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Governor of Virginia, 1986-1990

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REFLECTIONS: THE HONORABLE ROBERT R. MERHIGE, JR.

*The Honorable Gerald L. Baliles **

Judge Merhige was a man of unfailing civility and courage, and, as history will remember, he was a gentle but vibrant force of the legal realm. He was my friend and a patient mentor, and he was my next door neighbor at Hunton & Williams for the last years of his career. I still sometimes think to poke my head around my door to see if he wants a cup of coffee, or to ask him for a word of counsel.

Published accounts of this remarkable man's life remind us of his many awards, accolades, and accomplishments and how he personified the American dream. His story is striking. He worked his way through college and law school, flew bombing missions over Europe during World War II, built a highly successful law practice, was appointed to the federal bench by President Johnson, and famously presided over many complex and controversial watershed cases. His genius for creative consensus building among corporate litigants is legendary. His courtesies to one and all are well known. His courage under fire, especially when his life—and that of his family's—was under threat as he upheld civil rights, is a lesson in grace.

All these honors and achievements of the Judge are well known, and revered. It's maybe the role of a friend to also emphasize his humanity and sense of humor, for they too capture the essence of the man, who was more than a judge.

Those who were close to him know how much he loved his family, how he worshipped the ground that his wife, Shirl, walked on. He doted on his children and was smitten by his grandchildren.

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He considered his fifty-six law clerks, accumulated over thirty-one years on the bench, as members of his extended family.

The Judge was a sociable man—he loved good conversation, especially over dinner with friends, usually at Richmond haunting grounds like La Petite France, Chez Max, or the Commonwealth Club, and while he did not wear his religion on his sleeve, he rarely missed mass at his church.

My ties to the Judge run long. My first week in the practice of law was his first week on the bench, and we both were involved in an important case. Twenty years later in the march of time, as Governor, I presented him with a proclamation at a black tie dinner, recognizing his first twenty years of judicial service.

Then came our time together at Hunton & Williams—I almost never beat him to the office in the mornings. He would take delight in jumping me at 6:45 a.m. and asking why I was late. His work ethic always has amazed me.

Not long before his death, after the Judge had returned from traveling for a case involving multidistrict litigation in the cold weather of Maine, a trip during which he had had to be hospitalized, several of my law partners had a meeting with the Judge to tell him, ever so gently, that while we loved him and appreciated his hard work, we did not want him to endanger his health by traveling like that again.

My partner Gordon Rainey spoke in silver-throated tones, and we hoped that we could not have been any nicer. But the Judge bolted out of his chair, and declaimed: “After 48 bombing missions over Germany, you’ve got to be kidding! Nothing scares me. I don’t want to be babied. I want to earn my keep.”

The Judge could be emphatic. He was also a master of wit and could puncture the pomposity of lawyers, as well as engage in acts of self-deprecation. He was very fond of his colleagues on the federal bench especially, and lunched with them frequently after he had stepped down.

On one such occasion the Judge invited me to join them for lunch, and asked me to drive my black Cadillac (with its low numbered state license plates) to go with him to pick up his friends. Imagine the pleasure he took as we pulled up in front of the federal courthouse, with lawyers and judges standing there on a summer-like day, and he rolled down the window, invited his

friends to get in the car, and pointing at me asked with a mischievous grin: "Have you met my chauffeur?"

There is another anecdote that captures the essence of my friend.

On his office wall hangs a 1967 photograph of the Judge and several other nominees at the White House with President Johnson—a Democrat. The Judge was enormously proud of his roots in the Democratic Party, but he had friends ranging all across the political spectrum. I once asked the Judge how it was that he was such good personal friends with other federal judges, some of whom were appointed by other presidents of another party. His reply was a lesson to ponder and keep.

He said:

My loyalty is to the law—not to the person who appointed me. My colleagues have taken the same oath. So we are a fraternity, a co-equal branch of government. We take the same oath as members of the executive and legislative branches of government: "to preserve, protect and defend the Constitution of the United States."

And then he added, with a twinkle in his eye: "and don't you and your friends in either party or the other two branches of government ever forget it!" He indeed was always loyal to the law.

My friend Judge Merhige fulfilled his American dream through the law, which he devoted himself to with driving intensity, his great humor, unbending fairness, and gift for friendship. An old proverb has it that a life is judged by the shadow it casts. My friend's is long on my door, and in the nation.
