

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
BAR CENTER, ALBANY - NOVEMBER 6, 1982

PRESENT: Members Amdursky, Aspland, Baer, Bergan, Beshar, Block, Bracken, Brearton, Brenner, Cahn, Cardozo, Ciesielski, Citrynell, Clark, M. Cohen, Condon, Cook, Craco, Daly, Dee, DelleCese, Denton, Diamond, Dolan, Dougherty, Dwyer, Eisenberg, Embser, Eolis, Erickson, Fales, Feerick, Feldman, Field, Fitzgerald, Ford, Forger, Freedman, Garaufis, Geltzer, Gershon, Goldblum, Greenberg, Griffin, Gross, Hackbarth, Hall, Hart, Haskel, Haynes, Headley, Heming, Hewitt, Hoffmann, Kahn, Keigher, Kenney, King, F. Klein, R.L. Klein, Krieger, Lagarenne, Levine, Levy, Lewis, Lifland, Longo, MacCrate, Magavern, Matte, McDowell, McGuire, Meriam, H.G. Miller, S.W. Miller, G.F. Murphy, Newman, Nimkin, Ostertag, Palermo, Patterson, Peet, Perrin, Pritchard, Pruzansky, Rafuse, Reeder, Reilly, Reynolds, Richman, Ritholz, Robofgel, Rosenthal, Rothenberg, Ruger, Samoff, Santemma, Savage, Schair, Schapiro, Shaffer, Smith, Spivack, Stave, Thompson, Tondel, Traficanti, Trombley, Urbano, Vigdor, T.A. Whalen, Williams, Yanas, Yetter, Young, Zebrowski and Zimmer. ~~WELLS~~

1. Approval of Minutes of June 26, 1982 meeting. The minutes were approved as distributed.

2. Report of Treasurer. Mr. Yanas summarized the Treasurer's report, January 1 to September 30, 1982, copies of which had been distributed to members of the House. He described the various funds which comprise the assets of the Association, and outlined the role of the Finance Committee's Advisory Investment Subcommittee in overseeing the management of these funds. Mr. Yanas concluded that the income and expense figures for the first nine months of 1982 compared favorably with those for the same period in 1981, and further advised that the Association was in sound financial condition as of September 30, 1982. The report was received with thanks.

3. Approval of 1983 Association budget. Leland B. Taylor, Chairman of the Finance Committee, summarized the significant items contained in the 1983 budget. He indicated that the financial condition of the Association was such that a dues increase would be unnecessary in 1983. He reported that, with the approval of the Finance Committee, one year's free membership would be offered to all newly admitted attorneys in the state as part of a long-term effort to increase both membership and income. A motion was then adopted approving the 1983 income and expense budget as proposed by the Finance Committee.

4. Report of Special Committee to Review American Bar Association Draft Model Rules of Professional Conduct. Frank R. Rosiny, chairman of the Special Committee, outlined the general nature of the revisions contained in the June 30, 1982 draft of the Model Rules, which had been released subsequent to the June meeting of the House. He then summarized the proceedings before the American Bar Association's House Committee on Rules and Calendar, and indicated that, with the authorization

of the President, to comply with procedures established by the American Bar Association, proposed amendments to the June 30, 1982 version of the Model Rules had been submitted consistent with the recommendations contained in the Special Committee's June, 1982 report. Mr. Rosiny described the limited debate which occurred during the Annual Meeting of the American Bar Association's House of Delegates and advised that further consideration of the Model Rules had been deferred until the American Bar Association's Mid-year Meeting in February, 1983. He stated that in the interim the Special Committee would be meeting with representatives of the American Bar Association's House Committee on Drafting concerning the preparation of a synopsis to facilitate understanding of the varying viewpoints regarding the Model Rules. Mr. Rosiny indicated he would present information regarding any further amendments at the January meeting to assist the House in taking an informed position on the substantive issues embodied in the Model Rules.

5. Paralegal Guideline VI. Robert J. Pearl, member of the Committee on Professional Economics and Efficiency Research, and Spencer Steele of the Committee on Unlawful Practice of the Law, presented majority and minority positions, respectively, concerning a proposed amendment of Guideline VI of the "Guidelines for the Utilization by Lawyers of the Services of Legal Assistants" to permit the listing of legal assistants on an attorney's letterhead. Following discussion, a motion to amend Guideline VI was defeated.

6. Report and recommendations of Committee on Court of Appellate Jurisdiction re American Judicature Society's report "Appellate Justice in New York." Thomas R. Newman, Chairman of the Committee on Courts of Appellate Jurisdiction, summarized the committee's report concerning the study entitled "Appellate Justice in New York," released by the American Judicature Society. He outlined the major recommendations made by the American Judicature Society for improving the appellate system in New York, including the restriction of appeals as of right to the Court of Appeals, creation of a Fifth Judicial Department, and the transfer of appeals between the First and Second Judicial Departments to equalize caseloads. Mr. Newman detailed his committee's comments on these proposals, which questioned the restriction of appeals as of right to the Court of Appeals and favored those proposals which would modify procedures for considering appeals by permission to that court. Following discussion, Mr. Newman's report was received with the thanks of the House.

7. Proposed bylaw amendments.

a) Barry A. Gold, Chairman of the Committee on Public Health and immediate past chairman of the Committee on Mental Hygiene, summarized proposed amendments to Article XIII of the Association's bylaws to change the name of the Committee on Public Health to the Committee on Health Law and that of the Committee on Mental Hygiene to the Committee on Mental and Physical Disability. Upon motion, the amendment to the Association's bylaws was adopted authorizing the change in name of the two standing committees as proposed.

b) Howard Raab, Chairman of the Young Lawyers Section, summarized the proposed amendments to the section's bylaws. Upon motion the following amendments were approved:

ARTICLE II, Section 1. MEMBERSHIP. All members of the New York State Bar Association who have been admitted to the practice of law less than five years or who have not reached the age of 37 years at the time of the Annual Meeting, whichever event shall have occurred later, shall be members of the Section.

ARTICLE III, Section 2. SECTION MEETINGS. Meetings of the Section shall be held at such times and places as the Executive Committee or the Chairperson of the Section may determine. Such Section meetings shall be held in a geographical area including not less than one entire Judicial District.

ARTICLE III, Section 6. ORDER OF BUSINESS. Unless changed to accommodate speakers or to provide for the presentation of regional business, the order of business at all meetings shall be:

- (a) Reading of the minutes of the last meeting of the Section.
- (b) Report of the Executive Committee.
- (c) Reports of other committees of the Section.
- (d) Business of the Section.
- (e) Nomination and election of Officers and Executive Committee members at the Annual Meeting.
- (f) Installation of Officers and Executive Committee members, and announcement of the appointment of committee Chairpersons and members at the annual stated meeting.

ARTICLE IV, Section 1. OFFICERS. The Officers of the Section shall be a Chairperson, Chairperson-Elect, Secretary and an Assistant Secretary.

ARTICLE IV, Section 2. DUTIES: The duties of the Officers of the Section shall be as follows:

CHAIRPERSON: The Chairperson shall be the Chief Executive Officer of the Section and shall preside at all meetings of the Section. He shall appoint the Chairpersons of all Standing Committees, and shall also make all committee appointments. The Chairperson shall also appoint all Committee Chairpersons and members of special committees of the Section. The Chairperson shall also perform such other duties as may be prescribed by the Executive Committee from time to time.

CHAIRPERSON-ELECT: In the absence or disability of the Chairperson, the Chairperson-Elect shall perform the duties of the Chairperson. The Chairperson-Elect shall perform such other duties as may be prescribed by the Executive Committee from time to time.

ASSISTANT SECRETARY: In the absence or disability of the Secretary, the Assistant Secretary shall perform the duties of the Secretary. He shall also assist the Secretary in the performance of his duties. The Assistant Secretary shall serve as Chairperson of the Membership and Long-Range Planning Committees of the Section.

ARTICLE V, Section 1. MEMBERS. The Executive Committee shall consist of the officers of the Section and one Executive Committee member from each Judicial District of the State, who shall be a member of the Section and a resident of, or have an office for the transaction of business within such Judicial District. In addition, the Executive Committee shall include the immediate past chairperson of the Section and the chairperson of the Activities Committee, the Young Lawyer Delegate from the New York State Bar Association to the American Bar Association House of Delegates, as well as Young Lawyer Section Delegates to the New York State Bar Association House of Delegates. Also, the Executive Committee shall include all Chairpersons of standing committees and all liaisons to committees and sections of the Association.

ARTICLE V, Section 5. MEETINGS. Regular meetings of the Executive Committee shall be held at a time and place 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 Committee request the calling of a special meeting.

ARTICLE V, Section 6. QUORUM. A quorum for the transaction of any business shall be six (6) members of the Executive Committee.

ARTICLE VI, Section 1. STANDING COMMITTEES. The Standing Committees of the Section, to be appointed annually by the Chairperson, shall be: Nominating Committee, Membership Committee and Long-Range Planning Committee. Unless otherwise provided in these Bylaws, the Chairperson of the Section shall appoint the Chairperson and members of all committees, and shall also appoint such number of Chairperson-Elect of each committee as may be desirable or necessary.

ARTICLE VI, Section 2. DUTIES. The duties of each committee shall be as follows:

NOMINATING COMMITTEE: The Nominating Committee shall include one member of the Section from each Judicial District of the State. The Chairperson of the Nominating Committee shall be the immediate past chairperson of the Section. The Nominating Committee shall be responsible for making nominations for the officers and District Executive Committee representatives of the Section. All nominations made by the Nominating Committee shall be filed with the Secretary at least thirty days prior to the Annual Meeting, but the failure to file such nominations as herein required shall not invalidate any nominations made. Meetings of the Nominating Committee shall be held in conjunction with the Association's Annual Meeting at a time to be selected by the Chairperson of the Committee upon twenty days notice to members of the Committee, at least forty days prior to the Annual Meeting of the Section. Each member of the Committee may vote in person, or by proxy through the vote in person of a duly authorized member of the Section from his Judicial District. In case of a tie vote, the Chairperson of the Committee shall be entitled to vote. The nominations of the Nominating Committee shall be presented to the Annual Meeting by the Chairperson of the Committee.

LONG-RANGE PLANNING COMMITTEE: The Long-Range Planning Committee shall include the Assistant Secretary of the Section and such past Chairpersons of the Section as are still members thereof. The Committee shall meet at such times and places as it deems appropriate, but no less than two times per year. The committee shall discuss, formulate and present in written form to the Executive Committee of the Section, a long-range plan of ideals, goals and projects for the Section, and conduct such other business as it deems appropriate towards the preparation and presentation of such long-range plan.

ARTICLE VI, Section 3. OTHER COMMITTEES: The Chairperson of the Section shall appoint the Chairpersons and members of such other committees as they or a majority of the Executive Committee, may feel desirable and necessary in connection with the affairs of the Section. All such committees shall, unless reappointed, be dissolved at the stated Annual Meeting.

ARTICLE VI, Section 4. COMMITTEE REPORTS. The Chairperson of each committee shall submit, in writing, an annual report of the activities of his committee at the Annual Meeting of the Section.

ARTICLE VII, Section 2. DISBURSEMENT. Funds of the Section shall be disbursed by the Treasurer of the Association, or his agent, upon request by the Chairperson, Chairperson-Elect or Secretary, or upon authorization of the Executive Committee.

ARTICLE VIII, Section 2. BY THE EXECUTIVE COMMITTEE. These Bylaws may also be amended by the vote of two-thirds of the members of the Executive Committee. The vote may be either at a meeting of the Executive Committee or by mail vote, notice duly given.

ARTICLE VIII, Section 3. NOTICES. Written notice of any proposed amendment of these Bylaws shall be mailed by the Secretary to all members of the Section at least fifteen days before the meeting at which the proposed amendment is to be voted upon. Where an amendment is to be made by the Executive Committee pursuant to Section 2, the Secretary shall mail notice of such proposed amendment to all members of the Executive Committee at least fifteen days before the date on which the proposed amendment is to be voted upon.

8. Request for support of proposed legislation to increase the present compulsory automobile liability insurance limits. On behalf of the Association's Executive Committee and the Insurance, Negligence and Compensation Law Section, Henry G. Miller reported that legislation had been introduced during the last session of the legislature to increase present compulsory automobile liability insurance limits to \$25,000/\$50,000/\$10,000. Mr. Miller indicated that despite the support of the section and the Executive Committee, and various local bar associations, the measure had not passed. A motion was adopted expressing Association support for the proposed legislation for communication to the Governor and appropriate members of the legislature.

9. Approval of revised Guidelines for Committee on Judicial Selection. Alexander D. Forger, Chairman of the Committee on Judicial Selection, summarized amendments to the "Guidelines for Evaluating Qualifications of Judicial Candidates," proposed to clarify procedures and assist the committee in functioning efficiently within the time limits prescribed for the review and appointment of judges to the Court of Appeals. Following discussion, a motion was adopted approving the proposed revisions. A copy of the Guidelines, as amended, is annexed to these minutes.

10. Report of Chairman. Mr Fales announced:

a) That in view of the possible need to address several matters of importance at the next meeting of the House, including the substance of the ABA Model Rules of Professional Conduct, the proposed New York Code of Evidence, and legislation to implement changes in the appellate system recommended by the American Judicature Society, a two-day session was being scheduled for January 14 and 15, 1983 to allow sufficient time for discussion.

b) That the Executive Committee had been considering the desirability of scheduling the January, 1984 meeting of the House of Delegates at an out-of-state location, and to aid its deliberations, had determined that a survey should be taken of the members of the House to determine their preferences. Mr. Fales requested that all members complete the questionnaire which had been distributed and return their responses to the Association staff. He stated that the survey results would be announced and discussed at the next meeting.

c) That copies of a booklet prepared by the Association staff and 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.

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

a) Chief Judge Cooke and senior members of the Office of Court Administration staff had met with the Executive Committee the previous evening, and the session reflected the cooperative status of relations between the Association and the judiciary. He described Judge Cooke's continued interest in addressing civil and criminal case backlogs, including his projection that the newly created judgeships would permit the Judicial Transfer Plan to function primarily on a voluntary basis. Mr. Reilly then outlined other subjects discussed at the meeting including the operation of medical malpractice panels, case calendar control, alternatives to court resolution of disputes, the inadequacy of court facilities, abuses in the discovery process, and plans to use the resources of retired judges in alleviating case backlogs.

b) Justin L. Vigdor had been appointed Chairman of the Special Committee to Study Alternative Sources of Funding for New York Legal Services Council, and the Special Committee would be holding its organizational meeting on November 9, 1982. He indicated that the primary funding alternative for legal services programs under consideration would be use of interest earned on lawyer trust accounts, and that the Special Committee would report its recommendations to the House upon completion of the study.

c) Robert L. Conason had been named Chairman of the Special Committee to Improve Courthouse Facilities, and members would be appointed to provide the committee with a statewide composition.

d) A Task Force on the Insanity Defense had been created to review New York's insanity laws. He indicated that the group would be co-chaired by Barry A. Gold and William L. Murphy and would include participants from the Criminal Justice Section and the Committee on Mental and Physical Disability.

e) The Special Committee on Group and Prepaid Legal Services Plans was progressing in its efforts to assist in the establishment of open panel plans and formulating a more active role for the New York Prepaid Legal Services Corporation which had been formed by the Association in 1980.

12. New business. Jules J. Haskel, Chairperson of the Trusts and Estates Law Section, summarized the status of efforts to amend New York's estate and gift tax laws to conform to the federal changes under the Economic Recovery Tax Act of 1981. He indicated that the necessary legislation had been passed by the Senate, but was still pending in the Assembly. In furtherance of the resolution adopted at the November, 1981 meeting of the House, Mr. Haskel urged the members to express their support for passage of such legislation to the Governor-elect, the Governor's Counsel, the Assembly Speaker, and legislators from their local districts.

13. Date and place of next meeting. The next meeting of the House of Delegates will be held on Friday, January 14, 1983 in the Mercury Ballroom, New York Hilton Hotel commencing at 1:00 p.m. and will reconvene at 9:30 a.m. on Saturday, January 15, 1983.