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In Memoriam: The Honorable Harry L. Carrico

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IN MEMORIAM

THE HONORABLE HARRY L. CARRICO

*The Honorable John A. Gibney, Jr. **

Before I get started, I have a question for Justice Carrico's family. Does he have a hat on in there?

He always wore a hat. That hat said a lot about Justice Carrico. It was a symbol of a time gone by, with a style and gentleness we don't really know about now.

One of my favorite quotations is by the Irish author and playwright, Oliver Goldsmith. He once said: "You can preach a better sermon with your life than with your lips."

I was Justice Carrico's law clerk for two years. During that time, I learned many things about the law.

But the most important lessons came from the sermon he preached with his life.

The sermon of his life taught me not to take myself too seriously. When I showed up for the first day of work, I was terrified. The main thought in my head was: "How can I do this? I don't know anything about anything."

To put me at ease, Justice Carrico called me into his office and said, "John, you're probably wondering why I hired you. Well, I invited you back for a second interview because you were so bad in your first interview that I thought no one could possibly be that inarticulate. You did better the second time, and I decided to give you a shot."

* Remarks delivered at the Memorial Service for Justice Carrico. Federal Judge, U.S. District Court for the Eastern District of Virginia. Former Law Clerk to Justice Harry L. Carrico 1976-78. J.D., 1976, University of Virginia School of Law; B.A., 1973, College of William and Mary.

And then he added, "I've never made a wrong decision about hiring a law clerk." And then there was a long pause. "But I have my doubts about you."

The sermon that was his life taught me to find and love humor in a lot of things. Justices Carrico, Poff, and Compton always went out for lunch together. One day they came back, and there was a new capitol police officer at the entrance to the court building. She didn't know who they were, so she asked them for their IDs. Justices Carrico and Poff showed theirs, but Justice Compton didn't have his. He said, "I'm with them." The guard looked at Justice Carrico. As he was getting on the elevator, Justice Carrico said, "I never saw him before in my life." And Justice Compton was stuck there until someone came down to get him.

There was a gesture that spoke volumes about the Judge, and it involved his hat. Whenever we were in the elevator and a woman came in, he automatically took his hat off. That was a simple gesture that showed a world of courtesy and respect, another lesson in the sermon that was his life.

And he showed that courtesy and respect to everybody—from the governor to the janitor. And from him I learned that's the way to live.

Every day he worked hard and lived with honesty and strength to do what he thought was right. And I learned that's the way to live.

I have often said that Justice Carrico taught me not just how to be a lawyer but how to be a man. He was kind enough to swear me in as a judge. I cannot tell you how much that touched me. I can never hope to be so honored again.

He has been a lighthouse to guide us all in life. That lighthouse is now gone from this world.

But that beacon burns brightly in my heart and mind, and in the hearts and minds of everyone who knew him well. In that way, he will always guide us.

HARRY L. CARRICO AND THE IDEAL OF THE LAWYER-STATESMAN

*Wendy C. Perdue **

“Professionalism.” This is a word that will always be associated with Justice Carrico—not only because he was a consummate professional himself, but also because he was dedicated to assuring that all lawyers understood the full ethical, social, and behavioral implications of their role as lawyers. Under his leadership, Virginia became the first state to require all newly-admitted lawyers to take a day-long course in professionalism. It is a model that has been widely emulated around the country.

Following his retirement from the Supreme Court of Virginia in 2003, Justice Carrico brought his passion for professionalism to the University of Richmond School of Law as our jurist-in-residence. He taught seminars, offered lectures, judged moot court competitions, and held regular office hours just for the sake of talking to students. He understood that in the formation of professional character, it is those one-on-one conversations that can be the most formative.

Justice Carrico’s vision of professionalism for lawyers included an obligation to serve the public and so in 2006, he co-chaired a committee charged with designing an implementation strategy for the University of Richmond School of Law’s pro bono program. It was the work of that committee that ultimately resulted in the Harry L. Carrico Center for Pro Bono Service. The Carrico Center now oversees one of the most robust pro bono programs in the country, coordinating programs that provide assistance on protective orders for victims of domestic abuse, benefits for disabled veterans, landlord-tenant disputes, immigration, and estate planning for seniors, among other worthy projects. It is a model

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program and one that Justice Carrico championed from the outset.

In his book, *The Lost Lawyer*, Anthony Kronman sketched a vision of professionalism for lawyers—something he called the “lawyer-statesman.” According to Kronman, the lawyer-statesman is a person of character and practical wisdom, calm and cautious in demeanor and “able to sympathize with a wide range of conflicting points of view.”¹ He is someone admired “for his virtue and not just his expertise.”² Justice Carrico embodied the ideal of the lawyer-statesman. He is an example of professionalism in action that will be hard to replicate, but is one to which we can all aspire.

1. ANTHONY T. KRONMAN, *THE LOST LAWYER* 15 (1993).

2. *Id.* at 16.

TRIBUTE TO CHIEF JUSTICE HARRY L. CARRICO

*John G. Douglass **

My first encounter with Chief Justice Harry Carrico came just a few months after I was admitted to the Virginia Bar. It didn't go quite as I had planned. As a brand new lawyer I somehow had landed an opportunity to argue a case in the Supreme Court of Virginia. After a sleepless night of pre-game jitters, I sat a bit bleary eyed at counsel table and counted my heartbeats. The Clerk called out his "oyez" and an imposing array of white-haired Justices appeared from behind a crimson curtain to take their seats on a bench so impossibly high that it seemed like only the tops of their heads were visible. A voice from on high called my name. I stood. And then it happened. As I scooped a collection of notes and briefs into my arms, my oversized notebook slipped, a crystal water goblet fell from counsel table, glass clanked, ice flew and water plunged onto the Court's very plush, very red and theretofore very dry carpet. I froze, only half a step into my fledgling career as a courtroom lawyer, already marked as a bumbler. I waited for the voice of reproach from the bench, expecting at least a mildly annoyed "hrrumph." Instead, I heard the gracious words: "Don't worry, counsel. I've done that a few times myself. Please proceed with your argument." I looked up to see the very genuine smile and twinkling eyes of Chief Justice Harry Carrico.

By the time of our courtroom encounter in 1981, Justice Carrico had seen twenty years of nervous lawyers at oral arguments in the court where he was to serve longer than any Justice. He had just become Chief. It would be another twenty-two years, just after he "retired" to senior status in 2003, before I would have the privilege to know him as a friend and colleague on our law school faculty. Only then did I learn that the self-effacing grace

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he showed to that fledgling lawyer in 1981 was his defining characteristic.

Justice Carrico was eighty-six when we first worked together at the law school, but I never knew him as “old.” When he visited my house for law school events in my years as Dean, he insisted on walking up the long gravel driveway rather than asking someone decades younger to park his car. Whenever he arrived at the law school he carried a stack of red and blue briefs to read between student appointments. He continued to serve the court as Senior Justice until just a few months before his death, still writing opinions and sitting on writ panels. And I have seen photographic evidence of his exploits on roller blades well into his eighties.

When Dean John Pagan presented Justice Carrico’s portrait in 2003, he remarked that the retiring Chief Justice had “adopted” our law school. Justice Carrico’s typically humble response was that the law school had adopted him. Both were true. The University awarded Justice Carrico an honorary Doctor of Laws in 1973 while his daughter, Lucretia, was an undergraduate. She later earned her J.D. from the law school and now continues the family tradition of service on the Virginia bench. In 1987 the law school gave Chief Justice Carrico its highest honor, the William Green Award for Professional Excellence, a fitting tribute to a man who’s commitment to professionalism, civility and excellence is legendary across our Commonwealth. In 2003 he helped organize a major conference on judicial independence, a topic close to his heart, and participated on a panel with William Rehnquist, Chief Justice of the United States Supreme Court. A few years later Justice Carrico joined with our former Dean Rodney Smolla to produce a widely circulated video on professionalism, a fitting encore to his earlier brainchild, the Course on Professionalism for all newly admitted members of the Virginia Bar, the first course of its kind in the nation. In 2008 the law school named the Harry L. Carrico Center for Pro Bono Services to mark his career-long commitment to fostering pro bono service throughout the Virginia Bar.

The mutual “adoption” included a good deal more than public appearances, degrees and honors. What mattered most to Justice Carrico were the students he met here. After he joined our faculty in 2004 as Visiting Professor of Law and Civic Engagement, he taught the John Marshall seminar and sat on the Marshall

Scholarship selection committee. With his typically personal touch, he called every scholarship recipient and welcomed them to the law school. Each year he judged the final round of the moot court competition that bears his name. Commenting on the performance of student advocates, he said, "I hope they are as well prepared in real life as they are for moot court. When I was in law school, I doubt that I could have stood up there before three judges who look as stern as we must look. I think the floor would have opened up and swallowed me."

Most remarkable to me, Justice Carrico visited the law school each week to hold "office hours" for students. There was no agenda, no curriculum other than his lifetime of experience. He devoted countless hours to those personal conversations with hundreds of students, talking about whatever mattered to them. Justice Carrico touched those lives in ways the students probably did not anticipate. No doubt they sought the wisdom of a judicial icon. No doubt he delivered. But in the process they also discovered the open-hearted humanity of a quiet-natured gentleman who, despite being three times their ages, related to them with a graceful and humble nature that few had imagined.

I was touched by that grace in my first months as a lawyer and, again, decades later. At the memorial service in the University Chapel I joined with hundreds of others who shared similar memories of this "gentle giant" in the law who wore his judicial robe with equal measures of dignity and humility. One speaker put it most aptly, quoting the prophet, Micah: "What does the Lord require of you but to do justice, to love mercy, and to walk humbly with your God?" So lived Chief Justice Harry L. Carrico.

REFLECTIONS ON MY CHIEF JUSTICE

*William G. Broaddus **

To me, Harry L. Carrico was, is, and always will be the Chief Justice of Virginia, a singular title bestowed on him by Resolution of the General Assembly in 1990 in recognition of his decades of service to the Commonwealth.

Like his hero John Marshall, Chief Justice Carrico was a son of the soil who rose to great heights. His character was forged on a small farm where frugality, discipline, and honest dealing were the guiding principles. "Son, well done!" was the highest reward. His formal education was modest by any account, but he made up for any lack in classical scholarship with persistence and hard work.

Also like his hero, from the moment he was exposed to the law, the Chief was hooked for life. To him the law was not just a job, not a means to an end, nor a path to the good life. It was the bedrock of our society and the cornerstone of our republican form of government. As Chief Justice, he recognized and accepted a personal responsibility to protect and nurture the judiciary as the guardian of the law.

While he believed in the stability of the law, the Chief was no hidebound traditionalist clinging to outmoded procedures or norms of years gone by. He was a visionary. He passionately worked for law reform and instituted changes ranging from uniform sentencing guidelines, rooting out gender bias, establishing judicial standards of performance and evaluation processes, to promoting the use of technology in the courtroom. He campaigned to promote civility and professionalism throughout the Bar, not

* Counsel, McGuireWoods LLP. Former Law Clerk to Chief Justice Harry L. Carrico 1968–1970; Former Attorney General of Virginia. J.D., 1968, University of Virginia School of Law; B.A., 1965, Washington and Lee University.

as landmarks to the past, but because he knew disputes are resolved more easily when lawyers conduct themselves properly and with respect to each other, clients, and the courts.

The Chief relished the intellectual challenge of resolving a difficult issue and enjoyed spirited and honest debate. But when an issue was resolved, he expected both sides to respect the decision and turn to the next task.

The Chief believed in hard work. He was always prepared, whether for oral argument or any other aspect of his life. It was not unusual for him to know more about a case than the attorney arguing it, and the advocate who took liberties with the record risked being brought up sharp by the Chief.

The Chief believed in the rules, whether Rules of Evidence, Rules of Procedure, or Rules of Court. He would cut off any lawyer, even the most senior member of the Bar, who exceeded the allotted time during oral argument.

The Chief looked the role of a Chief Justice and conducted himself with the decorum one expected of a Chief Justice. His public life was the model of propriety, as was his private life. His only excesses were his love of family, his devotion to the law, his love for the Court, and his passion for physical fitness.

The Chief's love of exercise was legendary. He routinely rollerbladed well into his seventies and daily rode his bike after that. One of the few occasions when I saw him angry occurred after he received a call from the Henrico County Manager telling him that he no longer had permission to rollerblade on a county parking lot during weekends. The Chief snorted, "they said it was unsafe. . . ." Once when I was clerking for him, I heard him say that he planned to replace the fence around his pasture the following weekend. I offered to help but he demurred. The last law clerk who tried to help, he said, could not come to work the next Monday because he was too tired. I persevered and got a weekend-long lesson in fence building. I made it in the following Monday, but with mighty tired muscles. The Chief, on the other hand, acted like his exertion over the previous two days had been limited to a leisurely stroll around the yard.

Despite the many banquets, conferences, and formal occasions which his position necessitated he attend, the Chief never seemed

comfortable in the spotlight. He preferred to deflect attention and praise to others.

In person, many lawyers found him intimidating, although that was never his intent. In fact, he was the most approachable of men. He was a wonderful raconteur and loved small private settings where he could regale the company with stories, punctuated by laughter, frequently directed at himself. In his later years he particularly enjoyed his work with the University of Richmond School of Law where he could share with students the insights gleaned from a half century on the bench.

Chief Justice Carrico was unique among jurists of the Twentieth Century, not because of his longevity on our supreme court, but because of the moral and intellectual rigor that he brought to his position each day. The Chief was grounded on the lessons of his youth, and he never forgot them. He was a common man given to uncommon accomplishments. Our Commonwealth is far richer for his service. May his example serve to inspire others for generations to come.

TRIBUTE TO JUSTICE CARRICO

*Victoria "Tory" A.B. Willis **

I still wonder at the fact that Justice Carrico selected me as his law clerk. I have learned over the years that many of us felt the same way. We all secretly worried that he would suddenly realize he had made a mistake. But he never did. Having spent several years meeting his clerks, there is one thing that we all have in common: a deep and abiding love for him as a mentor in life. I have heard stories of the physical labors of past clerks—mostly from the male clerks and more than likely I suspect slightly embellished—and the often quoted line “and all other duties as assigned” whenever it might look that we would question the errand. And yes, I bought him Chinese food and delivered it to his home and other times joined him for dinner on many occasions. But again, these stories are all told with admiration for a person that was undeniably a great jurist, a wonderful father, a loving husband.

My first day was like those who had come before me and those that would follow—nerve wracking. I had woken early, gotten to my appointed parking space hours premature and spent entirely too much time wondering just exactly what I was supposed to do. To no one’s surprise, despite being early, he was already there. Somehow—and this part I cannot recall—I was summoned into his office for the daily morning ritual of opening the mail. During this time, he would laugh, tell stories, and read his mail. For those that do not know him, this may sound boring, but it was as lively and enjoyable as he was. It was a time for a personal connection and something that as the clerkship progressed I looked forward to every day.

* Director, DuretteCrump PLC, Fredericksburg, Virginia. Former Law Clerk to Chief Justice Harry L. Carrico, 1986–1988. J.D., 1986, University of Richmond School of Law; B.A., 1983, Vanderbilt University.

But on that first day, I was anxious and pondering what I should say. I looked around that massive office with the view of the Capitol and the wall of Virginia Reporters filled with law that I could never hope to know as well as he did. I noted the impressive array of framed documents each attesting to his legal skill and intelligence. For some unknown reason I glanced at his framed investiture and noted that the date of his investiture was January 30th. During a lull, I commented out loud that I was born on the day of his investiture.

“Oh really—you were born January 30th?” Too eager to be accurate I replied “yes and that year as well.”

Most of you can just imagine his face. He paused. He looked at Cathy Listander and then considered me for quite some time before he began shaking his head, and quietly said: “You know what that means don’t you?” I, of course, had absolutely no idea, but I rather suspected that I had simply blown it and might as well go back and pack my belongings up.

“It means that it is time for me to retire when my clerks were born on the day that I was sworn in!” And then he laughed as he broke into that wonderful grin—that grin with that twinkle in his eyes that lightened the mood immediately and let me know that it was going to be alright.

This was his essence, his ability to make a person feel welcomed and not simply as a guest but as a friend. I think that is why when he attended various non-legal events, he would introduce himself simply as “Harry Carrico.” He was always attentive to making people feel they had met a friend. For me, he was the finest friend I will ever have had the honor to have known.