

THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL

Dr. J. C. Morrow, Provost

April 19, 1969

SCHOOL OF LAW  
OFFICE OF THE DEAN

TELEPHONE  
933-1223

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Dr. J. C. Morrow  
Provost  
South Building  
Campus

Dear Mr. Provost:

This responds to your request for a statement of the proposed use by the School of Law of funds presently being utilized by Professor Albert Coates in conducting the Institute of Civic Education with the administrative support of the Extension Division.

Basically, we propose to structure a program within the School of Law (possibly administered internally by a "Law Center") which would have as its essential purpose the provision of direct, systematic public service primarily to the state of North Carolina by the law faculty and selected students. Within this purpose there lies a much needed service not really provided by any existing agency and for which a state university law school is peculiarly well equipped. Most states, including North Carolina, have official state agencies whose concern is continuous attention to updating and modernizing the organic law of the state. In North Carolina the agency is the General Statutes Commission. Responding to a quite different need however, several states (six to eight depending upon the definition of function) as well as England, Scotland and other commonwealth countries, have set up agencies which have different and complementary functions. Typically called "law revision" commission, these are charged with responsibility for continuously maintaining surveillance over the emerging case and statutory law of the jurisdiction and recommending changes to correct defects, inequities and anachronisms. Such commissions are useful components of the total complex of legal institutions in a given jurisdiction because neither legislatures nor the judiciary are equipped to maintain such surveillance. Indeed, except in a very limited way, the judiciary is constitutionally inhibited from outright revision to correct perceived defects in the organic law. And legislatures just have not the time, the requisite continuity, nor the built-in resources to attend the systematic surveillance of the actual consequences of their work. Such an agency is thus justifiable within the official structure of a state to serve an essential function in the law making process. In the absence of such an agency, revision proceeds episodically, responding usually to pressures from particular interest



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groups which have felt the bite of particular inequity or anachronism in existing law. Or, more systematically, but still largely in an episodic way, the legislature may try to fill this need by establishing its own standing or ad hoc study commission. These latter can effectively operate only through employing full-time staffs or hiring law professors or practitioners for specific jobs.

A "law center" in the state university is ideally equipped to perform this essentially research centered function. It is not now adequately performed in this state. But the added advantage of centering this in a law school is the unparalleled opportunity which is thereby created for an enrichment of legal education for the law students drawn into the enterprise. State law revision agencies are basically concerned with reviewing existing state laws and recommending amendments and revisions to clarify it and make it more effective in achieving legislatively determined policy objectives. Due regard for the legislative prerogative in making the essential policy decisions to be implemented by legislation requires that they embark only gingerly into the field of policy formulation itself. This job of providing a continuous, systematic critique of extant statutory and case law is a worthy one in itself. And this function can be handled admirably by a state university law school. (Indeed, there is an existing tradition for this in the annual surveys of case and statutory law which have appeared in the North Carolina Law Review from time to time under faculty and student authorship).

But as an educational enterprise to train prospective lawyers for the state, such a law center could also rightly be concerned with the processes of policy formulation. Thus it could appropriately undertake projects on which its faculty and students could go beyond existing statutes, case reports and other library resources to identify and analyze areas in which substantially new legislation would be warranted. This would involve the exercise of their specific lawyerly skills in the definition of policy alternatives and their implementation. This must necessarily frequently involve the gathering and evaluation of empirical data and the consultation with specialists in the sciences and economics to develop surer and more objective bases for new law. This could be encouraged and legitimized a focus of productive inter-disciplinary efforts, particularly with the social scientists and economists, resulting in cooperative ventures in public service. The opportunities--spinning off from these service functions--for law student education in inter-disciplinary areas and for the more technical aspects of legislative research and drafting are tremendous.

In the case of the typical state law revision commission, projects are undertaken at the direction of the state legislature or of judges or members of the bar. While the Law Center within the State University School of Law would have no formal ties to the legislature or the State bar or judiciary, suggestions for projects could certainly be anticipated from these groups.



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In a sense, all of this could be fairly subsumed under the rubric "civic education" in the sense that all these activities would tend toward education in matters of high civic significance to the state--both among the law student component and in extension to the state itself. Thus, such an enterprise logically and legitimately lies within and expands the basic purposes for which this appropriation was instituted. It also capitalizes on a tremendous and largely untapped opportunity for public service by the University to the State directly through its School of Law. To date, those purposes have been realized primarily through the "Institute for Civic Education" which have been operated by Professor Coates as director within the administrative framework of the Extension Division. We propose to continue the operation of summer institutes for teachers of civic and related subjects and for civic leaders, with emphasis on the role of law in a democratic society, on the functions and limitations of law in providing solutions for the critical problems of our increasingly urban population, on the relation between legislative, executive and judicial branches in the development of legal solutions, and on the problems inherent in our overlapping governmental structure. The co-sponsorship and assistance of the Extension Division would here be welcome, and to the extent that teachers are involved, the interest and advice of the School of Education would be sought.

To realize the expanded "law revision" function above described in broad sweep the research, writing and teaching talents of interested regular and visiting law faculty members, and of superior law students, would be utilized. (Visitors would be selected in the same manner as, for many years, visiting teachers for our summer law faculty have been selected.) To the extent that this involved commitment of faculty time beyond that which their regular teaching duties require, and particularly for vacation or summer work, additional compensation would be provided--hopefully on a basis comparable to that provided for summer teaching. (An exception would be that the Law School would continue to carry in its budget the full salary of a Director, even if his regular teaching duties were cut by one-half.) Students would also be paid, on a more modest basis, for work beyond that required by their regular courses and seminars.

Potentially, the entire subject matter covered by the School's curriculum is embraced within the area of interest. Initially, as far as can currently be foreseen, emphasis would be placed upon problems of state and local government (a very broad field), criminal law (including its administration), welfare and poverty law, taxation (more in its policy than in its technical phases), natural resources law, and judicial administration (where North Carolina's new court system provides a magnificent field for surveillance.

The results of the work would be channeled into:

- a. Teaching materials for use in and teaching in the summer institutes mentioned above and others to be held from time to time for other groups.



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b. Publication of books and articles. Some of the latter (such as critiques of new legislation and developing case law, along with others reflecting a predominantly professional approach) could appropriately be published in the existing North Carolina Law Review. Those prepared for a less professional audience would be published in other existing periodicals, or if funds permitted, in a new periodical to be founded for the purpose.

c. Enrichment of present Law School courses and seminars, particularly those dealing with the legislative process in its policy and procedural aspects.

d. New credit courses and seminars in the Law School (to be approved by the same process as present offerings), to be offered either in the regular academic year or in the summer.

e. Short, non-credit courses, for some of which co-sponsorship would be sought (as, for example, that of the North Carolina Bar Association for any such courses for practicing lawyers).

Sincerely,

Dickson Phillips  
Dean

DP:gd