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### Proposal for an Association of Law Teachers - May 15, 1973

Norman Dorsen

Tom Emerson

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#### Recommended Citation

Dorsen, Norman and Emerson, Tom, "Proposal for an Association of Law Teachers - May 15, 1973" (1973). *Founding of SALT*. 3.

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# NEW YORK UNIVERSITY

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Faculty of Law

May 15, 1973

## MEMORANDUM

FOR: Selected Law Professors

RE: Enclosed Proposal for an Association of Law Teachers

We invite you to join us in transmitting the enclosed Proposal to about 200 other law teachers in order to determine whether or not there is widespread support for a new Association of Law Teachers. The Proposal is largely self-explanatory, but perhaps we should emphasize that at this stage there is no commitment to any particular form of organization or indeed to any organization at all. While we are inclined to think an association would be desirable, and certainly believe it is worth testing the idea broadly, the reaction to this memorandum as well as to the Proposal itself will be determinative. In this connection, the Questionnaire that will be sent with the Proposal will attempt to elicit reliable opinions about the probable response to the idea.

We hope you will agree to join us. We also hope you will make any suggestions that you think would improve the Proposal. Please send your response to:

Professor Tom Emerson  
Yale Law School  
New Haven, Conn. 06520

Charles Ares  
Arizona Law School

Ralph Brown  
Yale Law School

Leroy Clark  
New York University Law School

Alan Dershowitz  
Harvard Law School

Norman Dorsen  
New York University Law School

Tom Emerson  
Yale Law School

Ruth Ginsburg  
Columbia Law School

Herman Schwartz  
Buffalo Law School

Draft of May 1973

PROPOSAL FOR AN ASSOCIATION OF LAW TEACHERS

In December 1972 a group of law teachers met in New York City to discuss the need for an association to advance commonly held goals. A wide range of views were expressed on the desirability of such an organization and the functions it might perform. Following this meeting a memorandum was prepared by Norman Dorsen and Tom Emerson that is the basis of <sup>this</sup> ~~the~~ Proposal that we now circulate to a broader group of our colleagues.

We believe that there is positive merit to a national association of law teachers, but we think it would be a mistake to take formal steps to launch such an organization without assurance of reasonably broad acceptability of the idea and at least a modest consensus on its functions.

Hence our decision to circulate this Proposal with a questionnaire which we urge you to answer carefully and return promptly [the questionnaire is to be prepared].

Preliminarily, we think it is pretty clear that a new association would not be in meaningful conflict with the AALS. The 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 suggest as plausible for an association of law teachers are not being performed by the AALS and indeed may not be appropriate for such an organization.

This memorandum will first discuss possible functions for a new association, and then make some observations about its organization and financing.

1. Functions. An association of law teachers might 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. Of course 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 Carswell battle, for example, was mounted from scratch; a regularized procedure, perhaps including a standing committee, could enable law professors to have weight in the deliberations of the Senate.

c. Make studies, prepare reports, issue public statements, or give legislative 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 December meeting it was said that teachers at larger schools may have little idea of difficulties faced by non-conforming young law teachers elsewhere.

f. Monitor bar examination and character committees to try to eliminate arbitrariness, political discrimination and racism. The law suit filed by black graduates of Harvard Law School against bar admissions committees in Alabama, Georgia and Virginia, suggests that efforts of this kind are needed.

g. Encourage developments in legal education that will make curriculum, programs and forms of instruction more responsive to social needs.

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 are appropriate

and which should take precedence. This is a matter for natural development over time if an association is formed.

Finally, we particularly want to avoid anything resembling a rigid or doctrinaire approach to issues. Our goal is to interest and involve a high percentage of law teachers, and we think the best way to do this is to make it clear that disparate views on issues as well as functions are welcome as well as inevitable.

2. Organization and Financing. There are two organizational issues: a 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, age disparities, and perhaps other criteria. 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 (presumably at the time of the AALS Convention) or by mail ballot. Whatever the formula, it should be accepted that individual law teachers could not have their names

publicly identified with a policy position (e.g., busing, Poplin, etc.) without their individual approval.

The second organizational issue concerns staff. One 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 would be willing to 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 stationary, Xerox, telephone, and travel. 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 are estimated to be: \$9,000 for the secretary,

(including fringe benefits), \$3,000 for telephone, stationary, postage, etc., \$2,000 for travel, and \$1,000 for miscellaneous expenses. This makes for an annual total of \$15,000. (If the law professor route is not chosen, an additional amount would be needed for an Executive Director's salary, full or parttime; at New York or Washington rates, this could range from a minimum of \$8,000 parttime to \$16,000 or \$18,000 fulltime.)

Accepting the use of a law professor and an annual budget of \$15,000, the next question is the association's income. Although some private donations might be secured, we should assume that dues will have to be the principal source of income. Here there are several options. One would be a flat rate in the order of \$25 for professors of any rank, with a \$15 membership for instructors, lecturers, teaching fellows, and junior law school administrators. An alternative would be a sliding scale of dues depending on rank, age, years in teaching, etc., designed to elicit the same amount of money. This might be a somewhat fairer system, but we think it would be too complicated to administer.

If a flat dues schedule were chosen, the needed \$15,000 could be obtained from 250 "junior" memberships at \$15 (for \$3,750), and 450 "senior" memberships at \$25 (for \$11,250).



A key question is whether it is realistic to anticipate this degree of interest among our brethren. There are now more than 3,500 law teachers, so we are speaking about a 20% return (excluding adjunct faculty, who might be an additional source of funds). Given the encouraging subscription to a recent petition circulated only among public law teachers that advocated the elimination of the House Committee on Internal Security, this seems a possible response to an independent law teachers group that is launched intelligently and with evidence of broad support.

But of this we cannot be sure. Nor can we be confident about the general reception to the suggestions contained in this memorandum. Therefore, we have appended a questionnaire to test the water. We again urge you to complete it promptly.

[Names to be Added]