

State Bar Avoids Vote on Open Disciplinary Hearings

BY LAZAR EMANUEL

The House of Delegates of the New York State Bar Association has deferred a final vote on a resolution of the Association's Special Committee on Public Trust and Confidence which would have given the public greater access to disciplinary proceedings against lawyers.

The Committee had proposed an amendment to Judiciary Law 90(10), which presently provides that "all papers, records and documents...upon any complaint, inquiry, investigation or proceeding relating to the conduct or discipline of an attorney or attorneys, shall be sealed and deemed private and confidential." The proposed amendment would open these proceedings to the public upon a prima facie showing of misconduct. The standards for determining whether a prima facie showing has been met would be set by the Appellate Divisions.

In debating the proposal, the Delegates were divided between those who felt that greater public access would increase the public's confidence in the integrity of the profession and those who felt that lawyers facing charges would be irreparably damaged even if the charges were ultimately dismissed. One delegate argued that the public often confuses an accusation with guilt. Other delegates questioned whether the profession's image would really be enhanced by opening the proceedings. Supporters of the amendment argued that almost all complaints against lawyers are dismissed and that the few which are not dismissed almost always result in a finding of misconduct.

Instead of voting on the Committee's proposals, the Delegates adopted a resolution recommending adoption of uniform procedures and standards which would govern disciplinary proceedings throughout the State. This would substitute for the present system in which each of the four Judicial Departments operates under its own rules and procedures.