

MEMORANDUM

TO:

FROM:

SUBJECT: 2004 Midyear Meeting of the American Bar Association and
Meeting of the House of Delegates

DATE: February 27, 2004

REPORT ON THE ABA MIDYEAR MEETING

The 65th Midyear Meeting of the American Bar Association (the "ABA") was held February 4 - 9, 2004, at the Gonzalez Convention Center in San Antonio, Texas. A wide variety of programs were sponsored by committees, sections, divisions, and affiliated organizations. The House of Delegates met for a one-day session. The Nominating Committee also met.

The Nominating Committee sponsored a "Meet the Candidates" Forum on Sunday, February 8, 2004. Karen J. Mathis of Colorado, candidate for President-Elect seeking nomination at the 2005 Midyear Meeting, gave a speech to the Nominating Committee and the members of the Association present.

THE HOUSE OF DELEGATES

The House of Delegates of the American Bar Association (the "House") met on Monday, February 9, 2004, H. Thomas Wells, Jr. of Alabama, presided as Chair of the House.

The invocation for the House was delivered by Reverend Andrew Hernandez. The Chair of the House Committee on Credentials and Admissions, Hilarie F. Bass of Florida, welcomed the new members of the House.

Deceased members of the House were named by the Secretary of the Association, Ellen F. Rosenblum of Oregon, and were remembered by a moment of silence. Daniel W. Hildebrand of Wisconsin gave remarks about Truman McNulty and James Sturdivant of Oklahoma spoke about Joe Stamper.

The House again did not use electronic voting in order to conserve ABA resources.

For more details of the House meeting, see the following two-part report of the House session. The first part of the report provides a synopsis of the speeches and reports made to the House. The second part provides a summary of the action on the resolutions presented to the House.

I. SPEECHES AND REPORTS MADE TO THE HOUSE OF DELEGATES

Statement by the Chair of the House

H. Thomas Wells, Jr. of Alabama, Chair of House of Delegates, explained that Anthony Jenkins, MI, member of Rules and Calendar, had been designated to receive salmon slips. Chair Wells warned that without electronic voting, the counting process by the tellers could take some time. He was confident, however, that the House would adjourn in one day, and noted that matters later in the agenda were as important as those introduced earlier.

The Fund for Justice and Education is the educational arm of the Association. Chair Wells noted that charitable contributions are needed to fund the critical activities of the Association. He requested that all members of the House who have not already donated to the FJE do so and ask others in the ABA to do so as well.

Chair Wells advised that ABA Day in Washington, D.C., will be held May 5 and 6, 2004, and that by participating, the members of the ABA can help persuade senators and representatives of the importance of the governmental priorities of the Association. Even though Robert Evans, Associate Director, Office of Governmental Affairs and his able staff, provide outstanding lobbying of ABA issues, the personal contact of ABA member constituents to those in Congress is integral to the success of the ABA lobbying efforts.

Helaine M. Barnett of New York, has been named President of the Legal Services Corporation. At Chair Wells' request, the members of the House, through their applause, warmly congratulated Ms. Barnett on this high honor.

Chair Wells then announced the names of the members of Scope Nominating Committee which are: Chair Wells; General E. E. Anderson, VA; Chair of the Program and Planning Committee of the Board of Governors; Michael Flowers, OH, Chair of the Committee on Scope and Correlation of Work; Alan Kopit, OH, Immediate Past Chair of the Committee on Scope and Correlation of Work; and Mitchell Orpett, IL, Chair of the Section Officers Conference. Those interested in serving on Scope were asked to submit applications by March 19, 2004 to the Scope Nominating Committee.

Statement by the ABA President

ABA President Dennis W. Archer of Michigan first thanked Mark Sessions and the San Antonio Host Committee for their hospitality and splendid work that resulted in a successful Midyear meeting.

President Archer then expressed his pride regarding the leadership and contributions of each member of the House on behalf of lawyers and the ABA in the members' home states. He said that as he travels through the states addressing bar associations and other organizations and sees all the good work being done by the members and their state and local bar associations, he feels profound respect for them.

He also noted that he spoke to many corporate leaders to explain the important role of the ABA in preserving the rule of law and why the ABA generally opposes efforts to limit tort litigation. He informs them about the House vote a year ago on asbestos litigation which demonstrates the important role the ABA can play in tort reform.

President Archer also emphasized the need for an independent judiciary. Appropriate pay levels for judges and the proper funding to achieve that goal is an ABA priority. He appointed Justice Joseph P. Nadeau, New Hampshire Supreme Court, to head a commission to study the effect of underfunding of the court system on access to justice. The Commission will present a report with recommendations to the House of Delegates in Atlanta.

He noted that he speaks to groups on the important role of the Standing Committee on Federal Judiciary in continuing the unbiased and informed selection of federal judges.

President Archer noted that he has visited legal aid societies and law firm pro bono groups. He reminds audiences of the Association's Goal II to promote access to legal representation for all persons regardless of economic and social conditions. He noted that the ABA Model Rule of Professional Conduct 6.1 encourages lawyers to engage in pro bono service.

President Archer then referred to the 50th anniversary of *Brown v. Board of Education* and the efforts of the ABA Commission, chaired by Harvard Professor Charles Ogletree, Jr., to honor that milestone decision.

He discussed the ABA's response to Justice Anthony Kennedy's address at the Opening Assembly of the Annual Meeting in San Francisco last August. This Association year, the Executive Committee created the Justice Kennedy Commission, led by Steve Saltzburg of Georgetown University, to consider the issues involving the large number of defendants of color in the prison system and the sentencing procedures raised by Justice Kennedy. The Commission will issue its final report at the August 2004 Annual Meeting.

President Archer referred to the continuing good work provided by CEELI, the Latin American, African and Asian Councils on preserving the rule of law by helping nations develop a democratic legal system.

He also mentioned the success of his Diversity Summit chaired by Charles Morgan of Bell South and chair of the Council on Racial and Ethnic Justice, and plans regarding the upcoming Summit on Women, headed by Diane Yu, chair of the ABA Commission on Women in the Profession. In May, more than 70 women managing partners of Fortune 500 companies and women chief executive officers of corporations will meet to discuss how to

enable women lawyers to become managing partners and hold other executive positions in law firms and corporations.

President Archer then asked ABE President William C. Hubbard, ABF President Peter Moser, FJE Council Chair Allan Tanenbaum and Krista Kauper, staff for FJE, to stand and be recognized by the House for their wonderful work on behalf of the ABA. He reported that 100% of the Board of Governors has contributed to FJE this year and urged the House to reach the same percentage.

In closing, President Archer thanked everyone for their work on behalf of the legal profession, the justice system and the rule of law.

Statement by the Secretary

The Secretary, Ellen F. Rosenblum of Oregon, moved approval of the House of Delegates Summary of Action from the 2003 Annual Meeting, which was subsequently approved by the House. On behalf of the Board of Governors, Secretary Rosenblum presented and referred the House to Report 177A, the Board's Transmittal Report, and Report 177C regarding the Association's legislative priorities.

Statement by the Treasurer

The Treasurer, Allan J. Joseph of California, referred the House to his detailed written report, and then reported on the following:

Last year was very difficult financially because of the pension fund, technology overrun and the \$7 million budget shortfall; nevertheless, the Association weathered the storm and the financial situation is healthy. He offered additional comments on these three causes of the adverse financial situation.

On the pension issue, a committee was appointed composed of both staff and Board members, a first for the ABA. The Board of Governors adopted the committee's recommendation to maintain a defined benefit pension plan.

Costs associated with the Technology Initiative will be handled through the normal budget cycle. Treasurer Joseph acknowledged the improvements brought about by the hiring of Gordon Kerr to head Information Services and then thanked the Standing Committee on Technology and Information Services and Alice Richmond, Board liaison to that Committee. Treasurer Joseph said that he expected the Association to have an improved technology system, including necessary tools for membership recruitment and retention, within the next two months.

Treasurer Joseph stated that ABA management was able to overcome the financial problems brought about by the \$7 million shortfall and that a balanced budget was achieved, including the allowance of \$400,000 to remain in the dues warehouse.

Mr. Joseph warned, however, that the Association faces financial challenges in the next few years. The dues increase projected to allow a balanced budget was based on an economic recovery and projected cost amounts, but it now appears there will be a shortfall. It therefore will be necessary to reduce costs in the next fiscal year by \$7.9 million to maintain the \$90 million budget. Treasurer Joseph predicted that debate will ensue over how to achieve resolution of the shortfall, but that the shortfall will be resolved because President Archer, President-Elect Grey and President-Elect Nominee Greco all agree on the fundamental need to maintain a balanced budget.

The functional budget and other financial reports produced by ABA Financial Services will enable the Board to make financial decisions. With a completely new team in Financial Services, Treasurer Joseph stated that the Board of Governors will be provided accurate and complete financial information.

Currently there is approximately \$150 million in cash and investments; about 1/3 of which is in section funds. The reserve is at about 30% of the budget rather than 50% as provided for in Association policy. Treasurer Joseph strongly recommended that the permanent reserve should not be used until the Association reaches the 50% threshold sum.

He closed by saying that it is time to face the difficult decisions of how to resolve the shortfall by looking at options available to the Board of Governors and the ABA leadership.

Statement by the Executive Director

Robert A. Stein of Illinois, Executive Director and Chief Operating Officer of the ABA, referred to his written report and then addressed three areas, the first being the difficult financial challenges faced by the ABA. The anticipated dues income amount has been reduced because of the economic situation. Investment income has been adversely affected by the national economic situation, and other costs, such as the pension, are at a higher rate than was anticipated when the long-range plan was developed.

In December 2003, the House of Delegates received an email about the revised ABA website. The ABA has one of the most powerful websites in the nonprofit sector. The website has received over 3 million hits a month and users have said the new website is far easier to navigate. A new design function is part of the new website and is recognizable on the home page.

Under the leadership of Gordon Kerr as Associate Director of Information Services, the ABA will begin to roll out new electronic features, e.g., electronic registration for virtually all activities and programs of the ABA.

The move to 321 N. Clark Street is ahead of schedule and significantly below budget and will take place in May with no rent due until July. The Westin River North Hotel is physically connected to the building. The new headquarters will be dedicated on Friday, June 11, when the Board of Governors meets in Chicago. Justice Anthony Kennedy has agreed to deliver the dedicatory address.

Report of the Nominating Committee

The Nominating Committee met on Sunday, February 8, 2004. On behalf of the committee, C. Timothy Hopkins of Idaho, Chair of the Steering Committee of the Nominating Committee, reported on the following nominations for the terms indicated:

Officers of the Association

President-Elect (2004-05)

Michael S. Greco of Massachusetts

Chair of the House of Delegates (2004-06)

Stephen N. Zack of Florida

Secretary of the Association (2005-08; to serve as Secretary-Elect 2004-05)

Armando Lasa-Ferrer of Puerto Rico

Treasurer of the Association (2005-08; to serve as Treasurer-Elect 2004-05)

Wm. T. Robinson, III of Kentucky

Members of the Board of Governors (2004-07)

District Members

District 7: Timothy L. Bertschy of Illinois
District 8: Michael A. Bedke of Florida
District 10: Bevin B. Bump of Nebraska
District 11: James M. Sturdivant of Oklahoma
District 13: Keith E. Brown of Alaska
District 18: Louise Michaux Gonzales of Maryland

Section Members-at-Large

Section of Individual Rights and Responsibilities

Mark D. Agrast of Washington, D.C.

Section of State and Local Government Law

James Baird of Illinois

Woman Member-at-Large

Sharon C. Stevens of Oregon

Remarks by President-Elect Nominee Greco

Michael S. Greco of Massachusetts, the incoming President Elect Nominee, thanked the Nominating Committee for its vote of confidence and asked the House to acknowledge his distinguished opponents, Thomas Hayward, IL, and Earle Lasseter, GA. He also gave special thanks to his wife Dianne, and introduced his children, Jordan, Abigail and Elizabeth. President-Elect Nominee Greco then introduced colleagues from his law firm, Kirkpatrick & Lockhart, and thanked them for their support.

He told the House the story of a seven-year old boy who with his family more than half a century ago traveled by ship from Italy to New York to begin life in America, a boy who never forgot his first sight of the majestic Statue of Liberty, or his first step on America's soil, or his gratitude for the opportunities for growth and freedom that America has afforded him.

President-Elect Nominee Greco informed the House that he was that young boy, and that his journey to the podium had covered many miles, from a small village in Italy to a village in Illinois, birthplace of his mother, where he attended public schools, then to Princeton University on a scholarship, and then to Boston, where he attended Boston College Law School, and has practiced law and resided for the past thirty-five years. Mr. Greco informed the House that he understands from personal experience the meaning of that eloquent promise "equal opportunity for all in America", and vowed that he will continue to do all in his power to ensure that the promise is kept for everyone in America.

He also said that America derives strength from the diversity and talents of all who live here, and that he knows from personal experience the great importance of giving all young people the chance to work hard, develop their talents, and contribute to our great country.

He said that he is proud to be a lawyer because lawyers protect what that young boy knew intuitively when he first saw the Statue of Liberty and what it symbolizes throughout the world: our democracy, our freedom and our unwavering belief in the rule of law.

President-Elect Nominee Greco urged all lawyers in America, and especially all government officials, never to forget that lawyers are the guardians of the Bill of Rights, and that our democracy depends on both an independent judiciary and independent legal profession. To those who would seek to diminish the lawyer's role in society, President-Elect Nominee Greco cautions that the greatest democracy the world has known flourishes only because of the rule of law, and without independent and effective lawyers there would be no rule of law.

As president Mr. Greco will ask the Association and its members to lead a *renaissance of idealism* in the legal profession – to remind lawyers of the idealism that led us to become lawyers, to educate the public about the importance of the lawyer's role in society as problem solver and protector of the rights we all hold dear, and to reaffirm for all in American and throughout the world the greatness of our legal system and the critical importance of protecting it and improving it.

Mr. Greco is proud to be following President Archer and President-Elect Grey, whose legacies as Association leaders will inspire us and future generations, and he looks forward to working with them to advocate on behalf of the profession, to improve the administration of justice, and achieving greater diversity in the profession.

Mr. Greco closed by pointing out that each person in the House, or their ancestors, at different times in the nation's history, had taken a journey similar to the remarkable one taken by that young boy from the small village in Italy, but that it is the journey that now lies ahead that joins all of us, and strengthens us and challenges us. He asked the members of the House to join him on this journey, and for their help along the way.

He thanked the House again for this extraordinary honor and concluded with the words, "and now, let us begin".

II. RECOMMENDATIONS VOTED ON BY THE HOUSE

A brief summary of the action taken on recommendations brought before the House follows. The recommendations are categorized by topic areas and the number of the recommendation is noted in brackets.

ADMINISTRATIVE JUDICIARY

[113B] On behalf of the Judicial Division, Charles A. Patterson, CA, moved Report 113B encouraging Congress to establish a retirement plan for federal administrative law judges that is appropriate to their judicial status and functions and that is separate from retirement plans of other career civil servants. The recommendation was **approved**.

ADMINISTRATIVE LAW

[115] On behalf of the Section of Administrative Law and Regulatory Practice, Judith S. Kaleta, DC, moved revised Report 115, endorsing the revised *Standards for the Establishment and Operation of Ombuds Offices*, dated February 2004. The recommendation was **approved as revised**.

BOARD OF GOVERNORS

[177B] On behalf of the Board of Governors, Robert M. Carlson, MT, moved Report 177B, adopting revisions to the blanket authority procedure, dated February 2004. The recommendation pertains to the authority of sections to submit "technical comments" to a government executive branch agency, along with time requirements to do so. The grant of this authority would generally be three years, subject to rescission by the Board at any time, and renewable for additional three-year periods by the same application procedure as used in the procedure. The purpose of the time period is to determine the efficacy of the revision.

Scott Partridge, TX, delegate from Section of Science and Technology Law, moved to postpone indefinitely Report 177B. He said that he did not oppose a procedure to allow technical comments, but in the opinion of at least ten sections, the process to vet the Report, particularly Part D of the Report, had not yet been completed.

Richard Gray, IL, spoke in opposition to the motion to postpone. Changes were made to the blanket authority procedure to add clarity to the issue of who can speak on behalf of the ABA. He argued that the Report was completely vetted and that it allows the clarity needed to ensure that the ABA speaks with one voice without micromanaging the process.

Donald R. Dunner, DC, spoke in favor of the motion to postpone and argued that too much discretion to the Sections would be allowed under amendments proposed by the Section of Science and Technology Law.

BOARD OF GOVERNORS (cont.)

Mr. Carlson spoke in opposition to the motion to postpone on the ground that the comment period was transparent, lengthy and open. After being passed by the Board in August, the Report was sent out twice, in August and September. No comments were received until recently. The House approved the motion to **postpone indefinitely by a vote of 181 to 177.**

CAMPAIGN CONTRIBUTIONS

[8C] On behalf of the Ohio State Bar Association, Keith A. Ashmus, OH, moved revised Report 8C encouraging state and territorial legislatures to enact laws requiring timely public disclosure of all contributions and expenditures by so-called “independent campaign committees” that in any way seek to influence voters and the public with regard to any candidate for judicial office. Tom Bolt, VI, made a friendly amendment to add territories to the Report, which was accepted by the sponsors. The recommendation was **approved as revised.**

COMMONWEALTH OF PUERTO RICO

[8B] On behalf of the Bar Association of San Francisco, Mark Schickman, CA, moved Report 8B recommending that the United States Congress adopt and the President sign, legislation that affords the four million U.S. citizens residing in Puerto Rico a process that defines the non-territorial options that are available to the people of Puerto Rico and that authorizes a federal referendum on the Island that enables them to make an informed decision on a permanent legal status for Puerto Rico. Francisco Colon, PR, President of the Puerto Rico Bar Association, spoke in opposition to Report 8B. The decision to be made regarding statehood should be made by the people of Puerto Rico. The recommendation is premature because there is no consensus in Puerto Rico on this issue, which has been discussed for many, many years. Armando Lasa-Ferrer, PR, spoke in favor of Report 8B because it is the right and fair action to take.

Carlos Rodriguez-Vidal, PR, moved to postpone Report 8B indefinitely. Lillian Apodacca, NM, President Hispanic Bar Association, spoke against the motion to postpone and in favor of Report 8B. She said that the Hispanic Bar Association believes that the 4 million American citizens living in Puerto Rico should have the opportunity to vote on the issue. No one else in the United States should make a decision on this issue. Unless the federal government allows the citizens in Puerto Rico to make a determination for themselves on this issue of permanent legal status, the citizens cannot do so. Francisco Colon, PR, spoke in support of the motion to postpone. The House approved the motion to **postpone indefinitely**.

COURTS

[113A] On behalf of the Judicial Division, Judge Leslie B. Miller, AZ, moved revised Report 113A adopting the black letter *Standard 1.65, Court Use of Electronic Filing Processes*, as an amendment to the *Standards Relating to Court Organization*, dated February 2004. The recommendation was **approved as revised**.

CRIMINAL JUSTICE

[8A] On behalf of the New York County Lawyers', Eugene Nathanson, NY, moved revised Report 8A urging law enforcement agencies to videotape the entirety of custodial interrogations of crime suspects at police precincts, courthouses, detention centers and other places where suspects are held for questioning, or where videotaping is impractical, to audiotape the entirety of such interrogations and urging legislatures and/or courts to enact laws or rules of procedure for this requirement. No speakers appeared in opposition to the recommendation and it was **approved as revised**.

[109] On behalf of the Young Lawyers Division, Alan O. Olson, IA, moved Report 109 encouraging federal, state, territorial and local governments to adopt legislation that promotes school violence prevention education, instruction, awareness training and programs for children, parents, teachers and school administrators and encourages lawyers to support school violence prevention education in schools and community settings. The recommendation was **approved**.

[116] On behalf of the Criminal Justice Section, Stephen A. Saltzburg, DC, moved revised Report 116 urging adoption of laws and policies to address the complex problem presented by the large number of adults with mental illness and juveniles with mental or emotional illness or disorders who come into contact with the criminal and juvenile justice systems, and supports increased funding and financing for public mental health systems. The recommendation was **approved as revised**.

DISPUTE RESOLUTION

[107] On behalf of the Section of Business Law, Pamela Chapman Enslin, MI, moved Report 107 adopting the revised *Code of Ethics for Arbitrators in Commercial Disputes*, dated February 2004. The recommendation was **approved**.

IMMIGRATION LAW

[105] On behalf of the Section of Litigation, David C. Weiner, OH, moved Report 105 urging the federal government to retain exclusive jurisdiction over civil immigration matters, opposing delegation of legal authority to state, territorial and local police to enforce federal civil immigration laws, and opposing criminalization of civil violations of immigration law. Esther F. Lardent, DC, Chair, Commission on Immigration, proposed, as a friendly amendment, a slight change in the language to enable the intent of the Recommendation to be carried out. The friendly amendment was accepted and the recommendation was **approved as amended**.

INDIVIDUAL RIGHTS AND RESPONSIBILITIES

[103B] On behalf of the Section of Individual Rights and Responsibilities, C. Elisia Frazier, GA, moved Report 103B urging the federal government to implement HIV/AIDS-related initiatives in a manner consistent with international human rights law and science-based prevention, care, support and treatment objectives and endorsing the United Nations Declaration of Commitment on HIV/AIDS, dated June 2001. The recommendation was **approved**.

[103C] The House **approved** the recommendation submitted by the Section of Individual Rights and Responsibilities supporting efforts of the National Tribal Steering Committee to address the inadequacy of health care for American Indians and Alaska Natives through the reauthorization of the Indian Health Care Improvement Act and urging Congress and the Executive Branch to address the various areas where health care for American Indians and Alaska Natives is deficient.

[103D] On behalf of the Section of Individual Rights and Responsibilities, C. Elisia Frazier, GA, moved revised Report 103D opposing any federal enactment that would restrict the ability of a state or territory to: a) prescribe the qualifications for civil marriage between two persons within its jurisdiction; and b) determine when effect should be given to a civil marriage validly contracted between two persons under the laws of another jurisdiction. Secretary Rosenblum reported that the Board of Governors recommended approval of Report 103D. Ms Frazier urged approval on the ground that the delegates should exercise their responsibilities as members of the profession to uphold Americans' civil rights. Tom Bolt, VI, moved a friendly amendment to add territories to the language of the recommendation. The amendment was seconded. Timothy B. Walker, CO, spoke in favor of the Report. Mr. Walker advocated the right of the states on this issue. He said that the resolution seeks to preserve state sovereignty as it relates to the sanctity of marriage. The recommendation was **approved as revised**.

[112] Report 112 supports the enactment and implementation of just laws by government to secure to each and every child growing in the womb of the mother, the

unalienable life and liberty right to live until natural death. Darrell J. Stutes, Sr., ABA Member, was not present at the time Report 112 should have been presented to the House. The House **took no action because there was no presenter** and Chair Wells reported that the Report therefore died for lack of a motion.

INTELLECTUAL PROPERTY LAW

[108] On behalf of the Section of Intellectual Property Law, Donald R. Dunner, DC, **withdrew** Report 108 supporting the enactment of federal legislation to protect an individual's right of publicity to the extent the individual's identity is used for a commercial purpose in "commerce", as defined in Section 45 of the Lanham Act, 15 U.S.C. §1127, and to prospectively preempt inconsistent state and territorial laws. The reason for withdrawing the Report is to allow more opportunity for discussion with those opposing the Report.

INTERNATIONAL LAW

[106] On behalf of the Section of International Law and Practice, Gerold W. Libby, CA, moved Report 106 supporting the creation of a United Nations Democracy Caucus within the United Nations (UN) framework to work towards the strengthening of democracy, human rights and the rule of law throughout the UN system. The recommendation was **approved**.

LAW AND NATIONAL SECURITY

[103A] On behalf of the Section of Individual Rights and Responsibilities and the Standing Committee on Law and National Security, Stewart Baker, moved Report 103A enunciating policies that should govern the proper exercise of universal criminal jurisdiction and clarifying the right of a nation to preempt the exercise of such jurisdiction over one or more of its citizens or lawful residents accused of committing an international crime upon declaring its willingness to investigate the allegations and prosecute the accused in accordance with international human rights norms and standards. The recommendation was **approved**.

[104] Robert L. Weinberg, the District of Columbia Bar Delegate, moved revised Report 104 urging courts of the United States to exercise jurisdiction over petitions for habeas corpus filed by foreign nationals challenging the legality of their detention at the U.S. Naval Base leased from Cuba at Guantanamo Bay. He described the conflict within jurisdictions over the legality of this issue and pointed out that the U.S. Supreme Court granted the application for certiorari and will consider the issue only as to the jurisdiction of courts to hear matters from foreign nationals at Guantanamo Bay.

Rear Admiral John Jenkins, VA, spoke in opposition to the recommendation and argued that there is no jurisdiction with respect to U.S. Federal Courts over the Guantanamo Bay Naval Station.

Nicholas S. McConnell, DC, spoke on behalf of the Bar Association of the District

of Columbia as a cosponsor to the recommendation.

Neal R. Sonnett, FL, moved to postpone indefinitely. He explained that the Commission he chairs is considering this and other issues and argued that the Commission should be allowed to complete its work and the US Supreme Court should be allowed to proceed without a position being taken at this time by the House.

Mr. Weinberg spoke in opposition to the motion and argued that other nations may ask whether the United States believes in the rule of law.

Albert J. Krieger, FL, spoke in support of the motion to postpone indefinitely on the ground that the ABA should not appear to be trying to influence the Supreme Court while this matter is pending before that body.

LAW AND NATIONAL SECURITY (cont.)

Robert E. Juceam, NY, spoke in opposition to the motion to postpone. He argued for the importance of the ABA to take a position on the recommendation and urged consideration of the merits of the recommendation and for the House to take action now.

Stephen A. Saltzburg, DC, spoke on behalf of the motion to postpone on the ground that the issue is more complicated than presented and therefore more time is needed to allow the Commission to present a full picture of the issues and the positions taken by those involved in this issue. He also suggested that the resolution goes far beyond the narrow issue accepted by the Supreme Court.

Former ABA President Philip S. Anderson, AR, spoke against the motion to postpone on the ground that the ABA has not and should not decide not to express itself on preserving the issues of the rules of law. The House approved the motion to **postpone indefinitely**.

LAWYER ASSISTANCE PROGRAMS

[114] The House **approved** the recommendation submitted by the Commission on Lawyer Assistance Programs adopting the revised black letter *Model Lawyer Assistance Programs*, dated February 2004, to assist state and local bar associations in the development and maintenance of effective programs to identify and help those lawyers, judges and law students impaired by alcoholism, other forms of chemical dependency or mental health problems.

LEGAL EDUCATION

[101A] The House **approved** the recommendation submitted by the Standing Committee on Paralegals, granting approval, reapproval and extension of the term of approval to several legal assistant education programs, and withdrawing the approval of several programs.

[101B] The House **approved** the recommendation submitted by the Standing Committee on Paralegals, adopting amendments to the *ABA Model Guidelines for the Utilization of Paralegal Services*, dated February 2004.

[110] On behalf of the Standing Committee on Continuing Legal Education and the Commission on Racial and Ethnic Diversity in the Profession, Suzanne E. Graber, CA, moved revised Report 110 amending the Comment to Section 2 of the Model Rule of Minimum Continuing Legal Education to require lawyers, as part of their mandatory continuing legal education either through a separate credit or through existing ethics and professionalism credits, to complete programs related to the promotion of racial and ethnic diversity in the profession, the promotion of full and equal participation in the profession of women and persons with disabilities and the elimination of all forms of bias in the profession. The recommendation was **approved as revised**.

SPECIALIZATION

[102] The House **approved** the recommendation submitted by the Standing Committee on Specialization, granting accreditation, reaccreditation and extension of accreditation to several specialty certification programs for lawyers.

TAXATION

[100] The House **approved** the recommendation submitted by the Section of Taxation recommending that Section 1361(e)(2) of the Internal Revenue Code of 1986, which defines the term “potential current beneficiary” be amended.

UNIFORM STATE LAWS

[111A] The House **approved** the recommendation submitted by the National Conference of Commissioners on Uniform State Laws approving the Revised Uniform Commercial Code, Article 7, Documents of Title, promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws in 2003 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.

[111B] On behalf of the National Conference of Commissioners on Uniform State Laws, Fred H. Miller, OK, moved Report 111B approving 2003 Amendments to the Uniform Commercial Code, Article 2A, Leases, promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws in 2003 as appropriate Amendments for those States desiring to adopt the specific substantive law suggested therein. The recommendation was **approved**.

[111C] On behalf of the National Conference of Commissioners on Uniform State Laws Fred H. Miller, OK, moved Report 111C approving the 2003 Amendments to the Uniform Commercial Code, Article 2, Sales, promulgated by the American Law Institute and the National Conference of Commissioners on Uniform State Laws in 2003 as appropriate Amendments for those States desiring to adopt the specific substantive law suggested

therein. Hervey P. Levin, TX, representing the Section of Tort Trial and Insurance Practice, moved to postpone the recommendation indefinitely on the ground that there were issues still needing discussion. Myles V. Lynk, AZ, and Maury B. Poscover, MO, spoke against that motion on the grounds that there had been exhaustive vetting done over a period of 15 years. The Report was fair and balanced and the House should vote on the merits of the issue. The motion to postpone indefinitely was defeated and the recommendation was **approved**.

UNIFORM STATE LAWS (cont.)

[111D] On behalf of the National Conference of Commissioners on Uniform State Laws, Fred H. Miller, OK, moved Report 111D approving the Uniform Apportionment of Tort Responsibility Act, promulgated by the National Conference of Commissioners on Uniform State Laws in 2002 and amended in 2003 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein. Richard T. Cassidy, VT, spoke in support of the Act on the ground that the states have the ability to carry out the matters covered in the Act and it will enable the states to maintain control over those issues. The recommendation was **approved**.

[111E] The House **approved** the recommendation submitted by the National Conference of Commissioners on Uniform State Laws approving the 2003 revision of the Uniform Estate Tax Apportionment Act and new Article 3, part 9A of the Uniform Probate Code, promulgated by the National Conference of Commissioners on Uniform State Laws in 2003 as appropriate Acts for those States desiring to adopt the specific substantive law suggested therein.

[111F] The House **approved** the recommendation submitted by the National Conference of Commissioners on Uniform State Laws approving the Uniform Environmental Covenants Act, promulgated by the National Conference of Commissioners on Uniform State Laws in 2003 as an appropriate Act for those States desiring to adopt the specific substantive law suggested therein.

Closing Business

At the conclusion of the meeting of the House on Monday afternoon, February 9, after various expressions of thanks and reminders about the 2004 Atlanta Annual Meeting, to be held August 4 – 10, 2004. Chair Wells, acknowledged Gene Vance who moved the Host Resolution expressing appreciation to San Antonio Bar Association, the State Bar of Texas, and the Midyear Advisory Committee, chaired by Mark Sessions, and vice chaired by Juanita Hernandez, for the hard work they did in connection with this meeting. The

resolution was **approved**.

Chair Wells also thanked everyone for attending and for their patience. He promised to maintain the email communication process between the members of the House and himself. At 3:20 p.m., Don Bivens, AZ, Chair of the Committee on Rules and Calendar moved that the House adjourn *sine die*.