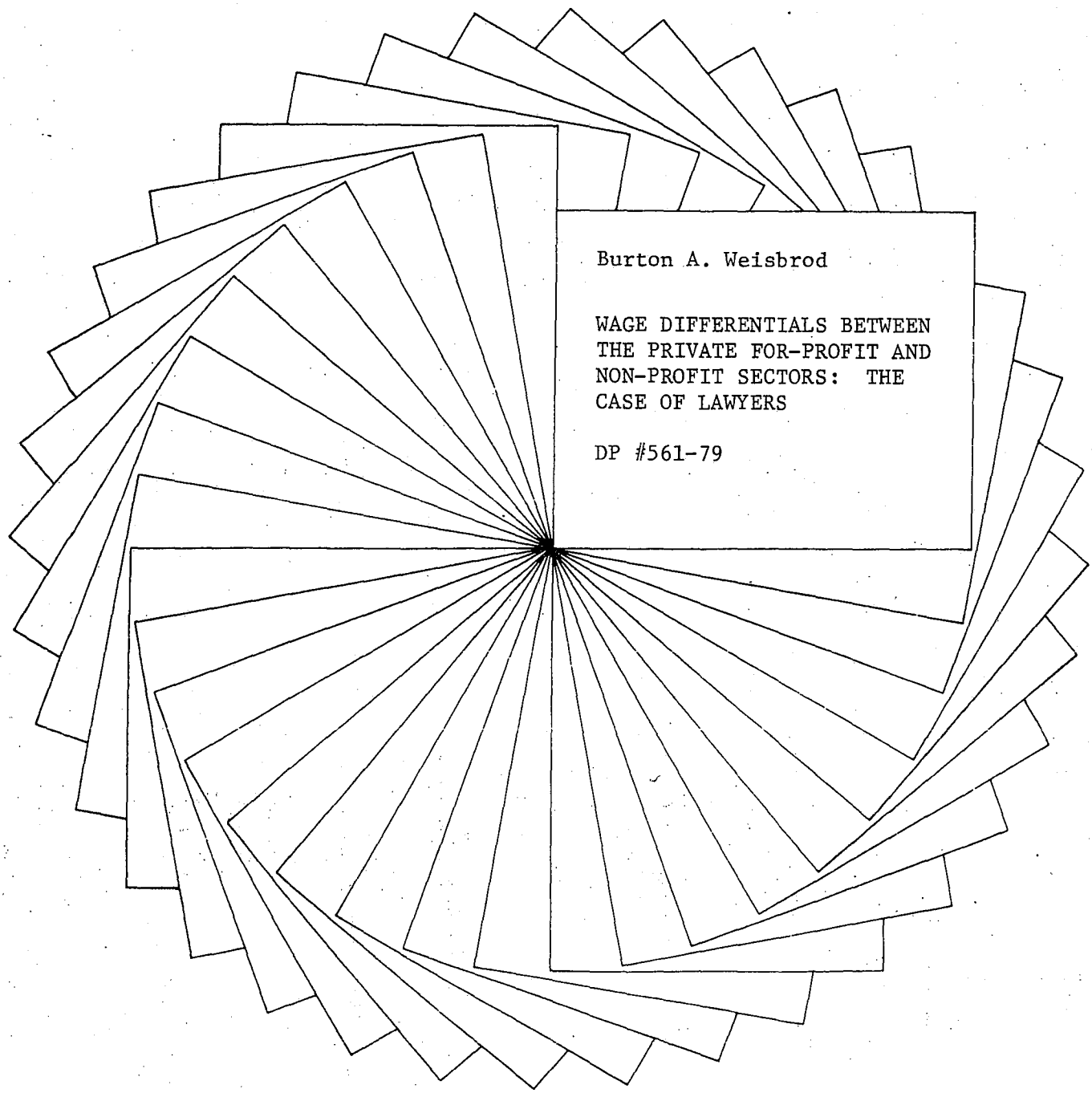
University of Wisconsin-Madison

Institute for Research on Poverty

Discussion Papers



Burton A. Weisbrod

WAGE DIFFERENTIALS BETWEEN THE PRIVATE FOR-PROFIT AND NON-PROFIT SECTORS: THE CASE OF LAWYERS

DP #561-79

Wage Differentials Between the Private For-Profit and Non-Profit Sectors: The Case of Lawyers

Burton A. Weisbrod

June 1980

Some of the material in this paper appeared in: Burton A. Weisbrod, in collaboration with Joel F. Handler and Neil K. Komesar, Public Interest Law (Berkeley: University of California Press, 1978), pp. 80-88. The present paper has benefited from comments by Kenneth Burdett, John Goddeeris, W. Lee Hansen, and Peter Pashigian, and from the research assistance of Nestor Dominguez. The research reported here was supported by the Ford Foundation, the Alfred P. Sloan Foundation, and by funds granted to the Institute for Research on Poverty at the University of Wisconsin-Madison by the Department of Health, Education, and Welfare pursuant to the provisions of the Economic Opportunity Act of 1964. The conclusions expressed herein are those of the author.

ABSTRACT

This paper examines earnings differentials between the private nonprofit and for-profit sectors, with particular reference to lawyers. An earnings equation is estimated for private laywers, and the characteristics of nonprofit sector, "public interest" lawyers are substituted into that equation to predict what the public interest lawyer could earn in the private sector. The finding is that the public interest lawyers are paid substantially less, that they know this, and that the financial sacrifice is permanent.

Finally, a job-choice equation is estimated which discloses that those lawyers who choose public interest work are different--that is, have different preferences--from those who choose private law practice. The difference between the two sets of lawyers in their preferences--as proxied by these background characteristics--may help to account for the willingness of the public interest lawyers to accept lower monetary rewards.

Further research is needed to determine whether the differences found for lawyers in the for-profit and nonprofit sector are also found in other industries, and whether such differences are found only at the level of management or at lower levels. The goal is improved understanding of the behavior of nonprofit relative to for-profit firms.

Wage Differentials Between the Private For-Profit and Non-Profit Sectors: The Case of Lawyers

1. INTRODUCTION

In a smoothly functioning labor market all wage differentials for workers of equal productive potential would be compensating differentials, assuming workers have the same preferences. Money wages would differ only because jobs differed in terms of other characteristics that enter worker utility functions--e.g., hours of work, working conditions and other nonpecuniary variables.

This paper examines earnings differentials between the private nonprofit and for-profit sectors, with particular reference to lawyers. Wage differentials are of interest in their own right, but even more for what they imply about occupational choice, in general, and, about choice between working for a nonprofit or a for-profit firm, in particular. Better understanding of the latter choice process can help us to model the behavior of nonprofit firms, a little-understood segment of the economy. The outline of this paper is this: first, an earnings equation is estimated for private lawyers; then, the characteristics of nonprofit sector, "public interest" lawyers are substituted into that equation to predict what public interest lawyers could earn in the private sector. The finding is that public interest lawyers are paid substantially less, that they know this, and that a financial sacrifice is permanent.

Finally, a job-choice equation is estimated which discloses that those lawyers who choose public interest work are different--that is, have different preferences--from those who choose private law practice. The difference between the two sets of lawyers in their preferences--as proxied by these background characteristics--may help to account for the willingness of the public interest lawyers to accept lower monetary rewards.

Further research is needed to determine whether the differences found for lawyers in the for-profit and nonprofit sectors of the law-firm industry are also found in other industries, and whether such differences are found only at the level of management or at lower levels. The goal is improved understanding of the behavior of nonprofit relative to for-profit firms.

After two centuries of work dating back to Adam Smith, a recent article has said that the concept of compensating differentials, "can be used to explain differences in wages within an occupation between employees, between industries, and between geographic locations" (Rees, 1975). Can they also be used to explain wage differences between institutional sectors within an industry?

Interest in the nonprofit sector is growing, but understanding of its behavior is still in its infancy. To improve our modeling of non-profit firm behavior, it would be useful to know more about whether money wages, job characteristics and preferences of the workers and managers who choose to work in that sector differ systematically from their counterparts in the private for-profit sector.

The weak state of theory of the nonprofit firm explains why we have no strongly held hypothesis regarding such variations. There are, indeed, a number of possibilities. One model would posit that nonprofit firms are actually profit maximizers in disguise--organizations that, for example, hide profits as payments to managers, who thus receive as wages income that would be termed "profits" in the private for-profit sector. In that case we might find, in equilibrium, little or no difference between wages of managers doing similar work in the two sectors.

By contrast, if nonprofit organizations and their managers had different preferences from their for-profit counterparts--seeking, for example, to represent "underrepresented collective interests", or to be politically involved, or to maximize some function other than one of money income (and conventional working conditions), then we would expect to find systematic differences in real earnings (pecuniary plus conventional perquisites) of managers in the two sectors. (This paper focuses on lawyers as managers, but in general the ideas developed here could apply to any resource supplies.) People with equal productive <u>potential</u> but with different preferences between money income and these other "rewards" would sort themselves out; those with a greater relative preference for money income would gravitate to the profit maximizing sector, while those with stronger relative preferences for the "political" rewards would gravitate to that part of the nonprofit sector that provided more of these rewards. In equilibrium, then, we arrive at the second possibility: that managers in the nonprofit sector will have lower money earnings than their equally

productive counterparts in the for-profit sector. The difference between earnings will reflect variation in preferences and associated variation in nonpecuniary aspects of the jobs.[1]

The third possibility is that decision-makers in the nonprofit sector have higher pecuniary earnings than their counterparts in the for-profit sector. This would be the case, for example, if the absence of separate owners or of other disciplinary agents permitted decision-makers in the nonprofit sector to pay themselves greater salaries, thus reaping a rent on their favored treatment. To be sure, such a situation would lead, in a reasonably well-informed market, to increased entry into the nonprofit sector; rents would be competed away in equilibrium. This might occur only slowly, if at all, however, given the entry barriers imposed by the Internal Revenue Service (IRS), which grants (or refuses) tax-exempt, nonprofit status. Without a theory of IRS regulatory behavior we can say little about how quickly, if at all, above-normal returns to decision makers in the nonprofit sector will be competed away.

Whether or not differences in money earnings were found to exist, and, if they were, in what direction, there would seem to be some implications for the modeling of nonprofit firm behavior. If they do not exist, this would be evidence supportive of predicting "nonprofit" firm behavior using the same models as used for profit maximizers.

If such differentials exist, however, that would not necessarily entail a different model of the nonprofit firm--something other than profit maximization. Evidence of <u>higher</u> earnings in the nonprofit

sector for equally productive managers--who may be thought of as representing the firm in organizations with no stockholders or other external claimant on residual income of the organization--would be consistent with profit maximizing behavior in a protected, restricted-entry industry. But evidence of lower earnings of managers in the nonprofit sector would suggest that a model not based on profit maximization is appropriate for such firms. If the managers were accepting lower earnings simply because they valued non-pecuniary rewards associated with working for a "nonprofit" firm, the managers would be expected to run the firms differently than the firms would be run by managers who had the types of utility functions characteristic of managers in the for-profit sector--that is, they would be expected to respond differently to any given reward structure.

Evidence of lower earnings for nonprofit sector managers than they could earn in the for-profit sector would therefore suggest--though certainly not prove--systematic differences in utility functions of managers in the two sectors. Evidence of higher earnings for the nonprofit sector managers than they could earn in the for-profit sector would be consistent with both the differential-preference-function hypothesis, as well as with the monopoly rent--restricted entry--hypothesis set forth above.

While this study may shed a bit of light on the question of whether for-profit and nonprofit firms behave differently, it is primarily a study of labor supply--that is, of the variables influencing supply choices between institutional sectors.

2. METHODOLOGY AND DATA

The data and analysis apply to lawyers, some of whom work for (and engage in managerial decision making for) private law firms, treated here as the for-profit sector, while others work for (and manage) nonprofit "public interest" law (PIL) firms. The assumption is that a lawyer can choose between working in either of the two sectors, at some, not necessarily equal, wage levels. While this may not be entirely true in the sense that there might well be restricted employment opportunities in the PIL sector, it is essentially the case that those lawyers who have chosen to work in that sector could have chosen the private law firm sector.

The methodology was straightforward. First, we estimated an earning equation for the for-profit sector lawyers and used that equation to predict the earnings of the nonprofit sector lawyers, the null hypothesis being that there is no significant difference between their actual earnings and what they would earn in the for-profit sector. Since the earnings data apply only to a single year, while the theoretic test of wage differentials is a present value of lifetime earnings, we explore the possibility that the findings for the single year mask lifetime factors. We also explore the possibility that a disequilibrium exists, with lawyers in one sector being unaware of the opportunities available in the other sector. Finally, we examine all of these findings to see what they suggest about the existence of compensating wage differentials across the sectors.

Our data were obtained between August 1973 and May 1974, in a national sample of lawyers that was undertaken by Joel F. Handler, E. J. Hollingsworth, and Howard Erlanger, through the University of Wisconsin School of Law. (For a description of the survey see Handler et al., 1978, especially Appendix A.) The sample, stratified by age, included 2,300 lawyers working in a wide variety of institutional settings, only two of which are examined here--in private law firms ($n_1 = 786$) and in PIL firms ($n_2 = 62$). (PIL lawyers were over-sampled). Data on their current and past activities, and on their plans and expectations were obtained directly from the lawyers. (Handler et al., 1978, Appendix B.)

The model is one of which the utility of lawyer i (U_i) is the sum of utility derived from money wages, w, and from nonwage characteristics of the job, Z:

$$U_i = u_i (w) + v_i (Z) \qquad (1)$$

All lawyers are assumed, at least initially, to have the same utility function, and u_i (W) and v_i (Z) are assumed independent. Lawyers who are equally productive but who receive unequal money wages are thus assumed to receive offsetting unequal returns in nonwage form. By estimating what PIL lawyers would earn in the private for-profit sector and comparing that with their actual earnings in the nonprofit sector, we can obtain a measure of the importance of differences in Z between the sectors. (In a later section we will explore variable Z, and will also examine the likelihood that PIL and private lawyers have the same preferences as between W and Z.)

Now we turn to estimation of the relationship between actual PIL lawyers' earnings, W, and their potential earnings in the private law firm sector. A lawyer's earnings are postulated to reflect marginal productivity, preferences, and perhaps, "discriminatory" behavior, which are measured by the following set of proxy variables: years of experience, sex, race, rank in law school graduation class, quality of law school, and whether the lawyer had experience as a law clerk and on a law review. An additional explanatory variable was added to reflect the possibility that the earnings are also a function of the size of the law firm (number of full time lawyers) reflecting lawyers' preferences to be associated either with smaller firms, where a given lawyer can be more important and influential, or with larger firms, where scale economies and division of labor permit more interesting specialization. Firm size is thus hypothesized to be a component of Z in lawyers' utility functions.

The Earnings Function. Using lawyers who work for private law firms (not solo practices) as a benchmark, I estimated their earnings, W, as a function of the variables just enumerated. I then substituted characteristics of PIL lawyers into the estimated earnings function, in order to predict what they would have earned in the private sector. If PIL lawyers were found to earn less, or more, than they would have earned in the private sector, given their characteristics, then the difference might be a measure of the compensating differentials associated with working as a PIL lawyer--assuming that PIL and private lawyers have the same preferences and that the income differentials are permanent, matters to be considered below.[2]

3. FINDINGS

The earnings function estimated for lawyers working for private law firms is as follows, with t-values in parentheses:

$$\begin{aligned}\text{Earnings (in \$1000's)} = {} & -8.33 + \underset{(1.62)(19.96)}{3.21^{*}}\ (\text{Experience}) - \underset{(15.20)}{.056^{*}}\ (\text{Experience})^{2} \quad (2)\\ & + \underset{(.28)}{.96}\ (\text{if White}) + \underset{(2.82)}{9.91^{*}}\ (\text{if Male}) + \underset{(.52)}{.77}\ (\text{if on Law Review})\\ & + \underset{(.07)}{.13}\ (\text{if had been Law Clerk})\\ & + \underset{(1.56)}{.61}\ (\text{Law School Quality}) + \underset{(2.28)}{3.20^{*}}\ (\text{if in Top Quartile of Class})\\ & - \underset{(.11)}{.21}\ (\text{if in Bottom Half of Class}) + \underset{(8.20)}{.32^{*}}\ (\text{Firm Size})\end{aligned}$$

$n = 786 \qquad R^2 = .45$

Corrected $R^2 = .44$

*Significant at the .01 level.

Experience is measured in years since graduation from law school. Law School Quality is indexed by a six-point scale, a panel of legal experts having rated every law school from 1, highest quality (as of 1973) to 6, lowest quality. All signs in equation 2 are as anticipated, with the exception of Law School Quality (although that coefficient is not significant at even the .10 level); in addition, as noted above, I had no prior for the firm size variable. Table 1 presents the mean and standard deviation for each variable in equation 2.

Characteristics for each PIL lawyer were substituted into equation 2 to estimate what those lawyers would have earned in the private

Table 1

Means and Standard Deviation of Characteristics of Lawyers, Private and Public Interest Law Firms, 1973

Characteristic	Private Law Firm (n=786)		PIL Firm (n=62)	
	Mean	S.D.	Mean	S.D.
Experience (years)**	10.9	10.6	6.5	5.3
Race (percent white)**	97.2	16.5	83.9	37.1
Sex (percent male)	97.4	15.8	91.9	27.4
Law Review (percent on)**	27.2	44.5	35.5	48.2
Law Clerk (percent that was)*	12.3	32.9	21.0	41.0
Law School Quality[1]**	2.9	1.6	1.6	1.0
Highest Quartile of Law School Class (%)**	58.8	49.2	72.6	45.0
Lowest Half of Law School Class (%)*	12.6	33.2	6.4	24.8
Firm Size (Number of Full-time lawyers)	15.5	17.0	12.0	17.4
Earnings ($1000 per year)**	33.0	20.6	21.1	8.8

*Indicates that differences between means for private and PIL firms are significant at the .10 level.

**Indicates that differences between means for private and PIL firms are significant at the .05 level.

[1]On a scale from 1, highest quality, to 6, lowest.

sector. The null hypothesis is that actual and predicted earnings will not differ significantly; if this were the case there would be no compensating wage differentials between the private and nonprofit sectors, at least in the law area.

This hypothesis was rejected. The actual mean earnings of PIL lawyers in 1973 were $21,077, instead of the predicted earnings of $30,766 in the private law firm sector. The difference of $9,689 is significant at better than the .01 level.[3]

Before this difference, 46% of the actual earnings, can be regarded as even a potential measure of a compensating wage differential, two matters must be explored. One is the possibility that a disequilibrium existed because PIL lawyers were unaware of the income they were sacrificing by not entering the private-law sector. The second is that the difference was temporary, representing an investment in human capital that would bring financial rewards later; that is, lawyers currently performing PIL work would obtain incomes over their working lifetimes equal in present value to what they would have earned had they not worked in the PIL sector.

We have evidence on the first issue. PIL lawyers were asked whether they were financially better off, worse off, or no different than they would be if they had worked in the private law sector. The 63 lawyers questioned either were or had been, in PIL work; 5% of them believed they were better off, 67% worse off, and 28% felt there was no difference. The lawyers were then asked, "By what percent would your income be higher (or lower) if you had never participated in PIL activity?". The mean response was that if they had never done PIL work, their incomes

would be 43% higher--a figure strikingly close to our estimate of 46%. PIL lawyers do know that they are giving up current money income to do PIL work.

Is PIL work an investment that brings greater pecuniary rewards later? The history of PIL firms has been too brief to provide much evidence about the lifetime earnings patterns of lawyers who have worked with such firms. What we want to know is whether PIL lawyers' earnings subsequently overtake earnings of similar lawyers who have not had PIL experience. Two pieces of evidence are available. First, the PIL lawyers were asked, "Looking at the rest of your career, what do you expect the financial effects [of your PIL experience] to be--that you will be better off, worse off, or that there will be no difference?". Responses indicated that 45% (of the 63 respondents) expected to be worse off--that is, they did not expect to "make-up" the earnings lost as a result of their PIL experience; 24% expected to be better off, 19% anticipated no difference; and 12% "didn't know."[4] The mean response was that the respondents expected to be 21% worse off.

A second piece of evidence regarding the "crossover" phenomenon --that is, the "overtaking" of one lifetime-income stream by another-- involves the actual career patterns of lawyers who have left PIL work. Of the 37 lawyers in the survey who left PIL work between 1970 and 1973, only 19% went into private law practice; by contrast, 70% went into teaching and government (43%) or legal rights work (27%) where earnings are generally lower than in private sector legal work (8% left the law and 3% retired).

Up to this point we have found that PIL lawyers earn less than they would earn if they worked with a private law firm, and they know it. They neither expect to make up the earnings differential later, nor, it seems, do they. But the differential between the PIL lawyers' actual earnings and their potential earnings does not seem to be an equilibrium differential in the sense that the lawyers are, apparently, satisfied; when those PIL lawyers who said that their incomes have suffered were asked, "Was it worth it?" 97% answered yes.

4. INTERPRETING THE WAGE DIFFERENTIAL

The omitted variables in the earnings function above--those capturing the nonpecuniary differential--can take many forms. One class involves "working conditions." I have no data on such differences between PIL and private law firms, but conversations with numerous lawyers of both types, as well as first-hand observations at many law firms, make it clear that at least one dimension of working conditions--quality of office accommodations--is superior in the private sector.

A second form of nonpecuniary compensation could be the intensity of work effort required. Unfortunately, the lawyer survey included no question relating to hours worked or other indicators of work effort. I have been unable to find other sources of data regarding any differential in effort between PIL and private lawyers. Informal discussions, however, with law school faculty who have observed the behavior of graduates entering the job market indicate to me that the young lawyers anticipate no difference between private and PIL firms in the intensity of effort or number of hours of work expected of them.

A third form of nonpecuniary compensation may involve characteristics of the work, of the persons with whom one comes in contact, and of the beneficiaries of the organization's outputs. Thus, for example, some jobs provide lawyers with greater opportunities for "doing good," for serving the interests of "under-represented" groups, for associating with celebrities, or for making important decisions of the firm--e.g., on client and case selection. PIL firms are generally smaller than private law firms--averaging 12 lawyers compared to 16 in the private firms according to the lawyers' survey--so that a PIL lawyer is likely to play a larger role in decision making than he or she would in a private law firm. Similarly, one writer notes that PIL work provides "different external rewards--Publicity, hobnobbing with Congressmen, meeting celebrities" (Yale Law Journal).

We might also think of the PIL lawyers as choosing to donate in-kind charity by offering their labor at below-market salaries. In effect, they are receiving a market wage for a portion of their work time, and a zero wage for another portion--that is, they have chosen to supply some "volunteer labor" to "worthy" causes.[5]

A Compensating Earnings Model

A simple model is capable of explaining our observations. Suppose that (a) some law firms (the PIL firms) provide opportunities of the types mentioned in the preceding paragraph, while other law firms do not, and (b) all lawyers have the same preference function, of the form

$$U = u(w) + r(PI,Z), \qquad (3)$$

where w = money earnings;

PI = the vector of "public interest" characteristics associated with PIL work (equals 1 if the firm is a PIL firm, zero otherwise);

Z = vector of other nonpecuniary job characteristics.

Assume further that all partial derivatives are positive, and that the vector Z is the same for all firms, PIL and others.[6]

Under these conditions lawyers would work for non-PIL firms only if those firms paid a greater wage, since, by assumption, the non-PIL firms were inferior in provision of the PI variable and were equal in providing Z. To state it differently, PIL firms could pay a lower wage because they offered more PI rewards. (Whether they would behave in that manner, however, depends on what those "nonprofit" firms' objective functions are like, a matter about which little is known either for PIL law firms or nonprofits in other industries.)

Our statistical results reported above can thus be interpreted as showing that lawyers are willing to give up some $9,700 in earnings per year for the "political involvement" or other characteristics associated with PIL employment. This conclusion needs to be modified, however, because the Z vector seems to be systematically different as between private and PIL firms. For example, the observation above that PIL firms' ordinary working conditions are apparently inferior implies that lawyers in PIL firms would be willing to make a financial sacrifice of even more than $9,700 per year were it not for the lower level of Z in PIL firms.

A Differential Preferences Model

Recall the thesis that the differential between actual and potential earnings of PIL lawyers--which has been estimated at $9,700--reflects systematic differences in preferences. In this instance lawyers whose preferences are for political involvement in serving the "public interest", the poor, or "under-represented collective interests"--e.g., those concerned with protecting the environment--might gravitate toward PIL work, while those lawyers who care little about such considerations might gravitate to the private law sector. There is, indeed, some reason to believe that PIL and private lawyers have systematically different preferences. It is interesting to note that 86% of PIL lawyers, but only 46% of private lawyers, reported in the lawyers survey that one of the three most important factors affecting their firms' choice of cases is whether the case involves "novel questions of law and legal precedent." (The difference is significant at the .03 level.) Moreover, 93% of the PIL lawyers, but only 51% of private lawyers characterized themselves as politically "liberal or left liberal or radical" (a difference that is significant at the .01 level).

If, in general, decision-makers in private for-profit organizations and in nonprofit organizations generally--not simply in law firms--differ systematically in their preferences, this would, as we earlier noted, be relevant to efforts to model the behavior of nonprofit organizations.[7] If further study were to show that decision-makers for nonprofit organizations and for-profit firms generally have different marginal rates of substitution between money income and characteristics

of the work such as the types of outputs it provides (e.g., the types of cases it handles), and the nature of the recipients of its outputs (e.g., the types of clients it represents), then a utility-maximization model would predict different behavior for nonprofit vis-à-vis for-profit organizations subject to the same constraints.

Preferences are clearly difficult to identify other than by observing behavior. In an attempt to discern whether lawyers who opt for nonprofit PIL work and those who choose private law work (a) have systematically different preferences, or (b) have essentially identical preferences and are sorted out through the type of process described in the preceding section, the following model can be considered. Let each lawyer have a utility function of either of the types in equations 1 or 3. (i) If it could be determined that both PIL and private lawyers had preferences of the same type, this would be consistent with interpretation of the earnings differential estimated above as a reflection of differences in law firms' activities and, hence, a reflection of compensating wage differentials. (ii) On the other hand, if it could be determined that PIL and private lawyers differ systematically in their preferences for the PI-type activities, that would suggest that the $9,700 earnings differential we estimated reflected identifiable differences in tastes rather than compensation for different remuneration bundles offered by the for-profit and nonprofit law firms to lawyers who have the same preferences.

Specifically, we seek to estimate an equation that relates (a) the revealed preferences of lawyers between PIL and private law firm practice, to (b) variables reflecting (i) relative earnings opportunities and (ii) relative PI-type rewards:

$$PIL/PRIVATE = F(W_{private\text{-}PIL}, PI) \quad (4)$$

where PIL/PRIVATE = the dichotomous choice between employment in the PIL and private sectors

$W_{private\text{-}PIL}$ = the difference in expected earnings between the two sectors, and

PI = "public interest" rewards (of the political types discussed earlier in this paper).

The operationalization of equation 4 is as follows:

PIL/PRIVATE--a dichotomous variable, = 1 if the lawyer choses private law practice, 0 if PIL work;

$W_{private\text{-}PIL}$--the difference between the lawyer's expected annual earnings in the two sectors, where expected earnings equal actual earnings in the sector chosen by the lawyer, and expected earnings in the other sector are estimated either from equation 2 (for private law firms) or from the analogous equation for PIL lawyers (see Appendix A).

PI--this vector of preferences is proxied by background variables that reflect (a) political background and up-bringing, (b) size of community in which the person grew up, and (c) religious background. Table 2 lists the specific variables that define (a), (b) and (c). An age variable is also included to reflect the fact that PIL firms are quite young, and so it might be the case that younger lawyers are more likely to have opted for employment in the PIL sector.

Table 2

OLS Coefficients Transformed from Logit Coefficients of Regression of Choice Between PIL and Private Law Firm Employment and a Number of Explanatory Variables

Dependent Variable: Private vs. PIL Employment Independent Variable	Logit Coefficient	OLS Partial Derivative	Asymptotic t-statistic
1. Constant	2.4372	.146	2.416**
2. Earnings differential (Private minus PIL in thousands)[1]	.0383	.0023	1.919*
Political Background:			
3. Parents involved in social reform (1 if "a great deal")	.2298	.0138	.539
4. Respondent involved in political activity in college or law school (1 if yes)	-.5893	-.0354	-1.86*
5. Respondent's political leanings (1 if liberal, left-liberal or radical)	-1.364	-.0819	-2.99**
6. Community size where grew up (1 if in small town or rural area, zero otherwise)	.3371	.0202	1.06
Religious Background (Mother's religion):			
7. Catholic (1 if yes)	.0337	.0020	.08
8. Jewish (1 if yes)	-.6253	-.0376	-1.65*
9. Age	.0347	.0021	1.37

[1] Using actual earnings in the law sector where the lawyer works, and predicted earnings in the other sector.

* Significant at .10 level.

** Significant at .05 level.

The OLS partial derivatives transformed from the logit coefficients appear in Table 2 (and the means and standard deviations of the variables are in Appendix B). (i) As expected, an individual's differential earning power between the private and PIL sectors exerts a significant effect on choice. An increase of $10,000 in the differential between private and PIL earnings is associated with an increase of 2.3 percentage points in the likelihood that a lawyer will be in the private sector. (ii) Two of the three political background variables are statistically significant and those have the expected sign; (a) if the person was politically active while in college or law school and (b) if he or she currently had leftist political leanings, he or she was more likely to work in a PIL firm. Parental involvement in social reform at the time the respondent was growing up (variable 3), however, was not a significant variable, although it, too, had the expected sign. (iii) Community size was not associated significantly with lawyers' choices between private and public interest law firms. (iv) Jewish lawyers were significantly more likely to choose PIL work. (v) Age was insignificant in explaining choice, although it, too, had the expected positive sign; younger lawyers were more likely to be in PIL firms.

The finding that lawyers' choices between PIL and private law firm practice are associated significantly with preferences--political and religious--suggests another test of the role of differential tastes. Just as lawyers with one "type" of preference may opt for PIL work even at a financial sacrifice, so, too, might lawyers with contrary preferences--e.g., not to be associated with "leftist" causes--opt for private work even at a financial sacrifice. The latter hypothesis was tested in a

manner analogous to that used earlier for the PIL lawyers. An earnings equation of the form employed in equation 2, above, was estimated for PIL lawyers, and the characteristics of private lawyers were then used to estimate what they would have earned in the PIL sector. The equation appears in Appendix A. A finding that private lawyers (1) were actually earning approximately equal to what they could earn in PIL work would suggest that on average the private lawyers do not care which sector they work in, ceteris paribus. If, however, they (2) would earn more in the PIL sector, that would suggest that they prefer certain nonwage characteristics of the private sector. (3) If they would earn less in the PIL sector, their choice of private-firm employment would be consistent with the hypothesis of preference neutrality, as well as with models in which (a) the greater money earnings in the private sector are more than sufficient to offset a preference for PIL work, or (b) the greater earnings in the private sector combine with a preference for working in the private sector to dictate the choice of employment in a private firm.

Our prediction of $36,822 for private lawyers' mean earnings in the PIL sector is $5,677 greater than their actual mean earnings in private law firms, $33,145. Thus, we have found that private as well as PIL lawyers would have greater earnings in the other sector; these findings are consistent with our finding that preferences--as captured by political and religious choice variables--are statistically significant in explaining whether a lawyer will be found to work in one sector or the other.

Lawyers do indeed respond to earnings opportunities in choosing between employment in the for-profit and nonprofit sectors. What we have found, however, is that lawyers also opt for employment with organizations that

provide satisfactions consistent with their political and religious persuasions. To the extent that such considerations influence the types of people who select employment in the nonprofit sector, it would seem that a theory of the nonprofit firm (and, perhaps, even the for-profit firm) should take into account the results of this self-sorting process as it affects firms' objective functions.

The "finding" or, perhaps better, the interpretation that lawyers' preferences differ in systematic ways that influence occupational choice between the proprietary and the nonprofit sectors is not a statement about "fundamental" differences in tastes. Stigler and Becker (1977) are surely right in arguing that how one treats tastes "must be made on the basis of their comparative analytical productivities" (p. 76). The most that can be said about the findings reported here for lawyers is that useful predictions of occupational choice across sectors can be made with a model that allows preferences, as well as prices (in this case, wages) to differ. Whether further analysis of "the subtle forms that prices and incomes take in explaining differences among men and periods" (Stigler and Becker, 1977, p. 76) would show that the private and the PIL lawyers can be treated as if they have the same preferences, is conjectural and, in a deep sense, is undeterminable. If such a model were developed and it yielded "better" predictions than a model that treated preferences as variables, one could never rule out the possibility that a still better model could be developed that permitted preferences to differ in more subtle forms--etc., etc., etc.

5. CONCLUSION

We have estimated that PIL lawyers would receive considerably higher earnings if they worked for a private law firm. They are aware of the differential, do not expect to make it up later in their careers, and do not regret their involvement in PIL work. The bulk of them, indeed, shift to another low-paying sector rather than to a private law firm when they leave PIL work. This all suggests that the differential is an equilibrium condition. While the forms of nonpecuniary compensation are not clear, they appear to include the advantages of being able to select cases that involve more novel legal issues, and of being involved with the pursuit of social goals respecting which the lawyer has strong preferences.

The model of sectoral choice developed above attempted to identify differentials in preferences across institutional sectors in the legal services industry. Controlling for the differential earnings opportunities that lawyers with various characteristics have in the for-profit and nonprofit sectors, and for the size of community and religious background of the lawyer, we found that lawyers who regarded themselves as politically liberal were significantly more likely to be employed in the nonprofit PIL sector.

What follows from the discovery that decision makers (managers) in the for-profit and private nonprofit sectors differ systematically in their preferences? To be sure, a conclusion that such differences exist more generally than in the law area is not yet warranted; what holds for legal services need not hold in other industries. But if further research were to confirm the kinds of differences in political attitude found here, (and, perhaps, to extend them to government decision-makers) what would be the implications?

The answer is not entirely clear, although it does seem to rest on a linking of (a) utility-maximizing behavior for decision-makers with different preferences, to (b) testable predictions of firms' behavior, with regard to such variables as price and quality. For example, it might be predicted that nonprofit organizations will not behave as profit maximizers but will, instead, sacrifice opportunities that would increase the organization's "surplus" and, hence, its ability to give larger salaries or more fringe benefits to managers, in order to assist "deserving" persons and "worthy" causes, or to make pricing or output-quality decisions that reflect notions of fairness. The next research frontier in this area, thus, is the development of testable implications of a model of nonprofit organization behavior. It is still a considerable distance from our findings to a general theory of the nonprofit firm. The findings do suggest, however, that there is room in such a theory for recognition of systematic differences in managerial preferences as influences on organizational behavior.

NOTES

[1]In addition to the "sorting" process associated with differences in preferences, there is probably also a "socialization" process at work--one in which the behavior of individuals is affected by the people with whom they associate. This can be interpreted, however, as involving either changes in preferences or the effects of the reward, and punishment structure.

[2]Since a sorting process is assumed to be at work, one might argue that the analysis presented here exhibits selection bias. The model does indeed rely upon self-selection by lawyers, but the selection is assumed to reflect preferences and not productivity. A lawyer who is in one sector is hypothesized to be capable of earning in the other sector the same wage as do lawyers with those same characteristics who are in the other sector. This assumption may be incorrect. If actual productivity depended on, say, attitude and motivation toward one's work in addition to factors affecting productive potential, then the process of sorting according to preferences would also imply systematically sorting according to actual productivity. In such a case our estimation procedure would suffer from mis-specification in the form of omitted variables reflecting motivation.

[3]Significance was determined in the following manner: data on lawyers in private law firms and in PIL firms were pooled in a regression of earnings on the variables in equation 1 plus a dummy variable signifying PIL work. The coefficient of the PIL variable was the basis for the

significance level statement in the text above. That coefficient, $8,930, was reasonably close to the difference between actual and predicted PIL earnings reported above, $9,688.

[4]The questions in the lawyers survey (Handler et al., 1978) did not state explicitly what the PIL lawyer should assume he or she would have done as an alternative to PIL work. In context of the other questions, however, it seems reasonably clear that respondents were taking private law practice to be the counterfactual.

[5]See Menchik and Weisbrod (1980) for a recent analysis of the supply of volunteer labor. In that paper we found complementarity between donations of time and money. This suggests that donors of time gain utility from direct participation, an interpretation that is consistent with the findings here for PIL lawyers.

[6]I owe this formulation of the model to Kenneth Burdett, who read an earlier version of this paper.

[7]For some examples of such models, none of which focus attention on differences in preferences between "managers" of for-profit and nonprofit organizations, see Pauly and Redisch, 1973; Newhouse, 1970, pp. 64-73; Levy, 1978; and James, 1976.

[8]It is true, of course, that the differentials that have been estimated between the lawyers' actual earnings and their predicted earnings in the other sector may reflect neither a compensatory differential nor different preferences, but rather the effects of omitted variables affecting either labor (lawyer) productivity or working conditions. See note 2, above.

REFERENCES

Handler, J. F., Hollingsworth, E. J., and Erlanger, H. S. 1978. Lawyers and the pursuit of legal rights. New York: Academic Press, especially Appendix A, pp. 195-203, and Appendix B, pp. 206-265.

James, E. 1976. The university department as a non-profit collective. State University of New York at Stony Brook, mimeo.

Levy, F. K. 1975. Economic analysis of the non-profit institution--the case of the private university. Public Choice, Spring.

Menchik, P. and Weisbrod, B. A. 1980. Volunteer factor supply in the provision of collective goods. Paper presented at the Conference on Interrelations of Public, Private, and Nonprofit Sector, Committee on Urban Public Economics, Cambridge, Mass., May 9-10.

Newhouse, J. 1970. Toward a theory of non-profit institutions: An economic model of a hospital. AER, 60, 64-73.

Pauly, M. Redisch, M. 1973. The not-for-profit hospital as a physicians' cooperative. AER, 63, 10-16.

Rees, A. 1975. Compensating wage differentials. In A. S. Skinner and T. Wilson, eds., Essays on Adam Smith. Oxford: Clarendon Press. Pp. 336-349.

Stigler, G. J. and Becker, G. S. 1977. De Justibus non est disputandum. AER, 67, 76-90.

APPENDIX A

Regression Estimates for PIL Lawyers

Dependent Variable: Annual Earnings ($000)

Independent Variables	Coefficient	t-Value
Constant	9.51	2.36
Experience (years since completing law school)	2.26	6.26
Experience squared	-.039	-3.34
Race (1 if white)	-5.04	-2.21
Sex (1 if male)	3.12	1.08
Law school review (1 if on)	2.42	1.20
Law clerk (1 if was)	2.38	1.18
Law school quality	.23	.26
Law school class standing:		
Highest quartile	-1.48	-.70
Bottom half	3.19	.96
Firm size (number of lawyers)	.014	.30

$N = 62$

$R^2 = .66$ Corrected $R^2 = .59$

Discussion: The contrast between this earnings function for PIL lawyers and the earnings function for private lawyers (see equation 2 in text) is noteworthy. For example, (1) in the nonprofit PIL firms, nonwhites receive substantially and significantly higher earnings, whereas in the private sector nonwhites receive lower earnings (although not significantly so); (2) males receive significantly greater earnings than females in both

sectors, but the difference, nearly $10,000 in the private sector, is about $3,000 in PIL firms; (3) being in the top quartile of one's law school class, which is associated with an additional $3,200 per year in earnings at private law firms (and at a highly significant level), is associated with a statistically insignificant lower level of earnings at PIL firms; and (4) larger firm size is associated with an additional and significant $320 per additional lawyer earnings level in the private sector but has essentially a zero effect in the PIL sector.

APPENDIX B

Means and Standard Deviations of Background Characteristics of Lawyers in the Sample

	Mean	Standard Deviation
Predicted earnings differential (000)	12.63	13.46
Parents involved in social reform (proportion)	.1577	.3646
Respondent involved in political activity (proportion)	.3356	.4722
Respondent political leanings (proportion left, left-liberal or radical)	.5428	.4982
Community size where respondent grew up (proportion in small town or rural area)	.4198	.4936
Religious background:		
Proportion Jewish	.2450	.4307
Proportion Catholic	.4225	.4940
Age (years)	36.42	10.28