

Law and the Development of Public Education

American history reveals the law's powerful role in directing adolescents' education. The law has long served to specify what could be taught, how it should be taught, and even ensure that adolescents are taught. Given the law's centralizing role, formative developments in law and social influences on those laws necessarily serve as initial discussion points for understanding current educational trends and for imagining future efforts. Although links between the law's historical role and future reforms remain uncharted, the discussion need not go unguided. As we will see, numerous commentaries already chronicle well key historical moments in the development of public schools. These discernable periods have left critical imprints on the nature of public schooling and the social forces that sustain it. The periods span from the 1600s to the 1980s—from colonial times, to the construction of the modern common school system, to the progressive era and up to the cosmopolitan period. Although historians understand well those periods, many of which have been the subject of important controversies and commentaries, the role of law in those periods remains less documented, with the notable exception that many commentators do mention that law played a necessary role in the establishment of public schools, both in its design and implementation.

The pervasive lack of detailed analysis coupling historical and legal developments provides the impetus for the analyses that follow. The law impacted public schooling much more than by the obvious manner it mandated school attendance and required the establishment of schools. Legal systems influenced schooling by exerting powerful leverage on

formal and informal institutions that would help shape images of adolescents and society that fostered school reform. This leverage means that we must examine when why, how, and for whom society (and the many social institutions constituting it) constructed a system of formal education. A close examination of the dominant (and some diverging) currents in each historical era contributing to the construction of formal education necessarily reveals the manner society, through its public schools and the law, construes its collective obligations to adolescents and what it expects from adolescents themselves.

A central theme that emerges from the historical record reveals that society constantly seeks to preserve itself, and through that need, exhibits a desire to save and control adolescents so that they will ensure social stability. As we will see, that need would lead to the emergence of formal schooling and the founding of "common schools," those aimed at inculcating common values and skills into the next generation. The same need now urges a recent move away from public, common schools and explains why common schools still retain their essential validity. Indeed, many of the historical and present challenges facing public schools stem from efforts to establish common schools for all and efforts to determine the place of adolescents in society. The law gains importance in those efforts to the extent it can encourage, reflect, and delimit the contours of those challenges and determinations.

The analysis that follows emphasizes the law's role in schooling and institutions impacting schooling. In fact, the discussion of the law's role in the prevailing rationale for schooling—the preservation and sometimes reconstruction of society—serves as a foundation for the remaining chapters. The analysis suggests that educational reform must move beyond focusing on academic skills alone and must respond to adolescents' place in society. Educational reform must both reform the nature of schooling itself and embark on concomitant improvements in the legal system's responses to adolescents' familial and communal experiences. Although constituting an ambitious agenda, urging consideration of the law's multiple forces and roles remains a far from radical approach to understanding and fostering educational reform. The historical record reveals well how the law's already expansive reach continues to expand. As it has in precolonial times, the law influences education through pressure exerted on the control and development of adolescents by variously regulating the institutions—mainly family, work and church—that serve to enculturate adolescents. The law now also influences education through new socializing institutions—child welfare and juvenile justice systems—developed to "educate" adolescents, respond to new images of adolescent development, and forge a new place for adolescents in schools and

society. Despite the development and significance of non-school institutions in the education of adolescents (and the reshaping of those institutions and their relationships to schools), public schools have become the dominant center of response to modern society's demands. Schools have become the site of societal responses to social crises, most notably a rise in family breakdown, racial tensions, youth violence and victimization, religious dissension, economic deprivation, disease epidemics, and conflicting views of adolescents' place in society and the law. This chapter details how schools have assumed this powerful socializing role in adolescent development and the manner law and social forces shape that role.

THE COLONIAL PERIOD

Antecedents to today's educational system trace as far back as colonization. Colonization of the United States began with the 1630s' migration by those dissatisfied with conditions in Europe, those who sought various new opportunities, and those who had no choice but to migrate to the colonies. Many different motives underlaid the establishment of the colonies. Although the search for profit played a key role in urging exploration, historical records, though, reveal different motives for those who would actually settle. The Puritans of New England left the fullest record, and the reason they did so reveals their intentions. The Puritans documented their efforts because they hoped to set an example for the Old World by establishing a model Christian commonwealth (McClellan, 1999). To serve as an example, they migrated to establish religious utopias based on their interpretation of the Bible and sought refuge from persecution for their religious faith (Button & Provenzo, 1983). Concern that their children would drift away from faith and culture would lead colonists, including those who were not Puritans, to mold several basic institutions that would exert control over their children and, through that control, educate them into their proper place in society.

COLONIAL EDUCATIONAL INSTITUTIONS

Methods of obtaining educations essentially were the same methods used to socialize children into adulthood. Becoming an adult entailed an ongoing process rather than a discrete sequence of sharing common experiences of a distinctive legal status. No common age-graded experiences predetermined when a child would leave home, become apprenticed, obtain gainful employment, or get married (Bledstein, 1976). The heterogeneity was significant for at least three reasons. First, the diversity and

absence of age differentiation in social gatherings meant that this part of the life course was too undifferentiated to constitute a formal and sociologically recognized period of adolescence (Kett, 1977). As we will see, the "discovery" of the period of adolescence actually would come approximately 250 years later. Second, how the notion of adolescence essentially did not exist in colonial times reflects the absence of the need to formally educate adolescents. Colonists lacked formal, widely accepted institutions devoted solely to the education of children. Third, the available conceptual vocabulary to distinguish children from adults reflects colonial Americans' educational opportunities. Although the adolescent stage of life connoted neither a uniform set of experiences nor a fixed age span, colonists used the category of "youth" to describe individuals whose ages spanned from 10 up to 30, a time frame so large that colonists' term lumped together young children, apprentices, farmhands, servants, and slaves (Kett, 1977). This broad category of youth reveals that colonial efforts to educate adolescents needed to address immense diversity in individual development and place in society; these diverse experiences and needs fostered different educational "systems." The more educational systems needed to address common needs, the greater role law played to help address those needs and even foster more common experiences.

Although seemingly limited and informal, several institutions offered educational opportunities. Families served as the center of education, and education had a religious purpose. Thus, the most devout families used a range of occasions to instruct their children. So that children would be raised in faith and be credits to their families and communities, they were taught to read and sometimes to write so that they could be disciplined and drilled in the church catechism (McClellan, 1999). Despite variation in the extent to which families from different social and economic backgrounds and individuals within certain families benefitted from education, historians generally report that families responded to the educational inclinations of society and taught children basic educational skills, including reading levels necessary for religious activity (Cremin, 1970).

Families also educated other peoples' children. After families of origin had provided a grounding for education, it was not uncommon for these families to apprentice their children to other families. In addition to obtaining educational opportunities from families, youth gained educational experiences from apprenticeships. Although these family-type arrangements could be informal, they typically provided that masters go beyond the basic training of the child for a vocation and provide basic education in religion and civil law (Seybolt, 1969). Likewise, in some instances, the agreements called for masters to teach the skills of reading, writing, and arithmetic. Apprenticeships also served as the dominant

manner children without families received educations. Colonists placed out orphaned, wayward, destitute, or dependent children to work with other families' production of their needed goods; or integrated them into their own families; or involved them in the family economy of their masters (Hawes, 1991). In addition to apprenticeships, indentured servitude was an important means of educating youth, particularly those who migrated without families. This form of education was very prominent in the South, where the training mirrored the commanding socializing force of the patriarchal household in New England (Galenson, 1981). Importantly, education did not necessarily mean learning to write or read; education meant that adolescents would understand and behave in certain, approved ways. Ways of learning were educational in the broadest sense of the term.

Youth received educations not necessarily because of their own desires and aspirations. Colonists often used education in the form of work, particularly apprenticeships and servitude, as a form of punishment for youths' unruly and immoral behavior (Brenner, 1970). As noted earlier, children became adults by working with, acquiring the skills of, and by functioning as adults. The extensive focus on labor, however, reveals more than the primary manner individuals became adults. The use of labor to educate indicates well the communal, rather than the exclusively nuclear familial, character of child rearing in colonial times. Even when young people left their own parents' homes, they lived with their master's household or with other families. The focus on family-based labor and education also reveals attempts to exert control over youth. Colonists molded institutions to operate as families that provided stability, demanded accountability and sought to instill civility.

The above two educational institutions—work and family—played key roles in socializing and educating youth; but these institutions were complemented and reinforced by religious institutions. The colonial period reveals the church's tremendous impact on everyday life. The church played an overt, forceful, pervasive and significant role in efforts to control and educate youth in family and community life (Smith & Hindus, 1975). Church leaders and other community members actively oversaw child rearing, so much so that the colonists viewed child rearing as a communal endeavor in which religious, community, and private responsibilities overlapped (Sutton, 1988). As a result, families and masters were supervised both by caring and curious neighbors as well as civil and religious authorities. In addition to impacting families, churches played a key role in educational efforts. Education and religion were entwined, so much so that religion ultimately served to justify the founding of schools and public school systems.



<http://www.springer.com/978-0-306-46767-7>

Dangerous Adolescents, Model Adolescents
Shaping the Role and Promise of Education

Levesque, R.J.R.

2002, XIII, 258 p., Hardcover

ISBN: 978-0-306-46767-7