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Can a Lawyer Make a Living

sets of officials of a fraternal society on the ground that Quo Warranto was the proper remedy. Kakeikau v. Hall, 27 Hawaii 420, (1923). This decision preceded a long line of cases holding the declaratory judgment proper as an alternative remedy. Pennsylvania courts in certain will cases fell into the same error in suggesting that the declaratory action could be employed only when no ordinary form of action was available, because the main purpose of the Act was to insure a speedy determination of issues. Borchard, Declaratory Judgments, p. 150; (1934). In a Washington decision (1939) the court said, "The proceeding for a declaratory judgment is not a substitute or alternative for the common law or statutory actions existing when the declaratory judgment act was passed in this state." Peoples Park v. Anrooney, 100 Wash. Dec. 43, 93 P. (2d) 362. They relied partly on a Minnesota decision which said, "The Act was not designed to supplant other remedies well established and working satisfactorily." Farmers & Merch. Bank v. Billstein, (1928) 204 Minn. 224, 283 N. W. 138. Minnesota, in turn, relied on a New Hampshire and a Pennsylvania decision along with several others as authority. Lisbon Village Dis. v. Lisbon, 85 N. H. 173, 155 A. 252, 1931. Bell Tel. Co. v. Lewis, 313 Pa. 374, 169 A. 517, (1934.) In the Pennsylvania case, a declaration had been denied because of a special statutory remedy. These states and a few others refuse to allow a declaratory judgment as an alternative remedy.

Briefly summarizing, under the minority holding declaratory relief should be granted only when there is no other remedy available. By the majority view, the courts will render a declaratory decree even though coercive relief is also sought, could be sought, or could not be sought, with exceptions as before noted. The latter holding is considered the sounder and more reasonable one. Quoting Borchard, "A court should not insist that a plaintiff adopt his most drastic and expensive remedy, when a simple, mild, and inexpensive remedy will determine the issue and preserve his rights . . . Self-restraint, the willingness to invoke arbitration and declaration of rights instead of hostilities and coercion, is a mark of civilization and should be encouraged, not discouraged." Borchard, Declaratory Judgments, p. 162; (1934).

It is submitted that the declaratory judgment should properly be considered as an alternative remedy, available whether or not other relief is possible.

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CAN A LAWYER MAKE A LIVING?

[This excerpt from an article with the above title in 'The Law Student' by Irving Shore, of San Francisco, based in part on the pamphlet 'The Economics of the Legal Profession' by Dean Lloyd K. Garrison of the Wisconsin Law School, seems to indicate, (1) that lawyers are not comparatively worse off than other professions, and (2) that the primary cause of the Bar's economic

plight is the unnecessary increase of the ratio of lawyers to population.]

Based on statistics accumulated in the States of New York, California, Wisconsin, Missouri, Connecticut, and elsewhere, it was found that for the first two years of practice, the average earnings of lawyers in the United States in 1936 was $1,099, or about $92.00 a month. A lawyer may expect, during the next five years, to average $2,000, and in the following ten years about $3,000. If he practices twenty-five years, his income will increase until it touches the $5,000 mark; then it will begin to decrease after thirty-five years of practice, reaching $2,500 at the fifty-year point.

On the whole, according to Dean Garrison, incomes appear to be more stable and the first twenty years more lucrative in the smaller communities, although the 'big money' in individual cases is in the larger cities, where the last twenty years is more lucrative for those who survive.

How do incomes of lawyers compare with those of other professions? The average lawyer is about on a par with the average doctor, considerably behind the surgeon, and somewhat higher than the general practitioner, financially speaking. Young doctors seem to get started more quickly than young lawyers, but the attorney makes more in later years.

As to other professions and vocations, only the engineer on the whole fares better. So there is some justification for the desire of money-minded individuals to study law.

During the depression years of 1929-1934, the per capita income of lawyers declined from an index level of 100 to a level of 76, but this was a smaller percentage decline than medical men, consulting engineers, clergymen, or corporate officers suffered, and substantially the same as the decrease in the cost of living in the same period.

In the same five years, however, the number of lawyers increased 23%, from 129,000 to 156,000, while the number of doctors increased only about 6%, from 119,000 to 126,000. If the same rate of increase continues, a gloomy prospect confronts the lawyer who contemplates the competitive struggle ten or twenty years hence. The medical profession limits the number of students in the recognized schools. Whether the legal profession should do likewise is beside the point of the discussion; certainly it is apparent that lawyers are increasing in number far disproportionate to population, and likewise that they are concentrating in the urban centers.

That, perhaps, is why young lawyers are such a severely handicapped group, especially in large cities. The proportion of lawyers who earn so little as to constitute a professional problem presents a much more acute problem to the bar than the medical profession faces.