

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
NEW YORK HILTON HOTEL, NEW YORK CITY, JANUARY 26, 1979

PRESENT: Members Abrams, Albert, Amdursky, Aspland, Baer, Barlow, Barrera, Beghe, Beshar, Block, Brenner, Brennglass, Brick, Britt, Citrynell, Clark, J.S. Cohen, E.J. Connolly, Jr., T.P. Connolly, Cook, Daly, Dee, DelleCese, Denton, Diamond, Dohl, Dougherty, Drazen, Eolis, Erensen, Fallon, Farrell, Field, FitzPatrick, Ford, Forger, Fox, Freyer, Galante, Granville, Greenberg, Griffin, Hall, Hand, Harrigan, Hart, Haskel, Haynes, Hederman, Heming, Hewitt, Jones, Kahn, Kaufman, Kelligrew, Klein, Lagarenne, Lapp, Lee, Leinhardt, Lindsay, Maas, MacCrate, Marcus, Meriam, Meyer, Miller, Moser, Moses, Mousaw, Mullan, Murnane, G.F. Murphy, Neale, O'Brien, Ostertag, Ostrow, Palermo, Parker, Patterson, Pedowitz, Peet, Potter, Pritchard, Reilly, Rosch, Russell, Scott, Seymour, Smith, Spivack, Swett, B.I. Taylor, L.B. Taylor, Tondel, Tucker, VanGraafeiland, Vigdor, Weigel, Whalen, Williams, Withrow, Witmer, Wright, Yetter, Young and Zimmer.

1. Approval of minutes of November 4, 1978 meeting. Item 8(a) was amended as follows:

- a) Article V, Section 4 (b) was changed to read:
"The term of office of all other delegates shall be one year".

The minutes were approved as amended.

2. Report of Nominating Committee. Mr. Barlow, reporting for Mr. Joseph H. Murphy, Chairman of the Nominating Committee, reported that the Committee had met at the Bar Center on November 3, 1978 and nominated the following persons for election to the respective offices indicated:

| | |
|-------------------------------|----------------------------------|
| President-Elect | Alexander D. Forger, NYC |
| Secretary | Leland B. Taylor, Cortland |
| Treasurer | Thomas A. Pritchard, Schenectady |
| Vice President, 1st District | Christine Beshar, NYC |
| Vice President, 2nd District | Frank A. Barrera, Brooklyn |
| Vice President, 3rd District | Francis X. Tucker, Kingston |
| Vice President, 4th District | Joseph E. Rosch, Ballston Spa |
| Vice President, 5th District | John J. Dee, Syracuse |
| Vice President, 6th District | Robert I. Williamson, Ithaca |
| Vice President, 7th District | Delon F. Mousaw, Rochester |
| Vice President, 8th District | Philip A. Erickson, Jamestown |
| Vice President, 9th District | Henry G. Miller, White Plains |
| Vice President, 10th District | Bernard J. Reilly, Babylon |
| Vice President, 11th District | Robert L. Klein, NYC |
| Member of Executive Committee | Leonard H. Amdursky, Oswego |
| Member of Executive Committee | Everett M. Barlow, Buffalo |
| Member of Executive Committee | John J. Clabby, Flushing |
| Member of Executive Committee | Haliburton Fales 2d, NYC |
| Member of Executive Committee | Maria L. Marcus, NYC |
| Member of Executive Committee | David S. Williams, Albany |

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 Articles VIII, XIII and XVI and the deletion of Articles XII and XVI. Upon motion the amendments were approved. A further motion was adopted that the Committee on Constitution and Bylaws review both documents with a view towards elimination of the exclusive use of masculine pronouns.

4. Amendment of Family Law Section Bylaws. Mr. Ostrow summarized the proposed amendments to the Family Law Section Bylaws. Upon motion, the following amendments were approved:

ARTICLE III, Section 2. The Executive Committee will consist of the Chairman, Vice-Chairman, Secretary of the Section, the three immediate past Chairmen of the Section, all Committee Chairmen, Editor of the Family Law Review, Delegate-at-Large, and one member from each Judicial District in the State. No Delegate-at-Large or member from a Judicial District may be re-elected to the same office for more than five consecutive years, nor may such Executive Committee member thereafter be elected to such office until one year shall have elapsed following such five consecutive year period. All other past chairmen of the Section shall be members ex-officio.

5. Report of Committee on Federal Courts re Diversity Jurisdiction and Westchester Courthouse. Mr. Miller reported that it was expected that various bills would be introduced in the 96th Congress which would abolish diversity of citizenship as a basis of jurisdiction by or between citizens of the United States, or curtail such jurisdiction as it presently exists, other than by an increase in the amount of controversy required. He noted that a resolution opposed to absolute abolition of diversity of citizenship as a basis of jurisdiction had been approved by the House of Delegates at its April 29, 1978 meeting, and asked that similar action again be taken. Upon motion, the following resolution was adopted:

WHEREAS, during the 95th Congress the U.S. House of Representatives passed bill H.R. 9622 which would abolish jurisdiction based on diversity of citizenship in the federal courts under 28 U.S.C. Section 1332 for citizens of the United States while retaining such jurisdiction for suits between aliens or foreign states vis a vis citizens of the United States when the amount in controversy exceeds \$25,000; and

WHEREAS, the said bill would abolish the amount in controversy requirement in all federal question cases arising under 28 U.S.C. Section 1331; and

WHEREAS, it is expected that various bills, including one patterned on H.R. 9622, will be introduced in the 96th Congress, all with the purpose of curtailing diversity jurisdiction by means additional to an increase in the amount in controversy requirement from \$10,000 to \$25,000; and

WHEREAS, the abolition of jurisdiction based on diversity of citizenship for United States citizens would abrogate a substantial right of such citizens, namely, the right of a citizen to litigate in a forum of his choice; and

WHEREAS, no long-term reduction in the civil caseload of the federal courts will be achieved by the abolition of jurisdiction based on diversity of citizenship;

BE IT RESOLVED that the New York State Bar Association is opposed to the adoption as law of any bill which would abolish diversity of citizenship as a basis of jurisdiction by or between citizens of the United States, or curtail such jurisdiction as it presently exists other than by an increase in the amount in controversy required;

BE IT FURTHER RESOLVED that the Association does not oppose those sections of H.R. 9622 (or a similar bill) which would abolish the \$10,000 amount in controversy provision in federal question cases; nor does it oppose those sections of H.R. 9622 (or a similar bill) which would increase the amount in controversy provision in diversity of citizenship cases from \$10,000 to \$25,000.

Mr. Miller then summarized action previously taken by the House of Delegates whereby it successfully urged the United States Congress to amend Title 28 United States Code, Section 112(b) to allow the United States District Court for the Southern District of New York to hold sessions in White Plains. Mr. Miller stated that President Carter subsequently signed the bill, but noted that the statute was not self-executing. After discussion, the following resolution was adopted:

WHEREAS, at the annual meeting of the New York State Bar Association held in January 1978, the House of Delegates (after consideration of a report of a subcommittee of the Committee on Federal Courts of the New York State Bar Association) unanimously resolved that it urged 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 (a copy of the aforesaid resolution and subcommittee report being annexed hereto).

WHEREAS, President Carter signed H.R. 14145 on November 2, 1978, which includes an amendment to 28 United States Code, Section 112(b) which provides for holding court for the Southern District of New York in White Plains.

WHEREAS, said amendment by the terms of H.R. 14145 will take effect 180 days from November 2, 1978, namely on May 1, 1979.

WHEREAS, the Second Circuit Judicial Council has appointed a committee comprised of Judges Mansfield, Lumbard, Friendly and Oakes to investigate the quarters and accommodations required for the White Plains facility and make recommendations to the Second Circuit Judicial Council regarding approval by the Council pursuant to 28 United States Code, Section 142.

WHEREAS, there has been demonstrated to be a compelling need for establishing the White Plains facility on May 1, 1979 or as soon as possible thereafter.

NOW THEREFORE, BE IT RESOLVED, that the House of Delegates of the New York State Bar Association, respectfully urges the Second Circuit Judicial Council to act with all deliberate speed in assessing the requirements of the quarters and accommodations for holding of the Southern District Court at White Plains, and promptly giving its approval pursuant to 28 United States Code, Section 142.

6. Report of Special Committee to Report on Television and Radio in the Courtroom. Mr. Rosenthal summarized the majority report and resolution which opposed the use of electronic news coverage of criminal proceedings except on an experimental basis with the consent of all parties. Mr. Sedita spoke in opposition to the majority report and urged that it be rejected. Following discussion, with Hon. Hugh R. Jones abstaining, the following resolution was adopted:

RESOLVED, that after due consideration, the House of Delegates of the New York State Bar Association recommends against the proposed amendment at this time of the Standards for Criminal Justice relating to Fair Trial and Free Press of the American Bar Association to permit television, radio and photographic coverage of criminal proceedings, except on an experimental basis with the consent of all parties.

7. Report and Resolution of Real Property Law Section re Indian Claims.
Mr. Thomas P. Connolly provided background information on the problem of Indian Claims to more than six million acres of upstate land. Upon motion, with Messrs. Dee. FitzPatrick and Freyer abstaining, the following resolution was adopted:

RESOLVED, that the New York State Bar Association does hereby respectfully urge the New York State representatives in the Congress of the United States to address the problem of claims made by Indian Nations, Indian Tribes and Indians to lands in New York State.

8. Report of Action Unit No. 3 (Legal Services) re Specialization.
Mr. Hackbarth summarized the report of Action Unit No. 3 regarding The New York Plan of Specialization in the Law, and stated that it was their recommendation that further discussion be deferred until the June meeting of the House of Delegates. Following discussion, a motion was adopted that the matter be tabled.

9. Report of Action Unit No. 4. Mr. Palermo, reporting for Mr. Fales, announced that Robert H. Iseman had been appointed as a consultant to Action Unit No. 4. He noted that an evaluation of the various courts was underway, interim reports would be issued periodically, and that a final report was expected late this year.

10. Report of President. Mr. Patterson announced that in addition to its work in the area of specialization, Action Unit No. 3 was continuing its study of Prepaid Legal Services, Legal Aid and Lawyer Referral Services. He then announced that the Committee on Administrative Law was reviewing the subject of over-regulation in New York, and that recommendations for further action would be made at the April meeting of the House of Delegates. Mr. Patterson then noted that Mr. Read, Chairman of the Committee on Association Insurance Programs, had reported to the Executive Committee that new carriers were offering professional liability insurance coverage in New York, and it was expected that this would reduce premiums. He then noted the outstanding work of the Committee on Federal Courts and extended a special thanks to its chairman, Charles H. Miller. He next announced that a meeting had been held with Section leadership and Association staff to discuss a membership campaign and other administrative matters.

He noted that it was the consensus that additional meetings be held in order to allow an exchange of ideas among Section officers on topics of common interest. He then stated that the membership campaign was underway, and would report the results later this year. Mr. Patterson then announced that the Criminal Justice Section had received a grant of \$125,000 from the Division of Criminal Justice Services, in order to evaluate legal services provided to indigent defendants. He then noted the appointment of a Special Committee on Lawyer Alcoholism and Drug Abuse, and a Special Committee on Alternatives to the Court Resolution of Disputes. He also stated that the Executive Committee had authorized the formation of a committee to deal with matters pertaining to the affairs of veterans and servicemen.

Mr. Patterson then noted that the House of Delegates had adopted a resolution in November whereby the Association was authorized to loan up to \$400,000 for the renovation of the upper floors of the Bar Center on the Elk Street side and \$100,000 for the purchase of No. 5 Elk Street. He stated that the Executive Committee subsequently recommended that the No. 5 Elk Street property be purchased by the Association and this recommendation was concurred in by The New York Bar Foundation. Following discussion, the following resolution was adopted:

RESOLVED, that the Association be authorized to accept the assignment of an option given to David S. Williams to purchase the premises known as No. 5 Elk Street, Albany, New York for the sum of \$100,000, and further

RESOLVED, that the Association be authorized, upon acceptance of such option, to exercise such option, contingent upon satisfactory inspection, and undertake to do all things necessary to purchase such property in the name of the Association, and further

RESOLVED that in the event that the Association exercises such option, the officers of the Association are authorized and directed to execute and deliver any and all documents in the name of the Association and to do all things necessary to purchase such premises.

11. Report of Chairman. Mr. Palermo stated that proposed dates and locations for 1979 meetings of the House were:

| | |
|--------------|-------------------------------|
| April 28 | Bar Center, Albany |
| June 30 | Lake Placid Club, Lake Placid |
| September 29 | Bar Center, Albany. |

A motion was adopted approving same. He then announced that due to the unavailability of the New York Hilton Hotel, the annual meeting date of April 29, 1981, approved by the House at its November 4, 1978 meeting, could not be honored. A motion was adopted approving the following dates for the annual

meetings of the Association:

| | |
|-------------------|------------------|
| 1980 - January 25 | 1983 - April 29 |
| 1981 - January 23 | 1984 - April 27 |
| 1982 - April 30 | 1985 - April 26. |

He then announced that Conrad Harper had resigned as a delegate to the House from The Association of the Bar of the City of New York, and that Robert M. Kaufman had been designated to replace him. A motion was adopted approving said designation.

He then stated 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 July 1, 1979, and that the officers of the Association chose December 31, 1978 as such date. A motion was adopted ratifying the action of the officers.

He next reported that the New York Conference of Bar Leaders would hold its first meeting Saturday, January 27, 1979, and approximately 125 were expected to be in attendance. He concluded by noting his attendance at various section and committee meetings as well as visiting the Schenectady and Westchester County Bar Associations.