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Roger M. Baron

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BE NEUROTIC AND EVOLVE INTO YOUR SPECIAL CALLING

ROGER BARON¹

On the afternoon of May 6, 2016, at the University of South Dakota, Professor Emeritus Roger Baron delivered the Keynote Address during the Hooding Ceremony for the USD Law Class of 2016. That commencement address is reprinted here, with minor stylistic edits and footnotes to identify sources and provide additional information. The Keynote Speaker is a notable individual chosen each year the graduating class.

I. INTRODUCTION: ADVICE FROM JIMMY FALLON

I would ask the USD Law Class of 2016 to stand up, please. This is the last time I will have the chance to ask you to stand up. I want to start this address off the same way Jimmy Fallon starts his Tonight Show every night. Those of us who watch The Tonight Show know what Jimmy Fallon says every single night: “You made it! You’re here! This is it! You finally made it! You’re here! This is it! That’s what I am talking about!” Well this applies to you, USD Law Class of 2016: You made it! You’re here! This is it! You know what I’m talking about . . . You finally made it! You’re here! This is it! Stand up. Let’s all give these students a round of applause. Students, now is a good time for you to acknowledge the assistance of your loved ones: your parents, spouses, siblings, children. You would not be here today without their support, patience, and encouragement. Please turn to your loved ones and give them a round of applause.

II. ULTIMATE UTILITY INFIELDER

Let’s talk about this law degree. I encourage you to appreciate the *flexibility* that your law degree gives you. You have the ability to launch into countless new adventures because of your education: to be a lawyer, to be a successful business person, to be a judge, to be a political leader, to be a teacher of many subjects . . . the list goes on.

The term “utility infielder” is utilized in baseball to describe a versatile player—one who is able to play multiple positions. In the game of life, your law degree enables you to be a utility infielder. With your law degree, you have become a utility infielder in the *game of life*. In fact, it goes above and beyond that. I submit to you that you have become the *ultimate* utility infielder, outfielder,

1. Roger Baron, Professor Emeritus, University of South Dakota School of Law. Professor Baron was selected as the Keynote Speaker by the USD Law Class of 2016 for the Hooding Ceremony held on May 6, 2016. Professor Baron acknowledges Dean Geu, Provost Moran, Dean Vickrey, Associate Dean Graham, other dignitaries, and USD Faculty, Staff, Parents, Friends, and graduates. Professor Baron’s email address is Roger.Baron@usd.edu.

pitcher, and designated hitter in the game of life. You may not appreciate this now, but it is true.

Not everyone with a law degree becomes a practicing lawyer. In fact, not everyone with a law degree takes and passes a bar exam. But, I encourage—strongly encourage—each and every one of you to fully devote your time and efforts to passing the upcoming bar exam that lies ahead for you. Passing that bar exam will only enhance your opportunities in life.

I also encourage you to be somewhat *neurotic* in your career path. Enjoy the right to evolve into your maximum personal effectiveness. If you look at the resume of some of the most effective and successful law graduates, one might get the impression that this person is either neurotic or has trouble holding a job. But, the fact is that these individuals chose to explore many options during their careers. A diverse and varied resume simply reflects the wonderful variety of options available to those who have a law degree. You have earned the right to be neurotic in pursuing your pathway. You have earned the right “to evolve.” By way of example—and I could give many—I want to mention Dick Casey. Dick is an attorney of my same age. During recent years, Dick served as President of the State Bar of South Dakota and also as President of the South Dakota Trial Lawyers Association. About this time last year, Dick announced that he decided to leave one of the state’s top law firms where he was a partner in order to become an assistant state’s attorney in Minnehaha County assigned to abuse and neglect cases. This is what Dick wanted to do—handle abuse and neglect files—just as he had done much earlier in his career. I spoke with Dick on the phone a few weeks ago, and Dick told me that he felt he could most effectively utilize his talent and energy as an attorney in public service. He felt he could be particularly effective in rebuilding the home environment for children in South Dakota. In Dick’s words, “protecting these kiddos” is a very important thing for him to do. He handles a large case load and is kept quite busy. There are many other successful law grads, like Dick Casey, who have made and continue to make changes in their life’s work.

III. WHY DID YOU GO TO LAW SCHOOL?

I want to return to a question raised during your Civil Procedure course, when you were all first-year students. The question was, “Why did you go to law school?” As some of you may recall from comments in Civil Procedure, I have been intrigued, at times almost obsessed, with the question of why you decided to go to law school. There are no wrong answers, but your answer may change over the years. While I was in law school, my early responses were, if I’m honest, “I am not sure,” or “to be able to advocate on behalf of others and causes.” Probably the most honest answer I could have given at the time was “To learn how things work.” I believe I challenged you, as first-year students, to consider this question. For me, the question evolved from, “Why did you decide to go to law school?,” asked during law school, to, “Why did you go to law school two years ago? Five years ago? Nine years ago? Fourteen years ago? Twenty-five years ago?” And

even today—some 43 years ago? Forty years ago this month, I graduated from law school.

A. “PICKING UP” A LAW DEGREE

I have occasionally heard newly-admitted law students say, in a somewhat flippant manner, “I think it would be good to ‘pick up’ a law degree.” I don’t believe that this is a realistic answer for anyone. I know—and I know that each one of you also knows—that you did not go through this intense three-year period of your life just to “pick up” a law degree. No one gives himself or herself an enema on daily basis, over a three-year period, just to “pick up” a law degree. Each of you has exhibited persistence in the face of great difficulties and in terms of demands on time and efforts. So I will return to the question: “Why did you go to law school?”

B. I HAVE AN ANSWER FOR YOU

Guess what? I have an answer for you. I have an answer for each and every one of you. I know why you went to law school. And since you (Joe, Kelsey, and Megan)² have invited me to be your hooding speaker—an invitation for which I am very grateful—I will give you the answer: you have been called. You decided to go to law school and you went to law school because you have been “called” to do something special in your life.

Each of you has been fulfilling some kind of “calling.” And this calling is one of a higher purpose, a spiritual purpose, if you will permit me to use that term. There is no doubt in my mind that each of you has been called to fulfill a higher purpose which is fundamentally premised upon the recognition that you can be of valuable service to others, to society, and to mankind.

Some of you—perhaps many of you—believe right now, today, that you know what your calling is. In fact, several of you are probably *convinced* that you know what your calling is. For those of you who do so believe, I have some news for you: there is a strong likelihood that you will eventually devote your professional career in ways which you cannot possibly foresee. There are, of course, some of you—maybe only a handful of you—who indeed know your calling.

IV. FIVE MOST IMPORTANT POINTS FOR PROFESSIONAL GROWTH

Most of you will evolve over the next several years, creating a pathway to your calling. I encourage you to be neurotic and evolve! Now, as you journey along your pathway to find your calling, I have some thoughts for you to consider, specifically, five points for you to think about. These are what I consider to be the

2. Class officers for USD Law graduating class of 2016: Joe Trask, President; Kelsey Weber, Secretary-Treasurer; and Megan Reed, Vice President.

five most important concepts that I have learned in my career concerning professional growth, and I want to share them with you.

A. POINT ONE: THE PARETO PRINCIPLE

The first point is the Pareto principle, espoused by John Maxwell—a person whose teachings on leadership I have come to respect—as applied to personal growth and development.³ The Pareto principle (also known as “the 80/20 rule”) is traceable to the work of Italian economist, Vilfredo Pareto.⁴ In the late 1800s, Pareto observed that 80% of Italy’s land was owned by 20% of the people.⁵ His work expanded this unique ratio into many aspects of economic principles and certain phenomenon in life, in general. Pareto became somewhat obsessed with this ratio, seeing it in everything. For example, he observed that 80% of the peas in his garden came from 20% of his pea plants.⁶ The Pareto principle is a prediction that 80% of effects come from 20% of causes.⁷ One of the best examples of the Pareto principle is that, in any organization run by people, 80% of the organization’s work is done by 20% of the people (i.e. 80% of the work undertaken is handled by 20% of the individuals).⁸ Other examples of the Pareto principle include: 80% of value is achieved with the first 20% of effort; 80% of sales come from 20% of a business’s clients; and 80% of sales come from 20% of a business’s products.

John Maxwell takes the Pareto principle into the personal arena.⁹ For maximum professional effectiveness, he strongly urges a person to devote 80% of his or her time and effort into the top 20% of his or her gifted talents or areas of work.¹⁰ Each of us is gifted, so what is important is learning how to *prioritize your priorities*. According to Maxwell’s thinking, “If you have a list of ten items you [are able to] do, two of those items will be worth five or ten times more than the other eight items put together.”¹¹ Maxwell says, “There’s never enough time to do everything, but there’s always enough time to do the most important thing.”¹²

We have God-given talents or gifts and, if you haven’t already discovered yours, you will have the opportunity to do so. Much could be said about the

3. JOHN C. MAXWELL, *THE 21 IRREFUTABLE LAWS OF LEADERSHIP: FOLLOW THEM AND PEOPLE WILL FOLLOW YOU* 209 (2007).

4. *80/20 Rule of Presenting Ideas*, ARCHIVE.ORG (Sept. 13, 2008), <https://web.archive.org/web/20130128204020/http://www.80-20presentationrule.com/whatisrule.html>.

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. The John Maxwell Company, *5 Steps To Prioritize Your Priorities*, JOHN MAXWELL CO.: JOHN MAXWELL ON LEADERSHIP (May 13, 2013), <http://www.johnmaxwell.com/blog/5-steps-to-prioritize-your-priorities>.

10. *Id.*

11. *Id.*

12. *Id.*

process of actually discovering what your talents are. Some people don't really know—or don't really want to know—what their God-given gifts are. Many people might believe that their God-given gifts or talents are something different than what they really are or, at the very least, they focus on their lesser talents. To be truly effective with your life, you should focus 80% of your time and efforts using those two or three gifts that are *true* gifts.

I am a believer of this principle espoused by John Maxwell. This means that my top talents may not be those which I otherwise *desire* or *prefer* them to be. For example, I may have a strong desire to be a professional musician, actor, or stand-up comedian. If these are not my gifts, time spent on these areas may be fun and somewhat fulfilling for me, but these are areas where I will not achieve my maximum effectiveness. So, I should reconsider; I could spend some of the remaining 20% of time and energies in these “fun” areas. If, however, I want to live up to my best ability, I should spend 80% of my time and energy in my gifted areas. Not everyone does this, to say the least.

The implementation of the Pareto principle in my own life has caused me to understand two related concepts. First, whatever you choose to do, you are always saying “no” to something else. If I choose to spend my morning discussing politics then I am saying “no” to the opportunity to spend my morning in a more productive way. This doesn't mean that I should deny myself the opportunity to discuss politics, but a realization of this concept—that when I make a decision to do one thing, I am saying “no” to other possibilities—has been an important lesson for me. If I choose to work on family law files, I am saying “no” to other files on that I may be more effective. In the Dick Casey scenario, by choosing to work as a partner in a law firm, Dick was saying “no” to the opportunity to work with children and their families in abuse and neglect cases in our judicial system—an area that Dick confided to me as being an area where he believes he can really be most effective and helpful.

The second concept is that sometimes the “good” is the enemy of the “best.” One may devote time and energy into activities for which he or she believes are “good,” but that are not necessarily areas of true gifts or talents. If that time and energy was devoted to areas in which one is truly gifted, that person would be far more effective in life and in pursuing his or her calling. One of the reasons lawyers and law graduates move around in their job situations so much is that they are evolving toward their real gifts and talents.

B. POINT TWO: IT TAKES TIME TO “GET IT RIGHT”

Be prepared for situations of failure and discouragement, perhaps even extreme failure or discouragement. You are not always going to get it right. Dark periods will occur, just as surely as the periods of discouragement you encountered in your journey through law school. Every law graduate has failures and dark periods in his or her life. These failures may not be noticeable to others. They don't appear on resumes. But they are there.

When you run into dark periods and failures, stick it out. “Push through to the other side.” Talk to friends and other lawyers during these times. Take advantage of the collegiality that exists among lawyers and law graduates. If you are in a bind (and every lawyer gets in a bind), don’t make a bad situation worse. Seek help or advice from a mentor. Don’t hesitate to seek out professional assistance from a counselor or mental health professional. Parents, spouses, family, and friends: take note, and do your best to understand and assist your loved one in those difficult periods.

In examining my own personal life and the lives of many former students and close friends, I can tell you, most assuredly (and I have real examples in mind for each of these situations, either myself personally or a friend or former student with whom I have remained in close contact), that there is life after the loss of a big case or small case or series of cases. When I use the term “life,” I mean a more meaningful, more productive, and improved professional life. There is life after being fired. There is life after a failure in business. There is life after bankruptcy. There is life after a disciplinary proceeding. There is life after being subject to a criminal proceeding. There is life after serving time in jail or prison. My former research assistant, Brian Schuster, is an example, and he has given me permission to use his name. He is now putting his law degree to work in a very productive, challenging job—one that I helped Brian to secure.

Perhaps the most comforting words known to mankind are those found in the adage “[t]his, too, shall pass.” You must learn from your mistakes. I have learned a great deal since I graduated from law school—part of this is because I have made many mistakes. If you looked at my resume, you won’t find a listing of the mistakes that I have made, but please know that I have made them, too.

C. POINT THREE: PEOPLE CAN CHANGE

Somewhat related to the previous point, there is a little bit of good in the worst of us, and there is a little bit of bad in the best of us. No one is 100% good or 100% evil. We all have varying degrees of goodness and badness in our lives. These degrees or percentages change.

People can and do change. I believe it is a big mistake to view people in black-and-white categories. Hopefully, as each of us progresses through life, the percentage of goodness increases and the percentage of badness shifts. Hopefully, each of us is moving toward a higher percentage of goodness as we mature. Please don’t categorize anyone—including yourself—as being intrinsically bad or good. Learn from mistakes. Learn how to increase the percentage of goodness in your life as you move forward. Encourage others to increase their goodness and foster that growth. Don’t impede that growth by imposing anyone with a predisposed stereotype of being bad or evil.

In my view, there is a tendency of many legislators, some prosecutors (i.e. state’s attorneys), and sometimes judges to view someone who commits a crime or certain type of crime as 100% evil; thus, this person should be permanently removed from society. This tendency is encouraged, at times, by constant and

obsessive media coverage of certain cases and certain criminal offenses—almost whipping into a frenzy the call for a “public lynching” mentality. Much of this has led to over-crowding of our jails and prisons and this country’s pattern of incarcerating a high percentage of its citizens. According to recent statistics, the incarceration rate of the United States of America was the highest in the world—at 716 per 100,000 of the national population.¹³ While the United States represents about 4.4% of the world’s population, it houses around 22% of the world’s prisoners.¹⁴

D. POINT FOUR: CHOOSE HOW YOU RESPOND

Many years ago I encountered a quotation made by Stephen R. Covey in one of his books. It had a dramatic impact on my life. Covey adopted this quote as the foundation for his teachings. It comes from Viktor E. Frankl, an Austrian neurologist and psychiatrist who was a holocaust survivor: “Between stimulus and response there is a space. In that space is our power to choose our response. In our response lies our growth and our freedom.”¹⁵

This recognition of a “space between stimulus and response” has been *incredibly* important for me. In looking back over my life, I found that whenever I didn’t take advantage of that space in order to reflect on the impact of possible responses, I led a reactionary life in which my course of action was locked into my initial response—no matter how wrong or inappropriate it was. On the other hand, when I took advantage of that space and looked for ways to create or expand that space before responding (and not reacting), the better my life became—both professionally and personally.

On a daily basis, you will encounter a “stimulus” dozens of times—perhaps even hundreds of times—and you have the opportunity to think about how “between stimulus and response is a space.” If you can learn to recognize the space between the stimulus and response, the better able you are to live a rewarding and enriched life. I have found that, many times, my initial reaction and proposed response is actually the *exact opposite* of what I end up doing. If someone challenges me or a position I have taken, my initial reaction may be to react with an insult or derogatory term. But if I reflect on it, I find that I can use this opportunity to clarify or improve my course.

The ability to recognize this space and to create or expand that space is especially important for attorneys. Frequently, the initial proposed reaction is a “knee jerk” reaction. An attorney will experience a stimulus from an opposing party or a court and be tempted to write a “poison pen” response or, in today’s world, a “poison e-mail message.” Such a response will do more harm than good.

13. Roy Walmsley, *World Prison Population List*, INT’L CTR. FOR PRISON STUD. 1 (Nov. 21, 2013), http://www.prisonstudies.org/sites/default/files/resources/downloads/wppl_10.pdf.

14. *Id.*

15. STEPHEN R. COVEY, DAILY REFLECTIONS FOR HIGHLY EFFECTIVE PEOPLE: LIVING THE 7 HABITS OF HIGHLY EFFECTIVE PEOPLE EVERY Day ii, iii (1994).

By taking advantage of this space, one can reflect and come up with an appropriate response as opposed to living a life of reactions.

As an attorney, you should not “react” to stimuli—you should seek to “respond,” and to “respond” in the most appropriate and effective manner. If you are a Facebook user, you will have the opportunity to learn this principle quickly. Technology has accelerated the learning process for me. When I see a funny or interesting posting, I may decide to “share” it on Facebook. Or I may make an off-the-cuff comment regarding a posting made by a Facebook friend, only to find that many others take offense at the posting on the basis of innuendos which I did not foresee. I have learned that I need to make space between receiving a stimulus on Facebook and responding to it. I have also learned that I don’t need to respond at all. I can simply receive the stimulus and go on about my life.

Many judges will take matters “under advisement” before making a ruling. Be judicious like a court in making decisions and providing responses to stimuli which occur in your personal and professional life. Take stimuli under advisement and deliberate before responding.

For me personally, I learned that beginning around 3:30 p.m. to 4:00 p.m. each work day, I am usually pretty tired and not in the mood to consider new projects, new cases, or new ideas that are presented to me. I have learned that, unless I take steps to proactively postpone my reaction or response, I tend to be very negative to proposals received late in the day. Almost invariably, I found myself saying “no” to any new task or concept if presented to me around the 4:00 p.m. hour. I found that I had to actually force myself to put off consideration of the new matter until the next day. I also found that, about 95% of the time, I was more receptive to taking on the new matter the next day. This also applies to the many new ideas which my wife, Claudia, has for me. I am not very receptive to her suggestions of rearranging furniture or hanging pictures at 4:00 p.m., but need to put off consideration of the idea until the next day. Dean Vickrey and Dean Geu, this is one of the reasons why I have never been a fan of 4:00 p.m. faculty meetings.

E. POINT FIVE: BE PREPARED FOR THE “TIDE”

Finally, I want to share with you a passage from *The Tragedy of Julius Caesar*, by William Shakespeare:

There is a tide in the affairs of men
Which, taken at the flood, leads on to fortune:
Omitted, all the voyage of their life
Is bound in shallows and in miseries.
On such a full sea are we now afloat,
And we must take the current when it serves,

Or lose our ventures.¹⁶

In your future, you will have one or more “golden opportunities” which present themselves only once. If you do not “seize the tide” when it presents itself, you will “lose the venture.”

Unlike Shakespeare’s prediction, I don’t believe that, if you “miss the tide,” you will be bound in “shallows and miseries” all of your life. Although I do believe that most of you will encounter certain special opportunities which present themselves on only one occasion. After all, “Once that ship sails, you may not ever have that opportunity again.”

In the words of the beloved Donald Trump, if you take this tide, you can “win bigly.”¹⁷ I have experienced such tides on a couple of occasions in my life and have been required to make a decision which seemed to reject or cast aside much of what I had accomplished at the time. I had to let go in order to gain something new and better. I submit to you that each of you will experience such a tide or such an opportunity, and I encourage you to be prepared for it. Whether you decide to take advantage of the tide when it is presented is up to you. It is your decision. I simply want to let you know that you should be prepared.

V. CONCLUDING COMMENTS

I would like to summarize my suggestions for you. And yes, these will be on tests: the tests found in your future life and your future career. My review is in reverse order, which is more logical.

First, be alert to “golden opportunities” which present themselves to you. Such opportunities may be once in lifetime. Be prepared to make a hard decision to “seize the tide” and pursue that opportunity if it is indeed a golden opportunity.

Second, remember that no matter what “stimulus” you experience, look for “space” before making a response. If space is not there, find a way to create space. Strive to respond appropriately and not to react to stimuli. Your ability to control your responses also controls your growth and freedom.

Third, no person is 100% evil, nor is any person 100% good. We are all blended compositions of good and evil. Seek to bring out the good in yourself and others.

Fourth, everyone fails. Be prepared to encounter failures and setbacks, discouragements and self-doubting—but find a way to “push through to the other side” and learn from your experiences.

Next, look for your special talents and gifts; seek to invest 80% of your time and energy in the top 20% of your talents or gifts in order to achieve maximum

16. WILLIAM SHAKESPEARE, *THE TRAGEDY OF JULIUS CAESAR* act 4, sc. 2, lines 300-06 (Jonathan Bate & Eric Rasmussen eds., Modern Library 2007). This year marks the 400th anniversary of Shakespeare’s death. Merrit Kennedy, *Worldwide Celebrations On The 400th Anniversary Of Shakespeare’s Death*, NPR, Apr. 23, 2016, <http://www.npr.org/sections/thetwo-way/2016/04/23/475392480/worldwide-celebrations-on-the-400th-anniversary-of-shakespeares-death>.

17. The Telegraph, *Donald Trump: we’re going to win ‘bigly’*, YOUTUBE (May 4, 2016), <https://www.youtube.com/watch?v=GEOzt7oFCDI>.

effectiveness. Keep in mind that sometimes the “good” is the enemy of the “best.” Also, remember that whatever you do, you are always saying “no” to something else.

Graduation from law school is only a starting point. Please remember that, with your law degree, you have become not only a “utility infielder.” You are indeed the *ultimate* utility infielder, outfielder, pitcher, and designated hitter in this game of life! Keep in mind, however, that—although you may be a good utility infielder—you may also be an excellent shortstop or first baseman or batting coach or play-by-play announcer. Seek to evolve in your career. Don’t hesitate to be somewhat neurotic and evolve toward the best possible career path for you. Find your special calling.