

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
NEW YORK HILTON HOTEL, NEW YORK CITY, JANUARY 28, 1984

PRESENT: Members Amdursky, Avery, Beshar, Block, J.P. Bracken, Brenner, Brown, Citrynell, Clements, Clune, J.S. Cohen, M. Cohen, Cometa, Condon, Cook, Cooke, Corrou, Costello, Daly, Dee, Delano, DelleCese, Drazen, Edelman, Emerson, Emnett, England, Eolis, Evans, Fales, Feit, Feldman, Field, Fishel, Fitzgerald, FitzPatrick, Forger, Freedman, Garamella, Garaufis, Gilinsky, Goldblum, Greisberger, Hall, Hart, Haskel, Heming, Hewitt, Hoffberg, Horan, Hynes, Kaplan, King, Krieger, Lagarenne, Lifland, Longo, Lustgarten, MacCrate, Madigan, Mahony, Meriam, H.G. Miller, S.W. Miller, Morgan, G.F. Murphy, Neale, Newman, Nimkin, Offermann, Ostertag, Palermo, Patterson, Perlman, Perrin, Peterson, Pfeifer, Pruzansky, Reilly, Reiter, Richman, Ritholz, E.T. Robinson, Rosenthal, Rosiny, Rosner, Rubin, Santemma, Schapiro, Seymour, Shaffer, Smith, Stave, Taylor, Terry, Thompson, Trombley, Valdes, Vigdor, Webb, Wels, D.A. Whalen, White, Witmer, Wolf, Yanas, Zimmer.

1. Approval of minutes of November 5, 1983 meeting.
The minutes were approved as distributed.

2. Report of Treasurer. Mr. Yanas summarized the Treasurer's report, January 1 to December 31, 1983, copies of which had been distributed to the members of the House. He reviewed the financial condition of the Association, and indicated that through the cooperative efforts of the officers, staff, sections and committees, a surplus of approximately \$250,000 had been achieved for the year. Mr. Yanas gave special commendation to the Committee on Continuing Legal Education for its fine financial performance despite the current economic climate. He then reviewed the major items contained in the year-end income and expense statement and concluded that the Association was in sound financial condition as of December 31, 1983. The report was received with thanks.

3. Proposed bylaws of the Law Student Division of the Young Lawyers Section. Gordon E. Thompson, Chairperson of the Young Lawyers Section, summarized proposed bylaws to govern the section's newly formed Law Student Division. Following discussion, a motion was adopted to amend the initial sentence of Article II, Section 1, to read: "All students in good standing in any law school in New York State, or, if a resident of this State in any law school outside of the State, and if not otherwise eligible for membership in this Asssocation, shall be eligible for membership in the Division." Upon motion, the proposed bylaws were approved as amended. Attached is a copy of the bylaws as approved.

4. Report of Committee on Constitution and Bylaws.

Robert H. Iseman, Chairman of the Committee on Constitution and Bylaws, summarized proposed amendments which would update the Constitution and Bylaws, revise existing procedures where appropriate, and combine them into a single document entitled "Bylaws". After discussion, separate motions were adopted approving amendments to the proposed Bylaws with the amended provisions reading as follows:

Article III, Section 1(A) Active Members. Any member of the legal profession in good standing admitted to practice in the State of New York may become an active member by submitting any required application form and supporting documentation to the Executive Director. Upon payment of the applicable dues following such submission, the applicant shall immediately be entitled to all of the rights and subject to all responsibilities of membership.

Article III, Section 1(B) Associate Members. Any member of the legal profession in good standing in any other state or country may become an Associate Member by submitting any required application form and supporting documentation to the Executive Director. Upon the payment of the applicable dues following such submission, the applicant shall immediately be entitled to all of the rights and subject to all of the responsibilities of Associate membership.

Article III, Section 1(D). Law Student Member. Any law student in good standing in any law school in New York State or, if a resident of this State, in any law school outside of the State, and if not otherwise eligible for membership in this Association, may become a Law Student Member by written application to the Executive Director, endorsed as to the applicant's good standing as above prescribed on behalf of the applicant's law school, and by payment of the annual dues of the current year, provided that the law school is an approved law school under the Rules of the Court of Appeals.

Article IV, Section 1(D). The President shall be an Ex Officio member of all standing committees, special committees and action units without the power to vote unless already a member of such committee or action unit.

Article IV, Section 2(C). The President-elect shall be an Ex Officio member of all standing committees, special committees and action units without the power to vote unless already a member of such committee or action unit.

Following adoption of the foregoing amendments, a majority of the members of the House of Delegates subscribed to the proposed Bylaws, as amended, for filing with the Secretary and consideration at the April 1984 Annual Meeting of the Association.

5. Report of Special Committee to Review Association Legislative Program. Mr. Miller summarized the report of the Special Committee to Review Association Legislative Program and outlined proposed recommendations intended to strengthen the Association's legislative posture and permit closer coordination with county and local bar associations on legislative matters. After presentation of the report, a motion was adopted approving the following resolution:

RESOLVED, that the House of Delegates of the New York State Bar Association hereby approves the following recommendations proposed in the report of the Special Committee to Review the Association's Legislative Program: (1) a committee on legislative policy should be established and the chairperson thereof should be made a member of the Executive Committee; (2) communication should be increased with local and other bar associations on legislative matters; (3) staff should be enlarged to deal with legislative activities; (4) the legislative liaison program should be completed and actively employed; (5) a program of periodic meetings with legislators at the local level should be inaugurated; (6) public and media relations should be improved in matters of legislative concern; (7) the entire Association membership should be utilized in legislative matters; and it is further

RESOLVED, that the officers of this Association are hereby authorized and directed to take any and all necessary action required in their judgment to implement the foregoing statements of policy.

Preliminary discussion was also had concerning the committee's report as it related to the formation of a political action committee by the Association. In view of the significant policy considerations entailed in such a determination, it was the consensus that final action be deferred until either the April or June meeting of the House to permit the committee sufficient opportunity to assemble and present further information on this issue, including such data as might be available from other states.

6. Report of Committee on Tort Reparations. Edward J. Hart, Chairman of the Committee on Tort Reparations, reviewed the legislative background with regard to medical malpractice reform and the nature of the study undertaken by the committee. He summarized the significant items contained in the report, including recommendations dealing with malpractice insurance premiums, utilization of claims-made policies, abolition of medical malpractice panels, mandatory pretrial conferences, availability of reports by medical experts through discovery, and

development of a comprehensive program to protect the public against medical malpractice. Mr. Hart noted that the foregoing recommendations had received the approval of the Executive Committee in November 1983. The report was received with the thanks of the House.

7. Matters of ABA governance. L. Stanley Chauvin, Jr., Chairman of the American Bar Association's House of Delegates, summarized current matters of governance currently being addressed by the ABA. He outlined the nature of proposals pending before the ABA House of Delegates which would expand the composition of the ABA's Nominating Committee and House of Delegates. Mr. Chauvin indicated that the purpose of the proposed modifications was to broaden participation in the governance of the American Bar Association, and that the latter proposal would serve to increase the number of delegates in the ABA's House of Delegates from larger state bar associations, such as New York.

8. Report of Special Committee to Review the Proposed Code of Evidence for the State of New York. Paul S. Edelman, Chairman of the Special Committee to Review the Proposed Code of Evidence for the State of New York, summarized the report of the committee as well as the reasons underlying its recommendation that the Proposed Code be adopted, with certain modifications suggested to satisfy the committee's concerns regarding several of the substantive provisions. Following discussion of the general issues associated with the Proposed Code, a motion was adopted expressing the sense of the House that the committee's report, together with such further explanatory material on the positive and negative aspects of codification as might be appropriate, should be circulated to interested sections and committees of the Association, as well as county and local bar associations, requesting comment on the committee's recommendations, with specific attention to the threshold issue of codification.

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

a) In cooperation with the New York State Trial Lawyers Association and the Women's Bar Association of the State of New York, a supportive public position was being taken on the Judiciary budget for fiscal year 1984-85. Mr. Fales indicated that a study prepared by the National Center for State Courts favored budget increases for three items of specific interest to the Association: additional judgeships, improvement of courthouse facilities and judicial salary increases. He advised that copies of the study and related press releases were being forwarded to all House members and local bar associations, and that he would testify on the subject at legislative hearings scheduled for February 1.

b) The limited availability of suitable hotel accommodations in New York City was such that the 1985 Annual Meeting would have to take place in January rather than April.

b) The Nominating Committee had met and nominated the following individuals as delegates to the American Bar Association House of Delegates for election at the April 1984 meeting: Alexander D. Forger, Henry G. Miller, Bernard J. Reilly, Justin L. Vigdor, David S. Williams, and Charlene McGraw, young lawyer delegate.

c) Mr. Miller closed the meeting in memory of Chauncey Belknap, former President of the Association, and a moment of silence was observed in respect to his memory.

11. Date and place of next meeting. The next meeting of the House of Delegates will be held on Friday, April 27, 1984 at the New York Hilton Hotel.

Mr. Fales reported that in view of these circumstances, the Executive Committee had endorsed such a change in the 1985 Annual Meeting date. A motion was adopted approving January 23-26 as the dates for the Association's 1985 Annual Meeting.

c) Since the status of the United States Bankruptcy Courts will terminate as of March 1, 1984, if appropriate legislation is not enacted by Congress, the Executive Committee at the January 27 meeting adopted a resolution urging Congress to enact in timely fashion appropriate legislation establishing the jurisdiction of the Bankruptcy Courts on a permanent basis.

d) A committee comprised of past presidents Alexander D. Forger, Robert P. Patterson, Jr. and David S. Williams, with the latter serving as Chairman, had been appointed to evaluate possible alternatives for disposition of the balance remaining in the Association's Clients' Security Fund and submit appropriate recommendations to the Executive Committee and House of Delegates.

e) In consultation with Messrs. Miller and Pfeifer, he was endeavoring to meet with minority bar groups from the metropolitan New York area for purposes of establishing closer coordination and communication.

f) The Committee on Federal Courts had submitted a position to Congress opposing pending legislation which would create an Intercircuit Tribunal.

g) The Board of Trustees of the Interest on Lawyer Account Fund (IOLA) had not yet been appointed, delaying implementation of the program in New York. The following resolution was adopted upon resolution of the House:

RESOLVED: The House of Delegates of the New York State Bar Association respectfully and urgently calls upon the Governor to appoint the Board of Trustees of the IOLA Fund immediately in order to effectuate the purposes of Chapter 659 of the Laws of 1983.

10. Report of Chairman. Mr. Miller announced:

a) 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 a one-year term commencing June 1, 1984, and that the officers of the Association had selected December 31, 1983 as such date. A motion was adopted ratifying the action of the officers and fixing December 31, 1983 as the date certain for such membership count.

NEW YORK STATE BAR ASSOCIATION
BYLAWS OF THE LAW STUDENT DIVISION
OF THE YOUNG LAWYERS SECTION

ARTICLE I
Name and Purpose

Section 1. This Division shall be known as the Law Student Division of the Young Lawyers Section of the New York State Bar Association.

Section 2. The purpose of this Division shall be: to further academic excellence through participation by law students in the efforts of the Organized Bar; to formulate and revise standards of legal education; to provide an opportunity for law students to participate in programs which will prepare them to develop efficient and effective methods of delivering legal services; to promote the development of leadership programs and activities; and, to promote professional responsibility.

ARTICLE II
Membership

Section 1. All students in good standing in any law school in New York State, or, if a resident of this State in any law school outside of the State, and if not otherwise eligible for membership in this Association, shall be eligible for membership in the Division. Students shall become members of the Division upon approval of the requisite membership application and the payment of required dues, in compliance with the procedures set forth in the Constitution of the New York State Bar Association.

ARTICLE III
Meetings

Section 1. The Annual Meeting of the Division shall be held during the spring term of each academic year. The exact time and place of the meeting shall be determined by the Executive Committee.

Section 2. Other meetings of the Division shall be held at such time or place as the Executive Committee may determine.

Section 3. Ten members present at any meeting of the Division constitute a quorum for transaction of business.

Section 4. Notice of the meetings of the Division shall be published or posted at each law school represented on the Executive Committee in at least two places at least fifteen days prior to the date of such meetings, stating the time, location and purpose thereof.

Section 5. The order of business to be transacted at the Annual Meeting shall be set by the Executive Committee.

ARTICLE IV Officers

Section 1. The officers of the Division shall be a Chairperson, Vice-Chairperson, Secretary and Treasurer.

Section 2. The duties of the Division officers shall be as follows:

a. Chairperson. The Chairperson shall preside at all meetings of the Division and of the Executive Committee. The Chairperson shall make all appointments to such committees, in addition to those specified in these By-laws as may be created by the Executive Committee. The Chairperson shall be an ex-officio member of all such committees. The Chairperson shall also perform such other duties as may be prescribed by the Executive Committee. The Chairperson shall represent the Division on the Executive Committee of the Young Lawyers Section. The Chairperson may delegate any of his/her powers to the Vice-Chairperson or to any other member of the Executive Committee.

b. Vice-Chairperson. In case of the disability or absence of the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson. The Vice-Chairperson shall also perform such other duties as may be prescribed by the Chairperson or the Executive Committee.

c. Secretary. The Secretary shall keep the records and minutes of the proceedings of the Division, Annual Meeting and the Executive Committee meetings. The Secretary shall also cause to be kept a roster of the members of the Division, said roster to be kept by the New York State Bar Association. The Secretary shall attend to all correspondence of the Division and the Executive Committee and shall issue all notices of meetings. The Secretary shall also perform such other duties as may be prescribed by the Chairperson of the Executive Committee.

The Secretary shall notify all members of the Executive Committee of nominations made by the Nominating Committee at least thirty (30) days before the Annual Meeting of the Division. The Secretary shall notify Division members of such nominations in the manner prescribed in Article III, Section 4 for notice of Annual Meetings. Failure by the Secretary to give such notice shall not invalidate any nominations made by the Nominating Committee.

d. Treasurer. The Treasurer shall manage the fiscal affairs of the Division and shall process all expenditures. The Treasurer shall also prepare the annual budget request in conjunction with the Finance Committee for approval by the Executive Committee and submission to the Young Lawyers Section and the Finance Committee of the New York State Bar Association and shall present a financial report at the Annual Meeting of the Division and at each meeting of the Executive Committee. The Treasurer shall also perform such other duties as may be prescribed by the Chairperson or the Executive Committee.

Section 3. The officers of the Division shall be members in good standing, be elected at the Annual Meeting of the Division and shall serve for a term of one year, or until their successors have been elected and assume office. The term of office shall commence on June 1 of the year of election.

Nominations for officers of the Division shall be made by the Nominating Committee, and in addition, nominations may be made by petition

by not less than fifteen members of the Division for each candidate for an office, or by five members of the Executive Committee, provided that such petitions are received by the Secretary at least forty-five days prior to the Annual Meeting.

section 4. In the event a vacancy should occur in the office of Chairperson, the vacancy shall be filled by the Vice-Chairperson. A vacancy in any other office shall be filled by plurality vote of the Executive Committee. If such vacancy occurs and there is no Executive Committee meeting to be held within three weeks, the election shall be conducted by mail. The Secretary (or if that is the office to be filled, one of the other officers) shall request nominations from the Executive Committee to be returned within seven (7) days of the request. The Chairperson shall send a ballot showing the names of all nominees to each member of the Executive Committee which they will vote upon and return within seven (7) days. A plurality vote of those ballots returned shall determine the successor to fill said vacancy.

ARTICLE V

Executive Committee

Section 1. The Executive Committee shall consist of the officers of the Division and one representative from each approved law school in New York State.

Section 2. The representatives of the various law schools on the Executive Committee, other than the Division officers, shall be selected by a method determined by each individual school.

Section 3. The term of the members of the Executive Committee shall be one year, commencing June 1, or until their successors have been elected and assume office.

Section 4. The Executive Committee shall have the responsibility for the general management and control of the affairs and activities of the Division, subject to the Constitution and Bylaws of the New York State Bar Association and the Bylaws of this Division. The Executive Committee shall have the power to create such special committees as it deems necessary and to abolish any such committees as its pleasure. In creating or abolishing committees, the Executive Committee shall cooperate fully with the Young Lawyers Section. The Executive Committee shall assist and cooperate with other officers and committees of the New York State Bar Association.

Section 5. Regular meetings of the Executive Committee shall be held at such time and place as determined by the Committee. Special meetings of the Executive Committee may be called at the pleasure of the Chairperson, and must be called by the Secretary whenever five or more members of the Executive Committee request a special meeting.

Section 6. Five members of the Executive Committee including at least one Division officer must be present at the commencement of the meeting to constitute a quorum for the transaction of any business.

Section 7. Each member of the Executive Committee shall have one vote. A member of the Committee unable to attend any meeting may vote by proxy, provided such proxy shall be in writing and filed with the Secretary prior to the commencement of the meeting.

Section 8. Any vacancy occurring on the Executive Committee may be filled by appointment of the Committee, provided that the appointee shall be from the school at which the vacancy has occurred, and any such appointee shall serve until the appointee's successor is selected by his or her law school and assumes office.

Section 9. The Executive Committee shall comply with all rules and procedures promulgated by the New York State Bar Association governing financial affairs. The Executive Committee may by resolution establish procedures enabling the Division to comply with the regulations issued by the New York State Bar Association.

ARTICLE VI Committees

Section 1. The Executive Committee of the Division shall create such committees in the Division as shall be determined from time to time. The Chairperson of the Division shall appoint the chairperson and all members of the Committees.

Section 2. The Nominating Committee shall consist of five members, each from a different law school. This Committee is responsible for mailing nominations for Division Officers. All nominations shall be filed with the Secretary at least forty-five days prior to the Annual Meeting. The Chairperson of the Nominating Committee shall present the nominations to the Executive Committee at the Annual Meeting.

ARTICLE VII Amendments

Section 1. These Bylaws may be amended at any meeting of the Division by a majority vote of the members of the Division present, provided that no amendment shall be effective until approved by the Young Lawyers Section and by the House of Delegates of the New York State Bar Association.

Section 2. Notice of any proposed amendment to the Bylaws shall be published or posted at each law school represented on the Executive Committee in at least two places at least fifteen days before the meeting at which the proposed amendment is to be voted on.