

MINUTES

ALABAMA STATE BAR BOARD OF BAR COMMISSIONERS MEETING

Salons A-C, Grand Hotel
Point Clear, Alabama

Wednesday, July 20, 2005

1. CALL TO ORDER

President J. Douglas McElvy convened this meeting of the Alabama State Bar Board of Commissioners at 2:00 p.m. in Salons A-C of the Grand Hotel in Point Clear, Alabama. Commissioner Methvin gave the invocation.

2. ROLL CALL

The Secretary called the roll of the Commission and the following Commissioners were present:

Ronnie E. Keahey	Randall K. Bozeman	Louis C. Rutland
Cooper Shattuck	Alyce Spruell	William H. Broome
Nicholas B. Roth	Robert K. Jordan	Anthony A. Joseph
S. Greg Burge	Phillip W. McCallum	Maibeth J. Porter
Joseph A. Fawal	Robert E. Moorner	Carol H. Stewart
William A. (Pete) Short	Albert J. Trousdale II	Michael D. Knight
William M. Cunningham	Billy C. Bedsole	Celia J. Collins
Mary Margaret Bailey	Donald R. Jones, Jr.	Thomas J. Methvin
Sim Penton	James E. Williams	F. Michael Haney
K. Scott Stapp	John E. Medaris	Robert L. Bowers, Jr.
Joseph A. Morris	Everette A. Price, Jr.	Thomas B. Albritton
Harold Stephens	L. Thomas Ryan, Jr.	Richard J.R. Raleigh, Jr.
John E. Paluzzi	Kenneth E. White, III	Dan Warnes
Samuel N. Crosby	Marion E. (Tut) Wynne, Jr.	R. Blake Lazenby
Elizabeth Parsons	Roy W. Williams, Jr.	Robert H. Brogden
David T. Hyde, Jr.	Robert T. Meadows, III	Gerald R. Paulk
Wayman Sherrer	Walter E. McGowin	Claude E. Hundley III
Deborah Byrd Walker	Merceria Ludgood	Alicia F. Bennett
Pamela H. Bucy	Dawn Wiggins Hare	Kelly T. Lee

The following Commissioners were absent:

Phillip Henry Pitts	Oliver Kitchens	Edward P. Meyerson
Terry L. Butts	Charles R. Stephens, Sr.	Les Hayes
James H. Anderson	William H. Atkinson	John Kennemer
Roger Bedford, Jr.	Timothy D. Littrell	Jere C. Trent
David F. Law	Kyra Sparks	

Also in attendance were President-Elect Bobby Segall, Immediate Past President William N. Clark and President-Elect Designate Boots Gale. Staff members present included Tony McLain, Edward M. Patterson, Robert Lusk, Gil Kendrick, Diane Locke, Susan Andres, and Jeanne Marie Leslie.

3. **RECOGNITION OF NEW COMMISSIONERS**

President McElvy recognized the new Commissioners who were as follows:

S. Greg Burge, Birmingham
Replacing T. Dwight Sloan, 10th Judicial Circuit, Place No. 2

Joseph A. Fawal, Birmingham
Replacing Stephen A. Rowe, 10th Judicial Circuit, Place No. 7

Pete Short, Bessemer
Replacing George Higginbotham, 10th Judicial Circuit, Bessemer Cut-off

Albert J. Trousdale, II, Florence
Replacing Robert L. Gonce, 11th Judicial Circuit

Michael D. Knight, Mobile
Replacing Wes Pipes, 13th Judicial Circuit, Place No. 1

Mary Margaret Bailey, Mobile
New Position, 13th Judicial Circuit, Place No. 5

K. Scott Stapp, Demopolis
Replacing Taylor T. Perry, Jr., 17th Judicial Circuit

Robert L. Bowers, Jr., Clanton
Replacing Louis C. Colley, 19th Judicial Circuit

Everette A. Price, Brewton (returning to Commission)
Replacing Broox G. Garrett, Jr., 21st Judicial Circuit

Harold Stephens, Huntsville
Replacing Robert C. Gammons, 23rd Judicial Circuit, Place No. 1

John E. Paluzzi, Carrollton
Replacing John A. Russell, III, 24th Judicial Circuit

Tut Wynne, Fairhope
New Position, 28th Judicial Circuit, Place No. 2

Elizabeth S. Parsons, Pell City
Replacing William J. Trussell, 30th Judicial Circuit

Roger H. Bedford, Jr., Russellville
Replacing Benjamin H. Richey, 34th Judicial Circuit

Jere C. Trent, Athens
 Replacing Jerry Batts, 39th Judicial Circuit

Wayman G. Sherrer, Oneonta (returning to Commission)
 Replacing J. Robert Bentley, 41st Judicial Circuit

Walter E. McGowan, Tuskegee
 New At-Large Position

Claude E. Hundley, III, Huntsville
 New At-Large Position

Deborah Byrd Walker, Birmingham
 New At-Large Position

Merceria Ludgood, Mobile
 New At-Large Position

Alicia F. Bennett, Chelsea
 New At-Large Position

Kyra L. Sparks, Selma
 New At-Large Position

Pam Bucy, Tuscaloosa
 New At-Large Position

Dawn Wiggins Hare, Monroeville
 New At-Large Position

Kelly T. Lee, Elmore
 New At-Large Position

President McElvy stated that Roger Bedford, Jere Trent and Kyra Sparks were unable to attend the annual meeting.

4. APPROVAL OF THE MINUTES OF THE BOARD OF BAR COMMISSIONERS MEETING FOR MAY 20, 2005 AND JUNE 24, 2005 BOARD MEETINGS

President McElvy stated that the minutes of the Board of Commissioners meeting for May 20, 2005 and June 24, 2005, had been disseminated to the Board. He asked if there were any corrections, additions or deletions.

THERE BEING NO CORRECTIONS, ADDITIONS OR DELETIONS, COMMISSIONER BEDSOLE MOVED TO APPROVE THE MINUTES OF THE MAY 20, 2005 AND JUNE 24, 2005 BOARD MEETINGS. THE MOTION WAS SECONDED. THE MINUTES WERE APPROVED BY UNANIMOUS VOICE VOTE.

5. **PRESIDENT'S REPORT**

President McElvy stated that this was his last meeting as president. He thanked the Board of Bar Commissioners for their support and dedication. He stated that it had been a wonderful and rewarding experience with his many travels to local bar associations across the state. The Board expressed its gratitude with a standing ovation for President McElvy.

6. **SECRETARY'S REPORT**

The Secretary highlighted the 3rd quarter financial report. After reviewing the report, he asked if there were any questions. There were none. The Secretary concluded with remarks about the Commissioners' dinner later that evening.

7. **COMMUNICATIONS UPDATE, PROGRAMS UPDATE AND THE REPORT OF THE OFFICE OF GENERAL COUNSEL**

Mr. Patterson, Ms. Andres and Mr. McLain all gave brief reports on their respective departments.

8. **HISTORY AND ARCHIVES COMMITTEE REPORT**

President McElvy recognized Commissioner Everette Price as a member of the History and Archives Committee for a report. Commissioner Price reported on the meetings of the committee. He informed the Commission that efforts were underway to write a history of the legal profession in Alabama. He stated that the committee would be contacting lawyers and law firms across the state about helping to underwrite the cost of the project. Mr. Price also informed the Commission that the committee was working on an oral history project that would involve interviewing older members of the bar in order to preserve an oral history of the legal profession in Alabama.

9. **INSURANCE PROGRAMS REPORT**

President McElvy recognized Elizabeth Bookwalter, Chair of the Insurance Programs Committee for a report. Ms. Bookwalter gave a report on the activities of the committee especially in the area of health insurance. She explained that the bar no longer had an endorsed health insurance product due to the fact that the current carrier, New York Life, was withdrawing from writing associational policies. She stated that this would not affect those who are currently insured and continued to pay their premiums. She stated that efforts were underway to find a suitable replacement but in the interim information concerning health insurance providers as approved by the Department of Insurance in Alabama would be made available to bar members through the bar's Web site.

10. RATIFICATION OF MAIL BALLOT

President McElvy stated that because of a lack of a quorum at the June 24, 2005 special meeting, it was necessary to conduct a mail ballot for the action items on that meeting's agenda. He stated that the mail ballot votes on each of those items were overwhelmingly in favor of (1) electing John E. Paluzzi to fill the vacancy on the Board of Bar Commissioners for the 24th Judicial Circuit; (2) electing Richard T. Dorman, Melinda M. Mathews, Walter E. McGowan and James E. Williams as trustees of the Alabama Law Foundation; and (3) approving the Women's Section's nomination of Judge Phyllis S. Nesbit for the 2005 Maud McLure Kelly Award.

COMMISSIONER COLLINS MOVED TO RATIFY THE BALLOT MAILED TO THE BOARD OF BAR COMMISSIONERS FOR APPROVAL OF THE ACTION ITEMS FOR THE JUNE 24, 2005 BOARD MEETING. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

11. MEMORIAL RESOLUTIONS

President McElvy noted that three former bar presidents, Pat Richardson, Howell Heflin and Red Clark had died since the last annual meeting. He stated that it was customary for the Board of Bar Commissioners to adopt a memorial resolution honoring deceased past presidents. The memorial resolutions were as follows:

Resolution

WHEREAS, Patrick W. Richardson, former president of the Alabama State Bar, was born on October 5, 1925, and departed this life on November 14, 2004, in Huntsville, Alabama at the age of 79; and

WHEREAS, the Board of Bar Commissioners of the Alabama State Bar desires to recognize and memorialize his outstanding record of service as a prominent attorney and distinguished leader of the Alabama State Bar.

NOW, THEREFORE, BE IT REMEMBERED, that Patrick W. Richardson, who served this association nobly and well as Alabama State Bar President in 1969-1970, was born in Huntsville, Alabama, the son of a prominent attorney and circuit judge. He received his undergraduate and law degrees from the University of Alabama and became a member of the Alabama State Bar in 1948.

Following his graduation from law school, Pat joined his father's former law firm. He became an assistant county attorney in 1950 and held that position until 1967. Throughout his entire legal career, Pat was known as a tenacious advocate and a skilled attorney.

While still in law school, Pat, working with a group of community leaders, was the moving force in the establishment of an extension of the University of Alabama in Huntsville that would later become the University of Alabama Huntsville (UAH). Because he played a key role in the conception and founding of UAH, Pat was recognized as the "Father of UAH".

Pat served as the first president of the UAH Foundation from 1962 to 1973. He received the UAH Honorary Doctor of Laws Degree in 1976. He was also the recipient of the UAH President's Medal and the Distinguished Civic Service Award of the UAH Alumni Association.

Pat's philanthropic and community service work extended well beyond the UAH campus. He was instrumental in establishing Randolph School, and was the recipient of numerous civic awards including the James Record Humanitarian Award, the John Sparkman Award of Madison County and the University of Alabama Alumni Association Award. Moreover, Pat was recognized in resolutions in the House of Representatives of the Alabama Legislature and the United States Congress.

BE IT FURTHER REMEMBERED, that Patrick W. Richardson was a man of wisdom, dedication and loyalty. He leaves surviving him his wife Mary M. Richardson, two sons Dick and Jim, who are lawyers and four grandchildren.

NOW, THEREFORE, BE IT RESOLVED by the Board of Bar Commissioners of the Alabama State Bar meeting this day assembled that the life of Patrick W. Richardson be recognized as one of deep dedication to the Bar of this state, to his community and his family and his death represents a great loss to each.

BE IT FURTHER RESOLVED that this resolution be recorded in the permanent minutes of this association.

Resolution

WHEREAS, Howell T. Heflin, a former president of the Alabama State Bar, departed this life on March 29, 2005 in Tuscumbia, Alabama at the age of 83; and

WHEREAS, the Board of Bar Commissioners of the Alabama State Bar desires to recognize and memorialize his outstanding record of service to this state and nation as well as his leadership of the Alabama State Bar.

NOW, THEREFORE, BE IT REMEMBERED, that Howell T. Heflin, had a long and distinguished career in public service.

Howell T. Heflin was born on June 19, 1921 in Pullen, Georgia, the son of a Methodist minister. He graduated from Colbert County High School and received his undergraduate degree from Birmingham-Southern College in 1942. He entered the Marine Corps and began his service to this country during World War II as a United States Marine fighting in the Pacific theater. He was twice wounded and was awarded the Silver Star for his gallantry.

Following the war, Howell attended the University of Alabama School of Law and entered the practice of law in 1948. He practiced law for many years in his hometown of Tusculumbia where he distinguished himself as one of the state's premiere lawyers. He served his profession well and in many ways including serving as president of the Alabama Trial Lawyers Association and the president of the Alabama State Bar from 1965-1966.

During his tenure as state bar president, Howell organized the first Citizens' Conference which highlighted the need for reform of Alabama's antiquated judicial system. He was later elected to public office in 1970 as chief justice of the Alabama Supreme Court. During his tenure as chief justice, Howell crafted the judicial article which became a model for state court reform in other states. After his election to the United States Senate in 1978, Howell distinguished himself in the arena of national politics. His appointment as chair of the Senate Ethics Committee made him the first freshman senator to chair a committee in 76 years. This appointment early in his senate career was regarded as a sign of colleagues' respect for him and his background, and he lead investigations that took issue with the behavior of at least six of his fellow senators. During his 18 years in the Senate he was responsible for many noteworthy reforms to the federal judiciary including legislation that revamped the antiquated Bankruptcy Code.

Among the many awards he received during his long years in public service were being named Man of the Year by the *Progressive Farmer Magazine*, selected as the first recipient of the Sam W. Pipes Distinguished Alumnus Award bestowed by the Farrah Law Society and receiving the Alabama State Bar Board of Commissioners' Award in 2001 for his sustained contributions to the administration of justice.

BE IT FURTHER REMEMBERED, that Howell Heflin was a patriot, lawyer, jurist and statesman serving the people of Alabama for more than a quarter of a century. He leaves surviving him his wife, Elizabeth Ann Carmichael Heflin, and a son, Tom, who is a lawyer, and two grandchildren.

NOW, THEREFORE, BE IT RESOLVED by the Board of Bar Commissioners of the Alabama State Bar meeting this day assembled that the life of Howell T. Heflin be recognized as one of deep dedication to the Alabama State Bar, to this state and nation and that his death represents a great loss to all.

BE IT FURTHER RESOLVED that this resolution be recorded in the permanent minutes of this association.

Resolution

WHEREAS, James E. "Red" Clark, a distinguished and respected member of the Alabama State Bar departed this life on May 28, 2005, in Birmingham, Alabama at the age of 89 years; and

WHEREAS, the Board of Bar Commissioners of the Alabama State Bar honors his memory and recognizes his many contributions to the legal profession and as a distinguished leader of the Alabama State Bar;

NOW, THEREFORE, BE IT REMEMBERED, that James E. "Red" Clark was born April 20, 1916 in Sheffield, Alabama. Red attended Florence State Teachers College after which he enrolled at the University of Alabama. He received his undergraduate degree from the University of Alabama and the law school in 1941. Red soon joined George E. Yancey in what became the law firm of London, Yancey, Clark and Allen. He was senior partner of the firm for the last 25 years of his 45 years with the firm. Red pursued the practice of law with great passion and was widely considered one of the state's finest attorneys.

Red also served his chosen profession admirably. He served as president of the Alabama State Bar in 1967-1968, Regent of the American College of Trial Lawyers from 1971-1975, president of the Alabama Defense Lawyers Association, as a member of the Alabama Board of Bar Commissioners and as a board member of the Alabama Law School Foundation.

As an alumnus, Red was an avid supporter of the University of Alabama and was particularly proud of his record of attending every Alabama football game without exception for 37 years until his illness prevented his attendance. He was also a past member of the University of Alabama President's Cabinet and played an active role in the restoration of Denny Chimes.

Red is survived by three daughters, Sally Clark Bowers, Martha Marx Elovitz and Cecil Anne Clark; and eight grandchildren, all of Birmingham.

NOW, THEREFORE, BE IT RESOLVED by the Board of Bar Commissioners of the Alabama State Bar in its meeting this day assembled, mourn the death of James E. "Red" Clark whose exemplary legal skill, leadership and numerous contributions have made a positive and lasting impact on this state and our profession.

BE IT FURTHER RESOLVED that a copy of this resolution be recorded in the permanent minutes of this association.

COMMISSIONER PAULK MOVED THE ADOPTION OF THE MEMORIAL RESOLUTIONS HONORING FORMER BAR PRESIDENTS PATRICK RICHARDSON, HOWELL HEFLIN AND RED CLARK. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

12. VLP PEER REVIEW

President McElvy noted that the Access to Legal Services Committee which oversees the state's VLP program had recommended that the ABA Center for Pro Bono conduct a peer review of both the state and local programs. He stated the Center would cover the cost of the peer review, travel, lodging and meals. President McElvy remarked that the bar would be in charge of providing transportation assistance between sites.

COMMISSIONER BROOME MOVED TO AUTHORIZE THE ACCESS TO LEGAL SERVICES COMMITTEE TO PROCEED WITH REQUESTING A PEER REVIEW OF THE VLP PROGRAM BY THE ABA CENTER FOR PRO BONO. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

13. ALABAMA ASSISTANCE PROGRAM EVALUATION

President McElvy informed the Commission that the Lawyers Helping Lawyers Committee had also requested a peer review of the state bar's Lawyers' Assistance Program. He explained that although the three evaluators serve free of charge, the state bar must pay for their travel, lodging and meals during the evaluation. Mr. McElvy stated that the evaluation would be conducted through the ABA's Commission on Lawyers Assistance.

COMMISSIONER PRICE MOVED TO AUTHORIZE THE LAWYERS HELPING LAWYERS COMMITTEE TO PROCEED WITH REQUESTING AN EVALUATION FOR THE LAWYERS' ASSISTANCE PROGRAM BY THE ABA'S COMMISSION ON LAWYERS ASSISTANCE. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

14. 2005 HALL OF FAME SELECTION COMMITTEE REPORT

Commissioner Crosby reported on the activities of the Hall of Fame Selection Committee. He stated that the committee had nominated Harry Toulmin of Washington County in the category of attorneys deceased more than 100 years. He noted that Judge Toulmin was judge of the Superior Court for the Tombigbee District of Mississippi Territory which included the lands that later become Baldwin County, Alabama. Mr. Crosby further stated that Judge Toulmin was one of the first delegates to the first Alabama Constitutional Convention in 1819, was later elected as one of five circuit judges under the new Alabama Constitution and prepared the first digest of laws in the state of Alabama.

Commissioner Crosby then reported that in the category of attorneys deceased less than 100 years, the first nominee was the Honorable Hugo Black of Clay County. For the second nomination, Mr. Crosby explained that the committee had a tie vote after five ballots to nominate the Honorable Oscar W. Adams, Jr. of Birmingham and Mr. William Douglas Arant of Birmingham. Commissioner Crosby stated the committee recommended that the Commission suspend the rules in order to allow the selection of three instead of two attorneys in the category of attorneys deceased less than 100 years. He stated that the committee believed this was the best way to break the deadlock.

THE SELECTION COMMITTEE REPORT PRESENTED BY COMMISSIONER CROSBY NOMINATING HARRY TOULMIN OF WASHINGTON COUNTY IN THE CATEGORY OF ATTORNEYS DECEASED MORE THAN 100 YEARS AND REQUESTING A SUSPENSION OF THE RULES TO ALLOW THE SELECTION OF THREE ATTORNEYS IN THE CATEGORY OF ATTORNEYS DECEASED LESS THAN 100 YEARS SO AS TO INCLUDE THE HONORABLE HUGO BLACK OF CLAY COUNTY, THE HONORABLE OSCAR W. ADAMS, JR. OF BIRMINGHAM AND MR. WILLIAM DOUGLAS ARANT OF BIRMINGHAM, WAS SECONDED AND APPROVED BY VOICE VOTE.

15. MOTION TO ADJOURN UNTIL JULY 23, 2005

President McElvy noted that the hour was late and there was still additional business to be considered. He asked the pleasure of the Commission.

COMMISSIONER PAULK MOVED THAT WHEN THE COMMISSION ADJOURNED, IT WOULD ADJOURN UNTIL IMMEDIATELY AFTER THE GRANDE CONVOCATION ON SATURDAY, JULY 23, 2005. THE MOTION WAS SECONDED AND APPROVED BY VOICE VOTE.

16. NOMINATING COMMITTEE

President McElvy informed the Commission that he had asked Commissioner Paulk to chair the Nominating Committee. He stated that Commissioners Collins and Albritton had agreed to serve on the committee.

17. ADJOURNMENT

President McElvy asked if there was a motion to adjourn. A motion to adjourn was made and seconded. The motion was approved.