ARTICLE 135.

An analysis of Article 135 of the proposed Penal Law does not reveal any major changes in the definitions of the crimes described therein. However, there are several important changes which it is felt are for the better.

The age of consent has been lowered to seventeen (17) years of age, which is a more realistic age. In addition, the degree of the sexual offense is now also governed by the age of the victim. Thus if the female is less than seventeen years of age the crime is Rape in the Third Degree; if less than fourteen years of age the crime if Rape in the Second Degree and if less than eleven years of age the crime is Rape in the First Degree. The definitions of the various degrees of Sodomy are similar.

In my opinion the ~~second~~ major criticism of this Article is the fact that under the new proposed Penal Law an act of Sodomy performed by two consenting adults would no longer be considered a crime. I would strongly urge that such an act be considered a crime such as a Class B misdemeanor.

The Commission has also treated separately the crime of bestiality. This crime was formerly charged under Penal Law Section 690. It is felt that treating this crime as a misdemeanor rather than a felony is more realistic.

The proposed Penal Law also defines the crimes of sexual abuse in the second degree and sexual abuse in the first degree. These sections were necessitated because the definition of "assault" under the proposed Penal Law would require that actual physical injury be inflicted. Therefore, in the new proposed Penal Law it would be impossible to prosecute these

acts as assault.

With reference to Article 140, the staff notes of the temporary commission contain sufficient reasons for the proposals. It is felt that the changes are for the better and that the crimes now designated as custodial interference and false imprisonment are more realistic than the prior definition which made such charges Kidnapping.

It is also felt that the definition of the crime of coercion as set forth in the proposed Penal Law is a definite improvement over the definition of the crimes of coercion and extortion set forth in the existing Penal Law.

I would have no criticism as to the proposed changes contained in Article 140.