LEGISLATIVE INTENT IN NEW YORK STATE

Materials, Cases and Annotated Bibliography

Second Edition

by:
Robert Allan Carter
Senior Librarian

The New York State Library
December 2001

This publication is a revised edition of the same title published September 1981. The original was part of the "Sources" series published by the Legislative and Governmental Services Unit of the New York State Library. The series is no longer published

THE UNIVERSITY OF THE STATE OF NEW YORK

Regents of The University

CARL T. HAYDEN, *Chancellor,* A.B., J.D.	Elmira
ADELAIDE L. SANFORD, *Vice Chancellor,* B.A., M.A., P.D.	Hollis
DIANE O'NEILL MCGIVERN, B.S.N., M.A., Ph.D.	Staten Island
SAUL B. COHEN, B.A., M.A., Ph.D.	New Rochelle
JAMES C. DAWSON, A.A., B.A., M.S., Ph.D.	Peru
ROBERT M. BENNETT, B.A., M.S.	Tonawanda
ROBERT M. JOHNSON, B.S., J.D.	Huntington
ANTHONY S. BOTTAR, B.A., J.D.	North Syracuse
MERRYL H. TISCH, B.A., M.A.	New York
ENA L. FARLEY, B.A., M.A., Ph.D.	Brockport
GERALDINE D. CHAPEY, B.A., M.A., Ed.D.	Belle Harbor
ARNOLD B. GARDNER, B.A., LL.B.	Buffalo
CHARLOTTE K. FRANK, B.B.A., M.S.Ed., Ph.D.	New York
HARRY PHILLIPS, 3rd, B.A., M.S.F.S.	Hartsdale
JOSEPH E. BOWMAN, JR., B.A., M.L.S., M.A., M.Ed., Ed.D	Albany
LORRAINE A. CORTÉS-VÁZQUEZ, B.A., M.P.A.	Bronx

President of The University and Commissioner of Education
RICHARD P. MILLS

Chief Operating Officer
RICHARD H. CATE

Deputy Commissioner for Cultural Education
CAROLE F. HUXLEY

Assistant Commissioner for Libraries and State Librarian
JANE M. WELCH

TABLE OF CONTENTS

PART I
LEGISLATIVE INTENT OF STATUTES

A. INTRODUCTION

Legislative intent, also referred to as legislative history, (see, however, Sega v. State, 60 NY 2d 183, 1983, which states that "while legislative intent is the great and controlling principle…, it should not be confused with legislative history, as the two are not coextensive") is a relatively recent tool in statutory construction both in New York State and Federal courts. Jacobstein and Mersky define the term as "…the documents that contain the information considered by the legislature prior to reaching its decision to enact a law. A legislative history of a statute is consulted in order to better understand the reasons for the enactment of a statute. Since an act of the legislature is prospective and is not always drafted with the most precise language, courts constantly look to the intrinsic aids in determining the intent of a legislative body. (Fundamentals of Legal Research, 1977, p. 167).

Probably the greatest problem a researcher has to face in determining the legislative intent of a New York State statute is the paucity of materials to work with. Committee reports, debates, hearings, etc. which are so readily available on the Federal level are usually nonexistent on the State level. Although this subject will be discussed more fully later in this monograph, it should be understood that anyone accustomed to researching legislative intent on the Federal level will be disappointed when attempting the same thing with New York State documents.

B. HISTORY OF LEGISLATIVE INTENT IN NEW YORK STATE

Surprisingly enough, the concept of determining the legislative intent of a New York statute dates back to the early part of the nineteenth century, if not earlier. However, it should be noted that, almost without exception, until around 1920 this intent was to be found not through the use of extrinsic material but in the actual words and/or by considering the times in which the statute was enacted. As early as 1818 Chief Judge Smith Thompson of the New York Supreme Court stated:

> That in construing a statute, the intention of the legislature is a fit and proper subject of inquiry, is too well settled to admit of dispute. That intention, however, is to be collected from the act itself, and other acts in pari materia. It may not, however, be amiss to state and keep in view some of the established and well-settled rules on this subject.
>
> Such construction ought to be put upon a statute as may best answer the intention which the makers had in view. And this intention is sometimes to be collected from the cause or necessity of making the statute, and sometimes from other circumstances; and whenever such intention can be discovered, it ought to be followed with reason and discretion, in the construction of the statute, although such construction seem contrary to the letter of the statute. Where any words are obscure or doubtful, the intention of the legislature is to be resorted to in order to find the meaning of the words. A thing which is within the intention of the

> makers of a statute is as much within the statute as if it were within the letter; and a thing which is within the letter of the statute, is not within the statute, unless it be within the intention of the makers. (People ex rel. Attorney General v. Utica Insurance Company, 15 Johnson's 358, 380-381)

Although Judge Thompson does not resort to extrinsic materials to discern the intent of the Legislature, several aspects in the decision should be emphasized since they are still relevant today: 1) legislative intent is established and well-settled; 2) the circumstances surrounding the passage of the statute should be considered, including the history of the times and the defect(s) which the statute was to remedy; 3) intent should be resorted to when the meaning is Aobscure or doubtful; and 4) when there is a contradiction between the intent of the Legislature and the letter of the statute, the former should prevail. (See the discussion of the plain meaning rule later in this chapter). Holmes v. Carley, 31 NY 289, 290 (1865) is an early decision from the Court of Appeals which is almost an exact replica of Judge Thompson rlier opinion. See also Billings v. Baker, 28 Barb. 343, 377 (1859).

A stronger case for the use of legislative intent, citing the inherent ambiguity of the written word, was argued in an 1837 opinion by Chancellor Reuben Walworth of the Court of Correction of Errors (predecessor of the Court of Appeals):

> The imperfections of human language, and the different modes of expression in use among different individuals, even of the same state of government, to convey their ideas, wishes and intentions of the minds of others, render it morally impossible that the language of any general legislative provision, which is intended to govern future cases, can be made so certain and explicit as not to admit of a doubt as to its proper interpretation or legal construction, when it is afterwards to be applied to the peculiar circumstances of some cases which may arise and may be brought before the judicial tribunals for decision, in reference to such a statute. For this reason it has been found necessary to establish a system of legal hermeneutics, or fixed principles of interpretation and construction of legislative enactments, to ascertain the meaning and intent of the law giver .... And he bids fairest for a just interpretation, who keeps constantly in view the mischiefs or defects which existed in the former laws on the same subject; the remedies which the statute has provided to cure them; how far these remedies are proper, and what sense appears most congruous to its subject matter and most agreeable to equity. (Mayor, etc. of New York v. Lord, 18 Wend. 126, 129-130.)

Probably the case which is most often cited by New York jurists to establish the legitimacy of legislative intent in Judge Theodore Miller's 1885 decision in People ex rel. Wood v. Lacombe, 99 NY 43, 49-50, 1 N.E. 599. Although it is reproduced here because of its historical significance, it is hard to overlook its similarity to the Thompson decision almost seventy years before:

> In the interpretation of statutes, the great principle which is to control is the intention of the legislature in passing the same, which intention is to be ascertained from the cause or necessity of making the statute as well as other circumstances. A strict and literal interpretation is not always to be adhered to, and where the case is brought within the intention of the makers of the statute, it is within the statute, although by a technical interpretation it is not within the letter. It is the spirit and purpose of a statute which are to be regarded in its interpretation; and if these find fair expression in the statute, it should be so construed as to carry out the legislative intent, even although such construction is contrary to the literal meaning of some provisions of the statute. A reasonable construction should be adopted in all cases where there is a doubt or uncertainty in regard to the intention of the lawmakers.

Although cases dealing with specific instances of the use of extrinsic materials in determining legislative intent will be discussed in later chapters, the following post-1920 citations illustrate its relevance in New York State courts in this century:

In the interpretation of statutes, the spirit and purpose of the act and objects to be accomplished must be considered. The legislative intent is the great and controlling principle. Literal meanings of words are not to be adhered to, or suffered to defeat the general purpose and manifest policy intended to be promoted; all parts of the act must be read and construed together for the purpose of determining the legislative intent, and if the statute is ambiguous and two constructions can be given, the one must be adopted which will not cause objectionable results or lead to absurdity. (People v. Ryan, 274 NY 149, 152, 8 N.E. 313, 1937)

In construing a statute its purpose may not be ignored. Rather, its object should be the polar star of the court, when the course has become obscured by decisions where, manifestly, the port for the time has been lost. (Failing v. National Bond and Investment Corporation, 168 Misc. 617, 621, 6 NYS 2d 67, 1938)

Thus, in passing upon matters of legislative intent and competence, the courts do not merely read the bare end product of the legislative labors. They read the statute in the light of the state of facts which were found by the Legislature, and which prompted the enactment. Then, and only then, can the courts intelligently approach their assigned tasks. (St. Nicholas Cathedral v. Kedroff, 302 NY 1, 31, 96 N.E. 2d 56, 1950)

Before discussing specific instances in which extrinsic materials are used to establish legislative intent, it should be emphasized that there has never been unanimous agreement on either the state or Federal levels as to its efficacy as a research tool. The plain meaning rule, which states that words of a statute can only have their unadorned dictionary meaning without resorting to tortured construction, was especially prevalent in the nineteenth and early part of the twentieth centuries, and is still invoked today.

Any attempted construction of an act purporting to be based upon the intention of the Legislature which departs from the words and language employed is mere speculation and must necessarily vary as much as the opinion of different minds as to what the law should have been. (People ex rel. Smith v. Gilon, 66 App. Div. 25, 29, 72 NY Supp. 1041, 1901)

In construing a statute the words thereof must be given their plain and ordinary meaning .... (People ex rel. McEachron V. Bashford, 128 App. Div. 351, 355, 112 NY Supp. 502, 1908)

The words of a statute are to be taken in their ordinary and familiar sense. The court is not at liberty to obtrude into a statute a condition or qualification not found therein. It cannot speculate upon the intention of the legislature where the words are clear, and to construe an act upon its own notions of what ought to have been enacted. (People v. Weinstock, 27 NY Cr. R. 53, 63, 140 NY Supp. 453, 1912)

A later opinion reflects the suspicion which some New York jurists had, and may still have, for the use of legislative intent even after it had become an accepted tool of statutory construction:

> Legislative intent is a chimera of our jurisprudence to be pursued with little assurance of success by any but a court of last resort. (Compare People v. Ryan, 274 NY 149, revg. 248 App. Div. 236). The blazes on the trail of such pursuit are numerous and frequently conflicting. Reference is often made to Athe general purpose and history of the statute. (Matter of Schinas, 277 NY 252, 259.) Those acquainted in any considerable measure with the practical workings of the legislative process know that many phases and aspects of the general purpose and history of a given legislative enactment are and necessarily will be entirely outside the information supplied to the construing court. The machinery to supply the same is wholly lacking. Often such facts and aspects constitute the motivating force in the inception of a bill and its ultimate passage. Therefore, a decision involving the construction of a statute may necessarily turn upon facts which are not before the court in a form recognized as legal proof. This situation presents a strong argument for a rule of construction that would limit the court to an examination of the words employed and their context. (Hutton v. Heitzmann, 171 Misc.1023, 1024-1025, 14 NYS 2d 234, 1939)

A corollary to the plain meaning rule which is still cited often enough to become an accepted canon of statutory construction states that legislative intent should be looked for only when a statute is ambiguous. As early as the mid-nineteenth century Judge William F. Allen of the Court of Appeals stated:

> It is, beyond question, the duty of courts, in construing statutes, to give effect to the intent of the law-making power, and seek for that intent in every legitimate way. But in the construction, both of statutes and contracts, the intent of the framers and parties is to be sought, first of all, in the words and language employed, and if the words are free from ambiguity, and doubt, and express plainly, clearly, and distinctly, the sense of the framers of the instrument, there is no occasion to resort to other means of interpretation. It is not allowable, to interpret what has no need of interpretation, and when the words have a definite and precise meaning, to go elsewhere in search of conjecture, in order to restrict or extend the meaning. (McCluskey v. Cromwell, 11 NY 593, 600-601, 1854)

Two opinions from the same court over a hundred years later succinctly echo the opinion of Judge Allen:

This court has declared on numerous occasions that where the language of a statute is without ambiguity, and the meaning unequivocal, there is no necessity for resort to rules of construction....(New Amsterdam Casualty Co. v. Stecker 3 NY 2d 1, 6, 163 NYS 2d 626, 143 N.E. 2d 357, 1957)

We have often held that, if the language of a statute is plain and unambiguous, there is neither need nor warrant to look elsewhere for its meaning. (Roosevelt Raceway, Inc. v. Monaghan, 9 NY 2d 293, 304, 213 NYS 2d 729, 174 N.E. 2d 71, 1961)

Unfortunately, a counsel's ambiguity may be a judge's clarity, or vice versa (for example, see Matter of Rathscheck, 300 NY 346, 350-351, 90 N.E. 2d 887, 1950 in which a section of a legislative report is declared irrelevant because the statute in question is Aplain and clear≅). The topic of when and when not to use legislative intent was discussed in an extensive five-part article ACourts and Law Making≅ in December 8-12, 1958 New York Law Journal by Charles D. Breitel, who at the time was Associate Justice of the Appellate Division of the New York State Supreme Court and was later Chief Justice of the Court of Appeals. Judge Breitel argues that the degree of interpretation should be proportionate to the degree of generality within the particular law in question.

C. SOURCES OF LEGISLATIVE INTENT

1. Memoranda

a. Governors' Bill Jackets

When a bill passes both houses of the Legislature and is awaiting the Governor's approval or veto, the Governor's counsel collects memoranda and letters from legislators (especially the sponsoring legislator's introductory memorandum giving his or her justification for introducing the bill), legislative committees, temporary commissions, administrative agencies, bar associations, lobbying groups, etc. discussing the pros and cons of the bill. If the Governor approves the bill the material is put in a Governor's bill jacket according to the chapter number.

Bill jackets exist for 1905 (partially) and 1921 to the present. The Governor's Counsel's Office keeps the original jacket for approximately one year after the end of the session, when they are transferred to the State Archives, who films and distributes them to other libraries. The State Archives keeps all the original bill jackets.

The following is a list of agencies who have bill jackets, with their holdings, addresses, phone numbers, and other pertinent information:

New York State Archives and Records Administration
Research Services Unit
Cultural Education Center
Albany, New York 12230
(518) 474-8955; FX: (518) 473-9985
refserv@unix6.nysed.gov
Holdings: 1905 (partial), 1921- hard copy

Policy: Private sector must prepay. All New York State agencies, including the Legislature but excluding the Governors Office, must pay, but vouchers can be submitted instead of prepayment. No jackets will be transmitted by fax.

New York State Library
Reference Services Unit
Cultural Education Center
Albany, New York 12230
(518) 474-5355; FX: (518) 474-5786
refserv@mail.nysed.gov
Holdings: 1905 (partial), 1921-1958 (microfilm); 1959-1974 (microfiche); 1975-1982 (microfilm); 1983- (microfiche)

Policy: There is no charge to State agencies for the first thirty-three pages; after that there is a charge per page. Rush orders are available for private sector requests for an extra charge; there is no charge for State agencies. Jackets can be faxed for a maximum of fifteen pages. If desired, jackets will be sent by Federal Express and charged to the client's Federal Express account. Fiche/fiche is another option.

New York Public Library
Science, Industry and Business Library
188 Madison Avenue
New York, New York 10016
(212) 592-7200, FX: (212) 592-7082
express @nypl.org
Holdings: same as New York State Library

Policy: Bill jackets are transmitted via NYPL Express. Charges are based on same day, next day, or regular service. They can be sent by fax or by e-mail.

Governors Legislative Secretary
Executive Chamber
State Capitol, Room 225
Albany, New York 12224
(518) 474-7182
Holdings: bill jackets for the previous year

Policy: Bill jackets for the previous year are made available after the Legislature convenes in January, and are sent to the State Archives approximately a year later. There is a charge for the requests from the private sector, but New York State government agencies are not charged. Fax and e-mail requests are not accepted, nor are jackets sent by fax. Jackets cannot be viewed on site.

New York Legislative Library
State Capitol, Room 336
Albany, New York 12248
(518) 455-4000
Holdings: same as New York State Library

Policy: Service is limited to New York State legislators and their staff.

New York Legislative Service
299 Broadway, 2nd Floor
New York, New York 10007
(212) 962-2826; FX: (212) 930-0800
nylegal@nyxfer.blythe.org
Holdings: same as New York State Library. They also compile their own bill jackets for laws passed during the current session. They include the sponsor's memorandum and any other material they can find.

Policy: Charges are based on membership status. Jackets can be sent by fax.

Appellate Division Law Library
525 Hall of Justice
Rochester, New York 14614-2182
(716) 530-3259 FX (716) 530-3271
rysmith@courts.state.ny.us
Holdings: same as New York State Library

Policy: See their website at http://www.courts.state.ny.us/ad4/

State University of New York at Buffalo
Charles B. Sears Law Library
Box 60110
Buffalo, New York 14260-1110
Attn: Interlibrary Loan
(716) 645-6765; FX: 716-645-3860
jamondo@acsu.buffalo.edu
Holdings: same as New York State Library

Policy: They take fax requests, but not phone requests. Requests other than through NYLINK are charged.

New York State Supreme Court Library
92 Franklin Avenue
Buffalo, New York 14202
(716) 852-0712
Holdings: 1966-1995

Policy: On site only, except for extenuating circumstances. However, they will loan bill jackets for one week to judges and attorneys.

Nassau County Supreme Court Library
100 Supreme Court Drive
Mineola, New York 11501
(516) 571-3883
Holdings: same as New York State Library

Policy: With some exceptions, bill jackets must be examined on site.

Albany Law School
Schaffer Law Library
80 New Scotland Avenue
Albany, New York 12208
(518) 445-2338; FX (518) 472-5842
mwood@mail.als.edu
Holdings: 1974-

Policy: Fax and e-mail requests are accepted. Charges, etc. depend on the requester.

Hofstra University
Law Library
Hempstead, New York 11550
(516) 463-5908
Holdings: 1950-1958, 1975-1982

Policy: Bill jackets must be used at the library.

Syracuse University School of Law
H. Douglas Barclay Law Library
Syracuse, New York 13244-1030
(315) 443-9560; FX: (315) 443-9567;
amdirubb@law.syr.edu
Holdings: same as New York State Library

Policy: No charge if handled via NYLINK. Fax and e-mail requests are accepted, and they will fax bill jackets.

New York State Supreme Court Library
500 Court House
Syracuse, New York 13203
(315) 435-2063; FX: (315) 435-2758
syrlaw@pppmail.appliedtheory.com
Holdings: 1980-1986

Policy: No charge for either interlibrary loan or direct requests. Jackets are not faxed.

New York University Law Library
Interlibrary Loan
40 Washington Square
New York, New York 10012
(212) 998-6302; FX: (212) 995-3477
Holdings: 1959-

Policy: No charge for NYU requests. Others are charged a flat fee per title, regardless of the pages. They will send fiche/fiche.

Governors' bill jackets are the most requested and at the same time the least understood source of extrinsic materials on legislative intent in New York State. Contrary to the belief of the vast majority of the New York State bar, bill jackets do not contain committee reports, hearings, or debates. As stated earlier, bill jackets contain only memoranda and letters. A second misconception, related to the first, is that the Governor=s bill jacket is the sole repository for legislative intent. As will be seen later in this chapter, this is not always true. Occasionally a committee will publish a report, or reports, giving a section-by-section analysis of a body of law which is more detailed and revealing than anything in the bill jacket for that law. A few examples are the reports of the Temporary State Commission on the Law of Estates (also known as the Bennett Commission) explaining the new Estates, Powers and Trusts Law (L. 1966, Chap. 952); the six reports of the Advisory Committee on Practice and Procedure concerning the Civil Practice Laws and Rules (L. 1962, Chap. 308); and the Annual Reports, Research Reports, and annotated tentative drafts of the Joint Legislative Committee to Revise the Corporation Law explaining the Business Corporation Law (L. 1961, Chap. 855).

While sometimes limited or even useless, bill jackets are nevertheless important, since they often contain the only available material on legislative intent. They are especially important when only one or two sections of a particular law are amended or added, and, conversely, become less helpful in regard to extensive revisions. They are also useful when ascertaining what individual, agency, committee, or group was the primary motivator for the bill.

The researcher should also remember that the worth of a jacket varies from one to the other. One may be a seemingly bottomless well of information concerning the enactment of a certain law, while the next may not contain a single memorandum. In addition, almost every jacket contains irrelevant memoranda, and in some instances all the memoranda may be useless.

b. Governors' Veto Jackets

Veto jackets from 1905 and 1926 through 1958 are on microfilm and are arranged by the introductory bill number. Jackets from 1961 through 1965, 1970 (partial) and l973-1974 are on microfiche and arranged by bill number, albeit without the Assembly or Senate designation. Unfortunately, the bill is not included with this part of the collection. The jackets from 1975 through 1982 are on microfilm, arranged by veto number; and from 1983 through 1995 they are on microfiche, by veto number. The New York State Library and the New York Public Library have the microform collection of the veto jackets. The State Archives houses the original copy of the entire collection, and thus should be contacted regarding gaps in the microform collection from 1965 to the present.

Veto jackets should be consulted when a bill is approved subsequent to a Governor's veto in a previous year.

c. Recall Jackets

Recalls were bills which passed both houses, were sent to the Governor, and, at the request of either the Governor or the Legislature, were sent back to the Legislature, ostensibly to correct a minor defect in the bill. If it was never returned to the Governor, the memoranda were collected in a recall jacket. Recalls from 1938 through 1954 are on one reel of microfilm. The rest are scattered, usually at the end of the veto jackets for that particular year. The collection ends in 1993, when the State's Court of Appeals declared the practice unconstitutional (King v. Cuomo, 81 NY2d 247)

d. New York State Legislative Annual.

Published since 1946 by the New York Legislative Service, 299 Broadway, New York, N.Y. 10007, it contains introductory memoranda and Governors' approval memoranda. While not as complete as the Governor's bill jacket, the Legislative Annual omits much of the chaff which is in the former and includes only those memoranda which are most pertinent for documenting legislative intent. Occasionally memoranda will be included in the Legislative Annual and not in the Governor's bill jacket. Because it is relatively inexpensive and easy to maintain, the Legislative Annual should be in the collection of any library which frequently researches legislative intent in New York State.

e. McKinney's Session Laws of New York.

Originally published in 1951 by West Publishing Co. (now West Group), it includes select memoranda from all three branches of government. See sections 4.6, 4.c and 4.d for discussions of annual reports included in this collection.

f. New York Statutes

Published since 1976 by Lawyers' Co-operative Publishing Co., it is very similar to McKinney's above.

g. Sponsors' Memoranda.

Beginning in 1983, the Legislative Library has collected, and filmed, the introductory memoranda of almost every bill introduced in the Assembly and Senate. A duplicate of this collection has been given to the State Library. The holdings are from 1983-1990 and 1997-present.

h. Assembly and Senate Websites

Both the Assembly (http://www.assembly.state.ny.us) and Senate (http://www.senate.state.ny.us) websites include introductory memoranda for many bills introduced during the current session.

Although one would think that the number of instances in which memoranda are cited to determine determine legislative intent would make their relevance indisputable, such is not the case. A general rule which is often invoked by New York judges is that relevant materials should have been written before the Legislature considered the bill, thus theoretically having been available to individual legislators when its merits were being discussed and eventually voted upon. A significant decision invoking this concept was written by Court of Appeals Judge Stanley H. Fuld in 1955:

> Reliance is placed upon the views expressed by the assemblyman who introduced the bill in 1952, but those views cannot serve as a reliable index to the intention of the legislators who passed the bill. It is sufficient to note that they were stated, not in the course of debate on the floor of the legislature, but in a memorandum submitted to the Governor after the passage of the bill, and there is no showing that the other legislators were aware of the broad scope apparently intended for the bill by its sponsor. Matter of Delmar Box Co., 309 NY 60, 67, 127 N.E. 2d 808.

This decision is important because, with the exception of the introductory memorandum, most of the memoranda in a Governor's bill jacket are written after the Legislature has passed the bill and sent it to the Governor.

A contradiction to the Delmar Box Company decision may possibly be found in the concept that the Governor, through his power to approve or veto legislation, is part of the legislative process (see Subsection 5 on speeches and memoranda of the Governor for a brief discussion of Four Maple Drive Realty Corp. v. Abrams and other relevant cases). If this idea is accepted, wouldn't memoranda submitted to him after the Legislature approved a bill but before he approved or vetoed the legislation be considered relevant for determining legislative intent?

Another decision which would seem to lessen the importance of memoranda was rendered in Recreation Lines Inc. v. Public Service Commission, 7 A.D. 2d 20, 23, 179 NYS 2d 1001: "In support of the contention of the respective parties, they refer to certain memoranda submitted to the Legislature and the Governor recommending his signature… Such memoranda are merely an aid to construction." In this particular instance Judge J. Clarence Herlihy decided against the construction of the petitioners based on legislative intent in favor of the determination of the Public Service Commission.

2. Committee Reports

a. Temporary Commissions, Joint Legislative/Select Committees, Legislative Standing Committees, etc.

When one mentions committee reports, visions arise of a New York State version of the U.S. Serial Set containing reports from Senate and Assembly standing committees and conference reports of a bill as it advances through the legislative process. Unfortunately, nothing could be further from the truth. New York State legislative standing committees do not issue written reports as a bill advances out of committee, and the Legislature rarely resorts to a conference system to resolve differences on a particular bill. However, occasionally standing committees and sub-committees have issued reports on specific topics, and these are often valuable sources of legislative intent on a particular bill or as an indication of general legislative policy in a particular area.

New York State has some parallels to the U.S. Serial set. The Assembly and Senate Documents series was published from 1831 to 1918, and includes reports that run the gamut from important legal documents (e.g. The Final Report on the Civil Code by the Commissioner's on Practice and Reading, 1850 Assem. Doc. 16), to historically significant reports (e.g. the report of the Special Committee to Investigate the Indian Problem of the State of New York, 1889 Assem. Doc. 51), to the ridiculous (e.g. the report of the Select Committee on the Petition of Citizens of New York, Relative to Dr. Sewall's Pathology of Drunkenness, 1843 Assem. Doc. 33). Also included are the annual reports of such state agencies as the Office of the Comptroller, the Department of Insurance, and the Board of Health. All the items in the Assembly and Senate Document series are available on mirofiche from the State Library, and on microfilm from William S. Hein & Co.

To search for reports in these two series, see Robert Allan Carter's Annotated Lists and Indexes of the New York State Assembly and Senate Document Series, 1831-1918. This three-volume set includes "separate" documents (i.e. not part of a series), most of which have a brief annotation; a subject index to these separate documents; indexes to special legislative and executive committees by key word in title and by committee chairmen (there were no chairwomen during this time period); lists of legislative reports on individiual persons, geographic names, and private corporations, institutions, schools, societies, etc; annual reports by official state agencies and unofficial or local governmental agencies, etc; and, least important of all, lists of reports by provision, produce, and merchandise inspectors.

In addition, there are several other official finding aids to reports of standing committees in the nineteenth century. A series of five indexes were issued by the Legislature under the general title of New York Legislative Document Index and cover the periods 1777-1857 (prepared for the Senate by T.S. Gillette), 1777-1865 (prepared for the Senate by Ornon Archer), 1777-1871 (prepared for the Assembly by Walter A. Cook), 1777-1877 (prepared for the Senate by Charles R. Dayton) and 1842-1854 (prepared for the Senate by William H. Bogart; also Senate Document 1855 no. 33). Each volume is arranged by subject and includes the Senate or Assembly document number for each report listed.

The successor to the Assembly and Senate Document series was the Legislative Documents series, which was published from 1919 to 1976. It includes annual reports from joint legislative committees, temporary state commissions and executive agencies, as well as messages of the governors. With some exceptions, it does not contain reports of standing legislative committees

or reports by governors' committees. A tool for finding these documents is Robert Allan Carter's The New York State Legislative Document Series, 1919-1976. Published by the New York State Library in 1986, this seven-volume set is an annotated list of reports by the committees, etc. listed earlier, indexes to these reports by subject, key word in title, and chairpersons, and lists of annual reports by official State government agencies and groups in the private sector.

An earlier guide to these reports is the Cumulative Index to Joint Legislative Committees and Selected Temporary Commissions and Alphabetical List of Chairman and Vice-chairman Thereof, 1900-1950, and a 1950-1965 Supplement.

An obvious tool for researching reports issued since the demise of the Legislative Documents series in 1976 is the State Library's on-line catalog. Coincidentally, it was about this time that the State Library decided to put greater emphasis on cataloging State documents than had been done in the past. Although the catalog can be used to find reports issued before the mid-1970's, it should be noted that cataloging was not as all-inclusive as it is today.

Before continuing with the discussion of reports, some caveats should be emphasized. The first is that, for one reason or another, not all reports are included in the Legislative Document series. For instance, one of the most important reports by a New York State agency in the twentieth century, the 1919 Report on Retrenchment and Reorganization in the State Government by the State's Reconstruction Commission, which eventually became the basis for the present form of New York State government, was not included in the Legislative Document Series. Curiously, two insignificant reports by the same commission on military training for boys under 18 (1919) and food production and distribution (1920) were designated as legislative documents. Many of the Moreland Act reports (ad hoc bodies who, at the request of the Governor, investigate malfeasance by state governmental bodies) were never included in the Legislative Document Series.

A second problem is that, contrary to New York State law (Printing and Public Documents Law, section 12) and generally accepted policy, the State Library does not get all the documents of State agencies. This is usually due to (1) ignorance of the law (2) a desire for secrecy or (3) the belief that posting a report on the Internet precludes any responsibility to the New York State Library. In regards to (3), denying the State Library copies of a report means that the Library's depository program for distributing documents to other libraries in the state and across the country has been ignored, and subject access to the reports has been denied.

Cases in which committee reports have been cited to help determine legislative intent are as numerous as the cases cited earlier for memoranda. As early as 1884 Chief Judge William Ruger of the Court of Appeals ruled that: "While the construction given by the Commissioners of the [Penal Code] is not deemed controlling authority on the question of its interpretation, it is yet entitled to high consideration in determining the meaning and intent of the statute" (People v. Conroy, 97 NY 62, 70). Similarly, in Famborille v. Atlantic, Gulf and Pacific Co., after quoting a 1910 report of the Commission to Inquire Into the Question of Employer's Liability, it was held that: "The Legislature of 1910, to which this report of the Commission was made, evidently adopted the views of the Commission, as the Legislature thereupon enacted Chapter 352, which followed the precise wording of the act proposed by said commission in its report." (155 App. Div. 833, 840, 841, 140 NY Supp. 529).

The value of committee reports in deciding legislative intent, and the importance of legislative intent per se in statutory construction was exemplified in 1911 when Justice Clarke

cited a 1908 report to the Legislature in his dissenting opinion in People ex rel. Barone v. Fox (144 App. Div. 611, 625, 626, 129 NY Supp. 646); this dissent was upheld and the majority decision reversed in 202 NY 616, 96 N.E. 1126. Another early case is People v. Charles Schweinler Press, 214 NY 395, 404, 108 N.E. 639 (1915): "Thus at the time this was adopted there was before the legislature the report of a commission created by it to consider and report on this subject … We then come to the query whether such facts, evidence and information furnished a sufficient reason for action by the legislature and justified the statute which was adopted, and I think the answer must be in the affirmative."

In connection with the earlier discussion of the Delmar Box Company case, it is interesting to note that in some instances the judge, when citing a particular report, would emphasize that the document was issued before the Legislature had acted on the bill in question. "After reviewing the history and background of the DOR [Discharge on Own Recognizance], the Judiciary Committee then recommended to the Assembly an express authorization for the DOR. The Legislature, therefore, had before it the history and background of the DOR together with the case law prior to enactment of its successor, the present ACD [Adjournment in Contemplation of Dismissal]. People v. Hurt, 78 Misc. 2d 43, 45, 355 NYS 2d 728. See also Broederick v. City of New York, 295 NY 363, 369, 67 N.E. 2d 737; Matter of Stolz, 145 Misc. 799, 800, 260 NY Supp. 906; and Matter of McGarry, 155 Misc. 467, 469, 280 NY Supp. 202.

However, as with memoranda, one can always find cases in which judges either limited or struck out the use of committee reports in legislative history. The stricture against using extrinsic materials when the meaning of the law is plain and simple was stated by Judge Frederick Collin in 1916 (Woolcott v. Shubert, 217 NY 212, 221, 111 N.E. 829): "The Supreme Court of the United States has declared the rule that the formal reports of the legislative committees relating to a bill in the course of progress are competent sources from which to discover the meaning of the language employed in a statute (McLean v. United States, 226 U.S. 374, 380; Lapina v. Williams, 232 U.S. 78, 90), but cannot be resorted to for the purpose of constructing a statute contrary to its plain terms. (Penn R.R. Co. v. International Coal Mining Co., 230 U.S. 184, 199)". See also dissenting opinion of Judge Kruse in Lehigh Valley Railroad Company v. Canal Board, 146 App. Div. 151, 165, 130 NY Supp. 978 (1910) and Pearl Street Development Corp. v. Conduit and Foundation Corp, 50 A.D. 2d 767, 377 NYS 2d 62.

A problem which has often been cited by critics of legislative intent is that the opinions of a few legislators should not be indicative of the intent of the Legislature as a whole. This is reflected in a 1976 State Supreme Court opinion which rejected the relevance of a report by the legislative fiscal committees recommending that certain office holders and programs be abolished. Noting that these items were not specifically deleted when the subject appropriations bill was passed by the Legislature, Judge John T. Casey ruled that: "In the exercise of due judicial caution, the intent of a few committee members should not be considered the act of the entire legislative branch of government unless the contrary clearly appears." (New York Public Interest Group v. Carey, 86 Misc. 2d 329, 332, 383 NYS 2d 197). This problem of intent of a few legislators versus the intent of the entire Legislature will be discussed later in the sections on legislative hearings and debates.

b. Revisers' Notes

Nineteenth-century precursors of committee reports were the "revisers' notes", which were explanations of amendments by statutory revision commissions who were periodically appointed by the Legislature to revise the statutes where necessary. Since most of the labors of

these commissions have been superseded by subsequent reenactment of the laws, their practical significance in statutory construction diminishes year by year. However, occasionally a law which was originally written by a statutory revision commission will still be in effect, in which case any explanation by the commission would be significant.

Of historical importance is the fact that revisers' notes were among the earliest examples of the use of extrinsic materials to determine legislative intent. The initial resistance of the judiciary to this practice was related by John W. Edmonds in his introduction to Statutes at Large of the State of New York, July 1, 1862:

> In the original report of the Revisers to the Legislature they incorporated notes setting forth their reasons for the enactments proposed by them. These notes were characterized by great learning and research and were highly valued by the Legislature and by the profession. So much so indeed, that the Revisers in their second Edition felt themselves compelled to publish them, and I have always regarded the second Edition as the most valuable of all for that reason among others.
>
> The lawyers would cite those notes as evidence of what the Statutes meant and, strange as it may appear! It is nevertheless true, that the Courts set their faces against this citation. They were impelled to that, by the consideration, often expressed by them, "that though the Revisers so intended, the Legislature might have had a different intent."
>
> The profession however, have all along felt that in those notes, they have often found, in the language of Lord Coke: "the very lock and key to set open the windows of the Statute," and they have persisted in referred to them until at length in the lapse of time, the Courts have ceased their repugnance to hearing them quoted, and it has become quite common for even our Judges to refer to them.
>
> I cannot persuade myself that this is not right. I have therefore inserted in this compilation such of the notes as would be calculated, in the eye of good sense, to throw light on the true meaning of the Statues.
>
> (pp. xv-xvi)

The two primary committees to revise the statutes in the nineteenth century were the Revisers of the Statutes (1826-1828) and the Commissioners of Statutory Revision (1890-1892).

Another committee, the Commissioners to Revise the Statutes, which labored during the middle to late 1870's, only had its proposed Code of Civil Procedure enacted into law.

Abstracts of the annotations of the Revisers of the Statutes, whose proposals were enacted into law in 1827 and 1828, can be found in the third volume of the Second Edition (1836) of the Revised Statutes, pp. 421-863 (see the discussion by Mr. Edmunds above). Unlike the Committee's 1828 report, the abstracts are conveniently arranged in the order of the statutes' arrangement in the 1836 Revised Statutes.

The Commissioners of Statutory Revision issued voluminous reports for 1890 (1891 Sen. Doc. 38) and 1891 (1892 Sen. Doc. 10).

One of the earliest cases in which revisers' notes were used to determine legislative intent was James v. Patten, 6 NY 9, 14 (1851) in which Judge Alonzo C. Paige ruled: "When the latter chapter was examined and passed, the legislature had the notes of the revisers before them which explained the distinction between the words signed and subscribed; and, I think, we must presume that the word 'subscribed' was adopted in reference to its meaning as defined by the revisers." Note that, as was seen earlier in cases such as People v. Hurt, the value of revisers' notes is enhanced by the fact that they were submitted to the Legislature before the bill was enacted.

There are no examples of a general revision of the State's statutes in the twentieth century (the Board of Statutory Consolidation's 1909 seven-volume work was strictly a reformatting of the statutes, with no substantive revision), and, given the breadth and complexity of modern laws, it is almost certain that there will be no such endeavor in the twenty-first century.

Examples of revisers' notes for a particular section of the law are too numerous to mention. However, it is interesting to note that the revisers' notes of the Temporary State Commission to Revise the Penal Law and Criminal Code regarding the 1964 and 1968 study bills for those two laws are the best sources of legislative intent for what eventually became the Penal Law (L.1965 Chap. 1030) and the Criminal Procedure Law (L.1970 Chap. 996). In both cases the Governor's bill jackets are practically worthless, and the annual reports for 1965 and 1968 (the last year the Commission issued a report) are not much better.

3. Reports of Administrative Departments

Administrative (or executive) departments are often the originators of legislation, and, in rare cases, a separate report may accompany the proposal. Unfortunately, these reports were not usually included in the Legislative Documents series. Thus, often the only ways of finding these reports are through the State Library's catalog or a mention of a report in the Governor's bill jacket. An outstanding example of this source of legislative intent is Insurance Law Revision of the State of New York: Tentative Draft, 1937 by the Department of Insurance. This 537-page report, with section-by-section annotations, was followed in 1938 by an unannotated study bill and two supplemental reports. This proposal resulted in the formation of the Joint Legislative Committee on Revision of Insurance Laws. The Committee held extensive hearings on the Insurance Department's proposal, and in 1939 introduced a bill which was finally enacted as L.1939 Chap. 882. Most people researching the 1939 Insurance Law revision rely on the Governor's bill jacket for L.1939 Chap. 882; the more industrious consult the Committee's sparse 1938 and 1939 reports, but very few use the best source of legislative intent for L.1939 Chap. 882, i.e. the 1937 Tentative Draft report of the Insurance Department.

4. Annual Reports

a. Administrative Departments

The annual reports of administrative departments are another source of legislative intent that are often overlooked. Depending on the depth of the report, a department may include a discussion of legislation proposed by that body during that particular year, as well as a discussion of legislation enacted during the previous year. The annual reports of the Department of Insurance and the Superintendent of Banks are good examples of this source of legislative intent.

Annual reports of administrative departments were usually included in the Assembly/Senate and Legislative Documents series. Carter's indexes to these series can be used to ascertain the applicable number. Another source is Adelaide Hasse's Index of Economic Material in Documents of the States of the United States: New York 1789-1904, originally published in 1907 by Carnegie Institution of Washington, and reprinted in 1965 by Kraus Reprint Corporation. Not only does Hasse cover a different time period than Carter, but she also indexes material within the annual report.

b. Law Revision Commission

In 1934, the Legislature added Article 4-A to the Legislative Law creating the Law Revision Commission (L. 1934 Ch. 597). Among its duties was "to examine the common law and statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" (Legislative Law, Section 72(1)). The Commission issued annual reports which, from 1935 to 1969, were distributed in hard cover and included proposed bills, an explanation and justification for the Commission's recommendations, and special studies performed for the Commission. After 1970 these annual reports were issued in soft cover and include only the Commission's recommendations with accompanying justification. The Law Revision Commission ceased in 1995. A recently reestablished Law Revision Commission has (as of April 2001) issued two studies on the Uniform Commercial Code.

Generally speaking, reports of the Law Revision Commission are the best sources in the State Library for legislative intent, since the Commission's discussions went into great detail. Unfortunately, it only recommended about twelve amendments a year.

While the actual recommendations of the Law Revision Commission are an excellent source for legislative intent, some caution should be taken when citing the special studies undertaken for the Commission by lawyers who are not members of the Commission. In Schwarz v. General Aniline and Film Corp., 305 NY 395, 402, 113 N.E. 2d 533 (1953), Judge Charles S. Desmond refused to consider such a study as indicative of legislative intent: "Appellant gets some comfort from a brief, equivocal footnote in a study, made by an attorney employed by the Law Revision Commission… But that was a mere comment by the writer of a study made for the commission, referring to a contention made, or which might be made, by somebody else that the section might be applicable in a criminal cause [sic]. There is nothing to indicate that the Legislature, or, indeed, the Law Revision Commission, ever had any such thing in mind." In the next paragraph Judge Desmond cites the Commission's official recommendation

to prove the purpose of the subject amendments. See also Duffy v. State of New York, 197 Misc. 569, 572, 94 NYS 2d 757 (1950).

Unfortunately, because the Commission's reports were included within their annual reports, they were not cataloged separately and, thus, there is no subject access to them in the catalog. One inadequate remedy is Carter's index to the Legislative Documents series, which treats each report separately. Two drawbacks to this are (1) Carter is not a professional cataloger and (2) researchers tend to use the catalog more than the index.

The reports of the Law Revision Commission have always been included in the Legislative Documents series (always as Legislative Document No. 65). Prior to 1970 a truncated version, which omitted the proposed bill and the special study, was reprinted in McKinney's Sessions Laws of New York. After 1970 the full (i.e. shortened) reports were included. They were also included in Consolidated Law Service's New York Statutes since it was first published in 1976.

c. Judicial Conference

Based on a recommendation by the Commission on the Administration of Justice in New York State (see Leg. Doc. 1934 (No. 50, pp. 34-39), the Legislature in 1934 established the Judicial Council. "It will serve as an official body to collect data and statistics; it will act as a clearing house of ideas and will recommend to the Legislature advantageous changes in the conduct of the business of the courts" (Public Papers of Herbert H. Lehman, 1934, p. 82). In 1955, its name was changed to the Judicial Conference. The first eight annual reports of the Conference (i.e. 1955-1962) were entitled the Annual Report of the Judicial Conference; from 1962/1963 to 1977) the title was the Report of the Administrative Board of the Judicial Conference.

During the period from 1934 to 1977, the annual reports of the Judicial Council, the Judicial Conference, and the Administrative Board of the Judicial Conference were issued as separate entities, and were also included in the Legislative Documents series.

In addition to the statistical sections, the Judicial Council's reports had legislative recommendations under the headings of Organization, Justice and Administration of the Courts; Practice, Procedure and Evidence; and Criminal Justice (later changed to Administration of the Criminal Law). The Council also had a separate section called Studies, or Supporting Studies, which conveyed more lengthy discussions on specific topics. Beginning with 1956, the reports of the Judicial Council's successor, the Judicial Conference, contained short descriptions, with justifications, of legislation sponsored by the Conference, along with longer supporting studies similar to those by the Judicial Council. In 1964, the Conference initiated the "Report…on the CPLR [i.e. Civil Practice Law and Rules]". This annual report has been in McKinney's Session Laws of New York since 1968, and in Consolidated Law Service's New York Statutes since 1976. The Conference's Nineteenth Annual Report (1972/1973) added the first two reports of the Advisory Committee on the Criminal Procedure Law, and the twenty-second report (1976) included the first report of the Family Court Advisory and Rules Committee. McKinney's Session Laws first included the CPL report in 1980, and the report on the Family Court in 1993. New York Statutes began carrying the CPL report in 1981, and the Family Court report in 1982. In 1996 the Conference added the report of the Surrogate's Court Advisory Committee. Since it also considers changes to the Estates, Powers and Trusts Law (EPTL), it most likely is a

successor to the EPTL Advisory Committee (see subsection g. below). This report has been in McKinney's Session Laws and New York Statutes since its inception.

In 1978 the Office of Court Administration was established to oversee the operations of all the courts in the State. From 1979 through 1981, reports on legislation sponsored by the Judicial Conference and the reports, by the various advisory committees have been included in the Annual Report of the Office of Court Administration.

d. Chief Administrator of the Courts

Beginning with the fourth annual report (1982), the titles of the advisory committee reports discussed in subsection c. above were changed to "Report of … to the Chief Administrator of the Courts. In addition, in 1982 the Advisory Committee on Civil Practice Laws and Rules was changed to the Advisory Committee on Civil Practice. The advisory committee reports are placed in the chapter entitled "Legislation and Rules Revision." This chapter also includes summaries of legislation, both enacted and not acted upon, introduced during that year.

The 1998 Annual Report initiated the Report of the Local Courts Advisory Committee. This report was also included in both McKinney's Session Laws and New York Statutes beginning with 1999.

e. Budget Reports

Although the budget process in New York State is a twelve-month operation in both the executive and legislative branches, it intensifies in January when the Governor releases his executive budget for the pending fiscal year (the State's fiscal year is from April 1 to March 31). This thick document gives the total appropriation for each item in the budget for the previous fiscal year, the proposals of the Governor and his Division of the Budget for the coming fiscal year, and justifications for these proposed increases, decreases and additions. Often Federal or State statutory authority for specific programs is included. The State Library has all the executive budgets since the initial report for FY 1928/1929.

After the release of the executive budget the Assembly Ways and Means and Senate Finance Committees issue a joint report detailing areas, with justifications, where they disagree with the Governor's proposals. The State Library began collecting these reports in FY 1967/1968. Because they were only issued in press release form, the Library entitled them Proposed Budget Reductions. Beginning with FY 1976/1977, this report has been formally released with the title Report of the Fiscal Committees on the Executive Budgets informally known as the "Green Book" because of the color of its cover. Other relevant reports are the Assembly Ways and Means Committee's Statistical and Narrative Summary of the Executive Budget (since 1976/77) and Overview of the Executive Budget (since 1997/98) and the Senate Finance Committee's Analysis of the ….Executive Budget (since 1987/88).

f. Legislative Standing Committees

Begun in the late 1970's, these reports discuss legislation under a particular standing committee's purview which it either sponsored or favored. Some reports list hearings which were held on a particular bill or topic, which would be helpful when using the microfiche collection of hearings (see section I.C.7 of this monograph)

g. EPTL [Estates, Powers and Trusts Law] Advisory Committee

Organized by joint resolutions of the Senate and Assembly Judiciary Committees ("in lieu of a formal Legislative Commission", according to its first annual report in 1991) to study the laws of estates and trusts. It issued four annual reports from 1991 to 1994, and was probably succeeded by the Judicial Conference's Surrogate's Court Advisory Committee (see subsection 3 above). Only the third report was included in McKinney's Session Laws and it was never included in New York Statutes.

5. Governors' Documents

a. General Discussion

As both an initiator and signer of legislation, the Governor, through his approval memoranda and speeches to the Legislature, is another source of legislative intent. In approving or vetoing bills passed by both legislative houses, the chief executive becomes a part of the legislative process. (People v. Bowen, 21 NY 517, 521 et al.) His importance naturally increases if he is both the originator as well as the approver of enacted legislation. "In the search for legislative intent, the court is not required to ignore the Governor's message, interpreting and construing the Rent Law at the time he approved the Law which was of such public and political importance and in which he was actively interested while it was pending in the Legislature. In exercising his power to approve or veto legislation, the Governor performs a legislative function…" (Four Maple Drive Realty Corp. v. Abrams, 2 A.D. 2d 753, 153 NYS 2d 747). Generally speaking, the Governor is not a good source for a detailed analysis of enacted legislation, but as an indication of the overall intent.

b. Reports of Governors' Task Forces, Special Commissions, etc.

The importance and relevance of Governors' committees should be considered as equivalent to that of temporary commission and joint legislative committee reports discussed earlier in section C.2.a. However, the Governors' reports are not included in the Assembly/Senate or Legislative Documents series, but are sometimes included in the Governors' Public Papers series (see discussion below). Robert Allan Carter's Annotated List and Indexes of Reports of New York State Governors' Committee and Task Forces, 1925-1985 (1986, New York State Library) indexes these reports by keyword in title, subject, and chairperson, and also indicates if the report is included in the Public Papers. The best source for finding a relevant Governor's report would be the State Library's on-line catalog. However, because often catalogers, for technical reasons, do not use "Governor's" as an author term, it would be wise to drop that term when performing an author search.

c. Moreland Act Investigations

First enacted in 1907, and named after its sponsor, the Moreland Act gives the Governor the power "to examine and investigate the management and affairs of any department, board, bureau or commission of the state." These commissions may or may not have the Moreland Act in their title, may or may not be included in the Governors' Public Papers series, may or may not be included in either of the legislative document series, and may or may not be in the State Library's collection. Former State Law Librarian Ernest Henry Breuer's seminal study Moreland Act Investigations in New York: 1907-1965 (New York State Library, August

1965) traces the background and report status of all Moreland Act commissions through 1965. The researcher must resort to the State Library's catalog for all reports since then.

d. Public Papers of the Governors

Messages from the Governors, an eleven-volume set edited by Charles Z. Lincoln, covers the period from 1863-1906. A second series Public Papers of… (the name of the Governor is inserted for each year, with the title "Governor" excluded) is an annual series covering the years 1777-1795, 1807-1817, 1865-1872, and 1877-1991. The latter series contains approval and veto messages, annual and special messages to the Legislature, executive orders, and, occasionally, reports from Governors' commissions and task forces. Although work on this valuable series ended with the 1991 edition, hopefully its demise is only temporary.

e. Approval Memoranda and Veto Messages

The Governor isn't required to attach an approval memorandum to every piece of legislation he or she approves; however, every veto must be accompanied by a veto message listing his or her objections (NY Const., Art. IV, Sect. 7). While germane to legislative intent ("ultimately, the most important role of construction is that a statute should be interpreted with the Legislature's and the Governor's intent in enacting or approving the statute," People v. McCullough, 178 Misc. 2d 524, 681 NYS 2d 729, 1998), the comparative brevity of the memorandum obviously precludes an extensive discussion which may be found in a report. The memorandum is a useful statement of overall intent and, sometimes, a clue as to the original instigator of the legislation.

In addition to the public papers series discussed above, Governors' approval memoranda and veto messages can be found in the bill jackets (since 1958) veto jackets, and the Legislative Digest (since its inception in 1985).

f. Annual Message to the Legislature

In his Annual Message to the Legislature (also known as the State of the State) the Governor will often propose legislation, with a brief justification. These messages are found in the public papers series, the Assembly/Senate and Legislative Documents series and as a separate series in the State Library collection. Once again, the brevity of the dicussion limits it as a source only for overall policy.

6. Debates

Legislative debates are another area in which legal researchers will encounter difficulty in establishing legislative intent in New York State. One problem is that, because of their extemporaneous nature and because they reflect the opinions of one legislator rather than the Legislature as a whole, many judges do not consider debates germane to legislative intent. An opinion often cited by those rejecting debates is that of Judge Frederick Collin in Woolcott v. Schubert, 217 NY 212, 217, 111 N.E. 829 (1912): "It is established law, however, that the statements and opinions of legislators uttered in debates are not competent aids to the court in ascertaining the meaning of statutes." A 1976 opinion by State Supreme Court Justice Abraham J. Gellinoff is a succinct summation of the argument against debates. "Debates are generally not a useful tool in determining legislative intent. They reflect only the stated views of the legislators who participate, but do not serve as an indication of the combined opinions of their

colleagues… And, unlike an opinion written by an adjudicating body, legislative debates, often extemporaneous, constitute arguments made by those attempting to persuade, and not formal declaratory pronouncements explaining a determination." (Board of Education of City School District of City of New York v. City of New York, 88 Misc. 2d 179, 185, 387 NYS 2d 195, Judge Gellinoff butresses his argument by stating that in the debates on the bill (the famous, or infamous, Stavisky-Goodman bill which resulted in the first legislative override of a Governor's veto since 1872) the two sponsors offered opposing views concerning its intent.

Another problem with debates is their availability. Transcripts of debates in the Senate do not exist before 1960, and in the Assembly before 1974. Assembly debates from 1974-1979 are in the State Archives, (518) 474-8955. Assembly debates after 1979 can be obtained from the Assembly Public Information Office, (518) 455-4218. For debates in the Senate contact the Senate Office of Microfilm and Records, (518) 455-3200. Debates in both houses are on microfilm, and should be referenced by the bill number, subject, and the day the bill was debated (i.e. the day the bill was voted on). All this information can be found in either the New York Legislative Record and Index (for bills through 1984) or the Legislative Digest (for bills after 1984).

7. Hearings

Legislative hearings are not one of the strong points of the State Library's collection. Often legislative committees neglect to send the transcripts of hearings, and many hearings that were received before 1960 have never been cataloged. In addition to hearings in print, the State Library has a microfiche collection of legislative and executive hearings from 1980 thorugh 1989 which were collected and filmed by the Legislative Library. Unfortunately, they are arranged by date rather than by committee, agency, or subject. The best sources for finding a particular hearing in this collection is through the newspapers or the annual reports of a legislative standing committee or executive department. Another drawback to researching hearings is the lack of subject indexing within a particular hearing.

However, suppose an attorney/legal researcher/law librarian surmounts all these obstacles and actually finds relevant testimony from a hearing. Although the judicial decisions from New York State courts are rare (see the dissenting opinion of Judge Conway in Metropolitan Life Insurance Co. v. Durkin, 301 NY 376. 93 N.E. 2d 897 and Bazar v. Great American Indemnity Company, 306 NY 481, 119 N.E. 2d 346), an admittedly cursory examination of decisions from the Federal bench and courts in other states reveals that there is a good chance the judge may decide that such material is irrelevant to determining legislative intent. The main reason for this, especially on the Federal level, is that such testimony represents the views of private citizens rather than the legislators who will be voting on the bill. "Testimony given at congressional hearings should not be accorded undue weight as an indication of legislative intent since the views expressed by witnesses at congressional hearings are not necessarily the same as those of the legislators ultimately voting on the hill." (Sierra Club v. Clark, 755 F. 2d 608). "Statements at public hearings by nonlegislators are not admissable as a means of interpreting a legislative act and may not be considered." (Savings and Loan League of Connecticut v. Connecticut Housing Finance Authority, 184 Conn. 311, 439 A. 2d 978). See also T.B. Harms Co. v. Jen Records, Inc., 655 F. Supp. 1575; United States v. Fairfield Gloves, 558 F. 2d 1073; Sierra Club v.Clark, 755 F. 2d 608; Hayes v. Continental Insurance Co., 178 Ariz. 264, 872 P. 2d 668, et. al. However, for decisions which argue that such testimony is germane to legislative intent, see Pacific Bell v. Cal. State and Consumer Services Agency, 275 Call Rptr. 62, 225 Cal. App. 3d

107; Baliotis v. Clark County, 102 Nev. 568, 729 P. 2d 1338; O'Gormon v. Industrial Claims Appeals Office of the State of Colorado, 826 P. 2d 390.

8. Administrative Opinions

The interpretation of legislative enactments by executive officers who are bound to enforce those statutes are generally conceded to have some importance in determining legislative intent, although these opinions are not binding. "The practical construction given this statute by those charged with administering it is, in accord with accepted canons of construction, of some aid in ascertaining legislative intent" (Morris v. County Board of Assessors of Nassau County, 35 NY 2d 624, 629, 364 NYS 2d 830, 324 N.E. 2d 310)."This interpretation of the statute by the administrative officer charged with its enforcement should not lightly be disregarded by the court" (Household Finance Corp. v. Goldring, 263 App Div. 524, 528, 33 NYS 2d 514). "Such an opinion is accorded more importance when the administrator was active in the original drafting of the statute under consideration "(Application of Heissenbuttal, 286 App. Div. 646, 146 NYS 2d 647; Hotel Association of New York City v. Weaver, 155 NYS 2d 946, 951).

While conceding the importance of an administrative opinion, a judge will sometimes stress that the opinion is not controlling. "Of course, however helpful and informative the opinion of the Comptroller is in any given situation (and they have been of inestimable assistance to both the Bench and Bar), the opinion of the Comptroller is not binding on a court." (Local 456 International Brotherhood of Teamsters v. Town of Cortlandt, 68 Misc. 2d 645, 647, 327 NYS 143).

For a description of administrative opinions available in New York State, see Robert Allan Carter's Sources of Published and Unpublished Administrative Opinions in New York State (New York State Library, Revised Edition, 1994).

The following administrative opinions can be obtained online:

State Comptroller http://www.osc.state.ny.us/legal/ (1988-present)
Attorney General http://www.oag.state.ny.us/lawyers/opinions.html (1995-present)
Commissioner of Education http://www.counsel.nysed.gov/Decisions/home.html
Department of State. Committee on Open Government
Freedom of Information Law http://www.dos.state.ny.us/coog/findex.html
Open Meetings Law http://dos.state.ny.us/coog/oindex.html
Office of Real Property Services (formerly Office of Equalization and Assessment)
http://www.orps.state.ny.us/legal/opinions/index.ctm

9. Commentaries by Bar Associations

It is not surprising that comments on proposed legislation by State and local bar associations are seldom cited as evidence of legislative intent. They are not part of the legislative process, fulfill no govermental function, and, unless their memoranda are included in the Governor's bill jacket, there is no indication that the Legislature or the Governor were aware of the analysis when the subject bill was being considered for passage and approval. However, as can be seen in the opinion rendered in Cherkis v. Impellitteri (307 NY 132, 144, 120 N.E. 2d 530) commentary by bar associations may shed some light on a statute: "The interpretation of these statutes by the Committee on Municipal Affairs of the [New York City] Bar Association, although in no sense binding on the courts, is well reasoned and clearly expressed, and reflects careful study by a committee of competent lawyers of both political parties who have had wide experience in the field." See also Prior Aviation Service v. State, 100 Misc. 2d 237, 418 NYS 2d 872, 878.

In addition to separate studies of particular issues, the State Library has the following series of comments on proposed legislation: the Association of the Bar of New York's Bulletins of Committee on Criminal Courts Law and Procedure (1926-1943), Bulletins of Committee on Criminal Courts (1953-1973), Bulletins of Committee on Amendments of the Law (1914-1929), and Bulletins of Committee on State Legislation (1930-present); the Reports of the New York County Lawyers Association's Committee on State Legislation (1955-1998); and the Reports of the New York State Bar Association's Committee on State Legislation (1957-1976). All these reports are indexed by bill number. Bar association opinions are often included in the Governor's bill jackets.

10. Statutes Based on Laws in Other Jurisdictions

Occasionally the Legislature will enact a law based verbatim, or partially, on a previously enacted Federal statute, a statute from another state, a uniform law promulgated by groups such as the American Law Institute, the Commissioners on Uniform State Laws, or the American Bar Association, or, rarely since the nineteenth century, from another country. From the cases involving Federal statutes, the prevailing opinion of jurists seems to be that, while such legislative intent is not controlling, it can be important in determining the legislative intent of the State statute. "While, of course, Federal decisions are not binding, they are highly persuasive, especially where the statutes are identical, the decisions uniform, and the reasoning logical. Uniformity of construction between Federal and State taxing statutes is highly desirable and entitled to great weight in determining an open question. It is apparent that this State statute was copied verbatim from the Federal, thus indicating a strong legislative intent for uniformity in interpretation…" (People ex rel Mosbacher v. Graves, 254 App. Div. 438, 439, 5 NYS 2d 553). "Federal decisions construing a Federal law are highly persuasive to State courts considering a similar State statute, although they are not binding… Where the language of both laws is identical, the history of the Federal law and the intent of Congress have a bearing on the intent of the Legislature on the presumption that the State legislators had the same objective in mind (Matter of Walk, 192 Misc, 237) and employed the statutory terms in the same sense…" (Young v. Town of Huntington, 88 Misc. 2d 632, 635, 388 NYS 2d 978).

A case which considered similar previous statutes enacted in other states was Sterling Factors Corp. v. Sad Sam's Furnitureland of Binghamton, 21 Misc. 2d 837, 195 NYS 2d 55. It

should be noted that the New York State Library does have present and past statutes from the other states, and occasionally, legislative documents from these states.

In regard to model statutes, the State Library has the National Commissioners on Uniform State Laws' Handbook and Proceedings of the Annual Conference for 1892, 1895, 1898 and 1900-1993; West's multi-volume Uniform Laws Annotated (as well as the earlier volumes from 1922-1967 published by E. Thompson Co.); the American Law Institute's series of reports on the Uniform Commercial Code and the Model Penal Code; the American Legislative Council's Suggested State Legislation and its successor, the Source Book of American State Legislation; and various other separate volumes on model legislation. "(I)n construing a provision of the Uniform Fraudulent Conveyances Act, we should, wherever possible, respect the decisions of the courts of other jurisdictions, where it is in force, with a view to ensuring a harmonious national interpretation." Southern Industries, Inc. v. Jeremias, 66 AD 2d 178, 411 NYS 2d 945.

Although rare today, in the 19th century the New York State Legislature occasionally based its laws, at least partially, on statutes of foreign countries, especially using English statutes and precedants in formulating this State's early rules of civil procedure. "When a provision is adopted from the laws of another state or country, the construction placed upon it by the courts of that state or country prior to its adoption here is of great weight." In Re Hyde's Estate, 177 Misc. 666, 31 NYS 2d 497. See also Sport-Craft, Inc. v. Garment Center Capitol, 167 Misc. 425, 3 NYS 2d 321; and Great Northern Telegraph co. v. Yokohama Specie Bank, 297 N.Y. 135, 76 N.E. 2d 117.

PART II
LEGISLATIVE INTENT OF THE NEW YORK STATE CONSTITUTION

A. GENERAL DISCUSSION

There seems to be general agreement among New York State jurists that the same rules that apply to the interpretation of statutes also apply to the interpretation of constitutional amendments. An 1872 opinion from the State Court of Appeals illustrates this principle. (One may get the impression from reading these opinions that during this time period legislative intent of constitutional amendments, like statutes, was obtained from the words of the act itself or from the historical circumstances rather than from the use of extrinsic materials. However, as will be seen in the discussion of Section II-C, judges were more liberal in allowing the use of such extrinsic materials as proceedings from the constitutional conventions to decide legislative intent of constitutional amendments):

> The same general rules which govern the construction and interpretation of statutes and written instruments generally, apply to and control in the interpretation of written constitutions. They are made by practical and intelligent men for the practical administration of the government, and they are to receive that interpretation which will give effect to the intent of the framers as deducible from the language employed and operate most benignly in the interest of the governed, and best harmonize with and give effect to the general scope and design of the instruments…If words have a doubtful meaning, or are susceptible of two meanings, they should, within the rule, receive that which will effectuate the intent of the framers of the Constitution and the general intent of the instrument. People v. Fancher. 50 NY 288.

Robert Allan Carter's New York State Constitution: Sources of Legislative Intent (the first edition was published in 1988 by Fred B. Rothman & Co.; the second edition is tentatively scheduled to be published in the Summer of 2001 by William S. Hein & Co.) gives the sources of legislative intent for the New York State Constitution as it is written through the year 2000. For those who are researching (1) amendments which deleted portions of the Constitution; (2) superseded sections of the Constitution or (3) the present Constitution independent of Carter's book, the following sections will discuss the sources of legislative intent of the State's Constitution.

B. MEMORANDA

The most important difference between researching legislative intent of statutes and intent of constitutional amendments is that there are no Governors' bill jackets for the latter. The reason for this alarming state of affairs is that, after a bill amending the Constitution passes both houses (and has passed the previous legislature) it is sent, not to the Governor's office, but to the Secretary of State to be certified and placed on the November ballot. Because of the lack of Governors' bill jackets, memoranda are less prevalent in legislative intent of constitutional amendments than they are in statutes. The main source of memoranda for the former are the Legislative Library's collection of sponsors' memoranda (see the discussion in section I.C.1.s.)

and the New York State Legislative Annual (see section I.C.1.d.), which fortunately resumed including constitutional amendment memoranda in 1993.

C. PROCEEDINGS AND REPORTS OF THE CONSTITUTIONAL CONVENTIONS AND COMMISSIONS

The use of debates and reports of State constitutional conventions to determine the intent of the delegates was prevalent in New York State in the mid-nineteenth century and has gained almost universal acceptance today. While the reliance on convention committee reports is understandable because of the eventual acceptance of committee reports in ascertaining legislative intent of statutes, the readiness of most jurists to accept constitutional debates as either conclusive proof of intent or supportive evidence of a previously determined conclusion seems curious when one considers the resistance to legislative debates which exists even today. Debates at a constitutional convention, as in the Legislature, are extemporaneous and reflect only the opinion of one person rather than the body as a whole. Perhaps a clue to this seeming contradiction may be found in an 1856 Court of Appeals decision by Judge Alexander Johnson, which emphasized the importance of the Constitution and the resulting care which is exercised when writing it:

> But courts at the present day, both in this country and in England, acknowledge that their simple duty is to strive to ascertain the will of the lawmakers from the law itself, and having ascertained it, to give it effect… If these principles are proper to restrain the action of courts in construing acts of the legislature, they certainly, with no less cogency, are applicable to constitutional provisions, which, from their greater importance and more permanent operation, must be supposed to have been framed with the utmost circumspection… though we do not advert to it as a ground of decision… the history of the constitutional provision in question, as preserved in the debates of the convention, coincides exactly with the interpretation which its terms impose on us. People ex rel. Davies v. Cowles, 13 N.Y. 350, 360.

A decision often cited by New York State jurists to justify the use of constitutional debates is People ex rel. Goedel v. Palmer, 15 App. Div. 86, 44 NY Supp 301 (1897): "In this state the courts have often consulted the journals and debates of the constitutional convention which formulated a given article or section of the constitution, in order to gain light upon its correct interpretation or application."

While it is evident that the great majority of jurists will cite constitutional convention debates as conclusive evidence of intent or to support a previously-arrived at conclusion it would be remiss if the few decision were omitted which show that agreement in this practice is not unanimous. One of the principle difficulties jurists find with the use of legislative debates is that they only reflect the opinion of one person rather than the body as a whole.

> I do not advert to the argument from what passed in debate in the convention, though, in my opinion, it favors the conclusion I come to. Such arguments, at best, are inconclusive, for they only show the opinions of the speakers; others may have proceeded on quite

> different grounds. As was well said, on the argument of this case, the distinguished gentlemen whose utterances in debate were invoked upon this question had power neither to settle a construction or make a compromise in respect to the language of the constitution. It was adopted by the people, and our construction ought to be made upon its language alone, if possible. Wenzler v. People, 58 NY 516, 524.

This view is also expressed in A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union by Thomas M. Cooley and Walter Carrington (8th Edition, 1927):

> Where the proceedings clearly point out the purpose of the provision, the aid will be valuable and satisfactory; but where the question is one of abstract meaning, it will be difficult to derive from this source much reliable assistance in interpretation. Every member of such a convention acts upon such motives and reasons as influence him personally, and the motions and debates do not necessarily indicate a particular clause… For as the constitution does not derive its force from the convention which framed, but from the people who ratified it, the intent to be arrived at is that of the people, and it is not to be supposed that they have looked for any dark or abstruse meaning in the words employed, but rather that they have accepted them in the sense most obvious to the common understanding, and ratified the instrument in the belief that that was the sense designed to be conveyed. These proceedings therefore are less conclusive of the proper construction of the instrument than are legislative proceedings of the proper construction of a statute; since in the latter case it is the intent of the legislature we seek, while in the former we are endeavoring to arrive at the intent of the people through the discussions and deliberations of their representatives. (p. 143). See also 70 ALR 3.

It is interesting to note that in a 1938 law review article ("Use by the United States Supreme Court of Extrinsic Aids in Constitutional Construction: Debates and Proceedings of the Constitutional and Ratifying Conventions", California Law Review 26:437-454) Jacobus ten Broek argues that the U.S. Supreme Court has tended to use constitutional convention debates only as supportive evidence for a conclusion which has already been reached by other means; that is, such evidence does not control the decision arrived at. "We must conclude, therefore, that while the United States Supreme Court will use convention debates and proceedings to show that the intention of the framers thus revealed affirms or does not contradict the position of the court, such intent so discovered will be disregarded when in conflict with the interpretation of the Constitution announced by the Court." (p. 451) From a layman's point of view, if ten Broek is correct (and still valid), New York State jurists are much more lenient in the use of convention debates than is the U.S. Supreme Court.

The following are reports, proceedings, etc. issued by constitutional conventions and commissions which will be useful in establishing legislative intent of the New York State Constitution, in chronological order:

Constitutional Convention, 1777
Journal. Contains no reports or debates

Constitutional Convention, 1801
Journal. Of historical value only, since its only subjects were the number of legislators and the powers of the Council of Appointment (which was abolished by the 1821 Constitutional Convention).

Constitutional Convention, 1821
Journal
Proceedings and Debates
Documents

Constitutional convention, 1846
Journal
Debates and Proceedings by Croswell and Sutton for the Albany Argus
Report of the Debates and Proceedings by Bishop and Attree for the Albany Evening Atlas
Documents (2 vols.)

Constitutional Convention, 1867-1868
Journal
Proceedings and Debates (5 vols.)
Documents

Constitutional Commission, 1872-1873
Journal
Amendments Proposed to the Constitution at the State of New York (Sen. Doc. 1873 No. 70). Note that many of the amendments were based on proposals of the 1867-1868 Constitutional Convention, whose proposed constitution was rejected by the people.

Constitutional Commission, 1890
Reports. Considered only amendments to the Judiciary Article

Constitutional Convention, 1894
Journal (2 vols.)
Revised Record (5 vols.)
Documents and Reports
Proposed Constitutional Amendments (2 vols.)

Constitutional Convention, 1915
Journal
Revised Record (4 vols.)
Record (4 vols.)
Proposed Amendments (2 vols.)
Documents

Judiciary Constitutional Convention, 1921

Report (Leg. Doc. 1922 No. 37) January 24, 1922
Supplemental Report of the Executive Committee (Leg. Doc. 1922 No. 67) February 17, 1922
Proceedings
Proceedings of the Session of the Executive Committee

Constitutional Convention, 1938
Journal - Appendix 3 contains the Convention's Documents
Revised Record (4 vols). Index at the end of vol. 1
Record (4 vols)
Proposed Amendments (3 vols) Indexes at the end of vol 1

Temporary State Commission on the Constitutional Convention
First Interim Report (Leg. Doc. 1957 No. 8) February 19, 1957
Second Interim Report (Leg. Doc. 1957 No. 57) September 19, 1957
Transcript of Public Hearing, June 4-June 17, 1957

Special Legislative Committee on the Revision and Simplification of the Constitution
Inter-Law School Committee Report on the Problem of Simplification of the Constitution (Staff Report No. 1) (Leg. Doc. 1958 No. 57) May 1958
Staff Reports Nos. 2-35 (1958-1960)

Temporary Commission on the Revision and Simplification of the Constitution
First Steps Toward a Modern Constitution (Leg. Doc 1959 No. 58) December 31, 1959
Simplifying a Complex Constitution (Leg. Doc. 1961 No. 14). February 27, 1961.

Constitutional Convention, 1967
Proceedings (12 vols) Vol 2-4 Record; Vol. 5 Journal, etc; Vol. 6-10 Propositions; Vol 11 - Documents; Vol 12 Index

D. OTHER PRIMARY SOURCES

With the notable exception of Governors' bill jackets (see discussion in Section II. B), all the sources for legislative intent of statutes are also relevant to legislative intent of amendments to the State Constitution.

E. SECONDARY SOURCES

The following secondary sources are also useful in researching legislative intent of the New York State Constitution:

Lincoln, Charles Z. the Constitutional History of New York from the Beginning of the Colonial Period to the Year 1905: Showing the Origin, Development, and Judicial Construction of the Constitution, 5 vols. 1906

Dougherty, J. Hampden. Constitutional History of the State of New York. 2nd Edition 1915

The Constitutional Convention Committee of 1938 was appointed by Governor Lehman in July of 1937 "to collate factual data for the use of the delegates to the Convention of 1938". The result of its labors was a 12-volume report which was accurately described by Dot Butch as "unsurpassed for the scope, depth, authenticity and objectivity of its constitutional research." The first volume especially, The New York State Constitution Annotated, should be in every law library in the State. It contains the Constitution as it was prior to the 1938 Constitutional Convention, and each section is followed by annotations which give the section's source or sources; historical references from Lincoln or Dougherty; applicable legislative documents; debates, with page numbers, from previous constitutional conventions; and past proposed amendments. Volume I also includes the texts, with amendments, of the 1777, 1821, 1846 and 1894 constitutions. The other volumes of the Constitutional Convention Committee's report are: Volume II, Amendments Proposed to New York Constitution, 1895-1937; Volume III, Constitutions of the States and United States; Volume IV, State and Local Government in New York; Volume V, New York City Government Functions and Problems; Volume VI, Problems Relating to Bill of Rights and General Welfare; Volume VII, Problems Relating to Legislative Organization and Powers; Volume VIII, Problems Relating to Executive Administration and Powers; Volume IX, Problems Relating to Judicial Administration and Organization; Volume X, Problems Relating to Taxation and Finance; Volume XI, Problems Relating to Home Rule and Local Government; and Volume XII, General Index.

Butch, Dorothy, New York State Documents: an Introductory Manual. 1987. See esp. pp. 8-16.

Carter, Robert Allan. New York State Constitution: Sources of Legislative Intent. 1998 Second edition tentatively scheduled for Summer, 2001.

Galie, Peter J. The New York State Constitution: A Reference Guide. 1991.

Galie, Peter J. Ordered Liberty, a Constitutional History of New York. 1996.

PART III
ANNOTATED BIBLIOGRAPHY

Breitel, Charles D.
"Courts and Law Making". New York Law Journal 140: all on page 4, December 8-12, 1958

Author, at the time associate justice of the Appellate Division, Supreme Court, First Department, later became Chief Justice of the Court of Appeals. Argues for a pluralistic approach to the interpretation of statutes, depending upon the degree of generality within the law. Discusses when and when not to use legislative intent.

Breuer, Ernest Henry
"Legislative Intent and Extrinsic Aids to Statutory Interpretation in New York". Law Library Journal 51:2-15, February 1958.

Author, former State Law Librarian at the New York State Library, stresses lack of material pertaining to legislative intent in New York State. Gives history of past attempts to legally provide more materials on legislative intent, and presents lists of available material that are still applicable today.

Dana, A. Fairfield.
"Background Materials for Statutory Interpretation in New York". Association of the Bar of the City of New York Record 14:80-102, February 1959.

Comprehensive summary of materials (and lack of) relevant to legislative intent in New York State at that time. Also includes discussion of judicial acceptance of such material.

Fuld, Stanley H.
"The Commission and the Courts". Cornell Law Quarterly 40:646-666, Summer 1955.

Author, who at that time was on the New York State Court of Appeals, discusses the work of the Law Revision Commission. Pages 659-665 examines the role of the Commission's Reports in determining legislative intent.

Hemstreet, Marion H.
State and Local Documents as a Source of Legal Research (Albany, New York State Library, 1960) 67p.

Concerned with materials available at the New York State Library, with emphasis on legislation at the State level.

Kaye, Judith S.
"State Courts at the Dawn of a New Century: Common Law Courts Reading Statutes and Constitutions". New York University Law Review 70:1-35 April 1995.

Chief Judge of the New York State Court of Appeals argues that "state courts effectively 'make law,' and do so by reference to social policy, not only when deciding traditionally common-law cases but also when faced with cases that involve difficult questions of constitutional and statutory interpretation."

Lane, Eric
"How to Read a Statute in New York: A Response to Judge Kaye and Some More", Hofstra Law Review 28:85-126 Fall 1999.

Examines the New York Court of Appeal's approach to statutory construction during 1998 and 1999 terms.

Marke, Julius J.
"Finder's Guide to Legislative History, Intent in New York". New York Law Journal 182:4-5 November 20, 182:6 November 21, 1979.

Discusses what is available and how information can be obtained concerning pending legislation and legislative intent in New York State.