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## THE AMERICAN BAR ASSOCIATION—HOW IT FUNCTIONS AND DETERMINES POLICY\*

### *House of Delegates*

In 1936 the House of Delegates of the American Bar Association was founded. Some fears were expressed at the time that creation of the new body would impede, rather than facilitate, the future progress of the Association, even destroying the "value of the annual meetings" and "creating a rival" to the office of the President.

Instead of being a destructive influence, the House in the past 20 years has strengthened the organization and has enabled the ABA to grow in both numbers and prestige as never before.

Strong representative leadership has characterized the activities of the House—the legislative and policy-making body of the 85,000-member Association—since its first session at the 59th annual meeting of the ABA in Boston on August 26, 1936.

Members today recognize that without an agency such as the House of Delegates—including as it does representatives of state and local bar associations and many other legal organizations—it would virtually be impossible for the American Bar Association to act and speak with as authoritative a voice and one as representative of the entire legal profession.

As now constituted, the House has a membership of 236. It includes delegates representing all branches of the legal profession, the ABA, local and state bars, and the following federal officials who are ex-officio members: the Attorney General of the United States, the Deputy Attorney General, the Director of the Administrative Office of the United States Courts and the Solicitor General of the United States.

Included by virtue of the Association's Constitution in the membership of the House are members of the Board of Governors, officers of the Association, past president, past chairman of the House, and former secretaries and treasurers of the Association with four or more years of service. The Board of Governors functions as an administrative agency of the House.

The state and local bar associations constitute by far the largest single unit in the House with 107 delegates. This group is followed closely in size by the contingent of state delegates numbering 52 and including representatives from Alaska, Hawaii, Puerto Rico and the District of Columbia. The remainder of the House is made up of 17 ABA

\*Editor's Note. This article was distributed by the Committee on Public Relations of the American Bar Association in the hope that it would answer questions for all lawyers about the ABA.

Section delegates, one representative each for 16 national legal organizations and 15 ABA Assembly delegates.

This group of 236 lawyers directly represent an estimated 150,000 of the 240,000 lawyers in the United States.

An analysis of the membership of the House shows that it represents a true cross section of America's legal profession.

The members range in age from 33 to 82, with 108 (or 48 per cent) 55 or under. The median age is 56. One hundred and sixty-three (72 per cent) of the House members are with law firms, 32 are in private practice, and 30 are serving as counsel for business firms, are government officials, judges, law professors, or association officials. Only eight per cent of the members are associated with large metropolitan law firms. One-third are from cities with less than 100,000 population, one-third come from communities of 100,000 to 500,000 and the remaining third from cities of over 500,000.

State and local bar association delegates to the House are chosen in the following manner:

Each recognized state bar association is entitled to at least one delegate in the House. Bar associations in states having over 2,000 lawyers are entitled to one additional delegate for each additional 1,000 lawyers, with a maximum of four delegates that can be accredited.

Local bar associations having a membership of 800 or more, 25 per cent of whom are members of the American Bar Association, are entitled to one delegate. The ABA Constitution provides, however, that when a state bar association is entitled to more than one delegate by virtue of the size of its membership, the number of local bar association accredited delegates within such a state shall be subtracted from the total number of four delegates allowed any individual state bar.

Each state and local bar association delegate is chosen in such manner as each association determines. He serves in the House for a two-year term. In the event of resignation, disqualification, or death, the state or local bar association affected may select and certify a successor to serve for the balance of the unexpired term.

State delegates to the House are nominated and elected by ABA members of each state in the following manner:

Not later than 150 days before the annual meeting of the ABA, any 25 or more members of the Association in a state from which a delegate is to be elected may file with the Board of Elections a petition bearing the name of a candidate for the office of State Delegate. (The Board of Elections, composed of three disinterested members of the ABA, is selected annually by the Board of Governors.)

The Board of Elections then publishes the names of such nominees, and signers of his petition, in the next issue of the American Bar Association Journal. Printed ballots bearing the names of each nominee are mailed to each member of the Association in each state not later than 120 days before the annual meeting. Balloting is completed not later than 60 days before the annual meeting. The election board members count the ballots and publish the results of the election.

Each State delegate elected serves for a term of three years. In case of any vacancy, other than for one particular meeting, the state bar association delegate from the state with the greatest length of continuous service in the House serves as State delegate; if the vacancy is for one year or less, he serves for the unexpired term, otherwise until the vacancy shall be filled by nomination and election.

Two decades of experience have definitely established the House as the main legislative body of the Association in which are centered the business activities and policy determination of the ABA. Recommendations made by the ABA Committees and Sections do not become official policy of the Association until they receive consideration and approval by a majority of the members of the House. The same is true with respect to public policy questions and legislative proposals.

The decisions of the House on matters of public importance carry weight and frequently the Congress of the United States has turned to it for advice and assistance on legal problems. Many ABA Sections and Committees are constantly working with Congressional Committees on laws in their special fields. In numerous cases such committees have invited ABA representatives to testify.

The House meets in session twice annually—once during the annual meeting, and again in mid-year. The mid-year session usually is held in Chicago in February. However, meetings can be called at any time by the Board of Governors or by a majority of the members of the House.

#### *Board of Governors*

Between the two regular meetings of the House of Delegates each year, the affairs of the American Bar Association are directed by the 16 members of the Board of Governors.

The Board meets immediately prior to each session of the House and at least two other times during the year. It is composed of the president of the Association, the chairman of the House of Delegates, the last retiring president of the ABA, the secretary, the treasurer, the editor-in-chief of the American Bar Association Journal, and elected representatives from each of the 10 federal judicial circuits.

The president, secretary, and treasurer hold office for one year (the president is not permitted to hold that office again), the chairman of the

House for two years (the chairman also is ineligible for more than one term), and the Board members from each circuit for staggered three-year terms. The President of the Association presides at Board sessions.

The Board of Governors serves as the administrative committee of the House, with authority to act and speak for the Association when the House is not in session. In turn, the Administration Committee of the Board serves as the executive committee of that body. All actions and decisions made by the Administration Committee are reported to the Board, which in turn regularly reports its actions and decisions on matters of policy to the House for final approval. In this way the entire membership of the House is kept fully advised as to the affairs of the Association and remains in charge of its policies.

One of the major functions of the Board of Governors is to initially consider all ABA Section and Committee recommendations before they are submitted to the House of Delegates for formal action. The Board submits its recommendation or comment on each item to be presented to the House for final approval. This procedure is followed because many of the Section and Committee recommendations involve requests for expenditures of Association funds, and the Board is in the best position to know the condition of the Association's finances.

There are 17 Sections—and 50 standing and special committees—that regularly report to the House. Through its Budget Committee, the Board of Governors determines annually the budget allowance of each Section, Committee, and department of the Association.

The processes of electing a President of the American Bar Association as well as other general officers and three members of the Board of Governors each year puts principal responsibility on the state delegates—who are in turn elected by ABA members in their respective states.

Each February, in connection with the mid-year meeting of the House of Delegates, the state delegates meet in caucus to choose a nominee for President, Secretary, Treasurer, and three members of the Board of Governors. In even-numbered years, the state delegates similarly select a nominee for Chairman of the House of Delegates. Names of nominees chosen by the state delegates are then published in the American Bar Association Journal.

These nominees are formally elected by the House of Delegates at its subsequent meeting approximately six months later at the annual ABA convention. However, the Constitution of the Association makes provision for nominating other candidates by petition. Ordinarily, the nominees chosen by the state delegates are uncontested in the elections conducted in the House of Delegates.

#### *ABA Assembly*

For many years prior to the founding of the House of Delegates, the

Assembly of the American Bar Association served as the focal point of both social and business events. This was changed, however, with the rewriting of the Constitution in 1936—when the House of Delegates was established. Today the Assembly has been displaced by the House as the principal forum in which the policies of the Association are forged and executed.

The Assembly is composed of all members registered for the annual meeting. Meetings are devoted largely to programs of general interest, including those at which prominent speakers address the annual meeting on subjects of interest to the Bar.

Although policy-making decisions largely have been transferred from the Assembly to the House, the Assembly still receives and acts upon resolutions that may be submitted by any member of the ABA on the opening day of the annual meeting. Resolutions presented by individual members of the ABA are handled in the following manner:

Upon submission they are referred to the Resolution Committee which in turn reports its recommendation on each resolution to an open forum session of the Assembly. At this session the Committee report is open to floor debate. The Assembly then votes on each resolution, and those adopted are reported to the House for action of its delegates. The House thereupon approves, disapproves, or modifies the resolutions.

In the event the House doesn't adopt the resolution as submitted it must be returned to the Assembly, where a referendum of the members of the Association could be ordered.

At each annual meeting, the Assembly elects, by secret ballot of all ABA members in attendance, five Assembly delegates, no two of whom may be residents of the same state, to three-year terms in the House of Delegates. Nominations are made from the floor of the Assembly. The Assembly has 15 delegates in the House at all times, through this staggered-term arrangement.