

## **2017 Rakes Leadership in Education Award**

### **Acceptance Remarks from Prof. James E. Moliterno**

**Friday, June 16, 2017**

**Virginia Beach, Virginia**

Tell you truly that as I stand here today, with my wife Valerie, that I have never been happier. We have a wonderful life and we treat every day is a glorious adventure to be shared. Imagine waking up each day expecting it to be the best day of your life. Somehow that wonderful life has been punctuated with an exclamation point by the honor of standing before you today. Thank you.

I am humbled to be in the line of recipients of this award, all giants of the bench and bar who had enormously successful lives in the law, and then in addition, devoted themselves to the education of lawyers.

I am most honored to be the first career academic to receive this award. Not sure I am deserving because it has been my fulltime job to educate future lawyers. I think I have been a successful teacher and scholar. But I like to think that I have been singled out for such an honor less because I may have been a good teacher and scholar and more because of the work I have done to reduce the unfortunate space that exists between the practicing and the academic branches of the legal profession.

This space that still exists today is a tragedy. It opened wide in the late 1800s, when legal and medical educations were both undergoing paradigm-changing reform. Both forms of professional education redefined their missions. Medical education decided that its mission would be to create doctors; legal education decided that its mission would be to create law professors. Legal education decided to intentional distance itself from the practice of law. Not everyone agreed initially on this paradigm change:

In an 1883 letter from Harvard Law Dean (of Students) Ephraim Gurney to Harvard President Charles W. Eliot, Gurney bemoaned . . .

“the extreme unwillingness to have anything furnished by the School except the pure science of the law. It seems to a layman that . . . the School . . . might concede something, at least at the start, of [the students’] time to such practical training as might be given successfully in such a school. I have never been able to see why this should be thought belittling to the School or its instructors . . . . If [a law student] at the end of his three years did not feel as helpless on entering an office on the practical side as he is admirably trained on the theoretical, I think he would begrudge his third year less.”

The legal profession is still paying for that mistaken choice.

I watched that tragic space play out live in the historic first Conclave on Legal Education in 1992. I was there as a much younger academic with my dean at the time, Tim Sullivan, and with Bill Spong, Bill Rakes, Taylor Reveley and many other luminaries were there and leading the discussions. On the first day of the Conclave, there was much finger-pointing back and forth between academics and practicing lawyers. It was all quite civil, of course, but there was a very deep tension, with built up, divisive impressions. But by the second day, all seemed to realize that while their differences were real, we were all on the same team with the same ultimate goals for the profession. I believe the genius of the Conclave was found in the many collaborations that emerged from it.

Now, 25 years later, we are in a better situation to be sure, but far from cured. Law schools indeed spend more time and attention on what it means to be a lawyer and the collaborations between practicing lawyers and law schools are many and rich. But the space remains and still creates some crippling consequences for the profession. In my 35 years as a legal educator, including 21 years at William & Mary and now 9 at Washington and Lee, I have devoted myself to closing that space, to making law school more obviously connected to the life of a lawyer.

In my career as a legal education reformer, I have learned that mild efforts have no hope of reforming anything as intransigent and stuck in its ways as legal education. Instead I learned that whatever success occurs only happens with a combination of determined, persistent effort, humility, and a healthy amount of hubris. Without a healthy measure of boldness and belief that no goal is unreachable, reform efforts will produce little more than a new clinical offering or a modest change in an existing legal writing course. And while these modest things have value to be sure, to make real change requires real boldness.

Real reform requires entirely new ways of seeing law school curricula that connects students to the lives that lawyers *actually lead*, placing students in the role of lawyer and guiding them as they try out their new life, their new skills, their new thought processes.

It requires new ways of seeing the world of lawyers and of academic work. If you are bold, you stop seeing academic life as existing at 30000 feet above the earth, looking down on the place where the practicing lawyer lives. Instead you start seeing academic work, teaching work, curricula being all about the ground lawyers walk on every day. It is about the place our feet take every step, where lawyers learn to be better lawyers from their experience, where lawyers face real challenges and solve real problems of clients. Reaching for the stars does not mean flying higher; it means seeing the significance of ground underneath the steps we walk every day.

And I said a reformer also needs humility. Because trying to reform what is well-entrenched results in steady, determined resistance from the status quo. And the reform gains will sometimes meet with such resistance in defense of the status quo that the reform effort is undermined, weakened, even reversed. To keep pressing forward, a reformer needs to be humble enough to forgive him or herself when despite all efforts, reform is beaten back.

Reform effort is beaten back by the status quo more often than it results in permanent change. And the reformer has to be able to keep fighting the good fight even when the overwhelming forces defending the status quo prevail.

Like even a hall-of-fame baseball hitter, the reformer fails far more often than he or she succeeds. The forces opposing reform are simply too powerful to easily yield.

Some of us have fought hard, pressed forward and produced some success in closing the tragic space that exists between the academic and practicing branches of the legal profession. In that spirit and on behalf of my legal education reform fellow-travelers, I delight in joining the stellar ranks of Rakes Leadership Award recipients.

Thank you truly.