

**NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
THE OTESAGA, COOPERSTOWN, NEW YORK
JUNE 23, 2001**

PRESENT: Alcott; Asarch; Attea; Ayers; Bailey; B. Baker; Bartlett; Bauman; Bohner; Bonner; Bracken; Brett; Buckley; Buzard; Carreras; Cashman; Castellano; Chambers; Christian; Cioffi; Clifford; Cometa; Connolly; Cuyler; Darche; E. Davis; Denton; Dietz; Doern; Doerr; Dorsey; Doyaga; Doyle; J. Dwyer; M. Dwyer; Edmunds; Eppers; Eppler; Evans; Farrell; Fedrizzi; Field; Filiberto; Finerty; Fink; FitzGerald; Folmer; Franchina; Gacioch; Gardella; Gerstman; Getnick; Gingold; Glover; Goldenberg; Goldstein; Golinsky; Graber; Gross; Gutleber; Haig; Handlin; Hassett; Headley; Herold; Hesterberg; Hirsch; Hoffman; Hoye; Jacoby; Kamins; Kelly; Kinery; M. Kessler; S. Kessler; Kilsch; F. Klein; M. Klein; Kogut; Kougasian; Krane; Landy; Lashley; Lawrence; Leber; Leistensnider; Lester; Levin; C. Levy; P. Levy; Lieberman; Longo; MacCrate; Maney; Manley; McCarthy; Meng; Mihalick; M. Miller; S. Miller; Minkowitz; Miranda; Mohun; Monahan; Moore; Morse; Nashak; Netter; Nizin; O'Connor; O'Leary; O'Mara; Ostertag; Palmer; Peckham; Perlman; Pfalzgraf; Pfeifer; Pierro; Porcellio; Priore; Purcell; Purdue; Quattlebaum; Reich; Reizes; Reynolds; Richardson; Rifkin; Rizzo; Roach; Rosenstein; Rothkopf; Samel; Seiden; Silkenat; Smyk; Stenson; Swidler; Terranova; Tharp; Tishler; Treece; Uebelhoer; Vigdor; Walker; Wayland-Smith; Wilensky; Wimpfheimer.

1. Approval of minutes of March 31, 2001 meeting. The minutes were deemed accepted as distributed previously.
2. Introduction of new members. The new members of the House of Delegates who had assumed office on June 1 were introduced and welcomed by President-Elect Tharp.
3. Report of the Treasurer. Mr. Headley summarized the audited financial report for the year ending December 31, 2000. He noted that the Association completed the previous year with an operating net income of \$1,593,300 and total net income of \$735,800, inclusive of gains and losses on investments which are not budgeted. Reflecting the general stock market decline, there was a net loss of \$587,500 in combined unrealized and realized gains and losses. Mr. Headley advised that the auditors issued a clean opinion, without any qualification or reservation.

With regard to income and expense through the first five months of 2001, Mr. Headley reported that receipts totaled \$13,913,230 or 69 percent of the year's budget projections. Association membership, section and investment income increased. Continuing legal education receipts decreased in this period; CLE expenses also declined through efforts to resist adding staff in

the last two years when CLE income significantly increased. CLE, with the Finance Committee, continued to review this service revenue and expense.

While unrealized loss totals \$618,400, market value has improved since the March 31, 2001 Executive Committee meeting. The status of the portfolio and investment policy are regularly assessed by the Finance Committee with U.S. Trust. Expenses through May 31, 2001 totaled \$8,034,634 or 40 percent of budget. Membership and Marketing expenditures increased for projects to assess members' needs; additional space was leased for printing operations; and Committee costs were up as a result of enhanced program presentations. Annual Meeting expenses decreased.

The report of the Treasurer was received with appreciation.

4. Installation of the President. President Krane was formally installed. The oath of office was administered by Chief Judge Judith S. Kaye who delivered brief remarks. President Krane then discussed initiatives for service to the profession and public and to enhance and encourage involvement in the Association.
5. Presentation of the Root/Stimson Award. President Krane advised that the Root/Stimson Award was created in 1974 to honor Elihu Root and Henry L. Stimson for their commitment to public service and to recognize members of the legal profession who have selflessly given their time to community service activities. The award is administered and presented by the Committee on Public Relations. On behalf of the Committee, President Krane then made the presentation to the 2001 recipient, Lisa E. Cleary of New York City, for devoting her time and legal services to the mentally disabled and other underrepresented citizens and for her commitment to ensuring access to justice for the disenfranchised. Ms. Cleary gave acceptance remarks and received the appreciation of the House.
6. Report of President. President Krane reported on the following matters:
 - a) He is forming special committees to undertake several studies and develop recommendations, including examination of the issues of law school debt, to be chaired by Henry M. Greenberg; multijurisdictional practice with Klaus Eppler as Chair; commemoration of the Association's 125th anniversary, with John Hanna, Jr. as Chair; Association governance, with Dennis R. Baldwin, Chair; and relationship with the Legislature, A. Vincent Buzard, Chair.
 - b) He, along with then President Hassett, incoming President-Elect Tharp, retiring Executive Director William J. Carroll and newly appointed Executive Director Patricia K. Bucklin, met with Chief Administrative Judge Jonathan Lippman on May 29, 2001 to discuss issues of mutual

interest to the Association and the Court System. Among topics were mandatory continuing legal education provisions, the recommendations of the Court System Commission on Alcohol and Substance Abuse and the Legal Profession, efforts to obtain legislation to increase assigned counsel rates, the Association's proposed amendments to the Code of Professional Responsibility concerning multidisciplinary practice, its proposed uniform rules for the reinstatement of disbarred or suspended attorneys, and matters scheduled to come before the Executive Committee and House of Delegates in June. Concerning the Commission, he reported that the Court System has established the proposed New York State Lawyer Assistance Trust which will provide guidelines for educational programs and facilitate the creation of new programs to address problems of substance abuse in the profession. Former President James C. Moore has been named to chair the Trust. The Trust will be funded from the biennial attorney registration fee.

- c) Legislation has passed both houses to eliminate mandatory jury sequestration, with such decisions to be in the judge's discretion. The Association had sought judicial discretion and elimination of mandatory sequestration, except for Class A and B felonies.
- d) The Court System has issued rules to govern the awarding of MCLE Credit for pro bono service and requirements for accreditation of pro bono programs seeking to become approved Pro Bono CLE providers. Credit can be sought for service provided since January 1, 2000.
- e) The effective date of the New York State Attorney-Client Fee Dispute Resolution Program has been postponed until January 1, 2002. The action was taken as a result of input received by the Program Board of Governors in regional meetings with bar association representatives to allow more time for the associations to develop programs and conduct training. The Board plans to issue minimum standards for programs.
- f) He wrote to the State Insurance Department on June 6, 2001 to oppose, as placing a hardship on consumers, proposed revisions to 11 NYCRR Part 65 that would shorten the time allowed for the submission of notice of vehicle accidents and claims for health-related services. The Association expressed concerns about similar proposals previously raised.
- g) He hosted a Section Leaders Conference June 7-8, 2001 in Albany for officers of the Sections to discuss policy, procedure and means of enhancing communication and coordination.
- h) The Association participated in a joint resolution with other bar associations urging the Legislature to enact increased assigned counsel

fees with funding to localities in a manner that does not distort the balance in government allocation for assigned counsel and institutional providers.

- i) The Interest on Lawyer Account (IOLA) Board discontinued funding for five legal services programs. He will communicate with IOLA concerning procedures to ensure the continued and effective delivery of legal services.
- j) Robert MacCrate, past President of the NYSBA and American Bar Association, has been selected to receive the ABA Medal for distinguished service to American jurisprudence.
- k) The Executive Committee, on June 22, 2001, approved a resolution calling on the Federal Trade Commission to exempt lawyers from provisions resulting from the Financial Modernization Act (Gramm-Leach-Bliley Act), which requires providers of financial services to give clients a disclosure of their privacy policies and how they handle nonpublic personal information shared with affiliates and third parties. In taking the action, the Executive Committee observed that lawyers are already subject to stricter confidentiality provisions under the Code of Professional Responsibility. He is writing to the FTC Chairman to urge exemption of lawyers.
- l) On June 21, 2001, the Executive Committee approved the report and recommendations of the Special Association House Committee which considered the desirability and feasibility of establishing an Association facility in New York City, identified purposes and needs, space requirements, and related costs. While finding many benefits, including promoting membership participation and networking opportunities, the Committee concluded that it would not be financially prudent to establish a facility in Manhattan at this time, in view of the significant long-term costs necessary to open and operate a facility of sufficient size and adequately equipped. A copy of the report was distributed to the House.

Following his report, President Krane then presented immediate past President Hassett a plaque and mementos of appreciation for his dedicated leadership and service. The House expressed thanks to Mr. Hassett.

- 7. Report and recommendations of the Health Law Section regarding proposed amendments to Section 73 of the Domestic Relations Law. Robert N. Swidler, past Chair of the Health Law Section, summarized the Section's affirmative legislative proposal to amend Section 73 of the Domestic Relations Law. He explained that this statute presently provides for the legitimacy of a child born to a married woman by means of artificial insemination, and that the proposed amendment would lend similar certainty

to the parentage of children born through the most common application of donor egg or embryo transfer, where a donated egg or embryo is implanted in a married woman who intends to parent the child with her husband, and the donor or donors did not intend to parent the child. Mr. Swidler advised that the proposal reflects revisions suggested by the Executive Committee, clarifying that no inference should be drawn about the parentage of a child born by medically-assisted reproduction in cases not complying with the statute and that the exclusion of the donor from parental status would not apply if the husband or wife provides the sperm or eggs for the assisted reproduction. It was announced that with these clarifications, the Executive Committee had endorsed the proposal at its March 30, 2001 meeting for positive House action at this meeting. Following discussion, a motion was adopted approving the report and recommendations.

8. Report and recommendations of the Committee on Judicial Administration regarding judicial appointment procedures. On behalf of the Committee on Judicial Administration, Robert J. Bohner presented the Committee's report and recommendations concerning appointment procedures for Acting Supreme Court Justices and Judicial Hearing Officers. The report described a constitutional and administrative patchwork and lack of a formal performance evaluation mechanism. The Committee recommended steps to institutionalize public and bar participation; a requirement that the Office of Court Administration maintain data on the number of those applying, number accepted for these positions, and related demographic information on the pool; provision of weight in productivity numbers to allow for the additional time necessary for more complex or sensitive cases or, in any case, not making productivity the most significant factor in appointment decisions; and implementation of a formal application process for Acting Supreme Court Justices. Discussion then ensued, followed by adoption of a motion approving the report and recommendations.

9. Report and recommendations of the Committee on Federal Constitution and Legislation and the Association of the Bar of the City of New York on federal campaign finance reform. Jeffrey C. Dannenberg, member and past Chair of the Committee on Federal Constitution and Legislation, and Evan A. Davis, President of the Association of the Bar of the City of New York, summarized the reports and recommendations urging reform in the federal campaign finance process, including prohibitions on "soft money" and issue ads. They explained that United States Senate bill number 27, known as the McCain-Feingold-Cochran bill, which passed the Senate on April 4, 2001, embodies the principles consistent with the needed reform. Similar legislation was under consideration in the House of Representatives. Discussion then proceeded on the issues raised in the proposals and also on the question of whether the matter is germane and one that should be addressed by the Association. It was reported that on June 22, 2001, the Executive Committee had voted 11-5 to recommend House disapproval.

A motion to postpone indefinitely on the basis of germaneness was defeated by the House by a vote of 61 to 80. A motion was then adopted to approve the resolution set forth below as presented by the Committee on Federal Constitution and Legislation and the Association of the Bar of the City of New York. Christopher Denton requested that the minutes reflect that he voted in opposition to this motion and the Hon. John T. Buckley asked that the minutes note his abstention.

WHEREAS, effective regulation of federal campaigns for public office has been thwarted by the current system of financing those campaigns, and public trust and confidence in the executive and legislative branches of government has eroded as a result; and

WHEREAS, among the most frequently-cited abuses in the financing of federal campaigns are the use of "soft money" and "issue ads"; and

WHEREAS, "soft money" contributions circumvent the strict limitations on contributions to candidates imposed by federal campaign financing laws; and

WHEREAS, "issue ads" are paid advertisements that purport to focus on a political issue, but are disseminated to coincide with an election and are intended to advocate voting for or against particular candidates; and

WHEREAS, United States Senate bill number S.27, entitled the "Bipartisan Campaign Reform Act of 2001," and also known as the "McCain-Feingold-Cochran" bill which passed the Senate on April 4, 2001, would greatly curb the use of "soft money" contributions in federal elections and prohibit certain broadcast "issue ads" which clearly identify a candidate and are run close to an election; and

WHEREAS, the United States House of Representatives has begun consideration of H.R. 380, entitled the "Bipartisan Campaign Finance Reform Act of 2001," and also known as the "Shays-Meehan" bill, which is similar in nature to S.27; now, therefore, it is

RESOLVED, that the New York State Bar Association urges that the current system of financing federal political campaigns be substantially reformed by prohibiting the use of "soft money" in those campaigns and banning "issue ads" that in reality

advocate the election or defeat of particular candidates; and it is further

RESOLVED, that the New York State Bar Association supports S.27, which embodies principles consistent with these needed reforms.

10. Memorial to Hon. Hugh R. Jones. Michael E. Getnick, Executive Committee Member-at-Large, gave a memorial to the Hon. Hugh R. Jones, a past President of the Association and former associate judge of the New York State Court of Appeals, who passed away March 3, 2001. Mr. Getnick cited his distinguished service on the bench, to the profession, the Association, and his public service. A moment of silence was observed in his memory. A copy of the memorial is attached to these minutes.
11. Report of The New York Bar Foundation. Hon. Richard J. Bartlett, President of The New York Bar Foundation, described The Foundation's enhanced grantmaking for 2001, with 50 grants totaling \$382,725. He also explained ways to support The Foundation's work, including The Fellows program, and he thanked members for their contributions and involvement. He encouraged additional participation and recommendations to further The Foundation's objectives of facilitating delivery of legal services, improving the justice system and the law, enhancing professional competence and ethics, and increasing public understanding of the law.
12. Report of the Chair. President-Elect Tharp, Chair of the House, advised that the terms of the following special committees are due to expire and may be extended by action of the House:
 1. Ad Hoc Committee on the Jury System
 2. Commission on Providing Access to Legal Services for the Middle-Income Consumers
 3. Grand Jury Project
 4. Group and Prepaid Legal Services
 5. Judicial Independence
 6. Ombudsman Plan
 7. Pension Simplification
 8. Procedures for Judicial Discipline
 9. Review the Mandatory CLE Proposal
 10. Steering Committee on Commerce and Industry
 11. Task Force to Consider Tort Reform Proposals
 12. Task Force on Court Reorganization
 13. Unlawful Practice of the Law
 14. Volunteer Lawyers.

A motion was adopted extending the terms of each of the Committees listed above for an additional year.

President-Elect Tharp also reported that:

- a) The Special Association House Committee and the Special Executive Director Search Committee have been discharged with the concurrence of their chairs as the two committees have completed their missions.
- b) The Special Committee on AIDS and the Law has been discharged, with its work to be continued by the Health Law Section, also with the concurrence of the Committee and Section.
- c) The roles being addressed by the Committee on Tort Reparations are also being performed by other Association entities, including the Task Force to Consider Tort Reform Proposals, the Trial Lawyers Section, and the Torts, Insurance and Compensation Law Section. Under the Bylaws, House action is necessary to discharge a standing committee. In view of these efforts by other entities, a motion was adopted approving the discharge of this Committee.

13. New business. The House adopted a motion approving the following resolution, proposed by Mr. Kelly and Ms. Netter:

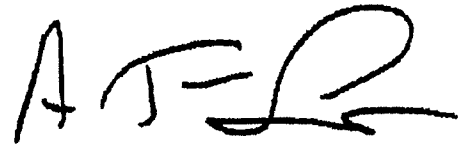
WHEREAS, the New York State Bar Association expresses its concern that the New York State Legislature did not pass a budget for the State by April 1st of this year;

WHEREAS, the interests of our school districts, not-for-profit corporations, hospitals, and all our businesses and citizens are severely compromised by such delay;

NOW, THEREFORE BE IT RESOLVED, that the New York State Bar Association urges that the New York State Legislature, with the attention and cooperation of the State Executive Offices, expeditiously approve a budget for fiscal year 2001-2002 and complete such other businesses as may be imperative for the State at this time and remain in session until such work is complete.

14. Date and place of the next meeting. President-Elect Tharp announced that the next meeting of the House of Delegates will be held Saturday, November 3, 2001 at the Bar Center in Albany.

Respectfully submitted,

A handwritten signature in black ink, consisting of the letters 'A', 'T', and 'L' in a stylized, cursive font.

A. Thomas Levin
Secretary

NEW YORK STATE BAR ASSOCIATION

In Memoriam

Hugh R. Jones

HUGH R. JONES

MEMORIAL
to
HUGH R. JONES

Presented by
Michael E. Getnick
New York State Bar Association
at the
House of Delegates Meeting
June 23, 2001
Cooperstown, New York

HUGH R. JONES

1914-2001

Hugh R. Jones died on a Saturday, March 3rd of 2001. He was eighty-six years of age and survived by Jean Jones, his wife of sixty-three years and many loving relatives.

Many members of the House have asked me how it has come about that I have the honor of doing this Memorial. I can only say that I was a friend of Judge Jones and our President, Steven Krane asked me to speak. I am sure that Steve, Bob MacCrate, Judge Bartlett, Judge Kaye and any number of past presidents of the New York State Bar Association could stand before you today and present this Memorial with as much love as I have for Judge Jones.

For those who attended his Memorial Service at the Chapel at Hamilton College, they will remember that as we left the Chapel we did so to the lyrics of "When the Saints Go Marching In". Judge Jones had requested that this be sung at the end of the service and sung with vigor which it was. The service was a celebration of his life.

His bodily life is over, but not his example. Many of us gathered in this hall still feel his presence, and we know he is smiling today. Steve Krane has just been sworn in as our new President; Lorraine Tharp is our President-Elect (the third woman in the history of our Bar Association to obtain this position) and it was just announced that the Judge's good friend, Bob MacCrate, has recently been selected to receive the highest honor the American Bar Association can bestow on any lawyer.

However, I know that the Judge's broadest smile is for his grandson, Adam Morris, who is today graduating from New Hartford High School and will be entering Hamilton College this fall. The graduation party is today and all of the Jones and Morris family are in full attendance for this celebration.

I cannot speak for Judge Jones. No one can, but I know some of the matters he would have liked me to convey. He was born of Welsh parents and, yes, he did go to Harvard Law School, but he would more certainly have wanted me to mention that he was a graduate of Hamilton College. He was very proud of his background and among other services to Hamilton College had served on this Board of Trustees. He was also on the Board of Trustees of the State University of New York and achieved so much in his lifetime that I could not hope to cover much of what he accomplished.

It was suggested to me that I address my remarks to provide information that some of us may not have or already know about Judge Jones. There are some younger members of this Bar

Association who may only know that he was a Past President of our Association and a former member of the Court of Appeals. He was our Association's seventy-third President from 1971 through 1972 and served on the Court of Appeals from the early 1970's through 1984 when he retired at the age of seventy.

He wrote many meaningful and significant decisions while he was on the Court.

One such case was Levittown Union Free School District vs. Nyquest which challenged the constitutional inequities of a School District's reliance on local property taxes. I have chosen to mention this one particular case as equity was a cornerstone principal of Judge Jones' life in every capacity in which he was involved.

Such achievements are worthy of recognition but do not frilly emphasize the extent of Judge Jones' legacy. When Hamilton College disseminated the news of his passing to its alumni, the College described him as one of Hamilton's most loyal and committed alumni. Loyalty and commitment were traits of his that all of us who knew him benefitted by.

He was Chancellor to the Episcopal Church. At the funeral service when those in attendance were given the opportunity to say something of their experience with this wonderful man, an elderly gentlemen arose and introduced himself as a Bishop of the Episcopal Church. He said: "Judge Jones never told me, but

I know he was largely responsible for my being chosen to be a Bishop". How many of us know how much he has done for us, but never sought any credit or recognition for.

He was the President of Family Services of America and for ten years served on the New York State Board of Social Welfare (six years as its Chair). He was a Chair of the New York State Judicial Screening Committee. He received the Modern Courts' John J. McCloy Award in 1998. This is an award given to honor lawyers who have made outstanding contributions to Court Reform.

He was a Fellow of the American Bar Association and a Fellow of The New York Bar Foundation. He was a past Chair of The Foundation and a recipient of the New York State Bar Association Gold Medal Award also known as the Root Stimson Award. Lisa Cleary was honored with that same award today, and I know Judge Jones would have been pleased with her selection.

In his opening remarks at the start of this Summer Meeting, President Steven Krane described a mission and goal for all lawyers to seek to achieve. He referred to commitment to the practice of law, the goals of the Bar Association and service to the community and others.

I could not help but think he had already addressed what I am trying to do in this Memorial. The type of lawyer, Judge and person he was describing that we should all strive to be were all

embodied in what Judge Jones accomplished in his lifetime. I can think of no better example for the type of person President Krane was encouraging us all to try to be.

Perhaps one of the reasons I was asked to do this Memorial is that I am from Oneida County, the home County of Judge Jones. Oneida County is where he practiced law for many years, raised his family and called his home.

The Oneida County Bar Association has two very strong traditions. One is to conduct a Memorial Service on the first Monday of each year to honor and remember those lawyers and Judges who passed away the previous year. Often at these ceremonies you learn more about a person you thought you knew than you could ever imagine. I know that at the service to come when Judge Jones will be among those remembered that parts of his background will be brought to life for the first time for many in attendance. By way of example, this gentle person served in the United States Navy in World War II and retired as a Lieutenant Commander having earned the Bronze Star with Combat "V". It was Hugh R. Jones who was called upon by Governor Rockefeller to review the New York State Prison System after the 1971 Attica Riots.

The Oneida County Bar Association recognized many years before Judge Jones' death what a valuable member of the legal and local community he was. He was given the first of a kind award so as to recognize a member of the Oneida County Bar Association who was: (1) highly respected and considered an

outstanding member of the legal community; (2) known for service provided to Oneida County; and (3) one who is an example to all of those who practiced law or sit on the bench. Once this award was given to him, it was established as an annual award known as the Hugh R. Jones award which is the most prestigious honor the Oneida County Bar Association can annually give to one of its own. An Elementary School in the City of Utica also bears his name.

As I have said during the course of this Memorial, Judge Jones has led by an example. He has been a role model for lawyers, Judges, members of this Bar Association, for fathers, husbands and for friends. Whatever category you can think of, his example would be a role model to follow.

I look out and see so many smiling faces as I address you today. So many of us know that when you were with him you were his best friend. It was never about him. It was always about you.

For me, one of the most touching moments at the service held in the Hamilton Chapel was when a young relative spoke and said whenever anyone came to Jones' house, he left a better person. He remembered that when the Judge came to his father's house, he always did something to add to the household. It may have been to fix a railing or mend a broken latch. The point was that when he left the house was a better place. That is how Judge Jones has left the House of Delegates: A better place for all of us who have benefitted from his presence and participation.

Keeping in tradition with a Memorial Service I ask you to join with me in a minute of silence keeping in mind the value and worth of Hugh R. Jones.

I thank you all for allowing me to share this Memorial with you. I ask those of you who know far more about Judge Jones than I have been able to describe today, to please share your stories with the rest of us. These stories bring such smiles. The more I know about this man, the more I admire what he has done for all of us.

