

“What’s Past Is Prologue”: The Story of the Sale of the
University of Puget Sound School of Law to Seattle
University¹

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CONTENTS

INTRODUCTION	774
I. SETTING THE STAGE	775
A. <i>Seattle University</i>	775
B. <i>University of Puget Sound</i>	777
C. <i>University of Puget Sound School of Law</i>	779
D. <i>Life in the Norton Clapp Law Center</i>	783
E. <i>James E. Bond Appointed Dean</i>	784
F. <i>New Leadership Comes to University of Puget Sound</i>	785
G. <i>Trouble on the Horizon</i>	787
H. <i>New Leadership in the Law School</i>	790
II. MAKING THE DEAL	791
A. <i>A Meeting of the Minds</i>	791
B. <i>Seattle University Deliberations</i>	793
C. <i>University of Puget Sound Deliberations</i>	796
III. NOVEMBER 8, 1993: THE FATEFUL DAY ARRIVES	799
A. <i>Sleuths at Work</i>	799
B. <i>Sold!</i>	802
C. <i>Students Voice Their Displeasure</i>	806

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1. “What’s Past Is Prologue” is, of course, a quotation from William Shakespeare’s play, *The Tempest*. See WILLIAM SHAKESPEARE, *THE TEMPEST* act 2, sc. 1. In borrowing this quote for the article’s title, I am indebted to my good friend and former colleague, Joan Duffy Watt. She called upon the Bard’s words in a speech she wrote on “The History of the Law School,” which was delivered in 1998 to the Seattle University Board of Regents by a distinguished law school alumnus. See Stuart Rolfe, 1978 Alumnus of University of Puget Sound Sch. of L., Keynote Address: *The History of the Law School* 5 (Feb. 6, 1998) (on file with author) (“And so, for this law school—perhaps more than any other—the past is indeed prologue.”).

IV. PICKING UP THE PIECES	808
<i>A. Understanding the Sale</i>	809
<i>B. Grieving the Loss, Fearing the Future</i>	810
<i>C. Calming the Students</i>	813
V. THE AFTERMATH	815
<i>A. University of Puget Sound Law Alumni Respond</i>	816
<i>B. The View from Within</i>	817
1. Reaction Within the University of Puget Sound Community ..	817
2. Reaction Within the Seattle University Community	818
<i>C. The Local Community Erupts</i>	820
<i>D. The Press Piles On</i>	821
1. <i>News Tribune</i> Editorials	822
2. Community Calls and Letters to the Editor.....	826
<i>E. Attempts to Upend the Sale</i>	828
<i>F. UW to the Rescue?</i>	830
<i>G. President Pierce Responds</i>	830
VI. CREATING SEATTLE UNIVERSITY SCHOOL OF LAW	833
<i>A. Winning Hearts and Minds</i>	835
<i>B. Attending to Compensation and Benefits</i>	838
<i>C. Accreditation Woes</i>	842
<i>D. Enrolling the Class and Appealing to Alumni, Employers, and</i> <i>Donors</i>	847
<i>E. The Final Days of University of Puget Sound School of Law</i>	848
VII. SEATTLE UNIVERSITY SCHOOL OF LAW COMES INTO BEING	850
<i>A. Litigation Commences</i>	850
<i>B. Seattle University Hires a “New” Dean</i>	852
<i>C. Building a New Home</i>	853
<i>D. Seattle Bound</i>	855
<i>E. Sullivan Hall Opens</i>	857
<i>F. University of Puget Sound: A Reprise</i>	858
VIII. REFLECTIONS	860
CONCLUSION.....	864

INTRODUCTION

When the Seattle University Law Review editorial staff invited me to write an updated history of Seattle University School of Law in honor of our 50th anniversary, I planned to start the narrative with the year 1989,

which was where the prior written history (authored by former Law Library Director Anita Steele and published by the Law Review) had left off.² It also happens to be the year when I graduated from this law school and joined the tenure-track faculty, so 1989 seemed like a propitious place to begin. However, as I began to do the research necessary to cover the ensuing 33 years of the school's history, I was drawn over and over again to one particular part of our story: the announcement in 1993 that the University of Puget Sound had sold its law school to Seattle University. In conducting my research, I came to realize that as others from the law school have moved on, retired, or passed away, I am the lone remaining faculty member who was here for that remarkable period in our history. Thus, in commemoration of the law school's half-century mark of existence, I have chosen to travel back in time to the defining moment on November 8, 1993, when everything changed. While 1972 marked the law school's founding, the announcement of the sale in 1993 was the critical inflection point that started us on a difficult but fascinating journey to where we are in this, our 50th year: a vibrant, urban, Jesuit, justice-focused law school, located in the heart of Seattle and at the heart of Seattle University.

I. SETTING THE STAGE

A. Seattle University

Seattle University had its origins in 1891 when two Jesuit priests founded a Catholic school for boys at Immaculate Conception Church in Seattle.³ These small beginnings eventually gave rise to Seattle College, which was incorporated on October 21, 1898, opened its doors to women in the early 1930s, and officially became Seattle University in 1948.⁴ The first century of the university's existence was marked by numerous challenges, including inadequate financial resources, an insufficient number of students, a 13-year move away from its original Capitol Hill location, disruptions caused first by World War II and then the Vietnam War, and a succession of short-lived university presidents in the late 1960s and early 1970s.⁵ Stability finally came to Seattle University in the form of William J. Sullivan, S.J., who was appointed as the university's 20th president on May 3, 1976.⁶

2. See Anita M. Steele, *History of the University of Puget Sound School of Law*, 12 U. PUGET SOUND L. REV. 309 (1989).

3. See WALT CROWLEY, SEATTLE UNIVERSITY: A CENTURY OF JESUIT EDUCATION 25 (1991).

4. See *id.* at 31, 45-48, 59.

5. See William J. Sullivan, S.J., *President's Welcome*, in WALT CROWLEY, SEATTLE UNIVERSITY: A CENTURY OF JESUIT EDUCATION 9 (1991).

6. See CROWLEY, *supra* note 3, at 99.

President Sullivan took over during a time of economic downturn, with layoffs at Boeing hitting the region particularly hard; as a result, Seattle University had lost a significant portion of its enrollment and found itself in a very challenging financial position.⁷ The new president's first task was, thus, to solve the university's longstanding financial problems.⁸ Through a great deal of hard work with his Cabinet and by making some difficult and unpopular cost-cutting decisions (including removing the university from NCAA Division I athletics), President Sullivan was eventually able to re-establish financial stability.⁹ At that point, he turned his attention to making Seattle University a first-class campus and school.¹⁰

As President Sullivan worked to bring about this transformation, he consistently challenged the university to maintain its distinctive Jesuit, Catholic character, with its corollaries of high-quality and values-based education, student professional formation, service to the community and world, and a commitment to social justice.¹¹ His vision was for Seattle University to be recognized as the "premier independent comprehensive university in the Northwest."¹² To that end, the university offered a broad and growing range of undergraduate, graduate, and professional programs in arts and sciences, business, education, science and engineering, nursing, and theology and ministry.¹³ But, despite the comprehensive and varied nature of the offerings, in President Sullivan's mind, what was missing from this mix (and essential to achieving his vision for Seattle University) was a law school.¹⁴

Interestingly, Seattle University had originally explored creating its own law school in the 1930s, but the Jesuit leadership had nixed the idea because such a venture would inevitably compete with Gonzaga

7. Telephone Interview with Virginia Parks, Prof. Emerita, Seattle Univ. (Dec. 15, 2022) (notes on file with author).

8. See *The Sullivan Era at SU: 20 Years of Excellence*, SEATTLE TIMES, May 2, 1996, at B6. William Sullivan served as president of Seattle University from 1976–1996 and is widely credited with, among other things, righting the university's financial situation and enhancing the physical footprint of the campus on Seattle's First Hill. See Miguel Otárola, *The Rev. William Sullivan, Seattle U.'s Longest-Serving President, Dies at 84*, SEATTLE TIMES (June 18, 2015), <https://www.seattletimes.com/seattle-news/education/the-rev-william-sullivan-seattle-us-longest-serving-president-dies-at-84/> [https://perma.cc/K3HL-L5JF].

9. Telephone Interview with Virginia Parks, *supra* note 7.

10. *Id.*

11. See Sullivan, *supra* note 5, at 9–13.

12. See *id.* at 10.

13. See Keith Ervinlee Moriwaki, *Seattle U Acquires UPS Law School—News of Deal Shocks and Angers Students on Tacoma Campus*, SEATTLE TIMES, Nov. 9, 1993, at A1.

14. See *id.*

University's law school in Spokane.¹⁵ Unfortunately, by the time President Sullivan revisited the idea during his presidency in the 1970s, the cost of starting a new law school was beyond the university's reach,¹⁶ leaving Seattle University as the only major Jesuit university on the West Coast that did not include a law school.¹⁷ As luck would have it, the law school President Sullivan envisioned had recently been launched 35 miles south of Seattle University, at the University of Puget Sound in Tacoma.

B. University of Puget Sound

The University of Puget Sound was founded in Tacoma in 1888 by the United Methodist Church.¹⁸ Over the succeeding years, the university retained its status as a church-affiliated institution but came to be governed by a fully independent board of trustees and to operate as a secular institution.¹⁹ In its early years, University of Puget Sound was a small liberal arts college serving mainly Tacoma and going by the name of the College of Puget Sound.²⁰ After World War II, under President R. Franklin Thompson's leadership, the university established itself as a regional, multipurpose institution, much like Seattle University.²¹ University of Puget Sound offered a mix of undergraduate, graduate, and professional programs, with satellite campuses at regional military bases in Seattle and Olympia.²² Approximately 80% of the students came from inside the state of Washington and fewer than half of the degrees awarded were in the liberal arts.²³

In June 1973, Dr. Philip M. Phibbs succeeded President Thompson (who had served in the role for 31 years and was University of Puget Sound's longest-serving president).²⁴ President Phibbs had received his Ph.D. from the University of Chicago and was serving as the executive vice president of Wellesley College in Massachusetts when he was tapped

15. See WALT CROWLEY, WILLIAM J. SULLIVAN, S.J.: A CELEBRATION OF SEATTLE UNIVERSITY'S RENAISSANCE DURING 20 YEARS UNDER ITS 20TH PRESIDENT 32 (1996).

16. Interview with Denis Ransmeier, Former Vice Pres. for Fin., Seattle Univ., in Issaquah, Wash. (Nov. 22, 2022) (notes on file with author); see also CROWLEY, *supra* note 15, at 32.

17. See CROWLEY, *supra* note 15, at 32.

18. See *United Methodist Church Affiliation*, UNIV. PUGET SOUND, <https://www.pugetsound.edu/about-puget-sound-0/history-traditions/united-methodist-church-affiliation> [<https://perma.cc/323U-MVAU>].

19. See *id.*

20. See Email from Susan Resneck Pierce, President Emerita, Univ. of Puget Sound, to author (Mar. 5, 2023, 11:07 AM) (on file with author).

21. See *id.*

22. See Jane Hadley, *Law School Sale Called 'Natural Step'*, SEATTLE POST-INTELLIGENCER, Nov. 10, 1993, at B1.

23. See *id.*

24. See *UPS Leadership to Change Hands*, NEWS TRIB., June 1, 1973, at 8.

for the University of Puget Sound presidency.²⁵ He was University of Puget Sound's 11th president,²⁶ and from the outset of his tenure, he made it clear that his focus would be on ensuring that the university "educate[d] students for a lifetime" rather than for any specific career.²⁷ His goal and expectation was that students would learn basic skills such as effective communication and how to think and analyze independently.²⁸ He also endorsed the value of deep learning through in-depth study of a field of their choosing, with the hope that students would discover the beauty of such disciplines as art, music, and literature through their college education.²⁹

Given this worldview, it is not surprising that Dr. Phibbs was the driving force behind several key university initiatives aimed at achieving academic excellence during his long tenure at University of Puget Sound, including the establishment of a chapter of Phi Beta Kappa honor society and the creation of a core undergraduate curriculum.³⁰ Early in his presidency, in the mid-1970s, he guided University of Puget Sound through an intense self-examination of its mission, which led the university to change course significantly through downsizing and eventually closing the satellite campuses and some of the graduate and professional programs.³¹ However, it was upon his return from a sabbatical in 1988 that President Phibbs laid out an even more ambitious vision for the university's future.³² He envisioned University of Puget Sound as a national, residential liberal arts institution, similar to schools such as Bowdoin, Oberlin, Pomona, and Occidental, with talented liberal arts students drawn from across the country.³³

The Board of Trustees enthusiastically endorsed President Phibbs' vision.³⁴ University of Puget Sound thus set about refining and sharpening its mission to become a nationally renowned liberal arts institution where students "learn how to learn."³⁵ In service of this mission, the university

25. *See id.*

26. *See University of Puget Sound Mourns the Death of Former President Philip M. Phibbs*, UNIV. PUGET SOUND (Mar. 23, 2022), <https://www.pugetsound.edu/stories/university-puget-sound-mourns-death-former-president-philip-m-phia> [https://perma.cc/HY3C-CRRM].

27. *See* David Seago, *New UPS President Prefers Educating Student for Lifetime*, NEWS TRIB., June 15, 1973, at 7.

28. *See id.*

29. *See id.*

30. *See University of Puget Sound Mourns the Death of Former President Philip M. Phibbs*, *supra* note 26.

31. *See* Hadley, *supra* note 22.

32. *See id.*

33. *See id.*

34. *See id.*

35. *See* Steve Maynard, *New Presidents Learning, Too*, NEWS TRIB., Aug. 17, 1992, at B1 (quoting President Susan Resneck Pierce on President Phibbs' legacy with the university).

over the course of Phibbs' nineteen-year tenure as president increased its selectivity and decreased enrollment, dramatically improved the quality of the undergraduate programs, decreased its emphasis on graduate programs, grew the endowment by a significant margin, and downsized the intercollegiate athletic programs.³⁶ Particularly germane to this narrative, the university eventually dismantled and closed most of its graduate programs.³⁷

Thus, while Seattle University and University of Puget Sound were both regional, comprehensive universities in their earlier years with a range of undergraduate, graduate, and professional programs, their paths began to markedly diverge as University of Puget Sound actively pursued its goal of becoming a smaller, more elite, national liberal arts institution and Seattle University continued down its chosen path of becoming the premier comprehensive university in the Northwest region.

C. University of Puget Sound School of Law

As with the two universities, the history of the University of Puget Sound School of Law also goes back more than one hundred years. The story began in 1912 when a group of prominent local Tacoma attorneys sought to start a new law school affiliated with University of Puget Sound³⁸ Despite initial Board of Trustee approval, those early efforts foundered the following year when the university encountered significant financial problems, and it was not until the late 1960s that another serious attempt was made to launch a law school at University of Puget Sound.³⁹ By then, a number of positive factors weighed in favor of proceeding: the university was in a strong financial position, the baby boomer generation created favorable demographics (with women and veterans returning from the Vietnam War in particular seeking access to legal education), and the unemployment rate was high, causing individuals to seek out additional career-oriented education and training.⁴⁰ In light of these factors, the leadership at University of Puget Sound commissioned Gordon D. Schaber, Dean of the McGeorge School of Law at University of the

36. See Steve Maynard, *Oregon Woman Named to Lead Tacoma's UPS*, NEWS TRIB., March 14, 1992, at B1; see also Lily Eng, *UPS President Causes Stir, Defends Sale of Law School*, SEATTLE TIMES, Dec. 2, 1993, at A1 (noting that since the 1970s, Univ. of Puget Sound had eliminated several master's programs, including public administration and business administration).

37. See Moriwaki, *supra* note 13. Specifically, the university discontinued its master's programs in public administration, business administration, comparative literature, English, and the sciences. *Id.*

38. See Steele, *supra* note 2, at 309.

39. See *id.*

40. See *id.* at 309–10.

Pacific, to conduct a study analyzing the need for a third law school in Washington, with particular emphasis on Tacoma.⁴¹

The results of the 1971 study were encouraging. The report revealed that the Seattle-Tacoma-Olympia metropolitan region was the largest population base in the country being served by only one law school (University of Washington) and without access to part-time or evening legal education.⁴² Things moved quickly from the publication of the report, with an ad hoc feasibility committee unanimously recommending that the University of Puget Sound Board of Trustees take steps to establish a law school.⁴³ The university's faculty voted overwhelmingly in favor, and on December 20, 1971, the Board concluded that such a move was both academically and financially sound and approved a resolution to establish the University of Puget Sound School of Law.⁴⁴ For purposes of this narrative, it is important to note that the decision by the Board of Trustees to launch a law school at University of Puget Sound was made 18 months before President Phibbs began his tenure,⁴⁵ so he had no role in the initial decision.

The law school was slated to open in the fall of 1972, which was remarkably fast given that the Board's approval of the proposal came in late 1971. Because time was short, immediately after Joseph A. Sinclitico, Jr., was hired as the inaugural dean and several faculty members were brought on board, attention shifted to finding a home for the new law school.⁴⁶ Perhaps because of the planned September opening, University of Puget Sound leadership chose to locate the fledgling law school in a leased building in the new Benaroya Business Park in South Tacoma, as opposed to finding suitable space on the university's main campus in North Tacoma.⁴⁷ Their stated intention at the time was to find a more permanent facility for the law school on the main campus within the next five years.⁴⁸

University of Puget Sound School of Law opened in time for fall classes, and the founding ceremony was held on October 29, 1972.⁴⁹ The ABA granted provisional accreditation to the law school in 1973 and full accreditation in 1975.⁵⁰ As to the latter, President Phibbs appeared at an

41. *See id.* at 310.

42. *See id.*

43. *See id.*

44. *See id.* at 310-11.

45. *See Hadley, supra* note 22 and accompanying text.

46. *See Steele, supra* note 2, at 311.

47. *See id.* at 312.

48. *See id.*

49. *See id.* at 313.

50. *See id.* at 313-15.

ABA Accreditation Committee hearing and promised that University of Puget Sound would build a new facility for the law school, and it was on that basis that the ABA granted the law school full accreditation so early in its existence.⁵¹

Although the law school experienced a number of ups and downs over the next few years, it continued to attract students and to grow in size.⁵² By 1976, the law school had outgrown its leased strip mall facility, and the ABA-AALS accreditation team stated in its inspection report that a new physical plant was needed, one that was owned and controlled by the university.⁵³ Unfortunately, the university had other competing priorities, and President Phibbs and the Board were not interested in footing the bill for a new law building on campus (which Phibbs estimated would cost \$4 million), nor were there a sufficient number of “well-heeled” law school alumni at that early point in the law school’s history to support a vigorous capital campaign.⁵⁴

By then, the founding dean, Joseph Sinclitico, had been succeeded by Wallace Rudolph, and it fell to Dean Rudolph (who will figure prominently again later in this story) to find a solution to the problem of where to permanently house the law school.⁵⁵ He and University of Puget Sound leadership eventually hit upon the idea of locating the law school in downtown Tacoma in the vacant Rhodes Department Store, using a “law center” model that would incorporate the law school, the Court of Appeals Division II, and various law offices within the same facility.⁵⁶

The law center idea was wonderfully entrepreneurial and ahead of its time in situating legal education within the practicing legal community, but Dean Rudolph and University of Puget Sound officials took the concept one step further by proposing the project as one that would help revitalize Tacoma’s deteriorating downtown urban core.⁵⁷ This was an important move because having the project designated as part of urban renewal would open up grants and low interest loans for University of Puget Sound to help fund the project. City officials embraced the idea and

51. See Email from William C. Oltman, Prof. Emeritus, Seattle Univ. Sch. of L., to author (Mar. 31, 2023, 9:37 PM) (on file with author). Professor Oltman was unsure as to whether President Phibbs had promised that the new law school building would be situated on the university’s main campus. When the new building still hadn’t materialized several years later, the ABA adopted an informal rule known as the “UPS Rule,” which required that a law school have its permanent building in place *before* the ABA would grant full accreditation. See *id.*

52. See Steele, *supra* note 2, at 313–15.

53. See *id.* at 316.

54. See *id.* at 316–17.

55. See *id.*

56. See *id.* at 317–18.

57. See *id.* at 317.

the Tacoma City Council voted in July 1978 to support the law center project by seeking financial assistance from the federal government.⁵⁸

In May 1979, the University of Puget Sound Board of Trustees approved the purchase and renovation of the Rhodes Department Store to create the University of Puget Sound Law Center in downtown Tacoma, with a total expense of \$9 million. With the City of Tacoma's active assistance and support, the university received two federal urban development loans totaling \$4.5 million to help fund the project.⁵⁹ The city also worked closely with a local bank in order to obtain favorable terms for a private loan to University of Puget Sound.⁶⁰ Following an intense period of renovation and construction, the Norton Clapp Law Center was dedicated on September 13, 1980, named in honor of Norton Clapp, a long-time University of Puget Sound trustee and former chairman of Weyerhaeuser.⁶¹

Then-U.S. Supreme Court Chief Justice Warren Burger headlined the dedication ceremony, and he hailed the center as "a remarkable experiment in legal education."⁶² Community leaders lauded the Law Center as "an urban pioneer in the Tacoma renaissance," providing an important institutional anchor for further revitalization and development of the downtown Tacoma core.⁶³ However, even with this successful relocation of the law school to much more conducive and appropriate space, the decision by University of Puget Sound leadership to locate the law school in downtown Tacoma, geographically separated by several miles from the bucolic University of Puget Sound main campus in North Tacoma, laid the foundation for a much more startling decision that was yet to come.

58. *See id.* at 317–18.

59. *See id.* Elsewhere, the financial arrangement was described slightly differently. For example, Tacoma City Manager Ray Corpuz stated that the city borrowed \$3 million and loaned University of Puget Sound \$1.5 million in federal funds to develop the Law Center. *See* Steve Maynard, *UPS Firm on Law School Sale: 'Deal's All Done,' Trustee Says*, NEWS TRIB., Dec. 11, 1993, at A1. Another source stated that University of Puget Sound received, with the city's assistance, a \$1.5 million federal grant and a \$3 million, low-interest, federally guaranteed loan. *See* Peter Callaghan, Editorial, *Let's Consider Some Myths about Sale of Law School*, NEWS TRIB., Dec. 5, 1993, at F1.

60. *See* Art Popham & Steve Maynard, *As Shock Settles, Tacoma's UPS Scolded for Secretive Deal to Sell Law School*, NEWS TRIB., Nov. 10, 1993, at B1 (quoting Erling Mork, former Tacoma City Manager).

61. *See* Steele, *supra* note 2, at 318–19.

62. *See* Rolfé, *supra* note 1, at 2.

63. *See* Moriwaki, *supra* note 13 (quoting David Graybill, president of the Tacoma-Pierce County Chamber of Commerce).

D. Life in the Norton Clapp Law Center

I attended the University of Puget Sound School of Law in the Norton Clapp Law Center in downtown Tacoma from 1986–89 and then joined the law faculty immediately upon graduation. Thus, I personally experienced the impact of the downtown Law Center in bringing hundreds of faculty, staff, and students into the core of Tacoma to study, work, and even live. The urban location allowed law school faculty, staff, and administrators to integrate into the legal community and profession in ways that would not have been possible had the school been located on the main campus. Students enjoyed the benefits of interning for local Pierce County law firms and externing with the superior and district courts and city, county, and state government agencies, many of which had offices just up the street from the downtown law school. In many respects, Tacoma and Pierce County were our classrooms, and the legal community and law school developed a strong and mutually beneficial relationship. Given this immersion in the legal community, it is not a coincidence that University of Puget Sound School of Law developed nationally renowned legal writing and clinical programs under the leadership of Dean Fredric Tausend, who served from 1981–1986 and was himself a highly respected practicing attorney.⁶⁴

There were also positives to the geographic separation from the perspective of the law school faculty. The physical distance between the university and law school resulted in greater autonomy than is usual even for law schools, and the law faculty were buoyed by a sense of self-governance and perhaps even self-determination. While some had close professional and personal relationships with University of Puget Sound faculty in other disciplines, many of us did not, and there were fewer opportunities for intellectual interchange and collaboration between the downtown law campus and the larger university than one might have expected. Law faculty were sometimes asked to serve on university committees, but by and large, service to the institution and governance functions were carried out internally within the law school. And although the law dean unquestionably interfaced with university leadership on policy matters and budget and finances, most of us on the faculty and staff felt distanced and immune from whatever was happening (both positive and negative) within the larger university.

64. See Steele, *supra* note 2, at 319–20. Dean Rudolph resigned in November 1979, followed by the appointment of Associate Dean Donald Cohen as Interim Dean, and then the appointment of Fredric Tausend as Dean in January 1981. See *id.* at 318–19.

E. James E. Bond Appointed Dean

It was within this context of physical and institutional separation that James E. Bond succeeded Fred Tausend as dean in July 1986.⁶⁵ Dean Bond came to University of Puget Sound from Wake Forest University School of Law in North Carolina, where he had been a professor for several years.⁶⁶ He never practiced law and was a genuine academic, having obtained his SJD degree (equivalent to a Ph.D. in law) at the University of Virginia and launching his teaching career as a Judge Advocate General instructor with the United States Army.⁶⁷ President Phibbs hired Dean Bond, the latter of whom would often tell the story of how he had forgotten to bring his wallet when he came to campus for the interview with President Phibbs, and so he found himself having to ask the president for cab fare back to his hotel! By all accounts (and based on my own personal observations), the two leaders developed a mutually respectful professional relationship as well as a close friendship.

Dean Bond came into law leadership at a challenging time in which applications to law schools were down nationally.⁶⁸ As mentioned previously, University of Puget Sound School of Law had been in growth mode since its inception, partly because of a philosophy of educational access and partly because the law school was almost entirely dependent on tuition dollars as a revenue source.⁶⁹ As a result, under Dean Tausend, entering classes had been regularly running at well over 300 students.⁷⁰ Dean Bond was strongly committed to academic excellence, and early in his tenure, he sought to reverse course somewhat by engaging the law school in a strategic planning process that resulted in a plan to gradually reduce the size of the law school student body to 750 full-time-equivalent students.⁷¹ The purpose of the gradual downsizing plan, which was approved by President Phibbs and the Board of Trustees, was to enhance the academic quality of the student body and improve performance on the bar exam.⁷²

In terms of the relationship between the university and the law school during this time, it seemed to me that Dean Bond ran effective interference for the law school, with President Phibbs' obvious admiration for Jim Bond's intellect and grounding in the liberal arts helping to moderate the

65. *See id.* at 321.

66. *See* David Sandler, *Celebrating the Legacy of an Exceptional Educator*, SEATTLE UNIV. SCH. L. LAW. MAG., Spring 2020, at 28, 31.

67. *See id.*

68. *See* Steele, *supra* note 2, at 320–21.

69. *See id.*

70. *See id.* at 321.

71. *See id.*

72. *See id.*

president's natural disaffinity for professional education. It is impossible to know for certain, but given President Phibbs' devotion to undergraduate liberal arts education, I do not believe he would have supported the founding of a law school at University of Puget Sound had he been president in the late 1960s and early 1970s when the idea resurfaced. And so, presumably out of respect for a decision that had been made before he became president and perhaps because of his strong relationship with Dean Bond, President Phibbs tolerated the law school during his tenure, even though legal education did not perfectly align with the university's primary focus on undergraduate liberal arts.⁷³

F. New Leadership Comes to University of Puget Sound

Having been successful in strengthening University of Puget Sound's reputation as a national liberal arts college during his nineteen years of service, President Phibbs retired at the end of the 1991–92 academic year.⁷⁴ Following a competitive national search for his successor that drew over 200 applicants, Susan Resneck Pierce⁷⁵ was introduced on March 13, 1992, as the University of Puget Sound's 12th president⁷⁶ and the first woman president in its 104-year history.⁷⁷

Dr. Pierce came to University of Puget Sound from Lewis and Clark College in Portland, Oregon,⁷⁸ where she had been vice president for academic affairs since 1990.⁷⁹ She possessed strong liberal arts credentials, having received her B.A. degree from Wellesley College, an M.A. in English from the University of Chicago, and her Ph.D. in English from the University of Wisconsin.⁸⁰ In taking over the leadership reins from President Phibbs,⁸¹ Dr. Pierce emphasized University of Puget

73. In contrast to my position, Professor Oltman expressed the view that President Phibbs eventually came to admire the law school as he learned about the academic rigor of the law program and got to know the faculty teaching in it. See Email from William C. Oltman, *supra* note 51.

74. See *University of Puget Sound Mourns the Death of Former President Philip M. Phibbs*, *supra* note 26.

75. At the time of the appointment, President Pierce's name was Susan Resneck Parr, but following her marriage in February 1993, she subsequently changed her name to Susan Resneck Pierce. See The Nose, *UPS President to Fit Valentine's Day Wedding into Schedule*, NEWS TRIB., Feb. 5, 1993, at B1. In order to avoid confusion, this essay uses her current name, Susan Resneck Pierce, throughout.

76. See Maynard, *supra* note 36.

77. See Maynard, *supra* note 35.

78. Interestingly, like University of Puget Sound, Lewis and Clark College is a small, private liberal arts institution that also has a law school.

79. See Maynard, *supra* note 36.

80. See *Biography*, SRP CONSULTING, <https://srpconsulting.com/about-susan-resneck-pierce/> [<https://perma.cc/4VXJ-TU2V>].

81. Dr. Phibbs was a mentor of sorts for Dr. Pierce, having been her professor in an undergraduate politics course at Wellesley College in 1961. See Maynard, *supra* note 36.

Sound's reputation as a liberal arts college known nationally for its high academic quality, and she articulated her commitment to continuing its ascension among liberal arts institutions.⁸² She arrived at a promising time in the university's history because, unlike what was happening at many colleges and universities across the county, University of Puget Sound was experiencing strong enrollment and retention numbers. In fact, one of the most significant issues facing the university was how to keep the student body small (2,800 students) given the rising national reputation and high demand for a University of Puget Sound liberal arts education.⁸³

From Dr. Pierce's perspective as the new president, University of Puget Sound had already made significant strides in achieving its liberal arts vision.⁸⁴ The Board selected her because it believed the university would benefit from her guidance and expertise in determining the next steps necessary to becoming one of the top undergraduate liberal arts institutions in the nation.⁸⁵ Significantly, in her conversations with the Board of Trustees during the interview process, she was told by several of the trustees that the law school was the biggest challenge she would face.⁸⁶ Despite what I think was a collective sense among the law faculty at the time that we were flourishing (or at least maintaining our own) as a good regional law school, some of the trustees were evidently strongly of the view that we were not keeping up or pulling our weight in terms of the university's aspirations for a national, rather than regional, reputation and student body.

Within this context, the Board was not unified in its view of what should be done about the law school.⁸⁷ Some trustees were content to let things ride, continuing an approach of what Dr. Pierce describes as "benign neglect;" others suggested that the law school's enrollment should be cut in half, bringing it closer in size to that of the University of Washington School of Law.⁸⁸ And still others among the trustees believed that having a law school was not consistent with University of Puget Sound's undergraduate liberal arts mission and that the law school should

82. *See id.*

83. *See* Maynard, *supra* note 35. Despite this positive media description of the university's position vis-a-vis other schools and colleges, Dr. Pierce recalls that when she assumed the presidency, she was faced with enrollment challenges, a structural budget deficit, and problems with student retention. *See* Memorandum from Susan Resneck Pierce, President Emerita, Univ. of Puget Sound, to author (Mar. 5, 2023) (on file with author).

84. Electronic Interview with Susan Resneck Pierce, President Emerita, Univ. of Puget Sound (Nov. 22, 2022) (notes on file with author).

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

be closed down.⁸⁹ President Pierce later described the choices facing her in 1993—to shutter the doors of the law school, neglect it, or slash its enrollment—as grim.⁹⁰ Because she did not like any of the options before her, President Pierce asked the Board to give her one year to get to better know the university and the law school, pledging that by the beginning of her second year she would undertake a planning process with the law school to determine its future.⁹¹

G. Trouble on the Horizon

Perhaps because of the doubts sown by the Board during the interview process, President Pierce's relationship with the law school seemed troubled from the very beginning of her tenure. As documented subsequently by Dean Bond, the storm clouds looming on the horizon took the form of tense negotiations in the fall of 1992 between the university and the law school over the law school's budget for the 1993–94 academic year.⁹²

It began, according to Dean Bond, when President Pierce sent him a memo in September requesting that he craft recommendations on how to reduce the size of the law school, along with a corresponding description of the budget implications of such a move.⁹³ President Pierce's stated goal in seeking to downsize the law school was to improve the academic quality, thus bringing it into better alignment with the larger university.⁹⁴ As a reminder, the law school had already approved a strategic plan near the beginning of Dean Bond's tenure that called for a reduction in the size of the law school to improve the academic credentials of the enrolled students, and the law school had been gradually implementing that plan.

Dean Bond responded to President Pierce's request with a five-year enrollment plan, accompanied by corresponding budget projections and tuition increases. He proposed a relatively ambitious reduction in the size of the entering class from the 300 students contemplated by the law school's existing long-range plan to 290 students in 1993, and then down

89. *Id.*

90. See David Wickert, *Retiring President Strengthened UPS Financially, Academically*, NEWS TRIB., June 12, 2003, at A1.

91. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

92. See James E. Bond, *The Secret History*, PUGET SOUND REP., Nov. 15, 1993 (on file with Seattle Univ. Law Library). The Puget Sound Reporter was the law school's weekly newspaper. Interestingly, this issue, which came out soon after the announcement of the sale, was published under the "Seattle University School of Law" moniker even though the formal transfer of sponsorship wouldn't take place until September 1, 1994. See *id.*

93. See *id.* Jim Bond served as the law school's dean from 1986–1993 and then again from 1995–2000. See Sandler, *supra* note 66, at 31.

94. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

to 260 entering students by 1995.⁹⁵ He made it clear in his memo that transitioning to a smaller law school at this rate would necessitate “temporary but significant help from the University.”⁹⁶

In subsequent discussions, however, President Pierce stated that the university would not provide any financial assistance to the law school to help it get smaller and improve its academic quality.⁹⁷ Facing the concerning budgetary implications of downsizing the student body at a rapid rate without financial help from the university, Dean Bond revised his five-year recommendations to propose an entering class of 290 students in 1993, but with a much slower rate of reduction in the size of the entering classes over the ensuing four years.⁹⁸

Then, in a November meeting with President Pierce and Raymond Bell (University of Puget Sound Vice President for Finance), President Pierce requested that the 1993 first-year class be limited to 270 students.⁹⁹ Dean Bond expressed surprise at the aggressiveness of the request and prepared a memo outlining the multi-year challenges the law school would face in keeping tuition increases at a reasonable level, maintaining the acclaimed legal writing, clinical, and other programs, and responsibly funding its operations.¹⁰⁰ He argued that significant cuts would be required in staff and faculty positions, the student scholarship budget, and law library resources, and that annual tuition increases would by necessity be in the double digits.¹⁰¹ Such a course of action, he argued, would lead to strongly negative reactions from the faculty and students and would damage the relationship between the law school and university.¹⁰²

At this point in the discussions, Dean Bond reverted to recommending that the law school stay with its planned entering class size of 300 students.¹⁰³ He also requested a delay in the downsizing timeline to provide an opportunity for the law school community to undertake an inclusive and deliberative planning process in order to confront the difficult choices entailed by getting smaller.¹⁰⁴

Another tense meeting ensued after Thanksgiving, this time attended by Dean Bond, President Pierce, Ray Bell, and Dr. Thomas Davis (Dean of the University).¹⁰⁵ President Pierce was still requesting a target 1L

95. See Bond, *supra* note 92.

96. See *id.*

97. See *id.*

98. See *id.*

99. See *id.*

100. See *id.*

101. See *id.*

102. See *id.*

103. See *id.*

104. See *id.*

105. See *id.*

enrollment of 270 students, but after much back-and-forth, the two sides eventually reached a compromise position, with Dean Bond agreeing to downsize the entering class from 300 to 285 students, with a corresponding 10.6% increase in tuition for the next year.¹⁰⁶

During the December holidays that followed, Dean Bond found himself reflecting on the frustrating nature of the negotiations and what he thought the fraught budgetary process and outcome portended for the law school's future.¹⁰⁷ He had reached some momentous conclusions by the end of the holiday break, to wit: his and President Pierce's management styles were incompatible, she lacked confidence in his judgment, and she was unwilling to make the continued development of the law school a university priority.¹⁰⁸ He ultimately decided that he no longer wanted the job under these difficult circumstances, and so, much to the surprise of his colleagues in the law school, myself included, Dean Bond resigned his position. He informed President Pierce in January 1993 that he would step down and return to the law faculty, leaving the timing of the public announcement of his resignation up to her.¹⁰⁹

Perhaps it was the freedom that flowed from having submitted his resignation that caused Dean Bond to write a memo to President Pierce in the latter part of January defending the law school against what must have been oft-repeated criticisms. In that memo, he noted her frequent references in their meetings to concerns she had heard from the presidential search committee and the Board of Trustees about the quality of the law school program, including the bar exam performance of its graduates.¹¹⁰ Taking on those criticisms, he objected first to the implication that the main campus had made so much progress on matters of academic quality in recent years that the law school could now be a source of embarrassment for the university.¹¹¹ Next, he proposed multiple possible measures by which one could assess undergraduate and graduate or professional programmatic quality (including admission selectivity, statistical indicators for accepted and enrolled students, graduation rates, and faculty credentials and scholarly productivity), and then proffered his hypothesis that whatever quality measures were chosen would reveal that "the law school has a much more selective student body and a far better

106. *See id.*

107. *See* Steve Maynard, *Former Dean Blasts Sale of Law School in Memo to Board*, NEWS TRIB., Nov. 18, 1993, at B3.

108. *See* Bond, *supra* note 92.

109. *See* Maynard, *supra* note 107.

110. *See* Memorandum from James E. Bond, Dean, Univ. of Puget Sound Sch. of L., to Susan Resneck Pierce, President, Univ. of Puget Sound, Concerns About Quality in the Law School I (Jan. 22, 1993) (on file with author).

111. *See id.*

credentialed and more productive faculty” than those associated with the main campus undergraduate programs.¹¹² He concluded his defense by stating that he was simply asking that the Board recognize and celebrate the fact that the law school, like the undergraduate programs, had made remarkable progress over the past ten years and was equally deserving of the Board’s pride and praise.¹¹³

H. New Leadership in the Law School

It was within this backdrop of a serious breakdown in the relationship between the law school and university leadership that President Pierce, in May 1993, appointed respected faculty member Donald Carmichael as Acting Dean for a two-year term.¹¹⁴ Dean Carmichael told the ironic story of how he had sent a memo to the two faculty members he thought were the most likely candidates for the acting dean role, stating that obviously no one would want the position but urging them to take it if offered. Much to his surprise and dismay, President Pierce approached him first, and so, “hoist[ed] on [his] own petard,” he accepted.¹¹⁵

Dean Carmichael began his deanship in July 1993, and the difficult circumstances he faced were immediately reinforced by telephone calls he received from two former senior University of Puget Sound employees warning him confidentially that “things were not as they should be between [University of Puget Sound] and the law school.”¹¹⁶ Upon his appointment, he had received instructions from President Pierce to begin a long-range planning process and produce a five-year plan in preparation for hiring the next dean.¹¹⁷ He began the work but thought it exceedingly odd when he had no scheduled appointments or any other contact with President Pierce over the next several months.¹¹⁸ As it turned out, President Pierce was otherwise occupied, having taken a meeting early that summer with President Sullivan of Seattle University, setting off a remarkable chain of events that would lead to the news of the law school’s sale just a few months later.

112. *See id.* at 1–2.

113. *See id.* at 2.

114. *See UPS Law School Names Acting Dean*, NEWS TRIB., May 8, 1993, at B2.

115. *See* Donald M. Carmichael, *How to Sell and Buy a Law School* 1–2 (July 8, 2018) (unpublished manuscript) (on file with Seattle Univ. Law Library).

116. *See id.* at 3.

117. *See id.* at 2.

118. *See id.*

II. MAKING THE DEAL

A. A Meeting of the Minds

According to reports published shortly after the announcement of the sale, the meeting at which the two leaders first discussed the possibility of transferring the law school between their institutions was one of serendipity and happenstance.¹¹⁹ In this telling, the presidents met over coffee at the Seattle Sheraton in order to quash persistent rumors that the law school had already been sold.¹²⁰ And, as the story goes, having had a good chuckle over the absurdity of the rumors, they discovered their mutual interest in exploring just such a transaction.¹²¹

The reality was a bit more complicated and decidedly more clandestine. There had long been whispers that one of our own University of Puget Sound Law faculty members, former dean Wallace Rudolph, had been the instigator of the sale. Rumor had it that Professor Rudolph saw the handwriting on the wall when Dean Bond resigned in protest over President Pierce's plans for the law school, and he privately approached President Sullivan, encouraging him to explore purchasing the law school from University of Puget Sound. Professor Rudolph has since passed away, but Denis Ransmeier, the Vice President for Finance at Seattle University at the time, confirmed that it was Professor Rudolph who first reached out to Seattle University.¹²² According to Mr. Ransmeier, Professor Rudolph's call to President Sullivan was transferred to Mr. Ransmeier because the president was out of town. This is where serendipity came into play, because Mr. Ransmeier had previously been the Chief Financial Officer at Georgetown Law School and so was very familiar with law schools and the legal education enterprise.¹²³ As a result, when Professor Rudolph made the telephone pitch for Seattle University to purchase the law school, Mr. Ransmeier was very open to the idea and enthusiastically relayed it to President Sullivan upon his subsequent return to campus.¹²⁴

119. See Lily Eng, *Law School Deal with Seattle U: How Rumor Quickly Became Real*, SEATTLE TIMES, Nov. 10, 1993, at B1; see also Steve Maynard, *UPS Law School to Leave Tacoma*, NEWS TRIB., Nov. 9, 1993, at A1 (stating that President Sullivan said he called President Pierce in July to tell her of unfounded rumors that Seattle University had acquired the law school); CROWLEY, *supra* note 15, at 31 (describing the meeting between the two over coffee at the Seattle Sheraton).

120. See Eng, *supra* note 119.

121. See *id.* University of Puget Sound Board Chair William Weyerhaeuser later acknowledged publicly that Seattle University approached University of Puget Sound in July about acquiring the law school. See Maynard, *supra* note 59.

122. Interview with Denis Ransmeier, *supra* note 16.

123. See CROWLEY, *supra* note 15, at 32.

124. Interview with Denis Ransmeier, *supra* note 16.

President Sullivan was intrigued but somewhat suspicious of the call that had come in, and so, while willing to entertain a conversation on the subject, he wanted to speak directly with President Pierce rather than having Professor Rudolph act as a go-between.¹²⁵ President Sullivan made the first call, and a confidential lunch between the two presidents was arranged, with President Pierce stating up front that she would deny any knowledge if word came out that they were having this discussion.¹²⁶ The two leaders did not meet in downtown Seattle, as was originally reported in the *Seattle Times* and elsewhere, because that would have been far too public.¹²⁷ Instead, they met for lunch in July 1993 at the DoubleTree Hotel near SeaTac International Airport, just the two of them at first and subsequently over several meetings with their respective vice presidents for finance, Denis Ransmeier and Raymond Bell, joining the discussions.¹²⁸

The general sense of that initial conversation was that a transfer of sponsorship between the two universities was a match made in heaven.¹²⁹ University of Puget Sound was a liberal arts college that found itself with a law school that did not fit its mission or vision for the future; Seattle University was a comprehensive institution with a longstanding interest in having a law school to complement its several graduate and professional programs, but without the financial wherewithal to start one from scratch.¹³⁰ According to Dr. Pierce, it took only two hours for the two of them to hammer out the framework for what each thought was necessary to go forward with the deal (with the understanding that a great deal of work would be required to determine whether it was actually feasible).¹³¹

For President Pierce, the non-negotiables in the sale were that Seattle University must honor all tenure designations, provide comparable compensation and benefits to the law school faculty and staff, and commit to not terminating any faculty for the next five years unless an individual was not awarded tenure or was dismissed for cause.¹³² President Sullivan needed assurance that the law school faculty would accept the deal and transfer their employment to Seattle University, because their skills and expertise were the basis for the law school's reputation and its value in the marketplace.¹³³ He also wanted the deal to close quickly, but with the law

125. *See id.*

126. *See id.*

127. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

128. *Id.*; Interview with Denis Ransmeier, *supra* note 16.

129. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

130. Interview with Denis Ransmeier, *supra* note 16.

131. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

132. *Id.*

133. *See* CROWLEY, *supra* note 15, at 32.

school remaining in Tacoma in the Norton Clapp Law Center for five years to allow for fundraising for a new building in Seattle or renovation of an existing one on or near the campus. Seattle University would pay rent on a five-year lease and University of Puget Sound would agree to maintain the building during the term of the lease. Both President Sullivan and President Pierce felt positive about giving law faculty and staff a five-year window in which to decide whether to make the move up to Seattle University, with no one having to make any spur of the moment life decisions.¹³⁴ At the close of the conversation, they agreed to talk immediately with their respective board leadership to get the go-ahead to continue discussions.

What followed were five months of negotiations between the two universities and their lawyers (the law firm of Reed McClure for Seattle University and Eisenhower Carlson for University of Puget Sound), with proposals being exchanged back and forth, all kept under a veil of absolute secrecy at the insistence of President Pierce and University of Puget Sound.¹³⁵ In the interests of keeping the negotiations confidential, the two presidents initially consulted on a “need to know” basis with selected members of their senior administrations and boards of trustees.

B. Seattle University Deliberations

After the initial meeting with President Pierce, President Sullivan reported to his Cabinet that the conversation went so well that “the deal will never happen; it’s too good to be true.”¹³⁶ A number of the Seattle University trustees had business connections in Tacoma, such that he chose to hold his cards quite close to the vest in the ensuing months in order to keep the deliberations secret.¹³⁷ In addition to board chair James Pigott, President Sullivan turned to only a few trusted board members who were also lawyers, confidentially checking in with them on occasion to discuss such matters as the benefits to a university of having a law school, whether a law school would integrate well into Seattle University’s Jesuit mission, and how to place a value on the entity in order to arrive at a purchase price.¹³⁸ In doing his due diligence, President Sullivan also made discreet inquiries of leaders at other Jesuit universities as to how well their law schools meshed with the Jesuit philosophy and ethos, and he asked

134. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

135. See CROWLEY, *supra* note 15, at 32; see also Interview with Denis Ransmeier, *supra* note 16 (stating he had thought it was important to consult with the law faculty before the deal was finalized but was overruled because of the University of Puget Sound’s stated need for secrecy).

136. See CROWLEY, *supra* note 15, at 31.

137. Telephone Interview with James Dwyer, Former Trustee, Seattle Univ. (Nov. 7, 2022) (notes on file with author).

138. *Id.*

trustee James Dwyer to make similar confidential inquiries at Gonzaga University, where Dwyer had close connections.¹³⁹ What they heard back on that question was somewhat mixed,¹⁴⁰ but a number of the university presidents encouraged President Sullivan to make the acquisition, saying that their law school was the most important piece of their social justice mission and that the law faculty would enhance the academic credentials of the university and have a profound impact on the level of professionalism of the rest of the faculty.¹⁴¹

In addition to consulting with a small number of trustees, President Sullivan looped in his senior administrators and a few campus and faculty leaders, forming a small, confidential group with whom he held a series of meetings to discuss whether the university should purchase the law school.¹⁴² This group posed a number of questions around how the acquisition would be funded, what it would mean for the university to have a law school, and how law faculty compensation would compare with that of current university faculty.¹⁴³ As the discussions proceeded over the course of the late summer and early fall, the participants would come to view the prospect of acquiring a law school with cautious optimism.¹⁴⁴

The purchase price was an important term in the contract and one that engendered a good deal of discussion among the senior administrators. Having crunched the numbers for Seattle University, Denis Ransmeier was certain that purchasing an existing law school with 875 students and an \$11 million budget would be far less expensive than creating one from the ground up.¹⁴⁵ In addition, it would take several years for a brand new law school to gain full accreditation, whereas the University of Puget Sound School of Law was already fully accredited by the American Bar Association (ABA).¹⁴⁶

While others were more cautious in their approach, Seattle University trustee James Dwyer, one of President Sullivan's trusted confidantes and an experienced businessman, was very enthusiastic about the acquisition, recommending that the university move forward

139. *Id.*

140. *Id.*

141. Interview with John Topel, S.J., Professor, Seattle Univ., in Seattle, Wash. (Nov. 14, 2022) (notes on file with author).

142. Interview with John Eshelman, Provost Emeritus, Seattle Univ., in Seattle, Wash. (Nov. 9, 2022) (notes on file with author).

143. *Id.*

144. *Id.*

145. Interview with Denis Ransmeier, *supra* note 16; *see also* CROWLEY, *supra* note 15, at 32.

146. *See* Editorial, *SU's Unusual Law School Buy*, SEATTLE POST-INTELLIGENCER, Nov. 11, 1993, at A14 (citing President Sullivan's reasons for purchasing an existing law school rather than starting a new one).

expeditiously, even if it had to pay a premium for the law school.¹⁴⁷ In his view, this was a unique opportunity to purchase an established company in a niche area that would be extraordinarily difficult and time consuming to start up.¹⁴⁸ In terms of valuation, Mr. Dwyer explained to President Sullivan that acquisitions are never based entirely on science, but rather are an art form.¹⁴⁹ From a business perspective, there were not many comparables and the transaction was unusual, so the appropriate price would depend to a considerable extent on the priorities of each party to the deal.¹⁵⁰

Having done his due diligence and made up his mind, President Sullivan eventually decided it was time to broach his plans with the Board of Trustees. Judith Runstad, another of the Seattle University trustees at the time and also a prominent Seattle real estate attorney, remarked that President Sullivan absolutely loved the business of real estate development and described him as a “real estate developer disguised as a Jesuit priest.”¹⁵¹ She had some very vivid recollections of the meeting at which he first brought the concept of purchasing the law school to the Board, calling the decision itself and how he went about presenting it to the trustees “a classic Bill Sullivan move.”¹⁵² President Sullivan had supreme confidence in his own judgment that this was the right thing to do, and so he chose to surprise the Board by walking into the room and announcing that he was going to buy the University of Puget Sound School of Law.¹⁵³ This was obviously problematic as a matter of corporate governance, and some of the trustees questioned the process.¹⁵⁴ However, President Sullivan was very persuasive on the merits and his force of will was undeniable, so once their many questions had been satisfactorily answered, the Seattle University trustees expressed their support for the venture.¹⁵⁵ President Sullivan reinforced to the trustees the importance of keeping the information confidential; interestingly, one of his concerns was that if word got out to the wrong people, some other entity might swoop in and acquire the law school.¹⁵⁶

Later that fall, on November 4, 1993, the Seattle University Board of Trustees, meeting in executive session, unanimously approved the

147. Telephone Interview with James Dwyer, *supra* note 137.

148. *Id.*

149. *Id.*

150. *Id.*

151. Telephone Interview with Judith Runstad, Former Trustee, Seattle Univ. (Dec. 7, 2022) (notes on file with author).

152. *Id.*

153. *Id.*; Telephone Interview with James Dwyer, *supra* note 137.

154. Telephone Interview with James Dwyer, *supra* note 137.

155. Telephone Interview with Judith Runstad, *supra* note 151.

156. *Id.*

acquisition of the law school, with two trustees abstaining.¹⁵⁷ After the formal vote, President Sullivan immediately stepped out of the room to telephone President Pierce, who was waiting for his call.¹⁵⁸ Father Stephen Sundborg, the Provincial of the Northwest Jesuits at the time (and eventual president of Seattle University), happened to be back on campus for an event on the day following the vote.¹⁵⁹ As he walked across campus in a group, President Sullivan pulled him aside and said, “I want to let you know that on Monday we are announcing that we are purchasing the law school of [University of Puget Sound]!”¹⁶⁰ Father Sundborg thought that, as the northwest representative of the Jesuits, he should have been informed of this potential development earlier in the process because of its significance for Seattle University as a Jesuit university,¹⁶¹ but “that wasn’t Bill Sullivan’s way of doing things.”¹⁶²

C. University of Puget Sound Deliberations

In the meantime, a similar deliberative process had been proceeding within University of Puget Sound, but with an even greater premium placed on keeping the deal confidential. President Pierce feared that if news of the proposed sale went public, lawsuits, negative publicity, and damage to the law school’s reputation would inevitably ensue.¹⁶³ She consulted first with her senior administrative team and her board chair, Dr. William Weyerhaeuser, and other trustees in leadership positions.¹⁶⁴ According to Dr. Weyerhaeuser, until President Sullivan initiated contact, the idea of selling the law school had never entered his mind or that of President Pierce, and there had never been any previous discussion within the Board on this topic.¹⁶⁵ However, once the contact had been made, they quickly began to see this as an opportunity to address the problem that the university lacked sufficient financial resources to both pursue its national liberal arts vision and continue to build the quality and reputation of the law school.¹⁶⁶

157. See Seattle University Board of Trustee Meeting Minutes, Executive Session (Nov. 4, 1993) (on file with author).

158. Telephone Interview with James Dwyer, *supra* note 137.

159. See Email from Stephen V. Sundborg, S.J., President Emeritus, Seattle Univ., to author (Mar. 3, 2023, 12:04 PM) (on file with author).

160. *Id.*

161. *Id.*

162. Telephone Interview with Stephen V. Sundborg, S.J., President Emeritus, Seattle Univ. (Nov. 8, 2022) (notes on file with author).

163. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

164. *Id.*

165. Telephone Interview with William Weyerhaeuser, Former Trustee, Univ. of Puget Sound (Dec. 21, 2022) (notes on file with author).

166. *Id.*

In terms of the University of Puget Sound Board of Trustees, the potential deal was initially disclosed and discussed only within the smaller, more confidential Executive Committee (EC) because of the risk that one or more trustees from the larger board might talk with former President Phibbs or the media if they were brought into the loop.¹⁶⁷ President Pierce also made the decision not to inform Phil Phibbs or Dean Carmichael ahead of time. As to the former, she wanted to avoid putting President Phibbs in an awkward position with the City of Tacoma,¹⁶⁸ and as to the latter, President Pierce thought Dean Carmichael would lose credibility with his law school colleagues if he had prior knowledge of the sale and had not shared that information with them.¹⁶⁹

George Matelich, a newer trustee at the time and a member of the EC, remembers receiving a message that a conference call was being scheduled with the group, which was a fairly unusual occurrence.¹⁷⁰ In that surprising call, President Pierce provided the trustees with information on how the initial meeting with President Sullivan came about, the nature of the proposed transaction with Seattle University, and the ways in which the sale would allow the university to better align its mission with its resources.¹⁷¹ At the conclusion of the presentation and discussion, the EC members indicated that they were favorably disposed toward the transaction and authorized President Pierce to engage in negotiations to structure and finalize the deal.¹⁷²

On the question of whether the deal was the result of a concerted effort by the Board to dispense with the law school, Dr. Weyerhaeuser stated that the law school was not a problem in the sense that they would have welcomed virtually anyone who came along to take it off their hands.¹⁷³ Similarly, Mr. Matelich said there was “no drum beat behind the scenes about the law school,” and he opined that the Board would not have taken any action, particularly closing down the law school, if the opportunity to sell it had not suddenly materialized.¹⁷⁴

However, there was at least one trustee who seemed to hold a particularly jaundiced view of the law school. Lowry Wyatt, trustee and immediate-past board chair, engaged in a conversation with Congressman

167. Electronic Interview with George Matelich, Former Trustee, Univ. of Puget Sound (Dec. 20, 2022) (notes on file with author).

168. Email from Susan Resneck Pierce, President Emerita, Univ. of Puget Sound, to author (Nov. 28, 2022, 3:09 PM) (on file with author).

169. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

170. Electronic Interview with George Matelich, *supra* note 167.

171. *Id.*

172. *Id.*

173. Telephone Interview with William Weyerhaeuser, *supra* note 165.

174. Electronic Interview with George Matelich, *supra* note 167.

Dicks over dinner one evening in which he made his views on the law school known. The two were having an animated discussion in a local restaurant, and a law school staff member just happened to be dining at an adjacent table and overheard the entire conversation. In that exchange, Mr. Wyatt described the law school as a drain on the resources of the university, made highly derogatory comments about the law faculty, and referred to the alliance between the law school and University of Puget Sound as “unnatural” because the undergraduate program was so selective and the law school was so mediocre and second-rate.¹⁷⁵

According to both President Pierce and Dr. Weyerhaeuser, a key factor in the Board’s ultimate decision to sell was that it was Seattle University that was seeking to acquire the law school.¹⁷⁶ President Sullivan gained the Board’s confidence through his obvious commitment to Seattle University’s mission as a premier comprehensive institution, and he made a convincing case of the law school’s fit within that mission such that they could rest easier in their decision.¹⁷⁷ For Dr. Pierce, the ease with which the very complex deal had come together was also a significant factor in her growing conviction that this was the right move. She described one of the final nights of negotiations when President Sullivan was in San Francisco and the respective financial vice presidents could not reach agreement on a thorny issue, but when the two presidents got on the phone, they resolved the issue within ten minutes.¹⁷⁸ The fact that the two leaders saw things so similarly gave everyone involved confidence that the law school’s future would be bright (and better) under Seattle University’s sponsorship.¹⁷⁹

As the negotiations wound down and shortly before the deal was to be brought to the full board for approval, President Pierce, Dr. Weyerhaeuser, and Mr. Wyatt took one final step, which was to loop in Norton Clapp, former chairman of Weyerhaeuser and a long-time and now retired University of Puget Sound trustee, for whom the Norton Clapp Law

175. See Memorandum from Anonymous Law Staff Member, to Jim Bond, Dean, Univ. of Puget Sound Sch. of L., Misrepresentations of the Law School (Dec. 7, 1993) (on file with author). This conversation was contemporaneously documented by the staff member (who wishes to remain anonymous but is known to the author) in a memo to Dean Bond. The staff member happened to be having dinner with friends at the Sheraton Hotel in Tacoma a little less than a month after the announcement of the sale when the conversation between Congressman Dicks and Mr. Wyatt was overheard. The timing was such that this was just prior to Congressman Dicks’ presentation to the University of Puget Sound’s Board of Trustees asking for reconsideration of the decision to sell the law school, and he was relating his concerns about the economic and intellectual impacts on downtown Tacoma, to which Mr. Wyatt responded with his views of the law school. See *id.* at 1–2.

176. Telephone Interview with William Weyerhaeuser, *supra* note 165; Electronic Interview with Susan Resneck Pierce, *supra* note 84.

177. Telephone Interview with William Weyerhaeuser, *supra* note 165.

178. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

179. *Id.*

Center had been named.¹⁸⁰ After listening to the proposal and asking a number of questions, Mr. Clapp expressed his support and volunteered to come to the board meeting and make the motion as trustee emeritus. He did just that, and the final vote of the University of Puget Sound Board of Trustees, taken on November 8, 1993, was 31–2 in favor of the sale.¹⁸¹

This final approval set the stage for going public with the big news that University of Puget Sound was selling, and Seattle University was purchasing, a law school.

III. NOVEMBER 8, 1993: THE FATEFUL DAY ARRIVES

A. Sleuths at Work

It is truly remarkable that news of the sale had not leaked, given that by the time Seattle University's twenty-four trustees and University of Puget Sound's thirty-three trustees met in separate board meetings to vote to approve the deal, more than fifty individuals from each side of the transaction (lawyers, administrators, trustees, and university leadership) had been informed of the proposed purchase and sale and sworn to secrecy.¹⁸² There were, however, some signs within the law school that change was coming.

On Friday, November 5, 1993, an anonymous phone call came into the law school administrative offices, and Shirley Page, Dean Carmichael's executive assistant, took the call.¹⁸³ The caller said only that the University of Puget Sound Board of Trustees was holding a secret meeting over the weekend, and that the law school was the subject of that meeting.¹⁸⁴ Ms. Page shared the information with Dean Carmichael, who immediately called Professor Bond, who contacted Phil Phibbs, who confirmed that something big was happening involving the law school and a shift in its future.¹⁸⁵ A small group of senior administrators and faculty—Carmichael, Watt, Deming, Professor David Boerner, and Professor John Weaver—huddled in the Dean's Conference Room running through possible scenarios, one of which was that the law school was being sold.¹⁸⁶ That weekend Dean Carmichael sought out a trusted West Coast academic

180. *Id.*

181. See Rebecca Page, *Law School Sold to Seattle U.*, TRAIL, Nov. 11, 1993, at 1 (on file with Seattle Univ. Law Library). *The Trail* is the official publication of the Associated Students of the University of Puget Sound.

182. See Eng, *supra* note 119.

183. Telephone Interview with Donna Claxton Deming, Former Assoc. Dean for Student Affs., Seattle Univ. Sch. of L. (Dec. 9, 2022) (notes on file with author).

184. *Id.*

185. Interview with Joan Duffy Watt, former Assoc. Dean, Seattle Univ. Sch. of L., in Seattle, Wash. (Dec. 13, 2022) (notes on file with author).

186. *Id.*

acquaintance, who posited that University of Puget Sound was trying to conform to the Carnegie Foundation's classification for national liberal arts colleges¹⁸⁷ and that, if the law school were being sold, it was likely to Seattle University.¹⁸⁸

Dean Carmichael was invited by President Pierce's office on Sunday night to join her at the President's House on campus for lunch at 12:00 the next day.¹⁸⁹ He was also informed that the president would be meeting with the law faculty at 1:30, followed by a press conference at 3:00.¹⁹⁰ On Monday morning, Dean Deming noticed that Dean Carmichael was wearing a formal suit, which she took as a clear signal that something was up because he never wore suits to work.¹⁹¹ Things were beginning to buzz in the law school, and Dean Watt received a phone call that morning from Greg Brewis, director of public relations at University of Puget Sound, who asked if she knew anything about what was going to be announced because he had been left out of the information loop.

Before leaving for lunch, Dean Carmichael told Dean Deming to get a memo out to the faculty immediately informing them of an emergency faculty meeting that afternoon, which they were to attend even if it required canceling classes.¹⁹² Dean Carmichael then headed to President Pierce's home. Once there, he chose to use the information he had gleaned over the weekend to beat President Pierce to the punch by announcing right away that he knew the law school was being purchased by Seattle University.¹⁹³ At that point the jig was up, and so she called Dr. Weyerhaeuser into the room for a handshake, and they were then joined for lunch by President Sullivan, Provost John Eshelman, and VP Ransmeier.¹⁹⁴

The first inkling the law faculty had that something was afoot was via the memorandum, delivered personally by administrative staff to those who were in their offices and via faculty mailboxes for those who were not—remember, this was before email, so communications took the form of individual pieces of paper—on the morning of Monday, November 8, 1993. In that memo, Dean Carmichael informed the tenure-track faculty, long-term contract faculty, and legal writing instructors that he had “just

187. Dr. Pierce has since described the University of Puget Sound's move into the national liberal arts Carnegie classification as a benefit of, but not the motivation for, the sale of the law school. See Email from Susan Resneck Pierce, *supra* note 168.

188. See Carmichael, *supra* note 115, at 2.

189. See *id.*

190. See *id.*

191. Telephone Interview with Donna Claxton Deming, *supra* note 183.

192. *Id.*

193. See Carmichael, *supra* note 115, at 2.

194. See *id.*

learned that there will be a special meeting for all law faculty members with President Pierce and Dr. Weyerhaeuser, President of the University Board of Trustees,” at 1:30 that afternoon.¹⁹⁵

Various faculty experienced that fateful morning quite differently. For example, Professor William Oltman was teaching a class when the memo went around, so he had no idea what was coming.¹⁹⁶ After finishing teaching, he recalls standing outside the classroom answering students’ questions when someone from the Dean’s Office came by and told him he needed to get to the special faculty meeting.¹⁹⁷ Sensing the urgency behind the message, he hurried to the meeting rather than returning to his office first and had the unsettling experience of people asking him whether the law school had been sold as he made his way into the room.¹⁹⁸

In contrast, Professor Anne Enquist had been sitting in her office directly across from the Faculty Lounge with her door closed when Nancy Ammons, one of the faculty administrative assistants, knocked and delivered the memo regarding the mandatory faculty meeting.¹⁹⁹ Professor Enquist remembers looking out the window at the seemingly normal day and wondering whether the country was at war.²⁰⁰ Similarly, Professor Laurel Oates was in her office that morning doing preparatory work for class when she received a mysterious call from a reporter from the *News Tribune* wanting to know what she knew about what was happening with the law school (which at that point was nothing).²⁰¹ Shortly after, she, too, received the knock on her door and was told about the mandatory meeting.²⁰²

As Ms. Ammons proceeded down the hallway, faculty appeared one-by-one in their office doorways with confused looks on their faces, and they then began to gather in the Faculty Lounge to speculate on what was up.²⁰³ Their initial thought was that the law school was being disbanded, and those present began to talk about continuing as a stand-alone law school, or contacting other universities that might be interested, or even

195. See Memorandum from Donald M. Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Tenure-Track and Long-Term Contract Faculty and Legal Writing Instructors, Special Meeting TODAY (Nov. 8, 1993) (on file with Seattle Univ. Law Library).

196. See Email from William C. Oltman, Prof. Emeritus, Seattle Univ. School of L., to author (Dec. 22, 2022, 3:03 PM) (on file with author); Telephone Interview with Anne Enquist, Prof. Emerita, Seattle Univ. School of L. (Dec. 9, 2022) (notes on file with author).

197. See Email from William C. Oltman, *supra* note 196.

198. See *id.*

199. Telephone Interview with Anne Enquist, *supra* note 196.

200. *Id.*

201. Telephone Interview with Laurel Oates, Prof. Emerita, Seattle Univ. School of L. (Dec. 19, 2022) (notes on file with author).

202. *Id.*

203. Telephone Interview with Anne Enquist, *supra* note 196.

trying to work with Alaska (the only state in the country that did not have a law school).²⁰⁴ Professor Rudolph—who, of course, had secretly started this ball rolling—said he thought University of Puget Sound had sold the law school, which prompted questions as to whether a law school could even be sold, and if so, what precisely the buyer would be purchasing.²⁰⁵

Former Dean Bond wasn't in the building, but knowing he would be the person most able to quickly access confidential information, one of the gathered faculty members called him at home.²⁰⁶ He said he would call someone to try to find out, and in the meantime, the faculty group checked with the administrative staff downstairs, who said they did not know what was happening either but that the university had called a press conference for that afternoon.²⁰⁷ Professor Bond called the group of faculty back soon thereafter, explaining that he had had a coded conversation with someone in the know (a conversation in which silence on the other side operated as assent), and he could confirm that the law school was, in fact, being purchased by Seattle University.²⁰⁸ As Professor Shapiro put it, "I'm pretty sure we knew that the law school was being sold about an hour before the meeting. We knew it was to [Seattle University], but we had no idea what it *meant* that the law school was being sold."²⁰⁹

B. Sold!

The faculty and staff (myself included) felt considerable trepidation as we all gathered that afternoon in the large classroom, whispering with each other and waiting to hear our fate.²¹⁰ There had been strange sightings: Dean Deming had spotted a priest wearing a collar waiting outside the classroom,²¹¹ and Lori Lamb, a faculty administrative assistant, had been about to go to lunch when she learned from another staff member that President Pierce was in the building, which was the first time in anyone's memory.²¹² And then, shortly after 1:30, President Pierce and Dr. Weyerhaeuser walked in and stood rather awkwardly on the small dais at the front of the room.²¹³ Dr. Weyerhaeuser proceeded to announce that

204. Telephone Interview with Laurel Oates, *supra* note 201.

205. Telephone Interview with Anne Enquist, *supra* note 196.

206. *Id.*

207. *Id.*

208. *Id.*

209. See Email from Julie Shapiro, Prof. Emerita, Seattle Univ. Sch. of L., to author (Dec. 9, 2022, 1:38 PM) (on file with author).

210. See Email from William C. Oltman, *supra* note 196.

211. Telephone Interview with Donna Claxton Deming, *supra* note 183.

212. Interview with Lori Lamb, Faculty Admin. Assistant, Seattle Univ. Sch. of L., in Seattle, Wash. (Dec. 13, 2022) (notes on file with author).

213. See Email from William C. Oltman, *supra* note 196.

University of Puget Sound was transferring sponsorship of the law school to Seattle University.²¹⁴

It is hard to describe to someone who was not there how those words hit. It was like being kicked in the gut and slapped in the face at the same time. Disbelief, bewilderment, denial, sadness, shock, anger, hurt, fear. What made the decision so inexplicable was that the law school was not a failing institution. Rather, we were being sold because we were not wanted by our parent university, and to a university most of us knew nothing about. In that moment, individual faculty and staff had no idea what this news meant for them and their jobs, and they genuinely feared for their livelihoods and their beloved law school.²¹⁵ Some faculty worried they might have to return to practicing law, contract faculty wondered whether Seattle University would employ only the tenured faculty, and staff were afraid they would be terminated.²¹⁶

While all of this was swirling through our heads, President Pierce and Dr. Weyerhaeuser proceeded to lay out the basic terms of the purchase and sale agreement. The University of Puget Sound School of Law was being sold to Seattle University, with the change of sponsorship set to occur on September 1, 1994.²¹⁷ The law school's current staff and thirty-seven full-time faculty members would be retained by Seattle University at equivalent or higher compensation levels, and all tenured faculty would have their tenure transferred to Seattle University.²¹⁸ The law school would remain in Tacoma for five years, leasing space in the Norton Clapp Law Center from University of Puget Sound while Seattle University undertook fundraising efforts to build a new on-campus law building, and the law school operation would be relocated to Seattle in 1999 in time for classes to begin that fall.²¹⁹ Currently enrolled students would be permitted to choose whether their law degrees were issued by University of Puget Sound or Seattle University and new students enrolling for the 1994–95 academic year would be students of Seattle University.²²⁰ Finally, the two universities would work together to ensure an orderly transition, including

214. *See id.*

215. Telephone Interview with Anne Enquist, *supra* note 196; Email from William C. Oltman, *supra* note 196.

216. Telephone Interview with Laurel Oates, *supra* note 201.

217. *See* Maynard, *supra* note 119.

218. *See* Memorandum from Susan Resneck Pierce, President, Univ. of Puget Sound, and William T. Weyerhaeuser, Chairman, Univ. of Puget Sound Bd. of Tr., to Campus Community, Transfer of Law School Sponsorship to Seattle University 2 (Nov. 8, 1993) (on file with Seattle Univ. Law Library).

219. *See* Maynard, *supra* note 119.

220. *See* Memorandum from Susan Resneck Pierce & William T. Weyerhaeuser, *supra* note 218, at 3.

ensuring that the appropriate accreditations were granted to the law school.²²¹

Intense anger roiled through the group as the faculty and staff absorbed the news of the “transfer of sponsorship.” Despite the euphemism used to describe the transaction,²²² we quickly understood that this was a purchase and sale, and that we, like chattel assets, were a part of the deal. There were few questions asked of President Pierce and Dr. Weyerhaeuser, although Professor Oltman inquired whether the law school’s endowed chairs would be staying with University of Puget Sound or coming with the law school, and the response—that the donors wanted the funds to stay with University of Puget Sound—provoked a rumble of displeasure.²²³ Before long Professor Douglas Branson said what many of us were thinking: “We don’t have anything else to say to you. Bring the new people in.”²²⁴ Although President Pierce appeared taken aback by the abrupt dismissal, she and Dr. Weyerhaeuser acquiesced and exited the room.²²⁵

The absolute silence that accompanied their exit was broken by the rousing applause and standing ovation that greeted President Sullivan, Provost Eshelman, and VP Ransmeier of Seattle University as they entered the classroom.²²⁶ President Sullivan later described that particular moment as the most memorable of his long and successful presidency.²²⁷ He began his remarks by assuring the faculty and staff that he had not been driving up and down I-5 looking for a law school, but if he had, this was the one he would have wanted.²²⁸ He also emphasized that this was not a rescue operation of a failing law school, but rather part of a plan to create a premier law school on the Seattle University campus.²²⁹

It was obvious to everyone in the room that the Seattle University leaders had done their homework. They apologized for the secrecy surrounding the sale and said they had been studying the law school for a long time and were very impressed.²³⁰ Lori Lamb remembers being

221. *See id.*

222. While many were insulted by University of Puget Sound’s use of “transfer of sponsorship” to describe the deal, it was legal counsel who insisted on the terminology. The hope was that the ABA, when making its accreditation decision, would view the law school as essentially the same one, just under a new parent institution, and transfer full accreditation from University of Puget Sound to Seattle University School of Law. *See* Electronic Interview with Susan Resneck Pierce, *supra* note 84. Unfortunately, as discussed *infra*, that was not to be.

223. Telephone Interview with Anne Enquist, *supra* note 196.

224. *Id.*

225. *Id.*

226. *See* Carmichael, *supra* note 115, at 2.

227. *See* CROWLEY, *supra* note 15, at 32–33.

228. *See id.* at 33.

229. *See id.*

230. Telephone Interview with Anne Enquist, *supra* note 196.

surprised that they knew each person's name and role within the law school;²³¹ Professor Oates and Professor Enquist recalled with appreciation how President Sullivan specifically praised the clinical and legal writing programs, and the Academic Resource Center, naming the most vulnerable programs in the law school and providing assurance that they would continue to thrive under Seattle University.²³² And perhaps most importantly, President Sullivan reassured everyone that no one would lose their jobs in the transition to Seattle University.²³³

With that assurance, the questions began to flow as the faculty and staff took the first step in getting to know their new bosses. Near the end of the meeting, Professor David Skover echoed a growing sentiment in the room when he uttered the following:

I understand why so many of you are shocked and distressed at the announcement of the school's sale. It is difficult to be the very last to know about a transition that, first and foremost, impacts us. But rather than rail against what is a fait accompli and bemoan what has been lost, I choose to embrace the future and be grateful for what may be gained. We have been abandoned by a college that did not want us, and adopted by a university that is eager to have us. I am ready to become an eager member of the Seattle University family, and I encourage all of you to join me in this new venture with a full measure of hope, trust, and good will.²³⁴

Immediately following what was a very memorable meeting for us all, University of Puget Sound distributed a three-page memorandum from Dr. Weyerhaeuser and President Pierce to the press and the entire campus community. It announced that “[the Board of Trustees] today voted to accept an offer from the Board of Trustees of Seattle University to transfer the sponsorship and operation of the University of Puget Sound School of Law to Seattle University, effective September 1, 1994.”²³⁵ The memorandum described the terms of the transaction and situated it as a “win-win,” allowing University of Puget Sound to focus on its primary mission as an undergraduate liberal arts institution and Seattle University

231. Interview with Lori Lamb, *supra* note 212.

232. Telephone Interview with Laurel Oates, *supra* note 201; Telephone Interview with Anne Enquist, *supra* note 196. The legal writing, clinical, and academic support programs were somewhat controversial at the time because they were not components of a traditional legal education. And because these programs were taught and run by faculty members who held contract rather than tenured status, the programs and associated faculty could be eliminated at any time.

233. Telephone Interview with Anne Enquist, *supra* note 196.

234. See Email from David Skover, Prof. Emeritus, Seattle Univ. Sch. of L., to author (Dec. 14, 2022, 4:37 PM) (on file with author).

235. See Memorandum from Susan Resneck Pierce & William T. Weyerhaeuser, *supra* note 218, at 1.

to enhance its position and mission as a regional comprehensive university.²³⁶

That afternoon, President Pierce, Dr. Weyerhaeuser, Dean Carmichael, President Sullivan, and Provost Eshelman headed to the Tacoma Dome Hotel for a media press conference to announce the transfer of sponsorship.²³⁷ The press conference was followed by a meeting with the editor of the *News Tribune*, whose negative and bitter reaction to the news of the sale foreshadowed the storm yet to come.²³⁸

C. Students Voice Their Displeasure

That same evening also brought a scheduled meeting with the law students. Hundreds of them gathered in a packed lecture hall to learn why and how their law school had been sold. As they made the announcement once again, President Pierce and Dr. Weyerhaeuser were initially greeted with silence and the occasional hiss, but the students became increasingly more vocal as the news sank in that their law school had been sold and the entire process had been conducted in secret.²³⁹ Dr. Weyerhaeuser and President Pierce did their best to articulate the “win-win-win” proposition that they claimed this announcement represented: University of Puget Sound would be able to focus its energies on undergraduate liberal arts programs, Seattle University would gain a prized professional program to complement its other graduate and professional degree programs, and the law school would now have a parent institution that could provide additional resources to help it thrive and grow.²⁴⁰ Dean Carmichael also weighed in, saying that University of Puget Sound had not been as supportive of the law school as one would hope, whereas Seattle University’s commitment was reassuring and would lead to a stronger law school with greater prestige.²⁴¹

Despite those calming words, the students in attendance vented their anger, disappointment, and anxiety about the impending sale. Various students described their feelings of betrayal and abandonment, questioned why they had not been consulted, stated emphatically that they would never have chosen University of Puget Sound if they had known the law school would be sold, renewed their outrage over that year’s 10.6% tuition increase, and asserted that their degrees would be devalued by having been issued by either a defunct law school (for those who would still graduate

236. *See id.*

237. *See* Page, *supra* note 181.

238. *See* Carmichael, *supra* note 115, at 3.

239. *See* Moriwaki, *supra* note 13.

240. *See* Maynard, *supra* note 119.

241. *See* Chris Raymond, *It's a Miracle! Seattle U. Saves Us from U.P.S.*, PUGET SOUND REP., Nov. 15, 1993 (on file with Seattle Univ. Law Library).

from University of Puget Sound) or an inexperienced one (for those who would now receive their law degrees from Seattle University).²⁴² Their initial reaction can perhaps best be summed up by this quote: “You didn’t sell a building, you sold our futures.”²⁴³ Anger was particularly strong among first-year students, and there was even some talk of a lawsuit by students against University of Puget Sound for having decreased the value of their future law degrees and employment prospects.²⁴⁴

Similar to what had occurred the previous day, when President Sullivan entered the room, he was greeted with enthusiastic applause and a prolonged ovation by the students as he declared, “I really believe that 10, 15, 20 years from now we have the opportunity to have one of the premier law schools in the United States right in the heart of Seattle.”²⁴⁵

While reacting favorably to President Sullivan’s statement of his vision for the future of Seattle University School of Law, students asked questions and raised pointed concerns about what it meant to become a part of a Jesuit institution. Alluding to issues that had arisen recently at Gonzaga’s law school, they asked whether Seattle University would impinge on the academic freedom of law students and faculty and questioned whether a Jesuit university would be supportive of students, faculty, and staff who were gay.²⁴⁶ These were but the first of many questions that were to follow in the coming days, weeks, and months as the transition got underway.

When Dean Carmichael returned to his office that evening after what had been an exceedingly long and trying day, he was gratified and comforted to find a handwritten note from President Sullivan welcoming him to Seattle University.²⁴⁷ And in a poignant bit of symmetry, former President Phibbs arrived at the law school the next morning with a card and a huge bouquet of flowers, making it clear in a brief conversation with staff that he, at least, would be sorry to see the law school go.²⁴⁸

242. See Maynard, *supra* note 119; see also Raymond, *supra* note 241.

243. See Moriwaki, *supra* note 13.

244. See Raymond, *supra* note 241.

245. See Moriwaki, *supra* note 13 (quoting William J. Sullivan, S.J., President of Seattle University).

246. See Raymond, *supra* note 241.

247. See Carmichael, *supra* note 115, at 3. I had my own touching personal moment recently when, as I was clearing out my faculty office upon retiring from Seattle University School of Law, I came across the handwritten letter of welcome President Sullivan had addressed to me, dated November 8, 1993.

248. Interview with Joan Duffy Watt, *supra* note 185.

IV. PICKING UP THE PIECES

On November 9, the faculty endorsed a resolution to Seattle University thanking President Sullivan and his administration for their efforts in acquiring the law school, expressing a desire for a long and fruitful relationship, and pledging to maintain the law school's high standards of legal education.²⁴⁹ At the close of that first momentous week, University of Puget Sound and Seattle University officials made a presentation to the Board of Visitors (the law school's advisory group), followed by a closed session in which university officials were excused.²⁵⁰ At the conclusion of that meeting, the Board of Visitors issued a resolution offering its full support to the law school in making a successful transition to Seattle University.²⁵¹ The group also made a commitment to explore ways to minimize the impact of the law school's departure on the Tacoma and Pierce County communities, and offered praise to Seattle University for retaining the outstanding law faculty and staff and dedicating its resources to high quality legal education.²⁵²

Next, the founding members of the faculty sent out a letter to all 5,025 graduates of the law school to try to counteract anger over the sale that was being directed at the law school.²⁵³ The letter emphasized that the law school faculty had no idea the transfer of sponsorship was under consideration by University of Puget Sound until it was announced and described the immediate reactions of faculty and staff as ranging from "outrage to sadness to feelings of rejection."²⁵⁴ The faculty expressed their sympathy and sense of loss for the Tacoma area legal and broader community, deep gratitude for the consistent good will and support shown to the law school by local lawyers and civic leaders in the region, and a commitment to maintaining those valuable relationships into the future.²⁵⁵ The founding faculty did not pull any punches, leveling criticism at University of Puget Sound for its lack of financial, academic, and moral support of the law school over the years, and contrasting that situation with

249. See Resolution of the Law Faculty at the Univ. of Puget Sound, to President William Sullivan, the Trustees, the Faculty, Administration, Staff, and Students of Seattle Univ. (Nov. 9, 1993) (on file with Seattle Univ. Law Library).

250. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Faculty and Staff, Progress Report (Nov. 15, 1993) (on file with Seattle Univ. Law Library).

251. See Resolution from Univ. of Puget Sound L. Sch. Bd. of Visitors (Nov. 12, 1993) (on file with Seattle Univ. Law Library).

252. See *id.*

253. See Letter from the Founding Members of the Univ. of Puget Sound L. Sch. Fac., to All Graduates (Nov. 20, 1993) (on file with Seattle Univ. Law Library). The founding faculty members who authored the letter were Richard Settle, James Beaver, John Weaver, Tom Holdych, and Anita Steele. See *id.*

254. See *id.* at 1.

255. See *id.*

the new opportunity to be valued as a flagship graduate program by Seattle University.²⁵⁶ The letter concluded on an optimistic note, acknowledging the traumatic and unexpected nature of the announcement but expressing enthusiasm for the new era in the law school's history, and requesting understanding and support from the alumni.²⁵⁷

A. Understanding the Sale

With the Board of Visitor's imprimatur having been placed on the announcement, one of the first tasks facing the law school community was to try to put the previously unimaginable sale of the law school in some sort of context. While such transfers in sponsorship were quite rare, this was actually not the first time a university had acquired and relocated a law school. In 1992, just one year prior, Quinnipiac College in Hamden, Connecticut, had purchased and moved the financially troubled University of Bridgeport School of Law.²⁵⁸ And, in 1986, the University of the District Columbia took over a failing law school that had been operated in Washington, D.C. as a branch of Antioch College.²⁵⁹ As Professor Skover subsequently noted, these earlier sales provided legal and factual precedent for the notion that non-profit academic institutions were no different from other corporate ventures in which subsidiaries can be spun off and sold to other corporate entities as part of a buyout.²⁶⁰

What made those prior transactions significantly different, however, is that they both involved law schools that were experiencing financial exigency. In contrast, the University of Puget Sound School of Law had a healthy budget and was paying annual overhead to the university. In fact, President Pierce even noted at the meeting with students that the law school had been thriving financially.²⁶¹ Thus, no one could have contemplated this happening because the sale of a successful and profitable law school from one university to another was simply unheard of at the time. Yet, despite its unprecedented nature, President Pierce framed the sale of the law school as "a natural next step" in the evolution of the University of Puget Sound.²⁶²

From a mergers and acquisitions perspective, one of the most important contractual terms is the purchase price, but that was the one term conspicuously absent from the official announcement. Everyone was, of course, curious to know how much a twenty-one-year-old law school

256. *See id.*

257. *See id.* at 2.

258. *See Popham & Maynard, supra* note 60.

259. *See Moriwaki, supra* note 13.

260. *See* Email from David Skover, *supra* note 234.

261. *See* Maynard, *supra* note 119.

262. *See* Hadley, *supra* note 22.

located in downtown Tacoma with an enrollment of approximately 875 students, a full complement of talented and highly capable faculty and staff, and an operating budget of \$11 million was worth. Despite repeated requests, officials declined to disclose the sale price, stating that a provision in the transfer of sponsorship agreement dictated that neither institution could give out that information.²⁶³ President Sullivan did comment that this was the single largest financial transaction of his presidency to-date, requiring a substantial investment from the university's reserve funds.²⁶⁴ And while \$9 million is the number that was bandied about at the time,²⁶⁵ even today, going on thirty years later, the purchase price is still a closely held secret.²⁶⁶

B. Grieving the Loss, Fearing the Future

In the days following the announcement, the entire law school community was going through a grieving process, although, as one might expect, at varying rates and with differing degrees of success depending on individual circumstances and predilections. The faculty and staff's reaction in public was somewhat muted, in part because Dean Carmichael requested that everyone be cautious and circumspect in speaking publicly on the sale and cautioned them not to make derogatory or inflammatory comments about the main campus.²⁶⁷ For many, their reaction was also colored by the fact that the university might have been entertaining even more extreme actions with regard to the law school, including its outright closure. One pundit suggested that Seattle University looked so good in comparison because of the actions taken by President Pierce to weaken and squeeze the law school through enrollment reductions, a significant tuition increase, and threats to faculty and staff jobs.²⁶⁸ Even President Pierce herself alluded to what might have happened had the sale not gone through, stating that because the law school no longer fit within University

263. See Maynard, *supra* note 119.; C. R. Roberts, *Hard, Cold Lessons Are Learned from the UPS Law School Sale*, NEWS TRIB., Nov. 21, 1993, at B1.

264. See Editorial, *supra* note 146.

265. See, e.g., The Nose, *Does \$9 Million Cover UPS Law School 'Merger'—or Just Buy Library?*, NEWS TRIB., Jan. 28, 1994, at B1 (quoting House Speaker Brian Ebersole, who spoke of the rumored \$9 million number but noted that he had no firsthand knowledge of the actual purchase price); Steve Maynard, *End of an Era*, NEWS TRIB., May 16, 1994, at A6 (using \$9 million as the reported number).

266. Denis Ransmeier, the individual charged with negotiating the purchase with his counterpart at University of Puget Sound, declined to confirm the \$9 million number, but he did say that reaching agreement on the purchase price was not terribly difficult. See Interview with Denis Ransmeier, *supra* note 16.

267. See Steve Maynard, *True to Their School: UPS Law Grads Devoted to Alma Mater, Split on the Sale*, NEWS TRIB., Nov. 14, 1993, at B1 (quoting from a memo from Dean Carmichael to faculty and staff).

268. See Callaghan, *supra* note 59.

of Puget Sound's mission, it could have been dismantled by eliminating programs or transferring faculty members.²⁶⁹ Dean Carmichael commented that he favored the transfer to Seattle University because the law school faced bleak prospects with a university that had already jettisoned several graduate programs.²⁷⁰

Some faculty already lived in Seattle and drove to Tacoma for work, so they could at least look forward to not having to commute down the interstate on a daily basis. Others were residing in Tacoma only as a matter of convenience, and many of them began making plans to move to Seattle within the next few years. But particularly for the founding and long-time faculty members, who had devoted their professional lives to the law school and were embedded in the local community, the feelings of betrayal ran deep.

Professor Douglas Branson was in this latter position and was one of the most outspoken critics of the sale. In a letter to the editor of the *News Tribune*, he emphasized that while a few of the faculty lived in Seattle, the majority had made their homes in Tacoma, were raising children there, and were leaders within the community.²⁷¹ Professor Branson stressed the contributions the law faculty had made through their scholarly endeavors to building University of Puget Sound's national reputation, as well as the internal committee and task force work they had performed on behalf of the university.²⁷² He derided the trustees for their focus on the pretension of academic elitism rather than the very human costs they were imposing on valued members of the university community, who were left feeling bewildered and betrayed by the decision.²⁷³

There was also a "behind closed doors sentiment" expressed by some faculty that Seattle University did not have the same academic standing or prestige as University of Puget Sound. In response, Professor Mark Reutlinger, a longstanding member of the law faculty, distributed a memo showing that the 1993 list of US News and World Report rankings had Seattle University ranked 6th and University of Puget Sound ranked 4th among regional universities in the Northwest, a difference he described as "hardly significant."²⁷⁴ Some faculty remained unconvinced that Seattle University was the equal of University of Puget Sound in academic quality

269. See Eng, *supra* note 36.

270. See Moriwaki, *supra* note 13.

271. See Douglas M. Branson, Letter to the Editor, *Many UPS Law Faculty Feel Betrayed*, NEWS TRIB., Nov. 24, 1993, at A11.

272. See *id.*

273. See *id.*

274. See Memorandum from Mark Reutlinger, Professor, Univ. of Puget Sound Sch. of L., to Faculty, Seattle U. "Ranking" (Nov. 6, 1993) (on file with Seattle Univ. Law Library).

and reputation, and Professor Branson, in particular, raised the issue when the ABA accreditation team visited the law school a few months later.²⁷⁵

In addition to mourning what they had lost, the law school faculty and staff also had serious questions about what it meant to become part of Seattle University. Professor Oates recalled driving up to the campus with her husband the weekend after the announcement. Even though she had grown up in Seattle, she had no idea where the university was, and she was not overly impressed with what she saw, especially the urban location.²⁷⁶

Based on a follow-up meeting with President Sullivan, the staff began to fear that they might be “absorbed” into the Seattle University staff such that they would no longer be working directly with and for the law school.²⁷⁷ Dean Carmichael met immediately with Provost Eshelman and was able to reassure the staff that their functions would not be centralized by the university,²⁷⁸ but I imagine he felt as if he were playing a giant game of “whack-a-mole” as individuals talked among themselves and spun out worst case scenarios.

Given that University of Puget Sound had been an essentially secular institution, one of the most significant areas of concern in those very early days was Seattle University’s Catholic and Jesuit character. Professor Enquist, who is a practicing Roman Catholic, says she was visited by virtually every law faculty member who was gay as they wondered about the new affiliation and whether the university would be a hostile environment for them.²⁷⁹ Professor Julie Shapiro remembers being shocked at the announcement meeting when a priest wearing a collar (President Sullivan) walked into the room; she had not realized until that moment that Seattle University was Catholic.²⁸⁰ As someone who is both Jewish and a lesbian, what she did know is that she would never have applied for a job at a Jesuit, Catholic university, but now she was to be employed by one.²⁸¹ Similarly, the Lesbian and Gay Legal Society, a law student organization, issued a statement the day after the announcement of

275. Telephone Interview with Anne Enquist, *supra* note 196. It seems likely that Professor Branson’s decision to leave the area and accept an offer to join a different institution a few years later was motivated, at least in part, by his view that Seattle University was academically inferior to University of Puget Sound.

276. Telephone Interview with Laurel Oates, *supra* note 201.

277. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Staff for Immediate Transmission, Maintaining Our Staff (You!) Throughout the 5 Year Transition Process and Beyond 1 (Nov. 17, 1993) (emphasis in original) (on file with Seattle Univ. Law Library).

278. See *id.*

279. Telephone Interview with Anne Enquist, *supra* note 196.

280. See Email from Julie Shapiro, *supra* note 209.

281. See *id.* In retrospect, Professor Shapiro attributes her initial negative reaction to being employed by Seattle University to a stereotyped view of Catholicism and her ignorance regarding the Jesuits. See *id.*

the sale stating that while the group did not oppose the acquisition of the law school by Seattle University, it was concerned about the role Catholic ideology might play in the law school going forward.²⁸²

C. Calming the Students

The law school faculty and staff were obviously dealing with their own anger, qualms, and questions, but they worked hard in the following days and weeks to assuage and respond to the students' concerns. The current students were understandably upset—they had applied to University of Puget Sound and been accepted there, they did not know anything about Seattle University, including its reputation and whether it would help or hurt them in the employment market, and even students who lived in Seattle were not going to get the benefit of the change in location.²⁸³ So, the faculty set about expressing their own enthusiasm for the coming transition in sponsorship. For example, Dean Carmichael and the faculty quickly disseminated an encouraging memo to students, describing the advantages of being part of a university that valued the law school and explaining how the move to Seattle University and the City of Seattle would expand opportunities for students and enhance the law school's prestige and reputation.²⁸⁴ A great deal of class time was spent discussing the sale in those first few days after the announcement, and little regular work got done (to the point that within a few days Dean Carmichael issued a memo on behalf of the students suggesting a return to teaching and learning in the classroom).²⁸⁵

Professor Skover acknowledged the shock of the decision but told his students he was pleased that the transfer was to a university that was dedicated to having a healthy law school.²⁸⁶ Professor Janet Ainsworth disclosed to her students in class that she had previously been testing the job market because of her concern about University of Puget Sound's lack of commitment.²⁸⁷ She went on to tell them of her relief at the change in sponsorship and her view that the move would strengthen the faculty's resolve to remain with the law school over the longer term.²⁸⁸

282. See Memorandum from Lesbian and Gay Legal Society, Univ. of Puget Sound Sch. of L., to Law School Faculty and Friends, Acquisition by Seattle Univ. (Nov. 10, 1993) (on file with Seattle Univ. Law Library).

283. Telephone Interview with Laurel Oates, *supra* note 201.

284. See Memorandum from Donald Carmichael and the Law Faculty, Univ. of Puget Sound Sch. of L., to Students (Nov. 9, 1993) (on file with Seattle Univ. Law Library).

285. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Faculty, Continued Class Discussion of the Reaffiliation (Nov. 11, 1993) (on file with Seattle Univ. Law Library).

286. See Raymond, *supra* note 241.

287. See *id.*

288. See *id.*

In addition to these many individual expressions of confidence in the future, the faculty published its own written message to students, stating in part:

We see many advantages to the change in sponsorship of the law school. Most important, President Sullivan and Seattle University are obviously very enthusiastic about supporting the law school, and their enthusiasm bodes well for all of us who care about the collective future. In our view, it is crucial for us to be part of a university that truly values the students, faculty, and staff of its law school. We believe our mission fits nicely with that of Seattle University, a highly regarded private institution that emphasizes graduate study throughout its curriculum. And we are persuaded that our eventual move to Seattle, the largest city in the Pacific Northwest, will expand our applicant pool and provide more employment opportunities for our graduates. From a demographic standpoint, the move makes exceptionally good sense.²⁸⁹

Dean Carmichael also disseminated his own additional message, suggesting that “[t]he character of a school can be measured by how well it educates and how well it treats its students.”²⁹⁰ He articulated two overriding priorities for the weeks and months ahead, which were for the law school to become stronger during the transition and to “take the utmost good care” of the students during that time.²⁹¹

Thus, in ways large and small, the faculty and staff of the law school made it clear to the students that they (the faculty and staff) were in it for the long haul, and although the parent institution was changing, the law school’s longstanding dedication to excellence in teaching and outstanding student services was unchanged and unwavering. With the help of these positive messages, answers to their questions, and the public commitments made to the law school by President Sullivan and Seattle University, many students moved relatively quickly from their initial (and understandable) feelings of betrayal, confusion, and anger to a sense of acceptance and cautious optimism, and for some, even enthusiasm.²⁹² Representing this shift in perspective within the student body, Marcel Van Ooyen, then-president of the Student Bar Association, penned an optimistic article for

289. See Memorandum from Members of Law Faculty, Univ. Puget Sound Sch. of L., to Our Students (Nov. 10, 1993) (on file with Seattle Univ. Law Library); see also *Message from Law Faculty to Students*, PUGET SOUND REP., Nov. 15, 1993 (on file with Seattle Univ. Law Library).

290. See Donald Carmichael, *Message from Dean Carmichael*, PUGET SOUND REP., Nov. 15, 1993 (on file with Seattle Univ. Law Library).

291. See *id.*

292. See, e.g., Marcel Van Ooyen, *Looking Ahead*, PUGET SOUND REP., Nov. 15, 1993 (on file with Seattle Univ. Law Library).

the law student newspaper just one week after the announcement, entitling it "Looking Ahead."²⁹³

V. THE AFTERMATH

Over and over again in the following weeks, in numerous public forums and with different constituencies, Dr. Weyerhaeuser and President Pierce were called upon to defend both the decision to sell the law school and the process the Board followed. In terms of the substance of the decision, Dr. Weyerhaeuser explained that the university was focused on developing its undergraduate liberal arts programs, and it had become "increasingly difficult to see a fit between the law school and the undergraduate liberal arts program."²⁹⁴ This posed a problem in that the university did not have sufficient resources, financial or otherwise, to continue improving the quality of both the undergraduate programs and the law school over the longer term.²⁹⁵ The trustees had, therefore, concluded that the law school would be better off with Seattle University and so took advantage of this opportunity to transfer sponsorship.²⁹⁶

As to process, when asked at a University of Puget Sound student forum to apologize for the secrecy and lack of transparency surrounding the deal, Dr. Weyerhaeuser refused.²⁹⁷ He described the transfer of sponsorship as a long-term strategic decision that the Board of Trustees alone must make.²⁹⁸ Similarly, President Pierce stated, "This was the most significant decision to be made this decade, if not beyond, and the board decided it would make this decision itself."²⁹⁹ She also defended the secrecy, explaining that if the university had first consulted with faculty and students and the negotiations had then fallen through, the law school's standing and reputation would inevitably have suffered harm, with faculty likely seeking other jobs, students attempting to transfer, and prospective students choosing to go elsewhere.³⁰⁰ The University of Puget Sound trustees also feared a "slow, unsettling and agonizing debate, which by definition could not satisfy all constituencies."³⁰¹ Implicit in these stated reasons for secrecy was a primary concern that a deal would never happen

293. *See id.*

294. *See* Steve Maynard, *No Apology in Sale of Law School*, NEWS TRIB., Nov. 18, 1993, at B1.

295. *See* Maynard, *supra* note 59.

296. *See id.*

297. *See* Maynard, *supra* note 294.

298. *See* Moriwaki, *supra* note 13.

299. *See* Art Popham, *UPS Sale a Good Example of Outmoded Management*, NEWS TRIB., Nov. 11, 1993, at B6.

300. *See* Maynard, *supra* note 294.

301. *See* Harold S. Eastman, Letter to the Editor, *Law School Sale Consistent with UPS Goals*, NEWS TRIB., Dec. 12, 1993, at E5.

if word got out. As it turned out, that particular concern was validated by the uproar that followed the announcement of the sale.

A. University of Puget Sound Law Alumni Respond

Chuck Granoski, Jr., a local attorney, member of the first University of Puget Sound Law graduating class, and a member of the Board of Visitors, was one of the first alumni to respond to the news, immediately issuing an angry letter to university leaders protesting the sale of the law school.³⁰² The Board of Visitors was a group of prominent law alumni charged with giving advice and counsel to the dean, and Mr. Granoski noted the irony that the Board of Visitors happened to be meeting in Seattle right after news of the sale went public.³⁰³

In his letter, Mr. Granoski vehemently protested the manner in which the decision had been made, shrouded in secrecy and devoid of any consultation with the law school administration, faculty, or Board of Visitors.³⁰⁴ He was particularly critical of the fact that President Pierce made the recommendation to the Board to sell the law school so early in her tenure as president and under circumstances where she did not yet know or appreciate the community.³⁰⁵ He also asserted that the Board should not have made such a significant decision without engaging in any long-range planning regarding the law school's future.³⁰⁶ Mr. Granoski concluded his letter by accusing President Pierce and the Board of destroying Tacoma's local jewel and stating that they would be held accountable and judged by the community for their actions.³⁰⁷

In stark contrast, law alumna Lucy Isaki, a prominent Seattle attorney who was simultaneously a University of Puget Sound trustee and chair of the law school's Board of Visitors, stated publicly after the announcement that she had voted in favor of the change in sponsorship, viewing it as positive for both the law school and University of Puget Sound given that the two entities had grown so far apart in their educational missions over the years.³⁰⁸ In one of the more ironic statements made following the

302. See Letter from Charles M. Granoski, Jr., to Susan Pierce, President, Univ. of Puget Sound, William Weyerhaeuser, Chairman, Univ. of Puget Sound Bd. of Tr., William J. Sullivan, President, Seattle Univ., and Members of the Board of Visitors (Nov. 12, 1993) (on file with Seattle Univ. Law Library) [hereinafter Granoski Letter]; see also Maynard, *supra* note 267.

303. See Granoski Letter, *supra* note 302, at 1.

304. See *id.* at 1–2.

305. See *id.* at 2.

306. See *id.*

307. See *id.* at 4.

308. See Maynard, *supra* note 267. To this day, I do not understand Ms. Isaki's failure to recuse herself from the vote given the potential conflicts created by her simultaneous fiduciary obligations to the University of Puget Sound and the law school by virtue of her respective leadership positions with the Board of Trustees and the Board of Visitors.

announcement of the sale, she justified the secrecy surrounding the decision-making process by explaining, “We wouldn’t want our law school faculty to think we were trying to sell them down the river.”³⁰⁹

While Mr. Granoski and Ms. Isaki represent the two extremes in alumni perspectives on the sale, for those of us who interfaced regularly with the external community, it was obvious that *everyone* had an opinion. Unfortunately, many of our alumni were angry, and they took their anger out not just on University of Puget Sound, but also on the law school, with the oft-repeated refrain that they were never giving another dime to the school.³¹⁰ And so, it fell upon the faculty and staff—in line at the grocery store, at cocktail parties, in our children’s schools—to tell the story of our own surprise and shock, so that the community would understand we had not been complicit in the sale.³¹¹

B. The View from Within

1. Reaction Within the University of Puget Sound Community

The University of Puget Sound non-law faculty learned of the law school’s sale via memo on that Monday, November 8th, and President Pierce met with university faculty the following day and then again in a follow-up meeting.³¹² In general, the broader university community focused their criticism on the process followed by President Pierce and the Board of Trustees as opposed to the substance of the decision itself. Walter Lowrie, Chair of the University of Puget Sound Faculty Senate, wrote a letter to the Board asserting that the university’s action violated the faculty code, which required the president to consult with the Faculty Senate before recommending discontinuation of a department, program, or school.³¹³ The Faculty Senate members voted as a body to endorse the position that they should have been consulted, but they were met with the response (articulated by one of the trustees) that the sale of the law school was a transfer rather than a discontinuation because none of the thirty-seven law faculty members would lose their jobs, such that the faculty code provision did not apply.³¹⁴

Other critiques from within the university faculty centered less on the particulars of the faculty code and more on what they viewed as principles of good management and governance. For example, one

309. *See id.*

310. Telephone Interview with Anne Enquist, *supra* note 196.

311. *Id.*

312. *See* Popham, *supra* note 299.

313. *See* Steve Maynard, *Rethink Sale of Law School, Key Lawmaker Asks UPS*, NEWS TRIB., Dec. 10, 1993, at A1.

314. *See id.*

vehement critic from inside University of Puget Sound, Professor Richard Robinson, claimed that the failure to engage the faculty, students, and city leaders in the decision-making process exemplified an outmoded, top-down management style,³¹⁵ and that President Pierce had a mistaken notion of the division of power between a university president and its faculty.³¹⁶ Similarly, an anonymous appeal letter handed out at an on-campus meeting highlighted several concerning top-down decisions that had already been made in President Pierce's short tenure, including abolishing the accounting program and the traditional business disciplines of finance, marketing, and management, reducing the School of Business and Public Administration to a business unit, and now selling the law school.³¹⁷ The letter called for the appointment of a new Board of Trustees, the rejection of the "Pierce liberal arts vision," and a discontinuation of the "dictatorial, regal management" style that these decisions allegedly represented.³¹⁸ Despite the vehemency of the call to action, these efforts did not seem to gain significant traction within the broader university faculty.

Perhaps not surprisingly given the secrecy that had surrounded the decision, some faculty in other non-law disciplines and departments began to express concern that their areas might be next on the chopping block.³¹⁹ Professor Enquist was one of the law faculty members who had colleagues and friends on the Puget Sound main campus, and she was struck by the fact that they reached out to her not to say they were sorry about the sale but rather to voice their worry that their own programs might be cut.³²⁰

2. Reaction Within the Seattle University Community

Associate Dean Rick Bird was working in residential life on the main campus of Seattle University at the time of the announcement, and he

315. See Popham, *supra* note 299; see also William A. Engler, Letter to the Editor, *Sale Betrays UPS Stakeholders*, NEWS TRIB., Dec. 7, 1993, at A19 (questioning whether the University of Puget Sound trustees were uneducated regarding modern strategic corporate decision making, which takes into account the interests of all stakeholders of the entity).

316. See Eng, *supra* note 36.

317. See Letter, An Appeal to the Faculty, Students and Staff of the University of Puget Sound (Nov. 15, 1993) (on file with Seattle Univ. Law Library).

318. See *id.*

319. See, e.g., Popham & Maynard, *supra* note 60 ("I'm really alarmed over what is happening. The business school is next to go, and then who knows?") (quoting Richard Robinson, University of Puget Sound professor of business and public administration).

320. Telephone Interview with Anne Enquist, *supra* note 196. The academic disciplines thought to be at greatest risk at the time were graduate programs in occupational and physical therapy. However, according to Dr. Pierce, these longstanding programs were a better mission fit for the university because, unlike the law school, occupational and physical therapy were physically located on the main campus, integrated within the undergraduate curriculum, and grounded in the liberal arts. See Email from Susan Resneck Pierce, *supra* note 20.

described the community reaction as “surprise mixed with a bit of shock and awe.”³²¹ The university was abuzz with the news and questions abounded, including whether anyone had ever done this before, how or whether the law school’s semester system would be integrated into the university’s quarter system, where the funds for the purchase were coming from, and how differences in faculty and staff compensation between the law school and Seattle University would be handled.³²²

As President Sullivan fielded questions on how the purchase came about, he described it as a special, unique opportunity that would not come along again.³²³ He wanted Seattle University to be the “Georgetown of the West,” and he laid out a compelling vision where two-thirds of the law graduates in the state would now be Jesuit-educated, something he believed would make a genuine and positive difference in the world. He was very clear that the law school would not be staying in Tacoma as some sort of satellite campus; he intended the law school to be an integral part of the Seattle University academic community with a central Seattle campus location.³²⁴ President Sullivan also clarified that the purchase of the law school would be financed through the university’s reserve funds, thus not impacting other campus priorities, and that construction of the new law school building would be financed through fundraising efforts.³²⁵

Although there was some quiet skepticism and anger that the acquisition was not part of the university’s long-range plan and would potentially delay other projects and priorities, the decision was entirely in keeping with President Sullivan’s top-down leadership style.³²⁶ He was very astute and strong-willed, and when he saw opportunities that others did not, he was quick to take action and let the chips fall where they may.³²⁷

It was actually Provost Eshelman who carried the laboring oar with regard to “selling” the purchase of the law school to the main campus, and he emphasized publicly that undergraduate tuition would not be raised to help pay for the acquisition of the law school or construction of the new law building.³²⁸ He also made it clear that whatever anger the law students were expressing in light of the news of the sale was being directed at

321. Interview with Richard Bird, Assoc. Dean for Fin. and Admin., Seattle Univ. Sch. of L., in Seattle, Wash. (Dec. 13, 2022) (notes on file with author.)

322. *Id.*

323. *Id.*

324. *Id.*

325. See CROWLEY, *supra* note 15, at 33.

326. Interview with Richard Bird, *supra* note 321.

327. *Id.*

328. See Chris Jones, *Seattle University Acquires UPS Law School*, SEATTLE UNIV. SPECTATOR, Nov. 11, 1993, at 1 (on file with Seattle Univ. Law Library).

University of Puget Sound, not Seattle University.³²⁹ And, in terms of integrating the law school into Seattle University, Dr. Eshelman informed the community that Acting Dean Carmichael was not interested in being considered for the permanent position, which would give Seattle University the opportunity to appoint a dean who was familiar with Jesuit higher education and could help align the law school with the larger university.³³⁰ Once the faculty and staff had worked through their surprise at this sudden expansion of their university, many came to see the purchase of the law school as a positive, and even exciting, development.³³¹

C. The Local Community Erupts

While the Seattle University and University of Puget Sound academic communities (with the exception of the law school) were generally accepting of what had transpired, the same could not be said of the Tacoma community. The Tacoma-Pierce County Chamber of Commerce did its best to put an initial positive spin on the news of the law school's sale and impending departure,³³² but the reaction by the Tacoma business and legal communities to the news of the "transfer of sponsorship" was swift and resoundingly negative.³³³ Tacoma has long had an inferiority complex when it comes to Seattle, and the downtown Tacoma law school was viewed by its residents as one of the few jewels in the city's crown. In the days following the announcement, some of the harshest criticism was leveled by city representatives, who expressed shock and disappointment at the decision and insisted that University of Puget Sound had an obligation to consult city leaders before selling the law school.³³⁴

One of the first people out of the gates was Joseph H. Gordon, Sr., a partner at the Tacoma law firm of Gordon Thomas Honeywell and a highly influential attorney in the South Sound region. Gordon fired off an angry letter to President Pierce and Dr. Weyerhaeuser, calling the decision to "abandon" the law school "a personal affront to me and all of the legal profession and civic leaders in Tacoma who have donated their time and

329. *See id.* at 1, 3.

330. *See id.* at 3.

331. *See* Moriwaki, *supra* note 13.

332. *See* Jim Szymanski, *Downtown Leaders Are Sad but Not Distraught over Move*, NEWS TRIB., Nov. 9, 1993, at A8 ("There could be a vacancy there (UPS) just when we need the space. . . . Is downtown losing ground? I think it's obvious that it isn't.") (quoting Paul Ellis, spokesman for the Tacoma-Pierce County Chamber of Commerce).

333. *See, e.g.,* Popham & Maynard, *supra* note 60; Roberts, *supra* note 263; Jim Layton, Editorial, *UPS Violated the Community's Trust by Selling the Law School*, NEWS TRIB., Nov. 21, 1993, at D5; Callaghan, *supra* note 59.

334. *See* Popham & Maynard, *supra* note 60.

money to make the school the success it has been up to now.”³³⁵ He vowed to have nothing to do with the law school or university going forward, including eliminating his firm’s financial support, and threatened to encourage clients who had made bequests to University of Puget Sound in their wills to change their estate plans.³³⁶

In similar fashion, the week following the announcement, former Dean Jim Bond sent a blistering memo to the University of Puget Sound Board of Trustees,³³⁷ deriding them for trying to wrap what he perceived to be a cold-hearted, for-profit purchase and sale transaction in language suggesting the trustees were protecting the law school by selling it.³³⁸ While conceding that the sale to Seattle University was in the law school’s best interests given the circumstances, Professor Bond accused the University of Puget Sound leadership of betraying both the law school and him.³³⁹ He recounted the repeated assurances from the trustees and President Pierce herself that the university valued the law school, that it was an integral part of the university, and that the law school would be provided the resources necessary to make it an excellent one.³⁴⁰ He felt duped in having used his position as dean to deliver this message of university support and good faith to the law faculty, alumni, and the legal community, reassuring them that University of Puget Sound was committed to the law school.³⁴¹ Professor Bond concluded his memo by stating that the announcement of the sale left him with an overwhelming sense of sadness and a good deal of anger because the university had reduced his beloved law school faculty and staff to “articles of commerce” that were sold off to the highest bidder.³⁴²

D. The Press Piles On

As the community reaction picked up steam, the sale of the law school received a great deal of press, but there was a stark contrast between the response by the Seattle media as compared to that of Tacoma. An opinion by the *Seattle Times* Editorial Board focused on Seattle University

335. See Memorandum from Joseph H. Gordon, to Susan Resneck Pierce, President, Univ. of Puget Sound, and William T. Weyerhaeuser, Chairman, Univ. of Puget Sound Bd. of Tr., Abandonment of University of Puget Sound Law School 1 (Nov. 9, 1993) (on file with Seattle Univ. Law Library).

336. See *id.*

337. See generally Memorandum from James Bond, Professor, Univ. of Puget Sound Sch. of L., to the Univ. of Puget Sound Bd. of Tr., Sale of the Law School (Nov. 16, 1993) (on file with Seattle Univ. Law Library) [hereinafter Bond Memo]. See also Maynard, *supra* note 107.

338. See Bond Memo, *supra* note 337, at 2.

339. See *id.*

340. See *id.* at 3.

341. *Id.*

342. *Id.* at 3–4.

having acquired a law school rather than the University of Puget Sound having sold one and praised the transaction for being “as sensible as it was surprising.”³⁴³ The authors opined that both leaders should be congratulated: President Sullivan for his vision and savvy political skills and President Pierce for her vision and courage.³⁴⁴ The *Seattle Post-Intelligencer* Editorial Board was similarly positive, stating that the purchase of the law school appeared likely to benefit both institutions.³⁴⁵

1. *News Tribune* Editorials

The *News Tribune* took a markedly different stance, publishing editorial after editorial critical of the sale. The first opinion piece vigorously disputed University of Puget Sound’s “win-win-win” claim, asserting that Tacoma was the loser in the law school sale.³⁴⁶ The newspaper’s editorial board identified three specific harms the city would suffer: the eventual loss of a significant downtown presence when the school moved to Seattle in five years’ time; damage to the South Sound legal community, which had been strengthened by the law school’s presence; and harm to would-be law students who were unable to commute to Seattle due to family or work obligations.³⁴⁷ The editorial board was particularly critical of the sale given that University of Puget Sound had received community support and publicly financed loans with the assistance of the City of Tacoma in order to create the law school center on Broadway Plaza.³⁴⁸ In their view, University of Puget Sound had been cavalier and irresponsible in selling the law school to Seattle University without first attempting to find a purchaser who would keep it in Tacoma.³⁴⁹ This was a recurring theme that ran through many of the editorial opinions: if University of Puget Sound had only consulted in advance with faculty, students, alumni, and Tacoma leaders, a way to keep the law school in Tacoma (as part of another South Sound university or as a stand-alone, proprietary law school) might have been found.³⁵⁰

343. See Editorial, *Tale of Two Universities*, SEATTLE TIMES, Nov. 11, 1993, at B4.

344. See *id.*

345. See *SU’s Unusual Law School Buy*, *supra* note 146.

346. See Editorial, *Law School’s Sale Damaged Tacoma*, NEWS TRIB., Nov. 10, 1993, at A14.

347. *Id.*

348. *Id.*

349. *Id.*

350. See, e.g., Peter Callaghan, Editorial, *Sale of UPS Law School Was an Elitist Slap at the Community*, NEWS TRIB., Nov. 11, 1993, at A7; Maynard, *supra* note 267; John L. Messina, Letter to the Editor, *Law School Sale Raises Some Questions*, NEWS TRIB., Nov. 24, 1993, at A11 (asking whether the law school was offered to Pacific Lutheran University or any other academic institution that might have kept it in Tacoma).

The next *News Tribune* editorial framed the sale of the law school as “an elitist slap at the community.”³⁵¹ The author asserted that the law school and school of business and public affairs were the only University of Puget Sound departments that had actually served the community well, with the former now having been sold and the latter being actively dismantled under Pierce’s leadership.³⁵² With the university’s expanding national reputation and increasing exclusivity, fewer and fewer students from the region would be admitted to and graduate from the university, and so the editorial questioned whether the community would even benefit from hosting and supporting such an elite institution.³⁵³

Another critique of the sale of the law school came in the form of an opinion piece authored by the members of the board of directors of the City Center Council.³⁵⁴ In it, they argued that University of Puget Sound should not have conducted itself like a for-profit business that was divesting a division or subsidiary because it no longer meshed with the company’s strategic plan.³⁵⁵ They were of the view that the substantial investments made by the community in situating and supporting the law school in downtown Tacoma converted it into a “vital community asset” held in trust by the university “with the businesses and people who have helped to make the law school possible,” in which case the sale of the law school was a clear breach of that trust.³⁵⁶ The authors noted the negative economic impact of the departure of more than 800 students (approximately two-thirds of whom lived in Tacoma), along with a sizeable percentage of the faculty and staff.³⁵⁷ However, the more serious losses were to the intangible benefits the law school’s presence had brought to Tacoma and Pierce County: the prestige and national recognition accorded to the city by having a significant institution of higher learning in its downtown; the talented students who worked as legal interns and then stayed after graduation, creating a steady stream of new lawyers who contributed to the vitality of the region and invigorated the local legal profession; the value to local lawyers of having access to the school’s extensive law library; and the close connections local alumni had

351. See Callaghan, *supra* note 350.

352. *Id.*

353. *Id.*

354. See Layton, *supra* note 333.

355. *Id.*

356. *Id.*; see also Maynard, *supra* note 294 (“There’s been a betrayal of trust between the institution and the community.”) (quoting Bill Baarsma, University of Puget Sound business professor and Tacoma City Council member).

357. See Layton, *supra* note 333.

maintained with the law school, including returning to teach as adjunct instructors.³⁵⁸

One of the questions raised by opponents of the sale was whether University of Puget Sound had given any thought to the best interests of Tacoma and Pierce County as part of its decision-making process, with the focus turning to the makeup of the Board of Trustees.³⁵⁹ Objectors contended that rather than having a Board comprised of local South Sound leaders, only eight of the more than thirty University of Puget Sound trustees were tied directly to Tacoma or Pierce County and half of them were from Seattle.³⁶⁰ And, while two of the trustees were graduates of University of Puget Sound School of Law, neither were from the Tacoma community and one was affiliated with Seattle University.³⁶¹ Critics thus claimed that the Board was “Seattle-dominated” and acting in Seattle’s best interests and at the expense of Tacoma’s.³⁶² Justice James Dolliver of the Washington State Supreme Court and the Board’s vice chair went on record as having been one of the two trustee votes in opposition to the sale,³⁶³ and he later said that a “Tacoma-Seattle fight” was an element of what had happened.³⁶⁴

Another *News Tribune* editorial, timed to coincide with the December meeting of the University of Puget Sound Board of Trustees, accused the Board of showing indifference to the community’s interests and warned that it should seriously reconsider its decision or prepare to suffer the backlash that was building among formerly loyal and generous alumni and financial backers.³⁶⁵

U.S. Congressman Norm Dicks, who had worked with University of Puget Sound and the City of Tacoma to obtain the federal loans to build the Law Center, was one of the most prominent individuals to go public

358. See *id.*; see also Steve Maynard, *UW Wonders If It Can Help Fill UPS Gap*, NEWS TRIB., Dec. 18, 1993, at B1 (noting that the Tacoma legal community, including the state Court of Appeals, relied on the 300,000-volume University of Puget Sound Law Library to supplement the smaller Pierce County Law Library); Richard Shepard, Letter to the Editor, *Valuable Legal Resource Will Be Lost*, NEWS TRIB., Dec. 22, 1993, at A11 (stating that the University of Puget Sound Law Library was a valuable resource as an official federal depository for extensive federal law sources).

359. See Callaghan, *supra* note 59.

360. See *id.*; see also Barbara J. Bichsel, Letter to the Editor, *City Worked Hard to Help Law School*, NEWS TRIB., Dec. 15, 1993, at A17 (stating that most of the trustees lived outside Pierce County and that their priority was King County); Messina, *supra* note 350 (referring to the University of Puget Sound trustees as “carpetbaggers”).

361. See Granoski Letter, *supra* note 302, at 2–3.

362. See Callaghan, *supra* note 59.

363. See Maynard, *supra* note 59.

364. See *id.* Justice Dolliver eventually changed his vote to “yes” following the Board’s reconsideration, stating that the deal was done and it was too late for the trustees to change course. *Id.*

365. See Editorial, *UPS Trustees Should Revisit Law School Sale*, NEWS TRIB., Dec. 10, 1993, at A10.

with his concern regarding the surprise announcement.³⁶⁶ After talking with several individual trustees about his desire to have University of Puget Sound reconsider the sale,³⁶⁷ Congressman Dicks requested and was permitted to speak to the entire Board at the regularly scheduled December meeting.³⁶⁸ At that meeting, he and two other colleagues argued civilly but strenuously that going through with the sale of the law school would cost the city both jobs and investments.³⁶⁹ In the end, the trustees were unmoved by the arguments put forward by these city and legislative leaders,³⁷⁰ and the Board voted, this time unanimously, to affirm its prior decision.³⁷¹

In addition to the editorial columns, the press used political cartoons to express and stir up community outrage over the decision. A cartoon published in the early days of the controversy by the *Chronicle of Higher Education* showed two individuals in the window of an office building looking down on the scene below, where a stream of students was happily following the Pied Piper down the street; the caption read: “Good heavens! It’s the entire UPS law school.”³⁷² The *News Tribune* followed suit, publishing a series of editorial cartoons, each more biting than the last. The first showed a shopper proclaiming she had just bought the University of Puget Sound English Department via a television program entitled, “The UPS Home Shopping Network,” with a caricature of President Pierce shouting, “Call Now!! Operators are standing by . . .”³⁷³ A second cartoon, titled, “Thanksgiving with UPS President Susan Resneck Pierce,” depicted her with a bag of money labeled, “law school sale profits,” and gloating that her “favorite part [of Thanksgiving] is the stuffing.”³⁷⁴ A third used a tasteless drive-by shooting metaphor, with President Pierce piloting a Mercedes SUV full of University of Puget Sound trustees, one of whom is holding a smoking gun that has just been discharged, with a person lying shot on the ground holding a folder labeled, “law school.”³⁷⁵ And a fourth cartoon, this one coming out more than a year after the sale, depicted

366. See Maynard, *supra* note 313.

367. *Id.*

368. See Lily Eng, *UPS Stands by Plan to Sell Law School to Seattle University—Dicks’ Appeal Fails to Prevent Move*, SEATTLE TIMES, Dec. 11, 1993, at A10. Congressman Dicks was joined by Bill Philip, Columbia Bank President and former University of Puget Sound trustee, and Ray Corpuz, Tacoma City Manager, in objecting to the sale and seeking reconsideration of the decision. See Maynard, *supra* note 59.

369. See Eng, *supra* note 368.

370. See *id.*

371. See Maynard, *supra* note 59; see also Interview with Susan Resneck Pierce, *supra* note 84.

372. See Mischa Richter, Editorial Cartoon, CHRON. HIGHER EDUC., circa Nov. 1993 (on file with Seattle Univ. Law Library).

373. See Chris Britt, Editorial Cartoon, NEWS TRIB., Nov. 10, 1993, at A14.

374. Chris Britt, Editorial Cartoon, NEWS TRIB., Nov. 25, 1993, at A18.

375. Chris Britt, Editorial Cartoon, NEWS TRIB., Dec. 5, 1993, at F4.

President and Realtor Pierce sitting at her desk, gloating over a recent announcement that President Gerberding of the University of Washington was closing nine UW programs.³⁷⁶ She was proclaiming, "Fool! He should have sold 'em!"³⁷⁷

2. Community Calls and Letters to the Editor

Not content with skewering University of Puget Sound leadership through satirical cartoon renderings, the local newspaper used its regular "Back Talk" feature to issue a call for recorded telephone comments to the following question: "Did UPS betray the trust of Tacoma by selling the law school, or was it within its rights?"³⁷⁸ Fifty calls were received, with some callers declaring that University of Puget Sound was well within its rights to transfer the law school to Seattle University, and others expressing their shock and outrage and suggesting that alumni should decline all future requests for donations to the university.³⁷⁹

The constant media drumbeat also precipitated numerous letters to the editor of the *News Tribune*. On the positive side, Dean Carmichael weighed in, expressing optimism for the future given that the high quality of the law school's students, faculty, staff, and academic programs would continue and improve under Seattle University sponsorship.³⁸⁰ A University of Puget Sound trustee explained why he voted in favor of selling the law school, saying he made the decision as a trustee for both the law school and university and believed he had acted in the best interests of both.³⁸¹ Another University of Puget Sound trustee took the *News Tribune* to task for its "inordinately negative bias" and "vitriolic critique of our capable, dedicated president."³⁸²

Most of the letters expressed opposition to the sale, with many reiterating the same points already made in the seemingly endless series of articles and editorials,³⁸³ but there were some new insights. For

376. Chris Britt, Editorial Cartoon, *NEWS TRIB.*, Dec. 4, 1994, at F4.

377. *Id.*

378. See Back Talk, *Is UPS Law School Sale a Betrayal of Tacoma?*, *NEWS TRIB.*, Nov. 11, 1993, at B1.

379. See Back Talk, *Law School Sale a Harsh Slap in Tacoma's Face, Callers Say*, *NEWS TRIB.*, Nov. 13, 1993, at B1.

380. See Donald M. Carmichael, Letter to the Editor, *Law School Will Thrive Under Seattle U*, *NEWS TRIB.*, Dec. 15, 1993, at A17.

381. See Troy M. Strong, Letter to the Editor, *Trustee Explains Vote for Law School Move*, *NEWS TRIB.*, Dec. 13, 1993, at A9.

382. See Eastman, *supra* note 301.

383. See, e.g., Milton Schwarz, Letter to the Editor, *Where Is Benefit in Law School Sale?*, *NEWS TRIB.*, Dec. 5, 1993, at F5 (asserting that President Pierce must have had an ulterior motive in selling the law school); Janet Ash, Letter to the Editor, *Law School Sale: Arrogance and Ignorance*, *NEWS*

example, one author, a University of Puget Sound law alumnus and the president of the Tacoma-Pierce County Bar Association, urged President Sullivan and Dean Carmichael to maintain a joint campus in Tacoma, suggesting that Tacoma was a far more beneficial place for law students than Seattle would be.³⁸⁴ The Pierce County Prosecutor asserted that lawyers in the region had donated over \$1 million to University of Puget Sound based on a promise of permanent access to a first-class law library in downtown, making the sale unethical and immoral, if not outright illegal.³⁸⁵ He also claimed that many local law firms were vowing to cease hiring graduates of the new Seattle University School of Law.³⁸⁶ One commentator claimed that the city had given University of Puget Sound a \$400,000 discount on the amount owed during the closeout of the Law Center project in 1988 and accused the trustees of violating their pledge to develop a permanent site for the law school.³⁸⁷ Another stressed the public service and collective achievements of the law school's graduates and questioned how the law school, with its notable academic and financial success, could be seen as standing in the way of the university achieving its undergraduate liberal arts mission.³⁸⁸ A University of Puget Sound professor argued that the sale was not a done deal,³⁸⁹ claimed that pressure was mounting to oust President Pierce, and predicted a vote of no confidence that spring,³⁹⁰ a prediction which another professor labeled as "pure moonshine and wishful thinking."³⁹¹ A retired judge with the Washington State Court of Appeals, Division II, detailed how the court would lose various benefits that were assured to it when it moved to become a tenant in the Law Center, including access to the law library, regular meetings between judges and the dean and faculty, the opportunity for judges to guest lecture or adjunct teach at the law school, and student

TRIB., Nov. 18, 1993, at A7 (criticizing President Pierce for her leadership style and failure to recognize the importance of community and citizenry to an institution's mission); Richard D. Robinson, Letter to the Editor, *UPS Law Sale Isn't a Done Deal*, NEWS TRIB., Nov. 24, 1993, at A11 (claiming the process followed by the trustees violated the UPS faculty by-laws).

384. See Michael J. McKasy, Letter to the Editor, *Retain Law School Campus in Tacoma*, NEWS TRIB., Nov. 15, 1993, at A9.

385. See John W. Ladenburg, Letter to the Editor, *University of Puget Sound Broke Faith with Legal Community*, NEWS TRIB., Dec. 19, 1993, at G5.

386. See *id.*

387. See Tim Strege, Letter to the Editor, *UPS Decision Violates Public Trust*, NEWS TRIB., Dec. 7, 1993, at A19.

388. See Bryan Chushcoff, Letter to the Editor, *UPS Doesn't Make the Case for Sale*, NEWS TRIB., Nov. 24, 1993, at A11.

389. See Robinson, *supra* note 383.

390. See Richard D. Robinson, Letter to the Editor, *Law School Sale Likely to Be Blocked*, NEWS TRIB., Jan. 23, 1994, at F5.

391. See Mott T. Greene, Letter to the Editor, *UPS Is Not a Jobs Program for City*, NEWS TRIB., Feb. 2, 1994, at A9.

attendance at court sessions.³⁹² And, finally, there was the letter writer who pronounced “good riddance,” saying that the last thing the area needed was more lawyers.³⁹³

As the days and weeks wore on, Dr. Weyerhaeuser tried to stem the bleeding, authoring an open letter on behalf of the Board of Trustees to the many citizens, law alumni, downtown businesspeople, and members of the Tacoma legal community who had written or called to express their opinions about the transfer of the law school from University of Puget Sound to Seattle University.³⁹⁴ But some community members weren’t done fighting for “their” law school, claiming the deal could still be undone.³⁹⁵

E. Attempts to Upend the Sale

A group of Tacoma citizens, some of whom had written critical letters to the editor, formed a committee called Save our University Law School (SOULS).³⁹⁶ The five-member citizens group was led by Chuck Granoski, Jr., the local lawyer and University of Puget Sound Law alumnus who was so upset about the sale.³⁹⁷ The group demanded that the trustees fire President Pierce and reverse the sale of the law school, which they viewed as a betrayal of Tacoma.³⁹⁸ They also appeared at a meeting in January with Mayor Hyde and the Tacoma City Council, where they urged the council to take several actions, including conducting a review of the legality of the sale, developing a strategy for approaching University of Puget Sound to undo it, applying pressure to have community representation on the University of Puget Sound Board of Trustees, passing a resolution denouncing the sale, insisting that University of Puget Sound fund the cost of upgrading the Pierce County Law Library, and entering into talks with the UW to explore offering law classes at the

392. See Edward P. Reed, Letter to the Editor, *UPS Misled Appeals Court into Relocating to Downtown Site*, NEWS TRIB., Jan. 3, 1994, at A7.

393. See Graci Jackson, Letter to the Editor, *Good Riddance to Lawyer-Producing School*, NEWS TRIB., Dec. 8, 1993, at A11.

394. See Letter from William T. Weyerhaeuser, Chairman, Univ. of Puget Sound Bd. of Tr. (Dec. 16, 1993) (on file with Seattle Univ. Law Library).

395. See, e.g., Callaghan, *supra* note 59.

396. See Memorandum from Donald Carmichael, Acting Dean, Univ. Puget Sound Sch. of L., to Univ. Puget Sound Sch. of L. (Dec. 2, 1993) (on file with Seattle Univ. Law Library).

397. See Steve Maynard, *New Group Can't Halt Law School Sale, Trustees Say*, NEWS TRIB., Dec. 3, 1993, at B5.

398. *Id.*

coming branch campus.³⁹⁹ Despite this litany of demands, nothing came of their efforts.⁴⁰⁰

A more surprising political development arose in February 1994 when House Speaker Brian Ebersole (D-Tacoma) and Speaker Pro Tem Ron Meyers (D-Gig Harbor) introduced a last-minute bill in the Washington State Legislature that would have allowed local government to tax the sale of a law school within the state at up to one hundred percent of the sale price.⁴⁰¹ Speaker Ebersole said he found the secrecy surrounding the sale deplorable,⁴⁰² while Representative Meyers referred to the law school sale as “theft by contract.”⁴⁰³ Their goal in putting forward the bill was to prompt University of Puget Sound and Seattle University officials to come to Olympia to discuss options other than moving the law school to Seattle.⁴⁰⁴

The introduction of a bill aimed at defeating Seattle University’s acquisition of the law school greatly perturbed President Sullivan, who accused Speaker Ebersole of political grandstanding.⁴⁰⁵ The effort to upend the sale was also the subject of a critical *Seattle Times* editorial, which described the bill as “flagrant legislative mischief” and “an abusive use of local tax empowerment.”⁴⁰⁶ Ebersole ultimately withdrew the proposed legislation after fellow legislators and the governor convinced him that there was no chance he could get it through the legislature.⁴⁰⁷

399. See Linda Woo, *Council Asked to Act in UPS Sale*, NEWS TRIB., Jan. 12, 1994, at B2; see also Editorial, *An Activist Response to Loss of Law School*, NEWS TRIB., Jan. 17, 1994, at A6 (encouraging the City Council to act on the group’s recommendations).

400. Later that spring, the SOULS group tried again, this time challenging UPS’s request to the Washington Higher Education Facilities Authority to sell \$5 million worth of bonds for campus construction projects. SOULS argued that the university had broken its pledge to maintain the law school in Tacoma and could not be trusted to meet its commitments to government agencies. See *State OKs \$5 Million in UPS Bond Sales for Construction*, NEWS TRIB., April 5, 1994, at B2. This, too, was a losing effort, and the bond sale was approved by the state. See *id.*

401. See *Tax the Sale of a Popular Law School?*, SEATTLE TIMES, Feb. 7, 1994, at B3; see also Lily Eng, *Seattle U. President Upset with Law-School Bill—Ebersole Is Chided for His Legislative Efforts to Cripple UPS Sale*, SEATTLE TIMES, Feb. 11, 1994, at B4.

402. See Eng, *supra* note 401.

403. See Editorial, *UPS Law-School Bill Is Tax Mischief at Its Worst*, SEATTLE TIMES, Feb. 8, 1994, at B4 [hereinafter *Tax Mischief Editorial*].

404. See *The Nose, 2 Lawmakers Seek Law School Sales Tax—100 Percent of Cost*, NEWS TRIB., Feb. 4, 1994, at B1.

405. See Steve Maynard, *Seattle U. Head Blasts Law School ‘Politics’*, NEWS TRIB., Feb. 11, 1994, at B8. Ebersole responded to the criticism by stating that President Sullivan was “a Seattleite who doesn’t understand the loss that Tacoma and Pierce County feel over the loss of the law school.” See *id.*

406. See *Tax Mischief Editorial*, *supra* note 403.

407. See Eng, *supra* note 401.

F. UW to the Rescue?

While these undercurrents were flowing throughout the city, the University of Washington was preparing to take advantage of the situation by considering whether it might be able to fill the gap created by the eventual departure of the law school from Tacoma.⁴⁰⁸ UW officials expressed an interest in bringing legal clinics, law library services, and perhaps even law classes to downtown Tacoma, with UW Law Dean Wallace Loh stating that UW had an obligation to serve the Pierce County legal and business communities.⁴⁰⁹ UW President William Gerberding allowed the exploration to go forward, and several Pierce County legislators, including Speaker Ebersole, were in conversations with UW officials about the possibilities and whether legislative funding might be made available.⁴¹⁰ Additionally, these leaders noted that UW's new branch campus in Tacoma would be completed by the time the law school departed for Seattle, making it an ideal location to host law classes and programs.⁴¹¹ Although nothing more came of these efforts at the time, they did lay the groundwork for a renewed but unsuccessful attempt several years later to locate a new South Sound law school at UW-Tacoma.⁴¹²

G. President Pierce Responds

While the Puget Sound Board of Trustees made the legal decision to sell the law school, President Pierce herself faced much of the criticism regarding the sale.⁴¹³ In the tumultuous days, weeks, and months that followed the announcement, she remained stoic in the face of seemingly unrelenting criticism, adopting the mindset that she was doing precisely the job she had been hired to do by the Board.⁴¹⁴ President Sullivan came to her defense, stating, "I tremendously respect her ability and her determination. . . She's being pummeled by certain people. It takes vision

408. See Maynard, *supra* note 358.

409. See *id.*

410. See *id.*

411. See *id.*

412. The move of the law school from Tacoma to Seattle in the summer of 1999 caused some Tacoma lawyers and judges to lobby UW-Tacoma to start a law program on its campus, but Vicky Carwein, the UW-Tacoma Chancellor, dashed those hopes, at least in the short term, stating that there were other more pressing new programs that needed to be addressed. See Roberto Sanchez, *Home— for the First Time—After a Frenzied Effort, and After a Multitude of Obstacles, Seattle University Law School's On-Campus Building Will Open Monday*, SEATTLE TIMES, Aug. 20, 1999, at B1. Carwein did, however, agree to put together a working group, to include representatives from UW-Tacoma, the UW's law school, and Tacoma area lawyers, to explore the issue. See *id.*

413. See, e.g., Maynard, *supra* note 397 (describing demands by the SOULS group that President Pierce be fired); Callaghan, *supra* note 59 (claiming that President Pierce was endangering Phil Phibbs' legacy).

414. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

and courage to make a decision like that.”⁴¹⁵ Lowry Wyatt, a long-time trustee and former board chair, thought she was being unfairly criticized: “She’s being charged with carrying the dirty end of the stick here. . . This was a board move.”⁴¹⁶ And in response to calls for her termination, Justice Dolliver, vice chair of the Board, reiterated publicly on more than one occasion that she had the Board’s full support.⁴¹⁷

Although expressing surprise at the fierceness of the negative reaction, President Pierce allowed that those who criticized her were free to do so, and she remained steadfast in her resolve, declaring, “I continue to believe the decision was the right one and the process was the only one we [could] follow.”⁴¹⁸ She worked diligently to keep the public focused on the positive, reminding all who would listen that the university’s position had never been stronger in terms of number of applications, student quality, and fundraising success.⁴¹⁹ Privately though, the experience was a painful one and difficult for her to get through.⁴²⁰ Dr. Pierce’s late husband was her most important support during this time; she described how he would monitor the local newspaper and warn her when another critical editorial had come out.⁴²¹ She also benefited greatly from the support of the Board, particularly Dr. Weyerhaeuser and Mr. Wyatt, who provided advice and counsel and accompanied her as she faced down disgruntled constituencies.⁴²²

President Pierce ultimately chose to respond to the criticism by stepping above the regional fray and making her case to a national audience: her colleagues in higher education. On April 6, 1994, as the dust had finally begun to settle on the sale, she authored an opinion piece in the *Chronicle of Higher Education*.⁴²³ In that essay, she described the events surrounding the sale of the law school and framed the Board’s decision as falling squarely within current higher education thinking, to wit institutions should “restructure themselves to focus on what they do best.”⁴²⁴ She explained how UPS had been proven right in zealously

415. See Eng, *supra* note 119.

416. See Maynard, *supra* note 397.

417. See *id.*

418. See Eng, *supra* note 36.

419. See Popham, *supra* note 299.

420. Electronic Interview with Susan Resneck Pierce, *supra* note 84. Mr. Matelich was of the view that the unfair and vitriolic criticism of Dr. Pierce shortened her tenure as president. See Electronic Interview with George Matelich, *supra* note 167.

421. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

422. *Id.*

423. Susan Resneck Pierce, Opinion, *A College Must Be Clear About Its Mission*, CHRON. HIGHER EDUC., Apr. 6, 1994 (on file with Seattle Univ. Law Library), reprinted in NEWS TRIB., Apr. 10, 1994, at C2.

424. See *id.*

pursuing its liberal arts mission over the preceding years: better and more applicants, higher selectivity, students drawn from across the nation, excellent student retention, and a growing endowment. She also counseled her colleagues in higher education to follow her university's lead by courageously implementing their institutions' own missions and resisting external community forces that are not mission-driven and student-focused.⁴²⁵

President Pierce received a positive national response to her essay, with calls coming in from fellow presidents and administrators across the country.⁴²⁶ However, as expected, the local reaction was not so favorable. The *News Tribune* published an editorial accusing her of trying to restore her reputation within the national higher education community but doing so at the expense of reopening wounds with the Tacoma community. In addition, the editorial took her to task for failing to admit to any mistakes or flaws in selling the law school.⁴²⁷ Former Dean Bond also responded, questioning President Pierce's honesty and challenging her claim that the university had invested \$11 million of its own resources in the law school.⁴²⁸ These critiques prompted an extended round of "tit for tat," with

425. *See id.*

426. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

427. *See* Peter Callaghan, Editorial, *UPS President's Article Reopens Wounds from Sale of Law School*, NEWS TRIB., Apr. 5, 1994, at A7; *see also* Editorial, *Missing the Point on Law School's Sale*, NEWS TRIB., Apr. 10, 1994, at C4 (stating that President Pierce's post mortem on the sale revealed a great deal more about her than about the subject of the piece and accusing her of trivializing and distorting the community's concerns).

428. *See* James E. Bond, Letter to the Editor, *UPS President Pierce's Defense of Law School Sale Is 'Artfully Contrived' Explanation*, NEWS TRIB., Apr. 20, 1994, at A9. Bond asserted that University of Puget Sound had largely reimbursed itself for Law Center-related expenses in the form of required overhead payments from the law school to the university, such that the total university investment in the law school over the years was closer to \$5 million. *See id.*

vigorous responses from President Pierce's supporters⁴²⁹ and criticism⁴³⁰ and praise⁴³¹ for the former dean.

VI. CREATING SEATTLE UNIVERSITY SCHOOL OF LAW

While President Pierce and University of Puget Sound were managing the continuing controversy surrounding the announcement of the sale, those of us in the law school were coming to terms with the immense amount of work needed to make the "transfer of sponsorship" a reality. In reflecting back on his time as Acting Dean, Don Carmichael recalled workdays of at least twelve hours and often much longer for months on end, with frequent trips to and from Seattle.⁴³² He would go into the office regularly at 4:00 a.m. to have a block of time to get things done before the phones started ringing, work that he described as "intense but also highly satisfying."⁴³³

In those early days of the transition, Professor John La Fond provided Dean Carmichael with a confidential memo containing advice he had received on how to approach an acquisition from a business world perspective, including the need to maintain a civil relationship with the selling entity and to prioritize preserving and running the asset well for the benefit of the new owner.⁴³⁴ Professor La Fond also created a useful but

429. A University of Puget Sound trustee emphasized that the sale was a board decision and Pierce had carried out trustee policy as any competent administrator would. He also lauded Pierce's strong commitment to educational excellence and attributed the university's growing national reputation to its willingness to make hard and unpopular decisions. See Troy M. Strong, Letter to the Editor, *UPS President Has Trustees' Full Support*, NEWS TRIB., Apr. 14, 1994, at A15. Another trustee sought to set the record straight, noting that while the community had been helpful in bringing the law school to downtown, University of Puget Sound (rather than the community) had financed the Law Center. See P.K. Wallerich, Letter to the Editor, *Community Didn't Finance Law Center*, NEWS TRIB., Apr. 29, 1994, at A13.

430. A University of Puget Sound professor strongly criticized Bond for his letter, accusing him of making unsupported allegations against President Pierce and suggesting that a principled person with his views of the transaction would resign from the institution rather than make defamatory public statements. See Mott T. Greene, Letter to the Editor, *UPS Prof Makes Unsupported Allegations*, NEWS TRIB., May 5, 1994, at A11. Another asserted that Bond's personal attack on President Pierce was sexist and sent the message that women leaders were untrustworthy and greedy. See Joshua Kay, Letter to the Editor, *Personal Attack on Pierce Is Unwarranted*, NEWS TRIB., May 6, 1994, at A13.

431. A retired local judge defended former Dean Bond, describing him as the moving force behind the success of the law school and Law Center through his leadership and interactions with the legal community. See Stanley W. Worswick, Letter to the Editor, *Bond Turned Law School into an Asset*, NEWS TRIB., May 11, 1994, at A13. And a law student suggested that University of Puget Sound should defend its decision to sell the law school on the merits rather than bashing Bond. See Dan'l W. Bridges, Letter to the Editor, *UPS: Argue About Facts, Not Personalities*, NEWS TRIB., May 12, 1994, at A7.

432. See Carmichael, *supra* note 115, at 7.

433. See *id.*

434. See Memorandum from John La Fond, Professor, Univ. of Puget Sound Sch. of L., to Donald Carmichael, Acting Dean (Nov. 11, 1993) (on file with Seattle Univ. Law Library).

daunting inventory of the numerous tasks facing the law school community, which included: seeking and maintaining ABA accreditation; implementing the provisions of the purchase and sale agreement; determining compensation and benefits for faculty and staff; ensuring continuity of law school programs and the curriculum; maintaining high-quality student services; integrating the law school into Seattle University; managing public relations; and conducting fundraising for the new building.⁴³⁵

Dean Carmichael asked that all transition-related matters go through him and his leadership team, which consisted of Associate Dean Joan Watt, Associate Dean Deming, Library Director Anita Steele, and Professor David Boerner (Academic Chair).⁴³⁶ To ensure that students had their concerns addressed, Dean Carmichael announced the creation of the Student Affairs Transition Committee, comprised of students, faculty, staff, and alumni.⁴³⁷ This committee gave voice to the students and allowed them to contribute their creativity and ideas to the transition process.⁴³⁸ Dean Carmichael also put together a set of Faculty Transition Committees to work on matters such as accreditation, compensation and benefits, budget, faculty integration, admissions and student recruitment, student relations, and staff transition.⁴³⁹ What followed were hundreds of transition-related meetings, both internal to the law school and with various Seattle University administrators, including President Sullivan.⁴⁴⁰

Dean Carmichael mandated strict control over the release of internal data given that negotiations would be ongoing over certain aspects of the purchase and sale transaction.⁴⁴¹ The complex due diligence process began almost immediately, requiring that law school administrators gather and provide large amounts of information in the form of lists and documents so that Seattle University could ascertain the law school's assets,

435. See Memorandum from John La Fond, Professor, Univ. Puget Sound Sch. of L., to Donald Carmichael, Acting Dean (Nov. 15, 1993) (on file with Seattle Univ. Law Library).

436. See Memorandum from Donald Carmichael, *supra* note 250.

437. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Students at the Law School, Student Affairs Transition Committee (Nov. 19, 1993) (on file with Seattle Univ. Law Library); see also Donald Carmichael, *Message from Dean Carmichael*, PUGET SOUND REP., Nov. 15, 1993, at 3 (on file with Seattle Univ. Law Library).

438. See Memorandum from Donald Carmichael, *supra* note 437; see also Carmichael, *supra* note 437.

439. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Faculty, Proposed Structure and Membership for Faculty Transition Committees (Nov. 19, 1993) (on file with Seattle Univ. Law Library).

440. See Memorandum from Donald Carmichael, *supra* note 250.

441. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Faculty & Staff, Need for Control over Our Internal Data (Nov. 18, 1993) (on file with Seattle Univ. Law Library).

obligations, and liabilities.⁴⁴² The requested data included information on University of Puget Sound restricted endowments, personal property leases, contracts for goods and services, accounts payable, intangible property, inventories of all law school assets that were to be transferred as part of the sale or excluded from the sale, employment information on all persons employed by the law school, student-related data, etc.⁴⁴³ Law school administrators provided these reams of data on a remarkably accelerated timeline, with much of it produced by December 8—exactly one month after the announcement of the sale.⁴⁴⁴

A. Winning Hearts and Minds

Over the next several months, under President Sullivan's direction, Seattle University set about winning the hearts and minds of the law school's faculty, staff, and students. According to Dr. Virginia Parks, a Seattle University administrator who played a major role in the transition, President Sullivan could have been the CEO of a Fortune 500 company in that he was a brilliant strategist and knew precisely what needed to happen to make the acquisition a success.⁴⁴⁵ From the very beginning, he understood that the venture would fail unless the law faculty came along, literally and figuratively.⁴⁴⁶ And so, President Sullivan carried forward plans to locate a beautiful new law school building in the heart of the campus, and he approached every issue that came up, including thorny questions around compensation and benefits, from the perspective of what would make these new members of the Seattle University community happy and confident in the future of the law school.⁴⁴⁷ Very early in the transition, he also arranged for intimate luncheons to be held at Dean

442. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Relevant Law School Departments & Operations (Nov. 26, 1993) (on file with Seattle Univ. Law Library). The gathering of this information as part of the due diligence process surfaced significant questions as to whether University of Puget Sound was retaining certain funds that, by right, should have belonged to the law school (and therefore Seattle University). These included gift endowments given by donors for the benefit of the law school, as well as the law school's share of federal Department of Education (DOE) funds granted to the university to assist law students. See Memorandum from Joan Watt, Assoc. Dean, Seattle Univ. Sch. of L., to Donald Carmichael, Acting Dean, Law School Assets—Some Questions (Feb. 14, 1995) (on file with author). After four long years of advocacy led by Joan Watt, the law school eventually won the battle with University of Puget Sound, and in 1999 the DOE restored the monies the law school had lost at the time of the transfer. See SEATTLE UNIVERSITY SCHOOL OF LAW DEAN'S NEWSLETTER 2 (1999) (on file with author).

443. See Memorandum from Donald Carmichael, *supra* note 442, at 2–5.

444. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Departments, Due Diligence Materials—Follow-up Memo (Dec. 6, 1993) (on file with Seattle Univ. Law Library).

445. Telephone Interview with Virginia Parks, *supra* note 7.

446. *Id.*

447. *Id.*; see also Interview with John Eshelman, *supra* note 142.

Carmichael's house so the faculty could begin to get to know President Sullivan and his senior administrators in a small group setting.⁴⁴⁸

President Sullivan tasked John Eshelman, the provost, and Dr. Virginia Parks, a tenured faculty member in the business school and former Chief Financial Officer, with taking the lead on the transition. Their charge was to help the law school feel welcomed and an integral part of the university, which entailed them driving down to Tacoma on a weekly and sometimes daily basis to engage and spend time with Dean Carmichael and the faculty and staff, and to discuss and answer the endless array of questions and issues that bubbled up.⁴⁴⁹

As this process went forward and Dean Carmichael got to know President Sullivan and the administrators at Seattle University, he would frequently inform the faculty and staff of his favorable assessment, referring in memos to the honesty, candor, good faith, and cooperation he was experiencing from the Seattle University leadership team.⁴⁵⁰ For their part, Dr. Eshelman and Dr. Parks engaged in some difficult conversations with law faculty who were worried about the university's religious affiliation and the related questions of freedom of speech and inquiry, with this issue seeming to be most pronounced among the lapsed Catholics.⁴⁵¹ According to Dr. Parks, the Catholic/Jesuit question was often couched in terms of whether the classrooms would contain crosses, to which she was able to answer that in all her years of teaching at Seattle University, she had never seen or taught in a classroom that had a cross on the wall, and if such a thing were to happen, President Sullivan would have the cross removed.⁴⁵² A related question was whether the university would control or change the way the faculty taught, and again, President Sullivan, directly or through his leadership team, would answer "no."⁴⁵³ In this way, he reassured the law school community that the university was strongly committed to academic freedom.⁴⁵⁴

448. Carmichael, *supra* note 115, at 7.

449. Telephone Interview with Virginia Parks, *supra* note 7; *see also* Interview with John Eshelman, *supra* note 142.

450. *See, e.g.*, Memorandum from Donald M. Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Law School Faculty & Staff (Except for Maintenance, Custodial & Security Personnel, Who Will Remain Permanently Employed by U.P.S.) (Nov. 29, 1993) (on file with Seattle Univ. Law Library) (stating that the law school was "entering into an institutional climate that engenders reciprocal trust and respect"). In looking back many years later, Dean Carmichael made a point of stating how different this treatment was from what he experienced at the hands of University of Puget Sound administrators. *See* Carmichael, *supra* note 115, at 3.

451. Interview with John Eshelman, *supra* note 142.

452. Telephone Interview with Virginia Parks, *supra* note 7.

453. *Id.*

454. *Id.*

In order to win the hearts and minds of all the faculty, Seattle University also needed to connect with the faculty members who were part of a solid conservative intellectual tradition within the law school and for whom Seattle University's focus on social justice was not a comfortable fit.⁴⁵⁵ Dr. Eshelman noted the inherent tension in the university's approach to this issue, which was to respect these faculty members' views and "allow the law school to be the law school," and yet ensure that everyone understood that the law school needed to fit within the university's overall mission and vision.⁴⁵⁶ One way to work through these issues was via the creation of a new mission statement for the law school, an effort led by Father John Topel.⁴⁵⁷

Just as President Sullivan and other university officials regularly traveled down to Tacoma to meet with their new colleagues, law faculty and administrators began to make trips up to Seattle to meet and get to know their counterparts at Seattle University. Professor Shapiro recalled that while many of the faculty were understandably focused on the details of the sale and its implementation, she chose to look ahead and focus on how the law school might fit in, which meant she quickly began to build relationships with her colleagues in Seattle.⁴⁵⁸ Professor Enquist had initially taught on the University of Puget Sound main campus before coming to the law school and was excited to once again participate in the intellectual life of a university campus.⁴⁵⁹ She took advantage of the lunches set up for her by Seattle University with the English Department and had initially been surprised to discover just how wary the rest of the faculty were of having the law school join the university.⁴⁶⁰ They had concerns that the law school would fundamentally alter the nature of the university, especially with the influx of faculty who were also lawyers, but she found the meetings became more positive when the main campus faculty realized that bringing the law school on board would result in an increase in retirement benefits for all Seattle University employees.⁴⁶¹

In terms of winning over the students, the announcement of a tuition increase of 5.4% for academic year 1994–95 (far less than the previous year's 10.6% increase and the lowest increase in fourteen years) and a 24% increase in student scholarship support went a long way in gaining student

455. Interview with John Eshelman, *supra* note 142.

456. *Id.*

457. Interview with John Topel, *supra* note 141.

458. See Email from Julie Shapiro, *supra* note 209.

459. Telephone Interview with Anne Enquist, *supra* note 196.

460. *Id.*

461. *Id.*; see *infra* text accompanying note 467.

support for the transition.⁴⁶² The announcement of an average pay increase of 4% heartened the law faculty, as did Seattle University's efforts to hire a tenure-track professor of color to join the law school.⁴⁶³ The faculty and staff also appreciated Seattle University's willingness to release to them those portions of the confidential purchase and sale agreement that dealt with compensation, benefits, and governance matters.⁴⁶⁴ Seattle University leadership even invited the law faculty to the campus for a joint reception and dinner with Seattle University administrators that first spring,⁴⁶⁵ an invitation that had never, at least in my experience, come our way from University of Puget Sound. Professor Boerner (who was Dean Carmichael's righthand person in the transition) perhaps summed up our changed circumstances best: "If every boat has to be on its own bottom, I want to be in President Sullivan's boat."⁴⁶⁶

B. Attending to Compensation and Benefits

Seattle University took great care to ensure that the law school faculty and staff would receive equivalent compensation and benefits, as had been promised with the announcement of the sale. While one of the motivating factors may have been fairness to the employees whose professional and personal lives had been upended by the sale, this was also part of President Sullivan's larger plan to incentivize the faculty and staff to accept the offers of employment from Seattle University. Those same individuals had been instrumental in creating the law school's regional reputation, and that goodwill was, of course, a large part of what Seattle University was purchasing.

Within a couple of weeks of the announcement of the sale, Dr. Eshelman sent a letter to the home of each law faculty and staff member to provide basic information and reassurance about employment matters and to collect information on any individual issues that needed to be addressed.⁴⁶⁷ The letter summarized several important points for the new employees: 1) base salaries would be honored by Seattle University, with faculty and staff raises to be addressed as part of the next law school

462. See Steve Maynard, *UPS Law School Tuition to Increase 5.4 Percent Under Seattle U. in Fall*, NEWS TRIB., Mar. 2, 1994, at B1.

463. See *id.*

464. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to Law School Faculty & Staff (Feb. 17, 1994) (on file with Seattle Univ. Law Library).

465. See Memorandum from Linda Hanson, Vice President for Univ. Advancement, Seattle Univ., to William J. Sullivan, Len Beil, Donald Carmichael, Hank Durand, John Eshelman, Virginia Parks, Denis Ransmeier & Joan Watt, Seattle Univ., Law School Dinner (Feb. 21, 1994) (on file with Seattle Univ. Law Library).

466. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Faculty & Staff (Jan. 21, 1994) (on file with Seattle Univ. Law Library).

467. See Memorandum from Donald Carmichael, *supra* note 450.

budgeting process; 2) all significant faculty rights contained within the University of Puget Sound Faculty Code would be preserved under Seattle University; 3) employee benefits, except retirement benefits, would remain substantially equivalent; 4) nearly equivalent retirement benefits would be provided by Seattle University, with an upward adjustment of after-tax salaries to make up any difference; 5) post-retirement medical benefits would continue to be provided by University of Puget Sound for those who were currently receiving them; 6) eligibility for tuition cash grants (for dependent children) would continue with Seattle University; and 7) University of Puget Sound and Seattle University would develop a tuition exchange agreement to permit law school employees and their dependents to continue taking advantage of University of Puget Sound tuition remission and exchange programs.⁴⁶⁸ The letter from Dr. Eshelman also included a Human Resources questionnaire asking each employee to indicate whether they intended to transfer their employment relationship to Seattle University and provide information on their current University of Puget Sound-sponsored medical insurance and/or retirement program.⁴⁶⁹

One of the most important initiatives undertaken in the immediate aftermath of the announcement of the sale was the work of the Compensation & Benefits Committee, chaired by Professor John La Fond of the law school, with Dr. Parks representing Seattle University on these matters. The list of topics and concerns the committee tackled was daunting—more than thirty items, including such matters as compensation, tenure and teaching loads, vacation and sick leave benefits, access to recreational facilities and athletic events, health care, dental plans and other insurance matters, sabbaticals, tuition remission benefits, and professional expense accounts.⁴⁷⁰ The motivating concern for this committee was to ensure that important faculty and staff employee benefits, previously available under University of Puget Sound, were a part of the committee's discussion and ultimately included as terms of employment in the written offer from Seattle University to law faculty and staff.⁴⁷¹ This work was also essential in detailing the items relating to compensation and benefits that would require the ongoing cooperation and assistance of UPS, such that those items were memorialized in the final

468. *See id.*

469. *See id.*

470. *See* Memorandum from John La Fond, Comp. & Benefits Comm. Chair, Univ. of Puget Sound Sch. of L., to Law School Staff Members (Dec. 1, 1993) (on file with Seattle Univ. Law Library).

471. *See* Memorandum from Kelly Kunsch, Comp. & Benefits Comm. Member, Univ. of Puget Sound Sch. of L., to Law School Staff Members (Dec. 1, 1993) (on file with Seattle Univ. Law Library).

agreement between the two universities.⁴⁷² In addition, the law school's Law Library and University of Puget Sound's Collins Memorial Library needed to create a working agreement between them to cover the period between the transfer of sponsorship in 1994 and when the law school would move to its new home on the Seattle University campus in 1999.⁴⁷³

The issues and concerns taken up by the Compensation & Benefits Committee were very real, especially for the staff. Regarding job security, what assurances existed that any given job would remain when the law school moved to Seattle in five years' time?⁴⁷⁴ How would the categorization of staff positions as exempt or non-exempt translate between the two institutions?⁴⁷⁵ Would Seattle University's less generous vacation accrual policy be applied to law school staff?⁴⁷⁶ Would accrued vacation and sick leave carry over to Seattle University, or would the accruals be lost?⁴⁷⁷ How would Seattle University make up for its substantially less generous retirement plan when compared to UPS?⁴⁷⁸ How would differences between the two universities in tuition remission benefits for employees and their dependents be handled?⁴⁷⁹ The latter question was particularly important to the many staff members who had taken lower-paying positions at University of Puget Sound in order to access free higher education for themselves and their families.⁴⁸⁰ And on the matter of inclusion, Professors Shapiro and Kellye Testy requested a nondiscrimination policy for employment and admissions that included sexual orientation.⁴⁸¹ They also asked that eligibility for benefits for family members be more broadly defined to include partners of lesbian and gay employees as well as their dependent children.⁴⁸²

472. See Memorandum from John La Fond, Comp. & Benefits Comm. Chair, Univ. of Puget Sound Sch. of L., to Faculty & Staff, Checklist for Your Review (Dec. 14, 1993) (on file with Seattle Univ. Law Library) (detailing such items as tuition remission at University of Puget Sound for faculty, staff, and their dependents, access to University of Puget Sound tuition exchange programs, main campus library privileges, and free access to University of Puget Sound athletic events).

473. See Memorandum from Anita Steele, L. Libr. Dir., Univ. of Puget Sound, to Marilyn Mitchell, Collins Mem'l Libr. Dir., Univ. of Puget Sound, Letter of Agreement Between the Law Library and Collins Library (Dec. 1, 1993) (on file with Seattle Univ. Law Library).

474. See Memorandum from Kelly Kunsch, Comp. & Benefits Comm. Member, Univ. of Puget Sound Sch. of L., to Benefits Comm. and Staff Members, Results of Inquiry Concerning Staff Benefits 2 (Dec. 6, 1993) (on file with Seattle Univ. Law Library).

475. See *id.*

476. See *id.*

477. See *id.* at 3.

478. See *id.*

479. See *id.* at 2.

480. See *id.*

481. See Memorandum from Julie Shapiro & Kellye Testy, Professors, Univ. of Puget Sound Sch. of L., to Benefits Comm. (Dec. 8, 1993) (on file with Seattle Univ. Law Library).

482. See *id.*

One of the biggest issues taken up by the Compensation & Benefits Committee concerned the significant difference in employee retirement benefits between the two universities. At that time, Seattle University had a 3% employee contribution and 7% employer match retirement program, whereas University of Puget Sound made employer contributions of 10% for non-exempt staff and 12% for exempt staff and faculty, with no employee contribution required.⁴⁸³ Seattle University eventually agreed to change its retirement plan for all its employees, both law school and non-law school, to a 10% employer contribution, with no required employee contribution, and a one-time salary bump of 2–3% for law faculty and exempt staff to make up for the lower employer contribution and the tax consequences of the one-time increase.⁴⁸⁴ This was a strategic move on President Sullivan's part because it made former University of Puget Sound employees whole while providing a more generous retirement plan for current Seattle University employees, giving the latter a reason to be pleased that the law school was joining the university.

Another issue concerned faculty eligibility for early retirement benefits—a plan that University of Puget Sound had but Seattle University did not. The proposed resolution was to retain the early retirement provision for current law faculty but not for those hired after the sponsorship change was effective.⁴⁸⁵ While several matters had been referred to future joint committees for consideration, the general approach followed by Seattle University was to endeavor to satisfy the concerns of the law school faculty and staff and to make them whole or nearly so. Thus, law staff would be permitted to carry over accumulated vacation and sick leave time and maintain their seniority by counting their years of employment at University of Puget Sound as years of employment at Seattle University; faculty would be accommodated through special provisions in the Seattle University Faculty Handbook, allowing for different faculty promotions and tenure timelines from the main campus; and the law school would be allowed to maintain its semester system although Seattle University was (and is) on a quarter system.⁴⁸⁶

483. *See* Memorandum from John La Fond, Comp. & Benefits Comm. Chair, Univ. of Puget Sound Sch. of L., to Law School Staff & Faculty 2 (Jan. 24, 1994) (on file with Seattle Univ. Law Library).

484. *See id.* The employer contribution for faculty and exempt staff had been 12% under University of Puget Sound and would be 10% under Seattle University's employee retirement benefit plan. *Id.*

485. *See id.* at 3.

486. *See id.* at 3–5.

Under the able leadership of Professors La Fond and Parks,⁴⁸⁷ and following months of meetings and negotiations, as well as the review of numerous draft proposals, the Compensation & Benefits Committee produced a final report dated March 23, 1994. This report defined the terms of employment Seattle University would offer the law faculty and staff upon its assumption of sponsorship of the law school.⁴⁸⁸ The end result was that the law school employees retained several of University of Puget Sound's benefits, which were unavailable to other Seattle University employees, and gained some new benefits that were part of the package Seattle University provided to its employees. And the rest of the Seattle University campus benefited from the decision to increase the employer-provided retirement benefit percentage for all. This collaborative committee effort was successful in easing anxiety and resolving questions and concerns about whether and how Seattle University would honor the rights and interests of its new employees. As Professor Bond pronounced, "It seems to me they're doing everything right."⁴⁸⁹

C. Accreditation Woes

In addition to all of the due diligence work and the efforts to nail down compensation and benefits terms and policies, administrators of the law school and the two universities needed to attend immediately to law school accreditation processes, which were triggered by the announcement of the sale and the impending transition in sponsorship. Shortly after the public announcement, Dean Carmichael heard from Jim White (the Consultant on Legal Education to the American Bar Association) that the applicable Standards and Rules of Procedure required a university to consult with the ABA *before* entering into an agreement to transfer the sponsorship of a law school.⁴⁹⁰

To help remedy this serious omission, Seattle University retained Dean John Robert Kramer of Tulane Law School as an accreditation advisor to assist with the mandated accreditation and membership reviews

487. In reflecting back on the transition process many years later, Don Carmichael praised Virginia Parks for her adroit management of issues and her intelligence and stamina in dealing with multiple faculty members in settings that were sometimes adversarial. *See* Carmichael, *supra* note 115, at 3–4.

488. *See* Memorandum & Report from John La Fond, Comp. & Benefits Comm. Chair, Univ. of Puget Sound Sch. of L., to Law School Staff & Faculty (Apr. 29, 1994) (on file with Seattle Univ. Law Library). A separate Seattle University Faculty Handbook revision process also clarified and delineated the statuses, promotion processes, contract terms, and rights of law librarians within the university's system. *See* Memorandum from Librarians, Univ. of Puget Sound Sch. of L., to Anita Steele, L. Libr. Dir. (Feb. 16, 1994) (on file with Seattle Univ. Law Library).

489. *See* Steve Maynard, *Seattle University Ready to Take Law School Reins*, NEWS TRIB., Aug. 18, 1994, at A1.

490. *See* Carmichael, *supra* note 115, at 4.

by the ABA and AALS (American Association of Law Schools).⁴⁹¹ Dean Kramer had recently shepherded the transfer of the University of Bridgeport's law school to Quinnipiac University, and so he came with significant expertise on the relevant rules and protocols for changes in institutional sponsorship, as well as the politics surrounding the relevant ABA committees and councils.⁴⁹²

Of immediate concern was that both the ABA and the AALS would be conducting on-site visits to the law school in the coming months as part of their review of the law school's accreditation (ABA) and membership status (AALS). At that time, the ABA required law schools to undergo a regular reaccreditation process every seven years, and the University of Puget Sound School of Law had been reaccredited most recently in 1989, meaning the next reaccreditation process was due to take place in 1996.⁴⁹³ However, the announcement of the sale changed this timeline because the governing ABA rule required that any law school changing its university affiliation must surrender its full ABA accreditation status and apply immediately for provisional accreditation for the period of the transition.⁴⁹⁴

This particular transfer of sponsorship was unusual from an accreditation review standpoint because there were no prior examples of a thriving law school having been transferred from one strong university to another.⁴⁹⁵ However, the relative health of all three institutions in this case did not, unfortunately, change the requirement that the law school seek provisional status rather than retain full accreditation. This was hugely disappointing because Seattle University had hoped that by creating favorable purchase conditions—in that it was the same law school but with a new and more supportive parent university—the law school's full accreditation would transfer along with the change in institutional sponsorship. Instead, the law school now faced a long and expensive process to regain full accreditation status, including bi-annual site visits by teams from the ABA and AALS throughout the multi-year period of the transition to the Seattle University campus and a new building.⁴⁹⁶

As the process began, Dean Carmichael explained to the law school community that provisional accreditation aimed to protect the law school and its students by ensuring, through an ABA oversight process, that the

491. See Memorandum from Donald Carmichael, *supra* note 250.

492. See *id.*

493. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to Students, Staff & Faculty at the Law School 2 (Jan. 20, 1994) (on file with Seattle Univ. Law Library).

494. See *id.* at 1.

495. See *id.*

496. See Carmichael, *supra* note 115, at 4–5.

law school maintained the quality of the legal education program and accomplished all necessary aspects of the transition.⁴⁹⁷ He predicted that the ABA would revoke the law school's full accreditation status and replace it with provisional accreditation at the ABA meeting in August 1994,⁴⁹⁸ which would closely coincide with the date when sponsorship of the law school would officially transfer from University of Puget Sound to Seattle University. He also reassured current students that provisional accreditation would not affect their ability to take any bar exam in the country.⁴⁹⁹

The first order of accreditation business was a mandated appearance in December by representatives of University of Puget Sound, Seattle University, and the law school before the ABA Council of the Section of Legal Education and Admissions to the Bar—the body that would ultimately decide whether to grant provisional accreditation.⁵⁰⁰ Dean Carmichael subsequently described the Council, whose members had been displeased with the lack of prior consultation regarding the proposed sale, as posing pointed and even hostile questions about the proposed transfer.⁵⁰¹ The opening salvo came from a law librarian on the Council, who declared that University of Puget Sound and Seattle University lacked standing to even appear before them because of the failure to have consulted with the ABA before entering into the transfer agreement.⁵⁰²

While Dean Carmichael and university officials attempted to pacify the ABA, the law faculty and staff labored through the December holidays to produce two large documents—the ABA Site Evaluation Questionnaire and a Self-Study—in preparation for two upcoming site visits: a late January 1994 inspection by the AALS team and a mid-February inspection by the ABA accreditation team.⁵⁰³ This process would ordinarily entail 6–12 months' worth of preparation, so it was nothing short of miraculous that the law school administration, faculty, and staff turned these materials around between mid-December and mid-January.⁵⁰⁴ On the recommendation of accreditation advisor John Kramer, Dean Carmichael worked to grease the accreditation wheels by inviting Jim White of the ABA to visit the law school to meet with Seattle University leadership in January, prior to the accreditation team's official site visit the following

497. See Memorandum from Donald Carmichael, *supra* note 493, at 1.

498. See *id.*

499. See *id.*

500. See *id.*

501. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to Faculty & Staff. (Feb. 6, 1994) (on file with Seattle Univ. Law Library).

502. See Carmichael, *supra* note 115, at 5.

503. See Memorandum from Donald Carmichael, *supra* note 493, at 2.

504. See *id.*

month.⁵⁰⁵ This strategy appeared to be successful in that the ABA leadership, which was initially put off by not having been consulted in advance of the sale, was now declaring the transition to be the “best thing that could happen to the law school.”⁵⁰⁶

The January visit by the AALS site team included class visitations, group conversations with students, faculty, and staff, and separate interviews with law school faculty, senior staff, and Seattle University administrators, followed by debriefing sessions with Dean Carmichael and President Sullivan.⁵⁰⁷ Dean Carmichael found the AALS visit instructive in highlighting several issues that would likely be raised by the upcoming ABA accreditation visit: the continuing and very concerning lack of tenure-track faculty diversity; the need to ensure that the law school retained an appropriate level of autonomy as it transitioned to becoming a part of Seattle University; the necessity of having a plan in place in the event applications for the next academic year decreased significantly; and the students’ anxiety about scholarship and financial aid issues, as well as the impact of provisional accreditation on their law school experience and employment prospects.⁵⁰⁸ Overall, though, the team concluded that morale among the faculty, staff, and students was quite high despite the stressful circumstances.⁵⁰⁹

Sandwiched between the AALS site team visit in late January and the corresponding visit by the ABA team in mid-February was another mandated appearance by Seattle University, University of Puget Sound, and the law school before the ABA Council at a meeting on February 5, 1994.⁵¹⁰ Fortunately, the reactions to presentations by President Pierce, President Sullivan, and Dean Carmichael were considerably more positive this time around, with most of the Council’s questions directed to President Sullivan concerning university resources and the financing and timeline for the new law school building.⁵¹¹

Dean Carmichael attributed the more positive Council perceptions to three factors: 1) Seattle University’s enthusiasm and promised financial support of the law school; 2) the fact that ABA Consultant Jim White was now favorably disposed toward the proposed transfer; and 3) the law

505. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Faculty & Staff (Jan. 21, 1994) (on file with Seattle Univ. Law Library).

506. See *id.* (quoting James P. White, former ABA Consultant on Legal Education & Admissions to the Bar).

507. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Faculty & Staff 1 (Feb. 2, 1994) (on file with Seattle Univ. Law Library).

508. See *id.* at 1–2.

509. See *id.* at 1.

510. See Memorandum from Donald Carmichael, *supra* note 501.

511. See *id.*

school's effective management of various transition-related processes, including the submittal of high quality materials to the Council on such a short timeline.⁵¹² His sense that things had gone well was confirmed when he received a call the next day from Dean Kramer relating an off-record assurance from Jim White that the ABA Council planned to acquiesce in the transfer.⁵¹³

The five-person ABA site team visited the law school from February 16–18.⁵¹⁴ Then, on April 29, 1994, Dean Carmichael, President Sullivan, and Provost Eshelman appeared before the ABA Accreditation Committee.⁵¹⁵ The head of the ABA site inspection team provided an oral report of the team's findings from their recent visit, followed by a report from Dean Carmichael updating the Committee on transition events, fiscal and budgetary matters, the admissions picture for the next entering class, progress on faculty diversity, and the impact on faculty and staff of the enormous workload entailed by the transition and accreditation processes.⁵¹⁶ President Sullivan then spoke to the issues and timing for the new law school building, and Provost Eshelman updated the members on the dean search timeline and processes.⁵¹⁷

Dean Carmichael came away from this meeting with a strong feeling that the transfer of sponsorship would receive approval.⁵¹⁸ From his perspective, the law school had two major issues still requiring resolution. The first was whether the law school could avoid provisional accreditation status on the basis that this was a “normal” transfer rather than a “fire sale” of a failing law school.⁵¹⁹ The committee chair exhibited some sympathy to this argument but stressed that the Committee was bound by ABA rules, causing Dean Carmichael to conclude that avoiding provisional status was unlikely.⁵²⁰ The second issue was whether the law school would be allowed to submit annual, focused accreditation reports, rather than having to undergo five years of full-blown site inspection processes with all of the attendant work, a position that also seemed to elicit some sympathy from the Committee.⁵²¹ However, the answer to those questions would need to

512. *See id.*

513. *See id.*

514. *See* Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to the Law School Community (Feb. 11, 1994) (on file with Seattle Univ. Law Library).

515. *See* Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to All Interested Parties 1 (May 3, 1994) (on file with Seattle Univ. Law Library).

516. *See id.*

517. *See id.*

518. *See id.*

519. *See id.*

520. *See id.* at 1–2.

521. *See id.*

await the full Council's recommendation and the ABA House of Delegate's decision.

The same Seattle University leadership group appeared before the ABA Council in Minneapolis on June 3, 1994.⁵²² At that meeting, President Sullivan described the smooth progress of the transition, and Dean Carmichael stressed the negative effects of the proposed provisional accreditation, both as to institutional workload and the negative impact on the school's ability to enroll students.⁵²³ As to the latter, he emphasized that regional competitors were using the law school's provisional status to divert prospective students away from attending Seattle University School of Law.⁵²⁴

To Dean Carmichael's surprise, at the conclusion of the presentations, Jim White and the Council members expressed their view that the law school should be allowed to apply for restoration of full accreditation in two years rather than five and that annual updates of information could replace the full self-studies.⁵²⁵ The Council ultimately made that recommendation to the ABA, and the ABA House of Delegates voted at its meeting on August 9, 1994, to approve the transfer of sponsorship of the law school from University of Puget Sound to Seattle University, with approved provisional accreditation status and the opportunity for the law school to apply for full accreditation status in two years.⁵²⁶

D. Enrolling the Class and Appealing to Alumni, Employers, and Donors

As the transition to Seattle University sponsorship was being effectuated during the 1993–94 academic year, the law school needed an all-out public relations campaign to convince potential students, employers, and University of Puget Sound alumni that the change in sponsorship would benefit the law school, legal community, and our many constituents. One of the most difficult tasks facing the law school following the announcement of the sale was to enroll the entering class of students for 1994–95, many of whom had applied to University of Puget Sound School of Law but would be accepted into and attend Seattle University School of Law in Tacoma. Recruitment of the next couple of classes after that would also be challenging because those students would

522. See Memorandum from Donald Carmichael, Acting Dean, Univ. of Puget Sound Sch. of L., to the Law School Community (June 6, 1994) (on file with Seattle Univ. Law Library).

523. See *id.* at 1.

524. See *id.* at 1–2.

525. See *id.*

526. See News Tribune Staff, *Bar Association OKs Sale of UPS Law School*, NEWS TRIB., Aug. 11, 1994, at B2.

start their law studies in Tacoma but physically transition to Seattle before graduation.

Associate Dean Watt designed and executed a compelling “Best of Both” admissions campaign, which acknowledged the upcoming August 1994 transfer of sponsorship and emphasized that students coming to Seattle University School of Law in Tacoma would benefit from everything the law school had built under University of Puget Sound and all that Seattle University had to offer as the new parent institution.⁵²⁷ She also recruited current law students who had attended Seattle University as undergraduates to act as ambassadors for the new version of the law school.⁵²⁸

After a great deal of hard work and effort, the law school was, fortunately, able to fill the class with only a small dip in entering credentials despite the challenges posed by the loss of full accreditation and a declining national admissions market.⁵²⁹ The “Best of Both” materials also operated as a primer on Seattle University for continuing students and as an orientation packet for legal employers on the Northwest region’s newest law school.⁵³⁰ This successful campaign marked the beginning of a series of extensive admissions, public relations, and fundraising efforts that would serve to “make the case” for Seattle University School of Law.

E. The Final Days of University of Puget Sound School of Law

A capstone event in the twenty-one-year history of University of Puget Sound School of Law occurred on Sunday, May 15, 1994, as the final group of University of Puget Sound law students walked across the stage of Memorial Fieldhouse to receive their diplomas.⁵³¹ The commencement was a fittingly joyous affair, with a great deal of optimism expressed for the future of the law school. While President Pierce chose not to attend the ceremony,⁵³² Seattle University President William Sullivan gave the invocation and benediction, Madeleine Albright (U.S. Ambassador to the United Nations) presented the keynote address, and

527. See Memorandum from Joan Watt, Assoc. Dean, Univ. of Puget Sound Sch. of L., to Colleagues (Apr. 27, 1994) (on file with Seattle Univ. Law Library) (showcasing “Best of Both” bookmarks to be used in communications with prospective and current students, alumni, legal employers, etc.).

528. Interview with Joan Duffy Watt, *supra* note 185.

529. *Id.*

530. See Joan Watt, Entry: Best of Both Recruitment Folder 2 (1994) (unpublished manuscript) (on file with author).

531. See Maynard, *supra* note 265.

532. See Steve Maynard, *Law Students, School Become UPS Graduates*, NEWS TRIB., May 11, 1994, at B1.

former President Phil Phibbs attended to see off the final graduating class.⁵³³ The retired president expressed pride in the law school, as well as his hope that the university and city would come together and heal the wounds caused by the sale of the law school.⁵³⁴ Professor Richard Settle, speaking for the group of founding faculty members honored at the ceremony, recounted the law school's gains in academic quality over the years and contrasted University of Puget Sound's "cold shoulder" with Seattle University's "warm embrace."⁵³⁵ Professor James Beaver captured the moment, stating, "It's the same law school. I see no reason why I should be shedding any tears."⁵³⁶

Later that summer, in early August, Professor Bond taught the final law class session being offered under the University of Puget Sound banner. A photograph captured him teaching his Criminal Law class wearing a T-shirt imprinted with a tombstone and "R.I.P. UPS School of Law, 1972–1994."⁵³⁷ Of course, the *News Tribune* could not let the law school's upcoming transition in sponsorship go without comment.⁵³⁸ It published another opinion piece by Peter Callaghan, who by this time was looking to the UW School of Law and its dean, Wallace Loh, to be the hero of the story. Callaghan spun out the idea of a UW School of Law-Tacoma, which would provide a first-choice legal education option for students in the South Sound and, he hoped, inflict damage on the admission prospects and finances of Seattle University School of Law.⁵³⁹ No matter that this was a far cry from what Dean Loh had announced: a request to the state legislature by UW for \$200,000 to set up a legal clinic for low-income clients in Tacoma and an additional \$40,000 to create a program to supply UW law students as interns to Pierce County agencies.⁵⁴⁰ And, as one final parting shot, the newspaper published an editorial cartoon the next day depicting President Sullivan being married to University of Puget Sound Law School, with President Pierce as the

533. See Maynard, *supra* note 265.

534. See *id.*

535. See *id.*

536. See *id.*

537. See Steve Maynard, *Dismissing Class Action*, NEWS TRIB., Aug. 5, 1994, at A1.

538. See discussion *supra* Section V.D.

539. See Peter Callaghan, Editorial, *UPS School of Law Sale Could Give Tacoma Unexpected Dividend*, NEWS TRIB., Aug. 18, 1994, at A15. A local state court of appeals judge joined in this jaundiced view of the newly minted Seattle University School of Law, disparaging the alliance between the law school and its new parent university and stating that UW Law and Dean Wallace Loh would receive a warm welcome from the Court of Appeals and other local legal entities. See Edward Reed, Letter to the Editor, *Law School Sale Wounds Won't Heal Soon*, NEWS TRIB., Aug. 30, 1994, at A7.

540. See Callaghan, *supra* note 539.

officialant surrounded by a crowd of objectors, who she was studiously ignoring.⁵⁴¹

VII. SEATTLE UNIVERSITY SCHOOL OF LAW COMES INTO BEING

On August 19, 1994, at 5:01 p.m., the ownership and sponsorship of the law school officially passed from University of Puget Sound to Seattle University.⁵⁴² A private, intentionally low-key reception for law school supporters, faculty and staff, and Seattle University trustees was held that afternoon in the Law Center, one week prior to the beginning of the new academic year.⁵⁴³ President Sullivan spoke the following words at the reception:

The integration of a law school into our university provides enormous opportunities for serving our community in new and important ways. We will be supporting the education of students who will go on to craft our public codes and legislation, shape our criminal procedures and judicial canons, set standards for our corporate behavior and professional ethics. In the long term, we will be educating many of the region's finest lawyers, women and men who are destined to play significant roles in determining how our society operates.⁵⁴⁴

A. Litigation Commences

Just when everyone thought the law school could leave University of Puget Sound behind and look to its future with Seattle University, a lawsuit was filed against University of Puget Sound by twelve tenured law faculty members (who were now employed by Seattle University).⁵⁴⁵ The litigation named the university, President Pierce, and Raymond Bell (University of Puget Sound Vice President for Finance) as defendants.⁵⁴⁶ Eleven of the faculty members filed suit in Pierce County Superior Court,

541. See Chris Britt, Editorial Cartoon, NEWS TRIB., Aug. 19, 1994, at A12.

542. See Maynard, *supra* note 489. Reflecting the change in sponsorship, the state put up new signs in downtown Tacoma to direct individuals to Seattle University School of Law. Although Seattle University officials had originally requested the signs to read "SU Law School," the Department of Transportation (DOT) was unaware of the sensitivities surrounding the change in sponsorship and changed the wording to read "Seattle Law School," thinking that it provided better clarity. Concerned that the DOT's version served as an unnecessary reminder to the community that Seattle had taken Tacoma's law school, Seattle University officials complained, and the DOT ultimately changed the wording on the signs back to the original "SU Law School." See Steve Maynard, *Seattle Law School in Tacoma? Unsubtle Signs to Be Replaced*, NEWS TRIB., Aug. 24, 1994, at B1.

543. See Maynard, *supra* note 489.

544. See Rolfe, *supra* note 1, at 5.

545. See Jack Broom, *UPS Law Professors Sue Over Pay Issues*, SEATTLE TIMES, Jan. 5, 1995, at B2 (noting that the twelve faculty members who sued constituted more than half of the tenured law faculty).

546. See Steve Maynard & Paul Chavez, *12 Law School Profs Suing UPS Over Sale to Seattle U.*, NEWS TRIB., Jan. 5, 1995, at B1.

and a twelfth faculty member filed in U.S. District Court in Tacoma.⁵⁴⁷ All twelve claimed that they were entitled, under their contracts with University of Puget Sound and under the federal Employee Retirement Income Security Act (ERISA), to a year's worth of severance pay as well as early retirement compensation.⁵⁴⁸

The legal theory put forward by these faculty members was that when the university terminated the law program, it had an obligation under the faculty code to either offer the faculty comparable positions within the university or pay them a one-year severance benefit.⁵⁴⁹ The plaintiffs also asserted an entitlement to an early retirement payout under the faculty code, which they claimed the university was required to provide whether the faculty members actually retired or went on to work at another institution.⁵⁵⁰ According to a University of Puget Sound spokesperson, the faculty members were seeking "an average annual salary of \$93,000 and early retirement pay up to \$162,750."⁵⁵¹

In addition to asserting their contractual rights, these faculty members were also expressing their anger at University of Puget Sound for the sale of the law school.⁵⁵² As a pre-tenure member of the faculty at the time, I remember harboring some less than charitable feelings toward those who already had the privilege of tenure and the higher compensation that goes with it and who were now seeking to recover damages despite being fully employed. I know that many of us were concerned that the lawsuit, even though it was being asserted against University of Puget Sound and not Seattle University, would cause our new parent institution to think poorly of us as a faculty.

University of Puget Sound responded publicly to the lawsuit, stating that the university's "foremost goal in structuring the transfer of the law school to Seattle University was to protect the faculty."⁵⁵³ The university asserted that these faculty members were still employed by the same law school, were receiving virtually the same salaries and benefits from Seattle University as they had from University of Puget Sound, and had not retired nor been dismissed.⁵⁵⁴ Consequently, University of Puget Sound did not

547. See Broom, *supra* note 545.

548. See Paul Shukovsky, *12 Professors Sue Law School*, SEATTLE POST-INTELLIGENCER, Jan. 5, 1995, at B1.

549. See Elizabeth Evans, *Professors Sue UPS over Breach of Contract*, TRAIL, Feb. 2, 1995, at 1 (on file with author); see also Broom, *supra* note 545.

550. See Evans, *supra* note 549 (quoting Professor James Bond).

551. See Maynard & Chavez, *supra* note 546.

552. See *id.* (quoting Professor James Beaver); see also Evans, *supra* note 549 (quoting Professor James Bond on the university's "morally outrageous" position).

553. See Shukovsky, *supra* note 548 (quoting John Gallagher, UPS spokesperson).

554. See Broom, *supra* note 545 (citing John Gallagher, UPS spokesperson).

owe them severance or early retirement compensation.⁵⁵⁵ Several of the suing professors authored a letter in reply, stating that rather than being greedy, the plaintiffs were simply asking the university to fulfill its contractual obligation under the governing university code.⁵⁵⁶

After lengthy negotiations, the lawsuits were settled by University of Puget Sound, with a confidentiality agreement binding the parties against disclosing the amounts paid to the individual faculty plaintiffs in settlement of their claims.⁵⁵⁷ According to Dean Carmichael, the Court Commissioner in the federal lawsuit had advised University of Puget Sound during the pendency of the litigation that it would likely lose, which undoubtedly spurred the university to settle with the law faculty.⁵⁵⁸

B. Seattle University Hires a "New" Dean

In May of 1995, after a national search, Seattle University announced that it had hired James Bond to be dean of the law school, returning him to the position he had previously held for seven years, but now with Seattle University as his boss.⁵⁵⁹ Dean Bond viewed this as a new deanship rather than a continuation of the prior one,⁵⁶⁰ and he described the opportunity to serve as dean of the same law school twice but with different sponsoring universities as unprecedented and exciting.⁵⁶¹ He extolled the opportunities for students to participate in Seattle University's other graduate and professional programs, which would not have been available to law students in the prior affiliation with University of Puget Sound.⁵⁶² In preparation to begin the role on July 1, he withdrew from the lawsuit against University of Puget Sound for severance and early retirement pay.⁵⁶³

As Dean Bond returned to the deanship, the law school did not have a strategic plan in place, and the faculty and administration lacked the time or energy to craft one.⁵⁶⁴ Fortunately, the law school's priorities for the

555. *Id.*

556. See James E. Beaver, Letter to the Editor, *PIERCE CNTY. BUS. EXAM'R.*, Jan. 23, 1995, at 7.

557. See Email from Anonymous Faculty Plaintiff, Seattle Univ. Sch. of L., to author (Apr. 28, 2023, 3:15 PM) (on file with author). While the source of this information wishes to remain anonymous, the individual is known to the author.

558. See Carmichael, *supra* note 115, at 6-7.

559. See Steve Maynard, *Seattle U. Hires Dean of Former UPS Law School*, *NEWS TRIB.*, May 3, 1995, at B1.

560. See John Iwaskai, *Bond Returning as SU Law School Dean*, *SEATTLE POST-INTELLIGENCER*, May 3, 1995, at B1.

561. See Maynard, *supra* note 559.

562. See Iwaskai, *supra* note 560.

563. See Maynard, *supra* note 559.

564. See JAMES E. BOND, *A CHALLENGING PAST AS PROLOGUE TO AN EXCITING FUTURE: A REPORT FROM THE DEAN TO THE LAW SCHOOL BOARD OF VISITORS & THE NATIONAL ALUMNI COUNCIL 2* (1999) (on file with author).

next several years were obvious; they included securing the restoration of full accreditation as soon as possible, planning for a new law school building on the Seattle University campus, raising the funds needed for the building's design and construction, continuing the administrative and cultural integration of the law school into Seattle University, and ensuring the financial health of the law school.⁵⁶⁵ Of course, all of these priorities were in addition to our need to tend to the usual work of a law school: educating students, launching them into their careers, providing service to the university and community, and producing scholarship.

Dean Bond relished the challenge presented, and under his leadership, the law school made significant progress on each of the priorities in the four years before the physical move to Seattle. By 1996, the law school had successfully petitioned the ABA and was returned to full accreditation.⁵⁶⁶ Dean Bond and Joan Watt crisscrossed the Puget Sound region, regaling alumni, employers, and friends with the benefits of the law school's affiliation with Seattle University and raising funds for the new building at a level that exceeded expectations.⁵⁶⁷ The integration with our new university, while necessarily still a work-in-progress, was proceeding despite the obstacles posed by the geographic separation. Incremental progress was finally being made on much-needed efforts to diversify the tenure-track faculty.⁵⁶⁸ And some exciting new programs had been designed, including a joint JD/MBA degree program with Seattle University and the Access to Justice Institute,⁵⁶⁹ the latter of which would become the social justice heart of the law school. But, among all these priorities, the biggest, most complex, and most important task during this period was to create a new home for the law school on the Seattle University campus.

C. Building a New Home

President Sullivan was determined to situate the new law school in the heart of the main campus.⁵⁷⁰ The sites initially under consideration included the university-owned storage building near 12th Avenue and East Madison Street, the Swedish Parking Garage on Broadway, and the

565. *See id.*

566. *See Persuasive Case Gains Restoration*, SEATTLE UNIV. SCH. L. LAW. MAG., Fall 1996, at 1, 1 (stating that the law school was reduced to provisional accreditation in August 1994, upon the transfer of sponsorship to Seattle University, because ABA rules provided that accreditation was not transferable).

567. *See BOND*, *supra* note 564, at 3.

568. *See id.* at 3–4.

569. *See id.*

570. Interview with John Eshelman, *supra* note 142.

Campion parking lot at East James Way and East Cherry Street,⁵⁷¹ but a prime location was ultimately chosen on the eastern edge of the campus at the intersection of 12th Avenue and East Columbia.⁵⁷² Professor Eric Chiappinelli chaired the Building Committee, and he and his committee members spent more than three years liaising between the project architects, Seattle University administrators, and the law school community. The university also worked extensively with the City of Seattle to gain approval of its updated Master Plan, which included the drafting of an environmental impact statement.⁵⁷³

The building was designed to be approximately 144,000 square feet and 84,000 net square feet for a total trustee-approved expense of \$33,450,000.⁵⁷⁴ The costs were funded from gifts to the law school and the proceeds of thirty-year, tax-exempt bonds issued by the Washington State Higher Education Authority, with interest and principal on the bonds to be serviced from the law school operating budget.⁵⁷⁵

In terms of design, the building was created to be a state-of-the-art facility, with equal attention paid to aesthetics and function, and with an overarching goal that the building work well for all of its users, but especially for the students who would come to call it their law school home.⁵⁷⁶

The ceremonial groundbreaking for the building took place on February 19, 1998,⁵⁷⁷ and as always seems the case with such complex ventures, the eighteen-month construction project did not go precisely as planned. The countdown to opening day was fraught with complications, including materials shortages and delays, the bankruptcy of one of the project subcontractors, and a nearly ninety-day stretch of rain the following winter, all of which conspired to threaten an on-time start to classes.⁵⁷⁸ Dean Deming recalled a very tense meeting in Tacoma with current students as we explored contingency plans in case building construction was ongoing, including finding alternative space for classes

571. See Eng, *supra* note 119.

572. See Memorandum from Eric A. Chiappinelli, Professor, Seattle Univ. Sch. of L., to All Faculty, Overview of the New Building 1 (Sept. 19, 1997) (on file with Seattle Univ. Law Library) [hereinafter Chiappinelli Memo].

573. See Memorandum from Eric A. Chiappinelli, Professor, Seattle Univ. Sch. of L., to Deans, Faculty, Staff, Update on the New Building 1 (Aug. 27, 1996) (on file with Seattle Univ. Law Library) [hereinafter Chiappinelli].

574. See Chiappinelli Memo, *supra* note 572, at 1, 3.

575. See *id.* at 4.

576. See Chiappinelli, *supra* note 573, at 2.

577. See SEATTLE UNIV., PROGRAM, GROUNDBREAKING: NEW FACILITY FOR THE SCHOOL OF LAW (1998) (on file with Seattle Univ. Law Library); see also Victor M. Gonzalez, *Former UPS Law School Moving to Seattle Next Year*, NEWS TRIB., Feb. 19, 1998, at B2.

578. See Sanchez, *supra* note 412.

on the Seattle University main campus or delaying the start of the academic year.⁵⁷⁹ As late as two months before the planned opening date, Dean Bond was giving 50-50 odds on whether the building would be ready to open on time.⁵⁸⁰ Fortunately, luck was on our side.

D. Seattle Bound

As the building neared completion, not everyone was preparing to join the law school in the move to Seattle. In the five intervening years between the announcement and the actual relocation, more than fifty percent of the staff had taken positions elsewhere.⁵⁸¹ Unlike the faculty, their skills were transferable to settings other than higher education. For the staff members who decided to stay with the law school, a significant motivating factor was the availability of tuition remission benefits for themselves and their children, but among this group, most had to steel themselves for the long commute because they could not afford to relocate to Seattle (or could not move for family reasons).⁵⁸² A few of the law faculty chose to take positions with other law schools in the intervening years,⁵⁸³ but most stayed with us. For the many faculty and senior staff who were at that point still living in Tacoma, the agonizing question was whether to move to Seattle or resign themselves to spending hours each day commuting up and down I-5. It was a difficult decision for many, but most chose not to uproot their families (myself included), and so while our working lives moved to Seattle, our personal lives remained rooted in the South Sound.

The physical relocation of the law school was a monumental and chaotic undertaking of sorting, pitching, and packing,⁵⁸⁴ with the actual move occurring during the first two weeks of August 1999.⁵⁸⁵ Professor John Weaver was in charge of planning and coordinating the physical relocation, and as part of his role, he consulted with Quinnipiac College School of Law administrators since they had recently undergone a similar

579. Telephone Interview with Donna Claxton Deming, *supra* note 183.

580. *See* Sanchez, *supra* note 412.

581. *See* Bond, *supra* note 564, at 2.

582. Interview with Lori Lamb, *supra* note 212.

583. The departing professors included Douglas Branson, John La Fond, Wallace Rudolph, Geoffrey Watson, and Patricia Dilley.

584. *See* Memorandum from John Weaver, Prof., Seattle Univ. Sch. of L., to Faculty, Staff, Librarians, Student Bar Ass'n, Law Review, Moot Court Board & ADR Board, Law School Move and Transition (Nov. 10, 1998) (on file with Seattle Univ. Law Library) (laying out the complexities of the impending move and the planned operation of a dual-location summer school for Summer 1999).

585. *See* David Quigg, *Law School Bids Farewell to Tacoma*, NEWS TRIB., Aug. 13, 1999, at B1.

transition and move.⁵⁸⁶ Faculty were each given moving boxes and were responsible for packing up their offices.⁵⁸⁷ Planning how to keep administrative tasks moving while the offices were shut down for a period of time was challenging, but moving the law library was by far the most difficult part of the physical move and required a great deal of planning.⁵⁸⁸

As the law school faculty and staff carried out the move, Dean Bond ended our time in Tacoma on a positive note by stating, “[t]here’s a lot of nostalgia about leaving the building and leaving the city But there’s also a lot of excitement.”⁵⁸⁹ He also penned a thank you letter to the Tacoma-Pierce County community that summed up what many of us were thinking and feeling:

On behalf of my staff and faculty colleagues, I want to thank you for all the support you have given the law school over the past quarter century.

You helped found the school. You hired our students as interns and our graduates as associates; you taught in our classes, as guest lecturers and adjuncts; and you served on the law school Board of Visitors and on other ad hoc committees. We will be forever in your debt for these contributions and for all the other ways in which you have enriched the school with your gifts of time and treasure.

Leaving Tacoma and the Norton Clapp Law Center is thus a bittersweet experience for all of us. We are excited about being relocated to our new state-of-the-art home in Seattle and in particular to a university that values us and the contributions that we can make, both to it and the larger community

. . . .

Leaving Tacoma was not, as you all know, a choice that the law school made[.]

. . . .

In any case, the law school’s roots are and always will be in Tacoma. We began here; we grew here; we matured here. We are proud to have been a key partner in the revitalization of the downtown, and we

586. See Letter from John Weaver, Professor, Seattle Univ. Sch. of L., to David King, Assoc. Dean, Quinnipiac Coll. Sch. of L. (Oct. 6, 1997) (on file with Seattle Univ. Law Library).

587. See Memorandum from James Bond, Dean, Seattle Univ. Sch. of L., to Staff & Faculty, The “Move!” 3 (Oct. 22, 1998) (on file with Seattle Univ. Law Library).

588. See Memorandum from John Weaver, *supra* note 584, at 3.

589. See Quigg, *supra* note 585 (quoting Dean James Bond). At the same time, a University of Puget Sound official remarked that the university had no regrets and the experience since the transfer had “reaffirmed the wisdom and correctness of the trustees’ decision.” See *id.*

are pleased that the Norton Clapp Law Center will be home to the employees of Tacoma and Pierce County after we leave.

. . . .

[W]e do leave with decidedly mixed emotions, and one of those is regret at what might have been, had we had the opportunity to stay.⁵⁹⁰

E. Sullivan Hall Opens

Monday, August 23, 1999, dawned as a historic day for Seattle University School of Law as the doors opened in brand-new Sullivan Hall and classes began for the 1999–2000 academic year.⁵⁹¹ Fortunately, students, staff, and faculty were able to work around the unfinished parts of the building, and everyone approached the chaos and confusion with a sense of excitement.⁵⁹² The long-awaited era of Seattle University's law school had finally begun.

It was entirely fitting that our new building was christened “Sullivan Hall,” in honor of William Sullivan, S.J., the individual whose singular vision and drive had brought us to this place. Sullivan Hall was dedicated over the course of five marvelous days, October 18–22, 1999, with national dignitaries and distinguished alumni participating in a series of lectures and programs, with each day devoted to a different topic: social justice, legal scholarship, legal education, legal practice, and law school achievements and challenges.⁵⁹³ Don Carmichael returned from retirement and his home in Maine for the celebration, and when Dean Bond noted his presence, the audience treated him to a rousing round of applause that went on for several minutes.⁵⁹⁴

By the time of the dedication, William Sullivan had stepped down from the Seattle University presidency for health reasons and had been named the University Chancellor.⁵⁹⁵ His successor, Stephen V. Sundborg, S.J., embraced the law school's arrival on campus and carried forward President Sullivan's vision, first announced on that momentous day in 1993, of building one of the premier law schools in the United States in the heart of Seattle.⁵⁹⁶ Upon Father Sullivan's passing in 2015, President Sundborg remarked that the purchase of the law school was the most

590. See James E. Bond, Letter to the Editor, *Law School's Departure Bittersweet*, NEWS TRIB., Aug. 10, 1999, at A7 (on file with Seattle Univ. Law Library).

591. See Sanchez, *supra* note 412.

592. See *id.*

593. See SEATTLE UNIVERSITY SCHOOL OF LAW, DEDICATION PROGRAM—SULLIVAN HALL, OCT. 18–22, 1999 (on file with Seattle Univ. Law Library).

594. See Carmichael, *supra* note 115, at 8. Sadly, Dean Carmichael passed away in August 2020. *In Memoriam*, SEATTLE UNIV. SCH. L. LAW. MAG., Spring 2021, at 11, 11.

595. See Otárola, *supra* note 8.

596. See *supra* text accompanying notes 229 and 245.

significant decision of President Sullivan's long tenure with Seattle University, stating "[h]e believed in his heart that his university deserved and needed to have a school of law."⁵⁹⁷

As for Dean Bond, he had come to believe that the law school's affiliation with Seattle University was "the best thing to happen to the law school since it was founded."⁵⁹⁸ Having kept his promise to help integrate the law school into Seattle University and oversee its physical relocation to Seattle, and having helped usher in this exciting new era in the law school's history, Dean Bond stepped down at the close of the 1999–2000 academic year.⁵⁹⁹ He went on to serve as Seattle University's first University Professor, going back to his first love of teaching, but this time with undergraduates.⁶⁰⁰ Professor Bond retired in 2004⁶⁰¹ and returned home to North Carolina with his beloved wife Georgana. He passed away on September 16, 2019.⁶⁰²

F. University of Puget Sound: A Reprise

In 1994, after the sponsorship transfer of the law school to Seattle University, University of Puget Sound was recognized by the Carnegie Foundation for the Advancement of Teaching "as a national liberal arts college."⁶⁰³ Over the ensuing decade, the university continued to pursue its liberal arts mission, but with deeper pockets than before the sale. In addition to the \$9 million or thereabouts received from Seattle University as proceeds from the sale of the law school, University of Puget Sound sold the Norton Clapp Law Center building to the State of Washington in 1996 for \$7.4 million.⁶⁰⁴ The sale of the Law Center to the state would eventually bring 350–400 state workers to downtown Tacoma, and University of Puget Sound dedicated the proceeds of the sale to an endowed scholarship for Washington state students who enrolled at University of Puget Sound.⁶⁰⁵

When President Pierce announced in May 2002 that she would be stepping down the following summer, the *News Tribune* Editorial Board, which had been so relentless in its coverage and so critical of her role in

597. See Otárola, *supra* note 8 (quoting President Steven V. Sundborg of Seattle University).

598. See Wickert, *supra* note 90.

599. See SEATTLE UNIVERSITY SCHOOL OF LAW DEAN'S NEWSLETTER, *supra* note 442, at 4.

600. See Sandler, *supra* note 66, at 29.

601. *See id.*

602. *See id.* at 31.

603. See Wickert, *supra* note 90.

604. See Jim Szymanski, *Downtown Tacoma Gets Lift as State Buys Law School Site*, NEWS TRIB., Sept. 27, 1996, at B1. The state was contractually obligated to lease the Law Center back to University of Puget Sound until the planned physical move of the law school to Seattle in the summer of 1999. *See id.*

605. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

the sale of the law school nine years earlier, commended her for her leadership and for leaving University of Puget Sound “a better and stronger university.”⁶⁰⁶ And when the day came for her to step down in 2003, the local press reported that she had made good on her commitment to raise the school’s national profile and strengthen its academic quality, while also raising millions of dollars and overseeing a significant program of campus construction and renovation.⁶⁰⁷ Even Professor Bond gave President Pierce grudging praise, acknowledging that University of Puget Sound made huge gains in academic quality and national reputation during her tenure.⁶⁰⁸ In 2003, the Council for Advancement and Support of Higher Education (CASE) gave Dr. Pierce the District VIII Distinguished Leadership Award for her “visionary, inspirational, courageous leadership.”⁶⁰⁹

Dr. Pierce has since gone on to become an independent leadership consultant to colleges, universities, and non-profit organizations.⁶¹⁰ In reflecting recently on her tenure as president from a distance of twenty years out, Dr. Pierce said she would not have counted the sale of the law school as a major part of her legacy.⁶¹¹ Rather, it was one step along the way that helped the university emphasize undergraduate education and unleash the faculty’s creativity, allowing it to become a place that traded in good ideas.⁶¹² Looking back to that fateful day of November 8, 1993, both Dr. Pierce and Dr. Weyerhaeuser expressed regret that the announcement of the sale of the law school came as a shock to so many, but they also remained resolute in their view that the decision had been the right one, for University of Puget Sound, Seattle University, and for the law school.⁶¹³

606. See Editorial, *Pierce Leaves a Strong Legacy at UPS*, NEWS TRIB., May 23, 2002, at B8. Dr. Weyerhaeuser chimed in on behalf of the University of Puget Sound Board of Trustees, agreeing with the *News Tribune* Editorial Board that President Pierce would be a very tough act to follow. See William T. Weyerhaeuser, Letter to the Editor, *Retiring UPS President Truly Will Be a Tough Act to Follow*, NEWS TRIB., June 8, 2002, at B5.

607. See Wickert, *supra* note 90.

608. *Id.*

609. See Email from Susan Resneck Pierce, President Emerita, Univ. of Puget Sound, to author (Nov. 22, 2022, 2:06 PM) (on file with author).

610. See SRP CONSULTING, *supra* note 80.

611. Electronic Interview with Susan Resneck Pierce, *supra* note 84.

612. *Id.*

613. *Id.*; see Telephone Interview with William Weyerhaeuser, *supra* note 165. Former trustee George Matelich echoed this same view in our conversation. See Electronic Interview with George Matelich, *supra* note 167.

VIII. REFLECTIONS

One simple way to sum up the history of the sale is by invoking the aphorism “all’s well that ends well.” The University of Puget Sound divested itself of a law school it did not want or need and went on to achieve its aspiration of national prominence as a highly selective liberal arts college. Seattle University acquired the law school it had desired and needed, both to round out its offerings as a comprehensive university and to effect justice through educating lawyers in the Jesuit tradition who would one day occupy positions of power. The law school gained a parent institution that valued legal education and the law faculty and staff so highly that it went out into the marketplace and purchased us for millions of dollars. And even Tacoma, though it still occasionally mourns the loss of its law school, has survived. Thus, I wholeheartedly agree with Jim Bond that the affiliation with Seattle University was the best thing to happen to the law school since its founding, as well as with former University of Puget Sound trustee George Matelich, who asserted that the sale of the law school has withstood the test of time, even when viewed almost thirty years later.⁶¹⁴ I am exceedingly grateful, as are most of my former and current colleagues, that things ended up the way they did.

And yet, there remain remnants of angst and even anger among some of the law faculty and staff who were there that day. Conducting the interviews and writing this essay has given me the opportunity to puzzle through why that might be, and I offer my brief thoughts on why the sale might still hurt despite the very positive outcome.

The first is the idea that it did not have to happen. At some point, University of Puget Sound must have wanted a law school, or it presumably would not have gone through the work and expense of creating one. What if the university had found a space for the law school on the main campus so we were not out of sight and out of mind? And what if, rather than treating the law school with “benign neglect,” President Phibbs and his colleagues had embraced the opportunities and actively fostered intellectual engagement among the main campus and law school faculty? Even with a liberal arts, undergraduate-focused college like University of Puget Sound, there are obvious intellectual connections to be made between it and a law school. We had faculty members who were constitutional and political theorists, legal historians, and linguists, to name just a few areas of expertise, and a number of these faculty had received undergraduate liberal arts undergraduate degrees from the kinds of prestigious institutions University of Puget Sound now aspired to be. Would there not have been value in integrating the law faculty into the

614. Electronic Interview with George Matelich, *supra* note 167.

larger intellectual enterprise of the university? And even though it was uncommon or even unheard of for national liberal arts colleges to have law schools associated with them, was it impossible to imagine a creative new model of collaboration and integration between a liberal arts college and a law school? Of course, this would have required an investment of financial resources on the university's part, funding the university ultimately proved unwilling to allocate to the law school.⁶¹⁵

The second reason why people might still be bitter relates back to the first. In announcing the sale and explaining it afterward, President Pierce and her leadership team did not once express the university's gratitude for our efforts or any appreciation for legal education and what it and our graduates bring to the world, nor was it apparent that any of them felt any sense of loss to the university community as they imagined a future without the law school. Sadly, they did not know us at all, either as individuals or as a collective of fellow educators.

Having served for ten years as dean of Seattle University School of Law, I am no stranger to the gut-wrenching business decisions that leaders must make. For example, we went through a severe financial downturn that necessitated eliminating approximately 30% of the staff positions, which included layoffs of long-time colleagues who had done excellent work for the law school. I will never forget Associate Dean Deming describing the day of the staff layoffs as the darkest day in her decades of law school administration. What I am suggesting is that it is one thing for university leadership to make a difficult but necessary business decision in service of mission; it is quite another to do so with very little empathy and no sense of loss. And yet, from the perspective of the law faculty and staff, that is what happened here.

As much as we might wish things had been different, they were not, and I agree that it was the right course of action for President Pierce and the University of Puget Sound Board of Trustees to enter into an agreement to sell the law school when President Sullivan came forward with an offer. Whether one agrees or not with the view that there was no place for the law school within the university's reimagined mission, once that position carried the day with university leadership, we were not going to thrive if we remained with University of Puget Sound. Much better at that point to be sold to an institution that would value and help us be successful.

On the much-debated question of whether the law faculty and staff (and the business and legal communities) should have been informed of the proposed transaction ahead of time and consulted, I believe the only

615. See *supra* text accompanying note 295.

reasonable course of action available to University of Puget Sound and Seattle University was to keep the negotiations confidential. Anyone who understands how the world works knows that public disclosure would not only have doomed the deal. It would also have destroyed the law school because of the uncertainty and fear such knowledge would have created in the minds of faculty, staff, students, and prospective students. Although the secrecy was difficult for President Pierce and Dr. Weyerhaeuser to defend from a relational, community-based standpoint once the news of the sale came out, keeping the deal under wraps was a reasonable and necessary business decision.

I also want to offer some brief commentary on the power of the press, and what I perceived to be an abuse of that power in this case. A sale of a thriving law school would likely be a big news story in any media market, but I do not know that I have ever seen anything quite like what happened here. It is not necessarily that the news stories published by the *News Tribune* were terribly slanted, but the detailed coverage and the sheer number of articles over the course of many months, when added to the steady stream of extremely negative editorials and opinion pieces, combined to create what Dr. Weyerhaeuser described as a “fairly searing personal experience” for those who were targeted.⁶¹⁶

Some level of criticism was surely expected and warranted given the dramatic nature of the decision and the high stakes for everyone involved. As a resident of Tacoma for more than twenty years, I was very familiar with the city’s inferiority complex, and the negative community reaction to the sale was surely informed by that sentiment. However, the *News Tribune*’s coverage and editorials repeatedly fanned the flames and stoked the community’s anger to the point where it seemed there might be a coordinated effort occurring between the objecting business and community leaders and the publisher and editors of the *News Tribune*. That kind of blurring of journalistic lines is commonplace in the age of online media, but the question of when the use of the power inherent in the editorial form has crossed over into journalistic abuse is still relevant and worth asking.

While the media spilled a great deal of ink trying to identify the villains of this story, I choose to focus my final few words on identifying the heroes to those of us who were with the law school. One of the less obvious ones, at least to me, is Wallace Rudolph. He was, at best, an indifferent dean, and he stepped down under a cloud of controversy.⁶¹⁷ But it was Dean Rudolph, the entrepreneur, who brokered the Law Center into existence in downtown Tacoma, and it was Professor Rudolph who

616. Telephone Interview with William Weyerhaeuser, *supra* note 165.

617. See Tom Mortimer, *Changing of the Deans*, AMICUS 1 (March 1980) (on file with author).

reached out to Seattle University and encouraged President Sullivan to acquire the law school.⁶¹⁸ Present at two pivotal moments in the law school's journey, Wallace Rudolph changed the course of our history in ways that have only become clear in retrospect.

One of the more obvious but still relatively unsung heroes is Donald Carmichael. He never aspired to lead a law school, but he led this one through the most unexpected and traumatic of times, and he did so with such professionalism and grace. Many of the individuals I interviewed—Dr. Pierce, Dr. Eshelman, and Dr. Parks, in particular—spoke of the crucial role Dean Carmichael played in the transition. He gained the confidence of everyone involved on both sides of the deal, as well as his law school colleagues, because he operated with integrity and honesty, approached problem-solving in a non-adversarial and cooperative manner, worked unbelievably hard, and exhibited genuine enthusiasm for becoming a part of Seattle University. Dean Carmichael somehow knew the importance of applying the principles of “change management” long before that term was in vogue, and his skill in organizing the work and keeping the lines of communication open helped maintain morale under very daunting circumstances. We were exceedingly fortunate that Don Carmichael said “yes” when President Pierce came calling, and it is gratifying to learn that leading the law school as Acting Dean was “the most . . . rewarding experience of [his] life.”⁶¹⁹

Next on the list of heroes are the faculty and staff who went along for this wild ride. As I reviewed the media reports and the litany of memos reflecting the work carried out from the day of the announcement until the opening of Sullivan Hall and beyond, I marveled at how this small but mighty group of faculty and staff managed to perform the everyday work of a law school while shouldering the immense and extraordinary burdens of transitioning to a new parent institution and a new location. Dean Carmichael's team of Joan Watt, Dave Boerner, Donna Deming, John Weaver, and John La Fond helped carry us, but literally, every single member of the faculty and staff pitched in, and that experience of laboring together for a common purpose created a bond that exists to this day.

From within Seattle University, President Sullivan turned to Provost Eshelman, Dr. Parks, and Denis Ransmeier, and they were our guides, mentors, and valued colleagues as we endeavored to learn about the university we were joining and what it might mean to be a Jesuit, Catholic law school. They were unfailingly patient and understanding, welcomed us warmly to the Seattle University community, helped ensure that we were taken care of in all the ways that mattered, including compensation

618. See *supra* text accompanying notes 122–24.

619. See Carmichael, *supra* note 115, at 8.

and benefits, and advocated for us when their main campus colleagues expressed skepticism about having a law school in their midst.

James Bond deserves special mention as a hero to those of us who served under his leadership. Having exited the deanship and returned to the relatively peaceful existence of being a faculty member, he stepped up to be our dean again, leading the law school through the complex tasks of physical, organizational, and cultural integration into Seattle University.⁶²⁰ Dean Bond quickly realized the value of a Jesuit approach to legal education, and he served as a crucial bridge between the law school we had been and the law school we were to become.⁶²¹ Upon his passing, President Sundborg described him as a “Renaissance Man,” stating, “Jim Bond was the perfect person to be dean when the School of Law made its transition to Seattle He was instrumental in integrating the mission of the law school with the university, enriching both at the same time.”⁶²² Dr. Eshelman extolled Dean Bond’s contributions, singling out his willingness to reconcile his own intellectual beliefs and priorities with the mission and values of Seattle University.⁶²³ Virtually every faculty, staff, and Seattle University administrator I interviewed for this essay remarked that Dean Bond’s engaged leadership was the single most important element of the law school’s success in becoming an integral part of Seattle University. The feelings were mutual; upon his retirement, Dean Bond expressed the depth of his gratitude for having been given the extraordinary opportunity of leading the law school into its future.⁶²⁴

And, finally, there is President William J. Sullivan, S.J. Just as he counted us as the crowning achievement of his presidency,⁶²⁵ the law school counts him as our greatest blessing. It is because of his visionary leadership that we are celebrating our 50th anniversary during this academic year, and we are doing so just as he imagined, in the heart of Seattle and at the heart of law.

CONCLUSION

As I near the end of my time as an administrator and faculty member with this much-beloved law school, it was a gift to have the opportunity to go back in time and relive the remarkable experience of the law school’s sale. In this, our 50th anniversary year, I believe it is important for us to

620. See discussion *supra* Sections VII.B–E.

621. See Sandler, *supra* note 66, at 29.

622. See *id.* (quoting President Stephen V. Sundborg, S.J.).

623. Interview with John Eshelman, *supra* note 142.

624. See James E. Bond, Dean, Seattle Univ. Sch. of L., Retirement Speech (2004) (on file with author).

625. Telephone Interview with Virginia Parks, *supra* note 7.

reflect on our history, which has made us the law school we are today. What is past is truly prologue.

In the process of becoming a part of Seattle University, we held on to much of what we had been before, including our institutional insistence on academic excellence and high-quality student services. At the same time, our merger with our new Jesuit Catholic parent institution inspired the law school community to embrace a social justice mission, which gave us a *raison d'être* and distinguishing factor we had previously lacked.⁶²⁶ It is this combination of standing for excellence and reaching for justice that has allowed us in the years since to survive and even thrive in a very competitive legal education environment.⁶²⁷ In the same way that the law school was changed, so, too, was Seattle University. Just as President Sullivan had predicted, the presence of the law school altered the way the university saw itself, broadened and built upon its external connections, created greater university engagement with the community, and enhanced the university's intellectual climate.⁶²⁸ The law school also brought to the university the ability to discuss controversial matters in a civil manner, and the law faculty modeled those skills for their university colleagues.⁶²⁹

While I was aware of some of the ways in which we had been changed by this experience, I have been surprised to learn, through the process of researching and writing this essay, just how much I had forgotten and how much I had never known about what happened in those days, months, and years following the announcement of the sale. My reflections are particularly informed by the ten years, recently concluded, in which I served as dean of Seattle University School of Law. I will admit that there were times during my tenure when I was convinced that no dean of this law school had ever led through a more difficult time. That was particularly true during our multi-year financial struggle for survival, followed by the COVID-19 pandemic. However, in learning and relearning our history, I have come to realize that I was wrong. The events surrounding the sale of the law school and its aftermath were a crucible, and that we came through the fire and are thriving today is a testament to the extraordinary leaders who came before me.

As I conclude, I want to thank the many individuals who agreed to be interviewed for this essay and share their personal thoughts and recollections of the announcement of the sale and what followed. I also want to acknowledge the faculty and staff members who had the foresight to collect and save the internal law school documents that were generated

626. Telephone Interview with Anne Enquist, *supra* note 196.

627. *Id.*

628. Interview with John Eshelman, *supra* note 142.

629. Telephone Interview with Stephen V. Sundborg, *supra* note 162.

in the aftermath of the sale. These records provided a window into the extraordinary efforts by the law school's administration, faculty, and staff to bring and hold the law school together during a time of chaos and uncertainty. And I owe a particular expression of gratitude to the past and current professionals in our Law Library—Anita Steele, Kristin Cheney, Kara Phillips, Stephanie Wilson, Bob Menanteaux, Jane Connolly, and Kate Emery—who recognized the importance of preserving this historical information through the creation of a law school archive, and without whose efforts this article could not have been written.