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Thomas E. Headrick

University at Buffalo School of Law, headrick@buffalo.edu

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DAVID R. KOCHERY: IN MEMORIUM

THOMAS E. HEADRICK*

David Kochery — a teacher whose reach to his students was touched by the warmth of mutual affection.

David Kochery — a colleague whose concern and caring pervaded each collegial contact.

David Kochery — an arbitrator whose sensitivities enabled him to deal justly amid heated conflict.

David Kochery — a citizen whose causes included the attainment of justice for the people and groups most deprived in our society.

David Kochery — a friend whose winning warmth brought sunshine on even dull, grey days.

We knew these many parts of David. We were impressed by them, touched by them, heartened by them, and occasionally awed by them.

The bare record shows that he began teaching 31 years ago in Kansas City when, many will recall, it still boasted a Yankee farm-club and President of the United States, probably in that order, and that he came to Buffalo four years later.

It does not show that as a law teacher he ran against convention. Others played often elaborate mental shell games with their students, hiding more than they revealed, adding more frustration than knowledge. David, instead, laid it all out. He was concerned that students should be able to organize their thinking. He was uncomfortable with embarrassment as a teaching device, with disorganized dispute as a teaching technique. He explored ideas with his students; he unraveled complexity for his students; and through difficult materials and problems, he stood by his students. They recognized his virtues and his abilities. Last year, they chose him for the award of outstanding teacher. He was pleased with the award; but, it was the spontaneous outpouring of affection, signified by the low chant — Coach, Coach — building quickly to a resounding chorus, that meant even more to him.

David was especially interested in the growth and success of

* Dean and Professor of Law, State University of New York at Buffalo, Faculty of Law and Jurisprudence.

his younger colleagues. He made special efforts in his senior faculty role, more as counselor than as an evaluator of young faculty, to be available when they had problems and questions, concerns and difficulties. He always felt more comfortable giving advice than making judgments. The hard decisions about tenure and promotion imposed an uneasy burden on him, which he carried with outward calm and inward difficulty.

In a slightly paradoxical way, these same traits of character made him a superb arbitrator. Few know the weight of care that arbitrators bear. They often hold the life of a person and the lives of his or her family in their decision, a decision to affirm or reverse a dismissal from a job, a loss of seniority, a qualification for advancement. Each day the fates of hundreds of decent people rest in the decisions of labor arbitrators from which there is scant appeal and little redress. The arbitrator's stature affords him the opportunity to play God, often on a small playing field, but as God nonetheless. Those who act out of some sense of their own omniscience often fail. Those who act out of reverence for fairness, their capacity for compassion and an innate sense of humility, as David did, succeed. He carried the honor of his fellowship in the National Academy of Arbitrators, as he did in many honors, with quiet humility.

As an early supporter of the Civil Rights movement, as an early activist in liberal political causes, as a friend and counsellor to leaders in the search for equal opportunity in education and employment in Buffalo and elsewhere, David made another of his quiet, unobtrusive, monumentally effective contributions. It was fitting that President Carter would honor him and others who mounted this fight with vigor and determination and without the fanfare of publicity.

I will remember David best as a friend. His interests and my interests in the law found little common ground — his in civil procedure and practice, and labor law — mine in property, history and social process. His emphases and approaches to legal education diverged from mine at many points. But these differences informed our friendship. David was not one to allow academic disagreements to disrupt a friendship. He would drop in my office from time to time to leave an early warning about some disharmony growing within the faculty, as a kind favor to a friend.

We did things together that friends do. We played golf and I

marvelled at his consistency and strength off the tee and the fair-way. That slim frame could whip the daylights out of a golf ball. And I empathized with him as he searched occasionally — almost comically searched — for a way to get the ball on the green into the hole. Taking three puts from 12 feet was his particular form of golfer's affection. His luck or skill or both at the poker table, on the other hand, usually assured him of ample walking around money for several days after our monthly low stakes engagement. In poker, he was risk-taker, he played with studied recklessness. One sensed that he ran the rest of his life a little that way, too. He took his chances unobtrusively, displaying always both calm and self-control, but frequently taking the longer odds.

He had the many aspects of his life in perspective. Down deep, that's why we loved him and that's why we will miss him greatly.