

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY, NOVEMBER 1, 1980

PRESENT: Members Aspland, Barlow, Barrera, Beinecke, Beshar, Block, Brandveen, Brearton, Brenner, Brickfield, Brown, Cahn, Citrynell, Clabby, Cohen, Colish, Cometa, Cook, Daly, DelleCese, deSilva, Diamond, DiStasi, Drazen, Dunne, Eisenberg, Emmett, Eolis, Erickson, Fales, Fallon, Feit, Field, Fischer, Fishel, Fisher, FitzPatrick, Forger, E.J. Freedman, M.S. Freedman, Friedman, Gilinsky, Glasheen, Gold, Gough, Greenberg, Grossman, Hall, Hand, Harrigan, Hart, Haskel, Heming, Hester, Hoffmann, Hubbard, Joh, Kahn, Kaman, Keigher, King, Klein, Lagarenne, Levy, Lifland, Longo, Marcus, Matte, Meriam, Milburn, H.G. Miller, S.W. Miller, Mousaw, G.F. Murphy, Neale, Neverett, Newman, O'Brien, Ostertag, Palermo, Patterson, Pearl, Peet, Perrin, Piazza, Potter, B.J. Reilly, K.C. Reilly, Ritholz, Robfogel, Ronder, Rosenthal, Rothenberg, Rubenstein, Ruger, Russell, Schair, Sipp, Smith, Spivack, Stakel, Stave, Stecher, Sugnet, Tarnow, Taylor, Urbano, Vigdor, Washburn, T.M. Whalen, Williams, Williamson, Witmer, Yetter, Young and Zimmer.

1. Approval of minutes of June 28, 1980 meeting. The minutes were approved as distributed.

2. Introduction of new members. Mr. Williams welcomed the new members of the House who were present. The following is a list of the new members of the House:

Candace K. Beinecke
Frederic Block
Sanford L. Church
Robert J. Clune
John C. Couch
Charles E. Crandall, Jr.
M. Bates Davidson
Raymond J. deSilva
John R. Dunne
Eugene P. Feit
Gustave Fishel, III
Edwin J. Freedman
Maryann S. Freedman
Armand Gilinsky
William V. Gough
Gordon D. Henderson
Martin Hurwitz
Erik E. Joh
Jack Kaman
John J. Keigher
Ira H. Lustgarten
Earl F. Matte

Seymour W. Miller
Francis H. Neverett
Miriam G. Newman
Robert L. Ostertag
Henry Oswald
Robert J. Pearl
Gregory Perrin
Arthur A. Petronia
Alfred W. Popkess
Justin V. Purcell
Jules Ritholz
Robert A. Ronder
William G. Ruger
Stanley Schair
Wallace J. Stakel
Martin B. Stecher
Justin L. Vigdor
Philip Washburn
J. Michael Wolf
Louis Young
Irving Younger

3. Report of Treasurer. Mr. Pritchard's report, copies of which previously had been furnished to all members of the House, was received with thanks.

4. Report of Finance Committee. Mr. Taylor, Chairman of the Finance Committee, reviewed the 1980 budget and the reasons underlying an anticipated year-end deficit, and outlined the efforts by the Finance Committee to minimize expenses and increase revenues during the remainder of the year. After considering the projections furnished by the Finance Committee, a motion was approved adopting the following resolution:

RESOLVED, that any two officers of the New York State Bar Association are empowered in their discretion to borrow funds in an amount not to exceed \$200,000, at the prevailing rate of interest, to offset a budget deficit anticipated for calendar year 1980, and to execute such instruments and other agreements as may be necessary to accomplish this purpose.

Mr. Taylor then summarized the significant items contained in the 1981 budget, detailing the necessity for a dues increase to maintain Association programs and services at their current high level of quality. A motion was approved adopting the following increases in membership dues for 1981:

<u>Regular Membership</u>	
Sustaining Member	\$175
Members admitted 14 yrs or more	110
Members admitted 9-13 yrs	100
Members admitted 6-8 yrs	75
Members admitted 4-5 yrs	40
Members admitted less than 4 yrs	25
 <u>Out-of-State Membership</u>	
Members admitted more than 5 yrs	\$ 45
Members admitted 4-5 yrs	40
Members admitted less than 4 yrs	25

A further motion was then adopted approving the 1981 income and expense budget as proposed by the Finance Committee.

5. ABA Draft Model Rules of Professional Conduct. Mr. Rosiny, Chairman of the Special Committee to Review ABA Draft Model Rules of Professional Conduct, summarized the report of the Special Committee, detailing the significant issues involved, as well as the conclusions and recommendations submitted for consideration by the House.

Robert J. Kutak, Chairman of the American Bar Association's Commission on Evaluation of Professional Standards, summarized the work of the Commission, the nature of comments which had been received, and contemplated revisions which will precede release of the final version of the Model Rules for consideration by state and local bar associations and the ABA House of Delegates.

Following discussion, a motion was adopted approving the following resolution:

RESOLVED, that the House of Delegates of the New York State Bar Association hereby adopts the following recommendations concerning the Discussion Draft of the Model Rules of Professional Conduct, dated January 30, 1980, (hereinafter "Discussion Draft"):

(1) The Rules and Comments as set forth in the Discussion Draft are unacceptable for adoption in place of the Code of Professional Responsibility.

(2) The American Bar Association's Commission on Evaluation of Professional Standards should prepare an alternative formulation for all proposed changes in the form of amendments to the Code of Professional Responsibility to facilitate understanding and evaluation, encourage support for needed changes, and promote development of a better regulatory vehicle for the profession than that proposed by the Discussion Draft.

(3) Any revised draft of the proposed Rules of Professional Conduct should:

(a) Be organized to state separately those rules which are essentially aspirational to avoid much of the rigidity and overregulation of the present Discussion Draft and provide a better understanding of those rules which are intended to define the ethical goals of the profession.

(b) Identify in the commentaries each intended substantive change to an existing Ethical Consideration or Disciplinary Rule which is reflected by any proposed rule, and include an explanation of the need for the change; and it is further

RESOLVED, that these recommendations be transmitted to the American Bar Association's Commission on Evaluation of Professional Standards as the official position of the New York State Bar Association in regard to the Discussion Draft

6. Office of Court Administration's Judicial Transfer Plan.

(a) Hon. Lawrence H. Cooke, Chief Judge of the State of New York addressed the House, describing the challenge confronting the legal system to provide for the swift resolution of disputes by reducing court congestion. He outlined the nature of the problem and urged development of a permanent solution. Judge Cooke indicated that as an initial step, the judicial transfer plan was working well due to the dedicated response by the judiciary and the cooperative efforts of attorneys, and as a consequence, a reduction in transfers was anticipated in 1981.

(b) John R. Horan, Chairman of the Committee on Judicial Administration, summarized the Committee's interim evaluation of the judicial transfer plan, and indicated that his Committee was studying the plan's effect on the administration of upstate districts from which judges have been transferred and the results

obtained in the counties of Nassau, Suffolk and Westchester. Mr. Horan indicated that a written assessment of the plan's first full year will be submitted to the House in April, 1981, following receipt of year-end data from the Office of Court Administration. He further expressed the Committee's opposition to the resolution proposed by the Trusts and Estates Law Section.

(c) John G. McQuaid, Chairman-elect of the Trusts and Estates Law Section, summarized the Section's report and resolution relating to the judicial transfer plan. Following discussion, a motion was adopted to table further consideration of the proposed resolution.

7. Report of Action Unit No. 5. Mr. Heming, Chairman of Action Unit No. 5, described the nature of the government overregulation problem being examined by the Action Unit, and summarized the activities of its three sub-committees which were studying the regulatory process, occupational licensing and the interrelationship of state, federal and local regulations. He outlined the objectives of the Action Unit which would permit the formulation of recommendations to alleviate the sources of the problem in the legislative process.

8. Report of Chairman. Mr. Williams stated that it was necessary to fix a date certain for a membership count to determine the number of delegates to which county and other bar associations are entitled, for the term commencing July 1, 1981. A motion was adopted establishing December 31, 1980 as such date.

9. Report of President. Mr. Forger reported the following matters:

a) The Executive Committee had recognized the need to develop a greater influence to secure passage of legislation of significant concern to the Association, such as that designed to assist the development of open panel group and prepaid legal services plans. In this latter regard, he indicated that the Albany law firm of McNamee, Lochner, Titus and Williams had offered its services without charge to assist in obtaining passage of such legislation.

b) Action Unit No. 4 was continuing to coordinate with other groups interested in court merger and judicial selection, with the goal of promoting greater understanding of this subject among legislators, the public, and members of the bar generally. He stated further that consideration would be given to legislative proposals designed to correct inequities in salaries paid to Family Court Judges as well as other jurisdictional and operational problems confronting the Family Court.

c) The resources of the Clients' Security Fund would soon be inadequate to pay the increasing number of claims. He indicated that the Committee on Clients' Security Fund had been requested to review the situation with the purpose of proposing funding alternatives.

d) The Federal Trade Commission, with authorization from the General Accounting Office, would be distributing its voluntary questionnaire to bar associations in January, 1981. Mr. Forger stated that the officers and Executive Committee are continuing to review available options with advice of counsel.

e) In cooperation with local bar associations and the Fund for Modern Courts, the Association would be assisting in a survey of courthouse facilities throughout the State.

f) Based upon the recommendation of the Committee on Legal Aid the Executive Committee had supported maintenance of funding for the Legal Services Corporation at the present level of \$321 million.

g) Following the Court of Appeals decision in Matter of Koffler, the Committees on Professional Discipline and Professional Ethics were considering the formulation of solicitation guidelines for submission to the Appellate Divisions, consistent with controlling court decisions.

h) The Association would continue to support current efforts by the judiciary to secure reasonable compensation.

i) On September 22, 1980 a reception had been held at the Bar Center honoring a visiting Lawyers Observation Group from the People's Republic of China.

j) To improve communications with county and local bar associations, he had travelled extensively in the State, and had also addressed numerous civic groups to promote the public image of the Association and the legal profession.

10. Date and Place of Next Meeting. Mr. Williams announced that the next meeting of the House of Delegates will be held at the New York Hilton Hotel, New York City on Friday, January 23, 1981.