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Remarks Delivered at the Presentation of the Leonard F. Manning Achievement Award to the Honorable Lawrence W. Pierce

Lawrence W. Pierce

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Remarks Delivered at the Presentation of the Leonard F. Manning Achievement Award to the Honorable Lawrence W. Pierce

Cover Page Footnote

The Honorable Lawrence W. Pierce, Judge, United States Court of Appeals for the Second Circuit, is the second recipient of the Leonard F. Manning Achievement Award. The Remarks published here were given by Judge Pierce on April 12, 1994, at the presentation of the Award. Judge Pierce served as an associate editor of the *Fordham Law Review* during 1950-51, and graduated from the Law School in 1951. He received his undergraduate degree from St. Joseph's University, and he has received honorary degrees from St. Joseph's University, Fairfield University, Fordham University, Hamilton College, and St. John's University. See 1994-1995 *Who's Who in American Law* 718 (Marquis Who's Who 8th ed. 1994). Among Judge Pierce's many accomplishments, he has served the legal profession as Assistant District Attorney, Kings County, New York (1954-1961), Deputy Police Commissioner of the City of New York (1961-1963), Director of the New York State Division for Youth (1963-1966), Chairman of the New York State Narcotic Addiction Control Commission (1966-1970) and Visiting Professor at the Graduate School of Criminal Justice of the State University of New York at Albany (1970-1971). See Federal Bar Council, 1977 *Second Circuit Redbook* 119 (Marc White ed.). In 1971, Judge Pierce was appointed to the United States District Court for the Southern District of New York, where he served for ten years, until his appointment in 1981 to the United States Court of Appeals for the Second Circuit, where he continues to serve today. He also served as a member of the United States Foreign Intelligence Surveillance Court from 1979 to 1981. See Federal Bar Council, 1993-1994 *Second Circuit Redbook* 66 (Vincent C. Alexander ed., 1993).

REMARKS

REMARKS DELIVERED AT THE PRESENTATION OF THE LEONARD F. MANNING ACHIEVEMENT AWARD TO THE HONORABLE LAWRENCE W. PIERCE*

*THE HONORABLE LAWRENCE W. PIERCE***

JIM Gill, president of the Law Review Alumni Association, called me several weeks ago with the news that I had been selected to receive the Association's Professor Leonard F. Manning Award.

I thought back to when Professor Manning began his teaching career

* The Leonard F. Manning Achievement Award, first presented in April of 1993, is awarded to a distinguished alumnus of Fordham Law School and the *Fordham Law Review* to honor the memory of Professor Leonard F. Manning, Faculty Advisor to the *Fordham Law Review* from 1954 to 1983.

Professor Manning, Alpin J. Cameron Professor of Law from 1964 to 1983, joined the Law School faculty in 1948. Among the many subjects he taught were Constitutional Law, Conflict of Laws, and Agency. See Association of American Law Schools, 1977 Directory of Law Teachers 529. He served as Advisor to the *Law Review* for twenty-eight years, garnering the respect and admiration of all those who came into contact with him. Following his death in 1983, the Board of Editors of the *Law Review* dedicated Volume 51 to his memory. See *Dedication*, 51 Fordham L. Rev. v (1983); see also *Dedication*, 49 Fordham L. Rev. v (1980) (dedicating the Seventy-Fifth Anniversary Issue to Leonard F. Manning, "a man whose contribution to [Fordham Law School] and this Law Review is unsurpassed").

The Honorable Joseph M. McLaughlin, Judge, United States Court of Appeals for the Second Circuit, is the first recipient of the Leonard F. Manning Achievement Award. Judge McLaughlin served as Editor-in-Chief of the *Fordham Law Review* in 1958-59 and graduated from the Law School in 1959. He joined the Law School faculty in 1961, and he served as Dean of the Law School from 1971 to 1981. Among his many accomplishments, Judge McLaughlin served as Chairman of the New York State Law Revision Commission from 1975 to 1982, and was appointed to the United States District Court for the Eastern District of New York in 1981, where he served until his appointment to the Second Circuit Court of Appeals in 1990. See Federal Bar Council, 1993-1994 Second Circuit Redbook 60 (Vincent C. Alexander ed., 1993).

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Judge Pierce served as an Associate Editor of the *Fordham Law Review* during 1950-51, and graduated from the Law School in 1951. He received his undergraduate degree from St. Joseph's University, and he has received honorary degrees from St. Joseph's University, Fairfield University, Fordham University, Hamilton College, and St. John's University. See 1994-1995 Who's Who in American Law 718 (Marquis Who's Who 8th ed. 1994).

Among Judge Pierce's many accomplishments, he has served the legal profession as Assistant District Attorney, Kings County, New York (1954-1961), Deputy Police Commissioner of the City of New York (1961-1963), Director of the New York State Division for Youth (1963-1966), Chairman of the New York State Narcotic Addiction Control Commission (1966-1970), and Visiting Professor at the Graduate School of Criminal Jus-

in 1948—I was privileged to be one of the students he taught that year. He spent the next thirty-five years leaving his indelible mark on Fordham Law School and on the hundreds, probably even thousands, of students he taught.

I share the very high regard in which he was held by those who knew him and admired him. And I am highly honored and privileged this evening to be the recipient of this Award named in his memory.

Professor Manning became the faculty advisor of the *Fordham Law Review* in 1954¹—that was three years after I had served as an Associate Editor.² There is no doubt in my mind that had Professor Manning been advisor to the *Review* in 1950, the proposed note that I submitted that year would have received more sympathetic consideration. The subject of my note was Antecedent Censorship, as it was then called. In today's terminology, it's referred to as Prior Restraint. The title prompted my editor to observe that the topic was too esoteric and not *au courant* and so it was rejected. With Professor Manning's acknowledged expertise in constitutional law, I'll wager he would have suggested that the editors leap upon that note I submitted as being right on the cutting edge of emerging first amendment law. To be sure, it was exactly twenty years later in my first month on the Southern District Court Bench³ that the Pentagon Papers Case⁴ and the simmering issue of prior restraint came to the court. Denis McInerney, one of my editors,⁵ tells me with a twinkle that I was simply ahead of my time.

Back in 1950-51, some of the Law School's later major players were just getting underway with their early career building. Judge Bill Mulligan was an impressive young law professor.⁶ He taught me criminal law. His deanship and circuit judgeship were not yet a glint in his eye.

Judge Joe McLaughlin, the very deserving recipient of the first Manning Award,⁷ had not yet entered Fordham College at Rose Hill,⁸ and he

tice of the State University of New York at Albany (1970-1971). See Federal Bar Council, 1977 Second Circuit Redbook 119 (Marc White ed.). In 1971, Judge Pierce was appointed to the United States District Court for the Southern District of New York, where he served for ten years, until his appointment in 1981 to the United States Court of Appeals for the Second Circuit, where he continues to serve today. He also served as a member of the United States Foreign Intelligence Surveillance Court from 1979 to 1981. See Federal Bar Council, 1993-1994 Second Circuit Redbook 66 (Vincent C. Alexander ed., 1993).

1. See *Dedication*, 51 Fordham L. Rev. v (1983).

2. See 20 Fordham L. Rev. 198 (1951).

3. See Federal Bar Council, 1977 Second Circuit Redbook 119 (Marc White ed.).

4. United States v. New York Times Co., 328 F. Supp. 324 (S.D.N.Y.), *remanded*, 444 F.2d 544 (2d Cir.), *rev'd*, 403 U.S. 713 (1971).

5. See 19 Fordham L. Rev. 309 (1950).

6. See John D. Feerick, *Remarks Delivered on the Occasion of the Presentation of the Fordham-Stein Award to the Honorable William Hughes Mulligan*, 59 Fordham L. Rev. 479, 480 (1991).

7. See *supra* note *.

8. See Federal Bar Council, 1993-1994 Second Circuit Redbook 60 (Vincent C. Alexander ed., 1993).

was years removed from teaching, deaning, or judging.

And, in 1951, Dean John Feerick was looking forward to graduating from high school and commencing studies at Fordham University, which would lead in due course to his illustrious and successful career.⁹

I don't think you'll be surprised to learn that, during my *Law Review* days, the editors and staff were struggling regularly to get each issue out on time—no doubt very different from the situation today. As today's editors probably do, our editors groped for eye-catching titles for articles and comments. One that was published in 1950 was written by Dean Alison Reppy of New York Law School. Its very catchy title was: *The Grotian Doctrine of the Freedom of the Seas Reappraised*.¹⁰ This article was given to me as my first assignment for cite-checking purposes.

I'll never forget its first footnote, which began: "*Grotius hic Hugo est, Batavum captivus et exul, Legatus regni, Suecia magna, tui.*"¹¹ That was just for openers. Later, there were footnote references to the First and Second Books of Esdras,¹² Psalms,¹³ Genesis,¹⁴ Book II of the *Jus Graecoromanum*,¹⁵ and even a citation to the Minutes of the Admiralty of Amsterdam for the year 1604.¹⁶

Our editors searched and searched for topics with broad-based interest. One such topic that was published was: *Joint Tenancy—Right of Survivorship Where One Co-tenant Murders the Other*.¹⁷ That piece might find broad-based interest today.

In another issue, a noted New York Court of Appeals judge wrote an article for us entitled *Where Have [All] the Litigants Gone?*¹⁸ His theme was: "the volume of appellate litigation in this state is slowly but steadily declining, and . . . the percentage reduction in purely 'private' appeals . . . is even greater."¹⁹ Contrast this 1950s view with Chief Judge Jon Newman's recent report that filings of appeals in the Second Circuit Court of Appeals increased forty-five percent just in the past five years.²⁰

Our editors prided themselves on addressing the really pressing current issues of the day. In Volume 19, we published a comment entitled

9. See 1994-1995 *Who's Who in American Law* 281 (Marquis *Who's Who* 8th ed. 1994).

10. Alison Reppy, *The Grotian Doctrine of the Freedom of the Seas Reappraised*, 19 *Fordham L. Rev.* 243 (1950).

11. *Id.* at 244 n.1 (quoting Knight, *The Life and Works of Hugo Grotius* 289 (1925)).

12. *See id.* at 247 n.14.

13. *See id.* at 246 n.12.

14. *See id.* at 246 n.8.

15. *See id.* at 248-49 n.18.

16. *See id.* at 257 n.44.

17. *See Recent Decisions*, 20 *Fordham L. Rev.* 203, 211 (1951).

18. Charles S. Desmond, *Where Have the Litigants Gone?*, 20 *Fordham L. Rev.* 229 (1951).

19. *Id.* at 229.

20. Letter from Jon O. Newman, Chief Judge, United States Court of Appeals for the Second Circuit, to David L. Cook, Administrative Office of the United States Courts 1 (Mar. 18, 1994) (on file with the *Fordham Law Review*).

Roman Contributions to the Law of Soil Conservation.²¹ It made occasional references to the Codex Hammurabi (which you will recall is traceable to the year 2000 B.C.).²² Clearly, our Board of Editors was way ahead of the yet-to-emerge environmental era.

Fortunately, at the time I served on the *Review*, I worked as a clerk in the excellent library of the Association of the Bar of the City of New York, so most of the source materials were available to me in the stacks.

Actually, we really were ahead of our time. In Volume 20, we carried a comment entitled *Occupational Discrimination Against Women and the Law*²³—inadvertently, the *Review* was prepping me for my current assignment forty-four years later as a member of the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Courts.²⁴

On a strictly serious note, the simple fact of the matter is that my *Law Review* experiences at Fordham influenced my entire judicial career—first as a district judge, then as a judge of the Foreign Intelligence Surveillance Court, and even more so as a circuit judge.²⁵ The meticulous attention to minute detail which is essential to proper judging was first formed in me when I worked on the *Fordham Law Review*. The *Review* experience contributed to my setting high standards for myself and, consequently, for my law clerks. A significant percentage of the forty-six law clerks who have assisted me during the past twenty-three years have been former members (most often, editors) of the *Fordham Law Review*. And each of these former and present law clerks has ranged from outstanding to exceptional. I am proud of each one of them; the members of the Law Review Alumni Association and Faculty Moderator Professor Michael Martin have reason to be proud of them; and Professor Leonard Manning would certainly have been proud of them.

I have just one additional comment concerning a significant development which has occurred at Fordham Law School over recent decades, particularly during the past ten years. I am speaking about the fact that so many of Fordham's law students, including a number of members of the *Law Review*, reach out today in so many different ways to assist people who need help. This development of voluntarily helping others reflects an understanding of the words of the late Justice Thurgood Marshall, who said: "None of us has gotten to where we are solely by pulling ourselves up [by] our own bootstraps. We got [t]here because somebody . . . bent down and helped us."²⁶

21. Karl F. Milde, *Roman Contributions to the Law of Soil Conservation*, 19 *Fordham L. Rev.* 192 (1950).

22. *See id.* at 197, 197 n.26.

23. Edith L. Fisch, *Occupational Discrimination Against Women and the Law*, 20 *Fordham L. Rev.* 199 (1951).

24. *See Update*, N.Y. L.J., Oct. 14, 1993, at 1; *2d Circuit to Study Sex, Racial Fairness*, N.Y. L.J., Oct. 14, 1993, at 2.

25. *See Federal Bar Council, 1993-1994 Second Circuit Redbook* 66 (Vincent C. Alexander ed., 1993).

26. *See 1992-1993 Annual Donor Honor Roll* 49 (Saint Joseph's Univ., Phila., Pa.).

Well done, Dean Feerick; well done, Fordham law students.

I wish to thank my judicial colleagues who came tonight—they do me great honor by their presence. And I thank the Association for the honor you have bestowed upon me. I salute you and wish you Godspeed in the continued pursuit of your goals.

