

The Dean as Drudge?

James C. Hathaway
Dean and William Hearn Professor of Law
Melbourne Law School
Australia

Whenever I am asked how I am “enjoying” my new life as law school dean, I inevitably pause before replying – perhaps too candidly – that “I’m holding up,” “still alive,” or words to that effect. In truth, as I expect is the case for many, the first 6-9 months on the job were actually a blur. I was on an unending roller coaster ride, being sent from one meeting to the next, expected to make what seemed to me to be important and often difficult decisions with next-to-no time for reflection, constantly contending with multiple e-mail in-boxes that never seemed to empty, and struggling desperately to remember at least the names of the hundreds of people who were part of my new professional world.

With the benefit of about a year and a half on the job, I have at last found the time to ask myself some of the questions posited by the IALS as themes under the fourth rubric of the conference program. In particular, is the dean – at least of major law school – really more chief executive officer than scholarly leader? And if so, does it really make sense to recruit deans from among the ranks of academic authorities and respected teachers? Might it not be better, for example, to seek a dean from among lawyers with experience as a firm’s managing partner, as a senior public servant, or who have otherwise demonstrated acumen in management of a legal (or perhaps even an educational) enterprise – *whether or not* that person himself or herself is a serious scholar or accomplished teacher? So long as the dean is sensitive to these concerns and smart enough to recruit an executive team of deputy and associate deans deeply immersed in the research and learning enterprises, does it really make sense to seek out a dean who is a serious intellectual leader in law?

I realize that law deans are, on occasion, recruited from the types of background I have posited as alternatives to the dean-as-scholar model. But it remains that the dominant model is for the Dean of Law to be recognized by his or her colleagues, by students, by the judiciary, and by the profession as an intellectual leader, as a person with theoretical *gravitas*, as someone deeply immersed in, and able to influence, the world of ideas. Is this really an appropriate level of expectation?

My own decision to relinquish much of my own research and teaching in order to take up the deanship at Melbourne was heavily influenced by the university’s decision to abandon the Australian tradition of law as part of a dual-degree undergraduate education, and to become this country’s first all-graduate law school. The curricular reform upon which this shift was predicated was appealing, drawing on the best of international and domestic models, taking real advantage of the intellectual opportunities afforded by the Law School’s dozen outstanding research centers and institutes, and unstintingly supported by university leadership

determined to reinvent tired models of university education. If ever there were an opportunity for a dean-as-scholar to play an effective role in reconceiving the academic enterprise, it seemed to me that this must be it.

Yet the truth is that even at a school as deeply immersed in ideas and as committed to conceptual creativity as Melbourne, my own role as dean is necessarily on the margins of the real intellectual enterprise. I spend most of my days contending with the bureaucratic rituals of a major university in which law school interests and autonomy are routinely challenged; attempting somehow to find new resources to support my colleagues' and students' aspirations; ensuring that human resources, media, recruitment, student services and a dozen other bureaucratic operations function well; and of course, working with key external constituencies to ensure continued support for the law school. I am, to be blunt, a chief executive officer. In this context, does it really matter that I love research, crave the opportunity to write and to speak about ideas, and enjoy immensely the possibility of direct engagement in the classroom with bright and often insightful students?

The usual answer is that my intellectual predilections predispose me to manage the law school in a way that is sensitive to the core purposes of the enterprise. I accept that this is true. But without meaning to be self-effacing, I have come increasingly to question whether it is a reasonable assumption that even a talented scholar and teacher can be assumed to be capable of mastering the business of running a modern law school. As much as I do believe that my colleagues and students appreciate me for my commitment to ideas and creative teaching, their core concerns are, to be frank, more basic. Will there be enough money to do all the good things they aspire to take on? Will their professional lives be free of unnecessary interference and bureaucratic intrusion? In short, how will the law school ensure their own professional influence and happiness?

As I gain confidence and experience, I feel increasingly able to meet at least many of these expectations. But the learning curve has been steep, and my own skill set challenged by the transition to the life of a dean. More fundamentally, it seems clear to me that however much I learn on the job, my 25 years of scholarly life (even with the stints of serious administrative service and research center leadership I brought to this job) will simply never be equal to the business expertise of persons outside the dean-as-scholar category. If this is right, could not the requisite level of sensitivity to intellectual life be ensured by delimiting the scope of decanal authority on the substance of the academic enterprise, and by entrusting significant authority to an executive committee comprised of scholars serving as deputy and associate deans? And if these safeguards were in place, might not the critical managerial, financial, and organizational talents required of a modern law dean be more dependably ensured by looking outside of legal academe?

There is a part of me that very much wants this provisional analysis to be proved wrong. There is a nostalgia that surrounds the dean-as-scholar paradigm that I find attractive, no doubt bolstered by my own deep admiration for the scholarly deans who mentored me at critical points in my own career. But if the central mission of the law school dean is today focused on

securing financing, on organizational management, and on communications and marketing, it may simply be that the roles once ascribed to the dean-as-scholar need now to be taken up by the second layer of law school academic administrators.

The option of continuing to embrace the dean-as-scholar paradigm, but ensuring that the dean is surrounded and supported by persons possessed of relevant business expertise is of course worth considering. But I am concerned that the institutional structures within which modern law deans operate generally both require personal accountability for decisions predicated on the analysis of such surrounding experts and operate with a speed that too often affords little opportunity for meaningful interaction with those possessed of greater business acumen, even assuming the requisite trust to adopt their analysis. In such circumstances, the model of a well-supported dean-as-scholar may not prove an entirely satisfactory answer to the challenges of running a law school.

The question I pose is therefore whether even well-intentioned, administratively attuned, and prepared-to-play-a-supporting-role scholars are best positioned to serve as a modern law deans. Or has the nature of the law school enterprise evolved to a point where our continued attachment to the scholar-as-dean paradigm is in truth largely anachronistic, even if romantically appealing?