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2 Seventy-three percent of the decisions were
3 decided by a unanimous vote. This
4 unanimity, particularly among the four
5 judicial members, is a strong argument
6 against transferring the authority to
7 discipline judges from the Commission to
8 the Appellate Divisions, has had been
9 recommended.

10 There is no reason, we feel,
11 to believe that Appellate judges sitting in
12 panels of five or four would reach a
13 different determination and sanction than
14 the four judicial members of the Commis-
15 sion. Further, the public and the
16 Judiciary would be ill served by having a
17 different standard of judicial conduct in
18 each of the four departments.

19 My final question is the
20 bottom line. Has the Commission been
21 effective in improving judicial behavior in
22 New York State? Our report demonstrates
23 that the Commission has contributed greatly
24 to improving the standards of judicial
25 conduct, as evidenced by the declining

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2 number of sanctions. In 1979, the first
3 year that this commission was in full
4 operation, as you recall, it was ratified
5 by the voters in 1977. It became an
6 effective part of the Constitution on April
7 1st, 1978, and the Legislature was supposed
8 to pass implementing legislation on that
9 date but it missed that target by over five
10 weeks, as you recall. So the first full
11 year was 1979, and in that year 58 judges
12 were publicly disciplined. That number
13 dropped to 50 in 1980, 32 in '81, 24 in
14 '82, 20 in 1983, 24 in 1984, 18 in 1985 and
15 only 16 in 1986.

16 If the amount of crime could
17 be deterred this dramatically through the
18 imposition of the death penalty, I think
19 that you would have a lot of people
20 supporting the death penalty that don't
21 currently do so. The Committee for Modern
22 Courts therefore concludes that the
23 Commission on Judicial Conduct has done a
24 good and necessary job in investigating and
25 disciplining judges.

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New Yorkers can be assured that a judge who disregards the ethical standards of his or her office will be held accountable. At a time when the public is calling for higher ethical standards for public officials, the Committee for Modern Courts pledges to resist all efforts to weaken the Commission on Judicial Conduct either through legislative changes or by cutting its budget. Thank you again for inviting us to testify.

ASSEMBLYMAN KOPPELL: Thank you. Let me ask you a different question, because you raised the issue of certain judges that have been convicted of crimes. Is the Commission doing a good enough job in terms of supervising not the town and village courts but, for instance, the Supreme Court or the Appellate Courts? Are they able to properly supervise those courts or the conduct of judges on those courts?

DR. HENRY: We don't have any way of documenting that, so I resisted

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2 going into it, but my feeling is that if
3 the Commission is speaking as a public
4 group, trying to represent the public on
5 this issue, that the public would like a
6 much stronger commission, not a weaker
7 commission, and that there are some fairly
8 well publicized cases of misconduct and not
9 necessarily criminality that the Commission
10 might have acted on, and a couple come to
11 mind that there's no need to deal in names.

12 ASSEMBLYMAN KOPPELL: Well,
13 is there any possibility that the
14 Commission is not strong enough in dealing
15 with some of those complaints or those
16 judges?

17 DR. HENRY: Is it possible?
18 Yes. Anything's possible.

19 ASSEMBLYMAN KOPPELL: Is
20 that your feeling?

21 DR. HENRY: It's my feeling
22 that the Commission should be more active,
23 and it should be -- I mean, we have a
24 public crisis of confidence in the courts,
25 and I think that the Commission should be