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Kevin E. Kennedy

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KEVIN E. KENNEDY

*Joseph Vining**

Kevin's affirmation of life in all he did in the last years he had will be his most striking legacy. His loss to early death is different from the early loss of others to tragic accident, for while he was living and working with the fullness that makes his loss such a loss to the School and the profession, he knew the likelihood, perhaps the certainty of his early death. He knew that those he left behind would know that he knew, and that this would transform all he did, making it all the more a gift to weigh against the loss of what might have been.

What might he not have done if he had lived? He was such an extraordinary joining of the critical and the constructive. The premises, as many conceive them, of the areas of law he and I worked through in his fashion and in mine, term after term, cannot have appealed to his generously radical nature — corporations, administration, crime. But he allowed nothing to stand between him and an understanding of the law as it actually lives, no dismissal, no cliché, least of all any negligent, reckless, or simply inevitable misstatements of those whose words he was directed to study. The law he was ultimately able to perceive was in some ways much like himself, always critical and always dissatisfied because ultimately idealistic, always engaged and never withdrawn because ultimately realistic.

He came to the School from a background in Chinese studies. While he studied law he also pursued his doctorate in Chinese in the political science department, and between his first and second years of law school he returned for eight months to Taipei to perfect his Mandarin. He thus brought to his work in law a rare perspective. Without it his mind and character might have achieved the same, but it provided him with a window, and a vocabulary, to escape the circularities in discussions of American and Western law with which he found himself so often confronted. He was haunted by the age-old Chinese vision of a legal order in which public and private interests were joined in the practice and encouragement of personal virtue. This fueled his idealism and radicalism, despite his struggle to find a place in it for his own strong individuality. At the same time his commitment to mastering the realities of our legal order was supported by his acquaint-

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tance with the Chinese aversion to naive optimism: he was willing, eager to read closely and argue concretely, and to decide. This fueled the drive that produced the extraordinary contributions of his second and third years, first winning the School's competition in advocacy and then leading the *Law Review* through one of its liveliest and most imaginative years. What he might have done for his generation globally we cannot even speculate. He was marveling as a clerk at the internal workings of an appellate court, and fully absorbed in them, in the months of active life left to him after graduation.

When a student dies before his teacher, his teacher suffers a special loss. The middle of a teacher's active life is meant to be the beginning of the student's, and it is interest in and identification with the student's future that presses the teacher on in the evolving repetitions of a teaching life. We should be glad Kevin lived as long as he did, and leave it at that, for death is always with us. But such a letting go is doubly hard for a teacher. Kevin had already reached the point of wanting to know what his teachers want to know. His was a doubting faith, for all the affirmation that his life and activity showed. Among the papers he wrote for me, when he was working in his third year on the problem of legal authority, there is one that ends: "We seek the real and the true without any sense of what constitutes reality or truth." And another ends: "Our Heaven is that yet unrealized magic which can transform each of us into a full member of a community of faith." Kevin always wondered what would fill the soul, and never had the chance to find out. He fulfilled the largest hopes of this School, did all that could be asked, except live, and he struggled to the very end to do that too. Courage, and an enlarged definition of what a lawyer's life can be, are what he leaves behind.