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An Address Delivered to the Greater Boston Legal Services

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We are committed to justice -- a commitment that I fear the current Administration doesn't understand. President Reagan is treating equal justice like an option to be doled out in nickels and dimes during hard times. We must make him see that justice is a basic necessity for all Americans.

This Administration is retreating on two broad fronts.

First, it is undermining the legal protections won in the last 17 years. The Administration wants to kill the Legal Services Corporation and water down the Voting Rights Act. And just last week they took a giant step backwards by deciding to allow tax-exempt status to segregated private schools. This reversed 12 years of federal policy under Republican and Democratic Administrations. Then on Tuesday, the President made it a double-reverse, calling for new legislation to outlaw the exemptions approved last week with his blessing. It was an interesting exercise in acrobatics, but justice should not be like a circus, with the performance affected by the roar of the crowd.

Second, it is undercutting justice in a broader sense with a budget plan that distributes rewards and sacrifice unfairly. The Kemp-Roth tax cut is tilted toward the rich. The budget cuts hit the poor particularly hard, while treating special interests gently: farm subsidies...the Clinch River Breeder Reactor and other sacred cows. Americans are becoming more and

more aware of the economic injustice in Reaganomics. If this continues, it could tear the country apart.

The Administration is retreating under the banners of "fiscal restraint" and "new federalism." But we are not so naive -- and neither are they. These buzz words are just a cover for their lack of commitment.

Legal Services

On Legal Services, the Reagan record is clear. In 1970, Governor Reagan tried to veto a Federal grant for California Rural Legal Assistance. After a one-sided investigation, he charged that the agency has misused tax dollars and failed to serve the poor. A special commission of State Supreme Court Justices found the charges "totally irresponsible." Washington set aside the veto and restored the grant. Now Ronald Reagan is getting even.

Funds for the Legal Services Corporation have been cut 25% below last year's level. But contrary to all the hot air about waste and mismanagement, the corporation has been a model of efficiency. Less than 2% of its budget goes to administrative costs. The real pressure to kill Legal Services isn't budgetary -- it's political. Basically, the agency has done its job too well.

The "federalism" argument is also empty. The Administration says that states could provide legal aid to the poor through social services block grants. This is unsound as a matter of public policy. Right now, states provide only about 1% of the funds for civil legal services for the poor. Many legal disputes of the poor are with public officials who make decisions on housing, income, services and health care. There is a direct conflict

if funding for lawyers comes from state officials. Clearly, states have an interest in not providing legal services to the poor.

The Legal Services Corporation has worked -- meeting the legal needs of the poor. Nearly all of its work might seem very "routine" if you're not poor -- problems with wages, medical payments, consumer fraud. But they aren't routine for those who suffer them. They can be catastrophic if you are poor.

This agency is what keeps a family in the South End from having to fight an unlawful eviction notice -- alone. It's what keeps an injured factory worker in Roxbury from having to appeal denial of workers' compensation -- alone.

The agency's role in class action suits is also proper -- and should not be restricted. With one attorney for every 5,000 poor people, filing class actions is good lawyering. It is no different from the role of lawyers for trade associations, or unions or other groups in seeking to enforce the civil law for their clients.

Legal aid lawyers in Boston have won major victories through class action suits:

- compelling the Housing Authority to improve conditions in much of Boston's public housing
- requiring the State Department of Public Welfare to hire more staff to help the more than 200,000 people eligible for benefits and services
- forcing state agencies to change discriminatory employment practices.

Critics often complain that legal aid lawyers engage in "political"

issues. Of course, "a political matter" in one person's view may well be a vital legal principle to another. Critics often seem to think that legal services for the poor are acceptable as long as the boat isn't rocked. This attitude is misguided. Placing some subjects off-limits is putting poor people on a string: when they get too close to challenging the establishment, they can be pulled back. That is not the way justice in a free society is supposed to work.

The value of Legal Service has been proven again and again. Every president of the American Bar Association since 1965 has endorsed the program. I have also been impressed by letters from constituents -- including judges, lawyers and clients -- supporting this corporation.

The federal government has a responsibility to give poor people the means to defend their rights. Although the pro bono work of the Bar is growing, it is simply inadequate.

Without Legal Services, we could revert to the situation in a New Yorker cartoon a few years ago. The lawyer said to the guy sitting across his desk: "Well, Mr. Smith, you seem to have a pretty good case. How much justice can you afford?"

It's not just a matter of principle. The fact is that, in the long run, we can't afford not to protect the legal rights of all Americans. This would feed a bitter underclass with no confidence or stake in the system.

Human Services

The President's retreat on equal justice is consistent with his budget plan overall. In case after case, the hardship falls most heavily on those least able to bear it because they are least able to protect their interests. The attack on Legal Services is just a chapter in a story of winners and losers. We are about to begin a second round of budget fights -- trying to break the pattern of unfairness that marked the first round.

-- School lunches got smaller and more expensive.

But federal support for the tobacco industry got a free pass.

-- Nearly 7,000 families lost all or part of their welfare benefits.

But the Clinch River Breeder Reactor stayed on the federal gravy train.

-- Federal housing was slashed.

But our tax dollars bailed out the utility that created Three Mile Island.

-- The government cut back on college loans -- a basic investment in our future. Instead, the Pentagon dusted off the B-1 bomber, a nostalgic investment in outdated hardware.

Those with the most to lose had the power to protect themselves. Low-income Americans -- those with the least ability to sacrifice -- lost the most. This overall pattern makes the retreat on legal protection all the more unbearable. States are not about to make up any major portion of the gap. They are not going to do it for Legal Services and they aren't doing it for human services across-the-board.

This pattern of winners and losers -- this double-standard -- is unacceptable. It cannot be justified in any terms other than raw political power.

And those who hold political power must see that this is a time-bomb ticking within our society. The Administration's pattern of inequities will not be suffered quietly.

I have raised my voice against this double-standard again and again. Faced with an inflationary tax cut -- one tilted toward the rich -- I voted No. Faced with a cold-hearted budget that treated special interests kindly, I voted No. On Legal Services in particular, I joined with other Senators to beat a number of amendments that would have killed or handcuffed the agency. But the battle is by no means over. The next round is about to begin -- and I intend to be in the thick of it.

This Administration would let poverty tip the scales of justice. That is unacceptable. If legal rights in Concord are honored, and those in Roxbury are not, that will represent one of the falsest economies imaginable. We simply must protect the legal rights of all Americans.

The words of a great American who would have been 53 tomorrow put it simply. In his letter from Birmingham City Jail, Dr. Martin Luther King, Jr. wrote: "Injustice anywhere is a threat to justice everywhere."

As men and women of the law, you understand this. Equal justice is a necessity -- not a luxury. This nation literally cannot afford to let it slip away. Together let's work to make this Administration understand.

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