

# Emerging Standard of Technical Competence

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Advanced Evidence & Discovery Seminar

Dallas, Texas

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# Overview

- ✦ **Background**
- ✦ **The Past**
- ✦ **The Present**
- ✦ **The (Very Near) Future**
- ✦ **Conclusions**



< Background >

# The Lawyer's Place in Society

# Specialization

With specialization comes...

...the “Grand Bargain”...

...between a profession  
and its society.

“We trust our health to the physician; our fortune and sometimes our life and reputation to the lawyer and attorney.”

Adam Smith, *Wealth of Nations* (1776)

# What makes a profession?

- ✦ Professionals have knowledge that lay people do not.
- ✦ Admission to the profession depends on credentials.
- ✦ Activities of the profession are (usually) regulated
  - ✦ Exclusivity is granted over an aspect of life
  - ✦ Standards of conduct and ethical codes
- ✦ Professionalism and serving the common good

# Basis for the Grand Bargain

- ✦ **Answer 1:** People can't know everything so a specialist is needed. Certifications connote ability.
- ✦ **Answer 2:** Professionals resolve an uneven distribution of knowledge in society, but must do so in an ethical way (that lay people do not) for the betterment of society.
- ✦ **Answer 3:** Exclusivity by conspiracy.
- ✦ **Answer 4:** If there wasn't exclusivity, you could not recoup the "cost of entry" of the knowledge base.

# Problems with the Bargain

- ✦ **Question:** Why should there be occupational groups controlling the acquisition and application of various kinds of knowledge?
- ✦ **In other words:** How have professions been able to isolate and ring-fence great expanses of knowledge and related services so that all others (non-professionals) are excluded from becoming involved other than as recipients?

Yet all the *questions* and  
*answers* are predicated on  
access to knowledge

**Access** requires *technology*

# Problem with the Bargain

- ✦ Recent studies have found deficiencies in professions
  - ✦ Economic
  - ✦ Technological
  - ✦ Psychological
  - ✦ Moral
  - ✦ Quality
  - ✦ Inscrutability

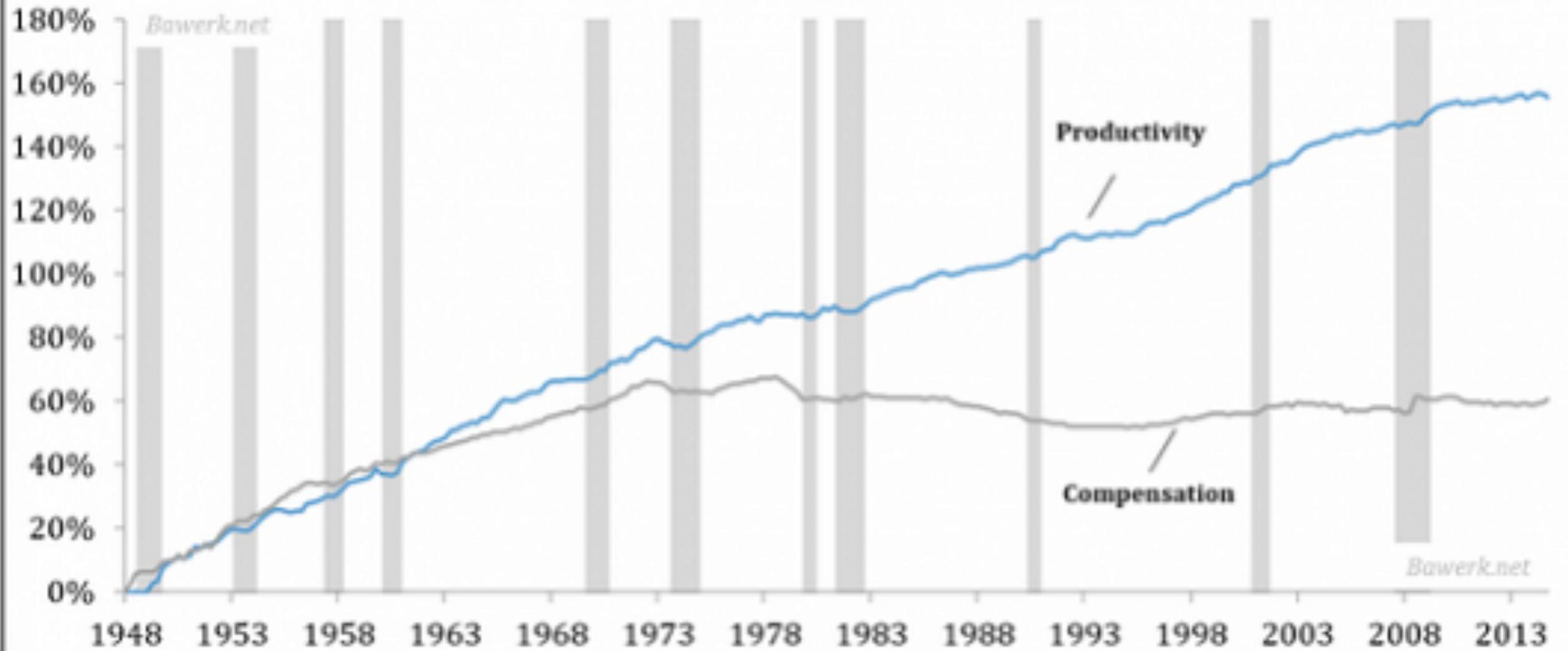
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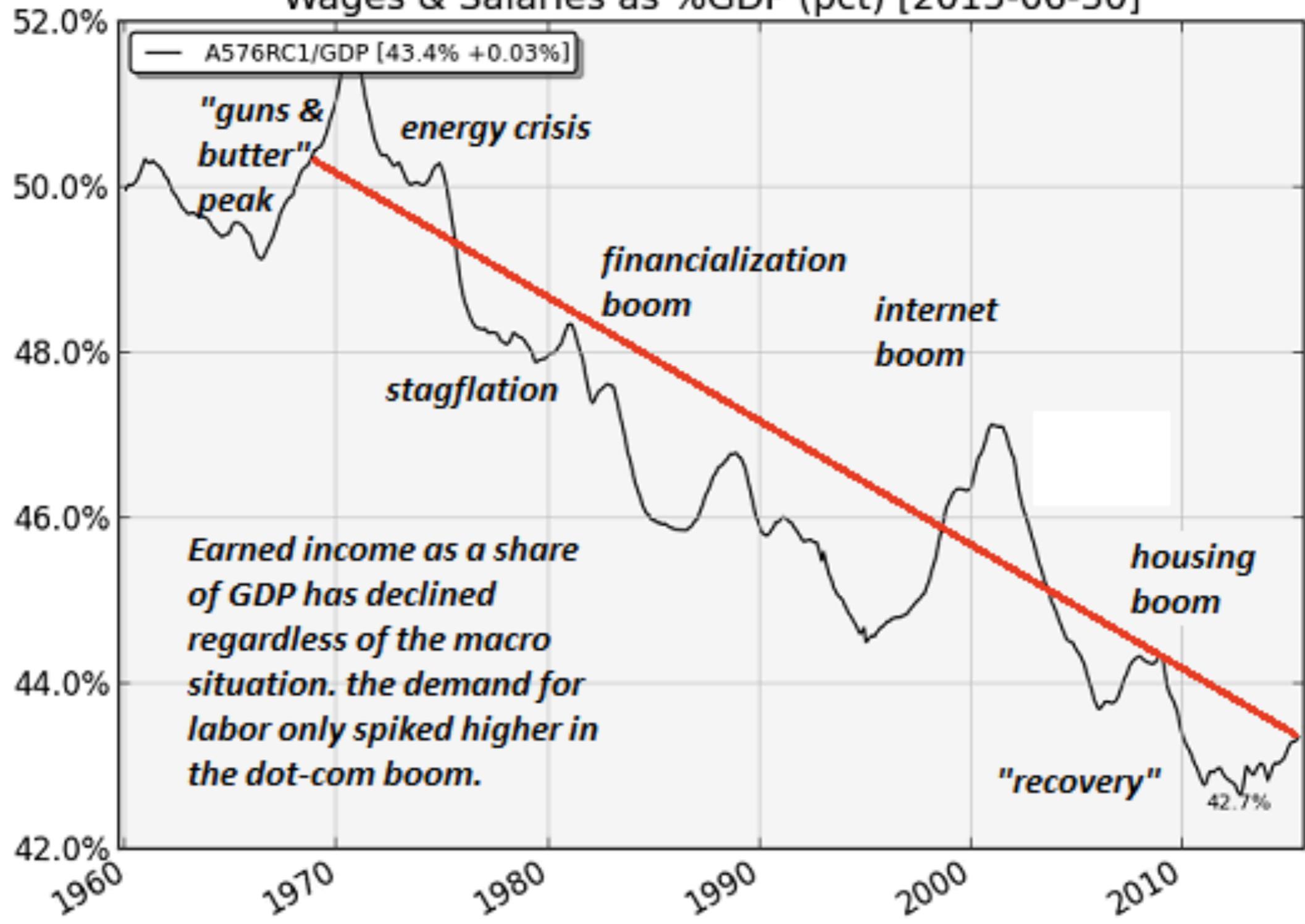
< Economic >

1948 = 0%

## US Labour Productivity vs. non-supervisory compensation



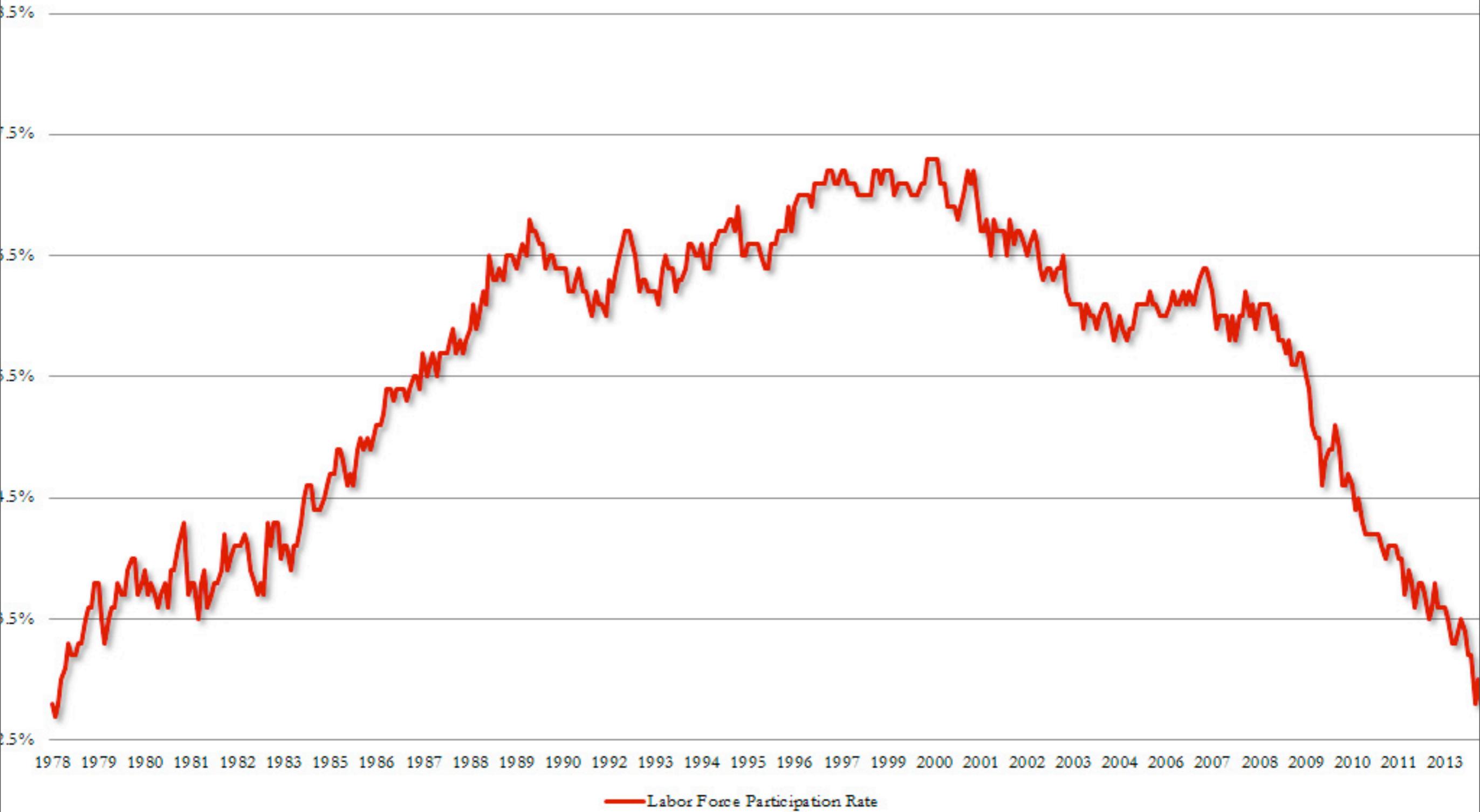
# Wages & Salaries as %GDP (pct) [2015-06-30]



Last update Aug 6, 2015

<http://www.mdbriefing.com>

# Labor Force Participation Rate



Automation in other  
industries and professions  
not matched by the Bar.

Lag in legal automation has  
led to higher relative cost of  
lawyers

Two things to automate:

- Things lawyers *do*

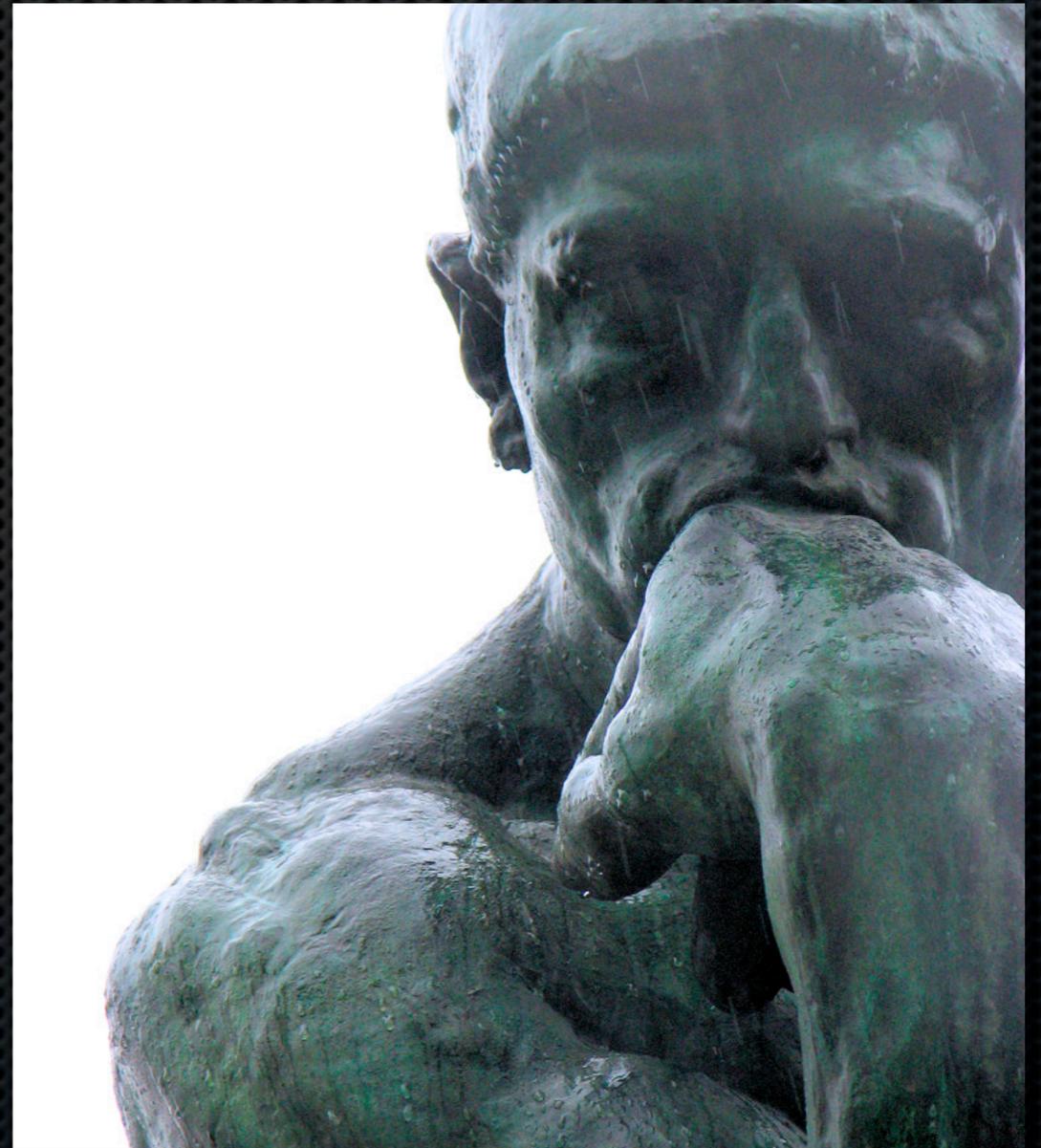
- Things lawyers *are*

Technology is the key

What lawyers *are*?

# Lawyers are Knowledge Workers

- ✦ We “think for a living”
- ✦ Three types of thinking
  - ✦ Convergent thinking
  - ✦ Divergent thinking
  - ✦ Creative thinking



</ Background >

# The Past







Knowledge was coded  
in ***buzzwords***  
that were encased in (rare)  
***books***  
that were housed in (a few)  
***libraries.***

Access required \$\$\$

Convergent thinking  
required \$\$\$

# The Present



# Texas State Law Library

1-844-829-2843 (toll-free) | e-mail

Questions?  
Ask us!



Research  
from Home



Google™ Custom Search



search library website  find library books

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## Library Resources

### Collections

- [Braden's Annotated Texas Constitution](#)
- [Continuing Legal Education Materials](#)
- [Digital Collection](#) **New!**
- [Electronic Databases](#)
- [Historical Texas Statutes](#) **Updated!**
- [Law Practice Management](#)
- [Law Reviews](#)
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- [Restrictions on Convicted Felons](#)
- [State of the Judiciary Messages](#)

## LIBRARY SPOTLIGHT

### Closing the Justice Gap

POSTED 28 MAR 2016

The Knight Foundation recently announced the [Knight News Challenge on Libraries](#). The topic this year is *How might libraries serve 21st century information needs?*

The State Law Library saw this as an opportunity to request funding to support our part in the Access to Justice movement. The library's mission is to make legal information available for all Texans. Technology allows us to make digital legal resources available statewide via the [State Law Library's web portal](#).

We invite you to read [our official proposal on the Knight News Challenge website](#), and if you like and support our proposal, please leave a comment or

## Law & Legislation

### Texas

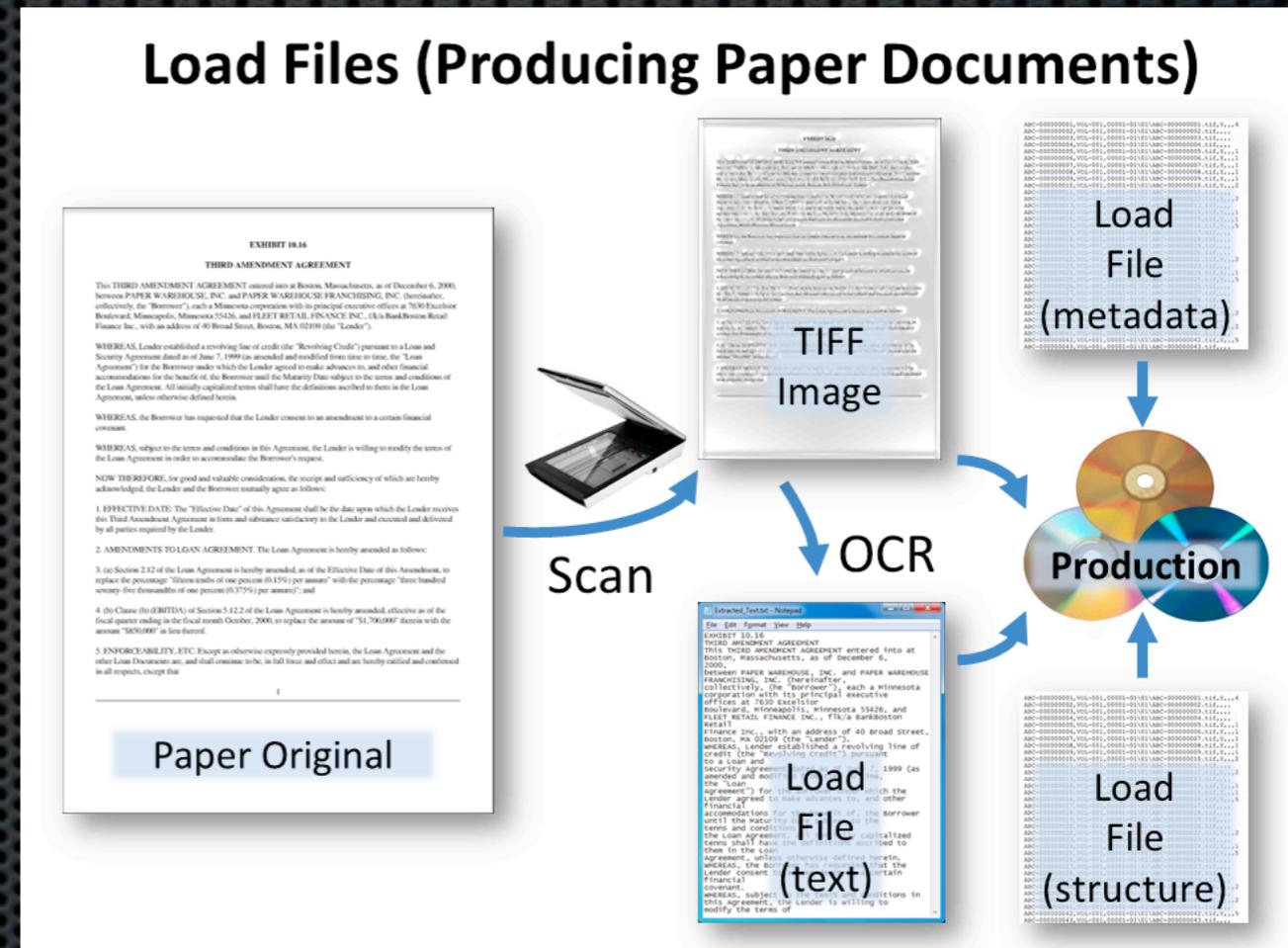
- [Constitution](#)
- [Statutes](#)
- [Administrative Rules](#)
- [Attorney General Opinions](#)
- [Historical Texas Statutes](#)
- [Legislative Recaps](#)
- [Frequently Asked Legal Questions](#)
- [Texas Legislature Online](#)

### Federal

- [Constitution & Statutes](#)
- [Rules and Regulations](#)

### Laws of Other States

<http://www.sll.texas.gov/>



... and **Much More!**





Friday, April 8, 2016

Information + Internet

=

Automation + Innovation

Access requires \$0.000001

Convergent thinking  
requires \$0.001

Convergent thinking  
can be automated!

Convergent thinking  
has been automated!



# The (very near) future

Much More Software!

Under control of the person  
who wants to make money

Will they be lawyers?



13  
YEARS

11/2000 - 11/2013

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Email: [info@valoratech.com](mailto:info@valoratech.com)

## News & Events

Valora Live Webinar: 10 Differences Between  
eDiscovery and Information Governance

25 August, 2015 - [Register](#)

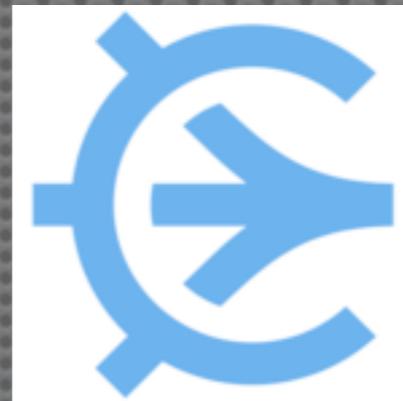
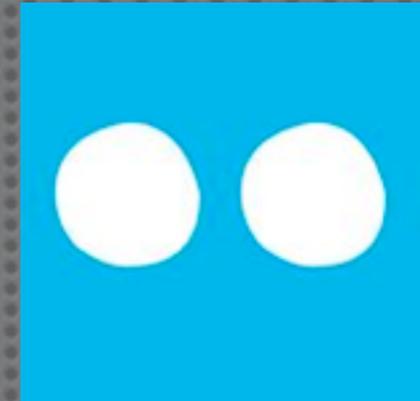
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# Is the “firm” necessary?

- ✦ In the past...
  - ✦ Shared library
  - ✦ Shared offices
- ✦ In the future...
  - ✦ Shared IT infrastructure





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# Conclusions

- ✦ Automation is starting to accelerate exponentially
- ✦ Automation & Innovation are being institutionalized
- ✦ Corporatization of the practice of law is coming
- ✦ Look for attacks on the Bar
- ✦ **Massive** changes in your practice within 5 years



Think of it as a *Second*  
Industrial Revolution

This one is *brain*  
instead of *braun*

Our *ethical* aspects may be  
our only saving grace as a  
profession.

Questions?



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