League of Women Voters of Minnesota Records

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LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

TO: Local League Presidents
FROM: Jean Tews, Vice President for Action
RE: Appeals Court Constitutional Amendment
DATE: June 16, 1982

The success of the Appeals Court Constitutional Amendment this November will depend on our ability to fight "apathy". A St. Paul Dispatch poll recently showed that 40% of the voters would support the creation of an Appeals Court, 11% would not support it and 49% are undecided. Keep in mind that an amendment must be approved by a majority of persons voting in the Election (not just by a majority of persons voting on the issue). A non-vote is a no vote.

Turning an "undecided" vote to a "yes" vote will be no easy task since the court system is complex and few people understand it. This is why in addition to the usual radio and newspaper campaign, we want to organize a grassroots campaign coordinated by representatives of the League, Minnesota State Bar Association and Judge Association. We hope that if the voters can come in contact with the issue through their local media and civic organizations that they will be willing to support the amendment.

Enclosed is a speakers handbook with media suggestions for the Appeals Court Constitutional Amendment. By next month, you should have the name and address of a lawyer and judge in your area. They will also receive the same information. Together you will be the steering committee for your local organization. Of course, you are welcome to enlist others who are willing to help.

The main objective is to get our message to as many people (especially community leaders) as possible. Two ways of doing this is through civic organizations and the local media. Your committee should contact all of the groups in your area (i.e. the Chamber of Commerce, Rotary, Lions, Senior Citizens, local colleges, etc.) and offer speakers from your committee for their meetings in September and October. This should be done this summer. The speakers kit contains a sample speech and background information.

Enclosed is a sample news release that can be used with your local newspapers and radio. For example, after your steering committee meets, take a picture and submit it to the paper. Send releases to both radio and the newspaper before you speak at a local function. Background information is also included so that you can write letters to the editor which are widely read in most local newspapers.

These are only suggestions so please tailor your activity to what works best in your area. Periodically we will be sending you new material. Please let us know how it's going and save newspaper clippings.

If you have any questions, please do not hesitate to contact me at (612)426-1011 or at the state League office. Or call Linda Sandvig, who is on the staff of the "Appeals Court - Vote Yes - Committee". She can be reached at (612)339-8551.

Thank you for your invaluable assistance. It can make the difference in November.

SPEAKERS HANDBOOK

FOR

PROPOSED MINNESOTA

COURT OF APPEALS

THE SUPREME COURT OF MINNESOTA
SAINT PAUL, MINNESOTA 55155

Dear Speaker:

Thank you for taking time from your busy schedule to help promote the establishment of a court of appeals in Minnesota. This handbook has been prepared to assist you in your speaking endeavors. It contains information on the present Minnesota court system, the proposed court of appeals, statistics and a sample speech. If you should have any questions or should require further information or assistance, please contact:

Janet Marshall
Judicial Planning Committee
40 North Milton, Suite 201
St. Paul, MN 55104
(612)296-6282

Thank you again for your support.

Very truly yours,

Douglas K. Amdahl
Chief Justice
Minnesota Supreme Court

INDEX

OVERVIEW OF THE MINNESOTA COURT SYSTEM

COURT STRUCTURE

1. Trial Courts

The district court is the court of general jurisdiction in Minnesota. It is empowered to hear almost any civil or criminal cases, including all felony and most gross misdemeanor criminal cases and, in general, civil cases involving damages of more than $6,000. The state is divided into 10 judicial districts, each composed of one to 17 counties.

County courts are courts of limited jurisdiction. In the criminal area, a county court can hear misdemeanors, some gross misdemeanors, city ordinance violations, traffic tags and petty misdemeanors. Civil cases in which the amount of damage is no more than $5,000, juvenile cases, mental commitments, wills, and estates, and evictions are also part of the jurisdiction of this court. The jurisdiction of district and county courts overlap in some areas. There is a county court in each county except Hennepin and Ramsey, which have county municipal courts.

Conciliation courts have jurisdiction over cases involving small amounts of money. Only civil claims can be heard and the amount of damages sought can be up to $1,200. A lawyer is usually not needed and, in fact, are not permitted in many counties. Each county has a conciliation court division of either the municipal or county court.

Appeals from county and municipal courts are brought to the district court. A three-judge panel hears these cases.

2. Appellate Courts

The Minnesota Supreme Court is composed of nine justices. The jurisdiction includes appeals of all criminal and civil matters heard in the district court and by the district court appeals panels; appeals from certain government departments that have hearing boards; and certain special appeals such as writs of mandamus, prohibition and habeas corpus.

Minnesota does not have a court of appeals. A proposed constitutional amendment authorizing the Legislature to create such a court received approval of the 1982 Legislature and will appear on the ballot in November, 1982.

THE PROPOSED AMENDMENT

CONSTITUTIONAL AMENDMENT
COURT OF APPEALS

A. Ballot Question

The proposed amendment shall be submitted to the people at the 1982 general election. The question submitted to the people shall be:

"Shall the Minnesota Constitution be amended to allow the creation of a court of appeals?

Yes _____

No _____"

B. Proposed Amendment

If the ballot question is adopted, amendments will be made to two articles of the Constitution. The amendments, which are underlined below, are as follows:

Article VI.

Section 1. The judicial power of the state is vested in a supreme court, a court of appeals, if established by the legislature, a district court and such other courts, judicial officers and commissioners with jurisdiction inferior to the district court as the legislature may establish.

Sec. 2. The supreme court consists of one chief judge and not less than six nor more than eight associate judges as the legislature may establish. It shall have original jurisdiction in such remedial cases as are prescribed by law, and appellate jurisdiction in all cases, but there shall be no trial by jury in the supreme court.

The legislature may establish a court of appeals and provide by law for the number of its judges, who shall not be judges of any other court, and its organization and for the review of its decisions by the supreme court. The court of appeals shall have appellate jurisdiction over all courts, except the supreme court, and other appellate jurisdiction as prescribed by law.

As provided by law judges of the court of appeals or of the district court may be assigned temporarily to act as judges of the supreme court upon its request and judges of the district court may be assigned temporarily by the supreme court to act as judges of the court of appeals.

The supreme court shall appoint to serve at its pleasure a clerk, a reporter, a state law librarian and other necessary employees.

Section 5. Judges of the supreme court, the court of appeals and the district court shall be learned in the law. The qualifications of all other judges and judicial officers shall be prescribed by law. The compensation of all judges shall be prescribed by the legislature and shall not be diminished during their term of office.

Subd. 4. If the amendment is adopted, Article VI, Section 6, of the Minnesota Constitution will read:

Sec. 6. A judge of the supreme court, the court of appeals or the district court shall not hold any office under the United States except a commission in a reserve component of the military forces of the United States and shall not hold any other office under this state. His term of office shall terminate at the time he files as a candidate for an elective office of the United States or for a nonjudicial office of this state.

ARTICLE VIII.

Sec. 2. The governor, secretary of state, treasurer, auditor, attorney general and the judges of the supreme court, court of appeals and district courts may be impeached for corrupt conduct in office or for crimes and misdemeanors; but judgment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit in this state. The party convicted shall also be subject to indictment, trial, judgment and punishment according to law.

PROPOSED STRUCTURE

FOR THE COURT OF APPEALS

COURT OF APPEALS STRUCTURE

SUMMARY

The statutes detailing the structure of the court will be effective only if the amendment passes. The court itself would begin operation in August of 1983. A summary of the major provisions of the statutes is as follows:

A. One court

1. Chambers and administrative office - St. Paul
2. Hearings - around state in each judicial district

B. Judges

1. Six assume office July 1, 1983 and six more January 1, 1984; in 1985, a formula of one judge per 100 cases may dictate more or fewer judges
2. Governor makes initial appointments
3. Then judges elected statewide to six-year terms. One must live in each congressional district
4. Governor will appoint chief judge

C. Jurisdiction

1. All appeals from trial courts except conciliation court and individuals convicted of first degree murder
2. Commissioner of Economic Security appeals
3. Administrative Agency appeals

D. Decisions

1. By panel of three judges; membership on each panel rotates
2. Within 90 days after oral argument or briefs are filed

E. Supreme Court Review - at discretion of Supreme Court

1. After Court of Appeals decision
   a. Novel question
   b. Direct conflict with Supreme Court decision
2. Before Court of Appeals decision
   a. Important case needing immediate decision
   b. District court has held statute unconstitutional

F. Amendments to Existing Law

- Reduce Supreme Court to seven by attrition
- Eliminate appeals to district court panels, thus reducing caseload burden in these courts
- County court appeals would go to Court of Appeals

G. Supreme Court Jurisdiction

1. Appeals from Workers Compensation Court of Appeals
2. Appeals from Tax Court
3. Appeals from defendants convicted of first degree murder
4. Writs of Mandamus, Prohibition, Habeas Corpus
5. Discretionary review of decisions of the Court of Appeals, as outlined under "E"

ARGUMENTS AND DISCUSSION

ARGUMENTS FOR A COURT OF APPEALS

1. Provide quicker decisions: it now takes 15 months or more for a case to complete the appellate process. This far exceeds American Bar Association standards that recommend processing time not to exceed five to six months.

2. Reduce the cost of appeals process: speedier resolution of cases plus reduced travel time and expenses. The Court of Appeals will be the final stop for 85-95 percent of the cases. Only cases with statewide impact or grave constitutional issues would be granted further review before the Supreme Court.

3. Assure citizens' rights to an appeal: measures instituted to handle the caseload, such as limiting oral argument and eliminating written opinions, have not been successful. (See next page for examples) Without a Court of Appeals, the Supreme Court will have no choice but to deny in many instances citizens' rights to an appeal, which means that people who are victims of arbitrary rulings or error in the trial court will have no recourse.

4. Assure a high quality of justice: the Minnesota Supreme Court cannot process cases any faster without compromising the quality of justice. The number of appeals has nearly doubled in the past five years to 1,400 cases per year. Because of this staggering caseload, decisions are delayed; some cases do not receive the thorough attention they deserve; and some opinions are written too quickly, raising more questions than they settle.

5. Minnesota is the largest state by population without a Court of Appeals. Thirty-three other states already have such a court.

DISCUSSION OF ALTERNATIVE SOLUTIONS

While most of the groups* who have studied the Supreme Court's caseload have advocated the creation of an intermediate appellate court, other remedies have been suggested that can be classified into three broad categories: (1) adding judicial personnel, (2) increasing judicial efficiency, and (3) reducing the number of appeals to the Court.

The first category of reforms (adding judicial personnel) has not been efficient. Proposals include increasing the number of Supreme Court Justices and making temporary assignments of Justices. The rationale behind these remedies is that many hands make light work. Because the Supreme Court follows the concept of collegiality requiring that all Justices participate in the major appellate court functions - reading briefs, participating in oral arguments and conferring to decided opinions - adding judges may actually slow down its operation. The old adage that two heads are better than one has always been tempered by the observation that too many cooks spoil the broth.

The second category of reforms (increasing judicial productivity) falls into five areas: restricting oral arguments, limiting briefs; reducing the number of written opinions; increasing the use of staff; and using judicial panels. Many of these reforms have already been employed by the Court. Most of these measures delegate Supreme Court functions to appointed staff, thus decreasing the likelihood that the litigant will receive meaningful appellate review.

Three-judge panel divisions were used by the Court until September, 1980. While the primary advantage of panels is expediency, the end result is the loss of collegiality. This is particularly harmful in a court of last resort. Because there is no opportunity for further review, each case must be given the most through scrutiny.

The third category (decreasing appellate caseload) leaves the present appellate procedures intact, but provides those procedures to fewer cases. The Minnesota Supreme Court has not chosen to limit the number of cases it will review because it believes that it would be unfair to leave litigants with no other appeal. However, it has decided to maintain current calendars by sacrificing individual attention to many of the cases. No more than approximately 200 cases can receive intensive appellate review by the Supreme Court out of 1,400 filings.

*1966 - Minnesota Citizens' Conference to Improve the Administration; 1968 - State Judicial Council; 1971 - Minnesota Constitutional Study Commission; 1974 - National Center for State Courts; 1981 - Judicial Planning Committee.

Another method of limiting the number of appeals is to divert more appeals to district courts. However, routing appeals from administrative agencies to the district court adds significantly to the appellate burden of the district court with only minimal benefit to the Supreme Court.

Another jurisdictional change would provide three judge panels of the district court to hear appeals from decisions of their colleagues. However, the trial courts are already heavily burdened and adding to their workload only worsens the problem. It raises serious doubts about the validity of review of one district court judge's opinion by other district court judges.

CREATION OF AN INTERMEDIATE APPELLATE COURT

Various administrative and structural changes have been proposed to alleviate the caseload of the Supreme Court; however, they are counterproductive to the Court's more important role as developer of the law: the interpreter of statutes and clarifier of unsettled concepts. The intermediate appellate court is the only option that has the capability to handle the caseload while maintaining the integrity of the appellate process. At present, 33 states have intermediate appellate courts and Minnesota is the most populous state without one.

The creation of an intermediate appellate court has four primary benefits. First, it provides a high quality of appellate justice by ensuring that judges, not appointed staff, consider and decide cases.

Second, it enables all appellate disputes to be resolved with dispatch. Because it need not act collectively, it can sit in panels, which can be increased if caseloads rose. Sound, precedent, in the event that conflicting decisions are issued, is safeguarded by the fact that the Supreme Court is ultimately available as the final arbiter. Significant cases could go directly to the Supreme Court which would eliminate the need and expense of double appeals. In other states with intermediate appellate courts, less than half of the cases request further review of the Supreme Court and very few cases receive it. It is anticipated that 85-95 percent of the matters heard in the court of appeals will be finally adjudicated at this level.

Third, accessibility to the appellate process is enhanced if the intermediate appellate court sits in various locations throughout the state. This benefits the litigants by reducing travel time and expense.

Fourth, more litigants can appeal who might have been discouraged because of travel and expense factors.

THE CASE FOR A MINNESOTA COURT OF APPEALS

By Douglas K. Amdahl, Chief Justice, Minnesota Supreme Court

Minnesota critically needs a state Court of Appeals. The decision to create this court is now in the hands of the voters who will be asked this fall to approve a constitutional amendment on the issue. I would like to outline the reasons for my strong advocacy of this essential court reform.

A supreme court of nine members can properly handle no more than 250 cases in a year's time. That number of cases allows time for careful and thorough reading of the briefs, careful consideration of the records provided by the court or administrative agency from which an appeal was taken, the presentation of oral argument by, and searching questions by the court of, counsel for the parties, for exhaustive discussions by the members of the court about all aspects of the case, for carefully crafted, and tersely worded, opinions that serve not only to answer the question for the parties before us but to provide guidance for the future conduct of our citizens and to provide an opportunity for the court to publish the opinion within a reasonable time from the time the matter is appealed.

Over the last 15 years, there has been a dramatic and constant increase in the number of appeals to the supreme court. In 1957, there were 213 appeals. By 1981, the number had grown to 1391. We have tried many ways--every proper was we could think of--to handle the ever-increasing caseload without depriving people of an appeal. In 1973, the number of justices on the court was increased from seven to nine. We have tried hearing cases by three-judge panels. We have reduced the number of full written opinions. We decide many cases without granting oral argument to counsel. We have relied heavily on staff and we have added to the number of cases considered on any day and to the number of days cases are considered. None of these methods of trying to solve the caseload problem has been successful. The results have not been satisfying either to the court nor to the citizens whose cases are before us. The time to process an appeal has been growing longer and it now takes about 15 months for a civil appeal to be decided and from 17 to 22 months for a decision in a criminal case. Those times far exceed the American Bar Association's standards of five to six months for processing time.

The end result is that our citizens suffer. Decisions are delayed, opinions are written and considered too hastily, thus often creating more questions than are answered, the costs in time and money increase. The alternatives before us are two. The first is to create a court of appeals which would hear and finally determine most appeals from the trial courts and administrative tribunals, leaving the cases of widespread import and constitutional issues to the supreme court. The second is to deny in most instances citizens' rights to an appeal. This latter alternative is, we believe, totally unacceptable as it would leave litigants who have been deprived of a

just decision because of error or arbitrariness in the trial court without recourse.

The debate during the legislative session focused on the best method to resolve the problem. The creation of an appeals court through a constitutional amendment was deemed to be the only proper answer to this urgent problem.

I believe, as do my colleagues on this bench, and as a great number of citizens' groups who have studied the problem, that the establishment of a court of appeals can solve the caseload problems without undermining the integrity of the appellate process. The appeals court, consisting of 12 judges who would sit in three-judge panels in all the judicial districts of the state and whose panel members would rotate from time-to-time, would greatly shorten the appeals process. In Wisconsin, for example, the average processing time of an appeal, which was almost four years prior to the adoption of a court of appeals, was reduced to eight months following the establishment of that court.

Many have expressed the concern that a court of appeals would just be another layer of appeals before the supreme court made a final decision. Statistics refute that concern. Thirty-three states have implemented a court of appeals. Minnesota is the most heavily populated state not having such a court. The percentage of cases which have been granted an appeal to the supreme courts after a decision in the court of appeals ranges from four to 12 percent. The supreme courts hear only the most significant cases, those with wide impact or important constitutional questions.

The cost of instituting the court of appeals is estimated at 1.3 million dollars per year, or about .37 per resident per year. Part of that expense would be offset by reducing the number of supreme court justices by two and the termination or reassignment of the staff assigned to those two. Costs to litigants would also be reduced by the fact that appeal hearings would be held in their home court districts.

The League of Women Voters of Minnesota, Minnesota Citizens for Court Reform, the Minnesota State Bar Association, and the district and county court judges associations already endorse and support the proposal.

In our minds, this is the most important judicial reform in many years. It provides the citizens an opportunity for final appellate determination of cases in a minimum time at minimum expense. I request, and I hope, that the voters of this state will lend their support.

QUESTIONS AND ANSWERS

QUESTIONS AND ANSWERS

1. **Why can't the Supreme Court be expanded or panels created as an alternative to creating a court of appeals?**

   Expansion of a Supreme Court beyond nine justices is not efficient. The benefit of having more people to divide the work among is cancelled out by the extra effort required to exchange and coordinate more points of view.

   The Supreme Court did hear cases in panels until the fall of 1980. This practice was discontinued because a Supreme Court should act as an entire body when deciding cases of precedential value.

   Neither alternative would accomplish the goal of allowing the Supreme Court justices to concentrate upon important cases, while providing adequate judicial review of ordinary appeals.

2. **Where would the court be located?**

   Central chambers will be maintained in St. Paul. Panels of at least three judges will travel to each judicial district to hear appeals arising in that district.

3. **What will be the jurisdiction of the court appeals and the supreme court?**

   The court of appeals will hear all appeals from the trial courts, except conciliation court and defendants convicted of first degree murder. Appeals from decisions of the Commissioner of Economic Security and administrative agencies would be heard by the court of appeals. The court will also have jurisdiction over interlocutory appeals and other special matters.

   The Supreme Court will continue to hear appeals from the Workers' Compensation Court of Appeal, the Tax Court, and from defendants convicted of murder in the first degree. The Supreme Court will have jurisdiction to issue writs of mandamus, prohibition and habeas corpus. The Supreme Court, at its discretion, will hear appeals from the Court of Appeals.

4. **Are double appeals a problem?**

   Not if jurisdictions and procedures are carefully drawn.

   Thirty-three states have implemented a court of appeals. Statistics show that the percentage of cases which have been granted further review by a Supreme Court range from four to 12 percent. The Supreme Courts hear only the most significant cases, those with wide impact or important constitutional questions.

5. **How much will the court cost?**

The cost of instituting the court of appeals is estimated at 1.3 million dollars per year, or about .37 per resident per year. Part of this expense would be offset by reducing the number of Supreme Court justices by two (through attrition) and the termination or reassignment of the staff assigned to those two.

6. **Will a new court mean more staff and bureaucracy?**

No. Even though the court of appeals judges will each require a secretary and law clerk, staff at the Supreme Court should remain at about the same level. The Clerk of the Supreme Court will also serve as the Clerk of the Court of Appeals.

7. **Will there be any problems with conflicting law being created because decisions are made by panels of judges?**

No. Membership will be rotated in such a way that all judges will end up sitting with each other on cases. That should avoid the problems of any two panels issuing conflicting decisions. Also, all decisions of the panels will be examined at the court's central office in St. Paul to ensure consistency before being released.

8. **Will the court save time or expense to litigants?**

Both. The court of appeals will ensure that the appellate process is shortened. Also, because the judges will travel to each judicial district to hear cases, the time and expense of going to St. Paul will be eliminated.

January 13, 1982

CASELOAD OF THE MINNESOTA SUPREME COURT

Calendar Year 1981

CASE TYPE	NUMBER OF FILINGS	PERCENT OF FILINGS
Civil Appeal	708	50.90
Criminal Appeal	263	18.91
Cert. - Workers Compensation	92	6.61
Cert. - Tax Court	18	1.29
Cert. - Economic Security	90	6.47
Petition for Further Review	104	7.48
Writ of Mandamus	33	2.37
Writ of Prohibition	40	2.88
Attorney Discipline	18	1.29
Miscellaneous	25	1.80
TOTAL - SUPREME COURT CASE FILINGS	**1,391**	**100.00**

(Revised March 26, 1982)

MINNESOTA SUPREME COURT
DISPOSITION ANALYSIS
CASES DISPOSED IN 1981

1. CASE TYPE

Civil Appeal	746
Criminal Appeal	189
Cert.-Workers Comp.	65
Cert.-Tax Court	17
Cert.-Economic Security	112
Petition for Further Review	113
Writ of Mandamus/Prohibition	78
Attorney Discipline	6
Miscellaneous	26
TOTAL	1,352

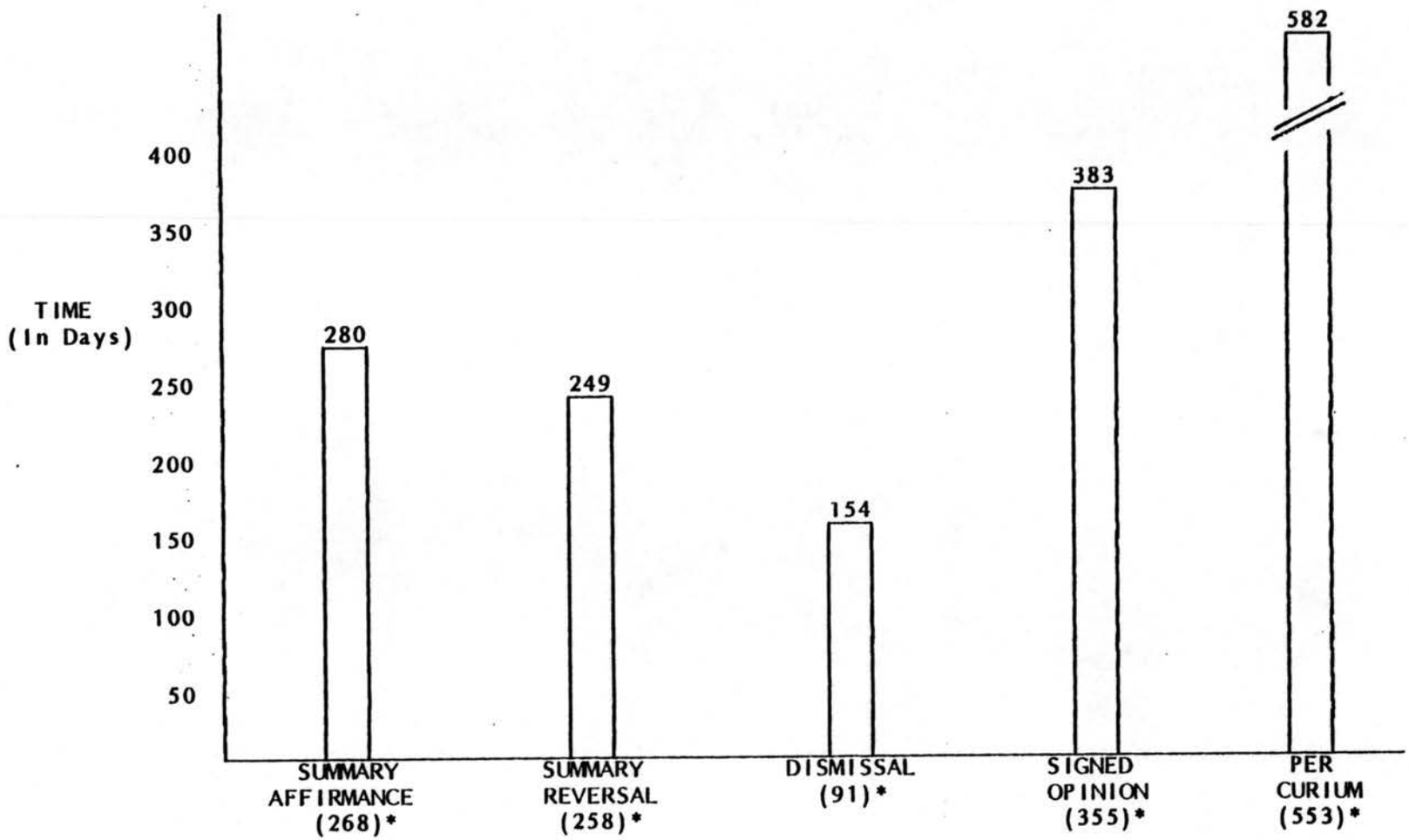
2. TYPE OF COURT CONSIDERATION

En Banc Hearing	155
En Banc Non-Oral	80
Non-Oral Hearing	576
Division Oral	2
Specials	539
TOTAL	1,352

3. TYPE OF DISPOSITION

Summary Affirmance	433
Summary Reversal	10
Dismissal	288
Abandon	1
Withdraw	10
Signed Opinion	385
Per Curiam	11
Other	214
TOTAL	1,352

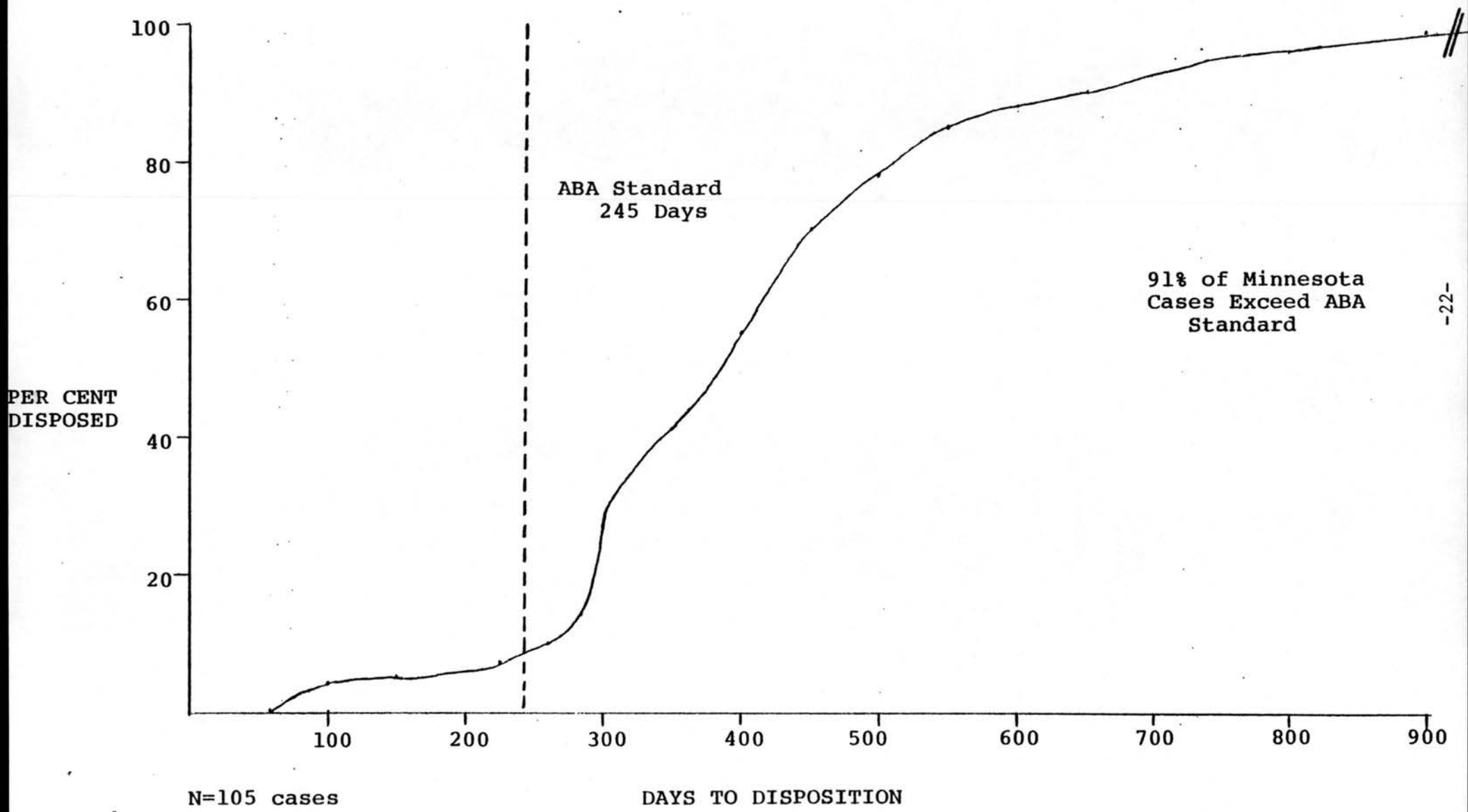
MINNESOTA SUPREME COURT
AVERAGE TIME TAKEN TO REACH DISPOSITION
BY TYPE OF DISPOSITION
CASES DISPOSED IN 1981



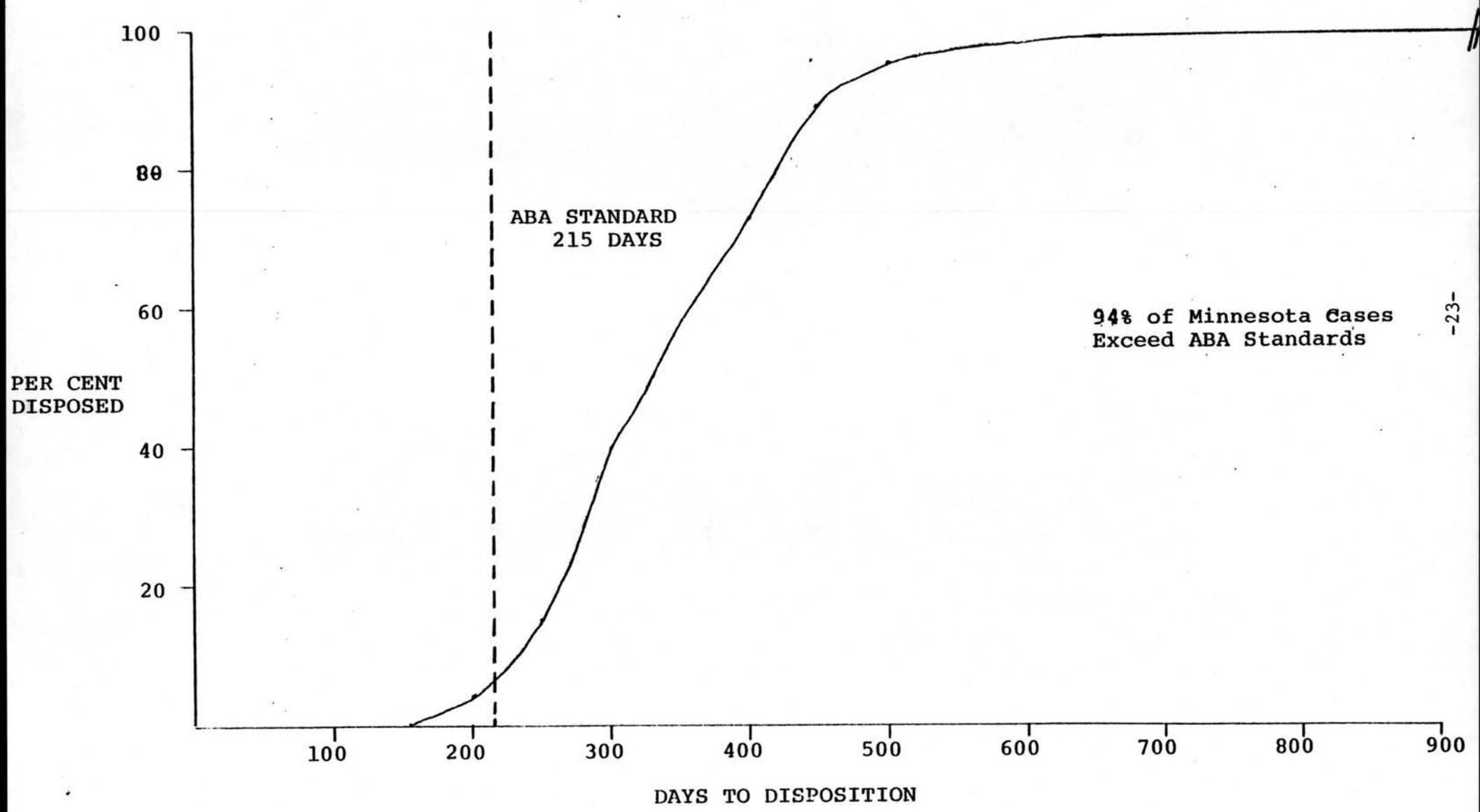
*Represents the midpoint. Half of the cases were disposed in less time than the number in ( ) and half the cases were disposed in more time.

PER CENT OF CASES DISPOSED
OVER TIME (IN DAYS) 1981
MINNESOTA SUPREME COURT COMPARED TO
ABA STANDARDS

(Civil Cases Receiving En Banc Consideration)



PER CENT OF CASES DISPOSED
OVER TIME (IN DAYS) 1981
MINNESOTA SUPREME COURT COMPARED TO ABA STANDARDS
(Criminal Cases Receiving Non Oral Consideration)



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April 16, 1982

CASELOAD OF THE MINNESOTA SUPREME COURT
First Quarter
Calendar Year 1982

CASE TYPE	NUMBER OF FILINGS	PERCENT OF FILINGS
Civil Appeal	178	43.5
Criminal Appeal	138	33.7
Cert. - Workers Compensation	23	5.6
Cert. - Tax Court	4	1.0
Cert. - Economic Security	11	2.7
Petition for Further Review	26	6.4
Writ of Mandamus	14	3.4
Writ of Prohibition	3	.7
Attorney Discipline	6	1.5
Miscellaneous	6	1.5
TOTAL - SUPREME COURT CASE FILINGS	**409**	**100.00**

SAMPLE SPEECH

THE PROBLEM WITH MINNESOTA'S APPELLATE CASELOAD

I am here today to talk to you about a problem. The problem is that the appellate caseload has expanded so greatly that the Supreme Court has found it necessary to resort to case processing efficiencies which undermine the integrity of the appellate system. The problem is not that the justices of the Supreme Court are overworked and falling ill from fatigue, but the methods which the Supreme Court must employ to handle all the cases.

The appellate caseload has increased at the rate of 11 percent each year. To accommodate this growth, numerous changes have been made in the internal case processing mechanisms employed by the Supreme Court. For example, the Court moved from oral argument before all nine justices to arguments before divisions of five judges in the late 1960's. When two additional justices were added to the Court in the early 1970's, the Court began to sit in divisions of three, with en banc arguments restricted to major cases. In the early 1980's the Court continued the limitations of oral argument to major cases which were heard en banc, with the remainder diverted to staff for preliminary review, and then to divisions of three judges for determination.

The Supreme Court has been aware all along that restricting oral argument and the use of en banc argument to a fraction of cases and increasing reliance upon staff dilute the very purpose of a supreme court. Litigants who are dissatisfied with a trial court decision have a legitimate right of access to an appellate court. Inherent in this right is an opportunity to be heard, to present their contentions to a dispassionate tribunal, and to receive a prompt resolution of their appeals, memorialized in terse, carefully crafted opinions prepared only by judges who are familiar with the nuances of their cases. Appeals which do not include these ingredients are appeals in name only. The Supreme Court is absolutely determined to make the appellate function meaningful once again.

You may wonder why the Court has adopted expedient measures over the years. The simple answer is that the explosion in the workload has forced them to turn to various time-saving techniques, none of which has worked. Taken in their totality, these measures have begun to undermine the foundation of our supreme court.

A few statistics will highlight the situation. In 1973, when the Legislature authorized two additional judgeships, 686 matters were filed in the Supreme Court. In every subsequent year except 1976, filings increased over the previous year; in 1981, 1391 cases were filed, more than twice as many as in 1973. In 1973, 341 opinions were issued, so that slightly less than 50 percent of the matters were disposed by opinion; in 1981, 385 opinions were issued, in only 28 percent of the matters filed.

The most disturbing consequence of the rising caseload is delay in dispositions. The American Bar Association Standard Relating to Appellate Courts set 245 days as the maximum benchmark for disposition of civil cases. Last year, fewer than 40 percent of these matters were disposed within the ABA limit. By the time 90 percent of the civil cases were disposed last year 500 days had elapsed from the time of filing.

Looking at civil cases receiving non-oral consideration, 80 percent of the 1981 caseload exceeded the ABA Standard of 215 days; for civil cases decided en banc, 91 percent of 1981 cases exceeded the ABA Standard of 245 days. Similarly, 94 percent of the criminal cases given non-oral consideration exceeded the ABA maximum of 215 days. Finally, of all types of cases filed in 1981, approximately 50 percent exceeded the 245-day limit.

It is generally agreed that the major causes of delay are increasing backlog and inefficient operating procedures. The Supreme Court has decided, after a sufficient period of experience, that the timesaving devices they have adopted have not solved the problems, but instead have diluted the court as an institution. The Supreme Court now admits that there is no possibility that they may adequately address every appeal that is filed with the Court during a calendar year. Consequently, backlog has become endemic and characteristic of the caseload. The Court is faced with the prospect of never becoming current. It is for this reason that the Court has become convinced that the only recourse available under

the circumstances is an intermediate court of appeals.

What benefits can be expected from a court of appeals in Minnesota? We may turn to the experience of other states to provide us with some of the answers. Fortunately, our sister states of Wisconsin and Iowa have recently instituted appellate courts, so their situations should be instructive to us.

In Wisconsin, the intermediate court was created by statute in 1977, and became operational in August, 1978. The new court has virtually unlimited appellate jurisdiction, and the Supreme Court may review a decision of the appellate court only if it grants a petition to appeal.

In 1980, the most recent year for which statistics are available, 2,287 cases were filed in the intermediate court, of which more than 81 percent were civil appeals. The court disposed of 2,221 of these matters, 48.4 percent by written opinion. In 1980, the Wisconsin Supreme Court granted review in 105 of these matters and denied review in 401 others. Thus, of the 877 appeals docketed in the Supreme Court in the first 10 months of 1981, only 123 of these, or 14 percent, originated in the intermediate forum.

Let us turn our attention briefly to the Iowa experience. In 1976, the nine-judge Supreme Court required 17 months to process its appeals. The Court had experimented with various administrative remedies, including three-and five-judge panels, diminishing the number of oral arguments and early case screening.

In 1977, the Iowa Legislature created a new five-member appellate court. Its jurisdiction is limited to cases transferred to it by the Supreme Court. All matters are handled en banc.

The impact of the intermediate court is profound: it disposes of the average appeal within two months after filing; during its first four years, the court received a total of 1,632 cases from the Supreme Court, only 139, or 8.5 percent of which were pending at the end of 1980.

In considering the workload in the Iowa Supreme Court in 1976, the year before the new intermediate court began operations, there were 1,176 filings and 1,079 dispositions (a 91.7 percent filings/disposition rate); in 1981, the latest year for which statistics are available, there were 1,733 filings--a 47 percent increase over the 1976 figure--and 1,716 dispositions, which amount to 99 percent of filings. Most importantly, the new court had reduced Supreme Court processing time to 8.3 months by the end of 1978.

What is the lesson we have learned from the experiences in our neighboring states? First, we may reasonably expect that the institution of an intermediate court of appeals will substantially diminish--and perhaps eradicate--the backlog of cases in the Supreme Court. Second, we believe that the cases in our appellate courts will be decided with dispatch, and that judges will have the opportunity to devote adequate consideration to the complexities of the cases assigned to them. Third, we know that the threat of

so-called "double appeals," that is, appeals from the intermediate court to the Supreme Court, is illusory. Fourth, we are confident that an intermediate court which will hear appeals in panels of three judges around the state, will bring the legal process closer to the citizens it serves.

Now I would like to briefly outline the structure of the proposed court. The court of appeals would have appellate jurisdiction over all trial courts and most administrative agencies. The Supreme Court would continue to hear appeals from the Workers' Compensation Court of Appeals, the Tax Court, and defendants convicted of first degree murder. The Supreme Court will have jurisdiction to issue writs and may, in its discretion, review decisions of the court of appeals.

Creating the new court would enable the Supreme Court to reduce its reliance on staff and to shift the focus of its efforts from that of a factory reviewing all trial court decisions to a court of last resort concentrating on cases of particular precedential importance.

Oral hearings would not be conducted exclusively in St. Paul. The panels will sit for oral argument in the judicial district from which the appeal arose. The judges would rotate so that each judge would serve with every other judge and would sit in every district in the state. All of the judges would be centrally chambered in St. Paul so they would be in a position to avail themselves of the law

libraries and also of the advice and opinions of their fellow judges.

Judges of the court of appeals will be initially appointed by the Governor, serve six-year terms, and be eligible for re-election on a statewide ballot. One seat on the court shall be designated for each congressional district. All other seats will be without a residency requirement. The court will begin in July of 1983 with six judges. Six more will be added on January 1, 1984. The decision to add judges will remain with the Legislature, aided by a formula.

Upon petition of a party, the Supreme Court may grant immediate bypass review of any matter not yet before the court of appeals or may grant accelerated review of any case pending in the court of appeals. The Supreme Court may grant further review of any decision of the court of appeals upon petition of a party.

The court of appeals would benefit Minnesota by (1) improving access to the court outside of the capitol city; (2) providing review by elected judges rather than staff; (3) reducing dispositional delay; and (4) enabling the Supreme Court to concentrate on formulating and developing the law.

I urge you to add your voice to the numerous groups who have endorsed the court of appeals in explaining to our friends and neighbors the distinct advantages of a court of appeal and to urge their support and "yes vote" on the November ballot.

Thank you.

MISCELLANEOUS

GROUPS CONTACTED

Independent Republic Party
Democratic Farmer Labor Party

AFL-CIO
St. Paul, Minneapolis and Iron Range Labor Assemblies
*Teamsters
United Auto Workers
Steelworkers

*Minnesota Education Association
Minnesota Federation of Teachers
*Minnesota School Boards Association

*Farmers Union
Farm Bureau
Minnesota Agri-Growth Council

*League of Women Voters of Minnesota
*Minneapolis Branch American Association of University Women
*Common Cause
Citizens League
Urban Coalition

*Minneapolis Urban League
Minnesota Senior Federation
Joint Religious Legislative Coalition
*Minnesota Public Interest Research Group
Minnesota Jaycees

*Minnesota Association of Commerce & Industry
Minneapolis Chamber of Commerce
St. Paul Chamber of Commerce
Rochester Chamber of Commerce
St. Cloud Chamber of Commerce

Employers Association of Greater Minneapolis
*Insurance Federation of Minnesota
Minnesota Association of Cooperatives
Minnesota Association of Realtors
Minnesota Bankers Association
Minnesota Society of Certified Public Accountants
Minnesota Society of Professional Engineers
Minnesota State Automobile Association

KEY:

*Endorse

League of Minnesota Cities
Minnesota Association of Counties

*Minnesota District Court Judges Association
*Minnesota Trial Lawyers Association
*Minnesota County Attorneys Association
*Minnesota State Bar Association
*Minnesota County Court Judges Association

Minnesota Congressional Delegation
*Warren Spannaus
*Mayor Don Fraser
*Mayor George Latimer
*Governor Quie

MINNESOTA DAILY NEWSPAPERS (27)

EDITORIALS

Albert Lea
Austin
Bemidji - endorse
Brainerd - endorse
Crookston
Duluth - endorse (has run editorial several times)
Fairmont
Faribault - ran guest editorial by Justice Amdahl
Fargo-Moorhead Forum - endorse
Fergus Falls - endorse
Hibbing - endorse
International Falls
Little Falls - endorse
Mankota
Marshall - endorse
Minneapolis - endorse (has run editorial several times)
New Ulm - endorse
Owatonna
Red Wing
Rochester
St. Cloud - endorse
St. Paul - endorse (has run editorial several times)
Virginia
Waseca
Willmar
Winona
Worthington - endorse

Minneapolis Tribune

Established 1867

Charles W. Bailey Editor
Wallace Allen Associate Editor
Frank Wright Managing Editor
Robert J. White Editorial Editor
Leonard Inskip Associate Editor

Donald R. Dwight Publisher

Thursday, April 1, 1982

Minnesota appeals court is up to voters

Partially Scanned Material

Version 3
March 18, 2019

COMMUNICATIONS AND THE APPEALS COURT CAMPAIGN

The PR Plan

Develop a public relations plan and a timetable for each event. Include in the plan the various audiences that should see the communications and how best to reach them. Determine who will carryout each phase of the plan.

Media Contact

Simply telephone the local daily and/or weekly newspapers, radio and cable television stations to identify the individuals to whom your news release should be directed. At that time you should also define the method of contact they prefer and their deadlines. If possible, make an appointment to meet briefly with the media representatives to explain who you are and what you are attempting to do.

News Release

The following are some guidelines for preparing a news release:

1. A release should be kept short. It should cover basic information on the five W's (who, what, where, when, why) and then provide additional information on the campaign. Editors often shorten articles by cutting from the end of the article, so be sure that the most essential information comes first.

2. The release should be typed and double spaced and neat. Have large margins on all sides for editing purposes. Type on one side of the paper only.

3. A contact person's name should be typed at the upper righthand corner of the first page. Include his/her day and evening telephone numbers.

4. Down several spaces from the address section should be a release date on which the media can use the release.

5. Type "-more-" at the bottom of the page if the release runs more than one page. Subsequent pages should bear a slug to identify it and a page number. End the release with a "-30-" centered immediately beneath the last copy line.

6. Be accurate--in facts and spelling.

Provide Photos

Be sure photos meet the standards of your media. Some dailies will use only pictures taken by their own staff photographers, while some weeklies will use Polaroid photos. Use black and white photos, 4X6 or 5X7, clear and in focus. Submit photos that show action, not just heads smiling into the camera.

The photos should be labeled with the name of the contact person and the organizational name in case they become separated from the copy. Also, provide information for the "cutline"--a description of the photo and clear identification of persons shown. Do not write on the picture. Use a removable label or piece of paper taped to the photo back.

Make the Most of Radio and TV

For electronic media coverage, keep it brief and eliminate complicated explanations. The message must be straightforward, uncomplicated, easy to understand, and free of too many details.

Follow-Up

Remember to evaluate constantly. What approach of yours is working and how can you make it better? Most important is the thank you to the media for their coverage. Let them know you appreciate their help on your behalf.

SAMPLE NEWS RELEASE

League of Women Voters of Minnesota

Address

(Use letterhead, if possible)

For further information contact:

Name:
Telephone:

FOR RELEASE (DATE)

"Shall the Minnesota Constitution be amended to allow the creation of a court of appeals?" That question will be on the ballot in the November 2nd general election. Advocates for the creation of a court of appeals are forming a coalition to aid the passage of this constitutional amendment.

(People's names and titles) will be spearheading the drive in (names of city/county) for the passage of the amendment. "An appeals court will provide for quicker decisions, reduce the cost of the legal appeals process, and assure a high quality of justice," said (repeat person's name).

Statistics show that over the last 15 years, there has been a constant increase in the number of appeals to the Supreme Court. In 1957, there were 312 appeals. By 1981, the number had grown to 1,391. The time to process an appeal has been growing longer and it now takes about 15 months for a civil appeal to be decided and from 17 to 22 months for a decision in a criminal case. The result is that decisions are delayed and the costs in time and money increase.

The coalition will provide a speaker to groups wanting more information about the proposed amendment. Anyone wanting a speaker or wishing to help with the coalition efforts should contact (contact name) at (phone or address).

LEAGUE OF WOMEN VOTERS OF MINNESOTA
555 WABASHA · ST. PAUL, MINNESOTA 55102
PHONE: (612) 224-5445

MEMO

TO: LWV lobbyists

FROM: Jean Tews

SUBJECT: Time for Action on Intermediate Appellate Court

DATE: March 3, 1982

The House and Senate Rules Committees will be meeting to review all bills which have proposed constitutional amendments. They plan to select only 3 or 4 of the many proposed amendments to go to the floor of each house for a vote.

The House Rules & Legislative Administration Committee hearing is scheduled for 11:00 a.m., Monday, March 8th in Room 83 of the State Office Building. The Senate Rules and Administration Committee has not yet scheduled its meeting. It could be as early as Friday, March 5th.

Please immediately contact your Senator or Representative who sits on this committee. Urge them to pass the bill proposing a constitutional amendment to establish an intermediate appellate court (HF 1727/SF 1669).

You can leave the attached fact sheet with them.

Committee members are:

SENATE RULES AND ADMINISTRATION COMMITTEE

Moe, R. D., Chairman
Hanson, Vice Chairman

Ashbach	Johnson	Renneke
Bang	Keefe	Schmitz
Chmielewski	Knoll	Solon
Davies	Knutson	Spear
Dieterich	Merriam	Stumpf
Frederick	Olhoft	Tennessen
Hughes	Pillsbury	Wegener
Humphrey	Purfeerst	Willet

HOUSE RULES & LEGISLATIVE ADMINISTRATION COMMITTEE

Eken, Chairman
Simoneau, Vice Chairman

Anderson, I.	Knickerbocker	Schreiber
Anderson, R.	Mann	Sherwood
Brinkman	Munger	Sieben, H.
Carlson, D.	Nelsen, B.	Sieben, M.
Forsythe	Norton	Swanson
Friedrich	Novak	Vanasek
Halberg	Rice	Weaver
Heinitz	Samuelson	Welker
Johnson, C.		

LWVMN Statement of Support for SF 1561

SF 1561 (Berglin) passed out of the Senate Judiciary Committee and is now on General Orders. It will not be heard by a House Committee. It's expected that it will come up for a vote by both Houses sometime during the remainder of the session.

DESCRIPTION:

The bill provides for a mandatory income withholding order in every marriage dissolution, legal separation or parentage determination. It was amended to include temporary orders as well. While currently either party can request mandatory income withholding to be included in the above orders (this is not a negotiable item), this bill would automatically have it included.

Intermediate Appellate Court:
HF 1727/SF 1669

HF 1727 (Clawson, M. Sieben, Halberg, Jude, Dempsey) and SF 1669 (Hanson, Merriam, Tennessen, Ashbach, Knutson) are bills to establish an intermediate appellate court by a constitutional amendment.

The League of Women Voters of Minnesota supports these companion bills. Since 1972 LWVMN has had a position in support of the establishment of an intermediate appellate court.

The court would have the following features:

- Jurisdiction - Would hear all civil and criminal appeals from district, county and municipal court; would hear all appeals from statewide administrative agencies (except worker's compensation).
- Number of Judges - Six judges in last half of 1983; twelve judges in 1984; beginning in 1985, the number would increase or decrease in proportion to case filings, unless legislature changes statute. Governor would make initial appointments and fill vacancies, but judges would be subject to usual election. One judge from each congressional district; the others at large.
- Panels - Court would sit in three judge panels. Principal office would be in St. Paul, but it would sit in every judicial district outstate. Panels would rotate.
- Appeals to Supreme Court - Parties could request Supreme Court to re-hear cases decided by Court of Appeals, but it would hear only the significant cases. In urgent cases, parties could ask Supreme Court to bypass the Court of Appeals.
- Reduction of Supreme Court to seven justices as vacancies occur.
- Elimination of three-judge district court panels. (This should relieve several district judge-equivalents for general trial duty.)
- Appeals from state agencies would be heard by three judge court of appeal panel, rather than in the district court.

The League is concerned over the heavy case load of the Minnesota Supreme Court. This year about 1,500 cases will be appealed to the Supreme Court, although it can

(over)

only properly handle about 250. The processing time for civil appeals is 15 months and for criminal matters is 17 to 22 months. American Bar Association standards recommend the average processing time not exceed 5 to 6 months.

Thirty-three states have intermediate appellate courts. Minnesota is the most populous state without one.

Costs for the proposed court system are estimated at 2.6 million dollars per biennium or about 35 cents per person per year. According to Minnesota Supreme Court Chief Justice Amdahl, part of the expense would be offset by reducing the number of Supreme Court justices from nine to seven and appellants' costs would be reduced by holding hearings in their districts.

The League of Women Voters of Minnesota urges your support for HF 1727/SF 1669.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, MN 55102 - October 1982

TO: Appeals Court Contact persons or LL president

FROM: Jean Tews

DATE: October 26, 1982

1982 APPEALS COURT AMENDMENT CAMPAIGN REPORT

Please fill out this questionnaire so we can assess our impact on the Appeals Court Campaign and determine how to improve our efforts for the next LWVMN Amendment Campaign.

SPEECHES:

Did you use the speakers packet?
For how many groups did you arrange speeches?
How many people (approximately) heard the speeches?
Who gave the speeches?
- LWV member _____
- Lawyer _____
- Judge _____
- Other _____

MEDIA:

Did you send out press releases?
- How many? _____

Did you write letters to the editor?
Any radio appearances?
TV (commercial) appearances?
TV-cable programs?
Was it presented by LWV?

BROCHURES OR FLYERS:

Approximately how many did you distribute: _____
How many more could you have used? _____
How were they distributed?
- LWV Meetings _____
- Other Meetings _____
- Door to door _____
- Other _____

VOTER SERVICE ACTIVITIES ON THE AMENDMENTS:

Did you use the Amendments '82 video tape?
- To what groups was it shown?

Did you sponsor public service announcements on radio or TV?
Were there problems in separating the voter service activities from the amendment campaign?

COMMENTS AND EVALUATION:

What changes would you recommend for conducting the next LWVMN amendment campaign?

Name: _____ League: _____

Please return by December 1, 1982.

League of Women Voters of Minnesota, 555 Wabasha, St. Paul, MN 55102 - August 1982

AMENDMENTS '82

AMENDMENT ONE - APPEALS COURT: PERMITTING ESTABLISHMENT

"Shall the Minnesota Constitution be amended to allow the creation of a court of appeals?"

INTRODUCTION

The Minnesota Supreme Court comprises eight associate justices and a chief justice. The main business of the court is appeals, along with certain administrative functions in overseeing the state's courts. Appeals come from trial courts throughout the state and also from certain state hearing bodies, such as the Workers Compensation Court of Appeals, Tax Court, and the Department of Economic Security.

The number of appeals coming into the supreme court has increased dramatically over the years. In 1973, 686 matters were filed while in 1981 there were nearly 1,400 matters, a 204% increase in the workload. If this pace continues, it is predicted that at least 1,730 matters will be filed with the court in 1982.

The supreme court considers another group of motions and petitions called special term matters. A special term matter is an extraordinary matter, often an emergency. For example, special term appeals might be made to order a lower court to do something at once, called mandamus; or to prevent a lower court from ordering something that might cause harm, called prohibition. In 1981, the court considered 770 such requests.

In addition to hearing appeals, the supreme court has another, less visable role. The court is responsible for overseeing the machinery of justice in the state, for regulating the practice of law, and making recommendations for improvement of the judicial system.

PROCESS

An appeal is actually the end of a process. By the time a case is filed in the supreme court most of the legal activity in the case has already taken place. For example, if a dispute is a divorce could not be resolved informally between the parties, a legal case is instituted. The trial results in a decision by a judge or jury. Generally, only then can a case be appealed to the supreme court.

To bring a case to the supreme court, the lawyers for the parties must file briefs, or written arguments, explaining in detail the basis of the appeal and the law that applies. In addition, the records of the case from the trial court, including a court reporter's word-by-word transcript of witness' testimony and lawyers' statements in the trial, the judge's order and exhibits must be filed.

Once filed, the cases are reviewed by a court commissioner who is responsible for preparation and processing for cases that are not granted an oral hearing and for scheduling cases. Cases can then be handled in two ways: on the basis of information in the briefs and records, but without an oral hearing; or, where significant points of law are involved, via oral hearings before the justices.

In all cases, except criminal appeals, a prehearing conference is held. Lawyers for all parties and one supreme court justice meet to review the issues on appeal. The justice makes a recommendation as to whether or not an oral hearing should be scheduled.

A hearing before the supreme court involves presentations by the lawyers on questions of law involved in that particular case. It is physically impossible for the court to allow oral argument in all matters filed before them. In 1981, only 155 cases were allowed oral argument. In most appeals, 1,197 in 1981, decisions are based on the briefs and record in the case and additional research performed by staff.

AMENDMENT ONE - APPEALS COURT: (cont.)

In all cases a conference is held by the justices. Each justice has the opportunity to present his or her thoughts about the proper decision. After the conference, the justice assigned to that case prepares an opinion or order which states a proposed decision and the reasoning behind it. The proposed decision is circulated to all the justices, who can sign it if they agree; write a dissenting opinion if they agree; write a dissenting opinion if they disagree; or write a concurring opinion if they agree but have different reasoning. A majority must agree on the decision of the court.

THE PROBLEM

According to Chief Justice Douglas K. Amdahl, a supreme court can properly handle no more than 250 cases in a year's time. That number allows for careful and thorough consideration of the case, adequate presentation by the lawyers for the parties and an opportunity for the court to render a quality decision within a reasonable time.

The supreme court has exhausted all possible solutions to the problem, including limiting the number of cases being granted oral argument, increased reliance on staff and hearing the cases in panels of three justices. None of these solutions has been successful. The results have not been satisfying to the court or to the citizens with cases before them. Decisions are delayed, opinions are written and considered too hastily, and the costs in time and money increased. It now takes the supreme court 15 months to process an appeal of a civil case and anywhere from 17 to 22 months to decide criminal cases.

Critics of the existing system offer two alternatives: creation of a court of appeals; or denial in most instances of citizens' rights to an appeal. The latter is considered unacceptable because it would leave litigants who have been deprived of a just decision because of error or arbitrariness in the trial court without recourse.

THE PROPOSED SOLUTION

The statute dealing with the structure of the court, passed during the 1982 session, takes effect only if the amendment passes. The court itself would begin operation in August 1983, with chambers and administrative offices in St. Paul. The judges, however, will travel throughout the state to hear cases.

The Governor will make initial appointments of the judges. Six assume office July 1, 1983, and six on January 1, 1984. At that time, there will be one judge from each congressional district and four who were appointed at large. At the next general election occurring at least one year following appointment, each judge must run for reelection to a six-year term.

The appeals court will have jurisdiction over all appeals from the trial courts except conciliation court and individuals convicted of first degree murder. The court will also handle appeals from most administrative agencies.

Following a decision in the court of appeals, the supreme court may, in its discretion, grant further review of that case. The supreme court may also take a case before the court of appeals has considered it if: it is an important case needing an immediate decision; or it is a case in which the district court has held a statute unconstitutional.

Jurisdiction of the supreme court will include appeals from the Workers Compensation court of appeals, appeals from the Tax Court, appeals from defendants convicted of first degree murder, writs of mandamus, prohibition, habeas corpus and discretionary review of decisions of the court of appeals.

AMENDMENT ONE - APPEALS COURT: (cont.)

Numerous benefits will be derived from the new court: decisions will be provided in a more timely fashion; the cost of the appellate process will be reduced; citizens will be assured of the right to appeal; and citizens will be assured a higher quality of justice.

The cost of instituting the court of appeals is estimated at 1.3 million dollars per year, or about 37 cents per person. Part of that expense would be offset by reducing the number of supreme court justices to seven and the reassignment of the staff assigned to those justices. Also, the Clerk of the Supreme Court will serve as the Clerk of the Court of Appeals. Costs to litigants would also be reduced by the fact that appeal hearings would be held in their home district; and the time for appeal would be shortened.

One concern often raised with the new court is the possibility of court of appeals cases being further appealed to the supreme court, thus adding to the cost and expense. Statistics, however, show that in the 33 states having a court of appeals only 8-12% of such cases are granted further review. It is anticipated that the court of appeals will be the final stop for 85-90% of the appeal cases.

LWVMN Position: Support of a judicial system with the capacity to assure a speedy trial and equal justice for all. Support of administrative reforms that expedite justice: establishment of a unified court system, and intermediate appellate court; and procedures to strengthen and streamline judicial administration.

LWVMN supports this amendment and is actively campaigning for its passage.

*AMENDMENT TWO - HIGHWAY BONDS: REMOVING CERTAIN RESTRICTIONS

"Shall the Minnesota Constitution be amended to remove restrictions on the interest rate for the amount of trunk highway bonds?"

This amendment removes the interest limit (presently 5 percent) and removes the $150 million par value limit on the amount of trunk highway bonds which are issued and unpaid at any one time. Highway bonds will be treated the same as general obligation bonds (a bond repaid from general revenue). Such bonding does not necessitate a definite tax increase since debt service is spread out over a 20-year period and can probably be absorbed into the state budget.

The argument for removal of these restrictions is that such limits are unrealistic in today's economy. Bonds will not be sold with only a 5% interest rate being offered. Consequently, highway funds are severely limited and maintenance is reduced to a "patch and repair" level. The money from the sale of trunk highway bonds also would go toward bridge construction and supporters of the amendment say there are over 4,300 bridges in Minnesota in need of repair or replacement. They also cite the fact that highway use is increasing and the current funding option available to the legislature and administration is not responsive to the state of economy and continues to fall behind in an inflationary economy.

Passage of the amendment will immediately remove the impediment to the sale or previously authorized bridge replacement bonds and will provide an additional highway funding option. This amendment has the support of business, industry, labor and other groups who believe better roads will facilitate commerce and create jobs. There appears to be no organized opposition.

LWVMN has no position on this amendment.

AMENDMENT THREE - PARI-MUTUEL BETTING: PERMITTING LEGISLATIVE AUTHORIZATION

"Shall the Minnesota Constitution be amended to permit the Legislature to authorize on track pari-mutuel betting on horse racing in a manner prescribed by law?"

The amendment would add to Article X of the Minnesota Constitution: "Section 8. The Legislature may authorize on-track pari-mutuel betting on horse racing in a manner prescribed by law." This amendment deals only with on-track pari-mutuel betting on horse racing, no other form of gambling. The amendment itself does not legalize pari-mutuel betting but it does enable the legislature to enact the laws permitting it. The three types of horse racing that could be authorized are thoroughbred, quarter-horse and harness.

If the amendment passes it will be only the first step toward eventually having horse racing in Minnesota. The next step would be for the legislature to pass a bill to legalize pari-mutuel betting and set up a racing commission to regulate the sport. The commission would then have to be appointed and its administrative machinery put in place. Would-be recetrack builders or operators would then have to be investigated and their license applications considered. Finally, a racetrack or tracks would have to be built. The entire procedure could take anywhere from two to five years.

"Pari-mutuel" is a French term freely translated meaning "betting among ourselves." It was invented as an alternative to on course bookmaking. Rather than placing a bet with a bookmaker at his odds, bettors bought tickets on individual entries in a race and contributed their bets to a pool which was distributed after the track took its percentage as a "stakesholder", to holdersof winning tickets. The odds were determined after the race by the number of winning tickets, not the bookmaker, and the track had no stake in which horses won or lost. Thus, the term, "betting among ourselves."

In 1980, pari-mutuel betting on horse racing was conducted in 29 states and permitted by law but not conducted in three other states. Generally, horse racing in these states is regulated by a commission, appointed by the Governor and approved by the Senate. The members of the commission usually receive little or no compensation. The most controversial and important activity of racing commissions is the allocation of racing dates among tracks, since the number and timing of racing dates often plays a crucial role in the success or failure of a track. Commissions are generally given a great deal of discretion by law in allocating dates. The commissions license race track personnel, govern betting, do tax collection and enforce the rules of racing. From the public standpoint, the commission's most important role is to guarantee the security and integrity of racing.

Taxation on pari-mutuel betting is generally imposed on wagers and admissions, and on occupation and license fees. Normally 85% of the money in a pari-mutuel pool is returned to winning ticket holders; the remainder is called the "takeout" and a percentage of that goes to the state as pari-mutuel tax. The rest is used for purses, breeders' awards, and the racetrack commission. In some states the pari-mutuel tax is a simple percentage of the total pool and in other states, the tax is graduated according to size of the daily or annual total pool at each track.

Estimates of potential Minnesota revenue could be made using assumptions about the number of tracks and racing days anticipated in the state but it should be kept in mind that these factors are among the most uncertain elements in the question. Given the average state experience, Minnesota could expect to receive about $9.2 million per year.

The difficulties inherent in attempting to forecast tax revenues from pari-mutuel betting on horse racing also are present in any estimate of the economic benefits from one or more Minnesota racetracks. All the unanswered questions about the number, size, location and attractiveness of tracks makes this kind of forecasting highly speculative, and makes any conclusions tentative. Most economic benefits would fall into one or two categories: jobs

AMENDMENT THREE - PARI-MUTUEL BETTING: (cont.)

and tourism. There may also be some benefit derived by the horse racing industry in Minnesota but at this point, those benefits are difficult to predict.

The question of what social effects pari-mutuel betting may have is another area of uncertainty. From studies done on this matter, it can be concluded that adverse social consequences can result but are not necessarily inevitable. Most evidence presented thus far points to individual situations rather than national trends. Studies conducted in North Carolina and Virginia have concluded that there is no correlation between legalized gambling and criminal activity. Also, there is no evidence that legalized gambling would reduce the amount of illegal gambling.

Whether pari-mutuel betting would be a burden on the poor is another question that as yet cannot be determined. Since the taxes imposed on pari-mutuel betting are uniform to all participants, it would be a burden to the poor only to the extent of their participation. According to a 1976 survey of the National Gambling Commission, it seems those least able to pay participate.

LWVMN has no position on this amendment.

AMENDMENT FOUR - RAILROAD IMPROVEMENT: PROVIDNG AUTHORITY

"Shall the Minnesota Constitution be amended to provide for state bonding authority for the improvement and rehabilitation of railroad facilities?"

The amendment adds to the list of purposes in Article XI, Section 5 for which the state may borrow money the words "to improve and rehabilitate railroad rights of way and other railroad facilities whether public or private," subject to a limit of $200 million in bonds for this purpose outstanding at any one time. Laws 1982, Chapter 600 amends Minnesota Statutes 222.49, the law creating the rail service improvement account to permit proceeds from railroad bonds to be deposited in the account. The amendment itself would not authorize the sale of any bonds, since this can be done only by an act of the legislature.

In 1976 the legislature created the rail service improvement program in an attempt to preserve key railroad branch lines which were being threatened with abandonment. The legislation authorized the state to enter into three-way contracts with railroads and rail users to rehabilitate branch lines which provide necessary transportation but which have deteriorated to the point where the railroad company cannot afford to improve them. The contracts were to provide for loans to the railroad from the state and participating users of the line, with the state to be repaid in cash and users in lower rail rates. Local units of government were also empowered to become contract participants.

In subsequent years, the legislature expanded its efforts to save endangered branch lines by creating a program to insure loans taken out by rail users to finance their share of rail improvement contracts, by allowing state funds to be used to pay local governments' share of the contracts and by establishing a state rail bank to buy and hold abandoned rail rights-of-way for up to 30 years while seeking to restore transportation service on it.

From 1976 through 1979 the legislature provided $9 million for the rail service improvement account, all in annual or biennial appropriations from the general fund. In 1980, in an attempt to provide greater long-term funding for the program the legislature authorized the issuance of $13.5 million in general obligation bonds to provide funds for the rail service program.

AMENDMENT FOUR - RAILROAD IMPROVEMENT: (cont.)

This bond authorization was nullified shortly after its passage by an unfavorable opinion as to its constitutionality. The opinion points out that the Constitution spells out the purpose for which the state can issue bonds and that a privately-owned rail line would not be "public lands and buildings" and their rehabilitation would not be "public improvements." The opinion also observes that bond proceeds could constitutionally be used to improve state-owned rail lines but this is not what the legislature had intended.

The legislature responded to this opinion in two ways. In 1981 it amended the 1980 bonding act to direct that the bond proceeds be used to acquire rail property for the state rail bank, a constitutionally acceptable purpose. In 1982, it proposed this amendment to remove the constitutional impediment to borrowing to improve rail lines while leaving them in private hands.

If the voters approve this amendment, this law becomes effective: proceeds from the sale of bonds authorized by the constitutional amendment would be placed in the rail service improvement account in the state treasury.

Proponents of this amendment say it is needed to equalize railroad bonding with highway and airport programs. They also say there is an urgent need for this funding because rail lines are rapidly deteriorating for lack of funds. And when railroad use is made more difficult, there is greater reliance on truck and highway use which increases the burden on our highways. There is a broad base of support for this amendment - the Governor, Department of Agriculture and the Department of Transportation, as well as agricultural associations, shipper associations, regional development commissions, regional rail authorities, trucking groups, labor and business. There does not seem to be any organized opposition to this amendment.

LWVMN has no position on this amendment since the thrust of our transportation position deals with the movement of people, not goods.

*Most of the information on Amendments Two, Three and Four was collected from the Minnesota House Research Department. Anyone wanting more detailed information may get it by calling House Research, (612) 296-6753, or writing the Minnesota House of Representatives, Research Department, 17 State Capitol, St. Paul, MN 55155.