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IS "LEGAL SERVICES" ABOVE THE LAW?

The same liberals who wax indignant against any proposals to withdraw jurisdiction from the federal courts on abortion, busing, or prayer, and who indulged in the rhetoric of outrage at the recent Supreme Court decision which upheld President Richard Nixon's immunity from lawsuits seeking civil damages, are very much in favor of insulating a federal bureau from judicial scrutiny when it suits their own goals.

The liberals enthusiastically applaud activist courts when they assume the day-to-day supervision of prisons, elections, neighborhood schools, pornographic bookshops and movie theaters, and even school libraries. The liberals cheer when courts even interfere with highway construction opposed by environmentalist agitators.

But now, look at the double standard of the liberals. Some of the most vociferous advocates of judicial activism in all sorts of sensitive areas have enthusiastically insulated one federal agency -- the Legal Services Corporation -- from judicial scrutiny by either federal or state courts.

The Legal Services Corporation was created in 1974 to "promote the use of [judicial] institutions for the orderly redress of grievances." To ensure that its "socially conscious" lawyers did not divert tax funds into radical activism, Congress wrote into the law a prohibition against using Legal Services' money for a broad range of suits dealing with busing, abortion, draft-dodging, and radical organizing.

To put it charitably, Legal Services has interpreted its statutory powers very broadly, even generously. Legal Services takes the position that it can engage in litigating and lobbying advocacy on controversial issues so long as just one "client" makes a single request for such action.

Legal Services has litigated to obtain the invalidation of a Michigan law placing restrictions on abortions, the transportation of a Pittsburgh inmate to a medical facility for the performance of an abortion, the retention of a quota system in a California

medical school, and the payment of disability benefits to a transvestite who claimed he/she was unable to work because of his/her sexual predispositions.

When the people sued by Legal Services Corporation clients challenged its questionable role in this type of litigation, the Corporation went back to Congress in 1977 and successfully obtained legislation which provided that opposing litigants could not come into court to argue that Legal Services actions are illegal.

Since the victims of unlawful actions by the Legal Services Corporation were thus prevented from suing, five Senators, led by Chuck Grassley (R-IA), and one Representative brought suit in 1981 to enforce the law's provisions. On February 3, 1982, Judge Harold D. Victor of the Federal District Court in Iowa held that the Legal Services Act's prohibitions did not give rise to a "cause of action" enforceable even by Senators and Representatives.

In laymen's language, this means that the Legal Services Corporation is "above the law." Or, to put it another way, the Federal Court just told Congress, "Forget all those restrictions and limitations you thought you wrote into the Legal Services Act; we will not enforce them."

A new chapter in this story opened when Senator Steve Symms introduced S. 2393 to allow the courts to adjudicate whether the Legal Services Corporation has violated the law. It would give private parties the right to go to court to enforce the law governing the Legal Services Corporation.

The Symms bill further provides that, if it turns out that Legal Services is acting unlawfully, the aggrieved adversary can receive the legal fees incurred in bringing the suit, plus punitive damages up to three times the actual damages sustained. This remedy is modelled after similar ones now in effect in a broad range of statutes enacted by Congressional liberals.

It is the supreme irony that an organization which regards itself as a vindicator of legal rights should try to make itself immune from the legal process. Under our system of government, this abuse should be eliminated as soon as possible.