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good reason to be apprehensive," said Robert L. Gnaizda, the California program's deputy director.

Paul Beck, Governor Reagan's press secretary, said this week that the Governor objected to California Rural Legal Assistance mainly because Government money was being used to finance suits against the Government itself. This objection had also been raised in Congress by Senator Murphy.

Antipoverty lawyers feel that the essence of their program is their ability to sue the Government on behalf of the poor, who cannot defend themselves.

The record of California Rural Legal Assistance shows how effective a legal services program can be in forcing a redistribution of political and economic power. Among its recent cases were the following:

A suit that succeeded in blocking Governor Reagan's attempt last year to drop 160,000 indigent people from Medi-Cal, the California version of Medicaid.

A suit that prohibited a mushroom grower from employing "wetbacks," or Mexican aliens illegally in the country while native workers were unemployed.

A suit that forced farm owners to pay a minimum wage of $1.65 an hour—the highest wage for agricultural workers in the country.

A case that required all of California's 58 counties to adopt some form of Government food program.

A suit that prohibited growers from dismissing workers for union activity and awarded punitive damages to nine workers who had been let go for such activity.

In addition, the legal services agency, which has 10 offices around the state, is awaiting the outcome of a suit that would guarantee unemployment compensation to all farm workers. Farm workers are now excluded from both state and Federal unemployment insurance.

Another pending case would require the Secretary of Agriculture to provide all poor children with free or reduced-price lunches. Mr. Gnaizda, the local program's deputy director, estimated that only one in 10 poor children in the state currently received such lunches.

Mr. MONDALE. Mr. President, a growing fear among legal services attorneys throughout the country surfaced at a poverty law conference held recently in Vail, Colo. Past experience of the South Florida Migrant Legal Services program and the Navaho Legal Services, DNA, indicated that political and economic interests, antagonistic to the impoverished community represented by legal services, could exercise their influence through the Governor's office to limit the effectiveness of the programs. In the past few months, any indication of opposition to a particular legal services program from a Governor's office was enough to prompt the OEO legal services administrators in Washington to seek compromising changes in the structure of the local program to appease its critics, often the respondents in suits filed by legal services attorneys.

The poverty lawyers gathered at Vail wrote to the director of the legal services, setting out their concerns and seeking the administration's assurance that it will guarantee the "integrity and independence from the pressure of conflicting interests so necessary to preserve this program."

I ask unanimous consent that the text of the letter to Mr. Terry Lenzner be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 21, 1969.

TERRY LENZNER, Esq.
Legal Services Program,
Community Action Program,
Office of Economic Opportunity,
Washington, D.C.

DEAR MR. LENZNER: The conference we have nearly concluded has provided us with an invaluable opportunity to rethink the legal and practical problems of poor people and the professional tools lawyers can bring to their solution. It has also brought out a major threshold issue: whether the present structure for organizing and funding legal services programs is able to assure the independence and integrity essential to aggressive advocacy on behalf of the poor. It should be apparent that neither vigorous representation of a client, nor responsible efforts at law reform can be carried on if antagonistic political or economic interests are permitted to threaten the position of the Legal Services lawyer or his legitimate activity on behalf of his clients.

The OEO legal services program revolutionized legal aid for the poor, not simply because it provided more money, or stationed lawyers where their clients live and work, or provided legal services to people who never had them before, but because for the first time large numbers of able and dedicated lawyers refused to accept a legal status quo that injured their clientele when sound arguments for changing it could be mustered.

The question now facing all of us is whether the administration is able to provide the ironclad assurances of integrity and independence from the pressure of conflicting interests so necessary to preserve this program.

The urgency of this issue has been dramatized for us by the imminent possibility that the South Florida Migrant Legal Services Program and the Navaho Legal Services program (DNA) will be discontinued because of opposition stirred up by their accomplishments. In concept and in execution, these programs exemplify the most striking innovations the Office of Economic Opportunity has brought to legal services for the poor. Along with another rural program, which has also been under determined attack, the Florida and Navaho programs brought legal services of an unusually high quality where they had never been available before and where the record now shows they were desperately needed. Recent evaluations of both programs, and their past accomplishments, sufficiently demonstrate that the opposition to refunding is not based on any deficiency in the quality of legal services they provide. Yet refunding is strongly opposed and there is every indication that there will be strong pressure at the State level to veto renewal. With both programs, the opposition's price seems to be a change that would put the program under the control of interests antagonistic to its clientele, thus incorporating in it an outright and deliberate breach of both the American Bar Association canons of ethics and the Economic Opportunity Act of 1964.

Experience with the legal services program has shown that, as law reform, as vigorous representation of the client, is effective, a program will be controversial. Narrow but sometimes powerful interests see a threat in aggressive advocacy on behalf of the poor. The customary response is an attack on the legal services program itself. These heavyhanded assaults on the freedom of attorneys to represent their clients have multiple sources, but a common theme. Whether local bar associations, political and governmental organizations or community action programs are the source, the real grievance is rarely that a legal services program has done too little, rather that it has done too much. In short, opposition to an aggressive and effective program is really opposition to law and order when it benefits the poor. It is apparent that this is the real reason for resistance to refunding of the South Florida Migrant and DNA programs.

Because of their accomplishments, because of the source of the opposition, and because of the inability of their clientele to provide countervailing political support, the fate of the South Florida and Navaho programs will inevitably be test cases for the legal services program as a whole. Without a firm guarantee of independence and integrity from the Federal level, no innovative aggressive program of legal services can ever survive a similar onslaught. Unless the present administration of the Office of Economic Opportunity is willing to provide that guarantee, even by overriding a gubernatorial veto if necessary, as Mr. Rumsfeld is statutorily empowered to do, the future of all legal services programs will be in doubt. The delay in reaching a decision to refund these programs and the failure to provide some kind of interim emergency funds casts doubt on assurances that the programs will continue, to say nothing of making the personal circumstances of the people employed in them unnecessarily difficult.

The success of legal services programs rests on the ability of the Office of Economic Opportunity to assure the integrity of the lawyer-client relationship. The strong support forthcoming from the American Bar Association has expressly been conditioned on this assurance, and it is vital to the ability of the program to attract and retain able attorneys. Without it widespread demoralization and the loss of active, dedicated and highly qualified staff attorneys will be inevitable.

Senator Mondale, a member of the Senate Committee on Labor and Public Welfare, has indicated an interest in holding hearings on threats to the independence and integrity of legal services programs, with a view to proposing legislative changes that would eliminate them. We would hope that, if OEO is unable by administrative action to assure the independence of legal services programs and to protect the integrity of the lawyer-client relationship, you would join us in searching out and supporting the legislative changes necessary to reach this goal.

We are confident that your concern for the independence and vigor of legal services programs is at least equal to ours, and we therefore assure you our unanimous support in maintaining that independent posture. Nevertheless, to all of us, the legal services program represents a personal dedication, as well as a substantial commitment of time, energy, and critical phases of our professional careers. We are unwilling to see that program, or any worthwhile part of it, crippled through inaction or political impotence. Unfortunate experience, not the least of which is the current plight of the South Florida and Navaho programs, has convinced us that the future of the legal services program demands the following steps:

1. An immediate decision to fund South Florida Migrant Legal Services and DNA at levels consistent with recent evaluations of their programs, if necessary over vetoes at the Governor's level, and also to provide emergency interim funds if necessary.

2. A commitment that the pressure of political and economic interests will not be permitted to block the funding or refunding of programs that provide an adequate level of quality and effectiveness of service.

3. Measures to eliminate forms of local control that subvert program effectiveness.

4. A commitment to the integrity of the attorney-client relationship and the freedom of a program to act in behalf of its clients solely as the professional judgment of its staff dictates, regardless of the unpopularity

of the client or his cause, and without external review of its decisions in particular cases.

5. A prompt review of refunding and evaluation procedures to insure their objectivity, to insure that no program can be terminated or denied refunding without full consideration and an opportunity to be heard, and to insure that no program will be without operating funds in the process.

6. A prompt review and revision of policy-making organs and procedures for the legal services program to provide for the participation of attorneys at the project staff level.

We request your answer to the foregoing in writing by Tuesday noon, and we look forward to discussing your response with you in person next Thursday.

Very truly yours,

CAROL RUTH SILVER.

Mr. MONDALE. Mr. President, a resolution adopted at the annual meeting of the American Bar Association in Dallas, Tex., in late August, voices the same concern over the interference by Government officials with the activities of organizations providing legal services. I ask unanimous consent that the ABA resolution be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, attacks against Legal Aid and Legal Services lawyers and other lawyers threaten the rights of clients to have independent advocates;

Now, therefore, be it resolved, That the American Bar Association supports and continues to encourage every lawyer in the exercise of his professional responsibility to represent any client or group of clients in regard to any cause no matter how unpopular; and

Further resolved, That the American Bar Association deplores any action or statement by any government official who attempts to discourage or interfere with the operation or activities of any properly constituted organization which provides legal services to the community because the lawyers associated therewith, or any lawyer acting in good faith and within the confines of ethical conduct, zealously represent clients in matters involving claims against a government entity or individuals employed thereby.

Mr. MONDALE. Mr. President, my second amendment to S. 1809 is intended to ease the restrictions on criminal representation by OEO legal services attorneys. The present Economic Opportunity Act provides for no criminal representation except "in extraordinary circumstances where, after consultation with the court having jurisdiction, the Director has determined that adequate legal assistance will not be available for an indigent defendant unless such services are made available." The amendment I propose would remove the words "in extraordinary circumstances" with the intent that the Director would allow criminal representation in a variety of legitimate circumstances if the local legal services attorneys request it and obtain court approval.

The various circumstances for criminal representation by the civil-oriented legal services programs might include cases arising in rural areas where public defenders are not readily accessible, cases connected with civil suits filed by legal services such as arrests for trespass after a welfare rights sit-in or civil suits for damages from brutal treatment or false arrest against the police, or preliminary hearings on criminal charges when obtaining the services of an attorney rapidly is of crucial importance.

Of course, I do not intend for this amendment in any way to force criminal cases on legal services programs which are already overburdened. However, in many instances legal services programs find their effectiveness and credibility in a community undermined because they cannot provide legal assistance when a member of the community most needs it, when he has been arrested.

The third amendment increases the Federal support for all of the legal services programs from 80 to 90 percent. The remaining percentage or the "local share" must be raised by each director from local sources. The Federal Government supplied 90 percent of the funding for all programs until June 30, 1967; my amendment proposes a return to the original formula for Federal-local sharing.

Many legal services programs obtain their share through "in kind" contributions of time from local attorneys. In some areas of the country it is difficult to find volunteers to assist the programs; in other areas, such as the Deep South, it is nearly impossible.

Other legal services programs are assisted by local United Funds. United Fund support may lead, however, to conflict of interest problems. In Oklahoma City the local share raised through the United Fund was withdrawn promptly when the legal services program filed a suit against the local housing authority in Federal court. In Los Angeles local contributors advised the University of Southern California that they would withdraw their financial support if the university-sponsored legal services pursued litigation it had filed against the local police department.

The fourth proposal allows the Director of the Legal Services programs the discretion to increase the maximum salary limitations for staff attorneys. The present top salary for the community action program, of which legal services has been an administrative part, is $15,000. The CAP Director may approve higher salaries for specialized or professional skills in exceptional cases, particularly in metropolitan areas with higher local salary levels. In practice, it has often been difficult for local legal services programs to obtain salary waivers from the CAP.'s

Salaries for attorneys have been steadily increasing. Beginning salaries for law school graduates in New York and Washington are at the maximum level for legal services programs. If legal services intends to recruit in the national market for "poverty law" specialists or experienced trial and appellate attorneys, the Director needs the clear-cut authority to pay higher salaries.

At this time I do not believe there is a need for an across-the-board salary increase for legal services attorneys. I do believe the authority to increase the maximum salaries will attract experienced, capable attorneys to the program and will keep attorneys who have gained expertise in "poverty law" with the programs.

The fifth amendment prevents delegation of the Office of Economic Opportunity's legal services to any other existing Federal agency. I can foresee a time in the future when legal services may be an autonomous Federal agency. For the time being, however, I believe that legal services should be continued as a part of the Office of Economic Opportunity where conflict of interest problems are at the minimum.

Delegation of legal services to the Department of Health, Education, and Welfare or to the Justice Department, suggestions I have heard, present many possible conflicts of interest. One of the major areas where local legal services have pressed reform is in welfare; if legal services became part of HEW, suits such as those which questioned the constitutionality of the "man-in-the-house" rule would be impossible.

The Justice Department represents the Federal Government in any suit against the United States. Legal services programs throughout the country have represented indigents in suits against the Federal Government. The bar association canons of ethics would prevent Justice Department attorneys from representing both parties in a lawsuit. The effect of delegating legal services to the Justice Department means that legal services programs will not be able to represent indigents in suits against the United States.

The American Bar Association resolution I discussed earlier supports legal services attorneys who "acting in good faith and within the confines of ethical conduct, zealously represent clients in matters involving claims against a government entity or individuals employed thereby." My amendment is intended to prevent the delegation of legal services to another existing Government agency because I fear such a delegation will end legal representation for poor people who have claims against the Federal Government.

CONTINUATION OF PROGRAMS AUTHORIZED UNDER THE ECONOMIC OPPORTUNITY ACT OF 1964—AMENDMENT

AMENDMENT NO. 152

Mr. MONDALE. Mr. President, I submit an amendment to S. 1809, which I intend to propose during the upcoming executive sessions of the Employment, Manpower, and Poverty Subcommittee devoted to the consideration of bills to extend the Economic Opportunity Act. My amendment would raise the authorization of Project Headstart, included in Senator NELSON'S bill, to $578 million—an increase of $240 million.

I ask unanimous consent that this amendment be printed in the RECORD at the close of my remarks.

The VICE PRESIDENT. The amendment will be received, printed, and appropriately referred; and, without objection, the amendment will be printed in the RECORD, as requested by the Senator from Minnesota.

(See exhibit 1.)

Mr. MONDALE. Mr. President, the need for this immediate yet modest increase in the authorization became evident during the recent hearings which