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| **ABA Relations** |
| **Source:** MLA **Date:** May 3, 2002 **Committee:** [AMERICAN BAR ASSOCIATION RELATIONS](http://www.mlaus.org/committee-profile.ihtml?id=20)   **FORMAL REPORT OF THE COMMITTEE ON**  **AMERICAN BAR ASSOCIATION RELATIONS**    The following Report is presented to supplement the brief oral report that was given at the Association meeting on May 3, 2002.    **COMMITTEE MEETING**    The Committee met Thursday morning, May 2, 2001. Past President, Chet Hooper, the Immediate Past Chairman of the ABA Relations Committee invited Martha W. Barnett of Tallahassee, the Immediate Past President of the ABA to share her insights and thoughts with us. We were most delighted to have her present and the Committee members benefitted greatly from her presence. The Committee expressed their appreciation for her distinguish service to the ABA.    In addition many other aspects were discussed of the most recent House of Delegates meeting and future meetings of the House of Delegates.    **SUMMARY OF PROCEEDINGS OF THE HOUSE OF DELEGATES, PHILADELPHIA, PENNSYLVANIA FEBRUARY 2002**    The ABA House of Delegates met at the Philadelphia Marriott on Monday, February 4th and Tuesday, February 5th. The following is a summary of the major events.    I. **General**     * + Memorial Service. The Solicitor General of the United States, Ted Olson, was a major participant in the very moving 911 Ceremony. As you know, his wife was one of the victims. After this Memorial Service, he remained for most if not all of the House proceedings.      * + Financial condition of the ABA. I will not spend a great deal of time on going through the financial condition albeit sufficient to say when the Treasurer gave his report it appeared that there was a substantial deficit. How long this has been going on was not discussed. Discussion was given as to the raising of the dues. I heard no speculation as to the amount of the dues increase.      * + The President of ABA gave a speech.     II. **Legislative Issues For February 2001 to 2002**    I reviewed the policy issues and policy positions that have been taken by the ABA in years past, principally in three areas: Admiralty and Maritime Law, Insurance and Tort Law, and International Law. Some of these have been longstanding positions.     * + The admiralty and maritime issues are as follows:      * + - **Convention on Law of the Sea.** Recommend that the United States become a party to the 1982 Convention and to the Agreement Relating to Implementation of Part XI of the Convention, dated July 29, 1994. (94M302) 8/94.      * + - **Maritime Law.**Support federal legislation to ensure uniformity of maritime laws. 8/76.      * + - **Navigation Easements.**Support legislation to authorize the granting of irrevocable permits for structures within and beyond U.S. harbor lines, with just compensation required for taking or other action by the U.S. 2/68; 2/69.      * + - **State/Federal Jurisdiction.** Oppose the admiralty and maritime provisions of S. 1876 (92nd Congress), a bill to provide for the division of jurisdiction between state and federal courts. 2/72; 8/72.     Oppose impairment of the remedy of maritime attachment provided for in the Federal Rules of Civil Procedure. 8/72.     * + Insurance and Tort Law.     The issue and policy statements dated many years past and providing topics only are as follows:     * + - **Automobile Insurance**     - **Black Lung Compensation**     - **Domestic Violence**     - **ERISA and Private Right to Sue**     - **Health Care Reform**     - **Legal Service Malpractice Protection for the Coast Guard**     - **Long-Term Health Care Needs**     - **McCarran-Ferguson Act**     - **Medical Malpractice Tort Reform**     - **National Vaccine Injury Compensation**     - **Notification to Claimant by Insurer**     - **Offer of Judgments and Attorney Fees**     - **Price-Anderson Act**     - **Product Liability**     - **Radiation Injuries**     - **Tort Liability System**     - **Workers Compensation Adjudications**     - **Workers' Compensation**     - **Y2K Legislation**      * + International Law.     Most of these related to political, governmental or human rights matters. However, there were a few relating to arbitration rules and the U.N. Economic Commission, a Code of Ethics for arbitrators in commercial disputes in international situations, and foreign Arbitral Awards.     * + My Summary: No Policy Changes.     I detected no dramatic change in any of these policy provisions that have been in place in various times from five or six years to twenty-five years.    III. **Primary Matters Discussed at Meeting**     * + The ABA's Position on Detainees Incarcerated in Cuba or Elsewhere or "Justice to Terrorist" Resolution.     This position was debated for several hours. The basic premise of the Resolution was that due process should be afforded to these prisoners/detainees. Many delegates took the floor to content that captioned terrorists had to be provided due process and other remedies. Solicitor General Olson forcibly argued that the Government should be given a great deal of lee way in providing what treatment should be given since this had just been an ever changing situation that may well change in the future. A very prudent motion was made to table the resolution. It was narrowly defeated. 238-219. I voted for tabling. The resolution was approved. I voted against the resolution.    Subsequently a resolution was put forward that the ABA supported the Bush administration and the country's efforts in fighting terrorism. That was passed by a unanimous voice vote. However, the media coverage of the resolution damage was done.     * + Uniform Mediation Resolution Passed.      * + The House of Delegates voted to postpone consideration of a change in name of TIPS to Civil Trial and Insurance. 226-188.      * + Model Code of Ethics.     After the foregoing matters were discussed, the model Code of Professional Conduct was stressed. Much of this had been addressed in detail at the annual meeting in August of 2001. Much remained to be done. In August the House of Delegates approved the preamble through Rule 1.10.    This session continued on through Rule 8.5. Thereafter, certain amendments were attempted to matters that had previously been passed at other meetings, most of which amendments were defeated. These model rules and practice manual goes on for hundreds of pages. I found the most significant to our practice to be proposed Rule 7.4. When I was First Vice President of MLA we had a committee that was chaired by Grace Staring to look into "certification and specialization." At that time it is my recollection that the ABA had either dropped "admiralty" or was in the process of doing so as an area of specialization. However, we need not worry about this now since Rule 7.4: Communication of Fields of Practice and Specialization provides in the first sub-parts as follows:    (a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.    (b) A lawyer admitted to engage in patent practice before the United States Patent and Trade Mark Office may use the designation "Patent Attorney" or a substantially similar designation.    (c) A lawyer engages in admiralty practice may use a designation "Admiralty", "Proctor in Admiralty" or substantially similar designation.    The next meeting of the House of Delegates will be at the Marriott Wardman Park, Washington, D.C., August 12 to 13, 2002. Thank you for the privilege and opportunity of representing the MLA.    Respectfully submitted,    James F. Moseley, Chair |