Chapter 6

CRLA: BROADENING THE CONFLICT

A leading consequence of the Civil Rights Movement was the decision of the Kennedy Administration to make poverty a central issue in the 1964 elections. Drawing upon a surge of feeling for national unity in the wake of the assassination of President Kennedy, Lyndon Johnson was able to draw upon broad support, although support was confined in Congress rather strictly to the Democratic party, to win passage of the Economic Opportunity Act of 1964. The act was designed to gain national commitment, high visibility, and assured funding for a range of complex and experimental programs designed to provide assistance principally in the fields of education, literacy, health care, and legal services.[1] Since the principle of "maximum feasible participation" of the poor entailed a transfer of political power from established institutions such as city governments, schools, and welfare agencies, the War on Poverty was beset by controversy and struggle from the outset, and within one year the Vietnam War was gravely undercutting its funding.[2] The Office of Economic Opportunity (OEO)

[1] Sar A. Levitan, *The Great Society's Poor Law: A New Approach to Poverty* (Baltimore: The Johns Hopkins Press, 1969).

[2] John C. Donovan, *The Politics of Poverty* (New York: Pegasus Press, 1967) provides an excellent analysis of Johnson's ill-fated poverty program. Daniel Patrick

shunned assistance to unionization efforts, but the chances of unionization were perhaps enhanced by OEO programs and the climate in which they grew. The impetus for unionization, however, would have to come from below and from outside government. Still, the OEO programs reflected a distinct stage in the progress of the farm workers' struggle for recognition and equal treatment. Fuller recognition of farm workers' rights as citizens and workers was something effective legal advocacy might achieve. To this task, California Rural Legal Assistance (CRLA) addressed itself.

With the creation of CRLA the federal government lent support to the farm workers' cause. The government's reasons for getting involved were highly political, but with the funding of CRLA, the government became an active participant in the spread of conflict. Though financed by the federal government, CRLA was conceived by private citizens — middle-class, liberal reformers who wanted to practice "preventive law" on behalf of farm workers. The original proposal to fund CRLA was drafted by James D. Lorenz and Daniel Lund. Lorenz was a Harvard Law School graduate in his mid-twenties who was, at the time, an associate attorney with O'Melveny and Myers, a prestigious corporate law firm in Los Angeles. Lund, also in his twenties, was a Yale University Divinity School student who had been organizing farm workers in the San Joaquin Valley. Lorenz had gotten interested in organizing a legal services program to benefit farm workers through his involvement, dating from June 1965, with the Emergency Committee to Aid Farm Workers. He wanted to do a survey of laws affecting farm workers, but had received little encouragement and assistance with that project and so turned to a consideration of a legal services program instead.[3]

The origins of CRLA stand in marked contrast to the origins of the UFW. Lorenz was interested in the legal problems of farm workers but initially thought only of doing a survey and analysis of the problems. He was quickly caught in the legal services movement, but the need for such an activist program as CRLA emerged from a professional, even academic, interest. He was eager to make a mark on his profession. He compared working at O'Melveny and Myers to "leaving footprints in wet sand" and

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Moynihan presents the case against community action in *Maximum Feasible Misunderstanding* (New York: Macmillan Co.–Free Press: 1969).

[3] Interview with James D. Lorenz in CRLA files, dated 1966.

chose the farm workers' cause to make his mark because "this was an area for a social entrepreneur."[4]

CRLA appealed to national legal standards. The original plan, as formulated by Lorenz, was to uphold the legal principle of formal equality for farm workers who were not getting fair treatment under state and federal laws. CRLA was set up to help the rural poor in general, but its focus was the California farm worker. A particular interpretation of the principle of equal justice was pushed by CRLA's first deputy director, Gary Bellow, a legal scholar and practitioner of poverty law. Bellow had earned an LL.B. at Harvard Law School and a master's degree in criminal law at Northwestern University. Intent on becoming a criminal defense attorney, he had gone to work for the Public Defenders Agency in Washington, D.C., where his talents were recognized, and he was rewarded with an appointment as deputy director. In 1964 Bellow was named Young Lawyer of the Year by the Washington Bar Association.[5] In Washington, Bellow met Jean and Edgar Cahn, attorneys closely associated with the fledgling legal services movement and advocates of political activism on the part of attorneys. Through the Cahns, Bellow became interested in the use of lawyers to help organize poor communities. When the United Planning Organization, a nonprofit corporation in Washington, decided in 1964 to sponsor a legal services program, Bellow helped write their proposal for submission to the Ford Foundation. The UPO's Neighborhood Legal Services Program (NLSP) was eventually funded, and Bellow persuaded a graduate school friend, Earl Johnson, to join it as deputy director.[6]

With his interest in legal services and community organizing heightened, Bellow left the public defender agency and joined the UPO in April 1965. As the UPO's administrative and later, deputy director, he was responsible for training community organizers, coordinating organizational efforts, and building political strategies around such issues as welfare, housing, and community planning. His work led him directly into such activities as organizing tenant groups and conducting rent strikes. Through

[4] James Lorenz, Daniel Lund, and H. Michael Bennett, "Proposal to Aid Farm Workers and Other Poor Persons Residing in the Rural Areas of California," submitted to the Office of Economic Opportunity in March 1966.

[5] Biography of Gary Bellow, document in CRLA files.

[6] Interview with Gary Bellow in CRLA files, dated 1967.

this experience, Bellow became convinced that the full potential of legal services as an organizing tool was not being effectively used. NLSP seemed to be misdirecting its energies.[7]

A debate ensued over the interpretation and application of national legal values. The original concept behind legal services can be called the "service model." Here the idea was to increase the. availability of legal services to poor people so that they would be adequately represented within the political and economic system. Neighborhood legal offices would help individual clients with problems stemming from such things as landlord–tenant relations, wage garnishments, welfare, consumer credit, and family relations. This model assumed that the social order was fundamentally sound, with the legal services program solely a means of ensuring that grievances of poor people were heard by the proper authorities. This has been the attitude traditionally adopted by the American Bar Association (ABA) and other bar groups.[8] The service model generally led to extremely heavy caseloads as legal services offices tried to help every client who came through the door. But a more fundamental problem, as Bellow saw it, was that lawyers who were overwhelmed by heavy caseloads might fail to see areas where the law itself would have to be reformed before the poor could obtain equal justice.[9]

This realization led many proponents of legal services to endorse the "law reform model." This model emphasized rule change and the representation of groups of poor people as well as service to individual clients. Based on the example of *Brown v. Board of Education*, the objective of legal services under the law reform model was to establish broad legal principles and change administrative rules in a way that relieved the plight of poor people. The basic instrument for this purpose was the test case, which was

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[7] Jerome E. Carlin and Jan Howard, "Legal Representation and Class Justice," *UCLA Law Review* 12 (1965): 381–437.

[8] Edgar S. Cahn and Jean C. Cahn, "The War on Poverty: A Civilian Perspective," *Yale Law Journal* 73 (July 1964): 1316–1341; Edgar S. Cahn and Jean C. Cahn, "What Price Justice: The Civilian: Perspective Revisited," *Notre Dame Law Review* 41 (1966): 927–60; Jerome E. Carlin and Jan Howard, "Legal Representation and Class Justice," *UCLA Law Review* 12 (January 1965): 417; A. Kenneth Pye, "The Role of Legal Services in the Antipoverty Program," *Law and Contemporary Problems* 31 (Winter 1966): 220–21.

[9] Ed Cray, "Social Reform Through Law," *The Nation*, October 14, 1968, 368–72.

brought to attack unfair practices of government agencies or private companies and to establish new rights for the poor.[10]

In 1964–65, most lawyers in the legal services community espoused some combination of service to clients and rule change, with increasing emphasis on the latter.[11] Gary Bellow, however, believed that both models were inadequate. He came at the problem from a different perspective:

> I had been a criminal defense lawyer and then had gone to UPO where for a year and a half we did street organizing . . . I saw legal services as an arm of community organizing — that is, the lawyer was to function as part of a political effort — at times as a lawyer, at times as an organizer, an educator, teacher, and PR man.[12]

Bellow was particularly sensitive to what he saw as the shortcomings of the test case law reform model.

> The worst thing a lawyer can do — from my perspective — is to take an issue that could be won by political organization and win it in the court. And that is what Legal Services did all over the country. They took the most flagrant injustices — the ones that had the potential to build the largest coalitions — and they took them into the courts, where, of course, they won. But there was nothing lasting beyond that.
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> If a major goal of the unorganized poor is to redistribute power, it is debatable whether judicial process is a very effective means toward that end . . . "rule" change without a political base to support it just doesn't produce any substantial result because rules are not self-executing: they require an enforcement mechanism. California has the best laws governing working conditions of farm laborers in the United States. Under California law workers are guaranteed toilets in the fields, clear, cool drinking water, covered with wire-mesh to keep flies away, regular rest periods, and

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[10] "Law Reform Should be the Top Goal of Legal Services," OEO Press Release 67-51, March 18, 1967.

[11] National Legal Aid and Defender Association, "1966 Summary of Conference Proceedings" (Chicago: National Legal Aid and Defender Association, 1966), 45.

[12] Bellow interview.

[12] Bellow interview.

> a number of other "protections." But when you drive into the San Joaquin Valley, you'll find there are no toilets in field after field, and that the drinking water is neither cool, nor clean, nor covered. If it's provided at all, the containers will be rusty and decrepit. It doesn't matter that there's a law on the books. There's absolutely no enforcement mechanism. Enforcement decisions are dominated by a political structure which has no interest in prosecuting, disciplining or regulating the state's agricultural interests. It's nonsense to devote all available lawyer resources to changing rules.[13]

According to Bellow, the lawyer should devote himself to the creation of a mechanism that would produce substantial and lasting change in government and in private behavior.

> This is inevitably a political as well as a legal problem. We can try to generate pressures on the parties involved by bringing public attention to the problem, or try to develop sanctions for noncompliance with existing laws, or attempt to develop institutional mechanisms to keep the problem visible. Sometimes we can achieve these results with a law suit. Sometimes a legal decision can produce conforming behavior. But, what happens when we go away — when the pressure abates? Legal victories can be so easily circumvented. If one avenue is blocked, five other alternatives remain open.

Bellow believed that when lawyers left the communities in which they were working, they should leave behind poor people who were organized to keep the pressure on. He felt that legal services should be based on the model of the "lawyer-organizer" who would provide legal services to the effort to organize poor communities. In cases where no organizational efforts were underway, this might mean that the lawyer would himself function as the organizer. Bellow explained how he thought lawyer-organizers should operate. Even though they might use test cases and other tools of the law reformers, their aims and methods would be quite different:

> If litigation is directed toward the different goal of organizing, the potentials and methods in pursuing a law suit significantly change.

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[13] Bellow interview.

> In such a context, law suits can consciously be brought for the public discussion they generate, and for the express purpose of influencing middle class and lower class perspectives on the problems they illuminate. They can be vehicles for setting in motion other political processes and for building coalitions and alliances. For example, a suit against a public agency may be far more important for the discovery of the agency's practices and records which it affords than for the legal rule or court order it generates. An effective political challenge to the agency may be impossible without the type of detailed documentation that only systematic discovery techniques can provide. It is on this base that coalitions and publicity can be built, and that groups can be organized to limit previously invisible authority.[14]

Early in 1966, Bellow decided to look for a position where he would be closer to the actual delivery of legal services and would have a better opportunity to try out his ideas. He joined CRLA.

Sargent Shriver, then head of the OEO, decided to support the CRLA proposal. In fact, CRLA was funded at 50 percent above the amount originally requested only two months after the proposal was submitted. The grant, however, was not without restrictions, obvious concessions to powerful conservative political opinion on the subject of legal services and the farm workers' movement. CRLA was prohibited from representing any unions. It was expressly barred from having an office in Delano, California, headquarters of Cesar Chavez's farm workers' organization and the center of the grape strike that began in 1965. And CRLA was also limited to representing persons earning under $2,200 per year, with an additional $500 allowed for each dependent.[15]

CRLA was chartered under California law in 1966, the year of the election of Ronald Reagan as governor of California. It was to serve as one of some 250 OEO legal service programs. Although the board of the California Bar Association was unwilling to support the proposal drawn up by Lorenz and Lund, the proposal was backed by a number of liberal, farm

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[14] Bellow interview.

[15] *Justice for the Rural Poor Through California Rural Legal Assistance* (Los Angeles: CRLA pamphlet, ca. 1967).

labor–oriented groups, including the Mexican-American Political Association, the Community Service Organization, and the Committee to Aid Farm Workers.[16] CRLA's thirty-three-man board of directors, selected by CRLA Executive Director James Lorenz, included Cesar Chavez, Larry Itliong, president of the Agricultural Workers Organizing Committee, Oscar Gonzales, president of Alianza de Campesinos and the United Farm Workers union in San Jose, Violet Abscher, a farm worker, and a number of urban liberals — Irving Lazar, executive director, the Newmeyer Foundation; Abraham Levy, an attorney for the Agricultural Workers Organizing Committee; Cruz Reynoso, assistant counsel to the Fair Employment Practice Commission; Fred Schmidt, professor at the Institute of Industrial Relations, University of California, Los Angeles; Carlos Teran, judge of the Los Angeles Superior Court: and Gordon Winton, state assemblyman from Merced, California. CRLA's original board clearly represented organized farm workers and urban liberals.[17]

CRLA was able from the outset to offer premium legal services at low cost. Of its thirty-two attorneys serving in the home office and nine rurally located field offices, twenty-four graduated with honors, and twenty made law review. All of the nation's most prestigious law schools were represented on its staff. Whereas the average per-hour fee of associate attorneys in California in the late 1960s was $25, the "fee" or cost of CRLA attorneys, including overhead, was $10.43 per hour. The agency handled, in the late 1960s, 15,000 cases per year, approximately one-third concerned with consumer and employment problems. Clients were not charged fees, but had to meet an eligibility standard.[18]

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[16] Resolution adopted by the Board of Governors of the State Bar of California, April 21, 1966.

[17] Harry P. Stumpf, *Study of OEO Legal Services Programs: Bay Area, California, (OEO Contract 4096)* (September 15, 1968), vol. 2, 59.

[18] *Justice for the Rural Poor Through California Rural Legal Assistance*; CRLA, "Report to the Office of Economic Opportunity and CRLA Board of Trustees on Operations of the California Rural Legal Assistance, May 24, 1966–November 25, 1966, In Support of Application for Refunding," (December 6, 1966); CRLA, "Report to the Office of Economic Opportunity and CRLA Board of Trustees on Operations of the California Rural Legal Assistance, December 1967–September 1968, In Support of Application for Refunding," (October 1968); CRLA, "Narrative and Budgetary Portions of Refunding Request to the Office of Economic Opportunity for Grant Year 1970."

A number of things contributed to the eventual success of CRLA: one of the most important reasons for CRLA's success was the quality of the staff, but its scope of operation was vital as well. From the outset, Lorenz intended to establish a statewide operation. This structure dramatically differs from the typical neighborhood firm, or the neighborhood firm with university connections envisioned by the Cahns.[19] CRLA's statewide base insulated it from local pressures and the fact that Lorenz chose CRLA's initial board of directors afforded the agency independence from local bar associations. Lorenz argued that "any rural legal service program, if it is to be effective, must find some way of insulating its attorneys and clients from local community pressure."[20]

In his original proposal, Lorenz outlined his projected organization. The central office was to be staffed by an executive director, a deputy director, a community relations director, researchers, and various others including bookkeepers, legal secretaries, and clerk typists. The research staff would, at first, consist of one research supervisor, one attorney editor, one research aide, and one secretary. Lorenz proposed to staff the regional offices with one experienced directing attorney, one attorney, and four or five non-lawyers, community workers, investigators, legal secretaries, and clerk typists.[21]

The research staff would study long-range problems of the poor, and would also provide a vital service to the regional offices by writing appellate briefs, drafting legislation, preparing special forms and documents, and formulating "broad, but intricate, strategies" to aid the rural poor.[22]

Links to the client community were to be forged by bilingual community workers. They were to provide "valuable information on the problems, organization, and leadership" of the client community, and to acquaint the poor with the "programs and potential of CRLA."[23] The community workers, "most of them former farm workers, all of whom were well

[19] Harry P. Stumpf, *Lawyers and the Poor: A Comparative Case Study of Bar-Program Relations in Two Counties (OEO Contract 4096)* (September 15, 1968), vol. 2, 226–315.

[20] Lorenz interview.

[21] Lorenz interview.

[22] Lorenz interview.

[23] Lorenz interview.

acquainted with the problems and politics of rural California," were to act as investigators, translators, limited advocates, and middlemen to public agencies.[24] In effect, community workers were the link between CRLA's middle-class lawyers and the poor community. The community workers consisted largely of members of the United Farm Workers union.

Citizens' Advisory Committees were set up in each of the regional offices as well. These indigenous groups were to act as sounding boards for complaints, to provide information about the community and to consider office policies "peculiarly affecting the client community," especially in such areas as case load limitations, office locations, and hours.[25] Further, the Advisory Committees would aid in community education and attempt to bring poor people together around issues that affected them in common. Most of all, Citizens' Advisory Committees would help to satisfy national OEO's requirement of maximum feasible participation of the poor.

CRLA also intended to draw on the law schools to further its objectives. Law students and professors were to be a source of professional manpower outside the program. And it was hoped that they would create an atmosphere conducive to the teaching of poverty law within law school, which in turn would create interest in the practice of poverty law and provide a pool of qualified and informed lawyers from which legal services could draw their staffs. Individual legal scholars from various law schools became consultants to CRLA on specific cases or legal problem areas, and law professors were encouraged to assign pertinent research problems as paper topics for their classes.[26]

Soon after CRLA's original funding proposal was submitted to the OEO in March, 1966, the board of governors of the State Bar adopted a resolution condemning the proposal. The State Bar objected to CRLA's departure from "the concept of neighborhood legal service offices established and operated by residents of local communities," and CRLA's intention to offer "its services to political and economic groups as well as individuals." One strongly worded paragraph of the resolution read: "The proposal is basically one of militant advocacy on a state-wide basis of the contentions of one side of an economic struggle now pending. Ostensibly designed to

[24] Lorenz interview.
[25] Lorenz interview.
[26] Lorenz interview

furnish only legal services to the poor, the proposal encompasses the furnishing of political and economic aid."[27]

Clinton Bamberger, national director of the Office of Legal Services, commented at the time that "advocacy of the contentions of one side of an economic struggle now pending" was about the best one-line definition of the War on Poverty that he had heard. Sargent Shriver, director of the OEO, called the president of the State Bar, John Sutro:

> And Mr. Sutro said to me that these lawyers might be useful to and used by the poor in suits against the growers. And I said, well, I thought that was quite possible and that, in fact, that was the point, that what we were trying to do was give them help which would equalize or help the situation. And I said to him then what did he protest about that? I said, "Look, I'll make an agreement with you. If you will agree that no lawyers in California will represent the growers, I will agree that no legal service people will represent the pickers." And that was the end of the argument.[28]

Only the Santa Clara Bar Association recognized CRLA, six local bars took no stand, and the Stanislaus County Bar Association brought suit to enjoin CRLA from opening an office in Stanislaus County. The Stanislaus County Bar Association charged that it was illegitimate for CRLA to practice law as a corporation, that CRLA intended to hire non-attorneys to solicit business; and that CRLA was operating contrary to the intent of Congress in adopting the Economic Opportunity Act in that CRLA was not locally sponsored or subject to local controls. A temporary restraining order was passed, but the Bar's application for the injunction was denied.[29]

The Fresno County Bar Association originated an alternative legal services program, Fresno County Legal Services (FCLS), under the perceived threat that CRLA would otherwise locate one of its regional offices in Fresno County. FCLS policies were set by a governing board,

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[27] Resolution adopted by the Board of Governors of the State Bar of California, April 21, 1966.

[28] Office of Economic Opportunity Commission on California Rural Legal Assistance, Inc., *Hearings*, Reporter's Transcript (April 26, 1971) (hereinafter cited as *Commission Hearings*).

[29] Stanislaus County Bar Association v. California Rural, Legal Assistance, Inc., Stanislaus County Superior Court No. 93302, filed October 7, 1966.

whose members were principally drawn from the county bar association. It would not be unfair or inaccurate to say that FCLS was generally responsive to the values and goals of the county bar association, and more generally to the "influentials" in the civic life in Fresno County. The Fresno County Bar Association funded FCLS with the help of some federal funds.

In keeping with its orientation to traditional and private-sector values, FCLS relied upon the initiative of individual clients in seeking out the program's services. Allies of FCLS have included the conservative Fresno County Bar Association, the California state government administration of Governor Ronald Reagan, various members of the Fresno community, and the dominant organized interest groups of Fresno County, which are oriented to agricultural interests.

FCLS literature proclaims the organization's commitment to "the traditional time-tested American methods of organized local community action to help individuals, families, and communities help themselves."[30] FCLS took individual client-initiated lawsuits. With almost no exception, class action suits were not developed.

The organization's views on poverty and the law reflect traditional values concerning individual responsibility and initiative, client–attorney relationships, private property, and the entrepreneurial practice of the law. Local control, through the local bar association and FCLS's governing board, have meant that the larger social reform objectives of OEO Legal Services have been essentially ignored — even though FCLS adopted the coloration of reform through use of "Legal Services" in its title.[31]

CRLA did, however, negotiate an agreement of understanding with the California State Bar Association in 1967 that served as a basis for local bar association representation on CRLA's board of directors.[32]

CRLA's planners had two basic ideas: (a) that the law firm had to be organized on a statewide basis to insulate it from local community pressures and (b) that, anticipating political opposition, CRLA had to provide the

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30 Harry P. Stumpf, *Study of OEO Legal services Programs*.

31 Harry P. Stumpf, *Lawyers and the Poor*, vol. 2, 226–315.

32 Letter from A. S. Halsted, Jr., for State Bar of California, to James D. Lorenz, Jr., Director, CRLA, June 2, 1967; Response from James D. Lorenz, Jr., June 15, 1967.

highest quality legal representation and impeccable internal administrative, particularly budgetary, procedures in order to survive.[33]

By January 1967, nine CRLA offices were in operation up and down the state of California along with poor people's advisory committees to identify potential problems, act as a liaison with the poverty community and minorities, and to protect CRLA against those who might attack it in the name of the poor. CRLA quickly became embroiled in local political intrigue and opposition. In Marysville, for example, the local director of the Welfare Department, Mary Quitoriano, had been appointed by the local Board of Supervisors with the understanding that she would cut back on the welfare department budget. Quitoriano did indeed make cuts, but the methods she used were not within the letter of the law. CRLA's Marysville staff filed twenty-eight fair hearing appeals with the State Department of Welfare on behalf of clients who had been denied benefits by the Welfare Department. The first hearing upheld CRLA's client. Quitoriano appealed the decision. When the Sutter County Taxpayers Association got wind of the ruling and appeal, it convinced the Board of Supervisors to hire an attorney to represent Quitoriano, and persuaded the supervisors to write a letter to Governor Reagan charging CRLA with "harassment" of county officials and urging Reagan to cut off CRLA's funds. William P. Clark, Jr., wrote back to the Sutter County Board of Supervisors that the governor did not have the authority to cut off CRLA's funds, but reassured it that Reagan would keep an eye on CRLA and do what he could at the proper time. A measure of CRLA's competence and the need for its services is reflected in the fact that twelve of the first thirteen rulings made by the State Department of Welfare went against Quitoriano.[34]

Publicity over the cases caused Reagan considerable embarrassment. At a state Republican convention in Anaheim, on September 24, 1967, Reagan brought up the Sutter County Welfare Department situation, charging that CRLA had used "taxpayers' money [to harass] a county welfare office

[33] Bennett interview.

[34] "Reagan's Aide Pledges Look at Legal Group," *The Sacramento Bee*, August 9, 1967, A4.

to the point where that county's board of supervisors [had] to hire a lawyer at $35 an hour to protect its county welfare director."[35]

> At an October 3rd press conference in Sacramento, Reagan was asked by newsmen how he could construe CRLA's welfare appeals as "harassment" when his own State Department of Social Welfare had thus far decided 12 out of 13 appeals in favor of CRLA's clients. It would seem, said the reporter, that Reagan's quarrel was really with his own State Welfare Director.[36]

At the local level, CRLA also devoted attention to devising situations whereby the consciousness of the rural poor might be engaged and raised. When it became evident that a Bakersfield water company — a privately owned utility — would lose litigation to CRLA's clients, Chicanos who had been forced to pay virtually extortionate rates for non-potable water, while the same company provided pure water at lower rates to Anglos in the same city, the firm sought an out-of-court settlement. CRLA agreed, as long as the settlement included compensation of all Chicano users of the system and the company arranged and appeared before a mass meeting of the Chicano community in a large auditorium, explained the unjustness of the policy, apologized, and pledged never to resume the policy.[37]

CRLA was not content to fight its battles for the rural poor at the local level. CRLA's strategy was to exploit the possibilities for legal confrontation. A prime target was Republican Governor Ronald Reagan and his administration. In the summer of 1967, CRLA brought suit against the Reagan Administration to block the governor's cuts in California Medicare matching funds. The suit was filed in late August and decided in CRLA's favor by the California Supreme Court in November. The suit resulted in the restoration of a quarter billion dollars in state expenditures for the poor in California. The Governor received a considerable amount of unfavorable publicity in relation to the suit. In August 1967, Reagan had announced that the Medicare cuts were necessary because the program was running

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[35] Carl Greenberg, "Reagan Calls War on Poverty Spending in State Failure," *Los Angeles Times*, September 24, 1967, A1.

[36] "Reagan Backs Welfare Director, Hits CRLA," *Appeal Democrat* (Marysville–Yuba City), October 3, 1967, 1.

[37] CRLA, "Rural California: Hope Amidst Poverty," (San Francisco: CRLA document, 1969).

a projected deficit of $200 million. As it turned out, the program ran a $50 million surplus — after the cuts were restored.[38] CRLA made much of this, asserting that it revealed the basis for Reagan's policy in class bias, though CRLA was more tactful in putting it to the press.

Also in the summer of 1967, CRLA filed suit against the U.S. Department of Labor to get the department to fulfill the requirements of the law with regard to the importation of Mexican braceros. For many years, California growers had "imported" Mexican workers, called braceros, and then sent them back to Mexico after the harvest. This practice was halted by Congress in 1964, when it repealed the law under which the bracero program had been authorized. This action did not, however, end the use of the labor of Mexican nationals. There were several complicated ways in which Mexicans could work in California fields; one of the least complicated was authorized under the Immigration and Nationality Act. The secretary of labor could promulgate regulations under which the Bureau of Employment Security (BES) could authorize the issuance of temporary entry permits to Mexican farm workers, after determining that a sufficient number of domestic workers were not available at fair pay and working conditions. Mexican workers who entered the U.S. under such authorizations continued to be known as braceros.[39]

The UFW was concerned about the potential use of these braceros as strike-breakers. and barriers to union organization. Moreover, U.S. workers were being hurt by the growers' deliberate attempts to foster a shortage of domestic workers, and thus meet the legal criteria for certification of braceros. The growers often exercised their influence to deny housing to local workers, to pressure the county welfare agencies into cutting off benefits for unemployed workers, and also used other devices to drive unemployed farm workers out of their areas.[40]

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38 "Why Reagan's Mad," *The New Republic*, October 21, 1967, 13. The suit against the Reagan Administration and the U.S. Department of Labor was *Morris v. Williams*, 67 Cal.2d 733, 63 Cal. Rptr. 689 (1967). Don Harris, "Reagan Hit for Call to Ignore Court," *Los Angeles Citizen*, September 15, 1967, 1.

39 "Braceros in California," CRLA press release, September 19, 1967.

40 "Reagan Backs Prison Labor in Tulare Visit," *The Bakersfield Californian*, October 5, 1967; Harry Bernstein, "Few on Welfare Rolls Found for Farm Jobs," *Los Angeles Times*, October 9, 1967; "Braceros Use is Eyed if Harvest is Late," *The Fresno Bee*, May 12, 1967.

The union's concern meshed well with CRLA's sense that there was a need for a thorough exposé of conditions in the fields, as well as for a big dramatic case. Accordingly, early in 1967, CRLA lawyers began to gather evidence to attack the problem of braceros. It was clear to CRLA that most growers were not meeting the minimum standards outlined in the regulations. (Indeed, some CRLA lawyers, according to Gary Bellow, found it difficult to believe that the regulations were meant to be enforced at all, since they proposed standards that were known to be far beyond the level of the growers' practices.)[41] If the BES could be convinced that the growers were failing to meet the standards, it would be forced to deny any requests for certification. The Modesto office of CRLA made an agreement with G. E. Brockway, BES regional administrator, that Brockway would not act on any certification requests until he had notified CRLA. The lawyers would then have a chance, during the three-week period that the BES needed to check on growers' compliance with the law, to present their evidence of growers' failures to meet legal standards.

Requests for Bureau of Employment Security certification were officially made by the California Department of Employment, after it had evaluated growers' requests. In the late summer of 1961, the most urgent requests were coming from the tomato growers in the central part of the state, an area covered by CRLA's Modesto and Salinas offices. One Department of Employment request, dated September 6, was refused by BES for lack of supporting evidence. But on September 8, for reasons that are not clear, the regional administrator approved another application for certification for 8,100 braceros — without any supporting evidence and without notifying CRLA.[42]

This sudden action provoked a swift reaction from CRLA. The next day, Sheldon Greene of the Modesto office and Bob Gnaizda of the Salinas office went to court on behalf of nine farm workers who were not union members, but were sympathetic to Chavez, and filed suit against Secretary of Labor Willard Wirtz, claiming that the Labor Department had violated its own rules by making the certifications. They were granted a temporary restraining order, with a full hearing set for the 12th. In the Department of

41 Bellow interview.

42 "California Expects to Get by This Year Without Braceros," *The Fresno Bee*, September 27, 1968, B4.

Labor, from the secretary on down, there was a good deal of concern about the suit and the department entered into settlement negotiations.[43]

The CRLA lawyers were then faced with a very difficult decision as to whether they should settle. Their problem was compounded because Gary Bellow, deputy director and the lawyer closest to Cesar Chavez, was on the East Coast. He participated actively in the decision via telephone because the handling of this case went to the heart of CRLA's philosophy and its relations with the UFW. The issue was clearly marked out. The union's position was conveyed to the CRLA's lawyers by Dolores Huerta, UFW deputy director: go to court and get everything into the public record, even if that meant losing the court case. The CRLA lawyers involved in the case were split — all but Greene and Bellow wanted to settle. Bellow remembers that there were strong arguments on each side, as the issue was debated within the CRLA.[44]

The arguments for the union concentrated on the effect of the case on organizing efforts. First, it was important to make Wirtz look bad; only if the situation were highly polarized would there be public pressure on Wirtz to tighten up enforcement of the labor laws — not only about the use of braceros, but about the situation of several other classes of Mexican workers in the U.S. It was more important to Chavez to keep the situation polarized than to stop this particular group of 8,100 braceros. Moreover, the organizing effort would be hurt if it looked as though the U.S. government would win the workers' battles for them. Chavez was also suspicious of a settlement because he feared that it would not be effectively enforced.[45]

On a more positive tack, the union people argued that the suit itself presented great organizational potential. When the suit came to a hearing, busloads of workers would come in as witnesses to describe conditions in the fields. The experience would help to break down the workers' isolation, give them confidence, and advertise the efforts of the UFW.[46]

A divisive element in the argument was the union's questions about who was in charge here. The CRLA people were lawyers, but they were supposed to be serving the needs of farm workers. Since it was the workers

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43 Ortiz v. Wirtz, No. 47803 (N.D. Cal. 1967), filed September 8, 1967.

44 Bellow interview.

45 John Osborne, "The Poor Betrayed," *The New Republic*, February 13, 1971, 13–15.

46 Ibid.

who had to live with the consequences of any action, the union argued that it was their judgment of their best interests that should prevail. Moreover, Chavez believed that they would in fact win in court.[47]

The lawyers concentrated on their professional position in making their arguments for settling out of court. Most important to them, the affidavits, gathered that summer, describing conditions in the fields, were technically deficient. Almost all of them were too imprecise to withstand attack by a clever lawyer. The CRLA lawyers felt that they would be personally implicated in the presentation of a case with such weak evidence. They believed that they could get a good settlement since the Labor Department would not be aware of their doubts, and that such a settlement would be enforced.[48]

There was also a difference of opinion about tactics. Bob Gnaizda thought that a favorable settlement would be a good organizing tool. It would generate a great deal of favorable publicity and would show the farm workers that even the Labor Department now acknowledged their strength. The lawyers pointed out that there was more to lose than just one case. CRLA's leverage with the Labor Department and with other powerful groups would be sharply diminished if they lost on such a direct challenge. As Bellow admitted, "Our aura of invincibility was important."[49]

One of the lawyers' most powerful arguments concerned the welfare of the clients. The best interests of those individuals were more likely to be served by a reasonable settlement than by a losing court fight. And the lawyers' first responsibility was to their clients, not to the political potential of the suit.[50]

Bellow pointed out that other factors as well were important to the lawyers. The divided responsibility for the suit had triggered tensions between Sheldon Greene, who had been in charge of the investigation, and the lawyers at the Salinas office, who were now complaining about the quality of the evidence that had been gathered. Greene believed that the case was good and should go to court, but the defensive overtones of his response made his argument less convincing than they might have been. This general air of tension, added to great uncertainty about the outcome,

47 Bellow interview.
48 Bellow interview.
49 Bellow interview.
50 Bellow interview.

led people to want a quick end to the haggling. This attitude was evident in the reactions at CRLA's central offices. Dan Lund and Mickey Bennett wanted to contribute, but were frozen out of the decision-making because of the technical way in which the dispute was presented. Jim Lorenz, who was a lawyer, both understood the issues and was deeply torn by the disagreement. He used his energy to try to mediate within the organization.[51]

Bellow was the only lawyer who effectively espoused the union's position. He dealt with the other lawyers basically in lawyers' terms. He argued that CRLA *could* win in court, that the case as a whole was much stronger than the individual affidavits. He further argued that the union was the real client in the case, not the individuals. Bellow recognized the force of the argument he was opposing, however; he believed that no case should be "politicized" without the client's consent, or when such an action could work against the client. Bellow also worked to counteract the lawyers' worries about loss of credibility. He argued that the institutional position of CRLA depended on avoiding the label of "compromisers." The only way CRLA could work would be if "we were the people who were not afraid."[52]

CRLA decided to accept an out-of-court settlement. Bellow finally gave in to the other lawyers' concern about the quality of their case and their clients' welfare and then directed CRLA's efforts toward a good settlement.

CRLA was supposed to be able to present the evidence they had collected at a hearing in San Francisco on September 15, 1967. Bellow thought this was a coup for CRLA, that it would allow CRLA to generate publicity for the union's picture of the terrible conditions in the fields and would thus help to convince Chavez that CRLA was still interested in helping the organizing effort. Things did not, however, work out that way. At the last minute, the Labor Department announced that no outsiders would be allowed at the hearing, CRLA's witnesses responded by refusing to attend a closed hearing.[53]

The lawyers, although they had certainly behaved competently, had not, in general, approached the case from the union's point of view. Chavez began to realize that the lawyers' first loyalty was to their ideas of professionalism, not to the work of the UFW. The UFW became disenchanted

51 Bellow interview.

52 Bellow interview.

53 Bellow interview.

with CRLA as a consequence and the two organizations began to move apart. Chavez did not need CRLA. His tactics and attention were focused elsewhere. He began to see CRLA as a rival for publicity and public sympathy.[54]

At this stage, CRLA still had a strong defender in Washington, Sargent Shriver. Just after CRLA filed suit against the Department: of Labor, Labor Secretary Willard Wirtz called Shriver and said, "Those lawyers that work for you have just sued me in California."[55] Shriver responded,

> Well, Bill, don't you think they're right? If the Department of Labor has failed to fulfill the requirements of the law, shouldn't a suit be brought to require that you fulfill it . . . what these lawyers in California have done is, in fact, to sort of hold you up, you might say, to make you follow the legal process . . . . And I'm sure — well, I'm sure he agreed with that. And he said, as a matter of fact, "Now that I talk to you, I do."[56]

The growers' organizations, of course, attacked CRLA. O. W. Fillerup, executive vice president of the Council of California Growers, saw CRLA as a government-supported effort to aid farm worker unionization. He pointed to the fact that Cesar Chavez and Larry Itliong were both on CRLA's board of directors, and in the *Fresno Bee* complained, "The federal government, through the Office of Economic Opportunity, and the AFL-CIO now find themselves in a financial partnership in union organizing disguised as a legitimate social project to aid the rural poor."[57]

Congressman Charles Gubser from Santa Clara and San Benito Counties used the most colorful language to condemn CRLA, declaring the Department of Labor settlement with CRLA to be "tribute paid to a rump organization" and "a new low in groveling submission to blackmail by an agency of the U.S. Government."[58]

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54 Bellow interview.

55 *Commission Hearings*, 426.

56 Ibid., 426–27.

57 "Growers Score Legal Aid Groups as Unionizers," *The Fresno Bee*, October 17, 1967, B1.

58 Charles Gubser, "Taxpayer Money Is Financing the Unionization of Farm Labor," *U.S. Congressional Record*, House of Representatives, 90th Congress, 1st Session (September 21, 1967), 26447.

Fresno Congressman B. F. Sisk wrote a series of open letters to President Johnson, OEO Director Shriver, and CRLA. He complained to Johnson that CRLA actions were "destroying thousands of [his] constituents," and told CRLA that "your concern should be for individual people . . . ," that it was not CRLA's business "to litigate all of the major social problems of our society. . . ."[59]

But CRLA's friends in Congress surfaced, too, and its enemies were subjected, wherever possible, to personal or organizational pressure. Some senators — such as Robert Kennedy of New York — volunteered their services to CRLA, in the form of trips to California, addresses to the Senate, and other ways. Congressman Sisk, heavily dependent on moderate Chicano votes in Fresno County in order to defeat his Republican opponents, found himself under public attack from the Mexican-American Political Association. Faced with the prospect of active MAPA campaigning against him, Sisk found it prudent to halt his public denunciations of CRLA.[60]

An early attack on CRLA was mounted by the Kern, Tulare, and Kings Counties congressman, ex-decathlon star Bob Mathias, who charged CRLA with a variety of violations of OEO legislation and internal regulations, and succeeded in having CRLA investigated by the Government Accounting Office. In particular, Mathias wanted the relationship between CRLA and the UFW investigated. He claimed to have photographs, a police report, and signed statements demonstrating CRLA's illegitimate involvement with the UFW. After a three-month investigation of CRLA in 1966–67, however, the General Accounting Office found no substance in any of the charges.[61]

More assaults were launched by Senator George Murphy, who sought with strictly limited success to articulate what seemed to him a profound departure from American constitutionalism by CRLA, and to penalize the program accordingly. On the floor of the Senate, Murphy argued that it was an outrage for one governmental instrumentality (CRLA) to sue

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59 "Sisk Blasts CRLA Labor Department," *The Fresno Bee*, October 1, 1967, A4.

60 "MAPA Leader Says Sisk Aids Only Growers," *The Fresno Bee*, September 23, 1967, B1.

61 Comptroller General of the United States, Report No. B-161297, "Report on the Investigation of Certain Activities of the California Rural Legal Assistance, Inc., Under Grants by Office of Economic Opportunity" (May 29, 1968).

others (the U.S. Department of Labor, the governor of California). "The citizens of California," Murphy told his fellow senators,

> have been horrified by the spectacle of CRLA lawyers, paid by their tax dollars, going to court against the Secretary of Labor and his Justice Department attorneys, also paid by the taxpayers, in an action which will inevitably result in losses to farmers and higher food prices to American consumers. Poor old John Q. Public is paying the bill three times for this absurd three-ring circus.[62]

Senator Murphy's remedy was known as the Murphy Amendment to the Economic Opportunity Act. It would have barred all OEO legal services programs from taking legal action against governmental agencies.[63]

The infrastructure of CRLA support was mobilized, and Earl F. Morris, president of the ABA, lobbied for CRLA in Washington. The ABA president-elect, William Gossett, former general counsel for Ford Motor Company, worked intensively on Republican congressmen, especially Minority Leader Gerald Ford of Michigan. The Murphy Amendment failed 36–52 in the Senate, and never surfaced in the House. "Following the defeat of the amendment in the Senate . . . and its failure to be introduced in the House, most agreed that it was active lobbying of the ABA leadership which saved all of legal services from Murphy's attempted emasculation."[64] CRLA was now being discussed in *Time*, *The New Yorker*, *The New Republic*, *The Washington Post*, and the *St. Louis Post–Dispatch*. CRLA also reached out to organized labor, church groups, and civil rights organizations, and received enthusiastic support, both through lobbying by these organizations in Washington and through mail campaigns to California congressmen. During several months of the year 1968, mail to the California congressional delegation on CRLA outran mail on every other issue — Vietnam, pornography, and taxes, among them.[65] CRLA anticipated, and received, statewide and national attention which would otherwise never have come to it as a result of the very attacks mounted against it by Senator Murphy

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62 George Murphy, "The Farm Labor Situation," *U.S. Congressional Record*, Senate, 90th Congress, 1st Session (September 28, 1967), 27129.

63 Ibid.

64 "President Urged to Keep Backing Rural Legal Aid," *Los Angeles Times*, September 26, 1967, I-3.

65 Bennett interview.

and Governor Reagan. To an important extent, the governor and the senator were in the position of Br'er Fox and the Tar Baby. The more they struck it, and the more they insisted on the danger of the program, the more it adhered to them, drew on their visibility, and attracted the attention of other foes of the governor and the senator.

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