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across prairie and mountain, through heat and howling blizzard, showed them to be strange-looking pioneers.

It was faith that urged them on from Nauvoo across the Mississippi and the Missouri. Faith led them along the placid Platte and then down the Weber where it flows like an unbraided rope.

It was faith that carried them across the mountains. Time and history scribble with a careless hand, but not the entry into the valley of the Mormon pioneers. It is faithfully recorded.

Orson Pratt and John Brown had left camp on Monday, July 19, to explore a route into the valley.

"We found a wagon trail, left the year before by the Donner party on their way to California.

"We passed over a mountain and down into another narrow valley, and thus avoided the canyon on the left," said Pratt.

Today, the mountain is known as "Little Mountain" and the narrow valley, "Emigration Canyon."

In the heat of summer, Pratt headed to the cooling of City Creek where it flowed across the valley floor where the City and County Building now stands.

As the sun was slowly sinking, he wrote in his journal that "I gazed on the surrounding scenery with peculiar feelings in my heart. I felt as though it was the place for which we had so long sought."

A later journal reports that President Young said, "It is enough. This is the right place, drive on!"

Now thousands of sunsets later, 126 years to be exact, one can stand at the "This Is the Place" Monument at sunset, and believe. This is the place!

TRIBUTE TO JOHN KAMPS

Mr. METCALF. Mr. President, when I first went to Helena, Mont., as a legislator and later as an assistant attorney general and associate justice of the Montana Supreme Court, the newsman who covered the activities of those bodies was John Kamps. A native of Froid, Mont., John had wide experience in political reporting before he came to Washington.

One of the first persons to greet me when I came to the House of Representatives 20 years ago was my friend John Kamps. He has faithfully and accurately covered congressional activity relating to the West. His knowledge of the problems of the West, his understanding of the special needs of Western States, water, minerals, forests, national parks, Indians, public lands, and the like has resulted in superb reporting of congressional activity in these areas. As of June 30 John has retired.

John has told me that he is going to Florida. However, he will always be welcome in Montana and any summer he wishes to wet a line in a trout stream there are still some of his familiar creeks and rivers still unpolluted awaiting him.

On behalf of my entire staff and myself, I wish John many happy years of retirement and the well-earned leisure he so richly deserves.

OEO LEGAL SERVICES

Mr. MONDALE. Mr. President, 8 years ago, the Federal Government embarked on an experiment to insure equal justice to low-income Americans. That program—the OEO Legal Services program—in those 8 years has proven its effectiveness beyond all doubt.

The Legal Services program has served more than 1 million clients annually, and has performed an outstanding job for those clients. Recent figures show that 83 percent of the matters handled by Legal Services attorneys have been disposed of without litigation and 85 percent of those matters in which litigation resulted have been won for their clients by Legal Services attorneys.

In addition, a GAO survey of Legal Services earlier this year clearly indicated that the vast bulk of Legal Services attorneys' time is spent on handling the day-to-day problems of poor clients. For example, 42 percent of matters dealt with domestic relations, 18 percent with consumer and job-related problems, and 20 percent with housing and welfare problems. And that small proportion of time which has been spent by Legal Services attorneys in attempting to win collective rights for the poor has resulted in hundreds of millions of dollars, as well as expanded human rights—to which the poor were legally entitled—from Federal, State, and local governments which had been violating the law.

I believe this program has demonstrated a greater cost-effectiveness than virtually any other program in Government today. It has prevented unlawful reductions in welfare payments, helped extend the Federal school lunch program, and participated in many other important efforts to enhance the rights of the Nation's poor. It has attracted dedicated, motivated, able lawyers to its programs in a manner which has strengthened our ability to achieve peaceful change within the American system.

Using any standard, this unique program has been an outstanding success. And perhaps the most significant proof of that success has been the fact that the organized bar throughout the country has led the fight to preserve an independent and effective Legal Services program.

Without this leadership by the bar and by the leaders of the organized bar, this program would have been dead long ago.

Yet the sad truth is that despite the success of the Legal Services program it has been subjected from its inception to attacks from those who believe that lawyers should not be too aggressive—or too effective—in defending the rights of their clients.

No one who has had contact with the Legal Services program would deny that there have been some abuses in that program over the past 8 years. No one who has maintained any association with any Federal program operating over that period of time could deny that such a program would have some abuses of its own.

Yet the overwhelming record of achievement which the Legal Services program has realized in a short period of time is in danger today. The abuses of a few are being used as an excuse to weaken a program whose only real "problem" is its record of enhancing justice for millions of Americans.

The House-passed Legal Services Corporation bill, is in my view, a hollow shell of what a truly independent and vibrant Legal Services program must be.

The President has recognized the vital role that Legal Services must play. In August of 1969, he stated that—

> It [the Legal Services Program] will take on central responsibility for programs which help provide advocates for the poor in their dealings with social institutions. The sluggishness of many institutions—at all levels of society—in responding to the needs of individual citizens, is one of the central problems of our time. Disadvantaged persons in particular must be assisted so that they fully understand the lawful means of making their needs known and having their needs met.

The House-passed bill makes such assistance virtually impossible. And, this bill substantially changes the debate over legislation to create a Legal Services Corporation.

Twice the Congress has passed Legal Services legislation; neither time has it become law. Yet in those instances there were fundamental differences of policy regarding institutional structuring of the Corporation, differences which prevented the enactment of an independent Corporation bill, but which were nevertheless within the boundaries of genuine political debate.

The recent action on the House floor fails to meet this test, however. For the crippling amendments adopted on the House floor were not the product of those administration officials who maintain an open mind on the most desirable form for the Legal Services program. Indeed, the nominee for the Director of the Office of Economic Opportunity, Alvin Arnett has told me that he supports the bill which emerged from the House Education and Labor Committee, and which was subsequently gutted on the House floor.

Rather the House floor amendments were the product of days of back-stage whispering by those who have consistently tried to destroy the effectiveness of the Legal Services program. Their chief spokesman was Howard Phillips, former Acting Director of OEO, who at the very time the House bill passed was in his way to being removed from office by a U.S. district court judge.

Those of us who have been through the battle to create an independent and responsible Legal Services program cannot allow that program to be eroded by such tactics. We must repair the damage inflicted by one man who held office illegally and whose view of the world of the poor was as misanthropic as his perceptions of the Legal Services program were inaccurate. We must not let that distorted view of reality undo nearly a decade of responsible activity by Legal Services attorneys on behalf of America's poor.

We cannot allow a program in which backup centers have provided the type of research assistance overworked attorneys in local offices could never hope to provide, to be stripped of its research arm. Yet the House-passed bill would do just this.

We cannot allow a program which has successfully challenged the illegal and arbitrary actions of Federal, State, and local governments to be emasculated by allowing these governmental units to

maintain political control over or operate Legal Services programs. Legal Services attorneys must be free to adequately represent their clients, and political domination over the program by Government will undoubtedly interfere with this objective. Yet the House-passed bill would do just that.

We cannot allow a program which needs involved and motivated attorneys—to be hampered, because of unreasonable restrictions on the private and personal lives of those attorneys. Yet the House-passed bill would do just that.

Finally, we cannot allow Legal Services attorneys to be restricted in representing the interests of their clients before legislative and administrative bodies. Yet the House-passed bill would do just that.

The bill passed by the House would result in second-class law for the poor, which few corporations or governments would stand for.

A number of crucial issues stand out as deserving the attention of the Senate. These issues must be the cornerstone of our attempt to shape Legal Services Corporation legislation which will meet the goals which the President has set for the program. These issues must take priority if we are to meet this Nation's commitment to equal justice under the law.

These are the goals toward which we must work. Together, we must insure a viable and truly independent Legal Services program.

First, we must eliminate the possibility of State and local governments becoming recipients of legal services funding. Political control at any level of Government is highly dangerous for the Legal Services program, since funds may be controlled by potential defendents in actions initiated by Legal Services attorneys. We need an independent program able to challenge Government illegality wherever it exists.

This, of course, is not to deny elected officials their proper role in consultation on matters in which they are intensely interested. However, to allow Governmental units to operate, or be a funding conduit for, Legal Services programs is to run a grave risk that no effective means of legal redress within our system will be preserved.

For as the President himself noted in 1971:

"Much of the litigation initiated by legal services has placed it in direct conflict with local and State governments . . . . However, if we are to preserve the strength of the program we must make it immune to political pressures and make it a permanent part of our system of justice.

No clearer evidence could be offered on the need to insure that recipients are truly independent of State and local political and governmental ties, and able to act freely without fear of political reprisal.

Second, we must insure continued operation of backup centers, which were eliminated by the House bill. As Robert Meserve, president of the American Bar Association, stated in March of this year:

I don't see how with any efficiency the individual lawyers in the field can do all the types of research which these back-up centers can do in specific and particular areas.

These 16 centers provide invaluable assistance to lawyers whom the General Accounting Office earlier this year characterized as overworked with heavy workloads of individual cases. Provision for these centers must be maintained as a part of any independent Legal Services Corporation bill, and Mr. Arnett has indicated his support for this position.

Third, representation by Legal Services attorneys before legislative and administrative forums should not be restricted so as to deny the poor the types of legal assistance which any citizen should be able to obtain. In years past, we have accepted certain compromises on the scope of these vital activities, without which no lawyer can fully serve his clients. But there must be a limit. We must preserve the essential ability of the poor to obtain the same type of legal representation which others in our society can afford.

Testifying in 1971, Edward L. Wright, former president of the American Bar Association, stated that the program must enable a Legal Services lawyer to "serve his clients to the extent of his professional responsibility and the ethical mandates of the profession." In short, we must avoid setting up restrictions on Legal Services attorneys which no large American corporation—whose legal fees are subsidized by the Federal Government through tax deductions—would tolerate for its attorneys, and Mr. Arnett apparently agrees with his position.

Legislative and administrative representation limited to responses to formal request from members of a legislative body is virtually no representation at all. Like any attorney, Legal Services attorneys must be able to carry out legitimate representational activity on behalf of any eligible client before Federal, State or local bodies.

Fourth, we must insure that there are no broad categorical restrictions on the types of cases in which Legal Services attorneys can participate. Such restrictions violate the ethics of the legal profession and place attorneys for the poor in an untenable position.

President Nixon stated in 1971 that—

The legal problems of the poor are of sufficient scope that we should not restrict the rights of their attorneys to bring any type of civil suit. Only in this manner can we maintain the integrity of the adversary process and fully protect the attorney-client relationship so central to our judicial process.

In short, we should no more attempt to limit the types of cases which a Legal Services attorney can bring than we should attempt to restrict the scope of practice of any attorney admitted to the bar.

Fifth, we must attempt to preserve the constitutional rights of Legal Services attorneys by not placing undue restrictions on their personal lives and off-time activities.

Sixth, we must resist attempts to bankrupt the program by requiring the Legal Services Corporation to pay legal fees and court costs for those cases lost by attorneys employed by the Corporation or a grantee. If these provisions become law, they could well require the Corporation as a matter of financial survival to direct recipients not to engage in any but the safest types of litigation. This would prevent precisely the types of litigation and other representational activity through which Legal Services attorneys have won many new substantive rights for clients over the years.

Clearly, this provision is an attempt to bankrupt the Legal Services Corporation and is a departure from the principles on which our legal system rests.

Finally, we should maintain in the law the presence of a National Advisory Council, to act as the chief contact point between the program, the organized bar and those affected by the program's activities. The National Advisory Council has played an important part in winning and maintaining acceptance for the Legal Services program on the part of the local bar. The abandonment and dismantling of the Advisory Council by OEO earlier this year should not be allowed to be perpetuated in our legislation for a Legal Services Corporation.

These are only some of the issues which require the careful attention of the Senate. Together, the many restrictions embodied in the House bill hopelessly impair or prevent much of the most valuable legal services representation. And, if the value of that representation is depreciated, the program can no longer be truly effective in providing the type of service to millions of poor Americans which enables them to find equal justice under our Constitution.

In the coming weeks, the Senate will consider legal services legislation. We must attempt to preserve fully the independence and integrity of legal services lawyers' relationship with their clients, consistent with the requirements of the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association.

In our search to find common principles, we must not be unreasonable, but we must maintain the essential integrity of the program and the integrity of the legal-judicial process.

I hope all those who believe in equal justice under the law, and all those who believe that the poor are entitled to the same standard of justice as all others in our society will join in this search for shared principles.

And I hope and trust that in this search we can breathe new life and a new sense of independence and security into a program desperately in need of our continued support.

COMMITMENT TO PRINCIPLE IS THE GUIDEPOST OF LEGAL SERVICES CORPORATION LEGISLATION

Mr. CRANSTON. Mr. President, the Senator from Minnesota (Mr. MONDALE) has, as usual, made a fine statement. I fully associate myself with all of his remarks, which I have had the opportunity to study prior to their delivery today.

There is little I need to add. He has laid it out very clearly. I will continue to stand at his side along with Senator KENNEDY and others, as I have since we first introduced National Legal Services

Corporation legislation more than 2 years ago.

I associate myself completely with all the principles about which he has spoken so eloquently and with his plea for a reasoned approach to this legislation. I plan to continue to collaborate with him in developing amendments and provisions to carry out our shared goals, principles, and values.

Mr. President, I would like to add one bit of additional support for the very forceful comments which the Senator from Minnesota has made about the vital importance of retaining active and effective legal services backup centers, which the House-passed bill would eliminate. It seems clear that the administration itself recognizes the importance of these centers to the provision of effective legal services since its own proposed legislation would impose no restrictions on the continued funding of such legal research and technical assistance programs.

In addition, Mr. President, I have copies of three letters from high officials of the Department of Housing and Urban Development, as well as an excerpt from the March 1972 HUD publication Challenge, entitled "Special Counsel for the Poor," which are unanimous in their praise for the effective and responsible activities of the national housing and economic law project in Berkeley, Calif., with respect to a variety of subjects, including litigation. I ask unanimous consent, Mr. President, that the text of these three letters and that article and the text of a July 5, 1973, letter to the House and Senate chairmen of the appropriate congressional committees and subcommittees from Dean Edward C. Halback, Jr., of the School of Law of the University of California at Berkeley, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, in closing, I call upon the President to let us know where he stands on this legislation and to identify a responsible administration spokesman to deal with the Congress on his behalf in support of the administration bill, the provisions of which are embodied in S. 1815 amendment No. 132 submitted for the administration by the Senator from New York (Mr. JAVITS) and others.

Mr. President, at his confirmation hearing before the Senate Labor and Public Welfare Committee last Friday, July 20, Mr. Alvin Arnett, Director-designate of OEO, answered questions regarding legal services from Senator MONDALE, myself, Senator KENNEDY, Senator TAFT, Senator SCHWEIKER, Chairman WILLIAMS, and others. The concerns of the committee were, I think, very clearly manifested to him. And he generally responded in a forthcoming manner on this issue, by twice pledging his support, if confirmed as OEO Director, for the bill reported to the House floor from the Education and Labor Committee. If he is confirmed, we expect him to stand by that pledge in the difficult days ahead.

Certainly, his defrocked predecessor was anything but a supporter of the principles and legislation to which Mr. Arnett pledged himself last Friday.

The President should put an end to the schizophrenic behavior which characterized administration activities on the House side—which can best be described as the Phillips Wrecking Co. and Bomb Squad making surreptitious sorties with devasting effect closely followed by the Laird/Garment/Richardson Fire Co. and Rescue Squad with scant water pressure, obsolete equipment, and an unclear mission.

This Keystone Cops routine must not be replayed in the Senate.

It has none of the humorous qualities of the original and has produced disastrous results for America's poor.

EXHIBIT 1

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., January 3, 1972.

Mr. ALVIN HIRSHEN,
Housing Law Project, University of California, Berkeley, Calif.

DEAR MR. HIRSHEN: As you know, I am leaving the Department on January 20, 1973, and wanted to personally thank you for the efforts in assisting the Department over the past four years. More particularly, the advice and counsel given HUD during the negotiations between HUD, NAHRO and NTO on developing the lease and grievance procedure which resulted in the Department issuing a policy agreeable to two very volatile national organizations.

Our General Counsel's office informed me that your representation during subsequent litigation was outstanding and instrumental in getting a favorable ruling for the Department. I hope that in the future, your organization will continue to exhibit the highly professional and responsible service to HUD as well as its consumers.

The association has been rewarding and I wish you all the best for the future.

Sincerely,

NORMAN V. WATSON,
Assistant Secretary.

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., January 10, 1973.

Mr. AL HIRSHEN,
Director, Housing Law Section, National Housing and Economic Development Law Project, Berkeley, Calif.

DEAR MR. HIRSHEN: This letter is to express the appreciation of the Department of Housing and Urban Development both to you personally and to the Project for your assistance in the case of The Housing Authority of the City of Omaha, Nebraska, et al. v. The United States Housing Authority, et al. Your participation in this litigation, especially your involvement in the negotiations with the plaintiffs, as well as your excellent briefs and oral presentations, materially contributed to the successful outcome before the Court of Appeals for the Eighth Circuit.

As you know, this litigation posed a direct challenge to the Secretary's authority to issue regulations and more specifically the validity of the HUD model lease and grievance procedure circulars for low-rent public housing which we felt were essential to the stability and orderly management of the whole public housing program. We feel that the decision in the Eighth Circuit as well as similar decisions in the Seventh and Fifth Circuits have vindicated our position, and that your assistance has been of great benefit in this effort.

Sincerely,

DAVID O. MAXWELL.

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., October 16, 1972.

ALVIN HIRSHEN, Esq.,
Director, National Housing and Economic Development Law Project, Berkeley, Calif.

DEARD AL: We are deeply grateful for your taking time from your busy schedule to make such a fine contribution to our meeting of HUD Lawyers last Friday. The panel made a tremendous impression on everyone, and I believe that your candid and comprehensive approach was a particularly valuable experience for our lawyers in the field.

Many thanks again.

Sincerely,

DAVID O. MAXWELL.

THE UNIVERSITY OF CHICAGO,
Chicago, Ill., March 2, 1973.

Mr. ALVIN HIRSHEN,
National Housing and Development Law Project, Earl Warren Legal Institute, University of California, Berkeley, Calif.

DEAR MR. HIRSHEN: We are arranging to obtain copies of the comments of the American Bar Association Subcommittee on the Model Uniform Residential Landlord and Tenant Act. I expect to be able to send the material to you early next week. I think about the same time, or shortly thereafter, printed copies of the Uniform Act together with comments will be available. This process is, of course, a continuing one and I am sure that the Subcommittee of the National Conference (which under the rules of the Conference continues even though the Uniform Act has been adopted) will be interested in your reaction and will ultimately wish to meet with you and your associates.

I assume that at this time I can appropriately express my deep appreciation, and I am certain that of the Commissioners concerned, for the great and continuing assistance which you and your associates have provided. Few fields of law instruct our general population as thoroughly as that of landlord and tenant. It is in the forcible entry and detainer court and in the building and housing court that the average citizen is truly instructed as to whether our society is one of law rather than men and whether law is, in fact, responsive to the needs of the society which it is to serve. The tenant, for example, who is told that he must continue to pay rent even though all essential services have been deliberately lapsed must find it hard to believe that the law is other than "an ass." Although these hardships fall most heavily on the poor, the middle and upper class tenants are equally injured. The fact of the matter is, as you and I know, that only in recent years, largely through the influence of persons like you and your associates, have the courts of review for the first time begun to examine some of these issues.

The position of the Commissioners in this regard was difficult. It was essential that we hear from all sides and, moreover, that we hear not from abstract surrogates but from counsel who, like yourself, came from the battle of the courtroom.

Your contributions were indeed great. We all hope they will continue.

Sincerely yours,

JULIAN H. LEVI.

SPECIAL COUNSEL FOR THE POOR

THE NATIONAL HOUSING AND ECONOMIC DEVELOPMENT LAW PROJECT

That the law "intended residents of blighted areas to be the beneficiaries, not victims of urban renewal" was the observation of a Federal court in *TOOR v. HUD* last year as it entered an order enjoining a major San Francisco urban renewal project from demolishing the homes of more than 3,000 disadvantaged persons for whom relocation housing had not been planned.

In a wide range of cases such as this one, lawyers representing low-income people and their community groups, particularly OEO-funded Legal Services attorneys, are pressing the courts for enforcement of the legal rights of displacees under relocation statutes; of community organizations looking for citizen participation under HUD's Workable Program guidelines; and of tenants in public housing, HUD–FHA subsidized housing, and private housing. For the last group, new landlord-tenant laws better suited to the realities of a modern urban society, are an urgent necessity. One group spearheading this movement is a small organization of lawyers established three years ago at the Earl Warren Legal Institute at the University of California, in Berkeley, known as the National Housing and Economic Development Law Project.

The Project's staff consists of 12 lawyers, one planner, and one political scientist. It is supported by graduate students in Berkeley's Schools of Law and City Planning. The staff maintains close working relationships with a network of Legal Services attorneys in other cities, many of whom are also specializing in the area of housing law or economic development.

SERVICES PROVIDED

The Berkeley project, a grantee of the Legal Services Division of the Office of Economic Opportunity, was created to provide Legal Services lawyers with specialized legal advice and strategy-oriented guidance in the two-pronged areas of housing law and community based economic development. It developed and published *The Handbook on Housing Law*, which contains comprehensive practice materials for lawyers and planners representing low-income clients and their community organization.

Volume One, *Guide to Federal Housing, Planning, and Redevelopment Programs*, explains in detail the various HUD programs which affect the interest of low-income people and their organizations and recommends approaches and strategies for their use. Volume Two. *Landlord-Tenant Materials*, includes a detailed guide for lawyers representing tenant unions, as well as chapters on rent withholding, retaliatory evictions, actions for housing code violations, and lead poisoning of slum children.

The Project works closely with such organizations as the National Tenant's Organization (NTO), a coalition of low-income tenant unions in public housing and private housing; the National Association of Non-Profit Housing Organizations (NANHO); and the National Congress for Community Economic Development. Along with NTO it played an active role in deliberations leading to the issuance of HUD's new regulations governing public housing leases and grievance procedures. The regulations oblige all housing authorities to conform their leases to model documents which provide various tenant protections and insure impartial hearings on tenant grievances.

In its three years of operation, the Project's attorneys have achieved significant results in several important areas, one of which is relocation housing for all persons displaced by such Federal programs as urban renewal and highway construction. The Project, as co-counsel to Legal Services lawyers in several lawsuits instituted to compel compliance with statutory and regulatory requirements, has been effective in insuring realistic planning for displacees and the production of replacement housing. As in other areas of its operation, the Project supplies model complaints and briefs to attorneys challenging relocation plans.

The Project's relocation work illustrates its method of approach and operation: a combination of legal research, litigation, counseling, negotiation at the Federal, State, and local levels, and legislative effort. It has applied a similar variegated approach in its work in the area of public housing management. Here it has supported efforts of Legal Services units around the country, based upon the tenant participation requirements of the HUD modernization program, to encourage tenant participation in management decisions and to build tenant unions or councils.

The Project also played a major role in the development of the Brooke Amendments to the 1969 and 1970 Housing Acts. The amendments limit the rent payable by a public housing tenant to a percentage of income, provide subsidies to cover maintenance costs, and require significant tenant participation in management decisions.

FUNCTION OF POVERTY

The Project sees the housing problem as a function of poverty, not as a shortage of housing. As its Director, Kenneth Phillips, put it: "A slum is where poor people live, and if you tear that slum down and move them someplace else and they are still poor people, you are going to have another slum. You have to think about the total problem of low-income families, who may have no male adult; who, if they have jobs, are probably underemployed in the sense that they are unable to earn enough to support themselves and their families."

Phillips sees a system of housing allowances, to fill the gap between what the poor can afford to pay for housing and the costs of operating and maintaining housing, plus finance costs and property taxes, as the only promising approach. He recognizes that this would require increased Federal funding for housing, although he believes that over a period of time housing allowance programs would prove much less expensive than present approaches.

As to the functions lawyers can perform he says, "First of all we must be alert to every opportunity to document and dramatize the reality of the poverty situation. This can be done through litigation and administrative strategies. The country must not be allowed to forget the dimensions and realities of the poverty problem if we are ever to hope for realistically funded programs. Second, we must emphasize strategies that have the potential for the development and encouragement of local organization and leadership, such as community development corporations and tenant councils. Third, it means specific gains, wherever possible, whether that is more units of housing or the recognition of tenant councils in public housing, or whatever."

WORKABLE PROGRAM TASK FORCES

Possibly the most ambitious and comprehensive strategy the Project has developed to date has been based on the statutory requirement that every city have a Workable Program certified by HUD as a condition of eligibility for urban renewal and certain other HUD funds.

In some 20 cities across the country, citizen task forces, supported by Legal Services lawyers with Project assistance, have been organized for that purpose. These task forces include low-income community organizations from all parts of these cities, as well as local Urban Leagues, the local NAACP and the chapter of the League of Women Voters. The activities of the task forces and the administrative complaints filed in several cities have resulted in a variety of specific agreements including undertakings to build more low-income housing, to halt displacement pending the availability of relocation resources, and to rezone land for HUD-FHA subsidized housing.

Finally, the Project is assisting the growing tenant union movement through research and publication, litigation assistance, and the development of a detailed manual for tenant union organization and operation. Most of this work involves new law in the area of housing code violations, including the emerging legal doctrines of retaliatory eviction and implied warranty of habitability. The Project's latest effort in this area has been the development of a comprehensive Eviction Defense Manual for California attorneys, which covers the procedures and substance of eviction defense, from the receipt of first notice through appeal. The manual is in turn intended to serve as a prototype for other States.

ECONOMIC DEVELOPMENT

The Project's economic development section provides specialized legal assistance to approximately 30 Community Development Corporations (CDC's) and serves as legal adviser to their association, the National Congress for Community Economic Development. The Project sees the movement for community-based economic development as offering, more than any other antipoverty strategy, a potential for the mobilization of resources and the development of local leadership, and for building long term institutions that will be really responsive to community needs.

The legal assistance and related business assistance provided is often complex and sophisticated. It must take into account the many uncoordinated sources of governmental and private funding and technical assistance. Difficult problems of finance, tax, corporate, securities, and anti-trust law are commonly involved. Relationships of trust and confidence must be carefully developed with local community organizations and their members.

The Project's work with the East Central Committee for Opportunity, Inc. (ECCO)—a rural, primarily black organization which, with government and foundation support, is establishing a commercial catfish operation and other auxiliary enterprises—typifies its approach in this area. As special counsel to ECCO, a Project attorney recently negotiated a substantial loan from a private foundation, drew up articles of incorporation and by-laws for the several corporations, arranged for day-to-day legal services from a VISTA lawyer in Atlanta, and formed a minority enterprise small business investment company to permit ECCO to take advantage of maximum support available through the Small Business Administration programs. ECCO's catfish business is now underway. It involves some 250 low-income farmers as cooperative members and employs 32 people in its operations.

Related to its special counsel assistance to specific community development corporations and their counsels are two other important Project functions. Through its research, the Project is presently preparing a comprehensive, practical lawyer's manual on all aspects of community-based economic development. Second, working with OEO, the Project is meeting with representatives of various Federal agencies and bureaus in an effort to create a more favorable climate of response for CDC's.

A long term solution to the problem of deteriorated housing—interrelated as that problem is to the myriad and complex social and economic issues of poverty, welfare, employment, health, and education—will require a multi-faceted approach. It will have to insure, through some system of subsidy, the continuing availability of sufficient funds to cover operating and maintenance costs and to reduce the heavy burden of high rents in relation to income under which the poor now suffer. The Project is doing its part to support such a multi-faceted approach by aiding those pledged to solving the housing and community economic development problems of our time.

UNIVERSITY OF CALIFORNIA,
Berkeley, Calif., July 5, 1973.

Hon. HARRISON WILLIAMS,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.
Hon. GAYLORD NELSON,
Chairman, Subcommittee on Employment, Manpower and Poverty, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.
Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.
Hon. AUGUSTUS HAWKINS,
Chairman, Subcommittee on Equal Opportunity, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

DEAR SENATOR WILLIAMS, SENATOR NELSON, CONGRESSMAN PERKINS AND CONGRESSMAN HAWKINS: I am writing to you out of a sense of deep concern regarding the serious danger to the continuation of a meaningful Legal Services program posed by the recent action of the House in voting to prohibit continued funding of the "back-up centers" by the proposed Legal Services Corporation. As one of these centers, the National Housing and Economic Development Law Project of the Earl Warren Legal Institute, is closely affiliated with this law school, my concern derives from an experience of more than five years of close observation of the activities and effects of a Legal Services back-up unit.

I believe that enactment of this prohibition would constitute a major setback in our national efforts toward the goal of equal justice under law. A fundamental assumption of our legal system is that the courts and other institutions of government shall be open to rich and poor alike. Yet, as every lawyer knows, effective legal representation is essential to make this goal a reality. The plaintiff or defendant who cannot put on his case or prevent his defense will not prevail, however valid his position may be.

If our nation is serious in its purpose of offering meaningful access to the institutions of government to those who cannot afford to retain legal counsel, we must be realistic in assessing the means necessary to that end. Specialization and expertise are as critical in meeting the needs of the poor as in meeting those of the well to do.

Given the rapid turnover of lawyers in the Legal Services program, and the fact that many of them have had little or no prior practice experience, they are particularly dependent upon the technical assistance, training and support that the back-up centers provide. Thus, for example, in 1972 the housing law component of the Berkeley back-up center responded in writing to some 1400 specific Legal Services requests for advice and assistance and to perhaps twice that number of telephone requests. The Legal Services lawyer faced with complex problems of FHA eligibility, urban renewal relocation rights, warranty of habitability, public housing admission and eviction regulations, and many similar specialized subjects not only in housing law but in all the many poverty law areas in which he practices, would be at a loss to provide quality legal services to the great numbers of clients served without assistance of this kind. With such support, legal services can be provided relatively economically and on a large scale and equally important, Legal Services lawyers can and do assist in ensuring that special protections for the poor, carefully prescribed by legislative bodies at the federal, state and local levels, are heeded and given effect in the administration of government programs. Through the back-up center mechanism, the expertise gap for the poor client has been bridged in such chronic problem poverty law areas as consumer, welfare, employment, housing, economic development, education and health law.

The House prohibition admittedly would permit the proposed Legal Services Corporation to provide supportive services on an "in house" basis, disallowing contracts with law schools and other institutions for that purpose. It would be years, however, before the Legal Services Corporation could build a specialized competence comparable to that which the House bill would dismantle. Thus, three years of concentrated experience with community development corporations underlay the preparation of the *Lawyer's Manual on Community-Based Economic Development*, shortly to be published by the Center here and it is clear to us that this Manual could not have been undertaken without such extensive prior experience. The dissipation of capability painstakingly developed over years of effort at each of the back-up centers would be a serious setback for the Legal Services program. Moreover, it is important to recognize that the proposed Legal Services Corporation is to function in the role presently served by the O.E.O., that of a grantor of funds to Legal Services programs. As such, I seriously doubt that field lawyers could ever come to accept the Corporation or its lawyers, in the co-counsel capacity in which they now see back-up center attorneys, an acceptance which is absolutely essential to the lawyer-to-lawyer relationship that has permitted the effective function of the present system.

Finally, and perhaps more parochially, I would comment from my personal perspective as a law school dean, on the mutual benefits to Legal Services programs and to legal education that derive from the placement of back-up centers at qualified law schools. As to the first, through the participation of faculty members expert in such areas as constitutional law, property law, antitrust law, tax law and many other legal subjects, as well as nonlegal faculty from such departments as business, city planning and economics, the back-up centers regularly offer Legal Services lawyers a quality of competence they could not find in a government agency or elsewhere. This has been notably true in the work of our Economic Development Project which draws upon competences in all of the foregoing areas. Moreover, it is very much a two-way street. We have been greatly assisted by the Center here, and without cost to the government, in expanding our curriculum in respect of the legal problems of the poor. The Center's work, in addition, has formed the basis for the development of excellent teaching materials which are in use here and at several other law schools. The participation by our students in the Center's work provides it with high quality but inexpensive research capability while, at the same time, filling the increasing demand for socially related clinical education under the supervision of qualified attorneys.

I am enclosing, for your further information, several short pieces which expand upon the foregoing points. To many of us working in the field of legal scholarship and education, the developments of the last few years, in which a strong beginning has been made toward the goal of equal justice under law for minorities and the poor, has been encouraging. To dismantle the research and support centers at this time would not only jeopardize the gains that have been achieved, but, in my opinion, would permanently impair the ongoing capacity of the profession to serve indigent persons and to ensure due and fair consideration of their rights and grievances by our legal institutions.

Respectfully submitted,
EDWARD C. HALBACH, Jr.,
Dean.

SECRECY AND THE PRESIDENCY

Mr. MUSKIE. Mr. President, Raoul Berger, a leading constitutional scholar and expert on the issue of executive privilege, has written an article in this morning's Washington Post which should be of interest to all Members of Congress. Mr. Berger rehearses the precedents for claims of secrecy and their dubious validity and boils the dispute down to one simple statement:

The Nation can no more tolerate Presidential withholding of documents when the executive branch is under congressional investigation than it can afford to let a bank president dictate to a bank examiner what books he may see.

Mr. Berger gave very helpful testimony on the question of executive privilege to our joint Senate hearings in April. I ask unanimous consent that his essay in the Post today be printed in the RECORD as a further contribution by Mr. Berger to our consideration of this subject.

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

SECRECY AND THE PRESIDENCY

(By Raoul Berger)

In the midst of the Senate investigation of participation by the White House staff in alleged criminal activities—branded by former Attorney General John Mitchell as "White House horrors"—President Nixon has barred access to "Presidential papers prepared or received by former members of my staff." This roster includes John D. Ehlrichman, H. R. Haldeman, John W. Dean III, Gordon C. Strachan and others, who have been implicated by testimony in possible crimes. The Nixon order would bar the possible confirmation of such testimony by documentary evidence available in White House files. The order, Mr. Nixon advised the Senate, is not based "upon any desire to withhold information relevant to your inquiry." But that is precisely its effect.

The issue rises above a jurisdictional quarrel between Congress and the President—important though such differences can be—and it presents as an issue in which every American has an immediate stake. Mr. Nixon would shroud White House activities behind the very curtain of secrecy which bred the "horrors" that have brought shame upon the President and the nation. It was the Johnson administration's addiction to secrecy that made possible the stealthy and calamitous escalation in Vietnam. Executive secrecy is at war with Madison's admonition that "the right of freely examining public characters and measures, and of free communication thereon, is the only effective guardian of every right." Suppression of information is a prelude to tyranny, a first step toward enslavement of the people.

The historical records fully confirm Henry Steele Commager's statement that:

The generation that made the nation thought secrecy in government one of the instruments of old world tyranny and committed itself to the principle that a democracy cannot function unless the people are permitted to know what their government is up to.

Concealment thus bears a heavy burden. To defend this concealment, President Nixon relies first on the "separation of powers." He himself recognizes that it was designed to defend each branch "against *encroachments* by other branches," thus assuming that the President was given a constitutional power to withhold information from Congress, upon which Congress may not "encroach." *But the "separation of powers" does not confer power; it only protects a power otherwise conferred.* The existence of withholding power must therefore be proven not assumed.

No such power is to be found in the Constitution. To this, presidential advocates retort that the congressional power of inquiry likewise is not mentioned in the con-