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THE UNIVERSITY OF WISCONSIN,
Madison, Wis., October 4, 1971.

Hon. WILLIAM PROXMIRE,
U.S. Congress, New Senate Office Building, Washington, D.C.

DEAR SENATOR PROXMIRE: We are alarmed by newspaper accounts describing the planned reorganization of the Bureau of Labor Statistics. As you are aware, the monthly presentation to the press of the basic unemployment statistics and the answering of questions regarding their significance has been the responsibility of competent and objective career statisticians of the Bureau. The transfer of this function and the attendant downgrading of the Bureau's professional statisticians is likely to impair the public's understanding of unemployment problems in this country.

Until last March, no one had seriously questioned the integrity of unemployment statistics. To be sure, it was easy to find fault with the methods used in their construction and particularly with their seasonal adjustment, but not their fairness. With the cancellation by the Administration of the monthly news conference, a first step in the erosion of public confidence in government statements regarding the unemployment rate occurred. If the planned reorganization is put into effect, economists, important stabilization agencies such as the Federal Reserve, and the public at large will surely question the objectivity of this important statistic. We judge this to be so in spite of the Administration's rationale for the reorganization of Federal statistical activities as reported in *Statistical Reporter*, July 1971. Certainly no argument for organizational efficiency has come to our attention which justifies the displacement of a statistician of the caliber of Mr. Harold Goldstein.

Your previous action in March, 1971 when Secretary Hodgson attempted to silence Mr. Goldstein was most effective. In the event the planned reorganization occurs, the Joint Economic Committee should call forward Mr. Goldstein's successors and, with the advice of skilled statisticians, should publicly verify each month that the reported statistics and the procedures underlying their construction are comparable or defensibly better than the historic series. If the Committee does less, the quality of analyses and discussion of the serious economic problems facing our society will be severely diminished.

Sincerely,

Edgar F. Feige, Associate Professor of Economics; Neil K. Komesar, Assistant Professor of Law; Lee Bawden, Associate Professor of Economics; Burton A. Weisbrod, Professor of Economics; Robert J. Lampman, Professor of Economics; Irene Lurie, Assistant Professor of Economics; Thad W. Mirer, Research Associate, Institute for Research on Poverty; Peter H. Lindert, Associate Professor of Economics; Kang Chao, Professor of Economics; Dennis Hoover, Lecturer, Department of Economics; Geoffrey Carliner, Project Associate, Institute for Research on Poverty; Arthur S. Goldberger, Professor of Economics; Donald Harris, Associate Professor of Economics; Gerald G. Somers, Professor of Economics; Dorothy J. Hodges, Assistant Professor of Economics; James Ozzello, Graduate Student, Department of Economics; Peter A. Lundt, Graduate Student, Department of Economics; Robert E. Baldwin, Professor of Economics; Kenneth White, Graduate Student, Department of Economics; Leonard W. Weiss, Professor of Economics; Timothy Bates, Graduate Student, Department of Economics.

John S. Akin, Research Associate, Institute for Research and Poverty; Nathan Rosenberg, Professor of Economics; Dagobert L. Brito, Assistant Professor of Economics; J. David Richardson, Assistant Professor of Economics; Ralph Andreano, Professor of Economics; Donald Hester, Professor of Economics; Charles E. Metcalf, Assistant Professor of Economics; Jeffrey G. Williams, Professor of Economics; Theodore F. Groves, Jr., Assistant Professor, Department of Economics; Allen Kelley, Professor of Economics; Roger F. Miller, Professor of Economics; Frederick Golladay, Assistant Professor of Economics; Dennis Aigner, Professor of Economics; Richard Day, Professor of Economics; Glen G. Gain, Professor of Economics; Robert H. Haveman, Professor of Economics;

Eugene Smolensky, Professor of Economics; David B. Johnson, Professor of Economics; W. Lee Hansen, Professor of Economics; Earl Brubaker, Associate Professor of Economics; John M. Culbertson, Professor of Economics; Jack Barbash, Professor of Economics; Everett M. Kassalow, Professor of Economics.

THE ESSENCE OF BROTHERHOOD OF MAN

Mr. MATHIAS. Mr. President, Theodore McKeldin, mayor of Baltimore from 1943 to 1947, and again from 1963 to 1967, and Governor of Maryland from 1951 to 1959, is one of the most remarkable human beings I have had the pleasure of knowing. Recently, in an article entitled, "Can Non-Jews Identify With Israel?," the Israeli publication, Turim, cites an exchange of correspondence between a Baltimore resident and Governor McKeldin. In this exchange, Mr. McKeldin expresses with great eloquence what I think is the essence of the brotherhood of man.

At this time, as Americans of all faiths express their concern over the denial of freedom for Soviet Jews and as we consider the situation of Israel in the continuing Mideast crisis, I find Governor McKeldin's words to be particularly apt. I heartily commend them to Senators and ask unanimous consent that the article be printed in the RECORD.

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

CAN NON-JEWS IDENTIFY WITH ISRAEL?

A REMARKABLE CORRESPONDENCE

In the newly published English anthology, ISRAEL THROUGH THE EYES OF ITS LEADERS, Professor Moshe Davis, head of the Hebrew University's Institute of Contemporary Jewry, cites in his chapter on teaching American Jewish history in Israel, the extraordinary correspondence between Governor Theodore McKeldin of Maryland and a citizen of Baltimore. When it appeared in Israel this elicited a widespread response. It is an encouraging and illuminating document for Americans as well.

Wrote a certain Baltimorean:

"Dear Governor McKeldin:

"As long as I can remember, I have been taught by my family, by the Maryland public school system . . . that we are Americans. Since this is so, our allegiance is always to our own country—America. We cannot then, it seems, call any other land 'ours' and be loyal to the United States. We do not refer to another nation's army as 'our army,' its soldiers as 'our boys' nor the nation itself as 'us.' The officers of the sovereign states of the United States are dedicated to the support of the constitutions of said states and to that of the Union . . .

I could not understand from your remarks whether you were an American or an Israelite, a Jew or a Gentile, a Hebrew or a Christian. Which are you, I would like to know?"

Replied the Governor:

"You ask if I am an 'American or an Israelite' (and I shall assume that you meant Israeli).

"You know of course that I am an American . . . I was the Mayor of an American city and am the Governor of an American state.

"You ask if I am Jew or Gentile, Hebrew or Christian. To the Jew of course I am a Gentile. In my faith I am a Christian.

"Because I am an American, and because of the freedom which is rightfully mine, I can call any man my brother, and when I feel a kinship for his land because it too defends the dignity and the liberty of man, I can call it mine—or 'ours.'

"Because I am a Christian, I dare to extend the hand of brotherhood in the full measure, and to identify myself as closely as possible with a great people who are fighting a gallant fight for that which is right . . .

"I too was reared in a family with a great and abiding love for America and for the opportunities of America, and I am most grateful for the fruits of the opportunities which I have been permitted to harvest.

"I hope that my gratitude will always be strong enough to keep me from hoarding these fruits to decay in a dark and narrow cellar . . . permit me to see the good in other lands and in other peoples, to glory in their struggles for liberty as I glory in ours, and indeed even to speak of theirs as 'ours'—because man's fight for freedom is not a thing of isolation. It is a universal and unending battle. . . ."

HISTORY OF LEGAL SERVICES PROGRAM

Mr. MONDALE. Mr. President, the distinguished senior Senator from Kansas (Mr. PEARSON) has published an article in the current edition of the Kansas University Law Review which describes the brief but tremendously significant and successful history of the legal services program.

The article supports the creation of the Legal Services Corporation embodied in legislation which passed the Senate on September 9, 1971. Senator PEARSON was one of the early supporters of this legislation.

His excellent article is a definitive statement on the history of a program which has done so much to insure adequate and fair representation for the indigent in the courts of America.

Mr. President, I ask unanimous consent that the article, entitled "To Protect the Rights of the Poor: the Legal Services Corporation Act of 1971," be printed in the RECORD.

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

TO PROTECT THE RIGHTS OF THE POOR: THE LEGAL SERVICES CORPORATION ACT OF 1971

(Senator JAMES B. PEARSON*)

MORE. What would you do? Cut a great road through the law to get after the Devil?

ROPER. I'd cut down every law in England to do that!

MORE. Oh? And when the last law was down, and the Devil turned around on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast—Man's law not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would

Footnotes at end of article.

blow then? Yes, I'd give the Devil benefit of the law for my own safety's sake.

R. BOLT, A MAN FOR ALL SEASONS.

History advises that governments and laws tend to militate against those who are least able to defend themselves. The rights of the poor in our society have, for lack of adequate equal counsel, too often been unprotected. Injustices that could have been prevented, had they been brought before the bar, have often continued unabated. Thus, our system of law, though more equitable and compassionate than that of any other nation, has regrettably but truly afforded protection for some but not for others. And in their attempt to "get after the Devil" by defying that law, some of our people have been left bare and defenseless when the Devil (and the law) turned on them.

For centuries, Anglo-American jurisprudence granted full representation before the bar to anyone who could afford it and often ignored those who could not. But a fundamental and strengthening characteristic of representative democracy is its capacity for change and evolution. Acknowledging the inequities that existed in administering justice to the poor, the Congress of the United States in 1965 amended the Economic Opportunity Act to include provisions for a Legal Services Program to be established within the Office of Economic Opportunity.[1] In order to expand this program that has given substance to promise, the 92nd Congress now has before it a bill, which I have cosponsored to re-establish the Legal Services Program as an independent, nonprofit corporation, responsible only to itself and to the law it serves.[2] This legislation seeks, through the creation of a separate entity controlled by a board of directors broadly representative of the legal community, to eliminate excessive political interference and to improve thereby the administration of justice to the poor.[3]

I. THE PUBLIC BENEFIT OF LEGAL SERVICES

The concept of legal services administered to the poor through a community law office has its roots in the legal aid movement of the late 19th century. Reginald Heber Smith followed with his classic JUSTICE AND THE POOR, which urged the organized bar of the 1920's to take a more active role in dealing with the problem of equal representation. Significant national growth, however, was painfully slow due to insufficient funds.[4] With the inauguration of a government-supported program, legal aid to the poor grew remarkably. Initially, the Federal Government sent poverty lawyers to work with an appropriation of $20 million. Since then, the Legal Services Program has become the country's largest law firm, utilizing a $53 million budget to maintain some 2,000 lawyers involved with 265 legal services programs and 934 neighborhood offices. During 1970, approximately one million clients were served. It is encouraging, moreover, that the cost per case steadily decreased from $97 in 1967 to $53 in 1970.[5]

Of transcending importance, however, have been the benefits derived from the efforts of Legal Services attorneys. These benefits are clearly measurable by the sizeable sums in increased wages, food stamps, and welfare payments that successful suits have brought to the indigent. But of even greater value, in my judgment, have been both the continuing protection from consumer frauds and housing inequities and the landmark legal decisions that have benefited millions of poor American people.[6]

The social impact of equal representation in court is difficult to assess or describe. It appears clear, however, that a great mass of our people have perceived—perhaps for the first time—that our system of law does strive for fairness and can be an instrument for the change of our social order.[7] It is my belief that Legal Services, by engaging in the daily tasks of resolving unhappy family situations, preventing evictions, and alleviating wage garnishments, has contributed substantially to reducing in intensity the mood of hostility from which sprang countless civil disturbances, some of which still scar the memory of this Nation.

The Legal Services Program has also been able to make governmental bureaucracies more responsible. One representative example relates to a case wherein the Supreme Court ruled that welfare recipients are entitled to an evidentiary hearing before payments can be cut off.[8] As a result of this ruling, the time necessary to process welfare appeals has been reduced by half. Similarly, Legal Services lawyers in California recently won the elimination of tests written in English administered to Spanish-speaking children. The children who failed the tests were being placed in classes for the mentally retarded.[9]

II. LEGAL SERVICES IN CONTROVERSY

Whether legal counsel for the poor should be allowed to push and shove a political bureaucracy has become a serious policy question. Indeed, this question has thrust the entire Legal Services Program into a political turmoil that threatens its very existence. The arguments focus on legal reform and politics and the extent to which Legal Services should be involved in either field.

Initially, two dichotomous concepts concerning the Legal Services Program's proper role were advanced. The first concept generally proposed helping the poor to adapt to the equities and inequities of existing law. The second concept advocated that, rather than aid in the perpetuation of the poverty cycle, antipoverty attorneys should challenge the injustices in our legal system and seek thereby to improve the administration of justice to the poor.

In February, 1965, the American Bar Association's House of Delegates passed a resolution reaffirming "its deep concern with the problems of providing legal services to all who need them." The same resolution stated: *"Resolved,* That the Association, through its officers and appropriate Committees, shall cooperate with the Office of Economic Opportunity and other appropriate groups in the development and implementation of programs for expanding the availability of legal services to indigents and persons of low income."[10] The resolution, which won the approval of a majority of the local and state bars, is consistent with the Code of Professional Responsibility, which states in part:

"The duty of a lawyer, both to his clients and to the legal system, is to represent his client zealously within the bounds of the law, which includes Disciplinary Rules and enforceable professional regulations. The responsibility of a lawyer derives from his membership in a profession which has the duty of assisting members of the public to secure and protect available legal rights and benefits. In our government of law and not of men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue or defense."[11]

Left unresolved, then, were conceptual guidelines as well as the political implications of the Legal Services Program. While few people were able to forecast the dramatic social impact poverty law would have, it must have been manifestly clear to all that allowing anti-poverty lawyers to bring suit against government on any level would greatly increase the number and impact of court victories to be gained by the poor.[12] There are many fair-minded individuals, attorneys and laymen alike, who argue against such involvement. Their position is that lawyers should not be paid by government to sue another government agency.[13] On the other hand, it has been argued that the poor, as well as the paying client, must have a proper recourse to assure their rights. And if they are truly unable to obtain legal advice because of financial hardship, government then should be obligated to provide it.[14] Furthermore, there are those who say that the legal system is a political resource and instrument in the community. If this tenet is accepted, as indeed it is among political scientists, then it follows that this system should bring needed change to those in the community who have not only been deprived of society's benefits, but suppressed in attempts to obtain them.[15] To do so means to challenge existing and accepted standards. Professor Harry P. Stumpf writes in "Law and Poverty: A Political Perspective":

"[T]he aims and operations of the Legal Services Program are inextricably involved in, and are a part of, the political system at all levels. . . . The program seeks to provide access to the judicial system for millions of citizens who, for a variety of economic, social, and psychological reasons, have heretofore been "legally alienated." The goal is to provide aggressive, sustained, and readily available advocacy for the poor in order to reassert forgotten rights, establish new rights and remedies, and, in brief, to redistribute societal advantages and disadvantages via the legal system. This is not simply related to politics; it is politics."[16]

And, Jean Cahn, an early proponent of national legal services to the poor, writes:

"Why, it may be asked, should the legal system be made to bear the freight of the entire political and economic structure?

"In part, because it sets the terms and conditions for use of that system In part, because it mirrors the defects of that system. In part, because it blocks the need for social awareness and social reassessment by converting each need into a highly individual, personal, circumstantial case . . . and copes with it accordingly. In effect, the legal system exercises a monopoly on what constitutes a grievance . . . and even when the demands are legitimate, (it) tends to impose a clean hands doctrine which in effect denies to all but the "deserving poor" the right to complaint, to need, to feel, or to demand.

"So long as this monopoly continues, . . . the bulk of grievances and needs will never receive a full or fair hearing—or rational and full exposition.[17]

But in asserting the rights of the poor, the Legal Services Program has experienced political difficulties. Initially and perhaps mistakenly, the Office of Economic Opportunity decreed that neighborhood law firms receiving federal grants would have to report to the local Community Action Agency (CAA) rather than directly to Washington.[18] Additionally, governors won the right to veto funds allocated by the Congress for Legal Services. Public officials have not been unaware of these provisions. For example, the Governor of Missouri, Warren E. Hearnes, vetoed an OEO grant to the St. Louis Community Action Program in December, 1969, on the grounds that legal services lawyers were representing "militant" groups.[19] OEO Director Donald Rumsfeld overrode this veto as well as another affecting the Kansas City, Missouri program.[20] Elsewhere the Chicago Committee on Urban Opportunity, an OEO-funded CAA with the support of Mayor Richard J. Daley, threatened to withdraw funding from the Chicago Legal Aid Society in 1970 unless the Society discontinued representation of citizens groups against municipal agencies.[21] OEO subsequently determined to fund the program directly. Additionally, between 1969 and the present, essential United Fund support of legal services programs has been withdrawn in St. Louis, Missouri; Albuquerque, New Mexico;

Footnotes at end of article.

and Oklahoma City, Oklahoma, on the basis of suits or threatened suits against local government agencies, particularly law enforcement agencies that contribute heavily to the United Fund.

Since 1967, when California Rural Legal Assistance (CRLA) was founded, its record has been remarkable. Though the state's major farmers, welfare bureaucracy, and prominent public officials have joined ranks to oppose CRLA, the lists of its supplicants and court victories have grown apace. In *Hernandez v. Hardin*,[22] California was obliged to increase its food stamp program. In *Alaniz v. Wertz* and *Ortiz v. Wertz*,[23] California truck farmers were forced to stop importing *braceros* who would harvest crops for less wages than native Californians. *Rivera v. Division of Industrial Welfare* [24] asserted that CRLA's claim to enforce the minimum wage of $1.65 per hour to agricultural workers was proper. *Romero v. Hodgson* [25] is currently under appeal to the Supreme Court to decide whether the exclusion of farmworkers from unemployment benefits is constitutional. The fact that the courts have ruled in favor of CRLA in 80 percent of the cases brought would suggest that the poor of California have substantially benefited from CRLA services. In late 1970, however, the Governor of California vetoed a $1.8 million federal grant to CRLA on the grounds that CRLA lawyers failed to represent "the true legal needs of the poor." [26] The ensuing struggle has been intense. CRLA is currently operating under a temporary grant approved by Frank Carlucci, the recently appointed Director of OEO. But no permanent decision has yet been made concerning the future of CRLA, and an OEO-appointed commission comprised of three state supreme court justices is presently considering appropriate recommendations, a situation with which CRLA has become all too familiar during the course of its stormy existence.[27]

III. THE NEED FOR LEGISLATION: INDEPENDENCE IS ESSENTIAL

Clearly, the Legal Services Program and the events that make up politics—both its good and bad aspects are inexorably intertwined. What should be of serious concern to the legal community is the damage done by such political turmoil of the basic tenets of our profession.

One of these tenets is independence from nonjudicial, administrative control. The legal community has only one ultimate authority, and that is the law and the ethical code pertinent to its proper administration. Another tenet is the sanctity of the lawyer-client relationship. The ABA Code of Professional Responsibility specifically includes these two pertinent provisions:

"A lawyer shall not permit a person who recommends employees, or pays him to render legal services for another to direct his professional judgment in rendering such legal services.[28]

"Since a lawyer must always be free to exercise his professional judgment without regard to the interest or motives of a third person, the lawyer who is employed by one to represent another must constantly guard against erosion of his professional freedom."[29]

Yet as we have seen, public officials at all levels of government, through excessive interference in proper relationships with clients and through efforts to exert a crippling degree of lay control, have diverted anti-poverty lawyers from adherence to the Code. Moreover, as an indication of further, though unsuccessful interference, legislation has been offered in Congress to deny Legal Services Lawyers the power to sue government agencies [30] and to grant state governors an absolute veto over federal funds.[31] In 1970, it was proposed, also unsuccessfully, that the Legal Services Program be regionalized—a change that would have subjected its lawyers to an even greater degree of local political pressure.

The National Governor's Conference, in testimony before the Senate Subcommittee on Employment, Manpower and Poverty, recommended that state governors be duly authorized to approve or disapprove individual Legal Services Programs.[32] The ABA Board of Governors, however, in a statement made on October 18, 1969, asserted that the Legal Services Program should "operate with full assurance of independence of lawyers . . . in cases which might involve action against governmental agencies seeking significant institutional change."

The ABA statement further declared that a governor's veto power could be used to "circumscribe the freedom of legal service attorneys in representing their clients." [33] This view was supported by more than 50 state and local bar asosciations, including the National Legal Aid and Defender Association, the Judicial Conference of the United States, and the National Commission on the Causes and Prevention of Violence. The present administration, moreover, has lent its support to the proponents of legal reform. In a statement issued on August 11, 1969, promising the continuation of the Legal Services Program, President Nixon said that the sluggishness of many institutions at all levels of society in responding to the needs of the individual citizen is one of the central problems of our time.

The time to establish an independent, nonprofit corporation to administer legal services is at hand. Anti-poverty lawyers and the law itself must no longer bear the crushing burden of outside intervention. It is essential, in my judgment, that Congress approve the National Legal Services Corporation Act. The Corporation would be authorized to make grants and contracts, to provide comprehensive legal services and assistance to low-income persons, and to carry out programs for research, training, technical assistance, and law school clinical assistance. It would also provide a means for disadvantaged individuals to obtain a legal education. The Corporation would be administered by a 19-member board of directors, to be chosen as follows: five appointed by the President with the advice and consent of the Senate; one by the Chief Justice of the Supreme Court acting on the recommendation of the Judicial Conference of the United States; six by virtue of their office (the President and President-Elect of the American Bar Association, the President of the American Trial Lawyers Association, the President of the National Bar Association, the President of the National Legal Aid and Defenders Association, and the President of the American Association of Law Schools); three chosen by a clients advisory council; and three chosen by a project attorneys advisory council—each council being established by the act. An Executive Director of the Corporation, selected by the board of directors, would also serve as a voting member of the board. The Corporation would be funded by annual appropriations from the Congress, the authorization for fiscal 1973 being $170 million.[34]

The passage of this type of legislation is not unprecedented. In 1967, Congress approved the Public Broadcasting Act, which created the Corporation for Public Broadcasting—an independent, nonprofit corporation receiving governmental funds to assist in developing a noncommercial educational broadcasting system.[35] The reasons for creating such a corporation for Legal Services parallel those for creating the one for public broadcasting. Congress felt that the promotion of educational programming was a governmental function, an obligation it owed the people. And in order to prevent political interference, the corporation was placed beyond the influence of any political interest. As Fred Friendly, former Vice-President of the Columbia Broadcasting System, testified before the Senate Commerce Committee:

"Public Television will rock the boat. There will be—There should be—times when every man in politics—including you—will wish that it had never been created. But Public Television should not have to stand the test of political popularity at any given point in time. Its most precious right will be the right to rock the boat." [36]

It should be emphasized that the independence of Legal Services is valuable and essential only because it will improve the delivery of legal services to poor people. Stated otherwise, the Legal Services Program should be independent in order to more closely adhere to the purposes for which Congress created it. The involvement of legal services lawyers in a case of nonindigent high school students fighting school haircut regulations,[37] for example, is in my judgment, an abuse of independence, a waste of resources, and an abrogation of Legal Services lawyers' responsibilities to their truly deserving clients, the poor. My support for the National Legal Services Corporation Act is accordingly based on the conviction that the needs of our poor are so great that those few human and material resources intended to serve them must not be diverted to other purposes. It is my belief that a Legal Services Corporation cannot help but improve the lot of those whose impoverished condition renders them unable even to obtain proper legal counsel for their legitimate complaints. It is further my belief that this nation owes justice under the law to all its people. If we fail to provide it, we will have failed to recognize a fundamental right of free society. We will have failed to guarantee the best and most democratic means for those deprived to "Cut a great road through the law to get after the Devil."

FOOTNOTES

*James B. Pearson, United States Senator from Kansas, is a graduate of the University of Virginia Law School, and has been a member of the Senate since 1962. He serves on the Commerce, Foreign Relations, and Joint Economic Committees of the Senate. Senator Pearson gratefully acknowledges the assistance of Michael J. Needham, Georgetown University Law Center, for providing supporting documentation for this article.

[1] Economic Opportunity Act of 1964, 42 U.S.C. §§ 2701–2981 (1964), *as amended*, §§ 2701–2981 (Supp. II, 1965–66). For a statement of the amendments of 1965, see Pub. L. No. 89-794, 80 Stat. 1451–77 (1965).

[2] S. 1305, 92d Cong., 1st Sess. (1971).

[3] Legal Services is a program for the poverty stricken. The criteria used to determine eligible clients for Legal Service programs include, number of dependents, assets and liabilities, cost of living in the community, and an estimate of the cost of legal services needed. Legal Services attorneys do not handle fee-generating cases, but refer such cases to private attorneys through the local bar association referral system. If the fee is not sufficient to obtain private representation, the client may be eligible for the assistance of an OEO funded program.

The scope of the work of Legal Services programs includes all areas of civil law, and the services provided include advice, representation, litigation, and appeal. These programs do not duplicate existing legal services for indigent clients.

Legal reform through the advocacy of changes in statutes, regulations, and administration practices are to be a part of the program as it is part of the lawyer's traditional role.

Civil Legal Services Programs may also include advice and representation in those areas of criminal law in which indigent defendants are not provided with the assistance of counsel. Legal Services programs may provide counsel in juvenile cases, counsel prior to arraignment, counsel in misdemeanor cases, and counsel in felony cases at any stage prior to indictment or information. Counsel may also be provided in post-conviction proceedings.

OFFICE OF ECONOMIC OPPORTUNITY, COMMUNITY ACTION PROGRAM: GUIDELINES FOR LEGAL SERVICES PROGRAMS (1966).

[4] Pye, *The Role of Legal Services in the Antipoverty Program*, 31 LAW AND CONTEMP. PROB. 212 (1966).

[5] Interview with Francis J. Duggan, Director of Program Operations, Office of Legal Services, Office of Economic Opportunty, in Washington, D.C., April 21, 1971.

[6] A case in point is Shapiro v. Thompson, 394 U.S. 618 (1969), in which the Supreme Court struck down residency requirements for receiving public assistance. This decision alone had the potential of benefiting the poor by some $100 to $150 million.

[7] This past year some 20 cases brought by Legal Services attorneys have reached the Supreme Court, an indication of the thorough and diligent representation the poor can expect from government funded attorneys. Of the cases decided this term a few are of particular interest. In Tate v. Short, 91 S. Ct. 668 (1971), decided on March 2, the Supreme Court ruled that alternative penalties of jail or a fine were unconstitutional as applied to indigents. In Boddie v. Connecticut, 91 S. Ct. 780 (1971), also decided on March 2, the Court held that indigents had the right to proceed in *forma pauperis* in divorce cases. In Phillips v. Martin Marietta, 400 U.S. 861 (1971), the Court held that it was discriminatory to deny employment to women, when having children was the main reason for denying employment.

[8] Goldberg v. Kelly, 397 U.S. 254 (1970).

[9] Diana v. State Bd. of Educ., Civil Action No. C-70 37 (N.D. Cal. 1970).

[10] ABA Resolution, 90 ABA Reports, 110, 111 (1965).

[11] ABA CODE OF PROFESSIONAL RESPONSIBILITY, Ethical Code 7-1 (1969).

[12] In April of 1968 the former Director, Legal Services Office, stated that in a 2-year period, Legal Services lawyers had:

1. Provided direct legal services and representation to approximately 60,000 poor families.

2. Benefited more than a million and a half poor people through favorable and far-reaching court decisions.

3. Educated over 2 million poor people as to their legal rights and responsibilities.

4. Aided over 1,000 block clubs, tenant groups, and other poverty organizations to set up buying clubs, cooperative laundromats, credit unions, and other self-help institutions to win their rightful share of public services and to obtain their rights.

COMPTROLLER GENERAL OF THE UNITED STATES, REPORTS TO THE CONGRESS: EFFECTIVENESS AND ADMINISTRATION OF THE LEGAL SERVICES PROGRAM UNDER TITLE II OF THE ECONOMIC OPPORTUNITY ACT OF 1964, at 10 (Aug. 7, 1969).

[13] *E.g.*, J. Landauer, *Legal Aid Skirmish in Poverty War*, Wall Street Journal, November 8, 1967.

[14] What the Government does provide, as stated as the principal missions of every good Legal Services Program:

1. To provide quality legal service to the greatest possible number consistent with the size, staff, and other goals of the program.

2. To educate target area residents about their legal rights and responsibilities in substantive areas of concern to them.

3. To ascertain what rules of law affecting the poor should be changed to benefit the poor and to achieve such changes either through the test case and appeal, statutory reform, or changes in the administrative process.

4. To serve as advocate for the poor in the decision-making process. This can be done by representing a neighborhood association at a zoning hearing, for example, or before a city council at which a street improvement is being considered. It could mean the organization and representation of a group of tenants to secure a standard lease that is fair to both landlord and tenant. In brief, it is to provide for the poor the same type of concerned advocacy that others have long enjoyed.

5. To assist poor people in the formation of self-help groups, such as cooperative purchasing organizations, merchandising ventures, and other business ventures.

6. To involve the poor in the decision-making process of the Legal Services Program projects and, to the extent feasible, to include target area residents on the staff of the project.

OFFICE OF ECONOMIC OPPORTUNITY, LEGAL SERVICES PROGRAM EVALUATION MANUAL 1-2 (1967).

[15] Klonoski & Mendelsohn, *The Allocation of Justice: A Political Approach*, 14 J. PUB. L. 323-35 (1965).

[16] Stumpf, *Law and Poverty: A Political Perspective*, 1968 WIS. REV. 703 (1968).

[17] Cahn & Cahn, *What Price Justice: The Civilian Perspective Revised*, 41 NOTRE DAME LAW, 927, 941 n.25 (1966).

The necessity of establishing this widespread consciousness of legal rights within the ghetto was highlighted by the *Report of the National Advisory Commission on Civil Disorders* 292-93 (Bantam Books ed. 1968), which states:

"Among the most intense grievances underlying the riots of the summer of 1967 were those which derived from conflicts between ghetto residents and private parties, principally the white landlord and the merchant. Though the legal obstacles are considerable, resourceful and imaginative use of available legal processes could contribute significantly to the alleviation of tensions resulting from these and other conflicts. Moreover through the adversary process which is at the heart of our judicial system, litigants are afforded meaningful opportunities to influence events which affect them and their community.

"However, effective utilization of the courts requires legal assistance, a resource seldom available to the poor. Litigation is not the only need which ghetto residents have for legal services. Participation in the grievance procedure suggested above (Neighborhood Action Task Forces) may well require legal assistance. More importantly ghetto residents have need of effective advocacy of their interests and concerns in a variety of other contexts, from representation before welfare agencies and other institutions of government to advocacy before planning boards and commissions concerned with the formation of development plans. Again, professional representation can provide substantial benefits in terms of overcoming the ghetto resident's alienation from the institution of government implicating him in its processes. Although lawyers function in precisely this fashion for middle-class clients, they are too often not available to the impoverished ghetto resident.

"The Legal Services Program administered by the Office of Economic Opportunity has made a good beginning in providing legal assistance to the poor. Its present level of effort should be substantially expanded through increased private and public funding. In addition, the participation of law schools should be increased through development of programs whereby advanced students can provide legal assistance as a regular part of their professional training. In all of the efforts the local bar bears major responsibility for leaders and support."

[18] Economic Opportunity Act, 42 U.S.C. §§ 2790, 2809 (1969).

[19] New York Times, Dec. 28, 1969, at 56, col. 1.

[20] Governor Hearnes vetoed the St. Louis Community Action Program December 18, 1969, and Director Rumsfeld overrode his veto January 10, 1970. Governor Hearnes vetoed the Kansas City Program on March 4, 1970, and Director Rumsfeld overrode his veto on March 16, 1970.

[21] *National Journal* 716 (April 4, 1970).

[22] Civil Action No. 50333 (N.D. Cal. 1969).

[23] Alaniz v. Wertz, Civil Action No. 47807 (N.D. Cal. 1967); Ortiz v. Wertz, Civil Action No. 47803 (N.D. Cal. 1967).

[24] 265 Cal. app. 2d 576, 71 Cal. Rptr. 739 (1968).

[25] 319 F. Supp. 1201 (1970).

[26] December 26, 1970.

[27] Robert B. Williamson, retired Chief Justice of the Maine Supreme Court, Chairman; Justice Robert B. Lee of the Colorado Supreme Court; and George R. Currie, retired Chief Justice of the Supreme Court of Wisconsin. Justice Currie replaced Justice Thomas H Tongue of the Oregon Supreme Court, who resigned from the Commission on California Rural Legal Assistance due to the heavy caseload of his court.

[28] ABA *Code of Professional Responsibility* Disciplinary Rule 5-107(B) (1969).

[29] *Id.*, Ethical Code 5-23 (199).

[30] S. 2388, 90th Cong., 1st Sess. (1967). Th amendment, offered by Sen. Murphy of Cal ifornia, was defeated by a vote of 52-36. 11 CONG. REC., vol. 113, pt. 21, p. 27873.

[31] 115 CONG. REC., vol. 115, pt. 22, p. 29894.

[32] 115 CONG. REC., vol. 115, pt. 27, p. 36853.

[33] Resolution of the ABA Board of Governors on S3016, *Proceedings of the American Bar Association Board of Governors*, Oct. 16 & 17, 1969. Though the ABA has stood firm behind the Legal Services Program, it has not been certain of the future of the program. John P. Tracey, who represents the ABA in Washington, has stated that while support for Legal Services has held firm at the national level, the support has been spotty at the local level due to the conservative nature of local bar associations, and that this local support was crucial to the survival of the Legal Services Program. *National Journal, supra* at n.24.

Another program offered as a means of providing legal services to the poor is Judicare. But it is estimated by the Office of Economic Opportunity that Judicare, the legal equivalent of Medicare, would cost 3 times as much per case as the current Legal Services Program. Widiss, *Legal Assistance for the Rural Poor: An Iowa Study*, 56 IOWA L. REV. 100, 127 (1970).

[34] S. 1305, 92d Cong., 1st Sess. (1971).

[35] Public Broadcasting Act of 1967, 81 STAT. 365, 47 U.S.C. §§ 390-99, *as amended*, 82 STAT. 108, 47 U.S.C. § 396 (1968).

[36] The Public T.V. Act of 1967, *Hearings on S. 1160 Before the Subcomm. on Communications of the Senate Comm. on Commerce*, 90th Cong., 1st Sess. 173 (1967) (testimony of Fred Friendly).

[37] R. Evans & R. Novak, *Defending Poor or Violent?*, The Washington Post, May 7, 1971, at A-25.

COMMUNICATIONS POLICY

Mr. BAKER. Mr. President, as a result of turmoil in the broadcasting industry caused by recent FCC and court decisions, it has become apparent that we must seriously reexamine the regulatory framework established by the Communications Act of 1934. On Wednesday, October 6, Dr. Clay T. Whitehead, Director of the Office of Telecommunications Policy, made a thought-provoking speech to the International Radio and Television Society on this subject. Because I believe that all Senators will be interested in Dr. Whitehead's speech, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows: