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Prefatory Remark

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HOWARD H. BAKER, JR.*

"The good of the people is the chief law."

— Cicero

I AM HONORED TO HAVE BEEN INVITED TO OFFER SOME BRIEF REMARKS ON the problems and challenges confronting American legal education. As a lawyer and legislator, I have seen both the strengths and weaknesses of our legal system, and I believe that some changes may well be in order if we are to address successfully the challenges that lie ahead.

It is common knowledge that America is a litigious society. Visitors to our nation stand in awe of the prolificacy of our courts and the ease with which Americans take their grievances to the adversary system. Whether the forum be a state or federal court, an administrative review panel, or an informal attempt at reconciliation, Americans stand ready to litigate, their lawyers armed with writs and precedents, ready to do battle all the way to the Supreme Court to defend the rights of their clients.

Furthermore, a revolution has taken place in the role of the judiciary. We have placed judges and the judicial system in the "center court" of social controversies and rely upon them to mediate conflicts that were once the domain of politics and individual decision-making. These men and women face difficult choices, and it is the obligation of the bar to make these cases more amenable to resolution.

In a word, it is the obligation of our legal education system to provide each generation of lawyers not only with the requisite analytic skills but also the technical communicative skills they will need to function as competent members of the bar. It is the obligation of the legal system to provide our fledgling counsel with a practical education as well as a theoretical one.

For example, there are many schools which do not require exposure to the particular rules of procedure of the state. Students graduate without the slightest idea of how to file a motion or answer a summons or quash a subpoena. Many students spend three years in pursuit of a legal education with no opportunity to prepare a case under the tutelage of an experienced lawyer. They may never develop the research, writing and oratory skills which are so vital to competence and success in our profession. It serves little purpose to think coherently and precisely if one cannot communicate that knowledge.

In any professional school, a balance must be drawn between the academic and the vocational, the theoretical and the practical. When our programs are not balanced, we do a disservice to our students and to the community that will come to rely upon them.

*United States Senate Majority Leader from Tennessee.

There are some who contend that the true education of a lawyer begins the day he or she graduates from law school. Today's law students are keenly aware of the need to be well-trained and seek employment which will provide them with valuable career *and* apprenticeship opportunities. But, as educators we fail if we do not expose our students to the direct and pivotal link between theory and practice while they are still in school and acting with a margin for error.

Similarly, moot court is a common feature of first year law school. However, mandatory development of skills in the preparation of cases for trial is virtually abandoned after the first year. Such a program could easily be combined with instruction in the more technical mechanisms of civil and criminal procedure.

As one who has practiced, I would be the very first to acknowledge that there are limits to what can be taught in school. But, in the attempt to instruct students in the mysteries and beauties of the law, one must not forget to provide law students with skills to put these abstractions to work in the service of their clients. I understand that there are many concepts to which students must be introduced in law school. Professors can provide them with but a glimpse of the subtleties of many areas of the law. Students should also come to understand the dynamics of the law in action.