

“AND A LAW SCHOOL IS IN THE MAKING”: THE FOUNDING OF NOVA UNIVERSITY’S CENTER FOR THE STUDY OF LAW

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I. INTRODUCTION

The law school now known as the Nova Southeastern University (“NSU”) Shepard Broad College of Law opened its doors on Wednesday, September 4, 1974, as the Nova University (“NU”) Center for the Study of Law.¹ Located in Davie, Florida,² its progression from idea to fact had been quick, taking just under four years.³ Now, as its 50th anniversary draws near, a

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1. See *Smith Keynotes Nova Law Debut*, FORT LAUDERDALE NEWS, Sept. 5, 1974, at 2B.

2. Davie is a western suburb of Fort Lauderdale that is known for its “Florida pioneer” ethos. TOWN OF DAVIE, WESTERN THEME DESIGN MANUAL 1–2 (2019), <https://www.davie-fl.gov/DocumentCenter/View/1244/Western-Theme-Design-Manual>.

3. See JULIAN M. PLEASANTS, THE MAKING OF NOVA SOUTHEASTERN UNIVERSITY: A TRADITION OF INNOVATION, 1964–2014, at 79–83 (2013).

recounting of how Broward County's only law school got up and running seems timely.⁴

II. AN AUDACIOUS IDEA

Having NU host a law school was an audacious idea. NU had been founded as part of a larger plan, hatched in 1960, to bring a complete educational campus to South Florida—one that would run “from the elementary school level through university.”⁵ In keeping with the times, NU was expected to be a science-based university.⁶ In October 1964, Warren J. Winstead, NU's first president, explained: “We want to build a university here that will equal in stature, scope and authority Cal Tech and M.I.T.”⁷ This quickly led pundits (both friendly and unfriendly) to dub NU the “MIT of the South.”⁸

NU began classes in Davie in September 1967 with sixteen professors and twenty-one graduate students.⁹ This model proved economically unsustainable and by 1969 NU was nearly bankrupt.¹⁰ To avoid going under, in July 1970 NU agreed to a merger, euphemistically dubbed a “federation,” with

4. See *id.* for an abbreviated account of the law school's founding. NU's official history dispenses with the law school's founding in even shorter fashion:

A second major change that occurred during [this] period . . . (1970–1985) was that the direction of the campus programs changed. Undergraduate evening programs for adults began, the law school was opened in 1974, and a host of master's programs in business, psychology, and education continued to be developed.

STEPHEN L. GOLDSTEIN, *THE SEARCH FOR NOVA UNIVERSITY: AN ESSAY ON ITS FIRST TWENTY-FIVE YEARS, 1964–1989*, at 17 (1989).

5. See Tom Vinciguerra, *Education Park at Forman Field: School Site Cost Mulled*, FORT LAUDERDALE NEWS, June 10, 1960, at 1-B.

6. See PLEASANTS, *supra* note 3, at 5. NU's original name was the “South Florida Institute of Technology and Education.” See *Proposed University Changes Name to Nova*, S. BROWARD NEWS, Aug. 22, 1964, at 1A. This moniker, however, failed to win public approval. *Id.* Thus, in August 1964 a new name—Nova University of Advanced Technology, Inc.—was adopted. *Id.* In 1973, NU dropped “of Advanced Technology.” See PLEASANTS, *supra* note 3, at 68.

7. Mike Morgan, *Dream Worth \$53 Million*, MIA. HERALD, Oct. 24, 1964, at 1BR.

8. See *Nova U. Opens in Broward, Small but with Big Ideas*, MIA. NEWS, Sept. 25, 1967, at 6-A; Barbara Widmar, Editorial, *On the Campus: What of FAMU Law School?*, TALLAHASSEE DEMOCRAT, Dec. 10, 1965 (§ 2), at 17 (“Nova University calls itself the nation's newest technological university and aspires to become ‘the MIT of the South.’”).

9. See *Nova U. Opens in Broward, Small but with Big Ideas*, *supra* note 8.

10. See *Money or Merger Can Save Nova*, MIA. HERALD, Aug. 5, 1969, at 2-BR.

the New York Institute of Technology (“NYIT”).¹¹ In exchange for a cash infusion of \$1.2 million, NYIT was given complete control of NU.¹² In addition, Alexander Schure, NYIT’s founder and president, became NU’s chancellor, while Abraham S. Fischler, NU’s acting president, became part of Schure’s staff.¹³

Although NU now had NYIT to fall back on financially, it was obvious that NU needed a new, steady, and significant source of income. Thus, at a meeting of the Executive Committee of the NU Board of Trustees (“BOT”) on December 3, 1970,

Dr. Fischler stated that he would like to increase the Advisory Board of Governors and that members of this Board would be asked to sit as members of committees to advise on the formation of a Law School, Health and Medical Program, Banking and Insurance Program, [and a] Business and Industry Program. In order to establish lines of communication between the Board of Trustees and the Advisory Board of Governors, Dr. Fischler requested that at least one member of the Executive Committee serve on each of these committees. . . . [Attorney W. Tinsley] Ellis [agreed to serve] on the Law School Committee . . .
 .¹⁴

11. See Humberto Cruz, *Nova’s Coffer, Program Growing by Degrees*, FORT LAUDERDALE NEWS, July 2, 1970, at 6B.

12. See PLEASANTS, *supra* note 3, at 61, 62. In addition:

The July 1 [merger] agreement [called for] . . . [s]ix of the present board of trustees at Nova University . . . [to] be members of the new joint board. The [nine] remaining Nova trustees would have to resign. NYIT would then appoint nine members of the new unified board of trustees, giving [it] a controlling vote on any proposal.

Id. at 61. According to another source, NYIT also was granted “a 50 percent cut in the profits of all Nova undergraduate programs.” Christopher Drake, *Nova University: The Controversial Dream*, CHANGE, May–June 1979, at 16, 18.

13. *Tech on New Course*, DAILY NEWS (N.Y.), Aug. 31, 1970, at 8B. In October 1970, Fischler officially became NU’s second president. See *Fischler Is Installed as President at Nova*, MIA. HERALD, Oct. 5, 1970, at 1-C. In November 1970, Schure officially became NU’s first chancellor. See Humberto Cruz, *New Chancellor’s “Schure” Nova U Has Big Mission*, FORT LAUDERDALE NEWS, Nov. 15, 1970, at 2C.

14. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. of Advanced Tech. (Dec. 3, 1970) (on file with author). In a 2009 interview, Ellis offered the following recollection:

Dr. Schure became the chancellor of the university, so he was the top man, and members of his family were on the board at his school . . . so they were all put on our board, and it was like a family situation. It worked well to begin with, and also he was the one who insisted that we start a law school. And we were kind of pushed into it. So they named me Chairman of the Board of Governors, of the law school

Given NU's scientific mission, a law school was not a natural or easy fit. Moreover, unlike nearly every other American university, NU had eschewed giving tenure to its faculty.¹⁵ But to be approved by the American Bar Association ("ABA"), law schools were expected to be tenure-granting.¹⁶ Yet another difficulty was the lack of a building in which to house the law school.¹⁷

On the other hand, an equal number of reasons favored starting a law school. First, law schools had proven themselves to be cash cows.¹⁸ Second,

Interview with Tinsley Ellis, Bd. of Trs., Nova Se. Univ., in Fort Lauderdale, Fla. (June 8, 2009) (audio and transcript on file with NSUWorks).

15. PLEASANTS, *supra* note at 3, at 82.

16. See STANDARDS OF THE ABA FOR LEGAL EDU. 5 (AM. BAR ASS'N 1969). In 1970, tenure was not expressly included in the ABA's rules governing the approval of new law schools. See *id.* at 1. Nevertheless, it generally was understood that a law school that did not grant tenure would not be approved. See *id.* at 5.

In December 1971, the ABA began a detailed review of its standards; the resulting changes were approved by the ABA's House of Delegates on February 12, 1973. ABA STANDARDS AND RULES OF PROC. FOR APPROVAL OF L. SCHS. vi-vii (AM. BAR ASS'N 1973). As a result, tenure was made an express requirement, with new Standard 405(d) explaining: "[A] law school shall have an established and announced policy with respect to academic freedom and tenure . . ." *Id.* § 405(d). When a proposal was subsequently made to amend Standard 405(d) to remove its reference to tenure, leaders of the ABA's Section of Legal Education rejected the idea:

The American Bar Association has for many years been concerned with the establishment of minimum standards for legal education. These standards should and do cover working conditions in law schools, and the concept of tenure is one of the principal aspects of those working conditions . . . Without tenure and the expectation of job security after a probationary period in which competence is established, the chance of interesting high-quality persons in law teaching is greatly reduced. The chance is further reduced by the widening disparity between the financial rewards of teaching and of private practice.

E. Clinton Bamberger et al., *Reports*, 2 LEARNING & L., no. 3, 1975, at 30, 32.

17. See PLEASANTS, *supra* note 3, at 30. Although it would later grow by leaps and bounds, in 1970 NU's campus had just three academic buildings (each named for a different donor): the Abraham L. Mailman Education Center; the Louis W. Parker Physical Sciences Center; and the Edwin M. and Ester L. Rosenthal Student Center. See *id.* at 31.

18. See PETER DEL. SWORDS & FRANK K. WALWER, THE COSTS AND RESOURCES OF LEGAL EDUCATION: A STUDY IN THE MANAGEMENT OF EDUCATIONAL RESOURCES (1974). Three factors accounted for the enormous profitability of law schools: 1) one law professor could teach as many as 100 law students, who could be crammed into a single lecture hall; 2) the starting salaries of new lawyers were increasing exponentially, meaning that law school tuition could be raised every year; and 3) unlike other professional schools, no expensive laboratory equipment was needed to start a law school. See *id.* As a result, fourteen new law schools had opened between 1960 and 1970 (a 10.8% increase). See J. Gordon Hylton, *Looking at the Increase in the Number of Law Schools and Law Students, 1950-2010*, MARQ. UNIV. (July 25, 2012), <http://law.marquette.edu/facultyblog/2012/07/looking-at-the-increase-in-the-number-of-law->

there were only four law schools in Florida and only one in South Florida.¹⁹ Third, Broward County’s population had skyrocketed during the previous decade,²⁰ and experts were predicting even greater future growth in its core areas:

The U.S. Census Bureau in its latest estimate of population growth patterns now says the Ft. Lauderdale-Hollywood urban area is the fastest growing area in the entire nation. It predicts that for the period from 1965 to 1975 this area will rack up a 51.9 [percent] increase in total population.²¹

III. “AND A LAW SCHOOL IS IN THE MAKING”

In September 1971, the *Miami Herald* ran a long article reporting that NU was about to receive accreditation from the Southern Association of Colleges and Schools (“SACS”).²² Buried deep within the article was a sentence informing readers that “Dr. Alex Schure, chancellor of the two universities, also [has] approved Nova’s development of a law school.”²³ A short time later, Fischler received an unsolicited offer from Robert L. Froemke, the Chief Legislative Analyst of the Florida House of Representatives’ Minority [*i.e.*, Republican] Office:

schools-and-law-students-1950-2010/. Law schools continued to be cash cows until the 2008 Great Recession staggered the legal profession. See BENJAMIN H. BARTON, *FIXING LAW SCHOOLS: FROM COLLAPSE TO THE TRUMP BUMP AND BEYOND* 69–86 (2019).

19. See *Directory of Law Teachers: 1971*, 1971 ASS’N AM. L. SCHS. 721–30 (1971) (indicating that Florida’s law schools could be found at Florida State University (“FSU”) in Tallahassee; Stetson University in St. Petersburg; the University of Florida (“UF”) in Gainesville; and the University of Miami (“UM”) in Coral Gables).

20. See 1 BUREAU OF THE CENSUS, U.S. DEP’T OF COMMERCE, 1 1970 CENSUS OF POPULATION, CHARACTERISTICS OF THE POPULATION: FLORIDA tbl. 10 (1973). Between 1960 and 1970, Broward County’s population nearly doubled (333,946 to 620,100). *Id.* This increase made Broward County the 21st fastest growing county in the country. See 7 *Florida Counties in ‘Top 25,’* MIA. NEWS, Sept. 17, 1970, at 1-P.

21. *Population Spurt Forecast for Broward Represents Frightening Headaches*, FORT LAUDERDALE NEWS, Mar. 26, 1969, at 10A. Due to intentional governmental “downzoning,” however, the area’s population did not grow as rapidly as predicted. See Margaret Croxton, *County Population Growth Slows Down*, FORT LAUDERDALE NEWS, June 4, 1975, at 1B.

22. See Louise Montgomery, *Nova’s Future: Save Money, Still Save Face*, MIA. HERALD, Sept. 29, 1971, at 3-BR. SACS (founded in 1895 and now known as the Southern Association of Colleges and Schools Commission on Colleges) is the regional accrediting agency for Southern universities. See *About SACSCOC*, S. ASS’N OF COLLS. & SCHS. COMM’N ON COLLS., <http://sacscoc.org> (last visited May 5, 2023).

23. *Nova’s Future: Save Money, Still Save Face*, *supra* note 22.

Yesterday while browsing through the current issue of the Florida Bar Journal, I noted the enclosed article [*Florida's Crowded Law Schools Turn Away 2,300 Qualified Applicants*, 45 FLA. B.J. 508 (1971)] about law school applicants and enrollments in Florida. I recalled your comment that one of your projects is to establish a law school at Nova University. Thus, if you haven't seen this data, you might find it of interest.

In its initial stages, a law school could be established on the same basis as the M.B.A. program which I proposed in the memorandum I left with you. You may have noted in my resume that I have a law degree from N.Y.U. Whereas I have never practiced law nor taken the bar exam, nevertheless, I could serve as an acting-dean for a time, long enough to establish and put into operation a law program.²⁴

In November 1971, the BOT formally greenlit the plan to open a law school:

Dr. Fischler reported that an advisory committee has been formed for the proposed law school. The Committee is chaired by Mr. Ellis. Mr. Dwight [L.] Rogers[, Jr.] and Mr. Foy [B.] Fleming, [attorneys and] former [NU] Board [of Trustees] members, are serving on this Committee. Mr. Ellis stated that the local bar association and the Committee are quite excited about the school, and that the Committee will meet with Professor [Leonard S.] Powers, Associate Dean at the University of Florida, who is interested in be[c]oming the organizing Dean. It is planned to open the school in September, 1973, using the Rosenthal Building as a temporary facility. Appointing a dean by June, 1972, will allow him a year for recruiting faculty, building a library and organizing the course of study. Mr. Ellis said a faculty of five full-time professors and the use of adjunct professors from the local bar association would fulfill the initial requirements.

Concern was expressed by the members about the cost of this type of program, particularly with regard to the extensive library which will be required.

After further discussion and upon motion duly made by [NYIT's] Dr. [John J.] Theobald, seconded by [NU's] Mr. [Hamilton C.] Forman and unanimously carried, it was

24. Letter from R.L. Froemke, Chief Legis. Analyst, Fla. H.R., to Abraham S. Fischler, President, Nova Univ. of Advanced Tech. (Oct. 20, 1971) (on file with author).

MOVED that in accordance with the original desires of the founders of Nova University to offer professional programs of excellence, the Board of Trustees approve the concept of pursuing in depth the creation of a Law School. The Law School Committee was authorized to continue its study of the feasibility of the Law School. It is the intention of the Board if the proposed Law School is deemed to be economically feasible that a Dean be appointed by July 1, 1972, and the School be opened to students in September, 1973.²⁵

Despite the BOT's vote, in December 1971 Fischler expressed grave concerns about the project during a meeting of the Executive Committee:

Dr. Fischler reported that Professor Powers, Assistant Dean of the Law School at the University of Florida[,] met with Messrs. Fleming, Rogers and Ellis on Friday, December 3, 1971 and on Saturday he [Dr. Fischler] met with Mr. Ellis and Professor Powers. [Dr. Fischler] stated that starting a law school is more complex than he was led to believe. To start the school, five full-time professors including the dean will be needed at an approximate average salary of \$25,000 each. Dr. Fischler mentioned an article prepared by the University of California at Davis describing their new law school which Professor Powers left for the Committee members to read. (Copies of this article are to be mailed to the Committee members.) It would appear as though the estimated \$2,000 tuition is too high; that \$1,500 is a more realistic figure. The Executive Committee was not in agreement with this.²⁶

Putting aside his misgivings, Fischler struck an upbeat tone when the *Miami Herald* asked him about the law school in January 1972: "Fischler also said Tuesday[,] Nova was in the process of acquiring a dean for a law school to be established on the Fort Lauderdale campus. 'As soon as we get a highly qualified dean, we'll know the date when the law school will open,' he said."²⁷

Two weeks later, the Executive Committee held another meeting. At it,

25. Meeting Minutes, Bd. of Trs., Nova Univ. of Advanced Tech. 3-4 (Nov. 12, 1971) (on file with author).

26. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. of Adv. Tech., 4 (Dec. 10, 1971) (on file with author). The identity of the article "Powers left for the Committee" is unknown.

27. Georgia Tasker, *Nova to Offer Ed.D. for Administrators*, MIA. HERALD, Jan. 19, 1972, at 5-BR.

Dr. Schure . . . urged the Executive Committee to give its vigorous attention toward three projects – the building of an endowment for and the realization of the Law School; and a drive to complete the second floor of the Parker Building to house the upper portions of the University's programs, junior-senior-Master's and possibly doctoral level. Dr. Schure suggested that the Florida legislature be presented with a proposal that they pay certain costs for students to enter our programs.²⁸

In February 1972, the BOT, with some misgivings, renewed its support for the law school:

A discussion ensued concerning the launching of a law school by September, 1973. Certain members of the Board were not in favor of instituting this program until the University's financial position was more stable. The consensus of the Board was that it is imperative for the University to launch the law school as announced previously.

Upon motion duly made by [NYIT's] Mr. [Nathaniel A.] Karr, and seconded by [NYIT's] Dr. [David G.] Salten, it was

MOVED that the Board of Trustees authorize President Fischler and Chancellor Schure to proceed with the planning of the Law School with the proviso that a development director be employed whose primary aim is to raise the necessary funds to defray the initial expense and in that event, the President and Chancellor shall be authorized to employ a dean for the Law School.

A subsequent vote showed [eleven] in favor and one abstention. The motion carried.²⁹

In March 1972, Powers suddenly died,³⁰ meaning that the search for a founding dean would have to start all over. One month later, NU ran an

28. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. of Advanced Tech. 2 (Jan. 31, 1972) (on file with author).

29. Meeting Minutes, Bd. of Trs., Nova Univ. of Advanced Tech. 3 (Feb. 25, 1972) (on file with author).

30. See *Leonard Powers, 53, Stricken in Florida*, ROCKY MOUNT TELEGRAM, Mar. 27, 1972, at 2A. No cause of death was announced. *Id.*

"advertorial" in the *Miami Herald*.³¹ In a list of recent accomplishments, readers cheerfully were told: "And a law school is in the making."³²

For the next eight months (that is, the rest of 1972), the public heard nothing further about the law school. Indeed, NSU's official history begins its account of the law school's creation by incorrectly reporting: "In 1973, Alex Schure and [NU trustee] Hamilton Forman, looking for a way that Nova University could garner local support from the people of Broward County, declared that it was time for Nova to establish a school of law."³³ Behind the scenes, however, the effort to launch the law school continued throughout the rest of 1972.

IV. A HOST OF PROBLEMS

At its May 1972 meeting, the Executive Committee turned to a particularly thorny issue: where to house the many law students who, it was hoped, soon would be flooding the campus. Although Fischler had a solution, the Executive Committee was not impressed:

The President presented his plan for additional housing on campus which will be necessitated by the launching of the law school. Since the University School [NU's high school] must vacate the Rosenthal Building to accommodate the law school, it is his thought that a high rise apartment can be constructed over the new University School building.

The Executive Committee raised questions such as the need for additional housing, the method of financing, etc. Suggestions were made as to locating the new apartments nearer the present complex so the same recreation facilities can be used for both; and the practicality of building a series of two floor walk-ups versus a high rise. No formal action was taken.³⁴

In early June 1972, the Executive Committee received another briefing from Fischler, which this time focused on the reopened search for a founding dean:

31. See *Broward's Nova University: 'Very Special U,'* MIA. HERALD, Apr. 21, 1972, at 15-BP.

32. *Id.*

33. PLEASANTS, *supra* note 3, at 79.

34. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. of Advanced Tech. 4 (May 12, 1972) (on file with author).

President Fischler reported that a letter had been mailed to [University of Miami law school] Professor Minnette Massey offering her the deanship of the law school, [but] so far she had not accepted this appointment because of a possible ruling by the ABA on the establishment of new law schools. The President explained that the ABA makes a preliminary site visit similar to the Southern Association [of Colleges and Schools] at which time Nova University's law school could receive provisional accreditation, and that Professor Massey had been in contact with Mr. [Millard H.] Ruud [, the ABA's Consultant on Legal Education,] who cannot visit the campus until late August. It was agreed that Mr. Ruud be invited to visit the campus as quickly as possible at the University's expense.³⁵

Four days later, at a meeting of the BOT, Fischler:

[R]eported that a contract had been offered for the position of Dean of the Law School [to Massey]. However, it had not been signed because of a possible ruling by the ABA on the establishment of new law schools. He informed the Board that if the position is not filled by September, 1972, we will not be able to meet the September, 1973, deadline for opening the new school.

Mr. [Edwin F.] Shelley [of NYIT] suggested that perhaps a practicing attorney should be considered in lieu of an academician. Mr. Ellis stated that the University would still have to employ an associate Dean from the academic world.

The matter is in abeyance.³⁶

At its June 30, 1972 meeting, the Executive Committee discussed what would happen to the law school if the University School failed to move out of the Rosenthal building in a timely fashion:

A resolution was introduced whereby the University School would become an integral part of Nova University's Institute of Early Childhood and Open Education. Objections were raised to launching a fund raising [sic] drive for a building to house the school since it is

35. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. of Advanced Tech. 1-2 (June 5, 1972) (on file with author). In these minutes, Massey's name is misspelled and appears as "Minette Massie." *Id.* Ruud's name also is misspelled, appearing as "Rudd." *Id.*

As will be recalled, see *supra* note 16, the ABA had begun revising its accreditation standards in December 1971 and worked on them throughout 1972. Thus, it is not surprising that Massey would have been concerned over how the changes might affect NU's efforts.

36. Meeting Minutes, Bd. of Trs., Nova. Univ. of Advanced Tech. 3 (June 9, 1972).

not a part of the educational process of Nova University. The President explained that the doctoral students are designing a science curriculum which could become a saleable product; that a reporting system has been designed for the school and two dissertations have been based on research in the school.

President Fischler reported that he had met with Mr. A.L. Mailman who stated that he would commit himself only to assuming the \$85,000 debt, not to construction of a building.

A lengthy discussion ensued during which the geographical make-up of the school and financing for a new building were explored. A main concern is the need to delay launching the law school if the University School does not move until 1973 because of the uncertainty of provisional accreditation, the need to secure faculty, to build a library[,] and prepare a catalog.

The President reminded the Committee of the plans to institute a middle college and upper college which will be directly tied in with the University School.

The Executive Committee was in agreement that they want the University School to become an integral part of Nova University, but there are problems which have to be solved before this occurs.³⁷

At a meeting of the BOT in October 1972, those present heard from Dick Murray, NU's new vice president of development. As the minutes explain:

Mr. Murray reported that all preliminary steps have been completed and he is now actively engaged in raising funds for the Law School, as well as for the programs presently underway in the University. He reviewed some of the difficulties he encountered in the local community.

During this report, there was a brief discussion on the search for a dean for the Law School.³⁸

Several weeks later, at a meeting of the Executive Committee, Murray again spoke about the law school:

37. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. of Advanced Tech. 3-4 (June 30, 1972) (on file with author).

38. Meeting Minutes, Bd. of Trs., Nova Univ. of Advanced Tech. 4 (Oct. 6, 1972) (on file with author).

Mr. Murray reported that a major portion of his time has been spent in talking with community people. He asked for the Executive Committee's position on approaching [Fort Lauderdale attorney George W.] English to fund the Law School. It was suggested by Mr. [Robert C.] Ellyson that [Fort Lauderdale attorney Carl A.] Hiaasen might be a good prospect. Mr. Murray stated that no specific presentations had been prepared.³⁹

V. FEBRUARY 1973: A PIVOTAL MONTH

As the calendar turned from 1972 to 1973, NU's proposed law school still had no dean, no money, and no clear path forward. This became obvious at a meeting of the Executive Committee in early February 1973:

[NU's Vice President for Finance Arthur E.] Karel distributed revised sections of the budget. The President reported a projected income of \$1,134,951 and a projected expense of \$1,227,731 for the '73-'74 fiscal year. President Fischler reviewed the budget by Centers and programs explaining the reasons for the various deficits.

When questioned about a break-even budget for the Law School, the President stated it was his understanding that this is the Trustees' responsibility and Mr. Ellyson reiterated that it was agreed there would be no Law School if the money is not available. . . .

President Fischler was . . . asked to prepare a narrative indicating the weaknesses in the budget as discussed at this meeting.⁴⁰

One day after the meeting, Fischler sent the requested narrative. In discussing the law school, he wrote: "The Law School will cost approximately \$750,000 which includes \$500,000 for the acquisition of library materials. Since we said the Law School is to break even, you will find on the income side \$750,000, however this is a very soft figure."⁴¹

39. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. of Advanced Tech. 2 (Oct. 23, 1972) (on file with author).

40. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 3 (Feb. 5, 1973). It is not surprising that Ellyson, an accountant who had been on NU's BOT from the beginning, was especially concerned with the law school's cost.

41. Memorandum re 1973-74 Budget from Abraham S. Fischler, President, Nova Univ., to the Exec. Comm., Bd. of Trs., Nova Univ. 1 (Feb. 6, 1973) (on file with author). This document appears to be the first time that an actual price tag was placed on the law school. Although it is not known how Fischler came up with the figure of \$750,000, the amount was in line with what other new law schools were budgeting.

At a meeting of the Executive Committee the following week, Murray reported on his continuing efforts to find money for the law school:

Mr. Murray informed the Committee that he asked Mr. George English to spearhead a drive among local attorneys to fund the Law School. Mr. Murray stated Mr. English indicated that he might be willing to have the building named for him but not the School. Mr. [William D.] Horvitz asked Mr. Murray if he had anyone in mind as a ‘backup’ to fund the School. Mr. Murray replied that he has been working closely with Mr. Conrad Strauss, a retired, prominent attorney from Rhode Island and he would like permission to invite Mr. Strauss to serve as a member of the Board of Governors for the Law School. Mrs. [Mary R.] McCahill endorsed his membership and upon motion made by Mr. Horvitz, seconded by Mrs. McCahill and unanimously carried, it was

MOVED to invite Mr. Conrad Strauss to serve on the Board of Governors for the Law School.⁴²

Near the end of the meeting, Fischler discussed the law school’s dean search. By now, Massey had turned down Fischler but had suggested he contact her former student, Nathaniel E. Gozansky, who was a professor at Emory University’s law school.⁴³ Having done so, Fischler advised the Executive Committee:

[T]hat Professor Gozansky had indicated his interest in the position of Dean of the Law School. He would like a salary of \$36,000 for 12 months with one month for vacation purposes, and a contract for five years which will take the school through accreditation.

President Fischler said the Board of Governors for the Law School were favorably impressed with Professor Gozansky.

The Executive Committee authorized President Fischler to pursue the matter with Professor Gozansky, striving for a four year contract rather than five.⁴⁴

Two days later, at a meeting of the BOT, yet another long discussion regarding the law school took place:

42. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 2 (Feb. 14, 1973) (on file with author).

43. See E-mails between Nathaniel E. Gozansky, Professor Emeritus of L., Emory Univ., and author (May 5, 2021, 10:23 A.M., 6:21 P.M., 6:36 P.M.) (on file with author).

44. Meeting Minutes, Feb. 14, 1973, *supra* note 42, at 4.

President Fischler distributed a breakdown of the projected income and expense[s] for the Law School. He explained that with the projected surplus in the general operating funds, the University could probably help with the deficit anticipated in the Law School but he would prefer not to use these funds.

President Fischler stated he wanted to review the figures so the Board is fully aware of what is involved.

A discussion ensued concerning the necessity of committing funds to employ a dean before a major campaign is begun versus starting a campaign before employing a dean. Mr. Ellyson reiterated he has been under the impression from the beginning that we will not undertake a Law School if the money is not available.

President Fischler reported that Dr. Nathaniel Gozansky of Emory University Law School was being considered for the position of dean. Mr. Ellis informed the Board that he checked with Mr. Dwight Rogers who said he was favorably impressed by Dr. Gozansky. It was agreed that Mr. English should be consulted in this matter.

Mr. [Melvin R. 'Cy'] Young moved in favor of proceeding with the School in view of all the information available and delay in the arrangements of the first dean. Dr. Theobald amended this motion with regard to making initial expenditures for establishment of the School, while keeping an eye on the effectiveness of the fund raising [sic] campaign. The President was not in favor of Dr. Theobald's amendment. After further discussion, Dr. Theobald withdrew his amendment and suggested that another motion be made which indicates the Board would like the prospective dean to meet with some of the leading money people; also that the Executive Committee be empowered to make the final decision; and that all of this be done with the understanding that once there is tangible evidence, the Board will commit more than the dean's salary. This motion was seconded by Dr. Schure. Dr. Theobald also suggested that the Board authorize expenditure of \$150,000.

During further discussion, it was evident that complete agreement could not be reached and upon motion made by Mr. Ellyson, seconded by Dr. Theobald and unanimously carried, it was

MOVED to authorize the Executive Committee to proceed with the Law School at such time as they are satisfied that the necessary

funds are available to go ahead with it; whereas at such and such a day the Board is aware of the motion already on the books.

President Fischler said he will proceed in his negotiations with Professor Gozansky without giving him a contract, and ask him to meet with Mr. English and Mr. Fleming.⁴⁵

VI. “CONSULTANT” JEROME PRINCE

With the BOT again having given the law school a green light, the Executive Committee resumed its work. By this time, however, Gozansky had taken himself out of the running for founding dean.⁴⁶ As a result, the Executive Committee turned to Jerome Prince, who until recently had been the dean of Brooklyn Law School (“BLS”).⁴⁷ After a brief courtship, it was decided to offer him the job:

President Fischler distributed copies of Dean Prince’s resume, and informed the Committee that Dean Prince was willing to accept a contract to take the School through accreditation. The President and Mr. Ellis reported that Mr. Rogers and Mr. [Elliott] Barnett were favorably impressed by Dean Prince and felt that he would be the right individual to establish the Law School.

Once again, concern was expressed about committing the University to the expenditure of funds for the Law School which are not available.

President Fischler stated that Dean Prince would be satisfied with a salary of \$37,200 and a two-year contract subject to renewal for an additional two years which should take the School through . . . accreditation.

The President also reported that in a telephone conversation, Mr. Ellyson reiterated his position that he would vote against employing a dean without assurance of \$750,000 in the bank.

45. Meeting Minutes, Bd. of Trs., Nova Univ. 6–7 (Feb. 16, 1973) (on file with author).

46. See E-mails between Nathaniel E. Gozansky and author, *supra* note 43. According to Gozansky, three factors caused him to withdraw: 1) Fischler’s antagonism towards tenure; 2) not wanting to move back to South Florida; and 3) a mentor’s suggestion that he gain more experience before jumping into law school administration. See *id.*

47. After 18 years on the job, Prince had resigned as BLS’s dean in 1971. See Tribute, *Dean Jerome Prince*, 38 BROOK. L. REV. 549, 549 (1972).

After further discussion and upon motion made by Mr. Horvitz, seconded by President Fischler and unanimously carried, it was,

MOVED that subject to approval of the Board of Governors of the Law School, Dean Jerome Prince be employed as Dean of the Law School for a period of two years, renewable for an additional two years, at a salary of \$37,200 per year.⁴⁸

In May 1973, the *Miami Herald* ran a long story detailing the expansion of the University School.⁴⁹ The article ended by reporting: "The new University School building is expected to be completed by the Fall of 1974. . . . By the same term Nova University's law school will open its doors in the Rosenthal Building which now houses the University School."⁵⁰

Three days after the *Herald's* story appeared, the BOT met again. At it, members were updated on the law school's progress:

A lengthy discussion ensued during which Mr. Horvitz expressed his concern about the University committing itself to the funds for the [University School's] new building. President Fischler stated that it was essential to complete the building for the University School if the University is to move forward with the law school. . . . President Fischler [also] explained that the [Law School's] Board [of Governors] had approved the appointment of Dean Jerome Prince who later asked to be released from the contract because of his wife's failing health. He reported that Dean Prince recommended [Notre Dame Law School ('NDLS')] Professor Peter Thornton for the position. Professor Thornton accepted the appointment subject to the Trustees' approval at a salary of \$40,000 and Dean Prince agreed to serve as a consultant for a fee of \$10,000 annually plus \$5,000 expenses.

During this discussion, President Fischler also reported on the critical need for more classroom space for the New York Tech weekend college and office space for the national programs. In order to have adequate facilities, it will be necessary to finish a portion of the second floor of the Parker Building. The President also reported that

48. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 3 (Apr. 2, 1973) (on file with author).

49. See Kitty Oliver, *Educator-Tennis Pro Heads Middle College*, MIAMI HERALD, May 15, 1973, at 3-BR.

50. *Id.*

it will cost approximately \$25,000 to renovate the Rosenthal Building for the Law School after it is released by the University School.

The President reported that consideration must be given to construction of an apartment building to house the Law School students and that all these requirements together necessitate the launching of a major development effort.

Chancellor Schure pointed out the need to move the school children from the Parker Building because of the [cancer] research being conducted in the Life Sciences Center on the third floor, and the need to build a law library which will require substantial funds.

The Chancellor stated he felt there was no other viable alternative but to proceed with the Law School as committed thus necessitating a major fund raising [sic] campaign.⁵¹

Following a lunch break, the meeting resumed and the focus soon shifted back to the law school:

The Board returned to the earlier discussion of the Law School. President Fischler requested the Board to approve Professor Thornton's appointment as Dean and Dr. Prince's appointment as a consultant.

Upon motion made by Mr. Farquhar, seconded by Mr. Karr, and unanimously carried, it was,

MOVED to offer Professor Peter Thornton an appointment as Dean of the Law School effective July 1, 1973, and to offer Dr. Jerome Prince an appointment as a consultant to the Dean effective immediately.

Further discussion was held on proceeding with the Law School. It was suggested that the Executive Committee meet with the Board of Governors of the Law School to seek their advice on launchin[g] a campaign for the school.⁵²

51. Meeting Minutes, Bd. of Trs., Nova Univ. 3-4 (May 18, 1973) (on file with author).

52. *Id.* at 6-7.

In June 1973, the *Miami Herald* ran a long story about the law school.⁵³ In it, Prince was quoted as follows:

The school will recruit nationally for 'Students hungry for the law, those who feel called to the law,' Prince said. 'If a student has the drive and interest when he comes, half the battle is won.'

....

'Law is a branch of social science,' Prince remarked as he discussed developing Nova's curriculum. He said he is excited about helping start a brand new school, a slightly different job than his task of reconstructing Brooklyn Law after World War II.

'Our primary objective will be to prepare a person to practice law,' he said. 'We don't expect to train merely craftsmen, but lawyers familiar with the interrelation of man and society.'

In addition to developing an understanding of the law and its history, the program will project 'the use of law as an instrument to solve the problems of society,' Prince said.⁵⁴

The *Herald's* story said almost nothing about Thornton, and no quotes of his appeared. Moreover, while the article included photographs of both Prince and Fischler, Thornton's visage was nowhere to be seen. Instead, readers simply learned that:

Notre Dame Law School Professor Peter Thornton will serve as dean and will share with consultant Jerome Prince, dean emeritus of Brooklyn Law School, and Nova President Abraham Fischler the task of hiring six full-time professors. Thornton will begin in July shaping a program for the 450 students expected by the law school's third year.⁵⁵

A portion of the article focused on Fischler, who was asked to explain how the law school fit in with the rest of NSU and how it planned to meet the ABA's accreditation requirements:

53. See Louise Montgomery, *Nova Law School to Open in Fall, 1974*, MIA. HERALD, June 4, 1973, at 1B.

54. *Id.*

55. *Id.*

Although the law school would be out of character with the rest of the University if it were traditional, Fischler said accrediting agency standards dictate that the first-year program be much the same as other law schools—courses on torts, contracts, and other basic legal subjects. . . .

‘It’s OK to innovate, but one must be a pragmatist,’ philosophized the man who pulled the school out of near bankruptcy a few years ago. ‘We have to consider the restraints of the accrediting agencies and what leeway they will give.’

‘We have to balance the two,’ Fischler continued. ‘Accrediting agencies have been receptive to modifications that make sense.’

‘By the time we graduate our first class, the law school will have American Bar and American Association of Law Schools accreditations,’ Fischler promised.⁵⁶

Near the end of the article, Fischler estimated that the law school ultimately would need \$7 million:

The school will open in the Rosenthal Building, the first Nova building and one that has housed all of the programs at some time. The University School will move out of the building into a new plant next summer, making room for the law school and its beginning complement of 40,000 volumes in the library.

‘One function of the board ([of] trustees) and of the board of governors (a group of local lawyers) is to help raise money through philanthropy that is essential to fund the school,’ Fischler said. ‘We estimate during the next three to four years that we will need \$3 million to \$4 million in capital and library funds, and we would like to raise \$3 million in endowment for the school.’⁵⁷

56. *Id.* Fischler’s slightly fumbled reference to the Association of American Law Schools (“AALS”) requires a word of explanation. Since 1952, law schools have had to have ABA approval—without it their students are not eligible for federal loans and cannot take the bar examination in most states. See Michael Ariens, *Does the ABA Do Good? (Part II)*, MARQ. UNIV. L. SCH.: FAC. BLOG (Jan. 28, 2010), <http://law.marquette.edu/facultyblog/2010/01/does-the-aba-do-good-part-ii/>. AALS membership, on the other hand, is merely honorific. See Walter A. Rafalko, *AALS Membership: What Does It Mean to a Law School?*, U. BALT. L. F., Spring 1988, at 4, 4.

57. *Nova Law School to Open in Fall, 1974*, *supra* note 53.

The article concluded by listing the names of the law school's board of governors (Tinsley Ellis, Dwight Rogers, Foy Fleming, Elliott Barnett, Conrad Straus, and Harold Satchel); noted that several of these men previously had been NU trustees; and explained that while the "local bar association has not been officially involved in Nova's plans . . . Ellis is on the bar executive board."⁵⁸

VII. FOUNDING DEAN PETER W. THORNTON

One week after the *Miami Herald's* article, the *South Bend Tribune* in Indiana advised its readers that Thornton was leaving NDLS:

Dr. Peter W. Thornton, professor of law at the University of Notre Dame since 1968, has been named founding dean of a law school to be established at Nova University, Ft. Lauderdale, Fla. He will begin work in early July, [1973] and the first students will be enrolled in September, 1974.

Thornton served the last two years as director of Notre Dame's summer law program in London and as a faculty member there in 1970. He has also served as an advisor for the Moot Court Competition at the school.

Before coming to Notre Dame he served as a faculty member for 22 years at Brooklyn Law School, where he received his L.L.B. degree in 1941. He also served in a legal capacity with the U.S. Navy for five years and is presently a lieutenant-commander in the Naval Reserve.⁵⁹

Two weeks after arriving in Fort Lauderdale, Thornton attended the Executive Committee's July 1973 meeting, where he was "welcomed . . . to Nova

58. *Id.* As Pleasants reports, "[s]ome . . . local lawyers opposed the idea [of a law school at NSU], contending that there were enough lawyers in the area already." PLEASANTS, *supra* note 3, at 81.

59. *N.D. Law Professor to Head New School*, S. BEND TRIB., June 20, 1973, at 12; see also Thomas L. Shaffer, *Report of the Dean 1972-73*, 49 NOTRE DAME L. 214, 232-33 (1973) ("Professor Peter W. Thornton resigned from our faculty to be the founding dean of the law school at Nova University, Fort Lauderdale. He was to our students and to his colleagues here a devoted law teacher; his short five years on our faculty left a positive impression that will not fade for a long, long time.").

University and . . . wished . . . well."⁶⁰ During the meeting Thornton got to hear about NU's finances, which must have shocked him:

Mr. Karel distributed a cash flow statement as of July 16th which the Executive Committee reviewed item by item. . . .

The President reported that it was necessary to borrow \$100,000 from the Citizens National Bank against tuition to meet the June payroll and that the University is faced with the same situation for the month of July. He stated that if there is no other solution, the \$127,000 at the Barnett Bank for the [University School's] pool complex can be used but the builder must be paid in August. . . .

The Committee discussed various methods of securing the necessary funds to carry the University through the end of August when the financial picture is expected to begin to improve. No decision was made.

President Fischler also expressed concern about securing the funds needed to develop the Law School.⁶¹

In early August 1973, a long interview with Thornton appeared in the *Fort Lauderdale News*.⁶² It included a large photograph of Thornton, who was shown leaning back in his desk chair. Dressed in a dark sports coat and a pair of checkered trousers, Thornton's most notable feature was his oversized bowtie. His patrician face was topped by snow white hair, while his eyes peered out from behind large metal-framed lenses. As one would expect from a former Navy officer, his posture was ramrod straight. During the interview, Thornton, who was 55 and had been a law professor for the past 27 years, revealed exactly how he had been hired:

Thornton was teaching at Notre Dame when he got the phone call asking him to accept the position as dean. 'I was rather surprised,' he mused.

He had been recommended by his close colleague Jerome Prince, dean of the Brooklyn law school where Thornton earned his law degree and later taught.

60. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 1 (July 16, 1973) (on file with author).

61. *Id.* at 3.

62. See Ken Harrell, *Law Center Gets New Dean, but Awaits Students, Library*, FORT LAUDERDALE NEWS, Aug. 2, 1973, at 4.

Prince, Thornton explained[,] would be the consultant for the school and he would be Prince's dean.

'It seems peculiar. He (Prince) had always been my dean and now I'm going to be his. I'm proud to be recommended by him. I admire him a great deal,' Thornton said.⁶³

Much of the interview concerned what Thornton saw as his three biggest challenges: 1) developing the law library; 2) putting the school on the road to ABA accreditation; and 3) picking the right faculty members. According to the article:

First, Thornton must hire a qualified law librarian so that he can start building a legal library.

At present, the library holds 12 volumes of Wigmore [on] Evidence[,] which were donated by the Dean of [the] Brooklyn school of law, Jerome Prince. About 80,000 books are needed to build a good law library, Thornton declared.

Thornton, whose specialty as a professor was [civil] procedure and federal jurisdiction, feels somewhat uncomfortable hiring people.

That he must get used to quickly. 'One can't just buy an equipped library,' he said[,] explaining the urgency of hiring a librarian. 'This is going to be one huge [task]. The books must be selected carefully and then they must be catalogued.'

Then he must strive to have the school approved for accreditation through the American Bar Association and the Association of American Law Schools [sic]. . . .

When the time comes to hire a staff, he must try to hire the very best.⁶⁴

Two weeks after the *News*' article appeared, the Executive Committee held another meeting. The first order of business was the law school:

63. *Id.*

64. *Id.* Prince's donation of *Wigmore on Evidence* was apt, given that Prince was an evidence expert. See *Dean Jerome Prince, supra* note 47, at 549.

President Fischler reported that he had received two bids on the apartment complex for the law school students—one from Cypress Plaza and the other from Somerset Construction Corporation. He distributed copies of the letter received from each of the above, together with a memorandum analyzing the two bids. . . .

The discussion [eventually] centered around constructing the law school versus trying to secure philanthropic monies for this purpose. The amount of \$3,000 vs. \$5,000 tuition was also discussed, together with the possibility of financing the law building from tuition. Mr. Forman was in favor of charging the higher tuition. Mr. Ellis was in favor of charging a lesser tuition and increasing the number of students enrolled.⁶⁵

In late August 1973, an article in the *Miami Herald* spotlighted NU and its next-door neighbor Broward Community College.⁶⁶ Near the end of the article it was reported, “Applications are being taken for the Nova Law School, which will open in the fall of 1974. Dean Peter Thornton, a former Notre Dame Law School professor, is assembling the faculty and designing the program.”⁶⁷

In September 1973, the BOT held its Fall meeting. During it, a lengthy discussion regarding the Cypress Plaza and Somerset housing projects took place:

President Fischler referred the Board to the document containing the summary information on the Law School student housing dated August 20, 1973. He told the New York members [who were participating in the meeting by telephone] that this document is similar to the one dated August 15th which was mailed with the agenda and apologized for not being able to send it to them in time for this meeting. The President stated that there were only minor differences between the two documents. President Fischler invited Dr. Gabrielsen to speak on this subject.

65. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 1 (Aug. 15, 1973) (on file with author). As explained in the memorandum handed out at the meeting, Cypress Plaza and Somerset were two off-campus residential projects that were in the process of being built. At Cypress Plaza, NU was considering buying, at a cost of \$3.2 million, two seven-story buildings with space for 249 law students. See Memorandum from Alexander Gabrielsen, Dir. Stud. Hum. Habitability, to Abraham S. Fischler, President, Nova Univ. 1 (Aug. 15, 1973) (on file with author). At Somerset, NU was looking at paying \$3 million for two four-story buildings with space for 240 law students. See *id.* Both projects featured an equal mix of one- and two-bedroom apartments. *Id.*

66. See Louise Montgomery, *You Can Earn Ph.D. in Oceanography — or Train to Be a Stewardess*, MIA. HERALD, Aug. 24, 1973, at 2-BE.

67. *Id.*

Dr. Gabrielsen explained that for the past three months he, [architect James M.] Hartley, Mr. Farquhar and others have been exploring various routes in an attempt to arrive at the best plan for these apartments. He stated that they have met with established builders and developers in the area and he outlined the information which appeared in the summary document. (A copy of this document is to be sent to the New York members.) Dr. Gabrielsen compared the two developments—Cypress Plaza and Somerset Development Corporation—which were most adaptable to the University's needs. He then reviewed his discussion with Frank J. Rooney & Company and he recommended that the most logical route is to go with a reputable contractor who specializes in high rise apartments even though the construction costs could amount to approximately \$600,000 more.

Discussion ensued during which Mr. Forman stated that he was opposed to any construction unless the University employed a competent clerk of the works.

The consensus of the group was to pursue this matter thoroughly.⁶⁸

Later in the meeting, Thornton's request to hire José R. Pagés⁶⁹ as the law school's librarian ignited a fierce debate:

President Fischler reported that Dean Thornton has recommended Mr. Jose Pages for appointment as Librarian to the Law School. The President stated that normally this would not be brought to the Board for attention but he wanted one last discussion on the Law School.

The President asked the Board to look at the budget summary. He called their attention to the income figure for [the] Oceanography [school] of approximately \$272,00 for which no proposals have been written as yet. He also expressed his concern about the income figure estimated for the Graduate Program in Public Administration. He then pointed out the development figure of \$200,000 which has never materialized.

68. Meeting Minutes, Bd. of Trs., Nova Univ. 4 (Sept. 13, 1973) (on file with author).

69. As will be seen, in documents and newspaper stories Pagés's last name typically was spelled without the accent mark over the "e."

President Fischler informed the Board he called these items to their attention because he is concerned about the Law School in terms of the University's ability to find the \$750,000 needed to carry the school to September, 1975. The President said he is prepared to move forward with the School so long as the Trustees understand the tremendous need to raise the funds immediately. If the commitment to raise the funds is not made, we should delay a year, however, President Fischler said he doesn't know whether or not there will be any financial improvement in another year. The President asked the Board for their directions.

Chancellor Schure stated that this matter was exhausted at the last Board meeting [in May 1973] and the Trustees committed themselves to the Law School and to finding funds through development. The Chancellor said he is more concerned that a replacement [development officer] has not been found for Mr. Murray. The President advised the New York members that the gentleman who was being considered for this position turned it down because of personal problems. . . .

President Fischler asked for clarification as to employing the librarian and the Chancellor said he should be employed.

Chancellor Schure then referred to the article which appeared in 'Page One' and suggested that the President discuss this with Dean Thornton. The Chancellor said he was distressed to see that the impact was on the nation and not particularly on Broward County. He stated further that [it] is imperative that this program be responsive to Broward County; that one of its major issues is to relate to the Florida constituency. Chancellor Schure stated that he thought it was a very serious mistake for us to talk about grandiose designs since this could turn people off and hurt the fund raising [sic] aspect. The Chancellor stressed the need to be responsive to the needs of Broward County, such as by holding evening classes, etc.

Mr. Forman stated that he believed we should set a policy favoring Broward County students and this should be done immediately and the Dean should be so informed. Mr. Farquhar also agreed with this and suggested that a small handbook should be prepared informing all the faculty and staff of the problems we face with the local constituency. He said there are a great number of people 'speaking their piece' and he feels that some guidelines should be set down.

Further discussion took place. Mr. Young expressed his concern about employing the librarian and incurring other expenses in view of the cash flow picture, yet he is in accord that the decision has been made.

Chancellor Schure stated that the very large expenditures with relation to the library may have to be deferred if we are not successful in the fund raising [sic] effort but we must move ahead.

Mr. Ellyson questioned employing a librarian if there are no books. Chancellor Schure assured him there is a lot of work which needs to be done immediately.

Dr. Theobald suggested postponing the library acquisitions and trying to arrange for the use of a private law library.

Further discussion ensued about the need to employ the librarian immediately. Mr. Ellyson expressed his dissatisfaction with this action.

President Fischler explained that his reason for raising this issue is that the faculty of Nova University feels they are constantly being asked to come up with creative ideas to find the money to handle the additional burdens imposed upon them by the Trustees, and while they believe they can meet their present obligations, they find it almost impossible to raise an additional \$750,000 without the aid of the Trustees. President Fischler further stated that he is prepared to start the Law School and hire the librarian but if no development funds are received, the University will have an operating deficit of \$750,000 which will put it back to where it was in 1971.

Mr. Young reminded the Trustees that one year ago when Mr. Murray was first employed they were looking forward to money in the treasury but this did not develop. He stated that the present Trustees cannot write checks for \$750,000 in order to make the faculty happy so it is necessary to look at this very closely.

The discussion returned to employing the law librarian. Mr. Forman estimated an additional cost to the University of \$21,000 and stated that he did not feel the librarian needed a full time secretary at this time. Mr. Ellis agreed. Dr. Salten expressed his feeling that the man should be hired and the President said by doing so we are obligating the University to \$100,000 including fringe benefits.

Upon motion made by Mr. Forman, seconded by Dr. Schure and carried with a vote of twelve in favor and one opposed, it was

MOVED to employ Mr. Pages as librarian to the Law School for a period of three years at a salary commencing at \$15,000 with the understanding that if the campaign is not successful the Trustees attempt to buy off his contract.⁷⁰

In early October 1973, Thornton was the guest speaker at a dinner held at Moy's Chinese Restaurant in Hollywood, Florida, to raise money for the NU Library Society.⁷¹ During his talk, Thornton outlined his vision for the law school:

‘We are starting with a law library of zero volumes, but over the years we hopefully will have a library of 40,000 volumes, spending at a minimum \$500,000’

‘Our first class will begin September 1974, with approximately 150 students. Our law school will accommodate 450 students over the three-year program. We will use the existing buildings, Rosenthal and some space in Parker, but by the third year hope to be in our new building erected for the law center.’

‘We hope the community will become interested in the law school, take pride in its accomplishments and competence. We hope the law center will become a part of Broward County—the library will be of great help to local attorneys, the students will be a resource in assisting in research, and also helping those who cannot afford legal help.’

‘We want the goodwill of the community, and will accept any aid of any kind. We shall strive to make Nova University Law School a school of excellence.’⁷²

70. Meeting Minutes, Sept. 13, 1973, *supra* note 68, at 5–7. Schure's reference to “Page One” likely refers to the one-time Fort Lauderdale travel-and-lifestyle magazine *Page One*. A copy of this article has not been found.

71. See Alice Foster, *Dean Lists Plans for Law Center*, MIA. HERALD, Oct. 5, 1973, at 6-BR.

72. *Id.* Thornton gave similar talks to other groups. On October 30, 1973, for example, he appeared before the Young Lawyers' Section of the Broward Bar Association at the Governors' Club Hotel in downtown Fort Lauderdale. A notice in the Association's newsletter advised that the cost to attend the luncheon was \$3.50 and that Thornton would be speaking on the

Thornton then shared with the attendees a piece of good news: "Monday, the staff has multiplied 100 per cent [sic]—our professional law librarian, Dr. Jose Pages arrived."⁷³ The article advised readers that Dr. Pagés was coming from the University of Georgia's law school, where he had been the "head of acquisition[s]."⁷⁴

Five days after Thornton's talk, at another meeting of the Executive Committee, the law school's problems again were a prominent subject:

The Executive Committee then returned to the discussion of the [law student] apartment buildings and [it] agreed to temporarily delay construction of this building and to concentrate on securing funds for the construction of the University School building. . . .

The discussion then reverted to the Law School. Chairman Young reported that in a discussion with Dean Thornton, two concerns were expressed; one—whether the Law School would open in September, 1974 because of lack of funding and lack of space, and secondly the librarian was told that if he submitted orders for books to the Comptroller they would be placed on the [backburner] since funds were not available to pay for them.

Mr. Ellis stated that the librarian should not order books at this time, he should be reviewing the needs, investigating terms of purchase, etc.

With regard to a location for the Law School, the President reviewed the plan he proposed for renovating the first and second floors of the Parker Building. . . .

With regard to raising funds for the law library, Mr. Horvitz and Mr. Ellyson offered to visit Mr. Hiaasen. Mr. Ellis agreed to visit Mr. English with Mr. Farquhar. These visits are to take place after the facts and figures have been collected.

Dean Thornton was invited into the meeting and he reviewed his concerns as reported earlier by Chairman Young. The Dean stressed the need for a good law library and proper facilities in order to

"Challenges and Opportunities of Opening a New Law School." *See Meeting Notice*, BROWARD BARRISTER, Oct. 1973, at 1, 1.

73. *Dean Lists Plans for Law Center*, *supra* note 71.

74. *Id.*

achieve accreditation. The Executive Committee assured Dean Thornton of their commitment to the Law School but they explained the problems being encountered which may necessitate a delay in proceeding. The Committee suggested that the Dean continue interviewing for faculty and preparing for library acquisitions but not make any definite commitments.⁷⁵

On October 31, 1973, Pagés sent Thornton a four-page memorandum indicating that during the law school's first year, the library would need a *minimum* of \$121,186.40 to operate.⁷⁶ Unsurprisingly, this memorandum, together with another one prepared by Thornton,⁷⁷ did not go down well at the Executive Committee's November 5, 1973 meeting:

[T]he discussion returned to the financial position of the University and the future projection. It was suggested by Mr. Farquhar that the Executive Committee adopt a policy that no new projects will be undertaken for the next five years unless funding for same is in hand. This suggestion then raised the issue of the Law School.

Copies of the memorandum prepared by Mr. Pages on the needs of the law library were distributed to the members, together with a projection of income and expenses for the Law School prepared by Dean Thornton. A review of the income and expense projection indicated that the statement did not include building maintenance, power, overhead, etc. Mr. Forman disagreed with the tuition income of \$2,200 per year as shown and suggested that this figure be increased to \$3,000 per year. Mr. Ellis and President Fischler expressed concern that a tuition of this size might affect accreditation since the large tuition might prevent qualified students from applying for admission. Mr. Horvitz concurred with Mr. Forman that a tuition higher than \$2,200 is feasible since the Law School should attract local students who could save money by living at home rather than boarding at schools away from home.

75. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 2-3 (Oct. 9, 1973) (on file with author). As matters turned out, the law school apartments ended up never being built. As a result, there continues to this day to be no dedicated housing for law students. See *Housing at Nova Southeastern University*, NOVA SE. UNIV., <http://www.nova.edu/housing/index.html> (last visited May 5, 2023).

76. See Memorandum from Jose R. Pages, Law Librarian, to Peter W. Thornton, Dean (Oct. 31, 1973) (on file with author). This memorandum is titled, "Minimum Law Library Collection and Minimum Equipment" and requests \$106,186.40 for books and \$15,000 for study tables and chairs.

77. See Memorandum from Peter W. Thornton, Dean, to Abraham S. Fischler, President (Oct. 30, 1973) (on file with author). This memorandum is titled, "Estimated Income and Operating Expenses for First Three Years of Law Center Operations."

The Executive Committee requested that Dean Thornton be called into the meeting to discuss this subject.

While awaiting the Dean's arrival, the President raised the issue of classroom space. Mr. Forman offered to secure space in the Nova Public School Complex.

Dean Thornton then arrived and was questioned as to the effect of a \$3,000 tuition. Dean Thornton's response was negative and he gave as his reasons:

1. The possibility that such a high tuition might prevent accreditation by the ABA. The Dean expressed his feeling that the ABA may look on this as a money-making proposition.
2. This is particularly so if the high tuition prevents application from qualified students.
3. Cost of instruction is not that high.
4. Does not feel students should be assessed for the building and the library.

In their discussion, members of the Committee assured Dean Thornton that they are not trying to lower the quality of the School, but stressed the necessity for a stable financial position.

It was also suggested that in the early years, emphasis be placed on student recruitment in the surrounding communities.

The Executive Committee agreed to hold their next meeting on Monday, November 12, 1973 to complete the agenda and continue their deliberations on issues discussed today. In the meantime, several members agreed to investigate tuitions at various law schools⁷⁸

At the Executive Committee's November 12th meeting, discussion of the law school continued. It began with a remark by Fischler:

78. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 4-5 (Nov. 5, 1973) (on file with author).

The President referred to the Law School, stating that if the School's sole purpose is to produce attorneys, there is no need for the School. However, if the ABA can be encouraged to relax its standards so that innovations can be tested, and proven and disseminated, then the School will achieve one of the purposes of Nova University.⁷⁹

Following other business, the meeting turned to the law school's finances:

President Fischler reported that Dean Thornton had given him tuition figures of \$2,600 at the University of Miami, \$2,000 at Stetson, \$1,770 at FSU, etc. He then distributed copies of a budget covering the first three years of operation prepared by Dean Thornton, pointing out that the budget is based on using a tuition figure of \$2,200 and \$2,500 per year.

Mr. Horvitz expressed his opinion that the Law School Advisory Board should be asked to make a recommendation on the amount of tuition to be charged. Mr. Ellis reported that this Advisory Board will meet within the next few days and he would present the budget for their consideration. Mr. Forman favored starting at \$2,500 tuition the first year and increasing \$100 the second [year] and \$100 the third year.

Mr. Horvitz asked the Committee if it is realistic to provide seed money of \$150,000 with the understanding that when the Law School starts this money will be repaid to the University; and that from the beginning of the School, the Dean and his faculty will be responsible for the operational and financial aspects including the 20% overhead factor and any profit will be put back into the library or wherever necessary within the School. This policy would not be limited only to the Law School but would cover the other Centers as well. Concern was expressed that setting such a policy could create further problems if the survival of the University was involved.

The President mentioned the other problem facing the University with regard to space for the law faculty, students and library.

Further discussion took place concerning the funds needed for the establishment of the Law School. President Fischler stated that

79. Meeting Minutes, Exec. Comm. Bd. of Trs., Nova Univ. 2 (Nov. 12, 1973) (on file with author).

funds of approximately \$175,000 should be available over three years from the New York Institute of Technology program on the Nova campus toward the renovation of the Parker Building.

Mr. Ellis stated that he would like to have some positive information for the Advisory Board. He also stated that the budget looked better than he had anticipated and he expressed his opinion that this budget would allow for the beginnings of an excellent law school.

Mr. Ellis reminded the Committee that the [hiring] moratorium imposed by the Executive Committee is hindering Dean Thornton in his recruitment efforts. Although questions were raised about the adequacy of the budget, after further discussion and upon motion made by Mr. Forman, seconded by Mr. Ellis and unanimously carried, it was

MOVED to adopt the budget as submitted for the first year with a tuition of \$2,500.

Mr. Horvitz expressed his concern about implementing the above motion.

Mr. Forman moved to adopt a tentative budget for the next two years increasing the tuition by \$100 each year. After discussion, it was agreed to leave this loose and evaluate the budget at a later date.

President Fischler introduced the memorandum covering the projected library costs of \$121,186.40 for the first year which will cover the down payment towards the purchase of approximately 26 [thousand books].

Also the question of where the funds will come from was raised. Mr. Forman stated that he is proposing approval of [the] budget but not appropriation of funds. . . .

After further discussion it was agreed that the best method would be to adopt the budget and then when the Committee members visited Mr. Hiaasen and others they would have concrete figures to present. Therefore, upon motion made by Mr. Forman, seconded by Mrs. McCahill and unanimously carried, it was

MOVED to approve the projected cash figure of \$121,186.40 for the initial cash outlay for the law library.

With regard to remodeling the Parker Building for the Law School, Center for Professional Development and NYIT program, upon motion made by Mr. Forman, seconded by Mr. Ellis and unanimously carried, it was

MOVED to adopt the budget of \$350,000 for improvement of the facilities which have been recommended for the Parker Building.

Mr. Horvitz again expressed concern about the library figures, stating that Dean Thornton does not project the needs beyond the first year such as books just written, updating periodicals, operating supplies, etc. President Fischler responded that Dean Thornton is confident that these materials can be purchased from income.

Further discussion ensued on the above. It was suggested that a contingency fund be added but no action was taken.

After reviewing the steps taken previously with regard to the Law School, the Executive Committee agreed that they had a total package to be presented to prospective donors with the exception of the moratorium on faculty [hiring]. Mr. Ellis was not in favor of going before the Advisory Board and others until this was lifted. Mrs. McCahill suggested waiting until Chairman Young returned to see if he was successful in his attempt to secure the donation for which he had left the meeting earlier.

Mr. Young returned during the discussion and reported that he had just accepted a gift of a boat appraised at \$250,000 and that in his opinion the boat will sell for approximately \$150,000. The Committee members then reviewed the actions taken during Mr. Young's absence.

Mr. Young offered to lend \$125,000 against the sale of this boat to purchase the law books for the library, since he believed the boat is in excellent condition and should sell within 90 days for approximately \$150,000. Mr. Forman suggested that this action be delayed until the need arises. He then expressed the Board's appreciation for the time and effort expended by Mr. Young in securing this gift. . . .

Mr. Horvitz pointed out that using funds received from the sale of boats for the Law School diverts money from the general operating income. Further discussion ensued about using the proceeds from this boat when sold for the Law School. No decision was made but the Executive Committee agreed that if necessary it could be

announced when meeting with prospective donors that the University has a sum of money available as seed money for the Law School

The subject again reverted to the Law School and further discussion took place about the feasibility of proceeding with the School.⁸⁰

In early December 1973, the Executive Committee held its final meeting of the year. Once again, the law school was a prime topic:

President Fischler explained that because of the unlikelihood of receiving funding for a Law School building at this time, he had revised his plans for housing the Law School and the Center for Professional Development. The new plan, while it would increase the renovation cost from \$350,000 to \$450,000, would be more practical since it would enable the Law School to remain in the Parker Building for a longer period of time. Under the new plan, the Center for Professional Development would move into the Rosenthal Building and the Law School would then have the whole second floor and a portion of the first floor of the Parker Building

Mr. Horvitz suggested that as a courtesy Mr. Parker should be informed that this building will be used for the Law School.

Mr. Ellis announced that \$60,000 in scholarship funds for the Law School are now available; \$50,000 from the Horvitz Foundation through Mr. Barnett and \$10,000 through Mr. [Harold C.] Satchell.

A few of the members of the Executive Committee were not in favor of making any commitments on material, construction, and personnel until Mr. Forman succeeds in crystallizing the anticipated donation. Mr. Ellis, Mr. Forman[,] and the President were not in favor of delaying with respect to personnel and the library since it is necessary to have both if the Law School is to open in September, 1974. Mr. Forman expressed his wish to talk to prospective donors about an on-going program but he stressed the fact that even if a largedonation is received the program must be run conservatively. . . .

The President reported that Dean Thornton has recommended the appointment of Dr. Lucrecia Granda as law librarian at a salary of \$20,000 per year [due to Mr. Pagés having decided to return to the University of Georgia] and Dr. Samuel Bader as a professor at \$30,000 per year. Concern was expressed that the salary offered for the

80. *Id.* at 3-6.

professorial appointment was higher than the budget figures. The Committee indicated that Dean Thornton should be informed that he is required to stay within the total salaries budgeted.⁸¹

As the curtain began to come down on 1973, the *Miami Herald* ran a holiday story about NU.⁸² Fittingly, it began by highlighting the law school:

At a party Saturday night, Dr. Abraham Fischler was obviously elated. The energetic president of Nova University had good reason.

That day 1,200 bulletins [*i.e.*, catalogs] were mailed in response to direct inquiries about Nova Law School. Also 3,600 more were sent to pre-law advisers. Nova Law School Dean Peter Thornton, Dean Jerome Prince, consultant to Thornton and dean emeritus of Brooklyn Law School, and Dr. Fischler were there for the mailing. Nova will have space for 150 in the first class September 1974.⁸³

The bulletin, which ran 50 pages, had a plain white cover and large, centered, yellow capital letters that read: “THE CENTER FOR THE STUDY OF LAW.”⁸⁴ Underneath, in slightly smaller type, were the words: “1974-1975/NOVA UNIVERSITY” and “FORT LAUDERDALE, FLORIDA.”⁸⁵ Included in the bulletin were portraits of, and messages from, Fischler and Thornton. In his message, Fischler wrote:

At this period in our history, many of our laws are being questioned and the courts have never been busier. Questions of constitutional law, legal rights of minors, ecological and environmental problems, consumer protection, admiralty law and international law are just a few areas which are in constant review. Legal education is not only important as a single discipline, but also as a part of a good liberal education. Whether individuals enter private practice, the government, corporate activity or university work, the study of the law gives them a good foundation for logical thought and problem solving.

81. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 2-3 (Dec. 3, 1973) (on file with author). It is not known why Pagés decided to leave NU, although the probable reason—money—is not hard to guess.

82. See Alice Foster, *Party Chatter: Nova President Elated with Activities*, MIA. HERALD, Dec. 12, 1973, at 4-BR.

83. *Id.*

84. See NOVA UNIV., THE CENTER FOR THE STUDY OF LAW: BULLETIN FOR 1974-1975 (1975).

85. *Id.*

The Center for the Study of Law of Nova University is dedicated to the highest academic standards.⁸⁶

In his message, Thornton wrote:

Law, when intelligently, fairly, and equally applied, performs problem-solving functions essential to a civilized and dignified society. All who participate in the legal system whether as lawyers, judges, jurors, or law enforcement officers are charged with a high responsibility because their conduct may affect a person's pocketbook, property, business, reputation, enjoyment of constitutional rights, freedom, and possibly even life itself. The challenge in training prospective lawyers is great. Not only must legal knowledge and techniques be imparted, but there must be planted in the consciousness of each student a deep and sincere realization of the responsibility and dignity of the legal profession and an understanding that any deviation from the path of rectitude by a lawyer impairs in incalculable measure the proper functioning of the legal system. We take up that challenge and shall endeavor to meet it.⁸⁷

Several pages later, applicants were informed how much it would cost to attend the fledgling school: "Tuition per semester: \$1,250.00, Application fee: \$15.00, Tuition deposit (payable after acceptance and credited towards tuition): \$100.00, Late registration fee: \$10.00, Student activity fee per semester: \$10.00, Transcript Fee (first transcript, no charge): \$1.00."⁸⁸ Much of NU's bulletin appears to have been cribbed from the NDLS 1973/75 bulletin,⁸⁹ particularly the list of courses to be offered.⁹⁰ The NU bulletin's final page was a full-length, uncaptioned photograph of Thornton standing by himself in an empty field.⁹¹ This marked the spot where Thornton hoped to build the law school's permanent home.⁹²

86. *Id.* at i.

87. *Id.* at ii.

88. *Id.* at 12.

89. *See 1973-75 Bulletin of Information*, 70 UNIV. NOTRE DAME L. SCH., no. 4, 1973.

90. *Compare 1974-1975 NOVA UNIV. BULL.*, *supra* note 84, at 27-32 (listing 47 courses) *with 1973-75 UNIV. NOTRE DAME L. BULL.*, *supra* note 89, at 21 (listing 47 courses).

91. *See 1974-1975 NOVA UNIV. BULL.*, *supra* note 84, at 40.

92. Because the photograph contains no landmarks of any sort, it is impossible to know exactly where on NU's campus it was taken.

VIII. THE FOUNDING FACULTY

At the start of 1974, McCahill penned a long piece about her various charitable pursuits.⁹³ After discussing her work with the Fort Lauderdale Museum of the Arts, she turned to her NU activities: "I was the first woman appointed to the Board of Trustees, and I find [NU] a very exciting thing to be a part of. Planning a new law school, for instance, just isn't something you have a chance to do very often in a lifetime."⁹⁴

Three weeks later, at the BOT's first meeting of the year, a debate was held over whether the law school's opening should be delayed:

President Fischler distributed copies of a memorandum which outlined minimum expenses of \$171,500 necessary to open the Law Center by September, 1974, together with a statement of anticipated income of \$175,048. The expense figures covered only library acquisitions and renovation costs of the facilities in the Parker Building. This renovation will also make classroom space available for the NYIT programs.

A discussion ensued concerning the merits of moving forward with the school [versus] delaying it for one year. Concern was expressed about the fact that certain [philanthropic] revenue[,] such as that received from the Derby Ball, the sale of boats[,] and the Hollywood Dog Track was being included. Mr. Horvitz expressed concern that these funds will be deflected from the general operating account. President Fischler explained that these were not included in the cash flow projection. The consensus of the Board was that the University had no alternative but to proceed with the Law School and upon motion made by Dr. Salten, seconded by Mr. Karr and carried with a vote of ten in favor and two against cast by Mr. Horvitz and Mr. Ellyson, it was

MOVED to proceed with the Law School by appropriating funds for library acquisitions and the renovation of facilities in the Parker Building for the total cost of \$171,500 as presented to the Board today.⁹⁵

93. See Mary McCahill, *Mary McCahill's Dream Is Helping Broward*, MIA. HERALD, Jan. 2, 1974, at 10-CM.

94. *Id.*

95. Meeting Minutes, Bd. of Trs., Nova Univ. 1 (Jan. 21, 1974) (on file with author).

Following this vote, the BOT turned to the issue of the law school's faculty.

Under the ABA's new rules, a law school had to have, "in addition to a . . . dean and a law librarian," at least six faculty members."⁹⁶ The rules also stated: "The members of the faculty shall possess a high degree of competence, as demonstrated by education, classroom teaching ability, experience in teaching or practice, and scholarly research and writing."⁹⁷

Hiring experienced faculty, however, was proving impossible. Although NU was offering market (and in some cases above-market) salaries,⁹⁸ established law professors simply were unwilling to come to an embryonic law school at an unknown university: "Thornton had a difficult time getting senior faculty to come to a university that barely had its head above water and to begin work in a new law school without a library and cramped facilities."⁹⁹ As a result, Thornton was forced to turn to more unconventional candidates.

As previously mentioned, Thornton's first faculty hire was Bader.¹⁰⁰ Over the next few weeks, Thornton made offers to Thomas E. Baynes, Jr., a staff member at the National Center for the State Courts in Atlanta, Georgia; James E. Farrell, Jr., a 1973 NDLS graduate; and Laurance M. Hyde, Jr., the dean of the National College of the State Judiciary ("NCSJ") in Reno, Nevada. Of this group, only Hyde's hiring garnered any press notice.¹⁰¹ Despite their lack of traditional academic credentials, Baynes, Farrell, and Hyde sailed through easily at the BOT:

Mr. Ellis reported that the Advisory Board recommended the appointment of Drs. Bader, Farrell[,] and Hyde to the faculty. He stated that the only exception was Mr. Barnett, who did not vote in favor of Dr. Bader because of his age [Bader was about to turn 62].

96. See ABA STANDARDS AND RULES OF PROC., *supra* note 16, § 402(a).

97. *Id.*

98. In 1973–74, median law school salaries were \$34,440 for deans; \$21,000 for professors; and \$20,266.50 for librarians. See Millard H. Ruud & James P. White, *Legal Education and Profession Statistics 1973–74*, 26 J. LEGAL EDUC. 342, 347 (1974). As mentioned earlier, Thornton's dean salary was \$40,000, see Meeting Minutes, May 18, 1973, *supra* note 51; Bader's professorial salary was \$30,000, see Meeting Minutes, Dec. 3, 1973, *supra* note 81; and Granda's librarian salary was \$20,000, see Meeting Minutes, Dec. 3, 1973, *supra* note 81.

99. PLEASANTS, *supra* note 3, at 81.

100. See Meeting Minutes, Dec. 3, 1973, *supra* note 81.

101. See *Ex-Judge Joins Nova Law Faculty*, FORT LAUDERDALE NEWS, Jan. 29, 1974, at 2B; *Judge Hyde Leaves Reno for New Job*, RENO EVENING GAZETTE, Feb. 13, 1974, at 14. The use of the term "judge" in these headlines is a nod to the fact that Hyde had been a St. Louis Circuit Court judge prior to becoming the NCSJ's dean. See *L.M. Hyde Jr. Named Dean of Judges' College: Leaving Circuit Bench Here for National Post*, ST. LOUIS POST-DISPATCH, June 14, 1965, at 3A.

Upon motion made by Dr. Theobald, seconded by Dr. Salten and unanimously carried, it was

MOVED to approve the appointment of Dr. Bader as a full professor, Dr. Farrell as an assistant professor and Dr. Hyde as a full professor at Nova University.

Mr. Ellis further reported that due to the lack of time, the Board of Governors had not yet approved the appointment of Dr. Baynes as an assistant professor. Mr. Ellis stated that he has known Dr. Baynes a long time and would like the Board of Trustees to approve this appointment subject to the approval of the Board of Governors. Upon motion made by Dr. Theobald, seconded by Dr. Salten and unanimously carried, it was

MOVED to approve the appointment of Dr. Baynes as an assistant professor at Nova University subject to the approval of the Law Center’s Board of Governors.¹⁰²

Even with these hires, Thornton still had two slots to fill. Eventually, these positions went to John W. Reifenberg, Jr., a junior instructor at Southern Methodist University’s law school, and Bruce S. Rogow, an adjunct professor at the University of Miami’s law school.¹⁰³

In May 1974, Farrell, who had been scheduled to teach Torts, advised Thornton that he had decided not to come to NU. To replace him, Thornton reached out to a young West Palm Beach lawyer named Joel S. Berman, who agreed to leave his law firm and take Farrell’s place.¹⁰⁴

102. Meeting Minutes, Jan. 21, 1974, *supra* note 95, at 2.

103. See *Nova University Adds Pair of Instructors for Study of Law*, FORT LAUDERDALE NEWS, Aug. 15, 1974, at 12D. By the time this story appeared, Rogow had published the first article credited to a member of the NU law faculty. See Bruce S. Rogow, *Equal Justice Under Law*, 48 FLA. B.J. 536, 586 (1974). In a footnote, the article explained: “This column is written by Bruce S. Rogow, associate professor of law at the Nova University Center for the Study of Law, on behalf of the Legal Aid and Indigent Committee of The Florida Bar, Paul C. Doyle, chairman.” *Id.*

104. See Interview with Joel Berman, Vice President for Legal Affs., Nova Se. Univ., in Fort Lauderdale, Fla. (Feb. 28, 2011) (audio and transcript on file with NSUWorks). A short time earlier, Berman had had a chance encounter with Thornton and had expressed interest in teaching “someday.” See Telephone Interview with Joel S. Berman, Vice President for Legal Affs., Nova Se. Univ., in Fort Lauderdale, Fla. (Feb. 22, 2021).

Unlike the rest of the faculty, Berman had no law school teaching experience of any sort. See E-mail from Joel Berman, Vice President Legal Affs., Nova Se. Univ., to the author (Feb. 25, 2021, 9:12 A.M.) (on file with author). As a result, he received the lowest salary: \$16,000. *Id.* This figure was in line with the national average. See Ruud & White, *supra* note 98, at 348

In a 1993 tribute to the law school's early deans, Rogow shared the details of his hiring:

It must have been March 1974 when I came up to Fort Lauderdale to meet Peter Thornton, the dean of the non-existent Nova Law School.

I had read a small story in the *Miami Review* about the plan to start a new law school at Nova. I was teaching at the University of Miami Law School, and the thought of starting a law school intrigued me. I was familiar with Nova's external degree emphasis and was sympathetic to the alternative graduate educational opportunities that it and other *avant garde* schools were offering. The only other new law school on the boards was Antioch, which had started a clinical style program in Washington. I thought that Nova might have similar potential to expand the traditional curriculum to something more practical.

Peter Thornton quickly set me straight. We met at his office in the Parker Building, which was (and is) just west of our presently-sited new building. That is all there was to the law school—his office. We went to lunch at Rolling Hills Country Club. Recognizing my civil rights, legal aid, clinical legal education background, and anticipating my interests, he quickly set me straight: 'We are not going to be the Antioch of the South.' I quickly shifted gears and spoke glowingly of the virtues of the traditional law school curriculum, like it was taught at Notre Dame.

Peter had taught at Notre Dame for years. He was about 50 I guess, with beautifully white hair, blue eyes, and a reddish glow on his light complexion. He twinkled, and I sensed some clouds too. Little did I know that he had been promised a seven-figure starting fund at Nova but had only received six zeros. In any event, I liked him, he liked me, and I was hired by a telephone call a week or so later. I was to teach [C]ivil [P]rocedure.¹⁰⁵

(reporting that starting professors with no law school teaching experience during this time were earning between \$16,155.67 and \$19,378.35).

105. Bruce Rogow, *Peter Thornton, 1974–75*, in 17 NOVA L. REV. ii, ii (1993). The article that initially caught Rogow's attention had advised:

Presently the staff consists of Dean Thornton and Mrs. Debra Hole, secretary to the dean. As of Jan. 1, [1974], Dr. Lucrecia H. Granda will join the staff as law librarian

Because the group was hired so late, the law school’s 1974–1975 bulletin omitted any mention of the faculty.

IX. THE HOME STRETCH

One of the last pieces of business at the BOT’s January 1974 meeting concerned the continuing search for a major donor for the law school: “In a discussion concerning avenues of funding for the Law School, it was suggested and agreed that Messrs. Ellyson, Forman and Horvitz visit Mr. Hiaasen to determine his interest.”¹⁰⁶

By now, only \$385,000 in pledges had been received for the law school.¹⁰⁷ During a remarkably frank February 1974 speech to the Fort Lauderdale Chamber of Commerce, Fischler began by chiding the public for not supporting NU: “We just do not get the community support we need. I don’t even know if the county is education-orientated.”¹⁰⁸ A little later, he focused specifically on the law school:

Fischler directed his concern of a lack of public support to the university’s new law school which opens this September.

The school will be opening without accreditation, with the plan [being] to [seek] accreditation in three years, Fischler said. ‘But that will cost about \$750,000,’ he said.

Within three years, he explained, the school must have a 40,000-volume law library in order to be accredited by the American Bar Association. Presently the library expects to open with 20,000 volumes.

In addition, by September, a faculty of six members will be ready to teach the entering class Dean Thornton is presently engaged in negotiations which he expects will result in rounding out the initial faculty. Those who might be interested in adjunct or part-time teaching in the future should forward a resume to 3301 College Ave., Ft. Lauderdale, Fla. 33314.

New Dean Busy Building Law School, MIA. REV., Dec. 24, 1973, at 7A.

106. Meeting Minutes, Jan. 21, 1974, *supra* note 95, at 7.

107. Telephone Interview with Abraham S. Fischler, President, Nova Se. Univ., in Fort Lauderdale, Fla. (July 15, 2009).

108. Ken Harrell, *Nova U. Head Bemoans Lack of Public Support*, FORT LAUDERDALE NEWS, Feb. 16, 1974, at 3B.

'We also hope to complete our renovation plan on the second floor on the Parker Building to house the law school. We could use the support of lawyers and other private citizens to help us get this off the ground,' Fischler said.

The law school will open with space and faculty for 150 students. Already, Fischler said, 400 applications have been filed for consideration. . . .

'We'll get everything we need without the public's help,' Fischler said, 'but it won't be without some anxiety,' he said.

'Remember this will be Broward County's only law school,' he added.¹⁰⁹

Fischler's speech appears to be the first public reporting that the plan to have the law school take over the Rosenthal building had been dropped in favor of moving it into the Parker building. In his remarks, Fischler did not mention that this change had been caused by delays in the construction timetable of the University School's new building, a fact that would be publicly reported the following month.¹¹⁰

At a meeting of the Executive Committee in mid-April 1974, Fischler briefly reviewed the law library's costs:

Discussion ensued regarding the Law Library. President Fischler stated that the Library will be complete within three years, but will be payable over a period of five years. The amount due for the first year is \$121,000 and the total cost of the complete Law Library will be approximately \$500,000. The completed Library will include 40,000 volumes, 50% of which should be received during the first year.¹¹¹

At its June 1974 meeting, the BOT learned from Fischler

that admissions in the Law program have been closed with 200 qualified students being accepted from a total of over 800 students. Of

109. *Id.*

110. *See Nova Will Launch New School Complex*, FORT LAUDERDALE NEWS, Mar. 16, 1974, at 34D.

111. Meeting Minutes, Exec. Comm., Bd. of Trs., Nova Univ. 1 (Apr. 19, 1974) (on file with author).

the 200 students, it is anticipated that 150 will enroll; and should the 200 enroll there will be a problem with space. President Fischler also reported that six professors have been employed, the sixth [Berman] having just been approved by the Executive Committee.¹¹²

Later in the meeting, the BOT heard more about the law school's building switch:

President Fischler reported on the request from the Leo Goodwin Institute for Cancer Research [‘LGICR’] to use the northeast corner of the second floor of the Parker Building for a primate laboratory. He explained that Dr. [Joel] Warren[, the LGICR's director,] had been invited to submit a service proposal for a contract which would generate one-million dollars over a three-year period. An alternate to allowing Dr. Warren the use of this space is to build an outside facility.

The Chancellor stated that a primate laboratory on the second floor would be inconsistent with the Law School, and he recommended that the Board consider the purchase of a trailer, or trailers, to house the primate laboratory if a contract is received by Dr. Warren.

After further discussion and upon motion made by Mr. Horvitz, seconded by Dr. Theobald and unanimously carried, it was

MOVED that the policy of the Board is that the second floor of the Parker Building is devoted exclusively to the Law School until such time as a permanent Law School can be established.¹¹³

As the school's start date drew nearer, the effort to convert the first floor (rather than the second floor) of the Parker Building into a law school moved into high gear. Many years later, Rogow recalled the final design:

Over that summer of '74 I stopped by the Parker Building to see how construction was going. We had part of the first floor. On the west side were faculty offices; on the east, the dean's and law librarian's offices (a wonderful woman named Lucretia Granda); and in between, the library and two classrooms.¹¹⁴

112. Meeting Minutes, Bd. of Trs., Nova Univ. 1 (June 14, 1974) (on file with author).

113. *Id.*

114. *Peter Thornton, 1974–75, supra* note 105, at ii.

As it turned out, Rogow was not the only person who was curious about how the renovation effort was going. In July 1974, the *Miami Herald* ran a long piece about Granda complete with pictures showing her shelving books in the law school's still-under-construction library.¹¹⁵

By now, the law school had far exceeded its student recruiting goals. In February 1974, the law school had run a large ad in the *Miami Herald* soliciting applicants.¹¹⁶ In March 1974, the same ad had appeared in the *New York Times*.¹¹⁷ The result was a deluge of applications.¹¹⁸ The numbers were so high that when the *Fort Lauderdale News* reported on them in April 1974, it wrote: "[M]ore than 700 people have applied for admission to the law department [and] Abraham S. Fischler, university president, said the total number of applications probably will reach 800."¹¹⁹

By the time the final tally was in, Fischler's prediction had proven correct:

[A]pproximately 840 students [had] applied for admission to Nova, 327 [had been] accepted, and 175 [had] enrolled. The first class averaged a score of 555 on the Law School Admission Test (LSAT) and had a grade point average of 3.09. Acceptance to Nova's law school was based on the student's performance on the LSAT, academic achievements, personal character, and aptitude for the study of law. Nova's applicant pool included several local residents, some of whom were looking for a second career, and many of whom were older than the average law student. . . .

About [fifty-six] percent of the new class was under [twenty-five] years of age, [fourteen] percent were women, and [forty-five] percent were married. There were five Hispanic students and one African American student in the class.¹²⁰

115. See Raleigh Mann, *To Challenge and Overcome: Rough Days Behind, but Goals Ahead for Ex-Havana Lawyer*, MIA. HERALD, July 14, 1974, at 12-BR. As Pleasants reports, some of the books Granda was shelving had been donated by local law firms. See PLEASANTS, *supra* note 3, at 81.

116. See Display Ad, *Nova University Center for the Study of Law*, MIA. HERALD, Feb. 17, 1974, at 34-D.

117. See Display Ad, *Nova University Center for the Study of Law*, N.Y. TIMES, Mar. 10, 1974, at 200.

118. See *Nova U. Law School Applicants Pour In*, FORT LAUDERDALE NEWS, Apr. 4, 1974, at 2B.

119. *Id.*

120. PLEASANTS, *supra* note 3, at 82. While Pleasants says that 175 students enrolled, at the October 1974 BOT meeting Fischler reported that 182 students had enrolled. See Meeting Minutes, Bd. of Trs., Nova Univ. 1 (Oct. 14, 1974) (on file with author).

When asked about the surfeit of applications, Thornton expressed regret over the size of the classrooms, which dictated how many students could be accepted:

University officials had first expected to accept no more than 150 students for the first class. Dean Peter W. Thornton raised this . . . expectation to 175 a few days before registration began.

Many more could have been accepted if the teaching facilities had been available, Dr. Thornton said. More than 800 persons applied.

The school, known as the Nova University Center for the Study of Law, is housed for the time being on the first floor of the Louis W. Parker Physical Sciences Center, where a large bay has been divided into a law library and two classrooms capable of accommodating about 90 students each. Adjacent on the same floor are study rooms and offices for the faculty of six professors.¹²¹

The first student to put down a seat deposit—thereby becoming the first to formally accept NU’s offer of admission—was Ron Klein.¹²² Among the women in the class, two stood out right from the beginning: Fischler’s wife Shirley and former Pompano Beach City Clerk June Owens, who had resigned her position in August 1974 to attend NU.¹²³

In September 1974, the *Fort Lauderdale News* ran a lengthy piece about women law students.¹²⁴ It began by introducing readers to yet another woman in the class:

June Johnson carries a boy-size pair of blue checked sneakers through the hall at Nova University [Center] for the Study of Law while 7-year-old Mark drags his mother’s briefcase along the carpeted floor.

121. *Law Study Popular at Nova*, FORT LAUDERDALE NEWS, Sept. 8, 1974, at 4B. Because neither NU nor the law school had a dining hall, “[a] trailer [was set up] in the back of the Parker Building that students hung around [at] all day. They could get coffee, donuts, sandwiches, and other light food. [It was o]pen in the morning and afternoon.” See Feb. 25, 2021 Berman E-mail, *supra* note 104.

122. *See Inaugural Class of 1977: Ron Klein*, NOVA LAW., 2013-14, at 23.

123. *See Clerk Resigns to Attend Law School*, FORT LAUDERDALE NEWS, Aug. 15, 1974, at 2B.

124. *See Susan Forrest, Women Inspired by Law*, FORT LAUDERDALE NEWS, Sept. 19, 1974, at 1B.

‘Women studied harder this week than men. I think they were overcompensating.’ She points a sneaker at the briefcase. ‘All these books are just for one day’s classes[.]’

Mrs. Johnson, 25, has been a teacher, homemaker and full-time volunteer with emotionally disturbed children. But this semester she is among 24 women . . . in Nova’s first law school class.

Among their number are other teachers, young students, a nurse, a grandmother, social worker and editor.

The class of 13 per[cent] women is an example of an increase in the numbers of females starting law school in this area. ‘I am not surprised,’ said Dean Peter W. Thornton. ‘It has been happening the last five to seven years.’¹²⁵

Many years later, in describing the charter class, Rogow remarked:

The initial class was a wonderful mix of people who were willing to take the risk of a new, untested law school. Many of those students came to Nova because they had families in the South Florida area and could not go away to law school. Others had no choice—the new Nova was their only *entre* to becoming a lawyer.¹²⁶

The overwhelming demand generated considerable goodwill for NU. In an article in the *Fort Lauderdale News* just before the start of the school year, the paper wrote:

Nova University in Davie approaches the 10th anniversary of its founding as the new semester begins this year—an opening to be marked by yet another expansion, the inauguration of the Center for the Study of Law. . . .

A law school was not originally in the plans of the founders, who saw the institution rather as highly technically oriented, devoted to turning out Ph.D.’s in such areas as physics, mathematics, and oceanography. In its development over the past half dozen years, however, Nova has done a turnabout. While the Environmental Sciences Center (oceanography) and the Life Sciences Center (cancer

125. *Id.*

126. *Peter Thornton, 1974-75, supra note 105, at iii.*

research) continue to gain stature, increased attention has been focused on the social and behavioral sciences.

Two years ago it became evident to Dr. Fischler and the Board of Trustees that a Center for the Study of Law would be an important adjunct to the programs now in operation.¹²⁷

X. OPENING DAY

On Monday, August 26, 1974, nine days before the law school's formal christening, the faculty held its first faculty meeting.¹²⁸ It began with the appointment of Berman as "Faculty Secretary."¹²⁹ Thornton "then mentioned that the Broward County Trial Lawyers Association ha[d] invited the entire faculty to its monthly meeting on November 6th . . . [and the] consensus of opinion among the faculty was that we all should make every effort to attend said meeting."¹³⁰ Next, the incoming class's statistics were reviewed; Hyde discussed a questionnaire he planned to give his students asking about their career plans; and Thornton explained that the 1975-1976 bulletin was being finalized.¹³¹ With the foregoing out of the way, attention turned to more weighty matters:

The [final] item of discussion was the registration, orientation, and dedication procedures to be followed on September 4, 1974. Said procedures, and comments made by the faculty concerning them are as follows:

1) At 10:00 a.m. in the auditorium of the Mailman Building, the student body will meet for orientation. The Dean will first make some comments concerning the study of law. Thereafter, Frank Howard, President of the Florida Board of Bar Examiners[,] will talk to the student body concerning the Florida Bar and applications to take the Florida Bar examination.

- (a) Dean Thornton suggested that it would be a good idea for the entire faculty to be introduced to the student body at this orientation meeting. The faculty agreed with this suggestion.

127. *Nova University Starts 10th Year with Focus on New Law Center*, FORT LAUDERDALE NEWS, Aug. 8, 1974, at 11E.

128. *See* Meeting Minutes, Fac. Meeting 1 (Aug. 26, 1974) (on file with author).

129. *Id.*

130. *Id.*

131. *Id.*

- (b) Larry Hyde made the suggestion that Dean Thornton should incorporate in his remarks the fact that since Nova Law School is a new institution, the faculty and student body would be able to create new traditions for the school. The Dean agreed to incorporate such remarks.
- (c) Lucrecia Granda then suggested that the Dean incorporate in his remarks several comments about the use and importance of the law library. The [D]ean agreed to do so.
- (d) Joel Berman then remarked that said orientation meeting would be a good place for students to obtain materials which the faculty would want to give out. It was agreed that all such material may be given out at that time.

2) The [D]ean informed us that the opening and dedication ceremonies would occur at 2:30 p.m. Attending said dedication besides students and faculty would be Chief Justice [James C.] Adkins[, Jr.] of the Florida Supreme Court, Chesterfield Smith (former President of the American Bar Association), and [J. Rex Fariior, Jr.,] the President-Elect of the Florida Bar.¹³²

As laid out at the faculty meeting, on Wednesday, September 4, 1974, the law school opened its doors.¹³³ Typical for the time of year, the day was unbearably hot. For those who had not previously been to NU's campus, however, the scorching heat was the least worrisome matter. As Rogow later explained: "There were six professors, a dean, a librarian, and half of a floor in a building used for cancer research. The building was situated on a barely paved patch of land with old asphalt runways as the entrance to the building."¹³⁴

These privations, however, were forgotten as soon as Thornton began speaking: "[Thornton] provided wisdom, humor, stability and, when introducing the faculty, made it seem like the students were lucky to be in on the ground floor of this new law school."¹³⁵

132. *Id.* at 2.

133. *See Smith Keynotes Nova Law Debut, supra* note 1.

134. Bruce Rogow, *Foreword*, NOVA LAW., 2013-14, at 1. The "old asphalt runways" were a holdover from the days when the land on which NU was built had been used as a naval air training facility. *See PLEASANTS, supra* note 3, at 8.

135. *Peter Thornton, 1974-75, supra* note 105, at iii.

A copy of Thornton’s remarks has not been found. It is known, however, that during them he read the law school’s recently adopted “credo”:

Fundamentally, we are committed to creating and developing a program of excellence in the field of legal education.

We believe that legal education is basically a program of guided self-learning and that variety and flexibility in pedagogic methods are necessary to stimulate active participation in that process.

We believe that a law curriculum should be basically oriented to preparing for the practice of law, and must include skills courses and clinical programs properly blended with academic courses and seminars.

We believe that legal education must seek assistance from practicing members of the bar and the judiciary, in order to benefit from their experience and expertise.

We believe that legal education in its full scope should include continuing legal education for members of the bench and bar.

We believe that legal education cannot exist in a vacuum, but must consider social, moral, economic[,] and political problems both local and national.

Finally, we dedicate ourselves to meeting the challenge of planting in the consciousness of each prospective lawyer a deep and sincere realization of the dignity and responsibility of the legal profession.¹³⁶

As the day wore on, students registered for classes and got acquainted with one another. In the afternoon, Smith gave the keynote address. One month earlier, President Richard M. Nixon had resigned due to Watergate.¹³⁷ Taking note of this fact, Smith told the students: “Watergate didn’t hurt the legal system, it helped it. People have now seen that when there is trouble in the government,

136. See NOVA UNIVERSITY LAW CENTER: BULLETIN FOR THE ACADEMIC YEAR 1980–81, at 11 (1979) (stating that the credo was read “by Dean Peter W. Thornton at the opening and dedication ceremonies on September 4, 1974”). Although Thornton likely drafted the credo, proof of his authorship has not been found.

137. See John Herbers, *The 37th President Is First to Quit Post*, N.Y. TIMES, Aug. 9, 1974, at 1.

lawyers can make a monumental contribution. The system did work and all men [sic] can recognize that there is equal treatment under the law.”¹³⁸

XI. CONCLUSION

On Thursday, September 5, 1974, NU’s law school held its first classes.¹³⁹ Elsewhere across the country, other law schools also were starting their new semesters.

138. *Smith Keynotes Nova Law Debut, supra* note 1.

139. *See* NOVA UNIV. BULL, *supra* note 84, at vii (listing Sept 5, 1974, as the first day of class).