

CHAPTER 692

Print. 4069

Intro. 3719

IN SENATE

February 27, 1962

Introduced by Mr. BLOOM—(on the recommendation of the Joint Legislative Committee on Court Reorganization)—read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT

To amend the code of criminal procedure, the judiciary law and the county law in relation to the implementation, supplementation and clarification of those provisions of article six of the constitution, as approved and ratified by the people on the seventh day of November, nineteen hundred sixty-one, which concern the abolishment of the court of general sessions of the county of New York and the county courts of the counties of Bronx, Kings, Queens and Richmond and which concern the creation of the eleventh judicial district

*See Clauses 850-887 of Chapter 1895 for amendments to Code of Criminal Procedure*

Compared by *[Signature]*

APPROVED  
APR 11 1962

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PRINT NO. 4669

INTRO. NO. 3719

4/2/62

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- Conf. of Mayors
- County Officers' Assoc.
- Association of Towns

\_\_\_\_\_ Advisory Council on \_\_\_\_\_

\_\_\_\_\_ Joint Legis. Comm. on \_\_\_\_\_

County Reorganization  
Blom

- Put Co Bar Assoc
- Monroe Co. Bar Assoc
- Broome Co. Bar Assoc
- Tompkins Co. Bar Assoc
- Albany Co. Bar Assoc
- Spartanburg

D. L. ...

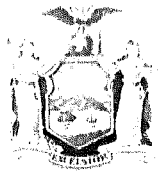
J. L. C. on Court Reorganization

S - 3719

Memo filed with

S - 3493

47



3719

THE SENATE  
STATE OF NEW YORK  
ALBANY

JEREMIAH B. BLOOM  
12TH DISTRICT

157 WEST 57TH STREET  
NEW YORK 19, N. Y.

April 6, 1962

Honorable Robert MacCrate  
Executive Chambers  
State Capitol  
Albany, New York

Re: Senate Intro. 3719  
Print 4069

Dear Sir;

Thank you for your request for my comments regarding the above legislation. This bill was introduced on the recommendation of the Joint Legislative Committee on Court Reorganization and proposes to accomplish the purposes indicated on the face of the bill.

This bill was thoroughly considered by the Committee as well as the Staff that proposed it and to my knowledge it encompasses the purposes thereof and will carry out the intent of Article VI of the Constitution of the State of New York.

It is my pleasure to recommend passage of this legislation.

Very truly yours

*Jeremiah B. Bloom*  
JEREMIAH B. BLOOM

jbb:rhc



STATE OF NEW YORK  
 DEPARTMENT OF LAW  
 STATE OFFICE BUILDING  
 80 CENTRE STREET  
 NEW YORK 13, N. Y.  
 TELEPHONE CORTLANDT 7-9800

S-3719

LOUIS J. LEFKOWITZ  
 ATTORNEY GENERAL

MEMORANDUM FOR THE GOVERNOR

Re: Senate Int. No. 3719, Pr. No. 4069  
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This bill amends numerous sections of the Code of Criminal Procedure, the Judiciary Law and the County Law to reflect the abolition of the Court of General Sessions and County Courts in New York City, and reflect the creation of the Eleventh Judicial District in Queens County.

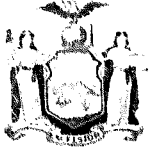
This bill takes effect September 1, 1962, and is wholly new.

I find no legal objection to this bill.

Dated: April 12, 1962

Respectfully submitted,

*Louis J. Lefkowitz* 348  
 LOUIS J. LEFKOWITZ  
 Attorney General



FRANCIS BERGAN  
PRESIDING JUSTICE

STATE OF NEW YORK  
SUPREME COURT APPELLATE DIVISION  
THIRD DEPARTMENT

ALBANY COUNTY COURT HOUSE  
ALBANY 7, NEW YORK

S-3719

April 6, 1962

M E M O R A N D U M

TO: Hon. Robert MacCrate

RE: Senate Intro. 3719, Pr. 4069 - An Act to amend the code of criminal procedure, the judiciary law, and the county law in relation to the implementation, supplementation and clarification of those provisions of article six of the constitution, as approved and ratified by the people, on the seventh day of November, nineteen hundred sixty-one, which concerns the abolishment of the court of general sessions of the county of New York, etc.

On behalf of the Association of Supreme Court Justices, I recommend approval of the above-entitled measure.

  
Francis Bergan

THE ASSOCIATION OF THE BAR  
OF THE CITY OF NEW YORK  
42 WEST 44TH STREET  
NEW YORK 36

SPECIAL COMMITTEE ON THE REORGANIZATION OF THE COURTS

JAMES H. HALPIN, CHAIRMAN  
120 BROADWAY  
NEW YORK 5, N. Y.  
WORTH 2-2000

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April 12, 1962

S 3719

Robert MacCrate, Esq.  
c/o Governor Nelson A. Rockefeller  
Governor's Office  
Albany, New York

Re: S. Int. 3719, Pr. 4069, Approved

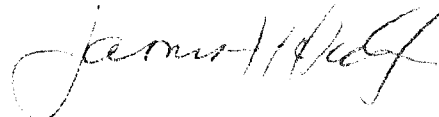
Dear Mr. MacCrate:

Our Committee has examined Senate Print No. 4069, Introductory No. 3719, in relation to the carrying out of those provisions of Article Six of the Constitution concerning abolition of the Court of General Sessions and the County Courts of the Bronx, Kings, Queens and Richmond Counties, and the creation of the Eleventh Judicial District.

Our Committee had previously reported to the Albert Committee under date of March 1, 1962 on the subject of this legislation. For your information a copy of our report is enclosed.

Our Committee is of the opinion that the enabling legislation incorporated in the above-mentioned bill is adequate to carry out that part of the constitutional amendment mentioned above and accordingly the bill is approved.

Very truly yours,



James H. Halpin, Chairman

JHH: rgs  
Encl.

The Association of the Bar  
of the City of New York  
42 West 44th Street

SPECIAL COMMITTEE ON THE REORGANIZATION OF THE COURTS

Report on the Proposed Legislation Submitted by  
the Joint Legislative Committee on Court  
Reorganization Relating to the Merger  
of the Courts of General Sessions,  
the County Courts and the Supreme  
Court (Report III)

This Committee has examined and considered the Report and Legislative Proposals of your Committee. In the view of this Committee the Joint Legislative Committee has provided adequate enabling legislation for that part of the constitutional amendment which directs that the General Sessions and County Courts be abolished and that their functions and personnel be transferred to the Supreme Court. The detailed suggestions of this Committee are set forth in the memorandum attached hereto, containing also this Committee's legislative proposals:

The portion of the constitutional amendment which transfers the functions of the major criminal courts to the Supreme Court is, of all the court reorganization provisions, the most nearly self-executing. This is because the work of those criminal courts is now to be integrated into an existing court - the Supreme Court within the City of New York.

There are several matters to which this Committee invites your attention now. Among these are the qualifications of clerks to justices; the way in which the Supreme Court will take on and execute its added burden of criminal business; and the handling of probation in the Supreme Court.

In proposing amendments to the Judiciary Law the Joint Legislative Committee has omitted to insert any qualifications for law clerks to Justices. This Committee strongly believes in a statutory requirement that law clerks to all judges be members of the bar. In the case of Supreme Court Justices this seems imperative. It is appreciated that your Committee adopted the policy of making at this time only those statutory changes deemed required to execute the constitutional policy. Nevertheless this Committee urges the enactment now of a requirement that, in the Supreme Court, Justices' law clerks must be lawyers.

Confronted with handling of the criminal cases in the General Sessions and County Courts of the City of New York, the Supreme Court has faced two mutually exclusive recommendations --

that it create a new Criminal Division separate and apart from its Civil Division, and that it create a Criminal Term comparable to its Special and Trial Terms. Your Committee has chosen the proposal for Criminal Terms within the framework of the present operations. This Committee approves your choice because no matter how flexible separate Civil Divisions and Criminal Divisions might be intended to be, they would make for the very kind of separation of judicial functions, the very duplication of personnel, and the very inflexibility of administration, which have created the necessity for court reorganization in the first place. Just as the United States Judges in the Southern District of New York are assignable to both civil and criminal calendars, the goal in the State courts should be a body of Supreme Court Justices qualified to dispose of all types of causes and assignable wherever they are needed.

The vitally important function of probation is at the present time largely subdivided by courts. Your Committee has proposed amending the Code of Criminal Procedure so as to require the Appellate Divisions of the First and Second Judicial Departments to establish rules - which apparently will be at least city-wide - regulating probation procedures and the powers and duties of probation officers. To further this desirable reform, this Committee urges that the statute provide also for the assignment and reassignment of probation personnel among any of the counties within these Judicial Departments, and eliminate any residence requirements.

Subject to the adoption of the foregoing recommendations and the other points made in the attached memorandum, this Committee supports and approves your Committee's proposals in its Report III.

Respectfully submitted,

SPECIAL COMMITTEE ON THE  
REORGANIZATION OF THE COURTS,  
THE ASSOCIATION OF THE BAR  
OF THE CITY OF NEW YORK

James H. Halpin, Chairman

March 1, 1962

MEMORANDUM OF THE  
SPECIAL COMMITTEE ON THE REORGANIZATION OF THE COURTS

RE: JOINT LEGISLATIVE COMMITTEE'S  
REPORT III (GENERAL SESSIONS,  
COUNTY COURTS AND ELEVENTH JUDI-  
CIAL DISTRICT)

Amendment to Code of Criminal Procedure

Albert Committee § 50 (b) transfers all pending actions and proceedings on September 1, 1962 in the general sessions and county courts "to a term or terms of the supreme court for the trial of criminal actions and proceedings held in the county or counties in which such actions or proceedings were pending." It further directs the appellate division for the First Department to order such transfers within the First Department, and the appellate division for the Second Department to order them within the Second Department.

We note that thus the Albert Committee's proposal compels each appellate division within the city to exercise the powers to establish terms of the supreme court (conferred by Judiciary Law § 86) through creating a separate term or terms for criminal trials and proceedings in each county within the city of New York which is also within the department.

While not required by the constitution, this mandate accords with the practical plans and recommendations of a number of the incumbent judges and justices for administering the criminal case load now to be added to the existing criminal jurisdiction of the supreme court. The alternative proposal was the creation of a criminal division within the supreme court; among other disadvantages this alternative would have restricted the transferability of supreme court justices from one term of the supreme court to another. We concur in the Albert Committee's rejection of the concept of divisions and its recommendation that the criminal business be handled in criminal terms of the court.

Albert Committee § 11 (p. 3) lists the courts of original criminal jurisdiction in the State; omitted from the list is the criminal court of the city of New York.

Reference to Albert Committee Report V (at p. 33) shows that the Albert Committee in its legislative bill for the same § 11 of the Code of Criminal Procedure lists the criminal court of the city of New York as an 8th subdivision. Thus the omission in Report III seems to result from a mere adherence to purity of content - Report III does not relate to creation of the criminal court of the city of New York, while Report V does. We suggest

that the criminal court of the city of New York become the 5th subdivision of § 11 of the Code of Criminal Procedure, replacing the court of general sessions of the county of New York.

Albert Committee § 22, subdivision 8 (at p. 5), sets forth as new matter some awkward language:

"...to include for the supreme court in and for a judicial district which includes a county in the city of New York, the power to reduce, increase or change the terms or amounts of bail as set by a committing magistrate sitting in the same district."

This language "to include" and so forth is found in the original Code of Criminal Procedure; e.g., subdivision 11 of § 39 (at p. 6). Nevertheless, we recommend that subdivision 8 of § 22 be made to read:

8. To let to bail any person committed, before and after indictment found upon any criminal charge whatever[.]; with the power, in any judicial district which includes a county in the city of New York, to reduce, increase, or change the terms or amounts of bail as set by a committing magistrate sitting in the same judicial district.

Albert Committee § 938 (p. 9) authorizes each of the appellate divisions in the city of New York to appoint chief probation officers and deputies and staff with salaries fixed by the court. It then goes on to state:

"The [court] two appellate divisions may adopt such rules, not inconsistent with laws relating to probation, regulating the method of procedure in relation thereto and governing the powers and duties of probation officers appointed by them as in their judgment they deem proper."

We make three comments: (a) this has the effect of merging the various probation offices and unifying them within appellate division departmental lines; (b) the Albert Committee seems to have directed that the two appellate divisions act in concert to adopt rules regulating probation procedures; this seems feasible, and we applaud it; (c) we recommend that the language descriptive of the rules to be adopted be amended so as to contemplate the assignment and re-assignment of probation officers to the supreme court in any county within the city of New York; for this purpose we recommend that the sentences above quoted be amended to read:

The [court] two appellate divisions may adopt such rules, not inconsistent with laws relating to pro-

bation, regulating the method of procedure in relation thereto and governing the powers and duties of probation officers appointed by them and their assignment and reassignment to the supreme court in any county in New York City as in their judgment they deem proper.

It also is desirable to delete the words "each of" before the words "said counties" on line 9 of Albert § 938 (p. 9) in order that the statute shall clearly permit the probation personnel appointed by each appellate division to be department-wide in authority; otherwise the section might be read as preventing a single probation department for each department of the appellate division.

The last words of Albert Committee §938 empower a probation officer or employee to

"reside in any county in the city of New York without forfeiting his office or employment."

This seems to reinstate by implication the recently repealed Lyons Law. We suggest that the final paragraph of § 938 be deleted.

Albert Committee § 961 (p. 10) seems awkward; it provides that the term "county court" includes the supreme court in the city of New York. Merely to correct this awkwardness we suggest amending the section as follows:

Wherever [The] the term "county court" [includes "the court of general sessions of the county of New York,"] is used it shall be deemed to refer to the supreme court in the city of New York wherever such reference [inclusion] does not conflict with other provisions of this code.

#### "Amendments to the Judiciary Law"

Albert Committee § 2 (courts of record) should substitute as subdivision 8 The criminal court of the city of New York. See the discussion herein at pages 3 - 5 supra.

Albert Committee § 86 (p. 12) makes no significant change in this statute. Upon consideration we deem the existing provisions adequate for coping with the newly expanded criminal jurisdiction of the supreme court.

Albert Committee §§ 92 and 140 (p. 13) simply conform to the constitutional mandate creating an eleventh judicial district.

Albert Committee § 140-a (p. 14) distributes the existing number of supreme court justices among the districts with provision for additional judges as the Legislature may have added them by August 31, 1962. This is all that can be done at the present moment. We are informed that the Governor has in preparation the legislation needed for the creation of additional supreme court judicial positions.

Albert Committee §§ 142, 144, and 145 (pp. 14-16) protect the compensation of judges coming from the present criminal courts into the supreme court and assure that justices in the new eleventh judicial district will receive the same salary treatment as justices whose salaries are now supplemented by the board of estimate of the City of New York.

Albert Committee § 157 (p. 16) follows the policy of Report III - to make the minimal changes necessary for the continued operation of the courts. The manifest reason for adopting this policy was to propose legislation in time for the current Albany session.

Fully appreciating the realistic basis for such policy, nevertheless, when it comes to the appointment of clerks to supreme court justices, this Committee urges immediate enactment of the principle that clerks to justices should be required to have membership in the bar.

We note that the enactment of such a requirement will call for revising several sections of the Judiciary Law by reason of a confusion in the present law between the terms "clerks" (§§ 157 and 273) and "confidential clerks" (§ 272).

Apparently § 272 has been interpreted as describing the clerks to the boards of justices in the second, ninth, and tenth districts, while §§ 157 and 273 are construed as describing both law clerks and bailiffs to the individual justices.

We recommend that the two categories be separated and that qualifications be prescribed for clerks to supreme court justices, especially that such clerks be members of the bar.

Albert § 290: We suggest that on line 2 of this section the words "New York city court act" be deleted and "New York city civil court act" be substituted.

Albert §§ 833, 835, and 836 (pp. 22 - 24) denominate the libraries by the names of the abolished general sessions and county courts in Kings, Queens, and New York counties. We suggest that

they be renamed "criminal term library of the county of" Kings, Queens, and New York respectively.

SPECIAL COMMITTEE ON THE  
REORGANIZATION OF THE COURTS  
OF THE ASSOCIATION OF THE BAR  
OF THE CITY OF NEW YORK

James H. Halpin, Chairman

March 1, 1962

TO: HON. ROBERT MAC CRATE

RE: SENATE INTRODUCTORY 3719, PRINT 4069

Recommendation: APPROVAL


53719

This bill implements court reorganization; provides for the abolition of the Court of General Sessions of the County of New York and the County Courts of the Counties of Bronx, Kings, Queens and Richmond; provides for the integration of the Court of General Sessions and the County Courts into the Supreme Court system; and also provides for the creation of a new "eleventh judicial district. The tenth judicial district would, by the terms of this bill, consist of the Counties of Nassau and Suffolk, and the eleventh judicial district would consist of the County of Queens. Absorption of personnel, libraries and stenographic forces into the new system is provided for. In general, provisions requiring uniformity are covered.

**provides**

This legislation ~~---A---~~ provides the details necessary to effectuate the area of court reorganization affecting the Supreme Court; the creation of the new eleventh judicial district is sound and helps to meet the conditions created by the rapid increase in population in the counties affected.

Approval is recommended.

  
\_\_\_\_\_  
Daniel Gutman

30-DAY BILL

SENATE

Introduced by:

ASSEMBLY

Pr: 4069

Mr. Bloom

Pr:

Int: 3719

Int:

Law: Code of Criminal Procedure  
Judiciary & County

Sections: Various Sections

Subject and Purpose: To amend the code of criminal procedure, the judiciary law and the county law in relation to the implementation, supplementation and clarification of those provisions of article six of the constitution... which concern the abolishment of the court of general sessions of the county of New York and the county courts of the counties of Bronx, Kings, Queens and Richmond and which concern the creation of the eleventh judicial district  
Division of the Budget recommendation on the above bill:

Approve: X Veto: \_\_\_\_\_ No Objection: \_\_\_\_\_ No Recommendation: \_\_\_\_\_

1. Purpose of bill: See above.

2. Summary of provisions of bill: This bill provides that:

- (a) The Court of General Sessions of New York County and the County Courts of Bronx, Kings, Queens and Richmond be abolished
- (b) The judges of these courts will become Supreme Court Justices in their respective districts
- (c) All operations of the abolished courts be transferred to the State courts
- (d) The county of Queens shall be separated from the tenth district and become the eleventh district
- (e) Eleven justices of the present twenty-five in the tenth district be transferred to the new eleventh district.

3. Prior legislative history: None.

4. Arguments in support of bill: This bill implements the provisions of the new article six of the Constitution.

5. through 7.: None known.

8. Budget implications: There are both regular State purposes and first instance fiscal implications in the portion of this bill which converts the justices of the General Sessions Court and the County Courts of New York City to supreme court justices. These costs are:

	State Purposes-Regular	First Instance
1962-63 (7 months)	\$282,000	\$7,875 $\frac{1}{2}$
1963-64	483,000	13,500 $\frac{1}{2}$

Date: \_\_\_\_\_ Examiner: \_\_\_\_\_

Disposition:

Chapter No:

Veto Date:

1/ This only reflects the additional compensation of the Richmond County judge who becomes a Supreme Court Justice on September 1, 1962. Although Sections 273 (2) and 315(1) of the Judiciary law specify that supporting positions in the second district will be paid directly by the counties, the State presently is paying in the first instance for supporting staff of the existing Supreme Court Justice from Richmond County in the second district. Depending on whether custom or law is followed, this figure may increase. If the State does pay in the first instance for the supporting staff, Section 233 of Senate Intro. 3493, Print 4500, relating to the transfer of non-judicial personnel of abolished courts may affect the amount of staff transferred.

The creation of the eleventh judicial district has no regular State purposes budgetary implications. However, there will be changes in the first instance appropriations from which the present supporting staff of the tenth district is paid. Under the provisions of Section 315 of the Judiciary Law as amended by this bill, and Section 273 of the same law, as amended by Senate Intro. 3933, Print 4722, (which as of this date is before the Governor for signature) the cost of the supporting staff in the eleventh district will be paid by Queens County directly. This will result in a savings of approximately \$177,900 in the 1962-63 first instance appropriation for the Judiciary and a full year decrease of \$305,000 in 1963-64.

Any additional costs, either in regular state purposes or in the first instance, will be paid from the appropriation of \$500,000 included in the Judiciary supplemental appropriation. This appropriation is entitled "For services and expenses, including maintenance and operation, to effectuate purposes of Article 6 of the Constitution and for the cost of transition to an operation of the unified court system . . ."

*Attest L. Marshall*

*Thomas A Flood*  
 Thomas Flood

Date: April 12, 1962

Examiner: Thomas Flood

Disposition:

Chapter No.:

Veto Date:

*12*

5-3719

# CITIZENS UNION OF THE CITY OF NEW YORK

A UNION OF CITIZENS, WITHOUT REGARD TO PARTY, FOR THE PURPOSE OF SECURING THE  
HONEST AND EFFICIENT GOVERNMENT OF THE CITY OF NEW YORK

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5 BEEKMAN ST., NEW YORK 38, N. Y.

TELEPHONE BARCLAY 7-0342



April 17, 1962

Honorable Robert MacCrate  
Counsel to the Governor  
The Capitol  
Albany 1, New York

Subject: Sen. Int. 3719, Print 4069  
(Bloom)

Dear Mr. MacCrate:

Citizens Union approves the above bill,  
which carries out the provisions of the Constitutional  
amendment adopted last fall consolidating the Supreme,  
General Sessions and County Courts and provides the new  
judges required for the new 11th Judicial District.

Yours sincerely,

EUGENE R. CANUDO  
Legislative Representative

ERC:bc



S 3711

**LEAGUE OF WOMEN VOTERS**  
OF NEW YORK STATE

131 EAST 23rd STREET • NEW YORK 10, N.Y. • OR 7-5050

Mrs. John Fitcher, President

LEGISLATIVE MEMORANDUM

S.I. 3719, P. 4069

Abolition of Court of General Sessions and County  
Courts in New York City and Creation of the  
Eleventh Judicial District

This bill amends and corrects existing law insofar as the abolition of the abovementioned courts and the creation of the eleventh judicial district is concerned. No effort has been made to rewrite or change these laws beyond conforming them technically to the new Judiciary Article and accompanying legislation. We regret that this opportunity to bring some order and clarity out of a maze of illogical, confused and conflicting statutory provisions affecting the court system, has not been grasped. We refer in particular to such sections of the Judiciary Law as those dealing with the compensation of Supreme Court justices, administration of law libraries, and the publication of calendars and notices in the first and second departments.

We are particularly disturbed by the retention of those sections of the Judiciary Law granting powers of appointment of non-judicial personnel to the judges of certain courts. We assume that section 29 (d) of Article 6 of the Constitution and Section 222 of the Judicial Administration Act which state that the final determination of court costs should be made by the appropriating body, will eliminate any question of "mandated" costs in connection with these appointments. Nevertheless we feel that the continuation of these numerous appointive powers in the courts must of necessity interfere greatly with the development of a rational personnel structure in these courts.

Under this bill the Appellate Divisions will be given the power to appoint probation officers and staff for the Supreme Court in their respective departments (Sec. 19). New York City has taken a large step forward in consolidating the probation services for the lower courts. We trust that this provision will not result in the creation of two separate probation services in the Supreme Court in New York City.

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**THE SURROGATES' ASSOCIATION**  
of the State of New York

S 3719

April 6, 1962

Hon. Robert MacCrate  
Executive Chamber  
State Capitol  
Albany 1, New York.

In re: Senate Intro. 3719  
Print 4069  
by Mr. Bloom

Dear Mr. MacCrate:

In reply to your request for our comments on the above numbered bill, it appears that the bill does not in any way affect surrogates, surrogate courts or the administration of estates or testamentary trusts. We are, therefore, not in a position to make any helpful comment on the bill.

Yours very truly,

*Paul Powers*  
PAUL J. POWERS,  
Secretary.

PJP/mb

# Monroe County Bar Association

313 Powers Building

Rochester 14, New York

LOcuer 2-8910

April 16, 1962

PRESIDENT  
E. JAMES HICKEY  
16 MAIN STREET EAST

SECRETARY  
HYMAN G. GOULD  
30 STATE STREET

TREASURER  
ANTHONY C. LABUE  
48 EXCHANGE STREET

EXECUTIVE SECRETARY  
MILFORD J. WHEELER  
313 POWERS BLDG.

ADDRESS REPLY TO:

HON. ROBERT MAC CRATE  
Executive Chambers  
State Capitol  
Albany 1, New York

Re: Senate Intro  
1783 3494  
3947 3727  
3376 3918  
3641 3949 ✓  
3719 ✓  
3934


Dear Sir:

This will acknowledge receipt of your request for my comments and recommendations concerning the above legislation.

This legislation has been reviewed by our Legislative Committee and other appropriate committees of the Association but because of the press of time it has not been reviewed by our Board of Trustees.

However, I can advise you that on the basis of the report submitted to me by our Committees there is no opposition to this legislation.

Very truly yours,

  
E. JAMES HICKEY  
President

EJH: id1