It would be unfair to assert, however, that the author pays no attention

to social structure (as distinct from the basis of social organisation):

> "The "dangerous classes" outside civilisation and outside the law
> are increasingly becoming a thing of the past: though the pockets
> in which they survive are a matter of urgent social concern the
> means are available to widen more and more the avenues to
> legitimate success". (159)

This is the length and breadth of the author's social critique (160): the

competitive ethic is not questioned but impliedly affirmed by the word

"avenues"; the content of "legitimacy" remains intact, and "success"

(as with Professor Tappan in regard to reform) remains unevaluated.

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(156) Ideology and Crime (op.cit.) p.101. (emphasis added)
(157) ibid. p.58. See note (154).
(158) ibid. p.127.
(159) ibid. p.94.
(160) He thus ignores a critique of modern industrial society that was
already underway when his work was published.

Immediately prior to this the author makes an affirmation which, in light of his approach, is as inevitable as the denunciation referred to above:

"Bonger saw capitalism as the villain of the piece, but it can now be claimed that the affluent society is a capitalist system that has made good."(161)

The records of history are full of such complacent assumptions followed by their irreverant reversal.

It is against this type of approach that students in France, England and America (primarily) have rebelled:

"One of the most common features in the development of universities has been the burgeoning growth of the social sciences; here the people are trained who in the future are going to be the personel managers, the political pundits, those working in the media and so on — the growing points of late capitalist society. These are the men who will make our societies more efficient in a machine-like sense...one very often finds that the most militant advocates of student power come precisly from these areas. They don't want to become manipulators...."(162)

and:

"...the new social psychology (163) has increasingly been used by the bourgeoisie to help 'rationalize' society without jeopardizing either profits or stability."(164)

because:

"The "theoreticians" must explain localised conflicts without reference to the social totality which provoked them."(165)

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(161) Ideology and Crime (op.cit.) p.94. Radzinowicz terms his pragmatic approach "a new realism".(p.127)
(162) Blackburn, see p.19.
(163) Which was "a branch of philosophy" is now "an independent study with scientific pretenses". Quoted in Student Power (op.cit.)from a pamphlet distributed by students in Nantarre, 22 March, 1968. (p.373.)
(164) See note (163) above.
(165) ibid.

The irony is that the social sciences (among them criminology) have succ-
eeded in provoking that which they wish to rationalise and "cure" -
conflict and crime. Attempts by criminologists to reform the "criminals"
will be (and is) the final validation of the "criminal's" critique. That
which the social sciences could profit from may, by the social sciences,
be repressed.(166)

Perhaps the summation should be left to Marcuse:

"Since its first usage....the term "positivism" has encompassed
(XXX) (1) the validation of cognitive thought by experience of
facts; (2) the orientation of cognitive thought to the physical
sciences as a model of certainty and exactness; (3) the belief
that progress in knowledge depends on this orientation.
Consequently, positivism is a struggle against all metaphysics,
transcendentalisms, and idealisms as obscurantist and regressive
modes of thought. To the degree which the given reality is
scientifically comprehended and transformed, to the degree to
which society becomes industrial and technological, positivism
finds in the society the medium for the realization (and Validat-
ion) of its concepts - harmony between theory and practice, truth
and facts. Philosophic thought turns into affirmative thought;
the philosophic critique critices within the societal framework
and stigmatizes non-positive notions as dreams of fantasies (167).

The cleansing of criminology of its ideological content depends on an
apparent contradiction: the injection of "politicism". By "politicism",
however, is meant nothing more than a greater willingness to turn the critical
focus on the structure of the society that defines the "criminal" as well
as on the 'criminal' himself. Care must be taken not to view 'conflicts'
and 'problems' in isolation but rather to view them as particular
manifestations of the whole. Criminologists must transcend the particular-
ised items of information and permit themselves the luxury of generalisati-

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(166) For an account of what is involved in the "rehabilitation" of an
alienated individual see: Etzioni, The Active Society, (op-cit)
The book gives an insight, also, into the political implications
of the drive to conformity. The implications are Orwellian.
(167) One Dimensional Man (op.cit.)p.140.

on. The generalisation should proceed by way of integration and encompass economics, political science, pscchology, jurisprudence, ~~indeed~~ and all of the "sciences" that are descriptive of human behaviour. Further than this, however, if the generalisation exposes a contradiction in the organisational structure (168) the criminologist must be prepared to transcend (169) that structure, instead of turning back at the walls of the "is". In order to do this, however, criminology must be prepared to free itself from a totally positivist, empiricist, operationalist, behaviourist approach. The criminologist should feel free to develope his own "ought" definition of criminal behaviour as a converse to the "is". The cry "value judgement" can be met with the reply that the "objective" existance of the "is", does not make its acceptance any less a value judgement. In a like manner charges of "utopianism" can be turned back against the <u>consensus</u> model which appears to accept its own validity as a possibility but is erroneously turned into an "is" instead of an "ought". In short, criminologists should explore the possibilities of the ought; reject, if they wish, 'is' definitions of crime and develope their own; balance their obsession with the individual with a critique of the whole; cease to view alternatives in terms of political permissability and commence to view them in terms of historical possibility; be as prepared to attack the structures as they are the individual who is often their hapless victim; ~~and~~ respect the societal trends 'crime' indicates rather than attempt to repress them by 'reformation' and 'rehabilitation'; balance

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(168) In the writer's opinion there is sufficient material to suggest this now.

(169) Marcuse's definition of the word is adopted: "Tendency in theory and practice, which, in a given society, "overshoots" the established universe of discourse and action toward its historical alternatives". (<u>One Dimensional Man</u> (op.cit.)p.10.

positivism with negativism; turn criminology into a critique of society
rather than (or as much as) a critique of the individual; bend or break
the structures before bending or breaking man.

"Law and order" now appears to be an issue in the liberal democracies; before responding to its call criminologists and penologists should ex examine closely the totality of the law and the nature of the order, should measure them against the possibilities.and potentialities of human society. If this is not done the results could be costly. As William O. Douglas (170) points out the following has a distinctly contemporary ring:

> "The streets of our country are in turmoil. The universities
> are filled with students rebelling and rioting.
>   Communists are seeking to destroy our country. Russia is
> threatening us with her might and the republic is in danger.
> Yes, danger from within and without.
>   We need law and order."(171)

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(170) Associate Justice of the American Supreme Court.
(171) ~~Adolph Hitler~~ Adolf Hitler, quoted in Points of Rebellion , (1970,
~~Ran~~ Random House) written by William O. Douglas.

THE QUESTIONAIRE

In August 1972 three hundred copies of a questionaire were distributed

by post to a computer selected sample of Victoria University (student

population approximately 6,000) students, the broad purpose of which was

to ascertain opinion on a range of political and legal topics. The students
(controlled for sex and course of study)
constituting the sample were asked to make replies to the forty five

questions and return the questionaire by post. A good response rate (172)

was achieved — 63.33%. The returns, however, showed a slight imbalance

on a degree basis:

	Percentage in sample	Percentage returned
Arts	47.3	45.3
Science	18.0	22.6
Commerce	22.0	20.5
Law	12.7	11.6

Imbalance on a year of study basis was also evident. Of the original

sample 16.33% were first year students; of the return 22.10%. The

balance of females against males was retained; the percentage of females

in the sample was 32.7%; the percentage in the returns 31.6%.

In order to dtermine any difference in attitudes between students

in the various disciplines and between the sexes, and in order to ascertain

the direction of the distortion caused by the two imbalances, a sample of

questions were taken from the questionaire and broken down according to

degree (173) , sex and year.

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(172) It is understood that this is a slightly better than usual response
rate.
(173) Because of an evident mixing of subjects no attempt xxxxxxxx was
made to define course of study any further. In addition the designation
includes Batchelors, Honours, and Masters.

Before indicating the results, however, it is necessary to point out a difficulty associated with "reading" the results. The trend in student involvement in politics appears to be towards "issues" as a basis for action. The difficulty is that many of these issues do not fall very neatly into a left - right spectrum as commonly understood. The only word loose and general enough to cover the student activist is "radical" and the term will be used hereafter to describe one who tends towards the direction taken by the student rebellion. Since the negative of radical is rather clumsy the term "conservative" will be used to describe trends in the opposite direction. It is recognised that the two terms are not highly "scientific" - it is hoped that the results will give them the substance that is lacking at this point. An attempt to relate these terms to the left - right spectrum will be made by checking through supporters of the two main political parties in New Zealand. This has obvious limitations given the centrist stance of both of these parties. Substance is lent by consideration of the direction from whence they came.

Question 13 was simply designed to ascertain political sympathies **within** the democratic framework and to distil out a possible group of radical non-participants: "Assuming you had a vote, and assuming a candidate from each of the parties listed below was standing in your electorate, would you : (1) Vote New Democratic (2.10%); (2) Vote Labour (35.26%); (3) Vote Social Credit (1.05%); (4) Vote National (28.94%) (5) Vote Communist (174) (1.57%); (6) Vote Values (11.05%); (7) Not vote (15.88%)." 4.21% of the sample made no choice (175). The following

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(174) In point of fact this is the most imprecise: there are actually several parties in this area. It is not clear at this point in time which of these intends to contest the election.
(175) Most of those who made no choice noted a desire to judge candidates.

break down on the basis of degree course was made:

	Democrat	Labour	S.Credit	National	Communist	Values	Not vote
sample	2.10%	35.26%	1.05%	28.94%	1.57%	11.05%	15.88%
	1.25	41.25	1.25	25.00	3.75	13.75	18.75
e	2.32	37.20	2.32	30.23	0.0	13.95	9.30
	0.0	34.54	0.0	34.54	0.0	4.54	27.27
rce	5.12	28.51	0.0	38.46	0.0	7.69	12.82

On a break down according to sex the results were as follows:

	Democrat	Labour	S.Credit	National	Communist	Values	Not vote
sample	2.10%	35.26%	1.05%	28.94%	1.57%	11.05%	15.78%
	2.30	31.53	0.0	33.07	1.53	11.53%	13.83
le	1.66	40.00	3.33	20.00	3.33	10.00	20.00

And on a time spent at university break down:

	Democrat	Labour	S.Credit	National	Communist	Values	Not vote
al sample	2.10%	35.26%	1.05%	28.94%	1.57%	11.05%	15.78%
st year	4.08	26.53	2.04	34.69	2.04	10.20	18.57
ond year+	1.40	38.29	0.70	26.95	1.40	11.34	14.89

Overall, students taking an arts degree gave the strongest support to the Labour Party and also exhibited greater diversity or unorthodoxy (176). Strongest support for the National Party came from the commerce students who also showed greater orthodoxy, except as regards the Democrat Party (possibly because of that Party's preoccupation with monetary reform). The most orthodox of all were the law students save in the high showing of

(176) In terms of the two party system.

non-voters. The difference between male and female voting preference is striking in terms of degree. This could be a result of the high proportion of females in the Arts, a possibility that will be investigated(177). Also striking is the difference between first year and second year onwards voting patterns.

Question 27 sought a reaction to the word "capitalism", regardless of its meaning or its qualification by welfare statism in New Zealand: "Is capitalism a good organisational basis for society?": (1) Yes (14.21%); (2) No (44.21%); (3) No, but the best there is (23.15%); (4) Don't know (15.78%). 2.63% gave no answer. On a course of study basis the figures broke down as follows:

	Yes	No	No but the best there is	Don't know
sample	14.21%	44.21%	23.15%	15.78%
	8.13	56.97%	22.09	12.78
nce	4.65	39.53	30.23	23.25
	27.27	27.27	13.63	22.72
Commerce	30.76	33.33	23.08	10.25

Broken down according to sex the figures yielded the following:

27	Yes	No	No but the best there is	Don't know
al sample	14.21%	44.21%	23.15%	15.78%
les	16.15	39.23	26.15	15.38
males	10.00	55.00	16.66	16.66

(177) See page 65 post.

And according to year:

	Yes	No	No but the best there is	Don't know
~~ample~~	14.21%	44.21%	28.15%	15.78%
~~ear~~	6.97	53.48	25.58	23.25
~~year+~~	16.32	40.14	22.44	13.67

Once again it was the arts students who were to the forefront of change. Science students appeared to be ~~less quick~~ reluctant to affirm capitalism but also seemed less certain of the alternatives. Law students, as they were with the two major parties, were evenly divided on the absolute answers and exhibited the highest rate of apoliticism. Disregarding the fourth column, and combining the first and third, both arts and science students exhibited a majority against a capitalist system. Law and commerce showed a majority the other way. Once again the females exhibited a greater trend in the direction of change than males. First year students generally exhibited a higher rate of uncertainty than the others (columns three and four in the last table). However, far fewer of them were prepared to affirm capitalism positively, while their absolute rejection is greater than that of arts students taken as a group. It is tempting to view the first year response as being inconsistent with the response to question 13.

Question 17, given the publicity which the question has received, was likely to be a fairly blunt tool for picking up trends between different courses of study: "Should a South African Rugby team, on the present basis of selection, be permitted to come to New Zealand next year?": (1) Yes (16.31%); (2) No (77.36%); (3) Don't know (5.78%).

The breakdowns are as follows. According to course of study:

Q. 17.	Yes	No	Don't know
Total sample	16.31%	77.36%	5.78%
Arts	11.62	82.55	5.81
Science	20.93	72.09	6.97
Law	27.27	63.63	4.54
Commerce	15.38	79.48	5.12

A̶C̶C̶O̶R̶D̶I̶N̶G̶X̶X̶ According to sex:

Q. 17.	Yes	No	Don't know
Total sample	16.31%	77.36%	5.78%
Males	20.76	73.84	4.61
Females	6.66	85.00	8.33

According to year of study:

Q. 17.	Yes	No	Don't know
Total sample	16.31%	77.36%	5.78%
First year	20.40	75.51	4.08
Second year+	14.89	78.01	6.38

In spite of the fact that the issue involved in this question is a very broadly recognised one, the trends indicated in the first two questions were continued (178). Arts students again predominated in the "radical" stand. There was less of a tendency, probably because of the public debate which the issue has raised, towards the last column. This is

(178) The anti-tour stand has, in the past, been associated with "left-wing" politics, many denunciations, including that of the South African Prime Minister, Mr Vorster, proceeding on this basis. A better term might be "radical cause".

particularly noticeable amongst the law students who, for the first time had the lowest percentage in this column. Law students also exhibited the least opposition to the tour. Once again female students showed a more radical trend than their male counterparts, although they had a high last column reading. The first year students exhibited, again, the tendency towards "conservatism" that was apparent in their replies to the first question. It is reasonable to regard this issue as a political one in the context of student politicism as it is issues such as this that have catalysed conflict both in New Zealand and overseas.

Question 18 was an attempt to guage a measure of the commitment to the views expressed in Question 17: "If such a team does come to New Zealand will you: (1) Refuse to attend matches (19.47%); (2) Demonstrate against it (40.52%); (3) Attempt to harrassmembers of the team (6.31%)". Students were asked to tick any number or none. The figure for those intending to demonstrate includes those prepared to harrass members of the team since invariably they ticked both. 40% indicated that they would take no action. On a degree basis the figures break down as follows:

Q. 18	Refuse to attend matches	Demonstrate	Attempt to harrass members of the team	Do nothing
Total sample	19.47%	40.52%	6.31%	40.00%
Arts	15.01	52.34	7.00	32.55
Science	27.88	27.90	9.30	44.81
Law	9.90	41.71	9.90	50.00
Commerce	25.64	28.20	0.0	46.15

0

On a sex basis:

Q. 18.	Refuse to attend matches	Demonstrate	Attempt to harrass members of the team	Do nothing
Total sample	19.47%	40.52%	6.31%	40.00%
Males	20.00	36.92	7.69	43.07
Females	18.33	48.33	3.33	33.33

On the basis of the number of years at the university:

Q. 18.	Refuse to attend matches	Demonstrate	Attempt to harrass members of the team	Do nothing
Total sample	19.47%	40.52%	6.31%	40.00%
First year	12.24	46.93	2.04	40.81
Second year+	22.69	38.29	7.80	39.79

The hiatus (even allowing that refusal to attend matches is "action")
between opinion and action can be readily appreciated and will be dealt
with post. In accordance with the trend students attempting arts degrees
showed the strongest trend towards a radical position, although a higher
percentage of those attempting degrees in science and law were prepared
to commit themselves to the most extreme action. It seems that while
fewer law students actually opposed the proposed tour those who did were
more prepared to take action. Science students, apart from their higher
showing in terms of the most extreme action offered, seemed more content
to rely on the negative form of protest; that of staying away from the
matches. This leaves open the question of how many would have attended in
any event. Throughout the survey there was a tendency on the part of
science students (more marked than with the other three categories) to

adopt positions in the abstract, avoiding committment to action. Also
in accordance with the trend already established commerce students adopted
the most conservative approach, ~~in spite of the high reading under the
third column~~. The greater willingness on the part of some science and
law students to adopt an extreme position tempts the picture of a small
enclave in a hostile environment. Once again the position adopted by the
females was more radical than that adopted by the males although,
significantly, there was a low reading in the third column. This, for
the present at least, is to be expected. First year students seemed less
prepared to content themselves with a negative form of protest, relying
heavily on demonstrations while eschewing the possibility of harrassing
members of the Springbok team. There was thus a tendency on the part of first
year students towards the more familiar form of protest.

The final question (question 3) analysed in order to determine
trends according to course of study, sex and year of study, concerned an
internal University question: "As far as overall University development
is concerned, should students: (1) Be in the majority (10.00%); (2) Have
equal representation with staff (55.26%); (3) Be in the minority (26.84%);
(4) Be consulted only (5.78%); (5) Have no involvement (1.57%). A break-
down revealed the following: According to degree:

	Students in majority	Students with equal representation	Students in minority	Students consulted only	Students not involved
tal sample	10.00%	55.26%	26.84%	5.78%	1.57%
rts	10.46	56.97	24.41	6.97	1.16
cience	13.95	62.79	18.60	4.65	0.0
aw	4.54	36.36	45.45	9.09	4.54
ommerce	7.69	52.84	30.76	2.56	2.56

According to sex:

	In majority	Equal representation	In minority	consulted only	Not involved
sample	10.00%	55.26%	26.84%	5.78%	1.57%
	9.23	53.08	30.76	4.61	2.30
s	11.66	60.00	18.33	8.33	0.0

According to year:

	In majority	Equal representation	In minority	consulted only	Not involved
sample	10.00%	55.26%	26.84%	5.78%	1.57%
year	12.24	61.22	18.36	6.12	2.04
d year+	9.21	53.19	29.79	5.67	1.41

These results indicate a departure from the general trend. Science students made the strongest demand for participation in university government. The reasons for the greater radicalism of science students on this question are hard to find, especially in light of the fact that arts students lead the field on the other two questions (questions (1) and (2)) in this area (although by a more narrow margin than in other areas). The arts students, it should be noted, still took a more radical position on this question than the average. The most conservative position was taken up by the law students. This, again, is not completely in accordance with the trends previously observed. Females were again more radical than males although their position was less radical than that of the science students, as was that of first year students.

It seems safe to assert, then, that the strongest tendency towards radicalism at Victoria University, at least, is amongst those undertaking

what has loosely been termed an arts degree. It hardly needs pointing

out that included in this category are the social science students to

whom
~~which~~ both Blackburn (179) and Cohn-Bendit (180) (to name two) look for

"revolutionary impulse" (181). The radicalism of those students undertaking

a science degree was also reasonably high and tends to run against the

popular stereotype. Commerce and law students tended to display the

greatest degree of conservatism and this, ~~xxxx~~ like the reading for the

arts students, was cause for little surprise. There was a hint however,

                        commerce
(more so than in the ~~science~~ and arts categories) of a distinct rift

within ~~both~~ law ~~and~~ ~~commerce~~ student ranks. This was noticeable throughout

the survey and generally took the form of a willingness amongst those

with more radical views to indulge in more extreme forms of direct action

than was generally contemplated elsewhere. This "rift" may have something

                                      his
to do with a tendency in these ~~two~~ areas to move away from the "professio-

al qualification" approach.

Two points of interest were the radicalism of the female portion

of the sample and of the first year students. Much of the former may be

explained away on the basis that a high proportion of the female sample

was located in the arts, the only category in which there was a female

majority (which was very slight). Even if the question which this begs

                                            a
is ignored (182), however, this is not ~~the~~ total explanation since, for

example, the female response to the proposed South African Rugby Tour

was significantly more radical than that of the arts students (male and

female) taken together. The radicalism of first year students was slightly

(179) Student Power and Student unrest (op.cit.).
(180) (op.cit.).
(181) Term used by Cohn-Bendit.
(182) Are Arts students more radical because of the predominance of females
or are females more radical because ... etc.

capricious, allowing them to record majority support for the National

Party, and a slightly lower than average response to the South African Tour

issue alongside a stronger than average condemnation of capitalism, a

higher than average endorsement of the demonstration as a tactic and a

strong demand for participation in university government. Some of this

can no doubt be explained by the comings and goins from the column of

the undecided or non committal and there is obviously scope for further

analysis of the questionnaire in this area. A possible explanation, too,

is that those first year students who tend towards radicalism, like their

counterparts in the law ~~and~~ ~~science~~ sections, may be more violently

committed to their ideals in reaction to what may have been a repressive

or constrained environment. Analysis of the five questions also showed

that first year students <u>tended</u> to take on the colour of the area of

study in which they were involved. If the academic environment is

responsible for this it has taken effect quickly. Other surveys (183)

suggest that views may determine the course of study rather than the

converse.

In general the five questions analysed suggest a leftward lean

in the student body. The two most significant single points are a surpris-

ingly high degree of suspicion of the capitalist economy and an issue

(the proposed South African Tour) on which there is a high degree of

consensus in the student ranks. Both of these points may be of considerab-

le importance.

It remains to point out, before the <u>general</u> analysis is undertaken,

that the imbalance in the returns previously referred to is likely to

incline the results more towards the radical approach than in the opposite

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(183) Unpublished paper on Canterbury University Students and
the "drug culture". Also "The University Experience", Graham Little.
(M.U.P. 1970)

direction. The distortion, however, will probably be slight.

The survey was broken into three general areas: the university, issues and politics, and the law. The section on the university was, in turn, broken into two parts. The <u>first</u> deals with student demands for participation in decision making in the running of the university and attempts to measure their willingness to take action to have their demands met. The <u>second</u> deals with what have been described as "tradition- al" academic values and a measurement is attempted of the students' willingness to defend them. The distinction is of some importance since overseas student activists have tended to see it as the distinction between <u>the university</u> <u>being</u> <u>seen</u> to be objective and impartial, and actually <u>being</u> objective and impartial. The university must not only be protected from commercial and ideological pollution from without, the argument goes, but also from within - students are well suited, it is argued, to carry out the protective function (184). The following table indicates the demands for participation. The bracketed figures in questions (1) and (2) are taken from a survey carried out at the London School of Economics in 1967(185), those in question (3) from a survey of Durham students in 1970(186).

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(184) See <u>Student Power</u> (op.cit.) and interview with Robin Blackburn (op.cit.)

(185) See <u>New Society</u>, 4 November, 1971. Survey carried out by Stanley Cohen and Alan Waton.

(186) Durham response was "almost identical" to that of the London School of Economics students who were surveyed just after having "emerged from a sit-in". - See <u>New Society</u>, 4 November, 1971.

	Students in majority	Equal students and staff	Students in minority	Students only consulted	No students involved
...inting f.	2.6% (1)	35.8% (8)	26.9% (20)	24.7% (27)	10.5% (42)
...iplining tudents	32.1 (12)	50.0 (42)	11.5 (29)	5.2 (9)	1.0 (6)
...all ...versity ...elopment	10.00 (1)	55.2 (28)	26.8 (44)	5.7 (20)	1.5 (7)

It is evident that the desire for participation at Victoria University in 1972 is significantly higher than that at L.S.E. and Durham in 1967 and 1970 respectively. There is an area which appears to be perceived as an of immediate concern to students (disciplinary procedures (187)) and a degree of hesitancy concerning staff appointments. In the former a total of 82.1% want student equality or better. In the latter 65.3% would like some formalised procedure by which the student opinion is heard and taken into account. This would involve considerable departure from current practise. The desire for equality or better on questions of overall university development runs at 65.2%. This also would involve considerable departure from current practise. It is difficult tp imagine the University Administration making the concessions asked. Arts students took up the most radical position on questions (1) and (2), science students lead the demand for paticipation in question (3). In terms of political allegiances students expressing an intention to vote for the Values Party took the most radical stance followed closely by non voters. Students whose allegiances were with the Labour Party were next, followed by National Voters. Those voting for the remaining parties (New Democrat Party,

(187) Early in 1972 there was a possibility of disciplinary proceedings being taken against students who participated in a demonstration against delegates at the Pacific Basin Economic Council Conference.

Social Credit and Communist) took the most conservative position.

Question (4) sought to measure the extent to which students were prepared to take action in support of their opinions on questions (1), (2) and (3). While all of the sample had at least one demand to make beyond "non-participation" a lesser number (86.1%) were prepared to take any action. Of these 55.7% (of the total sample) relied on discussion with members of staff or negotiation with the University administration while 30.4% were prepared to go beyond negotiation to demonstration (16.3%); sit-in (8.9%); disruption of University Council meetings (2.6%). Another 2.6% were prepared to take "more extreme" action. The sample exhibited the expected trend on a degree basis with arts students generally the most willing to take action beyond ~~demonstration~~ negotiation. First year students once again gave strong endorsement to the demonstration technique but tended to eschew sit-in, disruption, etc. An interesting point was the assertion of what might be called the "Castro Syndrome" on the part of radical law students (not a large portion of the law students taken together). These students constituted almost 45% of those willing to disrupt Council meetings and take "more extreme" action. The radical showing of supporters of the Values Party in the previous questions was not repeated when it came to action. The most radical group were the non voters (the majority of whom were prepared to demonstrate or go beyond). Non voters, who constituted 15.88% of the sample, constituted 40% of those who were prepared to disrupt Council meetings or take more extreme action (the other 60% was accounted for by Labour supporters (40%) and Values Party supporters (20%). It will be remembered that the law student section contained a high proportion of non-voters (27.27%). Labour Party and Values Party supporters

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exhibited about the same willingness to take action while National support-
ers evinced a high degree of conservatism, only 12% being prepared to
demonstrate, and none to go beyond this. This conservatism also character-
ised supporters of the remining political parties, save the three
Communist Party supporters.

The trend, then, was a high demand for participation in the running
of the university accompanied by a falling away when it came to action.
Nevertheless the 30.4% who were prepared to demonstrate or go further
represent a large proportion of the university population.

Questions 5 – 12 were designed to test attitudes towards the
university and its much vaunted inviolability as a place of learning, and
the extent to which students were prepared to take action to protect
the values they (impliedly) supported. 69% of the sample thought that
the university should not involve itself with any research or other
assistance for the New Zealand armed forces. Science students tended to
lean towards the other view as did National Party supporters (the only
political grouping to have a majority in favour of such involvement).
Labour Party supporters showed the strongest opposition to involvement
followed by Values Party supporters and the non voters (about equal).The
complexion changed when the sample was asked to consider the question
in terms of involvemnt with (including the leasing of land) with the
military of any other country (188): 83.2% showed opposition. The order
of political groupings did not change, National Party supporters – in
contrast to the last question – showing a majority against. There was eviden
ce of a swing amongst science students.

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(188) Canterbury University currently leases land to the U.S.A.F. One
Victoria University Department has undertaken research for the same
Organisation.

Most of the sample (91.5%) were prepared to have members of the Police Force on the campus as students. What opposition there was came from Values supporters and non voters. Labour Party supporters were less opposed than were those of the National Party. Opposition strengthened considerably, however, when it came to having members of the Police Force ±on the campus in their official capacity. 58.5% of the sample were opposed, the strongest opposition, in terms of degree course, came from arts students, in terms of political allegiance or voting intentions, from Values and Labour supporters and the non-voters. National Party supporters showed a majority the other way.

A similar trend was discernable re security agents on campus although, not suprisingly, the opposition was stronger. In light of past controversies (189) it was surprising that 62.7% of the sample were prepared to tolerate security agents on the campus as students. The strongest opposition came from the non-voters followed by Values and Labour Party supporters. As with the question concerning the police, opposition strengthened considerably when it came to having security agents on the campus in their official capacity, 85.3% being opposed. Values Party supporters were 100% opposed followed by Labour Party supporters (95.5% opposed) and non-voters (90%)opposed).

Overall, it seemed that the sample was opposed to involvement with military research, an opposition which grew in strength where the research was on behalf of the military of overseas countries. There was a general wil willingness to have Government officers on the campus as students but the willingness tended to dissipate (with Security agents, almost completely) where

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(189) See SALIENT, special issue of April 17 , 1969.

the officers were involved in official business.

The sample was more prepared to take action to defend the principles involved here than they were to further student participation. 8.42% saw no need to take action; 9.47% were willing to hold discussion with members of the university staff; 28.42% would negotiate with the university administration; 30.52% would go as far as a demonstration; 12.10% were willing to take part in a sit-in; 7.36% to disrupt university Council meetings(190); 3.68% would take "more extreme" action. In all 53.68% of the total sample were prepared to go beyond negotiation with the university administration. Again Values Party supporters, after a high showing in the abstract, tended to back away from the more extreme forms of action, as distinct from Labour Party supporters and non-voters. The non-voters constituted 23.3% of those who were prepared to either disrupt University Council meetings or take more extreme action. The "more extreme action" group taken alone owed 42.8% of its total number to the non-voters (the rest were predominantly Labour (28.5%) and Communist (14.2%) Party supporters. The most conservative position was taken up by the National Party supporters, 69.09% of whom would not demonstrate or go further.

Again, then, there was evidence of a tendency to take a stance in the abstract accompanied by some reluctance to take action. This falling off, however, is not as great as has been measured overseas(191). It is difficult to evaluate, of course, to what extent this preparedness to act would or will actualise. On the one hand there may be a tendency to

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(190) Assuming the Council were somehow at fault.

(191) Cohen and Waton's study, NEW SOCIETY (op.cit.)

act out fantasy on paper, on the other overseas experience suggests that once action commences students who thought themselves to be conservative tend to be drawn in. This will be discussed further post.

Questions (11) and (12) sought to establish student opinion on Government control over the University. 77.4% of the sample were of the opinion that the government should not have the power to direct the University's efforts"into fields which the Government perceives as being of the greatest importance to the country". 100% opposition came from Values Party supporters, 90% opposition from non-voters and 85% opposition from Labour Party supporters. The weighting in terms of course of study was according to the trend established earlier with the exception of science students who were slightly less "radical" than in other areas. Precisely the same opposition (77.4%) was recorded to the proposition that the Government should "have the power to curtail the bursaries of those students who persistently direct themselves more towards political agitation than to study"" Surprisingly, opposition from Values and Labour supporters and non-voters dropped as compared with the previous question, the same level of opposition overall being achieved by reason of a rise in the National (and other) Party supporters' figures. The drop in the Values, Labour and non-voters figures, compared with the previous question, was in a sense a specific example of the general picture: students are more prepared to take action on behalf of the University than on behalf of themselves or their fellows — they seem to be a little more at ease defending traditional academic rights (including open entry to all who wish to enter as students) than asserting new ones. Nevertheless, it seems safe to assert that the questions regarding student participation

and the readiness to take action in support of demands for it would not have evoked the same response five years ago. There seems to be a large measure of agreement on the desirability of significant participation.

The final question in this section involved a limited choice regarding the University's role in society. The more traditional view - the dissemination of knowledge - received 58.9% support (with strong support from Labour supporters). The newer role (one for which universities have been subjected to much criticism because of alleged over emphasis) - training people - received 19.4% support (with strong support from National Party supporters). The other possibilities offered (both of which have been emphasised by student radicals overseas) - "criticising society" and "coming up with new answers" - received ~~15.2% and~~ 6.3% and 15.2% support respectively (with the greatest support coming from Values supporters and non-voters.

The second section of the questionaire was headed "Politics and Issues" and commenced with the question on voting preferences which has already been discussed (35.26% for Labour, 28.94% for National, 11.05% for the Values Party with 15.8% preferring not to vote).

The next question (question 14) established that 12.6% of the sample belonged to political groups. This was in contrast to the findings of Cohen and Waton at Durham University where membership of political organisations was found to be extremely low (192). 27.2% of this 12.6% were non voters. Labour and Values Party supporters also exhibited a disproportionately high membership rate. This is in accordance with the picture that has emerged of activism and radicalism within the

(192) See NEW SOCIETY (op.cit.)

Labour, Values and non-voting groups. Question (15) asked those who belonged to political groups to assign them to the right, left or centre according to their understanding of these terms. All of the non-voting group who were members of political organisations recorded membership of left-wing organisations; this was also true of all but one of the Labour supporters. Values supporters belonged to either left-wing or centrist groups. In all 70.8% of those belonging to political organisations perceived their particular organisation as left-wing.

Question (16) sought views as to the efficaciousness of parliamentary democracy as practised in New Zealand. Four choices were given: (1) Reasonably satisfactory (27.3%); (2) Unsatisfactory but the best there is (7.8%); (3) Unsatisfactory but could be improved (48.9%); (4) Unsatisfactory when we could have a different and better system (14.7%) Supporters of the Values Party and the non-voters took the most radical position, around 28% of their number opting for the fourth alternative, and just over 50% of their number opting for the third. This was to be expected especially from the non-voting section. 66.5% of the Labour Party supporters opted either for the third or fourth alternatives. 43.6% of the National Party supporters took the view that the system was reasonably satisfactory. National Party supporters showed a higher than average reading on the second alternative. Supporters of the remaining parties showed the same trend as the National Party supporters with the difference that a majority opted for the first alternative. Putting the third and fourth alternatives together there is evidence of a quite high degree (63,6%) of dissatisfaction with the way the Parliamentary system operates. It should be noted that this dissatisfaction was not quite as high amongst first year students.

Question (17) dealt with the proposed South African Rugby Tour and has already been covered. It needs only to be noted that 77.36% opposed the tour, that the greatest opposition came from the Labour and Values groups followed very closely by the non-voters.

Question (18) has also been dealt with (action taken in opposition to the proposed tour). Again the Values group tended to stop short of the most extreme action (harrassment of members of the team) the figure for which was 6.31% of the total and was largely made up by Labour supporters and non-voters. The latter group included again a disproportionately high number of law students.

Question (19) sought views on the violent overthrow of white regimes in Southern Africa. With an issue not immediately concerning them, the sample took a more cautious or conservative approach. 26.3% were in favour (Values Party supporters 50%, Labour 36.6%).

The next four questions dealt with the Vietnam War. A high proportion (84.2%) expressed opposition to the present American bombing policy. Once again there was a falling away when it came to action: 55.7% expressed the willingness or intention to take action. This percentage broke down into three categories: (1) Letter of protest to the American Ambassador (3.15%); (2) Demonstration (43.3%); (3) Willingness to disrupt any speaker attempting to justify the American policy (6.3%). Once again the Values Party supporters (who had expressed the greatest percentage opposition to the bombing - 93.3%) contented themselves with protesting by demonstration (as did first year students). Labour Party supporters and non-voters constituted the bulk of those willing to practice disruption. On the question of support for a North Vietnamese

victory in Vietnam the same caution was shown as regards the violent

overthrow of white regimes in Southern Africa. 27.3% favoured such a

victory, the majority of this group being non-voters and Labour Party

supporters. Unfortunately, however, this result is not totally satisfact-

ory since no provision was made for those who favour a National Liberation

Front victory.

As far as New Zealand's past involvement in Vietnam was concerned

only 28.9% indicated that they supported it. Of that 28.9%,74.0% were

National Party supporters. These four questions tended to indicate that

students are a little more united in their opposition to the War (and

a little more ready to translate that ppposition into action) than they

are in their opposition to the South African Rugby Tour.

Questions (24) and (25) sought opinions on demonstrations and

are of interest in light of the indicated willingness to indulge in

militant action. 77.3% of the sample thought that peaceful demonstrations we

were effective and 19.4% (with a strong showing of the Labour and non-voting

groups) attributed effectiveness to violent demonstrations. Arts students

and law students constituted the greater part of this latter group. It

was noticeable that first year students and females tended to withhold

support for violent demonstrations. In response to the question: "Is

it likely that you will demonstrate at any time in the future?" 64.7%

(including many who had indicated that they thought demonstrations were

ineffective) answered "yes". There were high readings from arts students,

first year students, non-voters and Labour Party supporters. 40% of the

of the National Party supporters anticipated demonstrating. The total

figure exceeds the figure given in response to specific issues and the inconsistency that the question might have detected did not emerge. It does, however, lead to speculation as to the nature of the issue that would attract that much support.

Question (26) was designed around a favourite theme of student radicals in the United States: "Is the government receptive to the wishes of the people?" The answer allowed of no qualification, "yes" or "no" being stipulated. 42% answered "yes", 46.3% "no". 11.5% gave no reply. High amongst the "no's" were non-voters and Labour supporters. In light of the replies to the question concerning the efficacy of parliamentary democracy, it is unlikely that all of those who answered "no" think of the problem as being wholly attributable to the present government.

The final question in this section sought a response to the word "capitalism" and has already been covered. It is worth recalling that ~~44x21~~ 44.21% of the sample were of the opinion that capitalism was not a good organisational basis for society and 14.21% that it was. Values Party supporters made a lower than usual showing on the radical side in this question, tending towards the view that capitalism was unsatisfactory but, nevertheless, the best there is.

Answers to questions in this section then, reveal a fairly high degree of dissatisfaction with the political and economic basis of our society and a radical approach on questions such as racism and the Vietnam War (with ~~sat~~ a tendency, however, not to side with the party generally seen as the underdog). Of some surprise was the high endorsement of demonstrations, particularly violent demonstrations. It seems clear, from the answers, that student dissatisfaction goes beyond the particular

and current major issues.

The third section entitled "The Law", was intended to draw out attitudes towards the law and also to detect any withdrawal from the legal system.

In response to the first question 38.4% of the sample felt that the law in New Zealand restricted their "freedom" too much(193). Of the political groupings only the non-voting and the Labour group exhibited a majority in this direction.

Question (30) asked whether or not New Zealand's laws advantaged certain people or certain classes of people. 70.2% of the sample answered "yes". 90.1% of the Values Party supporters thought this the case, 76.6% of the non-voters and 71.7% of the Labour supporters. All political groupings showed a majority for the proposition that laws, did in fact, advantage certain groups. Question (31) established that the greater number thought that the law advantaged the rich as against the poor. Slightly less than half, however, thought that the law advantaged the majority as against ethnic groups. This is surprising given the present publicity being given to of racial questions. The two propositions (rich against poor, majority against ethnic groups) may well amount to the same thing. The response tends to indicate the opinion that New Zealand laws discriminate against ethnic groups by accident, the real disadvantage being to the poor in general. (194)

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(193) It is not particularly important what meaning is attached to this word, the question being designed to determine whether or not students felt unduly restrained by the law.
(194) All previous opinion trends amongst the various groups were continued. Unless otherwise indicated it can be taken that this is the case with all subsequent questions.

Question (33) asked: "Do you think your personal opinions/ principles/ beliefs are more important than laws?" 78.9% of the sample answered "yes". Noticeably in this response was the unanimous opinion in favour of personal beliefs of students supporting the Values Party. Given their more conservative showing in terms of action this response seems a little anomolous. It could be, however, that this grouping had civil disobedience rather than violent action in mind.

Again there was a falling away when it came to translating belief in personal ideals over the law into action. 53.19% were prepared to break the law openly in support of their beliefs while 22.1% were prepared to break the law only if there were little chance of apprehension. This measures, in a blunt way, the deterrant effect of the law. It should be noted that those actually prepared to breach the law constituted 75.29% of the sample whereas 78.9% were of the opinion that their personal ideals were of greater importance than the law. The 3.61% difference might be attributable to timidity. Once again Values Party supporters made a higher showing than their earlier answers tended to indicate would be the case. This may merely be a result of the fact that the issues on which willingness to take extreme action was tested were not seen as vitally important.

Question (36) asked whether laws are an expression of the prevailing political ideology. 60.5% answered in the affirmative, 31.7% in the negative. The remaining 7.9% gave no reply. This response indicates a higher degree of realisation of the relativity of laws and tends to conform to the trend dicernable amongst students overseas. (195)

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(195) See The Student Rebellion (supra).

In response to the question: "Would you be confident of a fair trial in a New Zealand Court?" 70.0% answered in the affirmative, 26.4% in the negative. The highest suspicion was amongst Values Party supporters (50.0%), Labour Party supporters (35.5%) and non-voters (30.0%). First year students tended strongly towards the view that a fair trial is obtainable.(196)

Question {40} sought to determine whether a significant number of students would prefer to defend themselves if charged with a criminal offence. Only 8.9% answered in the affirmative and this could be accounted for by law students alone.

95.8% of the sample would generally report to the police if they saw a crime against the person being committed. A disproportionate number of non-voters figured in the remaining 4.2%. There was a general falling away (particularly amongst Labour supporters) when it came to reporting property crimes. A high proportion (73%), however, indicated that they would generally make a report. National Party supporters took up almost the same stance on this question as on that concerning crimes against the person.

In response to the question: "Could refusing to obey the law be a good political tactic?" 62.6% answered in the affirmative, all political groupings except National Party supporters showing a majority in this direction. First year students and females seemed slightly less radical, in this respect , than was normally the case.

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(196) This response tended to indicate to which sector of the community students generally regarded themselves as belonging. The majority obviously felt that they did not belong to the groups which the law discriminates against.

By way of summary it might be said that students do not, as a whole, tend to offer the law unswerving allegiance. Where the law runs counter to their beliefs a significant number are prepared to disregard it. This does not mean, however, that there is a significant withdrawal from the legal system. Less doubt was expressed about the law than about the economic and political organisation of New Zealand society, although it was recognised by a large number that the law was an expression of underlying political and economic ideology. There was an element , however, that did exhibit a significant degree of mistrust of the legal system, the same element - a section of the non-voters, supporters of the Values Party and supporters of the Labour Party - that exhibited a high degree of radicalism in the other sections.

Finally, in this section, the opportunity was taken to test student opinion on areas of the law that appear to be currently under attack. Areas selected concerned the use of marijuana, the distribution of heroin, the procuring of abortions by non-qualified persons, the procuring of abortions by doctors, and the law relating to homosexuality. The students were given four options in each: penalties toughened; penalties lessened; penalties removed; and penalties as at present. The results, on a percentage basis, were as follows:

	Penalties toughened	Penalties lessened	Penalties removed	Penalties as at present
...uality	4.7%	12.6%	67.7%	14.7%
...w against ...e of ...ana.	11.5	24.2	47.8	15.7
...w against ..."street" ...onists.	75.2	1.0	5.2	18.6
...aw against a ...fied doctor ...g abortions	8.9	14.2	61.6	15.3
...aw against ...istributer ...eroin	77.1	1.0	2.1	19.8
...law against ...ditributer of ...juana	30.0	20.0	33.6	16.4

Generally the most liberal responses are fom from the sections

that showed the greatest political radicalism. An interesting feature

was the way in which those seeking liberalisation of the law belaboured

the distributor of heroin and the back-street abortionist with "tougher"

penalties. An interesting point is raised here concerning the "transfer

of aggression", a point that could be of some significance in relation to

law reform.

The last question in the questionaire asked students to evaluate

any movement in their political views since commencing university

education.

	To left	To centre from right	To right	To centre from left
Arts	51.1%	15.1%	8.1%	10.4%
Science	30.2	32.5	13.9	13.9
Commerce	43.5	28.2	5.1	15.3
Law	36.3	19.9	18.0	9.9

Overall 22% felt that they had moved in a rightwards direction; 68.9% recorded a move in the opposite direction; 5.2% recorded no change and 7.3% made no reply. It can be seen that, the large majority of students feel that they have moved leftwards. It may well be that this ~~is merely~~ ~~accordance with~~ reflects the expectations they had concerning the nature of a university education. The result is significant to the extent that the direction to which students think that they are moving tends to be accelerated when sides are chosen.

CONCLUSION

Many difficulties with the questionaire proceed from the necessarily vague terms that were used. What was sought was a general picture of the university population as it perceived itself. It was unfortunate that individual questionaires could not be checked through scientifically to measure consistency. A rough method of evaluation, however, was worked out and showed that most students were highly consistent in radical or conservative views. There was, however, a slight inconsistency evident amongst first year students. The picture that emerges is one of a potentially volatile university campus, confirming the view recently expressed by the NZUSA President that the Victoria campus was politically the most active in Australasia. Majority support went to the Labour Party

but the political division thus expressed did not prevent a high degree of consensus in traditional areas of student concern - participation in university government, opposition to the Vietnam War and opposition to racism. The relative readiness to partake of direct action (though tending to fall away in relation to the principle involved) seems in marked contrast with Cohen and Waton's findings at Durham. The students, besides agreement on specific issues, also appeared to show a consensus on issues basic to New Zealand (or any) society]. There was a mistrust of the economic system, mistrust of parliamentary procedure and a mistrust (though less) of the operation of the law. There was a persistent group in the non-voters (who generally displayed a high degree of radicalism) who seemed prepared to take protest and action further than is commonly accepted. This group, combined with a similar group from the Labour supporters, appeared to have distanced themselves from "the system" to some degree. The writer would estimate that about 7 - 9% of the sample could be described as "hard core" militants. Extended through the university population this would delineate a group of some size.

Although the potential for militant action appeared to be present on paper, there is no way of predicting whether or not it will actualise. Much could depend on whether or not a South African rugby team comes to New Zealand next year. Such an issue could unite the students and carry them over into the other issues (economics and political organisation) on which they appear to have strong views. Much, also, may depend on the prominent student activists. Graham Little, in his study of Australian

National University students (197), recorded that many students reacted badly to the abrasive approach of many student radicals, withdrawing themselves from action they might otherwise have participated in. In this light the election of a radical President by the students at Victoria for the 1973 year might take on an added significance.

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(197) The University Experience (M.U.P.,1970).