

# NATIONAL COMMITTEE

FOR

## SEXUAL CIVIL LIBERTIES

*Co-Chairmen:*  
Prof. Walter E. Barnett  
Albuquerque, New Mexico  
  
Dr. Arthur C. Warner  
Princeton, New Jersey

18 OBER ROAD  
PRINCETON, NEW JERSEY 08540  
(609) WA4-1950

TO: Craig Patton, Arthur Warner, Walter Barnett  
FROM: Tom Coleman  
Date: March 9, 1973  
SUBJECT: Resolution on Admissions to the Bar

Upon the advice of Walter, the proposed resolution has been re-written, with a few changes. You will find a copy of that resolution enclosed. Except for the possibility of retyping it, this is the form in which I shall present it to the delegates from the 43 law schools at the annual meeting of the 9th Circuit of the Law Student Division of the A.B.A. I must have the resolution in the mail by the 15th of this month. Therefore, unless there are any immediate objections, I will submit it in this form.

Near the end of this month I will also present the resolution to the Dean of Loyola and request a written indorsement. Craig, I would suggest that you should do the same with Dean Kirby. Upon receiving such written indorsement, I will then approach other local law schools with a copy of the resolution and a copy of any written indorsements. Hopefully, I should be able to get support from U.S.C., U.C.L.A. and possibly Southwestern. Whenever I receive an indorsement I will send a copy of it to all members of the committee. I would expect that you might be able to get support from Case-Western, Craig.

Walter, I hope that you could contact Marty Rosenberg at Columbia. He is the current chairman of the Association of American Law Schools. Tell him about the resolution and request information on how to proceed.

Sometime in the month of April we can then have other members of the Committee approach other law schools for support. This would be especially true in New York, New Jersey, Illinois.

I would also recommend that Craig should contact the L.S.D. representative from Ohio State and find out when the annual meeting of your circuit is. Possibly he could introduce the resolution to your circuit of law schools.

Arthur, you mentioned a law student in New York, working with Michael Miller. Please see if he could arrange for the resolution to be presented at the annual meeting of the circuit of law schools which encompasses New York.

Walter, I would also ask if you would try to get indorsement of Hastings, and possibly Golden Gate and University of S. F.

Well, I must close since it is late. Hope to hear from you soon.

[signed]

Tom Coleman

SUBJECT: GOOD MORAL CHARACTER AS A REQUIREMENT FOR ADMISSION TO THE BAR

1 WHEREAS: The practice of law is a personal right which has been limited  
2  
3 to persons of good moral character. Although a state may require  
4  
5 high standards of qualification such as good moral character before  
6  
7 it admits an applicant to the Bar, any qualification must have a  
8  
9 rational connection with the applicant's fitness or capacity to  
10  
11 practice law.

12  
13 The test of "GOOD MORAL CHARACTER" is a vague qualification  
14  
15 which can become a dangerous instrument for arbitrary and discriminatory  
16  
17 denial of the right to practice law.

18  
19 While a Bar composed of lawyers of good character is a worthy  
20  
21 objective, it should not be necessary to sacrifice vital freedoms in  
22  
23 order to obtain that goal. Sexual orientation and private sexual  
24  
25 behavior between consenting adults are matters having no rational  
26  
27 connection with an applicant's fitness or capacity to practice law.  
28  
29 Furthermore, official inquiry into a person's private sexual habits  
30  
31 does violence to his constitutionally protected area of privacy.

32  
33  
34  
35 RESOLVED: That the sexual orientation or sexual conduct of an applicant  
36  
37 for admission to the Bar or of a member of the Bar should not be a  
38  
39 proper subject for investigation, denial of admission, or any  
40  
41 disciplinary action by the Bars of the several states or of any state  
42  
43 or federal court, provided that such sexual conduct occurs in private  
44  
45 with other consenting persons of the age of legal consent. Sexual  
46  
47 orientation, as used in this resolution, includes heterosexuality,  
48  
49 homosexuality, and ambisexuality.  
50

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*Co-Chairmen:*

Prof. Walter E. Barnett  
Albuquerque, New Mexico

Dr. Arthur C. Warner  
Princeton, New Jersey

March 26, 1973

TO: Arthur Warner, Tom Coleman, Craig Patton

FROM: Walter Barnett

Attached is a copy of the letter I received today from Maurice Rosenberg. Assuming Mike Cardozo takes the same view, I plan to submit this correspondence with the resolution to Joe Covington's committee for their consideration (or directly to the Executive Committee).

My thought is that I ought also to submit copies of the opinion in the Kimball case, and a copy of that portion of the Bar Association Committee's report in Craig's own case that was reproduced for all of us. I checked through it and noted that it does not anywhere reveal Craig's name. Do you all agree, especially Craig? I thought it would help dramatize the problem for the AALS Committee.

ASSOCIATION OF AMERICAN LAW SCHOOLS

OFFICE OF THE PRESIDENT FOR 1973  
COLUMBIA UNIVERSITY SCHOOL OF LAW  
435 WEST 116TH STREET  
NEW YORK, NEW YORK 10027  
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March 22, 1973

Professor Walter Barnett  
Hastings College of the Law  
198 McAllister Street  
San Francisco, California 94102

Dear Walter:

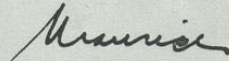
Thanks for your letter dated March 17 and for the copy of the resolution you offer for consideration at the 1973 Annual Meeting of the Association. I congratulate you on providing more than timely notice, for which Mike Cardozo will be grateful, just as I am.

I am sending a copy of your letter and the draft resolution concerning non-disqualification for admission to the bar by reason of the applicant's sexual orientation, to Mike to ask for his reactions.

You say that the resolution is intended ultimately for presentation to the ABA Section on Legal Education and Admission to the Bar and thereafter to the House of Delegates, following hoped-for favorable action by the AALS. That means that the resolution could not go to the ABA groups until the Mid-Winter Meeting in 1974 at the earliest, and possibly not until the ABA Annual Meeting next year.

So far as your question regarding which AALS committee is the appropriate one to consider your resolution, I do not believe we have one other than the Executive Committee itself. However, it might be well for the matter to be considered by the Section on Admissions to the Bar preliminary to action by the Executive Committee. I suggest that course, subject to Mike's views. The Chairman of the Section is Prof. Joe E. Covington, University of Missouri-Columbia, School of Law, Tate Hall, Columbia, Missouri 65201.

Sincerely,



Maurice Rosenberg

MR:fd  
cc: Prof. Michael H. Cardozo

EXECUTIVE COMMITTEE FOR 1973

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