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# THE O.E.O. LEGAL SERVICES PROGRAM

EARL JOHNSON, JR.\*

SINCE THE LEGAL Services Program was launched in November, 1965, the Federal Government has increased by some eight-fold the nation's annual investment in legal assistance to the poor. In 1965, the combined budgets of all legal aid organizations in this country totaled only slightly over five million dollars. During the fiscal year from July 1, 1967, to June 30, 1968, the OEO Legal Services Program will make forty-one million dollars in grants.<sup>1</sup> In the brief period of two and one-half years, 250 locally-operated programs in forty-eight states have received funds to set up 850 Neighborhood Law Offices and hire more than 1800 full-time attorneys. There are now almost as many lawyers serving in OEO-funded Legal Services projects as are employed by the United States Department of Justice and all of the United States Attorneys Offices around the nation.<sup>2</sup>

There is no denying the dramatic growth of the Program in terms of money, offices and attorneys. But that growth is not the vital issue. The real question is whether that increased legal assistance has made a difference to our nation. Since the law tends to move slowly, the final answer to that question must wait for many years, I'm afraid. But in this article I will undertake to describe and

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\* Director, Legal Services Program, Office of Economic Opportunity.

<sup>1</sup> Thirty-eight million dollars will be utilized to refund existing projects providing direct legal assistance to the poor. Three million dollars will fund training, research, publications, and experimental pilot projects.

<sup>2</sup> In March, 1968, the total legal staff of the Department of Justice and all of its attorneys' offices consisted of 2,001 lawyers. Associated Press, Dateline Washington, D.C., March 5, 1968.

measure in rough terms some of the results the OEO Legal Services Program has achieved in its brief history of operation.

### I. A Statistical Profile of Performance

During 1967, almost 500,000 poor Americans received advice and representation from Legal Services attorneys in consumer, family, juvenile, housing and welfare cases. An additional estimated 50,000 to 100,000 poor people were members of 800 tenant associations, farm worker groups and welfare mothers groups that used Legal Services programs to obtain their rights, set up credit unions and other self-help institutions, and win their rightful share of public services. More than one million welfare and medical care recipients, farm workers, tenants and juveniles have been assisted by court decisions, won by Legal Services attorneys, that broadened and protected the rights of whole classes of people. Almost two million poor people who had long regarded the law as their enemy received preventive law education in their rights and responsibilities.

Last year Legal Services attorneys won seventy percent of the more than 40,000 court trials in which they were involved and over sixty percent of the more than 400 appellate cases in which they provided representation; averted or stayed eighty-six percent of evictions sought against poor clients; and won seventy-nine percent of cases involving local, state and federal administrative agencies.

### II. Improving the Structure of Society to Benefit the Poor

Statistics tell only a part of the story of any organization. In the case of the

OEO Legal Services Program, they tell only a small part of the story, in fact, for the Program has set out to provide not just legal aid, but legal action—legal action designed to change the structure of the world in which poor people live.

Legal Services Program guidelines specifically inform their lawyers that “advocacy of appropriate reforms in statutes, regulations, and administrative practices is a part of the traditional role of the lawyer and should be among the services afforded by the program.”<sup>3</sup> In fact, because of limitations on the resources available for legal services in the foreseeable future, both the administration of the OEO Legal Services Program<sup>4</sup> and the United States Senate<sup>5</sup> have recognized the advocacy of appropriate reforms as the top priority for allocation of Legal Services funds and resources. This emphasis on improving the legal system has already

<sup>3</sup> GUIDELINES FOR LEGAL SERVICES PROGRAMS 7.

<sup>4</sup> “[I]t has become apparent that the estimated 400 to 600 million dollars that would be necessary to provide services to every indigent is not going to be available, either today or in the immediate future. . . . [L]aw reform is vital because through this technique, legal services programs can accomplish more for the poor with less expenditure of time and money than in any other way.” Address by Earl Johnson, Jr., Director, Legal Services Program, Harvard Conference on Law and Poverty, Mar. 17, 1967.

<sup>5</sup> “[T]he legal services program can scarcely keep up with the volume of cases in the communities where it is active, not to speak of places waiting for funds to start the program. The committee concludes, therefore, that more attention should be given to test cases and law reform.” S. REP. NO. 563, 90th Cong., 1st Sess. 40 (1967).

borne fruit in a series of landmark court decisions, administrative actions and new legislation.

### A. *Improving Housing Conditions*

No single complaint of the poor is more widespread than unsanitary, unsafe, and inadequate housing.<sup>6</sup> No aspect of the legal system is more directly responsible for the aggravation of problems which confront poor people than landlord-tenant law. And no part of the legal system has been so slow to respond to changes in conditions within society. For centuries, landlord-tenant law has been bound by concepts and rules which trace back to medieval agrarian England, and bear no relation to the slums of America's central cities.

The most absurd, and at the same time the most basic and inviolate, of those medieval concepts has been the fiction that a lease is not a contract but some sort of magical "interest" in the property. As a result of this principle, landlords are entitled to collect rent even though the apartments on which they are collecting rent are unsanitary, unsafe and in violation of the criminal provisions of the city housing codes. This was the law in the District of Columbia, as in virtually all other jurisdictions, until Legal Services lawyers scored a brilliant breakthrough

on February 7, 1968. In *Brown v. Southall Realty Co.*,<sup>7</sup> the District of Columbia Court of Appeals held unanimously that a landlord could not evict a tenant for nonpayment of rent where the premises were not in substantial compliance with the housing code at the time of rental. In so doing, the court broke with several centuries of tradition and treated the lease agreement as a contract.<sup>8</sup> The implications of this decision are enormous. For the first time, it places in the hands of the tenant a usable lever to pressure the landlord into making his dwelling habitable. In effect, unless the landlord complies with the housing code, the tenant need not pay the rent.

Another way in which the present law encourages the proliferation of slum conditions is its tolerance of "retaliatory evictions." This latter term describes the practice of immediately evicting any tenant who reports housing code violations to the housing officials. It is a practice prevalent among slum landlords and sanctioned by the law virtually throughout the nation. As can be expected, retaliatory evictions largely thwart effective enforcement of the housing codes in our cities. But again, Legal Services lawyers have mounted a significant, if as yet inconclusive, challenge against the practice of retaliatory eviction. In *Habib v. Edwards*,<sup>9</sup> a judge in the District of Columbia Court of General Sessions held that evictions motivated by retaliation for re-

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<sup>6</sup> "Today, after more than three decades of fragmented and grossly under-funded federal housing programs, decent housing remains a chronic problem for the disadvantaged urban household." REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 467 (1968).

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<sup>7</sup> Civ. No. 4199 (D.C. Ct. App., Feb. 7, 1968).

<sup>8</sup> "Neither does there exist any reason to treat a lease agreement differently from any other contract in this regard." *Id.* at 8.

<sup>9</sup> Civ. No. LT 75895-'65 (D.C. Ct. Gen. Sess., Oct. 11, 1965).

porting housing code violations were unconstitutional.<sup>10</sup> This decision was not upheld on appeal,<sup>11</sup> but a further appeal is currently pending before the United States Court of Appeals for the District of Columbia. But should it become the law, it will have a profound effect on the enforceability of housing codes and, through these codes, upon the conditions of the apartments in which the poor must live.

Ironically, some of the worst abuses in housing occur in public rather than private housing. Legal services lawyers have been forced to go to court in an attempt to establish the simple right of public housing tenants to have dwellings which conform to the housing code.<sup>12</sup> In Chicago an OEO-funded project, the Chicago Legal Aid Society, has filed a suit to create yet another fundamental right for public housing tenants: the right to a hearing prior to eviction.<sup>13</sup> And in New York City, Legal Services lawyers are challenging the arbitrary imposition of fines by public housing authorities for alleged misconduct by tenants<sup>14</sup> as a denial of due process of

law.

Urban renewal is another program which has the potential for great harm as well as benefit for the poor. Too often in our large cities, slums have been torn down to be replaced solely with luxury apartments and office buildings. Poor people displaced by the slum removal are then crammed even tighter into other existing ghettos. This pattern of slum aggravation through slum removal has begun to be broken up by Legal Services lawyers representing slum tenants living in areas scheduled for renewal.

In Philadelphia, a Legal Services lawyer represented a group of tenants living in the Greystone, a large apartment building scheduled for destruction as part of an urban renewal plan. Typically, the urban renewal plan made virtually no provision for low or moderate income housing to be built. The tenants in the Greystone, as was true of low-income tenants throughout the renewal area, were scheduled to be displaced with no hope of finding living accommodations in the area after renewal. Through the efforts of the Legal Services lawyers, the Greystone building itself is being rehabilitated, and the renewal plan has been modified to include the erection of low-income housing.

In San Francisco, Legal Services attorneys were asked to represent clients in the Western Addition area which was scheduled for renewal. After investigation of their clients' complaints, the attorneys filed a complaint with the United States Department of Housing and Urban Development, charging that the urban renewal plan for San Francisco was illegal *inter alia* because it failed to provide adequately for relocation of displaced low-income tenants and had been developed

<sup>10</sup> "In short, the defendant in this case has a constitutional right to inform the proper governmental authorities of violations of the law, as well as the correlative right not to be injured or punished by anyone for having availed herself of her basic rights to provide such information." *Id.* at 10.

<sup>11</sup> *Edwards v. Habib*, Civ. No. 3957 (D.C. Ct. App., Mar. 20, 1967).

<sup>12</sup> *Potrero Hill Community Action Comm. v. Housing Authority*, No. 22012 (9th Cir.).

<sup>13</sup> *Alexander v. Chicago Housing Authority*, No. 16623 (7th Cir.).

<sup>14</sup> *Humphrey & Haywood v. New York City Housing Authority*, Civ. No. 4236/67 (S.D. N.Y. 1967); *Lockman v. New York City Housing Authority*, Civ. No. 4414/67 (S.D. N.Y. 1967).

without representative citizen participation as required by law. Subsequently, the lawyers filed a court suit<sup>15</sup> seeking an order suspending federal urban renewal funds until the urban renewal plan for San Francisco is modified to serve the interests of that city's poor as well as the rest of the citizenry.

### **B. Improving Economic Conditions**

It is difficult to place a price tag on the potential benefits accruing to the poor from the victories already achieved in the housing field, or the victories which may be won in the future. In the long run, they probably will live in safer, more sanitary and more comfortable surroundings, but it is difficult to attach a specific monetary value to these improved living conditions. It is much less difficult to calculate the economic benefit that will be produced by some other legal reforms.

A prime example is the recent series of cases, all brought by Legal Services attorneys, which have declared unconstitutional the state residency requirements for receipt of welfare benefits.<sup>16</sup> Several of these suits have now progressed to the point where the United States Supreme Court will be passing on the issue this

term.<sup>17</sup> If they are upheld, a legal restriction, affecting more than 100,000 poor people a year throughout most of the country, will cease to exist, and the annual income of the poverty population will increase by an estimated one hundred million dollars or more. *This is more than twice the current annual cost of the entire national OEO Legal Services Program.*

Also, in the area of public benefits, over one million California residents recently were saved from losing 210 million dollars in medical services under the California Medi-Cal program. In a class suit brought by California Rural Legal Assistance, a permanent injunction was obtained declaring certain regulations invalid and prohibiting their implementation.<sup>18</sup> These regulations called for drastic restrictions of the state medicare program. They reduced the scope and duration of some important medical services, entirely terminated others, and eliminated a number of necessary drugs from the state drug formulary. The regulations had been promulgated in contradiction to both federal and state law. *The 210 million dollars in restored medical benefits amount to more than four times the total annual cost of the OEO Legal Services Program and the million persons benefited by this single decision are twice the number of clients actually receiving direct legal assistance at legal services offices during the entire year of 1967.*

<sup>15</sup> *Western Addition Community Organization v. Weaver*, No. 3180-67 (D.D.C. 1967).

<sup>16</sup> *Thompson v. Shapiro*, 270 F. Supp. 331 (D. Conn. 1967); *Green v. Department of Pub. Welfare*, 270 F. Supp. 173 (D. Del. 1967); *Smith v. Reynolds*, Civ. No. 42419 (E.D. Pa. 1967); *Ramos v. Health & Social Services Bd.*, 276 F. Supp. 474 (E.D. Wis. 1967).

<sup>17</sup> *Reynolds v. Smith*, appeal docketed, No. 1138, U.S., Feb. 21, 1968; *Washington v. Harrell*, appeal docketed, No. 1134, U.S., Feb. 20, 1968; *Shapiro v. Thompson*, appeal docketed, No. 813, U.S., Nov. 13, 1967.

<sup>18</sup> *Morris v. Williams*, 67 A.C. 755, 433 P.2d 697, 63 Cal. Rptr. 689 (Sup. Ct. 1967).

Other legal services suits now pending in the courts, which challenge the constitutionality of garnishment before judgment,<sup>19</sup> the legality of grossly inequitable sales contracts,<sup>20</sup> the constitutionality of "maximum grant" provisions<sup>21</sup> and "man in the house" rules under state welfare laws<sup>22</sup> and a host of other important issues similarly involve hundreds of millions of dollars a year to the poor of our country.

### C. *Enlarging Procedural Rights*

Court decisions and legal challenges calculated to improve housing conditions and confer hundreds of millions of dollars in increased economic benefits upon the poor probably constituted the most dramatic development in the first two years of the Legal Services Program. But other reforms of the legal structure may be equally important in the long run. Equal access to the courts simply does not exist in this nation. The way is barred by court fees, jury fees, supersedeas bonds, transcript costs and other litigation expenses which a poor man cannot be expected to finance, even if he is so fortunate as to have counsel provided by the government. Recently, Legal Services lawyers have begun the difficult task of enlarging the procedural rights of low-in-

<sup>19</sup> *State ex rel. Bonton v. Starr*, No. 683,019 (Wash.); *Moya v. DeBaca*, Civ. No. 7271 (D. N.M.) (three-judge Federal court convened).

<sup>20</sup> *P.M.C. Corp. v. Thatch*, No. 67 M1-519258 (Cook County Cir. Ct., Ill. 1967).

<sup>21</sup> *Dews v. Henry*, Civ. No. 6417 (D. Ariz.).

<sup>22</sup> *Smith v. Board of Comm'rs*, No. 1447-66 (D.D.C. 1966) (dismissed for lack of exhaustion of administrative remedies).

come litigants. Legal Services lawyers in Minneapolis have petitioned for certiorari to the United States Supreme Court from a denial of transcript in a civil case.<sup>23</sup> Legal Services lawyers in the District of Columbia<sup>24</sup> and in Chicago<sup>25</sup> have obtained orders permitting a poor tenant to appeal an adverse decision without posting a prohibitively expensive supersedeas bond. And in the area of administrative agencies, lawyers from the San Francisco program<sup>26</sup> and the Des Moines, Iowa, program<sup>27</sup> are seeking to secure for welfare recipients the right to a fair hearing prior to termination of welfare payments.<sup>28</sup>

### D. *A Voice for the Poor in the Legislature*

Legal Services lawyers have worked vigorously to encourage and assist state legislatures in rewriting statutes and introducing new legislation to benefit the poor. For example, Ohio significantly revised its garnishment laws recently, in large part due to the efforts of Legal Services Programs. In the State of Washington, a study on such reform is under-

<sup>23</sup> *Munkelwitz v. Hennepin County Welfare Dep't*, Misc. 714 (U.S. Sup. Ct.).

<sup>24</sup> *Edwards v. Habib*, 366 F.2d 628 (D.C. Cir. 1965); *Lee v. Habib*, No. 3679 (D.C. Cir., Oct. 17, 1967).

<sup>25</sup> *Hartland Realty, Inc. v. Clark*, Civ. No. 41090 (Sup. Ct. Ill., Dec. 7, 1967). See generally Note, *Litigation Expenses: The Hidden Barrier to the Indigent*, 56 GEO. L.J. (1968).

<sup>26</sup> *Wheeler v. Montgomery*, Civ. No. 48303 (N.D. Cal.).

<sup>27</sup> *Lage v. Downing*, Civ. No. 7-2089-C-2 (S.D. Iowa).

<sup>28</sup> In *Wheeler*, the district court granted a temporary restraining order and convened a three-judge Federal court.

way, indirectly through the continuing labors of legal services staff attorneys. Perhaps no state has given more comprehensive consideration to the problems of the poor than Connecticut, which recently enacted extensive legislation designed to improve the living conditions of its low-income citizens. Hartford Legal Services was one organization playing a particularly important role in the passage of these laws. On the national level, legal services has instituted a special committee, in conjunction with the National Legal Aid and Defender Association, which has compiled extensive comments on successive drafts of the proposed Uniform Consumer Credit Code. These commentaries constitute a complete and detailed analysis of the present inadequacies of the law and the steps necessary to remedy those defects.

### ***E. Creating More Responsive Administrative Agencies***

Law reform does not always begin and end with the legislatures and courts. Most poor people are critically affected by the actions of administrative agencies, and in the past they have rarely been able to challenge those actions effectively because they did not have lawyers. One author noted in 1964 in reference to the administration of the New York Welfare Abuse Law:

It is the writer's serious speculation that of the 2,730 cases denied in the first 10 months of the welfare abuse law's existence, 2,700 could have been reversed on appeal to the State Board of Social Welfare—or the courts—if the claimants had the vigorous advocacy of a lawyer.<sup>29</sup>

A change in this situation has already been illustrated in the Medi-Cal suit, noted above. However, such advances are not limited to state and local agencies. The United States Department of Labor recently agreed to establish more stringent screening procedures before it issues permission to growers to use imported foreign labor in addition to the domestic migrant worker force already available. This development resulted from an injunction, obtained by California Rural Legal Assistance, blocking the importation of 8,100 braceros for which permission had been granted by the Labor Department contrary to its own regulations.<sup>30</sup> If the Department had not backed down on its permission to import such a large work force, thousands of migrant workers in California, ready and able to work, would have been deprived of their incomes through the injection of cheaper foreign labor.

Of course, not only the poor benefit from such challenges, but also the government against which they are asserting their rights. Government's own interest lies in just administration, not in "winning." If a government is to be efficient and responsive to the needs of its people, it must be brought to heel when in the wrong. Agencies which know they are going to face requests for full hearings and appeal through the courts often show a rapid decrease in arbitrary rulings and procedures.

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<sup>29</sup> Sparer, *The New Public Law: The Relation of Indigents to State Administration*, in CONFERENCE PROCEEDINGS: THE EXTENSION OF LEGAL SERVICES TO THE POOR 34 (GPO 1964).

<sup>30</sup> *Alaniz v. Wirtz*, Civ. No. 47807 (N.D. Cal. 1967).



### III. The Legal Services Revolution Comes to Law Schools

The Legal Services Program is having a major impact on legal education. Already one can point to significant changes in law school curricula, in orientation of faculty and students, and in the roles and images of the schools in their communities.

Since legal services started operation in the fall of 1965, law schools have developed a solid interest in the previously almost unknown field of poverty law. About fifty law schools,<sup>31</sup> including some of the most prestigious in the nation, have now revised traditional courses and established courses in law and poverty and in urban problems directly relating to

the problems of the poor (some with the aid of funds from the Legal Services Program). This has been done despite great difficulty in finding suitable materials for classroom work. Since until the last few years, the rights of slum dwellers have rarely received court tests because of the unavailability of free attorneys, there are relatively few case materials for study, and those which are available have usually been scattered through various sources difficult to locate.

The role of the Legal Services Program in bringing about these changes has been indicated by Dean Paul P. Harbrecht of the University of Detroit School of Law.

[In the past] law school courses inevitably followed the needs of the practicing bar and few members of the bar had need of the knowledge of welfare law or juvenile law because no welfare recipient and few juvenile offenders could ever hire attorneys. . . . But in attempting to supply legal services to this large number of our citizens we find the bar singularly unprepared because of a lack of courses and textbooks, and the few experts we have are creations of the last few years of intense activity in this field. . . .

The curriculum at [the University of Detroit School of Law] has been expanded by the addition of courses in welfare law, juvenile law, modern land transactions, law and poverty and seminars in trial practice and criminology. More traditional courses have been modified so as to reflect aspects of the law which have long been left out of consideration; for example, debtors' remedies have been given much more attention in the old course in Creditors' Rights, unconscionable agreements have been dealt with more thoroughly in the field of contracts, tort law as taught in our school pays

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<sup>31</sup> Albany Law School of Union University, Boston College, Boston University, Columbia University, Fordham University, Harvard Law School, New York Law School, New York University, Rutgers University, Yale Law School, Catholic University, Duke University, Georgetown University, George Washington University, University of Kentucky, University of Louisville, University of Maryland, University of North Carolina, University of Pennsylvania, West Virginia University, Emory University, University of Mississippi, Western Reserve University, Indiana University, Marquette University, Northwestern University, Notre Dame Law School, Ohio State University, University of Chicago, University of Cincinnati, University of Detroit, University of Illinois, University of Michigan, University of Minnesota, University of Toledo, University of Wisconsin, Wayne State University, Loyola University, Southern Methodist University, Texas Southern University, University of Houston, University of Texas, University of Colorado, University of Denver, University of Iowa, University of Utah, Stanford University, University of Arizona, University of California at Berkeley, and University of California at Los Angeles.

much more attention to fraud and deceit, property law deals much more extensively with the landlord and tenant relationship and building code problems.<sup>32</sup>

But changes have not been limited to the curriculum. Faculty members are finding that teaching methods must often be revised to handle the new course content. And their increased opportunity for researching these types of problems is leading to a growing interest in the poverty field which is reflected not only in their teaching, but also in the production of a quickly growing number of research papers for law journals and other scholarly projects and a more dedicated and informed involvement in community affairs. Many law professors are serving as consultants and as members of boards of directors of legal services programs. In short, "a breath of fresh air has blown into many law schools because of the antipoverty program in general and the Legal Services Program . . . in particular. The antipoverty program has quickened the consciences of many legal educators who for the first time see how little they have done to focus attention on the legal problems of the poor."<sup>33</sup>

Law students too are affecting and being effected by this new movement. They

are demanding poverty law courses<sup>34</sup> and increased practical experience before graduation. Indeed, around fourteen states now allow law students to represent indigents in small claims and similar courts under some form of supervision. But even in those states where this is not yet permitted, students have been increasingly involved in "real" law. All over the country they are assisting legal services attorneys in the preparation of cases for trial and appeal. In this manner they are building up their own background and interest and becoming more aware of their social responsibility as lawyers, while at the same time making a valuable contribution to legal services and other legal aid projects.

One of the most important developments to come out of legal services funding to law schools has been the setting up of school-affiliated law offices and clinics for the poor, where students gain extensive experience. And where a school has no law office of its own, it often works in cooperation with the legal services project in its community, providing training and staff attorneys for the programs, conducting research and assisting in drafting pleadings and briefs. In all of these activities, both faculty and students contribute.

#### IV. Changing Attitudes in the Legal Profession

It is no secret that in the past, few of our brightest young law school grad-

<sup>32</sup> Statement Before the House Committee on Education and Labor, July 17, 1967. And the law journal of the University of Detroit School of Law has been changed to the JOURNAL OF URBAN LAW.

<sup>33</sup> Broden, *The Role for Law Schools in OEO's Legal Services Program*, 41 NOTRE DAME LAW. 898 (1966).

<sup>34</sup> At the University of Michigan, a new course offering in law and poverty was announced. It was anticipated that as many as twenty-five students might request permission to take the course. In fact, over 150 students signed up!

uates even considered going into legal aid. Far too often, legal aid offices were staffed by low-paid, second-rate personnel, while top students searched out openings in outstanding private concerns. Legal aid was thought of as a career for eccentrics or those who simply could not make it any place else. This is not to minimize the high degree of competence and dedication of many lawyers who chose a career of service to the forgotten poor, often at great financial sacrifice and with loss of professional prestige, or the efforts of those numerous attorneys in private practice who unselfishly volunteered their free time to legal aid. They were the trailblazers who can still put most of us to shame. But one cannot deny that they faced great handicaps, and they were in the minority.

This situation has changed radically since the advent of the Legal Services Program. In fact, there are indications that the shift in attitude is already so great that top Wall Street firms are now having some difficulty in attracting enough outstanding new graduates.<sup>35</sup> Of course, legal services is not the only field which is drawing away our law journal editors; young attorneys are increasingly attracted to careers in all types of public service and "reform-oriented" organizations. But it is undoubtedly one of the lures. All over the country, legal services projects have been hiring from the cream of the graduates of our best law schools; indeed, from leading law firms. And over

half of all legal services attorneys are in their twenties.

To realize the attraction now exerted by legal aid work, one need look only to the Reginald Heber Smith Community Lawyer Fellowship Program, funded by the Legal Services Program. This program, in operation at the University of Pennsylvania Law School and the University of Michigan Law School, was set up to attract high quality young legal talent into the legal services field. The Fellowships include five weeks of special training in the legal problems of the poor and a one-year assignment in the field with a legal services project.

In 1967, fifty young lawyers were chosen (from 250 applicants) to receive the first Fellowships. Most of the Fellows finished high in their law school classes. One of the Fellows had been first in his class at the University of Chicago Law School; another had been third at Columbia; another had been seventh in his class of 500 at Harvard. Half had been law journal editors, including representatives from the law reviews at the University of California, the University of Chicago, Columbia, Harvard, Stanford, Yale and other institutions which ordinarily feed their leading graduates primarily to prestigious law firms. Six were former law clerks, five came from prominent Wall Street firms, and several from other top law firms elsewhere in the nation. An indication of the strong motivation of the Fellows is the fact that over eighty-five percent of them have elected to remain in the legal services field beyond their Fellowship period. And as extraordinary as the charter group of Reginald Heber Smith Fellows are, the second year's group

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<sup>35</sup> See N.Y. Times, Feb. 15, 1968, at 45, col. 5.

selected in February 1968 is even more outstanding. From a field which, to say the least, used to be ignored by most lawyers, legal aid has now risen to the stage where many of our most exceptional young attorneys are competing to enter it.

This change in attitude is also being reflected in the organized bar and its conception of the legal profession's responsibilities. Throughout the entire country, ambitious volunteer lawyer programs have sprung up in connection with legal services projects. Partly as a result of the bar's growing realization that new approaches must be found to solve the staggering legal problems of indigents, there is an increasing use of lay people and law students to perform duties formerly carried out by licensed legal practitioners. The immense number of indigent clients alone demands more flexible approaches. In addition, fundamental questions have been raised on the role of the attorney in effecting social justice, and the Canons of Legal Ethics are being re-examined in the light of the nature and needs of legal services to the poor. As has been noted, simply by attracting outstanding young lawyers, legal services is helping to change and mold the aspirations of members of the legal profession. And by experimenting in depth with different methods of legal aid and providing unprecedented centralized library and research backup services to local projects,<sup>36</sup> the Program is helping to shape the form of legal aid in the future.

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<sup>36</sup> A National Clearinghouse for Legal Services, based in Washington, collects briefs, memoranda, community education material and the

On February 8, 1965, the American Bar Association's House of Delegates officially endorsed the Legal Services Program. If anything, its enthusiasm and backing have grown since that time. In a recent address, the President-elect of the American Bar Association, William T. Gossett, stated:

We must make it a reality—not an empty theory—that the law is the servant—not the despot—of all the people. This is not a simple or an easy assignment. Much of it will go against the grain of the experience of lawyers as custodians of stable values that come much more readily to us. We need to move into these troubled areas and offer preventive counsel to these people who are suspicious of the law. We need to show them — not just tell them — that the law can protect them. . . . We need to prove to them, by what we do—not just by what we say—that the law is on their side—not against them. . . .

[W]e need . . . to move on to new approaches on a new scale. . . . [T]he law must constantly battle through to new

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like which are made available to any program in the country on one day's notice; a monthly Clearinghouse Review keeps programs up to date on all research on file. The Commerce Clearing House will soon begin publication of a national Poverty Law Reporter. The National Institute for Education in Law and Poverty, which conducts a nationwide training program for Legal Services Program attorneys, prepares and distributes comprehensive handbooks on specific areas of poverty law for each of their training conferences. The Columbia University School of Law Project on Social Welfare functions as a central resource in social welfare litigation. A Social Science Research Center will soon be funded to provide socio-economic data where individual cases require a "Brandeis brief" approach. These are only some of a wide variety of services offered to Legal Services projects.

frontiers of concern and interest. The Legal Services Program . . . has charted some of these frontiers that are today in crying need of penetration.

Many state and local bar associations are changing their concepts of the nature and role of legal aid through the influence of the Legal Services Program. In several notable instances, bar associations which had unqualifiedly opposed the entrance of legal services into their communities and states have come around full circle to enthusiastic support. Numerous bar associations which only hesitantly endorsed the arrival of legal services have later become its staunchest advocates once they have observed its value to the entire community and realized that their initial fears were mistaken.

One such fear has not only proved unfounded but has turned out to be directly contradictory to actual results. Some bar associations had anticipated a decline of paying clients for private attorneys. But on the contrary, in many regions a marked increase in the number of referrals to private attorneys through lawyer referral services has been shown to originate from legal services projects. For instance, California Rural Legal Assistance, one of legal services' most successful programs, reports that:

in one of our regions in which comprehensive statistics are kept by the local bar, CRLA was responsible for more than half of all the legal referrals and produced eight fee-generating cases per attorney on the Lawyer's Reference Panel. . . . It has been informally estimated that, because of our presence, the number of people using the services of local lawyers reference panels—and consequently, local lawyers—has increased by as much as 200 percent.

From the national perspective, during 1967, more than 40,000 clients were referred by legal services lawyers to private attorneys because they were financially ineligible or had fee-generating cases.

Through a new project, which it has been instrumental in starting, the Legal Services Program will even be assisting in altering the social and racial composition of the American Bar. The recently formed Council on Legal Education Opportunity (CLEO), composed of officers and leading members of the American Bar Association, the National Bar Association, the American Association of Law Schools, and the Law School Admission Test Council, will be administering a financial and educational program to matriculate into and graduate from law school large numbers of students from economically and culturally deprived groups. This program will approximately double the graduation of such students from our law schools each year. It may be predicted that this large infusion of members of minority and culturally deprived groups into the legal profession will have a significant effect on the attitudes of these groups toward lawyers and on their influence within the profession and the community.

### Conclusion

The Legal Services Program has already begun to make an historic impact on the poor of our country and the individuals, institutions and laws which affect them. Because of space limitations, this article has not even briefly discussed a number of the Program's innovations, such as widespread representation of voluntary neighborhood groups through the "self-

help” concept, the funding of an “Ombudsman,” as well as mediation and landlord-tenant arbitration projects, and the presence of representatives of the poor in program operations. In the future the Program will undoubtedly develop even more methods of achieving its goal of “equal justice for all.”

But despite the notable achievements of its first two years of full-scale operation, the OEO Legal Services Program has a long way to go. What has been proved thus far is the *potential* of legal services. It has been demonstrated beyond question that the legal services field *can* attract some of the cream of young legal talent in the nation. It has been demonstrated that able, courageous lawyers are *capable* of producing dramatic changes in the legal structure. It has been demonstrated that those changes in the legal structure *can* have a profound influence on the economic and social conditions affecting poor people.

But a proven *potential* for good is not enough. The overall quality and quantity of the effort must be increased. All legal services lawyers, not merely some, must realize their potential for removing the legal barriers to decent housing, reasonable income, non-discriminatory employment, fair treatment as consumers, equal access to the courts, and a better world in general for the nation’s lower economic groups. And there must be more attorneys—many more attorneys—

to bring the benefits of this better world to every city, not just some cities—to every rural area, not merely some rural areas.

Conservatively speaking, it would require the equivalent of twelve thousand full-time attorneys to provide anything approaching equal justice for all of the nation’s poor in the civil law field alone. That is more than a six-fold increase over the current strength of the OEO Legal Services Program. But do we have a real choice whether to commit the necessary resources? In a nation founded on law rather than fear, the law must serve all or it serves none. In a legal system premised on the adversary model, the law can serve all only when all have access to advocates. And in a society dependent upon paid advocates, all without means must be supplied advocates at state expense. Without this, the poor cannot participate in the legal system or be in any real sense a part of our nation of laws. The OEO Legal Services Program has brought many of the poor into our nation of laws, and it has made a difference in their lives. But, there are many more who remain outside—in a perpetual state of powerlessness and fear. For them, there is only one hope—that this nation will realize its fundamental dependence upon law—and upon a system of law which serves all of its citizens. That realization must come soon. When a man cries out for justice, no one can afford to turn a deaf ear.

