The Villanova University School of Law

III. EUGENE LESTER GAREY
The Man and the Bequest

Eugene Lester Garey was born in Chicago in 1891 and received a formal education limited to high school until he entered the Chicago Kent College of Law from which he received a Bachelor of Laws degree in 1913 as his reward for part-time evening study. Upon graduation from Chicago Kent he was admitted to the Bar of Illinois and practiced law successfully in Chicago for twelve years, after which he moved to New York City where he became a member of the Bar of New York and established the Wall street firm of Garey and Garey. Along with his general and corporate law practice, Mr. Garey served as counsel for the New York State Joint Legislative Committee to Investigate the Administration and Enforcement of Law from 1937 to 1939, was a delegate to the State Constitutional Convention in 1938 and became the General Counsel of the Select Committee of the United States House of Representatives to Investigate the Federal Communications Commission from 1943 to 1944. In addition, he was a director of the Butte Copper and Zinc Corporation for many years and also the long-time general counsel of the Rand Corporation. During his professional career, Mr. Garey was prominent in bar association work both state and national, being particularly active in committees dealing with communications law and administrative law generally. A devout Catholic, he was active in affairs of the Archdiocese of New York and was decorated as a Papal Knight of the Sovereign Military Order of Malta. He died in May 1953, leaving a widow, Margaret Garey, no children, but half-brothers and a half-sister.

From its founding, the Charter of the then Villanova College, dating from 1848, restricted membership on the Board of Trustees of Villanova College to Roman Catholics who were citizens of the United States. Historically, the Board had been composed of a majority of priests of the Order of St. Augustine. To secure to the Trustees and to the College Administration the advice and counsel of lay leaders in the community, an Advisory Board of laymen was established. The group was composed principally of prominent residents of Philadelphia and the Main Line suburbs, with some participation of prominent New Yorkers. In this way, the College tapped the thinking of particularly distinguished representatives of the legal, business and financial communities.

Serving for many years on the Advisory Board was William R. Mooney, the long-time president of Bryn Mawr Trust Company. A strong bond of friendship developed between Mr. Mooney almost immediately after his initial meeting with Eugene Garey. After much reflection, Mooney suggested to Father McGuire that Garey, as an exemplary Catholic layman and outstanding lawyer, should be consid-
ered for a Villanova honorary degree.

As Father McGuire recalls, in the period following upon World War II, commencement exercises at Villanova were held frequently to accommodate the flexible, accelerated curriculum available to veterans returning from military service. The customary commencement exercise was limited to a small number of graduates and was rather informal. It was principally a Baccalaureate Mass in the College Chapel after which the degrees were conferred. As the student body increased in size, it became necessary to structure the curriculum. With increased formal structuring of the curriculum came more formal commencement exercises of the traditional type. With the formalizing of commencement exercises, the practice of conferring degrees honoris causa upon distinguished citizens was resumed. Previous to making his approach to Father McGuire, Mr. Mooney had assembled a collection of Eugene Garey’s speeches, many of which dealt with Mr. Garey’s overriding concern with the threat of communism. Being very much impressed with Garey as a person, with his philosophy and skill as an orator, Mr. Mooney turned his collected material on Eugene Garey over to Father McGuire. Garey’s speeches were highly critical of those citizens who had departed from the ethical and political values he believed to have inspired the founding fathers. The speeches strongly urged the return of the younger generation to an appreciation of our country’s hard-won national heritage. Father McGuire, being sincerely impressed by the reputation of Eugene Garey as an outstanding Catholic layman and lawyer, concluded that he would be an appropriate recipient for an honorary degree from Villanova.

After further checking Mr. Garey’s character and reputation with the Chancery of the Archdiocese of New York, Father McGuire journeyed to New York to meet the man who had so favorably impressed him. Mr. Garey received Father McGuire in his law office and after introductions, Garey opened the conversation by asking, “What can I do for you, Father?”, to which the President of the College replied: “It is not so much what you can do for me, as what I can do for you at Villanova.” Father McGuire then told him he had read his speeches, and understood and respected his philosophy and his ideas as to the education the young should be receiving. He then stated that he would be happy to invite him to receive the honorary degree, Doctor of Laws, from Villanova. Father McGuire reports that Garey “looked at me, two big tears starting down his cheeks, and said, ‘You know, Father, I never received a degree from any college.’”

On August 28, 1948, at exercises on the feast day of St. Augustine, Mr. Garey was invested with the degree, Doctor of Laws (L.L.D.) honoris causa. Thereafter he became a frequent visitor to the campus and a generous benefactor of Villanova. He was fond of spending weekends in Philadelphia, visiting the College, walking about

The original faculty in the Dean’s office in old Falvey Library, 1953. Left to right: Arthur Pulling, John Stephenson, Dean Reuschlein, Eugene Holahan, John Macartney, Thomas O’Toole.
the campus, talking to students and interesting himself in their future career plans. Rather surprisingly, it was his custom to attempt to dissuade students from becoming lawyers, advising rather that if they wished to embrace a profession, it should be engineering or a discipline with a readily identifiable scientific character.

In the early fifties when Father McGuire was developing his plans for a law school, he occasionally consulted with Eugene Garey and received his warm endorsement of future plans. It was at this point that Garey revealed that in his will, after providing for his wife Margaret during her lifetime, his estate was to pass in its entirety to Villanova. So upon his death in May of 1953, his will containing such a disposition of his property was offered for probate with the full approval of Mrs. Garey, who survived her husband for but a very brief period. While Garey left no children, half-brothers and a half-sister survived him. The estate being of appreciable size, as might be expected, a contest to the will developed.

Consistent with the general laws of Pennsylvania and other states in mid-nineteenth century controlling religious and educational corporations, a provision in the Villanova College Charter of 1848 sounding in mortmain prohibited the receipt by the College of property the annual income from which would exceed $5,000 in value. While the statutory limitations upon which the charter restrictions were based had been amended in 1889 to raise the limiting ceiling to $30,000, in 1915 to $50,000, and in 1929 to $350,000, the Charter’s original $5,000 limitation had never been changed. Villanova had been advised not to worry about any effort to amend the charter so as to eliminate the $5,000 limitation. Dean Reuschlein suggested that apparently counsel who had so advised was not familiar with similar advice given to Cornell University decades before which resulted in disaster for Cornell as recorded in Cornell University v. Fiske, 136 U.S. 152 (1889) and in President Andrew D. White’s Autobiography (1932 ed.).

At the Dean’s urging, the Attorney General of the Commonwealth was consulted as to the University’s desire to have the charter amended to eliminate the mortmain restrictions entirely. The Attorney General, Honorable Frank Truscott, was sympathetic and the charter was promptly so amended through administrative action of the Attorney General.

In short order, the half-brothers and half-sister of Eugene Garey instituted suit in New York, challenging the ability of Villanova to take the bequest and challenging the validity of the Garey will. At this point, at Dean Reuschlein’s urging, the University administration authorized the Dean to appoint a research team from the Faculty to investigate and make recommendations with respect to the problems besetting the University and the Garey bequest. Professor Thomas J. O’Toole was asked to determine whether, under Conflict of Laws doctrines, New York or Penn-
sylvania law controlled; Professor Donald M. Collins was to investigate tax problems involving the widow’s life estate preceding the residual charitable disposition; and Professor Stephenson was commissioned to determine whether the bequest could be validly accepted and whether Mrs. Garey could effectively waive her life estate as she expressed her desire to do so.

And so the legal issue was drawn as to whether Villanova could lawfully take under the will, a matter to be litigated in the Surrogate’s Court in White Plains, New York, Eugene Garey having been a resident of Westchester County, New York.

At the recommendation of Dean Reuschlein and Milton Hauser, a partner in the firm of Garey and Garey, the lawyer engaged to represent the University at the hearing before the Surrogate was the Honorable William F. Bleakley, a former county judge for Westchester County who later served as a member of the bench of the Supreme Court of New York. Judge Bleakley was a political voice in Republican politics statewide, at one time having run unsuccessfully for Governor of New York against Governor Herbert Lehman.

A pretrial conference was held in the chambers of Surrogate Charles H. Griffiths which resulted in a proposal for settlement by the contestants. They offered to withdraw their claim to an interest in the estate for $10,000, a figure which Dean Reuschlein bluntly characterized as “a bargain.” To dispose of a claim that could conceivably be litigated to the highest judicial levels, such a modest sum was a proposal the knowledgeable would doubtless characterize as an offer that could not be refused.

When the President of Villanova, Father James A. Donnellon, O.S.A., successor in office to Father McGuire, asked Dean Reuschlein, who was in the courtroom, whether the proposal should be accepted, the Dean responded: “Father, please accept this offer of settlement quickly before the contestants’ lawyer wakes up.” The President’s acceptance was given and Judge Bleakley and the Villanova group adjourned to a most agreeable luncheon. The Garey bequest was saved.

The Garey estate, subject to the life interest of Mrs. Garey, on her death in 1955 passed to Villanova. In April, 1957, the new School of Law building was dedicated as Garey Hall. (See The School of Law Moves to Garey Hall).