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### A Tribute to Robert B. Fleming

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**Robert B. Fleming**

# PACE LAW REVIEW

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Volume 3

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## A TRIBUTE TO ROBERT B. FLEMING

The Board of Editors of Pace Law Review dedicate Volume Three, Issue One to Robert B. Fleming, retiring Dean of the Pace University School of Law. Dean Fleming was the charter Dean of the School of Law when it opened its doors in 1976. He seized upon the opportunities and challenges presented to a fledgling law school and built Pace University School of Law into a respected legal institution. During his six year tenure as Dean, the School of Law received both A.B.A. and A.A.L.S. accreditation. His efforts at a critical stage produced a solid foundation upon which the School of Law can grow.

Dean Fleming received an engineering degree (B.M.E.) from the University of Minnesota in 1943. After receiving his LL.B. from the University of Buffalo in 1951, he became a teaching fellow at Harvard Law School from 1952 to 1953. He left Harvard to become an Assistant Professor of Law at St. Louis University Law School in 1953. In 1956, he returned to the University of Buffalo as an Associate Professor of Law. In 1959 he temporarily left the world of academia to become a partner with the Buffalo law firm of Lipsitz, Green, Fahringer & Fleming. He returned to academia and to the State University of New York at Buffalo School of Law in 1962 as a Professor of Law, where he remained until 1976 when he came to Pace University School of Law. While at Buffalo, he served six years as Associate Dean. Dean Fleming also served as Chief Counsel to the Commission on Labor at the 1967 New York State Constitutional Convention, as a research consultant and draftsman of the New York Business Corporation Law, and as General Counsel to the National Catholic Council on Civil Liberties.

At Pace University School of Law, Dean Fleming has pro-

vided the leadership and experience necessary for establishing topflight curriculum, activities, and programs. The Pace Law Review was founded early during his tenure as Dean. As the first Editor-in-Chief of Buffalo Law Review, Dean Fleming was well aware of the problems inherent in publishing the inaugural issue. The Review has always welcomed his suggestions and has benefitted from his steady flow of possible topics. Dean Fleming is a frequent visitor to the Review offices, now that his office is on the same floor. His young, energetic newfoundland, Fanny, is sometimes seen romping down the hall, much to the delight of the third year Review members, but often to the astonishment of the newer members.

As students of Pace University School of Law, we are fortunate to have known Robert Fleming both as Dean and as a respected professor. We will leave the law school, confident that we have received a fine legal education. The quality of our education is recognized by the legal community as well, and enables us to enter the legal profession in many significant capacities. We are pleased that Dean Fleming will continue the tradition which he began, remaining on the faculty as a full professor.

The Board of Editors  
1982—1983

**JACOB D. HYMAN\***

I am pleased to join the Board of Editors of *Pace Law Review* in honoring former student, colleague, and friend on the occasion of the retirement of Robert B. Fleming as Dean of Pace University School of Law. Our acquaintance dates from 1948, when Bob entered University of Buffalo Law School and I began my third year of teaching. In those days, the Law School was small both in numbers of students and faculty. Most courses were required; thus, faculty had the pleasure, and students the necessity, of being together in class each of the three years. Bob was an outstanding student, and was the Editor-in-Chief of the editorial board which published the first volume of the *Buffalo Law Review*. Upon graduating, he spent a year as research assistant at the University of Wisconsin Law School in Madison. Bob then accepted a position as teaching fellow at Harvard Law School, followed by three years as Assistant Professor at St. Louis University School of Law. During my deanship at Buffalo, we succeeded in luring him back as Associate Professor from 1956 to 1959. Being somewhat susceptible to the lure of practice, he left his professorship to become associated with a Buffalo law firm. He did not abandon teaching, however, and continued to teach part-time as a lecturer.

As Buffalo Law School faced the problems of growth presented by the impending merger of the University of Buffalo into the State University of New York, Bob was again lured back by the prospect of combining administrative responsibility with teaching. He became professor of law and associate dean. When he was called by Pace University to organize its law school, he thus brought a rich legal and educational background to the assignment. He attracted able teachers and built a strong law school in a brief time, achieving national accreditation in 1981. I know that his friends at Buffalo join me in wishing him well in his return to teaching.

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\* Professor of Law, State University of New York at Buffalo.

**LOUIS A. DEL COTTO\***

It is no surprise to me that Robert Fleming has succeeded brilliantly in making Pace Law School a reality, and bringing to it A.B.A. and A.A.L.S. accreditation during his tenure as Dean. His intellectual and leadership qualities were clear while we were classmates at Buffalo Law School (Class of 1951), where Bob was among the class leaders, was instrumental in founding the Buffalo Law Review, and was its first Editor-in-Chief.

While Bob has practiced law from time to time, most of his career has been spent in law school teaching and administration. Our teaching association began when we became colleagues in the Buffalo Law faculty, a relationship that was to last some fifteen years. During this time Bob was a sound and respected teacher, building a fine reputation for his knowledge in Corporations, Jurisprudence, and Remedies. He also served two terms as associate dean, which allowed him to hone the administrative skills which have served him so well at Pace.

Dr. Mortola did well to pick Robert Fleming. We at Buffalo lost a tough-minded, fair, and respected teacher and administrator; Pace gained an outstanding Dean. It is no wonder that his resignation of the deanship was accepted reluctantly by the President.

But, deanships are temporary things. We who mainly teach law welcome Bob back to the classroom which, in the end, is his natural habitat.

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\* Professor of Law, State University of New York at Buffalo.

**JOHN E. DUNSFORD\***

In the fall of 1954, St. Louis University converted the basement of a castle-like old residence called Chouteau House into a student snack bar. With more exuberance than was warranted, an administrator grandly designated it the Campus Club. The "club" was reached by descending a flight of stairs from the back yard of the mansion, across an alley from the rear of the Law School. It was a convenient place for law students to repair between classes, spiritedly argue the law over a cup of coffee, and repay in kind in their private conversation the real or imagined insults they had endured in the classroom that day from members of the faculty.

A young fellow named Bob Fleming had just joined the faculty at St. Louis University a year earlier as an assistant professor. It was his first regular teaching assignment, following graduate studies at Harvard Law School. He had then, as he does now, a dash of boyish charm which somehow mysteriously blends in with a depth of sophistication, as if nature were revealing the wisdom of simplicity. If I recall correctly, the first course I took from him was called Unfair Competition. I remember it for several reasons.

The first—and this is why my memory of Fleming is linked to the Campus Club—is that he gladly accepted (or did he finesse?) an invitation from one of my classmates to join us in the "club" for coffee after class. Being a more reserved type myself, I looked with extreme apprehension at the prospect of sharing our coffee-time conversation with a law professor, particularly since it was highly unpredictable what libelous bit of invective might be unleashed against some of his colleagues on the faculty. But there was no need to worry. Fleming turned out to be one of the most open persons I had ever met, relaxed and friendly, genuinely interested in his students' thoughts, at one and the same time confiding and playful in his conversation. Surely through the years one of his great strengths has been that rare talent to induce other people to open and flower in the warmth of his smile and unfeigned friendship. And of course

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\* McDonnell Professor of Justice in American Society, St. Louis University.

part of the fascination with him springs from that marvelous husky voice which to me has always seemed ready to thunder words that instead come to one's ear soft and low.

The young teacher proved to be a favorite of the students, which is not to say he was always appreciated. A few of those who basked in the glow of the regular "bull sessions" with Fleming in the Campus Club, and who sophomorically mistook the informality and camaraderie for softness, were stunned and bitter when they received semester exam grades. These students learned the hard way that conviviality and critical judgment are separate and distinct qualities which Fleming never confused.

The second reason I remember the course in Unfair Competition so well is that Fleming employed the Socratic method in his teaching. Others might claim they use that method; for that semester at least, Fleming actually did. The class opened with questions, which begat other questions, which begat still other questions, a sequence very Biblical in character. There apparently was no end to the number of questions to be extracted from the students' answers, and the good ones were seized and examined carefully and systematically by Fleming and the student who happened to raise them. A bewildering array of considerations emerged from the dialogue. They were identified and discussed in a low-key and casual way after which Fleming quietly moved on to other matters. A tightness in the pit of my stomach began to signal the brain some unwelcome news: the dirty work of sorting out and polishing the conclusions was going to be left to me. That was the semester I discovered both the inductive method and the value of hornbooks (but I couldn't find a good one for that course).

There is another memory of Fleming that is a personal favorite of mine. Around the third week of March in 1956, my senior year, the news was announced in one of his classes that the Flemings were the proud parents of a new baby. A student in class asked for the baby's weight which, as I recall, Bob reported to be in the vicinity of 7 pounds and 8 ounces. At that point one of my friends blurted out the information that my wife too had just delivered a baby. When asked to tell the weight, I gave an honest reply: 10 pounds, 12 ounces. The room exploded with applause and whistles. At least in one particular that semester the students could claim to have surpassed the faculty. If there had



been more women attending law school in those days, I dare say the reaction could have been somewhat different.

To their regret, the St. Louis University students "lost" Bob Fleming when he received an offer to return to his alma mater in 1956. His departure was a bittersweet event for me since it created one of several openings on the faculty which, to my astonishment, I was asked to fill. Inasmuch as I had never seriously considered a career in teaching until the possibility was floated by several faculty members, I cannot honestly say that my decision was directly attributable to my acquaintanceship with Fleming. But along with a few others, he represented such a thoroughly admirable and inspiring model that the prospect of teaching, when finally it surfaced, seemed eminently appealing.

As matters turned out, I "inherited" Fleming's courses in Administrative Law and Unfair Competition, teaching in the first instance the subjects I had taken from him as a student. In my mind for several years they remained "his" courses, my rendition of which was merely a feeble endeavor to repeat the remembered brilliance of the master. My first steps as a teacher, then, were unabashedly imitative. It is with real gratitude that I contemplate my good fortune in having his footsteps in which to walk.

As all who know him will attest, Bob Fleming epitomizes the very best in American legal education. An outstanding and dedicated teacher, he has given yeoman service in law school administration where his achievements are similarly notable. Best of all, he is as good a person as he is a colleague. On his retirement as dean at Pace University School of Law there is great personal pleasure in saluting him publicly, and wishing him many years of continued service.

**WILLIAM B. LAWLESS\***

Without the dedicated service of Robert B. Fleming as charter-dean of the faculty, Pace University School of Law may well not have come into operation and been fully accredited in record time. Indeed, at the time of his election in May 1975, the clock had almost run out for a fall term opening.

Dean Fleming brought to Pace his breadth of knowledge as a legal scholar, his quiet charm, and his fierce determination at a time when the trustees were without a dean. Immediately after his appointment, he organized the faculty, pulled together an older college building, occupied a library, recruited students, and put Pace University School of Law into mini-orbit. Demanding only top flight faculty and breaking into a new market area, he was able to recruit 296 students and the first class launched.

Bob Fleming did not come unprepared for his task. He was an outstanding engineering student at the University of Minnesota and an accomplished graduate of the University of Buffalo School of Law. He brought to White Plains his varied experiences in engineering, science, law, and letters: the kind of perfect mix necessary to do grand things. Dean Fleming had been a Professor of Law, an Associate Dean, and a Special Assistant to the President of the University of Buffalo during the student crisis of the late 60's. To Pace University School of Law he brought the calmness of a strong person whose convictions were never worn on his sleeve, but whose actions wrote testaments.

As a fervent member of the American Civil Liberties Union, as a trial lawyer, and as a legal scholar, his strengths have always been patience, determination, and a quiet fortitude. With a quick wit and a keen sense of humor, he has always been amused with the foibles of bench and bar. Long before the hue and cry arose about consumer rights, Bob Fleming was concerned about group buying and price discrimination. He was concerned with buyer responsibility and the improvement of the distributive processes in American economic life.<sup>1</sup>

When President Mortola sought my counsel in seeking a

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\* President, Western State University College of Law.

1. See Fleming, *Group Buying Under the Robinson-Patman Act: The Automotive Parts Cases*, 7 BUFFALO L. REV. 231 (1958).

dean for Pace University School of Law, I believed then that he had the strength and character to endure a founding experience. My hopes for him and Pace have far exceeded my highest expectation for success, due largely to Bob Fleming's efforts in skillfully organizing a founding faculty, organizing an early curriculum, and developing a committed attitude in his students.

We are all proud of Pace University School of Law and what Dean Fleming has accomplished in such a relatively short time, and even more importantly, what Bob Fleming has done to transfuse his energy and caring to all the students whom he has touched, and the underpinnings which he has built.

Law students, lawyers, judges, and colleagues salute Bob for what he has done and wish him happiness in the challenging years ahead.

**DONALD H. ZEIGLER\***

When Bob Fleming came to Pace University School of Law as Dean in June, 1976, he faced an extraordinary challenge. Within only three months, the University expected him to enroll 250 first-year law students and to recruit a Faculty to teach them. The Dean accomplished these goals, and on September 27, 1976, classes began in renovated facilities in Preston Hall.

The next few years were both exhilarating and difficult for the new Dean. Each year brought new challenges and some growing pains for the young institution. There was much to do. A major Faculty recruitment drive saw the Faculty grow from seven in 1976 to fifteen in 1977, and to twenty-six in 1978. During the same period the student body grew to over 700, and an upper-class curriculum was devised and implemented. The Dean and a Faculty Committee drafted a Constitution for the School of Law and established standards for promotion, tenure, and re-appointment of Faculty. The first year Legal Method Program was expanded, and a mandatory moot court program was instituted. Also, a wide range of student activities began, including the Law Review, the Student Bar Association, the Women's Association of Law Students and the Black and Hispanic Law Student's Association, and award-winning newspaper, *Hearsay*, to name but a few.

In addition, beginning in the Fall of 1977, teams of observers from accrediting agencies visited the law school at least once each year. Responsibility for achieving accreditation rested squarely on Dean Fleming's shoulders. Each year he supervised and coordinated the production and assembly of the multitude of documents on all aspects of law school development required by the American Bar Association (A.B.A.) and the Association of American Law Schools (A.A.L.S.). When the A.B.A. was uncertain whether to grant provisional accreditation following its visits in October, 1977 and January, 1978, Dean Fleming appeared personally before the Association and convinced them that approval was warranted. And, under Dean Fleming's leadership, full accreditation by the A.B.A. was received in August, 1980,

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\* Associate Professor of Law, Pace University School of Law.

and final approval by the A.A.L.S. was voted at the Association's annual meeting in January, 1982. These accreditations were achieved at the earliest time allowed by A.B.A. and A.A.L.S. rules.

When Bob stepped down as Dean, he could be justly proud of the new law school he had guided for five and one-half years. The Faculty will continue to call on Bob's broad knowledge and experience in the ways of American law schools in the years ahead.