

NEW YORK STATE BAR ASSOCIATION  
MINUTES OF HOUSE OF DELEGATES MEETING  
THE OTESAGA, COOPERSTOWN, NEW YORK - JUNE 26, 1982

PRESENT: Members Amdursky, Aspland, Baer, Beshar, Block, Cahn, Chayt, Citrynell, Clark, M. Cohen, Cook, Daly, Delano, Denton, Drazen, Dwyer, Eisenberg, England, Erickson, Fales, Feldman, Field, H.L. Fisher, K.K. Fisher, Fitzgerald, FitzPatrick, Ford, Forger, Freedman, Friedlander, Geltzer, Gershon, Gibson, Goldblum, Hackbarth, Hall, Haynes, Heming, Hoffberg, E.B. Hoffman, T.D. Hoffman, Horan, King, F. Klein, Kovner, Lagarenne, Lasher, Laughlin, Lifland, Maas, MacCrate, Madden, H.G. Miller, G.F. Murphy, J.E. Murphy, J.H. Murphy, Neale, Newman, Nimkin, Ostertag, Palermo, Pearl, Peet, Pritchard, Reeder, Reilly, Reynolds, Robfogel, Rosenthal, Russell, Samoff, Santemma, Savage, Schair, Schapiro, Seymour, Shaffer, Smith, Thompson, Tondel, Traficanti, Urbano, Vigdor, Wels, D.A. Whalen, T.A. Whalen, Williams, Yanas, Yetter and Young.

1. Amendment of minutes of April 30, 1982 meeting. The minutes were amended to show members Connolly, Dolan, Drazen, Newman, Nimkin and Ostertag in attendance at the April 30th meeting. The minutes were approved as amended.

2. Report of Treasurer. Mr. Yanas summarized the Treasurer's report, January 1 to May 31, 1982, copies of which had been previously circulated to members of the House. He outlined the procedures governing the management and investment of Association funds, and advised that the Association was in sound financial condition as of May 31, 1982. The report was received with thanks.

3. Proposed amendments to Environmental Law Section bylaws. Arthur V. Savage, delegate from the Environmental Law Section summarized the proposed amendments to the section's bylaws. Upon motion the following amendments were approved:

ARTICLE III. Section 1. The officers of the Section shall be a Chair, First and Second Vice-Chair, Treasurer, and a Secretary. The first and Second Vice-Chairs, Treasurer and a Secretary shall be elected at the Annual Meeting of the Section. The First Vice-Chair shall become Chair on June 1st succeeding the Annual Meeting at which the member is elected first Vice-Chair.

ARTICLE III. Section 3. All officers and members of the Executive Committee who are elected at an Annual Meeting shall hold office for a term beginning on June 1st succeeding that Annual Meeting and serve until their respective successors have been elected and take office. The First Vice-Chair upon succeeding to the office of Chair pursuant to Section 1 of this Article shall hold office as Chair for a term beginning on June 1st and until succeeded by a new Chair.

ARTICLE III. Section 4. A Section delegate to the House of Delegates of the Association shall be elected annually by the Executive Committee, and shall hold that position for a term of one year commencing the June 1st next succeeding the date of that election.

ARTICLE VI. Section 1. Standing Committees: There shall be such Standing Committees as may from time to time be authorized by the Executive Committee. The Chair and members of each Standing Committee shall be appointed by the First Vice-Chair prior to the date at which he becomes Chair of the Section, to serve from then until the close of the next following Annual Meeting of the Section, and thereafter until their successors are appointed. The Chair of the Section may fill any vacancy in the chairing or membership of any Standing Committee and may make additional appointments to any Standing Committee during the term of office.

ARTICLE VI. Section 5. Task Forces: From time to time as the objectives of the Section may require, part or all of the operations and responsibilities of specified committees of the Section may be transferred pro tempore to a task force designated to such purpose. As many task forces as may be deemed desirable may be created by the Executive Committee. A task force shall consist of from five to fifteen members appointed by the Chair who shall appoint a Chair and Vice-Chair of the task force from such membership. Each member shall serve until the task forces objective is achieved or for one year, if the objective has not yet been achieved. Members may be reappointed. Each task force shall establish its own procedures subject to the supervision and approval of the Executive Committee. Each task force shall be terminated by the Executive Committee when its objective has been achieved or for other good reason.

ARTICLE VI. Section 6. Rotation of Committee Chairs: It is the policy of this Section that except in special circumstances no person shall serve more than two full years in succession as Chair of any Committee.

ARTICLE VIII. Section 4. Officers elected at the 1981 Fall Annual Meeting shall serve through May 31, 1983.

4. Presentation of Root/Stimson Award and Public Service Awards. Edward J. Moses, representing the Special Committee on Lawyers and the Community Awards Committee, presented the Root/Stimson Award to attorney Carl R. Gitlitz of Binghamton for outstanding service to the community.

Thomas M. Whalen, III, Chairman of the Special Committee on Lawyers and the Community, presented the Public Service Medal to Father Bruce Ritter, founder and Executive Director of Covenant House,

a New York State licensed child care agency, and its crisis center, "UNDER 21", which aids homeless and runaway youths in New York City. The Public Service Award was presented by Mr. Whalen to Frank Wheeler and Gerald Hoffman, senior investigators for the Monroe County Medical Examiner's Office, for outstanding contribution to the betterment of the administration of justice.

5. American Bar Association Model Rules of Professional Conduct. Frank R. Rosiny, Chairman of the Special Committee to Review ABA Draft Model Rules of Professional Conduct, summarized the report of the Special Committee relating to the substantive issues connected with the Proposed Final Draft Model Rules of Professional Conduct, released May 30, 1981 by the ABA's Commission on Evaluation of Professional Standards. Following discussion of the conclusions and recommendations submitted by the Special Committee, 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 draft Model Rules of Professional Conduct released by the Commission on Evaluation of Professional Standards of the American Bar Association as of May 30, 1981:

(1) The House of Delegates of the American Bar Association should defer final action on adopting the Model Rules, whether in whole or in part, until such time as the various state and local associations of the Bar have been given an adequate opportunity to comment on the aforementioned draft, and in no event should final action on the Model Rules be taken by the American Bar Association prior to its February 1983 Mid-year Meeting.

(2) The American Bar Association's Commission on Evaluation of Professional Standards should prepare a new draft of the Model Rules, incorporating all substantive amendments which the Commission has received and found acceptable during its review of the present draft, and should cause the same to be distributed to the various state and local associations of the Bar, with sufficient time being accorded to such associations for comment on the said new draft.

(3) The Report of the Special Committee to Review ABA Draft Model Rules of Professional Conduct, dated June 1982, should be transmitted to the American Bar Association and its Commission on Evaluation of Professional Standards for consideration in preparing appropriate amendments to the Model Rules.

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

BE IT FURTHER RESOLVED, that whereas the procedures adopted by the American Bar Association have not permitted an adequate time for the expression of a national consensus with respect to the substance of the proposed Model Rules, this Association's delegates to the American Bar Association are hereby instructed to vote against any final action taken by the American Bar Association, whether in whole or in part, with respect to the said Model Rules at the August 1982 Annual Meeting.

A resolution was then offered to authorize the Special Committee to prepare such amendments to the current Code of Professional Responsibility as would embody the ethical concepts under consideration. A motion to table the resolution was adopted inasmuch as the President had authority, should circumstances warrant, to request that the Special Committee prepare such amendments for review by the House.

6. Report of Committee on Judicial Administration. John R. Horan, Chairman of the Committee on Judicial Administration, reported concerning the committee's activities during the 1981-1982 Association year. He summarized the operation and effects of the Office of Court Administration's judicial transfer plan during that period, as well as preliminary data compiled regarding OCA's special efforts to reduce criminal case backlogs in the New York City area. He indicated the committee was continuing to evaluate available statistics, and would be in a position to present a further report at the fall meeting.

7. Report of President. Mr. Reilly reported the following matters:

a) He had met recently with Chief Judge Cooke, and had received assurances that the Office of Court Administration was desirous of developing improved communications with the Association on matters of mutual concern. He indicated several avenues for implementing this goal were under active consideration, including meetings with senior administrative personnel and participation on various advisory panels appointed by the Chief Judge. Mr. Reilly advised that in cooperation with the Committee on Judicial Administration and other interested groups within the Association, he would pursue these matters. He encouraged members to submit suggestions to him for further means of improving relations between OCA and the Association.

b) He expressed his appreciation to Judge Gabrielli and Messrs. Moses and Whalen for the fine effort contributed each year by the Special Committee on Lawyers and the Community and its Awards Committee. Mr. Reilly then expressed the sentiments of the House that Judge Gabrielli might enjoy a speedy recovery from recent surgery.

c) The Appellate Division, First Department, recognizing the positive efforts of the Special Committee on Lawyer Alcoholism and Drug Abuse, had appointed that committee to supervise the practice of an attorney recovering from alcoholism.

d) To ensure continued delivery of adequate legal services to the indigent, legislation had been introduced through the efforts of the Association which would establish a council on legal services to distribute funds as appropriated by the Legislature to legal services offices in New York State. He indicated that technical amendments were under discussion with legislative staff members in an effort to secure passage during the current session.

e) He recognized past president Whitney North Seymour, Jr. and wished him well in his candidacy for the United States Senate.

f) The report of Action Unit No. 5 concerning regulatory reform had been well received, and a Policy Board had been appointed to oversee the further study undertaken by the Center for Governmental Research, Inc. of Rochester, New York.

g) The Executive Committee on June 24 had approved a request submitted jointly by the Committee on International Law and the Committee on International Trade and Transactions that a mission to Japan be authorized for the purpose of discussing with the Japanese bar means for reducing present obstacles to the establishment by United States law firms of consultative offices in Japan. Mr. Reilly indicated he would appoint the members of the delegation in consultation with the two committees.

8. Report of Chairman. Mr. Fales reported the following matters:

a) The new members of the House who had taken office on June 1 were welcomed by Mr. Fales. The following is a list of the new members of the House:



Leonard H. Amdursky  
William L. Bergan  
Robert M. Ciesielski  
Charles H. Clark  
Robert J. Clune  
Jerome S. Cohen  
Louis A. Craco  
Alexander A. DelleCese  
J. Timothy Embser  
John D. Feerick  
John J. Fitzgerald  
William S. Friedlander  
Richard M. Gershon  
Alfred Gerstman  
George M. Gibson  
Richard F. Griffin  
Nat H. Hentel  
David L. Hoffberg  
Edward B. Hoffman

John R. Horan  
Thomas V. Kenney, Jr.  
Frank Klein  
Victor A. Kovner  
Douglas H. Krieger  
Alan D. Lasher  
Angelo D. Lomanto  
John J. Madden  
Joseph D. McGuire  
William H. McKeon  
Raymond D. McMurray  
John E. Murphy  
Joshua M. Pruzansky  
Calvin E. Rafuse  
J. Thomas Reynolds  
Jay L. Samoff  
Arthur V. Savage  
Fern Schair  
John E. Shaffer

Herman H. Tarnow  
Carlton F. Thompson  
Joseph J. Traficanti, Jr.  
Richard H. Wels  
Kenneth P. Zebrowski

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Effective at the close of the  
ABA Annual Meeting:  
Alan Levine

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Effective January 1, 1983:  
Maxwell S. Pfeifer  
Mark B. Rubin  
Austin Torres  
Laura Valdes

b) Mr. Fales announced that the Governor and legislative leaders had been apprised of the action taken at the April meeting supporting the creation of additional judgeships, without specification as to the courts or jurisdictions where such judicial appointments should be made, and also endorsing the reappointment of those temporary Court of Claims Judges serving as Acting Supreme Court Justices under the Emergency Dangerous Drug Control Program instituted by then Governor Nelson A. Rockefeller. He indicated that a further expression of Association support would be helpful in securing passage of appropriate legislation. A motion was adopted reaffirming the position taken at the April meeting for communication to the Legislature.

c) Mr. Fales recognized Mr. Reilly, who expressed appreciation to Mr. Williams for his energetic and dedicated leadership as president during the past year, and presented him with a plaque inscribed as follows:

THE NEW YORK STATE BAR ASSOCIATION  
PRESENTS THIS TESTIMONIAL TO DAVID S.  
WILLIAMS IN RECOGNITION OF HIS DEVOTED  
SERVICE TO THE ASSOCIATION IN THE  
SUCCESSFUL FURTHERANCE OF ITS IDEALS AND  
IN THE PROMOTION OF THE BEST INTEREST OF  
THE PROFESSION THROUGH HIS SERVICE AS  
PRESIDENT OF THE ASSOCIATION - 1981-1982.

9. Date and place of next meeting. Mr. Fales announced that the next meeting of the House of Delegates will be held at the Bar Center in Albany on November 6, 1982.