

SIX SCORE YEARS AND TEN: DEMOGRAPHIC TRANSITIONS IN THE AMERICAN LEGAL PROFESSION, 1850–1980

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This paper employs data from the United States Census to raise questions about the historical demography of the legal profession in the United States between 1850 and 1980. I describe in turn (1) national lawyer population trends, (2) regional shifts in the number and ratio of lawyers to population, and (3) changes in the gender composition of the profession. The paper then considers issues concerned with demand theories of lawyer population dynamics, monopoly and supply theories, and theories of gender segmentation.

Research on the legal profession in the United States has preferred the intensive focus of the methodological microscope to the telescopic sweep of demographic inquiry. Microscopic scrutiny has revealed much: Lawyers have been classified by type (Wood, 1967; O’Gorman, 1963), sorted by classes (Heinz and Laumann, 1982), characterized by habitat (Smigel, 1969; Carlin, 1962; Landon, 1982; Nelson, 1981), and differentiated by gender (Epstein, 1981; Fossum, 1980). Their dress, movements, contacts, work, friends, and gods have all been boxed and labeled. Rarely, however, have particular communities of lawyers been viewed in the context of entire populations. More rarely still have these populations been followed over generations. The historical demography of this entire professional population thus presents a glaring gap in the modern sociology of American lawyers.

The one notable exception is the *Lawyer Statistical Report* (American Bar Foundation, 1956; 1972). Elaborated and refined over the thirty years since its first appearance, the *Report* provides a profile of the entire population of lawyers—where it is concentrated and where it is dispersed, where it is educated and

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where it is employed, where it has expanded and where it has contracted—in short, a macroscopic view and a painstaking accounting of a national occupation over more than a generation. The 1985 *Report* (Curran *et al.*, 1985) exceeds all of its predecessors in the comprehensiveness of its information. In this latest report, three themes stand out in bold relief: the staggering growth of the national lawyer population over the last decade and a half; the rapidly altering balance of lawyers' work settings; and the dramatic entry of women into legal practice.

This article complements Curran's synopsis of the *Report* (Curran, 1986) by narrowing the scope but lengthening the time horizons of the lawyer population. In so doing, it places the detailed descriptions of lawyer changes over the last 5 and 30 years in a much longer but more circumscribed demographic context. I shall draw upon rather different but complementary data sources neglected by sociologists of professions, namely the United States *Census* for each decade point from 1850 through 1980. I shall conclude by attempting to place both Curran's narrower but more richly described historical segment and my broader but less detailed account in a wider theoretical context. Census data by themselves are barren. However, when we heed both the theoretical interpretations these data suggest and pose the theoretical questions they can answer, the full merit of a theoretically sensitive demography becomes quite manifest.

The present paper can offer only a sample of the population changes that occur over generations and the plethora of inquiries they stimulate. Indeed, it offers only the barest glimpse of a vast terrain of historical demographic territory that is almost completely unexplored and yet whose practical consequences and theoretical implications are enormous. Taking advantage of the extraordinary resources of the census, I shall place the experience of the past thirty years in the context of changes in lawyer population between 1850 and 1980. The paper treats in turn (1) national lawyer population trends, (2) regional lawyer population trends, and (3) gender lawyer population trends.

I. NATIONAL LAWYER POPULATION TRENDS, 1850–1980

The most startling demographic transitions meticulously recorded by Curran (1986) for 1950 to 1980 are the massive increase in the number of lawyers and the rapidly rising lawyer to population ratio. How do these changes relate to the long-term development of the American legal profession?

Three alternative profiles of this long-term growth (over a

period of more than 100 years) might be expected. First, the profession and the population might steadily expand and thus the lawyer to population ratio would remain relatively constant—a straight-line, or steady-state, model. Second, the profession's growth might follow a rather more dynamic step profile, with expansion succeeded by a plateau of consolidation, which in turn yields to further expansion as population and demands for legal services increase. A third hypothesis posits even more fluctuation—a cyclical, or wave, model in which the institutions of the profession press for expansion, followed by contraction as economic circumstances reduce demand, and then return to expansion as demand outstrips supply (cf. Pashigian, 1978). Each of these models, of course, is based upon an implicit theory of lawyer labor force dynamics, an issue to which I shall return in a later section.¹

A. *National Population Trends*

Figure 1 indicates that the United States population expanded in a relatively straight line from 1850 to 1980, but that the expansion of the legal profession did not correspond exactly. Indeed, the growth in the profession better approximates a somewhat smoothed-step function. From 1850 to 1870, the lawyer population tracked the general population in a slight expansion; but, whereas the number of lawyers almost doubled from 1850 to 1870, it tripled from approximately 40,000 in 1870 to about 115,000 in 1900.² The next twenty years represent another plateau, when the profession increased only marginally. Expansion occurred again rather more rapidly through 1930, followed by a plateau until 1950, when the profession began the pronounced growth noted by Curran (1986). Therefore, until 1960—or even 1970—the absolute growth in the number of lawyers followed a reasonably discernible pattern. It was only the last decade that witnessed growth in the lawyer population at a rate without precedent in the previous 140 years.

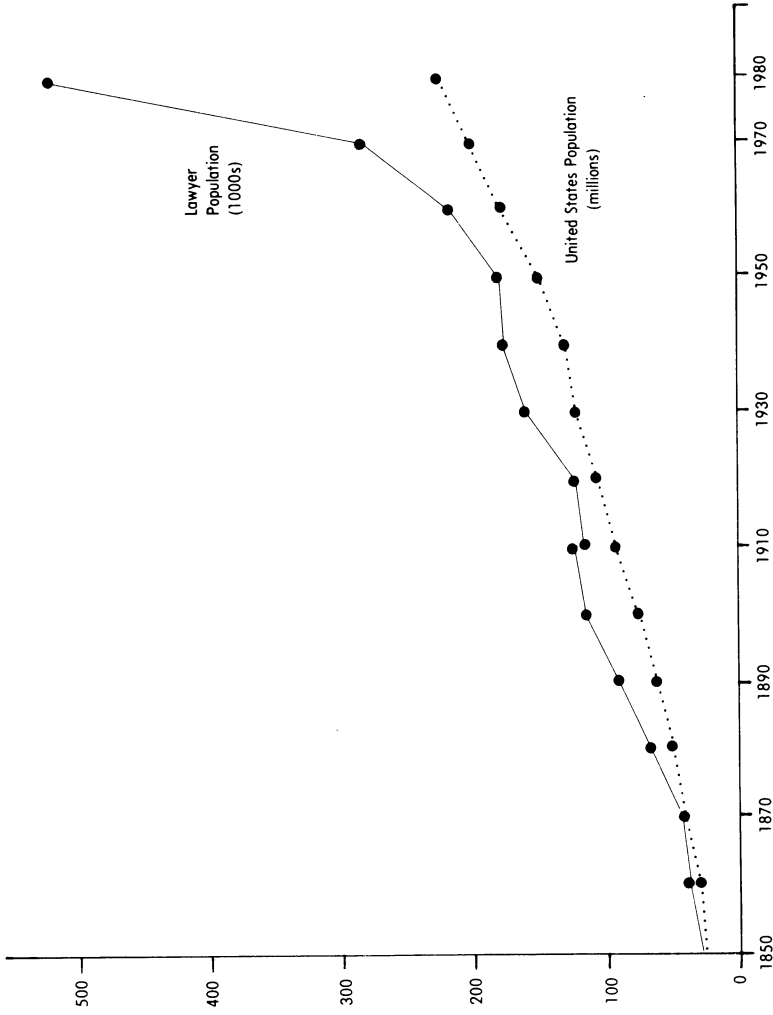
B. *National Lawyer to Population Ratios*

The comparison of general and lawyer population expansion in Figure 1 makes it clear that, although the latter has

¹ Of course, other hypotheses might also be advanced. The profession, for example, might grow at a rate steadily higher or steadily lower than the population. But there seems no convincing reason to expect either course of development at our present limited state of knowledge.

² A change occurred in 1910 in the definitions of lawyers. Before 1910 semiprofessionals (notaries, abstractors, and justices of the peace) were included; from 1910 to the present, they were given a separate category.

Figure 1. Growth of the Legal Profession and United States Population, 1850–1980



more or less kept pace with the former, the relationship has not been invariant. Figure 2 expresses the ratio of lawyers to population. If the profession's growth were determined entirely by population, the lawyer to population ratio would be constant. In fact, if the absolute size of the profession follows a step profile in Figure 1, the relative size of the profession in Figure 2 more closely approximates a wave profile, with long-term alternations between expansion and contraction. Between 1850 and 1870, the ratio was fairly steady: 1.03 lawyers to every 1,000 population at the beginning and 1.07 at the end. It then rose steeply to 1.5 in 1900, but then contracted to 1.16 in 1920. A smaller wave occurred between 1920 and 1960: In the first two decades the ratio rose from 1.16 to 1.35, but in the last two decades it fell back to 1.21 as the increase in the general population caught up with the earlier growth among lawyers. Since 1970 the ratio has increased rapidly to historically unparalleled levels. Finally, for most of the past 140 years the ratio has averaged around 1.25 lawyers to 1,000 population.

The graphic representation of proportional changes is a useful corrective to demographic analyses that concentrate exclusively on absolute size. Although the absolute number of lawyers has been increasing in steps, the 1920 ratio of lawyers to general population resembled that of 1870, the 1940 ratio resembled that of 1885, and the 1960 figure resembled that of the late 1870s. Hence, it is a salutary reminder that the lawyer to population ratio in 1960 was very similar to what it had been eighty-five years earlier. Moreover, the twentieth-century profession regained its 1900 ratio of lawyers to population only in the early 1970s. In the long-term historical perspective, therefore, until the late 1970s the expansion of lawyer population

Figure 2. Ratio of Lawyers to Population, United States, 1850–1980

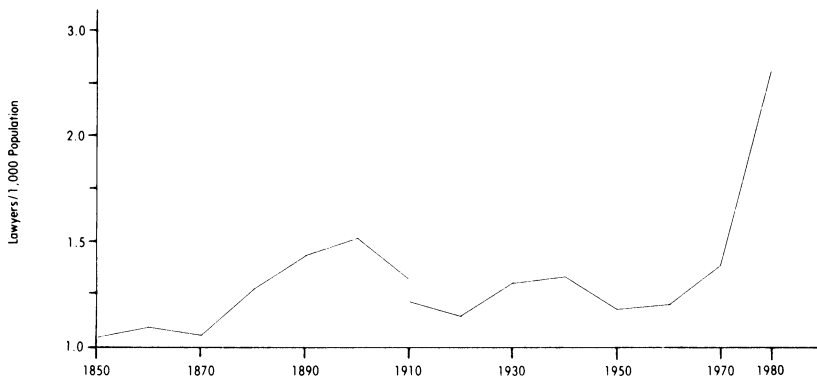
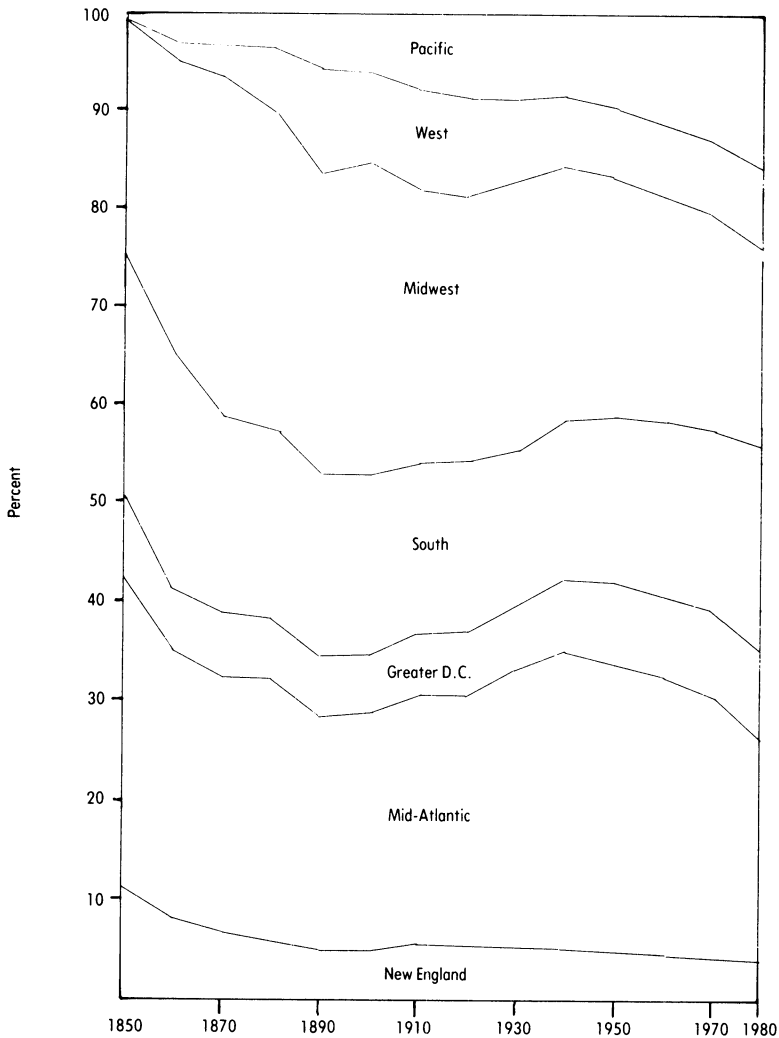


Figure 3. Regional Distribution of Lawyers, United States, 1850–1980

that began in 1960 appeared only slightly more dramatic than that which had begun in 1870. Consequently, there is a suggestion from the data that the ratio of lawyers to population may be following half-century cycles from peak to peak, or trough to trough, in successive waves.

II. REGIONAL LAWYER POPULATION TRENDS, 1850-1980

National population transitions mask regional variations. Surprisingly, little or no work has been done on the migration of lawyers, a gap in research especially unfortunate because in-

formation on interstate mobility would make it possible to test economic and population theories of lawyer distribution.

A. *Regional Distribution of Lawyers*

Figure 3 presents a breakdown of lawyer concentration by region over time. The country is divided into seven regions.³ “Greater D.C.” includes Washington, D.C., Virginia, Maryland, and West Virginia because so many lawyers resident in those states actually work in the District.⁴ The width of a band at any point in time represents the size of that region relative to others. By comparing regions over time, patterns of population shifts readily can be discerned.

The decline in the concentration of lawyers in New England occurred most strikingly between 1850 and 1890; thereafter the proportion of lawyers in that area remained fairly constant. The mid-Atlantic states also experienced a decline, from 31 percent in 1850 to 24 percent in 1908, followed by a return to the 1850 level in 1940, and then a sharp contraction to the 1890 level by 1980—that is, a double wave of contraction and expansion relative to the rest of the country. Rather surprisingly, the Greater D.C. area maintained a fairly stable proportion of the national lawyer population for 130 years.⁵ Although there was a modest decline from 1850 through 1910 and then a slight incline more recently, the figures for the region fluctuated only between 5.9 percent and 9 percent for the entire period.

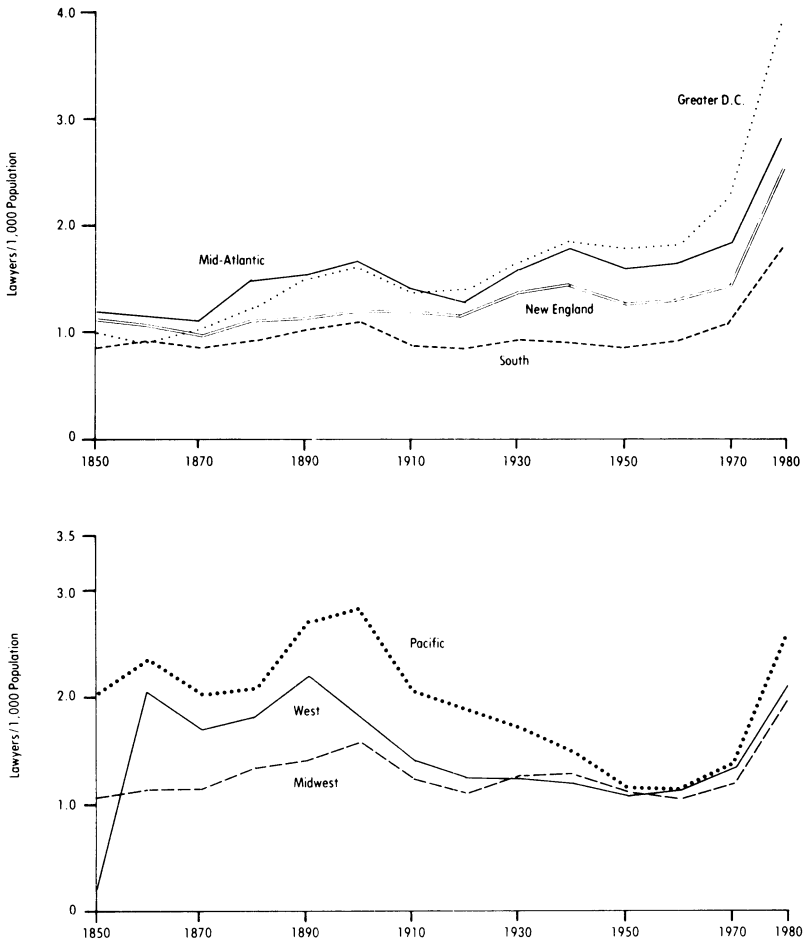
The distribution of lawyers in the South declined by about one-third between 1850 and 1940, when this region included 16 percent of the national lawyer population, but there was a modest recovery subsequently. Although the Midwest, like the South, contained one-fifth of the profession in 1980, it reached that proportion by a different pattern: Its proportion expanded rapidly from one-quarter to one-third of the profession between

³ See Appendix notes for the states included in each region.

⁴ The coding of the District of Columbia presents a problem because it is the most acute instance of the disjunction between lawyers’ place of work (on which most theories are based) and lawyers’ residence (which is provided by the census). Three alternatives may be used in coding: (a) treating the District alone, which suppresses the very high proportion of lawyers who in recent decades have lived in adjacent states; (b) including contiguous states in later decades, which alters the unit of analysis in mid-time series; and (c) including contiguous states from 1850, which overestimates the size of the District in the earlier period. For present purposes, we judge the last alternative to be the most satisfactory resolution of this problem, although the bias it introduces should be considered when interpreting regional changes.

⁵ See n. 4 above. This lack of change may be an artifact of coding judgments.

Figure 4. Regional Ratio of Lawyers to Population, United States, 1850–1980



1850 and 1870 and thereafter steadily declined to its present level.

The Pacific states display the most noticeable proportional gain: Their share of the national profession grew steadily from 1 percent in 1850 through 6 percent in 1900 to 9 percent in 1950 and 16 percent in 1980. The West followed a similar course from 1850 to 1890, then held steady for three decades, but declined to about 8 percent in 1930 and fluctuated near that proportion thereafter.

Several general regional trends are worthy of recognition. First, the percentage of the lawyer population in the Northeast—namely, the New England, Mid-Atlantic, and Greater D.C. areas—contracted from 50 percent of the profession in

1850 to 35 percent in 1980. Second, the proportion in the West and Pacific states expanded at the partial expense of the Northeast, from 1 percent in 1850 to 24 percent in 1980, with most of this expansion occurring in the Pacific states. Hence the two monotonic changes in regional distribution of lawyers can be found in the Northeast, where there was a steady decline, and in the West, where there was a steady expansion. Viewed a little differently, most variability over time in the regional distribution of lawyers occurred in the West and Pacific states, whereas most constancy occurred in New England and the Washington, D.C., area.

B. Regional Lawyer to Population Ratios

From Figure 2 it appeared that the lawyer to population ratio followed a very long-term wave pattern of expansion and contraction from 1850 to 1980. Was this true in each region of the United States?

Two historical patterns emerge from Figures 4A and 4B. In the eastern and southern states, the wave effect is apparent, with troughs for most regions in 1870 and 1920 and peaks in 1900 and 1940. The South shows the least variation, and the mid-Atlantic and West the most.

The West and Pacific states exemplify more notable swings and less cyclical fluctuation; there is one major peak circa 1890–1900 and a trough in 1960. Compared to the East, however, there is considerably more variability in these regions between 1850 and 1900. Furthermore, the ratios for the West and Pacific states between 1850 and 1880 are higher than those in eastern and southern states, and the peaks in 1890 and 1900, respectively, are far higher than in the East. Indeed, the Pacific is the only region to have had its highest lawyer to population ratio in any decade earlier than 1980; as of 1980 the proportion of lawyers to the general population in the Pacific had still not regained its level of 1890 or 1900.

The pattern observed for the Pacific region points to a more general phenomenon: Compared to the eastern and southern states, the West and Pacific states exhibited a fairly consistent decline in the lawyer to population ratio between 1890 and 1950. By mid-century, consequently, lawyers in the West were underrepresented in the population relative to those in the East. In fact, compared to other regions, the South and to some extent the Midwest have consistently been underrepresented. Unfortunately, however, the poverty of our knowledge about lawyer population dynamics permits few con-

Table 1. Growth of the Legal Profession by Gender, United States, 1850–1980

Year	Male Lawyers	Female Lawyers	Ratio of Female to Male Lawyers
1850 ^a	23,939	0	—
1860 ^a	33,980	0	—
1870 ^a	41,786	5	.0001
1880 ^a	64,062	75	.001
1890 ^a	89,422	208	.002
1900 ^a	113,450	1,010	.009
1910 ^a	120,806	1,343	.011
1910 ^b	114,146	558	.005
1920 ^b	120,781	1,738	.014
1930 ^b	157,220	3,385	.022
1940 ^b	173,456	4,187	.024
1950 ^b	174,205	6,256	.036
1960 ^b	210,089	7,434	.035
1970 ^b	273,044	13,964	.051
1980 ^b	452,494	72,312	.160

^a Includes semiprofessionals

^b Excludes semiprofessionals

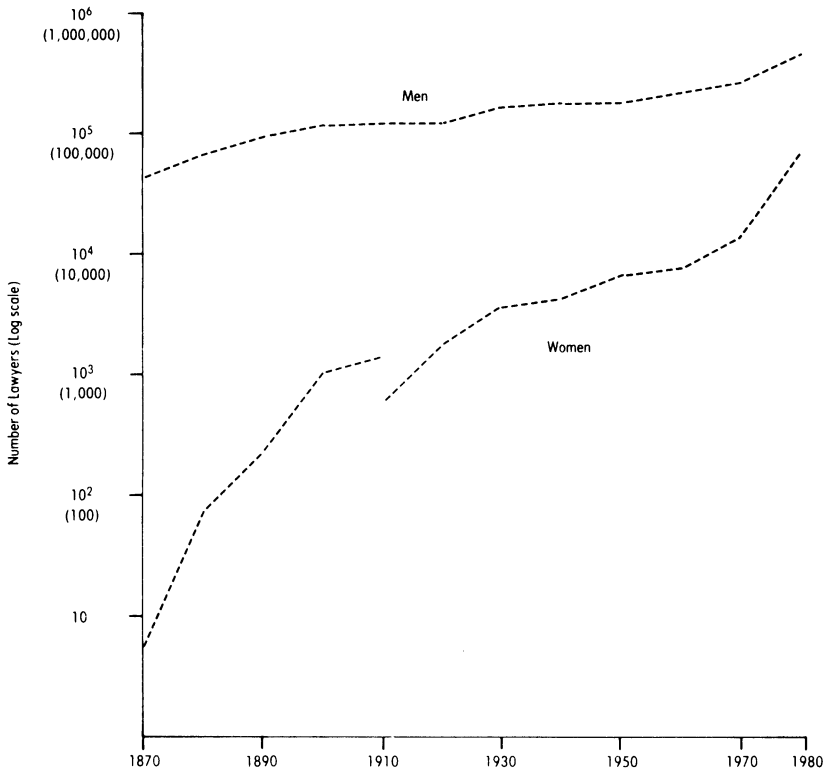
vincing explanations or theories about these striking regional variations.

III. GENDER AND LAWYER POPULATION TRENDS, 1850–1980

Curran (1986) documents in detail perhaps the single most radical transformation in the modern legal profession—the massive influx of women. That few women were members of the profession before the 1970s seems indisputable. To what degree, however, has the entry of women into legal practice been a linear development? Or, has it been the case in law, as in some other professions, that in an earlier period women composed a rather large proportion of the profession?

Table 1 demonstrates that there were no female lawyers until 1870, that it took another thirty years for their number to reach 1,000, and that they did not exceed 10,000 until 1970. The ratio of women to men expresses the gender differences even more forcefully. Women did not comprise .01 of the legal profession until 1920, and another half-century transpired before that proportion reached .05. Then, in just one decade, the ratio of women to men trebled—from .051 in 1970 to .16 in 1980. In short, for most of the last century, women have comprised be-

Figure 5. Growth of the Legal Profession by Gender, United States, 1870–1980 (logarithmic scale)



tween 1 percent and 5 percent of all lawyers.

The rapidity of change for men and women practitioners can be represented logarithmically, as shown in Figure 5. The logarithmic function enables the simultaneous representation of two data sets with quite disparate absolute sizes. In Figure 5, therefore, the relationship between the lines for men and for women is multiplicative rather than additive. It immediately becomes apparent that the period from 1970 to 1980 was not the only period of extremely rapid growth. In fact, although the absolute numbers are much greater in the modern period, a longer, more sustained, and sometimes equally steep increase occurred between 1870 and 1900. The rapidity of the admission of women into the profession flattened out in the first three decades of this century, and even more in the following three.⁶

⁶ Part of the growth in the number of women in the profession between 1890 and 1910 may be explained by the expansion of women in the semiprofessions, whose numbers were then included in the category of lawyer, as the redefinition in Table 1 implies.

IV. THEORETICAL ISSUES AND EXPLANATORY MODELS

The census data, together with the Curran report (1985), raise two sets of issues: the attribution of meaning to particular findings and the absorption of individual explanations into general theories.

Specific questions recur in each of the figures and tables. For example, how should we interpret the fact presented in Figure 1 that the legal profession expanded at a rate faster than the general population? The step function of changes in absolute numbers of lawyers is represented as waves of varying lawyer to population ratios. Here again particular historical explanations can be suggested. For instance, the declines in the ratio of lawyers to population coincided with wars in the 1860s and 1940s, as substantial numbers of young men deferred legal education or entrance into the work force, and with the rise in professional self-regulatory powers in the first two decades of the twentieth century. Even these interpretations, however, provide little insight into regional changes in the lawyer population. Is the contraction of the profession in the Northeast a function of that area's declining population and industry? Has the West expanded both its lawyer population and ratio of lawyers to population because of economic changes? And, given the very substantial growth in federal government, how are we to make sense of the fairly constant proportion of lawyers in the greater Washington, D.C., area over the last hundred years? Furthermore, the very high ratio of lawyers to population in the Pacific states in the last half of the nineteenth century seems quite unexpected. And how are we to account for the steep decline after 1900 in the lawyer to population ratio in the West and Pacific states? Finally, what explanations can be advanced for the exclusion and inclusion of female lawyers since 1870?

The dearth of answers to these specific questions highlights not only the lack of empirical investigation but also the paucity of more comprehensive, empirically sustained theories of professional growth and migration. Even after we have assimilated the richly detailed information from the census or the *Lawyer Statistical Report*, we are left without any real understanding of the conditions that produce the expansion, contraction, or distribution of the legal profession. Given both the practical and theoretical ramifications of these trends, this is a most fundamental absence indeed.

The demography of the legal profession will be better understood when the gap is narrowed between the descriptive

data presented in this symposium and three bodies of theory: (1) demand theories of lawyer population dynamics; (2) monopoly theories of lawyer population dynamics; and (3) theories of lawyer gender segmentation.

A. *Demand Theories of Lawyer Population Dynamics*

The central question in the study of the demography of the legal profession is as simple to pose as it is complex to resolve: What are the determinants of the rise, fall, and movement of lawyer populations? There are at least two approaches to this problem, the one concerning forces within the profession, or forces over which it can exert control, and the other concerning determinants outside, and causally prior to, the profession.

Taking the latter approach first, the most obvious point of explanatory departure is the variation in general population. Figure 1 suggests that there is face validity to a *population theory* of lawyer population growth and decline. For the first two decades (1850 to 1870), and in some later decades, the rate of increase in lawyers paralleled that of the general population. Nevertheless, a gross correlation between the absolute size of both populations fails to solve two problems: First, what determines the baseline ratio of lawyers in 1850? And second, what explains the fluctuating pace of lawyer expansion in growth spurts and at a rate faster than that of the population at large? An answer to the first question rests on a theory of lawyer use. An answer to the second question implies increments or changes of use—and users. Changes in use may be a result of new statutes, increased government regulation, shifts in legal culture, the enlargement of rights, and economic changes and growth. Changes in users may signify a wider pool of individual users as well as the rise of new fictive persons—corporations, municipalities, and the like.

Of these changes in demand for and demanders of legal services, those dealing with shifts in the economy are most readily amenable to empirical analysis. Yet an *economic theory* of lawyer population dynamics is notably absent from the law and society field, although it has not been entirely neglected by economists. Pashigian (1978), for instance, finds that a growth in the profession will follow an expansion in the economy after a lag, but he does not determine the configurations of economies that are more conducive to an increased demand for lawyers.

What sorts of economies do increase the demand for law-

yers? Although such a comprehensive economic theory is beyond the scope of this article, one example may illustrate the potential of this approach, although this example may raise as many questions as it resolves. To obtain a proxy of different economies, without going outside the census and without covering the entire period of 1850 to 1970, labor force data have been coded for each state from the censuses of 1940, 1950, 1960, 1970, and 1980. The data break down employment into twelve categories: (1) agriculture, (2) mining, (3) manufacturing, (4) transportation, (5) trade, (6) finance, (7) business and repair services, (8) personal services, (9) entertainment and recreation, (10) professional services, (11) public administration, and (12) construction. The configuration of these sectors provides an approximation of a state's economic profile.

The results of this exploratory—and illustrative—analysis may be seen in Table 2. The census of 1980 asked workers for

Table 2. Lawyers and Employment by Labor Force Sector, 1980, and Regression of Lawyers on Labor Force Sectors, United States, 1940–80 ($N=257$)

Labor Force Sectors	1980			1940–80
	Lawyers	Total Employed	Lawyers per 1,000 Employed	Unstandardized Weighted Least-Squares Regression Coefficient ($\times 1,000$)
Agriculture	165	2,913,589	.057	.89
Mining	2,012	1,028,178	1.957	2.74
Manufacturing	11,756	21,914,754	.536	1.61
Transportation	5,648	7,087,455	.797	32.09*
Trade	3,242	19,933,926	.162	-25.15*
Finance	16,159	5,898,059	2.740	19.84
Business and repair services	2,807	4,081,677	.688	133.61*
Personal services	276	3,075,764	.090	33.20*
Entertainment and recreation	554	1,007,070	.550	-52.56*
Professional services	385,898	19,811,819	19.478	12.10*
Public administration	95,075	5,147,466	18.470	39.87*
Construction	1,214	5,739,598	.212	-63.65*
	R^2	.917		
	F	227.89*		

* $p < .001$

Note: Labor force sectors include the following components: (1) Agriculture (agriculture, forestry, fisheries); (2) Mining (metal, coal, petroleum); (3) Manufacturing (food, textiles, apparel, paper, printing, chemicals, rubber, lumber, furniture, glass and concrete products, iron and steel, metal industries, machinery, electrical, motor vehicles, aircraft, and the like); (4) Transportation (railroads, trucking, communications, utilities); (5) Wholesale and retail trade; (6) Finance (banking, insurance, investments, real estate); (7) Business and repair services (advertising, management and consulting, automotive repair services, electrical repairs); (8) Personal services (hotels, others); (9) Entertainment and recreation; (10) Professional services (hospitals, health, educational, social services, accounting, law); (11) Public administration; (12) Construction.

both their job title and the industry sectors in which they were employed. The second column from the left on Table 2 cross-classifies these responses for lawyers. The vast majority of lawyers practice within the professional services sector, that is, the private practice of law in firms and law teaching. Ranked second in absolute numbers are lawyers employed in public administration in all three branches of federal, state, and local government. Only two other sectors have sizable lawyer populations: finance, which includes banking, insurance, investments, and real estate; and manufacturing, where it is likely that lawyers are house counsel or in management but still identify themselves as lawyers. Smaller numbers of practitioners, counted in the thousands, may be found in mining, trade, business and repair services, and construction.

The ratio of lawyers per 1,000 employed in each sector is also shown in the table, and the differences between absolute and proportional representation in industrial sectors makes for interesting speculation about demand conditions for lawyer use. Not surprisingly, the ratio of lawyers to total employed is very high in those two sectors where the absolute number of lawyers is greatest—professional services and public administration. However, when one compares the three largest sectors of the economy, professional services, manufacturing, and trade, the ratio of lawyers varies dramatically. Whereas it is very high in professional services (19.478), it differs considerably in manufacturing (.536) and trade (.162). By contrast, although the absolute number of lawyers in mining is small, the ratio is comparatively large (1.957).

If ratio of lawyers to size of industrial sectors varies so considerably, then it must be assumed that there are factors within each sector which determine the likelihood that legal services generated by the sector will be satisfied within it. In other words, the demand for lawyers in a sector may be expressed in two ways: The demand may be direct and the legal needs satisfied within the sector, as, for example, by house counsel in manufacturing; or the demand may be equally strong but need to be satisfied outside the sector, as, for instance, by law firms within the professional services category. Hence it appears that even if the demands for legal services in manufacturing and trade were similar—and that is only an assumption—manufacturing firms may be better able to satisfy their legal needs internally. How can this be explained? One determining factor might well be organization. If it is assumed that the larger a firm, the greater its capacity to employ its own legal staff, and if we further assume that this is more likely to occur in manu-

facturing, where average firm size is greater than in trade, then it may be concluded that the reason for the ratio difference between trade and manufacturing lies in the fact that the former must find legal services outside the sector whereas the latter can structure their services within. This difference is attributable to the size of the firm, not of demand. But again it must be emphasized that these hypotheses are intended only as a stimulus to further study: Levels of demand and the ways they are satisfied must be established empirically.

The fifth column in Table 2 takes the economic analysis a step further by seeking to develop a model that indicates which configurations of state economies best predict the size of the legal profession. Fifty observations, plus those for the District of Columbia and Puerto Rico, for five decade points provide 257 cases for analyzing the relationship between economic composition of the labor force and lawyer population.⁷ Great care must be taken in interpreting this very tentative and quite exploratory equation. There are considerable problems of multicollinearity among variables that have not been resolved. Similarly, although the weighting of variables partly corrects for heteroscedasticity, it may not do so entirely. There are also problems with pooled cross-section and time-series data. Nonetheless, the model is useful if only to indicate that economies that are dominated by certain industry sectors may have an important effect on the population of lawyers.

Keeping these caveats in mind, it appears that economic factors are indeed important in determining the size of the legal profession, for several industry sectors are strongly associated with increased lawyer populations. For example, a difference of 1,000 employed in public administration will change the number of lawyers employed in the sector by 39.87, other things being equal. Strong positive effects, in order of size, are also to be found in business and repair services (133.61), personal services (33.20), transportation (32.09), and finance (19.84), although the number of lawyers employed in personal services is so small that this category should be excluded. For statistical reasons, more caution is needed with the negative coefficients, except perhaps in the case of trade.

Excluding nonsignificant coefficients, or those based on industries with small numbers of lawyers, this model suggests that in the last fifty years the size of the profession will increase in an economy with a higher percent of the work force in business and repair services, public administration, transpor-

⁷ Data on Hawaii, Alaska, and Puerto Rico are not included for 1940.

tation, and finance, and the size will decrease with a higher percent of the work force in trade.

If these findings are more than statistical artifacts, they suggest that the configuration of a state's economy has a highly significant effect on the size of its legal profession. But of course, while a useful step forward, this analysis still does not answer the critical question of what within each economic sector positively or negatively affects the number of lawyers. While public administration and professional services seem obvious in their effects, business and repair services and transportation are much less so. Two alternative, or possibly complementary, interpretations may be posited. Business and repair services include, for example, advertising, management and consulting, computer and data processing services, automotive repair services, and electrical repair. The simpler explanation for the high ratio of lawyers is that vast amounts of legal work are generated by advertising, consulting, and legal matters arising out of automobiles. More compelling, perhaps, is the explanation that the size of the legal profession is not a direct effect of increased legal work arising from these services, but their size is an indirect indicator of economic activity in other industry sectors that do generate a great deal of demand for lawyers' services. The business and repair services example, however, suffices to show that we are far from a coherent theory of lawyer demand, although this model may provide hints as to where to look and distinctions about the means by which demands are articulated.

Nonetheless, the exploration will have to go much farther than the illustration offered here. Changes over time must be built into the models since it is entirely plausible to expect that a given economy will generate more or less legal work in one period than in another. Better indicators, with less measurement error, will produce more accurate predictions and more reliable theories. Most basically, the explication of why a given economic sector demands more legal services than others is a critical element missing in current thinking.

In addition to population and economic factors, a third element in a theory of lawyer population dynamics must concern developments in the *state*. The expansion of legal entitlements, the growth of regulation, the more rigorous prosecution of crime, the expansion of the welfare apparatus—all will influence the demand for lawyers, although the episodic character of changing demands, coupled with the general growth in the size of government, may help explain both the general upward trend in the size of the profession as well as fluctuations

around the mean.

The specific questions raised at the outset of this section lead to a fourth set of factors—the influence of rare but *catastrophic events*. Do international conflicts such as the two World Wars, internal convulsions such as the Civil War, or severe economic changes such as the Great Depression have consistent effects on the demand for lawyers? Although our data suggest such associations, the post-factum attribution of historical meaning to downturns in graphs is coarse at best.

Finally, the demand for lawyers may be a function of broad movements in American *culture*. For example, the gathering impetus for the emancipation of slaves, the impulses toward the formation of a welfare state during the New Deal, the rise of the civil rights movement for blacks in the 1950s and 1960s, and the women's movement in the 1970s have all had repercussions for legal services, whether by increasing the demand for lawyers or intensifying the pressure on the profession to admit previously excluded groups.

B. *Monopoly Theories of Lawyer Population Dynamics*

If lawyer population dynamics may be partially explained by factors external to the profession, the explanation must also rest on internal institutional factors that shape, mold, or mitigate the effects of economic, political, cultural, and other forces.

From recent formulations of the closure strategies by occupations (Parkin, 1979), to analyses of the monopolistic pretensions of higher professions (Berlant, 1975; Parry and Parry, 1976; Larson, 1977), to the efforts of the American legal profession to regulate supply (Abel, 1979; 1981), widening circles of scholarship locate economic control at the center of their interpretations of professional collective action. In Abel's terms, control over production by lawyers occurs through legal education, state licensure of lawyers, and the regulation of legal practice by means of boundaries against unauthorized practitioners, limits on competition and advertising, and the like. A strong version of the monopoly thesis effectively conceives of the profession as a faucet that attempts to turn the flow of lawyers into the labor force on and off as it suits the economic purposes of the profession.

I have numerous doubts about the validity and empirical evidence for these assumptions (Halliday, 1983). Nevertheless, it is impossible to view lawyer to population dynamics without reflecting on their significance for monopoly or the regulation

of supply. Both Curran's (1986) data and my own suggest that even if the profession did once regulate supply, in the last 15 years it has lost control almost completely. The recent explosion in the number of lawyers, without precedent in the last 130 years, suggests that the professional monopoly has buckled under the onslaught of more powerful economic, cultural, and political impulses. Therefore, if the theory of market control is to be retained, it is necessary to specify the external conditions—social, political, economic—under which monopoly will be attainable. That is, a supply-side interpretation of population dynamics must become a more *contingent theory*, and the contingencies must relate to both the capacities of the profession to mobilize as well as the strength of wider social forces.⁸

Of course, if a contingent notion were adopted, both Curran's and my data might provide some face validity to a supply-side theory. The long-term decline in lawyer to population ratio throughout the United States from 1900 to 1920 coincided with the rise of the organized bar in many metropolitan centers and the more populous states. However, if other factors remained constant and bar associations steadily increased their influence over admission to the profession from their founding decade of the 1870s, then the decline might well have begun a decade or two earlier. Here, as elsewhere, it is difficult to differentiate among competing theories or even counterforces. In either case, it is simply too easy and too implausible to attribute minor perturbations to any particular cause when the determining complex of factors seems so intricate.

It is true that a counterinterpretation could be offered by the pundits of monopoly theory (cf. Berlant, 1975). Their argument might go as follows: Lawyers have *not* lost control of their market. The spurt in the number of lawyers in the 1970s and 1980s represents a volitional adjustment of supply that had become too restricted; the population and economic demands had outstripped the capacity of lawyers to cope. Since it was imperative for the profession not to lose its market through undersupply, control had to be loosened radically—and was. But as this counterthesis suggests, without institutional evidence to complement demographic data, the supply-control theory is virtually unfalsifiable. As I have indicated elsewhere (Halliday, forthcoming), the monopoly thesis can deal with an apparent reversal by reinterpreting the profession's loss in terms of strategic demonopolization. Yet even this qualification hardly

⁸ It should be noted that Abel (1981) also complements his supply-control theory with some demand conditions the profession seeks to stimulate.

seems consistent with a doubling of the profession in twenty years.

These conflicting interpretations raise two other questions. First, in his discussion of changes in lawyer supply, Pashigian (1978: 56) observes that it may take from fifteen to twenty years for a profession to respond institutionally to the need to increase the supply of lawyers by 50 percent—a time period that should caution those who confer on the profession rather more flexibility in market control than they could possibly have. Second, even if the “profession” had lost control, such control could have been maintained by the law schools, although with different mechanisms and quite possibly different ends. (But here again, the continued opening of new law schools seems to imply that their entrepreneurial vigor outweighed notions of control.) There is value in this argument, but it still begs the question of when a profession *qua* profession can be considered to be acting collectively in its economic interests. As Freidson (forthcoming) demonstrates, there is still considerable need for careful empirical and conceptual analysis of how closely the institutional subcomponents of a profession, such as educational institutions, should be considered parts of the profession. To the extent that law schools are autonomous from the principal collective bodies of the practicing profession, especially in areas concerning supply of new lawyers, the force of monopoly theory begins to dissipate.

The demographic transitions have another consequence for control theories. The long-standing research tradition in professional socialization was based on the premise that professional self-regulation and normative consensus as an internal ethical control of practice were defining characteristics of professional communities. The professional school experience was thought to socialize future practitioners in a manner that would obviate the need for external, extraprofessional controls. Hence the autonomy of a professional community was justified, especially if coupled with the supposed incapacity of nonprofessionals to judge professional performance.

The extraordinary size and rate of lawyer population expansion in the last two decades pose significant issues for both sets of control theories—monopoly and professional socialization—that bear careful analysis. For instance, if it is accepted that professional socialization is crucial for the integrity of legal practice and the adherence to intraprofessional normative and ethical codes, then such expansion weakens socialization processes both in the institutions where inculcation of values is intended to be accomplished, and in the profession, where it is

expected to be efficacious. With respect to the former, a great increase in the size of law school populations without compensating structural adaptations probably lessens the corporate impact of values that are purported to be taught. The expansion of private law schools may similarly add to value eclecticism at best and value dissensus at worst.

Even more pronounced is the effect of the lawyer population increase on cohorts in the profession. If, in times of more placid expansion, the socialization efforts of law schools were reinforced by the expectations of more experienced practitioners, the radically altered ratio of new to experienced practitioners, reflected in the falling mean age of the legal profession, suggests that control exercised by senior lawyers must surely be attenuated. Regulation of practice poses a double conundrum—for work organizations and for bar associations—each of which is charged, in different ways, with the responsibility for control.

Rapid expansion of the profession, especially in tandem with more diverse cohorts of new lawyers, has undoubtedly eroded much of whatever normative integration and community cohesion formerly existed in the American legal profession. This erosion can strike, therefore, at the likely efficacy of either theory of professional control. Socialization is accordingly a less effective means of control, but then professional monopoly is less easily attained by the strict enforcement of professional ethics. Thus, if the thesis is correct that the rapid expansion in the number of lawyers represents a blow to monopoly and monopoly theorists, the changing experience ratio and the increase in the raw size of the profession compound both strikes against the theory or practice of monopoly.

C. Theories of Lawyer Gender Segmentation

In its own right and in its significance for population dynamics, the gender revolution in law warrants careful reflection. What do Curran's (1986) findings on women mean? How did the explosion in the number of female lawyers come about? What ramifications does it have for the profession?

First, increasing proportions of women in the profession may be attributed in large part to cultural rather than economic forces. The influx of women, together with previously excluded minority groups, partially vindicates a theory of professional population dynamics that recognizes the force of changes in cultural rather than material values. Even if the legal profession did try to control the supply of practitioners, its

mechanisms for doing so may not have contained the impetus for inclusion created by either the civil rights movement or the women's movement. Recognition of this provides a healthy corrective to overly materialist interpretations of occupation changes.

Second, the increase in the entry of minorities and in particular of women helps explain the rapidity of growth of the entire lawyer population between 1960 and 1980. Some scholars suggest that this expansion may be substantially explained in terms of greater occupational inclusiveness. But why were women and minorities simply added to already growing numbers of men entering the profession in the early 1970s? Why did not law schools merely adjust the proportions of entering classes to reflect minority and gender equality while keeping the absolute number of law school admissions fairly constant? Were there institutional reasons why law schools were either unwilling or unable to control their burgeoning enrollments?

Third, what are the consequences of women's entry into the legal labor force? This question may be the most challenging and fascinating of all, yet it has not, for the most part, captured the attention of recent sociologists of the profession (cf. Menkel-Meadow, forthcoming). Despite the recentness of women's large-scale entry into the profession, Curran's data (1986) and some comparative materials suggest that patterns of participation, differentiation, and stratification in the profession by gender may already be apparent.

Because ascriptive and achievement criteria presently stratify and differentiate professional work (Heinz and Laumann, 1982), the impact of the entry of women could take two rather contrasting forms. On the one hand, as women have rather different ascriptive characteristics than ethnic and racial minorities, they may be evenly distributed throughout the profession in the same way as men, with differences in specialty or type of practice a function not of gender but of factors such as education and class background. On the other hand, women might be allocated to only a few segments within the profession. In either case, the modes of inclusion will partly be a function of women's choice and more probably a function of structural constraints.

Curran's data are consistent with the hypothesis that earlier cohorts of women sought complete integration into the profession that structural barriers substantially precluded. For later cohorts of women, the intent may rather have been to opt for particular segments of professional work, even though the structural opportunities might have allowed more universal in-

clusion. The logic of this contention is as follows. In the early phase of the women's movement, it was politically imperative that, to emphasize equality and its denial within the legal profession, women aspire to exactly the same careers as men, accept the same professional values, and hence seek to be distributed evenly throughout types of legal practice, including prestigious private firms. At the time, women seemed less eager to combine careers with families—the choice seemed “zero sum.” Of course, whatever the aspirations of women to the more powerful and prestigious strata of legal practice, historical barriers were painfully slow to fall.

The more recent phase of women's entry into the profession, however, appears to have been accompanied by two shifts—one in women's values, the other in the profession. Whereas earlier female cohorts sought equality at the expense of their traditional roles such as raising a family, later cohorts, perhaps in response to a general cultural drift back to conservative and traditional values, have sought career patterns and work locations that “satisfice.” This is to say, appropriating March and Simon's (1958) notions of decision-making rationality, that women are now seeking to reconcile two values in tension—to be both mothers and professionals—and that they seem less willing to accept either at the expense of the other. To enjoy the benefits of both home and work—to reconcile the past and the present—women must therefore choose practices that satisfy at least two criteria: First, the time commitments must be fairly strictly and predictably circumscribed so family responsibilities are not unduly complicated; and second, they must follow paths in segments of the profession in which dislocations of time and intermittency of career are least disruptive.

Ironically, although some of the barriers to women in the more prestigious reaches of law have fallen, the structural constraints that remain, operating in conjunction with motivational orientations conditioned by broader social values, may lead to a limited gender segmentation of legal work. If this thesis is correct, women will be represented disproportionately in legal specialties and legal settings where familial and professional values can be simultaneously maximized. Hence women should be represented more fully in bureaucratic rather than entrepreneurial roles, in government rather than the private sector, and in each of these in later rather than earlier cohorts.

Curran's data appear consistent with this thesis, although not strongly so. She finds that women are overrepresented in government and industry and underrepresented in private employment, a trend that is slightly more pronounced for the co-

hort after 1971 than for the earlier cohorts. On the other hand, Curran finds that women are concentrated in either solo entrepreneurial law or the larger firms, a somewhat curvilinear relationship between degree of formal organization and the proportional representation of women. A partial, and rather ad-hoc, explanation for the solo practitioner statistics might be that solo practice does allow great flexibility in hours and work place. However, it lacks the strong infrastructure of legal or clerical support on which a lawyer with family responsibilities could rely.

Clearly, much exploration and reflection must still be done on women's entry into the law in such large numbers. Curran's data and my speculative interpretations suggest at least that we should not necessarily expect the experience of female lawyers to mirror male participation. The decision-making criteria women are using, the structural constraints they are experiencing, and the profiles of practice they are choosing all warrant careful empirical *and* theoretical investigation.

V. CONCLUSION

The resources of the *Lawyer Statistical Report* and the United States *Census* and *Historical Statistics* allow a major advance in the sociology of the legal profession, a truly macrosociological approach to the empirical questions of legal practice and one that matches in scope the fine theoretical macrosociologies of the professions that have appeared in recent years. This paper has sought to place the experience of the last three decades in a much longer time frame. It also has attempted to stimulate the theoretical interpretation of these data. Both Curran's data and the census materials must propel us toward a comprehensive historical sociology of national professions—a sociology sweeping in demographic breadth, compelling in historical depth, and convincing in theoretical scope.

APPENDIX
Number, Percent, and Ratio of Lawyers to Population by
Region, United States, 1850–1980

	New England ^a	Mid-Atlantic ^b	Greater D.C. ^c	South ^d	Midwest ^e	West ^f	Pacific ^g	Total
1850								
Number	2,605	7,513	2,018	5,792	5,782	16	213	23,939
Percent	10.9	31.4	8.4	24.2	24.2	.1	.9	100.0
Ratio ^h	1.10	1.18	0.98	0.85	1.07	0.22	2.01	1.03
1860								
Number	2,834	9,287	2,176	8,197	10,268	650	1,038	34,450 ⁱ
Percent	8.2	27.0	6.3	23.8	29.8	1.9	3.0	100.0
Ratio	1.06	1.16	0.92	0.95	1.15	2.06	2.34	1.10
1870								
Number	2,789	10,529	2,658	8,132	14,240	1,400	1,365	41,113 ⁱ
Percent	6.8	25.6	6.5	19.8	34.6	3.4	3.3	100.0
Ratio	0.95	1.11	1.03	0.85	1.14	1.71	2.02	1.07
1880								
Number	3,755	16,931	3,989	11,911	21,136	4,095	2,323	64,140 ⁱ
Percent	5.9	26.4	6.2	18.6	33.0	6.4	3.6	100.0
Ratio	1.11	1.50	1.23	0.91	1.34	1.83	2.08	1.28
1890								
Number	4,497	21,097	5,479	16,408	27,568	9,487	5,094	89,630
Percent	5.0	23.5	6.1	18.3	30.8	10.6	5.7	100.0
Ratio	1.14	1.55	1.48	1.03	1.42	2.20	2.70	1.43
1900								
Number	5,615	27,249	6,873	20,937	36,528	10,441	6,853	114,496 ⁱ
Percent	4.9	23.8	6.0	18.3	31.9	9.1	6.0	100.0
Ratio	1.20	1.65	1.61	1.09	1.58	1.82	2.84	1.51
1910								
Number	6,530	29,013	6,759	19,786	32,066	11,835	8,715	114,704
Percent	5.7	25.3	5.9	17.2	28.0	10.3	7.6	100.0
Ratio	1.20	1.41	1.38	0.87	1.24	1.42	2.08	1.25
1920								
Number	6,993	30,685	7,840	21,105	33,263	12,227	10,406	122,519
Percent	5.7	25.0	6.4	17.2	27.1	10.0	8.5	100.0
Ratio	1.16	1.29	1.38	0.84	1.12	1.26	1.87	1.16
1930								
Number	9,072	44,412	10,232	26,657	42,920	13,323	13,989	160,605
Percent	5.6	27.7	6.4	16.6	26.7	8.3	8.7	100.0
Ratio	1.38	1.58	1.63	0.92	1.26	1.24	1.71	1.31
1940								
Number	9,616	53,008	12,954	28,360	46,294	12,868	14,543	177,643
Percent	5.6	29.8	7.3	16.0	26.1	7.2	8.2	100.0
Ratio	1.43	1.80	1.83	0.89	1.30	1.18	1.49	1.35
1950								
Number	9,410	51,857	15,034	30,153	44,569	12,874	16,564	180,461
Percent	5.2	28.7	8.3	16.7	24.7	7.1	9.2	100.0
Ratio	1.29	1.60	1.77	0.83	1.12	1.09	1.14	1.20
1960								
Number	10,469	61,069	17,507	38,221	50,189	15,935	24,133	217,523
Percent	4.8	28.1	8.0	17.6	23.1	7.3	11.1	100.0
Ratio	1.31	1.64	1.81	0.90	1.07	1.13	1.14	1.21
1970								
Number	12,799	75,140	24,928	52,044	63,413	21,154	35,988	285,466 ⁱ
Percent	4.5	26.3	8.7	18.2	22.2	7.4	12.6	100.0
Ratio	1.45	1.84	2.25	1.07	1.23	1.33	1.36	1.40
1980								
Number	23,687	115,016	47,042	106,847	106,076	41,587	81,619	521,874 ⁱ
Percent	4.5	22.0	9.0	20.5	20.3	8.0	15.6	100.0
Ratio	2.56	2.84	3.87	1.79	1.98	2.11	2.57	2.30

^a Maine, New Hampshire, Vermont, Massachusetts, Rhode Island

^b Connecticut, New York, New Jersey, Pennsylvania, Delaware

^c Washington, D.C., Maryland, Virginia, West Virginia

^d North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Arkansas, Louisiana, Texas

^e Ohio, Indiana, Michigan, Illinois, Wisconsin, Minnesota, Iowa, Missouri

^f North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, New Mexico, Arizona, Colorado, Utah, Wyoming, Montana, Idaho, Nevada

^g California, Oregon, Washington, Alaska (after 1960), Hawaii (after 1960)

^h Lawyers to 1,000 population

ⁱ There are slight discrepancies within the census between these totals and those in Table 1, perhaps due to alternative definitions, coverage, and errors in transcription.

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