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## Robert Lieser Fletcher

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## ROBERT LIESER FLETCHER

Thomas R. Andrews\*

There are many who are better able to testify to Bob Fletcher's long years of service than I. Bob has devoted over three decades of service to the law school; I worked with him for only four years. Nonetheless, I welcome the opportunity to say a little about him.

Although we were professional colleagues for only a short time, by a curious coincidence of history I feel like I have known Bob much longer. I learned after I arrived at the law school that I grew up less than a mile from Bob's family home on the Columbia River. Indeed, I grew up on land that at one time had been part of Bob's family homestead—the Lieser homestead. Readers familiar with the Vancouver area will recognize remnants of Bob's pioneer ancestors in such landmarks as Lieser Road and Lieser School. I remember, as a cub scout, selling lightbulbs to Bob's aunts and uncles. I also remember my gradeschool piano teacher, Bob's Aunt Leah Lieser. I made weekly trips to Leah Lieser's house for my lessons. I remember—as must all gradeschool children who have taken piano lessons from time immemorial—being more impressed with the persona of my teacher, her distinctive dress, her appearance, the distinctive features of the living room where the piano stood, than by what she was trying to teach me. I still regret that Aunt Leah did not have more success in teaching me to play the piano. I have since learned from Bob that his Aunt Leah and her sister, Jessie, took him in to live with them when his parents met an early death. He tells me that Leah had little more success in teaching him how to play the piano than she did teaching me. So as you see, I have walked some of the same familiar paths as did Bob. Both of us have felt the influence of the same dead hand.

Perhaps these common geographical roots are of little consequence, but they prompted me to see what I could dig up about Bob's ancestors in the University Library. I learned that Bob's great grandmother was one Eliza Hollingsworth, who grew up in Iowa. She was of English stock. Bob's Aunt Jessie writes that the Hollingsworths were of Saxon descent and purchased an estate (Hollingsworth Hall) in Cheshire, England as early as 1022 A.D.<sup>1</sup> Learning this, can anyone seriously maintain that Bob's love for the subject of future interests

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1. Lieser, *The Lieser Family of Clark County*, 5 CLARK COUNTY HISTORY 33 (1964).

and estates in land was accidental?<sup>2</sup> The Hollingsworth family crest—said to represent forestry—allegedly pictures a deer couchant on a diagonal bar of gold, upon a field of blue on which there are three holly leaves.<sup>3</sup> The name Hollingsworth is derived from “holly” and “worth,” which is Saxon for “farm.”<sup>4</sup> What more fitting heraldry for a family that took up residence in the “Evergreen State”?

Bob’s great grandfather, Louis Lieser, was born in Wiesbaden (or Frankfort) and came to this country in 1836 at the age of 19, after having been rejected for military service because he was “too weak.”<sup>5</sup> Weak or not, Louis found a wife and drove a prairie schooner across the Oregon Trail and arrived at Fort Vancouver in 1850.<sup>6</sup> He traversed the last leg, from The Dalles to Vancouver, by bateau rowed by Indians.<sup>7</sup> In 1852, Bob’s great grandmother estimated that the trip took about three months.<sup>8</sup> You will notice that this was almost forty years before Washington became a state; and only four years after the treaty with Great Britain ceding the Oregon Territory to the United States.

Bob’s great grandparents were in the right place at the right time. The Donation Land Act of 1850 entitled those residing in the territory at the time, who were married, to a full section of land, 640 acres, in return for nothing more than four consecutive years of occupancy and cultivation.<sup>9</sup> So it was that Bob’s ancestors picked a section of land one mile along the shore of the Columbia River some four miles east of Vancouver. Louis’ wife Eliza died a short five years later—after giving birth to five children.<sup>10</sup> But Louis resided there until—in his 90th year and about ten years before Bob was born—he had a fatal run-in with a bull that he was trying to bring in from pasture.<sup>11</sup>

Only one of Louis and Eliza’s children lived to maturity—Henry Clay Lieser, Bob’s grandfather.<sup>12</sup> Henry was both a public school

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2. If further evidence of the hereditary nature of this peculiar interest were needed, one need look no further than Bob’s daughter Susan Fletcher French, who has gained notoriety in her own right as one of the leading national scholars on future interests. *See, e.g.*, *STATEMENT (SECOND) OF PROPERTY (Donative Transfers)* (1983) (for which she is an adviser).

3. Lieser, *supra* note 1, at 33.

4. *Id.*

5. *Id.*

6. Lockley, *An Interview with Henry Clay Lieser*, 5 *CLARK COUNTY HISTORY* 37 (1964).

7. *Id.*

8. Lieser, *supra* note 1, at 34.

9. Donation Land Act of 1850, ch. 76, 9 Stat. 496, 497 (1850).

10. Lieser, *supra* note 1, at 34.

11. Lockley, *supra* note 6, at 37.

12. Lieser, *supra* note 1, at 34.

teacher and a lawyer in Vancouver.<sup>13</sup> Henry's oldest child, Minnie May, went off to Portland and married William Fletcher.<sup>14</sup> These, as you might have guessed, were Bob's parents. Bob's father was an educator who became the principal of Grant High School in Portland before he and his wife met untimely deaths when Bob was young.

I am not sure what the moral of this short look back into Bob's roots may be. As you can see, Bob comes from true pioneer stock; and both Bob's love of the law, and of teaching, may have some genetic origins. But it is interesting to me that Bob's great grandfather Louis Lieser chose his homestead where he did because he was convinced that "as [Portland] was located on a mere tributary of the mighty Columbia, the tiny hamlet would never amount to much and that the logical site for a great city was on the Columbia."<sup>15</sup> I can't help but wonder whether Louis worked as hard at trying to persuade civilization to settle on the Washington side of the Columbia as has Bob at trying to persuade generations of law students and scholars that the Rule Against Perpetuities should be settled—or at least resettled—on the Washington side of rationality.<sup>16</sup> I am reminded of the motto on a crest said to have been given to the Hollingsworth family in return for service to the English Crown. The motto in latin is translated as: "Endure with Patience."<sup>17</sup> That is a motto that I think Bob has born well in his efforts to spread the truth about perpetuities.<sup>18</sup>

And in this vein, I am grateful that Bob has endured me with patience as well. For you see, as a new faculty member teaching in Bob's principal area of expertise, I continually pestered him with questions about cases and rules of law that he has been teaching for decades. Never did he cut me short; never did he suggest—which I am sure was often true—that had I read more carefully, or studied more thoroughly, I would not have asked a particular question. Instead, he generously listened and helped straighten out my confu-

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13. *Id.* at 35.

14. *Id.* at 35-36.

15. Lockley, *supra* note 6, at 37.

16. See Fletcher, *A Rule of Discrete Invalidity: Perpetuities Reform Without Waiting*, 20 STAN. L. REV. 459 (1968); Fletcher, *Perpetuities: Basic Clarity, Muddled Reform*, 63 WASH. L. REV. 791 (1988).

17. Lieser, *supra* note 1, at 33.

18. This is not to say that Bob's efforts in this direction have been without influence. His seminal article on the Rule has been reprinted or excerpted in various case books on future interests. See S. FETTERS & J. SMITH, *SIMES' CASES ON FUTURE INTERESTS* 806 (3d ed. 1971); H. WILLIAMS, *CASES AND MATERIALS ON FUTURE INTERESTS* 608 (1970); see also *Estate of Chuan Quan Yee Hop*, 52 Haw. 40, 469 P.2d 183, 187 n.8 (1970).

sion.<sup>19</sup> He even made it seem as if he still enjoys discussing the Rule in Shelley's Case<sup>20</sup> and the courts' confusion on this,<sup>21</sup> and many of the other finer points of future interests.<sup>22</sup> In all of this, of course, Bob was simply continuing decades of service as a dedicated, patient educator and scholar whose principal aim has been to simplify and rationalize the law. Both as an educator and a scholar, Bob's efforts and influence in shaping legislative and judicial developments have, I think, been largely overlooked.<sup>23</sup>

Regardless of whether Bob really does still enjoy discussing these arcane subjects—and I must say that I harbor a suspicion that he really does—I have appreciated the friendship and support that he showed me in my first years at the law school. I will miss him. But I am pleased that other young faculty at other institutions, whether Hastings, or Vermont, or others, will have the benefit of his warm, generous and patient manner. We wish Bob a long, active and rewarding "retirement."

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19. Bob, I am sure, would view this as something of an exaggeration in that he was never able to persuade me of the final truth of his approach to the Rule Against Perpetuities. I am afraid that I am inclined to more radical solutions to the problem of perpetuities.

20. 1 Co. Rep. 93b, 76 Eng. Rep. 206 (C.B. 1579).

21. *E.g.* Fowler v. Lanpher, 193 Wash. 308, 75 P.2d 132 (1938).

22. *E.g.* Estate of Button, 79 Wash. 2d 849, 490 P.2d 731 (1971); Fletcher, *A Critical Note on Lapse*, 8 GONZ. L. REV. 26 (1972).

23. It is important to note here that the Rule Against Perpetuities is not the only area in which Bob has made significant contributions to the law.

His work on criminal procedure has been acknowledged as having had an influence on the shaping of the Federal Rules of Criminal Procedure. See FEDERAL RULES OF CRIMINAL PROCEDURE advisory committee's note, 84 S. Ct. 75, citing Fletcher, *Pretrial Discovery in State Criminal Cases*, 12 STAN. L. REV. 293 (1960).

Most of Bob's scholarly work, of course, has been in the area of decedents' estates. There, too, he has worked his quiet influence. Professor Richard Wellman, the Chief Reporter for the Uniform Probate Code project, acknowledged that Bob's article on Washington's nonintervention executor procedure was thoroughly considered by the Reporters on the Uniform Probate Code, and added important ammunition to the effort there to reduce the role of the probate judge in the estate administration process. Letter from Richard Wellman to Robert Fletcher (April 12, 1968); see also J. DUKEMINIER & S. JOHANSON, WILLS, TRUSTS AND ESTATES 52 (3d ed. 1984). See generally Fletcher, *Washington's Non-Intervention Executor—Starting Point for Probate Simplification*, 41 WASH. L. REV. 33 (1966). In the early seventies, Bob worked closely with the late Justice Charles Horowitz in a major effort to tailor the Uniform Probate Code to Washington. See Fletcher, *Adapting the Uniform Probate Code to Washington Marital Property Law*, 7 GONZ. L. REV. 261 (1972). While the bill that Horowitz and Fletcher produced was never adopted, a number of their recommendations have since found their way into legislation. Others are currently being considered by a state task force looking at areas in which our probate code could be improved.