

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY, NEW YORK - APRIL 19, 1986

PRESENT: Members Amdursky, Amrod, Ashley, Baldwin, Barthold, Beshar, Blauvelt, Blewett, Block, Bracken, Britt, Burke, Colish, Cometa, Condon, Connolly, Corrou, Dadey, Daly, DelleCese, DeMarco, Dolan, Dollard, Duberstein, J.F. Dwyer, Elmer, Feerick, Ferguson, Forger, Freedman, Galbraith, Geltzer, Gilinsky, Giordano, Graff, Hall, Haskel, Heming, Ierardi, Jones, M. Kessler, King, Klein, Krieger, Krutman, Lagarenne, Levin, Lustgarten, MacCrate, Mahony, Malone, Markuson, McDowell, McGlinn, McGraw, McKay, Meriam, H. Miller, S. Miller, Moore, Morgan, A. Murray, C. Murray, Obold, Offermann, Omansky, Ostertag, Pachman, Palermo, Pauley, Pearl, Penzel, Perlman, Perrin, Pfeifer, Plunkett, Pruzansky, Reilly, Rice, Ritholz, E. Robinson, Rosiny, Rubin, Rubinton, Ruger, Rybicki, Santemma, Schiller, Seymour, Shlufman, Simberkoff, Stave, Sullivan, Terry, Thompson, Tobin, Torres, Traficanti, Tyler, Vigdor, J. Walsh, Weaver, Weldon, D. Whalen, T. Whalen, White, Wilkens, Witmer, Yanas, Yetter, Zimmer, Zimmerman.

1. Approval of minutes of January 17, 1986 meeting.
The minutes were approved as distributed.

2. Report of Treasurer. Mr. Yanas summarized the Treasurer's report, January 1 to March 31, 1986, and indicated that at the close of the first quarter of the fiscal year, the Association was in sound financial condition. He further noted that, consistent with the amendment to the Association Bylaws adopted at the Annual Meeting in January, 1986, his audited report for calendar year 1985 would be presented at the June House meeting. The report was received with thanks.

3. Election of Nominating Committee and NYSBA Delegates to ABA House of Delegates. Bernard J. Reilly, Chair of the Nominating Committee, reported that the committee had nominated Haliburton Fales, 2d, Harold A. Meriam, Jr., and Henry G. Miller as members-at-large of the Nominating Committee and Mr. Fales as Chair of the Nominating Committee for the 1986-87 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 each judicial district, were nominated as members of the Nominating Committee for the 1986-87 Association year:

1st District	Angelo T. Cometa and John D. Feerick
2nd District	Maurice Chayt and John E. Murphy
3rd District	Lawrence E. Lagarenne and Thomas M. Whalen, III

4th District	George F. Murphy and Edward J. Trombley
5th District	Thomas V. Dadey and Hugh R. Jones
6th District	John J. Fitzgerald and William G. Ruger
7th District	Robert A. Feldman and G. Robert Witmer, Jr.
8th District	Benjamin N. Hewitt and Francis J. Offermann, Jr.
9th District	William J. Daly and Robert L. Ostertag
10th District	Frederic Block and Harold A. Mahony
11th District	Jules J. Haskel and Donald J. Zimmer
12th District	Maxwell S. Pfeifer and Mark B. Rubin

Mr. Reilly reported that the Nominating Committee had nominated Maryann S. Freedman, Edward J. Hart, Charles E. Heming, Henry L. King, Henry G. Miller, Archibald R. Murray, Robert L. Ostertag, Seth Rosner and Justin L. Vigdor as delegates to the American Bar Association House of Delegates for a two-year term commencing in August, 1986. A motion was adopted electing said delegates.

Mr. Reilly further reported that the Nominating Committee had nominated Charlene McGraw as the young lawyer delegate to the ABA House of Delegates for a two-year term commencing in August, 1986. A motion was adopted electing Ms. McGraw as the young lawyer delegate.

4. Report and recommendations by Trusts and Estates Law Section. Jonathan G. Blattmachr, Chair of the Trusts and Estates Law Section, summarized pending federal legislation which would affect the tax aspects of estate planning. He noted that the applicable provisions would continue the complex generation skipping transfer tax, effectively eliminate estates and trusts as separate taxpayers, institute rules taxing income of children under age fourteen at their parents' rates, and impose an excise tax on excess pension plan distributions, as well as an additional estate tax on the estates of workers with plans having excess value. After discussion, the following resolution was adopted on motion of the House:

RESOLVED, that the House of Delegates opposes proposed federal tax law provisions which would:

1. Continue a generation skipping transfer tax;
2. Substantially change the method of taxing estates, trusts and their beneficiaries as manifested in HR 3838;
3. Tax income of children under 14 at the tax rates of their parents; and
4. Impose an excise tax on excess pension plan distributions and an additional estate tax on the estates of workers with plans having excess value.

5. Report of President. Mr. Vigdor reported the following matters:

a) The Committee on Judicial Administration had been requested to coordinate with local bar groups and interested Association committees and sections in monitoring the operation of the Individual Assignment System and the Uniform Rules for the New York State Trial Courts. He indicated that these subjects would be placed on the agenda for discussion at the next quarterly OCA/bar association meeting scheduled for May 8.

b) The State Commission on Judicial Nomination had sought the assistance of the Association in identifying and encouraging qualified individuals to apply for vacancies arising on the Court of Appeals. Mr. Vigdor noted a vacancy would occur this year by virtue of Judge Meyer's retirement, and requested that members of the House encourage qualified individuals to submit their names to the Commission for consideration.

c) He had appointed Haliburton Fales, 2d to serve on the Independent Screening Panel for New York City Civil Court Justices.

d) Congress had enacted legislation to remove the tax law anomaly affecting federal judges in senior status by restoring their exemption from Social Security taxes.

e) The Assembly had passed a bill which would permit television coverage of trials on an experimental basis, and the Senate was likely to vote favorably on the measure before the end of session. Mr. Vigdor advised that the 1980 position of the House of Delegates on the subject, as well as recent comments by interested sections and committees had been provided to the Legislature.

f) Phylis Bamberger had been appointed Co-Chair of Action Unit No. 7 and Prof. Burton Agata had been designated as Reporter to the Action Unit.

g) He had testified before the Legislature in support of the 1986-87 Judiciary Budget, which had been adopted with some minor reductions.

h) The Executive Committee had taken the following actions at its April 18 meeting: 1) appointed a subcommittee to study methods for implementing the Association's position supporting the renomination of qualified incumbent judges; 2) authorized the filing of affirmative legislation drafted by Action Unit No. 6 to control frivolous actions and provide for an omnibus appeal process for the review of interlocutory orders; 3) endorsed the Chief Judge's request that twenty-three judges be added to the New York City Criminal Court; 4) adopted a resolution encouraging local bar associations to adopt uniform standards and seek to coordinate efforts with other groups

screening candidates for the same judicial office; 5) authorized the filing of affirmative legislation proposed by the Trusts and Estates Law Section affecting health care decisions; 6) opposed the elimination of the attorney exemption from the Fair Debt Collection Practices Act, provided that any abuses by attorneys be brought to the attention of the appropriate grievance committee; 7) at the request of the Tax Section, adopted a position favoring legislation to eliminate from New York's tax laws discriminatory rules governing pension deductions by professional corporations; 8) had endorsed, at the request of the Special Committee on Minorities in the Profession, the ABA goal of providing full and equal participation in the profession by minorities and women.

i) The Special Committee to Improve Courthouse Facilities was reviewing the revised proposal by the Chief Judge to fund necessary courthouse renovation and repair.

j) Seymour W. Miller had been appointed Chair of the newly formed Special Committee on Seniors.

k) On April 22, the Association was sponsoring a conference on women in the profession in which he and other NYSBA leaders would be participating.

l) A meeting of the section leaders of the Association had been scheduled for May 6 to facilitate discussion of matters of common concern among the sections.

m) Based on recommendations by the Committee on Legal Education and Admission to the Bar, the New Jersey State Bar would be approached to resolve questions regarding the lack of reciprocity in admission practices.

n) With the assistance of the Special Committee on Association Meetings, preparations were proceeding smoothly for the General Association meeting scheduled for September 25-28 in Buffalo.

o) A new Series 86 Term Life Insurance Plan had been approved by the Executive Committee for offering to the members through the Bertholon-Rowland Corp. Mr. Vigdor indicated that the new plan would offer expanded coverages at favorable rates, and that descriptive materials would be sent to the members later this year.

p) As part of the Association's enhanced legislative effort, a booklet summarizing the NYSBA's legislative program had been distributed to all members of the Legislature, and a legislative reception had been held at the Bar Center in March.

q) A report by the Committee on Law Office Economics and Management proposing the expansion of economic services to attorneys was under study by the Executive and Finance Committees.

r) The Association was continuing its support for adequately funded legal services programs despite federal budget reductions.

s) The Council on Law and Society was proceeding with the development of its initial program.

t) His service on the Governor's Advisory Commission on Liability Insurance had been as an individual and not in his official capacity as President. Mr. Vigdor described the complexity of the issues addressed by the Commission and summarized his personal position in favor of the Commission's report, and his disagreement with the recommendation that there be a \$250,000 limit on awards for non-economic losses.

6. Report of Ad Hoc Committee on Bar Center Facilities and Space Requirements. Robert MacCrate, Co-Chair of the Ad Hoc Committee on Bar Center Facilities and Space Requirements, presented a progress report on behalf of the Committee. He noted that the Committee was composed jointly of representatives from the Association and The New York Bar Foundation to facilitate planning for the future space and program needs of both organizations, including adequate meeting space for the House of Delegates, Association committees and sections, and necessary staff. Mr. MacCrate advised, as part of the comprehensive planning for the expansion project, Subcommittees on Building Design and Construction, Project Financing and Fund Raising, and Contract Review had been formed. He indicated that an architectural firm, The Saratoga Associates, had been selected and was in the process of developing schematic designs for review by the Committee. Mr. MacCrate advised that the Committee anticipated the presentation of a detailed proposal at the June meeting. The report was received with thanks.

7. Report and proposed resolution by the Special Committee on Specialization in the Law. Frank Nemia, Chair of the Special Committee on Specialization in the Law, summarized the report of the Committee and its recommendation that there be implemented a proposed New York State Plan of Recognition of Specialization in the Practice of Law. Mr. Nemia outlined the major features of the voluntary plan, and the manner in which it would function under the supervision of a board of legal specialization appointed by the Appellate Division in each judicial department. Following discussion of the merits of the plan, a resolution to recommend it to the Appellate Divisions was defeated by vote of the House.

8. Report on activities of Governor's Advisory

Commission on Liability Insurance. Hon. Hugh R. Jones, Chair of the Governor's Advisory Commission on Liability Insurance, summarized the scope of the Commission's evaluation of the liability insurance situation, the major findings and recommendations contained in its interim report. He reviewed the major suggestions made by the Commission for regulatory reform of the insurance industry, including adoption of a flex-rating system, enactment of legislation governing cancellation and renewal standards, and the establishment of an Insurance Consumer Advocate in the Consumer Protection Board. He also summarized proposals pertaining to adjustment and expansion of the insurance market and recommendations for tort reform, including modification of the doctrine of joint and several liability, abolition of the collateral source rule, imposition of a ceiling on recoveries for non-economic damages, protection for directors and officers of not-for-profit corporations, imposition of sanctions for frivolous suits, and an expansion of the statutory provisions governing structured awards.

Mr. Heming noted that the report was under study by interested Association committees and sections and that comments could be forwarded to the Governor and the Commission.

9. Report of Chairman. Mr. Heming reported the following matters:

a) Bar associations entitled to delegates had filed their designations of delegates for the year 1986, that said designations had been approved as filed, and that the filed roster of members of the House had been approved as the official list for 1985-1986.

b) The Committee on Juvenile Justice had requested that its name be changed to the Committee on Juvenile Justice and Child Welfare to reflect more clearly its areas of involvement. A motion was adopted approving the proposed change.

c) Based on its degree of activity and area of interest, the Special Committee on Minorities in the Profession had requested conversion to standing committee status. A motion was adopted approving the requested status change.

d) 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:

Alternatives to Court Resolution of Disputes
Copyright Law
Evaluate Form Real Estate Contracts
Group and Prepaid Legal Services Plans
Improve Courthouse Facilities

Interest on Lawyer Account (IOLA)
Advisory Committee
Military and Veterans Affairs
Patents and Trademarks
Procedures for Judicial Discipline
Public Access to Information and Proceedings
Review the Proposed Code of Evidence for the State
of New York
Volunteer Lawyers

10. Presentation of Trial Lawyers Section National Trial Advocacy Competition Awards. Anthony J. DeMarco, Jr., Chair of the Trial Lawyers Section Committee on Trial Advocacy Competition, presented the Trial Lawyers Cup and Scholarship to Syracuse University College of Law as the law school placing highest in the regional eliminations for the National Trial Advocacy Competition. A certificate of merit was presented to Albany Law School in recognition of that institution's second place finish in the regional competition.

11. Date and place of next meeting. Mr. Heming announced that the next meeting of the House of Delegates will be held on Saturday, June 28, 1986 at The Otesaga in Cooperstown.