REMARKS BY THE ATTORNEY GENERAL
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It is always pleasant to return to my hometown, and it is a very special privilege for me to address the Federal Resources Luncheon of the National Urban League.

Pleasurable as it is to come home, there can be drawbacks too.

I am reminded of a story about President Harrison's Attorney General, William Miller, who returned to his home in Indiana feeling quite prominent and important. As he was walking up the street, he met an old friend who said "Hello Bill, I haven't seen you for a long time -- Where have you been?" That shook him up a bit. He then ran into his old postman. After greeting him, Miller said: "Well, do you know where I live now?"

"Yes," replied the postman, "you live in Washington, D.C."

Miller went on: "Do you know the position I hold?"

"Yes," came the reply, "you are Attorney General of these United States."

Feeling quite proud, the Attorney General asked: "Well, what do the home folks have to say about me?"

The postman thought for awhile and answered: "Well they don't say much, but they sure laugh a lot."

My remarks today, however, will be earnest and serious. They concern your organization and mine -- and our primary goal, equal justice under law. This organization's membership is as important to the Department of Justice as the Department is important to the well-being of minority Americans. The Justice Department remains one of the most important federal resources in the struggle to ensure all Americans equal rights and equal opportunity.

The goals we seek are the same goals you seek. Although we may differ in some cases on the best means of furthering those goals, in the overwhelming majority of instances our approaches are the same as or very similar to those you advocate. In the course of public debate, however, those basic areas of agreement have sometimes been ignored. Today, I want to set the record straight. And I must say, right up front, that things are not as they have been portrayed by some of our critics.

One of the most important responsibilities of the Department of Justice is the enforcement of our civil rights laws. Twenty-five years ago, the Civil Rights Act of 1957 -- the Nation's first modern civil rights law -- created a Civil Rights Division within the Department of Justice. Each of the major civil rights acts since then has added to the Department's responsibilities. Since the Nation first roused from its long neglect of blatant racial discrimination, the Department of Justice has been in the forefront of the struggle to achieve equal opportunity for all Americans. That leadership role continues. The Department of Justice is today actively prosecuting over 240 civil rights actions.

In his address last year to the NAACP, President Reagan stated that this "administration will vigorously investigate and prosecute those who, by violence or intimidation, would attempt to deny Americans their constitutional rights." We have done so. Since January 20, 1981, our level of activity in that regard has exceeded every other Administration's. The Department has filed sixty-two new criminal civil rights cases and has conducted trials in fifty-two cases. And the actual prosecutions are only the tip of the iceberg. There are currently pending in the Civil Rights Division approximately 1300 investigations of alleged criminal violations of the civil rights laws, and over $11.5 million is budgeted for fiscal year 1983 for FBI investigations of such violations.

The largely unheralded Community Relations Service of the Department of Justice has also been actively working to defuse tensions before they erupt into violent confrontations. In the past year the Service has, to cite just a few examples, worked to ease tensions in Atlanta growing out of the tragic murders of black youths in that city, mediated disputes between new refugees from southeast Asia and other citizens, and sought to stem the unacceptable growth of harassment and intimidation in some areas of the country. The Service has also recently completed a highly successful test

program of mediation in civil rights disputes. That program produced broader, quicker, and more amicable solutions than could possibly have been attained through litigation. We will continue to do everything within our power -- both through criminal prosecutions and the work of the Community Relations Service -- to guarantee that no American is subjected to threats or violence because of his race, religion, or ethnic background.

One of the most basic individual rights is the right to vote. The Department of Justice has participated in thirty-one court cases and reviewed over 9000 proposed voting changes to determine whether they discriminated against minorities in violation of the Voting Rights Act.

Those changes included legislative reapportionment plans required by the 1980 Census. At the statewide level, we have filed objections to the House and Senate redistrictings for the States of Virginia, Texas, Georgia, Alabama, Arizona, North Carolina, and New York. The redistricting plans for the House of Representatives of South Carolina and Louisiana also failed to gain our approval as originally submitted, as did the initial congressional redistricting proposals for Georgia, Mississippi, North Carolina and New York.

In the redistrictings I have mentioned, we were unconvinced that minority voting rights were adequately protected by the proposed changes. To have precleared any one of them in such circumstances would have locked members of the affected minority community into a 10-year waiting period -- until the 1990 Census -- during which time they would not have been fully able to realize their existing voting potential. This we refused to do -- and we will continue to object in the future to any redistrictings having a similar effect.

As you know, the President recently signed the extension of the Voting Rights Act. Under the new law, Section 2 of the Act was amended to adopt a "totality of the circumstances" standard for determining unlawful voting discrimination. We have already begun a vigorous enforcement effort under amended Section 2 of the Act. Just two weeks ago, the Civil Rights Division filed a brief in federal district court, arguing under the newly amended Section 2 that the at-large election system in Dallas County, Alabama, unlawfully dilutes black voting strength. We are also participating in a similar Section 2 action in New Mexico. Moreover, at my direction, the Assistant Attorney General for the Civil Rights Division

is currently in the process of creating a special team of lawyers and support personnel whose primary responsibility will be to enforce amended Section 2 of the Act.

Our efforts have been no less vigorous in guaranteeing all Americans the right to be considered for employment on the basis of individual ability, irrespective of group characteristics such as race, religion, or sex. In the past year the Department filed nine new discrimination cases against public employers, including suits against the state police departments of Vermont and New Hampshire as well as local police and fire departments in North Carolina and New York City. Seven other suits have been authorized and are currently in negotiation -- and thirteen new investigations involve some thirty-three other state and municipal agencies. In addition, numerous cases previously filed have been tried, won, or settled with favorable consent decrees. For example, our case against the government of Fairfax County, Virginia, resulted in a successful verdict for 1825 individual claimants and the largest monetary award of individual back pay ever obtained by the Department from public employers.

In the field of public education we have been working to ensure that no individual is denied equal educational opportunity because of race. Even beyond the question of student assignments, we have begun investigations in several cases to determine if the quality of education offered in some schools was intentionally and illegally inferior to that offered in other schools. Either through settlements or court orders, we have also obtained real relief in ten cases involving school districts from Texas to Indiana. We reached a very favorable settlement in the Louisiana higher education case and are pursuing similar cases in other states.

We have been active in other areas as well. We have begun twenty-six new investigations of state and local institutions under the Civil Rights of Institutionalized Persons Act -- and one has already resulted in a state's plan to close an institution. By successfully prosecuting a suit in Arizona under the Equal Credit Opportunity Act, we stopped lenders from discriminating against Native Americans.

We have also actively attacked discrimination in housing. We opened some eighty-two new pattern-and-practice discrimination investigations --

some of which have already resulted in our filing suit. In the Havens Realty case, we appeared as an amicus before the Supreme Court and took the position, with which the Court agreed, that under proper circumstances "testers" have standing to bring housing discrimination suits.

We in the Justice Department are proud of our record. It stands as clear and objective evidence of our commitment to guarantee the civil rights of all individuals, and to keep the doors of opportunity open to all regardless of membership in any racial, religious, or ethnic group.

In spite of this record of accomplishments, some have mischaracterized the civil rights efforts and objectives of the Department of Justice. They have chosen to brand a debate over some remedies as a difference over rights. Clearly, we have been in the process of evaluating the means by which government has sought to promote equality of opportunity during the last decade. Just as clearly, we have found some of those means ineffective. And we are therefore seeking new ways to promote and ensure the right of equal justice under law.

None of that suggests, however, that we are any less committed to the goal of equal opportunity than our critics.
We agree wholeheartedly with the framers of the Civil Rights Act of 1964 that civil rights are personal rights -- the right of the individual to be treated as an individual and not as a member of a group.

To this end, in the employment discrimination area, we work to ensure that individuals are treated on the basis of merit and not as members of some favored or disfavored group. Some have criticized us because we no longer seek to impose hiring or promotion quotas -- in other words, precisely because we will not seek to have individuals treated as members of some group and marked for different treatment because of their race or sex.

Quotas have not proven effective. More basically, they are contrary to our guiding principle of equal individual opportunity. Support for quotas confuses an individual right with a group remedy -- a group remedy which violates the principle underlying the individual right.

In our employment cases we seek full relief for those individuals who have been discriminated against. For example, when an individual has been a victim of illegal discrimination, we seek affirmative remedies such as backpay, retroactive seniority, reinstatement, and hiring and promotional priorities. We attempt to ensure that he or she is placed in the position he or she would have attained in the absence of the illegal discrimination. We seek appropriate relief for those individuals who were discouraged from applying for positions because of unlawful discrimination by the employer. Our remedial formula also includes recruitment efforts to increase the pool of applicants and injunctive relief requiring that future hiring and promotional decisions not be made on the impermissible basis of race or gender.

Confusion is also evident concerning our efforts to ensure equal educational opportunity regardless of race. No child should be assigned to a particular school solely because of race, and no child should receive less of an educational opportunity because of race. That is the mandate of Brown v. Board of Education, to which we are fully committed. That landmark decision vindicated the "personal interest" of pupils "in admission to public schools ...on a [racially] nondiscriminatory basis." Some, however, focus not on this "personal interest," but on racial balance within the schools. They advocate mandatory busing of students on the basis of race to "correct" any perceived imbalance. Experience has demonstrated, however, that such busing does not guarantee equal educational opportunity and often promotes segregation by encouraging many to leave the public schools.

Before the imposition of busing here in Los Angeles, white enrollment stood at thirty-seven percent. By 1980 it had dropped to twenty-four percent. When busing was imposed in Boston, white enrollment dropped from fifty-seven to thirty-five percent; in Dayton, from fifty-three to forty-three percent; and in Denver, from fifty-seven to forty-one percent. Some of this was the result of normal demographic change, but much is clearly attributable to the public's reaction to busing. A similar history is apparent in one community after another across the country -- for example, in Cleveland, Wilmington [Delaware], East Baton Rouge, Atlanta, Memphis, and Detroit. I do not consider it progress to act against one-race schools in a way that produces one-race school systems. Like all parents --

irrespective of their race -- our goal is a better education for all children.
We will therefore actively pursue remedies that further that goal most effectively.

If specific remedies have not been effective, vindication of the underlying right requires resort to new and different remedies. Any other view perversely elevates the remedy above the right. And, what is also troubling, such a view may actually undermine the right itself by drawing racial distinctions.

Today, I have reviewed our record in the area of civil rights and suggested why that record does not satisfy some of our critics. They would have us embrace remedies designed to achieve equal group results rather than secure the right of individuals to equal opportunity. They contend that we have abandoned civil rights because we have renounced quotas and busing for racial balance. We believe that those remedies disserve the Constitutional and statutory guarantees of freedom to participate in our society as an individual regardless of race, religion, sex, or ethnic background. The Department of Justice continues to lead the fight for that freedom, and for a more just America.

In 1882 -- 100 years ago -- the first "separate-but-equal" state law was passed. It has taken us the better part of the last century to eliminate the vestiges of the pernicious doctrine that separation enforced by law could ever mean equality. Today, in ensuring the civil rights of all Americans, we are concerned that the law not be used to separate society by treating persons differently according to their race. Surely, our future as a Nation would be best served by government action that treats individuals alike -- that forswears and combats efforts to treat them differently because of their race. We are working to make that future a reality. By working together on those issues about which we truly do agree, surely success will be guaranteed.

If progress is to continue on civil rights -- and it must -- we cannot be afraid to try new means of guaranteeing progress. The central question must always be whether we are moving in the right direction -- not just what methods we are using. In the case of this Administration's efforts, I am certain that the end we pursue is the same goal you cherish -- equal rights and equal opportunity. I am also certain that while we may differ on some of the remedies, there is total agreement

on most of the steps necessary to vindicate the basic rights involved.

I would like to end with a story told by Abraham Lincoln. Surely one of the most resourceful of all public servants, Lincoln once recalled his service as a captain during the Black Hawk Indian War. One day, his company was marching abreast across a field, and Lincoln saw ahead of them the gate through which they had to pass in single file.

"I could not for the life of me remember the proper word of command for getting my company endwise," he said. "Finally, as we came near, I shouted: 'This company is dismissed for two minutes, when it will fall in again on the other side of the gate."

In a similar fashion, though our approaches may be new in some ways, our goal is to get this society and all of its members through the gate of equal opportunity. I am certain that the policies we are pursuing will help to ensure that all Americans end up together on the other side. That truly is our aim -- and our hearts, like yours, are in that effort.