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## William Pincus: A Life in Service -- Government, Philanthropy & Legal Education

J.P. "Sandy" Ogilvy

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# **William Pincus: A Life in Service – Government, Philanthropy & Legal Education**

J. P. “Sandy” Ogilvy

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## **ABSTRACT**

This article memorializes the life and accomplishments of William “Bill” Pincus. The article brings the reader through Mr. Pincus’s career accomplishments, from his humble beginnings in New York City, to his impressive career in civil service, culminating in his work with the Ford Foundation and the Council on Legal Education for Professional Responsibility (CLEPR), where he spearheaded reforms in legal education. Mr. Pincus’s efforts were critical in establishing clinical legal education, drawing from his experiences both in law and government. Much of this article is derived from interviews of Mr. Pincus, conducted by the author, and provides an unprecedented insight into the life of a devoted and influential promoter of clinical legal education.

## **AUTHOR NOTE**

J. P. “Sandy” Ogilvy is a Professor of Law and the Director of Law & Social Justice Initiatives at Columbus School of Law, The Catholic University of America. The author would like to thank Mr. Pincus’s daughter, Jillian, for her assistance in confirming details of Bill’s early life, Charles Hall for his work during the first interview of Mr. Pincus, and Andrew Yingling for his work in preparing the manuscript for publication.

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## INTRODUCTION

When William “Bill” Pincus died on May 15, 2014, the nation’s flags were not lowered to half-mast and there were no staff-written obituaries the next day in the nation’s major newspapers. To be sure, he was mourned by his family and the many friends he had made during his ninety-four years of life. But his death was marked, as most deaths are in this country, by the quiet reflection of those who knew him well and those whose lives he affected.

Why then, if he was not a well-known political figure, movie star, or sports hero, should we care to know more about his life and recognize what his passing means to those of us who did not know him well? My answer is this: the story of Bill Pincus’s life in public service, philanthropy, and legal education is relevant to those of us who have chosen a career in the law because we too have seen the unmet need for legal services and have developed a strong desire to work toward the goal of ensuring access to justice for all. Through his story we can see that immigrant parents, degrees from non-elite schools, and humble beginnings only appear to be barriers to making a significant contribution to the common good. Bill cleared those barriers with ease by always striving for excellence and by perfecting his skills through education and work experience.

At the time of his death, Bill Pincus was the age of the grandparents of many of today’s law students, but what he accomplished during his working life can serve as an inspiration and impetus to develop and use our natural talents in the service of developing a more equitable and just society. It is my hope that you will be able to see yourself in the young Bill Pincus and that you will keep the lessons of his life in mind as you chart your career in the law—wherever your dreams may take you.

Bill Pincus did not set out in life to transform legal education, but his work in the arena was both substantial and long-lasting. From June 1968 through 1981, Pincus was the president of the Council on Legal Education for Professional Responsibility (CLEPR), the organization principally credited with creating the conditions for the development of clinical legal education in the United States. CLEPR accomplished this by relying on the clear vision, and almost maniacal drive, of its president. CLEPR was Bill Pincus and Bill Pincus was CLEPR. On the path to reforming legal education, Bill, as a public servant and philanthropist, also had a hand in many other significant events of the twentieth century. His story should be read by anyone interested in

pursuing public service or the practice of law in the public interest. Through pursuit of higher education, and by taking advantage of the opportunities presented to him in his employment settings to build skills, he was able to make substantial contributions in both the public and private sectors.

## EARLY YEARS

William Pincus was born on April 29, 1920, in Philadelphia, Pennsylvania, to Louis and Dora Labunsky Pincus. His father's family emigrated from the Ukraine in 1903. His mother arrived in 1914 from a village in Moldova, then known as Bessarabia. For most of his adult life, Louis was a fruit and vegetable merchant in Philadelphia, Pennsylvania, and Brooklyn, New York, although he also tried his hand at other enterprises, including operating a general store and gas station. Dora's family settled in Manhattan. Apparently, some members of Louis's family were acquainted with Dora's family, as their respective relatives arranged the marriage of Louis and Dora in 1919. The couple initially settled in Philadelphia, but two years after Bill was born the family moved to New York, settling in the Flatbush area of Brooklyn. When Bill's mother died of cancer at age forty-eight in 1938, his father returned to Philadelphia. Bill stayed in New York to finish college.<sup>1</sup>

Bill was always a good student, consistently performing at or near the top of his class. He attended public school at Brooklyn, P.S. 164 for elementary school, Montauk Junior High, and Erasmus Hall High School, graduating in 1938.<sup>2</sup>

Erasmus High School was founded in 1786 by Dutch settlers in Vlacke bos<sup>3</sup> in New York. Originally called Erasmus Hall Academy, it was the first secondary school chartered by the New York State Regents, becoming part of the public school system in 1896. While Bill was attending Erasmus High School, he would have shared the halls with Pro Football Hall of Fame and Chicago Bears quarterback, Sid Luckman, class of 1935; famed mystery writer, Morrison

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<sup>1</sup> Interview by Charles Hall and J.P. Ogilvy with William Pincus in Great Neck, N.Y. (June 7, 2000) [hereinafter June 7 Interview].

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

<sup>3</sup> Vlacke bos translates to "flat woodland" in Dutch and was later shortened to Flatbush.

“Mickey” Spillane, class of 1936; and famed artist, Elaine M. Fried deKooning, class of 1936.<sup>4</sup>

Bill’s grades at Erasmus High School earned him free tuition at Brooklyn College from which he graduated in January 1941 with majors in Spanish and Political Science. It was at Brooklyn College that Bill met his future wife, Elsa Bronson, whom he married in her family home on September 22, 1940.<sup>5</sup> During college, and after his graduation from college, Bill worked part-time in a Manhattan cafeteria run by a cousin of his mother.

After Elsa graduated from Brooklyn College in June 1941, Bill began looking for a job with a future. Back when Bill was in junior high school, while the country was in the depths of the Great Depression, there were times when the family was without food to eat. His mother, after much urging, convinced her husband to take a WPA<sup>6</sup> job so that she could buy some groceries. His father hated the job, which involved raking leaves in the city park, because he regarded it as “make-work.” His father felt disgraced.<sup>7</sup> Having grown up during the Depression and observed how despondent his father had become trying to provide for his family, Bill wanted to get a government job. He felt that would provide his family a steady income while allowing him to do work that needed doing— no make-work for him.<sup>8</sup>

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<sup>4</sup> *Famous Alumni*, ERASMUS HALL HIGH SCHOOL ALUMNI ASSOCIATION, <http://www.erasmushall.org/html/famousalumni.html> (last visited July 27, 2014).

<sup>5</sup> June 7 Interview, *supra* note 1; Telephone Interview with William Pincus (July 8, 2010) [hereinafter July 8 Interview].

<sup>6</sup> The Work(s) Progress Administration [renamed in 1939 the Work Projects Administration] was created by President Franklin D. Roosevelt on May 6, 1935, as a reaction to the Great Depression, to provide relief work for unemployed persons through public work projects. The WPA provided jobs to unemployed workers on public projects sponsored by federal, state, or local agencies and on defense and war-related projects. Between 1935 and 1943 the WPA provided almost 8 million jobs at a cost of 11 billion dollars, and created a legacy of public welfare that has become monumentalized through its still used buildings, roads, dams, schools, indexes, oral histories, and art. The Work(s) Progress Administration was abolished by an executive order on December 4, 1942. See generally, *Records of the Work Projects Administration*, NATIONAL ARCHIVES, <http://www.archives.gov/research/guide-fed-records/groups/069.html> (last visited July 29, 2014).

<sup>7</sup> July 8 Interview, *supra* note 5.

<sup>8</sup> June 7 Interview, *supra* note 1; July 8 Interview, *supra* note 5.

## WAR DEPARTMENT – LEND-LEASE PROGRAM

Bill sat for the Civil Service examination, which he passed with high marks, and began looking for government work in New York. However, he faced pervasive anti-Semitism as he interviewed for jobs with the War Department and Navy Department. Fortunately, he learned that the War Department, as part of its ramp-up of the Lend-Lease program,<sup>9</sup> had developed a plan to hire two men from each state who scored the highest on a qualifying examination. Bill took the examination and earned one of the top two scores in New York.<sup>10</sup>

Soon after, he was on his way, by bus, to the Rock Island Arsenal, near Moline, Illinois, to be interviewed for one of the forty-eight new positions at the Senior Clerk School being established there. The day after arriving in Moline, Bill went to the arsenal to be interviewed by the Chief Clerk, the highest ranking civilian employee at the facility, second in command only to the Brigadier General who was the commanding military officer of the facility. Mr. Noth walked into the room, greeted Bill, and said, “I understand you’re out here looking for one of the appointments that we’re going to make to the Senior Clerk School that is being set up here?” Bill replied, “Yes sir. I’d like very much to have an appointment like that,” to which Mr. Noth responded, “You’ve got it.” That was the end of the interview.<sup>11</sup>

Rock Island Arsenal is located on Arsenal Island in the Mississippi River, between the cities of Davenport, Iowa, and Rock Island, Illinois. The military first occupied the site in 1816 when Fort Armstrong was built as part of the chain of frontier defenses erected after the War of 1812.<sup>12</sup> An Act of Congress established the Rock Island Arsenal in 1862, and from December 1863 to July 1865, Rock Island Prison Barracks was home to a large Union army prison camp for captured Confederate soldiers.<sup>13</sup> Since the 1800s, Rock Island

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<sup>9</sup> The Lend-Lease Program was created to assist Great Britain, Russia, and China in obtaining military equipment for use against the Axis armies, before the United States entered WWII. The Lend-Lease Act, Pub. L. No. 77-11, 55 Stat. 31 (1941).

<sup>10</sup> June 7 Interview, *supra* note 1.

<sup>11</sup> July 8 Interview, *supra* note 5.

<sup>12</sup> *Id.*

<sup>13</sup> *The History of Rock Island Arsenal*, US ARMY, <http://www.usagria.army.mil/About/history.aspx> (last visited July 27, 2014).

Arsenal has manufactured military equipment and ordinance for the United States Army.<sup>14</sup>

The program of instruction at the School for Senior Clerks lasted less than three months and concluded with an examination. The newly-minted clerks with the highest scores were given their choice of postings within the states that had been selected for the construction of new depots. Since Bill had one of the top scores, he chose the depot that was to be set up in Shamokin, Pennsylvania, the closest location to his home in New York.<sup>15</sup>

Shamokin, Pennsylvania, in Northumberland County, was an old coal mining town on the western edge of the anthracite coal region, home to the largest known deposits of anthracite coal found in the Americas.<sup>16</sup> In addition to mining, for a time Shamokin also had silk and knitting mills, stocking and shirt factories, ironworks and brickyards.<sup>17</sup> Due to several factors, notably the decline in the silk industry, the Great Depression, and the loss of the city's two railroads, the population of Shamokin decreased dramatically from 1920 to 1940.<sup>18</sup> The city had been home to the J.H. & C.K Eagle silk mill; at the time the largest self-contained textile mill in the country.<sup>19</sup> The idle silk mill was to become a depot for the lend-lease program.

Pincus and the other Senior Clerk assigned to Shamokin arrived in town with little more than the shirts on their backs and a suitcase full of documents from the School for Senior Clerks. They spent their first night in the Hotel Graymar. Bill remembers the bed had a single blanket with a large hole in the center of it. They began to wonder whether they had made a grave mistake in choosing to establish a depot in Shamokin.<sup>20</sup>

Nonetheless, the next day the two Senior Clerks set out to get started. They convinced a local shopkeeper to give them some wooden fruit and vegetable crates to use as office furniture. They borrowed a

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<sup>14</sup> *Id.*

<sup>15</sup> June 7 Interview, *supra* note 1.

<sup>16</sup> ANTHRACITE COAL MINING, NEAR SHAMOKIN PA, <http://www.myerchin.org/AnthraciteCoalMining.html> (last visited July 27, 2014).

<sup>17</sup> Garth Hall, *Shamokin and Coal Township: A Brief History*, CITY OF SHAMOKIN, <http://www.shamokincity.org/history.htm> (last visited Dec. 9, 2014).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> June 7 Interview, *supra* note 1.



typewriter and found a young woman they intended to hire as their typist. Her first assignment was to use the borrowed typewriter, which was perched on an up-ended wooden crate, to complete a form that would be sent to the regional Civil Service office requesting permission for Pincus to hire the typist, so that she could get paid.<sup>21</sup>

Before the depot could be established in Shamoken, Bill was reassigned to Marietta, Pennsylvania, where Bill and his co-clerk were to build a much larger facility for the War Department at a cost of six million dollars. He worked there as the Personnel Officer and Chief Clerk from 1941 to 1943.<sup>22</sup>

After the depot in Marietta was built, its principal role was to collect and dispatch automobiles and heavy weapons to the American military and to the British, Soviet, and Chinese forces as part of the Lend-Lease Program. The British and Soviet governments each dispatched a military officer to Marietta to work closely with Pincus and his small staff to facilitate the transfer of materials. The British representative had a reserve commission as a major in the British Army. A “bookie” in civilian life, as a British officer, he was right out of central casting, appropriately “spit and polish.” The Soviet officer kept more to himself, but when the three of them went out for one of their frequent lunches together, he always insisted on paying for his own part of the meal and always produced a crisp, new twenty-dollar bill, which he handed to the waitress.<sup>23</sup>

By 1943, with the increasing need for manpower for the armed forces, Pincus expected to be drafted, so he and Elsa moved back to Brooklyn and found a small apartment where she could live near family if he was in fact drafted into service. Because of some vision problems, he was classified 1-AL; that is, eligible for limited service. He had a hard time finding work in New York because most employers were unwilling to hire a man about to be drafted. He finally found work on Staten Island at the Bethlehem Steel Corporation’s Mariners Harbor shipyards, where he was hired as a safety inspector. His job was to ensure that the shipbuilders obeyed the safety instructions issued by the company. Despite the long hours—seven in the morning to seven at night—Bill did not find the work particularly taxing, so he decided to further his education. He would clock out and,

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<sup>21</sup> *Id.*

<sup>22</sup> July 8 Interview, *supra* note 5.

<sup>23</sup> *Id.*

before heading home to sleep, take the Staten Island Ferry to Manhattan. There he rode the subway up to Columbia University to take courses with Arthur MacMahon in the Department of Public Law and Government.<sup>24</sup> Although Pincus did not finish the course of study he had commenced at Columbia, his association with Arthur MacMahon would provide opportunities later in his life.

Arthur Whittier MacMahon was born in Brooklyn, New York, on May 29, 1890. He attended Columbia University, receiving his B.A in 1912 and his M.A. in 1913, after which he began teaching at Columbia as an instructor in the government department. While teaching, he completed his Ph.D at Columbia, in 1923, and was then promoted to assistant professor. His career took off in the 1930s, by which time he was an exceptionally popular professor, the department's best-known faculty member, and an accomplished scholar whose academic work focused on the study "of the various obstacles to effective management found in public agencies."<sup>25</sup> He was one of the first scholars to attempt to use empirical studies and methods borrowed from the sciences to study the functioning of government.<sup>26</sup>

At the time Pincus was studying with MacMahon, in addition to his faculty appointment at Columbia, MacMahon was a top consultant with the Department of State. He would share with his students experiences in the federal bureaucracy. After it became apparent that the draft would likely spare those classified 1-AL, Pincus decided that it was time to get back into government work. He took the train from New York to Washington, D.C. and started knocking on the doors of the various agencies, looking for a way to be of service.<sup>27</sup>

## U.S. BUREAU OF THE BUDGET

Bill was granted an interview in the Bureau of the Budget. One of the people to interview him was Ray Atkinson. Atkinson was a professor at Columbia University who, like many academics during the war, turned to civil service work because his students had been diverted into the war effort. During the interview, Bill mentioned that he had recently been doing graduate work at Columbia with Arthur

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<sup>24</sup> *Id.*

<sup>25</sup> GLENN H. UTTER & CHARLES LOCKHART, AMERICAN POLITICAL SCIENTISTS: A DICTIONARY 253–5 (2d ed. 2000).

<sup>26</sup> *Id.*

<sup>27</sup> July 8 Interview, *supra* note 5.

MacMahon and Atkinson called his former colleague at Columbia to ask about William Pincus. Apparently the recommendation was sufficient, as Bill was soon hired by the Bureau of the Budget, and he and Elsa moved to Washington, D.C. in 1944.<sup>28</sup>

When Bill Pincus joined the Bureau of the Budget there were about 300 professional employees.<sup>29</sup> The Bureau was organized into divisions: Estimates, Legislative Reference, Fiscal, Statistical Standards, and Administrative Management. Estimates, the largest division, assigned Bureau staff to the various federal agencies to work with the managers of the agencies on their budgets that were submitted to the Bureau for approval. Submissions would then be sent to the President to become part of the annual budget submitted to Congress. The Administrative Management Division, where Pincus was first assigned, worked with other federal agencies “to offer concrete assistance in helping an agency to correct weak spots in administration and organization” and made “studies of the ‘organization, activities, and business methods’ of the departments and establishments ‘with a view to securing greater economy and efficiency in the conduct of the public service.’”<sup>30</sup> One of the most significant projects on which Pincus worked during his first stint in the Bureau was Reorganization Plan #3 of 1946.<sup>31</sup> Among other things, the plan established the Bureau of Land Management in the Department of the Interior.<sup>32</sup>

### FIRST HOOVER COMMISSION

In late 1947 or early 1948, James Rowe, a former administrative assistant to President Franklin D. Roosevelt, who had been appointed a commissioner on the first Hoover Commission, came to the Budget Bureau and said he wanted a young man from the Bureau to work with him on the Commission. Specifically, he was looking for someone who knew quite a bit about government. Pincus did not remember who it was that asked him if he wanted the posting, but he was interested.

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<sup>28</sup> June 7 Interview, *supra* note 1; July 8 Interview, *supra* note 5.

<sup>29</sup> In 1944, the Bureau had a professional staff of about 319 and a clerical staff of about 150. BUREAU OF THE BUDGET, A DIGEST ON THE BUREAU OF THE BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT 17 (1964).

<sup>30</sup> HAROLD D. SMITH, THE MANAGEMENT OF YOUR GOVERNMENT 67 (1945).

<sup>31</sup> Telephone interview with William Pincus (July 16, 2010) [hereinafter July 16 Interview].

<sup>32</sup> *Id.*

He asked whether he could take a leave of absence from the Bureau and return after the work of the Commission had concluded. He was told that he would have to resign and take his chances on a place being available after his work for the Commission ended. It was important that the Bureau be perceived as totally non-partisan, and his work for a Democrat on the Commission, while still maintaining employment status within the Bureau, might compromise that perception. He resigned.<sup>33</sup>

Rowe was familiar with the work of the Bureau from his experience on the White House staff, and later as a consultant to the Bureau, so it is no surprise that he turned to the Bureau when looking for a bright, young person to be his assistant. For Pincus, it was to be an exhilarating two years.

The First Hoover Commission, formally known as the Commission on Organization of the U.S. Executive Branch, was established by the Lodge-Brown Act of 1947.<sup>34</sup> The statute creating the Commission provided that the membership was to be divided equally between the two major political parties. Four members were to be appointed by the President of the United States, four by the President of the Senate, and four by the Speaker of the House of Representatives.<sup>35</sup> Six members were to be from the private sector, two from the executive branch, two from the Senate, and two from the House of Representatives.<sup>36</sup> Former President Herbert Hoover was named to chair the Commission, and its members were: Secretary of State Dean Acheson, Vice Chairman; Senator George D. Aiken of Vermont; Representative Clarence J. Brown of Ohio; Secretary of Defense James V. Forrestal; Civil Service Commissioner Arthur S. Flemming; former Ambassador Joseph P. Kennedy; political scientist James Kerr Pollack; attorney James H. Rowe, Jr.; Representative Carter Manasco of Alabama; industrialist George Mead; and Senator John L. McClellan of Arkansas.<sup>37</sup> Aiken, Brown, Flemming, Hoover, Mead, and Pollock were Republicans.

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<sup>33</sup> July 8 Interview, *supra* note 5.

<sup>34</sup> Lodge-Brown Act of 1947, Pub. L. No. 80-162, 61 Stat. 246 (1947) (The Lodge-Brown Act was named for Representative Clarence J. Brown, Sr. of Ohio and Senator Henry Cabot Lodge, Jr. of Massachusetts, both Republicans).

<sup>35</sup> THE HOOVER COMMISSION REPORT ON ORGANIZATION OF THE EXECUTIVE BRANCH OF GOVERNMENT vi (1949); PERI E. ARNOLD, MAKING THE MANAGERIAL PRESIDENCY 121 (2d ed. Rev. 1998).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

Acheson, Forrestal, Kennedy, Manasco, McClellan, and Rowe were Democrats although Kennedy, Manasco and McClellan were more closely aligned with the goals of the chairperson, which included undoing some of the reforms ushered in by FDR during the New Deal.<sup>38</sup>

In early 1949, the Commission forwarded its findings and a total of 273 recommendations to Congress in a series of nineteen separate reports.<sup>39</sup> Manasco, Pollock and Rowe each filed dissents on five of the reports.<sup>40</sup> When Rowe dissented, it fell to Pincus to author the first draft of the dissent, which frequently would be discussed by Acheson, Rowe, and Pollock, and then draft the final dissent based on the comments and suggestions he received.<sup>41</sup>

The Commission was officially terminated on June 12, 1949.<sup>42</sup> However, a Second Hoover Commission was created by Congress in 1953 during the administration of President Dwight D. Eisenhower. Also headed by Hoover, who was then almost eighty-years-old, the Second Commission sent its final report to Congress in June 1955.”<sup>43</sup>

## LAW SCHOOL

Shortly before the First Hoover Commission made its Concluding Report to Congress in May 1949, Pincus returned to the Bureau of the Budget. He considered accepting an offer of employment on Capitol Hill made to him by Carter Manasco, the conservative Democratic Congressman from Alabama, who had been a commissioner on the Hoover Commission. Manasco was familiar with Pincus's work on the Hoover Commission and he was one of the Congressmen who took it

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<sup>38</sup> *Id.* at 122-23.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> June 7 Interview, *supra* note 1; The 1955 report of the Citizens' Committee for the Hoover Report notes that 116 recommendations were fully realized, 35 were mostly carried out, and 45 were partially implemented. CITIZENS COMMITTEE FOR THE HOOVER REPORT, RESEARCH MEMORANDUM NO. 19 (1955). It is striking in this era of legislative gridlock to see a bipartisan commission do so much in such a short time and to have its work ratified to a significant degree by Congress and the White House.

<sup>42</sup> ARNOLD, *supra* note 35.

<sup>43</sup> *See generally*, William R. Divine, *The Second Hoover Commission Reports: An Analysis*, 15 PUB. ADMIN. REV. 263 (1955) (outlining the basic organization and structure of the Second Hoover Commission).

upon themselves to identify young people with talent and to encourage them to work in the federal government. Bill politely declined the offer, feeling that although he had both a bachelor's and a master's degree, which he obtained from American University in 1948, majoring in Public Administration, he did not have a law degree, which he felt would be necessary to advance within the legislative branch.<sup>44</sup> His decision to decline Manasco's offer of employment was perhaps fortuitous, because Manasco was defeated for re-nomination in the elections of 1948 and left Congress.<sup>45</sup>

When he reported his reason for declining the Congressman's offer to his wife, Elsa, she said to him, "You know you've got lawyers in your family, an aunt and an uncle, and you have always wanted to be a lawyer, why don't you go to law school?"<sup>46</sup> Morris Pincus and Gertrude Pincus, brother and sister of Bill's father, had both graduated from the evening program at Brooklyn Law School. Morris went on to become an executive with Radio Corporation of America (RCA), retiring as a vice-president, and Gertrude worked as an attorney with the pharmaceutical giant McKeesson-Robbins.

It did not take much urging on Elsa's part. Bill started law school in the fall of 1949, attending classes five evenings each week at the law school of The George Washington University in Washington, D.C. and graduated in 1953.<sup>47</sup>

Except for the fact that he was not a veteran, Bill Pincus was a pretty typical law student in 1949. Commencing his legal education at the age of twenty-nine, with two small children and one on the way, Bill was like most college students at the time.<sup>48</sup> The colleges and graduate schools were swelling with veterans returning to school after the hiatus forced by the war. It has been estimated that veterans accounted for about seventy percent of all male enrollment in colleges and universities in the years after V-J Day.<sup>49</sup> Bill recalls being one of

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<sup>44</sup> June 7 Interview, *supra* note 1.

<sup>45</sup> BIOGRAPHICAL DIRECTORY OF THE UNITED STATES CONGRESS: MANASCO, CARTER (1902-1992), <http://bioguide.congress.gov/scripts/biodisplay.pl?index=M000094> (last visited Sept. 27, 2014).

<sup>46</sup> July 8 Interview, *supra* note 5.

<sup>47</sup> July 16 Interview, *supra* note 31.

<sup>48</sup> June 7 Interview, *supra* note 1.

<sup>49</sup> John Bound & Sarah Turner, *Going to War and Going to College: Did World War II and the G.I. Bill Increase Educational Attainment for Returning Veterans?*, 20 J. LABOR ECON. 784, 785 (2002).

the few students in his class who paid tuition out of his own earnings; most of his classmates were attending on the GI Bill, which provided support, including education benefits, to veterans of World War II.<sup>50</sup>

Under the GI Bill, the Veterans Administration, now the Department of Veterans Affairs (VA), paid up to \$500 a year directly to an educational institution for tuition, books, fees, and other training costs.<sup>51</sup> The VA also paid as much as \$50 a month, a rate that was subsequently increased to \$65 in 1946 and \$75 in 1948, as a subsistence allowance to single veterans and a higher stipend was paid to veterans with dependents.<sup>52</sup> Five hundred dollars in 1944 would be the equivalent of \$6,745 in 2014 dollars, and the fifty dollars of subsistence allowance a month would correspond to \$7920 annually, so the total education benefit for a single veteran would have been \$22,821 annually in 2014 dollars.<sup>53</sup> By the time the original GI Bill expired on July 25, 1956, 7.8 million of 16 million World War II veterans had participated in an education or training program.<sup>54</sup> The cost to Bill for four years of law school tuition was about \$1,500 — just over \$20,000 in 2014 dollars—so the GI Bill would have covered it all if he had been a veteran.<sup>55</sup> A part-time student graduating from The George Washington University Law School in 2014 would have paid about \$154,000 in tuition over four years.<sup>56</sup>

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<sup>50</sup> The Servicemen's Readjustment Act of 1944, Pub. L. No. 78-346, 58 Stat 284 (1944). For a summary of the debate and struggle to pass the Act see the U.S. Department of Veterans Affairs website, *The GI Bill: History and Timeline*, DEPARTMENT OF VETERANS AFFAIRS, <http://www.benefits.va.gov/gibill/history.asp> (last visited July 27, 2014).

<sup>51</sup> DAVID P. SMOLE & SHANNON S. LOANE, CONG. RESEARCH SERV., A BRIEF HISTORY OF VETERANS' EDUCATION BENEFITS AND THEIR VALUE 2-3 (2008).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 11-12; 2013 values calculated by using the Bureau of Labor Statistics inflation calculator at <http://146.142.4.24/cgi-bin/cpicalc.pl> (last visited Apr. 11, 2014).

<sup>54</sup> *The GI Bill: History and Timeline*, *supra* note 50.

<sup>55</sup> GEORGE WASHINGTON UNIVERSITY BULLETIN 1949-1950; 1950-1951; 1951-1952; and 1952-1953. During these years, students taking a majority of their classes in the evening at the law school were limited to ten hours per term and there were three terms per year. The per credit cost in academic years 1949 – 1951 was twelve dollars and fifteen dollars in the years 1951-1953.

<sup>56</sup> The George Washington University Law tuition and estimated costs *See, Information for New J.D. Students: Financial Aid General Information 2014-*

Bill recalled an experience in law school, the significance of which was not made apparent to him until he was preparing for an oral history interview in July 2000. He was sitting in class one evening, surrounded by World War II veterans. All the members of the class had substantial real world experience either in the military, the civilian workforce, or both. Pincus was confronted with the fact that he and his classmates would soon be licensed to practice law after having studied only from casebooks; they had never done anything like actual legal practice in law school. He found it incongruous that a totally inexperienced young professor would be teaching students who had far more experience in the civilian workforce or military service. These students would be getting licenses to practice law based not on actual practice experiences, but upon simply satisfying the course requirements.<sup>57</sup> This incongruity would surface again when, as a Ford Foundation program officer, he began to push legal education to incorporate actual law practice as part of the training of attorneys-to-be.

During his first couple of years in law school, Bill was back with the Bureau of the Budget. As a more senior bureaucrat, with the prestige of having been an integral part of the First Hoover Commission on his resume, he was given more responsibility within the Bureau.<sup>58</sup> He worked closely with Roger W. Jones, who, after serving in the war, returned to the Bureau of the Budget in 1945, as the Assistant Director of the Legislative Reference Division.<sup>59</sup> With Jones, Pincus was part of a division of the Bureau responsible for “clearing and coordinating departmental advice on proposed legislation, executive orders, and proclamations, and making recommendations as to [the President’s] personal action on legislative enactments.”<sup>60</sup> In addition, like all of the analysts in his division of the Bureau, Pincus was assigned to follow various departments of the government, including the management of the nation’s natural resources under the jurisdiction of the Department of Interior, of which he has remarked—

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2015, THE GEORGE WASHINGTON UNIVERSITY, [http://www.law.gwu.edu/Admissions/financial\\_aid/new/Pages/default.aspx](http://www.law.gwu.edu/Admissions/financial_aid/new/Pages/default.aspx) (last visited July 29, 2014).

<sup>57</sup> June 7 Interview, *supra* note 1.

<sup>58</sup> July 16 Interview, *supra* note 31.

<sup>59</sup> *Id.*

<sup>60</sup> SMITH, *supra* note 30, at 65.



with a twinkle in his eye—“I was really well-versed in this, coming from Brooklyn as I did.”<sup>61</sup>

## BUREAU OF LAND MANAGEMENT

It was not surprising that Bill would be assigned to natural resources since he was a principal architect of the Reorganization Plan #3 of 1946, which created the Bureau of Land Management (BLM) by consolidating the responsibilities of the General Land Office and the U.S. Grazing Service of the Interior Department into a single entity.<sup>62</sup> His work in 1946 and his experience with natural resources during his second stint in the Bureau of the Budget led him, in 1951, to move to the Interior Department. This was at the request of Robert Marion Clawson, the first director (1948 - 1953) of the BLM, who asked Bill to become his Assistant Director.<sup>63</sup>

Bill’s principal responsibility at the BLM was for the mineral leasing functions of the agency, which oversees leasing of oil, gas, and other minerals on federally-owned land.<sup>64</sup> Much of his time was spent in the West, where most of the lands held by the BLM were located.<sup>65</sup> There, he conducted hearings about the use of minerals, timber, agricultural, and recreational resources on BLM land.<sup>66</sup>

For a part of his tenure, however, Pincus was involved, at the request of the Director, in the politics of the time. The Associate Director of the BLM was William Zimmerman, Jr., who served as the Assistant Commissioner (and Acting Commissioner 1946-1948) in the Bureau of Indian Affairs from 1933 to 1950, when he was transferred to the BLM.<sup>67</sup> After his move, Zimmerman was targeted by the

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<sup>61</sup> June 7 Interview, *supra* note 1.

<sup>62</sup> July 16 Interview, *supra* note 31.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> July 8 Interview, *supra* note 5.

<sup>66</sup> *Id.*

<sup>67</sup> U.S. DEP’T OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, *John O. Crow Named Acting Commissioner and Member of Advisory Board on Indian Affairs* (Feb 10, 1961), <http://www.bia.gov/cs/groups/public/documents/text/idc016814.pdf> (press release summarizing Zimmerman’s service at the BIA); U.S. DEP’T. OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, *The Commissioners of Indian Affairs 1824-1981* <http://www.bia.gov/cs/groups/public/documents/text/idc-001881.pdf> (last visited July 29, 2013).

crusade to identify communists and communist sympathizers in U.S. government and to remove them from their jobs.<sup>68</sup> Zimmerman was subjected to a Security Board Hearing convened by the Department of the Interior to determine “whether there is any reason to believe that the employee might be caused ‘to act contrary to the interests of national security.’”<sup>69</sup> There were two allegations leveled against Zimmerman.<sup>70</sup> The first concerned whether there was reason to believe that he “may be subjected to coercion, influence or pressure to cause him to act contrary to the interests of national security” because of the actions of his first wife, who had died in 1940, or his second wife, Eleanor Williams Zimmerman.<sup>71</sup> His first wife, Susan Hamill Phelps Zimmerman, was a member of the League of Women Shoppers, an organization which was alleged to be controlled by or in sympathy with the Communist Party.<sup>72</sup> His second wife, Eleanor, in the winter of 1937 – 1938, at the age of 22, had attended a Communist meeting in Detroit and paid dues “not to exceed 50 cents” and between 1939 to July or August of 1942 her name had appeared on the lists of several organizations, including the Washington Book Shop, which the Attorney General had concluded were subversive organizations.<sup>73</sup>

The second allegation against Zimmerman was that, while employed by the Bureau of Indian Affairs, he signed a memorandum to a superior evaluating a security report on his future wife, Miss Eleanor Williams, finding “that the security report ‘possesses no evidence indicating that Miss Williams has participated in Un-American activities.’”<sup>74</sup> Zimmerman was charged with signing the memorandum despite knowing that Miss Williams had participated in Un-American activities.<sup>75</sup>

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<sup>68</sup> July 8 Interview, *supra* note 5.

<sup>69</sup> *Brief on Behalf of the Employee In the Matter of William Zimmerman, Jr. before the Security Hearing Board of the United States Department of the Interior 1*, O’Mahoney Papers, Box 338, American Heritage Center, University of Wyoming.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 5–6.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 8.

Zimmerman was suspended from his position with the BLM from October 13, 1953, until April 7, 1954, when the Security Hearing Board retention decision was approved by Douglas McKay, Secretary of the Interior.<sup>76</sup> Despite the favorable disposition of the matter, the ordeal undoubtedly took its toll on Zimmerman, and he resigned from his position with the BLM shortly thereafter.

After the election of Republican Dwight D. Eisenhower to the presidency in 1952, the administration sought to replace Democrats in high-ranking positions in the agencies with persons more attuned to the priorities of the new administration. Although he was a civil servant, and not a political appointee, Pincus was closely scrutinized because of his position as the number three person at the BLM. After the review, he was told that he would be retained, but he decided that this might be a good time to move on.<sup>77</sup>

## SECOND HOOVER COMMISSION

On July 10, 1953, Congress established the Second Commission on Organization of the Executive Branch of the Government, known as the Second Hoover Commission (1953 – 1955).<sup>78</sup> Pincus was asked by George Graham to join the Task Force on Personnel and Civil Service.<sup>79</sup>

As with the First Hoover Commission, much of the work of the Second Commission was done by the various task forces. Harold W. Dodds, the President of Princeton University from 1933 to 1957,<sup>80</sup> was chosen to chair the Task Force on Personnel and Civil Service. Dodds selected George Graham, the chair of the Department of Politics at Princeton, from 1946 to 1949 and again from 1952 to 1955, to be the Staff Director, and Pincus, because of his extensive knowledge of

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<sup>76</sup> *Findings and Final Order In the Matter of the Employment of William Zimmerman, Jr.*, Apr 7, 1954, O'Mahoney Papers, Box 338, American Heritage Center, University of Wyoming.

<sup>77</sup> July 8 Interview, *supra* note 5.

<sup>78</sup> An Act for the establishment of the Commission on Governmental Operations, Pub. L. No. 83-108, 67 Stat. 142 (1953) and extended by act of May 23, 1955, Pub. L. No. 84-41, 69 Stat. 64 (1955).

<sup>79</sup> July 8 Interview, *supra* note 5.

<sup>80</sup> *The Presidents of Princeton University Harold Willis Dodds*, PRINCETON UNIVERSITY, <http://www.princeton.edu/pub/presidents/dodds/> (last visited Apr. 13, 2013).

various federal agencies from his work in the Bureau of the Budget and his proven track record as a capable administrator, was named Associate Staff Director.<sup>81</sup>

George Adams Graham was born in Cambridge, New York, on December 23, 1904. He was educated in Illinois, first at Monmouth College, a small liberal arts college, where he received his bachelor's degree in 1926, followed by a master's degree in 1927, and he received his Ph.D in 1930 from the University of Illinois.<sup>82</sup> Graham was hired into the Department of Politics at Princeton University in 1930 where he remained until 1958 when he left Princeton to join the Brookings Institution<sup>83</sup> as director of governmental studies, a position he retained until 1968. He then served as executive director of the National Academy of Public Administration from 1968 to 1972. He concluded his career at Nova University in Fort Lauderdale, Florida, serving as a professor of public administration, and achieving emeritus status in 1985. His forays into government service included work from 1942 to 1945 in various capacities in the Bureau of the Budget, service as chief of the Division of Administration Management of Government Organization in the First Hoover Commission in 1944 and 1945, and chair of the Committee on Indian Affairs, a committee added to the First Hoover Commission after the other committees had been created.<sup>84</sup>

Graham and Pincus proved to be a good team. They knew each other well from their time together in the Bureau of the Budget, and they knew the strengths and the weaknesses of the Civil Service. Before the Task Force on Personnel and Civil Service formally began its work, the two men sat in Graham's office in the Bureau of the Budget, located in the Executive Office Building at Seventeenth Street and Pennsylvania Avenue, and brainstormed ideas to improve the

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<sup>81</sup> July 16 Interview, *supra* note 31.

<sup>82</sup> Joe Holley, *Political Scientist George Graham*, THE WASHINGTON POST (Mar. 11, 2005), <http://www.washingtonpost.com/wp-dyn/articles/A25682-2005Mar10.html>.

<sup>83</sup> The Brookings Institution is a private nonprofit organization devoted to independent research and innovative policy solutions, <http://www.brookings.edu/about/history> (last visited Oct. 28, 2014).

<sup>84</sup> GEORGE ADAMS GRAHAM PAPERS, 1935 – 1995: Finding Aid, <http://findingaids.princeton.edu/collections/MC061> (last visited Apr. 11, 2014).

federal Civil Service.<sup>85</sup> Graham recorded their ideas and put his notes away in a drawer in his office. According to Pincus, the ultimate Task Force Report that he and Graham prepared contained most of what the two men had come up with in that initial session.<sup>86</sup>

The Task Force on Personnel and Civil Service made nineteen separate recommendations to the Second Hoover Commission, ranging from recommendations for strengthening the ranks of top management within agencies and clarifying the different roles between career and political appointees to improving personnel practices and improving the merit system. However, the recommendation of which Pincus was most proud was the recommendation to create a new Senior Civil Service.

The Senior Civil Service (SCS) was to consist of a group of career administrators “carefully selected from all parts of the civil service and from all departments and agencies solely on the basis of demonstrated competence.”<sup>87</sup> The members were to be nominated to the SCS by department heads and appointed by a Senior Civil Service Board, with the consent of the President.<sup>88</sup> Modeled on the British system, the objective of the SCS was to have available to the government a designated group of highly qualified and mobile generalist administrators to make the various agencies more effective and efficient and to make the Civil Service a more attractive, long-term career.<sup>89</sup>

Although President Eisenhower partially implemented the Second Hoover Commission’s recommendation for a Senior Civil Service in Executive Order 10758, the concept proved to be a political “hot potato.” The Carter administration would implement a more complete

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<sup>85</sup> The Old Executive Office Building is now called the Eisenhower Executive Office Building. *Old Executive Office Building*, NPS.GOV, <http://www.nps.gov/nr/travel/wash/dc32.htm> (last visited Oct. 28, 2014).

<sup>86</sup> July 8 Interview, *supra* note 5.

<sup>87</sup> COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT, PERSONNEL AND CIVIL SERVICE: A REPORT TO THE CONGRESS 37 (Feb. 1955).

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 38-39; Frank D. Ferris, *Is the Senior Executive Service Viable?* 18 PUB. PERSONNEL MGMT. 355, 357 (1989).

version of the recommendation in 1979, when Congress passed legislation establishing the Senior Executive Service.<sup>90</sup>

## CAPITOL HILL

While serving as Associate Staff Director of the Task Force on Personnel and Civil Service, Pincus graduated from law school and passed the Maryland Bar Examination, subsequently waiving into the District of Columbia Bar.<sup>91</sup> Having completed his service with the Second Hoover Commission and armed with a law degree and extensive executive agency experience, Pincus felt he was now ready to work on Capitol Hill.<sup>92</sup> In 1955 he was hired by Democratic Congressman William L. Dawson from Chicago to be the Associate General Counsel of the House Committee on Government Operations, which Dawson chaired.<sup>93</sup> He began his new job on February 7, 1955. Bill worked for Dawson during the 84<sup>th</sup> Congress, from 1955 to 1956 and through the first session of the 85<sup>th</sup> Congress in 1957.<sup>94</sup>

William L. Dawson came to Washington in 1943, having been elected to the House of Representatives from the First Congressional District of Illinois, after serving as an alderman in the Second Ward of Chicago for six years.<sup>95</sup> Dawson was born in Albany, Georgia, on April 26, 1886. He graduated from Albany Normal School in 1905 and worked his way through Fisk University in Nashville, Tennessee, as a porter and waiter, graduating in 1909.<sup>96</sup> In 1912, he moved to Chicago and began his legal studies, first at Kent College of Law and then Northwestern University Law School. His legal education was interrupted by his enlistment in the army in World War I. In 1917 he

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<sup>90</sup> The Senior Executive Service (SES) was established by Title IV of the Civil Service Reform Act (CSRA) of 1978, Pub. L. No. 95-454, 92 Stat. 1111, (1978) and became effective on July 13, 1979; Ferris, *supra* note 88, at 358.

<sup>91</sup> July 16 Interview, *supra* note 31.

<sup>92</sup> June 7 Interview, *supra* note 1.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> BIOGRAPHICAL DIRECTORY OF THE UNITED STATES CONGRESS: WILLIAM LEVI DAWSON (1886-1970), <http://bioguide.congress.gov/scripts/biodisplay.pl?index=d000158> (last visited Oct. 28, 2014).

<sup>96</sup> *Black Americans in Congress 1870 to Present—Dawson, William Levi*, U.S. HOUSE OF REP.: HISTORY, ART & ARCHIVES <http://history.house.gov/People/Detail/12028?ret=True> (last visited Apr 11, 2013).

was commissioned as a first lieutenant, serving with the 365<sup>th</sup> Infantry of the American Expeditionary Force.<sup>97</sup> Returning to Chicago after the war, he resumed his legal education at Northwestern, graduating in 1920; he was admitted to practice in Illinois the same year. Dawson began his political career as a Republican, and lost the 1928 primary against the incumbent in the congressional district that was home to much of the African American population of Chicago's South Side.<sup>98</sup> Undeterred by the loss, Dawson continued to pursue a career in politics. In 1933 he was elected to a two-year term on the Chicago city council and was re-elected to a four-year term in 1935.<sup>99</sup> Dawson ran for another term on the city council in 1939, this time as an Independent. He was defeated, but accepted the offer of the post of Democratic committeeman for Chicago's Second Ward from Democratic Mayor Edward J. Kelly, completing his move from the Republican Party to the Democratic Party.<sup>100</sup> As a committeeman, Dawson efficiently organized his political base, and when Congressman Arthur Mitchell chose not to seek a fifth term in the House in 1942, Dawson earned the nomination of the Democratic Party.<sup>101</sup> He went on in the general election to defeat the Republican candidate, William E. King, to become the third African American elected to Congress in the 20<sup>th</sup> century.<sup>102</sup>

Dawson served on the Expenditures in the Executive Departments Committee—renamed Government Operations in 1952—becoming chair of the committee in 1949 and the first African American to chair a standing committee.<sup>103</sup> Except for a single term in the 83<sup>rd</sup> Congress, from 1953 to 1955, when Republicans controlled the House, Dawson held the chairmanship until his death from pneumonia in 1970.<sup>104</sup>

Since renamed the House Committee on Oversight and Government Reform, the Committee on Government Operations was established in 1927 as the Committee on Expenditures in the Executive

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<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

Departments.<sup>105</sup> The jurisdiction of the Committee, as prescribed in the Rules of the House of Representatives of the 84<sup>th</sup> and 85<sup>th</sup> Congresses, was budget and accounting measures, different from appropriations, and reorganizations in the executive branch of the government.<sup>106</sup> Specifically, the committee was charged with (1) receiving and examining reports of the Comptroller General and submitting recommendations to the House regarding such reports; (2) studying the operation of federal government activities at all levels, specifically those entities' cost and efficiency; (3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the federal government; and (4) studying intergovernmental relationships between the federal government and the States and municipalities and between the United States and international organizations of which the United States was a member.<sup>107</sup>

As Associate General Counsel of the Committee, Pincus was involved in many of the Committee's activities. In his memorandum to the House Administration Committee in support of an appropriation for operating funds at the start of the 2nd Session of the 84<sup>th</sup> Congress, Representative Dawson summarized the work of the Committee and its subcommittees as follows: one hundred thirty bills and resolutions referred to the Committee; sixteen bills enacted into law; twenty-six printed reports; twenty-one printed hearings; twenty-nine Executive Communications; fourteen reports from the Commission on Organization; sixteen reports from Intergovernmental; and twenty-nine House Documents.<sup>108</sup>

With the benefit of hindsight, we can see that one of the most significant activities that Pincus was involved with during his tenure on the Committee were the hearings and reports conducted by the

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<sup>105</sup> *Committee on Government Reform: Background/History*, HOUSE.GOV (May 20, 2006), available at <https://web.archive.org/web/20060520153535/reform.house.gov/UploadedFiles/grchistory.pdf>.

<sup>106</sup> *Id.*

<sup>107</sup> RULES OF THE HOUSE OF REPRESENTATIVES, Rule XI, Power and Duties of Committees 338, 84<sup>th</sup> & 85<sup>th</sup> Congresses.

<sup>108</sup> Hon. William L. Dawson, chairman, House Committee on Government Operations, Justification of Appropriation for Committee on Government Operation, 2d Session, 84<sup>th</sup> Congress, Presented before House Administration Committee 6, General Records, H.R.85A F7.3, Box 815, Records of the Government Operations Committee and its Predecessors, Record Group 233.13, National Archives Building, Washington, D.C.



Special Subcommittee on Government Information that was created by Representative Dawson in June 1955. The work of this subcommittee, chaired by Representative John E. Moss (D-CA, 13<sup>th</sup> District 1953-1978), laid the groundwork for what became the Freedom of Information Act in 1966. The subcommittee was charged by Representative Dawson with “study[ing] the operation of the agencies and officials in the executive branch of the Government at all levels with a view to determining the efficiency and economy of such operation in the field of information both intra-governmental and extra-governmental.”<sup>109</sup> The subcommittee was to investigate charges that “[g]overnment agencies have denied or withheld pertinent and timely information from those who are entitled to receive it . . . [including] such information to the newspapers, to radio, and qualified research experts and to Congress.”<sup>110</sup>

Representative Moss held hearings beginning in November 1955 and his subcommittee periodically published reports of its activities. The first product of the hearings was a bill passed in 1958 to amend the Administrative Procedure Act of 1946 to read that: “[t]his section does not authorize withholding information from the public or limiting the availability of records to the public.”<sup>111</sup>

It was not until 1966 that the Freedom of Information Act<sup>112</sup> as we know it today was enacted into law, but it was the work of Representative Moss and the staff of the Government Operations Committee, beginning in 1955, that laid the foundation for this monumental legislation.

## FORD FOUNDATION

The Pincus family was sitting down to Thanksgiving dinner in 1956 when Bill was called to the phone. On the other end of the line was George Graham, the political science professor from Princeton

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<sup>109</sup> Letter from William L. Dawson to Hon. John E. Moss (Jun 9, 1955), in *Availability of Information from Federal Departments and Agencies – Part I – Panel Discussion with Editors, et al.: Hearings Before a H. Subcomm. on Government Operations*, 84th Cong. 2 (Sept 7, 1955).

<sup>110</sup> *Id.*

<sup>111</sup> Act of August 12, 1958, Pub. L. No. 85-619, 72 Stat. 547, known generally as the Hennings-Moss Act.

<sup>112</sup> 5 U.S.C. § 552 et seq.

University with whom Pincus had served with on the Task Force on Personnel and Civil Service in the Second Hoover Commission.<sup>113</sup>

At the time of the call, Graham was working at the Ford Foundation in New York, serving as the director of the public affairs program. Graham told Pincus that he had taken a leave from Princeton to work on some projects at the Ford Foundation that he thought Pincus would be interested in. However, he confided to Pincus that he was uncertain about where to start and knew that he required help with the task; so he asked Bill, “Are you interested in coming to work at the Ford Foundation?”<sup>114</sup>

After discussing the matter with his family, Bill decided to accept Graham’s offer and he called Graham back. After an interview with Dyke Brown, a young lawyer from San Francisco who was a vice president of the Foundation and George Graham’s superior, Pincus began a long and productive association with the Ford Foundation. He was a program officer until 1968, when he resigned to become the president of the newly-formed Ford Foundation funded Council on Legal Responsibility for Professional Responsibility (CLEPR).<sup>115</sup>

Pincus came to the Ford Foundation near the beginning of the presidency of Henry T. Heald, who had resigned as president of New York University to join Ford. Heald succeeded H. Rowan Gaither, Jr., who served as president between 1953 and 1956. Gaither was a respected California attorney who led the study committee that prepared the report, completed in November 1949, which was to be the blueprint for the transformation of the Ford Foundation from an essentially local foundation, based in Detroit, to the premier national and international organization it has become.<sup>116</sup>

Throughout his tenure at the Ford Foundation, Pincus was responsible for reviewing and making recommendations on grant applications in the area of public administration. Most of the grant applications were from academics seeking funding for research activities. In the eyes of Pincus and some of his colleagues at the Ford Foundation, many of the research requests served no apparent practical

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<sup>113</sup> Telephone Interview with William Pincus (July 23, 2010) [hereinafter July 23 Interview].

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Ford Foundation Presidents*, THE FORD FOUNDATION, [www.fordfound.org/pdfs/about/Ford\\_Foundation\\_Presidents.pdf](http://www.fordfound.org/pdfs/about/Ford_Foundation_Presidents.pdf) (last visited Sep. 27, 2014).

function. Pincus sought opportunities to fund grant applications that would result in real-world change in the area of public administration. One such program that the Foundation funded was a grant to Howard University to create graduate study fellowships for minority students, especially African Americans, to encourage and enable these students to enter the United States Foreign Service. In announcing the grant, the Foundation noted that in 1963, although African Americans constituted about one-ninth of the total population of the United States, they filled only nineteen out of 3700 Foreign Service posts.<sup>117</sup>

By March 1967, over one hundred students had gone through the fellowship program and by June 1968 over sixty participants were qualified for appointment to the Department of State, United States Agency for International Development (USAID) or United States Information Agency (USIA).<sup>118</sup> However, the program failed to accomplish the goal set for it, to increase the number of minority, especially African American, Foreign Service Officers and the grant was not renewed by the Ford Foundation.<sup>119</sup>

Pincus also was the program officer responsible for awarding a Ford Foundation grant to the newly-created Council on Legal Education Opportunity (CLEO), established in 1968 as a project of the American Bar Association Fund for Justice and Education to expand opportunities for minority and low-income students to attend law school.<sup>120</sup> Today, CLEO administers the Thurgood Marshall Legal Education Opportunity Program, funded by the U.S. Department of Education, which was created by Congress in 1998 as part of the Higher Education Amendments Act. Over 7000 currently practicing attorneys are alumni of CLEO programs.<sup>121</sup>

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<sup>117</sup> THE FORD FOUNDATION ANNUAL REPORT, 26 (1962 – 1963).

<sup>118</sup> *Id.*

<sup>119</sup> Michael L. Krenn, BLACK DIPLOMACY, 147-48, (1999). A similar program has existed since 2002, when Congressman Charles B. Rangel (D-NY) established the Rangel Graduate Fellowship program at Howard University in Washington, DC. The fellowship is administered through the Charles B. Rangel International Affairs Program of the Ralph J. Bunche International Affairs Center at Howard University. The Charles B. Rangel International Affairs Program, <http://www.rangelprogram.org/>, (last visited Oct. 30, 2014).

<sup>120</sup> See Council on Legal Education Opportunity CLEOSCHOLARS.COM <http://www.cleoscholars.com/> (last visited Oct. 30, 2014).

<sup>121</sup> *Id.*

One day, Dyke Brown, the vice president responsible for the Foundation's Public Affairs Program, called Pincus up and said, "Come on up here and talk." When Pincus was sitting with him, Brown said, "You went to law school." Apparently Brown had been reviewing Bill's resume for some reason. When Bill said, yes, he had attended law school, Brown continued, "We have zillions of applications from the law area, broadly speaking, and we've had nobody on the staff with a law degree or anything like it to look at them, so I'm going to send them to you."<sup>122</sup> Thus, Bill Pincus was assigned to programs for the improvement of justice because there was a backlog of unread proposals in "the law area" at the Ford Foundation and he had a law degree.

Pincus recalls he said, "Sure," but had no idea what he was getting into. Pincus had a small office, but the next thing he knew, carts filled with boxes were brought down to his office. The boxes were filled with files. He had no filing cabinets to hold all of the files and no furniture to put them on top of, so the boxes were stacked against the walls of the room "maybe four or five feet high, as high as you could so they didn't topple over." His instruction from Dyke Brown was essentially, "Whenever you can start, go over these things, and tell us what we should do; what's your recommendation."<sup>123</sup>

Bill started looking through the mountain of files. As he read the applications, he had a sense that something was missing. At first, he could not put his finger on what it was. But after reading hundreds of applications he had a flash of insight. The applications simply assumed that if the Foundation gave money to the applicant that was the end of it. There was no indication of how society would benefit if the applicant got the money and carried out what was usually a research project. After some consideration, he talked to Dyke Brown and the others about this, relating that he did not really find a thread that he could pick up, nothing that would get him enthusiastic about making grants to these applicants. He did not buy the idea that merely supporting a certain group of people, as important as the Foundation thought they were, was justification for making a lot of grants. But something was there. He couldn't put his hands on it. And then it came to him. He thought, "Well, maybe what's missing here is finding some

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<sup>122</sup> June 7 Interview, *supra* note 1.

<sup>123</sup> *Id.*

projects that will improve the administration of justice,” something that will serve the greater public interest of the American people.<sup>124</sup>

He looked at all the applications from professors at law schools who wanted to complete research projects of various kinds. As he read them, he was transported back to his life as a child of the Depression and then as a public servant. Here is the story in Bill’s words:

When I grew up—I’m a child of the Roosevelt era, a child of the Depression— when, if you were interested at all in what was going on in the world, you were always aware that there was a government that was busy trying to do things that would improve your life, that there would be benefits to the people from these government programs. And we thought that was great, and so at that time, many of us grew up saying, ‘Well this is a good thing. We ought to be improving the society for everybody as much as we can.’ And we looked for that, and it stayed with us. And when I worked in the government, we carried this over into our work, whether it was in Bureau of the Budget or the Interior Department, where I was dealing with leases on public lands for minerals of various kinds, oil and gas and other minerals. And there was a lot of money and power involved. The oil companies and other large entrepreneurs were involved in extracting minerals from public lands on leases, and in the process of issuing these leases and negotiating about them, you’d use the approach, well, yes, you needed the private enterprise to extract the wealth from the land, but as part of that, you wanted to know what the *quid pro quo* was to the people of the United States who owned the land through the government, which was acting as their agent. So, there was always a public interest aspect there. And that was the purpose of having a government, and that was the outlook that I grew up with, and that I brought into the government when I worked for it.<sup>125</sup>

And that was the attitude he brought to his review of applications for funding from those interested in the administration of justice in this country.

Having found a touchstone for his review of applications, Bill began to recommend funding for research focused on the administration of criminal justice, including one in 1958 to the University of Wisconsin, for the sum of \$209,750, for legal research in public policy, legal research and writing on the administration of

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<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

criminal law, and for a seminar on legal research in philanthropic giving.<sup>126</sup>

Pincus then began to go beyond merely funding “justice” research. Bill found that the National Legal Aid Association (NLAA) had come to the Ford Foundation a number of times looking for money.<sup>127</sup> The Foundation had given them only a couple of relatively small grants. But as he read and investigated more into the issue of access to justice services, he learned that legal aid for the indigent was pathetically underfinanced. Most legal assistance to the poor, where it existed at all, was done on a volunteer basis, and most places had no legal programs to aid the poor.

Although the need was enormous, Bill knew that he would not be able to funnel significant amounts of Foundation money directly to the NLAA for general operating support. Then, as now, most foundations were loath to provide operating funds to organizations. Foundations prefer instead to fund special projects or programs in the institutions they support, believing that the organizations should otherwise be self-supporting.

In 1958, Pincus and Emory Brownell, the Executive Director of NLAA, hatched the idea of a grant from Ford to NLAA to encourage law schools to get law students to participate in legal aid clinics. Brownell saw it as an opportunity to get some bright young people into legal aid offices where they could help the attorneys with some of the cases and be introduced to the work of the legal aid offices. Pincus had something more in mind. He saw the grant as a small beginning to enrich law school education by expanding the pedagogy outside the confines of the classroom.<sup>128</sup> He wanted to encourage law schools to expose law students to clients while in law school, just as medical schools exposed medical students to patients as part of medical school

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<sup>126</sup> THE FORD FOUNDATION ANNUAL REPORT 118 (1958).

<sup>127</sup> The National Legal Aid Association (NLAA) was created in 1913 as the National Association of Legal Aid Societies. Since 1958, it has been known as the National Legal Aid and Defender Association (NLADA) and is America’s oldest and largest nonprofit association devoted to the delivery of legal services to those who cannot afford counsel. National Legal Aid & Defender Association, [http://www.nlada.org/About/About\\_Home](http://www.nlada.org/About/About_Home) (last visited Oct. 30, 2014).

<sup>128</sup> June 7 Interview, *supra* note 1.

education. Later, for Pincus, it “became a crusade to really change legal education.”<sup>129</sup>

The discussions between Pincus and Brownell led to a grant proposal to the Ford Foundation by the NLAA and the creation of the National Council on Legal Clinics (NCLC).<sup>130</sup> The Ford Foundation authorized a seven-year project and awarded NLAA \$800,000 to be administered by NCLC, a group that included representatives from NLAA, the American Bar Association (ABA), and the Association of American Law Schools (AALS).

The founding board of directors of NCLC was drawn from the leadership of the ABA and legal education. Its chairman was Orison Marden, President of the Bar of the City of New York. Joining him was a “blue-ribbon panel” of lawyers and legal educators, including William Avery, Chairman of Sidley Austin, LLP in Chicago; Charles Miller, founder of the Clinic at the University of Tennessee College of Law; Maynard Toll, Chairman of the management committee of O’Melveny & Myers in Los Angeles; Theodore Voorhees, Washington D.C. lawyer and professor at Catholic University Law School; William Gossett, General Counsel of General Motors Corporation and former ABA President; Whitney North Seymour, managing partner of Simpson, Thacher & Bartlett in New York and former ABA President; Edward Levi, Dean of the University of Chicago Law School and later University Provost and President; Russell Niles, Dean of New York University (NYU) Law School and later Chancellor of NYU; and Marlin Volz, Dean of the University of Missouri – Kansas City School of Law.<sup>131</sup>

NCLC emphasized the development of professional responsibility through participation in clinics and internships. NCLC sought to broaden the definition of professional responsibility beyond mere questions of legal ethics as reflected in the Canons of Professional Ethics.<sup>132</sup> Professional responsibility was more broadly defined by

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<sup>129</sup> *Id.*

<sup>130</sup> See Howard R. Sacks, *Education for Professional Responsibility: The National Council on Legal Clinics*, 46 A.B.A. J. 1110, 1114 (1960).

<sup>131</sup> Orison S. Marden, *CLEPR: Origins and Program*, in COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, CLINICAL EDUCATION FOR THE LAW STUDENT: LEGAL EDUCATION IN A SERVICE SETTING, 3, 5 (1973).

<sup>132</sup> The ABA Canons of Professional Ethics were adopted in 1908 by the ABA as a general guide to lawyers. The Canons were last amended in 1963 and were replaced, in 1969, by the Model Code of Professional Responsibility and this

NCLC to include the lawyer's duty to engage in collective action and cooperation with other professions and community institutions when the interests of clients or the community require such action,<sup>133</sup> to aid in law reform, to secure adequate representation of the indigent in both civil and criminal cases, to participate in the work of the organized Bar, and to act as a guardian of the principle of due process; it also contemplated the community service and public participation responsibilities of the lawyer.<sup>134</sup>

During the six years of its existence, from 1959 to 1965, the NCLC used the money from Ford to make grants totaling about \$500,000 to nineteen law schools to create or expand clinical programs<sup>135</sup> and grants totaling \$150,000 for the preparation of teaching materials for traditional law school courses.<sup>136</sup>

Beginning in 1960, the Ford Foundation made a series of grants for educational experimentation under the Great Cities School Improvement Program. The experiments took place in geographical locations identified as "gray areas."<sup>137</sup> The Foundation defined these areas as those "that lie between the commercial centers and the newer suburbs of many American cities," and "are characterized by heavy concentrations of older dwellings; low levels of income, education, and vocational competence; shifting populations; and large influxes of migrants from rural areas or other urban centers."<sup>138</sup>

The grants were made by three different Foundation programs—Education, Urban and Regional, and Youth Development—and went

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was replaced in 1983 by the Model Rules of Professional Conduct, *see* [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct.html) (last visited May 28, 2013).

<sup>133</sup> Sacks, *supra* note 130, at 1110.

<sup>134</sup> *Id.*

<sup>135</sup> Marden, *supra* note 131, at 5. "The original grants supported a variety of clinical experiences for law students: as law clerks in legal aid clinics; as interns in juvenile and family courts; in observation or participation in the work of mental hospitals, social agencies, police departments and correctional institutions . . . internships with a trial judge for all members of the senior class of one law school; internships with rural lawyers in North and South Dakota . . ." *Id.* at 6. *See also* NATIONAL COUNCIL ON LEGAL CLINICS, EDUCATION FOR PROFESSIONAL RESPONSIBILITY IN THE LAW SCHOOL: PRELIMINARY REPORTS ON SEVEN EXPERIMENTAL PROJECTS (1962).

<sup>136</sup> Marden, *supra* note 131, at 6.

<sup>137</sup> FORD FOUNDATION ANNUAL REPORT, 27 (1960).

<sup>138</sup> *Id.*



to seven participating school systems—Chicago, Cleveland, Detroit, Milwaukee, Philadelphia, Pittsburgh, and St. Louis.<sup>139</sup> The aim was to assist with “coordinating the resources of the schools with other community-service organizations to strengthen the family and educational environment of ‘gray area’ communities,” to address high failure and dropout rates, poor attendance records, and low levels of aspiration and achievement found in the gray area schools.<sup>140</sup>

In the 1961 grant cycle, the Foundation expanded this program aimed at improving the education, economic, and social horizons of young people and their families in the blighted areas of the nation’s largest cities, by increasing funding to the original seven cities and by adding programs in Buffalo, San Francisco, and Washington, D.C. The program was then known as the Great-Cities—Gray Areas Program, and was a joint enterprise of the Foundation’s Education and Public Affairs programs.<sup>141</sup> Pincus was working within the Public Affairs Program at the time and was involved in these grants.

In 1962, the Foundation’s effort in the “gray areas” of American cities entered a second phase.<sup>142</sup> In that year, “the Foundation appropriated \$13.5 million for comprehensive attacks on the human problems of the gray areas, involving not only the school as a focus of neighborhood improvement, but also the spectrum of governmental agencies and private organizations.”<sup>143</sup> This new round of grants included \$2.5 million to Community Progress, Inc. of New Haven, Connecticut.<sup>144</sup> The grant proposal had included a “one-paragraph” description of the first effort to include legal services for the poor as part of the services to be offered by the neighborhood centers.<sup>145</sup> It provided that “two neighborhood centers would have teams of social workers and lawyers to ‘diagnose, refer, and coordinate’ the legal problems of the poor.”<sup>146</sup> Pincus recalled that until the grant to CPI, the “gray areas” grants did not include civil legal services as a

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<sup>139</sup> *Id.* at 28.

<sup>140</sup> *Id.*

<sup>141</sup> FORD FOUNDATION ANNUAL REPORT, 55 (1961).

<sup>142</sup> FORD FOUNDATION ANNUAL REPORT, 33 (1962).

<sup>143</sup> *Id.*

<sup>144</sup> *Id.* at 34.

<sup>145</sup> *Id.*

<sup>146</sup> EARL JOHNSON, JR., JUSTICE AND REFORM: THE FORMATIVE YEARS OF THE AMERICAN LEGAL SERVICES PROGRAM, 22 (1974).

component. Pincus had contacted Mitchell Sviridoff, then the head of CPI and later a vice president at the Ford Foundation in its division of national affairs, to inquire whether Sviridoff was interested in involving his program with legal assistance. A portion of the grant to CPI was for defender services, but Sviridoff had some discretion and he was convinced to appropriate about \$25,000 for a civil legal services program.<sup>147</sup>

In January 1963, attorneys Jean Cahn and Frank Dineen staffed offices in two of the newly-opened neighborhood centers. The CPI legal services offices closed barely seven weeks after they opened, due to political pressures brought to bear on CPI.<sup>148</sup> Jean Cahn would later serve on the national advisory committee of the Office of Economic Opportunity's (OEO) National Legal Services Program, the predecessor of the Legal Services Corporation, create the Urban Law Institute at George Washington University, and, in 1972, establish Antioch Law School with her husband, Edgar Cahn.<sup>149</sup> Antioch Law School is now the David A. Clarke School of Law of the University of the District of Columbia.<sup>150</sup> Antioch was committed to training public interest lawyers and pioneered a model of legal education that featured comprehensive clinical work for all students.<sup>151</sup> After CPI Legal Services closed, Frank Dineen became the Executive Director of the Municipal Legal Aid Bureau at Yale Law School, which merged in 1966 with the Legal Assistance Association of New Haven, created in 1964, with Ford Foundation backing, after the closing of CPI. Dineen was named the deputy director of the combined organizations, a position he held for ten years.<sup>152</sup> Since 1990, Dineen has been a

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<sup>147</sup> Earl Johnson, Telephone interview with William Pincus (undated, ca. Sept. 1968), pp. 4 – 5, Justice Earl Johnson, Jr., Archives, box: Johnson Interviews, folder: 21; William Pincus, National Equal Justice Library Archives, Georgetown University Law Center Library.

<sup>148</sup> The dispute is summarized in JOHNSON, *supra* note 146, at 22-23.

<sup>149</sup> Glenn Fowler, *Jean Camper Cahn Is Dead at 55; Early Backer of Legal Aid to Poor*, THE NEW YORK TIMES (Jan. 6, 1991) <http://www.nytimes.com/1991/01/06/obituaries/jean-camper-cahn-is-dead-at-55-early-backer-of-legal-aid-to-poor.html>.

<sup>150</sup> *School of Law History*, U. OF THE DISTRICT OF COLUMBIA, DAVID A. CLARKE SCHOOL OF LAW, <http://www.law.udc.edu/?page=History>, (last visited Apr. 15, 2013).

<sup>151</sup> *Id.*

<sup>152</sup> Laura G. Holland, *Invading the Ivory Tower: The History of Clinical Education at Yale Law School*, 49 J. LEGAL ED. 504, 513-14 (1999).

Clinical Visiting Lecturer in Law at Yale Law School teaching in the Legal Assistance Clinic. Frank Dineen is identified on the Yale Law School website as “the longest serving legal services lawyer in the country.”<sup>153</sup>

The grant to CPI for civil legal services and similar grants to Mobilization for Youth Legal Services in New York City and to the United Planning Organization in Washington, D.C. were the initial efforts at providing significant community-based legal services to the poor. These programs, along with others, developed the principles and some of the personnel that later were incorporated into the Johnson administration’s legal services initiatives in the War on Poverty through the Office of Economic Opportunity (OEO) and later the Legal Services Corporation.<sup>154</sup>

Pincus’s interest in funding both criminal and civil legal services was not limited to providing legal services to the poor. Speaking at the University of Notre Dame’s Law School in 1965, Pincus told his audience

[t]he great need today is to move away from an exclusive concern with the poor and to confront the fact that everyone, including the poor, requires legal services. . . . My thesis is that every individual has a right to legal services as an inherent ingredient of his legal rights and as an inherent part of the process which determines his correlative legal duties. . . . Legal services for the poor need to be integrated into a total system of legal services and administration of justice in both criminal and civil matters.<sup>155</sup>

He concluded that the need for legal services by those unable to pay the full value of the services should be met by legal clinics within law schools where feasible, by *pro bono* services provided by lawyers in private practice, and by public interest lawyers funded by tax revenues. Where the client was able to pay something for the service, the fee charged would be commensurate with available income and the balance of the cost would be provided by the state. He also envisioned the creation of group legal services through membership organizations,

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<sup>153</sup> Francis Dineen, YALE LAW SCHOOL, <http://www.law.yale.edu/intellectuallife/8745.htm> (last visited Apr 15, 2013).

<sup>154</sup> *History: The Founding of LSC*, LSC.GOV, <http://www.lsc.gov/about/what-is-lsc/history>, (last visited Sep. 27, 2014).

<sup>155</sup> William Pincus, *Programs to Supplement Law Offices for the Poor*, 41 NOTRE DAME L. REV. 887, 892 (1965-1966).

such as unions, to supplement the services available through the government-subsidized plans.<sup>156</sup>

## CLEPR

Pincus recognized that the scheme he suggested would involve a “radical change in American legal education as well as in other institutions.”<sup>157</sup> Three years later, in September 1968, Pincus resigned from the Ford Foundation to take the helm of the Council on Legal Education for Professional Responsibility (CLEPR). This allowed him to devote himself exclusively to legal education and to begin his quest in earnest to remake American legal education. Although his efforts did not completely transform legal education, they had an immense impact by creating the conditions for the development of the modern clinical legal education movement, which has had a significant effect on legal education both in this country and abroad. Bill Pincus’s work in the federal government and his experience in outcomes-focused philanthropy in his eleven years at the Ford Foundation prepared him well to undertake his efforts to reform legal education.

The work of CLEPR was seeded by the work of two predecessor organizations, which also were funded by the Ford Foundation, and in which Bill Pincus was a guiding force: NCLC, mentioned earlier, and the Council on Education for Professional Responsibility (COEPR). In the spring of 1965, the Ford Foundation had received a favorable evaluation of NCLC from the reviewers Ford had retained and discussions were initiated to renew the grant for another period.<sup>158</sup> Despite the positive evaluations, Pincus, the program officer at the Ford Foundation responsible for the grant application, was not entirely satisfied with the work of NCLC. He wanted the second grant to have more of an impact on legal education. He felt that the board of NCLC “believed in the value of [NCLC’s work] and that it should be kept going,” but they “were not reformers.”<sup>159</sup> Pincus, on the other hand, saw the second grant as the opportunity to really change the law schools.<sup>160</sup> Because he would lose influence after the grant was made,

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<sup>156</sup> *Id.* at 893.

<sup>157</sup> *Id.* at 894.

<sup>158</sup> June 7 Interview, *supra* note 1.

<sup>159</sup> *Id.*

<sup>160</sup> *Id.* In the May, 1967 American Bar Association Journal, Pincus wrote:

he insisted that the renewal grant be made to the Association of American Law Schools (AALS) to reflect its broader purpose: change in legal education and not just further assistance to legal aid programs.<sup>161</sup> Ultimately, the AALS agreed to be the grantee, but it insisted on changing the name of the program by removing “clinics” from the title as the leadership of the AALS was not strongly committed to this new form of legal education.<sup>162</sup> Pincus resisted this move because he saw it as a step backward from the original NCLC focus on clinical education,<sup>163</sup> but he gave way on the name change to secure the cooperation of the AALS. In 1965 the Ford Foundation made a grant of \$950,000, plus the balance of the funds remaining from the original grant to NCLC, to continue the work for a five-year term. The project was renamed the Council on Education in Professional Responsibility (COEPR).<sup>164</sup>

COEPR operated from 1965 until June 1968 and distributed approximately \$290,000 to twenty-one law schools.<sup>165</sup> Half of these grants paid students a stipend for summer internships in civil legal service programs and prosecutors’ offices, while the remaining grants funded clinical programs conducted during the regular school year.<sup>166</sup>

In 1967, Howard Sacks, who had been directing NCLC and COEPR since 1961, was making the transition to become Dean of Connecticut Law School. He informed the COEPR board that he would not be able to be a full-time dean and also direct COEPR.<sup>167</sup>

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Service to the public should be the primary concern of the law schools and the profession: the cheapest and best service possible, . . . [and] [o]ne third of the law school curriculum should be devoted for credit to field or clinical experience under close supervision by a new kind of professor—a counterpart of the clinical professor in medicine. Only thus will legal education be sure of a lifeline through which it may keep in touch with the changing society it must serve. This clinical experience should include operation of legal services as well as other experiences relevant to the lawyer.

William Pincus, *Reforming Legal Education*, 53 A.B.A. J. 436, 437 (1967).

<sup>161</sup> *Id.*

<sup>162</sup> July 23 Interview, *supra* note 113.

<sup>163</sup> Pincus, *supra* note 160.

<sup>164</sup> Marden, *supra* note 131, at 6-7.

<sup>165</sup> July 23 Interview, *supra* note 113.

<sup>166</sup> *Id.*; July 23 Interview, *supra* note 113.

<sup>167</sup> June 7 Interview, *supra* note 1.

Edward Levi, a member of the COEPR board and former dean of the University of Chicago Law School, from 1950 to 1962, approached McGeorge Bundy, then the president of the Ford Foundation, with a proposal.<sup>168</sup> According to Bill Pincus's recollection, Levi told Bundy that the project was now in its second stage. COEPR had the money to move forward, but it did not have a person to run the organization. Levi asked Bundy to give COEPR both "Bill Pincus and the money to really create a whole new structure and do this thing properly."<sup>169</sup> Bundy agreed.

Bill Pincus first learned that he had been "optioned" to COEPR when he received a phone call from Edward Levi asking him, "How about you leaving the Ford Foundation and becoming head of COEPR?"<sup>170</sup> Pincus was nonplussed. He told Levi, "Ed, everything else aside, I can't even discuss this with you, because I'm on staff of the Ford Foundation. I cannot be lobbying for a job based on a grant that I just recommended. It's not ethical."<sup>171</sup> Levi responded, "Oh relax. I already spoke about this to the higher-ups and specifically with McGeorge Bundy. Everybody knows about it except you. There's no conflict of interest. It's perfectly alright if you want to do it. It's your decision; that's what they told me. So I am now asking you."<sup>172</sup>

Bill immediately went to Bundy who confirmed everything. Bill told Bundy that he would accept the position if he could be assured of three things: an independent institution with its own board of directors responsible for how the grant money was spent, enough money, and enough time to try to make a difference in legal education. Bundy agreed and, in June 1968, the Ford Foundation announced a grant to the newly created Council on Legal Education for Professional Responsibility (CLEPR). The initial grant of \$6 million was for a five-year period with a promise of support for a second five-year period at its expiration.<sup>173</sup>

Six members of the COEPR board continued to serve on the newly established CLEPR board and new members were added. Pincus rented a small office near the Ford Foundation headquarters in

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<sup>168</sup> *Id.*

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> Marden, *supra* note 131, at 8.

Manhattan and set about to create a grant-making institution that would set in motion the modern clinical legal education movement.

The administrative structure and costs of CLEPR, for the most part, were modest. In the beginning, CLEPR operated with Pincus as President, Betty Fisher as corporate secretary, and Peter deL. Swords as treasurer. As needed, CLEPR would hire consultants to assist Pincus and Swords in reviewing grant applications and overseeing the grants.<sup>174</sup>

Although the criteria for the grants to law schools evolved over time, from the beginning Pincus and the board agreed on several core characteristics: the grants would be small amounts, limited in duration, and matched by the recipient schools. Most grants were in the range of \$50,000 a year; limited to two years; and matched by the grantee schools that would be obligated to pay a small portion of the costs of the program in the first year of the grant and up to half of the costs in the second year of the grant, with the understanding that the school would absorb all of the costs of the program after the second year.<sup>175</sup>

The first nine CLEPR grants, totaling \$757,000, were awarded in January 1969, about six months after the creation of CLEPR. The first grant was to Duke University and the historically black college, North Carolina College at Durham, for a jointly-sponsored project to fund summer internships with private practitioners and prosecutors for ten Duke law students and five North Carolina College law students.<sup>176</sup>

Harvard Law School, also one of the first nine grantees, received \$175,000 over three years for five graduate fellowships per year to train clinical professors.<sup>177</sup> The Harvard Clinical Fellows program was founded by John Ferren, now a senior judge on the D.C. Court of Appeals.<sup>178</sup> In 1970, Gary Bellow took over the program at Harvard

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<sup>174</sup> June 7 Interview, *supra* note 1.

<sup>175</sup> *Id.*

<sup>176</sup> *CLEPR Announces Its First Nine Grants*, CLEPR (Council on Legal Education for Professional Responsibility, New York, NY.), Jan. 1969, at 1, 2. The other recipients of the first grants included the Center for Law and Social Policy in Washington, D.C., the Consortium of Universities of the Washington Metropolitan Areas (for the D.C. Law Students in Court Program, Inc.), Harvard University, Northwestern University, Rutgers-Camden University, the University of South Carolina, the University of Utah, and the University of Wisconsin. *Id.*

<sup>177</sup> *Id.* at 4.

<sup>178</sup> Interview with John Ferren in Washington, D.C., (Oct 30, 2008).

when Ferren returned to private practice with Hogan & Hartson in Washington, D.C., to start a community service department at the firm.<sup>179</sup>

The grants to North Carolina College and Harvard Law School shed light on Pincus's strategy for embedding clinical legal education into American legal education. Pincus was very egalitarian; he wanted to ensure that there were clinical programs in every law school in the country, so he funded proposals from some schools even though their proposals were not as strong as he would have liked. At the same time, he recognized that schools like Harvard and Yale commanded respect in legal education, so he sought to fund programs at these institutions, believing that if Harvard and Yale had clinics, other less well known schools would be more willing to consider creating clinics as well.<sup>180</sup> Notably, University of Chicago Law School, where Levi, the man who hand-picked Bill Pincus to lead CLEPR, had been Dean, and later University Provost and President, never received a CLEPR grant, because the school refused to award course credit for clinical work, and Pincus would not budge on that criterion.<sup>181</sup>

The strategy worked. By the time that CLEPR closed its doors in 1980, nearly every law school in the country had at least one clinical course and many had substantially more.<sup>182</sup> Not all of the programs, or even a substantial majority in 1980, met the criteria for a good clinical program that Pincus had tried to establish.<sup>183</sup> He defined clinical as "lawyer-client experience, under law school supervision, for credit."<sup>184</sup> Although most schools did award course credit for participation in clinical courses, many were "farm out" programs with little or no direct supervision by law faculty.

A significant legacy of CLEPR is the phenomenal growth in the number of clinical programs, in the diversity of clinical offerings, and in the maturation of the clinical pedagogy. Another legacy of CLEPR and its predecessor organizations is the growth and maturation of clinical legal education globally. CLEPR influenced the development

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<sup>179</sup> *Id.*

<sup>180</sup> Interview by Ellen Yaroshefsky with Lester Brickman in New York, NY, (July 9, 2008).

<sup>181</sup> June 7 Interview, *supra* note 1.

<sup>182</sup> July 23 Interview, *supra* note 113.

<sup>183</sup> *Id.*

<sup>184</sup> June 7 Interview, *supra* note 1.



and growth of clinical legal education by providing seed money to programs in Canada, Ceylon, and Uganda during the life of the organization and today hundreds of American clinical teachers are consulting with and training clinical colleagues in scores of countries throughout the world.<sup>185</sup> Some of these U.S. clinicians were initially hired by law schools with CLEPR funding and others are the direct descendants of the clinical teachers brought into the law schools by the grant-making prowess of CLEPR. In addition, the Ford Foundation, whose grant created and enabled the work of CLEPR, has been one of the most significant providers of support to emerging clinics in other parts of the world, although it no longer funds domestic clinical legal education, having moved on to other funding priorities.

Despite its success, the ultimate goal that Bill Pincus set out for CLEPR, the radical reorganization of the legal education curriculum, has not come to pass. In fact, despite Pincus's hope that "law schools, in order to graduate a student, require a clinical experience," as yet, only a handful of law schools do.<sup>186</sup> As Pincus noted in his oral history interview, "[CLEPR] made an enormous contribution [to reforming legal education]; we made a big start, but we didn't finish the revolution."<sup>187</sup>

## CONCLUSION

Today, there is a growing sense of urgency among many observers of American law schools that the "revolution" begun by Bill Pincus and like-minded reformers should be pushed to completion. The elite law schools like Harvard and Stanford now tout their programs of

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<sup>185</sup> A list of all grantees funded by CLEPR grants is contained in a summary of The Papers of the Council on Legal Education for Professional Responsibility, Inc., arranged and described by Anneliese Ostendarp of the Ford Foundation Archives (Jul. 1986) (on file with author). For a partial listing of American clinical teachers who have taught or consulted with clinical programs abroad see *Compilation of Clinical Law Teachers with International Teaching or Consulting Experience*, [http://www.law.edu/res/docs/ogilvy/INTERNATIONAL\\_TEACHING\\_Survey\\_2010.pdf](http://www.law.edu/res/docs/ogilvy/INTERNATIONAL_TEACHING_Survey_2010.pdf).

For a description of some of the work sponsored by the Ford Foundation internationally, see *MANY ROADS TO JUSTICE: THE LAW RELATED WORK OF FORD FOUNDATION GRANTEEES AROUND THE WORLD* (Mary McClymont & Stephen Golub eds., 2000).

<sup>186</sup> June 7 Interview, *supra* note 1.

<sup>187</sup> *Id.*

clinical legal education as signature components to their programs of legal education.<sup>188</sup> Some schools, like Washington and Lee University School of Law, are adopting radical reforms of the third year of legal studies.<sup>189</sup> A few schools, such as UMass School of Law, have embraced the experiential model initiated by CUNY and New Mexico law schools, by requiring experiential learning as part of the curriculum as well as providing post-graduate, skills-based employment opportunities in their legal incubator program.<sup>190</sup>

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<sup>188</sup> *Harvard Law School Office of Clinical and Pro Bono Programs*, <http://www.law.harvard.edu/academics/clinical/> (last visited Apr 22, 2013) (stating that “[w]ith 27 clinics, Harvard Law School has more clinical opportunities than any law school in the world.”); *Stanford Law School Advances New Model for Legal Education*, SLS NEWS BLOG (Feb. 13, 2012), <http://blogs.law.stanford.edu/newsfeed/2012/02/13/stanford-law-school-advances-new-model-for-legal-education/> (stating that “[t]he law school greatly expanded its clinical education program: it reorganized the clinics so they operate as a single law firm: The Mills Legal Clinic. It increased the number of clinics to ten, broadening the range of practice areas of clinics (including practice in international law); and introduced a clinical rotation—based on the medical school model—with no competing exams or courses.” In 2010, 65 percent of the second and third year students took a clinic.).

<sup>189</sup> Washington and Lee University School of Law’s “rigorous third year expands upon the lessons and law of the first- and second-year curriculum, moving students out of the classroom and into the real world of legal practice. The third year consists of four components that blend the practical and the intellectual into a diverse range of simulated and real practice-oriented experiences: A two week long skills immersion at the beginning of each semester, one focusing on litigation and conflict resolution, the other on transactional practice; Four elective courses, one real-client experience (either a clinic, an externship or a Transnational Human Rights program) and three additional electives taught in a problems-based, practicum style; At least forty hours of law-related service; [and P]articipation in a semester-long professionalism program.” *Washington and Lee’s New Third Year Reform*, WASHINGTON AND LEE U. SCHOOL OF LAW, <http://law.wlu.edu/thirdyear/> (last visited Apr 22, 2013).

<sup>190</sup> UMass School of Law requires all students to take at least nine credits of “practice” courses in addition to the required six credits of experiential based legal skills courses. Legal skills III is a practice-based research and writing requirement that embraces live client needs. Three experiential credits must be satisfied through a clinical or field placement course. In 2014, UMass joined other schools in opening a legal incubator program aimed at bridging the gap between recent, practice-ready law school graduates and individuals of modest means in need of legal representation, in furtherance of both the school’s experiential focus and its social justice mission.

Other schools are making more modest curricular changes with the goal of producing practice-ready lawyers, reflecting the growing consensus that American law schools need to do a better job of preparing students to practice law.<sup>191</sup> Although much work remains to be done, there is a sense that the revolution of legal education that Bill Pincus envisioned may finally be possible.

When the revolution has been won, Bill Pincus will be remembered as one of the most significant contributors to the victory. When the transformation is fully realized, those benefitting from it will look back on the career of Bill Pincus and remember him as someone whose insight, determination, and frankness were the impetus for the reform of legal education through the clinical education movement. Mr. Pincus stands, not just as a pillar of that movement, but as a personification of its goal: an intelligent, ethical, well-educated lawyer who works to solve society's problems through the application of law. We are all, student, lawyer, professor, called to tell his story to each other and to follow in his footsteps in the service of others. That is how he would want to be thanked.

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<sup>191</sup> See, e.g., John Lande, *Reforming Legal Education to Prepare Law Students Optimally for Real-World Practice*, 2013 J. DISP. RESOL. 1; Margaret Martin Barry, *Practice Ready: Are We There Yet?*, 32 B.C.J.L. & SOC. JUST. 247 (2012); *University of Detroit Mercy School of Law, Practice-Ready Curriculum* <http://www.law.udmercy.edu/index.php/academics1/law-firm-program> (last visited Apr 22, 2013).