

# Public Money for Lawyers' Fees

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CONGRESS ENACTED legislation in 1976 to encourage class action suits by private parties to establish constitutional rights. In many respects, the law has worked well. Because of it, people who don't have the money to hire attorneys for civil rights suits can go to court confident that good lawyers will be paid to take their cases. Court decisions on broad public policy questions have been the result.

In a recent report, however, the National Association of Attorneys General charges that courts have gone beyond what Congress had in mind and have ordered compensation where it is not justified. They have in mind not only the enormous cost of the fee program to state and local taxpayers but also the volume of litigation involving just the question of contested fees. In one 7th Circuit case, for example, the court devoted 186 hours to the merits of the case and 350 hours to the dispute over the attorney's bill.

While a money judgment is not always the only objective in a lawsuit, the amount of the fee awarded has also often been out of proportion to the damages won for a client. In Illinois, attorneys were paid over \$6,000 for winning a jury verdict of \$1; in California, lawyers won almost a quarter of a million dollars when the amount in dispute was only \$33,350. In another case in that state, a payment of

\$9,900 was given to a prison inmate who had served as an "adviser" to the plaintiff's lawyers.

The attorneys general have asked Congress to take another look at the way this law is being interpreted by the courts and to clamp down on alleged abuses that are costing taxpayers a lot. They suggest that legal fees be given only in true civil rights cases, not in any case where a plaintiff claims that his due process or equal protection rights have been violated. They want to eliminate the practice of awarding bonuses to lawyers in addition to fees—a payment not specifically authorized in the statute—and to limit fees to a maximum of \$75 an hour. They suggest that only parties that actually win these suits against the government be compensated and that lawyers be penalized for failing to settle a case when the ultimate award turns out to be less than the proffered settlement.

Next month, Sen. Orrin Hatch will hold hearings in the Judiciary Committee on these proposals and others concerning fees for lawyers who represent indigents in criminal cases. The recommendations put forth by state officials will be controversial, but the difficulties and expense of the present system really can't be ignored. It is time for a hard look at how this program is working and whether it is enabling some lawyers to do exceedingly well by doing good.