Commentary

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There has been talk about “professional deans,” and I am worried that someone might think I am one of those. I am very happily in my second deanship, but I hope that one is allowed three strikes before it can be said that he has turned professional.

I want to talk a bit more about a few of the many important things that have already been said, and to stress what Kris said about aspirational capacity. It seems to me that trying to adjust to but also trying to select the place that has aspirational capacity similar to your own aspirations is key. It is critical in those essential early negotiations, and it is crucial in your own initial, significant understandings, too. As Kris also said, it is a question of the ends as well as the means. I am reminded, however, of a wonderful albeit somewhat jaded saying: “If the ends don’t justify the means, what good are they?” That, too, is worth thinking about when becoming a law school dean.

I also want to discuss briefly being comfortable within paradox because, in some ways, I think this whole conference is about that capacity. There are a lot of paradoxes in the role change to being dean. For example, a lot of us question authority. That is one of the things faculty members generally should do and delight to do, and maybe law school faculty members do it even more than most professors. Therefore, particularly if you have had considerable experience as a legal academic, all of a sudden you may realize: “Yikes, I am, at least in part, the authority here, so everyone is going to be questioning me, and that is not fair because I’m a good person and they just hired me, and we had a wonderful celebration.” You have to be comfortable even when such a realization hits.

You also have to know to whom you ought to listen. I think the point made about the SALT network is very important—you can find out all sorts of things about your new school through that and other networks. But you also have to be very careful to make your own

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judgments, and not too quickly at that. It also should not seem as though you are listening to only some of the people on the faculty.

It actually is quite difficult as an outside dean to know to whom you should really listen and whose advice you should take, and you really do have to listen carefully to everyone. But it is also important that you clearly appear to be listening to everyone. You will find out surprising things. So you have to have your own vision and an end in sight, but you also have to be adaptable and willing and prepared to be surprised. Sometimes, for example, the most irascible person turns out to be a sweetie underneath, and most other people may not know about that, so you have to find it out for yourself. Or another person may be unobtrusively doing yeoman service, and it will take a colleague to fill you in on such a person who makes impressive but unheralded contributions to the good of the community.

The value of transparency is touted so much these days that it has become a cliché. It seems that few people remember when it was quite a put down to say of someone that she or he was “really transparent.” A great deal more transparency in decision-making is often to be desired, of course, but not always. This is so at least much of the time in our carefully controlled courtrooms, featuring rules of evidence and the like, and in our jury and judicial deliberations. It is also the case that an effective dean ought to know that it is not advisable always to be transparent.

A critical response to this point might be that the lack of transparency inevitably allows for manipulation. But it ought to be admitted if we are being candid that manipulation is part of what a good dean must do. One cannot be entirely transparent in all settings or for all people. If you are, you will not successfully do the manipulation that is sometimes necessary. An example familiar to most law faculty members occurs when a faculty member asks the dean a direct, simple question about hiring: “How many slots do we have?” You probably have noticed that the dean never seems to give a straight answer. I remember being among those most frustrated when we were told something like: “Maybe we have one opening, maybe we have one and a half, and there is even a chance that we have more.” Why can’t that dean give a simple, straightforward answer?

I have learned that it may be because the dean does not fully know. There are likely to be a lot of things going on, and several key pieces are almost always up in the air. But partly, of course, there may be constructive manipulation going on as well. A faculty member may be in undisclosed therapy; another should be contemplating retirement but has not yet decided. The dean may be negotiating to gain a half slot in partnership with another department, or s/he may know that a faculty member is
being heavily recruited and may be leaving for another school or asking for a leave to do government service. To be sure, there is always the danger of excessive secrecy and/or paternalism in the absence of transparency. But there may also be complexity or confidentiality that cannot be openly shared, along with manipulative possibilities for good as well as for bad ends or means.

I agree with others that it is important for a dean to be genuinely enthusiastic. Ed put it very well in terms of getting a narrative on the same frame, or in roughly the same tune, as the administration. But I disagree with both David and Ed about the degree of importance of that central constituency. If I heard David right, I do not agree with him that the only constituency that ultimately really matters amounts to those above you in the hierarchy. If and when it comes to a crunch, I believe there are all those within other constituencies who are going to be very important to make it possible, for instance, for you to do something important or to resist doing something against your better judgment.

In addition, that central administration constituency changes all the time these days. To invoke another Eliot, presidents who were like Charles Eliot ended sometimes with a bang and sometimes with a whimper, but we simply no longer have such presidential longevity or dominance. I am in my fifth year and reporting to my third chancellor. These things happen early and often in many universities these days. I really like my current chancellor, and I believe good things are likely to follow her arrival on campus a few months ago. But one must realize that the alumni are very important; the staff can make your life easy or miserable, the students are a crucial constituency; and the faculty is vital to your success.

Further, you are vulnerable in all sorts of ways, but one response as a new outside dean is to be enthusiastic about their law school--which you now should have embraced as your school, without dwelling too much on how things were done at your old place or at other schools. It is not hard to be enthusiastic because you would not have taken the job but for such an aspirational capacity. It is very easy to discern and to say truthfully, “This place is unique.” Every school is unique, of course, but you can pick out some things that make your new school unique and stress those, and that becomes part of your personal analogue to a stump speech. But then you add to this highlight reel; it is certainly not a static message. You learn things, you get stories, and those become part of what you emphasize. So enthusiasm about “We’re in this together” is, I think, in significant ways more enduring and more important than even the role of others who may rank higher than you do.
Finally, I think it important to recognize that everybody wants love. We all need to love and to be loved. And that is not a bad thing. I think as a dean one has to strive to understand the multitude of very different ways in which people want to be loved—or at least highly valued. All sorts of capacities are there to be appreciated in the faculty, students, staff members, alumni, and friends. Figuring out different ways to show respect, affection, and even love is a crucial part of what you have to do at the beginning, in the middle, and throughout your time as dean, probably even more than throughout your past life as teacher, colleague, and friend.

Finally, as Linda said, I think it is quite important to think about possible exit strategies. One part of that is keeping up your marketable skills as much as possible. It is true that they will wither somewhat, but I think that continuing to teach is a very important way to combat that. The students love it; it gives you credibility, you find out if the blackboard is broken or the lights do not quite work, the alumni and friends of the law school are delighted to hear about your students and your teaching—and teaching is an oasis in which you are doing something you have done and done well before. It is a venue away from the daily RAT-TAT-TAT of having to make decisions, knowing that you do not know enough to make them but still having to decide.

You are instead in that classroom where you are accustomed to the ebb and flow of ideas and emotions. You are probably pretty good at teaching, and teaching is inherently a very rewarding and important thing to do. Far beyond marketable skills, therefore, you get to deal with complexity and to play with paradox as you teach the next generation of seekers after justice. It is not hard to be enthusiastic about the subject at hand. In addition, in a basic way I believe we really do love our students. Otherwise hardly any of us would be in this wonderful whirl of legal academia. It is, after all, a very meaningful and rewarding calling as well a terrific occupation.

Thank you.