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## IN MEMORIAM: A TRIBUTE TO DEAN FRANCIS J. CONTE

*Richard Perna*<sup>1</sup>

Today I write in tribute to a close colleague, friend, and mentor—Dean Francis J. Conte, Fran to all who knew him. Fran served the University of Dayton School of Law (“UDSL”) and its students for almost a quarter century. He was dean for fourteen of those years, making him the longest-serving dean in our history. Our entire UDSL community was shocked when we first heard of Fran’s illness and deeply saddened at his death. It all came too early, too quickly, and with unexpected ferocity. As we mourn Fran’s loss and struggle with his absence from the passageways of Keller Hall, we take heart in the enduring legacy of his friendship and his long career as a teacher, scholar, and dean. Fran’s focus extended far beyond bricks and mortar, and the everyday events of the law school—he was a servant leader in the Catholic Marianist tradition, a dedicated teacher, a careful scholar, and wonderful friend who taught us all by word and by deed. He loved and was loved by his students and his colleagues.

### THE DEAN

Fran joined the faculty of UDSL in 1987 when he began his long tenure as Dean. We were a young law school in those days and the faculty was excited to have such a committed, accomplished, bright, industrious, and young dean—the “boy” dean. We felt fortunate to have him. Our institutional future lay ahead and we instinctively knew that he was the right choice to lead the young faculty through an important maturation process. He didn’t disappoint us as he steadfastly pushed, pulled, cajoled, led, and inspired us all to reach for excellence. The excitement in those early years was palpable. In his first Dean’s Message to the UDSL community<sup>2</sup> he talked of growth and renewal, themes that became the hallmarks of his long deanship. That first message outlined a vision that focused on creating an exciting and energetic academic program led by a growing and increasingly productive faculty. He talked of developing the curriculum and improving teaching by integrating professional skills and values across the curriculum, goals that he would repeat throughout his tenure. That first message also revealed Fran’s strong desire to build an enduring community by improving the quality of relationships between and among students, faculty, and staff.

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<sup>1</sup> Professor of Law, and Associate Dean for Academic Affairs of the University of Dayton School of Law from 1992–1999 and 2007–2011.

<sup>2</sup> Fran Conte, *Dean’s Message*, 6 DAYTON LAW., Feb. 1988, at 2.

He wrote eloquently about the need to nurture strong, caring, and supportive relationships among the faculty and students.

His accomplishments came quickly. Fran's first year as Dean brought us a renovated student lounge, a new Scholar in Residence program, a reconstituted Board of Visitors, a newly elected Board of Directors of the UDSL Alumni Association, and new alumni chapters in Erie, Cincinnati, Columbus, Cleveland, and Washington, D.C. Judge William H. Wolff, Jr. writes in this issue about the significant impact Fran had on the extended Dayton community.<sup>3</sup> Other successful initiatives followed in the next few years. We doubled the number of full-tuition Berry scholarships for entering students, started a very successful Faculty Summer Stipend Program, prepared plans to build a new law library (which eventually morphed into plans to build a new law school building), and introduced an innovative first-year lawyering skills course series that exposed first year students to the values underlying the law and the role of lawyer in society. Fran recognized and emphasized the importance of educating the whole professional—time and again he pushed us to provide our students with “an appropriate foundation in professional skills and principles of law . . . in the context of the values that underlie the law and the work of lawyers.”<sup>4</sup>

Under Fran's leadership, we all participated in the birth of an extraordinarily successful and enduring Program in Law and Technology and an equally innovative but less enduring Corporate Practice Institute.<sup>5</sup> By the end of his fourth year as Dean, the full-time tenure track faculty had increased by 33% overall, including the addition of four women and two African-Americans to the faculty.<sup>6</sup> In the fall of 1992, the University Board of Trustees authorized the construction of a new School of Law building. The ensuing work of years of planning, designing, fundraising, and building the new facility (Keller Hall) occupied much of Fran's energy in the five years between 1992 and 1997. Keller Hall was an integral part of Fran's vision for the law school, and he worked tirelessly to make it a successful reality. Fran regarded the completion of Keller Hall, on time and under budget, as his crowning achievement as Dean. He wrote often and enthusiastically about building the law school for the 21st century.

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<sup>3</sup> William H. Wolff, Jr., *Unforgettable Fran Conte*, 36 U. DAYTON L. REV. 285 (2011).

<sup>4</sup> Fran Conte, *Dean's Message*, 7 DAYTON LAW., Dec. 1988, at 3, 6.

<sup>5</sup> Francis J. Conte, *Dean's Message*, 9 DAYTON LAW., Summer 1990, at 3.

<sup>6</sup> Complete listings of faculty members of all ABA and AALS accredited law schools are published each year in The AALS Directory of Law Teachers. Changes to the UDSL faculty in the early years of Dean Conte's tenure are apparent when comparing the directories for the years between 1987 and 1991. American Association of Law Schools, *University of Dayton School of Law*, The AALS DIRECTORY OF LAW TEACHERS 1987–1988, at 40; American Association of Law Schools, *University of Dayton School of Law*, The AALS DIRECTORY OF LAW TEACHERS 1988–1989, at 36; American Association of Law Schools, *University of Dayton School of Law*, The AALS DIRECTORY OF LAW TEACHERS 1989–1990, at 39; American Association of Law Schools, *University of Dayton School of Law*, The AALS DIRECTORY OF LAW TEACHERS 1990–1991, at 39–40.

It is clear that we need a facility with the educational characteristics that reflects the needs of the legal profession in the 21st century. A new facility is not only essential to meeting these needs, but also expresses a bold vision for legal education in the 21st century. It will be bold because it will have a technologically-advanced environment designed to suit legal education in the future.<sup>7</sup>

Fran was determined to build a facility that would be a model for legal education. “Advanced computer, video and other technologies, and a technological infrastructure will lead the way for our graduates and the legal profession well into the next century!”<sup>8</sup> How prescient and true that was!

#### THE TEACHER AND SCHOLAR

Fran’s thirty-four years in the academy were filled with personal and professional accomplishments, law review articles, speeches, special tributes, and professional awards, all of which reflect his long and successful career as a scholar, academic, and teacher. He began his teaching career in 1977 as an Assistant Professor at the University of Montana School of Law, where he focused in the areas of Clinical teaching, Creditor’s Rights, Federal Jurisdiction, Office Practice, Remedies, and Mental Health and the Law.<sup>9</sup> In 1980, he joined the faculty at the University of Detroit College of Law, now Michigan State University College of Law, where he added Civil Procedure, Constitutional Law, Comparative Law (U.S./Canada), Immigration Law, and Torts to his already extensive repertoire.<sup>10</sup> When he arrived in Dayton in 1987, he initially limited his teaching to Constitutional Law, Comparative Constitutional Law, and Torts, but subsequently developed a passion for International Law, European Union Law, Immigration Law, and International Human Rights Law.<sup>11</sup> Over the years his eclectic scholarly writing reflected his broad teaching interests.<sup>12</sup> In

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<sup>7</sup> Francis J. Conte, *Dean’s Message*, 11 DAYTON LAW., Summer 1992, at 3-4.

<sup>8</sup> *Id.*

<sup>9</sup> American Association of Law Schools, *Francis J. Conte*, The AALS DIRECTORY OF LAW TEACHERS 1979–1980, at 250.

<sup>10</sup> American Association of Law Schools, *Francis J. Conte*, The AALS DIRECTORY OF LAW TEACHERS 1986–1987, at 259.

<sup>11</sup> American Association of Law Schools, *Francis J. Conte*, The AALS DIRECTORY OF LAW TEACHERS 2010–2011, at 509.

<sup>12</sup> Francis J. Conte, *The Constitutionality of Full Public Funding of Roman Catholic Schools in Ontario: Reaping the Harvest Ye Have Sown*, 9 CANADIAN COMMUNITY L.J. 64 (1986); Francis J. Conte, Book Review, *Duff: A Life in the Law*, by David Ricardo Williams, 15 AM. REV. OF CANADIAN STUD. 345 (1985); Francis J. Conte, *Civil Procedure*, 1985 DETROIT C. L. REV. 303 (1985); Francis J. Conte, *If the Doctrine Loosely Fits, Wear It: Constitutional Adjudication in State Alienage Cases*, 20 SAN DIEGO L. REV. 265 (1983); Francis J. Conte, *A Glimpse Forward: Toward Quality and Coherence in Law School Curricula*, 16 J. MARSHALL L. REV. 523 (1983); Francis J. Conte, Book Review, *A Constitutional Convention: Threat or Challenge?* by Wilbur Edel, 1982 DETROIT C. L. REV. 209 (1982).

recent years he focused primarily on the area of international law.<sup>13</sup> This focus allowed him to travel extensively, one of his favorite pastimes. He loved to teach in foreign countries and he especially reveled in his role as a summer travel guide to American students studying abroad.<sup>14</sup>

Morris Anyah's reflection in this tribute speaks volumes about the feelings and views of his students over the years.<sup>15</sup> Not only was Fran a dedicated and effective teacher, he was an educator who cared so very much about his students on a personal level. Fran never met a student he didn't like. Always willing to listen, always willing to help, and always willing to counsel, Fran never grew tired of interacting and engaging with his students. Most telling, he was consistently kind and gentle with students, even in situations in which most would exhibit frustration or anger. That wasn't Fran. He looked for the best in his students—and they responded by striving to live up to his standards.

#### OUR COLLEAGUE

Fran was first and foremost a people person—he simply loved and saw the best in everyone. Rarely critical, he was open, transparent, and accepting. He managed by example, never asking anything of anyone that he wouldn't be willing to do himself. He was also the consummate family man, and as his Deanship unfolded, it too reflected those same family values so important to nurturing strong successful young professionals, faculty, and staff. The reflections in his bi-yearly Dean's reports in the latter half of his tenure reinforced those strong family values and emphasized his personal commitment to community service and social justice.

Fran was an avid gardener and his garden became his favorite metaphor in writing about the law school over the second half of his Deanship. UDSL was his garden and he tended it with the same care and concern he directed to his tomatoes. I often recall his metaphor when I find myself frustrated in my own efforts to tame nature in the garden. It's a

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<sup>13</sup> Francis J. Conte, *Spaces of Freedom for Citizens and Asylees in the EU and U.S.*, 18 U. MIAMI INT'L & COMP. L. REV. 1 (2011); Francis J. Conte, *Sink or Swim Together: Citizenship, Sovereignty, and Free Movement in the European Union and the United States*, 61 U. MIAMI L. REV. 331 (2007); Francis J. Conte, *Reinforcing Democracy, Sovereignty and Union Efficacy: Supremacy and Subsidiarity in the European Union*, 26 DUBLIN U. L.J. 1 (2004); Francis J. Conte, *A Personal Reflection on the Last Half of the First Twenty-Five Years: Approaching the Millennium*, 25 U. DAYTON L. REV. i (1999); Francis J. Conte, *The Promise of the Charter: Rights and Equality*, in *Proceedings from the Tenth Annual Reddin Symposium, The Canadian Constitution and Renewed Federalism*, CANADIAN STUDIES CENTER, Bowling Green University (1997); Francis J. Conte, *Dedication Remarks*, 23 U. DAYTON L. REV. 1 (1997); Francis J. Conte, *A Common Sense Recipe for Successful Recruitment of Minority Faculty*, 10 ST. LOUIS U. PUB. L. REV. 353 (1991).

<sup>14</sup> His foreign teaching included a visiting professorship at the University of Warsaw, Warsaw Poland, as a Fulbright Scholar from October 2008 to June 2009. He taught Comparative Constitutional Law and European Union Law and delivered a variety of lectures and presentations on Constitutional Law, International Teaching, and the U.S. Legal and Political System.

<sup>15</sup> Morris A. Anyah, *In Memoriam: Francis J. Conte*, 36 U. DAYTON L. REV. 295 (2011).

competitive venue that pits man against nature—the weather, the pests, the disease—the relentless incursions that conspire to win the zero-sum game. Fran, the gardener, understood the natural state of affairs but never attacked. He accepted the harsh reality of the natural world but always worked gently yet relentlessly to nurture in the face of adversity, to water in the face of drought, to replenish the soil for the long term, and to create conditions to allow his crop to thrive. He struggled to “grow organically”—no harsh chemicals or artificial stimulants. Fran was in it until the end of the season. And when the harvest came in, he reaped it with joy.

During Fran’s Deanship, UDSL experienced a number of firsts—we established one of the earliest first-year legal professional skills programs, started one of the first programs focused on law, technology, and intellectual property, as well as built one of the first totally “wired” law school buildings in the country. Despite these firsts, Fran remained deeply humble, unassuming, and always willing to direct praise to others and away from himself. He was gracious in all his endeavors and had a generosity of spirit that made him stand apart. He was funny too, a teller of stories par excellence. As Dean Kloppenberg writes in her tribute, Fran always had a great story to tell—even if it was a wee bit lengthy!<sup>16</sup>

#### MY FRIEND

My interactions with Fran were typical. I first met Fran while he was interviewing during our hiring process. I spent some personal time with him over dinner while he was in town interviewing and immediately found him to be engaging, warm, funny, and quick. I was struck by how “real” Fran was despite the setting.

Fran arrived at UDSL thinking that I was the director of clinical programs, the position that I held at the time of his interviews, but quickly learned I had resigned that position in order to return to full-time teaching. I soon realized that I had thrown a monkey wrench into Fran’s plans to increase the visibility and robustness of our clinical programs. My departure meant he would have to devote time and attention to finding a replacement. He was surprised and expressed disappointment, but his approach to handling the problem was typical. He said he understood my decision and empathized with my desire to move in a different direction professionally. He was very gracious and supported me at every turn. A few years later he asked me to become his Associate Dean for Academic Affairs, a position which I was pleased to accept.

In that capacity, I worked with him closely for over nine unforgettable, productive, and fun years. We talked, debated, agreed, and

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<sup>16</sup> Lisa A. Kloppenberg, “*A Charmed Life*” *In Memory of Francis J. Conte*, 36 U. DAYTON L. REV. 279 (2011).

sometimes disagreed. We didn't always view the world through the same lenses, but he always viewed our differences in a constructive and positive way. I knew, as we all did, that I could speak my piece with Fran without fear that he would respond vindictively or exact retribution. We laughed together as well, frequently in fact. He had a great sense of humor that remained even in the face of difficult situations and carried him through the darkest hours at the end of his life. Fran is gone, but these memories of him will stay with me, and it is his friendship, loving and constant devotion to his family, his joy in life, his stories, and our laughter that I will remember the most.