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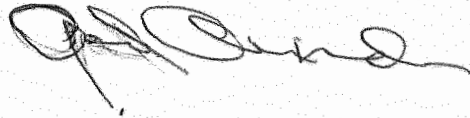
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GAIL-JOY ALEXANDER

Communications Division
Washington
Public Affairs

Mr. Roberts:

Harriet Ellis asked me to pass along to you a copy of the speech ABA president John Shepherd plans to deliver at the Child Support symposium tomorrow. As you can see, he will announce his plans to make implementation of the new legislation a priority of his administration. I hope this is helpful. If you have any questions, feel free to call.



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"THE LAWYER'S SPECIAL CONCERN FOR
CHILD SUPPORT ENFORCEMENT"
CONCLUDING LUNCHEON REMARKS
JOHN C. SHEPHERD
PRESIDENT
AMERICAN BAR ASSOCIATION
THE SECRETARY'S SYMPOSIUM ON
CHILD SUPPORT ENFORCEMENT
Washington, D.C.
Friday, August 17, 1984

To: Bob Horowitz
DC Office

(Introduction by MARTHA McSTEEN, Commissioner of
Social Security, U.S. Dept. of Health and Human
Services, PRECEDES)

...Thank you, Commissioner McSteen,

On behalf of the 300,000 members of the American
Bar Association across the country, I welcome this
opportunity to address this important symposium on
child support enforcement.

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When I took office as President of the ABA last week at our Annual Meeting in Chicago, I promised our House of Delegates "...to put the needs of the children of America, which have long been overlooked, high on the agenda of the American Bar Association."

Today I am making my first public appearance since taking office, and I can think of no better place to begin to keep that promise than right here, before this audience,

This symposium meets at the beginning of a new era in child support enforcement. A bipartisan national consensus in favor of improved enforcement has been forged -- a consensus for which we can thank Secretary Heckler, and the Congress.

Convincing both Houses of the Congress, during an election year, to pass major substantive legislation is a remarkable achievement. To have that legislation pass unanimously, as the Child Support Amendments of 1984 did earlier this month, is even more remarkable.

But with the strong advocacy of Secretary Heckler and the leadership of Senators Dale, Bradley and Durenburger in the Senate, and Congresswoman Kenneley and Congressman Rostenkowski in the House, this has been achieved. This legislation could never have been passed without the efforts of many dedicated people, to whom we owe a great debt.

However, I would like to say a few extra words about our Secretary of Health and Human Services, Margaret Heckler, who is a remarkable public servant.

She is also, I am proud to say, a remarkable lawyer. Her commitment to the children of this country represents the highest standards of our profession.

It was as a lawyer -- prior to becoming a member of Congress -- that Secretary Heckler, in her own words, became deeply concerned with:

"...the destitution, the desperation, and the simple human suffering of women and children who were not receiving the child support payments legally owed them."

As she put it, in her testimony before the Senate Finance Committee last fall --

"Frankly, it offends my conscience... a parent's first responsibility is to reasonably provide for the upbringing and welfare of his or her children. To deny that responsibility is a cowardly act."

As a lawyer, and as a parent, I couldn't agree more. In this country, one half of the children living with a parent who has a support order, are deprived of the financial support to which they are entitled, because a parent refuses to comply with the court order.

The financial impact this failure to comply has on these children, is dramatic and severe. While we may never know the full extent of the deprivation -- and even suffering -- which results when child support payments are not received, the statistical picture is clear enough. The Census Bureau estimates that defaulted payment of court-ordered support deprives children in this country of nearly \$4 billion a year in support.

As President of the American Bar Association, I must tell you that there is another, very disturbing consequence of this failure to obey our courts. Apart from the serious financial hardship imposed on children when parents refuse to comply with court orders, it instills within our youngest citizens a disrespect for the law.

When these children are learning at home that our legal system is unable to enforce this most personal entitlement, how can even the most skillful school teacher reverse this indelible impression that the law is powerless, and can be ignored?

The agenda of this symposium is of special concern to the legal profession. The legal profession bears considerable responsibility for the functioning of the child support system. Private attorneys, agency counsel, prosecutors, and court administrators as well as judges, all play important roles in this system.

For our part, the ABA has worked for the past five years through our National Legal Resource Center for Child Advocacy and Protection to assist in this area. The Center's Child Support Project -- which was represented by its Co-Director, Bob Horowitz in one of your panels this morning -- has been working directly with the problem of training attorneys in the area of enforcement.

It is our intention that the Center, which receives federal funding, will act as a major information resource center in helping those who will have the responsibility for implementing the new Child Support Amendments of 1984,

As we see it, these amendments, which will have a substantial impact on court and administrative remedies, are of natural interest to lawyers. Individual lawyers and state and local bar associations should be part of the process of implementing the new federal requirements contained in the 1984 legislation.

They can be most helpful.

Here in the District of Columbia, for example, the bar sponsored a study of the family court in 1981 and 1982, making important recommendations, such as having the court registry's computer system notify judges of missed payments.

This was adopted by the D.C. court, and Judges can now initiate enforcement action without the custodial parent having to use an attorney. We can thank Judge Gladys Kessler -- who, I believe, may be in the audience today -- for her strong leadership and Chief Judge Moultrie of the D.C. Court for his strong support of these innovations.

We believe that similar consultations by the states also hold promise for similar suggestions from the organized bar which can improve support enforcement methods throughout the country.

It is imperative that the important reforms discussed at this symposium are carried out in a manner consistent with due process and sound public policy. We encourage those who will draft state legislation and guidelines to seek the aid of the bar in assuring that this is done.

This is important, because the courts have struck down a number of enforcement provisions used by some states. The new legislation takes cognizance of these recent court decisions and, to some extent, codifies them. The amendments, for example, extend the same protection to children ^{not receiving} of ~~non-AFDC children~~ as it does to members of AFDC families; it also extends the statute of limitations ^{for establishing the paternity of} ~~with respect to children born~~ out of wedlock, in ~~paternity cases~~ through age 18.

But there are provisions which could prove difficult to implement, unless their application is worked out carefully. In the case of mandatory income withholding, for example -- even as states develop speedy procedures for withholding after a delinquency occurs -- individuals obligated to provide child support must be provided due process. The same is true when Federal and State income tax refunds are to be intercepted. Due process should still be

Our ABA Tax Section has generally opposed the use of the IRS for any purpose other than tax collection, though they did not oppose its use in this specific law. Nonetheless, prudence dictates that we insure that this enforcement tool does not have an adverse impact on tax collection.

Tax law noncompliance, after all, is already a serious national problem.

Another aspect of the legislation which will concern lawyers are the requirements that the states use expedited procedures for obtaining and enforcing support. The new law does not mandate that these procedures have full due-process protections, including, for example, the right to have witnesses be sworn.

Lawyers will also be concerned that the support guidelines which are developed, reflect the true costs of raising the child, and that they assure -- to the extent possible -- that the child enjoys a fair standard of living. We encourage you to include the legal profession in developing these standards. Many support guidelines currently in use are the product of bar association efforts.

I bring these matters to your attention now, because it is essential, if the new law is to have the impact we all want, and the respect it requires, that appropriate consideration be given to the rights of everyone involved.

The way to do this is by establishing a close, cooperative partnership among those who are assigned by their respective states with responsibility for drafting implementing legislation and regulations and the legal profession in those same states.

On our part, at the national level, the American Bar Association, through the Child Support Project, and the Family Law Section, will work with lawyers and bar groups to help implement this law.

In my own dealings with our state and local bar associations, I intend to request the legal profession to cooperate as fully as possible in these efforts.

For the legal profession, the important issue of enforcement of child support is part of a much larger concern with how our laws and our courts deal with children across the board.

We are concerned with child abuse -- over one million children are estimated to be abused or neglected each year.

We are concerned with missing and exploited children -- close to two million children are reported as missing from their homes each year;

We are concerned with youth alcohol and drug problems.

And there are other, equally compelling problems affecting children which require action by the bar, not the least of which is the entire range of juvenile justice concerns.

The American Bar Association has important projects underway in each of these areas.

Working to assure that our children receive the rights and protection they deserve is one of the most important ways our profession can support the cause of justice and the future of America. These efforts can not only have an immediate effect on the quality of the lives of our children, but can also have a lasting impact on their development as productive, law-abiding citizens. The need is urgent. The mission is one of our most important.

This Symposium has been a working conference. You've made a good start. But there remains much to be done. We hope you will call on us often.

Thank you for inviting me....