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Looking at the Overlooked: Portraits of Law School Deans

PETER GOODRICH†

plus est quam quod videatur imago

INTRODUCTION

The U.S. law school is awash with images. Every day in the mail—electronic, internal, snail, podcast, or CCTV—new glossy materials arrive, today’s images: posters, flyers, publicity brochures, fancy postcards and announcements as well as magazines of the highest technical caliber and printed on the most expensive materials, designed to the nth degree. Every faculty member receives photo-portraits of new hires, distinguished visitors, public lecturers, lateral hirings, and celebrations of decanal appointments at their own school and at most others. The law review will typically publish an image and brief commentaries upon the death of a senior faculty member. Add the internet to this, the designs of Webmasters, Angels, and all the other omnipresent advertisers. We are witness to an exponential augmentation of digitized imagery and a whole new domain of circulation of portraits, the virtual equivalent of Baudrillard’s degree Xerox of culture.

Remaining with theorists whose surname begins with the letter ‘B’, Baudrillard’s notion that endless duplication renders the tangible irreal is a variation upon Walter Benjamin’s famous hypothesis that mechanical reproduction steals the aura or soul of the work of art. The image is flattened out, the portrait takes on the role of a

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1. Ovid: Heroides 13:149 [the image is more than it seems].
token in an economy of simulations, the institution becomes a virtuality. The evil demon of images translates into the fact that there is no demon, no referent, nothing left to hide.² Just pure surface, endless faces, pulse code on a hard drive. According to this perspective, the increase in the quantity and availability of images—the visual saturation of institutional space with representations—actually devalues the visual and marginalizes images. The study of the aesthetic of the law school would in this view be a species of rhyparography, an accounting of the trivial or more literally the scrutiny of institutional detritus.³ It can certainly seem like that; most of the circulars and emails are rapidly thrown out, trashed, deleted, or passed over. Lawyers, at least since the Reformation, have been hesitant to take images as anything other than secondary and potentially misleading resources. From the Romans on, it is the text that is to be trusted—de fide instrumentorum was the maxim—whereas images and indeed, rhetorical figures, confuse and seduce.⁴

It is undeniable that lawyers are ambivalent towards images and the need to control the boundary between licit and illicit images, icons and idols, good and bad objects of affect, reliable and false similitudes, plays a huge though not always explicit role in the development of legal order. Whatever else may be implied or evidenced by the history of juristic resistance to images, it attests at the very least to the rhetorical power and the potential danger of the image. I argue that the proliferation of visual media and non-text based representations does not signal the insignificance of images, but rather the opposite—the reproduction of the symbolic order in new and ever more powerful, or at least intrusive, forms. The internet offers, among other things, a resurgence both of rhyparographs and their opposite, megalographs, or depictions of proper forms as heralded by


³. On the usages of rhyparography and megalography, see NORMAN BRYSON, LOOKING AT THE OVERLOOKED: FOUR ESSAYS ON STILL LIFE PAINTING (1990).

⁴. I trace the early history of this explicit if disingenuous hostility to images in PETER GOODRICH, OEDIPUS LEX: HISTORY, PSYCHOANALYSIS, LAW (1995). The philosophical roots of this ambivalence are analyzed in JEAN-LUC NANCY, THE GROUND OF THE IMAGE (Jeff Fort trans., 2005).
The new media allow novel inscriptions of the symbolic hierarchy and facilitate ever more immediate and forceful dissemination of the order of law. Attention to the genre of the portrait suggests that, as Ovid long ago observed, the image is always more complex and loaded than it seems. It gets under the skin, it captures the subject, and, in that vein, it merits serious attention.\(^5\)

The exponential rise in the number of images circulating in the law school should not detract attention from the inherited forms and political genres that such imagery adopts. It takes its place in a hierarchy of representations and joins in the chorus of carefully choreographed visual demarcations of the institutions of law. For reasons of space and because the deadline for this contribution is upon me rather sooner than I had anticipated, I will use the example of portraits of deans and related authority figures in law schools. I will look specifically at a local example—that of my own law school—but I will hint at a larger study that I am conducting nationally, in the fullness of time. The principles are comparable and the historical argument is similar. The identity of the law school and the model of subject that it inculcates gains one of its most forceful and liminal of representations in the little examined and generally unremarked genre of portraits that line the walls, overhang the library, and stare down upon the students in the lecture theaters.

I. LOOKING AT THE OVERLOOKED

The late great Dean Eugene Rostow of Yale Law School apparently believed that deans had no power. To illustrate this he "was fond of saying that, as dean, the only things he could decide were the placement of portraits and the gender designation of lavatories—and that, even as to these, it was not all that clear."\(^6\) Others may wish to comment on gender,

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toilets, and toiletry in relation to law, but for the purposes of the present paper, it is the seeming dismissal of placement and portraiture that merits discussion. On one reading, the semantic placement of portraiture in the immediate context of toilets reinforces the sense of these paintings being the work of the rhyporagraph or expressions of mural detritus. Rostow was right, of course, in the sense that neither aesthetics nor semiotics are much used terms in legal scholarship. The purchase and placement of paintings, or sitting for portraits, are not practices that gain any significant attention in the annals of law school or the discourse of the legal academy. It is at best "a rather charming tradition," something wholly incidental, an afterthought, a surprise. And thus, somewhat ironically in a legal system that prides itself upon being 'common' law, the everyday—the visual environment—is not generally deemed to be of much normative significance. Those that overlook are overlooked.

Such inattention is a mistake. The visual spaces of the legal academy are too important to be left unremarked. The art and other plastic representations that reflect institutional forms onto their current occupants are a key to the affective and quotidian functions of subject formation, of character and identity. The portraits of deans and other famous jurists represent and disseminate a history, as well as the proper forms of juridical role and aspiration. For the student, and even if the perspective of the pupil is seldom acknowledged, there can be little doubt that the serried array of portraits that line the walls and mark the pedagogic spaces of law schools are precisely representations of the greats, the founders, the leaders, the heroes and, more rarely, heroines of the tradition and of the institution. The genre of juridical portraiture belongs to megalography—it inscribes greatness, it disseminates the immemorial, the tradition, and it shows that what overlooks prescribes both what is now and what is to come. The portraits are, in this sense, representations of ars iuris or the art of law. They are the modern, or not so modern, equivalent of emblems; the moralizing images through which those who could not or did not care to read were

enabled to see their place and observe the authority placing them there.  

Walk into any law school and one encounters a wide variety of plastic inscriptions and visual depictions of the authority of law. There is interesting work on the architecture of law, so I will simply observe that the law school tends to be separate from the rest of the university; it stands alone and somewhat larger than life. It is also a prominent member of the written city, and so the first image, aside from the columns, the grandeur or the separateness of the building, comes in the manner of chiseled or emblazoned words. Take Harvard Law School as somewhat exemplary. The law school buildings are separated by an arterial highway—a postmodern moat—from the main campus. Approaching from the quad of the main campus one first encounters Austin Hall, named of course after John Austin himself. On the cornice of the building is inscribed, for the edification of passing vehicles presumably as well as law students, boldly capitalized, in roman font: "And thou shalt teach them ordinances and law and show them the way wherein they must walk and the work they must do." Inside, in the Ames Courtroom, at the back, glowering over the students in an unknown language, is the Latin inscription Jurisprudentiae sacrum anno domino MDCCCLXXXIII, or words to that effect.

Take Austin's friend Jeremy Bentham, reformer, satirist, and scourge of Latinities. (See figure 1.) If you enter the law library at University College London you can still see him stuffed and seated in a large case with a plate-glass front, wearing his everyday clothes and with his stick "Dapple" in hand. He left his body to science "not out of

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8. The relevant legal maxim is pro lectione pictura est, or, the picture takes the place of knowing how to read. Ironically, the opposite is now likely true: we are far more likely to know how to read than we are to be competent in looking at images.


10. Bentham was fond of giving his walking sticks names. For these and other details of the Auto-Icon, see C.F.A. Marmoy, The 'Auto-Icon' of Jeremy Bentham at University College, London, 2 Med. Hist. 77, 77-86 (1958).
affectation of singularity, but to the intent and with the desire that mankind may reap some small benefit in and by my decease.” Such protestation aside, it was still a way of living on; a wax model was made of his head and it is the wax model on display while his preserved head remains in mummified state in a box close at hand. It is a strange image, but it is precisely the exception that proves the rule. The auto-icon is the most lively and lifelike of images of the deceased. It proffers an exact depiction of the classical role of the image—of the model, mask, or portrait of the ancestor—in relation to the living.

Figure 1. Jeremy Bentham.
Classicists and historicists make much of the significance of the *imago*—the funerary mask of the emperor or ancestor—and the corresponding power of the image as the representation of both legitimacy and authority.\(^\text{11}\) The auto-icon is the exemplary image, just as the portrait, Pliny's *imaginum pictura*—picture of the face—lies at the origin of painting.\(^\text{12}\) Both involve a reliquary act, an impress, mold, or residue of the deceased. The logic of such images is both generative and juristic: the ancestor is present and their presence governs the institution. It is a matter of what Legendre terms "symbolic permutation": his theory is that the subject is born twice, once biologically and a second time symbolically. The latter birth takes the form of entry into language and thence into the institution, of which law school is but a peculiarly pronounced form.\(^\text{13}\) The same point is made in terms of the role of the image as the modality of attachment in histories of painting. The portrait is the imprint of the face, the record of the past, the guarantee of what is to come. More importantly, it functions as a site of attachment or unconscious bonding.

The child's first love is pre-linguistic. The child gazes up at the mother and attaches to the retinal imprint of her face, an image which becomes so firmly inscribed that it is recognized without thought.\(^\text{14}\) Such attachment to the maternal image is primary and replicated, in some measure, in the process of passage to institutional life. One can fall in love with books, even with norms, and lawyers


frequently do, but these do not provide any visceral modes of identification or visual emblems of character. Little noticed, internally binding rather than externally grafted, the portraits of deans and other greats actually mark two key institutional functions. The first, as already discussed, is that of legitimate authority. The parental function of the institution, of the law school as a nursery of future lawyers, is taken up in various didactic, pedagogic, and inductive modes, but none more subtle and direct than the silent emblems that hang forbiddingly on the walls. These seeming archaisms, these apparently reliquary forms, mark the variable ideal types of juridical being, the legal forms of identity and the proper manifestations of character. This is what I will term the megalographic function.

The second function of the portrait is obviously enough symbolic. The paintings, like all art, are transitional images. They mark a border or point of permutation. The portrait knows something. It tells the history of a life. It represents a persona, even if it is unrecognizable for its likeness. The juristic use of portraits must by hypothesis have a comparably pedagogic function. The legal academy molds subjects, it institutes a new identity or professional persona, and it is in this aspect that the portraits show students—directly yet mutely—the image of what that persona or mask of the jurist will be. Here, they seem to represent the outside of law within the school of lawyers. They mark the presence of the social within the academy, the future reality of law, within the protected space of the school. The portraits are witness to exemplary public lives, to roles and virtues that mix the inside and the outside, the social with the academic, the professional with the lived. Here, in effect, are some exemplary instances of juridical personality and of lawful life. These were great lives and this is their megalography, the artistic representation of their greatness.

II. TENTATIVE SKETCH OF THE GENRES OF JURIDICAL PORTRAITURE

A. The Prophet

The modern lawyer’s role, according to the American jurist Oliver Wendell Holmes, is that of prophecy. The
jurist's professional function is to prophesy what the courts will do and so advise his 'friend the bad man' on the force or fine that will be imposed upon him if he breaks the rules.\textsuperscript{15} Holmes's argument was aimed at the tendency of lawyers to imagine a metaphysical source or invisible cause of legal order. He was more pragmatically minded, and so wanted—or at least at some level seemed to want—temporal images, mundane and secular accounts of legal rules, specifically of their application. There are various ironies to Holmes's well-known thesis, not least the idea that one could escape religion by making lawyers into prophets. Whatever the various paradoxes of the Holmesian position, the lawyer as prophet is the first type or archetype of decanal portrait. It is also fittingly well captured in the broodingly omnipresent and thoroughly portentous style used in the portrait of Holmes that hangs in the lobby of one of the Harvard Law School main buildings.

Holmes was at Harvard Law School until he was appointed to the bench, and Harvard provides numerous instances of emblematically prophetic figures of portraiture. They line the faculty common spaces and have their efflorescence in the Langdell Library. There are busts, bronzes, antiquities, relics, and masterpieces hanging or standing on pedestals throughout this modern museum. Take Langdell himself—Christopher Columbus Langdell, to give him his full and fully foundational nomination. History records him as the Harvard Law School dean who transformed legal education from a parasitic trade school vocational course to a science. He founded the modern method of so-called Socratic legal teaching—the Oedipally governed paper chase—in which the student is awed or verbally beaten into his new \textit{persona} or molding.

The prophet is an archetype, an eminence, a bearer of the messages of the Gods. The portrait of the prophet should seek to capture such archetypical traces. A bust or sculpture is, in many ways, the best emblem of prophecy, and Harvard certainly is replete with those. The biblical significance of the figure who portends the news of the future kingdom can be inscribed in the material of

representation, in the purest alabaster: the white marble in which the figure of Joseph Story is sculpted, closed book in hand, at the entrance to the main building of Harvard Law School. (See figure 2.)

*Figure 2. Joseph Story.*

It can take the form of the written building: the word Langdell inscribed on the cornice of the Law School. Or, we can find a portrait of the latter day discoverer of the new didactic world as a centerpiece. The figure of the prophet is that of discoverer and seer into the future and both dimensions are well captured in the emblematic portrait of
Langdell reproduced in the very first issue of *The Green Bag* from 1860. (See figure 3.)

Figure 3. Christopher Columbus Langdell.

Beards may have been the fashion back then, but Christopher Columbus Langdell is pictured adorned with a luxuriance of facial hair that quite exceeds the norm. He is what the glossators termed a *langobard*, or long beard, with genuine chin hair that reaches down toward his belly and out of the frame of the picture. It is also somewhat wild, though scientifically bifurcated, left and right, as it progresses down. To this we can add the spectacles of the seer, and hair that is wavy and covers the ears. It is in the nature of the prophetic figure to escape both time and institution. He is originary, emblematic, and while of the world also in excess of the living. Thus Langdell appears
both prophetic and parental, academic and poetic, human but unworldly. The portrait in this regard is unmarked by the usual insignia of office or function. The founder is formidable by virtue, amongst other things, of the absence of any of the usual markers of attachment: he appears as a scientist, a thinker, as legal scientific dasein pure and simple.

In legal terms, the prophetic belongs within the genre of the immemorial, of time beyond memory, beyond the conusance of mortals and certainly in excess of students' epistemic capabilities. Visually statuesque, the photo portrait of Langdell is so realistic and expressionlessly intense in content that it manages to portray the paradox of a scientist prophet and the irony of a founder who came after the foundation. Langdell was indeed in that sense a revolutionary rather than an originator, hence the phenomenological term originary fits as depicting a living principle of propagation that is sufficiently indefinite as not to be reduced to any one moment or mood. The megalograph should in this sense escape definition.

Cardozo School of Law, incidentally, has no obviously prophetic painting of foundation—the portrait of the founding dean belongs within several different categories and has an ambivalent status as well as a distinct absence of artistic quality. What there is, however, is a photo portrait of Benjamin N. Cardozo, the patron figure, and eponymous hero of the School. The photo is framed close to the portraits of the School's former deans but is not hung with them. Interestingly, it comes after the decanal portraits and closer to the inner sanctum—the current dean's office—than the portraits that face the elevator and greet each student who nervously makes her way either to the administrative offices or toward the registry and office of financial aid that take up the bulk of the dean's floor. So perhaps Cardozo, the prophetic figure, the bearer of the name that he now posthumously shares with the School, is viewed as being closer to the dean than the former deans. Maybe he is more important as a guiding figure to current authors of the law school chapter than he is emblematic of what our students could hope to become.

In its local context, the photo portrait of Cardozo carries certain of the insignia of prophecy, and of the immemorial as well. Dressed in a suit, without background or prop, Benjamin looks with a slant at the camera. Hair white with
age, face tilted slightly downward, Cardozo looks forbiddingly intent, concentrated and piercing. To this, the reason for invoking the photograph, must be added one of the most interesting of tropes of legal portraiture: the hand. The photo portrait shows Cardozo resting his right hand, index finger slightly unfurled, on the table in front of him. This gesture returns, in the common law tradition, at least to Van Dyke’s portrait of Sir Edward Coke. The left hand is hidden, the right hand visible with an unfurled index finger and preternaturally elongated as if to indicate a hand that writes the law. Sir William Blackstone is also famously portrayed, in a painting attributed to Reynolds, as a fat man with a miniscule hand holding a small book, as if the book represents the product or progeny of the hand. The hand having written, has shrunk and only the book remains. In both cases, the figure of the hand of the law, this subtle visual synecdoche of legislation, marks the disjunction between nature and legality, the person and the hand of the law.

Back to the photo portrait of Cardozo. It depicts the judge in a pose that has lengthy legal provenance and implies a founding significance. His hand, the hand of the law, is open in the manner of one who writes the law, who establishes the tradition, and indelibly marks the juristic habitus to which the student onlooker aspires—witting or unwittingly—to belong. Contrary to Carlo Ginzburg’s theory that the hands are an overlooked item in paintings and hence a good clue to authenticity, the hand of the lawyer is of indubitable conscious significance; the Morellian method doesn’t work with legal portraits. As Seneca puts it, “O digitum multum significatem!” a sentiment that gave birth to a long tradition of corporeal eloquence or common law chirologia. Coke and Cardozo,

16. We should note that traditionally judges should judge with downcast eyes, or in more modern terminology, they should render justice as if they were wearing a blindfold. Sir John Fortescue, De natura legis naturae (Chichester Fortescue trans., Garland Publishing 1980) (1869).


18. Meaning the finger is full of significance. See, e.g., Gilbert Austin, Chironomia; or a treatise on rhetorical delivery (W. Bulmer & Co., 1806); John Bulwer, Chirologia: or the natvrall langvage of the hand (Tho. Harper 1644).
the former slightly more boldly than the latter, are portrayed with their index finger pointing forward. In chirology this constitutes *Gestus VI, Indico*, which Bulwer defines as indicating direction or command. That Coke's thumb is unfurled further denotes that he shows both sides of an issue; he both commends and corrects, while Cardozo is more rhetorically inclined. That Cardozo's hand is in the main open, means there is a reference to the persuasion or openness of rhetoric, and by implication less of a visual reference to the closed fist or force of logic.

The portrait of Professor Monrad Gotke Paulsen, founding dean of Cardozo School of Law, the heir of the dogma, is also mildly prophetic in tenor. (See figure 4.) He is bespectacled, white haired, and seated with a law book, encased in red, on a table before him. There are various striking features to this amicable and avuncular representation. First note the posture. He is seated well back, loin thrust forward at the level of what seems to be a coffee table in front of him. He is at ease, in power, almost too relaxed. Add to this his left hand hidden below the table while the right hand, much larger than life, grasps the chair and is seen both directly and reflected in the glass of the coffee table. No Reynolds the portraitist responsible for this picture, but let that pass. The right hand, larger or smaller than the real, according to the dictates of fashion in portraiture, is symptomatic of a slide from mundane representation to instantiation of tradition. It is in the end not the person but the life and character that the portrait is to represent. In this perspective, the hand is a key marker of law, a sign of *potentia* or power, a liminal site and hence a perfect point at which to slip from the real to the imaginary relation to legality. Paulsen's hand, his role as the law, is clearly large, even doubled, if only locally. More than that, there is red paint on the right hand, as if the red of the law text in front of the dean has rubbed off on him, or just as possibly he on it, offering blood as lineage, as *nomos* and law. He now is literally the bearer of the text of a law that got onto the skin if not visibly under it. That or he is bleeding.

That the hand is spread in so expansive a gesture of accommodation, seizing hold of the corner of the chair, combines a number of chirologic significations. The hand spread down is a gesture of friendship and indicative of the habit of bounty. In the classical treatises it connotes
liberality. That the hand is extended also marks a tentative gesture of aid—auxilium fero—which clearly befits a pedagogic as well as a founding function. One might note also, by contrast to Coke and Cardozo, Paulsen is not figured making any gesture to either rhetoric or writing; his liberality is as educator rather than author and this is marked, intentionally or otherwise, by the fact that framed next to Cardozo, but attributed to Paulsen, is a page of finely calligraphed quotation from the valedictory speech that Paulsen made upon stepping down as the dean of University of Virginia Law School. The quotation is not from what the dean emeritus said, but is a passage from an eighteenth century schoolmaster Paulsen quoted. In other words, his generosity lay in passing things on, rather than in composition.

*Figure 4. Monrad Gotke Paulsen.*
B. Delegatus Maiestatis

The figure of the prophet historically combined both the oracular prediction of what was to come and the terror that accompanies the anticipation of divine wrath. The figure of the founder is thus an awesome one, larger than life and excluded from life in the same sense that the divine author of the laws must take up an invisible space of the immemorial or, to borrow from the theologians, an antiquity older than time. Prophesy is precisely aligned with a temporality both prior to and beyond the inhabited present. The prophet represents the oracular speech of the divine as a messenger of future portents, as a hermeneut, but not as a legislator. Prophesy, in other words, and with all due deference to Justice Holmes, is more of a theological function than a procedure of secular law. It deals with the law of law, it offers an iconic yet unmatchable face for the edification of the contemporary denizens of the institution. The prophet lours over the living, not simply as a cloud but as a condensation of an ultimately unknowable source of law. Their prophesies await realization or refutation in the hands of the living.

It is not the prophet, but rather the sovereign and delegates of the sovereign, the judges who put the unknowable, or at least foreign, languages of law into application. The judge is delegatus maiestatis—the delegate of the author of the laws. He is viva vox iuris, lex loquens, or some other variation on the theme of accession to the ineffably immutable. The judge speaks in the name of the father. He gets as close as any putatively secular figure can get to the arcana or mysteries of an invisible and atemporal law. There is proximity to greatness. The judicial role is thus one that the law student should certainly aspire to and it finds a plenitude of references in decanal portraiture. There are some deans who become judges, such as Calabresi at Yale, but he became one after being dean and his portrait is suitably injudicious. Almost pastoral, with a painting of a horse in the top corner of the frame and a portrait of a woman, presumably his wife, interestingly located underneath the sculpture of a cherub. It would take

years of analysis to work through everything implied by such positioning and I will not even try, at least not here. There are, however, some little hints of sovereignty even in the portrait of Calabresi. The chair, for example, is more a throne than a stool, with an ornate leaf carved, right and left, atop the back. It marks his office, just as surely as the *veritas* on the professorially endowed chairs at Harvard guarantees the sovereignty of their words.

At Cardozo it is Cardozo, Benjamin I mean, who lours prophetically and without any signs of office or sovereign function. That said, it is known beyond refutation that he is a judge—one of the most famous—and students are given copies of his book, *The Nature of Law*, when they first visit the Law School. I noted that his outstretched index finger suggested composition and beside him a passage of educational lore that Dean Paulsen framed for the benefit of his heirs. The judicial lawmaking role is depicted pictorially by emblems of office, as well as by posture and setting. Thus the weighty, red bound law text that sits in front of Paulsen connotes a proximity to text and textual system. So too, the glass table that mirrors both the legist and the law, helps imply by visual trope an incorporation of the law according to the oldest of juristic maxims, *omnia scrinia habet in pectore sua*, he carries the law in his breast, or in this instance, *in manu sua*, on his hand.

Legal portraiture is full of the marks of sovereignty and office. In early paintings, it was the rod of legal office that marked the delegated majesty of the judge as embodiment of the law. Francis Bacon, as an example, is painted standing, a blank piece of paper in his left hand, a cane or rod of office in his right. Such insignia of the delegation of *maiestas* were common and filter into more modern portraiture in the form of law books, judicial robes, canes or other markers of lawmaking ability or power. Thus the portrait of Christopher Columbus Langdell that hangs in the Harvard Law School Library—Langdell Library, in Langdell Hall—depicts the bearded Dean with his hands on blank papers, law books stacked on his desk and a cane

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20. SIR D. PLUNKETT BARTON ET AL., *THE STORY OF OUR INNS OF COURT* (G. T. Foulis & Co. 1924). The text reproduces the painting without attribution in the course of a chapter that treats Bacon as of sufficient stature to be if not an Inn of Court himself, at least a staple and support of the Inns. *Id.*
lying over it. Each visual figure, each sign, is significant and known to the law.

The blank paper that is common to the portraits of Bacon and Langdell is a marker of the space of inscription, of the laws that will be written. It is a popular visual trope in Jacobin and subsequent portraiture and indicates both the power of writing and the space—the tabula rasa of the future—that will be mapped or subjugated by law. Thus one of the most famous portraits of Elizabeth 1st depicts her standing beside an open book, pages blank, awaiting her sovereignty, her rule. The blank page is terra incognita, or undiscovered land; it is free of images, ready for the reason and presence of prose. The blank page signifies potentia in its technical sense, representing both power and possibility, the presence of what Latinity called a potentate, the biopolitical embodiment of authority and power. The dean who has blank papers in front of him is clearly a legislator, a tongue or, better, a pen of the law. Maybe not quite Deo auctore, but certainly lex scripta. Take the example of Marion Rice Kirkwood, dean of Stanford Law School from 1924 to 1930, who is painted seated with his right hand on a volume of law reports and his fingers inside the pages. One could hardly depict someone in greater intimacy and proximity to law than that.

Cardozo offers no obvious images of decanal potency but does have one aesthetically remarkable portrait of a dean breaking out of his portrait, uncontainable, exuberant. The second founder of Cardozo, its symbolic sovereign, was Dean Monroe Price, M.P. for short, M.P. the second. (See figure 5.) It was Monroe Price who raised the value of the School and oversaw the introduction of a global group of scholars, from Derrida to Luhmann, Schlink to Salecl, into the academic community. If his tenure as dean were to be captured pictorially, his portrait would need to be a different kind of megalograph. And it is. Professor Price is portrayed in an angular and plastic mode. His face, adorned by surreally large, cubist spectacles, not only stares out but also actually comes out of the frame. Here is a potentate who seemingly might actually bite. A three dimensional framed portrait is certainly not the norm in painting, or in

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law schools. It constitutes a demi-bust, a plastic mask, an *imago* in the oldest of senses. Here the *megalograph* is sufficiently explicit, and the high price of the dean, the megaprice as it were, institutes a representation that literally adds a dimension to the usual aesthetic norms of decanal portraiture. Price, in other words, belongs in the atrium; he is the ur-ancestor of Cardozo, the Langdell of global legal scholarship, a lawyer, an aesthete, a maverick.

*Figure 5.* Monroe Price.
The portrait of Price the potentate is both unusual and instructive. It is a face made from a cast, although it is not a mold of the face. It thus draws upon the tradition of the imago of the ancestor but inverts it through the ironic device of providing a mask of something other than the actual face, here the image being cast from photographs rather than the person. The act of making a cast from pictorial figures of the living subject distances the mask a second time from the subject represented, it makes it in essence a mask of a mask of the face, and so institutes a distance that allows for an explicit hermeneutics, a negotiation as to the meaning and the price. At the same time, and however arrived at, the portrait also offers a glimpse of an unconventional aesthetic for a lawyer. Drawn to interdisciplinary scholarship and to international programs, and so to the exterior of national law and its jurisdiction, Price is represented in a suitably mixed aesthetic form, part icon, part idol, part portrait, and part bust or even busted.

C. The Pedant

The delegated sovereign maintains the function of the father and furthers the parental role of the juridical. The portrait of the dean as sovereign has to capture a duality that mediates the anterior and awful power of sovereignty with its tellurian translation. The fact of delegation thus institutes a presence that harbors and represents, but does not generally inhabit, except in image, an exterior and higher cause. The dean is a secular, as opposed to prophetic, representative of divine, or at least extra-human law. What is distinctive about delegated sovereigns is they are vicariously glorious, or in the Lacanian idiom, they speak in the name of the father for the benefit of the student or son. The delegate is thus a medium, a harbinger and translator of a law dictated to them by a superior power that momentarily inhabits them. The pedant constitutes the next stage of secularization or of progression down the hierarchy.

The word pedant has a lengthy history. Classically, it simply meant schoolteacher and sometimes it meant Latinist. Originally spelled *paedant*, it shares etymological roots with *paedagogus*, meaning a slave who attended children, particularly at school. The pedant was a tutor of youth, a teacher, the ruler of the *schola* who would pass on the inherently beneficial rules contained in the juridical library. The Dean as pedant is perhaps one of the most common of depictions, marked by props such as academic hat and gown, a scroll in hand or bookshelves in the background. The pedant is signified as unthreatening and their pedantry or wisdom is generally passively portrayed by the above or other insignia, not only of law but of scholarship, and the essentially contemplative tradition that it represents. While the prophet and the delegated sovereign are iconic, they represent, without being touchable or capable of being emulated, by dint of their distance, their terror or their eccentricity. While the paternal function is wholly aspirational, the pedant is essentially an avuncular figure of transmission.

The central function of the law school is to teach. It also trains and provides a practical vocation, but scholarship and pedagogy are the primary pursuits of the legal academy and the principal means of professional induction. The great schools may seek to model sovereign or judicial status as the role to which the student should aspire, and later live up to, but for the bulk of students the school is a nursery that inculcates the ethos, the habits and practices of calculating like a lawyer. Here the key is the dialectic of teacher and student, what the Latins term that of *doctrina* and *disciplina*—dogma and learning. This is the stuff of the literature of ‘preparatives’ and other introductions to legal study and it details the melancholy rules of a sedentary and, some might say, sad profession. Here it is the knowledge of things divine and human that is taught, the spiritual training in things tellurian—the *leges terrae*—is passed on from parent to child, from pedagogue to pupil, through the *schola*, the mini-empire of the pedant.

The placement of portraits of decanal pedants is often in the classroom. Thus at Harvard there are numerous deans who overlook both the hallways into the lecture theaters and seminar rooms and who gaze down benevolently, if intently, upon the serried array of desks. Dean Vorenberg in room 321 of Langdell is an example.
Secular in his pin-striped suit and not too old—in the portrait at least—he smiles along while behind his right hand, blurred yet visible, are bookshelves with their contents, the insignia of the academic in his scholarly habitus. The message is clearly that here we learn and the dean will help you to learn or will orchestrate the environment to facilitate the ingestion of an essentially secular and autonomous knowledge.

The various types of the pedagogue are visible everywhere. The shift from delegated majesty to the accessible, if formal, figure of the pedant increasingly occurs as the twentieth century progresses. Long before Cardozo was born, the law school that is, the less and less remembered Judge Professor Albert Sachs was portrayed dressed in an off-white suit for his portrait, as if he were an explorer perhaps as much as a professor. Dean Pound is portrayed from behind, wearing the visor of the telegraph clerk as if he were a semiotician as much as a law professor, which is probably true, and Robert Clark, until recently the dean of Harvard, is all accessibility leaning on a library bookcase in a modern suit and tie.

Enough about Harvard, it is simply an example, it happens to be there, and it is so much older than Cardozo School of Law, its modern inheritor, alphabetical and so lexical superior. There has been little time at Cardozo to build a catalogue of the subdivisions of decanal pedant but my friend Dean Macchiarola (amicus mea—he wanted to recruit me) certainly provides an instance of a curious kind. (See figure 6.) He is portrayed, slightly larger than life, with a fulsome realism, in his decanal office. The walls are wood paneled, which might lead one to think that he was in a judicial office, possibly in court or moot court, but in fact it is simply the unremodelled tenth floor room that is used by the dean. One has to remark also, however, of the painting that there are no indicia of scholarship, no books or papers, and hence the curious purity of his pedantic or pastoral role.

Dean Macchiarola is depicted in a blue shirt with a dark tie and pants. He is awfully casual in his way but his arms are folded across his chest and his hands hidden. The posture of folded arms and hidden hands somewhat defies chirological classification. What can be said is that it suggests intensity and that it implies both concentration—a full, if not fully frontal attention—and an undisclosed
wealth of knowledge. That kind of fits the man whose aura, in the portrait at least, is shimmering and golden. His is the figure of a dean given over to teaching and pastoral care. So much so that his arms don't stretch out, he makes no gesture or rhetorical figure of either reading or writing. He will listen, he is all face and, because he is portrayed in profile, he is literally all ear. Thus there are no hands visible, no unfurled finger signifying writing, no open palm of eloquent delivery, just the full if sidelong expression, the *speculum pastoralis*, or gaze of pastoral care and concern.

Figure 6. Frank Macchiarola.
The pedant exists in a paradoxical relation to the pupil. He, or she, is the slave of her youthful subjects and the servant of knowledge, yet at the same time she is powerful and an object of transference as well as of an often covert reverence. The student wants to like and be like the teacher. She wishes to desire what the teacher knows and one avenue for such desire is through the person of the teacher, through the living embodiment of the knowledge that she wants. Perhaps the folded arms can be understood as expressing that paradox and its attendant counter-transference. The hands are hidden because the student must not be touched, because the pedagogue serves a greater love and a higher desire. He is both master and servant, sovereign and slave, or perhaps simply divine and human, rolled into one. That at least seems to be the color of the portrait, its impressionistic backdrop, its shimmering aura, as well as the more direct connotation of hidden hands and a sideways look.

D. The Ghost

Cardozo School of Law is a young school and with the exception of Dean Monrad Gotke Paulsen, who died in his Chair, all of the deans portrayed are still living. The decanal portraits are also confined to the tenth floor, hidden, as it were, in the attic, in the administrative site of the building. They have not yet spread to the library, student common areas, the teaching rooms, or following Dean Rostow's theorem, spaces close to the bathrooms. That is unusual in the sense that the exemplars or models of institutional being are usually immediately visible. Enter Langdell Hall at Harvard and you are immediately confronted by Joseph Story in the foyer to the library, then a host of further emblems and busts of deans and jurists. The library itself, and the other common areas, are all pleasingly, and at times forbiddingly, overlooked by antique and more modern portraits. So too at the other end of the scales of status, Cleveland Marshall College of Law has the bust of John Marshall in the lobby of the law school. Right when you walk in, formidable, severe, and then duplicated in the form of a single portrait that hangs at the center of the moot court room, the school's centerpiece, overlooking the bench where the judges and future judges will sit. At University College London, you cannot get into the law
The dead are more numerous than the living and so it makes sense that in any but a young law school, the portraits of the deceased and departed will greatly outnumber those that depict the living. The academy is ruled visually by ghosts, by the masks of those who have passed on and left behind the tradition or the emblems of character and lore that those who follow must take up. For the Romans it was the imago, the literal death mask of the ancestor that would lour down, taking precedence over the mere flesh of the living. For modern lawyers, the law remains comparably old, it is still tradition preserved in an esoteric or inkhorn tongue. Even if the modes of its preservation are changing, law is still much imbued with death. The ghostly function of law, its spiritual source, cause and purpose gain muted expression in some of the portraits. The dead overlook the living and yet are themselves overlooked. In ancient common law, that function of overseeing the souls of the subjects of law was explicit, the law was a nursing parent, it was the speculum of the pastoral, it looked into the soul. Today, the unremarked and generally unnoticed character of decanal portraits suggests that they operate unconsciously or upon the modern equivalent of the soul, the somatic body, upon dreams and other sleeping forms.

There are various inexplicit and express visual indicia of death, or at least of the passage of significant periods of time, in many of the decanal portraits. The dress, the style of hair and facial luxuriance, the markers of office, such as rods and robes, all signify dogma or the decorum and unspoken vastness of the tradition. I will use just two final local examples. The portrait of Monrad Gotke Paulsen has a curious white halo. It is hard to see in a digital reproduction, but reflectography would clearly indicate that the painting has been touched up or painted over with a veneer of white. It gives the impression of an aura of whiteness, a spectrality or ghostliness that suggests the heavily sedentary Dean is both of this world and the next. In Christian terms, one might say that the halo effect takes

up, in a lesser way, the theme of the impossible unity of Christ. Both flesh and spirit, here and elsewhere, seated and ascendant, Paulsen fades into whiteness. There is almost a halo around his head. It may be a smudge in the color, but there is a discoloration, a fading or incipient marking over his head, white hair evaporating perhaps into the ether. I would have thought nothing more of it were it not that I encountered it elsewhere, and most noticeably at Harvard Law School where the portrait of the felicitous Justice Frankfurter is swathed in whiteness as if the great judge were, even while sitting for his portrait, communing with the past—the immemorial, the divinity, the gods.

According to the critic Georges Didi-Huberman, the most powerful images, and by the same token the images most given to transmitting power, are those that conceal the hand of the artist.24 They are technically termed acheiropoietic images, handless creations, representations that are untouched by merely mortal distractions and desires. The exemplar of the acheiropoietic image is the Veronique or Turin shroud, the mask of Christ imprinted mystically upon cloth. Here nature as nomos imposes itself directly, without the interference or detraction that even hermeneutics is prone to bring. There is nothing especially acheiropoietic about the portrait of Paulsen, it is all too human, even taking account of the halo effect or the spectral aura. The portrait of the most recently retired dean of Cardozo School of Law, Paul Verkuil, however, mimics the acheiropoietic form by representing the face of the dean as a specter imprinted upon a white canvas whose extremities remain white and untouched. (See figure 7.)

The portrait of Verkuil stands out for being just a face and not much more; no torso, no hands, no props or limbs, gowns or robes, of any kind, just the seemingly instantaneous imprint or imago of the face supported by a white collar and red tie. It is a portrait that in Didi-Huberman’s terms directly represents the déchirure, the rent, fissure, or tearing of the image from the life. That the portrait seems torn or seized from some greater whole accurately depicts the function of the image as something more than the living, as something cast from the soul. That it seems unfinished, interrupted, stolen or rent also

pleasingly aligns the rending of the image with the rendering of justice. Both the decanal portrait and the judicial determination should be given without any divagation or interference from the hands of those in whom the custody of tradition and transmission are alike entrusted. In other words, the perfect portrait of the dean is one which simply shows the dean, that captures the face so well, that depicts *imago* or character so precisely, that the hand of the artist is invisible. It should appear as if the face were taken and printed upon the canvas by means of a divine exhalation of color. It is the same fiction of pure representation that underpins the notion of the judge finding and declaring the law without adding even a comma of his own. Image and judgment, in this theory, are alike rendered rather than composed. They are hyperreal rather than merely artistic, they are imprints of the immemorial, of the cause of causes or law of laws, rather than being merely secular human interventions.

*Figure 7.* Paul Verkuil.
By and large we don’t see ghosts and yet the lawyer inhabits a territory that is full of specters and other relics of the long dead. It was Maitland who said that despite their demise, the forms of action rule us from the grave. In a similar spirit, one could say that the images of past deans legislate the proper forms of character from beyond the frames in which they are housed. Inanimate, often tawdry and drably executed, the portraiture of deans overlooks and dictates to the unconscious eye or to the oneiric subject that is formed in the course of the study of law. The academy academicizes, it imprints, it formulates and forms the character of its students, it operates a symbolic permutation in which the pupil enters and learns to inhabit the space of law. The fact that we no longer know how to look, that most students if asked what they think of the portraits in the Law School would respond “what portraits?” simply adds to the invisible power or ghostly significance and function of these emblematically overlooked icons of personal propriety.

I have refrained from judging the portraits discussed. That is only in part because I am a nice guy; it is more that it is the detail and the function, the didactic role that is significant rather than the foibles of production. Good or bad, it does not matter that much, the portraits play their role, or in Bentham’s case the auto icon offers an exemplary position or image of a life. In one sense portraiture belongs to an age that has passed and a mode of representation that is now dated, surpassed perhaps by a digital efflorescence of means of representation. They are fictions or, to adapt a maxim, in pictura iuris semper est aequitas, these are images of justice that model justly. They show not the person but the life, not the likeness but the character, not the face but the law. That at least is the theory of the megalograph or portrait of the forebears and of the great. That we no longer consciously recognize these images simply means that it is necessary, as Lacan formulated it, to put our ignorance to work or, more positively, to work upon our ignorance.

Returning to the roots of the modern juristic tradition, in a treatise on portraiture published in 1659, the author Charles Sorel addresses both the laws and the passion of
portraiture. Borrowing from a tradition that goes back to Pliny, the passion that motivated portraiture was the desire of the lover for an image of the beloved. Within this tradition of amorous portraiture—what portrait is not in some sense enamored or of an inamorata—the laws of the discipline dictated accuracy in the representation of the spirit of the subject. Sorel cites a number of quite amusing cases in which bad portraits were hauled up before the magistrature of the City of Portraits and subjected to trial. If found guilty, the portraits themselves, the ‘patiens,’ were taken to a public place and hung there for a while “so as to shame those who had painted them,” and then later removed and burned, their ashes thrown to the winds. Sorel comments upon this in the following terms: “It is a good policy on the part of the police not to allow such portraits to remain in the world for fear that they would pervert the spirits” and for that reason not only were the effigies burned, but the artists had to do public penance and watch as their works were consumed by the fires of aesthetic hell.

Sorel’s stories of the condemnation of immoral portraits borrow from older Roman traditions where effigies would be burned and memory condemned. I cannot resurrect that history here but it does help to remind us that the visual representation of the institution’s past, of the tradition and places, of the names and personae from which the law descends have a long history and a likely significance that exceeds the portrait’s representation of the likeness. The megalograph bears the burden of the symbolic and, together with the architecture and other juridical insignia of law schools, marks the difference, or renders the rite that defines the space of legality. Portraits solemnize and ritualize the roles that the legal subject will take up. Law school is their introduction and, witting or unwitting, the portraits of deans take their place within a tradition of moral painting which, at its best, to cite Sorel again, paints “the qualities of the soul and the conditions of persons.” It is a primary site of tutelage, such that one might conclude: without pictures, how would we learn?


26. Id. at 78.