

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
NEW YORK HILTON HOTEL, NEW YORK CITY, JANUARY 20, 1978

PRESENT: Members Abrams, Amdursky, Barlow, Brennglass, Burns, Chase, Clabby, Condon, Connelly, Lee, Dettor, V.E. Doyle, Eiber, Elwood, Erensen, Erickson, Faber, Fales, Fallon, FitzPatrick, Ford, Forger, Galante, Griffin, Harrigan, Haynes, Hickey, Jones, Karatz, Keeler, Kelligrew, Lagarenne, Lea, Lord, Maider, Meriam, H.G. Miller, Mintz, Moses, Mousaw, J.H. Murphy, Neale, Nemia, O'Brien, Ostertag, Palermo, *part* Patterson, Pedowitz, Pritchard, Reilly, Rosch, Rubin, Russell, Seymour, H.J. Smith, J.V. Smith, Stakel, D.R. Taylor, L.B. Taylor, Thaler, Thron, Tondel, VanGraafeiland, Vigdor, Whalen, Williams, Williamson, Withrow.

1. Approval of minutes of November 5, 1977 meeting. The minutes were approved as distributed.

2. Report of Nominating Committee. Mr. Taylor, reporting for Mr. MacCrate, Chairman of the Nominating Committee, reported that the Committee had met at the Bar Center on October 28, 1977 and nominated the following persons for election to the respective offices indicated:

President	Robert P. Patterson, Jr., NYC
President-Elect	Anthony R. Palermo, Rochester
Secretary	Leland B. Taylor, Cortland
Treasurer	Thomas A. Pritchard, Schenectady
Vice President, 1st District	Alexander D. Forger, NYC
Vice President, 2nd District	Frank A. Barrera, Brooklyn
Vice President, 3rd District	David S. Williams, Albany
Vice President, 4th District	Joseph E. Rosch, Ballston Spa
Vice President, 5th District	John J. Dee, Syracuse
Vice President, 6th District	A. Lawrence Abrams, Binghamton
Vice President, 7th District	Delon F. Mousaw, Rochester
Vice President, 8th District	Everett M. Barlow, Buffalo
Vice President, 9th District	Frank H. Connelly, New Rochelle
Vice President, 10th District	Bernard J. Reilly, Babylon
Vice President, 11th District	Robert L. Klein, NYC

There being no further nominations a motion was made and carried that the nominations be closed and that the Secretary cast one ballot for their election.

3. Amendment of Association Bylaws. Mr. Erickson summarized the proposed amendments to Article I, II, VI, VII and IX. Upon motion the amendments were approved.

4. Report of Committee on Citizenship Education. Mr. Hess reviewed the activities of his committee. He noted the formation of the "Law, Youth & Citizenship" program, a partnership with the New York State Education Department to encourage law-related education at all grade levels; sponsorship of seventeen different training institutes over the past four summers for several hundred high school and junior high school teachers, to assist them in implementing law-related education courses or units; "Lawyer in the Classroom" programs established in New York City and the counties of Nassau, Suffolk, Broome, Tioga, Rockland, Onondaga, Monroe and Erie; development, with the help

of an NYSBA grant, of an elementary law curriculum; designation of law studies as a priority by the New York State Education Department and that department's allocation of \$300,000 a year in Title IV-C funds for the specific support of law-related projects; the 1976 Award of Merit from the ABA for the NYSBA's accomplishments in law-related education; the committee's 1977 "Bloc Grant" program, which awarded thirty-one different grants totalling \$26,000 to various educational groups in the state for teacher training, newsletters, conferences, curriculum development, and mock trials; the committee's application to the National Endowment for the Humanities for a \$170,000 grant to sponsor the teaching of law as a humanity; and the publication over the past two years of Law-Studies, now a monthly newsletter distributed to all teachers of law-related education in New York State.

5. Report and Recommendations of Committee on Federal Courts.

Mr. Henry Miller, reporting for Mr. Charles Miller, provided background information on the need to amend 28 United States Code, Section 112(b) so as to add White Plains, New York as a location for the United States District Court for the Southern District of New York to hold court. After discussion the following resolution was adopted:

WHEREAS, the Southern District of New York is composed of the counties of Bronx, Columbia, Dutchess, Greene, New York, Orange, Putnam, Rockland, Sullivan, Westchester and Ulster and is authorized to sit in Manhattan (New York County) only. The District covers an area of 5,980 square miles, and (as of 1970) including a population of 4,913,262, approximately forty percent of which (1,902,328) reside in counties located outside of New York City.

WHEREAS, as of June 30, 1973, 10,596 civil cases were pending in the Southern District, which was the largest total for any District Court and exceeded the total number of civil matters pending in seven circuits (District of Columbia, First, Fourth, Sixth, Seventh, Eighth and Tenth). New civil cases docketed during 1973 totalled 5,680.

WHEREAS, a statistical survey conducted by the Federal Court Committee of the Westchester Bar Association for the period April 1, 1971 through March 31, 1972 revealed that in cases emanating from within the district, 11% of all parties resided in the nine counties north of New York City; 21% of all plaintiffs resided in those counties as did 9% of the defendants.

WHEREAS, the Southern District is only one of four district courts, other than the territorial courts authorized to sit only in a single location; the others are the District of Columbia, Delaware and Hawaii; in New York, the Northern, Eastern and Western Districts are authorized to sit at a total of fourteen court locations, although their combined, pending caseload is substantially less than that of the Southern District; the District of Connecticut, with a population of approximately 3,000,000, an area of approximately 12% of that of the Southern District, has five locations for holding court; the District of Vermont, with a population of 460,000, an area of approximately 9,600 square miles, and a caseload of approximately 4% of that of the Southern District, has seven locations for holding court.

WHEREAS, the location of the present court facilities at the extreme southern edge of the district, results in a substantial number of potential jurors being routinely excused from jury duty because their residences are located more than 50 miles from the courthouse; consequently, location of a courthouse in White Plains would add substantially to the available juror pool, including residents of such populated areas as Poughkeepsie, Newburgh, Middletown and Port Jervis.

WHEREAS, while White Plains is not at the geographic heart of the nine counties outside of New York City, it is the logical place for an additional court facility because Westchester County accounts for just under 50% of the population of the nine counties, and White Plains is at the geographic center of the County.

WHEREAS, White Plains, or its neighboring towns, is the headquarters for a number of major corporations, including I.B.M., General Foods, Nestle, Pepsico, Texaco, AMF and others, is the retail merchandising center for the Westchester County area, is reasonably accessible from all parts of the District by major highways, and for those attorneys, parties and witnesses residing north of White Plains, the saving in travel time would be approximately 45 minutes to 1 hour in each direction.

NOW THEREFORE, BE IT RESOLVED, that the House of Delegates of the New York State Bar Association, being concerned with the proper and efficient administration of justice in the Federal Courts in the State of New York, recognizing the pressing need therefor, urges the United States Congress to amend Title 28 United States Code, Section 112(b), which presently authorizes the United States District Court for the Southern District of New York to hold court at New York, to add White Plains as a location where court may be held, so that as amended that subsection would permit the holding of court at New York and White Plains.

Mr. Griffin, reporting for Mr. Charles Miller, presented background information on the need for an additional District Judge in the Western District of New York. After discussion the following resolution was adopted:

WHEREAS, the United States District Court for the Western District of New York now consists of three authorized United States District Judges, two in Buffalo, New York, and one in Rochester, New York and

WHEREAS, the Western District of New York serves a population of approximately three million people and covers the seventeen most western counties in the State of New York, including counties bordering on the Canadian border, two of the Great Lakes and portions of the State of Pennsylvania, including the cities of Buffalo, Rochester, Niagara Falls, Jamestown, Elmira, Olean and numerous towns and villages, and a large rural area; and

WHEREAS, the Attica State Correctional Facility, a maximum security prison in the New York State system, together with local county jails and prisons, have been the source of a great volume of *habeas corpus* and Civil Rights petitions to the United States District Court, Western District of New York; and

WHEREAS, since 1967 (the year when the third authorized judgeship was created) the personnel and staff of the offices of the United States Attorney, the United States Probation Office and the Bankruptcy Court, among others, have increased substantially to support the work of the Court without a concomitant increase in judicial personnel and;

WHEREAS, the Western District of New York presently has no Senior District Judges to assist the authorized judges in the handling of the criminal and civil case loads, and because the Western District of New York has had relatively infrequent visitations from visiting judges from other Districts to assist in the handling of civil and criminal case loads; and

WHEREAS, a smaller District Court such as the Western District of New York has proved to be more vulnerable to disruptions in its judicial manpower caused by accidents, illness, death or other factors than a large court; and

WHEREAS, recent annual reports issued by the Administrative office of the United States Courts indicate that criminal and civil cases in the Western District of New York pending over three years represent a disturbingly high percentage of the total case load; and for 1977 the Western District of New York median time for disposition of criminal cases was 18.0 months, ranking it last among the 94 District Courts in the United States of America; and

WHEREAS, the constraints of the Speedy Trial Act are likely to have a significant impact on the criminal case load in the Western District of New York unless additional judicial assistance is provided to the Western District of New York; and

WHEREAS, there is an urgent need for an additional District Judge in the Western District of New York as well as the immediate assignment of either a temporary full-time judge to the Western District of New York for a period of at least two years, or the creation of a "Visiting Judge's Trial Calendar" to be established by the Chief Judge of the United States Court of Appeals for the Second Circuit in cooperation with the Chief Judge of the United States District Court, Western District of New York, to provide regular, frequent visitation by District Judges from other Districts to the Western District of New York, to lend immediate assistance to the Western District of New York in handling its criminal and civil case load.

NOW, THEREFORE, IT IS RESOLVED that the New York State Bar Association, an organization primarily concerned with the proper and efficient administration of justice in the State of New York, and recognizing the imminent and pressing need therefor:

1. Urges the respective Committees on the Judiciary of the Congress of the United States to consider and approve legislation creating an additional District Judge for the Western District of New York, which additional Judge is necessary and required for the proper and efficient administration of Federal justice in the State of New York, and

2. Pending approval of such additional District judge for the Western District of New York, urges the Chief Judge of the United States Court of Appeals, Second Circuit, with the cooperation of the Chief Judge of the United States District Court, Western District of New York, to assign to the Western District of New York, for a period of at least two years, a full-time District Judge, or to create a "Visiting Judge's Calendar", with regular and frequent visitation by District Judges from other Districts to the Western District of New York for a period of at least two years, to assist in the handling of the District's criminal and civil case load, and
3. Believes that the lack of such assistance by an additional District Judge or Judges in the Western District of New York would have a serious adverse impact upon the administration of Federal justice in the State of New York.

6. Report of President. Mr. Smith announced that an Appellate Division Coordinating Committee on Lawyer Advertising had been established to consider this matter and it was expected that some action would be taken by that Committee in the near future. He then announced appointment of the following people to serve on separate committees planned by Chief Judge Breitel and Justice Bartlett to deal with legislation carrying out the terms of the three Court Reform Amendments:

"Court of Appeals" Amendment - Robert L. Klein

"Court Administration" Amendment - Daniel A. Whalen

"Discipline Streamlining" Amendment - Patrick J. McGinley

Mr. Smith noted that since the last meeting of the House the Executive Committee had authorized the CLE Committee to jointly sponsor a series of programs on Legal Problems of the Elderly with the New York State Office for the Aging, and approved submission of a grant application by the Criminal Justice Section.

He then reviewed the experimental legislative procedures which were being followed this year and noted that the procedures would be closely monitored throughout the Legislative Session. Thereafter, a report would be made to the House evaluating the procedures, suggesting changes and, if appropriate, recommending amendments to the Bylaws.

Mr. Smith then reported the death of Sidney Cornfield, a member of the House of Delegates. A motion was adopted approving the following resolution:

WHEREAS, Sidney W. Cornfield, a distinguished, devoted and valued member of this House of Delegates since 1972, as the faithful and articulate Delegate of the Bronx County Bar Association died peacefully and at home on January 12, 1978; it is

RESOLVED, that the House of Delegates of the New York State Bar Association mourns the passing from this life of Sidney W. Cornfield and extends its sincere sympathy to his beloved wife, Lillian.

He announced that John E. Berry would retire as Executive Director on November 1, 1978 after 30 years of service to the Association. A motion was adopted authorizing the Executive Committee to employ a successor, subject to approval of the House of Delegates, at the April or June meeting, if feasible; and to submit a definition of the duties and responsibilities of the Executive Director for approval by the House.

Mr. Smith concluded by noting that he was continuing to travel throughout the state to visit and address county and local bar associations as well as attending various Section and Committee meetings.

7. Report of Chairman. Mr. Patterson announced that he had attended a number of committee and section meetings and that he was working closely with the President on various Association projects.

8. Dates and Places of 1978 Meetings. The dates and locations for 1978 meetings of the House are:

April 29	Bar Center	Albany
June 24	Otesaga	Cooperstown
October 28	Bar Center	Albany