Proposal for an Association of Law Teachers - Sep. 14, 1973

Norman Dorsen

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FOR: Signatories to Enclosed Proposal

FROM: Norman Dorsen

14 September 1973

The Proposal and accompanying questionnaire is being mailed today to more than 300 of our law school colleagues to test the receptivity to an American Law Teachers Association. I selected the recipients in part from a list of law professors who two years ago signed a statement urging abolition of the House Committee on Internal Security. This tends to be a liberal group, but others were chosen at random from the AALS Directory (every 25th name). Then I added several more names to assure at least one recipient at each law school.

The Proposal itself is very close in substance to the statement that was circulated in May; some modifications were made as a result of suggestions sent to me and Tom Emerson.

In June Tom wrote Maury Rosenberg, President of the AALS, notifying him of our activities. Rosenberg replied with a request that before we reach a definite decision to go forward, he and Mike Cardozo be given a chance to speak with us. We advised him that if there is a favorable response to the Proposal and Questionnaire in this mailing we would expect to call a meeting of all signatories, probably in November, to decide whether to issue a formal call to our colleagues at the New Orleans meeting of the AALS in December. We agreed to invite Maury and Mike to our meeting so that there would be a full exchange of views.

If we do issue a call to the nation's law teachers, this will involve a more elaborate (and expensive) mailing of about 4,000. Some preliminary steps have been taken to secure funds, but if any of you have access to money for this venture, please let me know.

Norman Dorsen
September 14, 1973

PROPOSAL FOR AN ASSOCIATION OF AMERICAN LAW TEACHERS

In December 1972 a group of law professors 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 this Proposal that we now circulate to a broader group of our colleagues.

We believe that there is a 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 wide 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 ask you to answer carefully and return as soon as possible.

Preliminarily, we think it is pretty clear that a new association would not be in 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, some 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 the 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. Encourage developments in legal education that will make curriculum, programs and forms of instruction more responsive to social needs. Widespread concern about the future of legal education suggests this is an imperative need.

c. Make studies, prepare reports, issue public statements and give legislative testimony on matters of public and professional concern, such as the anti-busing amendment, capital punishment, and the Popkin case.

d. Evaluate judicial appointments, at least to federal appellate courts. The Carswell opposition, for example, was mounted from scratch; a regularized procedure, perhaps including a representative standing committee, could enable law professors to have weight in the deliberations of the Senate.

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

f. Combat violations of academic freedom directed against our colleagues, particularly at smaller law schools. At our December meeting it was said that teachers at larger schools may have little idea of difficulties faced by non-conforming young law teachers elsewhere.

g. Monitor bar examination and character committees to try to eliminate arbitrariness and racism. The law suits 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.

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 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 as well as functions are welcome 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 committee would have to be formed. This committee should 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 identified with a policy position (e.g., busing, capital punishment, 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 parttime Executive Director if he received funds from us to hire a fulltime secretary (who could also 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 someone actively in teaching, 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, mailings, 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 part-time; at New York or Washington rates, this could range from a minimum of $8,000 parttime to at least $16,000 to $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 the 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 is chosen, the needed $15,000 could be obtained from 450 professorial memberships at $25 (for $11,250) and 250 other memberships at $15 (for $3,750).

A key question is how realistic it is to anticipate this degree of interest among our brethren. There are now about 4,000 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 of several hundred to a 1972 petition circulated among public law teachers that advocated the elimination of the House Committee on Internal Security, 20% seems a possible response to a law teachers association 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.

Anthony Amsterdam, Stanford
Charles Ares, Arizona
Frank Askin, Rutgers (Newark)
Clinton Bamberger, Catholic
Derrick Bell, Harvard
David Bogen, Maryland
Addison Bowman, Georgetown
Ralph Brown, Yale
David Chambers, Michigan
Leroy Clark, N.Y.U.
Vern Countryman, Harvard
Alan Dershowitz, Harvard
Norman Dorsen, N.Y.U.

Tom Emerson, Yale
Monroe Freedman, Hofstra
Ruth Ginsberg, Columbia
Willard Heckel, Rutgers
Harry Kalven, Chicago
Howard Lesnick, Pennsylvania
Frank Newman, Berkeley
Robert Rabin, Syracuse
Cruz Reynoso, New Mexico
Joseph Sax, Michigan
Herman Schwartz, Buffalo
Robert Sedler, Kentucky
Edward Sherman, Indiana
QUESTIONNAIRE FOR LAW PROFESSORS

1. Do you think an Association of Law Teachers, as described in the enclosed memorandum (check one): Is highly desirable and would satisfy an important need? ( ); Would probably be desirable but is not very important? ( ); On balance is undesirable? ( )

2. (Optional) Please state briefly the reason or reasons for your answer to Question 1.

3. Would you personally join an Association of this kind and pay annual dues of about $25?

4. a. What is the approximate membership of your fulltime faculty? ( )

   b. In your judgment, how many of your colleagues could be counted on as a minimum number that would join an Association of this kind? ( )

   c. In your judgment, what is the probable number of your colleagues who would join? ( )

5. Which of the proposed functions of the proposed Association do you think are the most important ( ), moderately important ( ), and either of no importance or of low priority ( ). (Fill in the blanks with the letters of the paragraphs on pages one and two of the memorandum.)

6. Do you have any suggestions for improving the functions or structure of the organization outlined in the memorandum, recognizing that it is merely a working draft. (Use reverse side if needed.)

7. Any other comments? (Use reverse side.)

Please complete and sign this Questionnaire as soon as possible and return it to Professor Tom Emerson, Yale Law School, New Haven, Connecticut 06520.

The answers to this Questionnaire will determine whether plans to form an Association go forward.

Name ___________________________ Law School ___________________________