THE SUPREME COURT OF MINNESOTA
SAINT PAUL, MINNESOTA 55155

July 1981

TO: MEMBERS OF THE SENATE, STATE OF MINNESOTA

Enclosed you will find a copy of the State of the Judiciary Message delivered to the Minnesota State Bar Association on June 26, 1981.

Yours very truly,

Robert J. Sheran
Chief Justice

enclosure

STATE OF THE JUDICIARY MESSAGE

BY

CHIEF JUSTICE ROBERT J. SHERAN

JUNE 26, 1981

MINNESOTA STATE BAR ASSOCIATION CONVENTION
DULUTH, MINNESOTA

INTRODUCTION

It has become a tradition for us to meet at this time to re-examine the state of the judiciary in Minnesota. For my part, I welcome the opportunity to review developments during the past year with the members of the bench and the bar, who I know are as concerned as I am with improving the system of justice so that it will serve the people of the state as they are entitled to be served. It is a time for evaluating of the judicial system and the legal profession to see what we have accomplished in the past year and what problems we must address in the years ahead.

I am pleased to note these developments of the past year:

(1) Through the efforts of our Information Systems Office and the Judicial Planning Committee, we were able for the first time to make an objective determination of our judicial manpower needs. As a result, it was recommended to the Legislature that new judicial positions be created and that judgeships be reallocated from rural to urban areas, particularly suburban areas, and from county to district courts.

(2) As a result of a tremendous cooperative effort by many of you, the process of redistricting the county courts, authorized by the Legislature in 1977, is nearing completion.

(3) Innovations in testing applicants for admission to the bar are working well; we continue to improve our disciplinary systems for both lawyers and judges; mandatory continuing education for members of the profession and many courses of instruction for court personnel are conducted each year.

(4) A new program for the outstate county law libraries indicate a potential for needed improvements in that area.

(5) New rules of procedure are being formulated by dedicated members of two commissions--Juvenile Court Rules and Rules for Proceedings under the Minnesota Hospitalization and Commitment Act.

Areas which need our immediate attention include the following: an intermediate appellate court; essential legal services for the indigent at public expense; an extended system for the resolution of small disputes; and a permanent structure by law for the selection of judges on the basis of merit.

INTERMEDIATE APPELLATE COURT

Last year, I called to your attention the need for an intermediate appellate court in this state. The idea is not a new one: it was almost 15 years ago that the late Chief Justice Oscar Knutson, at a time when the workload of the Supreme Court was about one-third of what it is today, called for an intermediate court. In the early '70's the court was increased from seven to nine members and a number of administrative reforms were adopted in the hope that the flood of appeals would taper off or stabilize. That hope has not been realized. Appeals continue to increase at the rate of about ten percent per year.

I believe that the ultimate solution to the problem is the formation of an intermediate appellate court created by constitutional amendment. However, we have become convinced over the past several years that the drafting and implementation of a constitutional amendment could take years. We do not believe that the present workload of the Supreme Court can tolerate such a delay. For that reason, the court, during the last legislative session, supported a statutory proposal which would have helped our situation. The proposal that originated in the House of Representatives was to provide for additional trial judges coupled with a provision that the Supreme Court, by rule, would be able to experiment with a pilot project intermediate appellate division of the district bench, calling up district judges from areas where they are not as urgently needed to form an intermediate appellate court.

Caseload studies show that while there appear to be sufficient trial judges available in Minnesota, with the exception of those areas using referees and judicial officers, the judicial workforce is not distributed properly. The bill I mentioned would have added ten new trial court judges and retired existing judges in rural

areas, thus making some judicial manpower available to do appellate work. The bill ultimately failed on the final night of the legislative session.

In discussing why I believe an intermediate appellate court is the only answer, let me first explain how we function. The number of appeals reaching the Supreme Court was approximately 400 in the mid 1960's. We expect approximately 1,400 filings in 1981. The number of filings has doubled since I became Chief Justice about eight years ago. The court moved from en banc oral argument in all cases to divisions of five in the late 1960's. When two additional judges were authorized in the early 1970's, the court began to sit in divisions of three, as well as en banc on the major cases. In one year, we had oral arguments under such a program in 400 to 500 cases. However, the caseload continues to grow, with filings increasing at the rate of about ten percent each year. Therefore, a year ago, the court was faced with another problem: whether to limit oral argument, even on division cases. The court felt that the fairest decision was to provide full en banc oral argument on the major cases, comprising between 150 and 180 each year, and that the balance should be denied oral argument. These matters are referred to the commissioner's office for preliminary workup, and then ultimately to divisions of three for determination. We are now reaching a stage where even the three-person divisions cannot deal with the numbers of appeals reaching them.

All of us as lawyers and judges must answer these questions: Do we believe in prompt dispositions of cases and that there should be at least one appellate review of every trial court decision? It seems to me that, in considering appellate review, we are dealing with two classes of cases. First of all, I submit to you that we need a supreme court in Minnesota to handle anywhere from 150 to 200 major cases a year. Those cases should be disposed only upon complete briefs and a full record with oral argument before the entire court and with the court having a

chance to confer and debate and to make collegial decisions. Now, the question might be asked, "What benefit is there in a collegial decision?" I can assure you, as one who has been a part of the supreme court process, both as an associate justice for eight years and now as Chief Justice for nearly eight years, that collegial decision-making is indispensable to a supreme court.

An argument can be made as to what the size of a supreme court should be. My personal feeling is that a minimum of five and a maximum of nine justices are needed. Each member brings to the court varied experiences in the field of law. We have former trial court judges, a former tax court judge, a former prosecutor, a former public defender, defense lawyers, and plaintiffs' lawyers. When all of these people sit down together, confer, argue, and debate, the process works effectively. It ought to be continued.

The Supreme Court has another function, one that is administrative in nature. That phase of our work requires us to appoint and supervise various boards and commissions, advisory committees on rules and to supervise the State Court Administrator, his office and staff. These functions should and must remain with the Supreme Court if we are to maintain the judiciary as a separate and co-equal branch of the government.

These administrative responsibilities, decisions of 150 to 200 cases per year that are of statewide importance or urgency and which have precedential value, along with the extraordinary writ process, comprise a workload that is more than adequate for any supreme court.

However, we presently have about 1,200 cases in addition which ideally lend themselves to summary treatment for resolution by an intermediate appellate court. The disposition of these cases should not be done,as some have suggested, by expanding the supreme court membership to from 15 to 18 persons and to have

those judges sit in divisions. A court composed of 15 to 18 persons could not find the time to adequately brief and study the leading 150 to 200 cases to which I have referred. It would be unable to confer collegially and unable to administer the system as a whole.

These are some of the reasons why I submit to you that we need some intermediate appellate process between the trial court and the supreme court. I have heard concerns expressed that an intermediate court will lead to two appeals instead of one. That has not proven to be the case in those states which have a good intermediate appellate system. For one thing, there are savings clauses that have been recommended and are acceptable. For example, if it was obvious, upon the trial of a case in district court, that it would ultimately reach the Supreme Court, the Supreme Court, on its own motion, could take the case immediately on appeal from the trial court; if the intermediate appellate court itself saw that a case will ultimately come to the Supreme Court, it could certify the case immediately to that court.

In those states operating successfully with an intermediate appellate court, as many as ninety percent of all cases are disposed at the intermediate appellate level. Minnesota is now the largest state in terms of population which does not have such a court. It is inconceivable that for 15 years the matter of an intermediate appellate court has been proposed and discussed without adoption of any solution. The question was addressed by at least three citizens conferences held over that period of time. The last such conference held the first week in March of 1981, urged some solution to the constantly increasing appellate workload of the Supreme Court.

Let me say this in conclusion: The Supreme Court is concerned not so much for itself because, should we decide that we can handle a limited number of cases

per year and become a court that hears only certain cases upon writ, we can control our workload. It will be you, the lawyers of this state and your clients, who will suffer if appellate review is denied at the threshold. Moreover, there are many ideas that are being proposed, both statutory and those requiring constitutional amendment. We should not reject a statutory approach should the legislature decide to opt for that alternative because we can always experiment, improve, and then adopt by constitutional amendment.

I emphasize again that while all proposals ought to be examined, we will not support a proposal to increase the size of the Supreme Court. Our experience tells us that such a system will not work.

We are now at a crossroad. The Supreme Court, as an institution, is losing a battle to cope with the growing volume and to render quality service. We will soon be forced, under the present situation, to adopt appeal by writ only. It, therefore, behooves each and every member of this convention to become familiar with the problem and to work with us toward a solution.

JUDICIAL PLANNING COMMITTEE

Over this past year, the Judicial Planning Committee has reached some significant milestones. Several difficult and sensitive issues have been resolved either by action of the Supreme Court or of the Legislature.

Last year I told you that the Judicial Planning Committee had undertaken a study of whether the positions of referees and judicial officers should be continued or abolished and whether, in the event that some or all are abolished, new judgeships should be created. The Committee's report was delivered to the Legislature in October, 1980. Generally, the JPC recommended that these

positions be abolished but that those persons presently holding them be retained for as long as they remain in office. The Committee further recommended that the creation of new judgeships be determined not by the loss of a referee but rather by an analytic measurement of workload. The legislature resolved this issue by retaining the existing referees and judicial officers.

Legislation creating a State Board of Public Defense was prepared and sponsored by the Judicial Planning Committee. We anticipate that this bill, which was passed this session, will improve the administration of the delivery of legal defense to the poor.

As you know, the Judicial Planning Committee has spearheaded the efforts in this state to define the need for a change in our appellate system and to determine what change would best suit our situation. This past year, the Committee released its recommendation to create an intermediate appellate court. It is my understanding that there is substantial agreement between the Keyes' Report, to be considered at your business meeting, and the JPC report.

The court reporting field in this state has also been examined by the Judicial Planning Committee. In conjunction with the Minnesota Shorthand Reporters Association, an analysis of the various technological aids available to court reporters was undertaken. The group agreed to recommend allowing the use of electronic reporting equipment during certain district court proceedings. A bill implementing these recommendations was passed this session. The salary-setting mechanism for court reporters was also studied. A bill, also passed this session, will alter present practices by allowing each district administrator, in consultation with the chief judge, to develop a salary range and compensation plan for court reporters. This will eliminate the need for court reporters to request salary increases from the legislature.

Associate Justice Lawrence Yetka continues to serve as chairman of this Committee.

INFORMATION SYSTEMS OFFICE

The Information Systems Office of the State Court Administrator has been involved in a number of important projects which I have noted in previous years. These projects have focused in two areas: The State Judicial Information System (SJIS) and its companion effort, the Trial Court Information System (TCIS). SJIS tracks the progress of individual cases filed throughout the state, enabling judges and court administrators to identify cases that get excessively old. Case tracking also allows the production of comparable statistical data between counties and judicial districts. While SJIS assists us in monitoring the caseload management of the judiciary, TCIS was developed to assist trial court administration in their day-to-day recordkeeping and calendar management.

In the SJIS area two major accomplishments deserve mention. First, the Information System Office delivered to this past session of the Minnesota Legislature a study called the Weighted Caseload Analysis. This project provided an objective determination of judicial manpower needs in each of the state's ten judicial districts. For the first time in the history of this state we were able to calculate judicial resource needs on the basis of workload demands rather than geographic distribution of population. While the study indicated no need to increase the current complement of judges and parajudicial personnel, a substantial departure from the statutorily authorized georgraphic deployment pattern was indicated. In general, a reallocation of judgeships from rural to urban and particularly suburban areas, and from county to district courts, was recommended. The weighted caseload analysis study provides a reliable basis for making public policy decisions about the number of judges needed and their deployment.

A second notable accomplishment of our SJIS effort over the past year was its conversion from the central state computer center to a new Supreme Court computer center. I mention the Supreme Court computer center because it serves as a prototype for the future. We have developed a ten-year plan to install trial court computer installations in each of the ten judicial districts. This will extend the advantages of computerization to all trial courts in the state. Parts of SJIS and TCIS will be operating on these judicial district computer centers providing trial court recordkeeping and calendar management services to all subscribing trial courts. The Legislature has supported the establishment of these judicial district computer centers in accordance with our plan.

Other recent accomplishments of our TCIS efforts include the establishment of a standard set of forms and procedures to be followed by clerks of court in recordkeeping and calendar management. Non-computerized versions of these standard procedures and forms have already been implemented in five Minnesota counties. In addition, the TCIS project has developed a standard trial court pegboard accounting system that is in use in seventy Minnesota counties. During 1981, we plan to implement ten or more clerks' offices on a computerized trial court information system developed by the Information Systems Office.

The work of the Information Systems Office, particularly in the TCIS area, is especially appropriate. It creates administrative systems for the courts of this state that maintain uniform procedural standards while leaving actual day-to-day trial court management at the local level. This information systems development approach is consistent with our philosophy of balancing state court administration with local trial court management autonomy.

REDISTRICTING OF COUNTY COURTS

We have pending before the Supreme Court petitions for the redistricting of the county courts of the First and Sixth Judicial Districts. These petitions will be heard on September 4 and when resolved, the task of county court redistricting will have been completed. We are deeply grateful to the lawyers and judges of the state for the remarkable cooperation we have received in a necessary but difficult effort.

BOARD OF LAW EXAMINERS

During 1980, the Board of Law Examiners administered two bar examinations in which 940 applicants for admission to the bar participated. Of these, 769, or 81.8 percent, were successful.

In addition to the applicants for admission on examination, 40 lawyers from other jurisdictions applied for admission in Minnesota without examination as provided for under the Rules for Admission to the Bar. Thirty-five were recommended for regular admission to the Bar and one was recommended for a limited license. No such applicant was found unqualified for recommendation for admission without examination.

The examination given in July, 1980, was the first examination incorporating the use of the Multistate Bar Examination. The statistical reports indicate a high degree of correlation in the performance of the applicants on this multiple-choice portion of the examination and the essay portion developed by the Board of Law Examiners.

1980 also marked the commencement of a requirement that no person would be admitted to the practice of law in Minnesota without passing an examination on

the Code of Professional Responsibility given under the auspices of the Multistate Bar Examination Committee of the National Conference of Bar Examiners. This examination was given in March, August and November of 1980 and the percentage of successful applicants increased with each administration of the examination.

Justice Rosalie Wahl serves as the Court's liaison with the Board of Law Examiners.

LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

The Lawyers Professional Responsibility Board is the agency of the Minnesota Supreme Court having general supervisory authority over the professional conduct of Minnesota lawyers. In 1980 the Board received a record 919 complaints compared with 690 during 1979.

As in the past, the vast majority of complaints involve client relations, including neglect of legal matters, breakdowns in communication with clients, conflicts of interest, and retaining liens on client files and papers at the termination of respresentation. Complaints from lawyers and judges increased and many of these complaints alleged interference with the administration of justice and false or misleading advertising.

The Rules on Lawyers Professional Responsibility require that all complaints of unethical conduct against Minnesota lawyers be promptly and thoroughly investigated. Most complaints are investigated initially by one of the 20 District Bar Association Ethics Committees. Many of the complaints are investigated fully and concluded within 90 days. The sharp increase in volume has, however, contributed to delays in concluding many of the cases. We shall be considering ways to eliminate unnecessary delays, consistent with the policy of thoroughly investigating all complaints.

The Director of Lawyers Professional Responsibility is responsible for presenting charges of unprofessional conduct to Board panels in cases in which discipline appears warranted. The most serious cases are then presented to the Minnesota Supreme Court. In 1980 the Board referred matters involving 16 attorneys to the Court for public proceedings.

The Board may impose private discipline in less serious matters. In 1980 it imposed such discipline in 21 cases, including 14 in which further disciplinary proceedings were stayed subject to the lawyer's compliance with stated conditions. The conditions were tailored to enhance individual rehabilitative prospects and to protect the public interest. They often included abstinence from alcohol, prompt completion of specific legal matters and supervision by another attorney. Conditional stays were most often used in cases of repeated neglect or failure to communicate with clients.

During 1980, the Director also issued 112 letters of private warning pursuant to the Rules on Lawyers Professional Responsibility. This is the highest number of warnings issued by the Director since 1977 when the Rules were amended to permit such admonitions. Warnings do not constitute formal discipline, but they do notify the attorney that his conduct has not met prescribed standards. They are utilized where the misconduct is isolated and not serious.

The Board has also continued its efforts to improve the disciplinary process. The Supreme Court has recently considered several petitions for amendments to the Rules on Lawyers Professional Responsibility recommended by the Board for this purpose.

The Minnesota disciplinary system frequently serves as a model for other jurisdictions. However, past accolades do not ensure that the system will meet future challenges. Therefore, the Supreme Court and the Board invited the

American Bar Association's Standing Committee on Professional Discipline and the National Center for Professional Responsibility to conduct an evaluation of our disciplinary system. A five-member evaluation team visited Minnesota last spring and met with the Court, members of the Board, the Director and his staff, members of District Ethics Committees, respondents' attorneys, and members of the practicing bar. A report of the team's observations and recommendations is expected in the near future.

It is increasingly apparent that there are some cases in which the interests of clients will not be fully protected by disciplinary action alone. The Board has therefore recommended that the Court adopt a rule permitting the appointment of a trustee to take possession of a disciplined lawyer's files and to take action on behalf of clients to protect their immediate interests. Even without such a Rule, the Court this year authorized the appointment of a trustee to take possession of the files of a suspended lawyer. The trustee was authorized to inventory the files, transmit them to the clients, and take any other immediate action which might be necessary for their protection.

Mr. Justice Otis is the member of our Court who is principally concerned with the functions of the Lawyers Professional Responsibility Board.

BOARD ON JUDICIAL STANDARDS

The Board on Judicial Standards was created by statute in 1971. The legislation specifies that the Board on Judicial Standards receives complaints against judges, investigates, holds hearings, and may recommend to the Supreme Court the retirement of a judge for disability and for censure or removal of a judge for action or inaction that may constitute persistent failure to perform his duties,

incompetence in performing his duties, habitual intemperance, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

The Board may undertake an investigation upon receiving an oral or written complaint made by a judge, lawyer, court employee, or members of the general public; on its own motion with respect to whether a judge is guilty of misconduct in office or is physically or mentally disabled; or upon the request of the Chief Justice with respect to whether a judge is guilty of misconduct or is physically or mentally disabled. Eighty-three complaints were received during 1980.

The Board's inquiry of judges concerning cases in which orders have not been issued within the ninety-day period as required by statute has caused an awareness among judges of the necessity to comply with this statute. Based on information received by the Board, it appears that some judges do have a problem in issuing orders within the ninety days.

The Board on Judicial Standards continues to counsel informally with judges as well as citizens who have expressed concern over procedures and actions of the courts.

CONTINUING LEGAL EDUCATION

Little new has happened in Continuing Legal Education in Minnesota during the past year. The monthly Board meetings were devoted to the review of approved courses; the consideration of courses disapproved by the Executive Director; the granting or denying of requests for extensions of the time in which a lawyer was to have completed his work; and similar matters. The Board remains open to requests for special relief while administering the rules fairly so as to accomplish the goals of the program.

The Court, pursuant to the Board's petition, amended its Rule 3 to read:

> "Unless otherwise ordered by this Court, an attorney on restricted status who desires to resume active status may do so by complying with the rules and regulations of the State Board of Continuing Legal Education."

The Board then adopted a new rule, effective January 1, 1981, which requires an attorney returning from restricted status to complete a minimum of 45 hours within the preceding three-year period before he can be issued an active license. The announcement was included with the annual registration statements and advised those attorneys on restricted status that they had until January 1 to return under the old rule. Some did so. Attorneys who have chosen to return since then have been subjected to the new requirements.

During the program year of July 1, 1979 through June 30, 1980, approximately 2,324 courses, sponsored by approximately 403 different sponsors, were approved. The courses varied in scope, substance and quality.

The total number of approved courses comprised 19,277 hours. Five hundred ninety-seven courses were presented in Minnesota for a total of 5,685 hours of credit. Most of those courses were presented in the Twin Cities metropolitan area.

The courses offered in Minnesota were roughly distributed among the subject areas as follows:

Subject Area	No. of Hours
Trial Practice	1,736
Corporate & Securities	1,587
Taxation	625
Real Estate	574
Criminal Law	512
Estate Planning	306

Subject Area	No. of Hours
Family Law	159
Law Office Management	78
Probate	74

The lists of courses held in Minnesota are published in Bench and Bar twice a year.

Since the first reporting date, 1976, the Board has found 77 lawyers to be in non-compliance and has sent their names to the Court to be placed on restricted status. Of this number, 20 have brought themselves up to date and have been reinstated to active practice.

Mr. Justice Simonett is the Court's liaison to the Board on Continuing Legal Education.

CONTINUING EDUCATION FOR STATE COURT PERSONNEL

During the past year the Office of Continuing Education for State Court Personnel (SCCE) conducted 17 courses, comprising more than 270 hours of instruction, for Minnesota's judicial and non-judicial court personnel.

A major training effort provided judges with an opportunity to review their work with juries in an intensive four-day Jury Trial Workshop. The workshop examined the voir dire process; jury management principles; jury decision-making processes; recent case law pertaining to jury trials; and jury instructions. Citizens who had recently performed jury service participated by discussing their experiences as jurors. A simulated videotaped trial was conducted in which judges and citizens served as jurors. This experience enabled judges to appreciate the dynamics of juror decision making and factors which produce hung juries.

Other topics covered during the course of the year included judicial writing, discovery practices and their abuse; tax consequences of property distribution in

dissolution cases: equal employment law; comparative fault and the allocation of loss; and child support enforcement.

This past year SCCE developed an internship program known as the Judicial Clinic Program. New judges had an opportunity to witness experienced judges handle a variety of matters and ask questions of them. The Judicial Clinic, along with the National Judicial College, in Reno, provides new judges with a comprehensive orientation to their responsibilities.

SCCE devotes approximately half of its efforts to court support personnel, which number over 1,200 in Minnesota. Over the past year programs have led to an improved accounting system operating in seventy of the clerk of courts' offices. Improved methods and technologies of records management were reviewed with clerks and court administrators in a three-day Court Managers School. A workshop examining strategies in policy setting is currently planned for clerks and administrators from our larger, multi-judge courts.

Clerks and probate registrars received valuable additions to their basic training library by the addition of two videotapes produced by SCCE. The first considers legal research techniques useful to clerks and their deputies, while the second tape provides an overview of the probate process for registrars and clerks working in probate matters.

To provide improved interpreter services for hearing-impaired persons in our courts, SCCE recently conducted a 16-day Legal Interpreters Workshop instructing interpreters in converting legal terminology into sign language and acquainting them with court operations. More than twenty interpreters had an opportunity to complete their Legal Specialist Certificates, thereby providing the courts with improved services.

While not a normal part of its programming efforts, SCCE engaged in planning and producing the Minnesota Citizens Conference on the Courts which was held March 1-3, 1981. The conference--the third held in Minnesota--provided an opportunity for 100 leading citizens to become acquainted with significant issues facing our courts. Among these were the increasing workloads at the trial and appellate court level, the need for more consistent personnel practices in our courts, and a review of the Governor's judicial selection system. I wish to acknowledge and express my appreciation to the Minnesota State Bar Association for their cosponsorship and participation in the Citizens Conference. The conferees concluded that "an expansion of opportunity for timely appeals before (utilizing) the concept of an intermediate appellate court" was necessary to maintain and improve upon the delivery of justice. Conferees also "endorse(d) the enactment of legislation for merit selection of judges to fill vacancies in unexpired terms." Our hope is that those attending will continue their critical analysis of our court system--pointing out and supporting needed improvements.

During this past year the Office of Continuing Education for State Court Personnel has continued its important role of developing and maintaining the high caliber of personnel in our court system--a job it has so ably done since its inception in 1973.

We are indebted to W. Paul Westphal, Director of the SCCE, for the excellence of these programs.

STATE LAW LIBRARY

In the past year, the State Law Library spent a considerable amount of time completing various internal projects designed to improve and facilitate use of its

materials by its patrons. With the substantial completion of these activities, the library plans to initiate several other projects in areas long neglected. Among these projects, three deserve the attention of the Bar.

(1) The library hopes to develop a consistent communications link between it and the State Bar. Ideally, this will take the form either of a monthly newsletter published by the library or a column published in a bar journal. The goal is to describe new programs, resources, materials, services or procedures affecting use of the library as well as offering instruction and techniques on legal research.

(2) The library has organized a non-profit "Friends of the Minnesota State Law Library Society" for the promotion of traditional and non-traditional library programs.

(3) The library will begin the county law library reorganization project.

From the Bar's viewpoint, this last project is the most important. As some members know, the State Law Library, under a grant from the Bar Foundation, has been conducting a study this past year of the outstate county law libraries. The results of this study have demonstrated a dismaying lack of organization in many of these law libraries--a problem so extensive that it will require a broad and long-range program to re-establish many libraries and to unify the operations of all. The Minnesota Legislature has demonstrated its recognition of the need for such a program by appropriating state funds to pay a consultant to act as a liaison between the State Law Library and the county law libraries. Within the next few years this program will assist the county law libraries to operate efficiently and to provide the resources necessary for effective legal research. However, these libraries cannot operate at their full potential without the assistance of the outstate Minnesota attorneys. It is the responsibility of local bar associations to select attorneys to serve on boards of trustees to assist in the selection of

materials and to develop policies and priorities for library operations. These responsibilities are mandated by statute, but also exist by reason of practical necessity. Without active boards of trustees the libraries cannot provide adequate services to members of the bar and the public, and will remain in a state of disorder, wasting valuable space and resources.

Once you reactivate your boards of trustees and establish communications with the State Law Library, Marvin Anderson, the State Law Librarian and his staff will be able to provide many services to the county law libraries. Some of these services which they have planned and have begun to implement are:

assistance in selecting and purchasing materials;

assistance in obtaining funding;

updating of antiquated county law library statutes; and

the development of cooperative regional systems within each judicial district.

These plans require your input to be successful. Without your involvement and assistance your county law library cannot function as intended when originally established nor respond fully to your needs and requirements.

JUVENILE JUSTICE STUDY COMMISSION

The Juvenile Justice Study Commission, originally appointed in 1975 by the Supreme Court, continues to study crucial issues confronting the juvenile courts. It is funded by a number of grants from private foundations. The drafting of new Juvenile Court Rules by this Commission is underway. When they have been presented to the Supreme Court for promulgation, public hearings will be held.

Associate Justice George M. Scott is the court's liaison to the Commission,

which is chaired by Mr. Terrance Hanold. Professor Richard J. Clendenen of the University of Minnesota serves as executive secretary.

SUPREME COURT COMMISSION TO DRAFT RULES FOR PROCEEDINGS UNDER MINNESOTA HOSPITALIZATION AND COMMITMENT ACT

In late 1979, the Supreme Court Study Commission on the Mentally Disabled and the Courts completed its empirical study of the operation of the Minnesota Hospitalization and Commitment Act. The Commission consisted of thirty-three concerned and knowledgeable lawyers, judges, physicians, psychologists, institutional and public officials, legislators, and other citizens, chaired by Richard C. Allen, Dean of Hamline University School of Law. Supreme Court Justice Rosalie Wahl served as the Court's liaison to the Commission.

The Commission's Final Report was presented to the Supreme Court on October 12, 1979. Its findings and twenty-four recommendations have received considerable press coverage and have sparked other studies by associations of judges and mental health professionals. The conclusions of these studies have generally affirmed those of the Commission.

Some of the Commission's recommendations would require changes in the law in order to be fully implemented; others may be effectuated by court rule. As to the former, bills have been introduced in both Houses of the Legislature and hearings before various committees have been held. With respect to possible bill changes, I appointed Dean Allen to chair a second commission to draft proposed special rules of procedure for proceedings under the Minnesota Hospitalization and Commitment Act for consideration by the Supreme Court.

This second commission proposed fifteen special rules of procedure governing proceedings under the Minnesota Hospitalization and Commitment Act--each with a number of sub-rules--covering such issues as: Requirements of Petition; Summons, Apprehend and Confine Orders; Pre-Hearing Screening; Probable Cause Hearings; Provision of Counsel; Role of Respondent's Counsel; Guardians Ad Litem; Appointment of Examiners; Examination of the Respondent; Access to Medical Records; Location of Hearing; Rules of Decorum; Presence of Respondent at Hearing; Service of Certain Documents on Respondents; Disposition; and Indeterminate or Extended Commitment.

It is anticipated that the Court will consider these proposed rules during the summer and early fall.

NATIONAL LEGAL SERVICES CORPORATION

We have expressed our support for the continued funding of the National Legal Services Corporation in a letter dated March 13, 1981 addressed to Mr. David R. Brink and reading in part as follows:

> I understand that you are serving as a member of the Minnesota committee to support legal services. I am writing this letter to you as an expression of support for the concept that essential legal services must be provided for the indigent at public expense whenever such services are not otherwise available.
>
> Article I, Section 8 of the Minnesota Constitution provides:
>
> > Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property, or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws.

In Minnesota, legal services for the indigent have been provided on a limited basis since 1916. The restrictions on these programs resulting from dependence on private funding have been relieved by federal funding support since 1966; in 1974, the National Legal Services Corporation was established to permit the federal funds made available for these essential services to be administered by an independent corporation separate from political influence.

In my opinion, the performance of the six entities funded by the National Legal Services Corporation in Minnesota have provided an essential function in a commendable way. In my judgment, the independence of these entities should be assured, and support for the essential services which they provide should be continued.

The fact is that impoverished people have but limited access to our court system without the assistance of legally-trained representatives. In a democratic society, denial of access to justice because of poverty in indefensible. Experience teaches that these necessary legal services will be unavailable without public funding. It is of the utmost importance, therefore, that support be given to the effort to preserve the principles which are basic to the National Legal Services Corporation.

RESOLUTION OF SMALL DISPUTES

The legal profession does not serve its function adequately if we become preoccupied by the urgencies of complex, protracted, major litigation. There is an equal need to insure citizens involved in controversies over simple matters involving relatively small amounts that such disputes will also be resolved as inexpensively and expeditiously as possible. The national efforts to improve the processing of small disputes will continue to receive our support.

We are pleased that the Minnesota Legislature has seen fit to appropriate funds for our Judicial Planning Committee to make a beginning in this area.

JUDICIAL SALARIES

A strenuous effort was made at the recent legislative session to obtain some protection for judicial salaries from the erosive effects of inflation. We were

unsuccessful in this effort, due primarily I believe to the $500 million shortfall in anticipated revenues which surfaced during the course of the legislative session. Our hope and expectation is that the necessary corrective action, deferred because of circumstances peculiar to 1981, will be taken by the Legislature at its next session.

SELECTION OF JUDGES

The Minnesota Bar Association has for many years been committed to the principle that judges chosen to serve the courts of Minnesota should be selected on the basis of professional capacity and aptitude for judicial service, rather than as a reward for partisan political activity. I am firmly convinced that this principle is sound and that the process of judicial selection on the basis of merit should be structured permanently by law.

MEDIA AND THE COURTS

The filing of the decision of the United States Supreme Court in Chandler v. Florida, 49 U.S.L.W. 4141, on January 26, 1981, prompted a petition by the electronic and printed media of Minnesota, addressed to the Minnesota Supreme Court, requesting that Rule 3A(7) of the Minnesota Code of Judicial Conduct be amended to permit access to our trial courts. The Minnesota Supreme Court is prepared to authorize a hearing on this petition if and when suitable procedural rules for such a hearing can be formulated.

FEDERAL-STATE JUDICIAL RELATIONSHIPS

The following excerpt from a recent publication of the Institute of Judicial Administration, I.J.A. Report, Spring, 1981, Vol. 13, No. 3, p. 6, expresses a point of view with respect to federal-state relationships which should be brought to the attention of the lawyers of Minnesota:

> "The Third Branch published in its March, 1981 issue an interview with Chief Justice Robert Sheran, Chairman of the Conference of Chief Justices and I.J.A. member. The following is an excerpt from that interview concerning a speech made by Chief Justice Warren E. Burger, Honorary Chairman of The Institute of Judicial Administration.
>
> "The Third Branch - Last June, in a speech before the American Law Institute, Chief Justice Burger said, 'There are signs that state and federal dockets are becoming more and more alike and that the federal system seems to be on its way to a de facto merger with the state court system. There are risks that this trend will undermine accepted principles of federialism.' Do you share this concern?
>
> "Justice Sheran - I do share that concern. It is a concern that has attracted the attention of many people, not only in the judiciary but in the legislative branches of government as well. Senator Strom Thurmond, for example, has introduced in the Senate a bill calling for a specific study of this problem. The principle of federalism that I believe is significant is that governmental authority should be exercised so far as possible by that unit of government closest to the people affected by its exercise. This principle acknowledges that in a country like the United States, with a population that moves about freely, and with people who share so many ideals, traditions, and common modes of thought that there must be national standards to which all of the people adhere. But the process by which the judiciary absorbs these standards should be one which so far as possible is managed through courts which are linked as closely to the people affected by their operation as possible.
>
> "That is why the state courts have always been considered the courts of general jurisdiction in our federal system. And that is why more than ninety percent of the cases and controversies which arise in this country are resolved in state court. In terms of volume, state courts are--and in my judgment should continue to be--a major part of the integrated judicial system of the country.

"This is not in any way to disparage the great importance of the federal judicial system. But the federal judiciary is and should be a judicial system of limited jurisdiction, dealing with specific identifiable problems that can be handled more effectively at the federal level.

"In the years ahead, it seems to me, we can expect that throughout the country the rules of law that will be applied, whether in federal or in state courts, will increasingly become more uniform because as communication increases--radio, television, etc.--people's thinking and attitudes become more uniform. And uniformity also comes about because the decisions of the United States Supreme Court, which are the final authority in construing the federal constitutional and federal laws, become not only accepted but implemented by state courts. Uniformity also exists in the sense that state legislatures adopt uniform laws dealing with matters that have multistate impact--child custody, for example, marriage dissolution, things of that kind.

"While standards become uniform, the implementation of those standards through the court system should so far as possible and feasible be primarily through state courts. Because if the distinction between federal courts and state court is altogether dissolved, neglected or overlooked, we may arrive at a situation where there is such a separation between the people who are affected by the operation of the courts on the one hand, and the courts themselves on the other, that the kind of authority which is the key to the operation of a judicial system will be diluted and I think that would be quite unfortunate."

COURT INFORMATION OFFICE

The Court Information Office, a program of law education and information for Minnesota citizens, is finishing its third year of operation.

During the past year the Court Information Office published materials for use in Minnesota classrooms; presented a judges workshop on law-related education; assisted in the revision of The Student Lawyer: A Handbook on Minnesota Law, and co-authored an accompanying teacher's manual; and prepared materials on the juvenile justice system.

The office also published a newsletter entitled "Interchange"; the "Court

Monitor," a clipping service for court personnel; brief descriptions of cases and hearing notices for the Supreme Court; and the 1980 State Court Report.

The office's law-related education program sponsored an intensive three-day workshop for students, including a mock trial, in Little Falls, with the valuable assistance of Retired Justice Walter F. Rogosheske. Also, a law-related education program was begun in the Taylors Falls school district through awareness sessions, teacher training, and classroom sessions. The office, often with the assistance of the community law program of Hamline University School of Law, introduced law education into many urban and rural school districts.

In addition, with the assistance of the Constitutional Rights Foundation and the National Street Law Institute, the office sponsored a teacher-training summer institute on law-related education. Forty secondary teachers were provided with materials and activities to stimulate the development of law education programs in their schools.

The office was also active in the Minnesota Government Learning Center. Through this operation, seminars that introduced teachers to law and court procedure were held around the State. The Government Learning Center, Court Information Office, and Osseo public schools also worked together to produce a videotape on the Minnesota Supreme Court.

In efforts to meet the goal of assisting the media in its coverage of the courts, the office co-sponsored a seminar on media law. The office also continued to use broadcast media to disseminate information about the court through public affairs programs and public service announcements.

The Court Information Office worked with the Eighth Judicial District to develop an audio-visual jury orientation program, which was adapted for classroom use. In addition, a county attorney slide program and court procedure videotape were made available.

Recognizing the value of education about courts and the law on a more personal basis, the Court Information Office conducted numerous informational tours of the Supreme Court Chambers, describing how cases are brought before the court and how they are decided. Representatives of the office also addressed community and court groups concerning operations of the office, the Supreme Court, and various aspects of the law.

CONCLUSION

On December 18 of this year I will have completed eight years of service as Chief Justice of the State of Minnesota. I am grateful to the Minnesota State Bar Association for the opportunity which has been provided each year to review with you the needs of Minnesota's judicial system. Our concerns for future improvement should not obscure the significant accomplishments which have come about during this period.

The rules of procedure for the trial of criminal cases in state courts were adopted in 1975 after extensive deliberations and hearings, and I believe that the lawyers and judges of Minnesota now find these rules almost indispensable.

Rules of evidence for the trial of both civil and criminal cases were adopted in 1977 so that lawyers practicing in Minnesota have available a clear and concise statement of the rules of evidence harmonizing with those previously adopted for trials conducted in the federal courts.

The Court Reorganization Act of 1977 was enacted by the Legislature establishing an administrative structure for the uniform operation of trial courts in all parts of the state. Professional court administrators are now functioning in each of the ten judicial districts.

The Lawyers Professional Responsibility Board has made possible the formulation of an effective statewide program for controlling the aberrancies which afflict the legal profession as well as any other comparable group.

The nation's first system for mandatory continuing legal education was established and is functioning to the satisfaction of almost everyone.

Rules for the treatment of juveniles in conformity with modern conceptions and constitutional requirements are in process and will soon be available for your examination.

A study of our procedures for the commitment of the mentally disabled, unique in the entire country, has resulted in the formulation of proposed rules which will be submitted to the bar for your reaction during the course of the next year.

Experience with dealing with the disciplinary recommendations of the Board of Judicial Standards has produced methods of review which clarify this extremely difficult and important area of concern. The ultimate decision as to the discipline of a judge must be made by the Supreme Court of the State of Minnesota if the basic principle of division of powers between the executive, legislative, and judicial branches of government is to be observed.

The judiciary and our profession have contributed our share to the development of Sentencing Guidelines and procedures for continuing our efforts in this direction are under way.

An effective program for the continuing education of judges and court-related personnel has been established.

For the first time in the history of our state we have a statistical record of the cases being filed in Minnesota's courts and the progress being made in their disposition. This allows a statistical analysis of our judicial needs and requirements and a vast improvement in the adoption and acceptance of uniform recording and reporting procedures.

Were it not for these improvements our judicial system would have floundered during a period when the number of judges remained the same while our workload more than doubled. These accomplishments give us confidence that working together we can find solutions to the other problems which are the constant and inevitable by-product of changing conditions and changing times. I am

confident that there is no issue so complicated and difficult that it cannot be dealt with in a reasonable and constructive way if the intelligence, energy, and resources of the legal profession of the State of Minnesota are applied to its resolution in a spirit of mutual confidence and good will.