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Too often the benches of our courts are occupied by political mediocrities long on tenure and short on ability. Now Missouri and California have shown how all states can select judges—and remove them—strictly according to merit

BY PAUL FRIGGENS

Is That Judge Fit to Sit?

“OF ALL PEOPLE in our society, the judge must remain the most incorruptible, because he is the final protector of our rights to life, liberty and property under the law,” declares Louis H. Burke, justice of the Supreme Court of California. Indisputable. But suppose that a case involving you came before a judge like one of the following:

- Three state Supreme Court justices in Oklahoma who shared an alleged \$150,000 bribe to “throw” their decisions in favor of a shady investment company fighting a state tax claim. One justice has served a nine-month prison sentence for income-tax evasion; another has been convicted and impeached; the third has resigned under threat of impeachment.

- A district judge in a western state who flunked his bar examina-

tions five times before he was finally admitted to practice.

- A Michigan recorder's court judge who was convicted for failure to file any income-tax returns since 1945.

- Two Louisiana Supreme Court justices who had a fist fight in the court's chambers.

“The administration of justice in the United States is in trouble,” says a report put out by the American Assembly of Columbia University entitled “The Courts, the Public and the Law Explosion.” Indeed, in state after state there is growing alarm over judges who are sick or senile, corrupt, guilty of unconscionable gold-bricking, habitually intoxicated or otherwise unfit to serve on the bench. To be sure, the great majority of our judges are honest, hardworking and capable. But, as distinguished judge and public

servant Samuel I. Rosenman of New York said in an address to the bar: “Let us face the sad fact that in too many instances the benches of our courts are occupied by men of small talent, undistinguished in performance, technically deficient and inept.”

The truth is that we are victims of two costly evils in our horse-and-buggy judicial system: popular election of county, municipal and state judges, a practice which abandons our courts to entrenched politics; and a scandalous tenure system which allows a judge to hang on “during good behavior” even though he may suffer mental decrepitude, neglect his duties or be otherwise incompetent.

How can we improve this situation?

Run on the Record. Fortunately, there are excellent “model” programs already in operation. The first is the so-called Missouri Plan of merit selection, adopted a generation ago to thwart the corrupt Pendergast political machine.* The heart of this plan is a *nonpartisan* nominating panel, usually consisting of seven members: three lawyers named by the state bar association, three outstanding laymen appointed for staggered terms by the governor, and a judge as chairman. Whenever an incumbent judge dies, re-

*The plan was drafted by the American Judicature Society. Its basic idea originated with a Northwestern University Law School professor, Dr. Albert M. Kales, as a remedy for scandalous conditions in the courts prior to World War I.

tires or is voted out of office, this panel carefully screens possible replacements, then puts forward a slate of three or more of those it considers the best-qualified candidates. The governor then fills the judgeship from the recommended slate.

Thereafter, when a judge's term is up, he runs not against another individual and on a party label, but *on his own record*. For example, at general elections, voters in Missouri are confronted with this simple judicial ballot: “Shall Judge X of the Supreme Court of Missouri be retained in office? YES NO (Scratch one).”

To help them decide, voters are given valuable guidance. Before each election, lawyers conduct a poll within their profession on the candidates' qualifications for retention, and the results are given wide publicity in local news media. In addition, newspapers publish biographies, records of reversals and conduct in office, and make recommendations.

An editorial in the Kansas City *Star* sums up the proved benefits: “A judge doesn't have to borrow and spend money to conduct a campaign. He is not forced to make political promises to men who control votes. He does not have to answer to a political boss, nor does he need to accept campaign contributions from lawyers who will practice in his court. It is by far the best plan yet devised to keep the bench out of partisan campaigns.”

Says Loyd E. Roberts, Joplin attorney and recently president of the state bar association, “Unquestionably, we have better-qualified personnel. Excellent lawyers who would not submit themselves to the ordeals of the old political system now agree to serve on our bench.”

Says Justice Laurance M. Hyde of the Missouri Supreme Court, “Our judges can now be working on the next *case* instead of on the next *election*.” Since it's no longer necessary to take time out to campaign and mend political fences, the judges are disposing of substantially more cases.

Are there any criticisms of the Missouri Plan?

A few. The most frequent complaint is that the appointive system “takes the judiciary away from the people,” and is, therefore, undemocratic. “But the idea that voters themselves select their judges is something of a farce,” Judge Rosenman told a meeting of the American Judicature Society. “The real electors are the political leaders who nominate practically whom they choose. The voters, when they reach the judicial part of the ballot, usually vote blindly for the party emblem.”

Altogether, the Missouri merit plan has proved a highly significant reform. Today essential features of it are in use statewide or in some courts or cities in Alabama, Alaska, California, Colorado, Florida, Illinois, Iowa, Kansas, Nebraska, New York, Oklahoma, Puerto Rico, Utah and Vermont. Its adoption or

extension is under consideration in some 30 other states. Moreover, some jurists feel that its key concept of a nonpartisan nominating commission might strengthen our federal judiciary appointments as well.

Marriage Mills and Golf Games.

But getting good judges *onto* the bench still leaves us with the problem of getting bad judges *off*. At present, in most states, once a judge is elected, there is no way to remove him, save by defeat at the polls, impeachment or conviction for felony. Federal judges are even harder to remove, since appointment is for life. In some states the highest court holds the power of removal of state judges, but it is rarely used. In others, a special Court of the Judiciary may be convened, or disbarment tried, with ultimate removal by the high court. But the procedure is cumbersome and ineffective.

Recognizing this weakness, California a few years ago launched a legislative investigation of its courts. Among other disclosures, this inquiry found that a 68-year-old municipal judge had convened court on only nine mornings in two years. Claiming a heart ailment, he nevertheless managed to play golf—while his backlog of cases mounted. He had collected \$33,000 for nine mornings' work!

The investigation also exposed judges who failed to show up in their courtrooms for months at a time because of sickness or age, who

indulged in short work weeks and lengthy vacations, who refused to try cases that they believed would be unpleasant or dull, who delayed decisions for so long that they forgot key points in a case. Some ran marriage mills as a flourishing sideline. A few were unable to appear for scheduled trials because of intoxication, or sat on the bench while drunk.

Shocked by these disclosures, California in 1960 voted a constitutional amendment establishing a Commission on Judicial Qualifications. Composed of nine members (five judges appointed by the California Supreme Court, two public members appointed by the governor, two lawyers named by the state bar association), the commission is a permanent body empowered to investigate complaints about the courts at all levels. Upon recommendation of the commission, the Supreme Court may hold a public hearing and remove a judge.

Protecting the Public. Now in its sixth year of operation, the commission works this way:

Any attorney, public official, litigant or private citizen may report a judge for a disability or dereliction. If the commission staff finds that the complaint has merit, it immediately investigates. For example, there were recent complaints that a trial judge,* although only in his 60's, was

apparently senile and "doesn't know half the time what he's doing." The commission made a preliminary inquiry, found that the judge was indeed unable to perform his duties and wrote to him requesting an explanation. Within two days, the judge conceded his senile condition and retired on a generous pension.

In another case, the commission investigated a judge who habitually lost his temper and abused counsel and litigants. Confronted with the charges, the judge was profoundly shocked. "I didn't realize this was happening," he pleaded. The man was emotionally disturbed; six months later he resigned his judgeship. Had he not resigned, the commission had power to order medical and psychiatric examination.

In this manner, the commission is keeping tabs on nearly 1000 California judges, from justices of the peace on up. Since its establishment, the commission has received more than 400 complaints, induced 30 judges to resign or quietly retire, and recommended one removal. Although judges have been retired for many reasons, the majority have stepped down because of disabling illness or mental impairment due to age. Nearly all have withdrawn without hardship under a state pension.

While the resignations and retirements alone have strengthened the courts, the power of investigation and removal accomplishes something else: it is a perpetual prod and stimulus to judges to conduct them-

selves as the office demands. A simple registered letter from the commission advising that it is investigating a complaint usually works wonders. Says Superior Court Judge William B. Neeley of Los Angeles, currently commission chairman: "Like all human beings, judges can slip into shoddy attitudes—but they are less likely to do so now that they realize there is a body to which the public can complain."

Last year, after careful study, the California plan was adopted in Texas district and appellate courts, and currently is being promoted by concerned citizens' groups in half a dozen states. The American Assembly's conference on the courts strongly endorsed the plan as a model for other states. Sen. Joseph Tydings of Maryland, chairman of a judiciary subcommittee, has been holding hearings on the program for possible application to the federal bench. At this writing, Sen. Hugh Scott of Pennsylvania plans to introduce a bill in Congress to establish a nonpartisan commission to advise the President on federal judicial appointments.

Needed: A Citizens' Campaign. How can you secure the Missouri and California reforms in your state?

To enact such sweeping measures,

citizens must gird themselves for a hard, intensive campaign, and be prepared for setbacks. In Missouri, for example, tremendous citizen effort was required. Repeatedly blocked in the legislature, the people finally circulated petitions and won a referendum by 90,000 votes. Within 60 days, the spoils politicians were back again with another petition demanding a repealer. This time the reform carried by 160,000 votes. But there have been still other attempts to knock it out and, ironically, Missouri's rurally dominated legislature has not yet extended the system to the entire state, as have other states like Alaska, Iowa and Nebraska.

In these states, as elsewhere, a vigorous lawyer-layman campaign of public education finally carried the day. In Texas, this combination put over adoption of the California commission idea in just 18 months; the people voted it in three-to-one. Wherever citizens seek judicial reform, the same teamwork will be required. For, as Judge Rosenman warns, "Only an aroused citizenry can overcome the entrenched political forces, which will always oppose. But this should only multiply our determination to succeed—and succeed soon!"

Reprints of this article are available. Prices, postpaid to one address: 10—50¢; 50—\$2; 100—\$3.50; 500—\$12.50; 1000—\$18. Address Reprint Editor, The Reader's Digest, Pleasantville, N.Y. 10570

*This and other cases cited are disguised, since all procedures and records of the California Commission on Judicial Qualifications are strictly confidential.

FIRST ENGROSSMENT

SIXTY-SIXTH
SESSION

S. F. NO. 2665

Introduced by Mr. Rosenmeier, for the Committee on Judiciary.

Read First Time May 15, 1969 and referred to the Committee on Finance.

Reported back May 19, 1969.

Committee Recommendations: To Pass as Amended.

Read Second Time May 19, 1969.

Matter in italics is new; matter in capitals when in () is old law to be omitted.

A Bill for an Act Organizing District Probate Courts; Providing for Their Organization and Jurisdiction; and Appropriating Money Therefor.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [CITATION.] This act may be cited as the district probate court act.

Sec. 2. [APPLICATION OF ACT.] The district probate court act is applicable to each district probate court established and organized pursuant to its provisions.

Sec. 3. [ESTABLISHMENT AND ORGANIZATION.] Subdivision 1. A district probate court is established in each probate court district named in subdivision 3 of this section. No district probate court so established is organized until the effective date of a resolution adopted by a majority of the members of each county board included within a probate court district. A resolution so adopted must contain (a) the assent of the county to participate in the organization of a district probate court, and (b) the assent of the county to participate in the organization of a district municipal court as provided by the municipal district court act unless a county municipal court has been established and organized therein prior to the adoption of any such resolution. Such resolution shall be adopted before the first day of June in an even numbered year to take effect the first Monday in January of the following year. The initial judges of a district probate court shall be selected at the general election occurring between the adoption of said resolution and the effective date thereof. The counties included within a probate court district shall provide for a suitable place or places for the sessions of the district probate court and sufficient appropriations for the operation of the court within the county.

Subd. 2. All probate courts in a probate court district are abolished as of the effective date of a resolution organizing a district probate court under the provisions of this act.

Subd. 3. (a) The following probate court districts are established

(1) Goodhue and Wabasha counties;

(2) Scott and Carver counties;

- 19 (3) McLeod and Sibley counties;
- 20 (4) Winona county;
- 21 (5) Mower county;
- 22 (6) Olmstead and Dodge counties;
- 23 (7) Fillmore and Houston counties;
- 24 (8) Rice county;
- 25 (9) Waseca and Steele counties;
- 26 (10) Freeborn county;
- 27 (11) Blue Earth county;
- 28 (12) Faribault and Martin counties;
- 29 (13) Le Sueur and Nicollet counties;
- 30 (14) Brown and Watonwan counties;
- 31 (15) Cottonwood, Jackson and Nobles counties;
- 32 (16) Murray, Pipestone and Rock counties;
- 33 (17) Lincoln, Lyon and Redwood counties;
- 34 (18) Carlton, Lake and Cook counties;
- 35 (19) Stearns county;
- 36 (20) Morrison and Todd counties;
- 37 (21) Chippewa, Lac Qui Parle and Yellow Medicine counties;
- 38 (22) Wilkin, Traverse, Stevens and Big Stone counties;
- 39 (23) Crow Wing and Aitkin counties;
- 40 (24) Itasca and Cass counties;
- 41 (25) Mahnomen, Clearwater, Hubbard and Beltrami counties;
- 42 (26) Grant, Pope and Douglas counties;
- 43 (27) Ottertail county;
- 44 (28) Becker and Wadena county;
- 45 (29) Clay and Norman counties;
- 46 (30) Kanabec, Mille Lacs and Benton counties;
- 47 (31) Kandiyohi and Swift counties;
- 48 (32) Meeker and Renville counties;
- 49 (33) Roseau, Lake of the Woods and Koochiching counties;
- 50 (34) Kittson, Marshall and Pennington counties;
- 51 (35) Polk and Red Lake counties;
- 52 (36) Wright and Sherburne counties;
- 53 (37) Chisago, Isanti and Pine counties;

- 54 (38) Anoka county;
- 55 (39) Washington county;
- 56 (40) Dakota county.

57 (b) Each probate court district organized in accordance with the provisions of subdivision 1 shall elect
58 one district probate judge, except the probate court district of Anoka county which shall elect three
59 district probate judges and the following probate court districts which shall elect two district probate
60 judges: the district of Olmsted and Dodge counties; the district of Mahnomen, Clearwater, Hubbard
61 and Beltrami counties; the district of Stearns; the district of Dakota county; and the district of Wash-
62 ington county.

63 Subd. 4. Any special act providing for the appointment of a probate-juvenile court referee within a
64 county is repealed, effective upon the organization of a probate district court within that county.

Sec. 4. [JURISDICTION.] Subdivision 1. [COURT OF RECORD.] Each district probate court is a
2 court of record with a clerk and a seal.

3 Subd. 2. [EXCLUSIVE JURISDICTION.] The district probate court shall have original and exclu-
4 sive jurisdiction in the following cases:

- 5 (a) proceedings in law and equity for the administration of estates of deceased persons and all guard-
6 ianship and incompetency proceedings;
- 7 (b) the jurisdiction of a juvenile court prescribed by Minnesota Statutes, Chapter 260.

8 Subd. 3. [CONCURRENT JURISDICTION.] The district probate court shall have concurrent jur-
9 isdiction in the following cases:

- 10 (a) proceedings for the administration of trust estates or actions relating thereto;
- 11 (b) proceedings for divorce, annulment, and separate maintenance, and actions related thereto, as
12 prescribed by Minnesota Statutes, Chapter 518;
- 13 (c) proceedings under the reciprocal enforcement of support act, Minnesota Statutes, Sections
14 518.41 to 518.53; and
- 15 (d) proceedings for adoption and change of name under Minnesota Statutes, Chapter 259.

16 Subd. 4. Any action within the jurisdiction of the district probate court commenced in the district
17 court may be transferred to the district probate court for trial or other proceedings upon the motion of
18 any party, or upon the motion of the district court, provided no request for trial by jury has been
19 made.

Sec. 5. [POWERS AND AUTHORITY.] In the exercise of its jurisdiction, the district probate court
2 shall have all of the powers and authority of other courts exercising like jurisdiction under the laws of
3 this state. Pleadings, practice, procedure, and the forms thereof in each class of cases of which the dis-
4 trict probate court has jurisdiction shall be governed by the laws and rules of court generally applicable
5 to that class of cases of in other courts.

Sec. 6. [JURY TRIALS.] If in any action or proceeding brought in the district probate court a jury trial is required, the action or proceeding shall be transferred to the district court of the county in which the action or proceeding originated.

Sec. 7. [APPEALS.] Subdivision 1. An aggrieved party may appeal to a district court appeals panel from a determination of the district probate court. The appeal shall be taken by filing written notice thereof with the clerk of district court of the county in which the proceeding or action was heard not more than ten days after written notice of the court's determination has been served upon the aggrieved party or his attorney, or in any event within three months after the determination in a civil case. A written notice of appeal shall be served by the appellant upon all parties to the original proceeding or their attorneys not more than five days after filing a written notice of appeal. The appeal shall be heard and determined by a district court appeals panel consisting of three district court judges appointed by the chief justice of the supreme court. They shall be appointed from the district court for the judicial district within which the county is located, or, if convenience and justice require, from any other district.

Subd. 2. The appeal shall be confined to the typewritten record. By stipulation of all parties the record may be shortened. The appeals panel shall, upon request, hear oral argument and receive written briefs. The appeals panel may affirm, reverse or modify the judgment or order appealed from, or take any other action as the interest of justice may require. On appeal from an order the appeals panel may review any order affecting the order from which the appeal is taken and on appeal from a judgment may review any order involving the merits or affecting the judgment. The supreme court shall formulate rules of appellate procedure applicable to such appeals panels. Until otherwise provided the rules of appellate procedure applicable to appeals to the supreme court shall apply to the district appeals panels except as provided in this section. An appeal may be taken from the determination of a district court appeals panel to the supreme court with leave of the supreme court.

Sec. 8. [TRANSFER OF PENDING MATTERS.] Subdivision 1. All proceedings within the jurisdiction of a probate district court which are pending in the district court on the effective date of a resolution organizing a district probate court may be transferred to the district probate court in the manner provided by section 4, subdivision 4.

Subd. 2. Any mandate of an appellate court issued on or after the effective date of this act in respect of a proceeding within the scope of section 4 originally determined by the district court within the county shall be issued to that district court. Thereafter, the proceeding may be transferred to the district probate court in the manner provided by section 4, subdivision 4.

Sec. 9. [JUDGMENTS.] No judgment of the district probate court under this act shall be a lien upon real estate until a transcript thereof is filed and docketed with the clerk of district court. The judgment creditor may cause such a transcript to be filed and docketed in the district court

of the county if no execution thereon is outstanding. The clerk with whom the transcript is so filed and docketed may issue transcripts to be filed and docketed in other counties. When docketed as herein provided, the judgment shall have the same force and effect in all respects as the judgment of district court.

Sec. 10. [PLACES OF HOLDING COURT.] Subdivision 1. The court by rule shall designate the locations within the probate court district at which regular sessions of the court shall be held provided, however, that regular sessions of the court shall be held at least in the county seat of each county within the probate court district.

Subd. 2. In municipalities located in more than one probate court district, or more than one county within the probate court district, the governing body of the municipality shall designate by ordinance both the county, and the probate court district within which the municipality shall be considered to be located for purposes of this act.

Sec. 11. [JUDGES.] Subdivision 1. [QUALIFICATIONS; OATH.] Each judge shall be learned in the law and a resident of the probate court district in which the court has jurisdiction. A probate judge now in office shall be considered learned in the law for purposes of election as a judge of probate district court. Before entering upon the duties of office each judge shall take and subscribe an oath, in the form prescribed by law for judicial officers, and a certified copy of the oath shall be filed in the office of each of the county auditors within the probate court district.

Subd. 2. [ELECTION.] Each judge shall be elected at the general election for a term of six years, beginning on the first Monday of the January next following his election and until his successor qualifies. Each judge holds a separate nonpartisan office. When one or more judges of the court are to be nominated or elected at a primary or general election the notice of election shall state the name of the judge, if any, whose successor is to be elected or nominated.

Each person desiring to have his name placed upon the primary ballot as a candidate for judge shall state in his affidavit of candidacy the office of the particular judge for which he is a candidate. The filing of this affidavit with the county auditor in each county of the probate court district and compliance with all other requirements of law constitutes such person a candidate for that office. No person shall be a candidate for more than one such office at any except the election specified in subdivision 2 (a). (a) At the primary or general election held prior to the effective date of the resolution establishing the district probate court, the official ballot shall contain the names of all candidates for each such office, state the number of judges to be elected and the number of candidates for whom an elector may vote, and designate each candidacy as "For the office of judge of the district probate court of the county or counties of.....". When the judge of a probate court abolished by the implementation of this act is a candidate for the office of district probate judge, the ballot shall contain after the name of any such candidate the

24 name of such probate court. (b) In each subsequent primary or general election the following
 25 provisions are applicable. The official ballot shall contain the names of all candidates for each such
 26 office, state the number of judges to be elected and the number of candidates for whom an elec-
 27 tor may vote, and designate each candidacy as "For the office of Judge of the District Probate
 28 Court of the county or counties of to which was elected for the regular
 (name of judge)

29 term", or: For the office of Judge of the District Municipal Court of the county or counties of
 30 to which was appointed," as the case may be. The official ballots shall
 (name of judge)

31 show in the spaces for the purpose the name of the judge whose successor is to be elected. When
 32 any judge is a candidate to succeed himself, the word "incumbent" shall be printed after his name
 33 where it appears among the names of the candidates for the office. When voting machines are used
 34 and such statements cannot be inserted in full, the designation shall be "Successor to
 (name of judge)
 35 (elected)", or "Successor to (appointed)", as the case may be.
 (name of judge)

36 Subd. 3. [CHIEF JUDGE.] If there is more than one district probate judge in a probate court
 37 district, the judges shall select one of their number as the chief district probate judge who shall be
 38 responsible for assigning the work of the court. If no such selection is made, the chief justice of the
 39 supreme court shall make the selection.

40 Subd. 4. [APPOINTMENT.] Whenever there is a vacancy in the office of district probate judge,
 41 the governor shall appoint a qualified person to fill the vacancy to hold office until a successor is
 42 elected and qualified. In the absence or disability of all of the judges of the district probate court,
 43 the chief justice may assign a judge of another court in this state to sit as a special judge. The salary
 44 and expenses of a judge so appointed for temporary service shall be paid by the probate court dis-
 45 trict where he serves.

46 Subd. 5. [INCUMBENT PROBATE JUDGES.] All probate court judges serving when a probate
 47 court district is organized in the county where they are serving shall become part time judicial of-
 48 ficers of the district probate court unless they are elected judges of that court in accordance with
 49 this act. They shall try and hear such matters as may be assigned to them by the judges of the dis-
 50 trict probate court and shall be paid by the county the salaries theretofore provided for them until
 51 the expiration of their terms of office.

Sec. 12. [PRACTICE OF LAW.] A judge of district probate court shall not engage in the private
 2 practice of law.

Sec. 13. [SALARIES.] Each judge shall be paid an annual salary of \$20,000. If a judge dies while

2 in office, the amount of his salary remaining unpaid for the month in which his death occurs shall be
 3 paid to his estate.

Sec. 14. [CLERKS, DEPUTIES.] Subdivision 1. Upon the organization of a district probate
 2 court, the clerk of the district court of each county within the probate court district shall have and
 3 perform the duties heretofore provided by law for clerks of the probate court and such other
 4 duties as may be prescribed by law or by this act. In the performance of such duties the clerk of
 5 district court shall also be known as clerk of district probate court.

6 Subd. 2. The clerk of court shall appoint such additional deputy clerks and clerical employees as
 7 may be necessary for him to carry out the duties of his office. Such appointments shall be made by
 8 an instrument in writing, under his hand with the approval of the chief judge of the district probate
 9 court endorsed thereon. The clerk shall delegate, supervise, and expedite the work and accounting
 10 of the deputy clerks. He is not personally responsible for their acts beyond his responsibility for prop-
 11 er delegation and supervision.

12 Subd. 3. Each deputy shall perform the duties and exercise the powers of the clerk which are
 13 delegated to him by the clerk. The oath and certificate of appointment of every such deputy shall
 14 be filed with the register of deeds. Such deputy clerks and clerical employees may be removed from
 15 office upon 30 days written notice given by the clerk to the deputy or employee specifying the rea-
 16 sons for removal.

17 Subd. 4. In the performance of all his duties as clerk of district probate court, the clerk is subject
 18 to the control and supervision of the judges of the district probate court. The clerk shall procure
 19 at the expense of the county all blanks, stationery, books, furniture, furnishings, and supplies neces-
 20 sary for the use of the district probate court and its officers, employees and jurors within the county.

21 Subd. 5. [RECORDS AND ACCOUNTS.] The clerk shall keep records and indices of all pro-
 22 ceedings; enter all orders and judgments; keep proper accounts; have the custody and care of all
 23 books, files, accounts, exhibits, papers, and records of the court; and tax all costs and disburse-
 24 ments.

Sec. 15. [ADDITIONAL EMPLOYEES.] Subdivision 1. [BAILIFFS.] The sheriff of a county
 2 within a probate court district shall furnish to the district probate court such deputies to serve as
 3 bailiffs within the county as the court may request. The county board may with the approval of the
 4 chief district probate court judge contract with any municipality, upon such terms as may be
 5 agreed upon, for the services of police officers of the municipality to act as bailiffs in the district
 6 probate court.

7 Subd. 2. [COURT REPORTER.] The clerk of court may appoint on either a full, part time, or per
 8 diem basis a competent court reporter who shall record and, where necessary, transcribe the pro-
 9 ceedings had in said court upon the trial of any contested matter. Noncontested matters shall be

10 recorded and transcribed only when the same is specifically ordered by a district probate court
11 judge or required by law. The court reporter shall perform any and all other duties as the clerk of
12 court directs and he may be appointed a deputy clerk of the district probate court.

13 Subd. 3. [JUVENILE REFEREE.] The court may appoint a juvenile court referee as provided
14 in Minnesota Statutes, Section 260.031. A person so appointed shall hear only such matters as are
15 within the jurisdiction of the juvenile court. The salary of a juvenile court referee shall be fixed
16 by the court and approved by the county board of each county in which he serves.

Sec. 16. [EMPLOYEES OF ABOLISHED COURTS.] All persons who are full time employees
2 of probate courts abolished upon the organization of a district probate court shall be given prefer-
3 ence in the employment of personnel required to staff the district probate court.

Sec. 17. [EMPLOYEES SALARIES.] Subdivision 1. The salary of an employee of the district
2 probate court, other than a juvenile court referee, who usually serves a single county of the pro-
3 bate court district shall be fixed by the clerk with the approval of the county board. For purposes
4 of this section, an employee of the district court temporarily assigned by the clerk of court to serve
5 the district probate court shall not be considered an employee of the district probate court.

6 Subd. 2. The salary of an employee of the district probate court, other than the judge or referee,
7 who usually serves more than one county within the probate court district shall be fixed by the
8 clerk of court residing in the county having the largest population according to the most recent
9 federal census, with the approval of each of the county boards of the counties in which he serves.

Sec. 18. [PAYMENT OF EXPENSES.] Subdivision 1. The expenses of the district probate
2 court shall be paid by the county in which such expenses were incurred, from the general revenue
3 fund of the county. The salary of a judge of the district probate court shall be paid by the state in
4 the same manner as is provided by law for the payment of salaries of judges of the district court.

5 Subd. 2. The clerk of court shall send the county auditor and treasurer a monthly statement of
6 the expenses of the district probate court.

7 Subd. 3. The county board may levy taxes annually against the taxable property within the
8 county as may be necessary for the establishment, operation, and maintenance of the court.

Sec. 19. [COLLECTION OF FEES.] Subdivision 1. The clerk of the district probate court shall
2 charge and collect the fees prescribed by law and all such fees collected by him shall be paid to the
3 county in the manner and at the times prescribed by the county board, but not less often than once
4 each month.

5 Subd. 2. Amounts represented by checks issued by the clerk or received by the clerk which have
6 not cleared by the end of the month may be shown on the monthly account as having been paid or
7 received, subject to adjustment on later monthly accounts. The clerk may receive negotiable in-
8 struments in payment of fees or other obligations as conditional payments, and is not held account-

9 able therefor until collection in cash is made and then only to the extent of the net collection after
10 deduction of the necessary expense of collection.

Sec. 20. [APPROPRIATION.] There is hereby appropriated from any moneys in the state
2 treasury not otherwise appropriated the sum of \$1,000 for the year ending June 30, 1970, and
3 \$. for the year ending June 30, 1971, to be disbursed by the state auditor for the purposes of
4 this act.

FIRST ENGROSSMENT

SIXTY-SIXTH
SESSION }

S. F. NO. 2666

Introduced by Mr. Rosenmeier, for the Committee on Judiciary.

Read First Time May 15, 1969 and referred to the Committee on Finance.

Reported back May 19, 1969.

Committee Recommendations: To Pass as Amended.

Read Second Time May 19, 1969.

Matter in italics is new; matter in capital when in () is old law to be omitted.

A Bill for an Act Relating to Municipal Courts; Establishing District Municipal Courts; providing for their Organization and Jurisdiction; and Appropriating money therefor.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [CITATION.] This act may be cited as the district municipal court act.

Sec. 2. [APPLICATION OF ACT.] The district municipal court act is applicable to each district
2 municipal court established and organized pursuant to its provisions.

Sec. 3. [DEFINITIONS.] Subdivision 1. When this act provides for administrative action to be
2 taken by the court, the term "court" refers to the district municipal court judge if there is only one
3 judge, the district municipal court chief judge if there are two judges, or a majority of the district
4 municipal court judges if there are more than two judges. For purposes of this subdivision, a special
5 judge is not deemed to be a judge.

6 Subd. 2. For purposes of this act, "municipality" means a city, village, borough, or town.

Sec. 4. [ESTABLISHMENT AND ORGANIZATION.] Subdivision 1. A district municipal court
2 is established in each municipal court district named in subdivision 3 of this section. No district
3 municipal court so established is organized until the effective date of a resolution adopted by a major-
4 ity of the members of each county board included within a municipal court district. A resolution so
5 adopted must contain (a) the assent of the county to participate in the organization of a district
6 municipal court and (b) the assent of the county to participate in the organization of a district pro-
7 bate court as provided by the probate district court act. Such resolution shall be adopted before the
8 first day of June in an even numbered year to take effect the first Monday in January of the follow-
9 ing year. The initial judges of a district municipal court shall be selected at the general election occur-
10 ring between the adoption of such a resolution and the effective date thereof. The counties included
11 within a municipal court district shall provide for a suitable place or places for the sessions of the
12 district municipal court and sufficient appropriations for the operation of the court within the county.

Subd. 2. All municipal courts in a county where a district municipal court is organized, including municipal courts established but not organized under the provisions of Minnesota Statutes, Section 488.03, are abolished as of the effective date of a resolution organizing a district municipal court under the provisions of this act.

Subd. 3. (a) The following municipal court districts are established:

- (1) Goodhue and Wabasha counties;
- (2) Scott and Carver counties;
- (3) McLeod and Sibley counties;
- (4) Winona county;
- (5) Mower county;
- (6) Olmsted and Dodge counties;
- (7) Fillmore and Houston counties;
- (8) Rice county;
- (9) Waseca and Steele counties;
- (10) Freeborn county;
- (11) Blue Earth county;
- (12) Faribault and Martin counties;
- (13) LeSueur and Nicollet counties;
- (14) Brown and Watonwan counties;
- (15) Cottonwood, Jackson and Nobles counties;
- (16) Murray, Pipestone and Rock counties;
- (17) Lincoln, Lyon and Redwood counties;
- (18) Carlton, Lake and Cook counties;
- (19) Stearns county;
- (20) Morrison and Todd counties;
- (21) Chippewa, Lac Qui Parle and Yellow Medicine counties;
- (22) Wilkin, Traverse, Stevens and Big Stone counties;
- (23) Crow Wing and Aitkin counties;
- (24) Itasca and Cass counties;
- (25) Mahnomen, Clearwater, Hubbard and Beltrami counties;
- (26) Grant, Pope and Douglas counties;
- (27) Otter Tail county;
- (28) Becker and Wadena counties;
- (29) Clay and Norman counties;
- (30) Kanabec, Mille Lacs and Benton counties;

- (31) Kandiyohi and Swift counties;
- (32) Meeker and Renville counties;
- (33) Roseau, Lake of the Woods and Koochiching counties;
- (34) Kittson, Marshall and Pennington counties;
- (35) Polk and Red Lake counties;
- (36) Wright and Sherburne counties;
- (37) Chisago, Isanti and Pine counties;
- (38) Dakota county.

(b) Each municipal court district organized in accordance with the provisions of subdivision 1 shall elect one district municipal judge, except the following municipal court districts which shall elect two district municipal judges: The district of Olmsted and Dodge counties; the district of Mahnomen, Clearwater, Hubbard and Beltrami counties; the district of Stearns county; and the district of Dakota county.

Sec. 5 [JURISDICTION AND POWERS.] Subdivision 1. [COURT OF RECORD.] Each district municipal court is a court of record with a clerk and a seal.

Subd. 2. [POWERS OF COURT.] Except as otherwise provided in this act, each district municipal court possesses the powers and jurisdiction of a court of general jurisdiction. It may issue all civil and criminal process necessary or proper to enforce and effectuate its jurisdiction and determinations.

Subd. 3. [CIVIL JURISDICTION.] The district municipal court may hear, try, and determine actions at law in which the amount in controversy does not exceed the sum of \$5,000, exclusive of interest and costs, except for causes involving title to real estate.

Subd. 4. [FORCIBLE ENTRY AND UNLAWFUL DETAINER.] Whether or not title to real estate is involved, the district municipal court has jurisdiction of actions of forcible entry and unlawful detainer involving land located wholly or partly within the municipal court district where the court is organized and established.

Subd. 5. [CRIMINAL JURISDICTION.] (a) The district municipal court has jurisdiction to hear, try, and determine any charge of violation of

(1) a criminal law of this state constituting a misdemeanor committed within the municipal court district where the court is organized and established; or

(2) any ordinance, charter provision, rule or regulation of any subdivision of government in the municipal court district where the court is organized and established.

(b) The district municipal court has exclusive jurisdiction to conduct preliminary hearings and to exercise all judicial powers incident to preliminary hearing proceedings on the charge of violation of any criminal law committed within the municipal court district where the court is organized and established.

23 Subd. 6. [LIMITATIONS OF JURISDICTION.] The district municipal court does not have
24 jurisdiction

25 (a) of any action for divorce;

26 (b) of any action wherein purely equitable relief is demanded;

27 (c) to issue writs of habeas corpus, quo warranto, ne exeat, mandamus, prohibition, or injunction; or

28 (d) to issue any order in proceedings supplementary to execution.

29 Subd. 7. [ABSENCE OF JURISDICTION.] Whenever it shall appear that the district municipal
30 court is without jurisdiction in a cause pending therein, the fact shall be recorded, and the clerk shall
31 transmit to the clerk of the district court of the county within the municipal court district in which
32 the cause arose a certified transcript of the record and all papers filed in the case. Thereafter the cause
33 shall proceed to judgment in the district court as if it had there been commenced, and the costs shall
34 abide the event.

35 Subd. 8. [TRANSFER OF ACTIONS.] (a) All proceedings within the jurisdiction of a municipal
36 district court which are pending in the district court on the effective date of a resolution organizing a
37 district probate court may be transferred to the municipal district court in the manner provided by
38 this subdivision.

39 (b) Any action within the jurisdiction of the district municipal court commenced in the district
40 court may be transferred to the district municipal court for trial or other proceedings upon the mo-
41 tion of any party, or upon the motion of the district court.

42 (c) Any mandate of an appellate court issued on or after the effective date of this act in respect
43 of a proceeding within the jurisdiction of the district municipal court determined by the district court
44 within the county shall be issued to that district court. Thereafter, the proceeding may be trans-
45 ferred to the district municipal court of the county in which the action arose, and all files, records,
46 and funds relating thereto shall be transferred to the clerk of court.

47 (d) Any mandate of an appellate court issued on or after the organization of a district municipal
48 court in respect of a proceeding determined by a municipal court abolished after the effective date
49 of this act shall be issued to the district municipal court of the county within which the action arose
50 and all files, records, and funds relating thereto shall be transferred to the clerk of court.

51 Subd. 9. [SERVICE.] Except as hereinafter provided, all civil and criminal process and orders
52 may be served and enforced anywhere within the state. The summons in a civil action or in an action
53 of forcible entry and unlawful detainer may be served only within the municipal court district where
54 the court is organized and established, except that such summons may be served in Ramsey county
55 on state officials for nonresident individuals and corporations under statutes providing for such
56 service.

56a Subd. 10. [TRIAL OF CIVIL AND CRIMINAL ACTIONS.] The court by rule shall designate

57 the location within the municipal court district at which regular sessions of the court shall be held
58 provided, however, that regular sessions of the court shall be held in at least the county seat of each
59 county within the municipal court district. The court by rule may limit the locations at which jury
60 trials shall be conducted provided, however, that the court shall conduct jury trials in not less than
61 one location in each county within the municipal court district.

62 (a) All civil actions shall be tried in the municipality specified in the summons unless, upon a
63 showing of inconvenience, the court orders the cause to be heard at another location within the same
64 municipal court district.

65 (b) The trial of all charges of criminal and ordinance violations and all preliminary hearings shall
66 be conducted in the municipality where the alleged violation occurred if the court regularly holds
67 sessions at that location, or in such other location within the same county as the court may designate
68 by rule if the court does not regularly hold sessions in the municipality where the alleged violation
69 occurred or if a jury trial is requested and the court does not conduct jury trials in the municipality
70 in which the alleged violation occurred.

71 Subd. 11. In municipalities located in more than one municipal court district, or more than one
72 county within the municipal court district, the governing body of the municipality shall by ordinance
73 designate both the county and the municipal court district within which the municipality shall be
74 considered to be located for purposes of this act.

Sec. 6. [JUDGES.] Subdivision 1. [QUALIFICATIONS; OATH.] Each judge shall be learned in
2 the law and a resident of the municipal court district in which the court has jurisdiction. An incum-
3 bent municipal judge is deemed learned in the law for purposes of election as a district municipal
4 court judge. Before entering upon the duties of office each judge shall take and subscribe an oath in
5 the form prescribed by law for judicial officers, and a certified copy of the oath shall be filed in the
6 office of each of the county auditors within the municipal court district.

7 Subd. 2. [ELECTION.] Each judge shall be elected at the general election for a term of six years,
8 beginning on the first Monday of the January next following his election and until his successor
9 qualifies. Each judge holds a separate nonpartisan office. When one or more judges of the court are to
10 be nominated or elected at a primary or general election, the notice of election shall state the name
11 of the judge, if any, whose successor is to be elected or nominated.

12 Each person desiring to have his name placed upon the primary ballot as a candidate for judge
13 shall state in his affidavit of candidacy the office of the particular judge for which he is a candidate.
14 The filing of this affidavit with the county auditor in each county of the municipal court district and
15 compliance with all other requirements of law constitute such person a candidate for that office. No
16 person shall be a candidate for more than one such office at any election, except that specified in para-
17 graph (a) of this subdivision.

18 (a) At the primary or general election held prior to the effective date of the resolution establishing
 19 the district municipal court, the official ballot shall contain the names of all candidates for each such
 20 office, state the number of judges to be elected, and the number of candidates for whom an elector
 21 may vote, and designate each candidacy as "For the office of judge of the district municipal court of
 22 the county or counties of" When the judge of a municipal court which would be
 23 abolished by the implementation of this act is a candidate for the office of district municipal judge,
 24 the ballot shall contain after the name of any such candidate the name of such municipal court, pro-
 25 vided, however, that special municipal judges shall not be so designated.

26 (b) In each subsequent primary or general election the following provisions are applicable. The
 27 official ballot shall contain the names of all candidates for each such office, state the number of judges
 28 to be elected and the number of candidates for whom an elector may vote, and designate each can-
 29 didacy as "For the office of judge of the district municipal court of the county or counties of
 30 to which (name of judge) was elected for the regular term", or: "For the office of judge of
 31 the district municipal court of the county or counties of to which (name of judge)
 32 was appointed," as the case may be. The official ballots shall show in the spaces for the purpose the
 33 name of the judge whose successor is to be elected. When any judge is a candidate to succeed himself,
 34 the word "incumbent" shall be printed after his name where it appears among the names of the can-
 35 didates for the office. When voting machines are used and such statements cannot be inserted in full,
 36 the designation shall be "Successor to (name of judge) (elected)", or "Successor to
 37 (name of judge) (appointed)", as the case may be.

38 Subd. 3. [SPECIAL JUDGES.] In addition to the number of judges specified in section 4, subdivi-
 39 sion 3, of this act, a special district municipal judge may be elected, in the manner provided by sub-
 40 division 2, so far as applicable, in each municipal court district. A special district municipal judge
 41 shall be learned in the law. He may act only in the absence, disability, or disqualification of a judge of
 42 the district municipal court. He shall receive as compensation for his services the sum of \$50 per day
 43 for each day of actual service.

44 Subd. 4. [CHIEF JUDGE.] If there is more than one district municipal judge in a municipal court
 45 district, the judges shall select one of their number as the chief district municipal judge who shall be
 46 responsible for assigning the work of the court. If no such selection is made, the chief justice of the
 47 supreme court shall make the selection.

48 Subd. 5. [APPOINTMENT.] Whenever there is a vacancy in the office of district municipal judge,
 49 the governor shall appoint a qualified person to fill the vacancy to hold office until a successor is elect-
 50 ed and qualified. In the absence or disability of all of the judges of the district municipal court, includ-
 51 ing a special district municipal judge, the chief justice of the supreme court may assign a judge of
 52 another court in this state to sit as a special judge. The salary and expenses of a judge so appointed for

53 temporary service shall be paid by the county within the municipal court district in which he serves.

54 Subd. 6. [INCUMBENT MUNICIPAL JUDGES.] All municipal court judges serving when a
 55 municipal court district is organized in the county where they are serving shall become part time
 56 judicial officers of the district municipal court unless they are elected judges of that court in accord-
 57 ance with this act. They shall try and hear such matters as may be assigned to them by the judges
 58 of the district municipal court and shall be paid by the county the salaries theretofore provided for
 59 them until the expiration of their terms of office.

Sec. 7. [POWERS.] The judges have the general powers of judges of courts of record and all powers
 2 necessary to effectuate the purposes of this act.

Sec. 8. [PRIVATE PRACTICE OF LAW.] A judge of district municipal court shall not engage
 2 in private practice of law.

Sec. 9. [SALARIES.] Each judge shall be paid an annual salary of \$20,000. If a judge dies while in
 2 office, the amount of his salary remaining unpaid for the month in which his death occurs shall be
 3 paid to his estate.

Sec. 10. [CLERKS, DEPUTIES.] Subdivision 1. Upon the organization of a district municipal
 2 court, the clerk of the district court of each county within the municipal court district shall have and
 3 perform the duties heretofore provided by law for clerks of the municipal court under Minnesota
 4 Statutes, Chapter 488, and such other duties as may be prescribed by law or by this act. In the per-
 5 formance of such duties, the clerk of district court shall also be known as clerk of district municipal
 6 court.

7 Subd. 2. The clerk of court shall appoint such additional deputy clerk and clerical employees as may
 8 be necessary for him to carry out the duties of his office. Such appointments shall be made by an in-
 9 strument in writing, under his hand, with the approval of the chief judge of the district municipal
 10 court endorsed thereon. The clerk shall delegate, supervise, and expedite the work and accounting
 11 of the deputy clerks. He is not personally responsible for their acts beyond his responsibility for
 12 proper delegation and supervision.

13 Subd. 3. Each deputy shall perform the duties and exercise the powers of the clerk which are dele-
 14 gated to him by the clerk. The oath and certificate of appointment of every such deputy shall be filed
 15 with the register of deeds. Such deputy clerks and clerical employees may be removed from office
 16 upon 30 days written notice by the clerk to the deputy or employee specifying the reasons for
 17 removal.

18 Subd. 4. In the performance of all his duties as clerk of district municipal court, the clerk is subject
 19 to the control and supervision of the judges of the district municipal court. The clerk shall procure
 20 at the expense of the county all blanks, stationery, books, furniture, furnishings, and supplies neces-
 21 sary for the use of the district municipal court and its officers, employees, and jurors within the county.

22 Subd. 5. [RECORDS, PROCESS AND ACCOUNTS.] The clerk shall keep records and indices of
 23 all proceedings; enter all orders, judgments, and sentences; issue commitments, execution and all
 24 other process; keep proper accounts; have the custody and care of all books, files, accounts, exhibits,
 25 papers, and records of the court; and tax all costs and disbursements.

Sec. 11. [ADDITIONAL EMPLOYEES.] Subdivision 1. [BAILIFFS.] The sheriff of a county
 2 within a municipal court district shall furnish to the district municipal court such deputies to serve
 3 as bailiffs within the county as the court may request. The county board may with the approval of
 4 the chief district municipal court judge contract with any municipality, upon such terms as may be
 5 agreed upon, for the services of police officers of the municipality to act as bailiffs in the district mu-
 6 nicipal court.

7 Subd. 2. [PROBATION OFFICERS.] The district municipal court may appoint one or more pro-
 8 bation officers to serve the county, or counties, included within a municipal court district. The powers
 9 and duties of a probation officer so appointed shall be determined by court rule. A probation officer
 10 may be removed upon 30 days written notice by the chief judge of the district municipal court spe-
 11 cifying the reasons for such removal.

12 Subd. 3. [COURT REPORTER.] The clerk of court may appoint on either a full, part time, or per
 13 diem basis a competent court reporter who shall record and, where necessary, transcribe the proceed-
 14 ings had in said court upon the trial of any contested civil or criminal matter. Noncontested civil and
 15 criminal matters shall be recorded and transcribed only when the same is specifically ordered by a
 16 district municipal court judge or required by law. The court reporter shall perform any and all other
 17 duties as the clerk of court directs and he may be appointed a deputy clerk of the district municipal
 18 court.

Sec. 12. [EMPLOYEES OF ABOLISHED COURTS.] All persons who are full time employees of
 2 courts abolished upon the organization of a district municipal court under this act shall be given
 3 preference in the employment of personnel required to staff the district municipal court.

Sec. 13. [EMPLOYEES SALARIES.] Subdivision 1. The salary of an employee of the district
 2 municipal court, other than the clerk, who usually serves a single county of the municipal court dis-
 3 trict shall be fixed by the clerk with the approval of the county board.

4 Subd. 2. The salary of an employee of the district municipal court who usually serves more than
 5 one county within the municipal court district shall be fixed by the clerk of court residing in the
 6 county having the largest population according to the most recent federal census with the approval
 7 of the county boards of each county within the district.

Sec. 14. [FEES PAYABLE TO CLERK.] Subdivision 1. The fees payable to the clerk for the fol-
 2 lowing services in civil actions are:

3 (a) \$3 payable by the plaintiff, in addition to any other fee required by law, when the action is

4 entered in court or when the first paper on the plaintiff's part is filed.

5 (b) \$3 payable by the defendant or other adverse or intervening party, or any one or more of sev-
 6 eral defendants, or other adverse or intervening parties appearing separately from the others when
 7 his or their appearance is entered in the action or when the first paper on his or their part is filed.

8 (c) No trial fee is payable by any party when trial is by a judge without a jury.

9 (d) \$5 for trial by a jury of six persons, \$10 for trial by a jury of 12 persons. The fee paid for trial
 10 by a jury shall be refunded if a jury panel is never sworn for voir dire in the action. The fee shall be
 11 paid by the party demanding a jury trial.

12 Sub. 2. Except as provided in subdivision 1, the fees payable to the clerk for his services are the same
 13 in amount as the fees then payable for like services in the district court for the county in which the
 14 district municipal court is organized. The fees payable to the clerk for all other services shall be fixed
 15 by court rule.

16 Subd. 3. Fees are payable to the clerk in advance.

Sec. 15. [ABANDONMENT OF DEPOSITS AND BAIL.] Subdivision 1. All sums deposited with
 2 the clerk to cover fees shall be deemed abandoned if the fees are not disbursed or the services covered
 3 by the fees are not performed and the person entitled to refund thereof does not file a written demand
 4 for refund with the clerk within six months from the date of trial, dismissal, or striking of the cause
 5 as to jury fees and from the date of deposit as to other fees.

6 Subd. 2. Any bail not forfeited by court order shall be deemed abandoned and forfeited if the per-
 7 son entitled to refund does not file a written demand for refund with the clerk within six months from
 8 the date when he became entitled to the refund.

9 Subd. 3. A judge of district municipal court may order any sums so forfeited reinstated and the clerk
 10 shall then refund accordingly. The county treasurer shall reimburse the clerk if the clerk refunds the
 11 deposit upon such an order and obtains a receipt to be used as a voucher.

Sec. 16. [DISPOSITION OF FINES, FEES, AND OTHER MONEYS; ACCOUNTS.] Subdivi-
 2 sion 1. Except as otherwise provided by this act, the clerk of district municipal court shall pay to the
 3 county treasurer all fines, penalties and fees collected by him, all sums forfeited to the court, and all other
 4 moneys received by him.

5 Subd. 2. At the beginning of the first day of any month the amount owing to the county in the hands
 6 of the clerk shall not exceed \$5,000.

7 Subd. 3. Amounts represented by checks issued by the clerk or received by the clerk which have not
 8 cleared by the end of the month may be shown on the monthly account as having been paid or received,
 9 subject to adjustment on later monthly accounts.

10 Subd. 4. The clerk may receive negotiable instruments in payment of fines, penalties, fees or other obliga-
 11 tions as conditional payments, and is not held accountable therefor until collection in cash is made and then

12 only to the extent of the net collection after deduction of the necessary expense of collection.

13 Subd. 5. (a) All fines and forfeited bail collected in a prosecution for a violation of any law relating to
14 wild animals, or wild rice or any other aquatic vegetation shall be paid by the treasurer of the county wherein
15 the prosecution was had to the commissioner of conservation and credited to the game and fish fund. All fines
16 and forfeited bail collected from traffic and motor vehicle violations brought by members of the highway
17 patrol shall be paid by the county treasurer of the county where the violation occurred to the state treasurer
18 and credited to the fund established by law. All other fines and forfeited bail collected in a prosecution for a
19 violation of a state law shall be paid by the county treasurer of the county in which the violation occurred
20 to the state treasurer.

21 (b) The remaining portion of any funds paid by the clerk of court to the county treasurer shall be credited
22 to the general revenue fund of the county.

Sec. 17. [PAYMENT OF WITNESS FEES AND MILEAGE.] The clerk shall pay such fees and
2 mileage to witnesses as may be ordered by a district court municipal judge in any action or proceeding in-
3 volving a charged violation of a criminal law or municipal ordinance. The clerk shall obtain receipts therefor
4 as vouchers for the sums paid and shall deduct these payments from the amount otherwise due to the county.

Sec. 18. [PAYMENT OF EXPENSES.] Subdivision 1. The expenses of the district municipal court
2 shall be paid by the county in which such expenses were incurred from the general revenue fund of the
3 county.

4 The salary of a judge of the district municipal court shall be paid by the state in the same manner as is
5 provided by law for the payment of salaries of judges of the district court.

6 Subd. 2. The clerk of court shall send to the county auditor and treasurer a monthly statement of the
7 expenses of the district municipal court within the county.

8 Subd. 3. The county board may levy taxes annually against the taxable property within the county as may
9 be necessary for the establishment, operation, and maintenance of the district municipal court within the
10 county.

Sec. 19. [PLEADING, PRACTICE, PROCEDURE, AND FORMS IN CIVIL ACTIONS.] Subdivi-
2 sion 1. [GENERAL.] Pleading, practice, procedure, and forms in civil actions are governed by the rules for
3 municipal courts promulgated from time to time by the supreme court of this state or by the statutes governing
4 the district court insofar as the rules promulgated by the supreme court do not contain any applicable provision.
5 The provisions of this act relating to pleading, practice, and procedure in civil actions shall be effective as
6 rules of court until modified or superseded by a rule hereafter adopted by the supreme court of this state.

7 Subd. 2. [COURT RULES.] The court may adopt rules governing pleading, practice, procedure, and
8 forms for civil actions which are not inconsistent with the provisions of this act, the rules for municipal
9 courts promulgated from time to time by the supreme court of Minnesota, or governing statutes.

10 Subd. 3. [NOTE OF ISSUE; DEMAND FOR JURY TRIAL; WAIVER OF JURY TRIAL.] (a) A

11 party desiring to place a cause upon the calendar for trial after issue is joined shall serve a note of issue on
12 all other parties and file it with the clerk, with proof of service, within ten days after service. The note of
13 issue shall state whether the issues are of law or fact, whether trial by jury is demanded or waived, whether a
14 jury of 12 or six is demanded, and the name and address of the respective counsel.

15 (b) If any other party to the action desires a trial by jury when none is demanded in the note of issue
16 served upon him or if any other party desires trial by a jury of 12 when a jury of six is demanded in the note
17 of issue served upon him, he shall serve a demand for trial by a jury of six or 12 persons on all other parties
18 to the action and file it with the clerk, with proof of service, within ten days after the note of issue was served
19 upon him.

20 (c) If a jury of six or 12 persons is not demanded at the time and in the manner provided in this act, all
21 parties waive trial by a jury of six or of 12, as the case may be. Jury trial may be waived also in the man-
22 ner provided by rule 38.02 of the rules for municipal courts promulgated by the supreme court of Minnesota,
23 as amended from time to time.

24 Subd. 4. [FIVE SIXTHS VERDICT.] In any civil action, after six hours of deliberation, the agree-
25 ment of five sixths of any jury is a valid verdict. The deliberation of the jury commences when the officer
26 taking charge of the jury has been sworn. The clerk shall enter that time in his records.

27 Subd. 5. [COSTS ALLOWABLE.] Costs shall be allowed in civil actions as follows:

28 (a) To the plaintiff upon a judgment in his favor when an issue of fact or law has been joined:

29 (1) \$10 when the amount of the judgment or the value of the property recovered in a replevin action,
30 exclusive of costs and disbursements, exceeds \$150;

31 (2) \$5 in all other cases.

32 (b) \$5 to the plaintiff upon a judgment in his favor when no issue of fact or law has been joined and the
33 amount of the judgment or the value of the property recovered, exclusive of costs and disbursements, exceeds
34 \$150.

35 (c) To the defendant upon a judgment in his favor on the merits:

36 (1) \$10 when the amount claimed in the complaint or the alleged value of the property involved in a
37 replevin complaint exceeds \$150;

38 (2) \$5 in all other cases.

39 (d) \$5 to the defendant upon a dismissal or discontinuance other than on the merits, regardless of the
40 amount claimed or the value of the property involved.

41 Subd. 6. [NEW TRIAL OR OTHER DETERMINATION.] In civil actions the court may:

42 (a) grant a new trial to all or any of the parties and on all or part of the issues;

43 (b) grant a motion for judgment notwithstanding the verdict or notwithstanding the jury has dis-
44 agreed and been discharged;

45 (c) open the judgment if one has been entered;

46 (d) take additional testimony in a case tried without a jury;

47 (e) amend findings of fact and conclusions of law, make new findings and conclusions, and direct entry
48 of a new judgment;

49 (f) correct clerical mistakes in judgments, orders, or other parts of the record and errors therein arising
50 from oversight or omission; or

51 (g) relieve a party or his legal representative from a final judgment, order, or other proceeding.

52 Subd. 7. [LIEN OF JUDGMENT; FILING OF TRANSCRIPT.] (a) No judgment of the district
53 municipal court shall attach as a lien upon real estate unless and until a transcript thereof is filed and dock-
54 eted in the district court of the county in which the judgment was had.

55 (b) Any person who holds a judgment for an amount exceeding \$10, exclusive of interest and costs, may
56 obtain from the clerk a certified transcript of such judgment and may file the transcript in the office of the
57 clerk of the district court. If a transcript is given, the clerk of district court shall note that part on the record
58 of the judgment and shall not thereafter issue a writ of execution on the same judgment.

59 (c) Upon the filing and docketing of the certified transcript, the judgment becomes a lien upon the real
60 estate of the debtor to the same extent as a judgment of the district court and the judgment thereafter is
61 exclusively under the control of the district court and may be enforced by its process as though originally
62 rendered by the district court.

63 (d) The clerk of court shall not issue a certified transcript while a writ of execution is outstanding on the
64 judgment.

65 Subd. 8. [WRITS OF REPLEVIN, ATTACHMENT, AND EXECUTION.] Writs of replevin, at-
66 tachment, and execution may be issued in accordance with the practice and procedure for such writs in dis-
67 trict court, but a judge rather than a sheriff or police officer shall approve all bonds requiring approval.

68 Subd. 9. [SATISFACTION OF EXECUTION.] When a writ of execution has been delivered to an
69 officer for enforcement, any person indebted to the judgment debtor may pay the amount of the debt, or so
70 much thereof as may satisfy the execution, to the officer holding the writ and the receipt of that officer recit-
71 ing the facts is a sufficient discharge and satisfaction of so much of the debt as is paid.

72 Subd. 10. [GARNISHMENT.] Proceedings against garnishees may be instituted in the same manner as
73 in the district courts of the state.

Sec. 20. [PLEADING, PRACTICE, PROCEDURE, AND FORMS IN CRIMINAL PROCEED-
2 INGS.] Subdivision 1. [GENERAL.] Except as otherwise provided in this act, pleading, practice, proce-
3 dure, and forms in actions or proceedings charging violation of a criminal law or a municipal ordinance,
4 charter provision, rule, or regulation are governed by the statutes and common law rules which govern in a
5 similar action or proceeding in the district court for the county in which the alleged violation occurred, other
6 than those applying peculiarly to felony or gross misdemeanor charges, or by statutes which govern in courts
7 of justices of the peace in the absence of statutes or common law rules governing in the district court.

8 Subd. 2. [COURT RULES.] The court may adopt rules governing pleading, practice, procedure and
9 forms in actions or proceedings, charging a violation of a criminal law or a municipal ordinance, charter
10 provision, rule, or regulation which are not inconsistent with the provisions of this act or any other statute
11 of this state.

12 Subd. 3. [COMPLAINTS.] Complaints charging violations of a criminal law of this state or a municipal
13 ordinance may be sworn to before any judge of the district municipal court and shall be filed with the
14 clerk, or deputy clerk.

15 Subd. 4. [TAB CHARGES.] When a person charged with violating a criminal law, the violation of which
16 is punishable as a misdemeanor, or a municipal ordinance, charter provision, rule, or regulation is brought
17 or voluntarily appears before the court without process, the clerk shall enter upon the records a brief state-
18 ment of the offense charged. This brief statement stands in place of a complaint, but if the judge so orders, or
19 if requested by the person charged, a formal complaint shall be made and filed.

20 Subd. 5. [PLEAS.] The plea of the defendant shall be "guilty" or "not guilty." In case of a failure to
21 plead, the clerk shall enter a plea of "not guilty."

22 Subd. 6. [TRIALS BY JURY; ORDINANCES.] In trial upon a charge of a violation of any municipal
23 ordinance, charter provision, rule, or regulation, the defendant shall have a right to a trial by jury.

24 Subd. 7. [PROBATION, PAROLE, STAY, SUSPENSION.] (a) At the time of imposing sentence,
25 the judge, in his discretion, may stay execution of the sentence for a period not exceeding one year upon such
26 terms and conditions, including probation, as he may deem proper or may order release on parole after part
27 of the sentence has been served. The parole shall be for a period not exceeding one year from the date of
28 commitment and on such terms and conditions, including probation, as the judge may deem proper.

29 (b) At the time of imposing sentence or at any time thereafter, the sentencing judge, or any other judge
30 when the sentencing judge is not available, may suspend forever the execution of any sentence or the balance
31 of any sentence which has been executed in part.

32 (c) When a person has been committed to a workhouse or jail, the sentencing judge, or any other judge
33 when the sentencing judge is not available, in his discretion, may order the release of such person on parole
34 after part of the sentence is served when satisfied that he will thereafter keep the peace and be of good behav-
35 ior. The parole shall be for a period not exceeding one year from the date of commitment and on such terms
36 and conditions as the judge deems proper. If a request for parole is denied by a judge, parole of that per-
37 son may be granted thereafter only by order of the court.

38 (d) If any person violates the terms or conditions of a stay, parole, or probation, or commits a subsequent
39 violation of any law, charter provision, or ordinance, any judge may revoke the stay, parole, or probation
40 and cause such person to be arrested and committed for the sentence originally imposed or the balance thereof
41 if a portion of the sentence has been previously served. The revocation may be based on such showing, oral
42 or written, sworn or unsworn, as the judge deems sufficient, and may be made without notice or hearing.

43 Subd. 8. [BAIL.] Any judge may set the amount of bail for any violation of a law of this state or a
 44 municipal ordinance, charter provision, rule, or regulation for which bail is allowed under the laws of the
 45 state. A bail bond in such amount may be posted or the person to give bail, in lieu of bail bond, may deposit
 46 with the clerk a sum of money equal to the amount of the bail so fixed.

47 Subd. 9. [MINUTES OF PRELIMINARY HEARINGS.] The clerk shall keep minutes of preliminary
 48 hearings on indictable offenses and make proper return to the court before which the person charged with the
 49 offense may be bound to appear.

50 Subd. 10. [PROSECUTING ATTORNEYS.] Violations of state law or of a municipal ordinance,
 51 charter, rule, or regulation, shall be prosecuted by the attorney of the municipality where the violation is
 52 alleged to have occurred if that municipality has an attorney. All other offenses shall be prosecuted by the
 53 county attorney of the county in which the alleged violation occurred.

54 Subd. 11. [PRESUMPTION OF INNOCENCE; CONVICTION OF LOWEST DEGREE.] In an
 55 action or proceeding charging a violation of an ordinance of any subdivision of government, the provisions
 56 of Minnesota Statutes, Section 611.02, shall apply if such ordinance is the same or substantially the same as
 57 a state law.

Sec. 21. [PETIT JURORS.] Subdivision 1. [MODE OF SELECTION.] Petit jurors for the trial of
 2 all types of actions shall be selected as provided in this section.

3 Subd. 2. [SELECTION; LIST.] Before the first day of September in each year the court shall select
 4 from the qualified electors of each county within the district a list of persons qualified to serve as petit jurors
 5 and certify the list to the clerk of the court. If there is a deficiency of persons on the list, the court may select
 6 from the qualified electors of each such county additional persons to cover the deficiency and certify and
 7 deliver to the clerk a supplementary list which shall thereafter stand as part of the original list. The validity of
 8 the selection is not affected by the fact that any person selected is disqualified from serving as a juror.

9 Subd. 3. [SUMMONING.] Petit jurors shall be drawn from the list and summoned as the court directs.
 10 The clerk shall issue venires for the jurors drawn which shall be returnable on dates, hours, and places di-
 11 rected by the court. No person shall be drawn as a juror more than once in two years, nor shall he be
 12 required to serve as a juror outside the county of his residence.

13 Subd. 4. [FAILURE TO ATTEND.] Failure to attend as a juror when duly drawn and summoned is
 14 punishable as contempt of court.

15 Subd. 5. [SPECIAL VENIRE.] When necessary the court may issue a special venire.

16 Subd. 6. [COMPENSATION.] Jurors shall be paid from the county treasury the same compensation
 17 and mileage as jurors in the district court of the county where the district municipal court is organized. The
 18 clerk of court shall deliver to each juror a certificate showing the number of days of service and the mileage
 19 for which he is entitled to receive compensation. This certificate shall be filed with the county auditor who
 20 shall issue his warrant on the county treasurer for the amount due. Any juror regularly summoned who

21 actually attends at the time named in such summons is entitled to his per diem and mileage whether or not
 22 sworn as a juror.

23 Subd. 7. [SELECTION FROM JURORS SUMMONED FOR SERVICE BY DISTRICT COURT.]

24 (a) If a court rule so providing is adopted by the district court of a county within which a district municipal
 25 court is organized and also by the district municipal court, all petit jurors to serve in the district municipal
 26 court in such county may be selected from the petit jurors summoned for jury service by the district court.

27 (b) The rule may provide the manner in which jurors for the district municipal court shall be selected
 28 from the jurors summoned by the district court and the period of time during which they shall serve in the
 29 district municipal court.

30 (c) The rule may be amended by the district court and the district municipal court. It may be rescinded
 31 entirely at any time by either court.

32 (d) The rule may be made effective on any date and shall then supersede any jury list for the district
 33 municipal court theretofore in effect. If the rule is rescinded the judges of the district municipal court may
 34 reinstate any jury list drawn for that year by the judges of the district municipal court or prepare a new
 35 jury list.

36 (e) The petit jurors summoned for service in both courts shall have the same qualifications and shall be
 37 selected by the district court under the same procedure as is now provided by law for selecting jurors for
 38 service in the district court.

39 (f) Jurors shall report to and be excused, governed, instructed, and controlled by a judge of either the
 40 district court or the district municipal court as provided in the court rule.

Sec. 22. [APPEALS.] Subdivision 1. An aggrieved party may appeal to a district court appeals panel
 2 from a determination of a district municipal court. The appeal shall be taken by filing written notice thereof
 3 with the clerk of district court of the county in which the action was heard not more than ten days after
 4 written notice of the court's determination has been served upon the aggrieved party or his attorney, or in
 5 any event within three months after the determination in a civil case. A written notice of appeal shall be
 6 served by the appellant upon all parties to the original proceedings or their attorneys not more than five
 7 days after filing a written notice of appeal. The appeal shall be heard and determined by a district court ap-
 8 peals panel consisting of three district court judges appointed by the chief justice of the supreme court. They
 9 shall be appointed from the district court for the judicial district within which the county is located, or, if
 10 convenience and justice require, from any other district.

11 Subd. 2. The appeal shall be confined to the typewritten record. By stipulation of all parties the record
 12 may be shortened. The appeals panel shall, upon request, hear oral argument and receive written briefs. The
 13 appeals panel may affirm, reverse, or modify the judgment or order appealed from, or take any other action
 14 as the interests of justice may require. On appeal from an order the appeals panel may review any order
 15 affecting the order from which the appeal is taken and an appeal from a judgment may review any order

16 involving the merits or affecting the judgment. The supreme court shall formulate rules of appellate procedure applicable to such appeals panels. Until otherwise provided the rules of appellate procedure applicable to 18 appeals to the supreme court shall apply to the district appeals panels except as provided in this section. An 19 appeal may be taken from the determination of a district court appeals panel to the supreme court with leave 20 of the supreme court.

Sec. 23. [CONCILIATION COURT DIVISION.] A district municipal court shall organize a conciliation court division for the conciliation of civil claims if the amount of money or property which is the subject matter of the claim does not exceed \$300, for the determination thereof without jury trial and by a simple and informal procedure. The rules shall provide for a right of appeal from the decision of the conciliation court division to the district municipal court for a trial on the merits.

Sec. 24. [TRAFFIC AND ORDINANCE VIOLATIONS BUREAU.] Subdivision 1. [ESTABLISHMENT.] The district municipal court may establish traffic and ordinance violation bureaus at such places as it determines.

Subd. 2. [SUPERVISION; PERSONNEL; RULES; FINES; TRAFFIC TAGS.] (a) The clerk of court shall supervise the traffic violations bureaus. Subject to approval by the court the clerk shall assign one or more deputy clerks to discharge and perform the duties of the bureaus.

(b) The court shall issue rules governing the duties and operation of the bureaus. These rules shall specify the violations for which fines may be paid to the bureaus without appearance before a judge and shall set the fine or bail for each such violation.

(c) The traffic violations bureaus shall process all traffic tags, accept all fines payable on traffic tags at the bureaus pursuant to the court's rules, set dates for arraignment on traffic tag charges to be heard in court, accept bail, keep proper records and accounts, and perform such other and further duties as the court may prescribe.

Subd. 3 [TRAFFIC TAG DEFINED.] The term "traffic tag" means a written or printed notice served upon a person charged with the violation of a traffic law or municipal ordinance, charter provision, rule, or regulation or affixed conspicuously to a motor vehicle operated, parked, or standing in violation thereof, which requires appearance before a traffic violations bureau within a specified time.

Subd. 4. [PROCEDURE BY PERSON RECEIVING TRAFFIC TAG.] A person who receives a traffic tag shall proceed as follows:

(a) If a fine for the violation may be paid at the bureau without appearance before a judge, the person charged may pay the fine in person or by mail to the bureau within the time specified. Such a payment of the fine shall be deemed to be the entry of a plea of guilty to the violation charged.

(b) When a fine is not so paid, the person charged must appear at a bureau within the time specified in the tag, state whether he desires to enter a plea of guilty or not guilty, and arrange a date for arraignment

25 in district municipal court.

Sec. 25. [JUSTICES OF THE PEACE.] Subdivision 1. [ABOLISHED.] Upon the effective date of a resolution establishing a district municipal court and at any time thereafter, the office of justice of the peace is abolished within every municipality in which the district municipal court holds regular sessions or establishes an ordinance and traffic violations bureau. For purposes of this subdivision, the term municipality includes any township, part of which is within the boundaries of such a municipality.

Subd. 2. [POWERS.] All other justices of the peace within a municipal court district organized in accordance with this act shall be elected or appointed in the manner prescribed by law, except that not more than one such justice shall be so elected or appointed. He shall have the power and authority to:

(a) Receive and accept pleas of guilty in cases arising under municipal ordinances or the traffic laws of this state and to impose sentences of a fine and costs pursuant to a schedule established by the district municipal court or, if he deems a sentence of imprisonment may be desirable or when required by law he shall refer the case to the district municipal court within the county. If a defendant pleads not guilty, the justice shall transfer the case to the district municipal court within the county to be disposed of in accordance with the provisions of this act.

(b) Release a defendant with or without bail in accordance with law if he is charged with a misdemeanor and receive and accept pleas of guilty in such cases, provided, however, that the district municipal court may by rule specify the cases in which such a plea may not be accepted by a justice of the peace. Such cases shall be transferred to the district municipal court to be disposed of in accordance with this act. If a defendant pleads not guilty or the justice deems a sentence of imprisonment may be desirable or when otherwise required by law, the case shall be transferred to the district municipal court within the county.

(c) Issue warrants and other criminal process as provided by law provided, however, that no justice of the peace shall conduct preliminary hearings or exercise any judicial power incident to preliminary hearing proceedings on the charge of any violation of any criminal law. The court may regulate by rule the jurisdiction of a justice of the peace to issue any criminal process.

(d) Exercise civil jurisdiction as prescribed by law provided, however, that if the defendant appears in the proceedings the action shall be transferred to the conciliation division of the district municipal court within the county.

(e) Perform the marriage ceremony.

Subd. 3. [REPORTS.] A justice of the peace shall report in writing monthly, or at such other times as the district municipal judge may require, concerning his work as justice of the peace.

Subd. 4. [LOCAL OPTION.] The office of justice of the peace may be abolished at any general or special election by the electorate.

Sec. 26. [FINES, BAIL.] All fines and bail received by a justice of the peace or a traffic and ordinance violations bureau shall be transmitted to the clerk of court at such intervals as may be determined by the

3 clerk of court.

Sec. 27. [MUNICIPAL JUDGES ASSOCIATION; RULES OF PRACTICE.] The rules adopted
2 by the municipal judges association pursuant to Minnesota Statutes, Section 488.18, shall apply to practice in
3 courts organized pursuant to this act to the extent that they are not inconsistent with this act and the rules
4 for municipal courts promulgated by the supreme court. The county boards may appropriate funds to pay the
5 expenses of judges of the district municipal court in attending meetings of the municipal judges association.

Sec. 28. [FORCIBLE ENTRY AND UNLAWFUL DETAINER ACTIONS.] Subdivision 1. [RE-
2 TURN DAYS.] Return days for forcible entry and unlawful detainer actions may be fixed by rule promul-
3 gated by the court.

4 Subd. 2. [PROCEDURE; FORMS.] Minnesota Statutes, Sections 566.01 through 566.16, apply to the
5 court. The forms therein prescribed, with appropriate modifications, may be used.

6 Subd. 3. [DEFAULT JUDGMENTS.] Whenever a duly verified complaint in an action of forcible
7 entry or unlawful detainer shows one of the causes of action set forth in Minnesota Statutes, Section 566.03,
8 and on the return day of the summons the defendant does not appear, the judge of district municipal court,
9 upon proof of the due service of the summons, shall enter an order adjudging the defendant to be in default,
10 and thereafter the clerk shall enter judgment for the plaintiff without the introduction of evidence.

Sec. 29. [TRANSFER OF RECORDS; TRANSFER OF FUNDS.] All judges and justices of the
2 peace and all court clerks of such abolished courts shall continue in office 60 days after the date upon which
3 their courts are abolished for the purpose of transmitting to the clerk of the district municipal court all plead-
4 ings, dockets and other records in pending cases in such abolished courts and for the purpose of paying over
5 to the clerk of said court all moneys in the possession of such judges, justices of the peace and clerks payable
6 to the state or any subdivision with proper detail to enable the clerk of the district municipal court to account
7 to the proper officials for such moneys.

Sec. 30. [APPROPRIATION.] There is hereby appropriated from any moneys in the state treasury
2 not otherwise appropriated the sum of \$1,000 for the year ending June 30, 1970, and \$..... for the year
3 ending June 30, 1971, to be disbursed by the state auditor for the purposes of this act.

Mrs. Loring M. Staples, Jr.
Route 2- Box 700
Wayzata, Minnesota 55391



John C. McNulty and the Honorable Tom C. Clark

the hennepin



WATER

October, 1966





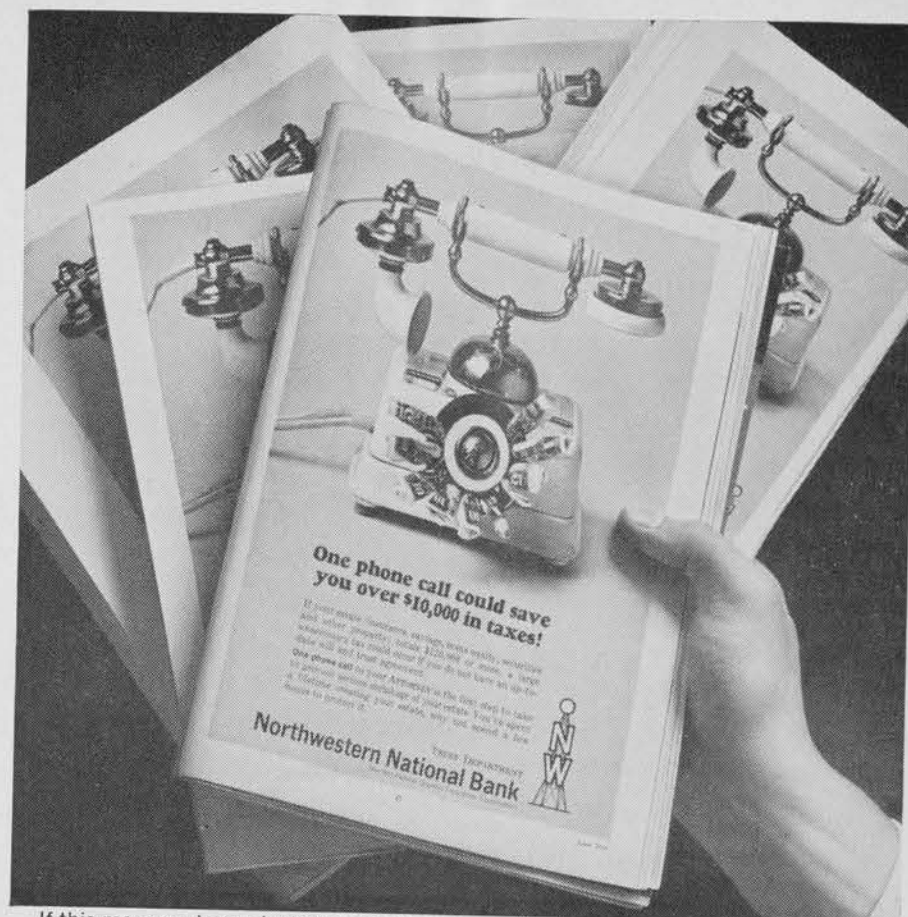
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Hennepin Lawyer

the Hennepin Lawyer

Volume 35/Number 2

October, 1966

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FRONT COVER:

John C. McNulty, President of the Hennepin County Bar Association and Chairman of the Minnesota Citizens' Conference on Courts, greeted out-state guest, The Honorable Tom C. Clark, Associate Justice of the United States Supreme Court, Washington, D. C., who spoke at the Conference.

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October, 1966



INSIDE VIEW

by Judge CHESTER DURDA, Chairman

The Hennepin Lawyer Committee

Much publicity was given in the daily press to the Minnesota Citizens' Conference to Improve the Administration of Justice, held in Minneapolis, September 8-10 (page 20). Conferees agreed that "a unified Court structure, composed of a Supreme Court, an intermediate Court of Appeals, a trial Court for general jurisdiction and a People's or Magistrate's Court to handle small claims and minor criminal cases, appears to be well suited to the needs of Minnesota." Abolition of the office of Justice of the Peace was also proposed, and suggestions for judicial compensation, retirement and discipline were made. But, in the area of judicial selection and tenure, the participants disagreed.

The majority report charged that "the needs of a modern society demand that our haphazard judicial selection policies be abandoned and that a systematic procedure be adopted to insure that the most able and most qualified persons are recommended for judicial service."

The minority maintained that "the present method of judicial selection *** has proved its worth over a period of one hundred years" and "the proposed change from present methods of selection by vote of the people is a surrender of a basic right of citizenship. Hence, it is repugnant to the democratic process" (page 22).

What do you think?

The Minnesota Mental Health Planning Council has prepared a revision of our mental illness commitment laws for presentation to the 1967 session of the Minnesota Legislature (page 24). The bill is heralded as "the first thorough reform of the commitment laws in twenty years," which would give Minnesota "one of the most modern mental health commitment laws in the nation." We are indebted to Douglas M. Head for his thoughtful comparison of the Council's bill with the existing statutes.

Finally, we leave you with this plea: The Hennepin Lawyer is *your* publication. Letters to the Editor for publication are invited. Here is your opportunity to air your pet peeves and make constructive criticism. We'll be checking our mailbox for your communication.

MINNESOTA CITIZENS' CONFERENCE ON COURTS

"The Minnesota judicial system measured by modern standards, has certain weaknesses which should be eliminated or minimized."

The above statement was the opening sentence of the consensus adopted by the Minnesota Citizens' Conference on Courts following its meeting at the Holiday Inn Central Motel in Minneapolis on September 8-10.

The purpose of the Conference was to consider the adequacy of the present judicial system of the State of Minnesota, the need for modernization of the judicial process, of the ways and means by which more effective administration of justice may be secured. Among the findings included in the consensus were the following:

1. Haphazard judicial election policies should be abandoned in favor of choosing the most capable and qualified judicial candidates through investigation and recommendation by an impartial commission who will submit names of qualified nominees to the Governor, who will make his final appointment from the nominees submitted.
2. Increased compensation, adequate pensions and mandatory retirement.
3. Improved methods for discipline and removal of Judges.
4. Creation of a unified court system and total abolition of Justice of the Peace courts.
5. Creation of steering committee from conferees to implement findings of the Conference.

The Conference was under the sponsorship of the Minnesota State Bar Association, the American Judicature Society and the Judicial Council of the State of Minnesota. Cooperating organizations were the Lawyers' Wives of Minnesota, Section on Court Organization and Administration, Young Lawyers Section, University of Minnesota Law School and William Mitchell College of Law. John C. McNulty was Chairman of the Conference.

This was a study Conference pro-

ceeding primarily through a series of intense panel discussions of the topics selected for consideration. The lay citizens, the men and women drawn from across the State of Minnesota and selected because of the leadership in their communities, their interest in governmental affairs and matters of vital concern to the State as a whole, were divided into small groups of discussion teams rotating among the various groups so that each conferee had the opportunity of deliberating and expressing themselves on all of the Conference subjects. General assembly sessions on each topic were presented by authorities from within and without the State.

The Honorable Tom C. Clark, Associate Justice of the United States Supreme Court, Washington, D. C., spoke on "The Image of the Judge" at the first meeting of the Conference. Other speakers at the dinner meeting were Chief Justice Oscar R. Knutson and Associate Justice Robert J. Sheran, Minnesota Supreme Court.

General assembly speakers include The Honorable Robert H. Hall, Court of Appeals, Atlanta, Georgia; The Honorable William H. Burnett, Presiding Judge, Denver County Court, Denver, Colorado and Jack E. Frankel, Commission on Judicial Qualifications, San Francisco, California.

The Honorable Elmo B. Hunter, United States District Judge, Kansas City, Missouri and Charles T. Hvass, Minneapolis, spoke on "Judicial Selection and Tenure—Two Points of View".

The final general assembly session presiding officer was Dr. O. Meredith Wilson, President, University of Minnesota; at which time the consensus of the Conference was developed with at least 75 per cent of the participants supporting it. A small but vocal minority objected to the consensus recommendations concerning merit selection of Judges and a dissenting report was filed by Mr. Jess March with the Chairman, Mr. McNulty, on Monday, September 12.



The Friday luncheon head table guests were the Honorable Thomas Gallagher, Associate Justice of the Minnesota Supreme Court; Sidney S. Feinberg, President-elect, Minnesota State Bar Association; the Honorable Oscar R. Knutson, Chief Justice of the Minnesota Supreme Court; Judge William H. Burnett, Presiding Judge, Denver County Court, Denver, Colorado and John C. McNulty, Conference Chairman.

Hennepin Lawyer

The following is the complete text of the consensus which was adopted:

THE CONSENSUS of the MINNESOTA CITIZENS' CONFERENCE TO IMPROVE THE ADMINISTRATION OF JUSTICE

* * * *

Minneapolis, Minnesota
September 8-10, 1966

I MINNESOTA COURTS AND JUDGES TODAY

The Minnesota judicial system, measured by modern standards, has certain weaknesses which should be eliminated or minimized. It has been our good fortune to have many dedicated and competent judges. We are here concerned with improving a judicial system that has been generally progressive and free of corruption and incompetence experienced by some other states.

Among the defects in the present system are the methods of selection of judges, and the uncertainties in the matters of judicial tenure and retirement.

In the area of court organization and administration, Minnesota suffers both from a lack of a unified system of courts and also from the lack of effective administrative organization.

II JUDICIAL SELECTION AND TENURE

The needs of a modern society demand that our haphazard judicial selection policies be abandoned and that a systematic procedure be adopted to insure that the most able and most qualified persons are recommended for judicial service.

In the opinion of this conference, the method of selecting judges must be designed to minimize political considerations and to secure the services of the best qualified persons by some form of a pre-selection committee or commission. The composition of the selection committee should be so constructed as to eliminate to the greatest extent possible any undue influence or control by any special interest group, be it political or professional. The selection committee should recommend judicial nominees to the Governor who will make the final appointment from the recommended nominees. This appointment procedure will act as a final check on the function of the selection committee and will maintain the participation of the executive which gives greater dignity and respect to both the judicial and executive branch of our government. The selection committee must be an on-going body with staggered terms of office to insure continuity of the selection policies. No member of the judicial selection committee should be eligible for selection to judicial office until some period of time has elapsed following termination of his services on the commission.

Once appointed, judges should be subject to a strong removal or disciplinary commission to act as a continuing check on the professional

capacities of the judge. All judges should be subject to periodic performance review at stated intervals either by direct election by the citizens or by review of the judge's performance record by vote of the citizens or by review of a removal commission. No choice among these methods of periodic review is recommended.

A proper selection and tenure procedure is merely one factor in securing and retaining a highly qualified and independent judiciary. Other considerations are a more realistic compensation level for judges and an improved retirement program. An impartial judicial selection procedure will permit non-political consideration by the legislative branch of the need for creation of additional judicial positions.

III JUDICIAL COMPENSATION-RETIREMENT-DISCIPLINE & REMOVAL

On Judicial Compensation—

A further study should be made of the subject with the view toward increasing the compensation of judges at all levels.

On Retirement—

The present system is generally satisfactory except that increased sums might be considered after further study, insofar as voluntary retirement is concerned.

In the case of involuntary retirement—a specific (though arbitrary) age should be established, which would be mandatory in operation.

The mandatory rule will result in instances of competent and productive judges being retired. This result can be ameliorated by such judges being called upon to assist the active judiciary as the operations of the judicial system warrant.

Discipline and Removal—

While there is a system of sorts for the disciplining and removal of judges today, in historical fact it has not operated effectively or even well. There is insufficient information upon which to adopt a definitive set of rules on discipline and removal. There are worthwhile features in the California plan, but further study should be undertaken with the view of recommending a specific plan on such problems. Any plan so proposed should encompass the basic idea that its purpose would be to improve the quality of justice and its administration, would provide a sounding board for citizens with real or fancied grievances concerning the judiciary, and would yet provide protection and safeguards for members of the judiciary against unwarranted attacks.



A discussion team, one of four, meets on the topic "Judicial Compensation, Retirement, Discipline and Removal," with Professor Maynard E. Pirsig (center) presiding. Mrs. Marie Slawick, St. Paul businesswoman and Dr. Richard D. Frey, President of the Hennepin County Medical Association, were active participants in the Conference.

October, 1966

IV COURT ORGANIZATION AND ADMINISTRATION

In order to eliminate the multiplicity of suits; costly appeals; conflicts of interest on the part of fee justices of the peace and part-time judges; overlapping of the jurisdiction of courts; to utilize the best available manpower and special court services; and to promote economy, impartiality, simplicity, and efficiency, the consensus was that the system of courts of limited and special jurisdiction in Minnesota needs improvement and should be reorganized in the best possible way to achieve the same level of justice for litigants in all courts.

The principles of sound administration should be applicable to the judicial system with authority vested in the highest judicial officer or the court of last resort. Administrative staff should be made available to fulfill these non-judicial duties. Administrative assistance should also be provided for multi-judge trial courts.

A unified court structure, composed of a supreme court, an intermediate court of appeals, a trial court of general jurisdiction and a people's or magistrate's court to handle small claims and minor criminal cases, appears to be well suited to the needs of Minnesota.

Final and complete abolition of the office of justice of the peace should be effected at the earliest possible date.

In the interest of providing even-handed justice for all the citizenry a concentrated effort should be made forthwith to minimize delay in the disposition of litigation. Action in this area need not await a program of court reorganization but can be initiated with the framework of the existing system.

To this end, there should be no reluctance to provide sufficient judicial manpower to hear and determine cases with all reasonable dispatch.

V IMPLEMENTATION OF THE VIEWS OF THE CONFERENCE

From the conferees there shall be formed a steering and study committee consisting of two (2) persons from each congressional district in the state, to be appointed by the sponsoring committee of this conference. After formal organization, they shall promptly take such steps to inform and poll the conferees of the first Minnesota Citizens' Conference on Courts, in order to formulate courses of action by which these recommendations on court improvement may be further implemented.



Discussing "Judicial Selection and Tenure" were James Adams, Minneapolis Symphony; Barnabas F. Sears, Chicago, Illinois; Charles T. Hvass, Minneapolis; Harold J. Nelson, Bloomington, Minnesota and Stanley J. Wenberg, Vice President, University of Minnesota.

The full text of the dissenting report, filed by Mr. March, is as follows:

DISSENTING REPORT MINNESOTA CITIZENS' CONFERENCE ON COURTS

Minneapolis, Minnesota
September 12, 1966

The undersigned, having been requested by a substantial number of the citizens to serve on the Minnesota Citizens' Conference on Courts to reflect their dissent in this report to the purported consensus which was reached on Saturday, September 10, 1966, hereby expresses the position and dissent of this group.

This dissent does not apply to any of the proposed changes of court integration and changes for administration to achieve greater efficiency and elimination of needless costs and expense to the taxpayers. Such changes as promote modernization and greater efficiency is heartily approved. These changes include:

(1) Adequate compensation for judges, including retirement programs.

(2) The creation of additional judgeships and provision of additional court facilities and personnel to handle the increase in the legal controversies resulting from the population explosion, the new legal remedies constantly provided by Congress, the legislature and the civil rights decisions of the United States Supreme Court as well as the complexities of the present technological and social and economic revolution.

(3) The establishment of adequate mechanics for the proper removal of those judges who, because of infirmities of health, age, or because of inadequacy, no longer competently discharge their judicial duties. In this regard, appropriate safeguards of fairness, consistent with due process, to protect both the interest of any individual judge, sought to be removed, and the public interest should be provided. An appropriate citizens' commission representative of the various fields of endeavor is advocated. Such a commission should be composed of an equal number of judges of the various courts, members of the Bar and members of the public. The number of the commission should not be so large as to make its function difficult or impossible.

DISSENT

A. There is sincere and vigorous dissent from the proposed change in the present method of judicial selection, in the first instance, and judicial succession of an incumbent. This dissent is the result of considerable soul-searching and thought. The dissent is motivated by the undeniable fact that in Minnesota there has been a total absence of corruption in the appointment of judges or in the discharge of judicial functions by any judge of the Supreme Court, the District Court, the various Probate and Municipal Courts of the State of Minnesota. The evils of unsalaried fee paid Justices of the Peace has already been eliminated by statute in Hennepin County and will be eliminated in the entire state implementation of court integration as advocated by part 1 of this report.

Hennepin Lawyer

B. The proposed change from present methods of selection by vote of the people is a surrender of a basic right of citizenship. Hence, it is repugnant to the democratic process.

C. The proposed change which forsakes the present method of succession in office by an incumbent, deprives the voters of any interest in the judiciary and its functions. It may perpetuate in judicial office a judge who discharges the minimal essentials of his function to a degree which does not subject him to removal but which is far below the standard of excellence achieved by judges who do face their constituents every six years. To achieve the highest standard of judicial excellence, it is essential that the judge have a feeling of responsibility to all of the people and to the voters of his district which can only be achieved by running against a possible candidate to succeed him.

D. The present method of judicial selection, in the event of a vacancy, has proved its worth over a period of more than 100 years. Under this system Minnesota has had the benefit of the most able, most honest, and dedicated judges which our method of compensation has been able to attract to the judiciary. There has been no single case of misconduct or ineptness by a judge of any of the courts of our state, with the exception of the Justice of the Peace.

Therefore, any proposed change of judicial selection in the event of vacancy is opposed. The opposition is not arbitrary but is based upon the foregoing Minnesota experience and further, upon a failure of the proponents for change to demonstrate that in those states where some change has been employed, that judges superior to our Minnesota judges have been selected.

E. The proposed judicial selection commission may not necessarily reflect the wishes of the voters as may an appointment by the Governor who is responsible to the voters for all of his executive acts, including judicial appointment.

F. It is also impossible for a judicial selection commission to have its membership reflect the various segments of our citizenry without making it so large as to be unwieldy in its operation and therefore, totally impractical.

Therefore, it appears to the undersigned that leaving the present method of judicial selection to fill a judicial vacancy in the hands of the Governor, is best designed to be representative of the wishes of the majority of the voters.

October, 1966

RECAPITULATION

1. The vast majority of proposals for the achievement of economy in efficiency by court integration is heartily approved.

2. The provision of fair, but an adequate system for removal of judges, is endorsed.

3. To assure the availability of the ablest, most experienced and learned candidates for the judiciary, adequate salaries and retirement benefits are urged.

4. Because of utter lack of evidence that the present method of selection has failed to provide us with the best possible judges.

5. Under our present compensation and retirement benefits, we are opposed to any change in judicial selection.

6. The judiciary, being one of the essential parts of our check and balance systems of government provided for by our Constitution, the right of the voters to maintain the system by voting for their judges should not be likely surrendered.

Respectfully submitted,
Jess March

CONFERENCE PARTICIPANTS

Selected participants from the Fifth Congressional District were Dr. Ann W. Arnold, Miss Frances Baker, Jevne Baskin, James Borman, Dr. Harold Buchstein, Carroll E. Crawford, William J. Deters, Mrs. Arthur E. Dornbach, Howard G. Fortier, Dr. Richard D. Frey, Jerome H. Froehlig, Sander D. Genis, Robert M. Gomsrud, Rabbi Arnold M. Goodman, Albert Heimbach, Robert P. Janes, Mrs. Charles W. Johnson, Andrew T. Jones, J. C. Jordan, Jack J. Jorgensen, Howard Kahn, Dr. William J. Kane, Jack Kirschbaum, Roy W. Larson, Dr. Arnold H. Lowe, Gerald T. Mullin, Donald E. O'Brien, Brother DePaul, Rabbi Moses B. Sachs, William F. Schleifer, Omar Schmidt, Rabbi Nahum Schulman, Rabbi Max A. Shapiro, Nathan M. Shapiro, Mrs. Loring M. Staples, Jr., John R. Steinbauer, Charles S. Stenvig, Paul R. Thatcher, Reverend Tenner Thompson, Thomas VonKuster, Thomas Welch, Fred Weil, Jr., Stanley J. Wenberg, James P. Wilson, Dr. O. Meredith Wilson, David J. Winton, Mrs. Darrell Yates, Richard M. Young and Mrs. Harry Zimmerman.

The Third Congressional District participants were William V. Belanger, Jr., Floyd G. Clasen, Viola M. Kanatz, Jess March, Harold J. Nelson, Donald Stoltz, John E. Tilton and Fletcher C. Waller, Jr.

Meshbeshner To Edit Journal

Ronald I. Meshbeshner has been appointed the first Associate Editor in Criminal Law for the American Trial Lawyers' Law Journal, a highly regarded legal journal.



Mr. Meshbeshner was recently elected Vice President of the Criminal Law Section of the 25,000 member American Trial Lawyers' Association at its annual convention in Los Angeles, California, in July. At that time, he addressed the convention on the "Right to Counsel Before the Grand Jury", analyzing the impact of the recent Supreme Court decision on this question.

Mr. Meshbeshner, a former assistant Hennepin County Attorney, is currently Chairman of a pilot project for the study of crime and its causes in the Minneapolis area on behalf of the American Trial Lawyers' Association.

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Our Mental Health Hospitalization and Commitment Laws - A Cure

In recent months a series of cases in our District Courts has called into serious question Minnesota's mental health commitment laws. (Minnesota Statutes 525.749 - 525.79). The two most recent decisions were issued in Minneapolis, March, 1966, by District Judge Luther Sletten and in St. Cloud, July, 1966, by District Judge Charles W. Kennedy.

by Douglas M. Head

Judge Luther Sletten ordered release of a Minneapolis policeman who had been picked up by two deputy sheriffs and held for observation upon a warrant issued by the Hennepin County Court Commissioner. During the hearing it was disclosed that the medical basis for the commitment was a doctor's statement that the policeman was in need of "psychiatric care" even though the doctor had not seen the policeman for several years. Despite the fact that present law does not require a medical examination to accompany a petition, Judge Sletten ordered immediate release of the policeman.

In July a Chaska man was picked up at 10:00 A.M. at work by the police upon the petition of his wife. He was taken first to the Hopkins jail, then transferred to the Carver County jail. The commitment hearing was held at 1:15 P.M. the same day and the man was committed to the Veteran's Hospital at St. Cloud. District Judge Charles W. Kennedy ruled that the commitment was a violation of the patient's constitutional right to due process in that there was inadequate notice of the hearing, the patient was not advised of his right to counsel, was not advised of the nature of the proceedings, and was not confronted by the witnesses. The District Court by its decision established procedural requirements for commitment not presently demanded by Minnesota law.

These two cases are representative of the deficiencies of our present mental health commitment laws and give strong evidence of the need to revise them. Nearly three years ago the Minnesota Mental Health Planning Council appointed a Forensics Committee chaired by Municipal Judge Donald S. Burris to revise the Mental Health commitment laws. This Committee was composed of District Judges, Probate Judges, lawyers, psychiatrists, psychologists, police officers, social workers, a medical director of a state mental hos-

Mr. Head is a partner in the firm Wright and West. He is a former legal consultant to the Minnesota Association for Mental Health and served as draftsman to the Forensics Committee of the Minnesota Mental Health Planning Council in connection with the proposed Hospitalization and Commitment Act to be submitted to the 1967 Minnesota Legislature.

pital, an administrator of a state mental hospital, representatives of the Minnesota Department of Welfare, representatives of the State Attorney General's office, a member of the Minnesota Civil Liberties Union, and interested laymen. The Committee was staffed by the Minnesota Association for Mental Health which has been working for ten years for revision of these laws. After almost three years the Committee has approved a bill which will be presented to the 1967 Minnesota Legislature.

This bill will be the first thorough reform of the commitment laws in twenty years. It follows guidelines of the model commitment bill presently being enacted by the United States Congress for the mental hospital of the District of Columbia.

The bill deals only with commitments for those persons defined by Statute as "mentally ill"; it does not make any substantive changes in the commitment procedures for those persons defined as "mentally deficient".

The bill attempts to standardize and modernize statutory terms and definitions. Such terms as "insane", "inmate", "custody", and "institution", have been removed from the law and in their place terms such as "mentally ill", "patient", "treatment" and "hospital" have been substituted. The term

"mentally ill person" has been redefined to embrace a generally accepted nationwide definition. The bill broadens present law so that the legislation will apply to public and private hospitals, and community mental health centers.

The bill adds to our law a definition of a person "dangerous to the public". Under present law a person so classified by our Probate Courts is usually sent to the St. Peter Security Hospital and cannot be released without an order by the committing court. Yet the term has never been defined. The bill rectifies this deficiency by providing the court with a statutory definition.

The proposed bill deals with two methods of entry to a hospital: non-judicial and judicial. Non-judicial entry is voluntary or emergency admission to a hospital. Judicial entry is the formal admission to a hospital pursuant to court order.

Under present Minnesota law a "voluntary" patient must sign a written request to be admitted to a state hospital and such person can be held for three days exclusive of Sundays and legal holidays after he requests release. Under the proposed bill a person may be admitted to a hospital not as a "voluntary" patient but as an "informal" patient without making formal written application. Such patient cannot be admitted if he objects and must be released at any time after admission. (In cases of emergency a physician can hold an "informal" patient 72 hours exclusive of Saturdays, Sundays and legal holidays in order to get a court order.)

In emergency admissions under present Minnesota law a person may be admitted to a state hospital for observation upon a physician's statement without a court order, until such an order is obtained. The patient can be held up to 72 hours exclusive of Sundays and legal holidays.

The proposed bill adds that the physi-

cian's statement is sufficient authority for a peace officer to transport such patient to a hospital and in addition allows a peace officer in an emergency situation to transport a mentally ill person to a hospital rather than arresting such person and transporting him to jail as is required by current law. Under the proposed bill such a patient can be admitted to a hospital only if the head of the hospital consents and the patient is immediately examined by a physician and found to be mentally ill. The patient can be held, until a court order is obtained but no longer than 72 hours exclusive of Saturdays, Sundays and legal holidays.

The procedures for judicial commitment have been extensively rewritten. Under present law there is no necessity that a physician's statement accompany a commitment petition. Under the proposed bill a physician's certificate would be required unless the proposed patient refuses to submit to an examination or an examination cannot otherwise be obtained. Under present law the examiners must only be physicians. Under the proposed bill the examiners must be psychiatrists if they are available to the court. The proposed bill does not alter the Probate Court's right to issue an order taking the patient into custody for observation and examination, commonly referred to as the "hold order". However, the proposed bill, mindful that such person is not being arrested on a criminal charge, directs that unless the Probate Court otherwise orders, the person taking the proposed patient into custody shall not be in uniform and shall not use a vehicle visibly marked as a police vehicle.

The proposed bill also adds that from the time of admission a patient shall be entitled to communicate with a reasonable number of persons and shall be entitled to consult with his private attorney and personal physician.

Notice of the filing of the petition, of the time and date of examination and of the time and date of the hearing, must be given the patient, his counsel and one other interested person under the terms of the proposed bill.

Under present law there is no statutory requirement that a hearing must be held after a "hold order" is issued. Under the proposed bill the hearing must be held within 30 days from the date of the filing of the petition. This time limit can be extended for 30 days by the court. The patient, or any interested party can demand in writing a hearing at any time which must be held within five days from the date of demand.

Under present law it is the discretion of the Probate Court as to whether the patient can attend his hearing. Under the proposed bill the patient has an absolute right to attend the hearing if he or his counsel so desires. Also under the proposed bill both the patient and the petitioner may present and cross-examine witnesses including the medical examiners.

Under present law the court must appoint counsel for a patient only if he is financially unable to appoint one. Under the proposed bill counsel would be appointed in every case, immediately after the petition is filed and counsel must consult with the patient prior to the hearing.

Under present law the patient can be committed for an indeterminate period after the hearing but a medical report must be filed with the court within 60 days after commitment. Under the proposed bill a patient could only be temporarily committed for 60 days after the hearing. At the end of the 60 day period if a medical examination so recommends, the patient can then be committed for an indeterminate period. Under the proposed bill no patient could be committed as "dangerous to the public" until after a 60 day examination period.

In order that patients are not held in jail pending their commitment hearing the proposed bill offers a new provision. This would require a county or group of counties to maintain at the expense of the participating counties a room in a facility other than a jail for temporary detention of patients. This facility could be a state mental hospital, a nursing home, local hospital, or other local facility. Unless otherwise ordered by the court, no person held as mentally ill or mentally deficient could be confined in a jail.

The bill retains in the hands of the medical director of a hospital the decision on when to discharge a committed patient. However, the bill changes the method of releasing a patient held as "dangerous to the public". Under present law such a patient is discharged upon order of the committing court. This results in a possible 87 different standards in releasing persons committed as "dangerous to the public". Under the proposed bill such a person, regardless of the Court of Commitment would be discharged by a panel composed of the Probate Judges of Hennepin County, Ramsey County and one other Probate Judge to be appointed by the Chief Justice of the Minnesota Supreme Court.

The proposed bill requires, prior to a patient's discharge, notification of the

County Welfare Board of the county of the patient's residence and the patient's personal physician unless the patient objects. The County Welfare Board is charged with the responsibility of establishing in cooperation with other local agencies a plan of after care treatment for the patient if such is needed in order to retain the patient in the community.

The proposed bill activates a review board which is authorized under present law but is presently inactive. This board, composed of three or more persons, one of whom shall be a physician, and one a lawyer, shall visit each mental hospital at least once every six months. Any patient who so requests can appear before the board and the board shall make a report to the Commissioners of Welfare. The board shall also have the right to review files and interview patients on its own initiative at each hospital.

Patients are given, under the proposed bill, statutory guarantees to rights of visitation and communication virtually without censorship. If a medical director determines that for medical reason certain material cannot be received by a patient without damaging the patient's mental health, such material can be withheld but this decision is subject to review by the Department of Welfare.

Under present law the question of whether a committed patient is legally incompetent is in doubt. As a practical matter, merely by reason of commitment a patient loses his right to vote and his driver's license is revoked. The patient must be "restored to capacity" to receive these rights again. Under the proposed bill the decision of commitment and that of incompetency are separated. The Probate Court at the time of commitment determines, in addition, whether the patient is incompetent. If so, then an order adjudicating the patient as incompetent is entered and the legal consequences of such an order follow. Otherwise the patient retains all his legal rights when committed. In addition, a head of a hospital is directed to petition a court for an incompetency hearing for an "informal" patient who is in need of a guardian. Upon discharge of a patient the court then enters an order declaring the patient competent unless the court feels that a guardian is still needed.

Because of space limitations this summary of the bill is necessarily sketchy. However, should this bill be enacted by the 1967 Legislature, Minnesota would have one of the most modern mental health commitment laws in the nation.

President McNulty Announces Committee Appointments

President John C. McNulty announced the appointment of the 1966-1967 Committees. Many of the Committees have been meeting for the past few months and many meetings are scheduled for the immediate future.

Mr. McNulty stated "There are a number of new Committees which were submitted to the first meeting of the Governing Council for their approval, and in the immediate future additional Committees will be appointed."

He further stated "The Committee assignments this year have been a most difficult task for your President and other officers. We had such an overwhelming response to those wishing to serve on Committees that there just hasn't been room for everybody. New Committees are going to be formed and we hope to have as many people serving as is humanly possible without making the Committees so large as to destroy their efficiency."

Mr. McNulty announced the personnel of various Committees for the following year that have been appointed to date:

ATTORNEYS REFERRAL

Guenter S. Cohn, Chm.	338-6768
1417 Cargill Building	
Violet J. Sollie, Sec.	335-6170
306 Kresge Building	
Richard B. Abrams	336-1751
604 Farmers & Mechanics Bank Building	
Hon. Douglas K. Amdahl,	
Ex officio	330-3229
414 Court House	
Hon. Elmer R. Anderson	330-2606
405-A Court House	
Robert S. Carney	333-8331
520 Midland Bank Building	
Lynn S. Castner	331-4082
885-21st Avenue Southeast	
R. Clark De Veau	332-8385
544 Mobil Oil Building	
Samuel Dolf	825-9481
3120 Hennepin Avenue, Suite 201	
David F. Fitzgerald	336-3654
1910 First National Bank Building	
Emerson Hopp	332-2501
1712 First National Bank Building	
Gerald F. Johansen	338-0755
400 First Federal Building	
James H. Maginnis	927-7963
5009 Excelsior Boulevard	
John E. McTavish	372-3678
800 Investors Building	
Boyd H. Ratcliff	335-9331
900 Farmers & Mechanics Bank Building	
William Seltz	338-6768
1417 Cargill Building	
Harlan E. Smith	332-8984
501 Park Avenue	
Rudy K. Steury	335-9331
900 Farmers & Mechanics Bank Building	

BAR MEMORIAL

Herman J. Ratelle, Chr.	339-8791
720 Northstar Center	
Robert S. Carney, Sec.	333-8331
520 Midland Bank Building	
Lee Bearmon	339-8288
520 Roanoke Building	
J. Kenneth deWerff	333-0177
760 Grain Exchange Building	
Peter F. Greiner	333-1333
670 Pillsbury Building	
Daniel R. Hart	333-2237
414 Roanoke Building	
Robert F. Henson, Ex officio	332-8848
885 Northwestern Bank Building	
Wilbur J. Holm	529-9647
4132 Lyndale Avenue North	
Gordon A. Johnson	332-8878
2000 First National Bank Building	
James B. Lund	333-5467
1026 Soo Line Building	
Clay R. Moore	333-1341
1000 First National Bank Building	
William E. Mullin, Jr.	332-4356
1820 Rand Tower	
Keith M. Stidd	330-2022
333 Court House	
Richard C. Utter	789-3501
1500 Jackson Street, Northeast	

BUDGET

Donald E. Nelson, Chm.	330-6644
414 Nicollet Avenue	
Lowell F. Epple, Sec.	920-1400
3033 Excelsior Boulevard, Box 435	
Laurens V. Ackman	333-3421
860 Northwestern Bank Building	
David R. Brink, Ex officio	332-3351
2400 First National Bank Building	
J. Brainerd Clarkson	332-3301
1420 Northwestern Bank Building	
Sidney S. Feinberg	339-4911
400 Rand Tower	
Robert F. Henson	332-8848
885 Northwestern Bank Building	
Clarence O. Holten	336-3637
370 Pillsbury Building	
Matthew J. Levitt	339-8288
520 Roanoke Building	
George D. McClintock, Jr.	338-7571
1260 Northwestern Bank Building	
Geoffrey J. Mahoney	339-4521
1300 First National Bank Building	
Simon Meshbesh	335-2242
400 Second Avenue South, Suite 808	
Tom Sands	332-8778
2000 First National Bank Building	

CALENDAR CONGESTION

Donald L. Rudquist, Chm.	335-7871
201 Minnesota Federal Building	
Bruce B. James, Sec.	332-2501
1712 First National Bank Building	
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Ex officio	330-3229
414 Court House	
Josiah E. Brill, Jr.	336-6621
510 Builders Exchange	
G. Alan Cunningham	338-7571
1260 Northwestern Bank Building	
William H. DeParcq	339-4511
565 Northstar Center	

Edward M. Glennon	335-6651
1010 Midland Bank Building	
Melvin D. Heckt	332-5303
1430 Rand Tower	
Sheldon D. Karlins	339-7131
512 Builders Exchange	
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724 Farmers & Mechanics Bank Building	
Edward J. Schwartzbauer	332-3351
2400 First National Bank Building	

COMMUNITY LEGAL SERVICE

Peter Dorsey, Co-Chm.	332-3351
2400 First National Bank Building	
Samuel I. Sigal, Co-Chm.	336-5831
1020 Plymouth Building	
Michael D. Weinberg, Sec.	333-3421
860 Northwestern Bank Building	
Fred Allen	333-0201
715 Cargill Building	
Walter Anastas	646-8097
2100 Summit Avenue, St. Paul	
Calvin J. Anderson	330-7360
1200 Cargill Building	
Hon. Lindsay G. Arthur	330-3712
28 Court House	
Norman Cohen	336-5831
1020 Plymouth Building	
Thomas S. Erickson	332-3351
2400 First National Bank Building	
Richard J. Fitzgerald	333-3421
860 Northwestern Bank Building	
James T. Halvorson	332-3351
2400 First National Bank Building	
C. Paul Jones, Ex officio	373-5725
B-37 University of Minnesota Law School	
Harlan E. Smith	332-8984
501 Park Avenue	
Violet J. Sollie	335-6170
306 Kresge Building	
Frederick W. Thomas	336-8981
845 Northwestern Bank Building	
Peter Weiss	333-0417
930 Northwestern Bank Building	
Hon. Crane Winton	330-2618
429-B Court House	

CONTINUATION STUDIES

David S. Doty, Chm.	335-9331
900 Farmers & Mechanics Bank Building	
Wells J. Wright, Sec.	333-0417
930 Northwestern Bank Building	
Norton L. Armour	372-4116
334 Star & Tribune Building	
David R. Brink, Ex officio	332-3351
2400 First National Bank Building	
Fremont C. Fletcher	335-0911
600 Midland Bank Building	
Dean Douglas R. Heidenreich	698-3885
2100 Summit Avenue, St. Paul	
James P. Martineau	333-3421
860 Northwestern Bank Building	
Rolf T. Nelson	332-3301
83 South Seventh Street	
Richard A. Nordbye	334-4141
Trust Department, First National Bank	
Glenn G. Nybeck	927-7303
7100 France Avenue South	
Stephan B. Soloman	336-9655
300 Builders Exchange	
Michael P. Sullivan	339-9501
300 Roanoke Building	
Ross A. Sussman	333-5548
1960 Rand Tower	
R. Joel Tierney	373-3446
224 Northrup Auditorium, U of M	

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COURTS, RULES AND PROCEDURE

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2400 First National Bank Building	
Robert J. King, Sec.	333-0201
715 Cargill Building	
Hon. Douglas K. Amdahl,	
Ex officio	330-3229
414 Court House	
Robert E. Bowen	332-5551
1930 Rand Tower	
Martin N. Burke	338-7571
1260 Northwestern Bank Building	
Norman R. Carpenter	338-7571
1260 Northwestern Bank Building	
William H. DeParcq	339-4511
565 Pillsbury Building	
Edward M. Glennon	335-6651
1010 Midland Bank Building	
Bruce B. James	332-2501
1712 First National Bank Building	
Sheldon D. Karlins	339-7131
512 Builders Exchange	
James P. Larkin	335-6591
724 Farmers & Mechanics Bank Building	
Hon. David R. Leslie	330-2259
431 Court House	
Greer E. Lockhart	332-5303
1430 Rand Tower	
James B. Lund	333-5467
1026 Soo Line Building	
John M. Mason	332-3351
2400 First National Bank Building	
John H. Mordaunt	338-8673
904 First National Bank Building	
Norman Perl	338-6735
705 Northwestern Federal Building	
Lee B. Primus	335-8923
555 Midland Bank Building	
Hon. Neil A. Riley	330-2908
207 Flour Exchange Building	
Donald L. Rudquist	335-7871
201 Minnesota Federal Building	
Allen I. Sacks	333-1346
818 Farmers & Mechanics Bank Building	
Robert G. Share	336-9655
304 Builders Exchange	
Hon. Luther Sletten	330-3168
234 Court House	
Harlan G. Sween	336-5831
1020 Plymouth Building	
Paul Van Valkenburg	335-9401
1431 Northwestern Bank Building	
Rolfe A. Worden	335-9331
900 Farmers & Mechanics Bank Building	

CRIMINAL LAW

Philip J. Stern, Chm.	333-2379
908 Soo Line Building	
Murray L. Galinson, Sec.	332-4356
1820 Rand Tower	
Earle T. Anderson, Jr.	339-9701
1040 Rand Tower	
Philip J. Bloedel	336-5743
824 Flour Exchange Building	
Elizabeth L. Bonham	472-3089
Mound, Minnesota	
Leo W. Cavanaugh	336-7707
507 Thorpe Building	
Hon. Edwin P. Chapman	330-2560
409 Court House	
William B. Christensen	866-9380
7325 Girard Avenue South	
Henry H. Feikema	339-1431
311 Produce Bank Building	
Harlan M. Goulett	330-3117
400 Court House	
Bruce E. Hartigan	338-5645
708 Farmers & Mechanics Bank Building	
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Know Your RPR Rights!

The Judges of the Hennepin County Municipal Court amended Rule 35, Special Rules of Procedure. The Rule, as amended and announced by Judge C. William Sykora and Judge David R. Leslie, reads as follows:

"RULE 35. RELEASE ON PERSONAL RECOGNIZANCE (RPR)

Subdivision 1. Generally.

No request for a release on personal recognizance (RPR) in any case will be entertained by any judge between the hours of 11:00 o'clock P.M. and 8:00 o'clock A.M. However, any person may be released to his lawyer at any time prior to arraignment, subject to Rule 33 D and Subdivision 2 hereof and excepting in cases involving violence, threat of violence or a bench warrant, on the personal recognizance of the lawyer and without the singular approval of a judge, provided the lawyer:

1. Is certified to practice law in the State of Minnesota.
2. Has not had any such RPR rights withdrawn by the Court.
3. Appears personally and properly identifies himself to the jailer or officer in charge of the jail.

Subdivision 2. Release of Prisoners Charged with Felony or Gross Misdemeanor.

No person charged with a felony or gross misdemeanor shall be released on bail or personal recognizance until arraigned in Municipal Court."

This rule can be effectuated successfully only if the following regulations are strictly followed:

1. The lawyer requesting the RPR personally presents himself at the jail and display

to the jailer his Minnesota Supreme Court Registration Card.

2. Said lawyer be required to sign a register kept by the jailer for such purposes.
3. The jailer require of the lawyer such other proof of identity as will satisfy any doubt that the jailer may have as to the identity of the lawyer.
4. No lawyer may use this rule to obtain his own release from jail.
5. No lawyer whose RPR rights have been placed under suspension by the Court may avail himself of the privilege of this rule.
6. Any defendant so released be required to appear before the Court in the appropriate division the next morning the Court is in session.

The Judges further amended Rule 33 as follows:

RULE 33. BAILABLE OFFENSES

D. Miscellaneous.

No person charged with any of the following offenses shall be released on bail except in open court:

Prostitution.
Health Ordinance (venereal disease.)

Persons charged with driving under the influence of an alcoholic beverage or drugs shall not be released on bail within four hours of the time of their arrest unless in the custody of a responsible person.

Any person charged with a violation of Minneapolis Code of Ordinances, Sec. 402.010 (no driver's license in possession) may be released without bail for such charge upon his own personal recognizance.

LAW BOOKS

MINNESOTA PUBLICATIONS:

Minnesota Statutes Annotated
North Western Reporter
West's Minnesota Digest
North Western Digest
Youngquist & Black, Minnesota Rules Practice
Black, Mooty & Patton, Minnesota Practice Methods
Minnesota Jury Instructions
Palmer's Manual of Minnesota Law 4th Ed.
Patton, Minnesota Probate Law

FEDERAL PUBLICATIONS:

United States Code Annotated
Federal Reporter & Supplement

Modern Federal Practice Digest
U. S. Supreme Court Reporter
U. S. Supreme Court Digest
Federal Rules Decisions
Barron & Holtzoff Federal Practice
West's Federal Forms
West's Federal Practice Manual
Federal Jury Practice and Instructions

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FORM BOOKS:

Modern Legal Forms
West's Federal Forms

DICTIONARIES:

Black's Law Dictionary
Bouvier Law Dictionary

BOOKS OF GENERAL REFERENCE:

Words & Phrases
Decennial & General Digests
Corpus Juris Secundum
Uniform Commercial Code

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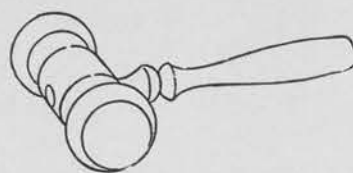
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The PRESIDENT'S Column

By John C. McNulty



It was my pleasure to serve as Chairman of the Minnesota Citizens' Conference on Courts which held its sessions in Minneapolis on September 8-10. It is hard to describe the excitement of this meeting. One hundred and seventeen of the most influential citizens in the State of Minnesota representing labor, industry, agriculture, women's organizations, religion and education, together with representatives of other fields met for three days and made an intensive and intelligent examination of our court system.

Outstanding speakers were brought in from all over the United States and the Conference was keynoted by Associate Justice Tom C. Clark of the United States Supreme Court. Associate Justice Robert J. Sheran of the Minnesota Supreme Court described to the Conference the conditions in Minnesota as they exist today.

After two days of intensive deliberation the citizens met in a plenary session Saturday morning under the chairmanship of Dr. O. Meredith Wilson, President of the University of Minnesota and arrived at a consensus.

After the session was over and the Conference report was adopted an *ad hoc* committee was appointed to implement the decisions of the Conference by nominating the members of a steering committee which will seek im-

proved administration of justice in the courts of Minnesota.

The Committee named Lawrence O'Shaughnessy, St. Paul, Chairman. Other members of the Committee are James Borman, Minneapolis; William J. Cooper, St. Paul; Edward W. Donough, St. Paul; Dr. Richard D. Frey, Minneapolis; Mrs. Alfred Marblestone, White Bear Lake; Sidney A. Rand, Northfield; Harold B. Shapira, St. Paul; Mrs. Marie Slawik, St. Paul; Fletcher C. Waller, Edina; Mrs. William W. Whiting, Owatonna and David J. Winton, Minneapolis.

The response of the Conference was enthusiastic and rewarding. I have received many letters from those in attendance thanking us for the opportunity to attend and pledging their willingness to help in the future. These citizens went away with a deep sense of pride in our courts and a full sense of responsibility to maintain the courts and improve them in accordance with the growth of our modern society.

It was an inspiration for all those who worked on the Conference and the end result was a development of a relationship with the leading citizens of Minnesota by the Bar Association which is difficult to measure, but which will undoubtedly reap rewards in the future.

JURORS DON'T LIKE ALCOHOLIC ACCIDENTS

A drink prior to an accident can be very costly to a litigant in a personal injury suit—either plaintiff or defendant—according to the latest reports from Jury Verdict Research.

In a series of unusual studies under the title "Consumption of Alcohol As An Issue", researchers show the effects of allegation of drinking on the size of awards and on the chances of winning a lawsuit.

The report on cases where "Plaintiff Had Been Drinking" shows in percentages how alcohol reduces the chances of recovery compared with similar accident cases where drinking was not an issue. The study analyzes pedestrian cases, driver cases, collision with objects, carrier accidents, passenger cases, occupier liability and work injuries. In all cases, chances of a plaintiff verdict were reduced considerably and the size of awards were lower.

Drinking defendants suffered at the hands of juries also. A study of 472 cases where "Defendant Had Been Drinking" shows a startling increase in plaintiff recovery rates. Cases examined and reported in summary and in detail include pedestrian suits, driver suits, passenger car cases and passenger suing his own driver.

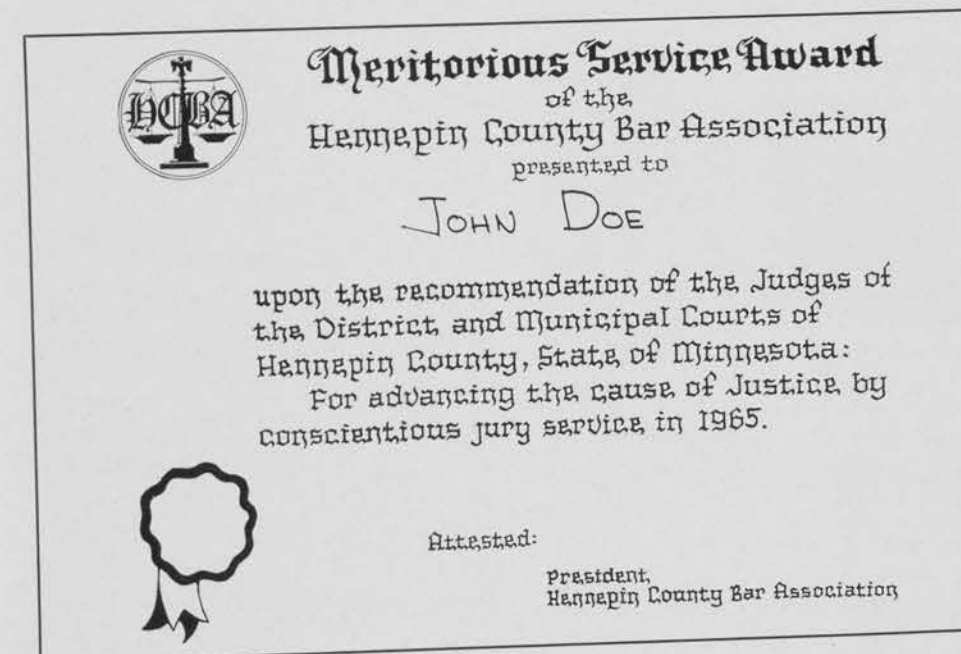
Complete details are available through Jury Verdict Research, Inc., 530 Caxton Building, Cleveland, Ohio 44115. Other Special Research Reports on Consumption of Alcohol will be forthcoming. These are part of the continuing project in the study of Personal Injury Litigation by this research organization.

Jurors Certificates Score A Hit

A continuing project of the Public Relations Committee has received enthusiastic response from the jurors serving the Hennepin County Courts, reported The Honorable Donald T. Barbeau, Committee Chairman.

It is anticipated that 130-140 jurors completed their two-week jury service each week and receive the certificates. This will amount to approximately 7,300 certificates that are hand lettered, hand signed by the current Bar President and the Corporate Seal of the Association imprinted.

The certificates, on parchment paper, are 8½ x 11 inches, and are reproduced herewith:



A typical letter in the Committee files expresses the feelings of the recipients.

Friday, August 26, 1966

Hennepin County Bar Association
700 Cargill Building
Minneapolis, Minnesota 55402

Dear Sirs:

I have just finished my jury duty and I wish to thank the Hennepin County Bar Association and Judges very much for the reward which was given to me and those that served with me. When it was handed to us, I heard several of them say how nice and thoughtful it was of your Association and the Judges to think enough of us to want us to have it.

I served in the war and have a Silver Star and Purple Heart. I have always taken care of things like that. I know it brings me pride.

I think from what I have seen that I speak for all jurors when I say "thank you".

Very respectfully,
/s/ Arthur Wm. Noble
3532 Bryant Avenue South
Apartment 101
Minneapolis, Minnesota 55408

Welcome! To the Hennepin County Bar Association

Approved and accepted at the Executive Committee meeting on May 27, were:

Patrick K. Fallon, Fallon, Lewis & Wasserman and Stephen Allan Krupp, Robins, Davis & Lyons.

Approved and accepted at the Governing Council meeting on June 13, were:

Roger L. Gilmer, Western Life Insurance Company; Susanne Carroll Sedgwick; The Legal Aid Society of Minneapolis and William F. Spanton, Northwestern National Life Insurance Company.

Approved and accepted at the Executive Committee meeting on July 27, 1966, were:

David R. Bergerson, Wheeler & Fredrikson; William J. Briere, 4900 Portland Avenue; Charles P. Carroll, Route 2, Box 137, Excelsior; Frank G. Commers, 2636 York Avenue North; David E. Culbert, Lybrand, Ross Bros. & Montgomery; Robert N. Dempsey, Danforth and Allen; Michael E. Fridgen, 2645 Bryant Avenue South; Phillip Gainsley, Gainsley & Gainsley; Ludwig B. Gartner, Jr., Faegre & Benson; Charles A. Geer, Dorsey, Owen, Marquart, Windhorst & West; Peter Grottodden, 4655 Fifth Street Northeast; Gordon V. Johnson, Northwestern National Bank; Thomas R. King, 316 Builders Exchange; James J. Krieger, The Legal Aid Society of Minneapolis; Stephen R. Pflaum, Leonard, Street & Deinard; Elliot C. Rothenberg, Robins, Davis & Lyons; Richard R. Solie, 2904 Eighteenth Avenue South; Frederick W. Spencer, 2304 Garfield Avenue South and John R. Wicks, Dorsey, Owen, Marquart, Windhorst & West.

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Hennepin Lawyer

LOCAL SCENE

by Henry W. McCarr, Jr.

LOCAL AUTHORS. Hennepin County Public Defender, **Kermit A. Gill**, United States Attorney, **Patrick J. Foley**, and Assistant Hennepin County Attorney, **Harlan M. Goulett**, were contributors to a new manual entitled "Minnesota and Federal Criminal Law and Procedure, 1966". Copies may be obtained from the General Extension Division, University of Minnesota.

SCHOOL DAYS. **Thomas D. Feinberg** was selected as a lecturer for the 19th First National Bank Women's Forum. Tom instructed the ladies on Wills and Estate Planning.

SUCCESS STORIES. **Charles T. Hvass** was named to the Board of Governors of the American Trial Lawyers Association at the group's 20th annual convention in Los Angeles. Hennepin County Bar Association President **John C. McNulty** was nominated to the Board of Directors of the American Judicature Society in Chicago. **Steven Z. Lange** resigned as Assistant Hennepin County Attorney to accept an appointment as Assistant United States Attorney. **John S. Pillsbury, Jr.**, President of Northwestern National Life Insurance Company, received the University of Minnesota's highest honor, the "Outstanding Achievement Award". **WCCO-TV** received the *Certificate of Merit* in the 1966 Gavel Award of the American Bar Association for the programette "It's a Matter of Law". **Edward H. Borkon** is now a partner in the firm of Schermer and Gensler.

LIFE PARTNERSHIP FORMED. **Ronald N. Schumeister** abandoned bachelorhood on July 2. His bride is the former **Marcia Jo Melgaard** of Minneapolis. Ron's Honda has gone the way of all such single men's delights. "I had to sell it to help pay for the honeymoon," the bridegroom admitted.

FALL MOVES. **Thomas G. Drake**, **Russell H. Larson**, **Harvey Skaar** and **Cortland Cloutier** now receive their mail at 1800 First National Bank Building, Minneapolis. **John W. Hargigan** interviews clients at 915-512 Nicollet Building. Members of the firm of **Robins, Meshbesh & Kirschbaum** answer phone calls in their fascinating new Law Office Building at 1616 Park Avenue in the Mill City.

The Lawyer

..... and His \$

A pamphlet recently published by the American Bar Association should stimulate lawyers into becoming more mindful of the salient economic facts about law practice and the bearing these facts have on their financial well-being. Entitled "Economic Facts About Law Practice", the pamphlet compiles the results of a national survey relating to the lawyer and his income.

One such survey described in the pamphlet points out that lawyers in partnerships earn more money than sole practitioners. The additional income ranges from about \$3,000.00 in Wyoming to more than \$7,000.00 in Michigan. Another survey shows that although over half of the 200,000 practicing attorneys in the United States practice alone, the number of sole practitioners has been steadily declining since 1955.

A survey was also made comparing general practice with specialized practice. The figures compiled showed that in comparison with specialty practice, general practice ranks 16th in income. The only specialties ranking below general practice are real estate, criminal law, collections and domestic relations,

in that order. In fact, lawyers in the top three specialties—labor law, patents and negligence defense—earn 50 per cent or more income than lawyers in general practice.

Overhead expense, time records, and the percentage of billable time in relation to non-billable time are also important factors concerning the lawyer's financial status. One of the surveys reviewed by the pamphlet reveals that on the average, overhead expense consumes 35 cents out of every dollar the lawyer earns. Another survey discloses that lawyers who usually keep time records earn one-third more income than lawyers who never keep time records. Even if proper time records are maintained, the average lawyer's work day consists of only five and one-half chargeable hours. This is because up to one-third of his time is spent on unpaid legal work, office management, Bar activities, education and public service.

Single copies of the pamphlet are available free of charge from the Economics of Law Practice Department, American Bar Center, 1155 East 60th Street, Chicago, 60637.

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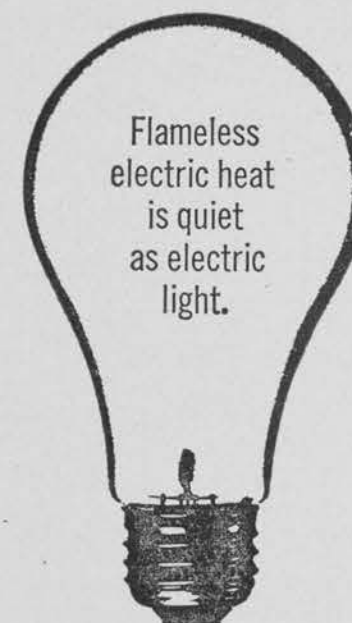
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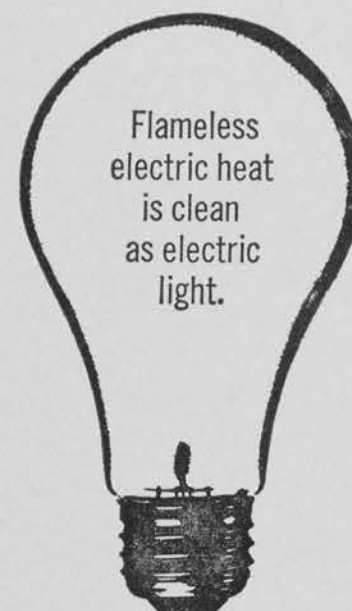
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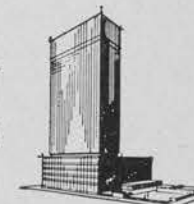
□ Robert M. Ferris, Jarl Olsen, John R. Hall, Kenton L. Grave and Ralph W. Jarvis, some of the members of our Personal Trust Division.

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January 30, 1970

To: Members of the Executive Committee
Minnesota Citizens for Court Reform, Inc.

From: C. O. Batchelder, Chairman

I am certain that you will find the enclosed material to be of great interest. As Stan Lowe points out in his letter, it is imperative that this material be kept confidential.

I am certain that each of you has received your copy of the letter which was sent to all conferees of the 1966 Conference. Plans for the Second Conference are proceeding smoothly under the capable leadership of Bill Cooper.

On January 26, I was asked to testify before a subcommittee of the Senate Judiciary Committee. They were holding hearings on bills which were introduced during the last session to establish a Commission on discipline and removal of Judges. Also testifying were representatives of the Supreme Court, District Judges, Probate Judges, Municipal Judges, the Hennepin County and Ramsey County Bar Associations. All of these groups have taken positions in favor of the establishment of such a Commission. I believe that this points out again one problem which we may have in getting a comprehensive program of Court Reform enacted. Namely, that certain groups like certain points of a reform program, but not others. My own personal feeling is that we should try to get the complete package so that the very popular aspects of the program will generate support for the less popular.

I would like to have a meeting of the Executive Committee some time in February. Would you please complete the enclosed questionnaire on this subject and return it to me at your earliest convenience so that we can establish a date and schedule the meeting.

COB:lj
enclosures

p.s. I did not include a copy of Stan Lowe's letter of January 20, 1970, inasmuch as he sent you a copy directly.

Supreme Court of the United States
Washington, D. C. 20543

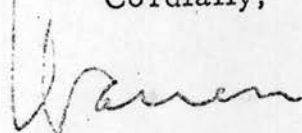
CHAMBERS OF
THE CHIEF JUSTICE

January 23, 1970

Dear Oscar:

Thank you for your letter of January 20. I would like very much to be able to accept your invitation to speak at the Citizens Conference on Courts on April 30. However, that is a Court day and we will be hearing arguments, with the regular weekly Conference scheduled for the next day. It will be impossible for me to be away from Washington that week. Best wishes for a successful Conference.

Cordially,

A handwritten signature in dark ink, appearing to read "Warren", is written below the word "Cordially,".

Honorable Oscar R. Knutson
Supreme Court of Minnesota
St. Paul, Minnesota

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January 20, 1970

Mr. William J. Cooper
C. L. U. Connecticut Mutual Life Insurance
Company
725 Northwestern National Bank Building
Minneapolis, Minnesota 55402

Dear Bill:

It was a pleasure to meet with you and the members of your committee who attended your meeting on Friday, January 16 at the Thunderbird Motel in Minneapolis. It was good to see those who attended, who are: Christopher O. Batchelder, Professor Robert J. Brown, Theodore Collins, Richard Klein, Harold B. Shapira and Mrs. Annete Whiting.

I shall recapitulate briefly the substance of our discussions and the decisions that were reached during the meeting for the benefit of our respective files and also of those who were unable to attend the meeting, John McNulty, Dr. Sidney Rand and Mrs. Emily Staples.

The Second Minnesota Citizens' Conference on Courts is definitely set now for April 30 and May 1 in the Thunderbird Motel at 2201 East 78th Street, Minneapolis, Minnesota 55420 (Telephone No. 866-3411). You and I examined the meeting room facilities and found them to be satisfactory although there will be some crowding in the main room where general assembly sessions will be held and also the meal events.

The general assembly sessions and all meal events will be conducted in the Chippawa Room which is large enough to set up the chairs theater style near the entrance for general assembly sessions and set up round tables in the other half of the room for the meals. We might need some additional room for serving the meals, and if so, a portion of the end of the neighboring room, the Cherokee Room, can be utilized and the sliding wall can be opened enough during the luncheons and dinner sessions so everyone can eat together.

The way your conference format is set up, we are anticipating 90 new conferees and 40 conferees from the 1966 conference. The 90 new ones will be divided into three groups, A, B and C, and they will stay together and be separated from the old conferees throughout the conference except, of course, during the general assembly and meal sessions. The old conferees will be divided equally into groups

Mr. William J. Cooper
January 20, 1970
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D and E. These divisions of groups are reflected in the tentative draft of program that we prepared and sent to you previously and which you have included in the splendid conference planning workbook you brought to the meeting.

The division of the conferees into different kinds of groups, depending upon whether or not they attended the 1966 conference, will result not only in different kinds of rooms for their meetings, but it will also result in a different procedure in the discussion sessions and a different makeup of the discussion teams which will meet with each of the groups after the lecture sessions.

Groups A, B and C (new conferees) will meet in the Cherokee, Navajo and Pawnee Rooms, respectively, for their group discussion sessions, and Groups D and E, respectively, will meet in the Cheyenne and Blackfoot suites for theirs. During our visit with the hotel management, we booked one of these suites tentatively for press purposes, but it was decided later to utilize it and the suite immediately across the hall for these discussion rooms I have mentioned. It is necessary, therefore, that we now notify the hotel for our need for both the Cheyenne and Blackfoot suites and book them for these discussion sessions. Moreover, this will necessitate our asking the motel for another room for press conferences and related uses.

We discussed the subject of the Minnesota Chapter for the conference notebook that will be distributed to all conferees who attend this conference. I emphasize all conferees because these notebooks will be sent to the old conferees as well as the new, since we have a revised edition of the conference notebook that we use now and which is substantially more up to date than the 1966 notebook. Dick Klein stated that his administrative office is about to start publishing the sixth annual report of the Minnesota courts, and we therefore agreed upon having an additional 200 copies printed so we can use them in our conference notebooks. The additional copies for our use will be drilled with three holes and banded with paper bands, rather than being enclosed in covers and bound with plastic rings, and in that fashion they will fit nicely into our standard conference notebooks.

We went through the program to work out the many details connected with it and to get everyone's suggestions for changes and additions to it. I shall briefly run through it now to reflect the suggestions and decisions made at the meeting.

When the general assembly session opens at 10:00 a.m., the chairman of the Minnesota Citizens for Court Reform, Christopher O. Batchelder, will preside. Contact is to be made with Governor Le Vander to ask him to make a short welcoming speech, and Bob Brown indicated he was going to the capitol yet that day of our meeting, and if the governor was in he was going to approach him about doing this and also co-signing with the chief justice the letters of invitation to the new conferees. Dick Klein was to contact the chief justice about a short welcoming speech also, and joining with the governor in signing the letters of invitation.

Mr. William J. Cooper
January 20, 1970

We discussed a speaker to deliver the keynote address, "A Review of Minnesota's Court System", and it was unanimously decided to invite Justice Sheran to repeat essentially the same job he did in 1966. Dick Klein is handling this part of the preparation also by contacting Justice Sheran.

I have already reviewed the details about the rooms that will be used for the five group discussion sessions, and I shall review later on those whom we discussed as potential members of the five discussion teams. The Society, of course, will furnish three out-of-state speakers to handle the three topics of the conference, and the speakers should also double as discussion leaders on their respective three teams. The Society will also furnish an out-of-state panelist for each of the five teams (the three teams that will meet with new conferees and the two that will meet with the old), and the local committee will secure the help of one Minnesota panelist for team one, two and three, respectively, and two Minnesota panelists for teams four and five that will meet with the two groups of old conferees.

To revert briefly to the discussion of the two officials who will welcome the conferees, after the consent of the governor and the chief justice has been obtained, Christ Batchelder will follow-up with letters of gratitude on behalf of the citizens' organization.

The Thursday luncheon session will be presided over by Chief Justice Knutson, and I believe Dick Klein was at the meeting when this was discussed so that he will contact the chief justice about this position on the program also.

The Society will, as I indicated previously, secure three very competent speakers to address the conference on the three principal topics spelled out in our tentative program, and we should have information about them in the near future.

We discussed in considerable detail the subject of a principal speaker for the Thursday evening dinner session. It was unanimously agreed that Chief Justice Burger should be first invited to come home to his native state and participate in this important conference. Dick Klein undertook the task of asking Chief Justice Knutson to extend the invitation to Chief Justice Burger. If the chief justice is unable to accept the invitation, the committee left the work of selecting a principal speaker primarily to the discretion of the Society, but names that were mentioned include retiring Chief Justice Roger Traynor of California, Ernest Friesen, Administrator of the United States Courts of Washington, D. C., and the current chief justice of Colorado.

Another significant decision made respecting the Thursday evening dinner session was that relating to the presiding officer, and it was unanimously agreed that Vice President Humphrey should be asked to preside and introduce the chief justice. If Mr. Humphrey is unable to do this, then Justice Otis can hopefully be persuaded to preform this function in behalf of his former associate.

My notes do not reflect that a decision was made about a presiding officer at the Friday morning general assembly, and probably a decision should be made about this if it is true that we neglected to fill this important position. It was unanimously agreed that Glenn Winters, Executive Director of the Society should be invited to deliver the action speech, "The Citizens' Role in Modernizing the Courts," at the Friday morning general assembly session.

We discussed in considerable detail the important position of the person who should handle the presentation of the consensus during the final general assembly session. It was agreed that Dr. Sidney A. Rand should be invited to perform this important task, and if he is unable to accept, then Arthur Fleming should be invited and following him, Malcolm Moos. Other names mentioned were John Pillsbury and Robert C. Tucker.

It was agreed that it would not be appropriate to adjourn the Friday session at lunch and to tell everyone to go on their respective ways to get lunch. Therefore, a luncheon session will be added to the program which will be presided over by the citizens' organization chairman, Christopher O. Batchelder, and we were requested to approach Congressman William Green of Philadelphia, a strong advocate for merit judicial selection, to attend and deliver the wrap-up address at this luncheon.

I mentioned previously the people we discussed as potential Minnesota panelists for the discussion teams. Those whom we discussed for each of the respective teams are as follows:

- Team 1: (a) Judge Phillip Neville
 (b) Larry O'Shaughnessy
 (c) Ronald Hazel
 (d) Judge Earl Larson
- Team 2: Theodore Collins, Esq. (Accepted)
- Team 3: Richard Klein, Esq. (Accepted)
- Team 4: (a) Leonard Keyes or Irving Brand
 (b) John C. McNulty, Esq., Chairman

John McNulty was out of town at the time of our meeting and could not be contacted, but because of his interest and dedication, we assumed that he will accept and also serve as chairman of that discussion team to meet with old conferees. A contact is to be made with Judge Leonard Keyes, and if he is unable to accept, then Judge Irving Brand will be contacted and urged to accept.

- Team 5: (a) Stanley McMahon, Esq.
 (b) Sheldon Larson, Esq., Chairman

Mr. William J. Cooper
January 20, 1970
Page 5

Both of these gentlemen will be contacted to be urged to accept these designations to serve on this other team to meet with old conferees, and it is assumed that because of their sincere dedication both will accept. It was decided that Mr. Larson should serve as chairman of that discussion team.

A back up panelist that was discussed was John Johanneson, Esq., and he will be contacted if any of the others chosen are unable to accept, or in the case of multiple choice, none of them can.

Young lawyers will be selected to serve as reporters for all five teams, and the local planning committee will make the necessary contacts with them also, the same as with the Minnesota panelists, to get their names and mailing addresses for us as soon as it will be convenient.

We did not have time to go into great details about the subject of finances, but we did discuss the possibility of exploring foundations, which apparently Harold Shapira has already been doing, and we also discussed the feasibility of contacting the governor's commission on crime and delinquency to seek participation by that organization. I pointed out that we have had them involved recently, and the subject of criminal justice is very timely which included, of course, modern efficient court systems. I mentioned the possibility of having at least a movie dealing with criminal justice, should the governor's commission participate, and this is an optional feature that could be scheduled for Friday afternoon following the luncheon session.

We discussed the subject of invitations, and I recommended that you should perhaps count on an acceptance of roughly 40 per cent which would mean that to get 90 new conferees, you should plan to send out approximately 360 invitations. The discussions indicated that you have already been accumulating names for your invitation lists. Also you have in your planning committee folder a tentative letter that we reworked slightly that you will send out to all of the old conferees in which you invite them to attend the conference and also ask them to send in names of people who should be invited.

When the names are accumulated for inviting new conferees, their names and mailing address together with a brief statement of why they are being invited should be placed on index cards for easy handling. This facilitates checking the conferees in at the registration desk and also assists in organizing the names to type them up alphabetically.

The invitation letters signed by the governor and chief justice should be accompanied by a memorandum explaining the conference and its objectives; and also, there should be a card sent with it to be used for replying to the invitation. To those invitees from out of town, motel cards should be sent so they can make their own motel reservations if they wish to stay overnight. We have samples of invitations letters and information memoranda, and since it undoubtedly will be helpful to you in preparing these important documents, we are sending a set of them along with this letter.

Mr. William J. Cooper

January 20, 1970

Page 6

When the invitees send back their acceptance cards, you will want to take some steps connected with advance registration. First of all, you should have lapel name cards prepared with large type bearing the name and city of the conferee, and table name cards should be printed by hand with at least the last names of the conferees on both sides of them. I am enclosing a sample of one of these table name cards as a reminder in case you may have forgotten the way they looked at the 1966 conference.

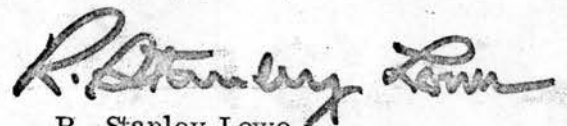
We will need the names and mailing addresses of each accepting conferee (both new and old) as you receive them so we can send out the conference reading materials sufficiently in advance of the conference to permit them to be studied.

There are other details that we will be in touch with you about from time to time, and undoubtedly you will have other questions that you may want to write me about. Please feel free to write or telephone anytime you wish, and I shall be happy to return for another meeting of your committee which has been tentatively scheduled for Friday, February 13, to work on names of invitees and other details connected with your conference.

A word of caution should be said to the members of the committee to whom a copy of this letter goes. We must treat the deliberations of the committee about whom to invite to participate in the strictest confidence to avoid any possible misunderstandings among those who perhaps were not named first in the various choices for different positions on the program. It must be remembered that in several instances the relative position of those to be asked was not necessarily determined by the abilities of these gentlemen, but more by other factors that are too numerous to relate now in this letter. Therefore, it is imperative that we maintain in strict confidence the substance of these discussions about these various individuals. All of the people mentioned are obviously quite capable or they would never have been listed at all, the different position of each of them on the list has no particular significance other than the various other factors that had to be considered in working up a program of this sort.

If I have omitted something or misstated anything, I am sure that someone will call it to our attention so the record can be complete and correct.

Sincerely yours,



R. Stanley Lowe
Associate Director

RSL:rmh

cc: All members on committee

The judicial System in Minnesota (olive green cover)
A Comprehensive Analysis

Fiscal Year - Oct 1 - Sept. 30

Prepared by the Office of the Senate Counsel
State Capital - St. Paul - February 1969
A G E N D A

*Send Bill Cooper
Clipping on Court Reform

EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
MINNESOTA CITIZENS FOR COURT REFORM, INC.

July 16, 1969

1. Approval of Minutes
2. Treasurers Report
3. News release issued after last meeting
4. Judge Plunkett case
5. Committee Reports
6. Annual Meeting
 - a) dates - Oct. 10, 1969 - 10:00 A.M.
 - b) agenda
 - c) speaker(s)

Aug. 28 - 4:00 Thunderbird

Sept. 18 - 4:00 " "

Send Chris a petty cash for \$15.00

MINUTES

EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
MINNESOTA CITIZENS FOR COURT REFORM, INC.

Thunderbird Motel, Bloomington, Minnesota
June 4, 1969

PRESENT: Messrs. Sander Genis, Harold Shapira, John Tilton and Mrs. William Whiting, Mr. Christopher O. Batchelder.

ABSENT: Messrs. William Cooper, John McNulty, Larry O'Shaughnessy, John Verstraete, Dr. Sidney Rand, and Mrs. Loring Staples, Jr.

VISITORS: Mr. William Westphal, administrative assistant to the Supreme Court of Minnesota.

Mr. Batchelder opened the meeting with two requests: (1) that all meetings start promptly; and (2) that parliamentary procedure be followed as needed to expedite the business of the committee.

In the absence of the secretary, Mr. Cooper, Mrs. Whiting was appointed secretary pro tem.

TREASURER'S REPORT: Balance on hand 6/1/69 \$1,299.97 -- report given by Chairman in absence of Mrs. Staples, Treasurer.

LEGISLATIVE REPORT: Rep. Wallace Gustafson of Willmar, Chairman of the House Judiciary subcommittee on court reform, and John McNulty were unable to join Mr. Westphal in an informal discussion of the 1969 Legislative session. Mr. Westphal, therefore, made a general report which was interspersed with discussion by all present. In summary Mr. Westphal reported:
1-Interim activity -- Mr. Gustafson's committee had prepared (1) a constitutional amendment which would provide for an intermediate court of appeals; (2) an amendment providing for the removal, retirement and discipline of judges guilty of misconduct, neglect of duty and intemperance; (3) had further refined the county court bill of the 1967 session. The Senate interim activity was focused on the lower court study being conducted under the supervision of the staff of the Senate Judiciary Committee. About \$50,000 had been allocated for such a study.

2- Legislative activity

(a) Workload of Supreme Court -- A special committee of the Judicial Council submitted a report relative to the length of time it was taking the Supreme Court to handle appeals. It now takes 18 months while 2 years ago it took only 13 months. This committee's recommendations were: (1) an amendment providing for a court of appeals (long-range approach); (2) authorizing 9 judges (constitution now provides for these additional judges upon action of Legislature) plus 2 Court Commissioners to assist the court by participating in hearings and in the writing of opinions (opinion-writing is one of the most time-consuming duties of the court, since the opinions have to be worded with an eye to future lawsuits as well as to the one immediately decided). The latter recommendation was for the interim before an amendment could be passed and implemented.

There was no support to increase the number of justices because it would be difficult to cut back the number if an intermediate court were established. Also extra justices might increase the time taken up by judicial conferences and increase the possibility of disagreement in court. The bill providing for two Court Commissioners passed in the House. The Senate did not take action on this bill because it felt the court could presently appoint all the help it needed. Senate did provide additional appropriations for the two Court Commissioners.

Mr. Westphal feels a problem exists in securing the caliber of lawyers needed for these positions without official Legislative action.

(b) Judicial Discipline and Removal -- An amendment providing for removal, retirement and discipline of judges guilty of misconduct, neglect of duty and intemperance was proposed early in the session. A bill providing for implementation of the California commission plan was introduced also. At present time the constitution does provide that "minor" officers can be removed by action of the Legislature. Both of these were passed in the House. Senate Judiciary Committee passed the amendment which then went to the Rules Committee where it died. (Senate usually approves only two amendments each session so court reform amendments must have statewide support to get through the Legislature.)

Mr. Westphal was surprised and disappointed that no action was forthcoming after the Judge Bartholet affair. Although Judge Bartholet has resigned, Judge McDonough is continuing to serve without so much as a reprimand. Because of the Bartholet, Fortas and Douglas incidents and the concern expressed by all news media for judicial conflict of interest, this seems to be a good time to build support for the California plan. Efforts should be directed particularly toward the Senate.

(c) Court Reorganization -- For two sessions the county court bill has been pushed. It always gets through the House but not the Senate. On May 15, 1969, eleven days before the close of this session, Senator Rosenmeier introduced S.F. #2665 and #2666 (there were no companion bills in the House) providing for the organization of district probate courts and of district municipal courts. Naturally at that late date there was no action. (Senator Rosenmeier often introduces pet legislation late in a session and then pushes for its acceptance in the next session.)

The Committee on Administration of Justice of the Governors Commission on Law Enforcement, Administration of Justice and Corrections, had recommended a study of the lower courts in Minnesota. This idea was picked up by Senator Rosenmeier because the Senate had funds available as well as the interest. The purpose of the study was primarily to provide information for evaluation of future proposals. When the information was finally tabulated this winter, it was impossible to evade the need for lower court reform. Thus the study became the basis for the two Rosenmeier bills.

The bills as drafted set forth proposed districts as indicated by the study. These districts and their courts would not be established until approved by a majority vote of members of each county board to be included. The carrot provided to secure this assent is that the salary of all judges would be paid by the state (set at \$20,00 in proposed bill). The clerk of the district court in the counties would assume the same responsibilities for the district probate and municipal courts.

Possible opposition from the Association of Minnesota Counties might be incurred for the following reasons: (1) fear of losing revenue; (2) possibility of increased cost to county. The legislation should be studied to be sure adequate revenue from action of the court is left in the county or the municipalities to cover their costs including law enforcement. There should be no great increase in cost to the counties with state paying judges salaries. At the present time a number of counties are without a probate judge because of lack of interest in low-paying, part-time positions.

A bill providing transfer of St. Louis County Juvenile Court from District back to Probate Court was passed. Mr. Westphal was not sure the Governor would sign it because of previous political commitments.

(d) Judicial Compensation -- Mr. Westphal felt the lack of legislative action in this was inexcusable. In the previous session there had been a question of work not finished, etc. A few additional judges in the metro area plus very good cooperation from judges in less populated areas and continuous effort by the entire judiciary had resulted in cleaning up most court calendars. No more judges were requested at this time. It seemed, therefore, that everything should be favorable for the requested increase. The bill for salary increases passed the house and was allowed to die in the last minutes of the Senate. It was thought the Senate was using it as part of their vehicle for a test on the definition of a legislative day. To many it did not seem reasonable to ask the court to make such a decision on a bill in which they were directly involved. This bill was available for Senate action on Saturday so it could have been passed before the "questionable" period.

(e) Judicial Selection -- There was no action on this item. It would seem that much more can be gained in other areas of court reform without promoting this. It was felt much of the emphasis now should be on judicial integrity and prestige and then the problem of judicial selection does not become quite so difficult. A statement relative to this was presented for the Committee's consideration.

MOTION: That we prepare an official statement on Minnesota judiciary integrity and prestige for release through the Minnesota Newspaper Association.

Mover: Genis

Second: Shapiro

Carried

Mr. Tilton will handle the release and will include clipping service.

(f) Future action by MCCR Inc. -- Mr. Westphal suggested we study, in depth, the Rosenmeier proposals. He felt we should talk with Rep. W. Gustafson, Prof. Pirsig, Bruce Campbell of the Senate Judiciary Committee staff and McMannis from Winona. In the fall, after all have become thoroughly conversant with the proposals, he suggested we meet with Senator Rosenmeier.

MOTION: That we communicate to Sen. Rosenmeier our plans for studying his proposals for court reorganization that seem to encompass the best answer to lower court reform and our desire to meet with him to discuss them at a later date.

Mover: Genis

Second: Tilton

Carried

Mr. Westphal announced his plans to resign as court administrator to move to Albuquerque, New Mexico where he has purchased a Motel. The committee expressed to him our appreciation for all he had contributed to our work and to the efficiency of the judicial system in Minnesota.

COMMITTEE REPORTS:

Membership: We have about 120 paid members. It is time to send dues notices. It was recommended that a report be issued to be sent with this notice and that a membership card also be enclosed.

Education and Publicity: No report

Liaison: No report

Finance and Fund Raising: Mr. Shapira stated that he felt the response to material sent out in past was not too good. The recommendation was not to do much in this area at the present time.

Lawyers and Legal Advice: Mr. Cooper is building a complete clipping file on Minnesota court reform. It was noted that Mr. O'Shaughnessy had received this year's Liberty Bell Award, presented each year by the Ramsey County Bar Association to a non-lawyer "who has made outstanding contribution to law and to the community".

There was a brief discussion of the activities on court reform of the Hennepin County Citizens League. At present their committee is not very active and it is felt their main concern was in the broader area of the criminal justice system. We will keep in contact with this group and also with the Governor's Commission on Crime Prevention and Control which has been set up under the State Planning Agency to implement activities in Minnesota under the "Omnibus Crime Control and Safe Streets Act of 1968".

FUTURE ACTION: A second Minnesota Conference on Courts as recommended by Stanley Lowe at the February meeting was discussed. Timing of such a conference seems to be a problem to be resolved soon.

Mr. Shapira suggested the development of a speakers bureau to take the subject of court reform to students in high schools throughout the state.

The meeting was adjourned at 6:00 p.m.

Respectfully submitted,

Mrs. William W. Whiting
Secretary Pro Tem

AGENDA

EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS
MINNESOTA CITIZENS FOR COURT REFORM, INC.

September 17, 1969

12:30 p.m.

1. Minutes
2. Treasurer's Report
3. Appointment of Nominating Committee
4. Plans for Second Annual Meeting
5. Desirability and feasibility of a second
Citizens Conference

Rosenmeier bill perpetuates several court system.

Annual Meeting -

Bill Cooper

Sophie Marblestone

- Oct 10 Sheraton Motor Inn
Wm. Cooper

10:00 A.M. - Annual Meeting.

Prof. Robert Martineau. U of Iowa
Iowa City -

Nov. 7 - Pat Johns - Sheraton
861-1771

2 rooms - ~~4~~ 355

Membership - 130

MAUN, HAZEL, GREEN, HAYES, SIMON AND ARETZ
ATTORNEYS AT LAW

JOSEPH A. MAUN
RONALD S. HAZEL
MERLIN C. GREEN
LAWRENCE J. HAYES
JEROME B. SIMON
RICHARD E. ARETZ
JOHN A. MURRAY
JOHN C. JOHANNESON
JAMES W. BREHL
BRUCE G. ODLAUG
JAMES W. FAHLGREN
ALBERT A. WOODWARD
LOUIS W. BRENNER
RICHARD D. DONOHOO
GARRETT E. MULROONEY
BERT J. MCKASY
PETER J. THOMPSON

112 HAMM B. 4G
SAINT PAUL, MINNESOTA 55102

227-9
AREA CODE 612

August 5, 1969

Mr. Harold B. Shapira
2056 Ford Parkway
Saint Paul, Minnesota 55116

Dear Harold:

Thank you very much for the reprint of the story on Saint Paul and your note regarding the Minnesota Citizens for Court Reform, Inc.

Pursuant to your request, I have reviewed Senate File No. 2666 dealing with the establishment of "municipal district courts" and Senate File No. 2665 dealing with the establishment of "district probate courts".

Perhaps one or two observations regarding both bills are in order. First, these bills do not apply to the more populous counties such as Ramsey, Hennepin and Saint Louis. Second, judicial selection is basically through election. In this regard, it has always seemed to me that court reform might be best accomplished by applying a reorganization to the entire state rather than treating the metropolitan areas completely separately; and second, that there is room for improvement in the present method of judicial selection.

With respect to judicial selection, my observations lead me to believe that oftentimes appointment by the Governor results in a selection more often than not based upon political considerations rather than trying to find the best man for the job. Second, requiring election, at least in the first instance, has drawbacks since many times those lawyers best suited to be judges are not politically inclined and shy away from the heavy demands on their time and money occasioned by an election. It seems to me that those plans involving the establishment of a Board of

MAUN, HAZEL, GREEN, HAYES SIMON AND ARETZ

Mr. Harold B. Shapira

Page 2

August 5, 1969

Selection wherein such Board might recommend three to five persons for a vacancy--final selection to be made by the Governor--has considerable merit. Obviously, a provision for election thereafter, or some reasonable provision for review and removal is a requisite.

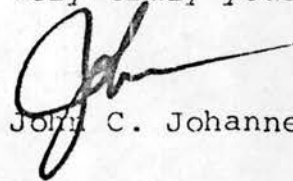
In summary, then, my chief objections to these bills is that they are "piecemeal"; and that I do not believe that they constitute a step forward in judicial selection and review.

Of course, on the positive side, the objective of combining the counties to arrive at reasonable population density per judge and to ultimately have all judges on a full-time basis is laudable. The present court system in Minnesota is a "patchwork". The question does rise, though, as to whether or not further modernization of the system might not be appropriate. That is, perhaps it would be appropriate to combine the probate and municipal courts into a single court system so that one level could be eliminated.

Perhaps it would be advantageous for you and me to talk about this in detail. I will look forward to hearing from you.

With best regards, I am

Very truly yours,



John C. Johanneson

jcj/ak
Enclosures

September 10, 1969

To: Members
Executive Committee of the Board of Directors
Minnesota Citizens for Court Reform, Inc.

From: Christopher O. Batchelder, Chairman

Subject: Executive Committee Meeting, September 17, 1969

As you have been notified by telephone, the next meeting of the Executive Committee of Minnesota Citizens for Court Reform will be held beginning with lunch, at 12:30 p.m. on Wednesday, September 17, in the Blackfoot Room of the Thunderbird Motel in Minneapolis.

This is an extremely important meeting. We will be discussing arrangements for our annual meeting which is to be held on October 10, 1969. We will also have with us Mr. Stanley Lowe of the American Judicature Society to discuss considerations regarding a possible second Minnesota Citizens Conference on the Courts.

We will plan to adjourn at 4:30 p.m.

I trust you have this important date on your calendar and will be with us on the 17th. Please indicate your plans by returning the enclosed postal card.

COB:lj
enclosures

Justice Burger speaks out

By Roscoe Drummond

Point
of
view

Washington

Another voice of national leadership is being heard in the land—and to good effect.

It is the voice of the new Chief Justice of the United States, Warren Earl Burger, who is putting himself without delay or timidity at the head of a campaign to bring off a set of legal reforms touching nearly every aspect of the administration of justice.

Volunteers

His goal: to bring the nation's creaking judicial system — from outdated legal education to outmoded court procedures and prison methods — into the second half of the 20th century.

His strategy: to mobilize public-minded lawyers, law deans, social scientists, business administrators, and judges to volunteer their services to propose how best to do it.

His target: the leaders of the prestigious American Bar Association with whom Burger's relations are more cordial and cooperative than any recent chief justice, and public opinion from which the hot breath of popular pressure must come to help cut through the traditional resistance to change among lawyers and judges.

He is setting out to win support on both fronts simultaneously, and his beginning is impressive. He has just spent a week mingling with the members of the ABA with outstretched hand and a comfortable "Hello, I'm Warren Burger." They know him all right; they like him; they will be hearing from him often in the coming months.

Justice Burger is seeking to carry forward with something more than all deliberate speed the kind of legal reform which Chief Justice Earl Warren tried to get. He tried but didn't make much headway. The difficulty was that Warren's associations with both the state chief justices and the ABA soon became so controversial and strained—because of the direction of the Warren court decisions — that they were unable to work together effectively. Warren never attended ABA meetings after 1958.

Sweeping changes

Two things stand out from the public speeches and private conversations on which Justice Burger is embarked.

He is not talking about minor, peripheral reforms to tidy up the administration of justice. He is talking about improving justice not just improving its administrations. He is talking about radical, far-reaching, wide-ranging reforms modernizing legal education, shaking prison methods and correctional institutions to their foundations, and taking the management of the courts out of the hands of the judges and putting them in the hands of expert court administrators.

He is convinced that such sweeping changes in the ways things are done by the law and with the law must be forthcoming soon—with evidence at once that they are coming—if the administration of justice is to regain the confidence and respect of the American people as a whole.

He points out that jurors

and witnesses "become frustrated and angry citizens when they find that 20 percent of their time is spent in trials and 80 percent just waiting around." Court procedures have become so slow that it takes years to bring cases to completion and the Chief Justice thinks it is not only unnecessary but intolerable and that public patience is wearing dangerously thin.

Court administrators

What to do? Burger contends that judges are not usually qualified to manage the courts any more than doctors are qualified to manage hospitals. He proposes the training of skilled court administrators and giving them the authority to bring the courts out of the horse-and-buggy era.

He also urges that people with fresh minds take a look at the nation's penal institutions. After putting so much protective safeguard around the accused, he would like to see more attention given to rehabilitating more of those who are sent to prison and he favors creating a panel of social and behavioral scientists, correctional experts with a few lawyers (not too many) to produce new ideas on how to do better.

As to education, Burger holds that "the modern law school is not fulfilling its basic duty to provide society with people-oriented and problem-oriented" lawyers to meet the social needs of our changing world.

One thing is sure — the new Chief Justice is going to be heard, and he isn't going to stop until he is heeded.

Minnesota Citizens

625 SOUTH SNELLING.
TELEPHONE 628-0841

for Court Reform

ST. PAUL, MINNESOTA 55116
REGIONAL CODE 612



EXECUTIVE COMMITTEE

September 4, 1968

JOHN E. TILTON
CHAIRMAN
SUN NEWSPAPERS
6601 W. 78TH STREET
EDINA, MINNESOTA 55435

CHRISTOPHER O. BATCHELDER
VICE CHAIRMAN
MAYO CLINIC
ROCHESTER, MINNESOTA 55901

SANDER GENIS
SECRETARY
332 UPPER MIDWEST BUILDING
MINNEAPOLIS, MINNESOTA 55401

MRS. LORING M. STAPLES, JR.
TREASURER
ROUTE 2, BOX 700
WAYZATA, MINNESOTA 55391

DR. SIDNEY A. RAND
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NORTHFIELD, MINNESOTA 55057

HAROLD B. SHAPIRA
625 SOUTH SNELLING AVENUE
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WILLIAM J. COOPER
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LARRY O'SHAUGHNESSY
1 SHELBY PLACE
ST. PAUL, MINNESOTA 55116

MRS. WILLIAM W. WHITING
622 EAST SCHOOL STREET
OWATONNA, MINNESOTA 55060

To: Members of the Executive Committee

From: John E. Tilton

There is attached a draft of the first semi-annual report of Minnesota Citizens for Court Reform which I should like to have in the mail to every member of the Steering and Study Committee as well as the two-score new members of our group prior to my departure September 17.

Could I ask you to check this draft promptly, make any corrections you desire, and return to me at once?

JET:df
Encl.

THE CASE FOR COURT REFORM IN MINNESOTA

A Semi-Annual Report by Minnesota Citizens for Court Reform, Inc. (MCCR)

September 15, 1968

No one knows how many Justices of the Peace operate in Minnesota. No one can determine, with any degree of accuracy, how many cases they try, the nature of those cases or the judgments imposed. No one knows what monies are assessed in fines or forfeits or what happens to those funds. It seems certain some justices are sitting and passing judgment with no legal authority and hence could face a personal liability from the litigants involved.

These are some facts about Minnesota's judicial system, evolving from the activities of Minnesota Citizens for Court Reform, Inc. (MCCR) during the six months since incorporation of the organization. This is a report of those activities... hopefully the first of a series of semi-annual MCCR reports.

In general, this initial period has been devoted to seeking answers to three broad questions: (1) Can the administration of justice in Minnesota be improved? (2) If so, what measures logically can be taken to achieve such improvement? (3) What should be the role of the MCCR in the effort to secure a finer Minnesota judicial system?

Your staff has found this to be a highly emotional subject and one which has split bench and bar in the state into two opposing factions. Opposition to change in the system stems, generally, from two sources.

First are those lawyers who view the MCCR as one of several "do good committees" probing into an area in which it can have no knowledge... a meddling, troublesome group with questionable motives disturbing a judicial system that is the especial preserve of the legal fraternity.

This reasoning, of course, is nonsense. The judicial system "belongs" to the public. It exists to serve the public. The public pays to maintain it and the public profits or loses as its efficiency is enhanced or retarded.

Secondly are those dedicated men convinced Minnesota's judicial system is functioning smoothly, proud of its over-all excellence and fearful any change may upset its delicate balance. Chief Judge John Weeks of Hennepin County courts, a leader in this group, points out that no scandal has ever touched Minnesota's courts. He argues that Bench and Bar have evolved controls which promise to continue that record. He sees no need, therefore, for a major change in the system.

The truth seems to be somewhere between the two opposing views. The lack of information on Justices of the Peace, mentioned above, is a case in point. The truth seems to be that Minnesota justices, though they operate often with frightful disregard of the rules of law and evidence and under conditions that make good lawyers squirm (holding court in cluttered farm kitchens, pool-rooms and such), in fact actually perform a useful public service.

Many did not seek their jobs. They were drafted... their names written on the ballot by friends and neighbors... and they serve in a spirit of public service. Many do not realize they must post a bond and register with county officials, do not do so, and hence may be operating illegally. But they are "people's courts" in the fullest sense of the word. They bring justice to many an isolated community. Generally their decisions are accepted without question.

Data on Minnesota Justices of the Peace should crystallize with completion of an exhaustive, statewide study nearing completion by the Judiciary Committee of the State Senate headed by Senator Gordon Rosenmeier of Little Falls. This survey, accomplished through cooperation of Clerks of Court statewide, should yield invaluable information in many other areas of judicial activity.

It is generally agreed the Minnesota judicial system, compared to that in other states, is uniformly excellent. Though political influence often is a factor in their initial appointment, Minnesota judges seem to make a conscious effort to maintain political and personal independence in the conduct of their office.

That they are required to stand for reelection periodically does keep them responsive to the public's views. On the ballot their names carry the title "incumbent" and, in actual fact, they rarely need campaign for reelection. The Bar Association selection plan, which functioned smoothly for many years, has broken down more recently because some Governors have ignored the recommendations. In actual fact, however, sitting judges almost never are defeated for reelection and rarely even need to campaign.

The glaring exception to this statement is the Minnesota Supreme Court which operates in a largely unpublicized area and where election and reelection becomes a long and costly and (for the justices) a burdensome problem.

There seems to be a general consensus that much could be achieved by changes in attitudes and administrative procedures. There is evidence that a handful of lawyers and a few large legal firms largely control the bulk of certain court cases. Because these men are overworked and frequently cannot prepare their cases, the tendency is to ask for postponement. The remedy here is clearly an administrative matter.

There is some evidence the State Bar Association could, if it would, be infinitely more effective in "policing" the bench generally. There seems a clear need for a higher degree of specialization not only among lawyers but among judges. Lawyers should be selected for trial court work (in actual fact this kind of selection does take place among larger legal firms). Judges too are often called upon to rule on highly complex technical cases. No one judge, in this highly complex society, can be expected to be expert in all fields.

There is evidence too that some judges, particularly in outstate jurisdiction, do not actually have enough to do. A court is an expensive facility and a court which sits idle for hours each week or for weeks each year is a costly luxury.

Three major areas of court reform have been evaluated by this committee in interviews with dozens of authorities both within and without the legal profession, among public officials and certain knowledgeable people. Your committee has attended countless hearings, particularly of the House Judiciary Committee under Representative Wallace Gustafson of Willmar as well as meetings of the State Bar Association and other groups interested in the broad question of court reform. Three broad areas which have been suggested for attention in Minnesota are discussed in the following paragraphs:

JUDICIAL SELECTION AND TENURE

This is perhaps the most controversial of all proposals for changes in the judiciary. It involves non-partisan commissions composed of laymen and lawyers who would select nominees for consideration by the appointing authority when a court vacancy occurs. In some such plans judges appointed remain in office indefinitely barring glaring misbehavior or inefficiency. There is serious doubt of the need for this proposal in Minnesota since the bar association selection plan for judicial candidates and the tradition that a sitting judge should be reelected all covers this ground. From a political point of view it seems doubtful that any such program could be enacted in Minnesota in the foreseeable future. Many thoughtful people object violently to the idea of a judge appointed for life with no need to answer periodically to public opinion. It should be noted, however, there is clear evidence that many attorneys refuse to accept judicial appointment simply because they decline to enter the political arena and are even frequently loathe to leave a lucrative practice for a judicial post which could be terminated in a minimal

period by the electorate.

COURT REORGANIZATION

Two separate proposals for re-organization of the courts of Minnesota have been advanced. Both seek the same objectives: More prestige for the courts including improved compensation and a more attractive retirement program; a more uniform brand of justice throughout the state; more centralized control to permit improved and more efficient administrative procedures.

One is the so-called county court system before the House Judiciary committee which would permit the establishment of an all-inclusive District Court in the several counties. It seems the consensus of the House Committee that this bill has little chance of passage except on an optional basis in the several counties.

The second reorganization plan is the so-called Unified Court Plan which would set up a statewide judiciary under general administrative control of the supreme court with uniform procedures and improved salary and retirement provisions. This proposal is one facet of an over-all court reorganization plan presented before the recent State Bar Association meeting in St. Paul and then withdrawn for later consideration at a day-long seminar late in September. We are advised, after the seminar, the entire bar association membership will be polled on this program.

JUDICIAL DISCIPLINE AND REMOVAL

This proposal, unfortunately named, is the so-called California plan with modifications peculiar to Minnesota requirements. Of the three broad proposals for judicial change this seems to have the most chance of passage. It would establish a non-partisan commission of laymen and lawyers to hear complaints against the state's judiciary. In instances where illness, incompetence and misconduct by a judge on the bench patently impeded the administration of justice, the commission would investigate without publicity. Where

the evidence seemed to sustain the complaints, the commission would forward the proceedings to the Supreme Court which would adjudicate the case with authority to reprimand or remove the judge involved if the facts so warranted. This proposal in our view is the most desirable of the several broad reforms proposed. We feel the current civil disorder in the United States is evidence of a growing public question about our judicial system -- the frequently repeated charge that there is one kind of justice for the rich and one for the poor; one for the whites and one for the blacks; one for the working men and one for the "bosses". This proposal, giving the public a chance to voice complaints against the judicial system, might well serve as a safety valve and a much-needed public relations asset for the courts of Minnesota. There is some merit too in the knowledge, by the state's jurists, that there is an agency which can and will move in the event basic limits are exceeded in matters of judicial conduct and levels of competence. This need not infringe upon a judge's right to exercise his own judgment or to act in complete independence in his professional views. Presently there is no machinery except persuasion or the politically impossible impeachment procedure whereby a judge can be prodded into doing his job or disciplined if he fails to perform in accordance with elemental standards.

Incidentally Sentaor Rosermeier believes the impeachment process, already on the statute books, might well be adapted to provide some yardsticks for judicial performance in this area. Surely this is a potential worth further examination.

THE ROLE OF MCCR

Currently MCCR is a non-profit educational organization. For the immediate future it would seem its primary function is that of research and education. To date it has functioned largely through the efforts of a devoted and hard working executive committee which has contributed innumerable man hours of thought and effort and many hundreds of dollars in office costs in

initial phases of the organization's work.

There are attached reports from two sub-committees: one headed by Dr. Rand of St. Olaf College covering liaison with other court reform groups and a second sub-committee on membership and finance by the Messrs. Harold Shapira and Larry O'Shaughnessy. The work program for the coming six months involves further research and interviews with knowledgeable members of the Bar and Bench as well as private citizens, an analysis of the bar association membership poll on court reform and a detailed study of the Senate sub-committee's survey on judicial practices and procedures in Minnesota.

John E. Tilton

Second Semi-Annual Report

MINNESOTA CITIZENS FOR COURT REFORM

February 14, 1969

Because your association has been waiting on two developments during the last two months, its activities have been restricted. Your officers and committee chairmen did appear before some legislative committee sessions but it was felt MCCR could best wait until the results of the Minnesota Bar Association poll were in and the findings of the Senate survey on judicial administration could be evaluated before we should attempt to chart a permanent course for our organization.

As many of you know, the bar association poll never was taken after major opposition developed to the bar committee's court reform program. At a day-long conference on the matter, the committee in charge asked that the program be withdrawn for reconsideration and redrafting. Pending completion of that task, the poll of the membership was postponed.

The office of Senate Secretary advises that we may not hope for a meaningful analysis of the Senate survey until late February or March 1.

In the meantime we are told that Representative Wallace Gustafson of Willmar plans to introduce a general bill covering some significant court reform measures. Mr. Gustafson advised us that his bill seems likely of passage in the House but probably will run into major opposition in the state Senate.

A great deal of publicity has developed over the public examiner's report of a Probate Court case in Dakota County with widely publicized charges of improper procedures on the part of appraisers and the court in the estate involved. Whether events prove the principals innocent of wrongdoing or not, the stature of the Minnesota courts and the whole judicial procedure in Minnesota has been damaged by this case. No longer can lawyers assert with pride that there never has been a scandal in the Minnesota judicial system. There does seem evidence of a need for a cleanup in the whole Probate Court procedure.

What has been heartening in recent months are expressions from leading figures of the Bench and Bar as well as the public general in the need for a citizens' committee of this type to maintain pressure for improved judicial procedures for a stronger court system.

It is with real regret that your chairman announces his retirement. There is a real need for our organization and I am sure that the new leadership can move promptly to meet that responsibility. Though I shall be out of the state much of the time henceforth, I hope to remain a part of the organization and to assist in its program in every possible way.

John E. Tilton, Chairman
Executive Committee

MINNESOTA CITIZENS FOR COURT REFORM

MEMBERSHIP REPORT

2/12/69

Twin City Metropolitan Area	80
Minnesota (Outside T.C. Met. Area)	51
Out of State	<u>2</u>
TOTAL MEMBERS	133

FINANCIAL REPORT

2/12/69

Received from Members	\$2,485.00
Expenses	<u>950.13</u>
Balance	1,534.87
Petty Cash on Hand	<u>9.49</u>
BANK BALANCE	\$1,525.38

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WHAT DO YOU THINK?

What do you think Minnesota Citizens for Court Reform should do in the way of program? If you've ideas for specific programs, please list them in the space below... during luncheon. These sheets will be collected and the items listed thereon discussed.

1. _____

2. _____

3. _____

4. _____

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MINNESOTA CITIZENS FOR COURT REFORM

Minutes of meeting of Executive Committee, Wednesday, January 29, 1969

Office of Sun Newspapers, Edina, Minnesota

Only three members of the committee could reach this meeting through the snow storm this evening. They were the Chairman, Lawrence O'Shaughnessy and Dr. Sidney Rand.

The Chairman advised the committee of his desire to relinquish his office since he will be out of the state perhaps up to half of the time from this point on. It was agreed that the Vice-Chairman, Mr. Christopher Batchelder of Rochester, should be nominated for the Chairman's position at the adjourned annual meeting of the corporation at the Thunderbird Motel Friday, February 14. Mr. Tilton named Dr. Rand as Chairman of the Nominating Committee to present a slate of officers at that meeting.

The Chairman reported that the Senate Survey of Judicial Administration in Minnesota had been completed but that the mass of data resulting therefrom could not be tabulated in time for the annual meeting of this organization and probably not before March 1. He declared that the State Bar Association, after a conference on judicial reform, had revealed widespread opposition, had withdrawn its reform proposals and for the time being at least, had abandoned its plan for a poll of the membership. It is understood that the bar's legislative program will be re-drawn and considered again at a later date.

The Chairman also declared there is an apparent agreement in knowledgeable circles that Minnesota Citizens for Court Reform should be continued and that it can and should play a significant role in the development of a meaningful and effective court reform program. The meeting agreed that the postponed annual meeting on February 14 should be adjourned promptly, that a meeting of the Board of Directors be opened immediately and that all members in attendance be invited to participate in the discussions of the Board of Directors with particular reference to the future role of Minnesota Citizens for Court Reform. A new Chairman, Vice-Chairman, treasurer and secretary will be elected. These officers together with the Chairman of the Membership, Legislative, Liaison, Education and Publicity, Nominating, Finance and Lawyers Committees should serve as an Executive Committee of this body.

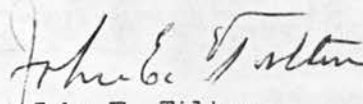
Some discussion also developed on the public examiner's charge of the improper conduct of a Probate Court case in Dakota County which has recently received wide publicity. It was agreed that this incident, whether the facts prove the principals legally culpable or not, has done great harm to the stature of judicial administration in Minnesota and that no longer can the bar association point proudly to the fact that there has never been a hint of scandal in the

Minnesota Citizens for Court Reform Minutes
Executive Committee Meeting of January 29, 1969
Page 2

state's judicial proceedings. It was agreed that one subject which should be discussed at the February 14 meeting is the whole question of Probate Courts.

The meeting was also advised that State Representative Wallace Gustafson, chairman of the House committee on public institutions, had introduced a bill providing for broad judicial reform. Doubt was expressed, however, that much of this legislation would emerge as law in the current session.

There being no further business, the meeting was adjourned at 9:00 PM.


John E. Tilton
Chairman

Introduced by Johnson, Blatz, Josefson
March 3, 1967

S. F. No. 981
Companion H. F. _____
Ref. to H. Com. _____

Ref. to Com. on Judiciary
Reproduced by PHILLIPS LEGISLATIVE SERVICE

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO THE MINNESOTA CONSTITUTION, ARTICLE VI, SECTIONS 8 AND 11, AND ADDING A NEW SECTION 13 THERETO, TO PROVIDE FOR THE NOMINATION OF PERSONS FOR THE OFFICE OF JUDGE BY A NONPARTISAN JUDICIAL COMMISSION, THE ELECTION OF JUDGES, THE REMOVAL OR RETIREMENT OF DISABLED, INTEMPERATE OR OTHERWISE INCOMPETENT JUDGES BY A JUDICIAL QUALIFICATIONS COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. The following amendment to the constitution of the state of Minnesota, Article VI, Sections 8 and 11 and adding a new section 13 is proposed to the people of the state for their approval or rejection. The sections, if the amendment is adopted, shall read as follows:

Sec. 8. The term of office of all judges shall be six years and until their successors are qualified and ~~they shall be elected in the manner provided by law by the electors of the state, district, county, municipality, or other territory wherein they are to serve.~~

Sec. 11. Subdivision 1. Whenever there is a vacancy in the office of judge the governor shall appoint ~~in the manner provided by law~~ a qualified person to fill the vacancy, ~~to hold office until his successor is elected and qualified. The successor shall be elected for a six year term at the next general election occurring more than one year after such appointment~~ from among three qualified persons nominated by a nonpartisan judicial commission established by this section. If the governor should fail to make an appointment from the list submitted within 60 days from the day it is presented to him, the appointment shall be made by the chief justice of the supreme court. The appointment shall be subject to approval or rejection

by the electorate at the next general election occurring more than one year after the appointment and every six years thereafter.

Subd. 2. A judge holding office, or elected thereto, at the time of the election by which the provisions of this section become applicable to that office, shall, unless removed for cause, remain in office for the term to which he would have been entitled had the provisions of this section not become applicable to his office. Not less than 90 days prior to the holding of the general election next preceding the expiration of his term of office, a judge may file in the office of the secretary of state a declaration of candidacy for election to succeed himself. If a declaration is not filed by a judge, the vacancy resulting from the expiration of his term of office shall be filled by appointment as provided in this section. If a declaration is filed, the name of the judge shall be submitted at the next election to the voters on a ballot, without party designation for approval or rejection. If a majority of those voting on the question vote against retaining him in office, on the expiration of his term of office, a vacancy shall exist which shall be filled by appointment as provided in this section; otherwise, the judge shall, unless removed for cause, remain in office for a full term, and at the expiration of each term shall be eligible for retention in office by election in the manner prescribed in this section.

Subd. 3. Nonpartisan judicial commissions whose duty it shall be to nominate persons for appointment as provided by this section are hereby established and shall be organized as follows: For vacancies in the office of

judge of the supreme court or other appellate court,
there shall be one commission, to be known as "The
Appellate Judicial Commission"; for vacancies in the
office of judge of other courts of record, there shall
be one commission in each judicial district to be known
as "The Judicial District Judicial Commission". The
appellate judicial commission shall consist of nine
members, one of whom shall be the chief judge of the
supreme court, who shall act as chairman, and eight other
members chosen as follows: The members of the bar shall
elect four of their number to serve as members, and the
governor shall appoint four citizens, not members of the
bar, to serve as members. Each judicial district judicial
commission shall consist of five members, one of whom shall
be a judge of the district court of the judicial district
elected by the district judges of the judicial district,
who shall act as chairman, and the four other members shall
be chosen as follows: The members of the bar residing in
the judicial district shall elect two of their number to
serve as members and the governor shall appoint two
citizens, not members of the bar, from among the residents
of the judicial district to serve as members. The terms
of office and compensation for the members of the
commissions shall be fixed by the legislature, and not
more than one half of a commission shall be elected or
appointed in any two year period. No member of a
commission, other than the chairman, shall hold any public
office, and no member shall hold any official position in
a political party; and no member shall be eligible for
appointment to a judicial office within the jurisdiction
of his commission so long as he is a member of a judicial
nominating commission and for a period of one year

thereafter. When a vacancy occurs in a commission, the vacancy shall be filled for the unexpired term by election or appointment in the same manner as the previous member was elected or appointed. The supreme court shall provide by rule for the election of lawyer members of the commission.

Sec. 13. Subdivision 1. There is established a commission on judicial qualifications consisting of:

(1) One judge of the supreme court and two judges of one or more other courts of record, each selected by the supreme court for a four year term;

(2) two attorneys at law who have practiced law in this state for ten years or more and who shall be selected by the supreme court for four year terms; and

(3) four citizens, none of whom shall be judge of any court, active or retired, nor an attorney at law, and who shall be appointed by the governor for a four year term. Every appointment made by the governor to the commission shall be subject to the advice and consent of the senate, except that when a vacancy occurs when the legislature is not in session, the governor may make an interim appointment which shall expire on the last day of the next regular or special session of the legislature. When a vacancy exists or the member selected under clause (1) ceases to be a judge of the court from which he was selected, the supreme court shall select a successor to fill the unexpired term; and when a vacancy exists or a member appointed under clause (2) ceases to be an attorney at law, the supreme court shall appoint a successor to fill the unexpired term; and when a vacancy exists or a member appointed under clause (3) becomes a judge of any court or an attorney at law, the governor shall appoint a successor to fill the unexpired term. Members of the

commission shall receive compensation and reimbursement for expenses as the legislature provides.

No act of the commission shall be valid unless concurred in by a majority of its members. The commission may consider, investigate and take such further action as it deems desirable regarding complaint against the conduct of a judge.

Subd. 2. A judge of any court may be removed in accordance with this section for willful misconduct in office or willful and persistent failure to perform his duties or habitual intemperance, or he may be retired for disability seriously interfering with the performance of his duties, which is, or is likely to become, of a permanent character. The commission on judicial qualifications may, after an investigation as it deems necessary, either order a hearing to be held before it concerning the removal or retirement of a judge, or request the supreme court to appoint three special masters, who shall be judges of courts of record, to hear and take evidence in the matter, and to report to the commission. If, after hearing, or after considering the record and report of the masters, the commission finds good cause therefor, it shall recommend to the supreme court the removal or retirement of the judge.

The supreme court shall review the record of the proceedings on the law and facts and may permit the introduction of additional evidence and shall order removal or retirement, as it finds just and proper, or wholly reject the recommendation. Upon an order for retirement, the judge shall thereby be retired with the same rights and privileges as if he retired pursuant to statute. Upon an order for removal, the judge shall

thereby be removed from office, and his salary shall cease from the date of the order.

All papers filed with and proceedings before the commission on judicial qualifications or masters appointed by the supreme court, pursuant to this section, shall be confidential, and the filing of papers with and the giving of testimony before the commission or the masters shall be confidential. No other publication of the papers or proceedings shall be ^{privileged} confidential in any action for defamation except that the record filed by the commission in the supreme court shall continue to be privileged and upon filing there shall lose its confidential character. A writing which was privileged prior to its filing with the commission or the masters does not lose its privilege by filing. The supreme court shall provide by rule for procedure under this section before the commission on judicial qualifications, the masters, and the supreme court. A judge who is a member of the commission or supreme court shall not participate in any proceedings involving his own removal or retirement.

Sec. 2. The proposed amendment shall be submitted to the voters for their approval or rejection at the general election for the year 1968 in the manner provided by law. The ballots used at the election shall have printed thereon:

"Shall the constitution of the state of Minnesota be amended to provide for the nomination of persons for the office of judge by a nonpartisan judicial commission, periodic review by the electorate of the record of the judge and the removal or retirement of disabled, intemperate or otherwise incompetent judges by a judicial qualifications

commission?

Yes _____

No _____ "

justice courts shall have the same force and effect as though rendered by such municipal court.

Sec. 28. Ninety days after the effective date of this act, the offices of court commissioner in all counties, except Hennepin, Ramsey, and St. Louis counties, are abolished. No new proceedings shall be commenced before any court commissioner in the counties where said office is abolished after the effective date of this act. All files and records of the offices of court commissioners abolished herein shall be turned over to the custody of the county judge 90 days after the effective date of this act.

Sec. 29. [REPEAL.] Minnesota Statutes 1965, Section 260.021, Subdivisions 1 and 4; Minnesota Statutes 1965, Chapters 491, 492 and 493; and Minnesota Statutes 1965, Section 525.011, Subdivision 1, are repealed.

Sec. 30. [APPROPRIATION.] There is hereby appropriated from any moneys in the state treasury not otherwise appropriated the sum of \$1,650,000 for the biennium ending June 30, 1969, to be disbursed by the state auditor for the purposes of this act.

Sec. 31. [EFFECTIVE DATE.] This act becomes effective on January 1, 1968.

Minnesota Citizens

625 SOUTH SNELLING.
TELEPHONE 628-0841

for Court Reform

ST. PAUL, MINNESOTA 55116
REGIONAL CODE 612



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VICE CHAIRMAN
MAYO CLINIC
ROCHESTER, MINNESOTA 55901

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SECRETARY
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1 SHELBY PLACE
ST. PAUL, MINNESOTA 55116

MRS. WILLIAM W. WHITING
622 EAST SCHOOL STREET
OWATONNA, MINNESOTA 55060

September 3, 1968

MEMORANDUM

TO: Directors of Minnesota Citizens for Court Reform

FROM: John E. Tilton

In accordance with the by-laws, the annual meeting of Minnesota Citizens for Court Reform, Inc. will be held in room 1212 of the St. Paul Athletic Club at 2:00 P.M. on Friday the 13th of September, 1968.

The only purpose of this meeting is for the election of a new Board of Directors. Names and addresses of nominees selected by the nominating committee are on the attached ballot submitted for your use should you prefer not to attend this meeting in person. You may, of course, vote for other than the attached list if you so desire.

You are advised that it is intended to adjourn this meeting until the second Friday in February, 1969 at which time the results of the State Bar Association poll on court reform and the results of the State Senate study on Minnesota courts will be available for evaluation.

BALLOT - ANNUAL ELECTION

Minnesota Citizens for Court Reform, Inc.

St. Paul Athletic Club

Friday, September 13, 1968

(VOTE FOR 45)

Sidney Rand
Northfield, Minnesota

Christopher O. Batchelder
Rochester, Minnesota

John Nason
Northfield, Minnesota

Dale Dodson, D. O.
Northfield, Minnesota

Dr. Paul M. Arnesen
Mankato, Minnesota

Mrs. Cecil Manahan
Madelia, Minnesota

Dr. Robert A. Barrett
Mankato, Minnesota

Elmer P. Piepgras
Luverne, Minnesota

Arnulf Ueland, Jr.
Mankato, Minnesota

Mrs. Loring M. Staples, Jr.
Wayzata, Minnesota

John E. Tilton
Hopkins, Minnesota

John R. Steinbauer
Minneapolis, Minnesota

Rev. Denzil A. Carty
St. Paul, Minnesota

John Verstraete
St. Paul, Minnesota

Sister Fides
St. Paul, Minnesota

Sander Genis
Minneapolis, Minnesota

Robert P. Janes
Minneapolis, Minnesota

Don O'Brien
Minneapolis, Minnesota

Mrs. Darrell Yates
Minneapolis, Minnesota

H. E. Gaustad
Cokato, Minnesota

Dr. I. L. Dubow
Little Falls, Minnesota

George Borgerding
Belgrade, Minnesota

Donald Hustad
Alexandria, Minnesota

Rev. Ralph L. Tellefsen
Crookston, Minnesota

Leonard Driscoll
East Grand Forks, Minnesota

Albert Hartl
Fergus Falls, Minnesota

Mrs. Katharine E. Muff
Eveleth, Minnesota

Wallace Herman
International Falls, Minnesota

Mrs. Marion I. Smith
Hibbing, Minnesota

Orville E. Lomoe
Duluth, Minnesota

Mrs. C. A. Nickoloff
Hibbing, Minnesota

Fayette Sherman
Austin, Minnesota

Lawrence O'Shaughnessy
St. Paul, Minnesota

Mrs. Harold J. Slawik
St. Paul, Minnesota

E. N. Donahue
Minneapolis, Minnesota

Mrs. Alfred F. Marblestone
White Bear Lake, Minnesota

David J. Winton
Minneapolis, Minnesota

Fletcher C. Waller, Jr.
Minneapolis, Minnesota

Jim Bormann
Golden Valley, Minnesota

William J. Cooper
St. Paul, Minnesota

Phil Duff
Red Wing, Minnesota

Mrs. William W. Whiting
Owatonna, Minnesota

Dr. Richard Frey
Minneapolis, Minnesota

Harold Shapira
St. Paul, Minnesota

John C. McNulty
Minneapolis, Minnesota

Signature _____

MINUTES

Minnesota Citizens for Court Reform, Aug. 20, 1968. Hilton Hotel, St. Paul, Minn.

Present were: Mrs. Loring Staples, Sander Genis, John Verstraete, Lawrence O'Shaughnessy, Mrs. William Whiting, Dr. Sidney Rand, Clifford Batchelder, Chairman John Tilton and our guest, Senator Gordon Rosenmeier.

The meeting was opened at 4:15 p.m. by Chairman Tilton.

General discussion of organizational problems was followed by the introduction of Senator Rosenmeier, Little Falls, who made the following points pertaining to the whole broad subject of court reform:

1. Ideally, the Bar Association should be in a position to evaluate the work of judges, to offer criticism where needed and to "police" the bench generally. In fact, he declared, it is "pulsillanimous," too tied to separate area interests. The profession should, in fact, reform itself. (The Senator admitted later, however, that reform usually starts from outside professions.)
2. District Judges should specialize. Judges cannot be expected in this complex society to be competent in all fields. Judges also need a continuing education in some fields, as well as refresher courses in the reading of evidence.
3. Lawyers should be "selected" for the trial court room. Not all lawyers are adept in this field. (Mr. O'Shaughnessy pointed out that, in practice, legal firms select their trial lawyers.)
4. The courts and judges are not "in politics" in the same way in Minnesota as in other states. We have a "non-partisan" ballot, and we protect them with the Incumbent law. Also, in practice, judges are appointed rather than elected. When they are on the ballot the "Incumbent" tag is peculiar to the position of judge.
5. Senator Rosenmeier prefers statutory changes rather than constitutional ones. He also prefers working within current statutory law, and applies "Occams razor" to the unnecessary law. (This may be characteristic of most legislators?)
6. For the above reasons he suggests that the impeachment process should be investigated as a possible vehicle of court reform. The process is there. It is simply a question of the scope of its applicability. (Senator Rosenmeier indicated he would correspond further with Mr. Tilton on the latter's suggestion that a lay-lawyer committee, similar to that functioning in the "California plan," might be set up to work with the legislature under the impeachment process...thus achieving most of the benefits of the California scheme.
7. By statute the Courts may set up their own work procedures etc. An enabling act allows them to do so. The statute's language reserves the right to change this procedure. Apparently there would be no need for constitutional change if it seemed desirable to modify court ~~administration~~ administration.
8. Senator Rosenmeier believes there might be some virtue in an independent lay commission operating on a continuing basis as a watchdog over the courts. They could receive complaints and investigate reports of inefficiency or misconduct. Perhaps the Governor could set up the machinery to perform this function...dusting of some impeachment proceedings potentials not yet explored.
9. The research currently being done by the Senate Judiciary Committee may prove helpful to us.

Minnesota Citizens for Court Reform, Aug. 20, 1968. Hilton Hotel, St. Paul, Minn.

ANNUAL MEETING. According to our by-laws the annual meeting would be Friday, Sept. 13, this year. It was moved, seconded and passed that the chairman should give notice of this meeting for the election of directors only and further announce that the meeting would be adjourned until the second Friday in February when results of the State Bar Association poll on court reform and the Senate Judiciary Committee's study of the state's courts would be available for evaluation. It was further agreed each chairman of each committee would submit a memorandum, to be mailed to members of the Steering and Study Committee, reporting on the progress and events in the committee's area of interest. Mr. O'Shaughnessy, as chairman of the nominating committee, will ready a list of nominees for consideration. (Note: the present members of the committee who are officers of Minnesota Citizens for Court Reform and directors of the organization will be nominated as members of the board of directors.) They will serve for two years, commencing Sept. 13, 1968).

Mr. O'Shaughnessy moved, Mr. Verstraete seconded, that in the interim before our adjourned annual meeting that the committee accomplish the following tasks:

1. Contact sympathetic Bar Association members for counsel and assistance;
2. Interview key people strongly in favor of, or opposed to, the court reforms which have been suggested;
3. Confidentially, interview those who are familiar with court procedures and the competence of those concerned;
4. Study the possibilities of the impeachment process;
5. Contact the Judicature Society to review our activities and describe the difficulties we have encountered. Ask for their counsel.
6. Interview members of the Supreme Court.

Motion was passed.

EXECUTIVE SECRETARY:

Mrs. Shemesh said she was uncertain of her function since the committee seemed hesitant about the definition of its goals for court reform. She distributed a "Blueprint for Action" as a possible work program. It was agreed Mr. Tilton and Mr. O'Shaughnessy would confer with Mrs. Shemesh and work out her relationship with the committee prior to the adjourned annual meeting scheduled in February.

The meeting adjourned at 8:15 p.m.

Respectfully Submitted,
L.O'Shaughnessy, Acting Secretary.

JUDICIAL DISCIPLINE AND REMOVAL

This proposal, unfortunately named, is the so-called California plan with modifications peculiar to Minnesota requirements. Of the three broad proposals for judicial change this seems to have the most chance of passage. It would establish a non-partisan commission of laymen and lawyers to hear complaints against the state judiciary. In instances where illness, incompetence and misconduct by a judge on the bench patently impeded the administration of justice, the commission would investigate without publicity. Where the evidence seemed to sustain the complaints, the commission would forward the proceedings to the Supreme Court which would adjudicate the case with authority to reprimand or remove the judge involved if the facts so warranted. This proposal in our view is the most desirable of the several broad reforms proposed. We feel the current civil disorder in the United States is evidence of a growing public question about our judicial system — the frequently repeated charge that there is one kind of justice for the rich and one for the poor; one for the whites and one for the blacks; one for the working men and one for the "bosses." This proposal, giving the public a chance to voice complaints against the judicial system, might well serve as a safety valve and a much-needed public relations asset for the courts of Minnesota. There is some merit too in the knowledge, by the state's jurists, that there is an agency which can and will move in the event basic limits are exceeded in matters of judicial conduct and levels of competence. This need not infringe upon a judge's right to exercise his own judgment or to act in complete independence in his professional views. Presently there is no machinery except persuasion or the politically impossible impeachment procedure whereby a judge can be prodded into doing his job or disciplined if he fails to perform in accordance with elemental standards.

Incidentally Senator Rosenmeier believes the impeachment process, already on the statute books, might well be adapted to provide some yardsticks for judicial performance in this area. Surely this is a potential worth further examination.

THE ROLE OF MCCR

Currently MCCR is a non-profit educational organization. For the immediate future it would seem its primary function is that of research and education. To date it has functioned largely through the efforts of a devoted and hard working executive committee which has contributed innumerable man hours of thought and effort and many hundreds of dollars in office costs in initial phases of the organization's work.

There are attached reports from two sub-committees: one headed by Dr. Rand of St. Olaf College covering liaison with other court reform groups and a second sub-committee on membership and finance by the Messrs. Harold Shapira and Larry O'Shaughnessy. The work program for the coming six months involves further research and interviews with knowledgeable members of the Bar and Bench as well as private citizens, an analysis of the bar association membership poll on court reform and a detailed study of the Senate sub-committee's survey on judicial practices and procedures in Minnesota.

John E. Tilton

THE CASE FOR COURT REFORM IN MINNESOTA

A Semi-Annual Report

by

Minnesota Citizens for Court Reform, Inc. (MCCR)

September 15, 1968

No one knows how many Justices of the Peace operate in Minnesota. No one can determine, with any degree of accuracy, how many cases they try, the nature of those cases or the judgments imposed. No one knows what monies are assessed in fines or forfeits or what happens to those funds. It seems certain some justices are sitting and passing judgment with no legal authority and hence could face a personal liability from the litigants involved.

Opinions vary widely on the efficiency of the state's judicial system. Some critics argue some judges simply do not have enough work to keep busy . . . that others do not pursue their duties with diligence.

It is agreed a court is a costly institution and the public has a right to insist that the machinery of justice in Minnesota function effectively.

These are some facts about Minnesota's judicial system, evolving from the activities of Minnesota Citizens for Court Reform, Inc. (MCCR) during the six months since incorporation of the organization. This is a report of those activities . . . hopefully the first of a series of semi-annual MCCR reports.

In general, this initial period has been devoted to seeking answers to three broad questions: (1) Can the administration of justice in Minnesota be improved? (2) If so, what measures logically can be taken to achieve such improvement? (3) What should be the role of the MCCR in the effort to secure a finer Minnesota judicial system?

Your executive committee has found this to be a highly emotional subject and one which has split Bench and Bar in the state into two opposing factions. Opposition to change in the system stems, generally, from two sources.

First are those lawyers who view the MCCR as one of several "do good committees" probing into an area in which it can have no knowledge . . . a meddlesome, troublesome group with questionable motives disturbing a judicial system that is, in their view, functioning effectively. This reasoning, of course, is questionable. The judicial system "belongs" to the public. It exists to serve the public. The public pays to maintain it and the public profits or loses as its efficiency is enhanced or retarded.

Secondly are those dedicated men convinced Minnesota's judicial system is functioning smoothly, proud of its over-all excellence and fearful any change may upset its delicate balance. The late Chief Judge John Weeks of Hennepin

County courts, a leader in this group, often pointed out that no scandal has ever touched Minnesota's courts. He argued that Bench and Bar have evolved controls which promise to continue that record. He saw no need, therefore, for a major change in the system.

The truth seems to be somewhere between the two opposing views. The lack of information on Justices of the Peace, mentioned above, is a case in point. The truth seems to be that Minnesota justices, though they operate often with frightful disregard of the rules of law and evidence and under conditions that make good lawyers squirm (holding court in cluttered farm kitchens, poolrooms and such), in fact actually perform a useful public service.

Many did not seek their jobs. They were drafted . . . their names written on the ballot by friends and neighbors . . . and many serve solely in a spirit of public service. Many do not realize they must post a bond and register with county officials, do not do so, and hence may be operating illegally. But they are "people's courts" in the fullest sense of the word. They bring justice to many an isolated community. Generally their decisions are accepted without question.

Data on Minnesota Justices of the Peace should crystallize with completion of an exhaustive, statewide study nearing completion by the Judiciary Committee of the State Senate headed by Senator Gordon Rosenmeier of Little Falls. This survey, accomplished through cooperation of Clerks of Court statewide, should yield invaluable information in many other areas of judicial activity.

It is generally agreed the Minnesota judicial system, compared to that in other states, is uniformly excellent. Though political influence often is a factor in their initial appointment, Minnesota judges seem to make a conscious effort to maintain political and personal independence in the conduct of their office.

That they are required to stand for re-election periodically does keep them responsive to the public's views. On the ballot their names carry the title "incumbent" and, in actual fact, they rarely need campaign aggressively for re-election. The Bar Association selection plan, which functioned smoothly for many years, has broken down more recently because some governors have ignored the recommendations. In actual fact, however, sitting judges almost never are defeated for re-election.

The glaring exception to this statement is the Minnesota Supreme Court which operates in a largely unpublicized area and where elections and re-election becomes a long and costly and (for the justices) a burdensome problem.

There seems to be a general consensus that much could be achieved by changes in attitudes and administrative procedures. There is evidence that a handful of lawyers and a few major legal firms largely control the bulk of certain court cases. Because these men are overworked and frequently cannot prepare their cases, the tendency is to ask for postponement. The remedy here is clearly an administrative matter.

Some observers believe the State Bar Association could, if it would, be infinitely more effective in "policing" the bench generally. There seems a clear need for a higher degree of specialization not only among lawyers but among judges. Lawyers should be selected for trial court work (in actual fact this kind of selection does take place among larger legal firms). Judges too are often called upon to rule on

highly complex technical cases. No one judge, in this highly complex society, can be expected to be expert in all fields.

There is evidence too that some judges, particularly in outstate jurisdiction, do not actually have enough to do. A court is an expensive facility and a court which sits idle for hours each week or for weeks each year is a costly luxury.

Three major areas of court reform have been evaluated by this committee in interviews with dozens of authorities both within and without the legal profession, among public officials and certain knowledgeable people. Your committee has attended countless hearings, particularly of the House Judiciary Committee under Representative Wallace Gustafson of Willmar, as well as meetings of the Minnesota State Bar Association and other groups interested in the broad question of court reform. Three broad areas which have been suggested for attention in Minnesota are discussed in the following paragraphs:

JUDICIAL SELECTION AND TENURE

This is perhaps the most controversial of all proposals for changes in the judiciary. It involves non-partisan commissions composed of laymen and lawyers who would select nominees for consideration by the appointing authority when a court vacancy occurs. In some such plans judges appointed remain in office indefinitely barring glaring misbehavior or inefficiency. There is serious doubt of the need for this proposal in Minnesota since the bar association selection plan for judicial candidates and the tradition that a sitting judge should be re-elected all covers this ground. From a political point of view it seems doubtful that any such program could be enacted in Minnesota in the foreseeable future. Many thoughtful people object violently to the idea of a judge appointed for life with no need to answer periodically to public opinion. It should be noted, however, there is clear evidence that many attorneys refuse to accept judicial appointment simply because they decline to enter the political arena and are even frequently loathe to leave a lucrative practice for a judicial post which could be terminated in a minimal period by the electorate.

COURT REORGANIZATION

Two separate proposals for re-organization of the courts of Minnesota have been advanced. Both seek the same objectives: More prestige for the courts including improved compensation and a more attractive retirement program; a more uniform brand of justice throughout the state; more centralized control to permit improved and more efficient administrative procedures.

One is the so-called county court system before the House Judiciary committee which would permit the establishment of an all-inclusive District Court in the several counties. It seems the consensus of the House Committee that this bill has little chance of passage except on an optional basis in the several counties.

The second reorganization plan is the so-called Unified Court Plan which would set up a statewide judiciary under general administrative control of the supreme court with uniform procedures and improved salary and retirement provisions. This proposal is one facet of an over-all court reorganization plan presented before the recent State Bar Association meeting in St. Paul and then withdrawn for later consideration at a day-long seminar late in September. We are advised, after the seminar, the entire bar association membership will be polled on this program.



Minnesota Citizens
6601 WEST SEVENTY-EIGHTH STREET
TELEPHONE 941-4800

for Court Reform
EDINA, MINNESOTA 55435
REGIONAL CODE 612

EXECUTIVE COMMITTEE

October 16, 1968

JOHN E. TILTON
CHAIRMAN
SUN NEWSPAPERS
6601 W. 78TH STREET
EDINA, MINNESOTA 55435

MEMO

CHRISTOPHER O. BATCHELDER
VICE CHAIRMAN
415 - 16TH AVENUE S.W.
ROCHESTER, MINNESOTA 55901

TO: Members of Minnesota Citizens for Court Reform, Inc.
members of Steering and Study Committee (MCCR) and
members of Executive Committee (MCCR)

SANDER GENIS
SECRETARY
332 UPPER MIDWEST BUILDING
MINNEAPOLIS, MINNESOTA 55401

FROM: C. O. Batchelder

MRS. LORING M. STAPLES, JR.
TREASURER
ROUTE 2, BOX 700
WAYZATA, MINNESOTA 55391

Chairman Tilton is currently on a trip out of the country.
He will be returning soon.

DR. SIDNEY A. RAND
ST. OLAF COLLEGE
NORTHFIELD, MINNESOTA 55057

I believe you will find the enclosed reports of interest. They show the work which has been done to date by the Executive Committee of Minnesota Citizens for Court Reform, Inc. While much has been accomplished, considerably more work remains to be done if we are to succeed in informing the Citizens of Minnesota on the status of our judicial system and the need for court reform. As you can see from Dr. Rand's report, ours is not the only group interested in court reform.

HAROLD B. SHAPIRA
625 SOUTH SNELLING AVENUE
ST. PAUL, MINNESOTA 55116

WILLIAM J. COOPER
725 N.W. NATIONAL BANK BUILDING
MINNEAPOLIS, MINNESOTA 55402

Your comments on these reports and on any of the many aspects of our court and judicial system will be greatly appreciated. If you have not already "officially" joined our organization, I hope you will do so at once, Messrs. O'Shaughnessy and Shapira will be delighted to hear from you.

JOHN J. VERSTRAETE
3M CENTER
ST. PAUL, MINNESOTA 55101

JOHN C. McNULTY
1200 BUILDERS EXCHANGE BUILDING
MINNEAPOLIS, MINNESOTA 55402

LARRY O'SHAUGHNESSY
1 SHELBY PLACE
ST. PAUL, MINNESOTA 55116

COB:df

MRS. WILLIAM W. WHITING
622 EAST SCHOOL STREET
OWATONNA, MINNESOTA 55060

September 30, 1968

TO: Members of Minnesota Citizens for Court Reform

FROM: Liaison Committee, Sidney A. Rand, Chairman

Minnesota Citizens for Court Reform has tried to keep in contact with other groups interested in similar matters. This memo is a report of information we have as of the above date.

1. The Governor's Commission on Law Enforcement, Administration of Justice and Corrections issued a report on January 22, 1968 which deals with court reform as well as other matters. Its recommendations include a unity court system (replacing probate, justice of peace and municipal courts) with judges who are members of the Bar, an intermediate appellate court, the nomination of judges by a "non-partisan" commission with appointment by the Governor, and the creation of a commission on judicial disability and discipline.
2. The Minnesota State Bar Association has under study recommendations of its Judicial Administrative Committee providing for a unified court system in the state with a new intermediate appellate court, a nominating commission, a commission on disability and discipline and coordination of all courts under the Supreme Court.
3. The Citizens Council on Delinquency and Crime is studying matters directly related to its title, but may also include court reorganization in its recommendations. It expects to make a report prior to January, 1969.
4. Both political parties have considered court reform in developing their 1968 party platforms. The Republican Party Platform urges the establishment of a unified court system; nomination of judges by a non-partisan citizens' commission and a system whereby an incumbent judge would run against his record; and a procedure whereby complaints about the incompetence and conduct of judges would be reviewed by a disciplinary commission. The Democrat-Farmer-Labor Platform endorses the present system of selection and re-election of judges. However, it urges the establishment of a court of appeals and a disciplinary commission.
5. The Senate and House of Representatives Judiciary Committees are making studies related to court reform. The Senate Committee staff is gathering information regarding the functioning of the courts and will have a report ready soon.
6. It should be reported that MCCR have corresponded and met with persons and officials interested in court reform. It has found strenuous opposition to proposals for court reform such as those summarized above. It has also found strong support for them.

September 30, 1968

TO: Members of Minnesota Citizens for Court Reform, Inc.

FROM: Mr. Larry O'Shaughnessy and Mr. Harold Shapira

The following figures are supplied regarding the finances and membership of the Minnesota Citizens for Court Reform, Inc.

Received to date	\$2,270.00
Expenditures to date	<u>405.11</u>
Balance	\$1,864.89

Number of Members - 77

MINUTES OF ANNUAL MEETING
MINNESOTA CITIZENS FOR COURT REFORM, INC.
Friday, September 13, 1968

In accordance with the by-laws the annual meeting of Minnesota Citizens for Court Reform, Inc. was held in Room 1212 of the St. Paul Athletic Club, St. Paul, Minnesota at 2:00 P.M. Friday, September 13, 1968.

John Tilton, president, directing the meeting, announced that its only purpose was for the annual election of officers. He proceeded to count the ballots that had been submitted and announced that the following had been elected directors for a one year term:

Dr. Sidney Rand	Mrs. Darrell Yates	David J. Winton
Christopher O. Batchelder	H. E. Gaustad	Fletcher C. Waller, Jr.
John Nason	Dr. I. L. Dubow	Jim Bormann
Dale Dodson, D.O.	George Borgerding	William J. Cooper
Dr. Paul M. Arnesen	Donald Hustad	Phil Duff
Mrs. Cecil Manahan	Rev. Ralph Tellefsen	Mrs. William W. Whiting
Dr. Robert Barrett	Leonard Driscoll	Dr. Richard Frey
Elmer P. Piepgras	Albert Hartl	John C. McNulty
Arnulf Ueland, Jr.	Mrs. Katharine E. Muff	Harold Shapira
Mrs. Loring M. Staples, Jr.	Wallace Herman	John R. Steinbauer
John E. Tilton	Mrs. Marion I. Smith	Orville E. Lomoe
Rev. Denzil A. Carty	Mrs. C. A. Nickoloff	John Verstraete
Sister Fides	Lawrence O'Shaughnessy	Sander Genis
Mrs. Harold J. Slawik	Robert P. Janes	E. N. Donahue
Don O'Brien	Mrs. Alfred Marblestone	

Upon motion made and seconded it was agreed the meeting would be adjourned until the second Friday in February, 1969 at which time the results of the State Bar Association poll on court reform and the State Senate study on Minnesota courts will be available for evaluation.

The meeting adjourned at 2:37 P.M.

Respectfully submitted

John E. Tilton
Chairman

LAW OFFICES
MASLON KAPLAN EDELMAN BORMAN BRAND & McNULTY

BUILDERS EXCHANGE BUILDING
MINNEAPOLIS, MINNESOTA 55402
AREA CODE 612/339-8015

SAMUEL H. MASLON
HYMAN EDELMAN
SHELDON KAPLAN
MARVIN BORMAN
IRVING R. BRAND
JOHN C. McNULTY
SAMUEL L. KAPLAN
RALPH STRANGIS
STEPHEN B. SWARTZ
HARVEY F. KAPLAN
JAMES B. DRUCK
RONALD G. VANTINE
RICHARD A. SHORS

September 24, 1968

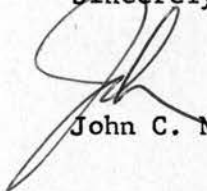
SIDNEY J. KAPLAN
1909-1962
ROGER E. JOSEPH
1917-1966

To the Executive Committee of the
Minnesota Citizens for Court Reform, Inc.

Dear Sirs:

Attached hereto for your files is the determination letter of the District Director of Internal Revenue Service finding that Minnesota Citizens for Court Reform, Inc. is exempt from federal income tax as an organization described in Section 501 (c)(3) of the Internal Revenue Code.

Sincerely,



John C. McNulty

JCM el
Enclosure

1 640 9th Ave. SW., Aberdeen, S. Dak. 57401
2 17 N. Dearborn St., Chicago, Ill. 60602
3 210 Walnut St., Des Moines, Iowa 50309
4 112 N. University Dr., Fargo, N. Dak. 58102

5 517 E. Wisconsin Ave.
Milwaukee, Wis. 53202
6 15th and Dodge Sts., Omaha, Nebr. 68102
7 1114 Market St., St. Louis, Mo. 63101

8 Federal Building and U. S. Courthouse
316 Robert St., St. Paul, Minn. 55101
9 325 W. Adams St., Springfield, Ill. 62704

Address any reply to DISTRICT DIRECTOR at office No. 8

US Treasury Department

District Director

Internal Revenue Service

Date:

In reply refer to:

September 17, 1968 StP-EO-68-265 JGB:df



▷ Minnesota Citizens for Court Reform, Inc.
625 South Snelling
St. Paul, Minnesota 55116

Purpose: Educational
Address Inquiries and File Returns with District
Director of Internal Revenue: St. Paul, Minnesota
Form 990-A Required: ☒ Yes ☐ No
Accounting Period Ending: December 31

Gentlemen:

On the basis of your stated purposes and the understanding that your operations will continue as evidenced to date or will conform to those proposed in your ruling application, we have concluded that you are exempt from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code. Any changes in operation from those described, or in your character or purposes, must be reported immediately to your District Director for consideration of their effect upon your exempt status. You must also report any change in your name or address.

You are not required to file Federal income tax returns so long as you retain an exempt status, unless you are subject to the tax on unrelated business income imposed by section 511 of the Code, in which event you are required to file Form 990-T. Our determination as to your liability for filing the annual information return, Form 990-A, is set forth above. That return, if required, must be filed on or before the 15th day of the fifth month after the close of your annual accounting period indicated above.

Contributions made to you are deductible by donors as provided in section 170 of the Code. Bequests, legacies, devises, transfers or gifts to or for your use are deductible for Federal estate and gift tax purposes under the provisions of section 2055, 2106 and 2522 of the Code.

You are not liable for the taxes imposed under the Federal Insurance Contributions Act (social security taxes) unless you file a waiver of exemption certificate as provided in such act. You are not liable for the tax imposed under the Federal Unemployment Tax Act. Inquiries about the waiver of exemption certificate for social security taxes should be addressed to this office, as should any questions concerning excise, employment or other Federal taxes.

This is a determination letter.

Very truly yours,

George O. Lethert
District Director

Minnesota Citizens

625 SOUTH SNELLING.
TELEPHONE 628-0841

for Court Reform

ST. PAUL, MINNESOTA 55116
REGIONAL CODE 612



EXECUTIVE COMMITTEE

JOHN E. TILTON
CHAIRMAN
SUN NEWSPAPERS
6601 W. 78TH STREET
EDINA, MINNESOTA 55435

CHRISTOPHER O. BATCHELDER
VICE CHAIRMAN
MAYO CLINIC
ROCHESTER, MINNESOTA 55901

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332 UPPER MIDWEST BUILDING
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MINNEAPOLIS, MINNESOTA 55402

LARRY O'SHAUGHNESSY
1 SHELBY PLACE
ST. PAUL, MINNESOTA 55116

MRS. WILLIAM W. WHITING
622 EAST SCHOOL STREET
OWATONNA, MINNESOTA 55060

August 13, 1968

MEMO

TO: Executive Committee

FROM: John Tilton

The Hilton Hotel in St. Paul has confirmed the reservation for our meeting August 20 starting at 4:00 P.M. We will meet in the Authors East room at 4:00 P.M. and adjourn to the Authors West room at 6:00 P.M. for dinner.

After a survey of the board we have agreed on a roast beef dinner with potatoes, peas and carrots, salad and Rum Baba plus beverage at \$6.00. This is exclusive of a 12% gratuity and 3% Minnesota sales tax.

If you haven't already done so, please call Mrs. Fox at 941-4800 advising whether you will be present.

JET:df

CC: Mrs. Rita Shemesh

Administrative Board of Review... being written

*Study breadth of impeachment system.
Ask trial lawyers who are competent judges
Ask those judges*

Wayne Thompson's Committee? What is it?

Depth and intensity of opposition is surprising.

Pursing on Court
America

Wallace Anderson - Wilmar - House subcommittee on Judicial Reform
(Optional county reorganization plan possible?)

Bar Association Convention - donnybrook over way plan was presented

Judge Weeks opposed

Gordon Rosenmeier -

"More judges than judicial business"

Blair Klein

No body knows how many justices
Place there are.

Make district court a specialized court
move domestic court into Probate

Lawyer specializes - why not judge

Too ready acceptance for an open sesame
for court reorganization.

Some court rooms badly administered!

*1. Only allow competent lawyers to try cases in court

2. Build up quality of the bench - not by pay but by prestige
(Decrease number of years needed to qualify for pension)
now getting weaker members of younger side of bar

Federal judges
do have p

Discipline (statutory) is a gimmick.

Bar association should not be afraid of saying what they think

Problems have gotten beyond the bar

Judges are not qualified to judge in all areas.

After judge goes on the bench there should be some kind of specialization
Judges should go back to school!

Courts are governed by law.

Lawyers themselves must see to it that lawyers are competent.

Weakest link is the Bar Assn. - next is judiciary.

Have kept political parties out of judiciary - No policing of the bench by m
persuasion. Newspapers have sanctified judges.

Most effective machinery possible is in Constitution already.

Impeachment for non-performance.

Governor have someone on his staff to read letters from disappointed litigants

Committee created by statute because judges and lawyers are unwilling
do it themselves.

✓

THIEL, ROOT AND SORENSON
ATTORNEYS AND COUNSELORS
523 MARQUETTE AVENUE
MINNEAPOLIS, MINNESOTA 55402
335-2264

WILLIAM F. THIEL
CHAS. W. ROOT
RUSSELL A. SORENSON
THOR H. ANDERSON

JOHN R. EVERETT (1886-1965)

August 14, 1968

Mr. Harold Shapira, Financial Chairman
Minnesota Citizens for Court Reform
625 South Snelling Avenue
St. Paul, Minnesota 55116

Dear Mr. Shapira:

Your form letter soliciting funds for your organization was received this morning. It is with some amazement that I review your Executive Committee members. Few of those with whom I am familiar are either lawyers or have a legal background with the exception of Mr. McNulty. Immediately the question comes to mind, "How much do they know about the proposition and what are their motives?"

Secondly, in your brochure you give the outline in an advocate's manner called "The Minnesota Plan" which, of course, is pure and simply The Missouri Plan. Such flowery phrases as "remove the office from the political arena" -- and I ask you, sir, how in heaven's name, as long as you are dealing with people and positions, are you going to remove this from politics. What you are saying is take it out of the present politics and put it into your own kind of politics. Also, what you are saying is that the review and recall provided under the present system to the electorate, the same electorate that you appeal to to change the system, themselves are not sufficient, that the people cannot be trusted, that we ought to have a politically selected small group with the power of removal over the judges which, in effect, is the power to control and invades the independence of the trial judge.

Further do you allege that the judges under the present system of selection are not competent? Further you come out for "staggered terms for continuity of policies" which suggests a stereotype and eliminates any individuality on the part of the trial judge. This is, of course, consistent with your "strong commission with removal and disciplinary powers." Axiomatically, such a thing takes away the strength and vitality of the system that is vested in the trial judge as an individual. The requirement of running for office every six years certainly is sufficient disciplinary suggestion for mature men of the caliber and stature that presently serve.

On the third of your suggestions, I would agree that adequate compensation should be provided. However, again the "just and realistic scale" implies more control. Would you suggest that a judge who has a better "score" with the disciplinary committee should get a higher salary?

Number four of your outline is of somewhat minor importance. It is difficult to see how calling a thing by a different name is going to speed up justice and the disposition of litigation. However, this is an area in which, it strikes a practicing lawyer, your brand of court reform approaches the wrong area first.

It would be well if your committee would inquire further of practicing lawyers who are familiar with this proposal to become more enlightened with it. You will recall that the recent State Bar Convention, where this proposal was made, defeated the proposal.

If I can be of any further assistance to enlighten your group on this, you may contact me. It is to be pointed out that Missouri recently refused to extend its Missouri Plan and strong opposition to the same thing is growing in Alaska.

Very truly yours,

RUSSELL A. SORENSON
of THIEL, ROOT and SORENSON

RAS:slh
CC: Members, MCCR Executive Committee

THIEL, ROOT AND SORENSON
ATTORNEYS AND COUNSELORS
523 MARQUETTE AVENUE
MINNEAPOLIS, MINNESOTA 55402
335-2264

WILLIAM F. THIEL
CHAS. W. ROOT
RUSSELL A. SORENSON
THOR H. ANDERSON

JOHN R. EVERETT (1886-1965)

August 21, 1968

Mr. John E. Tilton, Chairman
Minnesota Citizens for Court Reform, Inc.
6601 West 78th Street
Edina, Minnesota 55435

Dear Mr. Tilton:

Your letter of August 16, 1968 assuring me that your group has no particular plan in mind may be acceptable in journalistic circles, but I find it lacking from my point of view in that the letter from Mr. Shapira carried a brochure entitled "The Minnesota Plan" and outlined the changes necessary to accommodate the Minnesota plan.

While Mr. Shapira's letter is something of an artistic low in its analogies, I accept the proposition that it is directed to mass persuasion and not to deliberative reasoning, as is the publications of most do-good committees.

While your outline of the State Bar Convention was technically correct, I'm sure you, as well as the rest of us there, where all was geared to steam roller acceptance of the committee report, accepted the result as a defeat for the proposal.

I am available to assist you to form a sound judgment on this.

Very truly yours,

RUSSELL A. SORENSON
for THIEL, ROOT and SORENSON

RAS:MLP

THIEL, ROOT AND SORENSON
ATTORNEYS AND COUNSELORS
523 MARQUETTE AVENUE
MINNEAPOLIS, MINNESOTA 55402
335-2264

WILLIAM F. THIEL
CHAS. W. ROOT
RUSSELL A. SORENSON
THOR H. ANDERSON

JOHN R. EVERETT (1886-1965)

August 16, 1968

Mr. Harold Shapira
Financial Chairman
Minnesota Citizens for Court Reform
625 South Snelling
St. Paul, Minnesota

Dear Mr. Shapira:

Your letter soliciting funds for Minnesota Citizens for Court Reform has come to my attention. The thrust of your letter, taken together with your enclosed pamphlet, raises the implication that the adoption of the "Minnesota Plan" would bring the court calendar up-to-date, and further you imply that bringing the court calendar up-to-date is the goal to which your new court organization plan addresses itself.

The Plan deals primarily with the selection, tenure, and compensation of judges. As a practical matter, the court calendar can be up-to-date or it can be behind, no matter how the judges are selected, what their tenure is or how much they are paid. At present, the legislature determines the number of judges and their pay and provides facilities for the judges to do their work. In recent years, the legislature has substantially increased the personnel of the court and acting upon recommendation of many of its judges, in my home county has adopted programs which have reduced the case load and the length of time from the commencement to the conclusion of a lawsuit.

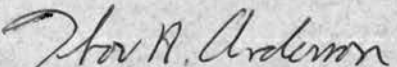
Our whole system of government is dependent upon an independent judiciary not susceptible to influence or pressure by small groups. The Minnesota Plan as you propose it, in effect, puts the trial judge under the watchful gaze of a Star Chamber organization who, without explanation to anyone, can remove a judge on the basis of his "performance." The proposed statute is extremely vague as to what "performance" is. Performance could be a pattern of decisions not in conformance with the social views of the current newspaper editor.

The state in general and my county in particular has a high caliber judiciary. The legislature has been responsive to requests from the Bar, the bench, and citizens for increases in the number and compensation of judges.

There is no such thing as taking the selection of judges out of politics. At the present time, the political arena is that of the electorate as a whole or the prerogatives of the Governor. The Governor is accountable to each citizen of the State for his judicial appointments and the judge is accountable to his constituents in a meaningful manner and an election in which opponents may file against him. Your plan substitutes for that the politics of a closed group basically responsible to no one. If the public does not like the activities of either the selection committee or the discipline committee, it has no effective means of changing its membership. The public has no effective way of selecting the judges and you have transferred the political process from a full, open, democratic one to a closed, secret, irresponsible one. When I say "irresponsible," I do not imply a reflection on the character of the type of people who would serve on the commission but the fact that there is no way of holding them responsible for their conduct. There is no such thing as a non-partisan judicial commission; for each member of that commission has his prejudices and his political viewpoints. If he did not, he would be an incompetent person and not likely to be selected to the commission. Politics is not bad, nor is it evil, nor is it undesirable. Politics is the forum through which the public expresses itself and makes choices; in a democracy, the public should make the choices. There is no reason to believe that an individual sitting on this commission will be any the less likely to further the objectives of the political viewpoints than would a Governor. With the Governor we have, however, the safeguard that his judicial appointments may become an election issue and he may be held accountable for them.

Your program, therefore, is not a program for court reform but a program of destruction of the independence of the judiciary. I, for one, would not care to be a litigant before such a tribunal.

Sincerely yours,


THOR H. ANDERSON
of THIEL, ROOT and SORENSON

THA:slh
cc: Executive Committee Members, MCCR

MINUTES

The Executive Committee of Minnesota Citizens for Court Reform, Inc. met at 4:00 P.M. Tuesday, July 16, 1968 at the Interlachen Country Club, Edina.

Members present: John Tilton, Larry O'Shaughnessy, Mrs. William Whiting, William Cooper, Sander Genis, John McNulty

Guests: Mr. and Mrs. Blair Klein, Dorothy Fox

Mr. Tilton read the minutes of the June 10 meeting. Mrs. Whiting said that the speaker, Mrs. Dresser, was from the Iowa Court Reform Committee not the League of Women Voters as stated in the minutes. Correction was made and the minutes were approved as corrected.

Each member received a copy of the Treasurer's report. Mr. Tilton summarized: We have a bank balance of \$1200.00, including \$200.00 which has come in as a result of the membership drive. Mr. Tilton presented a bill of \$94.19 from Sun Newspapers for printing and postage. A motion was made by Mr. Cooper and seconded by Mr. O'Shaughnessy to approve the bill. Motion carried.

Mr. Klein, Counsel for the State Senate, was asked to discuss the feasibility of getting our proposals through the Senate. Mr. Klein said the Senate is making an extensive survey to gather a body of information to help them answer questions raised by proposals from different groups. They have sent questionnaire forms to every Clerk of Court in the state and are having a lawyer visit every Justice of the Peace and every Municipal Court and County Court. The facets they want to determine are:

1. Find out competence of JP's.
2. Find out what facilities the JP's are using.
3. Find out what municipal judges in the outlying areas have no business being judges.

Mr. Klein commented on the suggestion to eliminate the office of the Justice of the Peace, "You have to have something to replace the convenience factor of the J. P."

He continued: The general idea is that the Senate is trying to find out what is wrong. The people have to be convinced that there is something wrong. Senators are asking, "Is the error in the system itself?" They want to answer questions as to court structure and organization. They feel that without this information no reasonable judgment can be made.

Mr. Cooper asked: "Is there some hope that we (this group) can do something constructive?" Mr. Klein answered: "I am certain you can do something constructive. The question is what is the right approach to a unified court system."

Mrs. Whiting asked: "Might it be better right from the beginning to work out a unified system?" Mr. Klein said he would be more inclined to agree with judicial selection and removal as a starter.

Mr. O'Shaughnessy asked: "You said the Senate might receive 20 different proposals for court reform. Could this committee simplify our task if we made it our business to get in touch with these other people and come up with wide areas of agreement which would be our platform in all areas -- selection, court re-organization, etc.?"

Mr. Klein agreed and suggested working through the Governor's commission to secure a lever.

At the end of the discussion Mr. Tilton advised the committee that we have hired Mrs. Rita Shemesh as executive secretary at a full-time rate of \$12,000 per year, but she will work on a half-time basis initially.

Mr. Tilton reminded those present that according to the by-laws we are scheduled to have an annual membership meeting the second Friday in September to elect a new set of officers. Mr. Genis moved that Mr. O'Shaughnessy chair the nominating committee. Mrs. Whiting seconded. Motion carried. Mrs. Whiting and Mr. Cooper will work with him to prepare a list of nominees by August 30. It was agreed that in the meeting notice the members would be advised that on the meeting date the session would be postponed until Tuesday, October 22.

Mr. O'Shaughnessy agreed to sit in on the meeting of the Minnesota Association of Commerce and Industry in St. Paul Friday, July 19.

Following dinner, the meeting adjourned about 8:30, to meet again Tuesday, Aug. 13.

Respectfully submitted,



Secretary Pro-Tem

TREASURER'S REPORT

Total Income as of 8/²⁰~~16~~/68 ~~\$1,430.00~~ \$1,465.00

Expenses

7/16 Sun Newspapers for Postage and Printing	\$94.19
7/25 Northwestern Nat'l. Bank for Check Book	4.87
8/6 " " "-Endorsement Stamp	<u>2.53</u>
	\$101.59

Bank Balance ~~\$1,328.41~~ \$1,363.41

Bills Outstanding

Colwell Press, Inc.	\$164.49
2,000 Court Reform Folders	
Sun Newspapers	2.58
Printing	

Balance after paying above bills \$1,196.34

8/15/68 - MEMBERSHIP REPORT

42

~~40~~ Members (Dues Paid)

Total amount paid - ~~\$1430.00~~ \$1465.00

Sun Newspapers to Minn. Citizens for Court Reform

5/20/68

Postage - 32 letters @ 6¢	\$ 1.92
Printing 500 Letterhead	27.70
Printing 500 Envelopes	28.00
Tax on printing	1.67

5/31/68

Printing	26.78
(50 Letters, 50 copies By-Laws and 50 Statement of Prin.)	
Postage - 44 letters @ 18¢	8.12

\$ 94.19

Minnesota Citizens

625 SOUTH SNELLING.
TELEPHONE 628-0841

for Court Reform

ST. PAUL, MINNESOTA 55116
REGIONAL CODE 612



EXECUTIVE COMMITTEE

JOHN E. TILTON
CHAIRMAN
SUN NEWSPAPERS
6601 W. 78TH STREET
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MRS. WILLIAM W. WHITING
622 EAST SCHOOL STREET
OWATONNA, MINNESOTA 55060

July 3, 1968

TO: Members of the Board of Directors
Minnesota Citizens for Court Reform

FROM: John E. Tilton

SUBJECT: Executive Director

As per the directive of the Executive Committee, we've had some discussions with Mrs. Rita Shemesh who has now agreed to direct our campaign... with some provisos.

Her primary concern is that we secure a concurrence from opposition forces, particularly organized labor, so that we can unite on a program which will have universal acceptance. Her position is that unless we can find such an agreement, we can never hope to overcome the very difficult amendment processes in Minnesota and we shall all be wasting our time and our efforts.

Mrs. Shemesh is, of course, the lady who directed the most successful Taconite Amendment, who is now engaged in a campaign for the Voyageurs National Park and who has had long experience in this type of activity. Initially she will work only part time for us and will prefer to use an office she now occupies and some office help she has procured. With her husband she leaves this week on a month-long trip to Europe but will take active charge of our campaign August 1. She already has set in motion an elaborate campaign to every member of the state legislature, to new media and other opinion-making agencies.

Until her return the office of Harold Shapira will continue to be the headquarters of this agency and the membership campaign Mr. Shapira is conducting will be centered there. Meanwhile Mrs. Whiting and Dr. Rand and other members of the Executive Committee are keeping in touch with the legislative committees and the other agencies working toward court reform.

JET:df



Minnesota Citizens

625 SOUTH SNELLING.
TELEPHONE 628-0841

for Court Reform

ST. PAUL, MINNESOTA 55116
REGIONAL CODE 612

EXECUTIVE COMMITTEE

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622 EAST SCHOOL STREET
OWATONNA, MINNESOTA 55060

July 3, 1968

TO: Jim Bormann and the Executive Committee

FROM: John Tilton

SUBJECT: Rita Shemesh's Program

Mrs. Shemesh wants distributed to all news media of Minnesota, shortly after her return August 1, a news story and suggested editorial on the need for court reform. She has asked that I prepare the editorial for newspaper editors along with a covering letter and that Jim Bormann do the same for the radio and TV people providing us with a covering letter which we can mail out. She would also like an initial statement to each of the 200 odd members of the legislature with an accompanying letter by Chief Justice Oscar Knutson. I have written Justice Knutson asking for this letter. Meanwhile could I ask John Verstraete to prepare a news release and statement to the several members of the legislature (two different pieces) which we can consider at our July 16 meeting.

Also, for your information, Mrs. Shemesh will occupy an office she presently uses in connection with the Voyageurs National Park promotion in the First National Bank Plaza, Minneapolis, along with secretarial help there. She knows about the \$25,000 budget per year and our understanding is that she shall be paid on the basis of \$12,000 per year but for the initial two or three months she will work on a half-time basis.

JET:df

next July 18

AGENDA

DIRECTORS' MEETING

MINNESOTA CITIZENS FOR COURT REFORM, INC.

Holiday Inn Central

Minneapolis, Minnesota

June 10, 1968

10:00 AM Call to Order

Approval of Minutes

Treasurer's Report - Mrs. Loring Staples, Jr.

Adoption of By-Laws

Election of Directors, Formal Confirmation

Discussion and Approval, the Statement of Principles,
"The Minnesota Plan"

12:00 Noon Luncheon

Mrs. Howard Dresser of Mason City, Iowa reports on
Iowa Court Reform Experience

1:00 PM Committee Reports

Membership Campaign Plans - Harold Shapira and Lawrence O'Shaughnessy
Public Relations Program - John Verstraete and Lawrence O'Shaughnessy
Legislative Report - Mrs. William Whiting
Liaison with Other Reform Groups - Dr. Sidney Rand
Lawyers and Legal Advice - William J. Cooper

3:30 PM Discussion: "The Course Before Us"

Office Staff and Executive Director
Regional Meetings in Congressional Districts?
Liaison with Minnesota Legislators
Speakers Bureau

5:00 PM Adjournment

Bob Shaw
MNA
(Minn. Newspaper Assn.)

About U.S. Divorce Reform, Inc.:

In 1961 the National organization was founded in California by a small group of men led by Reuben Kidd for the purpose of establishing justice and equality in divorce proceedings.

The treatment these people were subjected to was an experience of horrifying magnitude; one which was usually associated with that reserved for common outlaws. In fact, the common criminal fares better in our courts than the victim of divorce.

Since that date the work of USDR has been implemented throughout the country by means of nationally affiliated State Chapters. Early in 1963, a Minnesotan, Mr. Charles V. Metz, with the aid of the national organization and a few local men, founded USDR of Minnesota. In June of 1965 the organization incorporated as a non-profit Mutual Aid society, thereafter known as "United States Divorce Reform Incorporated of Minnesota".

Mr. Metz was the first President of our organization, and he has written a book recently published by Doubleday entitled "Divorce and Custody for Men" which is valuable reading. We prefer his original title: "'Till Death Do Us Part ---and Other Fairy Tales".

In the short time since its founding, our organization has made significant strides towards achieving our goal - Legislative Reform of our marriage and divorce laws. As a result of our efforts an Interim Committee was established to study existing divorce laws and to make recommendations for changes as it deemed desirable. This 1966 committee published its conclusions, but the report was not circulated to the '67 Legislature, a factor in our favor, since the committee was composed entirely of lawyers, and while their report admitted there were abuses, their suggestion was that these injustices could be remedied by the court and the bar, and thus there was no need for new legislation.

This naive suggestion USDR rejects in toto. We grant that the court and the bar should lead the way to effective reform. Instead, we meet with opposition. Why? We answer that with one question of our own: "Who PROFITS from divorce?"

New Chapters are being formed in County Seats or major towns in each legislative district throughout the State. Meetings with judges and various officers of the courts will continue to be held in an attempt to enlighten them about our program. We send speakers to other organizations to educate the public in general and to enlist their support, and last, but NOT LEAST, we are in contact with our representatives in the Legislature, urging them to up-date our antiquated laws (adopted in 1857) so that they reflect the facts of life of the Space Age instead of the horse and buggy era.

Benjamin Franklin once said, "Anyone can criticize, condemn, and complain, and most fools do". He spoke of those who let their complaints stop there. Unlike those who complain but offer no solution, USDR does have specific changes it would like to see adopted, as embodied in the bills we submitted to the 1967 Legislature. Basically, these are what the organization stands for, and while they are under constant study as to possible improvement, until such time as the membership recommends changes, these are what we are asking of the Legislature. The following is the gist of our proposals; proper legal form was used.

1. a. Increase license fee from \$5.00 to \$25.00
b. Optional pre-marital contract
c. Provision for amending contract
d. Contract, as amended, binding on court in settlement
2. a. Notice of intent to divorce
Bill of particulars (the REAL reason)
Family financial statement
b. Mandatory counselling to try to save marriage
c. No eviction (how can they reconcile if separated?), costs, or fees ordered at this time
d. Would take effect on passage
3. a. Jury trial on request, decision binding on court as to grounds, alimony, custody, support, division of property
b. Sale of property, contempt actions, consideration of alleged change in circumstances also determined by jury
4. a. No discrimination based on sex of parent in determining award of custody of children
b. Amount of support determined by earning capacity of EACH parent, and spouse of custodial parent, if any
c. Visitation rights not contingent on payment of support
d. Relief from support by non-custodial parent if:
1. children removed from state so as to make visitation impractical, or 2. visitation otherwise made impractical
5. a. Only property acquired during coverture considered in the division of property
6. a. Alimony awarded only if wife is physically or mentally incapacitated so as to be unemployable at start of divorce action
7. a. Court may not grant support, alimony, or property settlement against resident defendant divorced out of state if defendant did not appear by stipulation or otherwise, effective on passage

New bills will be offered dealing with the following situations:

Before one can operate a motor vehicle on our public highways, one must pass TWO tests, a written one and a practical one. Only then is a license issued. Getting a marriage license is akin to getting a fishing license; all one needs is the money, except that there's a short wait for the marriage license. How ridiculous! USDR feels that getting married requires a minimum amount of preparation and education, and we propose that a course in family living should be required in the public schools, and that before a license can be issued to a couple, both must pass a written test designed to ascertain whether the two are informed enough to handle the crises of married life, whether they know how to budget, how to prepare for and to raise properly any children they may wish to have, etc.

Knowledge of the new divorce laws would also be taught, so that both parties would know before they tied the knot that it may be impossible, or at least very difficult to get a divorce; there would be no profit or reward accrue to either party; the responsibility for the support of the children would remain their dual role the same as if they were not divorced; that in the event of a divorce, they would of necessity suffer a reduced standard of living.

With the above incorporated into our laws, along with the previous portions, a couple would not hasten into marriage until both were sure that they had more going for them than the primal urge.

USDR decries the fact that both judiciary committees of our Legislature are composed exclusively of attorneys. Here there can not help but be a conflict of interest situation. Lawyers get paid for getting divorces for their clients, not for reconciliations. We suggest the judiciary committees be composed of a cross section of the representation in the Legislature, as our county juries are a cross section of the population of the county - not ALL farmers, or ALL miners, or ALL housewives. Attorneys are needed on this committee, surely, for their expertise; but they need not be unanimous.

The habit of the court in awarding attorneys fees in a divorce action must go. This puts the lawyer in a privileged class. He has the court acting as a collection agency for him - a benefit not available to you and to me, except we hire an lawyer (again) and go to court to seek a judgement. Only THEN are we afforded the power of the court to collect money owed us.

Another bad feature of the habitual and automatic award of attorneys fees is that the lazy lawyer doesn't have to WORK for his money, as you and I do. He knows in advance that he'll get paid. The court will to see to that.

The foregoing we hope has been of interest as historical fact and contemporary goals. Since we are lay people concerned with the situation, we need all the support from the public we can muster. We SHALL prevail. In the '67 Legislature one of our bills did pass the House the final night of the session, by a vote of 76 to 39, only to have it bottled up behind the Sales Tax debate in the Senate when time ran out. The Senate judiciary had approved the identical bill to pass, and we are confident this bill would be the law of the land had they covered the clocks. The bill we refer to is number 4 in the summary.

Being amateurs, we were unaware of the work entailed to get bills drafted, approved by the revisor of statutes, sponsored, introduced, and acted upon. We presented to each member of the Legislature our packet of bills, along with a summary of their contents, a sampling of the WCCO Public Opinion Poll conducted the previous summer which showed large support for our aims, a list of the sponsors in each House, and a cover letter from our President. Never before had the lawmakers been approached by this method.

Also unprecedented was the fact that the House Judiciary committee, meeting as a whole, heard all seven bills at the same sitting. Normally these bills are heard in numerical order, one at a time, whether related to each other or not. In our case, the House File numbers ranged from 1948 to 2152.

Our lobbyist spent hundreds of hours working for the cause at great sacrifice to his own income; being a gentleman at all times, he gained the respect of members of both Houses and he learned the ropes. He will be on hand again next session.

Some people who read this may feel rather smug in the security of their own marriage, and thus feel they need not join our efforts to secure fair treatment in our courts. This is a shortsighted viewpoint. In a survey we conducted recently, we found that the first six years of marriage had the highest casualty rate, with the filings for divorce dropping off until the 13th year. What opened our eyes was the fact that during the period covered by our survey, 50% of all actions started involved marriages lasting from 13 to 24 years! Unless you have celebrated your silver anniversary, what makes you so special to think that it can't happen to you? Even then, you are not safe. Divorce can happen to anyone -- anytime.

God forbid, but if it should happen to you, wouldn't YOU want to receive fair treatment in divorce court?

The only way you, or your children, WILL receive equal and fair treatment is by having USDR's program adopted into law - the ENTIRE program. Join with us, therefore, and thus support our efforts for badly overdue reforms which will reflect current society.

Help make America Safe For Marriage.

D. Courts of limited and special jurisdiction in Minn.

Minn. plan proposed county court - the Minn Bar Assn brought this up - never got off ground in the legislature

- Priorities for Improvement -

We elect our administrative & legislative personnel
Justice would be much better served by appointment than election
Not responsible to the will of the people

Mr. Dreaver

1) Went with parties

2) Problem is political - solution is education.

3) Law association took the fall

First took a poll

Judge Weeks
Judge Bickman
Sam Siegel

Not of judges -

Supreme 26 to 33

Antony -

Justice 24 to 30

Notes - we've never had a detailed

Notes - more justice from people

Expense

Spiked by judges.

Send thank you note to new members -
ask John for.

Glen S. Winters

Be cautious of political ramifications in selection of Commission.

The judicial system is a public utility and must be maintained in the public interest.

Courts are for the people - not the judges and lawyers.

Why are we here? Want consumers' viewpoint.

Need help in getting improvements adopted.

Three ways help is needed.

- 1) cast own vote
- 2) use influence
- 3) pay bills

Right now is the time to go to work.

During my almost fourteen years as a League member I have
been constantly ~~impressed~~ ^{gratified} at how aware A L A has been of
trends and needs. To be responsive to an or

Sidney Wren
John Johnson

Minnesota Citizens for Court Reform, Inc.

A Citizen-Layman Organization for Court Reform

Minnesota Citizens for Court Reform, Inc., is an educational, non-profit corporation organized in accordance with the consensus statement of the Minnesota Citizens Conference to improve the Administration of Justice. Its aim is to implement the principles of court and judicial reform which were discussed by the 1966 conference and set forth in its consensus statement. To do this, it has set itself the task of conducting an educational program to inform the citizens of Minnesota of the needs in this important area of our public life. It is hoped that all citizens who are convinced of the need for a modernized system of court organization and judicial selection will become active members of Minnesota Citizens for Court Reform, Inc.

Minnesota Courts and Judges Today

The need to reorganize and restructure some of our social and political institutions in the United States is becoming increasingly evident. The problem of maintaining freedom and order, as well as growth and stability, in a rapidly changing, increasingly complex world is indeed a challenging one. Among the public institutions within which orderly change and restructuring is needed is the judiciary. In Minnesota, as in most of the nation, judges and courts are held in great respect by honest citizens. This is, of course, an indispensable factor in their effectiveness. But this very respect tends to obscure the need for a reformation of the system itself.

Minnesota Citizens for Court Reform are convinced that the needs of a modern society call for the enactment of certain principles of court and judicial reform. They are concerned with the principles, guidelines and essential features which should be embodied in any adequate reform plan worthy of consideration by the citizens of the State of Minnesota. Nothing less than a judicial and court system which helps bring into being — and supports and sustains — an enlightened, competent, impartial and efficient judiciary can be deemed acceptable.

The Minnesota Plan

The chief features of the plan are developed in four main areas.

I. Selection of judges — In this area these goals are sought: a systematic, impartial, nonpartisan, judicial selection procedure which will assure the citizens of Minnesota that the most able, professionally competent and qualified persons are recommended for service as judges of all courts; a system of selecting judges which will remove the office from the political arena; a system of selection which will assure the greatest possible independence of judgment and impartial justice in all courts.

This means the creation of nonpartisan judicial commissions now under study and recommendations now include: a lay majority on the commission; election of commission lawyers by the bar membership; staggered terms for continuity of policies; and a regular public review of the judge's record in the form of a yes/no ballot.

II. Judicial discipline and removal — Minnesota Citizens for Court Reform believes that any judicial merit appointments should be subject to public review. This is partially accomplished by periodic election on record. In addition, however, judges should be subject to a strong commission with removal and disciplinary powers to act as a continuing check on the professional capacities and performance of the judge. Such a commission should include judges, lawyers and laymen. It should be separate from the selection commission and have different responsibilities.

III. Judicial compensation and retirement — Minnesota Citizens for Court Reform believe that a competent judiciary must be adequately compensated. The criteria on which to base recommendations are now under study. Generally speaking, it is desirable that all judges and court employees should be compensated according to a just and realistic scale.

IV. Court reorganization and administration — Here the following goals are sought: the same level of justice for all litigants in all courts; elimination of multiplicity of suits, costly appeals and overlapping jurisdiction; elimination of conflicts of interest; promotion of economy, simplicity, impartiality and efficiency; minimizing the delay of justice and disposition of litigation. To accomplish this, Minnesota Citizens for Court Reform recommend a unified judicial system, consisting of a supreme court, an intermediate court of appeals and a district trial court of general jurisdiction. The district court of general jurisdiction may have several divisions such as a Probate Division, Juvenile Court Division and a Magistrate Division to handle small claims and minor criminal cases. It further recommends an analysis in depth of court administration and management methods and the provision of sufficient manpower in all phases of the judicial process.

You Can Help

You can help the Minnesota Citizens for Court Reform reach its goals by becoming a member and supporting its program. Just fill out the attached membership application today and send it in. Remember, your membership contribution is tax deductible.

Minnesota Citizens for Court Reform
625 South Snelling Avenue
St. Paul, Minnesota 55116

Minnesota Citizens for Court Reform
625 South Snelling Avenue
St. Paul, Minnesota 55116

I'll attend the meeting Thursday, June 10, at 10:00 a.m.
at Holiday Inn Central, Minneapolis _____.
Sorry, I cannot make this meeting _____.

(Please check one) My choice luncheon, \$3.00, is Prime
Tenderloin Tips (Hunter's Style) _____.
Scallops _____.

Signed _____ Phone _____

Address _____

Minnesota Citizens

625 SOUTH SNELLING.
TELEPHONE 628-0841

for Court Reform

ST. PAUL, MINNESOTA 55116
REGIONAL CODE 612



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MRS. WILLIAM W. WHITING
622 EAST SCHOOL STREET
OWATONNA, MINNESOTA 55060

May 20, 1968

Mrs. Loring M. Staples, Jr.
Route 2, Box 700
Wayzata, Minnesota

Dear Mrs. Staples:

Next meeting of the Steering and Study Committee of Minnesota Citizens for Court Reform will be Thursday, June 10, at 10:00 a.m. at Holiday Inn Central, Minneapolis. It is hoped we can stand adjourned no later than 5:00 p.m.

You will recall that this committee last met January 30. Since then the executive committee (composed of officers and committee chairmen) has been working on two chief problems: effective organization and a firm Minnesota program for court and judicial reform.

Minnesota Citizens for Court Reform is now incorporated on a non-profit basis. Members of the Steering and Study Committee comprise its first board of directors. The Constitution has been approved and by-laws will be presented for final approval at the June 10 meeting.

In addition several important committees, chaired by members of the Steering and Study Committee, have been set up and it has been decided to hire an executive director to create an efficient, smoothly working organization.

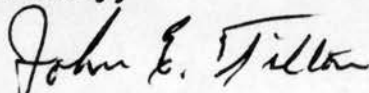
Executive committeemen presently are studying materials which could form the basis of a firm reform program. These materials, condensed and organized for easy understanding, will be mailed for your consideration and comment prior to open discussion and, hopefully, final agreement on the draft for a Minnesota Plan for Court Reform so we can begin a state-wide educational program.

May 17, 1968
Page Two

The membership committee has come up with a membership program including a recommendation for a \$5.00 individual annual membership fee to build broad support and more significant grants, financially, to enable us to carry on our work. It is hoped members of the original conference will form the nucleus of a sympathetic, knowledgeable and expanding membership in the organization. You will receive such a request soon.

Please plan to attend the June 10 meeting. For your convenience, a reply card is enclosed. An agenda and other materials will be mailed soon.

Sincerely,

A handwritten signature in cursive script that reads "John E. Tilton".

John E. Tilton
Chairman

df
Encl.

DRAFT-

June 19, 1968

The Minnesota Plan for Court Reform

A program sponsored by MINNESOTA CITIZENS FOR COURT REFORM INC., A citizen-layman
Organization for Court Reform

INTRODUCTION:

"Minnesota Citizens for Court Reform, Inc." is an educational, non-profit corporation, organized in accordance with the Consensus Statement of the "Minnesota Citizens Conference ^{on Courts} (to Improve the Administration of Justice.)" Its aim is to implement the principles of court and judicial reform which were discussed by the Conference and set forth in its Consensus statement. To do this it has set itself the task of conducting an educational program to inform the citizens of Minnesota of the needs in this important area of our public life. It is anticipated that all citizens who are persuaded of the need for a modernized system of court organization will testify to this conviction by becoming active members of "Minnesota Citizens for Court Reform, Inc."

I.

MINNESOTA COURTS AND JUDGES TODAY

Today in the United States the need to reorganize and restructure some of our social and political institutions is becoming increasingly evident. The problem of maintaining freedom and order, as well as growth and stability, in a rapidly changing and increasingly complex world is challenging indeed.

Among the public institutions within which orderly change and restructuring is needed is Judiciary. In Minnesota, as in most of the nation, judges and courts are held in great respect by its citizens. This is, of course, an indispensable factor in their effectiveness. But this very fact of respect tends to obscure the need for a reformation of the system itself.

Minnesota Citizens for Court Reform are convinced that the needs of a modern society call for the enactment of certain principles of court and judicial reform which are receiving increasing recognition throughout the U.S. They are concerned first with the principles, guidelines and essential features which should be embodied in any adequate judicial reform plan worthy of support by the citizens of the State

of Minnesota. Nothing less than a judicial and court system which helps bring in-
to being and supports and sustains an enlightened, competent, impartial and efficient
judiciary can be deemed acceptable.

II.

THE MINNESOTA PLAN

Minnesota Citizens for Court Reform, Inc. favors a unified judicial system
combined for purposes of jurisdiction, operation and administration, into an Appel-
late Division and a District Court. The Appellate Division should include an
^{Supreme?}
Appellate Court, to assist the Supreme Court with some of its present burdens, and
the Supreme Court itself. The Supreme Court should consist of a Chief Justice and
not less than six nor more than eight Associate Justices. The size of the Appellate
Court should be determined by the work load indicated by experience.

The District Court should be a court of unlimited original jurisdiction and
such powers of review as might be provided by the rules of the Supreme Court. Dis-
trict Courts would be established in each of the several District Court districts
as the Supreme Court would from time to time designate.

It is the belief of the Minnesota Citizens for Court Reform that all judges
in the Minnesota judicial system should be learned in the law if the goal of equal
justice under law is to be achieved. It is contemplated that present justices of
the Supreme Court would, upon enactment of a court reorganization bill, continue
as Justices of the Supreme Court. District Court Judges would continue as Judges
of the District Court of the several District Court judicial districts or as judges
of the new Appellate Court. Judges of the Probate Court and Municipal Courts who
are learned in the law would become Associate Judges of the District Courts. Muni-
cipal Judges and Probate Court Judges not learned in the law would become referees
of the District Court. All Justice of the Peace Courts, Municipal Courts and
Probate Courts would be abolished and their functions, powers and duties transferred
to the District Court of their respective districts.

II.
III.

PROPOSED REFORMS

Minnesota Citizens for Court Reform, Inc. will conduct and support educational programs leading to legislation and constitutional amendment, which will make the following reforms possible:

A. SELECTION OF JUDGES

(1) A systematic, impartial, non-partisan, judicial selection procedure which will assure the citizens of Minnesota that the most able, professionally competent and qualified persons are recommended for service as judges of all courts in the state.

(2) A system of selecting judges which will remove the office from "Partisan Politics" and thereby eliminate the necessity of incumbent judges engaging in political campaigning and related fund-raising. It should be clear that avoidance of political issues, together with a non-partisan merit commission recommendation, should make it easier for a judge to be impartial and beholden to no man or group. This statement should not be considered an adverse reflection on politics in the best sense of the word. Politics is an essential aspect of American life, when connected with the legislature and executive branches of government.

(3) A system of selecting judges which will eliminate undue delay in filling judicial vacancies with qualified persons.

(4) A system of judicial selection which will encourage competent and qualified lawyers to seek judicial office on their recognized merits. ~~rather than on the basis of political "image".~~

(5) A system of selection which will assure the greatest possible independence of judgment and impartial justice in all courts. Creation of nonpartisan judicial commissions charged with selecting nominees for consideration by the Governor in appointments to judicial posts: commissions of seven members in the

several districts and eleven members for the state wide commission (supreme and appellate courts). Conceived here are commissions with a lay majority in every case, election of lawyers by the bar membership for consideration by such commissions, appointment by the Governor in every case but by the Chief Justice of the Supreme Court if the Governor fails to act within 60 days. Other safeguards to prevent conflicts of interest, to insure continuity of selection policies through staggered terms should also be included. Also favored is a regular public review of the judge's record in the form of a Yes/No ballot.

B. JUDICIAL DISCIPLINE AND REMOVAL

Minnesota Citizens for Court Reform believe that any judicial merit appointments should be subject to public review. This is partially accomplished by periodic election on record. In addition, however, judges should be subject to a strong commission with removal and disciplinary powers to act as a continuing check on their professional capacities and performance. Such a commission should be non-partisan and include judges, lawyers and laymen. It should be separate from selection commissions and with different responsibilities... ~~serving as a~~ ^{receiving} ~~repository for~~ complaints against judicial performance, and [?] ~~a source of action~~, subject to final authority by the Supreme Court, should the evidence indicate the need for remedial action.

It seems obvious the very existence of such a commission should serve to improve judicial performance. ^{Although secrecy in the handling of public affairs in the Dem. process is repugnant but since} ~~Because~~ the goal of such a commission is not punitive in nature but to assist in improving performance, we believe all its proceedings should remain confidential until any complaint finally is referred to the Supreme Court for ultimate decision.

We believe it important that causes for removal or retirement of judges should be carefully defined: willful and persistent failure to perform his duties; habitual intemperance; willful misconduct in office; disability seriously interfering with the performance of his duties which is, or is likely to become, of a permanent character.

C. JUDICIAL COMPENSATION AND RETIREMENT

The concern of the Minnesota Citizens for Court Reform is for a competent and adequate judiciary, one that will satisfy the public interest and maximize the taxpayers' return on their investment.

Recognizing that the men and women who will be proper candidates for judiciary vacancies ^{generally} will have to be drawn from successful careers — we have devoted ourselves to a careful consideration of the areas of judicial compensation, retirement income, and provision for possible disabilities due to mental or physical health impairments.

Our preliminary conclusions are:

1. Compensation:

- a) That the compensation of the Justices of the Supreme Court should closely approximate the compensation of the Federal Judges on the U.S. Circuit Court of Appeals.
- b) That the compensation of State District Judges should closely approximate the compensation of the Federal District Court Justices.
- c) That the compensation of Appellate Court judges should be between that for Supreme and District Court Judges.

2. Retirement age — for Supreme Court Justices, Appellate Court Judges and State District Judges should be:

- a) Normal Retirement Age to be 65.
- b) Compulsory Retirement Age to be 68.

3. Retirement income for Justices on the Minnesota Supreme Court and Judges of the Appellate and District Courts should be:

- a) 75% of salary — Normal Retirement Age.
- b) 12 full years of service.
- c) For service less than 12 years — the retirement income to be pro-rata of the 75% at age 65.

- d) No additional retirement credits to be allowed for years worked beyond normal retirement age.

4. Disability Income:

Some proper provision for the total disability for both Justices of the Supreme Court and State District Judges are required - where adequate provision does not now exist.

D. COURT REORGANIZATION

There should be established a unified judicial system for the State of Minnesota consisting of a Supreme Court, an Intermediate Court of Appeals and a District Court of general jurisdiction. The District Court of general jurisdiction may have several divisions such as a Probate Division, Juvenile Court Division and a Magistrate Division to handle small claims and minor criminal cases.

E. COURT ADMINISTRATION

The guideline for proper administration of the court should incorporate the following principles:

- (1) The same level of justice for all litigants in all courts.
- (2) Elimination of multiplicity of suits, costly appeals, overlapping jurisdiction.
- (3) Elimination of conflicts of interests.
- (4) Promotion of economy, simplicity, impartiality, efficiency.
- (5) Minimizing delay of justice and disposition of litigation.
- (6) The provision of sufficient manpower in all phases of the judicial process.

III
IV.

THE COMMON GOAL

Minnesota Citizens for Court Reform, Inc. is fully aware of the fact that no one plan, no rigid formula can meet all contingencies or satisfy all interests in a problem as complex and significant as court reorganization.

Rephrase and rework

Page 7.

It believes the ^{principals} ~~plan~~ outlined herewith ^{represent analysis} the best solution thus far presented,
~~but it is by no means adamant that every~~ ^{principal} ~~phase of this plan be enacted into law.~~
~~Men of good will must compromise if the common objective is to be achieved.~~

⁺
~~What~~ is important ~~is~~ that we agree on our ultimate goal and move firmly forward to meet it. This plan provides the basis for a start toward meaningful court reform.

MEMO

May 15, 1968

To: Members of Executive Committee, Citizens Conference on Court Reform

From: John Tilton

There is attached a copy of the minutes of our April 22 meeting for your perusal. If you have questions or corrections, please present them at our meeting Monday at 4:30 p.m. in the Minnesota Club, St. Paul.

I hope we may be able to discuss the following subjects:

1. Consideration of the By-Laws.
2. Employment of a new executive director.
3. Paragraph by paragraph study of the attached synthesis of a preliminary report by a state bar association committee on a proposed court reform program.
4. Reports by other committees.

It is hoped that by comparing the several proposals with this program we can come up with a final recommendation for our meeting with the steering and study committee June 10.

It is also my hope that this meeting can be adjourned promptly at 8:00 p.m.

JET:df
Encl.

MINNESOTA CITIZENS FOR COURT REFORM

Date: April 22, 1968

Place: Minneapolis Club

Present: John Tilton, Chris Batchelder, Dr. Sidney Rand, William J. Cooper, Harold Shapira, Lawrence O'Shaughnessy, Sander Genis, John Verstraete, Jr., Mrs. William Whiting, John McDulity and Mrs. Loring Staples, Jr.

The meeting was called to order by Chairman Tilton. The minutes of the meeting of March 26, 1968 were read. A motion was made and seconded that they be accepted. The motion was carried.

The only funds which the group has available at the moment is \$1,000 which is being held by the Minnesota Bar Association. A motion was made and seconded that the Chairman and Treasurer be empowered to requisition up to the entire amount. The motion was carried.

Mr. O'Shaughnessy, Mr. Verstraete and Mr. Shapira reported on their meeting with Mr. Duane Gratz. They outlined his background and interests which would qualify him for the position as Executive Director of this group. He indicated he would be available May 1. A motion was made and seconded that a committee composed of Messrs. Tilton, O'Shaughnessy, Verstraete and Shapira be authorized to engage Duane Gratz as Executive Director of the Minnesota Citizens for Court Reform on the basis of a potential budget of approximately \$25,000 annually which shall include salary, office expense and overhead. The motion was carried.

A motion was made and seconded that annual dues be five dollars for membership with the understanding that contributions be actively sought for the support of the organization and some application of the principle of associate members to secure a broad based support be explored. The motion carried.

It was moved that a tentative legislative program, drawn as a basis for detailed consideration at the next executive committee meeting, be prepared, with the understanding that such program, as revised by the entire committee, be submitted for study by the combined meeting of the Executive Committee and Steering Committee. The motion was seconded and approved. Next meeting of the Executive Committee is scheduled May 20 at 4:30 p.m. at the Minnesota Club in St. Paul. Combined meeting of the Executive and Steering and Study Committees is scheduled for June 10 at 10:00 a.m. at Holiday Inn Central in Minneapolis.

A motion was made and seconded to adjourn. The motion carried.

Respectfully submitted,

Emily Mayer Staples
Acting Secretary

There follows a synthesis of an interim report by a distinguished committee of the State Bar Association headed by Stanley Thorup. It seems to me our group could profitably study the several proposals here advanced, weigh them against alternatives proposed by other reform groups and perhaps come up with a consensus for presentation at our joint meeting with our Steering and Study Committee June 10.

I am advised that each of the three primary areas of court reform here outlined would require a constitutional amendment. My research indicates that one and perhaps more of the reforms will be difficult to achieve. One (on discipline and removal) is generally supported.

Accordingly it would seem good politics to present three separate bills for consideration, hoping to achieve part of the program rather than risk having it all go down together.

This plan includes some basic provisions which are not spelled out here but I suspect are common to all reform proposals such as the provision giving the supreme court general administrative control over the whole court system and the right to prepare necessary rules, provision for the custody of all current court records, certain safeguards on the retirement of judges and the provisions making sure that the public representatives on the several commissions are neither lawyers or members of the bar.

INTERIM REPORT OF BAR ASSOCIATION COMMITTEE CHAIRED BY STANLEY H. THORUP
Provides for a Constitutional Amendment calling for:

1. Unified state court system, comprised of (a) appellate division (including a supreme court (chief justice and six to eight associate justices) and a Court of Appeals, to be provided by the legislature) and (b) a district court, serving districts established throughout the state by the supreme court.

- a. All justices of the state judicial system to serve six years, compensation at the discretion of the legislature; and to stand for re-election every six years. Note this procedure would permit the legislature to decide whether judges should run on their record, without opposition, or with one or more opponents. This differs from the Missouri plan which provides the judge would run without opposition and simply on his own record.
- b. All supreme court and district justices would remain in office. All probate and municipal judges "learned in the law" would become associate judges of the district court. Probate and municipal court judges not "learned in the law" would become referees of the district court.
- c. Specifics: At least one district court judge in every county. Administration of the system under the supreme court and under a chief judge in individual court districts. All justices of the peace, municipal court and probate court would be abolished, their authority transferred to other courts. All courts to be courts of record.

2. Judicial Selection and Tenure:

- a. Created would be nonpartisan judicial commissions:
 - (1) for vacancies in Supreme or Appellate courts consisting of 11 members: 4 members selected by the State Bar; 6 citizens, not bar members, named by the Governor; and the Chief Justice who would serve as chairman;
 - (2) a commission for each judicial district comprised of 7 members:

a judge of the district court who would serve as chairman, two members named by the Bar and four citizens of the district, named by the Governor.

- b. Vacancies in a judicial office of Minnesota would be filled by the Governor from a list of three nominees selected by the appropriate judicial commission.

If the Governor failed to appoint within 60 days, the Chief Justice could so appoint. Once named, the judge would stand for re-election every six years.

3. Judicial Discipline and Removal:

- a. Created would be a nine man Commission on Judicial Disability and Discipline to include one justice of the supreme court or court of appeals and two judges or associate judges of the district court, each selected by the supreme court for four year terms; two attorneys with 10 years' experience named by the supreme court for four years; and four citizens (none a judge or attorney) named by the Governor for four year terms. All appointments by the Governor subject to senate confirmation.

- b. A judge of any court could be removed for willful misconduct, failure to perform his duties, habitual intemperance or for disability "seriously interfering with the performance of his duties...or likely to become permanent" under the following procedure:

(1) investigating complaints, the commission could order a hearing before the commission (or request the supreme court to name three special masters--judges of the courts of record--to hear and take evidence in the case and report to the commission.) If

the Commission found cause for removal, it would present the facts to the Supreme Court which might order removal or retirement or reject the recommendation. Judges so removed would enjoy the same rights and privileges as if retired pursuant to statute.

The recommendation here seems to indicate that all proceedings shall be confidential until such time as the matter is adjudicated by the Supreme Court. (Some lawyer member of our committee is going to have to interpret and classify this provision.)

4. Miscellaneous: The Chief Justice would be selected by the Judicial Nominating Commission from members of the Supreme Court -- for five year terms. A Chief Justice could resign from that office without resigning from the court. In Minnesota the Chief Justice presently runs for that office routinely.

THE CONSENSUS
of the
MINNESOTA CITIZENS' CONFERENCE TO IMPROVE
THE ADMINISTRATION OF JUSTICE

* * * *

Minneapolis, Minnesota
September 8-10-1966

I

MINNESOTA COURTS AND JUDGES TODAY

2nd draft

The Minnesota judicial system, measured by modern standards, has certain weaknesses which should be eliminated or minimized. It has been our good fortune to have many dedicated and competent judges. We are here concerned with improving a judicial system that has been generally progressive and free of corruption and incompetence experienced by some other states.

Among the defects in the present system are the methods of selection of judges, and the uncertainties in the matters of judicial tenure, and retirement. *compensation*

~~In the area of court organization and administration, Minnesota suffers both from a lack of a unified system of courts and also from the lack of effective administrative organization.~~

II

JUDICIAL SELECTION AND TENURE

The needs of a modern society demand that our haphazard judicial selection policies be abandoned and that a systematic procedure be adopted to insure that the most able and most qualified persons are recommended for judicial service.

In the opinion of this conference, the method of selecting judges must be designed to minimize political considerations and to secure the services of the best qualified persons by some form of a pre-selection committee or commission. The composition of the selection committee should be so constructed as to eliminate to the greatest extent possible any undue influence or control by any special interest group, ~~be it political or professional~~. The selection committee should recommend judicial nominees to the Governor who will make the final appointment from the recommended nominees. ~~This appointment procedure will act as a final check on the function of the selection committee and will maintain the participation of the executive which gives greater dignity and respect to both the judicial and executive branch of our government.~~ The *60 days chief justice*

the majority of which shall consist of lay members.
selection committee must be an on-going body with staggered terms of office to insure continuity of the selection policies. No member of the judicial selection committee should be eligible for selection to judicial office until some period of time has elapsed following termination of his services on the commission.

Once appointed, judges should be subject to a strong removal or disciplinary commission to act as a continuing check on the professional capacities of the judge. All judges should be subject to periodic performance review at stated intervals either by direct election by the citizens or by review of the judge's performance record by vote of the citizens or by review of a removal commission. No choice among these methods of periodic review is recommended.

A proper selection and tenure procedure is merely one factor in securing and retaining a highly qualified and independent judiciary. Other considerations are a more realistic compensation level for judges and an improved retirement program. An impartial judicial selection procedure will permit non-political consideration by the legislative branch of the need for creation of additional judicial positions.

III

JUDICIAL COMPENSATION - RETIREMENT - DISCIPLINE & REMOVAL

On Judicial Compensation -

A further study should be made of the subject with the view toward increasing the compensation of judges at all levels.

On Retirement -

The present system is generally satisfactory except that increased sums might be considered after further study, insofar as voluntary retirement is concerned.

In the case of involuntary retirement - a specific (though ⁷⁰arbitrary) age should be established, which would be mandatory in operation.

The mandatory rule will result in instances of competent and productive judges being retired. This result can be ameliorated by such judges being called upon to assist the active judiciary as the operations of the judicial system warrant.

Discipline and Removal -

While there is a system of sorts for the disciplining and removal of judges today, in historical fact it has not operated effectively or even well. There is insufficient information upon which to adopt a definitive set of rules on discipline and removal. There are worthwhile features in the California plan, but

- further study should be undertaken with the view of recommending a specific plan on such problems. Any plan so proposed should encompass the basic idea that its purpose would be to improve the quality of justice and its administration, would provide a sounding board for citizens with real or fancied grievances concerning the judiciary, and would yet provide protection and safeguards for members of the judiciary against unwarranted attacks.

IV

COURT ORGANIZATION AND ADMINISTRATION

In order to eliminate the multiplicity of suits; costly appeals; conflicts of interest on the part of fee justices of the peace and part-time judges; overlapping of the jurisdiction of courts; to utilize the best available manpower and special court services; and to promote economy, impartiality, simplicity, and efficiency, the consensus was that the system of courts of limited and special jurisdiction in Minnesota needs improvement and should be reorganized in the best possible way to achieve the same level of justice for litigants in all courts.

The principles of sound administration should be applicable to the judicial system with authority vested in the highest judicial officer or the court of last resort. Administrative staff should be made available to fulfill these non-judicial duties. Administrative assistance should also be provided for multi-judge trial courts.

A unified court structure, composed of a supreme court, an intermediate court of appeals, a trial court of general jurisdiction and a people's or magistrate's court to handle small claims and minor criminal cases, appears to be well suited to the needs of Minnesota.

Final and complete abolition of the office of justice of the peace should be effected at the earliest possible date.

In the interest of providing even-handed justice for all the citizenry a concentrated effort should be made forthwith to minimize delay in the disposition of litigation. Action in this area need not await a program of court reorganization but can be initiated with the framework of the existing system.

To this end, there should be no reluctance to provide sufficient judicial manpower to hear and determine cases with all reasonable dispatch.

V

IMPLEMENTATION OF THE VIEWS OF THE CONFERENCE

From the conferees there shall be formed a steering and study committee consisting of two (2) persons from each congressional district in the state, to be appointed by the sponsoring committee of this conference. After formal organization, they shall promptly take such steps to inform and poll the conferees of the first Minnesota Citizens' Conference on Courts, in order to formulate courses of action by which these recommendations on court improvement may be further implemented.

April 25, 1968

MINNESOTA CITIZENS FOR COURT REFORM
EXECUTIVE COMMITTEE

*Preferred address of contact

John E. Tilton, Chairman

* O: Sun Newspapers, Bloomington, Minn. 920-4800
H: Route #1, Excelsior, Minn. 474-5878

Christopher O. Batchelder, Vice Chairman

O: Mayo Clinic, Rochester, Minn. 55901 (507) 282-2511 Ext. 2072
* H: 415 16th Ave. SW, Rochester, Minn. 55901 (507) 282-8139

Sander Genis, Secretary

O: 332 Upper Midwest Bldg., Mpls., Minn. 339-6739
St. Paul, Minn. 224-5639
H: 4001 W. Highwood Rd., Mpls., Minn. 922-8747

Mrs. Loring M. Staples, Jr., Treasurer

H: Route 2, Box 700, Wayzata, Minn. 55391 473-9120

Duane Gratz, Executive Director

O: 625 S. Snelling Ave., St. Paul, Minn. 55116 698-6841
H: 22 Somerset Road, Mendota Heights, Minn. 55118 224-2281 (Temporary)

Dr. Sidney A. Rand

O: St. Olaf College, Northfield, Minn. 645-3911
Mpls., Minn. 336-1586
H: 645-4764

Harold B. Shapira

* O: 625 S. Snelling Ave., St. Paul, Minn. 55116 698-6841
2056 Ford Parkway, St. Paul, Minn. 698-3831
(Mr. Shapira has two offices; usually at Ford Parkway during a. m.)
H: 1832 Colvin Ave., St. Paul, Minn. 699-7787

William J. Cooper

* O: 725 NW National Bank Bldg., Mpls., Minn. 55402 333-6374
H: 5500 Mirror Lakes Drive, Edina, Minn. 55436 921-1594

John J. Verstraete

* O: 3M Center, St. Paul, Minn. 55101 733-1200
H: 2015 Summit Ave., St. Paul, Minn. 644-4013

- more -

John C. McNulty

* O: 1200 Builders Exchange Bldg., Mpls., Minn.

H: 4427 E. Lake Harriet Blvd., Mpls., Minn.

339-8015

823-6680

Larry O'Shaughnessy

O:

H: 1 Shelby Place, St. Paul, Minn. 55116

699-1726

699-6077

Mrs. William W. Whiting

H: 622 East School St., Owatonna, Minn.

MEMO

April 23, 1968

TO: Executive Committee

FROM: John Tilton

SUBJECT: Committee assignments prior to the May 20 meeting.

In light of the rigid six weeks schedule which we set for ourselves at our meeting last night, it occurs to me some written assignment of duties is in order. May I ask any of you unable to complete his assigned task prior to May 20 to call Mrs. Fox (920-4800) and we shall try to find someone else to do it.

There may be other responsibilities but these are the ones I recall.

TILTON:

1. (A) Work with Shapira, O'Shaughnessy and Verstraete to hire an executive director, establish an office and provide needed supplies and equipment. Shapira has primary responsibility here.
- (B) With Staples draw on the Bar Association for funds needed to achieve the above and any other necessary expense.
- (C) With new director, McNulty, O'Shaughnessy and others draw up a skeleton legislative program for consideration and, hopefully, approval at the meetings May 20 and June 10.
- (D) Arrange to supply a list of personnel as well as a general description of the several other groups in Minnesota working toward court reform.
- (E) With Staples edit, reproduce and distribute minutes of the April meeting.

O'SHAUGHNESSY:

2. (A) See 1A and 1C above.
- (B) With McNulty prepare and distribute the new by-laws as amended to executive committee members.
- (C) Assist Shapira and Verstraete in drafting broad membership and financing plans.

VERSTRAETE:

3. (A) See 1A, 1C and 2C above.
- (B) With the executive director, O'Shaughnessy and Shapira prepare a state-wide public relations and membership program utilizing the "affiliate"

idea for a broad based support and a "contribution" appeal for financial aid.

SHAPIRA:

4. (A) See 1A, 1C, 2C and 3B above.
- (B) Assume responsibility for a broad based financing plan to yield a minimum of \$25,000 annually.

RAND:

5. (A) Maintain a liaison with other court reform groups and serve as an informational bridge between them, Mrs. Whiting and the executive committee.
- (B) As such groups develop significant ideas in this field, recommend them for inclusion in our program.
- (C) Begin putting together a statewide liaison group.

WHITING:

6. (A) Maintain continuous contact with key members of the legislature, the two key legislative committees and other reform groups.
- (B) Begin putting together a statewide legislative committee.

COOPER:

7. (A) Maintain continuous contact with the reform movement on the Minnesota bar and bench (John McNulty can be of particular assistance here).
- (B) Assist O'Shaughnessy, Shapira and Verstraete wherever possible in carrying out their responsibilities.

BATCHELDER, GENIS and STAPLES:

8. (A) Assist the chairman and the several committee chairmen in their several responsibilities.

As a reminder, the executive committee will meet Monday, May 20, at 4:30 P.M. at the Minnesota Club, St. Paul. It will meet again at 10:00 A.M. June 10 at Holiday Inn Central for a meeting involving a luncheon and afternoon session and including all members of the Steering and Study Committee.

JET:df

MINNESOTA CITIZENS FOR COURT REFORM

Date: April 22, 1968

Place: Minneapolis Club

Present: John Tilton, Chris Batchelder, Dr. Sidney Rand, Bill Cooper, Harold Shapira, Lawrence O'Shaughnessy, Sander Genis, John Verstraete, Jr., Mrs. William Whiting, John McNulty and Mrs. Loring Staples, Jr.

The meeting was called to order by the Chairman, Mr. John Tilton. The minutes of the meeting of March 26, 1968 were read. A motion was made and seconded that they be accepted. The motion was carried.

Following a brief discussion the motion was made and seconded that Mrs. Whiting, Mr. O'Shaughnessy and Mr. Tilton constitute a committee to approve the design of a letterhead for stationery and envelopes. The motion was carried.

The only funds which the group has available at the moment is \$1000 which is being held by the Minnesota Bar Association. The motion was made and seconded that the Chairman and Treasurer be empowered to requisition up to the entire amount. The motion was carried.

Mr. O'Shaughnessy, Mr. Verstraete and Mr. Shapira reported on their meeting with Mr. Duane Gratz. They outlined his background and interests which would qualify him for the position as Executive Director of this group. He indicated that he would be available May 1. The motion was made and seconded that a committee composed of Messrs. Tilton, O'Shaughnessy, Verstraete and Shapira be authorized to engage Duane Gratz as Executive Director of the Minnesota Citizens for Court Reform on the basis of a potential budget of approximately \$25,000 annually which shall include salary, office expense and overhead. The motion was carried.

The motion was made and seconded the annual dues be five dollars for membership with the understanding that contributions be actively sought for the support of the organization. The motion carried.

It was felt that a program of our aims should be presented for the reactions of the committee by the next meeting. The next meeting of the Executive Committee is scheduled for May 20 at 4:30 at the Minnesota Club in St. Paul. The next meeting of the Steering and Study Committee is scheduled for June 10 at 10:00 AM at the Holiday Inn Central in Minneapolis.

The motion was made and seconded to adjourn. The motion was carried.

Respectfully submitted,

Emily Mayer Staples
Acting Secretary

MINNESOTA CITIZENS FOR COURT REFORM

Date: April 22, 1968

Place: Minneapolis Club

Present: John Tilton, Chris Batchelder, Dr. Sidney Rand, William J. Cooper, Harold Shapira, Lawrence O'Shaughnessy, Sander Genis, John Verstraete, Jr., Mrs. William Whiting, John McDulty and Mrs. Loring Staples, Jr.

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It was moved that a tentative legislative program, drawn as a basis for detailed consideration at the next executive committee meeting, be prepared, with the understanding that such program, as revised by the entire committee, be submitted for study by the combined meeting of the Executive Committee and Steering Committee. The motion was seconded and approved. Next meeting of the Executive Committee is scheduled May 20 at 4:30 p.m. at the Minnesota Club in St. Paul. Combined meeting of the Executive and Steering and Study Committees is scheduled for June 10 at 10:00 a.m. at Holiday Inn Central in Minneapolis.

A motion was made and seconded to adjourn. The motion carried.

Respectfully submitted,

Emily Mayer Staples
Acting Secretary

MINNESOTA CITIZENS FOR COURT REFORM

Date: March 26, 1968

Place: St. Olaf Center, Northfield, Minnesota

Present: Chris Batchelder, Dr. Sidney Rand, Bill Cooper, Harold Shapira, Lawrence O'Shaughnessy, John Verstraete, Jr. and Mrs. Loring Staples, Jr.

The meeting was called to order by Mr. Batchelder, Vice-Chairman, at 4:30 PM. The minutes of the meeting of February 26 were approved as circulated.

The first item of business was a discussion of the financial needs of the organization. We will need some kind of staff and whether this will be an executive director with a secretary and office or whether we could depend on an executive service organization during the initial stage was discussed. Before any budget can be accurately projected these questions will need to be explored.

Staff need will necessarily be keyed to the legislative session and if the legislature reacts favorably the next goal would be education of the electorate on constitutional amendment or amendments presented on the ballot in November, 1970.

Messrs. Shapira, O'Shaughnessy and Verstraete were asked to become a subcommittee to investigate staff possibilities and give some indication of cost involved.

Mr. O'Shaughnessy gave a brief review of our purpose and reemphasized that whatever proposals we adopt should be referred to as the Minnesota Plan.

Committee Reports

Bylaws - John McNulty is proceeding on these and it is hoped that they will be circulated before our next meeting so that they may be considered at that time.

Legislative - Mr. Batchelder read a letter from Mrs. Whiting which reported on the contacts she has made and on a meeting of the joint Senate and House Judiciary Interim Committee which she attended.

Liaison - Dr. Rand reported that at the moment there is little communication between groups interested in this area. In the future it is hoped that this committee will perform the function of catalyst and act as the vehicle for change.

Lawyers - Mr. Cooper reported that he has started working on a list, but has made no contacts.

Membership - Mr. O'Shaughnessy will see that a letter is drafted to all original conferees announcing what progress has been made and soliciting their membership. From that point we must broaden our base and several suggestions were made about how to start.

Publicity - This must wait until our program is formulated. Mr. Verstraete has a list of conferees interested in this area. It was suggested that organization be follow congressional district lines and include a speakers bureau.

It was suggested that three study committees be formed in the areas of
1) Judicial Selection, 2) Unified Court System and 3) Judicial compensation,
discipline and removal.

The next meeting will be held on April 22 at 4:30 PM at the Minneapolis
Club. At that time the agenda should include consideration of the bylaws,
staff and committee selection.

Respectfully submitted,

Emily Mayer Staples
Acting Secretary



Conference Chairperson

MINNESOTA CITIZENS FOR COURT REFORM

Date: March 25, 1968
Place: St. Olaf Center, St. Olaf College, Northfield, Minnesota
Present: Christopher Batchelder, Dr. Sidney Rand, William Cooper, Harold Shapira, Lawrence O'Shaughnessy, John Verstraete, Jr., and Mrs. Loring Staples, Jr.

The meeting was called to order by Mr. Batchelder, Vice-Chairman, at 4:30 p.m. The minutes of the meeting of February 26 were reviewed and approved.

Some time was spent in speculating on and discussing the nature of the effort which will need to be organized if the program of judicial reform is to be enacted by the Minnesota Legislature and the necessary constitutional amendments approved by the voters in the General Election in November of 1970.

The need for staff and a central office which would serve as a base of operations for this effort was also discussed. Some time was spent in considering the relative merits of having an executive secretary whose total commitment would be to the Court Reform Program versus engaging the services of a firm whose business it is to provide executive secretary-type services. Mr. Batchelder asked Messrs. Shapira, O'Shaughnessy, and Verstrate to serve as a subcommittee to explore the relative merits of each approach and to make a preliminary survey for persons who might be available to serve as an Executive Secretary. The subcommittee was asked to report at the next Executive Committee Meeting.

Committee Reports

Bylaws - John McNulty is proceeding with these and it is hoped that a draft of them can be circulated before our next meeting for consideration by the members of the Executive Committee.

Legislative - Mr. Batchelder read a letter from Mrs. Whiting in which she reported on the contacts she has made and on a joint meeting of the Senate and House Subcommittees on Judicial Reform.

Liaison - Dr. Rand reported that at the moment there is little communication between the various groups interested in judicial reform. It is hoped that this committee will serve as a catalyst.

Lawyers - Mr. Cooper reported that he has started working on a list, but has made no contacts.

Membership - Mr. O'Shaughnessy is working on a letter to all the original conferees reporting the progress which has been made and soliciting their membership. From that point we must broaden our base and several suggestions were made about how to start.

Publicity - This must wait until our program is formulated. Mr. Verstraete has a list of conferees interested in this area. It was suggested that organization follow congressional district lines and include a speakers bureau.

Minnesota Citizens for Court Reform - 2

The idea of appointing three study committees in the areas of 1) Judicial Selection, 2) Unified Court System, and 3) Judicial compensation, discipline and removal was again suggested by Mr. O'Shaughnessy and discussed by members of the Committee.

The next meeting will be held on April 22 at 4:30 p.m. at the ^{Minneapolis} Minnesota Club. At that time the agenda should include consideration of the bylaws, staff and committee selection.

Respectfully submitted,

Emily Mayer Staples
Acting Secretary

MINNESOTA CITIZENS FOR COURT REFORM

Date: February 26, 1968

Place: Town and Country Club, St. Paul

Present: Chris Batchelder, Dr. Sidney Rand, John McNulty, Mrs. William Whiting, Bill Cooper, Harold Shapira, Lawrence O'Shaughnessy and Mrs. Loring Staples, Jr.

The meeting was called to order at 4:30 PM by ^{Mr.} Chris Batchelder, Vice-Chairman. Minutes of the meeting of the Steering and Study Committee ~~meeting~~ of January 30, 1968 were reviewed. The meeting of the Executive Committee held on February 5, 1968 was reported upon by those who attended.

At the February 5 meeting Mr. O'Shaughnessy was appointed chairman of the bylaws committee and he presented his considerations for discussion by the group.

It was agreed that the Board of Directors will satisfy the original intent of the Minnesota Citizens' Conference on Courts to "inform, poll and formulate courses of action" by informing all of the original conferees of what progress has taken place to date and by sending them the bylaws of the present organization. Naturally, all original conferees will be earnestly solicited to become members of this group.

Bylaws considerations were discussed in the following order:

1. Membership

At present, members of the Steering and Study Committee are the only members of this group. Voting rights shall be vested in the Board of Directors which is ^{composed} ~~constituted~~ of the members of the present Steering and Study Committee. Participants in the Minnesota Citizens' Conference on Courts should be the first people contacted for general membership. Discussion ensued about whether future members other than conferees should be passed on by the Board of Directors. It was decided that this could be an automatic precedure.

2. Composition of the Board of Directors

All members of the Steering and Study Committee will be members of the Board of Directors. The Board will be self-perpetuating. The size of the Board shall be no fewer than three members and no more than 50. One quarter of the Board shall constitute a quorum. Vacancies in the Board may be filled by the Board at any regularly scheduled meeting. The term of Board service shall be left indeterminate for the present.

3. Composition of the membership

All members must be residents of the State of Minnesota. It was agreed by mutual consent that only the Board of Directors be limited to non-judicial, non-political members. The general membership shall be empowered to make recommendations to the Board of Directors. There shall be an annual meeting for the entire membership.

4. Other

The Executive Committee shall act on behalf of the Board of Directors between meetings. The Chairman shall call meetings, but in case of his failure to do so, any officer of the Board may do so with the concurrence of three additional Board members. Ten days written notice must be given of all meetings. Membership fees of \$2.00 for individual members and \$5.00 for affiliate (corporate) members was tentatively agreed on - with the stipulation that these fees not be included in the bylaws. Affiliate members shall have no voting power.

Chairmen of committees shall have the responsibility for developing the membership of the committees. However, this should be done at an Executive ~~Committee~~ meeting so that there is not duplication and that the best use is made of individual talent and interest.

The Legislative Committee is to remain aware of what is going on in this field. The Liaison Committee is to keep in contact with other groups interested in court reform. To date replies to a letter sent out by the Chairman, Mr. Tilton, have been received from Judge Neville of the Citizen's Council on Crime and Delinquency, Justis Otis, Senator Gordon Rosenmeier, George Thiss and Charles Johnson of the Republican Task Force. We will be apprised of the deliberations of the Judicial Administration Committee of the Minnesota Bar Association. The Education and Publicity Committee will need broad statewide representation. The Lawyers Committee should see that lawyers, judges and those in the academic area who are interested in court reform are kept aware of our progress.

It was suggested by Mr. McNulty that we write our Representatives in Washington requesting their consideration of H. R. 6970 which provides for organizations studying court reform to remain tax exempt while carrying out such studies, rather than be taxed as lobbying groups.

A timetable for action was discussed and it was agreed that our group must be well along in its ~~meeting~~ ~~by June~~ deliberations by June.

The next meeting of the Executive Committee will be Monday, March 25 at 4:30 PM in the St. Olaf Center, Northfield, Minn.

Respectfully submitted,

Emily Mayer Staples
Acting Secretary

MINUTES

MINNESOTA CITIZENS CONFERENCE ON COURTS

PLACE: Holiday Inn, Central Minneapolis
DATE: January 30, 1968
PRESENT: Maynard Persig, Robert Johnson, Elmer P. Piepgras, Wallace Hermann, Dr. H. E. Gaustad, Harold Shapira, Mrs. Annette Whiting, Dr. Paul Arnesen, Arnulf Ueland, Jr., Ted Collins, Honorable Elmer Tohfahr, Mrs. Jacob Dim, William Nierengarten, Si Weisman, Lawrence M. O'Shaughnessy, Christopher O. Batchelder, Timothy Quinn, Robert Meier, Sidney Feinberg, Sidney Rand, Mrs. Sophie Marblestone, Sander Genis, John Tilton, R. Stanley Lowe, John D. McNulty.

Mr. Weisman moved that the minutes of the meeting held on September 8, 1967, be approved. The motion was seconded and carried.

Mr. O'Shaughnessy for the AD Hoc Committee, presented the following nominees for office: For Chairman, Mr. John Tilton; for Vice-Chairman, Mr. Christopher Batchelder; for Secretary, Mr. Sander Genis. Mr. O'Shaughnessy relinquished the chair to Mr. Sidney Rand for the purpose of moving that the above names be placed in nomination for the offices mentioned. Mr. Weisman moved that the motion be amended to provide for a second Vice-Chairman who would be an attorney. Following some discussion, Mr. Weisman withdrew his motion to amend. Mr. Sander Genis moved that a second Vice-Chairman be added to the officers of the Steering and Study Committee with the AD Hoc Committee selecting a nominee for this office. This amendment was lost for lack of a second. There being no further nominations, Dr. Gaustad moved that nominations be closed and the individuals nominated by the AD Hoc Committee be declared elected. The motion was seconded and passed. Mr. Tilton assumed the chair to conduct the balance of the meeting.

Mr. Rand moved that the AD Hoc Committee be asked to nominate a second Vice-Chairman. The motion was seconded and passed.

The Articles of Incorporation of the Minnesota Citizens for Court Reform were presented by Mr. John C. McNulty. He noted that Mr. John Verstrate will serve as a director in place of Mr. Harry Heltzer. Dr. Gaustad moved that the articles as presented by Mr. McNulty be approved. This motion was seconded and carried.

Mr. Piepgras moved that the AD Hoc Committee be asked to prepare By-laws to be presented at a future meeting. The motion was seconded and passed.

Mr. O'Shaughnessy was called upon to discuss his views on how the committees and sub-committees might function. He recommended the creation of the following committees:

1. Finance and Fund Raising - *Mr. Shapira*
2. Membership (AD Hoc) - ~~Membership~~ *Mr. O'Shaughnessy*
3. Education and Publicity - *John Verstrate*

- Sidney Rand*
4. Liaison (Relations with other judicial and court reform groups)
 5. Legislative - *Mrs. Whiting*
 6. Executive (Officers and Committee Chairmen) -
 7. ~~Lawyer and Legal Advice~~ - *Mr. Cooper*
Committee

Mr. O'Shaughnessy also recommended that three study committees be appointed, ⁽¹⁾ one on judicial selection, ⁽²⁾ a second on the unified court system and court reform, ⁽³⁾ a third on judicial tenure, compensation and removal. A list was passed around asking those in attendance to indicate their preference for the committee on which they would like to serve. Each member was asked to serve on one of the functioning as well as on one of the study committees. Mr. Rand moved that the officers be directed to select the membership of the committees with the understanding that membership and number of committees may be altered at a future date. This motion was seconded and passed.

Mr. Feinberg reported on the efforts of the Minnesota Bar Association in the area of judicial reform and court organization. The Bar Association will be active in all areas of legislation as it affects court reform.

Professor Persig spoke briefly on the work of the Governors Commission on Crime. The Commission has a sub-committee on court organization and reform. The sub-committee is developing proposals for study and approval by the full Commission.

Senator Robert Johnson, author of several bills on judicial reform was introduced. He spoke on the attitudes of the legislature towards court reorganization and judicial reform.

Mr. Wallace Hermann moved that future meetings of the committee be held on weekends. This motion was seconded and passed.

Mr. Sander Genis moved that the meeting be adjourned. The meeting was declared adjourned at 2:45 p.m.

Respectfully submitted,

Christopher O. Batchelder
Acting Secretary

COB:lj

MINNESOTA CITIZENS' CONFERENCE ON COURTS

LIST OF CONFEREES

FIRST DISTRICT

✓ Christopher O. Batchelder
415 - 16th Avenue S. W.
Rochester, Minnesota

Robert A. Bezoier
913 - 10th St. S.W.
Rochester, Minnesota

Mark G. Brataas
Mayo Clinic
Rochester, Minnesota

Dale Dodson, D. O.
314 Washington
Northfield, Minnesota

✓ Philip S. Duff Jr.
Daily Republican Eagle
Red Wing, Minnesota

Rev. Roger Lynn
1131 - 29th St. S.E.
Rochester, Minn. 55901

Sidney A. Rand, President
St. Olaf College
Northfield, Minnesota

Mrs. William W. Whiting
622 E. School St.
Owatonna, Minn. 55060

SECOND DISTRICT

✓ Dr. Paul M. Arnesen
18 Sumner Hills
Mankato, Minnesota

Charles G. Atwood
220 Terrace Drive
Mankato, Minnesota

Dr. Robert A. Barrett
Mankato State College
Mankato, Minnesota

Dr. R. W. Lowry, Jr.
319 - 11th
Worthington, Minnesota

Mrs. Cecil J. Manahan
Madelia, Minnesota

✓ Elmer P. Piepgras
421 W. Luverne St.
Luverne, Minnesota 56156

Arnulf Ueland, Jr.
P. O. Box 705
Mankato, Minnesota 56001

THIRD DISTRICT

William V. Belanger, Jr.
10716 Beard Ave. So.
Bloomington, Minn. 55431

Floyd G. Clasen
229 Jackson
Anoka, Minnesota

Viola M. Kanatz
2901 O'Henry Road
Brooklyn Center, Minn.

Jess March
417 Sexton Building
Minneapolis, Minn.

✓ Harold J. Nelson
1723 W. 84th St.
Bloomington, Minn.

THIRD DISTRICT (continued)

Donald Stoltz
Rt. #6
Excelsior, Minn.

John E. Tilton
Minneapolis Suburban Newspapers
Hopkins, Minnesota

Fletcher C. Wallen, Jr.
4621 Browndale
Edina, Minnesota 55424

✓ Mrs. Marvin Chelgren - State PTA
676 E. Arlington
St. Paul, Minn.

William J. Cooper, President
Minn. Ass'n. of Life Underwriters
725 N. W. National Bank Bldg.
Minneapolis, Minn. 55402

✓ Ed Donahue
1932-1/2 University Ave.
St. Paul, Minn.

FOURTH DISTRICT

✓ James H. Adams - Symphony
1655 Euclid
St. Paul, Minnesota

Daniel R. Baker
674 Prior Ave. So.
St. Paul, Minn. 55116

Rev. Emery Barrette
718 East Arlington Avenue
St. Paul, Minn.

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St. Paul, Minn. 55102

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College of St. Thomas
2115 Summit Ave.
St. Paul, Minn.

William L. Brummund
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Norris Carnes
1940 Edgumbe Rd.
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Roy J. Dunlap
771 Ridge St.
St. Paul, Minn. 55116

Dr. Donald W. Dunnan
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St. Paul, Minnesota

Michael F. Ettel
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✓ Sister Fides
College of St. Catherine
2004 Randolph St.
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Ronald J. Flanagan
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St. Paul, Minnesota

Dr. Frederick E. Flynn
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Minneapolis, Minn.

Harry Heltzer
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FOURTH DISTRICT (continued)

Louis W. Hill, Jr.
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Northwestern Nat'l. Bank
St. Paul, Minn.

Eugene Lentsch
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William E. McGivern
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Miss Pearl Mitchell
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—G. T. Mitau
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Rev. Wm. A. Poehler
Concordia College
St. Paul, Minn.

Rabbi Bernard S. Raskas
Temple of Aaron
616 S. Mississippi River Blvd.
St. Paul, Minn.

—Robert H. Rutford
1429 Albany Ave.
St. Paul, Minn.

Mrs. Joseph J. Schmidtlein
4245 Aldrich Ave. So.
Minneapolis, Minnesota

Dr. Frederick C. Schwartz
Mt. Zion Temple
1300 Summit Ave.
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Harold B. Shapira
1832 Colvin Ave.
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1850 University Ave.
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John J. Verstraete, Jr.
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Jerome H. Froehlig
3827 Vincent No.
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✓ Ann W. Arnold, M. D.
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Minneapolis, Minn. 55404

✓ Sander D. Genis
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Miss Frances Baker
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Jevne Baskin
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Rabbi Arnold M. Goodman
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✓ James Borman
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✓ J. C. Jordan
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Minneapolis, Minn.

Gerald T. Mullin
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Don O'Brien
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Brother De Paul
House of Charity
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Rabbi Max A. Shapiro
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✓Nathan M. Shapiro
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Paul R. Thatcher
Mooney Lake
Wayzata, Minn.

Rev. Tenner Thompson
4115 - 37th Ave. So.
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Thomas Welch
Marquette National Bank
Minneapolis, Minn.

Fred Weil, Jr.
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Minneapolis, Minn.

✓Stanley J. Wenberg
University of Minnesota
Minneapolis, Minn.

✓James P. Wilson
1277 W. Minnehaha Pkwy.
Minneapolis, Minn.

FIFTH DISTRICT (continued)

Dr. O. Meredith Wilson, President
University of Minnesota
Minneapolis, Minnesota

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Minneapolis, Minn.

Richard M. Young
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Minneapolis, Minn.

Mrs. Harry Zimmerman
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Minneapolis, Minnesota

SIXTH DISTRICT

✓ Dr. I. L. Dubow
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Little Falls, Minnesota

H. E. Gaustad, D.D.S.
Cokato, Minnesota

Andrew R. Johnson, Jr.
Olivia, Minnesota

William L. Olmsted
503 Washington
Brainerd, Minnesota

SEVENTH DISTRICT

Donald Birmingham
221 So. 9th St.
Moorhead, Minnesota

Donald Hustad
Alexandria, Minnesota

F. J. Jordan
1105 Minn. Ave.
Detroit Lakes, Minn.

R. C. Nelson
Hallock, Minnesota

Mrs. Ann Richter
Wadena, Minnesota

Rev. Ralph L. Tellefsen
404 Johnson Place
Crookston, Minn. 56716

Dr. Paul Wendt
Thief River Falls, Minn.

EIGHTH DISTRICT

William G. Atmore, M.D.
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Sister M. Electa, O.S.B.
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407 Third St. E.
Duluth, Minn.

Wallace Herman
407 - 8th St.
International Falls, Minn.

Ronald Hocevar
Gilbert, Minn.

William F. Maupins—
625 - 9th Ave. E.
Duluth, Minn.

✓ Katharine E. Muff
Eveleth, Minnesota

Mrs. C. A. Nickoloff
815 E. Howard
Hibbing, Minnesota

EIGHTH DISTRICT (continued)

Jeno F. Paulucci
Chun King Corp.
Duluth, Minnesota

✓ Msgr. Bernard Popesh
Stanbrook Hall
Duluth, Minnesota

Mrs. M. I. Smith—
Box 65 Star R. 2
Hibbing, Minn. 55746

8-30-66



September 8-10, 1966, Capp-Towers - Minneapolis

MINNESOTA CITIZENS' CONFERENCE ON COURTS

Address Communications to:
Minnesota Citizens' Conference On Courts
505 Minnesota Federal Building
Minneapolis, Minnesota 55402

SPONSORED BY:

Minnesota State Bar Assoc.
American Judicature Society
The Judicial Council of the
State of Minnesota

COOPERATING ORGANIZATIONS:

Section on Court Organization &
Administration
Young Lawyers Section
University of Minn. Law School
William Mitchell College of Law
Lawyers' Wives of Minnesota

COMMITTEE:

John C. McNulty, Chairman
Minneapolis
Mrs. Wright Brooks
Minneapolis
Mrs. Ellis Bursell
Hopkins
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Hon. Crane Winton
Minneapolis

CONFERENCE ADVISOR:

Glenn R. Winters,
Executive Director,
American Judicature Society,
Chicago, Ill.

December 27, 1966

TO: Delegates, Alternates & Resource Personnel

I am pleased to report to you that Governor Elect, Harold LeVander, is placing both the Merit Selection of Judges and the Commission Form of Discipline and Removal on the top of his agenda for things to be accomplished during the 1967 Legislative Session. Legislation is being drafted, which conforms to the recommendations of the Citizens' Conference and the 1966 Republican Party Platform, and it will have the full support of the Governor. I have enclosed herewith, a copy of the 1966 Republican Platform on Judicial Reform.

As members of the Citizens' Conference, you can take pride in the part you played in this achievement. With your support and with your help, judicial reform is not only possible, it is just around the corner.

Enclosed you will find a report of the Ad Hoc Committee on their deliberations since completion of the Conference. A meeting of those persons named as delegates, alternates, and resource personnel will be held on Friday, January 20, 1967, beginning at 12:00 o'clock noon at the Holiday Inn Central, Room 8, 14th floor. The price of the luncheon will be \$3.00.

At that meeting the Ad Hoc Committee will present its slate of nominees for Chairman, Vice-Chairman, and Secretary of the Steering and Study Committee. If you are one of those named as delegate, alternate or resource personnel, your attendance at this meeting is very important and I hope you can find time from your very busy schedule to participate.

To: Delegates, Alternates & Resource Personnel
Page 2

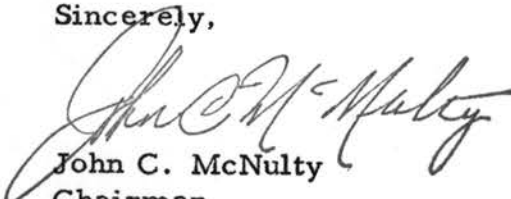
Matters to be considered include:

1. Election of officers.
2. Examination of the Governor's program.
3. Support of Legislative measures, meeting the approval of the Conference.
4. Support of Constitutional Amendments, meeting the approval of the Conference.

I hope you are as pleased as I am with the marvelous possibilities that are within our grasp.

Please return the enclosed card indicating whether or not you will be able to attend.

Sincerely,



John C. McNulty
Chairman

JCM:jb
enc.

Reorganization of the Judicial Branch of State Government

Improvement in the judicial branch again is a matter of competent personnel and a court system structured to all needs. Backlogs and delays deny justice to the people, and the DFL judicial appointment system which rewards unqualified party functionaries reduces respect for the judicial system.

Therefore, we recommend:

1. Progress toward a statewide system of uniform courts of general and limited jurisdiction, and including
 - A. Specialized probate and juvenile courts,
 - B. An intermediate court of appeals, and
 - C. A department of court administration modeled after the Federal system to exercise supervisory functions under the Legislature over the entire court system.
2. Adoption of a plan similar to the Missouri Plan for appointment to the Supreme Court, the Intermediate Court of Appeals, when created, and the District Court. This plan would provide for:
 - A. Nomination of judges by a non-salaried, non-partisan commission consisting of:
 - 1) The Chief Justice of the Supreme Court, as chairman,
 - 2) Three lawyers chosen by the members of the state bar, and,
 - 3) Three lay members appointed by the Governor.

The members of this commission would have six-year terms, staggered for one expiration each year. No one would be eligible to succeed himself.
 - B. This commission shall propose for each vacancy three nominees from which the Governor shall appoint one.
 - C. After a trial period of one year, the name of the judge shall appear on the ballot, not as opposed by another candidate but merely on the question of whether he should continue in office. By obtaining a majority of the votes cast on the issue the judge would remain in office for six more years.

2.C. (continued)

At that time his name would again be placed on the ballot. Failure to receive a majority of the votes cast on the issue creates a vacancy, and the appointive process is used.

3. Creation of a continuing legal research center by the Legislature, which should obtain the support of the Bar Association, the University of Minnesota Law School and the William Mitchell College of Law. Such a center should take over the functions of the State Bar Library, and in addition provide continuing research into Minnesota statutes and into developments in the law in other states which might be adapted for use in Minnesota.

12-27-66

December 27, 1966

REPORT OF AD HOC (NOMINATING) COMMITTEE
OF THE MINNESOTA CITIZENS' CONFERENCE ON COURTS

I. Ad Hoc (Nominating) Committee:

Nature and purpose:

- A. From the Consensus Statement of the Minnesota Citizens' Conference on Courts: "From the conferees there shall be formed a steering and study committee consisting of two (2) persons from each congressional district in the state, to be appointed by the sponsoring committee of this conference. After formal organization, they shall take such steps to inform and poll the conferees of the first Minnesota Citizens' Conference on Courts, in order to formulate courses of action by which these recommendations on court improvement may be further implemented."
- B. The Ad Hoc Committee was formed as a nominating committee to select candidates for the Steering and Study Committee.
- C. The above statement from the Consensus was interpreted as an enabling directive to assist in the formation of a Steering and Study Committee. There should be at least two members from each congressional district, in order to assure proper representation. But, the Ad Hoc Committee urges the Steering and Study Committee to augment this basic membership by appropriate expansion of its membership, so that it may effectively balance representative and competing interests and take advantage, as well, of the wisdom, knowledge and leadership of outstanding individual citizens.

The Ad Hoc Committee has made its nominations in accordance with the Conference directive and in the spirit of these convictions.

- D. In accordance with a motion made and passed, the Ad Hoc Committee offers to remain in existence, as a nominating - advisory committee, until such time as the Steering and Study Committee no longer needs its services.

- E. In accordance with a motion made and passed, the names of the members of the Ad Hoc Committee were withheld from nomination to the Steering and Study Committee. However, Lawrence O'Shaughnessy, as Chairman of the Ad Hoc Committee, was nominated to continue on the Steering and Study Committee as the representative of the Ad Hoc Committee.
- F. Members of the Ad Hoc Committee may be approached individually by the Sponsoring Committee for membership on the Steering and Study Committee.

II. Membership of the Steering and Study Committee:

- A. The attached list of names comprises the following:

- 1. Two nominees from each congressional district.
- 2. Two alternate nominees from each congressional district.
- 3. Names of "Resource" people.

This latter category includes people who should be considered for membership on the Steering and Study Committee because of their special knowledge, their wisdom and their leadership. Some attempt was made to nominate "resource" people from the various congressional districts.

- B. The nominees and alternates should be asked to become members in the appropriate order.
- C. The Ad Hoc Committee recommends the inclusion of as many "resource" persons as is appropriate to the purposes of the Steering and Study Committee. Also, it recognizes that certain other "resource" persons, not nominated by the Ad Hoc Committee, may be added as time goes on. This may be necessary for effective study and/or action. It should be noted that certain nominees and alternates have been marked "resource" in the event that they are unable to serve in a full capacity.

- D. In the selection of nominees, the Ad Hoc Committee followed the principle of avoiding the names of known practicing lawyers and politicians. The Ad Hoc Committee makes no attempt to bind the Steering and Study Committee to a future practice of this principle because it recognizes that events may make this impossible or undesirable.
- E. Some attempt was made to "balance" the slate of nominees with respect to representation of various interests and occupations. In practice this proved difficult. The following motion was made and passed:

Recommendation to the Steering and Study Committee:

Because the authority of the Ad Hoc Committee was limited to selection of a Steering and Study Committee which was limited to equal representation by congressional districts, and primarily limited in selection of those who were invited and/or attended the conference, and because this necessarily limited the Ad Hoc Committee in selection balance with respect to the various interest groups, such as business, the professions, agriculture, labor, etc., the Committee, therefore, recommends that:

The Steering and Study Committee expand its own ranks to include a membership which would balance the committee with respect to the various interest groups in our state, as well as including "resource" people when and as they see fit.

It is further recommended that the Steering and Study Committee give consideration in its selections to proposed "resource" people suggested by the Ad Hoc Committee.

- F. As noted in the above motion, the Ad Hoc Committee, limited its nominations to persons who were invited to the Conference, and in fact mostly to those who attended the Conference.

III. Organization of the Steering and Study Committee:

- A. The Committee should precisely determine its relation to the Citizens' Conference. Perhaps it should be the Executive Committee for the Conference. Or, perhaps it could become the Board of Governors for the Conference. In any case, the members of the Conference should be informed as to its existence and its membership.

IV. Task of the Steering and Study Committee:

- A. The Ad Hoc Committee makes no binding recommendations with respect to the task of the Steering and Study Committee, but it wishes to remind the Committee that it was formed to study and to implement the consensus of the Conference. This document should become the basic starting point of discussion.
- B. Due consideration should be given to the opinions and positions of the authors and supporters of the so-called "Minority Report". It is assumed that these arguments and positions will receive an ample hearing and discussion.

V. Procedure of the Steering and Study Committee:

- A. Here again the Ad Hoc Committee makes no specific recommendation. It merely wishes to remind the Steering and Study Committee to keep the Citizens' Conference fully informed and to seek its advice and consultation at appropriate times. Also, the Conference should ratify any conclusions and actions taken by the Steering and Study Committee.

#

DISTRICT #1

Sidney Rand - Nominee - Resource
Chris Batchelder - Nominee
John Nason - Alternate - Resource
Dale Dodson - Alternate
Fayette Sherman - Alternate

DISTRICT #2

Dr. Paul Arneson - Nominee
Mrs. Cecil Manahan - Nominee
Robert Barrett - Alternate - Resource
Elmer Piepgrass - Alternate
Arnulf Ueland, Jr. - Alternate
Richard G. Wade - Resource

DISTRICT #3

Robert Gomsrud - Nominee
Mrs. Loring M. Staples - Nominee
John Tilton - Alternate
John R. Steinbauer - Alternate
Mrs. Charles W. Johnson - Resource
Floyd G. Clasen - Resource

DISTRICT #4

Lawrence O'Shaughnessy - Special Nominee
Rev. Denzil Carty - Nominee
Ted Mitau - Nominee - Resource
Harry Heltzer - Alternate
Sister Fides - Alternate
Al Heckman - Resource
Elmer Anderson - Resource
George Vavoulis - Resource
Norris Carnes - Resource

DISTRICT #5

Sandor D. Genis - Nominee
Gerald T. Mullin - Nominee
Robert P. Janes - Alternate
Don O'Brien - Alternate
Mrs. Darryl Yates - Alternate
Stanley J. Wenberg - Resource
Dr. Maynard Persig - Resource
Rita Shemesch - Resource

DISTRICT #6

Dr. H. E. Gaustad - Nominee
Dr. I. L. Dubow - Nominee
George Borgerding - Alternate
Bishop Dworshak - Resource

DISTRICT #7

Donald Birmingham - Nominee
Donald Hustad - Nominee
Rev. Ralph L. Tellefsen - Alternate
Leonard Driscoll - Alternate
Albert Hartl - Alternate
Dr. A. C. Clark - Resource

DISTRICT #8

Mrs. Katherine Muff - Nominee
Wallace Herman - Nominee
Mrs. Marion I. Smith - Alternate
Orville E. Lomoe - Alternate
Mrs. C. A. Nickaloff - Alternate
George Rossman - Resource
Leo J. Thomas - Resource

12/27/66



September 8-10, 1966, Capp-Towers - Minneapolis

MINNESOTA CITIZENS' CONFERENCE ON COURTS

Address Communications to:

Minnesota Citizens' Conference On Courts
505 Minnesota Federal Building
Minneapolis, Minnesota 55402

SPONSORED BY:

Minnesota State Bar Assoc.
American Judicature Society
The Judicial Council of the
State of Minnesota

COOPERATING ORGANIZATIONS:

Section on Court Organization &
Administration
Young Lawyers Section
University of Minn. Law School
William Mitchell College of Law
Lawyers' Wives of Minnesota

COMMITTEE:

John C. McNulty, Chairman
Minneapolis
Mrs. Wright Brooks
Minneapolis
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Hopkins
Theodore J. Collins
St. Paul
Vincent P. Courtney
St. Paul
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St. Paul
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Red Wing
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Minneapolis
Hon. Crane Winton
Minneapolis

CONFERENCE ADVISOR:

Glenn R. Winters,
Executive Director,
American Judicature Society,
Chicago, Ill.

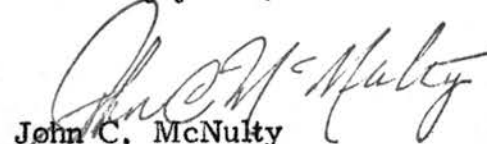
September 16, 1966

To: All Conferees of the Minnesota Citizens
Conference on Courts

Dear Conferee:

Attached is a list of the ad hoc committee which
was appointed by the sponsoring committee at
the conclusion of the Minnesota Citizens'
Conference on Courts.

Sincerely yours,


John C. McNulty
Chairman

Minnesota Citizens' Conference on Courts

TEMPORARY COMMITTEE

Lawrence O'Shaughnessy, Chairman
#1 Shelby Place
St. Paul, Minnesota

James Bormann
1415 Brenner Pass
Minneapolis, Minn.

William J. Cooper, C. L. U.
726 Lincoln Ave.
St. Paul, Minnesota

Edward W. Donahue
1932-1/2 University Ave.
St. Paul, Minnesota

Richard J. Frey, M. D.
Medical Arts Bldg.
Minneapolis, Minn.

Mrs. A. F. Marblestone
4372 Cottage Park Road
White Bear Lake, Minn.

Sidney A. Rand
1308 St. Olaf Ave.
Northfield, Minnesota

Harold B. Shapira
1832 Colvin Ave.
St. Paul, Minnesota

Mrs. Marie Slawik
1850 University Ave.
St. Paul, Minnesota

Fletcher C. Waller, Jr.
4621 Browndale Ave.
Edina, Minnesota

Mrs. Wm. W. Whiting
622 E. School St.
Owatonna, Minnesota

David J. Winton
5217 Wayzata Blvd.
Minneapolis, Minn.

THE CONSENSUS
of the
MINNESOTA CITIZENS' CONFERENCE TO IMPROVE
THE ADMINISTRATION OF JUSTICE

* * * *

Minneapolis, Minnesota
September 8-10, 1966

I

MINNESOTA COURTS AND JUDGES TODAY

The Minnesota judicial system, measured by modern standards, has certain weaknesses which should be eliminated or minimized. It has been our good fortune to have many dedicated and competent judges. We are here concerned with improving a judicial system that has been generally progressive and free of corruption and incompetence experienced by some other states.

Among the defects in the present system ^{is} ~~are~~ the ^{method of} ~~political~~ selection of judges, and the uncertainties in the matters of judicial tenure and retirement.

In the area of court organization and administration, Minnesota suffers both from a lack of a unified system of courts and also from the lack of effective administrative organization.

II

JUDICIAL SELECTION AND TENURE

The administration of justice and the selection of judges must be removed from partisan political considerations. The judicial branch of government demands an independent non-political and highly qualified judiciary. The existing appointment and elective procedure for selecting judges in Minnesota is not designed to obtain or secure the most qualified and able persons as judges on our bench. The full-time judges of Minnesota who are presently serving our courts, have been and are rendering dedicated and competent service. This is in spite of our present selection policy, not because of it. The needs of a modern society demand that our haphazard judicial selection policies be abandoned and that a systematic procedure be adopted to insure that the most able and most qualified persons are recommended for judicial service.

In the opinion of this conference, the method of selecting judges must be designed to ^{minimize} ~~remove~~ political considerations and to secure the services of the best qualified persons by some form of a pre-selection committee or commission. The composition of the selection committee should be so constructed as to eliminate to the greatest extent possible any undue influence or control by any special

interest group, be it political or professional. The selection committee should recommend judicial nominees to the Governor who will make the final appointment from the recommended nominees. This appointment procedure will act as a final check on the function of the selection committee and will maintain the participation of the executive which gives greater dignity and respect to both the judicial and executive branch of our government. The selection committee must be an on-going body with staggered terms of office to insure continuity of the selection policies. No member of the judicial selection committee should be eligible for selection to judicial office until some period of time has elapsed following termination of his services on the commission.

Once appointed, judges should be subject to a strong removal or disciplinary commission to act as a continuing check on the professional capacities of the judge. All judges should be subject to periodic performance review at stated intervals either by direct election by the citizens or by review of the judge's performance record by vote of the citizens or by review of a removal commission. No choice among these methods of periodic review is recommended.

A proper selection and tenure procedure is merely one factor in securing and retaining a highly qualified and independent judiciary. Other considerations are a more realistic compensation level for judges and an improved retirement program. An impartial judicial selection procedure will permit non-political consideration by the legislative branch of the need for creation of additional judicial positions.

III JUDICIAL COMPENSATION - RETIREMENT - DISCIPLINE & REMOVAL

On Judicial Compensation -

A further study should be made of the subject with the view toward increasing the compensation of judges at all levels.

On Retirement -

The present system is generally satisfactory except that increased sums might be considered after further study, insofar as voluntary retirement is concerned.

In the case of involuntary retirement - a specific (though arbitrary) age should be established, which would be mandatory in operation.

The mandatory rule will result in instances of competent and productive judges being retired. This result can be ameliorated by such judges being called upon to assist the active judiciary as the operations of the judicial system warrant.

Discipline and Removal -

While there is a system of sorts for the disciplining and removal of judges today, in historical fact it has not operated effectively or even well. There is insufficient information upon which to adopt a definitive set of rules on discipline and removal. There are worthwhile features in the California plan, but further study should be undertaken with the view of recommending a specific plan on such problem. Any plan so proposed should encompass the basic idea that its purpose would be to improve the quality of justice and its administration, would provide a sounding board for citizens with real or fancied grievances concerning the judiciary, and would yet provide protection and safeguards for members of the judiciary against unwarranted attacks.

IV

COURT ORGANIZATION AND ADMINISTRATION

Realizing that the present judicial system has served the state well in years past, we recognize its inadequacies to meet the needs of the 20th Century. Hence, we endorse a program of reorganization and modernization.

The principles of sound administration should be applicable to the judicial system with authority vested in the highest judicial officer or the court of last resort. Administrative staff should be made available to fulfill these non-judicial duties. Administrative assistance should also be provided for multi-judge trial courts.

A unified court structure, composed of a supreme court, an intermediate court of appeals, a trial court of general jurisdiction and a people's or magistrate's court to handle small claims and minor criminal cases, appears to be well-suited to the needs of Minnesota.

Final and complete abolition of the office of justice of the peace should be effected at the earliest possible date.

In the interest of providing even-handed justice for all the citizenry a concentrated effort should be made forthwith to minimize delay in the disposition of litigation. Action in this area need not await a program of court reorganization but can be initiated within the framework of the existing system.

To this end, there should be no reluctance to provide sufficient judicial manpower to hear and determine cases with all reasonable dispatch.

V

COURTS OF LIMITED AND SPECIAL JURISDICTION

To eliminate the multiplicity of suits; costly appeals; conflicts of interest on the part of fee justices of the peace and part-time judges; overlapping of the jurisdiction of courts; to utilize the best available manpower and special court services; and to promote economy, impartiality, simplicity, and efficiency, the consensus was that the system of courts of limited and special jurisdiction in Minnesota needs improvement and should be reorganized in the best possible way to achieve the same level of justice for litigants in all courts.

The consensus was to favor the unification of courts; but the prevailing sentiment was that the form unification and reorganization should take -- whether complete unification of all courts by constitutional amendment or partial unification by legislative enactment -- should evolve from further discussion and study by the interested groups, with the final form dependent upon a careful assessment of its chances for success.

The sentiment in favor of the elimination of justice of the peace courts was almost unanimous.

~~Off of~~ [†] The group unanimously adopted a resolution that a plan for reorganizing the lower court system be one in which there would be only full-time salaried lawyer judges in whom the public would have confidence and in which justice would be rendered on the same level as provided in the highest court of the state.

The prevailing sentiment of all groups would favor this resolution.

VI

IMPLEMENTATION OF THE VIEWS OF THE CONFERENCE

From the conferees there shall be formed a steering ^{and study} committee consisting of two (2) persons from each ~~judicial~~ ^{congressional} district in the state. After formal organization, they shall promptly take such steps as they deem necessary to formulate courses of action by which these recommendations on court improvement may be implemented.

- END -

TO THE MEMBERS OF THE MINNESOTA
CITIZENS' CONFERENCE ON COURTS:

The undersigned, as members of the Minnesota Citizens' Conference on Courts, participated with you in the meetings recently held in Minneapolis.

We, the Dissenting Group, believe, along with the rest of the conferees, that the judges of this State should receive more adequate salaries and pensions. This is necessary to attract and to keep within the judicial system the best qualified lawyers available. We heartily agree that steps must be taken to insure greater efficiency in the administration of the Minnesota court system. We affirmatively urge that methods and procedures be instituted to accelerate the trial and disposition of cases, in order to insure justice to litigants.

Our disagreement with the sponsors of the Conference concerns the so-called "Missouri Plan". We oppose this or any other method of selection or election of judges which would remove the judges from the electorate, deprive Minnesota citizens of their constitutional right to vote affirmatively for judicial candidates of their own choice, or which would institute a process of pre-selection (by a very few people) of lawyers to fill judicial vacancies.

The judiciary is one of the three important arms of the government. It is just as important as the legislative and executive branches. We believe that the judicial branch of the government should not be cut off from the democratic processes long established by the Constitution and statutes of the State of Minnesota.

The late Hon. Charles E. Clark, one of the great Federal Court Judges, expressed himself, that the Missouri Plan:

"has also a very obvious danger--even though all too generally overlooked--that of overstressing professionalism, of looking to the head exclusively, and not the heart. ***Since in our economy the rewards of professional competence are, quite naturally and properly, the confidence of and employment by all the settled institutions of our society--the banks, the insurance companies, the mammoth business combines, and so on--the imbalance toward mere preservation of the status quo and notably its aristocratic elements is a potential danger for the courts."

The Missouri Plan was adopted in the state of Missouri because of demonstrated corruption in the courts of two cities, Kansas City and St. Louis. It is significant that the plan has never been adopted by either of the counties in which the two cities is located. Furthermore, the plan has never been adopted for the state of Missouri generally, and is restricted to the cities mentioned, where the corruption existed.

The proponents of this plan in Minnesota bear a heavy burden to demonstrate that such a plan is needed in Minnesota. For the municipal courts, probate courts, the district courts and the Supreme Court of Minnesota have been free of corruption. There have been no judicial scandals here. The judges of Minnesota have a reputation second to none in the United States. In our opinion, the proponents of a "Missouri Plan" for Minnesota have not made out a case.

We enclose herewith a brief statement upon which you may, if you wish, indicate your agreement or disagreement with the Dissenting Report; and you may make any additional comments that you desire.

Whether you agree or disagree with us, we wish to thank you for your thoughtful consideration of this most important matter.

Sincerely yours,

(s) Jess March
Chairman, Dissenting Group
Minnesota Citizens' Conference
on Courts
417 Sexton Building
Minneapolis, Minnesota 55415

Enclosures



September 8-10, 1966, Capp-Towers - Minneapolis

MINNESOTA CITIZENS' CONFERENCE ON COURTS

Address Communications to:
Minnesota Citizens' Conference On Courts
505 Minnesota Federal Building
Minneapolis, Minnesota 55402

SPONSORED BY:

Minnesota State Bar Assoc.
American Judicature Society
The Judicial Council of the
State of Minnesota

September 13, 1966

COOPERATING ORGANIZATIONS:

Section on Court Organization &
Administration
Young Lawyers Section
University of Minn. Law School
William Mitchell College of Law
Lawyers' Wives of Minnesota

**TO: All Conferees of the Minnesota Citizens'
Conference on Courts.**

COMMITTEE:

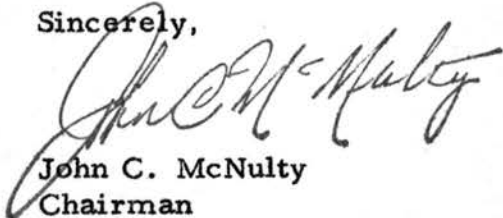
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Minneapolis
Hon. Robert J. Sheran
St. Paul
Hon. Elmer J. Tomfohr
Red Wing
Simon A. Weisman
Minneapolis
Hon. Crane Winton
Minneapolis

Dear Conferee:

Enclosed herewith please find a copy of the final
Consensus Statement which was based upon the
Saturday, September 10, 1966, plenary session.

Also enclosed, please find the Dissenting Report
which was presented by Mr. Jess March on Monday,
September 12, 1966.

Sincerely,


John C. McNulty
Chairman

JCM:jb
enc.

CONFERENCE ADVISOR:

Glenn R. Winters,
Executive Director,
American Judicature Society,
Chicago, Ill.

THE CONSENSUS
of the
MINNESOTA CITIZENS' CONFERENCE TO IMPROVE
THE ADMINISTRATION OF JUSTICE

* * * *

Minneapolis, Minnesota
September 8-10-1966

I

MINNESOTA COURTS AND JUDGES TODAY

The Minnesota judicial system, measured by modern standards, has certain weaknesses which should be eliminated or minimized. It has been our good fortune to have many dedicated and competent judges. We are here concerned with improving a judicial system that has been generally progressive and free of corruption and incompetence experienced by some other states.

Among the defects in the present system are the methods of selection of judges, and the uncertainties in the matters of judicial tenure and retirement.

In the area of court organization and administration, Minnesota suffers both from a lack of a unified system of courts and also from the lack of effective administrative organization.

II

JUDICIAL SELECTION AND TENURE

The needs of a modern society demand that our haphazard judicial selection policies be abandoned and that a systematic procedure be adopted to insure that the most able and most qualified persons are recommended for judicial service.

In the opinion of this conference, the method of selecting judges must be designed to minimize political considerations and to secure the services of the best qualified persons by some form of a pre-selection committee or commission. The composition of the selection committee should be so constructed as to eliminate to the greatest extent possible any undue influence or control by any special interest group, be it political or professional. The selection committee should recommend judicial nominees to the Governor who will make the final appointment from the recommended nominees. This appointment procedure will act as a final check on the function of the selection committee and will maintain the participation of the executive which gives greater dignity and respect to both the judicial and executive branch of our government. The

selection committee must be an on-going body with staggered terms of office to insure continuity of the selection policies. No member of the judicial selection committee should be eligible for selection to judicial office until some period of time has elapsed following termination of his services on the commission.

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further study should be undertaken with the view of recommending a specific plan on such problems. Any plan so proposed should encompass the basic idea that its purpose would be to improve the quality of justice and its administration, would provide a sounding board for citizens with real or fancied grievances concerning the judiciary, and would yet provide protection and safeguards for members of the judiciary against unwarranted attacks.

IV

COURT ORGANIZATION AND ADMINISTRATION

In order to eliminate the multiplicity of suits; costly appeals; conflicts of interest on the part of fee justices of the peace and part-time judges; overlapping of the jurisdiction of courts; to utilize the best available manpower and special court services; and to promote economy, impartiality, simplicity, and efficiency, the consensus was that the system of courts of limited and special jurisdiction in Minnesota needs improvement and should be reorganized in the best possible way to achieve the same level of justice for litigants in all courts.

The principles of sound administration should be applicable to the judicial system with authority vested in the highest judicial officer or the court of last resort. Administrative staff should be made available to fulfill these non-judicial duties. Administrative assistance should also be provided for multi-judge trial courts.

A unified court structure, composed of a supreme court, an intermediate court of appeals, a trial court of general jurisdiction and a people's or magistrate's court to handle small claims and minor criminal cases, appears to be well suited to the needs of Minnesota.

Final and complete abolition of the office of justice of the peace should be effected at the earliest possible date.

In the interest of providing even-handed justice for all the citizenry a concentrated effort should be made forthwith to minimize delay in the disposition of litigation. Action in this area need not await a program of court reorganization but can be initiated with the framework of the existing system.

To this end, there should be no reluctance to provide sufficient judicial manpower to hear and determine cases with all reasonable dispatch.

V

IMPLEMENTATION OF THE VIEWS OF THE CONFERENCE

From the conferees there shall be formed a steering and study committee consisting of two (2) persons from each congressional district in the state, to be appointed by the sponsoring committee of this conference. After formal organization, they shall promptly take such steps to inform and poll the conferees of the first Minnesota Citizens' Conference on Courts, in order to formulate courses of action by which these recommendations on court improvement may be further implemented.

DISSENTING REPORT

MINNESOTA CITIZENS' CONFERENCE ON COURTS

Minneapolis, Minnesota
September 12, 1966

The undersigned, having been requested by a substantial number of the citizens to serve on the Minnesota Citizens' Conference on Courts to reflect their dissent in this report to the purported consensus which was reached on Saturday, September 10, 1966, hereby expresses the position and dissent of this group.

This dissent does not apply to any of the proposed changes of court integration and changes for administration to achieve greater efficiency and elimination of needless costs and expense to the taxpayers. Such changes as promote modernization and greater efficiency is heartily approved. These changes include:

(1) Adequate compensation for judges, including retirement programs.

(2) The creation of additional judgeships and provision of additional court facilities in personnel to handle the increase in the legal controversies resulting from the population explosion, the new legal remedies constantly provided by Congress, the legislature and the civil rights decisions of the United States Supreme Court as well as the complexities of the present technological and social and economic revolution.

(3) The establishment of adequate mechanics for the proper removal of those judges who, because of infirmities of health, age, or because of inadequacy, no longer competently discharge their judicial duties. In this regard, appropriate safeguards of fairness, consistent with due process, to protect both the interest of any individual judge, sought to be removed, and the public interest should be provided. An appropriate citizens' commission representative of the various fields of endeavor is advocated. Such a commission should be composed of an equal number of judges of the various courts, members of the Bar and members of the public. The number of the commission should not be so large as to make its function difficult or impossible.

DISSENT

A. There is sincere and vigorous dissent from the proposed change in the present method of judicial selection, in the first instance, and judicial succession of an incumbent. This dissent is the result of considerable soul-searching and thought. The dissent is motivated by the undeniable fact that in Minnesota there has been a total absence of corruption in the appointment of judges or in the discharge of judicial functions by any judge of the Supreme Court, the District Court, the various Probate and Municipal Courts of the State of Minnesota. The evils of unsalaried fee paid Justices of the Peace has already been eliminated by statute in Hennepin County and will be eliminated in the entire state implementation of court integration as advocated by part 1 of this report.

B. The proposed change from present methods of selection by vote of the people is a surrender of a basic right of citizenship. Hence, it is repugnant to the democratic process.

C. The proposed change which forsakes the present method of succession in office by an incumbent, deprives the voters of any interest in the judiciary and its functions. It may perpetuate in judicial office a judge who discharges the minimal essentials of his function to a degree which does not subject him to removal but which is far below the standard of excellence achieved by judges who do face their constituents every six years. To achieve the highest standard of judicial excellence, it is essential that the judge have a feeling of responsibility to all of the people and to the voters of his district which can only be achieved by running against a possible candidate to succeed him.

D. The present method of judicial selection, in the event of a vacancy, has proved its worth over a period of more than 100 years. Under this system Minnesota has had the benefit of the most able, most honest, and dedicated judges which our method of compensation has been able to attract to the judiciary. There has been no single case of misconduct or ineptness by a judge of any of the courts of our state, with the exception of the Justice of the Peace.

Therefore, any proposed change of judicial selection in the event of vacancy is opposed. The opposition is not arbitrary but is based upon the foregoing Minnesota experience and further, upon a failure of the proponents for change to demonstrate that in those states where some change has been employed, that judges superior to our Minnesota judges have been selected.

E. The proposed judicial selection commission may not necessarily reflect the wishes of the voters as may an appointment by the Governor who is responsible to the voters for all of his executive acts, including judicial appointment.

F. It is also impossible for a judicial selection commission to have its membership reflect the various segments of our citizenry without making it so large as to be unwieldy in its operation and therefore, totally impractical.

Therefore, it appears to the undersigned that leaving the present method of judicial selection to fill a judicial vacancy in the hands of the Governor, is best designed to be representative of the wishes of the majority of the voters.

RECAPITULATION

1. The vast majority of proposals for the achievement of economy in efficiency by court integration is heartily approved.
2. The provision of fair, but an adequate system for removal of judges, is endorsed.
3. To assure the availability of the ablest, most experienced and learned candidates for the judiciary, adequate salaries and retirement benefits are urged.
4. Because of utter lack of evidence that the present method of selection has failed to provide us with the best possible judges.
5. Under our present compensation and retirement benefits, we are opposed to any change in judicial selection.
6. The judiciary, being one of the essential parts of our check and balance systems of government provided for by our Constitution, the right of the voters to maintain the system by voting for their judges should not be likely surrendered.

Respectfully submitted,

s/Jess March

AMERICAN JUDICATURE SOCIETY
TO PROMOTE THE EFFICIENT ADMINISTRATION OF JUSTICE



1155 EAST SIXTIETH STREET
CHICAGO, ILLINOIS 60637
TELEPHONE NOrmal 7-2727
AREA CODE 312

PRESIDENT HENRY L. WOOLFENDEN

CHAIRMAN OF THE BOARD WILLIAM J. BRENNAN, JR.

EXECUTIVE DIRECTOR GLENN R. WINTERS

VICE PRESIDENTS: LOUIS H. BURKE, JACK N. HAYS, FRANK R. KENISON

To All Conferees, Minnesota Citizens' Conference on Courts,
Capp Towers, Minneapolis, Minn., September 8, 9 and 10, 1966

Enclosed herewith is a copy of the Minnesota Plan for
Bipartisan Selection of Judges which will be proposed by Mr.
Charles T. Hvass at the Conference.

Mr. Hvass has requested that each conferee receive a
copy of the plan for their study prior to the conference.

THE MINNESOTA PLAN FOR BIPARTISAN

SELECTION OF JUDGES .

By Charles T. Hvass

This Conference has been called to consider and discuss various ways to improve the court system and administration of justice in our state. We all recognize that this is an important task which deserves our best efforts.

It is axiomatic that no system of justice can be better than the citizens it serves wish to make it. The fact that so many citizens have taken the time and trouble to attend this Conference shows that Minnesotans want the very best system for our state.

Of course, high quality administration of justice is possible only if the judges administering it are the very best men available. Our state has been very fortunate in this regard so that we now have an excellent judiciary. Nevertheless, there is more than a little truth to the statement that this has been in spite of, rather than because of, our present system of judicial selection. Much of the time of this Conference will be spent in examining various ways to choose judges, including the plan to be explained by Judge Elmo B. Hunter, known as the Missouri Plan. I have examined our present method of judicial selection, the Missouri Plan, and many others in order to develop what I feel is the best possible plan for our state. The plan is drafted in the form of a Judicial Article for the State Constitution and is designed to replace the present

Judicial Article in its entirety. I believe this is the only way to achieve clarity, since change by piecemeal constitutional amendment only causes confusion. However, some of the sections are identical with our present State Constitution, as will be shown. I have included an explanatory comment after each section, and have liberally used the comments to the Model Judicial Article of the American Bar Association whenever they apply.

ARTICLE VI JUDICIARY

§1. JUDICIAL POWER

The judicial power of the state is hereby vested in a supreme court, a district court, a probate court and such other courts, minor judicial officers and commissioners with jurisdiction inferior to the district court as the legislature may establish.

Comment: This is identical to section 1 of the present Judicial Article.

§2. SUPREME COURT

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

A judge of the district court may be assigned as provided by law temporarily to act as a judge of the supreme court upon its request.

The supreme court may appoint, to serve at its pleasure, a clerk, a reporter, a state law librarian and such other employes as it may deem necessary.

Comment: Except for substitution of the words "justice or justices" for "judge or judges", this is identical to section 2 of the present Judicial Article.

§3. JUDICIAL DISTRICTS; DISTRICT JUDGES

The number and boundaries of judicial districts shall be established or changed in the manner provided by law, but the

office of a district judge may not be abolished during his term. There shall be two or more district judges in each district.

Comment: This is identical to section 3 of the present Judicial Article, except that the last sentence which requires a district judge to be a resident of such district at the time of his selection is deleted. This is in line with the recommendation of the American Bar Association that judicial selections be made from the widest possible pool of qualified candidates. It is anticipated that most selections will, in fact, be made from among the lawyers of that district, but the final determination of such matters should be left to the Judicial Selection Commission to be established under this Article.

§4. DISTRICT COURT CLERKS

The district judges in each judicial district shall appoint, in each county in their district, to serve at their pleasure, one clerk of the district court whose qualifications, duties and compensation shall be prescribed by law.

Comment: The present Judicial Article provides for election to this office. This section provides for appointment by the judges who must work most closely with the office holder and is in line with the last sentence of section 2 which allows the supreme court to choose its own clerk.

§5. JURISDICTION OF DISTRICT COURT

The district court shall have original jurisdiction in all civil and criminal cases, and shall have such appellate jurisdiction as may be prescribed by law.

Comment: This is identical to section 5 of the present Judicial Article.

§6. JURISDICTION OF PROBATE COURT

The probate court shall have unlimited original jurisdiction in law and equity for the administration of the estates of deceased persons and all guardianship and incompetency

proceedings and such further jurisdiction as the legislature may establish, including jurisdiction over the administration of trust estates and for the determination of taxes contingent upon death. Until otherwise provided by law, each county shall constitute a probate court district and there shall be one or more probate judges in each district.

Comment: This is identical to section 6 of the present Judicial Article, except that the last sentence which requires a probate judge to be a resident of such district at the time of his selection is deleted for the reasons stated in the comment to section 3. It may be advisable to consolidate several less populous counties into single probate districts so that each probate judge would have an approximately equal volume of work. This would also make probate judgeships more attractive to those lawyers who are unwilling to accept the position when it is not full time. At any rate, these are matters best left to the legislature.

§7. SELECTION OF JUDGES; ELIGIBILITY

Paragraph 1. Selection. A vacancy in a judicial office in the state, other than in courts with jurisdiction inferior to the supreme court, district court and probate court, shall be filled by the Judicial Selection Commission. The commission shall present the name of the appointee to the chief justice and the appointee shall take office within ten days thereafter. Appointments to courts with jurisdiction inferior to the supreme court, district court and probate court shall be made by the chief justice and shall be for a term of four years.

Comment: This method of selecting judicial officers follows the Missouri Plan, except that the commission is to have final authority to select the appointee, while under the Missouri Plan, the commission submits a list of three nominees to the governor who makes the final choice from that list.

For this reason, the Minnesota commission would be known as the Judicial Selection Commission rather than Judicial Nominating Commission, which is the term used elsewhere. Even the best intentioned governors in other states have been known to consistently make appointments from the list of three nominees solely on the basis of political considerations. This is understandable since a governor will always be under pressure from the members of his party to make appointments in this manner, and it will be extremely difficult for him to do otherwise. Since this defeats the very purpose of a bipartisan judicial selection commission, it is better to let the commission make the final choice.

The appointment of judges to courts with jurisdiction inferior to the supreme court, district court and probate court is given to the chief justice because the need for these courts varies greatly and, as the state's chief judicial officer, he is in the best position to assess that need. A term of at least three years is recommended for these appointees by the American Bar Association in order to make the tenure long enough to attract competent lawyers. The four year term is more convenient in this state because it coincides with our elections.

Paragraph 2. Eligibility. To be eligible for selection as a judge of any court, including courts with jurisdiction inferior to the supreme court, district court and probate court, a person must be domiciled within the state, a citizen of the United States, and licensed to practice law in the courts of the state.

Comment: The requirements of citizenship and membership of the bar are the only qualifications specified by the American Bar Association in its Model Judicial Article because the appointment procedure provides all other necessary safeguards. The Judicial Selection Commission should be given the broadest opportunity to secure appointees of the highest caliber.

§8. TENURE OF JUDGES

Paragraph 1. Term of Office. The term of office for all supreme court justices, district court and probate court judges, shall be six years. All judges appointed to vacancies by the Judicial Selection Commission shall serve for the remainder of the term of office of their predecessor or if the position is newly created for a full term, before being subject to election, except that if the remainder of the term of office is shorter than two years, the appointed judge shall not be subject to election until the next general election following the expiration of two years from the date of his appointment, when he shall be eligible for election to a full term of six years. In the case of a justice of the supreme court, the electorate of the entire state shall vote and in the case of all other judges, the electorate of the district to which he was appointed shall vote in the election.

Comment: This paragraph gives every newly appointed judge at least two years to prove his merit before facing an election. The original Missouri Plan calls for an election in which the judge runs unopposed on a ballot which asks the voters to answer yes or no to the question of whether he should be retained in office. This has been criticized because it tends to freeze a judge in office since no alternative candidate is available to give the voters a choice and debate the record of the incumbent. The Minnesota Plan assures the people these advantages, but guarantees each appointed judge a sufficiently long term to attract the best men available. At the same time, the terms are short enough to remove reasonably promptly judges who are not performing adequately.

Paragraph 2. Limitation on Election. All judges shall be appointed initially by the Judicial Selection Commission, unless they have defeated an incumbent judge in an election as provided

under paragraph 1 of this section. If any judge dies, becomes incapacitated, resigns or is removed from office at any time during or at the conclusion of his term of office, his successor shall be appointed by the Judicial Selection Commission as provided by this Article.

Comment: This section makes clear that election to judicial office shall be limited to those situations where an incumbent is defeated. This eliminates the possibility of confusion on this point and the possibility of a poorly qualified person being elected by default when a judge decides not to file for election at the last minute or is unable to serve for any of the reasons stated because of an event occurring between the close of filing and election day.

Paragraph 3. Retirement. Every justice and judge shall retire at the age specified by statute at the time of his appointment, but that age shall not be fixed at less than sixty-five years.

Comment: Minnesota now has a statute covering retirement and this provision is designed only to augment that statute. A fixed retirement age to be determined by the legislature rather than indefinite tenure is chosen because it is believed that the interests of sound administration of justice will be better served by the possibility of retiring competent judges than by risking the continuance in office of judges with truly limited capacities.

Paragraph 4. Retirement for Incapacity. The chief justice or a justice of the supreme court may be retired, after appropriate hearing, upon certification to the governor by the Judicial Selection Commission that such justice is so incapacitated as to be unable to carry on his duties.

Comment: This provision is taken directly from the Model Judicial Article of

the American Bar Association which follows the Alaska plan on this problem. It is deemed best to have an independent body make the determination whether a high court judge has become incapacitated while in office. The commission is the logical agency to charge with this responsibility. The difficulties which seem to arise when this power is put in the hands of fellow judges are avoided by this process. The supreme court justices should not be forced into the awkward position of telling one of their own number that he is unfit to serve when a better solution is available.

Paragraph 5. Removal. The chief justice or justices of the supreme court shall be subject to removal by the impeachment process. All other judges shall be subject to retirement for incapacity and to removal or discipline for cause by the supreme court after appropriate hearing. No chief justice, justice, district court judge or probate judge shall, during his term of office, engage in the practice of law. No judge shall, during his term of office, run for elective office, other than a judicial office, or directly or indirectly make any contribution to, or hold any office in, a political party or organization, or take part in any political campaign other than his own campaign for election to a judicial office. No chief justice, justice, district judge, probate judge or judge of any court shall, during his term of office, hold any office under the United States except as a member of a reserve component of the military forces of the United States and shall not hold any other office under this state. The term of office of any chief justice, justice, district judge, probate judge or judge of any court, shall terminate and he shall be deemed to have resigned at the time he files as a candidate for any public elective office other than a judicial office.

Comment: This paragraph is a composite of provisions found in the Missouri, New Jersey, Puerto Rico and Minnesota Constitutions. It generally follows the Model Judicial Article of the American Bar Association.

The impeachment process is used for supreme court justices only, because the supreme court, in its supervisory capacity over the judicial system, is better qualified to determine the necessity for removal or discipline of all other judges than is the legislature.

The remainder of this paragraph is designed to remove judges from politics as much as possible during their service as judges.

§9. COMPENSATION OF JUDGES

Paragraph 1. Salary. The salaries of all supreme court, district court and probate court judges shall be fixed by the legislature, but the salaries of the judges shall not be less than the highest salary paid to an officer of the executive branch of the state government other than the governor.

Comment: It is impossible to include something as changeable as a salary schedule in a constitution, but this section follows the Model Judicial Article of the American Bar Association in setting a lower limit. Judicial salaries must be maintained at a high level in order to attract the best men available. Justice is worth the price. It must be recognized that most lawyers make a considerable financial sacrifice when they give up their private practices to accept judicial office.

Paragraph 2. Pensions. Provision shall be made by the legislature for the payment of pensions to judges, their widows and dependents. In the case of judges who have served ten years or more and their widows and dependents, the pension shall not be less than fifty per cent of the salary received at the time of the retirement or death of the judge.

Comment: The comment to the previous paragraph applies here also.

Paragraph 3. No Reduction of Compensation. The compensation of a judge shall not be reduced during the term for which he was elected or appointed.

Comment: This is the usual provision for the protection of judicial independence by removing the legislative power to reduce the salaries of judges while in office. The present Minnesota Judicial Article contains a similar provision. See Minn. Const., Art. 6, Sec. 8.

§10. THE CHIEF JUSTICE

Paragraph 1. Selection and Tenure. The chief justice of the state shall be selected by the Judicial Selection Commission from the members of the supreme court and he shall retain that office for the remainder of his current term of office, subject to reappointment in the same manner, except that a member of the court may resign the office of chief justice without resigning from the court. During a vacancy in the office of chief justice, all powers and duties of that office shall devolve upon the member of the supreme court who is senior in length of service on that court. .

Comment: This paragraph follows the suggestion given in the Model Judicial Article of the American Bar Association. It provides for bipartisan selection to this important office.

Paragraph 2. Head of Administration Office of the Courts. The chief justice of the state shall be the executive head of the judicial system and shall appoint an administrator of the courts and such assistants as he deems necessary to aid the administration of the courts of the state. The chief justice shall have the power to assign any judge of the state to sit in any court in the state when he deems such assignment

necessary to aid the prompt disposition of judicial business. The administrator shall, under the direction of the chief justice, prepare and submit to the legislature the budget for the courts of justice and perform all other necessary administrative functions relating to the courts.

Comment: This paragraph closely follows the recommendation of the American Bar Association in its Model Judicial Article. The chief justice is clearly the logical person to supervise administration of the entire court system.

Paragraph 3. Retired Judges. The chief justice is empowered to authorize retired judges to perform temporary judicial duties in any court of the state.

Comment: This paragraph is taken from the Model Judicial Article of the American Bar Association. It gives the chief justice power to temporarily assign retired judges to regular judicial duties if he believes they can relieve court congestion or be useful in any other manner.

§11. RULE MAKING POWER

The supreme court shall have the power to prescribe rules governing appellate jurisdiction, rules of practice and procedure and rules of evidence for the judicial system. The supreme court shall, by rule, govern admission to the bar and the discipline of members of the bar.

Comment: This section follows the recommendation of the American Bar Association in its Model Judicial Article. Of course, the supreme court can call upon a judicial council or any other body of experts to advise it in the formulation of rules.

§12. JUDICIAL SELECTION COMMISSION

Paragraph 1. General. There shall be a Judicial Selection Commission for the state, which shall consist of nine members,

one of whom shall be the current president of the state bar association who shall act as chairman and who shall not have a vote. Four of the eight voting members of the commission shall be members of the bar of the state and four shall be citizens not admitted to practice law before the courts of the state. The compensation for members of the commission shall be fixed by the legislature. No member of the commission shall, during his term of office, hold any office under the United States, except as a member of a reserve component of the military forces of the United States and shall not hold any other office under this state or office in a political party or organization and shall not be eligible for appointment to a state judicial office so long as he is a member of the commission and for a period of two years thereafter.

Comment: The proposed Judicial Selection Commission has no ideal size, but nine should be sufficient to bring together a fair sampling of the state's citizens. The American Bar Association Model Judicial Article recommends the chief justice for the position of chairman, but this can lead to difficulty when the commission is faced with a hearing on his capacity or is selecting his successor. Accordingly, it is believed that the chairman should not be a judge and the logical choice is the president of the state bar association. Denver, Colorado, currently has a commission which, by law, is chaired by the local bar association president and it is working satisfactorily. The disqualifications are self-explanatory and designed to remove considerations of self-interest from the deliberations of the commissioners.

Paragraph 2. Appointment and Tenure of Commissioners. The governor shall appoint four members of his political party to the commission, two of whom shall be members of the bar of the state and two of whom shall not be admitted to practice law

before the courts of the state. The highest ranking state officer who is a member of a different political party shall appoint four members of his party in the same manner. For this purpose, the rank of state officers below the governor shall be lieutenant governor, secretary of state, treasurer, auditor, attorney general, railroad and warehouse commissioners in order of seniority, speaker of the State House of Representatives, majority leader of the State Senate and minority leader of the State House of Representatives. The political party membership of any state officer elected on a ballot without party designation shall be determined by his actual political party affiliation. A dispute as to political party membership of any officer who is about to make an appointment shall be heard in district court with immediate appeal to the supreme court. The courts shall consider all the facts and not be bound by the officer's claim of membership. The term of office for all voting members of the commission shall be four years with the term of office of no more than one commissioner of each party to expire in any one year. Members of the commission shall be eligible for reappointment no more than once, except that commissioners serving less than a two-year term shall be eligible for reappointment twice.

Comment: This appointment procedure is designed to assure a bipartisan commission at all times since no political party can have a majority on the commission. This paragraph gives equal representation on the commission to the governor's political party and to the party whose candidate received the second highest number of votes in the previous election for governor. The sentences on disputed party membership are necessary because the

legislature is currently nonpartisan and it is intended to make clear that for this purpose the speaker of the State House of Representatives, majority leader of the State Senate and minority leader of the State House of Representatives must admit to political party membership. The limitation on tenure will prevent any entrenched group from becoming too powerful and yet the tenure is long enough to give each commissioner a chance to learn the job and discharge it efficiently. The office of commissioner would not be a full time job and it is hoped it will be filled by public spirited citizens of the highest caliber. Commissions in other parts of the country have had no difficulty in recruiting well-qualified people.

Paragraph 3. Vacancies. Vacancies on the commission shall be filled by the same state officer who would have the power to make a regular appointment to the vacated position. If any vacancy remains unfilled for more than thirty days, the chief justice of the state shall make the appointment. All persons appointed to vacancies shall serve out the remainder of the term of the predecessor.

Comment: This paragraph continues the purpose of the previous paragraph in that it provides for prompt appointment in the same bipartisan manner when a seat on the commission becomes vacant during the middle of a term for any reason. The second sentence applies to all appointments and reappointments and is intended to prevent frustration of the work of the commission by delaying appointments.

Paragraph 4. Voting and Rules. The commission shall have full power to promulgate rules for its own proceedings, including rules on voting, except that at least six votes shall be required to confirm an appointment to, or removal from, any judicial office.

Comment: This paragraph is an additional effort to assure bipartisan judicial selection because at least two members of both parties must concur on any appointment or removal of a judge.

Paragraph 5. Deadlock on the Commission. If no person is appointed to a judicial vacancy by the commission within sixty days after the vacancy occurs, the appointment shall be made by the governor or the highest ranking state officer of a different political party. The party whose state officer shall make the appointment shall be determined by lot conducted by the chief justice. If that official does not make an appointment within thirty days, the power to make the appointment shall devolve upon the highest ranking state officer of a different political party who shall also have thirty days to make the appointment. If the judicial vacancy remains unfilled one hundred and twenty days after its occurrence, the chief justice shall make the appointment.

Comment: This paragraph assures prompt appointments when the commission is unable to agree. There is no incentive to encourage deadlock or delay by any group on the commission because the ultimate appointment power is determined by lot. Minnesota now has a statute which determines the winner of an election by lot when there is a tie vote and it has worked satisfactorily. See Minn. Stat. §204.31(3) (statewide elections) and Minn. Stat. §204.29(3) (local elections). This is not true when all appointments in cases of deadlock are made by either the governor, or chief justice, as is provided in some states, since commissioners who belong to the same party as the governor could dictate every appointment by refusing to agree to any person proposed by the commissioners from a different political party.

Paragraph 6. Initial Appointment. On the effective date of this Article, the governor of the state shall appoint two members of the bar of the state to the commission, one of whom shall be designated to serve a four year term and one of whom shall be designated to serve a two year term and the governor shall appoint two persons not admitted to practice law before

the courts of the state, one of whom shall be designated to serve a three year term and one of whom shall be designated to serve a one year term. The ranking state officer of a different political party shall appoint four persons in a like manner, except that he shall appoint two members of the bar, one of whom shall be designated to serve a three year term and one of whom shall be designated to serve a one year term, and two persons not admitted to practice law before the courts of the state, one of whom shall be designated to serve a four year term and one of whom shall be designated to serve a two year term. At the completion of these terms, all full term appointments shall be for four years as provided in paragraph 2 of this section.

Comment: This paragraph arranges the initial terms of the commissioners so that two commissioners' terms will expire each year, one from each party, and one lawyer and one layman.

Paragraph 7. Definition of "Different Political Party."

Throughout this article, the term "different political party" shall mean the political party whose candidate received the second highest number of votes in the previous election for governor.

Comment: This paragraph defines a term that is crucial to the bipartisan system of judicial selection. It makes clear that the two largest political parties in the state are to be given absolutely equal weight in all matters pertaining to judicial selection.

§13. REPEALER AND EFFECTIVE DATE

This Article shall be effective as an amendment to the State Constitution when it has been ratified as provided by the Constitution. It repeals and replaces the present Judicial Article, which is Article VI of the State Constitution.

Comment: This is a form section.

April 11, 1967

To Members of The Citizens Conference on The Courts:

From Donald T. Franke, Chairman, Legislative Committee, Minnesota
District Judges Association.

Last September you met in Minneapolis to discuss the existing judicial system and to give consideration to its improvement. The conference agreed that to assure the availability of the ablest lawyers for the judiciary, adequate salaries and retirement benefits should be urged upon the Legislature.

Obviously, the Supreme Court and District Judges, along with most lawyers, agree with this conclusion. However, many lay people do not understand the problems of securing good judges or appreciate the importance of a sound judicial system.

As you are aware, there are now before the Legislature two bills to adjust judicial compensation -- increasing the Supreme Court Justices to \$30,000 (equal to a Federal trial judge's salary) and the District Judges to \$26,000.

As the enclosed fact sheet points out, this would place District Judges at the same income level as the average Minnesota lawyer who has practiced 15 to 19 years. Most judges have practiced 15 years before going on the bench and most were at least average lawyers. Those of us practicing law in 1964 also earned incomes consistent with the 1965 State Bar survey. We find our judicial duties challenging and interesting and now ask that our pay be made consistent with the requirements of the job and our ability to earn as lawyers in private practice.

Thus I come to you for help as these bills come out of the Judiciary and Civil Administration Committees in the next week and go to Finance and Appropriations and ultimately to the floor for debate. We face lay legislators who carry forward old myths about judges who allegedly seldom work, or who generally do not understand the nature of the problem in Minnesota courts in 1967.

It is my hope that you will state your views to your Senator and Representative and anyone on the enclosed list of members of the Senate Finance or House Appropriations Committees that you may know or that is from your area of the State. A brief letter encouraging a positive approach to judicial salaries will help us immeasurably -- and especially if it is directed to a member of the Finance or Appropriations Committees within the next 10 days. Your experience at the Citizens Conference and the information furnished by the Bar Association on the enclosed fact sheet give you an ample basis to form your own opinions.

As a former legislator, I can tell you that your opinion is more important than you realize. Very few leading citizens take the time to communicate with their legislators. When they do, the legislator relies heavily on that opinion as an expression of the responsible sentiment of his home community.

Therefore, you are in a position to make an important contribution to improving the quality of the judiciary and it is my hope that you will take the time to write several of the legislators stating your views.

Sincerely,

Donald T. Franke

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JUDICIAL COMPENSATION

SENATE BILLS

S.F. 728 — SUPREME COURT JUSTICES — H.F. 1062

S.F. 485 — DISTRICT COURT JUDGES — H.F. 1061

HOUSE BILLS

MARCH, 1967

Minnesota State Bar Association

In order to assist the Legislature of the State of Minnesota in arriving at a determination of the proper level at which the annual compensation of Judges serving on the Supreme Court and the District Court should be set, the Minnesota State Bar Association has undertaken to publish in pamphlet form the information contained on these pages.

The official position of the Minnesota State Bar Association is reflected in the following resolution made by its Board of Governors on January 21, 1967:

"RESOLVED that it is the considered judgment of the Minnesota State Bar Association that the present compensation level of judges of the Supreme Court and District Court of this State is inadequate under existing economic conditions; and that the salaries of said judges should be increased in such an amount as will bring judicial remuneration to a just and proper level."

Comparison of Judicial Salaries United States District Court— State District Court

In the period 1900 to 1903, the United States District Court judge sitting in Minneapolis was earning exactly the same salary as his counterpart on the state District Court in Minneapolis, namely, \$5,000 per year. From 1903 to 1907, the Federal judge earned \$6,000 and the Minnesota District Court judge sitting in the same city earned \$5,000. From 1907 to 1913, the United States District Court judge was earning \$6,000 and the Minnesota District Court judge in Minneapolis was earning \$5,700. From 1913 to 1919, the United States District Court judge was earning \$6,000 while his counterpart on the state District Court in Minneapolis was earning \$6,300.

COMPARISON 1953-1967

	1953 Salary	1967 Salary	Percent of Increase
Federal Court	\$15,000	\$30,000	100%
Hennepin County District Court	13,200	20,000	51%

Today, and since 1963, the state trial judge of Minneapolis, St. Paul and Duluth is earning \$10,000 less than his counterpart on the Federal Court. In the counties outside of Ramsey, Hennepin and St. Louis counties a State District Court judge has a salary differential of \$11,500 lower than the United States District Court.

Supreme Court Salaries

The Minnesota Supreme Court is the highest court in our state and its function as an appellate court is comparable in the Federal judicial system to the United States Court of Appeals. Each court reviews all cases appealed from the trial courts within its jurisdiction. Our Supreme Court has seven Justices who are paid an annual salary of \$22,500, with the Chief Justice at \$23,500. The Court of Appeals for the Eighth Circuit has eight Judges who are paid an annual salary of \$33,000.

In the past, the Minnesota Legislature has apparently followed a policy of compensating our Supreme Court Justices at the same level as the United States District Court Judges.

In 1953, the Minnesota Legislature equated the salaries of Supreme Court Justices to that of Federal Court Trial Judges. In 1955, Congress increased the Federal Trial Court salaries to \$22,500 and this figure was ultimately matched by the Minnesota Legislature in 1963 as the annual compensation of our Supreme Court Justices. However, in 1964, Congress again increased the Federal trial court judges salaries to \$30,000.

The vast differential between the Federal Court judicial salaries and our Appellate Court judicial salaries should not be allowed to remain if the stature of our Supreme Court is to be preserved.

Comparative Judicial Salaries and Cost of Living in Large Cities

City	Salary	Relative Cost of Living — 1965*
New York City	\$34,500	112.2
Philadelphia	25,000	110.6
Buffalo	29,000	..
Chicago	29,000	107.6
Detroit	27,500	106.4
Atlanta	26,000	108.1
Boston	24,000	113.2
Los Angeles	24,000	112.5
San Francisco	24,000	112.7
Milwaukee	24,000	108.2
Minneapolis	20,000**	109.5

Salary supplements are paid in counties where large cities are located to the extent of \$12,500 per year (Wayne County, Michigan); \$10,000 per year in Fulton County, Georgia; \$7,000 in Montgomery County, Maryland, (not the county in which Baltimore is located); \$9,500 in New Orleans; \$6,500 in Milwaukee, Wisconsin, etc.

* Consumer Price Index #500
Statistical Abstract of the U.S., 1966
U.S. Department of Commerce, Bureau of the Census

** "In Hennepin, Ramsey, and St. Louis Counties, District Court Judges are paid a \$1,500 county supplement in addition to the state salary for all District Court Judges, which is presently set at \$18,500."

California's New Judicial Compensation Approach

California, in 1964, provided the following salaries for its judges:

For Municipal Court	\$23,000
For Superior Court	\$25,000
For Associate Justice of Supreme Court	\$32,000
For Chief Justice of Supreme Court	\$34,000

It further provided that "On September 1, 1968, and on September 1 of each fourth year thereafter, the salary of each justice and judge (above named) shall be increased by that amount which is produced by multiplying the then current salary of each justice or judge by the percentage by which the figure representing per capita personal income in California, as compiled and reported by the United States Department of Commerce, has increased between the calendar year which preceded September 1 of the fourth year, preceding the designated date of adjustment and the calendar year which immediately precedes the designated date of adjustment." *

* Section 68203 Ann. Calif. Codes

Goal of Judicial Compensation

The paramount goal of improved salaries for the Minnesota judiciary is to insure high professional competence—that members of the legal profession who can afford to take judicial posts are among the most able members of the Bar. The goal is aimed at the system of administration of justice, rather than at the incumbents of the judicial posts. The long-range objective is the quality of the judiciary in years ahead.

Alaskan Salaries Attract Hennepin County Court Administrator

John W. McMillan, Administrative Director for the District Court, Fourth Judicial District, recently resigned his position to accept an appointment as the Court Administrator for the State of Alaska, with a salary of \$24,000 to \$26,000 and the same retirement benefits as a judge of the court of general jurisdiction of that state.

Salary Survey Made in Hennepin County

The Board of County Commissioners of Hennepin County retained the firm of Griffenhagen-Kroger, Inc., consultants in public administration, to make a survey and recommendations for salary classifications under the new personnel plan which goes into effect in the month of March, 1967. The recommended salary for the Director of the Department of Court Services (Chief Probation Officer) is \$18,588 to go up in six annual increases to \$24,900. The personnel plan has been adopted by the Personnel Board.

The Director, who is not a lawyer, is appointed by and is responsible to the judges.

Recommendations of Citizens' Conference on Courts

Upon the invitation of the American Judicature Society, approximately 135 citizens of the State of Minnesota attended a three-day meeting in Minneapolis on September 8, 9, and 10, 1966, to discuss the existing judicial system in our State and to give consideration to its improvement.

The community leaders who attended this Conference were representatives of educational, religious, business, agricultural, labor, and professional institutions and organizations.

At the conclusion of the Conference, a consensus report was adopted which contained the following statements relating to the subject of judicial compensation:

"A proper selection and tenure procedure is merely one factor in securing and retaining a highly qualified and independent judiciary. Other considerations are a more realistic compensation level for judges and an improved retirement program."

"To assure the availability of the ablest, most experienced and learned candidates for the judiciary, adequate salaries and retirement benefits are urged."

That this was the unanimous opinion of the persons attending this Conference is demonstrated by the following excerpt from a dissenting report filed with the Conference:

"This dissent does not apply to any of the proposed changes of court integration and changes for administration to achieve greater efficiency and elimination of needless costs and expense to the taxpayers. Such changes as promote modernization and greater efficiency are heartily approved. These changes include:

(1) Adequate compensation for judges, including retirement programs . . ."

The dissenting report also stated:

"To assure the availability of the ablest, most experienced and learned candidates for the judiciary, adequate salaries and retirement benefits are urged."

Bar Income Survey—1965 *

According to the 1965 Minnesota Bar Economic Survey published in the issue of Bench and Bar of January 1966, the average annual income of lawyers in private practice who have practiced from 15 to 19 years is \$26,305.00. The average annual income of group practitioners who have practiced between 15 and 19 years is \$30,095.00. It is unusual for a judge to have had less than 15 years experience in the practice of law before appointment or election to the District Court or Supreme Court.

* January 1966 issue of Bench and Bar

Appropriations Operations of Government State of Minnesota

	Year Ending June 30, 1965	Year Ending June 30, 1966
(1) Semi-State	\$ 1,359,956.00	\$ 1,205,226.00
(2) Legislature	1,805,300.00	1,684,000.00
(3) Judicial	1,513,534.00	1,846,506.00
(4) State Departments	33,507,808.00	37,741,640.00
(5) Education	213,971,052.00	243,523,942.00
(6) Welfare and Corrections	72,794,642.00	83,935,295.00
TOTALS	\$324,952,292.00	\$369,936,609.00
Percentage of Appropriations for Judiciary, of Total Appropriations	0.47%	0.50%

Note: The above figures are based on computations from the Appropriation Acts of 1963 and 1965 and were furnished to the Bar Association.