

THE AMERICAN DEAN GOES ABROAD

*David Parlett**

TO be a dean of a law school in the United States is to share a peculiarly American fate. Political office holders and leaders of public institutions are expected to play many simultaneous roles. In particular, they are given both executive power and ceremonial roles. Thus, the President of the United States combines the role of the King or Queen of England and the Prime Minister. Presidents of our universities are expected to perform all manner of ceremonial roles and, in addition, administer institutions more complex than large corporations. Again, in overseas universities, the ceremonial function is often given over to a Chancellor, esteemed in some other avenue of public life, who brings gravity to ceremonial occasions, relieving the Vice-Chancellor of those energy-draining and time-consuming ceremonial functions. Vice-Chancellors can then devote themselves to the arduous task of administering the university.

I. THE CHANGING DEAN

In our universities, deans formerly were those who had attained great academic stature and captured the respect of the faculty. The role was academic and mainly confined to the world of the university. The American penchant for combing the ceremonial with the executive has, however, filtered down to the decanal level. Those deans who have felt the extra public obligations are those most like university presidents, the deans of professional schools. Professional schools are of the university but, at the same time, somewhat aloof from it. They are a "Johnny-come-lately" to the university and are consequently Janus-faced. They look to the university but also to their sustaining profession. Thus, deans of professional schools assume that Janus-faced posture, vastly complicating their jobs. The dean of Arts and Sciences can remain the academic, although practiced in the ways of internecine university politics. The law school dean, however, must attend to the profession in addition to her school and university. The law school is given the powerful and daunting authority to educate the new generation of the profession. Alumni will want to insure that the school is engaged in that task. Accrediting agencies may perform this role partially, but it is the law school graduates who have a personal stake in the school's meeting its professional obligations. At the same time, the modern law school dean is expected to foster the academic mission of the school. Faculty attending to the academic mission of advancing social knowledge demand sustenance at the highest level to engage in research and writing.

The law school dean, then, has an almost impossible job. The dean must operate in different worlds. He or she is the executive and ceremonial head and must have both academic credibility and professional dedication.

* Dean and Professor of Law, Washington and Lee University School of Law.

II. A COMPARATIVE VIEW

The point of this short essay is to show that this is an American phenomenon, but as with many American institutions, its influence is now broader. A dean's job is much tougher in the United States than in the law schools of our common law cousins. While the job is nearly impossible, producing a high burn-out rate, it signals a real strength of American legal education. Law schools elsewhere, during the course of the twentieth century, became increasingly absorbed into the university. In the British Commonwealth, some evolved to become the equivalent of sociology departments with a revealed hostility to the profession. Our law schools, on the other hand, are, on the whole, much respected by the profession. The faculty generally remains faithful to the ideal of educating students for a professional life. A healthy respect sees some legal academics being elevated to the highest level of the judiciary, a rare event indeed in other common law jurisdictions.

III. AN AMERICAN ADVANTAGE

The synergy between the academy and the profession in the United States is healthy. Strong and thorough, American legal education inculcates professional norms and embodies the quintessence of the republican ideal. Well-educated lawyers are agents of democracy and its republican concomitant, a cooperative, mercantile society. The division of responsibility between law schools and the profession, however, has shifted. Law schools are expected to pick up where the profession has fallen short. Economic exigencies allow precious little time for the profession to continue legal education beyond the doors of the law school. At the same time, academic demands are increasing on faculty. The university, for example, usually reviews tenure and promotion through a central committee applying criteria settled for the entire university faculty.

All this is well-trodden ground. It is worth noting, however, that the fulcrum point for these two forces is the law dean. The dean must be attentive to both. She must reconcile the forces and resolve conflicts where they occur. She must be a spokesperson for both, educating the profession, and particularly the alumni, in the values of the academy and, at the same time, bringing home to her faculty the professional dimension of the school. Law deans who can perform this complex feat strengthen our legal system and form of government.

For a new dean, to realize this ideal is daunting. The daily grind of administrative work can hide the pivotal role of the law school dean. After our term is done, we will have accomplished much if we have been faithful to our Janus-faced obligations. We will also be rather exhausted from the effort. The battle on two fronts is foolhardy in war but necessary in education, and it makes the dean's job in this country much more exacting and exciting than in the schools of our common law cousins.

IV. CHANGES ABROAD

Our cousins have begun to look us over more carefully in recent years. Law schools in the common law world outside the United States have long considered that they are under-resourced in comparison with the elite American law schools. (It is the elite law schools that are known to them; they tend not to look much below the top twenty law schools, whichever they may be.) Further, when government funding was adequate, if not handsome, little change was engendered. In particular, most faculty associated themselves with the egalitarian norms of the academy. Drawn from the faculty to serve a term with the expectation of returning to the faculty, the dean was a head of department who was expected to obtain for her school a fair deal at the university resource trough. Those resources came to the trough by way of government appropriation.

As government funding has dried up and governments embraced free market economics, universities faced a more alien world. They were expected to seek liaisons with private industry and obtain resources outside the usual government sources. Where government funds were available, they would be allocated in a more competitive fashion. University law schools were as babes in the woods. They did not have the structure in place to succeed in the world outside the university. The model to which these schools have looked is ours. In particular, they have taken steps to reconnect with the legal profession. They have, again looking at our structure, asked their deans to assume extra tasks. The task is an enormous one. The gulf between the profession and the alumni, on the one hand, and the law school on the other has become huge. As law schools had engaged with the university so intensely, links to the outside, the sustaining profession, had withered. Levels of remuneration for faculty had declined and the top legal academic talent had increasingly chosen to enter the profession. (This is not to say that our cousin faculties are not peopled with outstanding legal academics. It is a marginal matter, and with the profession's voracious appetite for talent in prosperous economic times, attrition of fine legal talent was inevitable.)

V. DEANS ABROAD

Despite our law schools being viewed as models, those who would be deans of overseas schools know little about American law deaning. Many have visited our law schools and are familiar with their work. They have often enriched the life of our schools by teaching on a visiting basis, and have thus become involved in a continuing academic conversation with our faculties. This has broadened the perspective of our faculties and has multiplied opportunities for constructive overseas visits.

No similar avenues are open for overseas deans to become acquainted with the nature and challenges of American law deaning. This is unfortunate in an era when our schools are regarded as models. My one constructive suggestion in this essay is that we American law deans offer our perspectives more freely. The American Bar Association Section on Legal Education, in very helpful ways, brings American law deans together. It holds a yearly conference for new deans and gatherings of

deans at the Annual and Mid-Winter ABA Conferences. In the same way, we may urge the American Bar Association or the Association of American Law Schools to hold occasional meetings between our deans and overseas deans. My argument is that this would primarily benefit overseas deans, but I expect that we would foster close, long-lasting relationships with those leaders. We should never be smug about our superiority. We also may learn much from them about how to strengthen our schools and better carry out our decanal obligations.