


75 Years

1935 • 2010

75TH ANNIVERSARY SPECIAL FEATURE

STATE BAR OF MICHIGAN



Déjà vu?

In September 1940, the *Michigan State Bar Journal* carried a 22-page report compiled by the Committee to Study the Economic Condition of Lawyers in Michigan.¹ More than 900 answers to a survey were received, the replies coming “from every section of the state, from all types of communities, industrial and rural; from lawyers practicing alone, and from small and large firms; from lawyers working for concerns and companies; and finally, from lawyers engaged in any and all varieties of legal business and practicing under all sorts of conditions.”

Issued on the heels of the Great Depression, the analysis of the survey found the economic condition of lawyers in Michigan to be unsatisfactory. The report stated, “There are some members who are exceptionally situated, fortunate in practice, or who are blessed with invincible optimism, who believe lawyers in Michigan are prosperous, but the great majority of the lawyers are sure, and rightly so, that this is not a true picture of the condition.”

When asked what effect the Depression had on professional income, 46 percent of those responding reported a decrease in

professional income due to the Depression, while only 3 percent reported an increase in income. Eighteen percent reported little or no effect, and the remaining 33 percent were unable to answer because “while the [D]epression diminished certain forms of business, it augmented others... receiver-ships, foreclosures, bankruptcies, reorganizations, trusteeships, and other forms of business which involve the economic distress of the community increased with such rapidity after 1929 that in the early years of this decade it did offset to some extent the diminution or loss of other business.”

The survey indicated that the number of litigated matters lawyers handled diminished significantly when compared to litigation in 1930. Sixty-three percent reported handling less court work, while 19 percent reported no change in the amount of court work and 18 percent reported they were handling more litigation. Cases before the Michigan Supreme Court declined from a yearly average of 580 cases in 1934 to an average of 456 cases in 1939. Statistics covering the same period for the Circuit Court, the Superior Court for Grand Rapids, and

the Recorders Court of Detroit showed “72,283 cases commenced in 1931, but only 59,180 cases commenced in 1938.”

When asked if lawyers in Michigan are exposed to numerous forms of unfair competition, “a large majority of the members of the Bar whose views have been communicated to us complain that in one form or another they are encountering competition in the practice of law from lay individuals and organizations. The principal competitors mentioned are real estate men, certified public accountants, trust companies, banks, justices of the peace, probate judges, notaries, members of the governmental boards, and commissions and collection agencies. Brokers are also mentioned; and officers of labor unions; credit bureaus and title insurance companies and trade associations and persons designating themselves as traffic consultants or labor relations counsel or tax counsel; also automobile clubs, casualty insurance companies and clerks of courts; and even ministers of the gospel and undertakers are said to engage in the giving of legal advice to bereaved persons.”

- ☐ Excellent
- ☐ Good
- ☐ Average
- ☐ Poor

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The study also asked if there are many members of the public who need legal advice and are able to pay for it who are not seeking advice from lawyers. Eighty-seven percent of Michigan lawyers answered this question affirmatively. "In the opinion of the lawyers, as communicated to us, the principal factors that have an important influence in keeping people who need legal advice away from lawyers are the natural fear of incurring expense and also a general distrust of lawyers. This distrust is based in some instances on unfavorable experiences with individual lawyers by themselves or their friends. But it is, in the opinion of the lawyers, based to a much larger extent on publicity detrimental to lawyers. The typical lawyer of the screen and radio is a cunning scoundrel whose machinations are with difficulty foiled by the hero of the drama. When a lawyer is guilty of some delinquency the press plays up the story; and many people draw from such instances the false conclusion that such conduct is typical of the Bar. Moreover, there are at times deliberate representations to the public that the services which a lawyer performs are only in small part necessary and

that a person engaging such services is generally overcharged."

In answer to the question of whether there too many lawyers in practice at the present time in view of the present amount of legal business available, 67 percent responded that there were indeed too many lawyers in 1940, and 75 percent believed they knew how to best reduce the number of lawyers in practice. Approximately 71 percent favored a required apprenticeship before being admitted to practice, and the same number favored raising the standards for admission to the Bar. They were evenly divided on whether admissions to law schools should be limited; however, 66 percent felt that admission to the Bar of qualified individuals should not be limited.

"The problem of what to do about the excess number of lawyers in practice is one that will have to be realistically faced by the Bar and the sooner we face it the better. It exists in many other parts of the country. Remedies have been proposed for it elsewhere and to a limited extent have been put into force; but without achieving any results that are at all convincing that the

real remedy has been found. It may well be that the practice of law falls within the class of occupations in which the membership must in the public interest be limited."

The Economic Condition Committee noted that "to a limited extent the problem of the excess number of lawyers is correcting itself...according to the statistics set forth in the December 1935 and December 1939 [issues] of the *American Law School Review*, the number of students registered in the four law schools in Michigan for 1935 was 1,522, while in 1939 it had dropped to 1,266. The same diminution has occurred in other parts of the country."

A bit optimistic perhaps? In 1940, there were 6,377 members of the State Bar of Michigan. In 2010, we serve approximately 41,000 members. ■

Researched by Nancy F. Brown, director of Member Services and Communications, who has worked at the SBM for 33 years of its 75-year history.

FOOTNOTE

1. Excerpts from Report of Committee to Study Economic Condition of Lawyers in Michigan, 19 Mich St B J 424 (1940).