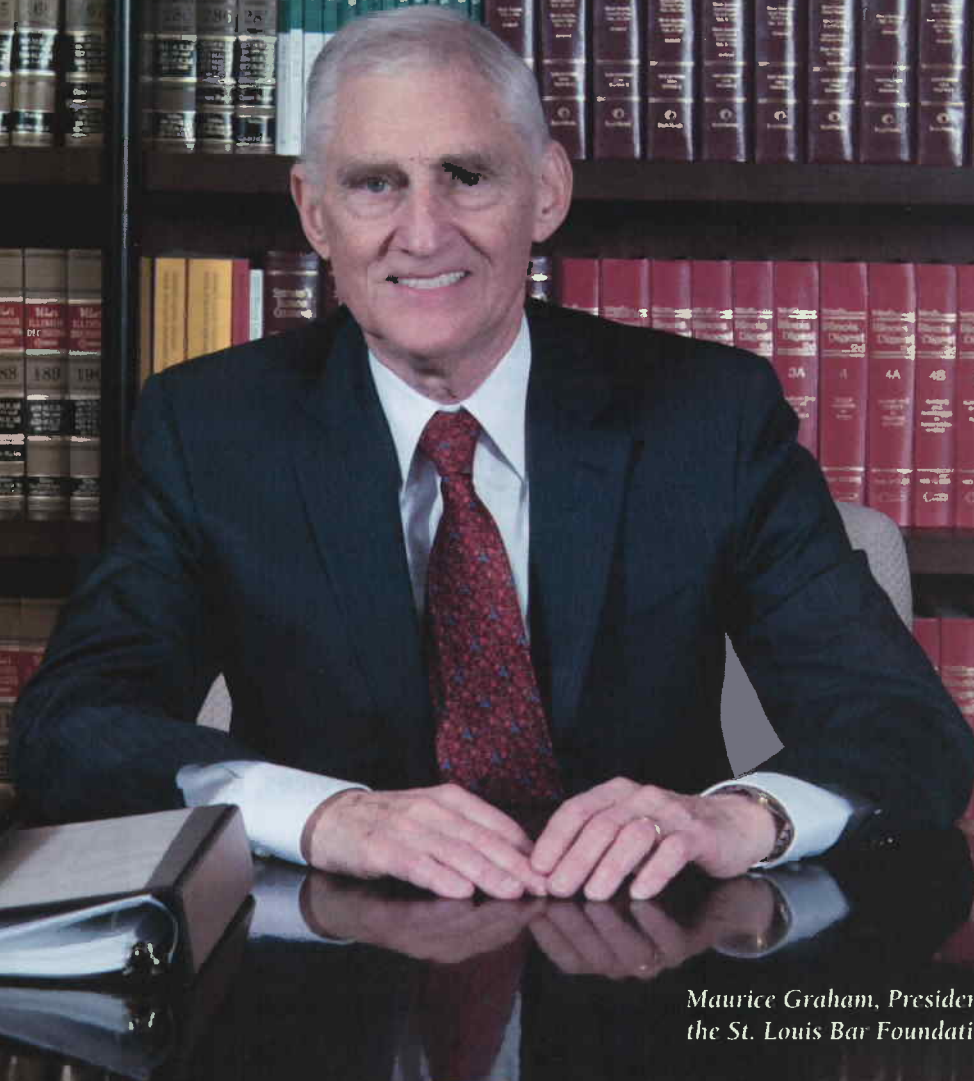


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*Maurice Graham, President of
the St. Louis Bar Foundation*



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How can I figure out how to practice law in the 21st century

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As we are taught to be attorneys, we come to think of a continuous arc of The Law from ancient times to the present. This perception follows from the inherent conservatism of the law based on the fundamentals of common law. Indeed the great success of our legal system as the basis for economic growth is based on its continuous and predictable nature. Various practitioners reading this article can probably glance across their desk at client matters involving legal principles that derive from the Code of Hammurabi (ca. 1700 B.C.E.), Magna Carta (1215), the Assize Clarendon (1166), the Venetian Statute of 1474, the Statute of Wills (32 Hen. 8, c.1, 1540), Statute of Bankrupts (34 & 35 Henry VIII, c. 4 1542) and perhaps some American law as well.

So, if the law is largely unchanged or only changed by the smallest of increments, why aren't our lives largely the same as ancient lawyers? The answer is quite obvious, because the *practice of law* changes at a much faster rate than the law that is practiced.

At bar conferences I frequently hear about the drastic changes that the practice of law is currently experiencing. I hear about the impacts on the practice of innovations like email, mobile telephones, social networking, digital storage, video conference, virtual law firms, and more. But this discussion of the specifics of these technologies never really extends to what the *practice of law* will look like when they have been fully integrated into our professional lives. I have great difficulty imagining what the next innovations

might be, much less how they will impact the practice of law. Fortunately, I know an extremely reliable method for predicting the future: the study of history. This is not the first wave of technological innovations that has radically changed the practice of law.

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The last quarter of the Nineteenth Century also saw tremendous change. We often speak of this period as the Age of Innovation, and personify the era with larger than life personalities like Thomas A. Edison. We are all familiar with many of these inventions of this era, but I bet you have never really thought about what it might be like to practice law before the invention of the incandescent light bulb in the 1870s. I have to acknowledge that I often engage in the practice of law between dusk and dawn and on cloudy days.

While on the topic of Edison's 1870s inventions, his development of the phonograph concept, including both cylinders and discs was not intended primarily for the dissemination of musical recordings, rather it's first, and for a long time, principal use was for office dictation, including law offices.

The 1870s also saw Alexander Graham Bell's participation in the invention of the telephone. I can't even begin to imagine what the practice of law would have been like without a telephone. This period also brought such innovative concepts to the law office as the typewriter (1873) and the first commercially practical adding machines (1885 in St. Louis).

Various technologies had existed for many years to copy documents. These included diverse approaches like the polygraph machine, printing press, carbon paper, and many others. But all these technologies had a common limitation; they all provided a means for duplicating documents at the time of their creation, so in essence they were only able reproduce outgoing documents. The 1870s also saw the first commercial applications of "The Blue Process" for coping existing documents, first adopters of the technology were designers and engineers, hence "blue prints." But machines that made copies in this way were increasingly impacting law offices as the twentieth century approached, and by the end of the first decade of that century that, or another means of duplicating existing documents, would be common in most law practices.

If it is hard for you to imagine a law office without a telephone, or the other gadgets above, just hold on, its gets weirder. The ability to make copies of documents had a huge impact on a simpler but even more fundamental law office technology. Prior to the end of the nineteenth century, most documents in law offices were folded and stored in pigeon holes or drawers, most information was recorded by hand in already bound ledgers and books. As a result, lawyers of this time were just beginning to consider the idea of the "filing." The first file cabinets appeared at this same time to accommodate the radical new method of storing documents vertically as unfolded loose-leaf pages.

Technology was not all that was changing around the practice of law in the U.S. The country was moving from an agrarian economy to an industrial one and the practice of law was changing to follow.

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As of 1872, there were only fourteen law firms consisting of four or more lawyers in the ten largest cities in the United States. By 1903, there was a tenfold increase in the number of law firms with four or more lawyers.

These radical shifts must have been very unnerving for practicing lawyers of the time. We are, and were at the time, a very conservative profession and these changes must have been very difficult to understand and accept, while still laboring away at providing for a family. If this period of rapid change and economic realignment is analogous to our current times, then it probably behooves us to consider the transitions these lawyers made. Of course the specific manner in which they adopted twentieth century technology is probably not useful to us as we abandon that technology for twenty-first century technology. We don't particularly need lessons in integrating the telephone or the filing cabinet into our practices, but I for one could use some guidance on virtual law firms and court hearings with various parties scattered across the country and connected by video. The question becomes how they made this transition. What did these lawyers do to try to figure out how they could continue to practice law amidst massive social, economic and technological changes? In 1874, they formed this bar association.

That doesn't mean that you can show up to a BAMSL meeting or activity and get the answers to all the questions about what the future holds for the practice of law. It certainly doesn't mean that the President of BAMSL knows how to address these changes. No one person has the answers, but I think as a whole the membership of BAMSL does have all the answers. This year we have disseminated information to our members on such topics as the ethics of Facebook, use of Facebook, use of Powerpoint in courtrooms including virtual courtrooms, and transitioning online marketing from simple search engine optimization to specific optimization for the new "Google Places" features. These were great programs, but no single one of them can tell us the answers to where the practice of law is headed.

I don't even know all the questions to ask to get the answers for how we need to change our practices going forward. But the idea of a Bar Association is that if enough lawyers join the association and actively participate in committees, sections, and divisions we can not only figure out the what we need to know to practice law in the twenty-first century, but also how to learn it. Without YOU and I showing up at committee, section and division meetings, CLEs, and other BAMSL functions we are just a social club getting together for drinks.

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