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MEMORIAL TO DANIEL L. HERRMANN June 10, 1913 - June 2, 1991

CHIEF JUSTICE, PROFESSOR, LAWYER, COMMUNITY LEADER, AND FRIEND

This issue is dedicated to the memory of Daniel L. Herrmann.*

The following remarks were presented at the funeral service for Chief Justice Herrmann at Temple Beth Emeth, on June 4, 1991:

*Remarks by Rabbi Peter H. Grumbacher***

According to the rabbis of old, "the world rests on three principles: on truth, on justice, and on peace, *emet*, *din*, and *shalom*." So meaningful was that phrase from our tradition that those three Hebrew words are engraved on our pulpit chairs. Chief Justice Christie sits on the chair over which *shalom* is found; Lawrence Isakoff, president of our congregation, is in the chair of *emet*, as sits every lay leader of this synagogue called Beth Emeth; but the chair in the middle, the seat of justice, is empty. Whenever he graced our pulpit, Dan was given the richly deserved honor to be seated there. In lasting memory of a devoted son of the synagogue, who represented everything justice has meant to America, for Jew and for Christian alike, we leave vacant the chair of *din* on this sad day.

I read so much of his numerous contributions to the bench and the bar in the tributes he received upon his retirement in 1985, and

* A tribute was previously presented in his honor. *Tribute to Daniel L. Herrmann Chief Administrator of Justice*, 10 DEL. J. CORP. L. 367 (1985).

** Rabbi, Temple Beth Emeth, Wilmington, Delaware.

I was awed by all of that, as well as the magnificent words we read yesterday in the *News-Journal* as a stunned community learned of his death and his life. Being neither a lawyer nor a lawyer's disciple, to paraphrase the prophet Amos, I leave the legal dimensions of Dan's legacy to focus on the principles which guided him; for like that prophet who thundered forth the Divine message, "Hate evil, and love the good, and establish justice in the gate,"¹ Daniel Herrmann reflected the ideal that justice is everyone's due.

Friends, the details of every aspect of Daniel Herrmann's profession were profoundly meaningful to him. Being a judge, and even looking like a judge, went to his very core; but there was no arrogance in this. It was pride in his work, respect for the law, and a love of humanity that motivated him. His were careful, meticulous, and wonderfully written opinions, all six volumes of them, fashioned to make clear precisely what he meant.

His sensitivity to the English language was heightened in his childhood. We learned from the newspaper that Dan was "a non-athletic man who liked reading"² Indeed, as a child, he was homebound for over a year due to a debilitating hip disorder. His special tutor was an English teacher who became a very important part of his education. Those who have in the past and will in the future gain knowledge from his clarity of thought are the beneficiaries of that special relationship of yesteryear.

Daniel Herrmann was proud of his heritage. To be a Jew, a descendant of the pillars of justice and righteousness, was a banner he wore with distinction. Ever aware that in so many ways he was a trailblazer as the first Jewish judge in Delaware, he was conscious of his responsibility to represent Judaism and the Jewish people in the best light. He did not shirk once in acknowledging who he was and what he stood for.

Dan Herrmann labored on behalf of his people and all people. He served as president of the Jewish Federation of Delaware and, with sleeves rolled up and hard hat perched on his head, guided the committees that built this beautiful synagogue, the Kutz Home for the Aged, and the Jewish Community Center. He did not sit on lofty heights but responded to the admonition of the sage, "Do not separate yourself from the community." No, the community was

1. Amos 5:15.

2. Hager, *Former Jurist Hailed as "True Legal Giant,"* *News Journal*, June 4, 1991, at A4, col. 4.

precious to him. In all respects, the well-being of its institutions and its people motivated his priceless deeds. As he said at his son Stephen's graduation from high school, "The penalty that wise men suffer for not being in government is to be governed by unwise men."

For all who knew him, these last kind of words were to be expected; but, as we pay a lasting tribute to Dan, we can also learn well from his personal life. Married for forty years to Zelda, they were soulmates. She fully understood the rigors and challenges of his career, and her support of him was legend. Despite his busyness, he was drawn to his home because of her devotion, and he worked there with his complete library in the attic. It was at home that he could be close to his sons. This judge was not judgmental. Indeed, he served as a role model for them. Dad was a guide and a teacher, giving advice when sought but never being intrusive. On his birthday, the family would go to the circus. On Zelda's birthday, they would go to a drive-in movie. How the boys recall their long summer vacations when they would drive thousands of miles with their parents and see all parts of this nation!

Dan was close to his mother-in-law, Rosa Keil. He would always say, "Behind every successful man stands a surprised mother-in-law." Those who knew him—family, friends, associates—realized that this expression was but only one manifestation of a legendary sense of humor. He could do things that others simply could not do because he had a twinkle that touched young and old.

How many other Chief Justices are known as "Chiefy-Pops"? His grandchildren bestowed that name upon him, and across the years it was even more common just to call him "Chief." He was close to, and proud of, all his grandchildren.

For the past six years, he shared his life with Mitzi, "the girl who put him on hold." Theirs was a beautiful relationship, strengthened no doubt because of what each had in Zelda and Herman.

Mitzi tells the story that, at one point early in their marriage, she found herself in some legal bind. Dan offered to be of whatever assistance he could but, in frustration, Mitzi responded, "What I need is not a judge but a good lawyer!"

Dan was a good lawyer and a good judge. He was a good husband and father and grandfather, good to all his family. He was a good Jew, a good friend, and each one gathered here this morning has something or many things which you could add that would complete the portrait of Dan Herrmann. That is what made him so special. He touched every one of us and, in more than one way, every single citizen of our First State.

I conclude with Richard's poem, "The Immortality of Chief":

If only we could find the words,
 We'd chisel them in granite
 So that all would know what greatness is
 While we live upon this planet.
 We'd chisel but a single word Just one,
 We'd need no more
 And then they'd all remember
 Just what you left before.
 The word imparts endearment
 Yet respect for firm belief
 And we can think of not a better term
 Than the singular word "Chief."
 This word's to you our tribute Dad
 And all present would like to say
 We share this tribute with you
 As we bid farewell today.
 We all pray here together
 With undeniable belief.
 That there is a Great Almighty God
 And He'll take care of Chief.³

His name in Hebrew is *Dani-El*, which means "God is my judge." For what Dan did, God will surely judge him with everlasting favor. God will take care of Chief.

*Remarks read by Rabbi Herbert E. Drooz**

The following was read during the Georgetown College commencement exercises on May 25, 1981, when Chief Justice Herrmann was presented with an honorary doctor of laws degree.

THE HONORABLE CHIEF JUSTICE DANIEL L. HERRMANN

THE PRESIDENT AND DIRECTORS OF
 GEORGETOWN COLLEGE:
 TO ALL WHO SHALL VIEW THESE PRESENTS:
 GREETINGS AND PEACE IN THE LORD

Justice Benjamin N. Cardozo, in his memorable "Law and Literature," wrote: "The process of justice is never

3. Letter from Richard K. Herrmann to The Delaware Journal of Corporate Law (Sept. 13, 1991) (granting approval to print poem).

* Rabbi Emeritus, Temple Beth Emeth, Wilmington, Delaware.

finished, but reproduces itself, generation after generation, in everchanging forms, and today, as in the past, it calls for the bravest and the best." Today, Georgetown selects one of its very own for his significant contributions to the judicial process, his community, indeed, our nation.

The Honorable Daniel L. Herrmann is a man of boundless energy, future-piercing ideas, high courage and superior intellect. From humble beginnings to his present preeminence, his life has been marked by extraordinary dedication to public service and love for his fellow man.

To recite a chronology of events when describing a human being often leaves the man untouched, his depth unprobed, his wisdom undiscovered and his warmth unfelt. Judge Herrmann deserves more than this. To his peers at the bar, he was a lawyer's lawyer; to lawyers who appeared before him, he is an astute, compassionate judge who quickly perceives the legal issues and personal nuances of each case; to his friends, he is a humble, warm human being whose friendship is treated more each day we know him. His achievements as a lawyer and performance as a judge are inscribed in the minds and hearts of the people of the nation. Among the many manifestations of his passion for public service are his presidency of the Delaware Legal Aid Society, his chairmanship of the State Planning Commission, his fellowship in the Institute of Judicial Administration, his membership in the American Judicature Society, his interest in problems of the aging and his active participation in the Delaware and American Bar Associations. It is evident that Chief Justice Herrmann has given fully of his considerable energy and administrative excellence both on and off the bench. His impact as a lawyer and jurist has been significant and extensive, thus reflecting the unusually significant impact of his small state of Delaware upon the law of the nation.

The man who we honor today is a judge whose high ideals, incredible industry, and imaginative administration have left their imprint on the nation; a judge who has done equal justice to the rich and to the poor and who has brilliantly and faithfully discharged the duties of his office.

For all these reasons and because he personifies the qualities the Law Center seeks to instill in her graduates, the President and Directors of Georgetown University

proudly proclaim the Honorable

DANIEL L. HERRMANN

Doctor of Laws, Honoris Causa

In testimony whereof they have issued these their formal letters patent, under their hand and the Great Seal of the University at Georgetown in the District of Columbia, this twenty-fifth day of May, nineteen hundred and eighty one.

*Remarks of Chief Justice Andrew D. Christie**

The bench and bar of Delaware knew Chief Justice Herrmann as the man who skillfully led the legal establishment of our State into modern times. He was the first chief justice who spent a large part of his time improving and reforming court administration. His contributions to court administration, and our legal system in general, would take hours to outline. He brought hundreds of people to the aid of our legal system through committees and meetings. There is no aspect of the court system that did not receive his careful attention, and there is no part of the system on which he failed to leave his mark. Long before he was chief justice, he was hard at work in his efforts to obtain more and better courtrooms and office space for the courts, and only last week he completed the successful arbitration of an important case, thus making it unnecessary for the case to run its long and expensive course through the court system.

His legal scholarship was of the highest caliber, and his opinions were clear, short, and sensible. They will be quoted as long as Delaware has a legal system. In handling both cases and court administration, he had a knack of picking out the most serious problem, deciding on the most reasonable solution, and then pursuing that solution with so much vim, vigor, and perseverance that he was almost always successful. And he worked so hard that there was almost no time for recreation. What time he did have outside the courthouse was devoted to wife, to his family, to his religion, and to worthwhile causes.

For several years, he had a fine cottage on a lovely lake in the Poconos. When we visited him there, we learned that he had never spent a whole uninterrupted week there. He told me he did not feel free to be away from the court for a long period, and as far as I

* Chief Justice, Delaware Supreme Court.

know, he sold the cottage without ever spending a real vacation there. He would also go to Florida and then show up at the office a few days later having cut his short vacation even shorter because there was a case or a committee which needed his attention.

He was a dedicated civil servant who had time for every detail. Everyone who knew him will miss him, but no one will miss him more than the lawyers and judges who recognize how much he did and was still doing for the cause of justice.

With all of this, Chief Justice Herrmann had a keen sense of humor. When things got tense, he knew how to bring a matter back into balance by recalling amusing moments in the courtroom or reminding us not to take ourselves so seriously. He loved to mention that the VIP elevator in the Carvel State Building was for the Governor, the Justices of the State Supreme Court, and for all the garbage and trash that the building generated each day.

I had hoped that this great Chief Justice would have many years after his retirement to enjoy the leisure which he never allowed himself when he was a judge. Instead, after six short years as a law professor, he left us.

The bench and bar of Delaware salute the great man as one of our very best. We will always remember him with admiration and affection.

*Remarks of Governor Michael N. Castle**

To those family members of Chief Justice Herrmann here today, his wife Mitzi, sons Richard and Stephen, his brother Jay, his sister Edna, and the rest of the Herrmann family, I wish to offer you my sincerest sympathy. You have endured a loss beyond description, but please know that the Chief Justice could only have become the great man he was with the extraordinary love that I am sure each of you in your own special way shared with him and, in turn, he shared with you.

Last night, I spoke at a tribute dinner for another giant of the legal community, Ned Carpenter, a dinner at which Chief Justice Herrmann was also to speak. A great sense of shock and loss filled the room as Victor Battaglia read the remarks Justice Herrmann was to have made about his friend, Ned.

* Governor, State of Delaware.

As we helped Ned celebrate his long and full life, it was difficult for me to accept that in just a few hours I would be helping remember the Chief Justice's life in a very different and sad way.

Reading the newspapers and listening to Victor forced me to accept that Delaware had lost one of its most outstanding citizens and that, more importantly, the Herrmann family had lost one of its own treasures.

Much has already been said about Chief Justice Herrmann. The *News-Journal*, for example, wrote that his death "prompted an emotional outpouring from the often-staid court hawks."¹ That comment, in turn, I expect, prompted quite a few people to wonder whether they were, in fact, one of those staid court hawks.

Realizing that there were literally thousands of people like myself who knew Dan Herrmann as "Chief Justice" or "Mr. Chief Justice," I quickly determined that we all likely fell in this category.

It seemed natural to call him Chief Justice, for as someone in Hollywood might say, he looked the part. The difference was, he was not playing any part because every inch of this man was first and foremost the State's leading champion of justice.

He did not wear the title of Chief Justice; he embodied it with every thought, every writing, and every action.

All of this reminded me that a man so surrounded by formality, being addressed with such rigid and proper titles, might lose his sense of humility or humor, but not this man.

For, among the people he cared about, and who cared most about him, his grandchildren, he was simply known as "Chiefy Pops," a title that would give any man a good perspective of himself and, more importantly, cause to laugh at himself.

Each of you here today has very personal thoughts about him, and in gathering my own thoughts to speak today, I was struck by just how many different ways I see the Chief Justice.

To me, as an attorney, he will always be the Chief Justice; the man who rebuilt Delaware's court system from an overtaxed and inefficient operation, to one in which people receive more consistent and more expedient justice.

To me, as Governor, he will always be one of the people I remember actually helping make one of the most challenging tasks

1. Hager, *Former Supreme Court Justice Herrmann Dies*, *News Journal*, June 4, 1991, at A2, col. 1.

as Chief Executive, selecting judges, more equitable by supporting the creation of the Judicial Nominating Commission.

To me, as a public servant, he will always be one of Delaware's greatest patrons of people in need; a person whose professional commitment to providing legal assistance without regard for income could only be matched in strength and impact by his generosity of spirit that he shared fully with his community.

Also, as someone who traveled throughout this nation, I know that he was universally respected and liked among his peers for his contributions to judicial reform and that he will always be remembered for his warmth and his wisdom.

Finally, I think regardless of how you perceive Chief Justice Daniel Herrmann, he will forever remain one of Delaware's quiet heroes, and while one of his most visible acts of bravery may have appeared to be wearing bow ties, his courage and conviction to create positive change were, in fact, his most heroic attributes.

The Chief Justice has left us with an extraordinary legacy to preserve and keep alive, and each of us here today must leave and go forth with the charge to follow the example he set.

I would like to end today with a story I think Chief Justice Herrmann would have appreciated.

Charles Hopkinson's impressive portrait of the great jurist Oliver Wendell Holmes, Jr. hangs in the Library of Harvard Law School. It is a full-length handsome painting of Holmes in judicial robes, with distinguished white hair and mustache. Apparently when Justice Holmes saw the finished picture, he said, "That isn't me, but it's a darn good thing for people to think it is."

I think perhaps if the Chief Justice were here, he might say the same thing about the portrait hanging by all eulogizing him, because despite all his accomplishments and achievements, he never lost his ability to laugh.

So even in this sad time, as we all mourn for him and miss him, I think he would want us to remember him with a smile and to celebrate and enjoy the many gifts he gave us.

