

1991

## David K. Kadane

Stuart Rabinowitz

Follow this and additional works at: <http://scholarlycommons.law.hofstra.edu/hlr>



Part of the [Law Commons](#)

---

### Recommended Citation

Rabinowitz, Stuart (1991) "David K. Kadane," *Hofstra Law Review*: Vol. 19: Iss. 4, Article 1.

Available at: <http://scholarlycommons.law.hofstra.edu/hlr/vol19/iss4/1>

This document is brought to you for free and open access by Scholarly Commons at Hofstra Law. It has been accepted for inclusion in Hofstra Law Review by an authorized administrator of Scholarly Commons at Hofstra Law. For more information, please contact [lawcls@hofstra.edu](mailto:lawcls@hofstra.edu).

# HOFSTRA LAW REVIEW

---

Volume 19

Summer 1991

---

## DAVID K. KADANE

*Stuart Rabinowitz\**

If words are generally imperfect symbols by which to convey ideas, it makes little sense to use them to describe the sense of loss we feel at the passing of our good friend and invaluable colleague. But, David Kadane's death, at the age of seventy-seven, has been more than a sad occasion for those of us who worked with him at Hofstra. It has also reminded us of his many and enduring contributions to a law school that still reaps the benefit of his vision.

The contributions made by David Kadane to Hofstra were part of an unusually diverse career that continued almost to the moment he died. Indeed, David's final professional words, on the rule against perpetuities no less, were very recently and posthumously published in two recent issues of the New York State Bar Journal. At the same time, David's considerable technical skills as a lawyer were more than matched by his various interests in the welfare of others, particularly those who are economically or educationally disadvantaged.

It is appropriate to note the highlights of his impressive career. David Kadane was born in New York City in 1914. He was the son of a lawyer and attended public schools in the City, graduating from C.C.N.Y. in 1933. In 1936, he received his LL.B. degree from the

---

\* Dean and Alexander M. Bickel Distinguished Professor of Law, Hofstra University School of Law.

Harvard Law School where he encountered, among others, W. Barton Leach, Edward H. "Bull" Warren, and Felix Frankfurter.

From 1936 to 1938, David was an assistant counsel to the U.S. Senate Committee on Interstate Commerce. From 1938 to 1946, as a lawyer for the U.S. Securities and Exchange Commission, he worked with both William O. Douglas and Jerome Frank. He was also Special Assistant to the National Housing Expediter, Wilson W. Wyatt, during 1946.

Following his government service, David was employed by the Long Island Lighting Company. From 1949 to 1970, he was the General Counsel of LILCO, where he developed a national reputation for his work involving the government regulation of utility rates. From 1964 to 1966, while on leave from LILCO, he and his wife Helene served in the Peace Corps. David was a legal adviser to the government of Tanzania and to its President, the Honorable Julius K. Nyerere, during his Peace Corps Service.

In 1970, David joined our founding faculty. In fact, he was the very first member of the new Hofstra Law School faculty appointed by the founding dean, Malachy Mahon. Despite David's background as a corporate lawyer for a major regulated industry, he was especially interested in creating new programs in clinical legal education while making his own local contribution to the war on poverty. Just prior to his appointment as the first director of the Hofstra Law School's Neighborhood Law Office, which continues today as the Community Legal Assistance Corporation, he responded to a properly inquiring Dean Mahon in a characteristically forthright way. Malachy had asked David to explain his intended retirement from LILCO at the ripe old age of fifty-six. David wrote Dean Mahon to note that since his children were grown, he no longer had a heavy financial need. More to the point, he offered this terse explanation for his interest in opening a law office in one of Long Island's poorer neighborhoods: "Surely a professional man has a duty to apply his capacities, if he can, where they would seem to be most needed. As a lawyer I am in the business of helping people get justice. I think this is a good way to do it."

In addition to David's pioneering work in clinical legal education, he taught a variety of more conventional offerings at Hofstra, including property law, business organizations, corporate finance and wills, trusts and estates until his "retirement" in 1984 as the Harry R. Rains Distinguished Professor of Law. Thereafter, he continued to teach as an adjunct professor at both Hofstra and at the new law

school at the City University of New York, Queens College. During 1985-86, he was a visiting lecturer in administrative law at East China Normal University in Shanghai. Of course, he was also actively involved before, during and after his faculty service at Hofstra in a large variety of important public service activities, many of which enriched his community and the education of his students simultaneously.

One can hardly do justice to the real David Kadane, however, through a summary review of his professional career, rich and accomplished as it was. For a better sense of the essential Kadane, we might turn to several of David's colleagues at Hofstra, especially those who shared his spirited commitment to a new and exciting experiment in legal education during the early days of this law school.

For example, Professor Burton Agata, in a peer evaluation, wrote:

Simply stated, Hofstra without David Kadane is unthinkable. It is the unanimous view of all who know him . . . that David Kadane is a superb teacher and an enlightening and enlightened asset.

. . .

It has been said that David Kadane is the youngest member of our faculty, in seeking knowledge, acceptance of challenge and the carrying out of difficult tasks. More than this he has been the initiator of new ideas, always ready to challenge the current dogma or doctrine.

One of my distinguished predecessors, Eric Schmertz, had this to say on the occasion of David's retirement from full-time faculty service in 1984. Dean Schmertz, writing in the student-edited law school newspaper, appropriately named "The Conscience," observed that:

On the faculty, Professor Kadane has been, and continues to be . . . how shall I describe it . . . the gadfly, the inquisitor . . . in fancy legal terms, a "nooge."

He never lets us relax or become complacent. He constantly questions our basic assumptions, and indeed the assumptions of legal education in general. He is always suggesting innovative and challenging proposals for change! In one way or another, at least every week, he asks the faculty (and the Dean), "what are we trying to do? . . . what are we trying to teach? . . . what do we stand for? . . . how can we do better, for deserving students and deserving people? . . . Now I know the real meaning of "Where's the Beef."

He has been *our* conscience. I am thankful for such a nooge . . . . He is our severest critic . . . but he is our best friend.

I share former Dean Schmertz's conclusions. Indeed, it seems only right to close this memorial appreciation with the words of David himself. While the following was composed by David in 1987 for one of the many other organizations that honored his diverse professional and civic contributions, it reflects David's professional and personal character very well. David's wise words also offer us all a certain healthy warning:

All in all, I have deduced one principle of personal ethics and one of social ethics. The former is that pain is the evil, psychic or physical. What is bad is the infliction of pain, what is sinfully bad is the deliberate infliction of pain. What is good is the removal of pain, what is gloriously good is the removal of pain for which one is not responsible but which one may be fortunate enough to be able to remove. The social ethical principle I draw is that no people-serving institution can be trusted, after it is in business for a while. It will gradually forget its original objective, and start to serve itself; and I mean all institutions: clubs, schools, corporations, human rights organizations, governments, governmental units, chamber music groups and bowling leagues. They all begin to behave as though they were created for the providers.

He is gone from our midst and we must now adjust to the "un-thinkable"—Hofstra without David Kadane. We take some solace in the fact that he has left us with durable and instructive memories. He remains an important part of the history of Hofstra University School of Law.