

NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
BAR CENTER, ALBANY, NEW YORK - APRIL 23, 1988

PRESENT: Members Albert, Amrod, Baldwin, Bermingham, Blattmachr, Bracken, Brenner, Britt, Buzard, Canoni, Cavanaugh, Cometa, Condon, Connolly, Corcoran, Cregg, Curtis, Daly, Deptula, Demaio, Dollard, Elwood, Emerson, Fahey, Farrell, Ferguson, Field, Fitzgerald, Freedman, Gaal, Gershon, Ginsberg, Giordano, Glasheen, Glavin, Goldblum, Hall, Halpern, Hart, Haskel, Headley, Heming, Horan, Hyman, Katz, Kaufman, King, R. Klein, Krieger, Lagarenne, Lamb, MacCrate, Mann, Marangos, Markuson, McGinnis, McGlenn, McGoldrick, A. Murray, K. Murray, Nydam, Obold, O'Brien, Ostertag, Pearl, Penzel, Pfeifer, Platto, Powers, Pruzansky, Pugh, Pulley, Reilly, Reiter, Rice, Richardson, Ritzholz, Robfogel, Robinson, Rosiny, Rosner, Rothstein, Rubin, Santagata, Santemma, Schiller, Seward, Shlufman, Simberkoff, Stiles, Sussman, Thompson, Tobin, Tondel, Torres, Vigdor, C. Walsh, J. Walsh, Wanderman, Warren, Weaver, T. Whalen, White, Wilkens, Williams, Witmer, Woronov, Wright, Yanas, Zimmermann.

2. Report of Treasurer. Mr. Gershon summarized the Treasurer's report covering the period January 1 to March 31, 1988, and indicated that the Association remained in sound financial condition as of the close of the first quarter of the fiscal year. Mr. Gershon noted that four years had elapsed since the last dues increase and that an increase would likely become necessary for 1989. Mr. Gershon stated that the Finance Committee was evaluating various options and would prepare suitable recommendations for consideration by the House of Delegates later in the year.

3. Election of Nominating Committee and NYSBA Delegates to ABA House of Delegates. On behalf of Nominating Committee Chair Henry G. Miller, Mr. King reported that the committee had nominated Charles E. Heming, Susan S. Robfogel and Justin L. Vigdor as members at large of the Nominating Committee and Mr. Vigdor as its Chair for the 1988-89 Association year. A motion was adopted electing said Chair and members.

The following members from each Judicial District as selected by the vice-president and elected delegates from the respective districts, were nominated as members of the nominating committee for the 1987-88 Association year:

1st District:	John D Feerick and Kay C. Murray
2nd District:	Maurice Chayt and Joseph H. Farrell
3rd District:	Thomas W. Jeram and David S. Williams
4th District:	Charles H. Clark and A. Rita C. Glavin
5th District:	Dennis R. Baldwin and George S. Deptula
6th District:	John J. Fitzgerald and William G. Ruger
7th District:	John A.R. Walsh and Beth Ela Wilkens
8th District:	Joseph D. Birmingham, Jr., and Thomas R. Elmer
9th District:	William J. Daly and Arthur L. Gellert
10th District:	Harold A. Mahony and Joshua M. Pruzansky



11th District: Jules J. Haskel and Donald J. Zimmer  
12th District: Alexander A. Delle Cese and Richard Weinberger

A motion was adopted electing said members.

Mr. King reported that the Nominating Committee had nominated the following individuals as NYSBA Delegates to the ABA House of Delegates for either two or one-year terms, as indicated, commencing August 1988:

For a two-year term: Edward J. Hart, Henry G. Miller, Archibald R. Murray, Robert L. Ostertag and Justin L. Vigdor.

For a one-year term: Maryann Saccomando Freedman, Ralph L. Halpern, Charles E. Heming, Henry L. King and Beth Ela Wilkens.

A motion was adopted electing said delegates for the designated terms.

Mr. King reported that the Nominating Committee had nominated Charlene E. McGraw as the young lawyer delegate to the ABA House of Delegates for a one-year term commencing August 1988. A motion was adopted electing Ms. McGraw as the young lawyer delegate.

4. Request of Committee on Lawyer Referral and Information Services for amendment of NYSBA Lawyer Referral and Information Service Plan. Peter B. Lekki, a member of the Committee on Lawyer Referral Service, summarized a proposed amendment to the Lawyer Referral and Information Service Plan to delete the final sentence of Article III reading: "During any committee member's term neither the member nor any attorney associated with the member in practice will receive referrals from the service." He explained that the requested change would permit participation on the committee by interested and experienced panel members and would enhance the functioning of the program. Mr. Lekki advised that the proposed revision was consistent with the practice in other jurisdictions, and had been found proper in an advisory opinion issued by the Committee on Professional Ethics. A motion was adopted approving the requested amendment.

5. Report of President. Mrs. Freedman reported the following matters:

a) The Special Committee on Procedures for Judicial Discipline and the Judicial Section had taken positions opposing the recommendation by the State Commission on Judicial Conduct that charges and disciplinary proceedings against judges be made public after a finding of probable cause has been made.

b) Consistent with previous positions asserted by the Association and the Special Committee on Group and Prepaid Legal Services Plans, she had written to Congress urging the enactment of legislation to establish favorable tax treatment for prepaid legal services plans on a permanent basis.

c) Action Unit No. 4 was continuing to monitor legislative developments with respect to trial court merger and merit selection of judges.



d) The Administrative Board of the Courts had adopted a rule requiring disclosure of financial data by judges and court personnel with annual salaries exceeding \$30,000. Mrs. Freedman noted that the recently released report of the State Commission on Government Integrity questioned the need for such widespread financial disclosure as an effective policing tool under the Ethics in Government Act.

e) She had responded to the New York Times editorial criticizing the jury selection process and had used the opportunity not only to reaffirm the importance of the jury selection process, but to apprise the public of the Association's efforts to improve both the justice system and courthouse facilities.

f) She and Messrs. King and Yanas had met with the various section leaders on March 29 to review policies and administrative matters affecting the sections. Mrs. Freedman advised that the afternoon portion of the program had been devoted to a presentation to the section leaders and other interested members of the Association by Chief Administrative Judge Rosenblatt with respect to the Amicus Committee's proposal that volunteer attorneys be utilized as special masters to help relieve civil calendar congestion. She noted that a pilot program would be instituted by OCA in Westchester County to evaluate the efficiency of the special masters program.

g) In response to the announcement by Chief Judge Wachtler of his appointment of a commission to study the provision of pro bono legal assistance, she had advised him of the legal needs survey planned by the Committee on Legal Aid and suggested that the commission might wish to await the results of this study before formulating its final recommendations.

h) The rules drafted by the Office of Court Administration to impose sanctions in criminal cases had been circulated to interested sections and committees for comment.

i) Chief Judge Wachtler had appointed a State Judicial Commission on Minorities, chaired by Franklin H. Williams, to examine the treatment accorded minority lawyers, court personnel, judges and litigants within the court system.

j) Chief Judge Wachtler had established a Permanent Commission on Justice for Children. She reported that the Chief Judge had already appointed Lenore Gittis, Chair of the Association's Committee on Juvenile Justice, as a member. Mrs. Freedman indicated she had been asked to suggest an additional appointee and had recommended Lucia B. Whisenand, who serves as Vice-Chair of the Juvenile Justice Committee.

k) The State Insurance Department was considering amendments to departmental regulations which implement New York's automobile no-fault statute. She advised that as part of the proposal, a no-fault arbitrator is to be evaluated by a No-Fault Arbitrator Screening Committee consisting of four voting members, one of whom is to be designated by the Association. She indicated that in response to a request from the department for a recommended designee, she had submitted the name of Frank M. Nigro of the Trial Lawyers Section's Executive Committee.

l) The Administrative Board of the Courts had responded favorably to the concern raised by the Special Committee to Improve Courthouse Facilities as to the method for paying the new \$200 civil appeal filing fee, and will now permit payment by personal check or money order.



m) The Committee on Unlawful Practice of the Law had filed a legislation report supporting a pending bill which will make information contained in the official register of attorneys available to members of the public who wish to ensure that attorneys they are dealing with are members of the bar in good standing. She noted that the bill would also standardize current reporting practices by requiring the four Appellate Divisions to notify the Chief Administrator promptly of the suspension, removal, readmission or resignation of any attorney.

n) The Special Committee on Medical Malpractice had retained Professor Maxwell J. Mehlman of Case Western Reserve University's School of Law as a consultant to prepare a response to Medical Care and Medical Injuries in the State of New York: A Pilot Study conducted by the Harvard Medical Practice Study Group.

o) The Real Property Law Section's Committee on Condemnation, Certiorari and Real Estate Taxation was evaluating changes proposed to the Uniform Civil Rules for the Supreme Court and County Court relating to the exchange of appraisal reports in eminent domain proceedings.

p) The premiere of "An Empire of Reason," commemorating the bicentennial of New York State's ratification of the United States Constitution, will be held on May 4, 1988 at the Equitable Center in New York City. She noted further that on May 11, the Association would be participating with the State Commission on the Bicentennial of the United States Constitution in a state ratification celebration.

q) She had requested that the Antitrust Law Section monitor developments in recent antitrust suits filed in the United States District Court for the Northern District of California against various insurance carriers, reinsurers and insurance industry trade associations. Mrs. Freedman indicated that the section had designated Vice-Chair Norma B. Levy to perform this function, and that Ms. Levy had submitted a detailed initial status report regarding the case, which report was available on request to interested members of the House.

r) The Committee on Federal Courts was cooperating with the Trial Lawyers Section and the Insurance, Negligence and Compensation Law Section to determine whether there was a need to form a litigation section within the Association with an emphasis on corporate and federal litigation.

s) On April 22, the Executive Committee had taken a position opposing the concept of mandated statutory formulas for calculating child support and further opposing pending legislation to establish mandatory child support guidelines. The Executive Committee also declined to support a constitutional amendment to permit greater utilization of retired judges, as it felt calendar congestion can best be relieved through legislation establishing additional fulltime judgeships.

t) The report of the Special Committee on Lawyer Competency would be circulated to the members of the House in advance of its consideration at upcoming meetings.

u) The Special Committee on Biotechnology and the Law would be distributing a preliminary report addressing the law-related issues surrounding surrogate parenting, gamete donation and embryo experimentation.

1. The first step in the process of establishing a new organization is to determine the purpose and objectives of the organization. This involves a thorough analysis of the current situation and the needs of the community or organization. Once the purpose and objectives are clearly defined, the next step is to develop a plan of action. This plan should outline the specific steps that will be taken to achieve the organization's goals. It should also identify the resources that will be needed and the individuals who will be responsible for carrying out the plan. The final step in the process is to implement the plan and monitor progress. This involves setting up a system of communication and reporting that will allow the organization to track its progress and make adjustments as needed. The success of the organization will depend on the quality of the plan and the commitment of the individuals involved in its implementation.

2. The second step in the process of establishing a new organization is to determine the structure of the organization. This involves deciding on the number of levels of hierarchy and the roles and responsibilities of each level. The structure should be designed to support the organization's purpose and objectives and to ensure that all tasks are covered. Once the structure is determined, the next step is to recruit and hire individuals to fill the positions. This involves developing a job description for each position and advertising the positions to attract qualified candidates. The final step in the process is to provide training and support to the new employees. This involves providing them with the information and resources they need to perform their jobs effectively. The success of the organization will depend on the quality of the structure and the commitment of the individuals involved in its implementation.

3. The third step in the process of establishing a new organization is to determine the financial resources that will be needed to support the organization. This involves developing a budget that outlines the expected costs and revenues of the organization. The budget should be based on realistic assumptions and should take into account all of the expenses that will be incurred. Once the budget is developed, the next step is to identify the sources of funding that will be used to support the organization. This may include grants, donations, or the sale of products or services. The final step in the process is to secure the funding that is needed to support the organization. This involves contacting the potential sources of funding and making a compelling case for why they should support the organization. The success of the organization will depend on the quality of the budget and the ability to secure the funding that is needed to support it.

4. The fourth step in the process of establishing a new organization is to determine the legal structure of the organization. This involves deciding on the type of legal entity that will be used to operate the organization. The most common legal structures are sole proprietorship, partnership, and corporation. Each structure has its own advantages and disadvantages, and the choice of structure will depend on the specific needs of the organization. Once the legal structure is determined, the next step is to register the organization with the appropriate government agencies. This involves filing the necessary paperwork and paying the required fees. The final step in the process is to obtain any necessary licenses or permits. This involves applying to the relevant government agencies and providing the necessary information and documentation. The success of the organization will depend on the quality of the legal structure and the ability to obtain the necessary licenses and permits.

5. The fifth step in the process of establishing a new organization is to determine the marketing strategy that will be used to promote the organization. This involves developing a plan that outlines the specific steps that will be taken to reach the target audience and generate interest in the organization. The marketing strategy should be based on a thorough understanding of the target audience and the competitive environment. Once the marketing strategy is developed, the next step is to implement the strategy and monitor progress. This involves carrying out the marketing activities and tracking the results to see if the organization is reaching its target audience and generating the desired level of interest. The final step in the process is to evaluate the marketing strategy and make adjustments as needed. This involves analyzing the results of the marketing activities and identifying areas where the strategy can be improved. The success of the organization will depend on the quality of the marketing strategy and the ability to implement it effectively.

6. The sixth step in the process of establishing a new organization is to determine the evaluation system that will be used to measure the organization's performance. This involves developing a set of metrics that will be used to track the organization's progress and identify areas where improvement is needed. The evaluation system should be based on the organization's purpose and objectives and should take into account all of the key areas of performance. Once the evaluation system is developed, the next step is to implement the system and monitor progress. This involves collecting data on the organization's performance and analyzing it to see if the organization is meeting its goals and objectives. The final step in the process is to use the results of the evaluation system to make improvements to the organization. This involves identifying the areas where the organization is performing poorly and developing a plan to address these areas. The success of the organization will depend on the quality of the evaluation system and the ability to use the results to make improvements.



vy) At the request of the Labor and Employment Law Section, the Executive Committee had approved the filing of affirmative legislation to establish a procedure for the voluntary arbitration of complaints filed with the State Division of Human Rights.

w) Acting on the report of the Special Committee on Association Meetings, the Executive Committee had approved Binghamton and Long Island as the respective sites for the 1989 and 1990 General Meetings. Mrs. Freedman also encouraged the participation of the members of the House in the 1988 General Meeting to be held in Syracuse.

x) She expressed her sincere appreciation to the officers, staff and the members of the House for their support, encouragement and cooperation during her term as President.

6. Report and recommendations of Special Committee on Election Law.  
Angelo D. Cometa, Chair of the Special Committee on Election Law, summarized the review of the State Election Law conducted by the committee with the goal of streamlining cumbersome procedures and eliminating hyper-technical requirements which impose unnecessary burdens on candidates and generate excessive litigation. He summarized the following recommendations intended to improve the elective process: a return to spring primary elections; the use of standardized procedures in Election Law matters; increasing the length of the petition process; providing standardized forms for Election Law matters; designating Boards of Election as agents for process; codification of the decision in Brown v. Ulster County Board of Elections, 48 N.Y. 2d 614 (1979) with regard to write-in primaries; calling for earlier commencement of the fact-finding process in Election Law matters; and rescinding the right to commence court proceedings without filing objections and specifications with the Board of Elections. Mr. Cometa noted that the foregoing constituted the committee's initial recommendations, and that it would be continuing its study to develop further proposals to improve the elective process. Following discussion a motion was adopted approving the report and recommendations and further directing the committee to continue its study.

7. Report and recommendations of Committee on Professional Discipline.  
Benjamin Greshin, Chair of the Committee on Professional Discipline, summarized the committee's report and recommendations addressing the problem of embezzlement of escrow funds by attorneys. He noted the committee's support for measures which would require that: (1) banks notify grievance committees when an escrow check is returned for insufficient funds; (2) insurance carriers notify an attorney's client when a settlement check is mailed to the attorney; and (3) attorneys be required to certify on a regular basis that client funds are segregated in properly maintained escrow accounts. Mr. Greshin noted the committee's position that verification by certified public accountants as to the proper maintenance of escrow accounts and random audits of escrow accounts were inappropriate measures for implementation in New York State. Mr. Greshin also reviewed the status of efforts to implement pilot random audit programs in the First and Second Departments. Following discussion of the foregoing alternatives and related issues, a motion was adopted to table further consideration of the matter pending further study by the committee.

8. Report and recommendations of Interest on Lawyer Account (IOLA) Advisory Committee.  
Jonathan G. Blattmachr, Chair of the Interest on Lawyer Account (IOLA) Advisory Committee, summarized the committee's request that the Association endorse conversion of the Interest on Lawyer Account Program from voluntary to mandatory status and support the passage of legislation to eliminate the requirement for



repayment of the \$1,000,000 appropriation advanced to the IOLA Fund during the 1984-85 fiscal year. He noted that support for a third measure sought initially by the committee to provide a \$200,000 appropriation to the Fund for administrative expenses was rendered unnecessary as a suitable provision had been incorporated in the recently enacted budget legislation. A motion was then adopted on motion of the House approving the following resolution:

RESOLVED, that the House of Delegates of the NYSBA hereby endorses conversion of the Interest on Lawyer Account Program from voluntary to mandatory status; and it is further

RESOLVED, that the House of Delegates of the NYSBA hereby endorses the enactment of legislation to amend Chapter 760 of the Laws of 1984 to eliminate the requirement for repayment of the \$1,000,000 appropriation advanced to the IOLA Fund for start-up costs in 1984-85.

9. Status report on Bar Center expansion. Robert MacCrate, Co-Chair of the Ad Hoc Committee on Bar Center Facilities and Space Requirements, reviewed the status of the Bar Center expansion and the related fund raising campaign. He advised that the Board of Directors of The New York Bar Foundation and the Ad Hoc Committee on Bar Center Facilities and Space Requirements had appointed a special subcommittee to review all pertinent aspects of the Bar Center project. Mr. MacCrate indicated that the special subcommittee had met earlier in the month to consider cost estimates, fund-raising projections, financing expenses, and the impact of long-term debt obligations on the operations of the Association. He reported that based on its analysis, the special subcommittee had concluded it would be appropriate for the Association and Foundation to reduce the scope of the project to a renovation of the existing Bar Center and the buildings at Nos. 5 and 6 Elk Street, and to defer for the present the new construction planned for the rear of the latter buildings. Mr. MacCrate noted that the special subcommittee had also recommended that, if warranted by final returns from the fund-raising campaign, the Association consider the feasibility of a modest special assessment to reduce any differential between project costs and contributions received. He stated that these two recommendations had received the concurrence of the Board of Directors of the Foundation and the Association's Executive Committee. Mr. MacCrate advised that the Ad Hoc Committee on Bar Center Facilities and Space Requirements and its Subcommittee on Building Design and Construction would be reviewing the project based on these recommendations to prepare a redesign which would provide optimal use of the existing buildings while allowing for further expansion in the future. He noted that the Ad Hoc Committee anticipated having additional information for presentation to the House at the June meeting.

10. Report of Committee on Judicial Administration. George F. Carpinello, Chair of the Committee on Judicial Administration, summarized the report and findings of the committee concerning the operation of the Individual Assignment System, including recent discussions had with various substantive law sections of the Association and officials from the Office of Court Administration. He reviewed the recommendations formulated by the committee to improve the Individual Assignment System with respect to motion calendars and oral argument, pretrial conferences, telephone conferences, trials by back-up judges, sanctions, interlocutory appeals,



management techniques, and additional support personnel. He advised that the evaluation of the Individual Assignment System was an ongoing process, and that the Committee on Judicial Administration would welcome comments from the members of the House, as well as interested sections and committees of the Association. The report was received with the thanks of the House.

11. Report of Chair. Mr. King reported the following matters:

a) Bar associations entitled to delegates had filed their designations of delegates for the 1988-89 Association year. On motion said designations were approved as filed, and a further motion was adopted approving the filed roster of members of the House as the official list for 1988-89.

b) Pursuant to the Bylaws, the terms of several special committees were due to lapse at the close of the current Association year. Upon motion adopted by the House, the terms of the following special committees were extended for an additional year:

- Ad Hoc Committee on Bar Center Facilities and Space Requirements
- Alternatives to Court Resolution of Disputes
- Association Meetings
- Task Force on Simplification
- Computer Access and Retrieval of Government Records
- Copyright Law
- Entertainment Law
- Group and Prepaid Legal Services Plans
- Improve Courthouse Facilities
- Interest on Lawyer Account (IOLA) Advisory Committee
- Media Law
- Medical Malpractice
- Military and Veterans Affairs
- Patents and Trademarks
- Procedures for Judicial Discipline
- Review Code of Professional Responsibility
- Volunteer Lawyers

c) The four Appellate Divisions had appointed a committee consisting of a justice and an attorney from each department to review the amended Code of Professional Responsibility as submitted by the Association. He indicated that the committee would be meeting on May 13.

112. Presentation of Trial Lawyers Section National Trial Advocacy Competition Awards. In cooperation with Anthony J. De Marco, Jr., Chair of the Trial Lawyers Section Trial Advocacy and Scholarship Competition Committee, Mrs. Freedman and Mr. King presented the Trial Lawyers Cup and Scholarship to Benjamin Cardozo School of Law of Yeshiva University as the law school from New York State placing highest in the National Trial Advocacy Competition. Syracuse University College of Law was recognized for its second place finish among New York law schools in the competition.

113. Date and place of next meeting. Mr. King announced that the next meeting of the House of Delegates will be held on Saturday, June 25, 1988 at The Otesaga in Cooperstown.

