

Case 46

Conservative Legal Advocacy

John M. Olin Foundation, 1975

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Background. The John M. Olin Foundation, beginning with its emergence in 1973 as a major contributor on the philanthropic scene, was perhaps the premier philanthropic institution supporting conservative causes during its existence. Its founder, John M. Olin, built his fortune by growing a munitions firm his father started into a large chemical corporation. In the 1970s, when the Foundation transformed from a vehicle for personal giving into a philanthropic institution, Olin was deeply concerned about the future of the capitalist system; he wanted his foundation to counter what he perceived as a wave of political sentiment against American capitalism fueled substantially by liberal philanthropies. Olin found in like-minded Treasury Secretary William Simon someone to lead the charge as president of the Olin Foundation.

Simon understood that the Foundation would be most effective by funding the development of conservative ideas, by supporting what he called a “counterintellegentsia” of conservative-minded scholars whose influence would grow out of their ideas. Consistent with that approach, the Foundation funded scholarship favoring “limited government, individual responsibility, and free society.”

Strategy. The Olin Foundation was particularly concerned with the direction of legal education. The Foundation was fearful that liberals controlled most law schools and directed the brightest students toward careers supporting liberal ideas in public interest law firms.⁷⁰⁵ One of the Foundation’s early grantees, the Institute for Educational Affairs, was recruited to help identify high impact conservative projects; it agreed with this assessment.

Understanding the direct concerns of the Foundation in the field of law, the Institute recognized early promise in a group of conservative law students in the early 1980s. These students were acutely aware of their minority status as conservatives at elite law schools, particularly after realizing that so few of their colleagues had supported Ronald Reagan in 1980.⁷⁰⁶ Despite the increasing success of the conservative law and economics movement, a movement with substantial financial support from the Foundation, these students felt more could be done to give conservative perspectives on legal and political issues a more prominent platform in law schools. In particular, the group wanted to bring to their law schools leaders of conservative thought to engage in dialogue on conservative issues, which they thought were woefully underrepresented. Early members of the group, which eventually formed as the Federalist Society, included Spencer Abraham, future senator and secretary of energy, and David McIntosh, future member of the U.S. House of Representatives.⁷⁰⁷ The Foundation made grants to sponsor the Society’s first major event, a conference, which helped to jump start the organization’s visibility and recruitment capabilities.⁷⁰⁸

Over the next two decades, the Olin Foundation contributed more than \$2 million to the Federalist Society. The Society now counts among its members more than 5,000 law students at approximately 180 law schools and more than 20,000 practicing attorneys.⁷⁰⁹ The Society’s longtime executive director, Eugene B. Meyer, suggests that the Federalist Society might not exist had it not been for Olin’s early, sustained support.⁷¹⁰

In addition to supporting dialogue on conservative policy through the Federalist Society, Olin provided support for organizations that litigate on behalf of conservative causes in the same manner adopted by the public interest law firm grantees of the Ford Foundation. For example, the Olin Foundation has contributed over \$2 million to the Washington Legal Foundation, \$1.3 million to the Center for Individual Rights (CIR), and \$1 million to support the Pacific Legal Foundation.⁷¹¹ While

these organizations have played an important role supporting conservative causes through litigation, they also serve as employers that enable intelligent, conservative-minded law students to direct their legal educations to advance conservative ideas and policies.

Impact. The Federalist Society's impact has stretched beyond the imagination of its early donors. Some credit the Society with effectively counterbalancing what the Federalist Society calls a shift to the left of the American Bar Association. In particular, many say the Federalist Society enabled the Bush administration to cease the traditional practice of asking the ABA for evaluations of judicial nominees, a practice many conservatives considered detrimental to the confirmation of conservative judges.⁷¹² Furthermore, the Society has enabled conservative law students to develop networks that are maintained as they attain increasing public responsibilities in their careers. Three of President George W. Bush's cabinet members in his first term, as well as Bush's solicitor general and staff members in the White House counsel's office, were members of the Federalist Society. In addition, members of the Federalist Society are reported to have played central roles on President Bush's committee to propose nominees for judicial appointments.⁷¹³ The Federalist Society's importance in advancing conservative ideas in the law became a matter of common understanding during the confirmation process of Chief Justice John Roberts; the appearance of his name on a leadership roster for the Society was a point of contention between Democratic senators and the White House.⁷¹⁴

Olin's public interest law organization grantees have also enjoyed tremendous success. The Washington Legal Foundation has successfully opposed various government regulations, particularly regulations proposed by the FDA that the WLF believes are overreaching.⁷¹⁵ CIR has successfully litigated on behalf of professors accused of sexual harassment, for religious organizations seeking to participate in publicly funded activity, for constitutional limits on federal legislation of gender violence, and against racial preferences in higher education.⁷¹⁶ The Pacific Legal Foundation has been an ardent advocate for private property rights and limited government in the courts as well as the media.⁷¹⁷

Notes

705. John J. Miller, *Strategic Investment in Ideas: How Two Foundations Reshaped America*. (Washington: The Philanthropy Roundtable, 2003), 10.
706. Michael A. Fletcher, "What the Federalist Society Stands For," *Washington Post*, 7/29/2005, A21.
707. Miller, *Strategic Investment in Ideas*, 28.
708. *Ibid.*, 28–29.
709. *Ibid.*, 29.
710. *Ibid.*
711. *Ibid.*, 32.
712. *Ibid.*, 30.
713. Thomas B. Edsall, "Federalist Society Becomes a Force in Washington," *Washington Post*, 4/18/01, A4.
714. Fletcher, "What the Federalist Society Stands For."
715. John M. Olin Programs in Higher Education, Books on Public Affairs and Litigation, Internal Memo, Spring 2002, 8.
716. *Ibid.*, 7.
717. *Ibid.*, 8.