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## Reflections on Deanship

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# Reflections on Deanship

## **Abstract**

The purpose of this article is to reflect on the experience of being Dean of three Law Faculties, Associate Dean of two and Acting Vice-Chancellor of one university, to express some opinion as to the characteristics that make a 'good' dean, and to caution others against repeating my mistakes. In doing so, the first thing that I will say is that each university has its own characteristics and that university governance has changed considerably in the last 30–40 years.

## **Keywords**

management, administration, working, relationships, profession

# Comment: Reflections on Deanship

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## I Introduction

The term ‘deanship’ probably first arose in an ecclesiastical context, designating the head of a chapter of a cathedral, but it is now more commonly understood as connoting the headship of a Faculty, School or administrative division of a university. In New Zealand and Australia, deanship is a position senior to headship of a department although, in the case of law deanship, these roles are often combined. Deans are frequently members of the Senior Management Group and in some cases the Dean of Law is also a Pro-Vice-Chancellor in name or function. Thus, Professor Tony Smith of the Victoria University of Wellington has also held office as Pro-Vice-Chancellor. As Dean of Law at the University of Waikato, I was a member of the Senior Management Group and had responsibility for Quality Assurance, but I held no such title and had no effective power.

The purpose of this article is to reflect on the experience of being Dean of three Law Faculties, Associate Dean of two and Acting Vice-Chancellor of one university,<sup>1</sup> to express some opinion as to the characteristics that make a ‘good’ dean, and to caution others against repeating my mistakes. In doing so, the first thing that I will say is that each university has its own characteristics and that university governance has changed considerably in the last 30–40 years.<sup>2</sup> Universities developed as a *gemeinschaft* or communitarian kind of organisation run on traditional lines but, increasingly, they are being forced into a new

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<sup>1</sup> The author was Dean of Law and Head of Department at the University of Canterbury 1985–8, Associate Dean Research and Graduate Studies, University of Melbourne 1992–3, Dean of Law at Bond University 1993–6, Acting Vice-Chancellor 1995–6, and later Chair of Senate, Bond University 2000–3; Dean of Law, University of Waikato 2004–8, Associate Dean, Research, Bond University 2009–10.

<sup>2</sup> See, eg, Nicholas Tarling and Ruth Butterworth, *A Shakeup Anyway: Government & the Universities in New Zealand in a Decade of Reform* (Auckland University Press, 1995); Wilf Malcolm and Nicholas Tarling, *Crisis of Identity? The Mission and Management of Universities in New Zealand* (Dunmore Press, 2007); Peter Coaldrake and Lawrence Stedman, *On the Brink: Australia’s Universities Confronting Their Future* (University of Queensland Press, 1998); Peter Coaldrake and Lawrence Stedman, ‘Academic Work in the Twenty First Century’ (Report, Department of Education, Training and Youth Affairs, September 1999); Peter Coaldrake and Lawrence Stedman, *Raising the Stakes* (The University of Queensland Press, 2013).

*gesellschaft* or corporate form of organisation.<sup>3</sup> In this period we have witnessed an awkward time of transition. Added to this are increasing encroachments by government into the governance of the tertiary sector, which increase the overall complexity of university administration. The second thing I will say is that none of us had training for the job. In a recent article in the *Education Resources Information Center of the USA*, entitled 'The Changing Nature of the Academic Deanship', the authors observe that:

Deans come to the position, for the most part, under prepared to deal with strained fiscal resources, externally imposed accountability pressures, demand for relevant curricula and programs, technology advancement and educational delivery, faculty ill-equipped to meet student and system demands, diversity, and professional and personal imbalance. They receive the charge to lead change in the face of shifting demographics of students, changing political and economic attitudes, demands placed on them by the corporate sector, and rapid advancements in technology.<sup>4</sup>

By the time I came to Deanship I had practised as a corporate and commercial lawyer and served time as group legal counsel to two listed companies. I had no specific management education or training, although I had read the literature and occasionally taught on MBA courses, which increased my scepticism about this theory.

## II Selection Processes

When I was appointed Dean of Law at the University of Canterbury in 1985 it was 'my turn', so to speak; the office tended to rotate amongst the full professors, which was common in those days, although we were also beginning to see the appointment of some non-professorial deans at this time. These days, Deanships are usually advertised and head-hunters are used to carry out a search. Having used these firms and been subject to the process I have my doubts about the utility of this practice. It is certainly costly and recruitment firms do not always do adequate due diligence on candidates.

It is important that teaching faculty are represented on the appointment committee, but in my view they should not form a majority. Short listed candidates are usually required to give a presentation either to the law staff or to an open meeting. This can be an ordeal and where there is an internal candidate, there can sometimes be some sharp practice with external candidates. This requires careful chairing at the meeting. Another important question is 'fit'. Does the candidate fit the school at this particular time?

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<sup>3</sup> Ferdinand Tonnies, *Gemeinschaft und Gesellschaft* (Fues Verlag, 2nd ed, 1912). See also the interesting recent discussion by Cris Shore, 'The Reform of New Zealand's University System: After Neoliberalism' (2010) 3 *Learning and Teaching* 1, who argues that the new has not replaced the old but added a new layer of complexity.

<sup>4</sup> See M Wolverton et al, *The Changing Nature of the Academic Deanship*, ERIC Digest <<http://www.ericdigests.org/2001-4/deanship.html>>.

### III Roles

Something that surprised me, when I first took on Deanship, was that it involved multiple roles, some of which conflicted with one another. As Dean you are chief administrative officer of the law school, chief academic officer, chief development officer, chief communications officer, mediator of differences, chief morale booster, principal steward and manager of resources, lead mentor and master of ceremonies.<sup>5</sup> These ten roles (more may be identified) require various personal skills, which few individuals possess *in toto*. It is important, therefore, to gather a good team to support you.

As a corporate lawyer I am aware of the differences between administration, management and leadership, although these skills tend to shade into each other in practice. Unfortunately, universities tend not to have very clear conceptions of these skills. On reflection, I do not think that I was a consistently good administrator, although I do think that I was a reasonably good manager who was good at some aspects of leadership and bad at others; I got on with most people and had some sense of strategy, although I was easily bored by routine administration. As Dean you need to delegate a lot of administration but remain ultimately responsible — likewise with academic matters.

The Dean's role in development differs between universities and in some universities this is centralised. Communications can be a tricky area and things can easily go wrong in the case of trouble or a crisis. Managing academics has been described as herding cats and one often needs to employ mediation skills. Some academics embody the traits of more than one type of difficult person, so the literature on how to deal with difficult people is of limited use. Morale is important as pressures increase on law schools to do more with less. It is easy to resort to a 'them and us' mentality in dealing with central administration but this is ultimately a mistake. Managing resources is important. I made it a practice to have a weekly session with the Faculty Manager or Finance Officer and to make myself readily available to them. As lead mentor you can spend a lot of time with individual staff and it is important to do so; however, it is a good idea that this responsibility is shared with senior staff so that there is no suspicion of favouritism. Being master of ceremonies involves more public relations skills than some of us naturally possess, but it is important to develop a natural and relaxed manner of dealing with these events.

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<sup>5</sup> This draws on Gary Krahenbuhl, *Building the Academic Deanship-Strategies for Success* (American Council on Education, 2004) ch 3. See also J O'Connell and T C O'Connell, 'The Five Roles of the Law School Dean: Leader, Manager, Energizer, Envoy, Intellectual' (1980) 29 *Emory Law Journal* 605. There are later US articles but they are not very useful.

#### **IV Relationships with Upper Administration**

As Dean you are either a member of a senior management group or you are not. When I was Dean at Canterbury, no such group existed; the Dean sat on the Academic Administration Committee but had to be elected to Academic Policy or Staffing Committees. I did not find this very satisfactory but, fortunately, I had a good personal relationship with the Vice-Chancellor who was accessible. In those days we did not have a pantheon of Deputy and Pro-Vice-Chancellors. These days, Deans are often answerable to a Deputy-Vice-Chancellor, which makes them one degree removed from the Vice Chancellor. In Australia, some universities call this position Provost, following the American model.

It is important to have a good working relationship with upper administration. This involves getting to know the personalities of the Vice-Chancellor or Deputy Vice-Chancellor and their particular style. I have worked under two efficient scientists, an inefficient scientist, a very effective economist, a technically minded engineer and a lawyer/politician. Their background and training were important but so was their personality.

Gender is also important. There are differences which can be exaggerated but need to be taken into account.

In dealing with upper administration one needs to have a sense of strategy for the law school – both in its market situation and in its struggle for resources in the university. On two occasions, I have had to resist merger into a super faculty, which is the latest fad of higher administration and now common in New Zealand. One needs clear goals and to convince one's colleagues to accept them. One often needs to have informal alliances; however, the urge to merge should, in my view, be resisted, as this tends to work to the disadvantage of law. On the other hand the future of legal education is probably going to be interdisciplinary and we need to do more work on our methodology.

Law needs to be adequately housed and to have the Law Library situated in the building. The best law schools have this feature and I consider it tragic that Canterbury has lost this recently as a result of the earthquakes. The increase in online material, however, tends to point in a different direction.

Another important matter is staff-student ratios. In my view, law Deans must guard these jealously. New Zealand and Australian Law Schools have historically had poor staff-student ratios. Canterbury, like other New Zealand Law Schools, had a large legal system class until we introduced limitation of entry at stage 1 as well as stage 2. Waikato had better ratios. When I went to Melbourne, however, we had appalling ratios. At Bond we limited tutorials to 10-12 and this was a good marketing feature. Another difficult question is whether to combine Honours and LLM teaching. On the whole I found that it was possible to do this effectively. At Auckland I have taught a combined class of LLM,

Postgraduate Certificate and BCom Honours students in Corporate Governance. It was not easy but we managed to make it work.

## V Relationship with the Profession and the Council of Legal Education

Law in New Zealand was dominated by the profession and largely taught by part time staff until the 1970s. There was occasional friction between the profession and universities, but the former did not exercise the degree of influence that the medical and engineering professions did on university expenditure. Law and Commerce have been cash cows for universities and have cross-subsidized those other professions. As Dean at Canterbury I fought for a fairer share.

As Dean in New Zealand you are a member of the Council of Legal Education ('CLE') and owe duties to the Council and legal education in general. The CLE tends to be a conservative body and one's fellow deans tend to be conservative types. In this environment, it can be difficult to innovate and bring legal education into the modern world, particularly using on-line delivery of courses.<sup>6</sup>

There will always be some friction but it should be creative friction. Universities and the legal profession do not exist in a vacuum. They exist to serve the public good.<sup>7</sup>

## VI Relationships with Students

Students are the customers or clients of the Law School. Public universities often lose sight of this and staff can adopt a 'Major Major' approach of 'come and see me when I am out'.<sup>8</sup> This is exacerbated by the pressure on staff to publish. It is important as Dean to meet regularly with the officers of the law students association so that they feel that they have a voice in the law school.

As Dean it is important to delegate student administration so that one can be an impartial adjudicator. Universities that require the Dean to do more administration are wasting a lot of time that should be spent on other matters.

The Dean is responsible for maintaining standards. It is also important that the Dean is a net worker with law firms and government to ensure that students get jobs. As Dean I spent time entertaining law firms who were interviewing students in the law school. It is also important to be involved in Alumni events on a regular basis.

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<sup>6</sup> I faced this as Dean at Waikato in getting approval for on line delivery of lectures to the Bay of Plenty. We had local tutorials by able practitioners.

<sup>7</sup> See Tom Bingham, *The Rule of Law* (London, 2010) ch 3; Alan Patterson, *Lawyers and the Public Good: Democracy in Action* (Cambridge University Press, 2012) ch 2.

<sup>8</sup> Joseph Heller, *Catch 22* (Simon and Schuster, 1961). Major Major is a character in this novel who is only available when he is not in his office. But see Coaldrake and Stedman, *Raising the Stakes*, above n 2, ch 6.

## VII Research

Being Dean involves opportunity costs of no or limited time for research. I made time myself but at considerable personal cost to my family and private life. I would not advise this. However, Deans ought at least to foster a research culture. Unfortunately, this has been taken over by the Performance Based Research Fund ('PBRF') in New Zealand and the Australian Research Council ('ARC') in Australia, a state of affairs that reflects the dominance of the Science/Medical/Engineering model. This model does not fit law particularly well.<sup>9</sup> Traditional legal scholarship, which meets the needs of the profession and the judiciary in a small jurisdiction, is being undervalued. There is now little point in bringing out new editions of a leading textbook. The resources available in New Zealand for legal research are also less than in Australia and there is the risk that we will lose talented people. Moreover, there is a lot of strategy and gamesmanship involved in building up a personal and collective research profile, which is unlikely to benefit the academy or the profession. Nevertheless, this is the brave new world in which we operate and we have to adjust to it.

## VIII Life after Deanship

John Burrows<sup>10</sup> and I have reflected more than once that, in modern day academia, there is a fork in the road in one's early 40s. One needs to choose whether to pursue a career as a legal scholar or as an administrator. John and I tried to do both.

It is important to know when to go, but it is also important to have a 'Plan B'. Many deans tend to be workaholics and over achievers but there is also the burnout factor to be considered.

After being Dean, the main options are to:

1. return to life as a Professor;
2. seek promotion in the administration to Pro-Vice-Chancellor, Deputy Vice-Chancellor or Vice-Chancellor;
3. go into practice; or
4. seek appointment as a law commissioner, chair of some other commission or tribunal or judge.

The first of these options can be difficult, as when returning as an ordinary faculty member one needs to resist the temptation to mark one's successor's homework. The second option is becoming a normal path in Australia, which tends to be excessively bureaucratic. Option three can be difficult, particularly if you choose to join a big law firm (as I found out). The Bar can be easier in that respect but involves more risk. The fourth option depends on vacancies, networking and one's aptitude for this kind

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<sup>9</sup> But see Coaldrake and Stedman, *Raising the Stakes*, above n 2, ch 6.

<sup>10</sup> Emeritus Professor, University of Canterbury. John Burrows also served as a Law Commissioner and sits on the Constitutional Review Committee and Flag Consultation Panel.



of work. John Burrows was a natural for the role of law commissioner. Sir Grant Hammond has been an effective judge and reformer.<sup>11</sup>

### **IX Conclusion**

I enjoyed being Dean of Law at Canterbury. Being Dean at Bond was a totally different experience, because of the stage of development at which the university then found itself and its status as Australia's first private university. For a variety of reasons, the university went into crisis and I was thrust into the position of Acting Vice-Chancellor in difficult circumstances. This distracted me from building up the Law School. I later went back to teaching and research but felt that I had unfinished business as a Dean. I took the Waikato Deanship as a challenge and hope I did some good.

On reflection I would not be a Dean three times. This was positively careless. I had no great ambition to be a Vice-Chancellor. I would also not join a major law firm at 50.<sup>12</sup> It is unfortunate that one becomes wiser after the event. Hopefully others may learn from my experience and my mistakes.

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<sup>11</sup> A number of academics have been law commissioners or been active in law reform. Sir Grant has been judge of the High Court and Court of Appeal. The late Sir Ivor Richardson, former President of the Court of Appeal, was a former law professor. In Australia Dyson Heydon, Bob Austin and Paul Finn served as judges after being law professors. Dyson Heydon went to the Bar after being Dean of Law at Sydney. Bob and Paul were never deans although Bob was Head of Department at Sydney Law School. Peter Spiller was Acting Dean at Waikato and is now a District Court Judge.

<sup>12</sup> This is no reflection on my partners at Bell Gully whose company I enjoyed.