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## Prefatory Remark

John M. Ferren

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## JOHN M. FERREN\*

OCCASIONALLY, WE COME ACROSS A PERSON who has an idea for helping other people, who believes he or she can do something about it, who knows the goal will take many years to accomplish, who is absolutely committed, and who has no personal ambition beyond finding the resources and the energy to make that vision a reality. This describes the kind of person I admire most. It describes Bill Pincus.

Bill's sense of mission evolved, initially, from an awareness that many in our society, especially minorities and the poor, do not have access to justice through lawyers and the courts.<sup>1</sup> Indeed, as he saw it, lawyers, if not the courts, have typically been their adversaries. This led Bill to a second perception: every lawyer has a professional responsibility to help erase such inequality before the law. Bill once wrote about lawyers "that with higher privilege comes responsibility to serve the ordinary man; that with education and training should come the insights and perspectives for such service; and that the ordinary problems of ordinary people give us the extraordinary opportunities for asserting professional responsibility."<sup>2</sup>

In evaluating whether lawyers would respond to this call, Bill Pincus arrived at a third perception: the law schools were not providing "the insights and perspectives for such service," let alone fostering the motivation for it. As he saw the situation, most of the schools were underemphasizing, if not ignoring, the common legal problems of individuals, such as domestic relations, consumer loans, and welfare rights, in favor of instruction about commercial, corporate and estate transactions. Bill was convinced that just resolution of these common legal problems often requires as much intellectual rigor and creativity as the implementation of mergers and regulations in the worlds of business and government.<sup>3</sup> He believed, moreover, that the troubles of persons, in contrast with entities, typically presents an additional dimension—a human relations dimension—requiring special training that the law schools were not equipped to give. Thus came Bill's mission for clinical-legal education. To him, equal justice would not be achievable without more broadly trained lawyers, sensitive to individuals, and committed—truly committed—to helping persons in need.

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<sup>1</sup> See Pincus, *Programs to Supplement Law Offices for the Poor*, 41 NOTRE DAME LAW. 887 (1966).

<sup>2</sup> Pincus, *The Lawyer's Professional Responsibility*, 22 J. LEGAL EDUC. 1, 1 (1969).

<sup>3</sup> The many successes of federal Legal Services Program attorneys on behalf of the poor against both private and governmental adversaries, sometimes using novel legal theories, have demonstrated that Bill's conviction was well founded.

Bill formally launched his effort in 1958 as a Ford Foundation program officer. He arranged that year to fund the National Council on Legal Clinics (NCLC), an organization created by like-minded leaders of the profession, the law schools, and the legal aid movement to test the educational potential for law student involvement with actual clients. NCLC, which was administered through the National Legal Aid and Defender Association, provided opportunities for law students to have a variety of internships, commonly during the summer, with legal aid societies, prisoner assistance programs, and other institutions that would expose them to representation or treatment of indigent persons. Seven years later, with Bill's help and renewed funding, this program shifted its home to the Association of American Law Schools and received a new name, the Council on Education in Professional Responsibility (COEPR).

In 1968, the Board of Trustees of the Ford Foundation, obviously impressed by the efforts of NCLC and COEPR spanning a decade—and committed since 1964 to experiments with neighborhood law offices for the poor<sup>4</sup>—created the more ambitious program so many of us have come to know: The Council on Legal Education for Professional Responsibility, Inc. (CLEPR). Bill Pincus left Ford to become CLEPR's President; over the next ten years, he took the lead in establishing a clinical program—I trust irreversibly—in virtually every accredited law school in the country. More specifically, by 1978 CLEPR had made 209 grants totalling more than 6½ million dollars to 107 law schools.

It is for others to write about the pluses and minuses of clinical pedagogy. My purpose is to highlight one aspect of it—indeed, a controversial aspect—about which Bill Pincus has refused to compromise. To Bill, clinical education is a one-on-one law student-client relationship. Some law schools hoped CLEPR would define clinical education more broadly by also subsidizing fieldwork with public agencies, judicial clerkships, legal counseling of citizen groups and classes based on simulated transactions. While these are valuable educational experiences, they are not what Bill Pincus meant by clinical-legal education. The CLEPR Board backed Bill's view that there must be one indispensable ingredient of any CLEPR-funded program: the law school legal aid clinic, a place where the student helps another individual, face-to-face, with a personal problem.

Bill always has believed that this clinical setting is the best way (and perhaps the only way for students who will not receive training at diversified firms) for initial development of "such skills as interviewing, collecting facts, counselling, writing certain basic documents including

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<sup>4</sup> In 1964, Bill Pincus helped arrange for Ford Foundation funding of a neighborhood legal services program as part of Community Progress, Inc. in New Haven, Connecticut. This became a prototype for the OEO Legal Services Program established a year later. See Pincus, *supra* note 1, at 891.

pleadings, preparing for trial, and conducting trial matters, as well as following up after the conclusion of a trial.”<sup>5</sup> But I personally believe that Bill Pincus has always justified his own commitment to clinical education primarily out of regard for two other values he has stressed so many, many times: “the opportunity for a law student to learn about the management of his emotional commitments to a client and his cause” and the “develop[ment] in the future lawyer [of] a sensitivity of malfunctioning and injustice in the machinery of justice and the other arrangements of society, as they are reflected in the individual case.”<sup>6</sup>

Bill is absolutely convinced that, better than any other way of learning, the exercise of professional responsibility for an individual client helps the law student develop the self-knowledge, as well as the sensitivity to injustice, that a mature, contributing member of the profession must have. The experience, of course, may sour some students against helping persons, especially exasperating persons, with whom they cannot easily identify. Bill stresses that this potential reality about oneself should be faced and that clinical training, therefore, is valuable for its casualties, as well as for its converts. In Bill’s vision, however, clinical education will bring home to most students various injustices in the justice system, help them see ways to improve the system, and motivate them to do something personally toward that end, throughout their professional lives. Those of us connected at one time or another with clinical-legal education have varying views about whether this conviction is well-founded. But I personally can testify that Bill’s optimism has been infectious.

Bill Pincus, therefore, has had a vision. He has been steadfast. He has been substantially responsible for a major, new direction in legal education. He will continue to nourish it. There are few—very few—about whom this much can be said.

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<sup>5</sup> Pincus, *Educational Values in Clinical Experience for Law Students*, II CLEPR NEWSLETTERS No. 1 (Sept. 1969), reprinted in W. PINCUS, CLINICAL EDUCATION FOR LAW STUDENTS 77, 78 (1980).

<sup>6</sup> *Id.* at 80-82.

## APPENDIX

## SELECTED PUBLICATIONS OF WILLIAM PINCUS

## Articles

- Pincus, *The Clinical Component in University Professional Education*, 32 OHIO ST.L.J. 283 (1971).
- Pincus, *Clinical Legal Education in the United States, 1968-1975*, 49 AUST. L.J. 420 (1975).
- Pincus, *Clinical Training in the Law School: A Challenge and a Primer for the Bar Admission Authorities*, 50 ST. JOHN'S L. REV. 479 (1976).
- Pincus, *The Lawyer's Professional Responsibility*, 22 J. LEGAL EDUC. 1 (1969).
- Pincus, *One Man's Perspective on Ethics and the Legal Profession*, 12 SAN DIEGO L. REV. 279 (1975).
- Pincus, *Programs to Supplement Law Offices for the Poor*, 41 NOTRE DAME LAW. 887 (1965).
- Pincus, *A Small Proposal for a Big Change in Legal Education*, 1970 U. TOL. L. REV. 913.

## CLEPR Publications

- W. Pincus, *CLEPR's Origins* in CLEPR, FIRST BIENNIAL REPORT 1969-70 (1970).
- W. Pincus, *The President's Reports* in CLEPR, SECOND BIENNIAL REPORT 1971-72 (1972).
- W. Pincus, *The President's Reports* in CLEPR, THIRD BIENNIAL REPORT 1973-74 (1974).
- W. Pincus, *The President's Reports* in CLEPR, FOURTH BIENNIAL REPORT 1975-76 (1976).
- W. Pincus, *The President's Reports* in CLEPR, FIFTH BIENNIAL REPORT 1977-78 (1978).
- W. Pincus, *The Case for Shortening Legal Education at the Liberal Arts or Other Levels*, VII CLEPR NEWSLETTERS No. 4 (Sept. 1974).
- W. Pincus, *Changing Today's Law Schools*, IV CLEPR NEWSLETTERS No. 4 (Sept. 1971).
- W. Pincus, *Educational Values in Clinical Experience for Law Students*, II CLEPR NEWSLETTERS No. 10 (April 1970).
- W. Pincus, *Legal Education and the Practice of Law*, VII CLEPR NEWSLETTERS No. 9 (Dec. 1974).
- W. Pincus, *Limitation of Caseload—What's the Real Issue*, II CLEPR NEWSLETTERS No. 4 (Dec. 1969).

- W. Pincus, *On Teaching Ethics in the Law School*, VI CLEPR NEWSLETTERS No. 10 (March 1974).
- W. Pincus, *The Role of the Law School in Improving the Delivery of Legal Services*, V CLEPR NEWSLETTERS No. 5 (Jan. 1973).
- W. Pincus, *A Statement on CLEPR's Program*, II CLEPR NEWSLETTERS No. 1 (Sept. 1969).