VIII. THE SECOND DECADE
An Era of Change, 1963-1972

Any account of the Villanova Law School would be incomplete without reference to the changes in the society in which it must function. The middle sixties and seventies are characterized as a period of revolutionary generational upheaval. Just a few years previously, the United States Supreme Court had adjudicated segregation laws to be invalid. A country of whites with a significant black component was on the way to becoming a society of blacks and whites. The youthful Kennedys and Martin Luther King, Jr. fell to assassins. Concern over missiles in Cuba gave way to deeper anxiety over the Congress authorizing President Johnson, in the aftermath of the Tonkin gulf incident, to use the armed forces in Vietnam in “defense of freedom.” Campuses exploded with anti-war protests and demonstrations while ROTC programs and military recruiting activities came under heavy fire. Resistance to registration for the draft was widespread. Flower children blossomed and hippies hopped onto the front pages in news stories out of San Francisco and other metropolitan areas. Long hair and pony tails, denims and overalls, faded, patched and shredded, became the chic uniform of the day. T-shirts and sweat shirts blazoning outrageous messages emerged as the media of the young. Authority generally, police, the government and the Establishment particularly, were defied and defiled. Conventional rules of conduct of the previous generations were to be left to those who were deemed to be “old folks.”

While the nation’s law schools were comparatively free of the frequently violent manifestations of student unrest, they were, as the United States Supreme Court is frequently said to be, located in the relatively peaceful eye of a hurricane. The Villanova Law School was happily free of disruption or threatened disruption and so continued its business of educating for the profession. All the while one could observe a degree of erosion in the relationship between the learned and the learners. A cynicism beyond the critical attitude law students are trained to develop filtered into the classrooms. Perceptibly, as well as imperceptibly, changes occurred in execution of the School of Law’s founding philosophy. Less convincing was the concept that from day one Villanova law students were to be treated as apprentice lawyers and as members of a noble profession, and were expected to act the part witnessed by professional dress and deportment, to treat their associates as fellow professionals, and to hold the law and its institutions in high esteem. Being basically a conservative school, changes came comparatively slowly,
but come they did.

On the instructional side, the curriculum of a traditionally required course of study with a minimum of electives came under criticism from students who believed themselves better qualified to determine what was needed for their professional training than were the faculty and administration. To compound the legal difficulties, legal educators, not without prodding from the practicing bar, were seriously questioning traditional educational methods and programs, with ever more widely held doubts as to whether students were being adequately equipped for a profession rapidly evolving from one with a dominance of individual general practitioners and small firms, to one of legal specialists and multi-member, multi-office behemoths.

Not without significance during this decade was the emergence of minorities desiring greater acceptance in the society and in the profession, and the coming of age of a movement of younger women seeking to be liberated from constraints. Both minorities and women began looking to the law not only as a mechanism to secure their objectives of equality, but as a source of career opportunities. The decade presented a changing world which did not leave Villanova unaffected.

In a large part, the quality of a law school may be measured by the quality of its faculty. Bluntly, no law school is better than its faculty. That the founding faculty members at Villanova did their tasks well is borne out by the Law School’s early accreditation and acceptance by the professional community. With the departures of Ball, the first Collins (Donald M.), Holahan, Macartney, O’Toole, Painter and Roberts, the new team of Abraham, the second Collins (J. Edward), Dowd and Giannella, the veteran Stephenson and later additions faced the new challenges. Also being challenged were the students, by a vigorous group of faculty.

Serving a one-year stand as a visiting professor at this time was John E. Murray, Jr., from the law faculty at Duquesne University. During 1964-1965, while teaching courses in Torts, Conflict of Laws, and Antitrust Law, his revision of the classic *Grismore on Contracts* was published. During that year he served as the faculty advisor to the *Law Review* and arranged an outstanding commemoration of the decennial of the *Review* by way of a public colloquy on “The Morality of Law,” the title of a then recently published book by Professor Lon L. Fuller of Harvard. Participating in the colloquy were Professor Fuller, Professors Cohen and Dworkin of Yale, Professors Parker of Haverford, Naughton of LaSalle, and O’Neal, Giannella and Murray of Villanova. Professor Murray was destined to return to Villanova as Dean during academic years 1984-1986.

A significant group joined the faculty in the fall of 1965: John Stuart Carnes, Steven P. Frankino, destined to return to Villanova as Dean in 1986, J. Willard O’Brien, who succeeded Dean Reuschlein and served as Dean of the School from 1972-1983, and William D. Valente who has contributed significantly to the legal literature of Education Law and the law of Local Government. Taken aboard the same
year was George Daniel Bruch, who as a law student had been editor-in-chief of the *Georgetown Law Journal* during the time Dean Reuschlein served upon the Georgetown faculty. George Bruch, a retired Air Force colonel, had served as a valued member of the Armed Services Board of Contract Appeals. He served as Vice Dean until 1972 when he returned to government service. During the spring semester of 1968, he was Acting Dean while Dean Reuschlein was on sabbatic leave to teach at Case Western Reserve University. Dean Bruch conducted seminars in Public Contracts and Environmental Law.

John Carnes, in an all-too-brief life as a teacher of Property, was an avid environmentalist whose enthusiasm was reflected in his seminars in urban land development and land use planning.

Another lifetime faculty member appeared the following year (1966), Marcus Schoenfeld, who, replacing William H. Painter, became over the years the resident tax authority and senior member of the growing tax department which by 1980 was to expand into the successful Graduate Tax Program.

In 1966, a class of entering students for the first time presented credentials showing an average Law School Admission Test score of over 500 (on the then 200 to 800 scale) and undergraduate grade point averages in excess of 3.00 (on a four-point scale). With honors credentials common, together with the notable increase in credential qualifications, there was a marked increase in the number of applicants. So many were seeking admission and so many were being accepted that class sectioning in the first year became inevitable. The cohesiveness of the small student body and the familial relationship arising from the multiple exposure to the small close-knit faculty was rapidly becoming a thing of the past. A new era was dawning.

At this time, another new phase of the Law School’s development began with the introduction of a skills training program. The faculty, with considerable misgivings, sanctioned an experiment carrying no academic credit (participation being voluntary), a Saturday morning (horrors!) program bearing the intriguing title, “Trial Practice Happenings.”

“Trial Practice Happenings” had its origins in some rather free-wheeling demonstration trials. By way of example, Professor Ernest Roberts, in his inimitable way, had staged a demonstration trial arising out of a motor vehicle accident which was simulated on the Law School parking lot. The Radnor Township Police, in all innocence, were called, with the Chief’s connivance, to investigate. They subsequently appeared as witnesses for the jury trial held in the School’s courtroom. While the educational benefit to the participating and observing students was never clearly evaluated, the embarrassment of the investigating police officers involved was such that, when they discovered they had been taken, for sometime thereafter identifiable Villanova law students driving on Lancaster Pike supercautiously obeyed all traffic regulations to an extent never before or since observed.

After the departure of Professor Roberts for Cornell (unconnected with this
or other similar incidents), no further instruction in trial practice was given save in 1964 when there was staged a demonstration jury trial presented by outstanding trial lawyers before Chief Judge Thomas Clary of the United State District Court with faculty members appearing as parties and witnesses. Finally, in 1966 “Trial Practice Happenings” happened. The experimental program involved demonstrations and student presentations of opening statements, examinations, direct and cross, and closing arguments. From this modest beginning, serious faculty interest developed with the ultimate inauguration of a course for credit as an approved addition to the curriculum. Trial lawyers and judges generously gave of their time and talents in demonstrations and critiques of the student presentations.

The heightened student interest prompted an invitation to a skilled trial attorney, Melvin Shralow, to join the full-time faculty. For two years he further developed the course with marked success. In 1971, the quintessential trial lawyer, the ebullient and unforgettable Thomas McNamara came upon the scene. He was later to be joined by Leonard Packel, now the senior professor teaching Evidence and co-head of trial practice activities. When Professor McNamara left in 1976 to seduce judges and juries in Grand Rapids, Michigan, James Manning was appointed to succeed him, becoming the first black member of the School’s full-time faculty. A highly skilled and experienced trial lawyer with the Philadelphia office of the United States Attorney, he quickly established himself as a most dedicated teacher and de facto counsellor to minority students.

Anne Poulin, a former Assistant United States Attorney from Chicago, now shares with Professor Packel the responsibility of conducting a program which involves six additional adjunct teachers, of which two are sitting judges, which trains almost all members of the third year class. First and second year students participate in the trials as witnesses and jurors. The student participants have produced consistently successful teams in regional and national law school trial competitions and their achievements have been a matter of considerable pride to Villanova.

The year 1967 witnessed a revolutionary change in the second and third year curriculum. From its foundation, the school followed what has often been characterized as a Harvard pattern with a program consisting of a generous majority of required courses for the three years, the second year offering a single elective in each semester, and the third-year courses being 40% required, the balance being elective. Generally, the required courses ran throughout the academic year. The curriculum so formulated represented the best thinking of the faculty and administration as to those areas of the law in which practicing lawyers should be well prepared. When the School was small in number of both students and faculty, a professor usually taught in each of the three years and was likely to be at least somewhat acquainted with a majority of the members of each graduating class. Since all students had received basically the same education, the comparative capabilities of graduates could be confidently appraised.

In the sixties the picture changed. Upon the arrival of younger professors of the stripe of Frankino and O’Brien, teachers were called upon to justify their required
course offerings as being inescapably essential for one to effectively practice law. The result was that while no courses were eliminated from the curriculum, none survived as being completely indispensable and therefore to be required. All second and third year courses became elective. However, beginning with the academic year 1967-68, the faculty concluded that a “minimum exposure in several important areas of the law is considered desirable.” To implement the faculty decision, four subject oriented categories were devised and students, during their second and third years, were required to elect a minimum of two courses from each of the four categories. In addition, Jurisprudence and Professional Responsibility were required in the third year and in their third year, Catholic students were required to attend a series of lectures on the Canon Law of Marriage.

As a result of all this, selections of courses were rather often made by students for reasons unrelated to course content. Such reasons were likely to be the perceived personalities of competing teachers, their respective grading practices and the range of classroom challenges to be anticipated. If faculty members were of variable quality as pedagogues, perhaps the elective system might tend to make operative a form of Gresham’s law, the effect of which might well be that indifferent teaching would tend to drive out good teaching, with popularity breeding heavily elected courses with fewer students gracing the classrooms of the more demanding teachers. In any event, graduates were no longer identical in training and in their knowledge of the law. The permissiveness of society had come to be significantly reflected in the permissiveness of the curriculum.

The New Frontier of the Kennedy administration came to be replaced by the Great Society of President Lyndon Johnson. As this happened, funds from federal and foundation sources became available in significant amounts to make legal services more readily available, particularly to the poor. To fight the war on poverty there was established the neighborhood law offices of the Office of Economic Opportunity. The decision of the United States Supreme Court mandating counsel for criminal defendants increased the necessity for lawyer availability for the underprivileged charged with crime, and so Public Defender offices became common. The Council on Legal Educational Opportunities (CLEO) came into prominence with Ford Foundation backing, which was to stimulate clinical education in law schools by furnishing supporting funds for the establishment of clinical programs. Further, in line with a developing pattern, the Supreme Court of Pennsylvania changed its rules to permit third year law students to represent indigents in court matters, provided that in
The Villanova University School of Law

criminal hearings a supervising lawyer was present.

In reaction to these developments and the movement of law schools nationally into clinical education, the faculty in 1970 approved a funded clinical program. The director was (now) Judge Lisa A. Richette, former Chief of the Family Court Division of the Philadelphia District Attorney’s office and author of a significant book, *The Throwaway Children*, dealing with juvenile justice problems. To assist her as a clinical instructor was Jerome E. Bogutz, ’62. A center city law office was established in Philadelphia for the representation by Villanova students of indigent juvenile defendants called to appear before the Philadelphia and Delaware County courts. The involved students actively participated in the management of the law office in addition to counselling and defending the clients.

The clinical program was enthusiastically welcomed and participated in by second and third year students who either had a desire to assist the poor or could not wait for a taste of practice and an experience with real live clients. It operated from the Philadelphia law office until 1972 when Professor Richette, having been elevated to the Common Pleas bench in Philadelphia, was unable to continue to head the program. Named as Director for a year was Thomas C. Carroll, ’67, and the project’s base was transferred to Garey Hall, the Philadelphia office having been closed. Ultimately, Professor Leonard Packel, as a newly arrived faculty member, assumed its direction. Associated with him later was Professor Anne Poulin. While the initial flaming zeal of students for clinical education somewhat subsided during the 1970s, the Clinical program in Juvenile Justice continues to flourish and is now directed by Professor Poulin.

Due to significant yearly increases in enrollment by 1970-71, the last academic year prior to the completion of the addition to Garey Hall, 477 students, of whom 36 were women and 16 of minority extraction, were being taught in three major classrooms presenting an almost insoluble class scheduling challenge. To add to the excitement of the time, a building construction crew was tip-toeing as quietly as noisy mice about its chores on the other side of fragile temporary walls. Fourteen full-time faculty members occupied office space designed for a somewhat smaller number. The game of musical chairs worked due to the cancellation of Professor John Stephenson’s planned sabbatical year at Willamette University because of incapacitating illness, the unfortunate illness and demise of Professor John Stuart Carnes and the unexpected departure of Professor Melvin Shralow to accept appointment to the staff of the newly-elected governor of Pennsylvania upon his inauguration at the beginning of the second semester. Through this confusion, the educational offerings were maintained at their usual high standard even though the recently appointed young faculty members, John F. Dobbyn, Howard R. Lurie, Walter John Taggart, ’68, and Robert K. Walsh had no previous law teaching experience. This now distin-
The Villanova University School of Law

guished foursome demonstrated what high levels of intelligence, dedication and perspiration can accomplish under trying conditions.

With the changeover from a largely required program of studies to one in which the second and third year were almost completely elective, the number of available courses mushroomed from 17 electives in substantive law offerings, plus New Jersey, New York and Pennsylvania practice courses, to more than 40. In addition, some 15 seminars were being offered, the faculty having determined in 1970 that a seminar experience should be a prerequisite to the law degree.

Of significance among the new electives was Professor Collins’ course in Contract Drafting initiated in 1971. The concept was to simulate a law office experience with the teacher occupying the position of a senior member of a law firm and the students his young associates. A client’s roughly sketched business transaction, to which agreement had been informally reached, was to be researched and discussed and the final product was to be a document which would accomplish the client’s objectives and be appropriate for his signature. The format was as close to a clinical experience as possible. From the beginning the course was successful and it has served as the progenitor of comparable courses involving the drafting of wills and of documents for use in business planning.

And so the second decade of the Law School’s existence passed into history as did the Reuschlein administration, with a completed addition to Garey Hall giving the School of Law new facilities, more classrooms, more faculty offices, increased library and secretarial space, an enlarged student lounge, a dining commons, a student body of maximum desirable size, an expanded faculty with members of 15 to 25 years of teaching experience and with bright young professionals beginning their teaching careers. There was now a much more widely varied curriculum boasting seminars, clinical offerings and practicums. Then, too, there was a more sophisticated student body and one allegedly more highly qualified. There was a commitment by all on board to change the profession, if not the world, for the better. Singing his Nunc Dimittis, Dean Reuschlein made his exit, both happy and proud.

Professor John G. Stephenson III, presiding at an early jury trial in Garey Hall.