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## PERSUADER: MOBILIZATION OF SUPPORT

*Mary Ann Beattie\**

Law reform can be achieved through precedent-setting case law and through legislation. Each is a time-consuming activity with its own stumbling blocks. To establish law through the case method, one must have a fact situation directly on point with the inequity which one is trying to remedy. In many situations the client must be willing to follow through a long process of trial and appeal, instead of settling for a more immediate but incomplete resolution of his problem. The costs of litigation may become an insurmountable problem. Another difficulty with the test case as a vehicle for law reform is the possibility that a decision is rendered for the client in such a way as to avoid decision on the issue to be tested. For example, a case may be decided as a matter of statutory construction so that any constitutional question is avoided.<sup>1</sup>

The legislative approach, on the other hand, may mean dealing with very broad areas of the law and may require months of exhaustive research of the law in one's own jurisdiction as well as in others. Moreover, the drafting of legislation lacks the excitement of a courtroom battle. Still drafting is only the initial step. Passage of legislation, particularly when the proposed bills are a radical departure from traditional law, requires a coalition of forces with enough political acumen and influence to sway the legislature. Traditionally, "do-gooders" have neither.

The University of Detroit Urban Law Program,<sup>2</sup> however, intended from

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<sup>1</sup> This is not to say that this approach has failed to score some significant successes. Case law is being made constantly in areas of the law which particularly affect the poor, notably tenants' rights, consumer credit transactions and welfare law. Decisions of major import have been won by legal service programs throughout the country. In *Edwards v. Habib*, 227 A.2d 388 (D.C. Ct. App. 1967), the Washington, D.C. neighborhood legal services program won a ruling that a tenant could not be evicted in retaliation for reporting a sanitary code violation. Another decision with potentially radical effect for persons living in slum housing was the ruling in *Brown v. Southall Realty Co.*, 237 A.2d 834 (D.C. Ct. App. 1968), that a lease is invalid if the housing was in violation of the housing code at the time of rental. Federal courts in several jurisdictions have declared residency requirements for welfare assistance benefits unconstitutional: *Thompson v. Shapiro*, 270 F. Supp. 331 (D. Conn. 1967); *Green v. Dept. of Public Welfare*, 270 F. Supp. 173 (D. Del. 1967); *Barley v. Trobriner*, 279 F. Supp. 22 (D.D.C. 1967); *Ramos v. Health and Social Services Board*, 276 F. Supp. 474 (E.D. Wis. 1967); *Smith v. Reynolds*, 277 F. Supp. 65 (E.D. Pa. 1967). The Supreme Court of the United States will hear arguments on the residency requirements in the present term.

<sup>2</sup> The Urban Law Program was established at the University of Detroit Law School with a grant from the Office of Economic Opportunity in September 1965. It

its inception to focus part of its resources on law reform. Early in the Program's development a decision was made to concentrate its research component on drafting bills that would make the relationship between landlord and tenant more equitable. This decision was based on two considerations. The first was that the number and kind of housing cases referred to the Urban Law Office demonstrated that a tenant was defenseless in an eviction action brought by his landlord regardless of the merits of his case and that his remedies to effect housing code enforcement were negligible. The second factor was the depth of interest in housing problems expressed at meetings before the Common Council of the City of Detroit and in protests by community groups who had determined that better housing conditions would be their most immediate goal.

Yet there seemed to be a dearth of action that would effect the needed change quickly. Some concrete activity was necessary to provide a focus for all interested groups so that the problem might begin to be ameliorated. Thus, the Urban Law Program decided to direct its first research effort toward drafting a revision of the State Housing Code and other State laws concerned with housing. It was felt that some legislation was needed at the State level to enable municipalities to effect changes. In addition, legislation at the State level would be beneficial to all communities in the State, many of which faced the same problems as Detroit.

The Program also decided that when the research was completed and a working draft of legislation had been formulated, it would call a meeting of grass-roots people to consider the bills, asking for their advice on amendments and supplementation. The Conference was planned to permit those persons suffering the conditions that the proposed laws would address to express their reaction to the bills. Specific proposals that would lead to an action program were to be the crux of the meeting. This format distinguished the Conference from its predecessors because it offered the participants an opportunity to engage in dialogue that would result in concrete actions in which they could also play a part.

The original intent was to invite only persons of low income, but it was soon realized that conference participation could not be so strictly limited. There were too many other people actively involved with housing problems including landlords, city officials responsible for housing code enforcement, urban renewal, "poverty," and church and other civic leaders whose expertise would be beneficial to a consideration of the bills. Broadly based representation would also provide a kick-off for a State-wide organization formed to promote the passage of legislation finally proposed. This

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includes three component sections: the Urban Law Office which services individual indigent clients, a research division and a community education division which works with community groups. The program is staffed largely by senior and junior law students who, according to Michigan Court Rule 921, are enabled to represent indigent clients, under the supervision of a member of the Bar, in those courts where the judge grants his permission.

organization would help to educate others throughout the State that the bills were before the Legislature and that, if the Legislature could be persuaded to act on them, some new tools for dealing with unsafe and unsanitary housing conditions would be available. To accommodate those persons of low income who would attend the Conference, only a nominal registration fee was charged. Since the Urban Law Program had no money allocated for meetings of this kind and the University of Detroit could not subsidize the Conference fully, the support of other interested organizations was sought. The Human Relations Commission of the Archdiocese of Detroit, the Housing Task Force of the Detroit Council of Churches and the United Auto Workers all agreed to act as co-sponsors.

The Conference was not directed solely to legislation on tenants' rights and code enforcement. Other problems under consideration were fair housing legislation, the rights of those displaced by urban renewal and other forms of government action, and a strengthening of the recently enacted Michigan State Housing Authority.

After an exposition of each problem by an expert in the field, the recommendations of the participants were discussed. A number were incorporated into the bills finally introduced in the Michigan Legislature in the spring of 1967. One suggestion was the inclusion of a presumption that a tenant had been evicted in retaliation by his landlord if the tenant had taken any actions protected under the act within ninety days prior to his notice to quit.<sup>3</sup> The Conference also suggested the creation of Boards of Tenants' Affairs in public housing. This proposition was put in bill form and introduced in the Legislature with the other bills suggested and reviewed by the Conference.

The Conference evoked much enthusiasm and support for the bills. In order to marshal this support the Committee on Law and Housing was formed; it was a loose organization of groups and individuals interested in supporting the proposed legislation. Over the months its mailing list grew to eight hundred. A steering committee was created to direct the educational and lobbying efforts of the full committee.

The Urban Law Program staff and the Committee on Law and Housing worked hard to secure support for the bills during the 1967 spring legislative session. Urban Law staff members frequently testified before committees considering the bills, spoke to legislators in attempts to elicit their support, and worked to catalyze activity throughout the State to influence the legislature.<sup>4</sup> Although two of the bills received favorable committee

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<sup>3</sup> This section was deleted in the redraft of the bill which emerged from the New Detroit Committee.

<sup>4</sup> Most of the appearances of Urban Law Program personnel before legislative committees were at the suggestion and/or invitation of legislators themselves, particularly those who sponsored the bills. Similarly after the Governor became committed to the passage of the bills, his staff, continually involved with the progress of the bills, often requested that Program personnel appear before committees.

action and one received a plurality of the vote in the House of Representatives, not enough support could be garnered for passage.

In retrospect the lobbying effort of that first spring must be viewed as less than competent or courageous. The people who sought out legislators were usually talking to the senators and representatives who already supported the legislation. Direct action, such as mass marches upon the capitol, was advised against throughout the lobbying process, though it was often the only tool at hand. Not enough effort was made in the early stages to attract to the campaign those persons and institutions who might have been able to exert effective pressure, had they become concerned.

The package of bills sponsored by the Committee on Law and Housing, however, did elicit enough interest that special hearings were scheduled on a large number of housing bills, including the tenants' rights and code enforcement legislation. The Urban Law Program assisted the Senate State Affairs Committee in assembling witnesses for the hearings it held in Detroit in the summer of 1967. The State Affairs Committee was considering the code enforcement bill and amendments to the State Housing Authority. Sitting with other legislators from both the House and the Senate who were members of committees considering other legislation in the area of housing, members of the Senate State Affairs Committee heard three days of testimony from concerned citizens within and without the City of Detroit. Homeowners' groups, churchmen, tenants' groups, community associations, government officials and civic organizations were all well represented.

The Detroit riot put the passage of this legislation into a completely new perspective. As one of its first actions, the New Detroit Committee, a coalition of civic leaders formed within a few days of the riot, endorsed the goal of open occupancy and assigned a task force to draft a bill in this area. At a meeting held soon after this action was taken, several grassroots leaders favored supporting the tenants' rights and code enforcement bills. Since all the members were not familiar with the bills and few knew them in detail, the Committee voted to endorse only the intent of the legislation. The bills were then redrafted by staff members of New Detroit and the Urban Law Program.

These bills, along with the open occupancy proposal, received the support of Governor George Romney who put them on his agenda for the special legislative session called in the fall of 1967. The other item that was before the legislators was court reform, a matter demanding their immediate attention in order to conform to a schedule for reorganization of the courts set out in the Michigan constitution.

With court reorganization and open occupancy claiming the Legislature's full attention, the proponents of tenants' rights found themselves unable to force action on their bills. Time was extremely limited in the special session and both issues under consideration were emotionally charged and led to lengthy debate. In the last days of the special session attempts were

made by the tenants' rights supporters to obtain some action on the bills, but by then it was too late.

The administration and legislative supporters of the fair housing package believed that the issue of fair housing had to be dealt with before any of the housing bills could come to the floor. They reasoned that legislators would be forced to take sides on open housing and that the rest of the package could be passed if this bill were passed. All theorized this way even though most, if not all, agreed that the more necessary and meaningful legislation for those living in ghetto areas was the package of tenants' rights bills.

In the regular session of 1968 a fair housing law was passed, and in due time the five tenants' rights bills received favorable action in both houses and were signed into law by the Governor. During this session there were more hearings on the bills. Interestingly, the Board of Tenants' Affairs bill, probably the least crucial in light of the larger problems to which the other bills were addressed, created the most controversy in committee. Since housing project officials from some cities in Michigan were strongly opposed to the bill, the Senate Municipalities Committee incorporated language intended to restrict its coverage to cities of one million or more persons.<sup>5</sup> In addition, the Committee voted to remove the Board's veto power, although a conference committee later reinstated it.

Final passage of the bills reflects the success of the lobbying effort. In addition to the role of the Urban Law Office and the Committee on Law and Housing, it is essential to assess the role of the 1967 Detroit riot and the New Detroit Committee. The Committee included many of the most prestigious citizens of Detroit, presidents and chairmen of large corporations as well as leaders in government, unions, the church, and community and civic organizations. It became the focus of energies directed toward eliminating the causes of riots. Under the chairmanship of Joseph Hudson, it came to represent a liberal voice for new social institutions and patterns. Yet with few funds at its command, the Committee was not in a position to initiate many new programs. In fact, in its early months of operation its most notable action was the endorsement and support of the fair housing package.

During the special session of the Legislature, machinery was set up through organizations affiliated with the New Detroit Committee to lobby for the passage of the package. In addition, members of the Committee flew to Lansing for widely publicized meetings with the legislators. All of

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<sup>5</sup> The language of the bill is open to interpretation because only in the title does the restriction of one million population appear. In the body of the bill, Section 49 (PUBLIC ACT 344 of 1968), which reads, "There is created a board of tenant affairs for each city, village or township having a housing commission operating one or more housing projects as provided by this act," no mention is made of the size of the city in which the provisions of the bill are to apply. It should also be noted that despite opposition from officials in other cities, the Director of the Housing Commission in Detroit did endorse the bill.

this lobbying effort came to naught in the special session when none of the bills secured passage. However, it probably did lay the groundwork for passage in the regular session.

During this later session very little lobbying was done by the New Detroit Committee or persons connected with it. One reason for this lack of activity may have been a reaction to criticism leveled at New Detroit for its lobbying effort during the earlier session. Outstate legislators were said to be incensed at the pressure brought to bear by the Committee. Another reason may have been New Detroit's concern over jeopardizing its tax-exempt status. Whatever the causes, New Detroit was not responsible for much of the lobbying effort in the regular session, though its early efforts were influential in the final outcome. These not only brought pressure upon the legislature but also secured the endorsement of Governor Romney, whose support was probably the major component in the eventual passage of the package.

Another important factor in the passage of the tenants' rights package was its characterization as the most progressive social response to the Detroit riot that was before the Legislature. Over a hundred anti-riot and anti-crime bills were proposed in the regular session, some extraordinarily repressive, many raising questions of the protection of civil liberties. Although there was considerable sentiment in support of anti-crime legislation, there was some feeling among most legislators that an attempt had to be made to deal with the causes of the riots themselves.

Supporters of the housing package understood that its passage depended upon their support of at least some of the proposed crime legislation. The scheduling of votes on the housing bills in some instances was linked with the timing of anti-crime bills. This strategy, of course, was outside the province of the amateur supporters of the housing legislation, representing rather the workings of a Legislature still very mindful of the grave civil strife which had taken place the summer before. Those strongly in support of new social reform measures were few, relative to those who demanded new means to curb similar disturbances.

Certainly the two main factors in the passage of the housing bills were the support of the New Detroit Committee and the interplay of ideologies of the legislators, those favoring extremely repressive measures as the cure to riots and those who propounded the philosophy that the causes needed treatment. It is interesting to reflect, however, that if the package of tenants' rights and code enforcement legislation had not been drafted and introduced into the Legislature the spring preceding the Detroit riot, those seeking to ameliorate the conditions of inhabitants of the core cities probably would have seen open housing legislation as their only response. As conceded by most who live in substandard conditions and most students of the problems, such legislation has only a very long term effect on the quality and supply of housing available to minority families of low and moderate income. Thus, it was fortuitous that the tenants' rights and code enforcement bills

had been prepared when the New Detroit Committee met to evaluate what legislative measures it would endorse.

There is a need for more preparation of legislative proposals by groups who are perhaps more conversant with certain problems than are legislators themselves. It is essential that lawyers working in legal service and legal aid programs, social workers, and others who are serving in the many-faceted war on poverty apply their time and talents to drafting legislation in those fields where reform can be accomplished through the legislative process. This endeavor will also demand a grouping of forces powerful enough to bring pressure on state legislatures. It means an expenditure of time and money to educate and persuade persons and groups that this kind of reform is needed. The services of a lobbyist may well have to be acquired. All of these efforts demand a more than part-time commitment, but it is a task that should not be left undone.



