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**The Impact of the GI Bill on Legal Education:  
A Case Study of  
Boston College Law School, 1949–1959**

*Brandon L. Bigelow*

**Introduction**

Founded in 1929 at Eleven Beacon Street in downtown Boston, Boston College Law School promised “to prepare young men and women of intelligence, industry and character, for careers in public service in the administration of justice.”<sup>1</sup> It was, from the outset, a school of uncommon vision and ideals with a uniquely Catholic outlook: “the Boston College Law School is dedicated to the philosophy that there is in fact an *objective moral order*, to which human beings and civil societies are bound in conscience to conform.”<sup>2</sup> Among the most important features to founding Dean Dennis A. Dooley was a fully-accredited night school, something sorely missing in Boston, so that working students could one day realize their ambitions to leave their daily jobs to practice law anywhere in the country.<sup>3</sup>

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<sup>1</sup> See, e.g., BOSTON COLLEGE BULLETIN: UNIVERSITY CATALOGUE 354 (Nov. 1953) [hereinafter 1953 BULLETIN].

<sup>2</sup> See, e.g., *id.*

<sup>3</sup> See TODD F. SIMON, BOSTON COLLEGE LAW SCHOOL AFTER FIFTY YEARS: AN INFORMAL HISTORY, 1929–1979, at 5 (1980).

Even as the Depression set in, the law school made steady progress. Dean Dooley and the law school's regent, Reverend John B. Creeden, S.J., enforced such rigorous academic standards that fifty percent of the first class either quit or flunked out.<sup>4</sup> These exacting standards paid dividends three years later, however, when the American Bar Association ("ABA") granted accreditation to the law school with the first graduating class.<sup>5</sup> Membership in the Association of American Law Schools ("AALS") followed in 1937.<sup>6</sup> In 1938, with a student enrollment of 382, the law school ranked as the thirteenth largest in the country.<sup>7</sup>

By October 1941, Boston College Law School -- then located at 441 Stuart Street in Boston -- enjoyed an increasingly influential position in the Boston legal community.<sup>8</sup> In that year and for many years to follow, the law school sponsored the "Red Mass" to

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<sup>4</sup> See *id.* at 9-10.

<sup>5</sup> See DAVID R. DUNIGAN, S.J., A HISTORY OF BOSTON COLLEGE 253 (1947). To appreciate the importance of this accomplishment, witness the modern struggle of schools like the Massachusetts School of Law, which continues to operate without ABA accreditation years after its founding. See, e.g., David Bushnell, *School Tries New Tactic Against ABA*, BOSTON GLOBE, July 26, 1998, at D4; *Mass. School of Law v. American Bar Assn.*, 142 F.3d 26, 30-32 (1st Cir. 1998) (detailing accreditation process and efforts by Massachusetts School of Law to receive accreditation).

<sup>6</sup> See DUNIGAN, *supra* note 5, at 253.

<sup>7</sup> See SIMON, *supra* note 3, at 16.

mark the opening of the judicial year.<sup>9</sup> The mass, delivered by the dean of the law school, Reverend William J. Kenealy, drew some of the state's most prominent leaders, including the governor, the chief justice and entire bench of the Supreme Judicial Court of Massachusetts, the attorney general, and the U.S. attorney.<sup>10</sup> Under Father Kenealy's inspired leadership, "[p]lans were discussed and formulated for broadening the influence of the school in all fields of legal action -- judicial, administrative and legislative . . . . The future was indeed bright -- and then came Pearl Harbor."<sup>11</sup>

Although World War II presented challenging times for Boston College -- and indeed, nearly destroyed the law school -- the post-war period also presented unique opportunities. Returning veterans, flush with money provided by the federal government through the Servicemen's Readjustment Act of 1944 -- the so-called "GI Bill of Rights" or simply the "GI Bill" -- financed an ambitious transformation of Boston College

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<sup>8</sup> See DUNIGAN, *supra* note 5, at 284.

<sup>9</sup> See *id.*

<sup>10</sup> See *id.*

<sup>11</sup> See Cornelius J. Moynihan et al., *War-Time Report of the Faculty Advisory Committee (August 1945)*, in William J. Kenealy, S.J., *General Report on the Condition of the Law School, Preliminary Report*, Oct. 8, 1952, at A-4 (on file at Boston College Burns Library).

Law School from a well-respected regional school to one of national stature. While the character of the law school changed radically during these years, the stated mission of the law school remained the same -- to provide training for young lawyers who wanted to do some good in the world.

The impact of the GI Bill on legal education has never been explored, although such a study provides unique insight into very modern issues. This Article presents a case study of Boston College Law School, an institution that changed dramatically in the decade and a half immediately following World War II. Part I explains the evolution of the GI Bill and the impact this federal education program had upon Boston College Law School.<sup>12</sup> Among the most important features of the GI Bill was the rigid insistence that veterans not incur any debt to finance their education. Part II traces the development of the Veterans' Readjustment Assistance Act of 1952 -- the "Korean GI Bill" -- a profoundly different program both in its conception and application.<sup>13</sup> The experience of Korean War veterans at Boston College Law School, and their migration from regular daytime students to working

night school students, demonstrates the impact of rising tuition costs that exceed a student's ability to pay. Part III examines the expansion of federal student loans, inspired by the successes of the two GI Bills.<sup>14</sup> It concludes that although the transition from a regional to a national law school was a worthy goal, Boston College Law School -- indeed, legal education as a whole -- missed an opportunity to bring the ideals of the law school and the profession more closely in alignment. In short, federal student loans do not relieve private law schools of a continuing obligation to expand access to legal education for those who cannot otherwise afford to pursue careers in the law.

**I. The Original GI Bill  
and the Impact of Returning Veterans on Legal  
Education**

When President Franklin D. Roosevelt first urged Congress in 1943 to provide educational benefits for veterans returning from World War II, he had far more pragmatic reasons for the suggestion than the "special and continuing obligation to these men and women in

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<sup>12</sup> See *infra* notes 15-76 and accompanying text.

<sup>13</sup> See *infra* notes 77-126 and accompanying text.

<sup>14</sup> See *infra* notes 127-157 and accompanying text.

the armed services" to which he adverted.<sup>15</sup> Only eleven years had passed since the "Bonus Army" of 20,000 unemployed World War I veterans marched on Washington D.C. to demand early payment of a cash bonus promised by the federal government. The march precipitated a crisis compelling President Herbert Hoover to call out the Army -- under the command of General Douglas MacArthur and including two young majors named Eisenhower and Marshall -- to bring peace to the nation's capital. As to World War II veterans, Congressman Hamilton Fish of New York warned that if veterans "come home and sell apples as they did after the last war . . . I believe we would have chaotic and revolutionary conditions in America."<sup>16</sup>

In November 1942, as casualties mounted in the bloody fight on Guadalcanal in the Pacific and the Allies scored their first tentative victories in North Africa, the need for more conscripts became painfully clear. Signing into law an amendment to the Selective Service Act that expanded the draft to eighteen and

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<sup>15</sup> *Preliminary Report of the Armed Forces Committee on Post-War Educational Opportunities for Service Personnel*, H.R. Doc. No. 78-344, at 1 (1943).

<sup>16</sup> MILTON GREENBERG, *THE GI BILL: THE LAW THAT CHANGED AMERICA* 11 (1997) (citation omitted) [hereinafter GREENBERG, *THE GI BILL*]. Professor Greenberg's book is a companion to an excellent video documentary on the experience of returning veterans and the long-term impact

nineteen year olds, President Roosevelt promised parents that these young men would be able to resume their education when they returned from war.<sup>17</sup> He commissioned a study by a committee of educators and military officers "for the taking of steps to enable young men whose education has been interrupted to resume their schooling . . . after their service in the armed forces has come to an end."<sup>18</sup> The Armed Forces Committee on Post-War Educational Opportunities for Service Personnel -- called the "Osborn Committee" after its director, Brigadier General Frederick H. Osborn -- included among its members Young B. Smith, the dean of Columbia University Law School.<sup>19</sup>

The Osborn Committee, perceiving that the problem of returning troops was already upon the country and that any effective program would require tremendous lead time and coordination, wasted no time in tackling the question. In July 1943, less than nine months after first meeting and with Allied troops making their first successful landings in Italy, the committee submitted a preliminary report to President

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of the GI Bill on American society, *THE GI BILL: THE LAW THAT CHANGED AMERICA* (PBS Home Video 1997).

<sup>17</sup> See H.R. Doc. No. 78-344, *supra* note 15, at 4.

<sup>18</sup> See *id.*

<sup>19</sup> See *id.*



Roosevelt.<sup>20</sup> In that report, the Osborn Committee recommended that the federal government provide each man and woman who had served six months or more during the war one year of education or training, along with a living allowance to encourage veterans to take advantage of educational opportunities.<sup>21</sup> Further, the committee recommended that a limited number of exceptional veterans be permitted to pursue up to three more years of education.<sup>22</sup>

Although the committee focused upon the problem presented by the president, "the aggregate educational shortages which are being created by the war,"<sup>23</sup> the committee was keenly aware that a comprehensive plan would be required to cushion the blow to the domestic economy as a projected 12,000,000 veterans demobilized at the end of the war.<sup>24</sup> The committee reminded the president that the cost of maintaining a veteran at an educational institution would be far less than that of

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<sup>20</sup> See *id.* at 4-15.

<sup>21</sup> See *id.* at 8-9.

<sup>22</sup> See H.R. Doc. No. 78-344, *supra* note 15, at 9.

<sup>23</sup> See *id.* at 6.

<sup>24</sup> See *id.* at 9 ("[I]n making it possible for all members of the Army and Navy with 6 months or more to pursue an education course for a year after their discharge, we also recognize that such an arrangement would simplify the problems of demobilizing our armed forces.").

maintaining that same person on active duty.<sup>25</sup> While nobody could be certain how many veterans would take advantage of these opportunities, the committee thought that a minimum of 1,000,000 men and women would apply for the first year benefits, while only 150,000-200,000 would continue on for a second, third or fourth year of school.<sup>26</sup>

In weighing the possible programs for financing post-war education, the Osborn Committee explicitly rejected debt financing or need-based grants:

We have rejected both a program based chiefly on loans and a program making financial grants contingent on a showing of need, because we have concluded that either of these programs would discourage many of the ex-service people most capable of helping to overcome the national education deficit, from doing so. With respect to loans in particular, we have believed that a program which would saddle young men and women with relatively heavy indebtedness at the outset of their careers would (even if they would accept it, as many of them would not) be of doubtful wisdom.<sup>27</sup>

The committee thought this an undesirable outcome, particularly in the case of those veterans willing and able to attend professional or postgraduate schools

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<sup>25</sup> See *id.* at 10 ("The total cost to the Government of maintaining a man in an educational institution for 1 year will be approximately \$900. The estimated cost of maintaining an enlisted man on active duty for 1 year . . . is approximately \$1,500.").

<sup>26</sup> See *id.*

<sup>27</sup> See H.R. Doc. No. 78-344, *supra* note 15, at 11.

for two to three years before filling an important niche in post-war American society.<sup>28</sup>

President Roosevelt enthusiastically endorsed the report and referred it to Congress in October 1943.<sup>29</sup> By that time, however, the initiative had shifted to the American Legion, an organization founded by World War I veterans in 1919 to promote greater awareness of veteran's issues.<sup>30</sup> During their September 1943 annual convention, American Legion leaders drafted what they called "a bill of rights for GI Joe and GI Jane," proposed legislation that included education, unemployment benefits, employment services and home loans for veterans.<sup>31</sup> With the help of the press -- and in particular the powerful publisher William Randolph Hearst, a key proponent of the plan -- the proposed legislation came to be known as the "GI Bill of Rights," or simply the "GI Bill."<sup>32</sup>

Signed into law by President Roosevelt on June 22, 1944 -- just two weeks after the Allied landing at Normandy -- the educational provisions of the GI Bill, formally called the Servicemen's Readjustment Act of

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<sup>28</sup> See *id.* at 12.

<sup>29</sup> See *id.* at 1-4.

<sup>30</sup> See GREENBERG, *THE GI BILL*, *supra* note 16, at 11-12.

<sup>31</sup> See *id.* at 12.

1944, differed from those recommended by the Osborn Committee in one very important respect.<sup>33</sup> Rather than limit educational benefits to one year for all but a few select veterans, the GI Bill allowed veterans to attend the school of their choice for one year *plus* a period equal to the time the veteran had spent on active duty.<sup>34</sup> Academic leaders met this provision with consternation; the presidents of both Harvard University and the University of Chicago expressed concern that veterans would diminish the educational quality at institutions of higher learning unless only those most qualified were admitted.<sup>35</sup> Despite these reservations, when the war finally drew to a close in the summer of 1945, many veterans had earned up to four years of government-funded education.

What the GI Bill did retain was the Osborn Committee's bias against debt financing of veteran education. The GI Bill provided a generous \$500 per year for tuition, books, supplies, equipment and other

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<sup>32</sup> See *id.*; see also Michael J. Bennett, *The Law That Worked*, 75 EDUC. REC., Fall 1994, at 13 (reviewing history of legislation).

<sup>33</sup> Compare H.R. Doc. No. 78-344, *supra* note 15, with Servicemen's Readjustment Act of 1944, Pub.L. 78-346, 58 Stat. 284.

<sup>34</sup> See Servicemen's Readjustment Act § 400(b).

<sup>35</sup> See Keith W. Olson, *The Astonishing Story: Veterans Make Good on the Nation's Promise*, EDUC. REC., Fall 1994, at 22-23 (citing James B. Conant, *Annual Report of the President of the University*, HARV. ALUMNI BULL., Feb. 3, 1945, at 286; Robert M.

necessary expenses, as well as a subsistence allowance of \$50 per month for single veterans and \$75 per month for veterans with dependents.<sup>36</sup> Only a year after enacting the GI Bill, Congress increased this subsistence allowance to \$65 per month for single veterans and \$90 per month for veterans with dependents.<sup>37</sup> Just three years after that, the allowance was increased to \$75 for single veterans and up to \$120 for married veterans with children.<sup>38</sup> Moreover, the GI Bill provided unemployed veterans a readjustment allowance of \$20 per week for up to 52 weeks.<sup>39</sup> Popularly referred to as the 52-20 Club, the allowance gave veterans a "cool down" period to recover from the traumatic experience of war.<sup>40</sup>

When the war ended in late 1945, veterans surged into schools across the country in unprecedented

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Hutchins, *The Threat to American Education*, COLLIER'S, Dec. 30, 1944, at 20-21).

<sup>36</sup> See Serviceman's Readjustment Act §400(b).

<sup>37</sup> See ADMINISTRATOR OF VETERANS' AFFAIRS, 81ST CONG., REPORT ON EDUCATION AND TRAINING UNDER THE SERVICEMEN'S READJUSTMENT ACT, AS AMENDED 6 (Comm. Print 1950) [hereinafter VETERANS ADMIN. REPORT].

<sup>38</sup> See *id.* at 8.

<sup>39</sup> See Servicemen's Readjustment Act § 403.

<sup>40</sup> See GREENBERG, THE GI BILL, *supra* note 16, at 18; see also Interview with Francis X. Bellotti '52, in Boston, Mass. at 6 (Nov. 15, 2000) (on file with Boston College Law School Library). Although some critics thought the allowance would promote idleness in veterans, only nine million of the sixteen million eligible veterans applied for the funds, and then only for an average of seventeen weeks, far less than the fifty-two weeks authorized by the legislation. See GREENBERG, THE GI BILL, *supra* note 16, at 18.

numbers. Contrary to the modest predictions of the Osborn Committee, over 7.8 million veterans took advantage of the government program before the law expired in 1956: 2.2 million attended college; 3.5 million went to business or trade schools; 1.4 million enrolled in on-the-job training programs; and 690,000 received farm training.<sup>41</sup> In 1950, the Veterans Administration ("VA") reported that it had disbursed more than \$8 billion to schools for tuition, books, and supplies; \$2 billion had been disbursed in 1949 alone.<sup>42</sup> Schools scrambled to provide enough faculty, classrooms, and housing to accommodate returning veterans and their families.<sup>43</sup>

Their arrival came none too soon. Although there is only one comprehensive study of the impact of the GI Bill on higher education,<sup>44</sup> and no study about the impact of the GI Bill on legal education, it is clear that by 1945 many law schools were in dire straits financially. In a 1948 retrospective on the

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<sup>41</sup> See Bennett, *supra* note 32, at 8; GREENBERG, *THE GI BILL*, *supra* note 16, at 37; see also VETERANS ADMIN. REPORT, *supra* note 38, at 3 (reporting that 6.5 million veterans had entered training by 1950).

<sup>42</sup> See VETERANS ADMIN. REPORT, *supra* note 38, at 3.

<sup>43</sup> See generally GREENBERG, *THE GI BILL*, *supra* note 16.

<sup>44</sup> See Milton Greenberg, *The GI Bill: Reflections on the Past and Visions of the Future*, EDUC. REC., Fall. 1994, at 57 (citing KEITH OLSON, *THE GI BILL, THE VETERANS, AND THE COLLEGES* (Univ. Press of

development of legal education, Harvard Law School Dean Erwin N. Griswold observed that "it should not be forgotten that there were nearly four years in which there were virtually no law school graduates. From 1942-1946 the law schools operated on a skeleton basis only, and there were many which were literally closed."<sup>45</sup>

Boston College Law School was no exception. When Father Kenealy returned from wartime service as a U.S. Navy chaplain in December 1945, he surveyed a profoundly different scene from that of the pre-war years. As early as 1942, enrollment had dwindled to 143 students, with ninety-two of those students on leave.<sup>46</sup> Many faculty members took leaves of absence from 1942 until the end of the war;<sup>47</sup> Father Kenealy himself left from February 1943 until December 1945, during which time he was able to visit the law school only once for a week in March 1945.<sup>48</sup> With only six graduates in June 1945, the law school's finances grew so dire that the school was forced to relocate to

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Kentucky, 1974) as the only major study of the history of the GI Bill ever undertaken).

<sup>45</sup> Erwin N. Griswold, *Law and Law School*, in 2 THE HISTORY OF LEGAL EDUCATION IN THE UNITED STATES: COMMENTARIES AND PRIMARY SOURCES 719, 719 (Steven Sheppard ed., 1999) (1948).

<sup>46</sup> See SIMON, *supra* note 3, at 19.

<sup>47</sup> See *id.*

<sup>48</sup> See Moynihan et al., *supra* note 11, at A-1.

smaller accommodations at Eighteen Tremont Street in Boston the following autumn.<sup>49</sup> The *War-Time Report of the Faculty Advisory Committee*, submitted to Father Kenealy upon his return, warned that these facilities would be inadequate when veterans returned from war, and might drive prospective students to other area law schools.<sup>50</sup>

Regardless of the facilities, veterans filled the law school's two classrooms in increasing numbers. The first year class of day students in September 1946 enrolled with 159 students, more than ten times the size of the third year class of fifteen day students.<sup>51</sup> In 1947, veterans represented 86% of the student population, with 412 veterans taking classes during either the day or night sessions.<sup>52</sup> Of those, 303 veterans took classes full-time during the day session, while civilians enrolled predominantly in the evening session.<sup>53</sup> By 1948, 504 veterans attended classes at Boston College Law School; and when the

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<sup>49</sup> See SIMON, *supra* note 3, at 21.

<sup>50</sup> See Moynihan et al., *supra* note 11, at A-14.

<sup>51</sup> Compare BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 46-49 (Apr. 1947), with *id.* at 52 [hereinafter 1947 BULLETIN].

<sup>52</sup> See *id.* at 58.

<sup>53</sup> See *id.* (showing eighteen civilians in the day session and forty-three in the evening session).



veteran population peaked in 1949 at 623, roughly 90% of the total student population were veterans.<sup>54</sup>

Inevitably, the presence of so many veterans in the law school classroom had an impact on the character of the law school itself -- and these older students returning from the battlefields of Europe, Africa and the Pacific brought a decidedly no-nonsense approach to legal education.<sup>55</sup> Impatient to get on with their lives, veterans were especially attracted by the accelerated program, which allowed students to graduate in less than three years.<sup>56</sup> Students in the accelerated program pursued a relentless schedule, attending classes through the summers, taking few holidays, and cramming a bar review into the evenings

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<sup>54</sup> See BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 62 (April 1948) [hereinafter 1948 BULLETIN]; BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 55 (April 1949) [hereinafter 1949 BULLETIN].

<sup>55</sup> See Interview with The Hon. James P. Lynch, Jr. '49, in Newton, Mass. at 3 (Nov. 17, 2000); Interview with Francis X. Bellotti '52, *supra* note 40, at 5. Recently, during a dispute over grade inflation at Harvard University, a Harvard dean made passing reference to unpublished research by Harvard President Neil Rudenstine that allegedly showed that the influx of veterans in colleges on the GI Bill led to grade inflation. See Patrick Healy, *Race, Gender Issues Stir Two Colleges: Professor's Views 'False,' Harvard Says*, BOSTON GLOBE, Feb. 8, 2001, at B1. Another professor at Harvard had suggested that grade inflation was the result of an influx of black students in the 1970s. See *id.* Until that research becomes available, the politically and emotionally charged nature of that debate makes it difficult to credit those charges or counter-charges as any useful basis for fact.

<sup>56</sup> See *id.* at 16; Interview with The Hon. James P. Lynch, Jr. '49, *supra* note 55, at 3.

even as they attended classes during the day.<sup>57</sup> The students themselves did not think the presence or impact of so many veterans remarkable in any way; indeed, the presence of civilians in the day school in the late 1940s seemed more remarkable to them. As one alumnus recalled, “[i]f you didn’t go in the Army, if you were walking around as a civilian, you know, people were making fun of you.”<sup>58</sup>

Perhaps the most dramatic and concrete effect of the massive influx of veterans was economic. In 1941-42, the law school held a reserve of approximately \$32,000; by 1945, Father Kenealy returned to find that that amount had shrunk to a mere \$1,693.<sup>59</sup> Increasing tuition from \$300 to \$350 for the day session in 1947, and to \$400 in 1948, the law school was able to rebuild its capital position.<sup>60</sup> By 1948, the law

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<sup>57</sup> See Interview with The Hon. James P. Lynch, Jr. '49, *supra* note 55, at 4; see also 1947 BULLETIN, *supra* note 51, at 16. Although veterans were willing to undertake the grueling accelerated program, the law school finally discontinued it in June 1950, concluding that “[d]espite the mathematical total of courses, credits, and class hours . . . the law is too vast and difficult a field to be mastered in two years.” See 1947 BULLETIN, *supra* note 51, at 16.

<sup>58</sup> Interview with Francis X. Bellotti '52, *supra* note 40, at 5.

<sup>59</sup> See William J. Kenealy, S.J., *General Report on the Condition of the Law School, Preliminary Report*, Oct. 8, 1952, at 2 (on file at Boston College Burns Library) [hereinafter Kenealy, *General Report*].

<sup>60</sup> See 1947 BULLETIN, *supra* note 51, at 28; 1948 BULLETIN, *supra* note 54, at 27. The evening programs also saw tuition increases from \$112.50 to \$260, and then \$300, between 1947 and 1948. See 1947 BULLETIN, *supra* note 51, at 28; 1948 BULLETIN, *supra* note 54, at 27.

school held more than \$162,000 in reserve, and Father Kenealy began his plan to build Boston College Law School into a "truly great Catholic Law School of national reputation."<sup>61</sup> Father Kenealy proposed to build a premier law center outside of the dirty, busy confines of the city, adjacent to the Boston College campus at University Heights in the Boston suburb of Newton.<sup>62</sup> With an estimated construction cost of \$1,000,000, Father Kenealy thought he could raise \$400,000 through tuition alone by 1952.<sup>63</sup>

In fact, by 1952, the law school had surpassed all expectations, and held just over \$516,000 for construction of a new facility.<sup>64</sup> This money was raised largely through tuition increases; tuition at the law school between 1946 and 1949 increased by a roughly a third, with day session rates increasing from \$300 to \$400 annually, and evening session rates rising from \$225 to \$300 annually.<sup>65</sup> This increase almost exactly mirrored tuition increases reported by

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<sup>61</sup> See Kenealy, *General Report*, *supra* note 59, at 2; William J. Kenealy, S.J., *Proposal to Construct a Campus Law School Building*, in Kenealy, *General Report*, *supra* note 59, at C-5 [hereinafter Kenealy, *Proposal*].

<sup>62</sup> See Kenealy, *Proposal*, *supra* note 61, at C-5.

<sup>63</sup> See *id.* at C-10.

<sup>64</sup> See Kenealy, *General Report*, *supra* note 59, at 2.

<sup>65</sup> Compare BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 23 (Apr. 1946) [hereinafter 1946 BULLETIN], with 1949 BULLETIN, *supra* note 49, at 28.

professional schools across the country, which stood on average at twenty-nine percent.<sup>66</sup> These tuition increases had little impact upon the veterans themselves; the increases fit comfortably within the GI Bill allowance of \$500 for tuition, books and supplies, leaving veterans approximately \$100 a year for books.<sup>67</sup>

Economically, veterans returning to law school found themselves in pretty good shape. Although over fifty percent of all World War II veterans had a family when they attended school, the subsistence allowance of up to \$120 a month proved adequate to cover most family living expenses at a time when a family could rent an apartment in Jamaica Plain in Boston for just \$33 a month.<sup>68</sup> In fact, the VA fretted that the generous allowances actually encouraged veterans to spend more time seeking education and training than required to facilitate their "readjustment" to civilian life.<sup>69</sup> Those few students at Boston College Law School who could not cover their household expenses supplemented their

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<sup>66</sup> See VETERANS ADMIN. REPORT, *supra* note 38, at 54.

<sup>67</sup> See Servicemen's Readjustment Act § 400(b).

<sup>68</sup> See VETERANS ADMIN. REPORT, *supra* note 38, at 37; see Interview with Francis X. Bellotti '52, *supra* note 40, at 6.

<sup>69</sup> See *id.* at 8.

income by working during the day and attending the evening session.<sup>70</sup>

With tuition and most living expenses paid, veterans left the law school unencumbered by debt.<sup>71</sup> "I didn't have any money, but I didn't have any debts," quipped one alumnus.<sup>72</sup> Although establishing a causal link between debt load and career choices is difficult and perhaps impossible, the classes that graduated in the late 1940s and early 1950s certainly fulfilled Boston College Law School's stated purpose of preparing "young men and women of intelligence, industry, and character for careers of public service in the administration of justice" like few have either before or since. The class of 1949, dubbed "the class the robes fell on" by Professor and later Judge Hiller B. Zobel, produced six judges, including Massachusetts Superior Court Chief Judge James P. Lynch, Jr.<sup>73</sup> Silvio O. Conte, another member of the class of 1949, represented Massachusetts in Congress for over thirty

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<sup>70</sup> See Interview with The Hon. James P. Lynch, Jr. '49, *supra* note 55, at 7.

<sup>71</sup> See Interview with Francis X. Bellotti '52, *supra* note 40, at 6; Interview with The Hon. James P. Lynch, Jr. '49, *supra* note 55, at 8.

<sup>72</sup> See Interview with Francis X. Bellotti '52, *supra* note 40, at 6.

<sup>73</sup> See SIMON, *supra* note 3, at 27.

years.<sup>74</sup> The class of 1950 sent another nine judges to various benches in Massachusetts and the United States.<sup>75</sup> Frank Bellotti, a member of the class of 1952, went on to serve as Lieutenant Governor and later Attorney General for the Commonwealth of Massachusetts.<sup>76</sup>

## **II. The Korean GI Bill and the Migration of Veterans to the Boston College Law School Evening Program**

By 1950, the number of World War II veterans attending institutions of higher education appeared to have peaked: the VA reported that 844,000 veterans were enrolled in college or post-graduate courses in 1949, down from 1,158,000 in 1947.<sup>77</sup> Even as the readjustment of World War II veterans drew down, however, the United States faced new demands for military manpower as the Cold War grew increasingly hot, particularly in Korea.<sup>78</sup> The answer, ultimately,

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<sup>74</sup> See Martin F. Nolan, *Silvio Conte Dies at Age 69*, BOSTON GLOBE, Feb. 9, 1991, at A1.

<sup>75</sup> See Jeri Zeder, *Class of '50: Worth Its Weight in Gold*, B.C. LAW SCHOOL MAGAZINE, Fall 2000, at 37.

<sup>76</sup> See generally Interview with Francis X. Bellotti '52, *supra* note 40.

<sup>77</sup> See VETERANS ADMIN. REPORT, *supra* note 38, at 30.

<sup>78</sup> See, e.g., OFFICE OF SELECTIVE SERVICE RECORDS, SELECTIVE SERVICE UNDER THE 1948 ACT 3-10 (1951) (reviewing ongoing need for military personnel to meet emergent needs in Europe and Asia).

was another draft.<sup>79</sup> Congress now faced, however, the seeming inequity of providing benefits to World War II veterans while giving nothing to the young men who returned from Korea. Carl R. Gray Jr., the Administrator of Veterans' Affairs, observed that the "concept of readjustment as embodied in the original [GI Bill] . . . . was supplanted by a broad program of education and training without regard to an affirmative showing of need for readjustment."<sup>80</sup> In short, educational benefits had become a veteran entitlement.

The original GI Bill had not been without its problems.<sup>81</sup> As Congress prepared to draft new legislation for Korean War veterans, the VA submitted a report indicating where the greatest abuses had taken place.<sup>82</sup> "There is ample evidence," the report dryly stated, "to prove that efforts have been made in the past to obtain as much money as possible from the

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<sup>79</sup> See *id.* at 10.

<sup>80</sup> See *id.* at 12.

<sup>81</sup> See generally *Investigation of Veterans' Educational Program: Hearings before the House Select Committee to Investigate Educational, Training, and Loan Guaranty Programs Under GI Bill*, 82d Congress (1951) (stating purpose of select committee to investigate abuses of GI Bill); *Investigation of GI Schools: Hearings before the House Select Committee to Investigate Educational and Training Program Under GI Bill*, 81st Cong. (1951) (same).

<sup>82</sup> See VETERANS ADMIN. REPORT, *supra* note 38, at 3-13.

Federal Government" through the GI Bill.<sup>83</sup> Moreover, because the GI Bill provided that the VA pay directly to schools either the "customary cost of tuition" or "fair and reasonable compensation" if no customary tuition could be established, the VA found itself compelled to inquire far more deeply into the business dealings of various schools than its administrators might have preferred.<sup>84</sup>

Determining the rate of tuition to be paid to each school was made even more complicated by the sheer number of schools the VA dealt with: almost 40,800 educational institutions and more than 500,000 job training schools.<sup>85</sup> The fact that over 5,600 of the schools which operated for profit had been established after Congress passed the GI Bill aroused suspicion in the VA that many of those schools were designed simply to collect as much money from the federal government as possible.<sup>86</sup>

The Veterans' Readjustment Assistance Act of 1952, popularly styled the "Korean GI Bill,"<sup>87</sup>

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<sup>83</sup> *Id.* at 9.

<sup>84</sup> *See id.* at 9; *see also* Servicemen's Readjustment Act § 400(b).

<sup>85</sup> *See* VETERANS ADMIN. REPORT, *supra* note 38, at 3.

<sup>86</sup> *See id.* at 3, 9.

<sup>87</sup> *See Separation of Subsistence from Tuition Under Public Law 550: Hearing Before the Subcomm. on Education and Training of the House Comm. on Veterans' Affairs*, 83d Cong. 1511 (1953) [hereinafter *Separation of Subsistence*].



attempted to address these concerns by paying a single allowance to veterans for both tuition and subsistence.<sup>88</sup> The VA applauded the measure, noting that “[t]he veteran has a stake in the amount he pays because it directly affects the amount that he is able to retain.”<sup>89</sup> Despite a concerted effort by some members of Congress to overturn the provision and separate tuition from subsistence, single veterans enrolled at qualified schools continued to receive a single allowance of \$90 per month, while those with families received between \$110–130 depending upon the size of his family.<sup>90</sup>

Those opposed to a single payment for both tuition and subsistence worried that veterans would be encouraged to attend lower-priced state schools, possibly compromising educational quality for a larger monthly payout for living expenses.<sup>91</sup> Father Theodore M. Hesburgh, President of Notre Dame University, reported that his school had experienced a drastic

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<sup>88</sup> See Veterans’ Readjustment Assistance Act of 1952, Pub. L. No. 82-550, 66 Stat. 663, § 232(a)(1).

<sup>89</sup> See *Separation of Subsistence*, *supra* note 87, at 1535 (statement of Sam Coile, Assistant Administrator for Education and Rehabilitation, Veterans Administration).

<sup>90</sup> See Veterans Readjustment Assistance Act § 232(b).

<sup>91</sup> See, e.g., *Separation of Subsistence*, *supra* note 87, at 1520 (remarks of Rep. Springer observing that fifty percent of original GI Bill veterans enrolled in state schools as compare to sixty-two percent of Korean GI Bill veterans).

reduction in the number of veterans enrolled since the changes implemented for Korean War veterans.<sup>92</sup>

Nevertheless, the powerful American Council on Education came out in favor of the change, arguing that any change in the law should wait for statistical indications of inequitable effects.<sup>93</sup> Even the American Legion, which had been instrumental in the passage of the first GI Bill eight years prior and originally had opposed the combination of tuition and subsistence, argued against separating the two payments.<sup>94</sup>

Korean War veterans were a substantially different group from those who had served during World War II. They were much younger; the average age of Korean War veterans using the Korean GI Bill was just twenty-three, five years younger than the average age of World War II veterans using the original GI Bill.<sup>95</sup> There were far fewer Korean War veterans; in 1953,

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<sup>92</sup> See *id.* at 1556 (statement of Rev. Theodore M. Hesburgh, President, University of Notre Dame, comparing veteran status of seventy-two percent of school's student population at height of original GI Bill enrollment as against veteran status of only one and one half percent of student population in June 1953).

<sup>93</sup> See *id.* at 1515 (testimony of Chancellor Henry T. Heald, New York University, Representing the American Council on Education).

<sup>94</sup> See *id.* at 1523 (statement of Cecil H. Munson, Chief, Vocational Training and Education for the National Rehabilitation Commission, the American Legion).

<sup>95</sup> Compare *id.* at 1523 (statement of Cecil H. Munson, Chief, Vocational Training and Education for the National Rehabilitation

only 1.8 million veterans were eligible for the Korean GI Bill, compared to the over 15 million eligible veterans from World War II.<sup>96</sup> Finally, the veterans of World War II and the Korean War who had been drafted had been drafted differently; while military service during World War II was almost universal, a complex system of deferments evolved during the Korean War for young men attending college or pursuing post-graduate studies.<sup>97</sup>

Although the Selective Service reported in 1951 that college students could only postpone induction until the end of the academic year, in reality students could delay induction for a substantially longer period of time.<sup>98</sup> Concerned that the United States would lose promising young scientists and engineers to war, intellectuals like J.R. Oppenheimer urged the federal government to exempt undergraduate

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Commission, the American Legion), with VETERANS ADMIN. REPORT, *supra* note 38, at 37.

<sup>96</sup> Compare *Separation of Subsistence*, *supra* note 87, at 1523 (statement of Cecil H. Munson, Chief, Vocational Training and Education for the National Rehabilitation Commission, the American Legion), with VETERANS ADMIN. REPORT, *supra* note 38, at 3.

<sup>97</sup> See GEORGE Q. FLYNN, *THE DRAFT, 1940-1973*, at 125, 142-43, 150 (1993).

<sup>98</sup> Compare OFFICE OF SELECTIVE SERVICE RECORDS, *supra* note 78, at 30, with FLYNN, *supra* note 97, at 142; CARL R. PETERSON JR., *AVOIDANCE AND EVASION OF MILITARY SERVICE: AN AMERICAN HISTORY, 1626-1973*, at 119-21 (1998).

and graduate students in the sciences.<sup>99</sup> Ultimately, the federal government settled on a broader deferment for all college students who either finished in the top half of their class or performed well on a national examination.<sup>100</sup> Designed by the Educational Testing Service, the same organization that developed the Scholastic Aptitude Test (SAT), the Selective Service College Qualification Test (SSCQT) allowed those who scored a seventy or seventy-five to defer induction until they completed their studies.<sup>101</sup> As a practical matter, these deferments allowed those who possessed the resources and the talent to delay military service indefinitely.<sup>102</sup>

The Korean War veterans arriving at Boston College Law School in the early 1950s came to a law school radically transforming itself. The profits from the boom years of the first GI Bill, and the continuing flow of GI tuition money, gave Father Kenealy the funds he needed to break ground on a new building at the Boston College campus in Newton. The

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<sup>99</sup> See FLYNN, *supra* note 97, at 133.

<sup>100</sup> See *id.* at 141; PETERSON, *supra* note 98, at 119.

<sup>101</sup> See FLYNN, *supra* note 97, at 142.

<sup>102</sup> See *id.* at 150-51; see also Interview with Walter D. Wekstein '58, in Boston, Mass. at 2 (Feb. 12, 2001) (observing that classmates could avoid service by pursuing graduate studies) (on file at Boston College Law Library).

law school announced its ambitious million dollar construction program in 1953;<sup>103</sup> St. Thomas More Hall was completed just one year later.<sup>104</sup> Dedicated by Archbishop Cushing on September 27, 1954, the new building boasted everything the old facilities at Eighteen Tremont Street lacked -- an excellent library, spacious classrooms, dedicated space for a law review, and a moot court room.<sup>105</sup>

Even as the law school prepared to move from its downtown location, an interesting demographic shift in the student body was occurring. In 1952, veterans far outnumbered civilians in both the day school, 166 to 106, and the evening school, 195 to 32.<sup>106</sup> The very next year, civilians enrollment overtook veteran enrollment in the day school, 145 to 91.<sup>107</sup> At the same time, however, veteran enrollment in the evening school as a percentage of total veteran enrollment at the law school dramatically increased, from 38% in 1951 to 64% in 1953.<sup>108</sup> Veteran enrollment in the

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<sup>103</sup> See 1953 BULLETIN, *supra* note 1, at 353.

<sup>104</sup> See SIMON, *supra* note 3, at 33.

<sup>105</sup> See *id.*

<sup>106</sup> See BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 52 (Apr. 1952) [hereinafter 1952 BULLETIN].

<sup>107</sup> See 1953 BULLETIN, *supra* note 1, at 52.

<sup>108</sup> Compare BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 53 (Apr. 1951) (reporting 154 veterans in evening program out of a total veteran enrollment of 395) [hereinafter 1951 BULLETIN], with 1953 BULLETIN,

evening program would remain between approximately 160 and 170 students for the remainder of the decade, and veterans significantly outnumbered civilians in the evening program.<sup>109</sup> Meanwhile, civilians continued to outnumber veterans in the day program.<sup>110</sup>

Although there may be no single explanation to the preference of Korean War veterans for the evening program, one major factor was probably the cost of tuition.<sup>111</sup> In 1952, Father Kenealy candidly acknowledged that registration at law schools across the country was down as a result of the twin effect of the exhaustion of benefits under the original GI Bill and the draft for the Korean War.<sup>112</sup> After several

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*supra* note 1, at 52 (reporting 158 veterans in evening program out of a total veteran enrollment of 249).

<sup>109</sup> See BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 45 (Apr. 1954) (175 veterans in evening program) [hereinafter 1954 BULLETIN]; BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 53 (Apr. 1955) (171 veterans in evening program) [hereinafter 1955 BULLETIN]; BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 51 (Apr. 1956) (172 veterans in evening program) [hereinafter 1956 BULLETIN]; BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 43 (Apr. 1957) (158 veterans in evening program) [hereinafter 1957 BULLETIN]; BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 36 (Apr. 1958) (161 veterans in evening program) [hereinafter 1958 BULLETIN]. The law school stopped tracking veteran versus civilian enrollment in 1959.

<sup>110</sup> See 1954 BULLETIN, *supra* note 109, at 45 (151 civilians to 66 veterans); 1955 BULLETIN, *supra* note 109, at 53 (158 civilians to 107 veterans); 1956 BULLETIN, *supra* note 109, at 51 (145 civilians to 100 veterans); 1957 BULLETIN, *supra* note 109, at 43 (143 civilians to 125 veterans); 1958 BULLETIN, *supra* note 109, at 36 (133 civilians to 128 veterans).

<sup>111</sup> *Cf.* E-mail from Mr. Warren B. Rudman '60, former senator from N.H., to author (Dec. 4, 2000, 14:45:00 EST) (on file at Boston College Law School Library); Interview with Walter D. Wekstein '58, *supra* note 102, at 4-5.

<sup>112</sup> See Kenealy, *General Report*, *supra* note 59, at 16.

years at an annual rate of \$400, in 1952 tuition at Boston College Law School increased to \$480 a year for the day school and \$360 a year for the evening program.<sup>113</sup> Tuition crept up to \$560 a year for the day program and \$420 a year for the evening program in 1954.<sup>114</sup> By 1959, tuition stood at \$900 for the day program and \$675 for the evening program.<sup>115</sup>

These tuition increases cut deeply into the combined tuition and subsistence allowance given to veterans. Unlike the first GI Bill, which paid an annual amount for tuition, the Korean GI Bill only paid during the months that a veteran was actually enrolled in class.<sup>116</sup> Thus, an unmarried Korean War veteran who attended the day program at Boston College Law School received the \$110 allowance from September until April, for a total of \$880 a year. Benefits may not even have been that generous; Walter Wekstein, a Korean War veteran and graduate of the Boston College Law School class of 1958, recalls that the Korean GI

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<sup>113</sup> See 1952 BULLETIN, *supra* note 106, at 30.

<sup>114</sup> See 1954 BULLETIN, *supra* note 109, at 379.

<sup>115</sup> See BOSTON COLLEGE BULLETIN: UNIVERSITY CATALOGUE 444 (1959) [hereinafter 1959 BULLETIN].

<sup>116</sup> Although administering a different program, the VA nevertheless insisted with characteristic bureaucratic literality that benefits cease if a student took leave in excess of thirty days, even if those days were merely a semester or summer break. See VETERANS ADMIN. REPORT, *supra* note 38, at 11.

Bill allowance exactly matched his tuition bill.<sup>117</sup> To make ends meet, Mr. Wekstein, who was a student in the day school and member of the law review, worked a full-time job in addition to his other obligations.<sup>118</sup> His industry was perhaps exceptional; and as an unmarried veteran, Mr. Wekstein did not have as many family obligations as some of his classmates.

Perhaps more representative of the plight of Korean War veterans was Warren B. Rudman, former senator from New Hampshire, a graduate of the class of 1960. Senator Rudman, a married combat veteran from Korea who commuted to the evening program from his day job managing a family furniture factory in New Hampshire, found that by the late 1950s the Korean GI Bill only "partially covered my tuition expenses."<sup>119</sup> Despite congressional intent that the Korean GI Bill educational benefits cover both tuition and subsistence, by the late 1950s the cost of tuition alone at Boston College Law School exceeded the entire benefit. The migration of veterans from the day school to the night school corresponded quite closely

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<sup>117</sup> See Interview with Walter D. Wekstein '58, *supra* note 102, at 1, 4.

<sup>118</sup> See *id.*



with the erosion of the Korean GI Bill's purchasing power, arguably because more and more veterans found themselves forced to work during the day to support themselves and their families.

To be sure, Boston College Law School graduates of that time continued to distinguish themselves in public service. One of the most colorful mayors in the history of the City of Boston, Kevin H. White, graduated from the law school in 1955.<sup>120</sup> Margaret M. Heckler, a graduate of the Class of 1956, represented Massachusetts in the U.S. House of Representatives for several terms.<sup>121</sup> Thomas P. Salmon, who graduated from Boston College Law School only a year behind Congresswoman Heckler and two years behind Mayor White, went on to serve as Vermont's governor.<sup>122</sup> The classes of the late 1950s never achieved the same number of judicial positions as their predecessors in the late 1940s and early 1950s, however; the classes in the late 1950s consistently produced three or four judges, peaking in 1957 with five.<sup>123</sup>

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<sup>119</sup> See E-mail from Mr. Warren B. Rudman '60, *supra* note 111; see also Burton Hersh, *He Spoke His Mind*, CONCORD MONITOR (N.H.), Oct. 25, 1999, at A1.

<sup>120</sup> See Simon, *supra* note 5, at 35.

<sup>121</sup> See *id.*

<sup>122</sup> See *id.*

<sup>123</sup> See BOSTON COLLEGE LAW SCHOOL, ALUMNI DIRECTORY 1999, at 180-82 (1999). The number of judges for each year: 1949-six; 1950-nine;

Father Kenealy had warned as early as 1948 that a move to Newton would probably spell the end of the evening program, as students would not make the trek out from Boston to attend classes after work.<sup>124</sup> He added, however, that the loss of revenue and students would be more than made up by the enhanced reputation the law school would enjoy through improved academic offerings.<sup>125</sup> By 1963, seven years into the tenure of a new dean, Reverend Robert F. Drinan, S.J., the law school had achieved a measure of success in its quest for national stature. In that year, the law school announced that it would no longer accept students in the evening program.<sup>126</sup> The move coincided closely with the expiration of Korean GI Bill benefits, and closed an era of unparalleled opportunity, growth and success at Boston College Law School.

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1951-six; 1952-seven; 1953-six; 1954-four; 1955-three; 1956-four; 1957-five; 1958-three. *See id.*

<sup>124</sup> *See* Kenealy, *Proposal*, *supra* note 61, at C-6.

<sup>125</sup> *See id.*

<sup>126</sup> *See* BOSTON COLLEGE BULLETIN: THE LAW SCHOOL 10 (Jan. 1963) [hereinafter 1963 BULLETIN].

### III. The Impact of the GI Bill on Legal Education at Boston College Law School

The GI Bill increased awareness of the normally prohibitive cost of legal education, as noted by Harvard Law School Dean Erwin N. Griswold in 1948:

The great increase in applications during this post-war period, thanks to G.I. money available, shows very clearly that in normal times the cost of legal education is a substantial deterrent to many well-qualified men . . . . It may well be asked whether this is desirable. It is contrary to most of our professed notions . . . . The question may well be asked whether we should not find some means to continue such a program on some scale so that well qualified young men may not be denied the opportunity of a legal education.<sup>127</sup>

Indeed, there were over 40,000 veterans enrolled in law school in 1947, an untold number of whom probably never would have been able to enter the profession otherwise.<sup>128</sup> Ironically, although the GI Bill would be heralded fifty years later as the engine of post-war recovery and American industrial success,<sup>129</sup> the federal government worried in 1950 that professional

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<sup>127</sup> See Griswold, *supra* note 45, at 720.

<sup>128</sup> See VETERANS ADMIN. REPORT, *supra* note 38, at 86 tbl. A-5.

<sup>129</sup> See, e.g., GREENBERG, THE GI BILL, *supra* note 16, at 37 ("It has been estimated that for every dollar spent on GI Bill education benefits, the nation received as much as eight dollars in income taxes."); *id.* at 47 (noting that fifty percent of NASA engineers who developed manned space flight attended college on GI Bill); Bennett, *supra* note 32, at 7 ("It was the law that enabled millions of working class Americans to go to college, buy their own homes, and become, in reality, the members of the middle

occupations might become supersaturated with GI Bill graduates.<sup>130</sup>

Left unanswered, however, was Dean Griswold's question: how can well qualified students be afforded an opportunity to obtain a legal education in the face of often prohibitive tuition costs? As early as 1943, the Osborn Committee recognized that debt financed education could dampen the enthusiasm of many students for education.<sup>131</sup> The original GI Bill encouraged students to pursue their studies without worrying about how to pay for school, books, and room and board.<sup>132</sup> All of the Boston area law schools -- including Boston College Law School -- profited handsomely from the arrangement, building a strong foundation for future excellence.<sup>133</sup> Yet, even as veteran benefits tapered off in the late 1950s, Boston

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class they always thought themselves as being - but all too seldom were.").

<sup>130</sup> See VETERANS ADMIN. REPORT, *supra* note 38, at 39. The report observed that professionals comprised only four percent of all workers in pre-war America, while over thirty-five percent of all GI Bill graduates received professional training. See *id.* at 39 tbl. 1.

<sup>131</sup> See *supra* notes 15-76 and accompanying text.

<sup>132</sup> See *supra* notes 15-76 and accompanying text.

<sup>133</sup> Table one provides a breakdown of the tuition at the leading law schools in Boston during the period 1947-1960, culled from the annual report of the ABA's Section of Legal Education and Admission to the Bar. See *Law Schools and Bar Admission Requirements in the United States, 1947-60* A.B.A. SEC. LEGAL ED. & ADMISSION TO THE BAR at 9, 16.

College Law School -- along with many other law schools -- continued to increase tuition.

Explaining the decision to increase tuition during that period, Father Drinan states that he is "inclined to think that BC Law School was under the national or regional tuition at that time."<sup>134</sup> In fairness, tuition at Boston College Law School never exceeded the average cost of law school tuition at leading schools in Boston during the 1950s -- although it never dipped too far below, either.<sup>135</sup> The evening program at Boston College Law School also provided students access to an increasingly prestigious, high quality law school at comparatively cheap rates.<sup>136</sup> After tuition and cost-of-living expenses outstripped Korean GI Bill benefits in the mid-1950s, a disproportionate number of veterans migrated from the

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<sup>134</sup> E-mail from Rev. Robert F. Drinan, S.J., Professor of Law, Georgetown University Law Center, to author (Feb. 7, 2001, 13:51:00 EST) (on file at Boston College Law Library).

<sup>135</sup> "Leading schools" refers to Harvard Law School, Boston University Law School and Boston College Law School. Of the other two law schools in Boston, Suffolk University School of Law did not attain ABA accreditation until 1953, and Northeastern University Law School ceased operation by 1957. See table one for a comparison of the tuition rates charged at each of these schools.

<sup>136</sup> Compare BOSTON COLLEGE BULLETIN: UNIVERSITY GENERAL CATALOGUE 478 (Dec. 1960) (\$731.50 for evening program at BCLS in 1960) [hereinafter 1960 BULLETIN], with *Law Schools and Bar Admission Requirements in the United States*, 1960 A.B.A. SEC. LEGAL ED. & ADMISSION TO THE BAR at 10 (\$1000 for day programs at Harvard and Boston University during same period).

day school to the evening program.<sup>137</sup> It seems reasonable to believe that veterans worked during the day to finance their legal education, supplementing their benefits and avoiding debt in the process. After the evening program ended at Boston College Law School in the early 1960s, access to affordable and high quality education in Boston was significantly curtailed.

Father Drinan notes that the quality of the evening program simply could not keep up with that of the day program at Boston College in the early 1960s.<sup>138</sup> "The day school was reaching out across the country and was attracting a very significant number of very superior students," he adds.<sup>139</sup> Perhaps it might be asked if the only mission of Boston College Law School -- or any law school, for that matter -- ought properly to be confined to attracting and educating top students.<sup>140</sup> If social justice is a component of the Boston College Law School mission, shouldn't the school's resources be directed toward encouraging talented students to pursue careers in

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<sup>137</sup> See *supra* notes 106-120 and accompanying text.

<sup>138</sup> See E-mail from Father Drinan, *supra* note 134.

<sup>139</sup> See *id.*

social justice? More generally, if the legal profession's aspirational statements emphasize service to the community and the poor, shouldn't all law schools attempt to make access to legal education as wide-spread and affordable as possible?<sup>141</sup>

Despite Dean Griswold's admonition less than two decades earlier, none of the Boston area law schools pondered these questions as legal education became less affordable in the early 1960s. Although it is difficult to define with any precision what legal positions are truly in the "public interest," it seems uncontroversial to suggest that those who don the robes of a judge render a public service. By that standard, Boston College Law School proved slightly more successful in its stated goal in the late 1940s and early 1950s, when it eventually placed between five and ten judges from each class on the bench, than

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<sup>140</sup> Cf. 1953 BULLETIN, *supra* note 1, at 354 (stating mission); Griswold, *supra* note 45, at 719-20 (stating purpose of legal education).

<sup>141</sup> See MODEL RULES OF PROF'L CONDUCT pmbl. (1983) ("A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor . . . cannot afford adequate legal assistance."); MODEL CODE OF PROF'L RESPONSIBILITY EC 1-1 (1980) ("A basic tenet of the professional responsibility of lawyers is that every person in our society should have ready access to the . . . services of a lawyer of integrity and competence."); CANON OF PROF'L & JUD. ETHICS Canon 12 (1936) ("A client's . . . poverty may require a less charge, or even none at all . . . . In fixing fees, it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.").

it did in the late 1950s, when at most only five graduates in any year have ever accepted one of the most honored positions in the legal profession.<sup>142</sup>

Nor has any Boston area law school wrestled with these issues since that time. Debt financing became an increasingly large component of American higher education throughout the late 1950s and early 1960s. Satisfied with the success of the original GI Bill and Korean GI Bill, politicians toyed with the idea of a comprehensive scheme to fund higher education.<sup>143</sup> A commission chartered by President Dwight D. Eisenhower in 1956 recommended more scholarships and "greater reliance on student borrowing."<sup>144</sup> This unfocused national dialogue took on renewed urgency, however, in October 1957, when Russia launched Sputnik, beating the United States into outer space.<sup>145</sup> In short order, Congress passed the National Defense Education Act, authorizing federal funding of loans to students of up to \$1,000 for five years at a mere three percent interest.<sup>146</sup> By June 1960, Congress had authorized approximately \$70.8 million for federal education loan

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<sup>142</sup> Compare *supra* note 71-76, with *supra* note 123.

<sup>143</sup> See ALICE M. RIVLIN, *THE ROLE OF THE FEDERAL GOVERNMENT IN FINANCING HIGHER EDUCATION* 69, 72-73 (The Brookings Inst., 1961).

<sup>144</sup> See *id.* at 72.

<sup>145</sup> See *id.* at 73.



programs.<sup>147</sup> Education institutions heartily endorsed this and other expansions of the role of the federal government in underwriting student loans, citing increased costs in facilities, faculty and equipment.<sup>148</sup> Less than fifty years after the federal government offered its first student loans, federal funding for student loans stood at \$14.6 billion for FY 2000 *alone*.<sup>149</sup>

Debt financing of education forces law students to make a difficult choice: either allocate a large percentage of income from lower-paying public service jobs to maintain and pay down student loan debt, or enter the higher paying field of private law. For example, a 2001 graduate of Boston College Law School who borrows the full amount of \$23,500 available annually through federally guaranteed loans will graduate with \$70,500 of debt. With tuition alone set at \$25,790 per year, such a debt load would not be an uncommon. This debt requires monthly payments of roughly \$881.25 to pay down over a ten year period,

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<sup>146</sup> See *id.* at 76.

<sup>147</sup> See *id.* at 77.

<sup>148</sup> See, e.g., *College Student Aid Legislation: Hearings before the Subcomm. on Ed. of the Comm. on Labor and Pub. Welfare*, 88th Cong. 579-92 (1964) (statement of Father Edward B. Burns, President of Georgetown University, for the Association of American Colleges).

using the rule of thumb of approximately \$125 per month for every \$10,000 owed. This represents 42% of the after-tax monthly income of an entry-level assistant district attorney in Massachusetts, who makes only \$30,000 annually.<sup>150</sup> By contrast, these repayments comprise only 12% of the monthly after-tax income of an entry-level associate at a large Boston area law firm, who commands a salary of \$125,000. A risk-averse student is more likely to at the very least delay entry into the public interest field until that debt is paid down.

If this Article stands for the unremarkable proposition that students wish to avoid debt, and that significant debt may have an impact on future career choices, then it is all the more remarkable that this proposition is only just being rediscovered in the twenty-first century. For example, Princeton University recently announced that its incoming undergraduate class of 2002 will not be required to borrow any money to finance their education.<sup>151</sup>

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<sup>149</sup> See U.S. Dep't of Ed., *Student Aid Summary Tables*, at <http://www.ed.gov/offices/OUS/Budget01/Budget/sum-e.html>.

<sup>150</sup> See *Crime Fighting Doesn't Pay*, BOSTON GLOBE, July 7, 2000, at A22. In fairness to the Commonwealth of Massachusetts, there is talk of increasing the salary to \$33,000, although that proposal has, as of yet, gone unfunded. See *id.*

<sup>151</sup> See Marilyn Marks, *Grants to Replace Loans for All Students on Financial Aid*, at <http://www.princeton.edu/pr/news/01/q1/0127->

Instead, once parental share of tuition has been computed, financial aid applicants will receive university grants in place of student loans.<sup>152</sup> Before this program, with the cost of tuition and room and board exceeding \$33,000 annually, Princeton undergraduates were leaving the school with an average debt load of \$15,000-\$20,000.<sup>153</sup> The director of undergraduate financial aid at Princeton states that the university hopes that by eliminating this debt load, graduating students will avoid early financial hardship and will have greater freedom in making decisions about graduate education and careers.<sup>154</sup>

In the context of legal education, New York University (NYU) School of Law Dean John Sexton is widely known for his dramatic fundraising efforts, and

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aid.htm (Jan. 27, 2001); see also *Out from Under*, BOSTON GLOBE, Feb. 8, 2001, at A22.

<sup>152</sup> See Marks, *supra* note 151.

<sup>153</sup> See *id.*

<sup>154</sup> See *id.* Other undergraduate universities have not yet followed suit, but market pressures to attract top students almost certainly will force them to do so. See *Out from Under*, *supra* note 151, at A22. Intuitively, one might think that a substantial reduction in student debt would increase the ability of schools to appeal to alumni for contributions. The lessons of the Boston College Law School classes of 1949-59 are mixed in that regard. Classes in the late 1940s and early 1950s -- those who enjoyed fully-funded GI Bill education -- tend on average to give less overall than classes in the late 1950s, although the Class of 1950 gave the second highest amount during that decade, with \$345,458 in lifetime giving. Table two provides a summary of alumni lifetime giving by class during this decade. I am indebted to Louise Parent and Al Blum at the Boston College Law School Office of Alumni and Development for making this information available.

his ambition to make NYU's J.D. program tuition-free.<sup>155</sup> Dean Sexton recently stated that, "In my view, every student should be able to make a career choice free of debt."<sup>156</sup> While he has backed off his original proposal to make legal education free to all -- including those students electing to enter the high-end salary brackets -- Dean Sexton continues to support the idea of a loan repayment program that would substantially reduce or eliminate student loan debt, and has implemented such a program at his law school.<sup>157</sup>

The overarching lesson of the experiences of World War II and Korean War veterans at Boston College Law School appears to be that students will make every effort to avoid debt. Freedom from debt, in turn, assures freedom of career choice. Law schools can give students that freedom by dramatically expanding financial aid packages, the model adopted by the original GI Bill, or by offering less expensive evening education, the model implicitly imposed at Boston College Law School by the Korean GI Bill and increasing daytime tuition.

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<sup>155</sup> See, e.g., John Sexton, *Dialogue, Legal Education, Today & Tomorrow*, 3 GREEN BAG 2d 417, 418 (2000).

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

To simply look back over fifty years of history and criticize the decisions of those in positions of leadership at the time is too easy, unhelpful, and smacks of ingratitude. The visionary work of Father Kenealy and Father Drinan at Boston College Law School during the 1940s and 1950s fundamentally transformed the law school for the better, and improved the lives of countless students in that generation and those that followed. At the same time, now that Boston College Law School commands a position among the top-ranked law schools in the country, should it not capitalize on that position to continue its tradition of public service?

Although Boston College Law School's capital position is improving each year, it is many years away from the luxury of an endowment like that of Princeton University. An aggressive financial aid program is likely too expensive a proposition for the law school at this date. On the other hand, the law school might easily offer an evening program, as it did for many years. Whatever factors may have contributed to the closing of the evening program almost forty years ago, the law school stands in a considerably different

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<sup>157</sup> See *id.* at 418-19.

position now. First, an evening program would not harm the reputation of the school -- the law school's ranking is reasonably assured, and even prestigious law programs like Georgetown University Law Center offer evening degrees today. Second, an evening program could draw on the rich resources of the Boston legal community, perhaps expanding the use of adjunct professors, who receive only \$2,500 per semester. In short, Boston College Law School should consider making affordable, high quality legal education available once again, so that another generation can fulfill Dean Dooley's vision of a law school that allows working students to realize their ambitions to leave their daily jobs to practice law anywhere in the country.

### **Conclusion**

Almost seventy-five years ago, Boston College Law School was established to provide a place of learning for those devoted to a career of public service. The original GI Bill and the World War II veterans who brought those funds to the school had a profound impact upon Boston College Law School. They provided the resources to transform a good regional school into what is today a nationally ranked law school.

Only ten years later, however Boston College Law School -- and for that matter, law schools across the country -- failed to recognize that tuition and cost-of-living expenses were outstripping the ability of students to pay. The effect was even more pronounced, and perhaps prolonged, at Boston College Law School, where Korean War veterans found themselves forced to choose between day school and debt or night school and post-graduation freedom to choose a career path. When the night school closed in the early 1960s, even that avenue became unavailable.

Debt financing of legal education has been the model ever since. If public service is indeed an aspiration of the legal profession in general, and Boston College Law School in particular, however, perhaps law schools should consider offering an expanded financial aid package or a less expensive evening program so that students will have the broadest possible freedom in choosing their career paths. Unburdened by debt, graduating students might better fulfill the aspirations of their profession and their law schools.