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The story of the Contract Buyers League, unfinished though it is, presents a model of social change that combines familiar techniques in an unusual and extremely powerful way. Rather than contributing to only one phase of social evolution, the Gamaliel Foundation workers have pursued their project through several stages, directly participating in each one.

The workers began with a so-called "listening process," isolating the problem they would attack from the everyday impressions and experiences shared by the black people in whose ghetto neighborhood they lived.

Next, they immersed themselves in Nader–like consumer research, measuring the exploitation in dollars and cents, and identifying the exploiters by names and addresses, thereby transforming gut feelings into a documented pattern. At this point, they could have merely turned over their findings to the mass media where the impact would be dissipated when the intense but short-lived attention of the press was played out. Instead, they organized a series of small meetings with the black homebuyers and showed to each the details behind his contract and how his neighbors were in a similar predicament.

The findings were withheld from the mass media out of fear that their impact would be dissipated when the intense but short-lived attention of the press was played out.

This use of information laid a natural basis for the next stage, a Saul Alinsky–type of organization for power. The workers realized that the power of the buyers' group would best be exercised in accord with a principle of "independent interaction." This principle implied mobilizing legal, financial, political, religious and journalistic institutions by direct pleas, pressure if necessary, brought to bear by the organization itself. They hoped thereby to avoid the dangers of dilution, distraction and co-optation inherent in alliance with other existing groups.

Finally, by emphasizing the opportunities for continuous education, both for the workers, many of whom were students, and for the ghetto residents themselves, the whole project was cast in the light of a mutual learning experience.

The most astonishing thing about the Contract Buyers League story is that this particular problem of housing, race and poverty has never before been fully recognized. The issue of racial discrimination has usually been seen as one of how to get blacks admitted into white areas or how to prevent "panic peddling" and "blockbusting" so that property values will be protected. Rarely have the specially oppressive contracts imposed upon blacks because of their captive market position been viewed as discrimination. The problem of ghetto housing has popularly been seen only as a matter of constructing new public projects, enforcing building codes, or strengthening tenants' rights. The issue of the frustration of the desire of black citizens to own and maintain their own homes by unconscionable profiteering has been completely overlooked. When we consider that housing takes a tremendous share of the ghetto dweller's budget

and that the ghetto's conscientious homeowners, not prone to militance, are its best hope for self-improvement, the oversight is even more astonishing. Home purchase exploitation deserves as well as any other issue to be called the most critical problem facing our black population.

The singular success of the Gamaliel Foundation workers in focusing on this problem and pursuing it with relentless, undistracted devotion is primarily due to their continued adherence to a sincere, open listening attitude toward the people they are serving. Their basic faith is that there can be distilled from the values perceived and shared by the people themselves not only an identification of the problem, but the best eventual resolution and the appropriate means to that end as well. In the fact of too-long unchallenged established values based on economic assumptions irrelevant to a ghetto market, the workers believe that laymen's thoughts about what is fair, reasonable, right and just are entitled to as much respect as the judgment of "professionals" and may be ethically more satisfying and perhaps eminently more practical.

Their faith belies an issue which has important implications for the legal profession. That issue explains the CBL's inability to achieve much short-range success and implies that long-range success may be forever beyond its grasp. Despite the CBL's efforts to adhere to the common sense notions of natural justice held by its members, the League found that when it had to take its problems to attorneys and judges, these men didn't listen very well. The conflict between the Contract Buyers League and the judicial process may be attributed to the irreconcilability of a movement based on "people power" and an institution based on abstracted rules. Yet this tension could be reduced a great deal if the legal system would realize that it is rooted anthropologically in human values and, therefore, ought to constantly renew contact with those values.

A classic example of loss of contact between the legal profession and an injustice as perceived is presented by the story of the federal class action now moving toward trial. Once the problem of contract buying had been researched and the buyers had organized, they went to some thirty lawyers, including several in the law firm that finally filed the federal suit, to see whether the law could remedy such an injustice. None of the lawyers could suggest a cause of action. It was not until hundreds of contract buyers were in deep trouble from the first rent withholding and about to lose their homes that the lawyers seriously attempted to translate the contract buyers' exploitation into a legally cognizable wrong. The first fact of life which confronted the lawyers when the buyers returned to them, summonses in hand, was merely procedural: the swift summary action of the forcible entry and detainer proceedings in Cook County Circuit Court had to be stopped, either by raising a defense in the eviction suits or by going into a state court of equity or a federal district court to obtain an injunction against continuance of the county circuit

court actions. The top talent of Jenner, Block and McCoy, Ming and Black decided on an affirmative suit against the contract sellers in federal court on behalf of all contract buyers in the city of Chicago as a class. Overnight they threw every fact of possible relevance to the contract buyer's misery into a complaint whose factual allegations ran forty pages. They listed, as laws which might be violated, a raft of old Federal Reconstruction Civil Rights Statutes, the Sherman Anti-Trust Act, Illinois commercial laws on usury, unconscionability, and warranties, and even federal securities statutes. Under pressure, they had listened to the whole story the black homebuyers had to tell. They were then able to lay out the facts beside a broad field of possibly relevant laws.

As it turned out, the federal suit was of almost no use in staying evictions, but it did provide some hope that the law would see in the contract buyers' situation an injustice which it would correct. However, Judge Will, in upholding the civil rights claim over a motion to dismiss, seemed to seize only upon certain aspects of the complaint. The CBL lawyers had translated their clients' entire story into legally cognizable terms, yet Judge Will altered this by the language of his opinion when he attempted to fit these problems into traditional definitions of racial discrimination. The way he saw it, the core of the problem was that the sellers had charged blacks higher prices than they would have charged whites.

It can be demonstrated by rather simple economic analysis that to cast seller behavior this way involves the wholly mistaken assumption that realtors would sell at lower price to a white than to a black of similar purchasing qualifications. This the buyers would have to prove in court. Thus, Judge Will may have characterized the buyers' claim in such a way that it will be impossible for them to prove their case at trial. Even if the buyers get that far, there is the danger that on appeal the Seventh Circuit or the Supreme Court may reverse, holding that though the facts were proved in accordance with Judge Will's description of the cause of action, Judge Will failed in his attempt to fit the claim within discrimination as traditionally defined.

If Judge Will had listened more openly to the main theme of the CBL complaint, that of *racial exploitation,* he might have shaped the cause of action so that it would correspond to the injustice as the buyers actually felt it. Their sense of exploitation can be stated in a legally cognizable way: the sellers, knowing the buyers were the victims of a racially segmented housing market, took advantage of the blacks' lack of bargaining power to make large profits and to maintain in the sellers' hands an inordinate advantage in contractual conditions and privileges. Such an understanding would be more appropriate to the kind of case the buyers could realistically hope to present at trial. Since it is based on a broader analysis of how all market participants on the supply side injure blacks, rather than on the narrow traditional definition of white-black discrimination, the notion of racial exploitation might be received more favorably by appellate courts because it shows more clearly the distinctive racial features of this particular contract selling phenomenon.

Just as the thirty lawyers originally saw nothing legally actionable in the CBL story, Judge Will approached the facts with the preconceptions of his legal training and experience. Although he referred to "exploitation" and "advantage-taking" in his opinion, when he came down to identifying what precisely was illegal he mistakenly fell back on a traditional notion of discrimination: that one's treatment of blacks must be compared with his treatment of whites. Thus, he gave the buyers a tenuous basis for relief.

The legal institution, which is really no more than the people who keep its gates and who apply their learned reason to citizens who gain entrance, was not able to listen to the problem like the Gamaliel Foundation workers who had first begun living in the ghetto. Largely because of this disparity in "listening" ability, the CBL movement for social change and the legal institution with which it must interact have experienced and will continue to encounter varying degrees of misunderstanding and discord.

Another instance of the gulf between the legal institution and basic notions of justice can be cited in the way the circuit courts of Cook County handled the eviction suits arising from the holdouts. At the time of the second big CBL holdout, the circuit courts had gained the reputation of "eviction mills". A Chicago newspaper uncovered the story of one judge who, in the midst of churning out dozens of eviction orders per hour, left his bench for a few minutes and let his clerk carry on with the docket. CBL "holdout" families received similarly cursory treatment, even though they each attempted to raise in their defense the allegations of the entire federal lawsuit. The judges told the people their hands were tied by statute, but to the buyers it seemed rather a case of judicial hands washed after the fashion of Pilate. Frequently heard at CBL meetings were anguished tales of eviction proceedings that showed how far the courts had actually fallen below the peoples' expectations of American justice. Buyers told how they were not permitted to speak except to say whether or not they had received the default notice and paid in full. If a jury was demanded, the judge would either take the question away from the jury or "tell them how to vote." The buyers were more than disappointed; such treatment made them feel that economic weapons were their only hope for justice, thus fanning the flames of the holdout and bringing them into further conflict with the courts.

All the contract buyers' frustration with this procedure could be dismissed as naive were it not for the fact that when a few eviction defendants who had posted the requisite appeal bond reached the Illinois Supreme Court many months later, the Illinois justices held that the forcible statute did allow the contract buyers' defenses. In other words, if a county circuit judge had permitted the defenses to be raised, his discretion would have been upheld. If just one judge had done that, the CBL lawyers would suddenly have had the opportunity to go down the street and prove their federal civil rights case in state court. Aside from the impetus this might have given the trial discovery process, it would have made it imperative that the question of interim contract payments be settled in a way acceptable to both federal and state courts. In the final analysis, the lesson of the eviction

defense story is that when a particular procedure is so much at odds with what a citizen conceives to be his "day in court," judges, especially judges with the lowest general and original jurisdiction, must listen carefully and be ready to respond when certain basic values are presented more strongly than ever before.

As a final and perhaps most telling example of how legal institutions can benefit from a sincere listening process, there is the issue of how the economic relationship of buyers and sellers is to be structured during the period before final judgment on the merits of each party's position is reached. The most important problem faced by the CBL members, their lawyers and backers, by the courts and other mediators, and by their opponents has very simply been the question of *money*.

The contract sellers' point of view is that the fact of litigation should not be allowed to disturb the monthly obligation of their buyers to make installment payments to them. The law, viewing contracts with an approach cognate to the presumption of innocence, almost always agrees.

For this money flow to be cut off by a payment strike means that the whole buyer-seller economy is thrown out of order. Sellers cannot meet monthly mortgage, tax and insurance costs for which they had relied on a revenue stream from the buyers. Buyers get to live in their homes for free. And if the reason for the strike turns out not to be legally valid, the money owed the sellers may have been irretrievably dispersed.

The contract buyers' point of view has never been as extreme as the sellers visualize it. Their desire not to pay the sellers has been tempered by a feeling of justice which takes into account, to some degree, what the seller is entitled to expect. First of all, the CBL members have conscientiously felt that it would not be right for them to live in their houses for free. Their holdout system, making out money orders to themselves in the amount of their regular monthly payments and depositing them with the League was a pledge of honor buttressed by the penalty of denial of CBL-retained legal assistance to those who did not keep their deposits current. Furthermore, the central depositing procedure was a sort of guarantee that the funds would not be lost.

The reasonableness of the buyers' position and their willingness to compromise is evident from the numerous proposals they made to federal and state judges for depositing the monthly payments in the hands of the court. In fact, they often characterized their money order procedure as the best they could do since the courts would not set up an escrow fund. The buyers' proposals included authorizing the court to make disbursements out of the fund for the sellers' mortgage costs, taxes, insurance and even operational overhead. Yet not the slightest degree of acceptance was indicated by any of the courts involved in the conflict.

The stance of the state courts was firmly dictated by the appeal bond provisions of the forcible statute. Within five days after a judgment of eviction, the defendant had to supply a lump-sum cash bond equal to the amount of the default, *plus* the monthly payments which would be due during the pendancy of the appeal. Thus, most appeal bonds were fixed in the three to four thousand dollar range, on the assumption that the appeal would take at least a year. Despite offers by CBL to post securities lent by their backers or to pay the bonds themselves in monthly installments, the courts did not budge.

On two occasions it appeared that the sellers would have to make some concessions on the money issue. Judge Will's order of April 3, 1969, contemplated the resumption of payment by striking CBL members and the deposit by defendant sellers with a court-appointed trustee of one-half of their profits as security for the plaintiff-buyers. And a year later, Mayor Daley's attempt at mediation of large-scale evictions involved the posting of a $100,000 bond, form unspecified, by a certain new home seller. However, these proposals gained little favor from the contract buyers, for direct payments to the sellers were still required.

In actuality, the most compromising buyer proposal and the most generous schemes of Judge Will and Mayor Daley differed by only a few dollars per month per contract. The crucial difference was to *whom* the payments had to be made. The buyers could never tolerate direct payment to the sellers, for, as Judge Will himself recognized, since the buyers believed they were being exploited and had received some legal support for this belief, each payment was a "continuing indignity." Why didn't the courts really listen to what concerned the buyers most? It would have been a small thing to indulge the buyers' preference, since the revenue flow, once the arrangement had been set up, was virtually the same. When one looks at the courts' frequent use of receivers for tenants' complaints against their landlords for lack of housing code adherence, it is amazing that no judge in the CBL controversy took a similar step.

Instead, the legal institution was deaf to the most reasonable requests by the buyers for a judicially-approved escrow fund. All the suffering which ensued was an unnecessary sacrifice to the sanctity of the seller's personal right to collect. It was bad enough that lawyers misunderstood and for a long while could not even begin to comprehend the black homebuyers' exploitation claim. It was bad enough that the county circuit judges would not hear valid defenses to eviction suits. Few judges knowingly take on the risk of reversal. But the worst listening problem occurred when the courts clung to the unexamined assumption that the sellers' right to direct payment was untouchable and closed their ears to black people who were crying out that their fight against the human indignity of direct tribute to racial exploiters was worth staking everything they had.