EULOGY DELIVERED BY INDIANA UNIVERSITY ROBERT H. MCKINNEY SCHOOL OF LAW PROFESSOR OF PRACTICE FRANK SULLIVAN, JR., AT THE FUNERAL OF ROGER OWEN DEBRULER

Indianapolis, Indiana
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Roger DeBruler's eulogy should have been delivered, of course, by his great friend, Kenneth Stroud. But Ken Stroud himself left us 18 months ago. In his absence, I am deeply honored that the DeBruler family should give me the assignment.

After primary and secondary education in Evansville public schools, Roger DeBruler majored in German at Indiana University and served in the military. The young veteran returned to Bloomington for law school where, while visiting the University art museum one day, he encountered an undergraduate named Karen Steenerson. That was 56 years ago. Karen, our hearts go out to you. And to Roger Jr., Quincy, and Lily. To your grandchildren and great-grandchildren.

Let's fast forward past law practice in Indianapolis and judging in Angola to Roger DeBruler’s appointment to the Indiana Supreme Court in 1968. Here is Chief Justice Shepard’s description of a photo taken at the time: “In this picture, the newest thirty-something Democrat [sic] justice sits up proudly in a full beard (fluffed up, no doubt, during the bicycle ride over from Lockerbie Square) and faces the camera with a restrained grin that says: ‘I’m not like them.’ By ‘them,’ Roger frequently meant the Republicans on the court.”

Indeed, Justice DeBruler was not like the Republicans on the Court at that time or for the 17 years thereafter. It turned out, however, that not all Republicans were like those Republicans and in 1985 and 1986, two new Republicans came to the Court, Justices Randall Shepard and Brent Dickson. All of a sudden, Justice DeBruler was in the majority in more and more cases and the Indiana Supreme Court began receiving national attention for the quality of its jurisprudence.

We acknowledge the presence here today of the Chief Justice of Indiana, Loretta Rush; Justices Robert Rucker, Mark Massa, and Geoffrey Slaughter of the Indiana Supreme Court; and Judge John Baker of the Court of Appeals. The tenure of not one of the current members of the Supreme Court overlapped with Justice DeBruler, yet their presence here today shows how his work influences theirs.

Roger DeBruler left the Court in 1996, a few days after reaching the age of 62, passing the baton to Justice Theodore Boehm, one Olympian to another. Justice DeBruler could have served until age 75 and if he had, he would have shattered by more than 5-1/2 years the all-time record for years of service on the Court. But being a record-holder was not very important – perhaps not at all important – to this modest man as was being able to pursue a wide range of interests that he had been forced to neglect in the face of the relentless press of court business.

Plus, I think he had grown deeply suspicious of a Court where Indiana degree-holders had been replaced with degree-holders from foreign places like Dartmouth, Princeton, Michigan, and Purdue.

The first 17 years of Roger DeBruler’s judicial career were characterized by disagreements with his fellow justices on the reasoning and results of cases decided by the Court. He wrote and published those disagreements in what judges and lawyers call “dissenting opinions” or “dissents.”

Now a Justice of the United States Supreme Court once wrote that certain dissents “seek to sow seeds for future harvest” and when a judge writes such a dissent, the judge speaks with a “prophetic” voice. The aforementioned Ken Stroud recited this in a discussion of Roger DeBruler’s dissents. Stroud never explicitly said that DeBruler was a prophet – but that’s what he meant. And he was right.

For example, Justice DeBruler in dissent wrote that a man who had quit his job rather than perform a task that violated his religious beliefs was entitled to unemployment benefits. Later, Congress nearly unanimously enshrined this principle in the 1993 Religious Freedom Restoration Act. (Not to be confused with the pernicious bill here in Indiana a couple of years ago that masqueraded under the same name.)
Not once but twice, Justice DeBruler in dissent wrote that particular Indiana criminal statutes violated the United States Constitution. These dissents prophesized the later very famous cases of Roe v. Wade and Lawrence v. Texas.

Positions taken by Justice DeBruler in dissent. Today, the law of the land.

Prophetic. And something more.

Justice DeBruler’s dissents are models of decorum. Tightly reasoned. Not overstated. Written in a straightforward, declarative style; not punctuated with hyperbolic rhetoric. Dissents written in this style meant that when a new generation of justices joined the Court towards the end of his tenure and following – Shepard, Dickson, Krahulik, Selby, Boehm, Rucker and more – the DeBruler dissents of years gone by were adopted by and became the majority opinions of the Indiana Supreme Court.

Prophetic. Models of decorum.

And something still more.

Roger DeBruler always wanted Indiana standards to be higher than the nation’s. The dissents I have just mentioned and many more embodied his aspiration that Hoosiers enjoy liberties greater than those protected by the Bill of Rights.

And in this regard he was not always in dissent.

To this day, thanks to a DeBruler opinion, Hoosiers have greater protection from searches by the government than even that provided by the Bill of Rights.

To this day, thanks to a DeBruler opinion, Hoosier juveniles have greater protection from interrogation by the government than even that provided by the Bill of Rights.

And a eulogy to Roger DeBruler cannot help but remind that Hoosiers have greater protection from search and seizure by the government of their what? Their automobiles! “It is . . . particularly important, in the state which hosts the Indy 500 automobile race, to recognize that cars are sources of pride, status, and identity that transcend their objective attributes. We are extremely hesitant to countenance their casual violation.”

Was his tongue in his cheek when he wrote this? Perhaps. But the broader point remains: more protection than even that provided by the Bill of Rights.

There is much more to be said about Roger DeBruler and law. But these reflections on dissent will have to suffice.

Except to say how proud he was of his daughter Lily’s admission to the bar.

Roger DeBruler read widely and prodigiously. “Judge DeBruler, what have you read in the last year?” “All of the works of William Faulkner.”

“Judge DeBruler, what are you reading now?” “Ken Stroud and I are working on James Joyce’s Finnegans Wake.”

He traveled far and wide. The year in France is legend. (He took courses at a local university there – and sent his report card back to the Court to prove it. Très bien in all courses, as I recall.

The epic trip to the Yukon with Roger Jr. and Joseph.

Oh, how we still mourn Joseph’s passing.

I mentioned at the outset his attending public schools. To the end, he was patron of the Indianapolis public library. Roger DeBruler loved and championed public institutions.

Seeing him eating carrot sticks rather than hot dogs at an Indianapolis Indians game, little Tommy Sullivan asked, “Is Judge DeBruler a veterinarian?” Roger DeBruler’s commitment to diet and exercise was exemplary.

His law clerks became judges, federal district attorneys, mayors, and lawyers of great note.

He studied the prices of high-yield bonds in the Wall Street Journal each day, looking for bargains.

He shopped at Angelo’s.

You see what’s happened here? Faulkner and Joyce. This eulogy has devolved into stream of consciousness. Roger, we just can’t stop thinking about you and there are so many things to think about.
What, Professor, do you want us to take away from this eulogy?

That Roger DeBruler showed us by his life and example how to take a stand for what will make things better.

That even in dissent, taking a reasoned stand, with decorum, sows seeds for future harvest.

That, although he taught us these lessons through his monumental written contribution to law, in whatever our walk or station of life, progress demands from time to time courageous yet dignified disagreement.

That Roger DeBruler showed us by his life and example how to love and hold dear our families, how to take care of our minds and our bodies. He showed us self-effacing modesty, almost to a fault.

And one last thing. Roger DeBruler left us with some words that are uncannily apt for this time in our history. Hoosiers, he wrote, are people who “always value[ ] neighborliness, hospitality, and concern for others, even those who may be strangers.”

My friends, in this place and in the presence of the God he loved, may we honor our mentor, neighbor, colleague, and friend with our own neighborliness, hospitality, and concern for others, even those who may be strangers.

We mourn with Karen and the DeBruler family the death of Roger Owen DeBruler. May he rest in peace.