

WHAT'S REALLY WRONG WITH LEGAL EDUCATION AND WHAT YOU CAN DO ABOUT IT

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THERE has been an awful lot written over the past several years about the current state and/or the future of legal education.¹ From formative and summative assessment of learning outcomes, to distance learning, to the impact of technology and machine learning on law practice, to use of alternatives to the LSAT in admissions, to student debt, to rankings, to—well, you name it. Much of this literature is critical of the industry; some of it is hopeful. All of it, however, seems to assume we've been doing it wrong for a long time.

While not the principal focus of this essay, allow me to use this opportunity to say that I question that judgment. Sure, you have to change with the times. There are things we can and should improve upon, things we should be doing differently, and aspects of our programs that might fairly be called into question insofar as their continuing utility is concerned.² Yet, the undeniable fact is that if there is one thing legal education in this country has done very well since the days of Christopher Columbus Langdell, it has been to graduate disciplined thinkers who possess the skills necessary not only to excel in traditional law practice, but also to occupy leadership roles in government, the not-for-profit sector, and industry.

Therefore, I'm more than a little reluctant to cast out the infant along with the cleansing suds just because of some ill-defined sentiment that our students need to be graduating—to use the preferred parlance of the day—"practice ready." This is particularly so when much of the criticism of our programs comes from individuals who are themselves products of those programs and who, by and large, turned out pretty well (and if you doubt me, just ask them). Frankly, I'm not even quite sure what "practice ready" means. However, if the idea is to graduate a gaggle of legal automatons who lack any appreciation for the rich history of the law, the ways in which law contributes to a just and equitable society, and the public service responsibilities that are the attendant expectations of those who enjoy great

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1. So, you're looking for citations to several of these critiques? Sorry, but one of the terms of the deal in these Deans' Leadership symposia is that footnotes are not required. Actually, while that's true, you'll see there are quite a few footnotes that follow (hell, I can't write a condolence letter without footnotes). So, the real reason for the absence of relevant citations is the oldest excuse in the book: fecklessness.

2. Many of the contemporary criticisms of legal education also seem to imply, if not outright assert, that nothing has changed in the last hundred years, which is of course preposterous. Having gone to law school myself nearly a century ago, I can assure you that a lot has changed, but much of it has been like watching a plant grow—you can't actually see it happening as it occurs—and, as discussed immediately below, this is a good thing.

advantage in society, then I'm not much interested. Besides, graduating practice ready today is not a particularly lofty or ambitious goal. What is valuable is assuring that our students graduate in possession of the toolkit that will allow them to adapt to the radical changes in law practice that will quite likely occur over the next decade and beyond and to become tomorrow's leaders in their communities as well as their professions. I rather doubt that a vocational education will serve these objectives. Therefore, I prefer to focus on ensuring that our students graduate not "practice ready," but "profession ready."

Contrary to some of the more bloodthirsty denunciations of legal education that balefully decry how the industry looks and operates no differently than it did a hundred years ago, I would also point out that legal education has in fact evolved and will continue to do so. I believe it is best, however, that this evolution continues to occur at an incremental or almost molecular pace, rather than in the abrupt and radical fashion urged by many critics of our industry. Sweeping changes carry great risk that few of us can afford these days.³ They are also unsettling to your community. Discipline and patience offer a more secure and realistic path to a better and preferred result. Additionally, some missteps along the way are inevitable, and a more modest and circumspect approach allows for the kind of adjustments and reversals in course that are the normal byproducts of experimentation. Stated another way, you want to be certain when you "innovate" that you've positioned yourself such that you can recover from the occasional gaffe that will unavoidably occur along the way.

This defense of our programs and call for circumspection in implementing change does not, however, obscure the fact that there is a serious problem in legal education today, but it's not the one most folks have seized upon. It's not about the need to be more applied in our instructional programs or to incorporate more emphasis on technological innovation in our curricula. The real problem, which has been laid bare in recent years for all to see, is that—on the whole—we are not very well run from a purely financial perspective.⁴ Now, concededly, I have not examined the financial structure and budgetary operation of all 200-plus law schools. However, I've been around a really long time, and most of that time has been in law school administration, including stints as dean of a private school, a public school, and now a private school that is tightly integrated into a public university. Also, I have served on ABA inspection teams, where I'm usually assigned to the "finances" section of the team's report. Finally, based on the detailed ABA questionnaire every law school is required to complete and file annually, and the consumer information we are all now obliged to make publicly

3. This point is obvious when the proposal is to take the school's entire endowment to a casino and place it on 27 red. However, when it comes to changes in curricula or educational mode of operation that are nearly as perilous (and, frankly, lack the potential return of the roulette wheel), many people seem to develop blinders. Radical innovation may be an option for those few schools with either nothing to lose or that can't lose regardless of what they do, but not for the rest of us.

4. There is another, and perhaps even more fundamental, "real" problem that we all condemn as morally bankrupt and then spend endless hours trying to deconstruct and game. That, of course, is the annual *U.S. News & World Report* rankings. But enough ink has been spilled on that topic already, and its impact on the subject under discussion in this essay will readily be seen in any case.

available, there is quite a bit of common data out there.⁵ So, I speak, if not with authority, then at least with some modicum of knowledge and experience.

I also don't make this allegation about the disorder in our fiscal houses for the purpose of castigating or pillorying others. I am complicit as any, but largely the problem is not a personnel problem, but rather a cultural one. It stems from the environment that until recently characterized legal education and had persisted for a very long period of time. Specifically, for many years, law schools were, in the vernacular, cash cows. We charged relatively high tuition, did little if any discounting, and were cheap operations to run; a library, a few classrooms, some faculty, a faculty lounge, a coffee-maker and you were in business. Gradually, we began to grow into more capital-intensive operations, but ever-escalating levels of tuition kept us fat and happy.⁶ That world changed suddenly and unexpectedly in the early part of this decade. It probably should have been expected, but the purpose of this essay is not to examine the causes for the law school financial crisis that has descended upon us all.⁷ Rather, it is to recognize that when there are plenty of fish and loaves to go around, financial discipline often gets cast to the wind. That was the case in legal education for quite a while. The problem is that, even as things have gotten tight, relatively little has changed.⁸

As an example of the point I'm making, up until maybe 25 to 30 years ago, a four-course teaching load was pretty standard in legal education.⁹ Increasingly, many schools have moved to a three-course load.¹⁰ The accepted rationale for reducing teaching loads was to allow faculty more time for research and publication, which would enhance the school's reputation and, of course, its ranking. In truth, many faculty have used the lighter teaching demands for precisely that purpose. Anyone, however, who suggests that this has been the case across the board, or even nearly so, is either delusional or worse. Moreover, in very little time, the three-course load at the schools that adopted it went from a luxury to an expectation, and the refrain next became that at least one of the three would

5. ABA Accreditation Standard 509 dictates the Consumer Information requirement, which was imposed around 2010. The compiled responses from the annual questionnaire are made available on a confidential basis to all schools in what used to be known as the "ABA take-offs."

6. For example, the 1970s and 1980s saw the advent of clinical programs in great number, and the 1990s witnessed the impact of technology, initially at the desktop level and then, increasingly, in the classroom. As we moved into the new century, the power of the *U.S. News & World Report* rankings launched another costly arms race for student credentials.

7. I fear we assumed for a long time that there was an inelastic demand for our product, and thus we were, but should not have been, surprised to discover that the law of supply and demand operates no less in our industry than in any other.

8. I know some will push back on this, pointing to years without salary adjustments, reduced travel budgets, etc. This is true, and certainly the impact has not been identical at every school. However, with a couple of notable exceptions (*see, e.g.,* Belinda Thurston, *Cooley 'Right-Sizing'*, LANSING CITY PULSE (Aug. 15, 2014), <http://lansingcitypulse.com/article-10487-Cooley-right-sizing.html>), these new constraints have largely been nibbling at the edges of the problem.

9. At the risk of sounding like a fossil, my first year in legal education I taught four different doctrinal courses over the regular academic term, and then a fifth in summer because summer research grants were not *de rigueur* in the fashion they are today.

10. Many schools define the teaching expectation in credit hours rather than courses, e.g. nine or ten hours a year, but the reality is that sooner or later it evolves into the three-course package.

need to be a “pet” seminar. Resistance to undertaking new course preparations also grew.¹¹ Now there are lots of reasons, good and bad, for the de-emphasis on the teaching component of a faculty member’s responsibilities. The only point I’m making here is that the net effect of these phenomena at many institutions has been that the same size faculty now covers roughly half of the course-load that it did before the advent of this shift in culture.¹² Inevitably, that meant that the size of law faculties, the most expensive cost on the books, had to grow—as only so much of the coverage could be handled with adjuncts.

When the colossal decline in law school applications occurred, no self-respecting law school seriously considered returning to a four-course load, except perhaps as a last resort. To some extent, this is a product of competitive pressures. But, partly, it is also a function of the fact that the lighter teaching load had become so ingrained at most of the institutions that embraced it as to make a reversal in course a challengingly provocative issue for a law school dean who proposed to employ the strategy.¹³ As a result, at a time when we can least afford it, our teaching resources are not optimally deployed, to say the least.

In point of fact, given the importance of our scholarly mission, probably the “right” way to approach the problem is not to increase teaching loads across the board, but rather to increase the teaching responsibilities for non-research-active/nonproductive faculty. However, that’s another quagmire—as nearly all will endorse the *concept*, but few who are given the heavier load will agree with its execution.¹⁴ Generally speaking, I have found that faculty are consumed with issues of equity *inter se*, so these are not matters to be taken lightly. As deans without department chairs, we already bear the weight of having to make many merit-based determinations among colleagues, each of which can be controversial and create disharmony. At the same time, our effectiveness in our decanal role hinges critically on maintaining the confidence and support of a sizeable majority of our colleagues. Thus, insofar as differential teaching loads are concerned, while it must be on the table, you also have to be mindful of the adage about picking your fights carefully. Doubtless, this was why the three-course load was adopted panoptically in the first place.

11. See *supra* note 9.

12. I do recall a time when it was understood that every faculty member would have five or six classes essentially ready to go and that he or she could be called upon to teach any of those courses in any given year.

13. I will say that I did just that at one law school and survived, but it was a modest step. Specifically, I increased the regular teaching load from three to three and a half courses per year; that is to say, four courses every other year, albeit with the understanding that the fourth course would be a seminar. I held pre-tenure faculty harmless from this change and also voluntarily increased my own teaching load so as not to seem “above the law.”

14. This is partly due to the resistance of some people to work harder, which is particularly pronounced among those not working very hard to begin with. However, it is also due, in part, to the hierarchy that exists between scholarship and teaching. If we could embrace truly the attitude that different people contribute in different ways and they all have value, differential teaching loads might be a more easily swallowed pill. However, the likelihood of ever doing so, is somewhere between zero and none, as we seem to validate ourselves by internalizing the belief that what we do is more important than what other people do.

Lest I run the risk of being misunderstood here, let me make explicit I am keenly aware that, as academic institutions, we do not manage to a single metric in the fashion of a private business. Our goals are, by definition, multifarious and open-ended. Therefore, we can never be expected to exercise the same level of financial discipline as a for-profit business. The point to be made, however, is that we still have to be run in a business-like fashion. Too often we are not, despite the fact that the need to do so is today more pressing than ever. As law schools have, in order to preserve the academic credentials of their entering classes (and the rankings that hinge upon them), drastically cut enrollment and sent scholarship to almost insane levels, the preferred remedy has been to run to the central university, if available, for subsidy, or, for free-standing schools, desperately to seek merger or affiliation.¹⁵ There is a piquant irony in this,¹⁶ but it's not a sustainable strategy, or at least I doubt it to be so.¹⁷ Remarkably, few law schools have actually shuttered their doors,¹⁸ although, unless the recent increase in applications persists,¹⁹ I rather think that this may change.

The one thing we have not done to deal with the current crisis, or done only as a final expedient under external threat of dire consequences, is to "cut" in any kind of serious way, which is exactly the opposite behavior that one would expect from a private-sector business.²⁰ Why is this so? Because it is politically dyspeptic. Our faculties have been led to believe that we can always "find the money." I'll concede that to some degree this is due to the fact that, historically, we indeed did

15. A recent example of this is the pending merger of the John Marshall Law School in Chicago with the University of Illinois at Chicago. See Dawn Rhodes, *UIC Approves Merger with John Marshall Law School*, CHI. TRIB. (July 19, 2018, 7:20 PM), <http://www.chicagotribune.com/news/ct-met-john-marshall-law-school-uic-20180719-story.html>. Even more recently, my own institution, which has been affiliated with Michigan State University since 1995, announced that the Boards of Trustees of both entities had unanimously approved the full integration of the Law College into the larger university. See R.J. Wolcott, *Dean: Making MSU College of Law Part of the University 'Will Stabilize Us'*, LANSING ST. J., (Nov. 18, 2018), <https://www.lansingstatejournal.com/story/news/local/2018/11/08/msu-law-school-michigan-state/1892547002/>.

16. In my first deanship, from 2001 to 2009, it felt as if I spent most of my time figuring out how to keep the university's mitts off our money. I'm sure many a university president and chief financial officer think back longingly of those days.

17. The recent decision of Vermont Law School to jettison 14 of its 19 tenured faculty members is a clarion call to the legal academy that, without greater financial discipline, its current economic model may not be sustainable. See Matt Hongoltz-Hetling, *VLS Cuts Salaries for Faculty in Bid to Close Budget Deficit*, VALLEY NEWS (July 17, 2018), <https://www.vnews.com/Vermont-Law-School-professors-lose-tenure-18873357>. I also understand that at various conclaves of university financial types the cost of their law schools is becoming an increasingly common subject of discussion and distress. I wouldn't know, but it wouldn't surprise me if the same were true at meetings of university presidents and provosts.

18. For one observer's explanation why this is the case, see Paul Campos, *Why Haven't Any ABA Law Schools Shut Down Yet?*, LAWYERS, GUNS & MONEY (June 8, 2016, 10:34 AM), <http://www.lawyersgunsandmoneyblog.com/2016/06/why-havent-any-aba-law-schools-shut-down-yet>.

19. Since, apparently, the job market for newly-minted JDs has not improved materially in the past year, and that was an important factor in the decline of applications to begin with, at least as of this writing in the summer of 2018, I'm not confident that the increase will persist.

20. In the private sector, when things get tight, the first place you look is the expense side of the income statement because the effect is immediate. The development of new revenue takes time, and sometimes requires start-up investment funds.

seem to “find the money” more often than not, somehow and somewhere. However, this attitude, like the near religious devotion to the three-course load, is also partly due to the sense of financial unreality held by many faculty, and, not coincidentally, disproportionately by faculty with tenure.²¹ But if today’s reality is the new normal, as I believe it to be, this needs to change—largely because it has to change. I admire Tennessee Williams as much as the next, but getting by on the kindness of strangers will only last so long.

Accordingly, as a law school dean today you have to find a way to make some unpopular decisions and take some unpopular actions without alienating, at most, more than a small cohort of your colleagues. Navigating those choppy seas is not a trivial undertaking. To assist, I offer five recommendations to new (and perhaps even not so new) law school deans for simultaneously coping with our current financial challenges and making your faculty full partners in the effort, and not just another impediment:

I. TRANSPARENCY

Be forthcoming about the money, or, if you’re a private law school, at least be transparent about the operating expense side of the budget. I’ve never understood why there seems to be such reflexive resistance to this simple admonition.²² Usually, there’s nothing to hide, and even when there is, invariably it’s not as bad as what faculty will imagine you’re hiding in the absence of the information. Typically, the budget will show that, after faculty/staff salaries and benefits and library,²³ there isn’t a whole lot left. More importantly, it will help establish trust and breakdown the “us and them” mentality that sometimes (okay, most times) characterizes the relationship between the faculty and the administration.

It’s just human nature that people will accept some measure of sacrifice when they feel as if they are part of the team that’s working on the problem, and resist it when they are kept in the dark. So, let your faculty play a role in some of the big decisions that have to be made. Not only will it be paid back in goodwill, but you may also get some good advice along the way. For me, the rewards are well worth the risks.

21. You will find that your pre-tenure faculty and other faculty without tenure-equivalent protection are much more preoccupied with job security than with the size of their raise or the number of courses they teach. Don’t misunderstand; I believe in tenure, it’s just that for some inexplicable reason its conferral seems to induce a kind of financial obtuseness among those that hold it (just sayin’). Sure, there is financial exigency and the possibility of closure, but those threats don’t carry the same level of vulnerability as being “at will.” And, no, I’m not against tenure. I have it, I like it, and I want to keep it. I’m simply making the point that job security, in addition to protecting academic freedom, creates less preoccupation with and concern over the financial realities of institutional operation.

22. Yes, clinical education, at least on a per capita basis, is quite expensive and some doctrinal classroom faculty may resent it. But better to deal with it honestly and explain why it is important to your students’ educational experience than to try to obscure those costs in a shroud of mystery.

23. This excludes scholarship funded through tuition discounting, even though I prefer to think of this as an expense rather than just a reduction in revenue.

II. EFFICIENCY

Look for strategies that cut costs without interfering with the core academic enterprise—and I do not just mean pick on the library! In my experience, there is an enormous amount of inefficiency in the way in which things are done at most of our institutions. For example, in one school where I served as dean, I managed to save hundreds of thousands of dollars just by moving all of the faculty salaries to state-funded lines (which automatically covered the cost of fringe benefits) when all or a portion of many of these salaries had been supported by private dollars, *even though* adequate state funds were available. It was simply a question of swapping the purpose to which the different monies were applied, and for every dollar swapped, we made roughly 35 cents. The amount of dollars available to you is one thing that is a *known*, so you better be sure you are leveraging those resources as efficiently as possible.

I've also successfully convinced the benefactors of endowed scholarships directed toward matriculating students to consider revising their criteria so that the annual income could be used to support an incoming student, thereby providing a benefit to the institution as well as the student.²⁴ Also, at another school at which I have been dean,²⁵ I discovered on arrival that tuition was charged on a per-credit hour basis, which is common among schools with large part-time programs, but this school had not had a part-time program for years. It did, however, run both residential and abroad summer courses populated mostly by students from the school, as well as a large for-credit summer externship program. The result, of course, was to incur all the expenses of these summer activities with no corresponding revenue, other than the tuition monies that would have been realized in any case.

This was yet another illustration of doing things the way you do them because that is how you've always done them. And, I have little doubt that the deans who succeeded me at my previous stops found comparable examples of costly anachronistic practices that I blithely engaged in without ever realizing their folly. Inertia is a powerful force, but it's one we will all need to do a better job combating going forward. This can be unsettling, as I have found that faculty are often resistant to change. However, that resistance is not uncommonly attributable to what might be described as a "failure to communicate."²⁶ That is to say, if you take

24. Scholarships targeted at matriculating students hark back to the days when schools were providing almost no scholarship on budget. Today, they overlook the fact that we've often pre-funded the amount of the endowed scholarship, and usually more, in connection with the admission decision. Further adding insult to injury, some of these scholarships required a competition among applicants that had to be staffed by law school personnel. Thus, they actually represented net costs to the institution, a truly bizarre state of affairs.

25. Yes, I know it seems as if I've had some difficulty holding a job.

26. Strother Martin's memorable line in *COOL HAND LUKE* (Warner Bros. 1967). This suspicion of change unquestionably includes changes that have no direct impact on faculty members. This may be due to a concern that if you can cut X, which I don't care about, it may mean that Y, which I care deeply about, is next. In candor, the resistance to change may also reflect something of an anti-authoritarian bias in our faculties. Let's face it, for many, that's part of the draw of academia in the first place, and it is a trait commonly associated with high intelligence (and maybe a wee bit with people who hold job security also).

the time to explain (and perhaps on even more than one occasion) to your faculty the rationale for your decision and the benefits that will flow to the institution from some of the efforts to rein in costs, they are much more likely to overcome their innate edginess about change and support the moves you need to make.

III. DIVERSIFICATION

Expand your product line (*but not* mindlessly so). There are all kinds of options here and they are quite familiar by now, including masters of legal studies programs, undergraduate law majors, certificate programs, online LLM programs, two-year JD programs for international students, etc. There are many ways to use our expertise beyond the traditional JD and LLM programs; and your faculty's know-how, connections, and initiative can be vital resources in identifying the programs that you are best-suited to take advantage of as an institution. Also, certain faculty have a natural entrepreneurial leaning and are happy to run with some of these ideas.

The point I want to emphasize here, however, is a caution. All of these undertakings require someone's time and place a further strain on your overhead. That's a cost, and it is not a cost that should be borne by cutting corners on or diverting resources and attention away from your core professional degree programs.²⁷ My academic scholarship and interest is largely in federal bankruptcy law, and I can assure you that it is not at all uncommon to find among companies ending up in Chapter 11 a recent history of having strayed too far from their core business in pursuit of some unproven new product, service, or technology.

Also, your new enterprises need to be consistent with your institutional identity. We could make money by conducting bagel sales or car washes in front of the law school, but it wouldn't do much for the brand. Finally, it's easy to be seduced by the upfront money and ignore the potential long-term negative consequences. For instance, international JD students' LSATs and undergraduate GPAs may not go into your reportable medians, so this creates a tempting opportunity to keep up your enrollment (and revenue) without diluting your student quality metrics by accepting marginally qualified students for the two-year JD. However, in the not too distant future, those students' employment and bar passage statistics sure as shootin' will count in your numbers and, if you're not careful, could offset whatever benefit you enjoyed on the front end. Moreover, even while they are matriculating, you also have to consider the "mix." By this, I mean that foreign students unquestionably enrich and diversify the classroom; they also add a valuable comparative dimension to classroom dialogue. However, in sufficient number, they can begin to change the classroom dynamic in ways that are not always desirable.²⁸

27. Of course, this has always been the focus of the ABA's requirement that the Council of the Section on Legal Education approve new programs.

28. I'm not just talking about unfamiliarity with cultural references, although that's a small part of it. I'm at an age at which virtually no student relates to my cultural references any more anyways. Rather, I'm speaking of the awkwardness that sometimes accompanies in-class interactions with students whose spoken English language skills are poor, or the class time consumed in providing the necessary background and explanation that students raised in other cultures unavoidably lack. I have

IV. DEVELOPMENT

Get serious about fundraising. I think we have all gotten this message, but remember no one gives you money because you need it.²⁹ You still have to inspire alumni and friends with a vision of what can be accomplished with their generosity and articulate how their investment will make a positive difference. Of equal importance these days is the need to focus on your highest priorities and avoid what I call “collateral damage gifts”; i.e., a gift designated to support some new program or initiative that is not mission critical and, to make matters even worse, that often is insufficient in amount to cover all of the costs of that program. Development officers are trained to find the donor’s passion and then allow that to structure the gift.³⁰ That’s smart to a point. Far too often, however, I’ve discovered that a restricted gift, made to support a particular program or activity that was of secondary, if not tertiary, importance to the institutional mission, was a self-inflicted wound. Therefore, my mantra to my development crew in recent years has been to get the donor passionate about *our needs*.

Once more, faculty can play a constructive role here just by showing up at reunions and other events. They don’t have to ask anybody for money. Alumni want to see their old professors and are more likely to attend an event if you can publicize that certain beloved, long-time faculty colleagues will be present. It’s not an unpleasant duty, though many faculty do find it so, or at least believe it will be so. I’ve also had some success by bringing a faculty member to an alumni reception in a particular city to give a talk on a subject of current topical interest (such as presidential impeachment) or of practical utility (such as negotiation or mediation). You might even get the talk accredited for CLE purposes, which will usually help the gate. Involving faculty in this fashion also helps them to internalize the fact that development is not the job of the dean and the Advancement Office staff alone. Dare I say, “It takes a village”?

also found it to be the case that international students understandably need more time and attention after and out of class, which sometimes comes at the expense of other students, since none of us have unlimited time for office hours and post-class student questions.

I realize I’m likely to be criticized for making these observations, but it has been my personal experience, albeit recognizing that I teach first-year courses where the impact is likely more prevalent. Moreover, I hardly mention these issues as a polemic for somehow excluding foreign students from our classes or reducing their number; quite the contrary. I enjoy having international students in the classroom. I am only talking about the “mix,” and when international students begin to represent a significant percentage of total enrollment, particularly if they have been admitted under somewhat more relaxed standards than other applicants. It changes the dynamic in ways that it would be foolish to ignore or fail to take into account when thinking about class presentation and coverage.

29. For a more fulsome discussion of this point, see Lawrence Ponoroff, *Competing with Jerry’s Kids: The Moral Case for Law School Development*, 40 U. TOL. L. REV. 395 (2009). Yes, I know, not too lazy to cite myself!

30. It is also true that they are evaluated by metrics focused on dollars raised, often without regard to the utility of the dollars raised. This, too, can end up producing some very perverse results.

V. SACRIFICE

If your school is part of a larger university, be cognizant in your dealings with central leadership of the fact that your financial problems are just that, yours, not theirs.³¹ I recommend this not to be altruistic or noble (though of course I am). I suggest it because it has been my experience that you are far more likely to find that leadership to be tractable if you can demonstrate that you've taken ownership over your own fiscal house. This is only natural. Those of you that have children will understand. This means there must be at least some sacrifice and new economy at the unit level.³² The truth is that it is virtually impossible to cut our way out of the current malaise that has settled in on our industry, but it is equally unrealistic to expect that you can do business as usual and expect to receive a permanent "bail out." A day of reckoning will arrive sooner or later, and, again, having your faculty understand, support, and play a role in the hard decisions that need to be made is critical to accomplishing these belt-tightening moves at a politically acceptable cost.

What this university support looks like will take many different forms, depending on whether your school is public or private and on what type of budget model you're operating under, e.g., centralized, RCM, or some hybrid. The point, however, is that, perhaps with the exception of a handful of elite schools,³³ it is beyond reason to believe that you can simultaneously maintain academic standards, preserve the integrity of your instructional program, *and* balance your budget.

Let's face it, the days of the dean's role as the intellectual leader in the building are long over (thus explaining my long decanal career). One of Morgan Freeman's many classic lines in the movie *The Shawshank Redemption*³⁴ was, "Get busy living or get busy dying." Something akin to that is sage advice for the contemporary law school dean, whether a rookie or an old hand. Get serious about your managerial responsibilities, including the responsibility of running a fiscally sound operation, or else. If you lack the necessary skills and experience to do this,³⁵

31. I have addressed this topic in more depth in yet another earlier symposium issue. See Lawrence Ponoroff, *Law School/Central University Relations: Sleeping with the Enemy*, 34 U. TOL. L. REV. 134 (2002). I also published a third essay in this series, but modesty prevents me from sharing the citation with those of you who have read this far.

32. Not to seem defensive, but I feel some compunction here (if, for no other reason, the unlikely prospect one of my faculty colleagues will actually read this) to point out that I am not advocating endless, relentless cutting. Realistically, folks can only operate for so long in an environment of unremitting retrenchment. Moreover, it is important to institutional health to periodically bring in new faculty and develop the next generation of leadership. Also, you must be investing in some areas even while you're cutting in others. That is to say, both the cuts and the investments must align with strategic priorities, which, in turn, means you need to order those priorities in the first place.

33. From what I've seen, neither are most of these schools immune. Although surely, when you look at the overall budget, it's a case of relative deprivation.

34. *THE SHAWSHANK REDEMPTION* (Castle Rock Entm't 1994).

35. Most deans come into the position from academia and, thus, have little (if any) managerial experience, financial or otherwise. Maybe that's another essay—why we continue to look primarily to our own ranks in dean searches when the skill-set that is required to do the job effectively has changed dramatically.

bring in an outside financial consultant. Often, however, you'll find the expertise and guidance you need available right on campus if you seek it out. Also, an able and talented chief financial officer (and team) is essential. If you didn't inherit one, you're going to need to make a move.

Lastly, recall that good fiscal management in bad times does not entail ruthless and unyielding parsimony. It requires attention to detail, restraint, and good judgment. There is such a thing as "penny wise and pound foolish." In other words, go ahead and buy your faculty lunch once in a while.