

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
JANUARY 16, 1982 - BAR CENTER, ALBANY

de Silva

PRESENT: Members Aspland, Beshar, Block, Brearton, Brickfield, Brooks, Buck, Cahn, Cardozo, Chayt, Colish, Compson, Connolly, Conway, Cook, Daly, Dee, Delano, Denton, Drazen, Dubow, Dunne, Dwyer, Emmett, Eolis, Erickson, Fales, Field, Fishel, H.L. Fisher, K.K. Fisher, Ford, Forger, Freedman, Geltzer, Goldblum, Graff, Hall, Harvey, Haynes, Headley, Heming, Henderson, Hoffmann, Hurwitz, Johnston, Keigher, H.L. King, Klein, Lagarenne, Lewis, Lifland, Longo, MacCrate, Magavern, McQuaid, Meriam, H.G. Miller, S.W. Miller, Muenkel, G.F. Murphy, Neale, Nimkin, O'Brien, Ostertag, Palermo, Patterson, Pearl, Pfeifer, Piazza, Pritchard, Reeder, B.J. Reilly, Richman, Ritholz, Robfogel, Rothenberg, Schapiro, Schwab, Smith, Stever, Tondel, Trombley, Tucker, Vigdor, D.A. Whalen, T.M. Whalen, Williams, Witmer, Yanas, Yetter and Zimmer.

1. Approval of minutes of November 7, 1981 meeting. The minutes were approved as distributed.

2. Report of Nominating Committee. Mr. Patterson, Chairman of the Nominating Committee, reported that the committee had met and nominated the following persons as delegates to the American Bar Association House of Delegates, for election at the April 1982 meeting: Alexander D. Forger; Anthony R. Palermo; Bernard J. Reilly; Henry J. Smith, David S. Williams; and Alan Levine, young lawyer delegate. The report was received with thanks.

3. Report of Treasurer. Mr. Yanas summarized the Treasurer's report, January 1 to December 31, 1981, copies of which had been circulated to members of the House. He reviewed the financial condition of the Association and indicated that the 1981 dues increase, together with careful budget monitoring, had enabled the Association to complete the year with a surplus exceeding \$400,000 and rebuild the previously depleted reserve fund. Mr. Yanas expressed appreciation to the Finance Committee, officers, sections, committees and staff for their cooperative efforts in reducing expenditures and maintaining the sound financial condition of the Association. He also summarized the progress of the Advisory Committee on Finance, a newly appointed subcommittee of the Finance Committee, in developing long-term investment policies to insure maximum growth in Association funds in keeping with future needs. The report was received with the thanks of the House.

4. Report and resolution of Special Committee to Review 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 connected with the format of the Model Rules, as well as the conclusions and recommendations submitted for consideration by the House.

Geoffrey C. Hazard, Jr., Reporter for the American Bar Association's Commission on Evaluation of Professional Standards, attended, at the invitation of the President, and responded to questions from members of the House concerning the format of the Model Rules and the work of the ABA Commission.

Following discussion, and defeat of a resolution endorsing the rule-and-comment format, 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 with respect to the Model Rules of Professional Conduct released by the Commission on Evaluation of Professional Standards of the American Bar Association as of May 30, 1981 (the "Model Rules"):

1. Neither version of the Model Rules -- the Blue Version, which is said to be in the format of the Code of Professional Responsibility, or the White Version, which is said to be in the format of a Restatement -- is in a format acceptable for adoption in place of the present Code of Professional Responsibility.
2. The American Bar Association should cause to be prepared an alternative formulation for all proposed changes in the standards of professional conduct in the form of amendments to the present Code of Professional Responsibility to facilitate understanding and evaluation of such proposals, encourage support for needed change, and promote development of a better regulatory vehicle for the profession than that offered by the Model Rules. The alternative formulation should set forth as Disciplinary Rules only those standards of conduct which are intended to be mandatory and avoid changes in language where no change of substance is required.
3. Any revised draft of the Model Rules of Professional Conduct should be organized to state separately those rules which are essentially aspirational to avoid much of the rigidity and overregulation of the present drafts and provide a better understanding of those rules which are intended to define the ethical goals of the profession.

RESOLVED, that these recommendations be transmitted to the House of Delegates of the American Bar Association as the official position of the New York State Bar Association with respect to the Model Rules.

5. Report and recommendation of Committee on Federal Constitution re proposed amendment to Rule 211 of the American Bar Association Standards for Approval of Law Schools. Mr. Feerick, Chairman of the Committee on Federal Constitution, summarized the committee's report and recommendations concerning resolutions pending before the American Bar Association's House of Delegates to amend Rule 211 of the Standards for the Approval of Law Schools in order that discrimination in law school admissions or employment on religious grounds would be clearly prohibited, similar to existing prohibitions against discriminatory policies on the basis of race, color, national origin or sex. Following discussion, a motion was adopted approving the following resolution:

RESOLVED, that the House of Delegates of the New York State Bar Association hereby supports the adoption of such proposals pending before the House of Delegates of the American Bar Association as will amend or otherwise modify the existing Standard 211 of the Standards for the Approval of Law Schools in order that said Standard shall clearly prohibit discrimination in law school admissions or employment on grounds of race, color, national origin, sex or religion.

6. Report of President. Mr. Williams reported the following matters:

a) He had been invited to meet on January 19, 1982 with Chief Judge Lawrence H. Cooke and Chief Administrative Judge Herbert B. Evans in the first of a series of periodic meetings intended to facilitate communication between the organized Bar and the Office of Court Administration. He indicated Mr. Reilly, in his capacity as President-Elect, Mr. Fales, Chairman of Action Unit No. 4, and Mr. Horan, Chairman of the Committee on Judicial Administration, would also be in attendance to discuss matters of mutual concern.

b) The Committee on Legal Aid was continuing to address the problems raised by the reduction in federal funding for the Legal Services Corporation, and was exploring alternatives for securing funding at the state level and programs through which the Association could assist efforts to continue delivery of adequate legal services to the indigent.

c) The Committee on Clients' Security Fund was maintaining active liaison with the New York State Clients' Security Fund Board of Trustees, chaired by former Association President, Anthony R. Palermo. Mr. Williams indicated that the trustees of the new fund were in the process of developing necessary administrative procedures and rules, with release of same anticipated in March, 1982.

d) The Committee on Association Insurance Programs and the Finance Committee were reviewing with Bertholon-Rowland Corp. various aspects of the Association's insurance program to facilitate continued responsiveness to the current needs of the members and the Association.

e) He had contacted the Office of Court Administration regarding public access to home address information in connection with the attorney registration program, and was seeking clarification of the rule which, while permitting public access to names and office addresses, would protect individual privacy with regard to residence data.

7. Date and place of next meeting. Mr. Reilly announced that the next meeting of the House of Delegates will be held at the New York Hilton Hotel on Friday, April 30, 1982.