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LEGAL SERVICES CORPORATION

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BOARD OF DIRECTORS' MEETING

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8th Floor Conference Room
733 - 15th Street, N.W.
Washington, D.C.

Friday,
June 5, 1981

The meeting was convened, pursuant to notice,
at 10:00 a.m., MR. F. WILLIAM MCCALPIN, Chairman, pre-
siding.

APPEARANCES:

MR. F. WILLIAM MCCALPIN
Chairman

MS. CECILIA D. ESQUER
Member

MR. MICHAEL KANTOR
Member

MR. ROBERT J. KUTAK
Member

MS. HILLARY RODHAM
Member

JUDGE REVIUS ORTIQUE
Member

PROFESSOR HOWARD R. SACKS
Member

MS. RAMONA SHUMP
Member

MR. RICHARD TRUDELL
Member

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MS. JOSEPHINE WORTHY
Member

MR. DAN J. BRADLEY
ex officio

ALSO PRESENT:

MARIO LEWIS, Esquire
General Counsel

MS. MARY BOURDETTE
Director,
Office of Government Regulations

MR. CLINTON LYONS
Director,
Office of Field Services

MS. AVIS E. HOLMES
MR. MAYNARD BUSSEY
Wayne County Neighborhood
Legal Services

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P R O C E E D I N G S

(10:00 a.m.)

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3 CHAIRMAN MCCALPIN: Let me call this regular, quar-
4 terly meeting of the Board of the Legal Services
5 Corporation to order. It is a pleasure to welcome all of
6 those in attendance. We are delighted to see represent-
7 ative of various constituencies of the legal services
8 community in attendance at this time. We thank you for
9 your presence and we know that we will benefit by your
10 participation in this meeting.

ADOPTION OF AGENDA

11
12 CHAIRMAN MCCALPIN: The first item on our
13 agenda is an adoption of the agenda as set forth in the
14 materials which were distributed to all members of the
15 Board a week or ten days ago. May I have a motion?

16 MR. KUTAK: So moved.

17 MS. SHUMP: I second.

18 JUDGE ORTIQUE: Just before we vote, I just want
19 to underscore that it is anticipated that we may have to
20 have an executive session today. And that is not included
21 on the agenda. I see it up at the top.

22 CHAIRMAN MCCALPIN: If you notice, Revius, I
23 guess you are right that among the seven items listed, the
24 executive session is not included, but it does precede the
25 seven listed items. It is true that we will, at an approp-

1 riate time poll the Board, with respect to an executive
2 session to consider a litigation matter or matters. And
3 that that will come up at an appropriate time in our pro-
4 ceedings. With that caveat or understanding, is there any
5 further discussion of the motion?

6 (No response)

7 CHAIRMAN MCCALPIN: All those in favor will
8 please signify by saying "aye".

9 (A chorus of "ayes")

10 CHAIRMAN MCCALPIN: Any opposed, a like sign.

11 (No response)

12 CHAIRMAN MCCALPIN: It is so ordered.

13 APPROVAL OF MINUTES OF MARCH 6, 1981 MEETING

14 CHAIRMAN MCCALPIN: The next item on the agenda
15 is a consideration and possible approval of the minutes of
16 the meeting of this Board held on March 6th of this
17 year. May I have --

18 MR. KUTAK: Move the adoption.

19 MS. WORTHY: Second.

20 CHAIRMAN MCCALPIN: Yes? Howard.

21 PROFESSOR SACKS: There is just one little
22 technical point on Page 9, in the first full paragraph
23 that I just want to raise a question about. I may be mis-
24 taken. It says "On return from the executive session,
25 Mr. McCalpin noted that the Board considered civil

1 litigation in which the Board and certain of its past
2 employees are defendants." I don't have any problem with
3 that sentence. "The only actions taken in executive
4 session were to indemnify the individual defendants, and
5 to reject a proposed settlement offer."

6 My concern is with that part of the sentence
7 that says that the actions taken were to "indemnify". Now,
8 we may have agreed to indemnify but I don't think we
9 indemnified anybody because I don't think anybody's
10 incurred any expenses or obligations.

11 And I just want to make sure that this can't
12 be misinterpreted to mean that we -- seems to suggest that,
13 that --

14 CHAIRMAN MCCALPIN: I thought you taught Law
15 not English.

16 (Laughter)

17 PROFESSOR SACKS: What is the distinction?

18 CHAIRMAN MCCALPIN: I think you are right. We
19 agreed to indemnify within the provisions of the bylaw.
20 I think that is accurate. I have a question on that same
21 page and let me refresh myself about it.

22 I wanted to raise a question with respect to
23 the last item on that Page 9. And I guess that I could
24 have satisfied it by going back and looking at the amend-
25 ment, but do we require that a local program Board of

1 Directors formally authorize the establishment of an office
2 -- do we require the establishment of a separate office for
3 legislative advocacy? I didn't remember that the amendment
4 to the regulation went that far. Mario.

5 MR. LEWIS: The second part of the amendment
6 explicitly provided for that. Whether the word "office"
7 was used or not, at the moment I don't recall. I believe
8 it was "unit". But the understanding is that there are
9 some programs that do have legislative offices.

10 California Rural Legal Assistance has a
11 legislative office in Sacramento, California. And to the
12 extent that other programs are wishing to do that in the
13 future, they would formally have to decide that that is
14 what they want.

15 PROFESSOR SACKS: The local board would have
16 to go over them.

17 CHAIRMAN MCCALPIN: Yes, I understand that. But
18 my point is, that the way I read this, it would require --
19 it appears to require the establishment of an office before
20 a program could engage in legislative advocacy.

21 MR. LEWIS: No. To the extent that -- the
22 language in the regulation and the comment before it is
23 clear on that point -- to the extent that they choose to
24 establish an office because they find that more expedient,
25 more efficient -- they should formally vote to do so as

1 opposed to letting it happen on the basis of some
2 administrative determination by the executive.

3 CHAIRMAN MCCALPIN: Okay. It may be that this
4 particular sentence in the minutes does not fully and
5 clearly reflect the sense of the regulation. Because it
6 doesn't say that if they are going to have an office, then
7 it has to be authorized by the Board. I'm being a little
8 like my friend on the right.

9 But the way I read it, is that it would require
10 the establishment of an office before they could undertake
11 a single instance of legislative advocacy. And I didn't
12 think we required that.

13 JUDGE ORTIQUE: It would be much better if that
14 sentence were broken in two. See, you lose the thought,
15 "the amendment assures". This is not the statement of
16 policy but the amendment assures that this will take place.
17 And if you -- you know, by running through that many words
18 you lose it. But it's there.

19 CHAIRMAN MCCALPIN: Okay.

20 JUDGE ORTIQUE: And I don't teach English
21 either.

22 CHAIRMAN MCCALPIN: Obviously it is the
23 regulation itself which will control rather than the
24 minutes.

25 JUDGE ORTIQUE: That's right.

1 CHAIRMAN MCCALPIN: Is there any further
2 discussion with respect to the minutes of the meeting of
3 March 6th?

4 (No response)

5 CHAIRMAN MCCALPIN: All those in favor of the
6 motion, please signify by saying "aye".

7 (A chorus of "ayes")

8 CHAIRMAN MCCALPIN: Any opposed, the like sign.

9 (No response)

10 CHAIRMAN MCCALPIN: There are none. It is so
11 ordered that the minutes are approved.

12 REPORT ON REAUTHORIZATION OF LEGAL SERVICES
13 CORPORATION ACT AND FY 1982 APPROPRIATION

14 CHAIRMAN MCCALPIN: The next item on the agenda
15 is a report on Reauthorization of the Legal Services
16 Corporation Act and FY 1982 Appropriation. Mr. President,
17 do you wish to initiate that?

18 MR. BRADLEY: No, Mary is going to make this
19 presentation.

20 CHAIRMAN MCCALPIN: All right. Mary Bourdette,
21 we are glad to recognize you. And not only to appear before
22 us and present this issue but for your magnificent work
23 in behalf of the Corporation.

24 MS. BOURDETTE: Thank you. Dan asked me to
25 provide a congressional status report on all the activities

1 that have been happening in the last few months since
2 your last Board meeting. Of course the major activity
3 that has occupied our time and attention for the last few
4 weeks has been the authorization process in the House.

5 And we have made significant progress in moving
6 an authorization bill in the House, in that, H.R.3480,
7 which is before you, is now ready for House floor action.
8 We appeared before the Rules Committee yesterday and
9 secured a rule that will govern floor debate on this piece
10 of legislation.

11 And it is tentatively scheduled for floor
12 action -- House floor action, Tuesday, June 16th. This is
13 a compromise bill worked out in consensus of the members of
14 the subcommittee, and importantly, unanimously supported
15 by the members of the subcommittee. It enjoys strong bi-
16 partisan support in the House.

17 It is a two year reauthorization bill covering
18 the 1982 and 1983 fiscal years at a level of \$260 million
19 for both those years. Obviously this is a significant cut
20 from our current authorization and appropriation level but
21 one that was felt to be necessary by the members of the
22 subcommittee in order to guarantee the success of the Bill
23 on the floor.

24 This is a 25 percent cut from the Carter OMB
25 recommended level for FY 1982 and brings this program

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1 into line with the various funding proposals for other
2 social programs that will be considered by Congress this
3 year.

4 Let me go through the Bill, Section by Section,
5 and just briefly indicate what it does and the rationale
6 for the changes. Starting with Section 2 because Section 1
7 is simply the title.

8 Section 2 amends the Act with respect to State
9 Advisory Councils. And it does several things. One, it
10 restructures the State Advisory Councils in a minor way by
11 adding a tenth member of the Councils. It adds to their
12 responsibilities, particularly authorizing or requiring
13 State Advisory Councils to review alleged violations of
14 the Act by our programs.

15 And third, it mandates such Advisory Councils
16 by requiring this Board -- rather than simply authorizing
17 the Board to appoint them if the Governor fails to do so --
18 but requires this Board to appoint them.

19 CHAIRMAN MCCALPIN: Mary, as I recall, you and
20 the staff did some work in connection with ascertaining
21 the status of Advisory Councils. I believe we found that
22 they were -- at least on paper -- in existence in virtually
23 every state. Is that not correct?

24 MS. BOURDETTE: At one time or another they
25 had been appointed in every state. But several Governors

1 failed to renew them. New Governors came in and didn't
2 appoint a new Advisory Council. So they were not actively
3 operating in all the states. But at one time or another
4 there had been an Advisory Council appointed in every state.

5 But this very issue was one of the reasons why
6 the Committee felt it necessary to amend the Act in this
7 regard. They felt they were an important enforcement
8 mechanism, an oversight mechanism for the program. And
9 wanted to make sure that if Governors did fail to exercise
10 their authority to appoint them, there would nevertheless
11 be Advisory Councils operating in every state.

12 The third section of the Act deals with local
13 board composition and the qualification for recipients.
14 And this section was added ostensibly to provide Bar
15 Associations a greater role in the governments of our local
16 program. And in this regard, it allows Bar Associations
17 to appoint a majority of the members of the local board
18 of directors of every program.

19 It also somewhat changes the qualifications of
20 recipients for funding. Again, the rationale for this
21 amendment was to give the Bar Associations a greater role
22 in the operation of the programs and to provide greater
23 accountability by the programs to local members of the Bar.

24 Section 4 of the Bill in front of you deals
25 with enforcement of the Act and sanctions for violations.

1 And again it amends the Act in several ways, basically to
2 provide the Corporation with greater --

3 PROFESSOR SACKS: I'm having trouble following
4 you, I'm looking in the Board book.

5 JUDGE ORTIQUE: Before you climb down, paragraph
6 by paragraph.

7 PROFESSOR SACKS: May 8th document?

8 CHAIRMAN MCCALPIN: It was just printed. This
9 is -- here.

10 PROFESSOR SACKS: I'll find it.

11 CHAIRMAN MCCALPIN: Well, maybe they didn't
12 stick one in your final.

13 JUDGE ORTIQUE: I think -- were they on the
14 side table this morning?

15 CHAIRMAN MCCALPIN: She put them on the table,
16 but maybe you didn't get one.

17 PROFESSOR SACKS: Go ahead Mary, I'll --
18 here it is, I've got it. Sorry.

19 MS. BOURDETTE: The Bill that was in the Board
20 book was not the final version and this is the final
21 version as we proceed to the House floor. So you all have
22 it in front of you now?

23 PROFESSOR SACKS: Okay.

24 MS. BOURDETTE: Okay. It is Section 4 of
25 the Bill, which is on Page -- starts on Page 4 of the Bill

1 -- deals with enforcement of the Act and sanctions for
2 violations. It amends the Act in several ways. Basically
3 to provide the Corporation with greater authority to enforce
4 the Act.

5 It amends Section 1006(b5) to specifically
6 require this Board --

7 JUDGE ORTIQUE: Wait, don't, don't rush past
8 me because I'm worried about due process in that Section 4.
9 When they say "immediate", what do they mean by immediate.
10 "Immediate suspension by the President."

11 MS. BOURDETTE: Well this section, in essence,
12 replaces Section 1011, which is, you know, currently
13 governs termination of assistance or denial of refunding.
14 And it does require the Board to adopt regulations defining
15 what that means.

16 It does say again that if financial assistance
17 is terminated or suspended for more than 30 days
18 reasonable notice and opportunity for fair hearing must be
19 provided. But it does not go as far as Section 1011
20 currently goes. And in fact the --

21 JUDGE ORTIQUE: By my question, really Mary,
22 I was trying to get at, did they have discussions about
23 that? Were they aware of why we had in our regulations
24 what we've got in our regulations? And what were the
25 comments on their part about this?

1 MS. BOURDETTE: I would say this area was
2 probably discussed by the subcommittee more than any other.
3 Various provisions currently in the Act with respect to
4 enforcement and sanctions as well as the various proposals
5 much broader than these, to shall we say, beef-up the
6 enforcement and sanctions in the Act.

7 There was determined effort to modify the
8 current presumption for refunding that is in the Act. And
9 they were very much aware of what the current provisions
10 provided and thought that they should be modified to,
11 basically I would say, allow greater competition among
12 grantees.

13 CHAIRMAN MCCALPIN: Revius, I can tell you
14 that a report -- report no. 97-97 -- has been filed by the
15 Committee on the Judiciary in the House and beginning at
16 Page 13 of that report is an exposition of the Committee's
17 views on this particular section that Mary is addressing
18 now. Pages 13 and 14 of the report.

19 MR. BRADLEY: To answer your question, Revius.
20 Yes, clearly, unequivocally, the Committee knew exactly
21 what the issues were in 1011. They knew exactly what the
22 current law regulations provided. And they purposefully
23 and intentionally made this change fully cognizant of what
24 was suggested in your question. And the answer is "yes."

25 JUDGE ORTIQUE: You know we may be the subject

1 of a lawsuit if we, within thirty days, adopt a regulation
2 such as this report. I just want to suggest that this is
3 a restriction that may give us some trouble down the road.

4 CHAIRMAN MCCALPIN: I wouldn't mind defending
5 a lawsuit attacking a regulation based on a statute.

6 PROFESSOR SACKS: Besides it's only discretion-
7 ary, Revius. It doesn't say that you suspend people
8 immediately if they do certain things. It just gives us
9 the power, under certain circumstances, to suspend
10 immediately. And I can conceive of situations where you
11 might want to use that power.

12 JUDGE ORTIQUE: Well all of my days I've been
13 afraid of situations where you can do things immediately,
14 without hearing, without due process, and so forth. And I
15 guess I'm going to continue to be just made that way. So
16 I just want to be enunciated, that is all.

17 MS. BOURDETTE: There are other provisions in
18 this enforcement section replacing 1011 with an interim
19 funding section that provides programs with interim funding
20 pending a refunding decision. Because it was felt that
21 if there was a hold up on making a decision clients --
22 particularly existing clients -- must be served in the
23 interim.

24 Another part of this enforcement section of
25 the Act removes the explicit right of employees to engage

1 in picketing, strikes, or demonstrations with regard to
2 their own employment situation. And this was perhaps one
3 of the more difficult issues on which the Committee had a
4 lot of debate and a lot of discussion.

5 This amendment was offered by Congressman
6 Butler because he feels it is inappropriate to have strikes
7 in legal services programs. And while it could not be
8 resolved by the subcommittee, the Full Committee did, by a
9 close vote, adopt this amendment.

10 But basically all of these enforcement provi-
11 sions in Section 4, again, provide greater authority to
12 the Corporation to enforce the Act and to provide sanctions
13 for violations of the Act or regulations.

Ms
Bourdette

14 The fifth section of the Act changes the provi-
15 sions governing lobbying activities by the Corporation and
16 by recipients in several ways. First, it substantially
17 restricts the authority of the Corporation to engage in
18 lobbying activities. You will recall that currently the
19 Corporation is authorized to conduct legislative activities
20 with respect to its authorization and appropriation legis-
21 lation only.

22 This Bill replaces the current authority with
23 the same provisions applicable to other federal agencies --
24 to all federal agencies -- including criminal penalties for
25 violations of the provision.

1 Secondly, it further restricts the ability of
2 local programs to engage in legislative activities by
3 limiting the circumstances under which they may appear before
4 a legislative body. Again, the current Act, while carrying
5 a general prohibition with respect to legislative activities
6 has three exceptions.

7 This continues two of the exceptions. It
8 continues to allow programs to represent their clients on
9 a particular claim before a legislative body, and to
10 respond to a legislator or a Committee of a legislative
11 body when requested to do so.

12 It deletes the authority of programs to engage
13 in legislative activities with respect to activities
14 directly affecting them, i.e., the authorization and the
15 appropriation legislation. As you know, legislative and
16 lobbying activities have been subject of a lot of concern
17 in Congress over the years.

18 And a lot of debate has centered on the authority
19 of the Corporation recipients to engage in these activities.
20 This amendment was intended to substantially restrict
21 those activities in the future while allowing them in those
22 circumstances where the Committee felt it was absolutely
23 necessary to engage in them.

24 Section 6 provides further restrictions on
25 class action litigation by requiring the class actions

1 against governmental entities only be filed in accordance
2 with rules and regulations adopted by this Board. Again,
3 this was a subject of a lot of debate in the Committee
4 hearings and in the Committee mark up.

5 Class actions seemingly have taken on a life
6 of their own in Congress. There was talk of banning class
7 actions altogether or requiring specific Corporation Board
8 approval of all class actions filed against a governmental
9 entity.

10 This compromise was reached by the Committee
11 after they agreed that there were certainly instances in
12 which class actions were not only appropriate but absolute-
13 ly necessary. And that it would be bureaucratically
14 cumbersome to have this Board review each and every class
15 action. Thus, it requires this Board to adopt a regulation
16 governing class action litigation filed against governmental
17 entities.

18 Section 7 of the Bill changes the standards
19 against which courts shall award or shall assess attorneys'
20 fees for basically frivolous lawsuits. There is currently
21 a section in the Act governing these types of lawsuits.
22 The standard in the Act right now is that court shall
23 award costs and fees against a program which brings liti-
24 gation for the sole purpose of harrassment or which
25 maliciously abuses the legal process.

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1 This new standard requires courts to assess
2 costs if the litigation is brought without reasonable basis
3 in law or fact. And again, this was a result of several
4 witnesses testifying to their belief that on occasion
5 frivolous lawsuits were brought by legal services programs.

6 In fact, very few programs or very few costs
7 have been awarded against programs. But nevertheless,
8 members thought it was necessary to broaden the penalties
9 somewhat for frivolous lawsuits.

10 Section 8 of the Bill requires programs to
11 attempt to negotiate settlements of controversies prior to
12 filing of lawsuits. An exception is provided where the
13 project director feels that it is necessary to file a law-
14 suit in a timely manner. And again, despite the fact that
15 the great proportion of problems handled by legal services
16 programs are indeed handled by or settled by negotiation,
17 some members thought it was necessary to signal more
18 directly their desire that negotiation be attempted when-
19 ever possible.

20 Section 9 of the Bill, dealing with private
21 Bar involvement, amends the Act to require the substantial
22 participation of the private Bar in the delivery of legal
23 services. And it further requires the Corporation Board
24 to issue regulations governing the compensation of private
25 attorneys.

1 This is a version of the amendment sponsored
2 by the American Bar Association, which wanted to ensure
3 the private attorneys had ample opportunity to participate
4 in this program. The Committee did express some concern
5 about the compensation of attorneys who would participate
6 and thus, wanted to make sure that the Board expressed
7 some oversight over the compensation that would be allowed.

8 Section 10 of the Bill deals with the authority
9 of local programs to keep for service to clients, attorney
10 ney fees that they may have been awarded in litigation on
11 behalf of their clients. Rather it requires that these
12 fees be transferred to the Corporation for reallocation.

13 Again, as you know, last year and in the past,
14 several members of Congress have expressed concern about
15 recipient receipt of attorney fees. Despite the fact
16 that programs have received less than \$1 million in
17 attorneys fees over the past several years, members were
18 concerned that the availability or the potential for fees
19 might unduely skew the priorities of the local program.

20 And thus, they wanted to make sure that was not
21 possible. And thus, required these fees be returned to the
22 Corporation for reallocation.

23 CHAIRMAN MCCALPIN: As I recall Mary, this is
24 essentially a compromise. There were those who wanted the
25 fees to go directly to the Federal treasury. The present

1 arrangement is that it goes to the local program and the
2 feeling there was that some local programs would skew their
3 activity in the direction of fee-generating cases in order
4 to enrich their own coffers. And that this represents a
5 compromise by the Committee, bringing it back to the
6 Corporation instead for reallocation, as you have indicated.

7 MS. BOURDETTE: Section 11 of the Bill
8 includes a number of new restrictions on the types of cases
9 and clients that may be represented by Legal Services pro-
10 grams. Specifically, it adds a prohibition against the
11 dissemination of information advocating particular public
12 policies or positions in the context of training programs.

13 This was an issue brought to the attention of
14 the Committee by Congressman Trent Lott of Mississippi, who
15 felt that, on occasion, training programs had been used to
16 advocate public policies. And thus wanted to ensure that
17 that would not happen in the future.

18 It adds a restriction substantially if not
19 totally reducing, ability of programs to represent clients
20 in abortion litigations. It restricts programs from
21 representing aliens known to be in the United States in
22 violation of immigration laws, similar to the restriction
23 that is on our appropriations bill.

24 Additionally, it restricts litigation seeking
25 to legalize homosexuality. Again, similar to the rider --

1 exactly the rider -- that is included in our appropriations
2 bill. All these issues have been discussed in Congress
3 many times. And I guess, perhaps, just simply reflect the
4 prevailing opinion that these are areas somewhat inappro-
5 priate for legal services activities.

6 CHAIRMAN MCCALPIN: Mary, as I recall,
7 Congressman Lott's problem had to do with the publication
8 of a paper, a newsletter, or something of that sort, rather
9 than a training session. Does this amendment address that?

10 MS. BOURDETT: Yes it did have to do with the
11 publication of a newsletter. And his amendment is designed
12 to address that specific problem.

13 Section 12 of the Act, adds a requirement that
14 client eligibility be documented by local programs as well
15 requiring documentation for any and all lobbying activities.
16 And that the Corporation periodically review the document-
17 ation for eligibility and lobbying.

18 This is a proposal that the General Accounting
19 Office has suggested for many, many years with respect to
20 client eligibility. Not because they have suggested there
21 is -- or provided any evidence of any abuse in this area,
22 but simply because they believe that federal funds should
23 be fully documented.

24 This provision, you'll notice, specifically
25 provides that it shall not conflict with client confidences.

1 Section 13 deals with financing, which, we have
2 already discussed, the \$260 million authorization level
3 for the 1982 and 1983 fiscal years, as well as reducing the
4 amount of funds that may be utilized for certain activities
5 -- research, training, clearing house -- from 10 percent
6 which is currently restriction in the Act to 7 percent.

7 I would be happy to answer any questions on
8 various provisions. The Bill will now go to the floor.
9 There will be a number of additional restrictive amendments
10 that will undoubtedly be offered. A number of additional
11 amendments were offered in the Full Judiciary Committee.

12 Three that are included here were adopted in
13 the Full Committee and a number of others were defeated.
14 We do expect bipartisan support on the floor. The bill
15 will be managed by Congressman Kastenmeier and Congressman
16 Railsback, with the help of all the members of the sub-
17 committee who are sponsors of the legislation.

18 And as soon as we have completed floor action
19 we will certainly apprise you of the results.

20 PROFESSOR SACKS: I wanted to ask you a question
21 about Section 9, on private Bar involvement. At the bottom
22 of Page 9 it says, "In each fiscal year, to the extent
23 feasible and consistent with Paragraph 3 of this subsection,
24 make available substantial funds for private bar involve-
25 ment." What does Paragraph 3 of this subsection provide?

1 MR. LEWIS: That refers back to the economic
2 and effective delivery of services. The standard that is
3 used to determine whether programs are properly operating
4 and used to determine which programming approach is best in
5 a given area.

6 That would mean that in deciding what kinds of
7 allocations to make to the private Bar, one of the consider-
8 ations that the Corporation would have to take into account
9 is the question of whether the approach is economic and
10 effective.

11 MR. BRADLEY: And it raises all those questions
12 in basic and incorporates by reference in terms of the
13 legislative history, those findings and conclusions of the
14 delivery system study, cost, and all of those issues that
15 we struggled with through the delivery system study -- those
16 standards.

17 CHAIRMAN MCCALPIN: Are there any other
18 questions directed to H.R.3480?

19 (No response)

20 CHAIRMAN MCCALPIN: Mary, you might say a word
21 about the Senate version perhaps.

22 MS. BOURDETTE: Right. As you know, Senator
23 Eagleton and a number of other members of the Senate, had
24 introduced reauthorization legislation in that side, S.939.
25 While there is a lot of behind the scenes activities with

1 respect to our authorization legislation in the Senate
2 Labor and Human Resources Committee, they have not yet
3 reported out a bill, but we do expect an authorization bill
4 in the Senate momentarily.

5 We cannot report any more about it at this
6 stage, however. So we will proceed with the House Bill
7 which will go to be reported over to the Senate once it is
8 passed out of the House.

9 CHAIRMAN MCCALPIN: Mary, let me ask you --
10 there was a good deal of publicity, even in the Hitherlands
11 about the budget process some while ago. I really don't
12 have a sense or an understanding as to whether that has
13 been completed. Have both Houses now agreed on a budget
14 resolution?

15 MS. BOURDETTE: Well there is various parts of
16 the budget process. And it goes on for quite some time.
17 Both Houses have agreed and have adopted the First Con-
18 current Budget Resolution for the 1981 fiscal year. And
19 that budget resolution includes sufficient budget authority
20 for the Legal Services Corporation in the 750 function, in
21 the Administration of Justice function.

22 They are now working on what is called the
23 Reconciliation Bill, in which the various authorizing
24 committees of Congress report back pursuant to the
25 reconciliation instructions that were in the original

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1 Concurrent Budget Resolution, on the various cuts, that they
2 must make in order to conform with the ceilings included
3 in the First Concurrent Budget Resolution. That part of the
4 process, the reconciliation process that is occurring right
5 now, will not really affect us.

6 It is not something that we will be participat-
7 ing in. And we do not expect, in one way or another, it will
8 have a significant effect on our operation. It is much
9 more important and significant with respect to entitlement
10 programs where authorization legislation must be changed
11 in order to change an appropriation level.

12 CHAIRMAN MCCALPIN: What about appropriations?

13 MS. BOURDETTE: Well we are waiting on both
14 sides in the House and the Senate for the mark up session
15 in which the appropriating subcommittees will make their
16 recommendations with respect to our 1982 appropriation
17 level.

18 That is somewhat related to the reconciliation
19 process and thus, it is much later this year than it has
20 normally been. But we expect the House Appropriation
21 Subcommittee to mark up, perhaps in two or three weeks
22 and to make their recommendation then to the Full
23 Committee and then to the House floor for appropriation.

24 CHAIRMAN MCCALPIN: Have there been hearings
25 in both Houses?

1 MS. BOURDETTE: Right. We have had appropri-
2 ation hearings in both the House and the Senate, I believe
3 in February or March, we had the hearings, very good
4 hearings. And very well attended hearings.

5 Once the House marks up, as you know appro-
6 priations bills must originate in the House, that bill will
7 be sent to the Senate for its consideration through the
8 subcommittee and committee process. So we really don't
9 have anything to report with respect to appropriation at
10 this stage.

11 CHAIRMAN MCCALPIN: Mr. Kutak.

12 MR. KUTAK: Mr. Chairman. If it is not an
13 inconvenience, I would ask the office to send us copies of
14 the hearings when they are available. I think those of us
15 who are not able to attend but now need more than ever to
16 know what is the tenor of the debate and, frankly, the tenor
17 of the testimony, will find it extremely helpful if you
18 could send copies.

19 Now, again if they come out in huge, bulky
20 documents, I would, for the sake of economy not to mention
21 your own, save you any imposition, I would xerox only
22 those pages -- photocopy only those pages that relate to
23 the Corporation.

24 But I try to track the debate in the Record
25 which we do get, but I don't have the access to the

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1 hearings when printed. And it might be helpful to have.

2 CHAIRMAN MCCALPIN: You're talking now about
3 the committee hearings --

4 MR. KUTAK: Yes.

5 CHAIRMAN MCCALPIN: -- Not the debate in the
6 House two weeks or so ago.

7 MR. KUTAK: No. Because that can be picked up
8 by the Congressional Record. That's readily available by
9 all the Committee.

10 CHAIRMAN MCCALPIN: Well it is not so readily
11 available to all the Board members.

12 MR. KUTAK: Doesn't everybody read it, every-
13 day?

14 (Laughter)

15 MR. KUTAK: I still do. That's why I get
16 nothing done.

17 (Laughter)

18 MR. KANTOR: It's right in the sports page,

19 (Laughter)

20 MS. BOURDETTE: We would be happy to send
21 those to you. We'll be happy to make those available to
22 you. They are rather bulky, however. Are there any other
23 questions about our congressional legislation this year,
24 or -- all right.

25 (No response)

1 CHAIRMAN MCCALPIN: Well again, Mary, all our
2 thanks to you and your staff, for staying on top of this
3 and providing the members of the legislative branch of
4 government with information about us and for providing us
5 with information as this important aspect of our being
6 progresses through the Congress.

7 If there are no other questions, we will
8 proceed.

9 MR. KANTOR: Mr. Chairman, just two quick
10 observations since Bob Kutak is here. I think it is
11 certainly relevant to the work he's put in, the thousands
12 of hours on the new model code, which I now see is ready
13 for distribution and maybe just a comment on history.

14 Certainly all of us understand the why and
15 wherefores of what has happened on the Hill and what will
16 continue to happen. We all have concerns for that, but
17 two things of interest to me. One is the fact that three
18 administrations have supported the concept of insulating
19 this Corporation from political whims and that has certainly
20 been breached. And it is going to make it difficult for
21 this Board and for succeeding Boards to operate in an
22 ideologically neutral manner.

23 And the second is, the problem of making
24 Legal Services lawyers--this is where Bob comes in--quite
25 different from other lawyers, and therefore making poor

1 people as clients and as participants in the justice
2 process quite different from other clients. We begin to
3 restrict what a lawyer can do and what a lawyer can't do.
4 It seems to me what we are doing is beginning to "mess
5 around" with our system of justice in a very mischievous
6 way.

7 And so maybe Bob wants to comment and maybe
8 he doesn't, I have not read the new model code but I would
9 assume what we try to do is, of course provide the same
10 kind of justice for everyone as we can and not try to
11 differentiate between the delivery of justice between the
12 economic classes or other kinds of classes of people.

13 And it just concerns me that that's where, as
14 I said, this Corporation is going to have to be and try,
15 in fact, to balance the equities between the dictates which
16 we'll have to live with. Whatever the Congress comes up
17 with and whatever the President finally signs on the
18 continuation of the Corporation.

19 And the dictates most of us live with, day to
20 day, as lawyers and what our lawyers out in the field have
21 to live with being members of the Bar and living under the
22 code of professional responsibility.

23 MR. KUTAK: Model code, you mean?

24 MR. KANTOR: Model code or the existing code,
25 either one.

1 MR. KUTAK: In response to your observations,
2 I make only two. One, as we all recall, the preamble of
3 the present law observes the obligation of the lawyers in
4 the Legal Service Corporation to be bound by the dictates
5 of the current code of professional conduct.

6 And I dare say that nothing has been done
7 in any legislative or executive manner that would do
8 violence to that important point. The second is that the
9 proposed model rules of professional conduct, which come on
10 the House of Delegates willing and then the separate State
11 Bar Associations and Supreme Courts concurrence, makes no
12 differentiation between pro bono lawyers and lawyers in any
13 other practice.

14 And indeed prescribes the same standards of
15 conduct for the pro bono Bar as it does for the Bar of any
16 other sector of our profession. And I think it will be a
17 challenge, indeed a responsibility, of this Board or any
18 members who duly succeed us to reconcile the obligations
19 of ethical lawyering with the constraints that the law or
20 pursuant regulations impose upon us.

21 It will require alot of ingenuity. But I can't
22 believe that the effective assistance of services for the
23 poor, which this Corporation is committed to, can be done
24 violence under the requirement that any lawyer, whether
25 he be in the private sector, pro bono sector, indeed, in

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1 the corporate sector, would be circumscribed by his
2 obligations as first a lawyer and second of all, an
3 operative within the framework of this statute.

4 JUDGE ORTIQUE: I think that is very important,
5 Mr. Chairman, that Bob should bring that out. One of the
6 reasons why my reaction was as strong as it was about due
7 process is that I think that we do have a continuing
8 responsibility to make certain that we at least under-
9 stand the responsibilities of lawyers in our programs
10 to follow, obey, give substance to the mandates of the
11 American Bar Association rules on professional conduct and
12 ethics.

13 Yesterday evening I chaired a very brief
14 debate on the educational television station, on the whole
15 question of whether Congress should pass a law circumscrib-
16 ing the areas for the Supreme Court to operate in,
17 particularly in the areas, you know, that they are con-
18 cerned about.

19 And it just seemed to me that the otherwise
20 very ultraconservative Congressperson who said, "Look,
21 Congress should not be tampering with the prerogatives of
22 the judicial system to move in that area," is very basic
23 and fundamental. And I just think that we ought to be
24 ever mindful that lawyers operate under these proscriptions.

25 CHAIRMAN MCCALPIN: Obviously we don't have a

1 basically different situation confronting us under the
 2 new legislation than has always existed. Since the very
 3 beginning of the Legal Services Corporation Act in 1974,
 4 certain restrictions have been placed on the practice of
 5 law within the confines of the act. Albeit, the Act is
 6 always as Bob Kutak points out begun with the preface
 7 that action of lawyers have to be fully within and con-
 8 sistent with the code of professional responsibility.

9 We have lived with and adjusted to the more
 10 perceived than real conflicts, I think, between the
 11 legislation and the code of professional responsibility.
 12 I have no doubt that we can do the same with respect to
 13 this legislation which is before the House of Representa-
 14 tives now.

15 And obviously it is going to take us, as both
 16 of you have pointed out, some consideration, some probably
 17 further adjustment. But it seems to me that it's entirely
 18 possible within the framework of what we see now.

19 REPORT FROM COMMITTEE ON PROVISION OF LEGAL SERVICES
 20 (AMENDMENT TO CONTRACT FOR REGINALD HERBER SMITH
 21 COMMUNITY LAWYER FELLOWSHIP PROGRAM)

22 CHAIRMAN MCCALPIN: If there are no more, let
 23 me pass on to the next item on the agenda. It is my
 24 understanding, Revius, that you are going to present the
 25 report of the Committee on Provision of Legal Services.

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1 Is that correct?

2 JUDGE ORTIQUE: Well, I'm going to introduce it
3 and then Clint is going to read it and make the presentation.
4 I just think that we ought to note for the record that our
5 colleague has gone over to the White House for the present-
6 ation of the Bobby Kennedy medal to Mrs. Kennedy by the
7 President.

8 I just think that that's important to note, that
9 he is --

10 MR. BRADLEY: But he didn't wear a tie, Judge.

11 JUDGE ORTIQUE: He's probably got it in his
12 pocket. He's got a jacket on for the first time.

13 (Laughter)

14 JUDGE ORTIQUE: I think he's got a tie in his
15 pocket. He doesn't want us to see that.

16 (Laughter)

17 MS. WORTHY: Change his image.

18 JUDGE ORTIQUE: Yes. Well, Mr. Chairman, the
19 -- this Committee has been working overtime trying to do
20 what this Board has said on more than one occasion and that
21 is, that the depth and breadth of the Reginald Heber Smith
22 program had to be changed and, hopefully improved, by
23 such changes.

24 And one of the areas, one of the broad areas,
25 that we have been concerned about, and which we have spent

1 considerable time discussing and revising and revamping is
2 the -- was the idea, certainly promoted by a number of
3 persons on the Board, that we would establish what amounted
4 -- what amounts to an individual who would import to a
5 particular area the notions of the -- or the objectives of
6 the Reginald Heber Smith Program.

7 Actually there were two aspects to this that
8 we were concerned about. And I'm going to let you hear
9 from Clint, who will give you a broader perception of what
10 the Provisions Committee has done up to this point. I can
11 say, before he does speak, that a number of persons in
12 addition to the Committee, have met and we have had full
13 and lively discussions at our several committee meetings
14 which have led up to the proposal that Clint is going to
15 provide you with today.

16 MS. SHUMP: Judge, if I may, prior to Clint's
17 speaking, I think that it is vitally important that we
18 realize and that we recognize the importance of the exten-
19 sion and the expansion of the contract of the Reggie people,
20 and the impact and the benefit that it has been in enabling
21 more minority lawyers to come into the practice of law and
22 to get some excellent training.

23 JUDGE ORTIQUE: I wish you would expand on that
24 after we get the report.

25 MS. SHUMP: All right.

1 CHAIRMAN MCCALPIN: Let me respond by saying
2 that I think that the importance and the value of the
3 Reggie program is indicated by the number of Reggie alumni
4 whom we have on the staff of this Corporation, beginning
5 with the man to my left.

6 MR. BRADLEY: And the man in front of you.

7 (Laughter)

8 CHAIRMAN MCCALPIN: Mr. Lyons.

9 MR. LYONS: First of all, the Committee did
10 adopt a resolution which is presented to you in your
11 Board book. As you recall, the current Reggie contract
12 does require or commit us to making a decision around this
13 time about the Reggie program.

14 Of course, those decisions don't come at an
15 ideal time. Nevertheless, we are called upon to make the
16 decisions. Before we get into the substance of the
17 proposal that is before you--and I'll be glad to answer
18 any questions that you have in that area--let me just tell
19 you what my thinking was in carrying out my responsibilities
20 and presenting something to you that you could work on and
21 make decisions about.

22 First of all, one, this new component to the
23 program does not incorporate an increase in funding. It
24 is, for this year, funded out of monies that you approp-
25 riated for the Reggie program last December.

1 Secondly, it was my sense working with the
2 Reggie program and working with you over the past three
3 years -- almost three years, that you did desire in this
4 community -- desired some flexibility in the Reggie program.
5 And as you make decisions about the future of this, at
6 least initially, about the future of this entire program,
7 I thought it important that you have some flexibility in
8 looking at this program as to what are the possibilities
9 as we look to some redesign issues possibly.

10 I think the last point is, is that you will --
11 the amendments to this contract, if you decide to extend
12 it, will be written to your specifications so that this
13 program and this Board can be protected against obligations
14 that you have to make on decisions you have to make over
15 the coming months.

16 So with that preface, I'll be happy to answer
17 any questions that you have about what is contained in your
18 Board book.

19 PROFESSOR SACKS: I have a number of questions.
20 But I first ought to say, Mr. Chairman, that -- I don't
21 think I even got a notice of the meeting of the Committee
22 which met somewhere in the Southwest. I couldn't have
23 made it anyway, but I do think that we should be careful
24 about notices to board members because I don't think --
25 I think I heard about it quite accidentally.

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1 CHAIRMAN MCCALPIN: Well, I not only got a
2 notice of it but a copy of their agenda materials. But it
3 may be that as Chairman I get things that the other members
4 don't.

5 PROFESSOR SACKS: I'm sure I didn't get a copy
6 of the agenda.

7 MS. WORTHY: I received notice and a copy of
8 the agenda.

9 MR. BRADLEY: I'll take the blame but it is
10 probably the United States Postal Service.

11 MS. SHUMP: Well isn't it also customary that
12 usually the members of the Committee receive notice unless
13 someone else has indicated an interest in attending the
14 meetings of the different committees?

15 JUDGE ORTIQUE: No. I think we all get it,
16 because Audit and Appropriation, I always get notice and
17 materials.

18 CHAIRMAN MCCALPIN: All board members get
19 notice of all committee meetings. That is the rule that
20 has been followed and apparently there was a failure, in
21 some respect, in this particular instance. Howard, I think
22 it is an anomaly and regrettable but happily, as you say,
23 it wasn't irreparable since you couldn't attend anyway.

24 So we will see to it, as best we can, that that
25 doesn't happen in the future. You had some questions to

1 address to Clint.

2 PROFESSOR SACKS: Let me just make clear that
3 I'm not -- you seem to have two components of the program.
4 One is to replace inexperienced Reggies, fresh out of law
5 school, with some experienced people. And I don't have any
6 problem --

7 JUDGE ORTIQUE: I don't think replace is the --

8 PROFESSOR SACKS: Well but you are not going to
9 increase the money.

10 JUDGE ORTIQUE: Well in effect, yes, they will
11 be replaced but as they -- as openings occur we will bring
12 in experienced lawyers.

13 PROFESSOR SACKS: All right.

14 JUDGE ORTIQUE: I did not want the word to go
15 out that we are going to fire some present staff --

16 PROFESSOR SACKS: Well I didn't mean to suggest
17 that we were going to fire anybody before their contract
18 ran out.

19 JUDGE ORTIQUE: Okay. All right.

20 MR. LYONS: Would you repeat the question,
21 Professor Sacks.

22 PROFESSOR SACKS: I haven't ask a question yet,
23 I'm just telling you what I'm not concerned about.

24 (Laughter)

25 PROFESSOR SACKS: What I don't understand is

1 what the law school professor who is going to be hired
2 under this program is suppose to do during his one year
3 tenure.

4 MR. LYONS: First of all, the Chair concept
5 that includes a teaching lawyer as a coordinator of work
6 that Reggies are doing is not limited to one year. The
7 Chair will monitor activities of four Reggies, who are
8 experienced lawyers, as they work in field programs and
9 capital agencies and private law offices, or wherever is
10 decided that they would be placed. Secondly, it is to
11 record and anologue their experiences along with the Reggies,
12 and recorded in some kind of treaties on the essential
13 elements and successes and failures of community lawyering
14 -- of lawyers out stationed in different places; in the
15 private sector working in law firms in the public and poor
16 people's interest or anyplace else.

17 Thirdly, to conduct teaching seminars for private
18 lawyers and other lawyers based on the learning that is
19 gained from the experience of those teaching Reggies, of
20 those experienced Reggies in the field.

21 So those are the essential duties of that chair
22 and the person occupying that chair.

23 CHAIRMAN MCCALPIN: Howard, would you mind if
24 I asked an even broader question than you've asked to try
25 to get the whole thing in front of us? Because, frankly, I

1 don't understand what anybody is going to be doing in this,
2 having read the document. And particularly, I don't under-
3 stand what the four experienced lawyers are going to be
4 doing. And that gets to what the moderator that you are
5 talking about is going to do.

6 Do I understand you're going to take them out
7 of wherever they are and move them around to someplace
8 else?

9 MR. LYONS: No. I think the document--I think
10 what we are doing -- I think we're confusing the existing
11 program with this new component. And that is my fault
12 maybe for not clearly setting that distinction out in the
13 document.

14 But what we have attempted to do here is to
15 have two components to the Reginald Heber Smith Program in
16 the future. The one component, as it exists now, is to
17 recruit minority lawyers from law schools and to place
18 them in Legal Services programs to do community lawyering.

19 CHAIRMAN MCCALPIN: You bring them in to
20 Howard and give them some training and they go through the
21 Reggie training there and then they go out into the field
22 into programs, is that right?

23 MR. LYONS: Not precisely as you described
24 existing program. What Howard does, currently, is recruit
25 new lawyers out of law school or it gives them orientation

1 training to the field programs where they are going to be
2 placed. They are placed in field programs, local Legal
3 Services programs, that have been previously selected for
4 the receipt of these Reggies. They work in these local
5 programs as staff lawyers and as community lawyers and
6 receive training in the same way that other Legal Services
7 lawyers receive training except that we have funded some
8 specialized training for those first year Reggie lawyers.

9 That is how the current program operates. This
10 particular component which is added by taking the increased
11 money that you appropriated for the Reggie program -- all
12 of our field grantees got and some of our special programs
13 got a 6 percent increase this year based on your budget
14 decisions last December.

15 What I simply did was to take -- to hold the
16 current program at its base level and to take the increased
17 amount of money and incorporated this new component which
18 is, to take experienced lawyers -- lawyers who been in
19 practice -- whether they are ex-Reggies, whether they are
20 ex-Legal services people, current legal services people,
21 whether they are private lawyers working in the public
22 interest at this point in time, and, are trying to attract
23 them back into legal services provision of free local legal
24 services to poor people in a new way.

25 And to use this new Reggie, experienced Reggie

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1 component as a vehicle for doing that. It has a service
2 delivery component. It has a learning and teaching com-
3 ponent. And that's what the program is.

4 CHAIRMAN MCCALPIN: Suppose you wanted your
5 four lawyers selected for one of these three projects, as
6 I understand it, three law schools, a law faculty member
7 in each law school, and four community lawyers.

8 MR. LYONS: Assigned to each one.

9 CHAIRMAN MCCALPIN: Assigned to each one. Now
10 assume that one of the community lawyers applying for this
11 and decided to be selected for the program is from
12 Albuquerque, and the law school that is involved is the
13 University of Michigan, now, are you going to move that
14 individual from Albuquerque to Michigan so that he is near-
15 by under the supervision of the faculty member or are you
16 going to have the faculty member at Michigan supervise a
17 community lawyer working in Albuquerque?

18 MR. LYONS: Part of those questions are to be
19 answered by the proposals that are going to be presented.
20 What we envision is that within the regional area of the
21 law school -- of the law school and we set out the regions
22 in which these law schools will be selected from -- that
23 those Reggies, those experienced Reggies, will be working
24 in those regions. Not necessarily in the same city as the
25 law school is operating but that the Chair can -- will

1 visit the worksites within that region of where those
2 Reggies are working. Keep in mind these are experienced
3 lawyers. They know how to practice law, they are out there
4 and what the supervision component of it is, is to begin
5 an interaction in an dynamic and a learning context about
6 what it is these lawyers are doing, how they help people
7 and whether or not we can record and teach those essential
8 activities of community lawyering in a broader context.

9 MS. RODHAM: Well I guess what I don't under-
10 stand, Clint, is how that transfer of information and know-
11 ledge and experience occurs. It would seem to me that if
12 we had the experienced lawyers program and it had some kind
13 of a track record, we could then take the experienced
14 lawyer program to law schools and say, couldn't we
15 introduce that to you in a way to try to do what you just
16 talked about, which is to improve the interaction and
17 create an atmosphere for learning about community lawyering.

18 But at this point, I don't see what the local
19 tion problems and logistics difficulties are going to really
20 contribute to a better program involving experienced
21 lawyers until we know how the experienced lawyer program
22 itself works.

23 I think it is a two step process. And I would
24 prefer to take one step at a time.

25 PROFESSOR SACKS: Clint, along that line, do

1 you expect that the law school person is going to supervise
2 these four lawyers in the field? That is what your word
3 is "supervise."

4 MS. RODHAM: Experienced attorneys too, as I
5 understand it.

6 PROFESSOR SACKS: He is going to advise them
7 and consult with them and counsel them and make decisions
8 about how they handle their cases?

9 MR. LYONS: Well perhaps supervision in that
10 context is not the appropriate word. The supervision means
11 coordination, having some agreements for which this
12 professor is responsible for, as to what kind of projects
13 these lawyers are going to be working on,

14 Some up-front agreements, so that we can have
15 some uniform standards as to what it is we are going to be
16 doing; what it is that we are going to be looking at; what
17 it is we are going to be judging; and what it is we are
18 going to try to record.

19 MS. RODHAM: But Clint, don't the experienced
20 attorneys fit within some kind of program base anyway?

21 MR. LYONS: Yes.

22 MS. RODHAM: Well then -- I just do not under-
23 stand and I'm just dense -- I do not understand the role
24 that the law school professor plays in supervising,
25

1 managing, consulting, or coordinating with an experienced
2 attorney placed within a program context with certain
3 obligations to the program and his clients. I can see
4 where once the experienced attorneys are in place, have
5 them in some way bring their knowledge and their expertise
6 to the law schools so that we can perhaps generate some
7 interest and some on-going programs. But I don't see it
8 working the other way.

9 MS. SHUMP: I think you are missing the whole
10 point.

11 MS. RODHAM: Well explain it to me please.

12 MS. SHUMP: I will try to explain what I under-
13 stand, okay? It is my understanding that the reasons back
14 of this extension and the reason for the expansion into
15 three law schools was to perhaps move the concentration of
16 the training from the east part of the United States,
17 hopefully, into the western part of the United States, into
18 the mid-west where you will, in fact, find probably more
19 minority students who have not been involved with a Reggie
20 program. It's my understanding that the person who would
21 be supervising the experienced attorneys would be recruited
22 from the private practice -- from the existing legal services
23 programs if they so chose to apply, from ex-Reggies, what
24 have you -- for the purpose of sharing and acquainting
25 the new Reggies with community lawyering as opposed to the

1 lawyering skills that they learned in law school which
2 necessarily do not always agree with what is really needed
3 in a community. They probably, in many instances, have not
4 been sensitized to the needs of the various communities, to
5 the needs of the various people from different backgrounds.

6 And I was thinking, and at least this was my
7 understanding, that this was the intent and, Cecilia, if
8 my understanding is wrong, I would hope that you would
9 continue this and help me try to explain what I thought
10 we were intending to do.

11 MS. ESQUER: Well I think just in regard to
12 your specific question -- I do have some things to say but
13 I was anxious to have Howard finish the questions that he
14 has before I made any further comments.

15 I think the one thing, Hillary, in your state-
16 ment, is that there is not a presumption that these
17 experienced attorneys would be placed in the local program.
18 That is one of the main differences, you know, besides the
19 new attorney thing.

20 There are two things. One, they will be
21 experienced attorneys and two, they will not necessarily
22 be placed in the local program. They may be placed in a
23 private firm, in fact. If it is a legal services-type
24 issue that is being worked on, they may be placed in
25 another private, non-profit, that deals with these legal

1 matters. So they will not be under the auspices of a local
2 program. And I think that one of the things that the
3 Committee talked about at length on that issue was the
4 fact that we would like for the attorneys to have an
5 opportunity to work with some of the new pro bono projects
6 that are being initiated. That we have initiated over the
7 last couple of years.

8 And that they also have the opportunity to
9 work in specialized-type litigation that is conducted like
10 organizations like the NAACP with Maldef, with some of
11 those groups. So that would take them completely out of
12 the local program auspices.

13 And I envision that the Chair thing would be
14 pretty much what Clint is talking about. As you know when
15 we first came on the Board, one of the biggest problems
16 that first Board, this Board, and maybe future Boards, have
17 had about the Reggie is how you ensure compliance.

18 You know, with the contracts, with the policy
19 of the Board, and I do envision a chair -- you know, one of
20 the duties of that chair would be to coordinate the four
21 Reggies that would be assigned to them -- to that area.

22 I think the proposal here speaks about creating
23 three chairs in possibly different areas. And it would be
24 kind of a regional coordinator type thing. But along with
25 that it would really allow the exchange that you envision,

1 which is a two-way exchange between the law school and the
2 attorneys. And then the other way, getting the assistance
3 from the law school in documenting and writing up the
4 experience of those attorneys.

5 MR. LYONS: The word "supervision" is not an
6 appropriate word.

7 PROFESSOR SACKS: So you envision this law
8 school teacher, his responsibilities are to see what these
9 four lawyers are doing over the course of the year. And
10 maybe he'll pronounce some training of his own or other
11 lawyers in community lawyering and that's all he's
12 suppose to do?

13 MR. LYONS: That's right.

14 PROFESSOR SACKS: Well your \$50,000 -- I'll
15 do it for \$10,000.

16 (Laughter)

17 PROFESSOR SACKS: You don't need \$50,000 --
18 I mean, that's a gross overpayment, it seems to me, for
19 the work that you are contemplating doing. This is not a
20 full-time job. This is maybe a fifth of a law teacher's
21 responsibilities.

22 One of the other things I'm concerned about is
23 why would a law school want to take this on. Because they
24 don't get any teaching of their own students out of it.
25 They don't get any research on projects of interest to the

1 law school particularly. All they do is get somebody on
2 their staff for a year who is, in effect, working for
3 somebody else and doing that other person's bidding. Why
4 should they do it?

5 MR. LYONS: Well I don't think we have the
6 same assumptions. Number one, some law schools are doing
7 it already. University of New Mexico has a clinical pro-
8 gram there.

9 PROFESSOR SACKS: But they have their students
10 working in it, don't they?

11 MR. LYONS: Professor Sacks, this proposal
12 envisions the possibility, and indeed, we think that most
13 universities that will be applying will be those that have
14 the clinical operations. And we envision that most of
15 those people who will be applying for the chair will be
16 the clinical professors who operate at these law schools
17 in the clinical framework, delivering services to poor
18 people.

19 Secondly, I mean we all have our vision about
20 how much work is incorporated in interacting and document-
21 ing an experience and writing up that experience and pre-
22 paring materials for further dissemination and further
23 education around that experience.

24 Now I defer to your experience as a legal
25 educator and your judgments about that. But this is just

1 my concept. I did have a consultant, who is a clinical
2 educator at one of the law schools in New York City to
3 come in and investigate the possibilities of this thing,
4 and, indeed, contributed in substantial part to the frame-
5 work of this particular project.

6 JUDGE ORTIQUE: I think, Mr. Chairman, that
7 the point is well taken that this is an effort to inspire
8 the law schools that are already in this area to lend
9 direction to lawyering for the Legal Services Corporation.

10 And that it makes it very worthwhile. I
11 agree with you, Clint. For instance, Tulane University's
12 clinical law program is geared to the type of thing that
13 we are doing except that we don't have a handle on it.
14 It's separate, apart, independent of, and struggling along
15 trying to do things that the law school perceives is in
16 its best interest.

17 On the other hand, I would envision that some-
18 where down the road, that probably in the first group, they
19 would make application to us and we then would have a
20 handle on what that clinical program is about; and how it
21 directs its emphasis; and where lawyers are encouraged to
22 go; and how they are being trained through that program.

23 Which would assist us greatly in terms of our
24 relationship with the Bar and the bench in Louisiana.
25 Which as, well you might not know, but Dan knows what some

1 of the problems are down there in Louisiana with reference
2 to legal services for the poor. You know, if -- I'm
3 embarrassed but I have to admit that we haven't been in the
4 forefront. The fact of the matter that lawyers from Nola
5 are frequently asked to stand aside until the real lawyers
6 get through with their matters. And then we'll take up
7 these matters for poor people.

8 I mean judges have said that from the bench.
9 And we have got to get some type of handle on that
10 situation. And I would think that through a program at
11 Tulane, my L.S.U. friends would object to this, but
12 certainly Tulane's reputation on -- and I'm not saying
13 in substance -- but Tulane's reputation would dictate that
14 they would have an influence on that situation.

15 And that is very important to poor people in
16 my part of the country.

17 MR. LYONS: I think it's a fair observation
18 that the amount of work to be involved is a matter of
19 vision and a matter of judgment. What, in effect, I'm
20 asking you to do is to fund a vision of what direction we
21 want to see something go in the future.

22 But it is not devoid of any kind of experience.
23 I know a number of things. I know that we are going to
24 need as many private lawyers as we can possibly grab hold
25 of in the future in order to maintain a quality and

1 productive capacity in this national program in helping
2 poor people with their legal problems. And we are going
3 to be cut.

4 I know that many of those private lawyers
5 right now, who are willing and able to do these kinds of
6 things, don't know how to do them. Somebody is going to
7 have to interact with them to teach them how to do it.

8 I know that a number of institutions through-
9 out this country, who share the values of delivering legal
10 services to people, are going to the stand ready and able
11 to help us do that, if we can reach out to them and get
12 them the kind of help.

13 So there may be a lot of work involved, Professor
14 Sacks, that one individual can play in doing
15 that. I mean, when I took a number of continuing legal
16 education courses in New Jersey when I first got out of
17 law school, there was nothing in those courses about
18 poverty law.

19 Poverty law is a specialized area of the law
20 now. And a law school with this credibility can develop
21 materials if its willing where these kind of materials
22 can be used in the continuing legal education courses for
23 the benefit of private lawyers who are going to be partic-
24 ipating on a pro bono level and other levels of delivering
25 legal services to poor people.

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1 CHAIRMAN MCCALPIN: Wait a minute. Ms. Worthy
2 next.

3 MS. WORTHY: I think one of our first concerns
4 when we really started dealing with the Reggie program from
5 the beginning, when we -- some of the concerns were even
6 from Reggies training and we are kind of lost out there.
7 And one of the things that we talked about is "How do we
8 do this? How do we bring out our Reggies and train them?"

9 And we talk about documentation. Where were
10 some of the documents that we need? And the reason that
11 I think this concept is very good, I can visualize a person,
12 persons, that will be bringing that information back to us,
13 that will be out there concerned with the training of our
14 Reggies. It was one of our main concerns that this was
15 not happening.

16 And that's why I think the concept of this is
17 very good.

18 CHAIRMAN MCCALPIN: Howard?

19 PROFESSOR SACKS: So far as training of private
20 Bar members is concerned to do work for poor people, I
21 think that that is a very important thing and I agree with
22 you, especially as public funds diminish, that we will have
23 to do more of that.

24 But we have an enormous training apparatus of
25 our own that spends millions of dollars and years and it's

1 all cracked up to train people. Why not use that apparatus
2 rather than picking out one person for one year and tell
3 him to start some training in his own area?

4 MS. SHUMP: Because obviously it is still
5 deficient.

6 PROFESSOR SACKS: Obviously what?

7 MS. SHUMP: It's still deficient.

8 PROFESSOR SACKS: It's -- I don't understand
9 you.

10 MS. SHUMP: It's still deficient because we
11 still have the Reggies coming out and being assigned to
12 various locations and their particular expertise or what-
13 ever they have decided to devote their time to once they
14 get out of law school many times conflicts with what they
15 are actually asked to do and with what the community wants
16 them to work on. And they are unprepared --

17 PROFESSOR SACKS: But this program isn't
18 directed at new Reggies. This program is directed at
19 private members of the Bar.

20 MS. SHUMP: Not necessarily.

21 MR. LYONS: Professor Sacks --

22 CHAIRMAN MCCALPIN: I don't understand it.

23 MR. LYONS: We do have a training program
24 which soon may be cut in the face of some of the reductions.

25 CHAIRMAN MCCALPIN: Let me ask you a question,

1 Clint. As I understand it, the purpose of this to distill
2 information about how effectively to practice community
3 lawyering.

4 MR. LYONS: That's part of the purpose.

5 CHAIRMAN MCCALPIN: And then to transfer that
6 information to all persons who will do community lawyering
7 in the future, whether they are new graduates of Reggie
8 programs or old graduates of law schools in the private
9 Bar.

10 JUDGE ORTIQUE: Even private practitioners.

11 CHAIRMAN MCCALPIN: -- Practitioners. Now my
12 question is that we are about to conclude our fifteenth
13 class of Reggies. Dan tells me that they had varied in
14 size from 50 to 250. So I guess I can reasonably estimate
15 that we may have 1500 Reggie graduates spread across the
16 length and the breadth of this land.

17 In addition to that, we have, according to
18 various statistics given recently, some 5,000 lawyers
19 presently practicing community lawyering in 323 programs
20 around this country, which, of course, includes many of
21 the 1500 Reggies.

22 My question is, why is it necessary to hire
23 12 ex-Reggies and others to operate for a year or two to
24 find out how to do community lawyering when we have this
25 enormous pool of Reggie graduates and presently practicing

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1 community lawyering to whom three or a dozen law school
2 professors can go and find out how to do community lawyer-
3 ing so they can distill that information and pass it on
4 to new Reggies and old privates?

5 MR. LYONS: I think, number one, Bill, the
6 question turns on how you define community lawyering. We
7 do have all of these community lawyers out there. They have
8 enormous caseloads. Most of them are confined to their
9 offices and are in and out of the courts. Okay.

10 Secondly, I think that as we move into the
11 future, we are going to be able to find different and
12 better ways to deal with the problems of poor people in a
13 preventative context, in an economic development context,
14 interacting with other institutions in the community to
15 deal with the problems of poor people before they get to
16 the stage of the adversarial system.

17 These people are going to be working in a
18 variety of areas and people -- with people who are
19 interested in economic development and people that are
20 interested in different approaches to dealing with legal
21 problems as well as applying the traditional discipline
22 of lawyering.

23 We do not have enough lawyers, we do not have
24 enough approaches to dealing with all of the problems of
25 poor people. And I think it is a viable concept that can

1 address some of these different approaches.

2 CHAIRMAN MCCALPIN: Cecilia.

3 MS. ESQUER: Well I think we have to go back
4 into a couple of things. I guess the Committee began to
5 discuss the Reggie program and came out with -- this Board
6 I guess, came out with some instructions to the staff to
7 come out with some future -- possible future directions
8 for the program.

9 I'm really excited about Clint's -- what he
10 has presented in the package. He has presented it for three
11 reasons. The first reason, is that I think that in the
12 economic times we are in and in some of the political hard
13 time that we may be facing very soon, that it is really
14 incumbent upon us to try and look at something that will
15 allow us to keep experienced attorneys within legal services.

16 And I think that this concept addresses that
17 really well in two ways. One, it will allow us to bring
18 in those former Reggies you are talking about. It will
19 allow us to bring in experienced attorneys within legal
20 services and to recognize their expertise because we still
21 are talking about a fellowship program.

22 It is still part of the original Reginald
23 Heber Smith Fellowship Program that we have. The other
24 thing that is very important to me is that this allows
25 the continuation of direct services to clients. And to me

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1 that was a very important component of that in that
2 clients continue to receive direct services. I did not
3 favor and I did not support another study for just being
4 a study. To me, it was important that there be direct
5 services in this stage.

6 And I don't know whether we need three chairs
7 or whether we need two or whether we need one or whether
8 we need any. But I think that the experienced attorney
9 component within the Reggie program is very vital and just
10 essential. The other thing that I think it will allow us
11 is, in these times, is because traditionally the Reggies
12 have been placed solely in local programs, at least since I've
13 been on the Board, and probably for a few years before
14 that.

15 It will allow us to broaden the context that
16 legal services attorneys have from this fellowship program
17 to a broader type of grantee. It will allow them to work
18 within the pro bono projects. It will allow them to work
19 and provide services through other private, non-profits.

20 The final thing it will allow is, it will these
21 experienced attorneys, one, recognition of a probably, very
22 highly technical litigation experience that they have or
23 legal expertise that they have -- and it will allow them
24 to, maybe, operate at a reduced caseload level. It will
25 provide them very highly specialized legal services to

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1 probably, identified groups like maybe the elderly, maybe
2 the handicapped, maybe some areas in the rural area thing.

3 You know if we suffer any cutback or even if
4 we remain at the funding level where we are right now, I
5 daresay that rural areas and some of these highly special-
6 ized areas will probably be left out in the cold. And I
7 think this proposal really addresses that. and will allow
8 for us to continue to provide direct services.

9 And it will create a broader constituency for
10 us that will enable us to continue with that. I do like
11 the Chair concept but, like I said, I don't know whether
12 it is completely essential that we go with three, with
13 two or with one. But the experienced attorney part of it
14 is really important.

15 I don't think that it makes sense if we think
16 we are going to continue at this level that we are for
17 a couple of years as far as funding goes, I don't know
18 how much sense it makes to just continue with the Reggie
19 as a new lawyer program.

20 And I think it makes a lot more sense to really
21 provide for recognition for experienced attorneys who can
22 provide, maybe, a better service to clients.

23 CHAIRMAN MCCALPIN: I'm going to recognize
24 Hillary, Revius, and Mickey, in that order. Hillary.

25

1 MS. RODHAM: Well I agree with much of what
2 Cecilia says and I'd like to offer a motion that at least,
3 represents my agreement and my confusion about the proposal.
4 The first part would be that the Reggie program be permitted
5 to recruit and include experienced attorneys.

6 And for the reasons that Cecilia has just
7 discussed that those experienced attorneys be considered
8 available for placement in possible locations other than
9 just legal services offices that they traditionally have
10 been.

11 But that the discretion and the judgment about
12 that be given to the staff as they go about recruiting
13 them. Secondly, that any other aspect of the proposal,
14 particularly the question of law school involvement, chairs
15 and the like, be referred back to the Committee for
16 further exploration.

17 Because I am not even certain what the
18 proposal actually means in practice. But thirdly, and
19 most important, that our efforts to try to recruit and
20 retrain include experienced attorneys in the Reggie
21 program.

22 And whatever efforts the staff takes to
23 implement that be in no way construed as an obligation
24 by the Corporation for the continuation of the Reggie
25 program or any aspect of the Reggie program since this

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1 motion, as everything else that we are doing, has to be
2 premised on our financial situation, which is at this
3 point unclear. So that I would move that, and ask that
4 we take that step at this time. And leave some of these
5 other issues for further consideration.

6 PROFESSOR SACKS: I will second that.

7 CHAIRMAN MCCALPIN: All right. We have a
8 motion and a second. Let me say that I'll now recognize
9 Revius as I promised, unless in view of this you don't
10 wish to be recognized.

11 JUDGE ORTIQUE: No. I want to be recognized
12 because I think that we ought not -- and this doesn't mean
13 that I won't vote for this, -- this merely means that I
14 don't want us to be making decisions at this juncture in
15 anticipation of what is going to happen to our budget.
16 Although I think that we have got to be conscious of that.

17 But I don't want us to be moved to the point
18 that we are sending a message that this Board is greatly
19 disturbed at the moment. My concern is that a number of
20 people on this Board -- and initially, I was not one of
21 them -- felt strongly that we had to assist in broadening
22 the influence of the Reggie person, not only from within
23 but also from without.

24 The staff has come up with this proposal.
25 Now certainly, realistically our Audit and Appropriation

1 Committee is going to look at the budget and will make
2 recommendations to us. But I don't think that that should
3 stifle this Board at this time in saying we want the staff
4 to continue to be imaginative, to continue to explore these
5 areas because we were the ones who asked them to do this
6 because of our concern.

7 I recall quite clearly that, Cecilia, you were
8 indicating that there was an aspect to the program at
9 Howard University that you thought needed improvement. And
10 that was in this area of further including persons who were
11 not trained in the traditional setting of Reginald Heber
12 Smith people but rather would be trained or observed -- the
13 private Bar, for example, which I thought was good.

14 Because I knew that the American Bar Associa-
15 tion was going to be insisting on a greater participation
16 of the private Bar. Now that being true, I don't mind
17 the Committee looking at this again, but I certainly hope
18 that we will understand that the experimentation that is
19 suggested by the staff is a necessary experimentation.

20 Now whether we have the money to do it at a
21 later date -- I'll cross that bridge when I get to it.

22 CHAIRMAN MCCALPIN: Mickey and then Howard.

23 MR. KANTOR: I don't disagree with you, Revius.
24 I think the staff has been imaginative and will continue
25

1 to be. I think probably what is being said around the
2 table, if I correctly perceive it, is 1) there is no one
3 opposed to the experienced lawyer component. But that,
4 2) it is not that we oppose, or at least I oppose -- I'll
5 only talk for myself -- but I think there is other
6 opposition.

7 The inclusion of law schools through the use
8 of professors in this program is outlined but that we are
9 not satisfied with that it is particularized enough and
10 clear enough as to what's going to happen.

11 And I think what everyone is saying, "let's
12 refer it back; let's go with the experienced lawyers.
13 Let's make sure it is more flushed out when we come back
14 to it again." So we all understand it and can fully
15 support it rather than having some concerns on the part of,
16 I think, a significant number of people around the table.

17 So my view is that Hillary -- I would support
18 Hillary's motion in all three aspects with the hope, in
19 fact, that Clint and the staff come back with a proposal
20 that is more flushed out and that we all can support in
21 the second round or third round of this.

22 CHAIRMAN MCCALPIN: Howard,

23 PROFESSOR SACKS: If the motion passes, as I
24 very much hope that it will -- and I repeat my concern is
25 only about the law school component of this. I'm fully in

1 agreement with what has been said around the table,
2 especially what Cecilia said about the desirability of
3 involving experienced people rather than people fresh out
4 of law school.

5 But if it does go back to the Committee, I hope
6 that the Committee will give another, and more serious
7 look, to a proposal which limits the law schools that can
8 participate into Regions 5 through 9 and excludes,
9 automatically, any law school that happens to be located
10 in Regions 1 through 4.

11 I don't understand that and I hope the
12 Committee will take another look at it.

13 MS. ESQUER: I do have some problems with
14 Hillary's motion and it mainly has to do with the timing
15 of this thing. I think, as you know, that it has been a
16 really long and difficult process to work out, you know,
17 the compromise, I guess, that has been reached here and
18 which is what the Committee is proposing in the resolution
19 they adopted.

20 And the main problem is that it kind of goes
21 as a package. One of the factors on this experienced
22 attorney component was that it would not be administered
23 through Howard University. So Hillary's motion kind of
24 leaves a gap as far as, you know, who we will be

25

1 contracting with, who will -- you know, how the whole
2 thing will be administered. And what I would prefer is
3 that maybe we not adopt the Chair concept right now but
4 that some provision be allowed to how we are going to work
5 that out.

6 Because if we are going to approve and proceed
7 with this experienced attorney thing, the calendar that
8 Clint points out is a pretty tight calendar. And it
9 would be very, very difficult if we wait until the
10 September board meeting for this project to begin. I don't
11 know how we would be able to begin it if we approved it
12 today. I think it would be impossible.

13 So if Hillary could -- maybe work into your
14 motion somehow on how you would administer this. Because
15 if we have to wait till we work out all the details on
16 the chair aspect of it, I think it's going to hold us up
17 for maybe another year.

18 CHAIRMAN MCCALPIN: Ramona.

19 MS. SHUMP: I'm terribly concerned about the
20 message that we are sending out. I realize that many of
21 you sitting around the table seem to feel that this is
22 not the time to make vital decisions. This is not the
23 time to talk about -- or at least this is what I'm
24 getting, all right, this is what I'm receiving. And I'm
25 receiving this and I'm supposedly here to represent the

1 client's viewpoint. But my concern is not just for the
2 client. My concern is the message that we might be
3 sending out to the field that says, in effect, right now,
4 because of everything that is happening and the reauthori-
5 zation and appropriation process, the whole bit, we're
6 running scared.

7 And I am really concerned about the fact that
8 if we are going to get this off and if we are going to get
9 it in place, that we need to get it done -- all right, if
10 you feel it needs refinement, fine. We still have got to
11 take action and continue, acting at least and hopefully
12 feeling, that we will continue to make decisions centered
13 around the operation and the provision of services, no
14 matter what is happening.

15 CHAIRMAN MCCALPIN: Let me speak only for my-
16 self in saying that I don't feel or understand or hear from
17 the debate any desire to back away from this decision.
18 Indeed, quite the contrary. What I hear is a broad
19 consensus on acceptance of the concept of a experienced
20 lawyer component in the Reggie program.

21 I think that what many of us feel is that there
22 is at least confusion and some doubt as to the structure
23 and operation which is outlined in the documentation be-
24 fore us. And that there ought to be reconsideration, not
25 of the principle or the fact, but rather of the how.

1 And that, it seems to me, is what's being said
2 around the Board. Not any disposition to temporize or
3 postpone for any reason but rather one to accept the
4 principle to include the experienced attorney provision
5 within the Reggie program.

6 And I think everybody that has spoken agrees to
7 that. But that many of us feel that there are unresolved
8 questions with respect to the mechanics of how to go about
9 doing this and that's what we would like to have readdressed.

10 Now let me say that I've looked at this schedule
11 on Page 47 of the agenda materials --

12 MS. SHUMP: That's my main concern, Bill.
13 That's my main concern, the schedule and --

14 CHAIRMAN MCCALPIN: Well the schedule, but the
15 schedule says --

16 MS. SHUMP: Without action, we can do nothing.

17 CHAIRMAN MCCALPIN: I don't know that that's
18 necessarily true because I believe that there is a signif-
19 icant period of time between an undesignated September
20 date for mailings to law schools and a December 1 proposal
21 return date.

22 It seems to me that that period of time is
23 subject to some determination and as a for instance, I
24 don't think that we have to be completely inactive in the
25 development of requests for proposals, that that can go

1 along with a refinement of how the program may work. I
2 think that the mailings to the law schools could probably
3 take place very shortly after a September meeting of this
4 Board.

5 And even if it were October 1st, it seems to me
6 that to give the law schools from October 1st until
7 December 1st to come back with proposals is an adequate
8 length of time for them to do it. So that it would seem
9 to me that this proposal is not necessarily -- does not
10 necessarily defeat the time schedule. I don't think that
11 it's quite that tight. But -- Cecilia.

12 MS. ESQUER: You may be right in -- the
13 committee might be able to work those things out and
14 possibly that could work out. Right now I'm having more
15 problems in that I think I made a statement that I need to
16 explain a little bit fuller because I really don't want
17 any misunderstandings on my part on anything that I said.

18 I think one of the things I mentioned was that
19 part of the compromise that was reached in getting to this
20 was that the experienced attorney program would not be run
21 out of Howard University. And I really want to explain
22 that a little bit.

23 I don't think that it shows any lack of confi-
24 dence in what Howard University is doing because I think,
25 quite to the contrary, I think that they have really

1 performed admirably since John Davis came on staff. And
2 I think at the last board meeting when we reviewed the
3 report that they presented to us that we were very impressed
4 with the compliance with the contract.

5 One of the things that I was impressed with in
6 the resolution of this issue at least, was that Howard
7 University put its support behind this concept. From my
8 conversations with John and some of the staff people and
9 some of the Advisory Board people, there is a lot of
10 enthusiasm on Howard's part about what is presented and is
11 being discussed here today. And I did not want there to
12 be an impression that there was some dissatisfaction on
13 either side.

14 In fact, one of the most exciting things about
15 this is that there has been the broadest support for this.
16 And it's very unusual when it involves the Reggie program.

17 CHAIRMAN MCCALPIN: I think that we all under-
18 stood, as Ramona said earlier, that the interest in going
19 to other regions was geographic and not pedagogical.

20 MS. SHUMP: I don't know what you're saying.
21 You want to explain that to me?

22 CHAIRMAN MCCALPIN: That there wasn't any
23 complaint or dissatisfaction with the administration at
24 Howard but rather the desire to get some geographic
25 diversity in the administration of the program.

1 MS. SHUMP: Thank you.

2 JUDGE ORTIQUE: I think this Board is aware
3 that we would like to have this program in place if we
4 intend to do something along this line, by next September.
5 And with that in mind, the staff can be working with, and
6 will work with the Committee. And I would therefore
7 suggest that we can live with the -- I'm speaking about
8 our Committee working with the staff unless Clint has
9 some serious objections -- that we will go ahead with the
10 proposal that Hillary's put before us and do it.

11 I know what that does to your anticipated
12 schedule, Clint, but at the same time I understand that
13 my fellow board members have some concerns. I guess what
14 we've got to do is just make sure that at our next
15 committee meeting that we urge those fellow board peoples
16 to visit with us.

17 MR. LYONS: I just want to be clear about what
18 it is in the context of this notion that I'm being asked
19 to do. I do apologize for not being able to offer a
20 detailed prescription of how this program is going to
21 operate.

22 We did anticipate having other community
23 institutions participate and show, by the proposal route,
24 how they envision the program operating after reading the
25 goals and objective statements of the program. And, if, in

1 fact, we are going to be reaching out to other institutions
2 in this legal services community to help us in the face of
3 reduced funding to deliver legal services to the poor
4 people, than I think they are going to have to have some
5 say.

6 And I anticipated the proposals as telling us
7 in more detail about how we can best accomplish that. And
8 I'm not clear about what I can offer you as by way of a
9 more detailed description of how the program will operate.

10 CHAIRMAN MCCALPIN: I'm sorry, Clint, that
11 Dan and I were having a little logistical discussion here.
12 Were you addressing anything to the Chair??

13 MS. RODHAM: He was just expressing his
14 frustration.

15 (Laughter)

16 JUDGE ORTIQUE: I think it is important that --

17 CHAIRMAN MCCALPIN: I'm sorry that that doesn't
18 turn out with the rest of us.

19 JUDGE ORTIQUE: -- the staff explore whether
20 the chair concept is the delivery mechanism that will do
21 this or whether some other concept -- I still think that
22 the broad concept of bringing in experienced lawyers having
23 the additional potential for training of persons outside
24 the traditional Reggie Heber Smith training program is
25 important. I think that all this Board agrees with that.

1 The chair concept is -- needs to be explored or
2 reexplored or reexamined.

3 MS. ESQUER: Judge, I'm really confident that
4 maybe what we just need to do is to present just some more
5 detail to the concept.

6 JUDGE ORTIQUE: Flush out. Sure.

7 MS. ESQUER: Because I think from -- at least
8 from the meetings that I've attended and from the discussions
9 that I have heard -- that I think that we have something
10 that we will be able to present that probably will be in
11 the acceptance of -- maybe a unanimous acceptance by this
12 Board.

13 And maybe Hillary's right, what we need to do
14 is just go back and just put some more details on this and --

15 JUDGE ORTIQUE: Flush it out.

16 MS. ESQUER: Yes. Just flush it out.

17 JUDGE ORTIQUE: And also --

18 MS. ESQUER: Because I think it is a supportable
19 concept.

20 JUDGE ORTIQUE: And I also want to give Howard
21 the reasons why we are not going to let any of these
22 programs be up in his part of the country.

23 PROFESSOR SACKS: Regions 1, 2, and 3 extend far
24 beyond New England.

25 MS. WORTHY: That's right.

1 MR. KANTOR: I have a motion just to limit it
2 to New England,

3 MR. BRADLEY: And if I could, Mr. Chairman,
4 I'll just comment because clearly I think that the work
5 that the Committee has been doing and the issues that this
6 Board has reviewed previously really address the principle
7 issue of a shift in the focus, not a total shift, but a
8 partial shift in focus to the Reggie program, from a new
9 lawyer entry program to the experienced lawyer component.

10 Much of the discussion, much of the debate has
11 been along that point. And from what I gather from what's
12 been discussed today, no one has any difficulty. And it
13 seems to me that that is the significant message that the
14 staff needs to have in the Reggie program also, to know
15 that we are going to have a major new emphasis and a major
16 new focus. And it will involve experienced lawyers in the
17 community program.

18 Now the question about, as Cecilia stated,
19 whether it should be 2 Chairs or 3 Chairs, I think that
20 yes, we will have time. Clearly Dick's committee is going
21 to meet again this summer. We can clearly review that
22 issue. Clearly the Audit and Appropriations Committee
23 will meet this summer, at which time I think we will have
24 a better idea about our appropriation level. And that may
25 in fact, influence the final decision that the Board makes.

1 I think that when we come back to you in
2 September with a report from the Audit and Appropriations
3 Committee, with a final report from the Provisions Committee,
4 that still gives us time within this framework Clint has
5 laid out.

6 And it may be that the amended proposal will,
7 in fact, have one chair or seven chairs, I just don't know.
8 But I'm not bothered, as we sit here today, by the time
9 constraints and the time pressures because -- let's be
10 realistic about it -- the last provision that Clint hasn't
11 presented yet -- which I know one board member's asked me
12 about -- is basically the savings clause that even though
13 we are going forward with this new emphasis in the Reggie
14 program, it's still subject to a later decision by this
15 Board on whether or not we have the adequate funds in
16 the total appropriation that we get.

17 And I suspect that this Board or the Board of
18 the Corporation will not be making that final decision
19 until you know what the -- until you've approved the
20 consolidated operating budget for next year.

21 JUDGE ORTIQUE: Can I just add this caveat
22 because I want to make sure that it's clear. That that is
23 -- that philosophy is -- applicable to every program.

24 MR. BRADLEY: Oh absolutely.

25 JUDGE ORTIQUE: Every program.

1 MR. BRADLEY: Absolutely.

2 MR. KUTAK: Mr. Chairman, I didn't understand
3 the thrust of Hillary's motion that it be limited in its
4 base. It well may be that upon reconsideration there will
5 be no law school based operation.

6 CHAIRMAN MCCALPIN: That's right.

7 MR. KUTAK: Not that it would be a reduced or
8 revised. We agree on the point that you have emphasized,
9 Dan, that the project -- the Reggie program -- will
10 include a community law project. But not necessarily law
11 school based. And I just want to be sure that it wasn't
12 a -- wasn't just a recasting to limit it but it was a
13 recasting perhaps to rethink it.

14 Not in terms of being community law based but
15 being law school based.

16 CHAIRMAN MCCALPIN: That's right. Cecilia.

17 MS. ESQUER: I have a question on the budget
18 part of it. My understanding was that there are funds
19 right now available for the first year of this operation.
20 That it does not depend on the funding that we get for the
21 next fiscal year. Is that correct, Clint?

22 MR. LYONS: That's correct.

23 MS. ESQUER: So we do have the funds paid for
24 out of the current Reggie budget for the first year's
25 operation.

1 MR. LYONS: If I could explain it. What we
2 propose to do is to make this program operational and
3 complete over a 2-1/2 year period in actuality.

4 For the first year of it, that money is already
5 there based on the budget action you took last December.
6 The remaining portions of it will come out of whatever, if
7 any, you allocate to the Reggie program over the coming
8 years.

9 PROFESSOR SACKS: May I ask a question?

10 MR. KANTOR: Wait, let me just say you wouldn't
11 start a program that would only go for one year. That's
12 really what we are talking about. Obviously, whether or
13 not you have the money for one year is not the question.
14 The question is whether or not you have a real program and
15 whether or not we agree with it.

16 MS. ESQUER: But --

17 MR. KANTOR: And that has to do with what we
18 were taking about.

19 MS. ESQUER: But there's another question too,
20 Mickey. If there is so much agreement that this is a great
21 idea, I think that the thing that we would be looking at
22 is whether we continue as many new Reggie lawyers or more,
23 we're probably going to be looking at that if we proceed
24 with this idea. Unless we are going to be zeroed out or
25 something.

1 CHAIRMAN MCCALPIN: I think what Revius said.
2 really reflects the situation. That there isn't any
3 committment to or against any element of a consolidated
4 operating budget for fiscal 1982. That's decision down
5 the line.

6 There's money to implement this in the present
7 budget and I assume we implement based on present facts,
8 present economic and other facts. And if the facts change
9 in the future then we have to look at the situation.
10 Question? Howard.

11 PROFESSOR SACKS: I just want to be clear on
12 the financing of this. It seems to me that the only thing
13 that we have funds budgeted for now is the so-called
14 implementation activities at the top of Page 48. Because
15 that's for academic 1981 or fiscal 1981-82.

16 But the first program year, when this program
17 really begins to operate where you've got law school
18 people if we ever decide to use them and the experienced
19 people in the field, is fiscal 1982. And there is no
20 money yet even voted to us for fiscal 1982-3. Is that
21 correct?

22 CHAIRMAN MCCALPIN: Well Howard, let me
23 suggest that --

24 PROFESSOR SACKS: So on top of it, we're not
25 locked into -- we don't have money for the first program

1 year.

2 CHAIRMAN MCCALPIN: Well I don't know that
3 that's necessarily true. Implementation activities come
4 to \$128,000. If you look over on the next page, I assume
5 we have \$407,000 in the present budget.

6 MR. LYONS: That's right.

7 CHAIRMAN MCCALPIN: The difference between
8 \$407,000 and \$128,000 is \$280,000 approximately, as I
9 understand it. The rethinking that is going to take place
10 between now and next meeting of this Board may very well
11 modify the \$545,000 figure that you see down there so that I
12 do not think it is impossible, within the present budgetary
13 framework, to begin it within the present year. Partic-
14 ularly as it's going to be rethought.

15 There is more than enough money for the
16 implementation state. There is certainly money for some
17 action.

18 JUDGE ORTIQUE: Some action, yes.

19 CHAIRMAN MCCALPIN: And that's part of what
20 has to be reconsidered, it seems to me.

21 MS. SHUMP: Could Clint go on with his report?

22 CHAIRMAN MCCALPIN: Is there more? Did we
23 cut you off?

24 MR. LYONS: No. I --

25 CHAIRMAN MCCALPIN: Then -- I would have thought

1 that we had heard Clint's report.

2 MR. LYONS: I think you heard it loud and
3 clear.

4 (Laughter)

5 CHAIRMAN MCCALPIN: Then the question that
6 has been called for, let me -- I don't want to cut off
7 anybody, but it seems to me we've considered this at some
8 length. Unless there's critical comment that hasn't yet
9 been heard I'm going to prepare to take a vote. Okay,
10 I guess there is a critical comment that hasn't yet been
11 heard.

12 PROFESSOR SACKS: I just want to be clarified
13 as to what we're doing because all Hillary's motion does --

14 CHAIRMAN MCCALPIN: Hillary's motion is the
15 motion. Don't read what's in the book. Hillary's motion
16 is the motion.

17 PROFESSOR SACKS: All right. So we're not
18 amending the contract. Right?

19 CHAIRMAN MCCALPIN: No. We're not.

20 PROFESSOR SACKS: All right. I'm clear.

21 CHAIRMAN MCCALPIN: All right.

22 MS. SHUMP: Could we have the motion reread,
23 please.

24 CHAIRMAN MCCALPIN: Well what I wrote down is
25 that the Reggie program be permitted to recruit and include

1 experienced attorneys for placement in other than local
2 offices.

3 MS. SHUMP: In addition to local offices and
4 other.

5 CHAIRMAN MCCALPIN: In addition to. Well I'm
6 perfectly happy to have her read it. Would you rather have
7 her read it? Okay.

8 MS. SHUMP: Please.

9 MS. RODHAM: That the Reggie program be permitted
10 to recruit and include experienced attorneys as Reginald
11 Heber Smith Fellows for placement in existing legal services
12 programs or other placements that are approved by the staff.
13 That is to say that the recruitment and inclusion of the
14 experienced attorneys be conducted under the supervision
15 and with the approval of the staff. That the other
16 elements of the program that Clint has proposed and that
17 the Committee has considered be remanded to the Committee
18 for further consideration along the lines of the discussion
19 this morning. And that the extension of the Reggie
20 program to experienced attorneys in no way obligates the
21 Corporation to the continuation of the Reggie program or
22 that aspect represented by the experienced attorneys
23 inclusion because all of our programs are obviously
24 contingent upon the financing that we receive from
25 Congress.

1 CHAIRMAN MCCALPIN: All right. All those
2 in favor would please signify by saying --

3 MR. LYONS: Point of clarification, if I
4 could?

5 CHAIRMAN MCCALPIN: All right.

6 MR. LYONS: I assume that the Board under-
7 stands that this motion has no operational consequences
8 unless the contract is extended. The contract ends July
9 31, 1982. And the programmatic thrust of the program is
10 set through that time.

11 CHAIRMAN MCCALPIN: I understand that. All
12 those in favor will signify by raising a hand.

13 (A showing of hands)

14 CHAIRMAN MCCALPIN: Esquer, Kantor, Rodham,
15 McCalpin, Sacks, Ortique, Kutak, Worthy.

16 All opposed please raise your hand. Shump.

17 All right, let me ask you to -- wait a minute.
18 I want to make sure you understand the alternatives.

19 We have one other announced item on the
20 agenda, number five, the President's Report. We have an
21 executive session scheduled as indicated. I am also
22 in receipt of a request from representatives of the Wayne
23 County area to address the Board which I would assume
24 would come under Item 6, Other Business. Lunch is
25 available. Now let me have your pleasure as to whether

1 you would prefer to adjourn for the executive session
2 and lunch at this time and come back for Items 5 and 6.
3 Or whether you would prefer to push through and complete
4 the agenda before we break for lunch.

5 JUDGE ORTIQUE: I think we ought to lunch be-
6 cause if anything comes up in our executive session that
7 we are obligated to bring to the Board --

8 CHAIRMAN MCCALPIN: I don't think that that
9 can happen realistically, but --

10 MS. WORTHY: I think lunch.

11 PROFESSOR SACKS: I'd rather vote on an
12 important issue on a full stomach.

13 CHAIRMAN MCCALPIN: We don't have any important
14 issue left to vote on.

15 PROFESSOR SACKS: Okay, then I don't need a
16 full stomach.

17 (Laughter)

18 CHAIRMAN MCCALPIN: What do you want to do?

19 PROFESSOR SACKS: I want to break for lunch.

20 CHAIRMAN MCCALPIN: All right. Revius?

21 JUDGE ORTIQUE: You say that nothing can come
22 out of our executive session, I'm not too sure what we need
23 to have any session for.

24 CHAIRMAN MCCALPIN: Well nothing that we have
25 to report. There is nothing in the bvlaws that requires

1 us to report the results of the executive session.

2 JUDGE ORTIQUE: No, that's true. But if it
3 is necessary for the Board to take action on anything,
4 we've got to come back to a full board meeting.

5 MR. BRADLEY: No.

6 CHAIRMAN MCCALPIN: No. That's not true.

7 We can take action in the executive session --

8 MR. BRADLEY: No, no.

9 CHAIRMAN MCCALPIN -- on the privileged
10 matters.

11 MR. BRADLEY: On the litigation matter;
12 Revius, without it being --

13 CHAIRMAN MCCALPIN: We did not last time
14 come back and take action in the open board meeting after
15 we took action in the executive session.

16 JUDGE ORTIQUE: We didn't take any action.

17 CHAIRMAN MCCALPIN: Before you leave,
18 how do you vote?

19 MS. ESQUER: Well whatever we do, I need a
20 5 minute break right now.

21 (Laughter)

22 MS. ESQUER: After that I don't care what we
23 do.

24 CHAIRMAN MCCALPIN: Okay, We've got one vote
25 for lunch.

1 JUDGE ORTIQUE: Lunch.

2 MR. KUTAK: I don't want to foreshorten Wayne
3 County. If Wayne County thinks it's going to need an
4 hour or two, we ought to adjourn. Otherwise I would
5 suggest we keep going in the interest of making the most
6 efficient use of our time.

7 CHAIRMAN MCCALPIN: I'm sure that Wayne County
8 will understand, as preachers do, that after about 10
9 minutes they begin to lose the congregation.

10 Josephine?

11 MR. WORTHY: I think vote for lunch.

12 MS. SHUMP: Break.

13 CHAIRMAN MCCALPIN: Hillary?

14 MS. RODHAM: Go through.

15 MR. KANTOR: Push on. This is the toughest
16 question we've ever had.

17 (Laughter)

18 JUDGE ORTIQUE: It's the first time he's proposed
19 it.

20 MR. BRADLEY: The Chair usually just handles
21 these things autocratically.

22 CHAIRMAN MCCALPIN: All right. We're going to
23 break. Let me announce that the Board is going into
24 executive session to discuss a litigation matter involving
25 the Corporation. I am required to take a roll call vote to

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1 determine whether we shall go into executive session.

2 Ms. Shump?

3 MS. SHUMP: Yes.

4 CHAIRMAN MCCALPIN: Ms. Worthy?

5 MS. WORTHY: Yes.

6 CHAIRMAN MCCALPIN: Mr. Kutak?

7 MR. KUTAK: Yes.

8 CHAIRMAN MCCALPIN: Judge Ortique?

9 JUDGE ORTIQUE: Yes.

10 CHAIRMAN MCCALPIN: Professor Sacks?

11 PROFESSOR SACKS: Yes.

12 CHAIRMAN MCCALPIN: Mr. McCalpin, yes. Hillary?

13 MS. RODHAM: Yes.

14 CHAIRMAN MCCALPIN: Mickey?

15 MR. KANTOR: Yes.

16 MR. LEWIS: In keeping with your bylaws, I'm

17 authorized to certify that a recorded vote indicates a

18 majority of the members present wish to retire to executive

19 session for purposes of discussing a matter subject to

20 such session litigation.

21 CHAIRMAN MCCALPIN: This Board will stand in

22 recess until 1:15 p.m.

23 (Whereupon at 12:10 p.m., the meeting was

24 recessed.)

25

AFTER RECESS

(1:25 p.m.)

PRESIDENT'S REPORT

CHAIRMAN MCCALPIN: At this appointed hour, I would like to move this meeting as expeditiously as possible. The next item on our agenda is number six sorry, number five, the President's Report, Mr. Bradley.

MR. BRADLEY: Mr. Chairman, in the haste of having lunch downstairs, I took my agenda book and all of my notes for the President's Report. So this is literally going to be one of the shortest President's Reports in the history of the Board.

But seriously, there are a couple of things, cause I want the record to reflect that the Corporation has recently been in -- had correspondence with the Acting Controller General of the United States. We have received an opinion letter and a recommendation from the Acting Controller General suggesting that this Board consider amending our current regulations concerning our interpretation of Section 1006 and especially 1007 of the Legal Services Corporation Act.

I responded to the Acting Controller General-- and this correspondence will be made available to everyone, especially the members of the Operations Committee-- that I would refer this to the Operations Committee of the Board

1 for their consideration and I would keep the Acting
2 Controller General advised of the disposition of his
3 recommendations, whatever they may be, by the Board of
4 the Corporation. I just wanted to let the record reflect
5 that.

6 I think, Bill, that I really need not go into
7 a lengthy President's Report. Most of the board members
8 and, I think, most of the members of the audience have
9 watched, participated in, led, encouraged, fought over the
10 development and the evolution of the legal services program.

11 In fact for the last 15 years. I know you
12 Bill, and Revius, and some others who were present at the
13 creation. I don't mind -- and I think that we should
14 reflect and all of us are aware, keenly aware of the fact,
15 that we are now in a period of transition, if you would;
16 uncertainty, if you would; evolution, if you would; and I
17 think that probably in these next few critical weeks and
18 few critical months it is more important than ever that
19 this Board continue to provide strong leadership --
20 decisive leadership -- on those questions that I think
21 everyone in this room are aware that we are going to have
22 to deal with.

23 The matters that Mary made reference to in
24 her presentation to you this morning, the inferences that
25 have suggested all during our deliberations today

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1 about possible budget consequences based on what the
2 Congress does -- all of those matters are directly and
3 indirectly going to affect the legal services programs in
4 all of its aspects.

5 We have fought over, as most of you know, the
6 questions of minimum access. We have fought over questions
7 of level of funding of various activities of the Corporation
8 tion. We have wrestled with those tough issues of the
9 appropriate amount of national support, state support.

10 I don't have to recapitulate for this Board what
11 those issues that you have struggled with over the last
12 three, four, and some instances -- Bob and the Judge's
13 situation -- from the date this Corporation started on
14 July 17, 1975.

15 And I think that, quite frankly, those of you
16 in this room and your staffs have been sort of the
17 architects for the building of the legal services program.
18 And it may fall on your shoulders, the responsibility -- and
19 I would suggest that it's an important and in some
20 instances an awesome responsibility -- to make those
21 budget decisions; those program decisions that are going
22 to effect the shape of legal services for the next
23 several years.

24 All of you are aware of that -- I don't need
25 to say anymore about it -- I just want you to know that in

1 the two years that I have been here and this is my second
2 anniversary -- the staff, in my judgment, is working harder,
3 longer, more conscientiously more committed on trying to do
4 the appropriate staff work for the committees of this
5 Board and for this Board, to make those decisions that
6 you and your successor Board are going to have to decide.

7 I think that I need to put you on notice that
8 over the course of the summer, as things develop on the
9 Hill and otherwise, I think that the staff will be calling
10 on the Board, calling on the Committees of the Board to
11 meet as frequently as necessary to consider some of these
12 issues that I am making reference too.

13 We are working closely with the community,
14 especially with the leadership of the field, the client
15 community and others as we go through this effort together.
16 And I'm extremely pleased with the work that the staff
17 has done thus far. They -- and I'm not exaggerating, I
18 don't know of any matter that has affected us more than
19 this period of transition and the issues that all of us
20 know that we are faced with.

21 I am extremely confident that we are prepared,
22 we are capable and we are able to make these decisions.
23 Some of the decisions probably will be difficult to make.
24 Some of them will be unpopular. Some of them will cause
25 serious consequences to legal services and low-income persons

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1 all over America. I think that is your responsibility
2 and I am confident that the staff and this Board can provide
3 that leadership and direction for the continuation of this
4 program.

5 Other than that, Mr. Chairman, I don't have
6 anything factually to report to the Board.

7 CHAIRMAN MCCALPIN: I suppose the only appropriate
8 response is that, it is the size of our recompense
9 that makes all of this heavy decision making palatable.

10 Cecilia, I was glad to have you come back
11 because I wanted to introduce this portion of the discussion
12 with a statement which was put before me, "cuando toma
13 cuerpo el diablo, se disfranza de abogado".

14 (Laughter)

15 CHAIRMAN MCCALPIN: If you can understand that,
16 I'm surprized.

17 MS. ESQUER: That's excellent. You've been
18 practicing well.

19 CHAIRMAN MCCALPIN: Mario gave it to me over
20 the lunch hour and dared me to try it out in Spanish.

21 MS. ESQUER: You do know what it said? Well,
22 I'm not sure you want to know.

23 (Laughter)

24 CHAIRMAN MCCALPIN: I'd be curious to hear what
25 the translation of the Spanish-speaking among us is, because

1 I'm going to follow it to see if it says what I see here.

2 MS. ESQUER: It basically says that whenever
3 the devil takes the form of a human body it personifies
4 itself as an attorney.

5 CHAIRMAN MCCALPIN: That's what it says,
6 when the devil takes human form, he disguises himself as
7 a lawyer.

8 (Laughter)

9 MR. KUTAK: Mr. Chairman, I don't know if it
10 is important or indeed, even appropriate to do so, but I
11 wonder if there is any fashion in which this Board would
12 convey its thanks to those who are outside of the
13 Corporation that is doing so much to assist the Corporation
14 in its effort.

15 I refer, of course, to the extraordinary
16 efforts of the President of the American Bar and others,
17 Exemplified only by his leadership but certainly not
18 excluding others in the same breath. Is there a time,
19 is there a place, is there a manner in which, at least,
20 that assistance in the cause that this Corporation was
21 formed to serve, should be acknowledged and our appreciation
22 expressed.

23 CHAIRMAN MCCALPIN: There isn't any doubt that
24 we do fully recognize and appreciate the magnificent
25 contributions made by many. I'm impressed that we are in

1 something of the problem of the toastmaster who having
2 introduced the head table then undertakes to introduce
3 various folks in the audience. And inevitably, unless
4 he introduces everybody, he's going to miss somebody.

5 JUDGE ORTIQUE: Will you take up a brief matter
6 before you're moving to item number --

7 CHAIRMAN MCCALPIN: Not quite, just a moment.

8 JUDGE ORTIQUE: Oh, all right.

9 CHAIRMAN MCCALPIN: I have personally and
10 in writing, expressed the appreciation of the Corporation
11 to the President of the American Bar Association for what
12 he did at the end of March and early April in bringing
13 Bars to town.

14 I have personally, to him and to others,
15 expressed my appreciation for the valuable contributions
16 of the President of the National Legal Aid and Defenders
17 Association. I am cognizant of the valuable contributions
18 of others.

19 Clearly there will come a time, and maybe the
20 time is now, when we ought to recognize and acknowledge
21 those contributions. As I say, I am a little concerned
22 that we may miss somebody because there is an enormous,
23 broad, nationwide base of support and activity. Not only
24 for this Corporation but more importantly, for what it
25 represents -- equal access to justice, the promise of

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1 justice to everybody in these United States. In a sense
2 I suppose, I would have to say that as far as the President
3 of the American Bar Association is concerned, he doesn't
4 really deserve any thanks because that is what he is
5 elected for.

6 Nonetheless, we have recognized it. And the
7 same is true, perhaps, for any other lawyer in these
8 United States. That what they are doing is part of their
9 professional obligation.

10 JUDGE ORTIQUE: I won't forget that when I make
11 you President of the American Bar.

12 (Laughter)

13 CHAIRMAN MCCALPIN: Forget "that." On the
14 other hand, I think we owe an enormous debt of gratitude
15 to those citizens -- none lawyers -- who understand and
16 appreciate the value of the justice system, of the
17 universal application and operation of the justice system
18 in this country. And of the urgent necessity that there
19 be equal access to that justice system in these United States.

20 Now how to thank, especially all those, literally
21 thousands of non-lawyer citizens who have recognized that,
22 and who have committed themselves to it, in one way or
23 another, publically and privately, I don't know. But if
24 you think of a way that we can do it without either mini-
25 mizing or overlooking the contribution of these hundreds and

1 thousands of unsung persons, I'm open.

2 MR. KUTAK: Mr. Chairman, I would say that
3 you have just done it.

4 CHAIRMAN MCCALPIN: Well with that Revius, you
5 had a matter.

6 JUDGE ORTIQUE: Yes. One of the staff has
7 questioned whether the authority, which is on Page 6 of
8 our Board book, really means what it says. And that's in
9 the last sentence -- second to last sentence of the middle
10 paragraph there -- it says, "Mr. Trudell's motion fairly
11 provided that the staff renegotiate a two year extension
12 of the contract subject to available funding for the Legal
13 Services Corporation".

14 And I would refer you in that reference to
15 page 50 of our mini-book which indicates the spirit
16 substance and so forth of what we were saying there. You
17 know it begins with, "If in the sole judgment of the
18 Corporation ..." and so forth, the funds are available
19 or not available.

20 I'm going to back to Trudell's motion, "...and
21 present that extension to the appropriate committee and
22 board of directors for approval." It was presented to us
23 for approval. The motion was approved unanimously. And
24 I think that means exactly what it says. I don't see how
25 there could be any doubt. We did direct the staff to

1 renegotiate the contract for two years beyond its present
2 life.

3 MS. WORTHY: And that needs to be made clear.

4 JUDGE ORTIQUE: Well it was called to my
5 attention that it wasn't clear to the staff.

6 MR. BRADLEY: It was clear to me and that's
7 the way I had interpreted it also.

8 CHAIRMAN MCCALPIN: I don't think there's any
9 misunderstanding about that.

10 JUDGE ORTIQUE: Well.

11 MR. BRADLEY: There won't be now, Revius.

12 JUDGE ORTIQUE: That's my point.

13 MS. ESQUER: That means that we've extended
14 the Reggie contract through 1984 depending on --

15 CHAIRMAN MCCALPIN: It means that we have author-
16 ized the extension of the contract for two years. And event-
17 ually, I presume, we will get a formal extension document
18 presented for approval.

19 JUDGE ORTIQUE: No, no.

20 MR. BRADLEY: You will get a budget. At this
21 point, it's in the context of a budget issue because you
22 have already approved it for so much operating budget under
23 which the Reggie program will go forward into next year
24 and the next document would be a consideration as to
25 whether or not to award additional funds pursuant to what-

1 appropriation we get, which incorporates that paragraph
2 that the Judge --

3 JUDGE ORTIQUE: I have read that and I will
4 confirm it, yes.

5 MR. BRADLEY: Yes.

6 CHAIRMAN MCCALPIN: I don't think there's any
7 question about that.

8 JUDGE ORTIQUE: I just wanted to make sure
9 that it was all clear, on the record.

10 CHAIRMAN MCCALPIN: All right.

11 OTHER BUSINESS

12 CHAIRMAN MCCALPIN: For item six on the
13 agenda, I have a request from Ms. Avis Holmes and
14 Mr. Maynard Bussey of William County, Michigan to address
15 the Board. If you all would like to approach the micro-
16 phone there, whichever of you is going to speak, we'll
17 hear from you at this time.

18 MS. HOLMES: This was two separate requests.

19 CHAIRMAN MCCALPIN: Well we're hear each as
20 you like. I trust that you -- you know the Board is not
21 unfamiliar with the Wayne County problem -- I trust you will
22 feel the necessity of reindoctrinating or readvising the
23 Board about the things that we have heard in the past and
24 that you will bring us up to date with anything that may
25 have transpired since the last we heard from Wayne County.

1 MS. HOLMES: Thank you very much, Mr. Chairman.
2 First I would like to thank the Board of the Legal Services
3 Corporation for their work over the past years and particu-
4 larly for their support of legal services to poor people
5 and eligible clients.

6 On behalf of clients and laypeople, I certainly
7 wish to thank you. Also I would like to reassure you or
8 assure you that there are many individual citizens such
9 as myself and others who are doing what we can to be sure
10 that legal services is not killed and that Congress will
11 continue to see that these services are available to those
12 who have such needs.

13 I am here because of things that had to do
14 with Neighborhood Legal Services, Mr. Chairman, and I
15 would appreciate it if you would give me two or three
16 minutes, I will not attempt to reindoctrinate anyone on
17 anything and if you have heard this before then just
18 feel free to call me to attention. And this is addressed
19 to the Board.

20 Dear Board Members: I hereby petition for an
21 immediate hearing before this honorable body, the Board
22 of Directors of Legal Services Corporation. I pursue this
23 extraordinary step because historically despite oral and
24 written requests to the President and to the former
25 Chairman of the Board my requests have not been honored.

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1 I am coming to you in my capacity as a board
2 member of the Board of Directors of Wayne County
3 Neighborhood Legal Services and in my capacity as a
4 volunteer in legal services and other poverty programs
5 since 1965.

6 Unfortunately, the regulations fail to
7 provide a remedial mechanism for recipient board members
8 who have been aggrieved by the actions of staff members of
9 the Legal Services Corporation. Therefore, after
10 consultation with my attorney, I have been advised to
11 directly petition this honorable body at its regular
12 meeting.

13 There are two essential grievances that relate
14 to Avis E. Holmes, personally. (1) The Legal Services
15 Corporation has published a letter dated November 21, 1979,
16 signed by Mr. Ed McGuire which was a personal unwarranted
17 attack.

18 A second punitive letter to the Board of
19 Directors of Wayne County Neighborhood Legal Services
20 was published on January 30, 1980, which incorporated
21 the above letter and also made reference to totally
22 unfounded and fallacious materials that had been sub-
23 mitted by some disgruntled persons.

24 (2) Mrs. Marjorie Anne McDiarmid, Director
25 of the Regional IV Office, also published unfounded

1 statements regarding Avis E. Holmes in her draft moni-
2 toring report and interfered directly with my private
3 employment by involving herself in matters that had
4 nothing to do with Legal Services Corporation or Wayne
5 County Neighborhood Legal Services. I have never served
6 in a "paid" capacity with Wayne County Neighborhood Legal
7 Services.

8 These acts by the Legal Service Corporation,
9 through it agents, constitute an embarrassment and an
10 unfair interpretation of my stewardship as a volunteer
11 with the legal services program and Wayne County Neighbor-
12 hood Legal Services and gives a false impression to the
13 public agencies who served in a supervisory capacity over
14 my paid occupation.

15 I am requesting a hearing as I have not been
16 accorded courteous consideration from the Officers, the
17 President, or agents of Legal Services Corporation. I
18 respectfully petition herein for an "immediate hearing
19 in order to clear my name and my reputation".

20 I thank you so very much. Sincerely, Avis
21 E. Holmes. And I have copies that I would like to
22 distribute.

23 CHAIRMAN MCCALPIN: Your petition will be
24 received. Thank you Ms. Holmes. Mr. Bussey, did you
25 care to address the Board?

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1 MR. BUSSEY: Yes I did. Honorable Chairman,
2 Board Members, old acquaintance that I had the gracious
3 opportunity to meet during the organization of this great
4 program. I remember the mission that this program was
5 first organized for -- to give legal services to the poor.

6 We are here today to seek justice. Plus we
7 feel that we don't want to fight this program at presently
8 because of the other difficulties that are coming about.
9 We want to help build. We saw a future. And some of
10 those here when we -- on the Advisory Board drew up the
11 kind of proposal for the legal services program -- went to
12 San Juan, Puerto Rico to organize the National Clients
13 Council to bring it into the magnitude that it is really
14 in today; we had visions that the program would survive.
15 We would work together as a team. As one of the organizing
16 persons of the Wayne County Neighborhood Legal Services
17 in its heyday with people like our deceased Harold Mountain
18 and many others that I can call names; Mr. Revius Ortique,
19 over there.

20 We worked hard together. There wasn't a class
21 between us. We were all trying to seek something. But
22 today we have genocidal classes. I've been trying to
23 remember the word -- nepotoid, or whatever it is -- that
24 we are living with here. Class -- lawyers against clients.
25 It reminded me that lawyers on the Board of the Directors

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1 of the County Legal Services or any legal service, through-
2 out the country, is to provide the poor the legal aspect
3 of it. How to go about to help solve some of the community
4 illness. He can't tell this patient where he hurts at.
5 But he can help him get a remedy to aid him in his pain.

6 I live to this day deceived -- I've been in
7 this program ever since 1964, I'm 67 years old. And you
8 are as old as you feel. In the head, I haven't gotten
9 old yet. I feel that some of the things I'm seeing today;
10 political organizations being put on the Board in control
11 by unions sitting on the boards. Regularly people voting
12 against something that is really good for the people in
13 the community. And we have been asking for investigations
14 from your office here. And when you come out there, you
15 deregulate "us".

16 You don't help us. You fight us. We are with
17 you. We have been there for years dedicating our services.
18 And we are the first ones to get disqualified. I under-
19 stand that they are going to disqualify me from the
20 National Clients Council.

21 And the Clients Council in Wayne County is
22 older than the National Clients Council. But they are
23 going to disqualify us, not let us participate because
24 they say "you won't let this group of politicians come
25 in and take the organization over."

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1 We never will do it. We never will do it.
2 Wayne County is a unique animal. You have people in there
3 they believe in and they fight for what they believe in.
4 We have a few in there you can buy out. We are asking you
5 to review this. And not close your eyes.

6 You know, I said to a person today, "you can
7 listen but you don't here; you can hear but you don't
8 listen." That means you stand up and give us crocodile
9 tears when we come to you and say "look, we got a problem".

10 We spell out the problem for you but do you
11 give us help. "No." You come down with your people that
12 are in power. They come down and say "look, this guy is
13 lying, he's not right. He's against your whole program.
14 He's doing things."

15 I look at myself at night when I go in and I
16 say "you animal, you". Because I don't even know my own-
17 self. Our members of the board have been down there. They
18 have gotten all kinds of publicity. But one thing I don't
19 understand. And dealing with lawyers over these years, I
20 think like one sometimes.

21 CHAIRMAN MCCALPIN: God help you.

22 MR. BUSSEY: How can I be your client -- you
23 sit in there on the board, my lawyer. Two-thirds of you --
24 I can run an organization from my one-third with the
25 intelligence that the two-thirds has. I influence you and

1 I control you. I don't know much about black magic and I
2 don't know anything about hypnotism. But that's what
3 we're charged of. Eight new people in charge of running
4 a whole board, Bar and association and everything else.
5 That's incredible. I don't even believe it myself. But
6 it was said about me.

7 So you have got to get rid of two people down
8 in the city of Detroit in Wayne County before you can run
9 the organization. Fifteen lawyers can throw me and five
10 other poor, uneducated community people out. But this is
11 what we want to get rid of -- everyone of us.

12 And Reagan wants to get rid of you and you
13 want to get rid of us. We are with you and so we are
14 dead, automatically dead. Help us, please. We are here.
15 We want you to see our evidence. Will you invite us here?

16 We ran out there and borrowed nickels and
17 dimes to come here before. We were here once before. You
18 didn't hear us. We are here again. Somebody's going to
19 hear us. Thank you very much.

20 CHAIRMAN MCCALPIN: Thank you, Mr. Bussey.
21 In a way that you could not possibly have known, you
22 struck a nostalgic chord in me because what you could not
23 have known is that I went to grade school in St. Louis
24 with Harry Mountain. He was a very close friend of my
25 younger brother. I know him well and respect his memory.

1 I am sure that you understand that a key
2 principle of the legal services program is that the 323
3 local organizations which are the recipients of funds
4 from this Corporation are separate and independent of
5 this Corporation and are locally managed, controlled, and
6 the people who get on the boards are determined locally.

7 It is only within very narrow limits of the
8 statute and the regulations that this Corporation at this
9 level has any ability or right to intervene in the
10 operation or affairs of any local grantee. We believe in;
11 we are firmly committed to, the principle of local control.

12 Now if within the confines of those statutory
13 and regulatory provisions, there are violations in the
14 Wayne County operation that is of course, a matter of
15 concern to this Corporation and this Board. But we can
16 not intervene simply because some people have been elected
17 to the board and others have not. We have no control
18 whatsoever over that. That is a local community decision
19 to be made in the local area.

20 Let me say that I have Ms. Holmes' petition
21 and I have heard your remarks. I'll be glad to receive
22 anything that you may have to present as well. I am
23 not going to ask you good people from Detroit to wait
24 until this Board can meet again but I am directing the
25 President of the Corporation to furnish me, within the next

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1 30 days, a written response to the petition of each one of
2 you. Immediately after which I personally will be in
3 touch with each of you with respect to your petition. I
4 don't think that I can do more than that at this point.

5 MR. BUSSEY: You heard us.

6 CHAIRMAN MCCALPIN: Is there any other
7 business to come before the Board?

8 MR. BRADLEY: Just one small matter. Not
9 knowing whether or not this is the last meeting of the
10 Board of Directors of the Corporation, your staff, Mr.
11 Chairman and Members of the Board, through the years had
12 an opportunity -- as Joan is doing now -- to take candid
13 photographs of you as you go about your serious and
14 important work.

15 CHAIRMAN MCCALPIN: You are out of order,
16 Mr. Bradley.

17 (Laughter)

18 MR. BRADLEY: And the staff has prepared a
19 composite photograph of each member of the Board and we
20 are going to provide each member of the Board with this
21 composite group photo, individual photo but it's a group
22 photo of each of you. You don't have to take them home
23 with you today because we are going to mail them to you
24 just to save you the trouble. But we wanted you to have
25 that as a token of the staff's appreciation for the leader-

1 ship that you have provided during the last several years.
2 If you will accept this, symbolically on behalf of the
3 other board members I'd appreciate it, Bill.

4 It is a very, very good photograph of all of
5 you, except Engleburt.

6 (Laughter)

7 CHAIRMAN MCCALPIN: Well I was about to say
8 and only I can see this, that I wonder, Ramona, where you
9 get the added plug. You're the only one whose picture
10 appears twice.

11 (Laughter)

12 CHAIRMAN MCCALPIN: And what he was pointing
13 out is that Engleburt looks bad because you're in the
14 background of Engleburt's picture.

15 (Laughter)

16 CHAIRMAN MCCALPIN: Well Dan, thank you very
17 much. It's a very thoughtful gesture and presentation.
18 Hillary, this picture of you must have been taken
19 immediately after I took the Chair.

20 (Laughter)

21 CHAIRMAN MCCALPIN: You act like you are
22 totally relieved.

23 (Laughter)

24 CHAIRMAN MCCALPIN: It is a very thoughtful
25 gesture. I'm sure that we will all treasure it. Is there

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1 now any further business to come before the Board? If
2 not, having heard a motion and seconded --

3 MR. KUTAK: So moved.

4 CHAIRMAN MCCALPIN: -- and here's a fifth --
5 unanimately declare the meeting adjourned.

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8 (Whereupon, at 4:46 p.m., the meeting was
9 concluded.)

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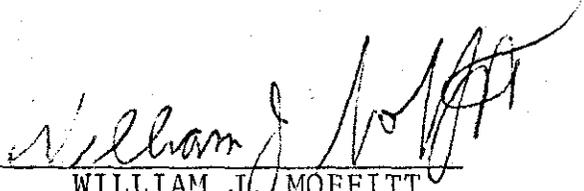
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C E R T I F I C A T E

This is to certify that the foregoing proceedings before the Legal Services Corporation, Board of Directors' Meeting, Friday, June 5, 1981, were held as herein appears and that this is the original transcript thereof.


WILLIAM J. MOFFITT

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