

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
NOVEMBER 7, 1981 - BAR CENTER, ALBANY

PRESENT: Members Aspland, Beinecke, Beshar, Bracken, Brenner, Brick, Brickfield, Buck, Callahan, Cardozo, Ceresia, Chayt, Compson, Connolly, Conway, Cook, Dadd, Daly, Dee, Delano, DelleCese, Denton, deSilva, Diamond, Dolan, Dougherty, Drazen, Dwyer, Eisenberg, Emmett, Eolis, Erickson, Fales, Feldman, Field, Fischer, H.L. Fisher, K.K. Fisher, FitzPatrick, Forger, Freedman, Garaufis, Gilinsky, Gilmore, Glascoff, Gold, Goldblum, Graff, Grossman, Hackbarth, Hall, Harvey, Haynes, Heming, Hewitt, H.L. King, Klein, Lagarenne, Laughlin, Leinhardt, Levy, Lifland, Longo, Maas, MacCrate, Magavern, Marcus, Matte, McDowell, McQuaid, H.G. Miller, S.W. Miller, G.F. Murphy, Neale, Newman, Nimkin, O'Brien, Ostertag, Palermo, Patterson, Pearl, Peet, Perrin, Piazza, Pritchard, Reeder, B.J. Reilly, K.C. Reilly, Richman, Rosenthal, Rothenberg, Ruger, Russell, Santemma, Schapiro, Schwab, Sedita, Smith, Spivack, Stave, Tucker, Vigdor, Wadlin, Williams, Witmer, Yanas, Yetter, Young and Zimmer.

1. Approval of minutes of June 27, 1981 meeting. The minutes were approved as distributed.

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

John E. Adamson, Jr.
Cameron R. Argetsinger
John P. Bracken
James M. Brooks
Joseph C. Buck
Michael A. Cardozo
George B. Ceresia, Jr.
Maurice Chayt
Richard G. Compson
Edward S. Conway
Mark H. Dadd
William A. Delano
Richard Denton
Bernadette Dolan
David A. Dubow
James F. Dwyer
Catherine T. England
Robert A. Feldman
Harold L. Fisher
Thomas A. Ford
Nicholas G. Garaufis
Barry H. Garfinkel
Thomas Gilmore
Donald G. Glascoff, Jr.
A. Paul Goldblum
Wayne L. Graff

Jonathan P. Harvey
Robert H. Hayner
James A. Haynes, Jr.
Frank M. Headley, Jr.
Benjamin N. Hewitt
Bernard T. King
Anthony B. Kuklin
Robert M. Laughlin
Robert P. Lewis
Leonard E. Maas
James L. Magavern
Margaret H. McDowell
John G. McQuaid
Joseph P. Muenkel
B.W. Nimkin
Robert H. Reeder
Martin F. Richman
David Sachs
Ruth G. Schapiro
Harold L. Schwab
Joseph V. Sedita
Richard L. Sigal
Arthur C. Stever, Jr.
Thomas N. Trevett
John J. Waldin
Alan S. Zwiebel.

3. Report of Treasurer. Mr. Yanas summarized the Treasurer's report, January 1 to September 30, 1981, copies of which had been circulated previously to members of the House. The report was received with thanks.

4. Approval of proposed 1982 Association budget. Mr. Yanas reviewed the financial condition of the Association under the 1981 budget. He stated that the dues increase implemented during the past year, coupled with careful financial management and cost consciousness, would enable the Association to meet 1981 budget projections, resulting in a surplus of approximately \$350,000 at the close of the calendar year. Mr. Yanas indicated this surplus would serve to rebuild the Association's depleted cash reserve. On behalf of the Finance Committee, Mr. Yanas expressed appreciation to the officers, sections, committees and staff for their cooperation in maintaining the Association's sound financial condition, which would obviate the need for any further dues increase during the next two years.

Mr. Yanas then summarized the significant items contained in the 1982 budget. A motion was adopted approving the 1982 income and expense budget as proposed by the Finance Committee.

5. Report and resolution of Committee on Federal Legislation. Edward Brodsky, Chairman of the Committee on Federal Legislation, summarized the committee's report concerning legislation pending in Congress, which would limit Federal Court jurisdiction in certain defined classes of cases, detailing the significant constitutional issues involved, and recommendations for consideration by the House. Following discussion, a motion was adopted approving the following resolution:

WHEREAS, numerous bills are now pending before Congress which would curtail Federal Court jurisdiction over certain specified classes of cases involving constitutionally protected civil liberties and individual rights; and

WHEREAS, the bills would, in various combinations, eliminate United States Supreme Court appellate review and eliminate lower Federal Court original jurisdiction over cases involving, but not limited to, voluntary school prayer, school busing for desegregation and abortion; and

WHEREAS, such curtailment of jurisdiction would impair the essential role of the Supreme Court as the final arbiter of constitutional disputes and would impair the historic role of the lower Federal Courts as instruments for enforcing such rights; and

WHEREAS, by such curtailment of jurisdiction, Congress would facilitate the overturning of Supreme Court decisions without complying with the amendment procedures prescribed in the Constitution; and

WHEREAS, such curtailment would impair the rights of citizens to litigate their Federal claims in a Federal forum, and would do so in a discriminatory fashion; and

WHEREAS, it is the belief of the Association that it is improper and imprudent for Congress to attempt to promote change in constitutional areas of current interest by impeding the vindication of constitutional rights and disrupting the traditional distribution of power among Congress, the Federal Courts and the State Courts;

NOW, THEREFORE, BE IT RESOLVED, that the New York State Bar Association opposes the adoption of legislation which would curtail the jurisdiction of the United States Supreme Court and lower Federal Courts in specific areas of constitutional law.

6. Proposal re establishment of Corporate Counsel Section.
Robert L. Geltzer, Chairman of the General Practice Section's Committee to Consider the Creation of a Corporate Counsel Section, summarized his committee's proposal to establish a separate Corporate Counsel Section structured to meet the needs of inside corporate counsel. Following discussion, a motion was adopted approving the following resolution:

RESOLVED, that there be established a Corporate Counsel Section within the New York State Bar Association, and it is further

RESOLVED, that the chairman of the Committee to Consider the Creation of a Corporate Counsel Section shall serve as chairman of a steering committee, appointed by the President of this Association, to take all steps necessary to implement the establishment of a Corporate Counsel Section, and it is further

RESOLVED, that an appropriate budget be approved by the Finance Committee and that the necessary funds be allocated from the general funds of this Association to carry out the foregoing, and it is further

RESOLVED, that the proposed bylaws of this Section be approved.

7. Interim report of Special Committee to Review ABA Draft Model Rules of Professional Conduct. Frank R. Rosiny, Chairman of the Special Committee to Review ABA Draft Model Rules of Professional Conduct, advised that the American Bar Association had announced that it would con-

sider the question of the format of the Model Rules at the January, 1982 Mid-Year Meeting in Chicago, with substantive issues deferred to the ABA's August, 1982 Annual Meeting in San Francisco. He summarized his committee's evaluation of the alternative restatement and Code of Professional Responsibility formats proposed by the ABA. Mr. Rosiny then indicated a detailed written report would be ready later in November for distribution to House members, and county and local bar associations, to permit adequate review in advance of consideration and vote on the format question at the January, 1982 House meeting.

8. Report of Chairman.

a) Mr. Reilly announced 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, 1982, and that the officers of the Association had selected December 31, 1981 as such date. A motion was adopted ratifying the action of the officers and fixing December 31, 1981 as the date certain for such membership count.

b) Mr. Palermo was recognized for presentation of a resolution endorsing Robert MacCrate for the office of President-Elect of the American Bar Association in 1985. The following resolution was adopted unanimously upon motion by the House.

Recognizing that Robert MacCrate possesses personal qualities of wisdom, acumen, integrity and leadership and the ability to understand the needs of the legal profession and the public; and

Recognizing that Robert MacCrate has held numerous offices in the New York State Bar Association (NYSBA), including President, Vice-President and Chairman of the Executive Committee, and has served as a member on several other committees, and has held numerous other responsible positions within the organized Bar and elsewhere, including service as President of the American Judicature Society from 1979-81, as President of The New York Bar Foundation since 1976, as Chairman of the Fund for Modern Courts, Inc. and the Committee for Modern Courts, Inc., as Vice-President and chairman of committees of The Association of the Bar of the City of New York, as a member of the Council and Executive Committee of the American Law Institute, as a member of the Board of Directors of the Academy of Political Science, and as trustee and member of the Executive Committee of the Practising Law Institute; and

Recognizing that Robert MacCrate has been active in the work of the American Bar Association (ABA), having served as State Delegate from New York in the ABA House of Delegates and previously having served six years in the ABA House of Delegates as a delegate of the NYSBA, and now serves on the Board of Governors as a representative of the Second District, which includes the states of New York, Connecticut and Vermont, and has demonstrated the capability for responsible leadership of the ABA, and thus merits full consideration for the Presidency of the ABA; now, therefore, be it

RESOLVED, the House of Delegates of the NYSBA enthusiastically endorses the candidacy of Robert MacCrate for the office of President-Elect nominee of the ABA in 1985 and respectfully urges the Delegates of the House of Delegates of the ABA to support his nomination for, and election to, that office.

c) Mr. Reilly advised that copies of a booklet, compiled by Association staff, entitled Significant Legal Issues had been distributed to members in attendance for reference purposes in connection with issues of current interest to the organized bar. He encouraged members to submit comments or suggestions for additional topics to Executive Director William J. Carroll.

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

a) The Executive Committee had completed a review of Association publications and, in cooperation with the Board of Editors of the New York State Bar Journal, would implement modifications in the publication's size, printing and format which would result in significant cost savings while maintaining the high quality and professional standards of the Journal.

b) Consistent with the prior resolutions of the House, and with the authorization of the Executive Committee, he had forwarded letters in support of adequate funding for the Legal Services Corporation to government leaders at both the federal and state levels. Mr. Williams indicated that county and local bar officials were being surveyed regarding development of alternative programs in the event funds for the Legal Services Corporation were reduced significantly. He advised that the Committee on Legal Aid was continuing its efforts in cooperation with other interested groups to assure delivery of effective legal services to the indigent.

c) As a supplement to the bar association questionnaire, which the Association answered earlier this year, the Federal Trade Commission is planning to conduct a survey of 2,500 attorneys nationwide concerning nature of practice, billing policies and advertising of professional services. The proposed survey has been submitted to the Office of Management and Budget for approval prior to release. Mr. Williams also advised that the questions contained in the survey are not directly related to bar association activities.

d) The Executive Committee, based upon a recommendation by the Committee on Association Insurance Programs, had authorized the Bertholon-Rowland Corp. to advertise the availability of life insurance to eligible associate members of the Association in other states.

e) Together with other bar officials, he had attended the Mid-Atlantic Conference of Bar Leaders meeting held in Philadelphia during October to discuss matters of mutual interest.

f) The program to develop ongoing communication among the sections, committees, and officers of the Association was progressing well, with the appointment of John A. Williamson, Jr. as Associate Executive Director enabling Executive Director William J. Carroll to participate in a greater number of these meetings.

g) The New York State Museum was preparing an Upstate New York exhibit and was interested in receiving heirlooms, artifacts, documents and other historical items suitable for display.

10. New business.

John G. McQuaid, chairman of the Trusts and Estates Law Section, outlined the section's position and proposed resolution supporting amendment of the New York estate and gift tax laws to conform them with recent amendments to the Internal Revenue Code. Ruth G. Schapiro, chairman of the Tax Section, expressed her section's endorsement of the proposition. The following resolution was adopted upon motion by the House:

WHEREAS, the Internal Revenue Code has been amended effective generally with respect to estates of decedents dying after December 31, 1981, and with respect to gifts made after December 31, 1981, to provide for an unlimited marital deduction; and

WHEREAS, it is the view of the New York State Bar Association that the New York estate and gift tax laws should be similarly amended to provide for an unlimited marital deduction; now, therefore, be it

RESOLVED, that the New York State Bar Association urges that the New York estate and gift tax laws be amended to provide for an unlimited marital deduction, with the same effective dates as the amendments to the Internal Revenue Code so providing.

11. H. Glen Hall announced the death of Edwin A. Tennant, Jr. who had been active in both the New York State Bar Association and the Westchester County Bar Association.

Marc E. Grossman presented a memorial to John P. Hederman, member of the House of Delegates, Chairman of the Committee on International Trade and Transactions, and past Chairman of the Young Lawyers Section.

House: The following resolution was adopted upon motion of the

WHEREAS, John P. Hederman was respected as a lawyer of outstanding ability and as a man of integrity; and

WHEREAS, John P. Hederman, served his community and his profession with distinction as Chairman of the Young Lawyers Section, 1977-1978; as Chairman of the Association's Special Committee on International Trade and Transactions; and as a valued member of this House of Delegates from 1978-1980, and who died on August 31, 1981, it is

RESOLVED, that the House of Delegates of the New York State Bar Association does hereby express its sorrow at the death of John P. Hederman and does extend its sympathy to his wife Lynn and family.

12. Date and place of next meeting. The next meeting of the House of Delegates will be held on Saturday, January 16, 1982 at the Bar Center, Albany.