

NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
BAR CENTER, ALBANY, APRIL 26, 1980

BRANDVUEN

DELLE CASE  
DENTON

HALL

PRESENT: Members Acker, Adamson, Amdursky, Aspland, Baer, Barlow, Barrera, C. Beshar, R. Beshar, Brearton, Brenner, Brickfield, Brown, Cahn, Callahan, Clabby, Clark, Cometa, Cook, Daly, Diamond, Dougherty, Drazen, Durgin, Emmett, Eolis, Erickson, FitzPatrick, Forger, Glasheen, Greenberg, Grossman, Hackbarth, Harrigan, Hart, Haskel, <sup>Haynes,</sup> Hederman, Heming, Hoffmann, Kahn, Kilsch, Klein, Lagarenne, LeSeur, <sup>Hester</sup> Levy, Lifland, Longo, Maas, Marcus, Meriam, Miller, Neale, Nemia, Nessen, J.C. O'Brien, Palermo, Patterson, Pritchard, K.C. Reilly, <sup>PRET</sup> Robfogel, Rubenstein, Russell, Schrade, Smith, Spivack, Swett, B.I. Taylor, L.B. Taylor, Thoron, Tondel, Traficanti, Tucker, Urbano, D.A. Whalen, T.M. Whalen, Williams, <sup>WITMER</sup> Yetter and Zimmer.

1. Approval of minutes of January 25, 1980 meeting. The minutes were approved as distributed.

2. Amendment of Division and Section Bylaws. Upon motion, the following amendments were approved:

Banking, Corporation & Business Law Section. ARTICLE III, Officers and Executive Committee.

Section 2. The Executive Committee shall consist of not less than 22 nor more than 36 members, and shall include members from each Judicial District in the State to the extent practicable. Except as provided below, the members of the Executive Committee shall be elected in as equal numbers as possible from among persons who are members of the Section's Banking Law Committee, Corporation Law Committee and Business Law Committee. Not more than five members of the Executive Committee may be members at large who need not be members of any committee of the Section.

Family Law Section. ARTICLE III, Officers and Executive Committee.

Section 2. The Executive Committee will consist of the Chairman, Secretary of the Section, the three immediate past Chairmen of the Section, all Committee Chairmen, Editor of the Family Law Review, Young Lawyers Section Liaison, who must be a member of the Family Law Section, Delegate-at-Large, and one member from each Judicial District in the State. No Delegate-at-Large or member from a Judicial District may be re-elected to the same office for more than five consecutive years, nor may such Executive Committee member thereafter be elected to such office until one year shall have elapsed following such five consecutive year period. All other past chairmen of the Section shall be members ex-officio.

Workmen's Compensation Law Division of the Insurance, Negligence and Compensation Law Section.

The name of the Division was changed to Workers' Compensation Division.

Labor Law Section.

The name of the Section was changed to Labor and Employment Law Section.

Municipal Law Section. ARTICLE IV, Officers.

Section 1. The officers of this Section shall be a Chairman, a First Vice-Chairman, a Second Vice-Chairman and a Secretary. These officers shall be elected at the Annual Meeting of the Section and shall hold office for two years or until their successors are elected.

Trial Lawyers Section. ARTICLE III, Officers.

Section 2. The Chairman, Vice-Chairman, Secretary and all former Section Chairmen will constitute the Executive Committee of the Section, and in addition thereto, such committee will consist of two members from each Judicial District in the State.

3. Report of Treasurer. A copy of the Treasurer's report, January 1 to March 31, 1980, had been previously circulated to members of the House. The report was received and filed.

4. Election of Nominating Committee. Mr. Russell, chairman of the Nominating Committee, reported that the committee recommended and nominated Charlotte Smallwood Cook, Robert P. Patterson, Jr. and Henry J. Smith as members-at-large of the Nominating Committee. A motion was adopted electing said members.

A further motion was adopted electing Henry J. Smith chairman of the Nominating Committee.

The following members from each Judicial District, as selected by the vice-president and elected delegates, from each Judicial District, were nominated as members of the Nominating Committee:

- 1st District Christine Beshar and Haliburton Fales 2d
- 2nd District Edward J. Connolly, Jr. and Bernadette Dolan
- 3rd District James E. Brearton and Lawrence E. Lagarenne
- 4th District Bernard F. McPhillips and Joseph E. Rosch
- 5th District William F. FitzPatrick and James S. Kernan
- 6th District Thomas R. Emmett and Peter W. Mitchell
- 7th District Peter M. Blauvelt and Delon F. Mousaw
- 8th District Benjamin N. Hewitt and Wallace J. Stakel
- 9th District Henry G. Miller and Benjamin I. Taylor
- 10th District James V. Fallon and Joseph Tobin, Jr.
- 11th District Jules J. Haskel and Robert L. Klein

A motion was adopted electing said members.

5. Election of Delegates to American Bar Association House of Delegates. Mr. Russell, chairman of the Nominating Committee, reported that the committee recommended and nominated Alexander D. Forger, Anthony R. Palermo, Edwin F. Russell, Henry J. Smith and David S. Williams as delegates to the American Bar Association House of Delegates. A motion was adopted electing said delegates.

He further reported that the committee recommended and nominated as the young lawyer delegate (less than 35 years of age), Robert J. Pearl. A motion was adopted electing Mr. Pearl.

6. Appointment of Assistant Treasurer. Upon recommendation of the Executive and Finance Committees, a motion was adopted appointing John J. Yanas of Albany, as an officer of the Association to the position of Assistant Treasurer.

7. Interim Report of Committee on Judicial Administration. Mr. Horan, Chairman of the Committee on Judicial Administration, summarized the status of the committee's evaluation of the problem of court congestion and delay, including the procedure employed by the committee in conducting its preliminary analysis and review of available data, including statistics furnished by the Office of Court Administration. He indicated that a further report was anticipated by June, and that information or comments would be welcomed from House members.

8. Proposed Model Rules of Professional Conduct of the American Bar Association Commission on Evaluation of Professional Standards. Mr. Rosiny, Chairman of the Committee on Professional Ethics, presented an initial appraisal of the proposed model rules, including significant differences from existing provisions of the Code of Professional Responsibility, and the effect such changes would have upon various areas of practice.

Mr. Palermo announced that he would appoint a Special Committee to Review ABA Draft Model Rules of Professional Conduct to evaluate the ABA proposals on a priority basis and propose recommendations by early September regarding the issues involved. The matter would then be presented to the House of Delegates for consideration at the Fall meeting.

9. Interim Report of Action Unit No. 5. Mr. Heming, Chairman of Action Unit No. 5, outlined the scope of the Action Unit's activities concerning the problem of government overregulation, including the submission of comments to the Governor regarding Executive Order No. 10 addressed to regulatory reform. He indicated that the Action Unit was seeking long-term solutions, and to achieve this purpose had established three subcommittees to conduct detailed studies of the regulatory process, occupational licensing and the interrelationship of state, federal and local regulations.

10. Report and Recommendations of Committee on Lawyer Referral Service. Mr. McDonald, Chairman of the Committee on Lawyer Referral Service, summarized the committee's report and recommendations concerning establishment of a statewide lawyer referral program. After discussion, and amendment of the proposed plan and resolution, the following resolution was adopted upon motion by the House.

RESOLVED, that the House of Delegates of the New York State Bar Association approves in principle the establishment of a statewide lawyer referral program to be operated from the headquarters of the New York State Bar Association in Albany, to be staffed as may be necessary and to use a WATS line with a toll free number available from throughout the State, for the purpose of referring requests from prospective clients to legal services programs or legal aid societies, where appropriate, or to operating county, city and regional lawyer referral service programs, and for direct reference to lawyers in those areas where lawyer referral services do not exist; and further

RESOLVED, that the House of Delegates hereby authorizes the Committee on Lawyer Referral Service, and other appropriate committees, including Action Unit No. 3, the Committee on Legal Aid and the Special Committee on Group and Prepaid Legal Services Plans, and the staff of the Association: to encourage and assist in the growth and development of local and regional lawyer referral services throughout the State, to develop the lawyer referral program; to canvass local attorneys concerning participation in said statewide program; to develop an appropriate informational program, including public service announcements and other means designed to educate the legal profession and the public regarding the availability of local, regional and statewide lawyer referral services and legal services for the poor, and public interest law services; and further

RESOLVED, that the Lawyer Referral and Information Service Plan presented to this meeting is hereby approved; and further

RESOLVED, that the officers of the New York State Bar Association are hereby authorized and directed to take all such action as they deem appropriate to implement the foregoing resolutions, subject to prior budget approval of the Finance Committee.

A copy of "The New York State Bar Association Lawyer Referral and Information Service Plan" is annexed to these minutes.

11. Presentation of Trial Lawyers Section Mock Trial Competition Award. Following introductory remarks by Gunther H. Kilsch, Past Chairman of the Trial Lawyers Section, Anthony DeMarco, Jr., presented the Trial Lawyers Cup and Scholarship Award to Syracuse University School of Law as the New York State law school placing highest in National Mock Trial Competition.

12. Report of Action Unit No. 4. Mr. Vigdor, Acting Chairman of Action Unit No. 4, reported that a proposed bill had been drafted to implement the resolutions concerning court reorganization and judicial selection adopted at the September 29, 1979 House meeting. He further advised that the bill had been introduced in the Senate, with a similar filing anticipated in the Assembly in the near future, and that copies of the proposal, together with supporting documents, would be mailed to all members of the House.

13. Report of President. Mr. Palermo reported the following matters:

a) The Section on General Practice of Law was well established, with 338 charter members enrolled and a direct mail solicitation of the Association membership planned for the near future.

b) Information released by the Office of Court Administration revealed that 65,891 attorneys had registered statewide. He indicated that available computer data was being analyzed to determine the geographic distribution of registrants.

c) He had met with legislative leaders concerning matters of interest to the Association, and had been informed that first passage of court reform legislation was not likely this year. Mr. Palermo also indicated that legislation to increase various filing fees had been passed despite Association opposition. In related matters, he stated that legislation had been introduced which would increase the costs of successful litigants, and that he had forwarded copies to local bar officials and interested Association committees for review and comment.

d) A bill had been introduced in the Legislature which would attach a \$40.00 fee to lawyer registration. He indicated the Executive Committee had taken the position that it would not oppose such a fee, so long as the revenues were applied to client security funds or the attorney discipline program.

e) The Superintendent of Insurance had no objections to legislation supported by the Association in connection with group and prepaid legal services, and that passage could occur this year.

f) He had contacted The New York Times regarding inaccuracies contained in its January 26, 1980 article describing the action taken by the House at the January 25, 1980 meeting following consideration of the report submitted by the Special Committee on Public Access to Information and Proceedings. Mr. Palermo also reported that the Media Advisory Committee was still considering the subject, including the impact of pertinent provisions of the New York Civil Rights Law.

g) A survey would be conducted of House members regarding Association publications, and that their response and opinions would be welcomed.

h) The Court of Appeals had granted the Association leave to file an amicus curiae brief in Matter of Koffler, and that a proposed brief was being prepared for consideration by the Executive Committee.

i) Following approval by the Special Committee on Juvenile Justice, the Executive Committee had authorized submission of an application to the New York State Division of Criminal Justice Services for funding to study the New York Family Court system.

j) The renovation of the south wing of the Bar Center had been completed and the additional office space was now in use.

k) The Executive Committee had authorized execution of the Bar Center lease with The New York Bar Foundation, including occupancy of a part of the renovated south wing, with an option to lease additional space in the future. Mr. Palermo indicated that negotiations were continuing between the Association and The Foundation to establish satisfactory terms for repayment of the indebtedness incurred by The Foundation for the Bar Center renovation.

l) The Internal Revenue Service had completed its review of The New York Bar Foundation's tax exempt status and had determined that The Foundation was entitled to continued income tax exemption under the Internal Revenue Code.

14. Report of Chairman. Mr. Forger welcomed the following new members of the House of Delegates: Robert Beshar, Seth Rubenstein and Francis Springfield. He then announced that Merrell E. Clark, Jr. was resigning as a member of the House. Mr. Clark's resignation was accepted with gratitude for his many years of distinguished service to the organized bar.

15. Date and Place of Next Meeting. Mr. Forger announced that the next meeting of the House of Delegates will be held at The Otesaga, Cooperstown on Saturday, June 28, 1980.