

THE LAW SCHOOL DEAN GAME: “WHAT’S IT LIKE TO BE A LAW SCHOOL DEAN?”

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INTRODUCTION

I try to improve my responses each time I get asked, “What’s it like to be a law school dean?” Most of the time, I begin my answer with something like, “It’s a marvelous challenge” I’m never fully satisfied with my answer but my inner voice tells me it’s okay because, like so much in life, being a law school dean must be experienced and can’t be explained well, if at all.

I’m embarrassed to admit that over time I’d become a bit distracted by the question.¹ But then I awoke one night with a seemingly promising way to “explain” being a law dean: Make a board game. I found my journal and a pencil from atop my nightstand. I started drawing. I found it interesting enough to continue the next day even though the idea didn’t seem quite as elegant as it did in the middle of the night. The result of my journaling is the map of the board game reproduced and explained here.

“Deaning,” I’ve come to understand is a *process*, and the idea of creating a game is an unremarkable application of a well-worn way of *deconstructing* process by expanding both time and space.² The application is not novel, but I hope the application is competent.

Therefore, the *purpose* of the game is simple: to better answer the question, “What’s it like to be dean?” I hope it will be an interesting way for prospective deans to get a feel for deaning and that existing deans might take comfort by seeing

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1. Preoccupation is okay. Sometimes, it is helpful in the sense it reflects the ability to focus and cogitate. I’m not okay, however, with “obsessive” or anything else resembling a term out of the DIAGNOSTIC & STATISTICAL MANUAL FOR MENTAL DISORDERS. Admittedly, however, my description of being a dean in private conversations *sometimes* includes that I tried psychotherapy for the first time while dean and, further, I find it helpful to occasionally take anxiety medication. Indeed, I’ve identified a pattern in my anxiety medication: both my frequency of use and the dosage go up during April (when we’re tying up admissions/enrollment) and for a couple of months after Labor Day (when bar exam results start trickling out). Oddly, neither increase during our short legislative session. Indeed, one could argue in that regard the game idea was more self-help therapy than grand design. The knowledge and practice of self-help therapy is useful for a law school dean or, for that matter, anyone considering becoming a law school dean.

2. Before going to sleep the night I awoke with the “game” idea, I had paged through DAN D. NABEL & BILL CHANG, VIDEO GAME LAW IN A NUTSHELL (2018.) I was looking at the book for ideas for the business planning class that I’m planning to teach (eventually) after moving back to the faculty full-time. I’d like the class project to be to finance and organize a start-up videogame development firm.

some of our common issues represented in the game. I invite others to expand the game as there are many more features, issues, and events that are common across law schools. Someone else might want to modify the game to reflect special concerns to an identifiable group of schools.

All I really know is the game is a satisfactory answer for me to the question, "What's it like to be a law school dean?"

I. AN INTRODUCTORY DESCRIPTION OF THE GAME

The game is a board game in which one or more players take sequential turns along "decision-lines" to their terminus. Players are denominated "deans." The game can be played by a single dean (against the board) or by multiple deans in competition.

The geometric shapes are symbols that have specific meanings and instructions. The instructions for the symbols either add or subtract points (resource units) from the dean's score.

Moves may be made along any line in a downward or lateral direction. Players may not ride lines in an upward trajectory. Some lines do not terminate at a given symbol, but rather, run through the symbol. In those cases, the dean's turn continues through the first shape until the line terminates at another symbol. After reaching the symbol where the line terminates, the dean will follow the directions for each shape through which the line passes, in sequence. A "turn" is a dean travelling the length of a line.

A dean wins in a single-dean game by successfully completing nine complete trips from "START" to "SUM" and back to the starting position ("academic years" or "years"³). That is, the successful dean completes a term of nine years, takes a sabbatical, and returns to the faculty as dean emeritus. The winner of a multi-player game will be the dean with the highest score after the completion of the round (year) in which a dean fails to advance to the next iteration or at the end of the ninth year, whichever occurs first.

In order to continue to the next round, the dean must have a positive score in the "summing" triangle near the bottom of the game (again, measured in "resource units").⁴

It is possible that a successful dean for a given year will "go negative" in transit from the end of one year to the beginning (START) of the next year.⁵ Further, any other dean may "audit" by challenging another dean's annual score. The audit will result in deducting units from either of the two deans involved. A dean is eligible to be audited when he or she reaches the circle-K.

Immediately preceding the dean's first move (away from START) of the next year, the successful dean has several elections. For example, the dean may choose to keep the cumulative score of her play or settle on a fixed number of points. The

3. As a matter of clarity these "trips" (years) are synonymous with "iterations."

4. Score is kept in "resource units" (synonymous with points). In the dismal discipline of economics, these "resource units" would be called "utils" because they include anything of value, whether tangible or intangible, including political capital and market-based good will.

5. See symbol circle-K.

economically rational dean will choose the higher of the cumulative score or the settlement score.

“Winning” is from a narrow dean’s perspective. That is, to either survive nine years by having a positive number of resource units at the summing triangle (single dean game) or by having the most resources when the game ends (multiple dean game). The assigned point values reflect a particular perspective for a particular analytical purpose and the game roughly reflects “market” reality. Assigning “resource unit” values should not be confused with assigning moral or social value. In that regard, the game invites deeper reflection on the values upon which both law schools and their deans are compared and judged.⁶

II. LEARNING TO PLAY THE GAME

The best way to learn the game, like learning to play other games, is to study the game board, gain an overview by quickly correlating the game board symbols to the “Symbol Key,” and carefully read the 12 step-by-step⁷ instructions.⁸

Both the “Step Instructions” and the “Symbol Key” follow the game board reproduced herein. In the actual board game, the Step Instructions will appear on the inside lid of the box in which the game is packaged, and the face of the game board will be large enough to contain the symbol key.

The game board uses symbols based on military conventions. This system of symbols is used because the symbols “map” well into the different types of challenges both in establishing goals and creating strategies to achieve them. As

6. It is important to state the obvious caveats about this game’s values and perspective. A dean’s self-interest and definition of success is usually, but not always, in identity with the success of the school. Further, the success of one school is usually consistent with the improvement and in achieving the greater goals of legal education. But not always. That is, there are winning and losing schools even if the scoring is counterproductive to improving legal education, serving the ends of access to justice, or helping any given student achieve her goals.

There is another important caveat. The currency of value in the game is largely based on the magnitude of damage or enhancements to the reputation of the school for which a dean is, likely or wrongly, assigned blame or credit. Both as a result and with independent significance, the allocation of points (resource units in the game) based on events (represented by symbols) is meant to roughly approximate the statistical chance of the occurrence of the event in the “normal day-to-day course of business” at a statistically representative school.

The allocation of “game value,” therefore, woefully underrepresents the effect of even a “common” event on individuals other than the dean. For example, the filing of a Title IX complaint may be a signatory life event of either or both parties involved. It may shape an individual’s worldviews or change the trajectory of lives. From an institutional perspective (like a law school), however, its constituents and the public likely expect a “typical” number of Title IX complaints related to the population in question (statistical expectation). If complaints were totally unexpected, for example, there would not be a process in place to deal with them. Therefore, the filing of any given single complaint likely doesn’t damage the law school as much as other events. That is, the significance of an event may be valued asymmetrically depending on perspective.

7. The fact there are 12 steps in the instructions has independent significance. See notes.

8. Most of us learn board games by playing them with someone who knows the rules. Indeed, I ask my classes, “How many have read the rules for the Parker game *Monopoly*?” I suggest those who answer “yes” are well suited to be academic lawyers or bankers. I then ask “How many have read *any* of the rules while playing the game?” I suggest those who answer “yes” are well suited to be practicing lawyers and entrepreneurs.

an initial matter, however, examples of a few symbols are necessary to get a flavor of the game.

1. *Examples of the Game's Symbols Correlating to the Life of a Dean*

The symbols can be categorized as fixed defenses (curvy lines, X's within defined fields, and heavily dotted lines), requirements (rectangles containing "R"), low risk low gain targets of opportunity (a box containing diagonal lines from corner to corner), secondary goals (boxes containing "G2"), and special action instructions (circles) denoted individually A through K.

Fixed Defenses. One of the fixed defenses is "razor wire" marked by curly lines. Every time a dean's decision line passes through razor wire, a single resource unit is lost. When crossed, it is an avoidable known cost of traveling from one geometric shape to the other. In the law dean world, it represents the cost of "extra" resources necessary for selecting a decision line. Typical costs include costs associated with planning, like personnel or consulting expenses. Additionally, it can represent opportunity cost for selecting to move down one line rather than another.

The biggest fixed defense risk is the dotted line which militarily represents airstrikes or approaches to airstrikes "against" the dean or the law school. Crossing an air strike approach requires rolling two dice with an 8% chance you lose all your resource units and a 3% chance of adding a unit (by, for example, inflicting heavy losses on the attacking aircraft). Other rolls result in losing a proportion of units or a certain number of units. There is a 50% chance crossing an air approach will result in the loss of at least one-third of the dean's resources. A dean may reduce the risk by investing in air defense which lowers risk in specified ways. Air attack risk can be technology and innovation competition with other law schools. The threat is simple: another school will invest in innovation giving it an advantage in student and faculty recruiting and in subsequent employment outcomes. A dean can minimize the competitive risk but cannot eliminate the risk.

Eliminating the risk isn't possible because there is imperfect intelligence about what is being developed by the competition. In many ways, these kinds of defensive or innovation investment decisions come closest to the category of risk where "a dean does not know what she does not know."

Law schools and their deans work in a highly regulated environment. There are *a lot* of requirements from law school accreditors, regional recruiters, and universities, as well as federal and state laws that apply across many industries, for example: federal tax withholding, nondiscrimination laws, and possible run-of-the-mill agency tort liability. The game reflects these requirements by assessing penalty points for deans failing to move through specific rectangles containing an "R." It is impossible for a law school to comply with all requirements in the game because of their location. Failure to meet all requirements is assured by an "R" box in the upper left of the game board that is not connected to the rest of the game network by decisional lines.

The game likely overstates the risk that a dean cannot comply with all requirements. Nonetheless, it correctly emphasizes a dean's need to assume the law school may have large penalties. Moreover, it correctly identifies such risks as

a staff member knowing the existence of a university rule (and the dean will likely be unaware of the rule or will fail to meet the requirement). Further, the game correctly reflects that there may be ambiguous and conflicting regulations.

Most requirements do not threaten the survival of the law school. Willfully ignoring public reporting requirements or failure to complete and file the accreditation questionnaire will result in actual penalties and reputational damage. These large failures, at the very least, will endanger the dean's employment status.

Not all symbols result in "using" and "losing" resource units. The secondary goal symbols represent opportunities to gain additional resource units. Examples of secondary goals include steps toward larger strategic goals. For example, perhaps a strategic goal is to go up in the *U.S. News & World Report* law school rankings by ten spots. A secondary annual goal might be to improve a composite element of calculating the ranking. One composite element is LSAT median score of the incoming class. Increasing the LSAT median, therefore, would be a secondary goal neither necessary nor sufficient to meet the strategic goal. Raising the median, however, helps meet the goal and might alone have independent significance for student recruiting.

The "circles" are important game features for purposes of simulating being a dean. Outcomes frequently contain an element of chance. A dean moving to circle-F must flip a coin to determine the number of resource units lost because of the school's placement percentages dramatically decreasing from the previous year.

The circle-A symbol represents decreased non-tuition fundraising, and the magnitude of the loss depends on the roll of one die. Perhaps no other event can cause a cascade of problems as losing a part of funding. The funding loss is frequently compounded by implementing a plan to increase revenue from another source (e.g., increasing tuition revenue by admitting lower qualified students, cutting faculty salaries resulting in an exodus of the best teachers and most visible scholars, etc.). Therefore, the dean may flip a coin for double or nothing on the resource units lost as a result of rolling the die. Indeed, the dean is able to double down again by flipping the coin a second time.

The last example described in the text of this essay concerns a resource resupply after the completion of a successful year that is reflected by circle-J. An algorithm determines the number of resource units to be awarded at circle-J (described in Step Instruction number 10). However, the algorithm is altered after the successful completion of the dean's fourth year when the dean's five-year performance review occurs. If the dean receives an unsatisfactory performance review, his deanship ends at the end of the following year (round of play).

So, now turn and study the board, read the Step Instructions, become familiar with all the symbols, and start analyzing the most advantageous decision lines to follow when the game begins.

2. Step Instructions

1. Items not included with, but necessary for, game play:⁹
 - a. Nine paper copies of the game board (one for each possible round (“year”) of the game) plus one paper copy for each player on which to keep score and take notes;¹⁰
 - b. A few different colored markers;
 - c. Individual access to the “symbol key and explanation” as there are players (e.g., a paper copy for each);
 - d. Two 6-sided dice; and
 - e. Any coin (preferably physically larger than a quarter coin in USD).
2. A player is called a “dean.” If there are multiple players, each “dean” should select a marker of a different color to officially trace their path. If more than one dean is playing, each dean should roll one die. The dean with the highest roll goes first, the dean with the second highest roll goes second, etc. The dean may invest in air cover and air defense before the dean’s first move. See step 9.
3. Each dean starts the game with 50 “resource points.” See the “Symbol Key and Explanation” for circle-J.
4. The goal of each dean is to complete the board using single “moves” (in turn) accumulating as many “resource units” as possible. Total resource points are summed when the dean moves to the triangular shape near the bottom of the game board.
 - a. A “move” consists of a dean “traveling” along a “decision” line between action “symbols.” The action symbols are squares, rectangles, and circles.
 - b. Most lines start at one action symbol and end at the next symbol.
 - c. Some lines, however, continue without break through a symbol or symbols. Moves along that decision line go through the symbol until the line breaks at another symbol. At the end of the move, the dean takes the action required by each symbol in order they are passed through including the symbol where the line terminates in sequence. See “Symbol Key and Explanation.”
5. The game ends when the dean (or the first dean if multiple deans are playing) is directed to the “END DEANSHIP” octagon at the bottom of the board OR after nine successful trips (“years”) around the board, whichever first occurs.
6. Winning
 - a. Single Dean Play: The dean “wins” after completing nine years as dean (he or she retires back to the faculty with the title “dean emeritus” and remains insured for ongoing therapy and anxiety medication).

9. As of publication, an app for game play on mobile devices is under consideration (not *really*). If you would like to obtain information about its status and availability go to www.abcXYZ.com (fictional).

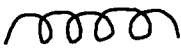
10. Copies of the game board made on acetate rather than paper can be re-used. No matter the medium used, please recycle.

- b. Multiple Dean Play: The dean with the highest number of resource units after all deans complete the year in which a dean first ends his/her deanship. Reference: Step 5.
7. Decision lines pass through symbols other than squares, rectangles, and circles. These symbols, too, are embedded with directions. See “Symbol Key and Explanations.”
8. The dean (or each of the deans) start each year having seven “free moves” for the year. If the dean has not achieved the “ultimate goal” box for the year in seven moves, each move thereafter *costs* one-half resource unit. That is, one-half resource unit is subtracted from the dean’s aggregate resource units for each move starting with the eighth move.
9. Any dean may “invest” in air cover and defense assets to mitigate possible damage from air strikes. Investment must be made before the dean’s first move in any year in the game and lasts for one year only. See the “Symbol Key and Explanation” section to assess how damage from airstrikes is determined. A dean may also purchase air cover and defense for one move from mercenaries before a move any time after the first move. The cost for both kinds of cover and defense are:
 - a. Investment before first move of the year:
 - To get rid of the chance to lose all points costs 5 points.
 - To get rid of the chance of losing $\frac{1}{2}$ or all your points costs 8 points.
 - To get rid of chance of losing $\frac{1}{2}$ or 10% of your points costs 6 points.
 - b. Cost of cover from mercenaries (good for one move only) costs one additional unit at each coverage in (a), (6, 9, and 7, respectively).
 - c. At the start of the sixth through eighth iteration, the investment for year-long air cover and the purchase price of one-move cover from mercenaries each increase 1 point at all levels each year (at year eight: 8, 11, 9; and 9, 12, 10, respectively).
10. Calculating the results for the year occurs when the dean reaches circle-J as follows:
 - a. For all calculations except after the fourth year (carrying over to the start of the fifth year) the dean may choose from the following three alternatives:
 - Your final asset unit score after you complete analysis of your year and results in “I.”
 - Your final asset unit score in (a) and the results of the roll of one die as follows:
 - i. If the number rolled is 1 or 6, add 0 to the prior score;
 - ii. If the roll is an even number (2 or 4), add 2 units;
 - iii. If die is an odd number (3 or 5), lose 1 unit; OR
 - 50 units less 2 units for each iteration (example: After the second year but before the third year, for example, the arithmetic would be 50 minus 4 which equals 46).
 - b. At the end of the fifth year, when the dean reaches the “sum” triangle, (after completing five years) the provost (or Board of Trustees as may be

appropriate at the particular school) conducts a five-year review of the dean.

- If the dean has 65 or more units, the provost's rating of the dean is "outstanding" and the dean is awarded 10 additional units.
 - If the dean has 55 or more units, the provost's rating of the dean is "excellent" and the dean flips a coin: (i.) Heads awards the dean 7 units; (ii.) Tails awards the dean 6 units.
 - If the dean has 47 or more units, the provost's rating of the dean is "satisfactory" and the dean flips a coin: (i.) Heads awards the dean 4 units; (ii.) Tails subtracts 2 units.
 - If the dean has less than 47 but more than 10 units, the provost's rating of the dean is "unsatisfactory" and the dean flips a coin: (i.) Heads subtracts 6 units; (ii.) Tails subtracts 11 units.
 - If the dean has 10 units or less, the dean continues through one more year (the sixth year) and is ineligible to continue thereafter (game ends). Dean's partner asks whether dean holds faculty tenure to return to the faculty.
11. The effect of zero or negative resource units: A dean must have zero or a positive number of resource units in order to leave the "sum" triangle. If the dean has zero resource units leaving the "sum" triangle the dean will have negative one resources units by the operation of I in the next move. The negative one must modify the "score" AFTER the dean goes to the circle-J resupply station. That is, negative one is added AFTER the dean selects the desired resupply alternative.
12. Good luck!

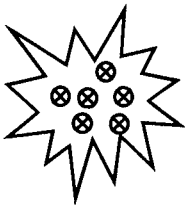
3. Symbol Key



Razor Wire. One resource unit is subtracted from a dean's total when the dean's decisional line crosses razor wire.



Explanation. Razor wire translates to known and certain costs of specific decisions on a prospective basis. It is the unavoidable cost of a decision. It is a cost/risk that deans "know they know." Therefore, it is susceptible to a cost benefit analysis. These types of decisions are made every day.



Mine field. When a decisional line move crosses a minefield, roll one die. If the number rolled is:

- 1 – lose 3 units. (17% chance).
- 2 or 3 – lose 2 units. (33% chance).
- 4 to 6 – lose no units. (50% chance).

Explanation. Mine fields translate to decisions where a rational risk analysis on uncertain cost outcomes can be made. The magnitude of the risk of crossing a minefield may be somewhat significant and repeated crossing of minefields can accumulate losses quickly if conditions change in unforeseeable ways (i.e., "bad luck"). Minefields present a known risk with an uncertain

outcome. Deans know what they don't know in decisions that cross minefields.

Airstrikes. When a decisional line move crosses an air strike zone, there is an air attack. Roll two dice. If the combined number on the dice rolled is:

- 2 or 3 – lose all of the resources (8% chance).
- 4 or 5 – lose one-half of the resources (20% chance).
- 6 or 7 – lose one-third of the resources (30% chance).
- 8 to 10 – lose 5 resource units (33% chance).
- 11 – lose 1 resource unit (5% chance).
- 12 – add 1 resource unit (3% chance).

Note: Deans may invest in air cover that reduces the risk of loss. See “Air Cover” instruction.

Explanation. Airstrike and air defense decisions add a completely different dimension than other strategic and tactical weapons and, therefore, create unique issues requiring a dean to apply a different analysis. Moreover, the use of almost autonomous drones brings the notion of technological disruption into the decisional structure. Investment in technology, technological research, and reflecting investment in older technology to counter the competitive risk can mitigate but not alleviate the risk even at significant cost. Like the other “known risks,” the risk-reward tradeoff is asymmetrical with more to lose than to gain.

These decisions face the known air risk. Unlike the other known decisions, however, intelligence on the magnitude of the risk is less certain increasing the risk from the catastrophic to the slightly positive. Statistically speaking, however, there is about a 60% chance that at least one-third of your resources will be squandered. These uncertainties are reflected by using both proportional unit loss (e.g., one-third of units) with fixed number loss (e.g., 5 units). If a dean has only 3 resources units, for example, one-third loss is a better outcome than losing 5 units but there is a cross-over point if the dean has more than 15 units.

Requirements. Boxes with an “R” represent required actions with no upside. The numbers following “penalty” or “P” are the number of resource units subtracted if a dean decides not to “go to” the required box. All deductions are tracked and made when the “ultimate goal” is reached. The boxes in the margin mean that there will be 5 or 6 units deducted (top figure) and 1 unit (bottom figure). If the box contains two numbers and is “missed,” the dean flips a coin to determine the deduction: heads is the lower number; tails is the higher number.

Explanation. Requirement action boxes have no upside but may have a significant downside. Classic requirements are matters of accreditation or governmental compliance. In the military context,

R
Penalty
5 or 6

R
P
1

these decisions range from dress-code violations to running out of fuel because the requisition request was not properly completed.

G2
4-5

Secondary Goals. Boxes with "G2" inside are "secondary goals." If a dean decides to complete a secondary goal the dean will flip a coin:

- Heads means the dean will add the higher number to his/her resource units;
- Tails means the dean will add the lower number to his/her resource units.

Explanation. Secondary or "Annual" goals are frequently steps in accomplishing longer-term strategic goals. Thus they represent "action items" necessary or complimentary to larger strategic goals. In the military context these can be the opponent's material: Important enough to "pick-up" if doing so does not negatively affect the current primary mission. Secondary goals, however, can become Hitler's "Stalingrad" on the way to Moscow if they serve little or no strategic purpose.



Low-value or unquantifiable opportunity decisions. One resource unit is added when a dean includes this symbol in a decision path.

Explanation. In some ways, these decisions are like "opportunity theft." An opportunity arises, and it is taken. A single opportunity is not worth much cost. Nonetheless, it may be worthwhile to go to a neighborhood where opportunities tend to emerge. Perhaps in the military it is a single covert action, taking the time to interrogate captives, or building local goodwill by offering humanitarian aid.



Circles. Circles are the symbols signaling specific controversies and opportunities and each circle, designated by a capital letter, has unique instructions:

- (A.) Foundation pay-out and/or public funding is decreased. Roll one die:
- If 1-3 is rolled, lose 5 points.
 - If 4-5 is rolled, lose 6 points.
 - If 6 is rolled, lose 8 points.
 - i. You may flip a coin for double or nothing.
 - ii. You may choose to flip the coin for double or nothing a second time.
- (B.) Seventy-five percent of the female non-tenure-track faculty members join a sex discrimination lawsuit based on salary. Both the dean and the general counsel of the law school believe it has merit. Roll both dice:

- If the dice total 6, deduct 5 resource units because outside counsel disagrees and advises litigation (14% chance);
 - If the dice total 9 or 10, the dean, after two pre-trial depositions, is embarrassed on cross-examination at trial. Deduct 7 resource units (20% chance);
 - If the dice total 11 or 12, the law school “wins” on summary judgement. Deduct 6 resource units (8% chance);
 - All other two dice totals (58% chance) means the case settles causing temporary negative PR but negatively effecting the budget going forward. Flip a coin: Heads deduct 8 resource units; tails deduct 11 resource units.
- (C.) Flip a coin:
- Heads means the school’s bar exam results go down. Lose 5 resource units.
 - Tails means the school’s bar exam results go up slightly. Add 1 resource unit.
- (D.) Flip a coin twice:
- If two heads: A collective bargaining agreement is successfully negotiated. Lose 2 points for cost of time and effort expended.
 - If one head and one tail: Agreement reached acrimoniously. Lose 3 points.
 - If two tails: Agreement not reached and school is charged with an unfair labor practice. Lose 5 points.
- (E.) Law School’s Nobel Prize professor demands a 15% increase in salary and to be allowed to obtain a second full-time appointment with another school leaving her with only one seminar course at dean’s school.
- Meet demands: Lose 2 points.
 - Reject demands: Lose 4 points in current iteration but gain back 3 points at the start of the next year (if the dean is still in the game) because the greatest loss is attributable to short-term bad publicity.
- (F.) Career placement percentage at graduation and ten months thereafter dramatically decreases from prior year. Flip a coin:
- Heads: Lose 3 points.
 - Tails: Lose 5 points.
- (G.) Dean meets with a major donor. Roll both dice.

- If the sum is 4-7, the meeting goes as expected with no change in the donor's pledge (50% chance).
 - If the sum is 10 or above, you offend the donor and he or she withdraws her pledge. Lose 3 points (16% chance).
 - If the sum is 2-3, the donor likes the dean's strategy and increases her pledge. Gain 1 point (8% chance).
- (H.) Dean receives the negotiated salary increase. Roll one die.
- If 4-6, the dean did not know he or she needed to fund the extra salary out of the existing law school budget, and some members of the faculty now distrust the dean because of her "blatant self-interest" (in opposition, perhaps, to their own, see, e.g., circle-E). Lose 2 points.
- (I.) Deduct 1 resource unit for the cost of outcome and financial assessments and revising the strategic plan.
- (J.) Re-supply choices. See Step Instruction 10 to calculate the results.
- (K.) In multiple player games, any dean reaching the circle-K may be audited by any other dean. If the audit discloses a discrepancy in scoring (high or low) the auditing dean may require the audited dean to either forfeit one-third of the audited dean's resource units being carried over to the next year OR one and one-half times the number rolled on one die. If the audit reveals the scoring was correct, the auditing dean must immediately deduct the number rolled on one die.

III. THE END OF THE GAME; BUT NOT ITS CONCLUSION

1. *Magnificent Challenges in the Past Decade*

So far, my time as dean has been a marvelous challenge. The last decade has been a crescendo of challenges and very real turmoil in legal education: the drop in applications and a marked and continued trend of fewer highly qualified applicants are but the most visible common challenges.

Moreover, there has been a general decrease in bar exam pass rates. Current deans and law faculty members know the recent history all too well. Many schools experienced a sharp decline in 2013 or 2014 and then continued a much slower decline. For my school and others, the first decrease (better described as "a drop") was out of all proportion with a slight decrease in credentials. At least for my school, much of the subsequent decline in bar passage can be explained more satisfactorily.

In many ways, however, we are dealing with a still uncertain diagnosis of "what went wrong" with bar exam pass rates. That is, we still do not have a

definitive diagnosis of the problem and are left with trial and error treatment options. Many of the prescriptive actions to improve bar passage are based on the medical equivalents of starting a course of broad spectrum antibiotics and quickly hanging a bag to rehydrate the patient. Yes, lower LSAT credentials are undeniably *part* of the problem (likely the majority of it), but those lower credentials simply cannot explain, for example, the shockingly low February 2018 results from well-known and highly regarded schools from the ACC and the SEC in their home states.

In addition, deans and schools have had to face a decrease in employment for their graduates and accreditation changes that reflect the need for law graduates to have more (and reasonably extensive) live client contact. Further, legal education began serious experimentation in the last decade with hybrid programs and tentatively entered the world of online legal education at the JD level after online delivery became the dominant method for delivery for domestic LL.M.s and graduate degrees in other disciplines (like MBAs).

The stress on law schools caused by these changes was aggravated by a decrease in public funding for all of higher education. In turn, the decrease in funding increased the importance of the federal loan program.

In my opinion, the loan program has had an unfortunate unforeseen consequence of encouraging schools to compete for the highest credentialed candidates (no matter of need) by relying on discounting; coupled with an imperfect massive federal rolling-bailout. The bailout comes in the form of delayed loan forgiveness to the student, subject to conditions subsequent. Even with the forgiveness mechanism, many graduates have monstrous debt and will not meet the conditions subsequent. I call it a bailout because, on one hand, discounting reduces tuition revenue from highly credentialed applicants is unsustainable for most schools in the long run. On the other hand, students take on the risk of the loans (subsidizing discounting) and paying the loan proceeds to the schools on a risk-free basis.

The loan part of the equation, again in my opinion, benefitted the “have” more than the “have not” schools. Moreover, the hope of likely loan forgiveness likely increases the debt-load on the very students that have less ability to pay because tuition discounting and scholarships focus on “merit.” Finally, and paradoxically, 100% tuition and living expense loans drive conspicuous consumption among elite or well-funded schools to compete for the best students.¹¹

11. For example, in college athletic recruiting, it is well-known that, “You gotta have a pretty arena” in order to recruit because “everybody else” has marvelous facilities.

Not surprisingly, nor totally irrationally, many law school leaders favor increasing debt load on “some” graduates and on federal subsidies rather than finding ways to lower or arrest increases in tuition. Many of these same leaders (and me, too!) decry the growing national income gap fueled currently by dependency on “trickle down” economic hypothesis under which, at least initially, the “haves” are favored over the “have nots.”

Fully armed with my own self-interest bias, it seems these positions are inconsistent, and all schools need students to be subsidized. Legal educators, however, shouldn’t fear rocking the loan boat by having robust debate about funding legal education in this country. I would far prefer the debate to be among leaders in legal education rather than in Congress, in state legislatures, within

In other words, there is no incentive to compete “straight-up” on the cost of tuition and fees. The profession, too, has changed, and its rate of change seems to be increasing as profit margins from technology started to be passed through as savings to clients. The reallocation of “savings” to clients, however, required firms to increase revenues. Thus, billable rates rose which decreased access to justice for an even *larger* segment of the population. Third-party litigation funding “trended” world-wide. Moreover, outside non-law investment in firms blossomed and multijurisdictional and multidisciplinary practice took up its march in Australia, Britain, and elsewhere after a dozen years of respite following the accounting scandals like Enron. Of course there is “limited practice” and internet counsel, too.

Nonetheless, legal education is better now than it was ten years ago albeit at an increased cost to students.

2. *Magnificent Challenges Will Continue*

It is an unremarkable observation that there will be new challenges; some predictable and others unknown. Indeed, the pace of change in both practice and legal education is likely to increase, in turn, spawning more frequent magnificent challenges. For example, I’d guess more law schools will embrace hybrid delivery of courses and programs and that law schools will continue experimenting with expanding law teaching to undergraduates and non-JD students. The next law school existential crisis, however, is likely the accreditation of fully-online legal education. Additionally, technologies like virtual reality and artificial intelligence will effect legal education in unforeseeable ways.

The board game should be able to adapt by simple changes in the events that correlate to the symbols, changes in resource unit value outcomes for specific symbols, and/or changing the “odds” of outcomes.¹² I cannot foresee a single change of such magnitude to require major revisions to the board in the deans’ game (game-changers) no matter how disruptive those changes may be in the real world.

governors’ offices, or subject to popular vote (and yes, I recognize I am elitist about where the debate takes place—squarely placing me in the cross-hairs of inconsistency, if not hypocrisy):

12. The Symbol Key provides some statistical outcome guidance for the roll of one or both die. All decision making, including that of law deans, will be effected by “big data.” This effect might be a big change but law schools, the LSAC (the LSAT “people”), the NCBE (National Conference of Bar Examiners), and other concerns loosely connected with the “law-school-admissions-and-licensure industrial complex” have relied on statistics since their inception. “Big Data,” however, is much finer grained and more powerful than that currently made public by these organizations. For example, *NFL Next Gen Stats*, AMAZON WEB SERVICES, <https://aws.amazon.com/nextgenstats/> (last visited Dec. 29, 2018), uses “Machine Learning and Artificial intelligence technology [to] enable[] the NFL to predict formations, play outcomes, routes, and key events in a game.”

The following quote from *Next Gen Stats* makes me have goosebumps; but I’m not sure whether to declare heaven on earth or run to my survivalist neighbor’s bunker: “NFL player tracking, known as *Next Gen Stats*, is the capture of real time location data, speed and acceleration for every player, every play on every inch of the field. Sensors throughout the stadium track tags placed on players’ shoulder pads, charting individual movements within inches.”

Following are seven illustrations¹³ of how the meaning of some symbols could change to adapt to future realities:

(1) Existential threats can be represented in the game by the dotted-line symbol (air attack) and an increase in the resource unit cost of investing in air defense. Alternatively, or in combination with the changes to the dotted-line, the “circle” symbols can be changed to represent more and more dire events. For example, a circle could change to: “The law students at your school find they can take online courses from another accredited school more cheaply and transfer-in the credits. As a result, revenue drops ... Flip a coin ...”

(2) Minefield decisions could, among other things, include the decision of adopting alternative admission requirements that do not include the LSAT.

(3) The circle-C symbol representing bar exam pass rates in the current game will likely remain, though there could be evolution in the exam and new or different licensure requirements. Those changes could change the odds or increase the cost of providing different or new curricula instruction in response.

(4) There will continue to be donor risk (circle-A), though the stakes may be even higher.

(5) There will continue to be decisions where the cost can be represented by razor wire. An example of a razor wire decision, current and in the future, is adding staff. The cost is known and the magnitude range narrow and low. Other personnel decisions, however, are not razor wire decisions; instead looking like current circle-H.

(6) The box-X symbol will continue to include opportunities with low cost but with ephemeral or, conversely, uncertain slow cumulative effect: An example will continue to represent occurrences like the dean writing a popular op-ed piece for *The New York Times* (or maybe stumbling upon a small grant opportunity that the dean’s school has both the expertise and the excess capacity to pursue).

(7) Finally, of course, accreditation and other regulatory risks will only increase in frequency and magnitude. This increase will include more obscure, unexpected, and expensive requirements and will increase the number of requirements that are inconsistent or even mutually exclusive. Therefore, the penalty for missing R-boxes will likely increase (and the first necessary board modification may be to add more R-boxes).

In summary, I posit the general nature of decisions and risks in the deans’ game will remain the same even as some of the specific challenges and opportunities change. Some of the magnificent challenges confronting future deans, as illustrated in this section, will be different than the challenges facing current deans. As the saying goes, however, “The more things change, the more they remain the same.” I do not anticipate the board itself will need to change in significant ways to accommodate future events, threats, and opportunities.

Individuals have a limited life and, no matter how successful, deanships end. Current deans will be replaced by new and better deans who will continue traipsing around the board confronting challenges, incurring costs, making investments, and identifying trends “in the fog of war.” From time to time, the dean will be required

13. The number “7” is lucky in some cultures.

to roll the dice, and, from time to time, the dean will be a bit lucky and, in another turn, a bit unlucky.

The *Law Dean Game* ends for individual deans, but it never concludes.¹⁴

IV. CODA

I am certain of only three things about how the game and deaning relate and how the game might be used:

(1) It might be useful for deans and prospective deans because the game is a dynamic decision making process with imperfect information concerning events and issues over which the dean has, at best, incomplete control. One lesson from the game is that the biggest gun in the dean's arsenal is influence—not power. I am confident the cartoonish version of *process* in the game contains most elements of what it's like to be dean.

(2) The game illustrates a *tacit* convention about a dean's personal achievement, law school achievement, and the greater goals of legal education. The convention, as I see it, contains two unchanging elements:

a) The dean must be a confident but humble and thoughtful leader who takes *reasoned* and *reasonable* personal tactical risks based on the best information possible. Humility comes from recognizing that consistent success is not possible by hard work and good decisions alone, but that the outcome of all decisions is dependent on "odds." That is, at best, a dean's success is contingent on no bad luck occurring at key points in time. The corollary is that good luck can make a bad decision appear prescient, but relying on good luck does not replace the hard work necessary to produce consistent results.

b) The achievement of long-term goals requires a dean to survive challenges (retain the deanship) and take advantage of opportunities on a yearly basis. More simply, winning the game requires staying in the game in a series of short-term engagement and outlasting the issues in long-term play (or to stay in the game long enough to accumulate the resources necessary to avoid being replaced by a different dean). If the dean does survive, he or she gains some reputational celebrity status in the law school world that is a tiny corner of the universe. Once the dean eventually retires, however, the accolades stop, positional and informational power evaporates, and the thrill of the chase ends.¹⁵

(3) Survival and winning the dean game does not mean meeting every challenge or getting a perfect score. Statistics for a dean's survival are more akin

14. "The Dean is dead; long live the Dean." (Sorry.)

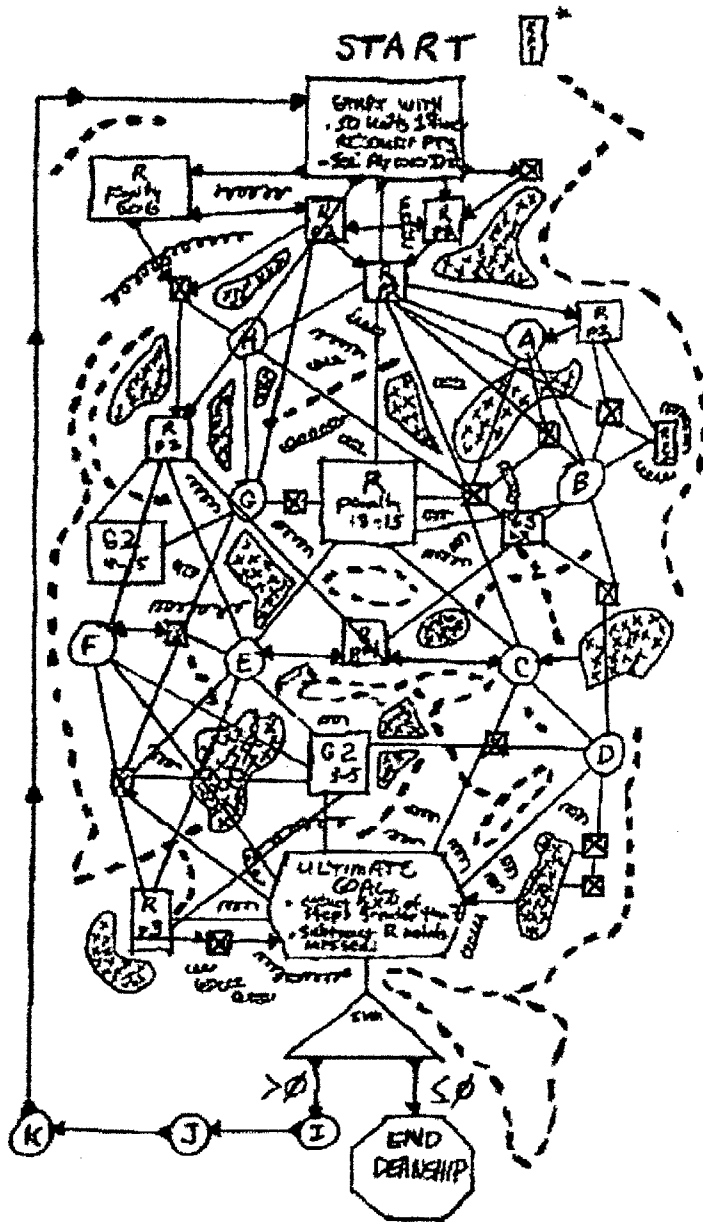
15. It is the nature of the beast that many, if not most, deanships end in either an unsatisfactory or anticlimactic way. The dean burns out or decides to fade away after a few years. Context, coincidence, and a couple bad rolls of the dice may result in non-renewal or public termination: "I'm sorry, not your fault, but the trustees MUST do something to make it look like they are on top of the problems at our law school." On the other hand, personal frustration can be the straw that breaks the camel's (dean's) back causing the dean to resign with disappointment and angst (sometimes publicly). At best, a dean may achieve most of her personal goals. Self-satisfaction is the greatest, and often the only, reward; but it can be a heady reward because as dean you can make visible improvement in the school and have a seat at the table in helping legal education as a whole become better.

to all-star batting statistics in baseball (or rolling the dice in craps) than the reciprocal of appendectomy mortality rates for a surgeon. A batter can be an all-star with a .275 (27.5%) batting average if some of his “outs” allow others to score, and he hits a home-run once in a while. A surgeon with an appendectomy mortality rate of .275 (meaning the patient lives 27.5% of the time), however, will be forced out of the profession very quickly. Different games.

In sum, being the dean of a law school is a magnificent challenge. Meeting that challenge does not require perfection. And achieving short and long-term goals is immensely satisfying.

Have fun. Play the game!

APPENDIX



*There are no decision lines leading to this required action. Therefore, deans will be penalized for not meeting this “minor” requirement. This simulates the deaning experience. Sometimes, it is impossible to comply with all technical requirements because of inconsistency with other requirements or out of ignorance.