

NEW YORK STATE BAR ASSOCIATION
MINUTES OF HOUSE OF DELEGATES MEETING
THE OTESAGA, COOPERSTOWN, NY - JUNE 24, 1978

PRESENT: Members Abrams, Amdursky, Barlow, Barrera, Beshar, Chase, Clabby, Connolly, Daly, Denton, Dougherty, Eiber, Elwood, Erickson, Fales, Fallon, Farrell, FitzPatrick, Forger, Friedman, Galante, Griffin, Harper, Harrigan, Haynes, Hickey, Hoffman, Iovale, Jones, Karatz, Keeler, Kelligrew, Kendall, Klein, Kostelanetz, Lagarenne, Lindsay, MacCrate, Maider, McMahon, Meriam, H.G. Miller, W.A. Miller, Mintz, Mousaw, Mullan, G. Murphy, Neale, Nemia Noonan, O'Brien, Palermo, Patterson, Pedowitz, Peet, Pritchard, Reilly, Rosch, Rubin, Russell, Seymour, H.J. Smith, J.V. Smith, Stakel, Stone, Thoron, Tondel, Tucker, Vigdor, T.J. Walsh, Whalen, Williams, Withrow and Yetter.

1. Approval of minutes of April 29, 1978 meeting. The minutes were approved as distributed.
2. Certification of local and county bar delegates. Mr. Patterson reported that bar associations entitled to delegates had filed their designations of delegates for the year 1978-1979. On motion, said designations were approved as filed. Upon further motion, the filed roster of members of the House was approved as the official list for the year 1978-1979.
3. Report of Treasurer. Mr. Pritchard summarized his report, copies of which previously had been furnished to all members of the House. The report was received with thanks.
4. Presentation of Root/Stimson Award. Hon. Domenick L. Gabrielli, Chairman of the Subcommittee on Community Service Awards, presented the award to Hon. Hugh R. Jones of Utica for outstanding volunteer service to the community.
5. Presentation of Public Service Award. Thomas M. Whalen, III, Chairman of the Committee on Lawyers and the Community, presented the award to the Monroe County Bar Association Pre-Trial Services Corporation for their outstanding contribution to the betterment of the administration of justice.
6. Report and Resolution of Action Unit No. 3. Mr. Palermo reported that the four appellate divisions, by separate court rule, had adopted the recommended changes in the disciplinary rules following Canon 2 of the Code of Professional Responsibility, in the form conditionally approved by the House of Delegates on April 29, 1978. He noted that in view of this development it was necessary to adopt a resolution which would unconditionally repeal the ethical considerations and disciplinary rules following Canon 2, conditionally repealed by the House, and unconditionally adopt the recommended changes in the ethical considerations and disciplinary rules following Canon 2 conditionally approved by the House on the same date. Upon motion the following resolution was adopted:

WHEREAS, the New York State Bar Association ("NYSBA"), by resolution of the House of Delegates on April 29, 1978, contingent upon approval from the Appellate Division of the Supreme Court in each Judicial Department, repealed the existing ethical considerations and disciplinary rules following Canon 2 of the Code of Professional Responsibility ("Code"), previously adopted by the NYSBA effective January 1, 1970; and

WHEREAS, the NYSBA, by resolution of the House of Delegates on April 29, 1978, contingent upon approval from the Appellate Division of the Supreme Court in each Judicial Department, adopted certain proposed ethical considerations and disciplinary rules following Canon 2 of the Code; and

WHEREAS, the four Appellate Divisions in New York, by separate court rule, have adopted the recommended changes in the disciplinary rules following Canon 2 in the form conditionally approved by the House of Delegates on April 29, 1978; it is

RESOLVED, that the existing ethical considerations and disciplinary rules following Canon 2 conditionally repealed by action of the House of Delegates on April 29, 1978, are hereby unconditionally repealed effective as of April 29, 1978; and it is

FURTHER RESOLVED, that the recommended changes in the ethical considerations and disciplinary rules following Canon 2 conditionally approved by action of the House of Delegates on April 29, 1978 are hereby unconditionally adopted effective as of April 29, 1978

7. Report and Resolution of Committee on Association's Action Program.

Mr. Russell summarized the background statement and report of the committee recommending the establishment of Action Unit No. 4 to consider and make recommendations on reorganization of the courts of New York. (Copies of the report had been previously furnished to members of the House). Upon motion the following resolution was unanimously adopted:

RESOLVED, that the House of Delegates hereby directs the President to establish and appoint an Action Unit No. 4 on "Court Reorganization":

1. To consider the existing constitutional and statutory law governing the organization, jurisdiction, procedures and administration of the court system in the State of New York, and the extent to which prior studies and recommendations as to simplification and reorganization of the courts, by Legislative Commissions and others, have been implemented, rejected or not considered by the legislature and the public.
2. To formulate, recommend and propose a statement of policy by the Association on the subject of reorganization and simplification of the court system, of such scope with such limitations as the House of Delegates may decide and, depending on the Association policy so established, to deal with such specific and subsidiary issues under court organization and reorganization as may arise in pursuance of such policy, and to make recommendations to the House of Delegates for the disposition of such issues as part of the Association's program to be developed on the subject matter.
3. With the approval of the House of Delegates, assisted by the Executive Committee, to initiate, support, oppose or propose modification or particular legislation, stated constitutional amendments and programs of governmental or private agencies, consistently with the policies of the Association on the subject matter of the Action Unit's charge.
4. Upon the adoption of Association policies on the subject matter of court organization, reorganization and simplification or as to subsidiary issues arising in connection therewith, to take appropriate steps to implement the Association's policies by seeking the support of particular branches of government, governmental or private agencies and the general public by appropriate means.

The Action Unit shall conduct its deliberations in close coordination with all existing committees of the Association having cognizance in areas related to the concerns of the Action Unit, including the Committee on State Constitution, the Committee on Judicial Administration and the committees of the Association and sections concerned with particular courts which are represented on the latter Committee, and such committees and sections shall cooperate with and assist Action Unit No. 4 by furnishing available information, reports and material requested by Action Unit No. 4. The Action Unit shall consult with any sections of the Association which may request such consultation. It shall further seek the cooperation of other bar associations, academic representatives, the communications media, all three branches of State government (including, particularly, the Office of Court Administration and the leaders, committees and members of the

legislature) and civic and other organizations of citizens interested in the courts and government, and it shall call upon the members of Action Unit No. 1 for cooperation in furthering the work of Action Unit No. 4 in instances where the expertise or relationships of Action Unit No. 1 with others may be of assistance.

The Action Unit shall make timely reports of the progress of its deliberations and shall submit its recommendations to the House of Delegates with all reasonable dispatch.

8. Report and resolution of Committee on Tort Reparations. Mr. Amdursky reported that a bill to establish national standards for state no-fault benefit plans had been approved by the House Commerce Subcommittee and the Senate Commerce Committee, and reviewed the basis for the committee's opposition to the adoption of such bill. After discussion the following amended resolution was adopted:

WHEREAS, no-fault auto insurance plans are not working as expected and have generally contributed to much higher insurance premium costs which they were supposed to substantially decrease, and

WHEREAS, a five months study of state experience with no-fault by the American Bar Association found no justification for Federal intervention and warned that a Federal no-fault bill would be irresponsible, inequitable, and would seriously retard state reform efforts, and would prematurely terminate state experimentation with alternative solutions to dissimilar situations, and

WHEREAS, a better approach would be to let the states respond to their particular needs in their own way free from Federal interference, and

WHEREAS, there is a need for an independent objective study of the seven years of state experience to assess the impact of the various state no-fault statutes,

BE IT RESOLVED, that the New York State Bar Association opposes any Federal intervention in the field of no-fault insurance and supports the proposition that each state should pass such no-fault legislation as it believes proper under the particular conditions and needs of its own state.

9. Report of Committee on Professional Discipline. Mr. Cometa summarized the activities of his committee specifically noting:

- a) the impact of the Supreme Court decisions on lawyer advertising and solicitation, together with the effect of the Justice Department's Antitrust activities,
- b) that a uniform approach to the implementation of the lawyer advertising rules be adopted,
- c) the impact of the Court of Appeals decision in Matter of Chu, which mandates automatic disbarment for attorneys convicted of a felony, and described his committee's support for legislation designed to remedy the inequities resulting from this decision.

His report was received with thanks.

10. Report of President. Mr. Smith announced that the Executive Committee had selected Hon. Charles D. Breitel, Chief Judge of the State of New York, as the recipient of the 1979 Gold Medal Award and Bernard Wiess of Monticello as recipient of the 1979 Fifty-Year Lawyer Award. He then reported that he had recently concluded a trip through the western part of the State, where he addressed local bar associations in Allegany, Chautauqua, Erie and Niagara Counties. He then reviewed the outstanding accomplishments of Action Unit No. 3 with respect to lawyer advertising, and the establishment of Action Unit No. 4 to consider court reorganization. He announced that upon recommendation of the Executive Committee, The New York Bar Foundation had authorized renovation of the upper floors of the Bar Center on Elk Street. He indicated that an increase in membership dues for 1979 appeared inevitable and that a detailed report and recommendation would be made at the next meeting of the House. He concluded his remarks by thanking Association Section and Committee members, headquarters' staff, and members of the House for their support and cooperation during his term as president.

11. Report of Chairman. Mr. Patterson reported that the Executive Committee had recommended continuance of the Special Committee on Copyright Law and the Special Committee on Patents and Trademarks for a period of one year. A motion was adopted approving the recommendation. He then presented a plaque to Mr. Smith in recognition of his services as president of the Association which was inscribed as follows:

THE NEW YORK STATE BAR ASSOCIATION PRESENTS THIS TESTIMONIAL
TO HENRY J. SMITH IN RECOGNITION OF HIS DEVOTED SERVICE TO THE
ASSOCIATION IN THE SUCCESSFUL FURTHERANCE OF ITS IDEALS AND IN
THE PROMOTION OF THE BEST INTERESTS OF THE PROFESSION THROUGH
HIS SERVICES AS PRESIDENT OF THE ASSOCIATION 1977-1978.

Mr. Patterson then expressed the Association's thanks to the following retiring members of the House:

- Joseph Balsamo
- Richard L. Baltimore, Jr.
- Carol Bellamy
- Peter Bronstein
- Gunther K. Buerman
- Jacob Burns
- Richard E. Chase
- William J. Condon
- Lee H. Corbin
- William J. Cosgrove
- Herbert J. Davis
- Robert W. Dettor
- C. Edward Doyle, Jr.
- Vincent E. Doyle
- John R. Dunne
- Bernard M. Eiber
- George H. Elwood
- Philip A. Erickson

- Peter L. Faber
- Daniel J. Guiney
- E. James Hickey
- Julius Larkin Hoyt
- Robert R. Hrabchak
- Charles A. Iovale
- Murray M. Jaros
- Neal Johnston
- William W. Karatz
- Michael M. Kirsch
- Boris Kostelanetz
- Richard Lasher
- Lola Lea
- A. Thomas Longoretta
- Victor A. Lord
- Robert L. Maider
- Denis G. McInerney
- Walter A. Miller

- Copal Mintz
- Frank A. Nemia
- William E. Noonan
- Carmi Rapport
- Herbert Rubin
- Joseph J. Ryan
- J. Vincent Smith
- Ellis J. Staley
- Daniel R. Taylor
- Louis K. Thaler
- Thomas J. Walsh
- William J. Werner
- Thomas M. Whalen, III
- Robert I. Williamson
- Eugene L. Wishod
- Frank E. Yannelli

He then introduced Anthony R. Palermo as president-elect and new chairman of the House of Delegates.

12. Date and Place of Next Meeting. Mr. Palermo announced that the next meeting of the House will be held at the Bar Center in Albany on Saturday, November 4, 1978.