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Celebrating a Lasting Legacy: Richard Scott Carnell

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RICHARD SCOTT CARNELL *

Susan Block-Lieb **

Richard Scott Carnell joined the Fordham Law faculty in 1999. Carnell came to the Law School in an era of epochal change in the laws governing financial institutions and an era of financial crisis; our economy roiled again with financial crisis midway through his Fordham Law career and once again in the present day. Over this twenty-one-year period of time, Fordham Law students needed very much to understand what in the world was going on—what caused financial crisis, how it could end, and how it could be prevented.

No one understood these issues at the Law School more deeply than Carnell; and our students understood and appreciated his depth of learning on these topics. Students loved Carnell's classes because they knew they were learning banking law from the maestro.

The maestro. By 1999, when Carnell joined the faculty, he had already held an enviable series of appointments in Washington, D.C., as a public servant devoted to understanding and reforming the laws governing federally chartered banks and other financial service providers.

His first position in Washington, D.C., was as an attorney at the Federal Reserve Board. He must have excelled in his role at the Fed because after only two years, Carnell shifted from the Fed to the Senate Committee on Banking, Housing and Urban Affairs, serving first as counsel to the committee and within a short time as the committee's senior counsel for financial services.

Carnell served as staff to the Senate Banking Committee during a time when the Senate played a key role in addressing the savings and loan crisis. The crisis was the result of legislation passed in 1980, just as Carnell was graduating from law school. These laws looked to reduce regulatory oversight of savings and loan associations ("S&Ls") to enable them to expand their lending authority and offer new products—like adjustable-rate

* Richard Carnell served as associate professor of law at Fordham University School of Law from 1999 until 2020. Prior to joining the faculty at Fordham Law, Professor Carnell served as assistant secretary for financial institutions at the U.S. Department of the Treasury from 1993 to 1999. He also previously served as counsel and then senior counsel to the U.S. Senate Committee on Banking, Housing, and Urban Affairs from 1987 to 1993 and as an attorney at the Board of Governors of the Federal Reserve from 1984 to 1987.

** Professor of Law and Cooper Family Chair in Urban Legal Issues, Fordham University School of Law. These remarks were delivered as part of an event honoring departing faculty members at Fordham Law School in the spring of 2020. The text of these remarks has been lightly edited and footnoted. For an overview of the corresponding Tribute, see *Foreword: Celebrating a Lasting Legacy*, 89 FORDHAM L. REV. ONLINE 1 (2020).

mortgages. These laws looked to allow S&Ls to grow, and grow they did, but in boom and bust cycles that triggered government guarantees by the Federal Savings and Loan Insurance Corporation (FSLIC).

By the time Carnell joined the Senate Committee, FSLIC was insolvent. Congress responded to the S&L crisis with legislation.¹ As senior counsel to the Senate Banking Committee, Carnell was a principal drafter and staff negotiator of this legislation in 1989, as well as additional federal legislation in 1991 seeking to tame the moral hazard effects of other federal deposit guarantees.²

When Bill Clinton became president of the United States in 1993, Clinton appointed Lloyd Bentsen as his first secretary of the treasury. Bentsen, a longtime member of the Senate Finance Committee, asked Carnell to join him at the Treasury Department.

The transcript of the Senate Banking Committee hearing on Carnell's Treasury appointment resembles both a going-away party and a celebration of Carnell's new position. At the hearing, the future committee chair, New York's Senator Alfonse M. D'Amato, described Carnell's "long hours and dedication to the job" as "legendary" and noted his "extensive knowledge of the banking laws" would be difficult for the Committee to replace.³

Carnell was appointed in mid-1993 as assistant secretary for financial institutions, a position he held at Treasury through 1999.

As with his tenure on the Senate Banking Committee, Carnell's career at Treasury spanned an important era in banking legislation and regulation, which changed enormously during the Clinton administration. Carnell worked on the mop-up of the S&L crisis, federal deposit insurance reform, revised regulation of credit unions, and implementing President Clinton's Community Development Financial Institutions (CDFI) initiative. Most importantly, though, Carnell worked on the two most significant banking reform initiatives of the era: first, legislation to allow interstate banking and branching;⁴ and second, proposals to further deregulate the financial industry that, in modified form, became law in 1999 as the Gramm-Leach-Bliley Act.⁵

Thus, when Carnell joined the Fordham Law faculty in 1999, teaching was something of a second career. But he dug into teaching at Fordham Law like he dug into everything else—nose to the grindstone. Carnell's most important scholarly accomplishment at Fordham Law has been his role as a

1. Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub. L. No. 101-73, 103 Stat. 183 (1989) (codified as amended in scattered sections of the U.S.C.).

2. Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. No. 102-242, 105 Stat. 2236 (1991) (codified as amended in scattered sections of the U.S.C.).

3. *Nominations of Richard Scott Carnell, Susan Gaffney, Edward deSeve, Arthur Levitt, Allan S. Binder, and Joseph E. Stiglitz, Hearings Before the S. Comm. on Banking, Hous. & Urb. Affs.*, 103d Cong. 26 (1993) (prepared statement of Sen. Alfonse M. D'Amato).

4. Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub. L. No. 103-328, 108 Stat. 2338 (1994) (codified as amended in scattered sections of the U.S.C.).

5. Pub. L. No. 106-102, 113 Stat. 1338 (1999) (codified as amended in scattered sections of the U.S.C.).

co-author, with Geoffrey Miller and Jonathan Macey, of the hands down preeminent casebook on banking law.⁶ His tireless work on this textbook is a testament to his devotion to his students.

During his twenty-one years at Fordham Law, Rick Carnell has been precisely the sort of law professor that Fordham Law students admire: experienced, pragmatic, learned, objective in his comprehension of the law, untiring in his efforts to explain it to others, and unwavering in his embrace of the university's foundational principles. A maestro. Rick, congratulations on your retirement from Fordham Law.

6. See RICHARD S. CARNELL, GEOFFREY P. MILLER, & JONATHAN R. MACEY, *THE LAW OF FINANCIAL INSTITUTIONS* (4th ed. 2008; 5th ed. 2013; 6th ed. 2017).