Time to Abolish

Legal Services Corporation

by Phyllis Schlafly January 29, 1997

The Legal Services Corporation (LSC) had its chance to reform itself and it simply thumbed its nose at Congress. This scandal-ridden agency deserves to be completely abolished.

Congress had planned to terminate LSC last year, but because of bleeding-heart whining about the "poor," Congress relented and extended LSC's life with some reasonable restrictions to try to de-politicize it. Congress banned the filing of class-action lawsuits and prohibited LSC grantees from using non-LSC funds to pursue politically controversial cases.

The handful of Republican "moderates" plus the Democrats who engineered this life-support system for LSC assured us that LSC would clean up its act and devote itself to its real mission of helping the poor. Now, LSC has indulged in a raft of new offenses.

One LSC grantee, Texas Rural Legal Aid (TRLA), which gets 80 percent of its funding from the U.S. taxpayers, is trying to overturn the narrow elections of a Republican County Commissioner and a Republican Sheriff by filing suit to get a court to void the absentee ballots of 800 U.S. active duty military personnel and their families. TRLA's outlandish argument is that the military absentees diluted the votes of Hispanic residents.

U.S. District Judge George J. Korbel has authorized discovery, and so TRLA has sent a 24-page, 54-question deposition to all Val Verde County, Texas voters who cast absentee ballots in the November 1996 election. This nosy questionnaire demands very personal information, including the voter's credit card information and the names of every organization to which the voter belongs.

On January 8, LSC's Washington office sent a letter to TRLA stating that this lawsuit "constitutes a substantial violation of the grant agreement." TRLA further defied Congress by asking for attorney's fees in this complaint, despite a clear prohibition on that practice.

Meanwhile, an LSC grantee in New York, Legal Services for the Elderly, persuaded a New York state

judge to rule on December 26 that it is unconstitutional for Congress to prohibit LSC grantees from engaging in class-action lawsuits or pursuing political litigation with non-LSC funds. Manhattan Supreme Court Justice Beverly Cohen ruled that Congress has no right to tell LSC grantees what kind of cases they can pursue with non-LSC money.

For the last 20 years, LSC grantees have evaded the laws against political advocacy by claiming that they were pursuing political cases with "non-LSC" money. This loophole is big enough to drive thousands of lawsuits through because money is fungible and nobody can identify what money is being spent for which suit.

Most LSC money comes from the federal taxpayers, who pay for LSC attorneys' salaries and overhead. Since Congress cannot force grantees to open their case files, there is no way to prove allocation of the funds.

Congress certainly should have the right to appropriate taxpayers' money only to those who agree not to engage in class-action suits or political advocacy. However, Judge Cohen showed her bias by ruling that this restriction is just a "thinly disguised attack on basic freedoms," i.e., the "basic freedom" of tax-funded LSC lawyers to engage in class-action or political litigation.

LSC lawyers are confidently predicting that this decision will inspire other LSC groups to challenge the new Congressional restrictions. Indeed, this has already started.

LSC lawyers in Rhode Island, Ohio and Florida have already asked judges to throw out the regulations. A federal judge in Rhode Island and a Ohio state judge have granted temporary relief to legal aid groups and allowed them to continue work on their class action suits.

On January 9, five LSC-funded groups filed suit in federal district court in Hawaii to strike down the new Congressional restrictions. These groups are Legal Services of Northern California in Sacramento, Legal Aid Society of Hawaii, San Fernando Valley Neighborhood Legal Services, Legal Aid Society of Orange County (CA), and Alaska Legal Services Corporation.

The suit claims that the Congressional restriction on federal funds violates the First Amendment and "the doctrine of unconstitutional condition," i.e., the precept that the government cannot impose a condition on the receipt of funds that requires the recipient to give up fundamental rights guaranteed by the U.S. Constitution.

"We have so many clients who have problems that can only be resolved by legislative advocacy or by class actions," said Roberta Ranstrom, executive director of Legal Services of Northern California. Obviously, she plans to use the courts to do an end-run around Congressional legislation.

This LSC network of leftwing lawyers has no intention of abiding by any restrictions, and when they bring their cases before Carter-appointed or Clinton-appointed judges, they have a good chance of outmaneuvering any restrictions Congress tries to impose.

The 1996 Republican Party Platform called for the elimination of the Legal Services Corporation. It's time to fulfill that pledge before LSC engages in any more mischief.