

Private

LESSONS

By Michael Bobelian

**As state funding dries up,
public law schools must look
elsewhere for support.**

**Now a new dean teaches Boalt Hall
the gentle art of fund-raising.**

THERE IS A PROBLEM," CHRISTOPHER EDLEY, Jr., announced, speaking from a podium at the Ritz Carlton ballroom in San Francisco last May. Dressed in a tailor-fit tuxedo, Edley, the dean of the University of California at Berkeley's School of Law (Boalt Hall), was making a pitch to Boalt's top donors during an alumni awards ceremony.

"The problem is that we have a mission as a great public law school," he said. "But the state of California is no longer willing to pay for that mission. That's the reality." He stirred up a sigh among the assembled alums when the crowd heard how high tuition had climbed: past \$30,000 per year.

These days, the line between public and private higher education has

PHOTOGRAPHY BY MICHAEL SEXTON





Dean Christopher Edley, Jr., wants to make Boalt Hall a top five law school again.



Boalt alumni association president Adam Sachs: The school needs money now.

blurred. Elite private institutions like Harvard Law School and Yale Law School now offer generous financial aid packages to lower-income students, broadening their student base. Meanwhile, many state law schools are struggling to meet their mandate to provide a quality education to state residents at a reasonable price. At some public universities, state funds now make up less than 10 percent of the budgets, accelerating a trend begun decades earlier—forcing schools to rethink their economic structure and purpose.

If anyone understands the problems inherent in this transformation, it's Edley, a 52-year-old import from Harvard Law School who took over as Boalt dean in July 2004. Boalt needs to convert to a private system of financing, a transformation the largely publicly funded school had previously been loath to undertake. And it needs to do so quickly.

Just how quickly remains an open question for the impatient Edley, who is eager to drive the school in fifth gear. Compared to Harvard, a well-oiled fund-raising machine, Boalt is a neophyte. Yes,

there are rooms named after generous benefactors like Larry Sonsini of Wilson Sonsini Goodrich & Rosati, but most alumni, having matriculated in Boalt's halcyon days when tuition was counted in the hundreds and thousands—not tens of thousands—of dollars, still seem to believe modest donations will suffice.

The day before Edley was to address alumni at the Ritz Carlton, Boalt's fund-raising chief, Louise Epstein, had cautioned him: This is an awards ceremony, not a fund-raiser, so proceed with baby steps. Besides, with firms like Fenwick & West; Orrick, Herrington & Sutcliffe; and Skadden, Arps, Slate, Meagher & Flom doling out \$5,000 apiece to sponsor the event, Boalt had managed to raise \$275,000, far more than in past years. But Edley scoffed. "The problem is, we've only raised \$275,000," he said to Epstein. With 600 alumni at the Ritz, he saw a great opening to move beyond what he called the "feel-good events" touting the Boalt community and lay out his daring vision.

"I didn't come to patch the roof," he told the alums, striking a solemn tone in an otherwise insouciant night of roasting various alumni. "I came with the goal of returning Boalt Law School to . . . a top

five law school." Boalt's rankings have been slipping, dropping from seventh in the 2002 *U.S. News & World Report* survey to thirteenth in 2004, its lowest mark since 1991. Edley's job is to turn that around. Therein lies his challenge. California has slashed university funding, forcing Boalt to raise tuition sharply to make up the difference. Edley's tenure as dean will be measured by his ability to raise the funds necessary to put Boalt back on the right track.

If he can't awaken the school and its tightfisted alumni from their slumber, Boalt could slide further into mediocrity. The bigger risk lies not in the near future, but ten or 20 years down the line. Failure to keep up in the money race would mean that wealthier competitors could cherry-pick promising faculty members and lure away students with lavish campuses and generous financial aid packages.

Changing a decades-old institution accustomed to California's largesse will be neither quick nor painless, however. Michigan's and Virginia's flagship state law schools went through the same metamorphosis years earlier when their state funding dried up. Only after years of exertion have their efforts begun to bear fruit. Starting so late in the game, Boalt is clearly playing catch-up.

Besides, success might breed its own consequences. Will Boalt lose its soul as it enters a new age of private financing? Will it turn its back on making an affordable, high-quality education available to those without great means and undermine its independence by taking corporate dollars? Edley must navigate carefully to ensure that Boalt sustains its public charge while weaning it off public funding.

DESPITE RISING EDUCATION costs, states gutted higher education spending throughout the 1990s. "The priorities of those of us in this impacted wisdom group," says former University of Michigan president James Duderstadt, referring to the baby boomer generation, "are clearly health care, prisons, homeland security, and reduced tax burdens for the near term rather than in

the education of the next generation and the future.”

Boalt’s public peers, the University of Michigan and University of Virginia law schools, began their budgetary transformations as far back as the 1980s. Their experience offers valuable lessons of the possibilities and limitations Boalt might face.

“We foresaw ten years ago that long-term reliance on state funds was a losing strategy,” says Virginia’s dean, John Jeffries, Jr. Since 1989, the state’s portion of the university’s revenue has dropped from 28 percent to 8 percent. In 2002 the law school entered into an arrangement with the university in which it declined all state funds in return for greater financial independence, achieving nearly absolute control over its budget and tuition rates. The move allowed Virginia’s law school to mimic the model of financing used by Harvard and other private schools, while remaining firmly entrenched within the public university. In its most recent fiscal year, almost two-thirds of the law school’s budget came from tuition, and the rest came from alumni donations, endowment income, research grants, and other sources.

Back in the 1930s, 50 percent of the University of Michigan Law School’s budget came from the state. The percentage fell over the decades, a decline that accelerated in the 1970s and 1980s as the economic problems of Michigan’s auto industry brought fewer dollars to state coffers. Now Michigan’s reliance on state funds is almost as scant as Virginia’s, with state support making up only 3 percent of its budget. Income from private sources—alumni and the endowment—comprised 27 percent of the budget in the latest fiscal year.

Despite having spent years trying to inform alumni of their changed circumstances, these two law schools—and public universities in general—have found it difficult to shed the misconception that they are still largely state funded. “Most alumni are not aware” of the setback in state support, says Michigan dean Evan Caminker. “It’s hard to educate people on this. You can say it . . . but it doesn’t always sink in.”

California’s cuts to public education occurred more recently. From 2000 to 2005, the state’s contribution to the nine-campus University of California, of which Berkeley is the flagship, dropped from \$3.3 billion to \$2.7 billion. As in other states, revenue shortfalls caused by economic weakness, combined with increasing outlays to prisons and Medicaid, drained the California budget. Since 2001, the state’s share of Boalt’s budget has fallen from 51 to 34 percent.

As a dry spell in appropriations turned into a drought, Boalt was slow to react. While Michigan and Virginia expanded their fund-raising offices, Boalt relied mostly on tuition increases to fill in the gaps. Since 1994, its out-of-state tuition has risen from \$14,491 to \$36,585—jumping \$14,000 in the past three years alone. In-state tuition climbed from \$6,792 to \$24,340 during the same period. Faculty hiring slowed, the school’s ranking slipped, and its endowment trailed Michigan’s and Virginia’s by more than \$30 million.

Compounding Boalt’s difficulties was a leadership gap at the helm. Former dean John Dwyer resigned amid allegations of sexual harassment in 2002, and interim dean Robert Berring, Jr., lacked the mandate to institute radical changes. The school tapped Edley to turn things around. Born in 1953, Edley grew up in Philadelphia and a New York suburb before attending Swarthmore College. He went on to collect degrees from Harvard Law School and Harvard University’s John F. Kennedy School of Government. While at Harvard, Edley worked on the Carter-Mondale campaign in 1976. He obtained a position as an assistant direc-

tor in President Jimmy Carter’s domestic policy group before returning to school to teach, a move reflecting a career that continued to straddle the academic and political worlds. Edley signed on as a faculty member at Harvard Law School in 1981, where 15 years later he cofounded The Civil Rights Project, a multidisciplinary research center. Doubling as a political operative, he also raised money for presidential campaigns and, while on leave from Harvard, was both a director at the Office of Management and Budget and lead person on affirmative action for President Bill Clinton.

What he offers Boalt stretches beyond his resume, however. Edley emanates an inveterate enthusiasm, showcased by his infectious smile. “He’s a very charming fellow in an understated way,” says former Boalt dean Jesse Choper. “He’s very charming one-on-one.” At the cocktail hour preceding his gala speech, Edley put his smile to work, greeting dozens of alumni, squeezing in as many handshakes and laughs as possible. Yet Edley is more than a polished fund-raiser. He brings to the table a compelling vision backed by a strong academic pedigree, allowing him to play both the role of cheerleader and respected scholar.

When Edley signed on as the first African American dean to lead a top law school, he immediately set forth his goals. He wants to make Boalt—in partnership with Berkeley’s other schools—a center of study for brewing national ills, questions, and debates. Whether it involves stem cell research, or the intellectual property laws of interest to nearby Silicon Valley, or racial justice (a topic near and dear to Edley’s heart), the dean

Dollars for Scholars

Law school	Tuition	Percentage of funding from state	Percentage of funding from tuition	Percentage of funding from endowment, donations, and other sources
Boalt Hall	\$24,340 (in-state) \$36,585 (out of state)	34%	31%	35%
Michigan	\$32,920 (in-state) \$35,920 (out of state)	3%	20%	27%
Virginia	\$28,300 (in-state) \$33,300 (out of state)	0%	65%	35%

aims to position Boalt as the main engine of research for the public's needs. This mission, he feels, is what separates Boalt from private peers that now offer similar prices and financial aid packages. With his appetite for multidisciplinary work, Berkeley seemed to him like a perfect candidate for this vision, in stark contrast to Harvard's fortified fiefdoms, where—with some exceptions, like the Civil Rights Project that Edley founded—departments have long been reluctant to develop multidisciplinary programs.

Edley's other initiatives call for a 40 percent increase in faculty numbers, a new building to be shared with the business school, and a generous loan forgiveness program for students entering public service. Boalt's loan forgiveness program already ranks among the best for public schools but still significantly lags those of private law schools like Yale and New York University. Already he has begun wooing young talent for the faculty, adding five full-time professors this year. And he has redirected the focus of the Earl Warren Legal

Institute, a research center within Boalt, from comparative law to civil rights.

While some may wonder why Edley would pursue such an ambitious agenda at a time when he is also bent on shoring up Boalt's finances, Edley contends that such a vision can excite a lethargic alumni unaccustomed to donating large dollars. Berkeley's chief fund-raiser, vice chancellor Donald McQuade, agrees. Edley's message to alumni is broad: "One end of the continuum is apocalyptic," McQuade says, referring to desperate pleas to save a sinking institution. "The other end... is aspirational. That's why a vision is so important for Boalt."

THE KEY ELEMENT OF Edley's plan shifts the school away from its reliance on the state and university to private financing. A new capital campaign that was launched this fall seeks to raise \$100 million, seven times larger than Boalt's last major fund-raising initiative two decades ago.

In Edley's first year at the helm,

donations rose 64 percent, to \$8.1 million. Yet Edley still can't move fast enough. He spends about two-thirds of his time fund-raising, a pace that Boalt's community has had difficulty adjusting to. "He's going way too fast," says Adam Sachs, head of the alumni association and a partner at Folger Levin & Kahn's San Francisco office. "But we have no choice. We don't have the luxury to wait five years. We need the money now."

"The question mark that gives me the most insomnia is whether we can succeed in shifting alumni from... proud boosterism to enthusiastic investor," Edley says. He is still feeling his way for the right balance. "The most difficult thing for me in this job is that it calls for about 30 percent more patience than I can muster," he acknowledges.

Privatization, the dreaded "p-word" in public education circles, is not without consequences, though. Historically, private universities catered to the wealthy. Public universities were the great equalizer in America's meritocracy, giving opportunity to lower-income

SUBSCRIBE TODAY!



From ALM comes **Small Firm Business**, the authoritative source on management issues faced by small law firms. Each issue of this quarterly magazine includes news, information and advice from industry experts and practitioners to help firms thrive in today's challenging environment.

2003 Winner
of the Gold Medal
for Best
New Publication

American Society of
Business Publication
Editors

You can subscribe now at the special introductory rate of \$19.95 - save 60% off regular rate!

Log on to: www.smallfirmbusiness.com

Call: 212-545-5990

ALM

students. Edley points out that Boalt, as an elite professional school with enrollment in the hundreds, not thousands, is too selective to offer "access for the masses at a bargain," like Berkeley's undergraduate program. However, he wants to ensure that lower-income students will benefit from generous aid packages, and graduates keen to work in public service or underserved communities will receive financial forbearance.

Edley treads carefully when he talks about how he would like to restructure Boalt's financial relationship with the University of California. He is not calling for secession from what he calls a "joint investment" with the university. At most, he wants what Michigan's and Virginia's state law schools already enjoy: greater autonomy over finances. The centralized management of the University of California system forces Boalt to send a portion of its overall revenues back to the central pool; it also adds more steps to decision-making processes. These drawbacks—what Edley calls "a bureaucratic tax"—encumber Boalt from offering

higher pay to lure faculty away from competitors and slow its fund-raising efforts. It will take years of incremental changes to undo this calcified organizational structure, a process that will likely stretch beyond Edley's tenure.

Edley has also reached out to nontraditional sources like corporations and foundations. So far, he has corralled \$1 million from Microsoft Corporation, which has also donated to Yale Law School in past years, as well as hundreds of thousands of dollars from foundations. Top law schools have eyed foundations—and to a smaller extent, corporations—for years. With the proliferation of research centers, schools have been able to attract more dollars from these sources, yet these donations remain a small portion of total fund-raising. Grantland Rice, Harvard Law's director of research program development, describes Edley as "an astounding fundraiser on the foundation side." Thanks in large part to Edley, Harvard Law's civil rights center ranked among the most successful fund-raising units of the law

school's 20 research programs.

Will Boalt be the first among the nation's premier law schools to harbor the ExxonMobil center for environmental law? Edley declares a resounding no. "Our mission is inviolate," he says, and the faculty and alumni showed no signs of concern over Microsoft's contribution. By diversifying funding, Edley believes Boalt can avoid undue influence from any one source. In this era of state stinginess, Boalt can preserve its public character only by turning to private financing, rather than clinging to an unsustainable reliance on California.

Edley understands this more than anyone else at Boalt. His challenge is to lead the school into a daunting new age, a mission that is a far cry from his cozier days at Harvard.

"Being a dean is an extraordinarily foolhardy venture," he says. "When you're giving up the autonomy and comfort of a professorship, the only thing that makes it worthwhile is to have ambitions that matter and a reasonable shot at fulfilling them." ■

New York

Akin Adekeye

Mina Ando

Hissan Bajwa

Nicole Chang

Brenda Chen

Edwin de la Rosa

Mary Kay Dunning

Meta Hanlon

Avital Harel

Jeffrey Harradine

Byron Hing

Ranbir Hira

Susanna Konner

Howard

Fordham

NYU

Georgetown

Chicago

Fordham

Georgetown

Columbia

UofT

Cornell

Texas

Chicago

NYU

New York

Taylor Le

Jennifer Lee

David Levine

Jonathan Manders

Debbie McAvan

Sean Peterson

Louis Sarok

Daniel Stanco

George Ter-Gevondian

Adam Wolf

Cardozo

Penn

NYU

Cornell

Cornell

NYU

Fordham

St. John's

Fordham

Brooklyn

Washington DC

Joel Fauson

Fernando Molina

Georgetown

Columbia

Clifford Chance Welcomes its 2005 Fall Associates.

Clifford Chance is a truly integrated global law firm which operates as one organization throughout the world. With 28 offices in 19 countries, we are committed to providing the highest quality professional advice, combining technical expertise with a deep understanding of the commercial environment in which our clients operate.

**C L I F F O R D
C H A N C E**

www.cliffordchance.com