

**NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
THE DESMOND AMERICANA, ALBANY, NEW YORK  
APRIL 15, 1989**

---

**PRESENT:** Agress, Amrod, Ange, Ball, Bermingham, Besso, Blossom, Bohner, Bracken, Brevorka, Brinton, Buckley, Buzard, Cannon, Canoni, Cavanaugh, Clarke, Colish, Cometa, Connolly, Cooke, Corcoran, Cregg, Daly, Davidson, DelleCese, Dollard, Dranoff, Dwyer, Eberz, Emerson, Esteve, Evans, Fales, Farrell, Ferguson, Field, Fisher, Freedman, Geraci, Gershon, Ginsberg, Glasheen, Goldblum, Gordon, Grobosky, Grogan, Haig, Hall, Halpern, Hart, Haskel, Hawkins, Headley, Heming, Horan, Hurd, Hyman, Ippolito, Jones, Kaplan, Kaufman, King, R. Klein, Lowe, Marangos, McDonald, McGlenn, McGuirk, Meng, Minardo, Morris, Mumford, A. Murray, C. Murray, K. Murray, Netter, Offermann, Ostertag, Pearl, Perles, Perrin, Pfeifer, Platto, Pugh, Pulley, Reiter, Rhodes, Rice, Richardson, Rider, Riley, Ritholz, Robfogel, Robinson, Rosiny, Rothstein, Rubin, Sampson, Santagata, Santemma, Schapiro, Shlufman, Silverstein, Simberkoff, Stave, Thompson, Tobin, Van Strydonck, Vigdor, Wagner, Walker, J. Walsh, Wanderman, Whalen, Williams, Witmer, Wolf, Woodman, Woronov, Yanas, Zimmermann.

1. Approval of minutes of January 20, 1989 meeting. The minutes were approved as distributed.

2. Report of Treasurer. Mr. Gershon summarized the Treasurer's report covering the period January 1 to March 31, 1989, and indicated that the Association remained in sound financial condition at the conclusion of the first quarter of the fiscal year. He reviewed the major items of income and expense as set forth on the balance sheets and outlined the adjustments made to the budget since January, as well as the process followed by the Finance Committee in considering such adjustments. He noted that the committee was nearing completion of its study of a reduced dues program, as suggested previously by the House, and that he anticipated a report would be ready for presentation at the June meeting.

3. Election of Nominating Committee and NYSBA Delegates to ABA House of Delegates. Justin L. Vigdor, Chair of the Nominating Committee, reported that the committee had nominated Maryann Saccomando Freedman, Charles E. Heming and Susan S. Robfogel as members at large of the Nominating Committee and Mr. Heming as its Chair for the 1989-90 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 1989-90 Association year:

FIRST DISTRICT: Kay C. Murray  
Renee A. White

SECOND DISTRICT: Vivian H. Agress  
John E. Murphy

THIRD DISTRICT: Brian F. Mumford  
David S. Williams

FOURTH DISTRICT: Charles H. Clark  
Dudley M. Ferguson

FIFTH DISTRICT: Dennis R. Baldwin  
George S. Deptula

SIXTH DISTRICT: (to be elected at the June meeting)

SEVENTH DISTRICT: John A.R. Walsh  
Beth Ela Wilkens

EIGHTH DISTRICT: Joseph D. Bermingham, Jr.  
Thomas R. Elmer

NINTH DISTRICT: Arthur L. Gellert  
Joseph F. Longo

TENTH DISTRICT: Harold A. Mahony  
Joshua M. Pruzansky

ELEVENTH DISTRICT: Jerome M. Ginsberg  
Donald J. Zimmer

TWELFTH DISTRICT: Alexander A. DelleCese  
Richard Weinberger

A motion was adopted electing said members.

Mr. Vigdor reported that the Nominating Committee had nominated Maryann Saccomando Freedman, Ralph L. Halpern, Charles E. Heming, Henry L. King and Beth Ela Wilkens as NYSBA delegates to the ABA House of Delegates for a two-year term commencing in August 1989. A motion was adopted electing said delegates.

**4. Report of Committee on Association Insurance Programs.** James C. Moore, Chair of the Committee on Association Insurance Programs, summarized the detailed evaluation of the sponsored insurance program which the committee had conducted during the past two years, including its review of the performance of the Bertholon-Rowland Corp. as administrator in comparison with the services offered by similar organizations. He summarized the nature of proposals submitted by other broker/administrators, as well as discussions with Bertholon-Rowland regarding current and projected future activities. He outlined the committee's reasons for electing to remain with Bertholon-Rowland, and noted that revised administrative services and royalty agreements had been put in place for a three-year period which would enhance services as well as generate additional income for the Association. Mr. Moore noted that the committee was in the process of discussing plan improvements with Bertholon-Rowland, especially in the areas of professional liability insurance and health care coverage, and the results of these discussions would be announced in the near future.

When questions were raised by some members of the House concerning various aspects of the program, Mr. Yanas advised that due to the number of other matters on the agenda, further consideration of this item would be postponed until the June meeting to allow ample time for discussion.

Mr. Moore and the members of the committee received a vote of appreciation from the House in recognition of their extensive efforts on behalf of the Association.

**5. Report and recommendation of Special Committee on Women in the Courts to endorse Women in Law Commemorative Postage Stamp.** Ruth G. Schapiro, Chair of the Special Committee on Women in the Courts, summarized a request that the Association endorse the Women in Law Commemorative Postage Stamp to honor the achievements of women in the legal profession. She noted that House approval of the project had been recommended by the committee, as well as by the Executive Committee of the Association. She introduced Linda Hawkin-Israel, the artist for the stamp, who explained the background of the painting on which the stamp was based, and the steps taken thus far to obtain the necessary governmental approval for issuance of the stamp. Following discussion, a motion was adopted unanimously to endorse the Women in Law Commemorative Postage Stamp.

**6. Report and recommendation of Special Committee on Media Law regarding audio-visual coverage of trial court proceedings.** Peter Danziger, a member of the Special Committee on Media Law, summarized the committee's legislative proposal to amend Section 218 of the Judiciary Law to make permanent the experimental program for audio-visual coverage of trial court proceedings. He noted the generally favorable response to the current experimental program, and outlined the manner in which the proposed legislation would function to provide media access to trials while maintaining judicial supervision and affording protection for jurors, undercover police officers and the victims of certain types of crimes. Joseph Jaffe, Chair of the Criminal Justice Section, expressed that section's reservations with respect to various aspects of the proposal, particularly those provisions which would create a presumption in favor of media access. Mae A. D'Agostino, a member of the Trial Lawyers Section Executive Committee, presented that section's opposition to continuation of the experimental program, and if continued, to the presumption in favor of media access. After discussion of the relevant issues, a motion to approve the legislation proposed by the Special Committee on Media Law was defeated by the House. The following resolution was then adopted on motion by the House:

**WHEREAS**, the eighteen month pilot project has not to date produced a dispositive report or analysis on the desirability of permitting audio-video coverage of judicial proceedings, and there appears to be a need for further empirical evidence in relation thereto; and

**WHEREAS**, certain matters of significant concern have arisen in the course of our review of the pilot project, including the coverage of arraignments and suppression hearings, possible improper or unauthorized broadcast of bench conferences, photographing of jurors, as well as the extent to which decisions of administrative judges should be subject to appellate review, and whether additional remedies are needed to promote compliance with existing standards; it is

**RESOLVED**, that the House of Delegates of the New York State Bar Association hereby endorses in principle the enactment of legislation to continue for an additional eighteen month period the present experimental program for audio-visual coverage of civil and criminal trials, under the same restrictions and controls as are presently applicable; and it is further

**RESOLVED**, that the House of Delegates of the New York State Bar Association hereby opposes the inclusion in such legislation of any presumption in favor of media access; and it is further

**RESOLVED**, that the Office of Court Administration is hereby encouraged during the period of the continued experiment to conduct a thorough evaluation of the impact of the program, including the reactions of litigants, jurors, witnesses, the general public and the media as well as those of judges and attorneys; and it is further

**RESOLVED**, that the relevant sections and committees of the Association are hereby requested to monitor the experimental program to make such recommendations as may be appropriate to address any problems or other concerns which may be perceived.

**7. Presentation of Trial Lawyers Section National Trial Advocacy Competition Awards.** In cooperation with Anthony J. DeMarco, Jr., Chair of the Trial Lawyers Section Trial Advocacy and Scholarship Competition Committee, Messrs. King and Yanas 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. Albany Law School of Union University was recognized for its second place finish among New York law schools in the competition.

**8. Consideration of Association position with respect to mandatory child support guidelines.** Haliburton Fales, 2d, a member of the Special Committee on Women in the Courts, summarized the views of the committee, as well as those of the Committee on Juvenile Justice and Child Welfare, the Committee on Legal Aid, the Committee on Public Interest Law, and the Committee on Social Services with respect to mandatory child support guidelines. He noted that, with certain exceptions, these committees generally favored the Governor's program bill covering this subject and opposed the alternative position proposed by the Family Law Section. Henry S. Berman, Chair of the Family Law Section, explained that section's views with respect to the matter, its opposition to the Governor's program bill, and the nature of the legislative alternative it was presenting.

Discussion then ensued regarding the issues associated with the concept of mandated support guidelines, and the legislative proposals which had been presented. During this phase of the discussion, Messrs. Fales and Berman were joined by Ruth G. Schapiro, Chair of the Special Committee on Women in the Courts, Lucia B. Whisenand, Chair of the Committee on Juvenile Justice and Child Welfare, Barbara E. Handschu, Vice-Chair of the Family Law Section, and Timothy M. Tippins, Co-Chair of that section's Committee on Publications and Equitable Distribution, to assist in responding to questions from members of the House and to explain the various technical aspects of the proposed legislative provisions.

Following this discussion, a motion was adopted expressing the support of the House for the concept of mandatory child support guidelines. A second motion to support the Governor's program bill with respect to mandatory child support guidelines was defeated by vote of the House. A further motion was then adopted by vote of the House to approve the report of the Family Law Section in principle and to urge that further study be undertaken by the Legislature to determine a realistic and fair cap, the percentages to be applied thereto, and other financial issues implicit in the concept of guidelines.

**9. Report of President.** Mr. King reported the following matters:

a) Through the extensive efforts of the Committee on Membership, the Association's total membership had recently surpassed the 50,000 mark.

b) He and Mr. Yanas had met on March 14 with Chief Judge Wachtler and other officials of the Office of Court Administration. He indicated that the topics discussed had included the study of mandatory pro bono service being conducted by the Committee to Improve Availability of Legal Services, the situation in the First Department with respect to the Departmental Disciplinary Committee, the 1989 Judiciary budget, additional Court of Claims judges, and the use of facsimile transmission to facilitate the service of documents in connection with court proceedings.

c) The resolution endorsed at the January 1989 meeting to prohibit discrimination on the basis of sexual orientation had been approved with slight modification by the ABA's House of Delegates at its February 1989 meeting.

d) In furtherance of the resolution adopted at the last meeting, he had written to federal officials and Congressional leaders urging the enactment of salary increases for federal judges. Mr. King noted that he had also contacted bar leaders across the state to enlist their support.

e) The Special Committee to Consider Mandatory Continuing Legal Education and the Task Force on the Law Guardian System, which he had appointed, were both actively engaged in their respective studies and would have reports ready for consideration by the House later in the year.

f) The Association's two newest sections, the Section on Entertainment, Arts and Sports Law and the Commercial and Federal Litigation Section were both well established and functioning effectively. He noted that the former had a membership of 945, while the latter had 554 members.

g) The Bar Center expansion was proceeding on schedule, with completion anticipated in the spring of 1990. Mr. King advised that the statewide campaign had thus far raised approximately \$3.6 million, and that contacts were continuing with law firms, corporations and foundations in an effort to add substantially to this total.

h) William J. Daly, Maryann Saccomando Freedman, Jules J. Haskel and Thomas M. Whalen, III were completing their terms of service on the Executive Committee. He expressed his sincere appreciation to them, as well as to the other officers, staff and members of the House, for their support, encouragement and cooperation during his term as President.

**10. Presentation of award for "An Empire of Reason".** On behalf of the Association and The New York Bar Foundation, Mr. King accepted from Nicole A. Gordon, immediate past Chair of the Committee on Federal Constitution, an Emmy Award from the New York Chapter of the National Academy of Television Arts and Sciences won by "An Empire of Reason", the film commemorating the bicentennial of the United States Constitution. Ms. Gordon noted that the movie had also won awards at the New York International Film and Video Festival and the Chicago Film Festival, in addition to the Columbus International Film Festival awards presented at the October 1988 House meeting.

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

a) Bar associations entitled to delegates had filed their designations of delegates for the 1989-90 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 1989-90.

b) Pursuant to the Bylaws, the terms of several special committees were due to lapse at the close of the current Association year. On 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  
Alternative to Court Resolution of Disputes  
Association Meetings  
Task Force on Simplification  
Computer Access and Retrieval of Government Records  
Copyright Law  
Group and Prepaid Legal Services Plans  
Improve Courthouse Facilities  
Interest on Lawyer Account (IOLA) Advisory Committee  
Lawyers in Public Service  
Media Law  
Medical Malpractice  
Military and Veterans Affairs  
Patents and Trademarks  
Pension Simplification  
Procedures for Judicial Discipline  
Review the Code of Professional Responsibility  
Seniors  
Volunteer Lawyers

c) The Special Committee on Women in the Courts had requested authorization to shift from special to standing committee status and to change its name to the Committee on Women in the Law. A motion was adopted unanimously approving both the change in name and status of the committee.

12. New business.

a) With reference to the First Department disciplinary situation mentioned in the President's report, Mr. Goldblum suggested that the report of the Committee on Professional Discipline, which had been approved by the House of Delegates in June 1985, be recirculated to the four Presiding Justices, as several of the recommendations contained in that report, if implemented, could help prevent recurrences of the type of problem that had arisen in the First Department. Mr. King indicated that the report would be redistributed as suggested by Mr. Goldblum.

b) Mr. Pulley applauded the efforts thus far by the Association to secure additional judges. He noted the increasing need in downstate areas for more judicial resources to deal with drug and drug-related offenses. He urged the President and the Association to continue seeking the judges necessary to deal effectively with the criminal caseload.

c) Mr. Fisher reported that the Brooklyn Bar Association had adopted an aspirational code of professionalism which it was willing to share with other interested bar associations. He also advised that Mr. Kaplan was completing his term of service in the House and had dedicated over forty years to the organized bar. The House recognized Mr. Kaplan with a round of applause.

**13. Date and place of next meeting.** Mr. Yanas announced that the next meeting of the House of Delegates was scheduled for 9:00 a.m. on Saturday, June 24, 1989 at The Otesaga, Cooperstown, New York.

-----