

DATE: 10 January 2011

TO: ALA Council

FROM: Tom Wilding, Chair, Constitution & Bylaws Committee

RE: **Constitution & Bylaws Committee Report**

At the 2010 Annual Conference, Council approved two constitutional amendments. The first was at the request of the Endowment Trustees. The second was as a result of a review by a task force chaired by Norman Horrocks. Both are described below. Since constitutional amendments are required to be approved twice by Council before going to the membership for vote, the Constitution & Bylaws Committee (CBC) again moves the approval of the following action items. The text from the annual conference is included for your information, and particularly for the information of Councilors who were not in attendance at the 2010 Annual Conference.

**1. Endowment Trustees**

The Constitution and Bylaws Committee was asked by the Endowment Trustees to consider the expansion of the number of trustees, which is currently limited to three by the ALA Constitution. The investment scene has become exceedingly complex, and ALA's endowment has grown in size, thankfully, over the years. The addition of trustees will allow expansion of the expertise base of the trustees as a group. The committee, in reviewing Article IX of the ALA Constitution decided to take the opportunity to make this article a bit more understandable by dividing the current very long, very complex paragraph into smaller bites and to deal with the fact that the Treasurer is already considered a member of the trustees and permitted by Sturgis to vote in the absence of any prohibition from doing so. The committee therefore moves Action Item #1.

**Action Item #1**

RESOLVED, that ALA Constitution, Article IX be replaced in its entirety with the following:

Article IX. Endowment Funds

1. Receipts from life memberships and all gifts for endowment purposes shall, subject to conditions attached thereto, constitute endowment funds. Subject to conditions legally incident thereto, such funds shall be in the custody of no fewer than three nor more than six appointed trustees. One or more of these appointed trustees shall be appointed by the Executive Board annually to hold office for three years from the date of appointment or until a successor shall be appointed.

2. The trustees shall have authority to hold, invest, reinvest, disburse, and otherwise deal with endowment funds in accordance with such directions as may be given them by the ALA Executive Board. The principal of and income from endowment funds shall be expended under the directions of the Executive Board but no such expenditures shall be made except in accordance with any conditions imposed by the donors of any such funds nor for any purposes which are not in consonance with the approved policies of the Association, nor shall principal be expended unless expressly permitted by the terms of the gift, or any amendment or modification thereof. No action shall be taken with reference to investment, reinvestment, or other principal transaction with respect to securities held in the endowment fund, except upon a resolution adopted by or written order signed by a majority of the trustees.
3. The ALA Treasurer shall serve as an *ex officio* voting trustee.

## **2. Executive Director**

The ALA Constitution does not define the voting status of the Executive Director, who serves as one of the officers of the Association and as such is defined as a member of the Executive Board. This has an impact on the establishment of a quorum or a two-thirds majority for voting purposes. In order to rectify this, the committee feels it necessary to define the Executive Director as a non-voting officer and member of the Executive Board and to specify that the quorum (Article VII, Section 4) and the two-thirds and three-fourths votes required by Article III both refer to the voting members of the Executive Board.

### **Action Item #2a**

Resolved that the ALA Constitution, Article VIII, Section 1 be amended to include the parenthetical descriptor “non-voting” after the Executive Director in the second sentence so that the sentence reads:

“The officers of the Association shall be a president, a president-elect, who shall serve as vice-president, an executive director (non-voting), and a treasurer.”

### **Action Item #2b**

Resolved that the ALA Constitution, Article III be amended by inserting “voting” before the word “members,” so that the last sentence reads as follows:

“The Executive Board may suspend a member for cause after a hearing by a two-thirds vote of the voting members of the Executive Board and may reinstate a member by a three-fourths vote of the voting members of the Executive Board.”

### **Action Item #2c**

Resolved that the ALA Constitution, Article VII, Section 4 be amended by inserting the phrase “of the voting members” to read as follows:

“A majority of the voting members shall constitute a quorum of the Executive Board.”  
ALA Constitution and Bylaws Members:

3. The aforementioned task force chaired by Norman Horrocks identified that in Article III, Section 4(a) of the Bylaws, the description of the responsibilities of the Committee on Election no longer was consistent with the charge of the committee. At some point apparently the charge had been expanded to include a responsibility for elections for roundtables. The Committee felt that the Bylaws should be amended to reflect this change (See Action Item 4). In the process of reviewing Article III, however, CBC identified a few other issues.

Article III, Section 1 lays out in a series of subsections several items referring to the election process for Councilors. CBC felt that the current language was unclear and in fact implies that a separate election is held to fill vacancies. We offer what we hope will be a clarification by combining the Current Section 1(b) and Section 1(d) (see Action Item 3).

The CBC therefore moves the following:

### **Action Item #3**

Resolved that the ALA Bylaws Article III, Section 1(b) and Section 1(d) be amended as follows:

(b) Such committee shall nominate candidates from among the general membership for the position of president-elect annually; for the position of treasurer, whenever this is required by Article VIII, Section 1 of the Constitution; members-at-large of Council as provided in section[s] (c) [and (e)] below[;], including any vacant member-at-large positions [and to fill vacancies].

And eliminate Section 1(d) renumbering the subsequent subsections..

CBC was advised that this item could be treated as a non-substantive change without submitting it to a membership vote and so recommends that process.

### **Action Item #4**

Resolved that the ALA Bylaws, Article III, Section 4(a) be amended to read as follows:

“The Executive Board shall appoint a Committee on Election which shall have charge of the conduct of the regular elections of the Association, [and] the divisions, and the roundtables, and the counting and tabulation of all votes cast.”

CBC was advised that this item could be treated as a non-substantive change without submitting it to a membership vote and so recommends that process.

4. Also in the aforementioned task force, attention was drawn to Article IV, Section 3. We were unable definitively to ascertain the original intent of the word “qualified” in this section, although we were able to trace it back to 1940 thanks to the detective work of Ms. JoAnne Kempf. There is also an implication that councilors-at-large take office upon selection. The qualification process actually happens at the point at which a candidate is placed on the ballot. We decided that it would be useful to specify exactly when terms begin and end as well.

Article IV, Section 5 deals with the filling of a councilor-at-large vacancy and CBC felt that there was no reason why a councilor filling such a vacancy should not be “seated” as soon as the election is certified since that councilor would be filling out an unexpired term.

CBC therefore moves the following:

**Action Item #5a**

Resolved that ALA Bylaws, Article IV, Section 3 be amended to read as follows:

“All elected at large, divisional, and roundtable councilors, except those elected to fill vacancies, shall serve terms of three years, commencing at the adjournment of the final ALA Council meeting of the annual conference following their election.”

**Action Item #5B**

Resolved that ALA Bylaws, Article IV, Section 5 be amended to read as follows:

“A vacancy in the membership of Council representing the Association at large shall be filled at the following election to complete the unexpired term and take effect immediately after the election is certified.”

There is one remaining Bylaws item to be dealt with, but CBC did not feel comfortable with making a recommendation on it at this time. We will bring that to Council at the Annual Conference. Otherwise we think that the clean-up effort from Norman Horrocks’ task force is completed.

Respectfully submitted,

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Deborah DeGeorge  
Sue Kamm  
Robbie Nickel  
Tom Wilding, chair  
Ryan Baker, intern  
Anchalee Panigabutra-Roberts, intern  
JoAnne Kempf, staff liaison