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REPORT
OF THE
ATTORNEY GENERAL
1977 - 1978

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INTRODUCTION

The job of the Attorney General is to act as lawyer for the citizens of Minnesota and for state government. We worked hard at our job in the past two years.

A principal focus of our efforts on behalf of citizens was consumer protection. We believe that protection of the dollars of our people in a time of skyrocketing prices is especially important. It is important for all of us to get the most for our money.

Consumer protection puts buyer and seller on an equal footing so that our American system of free enterprise can work in the marketplace.

Consumer protection not only helps consumers, but also helps legitimate businessmen by removing the unfair competition of fly-by-night operators and by building consumer confidence in the fairness of the marketplace.

We commenced more than 50 consumer lawsuits as a last resort to right wrongs and to inform others of improper practices.

Our suit against General Motors Corporation returned \$400 each to 2,200 Minnesotans who bought Oldsmobiles, Buicks or Pontiacs without General Motors informing the purchasers that the vehicles contained Chevrolet engines.

6 We also sued Ford Motor Company for failure to inform purchasers of defects in Ford vehicles and for failure to fix the defects free.

We sued and charged criminal complaints against several chemical companies and individuals for bribing government purchasing agents to buy cleaning compounds and other products.

Our attorneys won court orders that violators of consumer laws return nearly \$1 million to victims.

Just as important, we handled consumer complaints from thousands of Minnesotans on matters ranging from business opportunity schemes to guarantees, undelivered merchandise, batteries, "free" gifts, rentals, telephone solicitations and used cars.

We also went to court to remedy and prevent harm to Minnesotans in areas other than consumer protection -- crime, antitrust, the environment, utilities, natural resources and health were a few -- and we went to the Legislature to win passage of several new laws that we felt were necessary.

We won strict conditions for disposal of taconite tailings on land by Reserve Mining Company. We defeated a challenge to the Minnesota Campaign Finance Law, stopped "razzle dazzle" games at county fairs and recovered \$70,000 for charity from a Florida traveling circus.

Our attorneys attacked white collar crime, helped county attorneys win and uphold convictions, brought and won the first criminal antitrust case in Minnesota in 50 years, worked to recover pensions for many retired workers, opposed discrimination and

fought to limit the interest out-of-state lenders can charge.

Perhaps the most important part of the Attorney General's job as lawyer for the citizens is to be accessible to Minnesotans.

Thousands of citizens phone, write or visit us every year. Some want an answer to a question, and others want the solution to a problem.

We try to answer all the questions and find solutions to all the problems.

We also meet with citizens in communities throughout Minnesota.

The other aspect of the Attorney General's job is to provide legal services for state government. We take our responsibility very seriously.

Our lawyers wrote contracts, collected taxes, approved leases, went to court, handled disciplinary proceedings, gave legal advice to public officials and sought to assist the operations of state government in many other ways.

We are working hard in the Attorney General's office, and we hope we are making a contribution.

OFFICE ACTIVITIES

CONSUMERS

The Consumer Protection Division helps consumers in five ways.

• We help consumers resolve their complaints against businesses.

- We investigate possible consumer law violations.
- We enforce consumer laws through litigation.
- We provide information to consumers on their rights and work with business persons to improve their business practices.
- We work for passage of new laws to protect consumers.

In addition to speaking to groups, the Division cooperates with Action News, On Your Behalf, Column I and similar media programs and writes a bi-weekly "Protecting Your Dollar" column which appears in more than 100 newspapers.

Our litigation record in consumer matters during the past two years was as follows:

Fifty consumer lawsuits were initiated.

Twenty-one of these lawsuits were primarily concerned with consumer fraud, misrepresentations or false advertising. Six involved odometer tampering. Eight suits involved bribery of public officials. Seven suits were based on fraudulent business opportunity schemes. Two suits involved violations of the hearing aid law, one involved the prearranged funeral plan law, two the delivery of unordered merchandise, one the failure to honor a warranty, one a landlord-tenant law violation and one a buying club law violation.

Thirty-five lawsuits were closed.

Thirty-one of these lawsuits resulted in permanent injunctions, one in a consent decree and one in dismissal. Civil penalties of

more than \$42,000 were collected in 11 cases; civil penalties were stayed in many others. Restitution of a total of nearly \$1 million was ordered in 13 suits.

Thirty-eight consumer cases are pending.

Some of the significant cases handled by the Consumer Protection Division were:

- A suit was initiated against General Motors Corporation for equipping Oldsmobiles with Chevrolet engines without disclosing the substitution to purchasers. The suit was settled pursuant to an agreement by General Motors to pay the state \$6,000 for its costs and approximately \$900,000 in restitution to more than 2,200 Minnesota purchasers of Oldsmobiles, Buicks and Pontiacs by offering each \$200 and a three-year or 36,000-mile insurance performance policy worth another \$200.

- Suit was initiated against Ford Motor Company for failing to disclose defects in several models of Ford and the existence of "secret" extended warranties to repair the defects at no cost to the purchasers.

- We initiated suit against seven companies which were misrepresenting the business opportunity schemes they were selling to Minnesotans. Four of these companies were offering vending machine distributorships.

• Seven out-of-state companies selling chemical cleaning compounds and other products to local governments were sued for bribing local officials by offering them personal gifts if they purchased products for their governmental units.

• Permanent injunctions were obtained against two hearing aid dealers for violating the state hearing aid law.

• We are participating in an adversary proceeding in bankruptcy on behalf of Minnesota consumers who were injured as customers of Kennedy & Cohen, a household appliance retailer involved in bait and switch, false advertising and deceptive sales practices.

• Suits were initiated against four companies for using fraud and deceptive practices in dealing with Minnesota businesses.

• A suit was filed against a company involved in the sale of fire alarms for deceptive practice, the use of scare tactics, unconscionable prices and violations of the state personal and home solicitation sales laws.

• Our office is defending a constitutional challenge to the 1977 Minnesota Invention Services Act. We drafted and advocated passage of this law.

Twenty-one Assurances of Discontinuance were obtained.

• We obtained Assurances of Discontinuance from 21 businesses and individuals.

• Assurances were signed by two finance companies. One agreed not to collect customer accounts when the customer has valid defenses

against payment. Another company agreed to not use household and personal goods with a total value of less than \$3,000 as security for loans.

- An Assurance was signed by a tire company which agreed not to remark tire inner tubes to larger sizes.

- A furniture store agreed not to misrepresent going out of business sales.

- A medical clinic agreed in an Assurance to credit accounts to which finance charges had been improperly added.

- An unfinished furniture store signed an Assurance when it advertised items that were not available and misrepresented items as free.

- An Assurance was signed by a mobile home park which was charging utility rates in excess of those permitted by law.

- A franchised car dealer signed an Assurance and paid \$2,500 to cover our investigative costs after the dealer failed to disclose substantial damage in the sale of a demonstrator. Another franchised auto dealer signed an Assurance after misrepresenting list prices in advertisements and failing to comply with the federal consumer leasing law.

The Consumer Protection Division received approximately 30,000 telephone calls and took action on approximately 20,000 items of mail during the last two years. The Consumer Protection Division was

able to obtain an acceptable resolution of approximately 80 percent of the complaints brought to its attention.

SOLICITOR GENERAL

The Solicitor General and his staff of attorneys carry the primary responsibility for civil litigation involving the state.

The Solicitor General directly handled more than 270 cases and coordinated and assisted other attorneys on the staff of the Attorney General in litigation. Approximately 880 new cases were opened, and approximately 640 of those cases were subsequently closed. There are approximately 850 cases open on the central docket of the Attorney General.

In addition to litigation duties, the Solicitor General is responsible for enforcing state laws concerning charitable organizations, defending the state against tort claims and providing legal counsel to a number of state agencies, such as the Ethical Practices Board, Public Employment Relations Board, State Treasurer and the Department of Economic Development.

The Charities Division, which both supervises the solicitation of funds for charity and enforces the terms of charitable trusts, has recovered approximately \$240,000 for charitable beneficiaries. The Tort Claims Division, which was first established in 1976 in response to partial abolition of state tort immunity by the Minnesota

Supreme Court, processes approximately 350 claims a year and currently is defending the state or its officers in 85 tort cases.

Significant cases handled by the Solicitor General included:

- A successful defense before the United States Supreme Court of the principal portions of the Minnesota Campaign Financing Act.

- Litigation in the Minnesota Supreme Court, federal district and appellate courts and the United States Supreme Court defending the validity of the Minnesota Private Pension Benefits Protection Act.

- A successful defense before the Minnesota Supreme Court of a 1975 state statute that imposed a moratorium on the construction of Interstate Highway 35E in St. Paul.

- Litigation in the Minnesota Supreme Court which clarified and expanded the scope of discretionary immunity for state officers.

- A pending lawsuit in U.S. District Court in which the validity of the Minnesota Comprehensive Health Insurance Act is challenged on constitutional grounds.

- A lawsuit which, after an extensive investigation, terminated the existence of a Minnesota charity that apparently utilized fraud and deception in the solicitation of charitable contributions.

- A pending appeal before the Minnesota Supreme Court concerning the power of a grand jury to issue a report critical of unidentified public officials in the absence of an indictment.

• A successful defense before a three-judge federal court of a Minnesota law which provides income tax deductions for expenses incurred by taxpayers with dependents attending non-public schools.

• Litigation before the United States Supreme Court in which the state seeks to enforce the interest limitations of the Minnesota Bank Credit Card Act against an out-of-state national bank.

• A pending defense of a 1977 state law which modified an award by a labor arbitration panel and placed a ceiling on salary increases for community college instructors.

• Representation of the State Treasurer in a pending lawsuit challenging the Treasurer's enforcement of the Minnesota Unclaimed Property Act.

• Successful representation, in more than ten separate actions, of state district court judges and Minnesota Supreme Court justices in lawsuits commenced against them by dissatisfied litigants.

• Successful defenses against challenges to the constitutionality of the Minnesota Designer Selection Board Act, 1975 Omnibus Transportation Act, Minnesota's ballot rotation law and the compulsory arbitration process for essential public employees.

• Pending challenges to the constitutionality of the Minnesota Public Employment Labor Relations Act, Fiscal Disparities Act, regulations adopted by the Consumer Services Section of the Department of Commerce, Minnesota's procedure for reimbursing nursing homes for

Medicaid-covered expenses and the exclusion of Planned Parenthood from a 1978 statute which provides family planning program grants.

• A successful lawsuit against a Florida traveling circus that tried to take \$70,000 more than Minnesota law allows out of the state. The money was returned to charity.

CRIME

The Criminal Division has expanded its efforts to provide prosecutorial assistance on trial and appellate levels to the state's 87 county attorneys, to provide concomitant investigative assistance and to provide a complete line of legal services to those state agencies most involved in the criminal justice system.

Trial and investigative assistance in criminal cases was most frequently provided in three categories of cases:

- Cases wherein the county attorney had a conflict of interest.
- Cases involving complex issues, often of an economic nature, which prompted the county attorney to utilize the resources and expertise of the Criminal Division.
- Cases where the investigating or complaining party was a state agency, causing the state interest in pursuing prosecution to be paramount to any local interest. Criminal appellate assistance was provided for most appeals stemming from convictions in the non-metropolitan counties.

Services provided for state agencies involved in the criminal justice system included trial representation in state and federal courts, administrative litigation, legislative and rule making assistance, routine legal advice and training for public employees on criminal law and related subjects. Principal state clients of the Criminal Division have been the Department of Corrections (including the several correctional institutions), the Bureau of Criminal Apprehension, the Minnesota Corrections Board and the Peace Officer Standards and Training Board. The Division also provided complete legal services for several smaller state agencies and provided advice on questions of criminal law for such regulatory and enforcement agencies as the Department of Commerce, the Department of Revenue, the Department of Public Welfare and the State Patrol.

Below is a summary of litigation and investigations handled by the Criminal Division.

Criminal Trial Litigation (Cases in which Criminal Division assumed total or coordinate trial responsibility).

| | | |
|------------------|----|---|
| Complaints filed | 90 | (does not include 51 misdemeanor complaints from power line offenses now being handled by special prosecutor) |
| Guilty pleas | 55 | |
| Guilty verdicts | 19 | |
| Acquittals | 7 | |

Grand Jury proceedings

commenced or completed 7

District Court post conviction
proceedings 4

Criminal Appellate Litigation.

Briefs filed in Minnesota
Supreme Court 64

Decisions received from
Supreme Court 72

Won 56

Lost 9

Other 7

Appeals pending 83

Civil Litigation.

Prisoner suits
Filed 36
Resolved 33
Pending 25

Jail condemnations
Filed 5
Resolved 3
Pending 2

Habeas Corpus proceedings
Filed or resolved 26
Pending 2

Miscellaneous state court cases
Filed or resolved 8
Pending 6

Civil Appeals (U.S. Circuit
Court of Appeals)
Resolved 8

Administrative Litigation.

| | |
|--|-----|
| Proceedings conducted under Minnesota Administrative Procedure Act | 5 |
| Prison disciplinary hearings | 102 |

Criminal Investigations.

| | |
|----------------|-----|
| Active | 120 |
| Economic crime | 73 |
| Other | 47 |

ANTITRUST

The attorneys and investigators in the Antitrust Division worked on cases involving coal, fertilizer, master key hardware systems, paper products, petroleum products, liquor, sugar, ampicillin, automobiles, cosmetology services, shopping center leases and a city improvement project.

We brought and successfully prosecuted the first criminal anti-trust case under Minnesota law in more than 50 years. In that case the Division successfully defended the constitutionality of the Minnesota Antitrust Law of 1971. The defendant contractor pleaded guilty to a bid rigging charge and paid \$10,000 in a criminal fine and \$20,000 damages to the City of Marshall.

Five Minnesota beauty supply wholesalers paid a total of \$10,577.50 in civil penalties, damages and attorneys' fees in a case in which injunctive relief against the wholesalers also was obtained through consent decrees.

In federal actions to recover damages on behalf of the state and political subdivisions, the office obtained a settlement of approximately \$300,000 from manufacturers of master key hardware systems used in public buildings. After successfully defending appeals taken by the manufacturers, we are in the process of coordinating plans for distribution of the settlement proceeds. The Division is preparing for trial in antitrust cases pertaining to price-fixing allegations against sugar refiners and drug (ampicillin) manufacturers and received an unfavorable verdict from a federal judge in Chicago in a case relating to automobiles.

In early 1978 the Division filed federal actions against manufacturers of writing and printing papers alleging price-fixing and against two local oil companies, alleging that the acquisition of the smaller company by the larger refinery would be anticompetitive and in violation of the antitrust laws. Both cases are being prepared for trial.

The Division also obtained injunctive-type relief under the state antitrust act in Assurances of Discontinuance obtained from liquor wholesalers, a cosmetology association and parties to shopping center leases.

Efforts by the Division to recover damages incurred by the state and political subdivisions have been hampered by a U.S. Supreme Court decision, the Illinois Brick case, in which the State of Minnesota

was not a party. The Supreme Court ruled that plaintiffs must purchase directly from price-fixers in order to recover damages for antitrust violations under federal law. Since the state and most political subdivisions make many of their purchases indirectly from middlemen, a number of pending and potential antitrust actions have been jeopardized severely. The office has worked to seek corrective legislation from Congress.

The Antitrust Division also appeared in a number of administrative agency hearings to promote competition in the sale of services and products to Minnesota consumers. Our lawyers and investigators are presently engaged in active investigations in a number of areas of commerce.

adoption of a number of UTILITIES AND ENERGY

We appeared in 35 lawsuits on behalf of the Public Service Commission and six lawsuits on behalf of the Energy Agency.

Most of the Public Service Commission appeals involved the defense of Public Service Commission orders. Of this number, 14 were from bus and truck orders concerning trucking authority, one was in a railroad crossing matter, seven concerned grain elevators and weights and measures, two concerned telephone matters other than rates, three telephone rates, two gas and electric service territories and six electric rates.

The Energy Agency lawsuits were all in defense of certificate of need decisions.

We were before the Minnesota Supreme Court four times for the Commission and twice for the Energy Agency. We also represented the state's interest in the reorganization of a railroad serving the state. A decision of the Supreme Court adopting our position on subsidized rates for residential electric consumers has attracted national attention. Of the 41 lawsuits in which we appeared during this period, we won 14, lost two and the rest are either pending or were discontinued.

We have assisted the Commission in strengthening its rate case procedures and have spent much of our time representing the independent staff of the Department of Public Service, which represents the public in rate case proceedings. We also have been actively involved in the adoption of a number of sets of rules to implement the Minnesota Public Utilities Act of 1974 and to modernize the regulation of telephone companies. Nine sets of rules were processed for the Energy Agency.

We have advised the Commission and Department on numerous matters and actively assist the Commission in drafting utility and transportation orders. We appeared in 11 contested cases for the Energy Agency, six before the Agency itself and five before other agencies, within and without the state. We have intervened in a pending federal proceeding to oppose a wholesale gas increase sought by Minnesota's major wholesale supplier of natural gas.

We have appeared in various courts on enumerable occasions to enforce the law and regulations administered by the Commission in bus and truck, weights and measures and utilities matters.

Two major legal studies were made for the Energy Agency. The study of access to sunlight resulted in legislation since enacted. The study of obstacles to greater use of underground space has resulted in draft legislation.

INSURANCE

Legal activities on behalf of the Minnesota Insurance Division of the Department of Commerce included the following:

- We handled 19 formal proceedings to revoke or suspend the licenses of insurance agents and one for an insurance adjuster. We also advised the Division on the propriety of initiating actions or alternate remedies for other agents prior to the commencement of formal administrative proceedings.

- We advised the Division on procedure and appeared for the Division in court on two rehabilitations of domestic insurance companies which were in financial difficulty. We performed a similar function in two liquidations of companies which had ceased doing new business.

- We advised the Division on the proper action to take against several companies which were in violation of the Minnesota Unfair Trade Practices Act and reporting requirements. This included obtaining penalties for some violations.

• We advised the Division on the procedure and propriety of suspending three insurance companies which were in financial difficulty from doing business in the State of Minnesota.

• We handled credit insurance rate hearings for the Insurance Division. In addition, we handled two sets of workers compensation rate hearings, four sets of permanent rules and two sets of emergency rules.

• We advised the Division on the proper procedure for implementation of new insurance laws.

• We issued two formal attorney general's opinions and 13 informal attorney general's opinions interpreting the insurance laws in addition. We also advised the Insurance Division directly on numerous insurance questions.

• We advised the Division on applications for approval of the purchase of insurance companies, three of which involved initiation of a contested case proceeding.

• We represented the Insurance Division in seven lawsuits appealing administrative decisions and in two challenging the constitutionality of the Minnesota Comprehensive Health Insurance Act. We also represented the Division in a challenge to the Division's procedure for review of automobile insurance cancellations and in two cases involving interpretation of the Minnesota No-Fault Insurance Act.

• We handled an administrative hearing in which an insurance company was required to cease and desist from terminating its agents

and its insureds in a manner violating statute and an administrative hearing involving an appeal to the Commissioner of a decision by the State Automobile Insurance Plan denying coverage to an applicant.

ENVIRONMENT

Our attorneys represented the Pollution Control Agency (PCA) in major rulemaking hearings which concerned the handling and disposal of hazardous wastes; phosphorus limitations in detergents; the certification and control of PCBs; the design, location, installation, use and maintenance of septic tanks; and major amendments to the rule governing the administration of the state and federal construction grants program under which funds are disbursed to municipalities for the construction of municipal wastewater treatment facilities.

Major contested case hearings involving the PCA included Metropolitan Waste Control Commission permit proceeding, Bemidji permit proceeding, Northern States Power Company environmental impact statement proceeding, Minnesota Power and Light Company environmental impact statement and permit proceeding, Rochester permit proceeding and noise variance proceeding involving Interstate Highway 94.

Unique and important work in which our attorneys became involved was representation of the PCA before the U.S. Nuclear

Regulatory Commission (NRC) in a full-term licensing proceeding regarding the Prairie Island and Monticello nuclear power plants and spent-pool modification proceedings also involving Monticello and Prairie Island. We also are representing the PCA in its appeal of NRC's Prairie Island spent-fuel decision to the U.S. District of Columbia Circuit Court of Appeals. The appeal involves issues concerning the ultimate disposal of radioactive wastes. Congress recently has amended the U.S. Clean Air Act, which recognizes the regulatory authority of states over radioactive air emissions. We are assisting the PCA in implementing its authority.

Altogether we have represented the PCA in more than 25 contested case and rule making hearings.

As of July 1976 we were representing the PCA in 30 active cases. We have closed 23 of those cases and opened 18 additional cases. Of the 18 new cases, five were commenced by the PCA, eight were filed against the PCA and the PCA intervened as a party or as an amicus in five cases.

Our cases generally involved enforcement of pollution abatement regulations. The most important of the cases concerned the appeal

of the siting decision and permit conditions associated with the Reserve Mining Company Mile Post 7 on-land tailings disposal system.

The appeal process included three appearances before the Minnesota Supreme Court. The matter was finally resolved with the Supreme Court upholding stringent permit conditions for the operation and construction

of the Mile Post 7 facility.

Another major case involved a challenge to PCA packaging regulations. We were successful in representing the PCA in the trial court, which upheld the validity of regulations and PCA's authority to promulgate the regulations. The case is presently under appeal to the Minnesota Supreme Court.

Many other cases were resolved after litigation was commenced or prior to litigation through stipulation agreements. In these agreements violators generally agree to clean up or install pollution control equipment and pay for environmental damage, litigation expenses or civil penalties.

Settlement payments have amounted to several thousand dollars paid into the state treasury. There have been approximately 150 such settlements or stipulation agreements.

EDUCATION

Our lawyers represent the Community College Board, Department of Education, State University Board and Higher Education Coordinating Commission.

While a majority of our efforts were expended in rendering advice on legal problems related to the operation of our clients' programs, we also were involved in providing a significant amount of advice to local governmental units. We issued 12 formal opinions and 11 informal letter opinions and responded to approximately 1,060 letters and calls from people in local government. In addition,

we responded to approximately 2,800 citizen calls.

Some of our other responsibilities included 25 rule making hearings, 12 contested cases and 26 separate discrimination claims filed with various state and federal agencies.

Some of our most significant work involved litigation. We were involved in 37 lawsuits, of which 14 are pending. The lawsuits may be broken down into the following general categories:

Employee related matters. Ten were either won or settled, and four are pending.

Contract and breach of warranty cases. Five were won or settled, and three are pending.

Challenges involving constitutional questions. Three were won, and one was partially won and partially lost.

Appeals from administrative decisions. One was won, one lost and one is pending.

Labor relations cases. Two are pending.

Declaratory judgment actions. We lost one, and one is still pending.

Miscellaneous cases. We won three.

SECURITIES AND REAL ESTATE

Our lawyers representing the Securities Division of the Department of Commerce provide day-to-day legal advice to the Division and conducted both administrative proceedings and civil litigation under the state's real estate, securities, franchise, charitable solicitation and subdivided land sales practices laws.

In representing the Division in civil litigation, our lawyers have commenced lawsuits to enjoin sale of unregistered franchises, to enjoin the sale of oil and gas interests in the state which were not registered under the state securities law and to enjoin companies offering investment services in oil and gas lotteries which were not registered under the securities law. We have commenced actions to enjoin (as unlicensed real estate activity and as consumer fraud) companies offering to list for sale vacation lots owned by Minnesotans for a fee paid in advance. We have also defended the Securities Division in numerous actions, such as those seeking declaratory judgments against the state with regard to the application of the Minnesota Franchise Act and actions to enjoin the conduct of administrative proceedings by the Commissioner. We have appeared in an action in bankruptcy court in which the issue is whether the bankruptcy court can set aside the provisions of the Minnesota Subdivided Land Sales Practices Act. We have, in addition, provided expertise in securities law in a prosecution being conducted by the Criminal Division of the Attorney General's office against persons offering for sale investments in worm breeding operations. Attorneys for the Division also have handled claims proceedings under the Minnesota Real Estate Education, Research and Recovery Fund, Minn. Stat. § 82.34 (1976), some of which involve several hundred thousand dollars and hundreds of potential claimants. We also have defended numerous court appeals from administrative orders of the Division issued in disciplinary

actions against professional licensees and have commenced court actions to enforce administrative subpoenas.

In administrative proceedings, our attorneys have conducted disciplinary actions against licensed securities brokers and agents and real estate brokers and salespersons. Such actions result in revocation, suspension or other disciplinary measures by the Commissioner. We conducted proceedings which resulted in the issuance by the Commissioner of cease and desist orders against a number of concerns selling unregistered securities in the state. Many such orders were obtained against companies selling investment services in connection with oil and gas lottery programs. Cease and desist orders also have been issued against persons selling unregistered franchises and unregistered subdivided lands.

Our attorneys represented the Securities Division in rule making proceedings, such as those establishing education requirements for real-estate brokers and salespersons.

BANKING

Attorneys representing the Banking Division of the Department of Commerce provide day-to-day legal advice to the Banking Division and represented the Division in appeals of more than a dozen applications for charters for financial institutions such as banks, loan and thrift institutions and detached banking facilities.

We are conducting a case in the United States Supreme Court

to prevent out-of-state banks from charging interest rates on revolving charge accounts which conflict with the Minnesota usury law.

Attorneys representing the Division also represented the Banking Division in rule making proceedings, including one establishing rules under the electronic fund transfer system law.

HUMAN RIGHTS

The bulk of the work we performed for the Department of Human Rights was representation of the Department before administrative hearing examiners, where a complaint of discrimination is first heard, and in the state district and supreme courts, which function as appellate courts in human rights cases.

Supreme Court. The following cases were resolved in the Minnesota Supreme Court:

Danz v. Jones and Associates. We participated in this case by filing an amicus brief. The Court adopted standards suggested by the Department of Human Rights regarding the burden of proof in "equal pay for equal work" cases.

State v. Dakota County Abstract Company. The hearing examiner found that respondent's policy of making females retire earlier than males violated the Human Rights Act. The District Court reversed that decision. The Supreme Court affirmed the hearing examiner's order and awarded the charging party \$3,882.76 in damages.

These Supreme Court cases are pending:

State v. Kraft, Inc. Hearing examiner ruled that Kraft's policy of refusing employment to both husband and wife is marital status discrimination. The District Court reversed this decision.

City of Minneapolis v. State. The hearing examiner concluded and the District Court affirmed that the City of Minneapolis' policy of refusing to hire because of a previous illness (tuberculosis) was discriminatory.

State v. 3M and 3M v. State. This is a class action case involving 3M Company's policy of refusing to pay income maintenance benefits to women disabled by pregnancy or childbirth. The hearing examiner ruled that 3M's policy constituted illegal sex discrimination, that class membership was limited by the filing of the charge and that ERISA, 29 U.S.C. § 1144, pre-empted the Minnesota Human Rights Act. The District Court upheld the finding of liability but found that the class membership was established by date of the complaint and held that ERISA did not pre-empt the Human Rights Act.

Minnesota State High School League et al. v. State. The hearing examiner held that a school district's policy of not allowing a female swimmer to compete on a boys' swimming team constituted illegal sex discrimination. He also concluded that the Minnesota State High School League rule which permitted this was a violation of the Human Rights Act. Finally, the examiner concluded that the district's treatment of boys' and girls' swimming teams was illegal

sex discrimination. The District Court dismissed because of mootness.

District Court. Our office represented the Department in the following cases before a District Court on appeal from the decision of a hearing examiner:

Eastern Heights Agency v. State. The District Court upheld a hearing examiner's decision that the charging party was denied a promotion because of her sex and awarded her \$16,053.

State v. Sanford Memorial Hospital and Sanford Memorial Hospital v. State. A hearing examiner ruled that reduction of charging party's hours after her maternity leave was due to business necessity and not sex, but found that charging party's dismissal was in retaliation for filing a discrimination charge. The District Court upheld the hearing examiner's ruling. The charging party received \$6,591.89.

Harold Pomeroy, D.V.M., v. Department of Human Rights, State of Minnesota. A hearing examiner awarded the charging party back pay, interest and back wages. He ruled that the respondent engaged in a reprisal against the charging party because she opposed a practice forbidden under the Human Rights Act. The District Court affirmed the hearing examiner's order with the exception of interest and punitive damages for a total award of \$1,060.00

Plumbers and Gas Fitters Union, Local No. 34, and James W. Aschenbrener, v. Minnesota Department of Human Rights. A hearing examiner found that the respondent reduced the charging party's hours

in retaliation for filing a charge with the Department of Human Rights. He awarded her back wages and interest amounting to \$3,484.15. The District Court affirmed the hearing examiner's order.

Our office represented the Department of Human Rights in the following original actions in District Court:

Richard Occhino v. City of Duluth, Minnesota and State of Minnesota, Department of Human Rights. The plaintiff filed a complaint alleging the Department of Human Rights violated his due process rights. U.S. District Court dismissed the case.

Ronald Nomeland v. the Department of Human Rights and the Minnesota School for the Deaf. The petitioner filed a complaint alleging he was denied due process by Department of Human Rights procedures. A stipulation of dismissal was reached by all parties.

Stumpf v. St. Paul Board of Education. The Department of Human Rights intervened in an action alleging that the defendant's operation of its athletic program constitutes illegal sex discrimination. Pending.

Police Federation of Minneapolis v. State. The plaintiff alleged that the Department of Human Rights' review of the Minneapolis Police Department's Internal Affairs Unit files deprives police officers of the constitutional protection against self-incrimination. Pending.

Cass County Welfare Board and Cass County Welfare Department v. State. The complainants alleged that the Minnesota Human Rights Act was unconstitutional because it permitted the Commissioner to

appoint a hearing examiner. The matter was dismissed by settlement of the underlying charge of discrimination for \$5,000.

In addition, 17 cases are pending in district courts. All are appeals from hearing examiners' decisions.

Hearing Examiner.

Eighteen cases were resolved by hearings at the administrative level. Two dealt with disability discrimination in employment, three with race discrimination in housing, two with race discrimination in employment and one with race discrimination in public services. There were four sex discrimination and three pregnancy cases dealing with employment. There also were three marital status discrimination in employment hearings. Total monetary awards amounted to \$8,746.24.

Settlements.

Prior to issuing a complaint and setting the matter on for hearing before a hearing examiner, we attempt to reach a settlement agreeable to both the charging party and respondent. We have settled 129 cases by obtaining conciliation agreements. These agreements resulted in the payment of \$172,967.17 in damages to persons filing charges of discrimination. In addition we obtained, when appropriate, offers of employment, reemployment and promotion as well as restoration of seniority and other fringe benefits. These agreements also contain promises to cease and desist from such discriminatory practices as refusal to hire and promote because of race, sex, marital status and disability; refusal to rent on the basis of race and marital status,

refusal to grant maternity leave and disability pay; failure to provide equal medical insurance benefits on the basis of sex; and the failure to make reasonable accommodations to the religious beliefs of an employee.

NATURAL RESOURCES

Legal activity for the Department of Natural Resources included:

Court Litigation. Condemnation. Sixteen cases were closed.

Nine are pending. Car confiscation. Nine cases were closed. Two

are pending. Quiet title actions. One case was closed. Title

registration actions. Ninety-six cases were closed. Two are pending.

Other cases. Twenty-eight cases were closed. Seventy-seven are pending.

Public Hearings before Commissioner 91. Rules and regulations

33. EQC 1, wild and scenic rivers 17, land exchange 1, park/camp-

ground rules 4, snowmobiles 2, snowmobile noise 1, captive wildlife

exhibits 2, state water bank 3 and Red River diking 2. Water permit applications 58.

Commissioner's orders prepared 151. Forestry fire orders 15,

game and fish orders 53, migratory waterfowl 3, appointment and

delegation 75, recreational trails 2, scientific and natural areas 0,

outdoor recreation system 1 and areas of adequate groundwater 2.

Delinquent timber accounts 121. Collected/closed 81 and pending 40.

Land exchanges 32. Pending 23 and completed 9.

Legislation (bills drafted for Department of Natural Resources and other agencies) 15.

Legislative claims 32. Pending 8 and completed 24.

Formal opinions of attorney general (not including written advisory opinions) 11.

Approvals as to form and execution 3,921. Lands. Auction permits. 245, patents 149, leases 1,570, deeds 144, certificates of sale 3 and cooperative farming agreements 855. Forestry. Timber trespass cases 92. Game and fish. Rough fish contracts 66 and federal aid documents 44. Minerals. Iron ore leases 3, taconite lease 1, copper-nickel leases 21 and miscellaneous leases (construction materials) 6. Planning. Project agreements 104 and project amendments 57. License center. Fur buyer licenses 310. Engineering. Construction projects 198 and construction contracts - Supplemental agreements 53.

Abstracts examined, title opinions written and deeds prepared for tracts of land acquired 822. Game and fish (wetlands, spawning areas and access to lakes) 292, lands and forestry 0, parks and recreation 199, tracts acquired by the Administration Department for parks and trails 331 and historic sites 0.

Local trail grant-in-aid programs. Agreements 330.

Miscellaneous contracts 206.

HEALTH

Our attorneys represent the Department of Health, the Office

of Health Facilities Complaints and the ten health licensing boards.

Of great impact on us was a new requirement that all complaints alleging or implying violations of laws enforced by the licensing boards be forwarded to the Attorney General. To handle this new responsibility, we added investigators to our staff.

The investigative capability has enabled the licensing boards to increase their disciplinary actions, which has resulted in our attorneys participating in a significantly increased number of administrative adversary proceedings.

We also have represented the Department of Health in contested cases involving both licensing proceedings and assessments against health care facilities for violations of rules. As a result of our assistance, \$46,650 in assessments was collected from health care facilities.

Forty-three lawsuits were handled by our attorneys. The majority of the cases related to appeals from health facility assessment hearings or licensing disciplinary proceedings. In addition, a permanent injunction was obtained against an individual to prevent his continued unlicensed practice of dentistry. The court also ordered the person to partially refund fees collected by him. The Board of Medical Examiners' right to refuse to issue a license when statutory conditions have not been met by the applicant was sustained by a federal court. The United States Supreme Court refused to consider the case on appeal. In a pending multi-district

federal case, naturopaths are challenging the constitutionality of the medical and pharmacy acts which bar them from practicing the art of healing and from prescribing drugs without being licensed by either the Medical or Pharmacy Board.

Our attorneys represented the health agencies in 32 rule making proceedings.

LABOR AND INDUSTRY

Legal services provided the Department of Labor and Industry included:

Litigation. We are representing the Department in two cases before the District Court and the United States Supreme Court which involve constitutional challenges to the Minnesota Private Pension Benefits Protection Act. These lawsuits involve the pension benefits of more than 1,000 employees. One of the cases is back in District Court following a favorable Supreme Court decision on the question of federal labor law pre-emption. The other is awaiting a decision on the state's petition for rehearing following an unfavorable Supreme Court decision.

In other litigation, the Department has filed suit against a number of business entities for polygraph testing of employees and is seeking in District Court an injunction against several companies for operating employment agencies without being licensed. We also won dismissal of a lawsuit against the Department and the Commissioner which involved a contract claim and damages based upon libel.

Administrative Hearings. We represented the Department in four contested case hearings involving the application of the Minnesota Fair Labor Standards Act. One of these, which involved a claim of exemption from the act's overtime provisions, is presently on appeal in District Court following a favorable decision from a hearing examiner. Two others were settled and wages were paid following examiners' decisions. The fourth, which involves the validity of a tip-pooling system is awaiting review in District Court.

We represented the Department in two contests of prevailing wage rate determinations and several hearings which involved the terms and conditions of apprenticeship agreements between employers and employees in the building trades.

In conjunction with pending court cases involving Minnesota's pension act, two administrative hearings are pending to determine the amount of pension funding charges to be assessed against employers in the event the act is determined to be valid.

Administrative rules hearings. Our attorneys represented the Department in numerous rule making procedures, including amendments to the Minnesota Labor Standards Act rules, fee employment agency rules, child labor rules, steamfitting rules and occupational safety and health rules as well as new rules governing prevailing wage determinations.

Other activity. Our attorneys assisted in the enforcement of numerous Department orders finding employers to be in violation of

the Fair Labor Standards Act and assisted in the collection of employee wages for such violations.

OCCUPATIONAL SAFETY AND HEALTH

Our efforts for the Occupational Safety and Health Division of the Department of Labor and Industry included:

Minnesota Supreme Court. One case appealed from District Court involving the Minnesota Uniform Arbitration Act.

District Court. Two cases involving the jurisdiction of Minnesota occupational safety and health inspectors to inspect taconite plants, 25 actions to collect occupational health and safety penalties assessed in amounts over \$100 (32 cases were brought to judgment), two appeals from determinations of the Occupational Safety and Health Review Board (four others were brought to successful conclusion).

Administrative Hearings. Three hundred forty-six administrative appeals taken by Minnesota employers from occupational safety and health citations and civil penalty assessments. In addition, our attorneys handled 17 appeals from decisions by hearing examiners to the Occupational Safety and Health Review Board.

Search Warrants. Pursuant to the 1978 United States Supreme Court case of Marshall v. Barlow's, Inc., our attorneys have made district court application for more than eight administrative search warrants. In addition, our attorneys prepared and filed an amicus

curiea brief on behalf of 11 states in the Marshall appeal to the Supreme Court.

SPECIAL COMPENSATION FUND

The Special Compensation Fund has three tasks:

- To encourage employers to hire persons with physical impairments.
- To provide workers compensation benefits to employees of uninsured employers.
- To pay supplemental benefits to those long-time disabled employees being paid the low rate of years past.

The Special Compensation Fund disburses about \$15 million a year. Of that, \$400,000 goes to employees of uninsured employers. About \$40,000 of this is recovered from employers through subrogation claims.

We handled about 800 claims, attended about 700 pretrial hearings and were involved in approximately 100 appeals to the Workers Compensation Court of Appeals and five appeals to the Minnesota Supreme Court.

ECONOMIC SECURITY

We represented the Department of Economic Security as follows:

Collection activities to recover taxes, interest and penalties under the Minnesota Employment Services Law.

593 suits were commenced in the district courts.

876 items were collected for a total of \$385,733.74.

434 judgments were docketed.

294 proofs of claim were filed in bankruptcy, probate, receivership and corporate dissolution proceedings.

43 collection cases were disposed of.

Other activities.

We represented the Department in the Minnesota Supreme Court in matters involving the Employment Services Law with the following results: Affirmed 7; reversed 4; remanded 4; pending 14.

We also have advised the Department on grants under the U.S. Comprehensive Employment and Training Act of 1973 and miscellaneous legal problems involving vocational rehabilitation.

TRANSPORTATION

Our work for the Department of Transportation has included:

Condemnation of land for highways. One hundred eighteen District Court hearings on petitions to condemn, 661 hearings and viewings before court-appointed commissioners to determine land value, 344 awards, 45 appeals by the state, 98 settlements and 30 District Court trials.

Title opinions. A total of 6,057 title opinions were processed.

Approval of form and execution of contracts. A total of 3,147 contracts were approved for form and execution.

Property damage collections. A total of \$1,124,421.29 was collected for damage to state property.

Contract lawsuits. Thirteen contract suits were received. Eight were settled.

PUBLIC SAFETY

We handled implied consent proceedings to revoke licenses of drivers who refused to take an alcohol test and proceedings to revoke the licenses of drivers whose blood contained .10 percent or more alcohol.

Implied consent. County Municipal Court. We won 851 trials, lost 328, won 365 limited licenses, won 646 dismissals after revocations for driving while intoxicated, won 230 cases after driver withdrew challenge and lost 84 dismissals. District Court. We won 66 trials, lost 47, won 24 limited licenses, won 11 dismissals after revocations for driving while intoxicated, won 22 cases after driver withdrew challenge and lost 11 dismissals. Minnesota Supreme Court. We won 6 cases and lost 9.

There were 428 implied consent cases pending in July 1976. A total of 2,752 new cases arose. Pending now are 652.

Revocations for .10 percent alcohol. County/Municipal Court. We won 1,110 trials, lost 600, won 653 limited licenses, won 942 dismissals after revocations for driving while intoxicated, won 461 cases after driver withdrew challenge and lost 170 dismissals. District Court. We won 31 trials, lost 8, won 9 limited licenses, won no cases after revocation for driving while intoxicated, won 18 cases after driver withdrew challenge and lost no dismissals. Supreme Court. We won 8 cases and lost 1.

There were no cases pending in July 1976. A total of 4,933 new cases arose. Pending now are 1,080.

We also represented the Department in 167 license reinstatement cases in District Court and one in the Minnesota Supreme Court. Four writs of prohibition were sought in the Supreme Court.

REVENUE

Legal services for the Department of Revenue included:

Minnesota Supreme Court. Eleven cases won, 5 lost, and 21 pending.

District Court. One hundred sixty-three cases settled and 418 pending.

Minnesota Tax Court. Fifty-seven cases won, 26 lost, 329 settled and 259 pending.

Probate Courts. Ten cases settled and 7 pending.

A total of \$5,835,720.44 was collected in taxes.

Remaining to be collected are 4,590 accounts.

PUBLIC WELFARE

Legal Services to the Department of Public Welfare included:

Legal Advice. The Commissioner, Deputy, Assistant Commissioners, Division Directors and Executive Staff of the Department continuously

seek and receive legal advice concerning day-to-day matters in the Department such as contracts, grants, policy bulletins and manuals, legislative, regulatory and judicial changes, application of various interstate compacts and the like. We are encouraging preventive counselling. We have done some joint training sessions with Department personnel, for example, public assistance appeal referees, and hope to do more.

The following figures regarding advice given to the Department are approximate: Review information bulletins 156, review of instructional bulletins 290, review of request bulletins 78, review of policy bulletins 104, review of contracts for institutions 390, for Central Office 192 and for the Blind Services Division 92.

Litigation. We handled significant cases in state and federal trial and appellant courts. Some of these cases are major cases in federal court - for example, the right to treatment suit against state hospitals and the attack on reimbursement limitations on payments to nursing homes. Income maintenance programs gave rise to federal and state court litigation, sometimes involving many millions of dollars - for example, treatment of circuit-breaker refunds - and sometimes very sensitive questions - for example, reimbursement for transsexual surgery. We represented the Department also in some very specialized and difficult matters arising out of the state hospital system, such as intrusive therapy hearings, special review

board hearings and appeals, alleged patient and resident abuse and employee disciplinary and discharge matters. We handled public assistance appeals and collection cases for medical care provided by the state.

Pending are 98 lawsuits exclusive of public assistance appeals and collection matters.

Local Government Assistance. Many of the programs of the Department are administered in conjunction with or through various other agencies which we assist on an informal basis. We furnished approximately 2 formal and 12 informal written opinions to units of local government. We handled at least 200 letters and phone calls.

Citizen Assistance. The Department is in the business of providing many and varied services to large numbers of citizens. This tends to generate many citizen inquiries regarding real or perceived shortcomings of the agency. We place a high priority on making prompt and helpful responses to these inquiries. We estimate that we answered approximately 4,000 citizen inquiries.

Rule Making. The Department makes many rules, probably substantially more than any other state agency. We provided legal services for approximately 95 rules. Examples include implementation of recent legislation regarding abortions, the Work Equity Program, allocation of welfare funds to the various counties and rate setting mechanisms for nursing homes.

Contested Cases. We handled approximately 150 contested cases. Two divisions appear to have generated most of our contested cases last year. By far the largest number of cases came out of the Audit Division's supervision of reimbursements for Medicaid residents of long-term care facilities. Most of these hearings last only a day, but some have lasted several weeks. Another source of volume of contested cases was the Licensing Division. At least two of the licensing cases lasted several weeks each last year.

Tort Claims. The Department operates nine state hospitals, including the Minnesota Security Hospital and two state nursing homes. In addition, the Department supervises programs in the fields of mental health, mental retardation and chemical dependency as well as a host of other functions. These activities give rise to numerous incidents and potential claims as well as actual claims.

PUBLIC EMPLOYEE RETIREMENT AND VETERANS

Our attorneys handled several retirement fund cases.

Public Employees Retirement Association (PERA).

In July 1976 the case of City of Marshall vs. PERA was pending before the Minnesota Supreme Court. The case involved the collection of monies due PERA with respect to unreported employees. The District Court ruling in favor of PERA was upheld by the Supreme Court.

Two cases involved the right of cities to enact ordinances requiring their policemen to be members of PERA rather than local relief

association. Columbia Heights Police Relief Association, et al. vs. the City of Columbia Heights and City of Fridley and James Hill vs. Fridley Police Pension Association, et al. resulted in the policemen becoming PERA members.

In the case of Gramer vs. PERA a policeman objected to the set-off of certain workers compensation payments against the PERA disability benefits. Based on the prior practice of the Highway Patrolmen's Fund, from which this set-off statute was copied, we settled this case in favor of the plaintiff. Legislation will be proposed to clarify the nature and amounts of the set-off.

In a recent case, Allers vs. PERA, et al. a board member who was removed from the board pursuant to statute has challenged the removal. The plaintiff was denied a temporary injunction requiring he remain on the board during the pendency of the action. The matter is under consideration by the District Court on defendant's motion for summary judgment.

Teachers Retirement Association (TRA).

In the case of Rinde, et al. vs. TRA the son and daughter of a deceased former TRA member sued claiming they had a right to certain funds that were in the former member's account at the time of death. TRA imposed a number of defenses against the claim including the statute of limitations and standing. The plaintiffs have not pressed the action.

In another case, Dorn vs. TRA, the plaintiff claimed a right to a disability benefit rather than the annuity for which she applied

TRA served an answer in the case, but nothing more has been done by the plaintiff.

Minnesota State Retirement System (MSRS).

Two cases have arisen under the 1973 Minnesota Judges Act. In the first, Dosland vs. Minnesota State Retirement System a disabled judge disputes the manner in which MSRS computed his disability benefits. That case was in the Minnesota Supreme Court, remanded to the District Court and is now back in the Supreme Court.

In another case, Fritzgerald vs. MSRS, a sitting judge objected to waiving his rights to attack the constitutionality of provisions in the law taking away escalated benefits for judges. MSRS prevailed in the District Court, and the judge did not appeal.

In a case involving the regular MSRS fund, Leverson vs. MSRS, the spouse of a deceased member claimed a right to an optional annuity. The court found the spouse had the right to the annuity. Because of the ambiguities of statutes and the fact that under the statute in force today the spouse would have had the right to the optional annuity, MSRS did not appeal.

Veterans Administration.

Under statute, the Commissioner of Veterans Affairs is empowered to hear petitions from veterans who allege they have been denied their right to a hearing before being discharged by a public employer. The statute has created a substantial number of contested cases, some of which have resulted in District Court appeals. When

a veteran prevails in a contested case hearing and the matter is appealed to the District Court, the Attorney General, through the Commissioner, represents the veteran in the District Court.

Three cases are pending in the District Court. In addition, the County of Anoka vs. Department of Veterans Affairs was settled.

ADMINISTRATIVE AGENCIES

Our attorneys provide legal services to the Departments of Administration, Finance, Personnel and Military Affairs, Armory Building Commission, Designer Selection and Personnel Boards, Executive Council, State Board of Investment, Office of Hearing Examiners, Minnesota Educational Computing Consortium and County Attorneys Council. Additionally, our attorneys review administrative rules as to form and legality, provide certain contract and executive order review service to the Governor and respond to numerous citizen inquiries in various legal areas.

Our work included:

Litigation. We:

- Participated in one Minnesota Supreme Court matter, which is pending.
- Prevailed in 18 District Court appearances, lost 7 with 14 pending.
- Resolved seven arbitration matters with one pending.
- Won 20 contested cases, lost 5 with 15 pending.

Citizen advice. We:

- Responded to approximately 2,000 citizen inquiries principally in the areas of public purchasing, state personnel practices and data privacy.

Document preparation and approval. We:

- Drafted approximately 650 legal instruments.
- Reviewed more than 7,500 contracts as to form and execution.

Administrative rule activities.

- Participated in 11 rule making proceedings.
- Reviewed 230 sets of administrative rules as to form and legality.

OTHER AGENCIES

Our lawyers provided legal services to the more than 125 other state agencies. Among the agencies are the State Agricultural Society, State Arts Council, Adjutant General, Board of Boxing, Historical Society and Zoological Board.

OTHER WORK

The Attorney General has several responsibilities in addition to lawsuits.

Our work included legal advice to state and local officials, attendance at agency meetings, legal review of all new laws for the Governor, drafts and appraisals of documents and forms, assistance with administrative proceedings, drafts of rules and regulations, drafts of legislative proposals, legal advice on purchases, work on

real estate transactions, legal opinions, legal advice on disciplinary proceedings, legal work on contracts and presentations to various government and citizen groups.

We answered thousands of citizen inquiries and handled thousands of citizen complaints. We also met with citizens throughout the state to pass along information, listen to opinions, solve problems and answer questions.

LEGISLATION

The Legislature has acted favorably on several major proposals which we drafted and pushed. Some of the new laws include:

PROTECT citizens who seek repairs of motor vehicles, appliances or dwellings.

REQUIRE financial safeguards and disclosure by invention marketing firms.

PERMIT multi-county grand juries to deal with modern criminal activity which crosses county lines.

REQUIRE a waiting period before a handgun purchase and a police check of purchasers to insure they are not untrained minors, violent criminals or persons with drug, alcohol or mental problems.

OPINIONS

Several opinions of general interest warrant mention:

Contracts

Bidding

A city is not authorized to sell excess property at public auction if the municipal bidding law requires submission of sealed bids. In 1976 this requirement applied to sales of over \$5,000. For sales from \$1,000 to \$5,000, an auction could be used if bids were reduced to writing and kept on file for one year. Sales of under \$1,000 could be made by auction if filing of written quotations was not practicable. The dollar amounts have since been amended. Op. Atty. Gen. 59a-10, Sept. 28, 1976.

The Uniform Municipal Contracting Law, Minn. Stat. § 471.345 (Supp. 1977), sets dollar limits governing bidding requirements of statutory amounts notwithstanding different dollar limits in the statutory city law. Op. Atty. Gen. 707a-15, Jan. 6, 1978.

Conflicts of Interest

A councilman employed on salary or hourly wage basis by firms contracting with a city would not, solely by virtue of such employment, have an interest in such contracts within the meaning of Minn. Stat. § 412.311 (1974), as amended. Op. Atty. Gen. 90b-7, Aug. 8, 1969, was superseded to the extent inconsistent. Op. Atty. Gen. 90a-1, Oct. 7, 1976.

A city councilman who is a member of a city volunteer fire department has no prohibited conflict of interest under Minn. Stat.

§ 471.87 (1976) provided that, during the time he serves on the council, any renewal, extension or modification of contract for city and volunteer fire department is approved by unanimous vote of council as provided in Minn. Stat. § 471.88, subds. 1 and 6 (1976).
Op. Atty. Gen. 90-e, April 17, 1978.

County Coroners

The duty to conduct and the expenses incurred performing autopsies, medical examinations and inquests pursuant to Minn. Stat. §§ 390.32 to .33 should be borne by the county where death occurred. Where death occurs in a moving conveyance it is considered as occurring where the body is removed from the conveyance. Op. Atty. Gen. 103-f, Sept. 24, 1976.

Deputy coroners are not required to possess qualifications required by Minn. Stat. § 390.005, subd. 3 (1976) for coroners. Op. Atty. Gen. 103-c, April 1, 1977.

Intoxicating Liquor

When a parcel of land containing a licensed liquor establishment is annexed to a city, that license is to be counted as one of the authorized number of licenses within the city. When the city previously issued 20 of 21 authorized licenses, the license annexed would be the 21st and the city could not issue any additional licenses. Op. Atty. Gen. 218g-1, July 14, 1976.

A city is not required to use state hearing examiners to conduct

hearings regarding suspension or revocation of liquor licenses. However, state hearing examiners may be used. Op. Atty. Gen. 218g-14, Nov. 5, 1976.

On-sale wine licenses issued under Minn. Stat. § 340.11 subd. 20 are included within the prohibition against multiple-license ownership. Op. Atty. Gen. 218-g, April 29, 1977.

The statute providing that liquor licenses in annexed territory shall not be invalidated by annexation, does not exempt an establishment in annexed territory from compliance with local ordinance regulating liquor sales. A licensee might be able to show that immediate compliance with some particular ordinance would constitute an invalidation of the license contrary to the statute. Op. Atty. Gen. 218g-1, May 2, 1977.

A firm which is not a licensed off-sale liquor dealer may not engage in the business of taking orders for, securing and delivering intoxicating beverages to retail customers. Op. Atty. Gen. 218g-5, June 5, 1978.

Open Meeting Law

A private discussion between one member of a governing body - for example, city council - and one member of a separate body - for example, housing and redevelopment authority - is not proscribed by the open meeting law. Op. Atty. Gen. 471-e, May 23, 1978.

Police

A police civil service commission may require, by rule, psychiatric or psychological testing of police officer. Op. Atty. Gen. 785e-2, Sept. 14, 1976.

A city is not authorized to hire a private detective agency to exercise full powers of police officers at the municipal airport. Op. Atty. Gen. 785-e, Oct. 21, 1976.

~~OTHER OFFICIAL INFORMATION~~ Public Records

~~There~~ There is no authority to withhold arrest information which is otherwise public under Minn. Stat. § 15.17 for 36 hours or until the arrested person is arraigned. The sheriff is the appropriate agency for release of county arrest information. Arrest information should be made available at reasonable times but need not be available 24 hours a day. Op. Atty. Gen. 851, Sept. 15, 1976.

Schools

A school district may establish reasonable attendance areas, for purposes of providing free transportation, for nonpublic schools within the district that have the same grade and departments. A school district that provides activity buses to transport public pupils home after extra-curricular school activities must provide similar transportation to nonpublic school pupils upon the request of a nonpublic school. Op. Atty. Gen. 166a-7, July 15, 1976.

Since most interscholastic athletics are conducted on a co-curricular basis the school district may not charge fees for

participation unless it follows statutory procedures to authorize such a fee. Op. Atty. Gen. 169-x, Sept. 22, 1977.

Minn. Stat. § 471.61 (1976) only authorizes a school district to contract for the insurance or protection of its employees and does not authorize the district itself to assume the liability for payment of health care costs. The 1974 U.S. Employment Retirement Income Security Act does not supersede state laws relating to the powers of local governmental units in providing group insurance benefits for its employees. Op. Atty. Gen. 159b-4, June 2, 1977.

The statute authorizing cooperative vocational centers also establishes the exclusive method by which the center may be terminated. The governing board of a center lacks authority to terminate the center, because that power rests with the member school boards. Minn. Stat. § 123.351 (1976). Op. Atty. Gen. 160-o, June 1, 1977.

State Boards

A University of Minnesota professor is governed by the prohibitions against full-time employees of the state or a political subdivision receiving per-diem compensation for serving on certain state boards. Op. Atty. Gen. 618a-13, April 14, 1977.

Taxation

A financing statement recorded as a fixture filing under the Uniform Commercial Code is not subject to mortgage registry tax. Op. Atty. Gen. 418b-3, Feb. 25, 1977.

Computation of limited market value for property tax purposes is based upon the difference between current actual market value and the preceding limited market value. Op. Atty. Gen. 474j-1, June 23, 1978.

Tax-Forfeited Lands

The one-year limitation upon the right to repurchase applies to non-homestead lands which became forfeited prior to the effective date of the limitation. Op. Atty. Gen. 425c-13, April 6, 1977.

Traffic Regulations

A city could not enact and enforce an ordinance requiring all motorcycle operators and passengers to wear protective headgear when a state statute requires only minors to wear such headgear. Op. Atty. Gen. 989b-5, June 13, 1977.

Zoning

Towns which have the power to zone may zone shoreland areas within the town to the exclusion of the county shoreland zoning ordinance. This power is subject to a requirement that the town shoreland zoning ordinance be at least as restrictive as the county ordinance and to the reporting responsibilities which form part of a uniform statewide management scheme. Op. Atty. Gen. 441-h, April 26, 1977.