

# All That Glitters



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**Y**ou don't need to be an English or history major to appreciate that the tension between the idea of law as a noble profession and as a common commercial enterprise is not a phenomenon that has just emerged in our professional lifetimes. Lawyers are privileged, and ethically obliged, to help people in need and to hold society accountable to rule of law, but there's also the need to put food on the table and gas in the tank. Dickens' grasping Tulkinghorn in *Bleak House* and Daumier's sculptures of leering, self-important, and overfed Parisian *avocats* remind us that the problem is neither new nor localized; in real life, as in art, the balance is often not struck in favor of nobility.

Nevertheless, real life gives ample evidence that the struggle to live up to the ideals of our profession is worth it. In April, the State Bar of Michigan honored the 175 lawyers who have reached the 50-year milestone as members of this Bar, and we asked them to share their thoughts about their careers. The common theme that emerged was the lasting satisfaction in helping others: "becoming a trustee of the Children's Special Needs fund to assure my client's legacy was fulfilled and not wasted;" "the opportunity to solve problems, resolve disputes, and touch the lives of people;" "winning a full pardon for an innocent man wrongly convicted of murder;" "no money, but a lifetime of satisfaction."

The event honoring the 50-year members is called a "Golden Celebration," and, coincidentally, it was not uncommon at the event for attendees and their guests to express the lament that the golden age of lawyering is behind us. And according to Google (a word that just a decade ago existed only as a noun), the golden age of big law firms, at least, is passing.

I am not so pessimistic about the state of our profession. For one thing, "golden ages" are probably overrated. I suspect the poet Randall Jarrell got it right: "The people who live in a golden age usually go around complaining how yellow everything looks."

Most importantly, the bar has never been so open, and so diverse. While it is easy to fault how long it took for progress to be realized, and how far we have yet to go for the profession to mirror our society's demographics, you need only look back within the lifetime of every member of today's bar to see a profession much less welcoming to women and minorities. Although only four of this year's 50-year honorees were women, the trend line for women in the profession has climbed steadily to a point where about half of all law school graduates are women. Substantial progress, although not so dramatic, has also taken place in the ethnic, racial, and class diversity in the profession, and a commitment to increasing diversity is now mainstream.

Granted, we have problems that our predecessors did not face, but when has that ever not been true? Several of the 50-year celebrants pointed to the advent of lawyer advertising as the single most important change in the profession in the last 50 years. To that I might add a more recent pestilence within the same genre—the erosion of the regulation of lawyer (and judi-

cial campaign) speech. I am as big a fan of the First Amendment as anyone, but I see no "upside" to the decisions that have undermined our ability to regulate lawyer speech in a way that upholds the values of civility and professionalism. If we can't hold the line on the coarsening of public discourse by lawyers through disciplinary regulation, we must find other ways to strengthen the traditions of civility within our profession. There are no easy solutions.

Other changes within the profession, while also presenting challenges, are more ambiguous in their impact on the profession:

- The growth of specialization. In 1958, there were only six State Bar sections: labor relations, negligence, probate & trust, public corporation, taxation, and workers' compensation. No family law section. No real property section. Today, we have 39 sections, including an animal rights section and an intellectual property section. As our ties to those practicing within our specialties have deepened, our common bond with other members of the bar becomes more tenuous.
- Technology. In 1958, the dictaphone was big news. So were color exhibits in court. Today, we take for granted that we can open a sleek, portable laptop and have nearly instant access to more law and legal research material than was available in a typical law library

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of 1958. And we can use the same device to write briefs—editing and cutting and pasting and shepardizing to our heart's content—and then use that same device to instantly transmit our thoughts and documents to others. And so, of course, can any layperson with access to an Internet connection, leading to increased attempts at pro se representation, and to new unauthorized practice of law scams. And to urgent midnight messages from clients. Technology does offer the ability to serve our clients more quickly, and perhaps at better value, but suddenly, and ominously, the practice of law is becoming both demystified and a 24/7 activity.

- Globalization and the dissolution of boundaries. Legal research can now be done and legal advice can now be rendered easily and quickly from anywhere on earth, but our regulatory infrastructure and rules of practice are all geographically based.

What are the implications of all this change for the future of the profession? I think the common thread is that these changes work against our association as lawyers.

Lawyers, even those in firms, typically serve their clients as individuals, but they protect and nurture the law and the profession only in community with one another. Since the thirteenth century, lawyers have recognized a need for organized association with one another—the need to nourish the bonds of respect that allow us to pass along our knowledge and traditions from generation to generation, lawyer to lawyer. And frankly, to get along. Although we are all working from a common body of law and ethics, the adversarial nature of our legal system means that, unlike doctors, architects, plumbers, academics, you name it, we work, necessarily, in opposition to one another. In the face of that professional opposition, a strong, well-centered bar association is the centripetal force that works to hold us together

against the centrifugal force of our adversarial interactions.

Bar association, not regulation, has nurtured our nobler instincts over the centuries, keeping the legal profession from decline. The challenges we face as a profession today—specialization, technology, globalization, and even our desirable demographic diversification—all put a strain on the traditional bonds of legal community. They cause us to be more isolated, and to feel less connected to our fellow lawyers. In the face of these trends, the need for a unified and focused bar association is greater than it has ever been, and will only grow greater.

The State Bar of Michigan realizes that meeting this challenge requires focus, open-mindedness, creativity, and dedication. And we accept that challenge.

Fifty years from now, we want the lawyers sworn in as officers of the court in 2008 to feel the same sense of satisfaction and pride as the members we recognized at this year's Golden Celebration. ■