

TO TEACH OR NOT TO TEACH*

*Gary J. Simson***

IN June 2006, a few weeks before becoming dean of the law school at Case Western Reserve, I had the good fortune to attend the annual conference for new law deans sponsored by the American Bar Association. The conference, which spanned two full days and parts of two others, was attended by fifteen new deans and fifteen experienced ones. It largely consisted of presentations by, and group discussions led by, the experienced deans. Having recently served seven years as an associate dean at Cornell Law School, I did not expect to be hugely surprised by anything I would hear at the conference, but the conference in fact was quite eye-opening for me in a number of respects.

From working closely as an associate dean with three permanent and two interim deans, I knew that deans generally are very busy. However, until the conference, I did not really begin to understand what “very busy” means in this context. As one after another experienced dean emphasized the importance of time management and characterized deaning as a great job *despite* the extraordinary demands on one’s time, I recognized that I needed to adjust my expectations upward as to the time needed to do a high quality job.

At the conference I was also rather surprised to learn how far the pendulum had swung as far as the amount of teaching typically done by deans. Prior to the conference, I certainly had noticed that deans in recent years were doing less teaching than the deans of twenty or thirty years ago had done. However, it was not until I heard a number of experienced deans at the conference talk about why they did little or no teaching that I began to appreciate the magnitude of the trend away from deans’ teaching.

By the conclusion of the conference, my mind was racing with the question of whether I had been hopelessly naive in signing myself up to teach Conflict of Laws in spring 2007—my second semester on the job. Fortunately, I at least could console myself that any fiasco would wait until the spring because I had heeded the virtually unanimous advice, solicited and unsolicited, that I had received not to teach in my first semester as dean. New position, new school, new home, new town—I did not take much convincing.

Ultimately, I put any doubts aside and taught the course, and both I and the forty students in the class seemingly survived it none the worse for wear. The

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relevant question, however, is not whether I survived or even enjoyed the experience, but whether, all things considered, it was something that I should have done and should do in the future. More broadly, given the many demands on deans' time, should they be making time to teach?

I offer in this essay my sense of the reasons pro and con. Before doing so, however, I would like to dispel an inference that might be drawn from my emphasis at various places in the essay on the importance of teaching. This emphasis might be interpreted as tacitly suggesting that deans and their faculties should value teaching more than writing. I intend, however, to be saying no such thing. Perhaps teaching should be valued more highly than writing, or perhaps just the opposite, or perhaps they should be valued the same. For purposes of this essay, I do not need to take a position on the matter, and fairly understood, I do not believe that anything that I say in the essay commits me to one or another view.

At the start I should also make clear one reservation that I have regarding what I am about to say. As of this writing, I have been dean for little more than one academic year. Although I have learned quite a bit about deaning during that time, I still have a great deal to learn. Indeed, as I gain more experience, I may come to see the question that I am addressing here very differently than I do now. I am delighted to have the opportunity to offer the following thoughts as my considered judgment on this question. However, as someone still very new to deaning, I feel obliged to couple my remarks with a warning of *caveat emptor*.

I. TO TEACH

Though it probably goes without saying, one reason for a dean to teach is cost. The weightiness of this reason, however, varies enormously with the particular law school and dean. At one extreme, assume that the dean is the only person on the faculty capable of teaching an essential course, a replacement can only be hired at a high salary, and the school is having difficulty making ends meet. At the other extreme, assume that the dean teaches nothing that is not easily taught by someone else on the faculty, or assume that the law school is sufficiently well-heeled to absorb fairly easily the cost of hiring someone to teach an essential course that the dean, alone among the regular faculty, can teach.

Even if cost considerations do not militate strongly in favor of a dean's teaching, other considerations may do so. Probably most probative are a number of symbolic reasons. Intentionally or not, a dean communicates important messages to a number of different constituencies by his or her decision whether or not to teach, and those messages may have important implications for the success of the school. Symbolic reasons may be less easily quantifiable than dollars-and-cents reasons, but they may be at least as weighty.

Most obviously, a dean's decision to teach and his or her visible presence in the classroom send an important message to students that teaching is highly valued at the school. Although students are not entirely aware of what deans do with their time, they are aware enough to realize that the dean is very busy and would not be making time for teaching unless he or she saw teaching as a top priority for the school. To be sure, the dean need not take on teaching

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responsibilities in order to communicate to students that he or she values teaching highly. The dean can simply tell them—in a speech at first-year orientation, in a letter or e-mail to the student body, and by other means. Under the circumstances, however, it is difficult to imagine that actions do not speak quite a bit louder than words. It is one thing to wax eloquent in speech or print about the importance of teaching, but it is quite another to demonstrate one's commitment to that idea by actually putting in the time needed to teach a course.

The dean's decision to teach sends a similar message to faculty that they would be hard-pressed to ignore. Indeed, with a keener appreciation than the students of the demands on the dean's time, faculty may recognize even more clearly than the students the strength of the dean's conviction that teaching is a vital part of the job. Exactly where alumni fit into this calculus is difficult to say. To some extent, the greater the number of years since graduation, the less likely that a graduate will appreciate the increased demands on a dean's time. However, the more actively involved that alumni are with the school, the more likely that they will have a current and realistic understanding of the time constraints facing the dean.

Assuming that a dean's decision to teach firmly communicates to students, faculty, and alumni that teaching is a high priority for the school, the question remains whether this message has any substantial practical importance. I submit that it does. By underlining for students the high importance assigned to teaching, the dean's decision to teach enhances student morale at the school and increases the likelihood that students will remain at the school and recommend it to others. The impact on faculty of the dean's tacit message that teaching is a high priority leaves even less to conjecture. Tenure-track faculty eager to maximize their chances for tenure and tenured faculty eager to elevate their salary or stature in the school will take their teaching responsibilities very much to heart.

As lawyers whose fate has been shaped to some extent by the quality of the teaching that they received in law school, and as heads or members of law firms and other entities that depend for their prosperity on law schools' turning out graduates whom they have taught well, law school alumni tend to see little ambiguity in the nature of the school's obligation to provide high quality teaching. In their view, high quality teaching is the *sine qua non* of a great law school. By communicating a school-wide commitment to teaching, the dean's decision to teach helps encourage alumni to be generous in providing financial support to the school and to be favorably disposed in hiring toward graduates of the school.

Thus far, in discussing the message communicated by a dean's decision to teach, I have implicitly focused on the dean as a spokesperson for the school and on the message communicated about the school. In trying to discern the message sent by the dean's decision to teach, however, it is also important—even if perhaps not *as* important—to think about the dean from a more personal perspective. What, if anything, does a dean's decision to teach say about the dean as a person that may impact significantly on the operation of the school?

I suggest that it says two significant things. First, it says to the students—and I mean *all* the students, not simply those who end up in his or her class—that

this dean is someone who really cares about students and who likes interacting with them. Second, it says to the faculty that even though the dean spends lots of time doing things that they do not do, such as fundraising and meeting with the university president and provost, the dean is still one of them.

Furthermore, I suggest that these messages to students and faculty make a palpable difference to the operation of the school. Having a dean who students feel cares about them may not cure all ills for students, but it does make a positive contribution to student morale, faculty-student peace, and the general atmosphere in the school. In addition, if the dean is someone whom the faculty tend to regard as one of their own, the dean's ability to build consensus and govern effectively is enhanced.

Lastly, in considering the benefits of a dean's deciding to teach, it is important to take into account the positive effects of such a decision on the dean him- or herself. Most obviously, one would hope that a dean's decision to teach not only sends a message to students that the dean cares about them and to faculty that the dean is still one of them, but also actually helps the dean empathize with student and faculty concerns. If teaching indeed tends to increase the dean's ability to see things from the students' or faculty's perspective, the likelihood that the dean will genuinely understand and successfully address student and faculty concerns is substantially enhanced.

A related salutary effect that teaching is apt to have for the dean is to keep the dean from falling into a thoroughly administrative mindset. As the school's chief executive officer, the dean certainly must approach issues with a greater sensitivity than the typical faculty member to practicalities and political and financial constraints. However, if, as I believe, the practice of selecting the dean from the ranks of the faculty indeed has logic to it, the logic must be that it is valuable to have someone as dean who will approach issues from a somewhat academic, and not entirely administrative, perspective. By forcing the dean to think as an academic at least part of the time, teaching helps ensure that the dean maintains a healthy balance between the administrative and the academic in his or her approach to issues.

Both of the effects noted above—helping the dean empathize with student and faculty concerns, and keeping the dean from taking on a totally administrative mindset—benefit the dean but in a way that is really only of instrumental importance. The key is that thanks to the positive effects of teaching, the dean will make a greater contribution to institutional success and well-being than otherwise. However, teaching also benefits the dean in a way that has independent importance without regard to any implications for the institution generally. It helps facilitate a successful transition at a later time to life in the academy after deaning.

Of course, teaching is not the only means for deans to keep themselves thinking about legal issues in an academically rigorous way. In particular, scholarship might seem to be a superior means, and attendance at faculty workshops and scholarly conferences might be seen as no less useful. One may fairly question, however, whether scholarship that is not genuinely ambitious does much in the way of promoting rigorous legal thinking; and if the time pressures on deans make it difficult to find sufficient time for teaching, those

pressures make it even more difficult to find sufficient time for genuinely ambitious scholarship. Furthermore, although attending workshops and conferences has some value in terms of stimulating serious thought, I for one find no comparison between my level of intellectual engagement while teaching and while taking in someone else's talk, and I strongly suspect that I have a lot of company in that regard.

II. OR NOT TO TEACH

The case against the dean's teaching may be summarized in three words: NOT ENOUGH TIME! While the case for the dean's teaching rests on a variety of reasons, the case against really comes down to one. It is tempting to assume that the one reason against cannot outweigh the several reasons for. However, as anyone knows who has ever tried to make a decision by listing all the pros on one side and the cons on the other, it is hardly uncommon for one blockbuster reason to trump various less concrete or weighty reasons on the other side.

In this instance, there is no denying the enormous demands on a dean's time. The dean wears a remarkable number of hats—faculty leader, fundraiser, peacemaker, negotiator, academic innovator, and more. In a sense, except for making a lot less money, deans are much like CEOs. Even that, however, may understate the demands on their time. What CEO has a comparable number of direct reports? The heads of the law school's various administrative departments—admissions, career services, development, etc.—constitute a relatively modest-sized group of direct reports, but they hardly exhaust the category. Any dean who hopes to remain in the job for a while must also make room on his or her schedule for a much larger group of direct reports: the 30, 40, 50 or more members of the faculty.

Inevitably, a dean cannot do everything that reasonably falls within the description of the job. Choices have to be made, meaning priorities have to be set. The dean obviously has time for *some* things, and the key is to see that it goes to those things where it can be most usefully spent. No one would question that teaching is a valuable use of a faculty member's time. However, if a dean is essentially fungible as a teacher with other faculty members, it is entirely fair to question whether teaching is a valuable use of a dean's time. After all, there are obviously some activities—for example, major gift fundraising—that the dean, by virtue of his or her status or acquired expertise, seems especially well-suited to undertake. If the dean does not offer something different and important by teaching, the case for devoting any of his or her relatively scarce time to this endeavor is undeniably weak.

As indicated in the first part of this essay, I am strongly persuaded that the dean's teaching makes contributions that a faculty member's teaching cannot. Whether or not these contributions are sufficiently substantial to outweigh other contributions that the dean might make by using differently the time devoted to teaching is difficult to answer in the abstract. It depends to some extent on the needs and circumstances of the particular school.

In deciding whether or not to teach last spring, I felt confident that the needs and circumstances of the school were such that I would contribute more by

teaching than by devoting the time to other uses. I only achieved that level of confidence, however, because I was able to craft a teaching schedule that I believe kept to a minimum the costs in terms of lost opportunities of my decision to teach.

First of all, I chose a course—Conflict of Laws—that I had taught for many years. I would generally be able to rely heavily on my prior class notes. In fact, because the course is one that I teach out of my own casebook, I knew all the cases so well that there could be no such thing as an entirely new preparation.

Second, I limited class time to a two-hour session once a week. In the past I usually had taught Conflict of Laws as a three-hour course. On occasion, however, I had done it as a two-hour course, and I knew from experience that it worked essentially as well in the two-hour format. I was particularly eager to make Conflict of Laws a two-hour course last spring so that I could teach it each week in a single session. The advantages for me of structuring the class hours in this way were enormous. In particular, by keeping the teaching hours on one day, I minimized any possible conflict between teaching and my need to travel for development purposes. I also maximized my ability to teach effectively without spending more than three or four hours on class preparation each week.

As dean, the demands on my time and attention have proven so insistent that, at least for now, it is difficult to imagine gearing up more than once a week to teach. In planning my week, I block off four hours for class preparation either at the end of the day prior to the day of class or at the start of the day of the class. At least for me, it is far more efficient to concentrate my class preparations in this way. There are always enough people or issues pressing for my attention that it can take a little while to become immersed in my class preparation. Once immersed, however, I find it relatively easy to stay immersed.

For the current academic year, I decided to abide by this formula that appeared to work well. This fall I am teaching a seminar, *The Religion Clauses of the First Amendment*, that I have offered frequently in the past. Particularly because the subject area is one in which I have written fairly often, class preparation is greatly simplified. The seminar, like the Conflict of Laws course, meets once a week for two hours. In the spring I will once again teach Conflict of Laws.

III. CONFESSIONS OF A SERIAL TEACHER

Although I can scarcely believe it, I have been a law professor for thirty-two years. Even if, as Bob Dylan once simply but brilliantly wrote, “I was so much older then, I’m younger than that now,” thirty-two years is a long time by any measure. It is therefore an important part of who I am that at no time during those thirty-two years did I go more than one semester without teaching.

To some extent that was not the result of choice. Faculty members do not really decide whether to teach. It is a basic part of what they are paid to do. However, in my two associate deanships at Cornell and particularly in my associate deanship for academic affairs where I was in charge of faculty course assignments, I certainly could have done less teaching than I did. I chose to do as much as I did, however, largely because I have always found teaching to be such

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a stimulating and deeply enjoyable experience. (Actually, to be entirely accurate, I should not say “always,” but rather “always after my first semester of law teaching.” For reasons that elude me, I was assigned in that first semester to teach a required four-credit upperclass criminal law course that, as in years past, drew 140 students. That teaching experience, like my experience in later semesters, can fairly be described as “stimulating.” However, “terrifying” describes the experience far better than “deeply enjoyable.”)

Truth be told, there can be little question that my decision to make teaching a regular part of my schedule as dean has been significantly influenced by how energizing and satisfying an activity I have always found teaching to be. That may make my decision appear to be rather self-indulgent, and perhaps to some extent it is. However, the stimulation and enjoyment that I derive from teaching are valuable not only to me individually. They are also valuable to my deaning in general because they help infuse it with a store of energy and positive thinking that cannot help but lift my performance of the job.

I recognize that some people who become deans do not share my enthusiasm for teaching and do not feel that teaching is a major ingredient of who they are. Even for those deans, however, the reasons for teaching discussed in Part I of this essay should weigh heavily, and I suggest that any dean who gives those reasons their due should be slow to leave teaching behind.