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Proposal for an Association of Law Teachers - Jan. 31, 1973

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MEMORANDUM

FOR: Independent Law Teachers
FROM: Norman Dorsen and Tom Emerson
RE: Prospects for an Association

January 31, 1973

At the meeting in New York on December 29 there was a wide divergence of opinion among the law professors present on how an association of independent law teachers might function, and even on whether it would be desirable to establish such an association. Our conversations since the meeting have led us to think positively about such an organization, and we thought it might be helpful if we sketched out our views as a basis for discussion at a second meeting. Undoubtedly others also will want to present their ideas to such a meeting.

Initially, we think it is pretty clear that a new association will not be in meaningful conflict with the AALS. In AALS, now more than ever, is an association of law schools, as the voting arrangements recently adopted show. In addition, most of the functions that we will recommend for an association of law teachers are not being performed by the AALS.

In this memorandum we first shall discuss functions and then organization and financing.
1. **Functions.** An association of independent law teachers could perform all or some of the following functions:

   a. Act as a conduit between federal and state legislators and law professors, who could assist in drafting, preparing memoranda, etc. At the meeting it was pointed out that many law teachers already assist with legislation, but much more could be done, particularly for junior legislators, who can use all the help they can get.

   b. Evaluate judicial appointments, at least to appellate federal courts. The Haynsworth/Carswell battles were mounted from scratch; a regularized procedure, perhaps including a standing committee, could enable us to have some weight.

   c. Make studies, prepare reports, issue public statements, or give testimony on matters of public and professional concern, such as the anti-busing amendment, capital punishment and the Popkin case. The extent of such activities would depend upon the resources available, the way in which the association developed, the interest of members, etc.

   d. Encourage fairer representation of minorities -- blacks, Puerto Ricans, Chicanos and women -- on law faculties and student bodies.

   e. Combat violations of academic freedom directed against our colleagues, particularly at smaller law schools. At the meeting it was said that teachers at larger schools have little idea of the difficulties faced by non-conforming and outspoken young teachers elsewhere.
f. Monitor bar examination and character committees to try to eliminate arbitrariness, political discrimination and racism. The law suit recently filed by black graduates of Harvard Law School against bar admissions committees in Alabama, Georgia and Virginia, suggests that work is needed.

The above list is not meant to be inclusive. Nor is it meant to reflect priorities. Even among those favorably disposed to an association there will be different opinions on which functions should take precedence. This is a matter for discussion and natural development over time if an association is formed.

2. Organization and Financing. There are two issues of organization: the policy making mechanism and staff follow-through.

On the assumption that membership would number in the hundreds, it obviously would be impossible for all decisions to be made at large. Some sort of steering or executive committee would have to be formed. This committee should adequately reflect various points of view, large and small schools, different interests, etc. It would have to be decided what decisions could be made by the committee and which reserved for the membership, either at an open meeting (at the time of the AALS Convention) or by mail ballot. Whatever the formula, we emphasize that individual law teachers
could not have their names publicly identified with a position (e.g., busing, Popkin, etc.) without their individual approval.

The second organizational issue concerns staff. The most obvious way to proceed would be to retain a fulltime or parttime aide, who would serve as Executive Director for the association, assisted by a secretary. We would like to suggest a variant of this idea, which would have the advantage of economy and, we think, additional effectiveness. It seems to us that a young (or not so young) law teacher could be found who would serve as a parttime Executive Director if he received from us funds to hire a fulltime secretary (who also could be used for his other work) and expense money, including stationery, Xerox, telephone, travel, and miscellaneous. To proceed in this way would remove the need to hire an Executive Director, and it would have the further advantage of having us represented by one of our own, who would understand the problems of law teachers first hand. Naturally, it would be important to select the right individual, and to persuade that person to do the job.

This leads to finances. If a law professor is found to serve as unpaid staff, approximate annual expenses would be: $8,000 for the secretary, $2,000 for telephone, stationary, postage, etc., and $2,000 for miscellaneous expenses, including a small reserve. This makes for a total of $12,000. (If the law professor route is not chosen, an additional amount would
be needed for salary, full or parttime; at New York or
Washington rates, this could range from a low of $8,000
parttime to $16,000 or $18,000 fulltime.)

Accepting for the moment the lower figure of $12,000,
the next question is the association's income. Dues will have
to be the principal source. Here there are several options.
A flat rate of, say, $20 or $25 for professors of any rank,
with a $10 membership for instructors, lecturers, teaching
fellows, etc. (Perhaps Deans should be charged $30 or $35
as conscience money.) Or we could use a sliding scale of
dues depending on rank, age, years in teaching, etc., designed
to elicit the same amount of money. This would be designed
to be fairer, but we think would be too complicated.

If a flat dues schedule were chosen, $12,000 could
be obtained by 100 "junior" memberships at $10 (for $1,000);
500 "senior" memberships at $20 (or 400 at $25) for $10,000;
and if a special decanal rate is offered, about 30 of these
at $35 for another $1,000. If there were no decanal rate,
another 40 or 50 professors would be needed.

We think it is not unrealistic to anticipate this
degree of interest among our brethren. There are now about
3,000 law teachers, so we are speaking about a 20% return.
Given the encouraging subscription to the recent petition
advocating the elimination of the House Committee on Internal
Security, at least 20% seems a likely response to an independ-
dent law teachers group that is launched intelligently and
with evidence of broad support. If there is a small deficit, there are some foundations who might be prevailed on to make a contribution, especially at the start.

This leads to a final question: the orientation of the organization. At the December meeting some advocated a strong and manifest ideological component as the only means of assuring that the association has real political and professional bite. Others disagreed, partly because that approach would reduce the breadth of our appeal among law teachers and partly because it would tag the organization from the start, and undercut its effectiveness in the public forum. ("Of course these liberals are going to oppose capital punishment.")

We think the issue has been somewhat overblown. It is obvious that a group sponsored by those invited to the December meeting is going to be viewed as liberal and reformist, and conservatives will not join. At the same time there are many moderate or uncommitted law teachers who might join the association (or at least some of its statements) if the group is not too aggressively ideological. The key point is

* Regarding the launching, if we decide to do this we think a letter signed by at least 20-30 well-distributed professors should be sent to everyone in the AALS Studbook.
that it would be unproductive and even harmful if ideological definition became an issue at the start among a group of men and women who have worked together for years on many matters, and whose general stance is well known within the profession and to members of the public.

We have no idea what form of association, if any, will emerge. If it appears there is substantial support for such an organization at a second meeting and from correspondence, we suggest that a committee be formed to examine the proposal in its various forms, and to make a specific recommendation in time for consideration at a general meeting at the 1973 AALS Convention in New Orleans.