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## Duquesne Law School 1911 - 2011

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## DUQUESNE UNIVERSITY SCHOOL OF LAW 1911-2011

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### Ken Gormley

Ken Gormley, a graduate of Harvard Law School and a specialist in Constitutional subjects, is Dean and Professor at Duquesne University School of Law.

His renown as an author became clear when his book "*Archibald Cox: Conscience of a Nation*" (Perseus Books), was awarded the 1999 Bruce K Gould Book Award for outstanding publication relating to law. In 2010, "*The Death of American Virtue: Clinton v Starr*", which chronicled the scandals that nearly destroyed the Clinton presidency, became a national bestseller. It received a 2011 Silver-Gavel Award from the American Bar Association as well as international critical acclaim.

Gormley has testified in the United States Senate three times. He was the first academic to serve as President of the Allegheny County Bar Association. From 1998-2001, he served as Mayor of Forest Hills, Pennsylvania. He is a recognized Catholic voice in the Diocese of Pittsburgh.

A life-long resident of Pittsburgh, he lives there with his wife Laura, and their four children, Carolyn, Luke, Rebecca and Madeleine.

It is fitting that the first professional school established by Duquesne University, the first Spiritan University in the world, should have been a law school.

The founder of the Congregation of the Holy Spirit, Claude Poullart des Places (1679-1709), was the son of Francis Claude des Places, in his time a highly-respected lawyer in Brittany's Parliament. Although the father, a wealthy French merchant, had been stripped of his title of nobility in 1668, he had dedicated his energies to regaining his position of influence and nobility.<sup>1</sup>

It was doubtless due to his father's single-minded quest to reclaim his own place in the hierarchy of French nobility that he prodded young Claude to study law. Although Claude's true interest lay in pursuing theology at the Sorbonne, his father argued that he owed it to himself (and his family) to give this worldlier endeavor a chance. Thus, mounted on a horse with a shimmering sword hanging from his belt, Claude Des Places left his family in the fall of 1697 to undertake studies at the School of Law, University of Nantes.<sup>2</sup>

Yet God had much bigger plans for Claude. Returning from Nantes three years later with his licentiate to practice law, Claude rejected the opportunity for wealth and a position in Brittany's Parliament. Instead, he informed his parents that he was being called to the priesthood.<sup>3</sup>

While studying in Paris under the tutelage of the Jesuits, Des Places devoted himself to assisting poor chimney-sweeps, teaching them to read and write while instilling in them a faith in God. Through serving the needy in this fashion, Des Places, even before his formal ordination to the priesthood, resolved to establish a seminary dedicated to the Holy Spirit. He accomplished this in a rented house on the *rue des Cordiers* on Pentecost Sunday in 1703, in order to supply struggling young seminarians with food, lodging and the spiritual training that would allow them to "*bring the Good News to the poor.*"<sup>4</sup>

Although Des Places would only live six more years, succumbing to illness at the age of thirty,<sup>5</sup> his Holy Spirit Seminary has today expanded into a religious community, the Congregation of the Holy Spirit, that brings God's word to over

*...that reflects the best tradition of Claude Poullart des Places.*

*...were aware that three previous attempts had failed.*

fifty countries in Europe, Africa, North America, South America and around the world.

As Duquesne University School of Law celebrates its 100<sup>th</sup> anniversary in September of 2011, the Law School's unique history is one that reflects the best tradition of Claude Poullart des Places. Its century-long story, and its ongoing mission, are closely aligned with the story and mission of the Congregation that des Places founded, building upon his legal and religious training to make an enduring imprint.

### **First, a University...**

As the first decade of the twentieth century drew to a close, socioeconomic conditions for Catholics in southwestern Pennsylvania were slowly improving. Many recent immigrants and their children still toiled in the mills and mines, but a new generation was beginning to trickle into the professions. Their advancement was, in large part, fueled by the availability of a Catholic college education.

In 1878, a group of Holy Ghost Fathers—themselves exiled from Germany due to religious intolerance—accepted a request from the Bishop of Pittsburgh to open a college. The Rev. Joseph Strub, C.S.Sp. and his confreres were aware that three previous attempts had failed. Still, they took up the challenge. Bolstered by a few Spiritan colleagues from Ireland, they opened the Pittsburgh Catholic College on October 1, 1878.

Forty students arrived that day in rented rooms over a Hill District bakery. The following fall, 124 students enrolled. Slowly but surely, the college grew. In 1882, it received a charter from the state. By 1885, it had a home when the magnificent edifice now known as “Old Main” was completed. The traditions of student life evolved. By 1910, the college was firmly established with an enrollment of 375.

This success compelled the Spiritans to take a bold step. Historian Bernard J. Weiss later wrote: *“If preparation for the professions was not to be exclusively under non-Catholic auspices in the Pittsburgh area, it was incumbent on [the college] to move toward university status.”* Urban Catholic schools elsewhere—St. John's, Marquette, DePaul and Loyola of Chicago among them—had already reached the same conclusion, becoming universities between 1906 and 1909. Making the leap in Pennsylvania, though, would be an exercise in politics and perseverance.

Prior to 1895, obtaining a university charter in the Commonwealth required a relatively simple filing in the county

court. Legislative action later specified a stringent list of requirements, including \$500,000 in assets and approval from a council of educators from across the state—many of whom were associated with other institutions that would view a new university as unwelcome competition.

Undaunted, on June 18, 1910, attorneys from the firm of Watson and Freeman submitted a petition asking that the Pittsburgh Catholic College be rechartered as the University of the Holy Ghost, with the power to confer degrees in law, medicine, dentistry and pharmacy. It was the first time a Catholic institution in Pennsylvania applied for such a designation.

Catholic organizations across Pennsylvania submitted enthusiastic letters of endorsement. Unfortunately, they could not back up their support with funding. The influential Carnegie Foundation opined that the Commonwealth did not need any more professional schools. Although 25 percent of Pennsylvanians were Catholic, not a single member of the council was.

*...this Catholic university  
would be open to all...*

Surprisingly, the members were ultimately moved by assurances that this Catholic university would be open to all, regardless of religious belief. After six months of hearings, and against all expectations, the council voted unanimously to approve the petition on December 30, 1910.

Assessors examined every aspect of the school's operations and tiny campus, attaching dollar values to everything from the priests' free labor to the stained glass windows in the chapel. They returned to court, reporting that Pittsburgh Catholic College had \$730,485 in assets.

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Finally, on March 30, 1911, Judge Robert Frazer granted a charter to the University of the Holy Ghost. Some clerics, however, questioned associating the sacred name of the Holy Ghost with such secular pursuits as athletics. Lawyers again approached the bench, securing approval to amend the name in honor of the French colonial governor who first brought Catholic observances to the region. On May 27, 1911, Duquesne University of the Holy Ghost was born.

### **...Then, a Law School.**

In light of the fact that the Spiritans' Founder, Fr. Claude des Places, began his career by studying law, it was perhaps appropriate that Duquesne's first professional school would train lawyers.

The reasons for starting with a law school were both pragmatic and philosophical. While having passed the assets test,

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Duquesne's finances were tenuously balanced. In no small part, this was due to the Spiritans' insistence that no worthy student should be turned away due to the inability to pay. The Rev. Martin Hehir, the university's new President, saw an advantage to a law school. With cash flow always a concern, Fr. Hehir recognized that a law school was less expensive and complicated to establish and maintain than a school of medicine or pharmacy.

A law school also better meshed with the character of what was still essentially a liberal arts college, and provided the most direct path toward upward mobility for Catholics. As Weiss explained, *"It was viewed as producing the type of public men who could best assume leadership roles in both the Catholic and larger secular society to the credit of Catholicism."*

The announcement that Duquesne would establish a law school came in June of 1911, less than three months before it would open. That left little time to work through a myriad of decisions.

### **Dean Joseph M. Swearingen, 1911-1929**

The first critical choice was to appoint a dean. This key position was given to the Honorable Joseph M. Swearingen, president judge of the Allegheny County Court of Common Pleas.

Dean Swearingen never attended law school, though this was not unusual in the late nineteenth century. He graduated from Washington and Jefferson College in 1879 and prepared for practice under the tutelage of local attorney Boyd Crumrine for two years, before admission to the Bar.

*...established himself  
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Swearingen established himself as one of the city's most diligent trial lawyers, earning a reputation for insightful arguments in equity cases. He was named president judge in 1907 and served for 24 years, while executing his responsibilities as dean for most of that time.

Swearingen's philosophy of legal education closely aligned with the ethic of Duquesne's Spiritan fathers, and set a tone that would resonate throughout the school's history. His school would focus not only on the letter of the law, but also on its spirit and the guiding principles of justice.

His vision was *"a thoroughly efficient Law School of the highest character and the broadest range in the determination of its specific and collateral courses,"* where students *"would be taught the fundamental principles of legal ethics, and of justice, rights and duties, from every point of view."*

*...references to “men”  
would not be interpreted  
literally for long.*

The commitment to access for all was reflected in the law school’s admissions policy. Any student who had graduated from an accredited four-year college or university was eligible to enroll. Students aged 18 or older without degrees could be admitted by passing a general education exam. Even the references to “men” would not be interpreted literally for long.

Swearingen recruited a part-time faculty of 17. On September 24, 1911, Pope Pius X issued a papal blessing for the new school’s opening: *“On the occasion of the public inauguration of classes in the aforementioned college, which has lately been raised to the dignity of a university, the Holy Father cordially bestows upon you, the professors, all the students and benefactors, the Apostolic Benediction as a pledge of heavenly gifts.”*

The next day, a dozen young men took their seats for Professor Lacey’s first lecture. The school was not housed with the rest of the university in Old Main—there was not enough space. Instead, rooms were rented in the George Building at 436 Fourth Avenue in the heart of Pittsburgh’s financial district. In typical Duquesne fashion, this apparent inconvenience was marketed as an advantage: a flat, two-block walk to the courthouse rather than a longer, steeper trek from the Bluff. This appealed to students working downtown and also provided unique educational opportunities.

*...students frequently  
trooped over to the nearby  
courthouse...*

A product of the “master-apprentice” system, Swearingen fervently believed that classroom learning was enhanced by exposure to the practical aspects of a legal career. At his urging, students frequently trooped over to the nearby courthouse to observe daily proceedings.

In 1912, Swearingen established a debating society, which soon evolved into a full-fledged moot court program. Swearingen and his faculty implemented innovative teaching methods. At the time, a debate raged over whether the traditional reading of texts or a new approach—examination of cases—was more effective. The 1912 *Law Bulletin* announced that Duquesne would integrate the two:

*Every one of the 12  
students... graduated  
in June of 1914.*

*“By these two methods it is hoped to impress upon the student not only the principles of the law, but also the reason employed in arriving at the principles.”* This approach proved remarkably successful. Every one of the 12 students at Professor Lacey’s first lecture graduated in June of 1914. All of them passed the Bar examination.

The year 1914 was eventful for the young school. While graduating its first class, enrollment was steadily growing. This

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*...a more structured tuition adjustment system was adopted to help qualified, needy applicants...*

prompted the first in what would become a series of moves, this one to the nearby Vandergrift Building, then to the Maloney Building on the Boulevard of the Allies. Three years later the school relocated to the campus on the Bluff, in a portion of the new Canevin Hall.

One new student in 1914, Mrs. M. Murphy, was the first woman to matriculate in the Law School. She did not ultimately complete her degree, but her presence demonstrated that the school was serious about providing access to all. In 1921, Anna Louise Schultz enrolled; three years later she became the first female graduate. Right behind her was the school's first African-American alumnus, Theron B. Hamilton, who matriculated in 1922 and graduated in 1925.

In the earliest days, Duquesne's law school tuition was only \$100 per year—still a hefty sum for many working people. As was his habit, Fr. Hehir often made informal accommodations for those who could not afford to pay. Perhaps the most famous example involved Samuel Weiss, a Jewish student and a 1927 Law graduate. In a chance meeting, Weiss told the president that he had run out of money and had to withdraw. Fr. Hehir instructed Weiss to return to class, and the subject was never mentioned again. Weiss later became a distinguished judge, a donor to scholarship funds, and a university board member. Late in the 1920s, a more structured tuition adjustment system was adopted to help qualified, needy applicants pursue a legal education.

Still, self-sacrifice was the norm for many students. Joseph W. Givens, an African-American, graduated in 1929 at age 31, after working at various times during his student years as a storekeeper, railroad operator, janitor and city employee to put himself through school.

After serving as a full-time dean and judge for 18 years, Dean Swearingen stepped down from his academic duties in 1929. In failing health, he retired from the bench two years later. When he passed away in 1937 at the age of 82, Judge Swearingen's vision of "*a thoroughly efficient Law School of the highest character and the broadest range*" had by then taken shape.

### **Reflections on a Century-Old Law School**

A hundred years after its founding, Duquesne Law School today reflects the noble goals of Judge Swearingen, who built a solid foundation as its first dean. It also reflects the Spiritan community that established its core principles in the enduring spirit of Fr. Poullart des Places.

*...among the first in  
the nation to admit  
African-American  
students...*

The Law School's motto, *Salus Populi Suprema Lex*—"the welfare of the people is the highest law"—is evidenced in myriad ways.

#### A. Diversity

Not only was Duquesne Law School among the first in the nation to admit African-American students—many of whom went on to make great contributions throughout the nation—but it was also the first major American law school to hire an African-American dean. Dean Ronald R. Davenport (1970-1981) took over the leadership of the Law School at a time when a commitment to civil rights and equality still had not taken hold throughout much of the United States, an outward manifestation of Duquesne's historic commitment to diversity and inclusiveness.

A graduate of Yale Law School, Dean Davenport had won the prestigious Francis Kellor Prize for a paper defending American military peacekeeping initiatives in the Congo. He had also devoted his efforts to the then-emerging civil rights movement, earning a respected reputation as an NAACP staff attorney and writing the brief in the first "Freedom Riders" case in the United States Supreme Court, *Abernathy v. Alabama*.<sup>6</sup>

Many of Davenport's priorities were directly in line with the school's early emphasis on ensuring access to legal education for all. Funding for scholarship aid was sharply increased leading to significant new opportunities. There were increases in the enrollment of women and students of color. Academic and externship programs were enhanced and extended.

While serving as dean, Davenport also established a strong presence in the community as owner and architect of a network of radio stations that served minority audiences across the United States. Before stepping down from the deanship post in 1981, Davenport broke ground on construction of the law school's present home—a beautiful, modernized structure called Hanley Hall, named after Edward J. Hanley, first layman chair of Duquesne University's board of directors.

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continues...*

Today, a scholarship for African-American and other minority students, established in Dean Davenport's name, continues to carry out his visionary efforts to bring racial and ethnic diversity to the Law School, in order to more faithfully serve the legal needs of an increasingly diverse population in American society.

#### B. International Outreach

As serving others through the legal profession increasingly came to include outreach to other nations and cultures, Dean

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*...launch the first  
American law school  
summer program in  
Beijing in 1995.*

John J. Sciuillo (1982-1993) took steps to expand the Law School's horizons. After instituting a faculty exchange with the China University of Political Science and Law, Dean Sciuillo dispatched Professor Frank Y. Liu to launch the first American law school summer program in Beijing in 1995. Within several years, students from 120 law schools around the world would participate.

In 1999, a summer program in Ireland was established. Professor Kirk Junker, Director of International Programs, coordinated a highly-successful program with studies in both Belfast and Dublin. (In 2009, Professor Junker and this author visited with Spiritan academic leaders at Blackrock College in Dublin, hoping to pave the way for future collaboration between Duquesne Law School and that special institution.)

Professor Robert Barker, who had served as a Peace Corps volunteer in Latin America during the 1960's, forged new ties with schools in Costa Rica and Argentina. Professors Samuel Astornino and Nicholas Cafardi established a summer program in the Vatican, focusing on Canon Law and the building blocks of Roman Law. Professor Kirk Junker, now serving a dual appointment at Duquesne University and University of Cologne, Germany, launched a summer program in 2011 in Cologne (where the Spiritans have a strong presence).

*...a special summer  
program in the Vatican...*

In the summer of 2011, the Law School celebrated its Centennial with a special summer program in the Vatican, for students and alumni-lawyers, at which United States Supreme Court Justice Samuel Alito, Jr. served as Distinguished Lecturer. Among the other distinguished faculty members were Fr. James McCloskey, Vice President for Mission and Identity of Duquesne University, and Very Rev. Lawrence DiNardo, Vicar for Canonical Services and Director of the Department for Civil Law Services, Diocese of Pittsburgh.

The Law School's international outreach continues to grow. Law library faculty member Tsegaye Beru coordinates a program to supply books and much-needed online legal research support to two law schools in Ethiopia. Professor Susan Hascall has developed a new course, "Emerging Legal Cultures," that includes in-depth coverage of developing legal systems in Africa.

As Duquesne Law School's reach continues to expand around the globe, so does the mission of the Spiritan community.

### C. Clinical Services to the Poor and Needy

As early as the 1940s, Dean C. Gerald Brophy (1940-1956) had sent students to work in local government offices, to serve the community and to gain hands-on experience. By 1995, Dean Nicholas P. Cafardi (1993-2005) had established clinics in Economic and Community Development, as well as Criminal Law and Civil Justice, headed by Professor Joseph Sabino Mistick. Through these clinical experiences, students work with real clients on real cases, supervised by experienced faculty. One year, after government budget cuts forced the local Public Defender to layoff fourteen attorneys, Criminal Law Clinic students at Duquesne represented more than 800 accused persons at preliminary hearings in a single year.

*...students at Duquesne represented more than 800 accused persons at preliminary hearings...*

As the Law School's commitment to serving the poor and needy continues to shape its identity, programs have expanded to include clinics in Family Law and Justice, Civil Rights, Criminal Advocacy, Unemployment Compensation and a post-conviction DNA project.

*...to establish a visible presence in the poorer sections of Pittsburgh...*

Currently, the Law School administration is working closely with Duquesne University President Charles Dougherty, seeking to create a stand-alone clinic building in the Uptown section of Pittsburgh. This will enable the Law School to establish a visible presence in the poorer sections of Pittsburgh and to increase its legal services to those needy communities. Like many of the Law School's mission-driven advances, it is certainly an effort that Fr. Poullart des Places would have endorsed.

### D. Making Legal Education Available to Students Who Will Make a Difference

As the Law School moves into its second century of existence, this unique institution continues to gain strength from the special Spiritan identity of Duquesne.

In the past several years, through the support of President Charles Dougherty and a \$1.4 million gift from the estate of William B. Billock—a 1938 graduate of the Law School and Vice President of Gulf Oil Corporation—an endowment has been created that provides annual debt relief to Duquesne law graduates who choose to pursue careers in nonprofit public interest law or government. The Billock Loan Repayment Assistance Fund has dispensed more than \$70,000 annually to recent graduates of the Law School, in order to allow them to serve the underprivileged or to accept lower paying jobs in public service, rather than being forced to accept higher-paying private sector jobs to pay off student loans.

The notes of gratitude from the recipients of these grants have made clear that the Law School is, indeed, carrying out the Spiritan mission in making these opportunities available to those who wish to wade directly into the community and do justice with their Duquesne Law degrees.

*...whose grandfather commuted two hours each way to attend Duquesne Law School at night in the 1980's...*

In 2010, the Law School administration was honored to announce the creation of a new resource fund to assist minority law students. The Charles Hamilton Houston Scholars program was named in honor of a law professor and mentor to Thurgood Marshall, the first African-American appointed to the U.S. Supreme Court. Houston's son, a 1968 graduate of Duquesne University, and Justice Marshall's son were present—along with former Dean Ronald Davenport—for the program's inaugural events. The first recipient, Simone Delermé, an Hispanic graduate of Ohio State University whose grandfather commuted two hours each way to attend Duquesne Law School at night in the 1980's, received the first Houston Scholarship. Ms. Delermé was recently elected to the *Duquesne Law Review* based upon her outstanding grades—one of the top honors for any law student. These innovative efforts to attract and retain a diverse group of students, who can, in turn, serve a wide cross-section of the community, continue to bear fruit.

*...continue to be reflected to this day in the way we do what we do.*

Alumni are particularly grateful for the gift of a Duquesne Law School education. The Honorable Maureen Lally-Green is a 1974 graduate of the Law School. A retired Judge on the Superior Court of Pennsylvania, she currently serves as Director of the Office for Church Relations in the Diocese of Pittsburgh. In reflecting upon the profound value of her legal education four decades later, Judge Lally-Green stated: *“From our first few days at Duquesne Law School, we understood that we were always ‘to do our best,’ to live our professional and personal lives grounded in values, to respect all, and to ‘give back’ through service of others. These operating principles continue to be reflected to this day in the way we do what we do. For many of us, it is not about success in a financial sense but success in the serving of others.”*

Duquesne University School of Law has been blessed to celebrate its 100<sup>th</sup> anniversary in 2011 with a kick-off address in February by U.S. Attorney General Eric Holder (the first African-American Attorney General in the history of the United States); as well as a keynote Centennial address in September by U.S. Supreme Court Justice Antonin Scalia (a devout Catholic whose son, Paul, is a Catholic priest in Northern Virginia). Others who have participated in the crowning Centennial events—100 years to the day after Pope Pius X issued his apostolic blessing on the

*...has allowed Duquesne Law School to build upon Catholic and Spiritan principles...*

new law school—have included Cardinal Adam Maida of the Archdiocese of Detroit, a graduate of the Law School, and Bishop David Zubik of Pittsburgh, an alumnus of Duquesne University.

The Centennial year, however, is not just about an impressive guest list and special events. Most importantly, it is about continuing the Spiritan tradition that first allowed this special Law School on the Bluff to be constructed in 1911, to serve recent immigrants and their families by providing them with professional opportunities to serve others. In turn, this unique heritage has allowed Duquesne Law School to build upon Catholic and Spiritan principles to train new generations of lawyers to strive for the highest level of excellence. At the same time, it has allowed its graduates to recognize that there is a moral component—inextricably binding together their view of what it means to be an excellent lawyer with their view of what it means to be a moral person and a devout person of faith.

That mission continues, on a grander and more ambitious scale than ever, so that the motto of the Law School, “*Salus populi suprema lex,*” carries forward into its next century, inextricably intertwined with the motto of Duquesne University: “*Spiritus Est Qui Vivicat,*” “*It is the Spirit who Gives Life.*”

#### **Endnotes**

<sup>1</sup> Henry J. Koren, C.S.Sp., *To the Ends of the Earth: A General History of the Congregation of the Holy Ghost*, Pittsburgh, Pa., Duquesne University Press, 1983, pp. 1-4.

<sup>2</sup> *Id.* p.5.

<sup>3</sup> *Id.* pp. 6-7.

<sup>4</sup> *Id.* pp. 10-11.

<sup>5</sup> Michael J. Troy, C.S.Sp., *From Tiny Acorn to Mighty Oak: The Spiritans 1703-2006*, pp. 9-11.

<sup>6</sup> 380 U.S. 447 (1965).

